



## Global Trade Advisory alert Belgium

### Exporting goods out of the European Union

Since the Union Customs Code's implementation in 2016, the definition of 'exporter' has been the source of interpretation uncertainties.

The rules stipulate that acting as exporter on a customs declaration requires establishment in the Union's customs territory. This implies that a non-EU established company cannot act as exporter. Most Member States adopted transitional rules to enable non-EU established companies to act as exporter. Across all Member States however, these transitional rules are at an end, meaning that under no circumstances can a non-EU established company be an exporter for customs purposes.

In supply chains, non-EU established companies play a critical role (e.g. Swiss entities holding stock in the EU).

Non-EU established entities should identify possible candidates that can be appointed as exporter. There are several options:

- An EU entity within the group of companies to which the non-EU established entity belongs;
- Logistics provider;
- Customs or fiscal representative;
- EU-established party to the contract under which goods are exported;

Brexit also plays its part in this issue. UK entities currently exporting out of the EU will need to make sure that they can rely on an EU-established company. Suppliers currently selling to UK companies using the Ex Works Incoterm will need to revise this setup.

Acting as an exporter for customs purposes has its consequences. It implies acceptance of all liabilities related to the export (correctness of declaration, responsibility for goods' physical exit, export restrictions, export surveillance measures, etc.). Infringements could qualify as criminal acts and bring consequences (severe penalties, confiscation and seizure of goods, etc.).

## How can Deloitte help?

An assessment of existing supply chains is essential to identify whether they are compliant with these requirements. If this is not the case, an identification of another party that can act as exporter is necessary. In this exercise, corporate tax, VAT, customs and regulatory law, among other areas, need to be taken into consideration.

The designation of a party to act as exporter will also imply proper contractual agreements to manage all liabilities inherent to acting as an exporter.

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