



PREPARING FOR MEMBERSHIP

INFORMATION SHEET No. 14

RIGHTS AND OBLIGATIONS OF THE TRADER

A customs debt is incurred at the time when the goods are placed on the home market, excluding thus

- temporarily imported goods (transit, temporary importation, inward processing), and
- goods which are stored before the final customs treatment has been decided (temporary storage, customs warehouse, free zone).

Therefore, this requires a person responsible for fulfilling the obligations set out in the customs legislation.

This is normally

- the person bringing the goods into or out of the customs territory or the person assuming responsibility for the carriage of the goods (Art. 38 CC), or
- the holder of the customs procedure under which the goods have been placed (Arts 85-87 and 96 CC), or
- the warehousekeeper (Art. 101 CC), or
- the person exercising professional activities in a free zone or free warehouse (Art. 176 CC).

Under the rules on the incurrance of a customs debt, also the person infringing the customs rules can be liable (Arts 202 (3), 203 (3), 205 (3), 210 (3) CC).

Rights and obligations may, under certain conditions, be transferred to another person (Arts 90, 103 CC).

The person responsible for an obligation under the customs provisions may appoint a representative in his dealing with the customs authorities (Art. 5 CC), for example for the purposes of lodging a customs declaration (Art. 64 CC). The representative may either act in the name of the person represented or in his own name but on behalf of the other person. Member States may restrict the right of representation to customs agents established in that country (Art. 5 (2) CC).

One of the most important rights provided by the Customs Code is choice of the customs treatment to be assigned to the goods (Art. 58 (1) CC). For import goods, this right has to be exercised within certain time limits (Art. 49 CC). Where a suspensive arrangement is chosen (i.e. import duty is suspended), the holder may switch to another customs procedure, e.g. from transit to warehousing and finally to release for free circulation (Arts 89, 91 CC), provided he has an authorisation where this is required.

Another right is to request a decision by the customs authorities where an act having legal effects on the person concerned is provided for in the customs rules (Arts 4 (5) and 6 CC), as in the case of an application for:

- binding tariff or origin information (Art. 12 CC),
- simplified procedures (Art. 76 CC), or
- inward processing (Arts 85, 114 CC).

Apart from the obligations stipulated under the different procedures, such as notifying the customs authorities of changed circumstances with regard to an authorisation granted (Art. 87 (2) CC), the trader must

- provide the customs authorities with all the requisite documents and information and all the requisite assistance (Art. 14 CC),
- make such documents available for customs controls for at least three calendar years (Art. 16 CC).

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=E&N&numdoc=31993R2454&model=guichett (for Customs Code Implementing Provisions)

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

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