

Fisheries: Guidance on Customs Formalities post- Brexit

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Introduction

From 1 January 2021, the UK has left the EU and fresh fish caught by UK flagged vessels can only be landed in Ireland at the two ports designated for direct landings by fishing vessels registered in third countries (i.e. Killybegs and Castletownbere).

From 1 February 2021, five additional ports are approved by Revenue to load/unload goods, stores and conveyances for third country fishing vessels; Greencastle, Rathmullen, Burtonport, Howth and Rosamhíl. These ports have been approved by the Sea Fisheries Protection Authority (SFPA) to load/unload fish product for UK fishing vessels **registered in Northern Ireland only**. Details can be found on the SFPA [website](#). Importers from third country flagged vessels to the seven designated ports outlined above are required to adhere to customs formalities at these ports. Customs formalities, including the need to make declarations of imported products are a requirement for all third country trade with the EU. This guidance document outlines customs requirements for fishers.

Details of other documentation requirements that apply under fisheries legislation to landings of fish by third country vessels post-Brexit can be found on the Sea-Fisheries Protection Authority [website](#).

Notification of Vessel Arrivals

There are no changes to the existing reporting arrangements relating to the movement of vessels into and out of the State under Section 9 of the Customs Act 2015 and [Statutory Instrument No. 612 of 2016 - Customs \(Reports Inwards and Outwards by Vessels\)](#). A report of the vessel and a report of stores must be declared to Revenue in the prescribed manner not later than 24 hours prior to its entry into the State or upon the vessel's departure from the port of origin if the voyage is less than 24 hours.

The SFPA is responsible for seafood safety and sea-fisheries protection. Third country flagged vessels, including UK and NI registered vessels, must give 4 hours' notice and must be authorised by the SFPA before the intended direct landing of fresh fish. A list of these ports and the conditions required for direct landings by UK and NI registered vessels can be found [here](#). Due to the non-applicability of third country SPS/food safety requirements for Northern Ireland (NI) vessels, direct landings of frozen fish are also currently permissible in certain designated ports subject to a 3-day notification period. Please see the above link to the SFPA website for further details.

Customs Scenarios for EU and UK flagged fishing vessels

The following table outlines the customs scenarios for EU and UK flagged fishing vessels. The table establishes the customs status of fish in advance of landing, depending on where they were caught and the nationality of the vessel, and the customs formalities required for both EU and UK flagged fishing vessels. Queries on access regulatory trade controls for both seafood safety and sea-fisheries conservation in accordance with the EU-UK TCA should be referred to the SFPA at SFPABrexit@sfpa.ie.

Customs formalities for EU and UK flagged fishing vessels landing at designated IE ports

Type of vessel	Location of catch	Customs status of fish	Customs formalities in EU	Additional Information
EU fishing vessel	Fish caught in the UK territorial sea [0-12nm]	Non-Union goods	ENS waiver Import declarations required	Import declarations submitted using AIS Relief from import duty due to the EU- UK TCA. Preferential origin Tariff of 0% must be claimed on import declaration. Import VAT on fish is 0%
	Fish caught in high seas, including in the UK EEZ or in the EEZ of an EU MS [Fish caught in UK 12-200 or EU 12-200nm]	General presumption of the customs status of Union goods does not apply; a proof thereof is required	ENS waiver No customs import declaration required unless proof of union status is requested by Revenue and Union status is not satisfied	As proof of union status, a T2L can be provided to the fisher by Revenue on request. The fisher may be required to show proofs to Revenue
	Fish caught in the territorial sea of an EU MS [EU 0-12nm], i.e. in the customs territory of the Union	Union goods	No ENS or customs import declaration required	
UK fishing vessel	Fish caught outside the territorial sea of an EU MS, i.e. outside the customs territory of the Union. [EU 12-200nm, or UK 0-200nm]	Non-Union goods	ENS required Import declarations required	ENS submitted using ICS Import declarations submitted using AIS Relief from import duty due to the EU- UK TCA. Preferential origin Tariff of 0% must be claimed on import declaration. Import VAT on fish is 0%
	Fish caught in the territorial sea of an EU MS, i.e. in the customs territory of the Union [EU 0-12]	General presumption of the customs status of Union goods does not apply; a proof thereof is required	No ENS or customs import declaration required unless proof of union status is requested by Revenue and Union status is not satisfied	Fisher must provide proof of Union status before a T2L can be provided; this can be by way of logbook a landing declaration, transshipment declaration and vessel monitoring system data, as appropriate etc

Voisinage Arrangements

The Voisinage Arrangements between Ireland and Northern Ireland (currently provided for by the [Sea-Fisheries \(Amendment\) Act 2019](#)) has provided reciprocal fishing access for IE registered fishing vessels to 0-6nm zone in NI and for fishing vessels owned and operated in NI to fish in the IE 0-6nm zone. The Arrangement is preserved in the EU-UK Trade and Cooperation Agreement by Article FISH.19: Relationship with other agreements. Access to fish in the 0-6nm zones requires prior authorisation. NI registered sea-fishing boats must meet the requirements set out in the UK Fisheries Acts and the EU SMEFF Regulation (2017/2403). The arrangements for Irish sea-fishing boats seeking authorisation for access to fish in the Northern Ireland 0-6nm zone are published [here](#).

The arrangements do not include the 0-6nm zones around GB, the Crown Dependencies (Isle of Man, Guernsey and Jersey).

The following table sets out the customs formalities applying to fish caught under the Voisinage Arrangements.

Customs Formalities under the Voisinage Arrangements

Type of vessel	Location of catch	Customs status of fish	Customs formalities in EU	Additional Information
IE sea-fishing boat	Under the Voisinage arrangements fish caught in the NI 0-6 nautical mile zone	Non-Union goods	ENS waiver Import declarations required using AIS and UK origin preference claimed Release for free circulation with relief from import duty	Import declarations required using AIS Relief from import duty due to the EU- UK TCA. Preferential origin Tariff of 0% and Import VAT on Fish is 0%
NI owned and operated sea-fishing boat	Under the Voisinage arrangements fish caught in the IE 0-6 nautical mile zone	General presumption of the customs status of Union goods does not apply; a proof thereof is required	No ENS required or customs import declaration required unless proof of union status is requested by Revenue and Union status is not satisfied	Fisher must provide proof of Union status before a T2L can be provided; this can be by way of logbook a landing declaration, transshipment declaration and vessel monitoring system data, as appropriate etc

Origin Conditions Required to claim preference under the EU-UK Trade and Cooperation Agreement

In the Trade and Co-operation Agreement, Article ORIG.5 Wholly Obtained -See Appendix 1; sets out the specific products that shall be considered wholly obtained. This includes fish. Under the EU-UK TCA goods wholly obtained in one party will benefit from application of beneficial tariff treatment in the other, and that fish shall be considered as **wholly obtained** in a party if they are ‘products of sea fishing and other products taken from the sea outside any territorial sea by a vessel of a party.’ (Likewise, if they are products made aboard of a factory ship of a party exclusively from such wholly obtained fish.) The agreement specifies the conditions required of the vessel of the party to achieve this status:

The terms “vessel of a Party” and “factory ship of a Party” in points (h) and (i) of paragraph 1 mean a vessel and factory ship which:

- (a) is registered in a Member State or in the United Kingdom;
- (b) sails under the flag of a Member State or of the United Kingdom; and
- (c) meets one of the following conditions:
 - (i) it is at least 50% owned by nationals of a Member State or of the United Kingdom; or
 - (ii) it is owned by legal persons which each:
 - (A) have their head office and main place of business in the Union or the United Kingdom; and
 - (B) are at least 50% owned by public entities, nationals or legal persons of a Member State or the United Kingdom.

Customs Requirements for fish landed by Third country, including UK, flagged vessel
 Where a Non-Union fishing vessel lands Non-Union goods at a designated port the following customs requirements apply:

- Submission of IMO General Declaration Inwards (FAL Form 1) to SafeSeas Ireland; [Link](#)
- Submission of a customs import declaration under Revenue’s Automated Import System (AIS)
 - Submission of an Entry Summary Declaration (ENS) to the Import Control System ([ICS](#)), accessible via Revenue Online Services (ROS), at least two hours prior to arrival;
 - Submission of a customs declaration (H1) to the Automated Import System ([AIS](#)) up to 30 days in advance of presentation to Customs;
 - The origin of the fish will determine the customs duty to be paid, if any;
 - Preferential Origin, if applicable, must be claimed on the import declaration;
 - Submission of a Presentation Notification and Temporary Storage Declaration (G3 & G4) to [AIS](#) upon arrival;
 - The following codes will be used in the Temporary Storage Declaration (G4) to represent the port of import.

IETSTIENEN003-2021-APP0010	Killybegs Port
IETSTIENEN003-2021-APP0011	Castletownbere Port
IETSTIENEN003-2021-APP0012	Greencastle Port
IETSTIENEN003-2021-APP0013	Rathmullen Port
IETSTIENEN003-2021-APP0014	Burtonport
IETSTIENEN003-2021-APP0015	Howth Port
IETSTIENEN003-2021-APP0016	Rosamhíl Port

Consignments of fish are not customs cleared to exit the port until the electronic customs import declaration has been submitted, processed and cleared by Revenue’s Automated Import System (AIS).

Customs Requirements for fish landed by Union flagged vessels

Where a Union fishing vessels lands Union fish at a designated port the following customs requirements apply:

- Submission of IMO General Declaration Inwards (FAL Form 1) to SafeSeas Ireland;
- Availability of documentary proof of Union status, for example the fishing logbook, a landing declaration, transshipment declaration and vessel monitoring system data, as appropriate, as required in accordance with Council Regulation (EC) No 1224/2009 (1) and submission to Revenue on request.

Payment of Customs Duty and Import VAT

- Where the origin of the fish is deemed to be UK, preferential tariff treatment (0%) must be claimed on the import declaration under the EU-UK Trade and Cooperation Agreement.
- Details on how to claim this on the import declaration are available [here](#).
- Where the origin of the fish is not deemed as UK, a tariff is paid in accordance with TARIC rules. Tariffs for fish from non-preferential countries are subject to duties from 0% to 20%. Details on how to pay tariffs is available [here](#).
- Revenue's Automated Import System will calculate the Import VAT due on the importation. The rate of import VAT is linked to the rate of VAT for fish sold in Ireland. Fish are charged at 0% currently.

Noncompliance with Customs Formalities

- **Customs Offences and Penalties**
 - The Customs Act 2015 outlines offences and penalties for contravening the requirement to declare goods on importation including seizure of the fish and the fishing vessel.
- **Sea-Fisheries and Maritime Jurisdiction Offences and Penalties**
 - The Sea-Fisheries and Maritime Jurisdiction Act 2006 outlines offences and penalties for contravening the requirements of the SFPA regarding pre-notification requirements.

Appendix 1 - EU-UK Trade and Cooperation Agreement - Article ORIG.5

EU-UK Trade and Cooperation Agreement - Article ORIG.5:

Wholly obtained products 1. The following products shall be considered as wholly obtained in a Party:

- (a) mineral products extracted or taken from its soil or from its seabed;
- (b) plants and vegetable products grown or harvested there;
- (c) live animals born and raised there;
- (d) products obtained from live animals raised there;
- (e) products obtained from slaughtered animals born and raised there; 42
- (f) products obtained by hunting or fishing conducted there;**
- (g) products obtained from aquaculture there if aquatic organisms, including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants are born or raised from seed stock such as eggs, roes, fry, fingerlings, 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;
- (h) products of sea fishing and other products taken from the sea outside any territorial sea by a vessel of a Party;**
- (i) products made aboard of a factory ship of a Party exclusively from products referred to in point (h);
- (j) products extracted from the seabed or subsoil outside any territorial sea provided that they have rights to exploit or work such seabed or subsoil;
- (k) waste and scrap resulting from production operations conducted there;
- (l) waste and scrap derived from used products collected there, provided that those products are fit only for the recovery of raw materials;
- (m) products produced there exclusively from the products specified in points (a) to (l).

2. The terms “vessel of a Party” and “factory ship of a Party” in points (h) and (i) of paragraph 1 mean a vessel and factory ship which:

- (a) is registered in a Member State or in the United Kingdom;
- (b) sails under the flag of a Member State or of the United Kingdom; and
- (c) meets one of the following conditions:
 - (i) it is at least 50% owned by nationals of a Member State or of the United Kingdom; or
 - (ii) it is owned by legal persons which each: (A) have their head office and main place of business in the Union or the United Kingdom; and (B) are at least 50% owned by public entities, nationals or legal persons of a Member State or the United Kingdom.

Definitions:

- COMMISSION DELEGATED REGULATION (EU) 2015/2446 -
 - Article 1 (43) 'Union factory ship' means a vessel which is registered in a part of a Member State's territory forming part of the customs territory of the Union, flies the flag of a Member State and does not catch products of sea-fishing but does process such products on board;

Article 1 (44) 'Union fishing vessel' means a vessel which is registered in a part of a Member State's territory forming part of the customs territory of the Union, flies the flag of a Member State, catches products of sea-fishing and, as the case may be, processes them on board;