

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(74) 490 Final

Brussels, 17 April 1974

RECOMMENDATION FOR A
DECISION OF THE COUNCIL

concerning the negotiation of an agreement relating to four
draft annexes to the International Convention on the
simplification and harmonization of customs
procedures

(submitted to the Council by the Commission)

EXPLANATORY NOTE

1. Introduction

1.1. At its meeting in Kyoto 22 May 1973 the Customs Cooperation Council (CCC) decided that the International Convention for the simplification and harmonisation of customs procedures would be open for signature by contracting parties until 30 June 1974. This Convention was the subject of a recommendation for a decision of the Council (doc. COM(73) 460 final of 28 March 1973 R/997/73 (COMER 156) of 12.4.1973.

As the former document indicates the Convention has one common section and a number of annexes each dealing with specific questions. However, for the purposes of voting in the CCC each annex is considered as being a separate convention.

Four of these annexes, which are attached, relate to the following subjects (the CCC references are used) :

- (B1) the declaration of goods for home use (including the declarant)
- (B2) verification of goods
- (B3) assessment and collection of import duties and taxes on goods declared for home use and their release
- (F6) repayment of import duties and taxes

2. Main features of draft annexes

2.1. The annexes represent an ambitious attempt to harmonise many of the aspects of national law and procedure for admitting imported goods to the domestic market, i.e. entry for home use.

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2.2. The first of the four annexes (B1) concerns the formalities to be completed by the person responsible for entering the goods with customs: "the declarant"; it sets out his responsibilities, and attempts to determine his rights. The annex also suggests what information should appear on the customs entry form.

2.3. Annex (B2) defines the role of the customs in carrying out, for example, the necessary documentation control, sampling and examination of the goods.

2.4. Annex (B3) is concerned with the operation whereby the amount of duty or taxes payable is determined, including the date to be taken into account and the subsequent operation whereby that amount is recovered by the customs.

2.5. Annex (F6) deals with cases in which repayment of import duties and taxes may be granted.

3. Need for Community action in negotiation of the annexes

3.1. The often complex, multi-stage process of entering goods for home use, a process which differs from country to country, is an obvious candidate for harmonisation. And the interests of Community exporters will be well served if this process is harmonised as much as possible and on the widest geographical basis.

3.2. The annexes do however raise a number of questions of crucial interest for the Community. The customs union and common agricultural policy of the European Economic Community can function efficiently and in accordance with the Treaty only if customs duties and agricultural

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levies are collected on the basis of uniform rules. For this reason the Commission has already put forward its own proposal for a Council Directive relating to a large extent to the matters covered by the CCC annexes.(Doc. COM(73) 2137 def).

3.3. Moreover, all four annexes have an important bearing on the collection of the Community's own resources, but notably Annex (B3) which, inter alia, deals with the date to be taken into account for determining the rate of duty or agricultural levy applicable. Of a similar importance is Annex (F6) which attempts to harmonise rules relating to repayment of customs duties and agricultural levies.

3.4. It follows from the features of the draft annexes, which are described briefly above, that they have a direct bearing on the application of the duties of the Common Customs Tariff and the charges arising under the Common Agricultural Policy, as well as on the working of the Customs Union in general. Consequently when these procedures are the subject of international agreements these agreements become commercial and tariff agreements which by virtue of Article 113 of the EEC Treaty form part of the common commercial policy. It follows from Article 113 of the EEC Treaty that only the Community is competent to negotiate and conclude them.

Article 113 paragraph 3 of the EEC Treaty also stipulates that, within this framework, when agreements with third countries are to be negotiated, the Commission shall submit recommendations to the Council authorising it to open the necessary negotiations.

CONCLUSION

The Commission recommends the Council by virtue of Article 113 of the EEC Treaty to authorise it to negotiate, the four draft annexes to the International Convention on the Simplification and harmonization

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of Customs Procedures which relate to the following subjects :

- the declaration of goods for home use (including the declarant)
- the verification of goods
- the assessment and collection of import duties and taxes on goods declared for home use and their release
- repayment of import duties and taxes.

RECOMMENDATION FOR A
DECISION OF THE COUNCIL

concerning the negotiation of an agreement
relating to four draft annexes to the Inter-
national Convention on the simplification
and harmonization of customs procedures

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty setting up the European Economic Community,

Having regard notably to Article 113

Having regard to the recommendation of the Commission

Whereas the conclusion of an agreement on four draft Annexes to the Inter-
national Convention on the simplification and harmonization of customs procedures
concerning :

- the declaration of goods for home use (including the declarant)
- the verification of goods
- the assessment and collection of import duties and taxes on goods declared
for home use and their release
- repayment of import duties and taxes

could make a significant contribution to the development of the international
exchange of goods;

.../...

Whereas such an agreement has important implications for the collection on a uniform basis of the duties of the Common Customs Tariff, agricultural levies and other charges under the Common Agricultural Policy; whereas it should take account of the requirements of the Customs Union; whereas it is therefore appropriate that the Community should negotiate and conclude that agreement,

HAS DECIDED AS FOLLOWS

Sole Article

The Commission shall be authorised to negotiate in the Customs Cooperation Council the conclusion of an agreement on the following four draft annexes to the International Convention for the simplification and harmonization of customs procedures which relate to

- the declaration of goods for home use (including the declarant)
- the verification of goods
- the assessment and collection of import duties and taxes on goods declared for home use and their release
- repayment of import duties and taxes

The Commission shall conduct these negotiations in consultation with the Special Committee provided for in Article 113 of the EEC Treaty, which shall assist the Commission in this task.

Done at Brussels,

For the Council,

The President,

B.1 - DRAFT ANNEX CONCERNING THE DECLARATION
OF GOODS FOR HOME USE (INCLUDING THE DECLARANT)

INTRODUCTION

The Customs procedure under which imported goods that are to be taken into home use may be released by the Customs is that of clearance for home use. As imported goods are mainly intended for home use, this procedure is in everyday application.

When goods are cleared for home use, which may be immediately after importation or after, for example, Customs warehousing or Customs transit, the Customs are responsible for collecting, in accordance with the law, any import duties and taxes chargeable thereon and have other responsibilities such as ensuring that the importer has an import licence if one is needed and collecting the necessary data for the compilation of trade statistics.

The performance of these duties involves a number of operations, commencing with the lodging of the Goods declaration for home use and terminating with release of the goods from Customs charge after the payment of any import duties and taxes chargeable. Between these two points the Customs take various measures to satisfy themselves that the Goods declaration and supporting documents are in order and that the goods are as described therein. These measures are termed the "verification of the goods".

The provisions of this Annex apply to the formalities required of the importer and the declarant in connexion with the declaration of the goods for home use, but do not cover the verification of the goods by the Customs authorities nor the assessment and collection of import duties and taxes.

This Annex does not apply to the importation of goods by post or carried in travellers' baggage.

DEFINITIONS

For the purposes of this Annex :

- (a) the term "clearance for home use" means the Customs procedure under which imported goods are released by the Customs after the accomplishment of any necessary Customs formalities and payment of any import duties and taxes chargeable, as a consequence of which such goods may remain permanently in the Customs territory;
- (b) the term "import duties and taxes" means Customs duties and all other duties, taxes, fees or other charges which are collected on or in connexion with the importation of goods, but not including fees and charges which are limited in amount to the approximate cost of services rendered;
- (c) the term "Goods declaration" means a statement made in the form prescribed by the Customs, by which the persons interested indicate the particular Customs procedure to be applied to the goods and furnish the facts which the Customs require to be declared for the application of that procedure;
- (d) the term "declarant" means the person who signs a Goods declaration or in whose name it is signed.

PRINCIPLES

1. Standard

The declaration of goods for home use shall be governed by the provisions of this Annex.

2. Standard

National legislation shall specify the circumstances in which goods may be allowed to be declared for home use and shall lay down the requirements which must be met to assign goods to that procedure.

Notes

1. National legislation may, in particular, impose prohibitions and restrictions in respect of certain categories of goods.

2. National legislation may provide that the clearance of certain goods for home use shall be subject to production of certificates showing that all requirements concerning restrictions have been complied with (import licences, certificates of origin, health or phytopathological certificates, etc.).

COMPETENT CUSTOMS OFFICES

3.

Standard

National legislation shall specify the Customs offices competent to accept Goods declarations for home use and their days and hours of business.

4.

Recommended Practice

At the request of the importer, and for reasons deemed valid by the Customs authorities, the latter should allow goods to be declared for home use outside the business days and hours of the competent Customs offices, any costs arising in this respect being borne by the declarant.

5.

Recommended Practice

Where goods are to be declared for home use at an inland Customs office, their carriage from the frontier office to the inland office should be authorized under the Customs transit procedure.

TIME ALLOWED FOR LODGEMENT OF THE DECLARATION

6.

Standard

National legislation shall specify the period within which the Goods declaration for home use shall be lodged at the competent Customs office.

Annex to
Doc. 20.149 E

Notes

1. The periods prescribed may differ according to the mode of transport of the goods.

2. Pending clearance for home use, the goods may be stored in locked premises or enclosed or unenclosed spaces approved by the Customs (temporary storage).

7. Recommended Practice

The Customs authorities should, at the request of the declarant, if they deem his reasons valid, extend the period initially prescribed for lodging the Goods declaration at the competent Customs office.

8. Recommended Practice

National legislation should provide that the Goods declaration for home use may be lodged before the goods arrive in the Customs territory.

9. Recommended Practice

Where goods of the same kind are imported frequently and there is no difficulty with their tariff classification and valuation the Customs should authorize the periodical deposit of the relevant Goods declarations for home use provided that the importer is reliable and keeps proper commercial records.

THE DECLARANT

(a) Persons entitled to act as declarant

10. Standard

Any person, natural or legal, duly authorized by the importer shall be entitled to act as declarant.

11. Recommended Practice

The Customs authorities should consider that any person who is able to produce the documents establishing his right to dispose of the goods to be declared (way-bills, bills of lading, despatch notes, loading receipts, invoices, etc.) has been duly authorized by the importer to make the Goods declaration in his name.

12. Recommended Practice

National legislation should allow any legal person to be represented by a natural person, other than his legal representative, for the purpose of making the Goods declaration for home use.

Note

Officially approved Customs agents may be authorized to supply the Customs offices where they do business with a list of the persons entitled to represent them in Customs matters.

(b) Responsibility of the declarant13. Standard

The declarant shall be held responsible to the Customs authorities for the accuracy of the particulars given in the Goods declaration.

(c) Rights of the declarant14. Standard

The declarant shall be authorized to inspect the goods and take samples, under Customs supervision, before lodging the Goods declaration for home use.

15. Recommended Practice

The Customs authorities should not require samples taken by the declarant to be declared immediately for home use.

16. Recommended Practice

The Customs authorities should provide the declarant, at his request, with all the relevant information at their disposal which he may require to complete the Goods declaration for home use correctly (tariff classification of the goods, exchange rate applicable, etc.)

THE GOODS DECLARATION

(a) Verbal Goods declaration

17. Recommended Practice

Persons who occasionally undertake the clearance of goods for home use should be authorized to declare them verbally provided that the value per consignment does not exceed /sixty US dollars/.

(b) Goods declaration form

18. Standard

National legislation shall determine the standard declaration forms to be used for the clearance of goods for home use; it shall specify the number of copies to be submitted to the Customs authorities and the ultimate use of each copy (for the declarant, the Customs office, statistical purposes, etc.).

19. Recommended Practice

Where goods of low value are frequently imported, the Customs authorities should allow them to be declared for home use on a simplified Goods declaration form.

20.

Recommended Practice

When several copies of the Goods declaration for home use are required, it should be possible to complete all of them in one run.

21.

Recommended Practice

The Goods declaration should be the only declaration which national legislation requires the declarant to make for the purpose of clearing goods for home use.

(c) Contents of the Goods declaration

22.

Recommended Practice

The Customs authorities requirements with regard to the information to be provided by the declarant in the Goods declaration for home use should be restricted to the following particulars :

(a) particulars relating to persons

- name and address of declarant
- name and address of importer

(b) particulars relating to transport

- mode of transport
- identification of means of transport

(c) particulars relating to the goods

- country whence consigned and country of origin
- description of the packages (number, nature, marks and numbers, weight)
- description of the goods by kind (gross weight, net weight, quantity)

(d) particulars for the assessment of import duties and taxes
(for each description)

- tariff heading
- rates of import duties and taxes
- value for Customs purposes
- amount of import duties and taxes

(e) particulars for statistical purposes

- statistical heading applicable to each description

(f) particulars with a view to preferential treatment (if appropriate)

- area whence the goods were consigned or reference to applicable legal provisions

(g) particulars relating to documents accompanying the Goods declaration

- reference to documents submitted in support of the Goods declaration

(h) particulars relating to the authenticity of the declaration

- place, date, and signature of the declarant.

(d) Lay-out key for the Goods declaration for home use

23.

Recommended Practice

National forms for the Goods declaration for home use should be aligned on the Goods declaration lay-out key shown in Appendix I to the present Annex, taking account of the notes given in Appendix II.

(e) Documents to be submitted in support of the Goods declaration

24. Recommended Practice

Apart from the import licences and any certificates that may be required (certificates of origin, health or phytopathological certificates, etc.), the invoice and the transport documents should be the only routine documents required to be submitted by the declarant in support of the Goods declaration for home use.

25. Recommended Practice

As far as possible, the Customs authorities should not require a translation of the routine documents that must be produced in support of the Goods declaration for home use.

(f) Acceptance of an incomplete declaration

26. Recommended Practice

When for reasons deemed valid by the Customs authorities the declarant does not have all the information required to make the Goods declaration for home use or cannot immediately produce all the documents required to support the Goods declaration, the Customs authorities should accept an incomplete declaration provided that the declarant undertakes, as the case may be, to complete the declaration or to produce the missing documents within a prescribed period.

(g) Refusal of Goods declaration

27. Standard

When the Customs authorities refuse to accept a Goods declaration for home use, the grounds for refusal shall be clearly indicated to the declarant.

(h) Correction of Goods declaration

28.

Recommended Practice

Before verification begins, the declarant should be authorized to withdraw or correct Goods declarations for home use that he has lodged with the Customs.

(ij) Change of Customs procedure

29.

Recommended Practice

The Customs authorities should, at the request of the declarant, if they deem his reasons valid, allow a Goods declaration for some other Customs procedure to be substituted for a Goods declaration for home use, provided that the substitution is requested before verification begins.

GOODS NOT DECLARED WITHIN THE PERIOD PRESCRIBED

30.

Standard

National legislation shall specify the procedure to be followed where goods have not been declared within the period prescribed.

31.

Recommended Practice

When goods that have not been declared within the period prescribed are sold by the Customs, the proceeds of the sale, after deduction of the import duties and taxes and all other charges and expenses incurred, should be made over to the person(s) entitled to receive them, when this is possible, or be held at their disposal for a specified period.

INFORMATION CONCERNING THE DECLARATION OF GOODS FOR HOME USE

32.

Standard

The Customs authorities should ensure that forms for Goods declarations for home use and all relevant information regarding the declaration of goods for home use shall be readily available to any person interested.

x
x x

DRAFT LAY-OUT KEY
for Goods declaration for home use

Declarant (name and address)		Declaration Registration No. Customs office	
Importer (name and address)		Declaration for home use Place and date Signature	
Free disposal		Country of origin	Preference claimed
		Country whence consigned	
		Import licence No.	Other documents appended
		Free disposal	
Means of transport			
Marks and numbers; number and kind of packages; gross weight			
(1) Tariff heading	Description of goods (net weight, quantity)	Nature and rates of	Amount of
(2) Statistical No.	Dutiable value	duties and taxes	duties and taxes
(1)			
(2)			
(1)			
(2)			
(1)			
(2)			
			Total
Free disposal			

NOTES

1. The size of the lay-out key is the international ISO size A4 (210 x 297 mm, 8.27 x 11.69 inches). The form should be provided with a 10 mm top margin and a 20 mm left-hand filing margin. Line spacing should be based on multiples of 4.24 mm (1/6 inch) and width-spacing on multiples of 2.54 mm (1/10 inch). The lay-out should be in conformity with the ECE lay-out key, as illustrated in Appendix I. Minor deviations in the exact size of boxes etc., are permissible if required for particular reasons in the issuing country, such as the existence of non-metric measurement systems, features of national aligned systems of documents etc.
2. Countries may determine standards concerning the weight per m² of the paper, and the use of a machine-turned background to prevent falsification.
3. The standardization comprises only questions of size and lay-out; guiding words included in the lay-out key are intended only to indicate the nature of the information which should appear in a given place. Accordingly each country remains free to replace these words in its national form by such wording as it considers more appropriate provided that this wording does not affect the nature of the information as indicated in the lay-out key.
4. In addition it is open to administrations to omit from their forms items in the lay-out key which they do not require. The spaces which thus become vacant may be used for official purposes.
5. Additional items required by administrations which are not provided for by the lay-out key may be allocated to the "free disposal area".



B.2 - DRAFT ANNEX CONCERNING THE VERIFICATION OF GOODSINTRODUCTION

The Customs procedure under which imported goods that are to be taken into home use may be released by the Customs is that of clearance for home use. As imported goods are mainly intended for home use, this procedure is in everyday application.

When goods are cleared for home use, which may be immediately after importation or after, for example, Customs warehousing or Customs transit, the Customs are responsible for collecting, in accordance with the law, any import duties and taxes chargeable thereon, and have other responsibilities such as ensuring that the importer has an import licence if one is needed and collecting the necessary data for the compilation of trade statistics.

The performance of these duties involves a number of operations, commencing with the lodging of the Goods declaration for home use and terminating with release of the goods from Customs charge after the payment of any import duties and taxes chargeable. Between these two points the Customs take various measures to satisfy themselves, firstly, that the Goods declaration and supporting documents (such as invoices, packing lists, import licence, certificate of origin) are in order and, secondly, that the goods are as described therein (by physical examination of the goods themselves). These measures are termed the "verification of goods".

However, whilst the checking of documentation is standard procedure, in practice only a proportion of consignments are physically examined by the Customs even though all goods are legally liable to such inspection. Furthermore, even for the selected consignments full physical examination is not usually required.

Annex to
Doc. 20.165 E

The verification of goods is also applicable, in principle, to the importation of goods under other Customs procedures such as Customs warehousing and temporary admission for inward processing.

This Annex relates only to the verification of goods, and does not cover the declaration itself nor the assessment and collection of import duties and taxes. It does not apply to the importation of goods by post or carried in travellers' baggage.

DEFINITIONS

For the purposes of this Annex :

- (a) the term "verification of goods" means the measures taken by the Customs authorities to ensure that a Goods declaration for home use is properly made out, that the supporting documents are in order and that the goods are as described in the declaration and documents;
- (b) the term "examination of goods" means the physical inspection of goods by the Customs to ascertain that their nature, quantity and condition are in accordance with the Goods declaration;
- (c) the term "Goods declaration" means a statement made in the form prescribed by the Customs, by which the persons interested indicate the particular Customs procedure to be applied to the goods and furnish the facts which the Customs require to be declared for the application of that procedure;
- (d) the term "declarant" means the person who signs a Goods declaration or in whose name it is signed;
- (e) the term "import duties and taxes" means Customs duties and all other duties, taxes, fees or other charges which are collected on or in connexion with the importation of goods, but not including fees and charges which are limited in amount to the approximate cost of services rendered;

(f) the term "person" means both natural and legal persons, unless the context otherwise requires.

PRINCIPLES

1. Standard

The verification of goods shall be governed by the provisions of this Annex.

2. Standard

National legislation shall specify the circumstances and the manner in which the verification of goods shall be carried out.

3. Standard

The verification of goods shall be carried out as soon as possible after lodgement of the Goods declaration for home use.

Note

Customs authorities may fix a time limit within which, as a general rule, the verification of goods should be completed. This time limit may vary according to the mode of transport by which the goods are imported and according to the nature of the goods themselves.

DOCUMENTARY CONTROL

(a) Scrutiny of documents

4. Standard

National legislation shall specify the particulars concerning which the Customs authorities are requested to satisfy themselves when checking the accuracy and completeness of a Goods declaration for home use.

Annex to
Doc. 20.165 E

Note

The particulars to which the Customs authorities may need to pay special attention when examining the documents include the following

- (a) whether or not the goods are free of import prohibitions and restrictions;
- (b) whether or not the goods are subject to import licensing or quota restrictions;
- (c) the nature or tariff description and the quantity of the goods;
- (d) the value of the goods;
- (e) the origin of the goods.

(b) Additional information required by the Customs

5. Standard

The Customs authorities shall require the declarant to provide additional information or documentation only when this is necessary for the verification of goods.

6. Standard

The Customs authorities shall require the declarant to provide a translation of additional documentation completed in a foreign language only when that documentation is not clear to them in its original form.

(c) Amendment, substitution and cancellation of Goods declarations for home use

7. Standard

Where the Customs authorities discover during the verification of goods, or when the declarant discloses after verification of goods has commenced, that a Goods declaration for home use is incorrect,

the Customs authorities shall allow amendment of the declaration and shall not require the lodgement of a new Goods declaration for home use when they are satisfied that the declaration is incorrect due to an inadvertent error on the part of the declarant.

8. Recommended Practice

After the verification of goods has commenced, at the request of the declarant and for reasons they deem valid, the Customs authorities should allow a Goods declaration for home use to be substituted for a Goods declaration relating to another Customs procedure.

9. Recommended Practice

After verification of the goods has commenced, at the request of the declarant and for reasons they deem valid, the Customs authorities should cancel a Goods declaration for home use and should allow the substitution of a Goods declaration relating to another Customs procedure.

10. Recommended Practice

Where the Customs authorities are satisfied that amendment, substitution or cancellation of a Goods declaration for home use is due to an inadvertent error on the part of the declarant they should not normally impose a penalty unless the person concerned repeatedly makes such errors.

SAMPLING OF GOODS

11. Standard

The Customs authorities shall sample goods declared for home use only when their nature cannot be established satisfactorily by other means.

12.

Standard

Where possible, samples of goods declared for home use shall be placed at the disposal of the declarant after testing, but the declarant shall have the right to refuse them.

EXAMINATION OF GOODS

(a) Time and place of examination

13.

Standard

National legislation shall specify the days and hours during which goods declared for home use will normally be examined by the Customs authorities.

14.

Recommended Practice

At the request of the declarant, and for reasons deemed valid by the Customs authorities, the latter should examine goods declared for home use outside the days and hours specified for such work, the expenses entailed by such examination being borne by the declarant.

15.

Standard

National legislation shall specify the place at which goods declared for home use shall be examined by the Customs authorities.

Note

There are basically three places at which goods declared for home use may be examined by the Customs authorities - these are the Customs office through which the goods are imported, another Customs office, or private premises. Whilst it is common practice to examine goods at the place of importation, examination at a different Customs office or at private premises may be considered desirable by the Customs authorities or by trade circles for a variety of reasons.

16. Recommended Practice

The Customs authorities should not require goods declared for home use to be removed for examination at a Customs office other than the office through which they were imported unless this is necessary to meet the special requirements of trade or transport.

17. Recommended Practice

At the request of the declarant, and for reasons deemed valid by the Customs authorities, the latter should, so far as possible, allow goods declared for home use to be examined at private premises or at a Customs office other than that through which the goods were imported, the expenses entailed by examination at private premises being borne by the declarant.

18. Recommended Practice

National legislation should specify the conditions under which goods declared for home use are removed from the Customs office of importation for examination at another Customs office or at private premises.

(b) Facilities to be provided for examination19. Standard

National legislation shall provide that, at the request of the Customs authorities, the person concerned shall perform all operations and provide any facilities and assistance necessary for the examination of goods declared for home use, any expenses incurred being borne by the person concerned.

(c) Frequency and extent of examination20. Standard

The Customs authorities shall examine goods declared for home use only where such examination is deemed necessary because there are doubts concerning the accuracy of the relevant Goods declaration or in the context of a spot check examination system.

21.

Recommended Practice

When goods declared for home use are selected for examination, the Customs authorities should limit the extent of the examination to that deemed necessary for the safeguarding of the Revenue.

Notes

1. In selecting goods declared for home use for examination, and in deciding upon the extent of any such examination, the Customs authorities may need to take into account a number of factors.

These include :

- (a) the nature and value of the goods - in this respect Customs authorities may reduce the frequency and extent of examination when they are familiar with the circumstances of the importation and with the goods involved (for example, in the case of regular importations); on the other hand there are certain types of goods (such as spirits, wines, sugar) which may need to be examined in a very large proportion of cases;
- (b) the status and past record of the importer - in this connexion Customs authorities generally waive the examination of goods imported by privileged persons (Heads of State, embassies, etc.) and often reduce the level of examination in respect of importations by government departments, approved institutions and organizations, etc. In the case of normal trade importations, account is usually taken of the record of the importer in his dealings with the Customs, whether his documents are normally correct and verification of the goods has always proved satisfactory in the past, and so forth.

2. Customs administrations may lay down standard scales as a general guide to the frequency and extent of examination normally considered desirable. Whilst such scales may be followed to a large degree, it is normally left to the discretion of the Customs staff actually involved to decide upon the extent of examination considered necessary in each individual case.

8.

(d) Examination of dangerous, delicate and fragile goods

22. Recommended Practice

National legislation should specify the conditions under which dangerous, delicate and fragile goods declared for home use are to be examined by the Customs authorities.

23. Recommended Practice

When necessary the Customs authorities should require the person concerned to provide experts to assist them in the examination of dangerous, delicate and fragile goods.

(e) Examination of perishable goods and live animals

24. Recommended Practice

Where examination of perishable goods and live animals declared for home use is deemed necessary by the Customs authorities, they should carry out such examination as a matter of priority.

Note

In order to facilitate the clearance of perishable goods and live animals, Customs authorities may find it useful to require the declarant to give them prior notice of arrival.

25. Recommended Practice

In the case of live animals declared for home use, Customs examination and any other necessary examination (such as veterinary inspection) should be performed at the same time wherever possible.

(f) Examination of damaged, ullaged and pilfered goods

26. Recommended Practice

When the attention of the Customs authorities is drawn to the fact that goods declared for home use are in a damaged, ullaged or pilfered condition, they should examine the goods, as a matter of priority, in the presence of the declarant or his representative.



B.3 - DRAFT ANNEX CONCERNING THE ASSESSMENT AND COLLECTION
OF IMPORT DUTIES AND TAXES ON GOODS DECLARED
FOR HOME USE AND THEIR RELEASE

INTRODUCTION

The Customs procedure under which imported goods that are to be taken into home use may be released by the Customs is that of clearance for home use. As imported goods are mainly intended for home use, this procedure is in everyday application.

When goods are cleared for home use, which may be immediately after importation or after, for example, Customs warehousing or Customs transit, the Customs are responsible for collecting, in accordance with the law, any import duties and taxes chargeable thereon and have other responsibilities such as ensuring that the importer has an import licence if one is needed, and collecting the necessary data for the compilation of trade statistics.

The performance of these duties involves a number of operations, commencing with the lodging of the Goods declaration for home use, continuing with the various measures the Customs take to satisfy themselves that the Goods declaration and supporting documents are in order and that the goods are as described therein, and terminating with the release of the goods from Customs charge after the payment of any import duties and taxes chargeable.

The provisions of this Annex relate to the assessment and collection of import duties and taxes and the release of goods which are declared for home use but do not cover the declaration of goods for home use nor the verification of goods.

The assessment of import duties and taxes on goods declared for home use is based on the information contained in the Goods

declaration and on the results of the verification of the goods. The goods are usually released by the Customs when the import duties and taxes have been paid or guaranteed.

This Annex does not apply to goods declared for purposes other than home use, to goods imported by post, or to goods imported in travellers' baggage.

DEFINITIONS

For the purposes of this Annex :

- (a) the term "assessment of import duties and taxes" means the determination by the Customs of the amount of duties and taxes payable;
- (b) the term "collection of import duties and taxes" means the measures taken by the Customs to obtain payment of the import duties and taxes assessed on goods;
- (c) the term "clearance for home use" means the Customs procedure under which imported goods are released by the Customs after the accomplishment of any necessary Customs formalities and payment of any import duties and taxes chargeable, as a consequence of which such goods may remain permanently in the Customs territory;
- (d) the term "release" means the action by the Customs to permit goods undergoing clearance to be placed at the disposal of the persons concerned;

Note

There are two kinds of release :

- (a) unconditional release, which means that the goods are freed from any Customs restrictions; and

- (b) conditional release, which means that the goods remain subject to certain Customs restrictions.
- (e) the term "security" means that which ensures to the satisfaction of the Customs that an obligation to the Customs will be fulfilled
- (f) the term "import duties and taxes" means all Customs duties and all other duties, taxes, fees or other charges which are collected on or in connection with the importation of goods, but not including fees and charges which are limited in amount to the approximate cost of services rendered. The term covers all import duties and taxes collected by the Customs or by other authorities.
- (g) the term "person" means both natural and legal persons, unless the context otherwise requires.

PRINCIPLE

Standard

The assessment and collection of import duties and taxes on goods declared for home use and their release by the Customs shall be governed by the provisions of this Annex.

ASSESSMENT

Standard

2. National legislation shall specify the factors to be taken into consideration for the purpose of assessing import duties and taxes on goods declared for home use.

Note

The factors to be taken into consideration may include the tariff classification, the value, the origin, the quantity, the nature, etc. of the goods.

3.

Standard

National legislation shall specify the point in time to be taken into consideration for the purpose of assessing import duties and taxes on goods declared for home use.

Notes

1. The point in time to be taken into consideration may be the time the declaration is lodged, the time the goods arrive in the Customs territory, or some other fixed point in time.

2. In the case of goods which were contracted for or are already in transit when duty rates are increased or quantitative restrictions imposed, the point in time may be the date the goods were contracted for or shipped.

4.

Standard

The assessment of import duties and taxes on goods declared for home use shall be based on the information obtained from the Goods declaration and the results of verification of the goods.

5.

Standard

National legislation shall, in order not to delay release of the goods, provide for a provisional assessment of the import duties and taxes on goods declared for home use where it is not possible to assess such duties and taxes because of the absence of certain information.

Note

Provisional assessment may have particular application to importations of live animals, perishable goods and other goods for which there are valid reasons for provisionally assessing the import duties and taxes.

4.

6.

Standard

National legislation shall specify the form of any required security when the goods are released against a provisional assessment.

COLLECTION

(a) Persons responsible for the payment of import duties and taxes

7.

Standard

National legislation shall specify the person or persons responsible for the payment of the import duties and taxes assessed on goods declared for home use.

Note

The person or persons responsible for the payment of the import duties and taxes assessed on goods declared for home use may be the declarant, the importer, or any other person who has accepted responsibility for such payment.

(b) Methods of payment of import duties and taxes

8.

Standard

National legislation shall permit payment of import duties and taxes assessed on goods declared for home use in cash or other legal tender of the country of importation.

9.

Recommended Practice

The payment of import duties and taxes assessed on goods declared for home use by methods other than cash or other legal tender of the country of importation should be authorized.

Notes

1. The methods of payment other than cash or other legal tender which may be authorized include bank cheques or transfers, postal

cheques or transfers, monies already on deposit with the Customs, "Customs certificates" previously purchased from the appropriate authorities, cheques drawn on foreign banks and, in the case of small amounts, revenue or similar stamps.

2. The methods of payment may vary according to the declarant or person responsible for the payment. In the case of persons not known to the Customs cash or certified cheques may be demanded whereas, in the case of persons favourably known to the Customs or who have deposited adequate security, personal cheques, transfers, or periodic payments may be authorized.

(c) Time and place of payment

10.

Standard

National legislation shall specify the time and place of payment of the import duties and taxes assessed on goods imported for home use.

11.

Standard

The declarant or person concerned shall be permitted to pay the import duties and taxes assessed at the Customs office through which the goods were entered for home use or into a regional or national payment centre where such system of payment exists.

12.

Standard

The import duties and taxes assessed on goods declared for home use shall not become finally due until verification of the goods has been completed and the goods are ready for release by the Customs.

Note

Customs authorities may require a deposit of estimated duties and taxes prior to release of the goods or the depositing of adequate security to ensure full payment at or subsequent to the time the goods are released.

6.

13. Recommended Practice

Where clearance of the goods will be facilitated thereby, the Customs should accept provisional payment of the estimated duties and taxes payable on goods declared for home use.

14. Recommended Practice

A time limit should be fixed beyond which the Customs may not take action to recover import duties and taxes which were not collected at the time the goods were imported.

Note

This time limit may vary according to the circumstances. For example, it may be a relatively short period when a mistake has been made by the Customs whereas it may be a longer period when a fault has been committed by the declarant or person concerned, a Customs offence is involved, etc.

(d) Receipts and release from liability

15. Standard

National legislation shall lay down the form for the official receipt to be issued upon payment of import duties and taxes on goods declared for home use.

16. Standard

The Customs authority accepting payment of the import duties and taxes assessed on goods declared for home use shall issue to the payer thereof an official receipt which shall constitute proof of payment of such duties and taxes.

17. Recommended Practice

The official receipt should be a duly endorsed copy of the Goods declaration.

18.

Recommended Practice

Where the goods have been entered under a verbal or other simplified form of declaration, a simplified form of receipt should be issued.

RELEASE OF GOODS DECLARED FOR HOME USE

19.

Standard

National legislation shall specify the requirements for release of goods declared for home use.

20.

Standard

Goods declared for home use shall be released as soon as possible after a Goods declaration has been lodged, provided that the import duties and taxes have been paid or adequate security to ensure their payment has been deposited with the Customs or other appropriate authorities (Unconditional release).

21.

Recommended Practice

Goods declared for home use should be released prior to the completion of all import requirements when the Customs are satisfied that these requirements will subsequently be met (Conditional release).

22.

Recommended Practice

Perishable goods and live animals should be released prior to the lodging of a Goods declaration when the Customs are satisfied that all import requirements, including the lodging of the declaration, will subsequently be met.

23.

Recommended Practice

Where the quantity of goods imported exceeds that shown on the declaration and, for reasons deemed valid by the Customs, the declarant is not able to lodge a new, amended or supplementary declaration to cover the excess, those goods covered by the existing declaration should be released.

Note

The goods not covered by the declaration may be held by the Customs until the declarant or person concerned is able to lodge another declaration or determine what to do with the excess goods.

DESTRUCTION OR ABANDONMENT OF GOODS

24.

Recommended Practice

The declarant or person concerned should, at his request and as the Customs authorities may decide, be allowed to abandon to the Revenue, to destroy or render commercially valueless under Customs control, goods declared for home use but not released, provided that such abandonment or destruction does not entail any cost to the Revenue.

INFORMATION CONCERNING ASSESSMENT AND COLLECTION OF IMPORT DUTIES AND TAXES ON GOODS DECLARED FOR HOME USE AND THEIR RELEASE

25.

Standard

The Customs authorities shall ensure that all relevant information concerning the procedure for the assessment and collection of import duties and taxes on goods declared for home use and the release of such goods shall be readily available to any person interested.

F.6 - DRAFT ANNEX CONCERNING THE REPAYMENT OF
IMPORT DUTIES AND TAXES

INTRODUCTION

After goods have been imported and declared for home use it is frequently discovered, either by the importer himself or by the Customs authorities, that the basis upon which the Customs charges were assessed was not in fact correct and that for this reason, or due to some other cause, import duties and taxes have been overcharged.

Common causes of the overcharging of import duties and taxes are, for example, failure to claim a preferential rate of duty or exemption from import duties and taxes to which the goods are entitled, discovery that the goods are not in accordance with contract, and errors in the quantity of goods declared, in the declared value, or in the declared nature or description of the goods. It can also happen that goods are damaged, destroyed or irrecoverably lost by accident while under Customs control.

The facility should exist for the person who has been overcharged to obtain, after verification of the facts, repayment of the amount overcharged in order to ensure that the ultimate amount of import duties and taxes paid on the goods does not exceed the amount legally due.

It is important, particularly where the overcharge arose from errors on the part of the Customs authorities or has been occasioned by circumstances beyond the control of the importer or other person concerned, that repayment should be made without delay and with minimum formalities. In some cases, however, it may be necessary to make repayment subject to certain conditions or to special safeguards against fraud or abuse.

The provisions of this Annex do not apply to repayments made under the drawback procedure or to the return of deposits taken as security against the payment of import duties and taxes.

DEFINITIONS

For the purposes of this Annex :

- (a) the term "repayment of import duties and taxes" means the refund, in whole or in part, of import duties and taxes actually paid on goods declared for home use and, in the case of deferred payment, the remission of import duties and taxes assessed to be payable although not actually paid;
- (b) the term "import duties and taxes" means Customs duties and all other duties, taxes, fees or other charges which are collected on or in connection with the importation of goods, but not including fees and charges which are limited in amount to the approximate cost of services rendered;
- (c) the term "release" means action by which the Customs permit goods undergoing clearance to be placed at the disposal of the persons concerned;
- (d) the term "Goods declaration" means a statement made in the form prescribed by the Customs, by which the persons interested indicate the particular Customs procedure to be applied to the goods and furnish the facts which the Customs require to be declared for the application of that procedure;
- (e) the term "person" means both natural and legal persons, unless the context otherwise requires.

PRINCIPLE

1. Standard

The repayment of import duties and taxes shall be governed by the provisions of this Annex.

SCOPE

2.

Standard

National legislation shall prescribe the circumstances in which repayment of import duties and taxes may be granted and the requirements which must be met.

3.

Standard

Repayment of import duties and taxes shall be granted in all cases where the amount of import duties and taxes charged exceeds the amount legally due.

4.

Recommended Practice

Where it has not been possible at the time of importation to assess exactly the amount of import duties and taxes chargeable on goods released, any sum charged which is subsequently proven to have been in excess of the amount legally due should be repaid as soon as the correct amount of import duties and taxes payable has been finally established.

5.

Standard

Repayment of import duties and taxes shall be granted on the initiative of the Customs, and as a matter of priority, where it is established that import duties and taxes have been overcharged as a result of an error on the part of the Customs authorities in assessing the amount payable.

CASES IN WHICH REPAYMENT OF IMPORT DUTIES AND TAXES MAY BE GRANTEDGoods having a lower value than declared

6.

Standard

Repayment of import duties and taxes shall be granted in respect of goods found to have a lower value than declared provided that the facts can be established to the satisfaction of the Customs authorities.

Incorrect tariff classification

7. Standard

Repayment of import duties and taxes shall be granted if they are overcharged as a result of incorrect tariff classification of the goods in the Goods declaration provided that the facts are established to the satisfaction of the Customs authorities.

Belated claim to preference or exemption

8. Standard

Repayment of import duties and taxes overcharged shall be granted where the person concerned fails to claim entitlement to a preferential rate of duty or an exemption for which the goods were eligible at the time of their declaration for home use, provided that such evidence as may be required is subsequently presented to the Customs authorities.

Goods damaged, destroyed or lost

9. Standard

Repayment of import duties and taxes shall be granted in respect of goods damaged, destroyed or irrecoverably lost by accident or force majeure while they are under Customs control, provided that such damage, destruction or loss is duly established to the satisfaction of the Customs authorities.

Goods not in accordance with contract

10. Standard

Repayment of import duties and taxes shall be granted in respect of goods imported in pursuance of a firm contract of sale and which are found to have been defective or otherwise not in accordance with the contract at the time of importation and which are returned to the foreign supplier with his consent. As an

alternative to such return the goods may be abandoned to the Revenue, destroyed, or rendered commercially valueless under Customs control, as the Customs authorities may decide. Such abandonment, or destruction shall not entail any cost to the Revenue.

Shortages

11.

Standard

Repayment of import duties and taxes shall be granted in respect of goods declared to be in a consignment where it is established to the satisfaction of the Customs authorities that those goods were not in fact imported into the Customs territory.

Goods placed under another Customs procedure

12.

Recommended Practice

Where, for reasons deemed by the Customs authorities to be valid, permission is given for the placing of goods under a Customs procedure other than that under which the goods were originally declared, repayment should be made of any import duties and taxes consequently overcharged.

REPAYMENT PROCEDURE

13.

Standard

The procedures laid down for claiming repayment of import duties and taxes shall be as simple as possible; decisions on claims shall be reached and notified in writing to claimants without delay, and repayment of amounts overpaid shall be made as soon as possible after the verification of claims.

TIME LIMIT

14.

Recommended Practice

Where a time limit is fixed beyond which claims for repayment of import duties and taxes will not be accepted, provision should be made for its extension for commercial or other reasons deemed by the Customs authorities to be valid.

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INFORMATION CONCERNING REPAYMENT

15.

Standard

The Customs authorities shall ensure that all relevant information regarding the repayment of import duties and taxes is readily available to any person interested.