

How Import Duties can be Saved

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This presentation simplifies the issues for easier comprehension and can therefore not replace legal analysis.

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1. Introduction

- If goods are not immediately to be put on the EU market, a customs arrangement suspending duty liability may be used, in particular:
 - External transit (this covers only time during which the goods are moved);
 - Customs warehousing/free zone/temporary storage;
 - Inward processing/processing under customs control;
 - Temporary admission (in some cases duties must be paid on a pro-rata monthly basis)
- Use of these arrangements normally suspends also import VAT and excise duties
- Otherwise, goods destined for the EU must be released for free circulation. Nevertheless, various provisions allow saving of import duties

2. Tariff related measures (1)

- In the EU, the customs tariff is not laid down in a single legal act but in many Regulations and – with regard to tariff preferences – also in international agreements. In order to provide transparency, all these measures (and non–tariff measures) are included in the EU’s integrated tariff – TARIC. Member States provide national users’ tariff which include national measures (e.g. VAT and excise duty rates).
- The normal duty rates are published in Regulation No 2658/87 which is updated every year (for 2015: Regulation No 1101/2014, OJ 2014 L 312)

2. Tariff related measures (2)

- Autonomous tariff suspensions and tariff quotas are laid down in particular in Regulations No 1387/2013 and 1388/2013 which are updated every six months
- The generalised system of preferences in favour of developing countries is laid down in Regulation No 987/2012
- Numerous agreements cover mutual preferences
- Anti-dumping, countervailing, safeguard and retaliation duties are not affected by the above-mentioned measures

2.1. Nature and end-use of goods (1)

- In some cases the application of a favourable duty rate is dependent on the nature or end-use of the goods
- Typical cases of a special nature of goods are:
 - Goods unfit for consumption (this requires the addition of denaturants)
 - Seeds (this requires a special marking)
 - Certain types of fresh table grapes, tobacco and nitrate (this requires a specific certificate)

2.1. Nature and end-use of goods (2)

- Typical cases of end-use are:
 - Goods destined for civil aircraft
 - Manufacture of pharmaceutical products
 - Manufacture of food preparations
 - Lead destined for refining
 - Industrial assembly of cars and car parts
- The application of such a favourable duty rate requires a prior authorisation and the fulfilment of the conditions concerning the end-use of the goods (e.g. the car parts may not be used for repairs)

2.2 Tariff quotas and suspensions (1)

- Tariff suspensions suspend the application of the normal duties for the goods concerned for a specific period. Apart from declaring the correct code, there is no specific requirement, unless the application of the end-use provisions (authorization required) or the submission of a specific certificate is stipulated
- Tariff quotas suspend the application of the normal duties for the goods concerned for a specific period and a specific amount. The application of the tariff quota must be requested by indicating the tariff quota number. In certain cases the application of the end-use provisions or the submission of a specific certificate is stipulated

2.2 Tariff quotas and suspensions (2)

The introduction of an autonomous tariff suspension or tariff quota may be requested by an EU producer via the Member State concerned for raw materials or intermediate products which are not, or not sufficiently, available in the EU (conditions published in OJ 2011 No C 363, p. 6)

- The quantities of tariff quotas are managed:
 - Either on a first-come, first-served basis
 - Or through licences (mainly agricultural goods)
 - Or by auction (only agricultural goods)

2.3 Tariff preferences (1)

- In cases where the EU has concluded a customs union agreement with a third country (in particular Turkey), the granting of the preference requires only proof that the goods have been in free circulation in the partner country. However, agricultural goods and anti-dumping duties are not covered by such provisions
- For goods moving within the EU customs union (i.e. between Member States) no proof of Union status is required for goods in free circulation, unless they have temporarily left the EU (e.g. goods moving from Germany to Italy via Switzerland) or come from a EU free zone

2.3 Tariff preferences (2)

- Under the GSP and free trade agreements, the granting of the preference requires proof of origin (origin certificate or declaration by the exporter on the invoice) and direct transport to the EU. Cumulation rules allow, for the determination of the origin, taking into account parts and processing made in the EU and certain preferential partner countries. It is intended to shift to certification by the exporter (as in the US); this is already the case under the preferential agreement with South Korea.

3.1 Inward processing/processing under customs control/destruction

- Under the UCC, inward processing, processing under customs control and destruction will be merged into a single procedure; today, a separate authorisation is required
- These procedures allow, in case of subsequent release for free circulation:
 - either to pay the duties on the import goods,
 - or to pay the duties on the goods as they are after processing/destruction
- The choice between the above-mentioned rules is restricted where the goods concerned are subject to agricultural measures or anti-dumping duties

3.2 Outward processing

- Union goods exported under the outward processing procedure are destined to be re-imported after processing outside the EU
- The customs duty is calculated on the basis of the added value. Today (until the implementation of the UCC), the duty may be calculated taking into account the difference between the duty on the goods re-imported and the duty on the goods temporarily exported (this is today the standard rule)
- The goods are duty-free if they were repaired free of charge because of an obligation arising from a guarantee or because of a manufacturing defect

3.3. Returned goods (1)

- Where goods in free circulation in the EU which are exported and re-imported return into the EU, duty relief can be granted (import VAT relief is only granted if the person exporting and re-importing is the same)
- Such duty relief requires:
 - a request
 - proof of the previous export (e.g. export declaration, ATA Carnet, information sheet INF3)
 - re-importation within three years (this period may be extended)

3.3. Returned goods (2)

- The goods must have remained in the same state as when they were exported; treatment for maintaining that state is, however, permitted. Where this condition is not met, duty is calculated according to the rules for outward processing
- Where goods (re-)exported in the context of inward processing return, the processing undertaken in the EU can be disregarded, i.e. only the components initially imported are subject to duty

4. Duty relief (1)

4.1 Fish caught by EU vessels

- Fish caught by EU vessels in the international sea are considered as originating in the EU and thus exempt from duty
- Fish caught by EU vessels in the territorial sea of a third country are granted duty relief in accordance with the Customs Code

4. Duty relief (2)

4.2 Cases laid down in the duty relief Regulation

Regulation No 1186/2009 lays down the other cases of duty relief, and in particular:

- Consignments of negligible value (up to 150 €)
- Transfer of residence
- Marriage
- Inheritance
- Outfits, scholastic materials and household effects of pupils and students

4. Duty relief (3)

4.2 Cases laid down in the duty relief Regulation

- Consignments of a value up to 150 €, excluding tobacco, alcohol and perfume (the VAT threshold is only 45 € if the sender is a private person, otherwise 22 €) or, depending on the Member State, less
- Capital goods and other equipment imported on the transfer of activities into the EU
- Educational, scientific and cultural materials
- Articles for research, or therapeutic purposes or quality control of pharmaceutical products
- Goods for charitable or philanthropic organisations
- Goods imported for trade promotion purposes, including samples
- Goods imported for examination or test purposes
- For some of these cases, also relief from import VAT is granted (Directive 2009/132/EC)

5. Repayment/remission (1)

- Repayment: a potential or total refund of duties already paid
- Remission: a decision to waive partially or totally the payment of duties
- An application must be lodged within deadlines which vary according to the cases concerned; between three months and three years

5. Repayment/remission (2)

- Reasons for repayment/remission:
 - Higher duties than those legally due have been charged
 - Contrary binding tariff or origin information issued to the debtor
 - Invalidation of the relevant provision by a Court ruling
 - An error of the customs authorities which could not be detected by the debtor who acted in good faith
 - A declaration for release for free circulation is invalidated
 - The goods were rejected because they were defective or did not comply with the import contract and are re-exported
 - A particular situation in which a request for payment of the duty would be unfair, given the behaviour of the customs authorities

Questions

1. Which arrangements allow suspending duty liability?
2. Which types of duty are lower than the normal rates?
3. What is the advantage of inward processing?
4. What is the advantage of processing under customs control?
5. What is the advantage of outward processing?
6. When can exported goods be re-imported duty-free?
7. For which reasons can import duties be repaid or remitted?
8. Your questions?

Answers (1)

1. Duty liability is suspended in case of
 - external transit
 - customs warehousing, free zones, temporary storage
 - inward processing, processing under customs control
 - temporary admission
2. The following types of favourable duties exist:
 - tariff suspensions and tariff quotas
 - preferential duties
 - duties dependent on the nature or end-use of the goods

Answers (2)

3. Under inward processing duty liability is, and remains, suspended if the import goods or the products resulting from processing are re-exported within the time limit. If the goods are released for free circulation, duty needs to be paid only on the import goods (which normally have a lower value than the processed products)
4. Processing under customs control addresses situations where the duty on the raw materials is higher than that on the processed product (e.g. agricultural goods processed into duty-free medicine). The procedure allows processing in the EU under duty suspension. At the subsequent release for free circulation duties are levied on the processed product
5. Outward processing allows the processing of Union goods outside the EU and to charge the duty only on the value added outside the EU (or, until the UCC, the difference between the duty on the re-imported processed products, and the duty on the exported goods)

Answers (3)

6. Duty relief for re-imported goods requires
 - a request
 - proof of the previous export
 - re-importation within three years (unless the period is extended)
7. Import duties can be repaid or remitted if
 - higher duties than those legally due have been charged
 - binding tariff or origin information leads to a lower duty
 - the declaration for release for free circulation is invalidated
 - the provision on which duty assessment was based is invalidated by a court ruling
 - the goods were rejected because they were defective or did not comply with the import contract and are re-exported
 - the customs authorities committed an error which could not be detected by the debtor who acted in good faith
 - there is a particular situation in which the payment request would be unfair, given the behaviour of the customs authorities