EU General Requirements

Contents

INTRODUCTION

The EU has followed a dual approach in harmonizing food laws: "horizontal" legislation that covers aspects which are common to all foodstuffs (such as additives, labeling, hygiene, etc.) and "vertical" legislation on specific products (e.g., cocoa and chocolate products, sugars, honey, fruit juices, fruit jams, novel foods, etc.). EU food legislation is characterized by a constant flow of new regulations and directives, amendments to existing legislation and implementation rules. EU laws are translated into the 23 official languages in use in the EU-27 and published chronologically in the Official Journal. Directives define the result that must be achieved but leave to each Member State the choice of form and

methods to transpose the directive into national laws (usually within 2-3 years after adoption). Regulations are binding in their entirety and automatically enter into force on a set date in all Member States. Amendments to EU legislation are usually published in new and separate Directives and Regulations, making it difficult to be sure of all possible amendments when doing research. Consolidated texts, i.e. the consolidation of a basic legal act and subsequent amendments into one text, are available on the European Commission's website but come with a warning that they are not legally binding. When legislation is referenced in this guide, it is implied that all further amendments also apply.

Eurlex website (http://eur-lex.europa.eu/en/index.htm) provides free access to European Union law.

Pre-embarkation

Invoice

The commercial invoice is a record or evidence of the transaction between the exporter and the importer. Once the goods are available, the exporter issues a commercial invoice to the importer in order to charge him for the goods.

The commercial invoice contains the basic information on the transaction and it is always required for customs clearance.

Although some entries specific to the export-import trade are added, it is similar to an ordinary sales invoice. The minimum data generally included are the following:

- Information on the exporter and the importer (name and address)
- Date of issue
- Invoice number
- Description of the goods (name, quality, etc.)
- Unit of measure
- Quantity of goods
- Unit value
- Total item value
- Total invoice value and currency of payment. The equivalent amount must be indicated in a currency freely convertible to Euro or other legal tender in the importing Member State
- The terms of payment (method and date of payment, discounts, etc.)
- The terms of delivery according to the appropriate Incoterm

- Means of transport

No specific form is required. The commercial invoice is to be prepared by the exporter according to standard business practice and it must be submitted in the original along with at least one copy. In general, there is no need for the invoice to be signed. In practice, both the original and the copy of the commercial invoice are often signed. The commercial invoice may be prepared in any language. However, a translation into English is recommended.

Freight Documents (Transport Documentation)

Depending on the means of transport used, the following documents are to be filled in and presented to the customs authorities of the importing European Union (EU) Member State (MS) upon importation in order for the goods to be cleared:

- Bill of Lading
- FIATA Bill of Lading
- Road Waybill (CMR)
- Air Waybill (AWB)
- Rail Waybill (CIM)
- ATA Carnet
- TIR Carnet

Packing List

The packing list (P/L) is a commercial document accompanying the commercial invoice and the transport documents. It provides information on the imported items and the packaging details of each shipment (weight, dimensions, handling issues, etc.)

It is required for customs clearance as an inventory of the incoming cargo.

The generally included data are:

- Information on the exporter, the importer and the transport company
- Date of issue
- Number of the freight invoice
- Type of packaging (drum, crate, carton, box, barrel, bag, etc.)
- Number of packages

- Content of each package (description of the goods and number of items per package)
- Marks and numbers
- Net weight, gross weight and measurement of the packages

No specific form is required. The packing list is to be prepared by the exporter according to standard business practice and the original along with at least one copy must be submitted. Generally there is no need to be signed. However, in practice, the original and the copy of the packing list are often signed. The packing list may be prepared in any language. However, a translation into English is recommended.

Freight Insurance

The insurance is an agreement by which the insured is indemnified in the event of damages caused by a risk covered in the policy. Insurance is all-important in the transport of goods because of their exposure to more common risks during handling, storing, loading or transporting cargo, but also to other rare risks, such as riots, strikes or terrorism.

There is a difference between the goods transport insurance and the carrier's responsibility insurance. The covered risks, fixed compensation and indemnity of the contract of transport insurance are left to the holder's choice. Nevertheless, the hauler's responsibility insurance is determined by different regulations. Depending on the means of transport, indemnity is limited by the weight and value of the goods and is only given in case the transporter has been unable to evade responsibility.

The insurance invoice is required for customs clearance only when the relevant data do not appear in the commercial invoice indicating the premium paid to insure the merchandise.

Post embarkation

Customs office entry:

Customs office designated by the customs authorities to which an entry summary declaration must be sent and at which they will be subject to appropriate risk-based controls, primarily for safety and security purposes. The customs office of entry is the customs office geographically competent for the place where the goods are brought into the customs territory of the EU.

Entry summary declaration (ENS) :Is the summary declaration referred to in Article 36a of the Community Customs Code to be lodged for goods brought into the customs territory of the Community, except where otherwise provided for in Community Customs Code Implementing Provisions (Art. 1 (17) of CCIP).

The ENS shall be lodged with the customs office of entry prior to arrival, within the time limits stipulated in the **regulation** and shall conform to the format of the ENS specified in **Annex 30 A (pdf 21 Kb)** (21 Kb) CCIP. ENS may be waived under some specific circumstances (see **Art. 181b-d CCIP**). Where import or transit customs declarations containing Annex 30A data are provided, no independent ENS is required

The customs office of entry immediately upon receipt validates the ENS and notifies the person lodging the ENS of the registration number (MRN).

The customs office of entry performs the security and safety risk analysis for all the goods declared in the ENS, records the risk analysis results and, where appropriate, decides on the actions to undertake for the goods to be brought into the customs territory of the Community.

When the means of transport arrives at the customs office of entry, the operator (or his representative) of the active means of transport entering the customs territory of the Community lodges a notification of arrival with the customs office of entry.

It shall contain the particulars necessary for the identification of the ENS previously lodged in respect of all goods carried on that means of transport.

The notification of arrival is used to make the customs office of entry aware of the arrival of the means of transport, to enable it to check the results of the previously carried out safety and security risk analysis and, where appropriate, to initiate the appropriate controls.

The notification of arrival is to be implemented by the Member States. The legislation allows national customs authorities to use existing national systems.

The person who brings the goods into the customs territory of the Community (the carrier, its representative or the person who assumes responsibility for carriage of the goods following such entry) shall present non-Community goods to customs.

The presentation shall take place upon arrival of the goods into the customs territory of the Community.

Where the legislation waives the requirement for goods to be presented, no presentation/temporary storage is needed. The act of presentation can be made in following ways:

If the goods remain on the means of transport (primarily road and rail transport) but the goods enter the customs territory, the act of presentation can consist of immediately lodging a customs declaration with the customs office of entry. For sea and air transport, goods remaining onboard are declared at the place of unloading or transshipment.

If the goods are to be unloaded and stored at the customs office of entry (primarily air and maritime transport), the person presenting the goods lodges a summary declaration with the customs office of entry. The summary declaration is to be defined and implemented by the Member States.

Goods presented to customs need to be assigned a customs-approved treatment and placed under a customs procedure. A customs declaration is to be lodged by the declarant or his representative, for fulfilling the formality of placing goods under a customs procedure. Art 4 (16) provides for following types of customs declarations: Release for free circulation, Placement under a customs procedure with economic impact, Customs warehousing, inward processing, Processing under customs control, Temporary admission Re- **export** from the European Union,**Transit**

The customs declaration has to include the data required by EU legislation. Since there are optional boxes for Member States in the mentioned declarations, the data set required by each Member State varies.

The customs declarations for release for free circulation or placement under a customs procedure with economic impact can be lodged in electronic format (see **annexes 37 to the Customs Code** and see **SAD Guidelines**) via **Member State IT systems**.

Customs Import Declaration (SAD)

All goods imported into the European Union (EU) must be declared to the customs authorities of the respective Member State using the **Single Administrative Document** (SAD), which is the common import declaration form for all the Member States, laid down in the Community Customs Code published in Regulation (EEC) No 2913/92 (OJ L-302 19/10/1992) (CELEX 31992R2913).

The declaration must be drawn up in one of the official languages of the EU, which is acceptable to the customs authorities of the Member State where the formalities are carried out.

The SAD may be presented either by:

- Using an approved computerized system linked to Customs authorities; or
- Lodging it with the designated Customs Office premises.

The main information that shall be declared is:

- Identifying data of the parties involved in the operation (importer, exporter, representative, etc.)
- Custom approved treatment (release for free circulation, release for consumption, temporary importation, transit, etc.)
- Identifying data of the goods (Taric code, weight, units), location and packaging
- Information referred to the means of transport
- Data about country of origin, country of export and destination
- Commercial and financial information (Incoterms, invoice value, invoice currency, exchange rate, insurance etc.)
- List of documents associated to the SAD (Import licenses, inspection certificates, document of origin, transport document, commercial invoice etc.)
- Declaration and method of payment of import taxes (tariff duties, VAT, Excises, etc)

The SAD set consists of eight copies; the operator completes all or part of the sheets depending on the type of operation.

In the case of importation generally three copies shall be used: one is to be retained by the authorities of the Member State in which arrival formalities are completed, other is used for statistical purposes by the Member State of destination and the last one is returned to the consignee after being stamped by the customs authority.

Documents associated to the SAD

According to the operation and the nature of the imported goods, additional documents shall be declared with the SAD and shall be presented together with it. The most important documents are:

- Documentary proof of origin, normally used to apply a tariff preferential treatment
- Certificate confirming the special nature of the product

- Transport Document
- Commercial Invoice
- Customs Value Declaration
- Inspections Certificates (Health, Veterinary, Plant Health certificates)if relevant.
- Import Licenses, if relevant.
- Community Surveillance Document
- Cites Certificate
- Documents to support a claim of a tariff quota
- Documents required for Excise purposes.(if relevant)
- Evidence to support a claim to VAT relief,(if relevant)

Legislation

Council Regulation (EEC) No 2913/92 of 12 October 1992,
http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1992R2913:20070101:EN:PDF
Commission Regulation (EEC) No 2454/93 of 2 July 1993,
http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1993R2454:20010701:EN:PDF

Certificate of origin

Origin is the "economic" nationality of goods in international trade. There are two kinds, non-preferential and preferential.

Non-preferential origin confers an "economic" nationality on goods. It is used for determining the origin of products subject to all kinds of commercial policy measures (such as anti-dumping measures, quantitative restrictions) or tariff quotas. It is also used for statistical purposes.

Preferential origin confers certain benefits on goods traded between particular countries, namely entry at a reduced or zero rate of duty.

In either case, an important element in determining the origin of goods is their tariff classification. Goods in trade are identified in the Community by a code number in the **Combined Nomenclature** (CN) and before trying to determine their origin it is essential that their CN code has been identified.

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Movement of goods within Customs unions is not based on their originating status but on the fact that they comply with provisions on free circulation. However, some products in trade with the countries concerned do not fall within the scope of the customs union but remain subject to a preferential treatment based on origin.

Rules of origin "check-list"

1. Non-preferential origin

Import into EU:

- Do I need a proof of origin? Third country requirements can be found on DG Trade - market access database **http://madb.europa.eu/mkaccdb2/indexPubli.htm**
- Checking if goods comply with EU rules (Articles 23 to 25 CCC + Art. 35 to 40 and Annexes 9 to 11 CCIP), see Non-preferential - Introduction (Legal framework) and Harmonization.
- Submission of proof of origin established in country of export: if required by Community Regulation or special arrangements (e.g. Textiles)

What kind of CO is needed?

- CO for textile products (textile agreement)
- CO for agricultural products (Art. 55 to 65 + Annex 13 CCIP)
- CO universal (no specific form but conditions of Art. 47 CCIP) or through their consulates or embassies.

2. Preferential origin:

- What customs duties and equivalent charges are applicable? This is a tariff and not an origin issue:
- Questions about policy measures like anti-dumping or quota? See the relevant legislation.
- Originating status? This may concern one or more of the following elements: list rules / cumulation / minimal operations / general tolerance rule .
- Is drawback possible? See no drawback rule.
- What territorial or transport rules apply? See principle of territoriality / direct transport rule.

- Questions about proof of originating status? See proof of origin / approved exporter / proof of origin / exemption from presentation / administrative co-operation / validity

What is Movement Certificates EUR1/EUR-MED?

All claims to preference (in the EC and the preferential partner country), must be supported by a Proof of Origin issued in the country of export. For exports from the EC, this normally takes the form of an EUR1 Movement Certificate. However, in the case of Pan-Euro-Med cumulation (see Section 4) a special proof of origin – the EUR-MED Movement Certificate - must be issued.

Normally, a movement certificate EUR1 or EUR-MED must have attached to it a copy of the export invoice. Exceptionally, if this is not available, you should produce instead:

- Packing lists;
- Consignment notes;
- Copies of bills of lading; or
- Similar commercial documents

You should make every effort to complete a movement certificate EUR1/EUR-MED before shipment
A EUR1 is a form to claim preferential duty rates on goods being exported to countries with which the EC has a preferential trading agreement
TO qualify for EUR1 certificate,
- The goods must have a free circulation status in the EU.
- All EU duties and taxes paid, and
- Accompanied by a correctly completed and endorsed form

EUR1 certification is required for most agricultural, and all coal and steel products. For all other industrial products, an ATR certificate is used.

Eur1 supporting documents:

- Form C1299.Down load at

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageLibrary_ShowContent&id=HMCE_CL_000182&propertyType=document#P114_9174

Lebanon falls under free trade agreements with the EU such as the System of Pan-Euro-Mediterranean cumulation (PAN EURO MED)

http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/article_783_en.htm

and

The Generalized System of Preferences (GSP)

http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_781_en.htm

GSP GUIDELINES

http://ec.europa.eu/taxation_customs/customs/customs_duties/rules_origin/preferential/article_839_en.htm

What customs duties and equivalent charges are applicable? This is a tariff and not an origin issue: see Taric

LEABNON FREE TRADE AGREEMENT WITH EU

http://register.consilium.europa.eu/pdf/en/05/st09/st09517.en05.pdf

Pan-Euro-Med cumulation is **the extension** of the diagonal cumulation arrangements (described in Notice 828) that are currently available for the Pan-European countries (EC, Bulgaria, Romania, Norway, Iceland, Switzerland (incl. Liechtenstein) and Turkey) to the Faroe Islands and to its Mediterranean partners (Algeria, Morocco, Tunisia, Egypt, Jordan, Lebanon, Syria, West Bank/Gaza and Israel). It also allows agricultural products originating in Turkey (which were excluded from the old Pan-European cumulation system) to participate in the arrangement.

Imports and food safety regulations

In the EU the food hygiene import systems for food of animal origin (such as meat, fish and dairy products) are not entirely the same as for food of non-animal origin (such as fruit, vegetables) or as for food containing both ingredients of animal origin and plant origin etc.

The food hygiene conditions for food imports are laid down in several parts of Community law. The main elements are included in the following:

• Regulation (EC) No 178/2002 (See R&STD) of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (Official Journal L 31 of 1.2.2002, p.1)

• Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls to be performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (Official Journal L 191 of 28 May 2004, p. 1)

• Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (Official Journal L 226 of 25 June 2004, p. 3)

• Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (Official Journal L 226 of 25 June 2004, p. 22)

• Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organization of official controls on products of animal origin intended for human consumption (Official Journal L 226 of 25 June 2004, p. 83)

• Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organization of veterinary checks on products entering the Community from third countries.

• Other legislation concerning animal health, animal welfare, plant health and several food standards (e.g. food additives, maximum residue levels etc.)

Importing food with contaminants

All products imported into the EU must comply with European Union (EU) law on contaminants. The Contaminants in Food for European Commission Regulation (EC) No 1881/2006, (Se R&STD) setting maximum levels for certain contaminants in foodstuffs and prescribes the methods to be used for sampling and analysis for enforcement purposes.

The foodstuffs indicated in the various sections of the Annex of Commission Regulation EC No 1881/2006 must not, when placed on the market, contain higher contaminant levels than those specified in those sections.

Section 1 – sets limits for nitrate in lettuce, spinach and baby foods.

Section 2 – sets limits for various mycotoxins in, for example, groundnuts, nuts, dried fruit (including dried vine fruit) and products thereof, cereals and cereal products, milk, infant formulae, dietary foods intended for infants, spices, fruit juices, coffee products, wine, spirit drinks, cider, apple products, processed cereal based foods for infants and young children and baby foods.

NB: The use of voluntary certification may also affect the control regime upon import. E.g. EU legislation does not mandate that nuts and peanuts shipped to the EU be accompanied by an aflatoxin certificate. However, the presence of these certificates plays a determining role in the percentage of shipments that are controlled upon entry in the EU.

Section 3 – sets limits for various heavy metals in, for example, milk, meat, fish, cereals, vegetables, fruit and wines.

Section 4 – sets limits for 3-MCPD in Hydrolyzed vegetable protein and soy sauce.

Section 5 – sets limits for dioxins and dioxin-like PCBs in meat, fish, milk, eggs, oils and fats.

Section 6 – sets limits for PAHs in oils and fats, smoked meats, smoked fish, fish, crustaceans and bivalve mollusks, infant foods.

Importing irradiated food

The use of ionization of foodstuffs is harmonized in the European Union (EU). This method of food preservation is subject to specific conditions. It is a physical treatment of food with high-energy, ionizing radiation. It can be used to prolong the shelf life of food products and/or to reduce health hazards associated with certain products due to the presence of pathogenic micro-organisms. The treatment may be applied for different purposes, such as:

- Prevention of germination and sprouting of potatoes, onions and garlic
- Disinfestations by killing or sterilizing insects which infest grains, dried fruit, vegetables or nuts
- Retardation of ripening and ageing of fruit and vegetables
- Prolongation of the shelf life and prevention of food-borne diseases by reducing the number of viable micro-organisms in meat, poultry and seafood
- Reduction of micro-organisms in spices and herbs.

Food additives

All products imported into the EU must comply with European Union (EU) law on miscellaneous food additives (e.g. preservatives, antioxidants, colors, sweeteners, flavorings and emulsifiers).

Strict labeling rules require that when food additives are used they must appear clearly in the list of ingredients on food labels, showing their function plus either the name of the additive or its E number.

However, where an additive has been used in an ingredient of a compound food and where that ingredient is less than 25% of the total food and performs no technological function in the final food, it does not have to appear on the label.

Remember that some food additives that are permitted in the product's country of origin may not be approved in the EU. List of EU food additives and their E-numbers. (See R&STD) Regulation 1129/2011

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:295:0001:0177:EN:PDF sets out the rules for the use of food additives. It has been in effect since January 20, 2010. This regulation provided for a revision of the food additives approved under the old directives in order to establish an EU positive list of food additives including colors and sweeteners. Commission Regulation 1129/2011 establishes a list of all authorized food additives in foodstuffs as well as the conditions of use and amends Annex II to Regulation 1333/2008 (see R&Stds). Only additives placed in Annex II will be authorized for use in food products sold on the EU market. Regulation 1129/2011 will apply as of June 2013 in order to allow the Union's food industry to adapt to the new rules. Commission Regulation 1130/2011 (See reg&Stds) establishes a second list of food additives and amends Annex III to Regulation 1333/2008. This list concerns additives approved for the use in food ingredients such as other food additives, food enzymes, food flavorings and nutrients. Regulation 1130/2011 applies since December 2, 2011 but a transitional period of 24 months applies to preparations not complying with Parts 2, 3 and/or Section A of Part 5 of Annex III and until May 31, 2013 for preparations not complying with Parts 1 and 4 of Annex III. Until Annexes II and III become fully applicable, food additives approved under the old directives will continue to be permitted. The authorized uses of additives are from now on listed according to the category of food to which they may be added. The new legislation also provides for clear conditions under which additives may be added to food. Commission Regulation 1131/2011 approves the sweetener steviol glycosides, commonly known as stevia, which is extracted from the leaves of the Stevia Rebaudiana Bertoni plant. Stevia‟s approval for its use in several food categories will allow industry to innovate and to develop new products. Annex II to Regulation 1333/2008 is amended accordingly.

Imports and food labeling

All food products sold in the EU countries must comply with general labeling laws, as well as specific rules for some types of product.

As far as labeling requirements for foods being imported into the EU are concerned, it is the responsibility of the importer or distributor to ensure that their product complies with the necessary

legislation. General provisions on the labeling, presentation and advertising of pre-packaged foodstuffs marketed in the EU are laid down in European Parliament and Council Directive 2000/13/EC. It applies not only to foodstuffs intended for sale to the ultimate consumer but also for supply to restaurants, hospitals and other mass caterers. Section VII covers labeling requirements for specific products, including genetically modified and novel foods.

Quinine and Caffeine

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2002/l_191/l_19120020719en00200021.pdf

Phytosterols & Phytostanols;

Commission Regulation 608/2004

http://eur-lex.europa.eu/LexUriServ/site/en/oj/2004/l_097/l_09720040401en00440045.pdf

For labeling purposes, they must be designated respectively by the terms “plant sterols”, “plant sterol esters”, “plant stanols” and “plant stanol esters”.

Quantitative ingredients declaration

Sometimes mandatory.(See labeling requirements)

Language Requirements

As a general rule, labeling has to be in a language easily understood by consumers; this is in practice the official language(s) of the member state. As an exception to the general rule, it is also allowed to use:

- Another language provided it can easily be understood by consumers.
- Other means depicting the content (e.g. pictures). Multi-language labeling is allowed throughout the EU.

Useful links

Customs: **http://ec.europa.eu/ecip/index_en.htm**

UK Help desk

https://grail.foodapps.co.uk/grail/general/home.aspx

http://www.food.gov.uk/foodindustry/imports/

EU HELP DESK:

http://exporthelp.europa.eu/thdapp/index_en.html