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# CUSTOMS AND TAX ISSUES



# Customs Process – the challenge

The problem is that many of the items under consideration on decommissioning were exported over 25 years ago and the customs evidence they need to demonstrate free circulation, ownership etc. has long gone. Under normal circumstances this fact would render the goods inappropriate for Returned Goods Relief (RGR), and full duty and VAT would fall due.

# Customs Process 2 – possible solution

- With some exceptions almost every single item and piece of structure exported to build and maintain a platform is imported into the UK under a reduced duty rate and sent out to the rig under end-use as a free circulation good.
- Under normal customs procedures, when such an item is returned to the UK it is under RGR to maintain the tax suspension. This has to be evidenced by the original export documentation and other commercial invoices. But as explained above, the age of the rigs has meant the original documentation is no longer available.
- HMRC may however accept other documentary evidence where it considers it acceptable and there are duly justified reasons: these could be invoices, orders, maintenance records, records of use, even photographs of the item on site which clearly demonstrate the goods had been put to the prescribed end-use on the rig.
- Such evidence of end-use can be used to show the goods were in free circulation when originally exported and RGR can be claimed
- HMRC will expect the original export declaration to be used to support RGR where available.

# Customs Process 3 – Option 1

- The operator will need to apply to HMRC to be authorised to use this option.
- An electronic declaration will need to be made to CHIEF. Where customs require it, each shipment must have available an individually signed statement from the authorised person on letterhead confirming the goods are being returned directly to their ownership (not to a third-party), and that they had previously been put to the end-use; plus the documentary evidence in the slide above.
- Where end-use has been satisfied for RGR purposes, there will not be any duty liability. Where evidence confirms the importer was also the *original* exporter, import VAT will also be relieved.

# Customs Process 4 – Option 2

- It is possible to use the split consignment process for large items of machinery or plant.
- Gas turbines and related control systems are likely to fall under Chapter 84 and 85 [UK Tariff code] for the purposes of this process.
- An application to HMRC in writing is required and each application will be considered on its merits.
- Further information can be found at: <https://www.gov.uk/guidance/split-consignments-tariff-classification-and-import-procedures>
- Alba works with customers to minimise customs duty while remaining compliant with the requirements of HMRC

# Classification

- There is a single commodity code 8908 00 00 00: Vessels and other floating structures for breaking up. There has been no definitive ruling as yet, but this code may include fixed platforms which are being broken up. The additional notes to Chapter 89 extend the scope of this heading and state: *" includes the following articles when presented for breaking up, on condition that they have formed part of their normal equipment: spare parts (such as propellers), whether or not in a new condition, moveable articles, [...] showing clear evidence of use"*. The tariff team at HMRC has said this could be an acceptable code to bulk together the peripheral items that need to be re-landed, and potentially any spare parts too. It is duty free and import VAT will be relieved where the importer was also the original exporter.
- Alba's view is that major items of rotating equipment should fall under this commodity code
- If Option 2 above is not possible, the operator will have to identify the relevant commodity code.

# Valuation

- Everything depends on what is going to happen to the goods and parts once imported; sold for scrap and recycled, re-used, put into stock or re-sale. The age of the asset will be a determining factor in what and how many items will be taken for re-use. These items could be held as spares but there is always the option for re-sale.
- Policy advice is that if there is a transaction value at the point of import, i.e. the item has been on-sold, then that is the value to be used. If however, there is no sale until *after* the parts have been broken down, and a subsequent scrap value obtained, then a deposit will be paid based on what value is expected to be achieved.
- HMRC would consider a depreciated value only if the goods still have some life in in them and on a 'straight line' depreciation basis, i.e. if the item has an expected life of 10 years and is reimported after 7 years, then the value would be considered to be 30% of the original purchase price. The usual adjustments (for example for delivery costs - freight and insurance) are then to be made to arrive at the customs value.
- Where the customs value cannot be determined any other way, it shall be determined on the basis of data available using reasonable means consistent with the principles and general provisions of the applicable regulations.