RULES OF PROCEDURE OF THE CUSTOMS EXPERT GROUP

THE CUSTOMS EXPERT GROUP

Having regard to the Union Customs Code (UCC)\(^1\) and the UCC Implementing Regulation\(^2\) (in particular Article 211(6) UCC and Article 259 of the UCC Implementing Regulation),

Having regard to the terms of reference of the Customs Expert Group,\(^3\)

Having regard to the standard rules of procedure of expert groups,\(^4\)

HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:

*Article 1*

*Representation*

1. Each Member State shall be considered to be one member of the Customs Expert Group (hereinafter referred to as ‘the group’). Each member of the group shall decide on the composition of its delegation, taking into account the expertise required, and inform the chair.

2. Within the date mentioned in the invitation and in any case no later than 5 calendar days before the date of a group meeting, the Member States' authorities shall communicate to the Commission:

   a) the composition of each delegation, except where such composition is already known to the chair;

   b) the absence of a delegation to a meeting.

3. A member delegation may represent a maximum of one other member. The member that is being represented shall inform the chair of this in writing before the meeting, or in the case of a standing mandate, before the first meeting, in which that mandate is valid.

   A mandate to represent another member may have the following content:


a) a member may give a standing mandate, until further notice, to another member to represent it in discussions covering all meetings and concerning all items on the agenda of those meetings;

b) a member may give a single mandate to another member to represent it in a specific meeting concerning all items on the agenda of that meeting; or

c) a member may give a single mandate to another member for one specific item/several specific items on the agenda of a specific meeting.

Article 2

Secretariat

The Commission shall provide secretarial support for the group and any sections or sub-groups created under Article 6.

Article 3

Convening a meeting

1. Meetings of the group are convened by the Chair, either on its own initiative, or at the request of an absolute majority of members after the Chair has given its agreement.

2. Joint meetings of sections of the group or of the group with other expert groups may be convened to discuss matters falling within their respective areas of responsibility.

Article 4

Agenda

1. The secretariat shall draw up the agenda under the responsibility of the Chair and submit it to the members of the group.

2. The agenda shall be adopted by the group at the start of the meeting.

3. The agenda shall make a distinction between:
   a) Draft Delegated Acts for consultation;
   b) The examination of the economic conditions in connection with an application or an authorisation for a special procedure under Article 211 (6) UCC and in accordance with Article 259 of the UCC Implementing Regulation;
   c) other issues put to the group for information or an exchange of views, either on the chair's initiative, or at the written request of a member of the group.
Article 5

Documentation to be submitted to group members

1. The secretariat shall submit to the group members the invitation to the meeting, the draft agenda and the delegated act or application or authorisation for a special procedure on which the group is consulted no later than fourteen calendar days before the date of the meeting.

2. The secretariat shall submit to the group members other documents related to the meeting, as far as possible, within the same time limit.

3. In urgent or exceptional cases, the time limits for submitting the documentation mentioned in paragraphs 1 and 2 may be reduced to five calendar days before the date of the meeting.

Article 6

Sections and Sub-groups

1. The Group shall comprise the following sections:
   - General Customs Legislation
   - Data Integration and Harmonisation – EU Customs Data Model
   - Authorised Economic Operator
   - Customs Control and Risk Management
   - Tariff and Statistical Nomenclature
   - Tariff Measures
   - Duty Relief
   - Origin
   - Customs Valuation
   - Customs Debt and Guarantees
   - Import and Export Formalities
   - Customs Status and Transit
   - TIR Convention and other UNECE customs Conventions
   - Special Procedures other than transit
   - Enforcement of Intellectual Property Rights
   - International Customs Matters

2. The General Customs Legislation section shall preserve the overall structure and coherence of customs legislation.
3. The consultations in a matter that falls under the scope of two or more sections shall take place in the General Customs Legislation section, taking into account the conclusions reached in the respective sections.

4. In duly justified cases and on the chair's proposal, in the cases referred to in paragraph 3, the General Customs Legislation section may decide, in accordance with Article 7, that the consultation takes place in a section other than the General Customs Legislation section.

5. In addition to the sections, the Chair, after consulting the group, may set up ad-hoc sub-groups to examine specific questions on the basis of specific terms of reference; such sub-groups shall be disbanded as soon as their mandate is fulfilled.

6. For the purposes of these rules and except where otherwise provided for, references to "the group" shall include any section or sub-group concerned.

Article 7

Conclusions of the group

1. As far as possible, the group shall reach conclusions by consensus.

2. In the absence of consensus, and if the Chair requests the group to vote, the group's conclusions shall be adopted by an absolute majority of the members. The members shall have the right to have a document summarising the reasons for their position annexed.

Article 8

Advice of the group on the fulfilment of the economic conditions

Where, under Article 211(6) of the UCC and Article 259 of the UCC Implementing Regulation, the group is requested to advise the Commission on whether the economic conditions are fulfilled in connection with an application or an authorisation for a special procedure, the following specific rules apply:

a) The group will be requested to advise the Commission only after it has been verified that all the other relevant conditions (excluding the provision of a guarantee) for granting the authorisation are fulfilled and, where applicable, both the members and the Commission have done all other necessary consultations on the application, in particular those related to antidumping or countervailing measures.

b) Before the group votes, the group shall express its preliminary/indicative views on the application or authorisation. If the group preliminary/indicative views are that the economic conditions are not fulfilled, the member concerned shall communicate to the applicant or the authorisation holder the grounds on which the group took these views.
c) If the group does not reach consensus, the members shall vote on the application or authorisation.

d) The group's advice shall be that the economic conditions are fulfilled if there are more members present or represented voting in favour of the application or authorisation than members present or represented voting against. In all other cases, the advice of the group shall be that the economic conditions are not fulfilled or not fulfilled anymore. Abstentions shall not be taken into account.

e) The members voting against shall give the reasons for their position.

f) If a member has not concluded its internal consultation procedure and, therefore, cannot give an opinion on an application or authorisation at the time of the meeting, such member may, with the Chair's permission, give its opinion in writing within a fortnight after the meeting. If an opinion in writing is not admitted, the member concerned may vote during the group meeting or abstain from voting.

Article 9

Relations with the European Parliament and the Council

1. The Commission shall provide the Parliament and the Council the same documentation that it sends to the members for the meetings on the preparation and implementation of Union customs legislation, including soft law and delegated acts. Experts from the European Parliament and the Council shall have access to the meeting of the group.

2. The sharing of and access to confidential information shall be governed by Annex II of the Framework Agreement on relations between the European Parliament and the European Commission.\(^5\)

3. When preparing and drawing up delegated acts, the Commission shall ensure a timely and simultaneous transmission of the draft acts to the European Parliament and the Council.

Article 10

Third countries and experts

1. The Chair shall invite on an ad hoc basis, as observers:

   a) The representatives of Turkey, to attend the meetings of the group on matters affecting Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995 on implementing the final phase of the Customs Union\(^6\);

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b) The representatives of Andorra, to attend the meetings of the group on matters affecting 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 Union⁷;

c) The representatives of Switzerland, to attend the meetings of the group on matters affecting the Agreement between the European 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 2009⁸;

d) The representatives of Norway, to attend the meetings of the group on matters affecting 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 Committee⁹.

e) The representatives of acceding countries, to attend the meetings of the group as from the date of signature of the Treaty of Accession.

3. The Chair may decide to invite representatives of other third parties or experts from outside the group with specific competence in a subject on the agenda to participate in the work of the group or sections, on his/her own initiative or at the request of a member of the group. The Chair shall inform the members of the group in the invitation to the meeting. An absolute majority of the component members of the group may oppose that participation before the meeting and no later than the date mentioned in the invitation.

    Article 11

Written procedure

1. If necessary, the group may be consulted via a written procedure. To this end, the secretariat sends the group members the document(s) on which the group is consulted within the deadlines mentioned in Article 5.

2. However, if an absolute majority of group members asks for the question to be examined at a meeting of the group, the written procedure shall be terminated without result and the Chair shall convene a meeting of the group as soon as possible.

3. The chair shall inform the members of the group of the outcome of a written procedure no later than 14 calendar days after the expiry of the time limit to vote.

⁷ OJ L 253, 7.10.2003, p.3.
Article 12

Minutes of the meetings

1. Minutes on the discussion on each point on the agenda and the conclusions delivered by the group in accordance with Article 8 shall be meaningful and complete. They shall be drafted by the secretariat under the responsibility of the Chair.

2. The minutes shall be submitted to the members as soon as possible and in any case at least five calendar days before the following meeting of the same section.

3. The members of the group may request corrections to the minutes.

Article 13

Attendance list

At each meeting, the secretariat shall draw up, under the responsibility of the Chair, an attendance list specifying, where appropriate, the authorities, organisations or bodies to which the participants belong.

Article 14

Conflicts of interest

Should a conflict of interest in relation to an external expert invited as an independent expert to a meeting pursuant to Article 9(3) arise, the Chair shall take all appropriate measures, in compliance with the horizontal rules on Commission expert groups.

Article 15

Correspondence

1. Correspondence relating to the group shall be addressed to the Commission, for the attention of the Chair.

2. Correspondence for group members shall be submitted to the e-mail address(es) which they provide for that purpose and which may include the Permanent Representations of the Member States.
Article 16

Access to documents
Applications for access to documents held by the expert group will be handled in accordance with Regulation (EC) No 1049/2001\(^\text{10}\) and detailed rules for its application\(^\text{11}\).

Article 17

Deliberations
In agreement with the Chair, the group may, by an absolute majority of its members, decide to open its deliberations to the public.

Article 18

Protection of personal data
All processing of personal data for the purposes of these rules of procedure shall be in accordance with Regulation (EC) No 45/2001\(^\text{12}\).

Article 19

Application
These rules of procedure shall apply from the date of adoption by the group.

