



Basic Facts about Importation

It is easy to establish a business contact with a foreign partner. But what sort of things do you need to know if this actually develops to the point where you find yourself setting up an importation business? This leaflet is designed to answer this question and introduce you to the business of importation. All of the following information relates to 'genuine' imports, i.e., those which come from countries outside the European Union.

Points to be Clarified in Advance

The following points should be clarified at the offer stage, i.e., before contract negotiations begin. More detailed information is to be found later in this document:

1. What is the commodity code or customs tariff number of the goods to be imported?
2. Is there a ban on the importation of the goods in question into the EU?
3. Are the goods being imported subject to quantitative restrictions (quotas), and if so, are there still unused quotas?
4. Is an import licence or permit required, and if so, what is important to remember when filing the application?
5. What rate of customs duty is normally levied on the imported goods?
6. Are there any EU anti-dumping measures in place for the imported goods and/or their manufacturer, and if so, how extensive are they?
7. What customs procedure is required for clearance?
8. Can tariff preferences be claimed for the imported goods? What proof of preferential origin is required?
9. Is proof of non-preferential origin to be submitted upon importation, and if so, in what form (certificate / declaration of origin)?
10. Are the imported goods subject to a separate excise duty, and if so, what is the rate of this duty?
11. Do you have all the information you need to make a reliable costing of your import deal? If

not, what information do you still require?

12. Do you already have a so called customs number (EORI= Economic Operator's Registration and Identification Number)?

Points to be Clarified during the Contract Negotiations

During the contract negotiations, the following points should also be clarified:

1. How (verbally/in written form) should/can the sales contract be concluded?
2. Which law should/can govern the sales contract (that of the buyer's/seller's country, that of a neutral country, the Vienna Convention on the International Sale of Goods)?
3. Which court should/can handle any judicial disputes?
4. Should/can an arbitration agreement be reached in order to settle disputes out of court?
5. What should/can be agreed as regards warranty claims?
6. What need is there for clarification/regulation on questions relating to product liability?
7. What need is there for clarification/regulation on matters relating to intellectual property (trademarks, the protection of patents, utility models and registered designs, etc.)?
8. Has there been a reasonable allocation of rights/duties, risks and costs reasonable for the transportation of the goods (insurance; delivery clauses; INCOTERMS®)?
9. How should/can payment be made (documentary/non-documentary)?
10. What costs are associated with payment processing?
11. Does the foreign trading partner require you to supply documents prior to the delivery (e.g. an International Import Certificate)?

1. General Information on Importing Goods into the EU

The European Union is a customs union

All members of the EU have adopted the same trade measures and a common customs tariff (TARIC). This means that basically the same rules apply everywhere, irrespective of where goods are imported into the EU. Consequently, each EU Member State charges the same rate of customs duty for goods to



be released for free circulation. Under customs legislation, payment of the EU tariff converts non-Community goods into Community goods, which can then be traded within the EU without the payment of any further customs duty in accordance with the principle of free movement. It should, however, be noted that import sales tax and, in the case of certain goods, possibly also special excise duties may be payable. Although these taxes are harmonised to a very large extent in the EU, there are variations in the amount charged.

Commodity code or customs tariff number

The commodity code, also known as the customs tariff number, is specific to the particular commodity and provides basic information required for all import or export transactions. The commodity code has to be known in order to find out about the specific import requirements and customs tariffs associated with the goods, as well as the preconditions for subsequent trade in the goods (marketability). Accordingly, it must be quoted in any customs declarations. It is determined by the Harmonised Commodity Description and Coding System of the World Customs Organisation (WCO), which is currently recognised by some 160 countries and territories. The Harmonised System uses six-digit codes for goods, although more subdivisions may also be added at national level. The Member States of the European Union have agreed to use an eight-digit numerical system for statistical purposes, the so-called Combined Nomenclature. In the Federal Republic of Germany, this is better known as "Warenverzeichnis für die Aussenhandelsstatistik" (catalogue of goods for foreign trade statistics). Because of the considerable differentiation which exists, however, ten digits are required when applying the Integrated Tariff of the European Union (TARIC), and an eleventh digit has to be added when declarations are submitted in the Federal Republic of Germany.

Practical tip:

For more information about commodity codes, the rates of duty payable on imports to the EU, and any other documentation which might be required, call the customs information centre at:

Informations- und Wissensmanagement Zoll Carusufer 3-5, 01099 Dresden

Auskunft für Unternehmen (Information for businesses) Tel.: +49 (0) 351-44834 520

Fax: +49 (0) 351-44834 590

Email: enquiries.english@zoll.de

Online access is also available on the website of the Integrated European customs tariff (TARIC) and the electronic customs tariff site provided by the German customs authorities. However, some experience is required to navigate your way around these very complex databases and, in particular, to interpret the results you obtain there – give us a call if you need any help.

Another valuable source of information for importers is the Export Helpdesk. This was set up by the EU Commission to assist exporters in emerging and developing countries. But it also provides importers with valuable information about EU import rules and, in particular, the technical rules which certain products must meet, if they are to be marketable in the EU. The Import Promotion Desk of the iXPOS foreign trade portal is also helpful.



Economic Operators Registration and Identification number (EORI number) Anyone engaged in importing or exporting goods must be registered with the customs authorities and have been issued with an EORI number. Companies which are unsure whether or not they are registered should check as a matter of urgency. Since the March 2012 release of ATLAS, it is no longer possible to submit a customs declaration without a valid EORI number.

An economic operators number does not have to be quoted, if the party concerned only submits customs declarations occasionally (no more than three times a year), if the customs declaration is submitted by the postal service or by an express/courier service for a client (unless the latter is entitled to deduct VAT), or in the case of written customs declarations in passenger traffic (unless the party concerned is entitled to deduct VAT).

Detailed information about the EORI number and the necessary application forms is available online.

2. Import Clearance

Release for free circulation

Release for free circulation is by far the most important customs procedure. The details are summarised below. In most cases, the goods are also released for consumption at the same time.

Presentation and declaration of imported goods to customs

Imported goods must always be presented and declared to the customs authorities irrespective of their value (a [list of German customs offices](#) is available online). 'Presentation' means giving the customs authorities the opportunity to assess the goods and submitting all the paperwork required for clearance.

Documents to be submitted

In addition to the import declaration, the following documents generally have to be submitted when importing goods

- a declaration stating their customs value
- a commercial invoice or other commercial document showing all the main details of the transaction, in particular the value of the imported goods
- a consignment note or other shipping document
- a packing list
- separate cargo insurance documents, if applicable
- additional documents (certificate of origin, certificate of preferential treatment, etc.), if applicable

Low-value goods (of less than EUR1,000) may also be registered for importation verbally. If the value of the import consignment is greater than EUR1,000, then the necessary forms must be completed. In the case of written declarations, Sheets 6, 7 and 8 of the so-called Single Administrative Document are used (a leaflet with essential information on completing the forms is available as a download from the website of the [customs authority](#)).

Required forms (not available as downloads online):



- An import declaration (form 0737 of the Single Administrative Document), with red (6), green (7) and yellow (8) copies, is always required, if the value of the import consignment exceeds EUR1,000;
- Continuation forms (form 0738) are required if more than one kind of commodity is being declared (commodity codes required; note the threshold value shown above).

Small quantities of these and other forms are also available at the IHK Service Center.

Electronic customs declarations

Customs declarations may also be filed electronically following the introduction of [ATLAS](#) (the automated tariff and local customs clearance system). This allows declarations on the importation of goods for release for free circulation to be filed in three different ways:

- **Participant entry** (the party concerned - or his representative - uses software at their company which has an ATLAS interface certified by the customs authorities; data supplied in this way must then be converted to the EDIFACT format and transferred to the customs authorities using the X.400 or FTAM protocol; the data is then processed by ATLAS. The same channels are used for communications from the customs authorities and clearance).
- **User entry** (the party concerned - or his representative - enters the necessary data at a terminal in the appropriate customs office; the data is then processed by ATLAS. The same channels are used for communications from the customs authorities and clearance; the user receives printouts from the data processing system as a record of the transaction).
- **Online customs declarations** (the party concerned - or his representative - transfers all the pertinent data on his import consignment to the relevant customs office [online](#); in return, he receives an order number from the custom authorities' server; the party concerned makes two printouts of his declaration, which he signs and presents to his customs office together with all the other necessary paperwork so that his goods can be cleared; the transferred data is retrieved from ATLAS using the order number, and processed; the party concerned receives printouts from the data processing system as a record of the transaction).
- A **written customs declaration** can also be sent to the customs authorities as an [online customs declaration](#). The portal for online customs declarations can be accessed from anywhere, and the declaration completed on your PC before being sent to the competent customs office. The printout must, however, be signed and the hard copy submitted to the customs office, because the necessary functions are not available for lodging a customs declaration using an electronic data-processing technique (e.g., no electronic signature is available).

Entry summary declaration

Before commercial goods are brought into the customs territory of the Community, an entry summary declaration (ENS) must be handed in. The main purpose of this is to conduct a risk analysis for security



reasons. The entry summary declaration is not the same as the summary declaration for temporary storage, which serves as a presentation notification and a record of goods.

As well as exemptions for certain goods, there are also exemptions for certain countries and territories.

On the basis of existing agreements, entry summary declarations are not required for goods imported from Switzerland (including Liechtenstein), Norway or Andorra. Nor does an entry summary declaration have to be handed in for goods imported from territories which, whilst part of the customs territory of the Community, are not part of its tax territory. These are the Åland Islands (Finland), the Channel Islands (United Kingdom), the Canaries (Spain) and the French overseas departments. Neither does an entry summary declaration have to be submitted for goods imported from the Republic of San Marino, the Vatican City State or Helgoland.

The customs authorities can provide detailed information about the [ENS](#).

Declarations of customs value

The customs value must always be declared if the value of the import shipment is more than EUR10,000 and no tariff preferences have been granted which provides for duty-free treatment. The form for [declaring the customs value of goods](#), the [continuation sheet](#) and the leaflet on the customs value of goods are available as downloads from the customs authorities.

Required forms

- A [declaration of customs value](#) DV.1 (form 0464) must be completed, if the value of the import shipment exceeds EUR10,000, with the following exceptions:
 - the goods are of a non-commercial nature, e.g., goods brought into the country by travellers,
 - the information is not required for the purpose of applying the customs tariff; for instance, the customs value is irrelevant in the case of duties charged by weight,
 - the goods are imported under preferential arrangements applicable to a particular country and are therefore exempt from customs duty,
 - the duties payable under the customs tariff are not levied because an application for non-tariff tax exemption has been approved (e.g., personal property).
- Continuation sheet DV.1 BIS (form 0465) for declarations of customs value, if more than one category of goods is being declared (note the threshold value shown above).

The customs authorities will verify whether importation of the goods is permitted or whether they are banned or require a licence, or whether, for instance, evidence of the non-preferential origin of the goods is required. Any necessary licences or proofs of origin must be submitted with the import declaration.

The customs authorities will calculate the import duties. These comprise the customs duty (and/or the agricultural component for goods in the agricultural sector) and, if applicable, special excise duties and import sales tax.

The customs authorities will determine the customs value which is used to calculate the level of duties. The [customs value](#) is defined as the value of the shipment of goods according to the commercial document (usually the commercial invoice) at the location where it first enters the customs territory of the EU, including all transportation and insurance costs incurred up until that point (i.e., the free-at-



EU-border price - cf. also the leaflet 'INCOTERMS® 2010'). For industrial goods (Chapters 25 - 97 of the Harmonised System [HS]), the amount of duty to be paid is calculated by multiplying the customs value by the rate of duty applicable to the goods; for many agricultural products (Chapters 1 - 24 of the HS), so-called agricultural components are levied, which are generally quantity-related. In the case of some agricultural products, a combination of value and quantity-related duties can be levied.

The customs authorities will determine any excise duty to be paid. Excise duty is based on quantity rather than value. Thus the level of excise duty to be charged on imports is calculated by multiplying the excise duty (tax rate) by the quantity of imported goods. The customs authorities provide detailed information online about the levying of excise duty and about tariffs.

The customs authorities will determine the level of import sales tax to be paid, which is based on taxable value. This is defined as the customs value (i.e., the free-at-EU-border price) plus the customs duty (and the excise duty, if applicable) plus transportation and insurance costs from the EU external border to the destination of the goods inside the EU.

The customs authorities will surrender the declared imported goods to the party concerned. After the customs duty which is owed has been paid, the customs authorities will release the goods. The declarant can then freely dispose of the goods.

3. Import Restrictions

What may be imported?

Imports may be subject to a wide range of rules. However, only a few products are actually banned altogether. The bans are generally imposed with the intention of protecting human health, protecting animals or plants, protecting public order or protecting industrial property rights which, as far as imports are concerned, has tended to concentrate to a large degree on fake branded goods, but in the recent past has also focused increasingly on protecting exclusive rights of distribution.

Reservations of approval and licensing requirements

Apart from import bans, reservations of approval and licensing requirements are other restrictive measures which can be imposed on a whole series of goods. They mainly affect agricultural products, for which production subsidies are granted in the EU. Approval can also be reserved, however, with the intention of controlling the quantity and/or value of goods of certain types which are imported into the Community by setting an upper threshold, with the aim of protecting EU industries from being swamped by international competition. To this end, tariff quotas or tariff ceilings are established, and permit or licensing procedures are used to offset imported quantities against these. The [Federal Agency of Agriculture and Food](#) (BLE) is in charge of issuing import licences and permits in the agricultural sector (Chapters 1 - 24 of the HS) and the [Federal Office of Economic Affairs and Export Control \(BAFA\)](#) does likewise for textiles (Chapters 50 - 63 of the HS), non-textile products and some goods from the coal and steel sectors. The procedure to be followed for those wishing to apply for import permits or licences is described in BAFA's [import guide](#). Normally, a certificate of origin must be presented during the importation procedure; in some cases, a declaration of origin on the commercial invoice of the foreign trading partner will be sufficient.



Antidumping Duties

Antidumping duties are commercial measures which may have to be taken into consideration when importing goods. The European Community can protect its domestic economy from cheap imports by certain countries or even certain suppliers by charging antidumping duties which are considerably higher than normal customs duties, if their prices have been subsidised in an anti-competitive and therefore illegal way so that they are below cost price. Antidumping measures are implemented at international level under the rules established by the World Trade Organisation.

These rules are complex and consequently rather tedious; however, Hamburg Chamber of Commerce provides excellent, up-to-date information on this topic in its "[Hanseatisches Antidumpingregister](#)".

Imports: What's allowed, and what might be more problematic

Generally speaking, the Community's import rules tend to be fairly liberal: many goods no longer charged with any duties at all, and across all goods, the average import duty is well below 4 per cent. However, some categories of goods are regarded as sensitive for a number of reasons, and are consequently governed by what are sometimes very complicated special rules. In some cases, the importation of goods requires a permit, and there may be restrictions on the quantity which can be brought in. Because of the EU subsidy policy, this applies to many agricultural products (the relevant licensing authority is the [Federal Agency for Agriculture and Food](#)) and to individual products from the coal and steel industries (so-called ECSC goods, i.e., products which are subject to the rules of the European Coal and Steel Community).

Aside from subsidy-related import controls, imports from outside the European Union or other Member States may also be banned or subject to approval on other grounds: this is referred to as 'other prohibitions and restrictions'. One example is the CITES Convention, which aims to protect species of flora and fauna at an international level. The [German Federal Agency for Nature Conservation](#) (BfN) is responsible for issuing permits on the basis of the Convention on International Trade in Endangered Species of Wild Fauna and Flora ([CITES](#)). The BfN has an extensive database known as [WISIA](#) (the 'Information System on International Species Conservation') which can be accessed online.

4. Tariff Preferences

Goods imported from a variety of countries of origin may attract preferential rates of duty or conditions by virtue of free trade or customs union agreements signed by the European Community. In addition, the Community grants preferential rates to imports from emerging and developing countries within the framework of the so-called Generalised System of Preferences (GSP). Industrial goods (Chapters 25 - 97 of the HS) in general benefit from favourable treatment; there are some exceptions in the agricultural products sectors (Chapters 1 - 24 of the HS).



Preferential rates of duty can only be granted if the arrangements enshrined in the various agreements (usually relating to preferential origin or, in a few cases, preferences granted under custom union agreements) are complied with, and there is suitable supporting evidence to this effect.

When obtaining customs clearance for imports, the appropriate preference documents from the supplying country should be presented. The German Working Tariff determines whether and to what extent preferential rates may be claimed on imports and what preference documents must be submitted. Presenting non-preferential proof of origin (e.g., a certificate of origin) does not usually result in a preferential rate of duty being charged in the EU. The German customs authorities supply extensive information about customs preferences online (cf. [preferences](#) and [overview and details](#)).

5. Special Excise Duties

Special excise duties are charged for a few and very different goods. These include petroleum products, tobacco products, spirits and drinks containing spirits, beer, sparkling wine, alcopops, coffee and products containing coffee, and wine (electricity tax is a special case). Details on the individual [excise duties](#) and in particular on the level at which they are charged and the tax rate are supplied online by the customs authorities.

6. EU Customs Legislation

Since 1 January 1994, the European Union has had a unified Customs Code which is valid throughout the customs territory of the Community, and which essentially comprises the following rules and regulations:

- the [Customs Code - Council Regulation \(EEC\)](#) No 2913/92 of 12 October 1992 establishing the Community Customs Code;
- [Commission Regulation \(EEC\) No 2454/93](#) laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, dated 2 July 1993;
- [Council Regulation \(EEC\) No. 918/83](#) of 28 March 1983 setting up a Community system of reliefs from customs duty; and
- [TARIC](#), the Integrated Customs Tariff of the European Communities.

Accordingly, customs legislation requires all goods brought into the customs territory of the Community or already there to meet the following rules for:

- placing of goods under a customs procedure;
- placing in a free zone or free warehouse;
- re-exportation from the customs territory of the EU;
- their destruction;
- their abandonment to the treasury.

In practice, placing goods under a customs procedure is by far the most important customs- approved treatment. In the EU - as in many other countries - a distinction is made between eight different customs procedures:

- release for free circulation;
- transit;
- customs warehousing;
- inward processing;
- processing under customs control;
- temporary admission;
- outward processing;
- exportation.

Customs warehousing, inward processing, processing under customs surveillance, temporary importation and outward processing are deemed to be customs procedures of economic significance. Prior customs authorisation must always be obtained before any of these procedures is administered. A customs procedure of economic significance must always be followed by another customs procedure (e.g. export procedures). (External) transit procedures can be used to move goods on which no duty has yet been paid or goods involved in customs procedures of economic significance, within the Community.

When using the (external) transit procedure, a security must be provided for the (as yet unpaid) duty owed on the goods being transferred. If goods (including those for which a customs procedure of economic significance is to be completed) are exported from the territory of the Community, they must be placed under the export procedure.

7. Additional Information

In the context of customs clearance the same sort of questions tends to be asked. Some of the answers are to be found on the website of the [German customs authorities](#).

As well as offering advice, IHK Berlin also organises events on topics related to customs and foreign trade. The information sheet on [customs workshops held by IHK Berlin](#) will tell you when the next such event is to take place.

This document is intended to provide a short introduction to the law, and does not claim to be exhaustive. Although the information it contains has been checked with care, we can accept no liability for its accuracy.