



Brussels, 25 March 2019

## NOTICE TO STAKEHOLDERS

### WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON CUSTOMS DEBT AND CUSTOMS TARIFFS

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. On 22 March 2019, the European Council (Article 50) decided, in agreement with the United Kingdom, and in the event that the Withdrawal Agreement is approved by the House of Commons by 29 March, to extend the 2-years period provided for in Article 50(3) of the Treaty on European Union until 22 May 2019.

In the event that the Withdrawal Agreement is not approved by the House of Commons by 29 March 2019, the European Council decided to extend the period provided for in Article 50(3) of the Treaty on European Union until 12 April 2019. This means that as from 13 April 2019, 00:00h (CET) ('the withdrawal date') the United Kingdom may be a 'third country'.<sup>1</sup>

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the draft Withdrawal Agreement,<sup>2</sup> as of the withdrawal date the EU rules on customs debts for non-Union goods, as set out in particular in Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ("UCC")<sup>3</sup> will apply to goods from the United Kingdom. This has in particular the following consequences:

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<sup>1</sup> A third country is a country not member of the EU.

<sup>2</sup> Cf. Part four of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ, C 66 I, 19.2.2019, p. 1).

<sup>3</sup> OJ L 269, 10.10.2013, p. 1.

**Please note: this notice does not address:**

- **non-tariff aspects in relation to the entry and import of goods, export of goods to the United Kingdom<sup>4</sup> such as import and export licences,<sup>5</sup> specific import conditions for industrial goods (such as medicinal products<sup>6</sup>) and other commodities (such as waste<sup>7</sup>), and sanitary<sup>8</sup> (in particular of live animals,<sup>9</sup> including pets<sup>10</sup>) and phytosanitary<sup>11</sup> controls;**
- **aspects in relation to value-added tax<sup>12</sup> and excise duties<sup>13</sup>;**
- **aspects in relation to trade-defence measures, in particular anti-dumping and anti-subsidy measures and other tariff measures provided for in the agricultural sector;**
- **specific rules for individual travellers.<sup>14</sup>**

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<sup>4</sup> The webpage of the Commission on external trade on the Market Access Database ([http://madb.europa.eu/madb/rulesoforigin\\_preferential.htm](http://madb.europa.eu/madb/rulesoforigin_preferential.htm)) will be updated with relevant information, whenever available.

<sup>5</sup> See the "notices to stakeholders" published here: [https://ec.europa.eu/info/sites/info/files/file\\_import/import\\_and\\_export\\_licences\\_en.pdf](https://ec.europa.eu/info/sites/info/files/file_import/import_and_export_licences_en.pdf)

<sup>6</sup> See the "notices to stakeholders" published here: [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#sante](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#sante)

<sup>7</sup> See the "notices to stakeholders" published here: [https://ec.europa.eu/info/sites/info/files/file\\_import/waste\\_law\\_en\\_0.pdf](https://ec.europa.eu/info/sites/info/files/file_import/waste_law_en_0.pdf)

<sup>8</sup> See the "notices to stakeholders" published here: [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#sante](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#sante)

<sup>9</sup> See the "notices to stakeholders" published here: [https://ec.europa.eu/info/sites/info/files/file\\_import/movements\\_of\\_live\\_animals\\_en.pdf](https://ec.europa.eu/info/sites/info/files/file_import/movements_of_live_animals_en.pdf)

<sup>10</sup> See the "notices to stakeholders" published here: [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#travel](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#travel)

<sup>11</sup> See the "notices to stakeholders" published here: [https://ec.europa.eu/info/sites/info/files/file\\_import/plant\\_health\\_en.pdf](https://ec.europa.eu/info/sites/info/files/file_import/plant_health_en.pdf)

<sup>12</sup> See the "notices to stakeholders" published here: [https://ec.europa.eu/info/sites/info/files/value-added-tax\\_en.pdf](https://ec.europa.eu/info/sites/info/files/value-added-tax_en.pdf)

<sup>13</sup> See the "guidance note" published here: [https://ec.europa.eu/info/files/guidance-excise-ongoing-movements-goods\\_en](https://ec.europa.eu/info/files/guidance-excise-ongoing-movements-goods_en)

<sup>14</sup> See the "notices to stakeholders" published here: [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#travel](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#travel)

## 1. CUSTOMS DEBT - GENERAL

Depending on the customs procedure chosen<sup>15</sup>, a customs debt on import is incurred through the placing under one of the customs procedures of non-Union goods liable to import duty. In particular, according to Article 77 UCC, a customs debt on import shall be incurred through the placing of non-Union goods liable to import duty under the customs procedure of release for free circulation in the Union.

The customs debt is defined by Article 5(18) UCC as the obligation on a person to pay the amount of import or export duty which applies to specific goods under the customs legislation in force.

The amount of import duty resulting from a customs debt is calculated on the basis of four main elements:

- The customs value of the goods, in case of *ad valorem* import duty, or specific quantities, in case of specific import duty, serving as taxable amount;
- The tariff classification of the goods in the Combined Nomenclature laid down in Council Regulation (EEC) No 2658/87;
- The non-preferential origin of the goods, for the application of non-preferential tariff measures (e.g. a GATT tariff quota or an anti-dumping duty); and/or the preferential origin of the goods, for the application of preferential tariff measures contained in agreements, concluded by the Union with certain third countries or territories (Free Trade Agreements), or adopted unilaterally by the Union in respect of certain third countries or territories (e.g. the Generalised Scheme of Preferences - GSP); and
- The rates of import duty to apply to the taxable amount (customs value or quantity), which depend on the tariff classification of the goods and their origin.

## 2. CUSTOMS VALUE OF THE GOODS

According to Article 70 UCC<sup>16</sup> the primary basis for the customs value of a good is its transaction value, which is the price actually paid or payable for the goods when sold for export to the customs territory of the Union, adjusted where necessary.

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<sup>15</sup> See the "notices to stakeholders" published here: [https://ec.europa.eu/info/sites/info/files/file\\_import/customs\\_and\\_indirect\\_taxation\\_en.pdf](https://ec.europa.eu/info/sites/info/files/file_import/customs_and_indirect_taxation_en.pdf). For issues arising around the withdrawal date in case of no deal, please refer to the guidance note on Customs matters ([https://ec.europa.eu/info/files/guidance-customs-matters-case-no-deal\\_en](https://ec.europa.eu/info/files/guidance-customs-matters-case-no-deal_en)) as well the guidance note on Excise for ongoing movements of goods ([https://ec.europa.eu/info/files/guidance-excise-ongoing-movements-goods\\_en](https://ec.europa.eu/info/files/guidance-excise-ongoing-movements-goods_en)).

<sup>16</sup> The full list of the legal references to customs value can be found in the compendium on customs value: [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/customs\\_valuation\\_compendium\\_2018\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/customs_valuation_compendium_2018_en.pdf)

To determine the customs value of the good, that price shall be supplemented - where not already included in the transaction value - by a number of adjustments, which include, inter alia, the following:

- Commissions and brokerage, except buying commissions;
- Costs of containers and packing;
- The value of certain goods and services supplied by the buyer in connection with the production and sale for export of the imported goods, free of charge or at reduced cost (“assists”);
- Royalties and licence fees related to the goods that the buyer must pay as a condition of sale of the goods;
- The costs of transport and insurance and the loading and handling charges associated with the transport of the good, up to the place where it is brought into the customs territory of the EU.<sup>17</sup>

On the other hand, a number of elements do not need to be included in the customs value like, inter alia, the cost of transport or various charges incurred on the goods after their entry into the customs territory of the Union, charges for interest under certain financing arrangements, charges for the right to reproduce the goods, buying commissions, import duties or other charges payable on import.

For details, please refer to the guidance on customs valuation: [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/resources/documents/customs/customs\\_code/guidance\\_valuation\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/customs/customs_code/guidance_valuation_en.pdf)

### 3. CUSTOMS TARIFF

Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff<sup>18</sup> sets out the applicable tariffs for non-Union goods. These are also published and constantly updated in the multilingual database TARIC.<sup>19</sup> To establish the third country duty rate goods have to be classified (Article 57 of Regulation (EU) No 952/2013) in the Combined Nomenclature (CN) to determine the CN headings and subheadings.

For example:

- Motor cars and other motor vehicles principally designed for the transport of persons, with a cylinder capacity not exceeding 1500cm<sup>3</sup>: CN code

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<sup>17</sup> In this context, the Commission is planning to adopt an amendment to the Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, OJ L 343, 29.12.2015, p. 558.

<sup>18</sup> OJ L 256, 7.9.1987, p. 1.

<sup>19</sup> [https://ec.europa.eu/taxation\\_customs/business/calculation-customs-duties/what-is-common-customs-tariff/taric\\_en](https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/what-is-common-customs-tariff/taric_en)

8703 31 10 – third country duty rate is 10.00% of the customs value of the goods.

- Vacuum cleaners with self-contained electric motor of a power not exceeding 1 500 W and having a dust bag or other receptacle capacity not exceeding 20 liters: CN code 8508 11 00 – third country duty rate is 2.2% of the customs value of the goods.
- Crispbread: CN Code 1905 10 00 – third country duty rate is 5.80% of the customs value of the goods + 13.00 EUR/100kg.
- Frozen carcasses and half-carcasses of high-quality beef and veal: CN code 0202 10 00 – third country duty rate is 12.80% of the customs value of the goods + 176.80 EUR/100kg.

#### 4. ORIGIN OF THE GOOD

In case of no-deal as from the withdrawal date imports from the UK will be treated as imports from any third country with which the EU does not have any preferential arrangement. Therefore, only of relevance are the EU **non-preferential rules of origin**.

The basic rules on the non-preferential origin of goods are laid down in Articles 59 to 63 UCC.

Article 59 UCC establishes the purposes of the determination of the non-preferential origin of a good: the application of non-preferential tariff measures (e.g. GATT tariff quotas or anti-dumping duties), of measures related to trade in goods other than tariff measures (e.g. certain prohibitions) and of other Union measures relating to the origin of goods (e.g. external trade statistics).

According to Article 60 UCC, goods wholly obtained in a country shall be regarded as having their origin in that country. Where the production of goods involves more than one country, the country of origin is deemed to be the country or territory where the good underwent its last, substantial, economically justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture.

For details, please refer to the information on rules of origin here: [https://ec.europa.eu/taxation\\_customs/business/calculation-customs-duties/rules-origin\\_en](https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin_en)

How to calculate customs duties is in detail explained at the Commission's website: [https://ec.europa.eu/taxation\\_customs/business/calculation-customs-duties\\_en](https://ec.europa.eu/taxation_customs/business/calculation-customs-duties_en). These pages will be updated with further information, where necessary.

The European Commission Directorate-General Taxation and Customs Union also provides a dedicated internet site with information and advices on how business

operators can prepare for the withdrawal of the United Kingdom from the Union in case of no-deal: [https://ec.europa.eu/taxation\\_customs/uk\\_withdrawal\\_en](https://ec.europa.eu/taxation_customs/uk_withdrawal_en).

European Commission  
Directorate-General Taxation and Customs Union  
Directorate-General Trade