

ACTS ADOPTED BY BODIES CREATED BY INTERNATIONAL AGREEMENTS

'OMNIBUS' DECISION No 1/2010 OF THE EU-SAN MARINO COOPERATION COMMITTEE

of 29 March 2010

establishing various implementing measures for the Agreement on Cooperation and Customs Union between the European Economic Community and the Republic of San Marino

THE EU-SAN MARINO COOPERATION COMMITTEE,

of the Union in this area by the Republic of San Marino would aid the proper functioning of the customs union established by the Agreement.

Having regard to the Agreement on Cooperation and Customs Union between the European Economic Community and the Republic of San Marino ⁽¹⁾, and in particular Articles 7(2), 8(3), 13(2) and 23(3) thereof,

Whereas:

(1) The Agreement on Cooperation and Customs Union between the European Economic Community and the Republic of San Marino ('the Agreement') entered into force on 1 April 2002.

(2) As a result of the entry into force of the Agreement, the Interim Agreement on Trade and Customs Union between the European Economic Community and the Republic of San Marino ⁽²⁾ ceased to apply.

(3) The EU-San Marino Cooperation Committee ('the Cooperation Committee') is required by the Agreement to take a number of decisions for the proper implementation thereof.

(4) Article 7(2) of the Agreement provides that the Cooperation Committee should determine in greater detail the provisions of the Union relating to the operation of the customs union. Given the existence of a Community Customs Code, and that, for the moment, customs clearance is carried out through customs offices of the Union, it is not necessary to establish a detailed list of the applicable provisions.

(5) The Republic of San Marino is a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The application of legislation

(6) In order to comply with Articles 6(4) and 7(1) of the Agreement, the Republic of San Marino is to take all necessary measures to apply in its territory legislation of the Union in the fields of food safety and veterinary and phytosanitary matters, to the extent necessary to ensure the proper functioning of the Agreement. Administrative cooperation should be established in order to assist the authorities of the Republic of San Marino in this regard.

(7) Annex II to the Agreement sets out the list of the customs offices which may carry out customs clearance formalities in the name and on behalf of the Republic of San Marino. Since Italy and the Republic of San Marino have agreed to increase the number of offices with a view to promoting economic development by assisting commercial exchanges between the Republic of San Marino and third countries, this list should be updated.

(8) The decisions of the Cooperation Committee concerning customs cooperation and adopted under the Interim Agreement remain valid. It is therefore appropriate for them to remain in force.

(9) The Cooperation Committee is to decide, in accordance with Article 8(3)(b) of the Agreement, on the arrangements for making available to the Republic of San Marino the import duties collected for its account. It is necessary to align the percentage deducted for administration costs on the percentage provided for in Article 2(3) of the Council Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the European Communities' own resources ⁽³⁾,

⁽¹⁾ OJ L 84, 28.3.2002, p. 43.

⁽²⁾ OJ L 359, 9.12.1992, p. 14.

⁽³⁾ OJ L 253, 7.10.2000, p. 42.

HAS ADOPTED THIS DECISION:

Article 1

The rules of procedure of the Cooperation Committee set out in Annex I are hereby adopted.

Article 2

1. A Customs Cooperation Committee, which has the task, in particular, of ensuring the correct and uniform application of the Agreement's customs provisions and operates under the authority of the Cooperation Committee, is hereby set up.

2. The Customs Cooperation Committee shall be composed of customs experts from the Union and from the Republic of San Marino. The Customs Cooperation Committee shall meet alternately under the chairmanship of a European Commission representative and a representative of the Republic of San Marino. The rules of procedure of the Cooperation Committee shall apply, *mutatis mutandis*, to the Customs Cooperation Committee.

3. The Customs Cooperation Committee shall report regularly on its work to the Cooperation Committee. The flow of information shall take place through the secretariat of the Cooperation Committee. The Customs Cooperation Committee shall refer to the Cooperation Committee any instances raising a question of principle on the interpretation of the Agreement.

Article 3

1. The Republic of San Marino shall apply customs legislation of the Union as it applies in the Union, and in particular the Community Customs Code⁽¹⁾ and its implementing provisions. The Republic of San Marino shall apply legislation of the Union relating to international trade in endangered species of wild fauna and flora.

2. In order to apply particular customs regimes, and to apply the legislation relating to international trade in endangered species of wild fauna and flora, the customs territory of the Union and the territory of the Republic of San Marino shall be considered a single customs territory.

Article 4

The practical arrangements for applying legislation of the Union on food safety and veterinary and phytosanitary matters shall be

⁽¹⁾ Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, which has been amended several times. Regulation (EEC) No 2913/92 has been replaced by Regulation (EC) No 450/2008 of the European Parliament and of the Council laying down the Community Customs Code (Modernised Customs Code), in the manner provided for in Article 188 of Regulation (EC) No 450/2008.

agreed by the European Commission departments and the authorities of the Republic of San Marino.

Article 5

In cases where a provision of the Union which the Republic of San Marino is required to apply by virtue of Article 7(1) of the Agreement, in the areas of customs, common commercial policy, market surveillance, health, safety and protection of consumers, international trade in endangered species of wild fauna and flora, agriculture, or food safety or veterinary or phytosanitary matters, provides that a decision must be taken by the European Commission to resolve certain issues, such decision shall be taken by the authorities of the Republic of San Marino following agreement by the European Commission. Where such a provision of the Union provides that a decision must be taken or a communication must be made by a Member State, such decision shall be taken or such communication shall be made by the authorities of the Republic of San Marino. Those authorities shall take into account the opinions of the Union's scientific committees and use as a basis for its decisions the case-law of the Court of Justice and the practices followed by the European Commission.

Article 6

1. The list of customs offices of the Union authorised to carry out customs clearance of goods destined for the Republic of San Marino annexed to the Agreement shall be replaced by the list set out in Annex II to this Decision.

2. Customs clearance operations relating to exports may be carried out at all Italian customs offices, with the exception of formalities:

- (a) which are carried out in customs procedures with economic impact;
- (b) which concern the export of arms, works of art, precursors and dual-use products;

which must be carried out at the offices and sub-offices listed in Annex II.

Article 7

The procedures for making available to the San Marino Exchequer import duties collected by the Union on behalf of the Republic of San Marino are laid down in Annex III.

Article 8

1. Decision No 3/92 of the EEC-San Marino Cooperation Committee of 22 December 1992 on the arrangements for the provision of mutual assistance pursuant to Article 13 of the Agreement between the Community and San Marino ⁽¹⁾ shall remain in force and shall constitute implementation of Article 23(8) of the Agreement.

2. Decision No 4/92 of the EEC-San Marino Cooperation Committee of 22 December 1992 concerning certain methods of administrative cooperation for implementation of the Interim Agreement and the procedure for forwarding goods to the Republic of San Marino ⁽²⁾, as amended by Decision No 1/2002 of the EC-San Marino Cooperation Committee ⁽³⁾, shall remain in force. It shall constitute implementations of

Article 8(3)(a) and (c) and Article 23(8) of the Agreement and shall apply *mutatis mutandis* to the use of electronic-data-processing techniques in the transit procedure of the Union.

Article 9

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 29 March 2010.

For the Cooperation Committee

The Chairman

Gianluca GRIPPA

⁽¹⁾ OJ L 42, 19.2.1993, p. 29.

⁽²⁾ OJ L 42, 19.2.1993, p. 34.

⁽³⁾ OJ L 99, 16.4.2002, p. 23.

ANNEX I

RULES OF PROCEDURE OF THE EU-SAN MARINO COOPERATION COMMITTEE

Article 1

The chairmanship of the Cooperation Committee shall be held alternately for a period of six months as follows:

- (a) from 1 January to 30 June by a representative of the European Commission;
- (b) from 1 July to 31 December by a representative of the Republic of San Marino.

Article 2

The Chairman of the Cooperation Committee shall determine, following the agreement of the two delegations, the date and place of meetings. These shall be held alternately in Brussels and in the Republic of San Marino.

Article 3

Before each meeting the Chairman shall be informed of the expected composition of each delegation.

Article 4

1. The Chairman shall draw up a provisional agenda for each meeting. This shall be sent to the two delegations no later than 15 days before the start of the meeting.
2. The provisional agenda shall include items for which documentation has been sent to the two delegations no later than the date on which the provisional agenda is sent.
3. The Chairman may, with the agreement of both delegations, shorten the deadlines provided for in paragraphs 1 and 2 to take account of particular circumstances.
4. The agenda shall be adopted by the Cooperation Committee at the beginning of each meeting. The inclusion in the agenda of any item other than those in the provisional agenda shall be done with the agreement of the Union and the Republic of San Marino.

Article 5

1. Unless otherwise decided, the meetings of the Cooperation Committee shall not be public.
2. Without prejudice to other applicable provisions, the deliberations of the Cooperation Committee shall be covered by the obligation of professional secrecy, except in so far as the Committee decides otherwise.

Article 6

The deliberations of the Cooperation Committee may take place by written procedure if the Union and the Republic of San Marino so agree.

Article 7

Acts adopted by the Cooperation Committee shall be signed by the Chairman.

Article 8

1. Recommendations and decisions of the Cooperation Committee pursuant to Article 23 of the Agreement shall be entitled 'Recommendation' or 'Decision' followed by a serial number and a reference to their subject matter.
2. Recommendations and decisions of the Cooperation Committee shall be forwarded to the addressees referred to in Article 10.

Article 9

1. A record of the conclusions adopted by the Cooperation Committee shall be established by mutual agreement.
2. Secretariat services shall be provided jointly by a representative of the European Commission and a representative of the Republic of San Marino.

Article 10

All communications from the Chairman that are provided for in these rules of procedure shall be forwarded to the European Commission and to the Republic of San Marino.

Article 11

1. The Contracting Parties shall each defray the expenses they incur by reason of their participation in the meetings of the Cooperation Committee, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenditure.
2. Expenses related to the practical organisation of meetings (premises, requisites, etc.) shall be borne either by the Union or by the Republic of San Marino depending on where the meeting is held.

Article 12

The official languages of the Cooperation Committee shall be the official languages of the Institutions of the European Union.

Article 13

Correspondence intended for the Cooperation Committee shall be addressed to its Chairman at the Secretariat of the Cooperation Committee, using the address of the European Commission.

ANNEX II

List of customs offices of the Union authorised to carry out the customs clearance of goods destined for the Republic of San Marino

- ANCONA: Ufficio delle Dogane di Ancona; Sezione Operativa Territoriale di Falconara Aeroporto,
 - BOLOGNA: Ufficio delle Dogane di Bologna, Sezione Operativa Territoriale Aeroporto 'G. Marconi',
 - FORLÌ: Ufficio delle Dogane di Forlì-Cesena; Sezione Operativa Territoriale Aeroporto 'Ridolfi',
 - GENOVA: Ufficio delle Dogane di Genova; Sezione Operativa Territoriale Passo Nuovo; Sezione Operativa Territoriale Voltri; Sezione Operativa Territoriale Aeroporto,
 - GIOIA TAURO: Ufficio delle Dogane di Gioia Tauro,
 - LA SPEZIA: Ufficio delle Dogane di La Spezia,
 - LIVORNO: Ufficio delle Dogane di Livorno,
 - MILANO: Ufficio delle Dogane di Varese, Sezione Operativa Territoriale di Malpensa,
 - ORIO AL SERIO: Ufficio delle Dogane di Bergamo, Sezione Operativa Territoriale di Orio al Serio,
 - RAVENNA: Ufficio delle Dogane di Ravenna; Sezione Operativa Territoriale di San Vitale,
 - RIMINI: Ufficio delle Dogane di Rimini; Sezione Operativa Territoriale di Aeroporto 'F. Fellini',
 - ROMA: Ufficio delle Dogane di Roma II; Sezione Operativa Territoriale di Fiumicino,
 - TARANTO: Ufficio delle Dogane di Taranto,
 - TRIESTE: Ufficio delle Dogane di Trieste; Sezione Operativa Territoriale di Porto industriale; Sezione Operativa Territoriale di Punto Franco Vecchio; Sezione Operativa Territoriale di Punto Franco Nuovo,
 - VENEZIA: Ufficio delle Dogane di Venezia; Sezione Operativa Territoriale di Interporto; Sezione Operativa Territoriale di Portogruaro.
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ANNEX III

Procedures for making available to the San Marino Exchequer import duties collected by the Union on behalf of the Republic of San Marino

Article 1

With regard to the establishment, monitoring and making available of import duties collected on goods destined for the Republic of San Marino, Article 3, Article 6(1), (3)(a) and (b) and the first subparagraph of paragraph 4 and Articles 10(1) and 17(2) of Regulation (EC, Euratom) No 1150/2000 ⁽¹⁾ shall apply *mutatis mutandis*. In particular, the following provisions shall apply:

- (a) Member States of the Union with customs offices listed in Annex II to this Decision shall maintain separate accounts for import duties collected on goods destined for the Republic of San Marino, identical to those provided for as regards the Union's own resources in Article 6(1), (3)(a) and (b) of Regulation (EC, Euratom) No 1150/2000.
- (b) The import duties relating to T2 SM or T2L SM documents shall be established by the customs offices referred to in Annex II to this Decision at the moment they are entered in the accounts and shall be entered in the accounts referred to in point (a).

Where the customs office of departure of the T2 SM transit procedure or of issue of the T2L SM document has not received the information required to prove that the goods have arrived in the Republic of San Marino to the customs office of departure or of issue, within three months, a correction shall be made to the initial entry in the accounts.

In this case, the import duties shall be established as Union's own resources and entered in the accounts pursuant to Article 6(3)(a) of Regulation (EC, Euratom) No 1150/2000 or, as appropriate, in the separate accounts pursuant to Article 6(3)(b) of that Regulation.

The procedure referred to above shall apply *mutatis mutandis* for compensating products or for goods in their unaltered state sold within the territory of the Republic of San Marino under inward processing arrangements or for goods under temporary importation arrangements for which a customs debt has arisen.

- (c) The Member States in question shall, pursuant to the first subparagraph of Article 6(4) of Regulation (EC, Euratom) No 1150/2000, submit to the European Commission records of their accounts jointly with those relating to own resources. The records, established in the same way as for own resources, shall also indicate the total amount of import duties collected at each customs office.
- (d) The supporting documents shall be kept in accordance with the first and second subparagraphs of Article 3 of Regulation (EC, Euratom) No 1150/2000. These documents and the documents relating to own resources shall be filed separately.
- (e) Corrections to established entitlements or to the accounts made after 31 December of the third year following the year of the initial establishment shall not be entered in the accounts, except on points notified later than this date either by the European Commission or by a Member State or by the Republic of San Marino.
- (f) Article 18 of Regulation (EC, Euratom) No 1150/2000 shall apply. The inspection measures in question shall also apply to the documents referred to in point (b) of the first subparagraph of Article 18(2) proving that the goods have arrived in the Republic of San Marino. Officials authorised by the Republic of San Marino may participate in these inspection measures.
- (g) The Member States in question shall credit to the European Commission's account provided for in Article 9 of Regulation (EC, Euratom) No 1150/2000, within the time limits indicated in Article 10(1) of that Regulation and after deduction of collection costs, the entitlements entered in the accounts provided for in Article 6(3)(a) and (b) of that Regulation.

The percentage which the Union may deduct, as collection costs, from the import duties collected by the Union on behalf of the Republic of San Marino is set at 25 %.

- (h) Member States in question shall be released from the obligation to place at the disposal of the European Commission the amounts corresponding to the duties recorded for the Republic of San Marino only once the conditions laid down in Article 17(2) of Regulation (EC, Euratom) No 1150/2000 have been fulfilled.

⁽¹⁾ Council Regulation (EC, Euratom) No 1150/2000 of 22 May 2000 implementing Decision 2007/436/EC, Euratom on the system of the European Communities own resources (OJ L 130, 31.5.2000, p. 1).

Article 2

The European Commission shall transfer the amounts credited to an account opened by the Republic of San Marino with thirty days of notification by the Member States that an amount has been credited. The Republic of San Marino shall inform the European Commission of the details of the account to be credited and shall bear any charges on this account.

Article 3

In the implementation of Article 1(a) and (b), the Appendix shall apply.

Appendix

Administrative procedure applicable in the implementation of points (a) and (b) of Article 1

1. Completion of formalities at authorised customs offices to release goods for free circulation

When goods bound for the Republic of San Marino are released for free circulation, they move under cover of a T2 SM transit procedure or a T2L SM document as appropriate. The import duties shall be entered in the accounts within the time-limits laid down by the relevant legislation of the Union.

For control purposes, duties entered in the accounts shall also be recorded in a register, specifically kept for this purpose by the customs office concerned, containing details of all imports bound for the Republic of San Marino, including reference to the goods imported, the date of acceptance of the import declaration, the items of charge, the amount of duty involved and the movement reference number or document issued (T2 SM or T2L SM).

The authorities of the Republic of San Marino, using the 'arrival advice' message, shall notify the office of departure of the arrival of the goods on the day they are presented at the office of destination and shall forward the 'control results' message to the office of departure at the latest on the third day following the day the goods are presented at the office of destination.

Where a T2 SM document is used in the transit fallback procedure, or a T2L SM document, the customs office shall indicate on these documents the deadline of three months from the date of issue of the said documents for the return of copy No 5 of document T2 SM or the copy of document T2L SM, duly stamped by the authorities of the Republic of San Marino, to the customs office of issue.

2. Completion of accounting formalities at authorised customs offices

The import duties shall be entered in the 'San Marino' accounts (procedure analogous to that detailed in Article 6(3)(a) of Regulation (EC, Euratom) No 1150/2000) in accordance with the provisions of that Article.

However, the authorities of the Member States with customs offices listed in Annex II may decide not to make an entry in the 'San Marino' accounts if the established duties for which security has been provided have been challenged and might upon settlement of the disputes which have arisen be subject to change. In this case, pending the outcome of the ensuing national administrative and/or legal procedures by the competent authorities, the amount of import duties shall be recorded in separate 'San Marino' accounts (procedure analogous to that detailed in Article 6(3)(b) of Regulation (EC, Euratom) No 1150/2000).

For the purposes of this paragraph, the following shall be considered to be 'competent authorities':

- for any question relating to implementation of the laws, regulations or administrative provisions applicable to customs matters, the administrative or judicial authorities of the Member State which carried out the customs clearance or, where appropriate, those of the Union,
- for any question relating to procedural provisions (notifications, deadlines, etc.), the administrative or judicial authorities of the Member State which carried out the customs clearance,
- for any question relating to implementation of an implementing measure concerning the forced recovery of debts in the territory of the Republic of San Marino, the judicial authorities of the Republic of San Marino.

3. Discharge of the transit procedure and return of supporting documents

The transit operation may be discharged when the customs office of departure of the goods has received the appropriate 'arrival advice' and 'control results' messages within the time-limits foreseen in the customs legislation of the Union.

When the fallback procedure for transit is used or a T2L SM document was issued, copy No 5 of document T2 SM or the copy of document T2L SM, duly stamped by the authorities of the Republic of San Marino, are returned within the three-month time-limit referred to in the fourth subparagraph of paragraph 1 to the customs office of issue.

Where the messages referred to in the first subparagraph are not presented or where copy No 5 of document T2 SM or the copy of document T2L SM is not returned to the office of departure within the designated time limit, an entry shall be made in the register referred to above and a correction made to the initial entry in the accounts. In this case, the import duties shall be established as Union's own resources and entered in the accounts detailed in Article 6(3)(a) of Regulation (EC, Euratom) No 1150/2000 or, where appropriate, in the separate accounts referred to in Article 6(3)(b) of that Regulation.

This entry shall be without prejudice to any corrections which might prove necessary in the light of investigation conducted in the context of the transit arrangements of the Union or as a result of action undertaken in the context of mutual assistance as laid down in Decision No 3/92 of the EEC-San Marino Cooperation Committee.

4. Application of the specific procedure in the context of inward processing and temporary importation arrangements

The procedure referred to above shall apply *mutatis mutandis* for compensating products or for goods in their unaltered state sold within the territory of the Republic of San Marino under inward processing arrangements or for goods under temporary importation arrangements for which a customs debt has arisen.
