



Brexit Industry Insights

Logistics

Summer 2020

The UK left the EU on 31 January 2020 and will exit the transition period on 1 January 2021. During this period, logistics businesses are navigating the challenges of increased costs from technological innovation and increased demands from customers.

As the UK and EU negotiate the specific details of their future trading relationship, what is clear is the UK will be leaving the Single Market and the Customs Union at the end of the transition period. The impacts of Brexit will lead to change in the sector, which for some businesses could represent a significant departure from 'business as usual'. There are changes we know are coming for certain, and the time to act is now.



Coronavirus

The COVID-19 pandemic has affected the world in an unprecedented way. In addition to the human toll and the disruption to millions of people's lives, the economic damage is significant and far-reaching. The virus has created a supply and demand shock to businesses globally. How the situation will unfold is as yet uncertain, but the pandemic is likely to continue to provide significant headwinds to the logistics sector for the year ahead.

What does Brexit mean for the logistics sector?

The purpose of the logistics sector is to move products from A to B as quickly and efficiently as possible. Depending on the supply chain of a particular product, this can include multiple iterations at different stages of the production and distribution process. Brexit has the potential to severely impact on the haulage of freight into and out of the UK across all modes of transportation: road, rail, air and maritime.

Some of the key implications for businesses operating in the sector are:



Road haulage:

Road haulage is the dominant mode of freight transport within the UK. The majority of goods imported to and exported from the UK by road are handled by overseas hauliers (with vehicles mostly registered in Poland, Ireland and Romania). Conversely, UK hauliers account for 8% of total haulage activity in the EU.¹ Those UK hauliers could face several hurdles at the end of the transition period:

- EU licences will be recognised in the UK for temporary period, but UK drivers in the EU will need to get international driving permits.
- European Conference of Ministers of Transport (ECMT) permits are needed for driving through the EU and EEA countries. This applies to both laden and unladen journeys. If the UK leaves the EU without an agreement on ECMT permits, then many journeys will require an ECMT from 1 January 2021. The number of available permits, however, is limited.

1. <https://publications.parliament.uk/pa/ld201719/ldselect/ldcom/355/355.pdf>

- Drivers are subject to the provisions of the Working Time Directive. Being caught up in queues at the border would add to working time, and drivers may find that even when permitted to proceed at the border, they will not be able to do so before a mandatory break.

Unaccompanied freight can reduce the risk of delay as a result of restrictions relevant to drivers described above, but often it entails a longer journey time – and making the relevant network changes would take time to implement.



Air freight:

Cargo services by UK carriers between EU member states and third countries will be capped at 2018 flight frequency levels², which limits the extent to which businesses can swap to air freight to avoid delays at sea ports and the Channel Tunnel. In addition, UK carriers will not be able to fly between two third countries and stop in the EU, nor will they be able to fly between two member states or within one member state which could impact certain freight routes.



Maritime transport:

Shipping can be broadly thought of in terms of short sea routes, such as those connecting EU ports, and the deep sea routes that cross oceans. UK operators, or those dependent on UK EU shipping routes, could face several hurdles post Brexit, particularly in a scenario where there is no agreement on the following issues:

- **Cabotage:** transport between ports within one EU member state by a transport operator from another country is currently liberalised for EU members but not necessarily operators from third countries. Currently, third country operators can only perform cabotage where the national legislation of EU member states extends that right to third country interests. At present, this is possible in Denmark, Ireland, Belgium and The Netherlands.
- **Seafarer certificates:** UK-issued seafarer certificates will no longer be

recognised, the UK will have to apply for recognition of these certificates as a third country. EU and EEA issued certificates of competency (CoC) will continue to be recognised in the UK.

- **Maritime security notifications:** shipping companies, including ferries carrying passengers and lorries are required to submit security information prior to entering an EU port. This requirement can be waived by EU countries for intra EU operations, but not between EU and non EU services. The submission of this pre arrival information could mean additional information will be needed to be submitted by those using the services in order to allow the shipping companies to undertake these procedures.



Border delays:

It is likely that there will be a period of disruption at the UK border following the end of the transition period. Delays could arise due to a number of factors:

- Additional safety and security checks required at the border and limited space to undertake these
- Drivers not having the necessary licences and permits
- Inexperienced traders not having the necessary paperwork when arriving at the border.

The UK government has announced certain mitigation measures which will be taken at the border at the end of the transition period, regardless of the outcome of the trade talks. These measures include a phased application of new customs requirements, with basic checks coming in from January 2021, followed by checks on products of animal origin (POAO) in April 2021, and full customs checks by July 2021.

However, it is important to note whilst this phasing will relieve some of the pressure for freight entering the UK, at the time of writing there are no equivalent mitigating measures in place for UK freight seeking to enter the EU.



Commercial contracts:

Some logistics providers have written clauses into their contracts that ensure delivery within a certain timeframe, with penalty clauses being activated for delays to delivery. Managing these obligations at the end of the transition period will be important to the ongoing operations of those logistics providers. Contracts may need updating to manage some of the potential risks arising from Brexit or in response to Brexit related restructuring.

Areas of focus include: reviewing risk allocation between parties such as which counterparty bears the risk of border delays and tariff costs; definitions of key terms; changes to pricing structure or frequency of pricing reviews and changes to payment terms and contract enforcement



Customs & compliance:

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Customs representation:

Recipients of goods shipped across a customs border may need to make payment of duty. At the end of the transition period, the value and volume of such payments will increase significantly. This could present challenges for logistics providers – such as

2. <https://publications.parliament.uk/pa/cm201719/cmselect/cmeuleg/301-lxxiv/30105.htm#footnote-022>

communicating to parcel recipients why/ what duty is payable, ensuring robust systems and processes are in place to handle increased payments, and the joint and several liability risk when representing customers in the customs declaration process.



People:

EU/EEA citizens resident in the UK before 31 December 2020 will retain their rights to settlement and access to services, and they will need to apply under the EU settlement scheme by 30 June 2021.

The UK has announced plans to introduce a new points-based immigration system from January 2021 for all new EU nationals arriving in the UK after this date. The system includes a salary threshold of £25,600, the requirement to have a job, be educated to an A-level standard, and speak English.

Multinational logistics companies often have a highly mobile international workforce and are reliant on the efficient deployment of individuals around the world including within the EU.

Dual social security liabilities could arise for employers and mobile employees depending on the final agreement between the UK and EU.

What can business do to prepare?

- Perform a full analysis and impact assessment of the known changes across the key areas of your business, these include – supply chain, workforce, tax, legal and regulatory.
- Establish a project management office function that appreciates the cross-functional challenge of Brexit, and has buy in from all key areas of the business.
- Ensure systems and procedures are in place to manage the increased volume of customs declarations for imports and exports.
- Logistics providers and their customers should work together on their Brexit preparation plans to understand what, if any, impact this will have on operations.
- Apply for the necessary licences and permits; conduct a trade continuity and market access review to understand your exposure to third country trade deals.
- Ramp up your operational response capability to manage disruption as and when it occurs, and review contractual commitments and penalty clauses relating to delivery times.
- Regularly communicate with EU workforce to encourage status certification as early as possible. Establish a process that monitors member state changes to immigration and social security that could impact UK workers in the EU.
- Keep up to date on UK and EU government, European Commission and regulator announcements to stay up to date on policy changes.
- Develop a strategy for government engagement on the issues that matter most to the business in order to influence future policy.
- Manage all key stakeholders to identify commitments and expectations. Engage with audit committees and liaise with trade bodies and regulators on preparations.

This Brexit guidance is not exhaustive. Companies should routinely review the latest official updates and technical guidance as and when they are published by the UK, EU, and individual EU Member States.



In focus: AEO status

An Authorised Economic Operator (AEO) is an accreditation which demonstrates that a business operates securely within the supply chain (AEO S) or operates at a high level of compliant customs processes (AEO C).

AEO traders are subject to fewer physical checks on imports and exports, fewer post import clearance audits by the Customs Authorities, easier access to the use of customs procedures and benefit from reductions to the level of security required as part of Customs Comprehensive Guarantee requirements.

AEO is applied across the EU, and the EU has mutual recognition arrangements with similar initiatives globally, although as yet no such agreement has been made between the UK and the EU post Brexit.

In order to fully benefit from these provisions, businesses need to be AEO certified themselves (they will not be able to rely on a third party's authorisation e.g. the logistics provider).

The AEO accreditation process is not straightforward and obtaining approval can take up to six months once an application has been submitted.

Whilst those in the logistics sector were early adopters of AEO, there continues to be the need to consider AEO to meet contractual demands for accreditation.

How can Deloitte help?

Deloitte is a leading voice in navigating Brexit considerations with business and government. We combine our global Brexit insights with specialist knowledge of the negotiations, developed through advising clients across multiple industries, jurisdictions and technical subject matter areas. Using our **Brexit Impact Assessment**, we apply a methodical approach to mapping the impact of external drivers of change onto an organisation's business model, providing a clear framework for identifying critical actions.

For further information please contact Deloitte Brexit Support at **brexitsupport@deloitte.co.uk**

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