STATUTORY INSTRUMENTS

2023 No. 557

The Customs (Origin of Chargeable Goods: Developing Countries Trading Scheme) Regulations 2023

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Customs (Origin of Chargeable Goods: Developing Countries Trading Scheme) Regulations 2023 and come into force on 19th June 2023.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(3) These Regulations apply in relation to goods—

(a) that are imported into the United Kingdom in respect of which a liability to a charge to import duty(**1**) is incurred under the Act, and

(b) in respect of which a claim is made for a preferential rate of import duty under the trade preference scheme established by regulation 5 of the DCTS Regulations.

Interpretation

2. In these Regulations—

"the Act" means the Taxation (Cross-border Trade) Act 2018;

"aquaculture" means the farming of aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants from seed stock, such as eggs, fry, fingerlings, or larvae, parr, smolts, or other immature fish at a post-larval stage, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;

"Chapter" means a chapter of the Goods Classification Table;

"the DCTS Regulations" means the Trade Preference Scheme (Developing Countries Trading Scheme) Regulations 2023(**2**);

"declaration acceptance date" means the date on which HMRC accepts a Customs declaration for the purposes of section 4(1) of the Act;

"exporter", in relation to goods for exportation or for use as stores, means the person who exports an originating good, including the shipper of the goods and any person performing, in relation to other modes of transport, functions corresponding with those of a shipper;

"ex-works price" means—

(a) the price paid for the goods ex-works to the person who carried out the last processing in relation to those goods ("P"), including the value of all the materials used and all other costs relating to their production except any internal taxes which are, or may be, repaid when the goods obtained are exported, or

(**1**) See section 1 of the Act.
(**2**) S.I. 2023/561.

(b) where the actual price paid does not reflect all the costs relating to the manufacturing of the goods, the sum of all those costs except any internal taxes which are, or may be, repaid when the goods obtained are exported,

and, in paragraph (a), if a manufacturer was subcontracted to carry out the last processing of the goods, the person who contracted with the manufacturer to carry out that processing is taken to be P;

"FTA partner" means a country or territory listed under the heading "FTA Partner Country" within a regional group;

"Goods Classification Table" has the meaning given in regulation 1(2) of the Tariff Regulations;

"heading" means a heading of the Goods Classification Table;

"LDC" means a country listed as a least developed country in Part 2 of Schedule 3 to the Act;

"material" means any ingredient, raw material, component or part, used in the manufacture of goods;

"maximum content of non-originating materials" means the maximum content of non-originating materials permitted under these Regulations for a stage of manufacture to be considered as an important stage of manufacture in the tables in Part 2 and Part 3 of Schedule 1 to these Regulations, expressed as a percentage of—

(a) the ex-works price of the good, or

(b) the net weight of the final good;

"net weight" means, in relation to goods, the weight of the goods themselves without packing materials or packing containers;

"non-originating goods" means goods not originating from the qualifying DCTS country concerned;

"non-originating material" means material not originating from the qualifying DCTS country concerned;

"originating goods" means goods originating from the qualifying DCTS country concerned;

"originating material" means material originating from the qualifying DCTS country concerned;

"qualifying DCTS country" has the meaning given in regulation 6(1) of the DCTS Regulations(**3**);

"qualifying DCTS goods" has the meaning given in regulation 6(2) of the DCTS Regulations;

"regional group" means the qualifying DCTS countries and FTA partners listed in Column 1, or the group of qualifying DCTS countries and FTA partners listed in Column 2, of the table in Schedule 3;

"sub-heading" means a sub-heading of the Goods Classification Table;

"the Tariff Regulations" means the Customs Tariff (Establishment) (EU Exit) Regulations 2020(**4**);

"value" has the meaning given in regulation 9.

(**3**) For the meaning of "DCTS country", see regulation 2(1) of the DCTS Regulations.
(**4**) S.I. 2020/1430, amended by S.I. 2022/981.

Revocation of the Customs (Origin of Chargeable Goods: Trade Preference Scheme) (EU Exit) Regulations 2020

3. The Customs (Origin of Chargeable Goods: Trade Preference Scheme) (EU Exit) Regulations 2020(**5**) are revoked.

Conditions that must be met for goods to be regarded as originating from a qualifying DCTS country

4. Qualifying DCTS goods listed in Columns 1 and 2 of the tables in Part 2 and Part 3 of Schedule 1 are to be regarded as originating from a qualifying DCTS country if—

(a) the evidence requirements set out in regulations 5 and 24(4) are met;

(b) the goods are wholly obtained in that qualifying DCTS country in accordance with regulation 7;

(c) where the goods are obtained in two or more countries or territories, that qualifying DCTS country is the last country or territory in which processing of the goods which constitutes an important stage of manufacture has taken place in accordance with regulation 8;

(d) in the case of returned goods, the requirements set out in regulation 23 are met;

(e) the non-manipulation requirements set out in regulation 24(1) are met.

Evidence required for goods to be regarded as originating from a qualifying DCTS country

5. The evidence requirements referred to in regulation 4(a) are that—

(a) the qualifying DCTS goods are accompanied by the documents or other evidence specified in a public notice given by HMRC Commissioners under paragraph 7(1)(b) of Schedule 1 to the Act, and

(b) the exporter of the goods has complied, to the satisfaction of an HMRC officer, with the applicable arrangements and obligations specified in a notice published by HMRC Commissioners relating to the provision of evidence of the origin of the goods.

HMRC notices of arrangements relating to the provision and verification of evidence

6. HMRC Commissioners may publish a notice relating to one or more of the following—

(a) the replacement of any documents or other evidence referred to in regulation 5(a);

(b) the arrangements for verification of any evidence referred to in regulation 5(a);

(c) the arrangements and obligations relating to the provision of evidence of the origin of the goods referred to in regulation 5(b).

Wholly obtained goods

7.—(1) In Part 1 of the Act and in Column 3 of the tables in Part 2 and Part 3 of Schedule 1 to these Regulations, any reference to goods being wholly obtained in a country or territory includes the following specified cases—

(a) mineral products extracted from the soil or seabed of the qualifying DCTS country;

(b) live animals born and raised in the qualifying DCTS country;

(c) products from live animals raised in the qualifying DCTS country;

(d) products from slaughtered animals born and raised in the qualifying DCTS country;

(**5**) S.I. 2020/1436.

(e) products obtained by hunting, fishing or harvesting conducted in the qualifying DCTS country but not beyond the outer limits of the territorial sea of the qualifying DCTS country;

(f) products of aquaculture in the qualifying DCTS country but not beyond the outer limits of the territorial sea of the qualifying DCTS country;

(g) products of fish, shellfish, and other marine life taken from the sea, seabed or subsoil outside any territorial sea, by vessels which are—

(i) registered in the qualifying DCTS country or in the United Kingdom, and

(ii) entitled to fly the flag of the qualifying DCTS country or the United Kingdom;

(h) products made exclusively from the products referred to in sub-paragraph (g), on board factory ships which are—

(i) registered in the qualifying DCTS country or in the United Kingdom, and

(ii) entitled to fly the flag of the qualifying DCTS country or the United Kingdom;

(i) used goods that are waste or scrap derived from production in the qualifying DCTS country;

(j) used goods collected in the qualifying DCTS country and fit only for the recovery of raw materials;

(k) products extracted from the seabed or subsoil which is situated outside any territorial sea provided the qualifying DCTS country has exclusive exploitation rights;

(l) a plant, plant good, or fungus, grown, cultivated, harvested, picked, or gathered in the qualifying DCTS country;

(m) goods produced in the qualifying DCTS country exclusively from the things specified in sub-paragraphs (a) to (l).

(2) For the purposes of intra-regional cumulation under regulation 18, goods specified in paragraph (1)(g) and (h) must be regarded as originating from the qualifying DCTS country under whose flag the vessel or factory ship sails.

Processing: important stage of manufacture condition

8.—(1) Subject to the derogation in regulation 11(1), the processing of goods constitutes an important stage of manufacture if the processing meets the conditions specified—

(a) in respect of LDCs in Part 2 of Schedule 1;

(b) for other qualifying DCTS countries in Part 3 of Schedule 1.

(2) For the purposes of paragraph (1), the processing of goods only by one or more of the following operations does not constitute an important stage of manufacture—

(a) preserving operations to ensure that the goods retain their condition during transport and storage;

(b) the breaking up or assembly of packages;

(c) washing, cleaning or the removal of dust, oxide, oil, paint or other coverings;

(d) the ironing of textiles;

(e) simple painting and polishing operations;

(f) the husking or partial or total milling of rice or the polishing or glazing of cereals or rice;

(g) operations to colour or flavour sugar or form sugar lumps or the partial or total milling of crystal sugar;

(h) the peeling, stoning or shelling of fruits, nuts or vegetables;

(i) sharpening, simple grinding or simple cutting;

(j) sifting, screening, classifying, sorting, including the making-up of sets of articles;

(k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;

(l) the affixing or printing of marks, labels, logos or other like distinguishing signs on goods or their packaging;

(m) the simple mixing of goods, whether or not of different kinds or the mixing of sugar with any material;

(n) the simple addition of water or dilution, dehydration or denaturation of goods;

(o) the simple assembly of parts of goods to constitute a complete good or the disassembly of goods into parts;

(p) the slaughtering of animals.

(3) An operation described as simple in paragraph (2) is to be regarded as simple if no specialist skills, or machines, apparatus or tools especially produced or installed for it, are required for it to be carried out.

Valuation

9.—(1) "Value", in relation to a material, means—

(a) the customs value, as determined in accordance with Article VII of GATT, at the time of importation of the material, or

(b) if that customs value is not known and cannot be ascertained, the first price proven, to the satisfaction of an HMRC officer, to have been paid for the material in the United Kingdom or in the qualifying DCTS country concerned.

(2) When calculating the value of non-originating material in relation to a good obtained in an LDC, the costs of freight, insurance, packing, and all other costs incurred in transporting the material to the location of the producer of the good may be deducted.

(3) In paragraph (1)(a), "GATT" means the General Agreement on Tariffs and Trade 1994 (GATT) (being part of Annex 1A to the Agreement establishing the World Trade Organization (WTO) signed in Marrakesh on 15th April 1994(**6**)).

Averages

10.—(1) Where the conditions specified in the tables in Part 2 and Part 3 of Schedule 1 refer to a maximum content of non-originating materials, this may be determined by reference to—

(a) the average ex-works price charged for goods sold during the reference period, and

(b) the average value of the non-originating materials used in the manufacture of the goods during the reference period.

(2) An exporter who has applied the method of determination set out in paragraph (1) must apply the same method in respect of the fiscal year following the reference period.

(3) But the exporter may cease to apply that method if, during a given fiscal year or shorter period of at least three months, the exporter records that fluctuations in costs or currency rates which justified such a method have ceased.

(4) In this regulation—

"fiscal year" means the year, beginning with the same date each year, defined by the exporter;

(**6**) Cmnd 2575.

"reference period" means the preceding fiscal year or, where figures for a complete preceding fiscal year are not available, a shorter period of at least three months in the preceding fiscal year.

Derogation in respect of use of non-originating materials

11.—(1) Non-originating materials which, according to the conditions set out in the tables in Part 2 and Part 3 of Schedule 1, are not to be used in the manufacture of the goods, may nevertheless be used provided that—

(a) in relation to goods falling within any of Chapters 2 and 4 to 24 except processed fishery goods mentioned in Chapter 16, the net weight of the non-originating materials does not exceed 15% of the net weight of the goods;

(b) in relation to goods to which sub-paragraph (a) does not apply except goods falling within any of Chapters 50 to 63, for which the allowances mentioned in Notes 4 and 5 of Part 1 of Schedule 1 apply, the total value of the non-originating materials does not exceed 15% of the ex-works price of the goods;

(c) the percentage for the maximum content of non-originating materials in relation to the goods as specified in the tables in Part 2 and Part 3 of Schedule 1 is not exceeded.

(2) Paragraph (1) does not apply in relation to goods which are to be regarded as wholly obtained in a qualifying DCTS country under regulation 7.

(3) The allowance under the derogation in paragraph (1) applies to the sum of all the materials used in the manufacture of the goods where the condition in respect of those goods as set out in the tables in Part 2 and Part 3 of Schedule 1 is that such materials be wholly obtained in the qualifying DCTS country, but this does not affect the application of regulations 8(2) and 12(1).

Consignments of identical goods and packaging

12.—(1) For the purposes of these Regulations, if a consignment consists of several goods, the origin of each good must be individually determined, including where the consignment consists of substantively identical goods classified under the same sub-heading.

(2) If, under Rule 5 of the Goods Classification Table Rules of Interpretation specified in section 1 of Part Two of the Tariff of the United Kingdom, packaging is included with the goods for classification purposes, it must be included in determining the origin of the goods.

(3) In this regulation, "the Tariff of the United Kingdom" has the meaning given in regulation 1(2) of the Tariff Regulations.

Accessories, spare parts and tools

13. Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in its price or which are not separately invoiced—

(a) are to be regarded as having the same origin as the piece of equipment, machine, apparatus or vehicle;

(b) may be taken into account when determining the originating status of the equipment, machine, apparatus or vehicle under regulation 4.

Sets

14. Goods in a set for retail sale are to be regarded as goods originating from a qualifying DCTS country if—

(a) all the components are originating goods, or

(b) where the set is composed of a mixture of originating goods and non-originating goods, the value of the non-originating goods does not exceed 15% of the ex-works price of the set.

Neutral elements

15.—(1) In determining the origin of goods, neutral elements used to process, or used in the course of processing, the goods are to be disregarded.

(2) In this regulation, "neutral elements" means—

(a) energy in the form of fuel, or in any other form;

(b) plant or equipment, including machinery and tools;

(c) materials which do not form part of, or are not integral to, the final composition of the goods.

Derogation in respect of specified goods

16.—(1) The Secretary of State may, by notice, grant a temporary derogation in respect of specified goods from a qualifying DCTS country from the provisions of these Regulations where one or both grounds set out in paragraph (2) are met.

(2) The grounds are that—

(a) circumstances temporarily deprive exporters from the qualifying DCTS country of the ability to meet the conditions set out in these Regulations for the goods to be regarded as originating from it;

(b) exporters from the qualifying DCTS country require time to meet those conditions.

(3) A request for a temporary derogation by a qualifying DCTS country under paragraph (1) must—

(a) be made in writing to the Secretary of State by the qualifying DCTS country, and

(b) state the grounds giving rise to the request, as set out in paragraph (2)(a) or (b), or both, and provide evidence in support of the request.

(4) The duration of the temporary derogation must be limited to the duration of the effects of the circumstances giving rise to it or the length of time needed for exporters from the qualifying DCTS country to meet the conditions referred to in paragraph (2)(a).

Bilateral cumulation with the British Islands, a British overseas territory, the European Union, Norway and Switzerland

17.—(1) An exporter may regard goods originating from the British Islands, a British overseas territory, the European Union, Norway or Switzerland as goods originating from a qualifying DCTS country if the conditions set out in paragraph (2) are met.

(2) The conditions mentioned in paragraph (1) are that—

(a) the goods are further processed in a qualifying DCTS country, and

(b) the processing carried out in the qualifying DCTS country where the goods are further processed goes beyond the processing described in regulation 8(2) (processing that does not constitute an important stage of manufacture).

(3) For the purposes of paragraph (1), bilateral cumulation does not apply to goods listed in Chapters 1 to 24 that originate from Norway or Switzerland.

(4) In this regulation—

"bilateral cumulation" refers to the treatment of goods originating from the British Islands, a British overseas territory, the European Union, Norway or Switzerland as goods originating from a qualifying DCTS country in the circumstances described in paragraph (1);

"British overseas territory" does not include Gibraltar or the Sovereign Base Areas of Akrotiri and Dhekelia.

Intra-regional cumulation: countries in the same regional group

18.—(1) An exporter may regard the goods in paragraph (2) as goods originating from a qualifying DCTS country (in this regulation, "the cumulating DCTS country") if the conditions set out in paragraph (3) are met.

(2) The goods mentioned in paragraph (1) are—

(a) qualifying DCTS goods which under regulation 4 are to be regarded as originating from another qualifying DCTS country in the same regional group as the cumulating DCTS country;

(b) goods originating from an FTA partner in the same regional group as the cumulating DCTS country, in accordance with a trade arrangement between the FTA partner and the United Kingdom implemented under section 9 of the Act (preferential rates: arrangements with countries or territories outside the UK).

(3) The conditions mentioned in paragraph (1) are that—

(a) the goods are further processed in the cumulating DCTS country,

(b) the goods are not excluded under paragraph (4),

(c) the goods, when originating from an FTA partner country under paragraph (2)(b), would on the declaration acceptance date qualify for a nil rate of import duty were they imported into the UK directly from the FTA partner,

(d) the cumulating DCTS country complies with the conditions relating to customs cooperation and verification of proof of origin provided for by regulation 16 of the DCTS Regulations,

(e) the processing carried out in the cumulating DCTS country where the goods are further processed goes beyond the processing described in regulation 8(2) (processing that does not constitute an important stage of manufacture), and

(f) in the case of textile goods, in addition to meeting the condition set out in sub-paragraph (e), the processing carried out in the qualifying DCTS country where the goods are further processed goes beyond one or more of the following—

(i) fitting of buttons or other types of fastenings;

(ii) making of button-holes;

(iii) finishing off the ends of trouser legs and sleeves or the bottom hemming of skirts and dresses and other apparel;

(iv) hemming of handkerchiefs, table linen and other textile articles;

(v) fitting of trimmings and accessories including pockets, labels and badges;

(vi) ironing and other preparations of garments for sale ready-made.

(4) The goods or materials listed in the second column of the table in Schedule 2 are to be excluded from intra-regional cumulation within a regional group marked "X" in the corresponding entry in the third or fourth column, or, as the case may be, in each of those columns, of that table if—

(a) the DCTS rate applicable to those goods or materials in the United Kingdom under Part 4 of the DCTS Regulations is not the same for all the countries or territories concerned, and

(b) the goods or materials concerned would benefit, through intra-regional cumulation, from a tariff treatment more favourable than the one from which they would benefit if directly exported to the United Kingdom.

(5) Where the condition set out in paragraph (3)(e) is not met or, in the case of textile goods, where the conditions set out in paragraph (3)(e) and (f) are not met, the final goods are to be regarded as originating from the qualifying DCTS country involved in the intra-regional cumulation from which the largest share of the value of the materials used in the manufacture of the final goods originates.

(6) For the purposes of paragraph (5), the final good must still meet the conditions specified in regulation 4 to be regarded as originating from that qualifying DCTS country.

(7) In this regulation—

"intra-regional cumulation" refers to the treatment of goods originating from a qualifying DCTS country or an FTA partner country in the same regional group as another qualifying DCTS country ("C") as goods originating from C in the circumstances described in this regulation;

"DCTS rate" has the meaning given in regulation 2(1) of the DCTS Regulations.

Inter-regional cumulation: qualifying DCTS countries in different regional groups

19.—(1) An exporter may regard the goods in paragraph (2) as goods originating from a qualifying DCTS country (in this regulation, "the cumulating DCTS country") if—

(a) the goods are further processed in the cumulating DCTS country,

(b) the conditions set out in paragraph (3) are met, and

(c) the Secretary of State has published a notice under paragraph (4).

(2) The goods mentioned in paragraph (1) are qualifying DCTS goods which under regulation 4 are to be regarded as originating from a qualifying DCTS country in a different regional group to the cumulating DCTS country.

(3) The conditions mentioned in paragraph (1)(b) are that—

(a) the cumulating DCTS country complies with the conditions relating to customs cooperation and verification of proof of origin provided for by regulation 16 of the DCTS Regulations;

(b) the processing carried out in the cumulating DCTS country where the materials are further processed goes beyond the processing described in regulation 8(2) (processing that does not constitute an important stage of manufacture);

(c) in the case of textile goods, in addition to meeting the condition set out in sub-paragraph (b), the processing carried out in the qualifying DCTS country where the materials are further processed or incorporated goes beyond one or more of the following—

(i) fitting of buttons or other types of fastenings;

(ii) making of button-holes;

(iii) finishing off the ends of trouser legs and sleeves or the bottom hemming of skirts and dresses and other apparel;

(iv) hemming of handkerchiefs, table linen and other textile articles;

(v) fitting of trimmings and accessories including pockets, labels and badges;

(vi) ironing and other preparations of garments for sale ready-made;

(d) the cumulating DCTS country submits a written request to the Secretary of State, providing evidence of the trade benefits of allowing the inter-regional cumulation;

(e) the Secretary of State, after taking that evidence into account, is satisfied that there would be trade benefits in allowing the inter-regional cumulation.

(4) The Secretary of State may publish a notice specifying—

(a) the qualifying DCTS countries and goods in respect of which paragraph (1) applies;

(b) the date from which the inter-regional cumulation may take effect;

(c) if the Secretary of State considers it appropriate, the materials in respect of which the inter-regional cumulation may apply.

(5) Where the condition set out in paragraph (3)(b) is not met or, in the case of textile goods, where the conditions set out in paragraph (3)(b) and (c) are not met, the final goods are to be regarded as originating from the qualifying DCTS country involved in the inter-regional cumulation from which the largest share of the value of the materials used in the manufacture or the final goods originates.

(6) For the purposes of paragraph (5), the final good must still meet the conditions specified in regulation 4 to be regarded as originating from that qualifying DCTS country.

(7) In this regulation, "inter-regional cumulation" refers to the treatment of goods originating from a qualifying DCTS country ("B") in a regional group as goods originating from another qualifying DCTS country in a regional group ("C"), where C is in a different regional group to B, in the circumstances described in this regulation.

Extended cumulation

20.—(1) An exporter may regard goods originating from a country or territory in accordance with a trade arrangement between that country or territory (in this regulation, "the TA country") and the United Kingdom, implemented under section 9 of the Act (preferential rates: arrangements with countries or territories outside the UK), as goods originating from a qualifying DCTS country (in this regulation, "the cumulating beneficiary country") if—

(a) the goods are further processed in the cumulating beneficiary country,

(b) the conditions set out in paragraph (3) are met,

(c) regulations 17 to 19 and 21 do not apply, and

(d) the Secretary of State has published a notice under paragraph (4).

(2) Paragraph (1) does not apply to goods listed in Chapters 1 to 24.

(3) The conditions mentioned in paragraph (1)(b) are that—

(a) the processing carried out in the cumulating beneficiary country where the materials are further processed goes beyond the processing described in regulation 8(2) (processing that does not constitute an important stage of manufacture),

(b) the cumulating beneficiary country submits a written request to the Secretary of State, providing evidence of the trade benefits of allowing the extended cumulation,

(c) the Secretary of State, after taking that evidence into account, is satisfied that there would be trade benefits in allowing the extended cumulation, and

(d) the TA country agrees to cooperate administratively with the cumulating beneficiary country.

(4) The Secretary of State may publish a notice specifying—

(a) the qualifying DCTS countries in respect of which paragraph (1) applies;

(b) the date from which the extended cumulation may take effect;

(c) the TA country concerned;

(d) if the Secretary of State considers it appropriate, the materials in respect of which the extended cumulation may apply.

(5) In this regulation, "extended cumulation" refers to the treatment of goods originating from a country or territory, in accordance with a trade arrangement between that country or territory and the United Kingdom and implemented under section 9 of the Act, as goods originating from a qualifying DCTS country in the circumstances described in paragraph (1).

Extended cumulation for least developed countries

21.—(1) An exporter may regard the goods in paragraph (2) as goods originating from an LDC (in this regulation, "the cumulating LDC") if the conditions in paragraph (3) are met.

(2) The goods mentioned in paragraph (1) are—

(a) qualifying DCTS goods which under regulation 4 are to be regarded as originating from a qualifying DCTS country;

(b) goods originating from a country or territory listed in Schedule 4 (Economic Partnership Agreements) in accordance with a trade arrangement between that country or territory and the United Kingdom implemented under section 9 of the Act (preferential rates: arrangements with countries or territories outside the UK).

(3) The conditions mentioned in paragraph (1) are that—

(a) the goods are further processed in the cumulating LDC country,

(b) the processing carried out in the cumulating LDC country where the materials are further processed goes beyond the processing described in regulation 8(2) (processing that does not constitute an important stage of manufacture),

(c) the goods originating from the cumulating partner would, on the declaration acceptance date, qualify for a nil rate of import duty were the goods imported from the cumulating partner directly to the United Kingdom, and

(d) the cumulating LDC complies with the conditions relating to customs cooperation and verification of proof of origin provided for by regulation 16 of the DCTS Regulations.

(4) In this regulation, "cumulating partner" refers to a country that an exporter in an LDC may cumulate with under paragraph (2)(a) and (b) of this regulation.

Product specific rule safeguard measure

22.—(1) The Secretary of State may publish a product specific rule notice, varying the conditions for processing to constitute an important stage of manufacture in LDCs for specified goods, where the Secretary of State determines that—

(a) there are increased quantities of specified goods imports from LDCs, and

(b) those imports are causing, or threaten to cause, significant disruption to UK producers of like goods or directly competing goods.

(2) In determining whether increased quantities of specified goods imports are causing, or threaten to cause, significant disruption for United Kingdom producers of like goods or directly competing goods the Secretary of State must take into account whether—

(a) any such producers have suffered a deterioration in their economic or financial situation, which has had or is likely to have an effect upon their—

(i) market share;

(ii) production;

(iii) stocks;

(iv) production capacity;

(v) solvency;

(vi) profitability;

(vii) capacity utilisation;

(b) employment in the United Kingdom is adversely affected.

(3) A product specific rule notice must contain details of—

(a) the specified goods to which the product specific rule notice applies;

(b) the new conditions for processing to constitute an important stage of manufacture that will apply;

(c) the day the variation of the conditions begins which must be after a period of at least 12 weeks, beginning with the day after the day on which the notice is published.

(4) In this regulation—

"directly competing goods" means goods that are regarded by the Secretary of State as competing in the same market in the United Kingdom as the specified goods in question in terms of the characteristics, intended use and price of the goods;

"increased quantities" means an increase in the volume of imports, whether in absolute terms or relative to the total production in the United Kingdom of like goods and directly competing goods;

"like goods" means goods which are like the specified goods in question in all respects, or have characteristics closely resembling those of the specified goods in question;

"specified goods" means goods of Chapter 11 and heading 2309.

Requirements relating to the originating status of returned goods

23. If originating goods exported from a qualifying DCTS country ("the exporting country") to another country or territory ("the importing country") have been returned to the exporting country, they are to be regarded as not originating from the exporting country unless it can be demonstrated to the satisfaction of an HMRC officer that the returned goods—

(a) are the same as those which were exported, and

(b) have not undergone any operations beyond those necessary to preserve their condition while in a country other than the exporting country or during transportation.

Non-manipulation requirements in relation to goods

24.—(1) The requirements mentioned in regulation 4(e) are that the goods must, at the declaration acceptance date—

(a) be the same goods as were exported from the qualifying DCTS country,

(b) not have been altered or transformed in any way after being exported from the qualifying DCTS country, and

(c) not have been subjected to any operation after being exported from the qualifying DCTS country other than—

(i) unloading, reloading, splitting, separation from bulk, storing, bottling, or any operation necessary to preserve them in good condition, or

(ii) the adding or affixing of marks, labels, seals or any other documentation to ensure compliance with legal requirements applicable in any part of the United Kingdom.

(2) Where goods are imported into a qualifying DCTS country for the purpose of bilateral, intra-regional, inter-regional or extended cumulation under regulation 17, 18, 19, 20 or 21 respectively, they must—

(a) be the same goods as were exported from the country or territory from which they originate,

(b) not have been altered or transformed in any way, and

(c) not have been subjected to any operation other than to preserve their condition.

(3) Goods may be stored, and consignments split up by or on behalf of the exporter, in a transit country or territory provided the goods are at all times under customs supervision in the transit country or territory.

(4) To enable an HMRC officer to verify that the requirements set out in paragraphs (1) to (3) have been met, the declarant must, if required, provide relevant evidence including any contractual transport documents (including bills of lading), evidence based on the marking or numbering of packages and other evidence related to the goods themselves.

Accounting segregation of exporters' stocks of fungible materials

25.—(1) If fungible originating materials and fungible non-originating materials are used in the processing of goods, HMRC may, at the written request of an exporter established in the United Kingdom, authorise the management of the materials in the United Kingdom using the accounting segregation method for the purpose of subsequent export to a qualifying DCTS country within the framework of bilateral cumulation, without keeping the materials on separate stocks.

(2) HMRC may make the granting of the authorisation referred to in paragraph (1) subject to any conditions HMRC deem appropriate but may grant it only if, by use of the method referred to in paragraph (1), it can be ensured that, at any time, the quantity of goods obtained which could be regarded as originating from the United Kingdom is the same as the quantity that would have been obtained by using a method of physical segregation of the stocks.

(3) If authorised, the method referred to in paragraph (1) must be applied, and its application recorded, on the basis of the general accounting principles applicable in the United Kingdom.

(4) In paragraph (1)—

"bilateral cumulation" has the meaning given in regulation 17(4);

"fungible" means, in relation to materials, materials which, once incorporated into the finished goods—

(a) are of the same kind and commercial quality,

(b) have the same technical and physical characteristics, and

(c) cannot be distinguished from each other.

Stuart Anderson
Steve Double
Two of the Lords Commissioners of His Majesty's Treasury

22nd May 2023