



REGULATORY | MAY 2021

FREEPORTS: KNOW YOUR CUSTOMS

In our last article we introduced the UK's new Freeports, due to be developed at eight sites in England (East Midlands Airport, Felixstowe & Harwich, the Humber region, Liverpool City, Plymouth, Solent, the Thames and Teeside).

These new Freeports are intended to achieve three key policy objectives, namely: the creation of a hub for global trade and investment; the promotion of regeneration and job creation; and the creation of innovation hotbeds.

As we discuss below, one of the ways they seek to do this is by creating favourable customs regimes for businesses that import, process and then re-export goods. We explore the size of those benefits, as well as the impact of the accompanying responsibilities.

What are the benefits?

The key customs benefits, as summarised in the Government's Freeports Bidding Prospectus, are as follows:

- duty deferral while goods remain on site
- duty inversion if the finished goods exiting the Freeport attract a lower tariff than their component parts
- there is some scope (but see below for some important limitations) for customs duty exemption on goods that are imported into a Freeport, processed into finished goods and subsequently re-exported

Manufacturers will be able to move component parts between sites and pay only a single tariff on the finished product. The most significant advantages are therefore likely to be gained by businesses developing products across multiple sites, utilising different technical expertise at each site.

What are the responsibilities?

In return for these customs benefits, the operator of the customs site assumes a number of responsibilities, as follows:

- ensuring goods on site follow the correct customs processes;
- obtaining (and maintaining) authorisation for the customs sites;
- adopting (and maintaining) measures to prevent unauthorised access to the Freeport customs site, e.g. robust perimeter security measures (fences, controlled access gates and lighting);
- responsibility for the control of movement of goods and the access of people in and out of the customs site;
- ensuring that goods are only able to leave the Freeport customs site when permitted to do so;
- use of HMRC-approved inventory linking systems;
- actively managing security risks across physical, personnel, and cyber domains;
- conducting an annual audit of the security measures in place and any breaches;
- adhering to the OECD Code of Conduct for Clean Free Trade Zones, including anti-illicit trade and security measures;
- taking steps to ensure that the customs sites and tax sites in the Freeport are secure against illicit activity, including organised criminal activity, money laundering, smuggling and illegal immigration;

- adopting measures to combat other illicit activity (e.g. breaches of international regulations such as the Convention on the International Trade in Endangered Species).

Importantly, an operator of a Freeport customs site will be jointly and severally liable with a declarant for any import duty liability arising where there is a breach of any requirement of the Freeport operator's authorisation in relation to the keeping of goods in the Freeport customs site.

How large are the actual customs benefits?

The three main customs benefits of the Freeport are duty deferral, duty inversion and duty exemption. For two out of those three, the practical benefits may be less significant than first appears.

Duty inversion refers to a very specific scenario: instances when tariffs are higher on components than on the finished product. Under these circumstances, there is an advantage in importing components tariff-free into the Freeport, processing them into the final product and then exporting to the domestic market, paying the lower tariff on the final product.

Interesting research by the University of Sussex / UK Trade Policy Observatory suggests that there is in fact very little opportunity for businesses to receive a substantial benefit from tariff inversion in UK Freeports¹. That is mainly because tariffs on intermediates tend to be low in the UK, typically lower than tariffs on final goods, which rules out duty savings in most cases. One example which was identified in the research was dog and cat food.

As mentioned above, businesses may also be able to take advantage of customs duty exemption on goods that are imported into a Freeport, processed into finished goods and subsequently re-exported. However, that is subject to the UK's trade agreements.

The Financial Times reported on 9 May that companies in Freeports will not get to enjoy these benefits if they export to certain countries including Canada, Norway, Switzerland and Singapore, because recent post-Brexit trade agreements with 23 different countries include clauses that specifically prohibit manufacturers in Freeport-type zones from benefiting from the deals.

According to research by the Labour Party, Britain's exports of goods to these 23 countries were worth £35.56bn in 2019, almost 10 per cent of the UK's total global goods exports that year, although it is important to stress that the issue does not apply to the UK's trade deal with the EU, which is by far its largest market for exports.

Stay tuned for our next article, which will focus on The International Trade Committee report on UK Freeports.

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¹ <https://blogs.sussex.ac.uk/uktpo/2020/07/28/tariff-inversion-in-uk-freeports-offer-little-opportunity-for-duty-savings/>

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