



Brussels, 5 February 2021

## NOTICE TO STAKEHOLDERS

### EU-UK Trade and Cooperation Agreement

#### Guidance on distribution centres

This guidance considers the case of distribution centres located in the UK which receive goods from the EU and send them back to the EU after a certain period of time.

There are different situations depending on when the goods left the EU and what happened to the goods in the UK.

- a) EU products located in the UK before the end of the transition period. They are not transformed. After the end of the transition period and the entry into application of the FTA, can they come back to the EU without paying duties?*

Those goods, located in the UK, are not EU originating at the end of the transition period. Goods can be considered as originating under the EU-UK TCA only from 1.1.2021 and therefore goods outside the EU customs territory at that date cannot be considered as originating (leaving aside the transitory provisions for goods in transit or warehousing). These goods are not originating in the UK either. So the EU-UK TCA preferences cannot be used. It is therefore not a question that the EU does not grant preference to EU goods, these goods are not originating in the EU.

The provisions on returned goods (duty relief) may be used if the requirements for returned goods are fulfilled: they are the same goods that had been previously exported and have “not received a treatment or handling other than that altering their appearance or necessary to repair them, restore them to good condition or maintain them in good condition” (cf. Art. 158.1 UCC Delegated Act).

- b) EU products located in the UK before the end of the transition period. After the end of the transition period and the entry into application of the TCA, they are transformed (more than insufficient) in the UK. Can they come back to the EU without paying duties?*

In the same way as above, the “EU products” located in the UK before the entry into application of the FTA, do not have EU origin. Therefore they cannot be used for cumulation as they would be non-originating. The only way that these products could come back to the EU under preferences is if the production carried out in the UK would satisfy the preferential rules of origin of the EU-UK TCA.

- c) *Goods originating in the EU after the entry into force of the EU-UK FTA. They are exported to the UK and released for free circulation there. They are not transformed. Can they come back to the EU without paying duties?*

Those goods have not acquired UK origin. The EU-UK FTA preferences cannot be used.

The provisions on returned goods (duty relief) may be used if the requirements are fulfilled (cf. Art. 203 UCC and Article 158 of UCC Delegated Act): they have “not received a treatment or handling other than that altering their appearance or necessary to repair them, restore them to good condition or maintain them in good condition”.

- d) *Goods originating in the EU after the entry into force of the EU-UK TCA. They are exported to the UK and released for free circulation there. They are subject to small transformations such as simple packaging, keeping them in good condition, labelling... Can they come back to the EU without paying duties?*

These goods cannot be considered as UK originating (insufficient operations impeding cumulation). The EU-UK FTA preferences cannot be used.

The provisions on returned goods (duty relief) may be used if the requirements are fulfilled: They are the same goods that had been previously exported and have “not received a treatment or handling other than that altering their appearance or necessary to repair them, restore them to good condition or maintain them in good condition”.

- e) *Goods originating in the EU after 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 transformations beyond insufficient operations. Can they come back to the EU without paying duties?*

These goods may acquire UK origin and be exported under the EU-UK TCA.

- f) *Goods with Union status, regardless of their origin after the entry into force of the EU-UK TCA. They are brought in the UK under a T2 procedure with final destination the EU and remain under customs control in a warehouse. They are not transformed. How can they come back to the EU without paying duties?*

They may be re-consigned under T2 in accordance with Article 9 (3) of the Convention on a common transit procedure provided that in the UK they have just undergone a preservation operation or splitting of consignments without replacing the packaging.

- g) *Goods with Union status, regardless of their origin, after the entry into force of the EU-UK FTA. They are exported and brought in the UK under a T2 procedure (making a reference to the export code) with final destination UK and remain under customs control in a warehouse in UK. They are not transformed. How can they come back to the EU without paying duties?*

They may be re-consigned under T2 in accordance with Article 9 (3) of the Convention on a common transit procedure provided that in the UK they have just undergone a preservation operation or splitting of consignments without replacing the packaging. The transit document will indicate again the code relating to export. When the goods arrive to the EU they will not be considered Union goods pursuant to the final paragraph of Art 2(3)(a) CTC. The only possibility to obtain duty relief in this case will be by applying the provision related to returned goods.

If in the EU the transaction is an export followed by transit (first export declaration from EU, then transit declaration opening of a transit movement until UK), the goods lose the Union status at arrival into the EU, because they have been exported from the EU. Once the goods have lost their Union status and as they are not UK originating either, the only possibility to re-enter the Union duty-free is Art 203 UCC on returned goods. The provisions on returned goods are not necessarily conceived for distribution or to be used systematically as a basis of a business model.