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DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Customs Policy, Legislation, Tariff
Customs Legislation

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CUSTOMS CODE COMMITTEE

Rules of procedure

for the Customs Code Committee

established

**by Articles 247a and 248a of the Community Customs Code¹
(Article 184(1) of the Modernised Customs Code²)**

adopted

**by the Section for General Customs Legislation
of the Customs Code Committee
on 19.04.2012**

¹ Council Regulation (EEC) No 2913/92 of 12 October 1992 (OJ L 302, 19.10.1992, p. 1).

² Regulation of the European Parliament and of the Council of 23 April 2008 (OJ L 145, 4.6.2008, p. 1).

RULES OF PROCEDURE FOR THE CUSTOMS CODE COMMITTEE

THE CUSTOMS CODE COMMITTEE,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code³ (hereafter referred to as 'the Community Customs Code'), and in particular Article 247a(1) and Article 248a(1) thereof.

Having regard to Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (hereafter referred to as the Modernised Customs Code)⁴, and in particular Article 184(1) thereof,

Having regard to the rules of procedure for the Customs Code Committee, adopted by its Section for General Customs Rules on 29 January 2009 (document TAXUD/1711/2008 final),

Having regard to 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 powers⁵, and in particular Article 9(1) thereof,

Having regard to the standard rules of procedure published by the Commission⁶,

HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:

Article 1

Structure

1. The Customs Code Committee (hereinafter “the committee”) shall comprise the following sections :
 - General Customs Legislation;
 - Tariff and Statistical Nomenclature;
 - Tariff Measures;
 - Duty Relief;
 - Origin;
 - Customs Value;
 - Customs Debt and Guarantees;
 - Import and Export Formalities⁷;

³ OJ L 302, 19.10.1992, p. 1.

⁴ OJ L 145, 4.6.2008, p.1.

⁵ OJ L 55, 28.2.2011, p. 13.

⁶ OJ C 206, 12.7.2011, p. 11.

- Data Integration and Harmonisation;
 - Customs Status and Transit;
 - Special Procedures⁸;
 - Customs Controls and Risk Management;
 - Enforcement of Intellectual Property Rights.
2. For the purposes of these rules and except where otherwise provided for, references to "the committee" shall mean the section concerned.

Article 2

Convening a meeting

1. A meeting of the committee shall be convened by the chair, either on his/her own initiative, or at the request of a simple majority of members of the committee.
2. In the case referred to in the second subparagraph of Article 3(5) of Regulation (EU) No 182/2011, where the written procedure is terminated without result, the chair shall convene a committee meeting within a reasonable time.
3. Joint meetings of sections of the committee or of the committee with other committees may be convened by the chair, either on his/her own initiative, or at the request of a member of the committee, to discuss issues coming within their respective areas of responsibility.

Article 3

Agenda

1. The chair shall draw up the agenda and submit it to the committee.
2. The agenda shall make a distinction between:
 - (a) draft implementing acts to be adopted by the Commission on which the committee is asked to give an opinion, in accordance with the examination procedure provided for in:
 - Article 247a of the Community Customs Code/Article 184(2) of the Modernised Customs Code;
 - Article 248a of the Community Customs Code/Article 184(3) of the Modernised Customs Code,
 - Article 10 of Council Regulation (EEC) No 2658/87⁹,
 - Article 3 of Council Regulation (EC) No 3050/95¹⁰;

⁷ (entry and exit of goods; general rules on customs procedures and declarations; release for free circulation and export)

⁸ (other than transit)

⁹ OJ L 256, 7.9.1987, p. 1.

- Article 10 of Council Regulation (EC) No 32/2000¹¹;
 - Article 6(2) of Council Regulation (EC) No 747/2001¹² and similar provisions contained in other Regulations providing for the management of preferential tariff measures,
 - Article 21(2) of Council Regulation (EC) No 1383/2003¹³,
 - Article 4(3) and Article 36(4) of Annex II of Council Regulation (EC) No 1528/2007¹⁴,
 - Articles 47, 53(1)(b), 69, 122(2), and the second sub-paragraph of Article 128(2) of Council Regulation (EC) No 1186/2009¹⁵,
 - Article 5(2) of Council Regulation (EU) No 7/2010¹⁶;
- (b) draft implementing acts to be adopted by the Commission on which the committee is asked to give an opinion, in accordance with the advisory procedure provided for in:
- Article 7f(5) of Regulation (EC) No 2248/2001¹⁷ and similar provisions contained in other Regulations defining procedures for applying the provisions of preferential trade arrangements or agreements concerning the temporary suspension of preferences in the event of fraud or failure to provide administrative cooperation as required for the verification of evidence of origin.
- (c) other issues put to the committee for information or a simple exchange of views, either on the chair's initiative, or at the written request of a member of the committee, or in accordance with:
- Article 249 of the Community Customs Code/Article 185 of the Modernised Customs Code;
 - Article 8 of Regulation (EEC) No 2658/87.

3. The agenda shall indicate whether a vote is scheduled for the meeting.

Article 4

Documentation to be submitted to members of the committee

1. For the purpose of the second subparagraph of Article 3(3) of Regulation (EU) No 182/2011, the chair shall submit the invitation, the draft agenda and the draft implementing act on which the committee is asked to give an opinion to the members of

¹⁰ OJ L 320, 30.12.1995, p.1.

¹¹ OJ L 5, 08.01.2000, p. 1.

¹² OJ L 109, 19.04.2001, p. 2.

¹³ OJ L 196, 2.8.2003, p. 7.

¹⁴ OJ L 348, 31.12.2007, p. 1.

¹⁵ OJ L 324, 10.12.2009, p. 23.

¹⁶ OJ L 3, 7.1.2010, p. 1.

¹⁷ OJ L 1, 4.1.2003, p. 26.

the committee well in advance of the meeting, taking into account the urgency and the complexity of the matter, and no later than 14 calendar days before the date of the meeting. Other documents related to the meeting, in particular documents accompanying the draft implementing act, shall, as far as possible, be submitted within the same time limit.

All documents shall be submitted in accordance with Article 13(2).

2. In duly justified cases, the chair may, on his/her own initiative or at the request of a member of the committee shorten the time limit for submission of documents referred to in paragraph 1. Except in cases of extreme urgency, the time limit shall not be shorter than 5 calendar days.

3. The submission to the members of the committee of the following draft implementing acts, on which the committee is asked to give an opinion, shall be considered as constituting a duly justified case in the sense of the first sentence of paragraph 2:

- draft measures laying down common risk management framework, common risk criteria, control measures and priority control areas, and risk information and analysis to be exchanged between customs administrations, to be adopted by the Commission in accordance with the second sub-paragraph of Article 13(2) of the Community Customs Code (Article 25(3) of the Modernised Customs Code);

- draft measures regarding the granting or the refusal of derogations from preferential rules of origin;

- draft decisions on whether non recovery, repayment or remission of an amount of import or export duty is justified, to be adopted by the Commission in accordance with Article 85 of the Modernised Customs Code;

- draft measures relating to the application of the Combined Nomenclature and the Taric, to be adopted by the Commission in accordance with Article 9(1)(a) of Regulation (EEC) No 2658/87.

Article 5

Opinion of the committee

1. The committee shall deliver its opinion on a draft implementing act within the time limit laid down by the chair in accordance with the second subparagraph of Article 3(3) of Regulation (EU) No 182/2011.

2. Where the advisory procedure leads to a vote, the outcome of the vote shall be decided by a simple majority of the component members of the committee, in accordance with Article 4(1) of Regulation (EU) No 182/2011.

Where the committee's opinion is required under the examination procedure, the outcome of the vote shall be decided by a qualified majority, in accordance with Article 5(1) of Regulation (EU) No 182/2011.

3. Unless a member of the committee objects, the chair may, without proceeding to a formal vote, establish that the committee has delivered a positive opinion, by consensus, on the draft implementing act.

4. The chair, in consultation with the members of the committee, may, on his/her own initiative or at the request of a member of the committee, postpone a vote until the end of the meeting or to a later meeting.

However, with regard to the opinion to be given by the committee on the draft implementing acts referred to in Article 4(3), the vote shall not be postponed to a later meeting, where it would lead to prevent the measures at stake to be adopted in time.

5. In accordance with the second subparagraph of Article 3(4) of Regulation (EU) No 182/2011, the chair shall endeavour to find solutions which command the widest possible support within the committee. Before the vote, the chair shall inform the committee of the manner in which the discussions and suggestions for amendments have been taken into account, in particular as regards those suggestions which have been largely supported by the committee.

6. The Commission shall inform the members of the committee about draft implementing acts, on which it intends asking the committee to give an opinion in accordance with Articles 247a or 248a of the Community Customs Code/Article 184(2) or (3) of the Modernised Customs Code and the expected dates of adoption and application of these implementing acts.

7. In order to maintain the overall structure and ensure the legal coherence of the implementing provisions of the Community Customs Code/the Modernised Customs Code, voting in the respective sections of the committee on the draft implementing act as referred to in paragraph 6 may take place only after prior consultation of the General Customs Legislation section on the results of the discussions in the respective sections concerned. These sections shall take into account the results of that prior consultation.

8. The opinion of the committee on those draft implementing acts falling under the scope of two or more sections of the committee shall be given in the General Customs Legislation section. In that case, voting in the General Customs Legislation section may take place only after completion of the discussions in the respective sections concerned and shall take into account the results of those discussions provided they maintain the overall structure and ensure the legal coherence of the implementing provisions of the Community Customs Code/the Modernised Customs Code.

The General Customs Legislation section may however decide, in duly justified cases and on the chair's proposal, to apply another procedure than the one laid down in the first subparagraph. Such decision shall be taken by consensus or by a simple majority of the component members of the committee.

Article 6

Representation

1. Each Member State shall be considered to be one member of the committee. Each member of the committee shall decide on the composition of its delegation and inform the chair. With the chair's permission, the delegations may be accompanied by experts who are not part of the delegation.

2. Within a reasonable time and no later than 5 calendar days before the date of a committee meeting, the following information shall be communicated to the chair:

- (a) the composition of each delegation, except where such composition is already known to the chair;
- (b) the names and functions of any experts accompanying the delegations and the reasons for which their presence is required;
- (c) the absence of a delegation to a meeting.

If the chair does not object to the participation of an expert in advance of the committee meeting, the permission referred to in paragraph 1 is considered to be granted.

Where Article 4(2) applies to the submission of the invitation, the information referred to in the first subparagraph shall be communicated no later than the date mentioned in the invitation

3. The reimbursement of travel expenses by the Commission shall be paid in accordance with the applicable rules, subject to budgetary funds provided for this purpose.

4. A Member State delegation may represent a maximum of one other Member State. The Member State that is being represented shall inform the chair of this before the meeting, or, at the latest, before the vote.

Article 7

Working groups

1. The committee may create working groups to examine particular issues. The working groups shall be chaired by a representative of the Commission or of a Member State.
2. The working groups shall report back to the committee under the responsibility of their chair.

Article 8

Third parties and experts

1. The representatives of:
 - Turkey shall be invited to attend the meetings of the relevant sections of committee, in accordance with Article 60 and Annex 9 of Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995 on implementing the final phase of the Customs Union¹⁸;
 - Andorra shall be invited to attend the meetings of the relevant sections of the committee, in accordance with Article 65 of Decision No 1/2003 of the EC-Andorra Joint Committee of 3 September 2003, on the laws, regulations and administrative provisions necessary for the proper functioning of the Customs Union¹⁹;
 - Switzerland shall be invited to attend the meetings of the relevant sections of the committee, in accordance with Article 23 of the Agreement between the European

¹⁸ OJ L 035, 13.2.1996,p. 1.

¹⁹ OJ L 253, 7.10.2003, p. 3.

Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures, signed in Brussels on 25 June 2009²⁰;

- Norway shall be invited to attend the meetings of the relevant sections of the committee, in accordance with Article 9h(4) of Protocol 10 and point 29 of Protocol 37 to the EEA Agreement on simplification of inspections and formalities in respect of carriage of goods, as amended by Decision 76/2009 of the EEA Joint Committee²¹.

2. Representatives of acceding countries shall be invited to attend the meetings of the committee as from the date of signature of the Treaty of Accession.

3. The chair may decide to invite representatives of other third parties or other experts to talk on particular matters, on his/her own initiative or at the request of a member the committee. The chair shall inform the members of the committee in the invitation to the meeting. However, a simple majority of the component members of the committee may oppose that participation before the meeting and no later than the date mentioned in the invitation.

4. Representatives of third parties and experts referred to in paragraphs 1, 2 and 3 shall not be present at and shall not participate in voting of the committee.

Article 9

Written procedure

1. The chair may obtain the committee's opinion by written procedure in accordance with Article 3(5) of Regulation (EU) No 182/2011. In particular, the chair may use the written procedure to obtain the committee's opinion in cases where the draft implementing act has already been discussed during a committee meeting and, where necessary, on the draft implementing acts referred to in Article 4(3).

2. The chair shall inform the members of the committee of the outcome of a written procedure without delay, and no later than 14 calendar days after the expiry of the time limit.

Article 10

Secretarial support

The Commission shall provide secretarial support for the committee and, if necessary, the working groups created pursuant to Article 7(1).

Article 11

Minutes and summary record of meetings

1. For the purpose of Article 3(6) of Regulation (EU) No 182/2011, the minutes of each meeting shall be drawn up under the responsibility of the chair. Committee members shall have the right to ask for their position to be recorded in the minutes. The chair shall

²⁰ OJ L 199, 31.7.2009, p. 24.

²¹ OJ L 232, 3.9.2009, p. 40.

send the minutes to the members of the committee without delay and no later than one month after the meeting.

The members of the committee shall send or make available any comments they may have on the draft minutes to the chair in writing. If there is any disagreement, the matter shall be discussed by the committee. If the disagreement persists, the relevant comments shall be annexed to the final minutes.

2. For the purpose of Article 10 of Regulation (EU) No 182/2011, the chair shall be responsible for drawing up a summary record briefly describing each item on the agenda and the results of the vote on any draft implementing act submitted to the committee. The summary record shall not mention the individual position of the members in the committee's discussions.

Article 12

Attendance list and conflicts of interest

1. At each meeting, the chair shall draw up an attendance list specifying the authorities and organisations to which the persons designated by the Member States to represent them belong.

2. At the beginning of each meeting, any person designated by the Member States, as well as experts who have been authorised by the chair to participate in the meeting in accordance with Article 6(1) and Article 8(3), and representatives of third parties who have been invited to attend the meeting in accordance with Article 8, shall inform the chair of any conflict of interest²² with regard to a particular item on the agenda.

In the event of a conflict of interest, the person concerned shall, at the request of the chair, withdraw from the meeting whilst the relevant items of the agenda are being dealt with.

Article 13

Correspondence

1. Correspondence relating to the committee shall be submitted to the Commission, for the attention of the chair of the committee.

2. Correspondence for members of the committee shall be submitted to the Permanent Representations of the Member States preferably by electronic means. Where a Permanent Representation indicates to the Commission a specific central electronic address for correspondence related to work of the committees, that address shall be used for correspondence. In addition, correspondence shall be submitted directly to the persons designated by the Member States to represent them in the committee.

Article 14

²² As an example, Article 52(2) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.09.2002, p. 1) contains a specific definition of a conflict of interest.

Access to documents and confidentiality

1. Requests for access to committee documents shall be handled in accordance with Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001²³. It is for the Commission to take a decision on requests for access to those documents pursuant to its Rules of Procedure as amended by Decision 2001/937/EC, ECSC, Euratom²⁴. If the request is addressed to a Member State, that Member State shall apply Article 5 of Regulation (EC) No 1049/2001.
2. The committee's discussions shall be confidential.
3. Documents submitted to members of the committee, experts and representatives of third parties shall be confidential²⁵, unless access is granted to those documents pursuant to paragraph 1 or they are otherwise made public by the Commission.
4. The members of the committee, as well as experts and representatives of third parties, shall be required to respect the confidentiality obligations set out in this Article. The chair shall ensure that experts and representatives of third parties are made aware of the confidentiality requirements imposed upon them.

Article 15

Protection of personal data

The processing of personal data by the committee and its working groups shall be in conformity with Regulation (EC) No 45/2001 of the European Parliament and of the Council²⁶, under the responsibility of the chair acting as the controller, within the meaning of Article 2(d) of that Regulation.

Article 16

Application

These rules of procedure shall apply from 19 April 2012.

The rules of procedure for the Customs Code Committee, adopted by its Section for General Customs Rules on 29 January 2009 (document TAXUD/1711/2008 final) are hereby repealed. However, the effects of those rules shall be maintained insofar as the application of Article 3(2)(c) thereof is concerned.

²³ OJ L 145, 31.05.2001, p. 43.

²⁴ OJ L 345, 29.12.2001, p. 94.

²⁵ In accordance with Article 339 TFEU, "[t]he members of the institutions of the Union, the members of committees, and the officials and other servants of the Union shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components".

²⁶ OJ L 8, 12.1.2001, p. 1.