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Information document

## **CUSTOMS CODE COMMITTEE**

**Subject: EU enlargement in 2013**

**Accession of the Republic of Croatia to the EU**

Delegations will find attached an information document. This document has been produced by the Commission services in order to provide useful information on the EU enlargement in 2013 for customs administrations, economic operators and other interested parties. The information given is mainly related to the customs union. In addition, the Annexes contain information on VAT and excise duties.

Please note that this information document is of indicative character. Application of the customs law is the responsibility of the national authorities under the control of national courts and in the last resort of the European Court of Justice. Further information may become necessary if preventive measures are adopted to avoid disturbances of the market.

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## I. SUMMARY

1. The purpose of this document is to inform economic operators and customs administrations in the EU 28 about the consequences of the enlargement of the Union with respect to customs legislation. This will also help to ensure equal treatment of economic operators throughout the Union.

2. Without prejudice to separate transitional measures that may be or have been adopted for agricultural goods under Article 41 of the Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union (TEU), the Treaty on the Functioning of the European Union (TFEU) and to the Treaty establishing the European Atomic Energy Community (EAEC Treaty)<sup>1</sup> (hereinafter 'the Act of Accession') the basic principle of the enlargement as enshrined in the measures for Chapter 29 of the EU acquis<sup>2</sup>, is that at the moment of accession, goods which are in free circulation in the new Member State (Croatia) or in an old Member State will be in free circulation throughout the enlarged Union by virtue of the TFEU as amended by the Act of Accession which is an integral part of the Treaty of Accession 2011. This principle will also apply to such goods if they have been placed before accession under a customs procedure (e.g. transit, temporary importation) which is discharged after accession; in such a case, however, the "Union" status of the goods has to be proved in order to avoid the possibility that goods on which no applicable customs duties have been paid benefit unjustifiably from accession.

3. Annex IV No 5 of the Act of Accession ("Customs Union")<sup>3</sup> allows for certain customs procedures which have begun before accession and are terminated after it to remain subject to the former customs legislation of Croatia. The document describes these exceptions and outlines the collaboration between the customs administrations concerned. Furthermore, certain authorisations and proofs of origin issued according to the former rules of Croatia remain valid for a transitional period.

4. A special situation is covered by Article 43 of the Act of Accession which provides that the Council, based on a proposal from the Commission, shall define the terms under which the requirements for an exit or entry summary declaration may be waived for the products referred to in Article 28(2) of the TFEU leaving or re-entering the territory of Croatia to cross or after having crossed the territory of Bosnia and Herzegovina at Neum ('Neum corridor').

5. Information about transitional measures in the field of VAT and excise procedures may be found in Annex 1 and 2 respectively.

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<sup>1</sup> OJ L 112, 24.4.2012, p. 6.

<sup>2</sup> The 35 chapters of the accession negotiations cover the different areas of the EU 'acquis', i.e. the detailed laws and rules adopted on the basis of the EU's founding treaties. The acquis in chapter 29 – Customs Union – includes the Union's Customs Code and its implementing provisions; the Combined Nomenclature; the Common Customs Tariff including trade preferences, tariff quotas and tariff suspensions, and other customs-related legislation outside the scope of the Customs Code, as for example the legislation on counterfeit and pirated goods, drug precursors and export of cultural goods.

<sup>3</sup> See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:112:0060:0066:EN:PDF> (OJ L 112, 24.4.2012, p.62)

## II. INTRODUCTION: THE BASIC RULES OF THE ACCESSION

On accession of Croatia to the European Union (EU) the following rule applies in principle: from the date of accession (1 July 2013), the original Treaties (i.e. TEU, TFEU and EAEC Treaty) as well as the legal instruments based on these Treaties, so-called secondary legislation such as the Customs Code (CC), are compulsory for Croatia, i.e. it must apply the '*acquis*'. Article 2 of the Act of Accession establishes this principle and at the same time cites the only permissible exception: these Treaties and the legal instruments referring to them apply under the terms of the Act of Accession. This implies the following:

1. The original Treaties are changed by the Act of Accession and are to be applied in their new revised version as from the time of accession (e.g. Art. 20 of the Act of Accession changes the weighting of votes for Council decisions with qualified majority).
2. Normal legislative work naturally continues, so that both before and after accession further changes in the law (e.g. amendments to the implementing provisions of the Customs Code) can be enacted according to the procedural rules which apply in each case (cf. Art. 7(2) and 7(3) of the Act of Accession).
3. The Act of Accession provides for some transitional measures in order to facilitate the transition for both goods traffic between the old Member States and Croatia and trade between Croatia and third countries; within the area of customs law nearly all measures apply to the new Member State in the same way (see Annex IV No 5 of the Act of Accession).
4. Since at the time of signature of the Treaty of Accession on 9 December 2011 it was naturally not possible to foresee and settle in advance all transition problems, the Act of Accession contains several protective clauses which make it possible to provide for exceptions to the general rules for a limited period in order to avoid disturbances (in particular Articles 37 – 42 of the Act of Accession).
5. Upon accession Croatia will be integrated into the Union customs territory and therefore Trade Defence Instrument measures (i.e. anti-dumping, anti-subsidy and safeguard measures) applicable in the EU 27 will be imposed on third-country imports into Croatia's territory. At the same time, such measures imposed by Croatia before accession will cease to apply.

This document discusses those transitional measures of the Act of Accession addressed under point 3 above.

In addition, transitional measures have been adopted in respect of trade in agricultural products (see Commission Implementing Regulation (EU) No 286/2013 of 22 March 2013 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:086:0007:0011:EN:PDF>).

### III. PERMANENT PROVISIONS OF THE ACT OF ACCESSION

#### CUSTOMS UNION

##### *1. General remarks*

Annex IV No 5 of the Act of Accession contains specific customs provisions. The introduction of these provisions was based on the following considerations:

- (a) In the interests of the facilitation of international trade, some transactions which have begun before accession and are terminated thereafter should still be able to be completed according to the former rules of Croatia.
- (b) Since such rules create exceptions to the obligation to apply Union law, they are to be strictly interpreted.
- (c) Authorisations and procedural facilitation cannot be changed by the competent authorities of Croatia from one day to the next for all beneficiaries.
- (d) Some transactions terminated after accession refer to a time before accession (e.g. re-importation of goods which were temporarily exported before accession within the framework of outward processing). Here it appears appropriate to use in certain cases the previous bases of assessment if the law of Croatia provided for this.

However, these principles apply only insofar as they are given in Annex IV No 5 of the Act of Accession expressly in relation to individual customs procedures or other regulations of Union customs law; in all other cases, the TEU and the customs legislation based on it are also to be applied in Croatia from time of accession. In particular the principle of free circulation (Art. 29 TFEU) will apply insofar to goods which were in free circulation in Croatia as of the date of accession throughout the enlarged Union customs territory.

##### *2. Proof of Union status (trade within the enlarged Union)*

- (a) Proof of preferential origin properly issued or made out prior to the date of accession under the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part (the SAA) shall be accepted as evidence of status (not as evidence of origin) in the enlarged Union after accession, if the goods are, on the date of accession, in temporary storage, in a free zone or free warehouse, under transit, customs warehousing, inward processing (suspension system), processing under customs control, temporary importation or outward processing, or have been declared and released for export and are in transport within the enlarged Union.

This means that if the proof of preferential origin concerning the above-mentioned goods is submitted to the customs authorities after accession the goods are free of customs duties and other customs measures when declared for release for free circulation within the enlarged Union (Annex IV No 5 of the Act of Accession, paragraph 1(a)). It should be noted that the consequence is not the application of a preferential rate of duty but that there are no customs duties to be applied on the basis of proof of Union status.

(b) Goods which, on the date of accession, are in temporary storage or in a free zone or free warehouse, under transit, customs warehousing, inward processing (suspension system), processing under customs control, temporary importation or outward processing, or have been declared and released for export and are in transport within the enlarged Union, are treated as Union goods in the enlarged Union, if on the basis for example of the payment of the customs duties applicable in the customs territory concerned one of the following proofs of Union status is presented:

- a T2L or T2LF document or an equivalent commercial document (Art. 315 – 317b of the Implementing Provisions of the Customs Code (CCIP)),
- a TIR or ATA carnet with the mention “T2L” or “T2LF” (Art. 319 CCIP),
- the registration plates and particulars of motorised road vehicles registered in a Member State (Art. 320 CCIP),
- the code number and ownership mark of goods wagons belonging to a railway company of a Member State (Art. 321 CCIP),
- packaging which can be identified as belonging to a person established in a Member State (Art. 322 CCIP),
- passenger-accompanied baggage where the Union status of the goods is declared and there is no doubt as to the truthfulness of the declaration (Art. 323 CCIP),
- for excise goods a printed version of the electronic administrative document, or a commercial document containing the unique administrative reference code of the Excise Movement and Control System (EMCS) movement concerned (Council Directive 2008/118/EC Article 21(6) and Commission Regulation (EC) No 684/2009),
- a T2M form for products of sea-fishing and other products taken from the sea by boats (Art. 325 CCIP),
- the postal label stipulated in Art. 462a(2) and Annex 42b CCIP,
- the form for Union goods in control type I free zones and in free warehouses (Art. 812 and Annex 109 CCIP),
- a T5 control copy (Art. 314c (g) in conjunction with Art. 843 CCIP).

In this context the term “Union goods” covers also goods

- wholly obtained in the territory of Croatia under the conditions stipulated in Art. 23 CC and not incorporating goods imported from other countries or territories;
- imported from countries or territories other than Croatia, and released for free circulation in Croatia; or
- obtained or produced in Croatia, either from goods referred to in the second indent above alone or from goods referred to in the first and second indent above.

This means that if the proof of Union status concerning the above-mentioned goods is submitted to the customs authorities after accession, the goods are free of customs duties and other customs measures when declared for release for free circulation (Annex IV No 5 of the Act of Accession, paragraphs 1(b) and 2).

- (c) Goods which are covered by an ATA carnet issued before the date of accession in an old Member State or in Croatia are also free of customs duties and other customs measures when declared for release for free circulation (Annex IV No 5 of the Act of Accession, paragraph 1(c))

Requests for subsequent verification of proof of preferential origin issued under the SAA shall be accepted by the competent customs authorities of the present Member States and of Croatia for a period of three years from the issue or making out of the proof of origin concerned and may be made by those authorities for a period of three years after acceptance of the proof of origin in support of a declaration for release for free circulation (Annex IV No 5 of the Act of Accession, paragraph 3).

### ***3. Proof of preferential origin (trade with third countries, including Turkey, in the framework of the preferential agreements on agriculture, coal and steel products)***

- (a) Proof of preferential origin issued by third countries (i.e. not by the old Member States or Croatia) under a preferential agreement concluded by Croatia with those third countries shall be accepted in Croatia, if
- the acquisition of such origin confers preferential tariff treatment on the basis of the preferential tariff measures contained in agreements or arrangements which the Union has concluded with, or adopted in respect of, those third countries or groups of third countries (i.e. that the proof of preferential origin issued by a third country can be accepted even if that proof of origin is of different type than the ones accepted by the EU 27 in the framework of its agreement or arrangement with the same third country);
  - the proof of origin and the transport documents were issued or made out before the date of accession; and
  - the proof of origin is submitted to the customs authorities by 1 November 2013.

Where goods were declared for release for free circulation in Croatia before 1 July 2013, proof of origin issued or made out retrospectively under preferential arrangements in force in Croatia at the date of release for free circulation may also be accepted in Croatia, provided that this proof is submitted to the customs authorities by 1 November 2013 (Annex IV No 5 of the Act of Accession, paragraph 4).

- (b) Authorisations for 'approved exporters' granted in the framework of agreements concluded with third countries (i.e. not within the enlarged Union) by Croatia may be retained, provided that
- such a provision is also provided for in the agreements or arrangements which the EU 27 has concluded with, or adopted in respect of, those third countries or groups of third countries prior to the date of accession (which means that the relevant Union agreements with these countries also provide for this facilitation); and
  - the approved exporters apply the rules of origin provided for in those agreements or arrangements from the time of accession.

However the above-mentioned authorisations for 'approved exporters' must be replaced by new authorisations issued in accordance with Union legislation by 1 July

2014 as the 'old' authorisations will not be valid anymore as from 1 July 2014 (Annex IV No 5 of the Act of Accession, paragraph 5).

- (c) Requests for subsequent verification of proof of origin referred to in paragraph 4 of Annex IV No 5 of the Act of Accession shall be accepted by the competent customs authorities of the present Member States and of Croatia for a period of three years from the issue or making out of the proof of origin concerned and may be made by those authorities for a period of three years after acceptance of the proof of origin in support of a declaration for release for free circulation (Annex IV No 5 of the Act of Accession, paragraph 6).
- (d) Without prejudice to the application of any measure deriving from the common commercial policy, proof of origin issued or made out retrospectively by third countries in the framework of preferential agreements or arrangements which the Union has concluded with, or adopted in respect of, these countries shall be accepted in Croatia for the release for free circulation of goods which on the date of accession are either in transport or in temporary storage, in a customs warehouse or in a free zone in one of these third countries or in Croatia, provided that Croatia had no free trade agreement in force with the third country, for the products concerned, at the moment when the transport documents were issued, and provided that:
- the acquisition of such origin confers preferential tariff treatment on the basis of the preferential tariff measures contained in agreements or arrangements which the Union has concluded with, or adopted in respect of, third countries or groups of countries, as referred to in Article 20(3)(d) and (e) of Regulation (EEC) No 2913/92; and
  - the transport documents were issued no later than the day before the date of accession; and
  - the proof of origin issued or made out retrospectively is submitted to the customs authorities by 1 November 2013.

(Annex IV No 5 of the Act of Accession, paragraph 7)

- (e) For the purpose of verifying the proofs referred to in point (d), the provisions concerning the definition of 'originating products' and the methods of administrative cooperation of the relevant agreements or arrangements shall apply.

(Annex IV No 5 of the Act of Accession, paragraph 8)

#### ***4. Proof of status under the provisions on free circulation for industrial products within the EU-Turkey Customs Union***

##### ***4.1. Proof of status resulting from the submission of proofs of preferential origin issued either in Turkey or in Croatia in the context of their former preferential trade agreement***

- (a) Proofs of origin properly issued by either Turkey or Croatia or made out in the framework of preferential trade agreements applied between them and providing for a prohibition of drawback of, or suspension from, customs duties on the goods concerned, shall be accepted in the respective countries as a proof of status under the provisions on free circulation for industrial products, laid down in Decision No 1/95 of the EC-Turkey Association Council, provided that:

- the proof of origin and the transport documents were issued or made out no later than the day before the date of accession; and
- the proof of origin is submitted to the customs authorities within the period of four months from the date of accession.

Where goods were declared for release for free circulation in either Turkey or Croatia, prior to the date of accession, in the framework of preferential trade agreements mentioned above, proof of origin issued or made out retrospectively under those agreements may also be accepted provided that it is submitted to the customs authorities within the period of four months from the date of accession.

(Annex IV No 5 of the Act of Accession, paragraph 9)

- (b) For the purpose of verifying the proof referred to in point (a), the provisions concerning the definition of ‘originating products’ and the methods of administrative cooperation of the relevant preferential agreements shall apply. Requests for subsequent verification of such proof shall be accepted by the competent customs authorities of the present Member States and of Croatia for a period of three years after the issue or making out of the proof of origin concerned and may be made by those authorities for a period of three years after acceptance of the proof of origin in support of a declaration for release for free circulation.

(Annex IV No 5 of the Act of Accession, paragraph 10)

#### 4.2. Proof of status resulting from the submission in Croatia of A.TR movement certificates issued in Turkey

- (a) Without prejudice to the application of any measure deriving from the common commercial policy, an A.TR movement certificate issued under the provisions on free circulation for industrial products, laid down in Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995, shall be accepted in Croatia for the release for free circulation of goods which on the date of accession are either in transport after having been the subject of export formalities within the Union or Turkey or are in temporary storage or under a customs procedure referred to in Article 4(16)(b) to (h) of Regulation (EEC) No 2913/92 in Turkey or in Croatia, provided that:

- no proof of origin as referred to in point 4.1 (a) is submitted for the goods concerned;
- the goods comply with the conditions for the implementation of the provisions on free circulation for industrial products;
- the transport documents were issued no later than the day before the date of accession; and
- the A.TR movement certificate is submitted to the customs authorities within four months from the date of accession.

(Annex IV No 5 of the Act of Accession, paragraph 11)

- (b) For the purpose of verifying the A.TR movement certificates referred to in point (a) above, the provisions concerning the issue of A.TR movement certificates and methods of administrative cooperation under Decision No 1/2006 of the EC-Turkey Customs Cooperation Committee of 26 July 2006 shall apply.

(Annex IV No 5 of the Act of Accession, paragraph 12)

## 5. CUSTOMS PROCEDURES

### 5.1. *End or discharge of customs procedures which have begun before accession*

Temporary storage, transit, customs warehousing, inward processing, processing under customs control, temporary importation, outward processing and export procedures begun and not terminated before accession must be discharged under the conditions of Union legislation irrespective of whether these procedures were established with respect to a third country or between the present Member States and Croatia. Thus, if Croatia establishes, for example, an external transit procedure with an old Member State on 30 June 2013, this must be ended in any case. The same applies to a dispatch in the opposite direction. Where the end or discharge gives rise to a customs debt, the amount of import duty to be paid shall be that in force at the time when the customs debt is incurred in accordance with the Common Customs Tariff and the amount paid shall be considered as own resources of the Union (Annex V No 4 of the Act of Accession, paragraph 13).

In order to avoid goods, which are on the date of accession under one of the above-mentioned procedures, being subject to customs duties or other customs measures when declared for release for free circulation, the operator may submit to the customs authorities proof of the preferential origin (where this is equivalent to status) of the goods. If, for instance, preferential goods originating in Croatia are brought into Slovenia before accession within the framework of temporary importation and the goods are declared for release for free circulation after the date of accession, no customs duty is to be levied if an EUR. 1 movement certificate is presented according to the SAA as evidence of Union status, i.e. not as evidence of origin (see above III. Point 2(a)). If the declarant submits a T2L document instead of an EUR. 1 certificate to the customs authorities no customs duty is to be levied either (see above III. Point 2(b)).

It is important to underline that the Union status due to the accession or the preferential origin (in case of trade with third countries) must be proven formally (see above III. Points 2 and 3). If no formal proof can be furnished by the operator, the goods are deemed to be 'non-Union goods' and 'non-preferential goods' respectively, and are subject to customs duties and other customs measures in accordance with Union law (including the special rules of the Act of Accession).

In order to avoid goods which have been in free circulation in the EU 27 being charged with import duties in Croatia, it should be considered whether or not the goods may be declared as returned goods (see case 15 below). If relief from import duties may be granted for the goods in accordance with the provisions on returned goods, this could be an alternative to exemption from import duties based on the Act of Accession.

## **5.2. Specific provisions for certain customs procedures**

### **(a) CUSTOMS WAREHOUSING**

The following special provisions apply to the discharge of the customs warehousing procedure in a new Member State after accession: Where the amount of a customs debt is determined on the basis of the nature of the import goods and where the declaration placing the goods under the procedure was accepted prior to the date of accession, the tariff classification, quantity, value for customs purposes and origin of the import goods, at the time they were placed under the procedure (see Art. 112 (3) CC (type D customs warehouse)), shall result from the legislation applicable in Croatia at the date of acceptance of the declaration by the customs authorities. Nevertheless, the duty rates to be applied are those of the Common Customs Tariff at the time the customs debt is incurred, and such customs duties are own resources of the Union (Annex IV No 5 of the Act of Accession, paragraphs 13 and 14).

### **(b) INWARD PROCESSING**

Inward processing authorisations issued in Croatia before accession may remain valid until the end of validity stipulated therein or one year after the date of accession, whichever is the earlier (Annex IV No 5 of the Act of Accession, paragraph 18). However, as of the date of accession the authorisation holder must respect Union legislation except where the exceptions described below apply.

By virtue of Article 2 of the Act of Accession authorisations are no longer needed for trade between the present Member States and Croatia. Nevertheless, customs procedures started and not discharged before the date of accession have to be terminated after accession.

According to Articles 28 and 29 TFEU a customs debt cannot arise for goods which have attained Union status by virtue of accession. This concerns both goods originating in the present Member States or in Croatia and goods imported from third countries which have been released for free circulation in the present Member States or in Croatia before accession (see also Art. 4 No 7 CC).

The following special provisions apply to the discharge of the inward processing procedure in a new Member State after accession (Annex IV No 5 of the Act of Accession, paragraph 15):

- Where the amount of a customs debt is determined on the basis of the nature of the import goods, their tariff classification (including duty rate), customs value, origin, and quantity at the time they were placed under the procedure (see Art. 121 CC), and where the declaration placing the goods under the procedure was accepted prior to the date of accession, these elements shall result from the legislation applicable in Croatia before the date of accession. Nevertheless, such customs duties are own resources of the Union.
  
- Compensatory interest must be paid in accordance with Art. 519 CCIP from the date of accession in order to offset the advantage accruing from the deferment of the date the duty is paid.

- If a declaration for inward processing was accepted under a drawback system, the drawback shall be affected under the conditions of Union legislation, by and at the expense of Croatia, where the customs debt in respect of which the drawback is requested was incurred before the date of accession. The duty refunded is, of course, that paid before accession.

**(c) TEMPORARY IMPORTATION**

The following special provisions apply to the discharge of the temporary importation procedure in Croatia after accession (Annex IV No 5 of the Act of Accession, paragraph 16):

Where the amount of a customs debt is determined on the basis of the nature of the import goods, their tariff classification (including duty rate), customs value, origin, and quantity at the time they were placed under the procedure (see Art. 144(1), first sentence CC), and where the declaration placing the goods under the procedure was accepted prior to the date of accession, these elements shall result from the legislation applicable in Croatia before the date of accession. Nevertheless, such customs duties are own resources of the Union.

Compensatory interest must be paid in accordance with Art. 519 CCIP from the date of accession in order to offset the advantage accruing from the deferment of the date the duty is paid.

**(d) OUTWARD PROCESSING**

Outward processing authorisations issued in Croatia before accession may remain valid until the end of validity stipulated therein or one year after the date of accession, whichever is the earlier (Annex IV No 5 of the Act of Accession, paragraph 18). However, as of the date of accession the holder of the authorisation must respect Union legislation.

Where a procedure begun before the date of accession and is discharged after accession, the Union provisions (including the Common Customs Tariff) apply also in Croatia. Calculation of import duty relief on the basis of the processing costs (Art. 153 second subparagraph 2 CC in conjunction with Article 591 CCIP) of goods which are not originating in the Union of 27, in Croatia or in Turkey and which have been released for free circulation before accession at a zero duty rate with the sole objective to benefit from partial relief under Article 591 CCIP is not permitted, except for imports of a non-commercial nature (Annex IV No 5 of the Act of Accession, paragraph 17).

#### **(e) PROCESSING UNDER CUSTOMS CONTROL**

Authorisations for processing under customs control issued in Croatia before accession may remain valid until the end of validity stipulated therein or one year after the date of accession, whichever is the earlier (Annex IV No 5 of the Act of Accession, paragraph 18). However, as of the date of accession the holder of the authorisation must respect Union legislation.

Where a procedure begun before the date of accession and is discharged after accession, the Union provisions apply without exception also in Croatia (Annex IV No 5 of the Act of Accession, paragraph 13).

#### **(f) FREE ZONES AND FREE WAREHOUSES**

No transitional rules exist with regard to free zones and free warehouses. This means that the provisions of the Customs Code and its Implementing Provisions must be respected in Croatia as of the day of accession and that any authorisations and legal provisions which do not apply under Union conditions would be invalid on that date. Free zones or free warehouses established in accordance with conditions identical to those in force in the Union on 1 July 2013, on the other hand, can continue to operate.

### **6. OTHER PROVISIONS**

#### **(a) Validity of authorisation**

Authorisations which have been granted by Croatia before the date of accession for the use of the inward processing, processing under customs control and outward processing procedures or the status of Authorised Economic Operators (see Article 5a (2) CC) are valid until the end of their validity or one year from the date of accession, whichever is the earlier (Annex IV No 5 of the Act of Accession, paragraph 18).

#### **(b) Post-entry in the accounts, post-clearance recovery, repayment and remission**

(Annex IV No 5 of the Act of Accession, paragraphs 19 and 20)

From the date of accession, entry in the accounts (including post-clearance recovery), repayment and remission of import duties are to be made in accordance with the Customs Code (Art. 201 - 242 CC).

However, where the customs debt was incurred before the date of accession, recovery, repayment or remission is to be made in accordance with the regulations which applied in Croatia before accession.

Since this involves correction of an error which arose before accession, the amount to be recovered, repaid or remitted is the amount established according to Croatian law under the conditions in force before accession. This also means that all other applicable provisions of Croatian law in relation to recovery, repayment or remission (e.g. time limit for recovery) in force before accession apply.

### **(c) Binding tariff or origin information**

The Act of Accession contains no transitional measures with regard to binding tariff or origin information.

This means that:

- for Croatia such information granted on the basis of Croatian law before the accession ceases to have a legally binding character as from the day of accession; starting from that day Croatia can issue binding information on the basis of Article 12 CC which is valid throughout the enlarged Union;
- for the EU 27 their binding information becomes applicable in Croatia as from the day of accession. However, where components or labour from Croatia are used in the production of goods for which binding origin information has been issued, it is appropriate to amend such origin information as of the date of accession.

### **7. Exit summary declaration and entry summary declaration in connection with the 'Neum corridor'**

*Article 43 of the Act of Accession provides for that:*

The Council, acting by qualified majority on a proposal from the Commission, shall define the terms under which:

- (a) the requirement for an exit summary declaration may be waived for the products referred to in Article 28(2) of the TFEU leaving the territory of Croatia to cross the territory of Bosnia and Herzegovina at Neum ('Neum corridor');
- (b) the requirement for an entry summary declaration may be waived for the products falling within the scope of point (a) when they re-enter the territory of Croatia after having crossed the territory of Bosnia and Herzegovina at Neum.

#### IV. SOME PRACTICAL EXAMPLES

For information, some examples are given below.

##### 1. *Issue and validity of an authorisation*

Authorisations which have been granted before the date of accession for the use of inward processing, processing under customs control and outward processing shall be valid until the end of their validity or one year after the date of accession, whichever is the earlier. However, as of the date of accession the holder of these authorisations must respect Union legislation.

Example: An authorisation for the use of processing under customs control (PCC) issued on 1 March 2013 with a duration of 3 years (period of validity) in Croatia must be revoked or amended with effect from 1 July 2014. However, the authorisation must be revoked (see Article 9 CC) with effect from 1 July 2013 if the authorisation covers PCC of certain goods<sup>4</sup> because the Customs Code Committee has concluded that the economic conditions are not fulfilled in these particular cases. The revocation does not affect import goods which have been placed under PCC before the date of accession (see Article 4 CCIP).

Authorisations concerning customs warehousing, temporary importation, end-use and free zones and free warehouses, which are valid on or after the date of accession, must be in line with Union law as of 1 July 2013 in any case.

##### 2. *Applicable time for collection and bases of assessment of customs duties*

All customs procedures begun before accession and not yet completed on the date of accession must be terminated according to Union law. Annex IV No 5 of the Act of Accession gives some exceptions to this rule. These involve the tariff classification, (but not the duty rate), quantity, customs value and origin of the goods and, in the case of outward processing, the method of determining the customs debt. The rules concerning the customs debt do not, of course, apply to such goods for which Union status or preferential status has been proved, because such goods are free of customs duties (see above III. 2). Some practical cases are treated below:

*Case 1:* Import goods are placed before the date of accession under the **customs warehousing procedure** in Croatia under rules corresponding to Article 112(3) CC. These goods are declared for release for free circulation on 1 August 2013. The goods are subject to 3% MFN (*erga omnes*) import duty rate according to the Common Customs Tariff. Neither a proof of preferential origin properly issued prior to the date of accession nor a proof of Union status of the goods has been furnished.

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<sup>4</sup> meat of bovine animals; polyesters synthetic staple fibres; chicken breasts; apple-juice concentrate; orange-juice concentrate; sugar; ethyl alcohol; fused tungsten carbide; silicone polymers; palm stearin; certain goods (into flavours); L tartaric acid; glass fibre filament yarns; high tenacity yarn of polyesters; tubes and pipes of iron and seamless steel pipes

*Solution:* Import duties are due. The amount of customs debt is determined on the taxation elements (nature of the import goods, the customs value and the quantity of the import goods) in accordance with the Croatian legislation applicable before the date of accession. The import duties of the Common Customs Tariff apply.

*Case 2:* Import goods originating in Japan are placed before the date of accession under the **customs warehousing procedure** in Germany. These goods are removed unlawfully from customs supervision on 1 August 2013. The warehouse-keeper submits a T2L document (issued retroactively in accordance with Article 314c (3) CCIP) because the goods were in free circulation in Croatia before the date of accession.

*Solution:* No import duties are due because proof of Union status is furnished (see Art. 28 – 30 TFEU<sup>5</sup>).

*Case 3:* Import goods originating in Japan are placed before the date of accession under the **inward processing suspension system** in Croatia. The compensating products, which are obtained from the import goods, are declared for release for free circulation on 1 September 2013. The declarant submits a T2L document (issued retroactively in accordance with Article 314c (3) CCIP) to the customs authorities because the goods were in free circulation in France before they have been placed under the inward processing procedure in Croatia.

*Solution:* No import duties are due because proof of the Union status of the goods is furnished.

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<sup>5</sup> “TITLE II

## **FREE MOVEMENT OF GOODS**

### *Article 28*

(ex Article 23 TEC)

1. The Union shall comprise a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.

2. The provisions of Article 30 and of Chapter 2 of this Title shall apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States.

### *Article 29*

(ex Article 24 TEC)

Products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.

## **CHAPTER 1**

### **THE CUSTOMS UNION**

#### *Article 30*

(ex Article 25 TEC)

Customs duties on imports and exports and charges having equivalent effect shall be prohibited between Member States. This prohibition shall also apply to customs duties of a fiscal nature.

*Case 4:* Goods are placed under the **inward processing suspension system** in Croatia before the date of accession. A customs debt is incurred for these goods after the date of accession, namely on 1 October 2013. On the date of their placement under this procedure the goods would have been subject to an **anti-dumping duty** in the EU27, not however in Croatia.

*Solution:* Insofar as Article 121 CC applies, antidumping duties must not be paid because EU 27 import duties (including anti-dumping duties) do not affect goods which have been placed under the inward processing suspension system in Croatia before 1 July 2013. However, the import duties applicable in Croatia at the time of placing the goods under the procedure are due and also compensatory interest must be paid under the conditions of Union legislation from the date of accession.

*Case 5:* Goods are placed under the **inward processing suspension system** in Italy before the date of accession. A customs debt is incurred in Croatia for the goods after the accession, namely on 1 October 2013. On the date of their placement under this procedure the goods would be subject to an **anti-dumping duty** in the EU27.

*Solution:* The Act of Accession is not relevant to case 5 because the goods have been placed under the procedure in Italy. This means that the antidumping-duty must be paid because of Article 121 CC. Moreover, compensatory interest must be paid under the conditions of Union legislation from the date of placement of import goods under Inward Processing.

*Case 6:* Goods are placed under the **inward processing suspension system** in Italy before the enlargement. A customs debt is incurred in Italy for the goods after the enlargement, namely on 1 October 2013. On the date of their placement under this procedure the goods would be subject to an **anti-dumping duty** in the EU 27. The antidumping measures are not applicable anymore on 1 October 2013.

*Solution:* The Act of Accession is not relevant to case 6. This means that the antidumping duty must be paid even where the relevant anti-dumping measures are not applicable anymore on 1 October 2013 because of Article 121 CC. Moreover, compensatory interest must be paid under the conditions of Union legislation from the date of placement of import goods under Inward Processing.

*Case 7:* Goods from the USA are placed under **temporary importation** with total relief from import duties in Croatia before 1 July 2013. The period for discharge is 1 December 2013. The goods are exhibited in Croatia until 1 February 2014.

*Solution:* A customs debt is incurred because a new customs-approved treatment or use is not assigned to the goods by 1 December 2013. The Croatian import duties are due. Nevertheless, such customs duties are own resources of the Union.

*Case 8:* Goods from Croatia are placed under **temporary importation with partial relief from import duties** in Austria before 1 July 2013. The goods are declared for free circulation in Austria on 1 February 2014. The declarant submits a T2L document for the goods from Croatia.

*Solution:* Import duties must be paid in accordance with Article 143 CC in conjunction with Article 201(1)(b) CC with regard to the period from the placement of goods under

temporary importation until 1 July 2013. A further customs debt is not incurred in case of release for free circulation.

*Case 9:* Goods from Hungary (in free circulation) are placed under temporary importation with an **ATA carnet** in Croatia before the date of accession. These goods are declared for release for free circulation in Hungary on 15 July 2013.

*Solution:* The goods are free of customs duties and other customs measures in accordance with Point 1(c) of Annex IV No 5 of the Act of Accession. A copy of the re-importation voucher should be forwarded to the following coordinating office:

MINISTRY OF FINANCE

CUSTOMS DIRECTORATE

SECTOR FOR CUSTOMS SYSTEM AND PROCEDURES

A. VON HUMBOLDTA 4a,

ZAGREB, CROATIA

Thereby the Croatian customs is informed that the temporary importation procedure has been discharged.

*Case 10:* Goods from Croatia (in free circulation) are placed under temporary importation with an **ATA carnet** in Greece before the date of accession. These goods are declared for free circulation in Croatia on 15 July 2013.

*Solution:* The goods are free of customs duties and other customs measures in accordance with Point 1(c) of Annex IV No 5 of the Act of Accession. A copy of the re-importation voucher should be forwarded to the following coordinating office:

MINISTRY OF ECONOMY AND FINANCE,

GENERAL DIRECTORATE OF CUSTOMS AND EXCISE,

ATTICA CUSTOMS DISTRICT,

CUSTOMS PROCEDURE DEPARTMENT,

AG. NIKOLAOS SQUARE,

P.C. 18510, PIRAEUS.

Thereby the Greek customs is informed that the temporary importation procedure has been discharged.

*Case 11:* Goods are temporarily exported under the **outward processing procedure** from Hungary on 1 March 2013 into Croatia. The temporary export goods are under **inward processing** on the date of accession in Croatia. The compensating products are

placed under the external transit procedure on 31 January 2014 and on the same day the products are declared for release for free circulation in Hungary.

*Solution:* The T1 document has to contain the indication “IP/S goods” in accordance with Article 549 CCIP and the import duties may be calculated in accordance with Article 121 CC. The information sheet INF 1 may be used for providing information on the duty amount. If the Union status of the goods used in the processing operations (e.g. of the temporary export goods) has been proven (see above III. 2(b)) these goods are not subject to import duties. Due to the Enlargement of the EU it is not possible to discharge the outward processing procedure and, assuming that the compensating products have acquired preferential origin, it is not permitted to issue an EUR. 1 movement certificate either on 1 July 2013 or after that date, because the SAA is not valid anymore. An EUR. 1 certificate may be issued prior to accession only. In that case the ‘no-drawback rule’ must be taken into account (see Article 216 CC).

*Case 12:* Goods are exported from Croatia on 15 December 2012 and declared for release for free circulation as returned goods in Belgium after the date of accession.

*Solution:* If formal proof can be furnished by the operator that the goods have Union status they are not subject to import duties (see above III. 2(a) and (b)). Article 848 CCIP is not applicable in this case.

*Case 13:* Goods are placed under the **end-use provisions** in Italy before 1 July 2013. The holder of authorisation wants to transfer the goods on 1 September 2013 to another authorisation holder who is established in Croatia. Is this transfer to Croatia permitted?

*Solution:* Yes, a transfer is possible in accordance with Article 296 CCIP. The goods may be assigned to the prescribed end-use in the enlarged Union.

*Case 14:* Goods originating in Japan are released for free circulation in Greece before the date of accession. The goods are exported under the exportation procedure from Greece to Croatia before the date of accession. The goods are presented at the Croatian customs office before the date of accession and have the status of goods in temporary storage. A customs declaration for **release for free circulation** is accepted by the customs authorities on 30 June 2013. The goods are released for free circulation on 3 July 2013.

*Solution:* Annex IV No 5 of the Act of Accession is applicable insofar that temporary storage must be ended. The goods are in temporary storage on the date of accession because the act of release of goods for free circulation on 3 July 2013 ends temporary storage. However, the customs debt is incurred before the date of accession (i.e. on 30 June 2013 at the moment when the customs declaration for free circulation was accepted) and therefore the goods are subject to Croatian import duties. The import duties paid are own resources of Croatia.

*Case 15:* Company "A", established in Belgium starts an export transport on 27 June 2013 from Belgium to Croatia under cover of an EX1 export declaration to an EU customs office of exit at the Slovenian-Croatian border. However, the goods arrive at the former Slovenian-Croatian border on 3 July 2013.

*Solution:* The goods are on the date of accession in transport within the enlarged Union after having been subject of export formalities. Therefore the case is covered by the specific measures as laid down in the Act of Accession. The provisions stipulated in Article 796(1) CCIP are superseded by such measures. This means that the EX1 export declaration does not need to be invalidated in accordance with Article 796(1) CCIP. However, this means also in order to benefit from Union status that the goods must be declared for release for free circulation in Croatia and the goods are subject to import duties unless it is formally proven that the goods have Union status. Normally, VAT must be paid in accordance the Croatian VAT law.

*Case 16:* Company "A", established in Belgium, wants to export its Union goods, via a common transit country, to "B", a customer in Zagreb, Croatia. The goods are placed under the **internal transit procedure** on 27 June 2013. The customs office of destination is in Zagreb. The goods arrive there via road transport on 3 July 2013.

*Solution:* The goods are under the internal transit procedure on 1 July 2013. This procedure must be ended (discharged) in accordance with Articles 92 and 163(3) CC. Furthermore the goods must be declared for release for free circulation in Croatia in order to benefit from Union status. However, due to the fact that the goods are placed under the internal transit procedure (T2) it is not necessary to present an additional proof of Union status. With regard to VAT the transaction of company "B" is considered as an import in Croatia as specified under Article 408(1)(c) of the VAT Directive so that the Croatian VAT is to be paid. It is not necessary to invalidate the export declaration.

*Case 17:* Goods originating in Japan are released for free circulation in Slovenia before the date of accession. Subsequently, the goods are exported under the export procedure from Slovenia to Croatia and leave the customs territory of the Union (of twenty-seven) before the date of accession. The goods are placed under the customs warehousing procedure in Croatia and are subsequently declared for release for free circulation as **returned goods** on 1 September 2013. The declarant presents an **INF 3** for the goods. This information sheet was issued by the Slovenian customs authorities before 1 July 2013.

*Solution:* The goods may be accepted as returned goods because they have been exported from the customs territory of the Union, returned to that (enlarged) customs territory of the EU and declared for release for free circulation within a period of three years. This means that relief from import duties may be granted in accordance with Articles 185 to 187 CC and Articles 844 to 856 CCIP. For VAT purposes, a taxable event incurs under Article 408(1)(b) of the VAT Directive. However, the importation may be exempt from VAT if it meets the conditions set in Article 143(1)(e) of that Directive<sup>6</sup>.

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<sup>6</sup> Member States shall exempt the following transactions: (e) the re-importation, by the person who exported them, of goods in the state in which they were exported, where those goods are exempt from customs duties.

### ***3. Customs duties and VAT in connection with yachts and other vessels for pleasure or sports under the temporary importation procedure in Croatia***

Articles 405-410 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (VAT Directive) provide for the transitional rules related to the accession to the EU (see Annex 1). Following these rules, goods that were placed under the **temporary importation** procedure in Croatia before 1 July 2013 are taxed with import VAT upon removal from temporary importation after accession. These transitional rules are necessary in order to avoid non-taxation of goods. However, in order to avoid double taxation Article 410(1)(c) of VAT Directive provides that in case the goods under temporary importation are means of transport that were taxed within the EU (including Croatia), then import VAT after accession does not become chargeable.

*Case 18:* French individual owns a seagoing sailboat for which VAT has been paid in France when he bought his boat. The boat has Union status. First entry into service of the means of transport was more than eight years before the accession.

This person went to Croatia and his boat has been placed under the under **temporary importation procedure** before the date of accession. On 1 July 2013, the boat is still under this customs regime.

In the beginning of March 2014, the individual contacts the Croatian customs authorities because the period for discharge the temporary importation procedure ends on 31 March 2014. He intends to declare the boat for release for free circulation in Croatia because the country became a Member State of the EU.

#### *Solution:*

The temporary importation procedure must be discharged. The sailboat may be declared for release for free circulation. The French person may submit a T2L document (issued retroactively in accordance with Article 314c (3) CCIP) because the boat was in free circulation in the EU27 before the date of accession. Import duties are not due if a proof of the Union status of the boat is furnished.

Regarding VAT the importation of the sailboat into Croatia will terminate without the occurrence of a chargeable event because the boat was acquired before the date of accession in accordance with French VAT legislation. Of course, the French person has to submit the invoice, so that the Croatian customs can see that the national provision implementing Article 410(1)(c) VAT Directive can be applied.

#### *Alternative*

Taking into account that the seagoing sailboats and seagoing motor boats (other than outboard motor boats) are duty free, and also taking into account that Article 410(2)(a) of the VAT Directive (Dir 2006/112/EC) provides that no VAT is chargeable for means of transport (e.g. boats) having a date of first entry into service of more than eight years before the accession, a customs declaration for release for free circulation for these boats can be accepted without any proof of Union status, but only with a proof of first entry into service. Import duties are not due because boats are duty free. Moreover, the boat is also VAT free if a proof of first entry into service demonstrating that the boat is older than eight years is furnished.

*Case 19:* French individual owns a seagoing sailboat for which VAT has not been paid in France when he bought his boat. The boat has Union status. First entry into service of the means of transport was more than eight years before the accession.

This person went to Croatia and his boat has been placed under the under **temporary importation** procedure before the date of accession. On 1 July 2013, the boat is still under this customs regime.

In the beginning of March 2014, the individual contacts the Croatian customs authorities because the period for discharge the temporary importation procedure ends on 31 March 2014. He intends to declare the boat for release for free circulation in Croatia because the country became a Member State of the EU.

*Solution:*

Taking into account that seagoing sailboats and seagoing motor boats (other than outboard motor boats) are duty free, and also taking into account that Art 410(2)(a) of the VAT Directive (Dir 2006/112/EC) provides that no VAT is chargeable for means of transport (e.g. boats) having a date of first entry into service of more than eight years before the accession, a customs declaration for release for free circulation for these boats can be accepted without any proof of Union status, but only with a proof of first entry into service. Import duties are not due because boats are duty free. Moreover, the boat is also VAT free if a proof of first entry into service demonstrating that the boat is older than eight years is furnished.

*Case 20:* Austrian individual owns a seagoing sailboat for which VAT has been paid in Austria when he bought his boat in 2008. The boat has Union status. First entry into service of the means of transport was 2009.

This person went to Croatia and his boat has been placed under the under **temporary importation** procedure 1 January 2010. On 1 July 2013, the boat is still under this customs regime. The boat has never been entered the EU27 since 1 January 2010. The boat is re-exported from Croatia and declared for release for free circulation in Italy on September 2013.

*Solution:*

The boat cannot be re-imported duty-free into Italy as returned goods because it was more than 3 years outside of the EU 27. However, the *erga omnes* (MFN) import duty rate is 'free'.

Regarding VAT the importation of the sailboat into Italy will terminate without the occurrence of a chargeable event because the boat was acquired before the date of accession in accordance with the Austrian VAT legislation. Of course, the Austrian person has to submit the invoice, so that the Italian customs can see that the national provision implementing Article 410(1)(c) VAT Directive can be applied. Moreover, it is necessary that the Austrian person proves that the boat was under temporary importation in Croatia on the date of accession.

## **V. CONCLUSIONS**

In view of the complexity of accession, it is important that economic operators and customs officials promptly and comprehensively inform themselves as to the consequences. This document is a contribution to conveying the necessary information. It is of indicative character. Application of the customs law is the responsibility of the national authorities under the control of national courts and in the last resort of the Court of Justice. Further information may become necessary if preventive measures are adopted to avoid disturbances of the market.

In general it is recommended that operators should carefully consider whether or not goods which have been in free circulation in the EU 27 or in Croatia before the date of accession have to be under a suspensive regime on 1 July 2013.

**Transitional measures applicable in the context of the Accession to the EU of Croatia in the field of VAT.**



Brussels, 18 February 2013

**INFORMATION NOTE**

**Subject: Transitional measures applicable in the context of the Accession to the EU of Croatia in the field of VAT.**

Articles 405-410 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (VAT Directive) provide for the transitional rules related to the accession to the EU.

*CHAPTER 2*

*Transitional measures applicable in the context of accession to the European Union*

*Article 405*

For the purposes of this Chapter, the following definitions shall apply:

- (1) 'Community' means the territory of the Community as defined in point (1) of Article 5 before the accession of new Member States;
- (2) 'new Member States' means the territory of the Member States which acceded to the European Union after 1 January 1995, as defined for each of those Member States in point (2) of Article 5;
- (3) 'enlarged Community' means the territory of the Community as defined in point (1) of Article 5 after the accession of new Member States.

*Article 406*

The provisions in force at the time the goods were placed under temporary importation arrangements with total exemption from import duty or under one of the arrangements or situations referred to in Article 156, or under similar arrangements or situations in one of the new Member States, shall continue to apply until the goods cease to be covered by these arrangements or situations after the date of accession, where the following conditions are met:

- (a) the goods entered the Community or one of the new Member States before the date of accession;

(b) the goods were placed, on entry into the Community or one of the new Member States, under these arrangements or situations;

(c) the goods have not ceased to be covered by these arrangements or situations before the date of accession.

#### *Article 407*

The provisions in force at the time the goods were placed under customs transit arrangements shall continue to apply until the goods cease to be covered by these arrangements after the date of accession, where the following conditions are met:

(a) the goods were placed, before the date of accession, under customs transit arrangements;

(b) the goods have not ceased to be covered by these arrangements before the date of accession.

#### *Article 408*

1. The following shall be treated as an importation of goods where it is shown that the goods were in free circulation in one of the new Member States or in the Community:

(a) the removal, including irregular removal, of goods from temporary importation arrangements under which they were placed before the date of accession under the conditions provided for in Article 406;

(b) the removal, including irregular removal, of goods either from one of the arrangements or situations referred to in Article 156 or from similar arrangements or situations under which they were placed before the date of accession under the conditions provided for in Article 406;

(c) the cessation of one of the arrangements referred to in Article 407, started before the date of accession in the territory of one of the new Member States, for the purposes of a supply of goods for consideration effected before that date in the territory of that Member State by a taxable person acting as such;

(d) any irregularity or offence committed during customs transit arrangements started under the conditions referred to in point (c).

2. In addition to the case referred to in paragraph 1, the use after the date of accession within the territory of a Member State, by a taxable or non-taxable person, of goods supplied to him before the date of accession within the territory of the Community or one of the new Member States shall be treated as an importation of goods where the following conditions are met:

(a) the supply of those goods has been exempted, or was likely to be exempted, either under points (a) and (b) of Article 146(1) or under a similar provision in the new Member States;

(b) the goods were not imported into one of the new Member States or into the Community before the date of accession.

#### *Article 409*

In the cases referred to in Article 408(1), the place of import within the meaning of Article 61 shall be the Member State within whose territory the goods cease to be covered by the arrangements or situations under which they were placed before the date of accession.

#### *Article 410*

1. By way of derogation from Article 71, the importation of goods within the meaning of Article 408 shall terminate without the occurrence of a chargeable event if one of the following conditions is met:

- (a) the imported goods are dispatched or transported outside the enlarged Community;
- (b) the imported goods within the meaning of Article 408(1)(a) are other than means of transport and are re-dispatched or transported to the Member State from which they were exported and to the person who exported them;
- (c) the imported goods within the meaning of Article 408(1)(a) are **means of transport** which were acquired or imported before the date of accession in accordance with the general conditions of taxation in force on the domestic market of one of the new Member States or of one of the Member States of the Community or which have not been subject, by reason of their exportation, to any exemption from, or refund of, VAT.

2. The condition referred to in paragraph 1(c) shall be deemed to be fulfilled in the following cases:

- (a) when the date of **first entry into service of the means of transport was more than eight years before the accession** to the European Union.
- (b) when the amount of tax due by reason of the importation is insignificant.

**A first conclusion is that the old rules continue to apply until the goods leave these regimes after 1 July 2013.**

- 1. In principle, once they cease to be covered by one of these special regimes, the goods will be **subject to an importation**, with VAT to be paid in the country where the goods are when they cease to be covered by these regimes (Articles 408 and 409 of the VAT Directive).

**A second conclusion is that these goods will, in principle, be subject to VAT upon importation once they cease to be covered by these regimes after 1 July 2013.**

- 2. Nevertheless, there shall be **no chargeable event** (no VAT upon importation) when
  - (a) the imported goods are dispatched or transported outside the enlarged Community;
  - (b) the imported goods within the meaning of Article 408(1)(a) are other than means of transport and are re-dispatched or transported to the Member State from which they were exported and to the person who exported them;
  - (c) the imported goods within the meaning of Article 408(1)(a) are **means of transport** which were acquired or imported before the date of accession in accordance with the general conditions of taxation in force on the domestic market of one of the new Member States or of one of the Member States of the Community or which have not been subject, by reason of their exportation, to any exemption from, or refund of, VAT.

The condition referred to in point (c) shall be deemed to be fulfilled in the following cases:

- when the date of **first entry into service of the means of transport was more than eight years before the accession** to the European Union;
- when the amount of tax due by reason of the importation is insignificant.

**A third conclusion is that in certain cases and under certain conditions (see points 2 a, b and c mentioned above) these goods will NOT be subject to VAT once they cease to be covered by these regimes after 1 July 2013.**

**Transitional customs measures of the Act of Accession - Link with excise procedures**

**Note:** The procedures described in this Annex which applied for the enlargement that took place in May 2004 apply *mutatis mutandis* to the accession of Croatia on 1 July 2013 with small technical revisions to take account of Directive 2008/118/EC



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION  
Indirect Taxation and Tax administration  
**Environment and other indirect taxes**

Brussels, February 2013

**CED nr 447 rev 1**

**TAXUD/**

*POETRY:*

**WORKING PAPER**

**FOR OFFICIAL USE ONLY**

**COMMITTEE ON EXCISE DUTY**

**Information to the Member States**

**Enlargement of the EU – 1 July 2013  
Transitional customs measures of the Act of Accession  
Link with excise procedures**

**Meeting of June 2013**

## INTRODUCTION

AS AN ANNEX TO THE PRESENT WORKING PAPER, THE DELEGATIONS WILL FIND A WORKING PAPER PREPARED BY THE CUSTOMS DIRECTORATE OF DG TAXUD CONCERNING TRANSITIONAL CUSTOMS MEASURES OF THE ACT OF ACCESSION THAT WILL APPLY ON THE OCCASION OF THE ACCESSION OF CROATIA TO THE EU ON 1 JULY 2013. THIS WORKING PAPER IS AN UPDATE OF CED NR. 477, WHICH WAS PREPARED FOR THE ACCESSION OF NEW MEMBER STATES IN 2004 AND 2007. IT INCLUDES MINOR TECHNICAL CHANGES TO TAKE ACCOUNT OF DIRECTIVE 2008/118/EC AND WILL BE PRESENTED FOR INFORMATION AT THE NEXT MEETING OF COMMITTEE ON EXCISE DUTY AND AT THE MEETING OF THE CUSTOMS CODE COMMITTEE.

## LINK WITH EXCISE PROCEDURES

The transitional customs measures outlined in the attached Annex sets out in Chapter III the basic principles to be applied in the customs area. In particular, it states that "in the interests of the facilitation of international trade, some transactions which have begun before accession and are terminated thereafter, should still be able to be completed according to the old rules". Chapter XI, point 2, further states that "Even where not expressly stated in the Act of Accession, customs procedures begun before accession must be discharged irrespective of whether these procedures were established with respect to a third country or between an old and a new Member State or between two new Member States." The same principles will of course apply to the movement of products subject to excise duty during the transitional phase.

Therefore, movements of products which **commenced and were entered at the customs office of export from the European Union before 1 July 2013**, and are subject to a provisions as set out in Article 2 and 3 of Directive 2008/118/EC<sup>7</sup> on the date of accession, will continue to be subject to that procedure until their discharge in the enlarged EU. Throughout, the excise duty will be suspended by virtue of the customs procedure. Once the products have cleared customs in the Member State of release for free circulation, and assuming the products are to be consigned in duty-suspense to a tax warehouse, the procedures for moving excise products under suspension of excise duty will apply. These provisions only apply to customs suspensive procedures and do not concern the combination of the use of EMCS and ECS. In this case either the movement is discharged by the receipt of a report of export, if the goods exit before 1<sup>st</sup> July 2013.

**Products dispatched from a Member State for export to Croatia** but not reaching the customs office of exit before 1 July 2013 will be subject to provisions of Directive 2008/118/EC. Prior to accession, a declaration for export referencing e-AD will have been made out at the office of export. If the goods under this procedure have not left the territory of the existing 27 Member States by 1<sup>st</sup> July 2013, ideally the export movement should be invalidated and in any case the export consignor should issue a change of destination, containing the details of the Croatian excise consignee.

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<sup>7</sup> concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (16 December 2008)