ANNEX I

Annex to Impact Assessment

Public Consultation on the

draft modernized Customs Code Rev. 3

1. Summary of traders' comments

Revision 3 of the draft modernized Customs Code (CC) was the subject of a public consultation during July and August 2004. The significant level of feedback from the trade (56 responses from 47 traders — cf. Annex I) has been carefully evaluated and taken into account where it accorded with the objectives of the proposed modernization.

The results have been consolidated and collated with the individual Articles of the draft Rev. 3. Tables containing the position of the Commission on all of the critical issues are presented, together with a list of contributors, in the sections following this summary.

The following main conclusions were drawn from the open consultation:

Modernisation, simplification, harmonization

Traders are very much in favour of modernizing the Customs Code. In particular, the concepts of centralized clearance, single access point, single window and one-stop shop, based upon the electronic exchange of data, were the subject of very positive comments. Traders are convinced that these initiatives will improve the competitiveness of European traders. The consolidation and simplification of the customs legislation, particularly with regard to special procedures (Title VIII), and the harmonization of IT systems were aspects also very well received by traders.

Implementing provisions and comitology

As a number of rules will be specified in implementing provisions (IP), many traders found it difficult to judge the consequences of the new rules in the CC without information on the relevant IP. Some traders expressed concern about the tendency to transfer more provisions to the IP and to use the management procedure for their creation.

Right to restrict customs representation (Art. 9)

Understandably, the withdrawal of the right to restrict, by national legislation, representation for customs declarations to customs agents established in the Member State concerned is not seen favourably by customs agents, who are presently protected by such restrictions from competition from representatives established in other Member States. They argue that liberalization will have a negative impact on the quality of customs representation and, in their opinion, an appropriate record of compliance with customs requirements, proven financial solvency and safety and security standards are indispensable for their profession. On the other hand, the users of such services are convinced that withdrawing the right to restrict customs representation will lead to cost savings and improve importers' and exporters' competitiveness.

Authorised Economic Operator and Single European Authorisation (Art. 10, 104)

Traders widely agree that common standards and Community-wide recognition of Authorised Economic Operators and Single European Authorisations for simplified procedures are essential for the Single Market. Numerous traders also emphasise the need for reciprocal recognition of facilitations with third countries. Many traders would like to have more precise provisions concerning the link between the concept of Authorised Economic Operator and Single European Authorisation.

Administrative penalties (Art. 19)

Traders generally agreed with the need to harmonize administrative penalties and to improve their transparency. However, some traders have, for legal and practical reasons, concerns about the feasibility of such harmonization.

Community-wide, comprehensive guarantees (Art. 35)

Traders generally welcome Community-wide comprehensive guarantees, covering customs debts, VAT and excise duties.

Responsibility of the declarant (Art. 46, 51)

The consolidation of the current rules on non-compliance in a single Article is very much welcomed by traders. Some traders are, however, opposed to making direct representatives liable for their mistakes and, furthermore, raise concerns about subjective criteria (negligence) being used to determine the responsibility for customs debt. However, there is a wide consensus that, in the collection of a customs debt, priority must be given to persons who have deliberately infringed the customs rules.

Pre-arrival and pre-departure declarations (Art. 73, 74; 158 [the latter replaced by Art. 154])

Pre-arrival and pre-departure declarations were introduced by a security-related amendment to the present Customs Code and are incorporated in the modernised Customs Code. Even though most traders are aware of the need to improve security-related customs controls and to make risk management more efficient, they still fear that these measures will lead to additional burdens to trade. Traders request the application of global standards.

Simplified procedures (Art. 104)

Many traders would like to continue using the local clearance procedure, without customs having access to their IT systems. Several traders would like to see clarification in the CC of the link between summary and simplified declarations. They are very interested in merging incomplete and simplified declarations.

Exportation and re-exportation (Art. 163, 164 [replaced by Arts. 155, 156 & 157])

Most traders would like to maintain the distinction between exportation and re-exportation as they have different legal consequences.

2. List of trade associations and companies which contributed comments

AAC	Association des Amidonneries de Céréales de l'Union Européenne *aac@aac-eu.org*
AMCHAM	American Chamber of Commerce to the European Union *amchameu@amcham.be*
Ahlers & Vogel	Ahlers & Vogel Rechtsanwälte, Notare *kluever@ahlers-vogel.de*
BDI	Association of German industries *H.Willems@BDI-ONLINE.DE*
CC SE	Chamber of Commerce and Industry of Southern Sweden *info@handelskammaren.com*
CELCAA	Liaison Committee of European sectoral organisations representing agri-food traders *CELCAA@schumann9.com*
CIAA	Confédération des industries agro-alimentaires de l'UE *ciaa@ciaa.be*
CLECAT	European association for forwarding, transport, logistic and customs services *info@clecat.org*
CNSD	Consiglio Nazionale degli Spedizionieri Doganali *info@cnsd.it*
CONFIAD	Confédération Internationale des Agents en Douane *fernando@carmo.mail.pt*

Deutsche Post	*R.Fischer-Zoll@deutschepost.de*
EAMA	European Automobile Manufacturers Association
ECSA	European Community Shipowners' Association *Alfons@ecsa.be*
EEA	European express association *mhellstr@hillandknowlton.com*
EGMF	European Garden Machinery industry Federation *Guy.Vandoorslaer@orgamile.org*
EICTA	European Industry Association - Information Systems, Communication Technologies, Consumer Electronics
ESBA	European Small Business Alliance *secretariat@esba-europe.org*
ESIA/EDIA	European Semiconductor Industry Association / European Display Industry Association *secretariat.gen@eeca.be*
EUROCOMMERCE	Association of European Chambers of Commerce and Industry verbrugghe@eurocommerce.be
EUROFLOUR	Association Européenne des Meuniers Exportateurs *euroflour@grainindustry.com*
FEPORT	Federation of European Private Port Operators *info@feport.be*
FFI	Freight Forward International *info@fastforward.uk.com*

Fuchs	Karl Fuchs, Dep. Dir. Gen. Ret., AT *Karl.Fuchs@gmx.at*
FVG	Riccardo Illy, Friuli Venezia Giulia
GAM	Groupement des Associations Meunières des Pays de l'UE *gam@ecco-eu.com*
GE Int.	General Electric International, Inc. *philip.challen@corporate.ge.com*
Hannl und Hofstetter	Hannl und Hofstetter Internationale Spedition GmbH *karl.hannl@hannl.at*
ICC	International Chamber of Commerce, IT *icc@cciitalia.org*
KPMG	Tax Advisors, BE *jpauwels@kpmg.com*
MEDEF	Mouvement des Entreprises de France
Meyer & Meier	Meyer & Meyer Internationale Spediteure GmbH *rschulte@meyermeyer.de*
OCEAN	Organisation de la Communauté Européenne des Avitailleurs de Navires *vds@shipsuppliers.de*
Orgalime	Orgalime Liaison Group of the European Mechanical, Electrical, Electronic and Metalworking Industries *Marcelle.Holloway@orgalime.org*
Port de Bruxelles	*portdebruxelles@port.irisnet.be*

Port of Dover	*john.knox@doverport.co.uk*
PostEurop	PostEurop Customs Working Group *posteurop@posteurop.org*
Santacroce/Fruscione	Benedetto Santacroce, Alessandro Fruscione, lawyers *studio@benedettosantacroce.it*
SITPRO	Trade facilitation agency, UK *info@sitpro.org.uk*
SNCF	Société Nationale des Chemins de fer France *fabienne.vaisson@sncf.fr*
TAG	Trade Action Group mhellstr*@hillandknowlton.com*
UNICE	Union of Industrial and Employers' Confederations of Europe *main@unice.be*
UPU	Universal Postal Union *info@upu.int*
VCI	Verband der Chemischen Industrie E.V. *kurz@vci.de*
G. Vitos	Georgios Vitos, Athens
VNO-NCW	Confederation of Netherlands' Industry and Employers *lammers@vno-ncw.nl*
WKÖ	Austrian Federal Economic Chamber *callcenter@wko.at*
Zollas Verzollungen	Zollas Verzollungen GmbH *mp@zollas.de*

3. Comments submitted by traders and others, by Title

Title I	**GENERAL PROVISIONS**	**(Articles 1 – 24)**

General comments shared by several traders

Summary overview: traders' comments		**Commission comments**
1a	**<u>Modernization in general</u>** Concerns: new rules in force before IT system in place.	The rules are needed as a legal basis for the introduction of IT systems.
1b	Concerns: new barriers to legitimate trade doing away with existing trade facilitations, such as local clearance.	Local clearance will remain available to authorised economic operators and will be merged with the current simplified declaration procedure .
1c	Common security policy belongs to EC Treaty or Constitution, not to CC.	Either customs or border police will have to deal with security.
1d	Extension of IT environment to e.g. certificates of origin, veterinary and phytosanitary certificates.	The CC can only deal with customs requirements; matters to be laid down in international agreements or fields other than customs cannot be covered by the CC.
1e	Investment in IT may be a significant burden for many companies.	Harmonized data and data exchange rules will save traders having to invest in different IT systems in the Member States.
1f	Single European Authorisations (SEA) must be expressly and prominently included in the modernized CC. Clarify whether or to what extent the status of AEO covers SEA.	The link between the two concepts is clarified in Articles 104 and 114 and the Explanatory Introduction.

2	**Structure of the CC**: No real simplification by regrouping the customs procedures and splitting them into different procedures again (Articles 4 and 72).	The number of customs regimes has been reduced, notably by merging inward processing with processing under customs control and abolishing the inward processing drawback system and control type II free zones. The distinction between 'customs procedures', 'other customs approved treatment or use' and 'temporary storage' has also been abolished; they will all be 'customs procedures'.
3	**IP, comitology** Concerns about the tendency to transfer more provisions to the IP and to use the management procedure: lack of transparency; European Parliament should be involved; keep the existing reaction period for the Council. Wish to attend the Committee meetings as observers or as active participants.	Modernizing customs procedures, adjusting them to international trade facilitation agreements and automating customs clearance systems requires a certain flexibility in the legislative process. All interested parties will be consulted when implementing provisions are drafted. Since the CC came into force, the Parliament has never exercised its right to comment on the process of adopting the implementing provisions for the CC. Due to the large number of Member States represented on the Customs Code Committee, it would not be helpful to add more participants. In individual cases, a presentation by traders is possible. Written comments are distributed to the Committee.
4a	**Agricultural products** Opposition to the deletion of standard coefficients (advantages: no differential treatment of exporters / Member States, no discussion on small differences, no unnecessary administrative controls, faster customs procedures, etc.).	Standard coefficients laid down in Regulations can only be changed every year or even less often; they are therefore not be in step with economic and technological developments. The abolition of standard coefficients contributes to deregulation, as generally requested by traders.

4b	References to all existing controls in the field of food security (including ISO-certified internal controls).	The CC cannot list all types of controls on goods in detail. Therefore, a general reference has been introduced.
4c	Reference to the unit value system for fruit and vegetables should be maintained (alleviation of administrative burden).	It is not appropriate to fix customs values by means of a Regulation. A solution will be provided in the implementing provisions for cases where no transaction value exists.
5a	**Various** Reference to the principle of confidentiality at control level.	 This has been introduced in Article 5 REV4.
5b	Avoid inconsistencies of interpretation.	This is one of the aims of the proposal.
5c	Counterfeit products and the consequent threat to consumer confidence in the safety of garden machinery: coordinate the development of a centralised market information system with the modernisation of the CC.	This is outside the scope of the CC.
5d	The economic function of customs duties ('Wirtschaftszoll') should be clearly laid down in the CC.	The current CC is already based on this principle; this aspect will be strengthened in the modernized CC by reducing the number of cases where obvious negligence leads to customs debt.
5e	CC must include all specifications of the Kyoto Convention (actual wording).	The principles of the General Annex have been respected. Most of the substance of the Specific Annexes has also been incorporated in the proposal, except where these specifications are to be taken on board in the implementing provisions.

Article 1

1	Put this general political declaration into a preamble to the new	Community Regulations do not have a preamble. What appears in the

	Customs Code.	recitals must be specified in the Code itself. The mission statement contains the objectives of customs. From a legal point of view, there is no option other than putting it into an Article.
2	Title 'The mission or the role of customs legislation' (mission of customs falls under the organisational competence of the Member States).	The aim of this provision is to have a common mission and vision for all customs administrations in the Community.
3	Add clause on dialogue between customs and traders before changes are implemented (principle of transparency).	This has been done already (cf. Articles 1, 5, and 162(4)).
4	Second indent: 'keeping customs formalities and controls to a minimum level...'	This has been taken into account: '…a level necessary…'.
5	Seventh indent: Single window, one-stop shop, and cooperation between authorities will improve competitiveness of EU traders if international standards (e.g. UNECE, UN CEFACT) are adhered to.	International standards will be followed as much as possible.
6	Eighth indent: 'security' and 'safety' translated with one German word ('Sicherheit'); definitions of the English meanings of the two terms.	Two different expressions have been found (see German version).

Article 2

1	Can customs legislation subject to Regulations other than the Customs Code (CC) be incorporated in the implementing provisions for the CC?	Yes. A reference to the customs tariff has been added.

2	'Customs rules': overall term; 'other Customs legislation' is therefore superfluous.	The terminology has been aligned.

Article 3

1	(1), Tenth indent: add 'and of the Free Port of Trieste's free zones designated and protected under Annex VIII to the Peace Treaty signed in Paris on 10 February 1947, in which goods are considered to be situated outside Community territory'.	Any extension of national derogations must be avoided, as the objective of the reform is to abolish them as far possible. International treaties will, however, remain applicable.

Article 4

1	Arrangement in alphabetic or other order.	Alphabetic order is impossible (20 different Community languages); the definitions have been rearranged generally in the order in which the terms appear in the modernized CC.
2	Add definition of postal traffic in order to avoid express couriers benefiting from rules valid only for UPU members	A definition is provided in the Articles on transit (Articles 122(2)(f), 125(2)(f)).
3	Add definitions of 'appointment' and 'representatives'.	The term 'representative' is defined in Article 9 Rev4.
4	Add definitions of 'safety' and 'security'.	These terms are in common usage and have no other meaning in the context of the CC
5	(2) 'Person established in the Community': Inclusion of fiscal representation (B-to-B and B-to-C e-commerce).	This has been done (cf. Article 9).
6	(10) 'Import duties': The deletion of term 'and taxes of equivalent result' is not in line with Article 24 of the EC Treaty (tax of	Article 24 applies to intra-Community trade, the CC to extra-Community trade.

	equivalent effect).	
7	(14) 'Customs controls': 'and other legislation' is superfluous (Article 2(1)).	Customs authorities also perform acts based on Regulations other than the Customs Code.
8	(16) 'Customs formalities': doubt as to whether the draft covers all possibilities. Replace by definition in General Annex, Chapter 2 E9./F16. of the Kyoto Convention: 'all operations which must be carried out by the persons concerned and by the Customs in order to comply with Customs law.'	No example has been given of formalities not covered by the current definition. The CC definition is more precise, but does not contradict the one in the Kyoto Convention.
9	(19) 'Presentation of goods to customs': Specify the minimum requirements for the notification.	Given the variety of situations under which goods arrive, this is impossible.
10	(21) 'Holder of the goods': Keep the Rev 2 definition: 'Holder of the goods means the person who is the owner of the goods or who has a similar right of disposal over them'. Clarify which person is responsible for making the declarations; link to the declaration.	This definition is too narrow for certain cases (e.g. temporary storage where no owner or person with similar rights is available). The link to the declaration is made in the operational part of the CC.
11	(25) 'Risk': Is it really possible to define 'risk' without making it too wide or too narrow?	The current definition is a compromise which should essentially cover the contents of this term in the context in which it is used.
12	(26) 'Risk management': Central management of risk criteria by the Commission. Rules on data protection are opposed to the exchange of information concerning economic operators. Multinational traders face risk of unequal treatment because of common system: Wrong customs declaration (entry mistake) in one given Member State	This is intended (cf. Article 8(4), 20(2)). If a trader wants to be recognised in other Member States, he must accept the exchange of information on infringements of the customs rules.

	(MS) could lead to disadvantages in all MS.	
13	(27) & (28) Clarify the use and the legal value of 'Guidelines' and 'Explanatory notes' (freely available to operators and legally binding?). Will operators be consulted before guidelines and explanatory notes are agreed upon and published? Rules in new instruments like explanatory notes will not replace national guidelines (too complicated).	Explanatory notes and guidelines already exist. They constitute an aid to the uniform interpretation of Community law and are publicly available. Yes, this will be the case as far as possible. The aim of these instruments is to replace the corresponding national instructions.

Article 5

1	(1) What are the exceptions to the mandatory IT link between customs and economic operators to be determined under the committee procedure? As long as there is no single, EU-wide computer system, all economic operators that are neither established nor have representatives in a given Member State should be exempted from the obligatory use of a data processing system in that Member State.	This problem will be solved through the 'single access point' concept. Already, a trader who wants to enter goods for the Community or common transit procedure must do this electronically in the MS where the procedure starts.
2	(2) Provide for strict data protection rules.	The Community data protection rules apply.
3	Participation of traders in meetings of the Customs Code Committee.	Prior consultation will take place and, where technical expertise is required, experts can be invited..

Article 6

1	Concerns: data protection.	The Community data protection rules apply.
2	Giving access to the computer systems of economic operators should not be a prerequisite for the memorandum of understanding.	This is not the case.
3	Access to the computer systems of economic operators by the customs authorities may create technical hazards. Transfer of data is preferable.	The operator can choose whether to send the data or give customs access to them.
4	Barrier to trade rather than facilitation; inclusion of a reference to enhanced facilitation for traders. Purpose and implications of MOU?	The aim of memoranda of understanding (MOU) is enhanced facilitation and reciprocal assistance.
5	MOU on voluntary basis.	This is the case.
6	For cooperation in identifying and countering risks, the economic operator should be provided with a higher level of facilitation.	COM shares this view.

Article 7

1	(3) Representatives of European associations as observers on the Customs Code committees.	Invitation as experts is possible. Written documents will be submitted to the Committee..
2	(3) Kyoto Customs Convention, General Annex, Chapter 1, Standard 3: 'The Customs shall institute and maintain formal consultative relationships with the trade to increase co-operation and facilitate participation in establishing the most effective methods of working commensurate with national provisions and	The substance of this provision is reflected in the CC. See Article 7(3).

	international agreements'.	

Article 8

1	Reciprocal assistance between customs and traders.	This is what memoranda of understanding are intended for (Article 6).
2	Not every person involved in the transport will be able to lodge all necessary documents and information.	This is not a new requirement.
3	Liability for false information is prohibitive and incalculable.	The issue covered by this provision is who bears the *consequences* of false information.
4	Principle of proportionality must be respected as regards mandatory assistance.	The principle of proportionality is part of primary Community law.
5	Articles 8 and 46: Responsibility of customs representatives: for any irregularity within their control, for any negligence; for acts of their customers where they assume this responsibility. Direct representation: binding on the principal and the third party. No shift of public responsibilities to the private sector if the latter cannot control them.	By signing a declaration, the person signing takes over some responsibility (cf. current Article 199 CCIP). The financial burden of errors and the extent of this responsibility are arguable.
6	(2): No sanction for infringements? Relation between Articles 8 and 46?	The framework for sanctions will have to be laid down under the committee procedure (cf. Articles 18, 19). In certain cases, it may be sufficient to apply only administrative penalties, in others (e.g. smuggling) a customs debt will be incurred as is already the case today.

Article 9

1	Support withdrawal of the possibility to restrict customs representation to customs agents (charges of licensed brokers — cost savings, competitiveness). Opposed to withdrawing the possibility for Member States to restrict the right to lodge customs declarations to specific categories of designated qualified professionals with an appropriate record of compliance with customs requirements, proven financial solvency, satisfactory system of commercial management and safety and security standards. Opposed to withdrawal of the right to restrict customs representation: customs agents provide better performance; skills and access conditions necessary. Subsidiarity principle – most appropriate national approach to combat fraud and tax evasion.	Understandably, the representatives of customs agents are arguing for the maintenance of restrictions in their favour, whilst the users of customs representation favour liberalisation. The reasons for the balanced approach of the Commission are set out in the Explanatory Introduction.
2	Responsibility of the driver: financial situation often uncontrollable; it's not the driver who introduces goods into the customs territory.	According to a recent judgment of the European Court of Justice, the company employing the driver is normally liable as well.
3	Arrangements to permit customs representation on the part of legal persons?	Both natural and legal persons are covered (cf. Article 4(1) CC).
4	(6) Why added to Article 9? No preference with regard to Article 10 should be given to a particular person involved in the supply chain. Appreciation of the insertion of an explicit reference to customs service providers. But opposed to the withdrawal of the right to restrict customs representation, unless there is a definition of the	As the controversial comments show, the text is a balanced compromise.

	criteria for the recognition of customs agents (financial solvency, compliance record, competence). Appreciation of AEO status for commercial customs agents. Representatives must be able to apply for AEO status, even if not acting on a regular basis on behalf of all their clients. Delete 'or on behalf of another person'. 'on behalf of' is not explicit as to direct or indirect representation; better: 'in the name of or on behalf of' (includes both). 'regular and commercial basis' should be replaced by 'on a professional basis'. Better to add to para. 1 of Article 10, in the first subparagraph: 'acting in its name or in the name of or on behalf of another person'.	Criteria for the recognition of AEO will be established in the implementing provisions; customs agents can benefit from this status both with regard to security and with regard to facilitations. These terms aim at excluding persons who act either on an occasional basis (i.e. regular) or without remuneration (i.e. professional).

Article 10

1a	**<u>Recognition in all MS; common standards</u>** In favour of status of AEO being valid in all Member States. AEO is an opportunity to establish a genuine single procedure in the EU: same simplified procedures allowed in all MS, without further auditing requirements set by national administrations. Having common standards in all Member States for the authorisation of economic operators is essential to ensure predictability for economic operators approved for simplified border crossings. Authorisations without different conditions in the MS are	The conditions for withdrawals will be laid down in the implementing provisions. Interested parties will be consulted. It is the obligation of the Commission to ensure a level playing field within the Community.

	inevitable given the Single Market, the Customs Union and the need to conclude agreements with third countries on the reciprocal recognition of facilitations. AEO status includes the Single European Authorisation (SEA), valid in all Member States. Only the customs office which has authorised the AEO should be able to withdraw the authorisation. Mistakes at one place should not lead to the withdrawal of the authorisation for all Member States. Doubts: harmonisation of customs systems throughout the EU, including the new MS.	
2a	**<u>Simplifications for AEO</u>** Costs entailed by the new system should be minimised and compensated by simplifications based on a cost/benefit approach.	If there were no benefits, traders would not apply for AEO status.
2b	AEO should not be subject to the same level and type of controls applicable to other operators. Simplifications of customs procedures and audits. At least the current level of authorisations and simplifications; transition period for existing authorisations. Simplifications should not be limited to the security measures but cover the whole field of customs law. AEO status: goods can land or depart in any MS whilst the declaration is lodged with the supervising office of just one MS, not only for customs, but also for VAT, trade statistics and	The AEO status will be linked to different types of simplification. The frequency of audits will be influenced by the reliability of the traders in question. The CC can support a common approach, but it cannot regulate VAT, statistics, or licences.

	import/export licences. The goods can move from the point of release to the final destination or from the point of departure to the external border without any customs formalities. After the release of incoming goods: deemed to be under the customs warehousing procedure; arrival at destination: transferred to any customs procedure by entering them into the accounts. Control of import/export transactions is fully based upon business records. The administrative controls and periodic audits are uncoupled from the physical goods flow. The AEO should be exempted from the obligation to submit (summary) declarations, to present the goods to customs during the physical goods movement. Instead: customs authorities may access the transaction data in the operator's electronic system. AEO status covers release into free circulation, export and customs regimes with economic impact. Ideal solution for AEO: entire customs process handled in one operation (any further tariff declaration and NCTS operation superfluous).	These options will be provided for; however, it will also be possible to release goods for free circulation at the customs office of entry under centralised clearance. This option is provided. Transit can be avoided if the goods are immediately entered for another procedure.
2c	Stairway concept (higher ranking, more substantial simplifications). Type and extent of facilitations should depend on level of compliance. Framework for classifying and certifying economic operators recognised by all Member States.	This is also COM's aim.
2d	Simplifications for some AEO will lead to repercussions for small economic operators. Risk management should not favour large	Smaller firms can also benefit from the AEO concept.

	operators.	
3a	**<u>Criteria and responsibilities of AEO</u>**	
	Criteria for the qualifications of AEO: selective, but: moderate solution concerning the responsibility of customs agents (significant risks and a highly competitive environment).	A balanced approach is sought.
	Criteria and rules for AEO should be based on measurable and assessable objective standards, allowing periodic benchmarking and evaluation. Ideally: independent organisation for monitoring. Clarify scope of authorisation, type of simplification, qualifications of different service providers.	These are matters for implementing provisions.
	Safety and security criteria: clear, harmonized at global level, accepted by all EU Member States. Certification by security organisation recognised by the EC; for all parts of a company including its affiliates and subsidiaries; recognised by all Member States. Random checks.	Where global standards exist, they will be taken into account.
	Avoid duplication of security requirements (many industries already comply with strict security requirements). Whole supply chain taken into consideration (not just economic operator which directly interacts with customs). Agricultural food sector: already subject to strict controls (food safety in the whole supply chain). Additional controls and consequent costs would lead to a competitive disadvantage for smaller companies.	Customs security standards cannot differ according to branches of industry. Security standards are of a general character, safety standards are product-specific.
	Security-related requirements must not be a pre-condition for obtaining or keeping fiscal simplification.	COM shares this view.

3b	Automatic status of AEO for basic postal services. No guarantee if financial solvency can be proved.	COM will aim to create a level playing field for all competitors.
3c	Personal conditions or criteria for receiving an authorisation should figure in one place only.	See Rev. 4, Article 10, AEO, and Article 114, Special Procedures; these Articles cover different cases and cannot be merged.
4	Authorisation in principle for an indefinite period.	This issue will be addressed when the implementing provisions are drafted..
5	Insufficient link between the risks related to customs and those related to terrorism. Security against terrorism should be assured by police measures and structural interventions, whereas customs-related security should relate to goods and economic operators and be enforced by preventive measures and strict procedures.	Both types of control need to be brought together (single window, one-stop shop). Police deal with people, customs with goods.
6	Authorisations should still be granted to operators outside the EU as well.	This remains possible (Article 10(2)).
7	Customs procedures should not be moved from the border to inland customs offices at any price; declarants' quality is a primary objective.	The importer keeps both options.
8	For a simple comprehensive guarantee, an authorisation should not be necessary.	A comprehensive guarantee may be permitted as a means of facilitation..
9	Implicit reference to Article 76 (simplifications with regard to customs supervision): problematic as the scope of Article 76 risks being too closely related to the AEO concept on the one hand and being very wide on the other.	An explicit reference has been added.

10	There is no clear definition of ‘security’. Translation problem: no German distinction between security and safety.	This is a common language term. Two different expressions have been found (cf. German version REV4).
11	(2), first indent: ‘an appropriate record of compliance with customs requirements’: would exclude any new person and should be replaced by: ‘an appropriate record of compliance with customs requirements or other evidence of professional competence in complying with customs requirements’.	The alternative proposal would not solve the problem of newcomers either because they do not have professional competence in the customs area.
12	(2) and 9(6) No special treatment for licensed or accredited brokers to the detriment of other traders. Equal conditions throughout the Community.	The question as to whether specific qualifications are required for customs representatives will be addressed when implementing provisions and guidelines are drafted.

Article 11

1	In favour of obligation for customs authorities to issue decisions and notify the applicant in writing within two months. What legal consequences if the customs authorities do not keep the deadlines (reply or notification within 2 months)?	An appeal can be lodged.
2	Application in electronic form — response should be in the same format.	This is in principle one of the aims of the proposal.
3	(2) What happens if the request is made orally? A short uniform time limit may run into difficulties. Unclear: ‘as soon as possible’: only for the rare verbal requests?	Oral requests will normally be answered orally as well. This applies to all requests.

4	(4) closely linked with Articles 12 and 13 of the draft — making an unfavourable decision more onerous should be subject to very much the same rules as amending or withdrawing a favourable decision. Customs authorities may annul, amend or revoke any decision that does not conform to the interpretation of the customs rules: far too suggestive; could mean that customs authorities could revoke any decision at all times: unacceptable, undermines the value of decisions.	The rules for unfavourable decisions apply if a decision has an unfavourable effect, e.g. the rejection of an application for an authorisation. Errors must be corrected. The proposal only clarifies what is already the case today.
5	(5) How could the validity of decisions throughout the Community be enforced? Great improvement.	National administrations and courts are bound by Community law.

Article 14

1	Opposed to binding character prejudicial to the holder (appeals would have to be lodged at an early stage).	Clarifying the situation from the outset is, indeed, the intention behind the proposal: anyone who disagrees must appeal without delay.
2	Explicit reference to valuation decisions would be helpful.	The proposal aims at allowing more possibilities than just valuation decisions.
3a	<u>Validity of decisions</u> Concerns: shortening the validity of classification decisions to three years (even rapid changes in technology and patterns of trade will, in most cases, not change the classification decisions).	The validity of classification and origin decisions has been aligned. The three-year period is more in line with the pace of technological change.

	In favour of a shortened validity period, reissuing decisions must be possible in an easy way.	
3b	No retroactive effect of decisions means that excess duties paid can only be recovered through a duty refund procedure, not through appeal.	These procedures are independent from each other and can be pursued in parallel. However, an appeal against a classification decision does not automatically lead to the repayment of duties.
3c	Clarification: validity throughout the Community. Decisions valid for all subsidiaries of a company group.	As all decisions will be valid throughout the Community, unless otherwise stipulated, such clarification is not necessary This is possible.
4	What will happen to the BTI and BOI databases? Concerns: validity throughout the Community will make the administrations try to find a way around taking formal decisions. Better: 'Binding tariff decisions' and 'binding origin decision'.	Only the BTI database will continue to exist. Anyone applying for a classification decision is entitled to receive such a decision. Decisions are, by definition (cf. Article 4(24)), binding.
5	Possibility of issuing future classification and origin decisions to several holders should be indicated.	This is laid down in Article 4(24) REV4.
6	(1) The tariff number may be necessary to determine the applicable VAT rate — information independent of import/export.	The CC only deals with extra-Community trade and customs duties.
7	(3), second indent: There should be no obligation to use the origin decision. European importers are satisfied with the present system.	If someone applies for an origin decision, he ought to use it. If he disagrees with the decision, he must lodge an appeal.

8	(5) better: 'every *material* respect' (many BTI rulings indicate features that do not affect classification).	The description on the BTI has to be precise in order to allow customs officials at the border to clearly and quickly identify whether the products presented correspond to those described in the BTI. The adding of the word 'material' does not resolve the underlying problem, which is that only features relevant for classification purposes are taken into account for deciding whether or not the goods declared correspond to those described in the decision.
9	(7) Proposal: grace period if a decision is revoked due to an error by the customs authorities.	As under the current Code, a period of grace will be granted in these cases.

Article 15

1	(2) The ECJ has indicated that the initial step of appeal should not be considered compulsory (not fully reflected). Unclear: 'may'. The right of appeal should be two-tiered at both Customs and independent-body level.	An appeal may be directly lodged before a court where national legislation provides for this (Article 15(2)(a)). This reflects the jurisprudence of the EJC.
2	'Appeals' should be placed towards the end of the new Code.	As appeals are directed against decisions, both issues belong together.

Article 18

1	Unclear: line between administrative sanctions and other criminal sanctions.	Administrative sanctions are imposed by administrations and not by a court
2	Provisions for such measures after the 'Customs debt – Chapter'.	Reason for this structure: administrative sanctions are decisions.
3	Article 18 denies the right of appeal to importers in countries that	As long as the sanction is imposed by the administration, even if later

	base their customs legislation on criminal law (UK: any appeal based on criminal law). Unclear.	vetted by a court, this provision would apply.

Article 19

1	General Opposed to administrative penalties. However: if they exist there should be a level playing field for all operators in the Community. Administrative penalties are very different in the EU-25. Idea of harmonisation is in principle acceptable, but practical and political problems. Too early.	COM intends to pursue the objective of a level playing field for economic operators in the Community.
2	Legal basis – MS competence Reg. 2988/95 adopted on the basis of Article 235 [308] EC; comparable rules cannot be enacted in the Customs Code on an entirely different basis in the Treaty. Measures going beyond customs matters (compensation of unnecessary administrative efforts or delay in receiving money) in separate legal act based on Article 308 EC. Criminal law of Member States cannot be ruled out by this provision. Administrative penalties linked to infringements; competence for their definition, the verification of the circumstances and the determination of the penalties belongs to the MS, even the accessory ones such as the so-called administrative penalties. No legal foundation for criminal law in CC. Infringements listed	As in the agricultural sector, administrative penalties exist already; the legal possibility of harmonizing administrative penalties should no longer be a contentious issue.

	could be viewed as acts that can be prosecuted under criminal law — repercussions for the (extended) period for additional assessments.	
3	Objectives Specify conditions of control, information of companies, rights and obligations of companies under investigation; improve transparency in the process of deciding penalties. Aim of draft to compensate for non-incurrence or remission of customs debt is not met by penalties, which require intention or negligence.	These issues will be considered once a framework for harmonizing administrative penalties has been agreed. If agreement on penalties is reached, certain cases of negligence may not need to be treated under the rules on customs debt.
4	Criteria, elements Reference to operators' rights during controls and possible investigation procedures, assurance of a transparent decision-making process on penalties and general principle of confidentially. Administrative penalties must be relevant and proportionate. General Annex, Chapter 3, of the Kyoto Convention, Standard 39 (no substantial penalties for inadvertent errors without fraud or gross negligence). Customs agents should at least be held responsible for gross negligence. Criteria should be set out in CC rather than in CCIP or guidelines. Harmonisation of administrative penalties throughout EC is a	Detailed rules can only be laid down in implementing provisions or guidelines. It is impracticable to set out the criteria in the CC, given that the rules that would be infringed are set out in both the CC and the implementing provisions.

	crucial issue that will require close monitoring by the European Commission to ensure fair and equal application amongst all EC Member States.	
5	Right to appeal against decisions, safeguards protecting against arbitrary decisions; in line with WCO Kyoto Convention.	As administrative penalties are decisions, the provisions on decisions will apply. This Article reflect the substance of the WCO Kyoto Convention.

Article 20

1	References to existing controls (including ISO-certified internal controls) to avoid unnecessary additional controls.	This may be considered when implementing provisions and guidelines are drafted. However, customs authorities have an unrestricted right to control goods
2	Risk analysis implies that conscientious companies will have fewer controls; controls to concentrate on other activities.	COM shares this view.
3	(2) 'Spot checks': Customs would have to explain that this means checks without any 'suspicion' or to determine whether there is a risk. Guidelines on risk analysis should be accessible to trade and industry.	This term has been changed to 'random checks', which better describes the method used. This will be considered. However, certain parts must necessarily remain confidential.
4	(4) No limitation of use (goes beyond administrative assistance according to Reg. 45/2001); but limitation to pure cooperation and assistance for the execution of controls?	Yes, this is correct.

Article 22 [replaced by Article 23 in REV4]

1	If changes in exchange rates during a working day are reflected, application would cost more than the financial result. Exchange rates for the next monthly period should be established on a fixed date. Obsolete article. Easily possible to have real-time access to rates of exchange; unnecessary for customs to publish rates of exchange.	The exchange rate will be established on a fixed date and maintained for a certain period (e.g. 2 weeks or one month), as is already the case today. Cf. opposite opinion of other traders. Customs will not publish exchange rates.
2	Rules in CCIP: less transparent.	Implementing provisions are just as transparent as rules in the CC, given that they are both published in the Official Journal.

Article 24 [replaced by Article 25 in REV4]

1	Economic operators should be associated with the simplification process (e.g. information to the trade, observation at meetings, consultations between trade and national administrations).	This is and will remain the case. Only participation in meetings of the Customs Code Committee is exceptional.
2	Deviation from the base legislation by providing simplifications in the CCIP is not legally possible. Welcomes possibility for simplification.	This provision exists already today (Article 19 CC).
3	Main legal bases in CC instead of IP.	Not everything can be foreseen in advance.

Title II	**FACTORS ON THE BASIS OF WHICH IMPORT DUTIES OR EXPORT DUTIES AND OTHER MEASURES PRESCRIBED IN RESPECT OF TRADE IN GOODS ARE APPLIED**	**(Articles 25 – 34)**

Article 26 [replaced by Article 27 REV4]

1	Abolition of textile and clothing quotas and special proof of origin at the end of 2004.	This does not require a change to the customs rules.

Article 27 [replaced by Article 28 REV4]

1	Enumeration of goods originating from a Member State: essential (cf. Article 23 EC Treaty); should be in the CC, not in the implementing provisions.	Only a change of habits is required when detailed technical rules are transferred to the implementing provisions.

Article 28 [replaced by Article 29 REV4]

1	What kind of additional proof? (Certificate of origin = officially issued document — additional proof should have official status).	This is not a new rule. No change of practice is intended.

Article 29 [replaced by Article 23 REV4]

1	General relief for goods of Community origin: EU goods or those of EU origin should be put on the same footing as goods of origin according to origin agreements; relief should not be limited to specific conditions for returned goods.	Duty relief for goods of EU origin poses problems relating to proof and to the processing of goods outside the customs territory for which no import duties could be charged upon re-importation.

Chapter 3 (Articles 30-34 [replaced by Arts. 31-34])

1	Rules are not shortened by shifting them to the IP. WTO provisions in particular will certainly not require rapid amendment.	One of the aims of the modernized CC is to transfer detailed technical rules to the implementing provisions where they can be updated in a more flexible manner.
2	Valuation declaration (now form DV1) superfluous in a widely computerised customs system.	This issue will be considered when implementing provisions are drafted.

Article 32

1	Possibility of allowing adjustments for certain data which are not quantifiable at the time the customs value is declared (cf. Explanatory Introduction) not yet in Article 32. (1) (e): Costs of transport and insurance under (i) may also only be added until arrival at the place of introduction into EC customs territory.	As such a provision already exists today (Article 145 CCIP), there is no need for a specific legal basis. This has been transferred to the implementing provisions.
2	(6) Not only additions but also deductions should be listed in the CC.	Both will be dealt with in the implementing provisions in order to achieve the requested coherence.

Title III	**CUSTOMS DEBT**	**(Articles 35 – 72)**

General comments shared by several traders

1	Place of Title III is not justified (depends also on the obligations resulting from the procedures).	This place is motivated by the fact that the title dealing with customs debt (title III and formerly title VII) also covers guarantees, which are requested at the beginning of a procedure. Moreover, the customs debt is closely linked to the customs tariff, customs value and the origin of goods.
2	Member State in which the debt is due should be able to waive the collection of duties in order to prevent serious economic or social difficulties.	A pure and simple renouncement of the collection of duties in such circumstances would be unfair vis-à-vis other traders and debtors. Such difficulties should be alleviated more appropriately through payment facilities and a guarantee waiver. This is provided for in Article 65 REV4.
3	Principle of economic purpose of customs duties (‘*Wirtschaftszoll*’) is well reflected in the modernized CC. In favour of withdrawal of distinction between Articles 202, 203).	This is reflected in the new Article 46 REV4.

Chapter 1 (Articles 35-43)

1	Too rigid guarantee requirements.	More flexibility would entail a risk of divergence between Member States.
2	VAT and excise duties should not be subject to rules in CC.	This is only a *reference* to VAT and excise rules. This reference will be

		amended so as to read '**other charges**, such as VAT and excise duties'.
3	Waiver for certain means of transport should be re-introduced.	This is a matter for the implementing provisions. A level playing field for all competitors should be achieved.

Article 35

1	Some traders are in favour of mandatory guarantees, except for VAT (if subject to deduction system), others are in favour of guarantees covering customs debt, VAT and excise duties. Some traders would be in favour of guarantees covering several operations, declarations and procedures. (2) Clarify: the guarantee will cover not only the customs debt but also VAT and excise duties, where the provisions for these duties allow for this (Explanatory Introduction) and where the 'VAT and excise provisions' mentioned in the text refer to EC legislation or to EC and national VAT and excise provisions.	This issue will be considered. This will be possible where authorised.(Article 35(5) REV4). As there is no reference to Community provisions, both Community and national duties or taxes are covered. See point 2 under 'Chapter 1 (Articles 35-43)'.
2	(3) Community validity of guarantees: it must not be possible to restrict their validity to a national territory.	If an operation covers only one Member State, no additional costs for a Community-wide guarantee should be incurred.
3	(6) States and public corporations should not be required to provide mandatory guarantees. Clarify that this provision applies only to Member States and corporations of MS.	This rule already exists in Article 189(4) CC. It appears necessary to limit this provision to the activities where these authorities act as public authorities.

Article 36

1	Guarantees should be the exception rather than the rule (if there is	Where duties are suspended or payment is deferred, the State must have

	genuine doubt as to the importer's ability or willingness to pay potential duties).	sufficient guarantees that they will be paid.
2	Put in place a provision permitting commercial organisations to provide blanket guarantees and deferment accounts.	Such a provision would be more suitable for the implementing provisions. See current Article 857 CCIP.

Article 38

1	If an applicant under Article 38 has to be an AEO, the criteria of paras. 1 and 2 should already be met by the authorisation under Article 10. Is there a need for an AEO if the same or similar requirements are set for various simplifications and issues? In favour of setting out the criteria for obtaining a comprehensive guarantee reduction or waiver based on the existing transit provisions. Criteria must not exclude SMEs.	There is a link between Article 10 and 38, but not in all cases (see transit). The holder of a comprehensive guarantee must, however, be an AEO (Article 38(2) Rev4). This is reflected in Article 38. SMEs are not excluded.
2	(2) How should deferred payment operate with individual guarantees? Why should a reliable debtor not benefit from a guarantee waiver?	Where payment is generally deferred, a general guarantee will be requested. It appears necessary to treat differently situations where the debt is potential (transit for instance) and situations where the debt is incurred (situations where deferred payment may be used). In the second case, a guarantee covering the amount of the debt should be provided in any case. In the other cases, where duties are suspended, the authorities must have sufficient guarantees that, where a debt is incurred, its amount will be paid.

Article 40

1	(3) Guarantees by instruments equivalent to cash (e.g. securities, 'Verpfändung von Wertpapieren') should be recognised by other MS.	This will be considered. However, it is worth noting that any further harmonisation that may appear necessary in this field would fall outside the scope of the Customs Code (see, as evidence of this difficulty, current Article 857 CCIP).

Article 41

1	No discrimination between banks in different Member States, but what about banks in an EEA State? Acceptance of a guarantor not established in all Member States may lead to legal problems with recoveries.	The principle of the Single Market (and for transit in an EEA country) must be respected.
2	Responsibility for amounts levied as a result of post-import verification extends the guarantor's liability excessively (Articles 41 and 43: post-import verification — guarantees only released after 3 years). Clarify: accessory surety instead of 'guarantee' in the proper sense (akzessorische Bürgschaft, nicht Garantie).	The intention is not to increase excessively the amount of the guarantee. The existing guarantee should be used where it appears that an amount covered by a guarantee at the time of payment of the debts has not been paid. A guarantor undertakes to pay for the debtor without any reservation that customs tries first to receive payment from the debtor.

Article 44

1	Partial relief: there should be no customs debt on release but only when the conditions excluding total relief are fulfilled like in other cases of temporary importation.	The current wording of Article 201 CC has been kept in order to avoid the retroactive incurrence of a customs debt.
2	Debt should arise on release of the goods, not on acceptance of the declaration.	The declarant is responsible for the content of the declaration. This declaration has legal effects from the time of its acceptance. Making incurrence of the debt dependent upon the release of the goods would

		contradict this logic.
3	Direct representative should not be debtor.	The text has been changed and aligned with the current Article 201(3) CC; the condition that national law must provide for being a debtor has been lifted in order to create a level playing field.
4	(3) Opposed to liability of declarant, even when acting in bad faith.	Please note that 'declarant' is used in Article 44(3) in the meaning of the definition given in Article 4(14) of the draft. Moreover, anyone who makes a wrong declaration in bad faith ought to be liable to duties (unless the goods are not subject to duties). There is no reason to exempt declarants from this principle.

Article 45

1	Proof of origin issued retrospectively: when will the customs debt be incurred (acceptance — interest on late payment)? There should be exceptions to the principle laid down in Article 45(2).	The text is clear: there will, of course, be no interest on late payment if the proof of origin is issued retrospectively.
2	If the person issuing the proof of origin is neither the declarant nor the sender of the goods, he never becomes debtor.	The issue is not that the person in question never becomes debtor but rather that it is impossible to effectively recover the debt from him.
3	'No drawback rule': clarify the relationship between the origin protocols referring to 'destination for domestic consumption' and provisions in the CC.	The purpose of this provision is to determine the event which leads to the incurrence of a customs debt.
4	Clarify that the customs debt is incurred when the goods are released for free circulation.	The two cases in which a customs debt is incurred are clearly defined.

Article 46

1	In favour of combining the current provisions (Articles 202, 203, 204 and 206) in one Article. Afraid of restrictive interpretation of the term 'obvious negligence' by the customs authorities.	This term is not used in Article 46..
2	Even though customs declarations will be of much better quality if the declarant is responsible for them (common usage in Switzerland), his responsibility should not be exclusive.	There is no such principle in the Customs Code as 'exclusive responsibility' (see Article 51 REV4).
3	Articles 46, 77 and 79: Clarify: the driver who introduces goods into customs territory should not be responsible (or jointly with the represented person).	Normally, the person represented is liable as well (cf. Article 74(2), 77(2), 79(1)).
4	Articles 8 and 46: the responsibility of customs representatives must be limited to irregularities within their control, for any negligence; they should only be held responsible for acts of their customers if they *decided* to assume this responsibility. Rules concerning the responsibility of representatives should be left to civil law not to the CC. Articles 8 and 46: Violation without penalty?	Customs law cannot make the incurrence of a customs debt dependent on the contractual arrangements between the importer and his representative. Infringements of customs rules may lead to a penalty and in certain cases to the incurrence of a customs debt.
5	(2) (a) Clarify: non-fulfilment of the first obligation in the course of an operation or procedure will cause the debt to arise.	No, the purpose of this provision is to have a more global approach than hitherto.
6	(3) Change current practice which has led to various responsibilities with regard to customs debts and penalties. No debtor without knowledge of smuggled goods. Current economic reality: often no controls by shipping companies.	The idea behind the proposal is to hold liable for the duties those people who are responsible for fulfilling the obligations linked to them.

	(3) (a), second indent: 'any person who acted on behalf': add 'and who was aware or should reasonably have been aware that an obligation under the customs rules was not fulfilled'.	Representatives will not be privileged (cf. answer to comment 4 above).
7	(4) Opposed to liability of the direct representative. Only 'substantial' errors should determine the incurrence of the debt (not if immediately rectified). Responsibility for the customs debt should depend on objective criteria and be in line with the Member States' rules on direct and indirect representation. Why the distinction between direct and indirect representatives if they can both be considered debtors? Contradiction with the concept of direct/indirect representation and the principles in Article 9. The receiving postal operator should not be punished for wrong information provided by the sender. Postal operators should be exempted (conflict with their obligations under the Universal Postal Convention). Restrict responsibility of the acting person/principal to fraud.	Why should certain representatives be privileged? This issue is dealt with under the rules on the extinction of customs debts. The application of the CC cannot vary according to national rules. The text has been changed. This issue will be considered. However, it is not possible to release certain economic operators from all obligations under the customs rules. As fraud is difficult to prove, obvious negligence has been maintained.

Article 50

1	Possible for COM to make provisions 'for the purposes of criminal law'?	This has been taken over from the current CC.

2	Re-draft last sentence as follows: 'If a Member State takes customs duties as the basis for taking penal proceedings or for determining penalties, this Member State shall be free to proceed for these purposes as if the customs debt had arisen.'	This can be considered at a later stage.

Article 51

1	To what extent will this principle (according to which the debt should first be recovered from persons who deliberately infringed the rules) be obligatory for authorities?	National authorities' obligations should consist of making reasonable attempts to recover the debt from 'deliberate offenders'.
2	In favour of the principle of priority given to persons who have deliberately infringed the customs rules. 'priority should be given' should be replaced by 'priority shall be given'. 'Priority': attempts or simple assessment of possibilities to collect duties from such persons? What if the 'priority' debtor is insolvent? Liability of declarant acting in good faith?	Attempts must be made to hold the 'priority' debtor liable; if he is insolvent, the other debtors will be called upon.

Article 53

1	(2) Clarify that this special assessment rule also relates to non-Community goods.	This remark is unclear as the provision concerned only relates to non-Community goods.

Article 54

1	If rules regarding the place where the customs debt is incurred also determine the Member State competent for recovery or prosecution, this could influence the decision on where to apply for a Single European Authorisation (SEA).	The implementing provisions will set out clear rules regarding the place where a multinational company can apply for SEA.
2	(2) All authorisations granted by the office where the applicant is established in the EC; problem: VAT debt will continue to arise in the Member State of entry in the EC or at the end of a suspensive procedure.	The Customs Code cannot change the rules where a VAT debt is incurred.
3	(3) Allow the establishing authority to collect duty irrespective of the sum; instead of assistance procedure: all taxes collected together and transferred to the other Member State.	Collection of VAT and excise duties is not covered by the CC.

Chapter 3 (Articles 55 – 71)

1	Reverse order to 'Payment and recovery of duty' (payment is the regular way of settling the customs debt).	'Recovery' should be understood as a general term encompassing any action to recover the amount of duties, thus including payment. The correct order of terms is therefore 'recovery and payment'.

Article 55

1	Collection of duties (time limits and dates) should be left to MS; EC budgetary provisions set time limits by which duties must be placed at the disposal of the Commission; where payment is effected before release of the goods or under deferred payment, these limits should run from the incurrence of the customs debt. Otherwise: normal time limit according to Article 57 (but: 2 days is very short).	This provision does not concern traders but only competent authorities of the Member States.

Article 56

1	(1): Single entry in the accounts may exceed 31 days with permission of customs (4-4-5 week calendar).	Article 56(1) corresponds to the current Article 218(1). The period of aggregation may not exceed 31 days. The customs authorities must enter the amount in the accounts within 5 days from the end of this period.

Article 58 [replaced by Article 57]

1	Opposed to withdrawal of the part concerning 'an error by the customs authorities' (ex-Article 220(2)(b) CC): EC will be in total control of Article 58 (national courts of law would no longer play a role).	This provision has not been deleted but moved to a new Article 71(1) Rev4.
2	(2) These cases belong to the provisions concerning remission/repayment.	Concerning Article 58(2)(a), the judicial grounds for non-collection of duty make non-recovery provisions more suitable than remission / repayment provisions. Concerning Article 58(2)(b), Article 71(1)(b) already provides for recourse to the committee procedure with a view to determining situations where repayment or remission may be granted. Despite the merger of the provisions of former Article 239 with those of former Article 220(2)(b), it appears appropriate to maintain a legal basis for the current Article 869(a) CCIP.

Article 59

1	How can the three- or ten-year period be suspended or interrupted?	Such a provision exists already today: Article 221(3) (second sentence) CC.
2	(3) One or two months instead of 10-day deadline for the debtor to make his views known.	This issue will be addressed when the implementing provisions are drafted.

	Time limit superfluous where contacts with the debtor had been established before or where the debtor himself asked for the measure.	
3	(4) Repayment/remission procedure should also suspend the time period for the notification.	In the case of a repayment or a remission, the amount of the debt has already been notified to the debtor.
4	(6) 'Criminal court proceedings': No intervention in the administrative and judicial structure of Member States when drafting the CCIP (AT: administrative competence for penal prosecution).	The issue may simply require a linguistic streamlining. In any case, a level playing field for economic operators ought to be established.

Article 60

1	Specify: debtor intending to appeal against the duty decision benefits from extension of the 10-day period to define the litigation.	This 10-day period no longer exists (will be dealt with in the implementing provisions; cf. comment 2 on Article 59 above).

Article 62

1	Comprehensive guarantee, reduction and waiver of guarantee under Article 38 of the draft must not be excluded.	As explained above (comment on Article 38(2)), it is considered appropriate, for the purpose of assessing whether a flexible approach may be adopted towards guarantees, to take into account the actual financial risk and thus to differentiate between debts which have been incurred and those that may be incurred.
2	Many traders would welcome the abolishment of fees for the	These are now covered by Article 22 REV4.

	granting of deferment of payment.	
3	Limiting deferment to the 'person concerned' prevents companies from taking out efficient deferment facilities to cover a group of companies. Single pan-European deferment accounts.	The person concerned is the debtor; it is this person who has to request deferred payment. The issue raised, which is different and concerns the guarantor, will be considered.

Article 64

1	Payment cannot be expected before communication of the amount of duty. Only delays caused by the debtor should be subject to 'sanctions'.	COM entirely shares this view.
2	Opposed to denial of deferment.	If the conditions are met, there is a right of deferment.

Article 65

1	Interest could vary country by country, not in line with the interest ordinarily charged on error or underpayment.	The rules are being harmonized, but there are still different interest rates in the EURO zone and other Member States.

Article 66

1	5-day grace period before interest on arrears is charged.	This would in effect be a prolongation of the period for payment.
2	Para. 2 (interest on customs debt incurred after non-compliance) is an *alternative* solution to administrative penalties and should be dropped if administrative penalties are provided for.	Payment of interest and sanctions have different purposes and may thus co-exist (interest only intended to correct wrongful acquisition of a financial advantage to the detriment of the Community's budget).
3	(3) Waiver of collection of interest on arrears: add 'where non-compliance is due to an error/mistake and has not led to a financial	Would be almost impossible to implement (due to subjective nature of 'mistake' and difficulty in proving absence of financial advantage).

	advantage'.	

Article 67

1	Refer only to 'remission' and take out 'which has not been paid' in subparagraph b. Make clear that the decision must be entered in the accounts (like amounts to be paid) and executed without delay.	No reason to change this provision (see current Article 236). Remission (duties have not been paid) is opposed to repayment (duties have been paid).
2	(3) Repayment of duties not legally owed: customs' obligation to establish the amount of refund and take the relevant decision and effect repayment without delay. Interest payments after three months (decision granting repayment): positive move towards parity with interest on late payments to customs.	Where customs has the information, they are obliged to repay duties which are not due. It is clearer to have a fixed deadline for repayment than to use terms such as 'without delay'. Yes, national provisions 'so stipulating' (see current Article 241) will no longer be necessary.

Article 68

1	Only place in the Code saying that duties are determined by a decision; consistent language.	Alignment of terminology has been sought throughout the CC.
2	(1), last subparagraph: even in the case of fraud, duty collected in the amount legally due; right to demand remission of any surplus charged or paid; appeals not limited to benevolent operators.	This limitation is in line with well-established ECJ jurisprudence.

Article 70

1	Destruction under customs control should remain an option for	This is the case. However, destruction after release for free circulation

	remissions.	cannot in itself justify repayment.
2	Reason for returning goods abroad should not be taken into consideration. Remission when the goods are not returned to the supplier or exported at his order but sold to another country.	This would lead to a general right of drawback. Instead, the rules on inward processing have been liberalised. Some of these cases are dealt with under Article 900 CCIP.
3	(3) Deadline should not be set from the application for remission but from the acceptance of the export declaration.	The deadline for application for remission or repayment is fixed from the time of acceptance of the declaration.

Article 71

1	Cases mentioned in Article 58(2) to be included in this Article (Article 58: subsequent entry into accounts): One provision referring to duties to be entered in the accounts to correct an earlier assessment; another to deal with special circumstances.	See comment 2 on Article 58.
2	Companies acting in good faith should not be held responsible for a foreign administration or an inattentive exporter.	The inattentive exporter is the chosen contracting partner of the importer, who must therefore carry the consequences and cannot shift the burden to the State.
3	(1)(a), fifth subpara.: add: '…, except if he can prove he has taken all reasonably necessary steps to check the applicability of the certificate'..	This provision is already a limited exception to the possibility to plead good faith and including a further exception would weaken it excessively.
4	(1) (b) Repayment or remission should not depend on the absence of 'obvious negligence'. (1) (b) 'shall be repaid or remitted' should be deleted.	This is a reasonable requirement of equity. This has been corrected in REV4.

6	(3) The appeal and request could be processed simultaneously (different principles for these procedures).	The possibility to follow the two routes at the same time is not excluded but the suspension of the deadline for applying for repayment or remission pending an appeal has been introduced so as to stress that the right order between the two must be established depending upon whether the debtor is contesting the debt or essentially basing his request on equity reasons.

Article 72

1	(2) Is there no decision concerning the extinction of customs debts?	If duties are paid, no decision on the extinction of the debt is necessary; in other cases, e.g. remission, a decision is necessary.
2	(2) Avoid need for negative proof (e.g. absence of deception) by replacing the introduction to para. 2 by 'A customs debt on importation shall also be extinguished where it is evident, or is made evident, to the customs authorities that: …'.	The text only determines who bears the burden of proof.
3	(2)(a) Extinction of customs debt where there is no significant effect on the correct operation of the procedure: a mirror provision should be inserted in the section on customs debt on exportation.	This issue ('no significant effect on the correct operation of the procedure concerned') has been taken from Article 204 CC (irregular incurrence of the debt on importation). If a mirror provision were to be created for export, it would thus have to be under Article 72 as well. This issue will be considered.
4	(2)(a): Problems of interpretation; not all relevant cases will be included. Customs debts caused by procedural errors should be eliminated if the goods in question have left the customs territory or have been released into free circulation elsewhere after the	Customs duties will not be charged twice in the Community. Re-export is dealt with under paragraph 2(d) and (e).

	customs duties have been paid there.	
5	(2)(e)(i) Operators should be able to provide evidence that 'goods have not been consumed or used…' (in line with Article 137).	Included in REV4.

Title IV	**ARRIVAL OF GOODS IN THE CUSTOMS TERRITORY OF THE COMMUNITY**	**(Articles 73 – 83)**

Article 73

1	<u>Pre-arrival declaration:</u> Additional burdens; endangers existing simplified procedures. Long pre-declaration times would endanger the competitive position of the European semiconductor industry.	The impact upon traders of these measures, particularly the requirement for pre-arrival, is likely to be minimal, as the time limits to be set for these declarations will not simply mirror those imposed elsewhere, e.g. the 24 hours before shipment demanded by the USA, but will be set at the shortest reasonable period that will allow for effective risk analysis and will take account of the various types of trade and modes of transport. In reality, the vast majority of existing trade already meets these deadlines for declarations; pre-arrival information is already commonly available and widely electronic. Prior declarations, together with a uniform Community risk-selection criteria for controls, supported by computerised systems, and the exchange of information between customs administrations and with other relevant authorities (e.g. police, veterinary bodies) will bring forward risk analysis and open the way for total pre-selection for controls. Customs resources can be better planned and deployed, with the consequence not only of better security, the primary objective, but also of instant release of all innocent goods upon their arrival at offices of entry and exit. This speeding up of border processing is a benefit for Community traders that will equal, if not exceed, any cost or disadvantage of providing information earlier than is presently required and electronically rather than on paper.

		Furthermore, a major element in the amendments to the Customs Code is the establishment of a legal framework to expand the opportunity for reliable traders to benefit from simplifications and facilitation through the development of an authorised economic operator programme. General provisions for Community-wide accreditation are introduced and the existing concept of authorised traders will be extended to take account of security aspects and to allow for traders of proven responsibility to benefit from reduced customs controls.
2	Security risk prevention has to be before the loading of containers. Global norms (US norm). Bilateral agreements with third countries in order to avoid new trade barriers and duplication of formalities.	Given that security requirements have already been introduced by several of our trading partners (e.g. USA), it would have been easy to limit the EU's response to identical or reciprocal arrangements. However, while the Community fully respects and supports those requirements that are already in place, it believes that a global approach to security and safety is necessary. The Commission contends that it should not simply adopt restrictions imposed by any one trading partner, e.g. the 24 hours before shipment demanded by the USA, but should set the shortest reasonable period that will allow for effective risk analysis and should take account of the various types of trade and modes of transport, as well as any international agreements that may exist. The Community has a duty to protect not only its own trade and citizens, but those of all its trading partners as well. The Commission has therefore looked beyond measures restricted to the control of imports and now looks to promote reciprocal arrangements founded upon risk-based controls of exports as well; to assure the security and safety of the Community's own exports and, in this way, to reduce the need for its trading partners to impose increased controls on import. Reciprocally, traders in countries that undertake to control their own exports to the EU to similar standards will benefit, under

		international arrangements, from similar facilitation as provided to authorised EU operators.
3	Summary declarations can be submitted only on paper when the truck arrives at the border. How will pre-arrival declarations be possible without the electronic system in place?	Whereas the onus for prior declarations lies primarily with the carrier, in certain circumstances such as this the importer must take the responsibility. It is unlikely that goods are to be imported without someone in the EU knowing they are coming. The introduction of these measures does mean that traders will, in certain circumstances, have to obtain and provide certain information they may not hold at present. This is an inescapable consequence of the safety and security concerns that have led to these measures.
4	Who is responsible for the data included in the summary declaration? Rectification: amendments to declaration *a posteriori* — what happens in case of error? Data must correspond to physical flow.	These responsibilities are clearly defined in Article 74. The responsibility for lodging a pre-arrival declaration, or summary declaration, lays primarily with the carrier. However, the same Article provides for others to make the declaration instead, essential in cases where authorised traders wish to lodge the customs declaration rather than a summary declaration as the pre-arrival declaration with a view to the immediate release of goods under a simplified procedure. The declarant may also amend the declaration under the provisions of this Article.
5	How will pre-arrival declarations be lodged when the customs office of entry is not known?	As the onus for prior declarations lies primarily with the carrier, it seems unlikely he will not know the office of entry. Otherwise, the comments in 3 above apply.
6	(1) and Article 46(1): Non-submission of a summary declaration at the time when the goods are brought into customs territory should lead neither to the incurrence of a customs debt nor to administrative penalties.	The liability for a debt will only occur if a debt is actually incurred. Debt cannot be used as a penalty. The rules for extinction of a customs debt in Article 72 make this clear and will cover most cases in this context. However, should the unlawful introduction of goods directly result from

	(2) and Article 105(2): Article 105 — incurrence of the customs debt, but Article 72 will prevent the debt from being incurred?	failure to meet an obligation, than a debt will be incurred. Failure to submit a pre-arrival declaration would lead to a customs debt only in cases where goods are also withheld from customs supervision. Infringements of customs rules may, separately, attract administrative penalties in accordance with Article 19. The cases where sanctions are to be applied and the seriousness of the infringements leading to sanctions will be determined below the level of the CC.
7	(3) 'Reasonable' maximum deadlines for the lodging of summary declarations or data; shortened where agreed after consultation with trade.	The time limits will be laid down in the implementing provisions, in order that these can be shortened or, if circumstances so dictate, extended quickly when necessary. Provisions in the Code could take many months to change.
8	(3), fourth indent and Article 158(2), third indent — discrepancy: 'authorised economic operators' vs 'economic operators'. Delete 'authorised' in Article 73(3).	Noted. The word 'authorised' has been deleted from Article 73(3) in Rev4, in alignment with the wording of the associated Article 36a, contained in the recent amendments to the Customs Code.
9	<u>Postal consignments</u> Orientation towards the guidelines of the WCO. Postal organisations cannot comply with the requirement for a pre-arrival/departure declaration (no direct contact between postal organisations and clients in different countries). Postal traffic is not as advanced with regard to paperless solutions as express services. Exemption possible?	The detailed rules for postal consignments and the requirement for a summary declaration will be addressed in the implementing provisions.
10	(1) and Article 77(6): Simplify formulations; rules with equal content should contain the same text.	Noted. Article 77(6) has been aligned with Article 73(1).

Article 74

1	Support requirement for a standardised summary declaration to be lodged for risk analysis and the proper application of customs controls. But the HTC should be part of the summary declaration (unless an international agreement; the HTC provided by a shipper should not be binding on an importer or his appointed representative).	This will be considered during drafting of the implementing provisions to determine the common data set and format of the summary declaration, in accordance with Article 74.
2	Articles 161 and 74 should follow the same guidance (criteria for determining the format of the import and summary declarations). Common data set and format are vital for the functioning of the new provisions — explicit mention.	Both of these provisions have been replaced in Rev4 by a single new provision in Article 5 for the committee procedure to be used to determine the data and format for all messages to be exchanged under the customs rules.
3	Transport document should be accepted as summary declaration.	The declaration must be electronic and contain all of the mandatory data required. Provided that these criteria are met, some flexibility can then be allowed for under the implementing provisions.
4	(1) and (5): No distinction between security and safety in German.	Common usage in other languages and already adopted at Council level in relation to the recent amendments to the Customs Code.
5	(3) Responsibility for the declaration according to the 'incoterms'.	The text has been improved but, given the different delivery variants, it is difficult to come up with a precise yet simple text. The responsibility must lie, in the end, with the carrier, as the person who 'brings the goods into the customs territory' and it will be up to him to collect the proper information from the exporter or the receiver. See the reply to Article 73, comment 3, above.

6	Why have the previous provisions (Rev. 2) relating to the place where the pre-arrival declaration can be lodged (customs office of entry, customs office of import) been omitted?	These issues will be dealt with in implementing provisions because different channels of communication may be developed in the forthcoming years.

Article 75

1	Summary declaration should replace the customs declaration in simplified procedures as well.	The option of combining a summary declaration with a simplified declaration will continue to exist.

Section 1 (Articles 76 – 78)

1	Intra-Community sea crossing between Calais and Dover: maintain the ban on controls that has existed for over 10 years.	A new paragraph (6) has been added to Article 20 REV4; 6. No control or formalities shall be carried out in respect of: - the cabin and hold baggage of persons taking an intra-Community flight, - the baggage of persons making an intra-Community sea crossing. The provisions of this paragraph apply without prejudice to: - the safety and security checks carried out on baggage by the authorities of the Member States, port or airport authorities or carriers, - checks linked to prohibitions or restrictions laid down by the Member States, provided they are compatible with the Treaty.

Article 76

1	(2) 'They shall remain under such supervision …until they have entered a free zone…'.	As a consequence of the measures associated with the recent amendments to the Customs Code, pre-arrival and pre-departure declarations will necessary for goods directly brought into or out of a free zone. Free zones are part of the customs territory of the Community and goods in free zones remain under customs supervision for safety and security reasons

Article 77

1	Opposed to the removal of 'traffic of negligible economic importance'. Clarify its application (Immediate Release Guidelines as published by the WCO).	As such traffic can pose a security risk, it cannot be excluded from customs supervision. This term has also given rise to divergent application by Member States.
2	Despite growing privatisation, postal organisations still hold rights/obligations under the World Postal Agreement. Postal documents should remain valid.	Postal paper documents will continue to be used but, at some point in time, electronic customs declarations will also have to be used by postal services.
3	(1) Clarify person responsible for the correct introduction of goods into the customs territory and for the conveyance of such goods to a customs office.	The definition of the 'person bringing the goods into the Community', together with para. 2, is deemed sufficient.
4	(1) Why 'immediately'?	Immediate presentation of goods is essential for effective risk-based controls, particularly as regards safety and security.
5	(4) Restriction with regard to letters, postcards, printed matter etc. should apply to all postal traffic. Change the wording from products to postal traffic in general.	The Regulation aims at creating a level playing field for postal services and their competitors, including the use of simplified procedures.
6	(5) : Amend: 'Paragraphs 1 to 4 and Articles 73 to 75 and 78 to 81 shall not apply to Community goods moved under the conditions	Article 86 relates only to Community goods. Article 77(5) also includes non-Community goods carried on these services, which must, of course,

	referred to under Article 86.'	be under the transit procedure; (re)presentation of such goods is governed by that procedure, not by Articles 73 to 75 and 78 to 81.

Article 78

1	The obligations under paras. 1 and 2 should also be applicable to other circumstances (e.g. pilferage of the transport).	Falls within the definition of 'unforeseeable circumstances'.

Article 79

1	Clarify: responsibility for presentation of goods: person (suggestion: both the person in physical charge of the goods (driver) and the person for whom that person acts when introducing the goods) and content of the notification.	Article 79 has been amended, as have Articles 4(19) and 77, in order to clarify the notification of arrival and presentation, and who is to do this.
2	Clarify: 'Authorised operators may be relieved from the requirement to present the goods to customs provided they have lodged the declaration stipulated under Articles 73 and 74'.	The explanatory reference is to authorised operators within free zones, not to authorised economic operators in general, and is legally supported by paragraph 2(b) of this Article and by Article 135.
3	(1) Reference to the summary declaration will be difficult to achieve when there are various parties.	See reply to Article 73, comment 3, above.
4	(2) Amend: all goods in postal traffic that are not subject to customs levies: not affected by bans and prohibitions; if below the statistical thresholds for fiscal purposes: no presentation to customs. Random checks at offices of exchange.	See remarks on Article 77.

Article 81

1	Where non-Community goods delivered to a port terminal are taken over under a single transport contract for transport to a third country and the final destination is given in the transit declaration of the person responsible for the procedure under which goods were delivered to that port terminal, Article 83 and especially the obligations under Article 81 should not apply. Any stay under customs supervision, between the time of arrival at the port terminal and the time of shipment and forming an integral part of transhipment, should be dealt with under Title IX (Article 163).	These Articles refer to non-Community goods after a transit movement has ended in accordance with Article 116, i.e. within the Community, and which must, therefore, remain subject to customs controls until they are re-exported. The export procedure does not apply to these goods and there is no export equivalent of temporary storage, so normal temporary storage, as a result of the application of Article 81, must apply, albeit momentarily. This applies equally to non-Community goods directly transhipped within a Community port without leaving it.

Article 82

1	Should Articles 73 to 75 really apply to goods that arrive under a transit procedure and should therefore already have been controlled once? Fears that TIR transports which started outside the Community might otherwise come in uncontrolled are not founded, because in a TIR transport goods do not arrive under a transit procedure, as the TIR Convention provides for a common document but not for a common procedure. Pre-arrival declaration for TIR/ATA runs counter to the idea of such documents (transport through several states avoiding controls at all borders). Controls at departure office; plumbs; no pre-arrival declaration; goods under customs supervision.	See reply to Article 73, comment 3, above. With the introduction of electronic declarations, paper-based systems will have to change, though gradually.

Title V	**GENERAL RULES ON CUSTOMS STATUS AND CUSTOMS PROCEDURE**	**(Articles 84 – 105)**

Article 85

1	(b) Delete 'insofar as the customs rules allow for this'.	This clause may not be necessary, but it clarifies the rules.
3	(c) 'destroyed' instead of 'abandoned to the Exchequer'.	Both are possible.

Article 86

1	Proof of Community status and status of approved shipping services to be replaced by electronic communication between customs offices of the EU ports involved.	The responsibility for the proof of status must remain with the carrier or trader.
2	No customs formalities for goods with Community status.	Goods leaving the customs territory lose their Community status, unless special rules prevent this.

Article 87

1	(2) List incomplete (measures of trade policy and national measures allowed under the Treaty) or superfluous.	The list has been completed and transferred to Article 1.

Article 88-94

1	Establish a link between the summary declaration and the final declaration. What if there is a difference between the two declarations?	This can be included in the implementing provisions. The summary and customs declarations may be combined, but there will be no obligation to do so. The rules of this section, e.g. for amendment or invalidation, apply equally to summary declarations (Article 104(5) Rev4)

Article 88

1	(2) 'destroyed' instead of 'abandoned to the Exchequer'.	Both are possible. Not all goods abandoned to the Exchequer are destroyed.

Article 90

1	Can data processing technology be required without any registration or authorisation to identify the declarant in the system?	A trader identification number will be required.
2	Universal Postal Convention: CN 22/23 forms (basis for customs clearance) in paper form. Postal operators should be exempt from the obligation to submit an electronic customs declaration until the required information systems can be developed and put in place by all postal operators.	Special rules for specific traders will be the exception. At the end of a transitional period, everybody will have to comply with electronic customs requirements.
3	(c) Replace 'holder' by 'declarant'.	The word 'declarant' is reserved for the person who makes a customs declaration (cf. Article 4(14)).

Article 91

1	Data requirement should ensure harmonisation in all EU Member States (to avoid trade distortion).	These are indeed the aims of the proposal.

	Avoid too extensive data definition for summary and simplified declarations (avoid additional requirements; confidentiality).	
2	Indicate that imaged / electronic supporting documents are sufficient and will be accepted (not necessarily to be held on a server in a specific country).	Article 5(1) Rev4 applies to this.
3	Reference to the CCIP is missing.	Reference is not necessary.

Article 92

1	This provision hinders pre-declarations: at the moment when the pre-arrival declaration must be lodged, the goods are not yet within the customs territory of the EC. Therefore this declaration could not be accepted. Combined summary/simplified declaration: acceptance prior to arrival or when the goods are within the territory of the Community?	Pre-arrival declarations are summary declarations. Article 92 relates to the normal declaration (cf. title of Section 2). Even if the summary declaration is combined with the simplified declaration, it is only accepted at the time when the goods may be released, thus when they have arrived and are available for control.
2	Problem: unforeseeable changes of route.	This issue will be addressed in the same way as under NCTS.
3	'and are available for control' should be replaced by 'and can be made available for control'.	'Available' means that the goods can be controlled within a short deadline.
4	Clearance at a central point within the EU?	Centralised clearance will be possible under a Single European Authorisation.

Article 99

1	Add second exception: after customs clearance, the declarant can challenge the representativeness of the sample provided that he can prove that the goods have not been altered in any way.	Article 99 revised in Rev4.

Article 102

1	Can the prohibitions and restrictions only be based on measures of commercial policy or on any other legislation?	Any type of prohibition and restriction is covered.

Article 104

1	Explicit mention that the summary declaration may constitute the simplified declaration. Does waiver for simplified declaration also apply to summary declaration?	This will be laid down in the implementing provisions. This question is dealt with under the rules for summary declarations.
2	Allow for economic operators to assign the goods definitively to any customs procedure after release. The final customs procedure should not be included in the simplified declaration. Import: in order to prevent unnecessary remissions, mention of customs procedure only in the supplementary customs declaration.	At the moment of release it must be clear under which procedure the goods are placed. The default procedure is temporary storage.
3	Local clearance should remain possible for AEO, even without customs' access to their IT system. The summary declaration combined with the entry in the AEO's books would constitute the full declaration.	Local clearance will continue to exist. However, the customs office of entry or exit must be informed that the goods have been placed under a customs procedure. This requires a flow of information to this office, but this need not be by customs access to the trader's system.

4	Provide for the possibility of releasing goods based on the summary/simplified declaration instead of generally requiring release by the customs authorities.	As today, this will remain possible if the goods have arrived at the trader's premises.
5	Import: supplementary declaration also to the customs offices of control.	This is the case.
6	Maintain existing simplified procedures. As this Article promotes simplified procedures for Authorised Economic Operators (AEO) which must be recognised by all Member States there is a risk of a low level of simplification. Waiver of presentation if summary declaration is compulsory?	Paper-based procedures cannot be maintained. Electronic procedures will be maintained, but harmonized. A high level of simplification will be aimed at. If the goods have been presented at the customs office of entry and placed under a simplified procedure, the second presentation can be waived.
7	Maintain waivers of guarantees, for certain means of transport. Postal operators should continue to benefit from simplified procedures even though some may be in private ownership (private customers allowed to provide fewer data).	In principle, the rules will be the same for all economic operators. On a level playing field, a particular operator should not be able to benefit from more favourable conditions than his competitors.
8	Afraid that the data content of the summary declaration will be more detailed than today (risk assessment); requires additional data communication between supplier (shipper) and forwarder; additional cost and sources for errors.	Presently, the data required for a summary declaration are left to the individual Member State. The security requirements may lead to data not commonly included at present being required, but the data requirements will be harmonized so as to be the same in every Member State, and will include fewer total data than presently required by many Member States. Traders will, in certain circumstances, have to obtain and provide certain information they may not hold at present. This is an inescapable consequence of the safety and security concerns that have led to the recent amendments to the Customs Code.

Article 105

1	Unlimited right of abandonment may lead to the customs being left with such goods.	The text has been adjusted.
3	(1) More detailed rules at Community level.	This will be considered when the implementing provisions are drafted.
4	(2)(b) Precise definition with regard to security-related measures.	Cf. Article 1.

Title VI	**RELEASE FOR FREE CIRCULATION**	**(Articles 106 – 107)**

Article 106

1	Add provision on the lines of existing Article 866 IP.	This proposal has been taken on board.
2	Re-introduction of Article 80 CC, allowing for the reduction of customs duty after acceptance of the declaration (goods can be put back in temporary storage after invalidation of the declaration).	There is no need for this in an electronic environment, where there is normally only a short period between the acceptance of a declaration and the release..
3	Reference to VAT and excise duties excludes the application of energy tax and national taxes. VAT and excises are due when the goods are released for consumption, not on release for free circulation.	The reference to VAT and excises is not exclusive (‘any duties legally due, such as…’). The references do not introduce new obligations, but clarify the legal situation. The problems raised exist even without these references.

Article 107 (replaced by Article 105 in REV4)

1	This provision requires prior classification. The main goods in terms of quantity and/or value should be taken as basis (additional criterion: statistical threshold).	Taken on board in REV4

Title VII	**RELIEF FROM IMPORT DUTIES**	**(Articles 108 – 112)**

Article 108

1	(3): According to Article 85(b), goods which have been placed under a procedure lose their Community status (status T1). How will returning goods be recognised as Community goods?	This provision already exists (Article 185 CC). It has to be proved that they had Community status (e.g. by proving that they have been released for free circulation or that they have been bought in the Community as Community goods).

Article 109

1	(2) Details for the calculation of partial relief after outward processing in the Code.	Transferring these rules from the CCIP to the CC would make any adaptation more difficult.

Article 110

1	Term ‘export’ for the export of Community goods and the re-export of non-Community goods is confusing because the two situations lead to very different legal consequences.	This has been taken on board in REV4.

Article 112

1	Maximum amount for duty-free import (EUR 45) should be mentioned in either the CC or the CCIP. Limit for duty-free import should be set at a reasonable level	In order to allow for more flexibility in the future, this will be placed in the implementing provisions.

2	Relief should not be completely left to the committee procedure.	The proposal follows the current example of temporary importation with full duty relief.

Title VIII	**SPECIAL PROCEDURES**	**(Articles 113 – 157)**

General comments shared by several traders

1	Principle of equivalence: Should be used for inward processing, outward processing and warehousing; not only at a given stage of processing, but also for completely processed products; common storage of Community and non-Community goods should generally be possible.	This will, in principle, be possible under the proposal.
2	Title: 'procedures for provisional relief' or 'procedures for conditional relief'.	Since outward processing has been included, such a title would no longer be appropriate.
3	Suspension system: risk of circumvention due to advantage of delaying payment of customs duties and lower value after use.	The philosophy was and is to levy import duty on non-Community goods at the moment when the goods are put on the Community market, i.e. when the goods are declared for release for free circulation. Each special procedure has its own economic justification, for instance to promote processing operations in the EU (inward processing). Using a suspension system cannot be considered as a circumvention of import duties.

Article 113

1	Application of principle of equivalence should not be restricted.	Unlimited application of the principle of equivalence could lead to abuse, especially in the agricultural sector.

Article 114

1	This approach leaves much discretion for national initiative. More harmonisation.	Uniform application throughout the Community is ensured because, if the conditions are fulfilled, customs authorities have to (not may) grant an authorisation
2	(2), first indent: waiver from the condition of establishment in the EC for temporary admission.	As today, such a waiver will be stipulated in the implementing provisions for certain circumstances.
3	(2), third indent: include the place where the applicant's major operation takes place.	The introduction of a second criterion would lead to conflicts of competence.
4	(2), fourth indent: administrative reasons should not hinder authorisation.	This clause may only be applied in extraordinary cases.
5	(2), last indent and (6): include the presumption that conditions are deemed to be fulfilled as a general rule.	The text has been changed.

Article 116

1	(1), second indent: disregards the fact that irregularities in transit are often detected after the procedure has been discharged on the basis of formal consistency.	After the procedure has ended, irregularities can lead to administrative penalties and post-recovery.
2	(1) Management of guarantees should be introduced in NCTS. End of procedure: goods and the transit document are properly delivered to the authorised consignee; principal's obligation fulfilled; irrelevant if messages IE 44 and IE 25 exchanged.	NCTS does provide for management of guarantees. The other points here concern the implementing provisions.

Article 117

1	Can a transfer take place without customs being informed? Conditions for the transfer of rights and obligations should not be left to the competence of customs administrations.	Rights and obligations under the customs rules cannot be transferred without involving the competent customs authorities.
2	Could a trader operate a 'virtual warehouse' in the EU (no limitation to a specific country in the EU)?	Yes.

Article 119

1	Will there be a catalogue of usual treatment?	The current catalogue could be transferred to the guidelines.

Article 120

1	Recourse to equivalent goods is conditional upon using the IPR system. Strict controls instead of restricting the current possibility of using equivalence.	This will remain possible. In certain cases (e.g. agricultural goods), restrictions are necessary.
2	(3), second indent: import under bilateral preferential trade agreements allowed as equivalent under the IPR system?	For the granting of equivalence, it is irrelevant whether or not the import goods benefit from a preference (as long as they are under IPR, no customs debt is incurred).

Article 121

1	Important rules must be in the CC.	COM shares this view; there are only differing appreciations of what is 'important' and what are technical details for the CCIP. .
2	MS's possibility of establishing simplified procedures should	The Single Market requires a level playing field for all operators.

	remain (Article 97(2), (3) CC).	Simplifications should be the same throughout the Community

Article 122

1	(1)(b) Permission to forward mixed ship supply consignment under the external transit system.	It will be possible to place Community goods under external transit if the conditions to be laid down in implementing provisions are fulfilled, but the goods will lose their Community status.
2	(2) (c) Include Annex A to the Istanbul Convention (replaced, between contracting parties, the ATA Convention).	A reference to the Istanbul Convention should suffice. The details will be laid down in the implementing provisions.

Article 124

1	Exemptions from guarantees?	Guarantee waivers will be possible.
2	Provision for mandatory seals should be in CC.	In order to maintain flexibility, this will be dealt with in the implementing provisions.

Article 125

1	Suspension of internal Community transit while the goods are outside the EC (cf. Article 123; Article 5 of the Convention on Common Transit).	Nothing will change (implementing provisions).
2	(2)(c) Annex A to the Istanbul Convention (replaced, between contracting parties, the ATA Convention).	A reference to the Istanbul Convention should suffice in the CC.

Article 126

1	No possibility to store Community and non-Community goods together?	This will be possible where authorised.
2	Does export to warehouse lead to repayment?	Yes.
3	(a) '...duties, and/or ...'. These goods should be subject to neither import duties nor commercial policy measures.	The text is correct. In legal terms, 'or' means 'and/or'.
4	(1)(b) –Article 85: as goods loose their status, duties can be charged; if duties are lower than any refund, the export refund will be reinstated and a sanction may be imposed. Result: excessive treatment.	This is not problematic because (normally) duties are not lower than any refund. In any event, nobody is obliged to enter Community goods for the customs warehousing procedure.

Article 127

1	'Public warehouse', mentioned in this Article, is not defined until Article 130(2) and not before Article 127.	Article 127 is part of the common provisions for all kinds of storage. Specific terms only used for specific kinds of storage ought to be defined in provisions laying down the rules for the storage procedure in question.
2	(2) Public customs warehouse: depositor should not be responsible if the holder of the authorisation does not comply with the obligations arising from the procedure.	This provision corresponds to the current Article 102(1) CC. This is the legal basis for type B customs warehouses. This type should exist in future as well (Article 525(1)(b) CCIP). No change in substance is intended.

Article 128

1	Many traders welcome the new rule that there will not be any time limit for temporary storage.	Comment is welcome.
2	(3) Add ‘unforeseeable circumstances’.	The text has been changed.

Article 129 [replaced by Article 130 REV4]

1	Minimal treatment in temporary storage.	The scope of usual forms of handling / minimal treatment has been extended. Therefore, allowing usual forms of handling is justified only under the procedures mentioned in Article 119.
2	Ending of a warehousing procedure in the case of onward carriage should be allowed under external transit (not exportation).	This is possible.
3	Simplifications, e. g. accepting in-house bookkeeping as records and waivers for the guarantee.	For temporary storage, there is no authorisation holder who can be granted simplifications.
4	(1) Replace ‘the holder of the goods’ by ‘the person making the summary declaration’.	In some cases, this person may no longer be around.

Article 130 [replaced by Article 131 REV4]

1	Virtual warehousing must remain possible. Opposed to limiting customs warehousing to areas approved by customs (D or E warehouse permits).	No change with regard to the current situation is intended.

Article 132

1	Free zones could be amalgamated with customs warehouses.	With regard to free zones of control type II this has been done. Further steps could be considered at a later stage.

Article 133

1	(3) Reference to para. 2 instead of 1	The text will be changed.

Article 134

1	(1)(b): 'end use procedure' instead of 'use procedure'.	The text has been changed.

Article 135

1	Where goods that directly enter free zones from third countries must be presented to customs, only Community goods do not have to be presented. Is this intended?	Yes, where goods directly enter free zones from third countries, they usually have the customs status 'non-Community goods' (see also Article 85(a)). This is the reason why in principle all goods must be presented. However, Community goods covered by internal transit or Article 86 may benefit from Article 136.
2	(2)(a) reintroduce clause '…where the customs procedure in question permits exemption from the obligation to present goods, such presentation shall not be required' (Article 170(2)(a) CC).	It is assumed that this provision is not needed in practice, at least not throughout the Community.

Article 140

1	Temporary admission should not be limited to persons established outside the EU.	This is the principle of temporary importation but there are exceptions.

2	(2), first indent: export is not always intended (Article 576 IPCC).	Exceptions will be laid down in the implementing provisions.

Article 141

1	(2) EC-wide communication to find out who had already used which goods for what time in the EC is too complicated.	This provision is taken from Article 140(2) CC. An electronic environment will simplify the exchange of information. Furthermore, the current Article 583 stipulates that the relevant documents must contain the indication 'TA goods'.

Article 142

1	At the time of presenting the declaration, the operator should be sure whether the conditions for total relief can be fulfilled. Partial relief should be retained only if present experience proves its necessity. Time limit and establishment in the EC could be taken as the essential basis for the decision (made at the end of the operation) on total or partial relief. Additional cases under the committee procedure.	These rules are taken from the Istanbul Convention.

Article 144

1	As it is very similar, end-use could be merged with release for free circulation before tariff classification has been definitely established. Separate procedure not necessary.	The end-use procedure allows for customs supervision of the goods, which is not necessary in other cases of release for free circulation.

Article 145

1	'Destruction' is not a procedure (no authorisation, declaration, release or suspension of duty). Instead of merging it with inward processing: provision in Article 105 (together with abandonment) and one on extinction of the customs debt in Article 72(2)(b).	Apart from destruction within the meaning of Article 105, it is also necessary to permit destruction under inward processing (see current Annex 76, Part A, Point 2 CCIP).
2	Alternative to merging processing under customs control and inward processing: allowing immediate release of goods for free circulation under the tariff heading to be achieved by processing.	This is not possible because inward processing suspends import duties.

Article 146

1	Keep standard coefficients.	The current system is not in line with technological and economic changes.

Article 147

1	Doubts about removal of examination of the economic conditions: equivalent treatment of operators in the EU difficult. MS could send large number of applications to COM to slow down process.	Equivalent treatment of operators in the EU is ensured because the examination of the economic conditions must take place at Community level (this will be provided for in the CCIP**).** The examination is mandatory only if evidence exists that the essential interests of Community producers are adversely affected by an authorisation.
2	Strengthened controls instead of restricting the principle of equivalence.	Unlimited use of the principle of equivalence may lead to abuse.
3	(2), first indent: cases except repair, second indent: exchange. What about repairs without exchange?	Repair is a processing operation and may be carried out under inward processing in accordance with Article 147(1.)

Article 154 [replaced by Article 150 REV4]

1	Opposed to restricting relief to the holder of the authorisation.	The rights and obligations can be transferred.
2	Maintain the possibility for operators in the non-Annex-I sector to use the current system of 'differential taxation'.	This proposal does not contribute to the simplification of the CC.

Article 156 [replaced by Article 152 REV4]

1	No need for standard exchange as a special case (cf. Article 120(1)(a): principle of equivalence).	The consequences differ from other cases (duty-free import).
2	(2) 'Same combined nomenclature code': re-examine wording (e.g. standard exchange of defective automobile tires: HS codes 4011 and 4012).	Normally, the standard exchange of defective automobile tires is permitted in accordance with Article 152(3).
3	(3)(2) Waiver of obligation to exchange used goods: Community-wide liberalisation instead of national competence.	Provision will be revised accordingly.

Title IX	**DEPARTURE OF GOODS FROM THE CUSTOMS TERRITORY OF THE COMMUNITY**	**(Articles 158 – 166)**

General comments

1	Clarify: terms 'export' and 'goods leaving the customs territory' used as supposed synonyms.	Not all goods that leave the customs territory are exported, e.g. transit via Switzerland. They are not intended to be synonymous and the term export or exportation is used only for Community goods traded to a third country.

Chapter 1, Section 1 and 2 (Articles 158-162) [Replaced by Articles 154, ex-155, 156, 157 & 158 Rev4]

General

1	Allow goods of different status and from different procedures to be carried to the office of exit under one procedure.	The question of mixed consignments will be addressed in the implementing provisions. The status of the goods must be known to the customs authorities.
2	Pre-departure declaration; Lodging of customs declaration (export/transit): time limit set before goods (irrespective of origin, customs status) are to leave the customs territory; lodging by the trader responsible for this transaction or by representative. Long pre-departure declaration periods hinder flexibility of last minute loading of containers (urgent shipments).	The time limits to be set for prior declarations need not and will not simply mirror those imposed elsewhere, for example the 24 hours before shipment demanded by the USA. These limits will be set at the shortest reasonable period that will allow for effective risk analysis and will take account of the various types of trade and modes of transport. Special rules will be created for authorised economic operators, for postal traffic and for shipments between neighbouring countries, such as Switzerland, or for goods moving under computerised customs procedures, such as the New Computerised Transit System.

		In practice, the majority of existing trade already meets the likely deadlines for declarations, which, in most cases are likely to be 2 hours before departure, for electronic declarations, or 4 hours for paper, as pre-departure information is already commonly available and widely electronic.
3	Opposed to systematic security checks on export (only consignments to countries that have imposed the obligation on the exporter to deliver security-related information and European obligations concerning air freight exports). Information in addition to what is required of foreign competitors: distortion of competition.	It would be easy to limit the EU's response to identical or reciprocal arrangements. However, while the Community fully respects and supports those requirements that are already in place, it believes that a global approach to security and safety is necessary and that it has a duty to protect not only its own trade and citizens but those of its trading partners as well — all of them, not just those imposing additional security measures on their own imports. The Commission has therefore looked beyond measures restricted to the control of imports and now looks to promote reciprocal arrangements founded upon risk-based controls of exports as well, to assure the security and safety of the Community's own exports and, in this way, to reduce the need for its trading partners to impose import restrictions. Reciprocally, traders in countries which undertake to control their own exports to the EU to similar standards will benefit, under international arrangements, from similar facilitation by the EU.
4	Concerns: security checks should not result in lorries being delayed.	EU policy, reflected in the modernized Code, is that export controls, including security and safety checks, are primarily carried out at the place where the exporter is established, i.e. at inland offices of export rather than border offices. Only additional risk-based checks, for substitution or interference, will be carried out at the border office of exit. Most goods should pass through unhindered. The Port of Dover (which made this comment) is not a border office of exit so such checks

		should not affect them. If non-local traders were to be discouraged from using it as an office of export, then delays would not occur.
5	Concerns: reversion to transaction-based instead of system-based targeted control methods. Periodic or aggregated customs declarations no longer used.	A simplified declaration or notification, which invariably precedes a periodic or aggregated customs declaration, is, in itself, a customs declaration, so will meet the requirement (Article 154 Rev4). A periodic or aggregated customs declaration can still be lodged later, as at present.
6	Global notification only with access to trader's records? Authorisation on accompanying document?	Will be addressed, as it is now, in the implementing provisions. Security and safety requirements will, however, require electronic notification to the office of exit (See Article 104(2) Rev4)

Article 158

1	Contradiction: pre-departure declaration to office of export which is responsible for security checks vs. global supply chain security (security checks at the final point of loading in the EU). Heavy administrative burden for traders.	The Commission believes that this emphasis on control of exports and the use of the customs declaration itself as the pre-departure declaration for goods leaving the Community under a customs procedure is very much in line with recent WCO documents on the responsibilities of parties in an end-to-end international supply chain. Given that export controls will primarily be undertaken at the place where the exporter is established, this may actually ease the burden on Community exporters.
2	Definition of 'customs office of export'? What is its position?	See comment 4 on General above, and Article 154(4) of Rev4. Definitions will be laid down in the implementing provisions, where necessary.
3	Common data set and format are vital for the functioning of the new provisions — explicit mention.	A single new provision in Title I (Article 5(2)) Rev4 provides for the committee procedure to be used to determine a common data set and format for the data messages to be exchanged under the customs rules.

Article 159

1	(1) add 'Where goods leaving the customs territory of the Community require a customs declaration, this declaration shall be lodged under the rules for the procedure involved.'	Included in principle in Article 156 Rev4.

Article 160

1	Add: 'Where goods leaving the customs territory of the Community do not require a customs declaration, a summary declaration…'. Summary declaration for Community goods?	Included in principle in Articles 157 &158 Rev4.

Article 161

1	Articles 161 and 74 should follow the same guidance (criteria for determining the format of the import and summary declarations).	Both of these provisions are replaced by a single new provision, Article 5(2) in Rev4, for the committee procedure to be used to determine the data and format for all messages to be exchanged under the customs rules.
2	(3) Responsibility for declaration according to 'incoterms'.	The text has been improved in Article 158 Rev4, but, given the different delivery variants, it is difficult to come up with a precise yet simple text. The responsibility must lie, in the end, with the carrier, as the person who 'brings the goods into the customs territory' and it will be up to him to collect the proper information from the exporter or the receiver.

Chapter 2, Section 1 (Article 163, 164) [Replaced by Articles ex-155, 156 & 157 REV4]

General

1	Maintain distinction between 'exportation' and 're-exportation' (entirely differing legal consequences; clarity and legal security: international conventions; present Customs Code).	New Articles 156 and 157 Rev4 re-establish this distinction.

Article 163

1	Opposed to additional administrative burden: non-Community goods leaving the customs territory of the Community need to be reported (e.g. goods in customs warehouses that are shipped outside the Community: export declaration).	The current provisions that privilege free zones in that, in certain cases, no presentation of the goods to customs and no summary declaration, for either import or re-export, is required are obviously an unacceptable loophole in terms of security and safety. In such cases, however, the import summary declaration will normally serve as the export declaration as well. Consignments of goods re-exported, e.g. ex warehouse, are already subject at least to the requirement of notification to customs, under Article 182(3). The changes in the modernized Code do not add to this burden, except that additional, security-related data may be required in the notification. The introduction of these measures does mean that traders will, in certain circumstances, have to obtain and provide certain information they may not hold at present. This is an inescapable consequence of the safety and security concerns that have led to these measures.
2	(3) 'Goods dispatched to Heligoland shall not be considered to be exports from the customs territory of the Community' (Article 161(3) CC): general principle; should be in CC (not IPCC).	The general principle is that goods dispatched to territory outside the customs territory of the Community are considered to be exports. As goods dispatched to Heligoland are an exception to this principle, that exception can be properly defined, along with others, in the CCIP.
3	(4) Goods delivered to a port in transit, for which Article 83 and	The transit procedure is ended by the presentation of the goods at the

	the obligations under Article 81 should not apply: Article 163 to be extended: 'Where goods are delivered in transit to the port of exit for consequent carriage outside the customs territory, the acceptance of the goods by the carrier, or on his behalf, shall require no separate declaration provided the latter assumes responsibility for the normal stay under customs supervision as an integral part of transhipment, with reference to the preceding transit declaration'.	port, and the goods are placed, albeit for a short period or even momentarily, into temporary storage. The transit document is the customs declaration under Article 81(2). NCTS will generally meet the requirements of 81(3), but otherwise the transit document is the summary declaration as well. The goods are subsequently re-exported as a transhipment. In such cases, the import summary declaration will normally serve as the export summary declaration as well. In practical terms, reference to the transit declaration within a simplified re-export declaration, or manifest, may be sufficient.

Article 164

1	Global instead of single messages (AEO). Authorisation number on accompanying document. Customs office of exit can check data online; no access to the IT system of the AEO. AEO register number.	All of these matters are to be considered in the implementing provisions.
2	AEO system will not work without common database at AEOs.	Article 8(4) of Rev4 addresses this point.
3	(1) Possibility of lodging an export declaration in a different Member State and in a different location, based on a Single European Authorisation, should be explicitly mentioned.	The *e*Customs vision statement includes the aim that 'an exporter can lodge his export declaration in electronic form from his premises, irrespective of the Member States in which the goods are leaving the Community'. The reconsolidated export requirements (Articles 154-159) in Rev4 CC, together with Articles 92 and 102, provide the framework for this objective.
4	(3) Clarify: declaration which has been lodged by the declarant must be transferred to the customs office of exit by the customs authorities.	The rules for the transfer of data between customs offices will be laid down in CCIP, under Article 5(2) Rev4 CC. The ECS will provide for the transfer of necessary data between the office of export and the office

		of exit.

Chapter 2, Section 2 (Article 165) [replaced by Article 159 Rev4]

Article 165

1	'Benefiting from duty relief': Community status of the goods would not be maintained (as is the case in outward processing).	The purpose of this new Article is to cover certain cases of temporary export (notably under the ATA carnet system) which are dealt with in the CCIP but without an explicit basis in the former Code. These goods lose their status under Article 85.
2	Welcomes temporary export in the Customs Code.	Noted.

Chapter 3 Article 166 [replaced by Art 160 Rev4]

Article 166

1	Opposed to laying down the rules on relief in the CCIP.	Noted, but there is no movement of rules here from CC to CCIP.

Title X	**FINAL PROVISIONS**	**(Articles 167 – 170)**

Article 167 [replaced by Article 161]

1	Explicit reference to Article 1 (ensure that the Committee is guided by the objective of facilitating trade).	The Committee is bound by Article 1, even if there is no explicit reference.

Article 168 [replaced by Article 162]

1	Need for increased transparency.	COM will continue to contribute to a transparent legislative process.
2	(3) 1 month deadline: too short to examine decisions of the Committee.	Since the CC has been in force, Parliament has never made use of the possibility to intervene in the legislation process leading to the adoption of CCIP provisions.

Article 169 [replaced by Article 163]

1	Worried about the replacement of Reg. (EEC) No 918/83 by Articles 112 and 116 (cases do not require continuous review by a committee).	Since 1983, the thresholds have never been changed. However, in principle, no new rules are intended.

Article 170 [replaced by Article [replaced by Article 164]]

1	Date of application: future Member State candidates must have the complete text sufficiently in advance.	This will considered at the time of adoption.

2	Analyse CCIP before decision on the date from when the modernized CC is to apply.	The modernized CC and the new CCIP will enter into force on the same date.