

Brexit Webinar

6 november 2020

Online policy:

- Questions please via chat
- Microphone and camera mute
- Sheets are available after the webinar

Speakers Today



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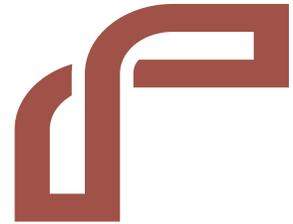
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Brexit (at last !!!) and VAT

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November 2020





Where we are today and the politics of Brexit in coronavirus times

- After nearly 4 ½ years, Brexit is here in 55 days
- **BUT DO WE HAVE A DEAL YET???**
- Talks are still ongoing this week, but time is running short.
- Concessions need to be made by both sides on fishing rights, environmental policies, consumer standards, and an acceptable state aid policy.
- A “skinny deal” very late in the day is a possible outcome.
- UK and EU want a deal as neither side wants a WTO rules Brexit in the middle of a pandemic.
- The discussions have had a serious political impact in both the UK and EU
- The remaining 27 EU member states will be watching carefully to see how the UK “survives” in a post Brexit world
- UK concerned about relations with China, no FTA with the US, and no FTA with the EU - the UK may feel a little lonely post Brexit, or a great place to do business !
- Businesses need to prepare for both an FTA and a WTO rules deal, although in many cases, the preparation is the same or similar.



The economics of Brexit

- The EU is the UK's biggest single trading partner. In 2019, it accounted for 43% of UK exports and 51% of UK imports
- The debate over the last 4 ½ years has been all about UK/EU trade in goods in a post Brexit world, and what that will look like
- Discussions concerning tariffs and WTO tariffs if no agreement
- The average EU tariff is low (about 2.8% for non-agricultural products), but in some sectors tariffs are high e.g. cars and dairy products.
- This would have a big impact on UK businesses selling their goods to the EU.
- Post Brexit 47% of all imported products to the UK will have zero tariffs, compared with 27% when imported into the EU, but Dutch flower/plant sellers may find higher tariffs.
- A desire to minimise border controls and customs checks
- Businesses need a “frictionless” border in a world relying on the movement of goods for “just in time” deliveries
- Analysis of supply chains and incoterms, particularly for those moving perishable goods
- Movement and mobility of workforces around the UK/EU



VAT implications for businesses

For EU businesses with UK customers, it is very simply about;

- You are either buying/selling goods, or
- You are either supplying/receiving services;
 - in a regulated profession, or
 - in a non regulated profession



Selling goods 1 - What Dutch businesses need to consider

- If you are doing business with a UK customer i.e. moving goods to the UK, will you need to register for VAT in the UK?
- Have you relied on any of the following to avoid UK VAT registration in the past?
 - Call off stock arrangements
 - “Triangulation”
 - Simplification rules allowing your UK customer to account for VAT
 - Distance selling rules for sales to private individuals
- If “yes”, then you probably need to register for VAT in the UK
- Have UK customers changed your delivery terms - EXW or DDP?
- Parcels up to value of £135, and over £135 - who accounts for the VAT?
- Special rules for Northern Ireland where a unique trading position has been agreed with broad alignment to EU rules on goods but not services



Selling goods 2 - Registering for VAT in the UK

- Should apply for a UK VAT registration as soon as possible - can take some time to receive a VAT number
- Will need a GB EORI number
- Good news - postponed VAT accounting for import VAT
- But, will need to pay customs duty - consider duty deferment account
- Accounting for VAT on UK sales and recovery of VAT on UK costs
- Quarterly UK VAT returns
- Intrastats but no EC Sales lists for UK VAT registered businesses.



Selling goods 3 - Other points to consider

- Review supply chains and contract terms
- Do you need to appoint a fiscal representative ?
- Speak to freight forwarding agent
- Review ability of IT and accounting systems to deal with UK VAT
- Quantify customs duty costs
- Quantify total extra costs in the process of selling to UK customers including compliance
- Extra costs associated with certain goods i.e. strict controls for the import of excise goods



Selling services 1

- Services make up 80% of the UK economy, and the EU accounts for 40% of the services the UK exports
- US is the UK's largest trading partner, with Ireland second, followed by Germany.

BUT

- We have had very little debate about the supply of services post Brexit



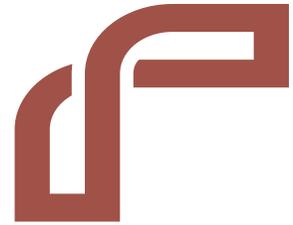
Selling services 2 - Regulated or non regulated

- Regulated service providers
 - Passporting rights are key - need a local “footprint” to do business.
 - Will UK extend passporting rights to EU businesses beyond December 2020 ?
 - Action should already have been taken.
- Non regulated service providers
 - In the period immediately following Brexit we will see few changes to UK VAT rules, so should be few issues for EU suppliers.



Selling services 3 - What Dutch businesses need to consider

- The general “place of supply” rules will remain unchanged.
- No Dutch VAT charged and UK customer accounts for VAT under reverse charge
- Exceptions to the general rule may require UK VAT registration and “simplification” rules may no longer apply. For example supply and install contracts
- Mini One Stop Shop (MOSS) - MOSS system will no longer be available, so a UK VAT registration may be necessary.
- Businesses will no longer be able to use the EU VAT Refund Scheme



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Update on Brexit from the European perspective

Indirect Taxes

Nathasja Elsbeek

- The United Kingdom becomes a "third country"
- After Brexit, the United Kingdom can design its national VAT law however it wishes.
The Common VAT System Directive and other EU directives will no longer apply.
- So we know what the VAT consequences of Brexit will be from an EU perspective...
- ...the only question is when they will occur!



Impact of BREXIT on VAT from a Dutch perspective

	before Brexit	after Brexit	Comments
Delivery of goods	<ul style="list-style-type: none"> > 0% intra-Community delivery > Dutch VAT Return question 3B + EC-Sales-List 	<ul style="list-style-type: none"> > 0% export delivery > Dutch VAT return question 3A 	<ul style="list-style-type: none"> > Deliveries of goods that begin before Brexit are deemed to be intra-Community deliveries (as of today; Article 51(1) of the Withdrawal Agreement)
Documentary evidence	<ul style="list-style-type: none"> > Proof of shipment > Valid VAT-number 	<ul style="list-style-type: none"> > Proof of shipment 	<ul style="list-style-type: none"> > VAT ID No. as proof of business status no longer applicable > Adaptation of internal processes
Intra-Community transfer	<ul style="list-style-type: none"> > Businesses make intra-Community supplies to themselves 	<ul style="list-style-type: none"> > Export deliveries to oneself > Temporary export, if applicable 	<ul style="list-style-type: none"> > Simplification rules e.g. for the use of assets on construction sites no longer apply > Possible registration requirement in the UK
Mail order business (Afstandsverkopen)	<ul style="list-style-type: none"> > For deliveries to private persons place of delivery = End of goods movement > Individual delivery thresholds until 1 July 2021/uniform delivery threshold from 1 July 2021 	<ul style="list-style-type: none"> > Regulation no longer applicable > Deliveries to private individuals are considered export deliveries > Accounting evidence and documentary evidence 	<ul style="list-style-type: none"> > Possible registration requirement in the UK > Proof of export! > Import into the UK by the customer?

Impact of BREXIT on VAT from a Dutch perspective

	before Brexit	after Brexit	Comments
Consignment stock	<ul style="list-style-type: none"> > Only records are required at the beginning of transport > Intra-Community supply by the seller/intra-Community acquisition by the buyer at the time of UK withdrawal 	<ul style="list-style-type: none"> > German co. with consignment warehouse in UK: depends on the VAT law structure in UK > UK co. with consignment warehouse in Germany: depends on the identification of the buyer at the beginning of the transport/clearance for free circulation 	<ul style="list-style-type: none"> > Possible registration requirement in UK > Transitional regime unclear, possible registration requirement in NL
Chain transactions	<ul style="list-style-type: none"> > Harmonisation within the EU, implemented in NL on 1 January 2020 using Quick Fixes 	<ul style="list-style-type: none"> > No standardisation of the rules for chain transactions 	<ul style="list-style-type: none"> > Individual assessment required
Intra-Community triangular transactions	<ul style="list-style-type: none"> > Simplification rule (tax liability for the intermediary and registration obligation can be avoided) 	<ul style="list-style-type: none"> > Simplification rule no longer applicable 	<ul style="list-style-type: none"> > Possible registration requirement in UK > Must be evaluated on a case-by-case basis
Purchase of goods from UK	<ul style="list-style-type: none"> > Intra-Community acquisition > Dutch VAT return question 4B 	<ul style="list-style-type: none"> > Import, with import tax if applicable > Dutch VAT return question 4A if there is an article 23 license 	<ul style="list-style-type: none"> > Possible cash flow disadvantages due to later deduction of VAT from import tax but can be avoided by applying for an article 23-license
Import of small shipments	<ul style="list-style-type: none"> > No difference to "normal" purchasing of goods > Intra-Community acquisition 	<ul style="list-style-type: none"> > No import VAT is payable on the import of postal items up to a value of EUR 22 (only valid until 1 July 2021, repealed as part of the implementation of the VAT digital package) 	

Impact of BREXIT on VAT from a Dutch perspective

	before Brexit	after Brexit	Comments
Further declaration obligations	<ul style="list-style-type: none"> > INTRASTAT reporting > EC-Sales-Lists 	<ul style="list-style-type: none"> > Customs declaration, if applicable > Possibly free trade agreements, in a no-deal scenario general customs provisions (WTO) apply 	<ul style="list-style-type: none"> > Cf. explanations on deliveries of goods > Exchange of information between authorities for transactions before 2021 until 31 Dec 2024, no access to data for sales from 2021
Other services to businesses (basic rule)	<ul style="list-style-type: none"> > Recipient location principle > Reverse charge procedure (no registration requirement in the receiving country) > Valid VAT ID number as proof of entrepreneurial status > Dutch VAT return question 3b + EC-saleslist 	<ul style="list-style-type: none"> > Place of service under Dutch law in the UK, therefore dependent on the structure of VAT law in the UK (Recipient location principle likely) > UK VAT ID numbers lose their validity for the EU > No reference in Dutch VAT return 	<ul style="list-style-type: none"> > Reverse charge still applicable (as of today; see comments by John Voyez) > Possible registration requirement in the UK > Please note: there may be derogations leading to compulsory registration; simplification rules may no longer be applicable > Alternative proof of entrepreneurial status
Other services to non-businesses	<ul style="list-style-type: none"> > Place of service at the registered office of the service provider 	<ul style="list-style-type: none"> > Depends on the structure of VAT law in the UK 	<ul style="list-style-type: none"> > Possible registration requirement in UK

before Brexit

after Brexit

Comments

Electronic services

- › Place of service: Residence of recipient
- › Notify services to non-businesses in the UK using the MOSS procedure

- › MOSS procedure no longer available in UK (tax administration has no access to information on sales after 31 December 2020; various deadlines for sales before that date (until 2024))
- › UK co. to Dutch private individual: possibility to participate in the VAT on E-Services procedure

Initial declaration

Sales until Q4 2020:

- › Transmission via MOSS procedure possible until 31 January 2021
- › Payment by 27 January 2021 (receipt by the Federal Treasury)

Sales from 2021:

- › Alternative procedure in UK? UK law applicable
- › Possible registration requirement in UK

Corrections

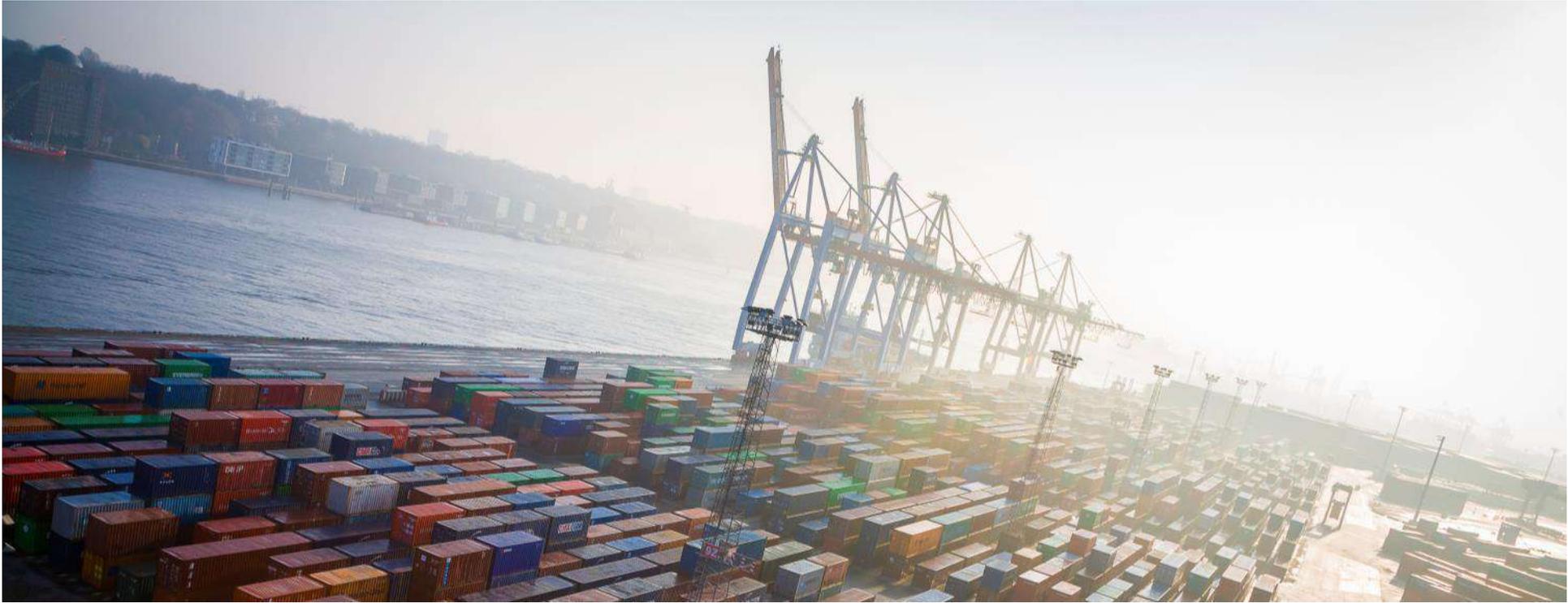
- › UK sales reported via MOSS procedure until 20 January 2021 can be corrected until 31 December 2021. Payment by 27 December 2021 (receipt by the Federal Treasury)
- › Adjustment for sales outside the UK via MOSS procedure: UK sales still to be declared as originally reported

Impact of BREXIT on VAT from a Dutch perspective

	before Brexit	after Brexit	Comments
Purchase of Services (basic rule)	<ul style="list-style-type: none"> › Place of service is the recipient's place of business › Reverse charge procedure in the Netherlands › Dutch VAT Return question 4B 	<ul style="list-style-type: none"> › Place of supply is the recipient's place of business › Reverse charge procedure the Netherlands › Dutch VAT Return question 4A 	
Input tax refund procedure	<ul style="list-style-type: none"> › Application for input tax refund via Belastingdienst › Application deadline: 9 months 	<ul style="list-style-type: none"> › Application deadline for 2020: 31 March 2021 (Article 51(3) of the Withdrawal Agreement) 	<ul style="list-style-type: none"> › Procedure unchanged until 31 March 2021, still up in the air thereafter (as of today)

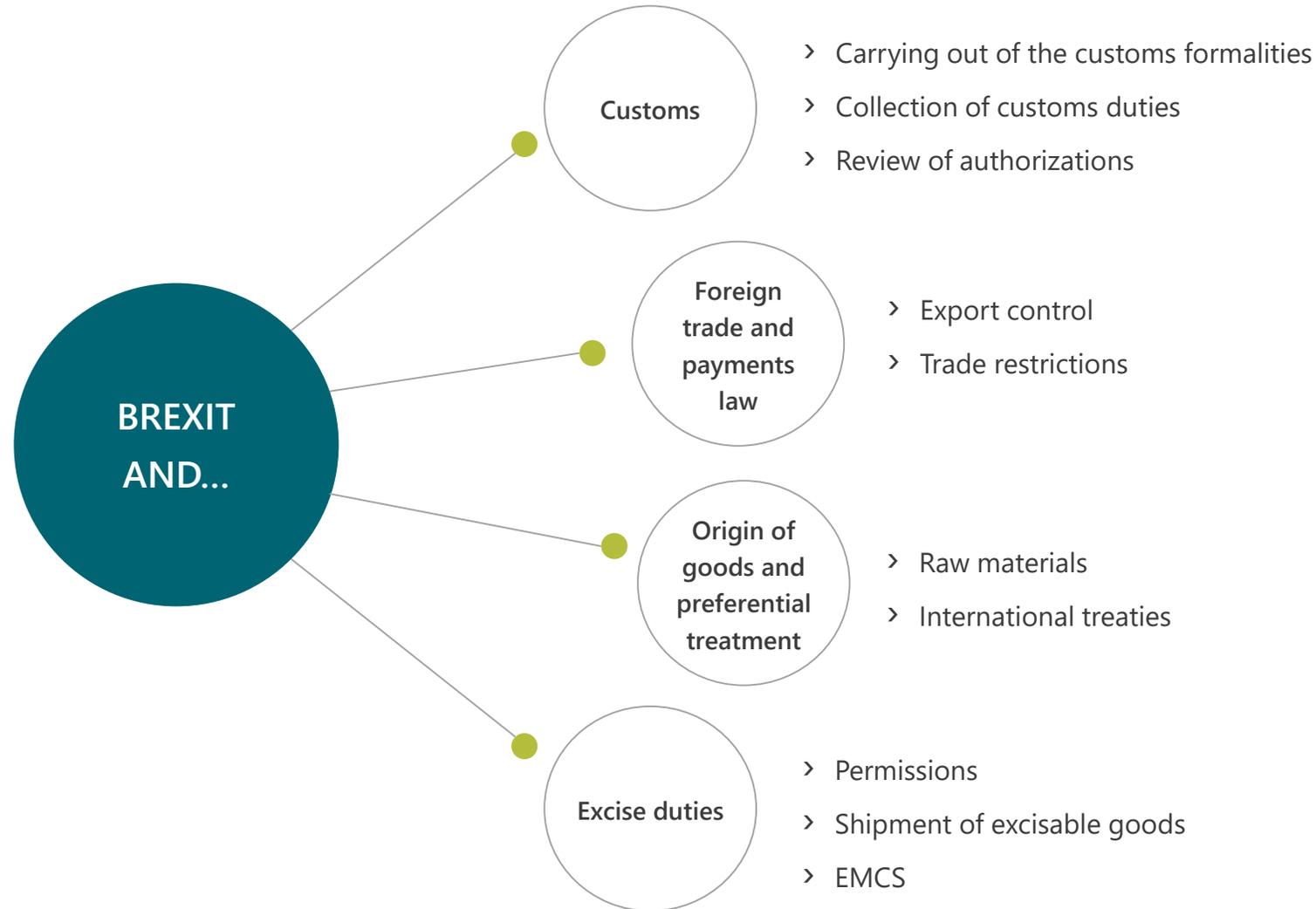
‘To-Do-List’:

- Apply for your article 23-license as soon as possible.
- Check the incoterms you have with your UK suppliers or customers (who has to pay the import duties).
- Check what the influence will be of import duties for your purchase prices in case of a hard Brexit!



Brexit - Customs issues from a EU perspective

Brexit - Customs issues from a EU perspective



Carrying out of the customs formalities

Upcomming Challenges

- › Economic operators who previously traded exclusively within the EU have to meet requirements to continue trading with the UK
- › Registration with customs authorities are required - apply for an EORI number (Economic Operators Registration and Identification number)

To Do

- › It is important to check whether your company - from a customs point of view - is formally, personally and, if necessary, technically (in the form of a customs software) equipped for the Brexit



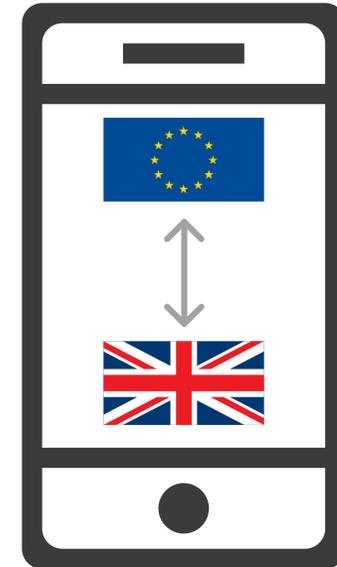
Carrying out of the customs formalities

Transports and procedures

- › Transport of goods beginning before 1 January 2021, are subject to the previous regulations of the European Union law
- › Non-Union goods which are still in temporary storage or within a particular given customs procedure in the customs territory of the UK until 1 January 2021 may remain under that procedure until its end

To Do

- › Monitoring of transports and procedures regarding to the „Deadline“ on 31 December 2020



Collection of customs duties

Increased costs due to customs duties

UK as a third country

- › Duties on imports to UK
- › Imports from UK are subject to import duties
- › Price adjustments required in sales and procurement area
- › UK tariff mostly identical to the EU tariff
- › Delays in transport

To Do

- › Companies should check which third country duty rates will apply to their goods in the future
- › Contracts should be checked and adjusted if necessary



Collection of customs duties

UK Global Tariff (UKGT)

With the "UK Global Tariff", the UK introduces its own customs duties, which become valid on 1 January 2021

- › Exemptions or facilitations are provided for certain goods:
 - among others for goods originating from GSP countries*
 - for goods from countries with which a trade agreement already exists from a UK perspective
 - customs facilities for goods to counter the effects of COVID-19

*Participants of the Generalized System of Preferences

Collection of customs duties

UK Global Tariff (UKGT) – Online Tool

Comparison of currently valid customs duties with customs duties arising in the future

- › <https://www.check-future-uk-trade-tariffs.service.gov.uk/tariff>

- › Deviations within the customs duty rates are listed in the online tool in the "Change" column:
 - › „Liberalised“ → Customs duty reduced to 0%
(All EU customs duties between 0 and 1.9 % were reduced to 0 %)
 - › „Simplified“ → Customs duty rate is rounded down
 - › „Reduced“ → Customs duty rate reduced more than the simplification measure
 - › „Currency conversion“ → specific weight tariffs adjusted (from Euro to British Pound)

Review of authorizations

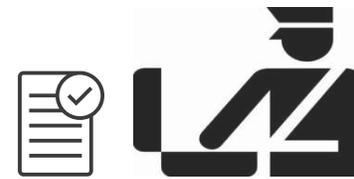
Customs authorizations

- › Adjustment of existing authorizations (e.g. extension of the country district, processing and storage locations in the UK)

- › Apply for new authorizations, e.g. authorization to operate a temporary storage facility for the import of goods

To Do

- › Review/application for customs authorizations, licenses, proofs or certificates



Export control and trade restrictions

Export control

- › Export deliveries to the UK are no longer subject to the EU-harmonized export controls and embargo law after the UK left the EU
- › Exports to the UK are no longer considered as transport and may be subject to authorization in the future

To Do

- › Companies must check their products to see if they are subject to authorization



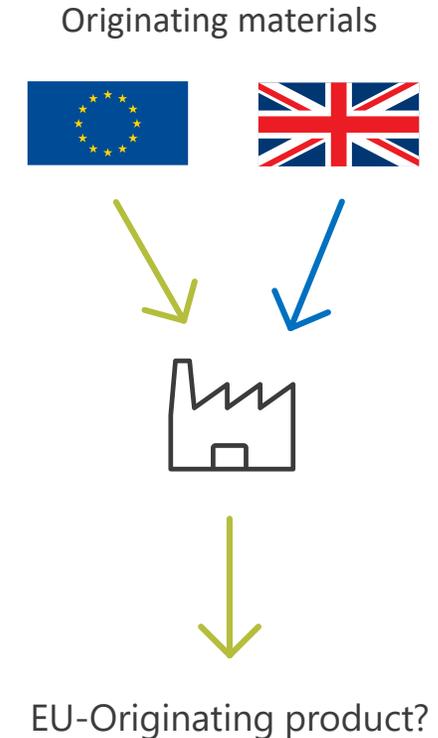
Raw-materials and international treaties

Origin of goods and preferences

- › Uncertain effects for international agreements
- › So far no free trade agreement – aiming for a „Bare Bones Deal“ as an interim solution
- › Loss of EU–Originating status due to British originating materials
- › No request of preferential treatment
- › Long-term supplier’s declaration remain valid until 31 December 2020

To Do

- › From 1 January 2021, companies will have to prove again the originating status of their traded goods in order to benefit from preferential treatment under a future agreement
- › Contracts that may guarantee a certain preferential origin of goods may be affected



Effects of excise duties

Excise duties

- › Excise duty permissions become invalid
- › Dispatch of excise goods becomes a customs import resp. export
- › EMCS procedures which are not yet completed at the date of departure = tax debt generated irregularity

To Do

- › EMCS transport operations cannot be terminated by the UK consignee after the leaving date. This must be taken into account with regard to deliveries around 31 December 2020



Consequences of the Brexit from a customs perspective

Weblinks

- › **EU:** Getting ready for changes
 - <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0324&from=DE>
- › **UK:** The UK's new start – The Boarder with the European Union
 - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/908534/Border_Operating_Model.pdf
- › **UK:** The UK Global Tariff (UKGT) – Online Tool
 - <https://www.check-future-uk-trade-tariffs.service.gov.uk/tariff>
- › **UK:** Anwendungserklärung – UKGT tariffs from 1 January 2021
 - <https://www.gov.uk/guidance/uk-tariffs-from-1-january-2021>



Thank you very much for your attention.

EU rules will not apply anymore after 1 January 2021:

- Social security regulation EU → replaced by an agreement?
 - Impact: double social security or no social security
- Merger directive, parent-subsiidiary directive, interest/royalty directive
 - Impact:
 - No (tax) neutral mergers possible?
 - Dividend/interest/royalty payments no longer tax exempted in the corporate structure
- Exit taxes upon moving from and to UK as an individual
- Status “kwalificerende buitenlandse belastingplichtige” no longer applicable → no personal deductions

Q&A



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