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# Guidance Manual on Customs Warehousing

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This Manual provides a guide to the interpretation of the law governing the Customs Warehouse Procedure. This is set out in Council Regulation (EU) No. 952/2013 (the Union Customs Code), Commission Regulation (EU) No. 2015/2447 (the Implementing Regulation), and Commission Regulation (EU) No. 2015/2446 (Delegated Regulation).

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## Table of Contents

|  |    |
|--|----|
| Definitions .....  | 4  |
| Introduction .....   | 5  |
| 1. What is customs warehousing? .....  | 5  |
| 1.1 Public and private customs warehouses.....                                   | 5  |
| 2. Application for Authorisation.....  | 6  |
| 2.1 Application Procedure .....  | 6  |
| 2.2 Processing of the application by Division/LCD.....                           | 6  |
| 2.3 Economic need.....   | 7  |
| 2.4 Guarantee .....  | 7  |
| 2.5 Authorisation involving more than one Member State.....                      | 9  |
| 2.5.1 Main accounts held in Ireland .....  | 9  |
| 2.5.2 Main accounts held in another Member State.....                            | 9  |
| 2.6 What goods can be stored in a customs warehouse? .....                       | 10 |
| 2.7 What goods cannot be stored in a customs warehouse? .....                    | 10 |
| 2.8 How long can goods be stored in a customs warehouse? .....                   | 10 |
| 2.9 Can goods be retained in a customs warehouse?.....                           | 11 |
| 3. Issue of the Authorisation .....  | 11 |
| 3.1 When does an Authorisation become effective?.....                            | 11 |
| 3.2 Period of validity .....   | 11 |
| 4. Entry of goods to the procedure .....   | 11 |
| 4.1 How are goods entered to the customs warehousing procedure? .....            | 12 |
| 5. Discharge of goods from the customs warehouse procedure .....                 | 12 |
| 5.1 How are goods discharged from a customs warehouse? .....                     | 12 |
| 5.2 How are goods released for free circulation?.....                            | 12 |
| 5.3 Simplifications .....  | 12 |
| 5.4 How is the duty calculated? .....  | 13 |
| 5.5 What is required for goods, which are re-exported?.....                      | 13 |
| 5.6 Discharge of goods to another procedure other than to free circulation ..... | 13 |
| 5.7 Accounting for losses .....  | 13 |
| 6. Stock records.....  | 14 |
| 6.1. What stock records must the trader maintain? .....                          | 14 |
| 6.2 Are normal commercial stock records acceptable? .....                        | 14 |
| 7. Stock returns .....   | 15 |
| 7.1 Who signs the stock return? .....  | 16 |
| 7.2 What does the Control Officer do with the stock return? .....                | 16 |

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|  |    |
|--|----|
| 8. Temporary removal of goods from a customs warehouse .....                       | 17 |
| 9. Movement of customs warehouse goods .....                                       | 17 |
| 10. Handling of goods in a customs warehouse.....                                  | 17 |
| 10.1 Usual forms of handling .....   | 17 |
| 11. Common storage of goods in a customs warehouse .....                           | 18 |
| 11.1 Can Union goods be stored in a customs warehouse? .....                       | 18 |
| 12. Equivalent goods .....   | 18 |
| 12.1 Restrictions to the use of equivalence .....                                  | 19 |
| 13. Commercial Policy Measures .....   | 19 |
| Appendix I - Annex 71-03 – DA List of permitted usual forms of handling .....      | 20 |
| Appendix II - ANNEX 71-04 – DA Special Provisions Concerning Equivalent Goods..... | 22 |
| Appendix III - ANNEX 71-02 DA Sensitive goods and products .....                   | 26 |

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## Definitions

In the context of this instruction:

“Union Customs Code” refers to EU Council Regulation 952/2013 establishing the Union Customs Code;

“DA” refers to the Delegated Act; **Commission Regulation (EC) No. 2015/2446**

“IA” refers to the Implementing Act; **Commission Regulation (EC) No. 2015/2447**

“Commercial policy measures” means non-tariff measures established, as part of the common commercial policy, in the form of Union provisions governing the import and export of goods, such as surveillance or safeguard measures, quantitative restrictions or limits and import or export prohibitions;

“Customs approved treatment or use” means any use to which goods are put which is approved by Revenue, for example, re-export, entry into a customs warehouse, release for free circulation, entry to another customs approved procedure e.g. Inward Processing Procedure;

“Import duty” means Customs duty payable on the import goods.

“Release for free circulation” means released on to the European Union market with Customs duty and other charges paid.

“Usual forms of handling” means such handling operations as are needed to ensure preservation of goods or to improve packaging or marketable quality which may be carried out in customs warehouses.

## Introduction

Customs warehousing is part of a number of EU wide suspensive arrangements provided for under EU legislation called Special Procedures. The use of a customs warehouse requires an authorisation issued by Revenue. The authorisation allows for Non-Union goods to be stored in a customs warehouse with suspension of the payment of import duty or VAT.

### 1. What is customs warehousing?

Customs warehousing allows for the storage of non-Union goods in an authorised designated location within the customs territory of the EU without being subject to import duties. The duty liability is discharged if the goods are re-exported outside of the European Union. If the goods are released to free circulation, then the duty and other charges become payable at this time.

#### 1.1 Public and private customs warehouses.

There are three main categories of customs warehouses, Public type I, Public type II and Private.

Public type I is used when the responsibilities lie with the holder of the authorisation and with the holder of the procedure

Public type II is used when the responsibilities lie with the holder of the procedure;

A private warehouse is reserved for the use of the authorised trader who is also the depositor of the goods. The trader need not be the owner of the goods being deposited.

#### **Example of a private warehouse:**

Goods arrive from Company A who is situated outside the EU. Company B is a subsidiary of company A and have a warehouse authorisation in place. The goods are entered into the warehouse procedure with company B as consignee, they are stored until such time as company B discharge them into their Inward Processing authorisation. Ownership remains with company A, however the responsibilities of the warehouse authorisation lie with company B. There is no third-party involvement.

While the use of customs warehousing is for the storage of goods, some minor handling operations may be allowed while goods are in the customs warehouse. These are called Usual Forms of Handling and are set out in Annex 71-03 DA (see [Appendix I](#)).

## 2. Application for Authorisation.

(UCC Articles 211(1))

### 2.1 Application Procedure

Application is made by way of the EU Customs Decision System which can be accessed at the following link: [Customs Decision System \(CDS\)](#)

Only electronic applications can be accepted. It is no longer possible to use paper application forms.

Authorisations & Reliefs Unit will only accept an application if all the relevant information is present. There is a 30-day period for acceptance of the application during which time all the information required to make a decision must be submitted.

### 2.2 Processing of the application by Division/LCD

A& R Unit will perform the electronic checks on the system for acceptance of the application. Once it has been accepted it will be referred to the traders Supervising Revenue Office for examination and completion of the Control Officer's report. Revenue will examine the premises, the accounting procedures, the stock control systems and, security issues. Revenue will meet with the trader in regard to these issues and to ensure that all conditions are fulfilled by anyone availing of customs warehousing. Revenue has 60 days in which to make a decision on the application once it has been formally accepted. It may be necessary to extend this 60 day period if it is found that further information is required. Issues that will be examined include:

- the applicant can demonstrate that there is an economic need for customs warehousing and that the warehouse is to be used primarily for the storage of goods;
- a verifiable and accurate stock control and accounting system is in place;
- any usual forms of handling which is intended to be carried out is clearly set out in the records.
- official supervision and checks can be affected without the need for an administrative system which is out of proportion to the economic needs involved;
- the applicant is capable of fulfilling the obligations that arise from the storage of goods covered by the customs warehousing procedure and of complying with the conditions of approval governing the Authorisation;
- the intended premises is suitable with regard to security, access arrangements, health and safety and storage facilities;
- if the application includes goods which may present a danger or are likely to spoil other goods or require special storage facilities, the premises must be equipped to receive such goods.

## 2.3 Economic need

The trader must provide sufficient evidence of economic need at the time of application and this evidence must be assessed as to the necessity for customs warehousing facilities. An example of evidence of economic need may be contractual arrangements between the applicant and his/her customers or potential customers.

The following are the criteria for establishing economic need:

- An application for public warehousing must include evidence of public demand for general warehousing facilities. This should include details of the expected volume of business e.g. the anticipated number of traders, number of transactions, amount of customs liability at any one time and the degree of openness or availability of the warehousing facilities to the public;
- An application for private warehousing must include evidence of the necessity for the trader to have storage facilities for imported goods. As a general rule an economic need can be said to exist for a private warehouse where commercial operations necessitate the storage of goods (for example, awaiting entry into Inward Processing). Supporting evidence should indicate the operational necessity for storage, stock levels, frequency of usage, nature of business and any further information necessary to aid assessment.

## 2.4 Guarantee

(UCC, Articles 89 and 211)

A Comprehensive Guarantee Authorisation must be in place before a customs warehouse authorisation can be issued. A guarantee must be provided in the form of either a cash deposit or a guarantee. The trader can apply for a full waiver if he is an Authorised Economic Operator, or, if the trader is not an Authorised Economic Operator, he may qualify for a waiver if he can fulfil the following conditions;

- have an appropriate record of compliance with customs requirements;
- have a satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;
- demonstrate, where appropriate, proven financial solvency; and
- have practical standards of competence or professional qualifications directly related to the activity carried out.

The following is an example of the calculation of the reference amount for the guarantee for a warehouse authorisation covering Ireland only. If when calculating the reference amount the duty rate on the goods intended for warehousing is zero then the VAT figure must be used:

Total value of goods which may be placed under customs warehousing  
per year is estimated to be: €5,000,000

Value of goods which may have been placed under customs  
warehousing at a given point in time according to the storage  
capacity of the holder of the authorisation: €1,000,000

Duty Rate: 10%

Calculation of the reference amount regarding import duty:

$$€1,000,000 \times 10\% = €100,000$$

Guarantee reference amount is determined as €100,000.

If the application includes another Member State all charges (for example, VAT) must be included in the calculation of the reference amount for the guarantee. See example below.

Total value of goods which may be placed under customs warehousing  
per year is estimated to be: €5,000,000

Value of goods which may have been placed under customs  
warehousing at a given point in time according to the storage  
capacity of the holder of the authorisation: €1,000,000

Duty Rate: 10%

Calculation of the reference amount regarding import duty:

$$€1,000,000 \times 10\% = €100,000$$

VAT rate: 23%

$$€1,100,000 \times 23\% = €253,000$$

Guarantee reference amount is €100,000 + €253,000 = €353,000.



## 2.5 Authorisation involving more than one Member State.

(Article 260,261 IA)

An Authorisation may be issued to a trader who wishes to store goods in more than one Member State. An application for this type of Authorisation is generally submitted in the Member State where the trader's main accounts are held. A company whose main accounts are held in Ireland will apply to the Irish administration to have another Member State or States included in their Irish Authorisation. In the same way a company whose accounts are held in another Member State, but who wishes to store goods in Ireland, will apply to the Customs Authorities in the other Member State to have Ireland included in their Authorisation.

### 2.5.1 Main accounts held in Ireland

All applications should be made via the electronic CDS system with Ireland set down as the main Customs Authority.

The Supervising Customs Office should process the application as outlined in [paragraph 2.2](#).

The Supervising Customs Office should ensure that any controls required at a local level in any other Member State are clearly established at this stage.

The Officer's report should be referred to Authorisation & Reliefs Unit.

The time limit for examination of this type of authorisation by the Division/LCD is **60 days**. Authorisation & Reliefs Unit will generate a draft Authorisation which is communicated to the authorities in the Member State/s in which the procedure will be carried out. This draft will include the controls required by the Irish Administration. The authorities in the Member State or States involved have 30 days to respond with any objections, if there are no objections or no communication from the Member State or States by the end of the 30 days the authorisation can be granted. If the Member State or States put forward objections and no agreement is reached within **60 days** from date draft authorisation was communicated, the authorisation shall not be granted for the part in dispute.

Responsibility for control of the Authorisation rests with the Irish Administration (notwithstanding the fact that the goods are being stored in another Member State).

Details of stock records and, or any movement of goods, regardless of what MS goods are stored or moved must be available to the Irish Administration.

Authorisation & Reliefs Unit will maintain contact with other Administrations regarding amendments or other issues throughout the lifetime of the Authorisation.

### 2.5.2 Main accounts held in another Member State

- In the case of applications (involving Ireland) in other Member States, the draft Authorisation is communicated by the electronic system to Ireland.

- This draft is forwarded to the Division or LCD where the Irish trader is based. This draft should be examined in a timely fashion as the authorisation may be issued by the other Member State if no objection is received within 30 days.
- The designated Control Officer should contact the trader and arrange a meeting to examine the proposed premises, the accounting procedures used and to explain to the trader their obligations with regard to this customs warehouse authorisation.
- The Division or LCD may, if they consider it necessary, require that security be put in place with separate conditions agreed in respect of the Irish trader. However, responsibility for control of the authorisation rests with the issuing Member State. The Division or LCD should liaise with the issuing Member State through Authorisation & Reliefs Unit regarding any necessary controls.
- On receipt of a positive recommendation from the Division or LCD, Authorisation & Reliefs Unit will inform the other Member State that Ireland has no objection to the issuing of the Authorisation.
- Authorisation & Reliefs Unit will be kept informed by other Administrations regarding any amendments or other issues throughout the lifetime of the Authorisation.

## 2.6 What goods can be stored in a customs warehouse?

The following goods can be stored in a customs warehouse:

- non-Union goods liable to customs duty and, or VAT (whether or not eligible for preference);  
Equivalent goods not under the warehouse procedure.

## 2.7 What goods cannot be stored in a customs warehouse?

The following goods cannot be stored in a customs warehouse:

- meat, meat products and other goods subject to veterinary checks unless the necessary import licence and, or health certificate have been presented and veterinary checks have been completed at the frontier;
- non-Union goods subject to prohibitions or restrictions unless the necessary supporting documentation such as an import licence has been presented;
- goods liable to excise duties unless the customs warehouse is also authorised as an excise warehouse or the excise duty is paid before the goods are entered into the customs warehouse.

## 2.8 How long can goods be stored in a customs warehouse?

Generally there is no limit on the length of time that goods can be stored in a customs warehouse.

## 2.9 Can goods be retailed in a customs warehouse?

(Article 201 DA)

Retail sales cannot take place in a customs warehouse unless goods are retailed in any of the following situations:

- with relief from import duty to travellers to or from countries or territories outside the customs territory of the Union. (e.g. from duty free shops at airports);
- With relief from import duty under diplomatic or consular arrangements;
- to members of international organisations;
- with relief from import duty to NATO forces;
- remotely, including via the Internet.

## 3. Issue of the Authorisation

The Control Officer' report is received by Authorisations and Reliefs Unit with a recommendation to issue the authorisation to the trader. The authorisation is then generated on the electronic system and forwarded to the trader through the Trader Portal.

### 3.1 When does an Authorisation become effective?

(UCC Art 211 (2)(g))

An Authorisation will take effect on the date of issue or on any later date specified in the Authorisation. Customs Warehouse Authorisations cannot be issued retrospectively.

### 3.2 Period of validity

There is no limit to the period of validity for a customs warehouse Authorisation.

## 4. Entry of goods to the procedure

Goods can be entered into the customs warehouse procedure by direct import, by transfer from another warehouse or by transfer from another special procedure.

#### 4.1 How are goods entered to the customs warehousing procedure?

A H2 customs declaration is mandatory when entering goods to the customs warehousing procedure. The trader must:

- enter the appropriate procedure code in D.E. 1/10 of the declaration – first two digits will be 71;
- enter the customs warehouse location number in D.E. 2/7.
- enter details of the goods in the stock records on their arrival at the customs warehouse.

### 5. Discharge of goods from the customs warehouse procedure

#### 5.1 How are goods discharged from a customs warehouse?

(UCC 215)

Goods may be discharged by any of the following:

- release for free circulation;
- re-export outside the EU (including duty free sales to entitled travellers);
- entry to another special procedure either within Ireland or in another Member State.

#### 5.2 How are goods released for free circulation?

A H1 customs declaration is mandatory when releasing goods from the warehouse to free circulation, unless the trader has an authorisation for Simplified Procedures. The trader must:

- present the declaration and any other appropriate documents required by Revenue;
- pay any customs duty and charges – a deferred payment arrangement may be entered into;
- record details of the discharge, including details of the declaration (number and date) etc. in the stock records.

#### 5.3 Simplifications

An authorisation for Warehouse procedure allows for standard entry and discharge of the procedure only. Under the UCC any simplifications (EIDR or monthly declarations and so on) must be covered by a separate authorisation for Simplified Procedure.

## 5.4 How is the duty calculated?

(UCC Article 70, and Article 128 IA)

The amount of duty on goods released for free circulation is based on the transaction value of the goods when sold for export to the EU. Where the goods are not sold prior to being brought into the EU but are sold while in a warehouse the transaction value will be determined on the basis of that sale.

If the goods have incurred warehousing, preservation or handling costs while in the customs warehouse these costs may be deducted provided, they are shown separately from the price actually paid or payable for the goods and are clearly reflected in the trader's accounts. Where the above costs are deducted, the value of warehoused goods on entry for free circulation should not be less than the declared value on original entry into the warehouse.

## 5.5 What is required for goods, which are re-exported?

An export declaration must be completed in respect of goods being re-exported which were previously entered for the customs warehousing arrangements. Evidence that the goods have left the Union must be kept by the trader. Procedure code 3171 must be used in box 37 of the declaration.

In the case of goods which were originally under the inward processing procedure and are now under warehousing the re-export declaration must refer to the IP procedure, therefore the procedure code to be used is 3151. The warehouse procedure is not referred to in this case.

## 5.6 Discharge of goods to another procedure other than to free circulation

For a discharge to any of the procedures (other than to free circulation) mentioned at [paragraph 5.1](#) the following is required:

- Presentation of a customs declaration and other appropriate documents to the Control Officer.
- Details of the discharge including details of the declaration (entry number and date) must be recorded by the trader in the stock records.
- Details of entry to the subsequent procedure (e.g. Inward Processing)

## 5.7 Accounting for losses

Customs duty must be collected on losses caused by events outside the control of a trader or on goods stolen from the customs warehouse.

## 6. Stock records

(Article 214 UCC, and 178 DA)

### 6.1. What stock records must the trader maintain?

The trader must maintain stock records as follows:

- details from all customs declarations entering goods to the customs warehouse.
- details from all customs declarations discharging goods out of the customs warehouse to any other customs procedure;
- (if approved) details of transfers in and out on based on commercial documentation;
- the date and reference particulars of any other documents relating to the entry and discharge of goods from the customs warehouse;
- types of usual forms of handling carried out;
- where goods are to undergo usual forms of handling in the customs warehouse, separate accounts must be held on the cost of such handling.;
- information enabling the goods to be monitored, including their location within the customs warehouse premises and particulars of any transfer;
- commercial or technical descriptions necessary to identify the goods;
- details of movements, temporary removals:
- details of common storage;
- details of use of equivalent goods
- details of any goods entered to other economic procedures within the customs warehouse.

The stock records must give a complete history of the goods from the time of their entry to and discharge from the customs warehouse.

### 6.2 Are normal commercial stock records acceptable?

If the normal stock records maintained by the customs warehouse contain all of the requirements mentioned above, the trader will be approved to use them for the purpose of customs warehouse control.

## 7. Stock returns

Stock returns must be submitted by the trader to their supervising office every 100 days.

The minimum stock detail required is as follows:

- opening stock by commodity code;
- details of **all** entries into the customs warehouse (on declarations and, or commercial documentation). These details should include;
  - date of entry into the customs warehouse,
  - customs declaration number and date,
  - (if approved), details of transfers using commercial documentation ,
  - quantity and description,
  - commodity code;
- details of all discharges from the customs warehouse: These details should include;
  - date of discharge from customs warehousing,
  - customs declaration number and date relating to the discharge,
  - (if approved), details of transfers using commercial documentation,
  - T1 Full Transit number if relevant
  - quantity and description,
  - commodity code;
- If authorised, details of all temporary removals from the customs warehouse;
- details of all goods transferred to another customs warehouse either located within Ireland or in another Member State;
- closing stock by commodity code, description and quantity.
- details of stock segregation if used.
- details of equivalent goods if used.

The details required in the stock return should be agreed with the trader before the Authorisation is issued and should be set out in the conditions attached to the Authorisation. The trader should demonstrate that s/he is capable of producing the required return.

## 7.1 Who signs the stock return?

The stock return must be certified as being true and complete by the trader or his/her nominated representative as agreed with the Control Officer. The certificate should be in the following format:

I, \_\_\_\_\_, being authorised on behalf of \_\_\_\_\_, declare that the information contained in the attached report, consisting of \_\_\_\_\_ pages, dated \_\_\_\_\_ and titled \_\_\_\_\_ is true and complete and represents the actual stock in the warehouse.

## 7.2 What does the Control Officer do with the stock return?

If the stock return is not received by the due date the trader should be requested to submit it immediately. On receipt of the stock return the Control Officer should:

- confirm that the return is certified by the trader or his/her nominee;
- confirm that the opening stock balances are in agreement with closing balances at the end of the previous period;
- confirm that discharges from the customs warehouse shown on the return are in agreement with total releases in the customs declaration;
- (if it was approved), confirm the method agreed, and set down in the conditions, for entering transfers in and out on commercial documentation is being adhered to;
- examine returns for deviations from the normal pattern of activity at the customs warehouse;
- compare the summary details contained in the return against the IBI or the CIF systems on Revnet;
- seek immediate explanation for any discrepancy;
- file copy for future reference.
- where necessary confirm the physical presence of the goods.

If any discrepancies are discovered in the return the trader should be requested to provide clarification at the earliest opportunity and appropriate measures should be taken to regularise matters. If necessary, a visit to the customs warehouse to compare the stock returns with the actual stock records should be arranged.



## 8. Temporary removal of goods from a customs warehouse

(UCC 240)

Temporary removal must be authorised by Revenue and the conditions for such removal set down in the warehouse authorisation. If the trader wishes to temporarily remove goods after the authorisation is in place, they must contact Authorisations & Relief Unit to amend their authorisation in advance of any removals. The goods can only be removed to undertake any of the usual forms of handling and cannot be removed to a private premise not under customs control. In all cases the goods must be returned to the same customs warehouse from which they were temporarily removed. These goods will remain under the warehouse procedure at all times and any liability that might arise during this time will be the responsibility of the holder of the warehouse authorisation. Removal for shows/exhibitions etc is not allowed.

## 9. Movement of customs warehouse goods.

(UCC 219)

Movement of goods under the warehousing procedure may take place without customs formalities:

- a. between different storage facilities designated in the same authorisation;
- b. from the customs office of placement to the storage facilities; or
- c. from the storage facilities to the customs office of exit or any customs office indicated in the authorisation empowered to release goods to a subsequent customs procedure or to receive the re-export declaration for the purposes of discharging the special procedures.

The warehouse records must at all times show the location of the goods and all information about the movement.

## 10. Handling of goods in a customs warehouse

(UCC Article 220 and Article 180 DA)

### 10.1 Usual forms of handling

(Annex 71-03 DA)

While the main purpose of the customs warehousing procedure is storage, minor handling operations (known as usual forms of handling) may be allowed while the goods remain under the procedure. The list of usual forms of handling allowed under the Customs Warehousing procedure is set out in Annex 71-03 of the DA (see [Appendix I](#)).

Where a trader intends to carry out usual forms of handling on a regular basis the authorisation must state the forms of handling approved.

## 10.2 Inward Processing (IP) and End use.

(UCC Article 241)

Where an economic need exists and Revenue supervision is not adversely affected, goods on the premises of a customs warehouse may undergo more complex processing operations. The goods must first be discharged to IP or End use. When finished, the goods may then be returned to the customs warehousing procedure. If a trader wishes to discharge goods to IP or End use they must be authorised in advance for the use of that procedure.

## 11. Common storage of goods in a customs warehouse

### 11.1 Can Union goods be stored in a customs warehouse?

(Article 177 DA)

Where an economic need exists, Union and non-Union goods may be stored in a customs warehouse. Division/LCD's must ensure that it is possible at all times to identify and distinguish the status of such goods. Common storage must not be allowed to affect the operation of the customs warehouse arrangements. While the Union goods are not subject to the customs warehousing arrangements the trader may be requested to enter certain details in the stock records if it is considered necessary. Where it is impossible to identify at all times each type of goods, the authorisation shall allow accounting segregation to be carried out with regard to each type of goods, customs status and, where appropriate, origin of the goods.

## 12. Equivalent goods

**(UCC Article 223 and Article 169 DA & Articles 268 & 269 of the IA )**

Equivalent goods shall consist of Union goods which are stored instead of the goods placed under the warehousing procedure. They shall have the same eight-digit CN code, the same commercial quality and the same technical characteristics as the goods which they are replacing. Equivalence can be authorised on the condition that the proper conduct of the procedure, in particular as regards customs supervision, is ensured. See ([Appendix II](#)) for special provisions concerning equivalent goods.

## 12.1 Restrictions to the use of equivalence

The use of equivalent goods shall not be authorised:

- where the non-Union goods would be subject to a provisional or definitive anti-dumping, countervailing, safeguard duty or an additional duty resulting from a suspension of concessions if they were declared for release for free circulation.
- for goods or products that have been genetically modified or contain elements that have undergone genetic modification.
- where it would lead to an unjustified import duty advantage, or where provided for in Union legislation.
- where the non-Union goods placed under the customs warehousing procedure are of those referred to in Annex 71-02 DA (see [Appendix III](#)).

## 13. Commercial Policy Measures

Where commercial policy measures apply to:

- (a) **the release of goods for free circulation**; the measures do not apply when the goods are entered to the customs warehousing procedure but will apply at discharge from the warehouse.
- (b) **the introduction of goods into the customs territory of the Union**; the measure will apply as soon as the goods are entered to the customs warehousing procedure;
- (c) **the export of goods**; the measures will apply when the goods are exported from the customs territory of the Union after being discharged from the customs warehousing procedure.

## Appendix I - Annex 71-03 – DA List of permitted usual forms of handling

| UCC implemented provision | UCC empowering provision | Current IP provision | Annex       | Adoption procedure |
|---------------------------|--------------------------|----------------------|-------------|--------------------|
| Article 220               | Article 221(b)           | Articles 531, 809    | ex Annex 72 | DA                 |

Unless otherwise specified, none of the following forms of handling may give rise to a different eight-digit CN code.

- (1) ventilation, spreading-out, drying, removal of dust, simple cleaning operations, repair of packing, elementary repairs of damage incurred during transport or storage in so far as it concerns simple operations, application and removal of protective coating for transport;
- (2) reconstruction of the goods after transport;
- (3) stocktaking, sampling, sorting, sifting, mechanical filtering and weighing of the goods;
- (4) removal of damaged or contaminated components;
- (5) conservation, by means of pasteurisation, sterilisation, irradiation or the addition of preservatives;
- (6) treatment against parasites;
- (7) anti-rust treatment;
- (8) treatment:
  - by simple raising of the temperature, without further treatment or distillation process, or
  - by simple lowering of the temperature;
  - even if this results in a different eight-digit CN code;
- (9) electrostatic treatment, uncreasing or ironing of textiles;
- (10) treatment consisting in:
  - stemming and, or pitting of fruits, cutting up and breaking down of dried fruits or vegetables, rehydration of fruits, or
  - dehydration of fruits even if this results in a different eight-digit CN code;
- (11) desalination, cleaning and butting of hides;

- (12) addition of goods or addition or replacement of accessory components as long as this addition or replacement is relatively limited or is intended to ensure compliance with technical standards and does not change the nature or improve the performances of the original goods, even if this results in a different eight-digit CN code for the added or replacement goods;
- (13) dilution or concentration of fluids, without further treatment or distillation process, even if this results in a different eight-digit CN code;
- (14) mixing between them of the same kind of goods, with a different quality, in order to obtain a constant quality or a quality which is requested by the customer, without changing the nature of the goods;
- (15) mixing of gas or fuel oils not containing biodiesel with gas or fuel oils containing biodiesel, classified in Chapter 27 of the CN, in order to obtain a constant quality or a quality which is requested by the customer, without changing the nature of the goods even if this results in a different eight-digit CN code;
- (16) mixing of gas or fuel oils with biodiesel so that the mixture obtained contains less than 0,5 %, by volume, of biodiesel, and mixing of biodiesel with gas or fuel oils so that the mixture obtained contains less than 0,5 %, by volume, of gas or fuel oils;
- (17) dividing or size cutting out of goods if only simple operations are involved;
- (18) packing, unpacking, change of packing, decanting and simple transfer into containers, even if this results in a different eight-digit CN code, affixing, removal and altering of marks, seals, labels, price tags or other similar distinguishing signs;
- (19) testing, adjusting, regulating and putting into working order of machines, apparatus and vehicles, in particular in order to control the compliance with technical standards, if only simple operations are involved;
- (20) dulling of pipe fittings to prepare the goods for certain markets;
- (21) denaturing, even if this results in a different eight-digit CN code;
- (22) any usual forms of handling, other than the abovementioned, intended to improve the appearance or marketable quality of the import goods or to prepare them for distribution or resale, provided that these operations do not change the nature or improve the performance of the original goods.

## Appendix II - ANNEX 71-04 – DA Special Provisions Concerning Equivalent Goods

### I. Customs warehousing, Inward and Outward Processing

#### Conventionally produced goods and organic goods

It is not permitted to replace:

- organic goods by conventionally produced goods; and
- conventionally produced goods by organic goods.

### II. Inward Processing

#### (1) Rice

Rice classified under CN code 1006 shall not be deemed equivalent unless it falls within the same eight-digit CN code of the Combined Nomenclature. Nevertheless, for rice with a length not exceeding 6,0 mm and a length/width ratio equal to or more than 3 and for rice with a length equal to or less than 5,2 mm and a length/width ratio equal to or more than 2, equivalence shall be established by determination of the length/width ratio only. The measurement of the grains shall be done in accordance with Annex A(2)(d) to Regulation (EC) No 3072/95 on the common organisation of the market in rice.

#### (2) Wheat

Equivalent goods may be used only between wheat harvested in a third country and already released for free circulation and non-Union wheat, of the same eight-digit CN code, having the same commercial quality and the same technical characteristics.

However:

derogations from the ban on use of equivalent goods may be adopted in respect of wheat on the basis of a communication from the Commission to the Member States, after examination by the Committee,

the use of equivalent goods is permitted between Union durum wheat and durum wheat of third-country origin, provided it is for the production of pasta falling within CN codes 1902 11 00 and 1902 19.

**(3) Sugar**

Recourse to the use of equivalent goods is permitted between non-Union raw cane sugar (CN codes 1701 13 90 and, or 1701 14 90) and sugar beet (CN code 1212 91 80) under the condition that processed products falling within CN code 1701 99 10 (white sugar) are obtained.

The equivalent quantity of raw cane sugar of standard quality as defined in point III of Part B of Annex III to Regulation (EU) No 1308/2013 shall be calculated by multiplying the quantity of white sugar with the coefficient 1.0869565.

The equivalent quantity of raw cane sugar not of standard quality shall be calculated by multiplying the quantity of white sugar with a coefficient obtained by dividing 100 by the yield of raw cane sugar. The yield of raw cane sugar shall be calculated as set out in point III of Part B of Annex III to Regulation (EU) No 1308/2013.

**(4) Live animals and meat**

Equivalent goods may not be used for inward-processing operations on live animals or meat.

Derogation from the ban on the use of equivalent goods can be made for meat which has been made subject of a communication by the Commission to the Member States, after an examination carried out by a body composed of representatives of the customs administrations of the Member States if the applicant can prove that equivalence is economically necessary and if the customs authorities transmit the draft of the procedures foreseen to control the operation.

**(5) Maize**

The use of equivalent goods between Union and non-Union maize is possible only in the following cases and subject to the following conditions:

In the case of maize for use in animal feed, the use of equivalent goods is possible provided that a customs control system is set up to ensure that the non-Union maize is in fact used for processing into animal feed.

In the case of maize used in the manufacture of starch and starch products, the use of equivalent goods is possible between all varieties with the exception of maizes rich in amylopectin (wax-like maize or 'waxy' maize) which are only equivalent between themselves.

In the case of maize used in the manufacture of meal products, the use of equivalent goods is possible between all varieties with the exception of maizes of the vitreous type ('Plata' maize of the 'Duro' type, 'Flint' maize) which are only equivalent between themselves.

**(6) Olive oil**

- A. Recourse to the use of equivalent goods is permitted only in the following cases and under the following conditions:
- virgin olive oil
    - between Union extra virgin olive oil falling within CN code 1509 10 90 which corresponds to the description in Point 1(a) of Part VIII of Annex VII to Regulation (EU) No 1308/2013 and non-Union extra virgin olive oil of the same CN code, provided that the processing operation produces extra virgin olive oil falling within the same CN code and satisfying the requirements of the said Point 1(a);
    - between Union virgin olive oil falling within CN code 1509 10 90 which corresponds to the description in Point 1(b) of the Part VIII of Annex VII to Regulation (EU) No 1308/2013 and non-Union virgin olive oil of the same CN code, provided that the processing operation produces virgin olive oil falling within the same CN code and satisfying the requirements of the said Point 1(b);
    - between Union lampante virgin olive oil falling within CN code 1509 10 10 which corresponds to the description in Point 1(c) of the Part VIII of Annex VII to Regulation (EU) 1308/2013 and non-Union lampante virgin olive oil of the same CN code, provided that the processed product is:
      - refined olive oil falling within CN code 1509 90 00 which corresponds to the description in Point 2 of Part VIII of the abovementioned Annex VII, or
      - olive oil falling within CN code 1509 90 00 which corresponds to the description in Point 3 of Part VIII of the said Annex VII and is obtained by blending with Union virgin olive oil falling within CN code 1509 10 90.
    - olive-pomace oil
      - between Union unrefined olive-pomace oil falling within CN code 1510 00 10 which corresponds to the description in Point 4 of Part VIII of Annex VII to Regulation (EC) No 1234/2007 and non-Union unrefined olive-pomace oil of the same CN code, provided that the olive-pomace oil processed product falling within CN code 1510 00 90 and corresponding to the description in Point 6 of Part VIII of the said Annex VII is obtained by blending with Union virgin olive oil falling within CN code 1509 10 90.
  - B. The blendings referred to in Point A.1(c) second indent and Point A.2, with non-Union virgin olive oil, used in an identical manner, are authorised only where the arrangements for supervision of the procedure are organized in a manner that makes it possible to identify the proportion of non-Union virgin olive oil in the total quantity of blended oil exported.
  - C. The processed products must be put into immediate packaging of 220 litres or less. By way of derogation, in the case of agreed containers of 20 tonnes maximum, the customs



authorities may allow the exportation of the oils found in the preceding Points on condition that there is systematic control of the quality and quantity of the exported product.

- D. Equivalence shall be checked by using commercial records to verify the quantity of oils used for blending and, for the purpose of verifying the quality concerned, by comparing the technical characteristics of samples of the non-Union oil taken when it was entered for the procedure with the technical characteristics of the samples of the Union oil used taken when the processed product concerned was processed against the technical characteristics of the samples taken at the time of actual exportation of the processed product at the point of exit. Samples shall be taken in accordance with international standards EN ISO 5555 (sampling) and EN ISO 661 (sending of samples to laboratories and preparation of samples for tests). The analysis shall be carried out with reference to the parameters in Annex I to Commission Regulation (EEC) No 2568/91<sup>1</sup>.

### **(7) Milk and Milk Products**

Recourse to the use of equivalence is permitted under the following conditions:

The weight of each component of milk dry matter, milk fat matter and milk protein of the import goods shall not exceed the weight of each of these components in the equivalent goods.

However, where the economic value of the goods to be placed under inward processing is determined by only one or two of the above mentioned components, the weight may be calculated on the basis of this or these component(s). The authorisation shall specify the details, notably the reference period for which the total weight has to be calculated. The reference period shall not exceed 4 months.

The weight of the relevant component(s) of the goods to be placed under inward processing and of the equivalent goods shall be indicated in the relevant customs declarations and INF, to enable the customs authorities to control the equivalence on the basis of those elements.

### **III. Outward processing**

The use of equivalent goods is not permitted for goods which are covered by Annex 71-02.

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<sup>1</sup> OJ L 248, 5.9.1991, p. 1.

## Appendix III - ANNEX 71-02 DA Sensitive goods and products

The following goods are covered by this Annex:

The following agricultural products falling under one of the following sectors of the common market organization (CMO):

Beef and veal sector: products referred to in Regulation (EU) No 1308/2013, Article 1(2)(o) and listed in Annex I Part XV;

Pigmeat sector: products referred to in Regulation (EU) No 1308/2013, Article 1(2)(q) and listed in Annex I Part XVII;

Sheepmeat and goatmeat sector: products referred to in Regulation (EU) No 1308/2013, Article 1(2)(r) and listed in Annex I Part XVIII;

Eggs sector: products referred to in Regulation (EU) No 1308/2013, Article 1(2)(s) and listed in Annex I Part XIX;

Poultry meat sector: products referred to in Regulation (EU) No 1308/2013, Article 1(2)(t) and listed in Annex I Part XX;

Agriculture products: products referred to in Regulation (EU) No 1308/2013, Article 1(2)(v) and listed in Annex I Part XXII;

Cereals sector: products referred to in Article 1(2)(a), Annex I Part I of Regulation (EU) No 1308/2013;

Rice sector: products referred to in Article 1(2)(b), Annex I Part II of Regulation (EU) No 1308/2013;

Sugar sector: products referred to in Article 1(2)(c), Annex I Part III of Regulation (EU) No 1308/2013;

Olive oil sector: products referred to in Article 1(2)(g), Annex I Part VII of Regulation (EU) No 1308/2013;

Milk and milk-products sector: products referred to in Article 1(2)(p), Annex I Part XVI of Regulation (EU) No 1308/2013;

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Wine sector: products referred to in Article 1(2)(l), Annex I Part XII of Regulation (EU) No 1308/2013 and falling under CN codes:

0806 10 90

2009 61

2009 69

2204 21 (quality wine PDO and PGI excepted)

2204 29 (quality wine PDO and PGI excepted)2204 30

Ethyl alcohol and spirit products falling under CN codes:

2207 10

2207 20

2208 40 39 – 2208 40 99

2208 90 91 – 2208 90 99

ex 2401 unmanufactured tobacco

Products other than those under points 1 and 2 subject to agricultural export refund.

Fishery products listed in Annex I to Council Regulation (EC) No 1379/2013 on the common organization of the markets in fishery and aquaculture products and products listed in Annex V to this regulation subject to a partial autonomous suspension.

All fishery products subject to an autonomous quota.