



European Union Customs – Update 2013

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Summary

Although the European Union is a customs union with a Community Customs Code and a harmonized tariff system for product classification, customs administration is a Member State activity. As a result some important actions of individual Member State customs authorities are handled differently, resulting in variations from country to country. This report aims to help companies understand the EU's customs classification and tariffs system, as well as to provide information on customs advocacy.

The Community Customs Code

[Regulation 450/2008](#), known as the *Modernized Community Customs Code* (MCCC), regulates customs procedures in the EU. This includes: electronic filing of customs documents by traders as the norm; electronic exchange of information among authorities; the introduction of a Centralized Clearance system whereby traders can make declarations and payments in their country of establishment (versus the Member State into which goods are imported); the establishment of the "Single Window" to which traders provide required data even from the various national authorities that are involved (customs, agriculture, and others). The MCCC also incorporates a one-stop-shop concept for incoming goods, meaning that customs controls are performed at the same time as other surveillance, such as veterinary or environmental, in order to avoid delays.

AEO and C-TPAT

The MCCC also introduces the Authorized Economic Operator ([AEO](#)) program (known as the "security amendment"). This is similar to the U.S.' voluntary Customs-Trade Partnership Against Terrorism ([C-TPAT](#)) program in which participants receive certification as a "trusted" trader. AEO certification is issued to companies established in an EU Member State by a national customs authority, and is recognized by all 28 EU customs agencies. Therefore, a U.S. subsidiary established in the EU can request AEO status. An AEO is entitled to two different types of authorization: "customs simplification" or "security and safety". The former allows for an AEO to benefit from simplifications related to customs legislation, while the latter allows for facilitation through security and safety procedures. An AEO can hold both authorizations simultaneously. Certified economic operators can also choose to adopt the EU AEO logo, allowing them to promote their status as a secure partner in the supply chain.

Shipping to a trader with AEO status could facilitate an exporter's trade as its benefits include expedited processing of shipments, reduced theft/losses, reduced data requirements, lower inspection costs, and enhanced loyalty and recognition. The list of economic operators who have gained AEO status, and have consented to make their name publicly available, can be found [here](#).

In May 2012, representatives from the EC Directorate-General for Taxation and the Customs Union (DG-TAXUD) and U.S. Customs and Border Protection signed an agreement

recognizing the compatibility of AEO and C-TPAT, thereby facilitating faster and more secure trade between U.S. and EU operators. In February 2013, the agreement was fully implemented when the EU began re-classifying shipments from C-TPAT members into a lower risk category. This action marked the final implementation phase of the compatibility agreement. The first phase of implementation, initiated in July 2012, required U.S. customs authorities' to place shipments coming from EU AEO members into a lower risk category.¹

EORI

EORI stands for "Economic Operator Registration and Identification". Since July 1st, 2009 all companies established outside of the EU are required to have an EORI number if they wish to lodge a customs declaration or an Entry/Exit Summary declaration. All U.S. companies should use this number for all of their customs clearances. If a U.S. company wishes to apply for AEO status or apply for simplifications in customs procedures within the EU, it must first obtain an EORI number.

Companies should request an EORI number from the authorities of the first EU Member State they export to. Once a company has received an EORI number, it can use it for exports to any of the 28 EU Member States. There is no single format for the EORI number.

More information about the EORI number can be found on the [website](#) of EC/Directorate-General Customs and Taxation.

Customs Classification and Tariffs

The Combined Nomenclature and the HS Code

The Combined Nomenclature (CN) is the European system of customs classification that is legally binding in its entirety on all EU Member States. It provides a system of customs classification that identifies products being imported into the EU's customs territory using a numeric code that is eight digits long. The first six digits of the CN are based on the Harmonized System (HS), developed and periodically amended by the Customs Cooperation Council of the World Customs Organization. The last two digits are added under the European classification system. TARIC (see below) adds another two digits to the end of the CN for goods traded with states outside the EU, bringing the total number of digits to ten. These extra two digits are intended to provide additional clarification on a product's proper classification. Knowing the HS code, or even how a firm's product is classified in the United States or other markets, is important in identifying the classification a product is likely to receive in the EU. The CN List was updated in October 2013:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:290:FULL:EN:PDF>

The TARIC

The [TARIC](#) ("Tarif Intégré de la Communauté") is the EU Integrated Tariff code. The TARIC is directly binding on all EU Member States and duty rates are similar throughout the EU-27². It lays out the various rules applying to specific products being imported into the EU

¹ <http://www.c-tpat.com/ctpat-blog/files/tag-aeo.html>

² Value-Added Tax (VAT) rates apply in addition to duty rates but will differ from one Member State to another.

Customs Union or, in some cases, applies to exports from the EU. TARIC identifies the duty to be assessed for each product classified under the CN, and any quotas or other import restrictions that may apply. Many EU Member States maintain a list of goods subject to import licensing. The TARIC can be searched by country of origin, HS code, or product description on the interactive website of [DG-TAXUD](#). The online TARIC is updated daily. The easiest way to determine if a product is subject to restriction is to check the TARIC using the CN for that product and verify if one of the following codes applies:

CITES	Convention on International Trade of Endangered Species
PROHI	Import Suspension
RSTR	Import Restriction

Researching a Tariff Rate/Classification on the TARIC

(Some users may need to copy and paste the URLs into their browser)

1. Access the TARIC Homepage at:
http://ec.europa.eu/taxation_customs/dds2/taric/taric_consultation.jsp?Lang=en
2. Search by CN Code or by using the other options under the advanced search option.
3. For any questions on using this feature, consult the user manual at:
http://ec.europa.eu/taxation_customs/dds2/taric/help/dds_user_guide.pdf
4. Find the European Commission's most recent Regulation (with Annexes) regarding the TARIC at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:282:0001:0912:EN:PDF>. This document can help to match a product description with its respective CN code, duty rate, and supplementary unit.
5. Restrictions and conditions that Member State customs authorities use to mitigate and recommend the application of one classification over another are included in the Explanatory Notes, found here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:137:0001:0397:EN:PDF>

Binding Tariff Information (BTI)

A Binding Tariff Information (BTI) is a legally binding classification opinion that is issued by the customs authority of an EU Member State. Under the Community Customs Code, a BTI issued by one Member State is legally binding on all other Member States. For a BTI to be legally binding, it must be invoked with each and every export action. This can be done by making reference to the BTI on import documentation and by ensuring that distributors and agents are aware of its existence and use.

A BTI is generally valid for 6 years, but in certain cases (e.g. the publication of a classification regulation or a change in the interpretation of the nomenclature at the international level), a BTI may cease to be valid. (See the "websites of interest" section at the end of this report).

A company can influence the outcome of the classification opinion by discussing its case with the Member State customs authorities to adopt a preferred customs classification (i.e. one with a lower tariff rate or a greater allowable quota). Companies are advised to consider all possible alternative classifications of their products by researching possible classifications and tariff rates on the TARIC web page, and through the Explanatory Notes by researching any qualifications or conditions needed to receive a given customs classification. The

Nomenclature Committee (also called the Customs Code Committee) adjudicates differences in customs classifications among Member States. See the “Customs Advocacy” section below for further information.

Duty Modifications

Duty Relief: The EU affords a few situations for duty relief as outlined in [Regulation 1186/2009](#). In addition to personal property being imported duty free, educational, scientific and cultural materials may also be exempted. Annexes I through IV of the Regulation contain a detailed listing of exempted products. National authorities must approve entities engaged in scientific and/or educational research for eligibility to import goods duty free.

Tariff Suspensions: Once a good has received either a partial or total tariff suspension, it can freely move within the European Union. This explains why Member States are extensively consulted during discussions on possible suspensions. The rationale is for economic stimulus, therefore affected goods consist of raw materials, semi-finished goods or components not available in the EU. No suspensions are granted for finished products. Suspensions are not granted when items are available in sufficient quantity within the EU or from third countries with GSP preference. [Council Regulation 1344/2011](#) lists all affected products in its Annex.

- Airworthiness – Since 2002, customs duties for the import of parts, components and other goods used for aircraft have been suspended on the basis of the conditions set in [Council Regulation 1147/2002](#).
- Military – Competent authorities within the Member States may procure weapons and military equipment free of import duties per [Regulation 150/2003](#). The Regulation’s Annexes contain lists of affected goods.

ATA (Admission Temporaire/Temporary Admission) Carnet: This customs document, also known as the “Merchandise Passport,” allows for certain goods to be imported into one or more Member States with minimal customs procedures, no duties, and no VAT. An ATA Carnet may be requested for commercial samples, professional equipment, and goods intended for exhibitions and fairs. It does not cover disposable or consumable goods. Issued for a period of one year, an ATA Carnet allows for unlimited exits from and entries into the United States for the goods in question. This document meets the customs requirements of all EU Member States, meaning goods can pass between Member States with ease and without customs or tax-related expenses. The cost of obtaining an ATA Carnet ranges from \$210 to \$350, and can be issued within two days of receiving an application. For more information on how to apply, visit: <http://www.uscib.org/index.asp?documentID=1843>.

Import Documentation

Single Administrative Document (SAD)

The official model for written declarations to customs is the Single Administrative Document (SAD). (However, other forms may be used where the provisions of the customs procedure in question permit). Goods brought into the EU customs territory are, from the time of their entry, subject to customs supervision until customs formalities are completed. Goods presented to customs are covered by a Summary Declaration, which is lodged once the goods have been presented to customs. The customs authorities may, however, allow a

period for lodging the Declaration, which cannot be extended beyond the first working day following the day on which the goods are presented to customs.

The Summary Declaration can be made on a form provided by the customs authorities. However, customs authorities may allow the use of any commercial or official document that contains the particulars necessary for identification of the goods. The summary declaration may also be in computerized form. The SAD serves as the EU importer's declaration. It encompasses both customs duties and VAT and is valid in all 28 EU Member States. The declaration is made by whoever is clearing the goods, normally the importer of record (or his/her agent).

"Bond" facilities

The EU has "Free Zones" which allow for temporary storage of goods prior to release into the EU marketplace. While products are in a Free Zone, payment of customs tariffs can be postponed. [Free Zones](#) offer relief from local duties under certain conditions. Similarly, customs warehouses are available and allow goods to be imported into the EU allowing a delay in duty payment.

Processing

Inward Processing: Imported raw materials and semi-manufactured goods can be processed for re-export within the EU by European manufacturers without payment of customs duty and VAT on the goods. Either the duty is suspended upon entry or it is paid and later reimbursed.

Processing Under Customs Control: goods may be processed into products that are subject to a lower duty rate before they are put into free circulation.

Customs Advocacy

Customs Code Committee

The Customs Code Committee is comprised of technical experts from each of the EU Member States' customs administrations. The Committee meets in different formations, according to the chapter of the CN under consideration, with experts representing their respective Member States in each formation. The goal of the Customs Code Committee is to ensure consistent application of the Community Customs Code. To that end, the Committee mitigates differences in opinion among Member State customs authorities on the proper classification of specific products.

All voting in the Customs Code Committee is by Qualified Majority.³ The Committee is chaired by a representative of DG-TAXUD, who is the Commission's expert on the chapter of the CN under consideration. The chairperson negotiates solutions before the committee meets to formally hear the matter at hand, but does not have a vote. Third country governments and organizations (including the United States government) may attend

³ [Qualified Majority](#) voting is a complex system for EU decision making whereby countries have their votes weighted to reflect their population and the size of their economy. A Qualified Majority is reached when 255 votes out of 345 are secured from Member States representing at least 62% of the total EU population.

meetings of the Customs Code Committee as observers, but only if invited by the Committee, and must withdraw when the Committee begins confidential discussions or moves to a vote. Documents produced by the Committee may be made available to the public only after the European Commission has approved an individual request. The Committee's discussions are kept confidential.

Appealing a Customs Decision

A company faced with the inconsistent application of the CN can appeal to a Member State to have the matter resolved at the Customs Code Committee. Alternatively, one can appeal directly to DG-TAXUD. It is recommended that any appeal to DG-TAXUD be addressed to Directorate-General Taxation and the Customs Union and copied to the relevant Member State customs authorities. But, if the EC or a Member State feels that the CN is being applied inconsistently, a case may be brought before the Committee without the company in question even being consulted.

Below are the stages of the appeal request process:

- EC informs the Customs Code Committee that it has received a request; EC informs parties of the progress made;
- Proposals are supported by the Member States who gather enough votes under "qualified majority;" EC drafts a proposed regulation to classify the product;
- The draft regulation is submitted to the Committee for opinion (only meeting once yearly between June and the end of September);
- EC adopts the regulation **at the latest on 31 October**. It then becomes legally binding on January 1 of the following year.

All decisions of the Customs Code Committee become legally binding on the date of publication in the Official Journal of the European Union. The Committee usually provides a grace period before the application of the classification opinion takes effect. This grace period is designed to allow the company to exhaust all outstanding contracts that were executed prior to the date of the publication of the decision of the Committee. In any case, the company in question will be notified in writing by DG-TAXUD of the decision taken.

Websites

Community Customs Code legislation

<http://eur-lex.europa.eu/Result.do?direct=yes&lang=en&consleg=01992R2913>

TARIC legislation

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:282:0001:0912:EN:PDF>

TARIC FAQs:

http://ec.europa.eu/taxation_customs/resources/documents/common/dds2/material/faq_taric_low_resolution_en.pdf

Binding Tariff Information (BTI)

http://ec.europa.eu/taxation_customs/customs/customs_duties/tariff_aspects/classification_goods/index_en.htm

BTI database

http://ec.europa.eu/taxation_customs/dds2/ehti/ehti_consultation.jsp?Lang=en

List of EU customs authorities

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:144:0008:0012:EN:PDF>

Free Zones in the EU

http://ec.europa.eu/taxation_customs/resources/documents/customs/procedural_aspects/imports/free_zones/list_freezones.pdf

SAD information and form

http://ec.europa.eu/taxation_customs/customs/procedural_aspects/general/sad/index_en.htm

ATA Carnets

<http://www.uscib.org/index.asp?documentID=1843>

World Customs Organization

<http://www.wcoomd.org/ie/En/en.html>

DG Taxation and Customs Website

http://ec.europa.eu/taxation_customs/index_en.htm

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For More Information

The U.S. Commercial Service at the U.S. Mission to the European Union, can be contacted via email at: Isabelle Maelcamp (Isabelle.maelcamp@trade.gov) Phone: +32 2 811-5276 Fax: +32 2 811 5151; or visit our website: <http://www.export.gov/europeanunion>.

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