

TITLE II

FACTORS ON THE BASIS OF WHICH IMPORT OR EXPORT DUTY AND OTHER MEASURES IN RESPECT OF TRADE IN GOODS ARE APPLIED

CHAPTER 1

Common Customs Tariff and tariff classification of goods

I – MANAGEMENT OF TARIFF QUOTAS DESIGNED TO BE USED FOLLOWING THE CHRONOLOGICAL ORDER OF DATES OF ACCEPTANCE OF CUSTOMS DECLARATIONS

Article IA-II-1-01 (210-01-IA)

General rules on the uniform management of tariff quotas

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 56(4)	Article 58(1)	Article 308a	-	IA

1. Save as otherwise provided, where tariff quotas are opened by a Union legislation, those tariff quotas shall be managed in accordance with the chronological order of dates of acceptance of customs declarations for release for free circulation.
2. Where a customs declaration for release for free circulation incorporating a valid request by the declarant to benefit from a tariff quota is accepted, the Member State concerned shall draw from the tariff quota, through the Commission, a quantity corresponding to its needs.
3. Member States shall not present any request for drawing from a tariff quota until the conditions laid down in Article IA-V-2-09 (522-2-04-IA) [Current IP provision: Article 256 (2) and (3)] are satisfied.
4. Subject to paragraph 8, allocations on a tariff quota shall be granted by the Commission on the basis of the date of acceptance of the relevant customs declaration for release for free circulation, and to the extent that the balance of the relevant tariff quota so permits. Priority shall be established in accordance with the chronological order of these dates.
5. The Member States shall communicate electronically to the Commission all valid requests for drawing without delay. Those communications shall include the date referred to in paragraph 4, and the exact quantity applied for on the relevant customs declaration.
6. For the purposes of management of tariff quotas, the Commission shall fix order numbers where none are provided by the Union legislation opening the tariff quota.

7. If the quantities requested for drawing from a tariff quota are greater than the balance available, allocation shall be made on a pro rata basis with respect to the requested quantities.

8. For the purposes of this Article, acceptance of a declaration by the customs authorities on 1, 2 or 3 January shall be regarded as acceptance on 3 January. However, if one of those days falls on a Saturday or a Sunday, such acceptance shall be regarded as having taken place on 4 January.

9. Where a new tariff quota is opened, drawings shall not be granted by the Commission before the 11th working day following the date of publication of the Union legislation which created that tariff quota. Subject to Article IA-II-1-02(2) (210-02(2) IA) [Current IP provision: Article 308b (2)], the first allocation on a new tariff quota shall take into account all unanswered requests which relate to customs declarations for release for free circulation accepted since the first day of the validity period of the tariff quota and which have been communicated to the Commission. Priority shall be established in accordance with the chronological order of the dates of acceptance of the customs declarations.

10. Member States shall immediately return to the Commission the quantities drawn which they do not use. However, where an erroneous drawing representing a customs debt of less than EUR 10 is discovered after the first month following the end of the period of validity of the tariff quota concerned, Member States do not need to make a return.

11. If the customs authorities invalidate a customs declaration for release for free circulation in respect of goods which are the subject of a request for benefit from a tariff quota, the complete request shall be cancelled in respect of those goods. The Member States concerned shall immediately return to the Commission any quantity drawn, in respect of those goods, from the tariff quota.

12. All details of drawings requested by individual Member States shall be treated by the Commission and other Member States as confidential, as provided for in Article 12(1) of the Code.

Article IA-II-1-02 (210-02-IA)

Allocation of tariff quotas

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 56(4)	Article 58(1)	Article 308b	-	IA

1. The Commission shall make an allocation each working day, except:
 - (a) days which are holidays for the Union institutions in Brussels;
 - (b) in exceptional circumstances, any other day, provided that the competent authorities of the Member States have been informed in advance.
2. Subject to Article IA-II-1-01(8) (210-01(8) IA), any allocation shall take into account all unanswered requests which relate to customs declarations for release for free circulation accepted up to and including the second previous working day, and which have been communicated to the Commission.

Article IA-II-1-03 (210-03-IA)

Critical status of tariff quotas

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 56(4)	Article 58(1)	Article 308c	-	IA

1. For the application of the provisions of Article DA-V-3-01 (532-01DA) [Current IP provision: Article 248], a tariff quota shall be considered as critical as soon as 90 % of the initial volume has been used.

2. By way of derogation from paragraph 1, a tariff quota shall be considered from the date of its opening as critical in any of the following cases:

- (a) it is opened for less than three months;
- (b) tariff quotas having the same product coverage and origin and an equivalent quota period as the tariff quota in question (equivalent tariff quotas) have not been opened in the previous two years;
- (c) an equivalent tariff quota opened in the previous two years had been exhausted on or before the last day of the third month of its quota period or had a higher initial volume than the tariff quota in question.

3. A tariff quota whose sole purpose is the application, under the rules of the WTO, of either a safeguard measure or a retaliatory measure shall be considered as critical as soon as 90 % of the initial volume has been used irrespective of whether or not equivalent tariff quotas were opened in the previous two years.

Article IA-II-1-03a

Electronic system related to the management of tariff quotas

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 16(1), 56(4)	Article 58(1)		-	IA

1. With reference to Article 16(1) of the Code, an electronic information and communication system as defined by the Commission and Member States in agreement with each other, shall be used for:

- (a) the exchange between the customs authorities and the Commission and the storage of information pertaining to tariff quota drawing and return requests and to the status of tariff quotas,
- (b) the management by the Commission of the drawing and return requests,
- (c) the exchange between the Commission and the customs authorities and the storage of information relating to the allocation results,

(d) any further event or act which may subsequently affect the original drawings or returns on tariff quotas or their allocation.

2. The information shall be made available through the system referred to in paragraph 1 by the customs authority of the Member State that has received valid requests for drawing from a tariff quota or that has to send returns in accordance with the provisions of paragraphs (10) and (11) of Article IA-II-1-01, as well as by the Commission for the information related to the allocation results.

II – SURVEILLANCE OF THE RELEASE FOR FREE CIRCULATION OR THE EXPORT OF GOODS

Article IA-II-1-04 (210-04-IA)

General rules on surveillance of the release for free circulation or the export of goods

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 56(5)	Article 58(1)	Article 308d	-	IA

1. The Commission informs the Member States on goods subject to surveillance at release for free circulation or at export. The Commission shall provide this information in due time before the start date of any new surveillance requirement.

Where the release for free circulation or the export of goods is subject to surveillance, the Member States shall provide to the Commission at least once every week data on customs declarations for release for free circulation or on export declarations. Member States shall provide the data to the Commission without delay.

The Member States shall cooperate with the Commission to determine which data are required from customs declarations for release for free circulation or from export customs declarations.

The data provided by individual Member States shall be treated as confidential.

2. Aggregate data for each Member State as provided under paragraph 1 shall be available for authorised users in all Member States.

The Member States shall cooperate with the Commission to set up the practical rules on authorised access to the aggregate data.

3. Where goods are placed under a customs procedure on the basis of a simplified declaration referred to in Article 166 of the Code or by entry in the declarant's records referred to in Article 182 of the Code [Current IP provisions: Articles 253 to 267 and Articles 280 to 289] and the data referred to in paragraph 1 of this Article are not available, the Member States shall without delay provide to the Commission the data available at the date of acceptance of the supplementary declaration.

Article IA-II-1-04a

Electronic system related to surveillance of the release for free circulation or the export of goods

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 16(1), 56(5)	Article 58(1)	-	-	IA

1. With reference to Article 16(1) of the Code, an electronic information and communication system as defined by the Commission and Member States in agreement with each other, shall be used for the transmission and storage of information related to surveillance data on the release for free circulation or the export of goods, as well as of any further information which may subsequently affect the original sent and stored surveillance data.

2. The information shall be made available through the system referred to in paragraph 1 by the customs authority of the Member State that has collected the surveillance data from the customs declarations for release for free circulation or from the export customs declarations.

CHAPTER 2

Origin of goods

SECTION 1

PROOF OF NON-PREFERENTIAL ORIGIN

Article IA-II-2-01 (221-01-IA)

Certificate of origin for certain products subject to special import arrangements

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 61(2)	Article 63	Articles 55-62	Annex 22-14	IA

1. A certificate of origin relating to products having their origin in a third country for which special non-preferential import arrangements are established, in so far as these arrangements refer to this Article, shall be made out on a form conforming to the technical specifications and specimen in Annex 22-14.

2. Certificates of origin shall be issued by the competent governmental authorities of the third country concerned, hereinafter referred to as the issuing authorities, if the products to which the certificate relates can be regarded as having their origin in that country in accordance with Article 60 of the Code.

3. Certificates of origin shall be issued when the products to which they relate are exported, and the issuing authority shall keep a copy of each certificate of origin issued.

4. Exceptionally, the certificates of origin referred to above may be issued after the export of the products to which they relate, where the failure to issue them at the time of such export was a result of involuntary error or omission or special circumstances.

The issuing authorities may not issue retrospectively a certificate of origin provided for in paragraph 1 until they have checked that the particulars in the exporter's application correspond to those in the relevant export file.

Article IA-II-2-02 (221-02-IA)

Exchange of information relating to certificates of origin for certain products subject to special import arrangements

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 61	Article 63	Article 63	-	IA

1. Where the special import arrangements for certain products provide for the use of the certificate of origin laid down in Article IA-II-2-01 (221-01-IA), the entitlement to use such arrangements shall be subject to the setting up of an administrative cooperation procedure unless specified otherwise in the arrangements concerned.

To this end the third countries concerned shall send to the Commission:

- (a) the names and addresses of the issuing authorities for certificates of origin together with specimens of the stamps used by the said authorities;
- (b) the names and addresses of the government authorities to which requests for the subsequent verification of origin certificates provided for in Article IA-II-2-03 (221-03-IA) should be sent.

The Commission shall transmit the above information to the competent authorities of the Member States.

2. Where the third countries in question fail to send to the Commission the information specified in paragraph 1, the competent authorities in the Union shall refuse entitlement to use the special import arrangements.

Article IA-II-2-03 (221-03-IA)

Subsequent verification of the certificates of origin for certain products subject to special import arrangements

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 61	Article 63	Articles 64-65	-	IA

1. Subsequent verification of the certificates of origin referred to in Article IA-II-2-01 (221-01-IA) shall be carried out at random and whenever reasonable doubt has arisen as to the authenticity of the certificate of origin or the accuracy of the information it contains.

For origin matters the verification shall be carried out on the initiative of the customs authorities.

For the purposes of agricultural rules, the verification may be carried out, where appropriate, by other competent authorities.

2. For the purposes of paragraph 1, the competent authorities in the Union shall return the certificate of origin or a copy thereof to the governmental authority designated by the exporting country, giving, where appropriate, the reasons of form or substance for an enquiry. If the invoice has been produced, the original or a copy thereof shall be attached to the returned certificate of origin. The authorities shall also provide any information that has been obtained suggesting that the particulars given on the certificate of origin are inaccurate or that the certificate of origin is not authentic.

Should the customs authorities in the Union decide to suspend the application of the special import arrangements concerned pending the results of the verification they shall grant release of the products subject to such precautions as they consider necessary.

3. The results of subsequent verifications shall be communicated to the competent authorities in the Union as soon as possible.

The said results shall be such as to enable the competent authority to determine whether certificates of origin subject to subsequent verification apply to the goods actually exported and whether the latter may actually give rise to application of the special import arrangements concerned.

4. Where there is no reply within a maximum time limit of six months to requests for subsequent verification, the competent authorities in the Union shall refuse entitlement to use the special import arrangements.

SECTION 2

PREFERENTIAL ORIGIN

SUBSECTION 1

PROCEDURES TO FACILITATE THE ISSUE OR MAKING OUT OF PROOFS OF ORIGIN

Article IA-II-2-04 (222-01-IA)

Scope

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 64(1)	Article 66(a)	Regulation 1207/2001	-	IA

The measures laid down in this Subsection are intended to facilitate:

- (a) the issue or the making-out in the Union of proofs of origin under the provisions governing preferential trade between the Union and certain countries;
- (b) the functioning of the methods of administrative cooperation between the Member States.

Article IA-II-2-05 (222-02-IA)

Supplier's declarations and their use

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 64(1)	Article 66(a)	Regulation 1207/2001	-	IA

1. Where an exporter or trader has no direct access to all appropriate records and documents concerning the originating status of products with regard to the provisions governing preferential trade between the Union and certain countries the supplier shall provide at the exporter's or trader's request information allowing that status to be established by means of a supplier's declaration. The supplier shall provide the exporter or the trader with

a separate declaration for each consignment of goods, except in the cases provided for in Article IA-II-2-06 (222-03-IA).

2. The supplier shall include the declaration on the commercial invoice relating to that consignment or on a delivery note or any other commercial document which describes the goods concerned in sufficient detail to enable them to be identified.

3. The supplier may provide the declaration at any time, even after the goods have been delivered.

Article IA-II-2-06 (222-03-IA)

Long-term supplier's declaration

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 64(1)	Article 66(a)	Regulation 1207/2001	-	IA

1. Where a supplier regularly supplies a particular exporter or trader with goods whose originating status with regard to the provisions governing preferential trade between the Union and certain countries is expected to remain constant for a considerable period of time, he may provide a single declaration to cover subsequent consignments of those goods, hereinafter referred to as 'a long-term supplier's declaration'. A long-term supplier's declaration may be given a validity period of up to three years from the date on which it is made out.

2. A long-term supplier's declaration may be made out after the delivery of the goods. In such cases, its validity may not exceed a period of one year preceding the date on which it is made out.

3. The supplier shall inform the exporter or trader concerned immediately when the long-term supplier's declaration is no longer valid in relation to the goods supplied.

Article IA-II-2-07 (222-04-IA)

Making-out of supplier's declarations

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 64(1)	Article 66(a)	Regulation 1207/2001	Annexes 22-15, 22-16, 22-17 and 22-18	IA

1. For products having obtained preferential originating status, the supplier's declarations shall be made out as prescribed in Annex 22-15 or, for long-term suppliers' declarations, as prescribed in Annex 22-16

2. For products which have undergone working or processing in the Union without having obtained preferential originating status, the supplier's declarations shall be made out as

prescribed in Annex 22-17 or, for long-term supplier's declarations, as prescribed in Annex 22-18

3. The supplier's declaration may be made using electronic data processing techniques or printed on paper.

Article IA-II-2-08 (222-05-IA)

Issuing of Information Certificates INF 4

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 64(1)	Article 66(a)	Regulation 1207/2001		IA

1. To verify the accuracy or authenticity of a supplier's declaration, the customs authorities may request the exporter to obtain from the supplier an Information Certificate INF 4.

2. The Information Certificate INF 4 shall be issued by the customs authorities of the Member State in which the supplier's declaration has been issued. The said authorities shall have the right to call for any evidence and to carry out any inspection of the supplier's accounts or any other check that they consider necessary.

3. The customs authorities shall issue the Information Certificate INF 4 within 90 days of receipt of the application submitted to them by the supplier, indicating whether or not the declaration given by the supplier was correct.

4. The completed Information Certificate INF 4 shall be given to the supplier to forward to the exporter or trader concerned for transmission to the relevant customs authority.

Article IA-II-2-09 (222-06-IA)

Administrative cooperation between the Member States

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 64(1)	Article 66(a)	Regulation 1207/2001	-	IA

The Member States' customs authorities shall assist each other in checking the accuracy of the information given in suppliers' declarations.

Article IA-II-2-10 (222-07-IA)

Checking supplier's declarations

UCC implemented	UCC empowering	Current IP provision	Annex	Adoption
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provision	provision			procedure
Article 64(1)	Article 66(a)	Regulation 1207/2001	-	IA

1. Where an exporter is unable to present an Information Certificate INF 4 within 120 days of the request of the customs authorities, the customs authorities of the Member State of export may directly ask the authorities of the Member State in which the supplier's declaration has been made out to confirm the status of the products concerned with regard to the provisions governing preferential trade between the Union and certain countries.

2. For the purpose of paragraph 1, the customs authorities of the Member State of export shall send the customs authorities of the Member State in which the supplier's declaration has been made out all available information or documents and give the reasons of form or substance for their enquiry.

3. For the purpose of paragraph 1 the customs authorities of the Member State in which the supplier's declaration has been made out may request any evidence or carry out any check they consider appropriate.

4. The customs authorities requesting the verification shall be informed of the results as soon as possible by means of Information Certificate INF 4.

5. Where there is no reply within 150 days of the date of the verification request or where the reply does not contain sufficient information to determine the status of the products concerned, the customs authorities of the country of export shall declare invalid the proof of origin established on the basis of the documents in question.

Article IA-II-2-11 (222-08-IA)

Approved exporter authorisation

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 64(1)	Article 66(a)	-	-	IA

1. A person may apply for the status of 'Approved exporter' for the purpose of making out or replacing proofs of preferential origin, including invoice declarations or origin declarations.

2. For the purpose of this Article, Articles IA-I-2-09 (124-2-02 IA), DA-I-2-08(1)(d) (124-2-03(1)(e)), DA-I-2-13 (124-2-13 DA), DA-I-2-14 (124-2-14 DA), DA-I-2-15 (124-2-15 DA) and IA-I-2-16 (124-2-15) shall not apply.

3. The status of 'Approved exporter' shall be granted solely to persons who fulfil the conditions set out in the origin provisions of the customs legislation.

4. The customs authorities shall grant to the approved exporter a customs authorisation number which shall appear on the proofs of preferential origin. The customs authorisation number shall be preceded by ISO 3166-1-alpha-2 country code of the Member State issuing the authorisation.

5. The Commission shall provide the third countries concerned with the addresses of the Member States customs authorities responsible for the control of the proofs of preferential origin made out by approved exporters.

Article IA-II-2-12 (222-09-IA)

Registration of exporters outside the framework of the Union’s generalized system of preferences (GSP)

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 64(1)	Article 66(a)	-	-	IA

1. Exporters may request to be registered for the purpose of making out statements on origin for goods they export to any country with which the Union has a preferential arrangement in force providing that proofs of origin take the form of statements on origin made out by registered exporters.

2. For the purpose of this Article, Articles IA-I-2-09 (124-2-02-IA), DA-I-2-08(1)(e) (124-2-03(1)(e)), DA-I-2-13 (124-2-13-DA) , DA-I-2-14 (124-2-14-DA), DA-I-2-15 (124-2-15 DA) and IA-I-2-16 (124-2-15) shall not apply.

3. For the purpose of this Article, Titles V, VI and VII of Subsection 2 (‘Preferential Origin’) of Delegated Act XXX concerning the registration of exporters and the making out, use and subsequent verification of statements on origin shall apply *mutatis mutandis*.

4. Where the preferential arrangements concerned provide that all exporters, exporting goods either from or to the Union, should be registered on a common database, the Commission shall introduce the corresponding records received from the partner country(ies) concerned into a dedicated section of the Union’s registered exporters database.

5. The Commission shall provide the partner countries concerned with the addresses of the Member States customs authorities responsible for the control of the statements on origin made out by registered exporters.

Article IA-II-2-13 (222-10-IA)

Replacement of certificates of origin Form A or invoice declarations within the framework of the Union’s generalized system of preferences (GSP)

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 64(3)	Article 66	Article 97p	-	IA

1. Where originating products are placed under the control of a customs office of a single Member State, it shall be possible to replace the initial proof of origin by one or more certificates of origin Form A for the purpose of sending all or some of these products elsewhere within the Union or, where applicable, to Norway, Switzerland or Turkey.

2. Replacement certificates of origin Form A shall be issued by the customs office under whose control the products are placed. The replacement certificate shall be issued on the basis of a written request by the re-exporter.

3. The top right-hand box of the replacement certificate shall indicate the name of the intermediary country where it is issued. Box 4 shall contain the words ‘Replacement certificate’ or ‘Certificat de remplacement’, as well as the date of issue of the initial certificate of origin and its serial number. The name of the re-exporter shall be given in box 1. The name of the final consignee may be given in box 2. All particulars of the re-exported products appearing on the initial certificate shall be transferred to boxes 3 to 9 and references to the re-exporter's invoice may be given in box 10.

4. The customs authorities which issue the replacement certificate shall endorse box 11. The responsibility of the authorities shall be confined to the issue of the replacement certificate. The particulars in box 12 concerning the country of origin and the country of destination shall be taken from the initial certificate. This box shall be signed by the re-exporter. A re-exporter who signs this box in good faith shall not be responsible for the accuracy of the particulars entered on the initial certificate.

5. The customs office which is requested to perform the operation referred to in paragraph 1 shall note on the initial certificate the weights, numbers and nature of the products forwarded and indicate thereon the serial numbers of the corresponding replacement certificate or certificates. It shall keep the initial certificate for at least three years. A photocopy of the initial certificate may be annexed to the replacement certificate.

6. In the case of products which benefit from the tariff preferences under a derogation granted in accordance with Article 64 (6) of the Code, the procedure laid down in this Article shall apply only when such products are intended for the Union.

Article IA-II-2-14 (222-11-IA)

Replacement of statements on origin within the framework of the Union’s generalized system of preferences (GSP)

THIS IS A REX-RELATED PROVISION TO BE AMENDED ONCE CURRENT IPs ARE AMENDED

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 64(3)	Article 66	Article 97d	-	IA

1. Where products have not yet been released for free circulation, a statement on origin may be replaced by one or more replacement statements on origin, made out by the holder of the goods, for the purpose of sending all or some of the products elsewhere within the customs territory of the Union or, where applicable, to Norway, Switzerland or Turkey. For being entitled to make out replacement statements on origin, holders of the goods need not be registered exporters themselves.

2. Where a statement on origin is replaced, the initial statement on origin shall indicate the following:

- (a) the particulars of the replacement statement(s) on origin;

- (b) the names and addresses of the consignor;
- (c) the consignee(s) in the Union.

The initial statement on origin shall be marked as "Replaced", "Remplacée" or "Sustituida", as the case may be.

3. On the replacement statement on origin the following shall be indicated:
 - (a) all particulars of the re-consigned products;
 - (b) the date on which the initial statement on origin was made out;
 - (c) all the necessary mentions as specified under annex [X] to the Union Customs Code delegated act;
 - (d) the name and address of the consignor of the products in the Union;
 - (e) the name and address of the consignee in the Union, Norway, Switzerland or Turkey;
 - (f) the date and place of the replacement.

The person making out the replacement statement on origin may attach a copy of the initial statement on origin to the replacement statement on origin.

4. Paragraphs 1, 2 and 3 shall apply *mutatis mutandis* to statements replacing statements on origin that are themselves replacement statements on origin. Paragraphs 1, 2 and 3 shall apply *mutatis mutandis* to replacement statements made out by consignors of the products in Norway, Switzerland or Turkey.

5. In the case of products which benefit from the tariff preferences under a derogation granted in accordance with the provisions of Article 64(6) of the Code (222-2-26 DA) the replacement provided for in this Article shall apply only when such products are intended for the Union.

6. Paragraphs 1, 2 and 3 shall apply *mutatis mutandis* to statements replacing statements on origin further to the splitting of a consignment carried out in accordance with Article DA-II-2-17 (222-2-09 DA).

Article IA-II-2-15 (222-12-IA)

Replacement of proofs of preferential origin issued or made out previously outside the framework of the Union's generalized system of preferences (GSP)

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 64	Article 66	- none - Article 115	-	IA

1. Where originating products covered by a proof of preferential origin issued or made out previously for the purpose of allowing benefit from measures referred to in Article 56(2) (d), or (e) other than the Union's GSP, of the Code are placed under the control of a customs office in the Union and have not yet been released for free circulation, it shall be possible to

replace the initial proof of origin by one or more replacement proofs for the purpose of sending all or some of these products elsewhere within the Union.

2. Where the provisions of the relevant preferential arrangement or agreement concluded by the Union provide that the proofs shall be movement certificates EUR.1, origin declarations or invoice declarations, the replacement proofs of origin shall be:

- (a) a replacement origin declaration or invoice declaration:
 - (i) made out by an approved exporter acting as re-consignor of the goods;
 - (ii) made out by any exporter acting as re-consignor of the goods either where the total value of originating products in the initial consignment to be split does not exceed the value threshold above which the exporter must be an approved exporter or, where it exceeds that threshold, if the re-consignor attaches a copy of the initial proof of origin to the replacement origin declaration(s) or invoice declaration(s).
- (b) a movement certificate EUR.1 issued by the customs office under whose control the goods are placed, where the re-consignor is neither an approved exporter nor able to accept that a copy of the initial proof of origin be attached to the replacement proof and the total value of originating products in the initial consignment exceeds the value threshold above which the exporter must be an approved exporter.

3. Where the provisions of the relevant preferential arrangement or agreement concluded by the Union provide that the proofs shall be statements on origin, the replacement statements on origin shall be made out by the holder of the goods who acts as re-consignor.

For being entitled to make out replacement statements on origin:

- (a) where the total value of originating products of the initial consignment to be split does not exceed the value threshold above which the exporter must be a registered exporter, the re-consignor need not be a registered exporter itself;
- (b) where the total value of originating products of the initial consignment to be split exceeds the value threshold above which the exporter must be a registered exporter, the re-consignor:
 - shall be itself a registered exporter in the EU;or
 - shall attach a copy of the initial statement on origin to the replacement statement on origin.

CHAPTER 3

Value of goods for customs purposes

Article IA-II-3-01 (230-01- IA)

General provisions

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 70(3)(d)	Article 76(b)	Articles 142-143, Annex 24	Yes	IA

1. For the purposes of Title II, Chapter 3 of the Code and of this Chapter, persons shall be deemed to be related only if:

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognised partners in business;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family.

2. Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related only if they fall within the criteria referred to in paragraph 1.

3. For the purposes of paragraph (e), one person is deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

Article IA-II-3-02 (230-02 – IA)

Transaction value

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 70(1)	Article 76(a)		-	IA

For the purposes of Article 70(1) of the Code, the value of the goods shall be determined at the time of acceptance of the customs declaration on the basis of the transaction occurring immediately before the goods are declared for free circulation.

Article IA-II-3-03 (230-03-IA)

Price actually paid or payable

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 70(1) and (2)	Article 76(a)	Annex 23, note to Art. 29, (CC Article 29 (3) a) and b)	-	IA

1. The price actually paid or payable within the meaning of Article 70(1) and (2) of the Code shall include all payments, actually made or to be made as a condition of sale of the imported goods by the buyer to any of the following:

- (a) the seller;
- (b) a person related to the seller, or
- (c) a third party to satisfy an obligation of the seller.

Such payment need not necessarily take the form of a transfer of money. Payment may be made by way of letters of credit or negotiable instruments and may be made directly or indirectly.

2. Activities, including marketing activities, undertaken by the buyer or an undertaking related to the buyer on his or its own account, other than those for which an adjustment is provided in Article 71 of the Code, are not considered to be an indirect payment to the seller.

3. When determining the customs value, the costs of the activities referred to in paragraph 2 shall not be added to the price actually paid or payable, even if they fulfil either of the following conditions:

- (a) they might be regarded as of benefit to the seller, or
- (b) they are undertaken by agreement with the seller.

Article IA-II-3-04 (230-04-IA)

Discounts

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 70(1)	Article 76(a)		Yes	IA

1. For the purposes of determining the customs value under Article 70(1) of the Code discounts shall be accepted if, at the time of acceptance of the customs declaration, the sales contract provides for their application and their amount.

2. Discounts for early payment shall be accepted in regard to goods for which the price has not actually been paid at the time of acceptance of the customs declaration. The price payable for settlement at the said time shall be taken as the basis for the customs value.

3. Discounts which are either demonstrably taken up under the contract or which are indicated in the invoice are to be accepted at the time of acceptance of the customs declaration (e.g. volume-related discounts).

Discounts arising from amendments to the contract subsequent to the time of acceptance of the customs declaration are not to be accepted.

Article IA-II-3-05 (230-05-IA)

Apportionment

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 70(1)	Article 76(a)	Article 145(1)	-	IA

Where goods declared for a customs procedure are part of a larger quantity of the same goods purchased in one transaction, the price actually paid or payable for the purposes of Article 70(1) of the Code shall be that price represented by the proportion of the total price which the quantity so declared bears to the total quantity purchased.

Apportioning the price actually paid or payable shall also apply in the case of the loss of part of a consignment or when the goods have been damaged before the goods are released for free circulation.

Article IA-II-3-06 (230-06-IA)

Warranty

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 70(1)	Article 76(a)	Articles 145(2) and (3)	-	IA

1. An adjustment made by the seller, to the benefit of the buyer, of the price actually paid or payable for the goods may be taken into consideration for the determination of the customs value in accordance with Article 70(1) of the Code, if it is demonstrated to the satisfaction of the customs authorities that:

- (a) the goods were defective at the time of acceptance of the customs declaration for release for free circulation;
- (b) the seller made the adjustment in performance of a warranty arising from either of the following:
 - (i) a contractual obligation, concluded before the acceptance of the customs declaration, or

- (ii) a statutory obligation applicable to the goods sold for export to the customs territory of the Union;
 - (c) the defective nature of the goods has not already been taken into account in the relevant sales contract.
2. The price actually paid or payable for the goods, adjusted in accordance with paragraph 1, may be taken into account only if that adjustment was made within a period of one year following the date of acceptance of the customs declaration.

Article IA-II-3-07 (230-07-IA)

Valuation of conditions and considerations

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 70(3)(b)	Article 76(b)	Article 148	-	IA

1. Where, in applying point (b) of Article 70(3) of the Code, it is established that the sale or price of imported goods is subject to a condition or consideration the value of which can be determined with respect to the goods being valued, such value shall be regarded as an indirect payment by the buyer to the seller and part of the price actually paid or payable.
2. Conditions and considerations within the meaning of paragraph 1 may not relate to either of the following:
- (a) an activity to which Article IA-II-3-03(2) (230-03(2) IA) applies, or
 - (b) an element of the customs value under Article 71 of the Code.

Article IA-II-3-08 (230-08- IA)

Related Party transactions

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 70(3)(d)	Article 76(b)	none (CC Article 29(2))	Yes	IA

1. In determining whether the transaction value is acceptable for the purposes of point (d) of Article 70(3) of the Code, the fact that the buyer and the seller are related shall not in itself be sufficient grounds for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale may be examined and the transaction value shall be accepted provided that the relationship did not influence the price.
2. Where the customs authorities are unable to accept the transaction value without further inquiry, they should give the declarant an opportunity to supply such further detailed information as may be necessary to enable it to examine the circumstances surrounding the sale. In this context, the customs authorities should be prepared to examine relevant aspects of the transaction, including the way in which the buyer and seller organise their commercial

relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price.

3. In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with Article 70(1) of the Code wherever the declarant demonstrates that such value closely approximates to one of the following occurring at or about the same time:

- (a) the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to the customs territory of the Union;
- (b) the customs value of identical or similar goods, as determined under point (c) of Article 74(2) of the Code;
- (c) the customs value of identical or similar goods, as determined under point (d) of Article 74(2) of the Code.

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 71 of the Code and costs incurred by the seller in sales in which he and the buyer are not related and where such costs are not incurred by the seller in sales in which he and the buyer are related.

3. The tests set forth in paragraph 2 are to be used at the initiative of the declarant and only for comparison purposes. Substitute values may not be established under paragraph 2.

Article IA-II-3-09 (230-10- IA)

Assists

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 71(1)(b)	Article 76(a)	Annex 23, (note to Art. 32(1)(b)(ii) CC) (CC Article 32)	Yes	IA

1. Where a buyer purchases any of the goods or services listed in point (b) of Article 71(1) of the Code, the value of these goods and services shall be deemed to be equal to their sales price. The sales price includes all the payments which the buyer is required to make to the seller to acquire the goods.

Where the goods or services were not sold, but produced by the buyer or a person related to him, their value shall be the cost of producing them.

2. Where the value of the goods and services cannot be determined according to paragraph 1, it shall be determined on the basis of objective and quantifiable data.

3. Where the goods have been used by the buyer, the value shall be adjusted to take account of depreciation.

4. The costs of the services referred to in point (b)(iv) of Article 71(1) of the Code shall also include the costs of unsuccessful development activities insofar as these were incurred in respect of projects or orders relating to the imported goods.

5. For the purposes of point (b)(iv) of Article 71(1) of the Code, the costs of research and preliminary design sketches shall not be included in the customs value.

6. The value established in accordance with paragraph 1 shall be apportioned among the imported goods. It shall be apportioned according to the documentation submitted by the buyer.

Article IA-II-3-10 (230-11- IA)

Royalties and licence fees

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 71(1)(c)	Article 76(a)	(Art. 32 CC)	-	IA

1. For the purposes of point (c) of Article 71(1) of the Code, royalties and licence fees refers to payment for the use of rights relating to, inter alia, know-how, trademarks, copyright, patents, designs and models.

2. Royalties and licence fees are related to the imported goods where in particular, the rights transferred under the licence or royalties agreement are *embodied in the goods*. The method of calculation of the amount of the royalty or licence fee is not the decisive factor.

However, where the method of calculation of the amount of a royalty or licence fee derives from the price of the imported goods, it may be assumed in the absence of evidence to the contrary that the payment of that royalty or licence fee is related to the goods to be valued.

3. Payments made by the buyer for the right to distribute or resell the imported goods are not part of the customs value if such payments are not a condition of the sale of the goods for export to the customs territory of the Union.

4. Royalties and licence fees are considered to be paid as a condition of sale for the imported goods when any of the following conditions is met:

- (a) the seller or person related to the seller requires the buyer to make this payment;
- (b) the payment by the buyer is made to satisfy an obligation of the seller, in accordance with contractual obligations;
- (c) the goods cannot be sold to, or purchased by the buyer without payment of the royalties or license fees to a licensor.

5. The country in which the recipient of the royalty or licence payment is established is not a material consideration.

Article IA-II-3-11 (230-12 – IA)

Place where goods are brought into the customs territory of the Union

UCC implemented	UCC empowering	Current IP provision	Annex	Adoption
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provision	provision			procedure
Article 71(1)(e)	Article 76(a)	Articles 163	-	IA

1. For the purposes of point (e) of Article 71(1) of the Code, the place where goods are brought into the customs territory of the Union shall be:

- (a) for goods carried by sea the port where a means of transport carrying the goods arrives first in the customs territory of the Union;
- (b) for goods carried by sea and then, without transshipment, by inland waterway, the first port where unloading can take place either at the mouth of the river or canal or further inland;
- (c) for goods carried by rail, inland waterway, or road, the place where the customs office of entry is situated;
- (d) for goods carried by other modes of transport, the place where the frontier of the customs territory of the Union is crossed.

2. The customs value of goods brought into the customs territory of the Union and then carried to a destination in another part of that territory through territories outside of the customs territory of the Union shall be determined by reference to the first place where goods are brought into the customs territory of the Union, provided such goods are carried directly through those territories by a usual route across such territory to the place of destination.

3. Paragraphs 2 and 3 shall also apply where the goods have been unloaded, transhipped or temporarily immobilised in territories outside of the customs territory of the Union for reasons relating solely to their transport.

4. When the conditions specified in paragraphs 2 and 3 are not fulfilled, the place where goods are brought into the customs territory of the Union shall be the following:

- (a) for goods carried by sea, the port of unloading;
- (b) for goods carried by other modes of transport the place specified in points (b), (c) or (d) of paragraph 1 situated in that part of the customs territory of the Union to which the goods are consigned.

Article IA-II-3-12 (230-13- IA)

Transport costs

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 71(1)(e)	Article 76(a)	Articles 164, 166	Annex 22-19 (ex Annex 25)	IA

1. For the purposes of point (e) of Article 71(1) of the Code, paragraphs 2 to 4 shall apply.

2. Where goods are carried by the same mode of transport to a point beyond the place where goods are brought into the customs territory of the Union, transport costs may be declared and assessed in proportion to the distance covered up to the place where the goods

are brought into the customs territory of the Union in accordance with Article IA-II-3-11 (230-12 IA) and beyond that place, unless evidence is produced to the customs authorities to show the costs that would have been incurred under a standard schedule of freight rates for the carriage of the goods to the place where goods are brought into the customs territory of the Union.

3. The air transport costs, including air express delivery costs, to be included in the customs value of goods, shall be determined by applying the rules and percentages shown in Annex 22-19 (ex25).

4. Where transport is free of charge or provided by the buyer, transport costs to the place where goods are brought into the customs territory of the Union, calculated in accordance with the schedule of freight rates normally applied for the same modes of transport, shall be included in the customs value.

Article IA-II-3-13 (230-14- IA)

Charges levied on postal consignments

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 70(1)	Article 76(a)	Article 165 (1)	-	IA

Postal charges levied up to the place of destination in respect of goods sent by post shall be included in the customs value of these goods, with the exception of any supplementary postal charge levied in the customs territory of the Union.

Article IA-II-3-14 (230-16 – IA)

Acceptance of the transaction value

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 70(1)	Article 76(a)	Article 181a	-	IA

1. Where the customs authorities have doubts that the declared value represents the total amount paid or payable as referred to in Article 70(1) of the Code, they may ask for additional information.

2. If their doubts are not dispelled, the customs authorities may decide that the value of the goods cannot be determined in accordance with Article 70(1) of the Code and accordingly not determine the customs value using that method.

3. Article 22(4) of the Code applies.

Article IA-II-3-15 (230-17- IA)

Customs value of identical or similar goods

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 74(2) (a)-(b)	Article 76(c)	Articles 150-151	-	IA

1. To determine the customs value of the goods in accordance with point (a) or (b) of Article 74(2) of the Code, the transaction value of identical or similar goods in a sale at the same commercial level and in substantially the same quantities as the goods being valued shall be used.

2. Where no such sale is found in accordance with paragraph 1, the transaction value of identical or similar goods sold at a different commercial level and/or in different quantities shall be used. This transaction value should be adjusted to take account of differences attributable to commercial level and/or quantity.

3. Where the costs referred to in Article 71 of the Code are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical or similar goods in question arising from differences in distances and modes of transport.

4. Where more than one transaction value of identical or similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

5. 'Identical goods' and 'similar goods', as the case may be, do not include goods which incorporate or reflect engineering, development, artwork, design work, plans or sketches for which no adjustment has been made under the fourth indent of Article 9(1)(b) because such work was undertaken in the Union.

The transaction value of identical or similar imported goods means a customs value previously determined under Article 74(2)(a) or (b) of the Code and, where appropriate, adjusted in accordance with this Article.

6. A transaction value for goods produced by a different person is to be taken into account only when no transaction value can be found for identical or similar goods produced by the person who produced the goods being valued.

Article IA-II-3-16 (230-18 – IA)

Deductive method

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 74 (2) (c)	Article 76(c)	Article 152	Annex 22-20	IA

1. The unit price used to determine the customs value under point (c) of Article 74(2) of the Code shall be the price at which the imported goods or imported identical or similar goods are sold in an unaltered state in the customs territory of the Union at or about the time of importation of the goods being valued.

2. Where no unit price can be determined under paragraph 1, the unit price used shall be the price at which the imported goods or imported identical or similar goods are sold in an

unaltered state in the customs territory of the Union at the earliest time after the importation of the goods to be valued and in any case within 90 days of that importation.

3. Where no unit price can be determined under either paragraph 1 or paragraph 2, upon application by the importer the unit price at which the imported goods are sold in the customs territory of the Union after further working or processing shall be used. In this case account shall be taken of the increase in value resulting from the working or processing.

4. The following sales shall not be taken into account for the purposes of determining customs value under point (c) of Article 74(2) of the Code:

- (a) sales of goods at a commercial level other than the first after importation;
- (b) sales to related persons;
- (c) sales to persons who directly or indirectly supply, free of charge or at reduced cost, the goods or services listed in point (b) of Article 71(1) of the Code for use in connection with the production and sale for export of the imported goods;
- (d) sales in quantities which are not sufficient to allow the unit price to be determined.

5. Where there is more than one relevant unit price, the unit price at which the greatest aggregate quantity is sold shall be used.

6. In determining the customs value, the following should be deducted from the unit price determined under the above paragraphs:

- (a) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses (including the direct and indirect costs of marketing the goods in question) in connection with sales in the customs territory of the Union of imported goods of the same class or kind;
- (b) the usual costs of transport and insurance and associated costs incurred within the customs territory of the Union;
- (c) the import duties and other charges payable in the customs territory of the Union by reason of the import or sale of the goods.

7. The customs value of certain perishable goods as referred to in Annex 22-20 imported on consignment may be directly determined in accordance with point (c) of Article 74(2) of the Code. For this purpose the unit prices shall be notified to the Commission by the Member States and disseminated by the Commission via TARIC in accordance with Article 6 of Council Regulation (EEC) No 2658/87.

Such unit prices may be used to determine the customs value of the imported goods for periods of 14 days; each period shall start on a Friday.

The unit prices shall be calculated and notified as follows:

- (a) after the deductions provided for in paragraph 6, a unit price per 100 kg net for each category of goods shall be notified by the Member States to the Commission. The Member States may fix standard amounts for the costs referred to point (b) of paragraph 6, which shall be made known to the Commission;

- (b) the reference period for determining the unit prices shall be the preceding period of 14 days which ends on the Thursday preceding the week during which new unit prices are to be established;
- (c) the unit prices shall be notified by the Member States to the Commission in Euro not later than 12.00 on the Monday of the week in which they are disseminated by the Commission. Where that day is a non-working day, notification shall be made on the working day immediately preceding that day. Unit prices shall only apply if this notification is disseminated by the Commission.

Article IA-II-3-16a

Computed Value methodd

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 74 (2) (d)	Article 76(c)	Article 153	Annex XX	IA

1. In applying Article 74(2)(d), the customs authorities may not require or compel any person not established in the customs territory of the Union to produce for examination, or to allow access to, any account or other record for the purposes of determining customs value.

2. The cost or value of materials and fabrication referred to in Article 74(2)(d)(i) of the Code shall include the cost of elements specified in Article 71 (1)(a) (ii) and (iii) of the Code. It shall also include the cost, duly apportioned, of any product or service specified in Article 71(1)(b) of the Code which has been supplied directly or indirectly by the buyer for use in connection with the production of the goods being valued. The value of elements specified in Article 71(1)(b)(iv) of the Code which are undertaken in the Union shall be included only to the extent that such elements are charged to the producer.

3. The cost of production includes all expenditure incurred in creating, adding to or substantially enhancing economic goods. It also includes the costs specified in the second and third indents of Article 71(1)(b) of the Code.

4. The general expenses referred to in Article 74(2)(d)(ii) of the Code, cover the direct and indirect costs of producing and selling the goods for export which are not included under Article 74(2)(d)(i) of the Code.

Article IA-II-17 (230-20 – IA)

Fall-back method

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 74(3)	Article 76(c)	none Annex 23, Note to Art.	-	IA

		31 (1) CC (CC Article 31 (2))		
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1. When determining the customs value under Article 74(3) of the Code, the methods provided for in Articles 70 and 74(2) of the Code in a flexible manner, as appropriate, should, to the greatest extent possible, be based on previously determined customs values.

2. Where no customs value can be determined under paragraph 1, other appropriate methods shall be used. In this case the customs value shall not be determined on the basis of any of the following:

- (a) the selling price within the customs territory of the Union of goods produced in the customs territory of the Union;
- (b) a system whereby the higher of two alternative values is used for customs valuation;
- (c) the price of goods on the domestic market of the country of exportation;
- (d) the cost of production, other than computed values which have been determined for identical or similar goods under Article 74(2)(d) of the Code;
- (e) prices for export to a third country;
- (f) minimum customs values;
- (g) arbitrary or fictitious values.

Article IA-II-3-18 (230-21- IA)

Supporting documents regarding customs value

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 163(1)	Article 165(b)	Article 181	Yes	IA

The invoice which relates to the declared transaction value is required as a supporting document.

Article IA-II-3-19 (230-22 – IA)

Currency conversion

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 53(1)(a)	Article 54	Articles 168-170	-	IA

1. In accordance with Article 53(1)(a) of the Code, the following rate of exchange shall be used for customs valuation purposes:

- (a) the rate of exchange published by the European Central Bank, for the Member States whose currency is the euro;

- (b) the rate of exchange published by the competent national authorities or private banks as designated by the national authorities, for the Member States whose currency is not the euro.

2. The rate of exchange serving as the basis for implementation of point (a) of Article 53(1) of the Code shall be the rate of exchange published or made available on the second last Wednesday of each month.

Where no rate of exchange has been published or made available on that day, the most recently published rate shall apply.

3. The rate of exchange shall apply for a month, beginning on the first day of the following month.

4. Where a rate of exchange has not been published or made available, the rate to be used for the application of point (a) of Article 53(1) of the Code shall be designated by the Member State concerned. The value must reflect the value of the currency of the Member State concerned as closely as possible.