



Treaty Series No. 36 (1975)

International Convention on the Simplification and Harmonization of Customs Procedures

Kyoto, 18 May 1973–30 June 1974

[The Convention and Annex E.3 (with reservations) entered into force for the
United Kingdom on 27 September 1974]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
March 1975*

LONDON
HER MAJESTY'S STATIONERY OFFICE

29p net

**INTERNATIONAL CONVENTION
ON THE SIMPLIFICATION AND HARMONIZATION OF CUSTOMS
PROCEDURES**

Preamble

The Contracting Parties to the present Convention, established under the auspices of the Customs Co-operation Council,

Noting that divergences between national Customs procedures can hamper international trade and other international exchanges,

Considering that it is in the interests of all countries to promote such trade and exchanges and to foster international co-operation,

Considering that simplification and harmonization of their Customs procedures can effectively contribute to the development of international trade and of other international exchanges,

Convinced that an international instrument proposing provisions which countries undertake to apply as soon as they are able to do so would lead progressively to a high degree of simplification and harmonization of Customs procedures, which is one of the essential aims of the Customs Co-operation Council,

Have agreed as follows:

CHAPTER I

Definitions

ARTICLE 1

For the purposes of this Convention:

- (a) the term "the Council" means the Organization set up by the Convention establishing a Customs Co-operation Council, done at Brussels on 15 December 1950;⁽¹⁾
- (b) the term "Permanent Technical Committee" means the Permanent Technical Committee of the Council;
- (c) the term "ratification" means ratification, acceptance or approval.

CHAPTER II

Scope of the Convention and structure of the Annexes

ARTICLE 2

Each Contracting Party undertakes to promote the simplification and harmonization of Customs procedures and, to that end, to conform, in accordance with the provisions of this Convention, to the Standards and Recommended Practices in the Annexes to this Convention. However, nothing shall prevent a Contracting Party from granting facilities greater than those provided for therein, and each Contracting Party is recommended to grant such greater facilities as extensively as possible.

⁽¹⁾ Treaty Series No. 50 (1954), Cmd. 9232.

ARTICLE 3

The provisions of this Convention shall not preclude the application of prohibitions or restrictions imposed under national legislation.

ARTICLE 4

Each Annex to this Convention consists, in principle, of:

- (a) an introduction summarizing the various matters dealt with in the Annex;
- (b) definitions of the main Customs terms used in the Annex;
- (c) Standards, being those provisions the general application of which is recognized as necessary for the achievement of harmonization and simplification of Customs procedures;
- (d) Recommended Practices, being those provisions which are recognized as constituting progress towards the harmonization and the simplification of Customs procedures, the widest possible application of which is considered to be desirable;
- (e) Notes, indicating some of the possible courses of action to be followed in applying the Standard or Recommended Practice concerned.

ARTICLE 5

1. Any Contracting Party which accepts an Annex shall be deemed to accept all the Standards and Recommended Practices therein unless at the time of accepting the Annex or at any time thereafter it notifies the Secretary General of the Council of the Standard(s) and Recommended Practice(s) in respect of which it enters reservations, stating the differences existing between the provisions of its national legislation and those of the Standard(s) and Recommended Practice(s) concerned. Any Contracting Party which has entered reservations may withdraw them, in whole or in part, at any time, by notification to the Secretary General specifying the date on which such withdrawal takes effect.

2. Each Contracting Party bound by an Annex shall at least once every three years review the Standards and Recommended Practices therein in respect of which it has entered reservations, compare them with the provisions of its national legislation and notify the Secretary General of the Council of the results of that review.

CHAPTER III

Role of the Council and of the Permanent Technical Committee

ARTICLE 6

1. The Council shall, in accordance with the provisions of this Convention, supervise the administration and development of this Convention. It shall, in particular, decide upon the incorporation of new Annexes in the Convention.

2. To these ends the Permanent Technical Committee shall, under the authority of the Council, and in accordance with any directions given by the Council, have the following functions:

- (a) to prepare new Annexes and to propose to the Council their adoption with a view to their incorporation in the Convention;
- (b) to submit to the Council proposals for such amendments to this Convention or to its Annexes as it may consider necessary and, in particular, proposals for amendments to the texts of the Standards and Recommended Practices and for the upgrading of Recommended Practices to Standards;
- (c) to furnish opinions on any matters concerning the application of the Convention;
- (d) to perform such tasks as the Council may direct in relation to the provisions of the Convention.

ARTICLE 7

For the purposes of voting in the Council and in the Permanent Technical Committee each Annex shall be taken to be a separate convention.

CHAPTER IV

Miscellaneous provisions

ARTICLE 8

For the purposes of this Convention, any Annex or Annexes to which a Contracting Party is bound shall be construed to be an integral part of the Convention, and in relation to that Contracting Party any reference to the Convention shall be deemed to include a reference to such Annex or Annexes.

ARTICLE 9

Contracting Parties which form a Customs or Economic Union may state by notification to the Secretary General of the Council that for the application of a given Annex to this Convention their territories are to be taken as a single territory. In each instance where, as a result of such notification, differences exist between the provisions of that Annex and those of the legislation applicable to the territories of the Contracting Parties, the States concerned shall enter a reservation to the Standard or Recommended Practice in question under Article 5 of the Convention.

CHAPTER V

Final provisions

ARTICLE 10

1. Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention shall so far as possible be settled by negotiation between them.

2. Any dispute which is not settled by negotiation shall be referred by the Contracting Parties in dispute to the Permanent Technical Committee which shall thereupon consider the dispute and make recommendations for its settlement.

3. If the Permanent Technical Committee is unable to settle the dispute, it shall refer the matter to the Council which shall make recommendations in conformity with Article III(e) of the Convention establishing the Council.

4. The Contracting Parties in dispute may agree in advance to accept the recommendations of the Permanent Technical Committee or Council as binding.

ARTICLE 11

1. Any State Member of the Council and any State Member of the United Nations or its specialized agencies may become a Contracting Party to this Convention:

(a) by signing it without reservation of ratification;

(b) by depositing an instrument of ratification after signing it subject to ratification; or

(c) by acceding to it.

2. This Convention shall be open until 30th June 1974 for signature at the Headquarters of the Council in Brussels by the States referred to in paragraph 1 of this Article. Thereafter, it shall be open for their accession.

3. Any State, not being a Member of the Organizations referred to in paragraph 1 of this Article, to which an invitation to that effect has been addressed by the Secretary General of the Council at the Council's request, may become a Contracting Party to this Convention by acceding thereto after its entry into force.

4. Each State referred to in paragraph 1 or 3 of this Article shall at the time of signing, ratifying or acceding to this Convention specify the Annex or Annexes it accepts, it being necessary to accept at least one Annex. It may subsequently notify the Secretary General of the Council that it accepts one or more further Annexes.

5. The instruments of ratification or accession shall be deposited with the Secretary General of the Council.

6. The Secretary General of the Council shall notify the Contracting Parties to this Convention, the other signatory States, those States Members of the Council that are not Contracting Parties to the Convention, and the Secretary General of the United Nations of any new Annex that the Council may decide to incorporate in this Convention. Contracting Parties accepting such a new Annex shall notify the Secretary General of the Council in accordance with paragraph 4 of this Article.

7. The provisions of paragraph 1 of this Article shall also apply to the Customs and Economic Unions referred to in Article 9 of this Convention in so far as the obligations arising from the instruments establishing such

Customs or Economic Unions require the competent bodies thereof to contract in their own name. However, such bodies shall not have the right to vote.

ARTICLE 12

1. This Convention shall enter into force three months after five of the States referred to in paragraph 1 of Article 11 thereof have signed the Convention without reservation of ratification or have deposited their instruments of ratification or accession⁽²⁾.

2. For any State signing without reservation of ratification, ratifying or acceding to this Convention after five States have signed it without reservation of ratification or have deposited their instruments of ratification or accession, this Convention shall enter into force three months after the said State has signed without reservation of ratification or deposited its instrument of ratification or accession.

3. Any Annex to this Convention shall enter into force three months after five Contracting Parties have accepted that Annex.

4. For any State which accepts an Annex after five States have accepted it, that Annex shall enter into force three months after the said State has notified its acceptance.

ARTICLE 13

1. Any State may, at the time of signing this Convention without reservation of ratification or of depositing its instrument of ratification or accession, or at any time thereafter, declare by notification given to the Secretary General of the Council that this Convention shall extend to all or any of the territories for whose international relations it is responsible. Such notification shall take effect three months after the date of the receipt thereof by the Secretary General of the Council. However, the Convention shall not apply to the territories named in the notification before the Convention has entered into force for the State concerned.

2. Any State which has made a notification under paragraph 1 of this Article extending this Convention to any territory for whose international relations it is responsible may notify the Secretary General of the Council, under the procedure of Article 14 of this Convention, that the territory in question will no longer apply the Convention.

ARTICLE 14

1. This Convention is of unlimited duration but any Contracting Party may denounce it at any time after the date of its entry into force under Article 12 thereof.

2. The denunciation shall be notified by an instrument in writing, deposited with the Secretary General of the Council.

⁽²⁾ The Convention entered into force on 25 September, 1974.

3. The denunciation shall take effect six months after the receipt of the instrument of denunciation by the Secretary General of the Council.

4. The provisions of paragraphs 2 and 3 of this Article shall also apply in respect of the Annexes to this Convention, any Contracting Party being entitled, at any time after the date of their entry into force under Article 12 of the Convention, to withdraw its acceptance of one or more Annexes. Any Contracting Party which withdraws its acceptance of all the Annexes shall be deemed to have denounced the Convention.

ARTICLE 15

1. The Council may recommend amendments to this Convention. Every Contracting Party shall be invited by the Secretary General of the Council to participate in the discussion of proposals for amendment of this Convention.

2. The text of any amendment so recommended shall be communicated by the Secretary General of the Council to all Contracting Parties to this Convention, to the other signatory States and to those States Members of the Council that are not Contracting Parties to this Convention.

3. Within a period of six months from the date on which the recommended amendment is so communicated, any Contracting Party or, if the amendment affects an Annex in force, any Contracting Party bound by that Annex, may inform the Secretary General of the Council:

(a) that it has an objection to the recommended amendment, or

(b) that, although it intends to accept the recommended amendment, the conditions necessary for such acceptance are not yet fulfilled in its country.

4. If a Contracting Party sends the Secretary General of the Council a communication as provided for in paragraph 3 (b) of this Article, it may, so long as it has not notified the Secretary General of its acceptance of the recommended amendment, submit an objection to that amendment within a period of nine months following the expiry of the six-month period referred to in paragraph 3 of this Article.

5. If an objection to the recommended amendment is stated in accordance with the terms of paragraph 3 or 4 of this Article, the amendment shall be deemed not to have been accepted and shall be of no effect.

6. If no objection to the recommended amendment in accordance with paragraph 3 or 4 of this Article has been stated, the amendment shall be deemed to have been accepted as from the date specified below:

(a) if no Contracting Party has sent a communication in accordance with paragraph 3 (b) of this Article, on the expiry of the period of six months referred to in paragraph 3;

(b) if any Contracting Party has sent a communication in accordance with paragraph 3 (b) of this Article, on the earlier of the following two dates:

- (i) the date by which all the Contracting Parties which sent such communications have notified the Secretary General of the Council of their acceptance of the recommended amendment, provided that, if all the acceptances were notified before the expiry of the period of six months referred to in paragraph 3 of this Article, that date shall be taken to be the date of expiry of the said six-month period;
- (ii) the date of expiry of the nine-month period referred to in paragraph 4 of this Article.

7. Any amendment deemed to be accepted shall enter into force either six months after the date on which it was deemed to be accepted or, if a different period is specified in the recommended amendment, on the expiry of that period after the date on which the amendment was deemed to be accepted.

8. The Secretary General of the Council shall, as soon as possible, notify the Contracting Parties to this Convention and other signatory States of any objection to the recommended amendment made in accordance with paragraph 3 (a), and of any communication received in accordance with paragraph 3 (b), of this Article. He shall subsequently inform the Contracting Parties and other signatory States whether the Contracting Party or Parties which have sent such a communication raise an objection to the recommended amendment or accept it.

ARTICLE 16

1. Independently of the amendment procedure laid down in Article 15 of this Convention any Annex, excluding its definitions, may be modified by a decision of the Council. Every Contracting Party to this Convention shall be invited by the Secretary General of the Council to participate in the discussion of any proposal for the amendment of an Annex. The text of any amendment so decided upon shall be communicated by the Secretary General of the Council to the Contracting Parties to this Convention, the other signatory States and those States Members of the Council that are not Contracting Parties to this Convention.

2. Amendments decided upon under paragraph 1 of this Article shall enter into force six months after their communication by the Secretary General of the Council. Each Contracting Party bound by an Annex forming the subject of such amendments shall be deemed to have accepted those amendments unless it enters a reservation under the procedure of Article 5 of this Convention.

ARTICLE 17

1. Any State ratifying or acceding to this Convention shall be deemed to have accepted any amendments thereto which have entered into force at the date of deposit of its instrument of ratification or accession.

2. Any State which accepts an Annex shall be deemed, unless it enters reservations under Article 5 of this Convention, to have accepted any amendments to that Annex which have entered into force at the date on which it notifies its acceptance to the Secretary General of the Council.

ARTICLE 18

The Secretary General of the Council shall notify the Contracting Parties to this Convention, the other signatory States, those States Members of the Council that are not Contracting Parties to this Convention, and the Secretary General of the United Nations of:

- (a) signatures, ratifications and accessions under Article 11 of this Convention;
- (b) the date of entry into force of this Convention and of each of the Annexes in accordance with Article 12;
- (c) notifications received in accordance with Articles 9 and 13;
- (d) notifications and communications received in accordance with Articles 5, 16 and 17;
- (e) denunciations under Article 14;
- (f) any amendment deemed to have been accepted in accordance with Article 15 and the date of its entry into force;
- (g) any amendment to the Annexes adopted by the Council in accordance with Article 16 and the date of its entry into force.

ARTICLE 19

In accordance with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Secretary General of the Council.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Kyoto, this eighteenth day of May nineteen hundred and seventy-three, in the English and French languages, both texts being equally authentic, in a single original which shall be deposited with the Secretary General of the Council who shall transmit certified copies to all the States referred to in paragraph 1 of Article 11 of this Convention.

[For signatures see page 26.]

ANNEX E.3.⁽³⁾

ANNEX CONCERNING CUSTOMS WAREHOUSES

Introduction

It is in the nature of international trade practice that in a great many cases it is not known at the time of importation how imported goods will finally be disposed of. This means that the importers are obliged to store the goods for more or less long periods.

Where it is intended to re-export the goods, it is in the importer's interest to place them under a Customs procedure which obviates the need to pay import duties and taxes.

When goods are intended for outright importation, it is again in the importer's interest to be able to delay payment of the import duties and taxes until the goods are actually taken into home use.

In order to make these facilities available to importers, most countries have provided in their national legislations for the Customs warehousing procedure.

However, imported goods are not the only goods which may qualify for Customs warehousing.

For example, some countries allow goods that are liable to, or have borne, internal duties and taxes (whether of national origin or previously imported against payment of import duties and taxes) to be stored in Customs warehouses in order that they may qualify for exemption from, or repayment of, such internal duties and taxes.

Similarly, the deposit in a Customs warehouse of goods that have previously been dealt with under another Customs procedure or that may qualify, upon exportation, for repayment of import duties and taxes, makes it possible for the Customs authorities to grant discharge of such other Customs procedure or to repay the import duties and taxes, as the case may be, before the goods are actually re-exported.

The provisions of this Annex do not apply to:

- the storage of goods in temporary store (locked premises and enclosed or unenclosed spaces approved by the Customs, in which goods may be stored pending clearance),
- the storage of goods in free ports and free zones,
- the processing or manufacturing, under Customs supervision, of goods conditionally relieved from import duties and taxes in premises approved by the Customs (inward processing warehouses).

Definitions

For the purposes of this Annex:

- (a) the term "Customs warehousing procedure" means the Customs procedure under which imported goods are stored under Customs

⁽³⁾ Annex E.3 entered into force on 25 September 1974.

control in a designated place (a Customs warehouse) without payment of import duties and taxes;

- (b) the term "import duties and taxes" means Customs duties and all other duties, taxes, fees or other charges which are collected on or in connection with the importation of goods, but not including fees and charges which are limited in amount to the approximate cost of services rendered;
- (c) the term "Customs control" means measures applied to ensure compliance with the laws and regulations which the Customs are responsible for enforcing;
- (d) the term "security" means that which ensures to the satisfaction of the Customs, that an obligation to the Customs will be fulfilled. Security is described as "general" when it ensures that the obligations arising from several operations will be fulfilled;
- (e) the term "person" means both natural and legal persons, unless the context otherwise requires.

Principle

1. *Standard.* The Customs warehousing procedure shall be governed by the provisions of this Annex.

Classes of warehouses

2. *Standard.* National legislation shall provide for Customs warehouses open to all importers (*public Customs warehouses*).

Note: In accordance with the provisions of national legislation, public Customs warehouses may be managed either by the Customs authorities or by other authorities or by natural or legal persons.

3. *Standard.* The right to store imported goods in public Customs warehouses shall not be restricted only to importers but shall be extended to any other persons interested.

4. *Standard.* National legislation shall provide for Customs warehouses to be used solely by specified persons (*private Customs warehouses*) when this is necessary to meet the special requirements of trade or industry.

Establishment of warehouses

5. *Standard.* The requirements as regards the construction and layout of Customs warehouses and the arrangements for Customs control shall be laid down by the Customs authorities.

Note: For the purpose of control, the Customs authorities may, in particular:

- require that Customs warehouses be double-locked (secured by the lock of the person concerned and by the Customs lock),
- keep the premises under permanent or intermittent supervision,
- keep, or require to be kept, accounts of goods warehoused (by using either special registers or the relevant declarations), and
- take stock of the goods in the warehouse from time to time.

Management of warehouses

6. *Standard.* National legislation shall specify the person or persons held responsible for the payment of any import duties and taxes chargeable on goods placed under the Customs warehousing procedure that are not accounted for to the satisfaction of the Customs authorities.

7. *Standard.* When security is required to ensure that the obligations arising from several operations will be fulfilled, the Customs authorities shall accept a general security.

8. *Recommended Practice.* The amount of any security should be set as low as possible having regard to the import duties and taxes potentially chargeable.

9. *Recommended Practice.* The Customs authorities should waive security where the warehouse is under adequate Customs supervision, in particular where it is Customs-locked.

10. *Standard.* The Customs authorities shall lay down the requirements as regards the management of Customs warehouses, and arrangements for storage of goods in Customs warehouses and for stock-keeping and accounting shall be subject to the approval of the Customs authorities.

Goods allowed to be warehoused

11. *Recommended Practice.* Storage in public Customs warehouses should be allowed for all kinds of imported goods liable to import duties and taxes or to restrictions or prohibitions other than those imposed on grounds of public morality or order, public security, public hygiene or health, or for veterinary or phytopathological considerations, or relating to the protection of patents, trade marks and copyrights, irrespective of quantity, country of origin, country whence arrived or country of destination.

Goods which constitute a hazard, which are likely to affect other goods or which require special installations should be accepted only by Customs warehouses specially designed to receive them.

12. *Standard.* The kinds of goods which may be stored in private Customs warehouses shall be specified by the competent authorities in the authority granting the benefit of the Customs warehousing procedure or in an appropriate provision.

13. *Recommended Practice.* Storage in Customs warehouses should be allowed for goods which are entitled to repayment of import duties and taxes when exported, so that they may qualify for such repayment immediately, on condition that they are to be exported subsequently.

14. *Recommended Practice.* Storage in Customs warehouses, with a view to subsequent exportation or other authorized disposal, should be allowed for goods under the temporary admission procedure, the obligations under that procedure thereby being discharged.

15. *Recommended Practice.* Storage in Customs warehouses should be allowed for goods intended for exportation that are liable to, or have

borne, internal duties or taxes, in order that they may qualify for exemption from, or repayment of, such internal duties and taxes, on condition that they are to be exported subsequently.

Admission into warehouses

16. *Standard.* National legislation shall specify the conditions under which goods for warehousing shall be produced at the competent Customs office and a Goods declaration shall be lodged.

Authorized operations

17. *Standard.* Any person entitled to dispose of the warehoused goods shall be allowed:

- (a) to inspect them;
- (b) to take samples, against payment of the import duties and taxes where appropriate;
- (c) to carry out operations necessary for their preservation.

18. *Standard.* Warehoused goods shall be allowed to undergo usual forms of handling to improve their packaging or marketable quality or to prepare them for shipment, such as breaking bulk, grouping of packages, sorting and grading, and repacking.

Duration of warehousing

19. *Standard.* The authorized maximum duration of storage in a Customs warehouse shall be fixed with due regard to the needs of trade and shall be not less than one year.

Transfer of ownership

20. *Standard.* The transfer of ownership of warehoused goods shall be allowed.

Deterioration, loss or destruction of goods

21. *Standard.* Goods deteriorated or spoiled by accident or force majeure before leaving the warehouse shall be allowed to be cleared for home use as if they had been imported in their deteriorated or spoiled state.

22. *Standard.* Warehoused goods destroyed or irrecoverably lost by accident or force majeure shall not be subjected to import duties and taxes, provided that such destruction or loss is duly established to the satisfaction of the Customs authorities.

Any waste or scrap remaining after destruction shall be liable, if taken into home use, to the import duties and taxes that would be applicable to such waste and scrap imported in that state.

23. *Standard.* At the request of the person entitled to dispose of them, any warehoused goods shall be allowed to be abandoned, in whole or in part, to the Revenue or to be destroyed or rendered commercially valueless under

Customs control, as the Customs authorities may decide. Such abandonment or destruction shall not entail any cost to the Revenue.

Any waste or scrap remaining after destruction shall be liable, if taken into home use, to the import duties and taxes that would be applicable to such waste and scrap imported in that state.

Removal from warehouse

24. *Standard.* Any person entitled to dispose of the goods shall be authorized to remove all or part of them from warehouse for re-exportation, home use, removal to another Customs warehouse or assignment to any other Customs procedure, subject to compliance with the conditions and formalities applicable in each case.

Goods taken into home use

25. *Standard.* National legislation shall specify the point in time to be taken into consideration for the purpose of determining the value and quantity of goods removed from Customs warehouse for home use and the rates of the import duties and taxes applicable to them.

Goods not removed from warehouse

26. *Standard.* National legislation shall specify the procedure to be followed where goods are not removed from Customs warehouse within the period laid down.

27. *Recommended Practice.* When goods not removed from Customs warehouse are sold by the Customs, the proceeds of the sale, after deduction of the import duties and taxes and all other charges and expenses incurred, should either be made over to the person(s) entitled to receive them, when this is possible, or be held at their disposal for a specified period.

Information concerning warehouses

28. *Standard.* The Customs authorities shall ensure that all relevant information regarding the Customs warehousing procedure is readily available to any person interested.

ANNEX E.4.(*)

ANNEX CONCERNING DRAWBACK

Introduction

When imported materials which have borne import duties and taxes are subjected to manufacturing or processing (or, in certain circumstances, repair) and are then exported, they can often be offered for sale in foreign markets at more competitive prices if the import duties and taxes are refunded at exportation. The drawback procedure provides facilities for such a refund.

Since, however, such refunds may encourage the importation of foreign goods for which equivalents are available from domestic sources, some restriction on the granting of such refund may be considered necessary in respect of particular categories of goods or particular processing or manufacturing operations. The extent to which drawback may be granted will have to be specified as necessary by individual countries.

This Annex covers not only the granting of drawback in cases where the goods have undergone processing, manufacture or repair, but also the possibility of granting drawback in cases where goods have been imported and are subsequently re-exported in the same state. The Annex does not cover, however, repayment made on grounds of equity, for example, when goods are returned to the supplier as being not in accordance with contract. Neither does the Annex cover the repayment on exportation of duties and taxes other than import duties and taxes.

Definitions

For the purposes of this Annex:

- (a) the term "drawback procedure" means the Customs procedure which, when goods are exported, provides for a refund (total or partial) to be made in respect of the import duties and taxes charged on the goods, or on materials contained in them or used up in their production;
- (b) the term "drawback" means the amount of import duties and taxes repaid under the drawback procedure;
- (c) the term "import duties and taxes" means Customs duties and all other duties, taxes, fees or other charges which are collected on or in connection with the importation of goods, but not including fees and charges which are limited in amount to the approximate cost of services rendered.

Principle

1. *Standard.* The drawback procedure shall be governed by the provisions of this Annex.

(*) Annex E.4 entered into force on 28 September 1974.

Scope

2. *Standard.* National legislation shall specify the cases in which drawback may be claimed and the conditions under which it is paid.

Note 1: The cases where drawback may be claimed may be specified by reference to certain goods or classes of goods or to certain uses of goods. Drawback may also be restricted to certain categories of import duties and taxes or to cases where the goods have undergone processing, manufacture or repair or other authorized uses. Drawback in respect of goods used up in the production of exported goods does not normally extend to mere aids to manufacture, such as lubricants, but may apply to waste or loss resulting from such manufacture.

Note 2: Repayments under the drawback procedure are not granted in cases where import duties and taxes have been, or will be, repaid under other provisions.

3. *Recommended Practice.* The drawback procedure should also be applied in cases where the goods or materials which have borne import duties and taxes have been replaced by equivalent goods or materials used in the manufacture or production of exported goods.

Conditions to be fulfilled

4. *Standard.* The interested parties shall maintain records or stock accounts enabling the validity of the claim for drawback to be verified.

5. *Standard.* When it is known or anticipated at the time of importation of the goods for home use that drawback will be claimed, the declarant may be required, in order to facilitate a later claim, to state this intention; however, payment of drawback shall not be withheld solely because such a statement has not been made, nor shall exportation be required because of such a statement.

Note: The Customs may require that goods on which drawback is to be claimed be segregated from other goods or be processed or manufactured under Customs supervision.

Duration of stay of the goods in the Customs territory

6. *Standard.* Where a time limit for the exportation of the goods is fixed beyond which they no longer qualify for drawback, due account shall be taken in fixing such limit of the nature of the process or manufacture to which the goods may be subjected, and of the commercial or other factors involved.

7. *Recommended Practice.* Where a time limit for the exportation of the goods is fixed, this should, upon request, be extended if the reasons are deemed by the Customs authorities to be valid.

Declaration on exportation and claim for drawback

8. *Standard.* A declaration of exportation on drawback accompanied by supporting documents shall be lodged at a competent Customs office.

9. *Recommended Practice.* At the request of the exporter, and for reasons deemed to be valid, the Customs authorities should, so far as possible, allow goods for exportation to be examined on private premises, the expenses entailed by such examination being borne by the exporter.

The Customs authorities may themselves require goods for exportation to be produced for examination at private premises.

10. *Recommended Practice.* Where the exportation of goods under the drawback procedure is controlled through the exporter's records, production of the goods at exportation should normally be dispensed with.

11. *Standard.* The claim for drawback shall contain (or provide in the accompanying documents) such proof as is required to show that the conditions laid down for the payment of drawback have been fulfilled.

Note: The particulars that may be required by the Customs authorities for the payment of drawback include the following:

- (a) the claimant,
- (b) the initial clearance of the goods for home use (for example, the number and date of the Goods declaration for home use),
- (c) the import duties and taxes paid,
- (d) the nature or tariff description, and the quantity, of the goods,
- (e) the use, process or manufacture to which the goods have been subjected,
- (f) details of exportation.

12. *Recommended Practice.* Where a time limit is fixed beyond which claims for drawback will not be accepted, provision should be made for its extension for commercial or other reasons deemed by the Customs authorities to be valid.

Payment of drawback

13. *Standard.* Drawback shall be paid as soon as possible after the claim has been verified.

14. *Recommended Practice.* Drawback should also be paid on deposit of the goods in a Customs warehouse on condition that they are to be exported subsequently.

15. *Recommended Practice.* The Customs authorities should, if so requested, pay drawback periodically, on goods exported during a specified period.

Information concerning drawback

16. *Standard.* The Customs authorities shall ensure that all relevant information regarding the drawback procedure is readily available to any person interested.

ANNEX E.5.⁽⁶⁾

ANNEX CONCERNING TEMPORARY ADMISSION SUBJECT TO RE-EXPORTATION IN THE SAME STATE

Introduction

There are many economic, social and cultural reasons which may lead a country to encourage the temporary stay of goods.

Moreover, when goods have to stay only temporarily in the Customs territory of a State, to require final payment of the import duties and taxes applicable to them would as a rule be unjustified since the effect would be, for example, to subject goods to payment of import duties and taxes every time they were imported, on a temporary basis, into one country or another.

The national legislations of most countries accordingly contain provisions allowing conditional relief from duties and taxes for certain categories of goods temporarily imported.

The Customs procedure under which conditional relief from import duties and taxes may be granted in respect of goods imported for a specific purpose and intended for re-exportation in the same state is the temporary admission procedure.

As a general rule, temporary admission involves total conditional relief from import duties and taxes. In certain special cases, however, for example when the goods are used for purposes such as production, work projects or internal transport, the conditional relief granted may be only partial.

The present Annex does not apply to articles temporarily imported by travellers for their personal use nor to private conveyances.

Definitions

For the purposes of this Annex:

- (a) the term "temporary admission" means the Customs procedure under which certain goods can be brought into a Customs territory conditionally relieved from payment of import duties and taxes; such goods must be imported for a specific purpose and must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of the goods;
- (b) the term "import duties and taxes" means the Customs duties and all other duties, taxes, fees or other charges which are collected on or in connection with the importation of goods, but not including fees and charges which are limited in amount to the approximate cost of services rendered;
- (c) the term "Customs control" means the measures applied to ensure compliance with the laws and regulations which the Customs are responsible for enforcing;

⁽⁶⁾ Annex E.5 is not in force.

(d) the term "security" means that which ensures to the satisfaction of the Customs that an obligation to the Customs will be fulfilled. Security is described as "general" when it ensures that the obligations arising from several operations will be fulfilled;

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

Principle

1. *Standard.* Temporary admission shall be governed by the provisions of this Annex.

Field of application

2. *Standard.* National legislation shall enumerate the cases in which temporary admission may be granted and shall lay down the requirements which must be met.

3. *Standard.* Goods temporarily admitted shall be afforded total conditional relief from import duties and taxes. However, the conditional relief from import duties and taxes may be only partial in the cases referred to in Recommended Practice 38.

4. *Standard.* Temporary admission shall not be limited to goods imported directly from abroad but shall also be authorized for goods ex Customs transit, ex Customs warehouse or from a free port or a free zone.

5. *Recommended Practice.* Temporary admission should be granted without regard to the country of origin of the goods, the country whence they arrived or their country of destination.

Grant of temporary admission

(a) Formalities prior to grant of temporary admission

6. *Standard.* National legislation shall specify the cases in which prior authority is required for temporary admission and the authorities empowered to grant such authority.

7. *Recommended Practice.* The cases in which prior authority is required for temporary admission should be as few as possible.

(b) Declaration for temporary admission

8. *Standard.* National legislation shall specify the conditions under which goods for temporary admission shall be produced at the competent Customs office and a Goods declaration shall be lodged.

9. *Recommended Practice.* National forms used for temporary admission should be harmonized with those used for the Goods declaration for home use.

(c) Security

10. *Standard.* The form in which security is to be provided on temporary admission shall be laid down in national legislation or determined by the Customs authorities in accordance with national legislation.

11. *Recommended Practice.* The choice between the various acceptable forms of security should be left to the declarant.

12. *Standard.* The Customs authorities shall, in accordance with national legislation, determine the amount in which security is to be provided on temporary admission.

13. *Recommended Practice.* The amount of the security to be provided on temporary admission should not exceed the amount of the import duties and taxes from which the goods are conditionally relieved.

Note: This Recommended Practice does not prevent the amount of the security from being determined on the basis of a single rate where the goods fall in a wide range of tariff headings.

14. *Standard.* Persons who regularly use the temporary admission procedure at one or more Customs offices in a given Customs territory shall be authorized to provide general security.

15. *Recommended Practice.* Customs authorities should waive the requirement for security where they are satisfied that payment of any sums that might fall due can be ensured by other means.

(d) A.T.A. carnets

16. *Recommended Practice.* Contracting Parties should give careful consideration to the possibility of acceding to the Customs Convention on the A.T.A. carnet for the temporary admission of goods done at Brussels on 6 December 1961⁽⁶⁾ and thus accepting A.T.A. carnets in lieu of national Customs documents and as security for the import duties and taxes in respect of goods granted temporary admission with total conditional relief from import duties and taxes.

(e) Examination of the goods

17. *Recommended Practice.* At the request of the importer, and for reasons deemed to be valid, the Customs authorities should, so far as possible, allow goods for temporary admission to be examined on private premises, the expenses entailed by such examination being borne by the importer.

(f) Identification measures

18. *Recommended Practice.* For the purpose of identifying goods temporarily admitted, the Customs authorities should have recourse to the affixing of Customs marks (seals, stamps, perforations, etc.) only where the goods cannot readily be identified by means of foreign seals, by marks, numbers or other indications permanently affixed to them, by a description, or by sampling.

Stay of the goods in the Customs territory

19. *Standard.* The time limit for temporary admission shall be fixed, for each type of case, by reference to the time necessary for the temporary admission, up to the maximum period, if any, laid down in national legislation.

⁽⁶⁾ Treaty Series No. 10 (1964), Cmnd. 2226.

20. *Recommended Practice.* At the request of the person concerned, and for reasons deemed to be valid, the Customs authorities should extend the period initially fixed.

Termination of temporary admission

21. *Standard.* National legislation shall specify the conditions under which goods on temporary admission shall be produced at the competent Customs office and a Goods declaration shall be lodged.

(a) Re-exportation

22. *Standard.* Provision shall be made to permit temporarily admitted goods to be re-exported in one or more consignments.

23. *Standard.* Provision shall be made for terminating temporary admission by placing the goods in a free port or free zone.

24. *Standard.* Provision shall be made to permit temporarily admitted goods to be re-exported through a Customs office other than that through which they were imported.

25. *Recommended Practice.* At the request of the exporter, and for reasons deemed to be valid, the Customs authorities should, so far as possible, allow goods for re-exportation to be examined on private premises, the expenses entailed by such examination being borne by the exporter.

(b) Other methods of disposal

26. *Standard.* Provision shall be made for terminating temporary admission by declaring the goods for home use, subject to compliance with the conditions and formalities applicable in such case.

27. *Standard.* National legislation shall specify the point in time to be taken into consideration for the purpose of determining the value and quantity of goods declared for home use and the rates of the import duties and taxes applicable to them.

28. *Recommended Practice.* Provision should be made for terminating temporary admission by deposit of the goods in a Customs warehouse with a view to subsequent exportation or other authorized disposal.

29. *Recommended Practice.* Provision should be made for terminating temporary admission by placing the goods under a Customs transit procedure with a view to their subsequent exportation.

30. *Standard.* Provision shall be made for temporary admission to be terminated where, at the request of the person concerned, the goods are abandoned to the Revenue or destroyed or rendered commercially valueless under Customs control, as the Customs authorities may decide. Such abandonment or destruction shall not entail any cost to the Revenue.

Any waste or scrap remaining after destruction shall be liable, if taken into home use, to the import duties and taxes that would be applicable to such waste or scrap imported in that state.

31. *Standard.* Temporarily admitted goods which are destroyed or irrecoverably lost by accident or force majeure shall not be subjected to

import duties and taxes, provided that such destruction or loss is duly established to the satisfaction of the Customs authorities.

Any waste or scrap remaining after destruction shall be liable, if taken into home use, to the import duties and taxes that would be applicable to such waste or scrap imported in that state.

Note: In the case of partial conditional relief from import duties and taxes, Standards 30 and 31 are applicable provided that the portion of import duties and taxes payable at the time of the abandonment, destruction or loss of the goods is paid.

Discharge of security

32. *Standard.* Any security furnished shall be discharged as soon as possible after temporary admission has been terminated.

33. *Recommended Practice.* If security has been given in the form of a cash deposit, provision should be made for it to be repaid at the office of re-exportation, even if the goods were not imported through that office.

Information concerning temporary admission

34. *Standard.* The Customs authorities shall ensure that all relevant information regarding temporary admission is readily available to any person interested.

Scope

(a) Temporary admission with total conditional relief from import duties and taxes

35. *Recommended Practice.* Temporary admission should be granted to the following goods:

- (1) "Packings" referred to in Article 2 of the Customs Convention on the temporary importation of packings (Brussels, 6 October 1960)⁽⁷⁾.
- (2) "Goods for display or use at exhibitions, fairs, meetings or similar events" referred to in Article 2, paragraph 1, of the Customs Convention concerning facilities for the importation of goods for display or use at exhibitions, fairs, meetings or similar events (Brussels 8 June 1961)⁽⁸⁾.
- (3) "Professional equipment" referred to in Annexes A to C of the Customs Convention on the temporary importation of professional equipment (Brussels, 8 June 1961)⁽⁹⁾.
- (4) "Welfare material for seafarers" referred to in Article 1, paragraph (a), of the Customs Convention concerning welfare material for seafarers (Brussels, 1 December 1964)⁽¹⁰⁾.
- (5) "Scientific equipment" referred to in Article 1, paragraph (a), of the Customs Convention on the temporary importation of scientific equipment (Brussels, 11 June 1968)⁽¹¹⁾.

⁽⁷⁾ United Nations Treaty Series, Volume 473, P.131.

⁽⁸⁾ Treaty Series No. 61 (1963), Cmnd. 2115.

⁽⁹⁾ Treaty Series No. 62 (1963), Cmnd. 2125.

⁽¹⁰⁾ Treaty Series No. 58 (1966), Cmnd. 3161.

⁽¹¹⁾ Treaty Series No. 127 (1969), Cmnd. 4238.

- (6) "Pedagogic material" referred to in Article 1, paragraph (a), of the Customs Convention on the temporary importation of pedagogic material (Brussels, 8 June 1970).
- (7) "Samples" and "advertising films" referred to in Articles III and V of the International Convention to facilitate the importation of commercial samples and advertising material (Geneva, 7 November 1952)⁽¹²⁾.
- (8) "Tourist publicity material" referred to in Article 3 of the Additional Protocol to the Convention concerning Customs facilities for touring, relating to the importation of tourist publicity documents and material (New York, 4 June 1954)⁽¹³⁾.
- (9) "Containers" referred to in Article 1 (c) of the Customs Convention on containers (Geneva, 2 December 1972).
- (10) "Pallets" referred to in Article 1 of the European Convention on Customs treatment of pallets used in international transport (Geneva, 9 December 1960)⁽¹⁴⁾.
- (11) "Commercial road vehicles" referred to in Article 1 of the Customs Convention on the temporary importation of commercial road vehicles (Geneva, 18 May 1956)⁽¹⁵⁾.

Contracting Parties are invited to consider the possibility of acceding to the above international instruments.

36. *Recommended Practice.* Customs authorities should waive the requirement of a declaration in writing and of security in the cases of temporary admission referred to in items 1, 9, 10 and 11 of Recommended Practice 35.

37. *Recommended Practice.* Temporary admission should be granted in respect of the following goods unless they are eligible for outright duty-free admission under national legislation:

- (1) Used removable articles belonging to a person who takes up temporary residence in the country of importation.
- (2) Articles (including vehicles) which, by their nature, are unsuitable for any purpose other than advertising of specific articles or publicity for a specific purpose.
- (3) Data-carrying media for use in automatic data processing.
- (4) Drawings, plans and models to be used in the manufacture of goods.
- (5) Matrices, blocks, plates and similar articles, on loan or hire, for printing illustrations in periodicals or books.
- (6) Matrices, blocks, plates, moulds and similar articles, on loan or hire, to be used in the manufacture of articles that are to be delivered abroad.

⁽¹²⁾ Treaty Series No. 81 (1955), Cmd. 9644.

⁽¹³⁾ Treaty Series No. 70 (1957), Cmnd. 308.

⁽¹⁴⁾ Treaty Series No. 10 (1963), Cmnd. 1938.

⁽¹⁵⁾ Treaty Series No. 1 (1960), Cmnd. 919.

- (7) Instruments, apparatus and machines to be tested or checked.
 - (8) Instruments, apparatus and machines made available free of charge to a customer by or through a supplier or repairer, pending the delivery or repair of similar goods.
 - (9) Costumes and scenery items sent on loan or on hire to dramatic societies or theatres.
 - (10) Goods which have to undergo a change of packing prior to their delivery abroad.
 - (11) Goods such as apparel, articles of jewellery and carpets, sent on "sale or return" terms to persons not engaged in trade in such goods.
 - (12) Animals, sports requisites and other articles belonging to a person resident abroad, for use by that person in sports contests or demonstrations.
 - (13) Works of art, collectors' pieces and antiques for display in exhibitions, including those organized by the artists themselves.
 - (14) Books sent on loan to persons resident in the country of importation.
 - (15) Photographs, transparencies and films to be shown in an exhibition or at a competition for still or cinema photographers.
 - (16) Draught animals and equipment for the working of lands adjacent to the border by persons resident abroad.
 - (17) Animals brought to pasture on lands adjacent to the border worked by persons resident abroad.
 - (18) Horses and other animals imported for shoeing or weighing, or for treatment or other veterinary purposes.
 - (19) Specialized equipment arriving by ship and used on shore at ports of call for the loading, unloading and handling of cargo.
- (b) Temporary admission with partial conditional relief from import duties and taxes.

38. *Recommended Practice.* Goods, other than those referred to in Recommended Practices 35 and 37, which are to be temporarily used for purposes such as production, work projects or internal transport, should be granted temporary admission with partial conditional relief from import duties and taxes.

Note: National legislation may provide that, for the purposes of calculating the amount of any duties and taxes payable upon such goods, account shall be taken of the duration of their stay in the Customs territory, of the depreciation consequent upon the use made of them or of the hire charges paid for them.

SIGNATURES

	<i>Date</i>
Austria†	11 June, 1974
Belgium*†	28 June, 1974
Burundi	25 June, 1974
Canada†	19 April, 1974
Denmark	28 June, 1974
European Economic Community†	26 June, 1974
Finland*†	25 June, 1974
France†	28 June, 1974
The Gambia	16 January, 1974
Germany, Federal Republic of (including Berlin (West))†	11 June, 1974
Ireland, Republic of†	27 June, 1974
Italy†	28 June, 1974
Japan*	6 June, 1974
Luxembourg	28 June, 1974
Morocco*	9 May, 1974
Netherlands*	27 June, 1974
Nicaragua*	12 November, 1973
Spain*†	27 March, 1974
Sweden*	27 June, 1974
Switzerland*	11 June, 1974
United Kingdom†	27 June, 1974

* Subject to ratification

† For reservations and declarations see pages 28-30.

ACCEPTANCES OF ANNEX E.3

	<i>Date</i>
Austria†	11 June, 1974
Belgium*†	28 June, 1974
Burundi	25 June, 1974
Canada†	19 April, 1974
Denmark	28 June, 1974
European Economic Community	26 June, 1974
Finland*	25 June, 1974
France†	28 June, 1974
The Gambia	16 January, 1974
Germany, Federal Republic of (including Berlin (West))	11 June, 1974
Ireland, Republic of†	27 June, 1974
Italy	28 June, 1974
Luxembourg	28 June, 1974
Spain*†	27 March, 1974
United Kingdom (Great Britain and Northern Ireland only)†	27 June, 1974

ACCEPTANCES OF ANNEX E.4

	<i>Date</i>
Austria†	11 June, 1974
Burundi	25 June, 1974
Canada†	19 April, 1974
The Gambia	16 January, 1974
Italy	28 June, 1974

ACCEPTANCES OF ANNEX E.5

	<i>Date</i>
Austria†	11 June, 1974
Burundi	25 June, 1974
The Gambia	16 January, 1974
Italy†	28 June, 1974
Spain*†	27 March, 1974

* Subject to ratification

† For reservations and declarations see pages 28-30.

Reservations and declarations made at the time of signature

AUSTRIA

At the time of signing the international Convention on the simplification and harmonization of Customs procedures the Plenipotentiary for Austria noted that his Government understand Article 16 paragraph 2 as not restricting the right to enter reservations in respect of amendments to the Annexes.

ANNEX E.3.

Recommended Practice 13

Repayment of import duties and taxes in respect of returned foreign goods and in respect of imported materials used in the production of exported goods is granted only, if the goods are exported from the Customs territory within the prescribed time limit; the storage of such goods in a Customs warehouse is not sufficient.

Recommended Practice 15

Excise duties are repaid or refunded and turnover tax (VAT) is deductible only, if the the goods are exported from the Customs territory.

Standard 23

Incomplete destruction of goods is authorized only, if such destruction is in the interest of the national economy; in open Customs warehouses such destruction is excluded.

ANNEX E.4.

Recommended Practice 10

Goods exported under the drawback procedure are normally excluded from provisions waiving the requirement of presenting goods to the Customs on exportation and, therefore, have to be presented to the Customs for clearance outwards.

Recommended Practice 14

Drawback is granted only if the goods are exported from the Customs territory.

ANNEX E.5.

Recommended Practice 9

The goods declaration for temporary admission has a layout different from that of the Goods declaration for home use taking into account the requirements of this Customs procedure.

Recommended Practice 29

Placing goods under the Customs transit procedure does not terminate temporary admission.

Recommended Practice 37

In the cases mentioned under Nos. 5, 6, 7, 8, 9 and 10 temporary admission is granted only if it is in the interest of the national economy. In the cases mentioned under No. 11 economic import restrictions are applied.

BELGIUM

ANNEX E.3.

Recommended Practice 11

The Belgian national legislation now in force differs from Recommended Practice 11 in the sense that it allows for the possibility of admission to public Customs warehouses being refused not only in respect of goods liable to restrictions and prohibitions imposed on the grounds mentioned in that Recommended Practice but also in respect of:

- (1) goods whose importation and transit are or might be prohibited;
- (2) goods whose admission to the warehouses is or might be forbidden under national provisions other than those of the strictly Customs legislation, even if based on considerations other than those listed in the Recommended Practice in question.

CANADA

ANNEX E.3.

Recommended Practice 9

National legislation stipulates that security must be deposited in all cases.

Recommended Practice 11

National legislation imposes import and export controls respecting certain goods and certain countries of origin and destination.

Recommended Practice 13

Repayment of import duties and taxes in accordance with national legislation cannot be made until the goods have been actually exported.

Recommended Practice 15

Exemption from or repayment of internal duties and taxes, in accordance with national legislation, cannot be allowed or made respectively until the goods have been actually exported.

ANNEX E.4.

Recommended Practice 14

Drawback is not paid until the goods have been actually exported.

FRANCE

ANNEX E.3.

Standard 7

The Rules of French public accounting do not allow the Customs authorities systematically to accept a general security in the circumstances described in the Standard.

Standard 19

For the goods specified in Recommended Practice 15 the maximum duration of storage is normally less than one year.

FRANCE (cont.)

Standard 20

This Standard cannot be applied to the goods specified in Recommended Practice 15.

IRELAND, REPUBLIC OF

ANNEX E.3.

Recommended Practice 9

Under national provisions security is required for all Customs warehouses.

Recommended Practice 13

The national provision is on a limited scale and confined to such goods as certain tobacco, spirits and, in general, ships stores.

Recommended Practice 15

The national provision is on a limited scale, applying for example, to certain alcoholic beverages, oils and tobacco.

ITALY

ANNEX E.5.

Recommended Practice 13

The present Italian legislation does not authorize the exclusion of interest on overdue payments in respect of the security to be provided.

SPAIN

Declares that it accepts Annexes E.3. and E.5. on conditions to be specified at a later date.

UNITED KINGDOM

ANNEX E.3.

Recommended Practice 9

Security in the form of a bond is required in the United Kingdom for goods deposited in all Customs warehouses, whether or not Customs-locked.

Recommended Practice 11

Under the law in force in the United Kingdom goods subject to certain quantitative restrictions, for economic reasons, may not be imported even for warehousing.

Recommended Practice 15

As a matter of fiscal policy there are limitations in the United Kingdom on types of goods subject to revenue and excise duty which may be warehoused in the circumstances provided for. There are also restrictions on these goods which depend on the purpose for which they are warehoused.