

EU-UK Trade Agreement

The EU-UK Trade Agreement was agreed in principle on 24th December.

Prior to the agreement of the Trade Agreement, it increasingly looked like the UK was going to leave the EU on WTO terms and, as a result, all UK shipments into Ireland / the EU would be subject to Customs Duty at WTO Rates.

The Trade Agreement gave some relief on this to provide that where goods qualify as **EU or UK originating** products, no customs duty would apply.

How do goods qualify as originating?

In order to qualify as originating, goods must either be:

- Wholly produced in the UK or EU; or
- Produced in the EU from materials originating exclusively in the EU or in the UK from materials originating exclusively in the UK
- Produced from non-originating materials if they comply with rules of origin specific to that product

In addition

- The acquisition of originating status must be fulfilled without interruption in the UK or EU
- Substantial manufacturing must be carried out on the product in the EU or UK

In a very specific clause, the Agreement also provides for what is known as “diagonal cumulation”. This means that products originating in one territory e.g, the EU, can be considered as originating in the other party e.g. the UK but only where further substantial manufacturing or processing operations take place in that country.

What this means is that if EU goods are shipped to a Distribution Centre in the UK and onward shipped to a retailer in Ireland, then those goods do not qualify as “originating” under the terms of the agreement as there is no substantial processing carried out in the UK.

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This has been an issue for many traders over the past week.

However, there is another way of looking at the rules to enable a duty relief to be obtained. This won't suit everyone but is an option for certain companies, in particular those operating distribution hubs in the UK who have good traceability on their imports and exports (purchases and sales)

- 1) Firstly, the Agreement provides that where product originating in one Party i.e. the EU or UK, is exported to a third country e.g. the US and returns to the original Party of export then it can retain its origin status as long as the returned product is
 - A) the same as that exported; and
 - B) has not undergone any operation other than what was necessary to preserve it in good condition while in that third country or while being exported

- 2) If we look at standard Customs Provisions as they apply to all Trade there is a standard Returned goods relief included as part of EU Customs Legislation. This allows you to re-import goods without payment of customs duties where those goods:
 - i) were (and can be proven to have been) originally exported from the EU

 - ii) are in the same state as when they were exported

While initially you might look at these provisions and say they should only apply to goods exported and returned to an entity for a specific reason, this is not in fact what the rules allow for.

Our view is that the relief is applicable to the goods and not to the Importer. Therefore, as long as the goods themselves are originally exported from the EU and are subsequently returned to the EU then they can be returned to any country or entity who can provide proof of export and who can show the goods have not been changed while abroad.

If again we apply this to UK Distribution centres, then:

- Goods can be exported from the EU e.g. Germany
- Be unloaded and unpacked from a large container or pallet
- Be stored pending re-export
- Be then returned to the EU e.g. Ireland, in their original condition as single items

Using this relief, there is then no duty on import of single items repacked into smaller pallets where the Importer can present that original proof of export from the EU.

You will have to provide the following to Revenue

- Original proof of export (Export Declaration
- Proof that the goods have not been altered e.g. by way of your inventory, ERP or other means of tracking the import/storage/re-export of those goods
- A document known as an INF3 which is provide by Customs on Export

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