



PREPARING FOR MEMBERSHIP

INFORMATION SHEET No. 01

INTRODUCTION

WHY DOES LEGISLATION ON IMPORTS AND EXPORTS EXIST AND WHY THOSE INVOLVED IN EXTERNAL TRADE NEED TO KNOW IT?

1. The traditional mission of customs has been to collect import duties for the State's budget. This is still the primary aim in developing countries, whilst in the EC this role is decreasing following the reduction of customs duties in the framework of the WTO and the adoption of numerous preferential trade arrangements.
2. In developed countries customs acts mainly as the State's agent at the border in order to protect its citizens against fraud and crime, the loss of jobs, the import and export of goods which are dangerous for the health or life of humans, animals or plants. It enforces policies which aim at
 - rendering domestic businesses more competitive,
 - protecting intellectual property rights and employment,
 - ensuring fair international competition,
 - providing tax neutrality for exports, and access to export markets,
 - improving access to the domestic market for developing countries, and
 - fostering economic integration.
3. For the European Community, the customs union constitutes an indispensable means for the effective functioning of the single market, as well as the economic and monetary union.

WHAT ARE THE INTERNATIONAL SOURCES OF IMPORT AND EXPORT LEGISLATION?

4. Practically all aspects of customs legislation are covered by international agreements aiming at worldwide harmonisation and trade facilitation. The most important institutions active in this area are the World Trade Organization (WTO), the World Customs Organization (WCO), and the Economic Commission for Europe (ECE). The WTO deals mainly with customs duties and non-tariff barriers, such as quantitative restrictions and licensing procedures. The WCO focuses on general customs legislation and practice and tariff classification. The ECE has developed conventions on temporary importation, transit and

facilitation of border controls.

WHAT ARE THE SOURCES OF COMMUNITY IMPORT AND EXPORT LEGISLATION?

5. The legal basis for Community legislation are the Treaties establishing the European Coal and Steel Community (ECSC), the European Community (EC), the European Atomic Energy Community (EAEC or EURATOM), and the European Union (EU). These Treaties aim at the establishment of a common/single market, as well as an economic, monetary and political union.
6. With regard to provisions on the customs union and commercial policy, the EC Treaty applies in principle. It governs the imposition and suspension of customs duties, the adoption of general customs legislation, and the conclusion of trade and association agreements.
7. The ECSC Treaty was, until 2002, relevant in certain cases where a measure or agreement covered only coal or steel products.
8. Measures concerning the common foreign and security policy or police and judicial cooperation in criminal matters are covered by the EU Treaty. The implementation of such measures can often be based on the EC Treaty (e.g. embargoes).
9. The Community has concluded a large number of international agreements. From a customs point of view, the agreements creating a customs union or a free trade area are of particular importance. Agreements restricting or monitoring imports into the Community exist notably in the area of textiles.
10. Autonomous Community customs and external trade legislation covers almost all aspects of importation and exportation. It is scattered over several hundreds of regulations enacted for reasons of
 - industrial or commercial policy,
 - agricultural policy,
 - environmental policy,
 - intellectual property rights protection,
 - health protection,
 - cultural heritage protection,
 - consumer protection. etc.

WHAT IS, BESIDES COMMUNITY LAW, THE SCOPE FOR NATIONAL IMPORT AND EXPORT LEGISLATION.

11. Insofar as no Community legislation exists or Community law provides for or permits national legislation, the law of the Member State in which the goods undergo customs treatment is applicable. This concerns notably organisational matters, sanctions, the appeals procedure, and the import or export of arms.

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