

Union Customs Code (UCC) - Transitional arrangements for the withdrawal of the 'earlier sale' facility.

Customs Information Paper 41 (2015)	
Who should read:	All economic operators involved in the import, processing, use and storage of goods.
What is it about:	Transitional arrangements for the withdrawal of the earlier sale provision; information for importers.
When effective:	Immediately.
Extant until/ Expires	31 December 2017

1. Introduction

This Customs Information Paper (CIP) is to inform interested parties of the adoption by the EU Commission of the UCC Implementing Act regarding the transitional arrangements for the withdrawal of the 'earlier sale' facility (currently detailed in Article 147 of Commission Regulation 2454/93) and the projected timetable.

A further CIP will be issued in due course with details of the arrangements for final withdrawal of the 'earlier sale' facility.

2. Background

Under current EU legislation where there is a series of sales before the importation of the goods, any sale in the supply chain prior to the last sale which led to the introduction of the goods into the customs territory can potentially be used as the basis of the customs value. It has to be demonstrated to customs that the sale in question is a "sale for export" i.e. at the time of that sale the intended destination of the goods is to the EU and not to a third country.

3. Transitional arrangements

Despite the best efforts of HMRC, it became increasingly difficult to maintain the current EU position on the use of an earlier sale due to increasing pressure from the EU Commission to withdraw it and a general lack of support from other Member States.

After intensive negotiations a compromise solution is now included in the UCC text. A transitional period, applying until the end of 2017, will allow contracts to be signed before the entry into force of the Implementing Act later in 2015. This would enable existing contracts to be completed under the current business terms.

The UCC text reads as follows;

Article 341

Transitional provision on transaction value

1. The transaction value of the goods may be determined on the basis of a sale occurring before the sale referred to in Article 128(1) where the declarant is bound by a contract concluded prior to [1]
2. This Article shall apply until 31 December 2017.

^[1] OJ: *Entry into force of this Regulation*

An importer may make use of the transition clause without prior agreement from HMRC. However, there must be a contract in place clearly specifying a start date but they need not specify the value of each expected shipment or consignment. Evidence may, however, be requested by HMRC either prior to importation or afterwards. Use of this transitional clause is restricted to contracts that are in place before the entry into force of the Regulation (20 days after its publication in the Official Journal). Publication is now expected towards the end of 2015/beginning of 2016.

NB: This provision concludes on 31 December 2017, regardless of the length of the contract in place at which time the earlier sales facility is formally withdrawn.

The UCC and the supplementing Commission Regulations will apply from 1 May 2016. Until then, the Community Customs Code and its implementing provisions continue to apply.

4. Contacts.

If you have any questions regarding this CIP, please contact the Valuation Policy Team; dutyliability.policy@hmrc.gsi.gov.uk

Issued on the **22 October 2015** by Customs Directorate, HMRC.

For general HMRC queries speak to the VAT, Excise and Customs Helpline on Telephone: 0300 200 3700.

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