

EXPORTING FROM UK FREEPORTS: DUTY DRAWBACK, ORIGIN AND SUBSIDIES

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Appendix

In this appendix we summarise the information we have collated on the Articles regarding free zones and duty drawback bans in all of the UK's trade agreements.

In general, the free zones provisions do not actually spell out the details of preferential access that UK exports or imports can expect. Generally, these provisions state that contracting parties “shall take all necessary steps” to ensure that products entering free zones during transport are not substituted or undergo more handling than necessary, to prevent deterioration; and that in the case that products undergo processing in a free zone, that these then have to be issued a new certificate of origin.

The Articles in the UK's trade agreements concerning duty drawback are generally found in protocols or annexes relating to the “definitions of originating products”.¹ The provisions concerning the prohibition of duty drawback in many of the UK's agreements (e.g. with the PEM countries) share some apparent similarities. The provisions specifically state that non-originating materials used in the manufacture of products (that would otherwise satisfy the product-specific rules of origin) shall not be subject to duty drawback of “whatever kind” and that exporters “shall be prepared to submit [...] all appropriate documents proving that no drawback has been obtained.” In other FTAs, such as the UK-Canada Agreement, the no-duty drawback rule is referred to as a “restriction” (as opposed to “prohibition”). The language used in this agreement is apparently different, and perhaps could imply a bit more leniency in the provision, but at its core prohibits the refund or deferral of customs duties on non-originating products.

Our table enumerates articles that ban duty drawback and refer to free zones, but do not spell out provisions which may address possible future reviews of these issues.

Table 1: The UK's trade agreements containing Articles on the Prohibition of Duty Drawback and Articles on Free Zones

Articles on:	Number of Agreements	Contracting Parties
Prohibition of Duty Drawback	19	Albania, Chile, Egypt, Faroe Islands, Georgia, Israel, Jordan, Kosovo, Lebanon, Liechtenstein, Mexico, Moldova, Morocco, North Macedonia, Palestine, Serbia, Switzerland, Tunisia, Ukraine

¹ A full list of details can be provided on request.

AND Free Zones		
Prohibition of Duty Drawback (only)	2	Canada, Singapore
Free Zones (only)	9	Cameroon, CARIFORUM (Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Jamaica, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago), Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama), Cote d'Ivoire (Ivory Coast), ESA (Mauritius, Seychelles, Zimbabwe), Pacific States (Fiji, Papua New Guinea, Samoa, Solomon Islands), SACUM (Botswana, Eswatini, Lesotho, Mozambique, Namibia, South Africa), South Korea*, Iceland & Norway
Neither	8	Andean Pact (Colombia, Ecuador, Peru), Japan, Kenya, Vietnam, Australia, New Zealand, European Union,* Turkey*
Total	39	69 + EU
<p><i>Note: The UK's trade agreements with the EU and non-EU countries can be accessed via Gov.uk. Many of the continuity agreements are available in 'short-form' meaning that they only contain the modifications, amendments, and replacements to the antecedent EU-version of the agreement; as such, the Drawback and Free Zones articles are sometimes only visible in the EU agreement with the corresponding Party.</i></p> <p><i>*These trade agreements do not contain an Article prohibiting duty drawback, but instead one to review duty drawback schemes. The UK-Turkey FTA originally prohibited duty drawback, but this was then amended by Decision 02/2021 on the Protocol on Rules of Origin and Origin Procedures.</i></p>		

Nevertheless, it is important to reiterate that the presence or absence of either Article in the text of the agreement is not the sole determinant of the originating status of a good that may have been subject to processing in a free port. This is because: (a) there may be other provisions concerning drawback and free zones elsewhere in the agreement, (b) there may be specific laws in the legislation of the importing country preventing this², and (c) there may be countervailing measures against export subsidies (some of which may be contained in the FTAs) that prevent goods obtaining the preferential treatment.

² See Canada-Costa Rica case study.