

Contact France :

DELTA DOUANE / ALS

Robert TOUSSAINT - mail : r.toussaint@deltadouane.com
tél : + 33 (0) 609 822 085

Fabrice RAIMOND - mail : f.raimond@deltadouane.com
tél : + 33 (0) 671 025 499

The Hard Brexit Guide



ALS Customs Services N.V. ■ Douane Agentschap / Agence en Douane ■ inschrijvingsnr. / Matricule 2008 ■ btw / TVA: BE 0445.479.032

Exploitatie / Sociale zetel:
Siège d'exploitation / sociale:
Noordersingel 21 • B-2140 Antwerpen
Tel.: +32 35 45 32 52

RPM Antwerpen / N° d'entreprise:
0445.479.032
Handelsrechtbank Antwerpen /
Tribunal de commerce d'Anvers

Belfius Bank Grote Steenweg 454
B-2600 Berchem
IBAN: BE95 5513 9055 0058
BIC: GKCCBEBB

ING Bank Rouaansekaai 1-3
B-2000 Antwerpen
IBAN: BE65 3200 0634 6496
BIC: BBRUBEBB

Table of contents

| | | |
|--------------|--|----|
| 1 | Introduction | 3 |
| 1.1 | Status Quo | 3 |
| 1.2 | General information on Brexit..... | 4 |
| 2 | Customs perspectives on trade between the EU and the UK | 5 |
| 2.1 | Import | 5 |
| 2.1.1 | Customs Freight Simplified Procedures (CFSP) | 5 |
| 2.1.2 | Transitional Simplified Procedures (TSP) | 7 |
| 2.1.3 | Tariff classification and import duty | 7 |
| 2.1.4 | Origin of goods and free trade agreements..... | 8 |
| 2.1.5 | Customs Procedure Code (CPC) | 10 |
| 2.1.6 | VAT on goods..... | 11 |
| 2.2 | Export..... | 12 |
| 2.3 | Useful considerations for UK businesses trading goods with the EU..... | 12 |
| 2.4 | Special or alternative customs procedures | 13 |
| 2.4.1 | CARNET ATA/temporary admission | 13 |
| 2.4.2 | Customs warehousing | 13 |
| 2.4.3 | External Temporary Storage Facility (ETSF) operators | 14 |
| 2.4.4 | Inward- and Outward Processing Relief..... | 14 |
| 2.5 | Transit | 14 |
| 3 | ECMT | 15 |
| 4 | Roll-on-Roll-off (RoRo) ports and Eurotunnel..... | 16 |
| 5 | Supply chain | 16 |
| 6 | Medical sector..... | 17 |
| 7 | Impacts on particular industries, sectors and companies | 17 |
| 8 | UK customs and infrastructure after Brexit..... | 18 |
| 9 | Authorized Economic Operator – AEO | 19 |
| 10 | Useful hyperlinks..... | 19 |
| 11 | Statistics | 19 |

1 Introduction

Brexit is one of the most controversial debates of this time, and without any doubt, it will have a significant impact on international trade and trade between the EU and the UK in particular. Without a transition period or a definitive arrangement, trade relations with the UK will be governed by general WTO rules with no preferential treatments available, as of 31 October 2019. This means in particular, customs formalities will apply, declarations will have to be lodged and customs authorities may require guarantees and accounts for potential or existing customs debts – goods traded between the EU and UK will be subject to the same requirements as third country goods. Existing supply chains therefore will be disrupted and additional costs (tariffs and regulatory costs), reduced reliability (due to import/export controls) and extended timings have to be taken into consideration. In the event that the UK leaves the EU without a deal, any businesses that currently move goods freely between the UK and the EU will have to comply with new rules and regulations. The British customs authorities (Her Majesty's Revenue and Customs, HMRC) are working in the background on introducing new and simplified procedures aiming to reduce the impact on the UK economy to a minimum.

This document aims to summarize relevant information on customs matters and more general international trade practices in regards to Brexit. It contains valuable and in-depth guidance on multiple aspects related and wants to help getting a better understanding of how international trade will change because of Brexit.

1.1 Status Quo

The European Union (hereinafter EU) represents an economic and political partnership resulting in a Single Market established between 28 European countries. Within this Single Market, the EU forms a Customs Union where the Member States apply a uniform system for handling customs, e.g. imports, exports and transit of goods, whereby a common regulation called the Union Customs Code (UCC) forms the legal base.

Being part of the European Customs Union means that

- No customs duties are paid on goods moving between EU Member States.
- All member states apply a common customs tariff for goods imported from outside the EU.
- Goods that have been imported/cleared can circulate throughout the EU with no further customs checks.
- VAT is only paid once on goods moving between EU Member States (reverse-charge mechanism).

Trading with third countries goes along with

- Customs duties paid on goods moving between the EU and third countries.
- Different customs tariffs applicable, free trade agreements that need to be considered.
- Customs controls of goods that are imported to the EU from third countries when crossing the border.
- VAT on imports for goods moving between the EU and third countries.

Whilst Brexit did not yet happen, the EU is the UK's largest trading partner. In 2017, UK exports to the EU were 44% of all UK exports and UK imports from the EU were 53% of all UK imports.

1.2 General information on Brexit

In a referendum on 23 June 2016, the people of the UK decided to leave the European Union. Practically, the UK invoked Article 50¹ of the Lisbon Treaty, which frames the process of a Member State leaving the EU, on 29 March 2017. It triggered a two-year period to negotiate a withdrawal agreement and resulted in the initial leave date of the UK on 29 March 2019. After a first extension to 12 April 2019 and another extension right afterwards, the UK is now due to leave the EU on 31 October 2019. Even though both parties negotiated a withdrawal agreement, the outcome of Brexit is still not clear. This for instance because the UK parliament did not ratify the said agreement yet. One of the most sensitive topics is the “Irish backstop” solution, which tries to avoid a hard border between Northern Ireland and the Republic of Ireland. Consequently, it is not clear how Brexit will look like in practice and various scenarios are still possible to happen. Three scenarios are common to be distinguished:

“No-Deal”: The UK does not ratify the withdrawal agreement and leaves the EU on 31 October 2019

If the UK does not ratify the withdrawal agreement with the EU before 31 October 2019, it will be due to leave the EU without any easements in place. That would mean that trade rules of the World Trade Organization, like the Most Favored Nations (MFN) agreement, would become applicable overnight. The UK would become a “third country” from the perspective of the EU and customs formalities, customs control, import duties and VAT and other administrations will be applicable. The UK itself has introduced a couple of simplifications for that scenario, two of them would be Transitional Simplified Procedures (TSP) for imports from the EU and postponement of import VAT.

“Hard Brexit”: The EU and the UK will agree on a strict separation without simplifying measures

Scenario 2 as well as scenario 3 require the UK to ratify the withdrawal agreement with the EU, which would trigger a transition period until end of 2020. During that period, trade would first remain as it is now and both parties would have time to set out the rules for their future cooperation. However, in a “Hard Brexit” scenario the organization would be very strict borders without any simplifications in place. This for instance because the UK would not want to accept the rules the EU would set out to grant access to its Customs Union.

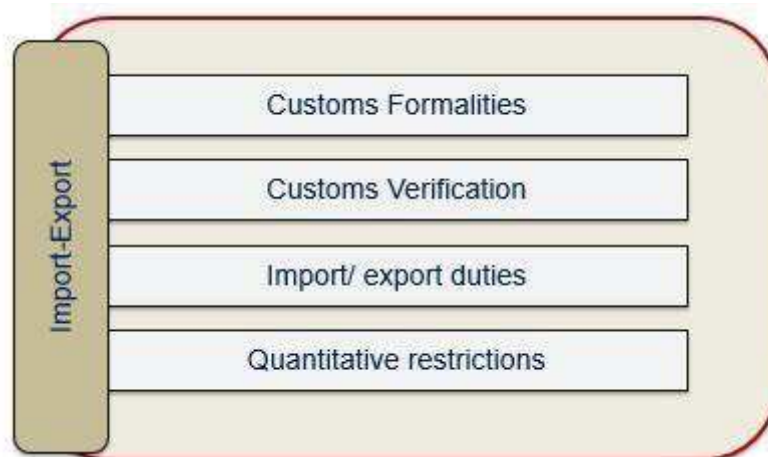
“Soft Brexit”: The EU and the UK will agree simplifications on mutual trade

In a “Soft Brexit” scenario the EU and the UK would agree on a high degree of regulatory alignment whereby the UK staying in a Customs Union, if not the Single Market, could be the outcome. As the results of any negotiations on a hard or soft Brexit are almost unpredictable and cannot be anticipated yet, this document will be aligned on the “No-Deal” scenario.

¹ Article 50 of Lisbon Treaty:

„1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements. 2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament. 3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period. 4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it. A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union. 5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.”

2 Customs perspectives on trade between the EU and the UK



2.1 Import

In “No-Deal” scenario, goods must be declared to customs as from the date Brexit happens. In order to ensure a smooth flow of goods between the EU and UK, customs service providers can submit customs declarations on behalf of traders. Import declarations in the UK have to be sent to HMRC when goods are imported into the UK. The most important elements for the import customs declaration are:

- Classification, origin and value of goods;
- Customs Procedure Codes (CPC) to determine what happens to the goods from a customs perspective (e.g. import into free circulation, inbound in a customs warehouse, final export);
- Customs duties and VAT.

Recommendation!

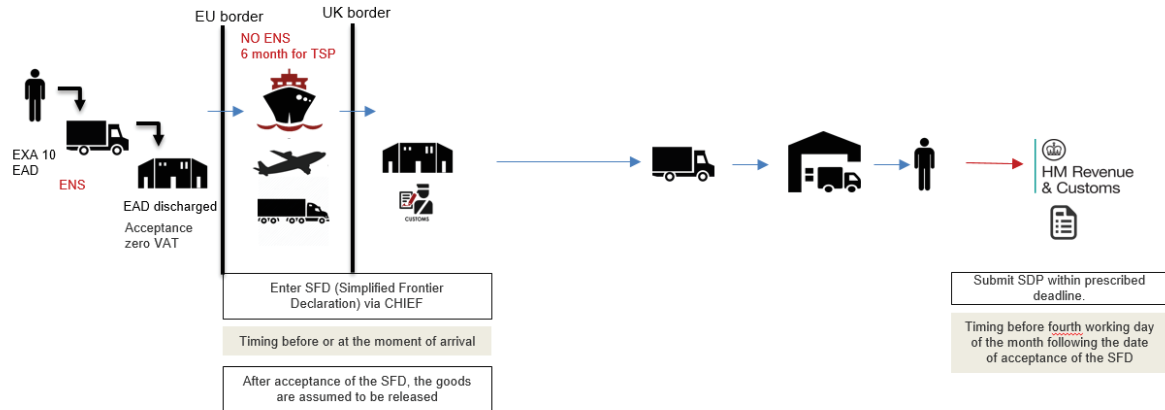
Apply via ALS Consulting Services for an Authorized Economic Operator (AEO) license, which helps minimizing customs controls at the borders and grants a favorable trade status in order to apply for further licenses or simplifications. The AEO specifies the trusted partners in the supply chain. Do also consider to make use of ALS’ Brexit workshop to get a better understanding of all impacts.

2.1.1 Customs Freight Simplified Procedures (CFSP)

According to the Union Customs Code (Regulation (EU) No 952/2013 Articles 166-167 and 182), EU Member States are authorized to use simplified procedures under certain conditions. The UK has confirmed that the current Customs Freight Simplified Procedures (CFSP) will remain after Brexit. In general, CFSP simplifies the declaration for the moment the goods cross the border but the missing information in comparison to a normal frontier declaration will have to be added in a supplementary declaration on a monthly basis. The declaration at the border can be either a Simplified Frontier Declaration (SFD) or an Entry Into Declarants Records (EIDR). Both procedures are described below.

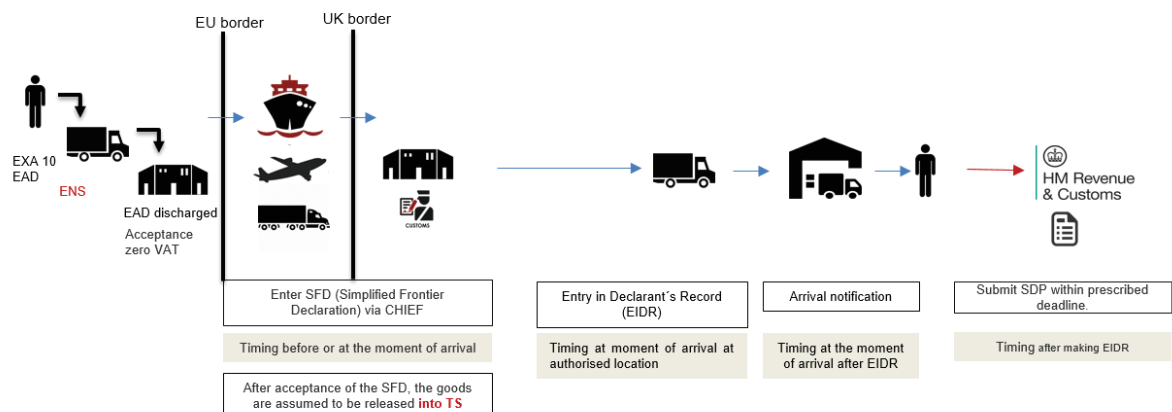
1. Simplified Declaration Procedure (SDP) for releasing goods at the frontier, where a simplified entry with less data is lodged for the importation.

CFSP- SDP (Simplified Declaration Procedure)



2. Entry in the Declarant's records (EIDR), formerly known as Local Clearance Procedure (LCP), where a declaration is made in the trader's records rather than directly to HMRC.

CFSP- LCP (Local Clearance Procedure EIDR)



Most of all goods are eligible for CFSP. However, certain goods and procedures have been excluded². Trader must request an authorization to operate simplified procedures and hold a specific/general authorisation for any associated special procedures such as customs warehousing, Inward Processing Relief (IPR), Outward Processing Relief (OPR), Free Zone (FZ), temporary admission (TA) and end use. The CFSP procedure accelerates removal and release of goods at the border.

More information on CFSP can be found on the website of HMRC.³

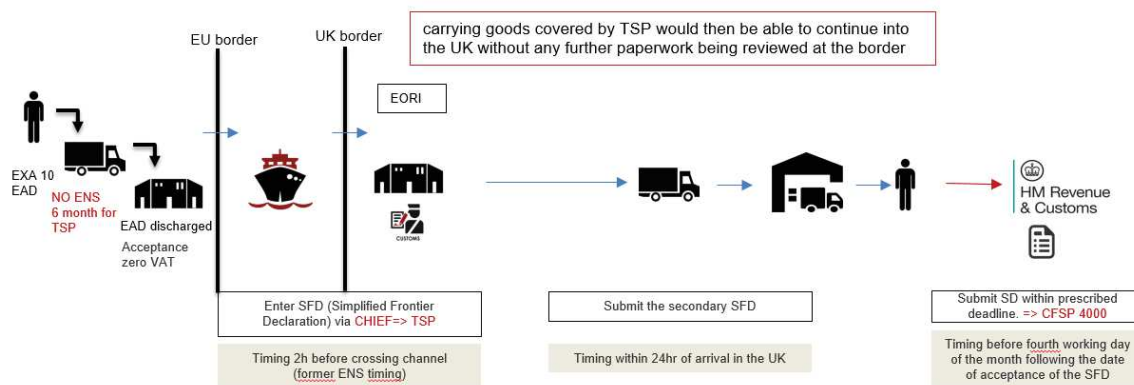
² There are also a number of Customs Procedures Codes (CPCs) which, because of frontier operational procedures, are excluded from CFSP.

³ <https://www.gov.uk/government/publications/vat-notice-760-customs-freight-simplified-procedures/vat-notice-760-customs-freight-simplified-procedures#simplified-frontier-declaration>

2.1.2 Transitional Simplified Procedures (TSP)

In order to facilitate trade in a “No-Deal” scenario for all traders importing goods from the EU into the UK, HMRC introduced Transitional Simplified Procedures (TSP). In general TSP follows the same structure as CFSP including a (heavily) simplified entry the moment of importation and a supplementary declaration of all movements on a monthly basis. Furthermore, TSP requires authorization by HMRC. However, there are a couple of additional prerequisites that have to be met if traders want to use TSP:

- TSP is only allowed for Union-goods. This does not include non-Union-goods from e.g. Switzerland, Turkey, Norway, etc.
- TSP distinguishes between standard goods and controlled goods⁴. For standard goods, the importer can make entries into his commercial records (similar EIDR), whereas for controlled goods he or his UK customs broker will have to register his shipments in the customs system CHIEF by doing a Simplified Frontier Declaration (SFD).
- Defined by incoterm, the responsibility for the customs formalities in the UK has to lie with a UK established importer, as only UK established companies can apply for the TSP authorisation.



More information on TSP can be found on the website of HMRC.⁵

2.1.3 Tariff classification and import duty

UK perspective

The UK has published a transitional tariff⁶ that will only be applicable in a “No-Deal” scenario. The tariff follows the same structure as the TARIC code of the EU; however, the tariffs themselves are different. 87 percent of all goods are zero-rated on duties, which means that no additional costs on duties will occur on these goods but customs formalities still need to be made. The other 13 percent are predominantly goods the UK produces itself; hence, tariffs are relatively high in order to protect domestic industries. Such goods are for instance fully assembled cars or farming and fishing products.

Beside of duty rates, the classification of goods also determines whether additional measures like quotas, anti-dumping duties or specific controls are applicable. Controls might be required for instance for goods like food, drugs and medicine, chemical products, plants, etc.

⁴ <https://www.gov.uk/guidance/list-of-controlled-goods-for-transitional-simplified-procedures>

⁵ <https://www.gov.uk/guidance/making-declarations-using-transitional-simplified-procedures>

⁶ <https://www.gov.uk/guidance/check-temporary-rates-of-customs-duty-on-imports-after-eu-exit>

EU perspective

All tariff rates and export formalities of the EU will be available on the [Market Access Database](#). Some orientation on tariff rates can be found below:

| Average EU tariff by product type (%) | |
|---------------------------------------|------|
| Animal product | 16.1 |
| Dairy products | 38.1 |
| Fruit, vegetables and plants | 11.5 |
| Coffee, tea | 6.0 |
| Cereals & preparations | 16.0 |
| Oilseeds, fats & oils | 5.4 |
| Sugars and confectionery | 23.0 |
| Beverages & tobacco | 19.1 |
| Cotton | 0.0 |
| Fish & fish products | 11.4 |
| Minerals & metals | 1.9 |
| Petroleum | 3.1 |
| Chemicals | 4.5 |
| Wood, paper, etc. | 0.9 |
| Textiles | 6.6 |
| Clothing | 11.5 |
| Leather, footwear, etc. | 4.2 |
| Non-electrical machinery | 1.7 |
| Electrical machinery | 2.4 |
| Transport equipment | 4.1 |
| Manufactures, n.e.s. | 2.4 |

WTO 2017

2.1.4 Origin of goods and free trade agreements

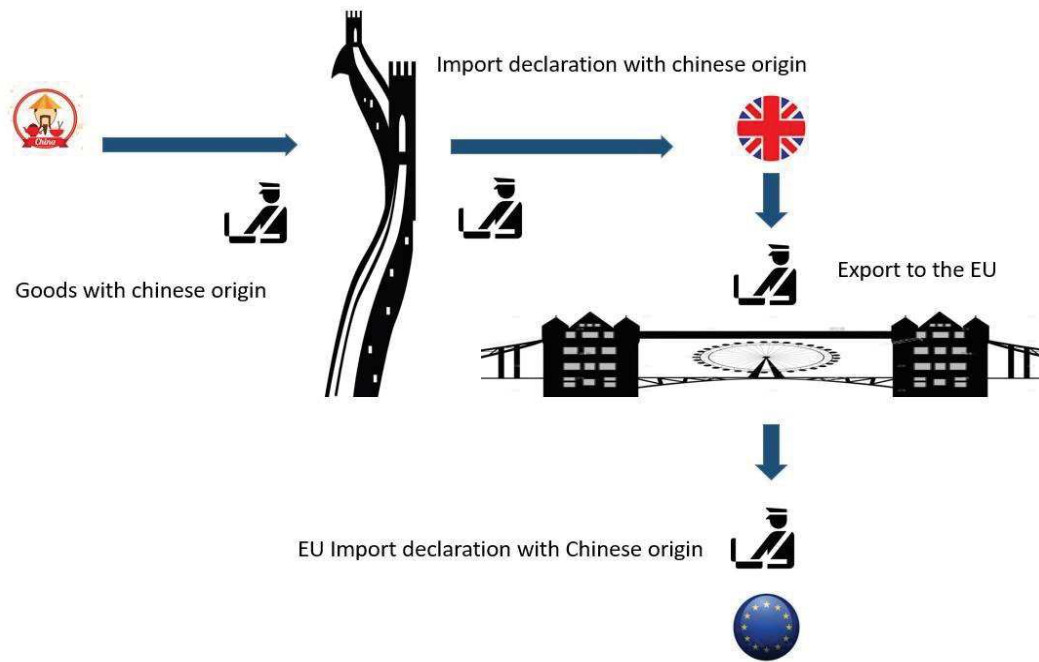
UK perspective

Trade agreements between the EU and other countries such as Canada, South Korea, and Japan etc. will not be applicable anymore.

EU perspective

The application of free trade agreements will not change within the EU, the UK will just not be part of them anymore. The only change will be in regards to (long- term) supplier declarations, as those of the UK will not be valid in the EU after Brexit.

Traders should take it into consideration that there is a difference between the country of the departure and the country of origin. Whereas the country of departure is the country, where the goods physically left from because of transportation, the country of origin is the country where the goods legally are originating. The example below describes a situation where goods with Chinese origin are moved from China to the UK and then from the UK to the EU. Countries of dispatch would be China first and the UK second, but origin remains China.



Consequently, the origin of goods should not be mixed up with the country of dispatch. This for instance because the origin of goods determines whether free trade agreements might be applicable or not. The origin of goods is determined by a couple of rules, which includes the composition of parts or ingredients. Brexit, as stated in the example below, might affect this.

EU current situation is as follow.



Brexit will have impact on origin of goods and tariff rate in 3rd countries



2.1.5 Customs Procedure Code (CPC)

Box 37 of the single administrative document for customs declarations is foreseen for the Customs Procedure Code (CPC), which is a mandatory requirement. The CPC determines the treatment of goods from a customs point of view; it defines e.g. into which customs regime goods are declared and from which customs regime they are coming. Trader should identify the appropriate customs procedure for their goods. A customs service provider can support with the identification of the related CPC. Customs Procedure Codes are built up on a strict logic. The first 2 digits identify a customs procedure, e.g. types of import or export. The second 2 digits identify the previous customs procedure from which goods are being withdrawn. Please note that the logic for a CPC under CFSP is different. Examples can be found below.

| Procedure code | Procedure |
|----------------|---|
| 05 | Free circulation with simultaneous entry under an inward processing procedure other than those referred to under codes 02 and 51. |
| 07 | Free circulation with simultaneous entry of the goods under a warehouse procedure (including placing in other premises under fiscal control). |
| 10 | Permanent dispatch/export. |
| 21 | Temporary dispatch/export under the customs outward processing procedure other than that referred to under code 25. |

| Digits 1 and 2 | Digit 3 | Digit 4 | Digits 5, 6 and 7 |
|----------------|----------------------|----------------------------------|--|
| | Type of goods | Release mechanism | Regime entered to |
| 06 = CFSP | 1 = normal | 0 = frontier | 000 = national transit |
| | 2 = controlled goods | 1 = transit | 001 = community transit (NCTS) |
| | 3 = controlled drugs | 2 = warehouse type A, C, D and E | 002 = national transit for plant health material |

Further information is available on the website of HMRC.⁷

⁷ <https://www.gov.uk/government/publications/uk-trade-tariffcustomsprocedure-codes/customs-procedure-codes-box-37>

2.1.6 VAT on goods

UK perspective

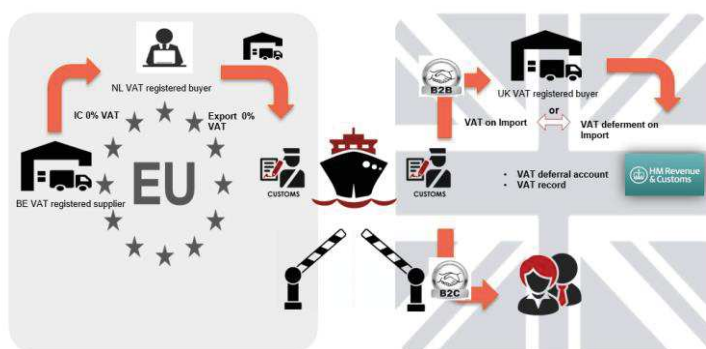
The moment the UK leaves the EU without a deal, imports become subject to import VAT. In order to mitigate the financial impact for traders, the government of the UK has introduced postponed VAT accounting on goods imported into the UK in a “No-Deal” scenario. As a result, VAT-registered traders can account for their import VAT on their normal VAT returns and would not have to pay VAT the moment of importation. To ensure equity of treatment in a “No-Deal” scenario, these rules will apply to all movements EU and non-EU, which will help UK businesses make the best out of trading opportunities around the world.

Furthermore, the Low Value Consignment Relief (LVCR) will not be extended to goods entering the UK from the EU. If the UK leaves the EU without an agreement then LVCR will no longer apply to any parcels arriving in the UK. For parcels valued up to and including £135, a technology-based solution will allow VAT to be collected from the overseas business selling the goods into the UK. Overseas businesses will charge VAT at the point of purchase and will be expected to register with an HM Revenue & Customs (HMRC) digital service and account for VAT due.⁸ On goods worth more than £135 sent as parcels VAT will continue to be collected from UK recipients in line with current procedures for parcels from non-EU countries.

EU perspective

The current national rules for import of the different EU member states will also apply to UK imports in a “No-Deal” scenario. Where possible, applying for an import VAT deferment license might be advisable. According to the EU VAT directive, each EU Member State is responsible for setting up its own VAT rules and providing its own VAT numbers⁹. Therefore, the taxable person and entities supplying goods or services in several EU Member States are legally responsible to have a VAT identification number in each of these Member States.

The EU legislation permits a taxable person and entity established in one Member State to identify a VAT representative in another Member States or ask for an individual VAT identification itself.¹⁰ In a “No-Deal” scenario, a UK taxable person or entity cannot apply for an individual VAT number in one of the EU Member States. In addition, there is no possibility for the UK taxable person and entity to identify a direct VAT representative in the EU Member States.



⁸ The digital service is an online registration, accounting, and payments service for overseas businesses. On registration, businesses will be provided with a Unique Identifier which will accompany the parcels they send in to the UK.

⁹ Article 214 of COUNCIL DIRECTIVE 2006/112/EC of 28 November 2006 on the common system of value added tax.

¹⁰ “Where, pursuant to Articles 193 to 197 and Articles 199 and 200, the person liable for payment of VAT is a taxable person who is not established in the Member State in which the VAT is due, Member States may allow that person to appoint a tax representative as the person liable for payment of the VAT.” (Article 204 §1 of COUNCIL DIRECTIVE 2006/112/EC)

2.2 Export

Export customs formalities get more and more in focus of customs authorities these days and will become applicable in a “No Deal” Brexit scenario. Important topics to be considered are

- Classification, origin and statistical value of goods;
- Foreign trade compliance, incl. export and sanction list control, dual use restrictions;
- Exit confirmation of goods to qualify for sales exempted from VAT;

Recommendation!

Apply via ALS Consulting Services for an Authorized Economic Operator (AEO) license, which helps minimizing customs controls at the borders and grants a favourable trade status in order to apply for further licenses or simplifications. The AEO specifies the trusted partners in the supply chain.

UK perspective

Exports from the UK to the EU will require an export declaration. The export declaration needs to be lodged into the customs system of the UK (CHIEF) and contain the general set of information incl. e.g. tariff classifications, origins and statistical values of goods, the correct customs procedure codes, etc. For strategic military and dual-use items, export authorisation will be required.¹¹

In order to be allowed to export goods to the EU, an ENS message will have to be sent by the carrier (RoRo = haulier). ENS means Entry Summary Declaration and is part of the Safety and Security System of the EU. Traders should further consider long waiting times at borders and customs inspections. In order to qualify for sales exempted from VAT, UK traders will have to ensure to have the exit confirmation of customs for their archives.

EU perspective

Goods that are exported from the EU to the UK will run through the existing third country export process. All export formalities of the EU will be available on the [Market Access Database](#).

2.3 Useful considerations for UK businesses trading goods with the EU

There are a couple of useful considerations for traders importing in the UK. In general, all trade volumes with the EU need to be reviewed in detail and conclusion to be made. A customs service provider can support in identifying required measures.

EORI: Traders must hold or apply for a UK Economic Operator Registration Identification (EORI) number. Each company with a valid VAT registration number can use the online application form to register for a UK EORI number.¹² Traders that do not have a UK VAT registration can use the import or export application for UK EORI number.¹³

¹¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740156/controllist20180914.pdf

¹² See annex I. Online application is: <https://www.tax.service.gov.uk/shortforms/form/EORIVAT>

¹³ See Annex II. Online applications are: <https://www.tax.service.gov.uk/shortforms/form/EORINonVATImport>
<https://www.tax.service.gov.uk/shortforms/form/EORINonVATExport>

Simplifications: Companies can apply for customs simplification authorisations, e.g. Transitional Simplified Procedures (TSP).¹⁴

Goods: Determine tariff classification, value and origin of transported goods in order to complete declarations and be able to determine duties and VAT payable as well as other measures that might be applicable.

INCOTERMS: Traders must comply with the correct International Terms and Conditions of Service (INCOTERMS) in order to identify responsibility and liability for customs formalities.

AEO: Authorized Economic Operator (AEO) status will grow in significance post-Brexit. Companies who have not considered AEO accreditation should consider the services of an AEO accredited logistics provider to mitigate the impact of cross-frontier delays.

Customs Representation: It is highly recommended to choose a dedicated customs representative for general advice and support on your customs formalities.

2.4 Special or alternative customs procedures

There are a number of existing customs procedures that can be used to ease the trade between the EU and the UK and benefit from cash flow advantages.

2.4.1 CARNET ATA/temporary admission

The ATA carnet can be used for temporary export and import between the UK to the EU, providing that a guarantee has been placed. Generally, all goods exported or imported under this customs procedure must return to the home country. In case parts of the goods are sold in the UK or EU a certain procedure is required:

1. An import declaration should be made in the EU/UK including the payment of all duties and taxes.
2. A posteriori export declaration should be submitted in departure country for the sold part
3. A declaration must be submitted for the part returning to the EU/UK to discharge the CARNET ATA.

2.4.2 Customs warehousing

Trade between the EU/UK will follow the same customs procedure as trade with third countries. Warehouse keepers should prepare themselves for a significant volume increase of goods stored in their customs warehouse from the EU/UK as these goods must be treated as third country goods.

Recommendation!

It might be required or advisable to apply for a customs warehouse (if not yet obtained) and invest in sophisticated software to fulfil the administrative requirements. ALS Consulting Services can guide you through the application process and offer customized operational solutions.

¹⁴ https://www.gov.uk/guidance/register-for-simplified-import-procedures-if-the-uk-leaves-the-eu-without-a-deal?utm_source=cta-eu-roll-on-roll-off-jan-2019&utm_medium=letter&utm_campaign=eu-roll-on-roll-off

2.4.3 External Temporary Storage Facility (ETSF) operators

Similar to customs warehouses, EU/UK warehouse keepers should expect more volume from EU/UK importers who need to place the goods into their temporary storage before initiating other customs procedures. Under the Union Customs Code (UCC) legislation, goods can remain in temporary storage for a maximum of 90 days. The legal time limit may change if the UK do not adopt the UCC legislation in its national law.

Recommendation!

It might be required to apply for a Temporary Storage (if not yet obtained) and invest in sophisticated software to fulfil the administrative requirement. ALS Consulting Services can guide you through the authorization process and offer customized operational solutions.

2.4.4 Inward- and Outward Processing Relief

Inward processing

Goods may be imported to the EU/UK for additional processing such as repair or additional treatments. These goods will be imported without any import duty and they can leave the EU/UK after being processed.

Outward processing

Products can be exported to the EU/UK for additional processing/handling with an option to reimport the processed product with certain exemptions from import duties. Meaning import duties upon reimport of goods is payable only on added value of the processed goods.

Please note:

These customs procedures require special licenses in the countries where the goods are processed (outward and inward). Moreover, specific formalities and administrative requirements must be fulfilled in regard to the identification measures.

2.5 Transit

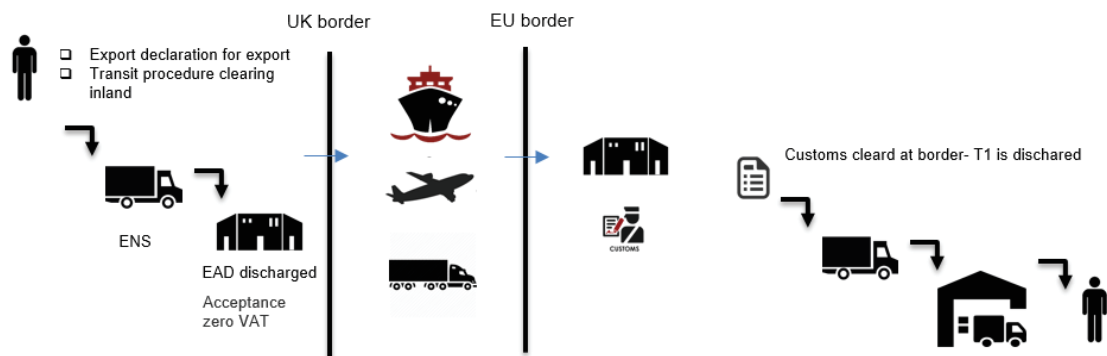
The UK has confirmed to remain in the Common Transit Convention (CTC) after Brexit, ensuring simplified cross-border trade for UK businesses importing and exporting their goods. That means the possibility of using the known documents (T1, T2) of the NCTS transit systems will remain. This procedure is used for customs transit operations between the EU Member States but also between the EU and certain countries. In general, it is applicable to the movement of goods for which customs duties and other charges at import are at stake. By using this customs procedure, the duties can be paid in the country of destination; therefore, a so-called double taxation is precluded.

The UK confirmed that they do not necessarily require NCTS for imports from EU. The promoted procedure for importing goods into the UK is TSP. Nevertheless, transit can be used to clear goods inland at customs offices or authorized consignee locations. Regardless of any transit document made, goods will always have to be cleared into another customs regime afterwards. TSP will also be applicable to import goods after a transit. For goods destined to Ireland a transit document might be advisable.

From the perspective of the EU transit is recommendable, as goods are destined to multiple countries rather than just one (the UK). A transit document allows the movement from one point in the UK to

final destination within the EU. Goods can be declared inland at final destination in the EU and duties and taxes can be paid locally. Please note, that goods can only be customs cleared after a transit at either a customs office or an authorized consignee location. Fiscal representation would be an alternative, where goods would be declared immediately in the country of arrival in the EU and then sent over to another Member State. However, due to a couple of reasons we recommend to use transit for goods entering the EU from the UK.

Transit requires the consignor of the goods to place a guarantee that covers the potential customs debt of the transport. Such a guarantee can be integral part of a Customs Comprehensive Guarantee that would also cover e.g. a duty deferment account. Please note that UK traders initiating transits would have to increase their guarantees significantly overnight in order to meet post-Brexit requirements. HMRC is aware of that problem and works on solutions to mitigate the impact. Furthermore, AEO status allows traders to reduce the amount of the guarantee that needs to be backed by an approved guarantor. If the consignee or declarant fails to declare, the charges are payable by consignor.



3 ECMT

ECMT¹⁵ international road haulage permits passages between member countries, laden or empty transit.¹⁶ The ECMT permits also for transport from third countries to other ECMT countries. ECMT permits are valid in 43 countries namely EEA countries.¹⁷

“No Deal” scenario:

On the 19 of December 2018, the European Commission has published the Contingency Action Plan¹⁸. In this Action Plan, the Commission has adopted a proposal for a Regulation to allow UK road haulage operators to carry goods into the EU for temporarily period of nine months, provided the UK gives

¹⁵ European Conference of Ministers of Transport.

¹⁶ Some goods are exempted to be transported under ECMT permit. See below link: <https://www.itf-oecd.org/sites/default/files/docs/13mgguide.pdf>

¹⁷ Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russia, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine and the UK.

¹⁸ http://europa.eu/rapid/press-release_IP-18-6851_en.htm

equivalent rights to EU road haulage operators and under fair competition conditions. The UK attempts to make an agreement with Ireland in order to continue entering and passing through Ireland without ECMT permits.

Requirements to qualify for use of the ECMT permits are:

- Having Vehicle Operator License for Great Britain or Northern Ireland;
- Meeting the Euro VI technical and safety requirements;
- Acting as road haulage carrier in the last 12 months.

4 Roll-on-Roll-off (RoRo) ports and Eurotunnel

Locations where traders use vehicles to drive onto ferries or trains to trade goods into or out of the UK are called Roll-on-Roll-off locations.¹⁹ In the event of a no deal scenario, businesses and traders have to submit customs declaration and pay customs duty and excise duty or VAT in accordance with the described legal requirements.

Please note that declarations at RoRo locations are based on a pre-declaration system. That means that ferry operators and the operators of the Eurotunnel are advised to only allow boarding of ferries or trains if a pre-declaration has been made. On request of officers, declarations need to be proven by showing a valid MRN number or, only in case of TSP, the UK EORI number of the TSP authorized importer. Goods can be declared to the UK customs system CHIEF up to 21 days upfront. Valid declaration types could be e.g. a pre-logged frontier declaration, a transit document or a TSP declaration.

More guidance can be found on the website of HMRC.²⁰

Recommendation:

Please contact the ALS Customs Services team for more detailed guidance on TSP.

5 Supply chain

UK and EU perspective

Basic questions, which need to be answered before transporting:

1. Who will manage the transport?
2. Who will pay the transport?
3. Who is responsible for damages?
4. Which party will pay the customs debts (e.g. duties & taxes)?
5. Which party should pay the insurance?

Recommendations!

- Application of INCOTERMS to define clear delivery terms and responsibilities. ALS can give guidance on the application of INCOTERMS.

¹⁹ Please retrace the list of roll on roll off port in following link: <https://www.gov.uk/guidance/list-of-roll-on-roll-off-ports>

²⁰ <https://www.gov.uk/guidance/moving-goods-to-and-from-the-eu-through-roll-on-roll-off-locations-including-eurotunnel>

- Have the carrier lodge the Safety and Security Declaration for goods moving between the UK and EU. Please note that the UK government announced to phase in similar practices to the EU Safety and Security System after six month post-Brexit.
- In regards to labelling, packaging, product conformity and other EU regulations, it is highly likely that the UK will adopt the current norms and rules of the EU. However, companies should follow up all upcoming changes and norms in the UK national laws.

6 Medical sector

After 31 October 2019, all medical devices i.e. active implantable medical devices, in vitro diagnostic medical devices (IVDs) and custom-made devices will need to be registered with the [MHRA: https://www.gov.uk/government/news/welcome-to-our-new-mhra-website](https://www.gov.uk/government/news/welcome-to-our-new-mhra-website), prior to being placed on the UK market.

The UK government has approved an extension of existing registration requirements. In comply with the new registration process; the UK government has introduced a registration timeframe for each type of medical devices.

| | |
|-----------|--|
| 4 months | Class III medical devices, Class IIb implantable medical devices, Active implantable medical devices, IVD List A |
| 8 months | Class IIb non-implantable medical devices, Class IIa medical devices, IVD List B, Self-test IVDs |
| 12 months | Class I medical devices, Self-certified IVDs, Class A IVDs |

Medical registration requirements in the UK will be as follows:

“Initially the MHRA will require most products to be registered at the level of Global Medical Device Nomenclature (GMDN) code meaning that groups of similar products can come under a single registration. The exception is class III devices, which must have individual product information registered. Once the MDR and IVDR fully apply (from May 2020 and May 2022 respectively), the UK will then mirror the new requirements within the legislation, which will mean individual registration of all products.”

Only when the manufacturer is not established in the UK, a ‘UK Responsible Person’, who is established in the UK with a UK registered address, should undertake the registration.

7 Impacts on particular industries, sectors and companies

A “No Deal” Brexit will hit the whole economy and most probably cause bottlenecks in supply-chains over all industries. However, there are particular impacts on certain industries that are worth to be highlighted. In this regards the transitional tariff of the UK needs to be mentioned, which aims to minimize financial impacts on all goods the UK tends to import (87 percent of all goods are zero-rated). Same time it shall protect domestic industries like automotive, fishing, farming, etc. with relatively high tariff rates. Further information can be found in the following chapters.

Most affected sectors

- Food industry
- Textile industry
- Diamond trading
- Automotive industry
- Chemical industry

Most affected companies

All companies trading with or from the UK will be impacted. Medium-sized enterprises (SMEs) will be most affected.

Logistics and customs service providers

Logistics and customs service providers will experience a significant increase in demand for customs services from trades who are involved in EU/UK trade. Resources will most likely become a bottleneck and the market will be a demand market rather than an offer market. Most of all logistics and customs service providers are closely monitoring the impact of Brexit and might react with increases in freight costs and or decreases in capacity due to (longer) border checks.

Postal services

Customs controls applicable to the rest of the world will apply for all parcels moving between the UK and EU, which means that there will be a high increase in import and export declarations. Import VAT needs to be paid for all incoming parcels to the UK. This means the UK will charge VAT by arrival as parcels will be liable for VAT unless they are relieved from VAT under UK domestic laws e.g. children's clothing. Low Value Consignment Relief (LVCR) will no longer apply to any parcels arriving in the UK. For parcels valued \leq £135, the VAT will be collected from the foreign trader who sells the goods in the UK. Therefore, the VAT becomes due at the point of purchase.

Exchange rate

There are different instruments available to protect companies against negative developments in exchange rates. However, certain impact should be taken into consideration:

- Profit margin;
- Size of turnover in pounds;
- Duration of the quotation phase;
- Payment terms;
- Duration of the contract; Strategy of the competitors;
- Customs value.

8 UK customs and infrastructure after Brexit

As within most of the EU countries, also in the UK there is a clear split between the governmental bodies (e.g. customs authorities) and the infrastructure provided by the private sector.

On question is, if the EU-UK connecting ports have enough capacity for storage of the goods coming from third countries and the resulting inspections thereof. The current intra community trade relies on fast-moving flows, where at this moment just 1% of arriving goods are hold up by customs for controls. Some of the most affected ports will be Dover, Holyhead, Harwich, Hull, Fishguard, Folkestone, Calais, Dunkirk, Zeebrugge, Rosslare, Ijmuiden and Hoek van Holland. Therefore, the EU and the UK may need to build up specific customs infrastructures and hire additional staff as well as develop new customs software systems other than CHIEF and CDS.

Some of the port operators along the channel coasts introduced or require already for longer time the usage of a port community system. Traders and logistics operators need to understand their trade routes and all requirements incl. port systems that are applicable along the routes.

Concern

There is not enough time to build the new infrastructure. Even if there would be enough time; there is no space at the borders to cope with the anticipated increase.

9 Authorized Economic Operator – AEO

The AEO was created by the World Customs Organization (WCO) as part of its SAFE framework, designed to secure and facilitate international trade. As one of the priorities, the UK government promised to integrate a simplified and streamlined clearance process. Therefore, the AEO, as a trusted trader status will most likely enable access to fast-track procedures implemented post-Brexit. In this regard, the UK government identified a number of benefits for traders who hold an AEO license, allowing traders:

- To use a simplified customs declaration upfront;
- To defer payments to HMRC which benefits in cash flow;
- A range of benefits including a 70% reduction in the cost of guarantees and fewer physical and customs document controls, making trade much simpler and cheaper.

Please note:

It was decided to reduce the time to obtain an AEO license from 120 days to 60 days.

- HMRC is planning to implement the improvements within 2 years, including:
- Additional dedicated staff to process licenses for traders;
- Combining license processes to limit the need for multiple applications;
- Better guidance on gov.uk that sets out which licenses are most relevant for their business;
- Digital validation checks to remove initial errors in applications;
- Streamlining processes to enable traders to provide data only once.

ALS Consulting Services can guide you through your application.

10 Useful hyperlinks

Flow chart preparing for a 'no deal' EU Exit: step-by-step guide to exporting to the EU

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/750255/No-deal_EU_exit_step-by-step_guide_to_exporting_Oct_2018.pdf

Brexit Timeline provide by Belgian Customs

https://financien.belgium.be/nl/douane_accijnzen/ondernemingen/brexit

EU publications

<https://publications.europa.eu/en/web/general-publications/brexit>

11 Statistics

UK export statistics

<https://www.fdf.org.uk/exports/ukexports-2017-full.aspx>

UK import statistics <https://www.uktradeinfo.com/Pages/Home.aspx>