

Brexit EU Import Guide: the essentials of importing into 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, in accordance with the terms of the Withdrawal Agreement between the European Union ("EU") and the United Kingdom ("UK").

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, however, 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 importing goods from the UK to the EU from 1 January 2021. Please note that separate considerations that apply to movements of goods from or through Northern Ireland are not specifically reflected in this document.

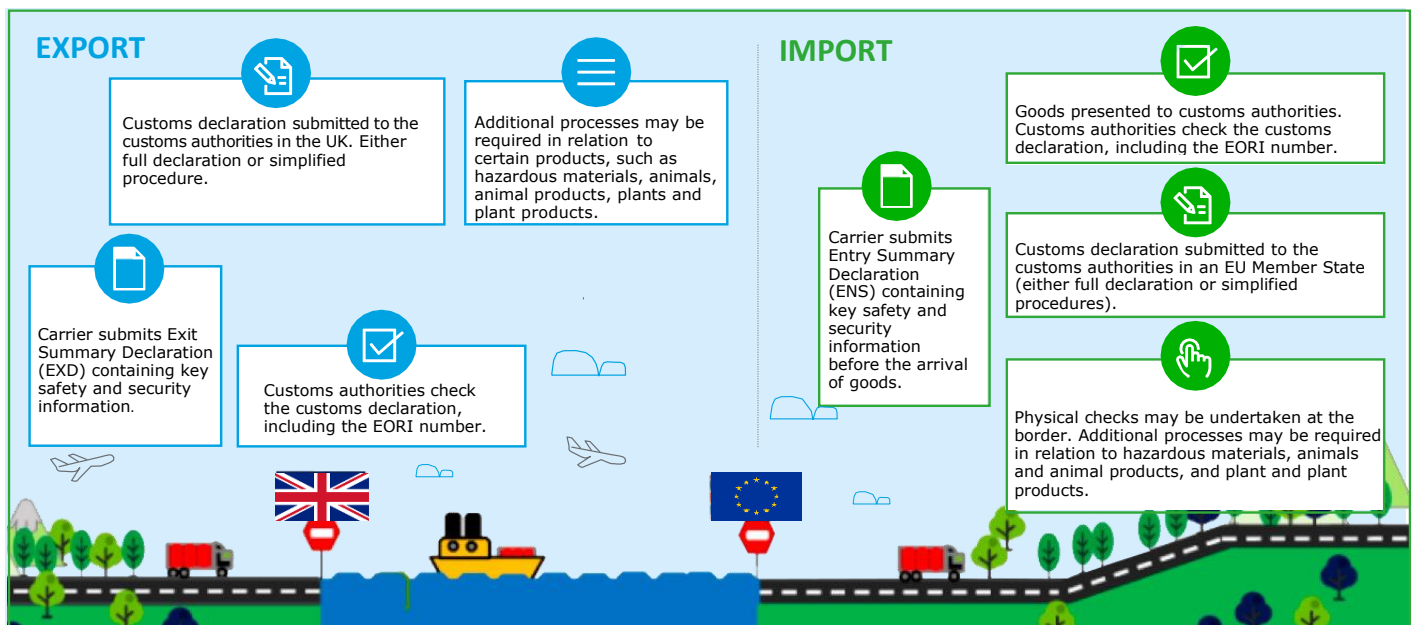
Importing into the EU from 1 January 2021: the Basics

From 1 January 2021, the movements of goods from the UK to the EU become imports. If you have not imported goods into the EU before, here are the essential things that you need to know:

- When goods enter the EU, in principle, an import will take place. This means that customs compliance obligations will arise.
- If import VAT is due you will need to determine the amount of import VAT to be accounted for, the extent to which import VAT incurred can be recovered and whether any (country-specific) simplifications, optimizations or requirements could apply.
- If the goods are subject to customs duties, then in principle these will also be payable.

The importation of goods into the EU is generally accompanied by an entry summary declaration (ENS), which must be lodged prior to the arrival of the goods. An ENS contains information about the goods typically found in the exporter's documents, such as bill of lading and commercial invoices. When, following their placement into temporary storage under customs supervision, the goods are assigned to a customs procedure, a customs declaration must be submitted. You may need to appoint a customs intermediary who will complete and submit the declarations on your behalf.

A general example of the key steps in the clearance process upon importation into the EU



Key actions for businesses regarding the importation of goods into the EU

This general checklist summarises key actions for businesses importing goods into the EU. Whilst some measures will not be required immediately, early planning will help businesses to prepare for full border controls.

Crucial customs set up	
Obtain an EU Economic Operator Registration and Identification (EORI) number	■
Establish capability to obtain all information needed to complete the relevant boxes in the customs declarations – including data on product classification, value and origin	■
Determine who will act as declarant and, in case of non-EU established (e.g. UK) entities, appoint an EU established (group) entity as a customs representative that will arrange EU customs formalities for you	■
Apply for an authorisation to use the simplified declaration in order to streamline the declaration process following importation	■
Check requirements for a Customs Comprehensive Guarantee and Duty Deferment Account	■
Appoint a customs intermediary 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	■
Quantify the costs of managing the additional customs compliance requirements	■
Review rules of origin in free trade agreements to determine whether the imported goods qualify for preferential treatment	■
Consider whether any customs regimes and simplifications are relevant e.g. transit, inward processing, customs warehousing	■
Review economic impact of existing trade remedies on current supply chains (e.g. anti-dumping duties, countervailing duties and safeguards)	■
Related requirements	
Review import VAT accounting and payment requirements, (country-specific) invoice requirements and applicable schemes or simplifications (e.g. import VAT deferral)	■
Review whether a fiscal representative is required to be appointed for e.g. imports and its subsequent supplies, the applicability of special VAT regimes (e.g. VAT-/excise warehousing) or specific (local) transactions, such as distance sales	■
Review excise compliance requirements if the business imports excise goods into the EU	■
Ensure compliance with sanitary and Phytosanitary (SPS) regulations for animal and plant products where relevant, including inspection and certification requirements	■
Check compliance requirements where the goods are imported for regulatory purposes	■
Customs governance	
Set up customs intermediary governance, operating procedures and instructions	■
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 	■

Simplified customs arrangements

The introduction of the border controls on goods imported from the UK into the EU means that the goods are subject to declaration requirements and duty payment requirements, before they may be released into free circulation or in some cases even enter the port/terminal. This “at the border” compliance will add additional time to the customs clearance process. Using simplified customs arrangements can streamline this process, helping to get goods through the border as smoothly as possible to maximize cashflow.

Authorisation to use a simplified customs declaration

Simplified customs declaration allows for example placing the goods imported into the EU under a customs procedure 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.

Authorised Economic Operator Status

If volumes of UK/EU trade are significant, businesses may also want to assess the benefits of applying for the Authorised Economic Operator (AEO) status. Businesses with approved AEO status benefit from reduced levels of checks on imported goods, priority clearance when their goods are selected for examination at the border and easier admittance to customs simplifications.

In order to become an AEO, businesses are required to meet certain conditions, such as demonstrate that they have good processes and controls in place. AEO can be granted for Customs Simplifications (AEOC) or for Security and Safety (AEOS), both of which have slightly different requirements. The AEO status approval can be a lengthy process and may take months to complete. It is therefore important to determine as early as possible whether the AEO status is necessary.

Allocating responsibility for customs clearance in commercial arrangements

Businesses are advised to clearly stipulate in their contractual arrangements which party to the transaction is responsible for meeting customs obligations at import. Incoterms – international commercial terms used for cross-border movements of goods – establish the obligations of the seller and the buyer, including which party is responsible for complying with customs obligations at import.

For example, under Ex Works (EXW), the buyer is responsible for everything from export clearance at the start of the supply chain to import clearance and payment of customs duties at the end of the supply chain. At the other end of the spectrum, all obligations are placed on the seller under Delivered Duty Paid (DDP). The party responsible for complying with customs obligations at import will need customs data, systems, and resource in place to manage the associated compliance responsibilities.

Customs special procedures

Sometimes goods enter the EU when they are ultimately not destined for the EU market. This is the case, for example, when goods are being moved through the territory of the EU on the way to the final consumer in a non-EU country, or when the imported goods undergo processing in the EU before being shipped to a destination outside of the EU (for example back to the UK). Businesses may also store goods for a period of time before selling them in the EU. In these circumstances, using customs special procedures could reduce, postpone or negate the duty and (import) VAT payable and, in the process, have a positive impact on business cash flow. Please note that the reduction of (import) VAT in relation to the aforementioned heavily depends on the specific flows of goods as well as the Member State in which the goods are stored in e.g. a customs warehouse.

Transit

Depending on the country of departure and the country of final destination of goods, a number of transit options is available in the EU. For instance, the goods transiting via the EU from the UK to Switzerland, may benefit from the Common Transit Convention (CTC), to which the UK acceded. This allows for customs clearance formalities (including payment of duty) to take place at the destination of the goods rather than at the point of entry into a customs territory.

Customs Warehousing

If you are not planning on accessing or altering your goods (except for essential maintenance work), they can be stored in a customs warehouse under the supervision of the customs authorities of an EU Member State until they are required. Under this procedure, you will not pay duty or import VAT until the goods are removed from the warehouse.

Inward Processing

If you import goods into the EU for processing, the inward processing procedure can be used to suspend the payment of duty. Once processed, the goods either need to be (1) exported back outside the EU – in which case no EU duty applies – or (2) released into free circulation in the EU, at which point customs duty, import VAT and excise duty (if applicable) will typically be payable. Duty can under certain conditions be paid at a lower rate if the processed goods are subject to a lower rate of customs duty than the raw materials originally imported.

Some customs special procedures, such as inward processing, require an authorisation from with specific requirements from the customs authorities. Timely review of the requirements and submission of applications for new authorisations, as well as for the renewal or amendment of existing authorisations, will help pave the way for adapting to the post-Brexit trading environment.

Customs import tariffs: how to calculate the amount of customs duties?



Tariff classification

This describes the goods being imported and is used to determine the customs duty rates that will be charged at import.

In the EU, the goods are classified on the basis of the Combined Nomenclature. This contains the general rates of customs duties for goods that do not benefit from preferential trade arrangements.



Customs value

This determines the basis on which duty is calculated. Customs valuation of goods is usually based on the

price paid for the goods, often subject to various adjustments being made for freight charges, insurance costs and royalties etc. For intercompany sales, the customs value may not necessarily be the same as the transfer price.



Origin of goods

Rules of origin essentially establish the customs "nationality" of the product. In order

to benefit from preferential trade arrangements (such as free trade agreements), goods will need to meet preferential origin requirements. This means that even if an EU/UK Free Trade Agreement is reached not all goods moving between the UK and EU will qualify for zero tariffs

Businesses will need to ensure that information on **product classification, value and origin** is easily accessible within their systems, which can prove challenging in practice. Early action **to review data quality and systems set up** will therefore be important for customs compliance and accurate payment of duty at the end of the transition period.

Related considerations

Businesses importing goods into the EU will also need to bear in mind a number of related considerations. These include among other things the following:

Payment and recovery of import VAT

Depending on e.g. the type of goods and your supply chain, different (country-specific) VAT implications for importing into the EU need to be taken into account in order to analyze/optimize the EU-import flows of goods :

- Is import VAT due? If yes, does any exemption apply?
- What is the correct taxable base for import VAT?
- Does any obligatory VAT deferral apply (e.g. crude oils)?
- Is it possible to apply for a VAT deferment license / other country-specific simplifications?
- Is it required to appoint a fiscal representative?
- Can I (fully) recover any imposed import VAT?

Importing goods subject to excise duties

Excise goods (e.g. mineral oils, alcohol and tobacco) are subject to excise duty and strict controls upon entry into the EU. This means that, after the end of the transition period, excise goods shipped from the UK to the EU will incur excise duty liability, unless the goods are moved under the EU Excise Movement and Control System (EMCS) to an excise warehouse— where they will remain under duty suspension until they are released. As the UK will no longer be part of the EU EMCS, it will not be possible to continue the movement of excise goods initiated in the UK in the EU without additional formalities.

Importing 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 e.g. those with high milk or egg content. Additional documentation will need to be submitted upon the importation of such products. Additional checks at the border may also be required.

Product regulations

Regulated products – such as chemicals, medicine, and automotive parts – placed on the EU market will need to meet EU 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 impact.** Prioritize focus based on business structure, supply chain, operating model, location and sourcing.
- **Map existing and proposed supply chains** and analyse the resulting customs and tax obligations and mitigations, including potential systems updates.
- **Explore options for deferment of import VAT** by applying for a VAT deferment license or by analysing whether any simplifications applies based on the facts and circumstances.
- **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.
- **Act as fiscal representative with a general license** for VAT purposes and assist with the appointment of a fiscal representative with a limited license.
- **Obtain the correct licenses** in case any license would be eligible to be obtained so smoothen the post-Brexit import.
- **Support in integration** and implementation of Indirect Tax Brexit-implications in ERP-systems.
- **Engage with customs and 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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