



---

# **Customs Fundamentals One-day Intensive Training**

---

Tuesday 11 September 2018

While every effort is made to ensure that the information outlined in this material is accurate, the Irish Tax Institute and the authors can accept no responsibility for loss or distress occasioned to any person acting or refraining from acting as a result of the material published herein. Any views or opinions expressed are not necessarily subscribed to by the Institutes. Professional advice should always be sought before acting on any topic covered in these notes.

Irish Tax Institute and the crest logo are trademarks of the Irish Tax Institute  
© Irish Tax Institute 2018 unless otherwise stated.

All rights reserved. No part of this publication may be reproduced or transmitted in any material form or by any means, including photocopying and recording, without the prior written permission of the copyright holder, application for which should be addressed to the publisher. Such written permission must also be obtained before any part of this publication is stored in any medium by electronic means including in a retrieval system of any nature.



---

# Customs Fundamentals

---

Presented by

John O'Loughlin



&

Ruud Tusveld  
(formerly PwC Netherlands)



## Agenda

### 1. Introduction to Customs

- History & evolution of customs duties
- How customs duty interacts with supply chains
- Basic principles of customs duties

### 2. EU Customs Legislation

- Introduction to the Union Customs Code (UCC)
- The Legislative Framework
- How Customs is Global – WCO & WTO Context

### 3. Customs Technical

- Introduction to 'Duty Drivers': Classification, Valuation & Origin
- Calculating Customs Duty
- Other Considerations When Importing/Exporting

### 4. Customs Procedures

- Introduction to Customs Procedures
- Application of Customs Procedures on Importation
- How to Apply for Customs Procedures

### 5. Customs Declarations & their Importance

- Roles and Responsibilities
- Incoterms
- Recordkeeping
- Obligations & Compliance
- Customs Penalties
- EU Customs 2020 Strategy

## Agenda

Irish Tax  
Institute

### 6. Other Customs Considerations

- Export Controls
- Binding Rulings
- Remedies for Customs Disputes & Appeals

### 7. Authorised Economic Operator

- Overview & Concept
- The Application Process
- Benefits
- AEO in the Context of Brexit

### 8. Brexit

- The Current State of Play
- Business Awareness
- Supply Chain Implications
- Day 1 Readiness – Operational & Functional Aspects

### 9. Revenue's Approach to Customs

- Revenue Resources
- Use of Technology – controls and risk management programmes
- Revenue Customs Audits
- Preparation for a Customs Border

### 10. The Business Perspective – Panel Discussion

- Panel Discussion
- Q&A Session

pwc

## Introductions...

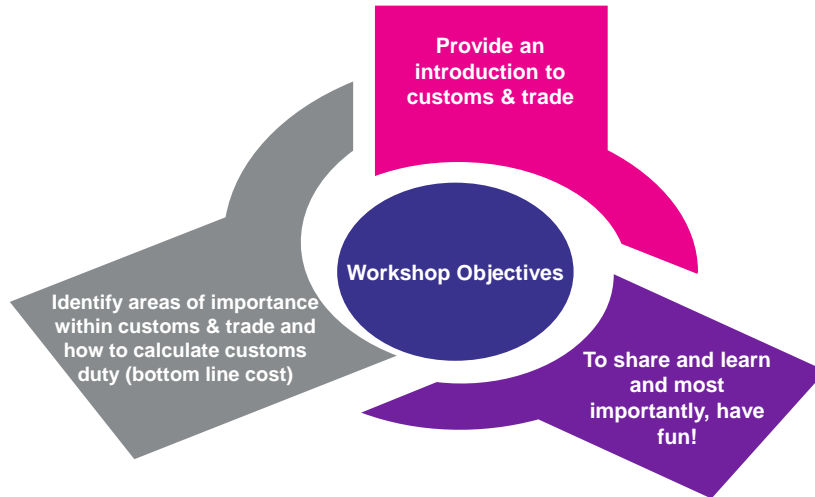
Irish Tax  
Institute



pwc

## Workshop Objectives

Irish Tax  
Institute



  
pwc

Irish Tax  
Institute

## 1. Introduction to Customs

# How Customs Interacts with Supply Chains

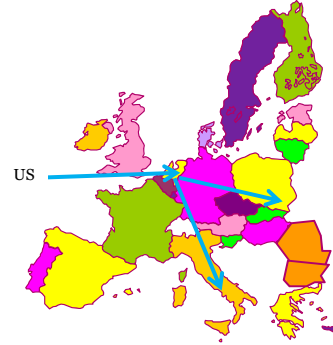
## Examples



Brazilian manufacturer sells to an Irish principal, who then sells to a US customer, while goods are delivered to a US customer

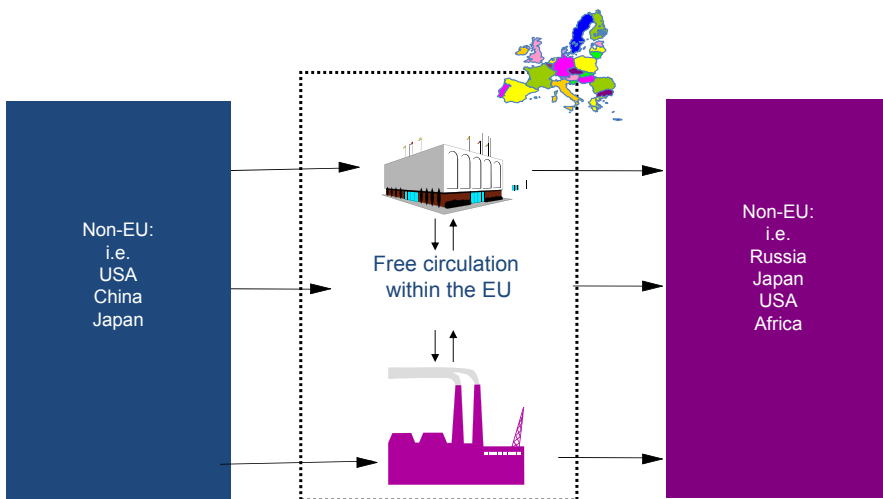


Spanish olive oil company supplies olive oil to Germany via a Swiss principal



Irish company purchases goods in the US and sell them via a Dutch distribution centre to EU & non-EU endmarkets

# Goods Flow is Leading





## History & Evolution of Customs Duties

Irish Tax  
Institute

- Oldest system of taxation
- Can be a significant cost and business inhibitor
- Duty rates declining in developed countries
- Major revenue source in developing countries
- Significant compliance burden
- Transaction tax: "If it moves, tax it"
- A self-assessment tax in most EU States



pwc

## What are Customs Duties and Who Pays Them?

Irish Tax  
Institute

- All goods imported into a destination country are subject to duty or duty-free entry in accordance with their tariff classification (also known as a commodity code)
- *Ad valorem* rate – most often applied, a percentage of value of the merchandise (e.g. 5% *ad valorem*).
- Duties are often a hidden and ignored cost in the supply chain



pwc

## When Products Cross Borders

Irish Tax Institute



### Manufacturer

- Releases finished goods from factory
- Issues invoice and packing list to Buyer/Importer
- Goods move via inland freight to port of export



### Shipper

- Goods loaded onto ship/plane/truck
- Bill of lading issued
- Goods leave country of export



### Customs Clearance

- Entry document package includes: entry declaration form, commercial invoice, packing list, and bill of lading.
- Additional documents may include FTA certificates, import license (e.g. FDA regulated products), and other misc. documents



### Importer

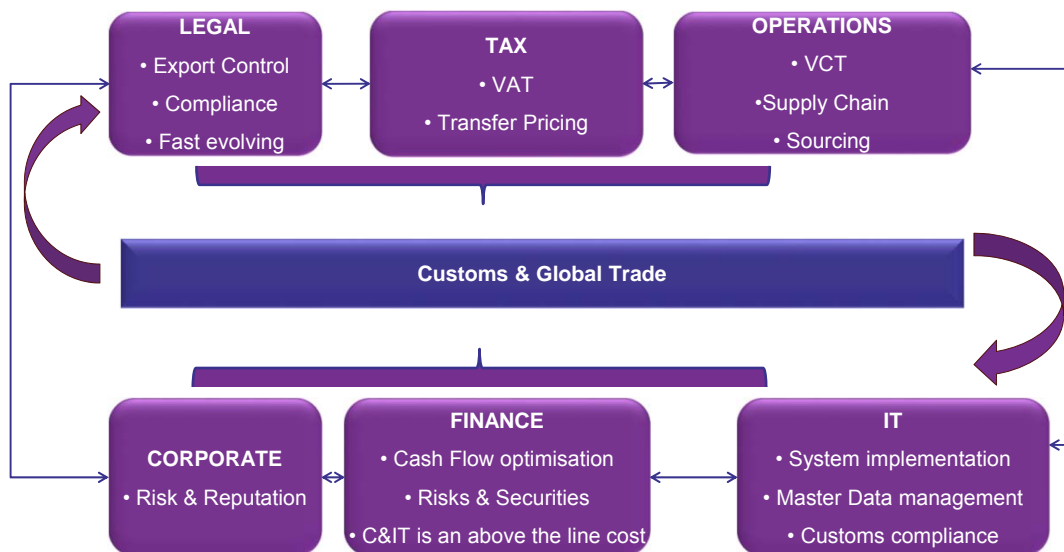
- Declares goods to customs authorities
- Receives goods into inventory and onward sells goods to customers

***For every export, there is a subsequent import***

pwc

## Customs Functional Environment

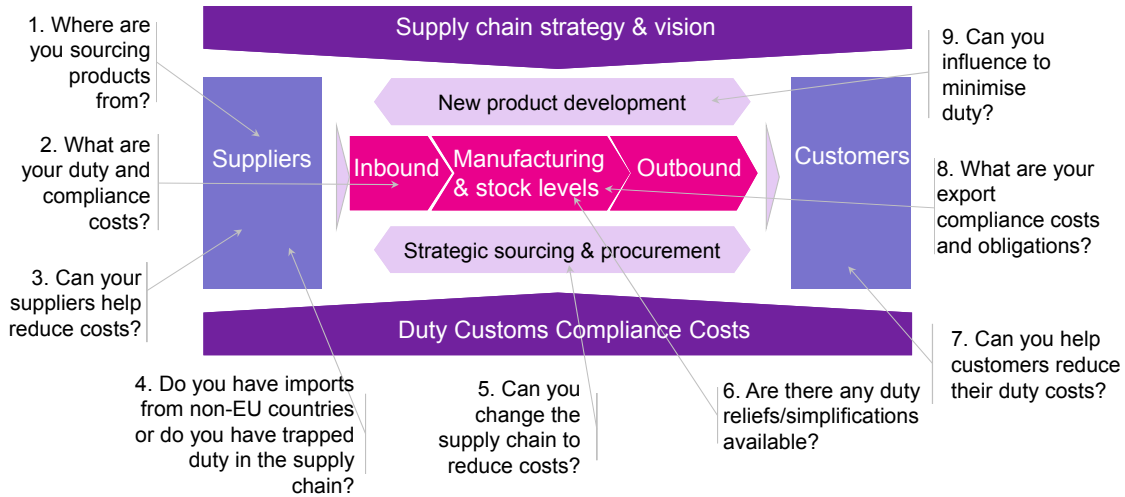
Irish Tax Institute



pwc

## “Customs and Trade” Environment

Irish Tax Institute



pwc

## Customs is NOT Stand Alone

Irish Tax Institute

- Directly related to the supply chain
- Although only certain concepts are globally driven (tariff / valuation), also the local concepts & procedures (once understood) are all similar/alike (with local differences in specific rules/ conditions/choices/applications/controls)
- Customs (by its nature) is not (only) a local issue but an international topic
  - requires understanding of local rules, procedures & provisions next to the international context (WTO/WCO/EU)

EU Treaties:	Customs law / legislation of indirect taxes:
<ul style="list-style-type: none"> <li>• Customs Union</li> <li>• Free circulation in the EU</li> </ul>	<p>Regulations:</p> <ul style="list-style-type: none"> <li>- Community Customs Code / Union Customs Code (2016)</li> <li>- Implementing regulation(s) – Tariff</li> </ul> <p>Directives:</p> <ul style="list-style-type: none"> <li>- VAT and Excise Duties (the system) – the law is national</li> </ul> <p>National legislation:</p> <ul style="list-style-type: none"> <li>- Customs Law, VAT Law, Excise Duties Law</li> </ul>

pwc

## Basic Principles

Irish Tax  
Institute

*Many rules & regulations but some fundamental principles are embedded rather than formulated in articles*

*These principles are crucial to understand the specifics later on*



pwc

## Basic Principles

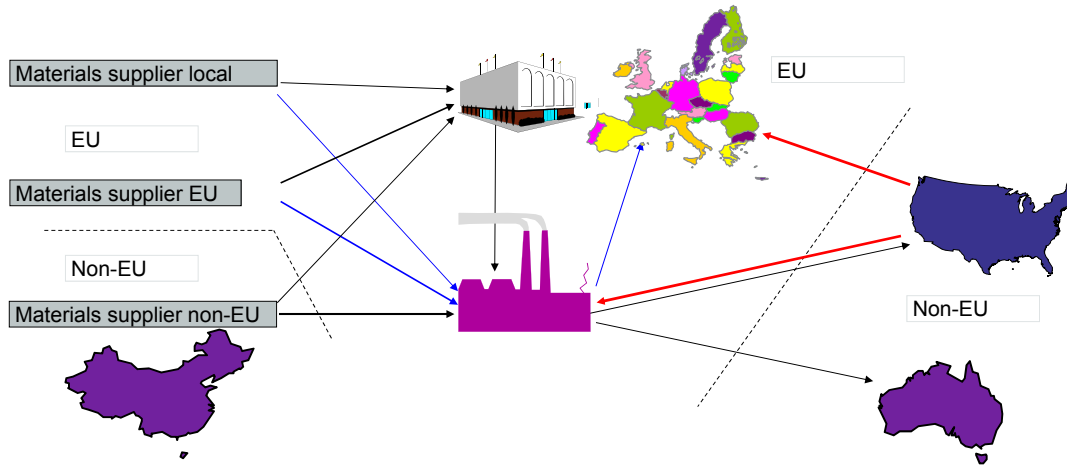
Irish Tax  
Institute

- In most countries on the globe:
  - Import means definitive payment of duties
  - Main exception: general draw-back system – US
- Thus, systems are in place to suspend duty / prevent duty payment
  - products only have to be “customs cleared”, once the local destination is known/definitive



pwc

## As International Goods Flow...



Cross-border movements can place objectives and requirements to make multiple duty payments

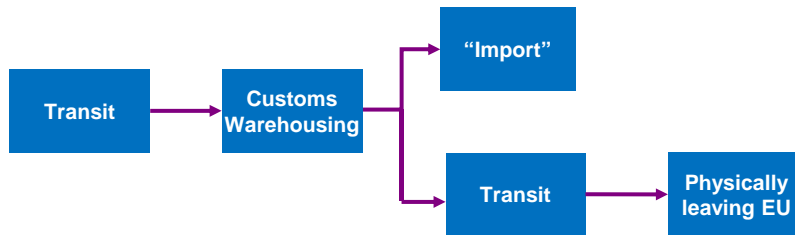
## Basic Principles

- In most countries on the globe:
  - Import means definitive payment of duties
  - Main exception: general draw-back system – US
- Thus, systems are in place to suspend duty / prevent duty payment
  - products only have to be “customs cleared”, once the local destination is known/definitive
- In the EU, the following customs & special procedures are in place:

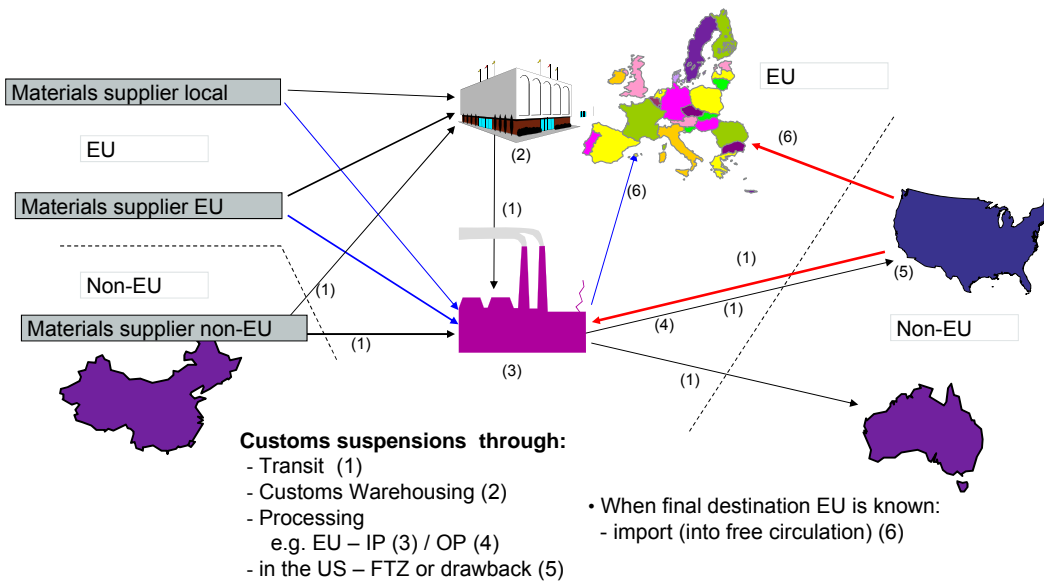
<ul style="list-style-type: none"> <li>• Transit</li> <li>• Warehousing (“bonded warehousing”)</li> <li>• Processing</li> <li>• End-Use (“Specific use”)</li> </ul>	<ul style="list-style-type: none"> <li>• Release for free circulation (“import”)</li> <li>• Export</li> </ul>
---	---

## Customs Procedures

- A customs procedure needs to be ended (cleared)
- This is done by either:
  - Placing the products under a new procedure
  - Payment of duties (import – clearance for free circulation)
  - Products physically leaving the territory



## As International Goods Flow...



## Impact of Customs Duties

Irish Tax  
Institute

Sales Price	100
Cost of Goods	(70)
S, G & A	(20)
<b>Profit</b>	<b>10</b>

  
pwc

## Impact of Customs Duties

Irish Tax  
Institute

Sales Price	100	100
Cost of Goods	(70)	(70)
<b>Customs Duty @ 20%</b>		<b>(14)</b>
S, G & A	(20)	(20)
Profit	10	(4)

  
pwc

## Customs Duty Rates

Irish Tax  
Institute

- Generally 0%-14%, but.....
- Higher rates, plus levies, on agricultural products
- Duties eliminated for
  - Business IT
  - Pharmaceutical
  - Range of other product areas



pwc

Irish Tax  
Institute

## 2. EU Customs Legislation



## General Principles of EU customs

Irish Tax Institute

### The EU "28"

Austria	Italy
Belgium	Latvia
Bulgaria	Lithuania
Croatia	Luxembourg
Cyprus	Malta
Czech Republic	Netherlands
Denmark	Poland
Estonia	Portugal
Finland	Romania
France	Slovakia
Germany	Slovenia
Greece	Spain
Hungary	Sweden
Ireland	<i>United Kingdom</i>

**Brexit**  
Due to invoking Article 50, the UK is expected to leave the EU in March 2019

pwc

## General Principles of EU customs

### The EU Customs Union

Irish Tax Institute

No Intra-EU Duties

Common External Tariff

Common Commercial Policy

Can have restrictions on controlled goods

Can also have national restrictions for public markets and public policy



pwc

## EU Customs Legislation

### *Basic Principles of EU Legislation*



Basic principle:

- Import means definitive payment of duties – release for free circulation
- A system of suspensions through specific customs procedures is also in place. Examples include:
  - Transit
  - Customs Warehousing ('bonded warehousing')
  - Inward Processing
  - Outward Processing
  - Temporary Import
  - End-use
  - Simplified Procedures



## EU Customs Legislation

### *Legal Structure*



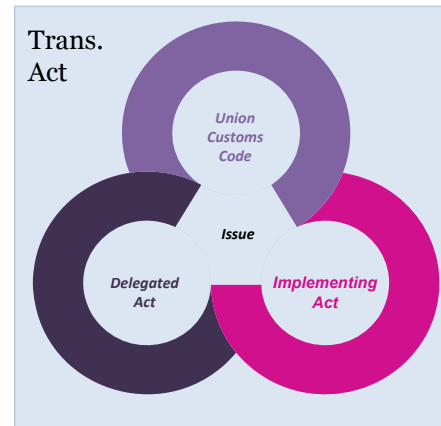
- **General Customs Law**
  - Union Customs Code (Regulation (EU) No 952/2013)
  - Delegated Act (DA) (Regulation (EU) 2015/2446) and Implementing Act (IA) (Regulation (EU) 2015/2447)
  - Transitional Rules
- **Domestic Law**
  - Customs Act 2015
  - Statutory Instruments
- **Penalties**
  - Customs Administrative Penalties (Customs Act 2015)



## At a Closer Glimpse...

### The Delegated & Implementing Acts

- Treaty on the Functioning of the European Union:
  - Article 290, DA, non essential elements
  - Article 291, IA, more complex elements
  - Article 285 UCC – advisory or examination procedure (182/2011)
- Delegated Act - Delegates power to the Commission to:
  - To implement certain non legislative, non-essential elements of the UCC by means of delegation – Commission executes, only consultation of the Member States, no decision/approval of the Member states needed (supervision Council/EP);
- Implementing Act: Implementing power to the Commission to:
  - Execute/implement by means of legislation the essential elements of the UCC – goal: uniform application;
  - Comitology procedure is applicable: Member States decide upon/approve the rules & measures



**Always consult all four Regulations!**

## EU Customs Legislation

### International Law

EU Customs Legislation is based on principles established from international agreements of which the EU is a signatory:



#### EU Treaties

- Treaty on European Union
- Treaty on the Functioning of the European Union



#### World Trade Organisation (WTO)

The WTO facilitates trade between nations. The ultimate goal of the WTO is to achieve free trade between signatories through international trade agreements of which their rules are binding.

International agreements include:

- General Agreement on Tariffs and Trade (GATT) 1994; and
- Customs Valuation Code



#### World Customs Organisation (WCO)

The WCO facilitates the implementation and maintenance of customs systems and procedures. It heads a number of systems that are harmonised across all 170 members, such as:

- Harmonised System
- Kyoto Convention
- Other Conventions (WTO's Agreement on Customs Valuation & Rules of Origin)

## WCO & WTO

### Harmonising Trade Rules in a Global Environment

Irish Tax  
Institute

- General Agreement on Tariffs and Trade (GATT) – 1948
  - Updated in 1994 (GATT 1994)
- Evolved in to World Trade Organisation (WTO) – 1995

#### Overarching Principles

- Tariff:
  - Harmonised System
  - “most favoured nation (MFN) principle”
- Except Free Trade agreements, Customs Unions, unilateral preferential agreements
- Bound rates (significant in relation to Brexit)

#### Overarching Principles

- Dispute Settlement Mechanism:
  - Disputes between Members only
  - WTO Panel (first instance international Courts)
  - WTO Appellate Body (World Trade Court)
  - Significant mechanism relating to trade wars (i.e. Trump tariffs on steel)

pwc

## WTO Agreements

### Relevant to Customs

Irish Tax  
Institute

- Customs valuation agreement (CVA)
- Rules of Origin Agreement
- Anti-dumping Agreement
- Non-fiscal customs rules on aspects such as:
  - Agriculture,
  - sanitary & phytosanitary measures,
  - technical standards / issues,
  - import licensing,
  - safeguards,
  - subsidies & countervailing measures



pwc

## Brexit & the WTO



### **What does a move to World Trade Organization (WTO) standards mean...**

- Goods moving between the UK and the EU or Ireland would be subject to tariffs at the normal EU rates, and non-tariff barriers such as customs administration charges would apply.
- Goods moving from the EU or Ireland to the UK would be subject to tariffs, but the rates would be dependent on the UK's policy and whatever agreement the UK secures at the WTO.
- The free movement of people will be determined by whatever agreement is made - with a strong belief that a deal on the Common Travel Area is possible.

#### UK to EU (Current EU rates)

Product Type	Min Duty	Max Duty
Ice Cream	17.80 % + 6.90 EUR / 100 kg	7.90 % + 54.00 EUR / 100 kg
Deodorants	6.50%	6.50%
Tea	0%	3.20%
Detergents	4%	4%
Pet food	0%	12%
Chocolate	8%	18.7 % +ADSZ *
Biscuits	8%	20% +ADSZ *

#### EU to UK (Current WTO rates)

Product Type	Min Duty	Max Duty
Current WTO rules due to apply.		



### **3. Customs Technical:**

*Goods Released for Free Circulation within the EU*

## Duties At Import

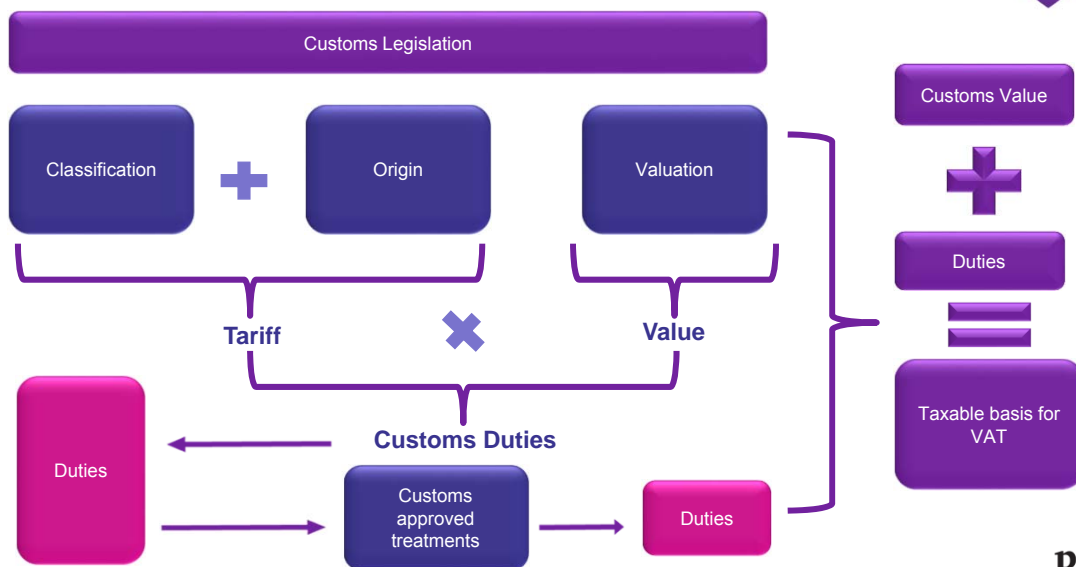
### Type of duties



- Import duties
  - **Customs duties**
  - Agricultural levies (incorporated in import duties)
  - Anti-dumping duties
  - Anti-subsidy levies
- Excise duties (alcohol, tobacco, mineral oil)
- VAT at import
- Variety of other import charges

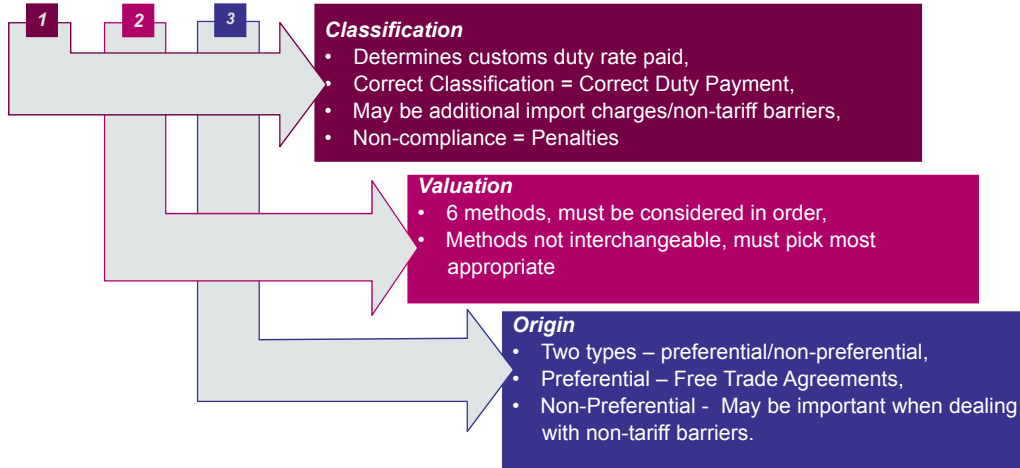


## Customs Duty Drivers



## Customs Duty Drivers

Irish Tax  
Institute



pwc

## Customs Duty Drivers

Irish Tax  
Institute

1. Classification
2. Customs Valuation
3. Customs Valuation & Transfer Pricing
4. Origin
  - Preferential Origin
  - Non-Preferential Origin
5. Other Customs Considerations

pwc

## Classification

Irish Tax  
Institute

$$\text{Customs value} \times \text{Customs duty rate} = \text{Customs duties}$$

### The Importance of Classification

- Legal requirement
- Correct classification = Correct amount of duty
- Determine possible benefits from any preferential duty rates
- Determine any additional import charges
- Determine applicable non-tariff barriers

### What Happens When it goes Wrong?

- Wrong classification could lead to under- or over-payment of duty
- May not be detected by Customs until audit
- Non-compliance with import and export declarations which may result in penalties
- Impact on preferential certification

**CLASSIFICATION**

pwc

## Principles of Classification

Irish Tax  
Institute



pwc

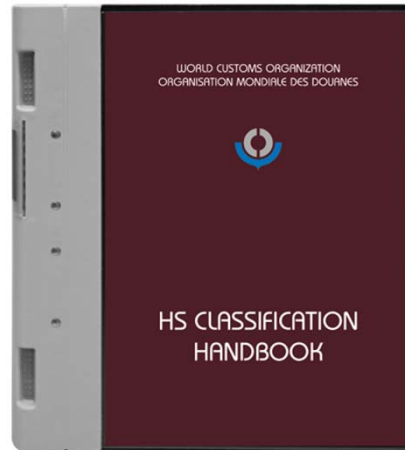


## Overview of the Harmonised System

Irish Tax  
Institute

### What is it?

- “Nomenclature” developed by the World Customs Organisation to provide a numerical and descriptive classification system – known as the HS (or Harmonised System)
- Descriptions not always precise
- Provides **rules** for interpreting the descriptions
- Covers all products traded commercially
- All major trading nations are signatories to the HS and must use it as the basis for their National Tariffs
- EU a signatory and a major influence in the HS Committee



pwc

## Overview of the Harmonised System

Irish Tax  
Institute

### Layout of the HS

#### Hierarchical Structure

- 21 Sections with related Legal Notes (Roman numerals)
- 97 Chapters (one left blank – Chapter 77) – with related Legal Notes
- Approximately 1,250 Headings – 4-digits
- More than 5,000 Subheadings – 6-digits
- All with related descriptions (text)
- Some headings and subheadings have related Legal Notes
- Section and Chapter Structure – generally from raw materials to finished products
  - Animals /vegetables → processed foods → chemicals/plastics → textiles → metals → machinery/ electronics → transport → measuring devices → miscellaneous manufactured products & works of art

pwc

## Overview of the Harmonised System



### Layout of the HS (cont'd)

- Section Notes, Chapter Notes, and Subheading Notes
  - Most Sections and Chapters of the HS are preceded by “Notes”
  - Provide the general coverage, definitions, criteria, instructions on classification of products, etc.
  - Identify specific goods excluded or included
  - These Notes are legally binding
- Heading texts or Subheading texts
  - Identify the merchandise provided for in a heading or subheading by its common, generic or technical name; or
  - Provide for goods not specifically covered through general “catch-all” descriptions – usually “Other”!



## Tariff Classification *Overview of the Harmonised System*



### Structure of a HS code

Example: *“Other Medicaments (excluding goods of heading 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale”*

Section	Description
Section: VI	Products of the chemical or allied industries
Chapter: 30	Pharmaceutical products
Heading: 3004	Medicaments (excluding goods of heading 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale
Subheading: 3004 90	Other



## Overview of Combined Nomenclature



*The Combined Nomenclature is applicable to all 28 EU Member States*

- The EU determines a common duty rate for all 28 Member States by transposing the HS into EU Customs Law
- Implemented by Council Regulation 2658/1987 (as amended) and Annex 1 thereto
- Publishes the duty rates in Annex 1 which is known as the Combined Nomenclature (CN)
- Current CN is Commission Implementing Regulation (EU) 2017/1925 of 12 October 2017 (OJ L282 of 31 October 2017)
- Embedded in the EU customs law in Article 56 of the Union Customs Code (Regulation 952/2013/EU)

- The CN uses two additional chapters – Chapters 98 & 99 (HS only uses Chapters 1 to 97)
- Extends the HS code to an 8 digit level (CN codes)
- Approximately 10,000 different CN codes
- Inserts “Additional Notes” to Sections or Chapters clarifying content of EU subheadings – legally effective
- Amended on an annual basis
- Legally required to be published by the end of October of the preceding year of effect (takes effect from 1 January each year)



## Overview of Combined Nomenclature Structure of the CN



Section	Description
Section: VI	Products of the chemical or allied industries
Chapter:30	Pharmaceutical products
Heading: 3004	Medicaments (excluding goods of heading 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale
Subheading: 3004 90	Other
CN code: 3004 90 00	Other

3004
90
00
= 0%

Chapter
Heading
HS Subheading Code
CN Subheading code



## Overview of Combined Nomenclature

### Structure of the CN

Irish Tax  
Institute

Section	Description
Section: IV	Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured products
Chapter: 19	Preparations of cereals, flour, starch or milk; pastrycooks' products
Heading: 1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:
Subheading: 1905 31	Sweet Biscuits: Completely or partially coated or covered with chocolate or other preparations containing cocoa
CN code: 1305 31 11	In immediate packings of a net content not exceeding 85g

**1905 31 11**

Chapter

Heading

HS Subheading Code

CN Subheading code

= (9 + EA) MAX

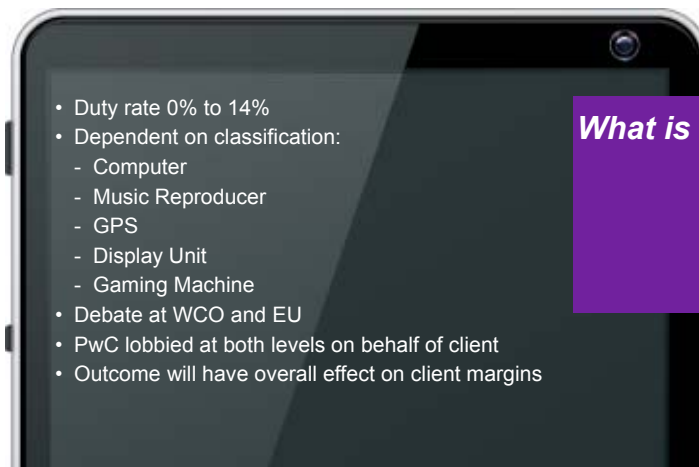
(24,2 + AD S/Z)

pwc

## Overview of Combined Nomenclature

### Structure of the CN

Irish Tax  
Institute



**What is a tablet?**

pwc

## Overview of Combined Nomenclature

Extract from CN Heading 3004:

	- Other, containing alkaloids or derivatives thereof:			
★ 3004 41 00	-- Containing ephedrine or its salts .....	Free	—	
★ 3004 42 00	-- Containing pseudoephedrine (INN) or its salts .....	Free	—	
★ 3004 43 00	-- Containing norephedrine or its salts .....	Free	—	
★ 3004 49 00	-- Other .....	Free	—	
3004 50 00	- Other, containing vitamins or other products of heading 2936 .....	Free	—	
★ 3004 60 00	- Other, containing antimalarial active principles described in Subheading Note 2 to this Chapter .....	Free	—	
■ 3004 90 00	- Other .....	Free	—	

## Annexes to the CN

- Ten Annexes to the CN (only nine are used):

Annex	Description
Annex 1	Agricultural components (EA), additional duties for products containing sugar or flour
Annex 2	Products to which an entry price applies
Annex 3	List of INNS which are duty free by reference to CN code and relevant CAS numbers
Annex 4	Duty-free list of prefixes and suffixes which, in combination with the INNS of Annex 3, describe the salts, esters, or hydrates of INNS provided they are classifiable in the same 6-digit HS subheading as the corresponding INN
Annex 5	Salts, Esters and Hydrates of INNS which are not classified in the same HS heading and as the corresponding INN and which are free of duty by reference to their CN code and CAS reference number.

## Annexes to the CN



- Ten Annexes to the CN (only nine are used):

Annex	Description
Annex 6	List of pharmaceutical intermediates used in the manufacture of finished pharma products which are free of duty by reference to their CN code and CAS reference number
Annex 7	<i>Not used – reserved for future use</i>
Annex 8	Goods unfit for human consumption (denaturants)
Annex 9	Certificates
Annex 10	Statistical TARIC Codes



## TARIC



- TARIC is the EU publication of its CN which is expanded to take account of additional trade measures: anti-dumping duties, quotas, restrictions, etc. (legal basis is in Council Regulation 2658/1987)
- TARIC code is mandatory for all imports HS (6 digits) → CN (8 digits) → TARIC (10 digits minimum)
- In addition to 10 digit code, TARIC stipulates a 4-digit code for certain agricultural and pharmaceutical products → 14-digit code
- TARIC is updated on a daily basis and is only available online
- [http://ec.europa.eu/taxation\\_customs/dds2/taric/taric\\_consultation.jsp?Lang=en&redirectionDate=20110803](http://ec.europa.eu/taxation_customs/dds2/taric/taric_consultation.jsp?Lang=en&redirectionDate=20110803)

Example:

**3004 90 00 00**

TARIC Code



## TARIC

TARIC code 3004 90 00 00:

### SECTION VI PRODUCTS OF THE CHEMICAL OR ALLIED INDUSTRIES

#### CHAPTER 30 PHARMACEUTICAL PRODUCTS

- 3004** Medicaments (excluding goods of heading 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale : <sup>(TN701)</sup>
- 3004 10** - Containing penicillins or derivatives thereof, with a penicillanic acid structure, or streptomycins or their derivatives
- 3004 20** - Other, containing antibiotics  
- Other, containing hormones or other products of heading 2937 :  
- Other, containing alkaloids or derivatives thereof :
- 3004 50** - Other, containing vitamins or other products of heading 2936
- 3004 60** - Other, containing antimalarial active principles described in Subheading Note 2 to this Chapter
- 3004 90** ▾ - Other

#### ERGA OMNES (ERGA OMNES)

- | Restriction on entry into free circulation (01-01-2010 - ) (CD593) (O2006) [R1005/09](#)
- [Show conditions]
- | Import control - CITES (04-02-2017 - ) (CD370) [R0160/17](#)
- [Show conditions]
- | Import control on seal products (18-10-2015 - ) (CD603) [R1850/15](#)
- [Show conditions]
- | Third country duty (01-01-2002 - ) : **0 %** [R2031/01](#)
- | Airworthiness tariff suspension (01-01-2008 - ) : **0 %** (CD333) [R1147/02](#)

## Tariff Classification Recap

As previously stated...

- HS codes are harmonised to 6 digits
- Members who have subscribed to the HS system are not allowed to alter any part of these 6 digits and their associated text
- Therefore, a product in the US and EU will have the same first 6 digits
- However, can differ beyond 6 digits (which is dependent on the structure of national customs legislation)



**EU tariff codes ≠ US tariff codes**

## Methodology to Assist in Classifying Your Products

### *What you need to know and do*

Irish Tax  
Institute

The following are essential steps to undertake in order to gain enough knowledge to determine the classification of the product:

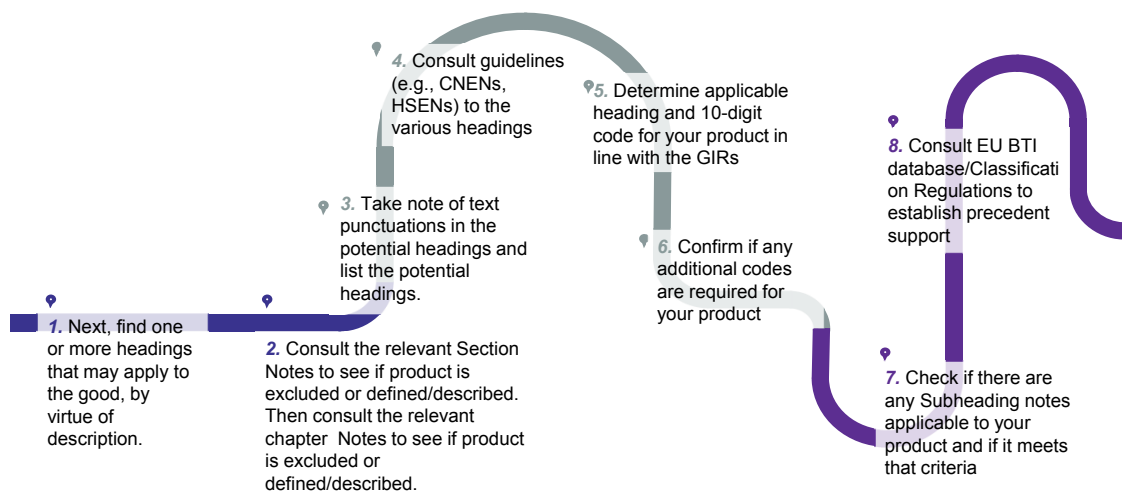
1. What is the product?
2. What materials or substances does it comprise of?
3. What is it used for?
4. What is its function?
5. In what form/format will it be imported?
6. Review its technical specifications
7. Discuss with engineer or chemist (if still unclear)

pwc

## Methodology to Assist in Classifying Your Products

### *What you need to know and do (cont'd)*

Irish Tax  
Institute



pwc



## Methodology to Assist in Classifying Your Products

### *What you need to know and do*

Irish Tax  
Institute

In addition to the legal rules and notes to Sections and Chapters, there are various tools to assist you in arriving at the correct classification:

- HS Explanatory Notes
- CN Explanatory Notes
- BTI precedents
- ECICS chemical classification database
- TARIC



pwc

## Methodology to Assist in Classifying Your Products

### *Justification for your determination*

Irish Tax  
Institute

- 1** Satisfy yourself that your final determination can be justified with legal reasoning from the classification rules, citations from the WCO or EU Explanatory Notes, precedent rulings (Classification Opinions, ECJ judgments, Classification Regulations, BTIs, national court rulings).
- 2** If still doubtful, seek guidance from Tariff Classification Unit, Revenue Commissioners, Nenagh
- 3** Consider whether necessary to apply for Binding Information Ruling (BTI)

pwc

## Tariff Classification

### Points to Note

- Master data is often not adequately maintained, with inconsistent approaches often seen (e.g. U.S. vs EU)
- Lack of ownership and responsibility can lead to both over and under duty payments
- Over reliance on tariff classifications assigned by supplier – accuracy not always 100%
- Outsourcing of responsibility to third party customs broker for tariff classification can create risk
- Incorrect tariff classifications on shipping documentation can affect import declarations made by customers in export markets
- Knock on impact for preferential origin qualification and compliant usages of customs reliefs (e.g. IP)
- Inadequate descriptions on shipping invoice can lead to misclassifications – descriptions must be expressed in terms “sufficiently precise to enable immediate and unambiguous” classification

Irish Tax  
Institute



  
pwc

## Customs Duty Drivers

Irish Tax  
Institute

1. Classification
2. Customs Valuation
3. Customs Valuation & Transfer Pricing
4. Origin
  - Preferential Origin
  - Non-Preferential Origin
5. Other Customs Considerations

  
pwc

## Customs Valuation

### Why is it important?

Irish Tax  
Institute

Customs valuation is the basis for each of the following important activities:



pwc

## WTO Valuation Agreement

Irish Tax  
Institute

### 1950's – Brussels Definition of Value

- 'normal market price' principle - the price that a good would fetch in an open market between a buyer and seller independent of each other price changes & competitive advantages not or late reflected

### GATT valuation agreement

- Outcome of GATT Tokyo Round 1970's
- Goal: determine the customs value in a uniform, objective and fair manner preventing arbitrary and fictitious customs valuation
  - Application not mandatory
- 1995 WTO – since then: WTO valuation agreement
  - Mandatory for members



pwc

## Customs Valuation Methods

### WTO (GATT) Valuation Rules

Irish Tax  
Institute

- 01 Transaction value of goods (purchase price) – most common method
- 02 Transaction value of identical goods
- 03 Transaction value of similar goods
- 04 Calculated value:  
❖ Deductive value method (“resale minus”)
- 05 Calculated value:  
❖ Computed value method (“cost plus”)
- 06 Reasonable means / Fall back

\*Most countries apply the WTO (GATT) valuation definition

\*There are **6 valuation methods** that must be considered in sequence (with the exception of the two calculated value methods which are interchangeable)

\*First **and** most important method is the transaction value method (i.e. purchase price)

\*If a method **can** be used, it **shall** be used, only use of resale minus and cost plus (calculated value) may be switched.

\*Customs **value** to be **declared on import** into the **EU is CIF (value of the goods plus insurance plus freight)**.

pwc

## Transaction Value

### Overview

Irish Tax  
Institute

- For approx. 95% of the imports, the customs value is determined by application of the transaction value method (buy/sell)
- Transaction value generally is the price actually paid or payable for the imported products when sold for export to the EU (see transfer pricing section for transactions between related parties)
- Limited number of costs must be included in the customs value, for example:
  - Means of production, materials and designs that are provided for free (or against reduced prices) by the buyer to the seller
  - **Dutiable Assists**
  - Research & Development costs
  - Commission (with exception of buying commission)
  - **Royalties** (under strict conditions)
  - Packing
  - **Freight and insurance** costs until the place of entry in the EU

pwc

## Transaction Value Additions & Deductions

### Additions

Certain additional costs must be included in the customs value, for example:

- Commissions and brokerage (with the exception of buying commissions)
- The cost of containers classified with the imported goods
- Packing costs
- Dutiable "assists"
- Dutiable royalties/licence fees
- Value of the "proceeds of resale" accruing to the seller
- Transport and insurance costs up to the point of entry in the EU. (Depending on the INCOTERMS used, these costs may or may not already be included in the invoice price.
- Bunker charges
- Currency conversion charges

### Deductions

There are a limited number of costs which may be excluded, for example:

- Exclusive distribution rights (for as far as not related to the goods);
- Finance interest;
- Installation and technical assistance (in the EU);
- Customs duties;
- Transport and insurance costs within the EU;
- Costs of marketing activities (whether direct or indirect).

Note: Costs that, as such, would not be dutiable but are included in the sales price may NOT be deducted!

## Transaction Value Specific Rules

Some costs have specific rules themselves that must be followed:

### Dutiable Assists

**The full value of materials or services provided for free or at a discount must be included in the transaction value**

- Situations whereby the actual value of the imported goods (or their components) are not reflected in the price paid.
- For example, if imported materials cost you €80. You received €20 worth of materials free.
- Then the transaction value **must** be €100 for customs valuation purposes

**Royalty payments and licence fees incurred by an importer must be added to the price paid if:**

- They "relate" to the imported goods
- The buyer must pay them either "directly or indirectly"; **and**
- They are a "condition of sale"
- Limited number of costs can be excluded (i.e. buying commissions, distribution rights, finance interest, certain charges incurred within the EU)

### Royalties

### Freight & Insurance\*

**Freight & insurance must be included in the customs value**

- Whether or not they are included in the customs value is dependent on the Incoterm (delivery terms) used
- For example, if DDP is used, then the transaction value will include freight & insurance
- If EXW is used, freight & insurance will be separately stated on customs declarations in box 44 and automatically charged against the *ad valorem* rates

## Transaction Value

### Article 128 Implementing Act UCC



**Transaction value** (further defining Article 70(1) of the UCC)

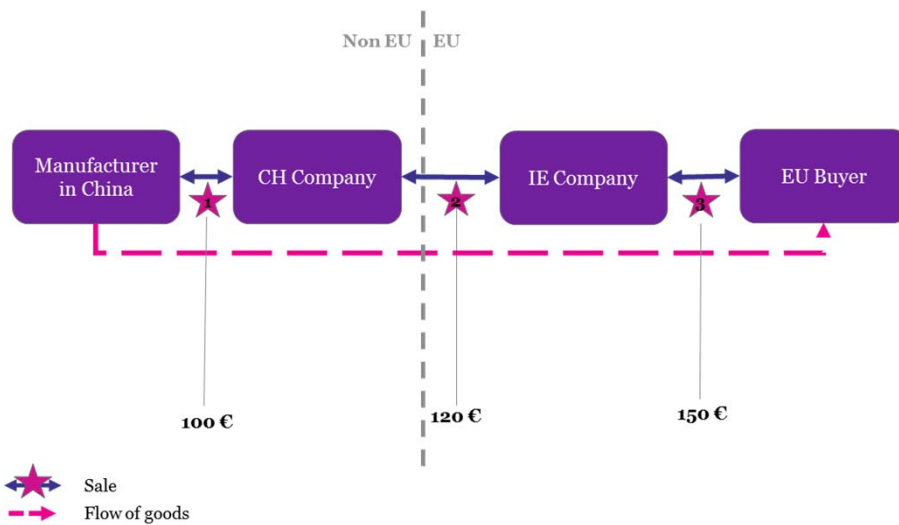
1. The transaction value of the goods sold for export to the customs territory of the Union shall be determined at the time of acceptance of the customs declaration on the basis of the sale **occurring immediately before** the goods were brought into that customs territory.
2. Where the goods are sold for export to the customs territory of the Union not before they were brought into that customs territory but while in temporary storage or while placed under a special procedure other than internal transit, end-use or outward processing, the transaction value will be determined on the basis of that sale.

& Guidance document on customs valuation



## Transaction Value

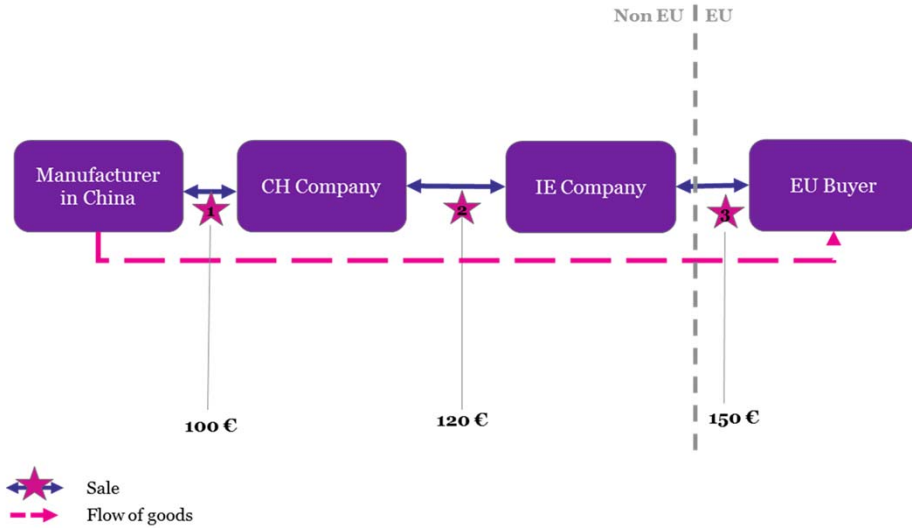
### New Definition – Questions/Discussions Arise



## Transaction Value

*New Definition – Questions/Discussions Arise*

Irish Tax Institute

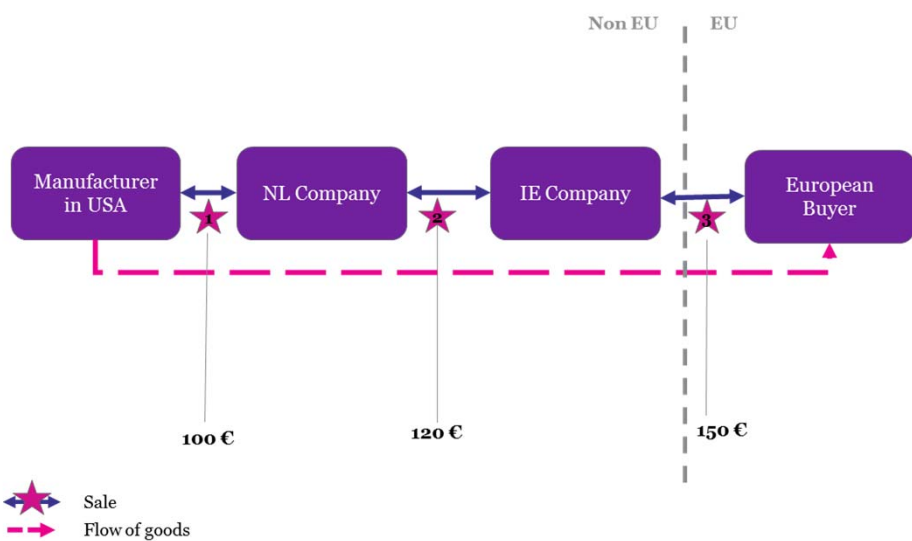


pwc

## Transaction Value

*New Definition – Questions/Discussions Arise*

Irish Tax Institute



pwc

## Valuation of Samples, Returned Goods and Repaired Goods

Irish Tax  
Institute

This is an area where mistakes are often made – usually based on applying incorrect general practice.

### Samples

- Often a €0 customs value is attributed to samples because they are “of no commercial value”
- This is often justified because it is “common practice”. However, it is INCORRECT.
- The customs valuation rules apply to samples – as there is no sale, then one must look at applying one of the other customs valuation methods

### Returned goods

- Often a €0 customs value is attributed to returned goods as they are not dutiable under “returned goods” relief. However, the correct customs value must still be recorded! This will not be €0.

### Repaired goods

- When importing repaired goods, those goods still have an intrinsic commercial value. If that product was being imported normally, the full commercial value would apply at import
- There are specific customs economic procedures to relieve customs duty for repaired goods

  
pwc

## Customs Valuation *Best Practices*

Irish Tax  
Institute

It is recommended that importers consider the following with respect to customs value:

- Related Party Transactions
  - Develop robust customs-focused support to determine whether the price between the related parties is at arm's length
- Transaction Value
  - Maintain stringent controls when invoice value and payment to foreign suppliers differ
  - Capturing all relevant additions to the “price paid or payable”
  - Communicate and handle price adjustments to ensure accurate values are being reported to Customs
  - Establishing pre-determined touch points between Purchasing, Accounts/Payable, and Finance, and Legal departments



  
pwc



## Customs Duty Drivers



1. Classification
2. Customs Valuation
- 3. Customs Valuation & Transfer Pricing**
4. Origin
  - Preferential Origin
  - Non-Preferential Origin
5. Other Customs Considerations



## Transaction Value *Related Parties*



- Transaction value between related parties
- Transaction value is on itself acceptable as basis for the customs value
- On request of Customs it must be demonstrated that the price payable was not influenced by the buyer and seller's relationship. In Transfer Pricing terms, the price must be 'at arm's length'.



## Customs Valuation & Transfer Pricing

### What is transfer pricing?

- Transfer pricing is the setting of a notional transaction value for goods sold between related parties such as inter-company transactions.
- For customs purposes, it must be demonstrated that the price paid/payable was not influenced by the buyer and seller's relationship.
- Therefore, the transfer price set must reflect that the transaction was **not** influenced by the buyer and seller's relationship, or in transfer pricing terms, the price is 'at arms length'.
- **BUT**, there are a number of cost elements that are required under customs valuation rules to be included or added that are not included in the invoice price.



## Customs Valuation & Transfer Pricing

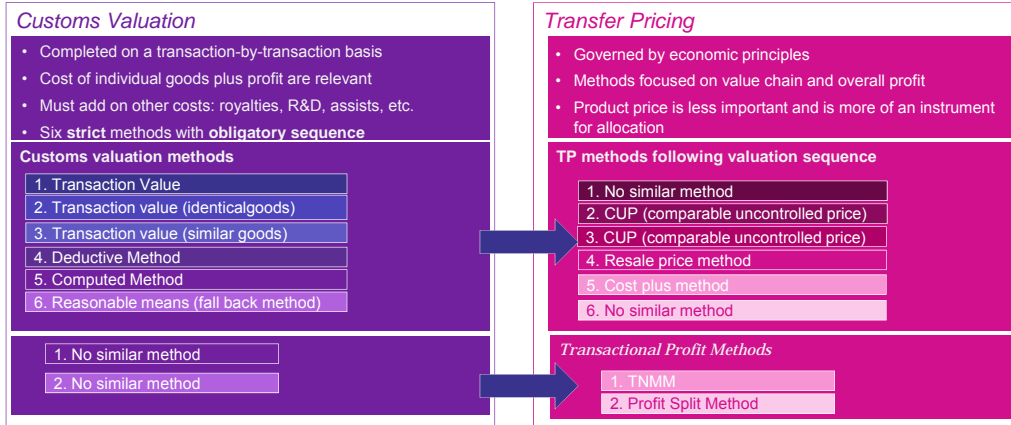
### Rules & Methodologies

- Customs valuation and transfer pricing follow different rules and methodologies in determining an appropriate transaction value.
- Transfer pricing is governed by direct tax transfer pricing regulations. While customs valuation differs from this and has a set of specific rules that have a narrower scope of application.
- The aim of each side is to comply with the arms length principle, which allows for some convergence.

<i>Differences</i>	<i>Transfer Pricing</i>	<i>Customs Valuation</i>
<i>Rules &amp; Regulations</i>	OECD Guidelines	WTO Valuation Code (GATT Valuation Code)
<i>Concept</i>	OECD arm's length concept	Customs arm's length concept
<i>Focus</i>	Overall taxable income	Defining value of specific goods to include dutiable additions
<i>Methods</i>	Transfer pricing methods	Customs valuation methods
<i>Taxable Basis</i>	Net Profit	Transaction Value
<i>Period</i>	Periodical	Transaction by transaction
<i>Factors</i>	Application of capital/function/risks including overall product cost and investment	Price of individual goods and profit including potential assists

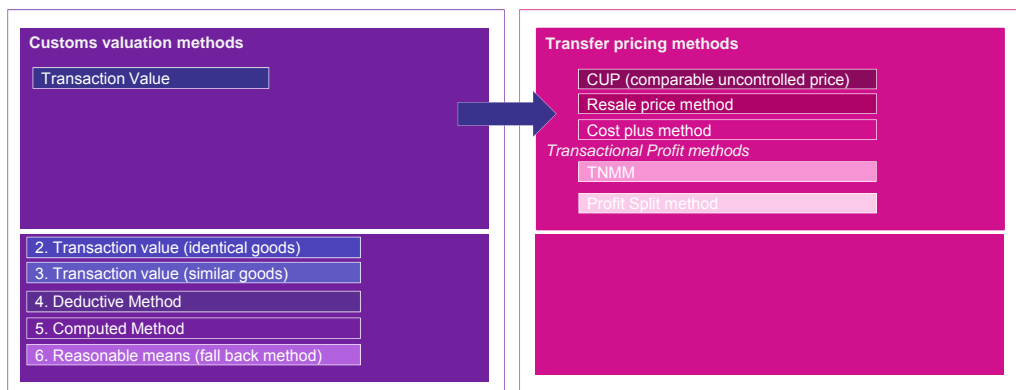
## Customs Valuation & Transfer Pricing Rules & Methodologies

- Each side has different fundamental principles and methods for establishing a transaction value.
- Valuation methods traditionally do not always have equivalent methods in transfer pricing.



## Customs Valuation & Transfer Pricing Rules & Methodologies

- There is no sequencing of TP methods, the one most applicable is used
- As comparable for methods lack on both sides, a more appropriate way of portraying the methods is below which illustrates that the transaction value customs valuation method is **most commonly used** method which results in an arm's length price which is then used by a company



## Customs Valuation & Transfer Pricing

### Issues



- Some of the **main issues** resulting from the methodologies:
  - Transactional based valuation (Customs) versus a pricing methodology more based upon economical principles and not comparable to any of the customs valuation methods (especially TNMM / profit split)
  - Treatment of intangibles
    - IP vs royalties / licence fees
      - › Who is entitled to receive payment vs what is the payment for
      - › Arm's length issue only for TP (level of payment)
    - R & D
  - Retrospective price adjustments



## Customs Valuation & Transfer Pricing

### Transfer Pricing Adjustments



#### **Issues with transfer pricing adjustments:**

- Tax purposes: company's may make periodic adjustments to achieve a target transfer price
- Customs implications: If transfer price adjusted post-import, then adjustment may constitute an admission that the customs value of the imported products was incorrect, leading to a possible underpayment of customs duty & import VAT

#### Practical Items to Note:

- Ensure that all adjustments comply with local laws & practices (these can differ between countries & MS)
- Ensure proper evidentiary documentation is in place: customs authorities may accept transfer pricing studies, inter-company agreements, etc. as justification for the adjustment
- Understanding of local practice is a prerequisite: provisional values may be necessary, inability to make adjustments in certain countries, customs authorities may need to be notified in advance
- Adjustments usually done on a transaction-by-transaction basis: local practice dictates if aggregate adjustments may be accepted or not
- All customs declarations must be amended to reflect the new value. Upwards adjustments result in duty liability but downward adjustments do not automatically result in duty refunds
- Similarly, adjustments should be made on the VAT return in accordance with VAT rules, if applicable.
- Process may have to be agreed with customs authorities in advance



## Customs Valuation & Transfer Pricing

### *Intellectual Property*

Irish Tax  
Institute

- The Transfer Pricing principle, covers large variety of elements for which valuation under Transfer Pricing is difficult
  - Know-how / Technology for production
  - Know-how for marketing
  - R&D
- From a Transfer Pricing point of view, look at the value of the function, costs are less important
- Customs valuation dutiable or non-dutiable costs, how to determine the costs!



pwc

## Customs Valuation & Transfer Pricing

### *Example*

Irish Tax  
Institute

**Reflected as transport means –**  
if the one was a:



pwc

## Customs Valuation & Transfer Pricing

### Example

Irish Tax  
Institute

and the other was a:



pwc

## Customs Valuation & Transfer Pricing

### Example

Irish Tax  
Institute

.... when trying to align the two perfectly,  
one is trying to achieve the following:

pwc

## Customs Valuation & Transfer Pricing

*Example*

Irish Tax  
Institute



pwc

## Customs Valuation & Transfer Pricing

*Example*

Irish Tax  
Institute

**However, the main issue remains the following .....**

pwc

## Customs Duty Drivers



1. Classification
2. Customs Valuation
3. Customs Valuation & Transfer Pricing
4. Origin
  - Preferential Origin
  - Non-Preferential Origin
5. Other Customs Considerations



## Origin



Country of Origin → Reduced preferential rate or increased duty, for example, anti-dumping duty

### Preferential Origin

Allows for reductions in customs duty rates in the country of import (once certain rules are met)

#### Types of Agreements

1. Reciprocal agreements – bilateral trade, benefits for both parties (“Free Trade Agreement” (FTA))
2. Non-reciprocal agreements – benefits upon import, mainly for developing countries (GSP)
3. Customs Unions – with certain countries.

#### Documents Required

1. Certificate of Origin
2. Commercial Declaration

### Non-Preferential Origin

Rules are not harmonised globally, may be important if dealing with non tariff barriers

#### Examples of Non Tariff Barriers

1. Quantitative restrictions/limits
2. Anti-dumping/countervailing duties
3. Import/Export restrictions

#### Rules

Set out in:

1. National legislation
2. Other (e.g. EU’s position to the WTO Harmonised Working paper on the rules of non preferential origin)





## Preferential Origin

### How it works

Irish Tax  
Institute

#### Imports

Products entering the EU from non-EU countries with which the EU has an FTA in place can benefit from lower or zero rates of duty, providing it is a reciprocal agreement.

Rule: The imported products must qualify as originating in the other country that holds an FTA with the EU

#### Exports

Products leaving the EU for another country that the EU has a reciprocal FTA with can benefit from lower or zero rates of duty upon import into the other country.

Rule: The exported products must qualify as originating in the EU

pwc

## Free Trade Agreements

### Objectives

Irish Tax  
Institute

- Eliminate trade barriers and facilitate the circulation of goods and services
- Promote conditions for fair competition
- Promote investment opportunities
- Protect intellectual property rights
- Create procedures for the implementation and compliance of the treaty



pwc

## Free Trade Agreements

### EU Reciprocal Free Trade Agreements

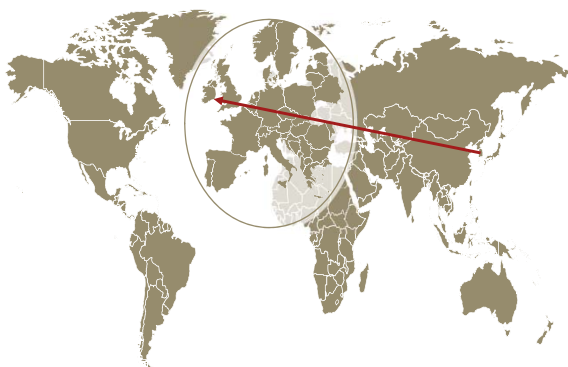


Example of EU reciprocal preferential trade agreements		
Switzerland	Morocco	Bosnia, Albania, Montenegro & Serbia
Norway	South Africa	Chile, Peru, Colombia
Lebanon	Jordan	Canada
Central America (Honduras, Nicaragua, Panama, Costa Rica, El Salvador, Guatemala)	South Korea	Mexico
Example of EU non-reciprocal preferential trade agreements	Example of EU preferential trade agreements in progress	
Generalised System of Preferences (GSP)	New Zealand	
	Australia	
	Singapore	
	Japan	



## Third Country Example: South Korea

### Country with a Free Trade Agreement



#### Customs Duties

- Customs duties reduced or eliminated on most goods, as long as goods accompanied by proof of origin.
- Anti-dumping/countervailing duties will not be applied to products.

#### Other Benefits

- Improved access for services
- Harmonisation of standards
- Safeguard fair competition
- Establish internal markets
- Fewer WTO requirements



## Preferential Origin

### Outline of Content of a Preferential Trade Agreement

Irish Tax  
Institute

- Definitions
- How to qualify for preferential origin
  - Direct transport rule
  - **Rules of Origin**
  - Insufficient Processing
  - Sufficient Processing
  - “No draw-back” rule
  - *De minimis* rule
  - Treatment of sets, accessories, spare parts and tools
- Preferential Origin Documentation
  - Preferential Origin Certificates (and simplification procedures)
  - Supporting Documentation
- Verification of Preferential Origin Documentation
- Cumulation of Origin



pwc

## Preferential Origin

### The ‘Rules of origin’

Irish Tax  
Institute

Certain goods originating in, for example GSP beneficiary countries, are eligible for preferential tariff treatment upon import into the EU.

When can goods be considered to be originating in GSP beneficiary countries?

- Article 41 UCC DA
  - **Wholly obtained** (under a) → article 44 UCC DA
  - **Sufficient working or processing** (under b) → article 45 UCC DA
- Article 44 UCC DA: Wholly obtained goods
  - E.g. mineral products & plants and vegetable products
  - E.g. products of sea fishing
- Note: Insufficient working or processing → article 47 UCC DA

pwc

## Preferential Origin

### *Insufficient Working or Processing*



- Article 47 UCC DA: **insufficient working or processing**
  - E.g. preserving operations to ensure that the products remain in good condition during transport and storage
  - E.g. simple assembly of parts of articles to constitute a complete article
  - Sub 2: **simple**→ neither special skills nor machines, apparatus or tools especially produced or installed for those operations are required for their performance
  - Sub 3: **all the operations** in a beneficiary country shall be taken into account!



## Preferential Origin

### *Territorialism & Non-Manipulation*



- Principle of territoriality (e.g. article 42 UCC DA)
  - If originating products exported from the beneficiary country to another country are returned, they shall be considered as non-originating. Unless:
    - the products returned are the same as those which were exported, and
    - they have not undergone any operations beyond that necessary to preserve them in good condition while in that country or while being exported



- Non-manipulation:
  - The goods shall not have been altered, transformed in any way or subjected to operations other than
    - operations to preserve them in good condition or the adding or affixing of marks, labels, seals, and
    - they remain under customs supervision in the country or countries of transit
    - splitting of consignments may take place where carried out by the exporter or under his responsibility, provided the goods concerned remain under customs supervision in the country or countries of transit



## Preferential Origin Required Documentation



- In order to avail of preferential origin, the preferential origin certificate must be applied for/completed by the exporter. (Periods of validity vary per agreement).
  - Preferential origin certificates (EUR1; Form A for GSP)
  - Commercial declaration (simplified procedure permitted in certain circumstances)
- If using a certificate, it must be endorsed by Customs Authorities at export.
- The above documents can be used as proof of origin upon import, depending on the specific requirements set out in the FTA.
- Suppliers' declarations must be obtained by exporters from their EU suppliers as evidence that the materials used in the manufacture of exported product are of EU preferential origin.
- Long-term Suppliers' Declarations may be obtained where materials are regularly obtained from the same supplier. These are valid for 1 year.



## Preferential Origin Template Example 1



BoM for Finished Product											
Raw Material Description	Raw Material Tariff Classification	Raw Material Country of Origin	LTSD	Cost of Raw Material per unit	Fx						
Product A		Ireland	Y	1.00	EUR						
Product B		UK	Y	4.10	EUR						
Product C		Netherlands	Y	0.58	EUR						
Product D		India	N	0.58	EUR						
Product E		US	N	13.60	EUR						
Product F		Poland	Y	5.00	EUR						
Product G		Germany	Y	4.00	EUR						
		Total Cost of Material		28.86							
		Overheads/Profit		56.00							
		Total Ex Works Price		84.86							
		EU Material Origin		14.68							
		EU Non-material Origin		56.00							
		Non-EU Material Origin		14.18							
						€	%	€	%	€	
						EU	83%	Non-EU	17%	Total	
						70.68		14.18		84.86	
<b>List Rule of Origin for Finished Product - Tariff Heading 3004 for EU - South Korea FTA</b>						Qualify					
Rule A: Manufacture from materials of any heading, except that of the product.						YES	NO				
However, materials of the same heading as the product may be used, provided that their total value does not exceed 20% of the ex works price of the product						X					
Rule B: N/A											



## Preferential Origin Sample EUR. 1



APPLICATION FOR A MOVEMENT CERTIFICATE			
1. Exporter (Name, full address, country)		EUR.1 No A 000.000 <small>See notes enclosed before completing this form.</small>	
3. Consignee (Name, full address, country) (Optional)		2. Application for a certificate to be used in preferential trade between  and  <small>(Insert appropriate countries, groups of countries or territories)</small>	
6. Transport details (Optional)		4. Country, group of countries or territory in which the products are considered as originating	5. Country, group of countries or territory of destination
8. Item number; Marks and numbers; Number and kind of packages (1); Description of goods		9. Gross weight (kg) or other measure (litres, m <sup>3</sup> , etc.)	10. Invoices (Number)
7. Remarks			



## Preferential Origin Simplified Procedures



- A commercial declaration is a specific declaration included on a commercial document and signed by the exporter certifying that the exported products meet the rules for preferential origin.
- Traders claiming preferential origin for consignments whose total value is in excess of €6,000 must apply for approved exporter status.
- Approved Exporter is used by exporters who make frequent shipments to countries under which they could claim preferential origin on import.
- By holding Approved Exporter status, the trader can make a number of invoice declarations for consignments with a value over €6,000.
- An Approved Exporter may receive an extra simplification where no signature is required on the commercial declaration. However, a responsible person must still be named.

### Invoice Declaration:

All countries except Mexico

The exporter of the products covered by this document \*(customs authorisation No ..... ) declares that, except where otherwise clearly indicated, these products are of EU preferential origin.

\_\_\_\_\_ Place and Date

\_\_\_\_\_ Signature



## Binding Origin Information Overview

- In order to determine the origin of a product in the EU, a binding ruling can be obtained from the Customs Authorities of the relevant Member State. This is known as a Binding Origin Information ruling (or BOI).
  - A BOI is valid for 3 years
  - It can be obtained for both preferential and non preferential origin.



**APPLICATION TO THE REVENUE COMMISSIONERS FOR BINDING ORIGIN INFORMATION (BOI) UNDER REGULATION (EU) NO 952/2013 OF THE EUROPEAN PARLIAMENT AND COUNCIL AND COMMISSION REGULATIONS (EU) NO. 2015/2446 AND 2015/2447**  
(please read notes overlaid before completing)

1. Applicant: (Name & Address in full)		2. Designated Holder of the BOI: (Name & Address in full) (Only if different from Box 1)	
3. Legal framework: (preferential/non-preferential)			
4. (a) Description of Goods		4. (b) Tariff Classification:	
5. Composition of Goods: *		6. Ex-work price: *	
7. Country of Origin envisaged by applicant:			
8. Rule considered to be satisfied: (see notes overlaid) *			
Principal Materials Used	Country of Origin	HS Heading/CN Number	Value
9. Enclosures being submitted to assist with BOI of the goods: (tick "4") *			
Samples <input type="checkbox"/>	Photographs <input type="checkbox"/>	Diagrams <input type="checkbox"/>	Other <input type="checkbox"/>
10. Have you previously applied for BOI for identical or similar goods either here or in any other Member State? * Indicate any particulars in respect of which confidentiality is being sought			
Yes <input type="checkbox"/>		No <input type="checkbox"/> (tick "4")	
If yes, please give details: _____			
11. Are you aware of the existence within any other Member State of BOI or RTI for these or similar goods? *			
Yes <input type="checkbox"/>		No <input type="checkbox"/> (tick "4")	
If yes, please give details: _____			
I declare that the information provided in this application is true and complete to the best of my knowledge. I agree to supply a translation of any document if so requested, and I accept that the information supplied, save for those particulars indicated as being confidential, may be stored on a database of the Commission of the European Communities and used for the purpose of Regulations No. 952/2013, 2015/2446 and 2015/2447.			
Name: _____ (BLOCK CAPITALS)		Date: _____	
Telephone: _____ Fax: _____		E-Mail Address: _____	



## Origin Recap



**Country of Origin** → Reduced preferential rate or increased duty, for example, anti dumping duty

### Preferential Origin

Allows for reductions in customs duty rates in the country of import (once certain rules are met)

#### Types of Agreements

- Reciprocal agreements – bilateral trade, benefits for both parties ("Free Trade Agreement" (FTA))
- Non-reciprocal agreements – benefits upon import, mainly for developing countries (GSP)
- Customs Unions – with certain countries

#### Documents Required

- Certificate of Origin
- Commercial Declaration

### Non-Preferential Origin

Rules are not harmonised globally, may be important if dealing with non tariff barriers

#### Examples of Non Tariff Barriers

- Quantitative restrictions/limits
- Anti-dumping/countervailing duties
- Import/Export restrictions

#### Rules

Set out in:

- National legislation
- Other (e.g. EU's position to the WTO Harmonised Working paper on the rules of non preferential origin)



## Non-Preferential Origin

### *Wholly Obtained*

Irish Tax  
Institute

For bicycles (CN subdivision 8712 0030) originating in China an anti-dumping tariff of 48,5% is applicable.

When can bicycles be considered as originating in China?

- Article 60 UCC:
  - **wholly obtained**
    - For example:
      - » mineral products extracted within that country,
      - » vegetable products grown & harvested there
- Goods whose production involved more than one country (see next slide)



pwc

## Non-Preferential Origin (In-)Sufficient Working or Processing

Irish Tax  
Institute

- **Article 60 (2) UCC:**
  - last, substantial, economically justified processing or working
  - in an undertaking equipped for that purpose and
  - resulting in the manufacture of a new product or
  - representing an important stage of manufacture.
- Article 34 UCC DA: **insufficient working or processing (minimal operations)**
  - For example: → preservation of products in good condition during transport and storage
- Article 32 UCC DA: **sufficient working or processing**
  - Annex 22-01 UCC DA → specific rules for certain products
- Article 33 UCC DA: **Processing or working operations which are not (deemed) economically justified**
  - if listed in the annex: residual rules apply
  - if not: where major portion of the materials originated, determined on the basis of value

pwc



## Customs Duty

*How to calculate?*

Irish Tax  
Institute

*Time to apply our  
knowledge!*

  
pwc

## Example 1

Irish Tax  
Institute

- Goods are imported from the US into Ireland
  - Item: Chocolate Biscuits
  - Incoterms: DAP
  - Value of goods: €10,000
  - Customs Duty rate: 8%
  - Import VAT rate: 23% (standard rate)

***Calculate the applicable customs duty and import VAT liability***

  
pwc

## Example 1



- Goods are imported from the US into Ireland
  - Item: Chocolate Biscuits
  - Incoterms: DAP
  - Value of goods: €10,000
  - Customs Duty rate: 8%
  - Import VAT rate: 23% (standard rate)

**Calculate the applicable customs duty and import VAT liability**

### Step 1: Calculate Customs Duty:

$$€10,000 \times 8\% = €800$$

### Step 2: Calculate Import VAT

$$€10,000 + €800 = €10,800 \times 23\% = €2,484$$



## Example 2



- Goods are imported from the US into Ireland
  - Item: Tea bags
  - Incoterms: DDP
  - Value of goods: €6,500
  - Customs Duty rate: 3.2%
  - Import VAT rate: 0% (zero-rated)

**Calculate the applicable customs duty and import VAT liability**



## Example 2

- Goods are imported from the US into Ireland
  - Item: Tea bags
  - Incoterms: DDP
  - Value of goods: €6,500
  - Customs Duty rate: 3.2%
  - Import VAT rate: 0% (zero-rated)

**Calculate the applicable customs duty and import VAT liability**

**Step 1: Calculate Customs Duty:**

$$€6,500 \times 3.2\% = €208$$

**Step 2: Calculate Import VAT**

$$€6,500 + €208 = €6,708 \text{ (Import VAT not applicable, goods are zero-rated)}$$

**US supplier responsible for payment of both customs duty and import VAT**

## Example 3

- Goods are imported from Korea into Ireland under a Free Trade Agreement
  - Item: Tea bags
  - Incoterms: CIF
  - Value of goods: €6,500
  - Customs Duty rate: 3.2%
  - Import VAT rate: 0% (zero-rated)

**Calculate the applicable customs duty and import VAT liability**

### Example 3

- Goods are imported from Korea into Ireland under a Free Trade Agreement
  - Item: Tea bags
  - Incoterms: CIF
  - Value of goods: €6,500
  - Customs Duty rate: 3.2%
  - Import VAT rate: 0% (zero-rated)

**Calculate the applicable customs duty and import VAT liability**

**Step 1: Calculate Customs Duty:**  
 $€6,500 \times 0\% = €0$   
*-Provided that FTA provides for 0% rate of customs duty  
-Importer will need to declare that goods imported under FTA, UK supplier will be required to provide evidence of entitlement*

**Step 2: Calculate Import VAT**  
 $€6,500 \times 0\% = €0$  (Import VAT not applicable, goods are zero-rated)

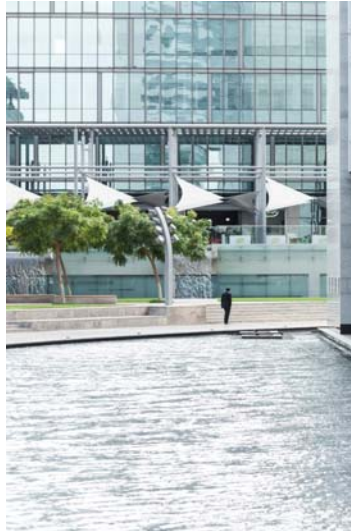
### Customs Duty Drivers

1. Classification
2. Customs Valuation
3. Customs Valuation & Transfer Pricing
4. Origin
  - Preferential Origin
  - Non-Preferential Origin
5. Other Customs Considerations

## Duties At Import

### *Type of duties*

- Import duties
  - **Customs duties**
  - Agricultural levies (incorporated in import duties)
  - Anti-dumping duties
  - Anti-subsidy levies
- Excise duties (alcohol, tobacco, mineral oil)
- VAT at import
- Variety of other import charges



## Excise Duties

- Excise duties are indirect taxes on the consumption or the use of certain products
  - Generally arises when excisable goods are released for consumption in an EU Member State (MS), or are released for consumption in one MS and then brought into another MS
  - Liable irrespective of source (i.e. EU, non-EU or local)
  - Excise taxes are significant and stringent compliance enforcement must be in place
  - Restriction on movement, storage and consumption
  - Outside EU – Customs duty also applies.
- Excise duty can be broken into two categories:
    - **Harmonised across the EU:**
      - Alcohol Products: Beers, wines, spirits cider and perry
      - Tobacco Products: cigarettes, cigars, smoking tobacco
      - Energy Products: Motor fuels and heating fuels (i.e. petrol, gasoline, electricity, natural gas & coal)
    - **At National Level Only:**
      - VRT,
      - Sugar Taxes,
      - Plastic Bag Levy, etc.

## Excise Duties

### EU Legislative References

General	Cider and Perry	Beer	Wine and made wine	Spirits	Energy Products	Tobacco
<ul style="list-style-type: none"> <li>• Council Directive 2008/118 EC (repealed 92/12/EC) (Holding, movement and monitoring of excise products)</li> <li>• Commission Regulation 684/2009 (repealed Commission Regulation 2719/92/EEC)</li> <li>• Commission Regulation 3649/92/EEC (Simplified AAD)</li> </ul>	<ul style="list-style-type: none"> <li>• Council Directive 92/83/EEC (Harmonisation of the structures for alcohol and alcoholic beverages)</li> <li>• Council Directive 92/84/EEC (Rates of excise duty on alcohol and alcoholic beverages)</li> <li>• Commission Regulation (EC) No 162/2013 (amending the Annex to Commission Regulation EC 3199/93 (Denaturing Provisions))</li> </ul>				<ul style="list-style-type: none"> <li>• Council Directive 2003/96/EC (Restructuring framework for taxation of energy products)</li> <li>• Council Decision 2001/224/EC (Reduced rates of excise duty and exemptions from such duty on certain mineral oils when used for specific purposes)</li> <li>• Council Directive 95/60/EC (Marking oils)</li> </ul>	<ul style="list-style-type: none"> <li>• Council Directive 2011/64/EU (Structure and rates for tobacco)</li> </ul>

## Who is Liable to Pay Excise Duty?

### Council Directive 2008/118 EC – Article 8

- The person liable to pay the excise duty when goods are released for consumption is:
  - the authorised warehousekeeper,
  - the registered consignee
  - any other person releasing the goods or on whose behalf the goods are released from the duty suspension arrangement;
  - In the case of an irregular departure from a tax warehouse, any other person involved in that departure
- In the case of an irregularity in the course of a movement of the goods under a duty suspension arrangement, the authorised warehousekeeper, registered consignor or the guarantee provider.



## Excise Warehousing

Irish Tax  
Institute

*Council Directive 2008/118 EC – Articles 15 and 16*

- Production, processing and holding of excise goods must take place in an excise warehouse where the excise duty has not been paid on the goods
- An authorised warehousekeeper is required to carry out certain tasks:
  - Provide a guarantee
  - Comply with requirements in national legislation
  - Keep account of stock and movement of goods for each warehouse



pwc

## Excise Goods and Suspended Movements

Irish Tax  
Institute

*Council Directive 2008/118 EC – Article 17*

- Different types of suspension movement dispatched from a tax warehouse to:
  - another tax warehouse;
  - a registered consignee;
  - place of export;
  - exempt consignee;
  - dispatched by a registered consignor in another Member State; or
  - from the place of importation to any of the above.



pwc

## Excisable Goods

### *Suspended Movements Criteria*

Irish Tax  
Institute

*Council Directive 2008/118 EC – Articles 18 & 21*

- A movement guarantee is required from the warehousekeeper of dispatch, registered consignor or any other person the authorities approve; and
- Goods must be covered by the appropriate documentation (EMCS eAD)
- Submit eAD (electronic Administrative Document) through EMCS;
- Receive validated eAD with ARC (Administrative Reference Code);
- Dispatch goods with ARC written on goods documentation;
- Recipient in other Member State will receive goods, check them and submit electronic report of receipt through EMCS.



pwc

## Excise Liability on EU Duty Paid Goods

Irish Tax  
Institute

*Council Directive 2008/118 EC – Article 33*

- Goods released for consumption in one EU MS and moved to another EU MS for commercial sale i.e. not a private import
- The following are guidelines as to the maximum quantity of excise goods which can be transported from one MS to another by a private individual:
  - *10lts of spirits, 20lts of intermediate products, 90lts of wine (maximum of 60lts of sparkling wine), 110lts of beer; or*
  - *800 cigarettes, 400 cigarillos, 200 cigars and 3kgs of any other tobacco products.*
- Duty is payable before the goods land in the destination EU MS, normally it is pre-paid (Art 20).
- Duty reclaim for the excise duty paid in the Member State of dispatch is possible with appropriate evidence of departure

pwc



## Exemptions



*Council Directive 2008/118 EC – Article 12*

- Exemptions are available for excise goods which are intended for:
  - Diplomatic or consular relations
  - Certain international organisations and armed forces
  - Consumption under an agreement concluded with third countries or international organisations (provided that such an agreement is allowed or authorised with regard to exemption from value added tax).
- Additional exemptions may be available in different MS. For example:
  - Mineral oils not intended for use as motor fuel
  - Certain alcoholic products which are used to manufacture medicine



## Import VAT Considerations *Where VAT & Customs Meet*



Import VAT is a duty of customs and payable on import into the EU

Import VAT assessed on customs value of product including taxes, freight, insurance and associated charges

Customs reliefs typically extended to cover import VAT (e.g. IP, bonded warehouses, etc.)

Impact of incoterms on party responsible for paying import VAT

Certain countries (Ireland, the Netherlands, Belgium) provide for import VAT cash flow reliefs to facilitate trade e.g. VAT 56B in Ireland



## Import VAT Considerations

### Distinction between Customs Duty and VAT



Customs Duty	Value Added Tax (VAT)
<ul style="list-style-type: none"><li>• A tariff or tax imposed on tangible goods when transported across international borders</li><li>• In every country, each commodity is subject to a specific duty rate based on its tariff classification, country of origin, etc.</li><li>• Duty rate is normally an <i>ad valorem</i> percentage based on customs value</li><li>• Goods imported into EU are subject to the same duty rate in all member countries</li></ul>	<ul style="list-style-type: none"><li>• Can be charged on goods <u>and services</u></li><li>• Collections, remittances and credits occur each time a purchase takes place</li><li>• Calculated as a percentage based on goods and services' value</li><li>• Different rates of VAT are allowed in different EU member states</li></ul>



## Trigger Points for EU VAT

### Import, Export, and Intra-Community Movements



Movement of Goods...
1. <b>out of EU (Export)</b>
2. <b>into EU (Import)</b>
3. <b>within EU</b>
• Intra-Community Supply
• Intra-Community Acquisition
Note: Movement of goods may involve a sale <u>or transfer</u>



#### Also

- If you **sell** goods and services within an EU country (domestic sales)
- If you supply services within the EU

*\*When VAT arises on import, the ad valorem rate is charged on the value of the goods including any customs duties applicable*



## **4. Customs Procedures**

### **Customs Procedures**

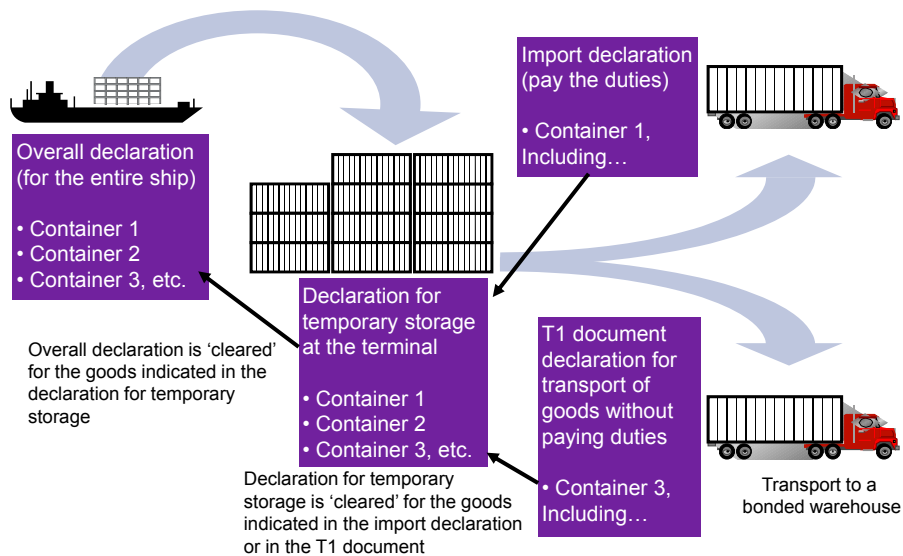
- 1. Temporary Storage**
2. Transit
3. Customs Warehousing
4. Inward processing
5. End-Use
6. Outward Processing
7. How to Apply

## Temporary Storage

- Temporary storage is a facility which allows goods brought into the EU to be temporarily stored in an approved area before they are presented to customs for clearance
- In order to avail of this facility, a temporary storage authorisation must be obtained. This also must be accompanied by a comprehensive guarantee.
- Goods can be placed in temporary storage area up to a period of 30 days upon arrival in the EU, after which they must be declared into a customs procedure (i.e. IP, warehousing, free circulation) or re-exported from the EU
- A temporary storage declaration must be filed with the relevant customs authorities. This can take the form of a customs declaration and can be lodged up to 30 days prior to the goods arrival in the EU



## How Temporary Storage Works in Practice



## Customs Procedures



1. Temporary Storage
- 2. Transit**
3. Customs Warehousing
4. Inward processing
5. End-Use
6. Outward Processing
7. How to Apply



## Transit



- Transit facilitates the movement of goods through the EU by suspending customs duties and other charges until the goods reach their final destination.
- There are three types of transit:



## Union Transit

Union transit allows for the movement of goods that are **not in free circulation** within the EU. It comprises of two separate procedures: (i) *External Union Transit Procedure (T1)* and (ii) *the Internal Union Transit Procedure (T2)*.

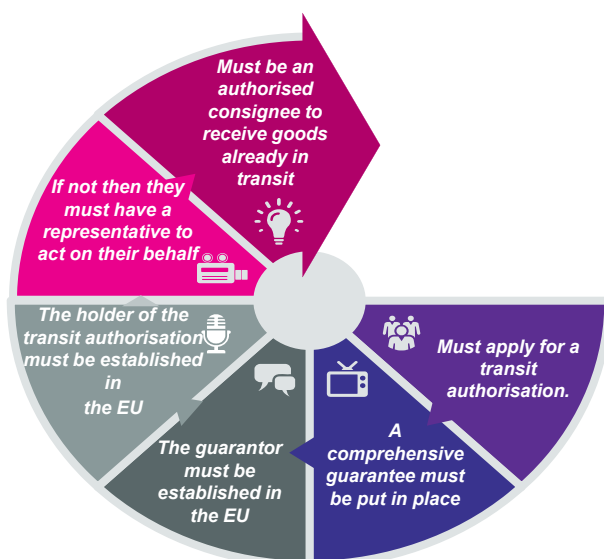
### **External Union Transit Procedure (T1)**

- Facilitates the movement of non-Union goods or Union goods that are to undergo specific export formalities (usually under the Common Agricultural Policy) within the EU
- All import duties, VAT, and other charges such as anti-dumping duties are suspended until the goods reach the MS of final destination.

### **Internal Union Transit Procedure (T2)**

- Allows the movement of Union goods from one point in the EU to another whereby the goods transit through a territory outside the EU.
- This applies where the start and end points of movement are within the EU but the item must cross external borders to reach the final destination.
- This is only required for movements by road only.
- Movements by sea or air are not required to move under a transit procedure.

## Conditions to Use Transit

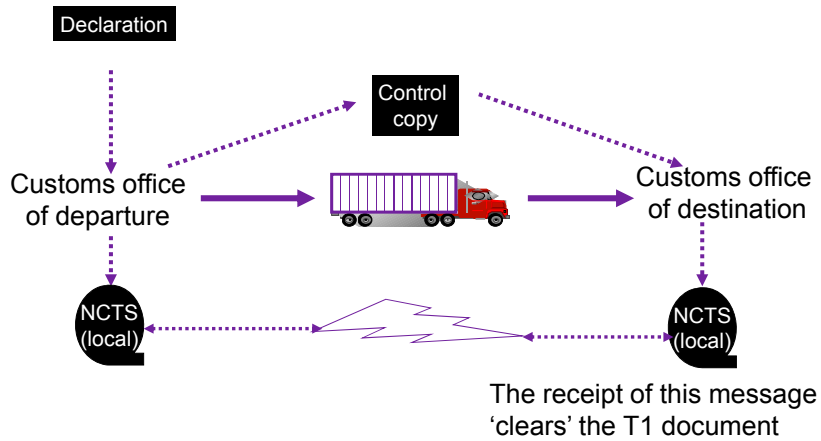


**The conditions are set out in the UCC, with additional requirements and explanations set out in the DA and IA.**

## How Transit Works in Practice

### NCTS – Computerised Transit System

Irish Tax Institute

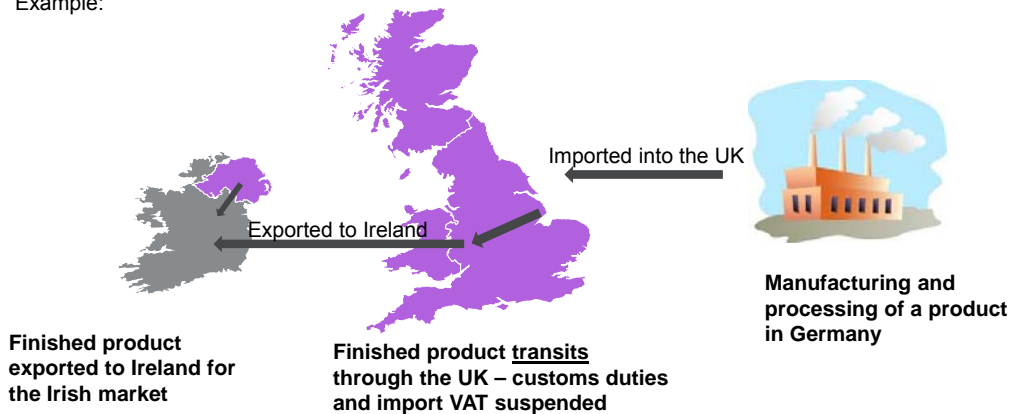


pwc

## The Importance of Transit and Brexit

Irish Tax Institute

- Many supply chains are dependent on the UK as a transit or distribution hub.
- Transit procedure has become more relevant with Brexit.
- If customs duties reverted to EU/WTO levels, then transit procedure could present a duty saving opportunity without company's having to restructure their entire supply chain
- Example:



pwc

## Customs Procedures

Irish Tax  
Institute

1. Temporary Storage
2. Transit
- 3. Customs Warehousing**
4. Inward processing
5. End-Use
6. Outward Processing
7. How to Apply

pwc

## Customs Warehousing

Irish Tax  
Institute

- Allows storage of goods and certain processing without payment of customs duty
- Authorisation required from the Authorities
- No time limit but no retrospective application
- Security required
- Processes allowed are limited to “usual forms of handling”
- On release from warehouse for free circulation, customs duty is due
- If exported outside the EU, no duty payable



pwc



## Differences in EU Implementation

Irish Tax  
Institute

In daily routine warehousing and simplifications are the result of local practice in the Member States – still no alignment of supervision and daily routines

Therefore the name is the same, practicalities differ considerably

- application process (although attempting to harmonise via the CDS system)
- Requirements
- application in daily practice (compliance)

- Control philosophy
  - administratively controlled vs.
  - more physical approach
- Level of automation of the authorities
  - electronic communication
  - number of messages to be sent
  - Details
- VAT at import
- VAT - supplies under customs supervision

  
pwc

## Customs Procedures

Irish Tax  
Institute

1. Temporary Storage
2. Transit
3. Customs Warehousing
- 4. Inward processing**
5. End-Use
6. Outward Processing
7. How to Apply

  
pwc

## Basic Principles of Inward Processing

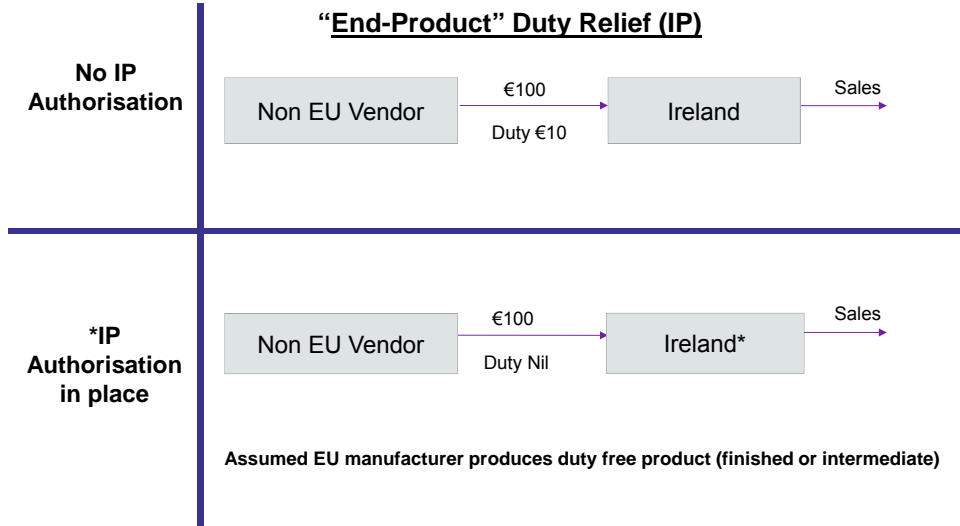
- Inward Processing (“IP”) allows for the suspension of import duties and VAT on goods imported for processing and subsequent re-export or release into free circulation.
- “Processing” can be anything from repackaging, sorting or destruction of goods to the most complicated manufacturing.
- Authorisation required from customs authorities and issued for a period of up to five years from the date of acceptance.
- Can also be obtained retroactively up to one year before date of application (subject to certain conditions).



## IP Authorisation Types

<b>'Simple' IP Authorisation</b>	Single authorisation for IP with customs duty payable at the rate applicable to the finished product when released to free circulation.
<b>Single Community (Cross-Border) Authorisation</b>	<p>Allows the authorisation holder to carry out processing operations in more than one EU Member State.</p> <p>Application submitted to the Customs Authorities in the Member State where main accounts are held and includes details of the operators, including processing activities, and local customs office.</p> <p>The use of a cross-border authorisation can potentially increase the comprehensive guarantee amount for the IP authorisation holder.</p>
<b>Retrospective Authorisation</b>	In exceptional circumstances, a holder may be granted a retrospective authorisation, but not more than 1 year prior to the application date.
<b>Simplified Authorisation</b>	For traders who make occasional imports to IP without the need to submit a formal IP application to the Authorities (declared via Customs Declaration).

## Use of IP



## IP Example



**API used in the manufacture of duty free processed product:**

**Without IP**

Imported materials	€2,500,000	
Duty @ 6.5%		€162,500

**With IP**

Imported materials	€2,500,000	
Duty		Nil (suspended)

**Finished product\*** €5,000,000

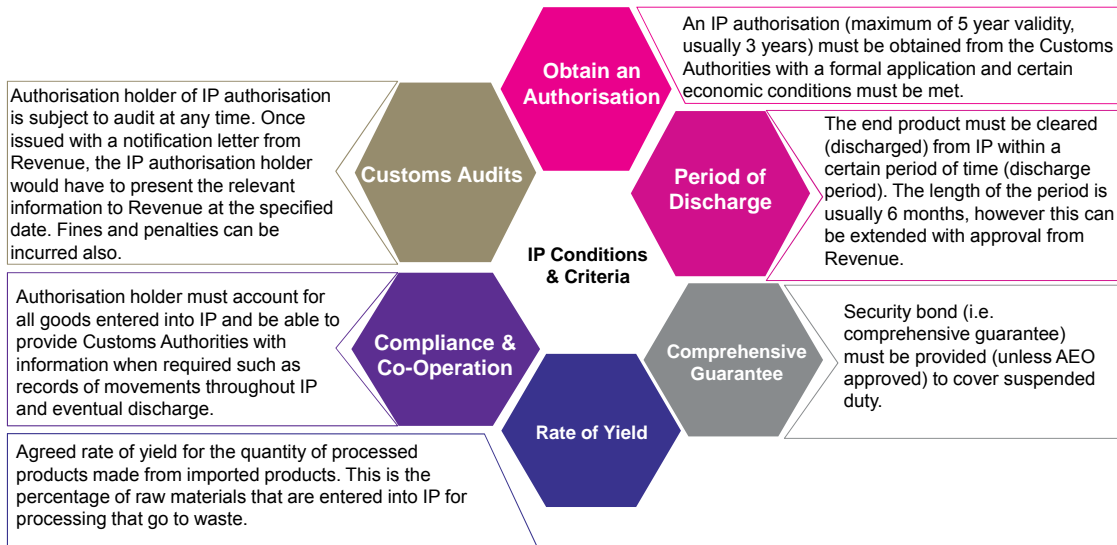
Duty @ 0% 0

**Savings** €162,500

*\* N.B. Charge to Import VAT arises when the finished product is discharged from IP on the value of the finished product. Therefore, the company importing the materials needs to consider the point, and in which country, the goods are discharged from IP in order to eliminate customs duty and import VAT liabilities.*



## Conditions and Criteria



## Stages of Inward Processing



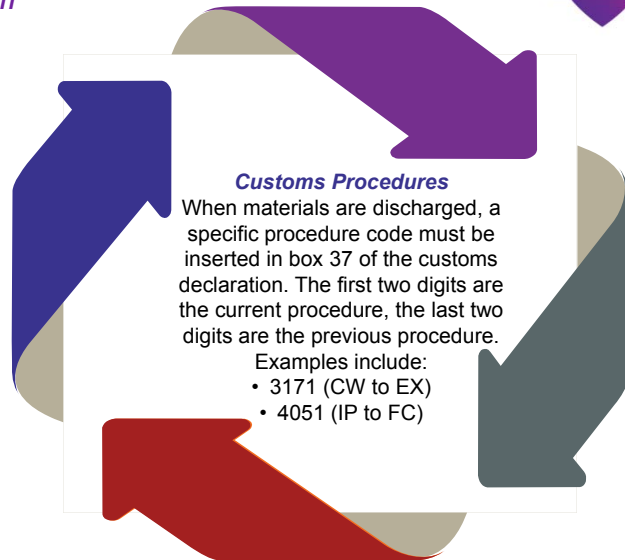
## Discharge of Materials from IP

### How materials are discharged from IP

Irish Tax  
Institute

IP is "discharged" when all conditions of the procedure have been satisfied and the finished product (compensating products) are:

- Released into free circulation in the EU with payment of necessary duty and VAT (if applicable)
- Exported from the EU
- Transferred to another Customs Procedure
- Destroyed under Customs Supervision
- Abandoned to the Exchequer



pwc

## Customs Procedures

Irish Tax  
Institute

1. Temporary Storage
2. Transit
3. Customs Warehousing
4. Inward processing
- 5. End-Use**
6. Outward Processing
7. How to Apply

pwc

## End-Use



- End-use is a customs procedure whereby goods entered into free circulation can avail of reduced or zero-rated customs duty rates if they are deemed to be for a specific use
- End-use most commonly applies to goods deemed to be for the following use:
  - Parts for the construction/repair/maintenance of civil aircraft
  - Products intended for use in aircraft, ships or drilling platforms
- An authorisation must be held by the user accompanied by a comprehensive guarantee

Note: End-use relief applies only to customs duty. Import VAT, anti-dumping duties and/or excise duties may still be applicable upon import.



## Customs Procedures



1. Temporary Storage
2. Transit
3. Customs Warehousing
4. Inward processing
5. End-Use
- 6. Outward Processing**
7. How to Apply



## Outward Processing

Irish Tax Institute

- Relief mechanism that allows a trader to export goods outside of the EU for processing or repair to subsequently re-import them into the EU.
- A relief is granted on customs duty and VAT at import liable on the basis of the EU goods contented within the final product.
- Release for free circulation with total or partial relief also allowed by any other person (with consent of and next to the authorisation holder)

### Conditions:

- Must obtain an authorisation from the local customs authorities
- Must be established within the EU
- Goods exported from the EU must be contained within the final product upon re-importation

### Restrictions for Use:

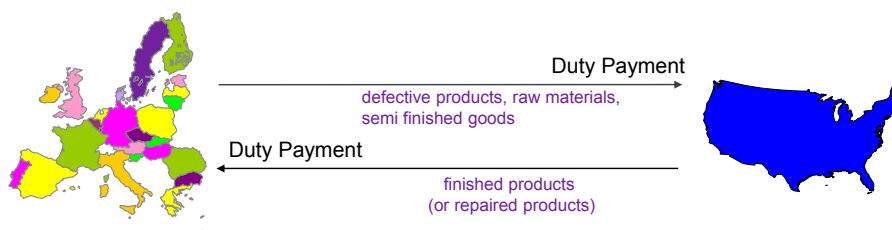
- Cannot be used for EU goods which:
- On export gives rise to a refund of customs duties
  - Are in free circulation wholly free of import duties for a particular use
  - Export gives rise to refunds under the common agricultural policy

pwc

## Outward Processing

### Processing Outside the EU – No Planning

Irish Tax Institute



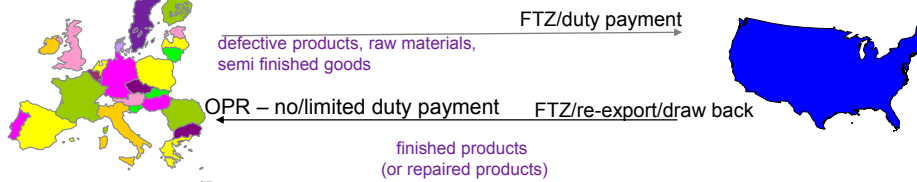
- Processing/repair outside EU:
  - Without planning:
    - duty levy at import in country of repair/manufacturing (also VAT!)
    - duty levy (on total value) at (re) import in EU

*Please note: retrospective planning is not possible*

pwc

## Outward Processing Utilising Relief

Irish Tax  
Institute



- Application of Outward Processing relief in the EU & “Inward Processing ” type of arrangement (relief) in country of repair/manufacturing:
  - No (definitive) levy in country of repair/manufacturing
  - No levy or limited levy at (re) import in the EU
  - Duty over the value added or zero-rated if guarantee goods

pwc

## Customs Procedures

Irish Tax  
Institute

1. Inward Processing
2. Customs Warehousing
3. Transit
4. Temporary Storage
5. End-Use
6. Outward Processing
7. How to Apply

pwc

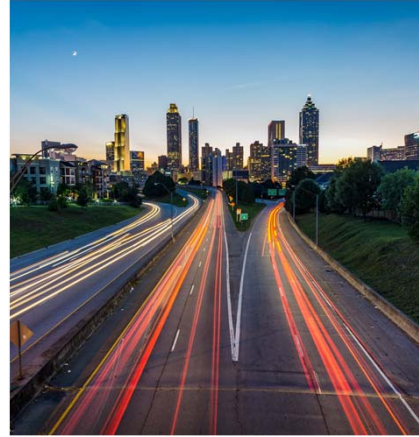


## How to Apply for Customs Procedures

### The Customs Decision System

Irish Tax Institute

- The Customs Decision System (“CDS”) is the EU’s customs portal used to apply for customs procedures.
- It was introduced in October 2017 due to the end of transitional arrangements. All customs applications must be made electronically, in line with UCC requirements.
- Traders must have access to national customs portals and an EORI number to access



pwc

## EU Customs “Relief” Summary – Typical (but not exclusive)

Irish Tax Institute

	IP: Inward Processing	Customs Warehousing	Duty Free Assignment of INN Products
<b>Goods</b>	For import of API and raw materials etc. for processing in EU	Import of product for storage in the EU	API and other derivatives of INNs
<b>Impact</b>	Allows suspension of customs duty on API imported for processing and re-export	Allows storage of goods and certain processing without payment of customs duty	WTO pharma agreement limited customs duty on some pharma products
<b>Details</b>	Goods must be for processing in a nominated premises. Goods must then be re-exported or released into free circulation with duty applicable	Processes allowed are limited to “usual forms of handling”; if exported outside the EU, no duty payable	<ul style="list-style-type: none"> <li>• Requires WHO approval</li> <li>• Extends beyond INNs to include other derivatives of INNs for manufacture of finished pharmaceuticals</li> </ul>
	Temporary Duty Suspension	Trapped Duty	Preferential Origin
<b>Goods</b>	Goods not available in EU	Lookback through supply chain at EU sourced products	Imports of products from countries with which the EU has an FTA
<b>Impact</b>	Suspends duty when goods are intended for further processing (Raw materials, components, intermediate products)	EU entity purchasing goods which are manufactured in the EU w/ non-EU sourced components	Reduced or nil duty rates available on importation from countries with which the EU has an FTA
<b>Details</b>	<ul style="list-style-type: none"> <li>• May apply to capital equipment</li> <li>• Requires economic need to be demonstrated</li> <li>• Can be used by any trader / industry in EU Member State</li> <li>• Annual duty liability must be greater than €15K</li> </ul>	<ul style="list-style-type: none"> <li>• Duty will be “trapped” and passed onto EU manufacturer as part of cost of sales</li> <li>• Delivers value by structuring supply chain with IP/INN/etc. to save customs duties</li> </ul>	<b>Example of FTAs:</b> <ul style="list-style-type: none"> <li>• Euro region</li> <li>• Mediterranean region</li> <li>• Mexico, Chile</li> <li>• GSP (developing countries)</li> <li>• “ACP” (former colonies)</li> <li>• Turkey (Customs Union)</li> <li>• South Korea</li> </ul>
			<b>System of reliefs, including R&amp;D relief</b> When imported for examination, analysis or test purposes Must be completely used up or destroyed during testing or on completion Does not apply to goods later sold on a commercial basis <b>Other reliefs available:</b> <ul style="list-style-type: none"> <li>• Capital goods and other equipment</li> <li>• Chemical substances intended for research</li> <li>• Goods for trade promotion</li> <li>• Products used at trade fairs</li> </ul>

\*larger version produced overleaf

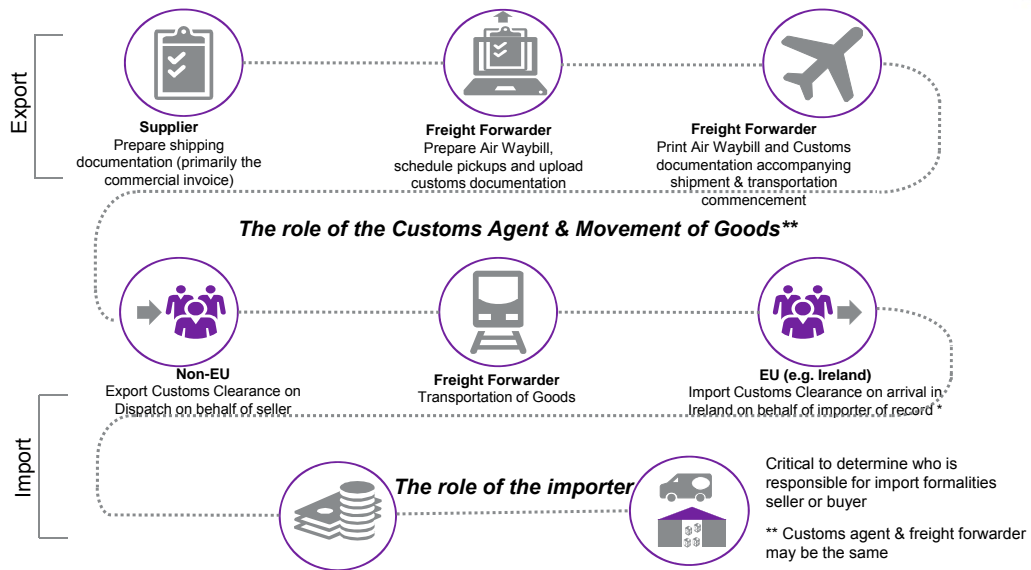
pwc

# EU Customs “Relief” Summary – Typical (but not exclusive)

	IP: Inward Processing	Customs Warehousing	Duty Free Assignment of INN Products
<b>Goods</b>	For import of API and raw materials etc. for processing in EU	Import of product for storage in the EU	API and other derivatives of INNs
<b>Impact</b>	Allows suspension of customs duty on API imported for processing and re-export	Allows storage of goods and certain processing without payment of customs duty	WTO pharma agreement limited customs duty on some pharma products
<b>Details</b>	Goods must be for processing in a nominated premises. Goods must then be re-exported or released into free circulation with duty applicable	Processes allowed are limited to “usual forms of handling”; if exported outside the EU, no duty payable	<ul style="list-style-type: none"> <li>Requires WHO approval</li> <li>Extends beyond INNs to include other derivatives of INNs for manufacture of finished pharmaceuticals</li> </ul>
	Temporary Duty Suspension	Preferential Origin	System of reliefs, including R&D relief
<b>Goods</b>	Goods not available in EU	Imports of products from countries with which the EU has an FTA	When imported for examination, analysis or test purposes
<b>Impact</b>	Suspends duty when goods are intended for further processing (Raw materials, components, intermediate products)	Reduced or nil duty rates available on importation from countries with which the EU has an FTA	Must be completely used up or destroyed during testing or on completion
<b>Details</b>	<ul style="list-style-type: none"> <li>May apply to capital equipment</li> <li>Requires economic need to be demonstrated</li> <li>Can be used by any trader / industry in EU Member State</li> <li>Annual duty liability must be greater than €15K</li> </ul>	<b>Example of FTAs:</b> <ul style="list-style-type: none"> <li>Euro region</li> <li>Mediterranean region</li> <li>Mexico, Chile</li> <li>GSP (developing countries)</li> <li>“ACP” (former colonies)</li> <li>Turkey (Customs Union)</li> <li>South Korea</li> </ul>	Does not apply to goods later sold on a commercial basis <b>Other reliefs available:</b> <ul style="list-style-type: none"> <li>Capital goods and other equipment</li> <li>Chemical substances intended for research</li> <li>Goods for trade promotion</li> <li>Products used at trade fairs</li> </ul>

## 5. Customs Declarations & their Importance

### The International Shipping & Customs Clearance Process – Step-by-Step



## Customs Declaration (Import/Export SAD) – 54 Boxes

Irish Tax Institute

The image shows a portion of a Customs Declaration (Import/Export SAD) form. It is a complex document with multiple sections and boxes. A red vertical line is drawn on the right side of the form, indicating the 54 boxes mentioned in the text. The form includes sections for 'EUROPEAN COMMUNITY', 'CUSTOMS DECLARATION', and 'IMPORT/EXPORT'. The boxes are numbered and contain various fields for data entry.

Required on a transaction by transaction basis.

Must be filed before goods are released (some exceptions).

Customs declarations are not the only returns/documents etc. that an importer/exporter will need to consider.

pwc

## Declarant and Representative for Customs Declarations

Irish Tax Institute

### Declarant

- For Customs purposes, 'declarant' means the person making the customs declaration in his own name or the person in whose name a customs declaration is made. A declarant must be established in the EU
- Any trader may appoint a representative to deal with their customs declarations

### Representative

- Type of representation governs obligations of declarant and liability of importer



pwc

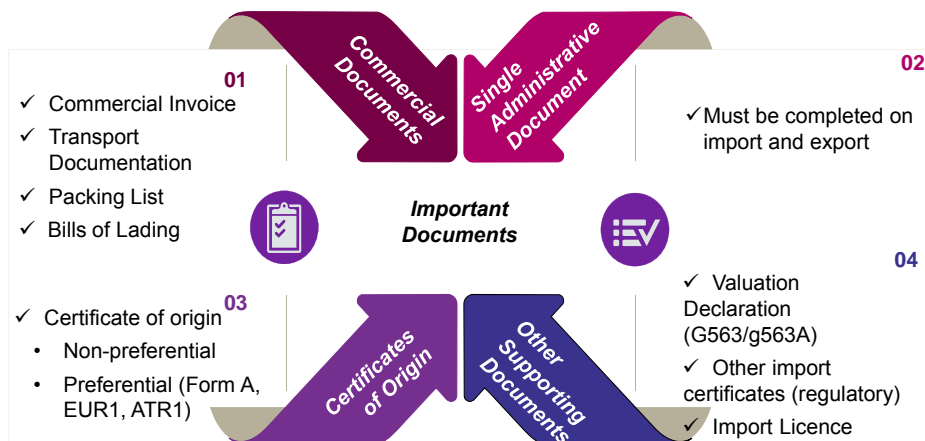
## Representation for Customs Declarations



There is no "Importer of Record" in the EU. A SAD must be signed by a declarant who is EU established. A trader can appoint a representative either by:

- **Direct representation;** hereby the representative (i.e. agent / broker) acts in the name of and on behalf of the importer
  - e.g. the trader is solely liable for the customs debt.
- **Indirect representation;** whereby the representative (i.e. agent / broker) acts in his own name but on behalf of the importer
  - e.g. the trader and agent / broker are held jointly and severally liable for the customs debt.

## Documentation Required Typical Customs Pack



## Contracts – Who is Responsible?



### Importance of Incoterms

#### Determines:

- Who is Importer / Exporter
- Who is responsible for customs clearance
- Who is responsible for obtaining any import/export licences
- Responsible parties for payment of freight/invoice

#### Beware of:

##### EXW (Ex-works)

- Maximum buyer responsibility
- Minimum seller responsibility

##### DDP (Delivered Duty Paid)

- Maximum seller responsibility
- Minimum buyer responsibility

#### All Other Incoterms

FCA	Free Carrier
CPT	Carriage Paid To
CIP	Carriage and Insurance Paid To
DAT	Delivered at Terminal
DAP	Delivered at Place

- Seller – Responsible for export formalities
- Buyer – Responsible for import formalities and payment of import duties



## Incoterms Introduction



- International Commercial Terms
- Used in contracts of sale for the physical movement of goods in business to business transactions
- Universal language to facilitate global trade
- Also referred to as “terms of sale”
- Provide a common standard for responsibilities between the buyer and seller when it comes to transportation, delivery, and risk

- Define terms of shipment and delivery, and transfer of risk between the seller and the buyer
- Ensure buyers and sellers understand each other's expectations and responsibilities
- Define who is responsible for choosing freight forwarder, broker, Customs clearance, duty payment, insurance, loading and unloading

- Incoterms do NOT address transfer of title or ownership
- Incoterms are NOT payment terms





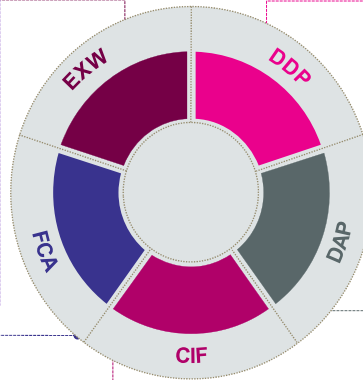
## Incoterms Additional Information

The seller makes the goods available to be collected at **their premises** and the buyer is responsible for all other risks, transportation costs, taxes and duties from that point onwards. This term is commonly used when quoting a price.

### Example

Goods are being picked up by the buyer from the seller's premises in San Francisco. The term used in the contract is EXW San Francisco.

The seller gives the goods, cleared for export, to the **buyer's carrier** at a specified place. The seller is responsible for getting them to the specified place of delivery. This term is commonly used for containers travelling by more than one mode of transport.



The seller is responsible for delivering the goods to the named destination in the buyer's country, including all costs involved.

The seller pays for transport to the specified destination, but **the buyer pays the cost of importing the goods**. The seller takes responsibility for the goods until they're ready to be unloaded by the buyer.

The seller must pay the costs of bringing the goods to the specified port. They also pay for insurance. **The buyer is responsible for risks when the goods are loaded onto the ship.**

## Incoterms

	EXW	FCA	CIF	DAP	DDP
Warehouse Services	Seller	Seller	Seller	Seller	Seller
Export Packing	Seller	Seller	Seller	Seller	Seller
Export Clearance	Buyer	Seller	Seller	Seller	Seller
Loading at Point of Origin	Buyer	Seller/Buyer*	Seller	Seller	Seller
Inland freight	Buyer	Buyer	Seller	Seller	Seller
Port Receiving Charges	Buyer	Buyer	Seller	Seller	Seller
Forwarder Fees	Buyer	Buyer	Seller	Seller	Seller
Main Carriage (Ocean/Air Freight)	Buyer	Buyer	Seller	Seller	Seller
Changes in Foreign Port/Airport/Terminal	Buyer	Buyer	Buyer	Seller	Seller
Delivery Charges to Final Destination	Buyer	Buyer	Buyer	Seller	Seller
Import/Customs Clearance	Buyer	Buyer	Buyer	Buyer	Seller
Customs Duties	Buyer	Buyer	Buyer	Buyer	Seller
Unloading Charges	Buyer	Buyer	Buyer	Buyer	Buyer
Risk Transfers (when/at)	Goods are at Buyer's Disposal	Named Place	On Board Vessel	Goods are at Buyer's Disposal on Arriving	Goods are at Buyer's Disposal
Modes of Transportation	Ocean/Air/Ground	Ocean/Air/Ground	Ocean	Ocean/Air/Ground	Ocean/Air/Ground

## Recordkeeping Overview



Recordkeeping requirements are mainly based on national legislation

### Points of attention:

- Recordkeeping requirement for Customs is 3 years from the end of the year of the date of declaration. VAT record keeping requirement is normally 6 years in Ireland but can vary between EU Member States;
- Outsourcing the preparation and filing of customs declarations is not outsourcing of responsibility and liability;
- Adhere to a clear document retention policy.



## Recordkeeping Importance of Documentation



**It is recommended that the following documents be maintained by importers:**

- Import declarations
- Evidence of right to make entry – airway bill, bill of lading etc.
- Packing list
- Bond information
- Commercial invoices
- Shipping documents
- Free Trade Agreement Declarations
- Certificates of Origin (e.g. EUR1's/commercial declarations, supporting calculations/documents);
- Copies of any correspondence with global customs authorities
- Any other entry-type documentation





## Recordkeeping

*Why is it important?*

Irish Tax  
Institute



While recordkeeping requirements vary by jurisdiction, it is important that importers comply with all applicable requirements in order to avoid potential penalties



As a best practice, it is also recommended that importers systematically maintain copies of all import-related documentation in the event of a customs audit or inquiries by global customs authorities



pwc

## Benefits of Compliance

Irish Tax  
Institute

What happens  
when you get it  
right

### Financial Benefit

- “Above the line” duty savings
- Cash flow deferral

### Governance and Risk Control

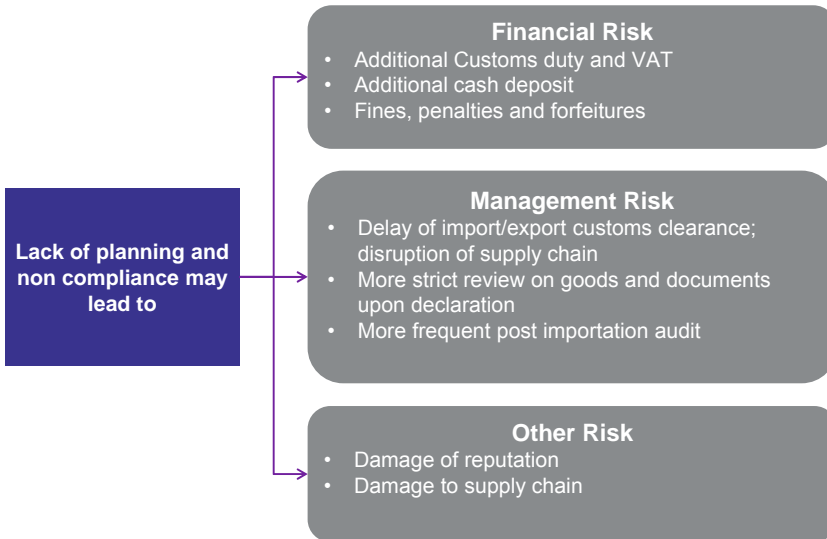
- Reduced risk of audit by authorities
- Management can focus more on strategic priorities and be less reactive to issues

### Supply Chain Benefit

- Improved efficiency and predictability
- Reduced disruptions and delivery times

pwc

## Consequence of Non-Compliance



## Customs Penalties



- The Customs Act 2015 introduced penalties for customs in Ireland, these can range from €250 for each infringement to €2,500 for failing to submit a customs declaration upon import/export of goods into Ireland
- These compliance penalties are also in line with other EU Member States
- More severe penalties, up to an including imprisonment can apply for fraudulent breaches of customs legislation



## Customs Penalties – Administrative Penalties

### *Customs Act 2015*

Irish Tax  
Institute

- Failure to submit a declaration (penalty of €2,000);
- Late submission of a declaration (penalty of €250 for each month for which a declaration is outstanding, subject to a maximum of €2,000);
- Submission of an incorrect or incomplete declaration (penalty of €100);
- Not being in possession of documentation necessary to support an electronic declaration (penalty of €100);
- Failure to comply with warehousing requirements (penalty of €500); and
- Failures to comply with other duty, obligation, requirement or condition imposed under the Customs Acts (penalty of €250).

pwc

## EU Customs 2020 Strategy

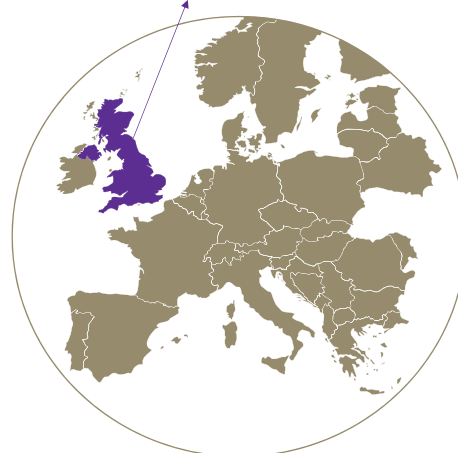
### *Overview*

Irish Tax  
Institute

The UK intends to leave the  
Customs Union when they  
leave the EU.

#### **2020 Strategy:**

1. **Complete the modernisation** of the Customs Union (started in 2003).
2. **Complete gap analyses, and identify the priorities** to be tackled.
3. **Review and reform the governance and management structures** of the customs union.



pwc

## EU Customs 2020 Strategy Objectives



*Progressive policy, create jobs, protect citizens*

*Modernise customs procedures, improve global customs cooperation*

*Trans-EU IT customs systems – reduce costs to business, minimise administration spending*

*Customs 2020 program – Budget in excess of €500m, share ideas and update systems*

*Liberalisation - currently ¾ of EU imports pay no, or reduced duties*

*Trade Links - 90% of EU growth is anticipated to be created outside the EU over the next 10 years*

*Protection - shielding businesses, aiding national authorities and protecting intellectual property rights*



**Irish Tax  
Institute**

## 6. Other Customs Considerations

## Other Customs Considerations



1. Export Controls
2. Binding Rulings
3. Customs Disputes & Appeals



## Export Controls

### Introduction



“Export controls” is a term that is used to describe the controls that are imposed on exports of “dual-use” or “military” items. The controls on export are implemented by means of prior governmental approval, and are ultimately designed to:

- prevent the export of dual-use items for use in production, delivery, etc., of nuclear and weapons of mass destruction, and
- prevent the export of military items to certain destinations.

An export generally constitutes the movement of goods across borders, however, an export can also arise in a number of additional scenarios:

- Movement of software or technology onto servers located outside the EU;
- Transmission of software or technology by fax, telephone, email or any other electronic means;
- Information made available regarding the controlled software or technology over the phone, etc.

Furthermore, exported items can also include blueprints, data, types of services, project plans or any other tangible/intangible items in relation to a controlled product.

**It is a precondition to understand what is meant by “dual-use” or “military” items:**

**Dual-Use:** tangible (physical) and intangible (i.e. software, technology) items which can be used for both civil and military purposes

**Military:** items which are specifically designed or modified for a military purpose



## Export Controls

### EU vs National Legislation



Although EU Member States are governed primarily by EU law, national legislation on export controls can also be introduced in each Member State.

#### EU Law:

##### **Binding in every EU Member State**

- Harmonised legal procedures - consolidating Global Agreements and International Obligations
- Harmonised recordkeeping procedures and definitions
- Allows for the free movement within the EU for the vast majority of dual-use goods (exceptions do apply)

**Relevant EU legislation: Council Regulation (EC) No. 428/2009 (as amended)**

#### National Controls:

- National regulation of military goods
- Member States may impose additional controls on dual use goods and additional recordkeeping requirements (e.g. UK)
- National documentation and licence application requirements
- National penalties and enforcement
- National simplification and facilitation measures (e.g. UK, Netherlands and other countries)

**Relevant UK legislation: Export Control Order 2008 UK Strategic and Export Control Lists**



## Export Controls

### Essential Elements



It is important for all exporters to consider the following essential elements of export controls when determining if an export is controlled or not:

**Product:** What is the product (tangible or intangible)?

**Destination:** What is the ultimate destination for the export?

**End-User:** Who will receive the product?

**End-Use:** What will the end-user do with the product?

**Conduct:** What else could the end-user do with the product?

**Financial:** Who will pay for the product?

**Exporter:** Who is the exporter responsible for compliance?



## Other Customs Considerations



1. Export Controls
2. **Binding Rulings**
3. Customs Disputes & Appeals



## Binding Rulings Binding Tariff Information



### **Binding Tariff Information (BTI):**

- Legally binding ruling on the classification of goods issued by the Customs administration
- Can be applied for in any EU Member State
- To be used by Holder for importation of BTI goods into any EU Member State with binding effect on all EU Customs Authorities
- BTIs are valid for 3 years
- Can be invalidated by issue of Classification Regulation, decision of WCO's HSC, change of opinion by Authorities or change in numerical coding as a result of amendment to the CN
- Can be annulled if issued on basis of incorrect information



## Binding Rulings

### Binding Origin Information



- In order to determine the origin of a product in the EU, a binding ruling can be obtained from the Customs Authorities of the relevant Member State. This is known as a Binding Origin Information ruling (or BOI).
  - A BOI is valid for 3 years
  - It can be obtained for both preferential and non preferential origin.

**APPLICATION TO THE REVENUE COMMISSIONERS FOR BINDING ORIGIN INFORMATION (BOI) UNDER REGULATION (EU) NO 952/2013 OF THE EUROPEAN PARLIAMENT AND COUNCIL AND COMMISSION REGULATIONS (EU) NO. 2015/2446 AND 2015/2447**  
(please read notes overleaf before completing)

1. Applicant: (Name & Address in full)		2. Designated Holder of the BOI: (Name & Address in full) (Only if different from Box 1)	
3. Legal framework: (preferential/non-preferential)			
4. (a) Description of Goods		4. (b) Tariff Classification	
5. Composition of Goods: *		6. Ex-work price: *	
7. Country of Origin envisaged by applicant:			
8. Rule considered to be satisfied: (see notes overleaf) *			
Principal Materials Used	Country of Origin	HS Heading/CN Number	Value
9. Enclosures being submitted to support this BOI of the goods: (tick "X")*			
<input type="checkbox"/> Samples <input type="checkbox"/> Photographs <input type="checkbox"/> Diagrams <input type="checkbox"/> Drawings <input type="checkbox"/> Other	* Indicate any particulars in respect of which confidentiality is being sought		
10. Have you previously applied for BOI for identical or similar goods either here or in any other Member State?			
Yes <input type="checkbox"/>		No <input type="checkbox"/> (tick "X")	
If yes, please give details: _____			
11. Are you aware of the existence of any other Member State of BOI or RTI for these or similar goods?			
Yes <input type="checkbox"/>		No <input type="checkbox"/> (tick "X")	
If yes, please give details: _____			
I declare that the information provided in this application is true and complete to the best of my knowledge. I agree to supply a translation of any document if so requested, and I accept that the information supplied, save for those particulars indicated as being confidential, may be stored on a database of the Commission of the European Communities and used for the purposes of Regulations No. 952/2013, 2015/2446 and 2015/2447.			
Name: _____ Signature: _____ Date: _____		BLOCK CAPITALS	
Telephone: _____ Fax: _____		E-Mail Address: _____	



## Other Customs Considerations



- Export Controls
- Binding Rulings
- Customs Disputes & Appeals





## Customs Audits

Irish Tax  
Institute

- Customs Audit – essentially a focused assessment of customs compliance
- Compliance areas receiving greatest scrutiny:
  - **Valuation** (e.g. assists, royalties, licence fees, **arm's-length pricing**, Transfer Pricing adjustments, Safeguard duties)
  - **Classification** (i.e. CN tariff code, use of "basket" provision, invoice descriptions)
  - **Free Trade Agreements and Duty Relief Programs** (e.g. reciprocal FTAs, GSP)
  - **Recordkeeping**
  - **Reliance on brokers for compliance**



pwc

## How to Prepare for Customs Audits

Irish Tax  
Institute

- By conducting a thorough pre-audit review, a company can not only prepare itself for an audit, but also identify any potential issues or liabilities to be disclosed
- Prepare/update import compliance manual (Corporate Policy)
  - Establish/update sound internal controls, policies and procedures (remember: good internal controls = less risk for Customs)
- If any issues are discovered, importers should consider the use of the qualifying disclosure process to declare these issues to Customs prior to the start of an audit



pwc

## Disclosures

- In Ireland Customs disclosures are subject to the same disclosure provisions as other tax heads
- It is possible to reduce the penalties to be imposed by Revenue by the declarant making a **qualifying disclosure**
- A qualifying disclosure, as for other tax heads, is the disclosure of all relevant information relating to the breach of tax legislation accompanied by a signed declaration and payment for the underpayment of customs duty
- There are different levels of qualifying disclosures, these can be:
  - Prompted, **or**
  - Unprompted



## Types of Disclosures

### **Unprompted Disclosure**

- An Unprompted Disclosure is when a company informs Customs of a mistake/error/omission in their Customs entries **before**:
  - An audit has been initiated in relation to their Customs entries, or
  - The company have been informed of an Audit to be carried out by Revenue in relation to their Customs entries
- By making an Unprompted Disclosure, as with other tax heads, the company in question will be able to mitigate a part of the penalty to be imposed due to the mistake/error/omission in question
- It is important when making an unprompted disclosure that **all** relevant information is provided to Revenue and that there is no information relating to other errors omitted

### **Prompted Disclosure**

- A Prompted Disclosure is when a company informs Customs of a mistake/error/omission in their Customs entries **after**:
  - An audit has been initiated in relation to their Customs entries, or
  - The company have been informed of an Audit to be carried out by Revenue in relation to their Customs entries
- By making a Prompted Disclosure, as with other tax heads, the company in question will be able to mitigate a part of the penalty to be imposed due to the mistake/error/omission in question, however the amount mitigated will not be as substantial as under an unprompted disclosure.
- It is important when making a Prompted disclosure that **all** relevant information is provided to Revenue and that there is no information relating to other errors omitted.

## Appeals Process



- The Finance (Tax Appeals) Act 2015 set up an appeals process whereby any disputes with Revenue tax options held avail of an appeals process:
- **First stage notice of appeal:**
  - Submitted to a Designated Appeals Officer in Revenue after initial Revenue decision
  - If unhappy with decision from DAO, appellant has 30 days to submit an appeal to the Tax Appeals Commission (TAC)
- **Second stage notice of appeal:**
  - TAC is an independent, appellate body separate from Revenue who has the sole responsibility for dealing in appeals against decisions and assessments that are made by Revenue
  - Notice of appeal is submitted by way of an application form
  - Revenue will receive a copy of the notice of appeal once submitted and have 30 days to communicate any objections to acceptance of the appeal to TAC in writing
  - The Appellant will then have 14 days to respond in writing
  - TAC will then decide whether to accept the second stage appeal or not
- **Once TAC issue their determination, either party can only appeal the case to the High Court on a point of law only.**



## 7. Authorised Economic Operator

## Authorised Economic Operator Overview



- Previously, in most countries, customs clearance and customs procedures have mainly been **documentary driven** and based on **physical controls**
- Objective of European Commission:
  - Create a new, streamlined customs legislation / eCustoms
  - Devise common control procedures and methodologies
  - Create harmonised (administrative) control methods

### Due to 9/11 & terrorism, strong call for securing the trade flow

- WCO endorsed strategy to provide increased security to the global supply chain while also facilitating trade:
- Examples of countries operating AEO programmes:
  - US: C-TPAT (Customs Trade Partnership Against Terrorism)
  - Australia: Australian Trusted Trader
  - Japan: AEO



## Authorised Economic Operator History



- Operating in the EU since 1 January 2008
- European Commission has implemented a data exchange system, known as the *AEO Central Database* to ensure that a certificate granted in one Member State is recognised in another Member State, throughout the Community
- The EU has mutual recognition arrangements in place with China, Japan, Norway, Andorra, Switzerland and the US.
- Co-operation between the European Commission and other component authorities is guaranteed at an international level in the WCO SAFE Framework of Standards as well as in EU legislation.

***Remember: It is voluntary, but over time Revenue may seek for some traders to apply for AEO***



# Authorised Economic Operator

## AEO – What is it?

AEO status is an **internationally recognised ‘trusted trader’ status** indicating that your role in the international **supply chain is secure**, and that your **customs controls and procedures are efficient and compliant**.

**Not mandatory**, but it gives **quicker access** to certain simplified customs procedures.

There are **three types**:

- AEO-C (Customs simplifications)
- AEO-S (Safety & Security)
- AEO-F (A combination of C&S)

## AEO – Benefits

- Greater **access to priority clearance**
- **Reduced administration** obligations
- **Traceability** of flows of **goods**
- Increased **transport security**
- **Fewer delays** in dispatch
- **Improved security** between **supply chain partners**
- **Quicker access** to certain **customs procedures**.
- **Mutual Recognition** – ease of movement through 3<sup>rd</sup> country ports.

## AEO & Brexit

AEO will become **increasingly important post-Brexit** for businesses that trade with the **UK**

- **Mitigates risks of border delays**
- Ease of **movement through ports and airports**
- **Quicker customs clearance** and **less stringent checks**.
- “*the UK’s proposal for a so-called **trusted-trader programme** [as a] realistic way to **keep trade flowing across the border**” - RTE – 26 September 2017*

## Why Important?

AEO is a mitigation strategy which helps to **reduce lead times** at the port, **reduce border delays** and **reduce the scrutiny** on goods

## Authorised Economic Operator (AEO)

### How to get AEO

**Before applying:**

- Complete **self-assessment questionnaire**.
- **Evaluate internal procedures**, ensuring that they meet the criteria for AEO.

**Once completed:**

- **Complete & submit application** for AEO certificate. (In Ireland, submitted to **Simplifications and Compliance Unit in Revenue**).

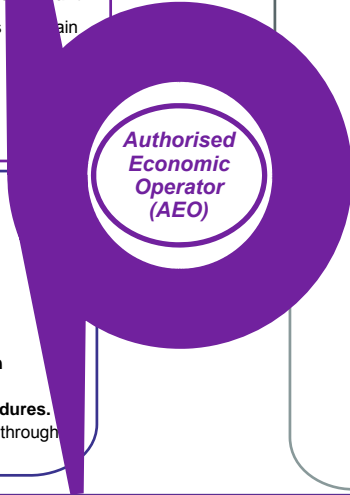
# Authorised Economic Operator



**AEO – What is it?**  
 AEO status is an internationally recognised **trusted trader’ status** indicating that your role in the international supply chain is **secure**, and that your **customs controls and procedures** are **efficient and compliant**.  
**Not mandatory**, but it gives **quicker access** to certain simplified customs procedures.  
 There are **three types**:  
 • AEO-C (Customs simplifications)  
 • AEO-S (Safety & Security)  
 • AEO-F (A combination of C&S)

**AEO & Brexit**  
 AEO will become increasingly important post-Brexit for businesses that trade with the UK  
 • Mitigates risks of border delays  
 • Ease of movement through ports and airports  
 • Quicker customs clearance and less stringent checks.  
 • “the UK’s proposal for a so-called **trusted-trader programme** [as a] realistic way to keep trade flowing across the border” - RTE – 26 September 2017

**Why Important?**  
 AEO is a mitigation strategy which helps to **reduce lead times** at the port, **reduce border delays** and **reduce the scrutiny** on goods



**AEO – Benefits**

- Greater **access** to **priority clearance**
- **Reduced administration** obligations
- **Traceability** of flows of **goods**
- Increased **transport security**
- **Fewer delays** in dispatch
- **Improved security** between **supply chain partners**
- Quicker **access** to certain **customs procedures**.
- **Mutual Recognition** – ease of movement through 3<sup>rd</sup> country ports.

**How to get AEO**  
**Before applying:**  
 • Complete **self-assessment questionnaire**.  
 • **Evaluate internal procedures**, ensuring that they **meet the criteria** for AEO.  
**Once completed:**  
 • **Complete & submit application** for AEO certificate. (In Ireland, submitted to **Simplifications and Compliance Unit** in Revenue).



# Authorised Economic Operator Concept

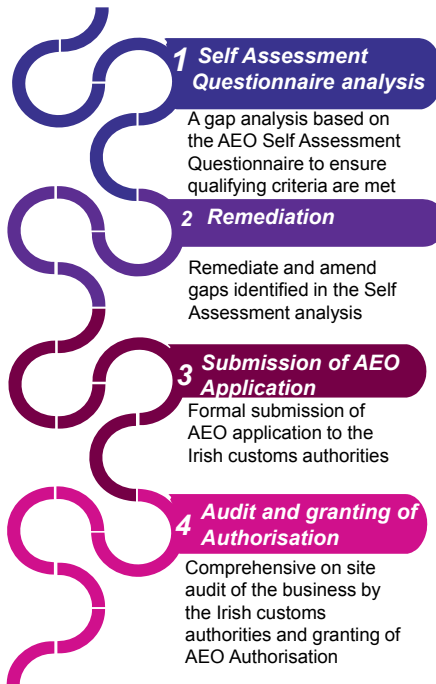


<p><b>1</b> </p> <p><b>AEOC</b>  <b>AEO-Customs simplifications</b></p> <p>This certificate will provide for a common basis to avail of simplifications under the customs legislation</p>	<p><b>2</b> </p> <p><b>AEOS</b>  <b>AEO-Security and Safety</b></p> <p>This certificate will allow traders to benefit from certain facilitations on customs controls in relation to security and safety when goods are imported or exported to or from the EU</p>	<p><b>3</b> </p> <p><b>AEOC/AEOS</b>  <b>Customs simplifications / Security and Safety</b></p> <p>This certificate will combine the two aforementioned certificates and present the business as a secure and reliable partner in the supply chain, eligible for customs simplifications and trade facilitation</p>
---	---	--



## AEO Application

- Prior to formally submitting an AEO application, it is best practice for a business to undertake a self assessment review of the business including its customs footprint, all customs activities and several associated issues such as the security, IT systems, personnel, accounting systems and transportation.
- The AEO self assessment and application can be divided into 5 areas:
  1. Company information
  2. Customs compliance
  3. Accounting and Logistical systems
  4. Financial Solvency
  5. Safety and Security



## Authorised Economic Operator Number of Published AEO Operators

There are over 15,970 AEO operators in Europe, with 141 being located in Ireland

Authorised Economic Operators - Query page

Last update: 06-09-2018

Retrieve Authorised Economic Operators

Please select any combination of data concerning an authorisation holder ( country, authorisation type, holder name )

Authorisation holder name

Issuing country: Ireland - IE - (007)

Authorisation type:
 

- AEOC - Customs simplifications
- AEOF - Customs simplifications/Security and safety
- AEOS - Security and safety

Search rules: To search for a part of a word in the name box use the percent sign as a wildcard. A search for "Com%" finds all names in which one of the following words appear: "Company", "Component", "Computer", "Common", etc. Search words are not case sensitive; searches for "COMP" and "comp" are treated the same.

Search

141 results match your search

1 - 25 Next

Holder	Issuing Country	Competent Customs Authority	Authorisation Type	Eff. Date
Abbott Ireland	Ireland	IEEN0001	AEOF - Customs simplifications/Security and safety	08/06/2010
AbbVie Ireland NL B.V.	Ireland	IEEN0001	AEOF - Customs simplifications/Security and safety	13/11/2012
Air Ocean Ireland Ltd	Ireland	IEEN0001	AEOF - Customs simplifications/Security and safety	24/08/2016
Alcon Laboratories Ireland Ltd	Ireland	IEEN0001	AEOF - Customs simplifications/Security and safety	14/09/2010
Alkermes Pharma Ireland Limited	Ireland	IEEN0001	AEOF - Customs simplifications/Security and safety	23/07/2015
Analog Devices International U.C.	Ireland	IEEN0001	AEOF - Customs simplifications/Security and safety	08/03/2013
Apple Distribution International	Ireland	IEEN0001	AEOF - Customs simplifications/Security and safety	11/04/2012
Apple Operations Europe	Ireland	IEEN0001	AEOF - Customs simplifications/Security and safety	18/08/2009

### Technology:

- Apple Distribution International
- Google Ireland Ltd.
- Intel Ireland Ltd.
- Analog Devices International U.C.
- McAfee Ireland Ltd.

### Retail/Food & Beverages:

- Primark
- Bfree foods Ltd.
- Pepsi-Cola International Cork
- Diageo Ireland
- Irish Distillers Limited

### Pharmaceutical:

- Abbott Ireland
- Boston Scientific
- Cook Medical Europe Limited
- GE Healthcare Ireland
- Gilead Sciences Ireland UC

### Logistics:

- Aramex
- Atlantic Pacific Global Logistics Ltd
- DHL Express (Ireland) Ltd.
- Federal Express Europe Inc.
- Kuehne + Nagel
- Geodis Ireland Ltd.





## Authorised Economic Operator Benefits

Irish Tax  
Institute

Some of the benefits of obtaining AEO are as follows:

Priority treatment during physical controls or inspection

Under the Union Customs Code (i.e. EU customs legislation), businesses applying to operate or renew customs procedures (e.g. the Inward Processing procedure) and simplifications must fulfil AEO authorisation criteria

A lower risk score in risk analysis systems when profiling for inspection and audit

Due to Mutual Recognition, shipments are less likely to be examined by certain customs authorities (e.g. US) and will move quicker through third country borders

A platform to highlight current strengths and weaknesses within the supply chain and identify cost saving opportunities

Used as a benchmark to enhance and strengthen compliance

pwc

## Authorised Economic Operator Brexit

Irish Tax  
Institute

- The media has provided a number of soundbites with regards to AEO and how it will be affected by Brexit, both from a UK and EU perspective.

### RTE – 26 September 2017

"In particular, officials here see the UK's proposal for a so-called trusted-trader programme as a realistic way to keep trade flowing across the border after the split.

Cross-border trade is worth more than €3 billion a year, the State estimates."

### The Guardian – 12 April 2017

"A frictionless and seamless border is predicated on an electronic system that would pre-clear "trusted traders" in and out of the UK. However, 10 days ago it emerged Her Majesty's Revenue & Customs are not confident they can deliver a new electronic system in time. A group of influential MPs warned there would be a fivefold increase in customs checks at Dover and other ports from 60m a year to 300m after Brexit. HMRC admitted in correspondence to the Treasury select committee that it was no longer sure it can deliver a new customs declaration system for Brexit Day."

### Lords Select Committee - Costs of administering tariff and non-tariff barriers – 14 March 2017

"Another example was the Authorised Economic Operator (AEO) scheme... We note that the UK is currently part of the EU's AEO concept, which has its basis in the Union Customs Code. After Brexit, the UK would need either to adopt the provisions of the AEO scheme into UK law, or develop its own AEO scheme. It is unclear whether recognition of the UK's AEO scheme by other countries after Brexit would be automatic, or would require prior agreement or negotiations."

### IBEC - Brexit: Challenges with solutions – 19 June 2017

"The EU and the UK must agree to recognise each other's Trusted Trader status (or Authorised Economic Operator (AEO) status in the EU framework) under exit and transitional arrangements to facilitate continuation of business operations. Trusted traders are recognised as satisfying necessary standards and having secure supply chains. Benefits of having trusted trader status include reduced customs inspections and priority processing for inspections when required."

Art.  
50

### The Irish Independent – 25 November 2017

"The introduction of border controls along the Border will impact a large number of companies that have never previously made an export and/or import declaration. There are a number of studies that point to the time and cost impacts of border controls and compliance requirements, for example the need to obtain a certificate of origin for exporters." - Lars Karlsson

\*larger version produced overleaf

pwc



# Authorised Economic Operator Brexit

- The media has provided a number of soundbites with regards to AEO and how it will be affected by Brexit, both from a UK and EU perspective.

## RTE – 26 September 2017

*“In particular, officials here see the UK’s proposal for a so-called trusted-trader programme as a realistic way to keep trade flowing across the border after the split.*

*Cross-border trade is worth more than €3 billion a year, the State estimates.”*

## The Guardian – 12 April 2017

*“A frictionless and seamless border is predicated on an electronic system that would pre-clear “trusted traders” in and out of the UK. However, 10 days ago it emerged Her Majesty’s Revenue & Customs are not confident they can deliver a new electronic system in time. A group of influential MPs warned there would be a fivefold increase in customs checks at Dover and other ports from 60m a year to 300m after Brexit. HMRC admitted in correspondence to the Treasury select committee that it was no longer sure it can deliver a new customs declaration system for Brexit Day.”*

## Lords Select Committee - Costs of administering tariff and non-tariff barriers – 14 March 2017

*“Another example was the Authorised Economic Operator (AEO) scheme... We note that the UK is currently part of the EU’s AEO concept, which has its basis in the Union Customs Code. After Brexit, the UK would need either to adopt the provisions of the AEO scheme into UK law, or develop its own AEO scheme. It is unclear whether recognition of the UK’s AEO scheme by other countries after Brexit would be automatic, or would require prior agreement or negotiations.”*

## IBEC - Brexit: Challenges with solutions – 19 June 2017

*“The EU and the UK must agree to recognise each other’s Trusted Trader status (or Authorised Economic Operator (AEO) status in the EU framework) under exit and transitional arrangements to facilitate continuation of business operations. Trusted traders are recognised as satisfying necessary standards and having secure supply chains. Benefits of having trusted trader status include reduced customs inspections and priority processing for inspections when required.”*

## The Irish Independent – 25 November 2017

*“The introduction of border controls along the Border will impact a large number of companies that have never previously made an export and/or import declaration. There are a number of studies that point to the time and cost impacts of border controls and compliance requirements, for example the need to obtain a certificate of origin for exporters,” - Lars Karlsson*

## 8. Brexit

### Current State of Play

*Status as of 11 September 2018: 199 Days until Brexit*

#### Withdrawal Agreement (Comprising Transitional Agreement)

- EU draft text of 28 February 2018 (yet to be agreed)
- EU draft provides for *status quo* for most part (e.g., not for EU FTAs)
  - UK position differs on certain key issues (NI)
  - Reconciliation of UK and EU positions required to avoid "Hard Brexit"
- Certainty for business on post-March 2019 environment: Later in 2018

#### EU-UK FTA (Agreement on Future Relationship)

- Yet to be agreed
- Free Trade Agreement only – no appetite for deeper integration
- Hoped to commence on 1 January 2021 (after transition period)
- Some recent indications of EU and UK positions
  - Balance to be achieved; differences to be overcome
- Ratification by EU, UK and Member States will be much later

Department of Business, Enterprise and Innovation, June 2018

***There is a lack of preparedness and understanding within sections of the enterprise base on what Brexit will require***

BBC, 05 Aug 2018

**Fox: No-deal most likely Brexit outcome**

Financial Times, 22 Aug 2018

***EU vows to get tough on UK's market access after Brexit***

The Independent, 21 Aug 2018

***EU not impressed by UK's no-deal Brexit blame game, says Michel Barnier***

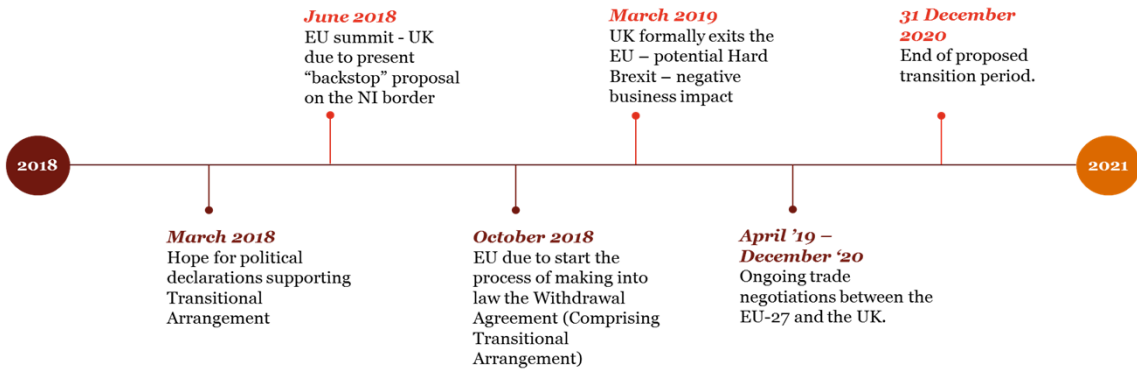
The Guardian, 21 Aug 2018

***UK and EU to enter "continuous" talks to resolve Brexit deadlock***

## Brexit Timelines

### Withdrawal Agreement (Comprising Transitional Arrangement)

Irish Tax Institute



pwc

## Business Awareness – Key Impact Areas

Irish Tax Institute



pwc

## Possible Brexit scenarios and their implications

Irish Tax Institute

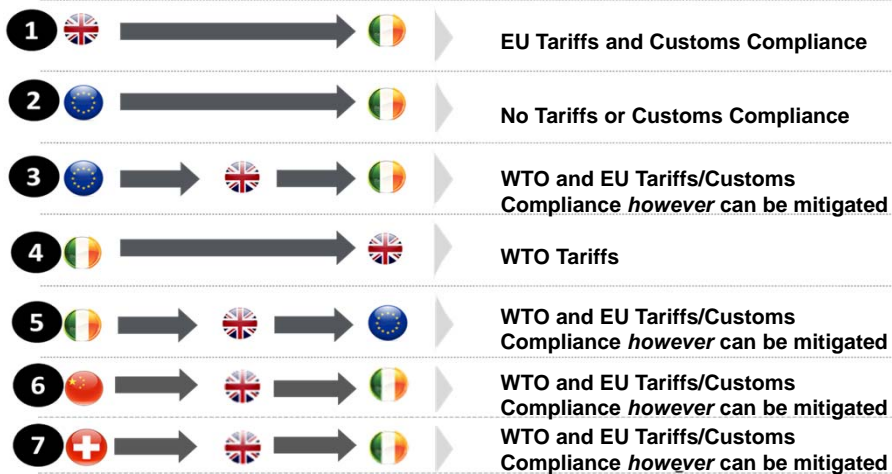
	'Hard' Brexit No bilateral trade agreement between EU & UK (WTO terms)	Transition deal agreed, <i>broadly</i> business as usual during this time**	'Soft' Brexit Free Trade Agreement between EU and UK (FTA)
<b>Goods</b>			
Tariffs	✓	X	X*
Customs borders & admin compliance	✓	X	✓
Risks of customs borders delays and backlogs	✓	X	✓
Import VAT (payable immediately on entry to UK)	✓	X	✓
<b>Services (More Sector-Dependent)</b>			
Restrictions on the ability to provide services	✓	X	✓/X
Increased admin compliance	✓	X	✓/X

\*Dependent on final outcome – tariffs may not be eliminated on all products  
\*\* E.g., falling away of EU FTAs

pwc

## Supply Chain implications of a Hard Brexit

Irish Tax Institute

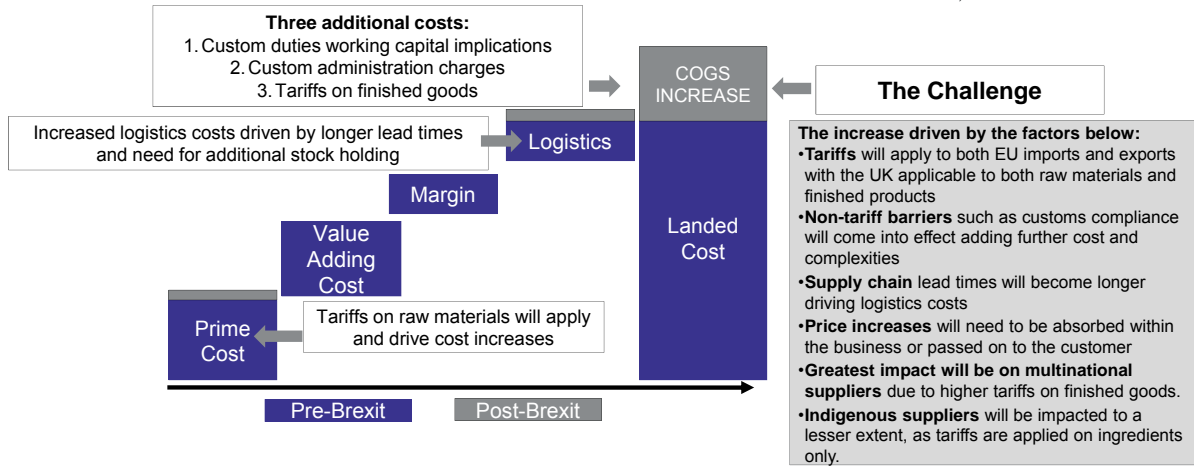


pwc

## Cost Inflation Impact



Brexit adds additional cost throughout all stages of the value chain. Additional costs driven by imported raw materials and finished goods



## Day 1 Readiness – Illustrative List

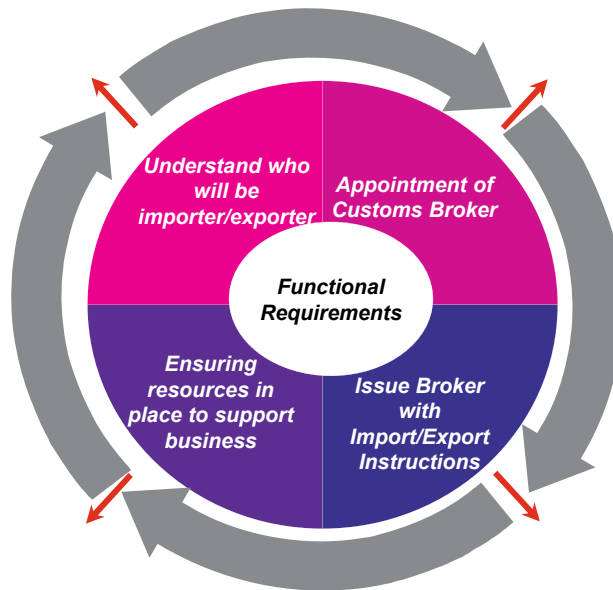


EORI Registration	Deferred Payment	Contractual Review	Appointment of Customs Broker	Assess non-tariff barriers
Assign tariff classification codes	Determine rates of duty	Value imports/ exports	Assign origin	Issue Broker with Import/Export Instructions
Assess availability of duty reliefs	Availability of Import VAT mitigation measures	Consideration of FTA benefits	Customs procedures (e.g. IPR/transit)	
Benefits of AEO	Use of Customs Simplifications	Engagement with customs broker to agree "rate card"		
Ensuring resources in place to support business (strategically & operationally)		Ensure appropriate IT controls in place		

- Not within immediate control:**
1. Electronic single window
  2. Port & other infrastructure
  3. Regulatory & quality divergence
  4. EU or gvt support (possibly "state aid")
  5. Replica of Dutch Article 23 Licence (VAT)
  6. Irish Revenue/HMRC approach to simplifications
  7. Creation of conformity warehousing/transit procedures



## Day 1 Readiness – Functional Necessities



## Day 1 Readiness – Operational Requirements



<b>Critical Importance</b>	<b>Recommended to avoid significant costs</b>
<p><b>Must have</b></p> <ul style="list-style-type: none"> <li>• EORI Registration</li> <li>• Assign tariff classification codes</li> <li>• Assign origin</li> <li>• Value imports/exports</li> <li>• Prepare for non-tariff barriers &amp; Border delays (e.g. vet checks)</li> <li>• Deferred payment account</li> </ul>	<ul style="list-style-type: none"> <li>• Determine rates of duty and communicate to relevant stakeholders.</li> <li>• Contractual review</li> <li>• Use of duty reliefs</li> <li>• Customs procedures (e.g. OPR/IPR/transit)</li> <li>• Customs warehouse</li> <li>• Availability of Import VAT mitigation measures</li> <li>• Potential benefits of AEO</li> <li>• Use of Customs Simplifications</li> <li>• Engagement with customs broker to agree "rate card"</li> </ul>
<b>Other Priority Actions</b>	



## Contact Details



### **John O'Loughlin**

[john.p.oloughlin@pwc.com](mailto:john.p.oloughlin@pwc.com)

+353 (01) 792 6093

John is a Partner in PwC and leads PwC's Global Trade & Customs team. He is actively assisting clients with modelling and assessing the impact of tariff barriers. He has been at the front of our efforts to clarify the customs and trade impacts associated with Brexit.



### **Ruud Tusveld**

[r.tusveld@upcmail.nl](mailto:r.tusveld@upcmail.nl)

Ruud is former leader of the Customs & International Trade EMEA network of PwC – now lecturing Customs at the University in Tilburg (NL) and Rotterdam (NL).



**Irish Tax  
Institute**

## **9. Revenue's Approach to Customs** Michael Colgan, formally of Revenue







---

# Revenue's Approach to Customs

---

Presented by

Michael Colgan

(formerly Revenue Commissioners)



## Preparing for Brexit

- How is Revenue resourced?
- Revenue's use of technology, controls and risk management
- Customs Audit
- How businesses and traders can get ready for Brexit
- Guiding principle: "Hope for the best .....



## Revenue Structure and Resources

- Combined tax and Customs administration
- Board of three reports to the Minister for Finance
- Revenue is part of a whole of Government approach to Brexit
- Customs Division has the lead role within Revenue
- Brexit Unit within Customs Division established in 2016 – consists of a Policy Unit (Dublin based) and a Preparedness Unit in Nenagh

Irish Tax  
Institute



Revenue  
Revenue Commissioners

## Policy Unit

- Interaction with other Govt. Stakeholders
- Participation in relevant fora and working groups
- Support to “Team Ireland”
- Liaison with TF50 as part of Ireland’s delegation
- Provision of technical and policy advice
- Drafting and analysis of proposals and papers
- Preparation of material for Parliamentary Questions, representations and

Irish Tax  
Institute



## Preparedness Unit

- Revenue readiness, including defining resource requirements, IT requirements and infrastructure
- Trader outreach (at appropriate time)
- Support to Customs Consultative Committee
- Liaison with relevant representative groups incl. ITI, IBEC, port authorities, etc.
- Scaling and scoping
- Much done...more to do!



## Revenue's Use of Technology

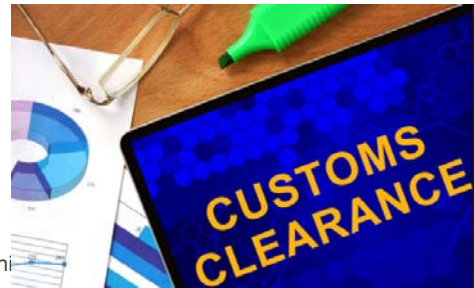
- AEP is Revenue's import/export declaration system
- Currently processes c.1.4M declarations annually
- Projected volumes >20M declarations – and still uncertain
- Work on-going to maximize AEP's capability and performance
- Separately implementation of the EU's UCC IT programme (MASP) between now and 2025+
- Again much done...more to do!



## Revenue's Risk Management Unit and Implementation of Controls

Irish Tax  
Institute

- Customs are the gatekeepers for all State agencies
- Assigns green, orange and red routings
- 90%+ of imports go green and are cleared in less
- Agency work for other Govt. Depts. and stakeholders
- Revenue and EU risks are targeted
- CRISP is a tool used to support post clearance and audit interventions which



## Customs Audit

Irish Tax  
Institute

- Not solely about €€€€
- Duty collected Vs Duty suspended
- Enforcement of standards and the protection of the Single Market
- Customs Audit Programme is managed by Customs Division in terms of targets, quantity and quality
- The EU (DG Budget) annually audits Revenue's own performance in protecting their financial and other interests
- Recently audited topics include: end use, quotas, transit and solar panels



## Brexit Preparations

Irish Tax  
Institute

- 1) Examine your supply chain end-to-end
- 2) Create options/alternatives for your business
- 3) Know how to classify your goods, their origin and routing
- 4) Who will handle your import/export declarations
- 5) What about transit?
- 6) What duty does the EU currently charge 3<sup>rd</sup> countries on the goods you are getting from the UK?
- 7) Non-tariff barriers
- 8) Contracts
- 9) Consider increased delays and costs
- 10) Are your goods perishable?
- 11) Is your business time-critical in terms of supply and delivery?
- 12) Cash flow (VAT at import)
- 13) Two years ago was the best time to start your preparations.... The time is now!



**Speaker: Michael Colgan (Brexit Expert/Consultant)**

**Email: Colganmicheal @ gmail.com**

**Mobile: 00 353 87 227 0519**

Irish Tax  
Institute

**10. The Business Perspective**  
Panel Discussion