Institution **CIOT - CTA**
Course **Adv Tech Cross-Border Envrmnt Taxes**

Event **NA**

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Exam ID

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| Section 1 | **1806** | **8130** | **9877** |
| Section 2 | **751** | **3529** | **4274** |
| Section 3 | **1517** | **6793** | **8252** |
| Section 4 | **544** | **2456** | **2974** |
| Section 5 | **1151** | **5639** | **6746** |
| Section 6 | **1293** | **6179** | **7426** |
| Total | **7062** | **32726** | **39549** |

Answer-to-Question-_1_

**Sales to UK individauls**

The sale of goods which are located in the Uk to customers in GB will be treated as a domestic supply and as it is adults clothing it is subject to VAT at the stadard rate.

Sales ot NI are technically exports but Litopa will need to account for hte import VAT as supply VAT.

**Sales to non eu**

Sales to non-eu customers are exports of goods which are zero-rated provided the goods leave the UK and Litopa acquires export evidence qwithin 3 months such as a bill of ladding.

A c88 is require to export hte goods. No agent is required as Litopa is uk estbalished but one could be used if desir4ed.

No UK VAT or customs duty is due on the export of goods

Litopa may wish to review her vat registration obligations under local regimes as delivering on DDP terms may trigger registeration requirements for non - EU vAt, GST or sales tax.

A UK EORI is required to export and import goods from the UK.

**Sale to EU - ioss**

The import of goods into each EU country on DDP terms will create a registration requirement in the country.

The supplies which are under £135 will fall within special rules under which there will be no import VAT or customs duty. Instead of incurring import VAT, Litopa will have to charge local supply VAT in each couyntry.

As Litopa is not establshed in any of these countries it does not beenfit from the VAT reg threhsold and would be required to register immediately.

Where Litopa provides goods which are over £135 it will incur both import VAT and customs duty. (more on origin etc below). As Litopa is delviering on DDP terms it is treated as importing the goods and mkaing an onward supply in each country in which it sells the goods.

Normally where a business is only making supplies of goods falling in the small consignment rule, it will make sense to apply for hte import one stop shop scheme. This allows a business to register in a single country and submit a quarterly return coverfing hte supplies in all countries.

This could still be done for the small consignments but it will not be available for consignments over £135 and it may add further complication to the business to have a OSS registration and a registratrion in each country where larger imports are made.

Litopa will require a EU EORI to import goods into the EU.

Litopa will be required to appoint a indirewct customs agent in the EU as it is not resident there.

If Litopa incurs any input VAT in a EU country it can rewcover it in its VAT return along with the import VAT as it relates to ongoing taxable supplies.

**Import from china**

Goods imported from China will likely be subject to higher rates of duty as they will not be coming from a developing ocutnry benefiting from DCTS (preference).

Thus, goods imported into the UK will be subject to both customs duty and import VAT.

Again the £135 rule may come into play if a single consignment is of this value in which case the Litopa would reverse charge the VAT. It is more likely hwoever that Litopa will receive the shipments as bulk cosignments of higher values.

It will need to ensure that it correctly classifies and the goods and this may be important where goods contains multiple types of materials. We will need to use GIR rule 3 to look at which material gives it is character. E.g. a denim jacket with buttons is characterised by the denim not hte buttons.

Litopa be able to use valuation method 1 as the two aprties are not related.

One futher problem that Litopa is going to experience is that for hte goods valued of £135

that are subject to customs in the EU, as the goods will not have any Uk origin confered by the simple process of packing, the goods will not fall under the TCA and double duty will be due.

Litopa should considera  process whereby they import hte goods only once into either the UK or EY before moving them onwards - customs warehousing.

**Effect of importing goods form china to uk and moving onward - cutsoms warehouse**

As above consigments over £135 will be subject to double duty either in the EU or ROW coutnries reciving hte hgoods e.g. the US which imposes high tariffs.

TO prevent the double duty, litopa could cosnider applying to operate a customs warehouse. A customs warehouse would allow the goods to have UK VAT and customs duty suspsended while the goods are storted in the warehouse and the duty would only be due when the goods are relased into free icurclation.

THis means if the goods are re-exported then the duty is never due in the UK.

THis will prevent hte oduble duty.

There are two types of warehouse available either a public or private warehouse, a private one would be most appropraite for Litopa as they are offering storage services to other parties.

Thus, Litopa should make an application to runa  customs warehouse on SP2 if the cost of runnign the awrehouse does not outweight he savings.

To opperate a customs warehouse a trader must meet the following conditions

1. THe trader must show an economic need to operate the warehouse, this is likely shown from the duty saved.

2. The trader must be financially solvent and may be required to provide a guarantee backed by a bank or insurance company. HMRC will usually look back at the last 3 years to see if all taxes and duites are paid and up to date.

3. The trader must be capacbale of maintaining a logstiical system that is capcable of tracking the goods moving in and out of the warehouse.

4. The trader and its officers must ahve a good record of compliance and not have been subject to any criminal penalties with regardes to imports (again looking ath the last 3 years).

Thus, Litopa may be required to invest in bespoke systems to run the warehouse.

It should be noted simple processes cna be undertaken ina warehouse such as packaging.

**Returned goods relief**

If a warehouse is not used then litopa can mkae use of returned goods relief. Under this

relief when goods are returend to the UK in the same state as when they were exported and imported by hte same person then they are not subject to any further customs duty or import VAT. Litopa would need to hold evidence of hte original export so that they could provie the goods were the same. E.g. invoices, bill of lading, contracts.

The returned goods relief will not be needed where goods are released form a customs warehouse and sent back tot a customs warehouse as all these transactions are relating to goods not in free ciruclation and outside the scope of UK VAT.

The EU customers who return the goods that are over £250 could also seek a refund of the customs duty through Litopa. litopa could seeka customs duty refund on the basis the goods were returned and hence left the EU. Eveidence would need to be provided to the EU customs authorities of this.

**Import from HK**

Imports from HK to the UK will again be subject to UK VAT and customs duty. As the HK company is going to retain title to the goods it is the HK company that should act as the importer of record in order to be entiteld to recover the import VAT either by registering or an overseas refund scheme.

A VAT registration will be requires under VATA 1994 schedule 1A as the HK business is not establihsed in the UK and any sales in the UK will be subject to UK VAT (unless zero rated).

The HK business will require a UK EORI to import

The HK busines must appoint an indirect customs agent to import as an NETP.

## Fulfilment business due dilligence scheme

A business which is storing goods which have been imported and are owned by a person who is not UK established will fall within the fulfilment house due dilligence scheme.

Litopa should therefore apply to HMRC to be a fulfinment business and be part fo the fulfulkment house due dilligence scheme (this is mandatory and late registration can lead to fines of up to £10,000).

Once registered Litopa must ensure that the HK business is appropriately VAT registered before it sells its goods onwards.

Litopa must issue a part of a VAT notice to the HK business within 30 days notifying them of their UK VAT rewgistration obligations.

Litopa must then ensure they register.

If they do not register then Litopa must notify HMRC within 30 days and suspend the traders operations within 60.

if Litopa fails to uphold its obligations under the FFDDS then it can be held jointly and severally liable for any unpaid VAT.

## Supply of fulfilment services

The provision of a specified area in the warehouse is a land related service and would be

subject to VAT where the land is i.e. in the UK and if it is opted then it is SR otherwise exempt.

Where the land is incorporated into a wider service to which the land is an ancillary part then it will be subject to the VAT rate of hte wider service.

A single price being charged does not determine that a separate service is being provided.

Using Levob we can look at what the servicew is from the point of view of the custoemr. It is likely that hte HK buysiness would view this as a single fulfilment service of which the warehousing space if only a part. Thus, the VAT treatement will fall under the b2b genearl rule and the place of supply will be where teh HK business is establihsed and hence outside the scope of UK VAT.

HK VAT rules should be verfiied wiht HK advisors.

The supply of services is a consinguous supply and will have a tax point of the earlier of invoice or paymetn. If not tax point occurs by 31 Dec then that becomes the tax point.

To avoid having to use the fulfilment house due dillience scheme. Litopa could instaed act under what is known as the comissionaire approach. Litopa would act as a undiclosed agent and would act as the importer of the goods, it would incur and recover hte import VAT. It would then make onward supplies of the goods to UK customers and would be respomsibnle for collecting and paying the supply VAT to HMRC. Any fees charged could be incorporated into a markup on teh goods. Appreciated however this may commercially not be what the HK company wishes but should be explored.

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----------ANSWER-1-ABOVE----------

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----------ANSWER-2-BELOW----------

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Answer-to-Question-_2_

**Intro**

Plastic packaging tax is charged on a finished plastic packagin component either when the packaging compnent is subject to its last substantial modification or it is imported into the UK.

**Protection for jars**

Certain items can be exempt from PPT such as contact lense packets as they are **intergral**to the item or other items that qualify as long term storage.

Here the packaging may be in place to somewhat protect the jars but it will still fall within the scope of the tax as a it is a plastic packaging component that is shipped with the product.

Certain transport packacing can also be exempt but this is not transport packaging and is part of the final product.

**Registration**

A business must register for PPT once the 10 tonne threshold is breached. This is either

under the future or historic tests.

Under the historic test on the 1st of the month each month a bsiness looks at hte last 12 months to see if hte ppT has breached the threhsold.

| Date | Amount | Totla | |
|---|---|---|---|
| Jan 205 | .7 | | |
| Feb 25 | .7 | | |
| Mar 25 | .7 | | |
| Apr 25 | .7 | | |
| May 25 | .7 | 3.5 | |
| June 25 | 14.7 | | |
| July | | | |

Under the historic test not registration trequiremnet is triggered until 1 July 2025 when the business looks back and sees the imports in June took them above the rheshold.

The future test will have an earlier date and we use this. Under the guture test, teh bsiness knows on 1 June 2025 that it will import of 10 tonnes in June 25 alone.

The components are not subject to PPT however as the moulds contain 42% recucles materials. Provided hte recylces material is recycled under a manufacturing, heating process and not organically then where the recycled plastic makes up over 30% of hte component no PPT is due.

As the components are not **chargeatble** plasti cpackaging components they qwill not count towards the plastic packaignt tax registration threshold. So the above calculatio can be ingored.

**Dye**

Any weight of the dye should be included as part ofhte plastic

**Domestically produced material**

The plastic packaging material manufactured onsite will not benefit form any exception and it is chargeable as under 30% of hte material is genearted from recucles plastc.

A registration obligation would triggered on 1 August 2025 as in the previous Month (12 months) more than 10 tonnes of Plastic packagin gocmponetns were manufcatured.

A registration will be immediate and there is no 30 day grace period like htere is in VAT.

If the business knew that is intended to produce over 10 tonnes of material on 1 July 2025 then the earlier date of the future test would override the registration requirement.

HMRC must be noitified within 30 days (31 July 2025) and hte bsiness would be considered registered immedaitely.

As the question is written such that it is intended to priduce 12 tonnes we will assume hte future test does override an dhte 12 tonnes is subject to tax.

Under this the 12 tonnes produced would be subject to PPT and 217.85 per tonne i.e. £2,614.20 of tax.

The business would be required to submit a quaterly PPT return to HMRC.

The first return will include the £2,614.20 of Plastic packaging tax.

The business will be required to maintain recordws for 6 years.

They will also need to keep records of invoices, accounting records etc.

They need to keep evidence of the weight of materials, particualrly hte imported materials to show that they were more than 30% recycled. They may need written evdience from the producer to confirm this.

The VAT returns are due within 30 days of end of hte period. 7 day extension available for direct debit.

**Exports of PPT**

Goods which are exported can have the PPT refunded as a credit in the PPT return.

As 25% of the plastic packaging tax is to be exported then once it is exported and export evidence is obtained e..g a bill of lading then a credit can be claimed in the corresponding quarterly VAT return.

This means that 3 tonnes of every 12 should be subject to credit. Unfortuantrely this will not tak the busiens under any registration threshold as it will be a credit paid later and the original production still counts towards the rehsold.

Recordws of the calcualtion of any credit will also need to be maintained for 6 years.

The PPT return must include details of the PPT weight of chargeable components, components exported and componments not chargeable to the tax.

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----------ANSWER-2-ABOVE----------
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----------ANSWER-3-BELOW----------
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Answer-to-Question-_3_

**Intro**

There are are a number of supplies here. Some of the supplies are services which will incur not customs duty.

The services will be subject to VAT where the place of supply is the UK. The place of supply of services is determined under two rules. The b2b place of supply rule dictates that the place of supply is where the business customer is located.

**Provision of management and analytical services**

the provision of hte managemetn and analytical services for the clincal trial by PSU will fall under the b2b geneneral rule. Under which the place of supply is where the business customer Affumat SpA is located.

SPa dopes not have a ny fixed establishment in the UK and the provison of services by PSU will not create any fixed establihsment for Affumat. Thus, the services will be deemed to be recieved in Italy and no UK VAT is due.

AFfumat may be required to account for VAT under the Italian reverse charge procedure.

**Supply of GPs to PSU**

As the GPsa re contracting with PSU their supply will be to PSU.

The GPs do appear to be providing a supply of staff as the direction and control remains under their own GP and they are providing a service of suprivisng hte trial.

The provision of medical care is exempt from VAT when provided by a medical professsional enrolled in a register as aGP would be.

The question is where the provision of medical care is being provided as a result of a trial.

The case of d'ambriumnal laid out that medical care is the protection, maintaincnece, and

restoration of a patients health.

It is no known where the patients inthe trial will receive any benefit at all as some are provided with a placebo. Therefore, it would be hard to argue that the services are directly involved in medical care, it would only be if the drug was succeissful and officially administered that medical care is being proivded.

Thus, the supplies will not be medical care and will be subejct to VAT at the standard rate. This is a b2b uk doesmtic supply and VAT is chargeable.

The VAT should be recoverable by PSU as it related to the ongoing managmenet and analyticsal serivces provided to Affumat which are taxable.

**Provision of trial particpation services**

The participants in the trial are reciving consideration for the supply of their services.

This is a business activity but provided the clietns are all non-vAT registered indicuals, no VAT is due on the £20 provided.

All the drugs and equipment provided are either temporary or part of hte undertaking of the serice.

The customers are not recving any goods or service in return and no VAT will be due on the provision of the drugs to the patients.

**Provision of pathology services by UK lab**

The provision of pathology services by a UK lab to PSU is also a UK domestic supply. This will likely also be standard rated as while a lab is normally regualted by the cqc, the services provided are again not involved in the medical care of the indivcuals but instead in the pursuit of a research project.

**Delivery of pharma prodcut**

The movement of the pharmaceutical product and placeable will be an import of goods into the UK.

If Affumat is to act as the importer then it will require a UK EORI, it will incur UK import VAT on the import of the goods.

As Affumat is retaining title to the goods it is Affumat that must act as the importer in order to be able to recover the import VAT.

The import VAT can be recovered via an overseas reclaim as Affumat does not have UK registration and will not have any obligation to be UK vat registered as it is not making any sale of the drugs in the UK, they are simply being subsumed into the service provided buy PSU.

The drugs may also require a license for Affumat to be allowed to move the controlled substance into the UK and this should be verified and applied for if required.

The drugs may also incur customs duty. If the drugs were manufacturered in Italy (which assumable they were) then the goods will benefit from Italian origin and no customs duty would be due under the TCA.

As no supply of the goods is made, valuing hte goods cannot be done under method 1 for valviuation as there is no trasnaction.

Method 2 and 3 will also not work if not similar or identical products are yet licencsed for sale.

Method 4 will also not work where no onward sale is made by PSU or Affumat.

Method 5 again will not work as there is no sale or profit margin to be calcualtied.

It is likely method 6 will have to be used.

Affumat will be required to appoint a UK indirect customs agent to complete the c88 at import as it is not established in the UK.

**Lease of electronic devices**

Goods which are leased are usually treated as a supply of services to which the goods are ancially. This is provided the goods are not intended to remain or be used up by the seller.

Following the merdeces benz case where baloon payments meanthe supply was deemd to be goods. Where the goods are anticpated to be scrapped after use, arguable 30% of the supplies are not leased goods but instead they are the provision of the goods themselves.

Thus, wer have two supplies potentially - the lease of goods.

This is the provision of a lease of goods from an italian company to another italian company and ordinarily the supply would fall outwide hte scope of UK VAT under the b2b general rule.

There is a derogation to this in VATA 1994, scheudle 4A item 7 where the goods would otherwise be treated as outside the csope of UK VAT but they are used and enjoyed in teh UK.

Under these rules the goods are to be treated as supplied in the UK. Thus, the italian company supplying the goods will be required to account for VAT and this could create a registration requirement under scheudle 1A VATA 1994 if it has no UK establihsment.

Affumat cannot account for VAT under the reverse charge as an NETP that is not registered for VAT and has no ongligation to register for VAT.

The VAT incurred by Affumat can be recovered via an overeseas refund claim.

When goods are leased they must still be imported into the UK. It is possible that temporary use special procedure could be applied for in order to prevent any customs duty or import VAT being due. Full authoriation must be provided for import VAT to be suspesnded.

If import VAT is not suspended then the supplier should act as the importer as they hold title to the goods and only they can recover the import VAT (but as they are required to register they can recover on their VAT return).

The Italian supplier will require a gurantee to operate temporary admission adn it will need to know when teh goods are re-exported.

If it is deemed all the goods fall under the supply of services then the goods where are scrapped will invalidate the temporary admission procedure as the company will not be able to obtain evidence the goods were re-exported within 6 motnhs.

If this is the case then the italian supplier should cosnider exporting the scrap in order to satisfy the conditions. Otherwise import VAT and customs duty willl be due.

The second potential supply is the provision of the goods at an outright sale. The goods here would be subject o customs duty and import vat. The title holder of hte goods should act as importer so if title has transfered to Affumat then it should recover the import VAT.

If the electronic devides are valued under £135 per cosnigment then they would not be subject to any customs duty or import vAT as they fall within teh small cosnigmetns rule. As htey are to arrive in a single shipment this will most likely not apply.

When the goods are re-exported to germany the italian supplier must use a customs agent as it is not allowed to export as an NETP.

**lease of goods from china**

As the goods are from china there is not FTA and customs duty will likely be due (if not relieved through tempoary admission).

the goods will need to have their orogin confimred - china

The goods will need to be classified - medical devices - further heading

The goods will need to be valued - as previously explained where there is no sale of the goods and hte goods are leased then it is likely method 6 will have to be used.

If the goods are sold to other customers in teh UK in a similar quanity then it would be possible to use method 2

The same could apply for similar goods iunder method 3. The Italian supplier would be privy to this information.

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----------ANSWER-3-ABOVE----------
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----------ANSWER-4-BELOW----------
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Answer-to-Question-_4_

## Intro

An excise warehouse allows for exicsable goods such as vodka which falls under alchol excise duty to be imported into the UK and exise duty defered until the goods are released from the exise warehouse.

The goods will subsequently be subject to exise duty when they are removed from the warehouse for sale into the UK.

When the goods are removed from the warehouse a c88 must be complted by Orne Vodka and the exise duty paid on the goods.

Goods can be stored in an excise warehouse indefinitely, there is no time limit or throughput period.

If the goods are stored in a warehouse and the exise duty rate decreases then the lower rate of duty can be paid.

## Requirements

To opearte a excise warehouse approval must be provided by customs. The supplier will be required to apply to HMRC for a warehouse and must meet certain conditionsin order to be able to oeprate a warehouse.

A Orne Vodka is not establihsed in teh UK and hte warehouse alone without the human and technical resources to operate the business would not create an establisment then Orne Vodka can not itself operate an excise warehouse.

One of the first conditions is that hte business must be UK established.

instead Orne Vodka could make use of a warehouse oeprated by Apala Ltd.

Apla ltd likely arlready has a excise warehouse as a warehouse operateor and cna provide the services or its public warehouse to Orne vodka for a fee.

In order to operate a warehouse the following conditions must be met:

1. the business must show an economic need to run the warehouse. As a warehouse buinsees, Apla has a proven economic needs

2. the business must have a good history of compliance, HMRC will usually look back three years at hte businesses compliance reocrd to determine how conpliance they are looking at where any officers or the business itself has been subject to any exicse or other import penalties.

3. the business must hsow that it has a logistical system which it can use to monitor the goods going in and out of the warehouse.

4. the bsiness will need to ensure HMRC that the excise warehouse is safe and secure such as through the use of exise ware house signs on all the entries and exits of the warehouse.

5. THe business will also need to provide a guarnatee to HMRC to teh value of the exise rduty on the goods stored in the exise warehouse.

6. The business will need to allow HMRC to insepctht epremises at will etc.

A return will need to be provided to HMRC detailing all the goods moving in and out of hte warehouse.

**Benefits**

Spirits can be mixed while htey are in an excise warehouse and subject to simple forms of handling such as repackaing and breaking bulk.

if any goods are reexported then no excise duty ever becomes due.

**Drawbacks**

Retail sales cannot be made from the excise warehouse and the goods must be taken out of the warehouse and duty paid before sale.

If hte goods were in a warehouse in EU then as the UK is not part of the EU and movemetn between the two warehouses duty free is not possible.

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----------ANSWER-4-ABOVE----------
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----------ANSWER-5-BELOW----------
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Answer-to-Question-_5_

**Intro**

HMRC reserve the right to withdraw the AEO C or AEO s status of a business at any point of they beleive that the business is not fulfilling the reuqirements of being a Authorised economic operatotr. The requirements for hte two are verfy similar as are their benefits. AEOC focuses on customs compliance operations where as AEO focuses on security and safety.

In general the benefits fo being an economic operator are

1. (AEOC) reduced or waived guarantees

The current reduction in the guarantee by 30% will be rescinded if hte AEOC authorisaiton is lost. As a result the business willhave to increase its guarantee back to 100% and this may come at a further cost from the bank/insurance company increasing their charges for the higher guarantee.

2. (AEOS) Fast claerance of goods and 3. fewer checks on goods

AEOS beenfit from faster clearance of goods through customs controls and goods being subject to fewer checks. The removal of this could delay shipments and cause delays in goods getting to customers creating further costs to the business.

4. (AEOC) Easier authorisation for special procedures. As most of the requiremetns are the same for AEO and psecial procedure authorisation it can be easier to secure authroisation for inward porcessing, customs warehousing etc.

5. status, it can help birng in b8usiness if AEO stastus is held. losing this may lose prestige and customer preference.

The AEO criteria for a business are often viewed by HMRC as proportional to the size of the business. Thus, as the bsiness has grown through the acqustiion of other bsiness, HMRC's requirements for the business and expectations will have increased.

The AEO status is shared with a number of other countires such as Japan, EU, USA and

China where there is mutual recognition. This means that where AEOs is held the oeprator will benefit from fewer checks on goods at the destination port as well as the GB port if it is one of hte listed countries.

## AEO requiremetns

In Gernal HmRC will look at the previous 3 years for all requiremetns.

1. Record keeping - HMRC will look at the ssystems in use and verify if a logsticial ssystem capable of mainintain records is in place.

2. Financial standing - HMRc will look at whether all duties and import VAT are paid and up to date.

3. Competence - HMRC will look at the competnence of the busines, its expereince in operating customs procedures and whether the staff are approprately qualified.

4. History of compliance - HMRC will look at hte previous 3 years of complaince to see if hte trader has any errors and penalties realting to movements of goods, customs duty an dimport vAT. This will include hte business and any higher officers of the copany.

GBlecky is going to need to remidy each of the issues highlighted by HMRC and procide security that it is meetinghte AEO requiremetns above.

## Aberdeen

In Aberdeen it has been identified that imports are being miscoded and there is potential theft by staff.

Gblecky will need to show that its staff have hte competnence to record imports correctly and could provide assurance to HMRC through the provision of extra trianing etc.

Gblecky may also need to improve the security in its warehouses to prevent hte theft of goods. Security is one of the aspects where HMRC's expectations will increase with the size of the business. A alrger business bing expected to have a dedicated security team, cctv cameras and fences around the premises.

Gblecky may also need to ensure that import mismatches are queried with suppliers either through new sops or the use of automated notifications which may require the investmetn in more advanced record keeping systems.

## Manchester

The staff in manchester that have shown incompetence and after trainig continued to show incormpetence suggest that Gblecky does not meet the competnence criteria of hte AEO authorisation.

Additional staff could be brough tinto the area alongisde furhter training.

Gblecky could also consider the introduction of more automated systems that force the staff to undertake hte checks required before the preferential duty is claimed.

They could add additional layers of review which could be incorporated into the automated system.

Gblecky could also cosnider suspending the claim for preference at the time of import and isntead make the claim later on once it has been substanitated. This is not ideal though and will come at a cash flow cost to the business.

This would also not confirm to HMRC that staff maintain the correct level of compentence but if there are no ongoing errors HMRC, may allow the maintannce of the AEO aithroaition while the processes are being fine tuned.

Gblecky could also conisder limiting the staff which have the ability ot claim preferential duty rates.

**Soutampton customs warehouse**

A business can pay to use another busineses customs warehouse. Gblecky does not need authroisation itself and does not hrefeore have to keep up with the onerous record keeping requiremetns.

Importantly as a result of the AEO status being revoked, there is no impact on the use of the customs warehouse as it is not the aiuthoirsation of GBlecky but of hte oeprator.

The oerpator may charge Gblecky more if they think the business is unstable or likely to make errors or cause HMRC to doubt its own business capabaility.

Goods which are imported into a customs warehouse are not subject to customs duty or import VAT until they are released from the warehouse into free ciruclation.

The goods where are in the warehouse can be subject to usual forms of handling 'procesing' but if hte process is not a usual form of handling i.e. not repacking, relabiling etc. then it cannot be undertaken in a customs warehouse without an IP authorisation.

## Freeport business

A freeport works much like a customs warehouse and enables a busines to import goods into the UK and defer impot VAT and customs vAT being due by keeping the goods in a specific location where the goods are not in free circulation.

Where a customs warehouse can be any given site that HMRC authorise. A free port or freezone is often near the port of entry of the goods.

In this case the Southampton port is where hte goods will be delvered and hte free port is hte southampton port.

The requirements to be a freeport business are again similar to the AEO and customs warehousing requiremetns and require a business to show it is compentent with record keeping abilities that are sufficient to opreate the procedure.

If the AEO authorisation is revoked then HMRC may not provide the authroisation to be a free port business at they will not have the confidence in teh busineses' record keeping and staff compenetnece.

It is not a requirement of being a free port business that ht ebusiness is an AEo but it will make it easier to seek authorisation.

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----------ANSWER-5-ABOVE----------
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----------ANSWER-6-BELOW----------
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Answer-to-Question-_6_

**Registration period**

The registration period is put in place so that customs can monitor the amount of bicycles which are coming in from Maylsia and who is importing the goods.

The customs authorities may be able to liaise with the Malaysian tax authorities to confirm if the bikes were generally being built there or if they were simply being routed through there to avoid the anti-dumping duty.

Moreover, the customs authorities by monitoring all the goods which are brough in from Malaysia in the period will have recourse to be able to pursue the importers if it is found that the bikes are not of malaysian origin and should in fact have been subject to anti-dumping duty.

By recoding all the customers of the chinese suppliers, the EU will then be able to commence an investiagation and issue questionaires to said suppliers.

Additionally the EU has the power to extend the anti-dumping duties to other countires if it believes that these countries are being used to circumvent anti-dumping measures.

It is likely tehrefore if the goods are deemed to be routed through Malaysia purely to circumvent the anti-dumping duty that the duty will be extended to apply to malaysia

Circumvention is defined as a large change in the pattern of the trade between the two countries so the investigation preriod would be looking for a large uptake in bike imports from Malaysia across the period.

Furthremore, circumvention is considered to take palce where the parts used constitute 60% of the total value of hte parts of the assembled product. Thus, where are product is meerely assembled in the other countries and the assembly costs are less then 40% of the final price, the bikes movement to other countries will be considered as circumvention. This will apply to Bangladesh and could apply to Malayis depending on where the bike parts originate and this should be found out by NI Byco.

## Northern Ireland and EU relation - at risk

Northern Ireland is in the UK and usually subject to the UK tariff but it is subject to EU customs rules.

However, where goods are deemed to be at risk of moving from NI to the EU then the goods are subject to the EU tariff.

Goods will be conisdered automatically at risk if the duty difference is 3% of more.

Goods will also be considered at risk should they be subject to anti-dumping duty.

## Imports of bicycles from China - anti-dumping = at risk

As a result of the anti-dunmping measures imposed by the EU and not hte UK, the bikes which are imported from China would automatically be subject to the EU duty at 40%.

If NIBYCO registeres for UKIM then it could received a refund of hte difference between teh EU and UK rate of duty if it can provide evidence that the goods were sold to a UK customer.

## Chi-wheels - Malaysia

The supplier that has opened the factory in Malysia will be providing goods that are no longer subject to the anti dumping duty.

The goods are still considered to be at risk due to the 3% difference in UK and EU rates and the EU duty rate at 15% would apply.

When a supplier states that its goods are of a certain origin then NIByco must have acted reasonably to confirm the origin. Some of the steps that Nibyco could take to confirm that the bikes are of malaysian origin i.e. they are last substantially worked in malysia or come from materially wholly obtained in Malatsia inlcude:

1. visiting the suppliers factoring to confirm the bikes are being manufacturered there and not simply repackaged (which does not confer origina as it is a simple process).

2. Seeking confirmation of the origin from compentent tax authorities in Malaysia.

3. Seeking a depsoit from its supplier for the extra duty and repaying this once it has been confirmed that the goods are of Malaysian origin.

**Shenz bike - origin rules**

Where the bikes are of parts from China and only assembled in Bangladesh the Bangladeshi origin will not be conferred to the goods.

The parts are of chinese origin

The operationof assembling these parts in Bangladesh while arguably not simple will not be allowed to confer origin where HMRC deems that the stage in the manufacturing process is only being undertaken in order to circumvent an anti-dumping duty.

Moreover we know from our general rules of interpretation that the provision of goods assembled or unassembled have the same customs code and the meere assembly of the goods will not change hte customs code, hence the oepration may not be signficiant enough to confer origin.

The certificates that are being provided to NIByco are therefore invalid and NI Byco should not claim the origin as it has reasonable grounds to suspect that the origin is china and the anti-dumping duty should apply.

If it continues to enage with the supplier it should disregard the origin certificate and pay the anti-dumping diuty.

It should also notifty HMRC of the use of hte invalid origin statement.

The rules for claiming a preferetnial rate of origin can differ slightly from the rules requires for non preferntial origin.

If the goods are of Bangladeshi origin thenthe preference applies in either the UK or EU and the goods are not at risk.

As the goods are subject to a process in Bangladesh but all the parts are of Chinese origin, Bangladeshi origin will not be conferred unless the tariff code for hte preference allows for this (which is highly unlikely). This is because for preference the tariff will specify what percetnage or materials must be or Bangldeshi origin and what percentage can be of other origin. The preference is ued to encourage production in bangldesh and not just assemebly of chineses goods.

Thus, preference will not apply.

## Timing

Moreover Ni Byco should have had reasonable grounds to suspect the possible circumvention by Chi wheels due to the speed with qhich operations were moved, the decision to move to malaysia was taken within 1 week of the announcment ofthe anti dumping diteies and hte fdactory set up in only a month which is unreleasitic.

The reactionary approach of ChiMal to cease oeprations in Malaysia as soon as the investigate by the EU was announced should also appear suspicious to NI BYCO. Again the speed with which operations are moving is strange.

## Binding origin information

As NI is EU it does not get an advanced origin ruling but a binding origin information. This can be used to get security on the origin of goods before continuing to import at rates not subject to anti-dumping measures.

A binding origin information ruling is a legally binding agreement between HMC and the trader that lasts three years wherebty the origin or the goods is cofniremd by HMRC.

However, one of the few instances where a binding origin information certificate will be held to be invalid is where HMRC have been mislead or not been provided with sufficient information in order to determine ht eorigin of hte goods.

Thus, if the chinese suppliers mislead HMRC the bOI would be invalid.

## Conclusion

The NI Byco should undertake some due dilligence to confirm where the bikes materials originate from and where they are manufactured to confirm whether any malaysian or chinese origin should apply.

On the basis that all the bikes are for NI customers and that the extra duties can be reclaimed through UKIM if they apply then it would make sense to

a. apply for UKIM

b. apply the anti-dumping duty even if they are not sure it applies as this is the prudent approach. This would come at a cash flow disadvantage butthe duty could be reclaimed through UKIM at a later date.