



PREPARING FOR MEMBERSHIP

INFORMATION SHEET No. 02

SCOPE AND STRUCTURE OF COMMUNITY CUSTOMS LEGISLATION

WHERE IS COMMUNITY CUSTOMS LEGISLATION APPLIED?

1. The Community customs territory comprises the territory of its 15 Member States (25 from 1 May 2004), from which some parts are excluded. The territories of Monaco, the Channel Islands and the Isle of Man, though not part of a Member State, belong to the EC customs territory (Art. 3 of the Customs Code (CC)).
2. The conclusion of a customs union agreement with a third country (Andorra, San Marino, Turkey) does not mean that those territories are part of the EC customs territory. Instead, trade between the two parts of the customs union is governed by the rules of that agreement.
3. With regard to VAT and excise duties, there is no common Community fiscal territory. Insofar as EC provisions exist, they apply to the territory of the Member States from which certain parts are excluded. The purpose of maintaining 15 fiscal territories is to ensure that these taxes are collected in the Member State of destination and consumption, insofar as commercial acquisitions and deliveries are concerned.

WHAT IS THE SCOPE OF COMMUNITY CUSTOMS LEGISLATION AND IN WHICH CASES DOES IT APPLY TO OTHER MEASURES OTHER THAN CUSTOMS DUTIES?

4. Customs legislation deals only with trade in goods (i.e. physical entities) and not with services. This includes electricity. The price of certain services for import goods is included in the customs value. Narcotic drugs, psychotropic substances and counterfeit currency are excluded from the Common Customs Tariff (CCT); the provisions concerning customs controls and sanctions apply, however, to such goods.

In certain cases, the CC is applicable in areas other than customs duties. These include

- import and export quotas and prohibitions,
- restrictions and prohibitions based on grounds other than commercial policy,
- the suspension of VAT and excise duties, and the provision of a security for such taxes.

WHAT ARE THE RIGHTS AND OBLIGATIONS OF TRADERS AND ADMINISTRATIONS WITH REGARD TO CUSTOMS RULES?

5. The person responsible for fulfilling the obligations set out in customs legislation is (Arts 5, 38, 85-87, 95, 101, 176 CC)
 - either the person bringing the goods into or out of the customs territory,
 - or the person assuming responsibility for the carriage of the goods,
 - or the holder of the customs procedure under which the goods have been placed,
 - or the warehouse keeper or the person exercising professional activities in a free zone or free warehouse,
 - or the representative appointed by one of the persons cited above.
6. General rules exist with regard to decisions relating to the application of customs rules, their annulment, revocation and amendment (Arts 6-10 CC). Special rules concern binding tariff and origin information (Art. 12 CC). An appeal can be lodged against decisions by the customs authorities, initially before the administration and subsequently before a national court (Art. 243 CC). This court may ask for a preliminary ruling of the European Court of Justice. Where the Commission takes a decision with direct effect for the person concerned, an appeal to the Court of First Instance is possible.

WHAT IS THE STRUCTURE OF COMMUNITY CUSTOMS LEGISLATION AND OF THE CUSTOMS CODE?

7. The term “customs legislation” covers not only the Customs Code and the Customs Code Implementing Provisions (CCIP), but also national implementing provisions, the rules on the Common Customs Tariff (CCT) and duty relief, and international agreements governing customs matters (Art. 1 CC).
8. The customs authorities may perform customs controls both on the import or export of goods and on the documents relating to them. They are however bound by the rules of confidentiality (Arts 13-16 CC).
9. The Community Customs Code contains three broad categories of rules
 - general provisions (scope, definitions, rights and obligations, appeals, Customs Code Committee, legal effects of national acts in other Member States),
 - procedural rules (entry and exit of goods, customs procedures, other customs-approved treatment or use), and
 - rules on customs duties (customs tariff, origin, customs value, duty relief, customs debt).

WHAT IS THE ROLE OF THE CUSTOMS CODE COMMITTEE?

10. The role of the Customs Code Committee is to give opinions with regard to

- amendments to customs implementing legislation to be adopted by the Commission,
- the interpretation of customs legislation,
- other proposals submitted by the Commission by virtue of specific legislation.

Whilst an opinion of the Committee always requires a qualified majority of Member States' representatives, the margin of maneuver of the Commission is greater in cases where the management instead of the regulatory procedure applies.

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