

ANNEX XV TO CHAPTER 5

APPROXIMATION OF CUSTOMS LEGISLATION

Customs Code EU:

Regulation (EC) No 450/2008 of the European Parliament and the Council of 23 April 2008 laying down the Community Customs Code (Modernized Customs Code)

Timetable: the provisions of the abovementioned Regulation, with the exception of Articles 1, 3, 10, 13 par. 3, 17, 25, 26, 28, 33-34, 39, 55, 69, 70, 77, 78, 93, 106, 133, 146-147, 183-187, shall be incorporated into Ukrainian law within three years following the entry into force of this Agreement, in accordance with the Correlation Tables set out in the Annex to Regulation (EC) No 450/2008 and in line with the explanatory note attached to this Annex.

Common Transit and SAD

— Convention of 20 May 1987 on the Simplification of Formalities in Trade in Goods

— Convention of 20 May 1987 on a common transit procedure, as revised

Timetable: the provisions of these Conventions shall be incorporated into Ukrainian law within 1 year following the entry into force of this Agreement.

Reliefs from customs duty

Council Regulation (EC) No 1186/2009 of 16 November 2009 setting-up a Community system of reliefs from customs duty

Timetable: Titles I and II of this Regulation as agreed by the Parties shall be incorporated into Ukrainian law not later than three years following the entry into force of this Agreement.

IPR protection

Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs actions against goods suspected of infringing certain intellectual property rights and the measure to be taken against goods found to have infringed such rights, without prejudice to the results of the current review of EU legislation on customs enforcement of intellectual property rights.

Commission Regulation (EC) No 1891/2004 of 21 October 2004 laying down provisions for the implementation of Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs actions against goods suspected of infringing certain intellectual property rights and the measure to be taken against goods found to have infringed such rights, without prejudice to the results of the current review of EU legislation on customs enforcement of intellectual property rights.

Timetable: the provisions of the above Regulations shall be incorporated into Ukrainian law within three years following the entry into force of this Agreement.

Explanatory note

on approximation to the Regulation (EC) No 450/2008 of the European Parliament and the Council of 23 April 2008 laying down the Community Customs Code-Modernized Customs Code (MCC) ⁽¹⁾.

This note contains three lists of MCC provisions:

1. only applicable to EU Member States and not relevant for approximation,
2. provisions for approximation based on the principle of best endeavour,
3. provisions for approximation.

In view of possible further amendments of the MCC, approximation shall be carried out in accordance to the Correlation Tables between the relevant articles of Regulation (EEC) No 2913/92 (the current EC Customs Code) and of Regulation (EC) No 450/2008 (MCC), as specified in the annex to the MCC, and as indicated in lists 2 and 3 of this note.

1. Provisions of the MCC only applicable to EU Member States and excluded from approximation ⁽²⁾

Article	Subject	Comments
1	Subject matter and scope	
3	Customs territory	
10	Electronic systems	Requirement to interlink between Member States (MS)
13, par 3	Application and authorization	Par.3- recognition of Authorized Economic Operator (AEO) status in all MS
17	Community wide validity of decisions	
25	Customs controls- second sub-paragraph of par 2	Development of a common risk management framework
26	Cooperation between authorities, second paragraph	Cooperation between authorities of MS
28	Intra-Community flights and sea crossings	
33-34	Common Customs Tariff and tariff classification of goods	
39	Preferential origin of goods	Relevant to measures contained in agreements concluded by the EU
55	Place where the customs debt is incurred	
69	Entry in the accounts	

70	Time of entry in the accounts	
77	Other payment facilities – second and third subparagraph of the paragraph 1	Establishment of the rate of credit interest
78	Enforcement of payment and arrears- second and third subparagraph of paragraph 2	Establishment of the interest rate on arrears
93	Intra-European Union air and sea services	
106	Centralized clearance	
133	Products of sea fishing and other products taken from the sea	
146-147	Community transit	
183-187	Customs Code Committee and Final Provisions	

2. Provisions of MCC to which approximation based on the best endeavour principle is expected

Article	Subject	Comment	Relevant articles of the current Customs Code (Correlation to Regulation (EEC) No 2913/92)
2	Mission of customs authorities		
4	Definitions		4, 235
5	Exchange and storage of data		36b, 182d
7	Exchange of additional information between customs authorities and economic operators		
11	Customs representative	Excluding provisions relevant to EU validity	5
13	Application and authorization (Authorized Economic Operator- AEO)	Excluding par.3 on EU recognition of AEO status	5a

14	Granting status		5a
15	Implementing measures	Elements to be included in implementing measures	5a
22	Appeals, decisions taken by a judicial authority		246
29	Keeping of documents and other information		16
31	Currency conversion	As far as publication of the rate of exchange is concerned	18
35-37	Rules of origin (scope, acquisition, proof of origin)		22, 23, 24, 26
44- 47	Customs debt on importation Release for free circulation and temporary admission, special provisions relating to non-originating products, customs debt incurred through non-compliance, deduction of an amount of import duty already paid)		143, 144, 210, 202, 203, 204, 205, 206
48-49	Customs debt on exportation export and outward processing, customs debt incurred through non-compliance)		145, 209, 210, 211
50-53	Provisions common to customs debt incurred on importation and exportation. Prohibitions and restrictions. Several debtors. General rules for calculation of the amount of import or export duty.		112, 121, 122, 135, 136, 144, 178, 212, 212a, 213, 214
56- 65	Guarantee for a potential or existing customs debt. General provisions.		94, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199

	Compulsory guarantee. Optional guarantee. Provision of guarantee, Choice of guarantee. Guarantor. Comprehensive guarantee. Additional provisions relating to the use of guarantees. Additional or replacement guarantee. Release of guarantee		
66	Determination of the amount of import and export duty		215, 217
67	Notification of the customs debt		221
68	Limitation of the customs debt		221
72	General time limits for payment and suspension of the limit for payment		222
73	Payment		223, 230, 231
74	Deferment of payment		224, 225, 226
75	Time limits for deferred payment		227
77	Other payment facilities (excl. second and third subparagraph of paragraph 1)	Establishment of the rate of credit interest	229
78	Enforcement of payment and arrears (excl. second and third subparagraph of paragraph 2)	Method of establishment of the rate of interest on arrears	214, 232
79	Repayment and remission		236-242
80	Repayment and remission of overcharged amounts of import or export duty		236

81	Defective goods or goods not complying with the terms of the contract		238
82	Repayment or remission on account of error by the competent authorities		220
83	Repayment and remission in equity		239
84	Procedure for repayment and remission		236-239
86	Extinguishment of customs debt		204, 206, 207, 233, 234,
87	Obligation to lodge an entry summary declaration		36a
88	Lodgement and responsible person		36b
89	Amendment of entry summary declaration		36
90	Customs declaration replacing entry summary declaration		36c
91	Customs supervision		37, 42, 58
92	Conveyance to the appropriate place		38
94	Conveyance under special circumstances		39
101- 103	Customs status of goods	The aim: approximation of the principles of determination of customs status of goods	83, 164
104	Customs declaration of goods and customs supervision of Community goods		59
105	Competent customs offices		60
107	Types of customs declaration		61

108	Content of a declaration and supporting documents		62, 76, 77
109	Simplified declaration		76
110	Supplementary declaration		76
116	Simplification of customs formalities and controls		19
136	Authorization (for a special procedure)		85, 86, 87, 88, 94, 95, 100, 104, 116, 117, 132, 133, 138, 147, 148
139	Transfer of rights and obligations		90,
140	Movement of goods (placed under a special procedure)		91, 111
142	Equivalent goods		114, 115
144	External transit		91
145	Internal transit		163, 164
166	End-use procedure		82
167	Rate of yield (processing)		119
173	Standard exchange system		154, 155, 156
174	Prior importation of replacement products		154, 157
175-177	Goods leaving the customs territory Obligation to lodge a pre-departure declaration Measures establishing certain details Customs supervision and exit formalities		161, 162, 182a, 182b, 182c, 183
178	Community goods (export and re-export)		161
179	Non-Community goods (export and re-export)		182, 182c

180	Exit summary declaration (export and re-export)		182c, 182d
181	Amendment of the exit summary declaration		182d
182	Temporary export (relief from export duties)		—

3. Provisions of MCC to which approximation is expected.

Article	Subject	Comment	Relevant articles of the current Customs Code (Correlation to Regulation (EEC) No 2913/92)
6	Data protection		15
8	Provision of information by the customs authorities		—
9	Provision of information to the customs authorities		14
12	Empowerment		5
16	Decisions relating to the application of customs legislation. General provisions		6, 7, 10
18	Annulment of favourable decisions		8
19	Revocation and amendment of favourable decisions		9
20	Decisions relating to binding information		12
21	Application of penalties	Exc. of par 3 (notification the Commission)	—
23	Right of appeal		243
24	Suspension of implementation		244
25	Customs controls	Exc. of second subparagraph of par. 2 and exc. of par. 3-	13

		relevant for EU.	
26	Cooperation between authorities	Exc. of paragraph 2 relevant for EU	13
27	Post release control		78
30	Charges and costs		11
32	Time limits		17
40-43	Value of goods for customs purposes Scope Method of customs valuation based on the transaction value Secondary method of customs valuation Implementing measures (the scope)		28, 29, 30, 31, 32, 33, 34, 36
95-96	Presentation, unloading and examination of goods		40, 41, 46, 47,
97-98	Formalities after presentation Obligation to place (non-Community) goods under a customs procedure Goods deemed to be placed in temporary storage		48, 50, 58
99-100	Goods moved under a transit procedure Waiver of goods arriving under transit Provisions applicable to (non-Community) goods after a transit procedure has ended		54, 55
111-114	Provisions applying to all customs declarations. Person lodging a declaration Acceptance of declaration Amendment of declaration Invalidation of declaration		63, 64, 65, 66, 67, 76
115	Facilitation of the drawing up of		81

	customs declarations for goods falling under different tariff sub-headings		
117-121	Verification Verification of a customs declaration Examination and sampling of goods Partial examination and sampling of goods Results of the verification, Identification measures	Exc. of the provisions on legal effect throughout the customs Territory of the Community	19, 68, 69, 70, 71, 72
123-124	Release Release of the goods Release dependent upon payment of the amount of import or export duty corresponding to the customs debt or provision of a guarantee		73, 74
125-127	Disposal of goods Destruction of goods Measures taken by the customs authorities Abandonment		56, 57, 75, 182
129	Release for free circulation. Scope and effect		79
130-132	Returned goods Scope and effect Cases in which No relief from import duties is granted Goods previously placed under the inward processing procedure		185, 186, 187
135	Special procedures, Scope		84
137	Records		105, 106, 107, 176
138	Discharge of a procedure		89
141	Usual forms of handling		109, 173
148-150	Storage. Common provisions		98, 101, 102, 108,

	<p>Scope</p> <p>Responsibilities of the holder of the authorization or procedure</p> <p>Duration of a storage procedure</p>		166, 171,
151-152	<p>Temporary storage</p> <p>Placing of goods in temporary storage</p> <p>Goods in temporary storage</p>		50, 51, 52, 53
153-154	<p>Customs warehousing</p> <p>Storage in customs warehouses (Community) goods, end-use and processing services.</p>		99, 106, 110
155-161	<p>Free zones</p> <p>Designation of Free zones</p> <p>Buildings and activities in free zones</p> <p>Presentation of goods and their placement under the procedure</p> <p>(Community) goods in free zones</p> <p>(Non-Community) goods in free zones</p> <p>Bringing goods out of a free zone</p> <p>Customs status</p>		167, 168, 169, 170, 172, 173, 175, 177, 180, 181
162-165	<p>Temporary admission</p> <p>Scope</p> <p>Period during which goods may remain under the temporary admission procedure</p> <p>Situations covered by temporary admission</p> <p>Amount of import duty in case of temporary admission with partial relief from import duties</p>		137, 139, 140, 141, 142, 143
168-170	<p>Inward processing</p> <p>Scope</p> <p>Period for discharge</p> <p>Temporary re-export for further processing</p>		114, 118, 123, 130, 182

171-172	Outward processing Scope Goods repaired free of charge		145, 146, 149, 150, 151, 152, 153
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- (⁴) One of the key conditions for an effective and proper functioning of the free trade area is to provide the same, or a similar, operational environment for trade operators. This entails the need to the maximum possible approximation in a number of important, commonly agreed areas of the customs acquis, of which the Customs Code is fundamental
- (⁵) Applies also to articles and paragraphs of the entire MCC (not listed) which refer to the procedure of adopting measures for the implementation of particular articles