

Minutes of the JCCC Duty Liability sub-group meeting
Date of Meeting: 18 February 2021
Teams: 10.00-12.30

Attendees

TRADE

Howard Levene (HL)
Paul Wrighting (PW)
Barbara Scott (BS)
Gavin Roberts (GR)
Steve Bartlett (SB)
Ronnie Bennet RB)
Corinne Nabavi (CN)
Pawel Jarza (PJ)
Lorenzo Rossetti (LR)
Ian Worth (IW)

HMRC

Hazel Batter (HB) (*chair*)
Kate Wood (KW) (*secretariat*)
Lisa Carter (LC)
Nigel Mooney (NM)
Steve Lamprell (SL)
Sharon Bowyer (SB)
Maria Millard (MM)

Trade apologies: Liam Smyth, Andy Miller, Mike Alexander.

HMRC apologies: Philippa Evans, Dave Knight, Mark Grace.

Minutes of Last Meeting

The minutes of the previous meeting of November 2020 were agreed and were published on gov.uk on the 1 March 2021.

Update on Previous Action Points

AP	Subject	Action Point(s)	Owner	Status
1	Origin	Cambodia zero duty from Jan 1 st	SL	Discharged. Included with DIT replies
2	Origin	Life of preference certificates	SL	Discharged. See below
3	Origin	Origin certificates issued post Jan 1 st will still be valid in the UK	SL	Discharged. Accept certs before end of transition for 12 months to cover goods in transit or in warehouse.
4	General Update	To confirm when updated guidance goes live on gov.uk	KW	Discharged. Sent update with minutes of meeting.
5	DIT	Questions for DIT	HB/KW	Discharged. List compiled and sent for response. Received and distributed

MAIN AGENDA

1. ORIGIN

SL All were invited to the JCCC presentation with Julian Ainley. The slides were distributed to attendees. Questions were used to improve current guidance.

GR Asked what the main issues were in the new environment.

SL Lots of questions surrounding origin, particularly concerning the movement of goods via distribution hubs in mainland Europe and moving goods to the Republic of Ireland. There have been some issues around Parcel operators and getting trade to understand preference/reliefs and the meaning of originating goods. It has also been a challenge repeating we are no longer in the single market and continuing to ensure the ongoing questions are addressed by gov.uk guidance.

PW Declaration in the guidance gives the impression that it can include EU goods and refers to out of date notices. **AP1 – SL to review guidance referenced by PW**

SL Guidance is constantly being reviewed, working with other government departments as appropriate but we will review this point in the guidance and the notice references. **AP2 - All to send any further feedback via KW**

LR praised the quality of the guidance at this early stage of leaving the EU and pointed out miscommunication outside of the department as an issue. Wondered whether a session to go through the TCA to establish meanings and reach a common standing would be possible.

CN There have been significant costs using procedures that are not needed. Education required from EU to the UK to understand processes and legislation.

SL Raising questions with TAXUD and HMT

Questions & discussion items

- i. **CN** - GSP/FTA goods which are sent direct to a Customs Warehouse in the EU and are then unpacked and sent either to the EU or the UK. For the goods sent to the UK, can GSP / Preference still be claimed and if yes, what documentation is required? It is not possible to go back to the original exporter of the goods to get them to issue individual statements for each re-export. A policy decision is needed as a lot of clients are requesting information on this issue.

SL Goods in free circulation in the EU will need proof of origin as required in the EU. If goods are re-consigned to the UK, they will need proof of origin required in the UK. Dual proof of origin certificates will be accepted as opposed to retrospective submissions. A certificate of non-manipulation could be requested by the importer/exporter, although other evidence such, as serial numbers or customs warehouse documents, should be acceptable.

- ii. **LR** UK GSP origin statements - key issue is the requirement that a GSP origin declaration appears to require elements that may not be available to the exporter, e.g. country of transshipment etc. There are two key questions; are all 18 elements required? and can elements 2,6 and 8 refer to the Bill of Lading?
SL Information provided must be enough evidence to support the origin of the goods. Information on notices on gov.uk. Feedback on notices/legislation welcomed. On elements 2,6 and 8, no need for repetition, so yes Bill of Lading can be referenced.
- iii. **BS** Where third country goods in an EU customs warehouse can retain their origin status under a UK-third country FTA, or alternatively GSP goods being shipped through an EU customs warehouse, we understand that it is a requirement to get an origin statement from the third country for the goods that are to be imported into the UK. Has this been agreed with the third countries concerned? Traders are concerned that, if a shipment has left a country with a declaration of preferential origin for the EU, the original supplier will be reticent to then provide an additional UK declaration for part of the consignment. **BS** content response covered by previous discussion.
- iv. **BS** Where goods are in a customs warehouse in the EU, having been sourced from, say Morocco and Turkey and Vietnam, in various consignments, and are brought to the UK in one consignment, does there need to be an origin statement/document from the suppliers for each part of the consignment? **BS** content response covered by previous discussion.
- v. **BS** If a UK business imports raw material from a related party, which is used in the production of a finished good that needs to meet a MaxNOM product specific rule of origin, I understand that a retrospective transfer price adjustment would mean the MaxNOM needs to be revisited, retrospectively. If it is found to affect the origin of the goods supplied/exported, how should this be handled? **AP 3 SL/HB to take away and discuss**

2. TCA GOODS ARTICLE 8

IW Whilst we are being told that this does not replace or override the provisions for Special Procedures, it seems that if that is the case, it's inclusion in the TCA is unnecessary / superfluous. The implication is that it is included in the TCA for a reason, so please can we have some clarity on whether GOODS-8 can be used for repairs without the obligations of IP?

LR The repair provisions must be there for a reason. It feels like a simplified approach under the TCA – the question is how do you access it? Statements on Origin and claiming the 0% duty? What it does not appear to do is to deal with the

Import VAT issue and recovery by a non-owner – so maybe IP is still needed in the repair country

HB The special procedures policy team have been looking in to this. New guidance will be out in a few weeks, but it may not go into the detail around Import VAT at this stage. The policy aim is to put a simpler process in place via declarations.

3. CLASSIFICATION

BE New advanced tariff rulings system and ATaR applications up and running. Any BTI that was valid on Nov 2020 will have been transitioned in to an ATaR. Traders were contacted and asked if they wanted the BTI to be transitioned. If they didn't, it would have been cancelled.

GR asked how to view ones that have been transitioned?

BE Old BTIs are not currently available to view on-line. Comms were put out to traders advising this, but we are working hard to see if these can be made available to view.

Questions & discussion points

- i. **CN** UK BTI's which have been removed from Europa, will these be made available on the internet? If yes, do you know when? **CN** content response covered by previous item
- ii. **BS** Why is there 120-day approval period for ATaRs?
BE 120 days has always been provided for under UCC legislation. Despite that provision, HMRC have historically issued tariff rulings significantly sooner than that timeline. A 120-day period for issuing ATaRs is provided for in UK legislation. Current levels of applications are high, but we are working hard to clear those as soon as we can.
- iii. **BS** Members who applied for BTIs last year still do not have their ATaRs and have no means of seeing them online.**BS** content covered by previous discussion
- iv. **BS** There needs to be a place on the application form to advise HMRC that a representative is applying on behalf of the trader.
BE currently, the ATaR and registration journey system does not allow for this. We are seeking to get this changed via the registration process.
- v. **GR** Can HMRC still issue Irish BTI's?
BE we are no longer an EU system user, so there is a different trader validation journey now. Process and guidance can be found here:
<https://www.gov.uk/guidance/apply-for-a-binding-tariff-information-decision>

- vi. **BE** confirmed HMRC no longer have access to the EU classification customs expert group committee library anymore but members can view minutes from meetings here: [Comitology Register \(europa.eu\)](https://comitology-register.europa.eu/)
- vii. **BS** asked what happens if HMRC don't agree with an EU committee decision
BE- For BTI's we are no longer part of the committee, so cannot influence in the way we have been used to. We can voice a differing opinion regarding UK positions on our rulings, but those conversations would obviously not be in the EU committee. We continue to attend the WCO meetings. **AP 3 BE will issue highlights of WCO meeting in April via KW.**

4. VALUATION

NM SPVs - HMRC have been working with DEFRA on the list of commodities for UK SPVs which was expanded after the end of transition. The new page featuring the commodities and rates have been published on gov.uk here:

<https://www.gov.uk/guidance/check-simplified-procedure-value-rates-for-fresh-fruit-and-vegetables> The list of commodities is also at section 37 of notice 252

NM Notice 252 notice has been made UK specific and was published on 1st January 2021. More work is being done to develop 252 that we were unable to do for 1 January due to time constraints. There are no plans to remove details, just to make it more user friendly.

Questions & discussion points

- i. None raised

5. TARIFF

Questions & discussion points

- i. **LR** Enquired on **PE** session on the Tariff file.
HB A successful conversion has been carried out. A couple of final tests are being done and it is expected that we will be able to send out a new Electronic Tariff File tomorrow. This will be sent via the current contact list of those who used to receive the file from us directly. If you would like any additional email addresses added or alternative ones substituted please let us know by sending an email to: tariffmanagement@hmrc.gov.uk and copying in brian.gibson@hmrc.gov.uk.
- ii. **GR** asked for a list of differences between the UK and EU tariffs. DIT analysis currently ongoing. **AP 4 HB to check and report back.**

6. GUIDANCE

Questions & discussion points

- i. **CN** The UK Customs Legislation is consolidated on gov.uk [here](#). This was last updated on 31st December, but I cannot see that SI2020/1457 & SI2020/1433 (made on 16th December) have been published on the website. Is there a reason for this?

HB confirmed that the SI's mentioned are on gov.uk and linked from the legislation page. The guidance team are working on getting them published on the main page and recognise the difficulty in navigating. The pressure of time was unfortunately a contributing factor.

- ii. **CB LR** and **BS** felt legislation is messy and hard to navigate.

HB Complexities around correlating the UCC to UK legislation as the vires are drafted very differently and as ever, application depends on the context.

- iii. **CN** I have a concern that Customs guidance is issued on web sites rather than on the old system of either Public Notices or CIP's. As it is more difficult to save the information from a web page to refer back to in case of a dispute than it is to refer back to a Public Notice or CIP, what is the process of keeping up to date with information that is published by Customs and when it is amended?

HB Guidance team have confirmed that CIP's are on national archives website for when they drop off gov.uk. Link here:

<https://webarchive.nationalarchives.gov.uk/201803011111053/https://www.gov.uk/government/collections/customs-information-papers--2>

There is an alert service on gov.uk where you can set up relevant subject alerts and subscribe to weekly trader bulletins. Anyone not subscribed to the weekly bulletins can do so here:

https://public.govdelivery.com/accounts/UKHMRCED/subscriber/new?topic_id=EU_Exit

The bulletins contain FAQs about the new rules and processes for trading with the EU and signposting to more information and support. Letters also go to all VAT registered GB-EU traders. Next one due early March. All letters are published here:

<https://www.gov.uk/government/publications/letters-to-businesses-about-new-trade-arrangements-with-the-eu-from-1-january-2021>

7. AT RISK GOODS

IW When goods are shipped to NI, deemed to be "at risk", under what circumstances, and how, can duty paid on these movements be recovered.

HB New guidance is due out in few weeks.

8. AOB

CN asked if drawback on the TCA allowed? **AP 5 SL to provide a response**

Next Meeting: TBA (w/c 8 June, date TBC)
Meeting closed at 12.30

Summary of Action Points

AP	Subject	Action Point(s)	Owner	Status
1	Origin	Review guidance and notices referenced by PW (PW)	SL	Open
2	All duty liability matters	To send any further feedback on origin (or any other Duty Liability guidance) via KW	All	Open
3	Origin/Valuation	What is the effect of retrospective transfer price adjustment on MaxNOM origin rules (BS)	SL/HB	Open
4	Tariff	Can DiT provide a list of the differences between the UKGT and EU tariffs? (GR)	HB	Open
5	AOB	Is Drawback on the TCA allowed? (CN)	HB	Closed. Response sent from Maria Millard