

Part 2
The European Community and accession of new member states

Section 1: The European Community (EC)

2.1.1 General

The European Community (EC) is a Customs Union. This means that the countries in full membership of the EC have no customs duty barriers between them but they all have a common customs duty tariff against goods from outside the EC. As a result goods which are free from customs duty in one part of the EC-either because they originate there or because any customs duty due on them has already been paid-are free to circulate within the rest of the EC without any liability to pay further customs charges when they move from one member state to another. The EC's common external tariff ensures that goods imported from non-EC countries are subject to the same customs duties wherever they enter the EC.

2.1.2 The Customs Territory of the EC

- The Customs Territory of the Community shall comprise:
 - the territory of the Kingdom of Belgium,
 - the territory of the Republic of Bulgaria
 - the territory of the Czech Republic,
 - the territory of the Kingdom of Denmark, except the Faroe Islands and Greenland,
 - the territory of the Federal Republic of Germany, except the Island of Heligoland and the territory of Buesingen (Treaty of 23 November 1964 between the Federal Republic of Germany and the Swiss Confederation),
 - the territory of the Republic of Estonia,
 - the territory of the Hellenic Republic,
 - the territory of the Kingdom of Spain, except Ceuta and Melilla,
 - the territory of the French Republic, except the overseas territories and Saint-Pierre and Miquelon and Mayotte,
 - the territory of Ireland,
 - the territory of the Italian Republic, except the municipalities of Livigno and Campione d'Italia and the national waters of Lake Lugano which are between the bank and the political frontier of the area between Ponte Tresa and Porto Ceresio,
 - the territory of the Republic of Cyprus, in accordance with the provisions of the Act of Accession,
 - the territory of the Republic of Latvia,
 - the territory of the Republic of Lithuania,
 - the territory of the Grand Duchy of Luxembourg,
 - the territory of Hungary, ◀
 - the territory of the Republic of Malta,
 - the territory of the Kingdom of the Netherlands in Europe,
 - the territory of the Republic of Austria,
 - the territory of the Republic of Poland,
 - the territory of the Portuguese Republic,
 - the territory of the Republic of Romania
 - the territory of the Republic of Slovenia,
 - the territory of the Slovak Republic,
 - the territory of the Republic of Finland,
 - the territory of the Kingdom of Sweden,
 - the territory of the United Kingdom of Great Britain and Northern Ireland and of the Channel Islands and the Isle of Man,
- The following territories situated outside the territory of the Member States shall, taking the conventions and treaties applicable to them into account, be considered to be part of the customs territory of the Community:

(a) France

The territory of Monaco as defined in the Customs Convention signed in Paris on 18 May 1963 (Official Journal of the French Republic of 27 September 1963 p. 8679),

(b) Cyprus

The territory of the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia as defined in the Treaty concerning the Establishment of the Republic of Cyprus, signed in Nicosia on 16 August 1960 (United Kingdom Treaty Series No 4 (1961) Cmnd. 1252).

- The customs territory of the Community shall include the territorial waters, the inland maritime waters and the airspace of the Member States, and the territories referred to in paragraph 2, except for the territorial waters, the inland maritime waters and the airspace of those territories which are not part of the customs territory of the Community.

Included are:

The Isle of Man;
The Austrian territories of Jungholz and Mittelberg, and The territories of the Principality of Monaco;
The Portuguese Islands of Azores and Madeira.

The following Special Territories of the European Community, although included in the customs territory, are excluded from the fiscal territory of the Community:

Åland Islands (Finland);
Canary Islands (Spain);
Channel Islands;
French Overseas Departments of Guadeloupe, French Guiana, Martinique, and Reunion;
Mount Athos - also known as Agion Poros (Greece);

Excluded are:

The Islands of Heligoland and the territory of Büsingen;
The territory of the Republic of San Marino* and the national waters of Lake Lugano which are between the bank and the political frontier of the area between Ponte Tresa and Porto Ceresio;
The Principality of Andorra**;
The Vatican City

* There is a Customs Union between the Republic of San Marino and the EC.

** There is a Customs Union between the Principality of Andorra and the EC for goods in Chapters 25-97 of the Harmonised System.

2.1.3 The Channel Islands

Although the Channel Islands (the islands of Jersey, Guernsey, Alderney, Sark and their respective dependencies) are included in the Customs territory of the EC they are excluded from the fiscal territory of the Community.

Under the VAT Sixth Directive all goods from the Channel Islands must be declared to Customs. For goods imported from the Channel Islands which are subject to customs charges, including excise duty and/or import VAT with a value in excess of £867 (as at 1 January 2011), a full SAD declaration is required. For goods which are not subject to customs charges and are not restricted nor prohibited, no import SAD is required and commercial documents may be used to constitute the declaration. For consignments below a value of £867 subject to customs charges a simplified import declaration can be made.

For goods exported from the UK to the Channel Islands a non-statistical export declaration is required (see paragraph 1.2.1 of part 1 of Volume 3). However, for consignments from certain south coast ports a combined 'Consignment Note and Customs Declaration' (CNCD) can be used.

When Community goods move direct between the Channel Islands and the UK (in either direction), no Community Transit or status documents are needed, provided that the movement is cleared at the frontier. Community Transit documentation will be required, however, if the goods are to be cleared inland in the UK or are to transit the UK to another member state of the EC.

All goods not in free circulation must move under the external (T1) Community Transit procedure.

2.1.4 The Isle of Man

As a general rule goods moving between the Isle of Man and the UK, including any goods previously imported from non-EC countries on which the proper duty and tax has been paid, are considered not to be imported into or exported from either the Isle of Man or the UK, as the case may be. Such goods are not subject to customs control other than controls applicable to similar goods moving on the British mainland, eg for warehouse goods. There are restrictions on the movement of **explosives** but other goods subject to import restrictions which complied with the requisite conditions when they were originally imported may be removed from the Isle of Man to the UK or vice versa without a further licence (see Part 3 of this Volume). Any explosives (within the meaning of the Explosives Act 1875) which are moved to the UK from the Isle of Man under the provisions of the Isle of Man Act 1979 are regarded in all circumstances as being imported into the UK and therefore subject to licensing control.

For Community goods moving between places in the Isle of Man and the UK no community transit documentation is required. Community transit will be required, where appropriate, for goods moving between the Isle of Man and other member states and vice versa (see Notice 750).

Further information may be obtained from your local Revenue and Customs office; the address may be found in the telephone directory.

2.1.5 EU Goods

EC goods are eligible for European Community treatment on arrival in any Member State of the EU, that is, they may be admitted free of customs duty. The term "Community goods" means both goods originating in the EU and goods imported from non-EU countries which have been put into free circulation in the EU after the completion of import formalities and the payment of any customs duties and charges having equivalent effect. The term "Goods in free circulation" means goods imported into the EU on which import formalities have been complied with and any duties, or equivalent charges have been paid and not refunded.

Intrastat

- Intrastat is the system for collecting statistics on the trade in goods between Member States of the European Union (EU). It came into operation on 1 January 1993, replacing customs declarations as the source of trade statistics within the EU, and is an EU-wide system, so requirements are similar in all Member States. The supply of services is excluded from Intrastat.

In general Intrastat movements equate to supplies (and corresponding acquisitions) under the arrangements for intra-EU VAT and are to be recorded using the same rules. This close link with the VAT system is an essential feature both lessening the burden on businesses of complying with Intrastat requirements and providing a means of checking the information supplied.

Businesses which are not registered for VAT and private individuals who move goods within the EU have no obligations under the Intrastat system.

Statistics on trade with non-EU countries will continue to be collected from customs declarations. Therefore such trade must not be declared under Intrastat.

- Intrastat operates as follows:
 - All VAT registered businesses must complete boxes 8 and 9 on their VAT returns showing the total value of goods supplied to other EU countries (known as

'dispatches') and the total value of goods acquired from other EU countries (known as 'arrivals'). This requirement is explained in detail in the Notice 700/12 "Filling in your VAT Return", available online at www.hmrc.gov.uk

- In addition to completing boxes 8 and 9 on their VAT returns, larger businesses whose trade in goods (arrivals or dispatches) exceeds the legally set threshold must supply further information on their trade with other EU countries each month using supplementary declaration. The threshold which applies separately to arrivals and dispatches, is reviewed on an annual basis and is subject to change. Amendments to the threshold are applied at the start of the calendar year. Businesses should ensure that they are aware of the threshold and submit Intrastat returns when necessary.
- The trade statistics are compiled from the detailed information provided by larger businesses on supplementary declarations and the totals of EU trade declared on VAT returns by businesses below the threshold.

3. Further information

Information about the threshold can be obtained from www.uktradeinfo.com, telephone number (01702) 367485 or from the VAT, Excise & Customs Helpline on (0845) 010 9000.

Full details about the Intrastat system can be obtained from Notice 60 - *Intrastat General Guide* which is available from www.hmrc.gov.uk

4. Classification of goods

Goods are classified by means of commodity codes (comprising for Intrastat purposes the first eight digits of the commodity codes shown in the Tariff). To assist in the classification of goods, an online directory of commodity codes, known as Intrastat Classification Nomenclature, is available to use free of charge at www.uktradeinfo.com

5. The Law

The basic legal framework for Intrastat is provided for in Council Regulation (EC) No 638/2004 (published in Official Journal L102 dated 07/07/04), as amended by Council Regulation (EC) No 222/2009 (published in Official Journal L87, dated 31.3.09).

This regulation is implemented by Commission Regulation (EC) No 1982/2004 (published in Official Journal L343, dated 19.11.04), as amended by Commission Regulation (EC) No 1915/2005 (published in Official Journal L307, dated 25.11.05), Commission Regulation (EU) No 91/2010 (published in Official Journal L31, dated 3.2.10) and Commission Regulation (EU) No 96/2010 (published in Official Journal L34, dated 5.2.10).

There are additionally UK Statutory Instruments enabling regulations which provide powers to manage Intrastat in the UK.

2.1.6 Further information

Customs procedures for goods received from, or sent to other member states are given in other parts of this Volume and in Volume 3. More detailed information will be found in the Transit Manual (on the European Commission's website) and the Transit Manual Supplement (on the HMRC website).

2.1.7 National taxes

The term "Community (or EC) goods" refers to the status of goods vis-à-vis customs duties and agricultural charges *but does not affect the liability of goods to national taxes such as value added*

tax (VAT) or excise duties. Although therefore goods may be EC goods or in free circulation they will, on arrival from another member state, still be liable to national taxes including excise duties and value added tax (see Parts 12 and 13 of this Volume).

2.1.8 Controls in intra-EC trade

There are no controls on the vast majority of EC goods moving within the Community. However, as non-EC goods can be in transit in the Community without the payment of duty and CAP charges due on them, some controls remain on these goods moving within the Community. The control is mainly documentary - the Community Transit system (see Volume 3).

2.1.9 Prohibitions and Restrictions

Despite the free circulation of goods within the Community, member states may impose restrictions or prohibitions for reasons of health, public morality, security, etc. In addition, they may be authorised under Article 115 of the Treaty of Rome or Article 71 of the Treaty of Paris in special circumstances to restrict the importation via other member states of certain non-EC goods, even if they have been put into free circulation (see Part 3 of this Volume).

2.1.10 Enlargement of the EU

From 1 January 2007 the European Union extended its membership to 27 countries, bringing in Bulgaria and Romania as new members. From that date, the Customs Territory of the European Community also included the territories of these countries. A strengthened pre-accession strategy for Turkey is being implemented

The UK's Sovereign Base Areas (SBAs) in Cyprus will continue to remain outside the EU, after Cyprus' accession to the EU, although they will form part of the Community's Customs Territory.

