

An Introduction to EU Customs and Compliance Lecture

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1. Introduction

Hello and welcome to my course on An Introduction to EU Customs. The course objective is to give students an overview of the various main aspects of EU Customs. I will be publishing courses specifically dealing with some of the topics in this course over the coming months. Remember, it is important to consult with your own customs officials before proceeding with any customs activities

The course is ideally suited to beginners who have an interest in the area of Customs Trade Compliance and also students with some customs experience but who may not have had exposure to all areas of EU customs.

Briefly, my background includes 30 years in International Logistics / Supply Chain. I have spent the past 11 years working for an FDA Regulated Multinational Medical Device and Pharmaceutical Manufacturer where I am currently the Principal Customs Trade Compliance Specialist.

The one big advantage I hold over many Customs Specialists, is that I brought Customs Brokerage into our organisation, in other words we complete all our own declarations. It is extremely rare to see a manufacturing organisation complete their own customs declarations

This gave me complete control over our customs function and enabled me to understand and learn so much more in the world of Customs Trade Compliance. This knowledge led to many opportunities being discovered and was the start of the building blocks to an extremely strong and positive relationship with our customs officials.

Please take a look at my profile page where you will find more information.

I will divide this course into the following lectures. Full notes for the course will be available to download. Some Q&A will be included.

The course will be divided up as follows

1. Introduction
2. Import and Export Customs Clearance via Brokerage or Inhouse Function
3. Authorised Economic Operator (AEO) overview
4. Customs Classification Database
5. Binding Tariff Information (BTI)
6. Economic Procedures (Inward Processing, End Use, Warehouse Bond)
7. Comprehensive Guarantee
8. Rules of Origin / Export Simplifications (Certificate of Origin, ATR-1, Supplier Declaration)
9. EIDR Full Customs Clearance Waiver
10. Customs Decision System (CDS)
11. Customs Audits
12. Carrier/Broker and Airline Handlers role/ Transit

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2. Import Customs Clearance via Brokerage or Inhouse Function

2.1 Imports

For all goods that enter the EU from non EU countries, customs clearance will be required. From a business point of view there are two alternatives

- i. Use a Customs Broker who specialise in Customs Clearance
- ii. Set up your own Customs Clearance inhouse function

A Customs Broker will require information to facilitate customs clearance. They will have received the commercial invoice from the courier or Logistics Carrier containing the details of the items purchased including country of origin and price

The Logistics Carrier will also provide the arrival details that they have already supplied the customs AEP system. This information is entered into the customs clearance declaration and validated against what the Logistics Carrier has already provided to customs

They will need to know the tariff classification which will tell them the rate of duty to charge and if there are any restrictions associated with the tariff classification.

The Brokers will also need to know how you are going to pay for Customs Duty and VAT. In other words have you got a credit account with Customs called a Tan account or do you want the Broker to pay on your behalf and then re charge this to you

Typical information required to complete customs clearance would be

- i. Exporter and importer details
- ii. Invoice number
- iii. Description of goods
- iv. Quantity of goods
- v. Value of goods
- vi. Number of packages in and weight of the shipment
- vii. Freight Terms indicating who is paying for transport
- viii. Country of Origin
- ix. Tariff Classification – optional
- x. Any Supplier Declaration of Origin if applicable
- xi. Arrival details ie: flight or ferry number and arrival time
- xii. Goods location while clearance is being processed
- xiii. Customs Authorizations if applicable

The broker will enter the details of the shipment into the customs AEP system. They can receive back a Red Routing which requires a physical exam by customs, an Orange Routing

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which requires document exam by customs or a Green Routing which is full customs clearance

The broker then passes on the Green Routing Clearance Slip to the Logistics Carrier who will in turn then deliver the goods to destination

The second alternative is one that I encourage company's to strongly consider and that is setting up your own customs clearance function

By setting up your own inhouse customs clearance facility it gives you full control over all your customs activities, improves your customs compliance, enhances your knowledge which in turn will help you to identify new opportunities and maximise the potential of existing processes. Customs also see this in an extremely positive way

Setting up your own customs clearance function is very uncommon within industry as historically companies use Brokers or Consultants for all their customs activities and at times hire a Customs administration person to act as a liaison with brokers and consultants

I set up our customs function eleven years ago and it has been an extremely important function within our supply chain.

Setting up is not difficult. There are several software providers who link their software with the customs AEP system

Once you select a software provider, you need to apply for a digital certificate from customs. Once you go through this process and you have your digital certificate, you will allow the software provider to have a sub certificate, they will supply you with the name to put in the sub certificate which will allow them to gain access to your digital certificate and it creates the link for you to use their software system to access the customs AEP system.

Once you have access, the software company normally provide training on how to use the system to clear goods. Learning to complete customs clearance takes time. Standard custom clearance is pretty straight forward once you have learned what information will go into each box

With experience and time using the system with some help from the software provider, you will learn how to clear more complicated shipments that use for example Economic Procedures like Inward Processing or End Use.

2.2 Export

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The exact same process applies to export customs clearance as with import customs clearance with regards to the options for customs clearance and set up of an inhouse customs clearance function

The information required for export customs clearance is also practically the same except that this time it is the exporter who supplies the information to the broker or the inhouse customs clearance function

Export clearance is more for export control of restricted goods, security and for statistical purposes. There is no vat or customs duty payments applicable

The export standard tariff code generally has 8 digits compared to the import tariff code that has 10 digits

Typical information required to complete customs clearance would be

- i. Exporter and importer details
- ii. Invoice number
- iii. Description of goods
- iv. Quantity of goods
- v. Value of goods
- vi. Number of packages in and weight of the shipment
- vii. Freight Terms indicating who is paying for transport
- viii. Country of Origin
- ix. Tariff Classification – optional with 8 digits
- x. Any Supplier Declaration of Origin if applicable
- xi. Departure details ie: flight or ferry number and departure time
- xii. Goods location while clearance is being processed
- xiii. Customs Authorizations / export licences if applicable

3. Authorised Economic Operator (AEO) overview

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AEO is a certified standard authorisation issued by customs through out the EU that certifies that an economic operator has met certain high standards in the following areas;

- i. Safety and Security
- ii. Controls around system to manage commercial document
- iii. Customs rules compliance
- iv. Financial Solvency
- v. Standards of competence or professional qualifications

It is primarily a trade facilitation measure that recognises operators that are reliable and use best practices in the International Supply Chain

Customs Authorities globally and also potential business partners will have a high degree of confidence in the competence of AEO Certified Organisations

There are a range of potential benefits for AEO Certified Organisations and as EU Customs Compliance and facilities develop, these benefits are expected to widen. Some of these benefits are;

- i. Mutual recognition worldwide as a secure and compliant business partner in international trade
- ii. Joint Customs Cooperation Agreements worldwide could result in faster movement of goods through third country (non EU) borders
- iii. When customs are performing risk analysis for shipments arriving for customs clearance Globally, AEO Holders will have a much lower risk score profile
- iv. Priority treatment if customs are performing physical check controls on shipments
- v. Easier access to simplified customs procedures ie: Inward Processing, End Use, Warehouse Bond.
- vi. Reduction or full waiver of customs bonds via the Comprehensive Guarantee Authorisation.
- vii. Centralised Clearance facility to perform all customs activities in one EU state for several countries within the EU
- viii. The use of simplified procedures across the EU
- ix. Future developments eg: Brexit for example

To apply for AEO Certification, you must be an Economic Operator established in the EU and be part of the international supply chain while involved in customs activities.

There are three types of AEO Certification

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- i. AEO-S (AEO Security and Safety) is focused on Security and Safety
- ii. AEO-C (AEO Customs Simplifications) is based on customs compliance, financial solvency and competent record keeping
- iii. AEO-F (Full AEO) is a combination of both AEO-S and AEO-C.

An economic operator can choose to apply for AEO-F in one application if they feel their business is ready for a full AEO-F application and audit

Alternatively, an economic operator can choose to take a two step process by applying for one of AEO-C or AEO-S initially followed at a later stage by applying for the other type which will then give them AEO-F

An economic operator is also entitled to just apply for one of AEO-C and AEO-S and not progress to full AEO-F

It depends entirely on the type of business an economic operator operates as to which steps to take

Applying for AEO will also help to enhance the processes of organisations through the application process as gaps can be identified and rectified. It is a great learning process for any organisation

The types of economic operators who should apply for AEO include but is not an exclusive list;

- i. Exporters / Manufacturers
- ii. Warehouses Bond operators
- iii. Freight Forwarders / Transport and Logistics Companies
- iv. Customs Agents

You should be prepared for a long and complex application process that can take from 6 months to a year from start to finish depending on the current level of compliance your organisation is in.

It is important not to apply for AEO unless you feel you are adequately prepared. Rejection of an application can cause issues for subsequent applications depending on the condition of the original application

The application process is aided by an AEO Self-Assessment Questionnaire that allows an economic operator to perform a full check on their business without a formal application.

The Questionnaire can be used as the basis for the application or as a check list without the formal application being processed. It readily identifies gaps that may exist.

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You can also request customs to do an informal walkaround to give their views on where the economic operator stands and potential gaps that may exist.

From my own viewpoint, I used the Questionnaire as the basis for the application. In other words, I completed the Questionnaire as if I was completing the application itself.

As I came across gaps, I would log them separately and deal with those issues separately as the Questionnaire progressed. By using this process, it does save a lot of duplication of work later down the road when completing the application itself. It also helps you to learn so much more about your organisation as you are working through the Questionnaire giving you a much stronger level of confidence going into the application itself

I applied for AEO-C initially on behalf of my organisation for two reasons

- i. Our level of compliance was extremely high due to the fact we completed our own customs declarations and had a lot of controls in place
- ii. Our facility did not have enough external security to pass the AEO audit in my own opinion due to the fact the site did not have a complete secured boundary and day time security guard

As the AEO-C application progressed, I got some advice from customs when they were on site as to what was required before applying for AEO-S

These issues were the brought to management and together we made a plan to implement a resolution. We then successfully applied for AEO-S to go along with our AEO-C certification. This meant we had full AEO-F status

Generally, an AEO application process, audit and certification can take up to a year depending on the volume of work required to prepare your business for the application

The Audit process itself can take several visits from customs over a couple of months, breaking sections of the application down into separate visits

Once an economic operator is certified, Customs will carry out what is called a Surveillance Audit every 18 months and possible some smaller audits in between to ensure that standards have not fallen

If significant issues are found, customs reserve the right to suspend or revoke your AEO certification

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4. Customs Classification Database

Any organisation who deals in international trade and has customs formalities must create and maintain a Customs Classification Database. This is absolutely crucial to maintain a high standard of customs compliance and to ensure that duties and taxes are being levied.

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A Customs Classification Database is a repository of a traders customs information that will allow Customs Clearance to be performed

A Customs Classification Database should contain at minimum the following sets of information

- i. List of company part numbers that will undergo customs formalities
- ii. Description of these part numbers
- iii. Customs Tariff Classifications for all part numbers
- iv. Any customs authorisations that an organisation may hold eg: Inward Processing, Warehouse Bond, End Use for imports or Export Controls for exports.
- v. Any licences or restrictions applicable
- vi. Procedure codes applicable eg: code for Inward Processing, End Use, Warehouse Bond
- vii. Customs Tan number if application
- viii. It is good practice but not essential to have the name of the supplier of the material for import shipments

Whoever is completing the customs declarations will need this information to correctly process the declaration.

To identify customs tariff classifications for part numbers, an organisation can use the services of customs consultants or perform this task internally.

The classification number is put together in a very logical manner. Import classifications consist of 10 digits with each digit providing specific data to systematically produce an accurate description of the item while an export tariff code consists of eight.

Customs Harmonized System was designed to be used on a Global Basis and as such, the first six digits generally fulfil all international requirements while the last 4 digits have been designated for country specific purposes

There are Sections, 21 in total, within the Taric Database (EU Tariff Database) and within each Section there are chapters of which there are 99 in total

Each Section has a heading, for example Section 5 – Mineral Products. Within Section 5 there are chapters, 25 to 27 to be specific, for example Chapter 26 – Ores, Slag and Ash. Chapter 26 is then broken down into sub headings depending on the description of the goods until you reach a 10 digit tariff code.

An example below shows the process for classifying Roasted Iron Pyrites.

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- i. Looking through the list of Sections you will come across mineral products which is the Section that most closely matches the product
- ii. Within the Chapters in Section 5 we find Chapter 26 Ores, Slag and Ash closely matched the product. So the first 2 digits are 26
- iii. By a process of breaking down the sub headings under Chapter 26 you will find a description that fits the product. Under Chapter 26 we find 2601 Iron ore including roasted iron pyrites. We now have 4 digits 2601
- iv. Within 2601 we find the description under 2601200000 Roasted Iron Pyrites

Heading 2601

Iron ores and concentrates, including roasted iron pyrites

- Commodity Code

Description

- 2601 11

Iron ores and concentrates, other than roasted iron pyrites

- 2601 2000 00

Roasted iron pyrites

Not all classifications are that straightforward therefore it is important that you understand what the product is made of, what the nature of the product is and what the used of the product is. To demonstrate why this is important, look at the following scenario

- i. If we take a product that is made of steel, you might feel that under the Sections and Chapters you would select Chapter 73 Articles of Iron or Steel
- ii. However, if you had checked with your Engineering or Supply Chain department for example, they would have informed you that this steel product under went a specific precision process turn the product into a specific function for as Mass Spectrometer
- iii. The product can now only be used as part of a Mass Spectrometer and therefore has no other use
- iv. In this case we would classify the product under Chapter 90 which includes medical instruments and we would eventually arrive at a tariff classification of 9027905000 , part for a Mass Spectrometer. An example of this is below

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Heading 9027

Instruments and apparatus for physical or chemical analysis (for example, polarimeters, refractometers, spectrometers, gas or smoke analysis apparatus); instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like; instruments and apparatus for measuring or checking quantities of heat, sound or light (including exposure meters); microtomes

- Commodity Code

- Description

- 9027 10

- Gas or smoke analysis apparatus

- 9027 2000 00

- Chromatographs and electrophoresis instruments

- 9027 3000 00

- Spectrometers, spectrophotometers and spectrographs using optical radiation (UV, visible, IR)

- 9027 5000 00

- Other instruments and apparatus using optical radiation (UV, visible, IR)

- 9027 80

- Other instruments and apparatus

- 9027 90

- Microtomes; parts and accessories

- o 9027 9010 00

- Microtomes

- o 9027 9050

- Parts and accessories

- 9027 9050 00

- Of apparatus of subheadings 9027 20 to 9027 80

While this may at first glance appear complicated. This type of tariff classification understanding can only be achieved with experience and time. The objective here is to

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give the student an overview and basic understanding of how the tariff classification process operates that will assist you in developing a deeper understanding as you gain more experience.

5. Binding Tariff Information (BTI)

BTI decisions are customs tariff classification decisions made by customs in all EU member states and are binding throughout the EU

Some of the benefits of BTI are

- I. Legal certainty regarding tariff classifications of your products, this is particularly important if the product has a high value to your business and your BTI is applying for a duty free tariff classification
- II. Uniform application on the rules around BTI throughout the EU

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- III. BTI holders are advised by customs of any changes to classifications that impact your BTI
- IV. Advance notice to BTI holders by customs when an expiry date is near

Rules around BTI applications are

- I. You must be an importer or exporter
- II. Each application can only be for one type of product
- III. Information on BTI will be stored on the EU Database
- IV. Validity dates apply for each BTI
- V. Appeals can be made on BTI decisions

The BTI application process is as follows

- I. Applications are done via the EU Trader Portal CDS system
- II. You will need a customs digital certificate to access this system
- III. You must be registered for customs and excise
- IV. You must hold an EORI number
- V. You must supply a full description of your product to enable customs to classify the product
- VI. You may in some cases be required to supply additional complex information on the product breakdown (non proprietary) if it is difficult for customs to determine exactly what the product is and what it is used for.
- VII. Customs will notify the applicant via CDS, confirmation of receipt of the application, potential timeline and any additional information that may be required
- VIII. If the application is refused, a reason will be given, and the applicant can appeal the decision
- IX. If the application is approved, the BTI number must be included on all relevant customs declarations
- X. The validity period is normally three years

6. Economic Procedures

Economic Procedures are put in place by the EU to facilitate trade and attract inward investment into the EU through a variety of Authorisations

Each Economic Procedure operates differently, and each economic operator can benefit differently depending on the type of business they operate

There are three main Economic Procedures

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- I. Inward Processing Suspension Authorisation
- II. End Use Authorisation
- III. Warehouse Bond Authorisation

Inward Processing Suspension (IPS)

Inward Processing Suspension replaced the old Processing Under Customs Control and Inward Processing Drawback Authorisations in 2016

An application has to be made by traders to customs via the Customs Decision System (CDS) and can significantly reduce duty liability to traders

As part of the application process, traders will be required to provide a three year forecast for the products they wish to place under IPS

The forecast must be made per tariff code, in other words once you have calculated both the quantity and value of your material, summarise them per the tariff codes that they fall under

Customs will then place a quantity and value limit per tariff code on the IPS Authorisation based on the information the trader has provided

During the three year validity period of the Authorisation, traders must monitor these limits and apply to adjust them if for any reason there is a risk that the limits will be exceeded

Traders must make this adjustment in advance of the limits being exceeded. Customs may allow one retrospective application where the adjustment is being made after the limits have been exceeded

If it happened twice, customs can ask for customs duty to be paid on the value of the exceeded limit

Once the Authorisation has been approved and received, the trader must provide the authorisation to their customs broker

During customs clearance, the customs broker will insert the procedure code 5100 into the customs declaration and also the Authorisation number in box 44 under code C601

This will allow the customs AEP system to recognise that this declaration falls under IPS.

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Under IPS, customs duty is suspended on arrival into the EU. Customs duty is then paid at a much reduced level when the material is sold into the EU inside finished product

The trader has an option of calculating duty based on the value of the finished product sold into the EU at the tariff classification of the finished product or alternatively calculate the value of the material cleared into IPS that has been used inside the finished product at the tariff classification of the original import into IPS.

The trader can choose the lowest duty figure of both scenarios

Generally, traders have six months to use up the material cleared into IPS, this is called the discharge period

Exports out of the EU are not dutyable

Any material not used up at the end of the six month period, either not consumed in production or consumed in production but not sold, are liable to customs duty based on the unused material at it's original duty rate

A Discharge Report has to be completed within each six month discharge period. It can be done monthly once agreed with the customs officer

The Discharge Report is critically important and includes

- I. List of IPS import declarations
- II. List of export declarations containing IPS parts in finished product
- III. Report showing the usage of all IPS materials and duty calculation of unused material, usually significantly lower than the original import of IPS material
- IV. Report showing the sales of finished product into the EU and duty calculation of these products, again usually significantly lower than original import of IPS material
- V. Cumulative up to date stock report of all IPS parts
- VI. IPS Authorisation quantity and value limit monitoring report

Customs will perform regular audits on the Authorisation, normally focusing heavily on the discharge report where they will check for

- I. Evidence of Authorisation limit monitoring
- II. Correct duty calculations and sales figures into the EU
- III. Import and export IPS declarations are being recorded
- IV. Correct duty calculations and usage figures for IPS materials
- V. Cumulative stock reports for IPS parts are being recorded

Customs generally select at random, parts from the Discharge Report and check for

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- I. Evidence of the original IPS material import
- II. Documentation showing consumption of the IPS material in production in the finished product
- III. Records indicating the production finished product being put into stock
- IV. Documentation of the final export of the finished product containing IPS parts

Serious audit finding can lead to suspension or revoking of the IPS Authorisation

End Use Authorisation

End Use Authorisation is an Economic Procedure for certain products that allows traders to import these products at a reduced or zero rate of customs import duty

The level of relief will depend on the tariff classification which will indicate what level of relief EU customs have allowed

VAT or Excise Duty are not included in End Use

Traders must apply for an End Use Authorisation in the Customs Decision System (CDS)

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As part of the application process, traders will be required to provide a three year forecast for the products they wish to place under End Use

The forecast must be made per tariff code, in other words once you have calculated both the quantity and value of your material, summarise them per the tariff codes that they fall under

Customs will then place a quantity and value limit per tariff code on the End Use Authorisation based on the information the trader has provided

During the three year validity period of the Authorisation, traders must monitor these limits and apply to adjust them if for any reason there is a risk that the limits will be exceeded

Traders must make this adjustment in advance of the limits being exceeded. Customs may allow one retrospective application where the adjustment is being made after the limits have been exceeded

If it happened twice, customs can ask for customs duty to be paid on the value of the exceeded limit

Once the Authorisation has been approved and received, the trader must provide the authorisation to their customs broker

During customs clearance, the customs broker will insert the preference code 115 into the customs declaration and also the Authorisation number in box 44 under code N990

This will allow the customs AEP system to recognise that this declaration falls under End Use.

Under End Use, customs duty is reduced or even fully waived on arrival into the EU. Customs duty is only paid on any quantity not put to End Use at the end of the six month Discharge Period

On the End Use Authorisation application, the purpose of the products being requested to be included under End Use, will need to be specified eg: For use in production

Generally, traders have six months to use up the material cleared into End Use, this is called the discharge period

Exports out of the EU are not dutyable

Any material not put to it's End Use at the end of the six month period, are liable to customs duty based on the unused material at it's original duty rate

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A Discharge Report has to be completed within each six month discharge period. It can be done monthly once agreed with the customs officer

The Discharge Report is critically important and includes

- I. Cumulative up to date Report showing opening stock, closing stock, material put to End Use and material put use other than End Use
- II. List of export declarations containing End Use material shipped back outside the EU
- III. Report showing the usage of all End Use materials and duty calculation of material not put to End Use
- IV. End Use Authorisation quantity and value limit monitoring report
- V. List of Customs Declarations containing End Use materials

Customs will perform regular audits on the Authorisation, normally focusing heavily on the discharge report where they will check for

- I. Evidence of Authorisation limit monitoring
- II. Import End Use declarations are being recorded
- III. Correct duty calculations for material not put to End Use
- IV. Cumulative stock reports for End Use parts are being recorded

Customs generally select at random, parts from the Discharge Report and check for

- I. Evidence of the original End Use material import
- II. Documentation showing the material is being put to End Use

Serious audit finding can lead to suspension or revoking of the IPS Authorisation

Warehouse Bond Authorisation

A Customs Warehouse Bond Authorisation allows traders to store non EU goods without the payment of Customs Duty or VAT. Payment of these costs are only made when the goods are released from the Warehouse Bond

The material in the bond are in effect frozen in time.

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This is particularly beneficial if traders are operating and End Use or Inward Processing Suspension (IPS) Authorisations because instead of the material being cleared into End Use or IPS and the discharge period commencing immediately, the material is cleared into a Warehouse Bond under procedure code 7100

Traders can discharge (remove) material in any quantity and at any time from the Warehouse Bond

The discharge period will only commence on the quantity of the material taken out of the bond and not the full amount that originally entered into the bond

By using the Warehouse Bond facility in conjunction with IPS or End Use, it not only suspends the discharge period, it ensures that you only enter into IPS or End Use by removing from the Warehouse Bond, what you need when you need it.

This normally means that you will not have to be concerned about the discharge period and unused material because what you remove will generally be consumed immediately

Traders must apply for a Customs Warehouse Bond Authorisation in the Customs Decision System (CDS)

A facility map with the proposed location of the Warehouse Bond with security measures must be included in the application

As part of the application process, traders will be required to provide a forecast for the products they wish to place under End Use

The forecast must be made per tariff code, in other words once you have calculated both the quantity and value of your material, summarise them per the tariff codes that they fall under, the term of the forecast will be determined by the customs officer

Customs will then place a quantity and value limit per tariff code on the Warehouse Bond Authorisation based on the information the trader has provided

During the validity period of the Authorisation, traders must monitor these limits and apply to adjust them if for any reason there is a risk that the limits will be exceeded

Traders must make this adjustment in advance of the limits being exceeded. Customs may allow one retrospective application where the adjustment is being made after the limits have been exceeded

If it happened twice, customs can ask for customs duty to be paid on the value of the exceeded limit

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In some situations, and at the discretion of the customs officer, there may not be a requirement to put in value or quantity limits

There are three types of Customs Warehouse Bonds

- I. Public Type 1 is where responsibility lies with the holder of the Authorisation and holder of the procedure at the location of the Bond
- II. Public Type 2 is where the responsibility lie with the holder of the Authorisation
- III. Private Warehouse is where the Bond holder also deposits the goods into the Bond. The trader does not have to own the goods but must be a subsidiary in this case as there are no third parties allowed

Once the Authorisation has been approved and received, the trader must provide the authorisation to their customs broker

During customs clearance, the customs broker will insert the procedure code 7100 into the customs declaration and also the Warehouse Bond number in box 49

This will allow the customs AEP system to recognise that this declaration falls under Warehouse Bond

The Discharge Report is critically important and includes

- I. Cumulative up to date Report showing opening stock, closing stock, material removed or discharged from the Warehouse Bond
- II. Report showing the discharge or removal or all parts and any applicable customs payments
- III. Customs Discharge Declaration confirming the discharge of material from the Warehouse Bond per tariff code and any applicable customs payments
- IV. Customs Warehouse Bond Authorisation quantity and value limit monitoring report, if applicable
- V. List of import Customs Declarations containing Warehouse Bond materials

Customs will perform regular audits on the Authorisation, normally focusing heavily on the discharge report where they will check for

- I. Evidence of Authorisation limit monitoring
- II. Warehouse Bond Import Declarations match against receipts

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- III. Quantities discharged from the Bond match the stock system
- IV. Correct duty calculations for discharged material from the Bond where applicable
- V. Cumulative stock reports for Warehouse Bond parts are being recorded

Serious audit finding can lead to suspension or revoking of the Warehouse Bond Authorisation

7. Comprehensive Guarantee Authorisation

In general, traders must pay Customs Duty immediately upon arrival of the goods into the EU via customs clearance

There are exceptions to this. The main exceptions are

- I. Defer payment of the duty until the fifteenth day of the month following import
- II. Goods entering into a Customs Warehouse Bond and duty is suspended
- III. Entering into Inward Processing Suspension where duty is suspended on arrival and paid at a reduced cost at a later date at the end of the discharge period
- IV. Entering the goods into End Use where goods enter the EU at a reduced or nil rate of duty once they are put to the prescribed End Use during the discharge period.

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To avail of these procedures, you will need an Authorisation as I have discussed earlier in this lecture

You must also hold a Comprehensive Guarantee Authorisation to secure against any customs duty payment default

If a trader holds several Authorisations eg: End Use and Inward Processing Suspension, one Comprehensive Guarantee will cover all Authorisations

There are different options to provide the guarantee amount which is a once off payment

- I. Cash Deposit for the guarantee amount
- II. An undertaking signed off by a financial institution eg: a bank who will in turn charge you an annual fee based on the guarantee amount
- III. Insurance company accredited by a customs institution

The application is done via the Customs Decision System (CDS) where you will include all of the Authorisation facilities that will require a customs guarantee

For each facility to be covered under the guarantee, a trader will be required to provide different information to arrive at the guarantee amount

- I. For a Deferred Payment facility, a trader must provide an estimated monthly duty liability which is then doubled to arrive at the guarantee amount
- II. For economic procedures like End Use, Inward Processing Suspension and Customs Warehouse Bond Authorisations, a trader must estimate what the duty liability would be for validity period of each Authorisation ie: the value of the duty liability suspended under these authorisations
- III. The guarantee amount is calculated at two months duty liability from this figure

At this point the trader has the option of requesting a reduction of this guarantee figure up to 30% or a full waiver bringing the guarantee amount to nil

The result of this reduction application will largely depend on several factors but mainly if the trader is AEO certified and has an excellent compliance record with customs

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8. Rules of Origin / Export Simplifications- (Certificate of Origin, ATR-1, Supplier Declaration)

Products coming into or leaving the EU must have a Country of Origin clearly marked on both the product and documents. This is very important in helping customs and business partners clearly identify where the goods originate from.

The location where the goods were manufactured does not necessarily mean that is where the goods originate from as there are rules around how to classify what the Country of Origin is for a product.

- I. Has the product been wholly obtained or produced on a certain country
ie: made from material and with labour from that country
- II. There is a customs provision that allows for a minimum amount of foreign material or labour to be used in the manufacturing process without changing the origin status of a product eg: 7% in a lot of cases

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- III. If there is substantial transformation of a product from the original material imported into its finished product state, then origin can be claimed from the country where this substantial transformation took place
- IV. Where it is difficult to determine the country of origin, a method of taking the country where the material with the highest value originated from can be used in some cases to claim origin
- V. Where it is clear that Country of Origin is mixed from a variety of countries then a list of the main countries must be displayed on the product and documents

Having the correct Country of Origin can help customs determine if the Country of Origin is from a country where restrictions or quotas apply as certain rules, quantities and extra duties or levies may apply depending on what the origin country is.

It is also very important for the importer to know what the Country of Origin is in the scenario where there are customs import duties applicable to the imported product. The origin country may be part of a Trade Agreement and have Preferential Origin which may allow for reduced or a nil duty rate to apply.

Documents used to prove origin of a product that belongs to a Free Trade Agreement and has Preferential Origin include

- I. EUR-1 form also known as a movement document
- II. ATR-1 form specifically between the EU and Turkey
- III. Supplier Declaration made by the exporter
- IV. Certificates of Origin from a Chamber of Commerce
- V. General System of Preference Form A Certificates

From an exporters point of view, if your non-EU customer requests a Certificate of Origin rather than a Supplier Declaration, the exporter has several options depending on where the customer is located

- I. Lodge export documents with a local Chamber of Commerce who if approved will issue a Certificate of Origin
- II. Register with Trade Cert which is an online facility to lodge export documents with the Chamber of Commerce that the exporter is registered with. If the documents are approved, the exporter can print the Certificate

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of Origin at his own premises. Blank Certificate will need to be requested from the Chamber of Commerce

- III. The Rex system allows for exporters to provide Certification of Origin by entering a specific declaration on their export documents for shipments to Canada and Japan.

If the exporter has AEO Certification and a strong record with customs, they can apply for a Simplification Authorisation that allows the exporter to use a specific stamp approved by customs for certain customs export documents like the ATR-1 FORM AND Supplier Declaration / Eur-1 form. The exporter can stamp the relevant forms at their own premises without the need to lodge these documents with customs.

The EU have many Free Trade Agreements in place including

- I. EU-Canada (CETA)
- II. EU-Japan (EPA)
- III. General System of Preferences (GSP) between the EU and developing countries

Rules that govern Preferential Origin are

- I. Product must be manufactured from materials grown in the origin country or
- II. At least undergo a certain amount of work or processing in the origin country

Non Preferential Origin is also important because it can be used to determine if there are restrictions or embargoes or Anti-Dumping Duties

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9. EIDR Full Customs Clearance Waiver

EIDR (Entry into Declarants Records) Full Customs Clearance Waiver is a brand new Authorization introduced by the EU.

Not to be confused with other EIDR initiatives, this Authorization allows approved traders to import product without initial customs clearance. In other words, shipments pass through customs and straight out for delivery with customs clearance completed after delivery within an agreed specified time frame

To take this a step further, with agreement from customs officials, a monthly bulk consolidated customs declaration can be completed in place of individual declarations

This type of Authorization if approved indicates customs have an extremely high degree of confidence in the Authorization holder's compliance control and records. To this end, customs are extremely careful on what traders are being considered.

Full AEO Certification is a must and a strong relationship with customs accompanied by a consistent and strong history of customs compliance

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A Control Plan has to be drawn up between the trader and customs around the process that will satisfy customs that each shipment will be accounted for and declared for customs by the agreed specified timeframe.

From a personal view point, I was responsible for my employer becoming the first company in Ireland and potentially the first in Europe to receive this Authorisation

I put in place a Process and Control Plan

A monthly control sheet must be set up that will contain all the imported shipments falling under this Authorization. This sheet will contain a lot of the shipment information that will be used to complete the monthly bulk consolidated declaration. A simple suggestion is to call the control sheet EIDR LRN Control Sheet for each month of record. LRN is explained in the next point.

A reference system will be required to identify each shipment, this reference will replace the traditional Declaration number. The structure of the reference is drawn up by the trader. I call this the LRN number (Local Reference Number). A simple way to structure this is to use the year/month/sequential number of each shipment

- Eg: 191201 (year 2019, month December, shipment number 01)

The importance of this reference cannot be understated, as the Logistics Provider will keep the reference on file in place of the declaration number. In the event they have any customs audits, once they provide this reference number against the shipment customs are auditing, this is proof that they have followed the process correctly and customs will then go to the trader or their broker and request all the back up information and proof that the shipment was controlled correctly under the EIDR Authorization

The trader will need to generate their own clearance slip that will replace the traditional Clearance Slip. This is required to have the shipment released from customs from the cargo handlers to the Logistics Company. This slip will contain limited information but it will include the reference number we discussed in the point above, without this reference number the shipment will not be released. The cargo handlers will also keep the reference number on file in the event they have customs audits

Eg: EIDR Clearance Waiver Release Slip is a good document title

A control plan will contain the process to be put in place between the trader/broker, Logistics carrier and the cargo handlers for recording the shipment information on arrival into the Control Sheet to releasing the shipment for delivery to finally completing the monthly bulk consolidated declaration

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Once all is in place and customs are happy, the authorization and process will need to be communicated to all relevant touch points in the clearance process ie: Logistics Carrier, Customs airports / ports that are covered under the authorization and the cargo handlers responsible for releasing the shipment

The EIDR Full Customs Clearance Waiver process that I put together with customs is as follows. Please note that we complete our own declarations and do not require a broker

- I. Logistics Carrier will inform me of the arrival of a shipment requiring customs clearance and provide import documents
- II. From the documents I will populate my EIDR Control Sheet with the relevant information
- III. I complete the EIDR Clearance Waiver Release Slip which will contain the LRN number generated from the Control Sheet
- IV. This slip is emailed to the carrier. With some carriers, they will release the shipment automatically once an agreement is in place that you will forward the slip the morning of arrival of the shipment

- V. Some carriers will not release the shipment for delivery without the slip being received first. In these situations, the carrier can provide you with the shipment documents the day before arrival and you can furnish them the slip the day before arrival allowing them to release the shipment as soon as it arrives
- VI. In either scenario, discussion between the logistics carrier and the trader will result on a suitable arrangement
- VII. I then print the EIDR Clearance Waiver Release Slip and put it together with the shipment documents in place of the traditional Customs Declaration
- VIII. This process continues for each month
- IX. I then have until the 4th of the following month to complete the Monthly Bulk Consolidated Declaration which is then forwarded to Customs with the Monthly LRN Control Sheet
- X. It is important that whatever easy the trader structures the EIDR Control Sheet, that customs are able to cross reference shipments with the Monthly Bulk Consolidated Declaration number
- XI. The process I put in place is specific to my employer and if being used as a basis for customs Control Plan for future applications but can be implemented easily for any organisation.
- XII. If further support is required on this topic, I am happy to help out

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10. Customs Decision System (CDS)

Up until recently, any applications for customs authorisations were directly sent to local customs offices via application forms downloaded from the local customs system

With the enhancement in software systems, the EU have implemented the Customs Decision System (CDS) which has now replaced the old system mentioned above. Authorisations are being migrated to this system one by one and by the time of writing this course, the majority but not all authorisations are now managed via the CDS system

The system and process is the exact same for each country within the EU and in effect, it is a repository containing all of each traders customs Authorizations in a controlled environment

To access the CDS, a trader must hold a customs digital certificate which can be applied for locally in each country via the local customs system. The majority on international traders will have a form of this digital certificate already set up for other tax purposes, it is only a case of adding in customs to the digital certificate. Each trader's digital certificate administrator can manage this.

Once the digital certificate has been issued and loaded onto a specific PC, the trader will log onto the CDS via the European Union Trader Portal where the trader will be asked for some identification questions one of which will be which EU country you are applying from

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The selection of the EU country will then re-direct the trader to the customs system from the trader's country where the trader's digital certificate will be authenticated

There will be a range of Authorizations to select from which include

- I. Inward Processing Suspension
- II. End Use
- III. Comprehensive Guarantee
- IV. Binding Tariff Information (BTI)
- V. Transit
- VI. Centralised Clearance
- VII. Customs Warehouse Bond
- VIII. Simplified Declarations
- IX. AEO (pending)

Each Authorization will have its own unique application structure containing specific information for each Authorization

Training on the use of CDS can be requested locally from customs in each country

Once an application has been submitted, all notification and/or queries will be notified via the CDS system to the trader

Authorizations once approved can be printed and also amended at any time

Any rejected applications will also contain the justification for the rejection which can be appealed by the trader.

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11. Customs Audits

Customs Audits can be a daunting task, but it is important to remember, customs officials are there to help trader's not to penalise them. If custom's see that a trader is making consistent efforts with their customs compliance. They will always be accommodating.

However, the reverse is also true, if customs see that a trader is not taking their customs compliance seriously or not taking on board any recommendations made by customs, they can take a much harder stance which can potentially cause significant issues for traders and more frequent audits

By having as poor relationship with customs and a poor customs compliance record, aside from the tougher stance customs can take, traders will miss out on the many advantages and benefits on offer from customs to facilitate easier trading conditions within the EU

There are normally in each EU country, different levels of customs audit offices depending on the size of the trader involved. For example, there may be a customs audit office called Small Case Division dealing only with small case's which would normally be small to medium size companies and likewise a Large Case Division for large to multi-national companies

If a trader holds any customs authorizations, they can expect a customs audit at least every year and sometimes twice a year depending on the authorisation or authorizations in place

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Where a trader holds several authorizations, it would be normal for a customs audit to cover all authorizations at the same time rather than have several audits during the year

If a trader is complying with the conditions laid down in any of the authorizations they hold, they should have nothing to fear. If there are errors that are simple in nature, customs will generally make a recommendation rather than take a tough stance

This is where it is so beneficial to develop a strong relationship with your customs officials, let them see you are taking your customs compliance seriously. It can make the audit process a lot easier and the audit frequency a lot less

If customs issue recommendations that a trader ignores or if a trader has a poor customs compliance record, it is more likely that the audits will be more frequent and also a lot more intense as customs will not have confidence in the trader's processes.

A typical audit process would be

- I. Written notification from customs of the pending audit, what the audit will cover and a suggested date
- II. A follow on letter with more detail on what customs will cover during the audit and the timeframe of the audit itself
- III. It is advisable at this point to prepare as much as possible around the audit agenda
- IV. If you are in a poor position for the audit, it is an option to request a meeting in advance to discuss the issues rather than go ahead with the audit where customs may find many significant issues
- V. The content of the audit agenda will depend on the customs authorizations or programs that the trader will have in place
- VI. On the day of the audit there will generally be an opening meeting where it is always good to let the site Operations Manager and Financial Controller sit in with the person or persons leading the audit on behalf of the trader
- VII. The audit would be completed and there would then be a close to meeting where findings will be discussed followed by an audit report

An example of an Audit content would be

- I. Customs will generally carry out annual audits on any Economic Procedure like Inward Processing Suspension as they need to see that controls are in place and duty liabilities are being calculated correctly.

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- II. During an audit of the Inward Processing Suspension Authorization they will focus on the Discharge Report and normally the most recent report
- III. They will check the following items
 - a) The Authorization Limit Monitoring Sheet against what their systems are indicating. If there is a significant discrepancy, they will need to see what has caused the difference. This will be a cause of concern for them as it will indicate a lack of controls in place
 - b) They will check to see the cumulative stock figures on the report match what your stock systems are showing, they will take a couple of sample part numbers and check them
 - c) They may briefly look to see you are adding in the cumulative import and export Inward Processing Declarations
 - d) They will then carry out a stock check. This is a real test of the controls you have in place. They will select a couple of raw material part numbers from the Raw Materials Parts Discharge Report. They will want to see how these parts entered the facility and travelled through the manufacturing process, into finished product stock and then how they leave the facility. The information they will ask for is as follows for the selected raw material parts
 - a. Import Declaration indicating the 5100 procedure code was used and back up documents like commercial invoice
 - b. Evidence of payment to the supplier
 - c. Proof of receipt of the raw material into the facility
 - d. Stock location the material was put into
 - e. The production order for the finished part that the raw material is consumed in
 - f. A bill of materials indicating the raw material in on it
 - g. Proof of the receipt into stock of the production order
 - h. Evidence showing the issue of the finished part to a sales order
 - i. The export declaration and back up documents for exports back out of the EU
 - j. A dispatch docket for sales into the EU
 - k. Evidence of payment by your customers.

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Once all the information has been received by Customs they will indicate if they are happy with the control in place and the evidence supplied to them. However, if there are issues, minor issues should not be an issue and a recommendation will be made to rectify them.

Customs will inform you of the findings verbally with a close out meeting to be followed by a written report

Any serious issues may result in not only recommendations but more regular audits to ensure the issues are being resolved

If at the end of this process the issues still remain, Customs can either suspend or revoke the Authorization.

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12. Carrier/Broker and Airline Handlers role/ Transit

This lecture is focusing on the role of organisations who are involved in touchpoints and processes with the trader during the customs clearance process

A. Logistics Carrier / Customs Broker

The Logistics Carrier transport the shipments from the non EU origin country into the EU.

Assuming the first country or arrival in the EU is also the destination country, they first have to report the arrival of the aircraft, truck or vessel into the Customs system

On arrival, shipments are either held at the port or airport pending customs clearance, or moved to the Logistics Carrier's premises under a Customs Bond Authorization where customs clearance is then performed

In either scenario, the carrier will forward on shipments documents and arrival details to the broker to allow them to perform customs clearance

Once customs clearance is completed, the broker must send the Logistics Carrier a clearance slip which will then be given to their driver for presentation at either the port or airport handling agents or at the Logistics Carrier's Warehouse Bond to release the shipments for clearance

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The Logistics Carrier may also be the broker where they carry out the customs clearance themselves. It depends on who the importer selects to perform customs clearance

The clearance slip will be kept on file by the Logistics Carrier in the event of a customs audit to provide evidence of they performed their task in the customs clearance link

B. Airline Handlers

Airline handlers provide a freight service to the airlines and Logistics Carriers by removing freight shipments from aircrafts on arrival land storing them at their premises, also known as sheds under customs bond

They will only release the shipment on receipt of a customs clearance slip from the Logistics Carrier

Once they receive the slip they will check the details on the slip match the shipment details that they have.

They will check that the exporter and importer names are correct, number of pieces and weight of the shipment match, the airwaybill or manifest reference of the arrival flight are the same.

If the clearance slip is not accurate, they will refuse to release the shipment

Once the shipment is released, they will keep the clearance slip no record as part of the audit process for customs to prove that they have also performed their role in the customs clearance process

C. Transit

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Transit is a customs procedure that allows goods to be moved across different countries within the EU under customs control. In other words, if a shipment arrives into one EU country but is destined for another EU country, under Transit the shipment can be moved across different EU borders until it arrives at the final EU destination.

A guarantee is required to secure all charges on the goods, (customs duty for example)

There are three types of Transit

- I. Union Transit allows for movement of goods within EU countries
- II. Common Transit allows for movement of goods between EU countries and Common Transit countries eg: Turkey, Norway, Switzerland or within the Common Transit countries themselves
- III. Transport Internationaux Routiers (TIR) allows for movement of goods internationally over one or more customs territories, a portion of the journey must be by road

A company must be an authorised consignee authorised by customs to receive goods moved under a Transit Procedure without having to present them to the customs office of destination

Documents included under Transit are

- I. A T1 is a Transit Document used to transport goods from the customs office at the place of departure to the customs office at the destination without paying customs duties and taxes within the territories of the countries included in the transit agreement
- II. Similar to the T1, the T2 is also a Transit Procedure. With the T2 document, you can ship EU community goods (that have been manufactured in the EU or EFTA states, resp. which have been cleared there) not only within the EU and EFTA states, but also transport them through a third country.

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