



Brussels,

WTO Trade Facilitation Committee

**European Union Special Procedures of Processing (Inward and
Outward Processing) and Temporary Admission**

Note from the European Commission

List of abbreviations

ATA	(Admission Temporaire/Temporary Admission)
EU	European Union
DA	Commission Delegated Regulation (EU) No 2446/2015 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code
IA	Commission Implementing Regulation (EU) No 2447/2015 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code
IP	Inward Processing
OP	Outward processing
TA	Temporary Admission
TDA	Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446
UCC	Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code
WCO	World Customs Organization
WTO	World Trade Organization

1. Preface

The Union Customs Code, applicable since May 2016, has introduced more harmonised, streamlined and simplified customs rules. By redesigning the Customs legislation towards a more customer-oriented approach while providing the companies with flexible economic tools at their service, the lawmaker has created a more competitive system compared to the former one, eventually enhancing competitiveness and efficiency in the customs processes. Needless to say that the harmonisation and simplification also brought clearer rules that are easier to understand and therefore reduce administrative burden. At the same time, the rules also tighten security and safety as well as the protection of the EU financial interests.

With these streamlined new rules, including in the area of the so called ‘special procedures’, a specific category of customs procedures, companies have gained major freedom to choose which customs operations suit them better by meeting their commercial needs. For instance, postponing or avoiding the application of duties and VAT on imports after the goods have arrived in the EU customs territory.

The main provisions regulating on European Union customs formalities and procedures are laid down in the UCC, DA, IA and in the TDA.

As for the special procedures with the exception of transit, a standardized discipline was implemented in Title VII of UCC (i.e. Articles 210-262), referring to authorisations, records, discharge, TORO (transfer or right and obligation), movements and equivalent goods. Other complementary and implementing provisions are laid down in articles 201-243 DA and articles 322-325 IA.

According to Article 211 UCC the goods may be placed under any of the following categories of special procedures:

- **Transit**, which shall comprise *external and internal transit*;
- **Storage**, which shall comprise *customs warehousing and free zones*;
- **Specific use**, which shall comprise *temporary admission and end-use*;
- **Processing**, which shall comprise *inward and outward processing*.

The present document focuses only on processing operations (inward and outward) as well as on temporary admission. Transit has been covered by an earlier document that was presented in May 2018.

2. Special procedures of Inward and outward processing

The processing procedures are effective tools specially designed by Customs to support the rapid growth over the last three decades in the field of the so-called *processing trade*.

Processing trade is the method through which companies source intermediate inputs from various countries (i.e. raw materials, semi-manufactured etc.), assemble them and obtain processed products that are put in consumption in/sold to third markets.

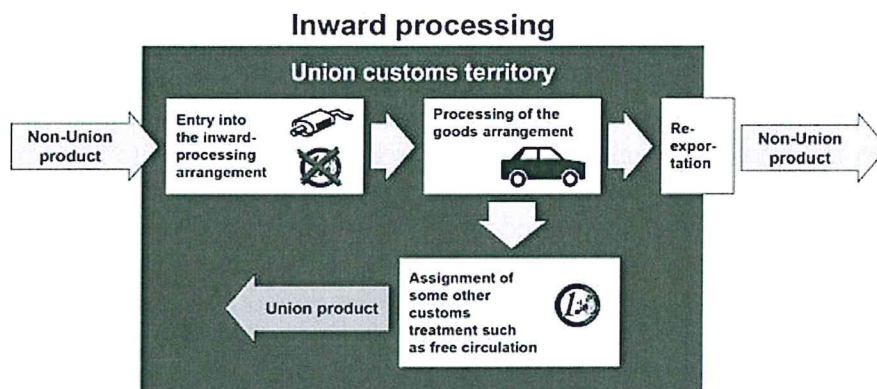
Under the **Inward processing procedure (IP)**, economic operators can use non-Union goods in one or more processing operations carried out in the customs territory of the Union, without such goods being subject to import duty, other charges and commercial policy measures. Besides the processing operations, the IP can be used for the purposes of repair, to ensure the goods’ compliance with technical requirements for their release for free circulation, or for goods which just have to undergo standard forms of handling. The

latter activities aim at preserving the goods, improving their appearance or marketable quality or preparing them for distribution or resale (Article 220 UCC).

Compared to the past rules (under the previous customs legislation, the European Community Customs Code that applied until end April 2016), the inward processing has incorporated the old regime of processing under customs control and the destruction at the request of the declarant. Moreover, the Inward processing 'drawback' procedure has been abolished.

The IP gives businesses the possibility to process goods imported from outside the customs territory of the Union even before they decide, according to logistical, commercial or other conditions, whether to sell the finished products within or outside the European Union. It allows benefitting from in many instances more competitive prices on the world market, which reduces overall costs and increases competitive advantages of companies that use the inward processing procedure.

Figure 1- basic scheme how the IP operates:



In fact, after the processing operations, the products - which still keep a non-Union status - can be either re-exported or released for free circulation in the EU depending on the choice made by producers. This latter scenario would of course imply the obligation to pay import duty and taxes, as well as the application of commercial policy measures (like anti-dumping duties). In addition, it is also possible to store processed products under customs warehousing or in a free zone.

An authorisation from the customs authorities is required for the use of the inward processing procedure. The competent customs authorities must specify the period within which the inward processing procedure has to be discharged, either by placing goods under another customs procedure, or by means of destruction/abandonment or their exit from the customs territory of the EU. Such authorisation can also allow businesses to export Union products before receiving the non-Union goods needed for the processing, by using instead 'equivalent' Union goods.

The main requirements to obtain such authorisation, besides the fact to be established in the customs territory of the Union, are to provide a guarantee to cover cases when customs debts may be incurred on goods placed under IP in accordance with Article 89 UCC. Additionally, the economic operators must provide the necessary assurance of the proper conduct of the operations. In this sense, an authorised economic operator for customs simplifications shall be deemed to fulfil this condition.

Additionally, the authorisation is granted only where all of the following conditions are fulfilled:

- (a) the customs authorities are able to exercise customs supervision without having to introduce administrative arrangements disproportionate to the economic needs involved;
- (b) the essential interests of Union producers would not be adversely affected by an authorisation for a processing procedure (economic conditions).

Where evidence exists that the essential interests of Union producers are likely to be adversely affected, an examination of the economic conditions shall take place at Union level.

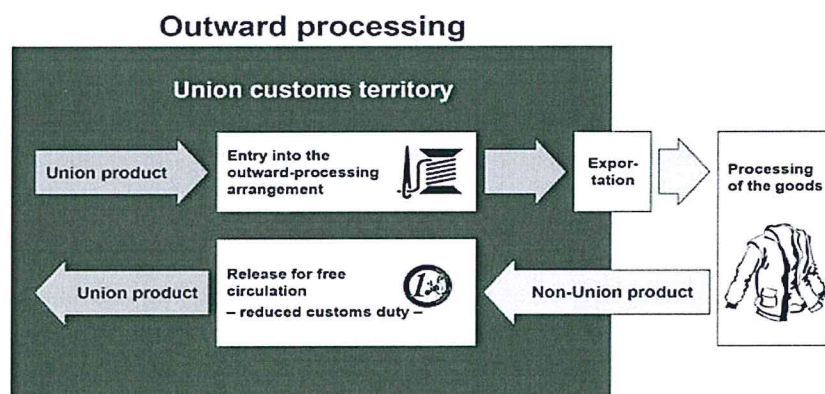
It is finally worth mentioning that, when the processed products are released for free circulation, the economic operator can require to pay the duty at the rate and customs value applicable to the goods at the time when they were placed under IP (Article 86-3 UCC). Alternatively, duties may be paid according to the rate and customs value of the processed products at the time they are released for free circulation (Article 85 UCC).

The **Outward processing procedure (OP)** actually mirrors the inward processing on the export side, in the sense that Union goods are temporarily exported from the customs territory of the Union in order to undergo processing operations abroad. The processed products can be re-imported and released for free circulation with total or partial relief from import duty or marketed outside EU. A total relief from import duties must be granted only when the goods have been exported merely to be repaired free of charge because of a contractual obligation or because of a manufacturing or material defect. In the other cases of outward processing, the import duties on the re-imported products are calculated only on the value resulting from the processing operation undertaken outside the customs territory of the Union, i.e. the added value on the goods having Union status.

This feature represents indeed a big benefit to the users of such procedures while the outward processing procedure gives businesses the possibility to take also advantage of benefits such as lower labour costs or specific technical expertise in non-EU countries.

As for the IP, the customs authorities shall authorize the use of the outward processing procedure specifying the period within which to discharge the outward processing procedure.

Figure 2- basic scheme how the OP operates:



3. Temporary Admission

The temporary admission procedure is a widely used procedure. Its legal basis derives in broad lines from the two existing WCO Conventions on temporary admission of goods [ATA (1961) and Istanbul (1990)]. The Conventions' key elements and rules have been included in the UCC. Subsequent amendments to the Conventions need to be reflected in the UCC as the EU has accepted the WCO instruments.

Recital (47) of DA recalls that *“the Union is a contracting party to the Convention on temporary admission¹, including any subsequent amendments thereof (Istanbul Convention). Therefore, the requirements of specific use under temporary admission which allow the temporary use of non-Union goods in the customs territory of the Union with total or partial relief from import duty, which are laid down in this Regulation, have to be in line with that Convention”*.

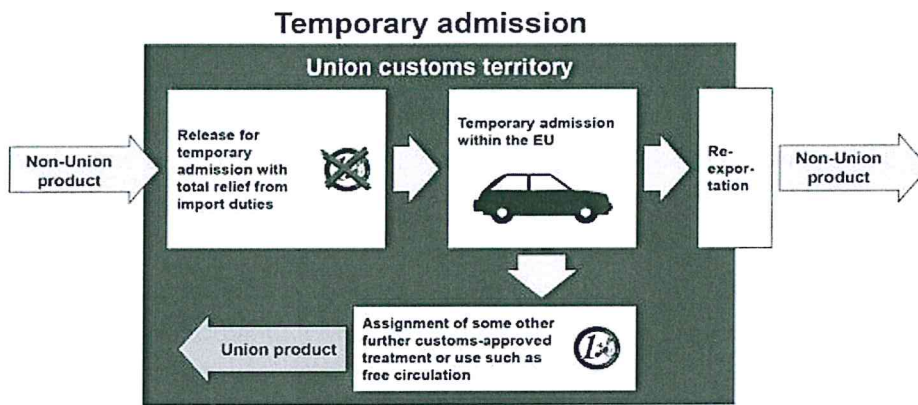
Under the temporary admission procedure, non-Union goods intended for re-export may be subject to specific use in the customs territory of the Union, with total or partial relief from import duty. In the same way, they are not subject to other charges or commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.

TA aims at facilitating the use within the Union of certain types of goods like, amongst other, means of transport, personal effects and those intended for the attempted sale or presentation in exhibitions and trade fairs. In some cases, the completion of the traditional customs formalities is even not required by the EU legislation (e.g. temporary admission of means of transport), being sufficient an oral declaration or made by means of any other act (Articles 136/139/141 UCC-DA).

The goods brought into the EU must be re-exported at the end of the period indicated in the authorization not exceeding, in general, twenty-four months from the constraint to the regime unless extensions are motivated by exceptional circumstances. However, unlike the inward processing procedure, during the established timeframe they may not undergo any changes, with the exception of their normal depreciation or devaluation because of their use. Only with the prior approval of the Customs Authority, repairs and maintenance operations may be carried out, including revisions and fine-tuning or measures intended to preserve goods or ensure their compatibility with the technical requirements necessary to allow their use under the scheme.

Figure 3 - Temporary Admission basic scheme:

¹ OJ L 130, 27 May 1993, p. 1.



The cases² where a total exemption from customs duties applies are listed in Articles 209 to 216 and Articles 219 to 236 of the UCC-DA. If goods do not meet all the relevant requirements for the total relief from import duty, a partial relief occurs. The amount due in such cases equals to 3 per cent of the duty calculated for each month or fraction of month during which the goods remained bound to the scheme, without exceeding the duties that would have been collected if the goods considered had been released for free circulation.

The UCC allows also use of the so-called **ATA carnet**, a well-known international customs document established by the above-mentioned Convention on the ATA Carnet for the Temporary Admission of Goods of 1961. Characterised by a reliable guaranteeing system (managed by the Chamber International through an international chain of National guaranteeing associations) covering the potential duties that may incurred because of any failed re-exportation of the goods, the ATA Carnets are used by thousands of operators around the world to get goods through customs quickly and easily.

Carnets can be used for three main categories of goods:

- Commercial samples;
- Goods for presentation or use at trade fairs, shows, exhibitions or similar events;
- Professional equipment (which is solely for use by, or under the personal supervision of the holder or his nominated representative).

While the ATA Carnet is currently used in 87 countries, stakeholders expect a significant increase from an ongoing project aimed at creating an e-ATA carnet system, which might boost its major dissemination in the next future. The EU tries to pilot eATA under a block chain project; projects by other stakeholders including ICC are ongoing.

4. Conclusions

The table below displays information related to the use of IP and OP over the last ten years involving the 28 Member states and Extra-UE partners: it clearly evidences the economic relevance of these two procedures. Statistics on TA are not displayed because they are not complete, given the possibility to operators to lodge customs declarations orally or by an act deemed as a customs declaration:

² Article 253 UCC has conferred the Commission a Delegation of power in order to determine the requirements for total or partial duty relief laid down in the customs legislation.

External trade of Member States

DECLARANT	EU28
Value	bn EUR
PRODUCT	TOTAL
Partner	Extra-EU

Flow	Statistical Procedure / Reference Period	2010	2011	2012	2013	2014	2015	2016	2017	2018 01-10
import	INWARD PROCESSING	58,5	66,3	75,8	69,9	66,2	79,3	75,0	77,1	68,5
Export	OUTWARD PROCESSING	11,2	12,7	13,4	13,2	13,9	14,6	14,7	14,1	12,0

(Source Eurostat-COMEXT)

The globalisation phenomenon and the rise of Global Value Chains (GVCs) observed in the last decades have shaped global and EU trade. International trade has resulted in economic growth with positive impacts on employment, prosperity, competitiveness and a reduction of poverty. The role of customs authorities is gaining in importance in the global economic system, both within and across countries to ensure the application of modern and efficient measures and to respond to the global challenges of modern and growing trade. Of course, a legal framework supporting such trends is essential; the WTO Trade Facilitation Agreement provides such a suitable model, and so do instruments like the WCO Revised Kyoto Convention and ATA/Istanbul Conventions as well as non-binding frameworks and guidelines issued by WCO.

