



The relationship between the European Union and the United Kingdom at the end of the transition period

Massimo Fabio

KPMG in Italy, Tax & Legal



Exportation/importation: new formalities according to UK guidelines and EU legislation

Starting from 1st January 2021, each dispatch of goods will, regardless of whether or not there is an agreement between the parties, constitute an **exportation/importation**.

Although customs controls and formalities will be introduced in 3 stages in the UK, it will **ALWAYS** be necessary:

- To apply for an **EORI code**
- Submit an **import/export customs declaration (SAD)**
- Comply with the necessary **sanitary, phytosanitary and safety certificates**
- Fulfill **customs, VAT and excise formalities**, although there are options to defer payments up to 6 months



According to the new logistical demands, it will be necessary to plan an efficient and modern customs model

The EU Commission and the HMRC have published specific guidelines in order to prepare businesses for the event.



A new delivery model to the UK will need to be implemented so that business relations with UK partners are preserved.

Check if you're ready for 2021 customs and VAT formalities



CUSTOMS AGENTS

Economic operators will have to consider whether to use a customs agent for the submission of customs declarations in the electronic system set up by HMRC. The presentation is made through the '*Customs Handling of Import and Export Freight*' ('**CHIEF**') by the person (declarant or his representative) in possession of a CHIEF badge.

EORI CODE

Economic operators must get an **EORI code**, which is necessary for the registration and identification of the economic operators with the customs Authorities.

An appropriate application must be submitted to the British Authority to receive an EORI number and the estimated waiting time is about 1 week.

In case goods are shipped from Great Britain to third countries, it is necessary to request the EORI code with the initial letters '**GB**'.

IMPORT VAT

VAT will be levied on imports of goods from the EU, following the same rates and structures as are applied to RoW imports (Rest of the World-RoW).

VAT registered importers will be able to use postponed VAT accounting. Therefore, they will need to estimate the import VAT due from the records of imported goods that are required to keep. When they submit their delayed declaration, they must adjust this estimate to precisely account the due import VAT.

Customs special procedures that enable to suspend, pay less or no duty on goods you import or export

'DUAL USE' ITEMS

Starting from 1st January 2021, strategic exports from the UK will require an export licence issued through the SPIRE system held by the British Department of International Trade (DIT).

Following 1st January 2021, exportation of dual-use products from the EU to the UK will be subject to an export authorisation issued by the national competent authority of the Member State where the exporter is established.

'EXITING THE EU' PROVISIONS

You will have to comply with the provisions adopted by the UK Government on the basis of the 'Taxation (Cross-border Trade) Act 2018' (TCTA) to replace the EU rules on customs law and VAT.

Goods may be placed under one of the following categories of special procedures: customs warehousing, inward and outward processing, temporary importation, end use.

In this regard, you should comply with mandatory formalities, obtain the necessary authorisations and licences for the specific commercial activity and, if necessary, contact the local customs authorities.

OUTWARD PROCESSING

Allows Union goods to be temporarily exported out of the customs territory of the EU for processing and reimported with total/partial exemption from import duties.

Goods placed under the outward processing procedure before the end of the transitional period and reintroduced into the EU after the end of that transitional period will continue to be subject to the discipline established by the UCC.



ATA CARNET

Starting from January 2021, ATA Carnets will become one of the options available to both businesses and individuals when temporarily moving goods between the UK and EU countries.

ATA Carnets can be use for things like: goods for trade exhibitions or 'sales meetings'; publicity materials, recorded film and audio, equipment needed for work like laptops, cameras or sound equipment, goods for educational, scientific or cultural purposes, sports goods.

Deferred payments and customs comprehensive guarantee

CUSTOMS DUTIES

For 'non-controlled' goods, economic operators will be allowed to submit **'delayed declarations'** within 6 months of importation, postponing the payment of duties upon submission of the delayed declaration.

If you wish to defer the duty payment, you will need to apply for a **'Duty Deferment Account'** (DDA).

IMPORT VAT

Economic operators may have the possibility to defer VAT on importation, for a maximum period of about 30 days, using a **'Deferment Account'**.

The authorities will carry out very strict controls on customs declarations in order to also guarantee the correct implementation of VAT provisions.

SPECIAL REGIMES

Economic operators can use **'Customs Special Procedures'** to suspend, reduce or claim relief on the payment of customs duties and VAT under specified conditions.

In addition, if certain conditions are met, these special procedures will not require to provide an economic guarantee.

EXCISE

To defer the payment of excise duty on importation, traders will need to apply for a **Deferment Account Number (DAN)**.

HMRC are introducing new rules that will allow most businesses to use duty deferment without needing to obtain a **'Customs Comprehensive Guarantee'** (CCG).

This easement will not apply to businesses that have a history of non-compliance or are insolvent.

New provisions are expected to be implemented by the HMRC.

The UK special regimes applicable to EU goods: customs warehousing



The main purpose of the customs warehousing regime is to allow EU goods to be stored in the UK without being subject to import duties and other charges.

- Customs warehouses may be facilities available to any person for the storage of goods (**‘public customs warehouse’**) or facilities available only for one economic operator who want to store their own goods (**‘private customs warehouse’**). The warehouse authorisation holder and the depositor will be the same person.
- Goods can be removed from the warehouse on a temporary basis. You must keep records and obtain permission from HMRC before you remove the goods. The goods will remain under the customs warehouse arrangements while they are not in the warehouse.
- A particular authorisation procedure must be followed for the granting of the **authorisation in Northern Ireland.**

Transaction value: licence fees and royalties

According to "*The Customs (Import Duty) (EU Exit) Regulations 2018*", as amended, royalties and licence fees must be included in the customs value of the imported goods into the UK customs territory only when two concurrent conditions are met:

- (a) they have not been included in the price actually paid or payable, and
- (b) the purchaser is obliged to pay them as a "*condition of sale*" of the goods.

Royalties and license fees must be included when:

- the goods cannot be sold to or purchased by the buyer without the payment of royalties or licence fees.
- the products are commercialized in the UK using the trademark, affixed before or after customs clearance, for which royalties or license fees are paid.

Further provisions will be soon issued by the British Tax Authority (HMRC).



Retrospective price adjustments

HM Revenue and Customs (HMRC) provide the guidance “*Notice 252: valuation of imported goods for customs purposes, VAT and trade statistics*” in respect of retrospective price adjustments. Transfer prices are the prices at which a multi-national enterprise (MNE) transfers physical goods and intangible property or provides services to related (associated or connected) enterprises.

Essentially, the UK authorities recognise the possibility of retrospective price adjustments where, at the time of entry, there are **contractual arrangements in place between the parties at the date of importation**. The importer, having indicated the circumstance that price may be revised or re-negotiated after the entry of the goods to free circulation, may qualify the declared value as ‘*provisional*’, while waiting for the final value for customs duty. This might also lead to the possibility - in case of price decrease - of obtaining a refund.



Alternatively, a **tax cooperation arrangement** can be established with the UK tax authority.

This process allows companies to constantly review their transfer pricing policies in order to adjust the customs duty payable, upwards or downwards, as appropriate. Where there has been a retrospective price decrease, accompanied by appropriate evidence, a claim for a refund of duty may be submitted.

AEO status: direct and indirect benefits

The competent UK and EU Authorities strongly recommend to apply for the status of Authorized Economic Operator (AEO) to achieve administrative facilitations as well as direct and indirect benefits in the business activities, among others:

- Easy access to customs simplifications, cost saving;
- Fewer physical and document-based controls;
- Prior notification in case of selection for physical and customs control;
- Priority in customs clearance of goods;
- Recognition as a reliable business partner, also by international partners and authorities;
- Fewer delayed shipments;
- Improved customer service and loyalty;
- Lower inspection costs of suppliers and increased co-operation.



From 1st January 2021, the AEO status achieved in the UK is no longer valid unless there is a specific mutual recognition agreement.

This situation is also applicable to AEO status granted in Italy (or in another EU country) but operates also in the United Kingdom.



Thank you

Massimo Fabio

Partner, International Trade & Customs

Studio Associato - Consulenza legale e tributaria, KPMG

E: mfabio@kpmg.it

T: +39 06 809631

T: +39 348 2702922

F: +39 06 8077459

Via Adelaide Ristori, 38

00197 ROMA

LinkedIn: [Massimo Fabio](#)



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