

e-Alert VAT & Customs

Customs measures related to Covid-19

State of play on April 2020

In the context of the current health crisis linked to Covid-19, public authorities have adapted customs regulations in order to facilitate trade and lessen the pressure on economic operators.

You will find thereafter the measures taken to date, both at the national level - by the French customs administration - and at the European Union level.

Suspension of controls and deadlines regarding customs procedures

Order No. 2020-306 of 25 March 2020, published in the JORF on 26 March 2020, provides for the following suspension and extension of the deadlines and measures which have expired or will expire between 12 March 2020 and the expiry of a period of one month from the date of cessation of the state of public health emergency (Article 1 of the Order), i.e. the period from 12 March 2020 to **24 June 2020 (unless the state of public health emergency is extended)**.

As a result, the operator will be **legally protected** during this period throughout the entire perimeter covered by this Ordinance, that is:

- The deadlines applicable to the recovery and contestation of public claims stipulating on pain of nullity, sunset clause, foreclosure, prescription, unenforceability or forfeiture of a right or action are suspended;
- **The suspension of prescription period for the customs administration's repossession right** expiring on 31 December 2020;
- **The suspension of all deadlines for the conduct of control and investigation procedures** in customs matters. This suspension also applies to **claims for refunds and formal positions of the customs administration**;
- Any act, appeal, legal action, formality, entry, declaration, notification or publication prescribed by law or regulation under penalty of nullity, sanction, lapse, foreclosure, prescription, unenforceability, inadmissibility, automatic withdrawal, application of a special procedure, nullity or forfeiture of any right and which should have been completed during the period of 12 March 2020 and the expiry of a period of one month from the date of cessation of the state of emergency, **shall be deemed to have been done in time, if it is done within a period not exceeding the period legally prescribed by law within the limit of two months.**

Deferral and suspension of the payment of duties and certain taxes

➤ *Deferral of payment of certain taxes:*

In view of the economic emergency, the customs administration has also set up **an exceptional system of deferred payment** for taxes with a predefined payment due date (monthly or quarterly) such as the Internal Tax on Final Electricity Consumption, the Internal Tax on Natural Gas Consumption or excise duties.

Furthermore, these payment deferral measures apply to the following duties and taxes:

- Axle Tax;
- Annual Francization and Navigation Duty;
- Regional inland sea grant.

Operators wishing to benefit from facilitations or deferred payment will have to **submit an express request to the customs revenue** where the sums are due, by submitting the form published online by the Directorate General of Customs and Indirect Duty (DGDDI).

➤ *Suspension of duties and taxes on certain products imported into the EU:*

Moreover, Commission Decision 2020/491 of 3 April 2020, in addition to the note to operators published on 28 March 2020 by the DGDDI, provides for **the temporary suspension of customs duties and VAT** on imports of masks, protective equipment, testing kits and medical devices. This suspension will apply for a renewable period of six months from **30 January 2020** until **31 July 2020**.

Operators who have imported the products eligible for the suspension will be able to benefit from the exemption by applying for **post-clearance reimbursement** at their customs clearance office.

Nevertheless, this measure applies only to goods intended for **State bodies** (public hospitals, local authorities, etc.) and **approved charitable philanthropic organizations**. In fact, this relief does not apply to goods intended for resale or for employees.

In addition, and pursuant to the Decree of 30 March 2020 issued based on Article 1 of the amended Finance Act No. 2020-289 of 23 March 2020, imports and deliveries of goods listed in the appendix to the said Decree (gloves, protective masks, gowns, etc.) may be subject to exemptions from sea granting and regional sea granting.

Furthermore, it should be underlined that a note to operators published by the DGDDI dated 28 March 2020 ratifies a simplification of the procedure for benefiting from duty-free and tax-free importation of sanitary equipment.

The impact of Covid-19 measures on the movement, storage, import and export of goods

Despite the health crisis linked to Covid-19, the European Commission for its part reaffirmed the **principle of free movement of goods** (Guidelines, OJEU 16 March 2020, No. CI 86, p. 1). To date, **no import or export restrictions have been established on the territory of the Union or on the national territory**. The movement of all types of goods, regardless of the mode of transport, remains possible throughout the territory as specified in Decree No 2020-260 of 16 March 2020.

It should be noted, however, that Member States may impose restrictions on the transport of goods for public health reasons, particularly in the event of border closures or restrictions.

In addition, several exceptional measures have been put in place by the French authorities, namely:

➤ ***With regard to storage***

- Goods already cleared but not evacuated from **Temporary Storage Facilities (TSF)** may remain there until their final exit; the maximum period of stay under TSF is extended to 120 days. Operators holding Authorized Economic Operator (AEO) status may store non-EU goods under suspension of duties, taxes and commercial policy measures in places not previously approved by customs (subject to conditions, however);
- For control purposes, the decree of 24 March 2020 also confirms the obligation for the operator of a warehouse or a storage logistics platform **to make information relating to the goods stored available to the administration**.

➤ ***With regard to exports***

- **The date of entry into force of the new concept of exporter is postponed to 1 October 2020** as provided for in the note to operators dated 27 March 2020, published by the DGDDI;
- Decree n°2020-345 of 27 March 2020 gives competence to the Dual-Use Goods Department to issue export authorizations for medical protection equipment.

➤ ***With regard to import***

- A note to operators published by the DGDDI dated 26 March 2020 provides that masks without CE marking may be imported provided that the importer establishes that they comply with European standards and sets up a procedure for the advance communication of the documents necessary for the customs clearance of personal protective equipment;
- Decree n°2020-293 of March 23, 2020 authorizes the requisition of sanitary masks, including those resulting from an import unless the import is less than 5 million sanitary masks over a sliding quarter.

Finally, and by way of information, it should be noted that the World Customs Organization has published a reference classification of medical supplies related to Covid-19 in the Harmonized System.

Other customs rules and measures continue to apply

Finally, we would like to remind you that, to date, there is no general emergency measure allowing for the suspension or delay of the payment of customs duties and VAT on imports into France except in the limited cases mentioned above.

Of course, operators can continue to rely on the customs regimes and facilities that were already in force before the Covid-19 health emergency period in order to simplify their customs formalities and limit the financial carrying costs associated with the payment of customs duties and import VAT.