

Q & A

Am I affected if I only trade with Europe?

Potentially, goods traded with Europe

could be affected if they are moved

through the UK land-bridge option. Many

traders are not aware that this route is

being used by their transport provider, yet is it very popular as it is the most cost

effective and fastest route to mainland

Under the current customs legisla

tion, the Union Customs Code (UCC),

any EU goods which move through a

non-EU country (as the UK will be post-

Brexit) require customs supervision in

the form of a customs document known

as a Transit Accompanying Document

(TAD). The TAD is raised in the country

of dispatch and the duty and VAT liability

is discharged when it reaches the coun-

try of destination. While the use of this

document removes the requirement to

complete import and export declarations

at each border crossing, it still represents

an administrative burden for the trader

In order to avoid this issue, shipping

firms in Ireland have recently announced that they will be expanding existing ca-

pacity and introducing new direct routes

Provided that an agreement on Brexit

terms is reached by October 2018, a transi-

tion period has been proposed to last from

March 29, 2019, until December 31, 2020

In the absence of such an agreement, the

deadline of March 29, 2019, will still apply.

to remain party to existing EU trade

deals but will be able to negotiate trade

deals with other countries. On the island

of Ireland, the 'backstop' arrangement means that Northern Ireland will remain in parts of the single market and customs union, unless another solution to avoid a hard Border is found. This proved to be a key part of the December phase one

agreement and places the onus on the

UK to provide alternative solutions for

the movement of goods on the island of

During this time, the UK is expected

to Europe from Ireland.

arrangement mean?

What does the transition period and 'backstop'

SME BREXIT SPECIAL — YOUR CUSTOMS CHECKLIST

Sunday Independent 17 June 2018

In a Deloitte survey conducted in 2017 with more than 200 businesses, the main areas for concern were the additional costs and administration in the case of no agreement being reached, potential delays to movements of goods, and the market. While businesses in Ireland have been would have the most significant impact on Irish that trade with the UK. successful in diversifying into other markets, the UK remains the largest trading partner for is a member of WTO through its membership of and procedures for the first time in an area that — to trade under its terms. can be complex and confusing.

Brexit' and a 'soft Brexit' and different levels of those goods which qualify as EU or UK origin trade". While this would have been a welcome alignment and harmonisation between the two (containing a specified amount of originating ma-

for the UK Brexiteers) would see the UK leaving trade under FTAs, they often find that compli-Market. This would have maximum impact on do not use it for many of their traded products. businesses and trade would revert to a third checks and tariffs being applied to movements

authorities would have to be notified in advance could be affected of the goods movement taking place. Goods

BREXIT PLANNING

or supplied to the UK.

March 29, 2019 — the date the UK imports and would be subject to import customs and thus eliminating the introduction of tariffs leaves the EU — many businesses declarations, and possibly duty and Vat and other on goods. For goods moving within a Customs still haven't started planning tariff barriers, including additional documentary Union framework, customs declarations are still regulatory checks.

> EU trade would revert to World Trade Organisabusinesses. It is interesting to note that the UK

While the negotiations are ongoing, there is trade agreement (FTA), such as the Norway during the interim period. still a lot of uncertainty around how the future and Switzerland models, exporters would still trading relationship between the UK and EU be bound to comply with specific rules of origin will look. There are two main scenarios, a 'hard which can be onerous and time-consuming. Only terial in the finished product) would qualify for A 'hard Brexit' scenario (the preferred option zero tariff rates. For businesses which currently tor Michel Barnier who stated: "Our backstop both the EU Customs Union and the EU Single ance with rules or origin is so complex that they has been designed for the specific situation of

With the supply chains on the island of country (non-EU) basis with customs border Ireland being so heavily integrated, this would be most disruptive to trade. Many businesses in Goods moving to the UK would be subject to seamlessly with their customers in Northern This special report aims to gives an overview of export controls and, under EU customs law, the Ireland and it is difficult to imagine how they customs processes and procedures and identify

On the other hand, a 'soft Brexit' could see the a Brexit impact plan.

requirements such as licences, tariff quotas and required (the 'Turkish model') so to remove the administrative burden, the UK would also have In the absence of a trade agreement, the UK/ to remain within the EU Single Market. As this would prevent the UK being able to negotiate its tion (WTO) rules. This represents the maximum own FTAs, it is unlikely that this option will be duty percentage that a country has to pay if no agreed, even though it is infinitely more benechallenge of remaining competitive in the UK trade agreement has been negotiated and it ficial for Ireland and other EU Member States

The UK recently proposed a 'temporary customs arrangement' which would remain in place most sectors. Along with the uncertainty, many the EU and would therefore have to apply to be until the future trade agreement is agreed by businesses may have to navigate customs rules a member of the WTO in its own right in order the end of December 2021. They proposed that the UK and not just Northern Ireland would Even if the UK and EU do negotiate a free continue to trade on current terms with the EU

> The arrangement would see "the elimination of tariffs, quotas, rules of origin and customs processes including declarations on all UK-EU (albeit temporary) reprieve for Irish businesses this proposal has been rejected by EU negotiacannot be extended to the whole UK because i Northern Ireland".

Therefore, in the absence of any agreement so far on the future trading relationship, businesses should prepare for the eventuality that the border counties rely on being able to trade the UK may 'crash out' of the EU in March 2019. steps that businesses can take in order to develop

When planning for Brexit, a business should take the following steps: Review supply chain movements to determine which flows of goods are affected. It can be useful to look at your company's Intrastat returns (if completed) to identify which products are sourced from

2Complete a product classification exercise on the relevant products. This can be time-consuming and complex, but it is important it is correct as it affects the percentage of duty paid on the goods.

3 Once the product classification has been obtained, complete a duty analysis on these products to quantify the risk to the business. It is prudent to base these on World Trade Organisation (WTO) rates to show the maximum impact.

When the business is aware of the cost impact of Brexit, it can then identify

if there are any potential steps it can take to mitigate the effects of Brexit, such as applying for a bonded warehouse or a processing authorisation.

Businesses may also want to consider whether applying for AEO (authorised economic operator) may be beneficial. The proposed transition period may allow businesses more time to prepare, yet traders should still be planning now as applying for customs authorisations can be time-consuming

authorities know if the

trader is entering goods

to a special procedure

such as a warehousing or

processing regime).

complete, it is sent electronically to AEP

for checking. The system will automatically

check the details on the declaration against

tion for further checking if it is deemed to

risk parameters and will flag the declara-

The declaration will be routed as follows:

cleared on the basis of the declaration with

■ Orange routing — the goods have been

selected for both documentary and physical

Orange and red routing can lead to delays

for traders as they require further checks on

selected for documentary examination;

■ Red routing — the goods have been

TOP TIP: If outsourcing customs work,

ways ensure checks are in place to ensur

authorisations. Revenue penalties for

ailing to make a customs declaration.

due by direct debit the following month.

payment must be approved for a compre-

Once the comprehensive guarantee

cation can be made for a customs deferred

payment authorisation on the Customs

■ Be registered for customs and excise in

Decisions System (CDS).

■ Have a valid ROS certificate;

■ Hold a valid EORI number.

authorisation number is obtained, an appli-

n order to access CDS, the trader should:

Businesses who wish to avail of deferred

pliance with legislation and conditions

n-compliance can be can be substantial fo

■ Green routing — the declaration is

be a high-risk shipment.

no further customs checks;

the documents and/or goods.

Under the EU customs legislation, the Union port goods 'on account' and pay the charges

Once the import declaration is

ECONOMIC OPERATOR REGISTRATION AND IDENTIFICATION (EORI)

THE REVENUE

AEP SYSTEM

EVERY YEAR. THIS

NUMBER MAY WELI

DOUBLE POST

In order to be able to import and/or export goods, a trader is required to hold an Economic Operator Registration and Identification (EORI) number issued by EU customs authorities. An EORI number issued in any member state is valid throughout turope and can be used in interactions with other customs

The format of the EORI number consists of the country code (IE) and a unique code/number. In Ireland, it generally takes the format of IE followed by the trader's VAT number

If a trader does not already hold an EORI number, this can be applied for using the ROS (Revenue online

■ ROS log-in details and a valid ROS digital certificate; ■ A registration for customs and excise in ROS. A request for an EORI number can either be n

using MyEnquiries in myAccount or by using ROS online. Detailed instructions on how to apply for an EORI number are shown on the Revenue webpage. It is critical that an EORI

CURRENTLY 22,000 ECONOMIC OPERATORS INVOLVED IN IMPORT system). The following is required: **EXPORT AND 250,000 BUSINESSES HOLDING**

number is obtained before importing or exporting to avoid delays.

THERE ARE

SAD DOCUMENTATION

The main customs document is the C88 or SAD (Simplified Administrative Document) and this is required for both imports and exports outside the EU. It is completed electronically on the Automated Entry Processing (AEP)

The SAD is generally completed by a customs broker, although companies do have the option to complete this themselves. It is worth noting here that a custom broker will generally act as a direct representative in the principal's (importer's) name. This means the principal is solely liable for the customs debt.

The onus also lies with the trader to make sure the details on the import or export SAD are correct, even if completed by a

proker on their behalf Some key fields of a declaration are

shown below: ■ Consignee EORI, name and address:

■ Declarant EORI name and address; ■ Country of origin:

■ Currency and value; ■ Commodity code; ■ Preference document number (if trader is claiming duty reduction of

IN 2016, 6PC OF WERE CHECKED, LESS THAN 2PC WERE waiver under a PHYSICALLY CHECKED free trade agree-AND LESS THAN 0.5P ment); OF EXPORTS WERE

DEFERRED PAYMENT

Customs Code (UCC), the customs debt

by cash or a deferred payment facility.

import declaration is made.

If paying cash, this must be made by

Electronic Fund Transfer (EFT) before the

If a trader is going to be importing goods

in large quantities, they may want to consid-

er applying for a deferred payment account

with Revenue. This allows the trader to im-

(duty and VAT) shall be incurred at the time

(when the goods are released into free circu-

lation in the territory of the EU). There are

two options for paying these charges, either

of acceptance of the customs declaration

OF DUTY AND VAT

MAXIMUM CHANGE - WTO TARIFFS, CLASSIFICATION AND RULES OF ORIGIN ■ Customs procedure code (this lets the

A tariff is a tax applied on the importation of goods which, in the EU, is applied across its external borders. The rate of duty can vary depending on the type of product and country of origin. WTO tariffs apply to trade between countries that have not negotiated a preferential trading arrangement. Maximum tariff rates have been set by the WTO and in the absence of an agreement being reached between the UK and EU, it is envisaged these rates will apply.

In addition to tariffs, there will be a require ment to comply with EU customs formalities and complete import and export declarations For anyone who has tried to navigate the EU Taric (database of EU tariffs), it can be a time-consuming and frustrating process. Indepth knowledge of the product is essential and, even then, the language can be obscure and it is constantly having to be updated to include new technology. Yet ensuring that the correct tariff code is used is critical as the percentage of duty payable is based on the tariff code. It also determines whether regulatory

requirements are applicable, such as goods licensing and tariff quota arrangements. Tariffs within the EU remain relatively low with average tariffs of around 2.3pc for nonagricultural products, yet this will offer little comfort to businesses who trade in products such as cars (10pc tariff) clothing and footwear (12pc-16pc tariff) and food products (40-60pc+

If a free trade agreement (FTA) is reached between the UK and EU, it is hoped that tariffs will be eliminated and goods will be able to move across borders without the payment of duty. However, this will only apply to those goods which are sourced within the EU and qualify under the rules of origin To receive preferential treatment under an

FTA, the goods must: ■ Be made in the FTA territory (Ireland);

2 Must meet the appropriate rules of origin applicable to the product (certain percentage must be EU origin); **3** Must be documented as originating by means THERE ARE

of a certificate of origin Each FTA has its own rules of origin which differ between products and these must be followed carefully.

CURRENTLY 141 AEO AUTHORISEI TRADERS IN IRELAND, 21 OF WHICH HAVE GAINE ACCREDITATION II HE PAST 18 MONT

ECONOMIC OPERATOR (AEO)

AUTHORISED

What is AEO and should I apply? AEO (authorised economic operator) is an accreditation by the customs authorities that the business is a

'trusted trader' and that their supply chain is secure. In order to apply for AEO, the business should be able to demonstrate that their internal processes are robust and that they have adequate control over the storage and security of goods movements.

Niall Cody, the chairman of Revenue noted in a statement last vear that 82pc of all non-EU imports and 89pc of non-EU exports are by AEO traders and advised: "It will be very important that the bulk of trade continues to be through AEOs after

Types of authorisation There are two types of authorisation, AEOC (customs simplifications) and AEOS (security simplifications). Traders may apply for one or both

AEOC benefits: up to 70pc reduction in customs duty guarantee, notification waiver for EIDR (entry in declarant's records), self-assessment and centralised clearance (when implemented).

AEOS benefits: faster clearance at the border, priority treatment, mutual recognition by other countries such as the USA and Japan. A trader should consider which benefits are the priority when deciding which type of authorisation to apply for. AEO application criteria The application process involves

completion of a detailed self-assessment questionnaire around the procedures the trader has in place for all areas of the business relating to customs matters. In order to meet the conditions for application, traders must fulfil the following criteria:

■ Compliance with customs and tax requirements for the past three years with no significant irregular-■ Financial solvency for the past three years;

■ Appropriate standards of record-keeping, including internal controls and written procedures relating to the movement of goods in the supply chain; ■ Evidence of practical standards of competence in relation to customs matters for the past three years

(AEOC only); ■ Safety and security standards

(AEOS only). Benefits and cost The AEO guidelines issued by the European Commission state that AEO accreditation provides many benefits to businesses such as: ■ Easier admittance to customs simplifications

■ Fewer physical and document-based controls related to security and safety and related to other customs legislation; ■ Prior notification in case of selection for physical control (related to safety and security):

■ Prior notification in case of selection for customs control (related to other customs legislation); ■ Priority treatment if selected for

■ Possibility to request a specific place for customs controls. Indirect benefits can include: Recognition as a secure and safe business partner; improved relations with Customs and other government authorities: reduced theft and losses: fewer delayed shipments; improved planning; customer service and customer loyalty; and lower inspection costs of suppliers and increased co-operation etc.

The EU has concluded mutual recognition agreements with third countries who operate a similar scheme such as Norway, Switzerland, Japan, Andorra, the US (Customs-Trade Partnership Against Terrorism C-TPAT) and China. AEO application and process The AEO application and accreditation process is likely to take between six and 12 months, depending on what internal procedures are already in place. Once the application has been accepted, the authorities have 120 days to audit the trader and this will involve review of the customs processes and systems as well as security of premises and cargo handling. When making the decision to apply, the trader should consider the time and cost of resource required to complete written procedures and ensuring that the business is compliant with customs

Next to the accreditation from customs, obtaining the AEO status is also proof that the internal organisation is — from a risk perspective — at the appropriate level, so also important for company management.

MITIGATION

How can I mitigate the costs of Brexit? Brexit will represent a hard cost to businesses either in relation to duty/VAT payments or warehouse include the following:

documents. The business should try to mitigate these costs as far as possible by using the customs simplifications that are available such as: ■ Bonded warehousing

■ Processing (inward and outward); ■ Temporary admission

Bonded warehousing Customs bonded warehousing is a special procedure under which goods from outside the EU can be stored in a customs warehouse without payment of import duty or VAT. The customs warehouse can be part of an existing warehouse at the trader's premises provided

the boundaries are clearly marked. Customs

warehousing can be used by businesses that

import materials in bulk or hold goods for a

period of time before either re-exporting the

goods or releasing the goods for free circulation. The benefits of operating a customs

additional administrative costs for customs
■ Duty and VAT payments are suspended until the products are removed from the

■ No duty or VAT is payable on goods exported outside the EU; ■ No VAT is payable on goods dispatched to another EU country.

To operate a customs warehouse, the business must apply to the Irish Revenue for an authorisation. To apply, the business must be: ■ Established in the EU:

■ Have verifiable stock control systems in ■ Submit maps of the premises:

Processing (inward and outward) Inward processing is a term used to describe a duty relief procedure, under which goods

can be imported into the EU for processing, with a suspension of import duties and VAT; the products resulting from the processing are either re-exported or released to free circulation within the EU, with duty and VAT

als or on the processed products. Processing is broadly defined for this purpose.

■ Demonstrate that the premises are secure.

facturer produces goods on which a Opc duty paid on the originally imported raw materi-

SUBSTANTIALLY

For example, assume a manufacturer based in Ireland imports raw materials from non-EU countries for processing. A certain quantity of the finished product is re-exported to non-EU customers, and the remainder is released for consumption within the EU. If the manufacturer applies for an inward processing authorisation (a require-

ment to import or receive inward processing goods), the manufacturer pays duty and VAT only on the goods that are released for consumption within the EU. In addition, if the manu-

rate applies, the duty owed can be based on the end product rather than on the imported goods, which means that no duty would be Outward processing occurs when a busi-

ness sends goods out of the EU for processing and then re-imports the processed goods. This is beneficial for businesses in that the duty and VAT is only payable on the value added cost (the cost of labour outside the EU and the inbound freight costs). This could represent a substantial saving for businesses who process goods outside the EU.

It is worth noting that use of these customs procedures requires a comprehensive guarantee and compliance with the conditions of the authorisation, which would include stringent stock controls and use of correct information on import TOMS WAREHOUSING and export declarations. **HELD IN IRELAND** WITH THIS NUMBER XPECTED TO INCREAS

The Apollo 11 crew had to file a customs

GENERAL DECLARATION AGRICULTURE, CUSTOMS, IMMIGRATION, AND PUBLIC HEALTH NATIONAL AERONAUTICS AND SPACE ADMINISTRATION U.S.A. Plight APOLLO 11 Date JULY 24, 1969 Departure from MOON Arrival at HONOLULU, HAWAII, U.S.A. (Flace and Country) (Flace and Country) FLIGHT ROUTING TOTAL NUMBER OF PASSENGERS ON THIS STAGE 9 COLONEL Embarking NIL Through on same flight NIL For official use only Customs Inspector TO BE DETERMINED Details of each disinaccting or sanitary treatment (place, date, time, method) during the flight. If no disinaccting has been carried out during the flight give details of most record disinaccting:

I declare that all statements and particulars contained in this General Declaration, and in any supplementary forms required to be presented with this General Declaration are complete, exact and true to the best of my knowledge and that all through passengers will continue, bear continued on the fight.

COMMON TRANSIT CONVENTION (CUSTOMS TRANSIT)

Customs transit is described in EU guidance as 'a customs procedure used to facilitate the movement of goods between two points of a customs territory via another customs territory or between two or more different customs territories' What this actually means in practice is that goods can be moved with temporary suspension of customs checks and duty payments until the goods reach the destination country. Its signatories include the EU member states, the Europe-

an Economic Area (EEA) states, Macedonia, Serbia and Turkey.

There are two main types of transit movement:

Goods imported from non-EU countries can be moved under transit from Let the point of entry into the EU to their final destination without payment of

Take for example, an importer in Ireland who brings goods in by road from Belarus. The goods cross the EU border and enter the EU in Poland, Usually the goods would have to go through the import process in Poland but use of the transit procedure allows the movement of the goods across all the European countries en route (Poland, Germany, Netherlands, UK) to Ireland. Use of this procedure means that all customs formalities are suspended until the goods reach their final destination.

9 EU goods can be moved under transit to another EU member state Levia a non-EU country without undergoing customs import and export

Post-Brexit, it is expected that goods which use the land-bridge route to Europe may have to use the transit procedure to cross the UK. A transit accompanying document (TAD) will be issued in the country of origin (Ireland) showing a consignee in another member state such as France. This means that when the goods enter the UK, they do not have to be 'imported' and when they leave, an export document is not required. The haulier will be asked to present the transit documents at each border crossing to confirm these are EU origin goods. The UK has stated that it wants to remain a member of the Common Transit Convention and would have to agree membership with the EU. It could offer the UK and Ireland some alleviation of pressures at the borders

COMPREHENSIVE GUARANTEE

Under the Union Customs Code (UCC), all special customs procedures require that a financial guarantee, is in place before the authorisation can be

This is in the form of a comprehensive guarantee which must be applied for and be received before the authorisation is used.

In order to be approved for a comprehensive guarantee, there are a number of criteria which must be satisfied.

Businesses must: ■ Be established in the EU;

to your business activities

reference amount.

■ Have had no serious or repeated infringements of customs or tax rules: ■ Have no record of serious criminal offences related

With regards to the latter two criteria, the authorities will look at these over the previous three years as part of their assessment. The level of the guarantee required relates to the 'potential debt' which may be incurred on goods held

under a special procedure, such as inward processing To calculate the potential debt element, the volume of goods under the special procedure over the period of a year is calculated, and the highest duty rate applicable is applied to that volume to give the

It is worth mentioning that businesses who hold an Authorised Economic Operator (AEO) accreditation or meet AEO criteria can apply for a reduction or waiver of the guarantee

CONCLUSION

There are many different areas to consider when developing a Brexit strategy and customs is just one of these areas. Yet, it is possibly the area in which a lot of businesses have the least knowledge and exposure. Businesses should treat Brexit like any other

business risk and plan for change accordingly By looking at the current trading landscape in detail, it may allow business to identify opportunities and research new markets. Businesses in Ireland are renowned for their adaptability and resilience and Brexit could well represent the most significant challenge for businesses in Ireland in many years.

Hopefully this report has shed some light on the kev areas that have been discussed over the past few years in relation to Brexit and customs and will encourage businesses to start taking action to

INTERESTING FACT

declaration when they returned from the moon. The Apollo 11 form lists the flight routing as "Cape Kennedy, Moon, Honolulu".