

International Trade Law: Applied International Trade Law

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Intruduction to European Custom Law



Introduction

- **The principal function of Custom in international trade is the collection of duties and taxes.**
- **secondary functions of Custom is controls of prohibited and restricted goods, the collection of statistical information.**



The effect of the Single Market on Custom Legislation

- **On January 1, 1993 as consequence of the implementation of the Single European Act, all frontiers between the then 12 Member States of E.C. were removed, allowing for the free movement of the goods.**



The effect of the Single Market on Custom Legislation

The Single Market changed customs procedures significantly, with the concepts of *export* and *import* being replaced by supply and acquisition within the E.C.

In addition, from January 1, 1995, further changes were introduced under the Treaty of E.U., including the expansion of the territory of E.C. to include Austria, Finland and Sweden;



The effect of the Single Market on Custom Legislation

- **This meant the removal of all duties and quantitative restrictions, as well as, procedural barriers such as systematic checks by the customs administrations at internal frontiers**



European custom legislation

- Council Regulation (EEC) no 913/92 of 12 October 1992 **establishing the Community Customs Code (CCD).**
Official journal L 302 , 19/10/1992 P. 0001 - 0050



European custom legislation

Commission Regulation (EEC) No 2454/93 of 2 July 1993
**laying down provisions for the implementation of
Council Regulation (EEC) No 2913/92 establishing the
Community Customs Code**

Official Journal L 253 , 11/10/1993 P. 0001 - 0766 .



General provision of European custom legislation

Customs rules shall consist of this Code and the provisions adopted at Community level or nationally to implement them.



General provision of European custom legislation

The Code shall apply, without prejudice to special rules laid down in other fields:

- **to trade between the Community and third countries;**
- **to goods covered by the Treaty establishing the European Coal and Steel Community, the Treaty establishing the European Economic Community or the Treaty establishing the European Atomic Energy Community.**



General provision of European Custom legislation

Save as otherwise provided, either under international conventions or customary practices of a limited geographic and economic scope or under autonomous Community measures, Community customs rules shall apply uniformly throughout the customs territory of the Community.



General provision of European custom legislation

- **Certain provisions of customs rules may also apply outside the customs territory of the Community within the framework of either rules governing specific fields or international conventions.**



Community goods

'Community goods' means goods:

- wholly obtained or produced in the customs territory of the Community and not incorporating goods imported from countries or territories not forming part of the customs territory of the Community;
- imported from countries or territories not forming part of the customs territory of the Community which have been released for free circulation;



Community Goods and Non Community goods

- **obtained or produced in the customs territory of the Community, either from goods referred to in the second indent alone or from goods referred to in first and second indents.**
- **'Non-Community goods' means goods other than those referred to in slide 8.**



Losing Community goods status

- **Community goods shall lose their status as such when they are actually removed from the customs territory of the Community**



Import duties

'Import duties' means:

- **customs duties and charges having an effect equivalent to customs duties payable on the importation of goods,**
- **agricultural levies and other import charges introduced under the common agricultural policy or under the specific arrangements applicable to certain goods resulting from the processing of agricultural products.**



Export duties

'Export duties' means:

- **customs duties and charges having an effect equivalent to customs duties payable on the exportation of goods,**
- **agricultural levies and other export charges introduced under the common agricultural policy or under the specific arrangements applicable to certain goods resulting from the processing of agricultural products.**



Customs-approved treatment or use of the goods

'Customs-approved treatment or use of goods' means:

- (a) the placing of goods under a customs procedure;**
- (b) their entry into a free zone or free warehouse;**
- (c) their re-exportation from the customs territory of the Community;**
- (d) their destruction;**
- (e) their abandonment to the Exchequer**



Customs procedure

'Customs procedure' **means:**

- (a) release for free circulation;**
- (b) transit;**
- (c) customs warehousing;**
- (d) inward processing;**
- (e) processing under customs control;**
- (f) temporary admission;**
- (g) outward processing;**
- (h) exportation.**



Custom Declaration and Declarant

'Customs declaration' **means:**

the act whereby a person indicates in the prescribed form and manner a wish to place goods under a given customs procedure;

'Declarant' **means:**

the person making the customs declaration in his own name or the person in whose name a customs declaration is made;



Custom Declaration and SAD

- **The document required for the Custom declaration by the declarant is the Single Administrative Document (SAD).**
- **This is a multi-function form; as well as serving as the exporter declaration, it also serves as the transit declaration.**



CUSTOMS TARIFF OF THE EUROPEAN COMMUNITIES AND TARIFF CLASSIFICATION OF

Duties legally owed where a customs debt is incurred shall be based on the Customs Tariff of the European Communities



Custom Tariff

The Customs Tariff of the European Communities shall comprise:

- **the combined nomenclature of goods;**
- **any other nomenclature which is wholly or partly based on the combined nomenclature or which adds any subdivisions to it, and which is established by Community provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;**



Origin of the goods

The expression 'goods wholly obtained in a country' means:

- (a) mineral products extracted within that country;**
- (b) vegetable products harvested therein;**
- (c) live animals born and raised therein;**
- (d) products derived from live animals raised therein;**
- (e) products of hunting or fishing carried on therein;**



Origin of the goods

Goods whose production involved more than one country shall be deemed to originate in the country where they:

- **underwent their** last, substantial, economically justified processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture.



SUMMARY DECLARATION AND UNLOADING OF GOODS PRESENTED TO CUSTOMS

Goods presented to customs shall be covered by a summary declaration.

The summary declaration shall be made on a form corresponding to the model prescribed by the customs authorities.



OBLIGATION TO ASSIGN GOODS PRESENTED TO CUSTOMS A CUSTOMS-APPROVED TREATMENT OR USE

- **Where goods are covered by a summary declaration, the formalities necessary for them to be assigned a customs-approved treatment or use must be carried out within:**
 - (a) 45 days from the date on which the summary declaration is lodged in the case of goods carried by sea;**
 - (b) 20 days from the date on which the summary declaration is lodged in the case of goods carried otherwise than by sea.**



Custom procedures
External transit

The external transit procedure shall allow the movement from one point to another within the customs territory of the Community of:

- (a) non-Community goods, without such goods being subject to import duties and other charges or to commercial policy measures;**
- (b) Community goods which are subject to a Community measure involving their export to third countries and in respect of which the corresponding customs formalities for export have been carried out.**



External transit

Movement shall take place:

- (a) under the external Community transit procedure;**
- or**
- (b) under cover of a TIR carnet (TIR Convention) or**
- (c) under cover of an ATA carnet (ATA Convention)**
used as a transit document.



External transit

- **The external transit procedure shall end when the goods and the corresponding documents are produced at the customs office of destination in accordance with the provisions of the procedure in question.**
- **The principal shall provide a guarantee in order to ensure payment of any customs debt or other charges which may be incurred in respect of the goods.**



Custom warehouses

The customs warehousing procedure shall allow the storage in a customs warehouse of:

- (a) non-Community goods, without such goods being subject to import duties or commercial policy measures;**
- (b) Community goods, where Community legislation governing specific fields provides that their being placed in a customs warehouse shall attract the application of measures normally attaching to the export of such goods.**



Types of Custom warehouses

- **A customs warehouse may be either a public warehouse or a private warehouse.**
- **'Public warehouse' means a customs warehouse available for use by any person for the warehousing of goods;**
- **'Private warehouse' means a customs warehouse reserved for the warehousing of goods by the warehousekeeper.**



Types of Custom warehouses

- **The warehousekeeper is the person authorized to operate the customs warehouse.**
- **The depositer shall be the person bound by the declaration placing the goods under the customs warehousing procedure or to whom the rights and obligations of such a person have been transferred.**



Processing under custom control

The procedure for processing under customs control shall allow:

- **non-Community goods to be used in the customs territory of the Community in operations which alter their nature or state, without their being subject to import duties or commercial policy measures, and shall allow the products resulting from such operations to be released for free circulation at the rate of import duty appropriate to them. Such products shall be termed processed products.**



Processing under custom control

- **Authorization for processing under customs control shall be granted at the request of the person who carries out the processing or arranges for it to be carried out.**



Temporary importation

- **The temporary importation procedure shall allow the use in the customs territory of the Community, with total or partial relief from import duties and without their being subject to commercial policy measures, of non-Community goods intended for re-export without having undergone any change except normal depreciation due to the use made of them.**



Outward Processing Relief (OPR)

The outward processing procedure shall allow Community goods to be exported temporarily from the customs territory of the Community in order to undergo processing operations and the products resulting from those operations to be released for free circulation with total or partial relief from import duties.



Inward Processing Relief

- **The Inward Processing Relief (IPR) scheme is similar to OPR, but allows importers to receive goods from non-E.U. countries for incorporation into a process, again with a total or partial relief from duty and taxes, provided they are re-exported and it can be demonstrated that the goods imported are part of the final exported product.**



EXPORT

- **The export procedure shall allow community goods to leave the customs territory of the Community.**

Exportation shall entail the application of exit formalities including commercial policy measures and, where appropriate, export duties.



Internal transit

- **The internal transit procedure shall allow the movement of Community goods from one point to another within the customs territory of the Community passing through the territory of a third country without any change in their customs status.**



Internal Transit

- **The movement may take place either:**
 - (a) under the internal Community transit procedure, provided that such a possibility is provided for in an international agreement;**
 - (b) under cover of a TIR carnet (TIR Convention);**
 - (c) under cover of an ATA carnet (ATA Convention).**

Free zone and free warehouses

- **Free zones and free warehouses shall be parts of the customs territory of the Community or premises situated in that territory and separated from the rest of it in which:**
 - (a) Community goods are considered, for the purpose of import duties and commercial policy import measures, as not being on Community customs territory, provided they are not released for free circulation or placed under another customs procedure or used or consumed under conditions other than those provided for in customs regulations;**



Free zone and free warehouses

(b) Community goods for which such provision is made under Community legislation governing specific fields qualify, by virtue of being placed in a free zone or free warehouse, for measures normally attaching to the export of goods.



Custom security sistem

- **Security may be provided by either:**
 - **a cash deposit, or**
 - **a guarantor**

A cash deposit shall be made in the currency of the Member State in which the security is required.



Custom security sistem

- **The guarantor shall undertake in writing to pay jointly and severally with the debtor the secured amount of a customs debt which falls to be paid.**
- **The guarantor must be a third person established in the Community and approved by the customs authorities of the Member State.**



E.C. Preference arrangements

- **Some non european member State grant imports from an E.U. Member State preferential tariff treatment. These countries are:**
- **The countries of the European Free Trade Association (EFTA) (Iceland, Noeway, Liechtenstein, Switzerland);**
- **Bulgaria, Romania, Hungary, Poland, Czech Republic, Slovakia and Slovenia;**
- **Baltic States**
- **Faroe Islands;**

E.C. Preference arrangements

- **Israel;**
- **Ceuta and Malilla;**
- **“Mashraq Group” - Egypt, Jordan, Lebanon, and Syria;**
“Maghreb Group” - Algeria, Morocco and Tunisia;
- **Some of the African, Caribbean and Pacific States;**
- **West Bank and Gaza.**



- **The exporter has to comply with certain requirements to enable his customer in the preference-giving non E.U. country to claim preferential treatment.**



- 
- **The basic condition is that the exported goods must comply with the origin rules governing the particular preference.**
 - **The exporter has to supply his customer with a prescribed certificate, which will normally be certificate Eur 1 endorsed by the Custom Authority of the exporting country.**



Eur 1 or Eur 2

- **Their use is necessary only if exported goods qualify as originating and preferential admission into the importing country is to be claimed.**
- **A certificate must normally be produced for the Customs authorities of the importing country within a specified period after endorsement in the exporting country.**