II

(Acts whose publication is not obligatory)

COMMISSION

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 Union

(2003/692/EC)

THE JOINT COMMITTEE,

Having regard to the Agreement in the form of an Exchange of Letters between the European Economic Community and the Principality of Andorra, and in particular Articles 7(2) and 8(3)(c) thereof,

Whereas:

(1) Pursuant to the aforementioned Article 7(2), the Principality of Andorra should adopt, for products covered by the Customs Union, the laws, regulations and administrative provisions applicable by the Community in the customs field and necessary for the proper functioning of the Customs Union. It is necessary to determine which provisions Andorra should adopt and, where appropriate, provide for the implementing arrangements for the Principality of Andorra.

(2) The arrangements necessary for the proper functioning of the aforementioned Article 8 should be made and provisions to enable the recovery of claims by means of mutual assistance between the Contracting Parties should be adopted.

(3) Appropriate measures to ensure the mechanisms of the Customs Union established between the Community and the Principality of Andorra should be adopted.

(4) It is necessary to adapt the provisions set out in the Annex to Decision No 2/91 of the EEC-Andorra Joint Committee [1] to the provisions applicable in the Community, and Decision No 2/91 should therefore be repealed by this Decision.

(5) The provisions of Decision No 1/96 of the EC-Andorra Joint Committee [2] concerning certain methods of administrative cooperation for the implementation of the Agreement and the transit of goods between the Parties have been incorporated in this Decision, and Decision No 1/96 should therefore also be repealed,

HAS DECIDED AS FOLLOWS:

TITLE I

GENERAL

CHAPTER 1

Scope and basic definitions

Article 1

This Decision sets out the measures required to ensure the functioning of the mechanisms of the Customs Union established between the Community and the Principality of Andorra.

Article 2

For the purposes of this Decision:

1. 'the Agreement' shall mean the Agreement in the form of an Exchange of Letters between the European Economic Community and the Principality of Andorra, signed in Luxembourg on 28 June 1990 [3];

[1] OJ L 250, 7.9.1991, p. 24.

[2] OJ L 184, 24.7.1996, p. 39.

[3] OJ L 374, 31.12.1990, p. 16.

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2. 'customs territory of the Customs Union' shall comprise:

— the customs territory of the Community as defined in Article 3 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ([1]),

— the customs territory of the Principality of Andorra;

3. 'third country' shall apply to a country or territory which is not part of the customs territory of the Customs Union;

4. 'part of the Customs Union' shall mean the customs territory of the Community or the customs territory of the Principality of Andorra;

5. 'Community Customs Code' shall refer to Regulation (EEC) No 2913/92;

6. 'implementing provisions of the Community Customs Code' shall refer to Commission Regulation (EEC) No 2454/93 ([2]);

7. 'goods in free circulation' shall mean goods fulfilling the conditions referred to in Articles 3 or 4 of the Agreement.

Article 3

1. Without prejudice to the provisions of the Agreement or the specific provisions of this Decision, the Principality of Andorra shall adopt, on the date of entry into force of this Decision, customs provisions necessary for the proper functioning of the Customs Union based on the Community Customs Code and its implementing provisions.

2. Without prejudice to the provisions of the Agreement, the Principality of Andorra shall take the measures necessary for the implementation, on the date of entry into force of this Decision, of provisions based on:

(a) Council Regulation (EC) No 1541/98 of 13 July 1998 on proof of origin for certain textile products falling within Section XI of the Combined Nomenclature and released for free circulation in the Community, and on the conditions for the acceptance of such proof ([3]) and Annex I to Council Regulation (EEC) No 3030/93 of 12 October 1993 on common rules for imports of certain textile products from third countries ([4]);

(b) Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty ([5]) and Commission Regulations (EEC) No 2288/83 ([6]), (EEC) No 2289/83 ([7]), (EEC) No 2290/83 ([8]) and (EEC) No 3915/88 ([9]) which set out the implementing provisions thereof, with the exception of the following provisions:

— Chapter I: Titles IX, X, XXVI,

— Chapter II: Titles II, III, IV, V,

— Chapter III: Articles 135, 136(2), 140;

(c) Council Regulation (EC) No 3295/94 of 22 December 1994 laying down measures to prohibit the release for free circulation, export, re-export or entry for a suspensive procedure of counterfeit or pirated goods ([10]) and Commission Regulation (EEC) No 1367/95 ([11]), laying down the implementing provisions thereof;

(d) Council Regulation (EEC) No 3911/92 of 9 December 1992, on the export of cultural goods ([12]) and Commission Regulation No 752/93 ([13]), laying down the implementing provisions thereof;

(e) Council Regulation (EEC) No 3677/90 of 13 December 1990, laying down measures to be taken to discourage the diversion of certain substances to the illicit manufacture of narcotic drugs and psychotropic substances ([14]) and Commission Regulation (EEC) No 3769/92, implementing and amending Regulation (EEC) No 3677/90 ([15]);

(f) Council Regulation (EC) No 1334/2000 of 22 June 2000, setting up a Community regime for the control of dual-use items and technology ([16]).

3. Without prejudice to the provisions of the Agreement or the specific provisions of this Decision, the Principality of Andorra shall take the necessary measures for the implementation, on the date of entry into force of this Decision, of provisions based on:

— the Community provisions for the classification of goods in the Combined Nomenclature, including the explanatory notes,

([1]) OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council (OJ L 311, 12.12.2000, p. 17).
([2]) OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1335/2003 (OJ L 187, 26.7.2003, p. 16).
([3]) OJ L 202, 18.7.1998, p. 11.
([4]) OJ L 275, 8.11.1993, p. 1.
([5]) OJ L 105, 23.4.1983, p. 105. Regulation as last amended by Regulation (EC) No 1671/2000 (OJ L 193, 29.7.2000, p. 11).
([6]) OJ L 220, 11.8.1983, p. 13.
([7]) OJ L 220, 11.8.1983, p. 15.
([8]) OJ L 220, 11.8.1983, p. 20.
([9]) OJ L 347, 16.12.1988, p. 55.
([10]) OJ L 341, 30.12.1994, p. 8. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).
([11]) OJ L 133, 17.6.1995, p. 2. Regulation as amended by Regulation (EC) No 2549/1999 (OJ L 308, 3.12.1999, p. 16).
([12]) OJ L 395, 31.12.1992, p. 1. Regulation as last amended by Regulation (EC) No 806/2003.
([13]) OJ L 77, 31.3.1993, p. 24. Regulation as last amended by Regulation (EC) No 1526/98 (OJ L 201, 17.7.1998, p. 47).
([14]) OJ L 357, 20.12.1990, p. 1. Regulation as last amended by Commission Regulation (EC) No 1232/2002 (OJ L 180, 10.7.2002, p. 5).
([15]) OJ L 383, 29.12.1992, p. 17. Regulation as last amended by Regulation (EC) No 1232/2002.
([16]) OJ L 159, 30.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 149/2003 (OJ L 30, 5.2.2003, p. 1).

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— the explanatory notes and the notices of classification of the Harmonised System,

— the Community rules determining the conditions for eligibility of certain goods for favourable tariff treatment on importation according to their nature or end-use.

CHAPTER 2

Provisions concerning mutual assistance for the recovery of claims

Article 4

This Chapter shall lay down the rules for ensuring recovery in each country of the claims referred to in Article 6, which arise in another part of the Customs Union. Implementing provisions are set out in Annex I to this Decision.

Article 5

In this Chapter:

— 'applicant authority' shall mean a competent authority named for this purpose by a Contracting Party which makes a request for assistance concerning a claim referred to in Article 6,

— 'requested authority' shall mean a competent authority named for this purpose by a Contracting Party to which a request for assistance is made,

— 'country' shall mean any Member State of the Community or the Principality of Andorra,

— 'import duties' shall mean customs duties and charges having an equivalent effect payable on importation of the goods,

— 'export duties' shall mean customs duties and charges having an equivalent effect payable on exportation of the goods,

— 'information of a personal nature' shall mean any information concerning an identified or an identifiable natural person.

Article 6

This Chapter shall apply to all claims concerning import duties and export duties due following a customs operation initiated after the entry into force of this Decision.

Article 7

1. At the request of the applicant authority, the requested authority shall provide any information which would be useful to the applicant authority in the recovery of its claim.

In order to obtain this information, the requested authority shall make use of the powers provided under the laws, regulations or administrative provisions that apply to the recovery of similar claims arising in the country where that authority is situated.

2. The request for information shall indicate the name, address and any other relevant information relating to the identification, to which the applicant authority normally has access, of the person to whom the information to be provided relates and the nature and the amount of the claim in respect of which the request is made.

3. The requested authority shall not be obliged to supply information:

(a) which it would not be able to obtain for the purpose of recovering similar claims arising in the country in which it is situated;

(b) which would disclose any commercial, industrial or professional secrets; or

(c) the disclosure of which would be liable to prejudice the security or public order of that country.

4. The requested authority shall inform the applicant authority of the grounds for refusing a request for information.

Article 8

1. The requested authority shall, at the request of the applicant authority, and in accordance with the rules of laws in force for the notification of similar instruments or decisions in the country in which the requested authority is situated, notify to the addressee all instruments and decisions, including those of a judicial nature, which emanate from the country in which the applicant authority is situated and which relate to a claim and/or to its recovery.

2. The request for notification shall indicate the name, address and any other relevant information relating to the identification, to which the applicant authority has access, for identifying the addressee, the nature and subject of the instrument or decision to be notified and, if necessary, the name and address of the debtor and the claim to which the instrument or decision relates, and any other useful information.

3. The requested authority shall promptly inform the applicant authority of the action taken on its request for notification and, more especially, of the date on which the instrument or decision was forwarded to the addressee.

Article 9

1. At the request of the applicant authority, the requested authority shall recover claims which are the subject of an instrument permitting their enforcement in accordance with the laws, regulations or administrative provisions applying to the recovery of similar claims arising in the country in which the requested authority is situated.

2. For this purpose, the claim in respect of which a request for recovery has been made shall be treated as a claim of the country in which the requested authority is situated, except where Article 15 applies.

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Article 10

1. The request for recovery of a claim which the applicant authority addresses to the requested authority must be accompanied by an official or certified copy of the instrument permitting its enforcement, issued in the country in which the applicant authority is situated and, if appropriate, by the original or certified copy of other documents necessary for recovery.

2. The applicant authority may not make a request for recovery unless:

(a) the claim and/or instrument permitting its enforcement are not contested in the country in which it is situated, except where Article 15(2), second subparagraph applies;

(b) it has, in the country in which it is situated, applied appropriate recovery procedures available to it on the basis of the instrument referred to in paragraph 1 and the measures taken will not result in the payment in full of the claim;

(c) the claim exceeds EUR 1 500.

3. The request for recovery shall indicate:

— the name, address and any other relevant information relating to the identification of the person concerned and/or to the third party holding his or her assets,

— the name, address and any other relevant information for identifying the applicant authority,

— a reference to the instrument permitting its enforcement, issued in the country in which the applicant authority is situated,

— the nature and amount of the claim, including the principal and costs due, indicated in the currency of the country in which both authorities are situated,

— the date of notification of the instrument to the addressee by the applicant authority and/or the requested authority,

— the date from which and the period during which enforcement is possible under the laws in force in the country in which the applicant authority is situated,

— any other relevant information.

4. The request for recovery shall contain in addition a declaration by the applicant authority confirming that the conditions laid down in paragraph 2 have been fulfilled.

5. As soon as any relevant information relating to the matter which gave rise to the request for recovery comes to the knowledge of the applicant authority it shall forward it to the requested authority.

Article 11

1. The instrument permitting enforcement of recovery of the claim shall be directly recognised and treated automatically as an instrument permitting enforcement of a claim in the country in which the requested authority is situated.

2. Notwithstanding the first paragraph, the instrument permitting enforcement of the claim may be, where appropriate and in accordance with the provisions in force in the country in which the requested authority is situated, accepted as, recognised as, supplemented with, or replaced by an instrument authorising enforcement in the territory of that country. Within three months following the date of receipt of the request for recovery, countries shall endeavour to complete such acceptance, recognition, supplementing or replacement, except in cases where paragraph 3 is applied. They may not be refused if the instrument permitting enforcement is properly drawn up. The requested authority shall inform the applicant authority of the grounds for exceeding the period of three months.

3. If any of these formalities should give rise to contestation in connection with the claim and/or the instrument permitting enforcement issued by the applicant authority, Article 15 shall apply.

Article 12

1. Claims shall be recovered in the currency of the country in which the requested authority is situated. The entire amount of the claim that is recovered by the requested authority shall be remitted by the requested authority to the applicant authority.

2. The requested authority may, where the laws, regulations or administrative provisions in force in the country in which it is situated so permit, and after consultations with the applicant authority, allow the debtor time to pay or authorise payment by instalment. Any interest charged by the requested authority in respect of such extra time to pay shall also be remitted to the applicant authority.

From the date on which the instrument permitting the enforcement has been directly recognised or accepted, recognised, supplemented or replaced in accordance with Article 11, interest will be charged for late payment under the laws, regulations and administrative provisions in force in the country in which the requested authority is situated and shall also be remitted to the country in which the applicant authority is situated.

Article 13

Notwithstanding Article 9(2), the claims to be recovered shall not necessarily benefit from the privileges accorded to similar claims arising in the country in which the requested authority is situated.

Article 14

The requested authority shall inform the applicant authority immediately of the action it has taken on the request for recovery.

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Article 15

1. If, in the course of the recovery procedure, the claim and/or the instrument permitting its enforcement issued in the country in which the applicant authority is situated are contested by an interested party, the action shall be brought by the latter before the competent body of the country in which the applicant authority is situated, in accordance with the laws in force there. This action must be notified by the applicant authority to the requested authority. The party concerned may also notify the requested authority of the action.

2. As soon as the requested authority has received the notification referred to in paragraph 1, either from the applicant authority or from the interested party, it shall suspend the enforcement procedure pending the decision of the body competent in the matter unless there is a request to the contrary formulated by the applicant authority in accordance with the following paragraph. Should the requested authority deem it necessary, and without prejudice to Article 16, that authority may take precautionary measures to guarantee recovery insofar as the laws or regulations in force in the country in which it is situated allow such action for similar claims.

Notwithstanding the first subparagraph of paragraph 2, the applicant authority may in accordance with the laws, regulations and administrative practices in force in the country in which it is situated, request the requested authority to recover a contested claim, insofar as the laws, regulations and administrative practices in force in the country in which the requested authority is situated allow such action. If the result of the contestation is subsequently favourable for the debtor, the applicant authority shall be liable for the reimbursement of any sums recovered, together with any compensation due, in accordance with the laws in force in the country in which the requested authority is situated.

3. Where it is the enforcement measures taken in the country in which the requested authority is situated that are being contested, the action shall be brought before the competent body of that country in accordance with its laws and regulations.

4. Where the competent body before which the action has been brought in accordance with paragraph 1 is a judicial or administrative tribunal, the decision of that tribunal, insofar as it is favourable to the applicant authority and permits recovery of the claim in the country in which the applicant authority is situated, shall constitute the 'instrument permitting enforcement' within the meaning of Articles 9, 10 and 11 and recovery of the claim shall proceed on the basis of that Decision.

Article 16

1. On a reasoned request by the applicant authority, the requested authority shall take the precautionary measures to ensure recovery of a claim insofar as the laws and regulations in force in the country in which it is situated so permit for similar claims.

2. In order to give effect to the provisions of paragraph 1, Article 9, Article 10(1), (3) and (5) and Articles 11, 14, 15 and 17 shall apply *mutatis mutandis*.

Article 17

The requested authority shall not be obliged:

(a) to grant the assistance provided for in Articles 9 to 16 if recovery of the claim would, because of the situation of the debtor, create serious economic or social difficulties in the country in which that authority is situated, insofar as the laws, regulations or administrative practices in force in the country in which the requested authority is situated allow such action for similar national claims;

(b) to grant the assistance provided for in Articles 7 to 16, if the initial request under Article 7, 8 or 9 applies to claims more than five years old, dating from the moment the instrument permitting the enforcement is established in accordance with the laws, regulations or administrative practices in force in the country in which the applicant country is situated, to the date of the request. However, in cases where the claim or the instrument is contested the time limit begins at the moment the applicant authority establishes that the claim or the instrument may no longer be contested.

The requested authority shall inform the applicant authority of the grounds for refusing a request for assistance. Such reasoned refusal shall also be communicated to the Commission.

Article 18

1. Questions concerning periods of limitation shall be governed solely by the law in force in the country in which the applicant authority is situated.

2. Steps taken in the recovery of claims by the requested authority in pursuance of a request for assistance which, if they had been carried out by the applicant authority, would have had the effect of suspending or interrupting the period of limitation according to the laws in force in the country in which the applicant authority is situated, shall be deemed to have been taken in the latter country, insofar as that effect is concerned.

Article 19

1. Documents and information sent to the requested authority pursuant to this Chapter may only be communicated by the latter to:

(a) the person mentioned in the request for assistance;

(b) those persons and authorities responsible for the recovery of the claims, and solely for that purpose;

(c) the judicial authorities dealing with matters concerning the recovery of the claims.

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Furthermore, any information obtained in application of this Chapter, and notably in pursuance of Articles 7 and 10, may only be used for the purposes of mutual assistance in recovery of claims in the particular case in question.

2. Information of a personal nature may not be exchanged unless the addressee Contracting Party undertakes to protect this information in a manner at least equivalent to that applying to the particular case in the Contracting Party supplying that information.

Article 20

Requests for assistance, the instrument permitting enforcement and other relevant documents annexed shall be accompanied by a translation into the official language, or one of the official languages, of the country in which the requested authority is situated, without prejudice to the latter authority's right to waive the translation.

Article 21

1. The requested authority shall recover from the person concerned and retain any costs linked to recovery which it incurs, in accordance with the laws and regulations in the country in which it is situated that apply to similar claims.

2. The Contracting Parties shall renounce all claims upon each other for the refund of costs resulting from mutual assistance which they grant each other pursuant to this Chapter.

3. Where recovery poses a specific problem, concerns a very large amount in costs or relates to the fight against organised crime, the applicant and requested authorities may agree reimbursement arrangements specific to the cases in question.

4. The country in which the applicant authority is situated shall remain liable to the country in which the requested authority is situated for any costs and losses incurred as a result of actions held to be unfounded, as far as either the substance of the claim or the validity of the instrument issued by the applicant authority are concerned.

Article 22

The Contracting Parties shall provide each other with a list of the authorities authorised to make or receive requests for assistance, as well as any subsequent relevant changes to that list.

Article 23

The provisions of this Chapter shall not prevent a greater measure of mutual assistance being afforded either now or in the future by particular countries under any agreements or arrangements, including those for the notification of legal or extra-legal acts.

Article 24

1. Within the Joint Committee, the Contracting Parties shall inform each other of the measures they take to apply the provisions of this Chapter. They shall also report on their use of the provisions of this Chapter and on the results obtained.

2. For this purpose, the Contracting Parties shall take note of the number of requests for information, notification and recovery they make and receive each year pursuant to this Chapter, and of the amount of the claims involved and of the amounts recovered.

TITLE II

PROVISIONS APPLICABLE TO TRADE IN GOODS BETWEEN THE TWO PARTS OF THE CUSTOMS UNION

CHAPTER 1

General

Article 25

Without prejudice to the provisions on free circulation laid down in the Agreement, the Community Customs Code and its implementing provisions, which are applicable in the customs territory of the Community, and the Andorran customs code and its implementing provisions, which are applicable in the territory of the Principality of Andorra, shall apply in trade between the two parts of the Customs Union under the conditions laid down in this Decision.

Article 26

1. For the implementation of Article 4 of the Agreement, the validation of the document necessary to enable the free circulation of the goods in question shall cause a customs debt on importation to be incurred. It shall also give rise to the application of the commercial policy measures to which the products or the goods concerned may be subject.

2. The moment when such customs debt is incurred shall be deemed to be the moment when the customs authorities accept the export declaration relating to the goods in question.

3. The debtor shall be the declarant. In the event of indirect representation, the person on whose behalf the declaration is made shall also be a debtor.

4. The amount of import duties corresponding to this customs 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 declaration for release for free circulation of the goods concerned for the purpose of terminating the inward processing procedure.

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CHAPTER 2

Provisions concerning the transit of goods between the parts of the Customs Union

Article 27

The Community and the Principality of Andorra shall, in respect of goods falling within Chapters 25 to 97 of the Harmonised System, apply *mutatis mutandis* the rules of the Community transit procedure laid down in the Community Customs Code and its implementing provisions, subject to the special provisions laid down in this Chapter.

Article 28

1. For the purposes of trade between the parts of the Customs Union, and notwithstanding Article 29,

— goods which are in free circulation shall move under the internal Community transit procedure (T2, T2F),

— goods other than those referred to in the indent above shall move under the external Community transport procedure (T1).

2. Notwithstanding the requirement for evidence that the goods are in free circulation, the persons completing export formalities at the frontier customs office of a part of the Customs Union shall not be required to place the goods under the Community transit procedure, irrespective of the customs procedure under which the goods will be placed at the neighbouring frontier customs office.

3. Notwithstanding the requirement for evidence that the goods are in free circulation, the frontier customs office of the part of the Customs Union where export formalities are completed may refuse to place the goods under the Community transit procedure if that procedure is to end at the neighbouring frontier customs office.

4. Free circulation of goods not moving under the internal Community transit procedure may be proved by production of a T2L document or a document having equivalent effect. 'T2L document' means any document bearing the indication 'T2L' or 'T2LF' or an indication having the same meaning.

Article 29

1. Goods referred to in Article 6(3)(c) of the Agreement, dispatched to the Principality of Andorra with the benefit of an export refund, shall move under cover of an external Community transit document (T1).

2. Where a control copy T5 is used for the purposes of the paragraph above, such document shall be returned to the customs office at the point of exit from the Community in order to provide evidence of such exit.

3. Where the goods referred to in Article 6(3)(c) of the Agreement, in free circulation in the Principality of Andorra, are dispatched to the Community, they shall also be placed under the external Community transit procedure (T1).

The transit document T1 shall be endorsed with one of the following phrases, with underlining in red:

— Percibir sólo el elemento agrícola — Acuerdo CEE-Andorra

— Kun landbrugselementet opkræves — EØF-Andorra aftalen

— Nur den Agrarteilbetrag erheben — Abkommen EWG-Andorra

— Κατακρατείται μόνο το αγροτικό στοιχείο — Συμφωνία ΕΟΚ-Ανδόρας

— Charge agricultural component only — EEC-Andorra agreement

— Ne percevoir que l'élément agricole — Accord CEE-Andorre

— Riscuotere solo l'elemento agricolo — Accordo CEE-Andorra

— Alleen het agrarische element innen — Overeenkomst EEG-Andorra

— Cobrar unicamente o elemento agrícola — Acordo CEE-Andorra

— Kannetaan ainoastaan maatalouden maksuosa — ETY — Andorra-sopimus

— Debitera endast jordbrukskomponenten — EEG-Andorra avtalet

— Percebre únicament l'element agrícola — Acord CEE-Andorra.

Article 30

1. For the purposes of this Chapter, 'transit office' shall mean the customs office of entry in a part of the Customs Union other than that of departure.

2. The carrier shall present a transit advice note at each transit office.

Article 31

1. The guarantee provided for under the Community transit procedure must be valid in the customs territory of the Customs Union.

2. Guarantee documents, global guarantee certificates and guarantee waiver certificates shall be endorsed with the words 'Principality of Andorra'.

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TITLE III

PROVISIONS APPLICABLE TO TRADE IN GOODS WITH THIRD COUNTRIES

CHAPTER 1

Provisions concerning the value of goods for customs purposes

Article 32

The costs of transport and insurance and loading and handling charges associated with transport of third country goods after introduction of the goods into the territory of the Customs Union shall not be taken into consideration for customs valuation purposes provided they are shown separately from the price actually paid or payable for the said goods.

CHAPTER 2

Inward Processing

Article 33

Where goods in the unaltered state or where compensating products under inward processing are released for free circulation or subject to an application for authorisation in a part of the customs union other than that where the entry into the inward processing arrangements took place, the information sheet INF1 may be used for the communication of information on duty amounts, compensatory interest, security and commercial policy measures.

Article 34

1. The INF1 shall be made out in an original and two copies conforming to the specimen set out in the Customs Code implementing provisions.

2. The customs office in the part of the customs union, which is requested to accept the declaration for release for free circulation or entry into the inward processing procedure, establishes and endorses the INF1.

The original and one copy of the INF1 shall be sent to the supervising office and a copy shall be kept by the customs office which endorsed the INF1.

3. The supervising office shall supply the information requested in boxes 8, 9 and 11 of the INF1, endorse it, retain the copy and return the original.

Article 35

The customs office endorsing the INF1 shall ask the supervising office to indicate:

— in box 9(a), the amount of import duties due,

— in box 9(b), the amount of compensatory interest,

— the quantity, CN code and origin of the import goods used in the manufacture of the compensating products released for free circulation.

Article 36

Where the compensating products obtained under inward processing (drawback system) are consigned to another customs approved treatment or use allowing import duties to be repaid or remitted, and are subject to a new application for authorisation for the inward processing arrangements, the customs authorities issuing this authorisation may use the INF1 to determine the amount of import duties to be levied or the amount of the customs debt liable to be incurred.

Article 37

Where the declaration for release for free circulation relates to compensating products obtained from import goods or goods in the unaltered state which had been subject to specific commercial policy measures at the moment of entry for the procedure (suspension system) and such measures continue to be applicable, the customs office accepting the declaration and endorsing the INF1 shall ask the supervising office to indicate particulars necessary for the application of commercial policy measures.

Article 38

Where release for free circulation is requested in the case of an INF1 being made out for fixing the amount of security, the same INF1 may be used, provided it contains:

— in box 9(a) the amount of import duties payable on the import goods, and

— in box 11, the date when the import goods concerned were first entered for the arrangements or the date when the import duties have been repaid or remitted.

Article 39

1. Where the customs office issuing the information sheet considers that additional information to that appearing on the information sheet is required, it shall enter such particulars. Where not enough space remains, an additional sheet shall be annexed. It shall be mentioned on the original.

2. The customs office which endorsed the information sheet may be asked to carry out post-clearance verification of the authenticity of the sheet and the accuracy of the particulars which its contains.

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3. In the case of successive consignments, the requisite number of information sheets may be made out for the quantity of goods or products entered for the arrangements. The initial information sheet may also be replaced with further information sheets or, where only one information sheet is used, the customs office to which the sheet is endorsed may note on the original the quantities of goods or products. Where not enough space remains, an additional sheet shall be annexed which shall be mentioned on the original.

4. In exceptional circumstances, the information sheet may be issued a posteriori but not beyond the expiry of the period required for keeping documents.

5. In the event of theft, loss or destruction of the information sheet, the operator may ask the customs office which endorsed it for a duplicate to be issued.

The original and copies of the information sheet so issued shall bear one of the following indications:

— DUPLICADO

— DUPLIKAT

— DUPLIKAT

— ΑΝΤΙΓΡΑΦΟ

— DUPLICATE

— DUPLICATA

— DUPLICATO

— DUPLICAAT

— SEGUNDA VIA

— KAKSOISKAPPALE

— DUPLIKAT

— DUPLICAT.

Article 40

1. Compensating products, obtained under an inward processing arrangement (suspension system) or goods in the unaltered state, which are transhipped between the two parts of the customs union, have to be accompanied by a T1 document or a document having equivalent effect for the purpose of these operations. The document shall bear one of the following indications:

— Mercancías PA/S

— AF/S-varer

— AV/S-Waren

— Εμπορεύματα ΕΤ/Α

— IP/S goods

— Marchandises PA/S

— Merci PA/S

— AV/S-goederen

— Mercadorias AA/S

— SJ/T-tavaroita

— AF/S-varor

— Mercaderies PA/S.

2. Where goods, which have been entered for an inward processing arrangement (suspension system) or goods in the unaltered state are subject to specific commercial policy measures and such policy measures continue to be applicable at the time when the goods are entered for transit, the indication referred to in paragraph 1 shall be supplemented by one of the following:

— Política comercial

— Handelspolitik

— Handelspolitik

— Εμπορική πολιτική

— Commercial policy

— Politique commerciale

— Politica commerciale

— Handelspolitiek

— Política comercial

— Kauppapolitiikka

— Handelspolitik

— Politica commercial.

3. Where compensating products, obtained under an inward processing arrangement (drawback system) are transhipped between the two parts of the customs union, the document shall bear one of the following indications:

— Mercancías PA/R

— AF/T-varer

— AV/R-Waren

— Εμπορεύματα ΕΤ/Ε

— IP/D goods

— Marchandises PA/R

— Merci PA/R

— AV/T-goederen

— Mercadorias AA/D

— SJ/T-tavaroita

— AF/R-varor

— Mercaderies PA/R.

ARCHÍVUM

CHAPTER 3

Outward processing

Article 41

For the purposes of this Chapter, 'triangular traffic' shall mean the system under which the compensating products after outward processing are released for free circulation with partial or total relief from import duties in a part of the Customs Union other than that from which the goods were temporarily exported.

Article 42

Where compensating or replacement products are released for free circulation under the triangular traffic system, information sheet INF2 shall be used in order to communicate information on temporary export goods, in order to obtain partial or total relief for compensating products.

Article 43

1. Information sheet INF2 shall be made out in an original and one copy on forms, which conform to the specimen set out in the Customs Code implementing provisions, for the quantity of goods entered for the procedure. The office of entry shall endorse the original and the copy of the INF2. It shall retain the copy and return the original to the declarant.

2. The office of entry which is called upon to endorse the information sheet INF2 shall indicate, in box 16, the means used to identify the temporary export goods.

3. Where samples are taken or illustrations or technical descriptions used, the office referred to in paragraph 1 shall authenticate such samples, illustrations or technical descriptions by affixing its customs seal either on the goods, where their nature permits it, or on the packaging in such a way that it cannot be tampered with.

A label bearing the stamp of the office and reference particulars of the export declaration shall be attached to the samples, illustrations or technical descriptions in a manner which prevents substitution.

The samples, illustrations or technical descriptions, authenticated and sealed in accordance with paragraph 3, shall be returned to the exporter, who shall present them with the seals intact when the compensating or replacement products are re-imported.

4. Where an analysis is required and the results will not be known until after the customs office has endorsed information sheet INF2, the document containing the result of the analysis shall be given to the exporter in a sealed tamper-proof envelope.

Article 44

1. The office of exit shall certify on the original that the goods have left the customs territory and shall return it to the person presenting it.

2. The importer of the compensating or replacement products shall present the original of the INF2 and, where appropriate, the means of identification to the office of discharge.

Article 45

1. Where the customs office issuing the information sheet considers that additional information to that appearing on the information sheet is required, it shall enter such particulars. Where not enough space remains, an additional sheet shall be annexed. It shall be mentioned on the original.

2. The customs office which endorsed the information sheet may be asked to carry out post-clearance verification of the authenticity of the sheet and the accuracy of the particulars which its contains.

3. In the case of successive consignments, the requisite number of information sheets may be made out for the quantity of goods or products entered for the arrangements. The initial information sheet may also be replaced with further information sheets or, where only one information sheet is used, the customs office to which the sheet is endorsed may note on the original the quantities of goods or products. Where not enough space remains, an additional sheet shall be annexed which shall be mentioned on the original.

4. The customs authorities may permit the use of recapitulative information sheets for triangular traffic trade flows involving a large number of operations which cover the total quantity of exports over a given period.

5. In exceptional circumstances, the information sheet may be issued a posteriori but not beyond the expiry of the period required for keeping documents.

Article 46

In the event of theft, loss or destruction of the INF2, the operator may ask the customs office, which endorsed it for a duplicate to be issued. The said office shall comply with this request provided it can be shown that the temporary export goods in respect of which the duplicate is requested have not yet been re-imported.

ARCHIVE

The original and copies of the information sheet so issued shall bear one of the following indications:

— DUPLICADO

— DUPLIKAT

— DUPLIKAT

— ΑΝΤΙΓΡΑΦΟ

— DUPLICATE

— DUPLICATA

— DUPLICATO

— DUPLICAAT

— SEGUNDA VIA

— KAKSOISKAPPALE

— DUPLIKAT

— DUPLICAT.

Article 47

1. Partial relief from import duties by taking the cost of the processing operation as the basis of the value for duty shall be granted on request for compensating products which are to be released for free circulation.

2. With the exception of goods of a non-commercial nature, paragraph 1 shall not apply where the temporary export goods which do not originate in one of the parts of the Customs Union, within the meaning of Title II, Chapter 2, Section 1 of the Community Customs Code and within the meaning of Title III, Chapter 2, Section 1 of the Andorran Customs Code have been released for free circulation at a zero duty rate in one of the parts of the Customs Union.

3. Articles 29 to 35 of the Community Customs Code and Articles 39 to 45 of the Andorran Customs Code shall apply *mutatis mutandis* to the processing costs which shall not take into account the temporary export goods.

CHAPTER 4

Returned goods

Article 48

1. Goods of one part of the Customs Union which, having been exported from its customs territory, are returned to the territory of the other part of the Customs Union and released for free circulation within a period of three years, shall, at the request of the person concerned, be granted relief from import duties.

The three-year period may be exceeded in order to take account of special circumstances.

2. Where, prior to their exportation from the customs territory of one part of the Customs Union, the returned goods had been released for free circulation at reduced or zero import duty because of their use for a particular purpose, exemption from duty under paragraph 1 shall be granted only if they are to be re-imported for the same purpose.

Where the purpose for which the goods in question are to be imported is no longer the same, the amount of import duties chargeable upon them shall be reduced by any amount levied on the goods when they were first released for free circulation. Should the latter amount exceed that levied on the entry for free circulation of returned goods, no refund shall be granted.

3. The relief from import duties provided for in paragraph 1 shall not be granted in the case of goods exported from the customs territory of one part of the Customs Union under the outward processing procedure unless those goods remain in the state in which they were exported.

Article 49

The relief from import duties provided for in Article 48 of this Decision shall not be granted unless the goods are re-imported in the same state in which they were exported.

Article 50

Articles 48 and 49 of this Decision shall apply *mutatis mutandis* to compensating products originally exported or re-exported subsequent to an inward processing procedure.

The amount of import duty legally owed shall be determined on the basis of the rules applicable under the inward processing procedure, the date of re-export of the compensating products being regarded as the date of release for free circulation.

Article 51

1. Returned goods shall be exempt from import duties even where they represent only a proportion of the goods previously exported from the customs territory of the other part of the Customs Union.

2. The same applies where the goods consist of parts or accessories belonging to machines, instruments, apparatus or other products previously exported from the customs territory of the other part of the Customs Union.

Article 52

1. By way of derogation from Article 50 of this Decision, returned goods in one of the following situations shall be exempt from import duties:

(a) goods which, after having been exported from the customs territory of the other part of the Customs Union, have received no treatment other than that necessary to maintain them in good condition or handling which alters their appearance only;

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(b) goods which, after having been exported from the customs territory of the other part of the Customs Union, received treatment other than that necessary to maintain them in good condition or handling other than that altering their appearance, but which proved to be defective or unsuitable for their intended use, provided that one of the following conditions is fulfilled:

(i) such treatment or handling was applied to the goods solely with a view to repairing them or restoring them to good condition;

(ii) their unsuitability for their intended use became apparent only after such treatment or handling had commenced.

2. Where returned goods had undergone treatment or handling permitted under paragraph 1(b), and such treatment would have rendered them liable to import duties if they had come under outward processing arrangements, the rules in force for charging duty under the said arrangement shall apply.

However, if goods have undergone an operation consisting of repair or restoration to good condition which became necessary as a result of unforeseen circumstances which arose outside the customs territories of both parts of the Customs Union, this being established to the satisfaction of the customs authorities, relief from import duties shall be granted provided that the value of the returned goods is not higher as a result of such operation, than their value at the time of export from the customs territory of the other part of the Customs Union.

3. For the purposes of the second subparagraph of paragraph 2:

(a) 'repair or restoration to good condition which became necessary' shall mean any operation to remedy operating defects or material damage sustained by goods while they were outside the customs territories of both parts of the Customs Union, without which the goods could no longer be used in the normal way for the purposes for which they were intended;

(b) the value of returned goods shall be considered not to be higher, as a result of the operation which they have undergone, than their value at the time of export from the customs territory of the other part of the Customs Union, when the operation does not exceed that which is strictly necessary to enable them to continue to be used in the same way as at that time.

When the repair or restoration to good condition of goods necessitates the incorporation of spare parts, such incorporation shall be limited to those parts strictly necessary to enable the goods to be used in the same way as at the time of export.

Article 53

When completing the customs export formalities, the customs authorities shall, at the request of the person concerned, issue a document containing the information necessary for identification of the goods in the event of their being returned to the customs territory of the one part of the Customs Union.

Article 54

1. The following shall be accepted as returned goods:

(a) goods for which the following documents are produced in support of the declaration for release for free circulation:

(i) the copy of the export declaration returned to the exporter by the customs authorities or a copy of such document certified true by the said authorities;

(ii) the information sheet provided for in Article 55 of this Decision.

Where evidence available to the customs authorities at the customs office of re-importation or ascertainable by them from the person concerned indicates that the goods declared for free circulation where originally exported from the customs territory of the other part of the Customs Union, and at the time satisfied the conditions for acceptance as returned goods, the documents referred to at (i) and (ii) shall not be required;

(b) goods covered by an ATA carnet issued in the other part of the Customs Union.

These goods may be accepted as returned goods within the limits laid down by Article 48 of this Decision, even when the validity of the ATA carnet has expired.

In all cases, the following formalities shall be carried out:

(i) verify the information given in boxes A to G of the re-importation voucher;

(ii) complete the counterfoil and box H of the re-importation sheet;

(iii) retain the re-importation voucher.

2. Paragraph 1(a) shall not apply to the international movement of packing materials, means of transport or certain goods admitted under specific customs arrangements where autonomous or conventional provisions lay down that customs documents are not required in these circumstances.

Nor shall it apply in cases where goods may be declared for release for free circulation orally or by any other act.

3. Where they consider it necessary, the customs authorities at the customs office of re-importation may ask the person concerned to submit additional evidence, in particular for the purposes of identification of the returned goods.

Article 55

Information sheet INF3 shall be drawn up in an original and two copies on forms, which conform to the specimen set out in the Community Customs Code implementing provisions.

Archive

Article 56

1. Information sheet INF3 shall be issued at the exporter's request by the customs authorities at the customs office of exportation at the time of completion of the export formalities for the goods concerned, if the exporter declares that it is probable that these goods will be returned via a customs office of the other part of the Customs Union.

2. Information sheet INF3 may also be issued, at the exporter's request, by the customs authorities at the customs office of exportation after completion of the export formalities of the goods concerned, provided that these authorities can establish, on the basis of the information at their disposal, that the particulars in the exporter's request relate to the goods exported.

Article 57

1. Information sheet INF3 shall contain all the information required by the customs authorities for the purpose of identifying the exported goods.

2. Where it is expected that the exported goods will be returned to the customs territory of the other part of the Customs Union or to the customs territory of both parts of the Customs Union through several customs offices other than the customs office of exportation, the exporter may ask for several information sheets INF3 to be issued to cover the total quantity of the goods exported.

Similarly, the exporter may ask the customs authorities which issued an information sheet INF3 to replace it by several information sheets INF3 covering the total quantity of goods included in the information sheet INF3 initially issued.

The exporter may also ask for an information sheet INF3 to be issued in respect of a proportion only of the exported goods.

Article 58

The original and one copy of the information sheet INF3 shall be returned to the exporter for presentation at the customs office of re-importation. The second copy shall be kept in the official files of the customs authorities who issued it.

Article 59

1. The customs office of re-importation shall record on the original and on the copy of information sheet INF3 the quantity of returned goods exempted from import duties, retaining the original and sending the copy, bearing the reference number and the date of declaration for free circulation, to the customs authorities who issued it.

2. The said customs authorities shall compare this copy with the one in their possession and retain it in their official files.

Article 60

In the event of theft, loss or destruction of the original information sheet INF3, the person concerned may ask the customs authorities who issued it for a duplicate. They shall comply with this request if the circumstances so warrant. The duplicate issued shall bear one of the following indications:

— DUPLICADO

— DUPLIKAT

— DUPLIKAT

— ΑΝΤΙΓΡΑΦΟ

— DUPLICATE

— DUPLICATA

— DUPLICATO

— DUPLICAAT

— SEGUNDA VIA

— KAKSOISKAPPALE

— DUPLIKAT

— DUPLICAT.

The customs authorities shall record on the copy of information sheet INF3 in their possession that a duplicate has been issued.

Article 61

1. At the request of the customs authorities at the customs office of re-importation, the customs authorities of the customs office of exportation shall communicate to the former all the information at their disposal to enable them to determine whether the goods meet the conditions necessary to benefit from the provisions of this Chapter.

2. Information sheet INF3 may be used for the request and the transmission of the information referred to in paragraph 1.

CHAPTER 5

Rules of origin

Article 62

1. Pursuant to Article 7 of the Agreement, the Principality of Andorra shall apply, in the same manner as the Community, the Community provisions on the rules of origin in trade with countries enjoying tariff preferences.

2. Where the Principality of Andorra grants autonomously the tariff preferences referred to in paragraph 1, and its authorities wish to carry out a post-clearance control of a certificate of origin (EUR.1 or form A) or an invoice declaration, such controls shall be made by one of the Community customs offices listed in Annex II to this Decision.

ARCHIVUM

Article 63

The replacement certificates issued by the Community customs offices or customs offices of the Principality of Andorra under whose control the products have been placed shall be accepted in the other part of the Customs Union under the conditions laid down in each of those procedures.

Article 64

The Principality of Andorra shall apply *mutatis mutandis* the provisions of Council Regulation (EC) No 1207/2001 of 11 June 2001 on procedures to facilitate the issue of movement certificates EUR.1, the making-out of invoice declarations and forms EUR.2 and the issue of certain approved exporter authorisations under the provisions governing preferential trade between the European Community and certain countries and repealing Regulation (EEC) No 3351/83 [1], with the exception of Article 8.

TITLE IV

FINAL PROVISIONS

CHAPTER 1

Provisions concerning the participation of experts of the Principality of Andorra in the work of certain technical committees

Article 65

1. Experts from the Principality of Andorra shall be involved in work of the technical committees mentioned in paragraph 2 which assist the Commission of the European Communities in the exercise of its executive powers in areas of direct relevance to the functioning of the Customs Union where this is required to ensure the proper functioning of the Customs Union. The procedure for such participation is laid down in this Chapter.

2. The committees referred to in paragraph 1 are:

— the Customs Code Committee,

— the Committee on External Trade Statistics.

Article 66

The Principality of Andorra shall appoint an expert to represent it in meetings of each of the committees referred to in Article 65. The expert, who must be a member of the Andorran administration, shall be involved in the work of the said committees when it concerns the functioning of the Customs Union. He shall express the position of the Principality of Andorra. He shall not be entitled to vote. The expert's opinion shall be put on record separately.

Article 67

The Commission of the European Communities shall, in good time, inform the expert referred to in Article 66 of the dates of the meetings and all the items on the agenda of each committee on which he represents the Principality of Andorra. The Commission shall forward any relevant information to the expert.

Article 68

On the initiative of its chairman, each committee may meet without the expert representing the Principality of Andorra. In that case, the Principality of Andorra shall be informed.

CHAPTER 2

Implementation and application of the provisions

Article 69

1. Where the provisions adopted by the European Community to which this Decision refers provide that a Decision shall be taken by the Commission of the European Communities to settle certain cases, an equivalent Decision shall be taken by the authorities of the Principality of Andorra.

2. The provisions concerning import formalities applied vis-à-vis third countries and other laws, regulations and administrative provisions applicable in the field of customs, where identical in substance in the two parts of the Customs Union, shall, for their implementation and application, be interpreted in accordance with the case law of the Court of Justice of the European Communities.

CHAPTER 3

Other final provisions

Article 70

Decisions No 2/91 and No 1/96 are hereby repealed.

Article 71

This Decision shall enter into force on the day following that of its adoption.

Done at Brussels, 3 September 2003.

For the Joint Committee

The Chairman

Meritxell MATEU

[1] OJ L 165, 21.6.2001, p. 1.

ARCHÍVUM

ANNEX I

IMPLEMENTING PROVISIONS CONCERNING MUTUAL ASSISTANCE IN THE RECOVERY OF CLAIMS

TITLE I

SCOPE

Article 1

1. This Annex lays down detailed rules for implementing Title I, Chapter 2 of this Decision.

2. This Annex also lays down detailed rules on the conversion and transfer of sums recovered.

TITLE II

REQUEST FOR INFORMATION

Article 2

1. The request for information referred to in Article 7 of this Decision shall be made out in writing in accordance with the specimen set out in the Commission Directive 2002/94/EC of 9 December 2002 laying down detailed rules for implementing certain provisions of Council Directive 76/308/EEC on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures [1]. The said request shall bear the official stamp of the applicant authority and shall be signed by an official thereof duly authorised to make such a request.

2. Where a similar request has been addressed to any other authority, the applicant authority shall indicate in its request for information the name of that authority.

Article 3

The request for information may relate to:

(a) the debtor, or

(b) any person liable for settlement of the claim under the law in force in the country where the applicant authority is situated;

(c) any third party holding assets belonging to one of the persons mentioned under point (a) or (b).

Article 4

1. The requested authority shall acknowledge receipt of the request for information in writing (e.g. by telex or fax) as soon as possible and in any event within seven days of such receipt.

2. Immediately upon receipt of the request the requested authority shall, where appropriate, ask the applicant authority to provide any additional information necessary. The applicant authority shall provide all additional necessary information to which it normally has access.

Article 5

1. The requested authority shall transmit each item of requested information to the applicant authority as and when it is obtained.

2. Where all or some of the requested information cannot be obtained within a reasonable time, having regard to the particular case, the requested authority shall so inform the applicant authority, indicating the reasons therefor.

In any event, at the end of six months from the date of acknowledgement of receipt of the request, the requested authority shall inform the applicant authority of the outcome of the investigations it has conducted in order to obtain the information requested.

In the light of the information received from the requested authority, the applicant authority may request the latter to continue its investigations. This request shall be made in writing (e.g. by telex or fax) within two months from the receipt of the notification of the outcome of the investigations carried out by the requested authority, and shall be treated by the requested authority in accordance with the provisions applying to the initial request.

[1] OJ L 337, 13.12.2002, p. 41.

ARCHIVE

Article 6

If the requested authority decides not to comply with the request for information, it shall notify the applicant authority in writing of the reasons for the refusal to comply with the request, specifying the particular provisions of Article 7 of the Decision on which it relies. Such notification shall be given by the requested authority as soon as it has taken its decisions and in any event within three months from the date of the acknowledgement of the receipt of the request.

Article 7

The applicant authority may at any time withdraw the request for information which it has sent to the requested authority. The decision to withdraw shall be transmitted to the requested authority in writing (e.g. by telex or fax).

TITLE III

REQUEST FOR NOTIFICATION

Article 8

1. The request for notification referred to in Article 8 of this Decision shall be made out in writing in duplicate in accordance with the specimen set out in Commission Directive 2002/94/EC. The said request shall bear the official stamp of the applicant authority and shall be signed by an official thereof duly authorised to make such a request.

2. Two copies of the instrument (or decision), notification of which is requested, shall be attached to the request.

Article 9

The request for notification may relate to any natural or legal person who, in accordance with the law in force in the country where the applicant authority is situated, shall be informed of any instrument or decision which concerns that person.

Insofar as such is not indicated in the instrument or decision of which notification is requested, the request for notification shall refer to the procedure for contestation of the claim or its recovery in accordance with the law in force in the country in which the applicant authority is situated.

Article 10

1. The requested authority shall acknowledge receipt of the request for notification in writing as soon as possible and in any event within seven days of such receipt.

Immediately upon receipt of the request for notification, the requested authority shall take the necessary measures to effect that notification in accordance with the law in force in the country in which it is situated.

If necessary but without jeopardising the final date for notification indicated in the request for notification, the requested authority shall ask the applicant authority to provide additional information.

The applicant authority shall provide all additional information to which it normally has access.

The requested authority shall in any event not question the validity of the instrument or decision of which notification is requested.

2. The requested authority shall inform the applicant authority of the date of notification as soon as this has been effected, by returning to it one of the copies of its request with the certificate on the reverse side duly completed.

TITLE IV

REQUEST FOR RECOVERY AND/OR FOR THE TAKING OF PRECAUTIONARY MEASURES

Article 11

1. The request for recovery or for precautionary measures referred to in Articles 9 and 16 of this Decision, shall be made out in writing in accordance with the specimen set out in Commission Directive 2002/94/EC. The request, which shall include a declaration that the conditions laid down in this Decision for initiating the mutual assistance procedure in the particular case have been fulfilled, shall bear the official stamp of the applicant authority and shall be signed by an official thereof duly authorised to make such a request.

2. The instrument permitting enforcement which shall accompany the request for recovery or for precautionary measures may be issued in respect of several claims where it concerns one and the same person.

ARCHIVE

For the purposes of Articles 12 to 19, all claims which are covered by the same instrument permitting enforcement shall be deemed to constitute a single claim.

Article 12

The request for recovery and/or for the taking of precautionary measures may relate to any person referred to in Article 3.

Article 13

1. If the currency of the country in which the requested authority is situated is different from the currency of the country in which the applicant authority is situated, the applicant authority shall express the amount of the claim to be recovered in both currencies.

2. The rate of exchange to be used for the purposes of paragraph 1 shall be the latest selling rate recorded on the most representative exchange market or markets of the country in which the applicant authority is situated, on the date when the request for recovery is signed.

Article 14

1. The requested authority shall, in writing, as soon as possible and in any event within seven days of receipt of the request for recovery or for precautionary measures,

(a) acknowledge receipt of the request;

(b) ask the applicant authority to complete the request if it does not contain the information or other particulars mentioned in Article 10 of this Decision.

The applicant authority shall provide all information to which it has access.

2. If the requested authority does not take the requisite action within the three-month period laid down in Article 11 of this Decision, it shall, as soon as possible and in any event within seven days of the expiry of that period, inform the applicant authority in writing (e.g. by telex or fax) of the grounds for the failure to comply with the time limit.

Article 15

1. Where, within a reasonable time having regard to the particular case, all or part of the claim cannot be recovered or precautionary measures cannot be taken, the requested authority shall so inform the applicant authority, indicating the reasons therefor.

2. No later than at the end of each six-month period following the date of acknowledgement of the receipt of the request, the requested authority shall inform the applicant authority of the status or the outcome of the procedure for recovery or for precautionary measures.

3. In the light of the information received from the requested authority, the applicant authority may request the latter to continue the procedure for recovery or for precautionary measures. This request shall be made in writing (e.g. by telex or fax) within two months from the receipt of the notification of the outcome of that procedure, and shall be treated by the requested authority in accordance with the provisions applying to the initial request.

Article 16

1. Any action contesting the claim or the instrument permitting its enforcement which is taken in the country in which the applicant authority is situated shall be notified to the requested authority in writing by the applicant authority immediately after it has been informed of such action.

2. If the laws, regulations and administrative practices in force in the Member State in which it is situated do not permit precautionary measures or the recovery requested under the second subparagraph of Article 15(2) of this Decision, the requested authority shall notify the applicant authority to that effect as soon as possible and in any event within one month of the receipt of the notification referred to in paragraph 1.

3. Any action which is taken in the country in which the requested authority is situated for reimbursement of sums recovered or for compensation, in relation to recovery of contested claims under the second subparagraph of Article 15(2) of this Decision, shall be notified to the applicant authority in writing by the requested authority immediately after it has been informed of such action. The requested authority shall as far as possible involve the applicant authority in the procedures for settling the amount to be reimbursed and the compensation due. On a reasoned request by the requested authority, the applicant authority shall transfer the sums reimbursed and the compensation paid within two months of the receipt of this request.

ARCHIVE

Article 17

1. If the request for recovery or for precautionary measures becomes void as a result of payment of the claim or of its cancellation or for any other reason, the applicant authority shall immediately inform the requested authority in writing (e.g. by telex or fax) so that the latter may stop any action which it has undertaken.

2. Where the amount of the claim which is the subject of the request for recovery or for precautionary measures is amended for any reason, the applicant authority shall immediately inform the requested authority in writing (e.g. by telex or fax), and if necessary issue a new instrument.

If the amendment leads to a reduction in the amount of the claim, the requested authority shall continue the action which it has undertaken with a view to recovery or to the taking of precautionary measures, but that action shall be limited to the amount still outstanding. If, at the time the requested authority is informed of the reduction of the amount of the claim, an amount exceeding the amount still outstanding has already been recovered by it but the transfer procedure referred to in Article 18 has not yet been initiated, the requested authority shall repay the amount overpaid to the person entitled thereto.

If the amendment leads to an increase in the amount of the claim, the applicant authority shall as soon as possible address to the requested authority an additional request for recovery or for precautionary measures. This additional request shall, as far as possible, be dealt with by the requested authority at the same time as the original request of the applicant authority. Where, in view of the state of progress of the existing procedure, consolidation of the additional request with the original request is not possible, the requested authority shall only be required to comply with the additional request only if it concerns an amount not less than that referred to in Article 10(2)(c) of this Decision.

3. In order to convert the amended amount of the claim into the currency of the country in which the requested authority is situated, the applicant authority shall use the exchange rate used in its original request.

Article 18

Any sum recovered by the requested authority, including, where applicable, the interest referred to in Article 12(2) of this Decision, shall be transferred to the applicant authority in the currency of the country in which the requested authority is situated. This transfer shall take place within one month of the date on which the recovery was effected.

The competent authorities may agree different arrangements for the transfer of amounts less than the threshold referred to in Article 10(2)(c) of this Decision.

Article 19

Irrespective of any amounts collected by the requested authority by way of the interest referred to in Article 12(2) of this Decision, the claim shall be deemed to have been recovered in proportion to the recovery of the amount expressed in the national currency of the country in which the requested authority is situated, on the basis of the exchange rate referred to in Article 13(2) hereof.

TITLE V

ELIGIBILITY AND REFUSAL OF REQUESTS FOR ASSISTANCE: REIMBURSEMENT ARRANGEMENTS

Article 20

A request for assistance may be made by the applicant authority in respect of either a single claim or several claims where these are recoverable from one and the same person.

Article 21

If the requested authority decides, pursuant to Article 17(1) of this Decision, to refuse a request for assistance, it shall notify the applicant authority in writing of the reasons for the refusal. Such notification shall be given by the requested authority as soon as it has taken its decision and in any event within three months of the date of receipt of the request for assistance.

Article 22

Each country shall appoint at least one official duly authorised to agree reimbursement arrangements under Article 21(3) of this Decision.

ARCHIVUM

Article 23

1. When the requested authority decides to request reimbursement arrangements its shall notify the applicant authority in writing of the reasons for its view that recovery of the claim poses a specific problem, entails very high costs or relates to the fight against organised crime.

The requested authority shall append a detailed estimate of the costs for which its requests reimbursement by the applicant authority.

2. The applicant authority shall acknowledge receipt of the request for reimbursement arrangements in writing as soon as possible and in any event within seven days of receipt.

Within two months of acknowledgement of receipt of the said request, the applicant authority shall inform the requested authority whether and to what extent it agrees with the proposed reimbursement arrangements.

3. If no agreement is reached between the applicant and requested authority with respect to reimbursement arrangements, the requested authority shall continue recovery procedures in the normal way.

TITLE VI

FINAL PROVISIONS

Article 24

Information and other particulars communicated by the requested authority to the applicant authority shall be made out in the official language or one of the official languages of the country in which the requested authority is situated, or in another language agreed between the applicant and the requested authority.

Article 25

The Contracting Parties shall inform the Commission before 15 March each year, as far as possible by electronic means, of the use made of the procedures laid down in this Decision and of the results achieved in the previous calendar year.

ANNEX II

List of the customs offices referred to in Article 62(2)

— CERDOC de la Direction régionale des douanes de Perpignan

— La Farga de Moles