



PREPARING FOR MEMBERSHIP

Information Sheet No. 06

RELEASE FOR FREE CIRCULATION, LOSS OF COMMUNITY STATUS

WHAT IS THE PURPOSE AND SCOPE OF THE PROCEDURE?

1. Release for free circulation confers on non-Community goods (i.e. goods subject to customs control) the status of Community goods (goods in free circulation). This entails (Art. 79 of CC (Customs Code))
 - The collection of import duties, VAT and excise duties, and
 - The application of commercial policy measures and other formalities laid down for importation (e.g. import licence, health certificate).

WHICH SPECIAL ARRANGEMENTS EXIST UNDER THIS PROCEDURE?

2. Where goods are released for free circulation with a favourable treatment on account of their end-use, they remain under customs supervision (Art. 82 CC) until
 - The stipulated conditions for the treatment of the goods have been fulfilled, or
 - The goods are exported or destroyed, or
 - The duties stipulated for goods not fulfilling the end-use provisions have been paid.

HOW ARE GOODS ENTERED FOR THE PROCEDURE?

3. Import goods are entered for the procedure by means of a **customs declaration** (Art. 59 CC) which may be made in writing, using a data-processing technique, orally or in certain cases by passing the frontier (Arts. 61, 77 CC, Arts. 198-238 of the Customs Code Implementing Provisions (CCIP)). Simplified procedures may be used (Art 76 CC, Arts. 253-267 CCIP) but an authorisation is required.

HOW AND WHEN IS A CUSTOMS DEBT INCURRED AND WHICH POSSIBILITIES EXIST TO REDRESS FAILURES?

4. The acceptance of a customs declaration for release for free circulation leads to the incurrance of a customs debt, provided the goods concerned are liable to import duties (Art 201 CC). In certain cases it is possible to invalidate the customs declaration (Art 66 CC) and to achieve a repayment of duties (Art 237 CC).
5. Where fraudulent acts, deception or obvious negligence are excluded (e.g. Art. 203 CC), customs legislation provides means to redress failures by providing remedies through a repayment or remission claim. Examples of relevant articles in the Customs Code are Arts. 20, 212a, 236 - 239 and in the CCIP are Arts. 900 – 902.

HOW IS THE DATE WHICH DETERMINES WHEN A CUSTOMS DEBT EXISTS ESTABLISHED?

6. The time of acceptance of the customs declaration for release for free circulation (Arts. 67, 80, 201, 214 CC) determines, in principle, the date to be taken into account for calculating the import duties, VAT and excise duty, if applicable.

WHICH SPECIAL RULES APPLY TO GOODS SUBJECT TO A SUPERVISION OF THEIR END-USE?

7. The use of the procedure requires a written authorisation mainly on the form as set out in Annex 67 CCIP. Under certain circumstances, a retroactive authorisation may be granted (Art. 294 CCIP). Customs supervision ends when the goods are dealt with in accordance with provisions of Art. 82 CC and Arts. 298 – 300 CCIP.

WHEN DO COMMUNITY GOODS LOSE THEIR STATUS AND BECOME NON-COMMUNITY GOODS?

8. Goods released for free circulation lose their status as Community goods where
 - They leave the EU customs territory insofar as the provisions on internal transit and proof of Community status do not apply (Art. 4 CC);
 - The customs declaration is invalidated (Arts. 66, 83, 237 CC);
 - Import duties are remitted or repaid under Arts. 128, 238 or 239 CC, or such a claim has been made and the goods are entered for a suspensive arrangement (suspension of import duty);
 - They were imported under the end-use provisions and are placed under the export procedure (Art. 298 CCIP);
 - Waste or scrap results from the destruction of goods subject to supervision of their end-use (Arts. 206, 207 CC).

NOTE: *Article 23 EC Treaty stipulates free circulation for Community goods throughout the EC. This principle applies not only to goods made in the Community but also to imported goods which have been released for free circulation after payment of the import duties to which they are liable.*

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