Summary of Customs Opinion on chemical imports to the UK

Import duty reliefs facilitate the use of Suspension of Import Duties and VAT on items which are subsequently re-exported. There are two primary forms of Import Duty and VAT Relief: Customs Warehousing (CW) and Inward Processing (IP) Relief.

Customs Warehousing is a means of storing goods and materials in medium or long term storage under customs control. Goods held in CW are not free for circulation until the point at which part (or all) of the consignment is released and declared and import duty and tax is paid upon the released consignment.

Materials can also be re-exported from Customs Warehousing under duty suspension, with no duty or tax liable on the basis of re-export.

A customs warehouse can be either a facility or an inventory system authorised by HMRC for storing non-GB goods which are not in free circulation. Strict HMRC operating conditions apply and records must be maintained. These conditions apply to Freeport operators (although some procedures are simplified).

Inward Processing allows materials which are imported under duty and tax suspension to be manufactured into finished or semi-finished products without being released into free circulation. While the goods remain under the Customs IP facility they are under import duty and tax suspension – they become liable at the point they are released, or are exempt if re-imported.

IPR authorisation must be granted in advance by HMRC but can cover a wide variety of activities including manufacturing, processing, assembly, packaging and labelling.

Under the Taxation Cross-border Trade Act 2018 (as amended), the Importation of Goods subject to Inward Processing is defined as 'when a liability to import duty is, or on the relevant assumptions would be, incurred'. (TCTA 2018 – Part 3)

It is therefore the definition of HMRC that prior to the release into free circulation of goods subject to Inward Processing Relief, no import duty or VAT has been paid and the item has therefore not been imported.

In accordance with the Trade and Cooperation Agreement, trade and import procedures between the EU and the UK should be neutral in application and be administered in a fair, equitable and transparent manner. Within the EU, it is accepted that goods under inward processing are not in Free Circulation and are not subject to domestic regulations (such as EU REACH).

By adopting competing definitions of 'Import', the UK REACH regulation has infringed upon the neutrality of goods held under the Customs IP facility and disadvantaged GB based businesses against their EU equivalents.

UK REACH Regulations should not apply to goods that have not yet met the HMRC definition of 'Imported' until such time as these products enter into free circulation.

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