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Indirect Tax
Conference

Union Customs Code

Customs & Global Trade

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14 November 2014



Session Overview

Union Customs Code (“UCC”)

1. Background of UCC

2. Changes in the UCC

- AEO
- Guarantees
- Valuation
- Self Assessment
- Centralised Clearance
- Streamlining Customs Procedures

3. Timing

4. Next Steps

Background of the UCC

Frequently Asked Questions:

So what does it really mean in terms of guarantees? I should probably be calculating the potential impact and sharing with my FD.

Is 'first sale' going to go? We have been considering it for years but do we have time to do it now, even for a short period of benefit?

The AEO picture is still unclear. Is this going to be another push to get everyone applying for AEO and if it is, how will they process all the applications?

What will you as a business do about the guarantees and approvals?

Centralised clearance has been on the table for a long time, is it realistic?

I have simplified procedures and reduced guarantees already, why should I consider AEO?

Background of the UCC

Overview

Union Customs Code

European Union's basic customs law

- A recast of the Modernised Customs Code (MCC);
- Adopted on 10 October 2013 in Council Regulation (EU) 952/2013;
- Framework regulation for customs rules and procedures; and
- Implementation due 1st May 2016 once the Delegated and Implementing Acts (implementing provisions) are agreed.

Background of the UCC

Aims of the UCC

Modernisation

Facilitation of legitimate trade

Reinforced need to ensure security & safety

Paperless environment for customs & trade

Harmonised & standardised application of customs controls

Background of the UCC

Scale of the Task

- Delegating Acts & Implementing Acts required to make the UCC work:
 - Circa 800 Articles/100 Annexes – similar to the current Implementing Provisions (IP)
 - DA and IA – “Transitional” DA – possibly as much again, IA short in number of articles
- First drafts published in January 2014:
 - Preliminary draft DA.... TAXUD/UCC-DA/2014/-1
 - Preliminary draft IA.... TAXUD/UCC-IA/2014/-1
- Commission Acts will also generate EU Guidelines on what the law means
- Ongoing negotiations between Member States & European Commission

Changes in the UCC

New Language

New Terminology

Union goods

Special Procedures

Entry in the Declarant's Records

Union Transit (External/Internal)

Current Terminology

Community goods

Customs Procedures with Economic Impact (CPEI)

Local Clearance Procedure (LCP)

Community Transit

Changes in the UCC

Authorised Economic Operator (AEO)

Compliant & trustworthy economic operators who are entitled to receive favourable treatment.

Two Types:

- Customs Simplifications
- Security and Safety

- AEO standards linked throughout the UCC
- New criteria for practical standards of competence:
 - Professional qualifications or three years practical experience
- Provides many benefits including financial
- Scope expands to include taxation rules

Changes in the UCC

Authorised Economic Operator (AEO)

Mandatory

- Duty deferment guarantee reduction
- Movements within a Temporary Storage (TS) authorisation between different MS
- Centralised Clearance
- Self Assessment
- Entry In Declarants Records (EIDR) – presentation waiver

Certain Criteria Must be Met

- Comprehensive guarantee
- Guarantee reductions/waivers
- Simplified Customs Declarations
- EIDR
- Valuation simplifications
- Temporary storage
- Authorised weigher
- Transit simplifications
- Special procedures

Changes in the UCC

Guarantees

- Required for authorisations to operate certain procedures
- To cover actual & potential customs debts
- Draft text stipulates €7,000 per declaration line where information is not available
- Reduced Guarantees and Guarantee Waivers available
- Reduction or Waiver where AEO(C) status is held or criteria met *Art. 95.2 UCC*
- Reduced guarantee (30%) for duty deferment available to AEO(C) holders *Art. 95.3 UCC*

Valuation and the UCC

First Sale for Export Principle

Last sale only rule replaces earlier sale

During the Commission's September UCC negotiation meeting, the UK put forward a suggestion :

- Would allow a reasonable period of transition (for Earlier Sales) after implementation of the UCC.
- The Commission is committed to implementing the changes both to Earlier Sales and Royalties as proposed.

The draft text of the “Sunset Clause” reads as follows;

Article IA-II-3-02a

- *Transaction value may be determined on the basis of a sale for export before the last transaction occurring immediately before the goods are declared for free circulation*
- *Declarant must prove that a binding contract for that sale was entered into prior to entry into force of this Regulation. (i.e. May 2015 on the current timetable for agreement)*
- *This Article shall apply until 31 December 2017.*

Valuation and the UCC

Royalties - Implicit Condition of Sale

On Royalties & licence fees... Currently, the very basic requirements as to whether or not a royalty fee is dutiable are that:

1. Does it relate to the imported goods; and,
2. Is it paid as a condition of sale of those imported goods?

Under the UCC, Royalties & Licence Fees will generally be considered to be paid as a condition of sale of the goods and should therefore be included in the customs value.

'The Commission remain firm in their position and will remain unchanged'

The UCC includes a specific reference to royalties. No reference to 'related to the imported goods' but clearly links to condition of sale:

- In determining the customs value under Article 70, the price actually paid or payable for

Changes in the UCC

Self-Assessment

Allows an authorised business to carry out certain customs formalities and determine their customs duty liabilities

- Clearance by entry in approved commercial records
- No declaration to Customs at import
- Notification and payment of customs duty on a periodic basis
- Separate mechanism for providing trade statistical information to customs
- Much of the detail, particularly in relation to the management of Import VAT, Excise and prohibitions and restrictions has yet to be agreed
- Use will be subject to authorisation and the applicant must be an AEO(C)
- Timetable for implementation has yet to be agreed

Changes in the UCC

Self-Assessment

Scope of SA and exactly how it will work is still subject to negotiations

Basic theory: an authorised person will take responsibility for and perform certain formalities and controls normally undertaken by HMRC

Main features will be clearance by entry in approved commercial records with a periodic payment to Customs and a separate mechanism for providing trade statistical information to customs

Use of self assessment will be subject to authorisation by Customs and the economic operator will need to be an AEO(C)

Economic operators - will manage and monitor their customs activities through their own business accounts, and financial administration and IT systems to determine the amounts of import/export duties payable

Customs activities to be covered by SA have yet to be defined

Changes in the UCC

Centralised Clearance

Offers centralised clearance where more than one customs authority is involved in the import or export of goods (*Art. 179 UCC*)

- Allows a business to declare their goods to customs in one Member State but present the goods to customs in another Member State
- Requires an authorisation and **MUST** be an AEO(C)
- Single Authorisation for Simplified Procedures (SASP) remains until CC implemented

Changes in the UCC

Centralised Clearance

The scope of CC and exactly how it will work is not clear as it is still subject to negotiations

However, the basic theory is that a declaration will be lodged at an office in the Member State which granted the authorisation while the goods will be presented and imported/exported in another Member State

To be authorised for CC, AEO(C) status will also be required

The current SASP which can be seen as a form of CC will continue in its current form until CC is finalised

There is some detail in the draft implementing provisions but much has still to be agreed for example, the treatment of VAT and Excise duties

Changes in the UCC

Streamlining Customs Procedures

- The number of customs procedures are reduced
- The following will disappear: Free Zone type II, Customs Warehouse Type D and Inward Processing (IP) Drawback
- PCC and IP merged and the requirement to re-export under IP removed
- Compensatory interest will be abolished
- CPEI are becoming Special Procedures made up of Transit, Storage, Specific Use and Processing
- There will still be Simplified Authorisations available for Special Procedures as we have now where the customs declaration constitutes application
- A financial guarantee will be mandatory requirement of authorisation for a Special Procedure

Timing

Introduction of new timescales

30 Days

- Making a decision to accept an application *Art. 22.2 UCC*
- Making a decision to grant a Special Procedures authorisation *Art. DA-VII-1-09*
- Right to be heard *Art. 22.6 UCC and DA-I-2-06a*

120 Days

- Authorisations involving more than one Member State (Single authorisation) *Art. DA-VII-1-09*
- *AEO*

In principle unless otherwise provided, customs have 120 days to make a decision once they've accepted an application.

However, IP, Outward Processing (OP), TA, End-Use (EU) and Customs Warehousing (CW) are exceptions to this, for these procedures a 30 day limit applies to them unless it involves another MS in which case its 120 days

Timing

Proposal & Processes

- UCC Regulations entered in to legal force on 30 October 2013
- Legally applicable from 1 May 2016
- Changes will be phased in from 1 May 2016 to December 2020
- Negotiations commenced from 10 February 2014
- Aim is to finalise the legal text by early summer 2015
- Introduce new authorisation procedures before 1 May 2016

Next Steps

Considerations and Preparation

Consideration:

AEO Status

Pre-emptive Action:

Prepare for AEO status, review and implement or enhance processes and procedures in place, review current operations and areas for improvement.

A number of key processes, authorisations and associated requirements will need to be in place within Member States at 1 May 2016.

Guarantee

Study to calculate the amount of guarantee required and the impact of obtaining AEO status on your business and providing such guarantees

Next Steps

Considerations and Preparation

Consideration:

First Sale for Export

Authorisations

Centralise Deferment

Pre-emptive Action:

Review of contracts and implementation of earlier sale contracts as a temporary measure before May 2015, succession planning for such contracts in 2017.

Review of CPEI, End-use, Simplified Procedures, Duty and Deferment Accounts.

Review and implement processes to ensure co-ordination between the declaration and presentation of goods. Deloitte can help implement controls in relation to this function.

Questions



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