

EU CUSTOMS LAW AND INTERNATIONAL LAW

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The views expressed are those of the author and do not necessarily reflect the position of the institution in which he works.

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Abstract

The interdependence between international law and European Community law, particularly in the area of customs, is very complex. The ways in which international customs law is incorporated into the Community's legal system are many and varied, and there is a need to establish some standard mechanisms for the future in order to reduce the diversity of solutions that are found for problems that are similar. The introduction of the modernised Customs Code provides an opportunity to explore the application of a general model according to which international customs law may be made part of the Community's legal system.

1. Introduction

1.1 The status of international agreements in the Community's legal order

According to Article 300 (7), European Community (EC) Treaty agreements concluded under the conditions set out in this Article are binding on the institutions of the Community and on Member States. This means that such agreements are an integral part of the Community's legal order¹ and they must therefore be respected by the institutions of the Community and the Member States. Consequently, they do not need to be transposed into secondary legislation where the rules of an international agreement are sufficiently clear and precise to allow their application. This condition is considered by the European Court of Justice (ECJ) to be fulfilled for specific provisions of certain types of agreements, such as preferential agreements,² for others not, such as the GATT provisions.³ Direct applicability of certain international agreements does not, however, necessarily mean that the provisions contained therein, such as those on the prohibition of customs duties and charges having equivalent effect, are to be interpreted in the same strict way as the provisions of the EC Treaty concerning trade between Member States.⁴ Though the adoption of an international agreement by the Council makes the provisions thereof applicable in the Community insofar as they are sufficiently clear and precise (this is called the 'monistic theory'), the Council can also choose to make the application of the agreement dependent on the adoption of a specific Council or Commission Regulation or Directive (this is called the 'dualistic theory'), as the Council has done with regard to the agreements emanating from the Uruguay Round.⁵

1.2 Interdependence between international and Community law in the customs area

Furthermore, certain agreements, by their nature or because of the intentions of the contracting parties, cannot, as such, become directly applicable within a country, or indeed a union of countries, but are designed to be incorporated in, or taken into account, when drafting a legal instrument which is directly

applicable within a jurisdiction. Examples of these are:

- the World Trade Organization (WTO) tariff schedules and the Harmonized System, which have been agreed in order to be integrated into the customs tariffs of the contracting parties (see paragraph 5.1 below)
- the Kyoto Convention, which has been designed to be reflected, in part or completely, in the customs laws of the contracting parties (see paragraph 6.1 below).

In such cases, the question arises whether or not economic operators before the courts can invoke any compatibility between the international agreement and the legal instrument implementing it. The WTO agreements cannot normally be invoked before the courts in order to claim the invalidity of a Community Regulation.⁶ However, the ECJ does take such arguments into account in the following types of cases:

- a Community Regulation explicitly refers to an international agreement for the application of a measure concerning external trade⁷
- a Community Regulation was adopted with the aim of fulfilling obligations imposed by an international agreement, such as the WTO Antidumping Code,⁸ or
- the scope of a Community Regulation is not clear and, because of the supremacy of international agreements, is wherever possible, interpreted in conformity with international law.⁹

The interdependence between international and Community law in the customs area is a very complex matter. Authors of customs books therefore normally try to simplify matters by arranging the issues:

- according to the international organisation from which the agreement emanates, such as WTO, WCO or ECE, and/or
- according to the specific subject to be treated, such as customs tariff (GATT, Harmonized System) or customs valuation (WTO Valuation Agreement).

This paper leaves the well trodden paths and describes in general how international law in the customs area is made a part of the Community's legal order, and in particular addresses the following questions:

- Is there a general model according to which international customs law is made part of the Community's legal system? or
- Have different solutions been adopted for various sectors of customs law?

After a brief description of international customs rules which are reflected (or not reflected) in the EC Treaty and the draft Constitution for Europe, the case is made that the following categories of implementation methods can be distinguished:

- direct application without transposition
- transposition in spite of direct applicability
- literal or almost literal transposition where implementation is needed
- implementation which reflects (with varying degrees) international agreements
- the extension of Community customs rules to third countries
- the adoption or application of guidelines and explanatory notes.

Furthermore, implementation can take place at:

- Council and, where appropriate, Parliamentary level, or
- Commission level.

The classical distinction between multilateral and bilateral agreements does not seem to be relevant in this context.

2 International customs law reflected in the EC Treaty and the draft Constitution for Europe

According to Art. 23 EC Treaty¹⁰ the Community (or Union) is a customs union with a common customs tariff. This reflects, albeit incompletely, Art. XXIV (8) GATT, according to which the term ‘customs union’ means a single customs territory, in which ‘substantially the same duties’ are applied towards countries other than members of the union. What is missing in the EU definition, is the harmonisation of the ‘other regulations of commerce’ stipulated by Art. XXIV (8) GATT (in particular quantitative restrictions). This gap can, however, be closed by Art. 133 EC Treaty¹¹ which is the legal basis for regulations or agreements necessary for ‘the achievement of uniformity in measures of liberalisation’ or ‘to protect trade’.

It is interesting to note that the people who drafted both Treaties have struggled with customs law, insofar as they have wrongly placed the section on the common customs tariff in the part on ‘free movement of goods’ (between Member States) whilst other external trade measures (notably non-tariff barriers) are correctly placed in the part on ‘common commercial policy’. What makes this even more complicated is the fact that ‘changes in tariff rates’ are covered by Art. 133 EC Treaty,¹² as well as by Art. 26 EC Treaty¹³ catering for the fixing of ‘Common Customs Tariff duties’. While, on the one hand, the number of legal bases for amendments to the customs tariff is greater than necessary, there is, on the other hand, no explicit legal basis for customs legislation, as such, in the EC Treaty or the draft Constitution, other than Art. 135 EC Treaty¹⁴ which allows measures strengthening ‘customs cooperation between Member States and between the latter and the Commission’ (this definition excludes the possibility to base international agreements on these Articles).

Consequently, the authority to conclude international agreements on customs matters must be found in the general provisions, such as:

- Art. 133 EC Treaty¹⁵ with regard to commercial policy measures, or
- Art. 310 EC Treaty¹⁶ where an association agreement is to be concluded.

Another reflection of an international agreement is to be found in Annex I EC Treaty.¹⁷

The definition of goods subject to special rules under the common agricultural policy is based on the Brussels tariff nomenclature, a predecessor of the Harmonized System (see paragraph 5.1). This Annex has never been formally updated.¹⁸

Less transparency exists with regard to the list of military goods for which Member States may take measures that they consider necessary for the protection of their essential security interests (Art. 246 EC Treaty¹⁹). This list has never been officially published²⁰ nor has it ever been updated. As this list does not indicate the international tariff codes, more interpretation problems may arise²¹ than under the normal tariff rules. It should be noted that the Common Military List of the European Union²² does not replace the list stipulated under Art. 246 EC Treaty²³ but serves a specific purpose, namely to identify the military equipment covered by the EU Code of Conduct on arms exports, adopted by the Council on 13 June 2000. On the other hand, harmonisation has been achieved on those military goods which benefit from a tariff suspension.²⁴

3 International agreements which are directly applicable and therefore not transposed into Community law

3.1 Preferential agreements

Preferential agreements laying down the rules for a customs union (for example, EC–Turkey) or a free-trade area (for example, EC–Switzerland) are, in principle, directly applicable and do not need implementing provisions, as in the case of the origin rules or the tariff concessions.²⁵ The same applies to decisions taken by committees established under such agreements.²⁶ However, this principle does not apply to tariff quotas, for which the distribution mechanism (first-come-first-served or licences) must be laid down in a Regulation.

3.2 TIR Convention

The Customs Convention on the International Transport of Goods under Cover of TIR Carnets²⁷ was concluded for the Community by Regulation (EEC) No. 2112/78.²⁸ The fact that the Convention was adopted by means of a Regulation, and that substantive parts of this Convention have not been incorporated in the Customs Code, or its implementing provisions, indicates that this Agreement is considered to be directly applicable. This view has been confirmed by the ECJ.²⁹ However, subsequent amendments to this Convention have not been formally adopted and published by the Community legislator.

Secondary legislation only covers the following:

- movements within the EC customs territory (Art. 91 (2) (b) and Art. 163 (2) (b) CC)
- some internal rules for the EC customs union (Art. 451-457b CCIP), and, in particular, which Member State is competent to recover the duties where the goods have not arrived at the customs office of destination.³⁰

3.3 Mutual administrative assistance

The Community has concluded a number of agreements on mutual administrative assistance in customs matters, either in the context of preferential agreements, for example, with Switzerland³¹ or cooperation agreements, for example, with China.³² Such agreements are directly applicable, normally adopted by a Council decision,³³ and not transposed into secondary legislation.

4 International agreements which are directly applicable but nevertheless transposed into Community law

4.1 Istanbul Convention

The Convention on Temporary Admission³⁴ is directly applicable. The fact that the ATA Carnet has not been included in the CCIP illustrates that the Community legislator shares this view. Nevertheless, the various cases of temporary admission with full duty relief have been laid down in Art. 555–578 CCIP. The reasons for this approach are:

- as the Community is also a contracting party to other conventions on temporary admission (for example, for containers used in pools,³⁵ the CCIP set out the rules in respect of the Community's international commitments
- in certain cases, the Community applies more generous rules than those stipulated under the relevant international agreements.³⁶

4.2 Florence Agreement

The Florence Agreement on the Importation of Educational, Scientific and Cultural Materials³⁷ lays down certain types of goods that can be imported duty-free. The goods concerned are set out in Annexes I and II of Regulation (EEC) No. 918/83.³⁸ This approach is justified for the following reasons:

- the Regulation groups together all cases of duty relief granted for other than trade policy reasons, and thus promotes transparency
- the Regulation includes the tariff codes and thus creates a link to other relevant legislation (however, when the tariff codes have changed, no updates have been made by the legislator).

With regard to this agreement, one could also argue that the Council has chosen not to assume direct applicability according to the 'monistic theory', but to implement the agreement through secondary legislation in accordance with the 'dualistic theory'.³⁹

5 International agreements needing transposition and incorporated literally or almost literally into Community legislation

5.1 Harmonized System Convention, WTO tariff concessions

The list of goods contained in the Annex of the Convention on the Harmonized Commodity and Coding System⁴⁰ has been created to serve as the basis for customs tariffs and statistics for all contracting parties and many other countries. This list has been taken over literally – and further broken down – in Regulation (EEC) No. 2658/87 on the tariff and statistical nomenclature and the Common Customs Tariff.⁴¹ Whenever this list is modified at international level, an amendment to this Regulation takes this into account.⁴²

The Community's list of tariff concessions under the WTO⁴³ is also literally reflected in this Regulation which follows the evolution of the Harmonized System (HS) goods codes (although a formal update of the WTO list does not take place).

Given this literal incorporation, the Community does not even publish its list of tariff concessions or changes to the Harmonized System as such in the Official Journal.

5.2 Agreement on Pre-shipment Inspection

The WTO Agreement on Pre-shipment Inspection (PSI)⁴⁴ has been implemented by Regulation (EC) No. 3287/94 on pre-shipment inspections for exports from the Community.⁴⁵ Both texts largely correspond, even though their presentation is somewhat different. The Community subjects pre-shipment inspection entities to a prior notification before they exercise their activities in the Community (Art. 2).

It should be noted that PSI is a tool for developing countries that do not have the administrative capacity to check import declarations and must therefore rely on controls (for example, of the customs value) in the export country. Pre-shipment controls are a different matter for safety and security reasons. They are also applied by the Community, but are performed by the customs authorities, and not by private companies.

5.3 Customs Valuation Agreement

The WTO Customs Valuation Agreement⁴⁶ has been incorporated into the Customs Code and its implementing provisions (largely literally). However, the choice of a FOB or CIF basis for the determination of the customs value is left to the contracting parties (the Community has, like most other countries, opted for the CIF basis). Where necessary, the Community has adopted more detailed rules, for example with regard to:

- currency conversion (Art. 168–177 CCIP), or
- the treatment of damaged goods (Art. 145 CCIP).

5.4 Anti-dumping Agreement

The WTO Anti-dumping Agreement⁴⁷ has been incorporated in the Community's Anti-dumping Regulation,⁴⁸ with some additional elements.

These *inter alia* include:

- anti-circumvention rules (Art. 12-13)
- the examination of the Community interest (Art. 21)
- rules on the Community's decision-making process (Art. 7, 8, 9, 11, 14).

5.5 Non-proliferation arrangements

From a legal point of view, the non-proliferation arrangements are particularly interesting. They are not formal international agreements, but they are nevertheless implemented by Council Regulation⁴⁹ to the extent that they cover dual-use items and not goods used for purely military purposes:

- the Wassenaar Arrangement covering strategic goods⁵⁰
- the Nuclear Suppliers Group⁵¹
- the Missile Control Technology Regime⁵²
- the list of chemical precursors established by the Australian Group.⁵³

Annex I of this Regulation is regularly updated, in order to take into account changes to these lists of items agreed under these arrangements.⁵⁴ Goods used purely for military purposes⁵⁵ are still regulated under national legislation.

6 International agreements needing transposition and their reflection in Community legislation

6.1 Kyoto Convention

According to the preamble of the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures,⁵⁶ this Convention will enable the achievement of a high degree of simplification and harmonisation of customs procedures and practices, and thus will be a major factor in the facilitation of international trade. This Convention largely encompasses matters which are regulated by the Community Customs Code and its implementing provisions. Comparing the two is made difficult by the fact that the Kyoto Convention has the following structure:

- a General Annex with definitions and some basic rules (standards and recommended practices) for any Customs Code
- eleven Annexes laying down standards and recommended practices for specific areas, such as duty relief (Annex B), customs procedures (for example, Annex E: Transit), customs offences (Annex H), and origin (Annex K), the adoption of which is at the choice of contracting parties.

Apart from this cumbersome structure which makes it impossible to adopt the Kyoto Convention as a model Customs Code, the Convention often allows a large margin of choice even with regard to texts adopted by a contracting party. Standard 4.1 of the General Annex reads for example: 'National legislation shall define the circumstances when liability to duties and taxes is incurred.'

Consequently, there are differing degrees of conformity between the Community Customs Code and the Kyoto Convention. In certain cases, the degrees of conformity are:

- great (for example, with regard to the meaning of the terms 'appeal' or 'repayment')
- conceptually great, though different terminology is used (for example, 're-importation in the same state' as opposed to 'duty relief for returned goods'), up to
- non-existent, for example:
 - because the Community did not adopt the procedure concerned (for example, 'transshipment' or 'carriage of goods coastwise'), or
 - because the issue has been left for Member States to legislate on (for example, 'customs offences').

A partial lack of conformity exists where the Community has adopted Annexes to the previous version of the Kyoto Convention, but has made use of the possibility to enter a reservation with regard to specific standards or recommended practices.⁵⁷ However, the fact that the Community has adopted the revised Convention and its General Annex means that the specific Annexes adopted previously are no longer binding until such time as the Community adopts one or several of the revised Annexes (which is planned in the context of the adoption of the modernised Customs Code). Under the revised Convention, reservations can be entered only in relation to recommended practices (Art. 12).

6.2 TRIPS Agreement

Section 4 (Special requirements related to border measures) of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)⁵⁸ has been implemented by Regulation (EC) No. 1383/2003 concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights.⁵⁹ This Agreement needs implementing legislation, because it leaves options for WTO members, for example with regard to:

- what intellectual property rights are to be covered by border measures (an obligation to provide measures exists only in relation to trademarks and copyrights, whilst there is an option to include other kinds of rights, Art. 51 TRIPS)
- whether the measures should cover only imports or whether exports should also be included (an obligation exists only with regard to release for free circulation, Art. 51 TRIPS)
- whether customs authorities are empowered by the contracting party's implementing rules to suspend the release of goods on their own initiative (Art. 58 TRIPS)
- whether small consignments or travellers' luggage are excluded from the scope of border measures (Art. 60 TRIPS).

The Community has opted for a broad approach by:

- including almost all intellectual property rights and including the protection of geographical indications and designations of origin (Art. 2)
- covering all types of customs procedures, free zones, as well as the entry and exit goods into the Community customs territory (Art. 1)
- empowering customs authorities to act on their own initiative (Art. 4).

In some other aspects, the Agreement stipulates very precise provisions, for example, with regard to:

- indemnifying the importer and the owner of goods (Art. 56 TRIPS)
- the right holder's and importer's right to have the goods inspected (Art. 57 TRIPS).

These provisions are reflected in Regulation (EC) No. 1383/2003.⁶⁰

6.3 Convention on the Harmonization of Frontier Controls of Goods

Apart from the rules on the use of the UN layout key and on transit, the International Convention on the Harmonization of Frontier Controls of Goods⁶¹ is not reflected in the Community Customs Code for the following reasons:

- whereas the current Customs Code deals mainly with the collection or suspension of import duties, the main aim of this Convention is to achieve a coordinated control of customs and other border agencies (such as environmental and health agencies)
- the Convention also deals with how resources and equipment are to be used in order to guarantee a smooth flow of goods; this is a task of the Member States.

It is however, intended to introduce the single window/one-stop-shop concept in the modernised Customs Code, which will reinforce the implementation and the aims of the Convention.

7 Extension of Community customs rules to third countries

If the EU and a third country agree to apply the same customs rules, there are different ways to achieve this. These are:

- including the territory of the third country in the Community customs territory (as in the case of Monaco⁶²)
- extending the scope of a Community customs procedure to the territory of a third country by virtue of an agreement (as in the case of Community transit with Andorra⁶³ and San Marino⁶⁴)

- creating identical international rules (for operations with the partner countries) and Community rules (for operations within the Community) as in the case of common transit with Iceland, Liechtenstein, Norway and Switzerland⁶⁵ and Community transit;⁶⁶
- agreeing with countries wanting to join the Community, such as Bulgaria and Romania, that they align their customs legislation with Community law⁶⁷
- duplicating the Community and national rules of the partner country and supplementing them by international rules (so-called ‘bridging legislation’), so that a procedure can begin or terminate both in the Community and in the partner country concerned, as in the case of triangular traffic under outward processing between the EU, Turkey and a third country.⁶⁸

The problem with identical rules in an international convention and in the Community Customs Code (as in the case of the Convention on Common Transit) lies in the fact that the Community becomes dependent on the will of its Convention partners for all its rules, including its internal rules, if it wants both types of procedures (such as common and Community transit) to develop in parallel.

8 International recommendations, explanatory notes, guidelines

The diversity of approaches followed with regard to international agreements is matched by the way the Community deals with ‘soft law’ emanating from international organisations. In certain cases, the Community adopts a recommendation, as in the case of:

- the codes for data elements recommended by the WCO,⁶⁹ or
- duty relief in the framework of temporary admission for radio and television equipment⁷⁰ which is now superseded by Annex B2 of the Istanbul Convention.⁷¹

After such recommendations are adopted, the rules are incorporated into Community provisions or guidelines.⁷²

A more direct approach is employed in relation to the explanatory notes and classification opinions adopted by the Harmonized System Committee under Articles 7 and 8 of the Convention on the Harmonized Commodity Description and Coding System.⁷³ They are applied in the Community for the purposes of the classification of goods and are considered by the European Court of Justice to be ‘an important aid to the interpretation of the scope of the various tariff headings but which do not have legally binding force’.⁷⁴

Currently, the guidelines to the Kyoto Convention have the weakest form of recognition, given that the Community has so far only adopted the General Annex. These guidelines contain detailed information on how to organise customs clearance. They could, however, be taken into account when the guidelines to the modernised Customs Code and its implementing provisions are drafted.

9 Implementation through Council/EP or Commission Regulation

Where an international agreement leaves little or no margin for its implementation, the Council (and where appropriate, Parliament) delegates this task to the Commission. This is the case, for example, with regard to the implementation of changes to:

- the Harmonized System and the WTO bound duty rates,⁷⁵ or
- the Istanbul Convention.⁷⁶

A split approach has been taken with regard to the Customs Valuation Agreement where:

- some rules are to be found in Art. 28-33 and 35 CC
- the others in the CCIP.

In addition, a Valuation Compendium with guidelines has been published on the Commission’s Europa website.⁷⁷

Regulation (EEC) No. 918/83 on duty relief is also inconsistent in that its Annexes I–IV determine the goods concerned for some types of duty relief, whereas for others separate implementing Regulations exist.⁷⁸

A more coherent approach will be proposed for the modernised Customs Code.

10 Conclusions

After this overview of the different ways that international and Community law and Council or Commission regulations fit together, readers may be more confused than they were to begin with. Readers can judge whether the various Community legislators have pursued:

- a complex master plan, or
- individual solutions on an ad hoc basis.

The truth probably lies somewhere in the middle. Customs experts from all areas are called upon to do further work on the different categories, so that some standard mechanisms can be established for the future in order to reduce the diversity of solutions that are found for problems which are similar. The introduction of the modernised Customs Code will be an opportunity to enhance coherence in the areas covered by that Regulation and its implementing provisions.

Endnotes

- ¹ See ECJ, case 104/81 *Hauptzollamt Mainz v. Kupferberg* [1982] ECR 3641.
- ² See ECJ, case 104/81 above.
- ³ See ECJ, case C-280/93, *Germany v. Council* [1994] ECR I-4973.
- ⁴ See ECJ, Case 104/81 above, and case C-312/91 *Metalsa* [1993] ECR I-3751.
- ⁵ See Decision 94/800/EC, OJ 1994 No. L 336, p. 1, and at paragraph 6.2.
- ⁶ ECJ, joint cases 21-24/72 *International Fruit v. Produktschap voor groenten en fruit* [1972] ECR 1219 and case C-280/93 above.
- ⁷ ECJ case 70/87 *Fediol v. Commission* [1989] ECR 1781.
- ⁸ ECJ case C-69/89 *Nakajima v. Council* [1991] ECR I-2069.
- ⁹ ECJ case C-91/94 *Commission v. Germany* [1996] ECR I-3989.
- ¹⁰ Art. III-36 draft Constitution.
- ¹¹ Art. III-217 draft Constitution.
- ¹² As above, Art. III-217 draft Constitution.
- ¹³ Art. III-39 draft Constitution.
- ¹⁴ Art. III-41 draft Constitution.
- ¹⁵ Art. III-217 draft Constitution.
- ¹⁶ Art. III-226 draft Constitution.
- ¹⁷ Annex I draft Constitution which is still to be drawn up.
- ¹⁸ Hopefully, this will be done under the draft Constitution.
- ¹⁹ Art. III-342 draft Constitution.
- ²⁰ It has been published by Karpenstein, p. 377.
- ²¹ For example, with regard to No. 14: covering parts, or No. 15: covering testing and control equipment.
- ²² OJ 2003 No. C 314.
- ²³ Art. III-342 draft Constitution.
- ²⁴ Regulation (EC) No. 150/2003, OJ 2003 No. L 25, p. 1.
- ²⁵ See ECJ, case 104/81 *Hauptzollamt Mainz v. Kupferberg* [1982] ECR 3641.
- ²⁶ See ECJ, case C-188/91 *Deutsche Shell v. Hauptzollamt Hamburg-Harburg* [1993] ECR I-363.
- ²⁷ OJ 1978 No. L 252, p. 2.
- ²⁸ OJ 1978 No. L 252, p. 1.
- ²⁹ ECJ case C-78/01 *BGL v. Germany*, [2003] ECR I-9543 at I-9592.

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- ³⁰ See ECJ, case C-78/01 *BGL v. Germany* [2003] ECR I-9543 at I-9594.
- ³¹ OJ 1997 No. L 169, p. 76.
- ³² OJ 2004 No. L 375, p. 20.
- ³³ See, for example, Decision 2004/889/EC, OJ 2004 No. L 375, p. 19.
- ³⁴ OJ 1993 No. L 130, p. 3.
- ³⁵ OJ 1995 No. L 91, p. 45.
- ³⁶ For example, in Art. 578 CCIP.
- ³⁷ OJ 1979 No. L 134, p. 14.
- ³⁸ OJ 1983 No. 274, p. 49.
- ³⁹ See paragraph 1.1 above.
- ⁴⁰ OJ 1987 No. L 198, p. 3.
- ⁴¹ OJ 1987 No. L 256, p. 1.
- ⁴² See recital 4 of Regulation (EC) No. 2031/2001, OJ 2001 No. L 279, p. 1.
- ⁴³ See Council Decision 94/800/EC, OJ 1994 No. L 336, p. 1.
- ⁴⁴ OJ 1994 No. L 336, p. 138.
- ⁴⁵ OJ 1994 No. L 349, p. 74.
- ⁴⁶ OJ 1994 No. L 336, p. 119.
- ⁴⁷ OJ 1994 No. L 336, p. 103.
- ⁴⁸ Regulation (EC) No. 384/96, OJ 1996 No. L 56, p. 1.
- ⁴⁹ Regulation (EC) No. 1334/2000, OJ 2000 No. L 159, p. 1.
- ⁵⁰ www.wassenaar.org
- ⁵¹ www.nsg-online.org
- ⁵² www.mctr.info
- ⁵³ www.australiagroup.net
- ⁵⁴ See OJ 2004 No. L 281, p. 1.
- ⁵⁵ See references in final paragraph of point 2 above.
- ⁵⁶ OJ 2003 No. L 86, p. 23.
- ⁵⁷ For example, OJ 1994 No. L 76, p. 28.
- ⁵⁸ OJ 1994, No. L 336, p. 214.
- ⁵⁹ OJ 2003 No. L 196, p. 7.
- ⁶⁰ Articles 9 (3) and 19.
- ⁶¹ OJ 1984 No. L 126, p. 3.
- ⁶² Art. 3 (2) CC.
- ⁶³ OJ 1993 No. L 42, p. 34.
- ⁶⁴ OJ 2003 No. L 253, p. 3.
- ⁶⁵ OJ 1977 No. L 226, p. 2.
- ⁶⁶ Art. 91 (2) (a) and Art. 163 (2) (a) CC.
- ⁶⁷ See Art. 94 of the Agreements. OJ 1994 No. L 357, p. 2, and No. L 358, p. 3.
- ⁶⁸ OJ 2003 No. L 28, p. 51.
- ⁶⁹ OJ 1987 No. L 362, p. 22.
- ⁷⁰ OJ 1988 No. L 161, p. 1.
- ⁷¹ OJ 1993 No. L 130, p. 48.
- ⁷² See Annex 38 CCIP in relation to codes and Art. 569 CCIP and guidelines in OJ 2001 No. C 269, p. 41 in relation to professional equipment.
- ⁷³ OJ 1987 No. L 198, p. 3.
- ⁷⁴ ECJ, case C- 270/96 *Sarget v. FIRS* [1998] ECR I-1121; and case C-259/00 *Biochem v. Oberfinanzdirektion Nürnberg* [2002] ECR I-2467.
- ⁷⁵ Art. 9 Reg. (EEC) No. 2658/87.
- ⁷⁶ Art. 141 CC.

⁷⁷ http://ec.europa.eu/taxation_customs/common/legislation/legislation/customs/index_en.htm

⁷⁸ Regulations (EEC) No. 2288/83, 2289/83, 2290/83 and 3915/88, OJ 1983 No. L 220, p. 13, 15, 20 and OJ 1988 No. L 347, p. 55.

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