



PREPARING FOR MEMBERSHIP

INFORMATION SHEET NO. 03

COMMON CUSTOMS TARIFF

WHAT IS THE ROLE AND STRUCTURE OF THE COMMON CUSTOMS TARIFF (CCT)?

1. THE TWO MOST IMPORTANT FUNCTIONS OF CUSTOMS DUTIES ARE

- to protect industry and agriculture from cheaper foreign goods and thus stimulate or maintain domestic production, and
- to obtain revenue for the government.

The suppression of customs duties vis-à-vis individual countries fosters economic integration (customs union, free-trade area) and industrial development (notably with regard to developing countries).

2. A CUSTOMS TARIFF COMPRISES THE FOLLOWING PARTS

- the tariff nomenclature, i.e. a systematic classification of goods, and
- the rates of duty or duty exemption attached to the items of the tariff nomenclature.

Many countries use the tariff nomenclature also for the purposes of

- external trade statistics,
- import and export restrictions,
- origin rules,

- VAT and excise duties,
- public procurement,
- freight tariffs.

The Harmonized System Convention adopted under the auspices of the World Customs Organisation (WCO) provides the international basis for these nomenclatures (96 chapters, 1,244 four-digit headings, 5,225 six-digit subheadings).

3. THE EC USES

- with regard to its WTO obligations and its requirements for intra-Community and external trade statistics, the combined nomenclature (ca. 10400 eight-digit subheadings), and
- with regard to tariff preferences, tariff suspensions, agricultural, anti-dumping and countervailing duties, import and export restrictions, export refunds, the integrated tariff — TARIC (ca. 15,000 ten-digit subheadings, supplemented in certain cases by four-character additional codes).

WHAT ARE THE PRINCIPLES OF TARIFF CLASSIFICATION?

4. THE TWO BASIC CLASSIFICATION CRITERIA ARE :

- the material the article is made of and
- the function or use of the article.

Additional criteria include:

- the degree of processing,
- the treatment of incomplete or unassembled goods,
- rules for mixtures and goods of different materials or components,
- rules for goods serving different purposes or functions,
- rules for goods not specifically described elsewhere,
- the treatment of packing materials and containers,
- rules for parts and accessories.

WHICH MEANS ARE AVAILABLE IN ORDER TO ENSURE UNIFORM INTERPRETATION OF THE TARIFF?

5. Apart from the text of the section and chapter notes, headings, subheadings and the general rules, the following means help to ensure uniform interpretation of the nomenclature
 - classification regulations,
 - judgments of the European Court of First Instance and the European Court of Justice,
 - HS explanatory notes and classification opinions,
 - EC explanatory notes.

HOW AND TO WHAT EXTEND CAN A TRADER RECEIVE ASSURANCE ABOUT FUTURE TARIFF-RELATED TREATMENT OF HIS IMPORTS OR EXPORTS BY CUSTOMS?

6. An importer or exporter may request binding tariff information (BTI) which remains valid for six years, unless the nomenclature or its interpretation is changed. In case of a change of interpretation leading to the invalidity of a BTI, it can still be invoked up to six months for contracts concluded before that change. A BTI can, however, not provide protection against changes of the law (e.g. an increase in the duty or the introduction of an anti-dumping duty), unless otherwise specified (e.g. in a classification regulation).

WHAT TYPES OF DUTY ARE USED IN THE CCT?

7. THE TWO MOST COMMON TYPES OF CUSTOMS DUTY ARE

- ad-valorem duties (calculated on the basis of the customs value) and
- specific duties (measured by weight, volume, alcohol content etc.).

Additional criteria include

- value thresholds,
- seasonal duties,
- presentation of a certificate or authorisation
- the end-use of the goods,
- the labelling or denaturing of goods.

8. The normal duty for a specific article is either that agreed (bound) under the World Trade Organization WTO (this is called conventional duty) or, where a lower duty is set in Regulation (EEC) No 2658/87 (on the tariff and statistical nomenclature and on the Common Customs Tariff), the autonomous duty. The autonomous agricultural duties are in most cases fixed in specific regulations based on the relevant market organization for the product.
9. Temporary reductions of the normal duty (autonomous rates) are called tariff suspensions or, where the amount benefiting from this measure is limited, tariff quotas. Autonomous tariff suspensions and tariff quotas are granted upon a request submitted by a Member State, provided
 - there is no production of identical or equivalent goods in the EC or in countries benefiting from tariff preferences,
 - the duty foregone exceeds 20,000 € per year.
 - the product will undergo sufficient processing,
 - the requesting importer has not concluded an exclusive contract with the supplier, and
 - the necessary information has been supplied.

Where some, but insufficient, Community production exists an autonomous tariff quota may be granted.

10. Tariff quotas are enacted both for autonomous and for conventional reasons (in the latter case, in order to fulfil an obligation concluded under the WTO or a preferential agreement). Tariff quotas are distributed among interested importers
- either according to the first-come, first-served principle,
 - or through the allocation of import licences or export certificates,
 - or, exceptionally, by invitation of tenders.

The last two methods are only used with regard to agricultural goods.

In the area of preferential duties also the following means for monitoring preferential access to the EC are used

- tariff ceilings, i.e. thresholds allowing for the reintroduction of the normal duty by means of a regulation, and
- reference quantities, i.e. thresholds allowing the preferential import arrangement to be changed, e.g. by introducing a tariff quota.

Derogations from preferential origin rules are normally limited to the amount of a tariff quota.

11. Anti-dumping duties can be introduced upon the request of the Community industry concerned if
- the investigation performed by the EC Commission leads to the result that
 - dumping (i.e. export sales below the normal value) exists, and
 - this dumping causes material injury to the EC industry, and
 - protective measures are in the interest of the Community.

Countervailing duties can be introduced upon the request of the Community industry concerned if

- the investigation performed by the EC Commission leads to the result that
 - in the export country specific subsidies are granted to an industry or to undertakings exporting to the EC, and
 - these subsidies cause material injury to the EC industry, and
- protective measures are in the interest of the Community.

The trade barriers regulation permits companies affected by trade barriers on their export markets to lodge a complaint and to trigger off an investigation by the EC Commission which may lead to a dispute settlement or retaliatory measure.

12. Flat rate duties can be applied for

- goods contained in consignments sent by private individuals to each other up to a value of 350 € (up to 45 € duty relief is granted),
- goods contained in travellers personal luggage up to a value of 350 € (up to 175 € duty relief is granted),
- consignments of goods falling within different tariff subheadings where tariff classification would entail a burden disproportionate to the import duties chargeable.

WHAT TYPES OF DUTY EXEMPTION AND RELIEF CAN BE CLAIMED?

13. Duty relief can be granted, inter alia, in the case of

- transfer of residence, marriage, inheritance, studies,
- certain activities in the public interest,
- the exercise of certain commercial activities,
- certain transport operations,
- funerary materials,
- goods returned to the Community within three years (12 months for goods subject to export refunds which must be repaid),
- products of sea-fishing taken from the territorial sea of a third country.

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