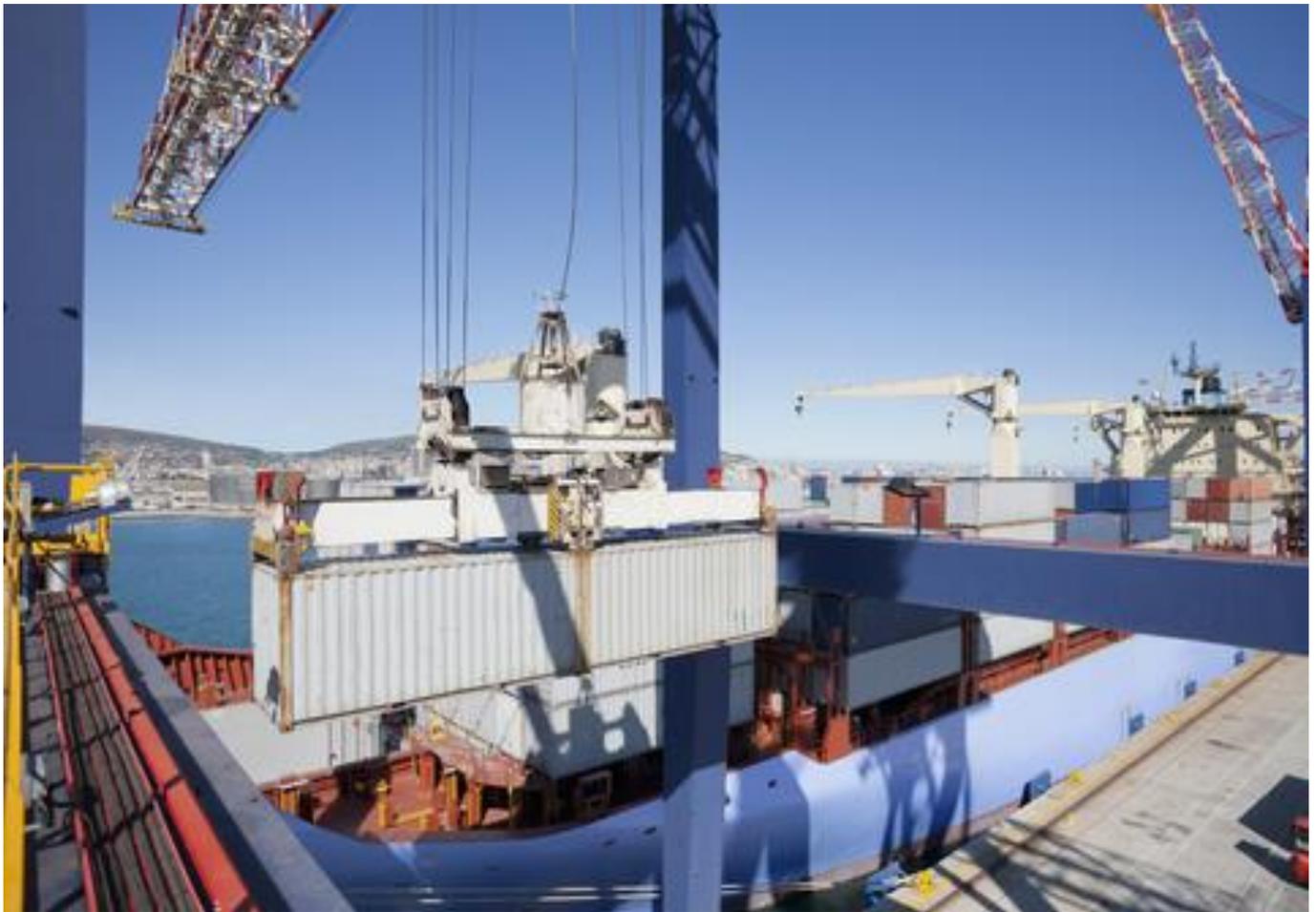


Brexit EU export guide: the essentials of exporting from the EU after the transition period



The deadline for extending the Brexit transition period expired on 30 June 2020, without any extension being agreed on. As a result, the transition period is expected to end on 31 December 2020 leading to the situation that the United Kingdom ("UK") is not considered an EU-Member State as from that moment.

The EU and the UK are currently in the process of negotiating an agreement that would govern their future trade relations, taking into account the interests of business after the Brexit transition period. Depending on the terms of any such agreement, it could be possible that no tariff will be imposed on all or some of the EU goods entering the UK. Preferential customs and border procedures for EU goods entering the UK may also be provided for. In case no agreement to govern the EU-UK trade after Brexit has been concluded, a number of goods exported from the EU will be subject to customs duties when imported into the UK, and no preferential entry procedures are likely to apply.

Regardless of the outcome of the EU-UK negotiations, the end of the transition period will inevitably bring significant changes. For businesses used to frictionless trade between the EU and the UK this means dealing with an additional layer of complexity at the border. To help you navigate these changes, we included in this guide useful information about exporting goods from the EU to the UK from 1 January 2021. Please note that separate considerations apply for movements of goods in or through Northern Ireland, which are not specifically reflected in this document.

Exporting goods from the EU to the UK from 1 January 2021: the Basics

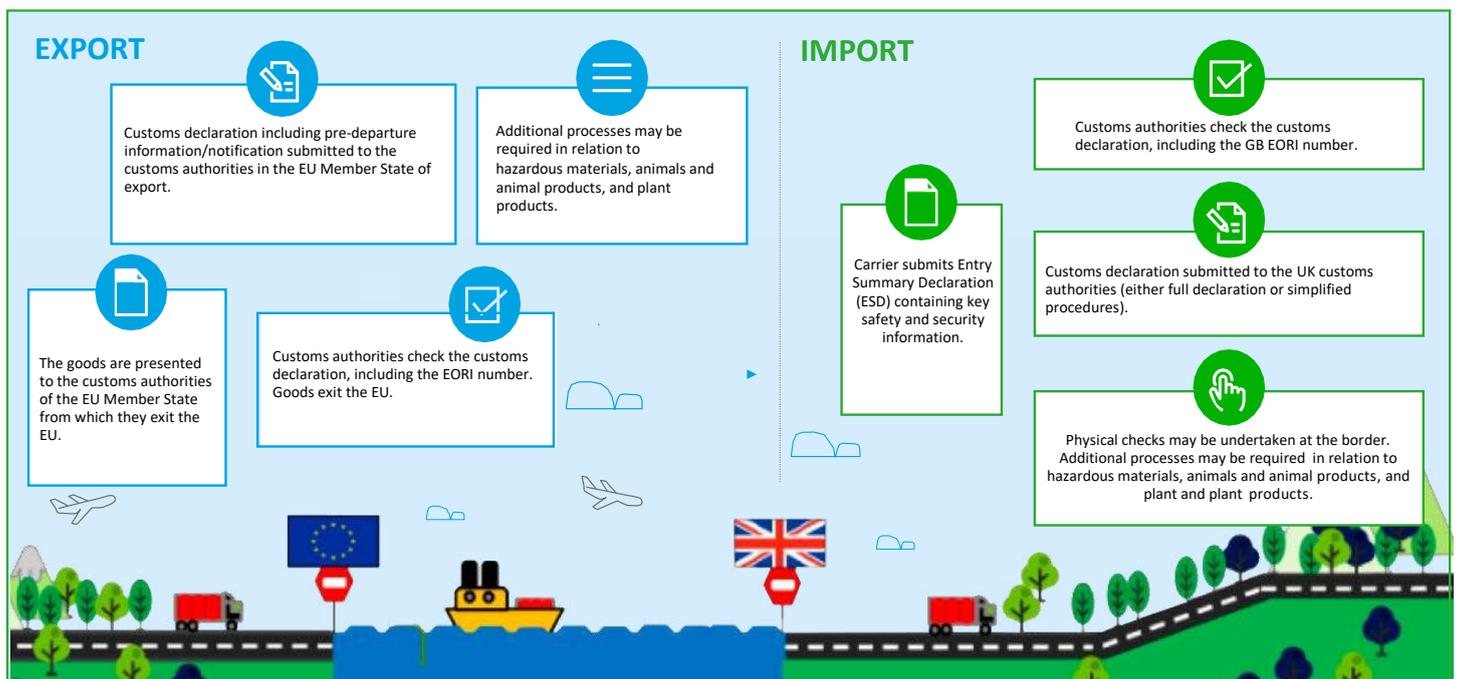
As of 1 January 2021, supplies of goods from the EU to the UK will become exports. Businesses exporting goods from the EU to the UK will need to meet certain customs compliance obligations. Here are the essential things you need to know:

- To be able to formally act as an exporter of goods from the EU, a business must be established in the EU for customs purposes.* If the business intending to export does not meet this condition, it is on specific conditions possible for an agent or third party to take on the formal role of exporter.
- The exporter must determine whether the 0% VAT rate for exports is applicable, whether any country-specific invoice/formal requirements apply and whether supporting documentation can be generated/archived.
- In order for the goods to be exported, all the relevant fields of an export declaration must be completed.
- In the event a freight forwarder is engaged, the exporter must provide key documents to the freight forwarder, e.g. the road consignment note, copies of export licenses and the Movement Reference Number from the export declaration.

* Implementation dates of this requirement differs per EU Member State.

The UK Government has taken the decision to introduce the new border controls in three stages up until 1 July 2021. From July 2021, the UK will operate two models for the entry of goods: the traditional Temporary Storage model and the pre-lodgment model. Under the Temporary Storage model, goods coming into the UK can be stored at the border for up to 90 days before being declared to customs. Under the pre-lodgment model, a customs declaration to enter into the UK will be required in advance of the goods boarding on the EU side. Under this latter model, an action will be required at the time the goods are exported from the EU.

A general example of the export clearance process (the traditional Temporary Storage model upon entry in the UK)



Key actions for businesses exporting goods from the EU

This general checklist summarises key actions for businesses exporting goods from the EU. Some businesses may also be responsible for importing goods into the UK, in which case additional obligations will apply.

Key actions for businesses acting as exporters of goods from the EU:	
Crucial customs set up	
Obtain an EU Economic Operator Registration and Identification (EORI) number	■
Establish capability to complete the relevant boxes in the customs declarations, including data on product classification, value and origin	■
Determine who will act as exporter, meeting the necessary establishment requirements	■
Determine who will send in the pre-notification of customs documents to the UK Customs Authorities, i.e. Notification Export Documentation	■
Determine the way import declarations will be filed i.e. via the Temporary Storage model or pre-lodgement model	■
Apply for an authorisation to use the simplified declaration in order to streamline the export clearance process	■
Consider appointing a customs compliance provider to deal with border formalities on your behalf	■
Review contract terms and Incoterms to be clear on where risk and obligations lie	■
Customs duties and customs regimes	
Quantify the amount of customs duty payable in the UK (where the supplier is also responsible for importing the goods into the UK)	■
Quantify the costs of managing the additional customs compliance requirements	■
Review rules of origin in FTAs to determine whether the goods will qualify for preferential arrangements on import	■
Consider whether any customs special procedure are relevant e.g. transit or outward processing	■
Review economic impact of existing trade remedies on current supply chains (e.g. anti-dumping duties, countervailing duties and safeguards)	■
Related requirements	
Review excise compliance requirements if the business exports excise goods (e.g. alcohol or tobacco) from the EU into the UK (excise duty applies in addition to any customs duty)	■
Ensure compliance with SPS regulations where relevant, (e.g. for animals, certain plants, and some animal and plant products) including health certificates and veterinary checks	■
Check compliance requirements where the business acts as importer for regulatory purposes	■
Check country-specific invoice /additional requirements and supporting documentation in order to apply the 0% VAT rate for export supplies.	■
Review the supply chain in order to determine the VAT consequences and reporting for specific transactions, e.g. transfer of own goods, consignment stock, and EXW-exports, among other things.	■
Check country-specific VAT reporting requirements for exports as well as specific transactions	■
Customs governance	
Set-up customs compliance provider governance, operating procedures and instruction	■
Review, enhance and create an internal infrastructure: <ul style="list-style-type: none"> a. Customs skills b. In-house or out-source customs compliance c. System capabilities and changes d. Administrative organization e. Documented and updated procedures f. Internal processes and controls 	■

What are the key customs considerations for businesses exporting from the EU?

At the end of the Brexit transition period, businesses supplying goods from the EU to the UK will need to consider export requirements for the first time. These include among other things:

Establishment requirements

The EU customs legislation generally requires that the person acting as the exporter must be established in the EU. This means that, in case of a legal entity, the exporter must have its registered office, or its central headquarters, or a permanent business establishment from customs perspective, in the EU. If the business exporting goods from the EU does not meet these requirements, another person may be designated to take on this role, provided that the requirement of being EU-established is met.

Export controls

Additional compliance requirements apply to certain goods, for instance, those that can be used for both civilian and military applications (dual-use goods). Export of such goods out of the EU is subject to a license. Other types of goods, such as waste or certain hazardous chemicals may also require in some cases a license to export.

Document requirements

In the event the services of a freight forwarder are engaged, the exporter will need to be in a position to provide key documents to the freight forwarder, such as any relevant export licenses, the road consignment note, the Movement Reference Number (MRN) from the export declaration, and evidence of preferential origin.

The commercial invoice is issued by the exporter and evidences the sale from the exporter to the importer – and also forms the basis of the customs value when the goods are imported into the UK.

Classification of goods (for the UK market)

Classification of goods informs the amount of duty payable upon import into the UK. Therefore, reviewing classification ensures that the correct amount of duties is payable and reduces the risk of customs enquiries.

It is possible that in the future the UK customs classification system may diverge from the existing EU classification nomenclature; two sets of commodity codes may therefore need to be held.

Customs duty

If the EU exporter is also responsible for importing goods into the UK, it will be responsible for import formalities and payment of customs duty (if the goods are subject to duty).

Knowing the expected amount of duties that your goods will be subject to helps the business to manage its margins and profitability, and to price the goods accordingly. Additionally, where an FTA is in place, the business will need to gather the necessary supporting documents to corroborate a claim to preferential duty status under the FTA.

Record keeping

EU customs legislation generally requires that customs records are kept for three years. Failure to produce customs records upon request may lead to the business being subject to enforcement action, potential assessments and penalties. In addition to the EU requirements on record keeping, also the local country specific requirements should be considered, which can be more strict and prescribe a longer period of record keeping.

Customs special procedures and simplifications

Customs special procedures relating to exports of goods are more limited than those relating to imports of goods. If goods are being exported from a special procedure in the EU, there are specific information requirements that must be included in the customs declaration. Depending on your supply chain, the following may simplify customs administration or reduce the duty cost:

Transit

The transit procedure may help streamline the customs formalities. The UK has adopted the Common Transit Convention (CTC). This allows for customs clearance formalities (including payment of duty) to take place at the destination rather than at the point of entry into a customs territory. An EU exporter will need to make an export declaration as normal, and will also need to make a transit declaration to place the goods in transit and provide the transit accompanying document to the carrier.

Outward Processing

This procedure will allow for relief from customs duty when exporting goods from the EU for processing or repair in the UK. When goods are re-imported, a full or partial duty relief can be claimed. This procedure generally applies to goods that originate in the EU or that have been imported into the EU and released for free circulation there with all customs formalities completed and charges paid.

Authorisation to use a simplified customs declaration

Using simplified customs arrangements can help to get goods through the border as smoothly as possible to maximize cashflow. Simplified customs declaration allows businesses to complete the customs clearance of goods for export out of the EU by providing a minimal amount of information to the customs authorities. A more detailed customs declaration (a supplementary declaration) is required at a later point in time.

Related considerations

Businesses exporting goods from the EU will also need to take into account several related considerations. These include:

VAT

For VAT purposes, the considerations that can be taken into account include the following (a.o.):

- whether the 0% VAT rate for exports is applicable to the EU-UK flows and whether there are any country-specific requirements;
- applicability of 0% VAT rate on exports in specific cases (e.g. 'EXW-exports' transfer of own goods, VAT-/excise warehousing, bunkering);
- availability of supporting documentation;
- whether any transitional measures apply (e.g. movements before and after end transition period?)



Exporting animal and plant products

Sanitary and Phyto-sanitary measures (SPS) protect human, animal or plant life from the risk of infection and disease through checks undertaken before goods can enter a country. This means specific checks and certification requirements apply to certain animals, plants and associated products. Additional documentation, such as a veterinary certificate, may need to be obtained before goods are exported.



Excise

Excise goods (e.g. oil, alcohol and tobacco) are subject to excise duty and strict controls. The UK will establish its own Excise Movement and Control System (EMCS), separate from the EU. It will not be possible to continue in the UK the movement of excise goods initiated in the EU without additional formalities. When excise goods arrive at the UK border, excise duty will need to be paid unless the goods are moved under EMCS to a UK excise warehouse – where the goods will remain under duty suspension until they are released.



Product regulations

Regulated products – such as chemicals, medicine, and automotive parts – placed on the UK market will need to meet UK regulatory requirements. There will be separate UK and EU regulators, with the potential for divergence over the longer term. Businesses that were previously distributors for the purposes of product regulations may now become importers, meaning they need to meet additional obligations.



How can Deloitte help?

Our Global Trade Advisory, VAT and Tax Management Consulting professionals help international businesses from different industries. Our team provides a wide range of tailored solutions, optimizing the supply chain, cash flow and IT-/ERP-infrastructure. At Deloitte Netherlands, we strive to assist our clients as “Brexit partner” and provide guidance on preparing to the end of the transition period.

Services

We provide a range of trade and indirect tax advisory services to help businesses prepare for the changes that will arise at the end of the transition period, including:

- **Identify the indirect tax impacts.** Prioritize focus based on business structure, supply chains, operating model, location and sourcing.
- **Map existing and proposed supply chains** and analyse the resulting customs and tax obligations, opportunities and mitigations, including potential systems updates.
- **Identify the customs** and related registrations and authorisations necessary for the business’ post-Brexit operations.
- **Consider available duty reliefs** and how these may assist the business in not only reducing its customs duty bill, but also whether these can add efficiency within the supply chain.
- **Obtain the correct licenses** in case any license would be eligible to be obtained to smoothen the post-Brexit export and import.
- **ERP-preparation support** in relation to the impact of Brexit.
- **Engage with tax authorities** on post-Brexit customs and tax policy.
- **File the required customs declarations** via our own customs management system that includes the required customs knowledge.

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