

KYOTO CONVENTION

GUIDELINES TO SPECIFIC ANNEX F

Chapter 1

INWARD PROCESSING

WORLD CUSTOMS



ORGANIZATION

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1. Introduction

National legislation often provides for conditional relief from import duties and taxes for goods that are to be exported after having undergone specified manufacturing, processing or repair. This is the Customs procedure of inward processing.

Inward processing is not the only Customs procedure or practice to grant tax concessions on imported goods which are to be processed before re-exportation. The use of the drawback procedure or free zones is also applicable in this context.

2. Purpose and scope

The main purpose of the inward processing procedure is to make it possible for national enterprises to offer their products or services on foreign markets at competitive prices, thereby promoting economic growth and helping to provide more employment opportunities for national labour.

As a general rule, inward processing allows total conditional relief from import duties and taxes (including internal taxes such as Value Added Tax (VAT) or Goods and Services Tax (GST) levied on the importation of goods). However, import duties and taxes may be charged on waste deriving from the processing or manufacturing of the goods. The imported goods must be intended for re-exportation within a specific period after having undergone manufacturing, processing or repair. The products obtained as a result of the manufacturing, processing or repair are called "compensating products". These compensating products need not be obtained solely from goods admitted for inward processing. It may be necessary to use goods of national origin or those previously imported with payment of import duties and taxes.

Goods may be directly placed under the inward processing procedure after they are brought into the Customs territory. Goods under temporary admission, including goods under Customs transit, moving from a Customs warehouse or from a free zone, should also be eligible for inward processing. Proper discharge of the Customs procedure under which the goods were originally imported may be made a prerequisite for the granting of the inward processing procedure.

3. Essential features

3.1. Benefits

The benefits of this Customs procedure are several. The main benefit for trade is the possibility to produce or process goods without the burden of paying Customs duty and taxes on imported goods that will be processed or used in production. The main benefit for the administration is the extra boost to the domestic economy afforded by this processing or producing of goods, thereby strengthening the competitiveness of its industry.

Inward processing covers not only general trade processing but also contract or "job" processing in which the foreign customer remains the owner of the imported goods.

It also does not imply that the processing must involve any major change increasing the value of the goods. Goods that are to undergo minor operations, such as packaging, packing or re-packing of goods, may also be covered by this procedure.

3.2. Definitions

- E1/F3** *“compensating products” means the products resulting from the manufacturing, processing or repair of goods for which the use of the inward processing procedure is authorized;*
- E2/F1** *“equivalent goods” means domestic or imported goods identical in description, quality and technical characteristics to those imported for inward processing which they replace;*
- E3/F2** *“inward processing” means the Customs procedure under which certain goods can be brought into a Customs territory conditionally relieved from payment of import duties and taxes, on the basis that such goods are intended for manufacturing, processing or repair and subsequent exportation.*

All the definitions of terms necessary for the interpretation of more than one Annex to the Convention are placed in the General Annex. The definitions of terms applicable to only a particular procedure or practice are contained in that Specific Annex or Chapter.

3.3. Principle

Standard 1

Inward processing shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.

The revised Kyoto Convention has a set of obligatory core provisions that are contained in the General Annex. The General Annex reflects the main principles considered necessary to harmonize and simplify all the relevant Customs procedures and practices which Customs apply in their daily activities.

As the core provisions of the General Annex are applicable to all Specific Annexes and Chapters, they should be applied in full for Inward processing. Where a specific applicability is not relevant, the general facilitation principles of the General Annex should always be borne in mind when implementing the provisions of this Chapter. In particular, Chapter 1 of the General Annex on General principles, Chapter 3 on Clearance and other Customs formalities and Chapter 5 on Security should be read in conjunction with this Chapter on Inward processing.

Contracting Parties should particularly note Standard 1.2 of the General Annex and ensure that their national legislation specifies the conditions to be fulfilled and the formalities to be accomplished for Inward processing.

In accordance with Article 2 of the Convention, Contracting Parties are encouraged to grant greater facilities than those provided for in this Chapter.

3.4. Field of application

Standard 2

Goods admitted for inward processing shall be afforded total conditional relief from import duties and taxes. However, import duties and taxes may be collected on any products, including waste, deriving from the processing or manufacturing of goods admitted for inward processing that are not exported or treated in such a way as to render them commercially valueless.

National legislation may provide that waste having a commercial value is liable to import duties and taxes. This would be calculated either on the basis of its own tariff description or on the basis of the tariff description of the goods from which the waste was derived. In the latter case Customs may consider it unnecessary to inspect the waste.

National legislation may also provide that import duties and taxes will not be charged on waste within certain percentage limits or on waste that is irrecoverable or unusable.

Standard 3

Inward processing shall not be limited to goods imported directly from abroad, but shall also be granted for goods already placed under another Customs procedure.

Goods may qualify for Inward processing irrespective of the Customs procedure they were under immediately prior to the application for inward processing. This would apply, for example, to goods being removed from a Customs warehouse or a free zone, or for goods under transit or under temporary admission, provided that the conditions for inward processing are met and that the previous Customs procedure is properly discharged.

Recommended Practice 4

Inward processing should not be refused solely on the grounds of the country of origin of the goods, the country from which arrived or the country of destination.

The objective of this Recommended Practice is to exclude any discrimination in applying the Customs formalities for the inward processing procedure because of the country of origin, departure or destination of the goods.

Contracting Parties are authorized by Article 3 of the Convention to apply all prohibitions and restrictions deriving from their national legislation. However, in the particular case of goods that are to be re-exported, thereby staying only temporarily in the Customs territory, Contracting Parties are encouraged not to apply those prohibitions and restrictions which are based on the country of origin of the goods, the country from which they arrived or their country of destination.

This does not prevent Customs administrations from varying the degree of Customs control due to particular circumstances. For example, more strict control measures may be exercised for goods on which prohibitions or restrictions apply when they are declared for home use. However in exercising this control function, Customs administrations should use risk management techniques as described in Chapter 6 of the General Annex and its Guidelines.

Standard 5

The right to import goods for inward processing shall not be limited to the owner of the imported goods.

Inward processing covers not only general trade processing where the importer is the owner of the goods, but also contract or "job" processing in which the foreign customer remains the owner of the imported goods and the actual importer only processes the goods under contract with the (foreign) owner.

The right to import goods temporarily for inward processing may be reserved to persons established in the Customs territory.

In regard to any need to obtain an authorization, see Standard 8 and its Guidelines.

Recommended Practice 6

When, in the execution of a contract entered into with a person established abroad, the goods to be used are supplied by that person, inward processing should not be refused on the grounds that goods identical in description, quality and technical characteristics are available in the Customs territory of importation.

In some cases the competent authorities may decide that inward processing be subject to the condition that the proposed operations are beneficial to the national economy and do not conflict with the interests of national producers of goods that are identical or similar to those for which admission is requested. The right to import goods temporarily for inward processing may thus be made subject to the condition that the competent authorities approve the processing operations as beneficial to the national economy. Recommended Practice 6, however, encourages administrations to apply the procedure broadly for imported goods and not to restrict it to certain categories of goods based on their domestic availability.

Recommended Practice 7

The possibility of determining the presence of the imported goods in the compensating products should not be imposed as a necessary condition of inward processing when :

- (a) the identity of the goods can be established :*
 - *by submitting the details of the inputs and the process of manufacture of the compensating products; or*
 - *during the processing operations by Customs control; or*
- (b) the procedure is terminated by the exportation of products obtained from the treatment of goods identical in description, quality and technical characteristics to those admitted for inward processing.*

Recommended Practice 7 encourages Customs to accept several methods for identifying the quantities of imported goods in the compensating products and to allow the exportation of identical goods in lieu of the imported goods. This allows a more facilitative application of the procedure to stimulate international trade.

4. Placing goods under inward processing

4.1. Authorization for inward processing

Standard 8

National legislation shall specify the circumstances in which prior authorization is required for inward processing and the authorities empowered to grant such authorization.

In many administrations an authorization for the inward processing procedure must be obtained from a competent authority. This competent authority may be Customs or another governmental agency empowered to approve such authorizations based on economic policy (e.g. the government department responsible for economic affairs or external trade). However, Customs will ensure that all the conditions required for the procedure are fulfilled and issue the authorization.

4.2. Application for an authorization

The authorization is issued by Customs at the request of the person who carries out the processing operations or who arranges for them to be carried out. A request for the authorization can be made :

- by a standard request or
- by a simplified request.

Recommended Practice 10 of this Chapter allows the possibility for traders to receive a retrospective authorization.

4.2.1. Standard request

For a standard request the authorization is obtained in advance, before the goods can be placed under the inward processing procedure. A standard request is generally applicable for persons who have the intention of carrying on large-scale or continuous inward processing operations.

The following may be required in the application form and be approved of in the authorization itself :

- Name or business name and address
 - of the applicant.
 - of the processor (if the applicant and the operator are not the same person).
- Information on the goods to be processed :
 - The trade and/or technical description. The description should be sufficiently clear and detailed to enable a decision to be taken on the application. Where the equivalent compensation system is to be used, whether or not with prior exportation, the commercial quality and technical characteristics must be indicated as well. The description should entail enough particulars to enable Customs to check on the use of the authorization, with particular reference to the expected rates of yield.
 - Indication of the tariff classification.
 - Estimated quantity stated by reference to imports over a given period.
 - Estimated Customs value stated by reference to imports over a given period.
 - Indication of the country of origin envisaged.
- information on the compensating products and planned export operations :

- The trade and/or technical description. The description for each compensating product obtained should be sufficiently clear and detailed to enable a decision to be taken on the application. Where the equivalent compensation system is to be used, whether or not with prior exportation, the commercial quality and technical characteristics must be indicated as well. The description should entail enough particulars to enable Customs to check on the use of the authorization, with particular reference to the expected rates of yield.
- Indication of the tariff classification (for each compensating product obtained);
- The main compensating products;
- The planned export operations.
- Whether or not a special mode is applied for:
 - Equivalent compensation;
 - Prior exportation.
- Expected rate of yield or method of how such rate should be established by Customs.
- Description of the nature of processing operations to be carried out on the imported goods in order to produce the compensating products.
- Address of the place where the processing operations is to be carried out.
- Estimation of time needed :
 - Indication of the average time needed to carry out the processing operations for a given batch of the goods (expressed by unit or quantity, for example);
 - Indication of the time likely to elapse between completion of the processing operations and re-export of the compensating products (period of re-exportation);
 - if the special mode "prior exportation" is to be used, an indication of the time required for the procurement of the import goods and their transport to the Customs territory.
- Indication of the most suitable method(s) of identifying the imported goods incorporated in the compensating products.
- Suggested Customs office which would be suitable as the :
 - Customs office responsible for the supervision of the procedure;
 - Customs office where the Goods declaration for inward processing can be accepted;
 - Customs office of discharge where the Goods declaration for the appropriate Customs procedure can be accepted.
- Indication of the period which is planned to import goods temporarily for inward processing (intended duration of the authorization).
- If the special mode "equivalent compensation" is to be used, the tariff classification, the commercial quality and technical characteristics of the equivalent goods. This is necessary to enable Customs to make the necessary comparison between the imported goods and equivalent goods.

4.2.2. Simplified request

A simplified request for the authorization is made by lodging the Goods declaration for inward processing. This is normally applied in situations where the importer intends to carry out a single and unique inward processing and where controlling the processing operations can be done quite easily.

A simplified request may also be limited to situations in which the inward processing has little economic impact, e.g. operations carried out under a job-processing contract, operations involving goods of a non-commercial nature, repairs or when the operations do not exceed a certain amount per applicant per calendar year.

Where a simplified request for the inward processing procedure is permitted, Customs should accept the lodging of the Goods declaration for the inward processing procedure as an application for authorization. In this case, Customs' registering of the Goods declaration constitutes the authorization and subjects the goods to the conditions governing the authorization.

Where the information in the Goods declaration does not contain all the information necessary to grant the authorization for inward processing, Customs may require that the declarant submit a separate document containing the following information :

- the name or business name and address of the applicant where the person applying to use the procedure is not the same as the declarant;
- the name or business name and address of the operator where the operator is not the same as the applicant or declarant;
- the nature of the processing operation;
- the trade and/or technical description of the compensating products;
- the estimated rate of yield or, where appropriate, the method by which that rate is to be determined;
- the estimated period for exportation; and
- the place where it is intended to carry out the processing operation.

In many countries where the simplified request procedure is used, the full information will normally have to be provided on the Goods declaration. This is because Customs rely on the information in the Goods declaration as the basis for the authorization.

4.3. Administrative and financial responsibility

To ensure correct application of the provisions governing the inward processing procedure and to facilitate controls, Customs generally requires the person authorized to keep or ensure the keeping of stock records ("inward processing records"). The records should indicate the quantities of goods entered for the procedure and of compensating products obtained, all the particulars needed to monitor the operation, and the correct calculation of any import duties and taxes which may be payable. The term "records" should be interpreted as covering all books of account of the person concerned, including stock accounts.

The "inward processing records" must be made available to the supervising Customs office to enable it to carry out the checks necessary for the proper implementation of the procedure. Where the processing operations are being carried out in two or more establishments, the stock records should contain the information pertaining to the implementation of the procedure in each establishment.

Where the normal commercial records kept by the person concerned will allow supervision of the procedure, Customs can accept these as the valid "inward processing records".

4.4. Control and audit

Control and audit are described in Chapter 6 of the General Annex and its Guidelines. Operations allowed under the inward processing procedure may be carried out at premises authorized by Customs such as the premises of the firm, Customs warehouses and free zones. These establishments usually have to be located in a specified region or place and be approved by Customs. Customs may check that the establishment possesses the necessary equipment for the proposed processing operations. As a facility, users of the system may declare a specified percentage of compensating products for home use and may have Customs examinations carried out at their premises.

Inward processing premises are not necessarily subject to special Customs surveillance. The main characteristics of control arrangements can be that :

- the competent authorities specify the requirements as to the location and lay-out of the premises for inward processing; and
- examination of the goods to be used and of the compensating products to be removed from the premises will generally be carried out at the premises.

When authorizing goods to be placed under inward processing, it may be useful to establish a list of qualifying operations for the procedure. The circumstances in which inward processing is allowed mainly concern the possibility of determining the presence of the imported goods in the compensating products, the time limits for inward processing and the obligations of persons who import goods under this procedure.

4.5. Examination of the goods

The examination of goods is dealt with in Chapter 3 of the General Annex and its Guidelines. Examination of the goods generally takes place at the Customs office where the Goods declaration for the inward processing procedure is lodged.

Examination of the goods for inward processing at the premises of the person concerned should be allowed, for example, when it would facilitate the examination or when the nature of the goods is such that examination at the Customs office would be inconvenient. Obviously Customs will be able to allow inspection on private premises only to the extent that examining officers can be made available for the work.

Customs may require that goods for examination at the premises of the person concerned be transported under Customs seal or some other form of control from the office of importation to the place of destination.

Standard 9

The inward processing authorization shall specify the manner in which operations permitted under inward processing shall be carried out.

The imported goods can undergo manufacturing, processing or repair during the time placed under the procedure. As indicated above, it may be useful to establish a list of qualifying operations for inward processing. Examples of manufacturing, processing or repair could include :

- the working of goods, including erecting or assembling them or fitting them to other goods;
- the processing of goods;
- the repair of goods, including restoring them and putting them in order;
- packaging goods, packing or re-packing; and
- the use of certain goods which are not to be found in the compensating products, but which allow or facilitate the production of those products, even if they are

entirely or partially consumed in the process. (Contracting Parties may make up a list of these goods or a list of goods that are excluded.)

4.6. Aids to manufacturing

Within the context of inward processing, exemption from import duties and taxes may be granted for goods consumed during the production of exported goods without actually being contained in them. This can include goods such as catalysts and accelerators or retarders of chemical reactions which, on being used to obtain compensating products, disappear entirely or partially without actually being contained in those products. The exemption may be granted only insofar as the compensating products obtained are exported. However, it does not normally extend to mere aids to manufacture, such as lubricants.

This exemption, which is provided for in the national legislation of many countries, is based on the fact that the economic value of the imported goods may be regarded as having been incorporated into the compensating products.

Lubricants are cited as an example of what is meant by "mere aids to manufacture". Other examples are power sources, tools and machines used in the manufacture of the compensating products. By contrast, catalysts and accelerators or retarders of chemical reactions are essential inputs in the process of manufacture and hence may qualify for exemption from import duties and taxes.

Recommended Practice 10

When an application for inward processing is made after the importation of the goods and meets the criteria for authorization, the authorization should be granted retrospectively.

The principle contained in this Recommended Practice is an extension of the facility provided in Standard 3 of this Chapter. Recommended Practice 10 offers traders the opportunity to be granted a retrospective authorization for inward processing for goods that have already been cleared for home use. The main advantages are that it offers a greater facility to traders by enabling duties and taxes to be repaid more quickly than would be possible under the drawback procedure (where it is applied), and in some instances enables them to obtain a refund of duties and taxes which might not be available under other procedures.

In granting this retrospective authorization Customs should assure themselves the reasons for the request are valid and that the traders' records provide accurate information for audit and verification. National legislation will determine the time limit for which retrospective authorizations can be granted.

In addition, Customs should take into consideration any time limits applicable to the refund of duties and taxes. (See Chapter 4 of the General Annex and its Guidelines.)

Recommended Practice 11

Persons who carry out regular inward processing operations should, on request, be granted a general authorization covering such operations.

Granting of a general authorization for traders who perform continuous inward processing operations is a measure of facilitation to both the trader and Customs. Such traders will normally have established good records of compliance with Customs law and therefore can be eligible for less Customs intervention for each individual transaction. For Customs this reduces the manpower and paperwork requirements for reviewing and granting multiple individual authorizations. The general authorization may be made subject to the condition that the goods held under inward processing should not exceed a certain quantity and that the processing operations should be completed within a prescribed time limit.

Standard 12

Where goods admitted for inward processing are to undergo manufacturing or processing, the competent authorities shall fix or agree to the rate of yield of the operation by reference to the actual conditions under which it is effected. The description, quality and quantity of the various compensating products shall be specified upon fixing or agreeing to that rate.

The rate of yield indicates the quantity of goods under inward processing that is considered to have been used to obtain the compensating products. In fixing this rate, account may be taken of losses resulting from the nature of the goods used, such as evaporation or drying out of the goods.

The rate of yield or the method of determining the rate should be set on the basis of production data and be identifiable in the operator's records. The rate or method of determining the rate is also subject to retrospective verification by Customs.

It should be noted that Customs may not be the only authorities concerned in fixing the rate of yield.

Recommended Practice 13

Where the inward processing operations :

- *relate to goods whose characteristics remain reasonably constant;*
- *are customarily carried out under clearly defined technical conditions; and*
- *give compensating products of constant quality;*

the competent authorities should lay down standard rates of yield applicable to the operations.

Fixing standard rates of yield can simplify matters both for Customs and for persons granted inward processing. These standard rates may apply to processing operations carried out by the same person; they may also be fixed in relation to a specific industrial sector. Standard rates are normally used where circumstances so warrant and, in particular, for processing operations that are usually carried out under clearly defined technical conditions involving goods of substantially uniform characteristics and resulting in the production of compensating products of uniform quality. The standard rates of yield may be set on the basis of actual data previously ascertained.

4.7. Identification measures

Standard 14

The requirements relating to the identification of goods for inward processing shall be laid down by the Customs. In carrying this out, due account shall be taken of the nature of the goods, of the operation to be carried out and of the importance of the interests involved.

For the identification of goods admitted for inward processing, Customs will normally rely on foreign seals affixed to the goods, on marks, numbers or other indications permanently affixed to them, on the description of the goods or scale plans or photographs. Customs may also take samples or affix Customs marks (seals, stamps, perforations, etc.) in order to identify the goods. Where national legislation or the authorization provides Customs may also have access to the importers' records.

Customs should take due account of the nature of the goods when laying down their requirements for identification, as well as of the interests involved in the goods themselves, such as value or national economic importance. Care must be taken to choose methods of identification which do not damage the goods. Where the interests involved are small (for example, goods of low value or not marketable in the country of importation), the identification requirements can be reduced.

5. Stay of the goods in the Customs territory

Standard 15

The Customs shall fix the time limit for inward processing in each case.

Customs must specify the period within which the compensating products must be exported. This period should take account of the time required to carry out the processing operations and to dispose of the compensating products, as well as the economic conditions in the Customs territory and the specific needs of the applicant. The period normally will begin on the date of registry of the declaration that enters the imported goods for the Inward processing procedure.

It may not be necessary for the maximum time limit fixed in each case to be automatically granted at importation. For example, if national legislation lays down a time limit of one year for the inward processing of goods intended for repair, it may not always be appropriate to grant this maximum time limit, particularly in cases where the proposed repairs are only minor.

For reasons of simplification, a period that commences in the course of a calendar month or quarter could be ended on the last day of a subsequent calendar month or quarter.

If a general time limit for inward processing is fixed instead of an individual time limit for each particular case, this may be regarded as granting a greater facility.

Recommended Practice 16

At the request of the person concerned, and for reasons deemed valid by the Customs, the latter should extend the period initially fixed.

Whenever a duly substantiated request by the holder of the authorization to extend the time limit is submitted, Customs should grant the extension. Where the circumstances so warrant, Customs is also encouraged to extend the time limit even when the time limit originally set has expired.

Recommended Practice 17

Provision should be made for continuing inward processing in the event of transfer of ownership of the imported goods and the compensating products to a third person, provided that that person assumes the obligations of the person granted the authorization.

As long as the obligations to Customs are clearly transferred with a transfer of ownership of the imported goods under the inward processing procedure, Customs should allow this transfer of ownership to take place. When the imported goods or the compensating products are transferred to a third person, the transferor should first be discharged from his obligations under the inward processing for the quantities transferred, and these quantities should then be placed under the same procedure for the account of the new owner.

Recommended Practice 18

The competent authorities should permit processing operations to be carried out by a person other than the person accorded the facilities for inward processing. Transfer of ownership of the goods admitted for inward processing should not be necessary, provided that the person accorded the inward processing facilities remains responsible to the Customs for compliance with the conditions set out in the authorization for the entire duration of the operations.

In order to allow as much facilitation and operational flexibility to the persons authorized for the inward processing procedure, yet without compromising revenue controls, Customs should allow the person concerned to submit an oral application for permission to sub-contract the processing operations. As a rule it is unnecessary to lodge a new Goods declaration for inward processing in the name of the person entrusted with carrying out part of the processing operations provided for.

This covers not only general trade processing but also contract or "job" processing in which the foreign customer remains the owner of the imported goods.

Standard 19

Provision shall be made to permit compensating products to be exported through a Customs office other than that through which the goods placed under inward processing were imported.

Imported goods or compensating products under the inward processing procedure are normally presented to the Customs office assigned for supervising the discharge of the procedure. However, as a measure to facilitate operators' logistics, Customs may allow the goods to be presented for export at another Customs office. Customs may require the declarant to indicate the suitable Customs office of discharge in the application for the authorization, or they may allow the declarant to produce the compensating products at any competent Customs office of his choice.

Where the declarant regularly exports compensating products through different Customs offices, Customs may centralize his accounts in a specific Customs office.

6. Termination of inward processing

6.1. Exportation

Standard 20

Provision shall be made to permit inward processing procedures to be terminated by exportation of the compensating products in one or more consignments.

The subsequent exportation of the compensating products is a key element of the inward processing procedure. The obligation to export the compensating products has been provided for in order to avoid disturbing the balance of equal competition between processors who use goods under the inward processing procedure and those who make direct declaration for home use of the goods they import.

Upon expiry of the maximum time limit for inward processing, the goods must be disposed of in one of the ways provided for by national legislation or by the authorization. Exportation of the compensating products is the normal method of terminating inward processing. It is not always possible or necessary to export all the compensating products or the imported goods in an unaltered state in one consignment. Therefore Customs must allow exportation to take place in partial consignments.

A separate Goods declaration must be made for each partial consignment of compensating products. This is to allow the discharge of the inward processing procedure to take place in stages as the goods are placed under an assigned Customs procedure (exportation or another approved Customs procedure), and to allow the controls necessary to ensure final disposition of all the goods to be applied.

The declaration discharging the inward processing procedure should contain a reference to the authorization granting the inward processing in order to facilitate the control measures to be carried out by Customs. This Goods declaration should also contain a description of the compensating products or imported goods in the unaltered state that corresponds to the specifications in the authorization, as well as the particulars needed to permit discharge of the inward processing declaration for the goods that have been utilised.

In some countries to ensure that the goods leave the Customs territory, the compensating products will be placed under the Customs transit procedure before exportation when, for example, the exportation formalities are accomplished at an inland Customs office.

As soon as Customs have satisfied themselves that all the conditions in relation to the inward processing procedure have been complied with and total discharge has been granted, the importer should be released from all his obligations to Customs for those goods.

Standard 21

Upon request by the person concerned, the competent authorities shall authorize the re-exportation of the goods in the same state as imported, with termination of inward processing.

Generally, the person accorded the inward processing facility may terminate the procedure at any time by the re-exportation of the goods in the same state as imported.

6.2. Other methods of disposal

Recommended Practice 22

Provision should be made for suspending or terminating inward processing by placing the imported goods or the compensating products under another Customs procedure, subject to compliance with the conditions and formalities applicable in each case.

Although the subsequent exportation of the compensating products is a key element of the inward processing procedure Customs may, however, allow the compensating products to be declared for another Customs procedure such as home use, Customs transit or Customs warehousing.

Home use may only be allowed up to a prescribed percentage. When home use is an approved Customs procedure to terminate inward processing, compensatory interest may be levied in order to avoid trade distortion.

The inward processing procedure is discharged for the imported goods when the compensating products or goods in the unaltered state have been declared for another Customs procedure and all other conditions for use of the procedure have been complied with. Customs may require the declarant to produce not only the Goods declaration needed to terminate the inward processing, but also a Goods declaration appropriate to the new Customs procedure under which the imported goods or the compensating products are to be placed.

Discharge of the inward processing procedure will be granted for the quantities of either imported goods corresponding to the compensating products or the imported goods in the unaltered state that are assigned to another Customs procedure.

The Goods declaration to assign the imported goods or the compensating products to another Customs procedure must contain all the particulars necessary for that procedure.

Where prohibitions or restrictions have been held in abeyance by declaring the goods for the inward processing procedure, these prohibitions and restrictions come into force again when the imported goods or the compensating products are declared for home use.

Recommended Practice 23

National legislation should provide that the amount of import duties and taxes applicable in the case where the compensating products are not exported shall not exceed the amount of import duties and taxes applicable to the imported goods admitted for inward processing.

As a principle, there should be no difference in the amount of duties and taxes on goods because of the manner in which they were imported for home use, i. e. whether imported directly or declared for home use after being placed under another Customs procedure, such as inward processing.

Where Customs duties and taxes are due, the proportion of imported goods incorporated in the compensating products must be calculated in order to determine the amounts to be charged. The calculations can be based either on the quantities of the imported goods and the compensating products or on the values of these goods and products.

National legislation will prescribe 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. (See Standards 4.1 and 4.5 of the General Annex.) This might be when the goods are placed under the inward processing procedure or it might be when the Goods declaration for home use is lodged. The point in time to be taken into consideration in fixing of the quantity of the goods is a matter that arises more particularly for goods subject to specific duties and liable to inadvertent loss because of evaporation, spillage, etc.

In the event of a Goods declaration for home use for compensating products that have been sent abroad for supplementary processing, account may be taken in calculating the import duties and taxes, besides those applicable to the goods initially used, of the difference between :

- (a) the amount of the import duties and taxes that would be chargeable on the products re-imported after supplementary processing, and
- (b) the amount of the import duties and taxes that would be chargeable on the products temporarily exported for supplementary processing if they were imported directly from the country in which such processing had taken place.

Standard 24

Provision shall be made for terminating inward processing for goods lost as a consequence of the nature of the goods, insofar as the compensating products are exported, provided that such loss is duly established to the satisfaction of the Customs.

The obligation to export the compensating products has been provided for in order to avoid disturbing the balance of equal competition between processors who use goods under the inward processing procedure and those who make direct declaration for home use of the goods they import.

When the nature or technical characteristics of the imported goods are altered as a result of unforeseeable circumstances or force majeure, so that it becomes impossible to obtain the compensating products for which an inward processing authorization has been issued, the person concerned should inform the supervising Customs office of what has happened. For the discharge calculation the altered goods may be considered as goods that are totally destroyed.

In the event of the total destruction or irretrievable loss of goods in the unaltered state or of compensating products, Customs should ask the person concerned to produce evidence of the actual quantity of imported goods destroyed or lost. If not this is not possible, the proportion of imported goods destroyed or lost should be calculated by reference to the proportion of imported goods in stocks of goods of the same kind held by the holder of the authorization at the time when the destruction or loss occurred. Losses may, for example, be caused by evaporation or drying out of the goods.

National legislation may lay down standard loss percentages for specified categories of goods admitted for inward processing. This may be taken into account in fixing the rate of yield of the processing operation under the terms of Standard 12.

Recommended Practice 25

The products obtained from the treatment of equivalent goods should be deemed to be compensating products for the purposes of this Chapter (setting-off with equivalent goods).

National legislation usually requires that the products exported have been obtained from the goods imported. In some cases, however, authorization may be given for the use of goods equivalent to those admitted for inward processing for the production of the actual compensating products.

When this authorization is granted, the equivalent goods must normally be of the same commercial quality and have the same technical characteristics as the imported goods. However, in specific cases, the equivalent goods may be allowed to be at a more advanced stage of manufacture than the imported goods.

The particulars of the equivalent goods in the Goods declaration should be sufficiently detailed to make it possible to identify the particulars referred to in the authorization (e.g. tariff classification, commercial quality and technical characteristics).

Recommended Practice 26

When setting-off with equivalent goods is allowed, the Customs should permit the exportation of compensating products prior to the importation of goods for inward processing.

As a further facilitation to persons granted the inward processing procedure, authorization could be given for the compensating products obtained from equivalent goods to be exported from the Customs territory before the arrival of the imported goods (prior exportation).

Where prior exportation is granted, Customs must specify the period within which the imported goods are to be declared for the procedure. That period will normally run from the date of registry of the export declaration for the compensating products obtained from the corresponding equivalent goods, taking account of the time required for the procurement and transport to the Customs territory of the goods imported. Customs may grant an extension of this period on submission of a duly substantiated request by the person granted the authorization.

Where prior exportation is granted, the procedure will be discharged when Customs have registered the Goods declaration for the imported goods.
