

Anti-Dumping and Countervailing Duties Manual

**Customs Procedures Branch
Nenagh**

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VPN 63380/63191

THIS MANUAL PROVIDES A GUIDE TO THE INTERPRETATION OF THE LAW GOVERNING ALL ASPECTS OF THE ANTI-DUMPING/COUNTERVAILING DUTY PROCEDURE AND SHOULD BE READ IN CONJUNCTION WITH THE RELEVANT REGULATIONS.

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1. INTRODUCTION

Anti-dumping duty (ADD) and/or Countervailing duty (CD) are import duties imposed in addition to, and independent of, any other duty to which imported goods are liable and they apply across the European Union (the “Union”). This Manual describes these duties and provides a guide for staff on how to deal with the issues associated with them.

Type of duty – Description

| | |
|------------|--|
| ADD | Imposed to provide protection to Union industry against the dumping of goods from non-Union countries at prices that are substantially lower than the normal commercial value. |
| CD | Similar to ADD, but levied when Government subsidies in the country of origin or export are deemed to have resulted in goods being imported into the Union at prices substantially lower than the normal commercial value. |

It is possible to have both ADD and CD on the same product.

ADD and/or CD do not apply to goods (irrespective of country of origin), which are in free circulation in the Union. However, there is provision whereby ADD and/or CD may be imposed on products that are assembled or produced in the Union from components imported from outside the Union. In such cases, special instructions will issue.

2. TYPE AND DURATION OF ANTI-DUMPING DUTY (ADD) AND/OR COUNTERVAILING DUTY (CD)

ADD and/or CD are imposed either provisionally or definitively. In each case specific circumstances apply and these are summarised in the following table.

| | |
|--------------------|--|
| Provisional | Imposed when preliminary investigations indicate that dumping has occurred. They usually last for a maximum period of 9 months and provide protection to Union industry while a full investigation is conducted. |
| Definitive | Normally last for 5 years and are imposed if a full investigation of the facts confirms earlier findings of dumping or subsidies. |

3. NOTIFICATION

A Regulation or Decision (published in the Official Journal of the European Union) will govern each individual ADD and/or CD measure. Once the measure is scheduled to come into effect, it is integrated into TARIC. This automatically results in the AEP system being updated to take full account of it. In addition, details relating to the ADD and/or CD measure(s) imposed (whether provisional or definitive), amended or withdrawn will be notified to staff via RevNet. A sample Notification is attached for information (see page 13)

4. REGISTRATION AND BACKDATED ANTI-DUMPING DUTY

Registration is provided for in Article 14(5) of Council Regulation (EC) 1225/2009. Imports of products subject to a Registration measure can become liable to anti-dumping duty retrospectively.

The measure is used where there is a risk that stock piles of the products under investigation may be imported prior to the conclusion of the investigation, thus avoiding any anti-dumping duty that may be imposed. When the Regulation or Decision introducing the Registration measure is published the products concerned are identified on TARIC so that potential importers are aware of the possibility that anti-dumping could be applied retrospectively – up to a maximum of 9 months after their goods clearance customs.

To ensure that importers do not inadvertently import products subject to Registration without being aware of the possibility of the retrospective application of anti-dumping duty, all relevant SADs should be orange routed. As part of the documentary check, officers must obtain, by e-mail or otherwise, a written declaration from the importer (not their Agent or Representative) along the following lines:

I am aware that the products declared on SAD No are subject to an Anti-Dumping Duty Registration Measure and that I may be required to pay Anti-Dumping Duty on them within the next 9 months.

SIGNED: _____

Capacity:

Date:

This declaration should be filed by the officer so that it can be retrieved if and when anti-dumping duty needs to be retrospectively collected. The normal way to collect such duty is to ask the importer to submit a corrected SAD. If the importer disputes the amount due, or fails to submit the corrected SAD, the procedure described in paragraph 9 of the Customs Debt Manual should be followed.

It is crucial that Customs Import Stations put the necessary arrangements in place to monitor all imports of Registered products, so that those which do become subject to backdated anti-dumping duty do not get overlooked. IBI reports and the Anti-dumping Notifications published on RevNet should help in this regard.

5. CONSEQUENCES OF ADD AND/OR CD FOR VAT

The value of goods for VAT at importation includes, in addition to customs duty, any ADD and/or CD chargeable, whether provisional or definitive.

6. RATES OF DUTY

The Regulation or Decision will specify the way the ADD or CD is to be calculated, the country of export and/or the country of origin and the manufacturer/producer/exporter involved. Each of these considerations is described below.

- (i) ADD and/or CD may be applied on an ad valorem, variable, or specific basis. (Ad valorem means as a specific percentage of the value of the goods.)
In the case of ad valorem, the duty is expressed as a percentage of the net free-at-Union-frontier price before duty i.e. the price (also referred to as the “C.I.F. Union frontier”) including the cost, insurance and freight charges incurred up to the point of entry to the Union.

In the case of a variable duty, the amount involved is normally expressed as being:

- (a) the amount by which the net free-at-Union-frontier price before duty is less than a specified Union price; or
(b) the amount by which the price to the first purchaser in the Union is less than the normal value in the exporting country or country of origin of the imported goods.

In some instances the rate of duty is expressed both as an ad valorem and a variable duty, in which case the higher of the two amounts will apply. A Minimum Import Price may also be applied in some cases below which duty automatically becomes payable.

In the case of a specific duty, the rate is shown as a fixed amount (expressed in Euro) per tonne or other unit of quantity.

- (ii) The rate of duty imposed on particular goods may vary depending on the exporting country or the country of origin of the goods. Any importer seeking to declare goods at a lower rate on these grounds must provide supporting documentary evidence (see paragraph 6 below). In the absence of such proof, the higher rate of duty is to be applied.
- (iii) Similarly, the rate of duty imposed on goods may vary as between one manufacturer/producer/exporter and another or goods may be excluded altogether from the scope of the duty on the grounds that they were manufactured/produced and/or exported by certain specified companies (see paragraph 7). In such cases, appropriate documentary evidence in the form of an invoice from the company concerned, bearing a certificate signed by a Director or the Company Secretary, to the effect that the goods were manufactured/produced and/or exported by that company, must be produced.

7. CIRCUMVENTION

Circumvention takes place when the normal pattern of trade between an exporting country and the Union is altered specifically to avoid paying ADD and/or CD. In this regard, it should be noted that goods exported from one particular country do not necessarily originate in that country so particular attention needs to be paid to this country of origin issue. For example, ADD and/or CD may apply to bicycles from China. In order to avoid this, traders may send the parts to Cambodia for simple processing and then claim Cambodian origin. Risk factors are considered in more detail in Section 14 below.

8. CHECKS ON GOODS

Where non-liability to a duty or a reduced rate of duty is claimed on the grounds of origin, appropriate evidence showing the actual country of origin must be produced in support of such claims and the SAD declaration should include the appropriate Box 44 codes (see Trader Guide on the AEP Web Information page (under Electronic Services) on www.revenue.ie). Normally, such evidence should take one of the following forms:

- (i) a properly completed form prescribed in the respective preferential trade agreement between the Union and the country in question and arrangements for the purpose of claiming preferential rates of duty i.e. Certificate of Origin Form A, Movement Certificates EUR.1, Form EUR.2 or invoice declaration; or
- (ii) a non-preferential Certificate of Origin as provided for in Article 61 of Regulation (EU) No 952/2013 laying down the Union Customs Code (UCC) and Article 57 of Commission Implementing Regulation (EU) 2015/2447

If the SAD is selected for a documentary check, staff must satisfy themselves that the country of origin stated on the entry agrees with that given on the Certificate of Origin form. If the evidence of origin is acceptable and staff are satisfied that there are no grounds for suspicion, all copies of the entry are to be noted "Evidence of origin produced, exemption allowed".

Where, in the course of documentary checks, there are grounds for suspicion that the Certificates of Origin or alternative documentation produced are incorrect the goods should be selected for a physical examination. In addition, where there is reasonable doubt about the authenticity of a Certificate of Origin Form A or EUR1, these documents may be forwarded to the Customs Procedures Branch, Customs Division, Nenagh for verification.

Where goods are selected for physical examination, they are to be examined in accordance with the standing instructions set out in the Customs Import Procedures Manual. In the examination of goods, particular attention is to be given to the values declared. Details of the examination conducted should be sufficiently clear, particularly where the duty is a specific duty or is by reference to an effective price, to enable a belated production of evidence of origin or other claims for relief to be dealt with.

When examining goods for which exemption is claimed on the grounds of origin, staff must satisfy themselves that shipping marks on packages and any indication of origin on the goods or internal containers are consistent with the declared country of origin or export (as the case may be) of the goods. If satisfied, staff should note the entry accordingly. Particular attention

is to be given to goods consigned from a country not specified for the duty but which have been transhipped or have passed in transit through one of the specified countries.

In all cases involving doubt or suspicion on the part of staff, the duty at risk should be secured in the first instance. The Assistant Principal should consider all aspects of the case and decide whether to release or to detain the goods. Cases involving detention of goods should be dealt with under the standing instructions (see Part 3 of C&E Enforcement Procedures Manual).

Cases of suspected fraud should be referred to Customs Investigations and Co-ordination Branch, Investigations and Prosecutions Division, Ashtowngate, Dublin 15 (VPN 77719) with a copy being forwarded to Customs Procedures Branch Nenagh.

9. PROVISIONS APPLICABLE TO NAMED COMPANIES

Any ADD and/or CD provisions (e.g. a full or reduced rate of duty or exclusion from a particular duty) applied to a named company at a specific address is to be taken as applying also to any branch of that company operating under the same name at a different address in the same country.

10. ADJUSTMENT OF THE FREE-AT-UNION-FRONTIER PRICE WHERE CREDIT TERMS OTHER THAN 30 DAYS APPLY

The measures imposing an ADD and/or CD may provide for an adjustment to be made to the net free-at-Union-frontier price before duty, to take account of an advantage or a disadvantage accruing to an importer as a result of a variation from the normal period of credit for payment of the goods. In this context, the norm is deemed to be 30 days. Where a norm of other than 30 days is to be applied, the specific instructions (i.e. Notification on RevNet) will indicate the period of credit for payment for the goods in question. In assessing the amount of ADD and/or CD payable, the free-at-Union-frontier price is to be taken as net if the actual conditions of sale provide that payment for the goods is to be made **within** 30 days from the date of introduction into the customs territory of the Union.

In other cases, the following provisions apply:

- (i) in the case of an ad valorem duty, for each increase or reduction of one full month in the period for payment, the free-at-Union-frontier price is to be increased or reduced by 1% respectively; and
- (ii) in the case of a variable duty, for each increase or reduction of one full month in the period for payment, the free-at-Union-frontier price is to be reduced or increased by 1% respectively.

A fraction of a month should be ignored for the purposes of determining an increase or reduction in the price.

The following are examples of how to calculate the amount of duty payable in the circumstances referred to above:

Example 1 - Ad Valorem duty

- (a) Where payment required within 30 days
 Free-at-Union-frontier price = €100.00
 Rate of ADD and/or CD = 10%
 ADD and/or CD payable = € 10.00
- (b) Where payment not required for 3 months
 Free-at-Union-frontier price = €100.00
 Adjusted upwards by 2% = €102.00
 ADD and/or CD payable = € 10.20
- (c) Where immediate payment is required
 Free-at-Union-frontier price = €100.00
 Adjusted downwards by 1% = € 99.00
 ADD and/or CD payable = € 9.90

Example 2 - Variable Duty

- (a) Where payment required within 30 days
 Union specified price = €110.00
 Free-at-Union-frontier price = €100.00
 ADD and/or CD payable = € 10.00
- (b) Where payment not required for 3 months
 Union specified price = €110.00
 Free-at-Union-frontier price = €100.00
 Adjusted downwards by 2% = € 98.00
 ADD and/or CD payable = € 12.00
- (c) Where immediate payment is required
 Union specified price = €110.00
 Free-at-Union-frontier price = €100.00
 Adjusted upwards by 1% = €101.00
 ADD and/or CD payable = € 9.00

11. GOODS IMPORTED FROM TURKEY

In accordance with Decision 1/95 of the EC-Turkey Association Council, Turkey does not collect any import or export customs duties or charges, including ADD and/or CD, on goods that are put into free circulation in that country and then introduced into the Union market. To address this situation a note has been included on a product-by-product basis in the EU TARIC, and in the footnotes of the C&E Tariff of Ireland, concerning industrial products which states: “Anti-dumping measures continue to apply to goods originating in the countries concerned even if imported from Turkey”. It is important that staff exercise vigilance in these cases. In this regard, staff should note that goods originating in specific third countries, which are subject to ADD and/or CD, are still liable to such duties when imported into the Union from Turkey. Accordingly, staff should monitor the origin of goods imported from Turkey with a view to ensuring that they are not liable to ADD and/or CD.

12. ENTRY AND ACCOUNTING INSTRUCTIONS

(i) Accounting for ADD and/or CD

The amount payable is to be set out separately and clearly on the SAD and the duty brought to account in the normal way. The category of ADD should be clearly indicated in Box 47 of the SAD using the following codes:

Provisional ADD - A35;
 Definitive ADD - A30;
 Provisional Countervailing duty - A45;
 Definitive Countervailing duty - A 40
 A Report of all these is available at station level.

(ii) Review of all provisional duty payments

On the revocation of a provisional duty or on the imposition of a definitive ADD/CD replacing the provisional duty, Customs Procedures Branch Nenagh will issue an Anti-Dumping Notification outlining the position. Following issue of this notification, Officers must re-visit all of the relevant SADs for their import Station where provisional duty has been paid and take appropriate action as outlined below. In this regard, details of the relevant SADs may be obtained from the appropriate Station Report which will be available via IBI. A number of scenarios may occur and the necessary steps to take in each of these are described in the following paragraphs.

Normally any adjustment in the amount of the provisional duty in favour of the importer should be credited to the payer's account. If, subsequently, an actual refund is requested this should be processed through ITP.

(a) Provisional ADD/CD is revoked and not made definitive

- If a payment has been made in respect of a provisional ADD/CD and the provisional duty is subsequently revoked and a corresponding definitive ADD/CD is not imposed, the amount involved is to be re-credited to the payer's account.
- This is done through eBiscus (AEP) by inputting a corrected SAD to cancel the tax type "provisional" (a "corrected SAD" is a mechanism within eBiscus to amend a SAD which has already been cleared). This is an automated eBiscus reassessment process linked to rates governed by measures in TARIC
- In these cases, the VAT chargeable will also be re-assessed and re-credited to both VAT registered and non-VAT registered persons. However, re-crediting is only allowed in the case of non-registered persons (registered persons will claim the VAT on their VAT 3).
- Accordingly, the VAT re-credited to VAT registered persons in such instances must be re-debited by way of short CI ("short CI" is a mechanism within ITP to create a liability in a trader's account). In this case, the liability created will equate to, and will thus eliminate, the VAT amount re-credited.

(b) a definitive ADD/CD at a rate lower than the provisional rate of duty is imposed

- Where a definitive ADD/CD at a rate lower than the provisional rate of duty is imposed, duty is to be re-assessed at the definitive rate.
 - This is done through eBiscus by inputting a corrected SAD to change the tax type from “provisional” to “definitive”. Any surplus is re-credited to the payer’s account.
 - In these cases, the VAT chargeable will also be re-assessed and re-credited to both VAT registered and non-VAT registered persons. However, re-crediting is only allowed in the case of non-registered persons (registered persons will claim the VAT on their VAT 3).
 - The VAT re-credited to VAT registered persons in such cases should be re-debited by way of short CI, as described at (a) above.
- (c) the definitive ADD/CD imposed is at a higher rate than the provisional rate of duty
- Where the definitive ADD/CD imposed is at a higher rate than the provisional rate of duty, the difference between the definitive duty and the provisional duty for the period of application of the latter is not to be collected.
 - However, the provisional payment must be re-designated as a definitive payment by inputting a corrected SAD through eBiscus, as indicated above.
 - As the eBiscus automated reassessment process is linked to rates governed by measures in TARIC, the higher definitive rate will thus be (incorrectly) charged in such instances. The difference between the definitive and provisional ADD/CD (and additional VAT charged, if applicable,) must, therefore, be re-credited to the payer’s account and this is done by means of a negative short CI (a “negative short CI” is a mechanism within ITP to enable a trader’s account to be credited with monies due to him/her).
- (d) the definitive ADD/CD is imposed at the same rate as the provisional rate of duty
- The provisional payment is to be re-designated as a definitive payment by inputting a corrected SAD through eBiscus, as indicated above.

More detailed instructions on the revised accounting procedures, arising from the AEP Redevelopment, are contained in AEP Redevelopment - C&E and Integrated Accounting Manual.

(iii) Cases involving other Customs Procedures

In cases where other Customs Procedures are involved, specific arrangements apply as set out below.

(a) Warehousing

ADD and/or CD is not payable until such time as the goods concerned are released into free circulation. Goods are liable to the rate in force at the time of their removal from the warehouse. Please refer to Instruction Manual Customs Warehousing.

(b) Inward Processing (IP)

Importers may claim relief from ADD and/or CD under IP arrangements in the same way as relief from other customs duties. IP is available for goods that are imported from outside the Union, processed and re-exported outside the Union. For information on IP, please refer to the Instruction Manual on Inward Processing.

(c) Outward Processing (OP)

Where goods entered to OP are liable to ADD and/or CD, the duty is chargeable on the compensating product(s) but is not to be included in the amount to be deducted in respect of the exported goods. For information on OP, please refer to Instruction Manual on Outward Processing.

(d) End-Use

If goods entered to End Use relief are liable to ADD and/or CD, then the ADD and/or CD must be charged notwithstanding the end use. (End-use relief only applies to customs duty – all other duties such as ADD, CD, Excise and/or VAT, as appropriate remain payable.) For information on End-use, please see Instruction Manual on End-Use Procedure.

(iv) Other Repayments of Duty

Where repayment of ADD and/or CD arises from circumstances other than those shown above, specific directions will be given by Customs Procedures Branch Nenagh to which any application not covered by the standing instructions is to be referred. This includes any claims for refunds on the grounds that the goods imported were not liable to any of the above duties or that the duty collected exceeded the actual amount due.

13. POSTAL IMPORTATIONS

Goods dealt with on Import Duty Schedules are to be charged with ADD and/or CD only where they were posted in the country of export or origin specified for the duty, unless there are grounds for suspicion that goods posted from elsewhere are within the scope of the duty. Duty is to be shown in the same manner as VAT, the item being noted "P.D." (Provisional ADD), "A.D." (Definitive ADD), "P.C.D." (Provisional CD) or "C.D.", as appropriate. Applications for reassessment or refund (e.g. on the grounds that the goods, did not, in fact, originate in the specified country) are to be dealt with under the standing instructions as set out in the Customs Import Procedures Instructions.

14. QUANTITATIVE RESTRICTIONS/SURVEILLANCE

Goods affected by ADD and/or CD may also be subject to quantitative restriction or surveillance measures which are usually applied on a Union-wide basis. The AEP System will automatically highlight the existence of such measures.

15. RISKS

Many ADD and/or CD measures are specifically intended to prevent cheap imports from countries with lower material and labour costs, in particular the Far East and Eastern Europe,

from damaging Union industry. For this reason, goods from these regions often attract high rates of ADD and/or CD. The free-at-Union-frontier price for such goods is often considerably lower than for equivalent goods produced in the Union. As such, the risk of deliberate mis-description to a commodity code with a lower or NIL rate of ADD and/or CD must be regarded as high.

ADD and/or CD risks from all sources must be assessed by staff dealing with consignments potentially liable to the duty, in consultation as required with the National Freight Intelligence Unit. The following list which is not exhaustive, describes the principal risks:

- (i) goods misdescribed by traders to avoid a tariff heading that attracts ADD and/or CD;
- (ii) incorrect Country of Origin declared by the trader to avoid ADD and/or CD;
- (iii) incorrect Country of Consignment declared by trader to avoid ADD and/or CD;
- (iv) technical specification of goods misdescribed to avoid ADD and/or CD within a specific tariff heading or to obtain a lower rate;
- (v) incorrect supplier's name given to avoid ADD and/or CD, or to obtain a lower rate;
- (vi) components imported for assembly in the Union to avoid ADD and/or CD on finished article. The components could be liable to ADD and/or CD if the assembled article enters into the Union;
- (vii) goods overvalued on invoice in order to exceed a Minimum Import Price (MIP) to avoid ADD and/or CD; and
- (viii) under-declaration of weight when ADD and/or CD is levied at a specific rate based on import weight.

16. TARIFF

Where an ADD and/or CD exists, full details are available on TARIC, the European Commission TARIC Consultation Database, by inputting the relevant TARIC code and selecting the relevant country of origin. Details of the rates applicable, companies qualifying for special rates and other conditions that may apply will be displayed. TARIC is an online database and can be accessed through the following link:

http://ec.europa.eu/taxation_customs/dds2/taric/taric_consultation.jsp?Lang=en

17. CASES OF DOUBT OR DIFFICULTY

Assistance with cases of doubt or difficulty, which can't be resolved locally, is available from Customs Procedures Branch, Nenagh, Co. Tipperary, telephone: (067) 63380 / 63191 or e-mail: customsreliefs@revenue.ie

Anti-Dumping Notification No. 47/05
Re: Imposition of definitive anti-dumping duty

Product: trichloroisocyanuric acid

Taric Code: 2933 69 80 70, 3808 40 20 20

Origin: China, United States of America

Commission Regulation (EC) No.: 1631/2005

(This Regulation may be accessed by clicking on the link below)

[Council Regulation \(EC\) 1631/2005](#)

Effective on: 8 October, 2005

Please note that a definitive anti-dumping duty is imposed on imports of trichloroisocyanuric acid and preparations thereof, also referred to as 'symclosene' under the international non-proprietary name (INN). These measures will be incorporated into TARIC from the above date.

The rate of duty for products manufactured by the companies listed below shall be as follows:

| Country | Company | Anti-dumping duty rate | TARIC additional code |
|---------|---------------------|------------------------|-----------------------|
| PRC | Company A Name | 8.1% | A604 |
| | Company B Name | 7.3% | A628 |
| | Company C Name | 14.1% | A629 |
| | Company D Name | 40.5% | A627 |
| | All other companies | 42.6% | A999 |
| USA | Company D Name | 7.4% | A594 |
| | Company E Name | 8.1% | A596 |
| | All other companies | 25.0% | A999 |

The application of the individual duty rates specified for the companies mentioned above shall be conditional upon presentation of a valid commercial invoice. If no such invoice is presented, the duty rate applicable to all other companies shall apply.

Enquires concerning this notification can be made to:

Economic Procedures, Tariff and Compliance Branch, Nenagh

Email: customsreliefs@revenue.ie