



DRIVE THROUGH BORDERS: A COMPREHENSIVE UK AND EU CUSTOMS STRATEGY FOR BREXIT

A SET OF INNOVATIVE REGULATIONS AND BUSINESS CONCEPTS THAT MEET THE CUSTOMS REQUIREMENTS, INCLUSIVE THE (NORTHERN) IRELAND BORDER TO FACILITATE A FRICTIONLESS BORDER BETWEEN THE EU AND THE UK

JULY 2018

AUTHOR: HANS MAESSEN

Brexit advisor

SGS Government and Institutions Services





INTRODUCTION

In the present situation, there are only two models which are available in customs:

1. There are standard customs formalities for trade with countries outside the EU.
2. There are no customs formalities for internal trade between member states.

In a unique historical situation as Brexit, there is the opportunity to develop a toolkit with new concepts, based on innovative customs procedures to achieve **drive through borders**. These concepts can not only be applied between the EU and the UK, but also with other close trading partners. The new toolkit must be diverse as it should apply to multiple different situations among others also to the specific requirements of the border between Northern Ireland and Ireland. No single concept can manage all border circumstances, so there should be several declaration techniques that can be applied depending on the situation.

In all scenarios for Brexit, there will be the need for border controls. Only if Brexit does not take place, this will not be necessary. There are fiscal and non-fiscal reasons for border checks. Import duties and VAT need to be administered as goods are exported and imported. Regulatory checks are necessary to secure that all regulations concerning health, safety and environment are met.

This paper assumes that there will be no import duties between the EU and UK after Brexit. This will be the case if the UK stays in the customs union and also if a comprehensive free trade agreement is agreed on. If the UK stays in the customs union, it will not be able to form its own trade policy as it will be bound to the EU trade deals with other blocks. Under a free trade agreement, the UK can formulate its own global trade policy.

On day one after Brexit all regulations between the UK and the EU will still be aligned. Only after changes take place by either the UK or the EU, and these changes are not followed by the other party, regulatory alignment will diverge. It is in the interest of both parties to stay aligned as much as possible to facilitate trade.

This situation provides a unique starting point to formulate new and efficient customs procedures. Worldwide present customs procedures manage trade through individual and comprehensive checks on all regulations for every single individual transaction.

A regular EU import declaration checks the applicability of about 50 different laws. This transaction-based approach can be taken over by a system-based approach, based on trusted traders and repetitive transactions. Thus, customs formalities can be reduced considerably in number and intensity. Other taxes, such as company taxes and VAT are also system based on the administration of a company and result in a periodical declaration for a month or a year. The result of a system-based approach is, that the number of customs declarations can be reduced dramatically, saving administrative and logistic costs, while at the same time safeguarding compliance.

At present, there is full trust in the application of national and EU regulations between all member states for goods traded within the EU. After all, there are no internal borders any more. This alignment will not directly change on day one after Brexit, but only gradually and deliberately when regulations develop and change between the EU and the UK.



SIMPLIFIED CUSTOMS PROCEDURES TO FACILITATE EFFICIENT TRADE AFTER BREXIT

The number of customs transactions will increase by 500% in the UK after Brexit. In the Netherlands for example, the expected increase is 40%. A relevant increase is also expected in other member states. The customs service industry, consisting of customs brokers, customs software companies, consultants and import and export departments of international traders, will be challenged to find capacity to match the demand. Especially in the UK one could say: all hands on deck!

UK trade with countries outside the EU is now mainly handled in Heathrow and Felixstowe. Customs infrastructure and services can mainly be found there. UK trade with the EU is mainly dealt with by Roro-trucks driving on and of ferries. 50% Of all trucks use the ports of Calais and Dover or the Chunnel. At these entry points, there is only limited customs infrastructure and services. There is no physical space available to accommodate trucks waiting for customs clearance. Other ferry ports face the same challenge both in the UK and on the continent. The first measure that should be taken to avoid congestion in the ports is:



01

SHIFT CUSTOMS FORMALITIES FROM THE PORTS TO INLAND PREMISES OF EXPORTERS, IMPORTERS AND LOGISTIC SERVICE PROVIDERS

The Union Customs Code (UCC) already is fully equipped to facilitate inland clearance. Please take notice that all customs declarations are done digitally. For a standard transaction and transport of goods sold from, for example, a business in Cologne (D) to Oxford (UK), the standard case would be to fulfil all border formalities in Calais and Dover. The alternative would be to make an export declaration on the premises of the exporter in Cologne. This would be followed by a Transit declaration, which gives the possibility to transport the goods to the UK, without fulfilling any border formalities at the ports of Calais and Dover. Finally, the Transit declaration would be followed up by an import declaration when the goods arrive at the premises of the importer in Oxford. If customs want to inspect the goods, mobile teams can do so when the goods are declared as they are loaded or unloaded, which has the advantage that there is no interference in the logistical process. In this way congestion in ports can be reduced considerably.



02

OUTSOURCING MOBILE AND REMOTE INSPECTIONS BY CUSTOMS

When inland customs clearance is available, mobile teams must be operational to inspect selected goods on the premises of exporters, importers and logistic service providers. These inspections are time critical, so logistic processes are not hindered. These inspections can be done by customs officers but could also be outsourced to certified private companies. This kind of service is readily available in the market. Many importing countries already ask for pre-inspections of traded goods even before they are shipped to see if they meet their specific regulations.

The inspections can be done effective and efficient by using remote devices like mobile phone cameras and apps, thus reducing time and costs for business and customs. Certified inspectors give remote instructions to record specific aspects of goods. In many cases these inspections give adequate results and don't require the need of an inspector to be present. This service and technique is operational in the market and ready to use.



03

FACILITATING CUSTOMS DECLARATIONS BY EXPORTERS AND IMPORTERS

The expected increase in declarations in the UK is enormous. All parties involved will be needed to provide capacity and service to manage this job. Traders should be able to make their own customs declarations based on easily accessible software and customs permissions. Export declarations from one company are very repetitive. In most cases the exported goods have only a limited variation and the clients are limited in number. Most data, which are needed for a customs declaration, are already available in other business software and can easily be downloaded. It is easy to apply available customs software through the internet. Permissions to make customs declarations can be standardised. Knowledge of customs declaration techniques can be spread through online courses. Helpdesks can provide answers to specific questions. A campaign can stimulate all parties to participate in the challenge to meet the new requirements.



04

COMBINED AND PRE-CLEARANCE OF EXPORT AND IMPORT CUSTOMS DECLARATIONS

Customs declarations are made based on data which are mainly available on an invoice and some additional sources, such as transportation documents. The data required in an EU-declaration is standardised, so that data from an export declaration can simply be reused for an import declaration. This gives the opportunity to integrate export and import customs clearance processes. Exporting companies, or customs brokers that make export declaration on their behalf, could file an export and import declaration in one process, thus making pre-clearance of goods a standard procedure. Pre-clearance is already legally possible within the UCC. The customs software operating on the continent and in the UK for such combined declarations, can be made available in the market by customs software providers. Next to that customs brokers would have to become active both in the EU and the UK to make these combined declarations. These are business opportunities for the brokerage and software industry. It would decrease the costs of customs clearance considerably and it would streamline customs clearance at the ports and inland as it gives clarity about possible inspections, so logistic processes become predictable.



05

INTRODUCE THE REVERSE CHARGE SYSTEM FOR THE ADMINISTRATION AND PAYMENT OF IMPORT VAT

If the UK stays within a customs union with the EU, or agrees on a free trade agreement, then no import duties must be paid on EU-UK trade. This is of great importance because supply chains between EU and UK companies are very complex and it would be extremely difficult to prevent double import taxation. Still with every import transaction, import VAT must be administered and levied. Since VAT can be deducted by companies, this does not impact the cost price of goods, but it does cause a lot of money transfer back and forth between business and the treasury. In the UK, as well as in many other EU member states, the importer must pay import VAT to customs. The import VAT can be deducted and reimbursed on the monthly or quarterly VAT return of the importer. This situation causes a liquidity disadvantage for business and a corresponding liquidity advantage for government. In the UCC and EU VAT regulations, it is possible to administer the VAT on the import declaration, without the VAT having to be paid. Based on the information in the import declaration, the tax authorities are informed about the due VAT which can be deducted on the monthly VAT statement by the importer. This system is called 'reverse charge' or 'postponed accounting' and it results in a zero payment of import VAT. An increasing number of EU member states make use of this facility. Reverse charge has been available in the UK till 1984 and could be reintroduced. This could also become available to present import trade into the UK from countries outside the EU and thus strengthen global UK trade.



06

MAKE DUTY AND VAT PAYMENT ACCOUNTS EASILY AVAILABLE TO IMPORTERS AND CUSTOMS BROKERS WITH NO OR LIMITED GUARANTEES

The present volume of EU – UK trade is about € 200 billion. This would cause a yearly payment of about € 40 billion VAT. If reverse charge is not introduced, as was described above, this money would have to be collected from importers by the customs brokers who would pay it to HMRC through their customs payment accounts. For UK customs brokers this is a huge financial burden, especially since they need to provide financial guarantees for these payment accounts. Next to that it is an additional business risk to process large volumes of money connected to the administrative process of making import declarations. If reverse charge is not introduced, then duty and VAT payment accounts should become easily available to customs brokers and importers without the need to provide guarantees.

MUTUAL ACCEPTANCE OF PRODUCT INSPECTIONS FOR REGULATORY ALIGNMENT PRIOR TO IMPORT, PERFORMED BY CERTIFIED COMPANIES

Apart from fiscal aspects, an import declaration is also needed to check on regulatory alignment of the goods for health, safety and environmental regulations. As we have seen, these regulations are aligned now that the UK is part of the EU, and they will only diverge gradually after Brexit. Regulatory checks can be very complex and time consuming at imports. They can hinder the logistic process considerably and can be a source of logistic congestion. Since many products for which regulatory checks apply, also have a need to be delivered fast and in time, such as foodstuff etc., there is a special need to find a solution. Regulatory inspections can be done prior to export. This is already a standard service available to international trade. Many countries require a so called 'Product Conformity Assessment' prior to import. The EU and the UK could agree to accept these inspections prior to export, which can be performed by certified companies. These inspections can be done per transaction or based on certifying a production process thus certifying the products that are produced from that process (system based). These prior inspections can give a waiver for regulatory checks at import.



07



08

WAIVERS FOR CUSTOMS CLEARANCES BETWEEN CERTIFIED BUSINESS PARTNERS IN THE EU AND THE UK

The outcome of most customs declarations between the EU and the UK will be that only VAT has to be paid upon import. There will be no customs duties and no issues of non-compliance to regulatory checks. In trade between the EU and Switzerland this is the case for more than 80% of the transactions. For these transactions, the present system of transferring VAT between companies in different EU member states could stay in use. This system is called the 'VAT Information Exchange System' or VIES. All export and import transactions which are done within one month have to be reported to tax authorities monthly. This system is in place since 1992 and will be updated by the EU in the coming years. It is available now to all transactions by all companies within the EU. The changes proposed make it necessary for companies to qualify to use this simplification. If they are not qualified for reasons of trustworthiness, they will have to charge the VAT of the member state where the goods are sold to. The VAT will be collected by the tax authorities in the country of sale and transferred to the member state where the buyer is established.

At present, there are many repetitive simple transactions between companies in the UK and the EU. For example, there are 1.100 trucks supplying car parts from the continent to the UK every day. This kind of repetitive and simple transactions only result in an import VAT payment. There are no regulatory issues connected to these transactions. For this kind of transactions, the present VIES could stay in place. The VIES is available to administer exactly this kind of VAT obligations. Just as businesses in two EU member states can be certified to make use of the VIES system as they do now, this could also be made available to UK businesses in combination with an EU business. Each individual transaction between such certified business partners would be identified by a unique Transaction Reference Number (TRN) which refers both to the exporter and the importer. Such a TRN could be processed at the border which would result in a waiver for any additional customs procedures.

09

WAIVERS FOR CUSTOMS CLEARANCE BY CERTIFIED CUSTOMS ACCOUNTANTS

This concept could even be developed further if the waiver for customs clearance could be issued by a Certified Customs Accountant (CCA). A CCA is a private company with extensive knowledge of customs procedures. A CCA has the ability to determine if a transaction will only lead to a VAT payment without any other customs obligations. If so, he can issue a waiver for this (kind of) transaction(s). A CCA can offer his services to exporting and importing companies to deal with their customs obligations. A CCA must be certified both in the EU and the UK. They are liable for these transactions if the waiver is not correct. A CCA thus has comparable obligations to the present responsibility and liability of a customs broker and a fiscal representative. If a waiver is given for a transaction, or a series of transactions, then the VAT obligations must be fulfilled by the exporter and importer monthly as they do now under the present VIES system. Both the exporter and the importer must report their transaction to the respective fiscal authorities. This information then is matched in the VIES system. If both exporter and importer do this correctly and there is a match, then the CCA is no longer liable for the transaction.

If the CCA refuses to give a waiver, for example if the transaction does not qualify or if the CCA does not trust the transaction and he does not want to be liable, the standard customs procedures should be followed. The effect will be that traders will become more compliant since they can use a waiver that is cheaper than regular customs formalities. The service of the CCA makes this simplification available also to SME's and incidental traders both in the UK and the EU.



10

VOLUNTARY ALIGNMENT BY INDIVIDUAL BUSINESSES FOR REGULATORY CHECKS

Customs declarations have a crucial role in checking regulatory compliance when goods are imported. After Brexit, most regulations will still be aligned. Even if regulations differ and there are different standards between the UK and the EU, a producer can voluntarily decide to give his products the standard requirements of the country of importation. So, if UK standards start to differ from EU standards, then the UK producer can voluntarily decide to meet the EU requirements. This is already the case with exports from the EU (and UK) to many different countries in the world with specific product requirements. These products can get a Product Conformity Assessment (PCA) which certifies their entrance into the importing country. Such a waiver could be issued by a certified company as is now being done on a regular and large scale throughout the world. A PCA could be issued by a Certified Customs Accountant and could lead to a waiver for regulatory checks. These waivers can be issued per transaction or for a chain of similar transactions. This can be combined with the VAT waiver as was described above. In this way, all fiscal and non-fiscal regulations could be certified and processed on a system-based approach.

This voluntary concept offers the opportunity to give the EU and the UK the freedom to diverge in standards, while it gives business the ability to trade without the obligation to fulfil customs declarations.



11

DRIVE THROUGH BORDERS BETWEEN IRELAND AND NORTHERN IRELAND

There is only limited traffic on the Northern Irish border with goods from outside the EU. It is not a logical route to import third country goods into the EU or the UK. In addition, many transactions on the Northern Irish border are done in the farming industry by small and medium sized businesses. Transactions in general have a repetitive character and a limited variety of goods. Production processes can be qualified by Certified Customs Accountants and they can give waivers for trade while safeguarding that all taxes are being paid and regulatory alignment is secured. If a company does not (want to) qualify, it can use inland clearance and drive with a Transit declaration from the point of export to the importers premises where the import declaration is filed. This will keep the Northern Irish border transparent as it is supposed to stay. If necessary extra inland checks at importing and exporting companies can be used to enhance the enforcement of all customs obligations.



12

INTRODUCTION OF REGISTERED EXPORTER TO PROOF THE ORIGIN OF GOODS

The proof of the origin of goods is of major importance in a customs declaration as duties depend on the origin of imported goods. In the coming years, a new system to prove the origin of goods, called Rex, will be introduced worldwide, including the UK and the EU. Unfortunately, origin rules are very complicated, especially if goods are assembled or processed. Rex gives an exporter the option to inform the buyer and customs about the origin of traded goods on the invoice with a simple statement. If a Certified Customs Accountant is involved in a transaction as described before, he can take care the Rex statement is correct. This is logical, since the Rex statement about the origin is decisive when determining if duties must be paid or not. If the origin leads to the obligation to pay import duties, then no waiver can be issued, and a regular customs declaration will have to be made. Thus, the service of a CCA will lead to improved compliance with Rex and relieving the exporter of the knowledge of the complicated origin regulations.

E-COMMERCE IMPORT DECLARATIONS USING ENTRY INTO THE DECLARANTS RECORDS

The UK is a mayor hub for e-commerce to the EU. Many shipments originate from fulfilment centres in the UK.

E-commerce parcels also enter the EU through the UK and are distributed to other member states from the UK. The present situation is unsatisfactory for the UK and the EU as compliance matters are under heavy pressure. There is widespread fraud with VAT and import duties related to e-commerce shipments from within and from outside the EU.

After Brexit, the UK e-commerce shipments to the EU will qualify as third country transactions. The EU has decided to change the e-commerce regulations in the coming years so that taxes are paid correctly, and health, safety and security issues are guaranteed. It is estimated that at this moment more than 200.000 shipments go back and forth between the EU and the UK in one way on each day. This would result in about 200.000 x 2 x 250 working days in 100.000.000 e-commerce shipments between the EU and the UK each year. Knowing that the capacity of the new Customs Declaration System in the UK has a capacity of 300.000.000, an alternative solution must be found for these e-commerce transactions in the UK. The same applies to EU member states as government customs software capacity is limited.

The central issue with e-commerce is that merchants don't always provide an accompanying compliant dataset thus causing undervaluation and/or using wrong tariff codes. In many cases this is done deliberately to evade or lessen taxation. The new EU-regulation will no longer permit tax exemptions for VAT on e-commerce shipments any more. Next to that it will hold all parties involved in e-commerce transactions liable for taxation, including merchants, customs brokers, fulfilment centres and parcel services. However, the EU will also facilitate a simplification by allowing import clearances for all EU member states in one place with a concept called 'One Stop Shop'.

The vast numbers of e-commerce shipments are equally a challenge for the UK and the EU. The EU proposes to appoint a fiscal representative who can deal with all fiscal aspects for import shipments. However, this will not lead to an efficient solution for customs clearance as it doesn't deal with the obligation to file individual declarations.

Individual e-commerce shipments could be declared under a permission called 'Entry Into the Declarants Records' (EIDR). This declaration method is legally available in the UCC. It is based on a permission for specific goods by a specific importer under specific rules. An EIDR customs permission is very strict as it requires total and trustworthy information. So only compliant transactions will qualify for this simplification procedure. If a customs broker, and/or fiscal representative applies for an EIDR permission, he must be sure he is in control, since he will be held liable for all taxes and other customs obligations. Based on an EIDR permission he can file a monthly declaration, on which he pays the duties and VAT. He will also need to safeguard the application of regulatory alignment. Being held liable will give the customs broker an incentive to do business only with compliant web shops and other partners. These web shops will benefit from being compliant, because their shipments can be declared at a minimal cost and with no logistic intervention.





CONCLUSION

The proposals in this paper are raised because there is a need for fundamental innovation in customs caused by the unique and historical circumstances of Brexit. The concepts in this paper are universal and can also be used with other third countries with whom the EU has a close partnership. Thus, there is no preferential treatment of the UK regarding Brexit.

The number of simplifications listed and described in this paper may partly be introduced one by one or in a combination. Business in the EU and the UK is well equipped to provide the existing and new services that Brexit will require. It is of importance to clarify by the EU and UK authorities which facilities it will choose to make available to trade. The aim is to make Brexit work with minimum costs for customs and business and provide maximum facilitation for trade.

**FOR MORE INFORMATION,
PLEASE CONTACT:**

Hans Maessen

Brexit advisor
SGS Government and
Institutions Services

hans.maessen@sgs.com

T: +31-655-792750

WWW.SGS.COM

WHEN YOU NEED TO BE SURE

