

The Modernized Customs Code (MCC) and its Implementing Provisions (MCCIPs)

Purpose

This document sets out the background, purpose and probable effect of the Modernized Customs Code MCC and its IPS Implementing Provisions.

Background

The MCC adopted by the European Parliament on 19 February 2008 as Council Regulation 450/2008 (published in The Official Journal of the EU OJ L145). The majority of its Articles are to enter into force by 2013. The aim of the legislation, reflected in the Recitals (The 'whereas bits' at the beginning) include:

- Simplification of procedures
- Electronic rather than paper communication
- Encompassing the Kyoto Convention
- Harmonization of procedures.

Currently the Member States (MS) are working on the Implementing Provisions (MCCIPs). Various drafts have been published reflecting the overall concepts agreed for the MCC and the aim is finalization mid 2011. Regardless, the agreed latest date for implementation is 24 June 2013. In addition the MCCIPs are to be supplemented by Commission Guidelines.

Current Position

The UK's current approach involves three working groups made up of HMRC and Trade representatives. The role of HMRC following consultation is to co-ordinate the outputs of these groups, to negotiate in Brussels the MCCIPs that best reflect UK requirements.

Principle Objectives

The focus will be on harmonization, modernization and security.

Harmonization

The removal of practices and simplifications at MS level

Ensuring the same treatment in every MS

Modernization

Electronic communication and the removal of paper based declarations where possible

Improved exchange of information between MS Customs Authorities

Security

Encompassing all safety and security regulation designed to protect the EU and the International community.

Operational Objectives

Amongst a number of envisaged and in some cases currently pursued operational objectives are the following:

Centralized Clearance

This is proposed as a natural extension of Single European Authorization (SEA) and SASP. It is envisaged that there could be one point of contact for all "Customs" activities within the EU including VAT, Excise, Statistical and Prohibitions and Restrictions requirements.

Self Assessment

There is a possibility that certain Trade members will be able to be authorized for self assessment and declare their Customs duty liability on a VAT style return. This would be similar no doubt to the previous UK procedure known as Period Entry.

Authorized Economic Operator (AEO)

This is already available, but doesn't necessarily offer any direct benefit as far as treatment by Customs Authorities is concerned because of constraints imposed by operational and Customs procedures. However, in future it is likely that an AEO type authorization will be required to:

- Access most simplifications
- Limit any security requirements, and
- Be recognized equivalently by other countries / trading blocks in dealing with them

Temporary Storage

Currently, temporary storage is basically a hiatus ie the gap between one Customs procedure and another involving certain time limits dependent upon the transport used to deliver the goods in question. Under the new legislation it will be a Customs procedure just as Customs Warehousing and Inward Processing are now. It is foreseen as a replacement for Community Transit measures adopted for use in a single MS (often referred to as National Transit). Time limits will be relaxed generally and goods will be able to move between MS.

Transit

The legislation at the behest of the Commission is seeking to remove all National simplifications, hence the aim of replacing "National Transit" with Temporary Storage.

Guarantees

These will be required for all authorizations but may be reduced or waived where the AEO criteria are met. Additionally the level of guarantee and any comprehensive guarantee must meet laid down conditions including a record of compliance with Customs requirements. Regardless, it will impact on any business using Economic Procedures e.g. Customs Warehousing, IPR, OPR, PCC etc.

Single Transport Contract

Currently a Single Transport Contract allows collection by carrier to be treated as proof of export even if goods exit subsequently via another MS. It is likely that this will be replaced by an "approved carrier" scheme where the former can provide proof of exit from their own systems. The scheme is obviously similar but seen as having better resilience on the basis that the users are authorized.

Right of Trade Representation and Consultation prior to Official decisions

The general principle of the Right to be Heard is already established in European law but currently before final decisions are made there is no right of consultation which, should an unfavourable decision be passed down, results in appeals etc. Therefore it is proposed that provision is made for consultation prior to a final decision being issued to alleviate unnecessary administrative action.

Single Window / One Stop Shop

This has been suggested for a number of years and remains on the agenda. A single access point lodging all information and all controls being applied from the same place is still an objective but it must be recognized there are considerable operational hurdles to this.

Streamlining Customs Procedures

Customs procedures will be reduced to:

- Release for Free Circulation

- Special Procedures – MCC Title VII
- Export

Release for Free Circulation

Nothing changes, this is where an import is declared and all taxes due paid at the time of importation be it ex Frontier or ex Special Procedure.

Special Procedures – MCC Title VII

The Special Procedures will be:

- Processing – Inward and Outward
- Storage – Temporary Storage, Customs Warehousing and Freezones
- Specific Use – Temporary Admission and End Use
- Transit – External and Internal (T1 and T2)

Withdrawn are:

- Aircraft Spare Parts Depot (ASPD) – effective 01/01/10
- Type II Freezones when Statutory Instruments expire – effective 2011
- Simplified IPR - effective 01/04/2010

The principle changes are that:

- IPR Drawback will no longer be available
- PCC (Processing under Customs Control) will be merged with Inward Processing Procedure
- Type D Customs Warehousing will no longer be available

And, that:

- End – Use and Temporary Storage become procedures in their own right
- Guarantees will always need to be provided i.e. guarantee waivers are withdrawn, but they be set at zero.
- Many conditions for operating special procedures will be modified, withdrawn or imposed.

Future Action

The majority of legislation are to enter into force by 2013 with the latest date for implementation 24 June 2013. The MCCIP are due to be finalised mid 2011 but no doubt there will be changes following their original enactment. In addition the IPs will be supplemented by Commission Guidelines.

SHOULD YOU REQUIRE FURTHER INFORMATION ABOUT HOW THE PROPOSED CHANGES MAY AFFECT YOUR BUSINESS – PLEASE CONTACT DAVE BRADBURY, CUSTOMS MANAGER, VIA THE WEBSITE OR ON 01942 202202 (Office) or 07973 333987.