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Taxud C/3 customs legislation

Customs union

Single market:

- no customs barriers between countries in full membership
- common external tariff and commercial policy measures
- single customs territory
- free circulation between MS

Customs union

**EC TREATY
PART THREE
COMMUNITY POLICIES
TITLE I
FREE MOVEMENT OF GOODS
*Article 23***

1. The Community shall be based upon a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.

General customs rules

Where to find relevant information ?

Community Customs Code (CC)
regulation No 2913/92

Implementing provisions of the Community
Customs Code (CCIP): Regulation No
2454/93

Customs territory-fiscal territory

- The customs territory and the fiscal territory of the Community are two different concepts.
- Within the **customs territory** of the Community (Art. 3 CCC), a common customs and trade policy is applied to third country goods. This means that the same customs duties are levied on imports (no duties on export) in all Community Member States, and that the same trade policy measures, such as quotas or other import restrictions, are applicable to third country goods.
- Member States retain **fiscal territories** within which indirect taxes and excise duties are applicable. Basis for collection are harmonized and rates subject to approximation at EC level.

Customs clearance (entry 1/2)

Goods brought into the customs territory:

- are under customs supervision (Art. 37-39 CC)
- have to be presented to customs (Art. 40-42 CC);
- have to be covered by a summary declaration (Art. 43-45 CC);
- have to be unloaded solely with permission of customs authorities (Art. 46-47 CC)
- assigned a customs approved treatment or use (Art. 48 CC);
- temporary stored (Art. 50 CC)

Customs clearance (entry 2/2)

- if release for free circulation of goods liable to import duties => incurrance of a customs debt (Art. 79 CC)
- Payment or suspension of duties, guarantee (Art. 189 CC)
- Import formalities, where applicable
- Continued customs supervision in certain cases (suspensive procedures, end-use)

Article 24 EC Treaty:

- **Products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.**

Customs clearance (exit)

- **Customs declaration at the place where the trader is established or where the goods are packed (Art. 161(5) CC)**
- **Application of export formalities (e.g. licence, embargoes)**
- **Supervision and certification of exit (e.g. for VAT and excise duty refund)**

Customs supervision

Why is an efficient "customs supervision" so important?

Because the Community is an area of freedom, where in accordance with Article 313 (1) CCIP:

"... all goods in the customs territory of the Community shall be deemed to be Community goods, unless it is established that they do not have Community status"

Customs-approved treatment or use

- **A customs-approved treatment or use assigned through a declaration is called a customs procedure;**
- **If it is assigned through an act, it falls within the category of "other types of customs-approved treatment or use"**

Customs procedure

- **Why non Community goods have to be assigned a customs procedure?**
 - to ensure the implementation of the customs tariff, including tariff preferences, tariff quotas, tariff suspensions, anti-dumping or countervailing duties...
 - to ensure the implementation of non-tariff measures at importation (e.g. import quotas)

Types of customs procedures

- Import
 - Customs procedures with economic impact
 - Export
- Other customs approved treatment or use
- Re-exportation
 - Free zones (type I), free warehouses

Declarant

- Declarant means the person making the customs declaration in his own name or the person in whose name a customs declaration is made (Art. 4 (18) CC)
- Right of representation
Any person may appoint a representative in his dealings with the customs authorities to perform the acts and formalities laid down by customs rules.

Right of representation

Representation may be:

- direct: the representative shall act in the name of and on behalf of another person;
- indirect: the representative shall act in his own name but on behalf of another person.

For the moment the MS may restrict the right to make declarations by direct or indirect representation

Customs / Economic operators relationship

- Decisions (Art.6-10 CC, Art. 2-4 CCIP)
 - Request for a decision relating to the application of customs rules.
 - Deadline for taking decision
 - Notification of decision
 - Grounds for negative decision
 - Right of appeal
 - Annulment of decision
 - Revocation of decision

Declaration procedure

Declaration in writing

- normal
- simplified procedure

Other declarations

Post clearance examination of declarations

Single Administrative Document SAD

- Introduced in 1988
- Composed of a set of eight copies
- Detailed rules of use in Annex 37 CCIP
- Codes to be used shown in Annex 38 CCIP
- Drawn up in compliance with rules stated in UN layout key

Modernisation SAD

- **The SAD reform**
- Modernisation of data collection introduced by Regulation 2286/2003
- Overall reduction of data requirements
- Increased harmonisation of codes used on SAD

Amendment declarations

- possible after acceptance, at the request of the declarant (Art. 65 CC);

Not possible:

- after having been informed by customs of examination goods;
- after customs established that the particulars in question were incorrect;
- after release of the goods (however post clearance examination – Art. 78 CC).

Invalidation declaration (1/2)

- Before release (Art. 66 CC) if:
 - declared in error;
 - placing of goods under procedure no longer justified

Not possible:

after having been informed by customs of examination goods

Invalidation declaration (2/2)

- After release (Art. 251 CCIP) if
 - declared in error and conditions of correct procedure still possible to fulfil
 - declared in error instead of other goods
 - returned mailorder goods;
 - retroactive autorisation (end-use/customs procedure with economic impact)

Simplified procedures (1/2)

The following simplified procedures exist:

- **incomplete declaration;**
 - some data or doc can be omitted at entry**
 - followed later by remaining data**
- **simplified declaration**
 - minimum data and doc at entry**
 - followed by a supplementary declaration**

Simplified procedures (2/2)

Local clearance procedure

(= at the premises of the economic operator)

- Prior approval of operator
- Customs formalities completed by entry in the records of the importer (without presenting the goods to customs)

Duty relief

- special circumstances (e.g. travellers, small consignments)
- returned goods
- products of sea-fishing and other products taken from the sea
- re-import after outward processing

Intra-EU travellers baggage

- Council regulation (EEC) 3925/91 of 19 december 1991
- Implementing measures in CCIP Articles 190 to 197.
- Controls and formalities applicable to cabin and hold baggage
- How do these controls operate in practice
- Exits reserved for Intra-EU traveller
- Models of labels

Customs debt (1/2)

- incurrence of a customs debt
- recovery of the amount of the debt:
 - entry in the accounts and communication of the amount to the debtor
 - time limit for payment and payment procedures
- security to cover the customs debt
- extinction of the customs debt

Customs debt (2/2)

Repayment and remission of duties:

- not legally owed (Art. 236 CC);
- entered in the accounts contrary to Art. 220 (2)
- invalidation of the declaration (Art. 237 CC);
- goods rejected by the importer (Art. 238 CC);
- special situations (Art. 239 CC)