

CHAPTER 3

CLEARANCE AND OTHER CUSTOMS FORMALITIES

Competent Customs offices

3.1. Standard

The Customs shall designate the Customs offices at which goods may be produced or cleared. In determining the competence and location of these offices and their hours of business, the factors to be taken into account shall include in particular the requirements of the trade.

3.2. Standard

At the request of the person concerned and for reasons deemed valid by the Customs, the latter shall, subject to the availability of resources, perform the functions laid down for the purposes of a Customs procedure and practice outside the designated hours of business or away from Customs offices. Any expenses chargeable by the Customs shall be limited to the approximate cost of the services rendered.

3.3. Standard

Where Customs offices are located at a common border crossing, the Customs administrations concerned shall correlate the business hours and the competence of those offices.

3.4. Transitional Standard

At common border crossings, the Customs administrations concerned shall, whenever possible, operate joint controls.

3.5. Transitional Standard

Where the Customs intend to establish a new Customs office or to convert an existing one at a common border crossing, they shall, wherever possible, co-operate with the neighbouring Customs to establish a juxtaposed Customs office to facilitate joint controls.

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The declarant

(a) Persons entitled to act as declarant

3.6. Standard

National legislation shall specify the conditions under which a person is entitled to act as declarant.

3.7. Standard

Any person having the right to dispose of the goods shall be entitled to act as declarant.

(b) Responsibilities of the declarant

3.8. Standard

The declarant shall be held responsible to the Customs for the accuracy of the particulars given in the Goods declaration and the payment of the duties and taxes.

(c) Rights of the declarant

3.9. Standard

Before lodging the Goods declaration the declarant shall be allowed, under such conditions as may be laid down by the Customs :

- (a) to inspect the goods; and
- (b) to draw samples.

3.10. Standard

The Customs shall not require a separate Goods declaration in respect of samples allowed to be drawn under Customs supervision, provided that such samples are included in the Goods declaration concerning the relevant consignment.

The Goods declaration

(a) Goods declaration format and contents

3.11. Standard

The contents of the Goods declaration shall be prescribed by the Customs. The paper format of the Goods declaration shall conform to the UN-layout key.

For automated Customs clearance processes, the format of the electronically lodged Goods declaration shall be based on international standards for electronic information exchange as prescribed in the Customs Co-operation Council Recommendations on information technology.

3.12. Standard

The Customs shall limit the data required in the Goods declaration to only such particulars as are deemed necessary for the assessment and collection of duties and taxes, the compilation of statistics and the application of Customs law.

3.13. Standard

Where, for reasons deemed valid by the Customs, the declarant does not have all the information required to make the Goods declaration, a provisional or incomplete Goods declaration shall be allowed to be lodged, provided that it contains the particulars deemed necessary by the Customs and that the declarant undertakes to complete it within a specified period.

3.14. Standard

If the Customs register a provisional or incomplete Goods declaration, the tariff treatment to be accorded to the goods shall not be different from that which would have been accorded had a complete and correct Goods declaration been lodged in the first instance.

The release of the goods shall not be delayed provided that any security required has been furnished to ensure collection of any applicable duties and taxes.

3.15. Standard

The Customs shall require the lodgement of the original Goods declaration and only the minimum number of copies necessary.

(b) Documents supporting the Goods declaration

3.16. Standard

In support of the Goods declaration the Customs shall require only those documents necessary to permit control of the operation and to ensure that all requirements relating to the application of Customs law have been complied with.

3.17. Standard

Where certain supporting documents cannot be lodged with the Goods declaration for reasons deemed valid by the Customs, they shall allow production of those documents within a specified period.

3.18. Transitional Standard

The Customs shall permit the lodgement of supporting documents by electronic means.

3.19. Standard

The Customs shall not require a translation of the particulars of supporting documents except when necessary to permit processing of the Goods declaration.

Lodgement, registration and checking of the Goods declaration

3.20. Standard

The Customs shall permit the lodging of the Goods declaration at any designated Customs office.

3.21. Transitional Standard

The Customs shall permit the lodging of the Goods declaration by electronic means.

3.22. Standard

The Goods declaration shall be lodged during the hours designated by the Customs.

3.23. Standard

Where national legislation lays down a time limit for lodging the Goods declaration, the time allowed shall be sufficient to enable the declarant to complete the Goods declaration and to obtain the supporting documents required.

3.24. Standard

At the request of the declarant and for reasons deemed valid by the Customs, the latter shall extend the time limit prescribed for lodging the Goods declaration.

3.25. Standard

National legislation shall make provision for the lodging and registering or checking of the Goods declaration and supporting documents prior to the arrival of the goods.

3.26. Standard

When the Customs cannot register the Goods declaration, they shall state the reasons to the declarant.

3.27. Standard

The Customs shall permit the declarant to amend the Goods declaration that has already been lodged, provided that when the request is received they have not begun to check the Goods declaration or to examine the goods.

3.28. Transitional Standard

The Customs shall permit the declarant to amend the Goods declaration if a request is received after checking of the Goods declaration has commenced, if the reasons given by the declarant are deemed valid by the Customs.

3.29. Transitional Standard

The declarant shall be allowed to withdraw the Goods declaration and apply for another Customs procedure, provided that the request to do so is made to the Customs before the goods have been released and that the reasons are deemed valid by the Customs.

3.30. Standard

Checking the Goods declaration shall be effected at the same time or as soon as possible after the Goods declaration is registered.

3.31. Standard

For the purpose of checking the Goods declaration, the Customs shall take only such action as they deem essential to ensure compliance with Customs law.

Special procedures for authorized persons

3.32. Transitional Standard

For authorized persons who meet criteria specified by the Customs, including having an appropriate record of compliance with Customs requirements and a satisfactory system for managing their commercial records, the Customs shall provide for :

- release of the goods on the provision of the minimum information necessary to identify the goods and permit the subsequent completion of the final Goods declaration;
- clearance of the goods at the declarant's premises or another place authorized by the Customs;

and, in addition, to the extent possible, other special procedures such as :

- allowing a single Goods declaration for all imports or exports in a given period where goods are imported or exported frequently by the same person;
- use of the authorized persons' commercial records to self-assess their duty and tax liability and, where appropriate, to ensure compliance with other Customs requirements;
- allowing the lodgement of the Goods declaration by means of an entry in the records of the authorized person to be supported subsequently by a supplementary Goods declaration.

Examination of the goods

(a) Time required for examination of goods

3.33. Standard

When the Customs decide that goods declared shall be examined, this examination shall take place as soon as possible after the Goods declaration has been registered.

3.34. Standard

When scheduling examinations, priority shall be given to the examination of live animals and perishable goods and to other goods which the Customs accept are urgently required.

3.35. Transitional Standard

If the goods must be inspected by other competent authorities and the Customs also schedules an examination, the Customs shall ensure that the inspections are co-ordinated and, if possible, carried out at the same time.

(b) Presence of the declarant at examination of goods

3.36. Standard

The Customs shall consider requests by the declarant to be present or to be represented at the examination of the goods. Such requests shall be granted unless exceptional circumstances exist.

3.37. Standard

If the Customs deem it useful, they shall require the declarant to be present or to be represented at the examination of the goods to give them any assistance necessary to facilitate the examination.

(c) Sampling by the Customs

3.38. Standard

Samples shall be taken only where deemed necessary by the Customs to establish the tariff description and/or value of goods declared or to ensure the application of other provisions of national legislation. Samples drawn shall be as small as possible.

Errors

3.39. Standard

The Customs shall not impose substantial penalties for errors where they are satisfied that such errors are inadvertent and that there has been no fraudulent intent or gross negligence.

Where they consider it necessary to discourage a repetition of such errors, a penalty may be imposed but shall be no greater than is necessary for this purpose.

Release of goods

3.40. Standard

Goods declared shall be released as soon as the Customs have examined them or decided not to examine them, provided that :

- no offence has been found;
- the import or export licence or any other documents required have been acquired;
- all permits relating to the procedure concerned have been acquired; and
- any duties and taxes have been paid or that appropriate action has been taken to ensure their collection.

3.41. Standard

If the Customs are satisfied that the declarant will subsequently accomplish all the formalities in respect of clearance they shall release the goods, provided that the declarant produces a commercial or official document giving the main particulars of the consignment concerned and acceptable to the Customs, and that security, where required, has been furnished to ensure collection of any applicable duties and taxes.

3.42. Standard

When the Customs decide that they require laboratory analysis of samples, detailed technical documents or expert advice, they shall release the goods before the results of such examination are known, provided that any security required has been furnished and provided they are satisfied that the goods are not subject to prohibitions or restrictions.

3.43. Standard

When an offence has been detected, the Customs shall not wait for the completion of administrative or legal action before they release the goods, provided that the goods are not liable to confiscation or forfeiture or to be needed as evidence at some later stage and that the declarant pays the duties and taxes and furnishes security to ensure collection of any additional duties and taxes and of any penalties which may be imposed.

Abandonment or destruction of goods

3.44. Standard

When goods have not yet been released for home use or when they have been placed under another Customs procedure, and provided that no offence has been detected, the person concerned shall not be required to pay the duties and taxes or shall be entitled to repayment thereof :

- when, at his request, such goods are abandoned to the Revenue or destroyed or rendered commercially valueless under Customs control, as the Customs may decide. Any costs involved shall be borne by the person concerned;
- when such goods are destroyed or irrecoverably lost by accident or force majeure, provided that such destruction or loss is duly established to the satisfaction of the Customs;
- on shortages due to the nature of the goods when such shortages are duly established to the satisfaction of the Customs.

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

3.45. Transitional Standard

When the Customs sell goods which have not been declared within the time allowed or could not be released although no offence has been discovered, the proceeds of the sale, after deduction of any duties and taxes and all other charges and expenses incurred, shall be made over to those persons entitled to receive them or, when this is not possible, held at their disposal for a specified period.

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