Free Trade Agreements

UK/EU Trade Deal – Rules of Origin

As announced on the 24 December 2020, the UK and EU have signed a Free Trade Agreement, defining their future relationship now that the transition period has ended and the UK has left the EU and, consequently, the Single Market and Customs Union. While the agreement affirms an ongoing commitment to tariff-free trade, there are still a number of new trade barriers and regulatory considerations that were not applicable under pre-existing arrangements when the UK was a member of the European Union. Given this, UK businesses that trade with EU Member States, and vice versa, should familiarise themselves with the agreement and the impact this will have on ongoing trade.

Despite the Free Trade Deal being stated as 'Tariff Free' this is heavily caveated and both importers and exporters should be aware of the rules around the origin of goods, the extent to which they are 'processed' prior to import/export and the implications this has in relation to the application of customs duties. Furthermore, in the event customs duties arise, businesses will need to consider any potential measures they can take to limit the financial impact on the business.

It is crucial that businesses consider these new rules of origin as set out in the trade deal which, when satisfied, would eliminate the application of customs duties in relation to these goods. The key points to consider in relations to the rules of origin are as follows;

- There will be no customs duty on goods imported into the UK that originate in the EU and, likewise, there will be no customs duty on goods imported into the EU that originate in the UK. When determining whether goods originate in the UK/EU, business must consider if the relevant goods have been 'wholly obtained' or sufficiently processed and as such, whether they qualify for preferential treatment;
- Crucially, there are provisions for full bilateral cumulation of origin allowing EU materials, as well as processing carried out in the EU, to be considered as originating/carried out in the UK when applicable to UK products, thus increasing the likelihood goods will meet the thresholds outlined in the rules of origin, meeting the criteria for preference;
- Finished items imported into the UK from the EU before being re-exported to EU customers are not subject to the Free Trade Agreement and double duties may apply.

These key points are a brief and simplified summation of the complex rules applicable under the Free Trade Agreement and businesses will be presented with a host of new challenges, both in classifying goods in relation to the newly applicable rules of origin and the additional requirements with respect to documentation. If you or your client make supplies of goods that fall under the scope of the Free Trade Agreement and subsequently the new regulatory requirements, please contact out Tax team at the earliest opportunity to clarify your new responsibilities, ensuring a smooth transition and minimum disruption to business operations.

Steps for Importers/Exporters to Take

As a result of new customs formalities arising from Free Trade Agreement, importers and exporters in the UK and EU will be required to consider the rules of origin that were not applicable prior to the end of the transition period. Crucially, in the event goods qualify for preference, sufficient evidence will need to be provided/held.

UK importers will be required to ask EU suppliers whether goods they supply meet the rules of origin as outlined in the Free Trade Agreement – if this is not the case UK customs duties will apply at import. It is therefore essential that businesses importing goods understand these regulations in order to confirm that any exporting suppliers understanding is also correct, and they are able to provide the correct evidence to avoid the application of customs duties as records should be kept by both the exporter and importer of these goods. Importers will be able to claim preferential tariff treatment within three years of the date on which the goods are imported.

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Steps for Importers/Exporters to Take (continued)
UK exporters will need to confirm that their goods qualify as originating in the UK and, if this is the case, businesses are able to self-certify that the origin rules have been met in the form of a single statement of origin included on their sales invoice, alongside a valid EORI number, which can apply to multiple identical shipments.

In response to the free-trade agreement, both importers and exporters will be required to develop and implement processes relating to origin determination and record-keeping marking a significant change in how UK/EU sales are documented.

If you are an importer or exporter involved in transactions with businesses located in the EU, these processes need to be considered at the earliest opportunity.

Double Duty Saving Strategies
In the event duty is applicable when goods enter the UK in addition to when the goods are exported to EU Member States, there are a number of duty saving strategies businesses should consider, ranging from short term measures to long terms solutions. These include;

- Simplified Inward Processing – This is a short term measure whereby goods are imported into the UK before being processed or repaired, before being exported again. Businesses do not need to notify HMRC of their intention to use Simplified Inward Processing as it is authorised by declaration, however this can be utilised a maximum of three times. If IP drawback is applied, import VAT is paid at the time of entry however the payment of import VAT can be suspended using IP suspension however this becomes due if the goods are released into free circulation in the UK. In using this customs procedure, duty due is taken as a deposit and can be recovered on exporting the goods outside the UK.
- Inward Processing Authorisation – In order to use Inward Processing on a regular basis, business will need to apply for authorisation which can take a number of weeks. This operates in the same manner as Simplified IP, however there is no limit to the number of times it can be utilised.
- Customs Warehousing – This is a long-term solution for businesses seeking to avoid the application of double duty. When operated, customs warehousing allows for the payment of VAT & duties arising from the import of goods to be suspended when stored in authorised premises, with these values only becoming due when the goods are removed. Applying for customs warehousing is an involved process and authorisation can take 60 days to obtain. If your business decides operating a customs warehouse would be beneficial, Inward Processing can be used until your application is approved.

  If, on considering the rules of origin, you believe duty will be due on your goods and you wish to enquire as to the benefits and practicalities of operating the customs procedures outlined above, or would like to discuss anything in further detail, please contact our Tax team on 00 44 161 832 4901 (Manchester), 00 44 1254 686 600 (Blackburn), 00 44 203 478 8400 (London) or email rob.mccann@beeverstruthers.co.uk.