



GUIDANCE NOTE ISSUED BY HM CUSTOMS GIBRALTAR

SPECIAL CUSTOMS PROCEDURES FOR NON-UNION GOODS (ANNEX 21)

INTRODUCTION

Special customs procedures are typically used when businesses need to store, move, process, repair or temporarily use goods without paying duties and taxes. The goods remain under customs control whilst they are subject to the special customs procedure. In many cases, the goods are not released for free circulation in the customs territory during the procedure, and they may ultimately be re-exported rather than released for free circulation. Examples of special customs procedures under current Gibraltar legislation involve the use of “transit sheds” or “bonded warehouses”.

Annex 21 of the treaty provides for three special customs procedures:

- Customs Warehousing;
- Inward Processing; and
- Temporary Admission.

Customs Warehousing allows goods to be stored under customs supervision in Gibraltar without the immediate payment of transaction tax, EU customs duties or excise duties (if applicable). Its objective is to provide businesses with flexibility by suspending customs charges until the goods are either released for free circulation in Gibraltar or re-exported. It is typically used for inventory management, deferred import decisions, and situations where goods may ultimately be re-exported rather than sold in the Gibraltar market.

Inward Processing allows goods to be brought into Gibraltar for processing, manufacturing, assembly, repair, or maintenance without the immediate payment of transaction tax, EU customs duties or excise duties (if applicable). Its objective is to support economic activity and international trade by suspending customs charges while goods are being worked on, particularly where the resulting products may subsequently be re-exported. In the shipping industry, it is commonly used for the repair, refurbishment, or conversion of vessels and marine equipment, such as when a vessel enters Gibraltar for maintenance, or when engines, navigation systems, spare parts, or other components are imported into Gibraltar for installation on ships before the vessel returns to international service. In motor vehicle industries, the procedure allows companies to import vehicles, or vehicle parts or components from outside the customs territory, modify, assemble, or install them in vehicles, and then re-export the finished products without paying import duties or taxes on the imported items.

Temporary Admission allows goods to enter Gibraltar without transaction tax or EU customs duties having to be paid provided they are intended for re-export without undergoing any substantial change except normal depreciation or necessary use. Its objective is to facilitate the temporary use of goods within Gibraltar while ensuring they remain under customs supervision and are not released for free circulation. It is typically used for situations where goods are brought in for a limited period, such as professional equipment, exhibition goods or testing items before being re-exported in the same state.

Subject to initial, time-limited transitional arrangements (see Point 5 below), the introduction of these regimes, in accordance with the treaty, will bring about important changes which operators who have operated special customs procedures under current Gibraltar legislation should be aware of.

This Guidance Note deals with the procedures for non-Union goods (Annex 21). A separate Guidance Note will deal with the procedures for Union goods (Annex 19).

Please note that if it is your intention to place both EU and non-EU goods under the procedures listed above, you must follow the procedure in this Guidance Note on Annex 21.

1. IMPORTING THE GOODS TO BE PLACED IN AN ANNEX 21 SPECIAL CUSTOMS PROCEDURE.

1.1 Customs Warehousing.

1.1.1 Non-Union goods destined for a customs warehouse would have undergone EU customs formalities at the Designated Customs Post (DCP) in Spain where the payment of EU import duties (where applicable) will be suspended via an EU warehousing declaration (H1 with extended code '71'). Therefore, it is important that you inform your customs representative in Spain of your intention to place the consignment under the warehousing procedure.

1.1.2. The consignment will then travel to Gibraltar on a T1GI which will be closed upon clearance of HM Customs Gibraltar's warehousing declaration (IM7) in Gibraltar.

1.1.3. Following clearance, the goods must be transported to an approved warehouse in Gibraltar where they will remain in suspense until they are removed via:

- (a) import for free circulation (IM4); or
- (b) placement onto another Customs Procedure e.g. Re-exportation (EX3), Inward Processing (IM5 '5001') or destruction (IM9).

1.1.4. There are no time limits (minimum or maximum) on how long you may store your goods in a non-Union Customs warehouse. This also applies to Union goods stored in a non-Union Customs warehouse.

1.1.5. It is important to note that the customs warehousing procedure covers only the storage of the goods and processes known as Usual Forms of Handling (UFH) which are limited to the following activities:

- (a) Preparing the goods for distribution or sale e.g. packing, wrapping etc;
- (b) Improving the appearance and/or marketability of the goods e.g. cleaning the goods;
- (c) Processing intended to preserve the goods e.g. refrigeration.

1.1.6. Should you wish to undertake any other form of processing beyond the examples provided above, you will need to do so under the inward processing regime as detailed below.

1.2. Inward Processing.

1.2.1. Non-Union goods destined for an inward processing procedure would have undergone EU customs formalities at the Designated Customs Post (DCP) in Spain where the payment of EU import duties (where applicable) will be suspended via an EU Inward Processing declaration (H1 with extended code

'51'). Therefore, it is important that you inform your customs representative in Spain of your intention to place the consignment under the inward processing procedure.

1.2.2. The consignment will then travel to Gibraltar on a T1GI which will be closed upon clearance of HM Customs Gibraltar's inward processing declaration (IM5 with extended code '5001') in Gibraltar.

1.2.3. Following clearance, the goods must be transported to the premises approved for inward processing.

1.2.4. The final product of the processing and any waste produced must then be removed from the procedure via:

(a) Import for free circulation (IM4); or

(b) Placement onto another customs procedure e.g. Re-exportation (EX3), Warehousing (IM7) or destruction (IM9).

1.2.5. Goods can remain in an Annex 21 inward processing procedure for the duration of the authorised period. Since there is no single fixed time limit which applies to all inward processing procedures, this will be determined on a case-by-case basis depending on the needs of the operations in question. This period can be extended.

1.2.6. Goods placed under an Annex 21 inward processing procedure do not necessarily need to be processed i.e. the trader can instead choose to import the goods for home use or re-export the goods from the inward processing procedure in the same state in which they were imported.

1.3. Temporary Admission.

1.3.1. Non-Union goods intended for placement under the temporary admission procedure would have undergone EU customs formalities at the Designated Customs Post (DCP) in Spain where the payment of EU import duties (where applicable) will be suspended via an EU temporary admission declaration (H1 with extended code '53'). Therefore, it is important that you inform your customs representative in Spain of your intention to place the consignment under the temporary admission procedure.

1.3.2. Once the goods are ready to be exported out of Gibraltar, you must submit a re-export declaration (EX3) to cover the movement and close the procedure.

1.3.3. Goods can remain in an Annex 21 temporary admission procedure for the duration of the authorised period. Since there is no single fixed time limit which applies to all temporary admission procedures, this will be determined on a case-by-case basis depending on the needs of the operations in question. It should be noted though that there is a general 24-month ceiling albeit this can be extended, exceptionally, to an overall 10-year maximum period.

2. REQUIREMENT TO OBTAIN AN OFT TRADING LICENCE.

2.1. Operators seeking to conduct an economic activity requiring an Annex 21 special customs procedure for non-Union goods, or mixed Union and non-Union goods, must first apply to the OFT in Gibraltar in order to start the process for obtaining a trading licence and any other trading authorisation that may need to be granted by the OFT with respect to activities taking place in Gibraltar. This is subject to the transitional arrangements described in Point 5 of this Note.

- 2.2. The OFT will work closely with HM Customs Gibraltar when assessing whether to grant a trading licence to such operators to ensure, for example, that neither your company nor any of its directors have been convicted of any serious customs-related offences.
- 2.3. Once all the formalities for the grant of such a trading licence are completed, but before granting the licence, the operator will be invited to make an application to the customs authorities in a DCP in Spain for the purposes of obtaining an EU authorisation to operate any of the three special customs procedures. HM Customs Gibraltar stand ready to assist operators in this regard.
- 2.4. Requests for such assistance should be directed to the email address provided at the end of this Note.

3. AUTHORISATION OF ANNEX 21 SPECIAL CUSTOMS PROCEDURES.

- 3.1. To obtain the EU authorisation for an Annex 21 special customs procedure for non-EU goods or mixed Union and non-Union goods, you must submit an application in accordance with the guidance in the attached document prepared by the Agencia Tributaria (for which we have provided a separate version translated into English).
- 3.2. When granting an EU authorisation, the applicable law will be EU customs legislation which regulates the conditions for the operation of the particular special customs procedure. By way of indication, this will require the following:

3.3. Customs Warehousing and Inward Processing.

- 3.3.1. Prior to your application for an authorisation to place goods under the customs warehousing and/or inward processing procedures, you must ensure the following:
 - Your company is in possession of a valid EORI and NIF number;
 - You have a floor plan of your premises with segregation where applicable, for example, between excise and non-excise goods or between Union and non-Union goods;
 - You can ensure the traceability of your products coming into and out of the warehouse or premises: i.e. via a digital inventory;
 - Your premises are secure; i.e. security cameras, alarms etc;
 - Your premises are easily accessible to HM Customs Gibraltar;
 - You have a guarantee to cover the tax and duty liability of the goods stored within the premises.
- 3.3.2. Once that authorisation is granted, the OFT will issue the trading licence.

3.4. Temporary Admission.

- 3.4.1. Prior to your application for an authorisation to place goods under the temporary admission procedure, you must ensure the following:
 - Your company is in possession of a valid EORI and NIF number;
 - The goods will not be altered in any way;
 - You have a guarantee to cover the tax and duty liability of the goods under the procedure.
- 3.4.2. Once that authorisation is granted, the OFT will issue the trading licence.

3.5. HM Customs will be publishing a separate Guidance Note on the issue of Guarantees.

4. OPERATING YOUR ANNEX 21 SPECIAL CUSTOMS PROCEDURE.

4.1. It is imperative that you comply with all EU Customs legislation and Gibraltarian trading laws relating to your procedure and activity in order to maintain your authorisation and the continued operation of your procedure. It is particularly important that you:

- Ensure the timely and accurate submission of the relevant Customs declarations and supporting documents, especially at the time of removal of the goods from the procedure;
- Maintain accurate records of movements and payments of Transaction Tax, EU Import Duties and Excise duties where applicable;
- Comply with the conditions of your authorisation;
- Allow access to your premises (where applicable) to HM Customs Gibraltar;
- Conduct your operations in a manner which complies with your authorisation, EU Customs legislation and Gibraltarian trade laws.

5. TRANSITIONING TO THE NEW REGIME.

5.1. Pursuant to Article 270 of the treaty, goods that are placed in temporary storage or a special customs procedure (such as a bonded store) prior to the entry into force of the treaty (envisaged for 15 July 2026) can be kept there under the same conditions that currently apply under Gibraltar law for so long as they are not discharged from the temporary storage facility or from a special customs procedure, but in any event for not longer than:

- two months after the entry into force of the treaty in the case of goods in a special customs procedure;
- the legal time limit granted for the temporary storage facility.

5.2. The provisions of the treaty, including the payment of the Transaction Tax and excise duties where applicable, shall apply to goods discharged from the special customs procedure or temporary storage facility any time after the entry into force of the treaty where the goods are released for free circulation in Gibraltar.

5.3. Operators who import goods after the entry into force of the treaty and who require to place such goods in a special customs procedure, will be required to obtain an authorisation in accordance with what is set out in this Note on applying Annex 21 requirements (if the goods are non-Union goods or mixed Union and non-Union goods) or the separate Note on applying Annex 19 requirements (if the goods are Union goods).

5.4. The same will apply to operators who wish to continue operating a special customs procedure after the periods referred to above, including in order to be able to keep the existing goods under any such procedures. In this case, your current trading licence granted by the OFT will continue to be valid and you need not take the steps described in Point 2 of this Note.

6. FURTHER ASSISTANCE.

6.1. If you require assistance in the application process in Spain and do not know who to go to we can recommend persons or ask the Spanish authorities to recommend such persons to us.

6.2. If you require any general assistance on any of these matters, please contact HM Customs via email at ncts@hmcustoms.gov.gi

HM Customs Gibraltar