



PREPARING FOR MEMBERSHIP

INFORMATION SHEET No. 09

TEMPORARY IMPORTATION

WHAT IS THE PURPOSE AND SCOPE OF THE PROCEDURE?

1. The temporary importation procedure allows the use, but not processing or consumption, of non-Community goods with a view to re-exporting them subsequently; while the goods are under the procedure, they are neither subject to commercial policy measures nor to the normal import duties and excise duties (Art. 137 CC).
2. Where no competition with domestic goods is to be expected or where an international agreement (notably the Istanbul Convention on Temporary Admission) stipulates duty exemption, total duty relief is granted (Art. 141 CC). This concerns, *inter alia*, means of transport, containers, personal effects of travellers, disaster relief material, publicity material, professional and scientific equipment and goods for events or for sale. Such goods are also exempted from VAT.
3. Where the conditions for total duty relief are not met, 3% of the normal import duty is charged for every month (Art. 143 CC); in such cases there is no exemption from VAT.

IN WHICH SITUATIONS CAN TOTAL DUTY RELIEF BE GRANTED?

4. Art 141 CC leaves to the CCIP the determination of the cases and the conditions under which the procedure may be used with total relief from import duties. The relevant CCIP articles are : 556 – 561, 563 – 578.

IN WHICH SITUATIONS IS PARTIAL DUTY RELIEF GRANTED?

5. According to Annex E of the Istanbul Convention the following goods are eligible for partial relief :
- Goods described in the other Annexes (vide paragraph 4) but that do not fulfil all the requirements stipulated therein, and
 - Other goods used temporarily, e.g. for the production or for carrying out works.

Art. 554 CCIP excludes only consumable goods from partial relief.

HOW ARE GOODS ENTERED FOR THE PROCEDURE AND HOW IS IT DISCHARGED?

6. Temporary importation is both a customs procedure with economic impact and a suspensive customs arrangement (Art. 84 CC), so that entry for the procedure requires :
- An authorisation (Arts 85, 86 CC),
 - A customs declaration (Arts 198 – 236, 275 – 276 CCIP),
 - The provision of a security where this is stipulated or requested (Art. 88 CC).

The authorisation must be requested by the person who intends to use the goods or arranges for them to be used (Art. 138 – 140 CC). A number of particular simplifications exist for temporary importation (Arts 497, 229, 232, 233 and 505 CCIP).

7. The procedure can be ended and discharged in accordance with Arts. 89, 90 CC and Arts 557, 584, 576, 582. Where goods are admitted under the procedure for partial relief, 3% of the import duties chargeable in the event of release for free circulation are due for every month (Art. 143 CC). If later a customs debt is incurred for the goods (Arts 201 – 204 CC), any duties paid under partial relief are deducted (Art. 144 CC).
8. Insofar as international agreements are applicable the rules set out therein determine the operation of the procedure. Besides the Istanbul Convention, the following are some agreements which are relevant :
- Customs Convention on the temporary importation of commercial road vehicles of 18 May 1956.
 - Customs Convention on the temporary importation of private road vehicles of 4 June 1954
 - Customs Convention on containers of 18 May 1996 and of 2 December 1972
 - Customs Convention on containers used in pools of 21 January 1994.
9. The CCIP reflect the international obligations of the Community and its Member States. Consequently :
- It is possible in certain cases to enter goods for the procedure orally or even by the simple act of passing the frontier (Arts 229 – 234 CCIP)

- An ATA or CPD carnet constitutes an application for authorisation (Art. 497 CCIP), and when accepted, also the authorisation itself (Art. 505 CCIP)
- Arts 556 – 557 CCIP include the cases in which total duty relief is to be granted under these agreements.

WHICH SITUATIONS LEAD TO A CUSTOMS DEBT AND COMPENSATORY INTEREST AND HOW CAN FAILURES BE REDRESSED?

10. A customs debt may be incurred

- Either because the authorisation holder decides later to release the goods for free circulation (Art. 201 CC),
- Or as a consequence of an infringement of the customs provisions (Arts 202 – 204 CC).

According to normal rules, the import duty would be paid on the value of the goods at the time the declaration for release for free circulation is made or the date on which the infringement occurred. In these cases the depreciation that has taken place during the use of the goods in the Community would be taken into account.

11. Art. 144 CC lays down an exception to this rule : unless stipulated otherwise in the CCIP, import duty would be paid at the rate and value of the goods at the time they were placed under the temporary importation procedure (Art. 523 and Annex 71 CCIP).
12. Art. 582 mentions exclusions from this rule. In all other cases, depreciation is not taken into account.
13. No customs debt is incurred under Art. 204 CC where the failure had no significant effect on the operation of the procedure. This Article can be invoked in accordance with Arts. 859, 900 CCIP.
14. In addition to the import duty compensatory interest must be paid in order to offset the financial advantage accruing from the deferment of the date on which the duty is due (Art. 519 CCIP).

http://europa.eu.int/comm/taxation_customs/law_en.htm#customs

http://europa.eu.int/eur-lex/en/consleg/main/1992/en_1992R2913_index.html(for Customs Code)

http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31993R2454&model=guichett (for Customs Code Implementing Provisions)

<http://customs.business-line.com> (Malta Customs Web site)

THIS IS NOT A LEGAL DOCUMENT