

2nd EU-UK Trade Specialised Committee on Customs Cooperation and Rules of Origin under the EU-UK Trade and Cooperation Agreement

17 October 2022, Brussels

Joint Minutes

1. Opening remarks by the Co-Chairs

The UK and the EU Co-chairs welcomed participants to the meeting.

2. Adoption of the agenda

The agreed agenda was adopted as final, without changes.

3. Adoption of a decision of the TSC on a Procedure for consultation in the case where an importing Party denies the preference (Article 63(3) TCA)

The EU recalled the practical usage of a procedure for consultation in the case where an importing Party denies preferences contrary to the opinion of the other Party confirming the originating status of the product.

The Parties agreed to adopt the Decision which was signed in English during the Committee. Therefore, Decision No 1/2022 of the EU-UK Trade Specialised Committee on Customs Cooperation and Rules of Origin of 17 October 2022 concerning the consultation procedure in case of denial of preferential tariff treatment was adopted during the session.

4. Exchange of information on the Parties' respective customs regimes and border strategies, including legislative developments

The UK outlined the UK policy developments in the area of customs policy, namely as regards the Target Operating Model, Single Trade Window and 2025 Border Strategy.

A strategic policy review of S&S controls and SPS policy is being undertaken by the UK Government. The UK's Target Operating Model will be based on a better assessment of risk and will harness the power of data and technology. The UK Single Trade Window aims to help traders to more easily move goods globally. The UK's goal is to create a seamless new 'digital' border, where technologies and real-time data will cut queues and smooth trade. The UK is committed to the Single Trade Window being fully operational by 2027. The UK thanked the European Commission and EU Member States for preparing EU traders for the migration from CHIEF to CDS by the end of September 2022.

The UK agreed to follow-up in writing to written questions submitted prior to the meeting by the Commission on the implementation of the remaining checks and controls to EU goods and the new Border Strategy.

The EU presented developments in the area of customs legislation since the last Committee meeting, touching on the findings of the UCC interim evaluation and new requirements for e-commerce parcels.

The evaluation showed that the implementation of the Union Customs Code (UCC) is progressively working towards the intended full digitalisation of customs by 2025, though the process is complex and many of the anticipated benefits of the UCC are yet to be realised, because they are dependent on ongoing IT projects. As regards e-commerce, the VAT e-commerce package entered into force on 1 July 2021, eliminating the VAT *de minimis* threshold and requiring formal electronic customs declarations for all goods imported into the EU, regardless of their value. The EU stressed that no further legal change or new requirement is foreseen concerning postal parcels as of January 2023 and that the changes introduced in 2021 remain applicable as regards the necessary customs declaration data requirements.

The EU also mentioned the March 2022 report of the Wise Persons Group and the operational conclusions of that report. Building on the interim evaluation of the UCC, the Wise Persons Group recommendations and other studies, DG TAXUD is considering possible revision of the customs legislation and governance of the Customs Union.

5. Discussion on procedural aspects of rules of origin of the TCA

In a discussion on the procedural aspects of applying the rules of origin of the Agreement, both Parties agreed to work on a form or template to standardise the replies to be provided to a request for verification. Both parties agreed to further technical discussions on this.

On the possibility to have cumulation with EU materials located in the UK before the entry into force of the TCA, the EU noted that internal discussions are on-going on the UK side. The EU and UK agreed to further technical discussions to clarify the legal situation as necessary.

Both Parties concurred that there are on-going reflections on the substantive aspects of the determination of origin related to worn or used clothing. The Parties commit to continue these discussions and clarify the situation. In the meantime, the UK requested an extension of deadline for the denial of preferences notified by the Member State customs for such cases until the matter is resolved.

Following-up on concerns raised by EU operators on the documents on which the statements on origin may be made out, the UK agreed that further clarifications could be considered in the UK guidance. The Parties agree to explore common approaches on the guidance published by both sides, for example on the statements for multiple shipments.

The UK shared with the EU concerns on apparent requests by EU Member State customs for non-manipulation certificates, as the only document to demonstrate compliance with the non-alteration rule. The EU confirmed that those certificates are not the only document that can be used. A note was sent round to all Member States to recall the evidence that can be used to prove non-alteration.

6. Guidance on a definition of active cathode materials

The EU confirmed its willingness to engage on guidance for operators on the definition of ‘active cathode materials’ for electric vehicle batteries. The guidance would provide explanations and practical examples. The definition will need to account for both current and future battery technologies, while being sufficiently clear and implementable.

Considering the necessity to provide this guidance well ahead of the 1 January 2024 deadline where the new rule for electric vehicle batteries will kick in requiring the origin of the active cathode material, the Parties agreed to step up further technical discussion over the coming months, based on a first draft to be produced by the UK and after the Parties have undertaken further consultations with respective EU and UK industries. The Parties aim to publish the guidance by spring 2023.

7. Technical adaptation of the Product Specific Rules (PSR) annex to the 2022 update of the Harmonised System (HS)

The EU explained that a draft technical adaptation of the Product Specific Rules has been prepared with the necessary amendments, considering the change in the Harmonised System of 2022. After consultations with Member States, the draft will be discussed with the UK. The EU committed to follow-up quickly with the UK on this necessary adaptation.

8. AEO mutual recognition – State of play

Both Parties took stock of the good cooperation regarding the mutual recognition of Authorised Economic Operators and the smooth operationalisation of the automated exchange of data since December 2021. The Parties confirmed the compatibility of the AEO systems.

The EU raised the need to have joint on-site validation visits when the UK implements ENS requirements at import. The UK agreed that such visits can take place.

9. Exchange of views on customs enforcement of intellectual property rights (IPR)

The Parties exchanged views on the customs enforcement of intellectual property rights under the EU-UK TCA at their respective external borders. The Parties agreed that IPR risks are global and important, the risks of infringements having consequences for the health and safety of consumers.

The EU shared that out of the total IPR infringements to be detained at EU borders in 2021, less than 1% were detected as coming from the UK. The EU and UK agreed to exchange further data specific to detentions at the border of goods from either party and on the types of goods being detained.

10. Implementation of the Protocol on Mutual Administrative Assistance on Customs Matters – State of play of exchange of information

The Parties took stock of the exchange of MAA information as provided for under the Protocol. The Protocol is recognised as an important tool for the protection of each Party’s customs regime and to combat fraud. The Parties are committed to exploiting the Protocol

fully and noted they have agreed that excise data can be exchanged if the case is linked to customs related procedures or a potential customs infringement.

The Parties confirmed the exchange of updated lists of MAA contact points prior to the meeting.

11. Conclusions and next steps

Co-chairs concluded the meeting. Follow-up technical meetings are required on various aspects of rules of origin, including cathode active materials and HS 2022.

12. Closing remarks

Co-chairs agreed on the draft operational conclusions for each agenda item.

Annex 1 – Participants of the Second Meeting of the Specialised Committee on customs cooperation and rules of origin

EU Delegation (31 participants)

- EU Co-Chairs of the Trade Specialised Committee
- European Commission Officials
- Representatives of EU Member States

UK Delegation (47 participants)

- UK Co-chair of the Trade Specialised Committee
- UK Government Officials from HM Treasury; HM Revenue & Customs; Foreign, Commonwealth & Development Office (including UK Mission to the EU); Department for Business, Energy, and Industrial Strategy;
- Government of the Isle of Man Officials
- Government of Jersey Officials
- Government of Gibraltar Officials
- Welsh Government Officials
- Scottish Government Officials
- Northern Ireland Executive Officials