

Options for moving goods from the EU to Ireland through the UK

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Introduction

From 11pm on 31 December 2020, the UK was no longer treated as part of the customs territory of the European Union. The UK is still Ireland's closest trading partner and there will continue to be large movements of goods between the countries. The Union Customs Code sets out the rules applicable for goods brought into or taken out of the customs territory of the Union. The EU–UK Trade and Cooperation Agreement [EU–UK TCA] outlines inter alia the conditions which have to be met for goods to avail of a preferential tariff when moving between the EU and the UK. The primary condition is that goods being exported to Ireland from the UK must be of UK preferential origin to avail of the 0% tariff rate to enter the EU and goods being imported to the UK from Ireland must be of EU preferential origin to avail of the 0% tariff rate to enter the UK.

Further details are available at [rules of origin](#) and [EU-UK Trade and Cooperation Agreement](#).

The scenarios outlined below relate to goods that pass through the UK on their way to Ireland and their treatment on arrival in Ireland under the Union Customs Code and the EU-UK Trade and Cooperation Agreement. Where there is no requirement for the goods to remain in the UK as part of the movement, the direct movement of goods from the EU to Ireland could be considered or the movement of the goods through the UK landbridge using transit.

Overview

There are a range of options for moving goods to Ireland from the EU through the UK. Each scenario has specific circumstances attached to it and these circumstances will determine the best movement type for the goods.

This Guidance document should be read in conjunction with the relevant parts of the Union Customs Code and its Delegated and Implementing Acts and in conjunction with the full text of the Trade and Cooperation Agreement between the European Union and United Kingdom with the exception of Northern Ireland. The TCA between the European Union and United Kingdom applies from 1 January 2021.

Transit and Warehousing

Transit

Where the movement of the goods through the UK is a requirement, consideration could be given to using the UK landbridge and the transit procedure.

Further information on Transit is available [here](#).

Examples of using this procedure are contained in the scenarios outlined below.

Warehousing

Where EU originating goods are brought into the UK from an EU member state using the transit procedure, the goods can be stored in a customs warehouse in the UK and keep their EU preferential origin. There are conditions associated with the operations which can be carried out on the goods while they are in the warehouse. There is a requirement to have a customs warehousing authorisation from the HMRC in the UK. HMRC will be able to advise further on the rules and requirements pertaining to the Customs Warehouse procedure in the UK.

However, if the EU originating goods are animals or animal products (including hay and straw) under transit, they lose their EU SPS status if they are unloaded. In order for these products to re-enter the EU they would need to meet the EU SPS import requirements and be certified by a UK OV.

Returned Goods Relief

You can re-import goods into the EU without payment of Customs Duty and Value-Added Tax (VAT) provided all the required conditions for Returned Goods Relief are met. These goods must have been

- originally exported from the EU and
- have not received a treatment other than
 - treatment altering their appearance or
 - necessary treatment to repair them, restore them to good condition or maintain them in good condition.

VAT relief only applies if the goods are re-imported into the EU by the same economic entity that originally exported the goods out of the EU.

It should be noted that returned goods relief applies to the Customs Duty and VAT treatment only. Where goods that are subject to Sanitary and Phyto-Sanitary (SPS) requirements have been exported from the Union and subsequently re-enter the Union they will be treated as an import from a 3rd country and will be subject to full import controls as set out in the Official Controls Regulation. You will need to consult with the Department of Agriculture, Food and the Marine and the Food Safety Authority of Ireland in order to understand the requirements relating to the importation of goods subject to SPS checks. The returned goods relief is claimed on a standard import declaration meaning full import formalities including risk analysis, examination, presentation of licenses etc. apply. Specific conditions apply if relief from import duty is claimed for goods which have benefited from measures laid down under the common agricultural policy on export out of the Union.

Using Returned Goods Relief, there is no customs duty on import where the Importer can present the original proof of export from the EU. Import VAT is chargeable where the goods are imported by a different economic operator to the one who completed the export formalities. The following documentary proof is required by Revenue on importation to Ireland:

- Export Declaration – if originally exported from Ireland
- The returned goods information sheet (Form INF 3) completed by the competent authorities in the exporting Member State – if originally exported from a Member State other than Ireland
- Proof that the goods have not been altered e.g. by way of your inventory system or other means of tracking the import/storage/re-export from UK of those goods

Further information on Returned Goods Relief is contained [here](#).

Inward Processing

The Inward Processing Procedure may be availed of in the UK by applying to HMRC in the UK for an Inward Processing authorisation. The rules for the Inward Processing procedure generally allow goods to be imported for processing/manufacturing under customs supervision without them being subject to import duties. The duty liability in the UK is discharged if the goods are re-exported (e.g. to IE/EU). However, if the goods are released to free circulation in the UK, then the duty and other charges become payable at this time.

HMRC will be able to advise further on the rules and requirements pertaining to the Inward Processing procedure in the UK.

Scenarios

Scenario 1 - Goods originating in the EU after 11pm on 31 December 2020 and the entry into force of the EU-UK TCA. They are brought into the UK from an EU member state under a Transit [T2 procedure] procedure and remain under customs control in a customs warehouse. They are not altered unless for preservation or splitting of consignment purposes. Can they come back to the EU without paying duties?

When EU originating goods are brought into the UK from an EU member state under a T2 transit procedure, remain under customs control in a customs warehouse and undergo no production/transformation while in the UK, the goods can be returned to the EU under another T2 Transit procedure provided that they have not been altered other than for preservation or splitting of consignments without replacing the packaging. By using a transit started in the EU, a customs warehousing authorisation in the UK followed by another transit from the UK to the EU, the Customs status of the goods is maintained and import/export tariffs are not incurred. There is a requirement to have an Approved Consignor's Premises authorisation in the EU and to have a customs warehousing authorisation in the UK.

As detailed in paragraph 2 above, if the EU originating goods are animals or animal products (including hay and straw), they would lose their EU SPS status in this scenario and, in order for these products to re-enter the EU, they would need to meet the EU SPS import requirements and be certified by a UK OV.

Further information on Transit is available at paragraph 2 above.

Scenario 2 - EU goods located in the UK before 11pm on 31 December 2020. They are not altered or processed. After 11pm on 31 December 2020 with the EU-UK TCA in place, can they come back to the EU without paying customs duties?

The goods, located in the UK, are not of EU preferential origin at the end of the transition period. Goods can be considered as originating under the EU-UK TCA only after 11pm on 31 December 2020 and therefore goods outside the EU customs territory at that time cannot be considered as originating. These goods are not originating in the UK either as they have not acquired UK origin under the Rules of Origin in the EU-UK TCA. The EU-UK TCA tariff preferences cannot be claimed.

The provisions on returned goods relief (duty relief) outlined at paragraph 3 above may be used if the requirements for returned goods are fulfilled and they have not received a treatment other than

- a treatment altering their appearance or
- necessary treatment to repair them, restore them to good condition or maintain them in good condition.

In this scenario, and in all scenarios that follow, animal products imported from Great Britain are subject to official controls from 11pm on 31 December. These apply even if these were EU goods located in the UK before 11pm on 31 December 2020.

All other goods that are ordinarily subject to EU official controls on import into the EU will be subject to official controls unless the economic operator can prove that they were placed on the EU market prior to the end of the transition period (i.e. 11pm on 31 December 2020). The definition of a good

being placed on the market is provided for in Article 40 of the Withdrawal Agreement and is addressed in detail in the EU's Readiness Notice on Food Law. In essence, it must be the first supply of a good for distribution, consumption or use in the course of a commercial activity, whether in return for payment or free of charge. These goods may continue in circulation until they reach their end-user and are not subject to EU SPS import controls and requirements.

Scenario 3 - Goods originating in the EU after 11pm on 31 December 2020 and the entry into force of the EU-UK FTA. They are exported to the UK and released for free circulation there. They are not altered or processed. Can they come back to the EU without paying duties?

These EU Origin goods have not acquired UK origin. The EU-UK FTA tariff preferences cannot be claimed because the goods need to be of UK preferential Origin to avail of the 0% tariff. These goods are EU origin and therefore liable to a tariff on re-entry to the EU.

It may be possible to use the provisions outlined at paragraph 3 above on returned goods relief (duty relief) as included in the Union Customs Code.

These goods would be subject to EU SPS import requirements.

Scenario 4 - Goods originating in the EU after 11pm on 31 December 2020 and the entry into force of the EU-UK FTA. They are exported to the UK and released for free circulation there. They are subject to small alterations such as simple packaging, keeping them in good condition, labelling etc. Can they come back to the EU without paying duties?

These EU origin goods cannot be considered as UK originating as they are not subject to sufficient processing to qualify for UK preferential origin as required in accordance with the cumulation requirements of the Rules of Origin in the EU-UK TCA. The EU-UK FTA preferences cannot be used.

It may be possible to use the provisions outlined at paragraph 3 above on returned goods relief (duty relief) as included in the Union Customs Code.

From an SPS perspective, this is the same as scenario 3 and these goods would be subject to EU SPS import requirements and subject to the relevant official controls on import into the EU.

Scenario 5 - EU goods located in the UK before 11pm on 31 December 2020. They undergo substantial processing in the UK. After 11pm on 31 December 2020 with the EU-UK TCA in place, can they come back to the EU without paying duties?

In the same way as in scenario 2 above, the "EU goods" located in the UK before the entry into application of the EU-UK TCA, do not have EU preferential origin. Therefore, they cannot be used for cumulation as they are non-originating. The only way that these goods could come back to the EU under preferences is if the production carried out in the UK satisfies the Product Specific Rules of origin (PSR's) of the EU-UK TCA in order to acquire UK preferential origin. Preference must be claimed on the import declaration and proof of the acquired UK origin must be available.

Returned good relief does not apply in this scenario.

These goods would all be subject to EU SPS import requirements where appropriate. These are not an "existing good" placed on the market prior to the end of the transition period.

Scenario 6 - Goods originating in the EU after 11pm on 31 December 2020 and the entry into force of the EU-UK FTA. They are exported to the UK and released for free circulation there. They are subject to processing beyond insufficient operations. Can they come back to the EU without paying duties?

Goods originating in the EU, exported to the UK and released for free circulation there may acquire UK preferential origin if they are subject to processing beyond insufficient operations in accordance with the cumulation requirements of the Rules of Origin in the EU-UK TCA. These goods can be exported back to the EU without incurring customs tariffs provided preference is claimed on the import declaration and the acquired UK origin can be proven.

These goods would all be subject to EU SPS import requirements where appropriate. These are not an “existing good” placed on the market prior to the end of the transition period.

Scenario 7 - Non-originating [non-EU or UK] goods which are imported into the UK and are not altered or processed in the UK before being re-exported to the EU. Can they come back to the EU without paying duties?

The goods may incur tariffs if they are cleared for free circulation in the UK and may incur further tariffs on re-importation into the EU.

These goods are subject to the EU’s SPS import control requirements, whether they went through UK SPS import control requirements or not.

Scenario 8 - Non-originating [non-EU or UK] goods which are imported into the UK and undergo processing under Customs supervision using the Inward Processing Procedure in the UK before being re-exported to the EU. Can they come back to the EU without paying duties?

Where the non-originating goods undergo processing in the UK under Customs supervision using the Inward Processing Procedure as outlined at paragraph 4 above the goods can be imported into the UK with import duties suspended in the UK. The duty liability in the UK is discharged if the goods are re-exported (e.g. to IE/EU). However, if the goods are released to free circulation in the UK, then the duty and other charges become payable at this time.

The amount of processing on the goods will determine if duties must be paid on re-export to the EU. These goods can only qualify for preferential origin under the EU-UK Trade and Cooperation Agreement (TCA) on re-export to the EU if the processing meets the requirements as specified in the Product Specific Rule (PSR) for the product in the EU-UK TCA. If UK preferential origin can be proven, preferential origin can be claimed on re-export to the EU under the TCA.

The advantage of using Inward Processing is that the import duties due on import into the UK are suspended.

As scenario 7 these goods are subject to the EU’s SPS import control requirements.

Scenario 9 - Non-originating [non-EU or UK] goods which are imported into the UK and undergo processing in the UK NOT under Customs supervision before being exported to the EU. Can they come back to the EU without paying duties?

Where the non-originating goods undergo processing in the UK NOT under Customs supervision these goods may qualify for preferential origin under the EU-UK Trade and Cooperation Agreement (TCA) on re-export to the EU if the processing meets the requirements as specified in the Product Specific Rule (PSR) for the product. If UK preferential origin can be proven, preferential origin can be claimed on export to the EU under the TCA.

Any tariffs due on the materials used in the processing in the UK have to be paid on import to the UK.

As in scenarios 7 and 8, these goods are subject to the EU's SPS import control requirements.