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A recognised social partner, we speak for all-sized enterprises in 34 European countries whose national business federations are our direct members.



For further information:

Luisa Santos, Chair of the Brexit Task Force

Maurice Fermont, Adviser Brexit & Trade issues

Brexit Task Force

Tel : +32 (0)2 237 65 04

E-mail m.fermont@businessseurope.eu

BUSINESSEUROPE

Av. de Cortenbergh 168 – 1000 Brussels

www.businessseurope.eu

FOREWORD

Depending on the type of future EU-UK relationship, Brexit could lead to significant costs for businesses. Both the EU and the UK must therefore move forward to deliver the best possible outcome and pursue the closest possible relationship for the benefit of its companies and citizens, all while safeguarding the integrity of the European Single Market.

BusinessEurope actively contributes to this process by sharing our perspective on how Brexit could affect the performance and competitiveness of businesses across Europe and what can be done to mitigate this impact. Our publication on Brexit's customs implications is another important step in this regard. Customs is one of the policy areas that could have a significant impact on how businesses operate between the EU27 and the UK. The Single Market has enabled businesses to set up complex supply chains that benefit the economies and citizens of the EU as a whole, and it is important that policy-makers focus on how best to preserve these supply chains and other elements of competitiveness.

In this paper we highlight numerous customs related concerns and offer our views on how these are best addressed. We now call on negotiators on both sides to take them into account and deliver the outcomes that businesses urgently need.



Emma Marcegaglia
President

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Markus J. Beyrer
Director General

A handwritten signature in blue ink, appearing to read 'M. Beyrer'.

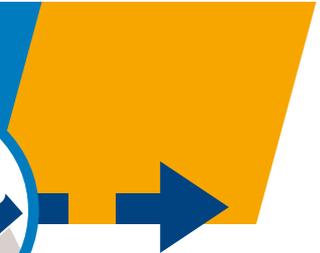




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EXECUTIVE SUMMARY



Trade between the United Kingdom and the rest of the European Union will no longer be what it was for decades. Companies will face considerably higher trade costs in the future as a result of the pending Brexit. With the United Kingdom's departure from the European Union and without clarity on the model of the future relationship, the free movement of goods might no longer apply to trade between the Union and the UK. As a result, traditional border formalities might be reintroduced. Depending on the type of future relationship between the EU and the UK, the supply of goods between the Union and the UK might no longer be regarded as intra-community transactions, but qualify as export and import and have to comply with customs formalities. Trade between the UK and third countries which will no longer be based on agreements between the European Union and the respective countries will change too, and will affect paneuropean and global value chains. Companies benefit from the wider integration of European third countries with the EU. Brexit thus affects not only the EU, but could have ripple effects on a more widely integrated continent. Future trade will lead to export and import declarations, as well as transit documents. These additional customs compliance costs will increase the costs of goods sold significantly and will slow down the process of trading between the UK and the EU. Rather than cutting through value chains,

decision-makers should be cautious to preserve and strengthen the European continent as one of the world's important industrial clusters, as other regions across the world continue strengthening theirs.

This paper is meant to inform policy-makers and businesses alike of the possible customs-related impact that Brexit might have, in order to provide the policy response necessary to offset or reduce the problems identified in this paper. In the absence of any clarity on the type of future EU-UK relationship, the working assumption in this paper, unless stated otherwise, is of the UK as a third country outside the EU.

Until the type of future model has been determined and ratified, business lacks the clarity necessary to prepare adequately for Brexit, and the possibility of a "cliff-edge" scenario whereby the United Kingdom leaves the European Union and ends the transition phase without an agreement on the future relationship remains a high risk.



Purpose and aim

The aim of this paper is to scope the various customs issues that Brexit will create for businesses when the UK becomes a third country, irrespective of the model for the future relationship. The depth of the future relationship between the EU and the UK will determine the impact that Brexit will eventually have on businesses across Europe. As a result, this is not a quantitative analysis, but a qualitative analysis showcasing and explaining different customs related concerns, and the technical solutions that best address them. While efforts were made to include as many items as possible, this paper does not claim to be an exhaustive overview of all customs related matters.

BusinessEurope calls on policy-makers to find the best model to address the issues that we outline in this paper. In doing so, we call on the EU and the UK to maintain an economic relationship that is as close as possible in order to minimise the economic impact of Brexit. The actual customs implications resulting from Brexit would very much depend on the sort of agreement the UK and the EU reach regarding their future relationship. Although the amount of trade friction will invariably rise compared to the status quo, there are still possible solutions with which to partly mitigate these negative consequences.

Nevertheless, many of the issues identified in this paper would take time to resolve. And while business welcomes the agreement on a transition period, whether it will suffice for companies to bridge the gap between EU membership and the future relationship will depend on the level of ambition that the future relationship will entail. The lower the level of economic integration, the greater the level of customs formalities. A lower level of integration would also require more work and time from governments on both sides to implement the new relationship and it would require more from companies to adjust to it.

Without prejudice to the type of future relationship that the EU and the UK will negotiate, it is clear that every option that represents less than fully fledged membership of the single market and the customs union will create economic barriers between the EU and the UK that could lead to significant costs for businesses.

Some of the main findings of this paper are as follows:

- **Businesses require a seamless transition to a future relationship.** The transition period must provide an adequate bridge to the future relationship in order to avoid a cliff edge scenario. In the event that the transition period would end before an agreement on the future relationship is in place, trade between the EU and the UK would fall back on WTO terms, and all of the issues outlined in this paper would be of immediate relevance.
- **Businesses require additional simplified customs procedures in order to cope with Brexit.** If the UK would become a third country or negotiate a free trade agreement with the EU, a myriad of customs formalities would be reintroduced for many companies. This is particularly true for those with no recent experience of trading beyond the single market, which includes very large numbers of small and medium-sized enterprises that are less able to adapt to any changes. Although the EU's Union Customs Code (UCC) provides legislative possibilities to implement simplifications, many of these are not implemented yet. The UK would likewise require its own customs simplifications.
- **The customs impact of Brexit will depend on the type of future relationship.** It is clear that leaving the EU will lead to less integration and higher trade costs, though the level of continued integration between the EU and UK markets will determine the impact that Brexit will eventually have on businesses across Europe.
- **Both tariff and non-tariff barriers would create a significant cost for business and lead to market access barriers.** Any form of future relationship that is less than a comprehensive free-trade agreement would lead to tariffs being reintroduced. They should be eliminated under all possible models of the future EU-UK relationship

Customs formalities and other non-tariff barriers, however, would also create costs for business that should be eliminated to the greatest extent possible by opting for the closest economic relationship.

- Besides tariffs, **rules of origin** and **cumulation** could have an important impact on the utilisation rate of a possible free trade agreement. Authorities on both sides should closely involve the business community in defining the rules of origin and cumulation between the EU and the UK. It is important that the rules are formulated with the objective of facilitating trade while simultaneously avoiding trade diversion from third countries.
- **Regulatory alignment** between the EU and the UK is of utmost importance to preserving value chains and avoiding non-tariff barriers to trade. A vast amount of horizontal technical regulations, market access rules, intellectual property, data protection, sector-specific and other rules apply to products. Divergence between the EU and the UK in key areas of regulation would create additional costs and knock-on effects for companies trading between the two markets as well as their supply chains.



Key recommendations for the EU and the UK



- 1 Maintain an economic relationship that is as close as possible while preserving the integrity of the single market.** Any degree of divergence by the UK from the European Union will create additional economic barriers that could lead to significant costs for business operators. Different models result in different rights and obligations, and consequently, varying costs and barriers for businesses.
- 2 Avoid unnecessary regulatory divergence:** regulatory cooperation is paramount to avoiding unnecessary regulatory divergence. Companies require regulatory stability in order to avoid divergences that are costly and cumbersome to manage on a daily basis. No free trade agreement to date has come close to solving the issues of regulatory divergence, and this will be a challenge for both sides to address in the framework of the future relationship.
- 3 Develop simplified customs procedures for all businesses.** In the event that the UK would leave the single market and the Customs Union, businesses, particularly small and medium-sized enterprises (SMEs) as well as those which have never traded outside the EU before, would require simplified customs procedures to ensure they can comply with customs obligations. Possibilities for simplified customs procedures are included in the EU's Union Customs Code for Authorised Economic Operators, but these are not fully implemented and the vast majority of companies trading between the EU and the UK do not hold this status. Particularly for SMEs, it would be very costly and difficult to obtain AEO status. The EU should furthermore speed up the development of a 'Single Window' as a one-stop-shop for companies to lodge all their paperwork, while the UK should develop its own Single Window.
- 4 Improve outreach to businesses.** Both EU and UK authorities should proactively reach out to and collaborate with their business communities to obtain a full understanding of what business needs from them in the preparation for Brexit. It is also important that authorities provide adequate information to businesses that will help them prepare for Brexit, and offer training and resources, particularly to those companies who have never traded beyond the EU and have therefore never encountered any customs formalities.

5 Improve and accelerate preparation for Brexit. Given the challenges outlined in this paper and the needs of the business community, it is paramount that the authorities on both sides are prepared to urgently deal with the changes resulting from Brexit so that businesses do not face any unnecessary bottlenecks at the borders. This includes recruiting and training staff (customs official, veterinarians, and related staff such as those involved in managing sanitary and phytosanitary (SPS) issues), but also preparing and implementing physical and digital infrastructure, and offering as much clarity as possible to businesses on the possible future EU-UK relationship so that businesses have time to adapt.

Specifically, the UK

- ⇒ Should **replicate the Union Customs Code** in order to ensure that the UK's new Customs Declaration Service (CDS) will function accordingly and that traders will not have to face more adjustment costs by having to adapt to different customs legislation.
- ⇒ Should **remain a party to the Common Transit Convention** to prevent border delays. The UK would then suspend the payment of import duties and other charges such as VAT until the vehicle arrives at the final office of destination in the EU or the UK in return for a guarantee.

Specifically, the EU

- ⇒ Should **prioritise the implementation of simplifications** outlined in the Union Customs Code so that businesses will be able to make use of centralised clearance, self-assessment and other simplified customs procedures. These should be process-oriented instead of transaction-based solutions, and based on no more than a principle check of the products, partners and processes of a company. This will help reduce the administrative burden on companies resulting from Brexit. If the UK leaves the Customs Union, companies will face a host of burdensome procedures. Implementing these simplifications will help reduce the customs impact of Brexit on companies.

1. INTRODUCTION



In the event of a cliff-edge scenario where the United Kingdom would leave the European Union without a transition period or end the transition period without an agreement on the future relationship, companies will face enormous disruptions in the form of tariff and non-tariff measures. Trading on WTO terms would lead to significant customs duties in many product areas while a sudden rupture with the Single Market would *inter alia* lead to a standstill in aviation and cross border data flows, and could even grind trade to a halt.

Several options for a future EU-UK relationship exist, each with different rights and obligations. A free trade agreement would represent the least ambitious form of economic integration between the EU and the UK, and even a comprehensive free trade agreement would not be a silver bullet to the problems identified below. Under a free trade agreement, for example, some companies would face duties either because they cannot meet requirements on rules of origin or because they opt to pay the duties instead of proving origin due to the complexity of the process. This makes rules of origin a very important element of any debate on a possible free trade agreement as a lack of understanding of the requirements or prohibitive costs associated with proving compliance can make companies forgo the opportunity to trade under preferential terms and trade on WTO rules. The subject of preference utilisation is a topic of debate in trade circles, and a recent study by the Swedish Board of Trade and UNCTAD shows that on average, 67% of EU exporters and 90% of EU importers make use of the EU's free trade agreements.¹

Companies are not the only entities who will be affected by Brexit. Government authorities in the EU and the UK will have to prepare for it as well. Brexit will clearly demand an increase in staff for customs administrations but also other regulatory agencies (e.g. veterinarian and phyto-sanitarian measures, certification agencies). Furthermore, it is expected that the increase in customs declarations, applications and authorisations will have a serious effect on the IT-systems of companies as well as for customs administrations. Beyond customs, the rules of the EU single market, and in particular the principle of mutual recognition allowing any product lawfully produced in one EU country to be sold in another, by presuming they are sufficiently equivalent, will no longer apply to products from the UK. To cross the EU border, they will have to comply with the whole set of EU Single Market rules, in particular:

- technical regulations such as health and safety;
- environmental regulations;
- rules on market access and level playing field such as competition rules (including the state aid regime), export control, public procurement (and off-set);
- intellectual property rules, personal data protection;
- lower level texts (secondary legislation: delegated, implementing acts, soft law, individual decisions);
- etc.

From this perspective, the non-tariff impact resulting from diverging regulations could cause significant disruptions, additional delays, additional administrative complexity and increased costs.

Many small and medium-sized businesses currently trade only within the European Union. After Brexit, these businesses will be dealing with/from the United Kingdom as a third country. This requires changes to their accounts and records, and a depth of knowledge and experience that they currently lack.

¹ *The Use of the EU's Free Trade Agreements: Exporter and Importer Utilization of Preferential Tariffs*, National Board of Trade Sweden and UNCTAD, 2018



These type of businesses must be made aware of and receive training regarding the upcoming changes so that they can maintain their operations under the changed environment. Governments should make support available to companies to enable them to upskill and understand their compliance obligations. Both the EU and UK should extend special procedures and simplifications to companies of all sizes to offset Brexit's negative impact.

Pan-European supply chains are also critical for the competitiveness of European business. The EU and UK should take this into account with respect to their future relationship and their relations with other European neighbourhood countries.

While the concrete implications of the United Kingdom exiting the European Union will depend on the type of future relationship agreed between the two sides, this paper illustrates areas in which trade between the EU and the UK will be impacted if the UK becomes a third country outside the EU, unless stated otherwise.

The first part of this paper covers all of the import and export formalities that companies and governments might face such as customs declarations, issues relating to staff and infrastructure, rules of origin and cumulation, sanctions and export re-strictions; it explains the additional burden they will face as a result, and advocates a number of solutions (Chapter 2). The second part covers all issues related to the processing of goods, including the increase of authorisations for Authorised Economic Operators (AEO), a vast increase in special procedures and approved exporter authorisations (Chapter 3). The final parts cover issues related to transit (Chapter 4) and regulatory issues (Chapter 5). In addition to identifying the issues companies might face as a result of Brexit, this paper provides potential pathways to their solutions. Some of these solutions depend on the type of model for the future relationship for which European business prefers the closest possible relationship, while other solutions take the form of simplified customs procedures or other policy adjustments.

2. IMPORTS AND EXPORTS - ISSUES, IMPACT AND SOLUTIONS



2.1. CUSTOMS DECLARATIONS



ISSUE AND IMPACT

If the UK leaves the EU Single Market and Customs Union, both parties will treat each other as third countries. A concrete and practical consequence thereof is that businesses in the EU27 will have to face customs procedures when shipping goods to or receiving goods from the UK. Customs declarations constitute the core of these procedures. In basic terms, both EU and British companies will be obliged to issue formal declarations to their respective authorities whenever goods are exported and imported.

The aggregate impact

The impact on businesses of these added administrative requirements is expected to be very significant in terms of time and resources – in both the EU27 and the UK.

The the impact for the UK itself will be substantial. A report by the Institute for Government estimates that 180,000 British companies will need to make customs declarations for the first time after Brexit. The additional administration required to cope with this task is expected to cost UK traders around £4 billion a year². In the Netherlands, for instance, figures show that in 2016 more than 35,000 Dutch companies – many of them small or medium-sized enterprises – made a purchase or sale with the UK without having ever traded with a third country outside the EU's Customs Union. In practice, this means that 30% of the value of Dutch trade with the UK is made by businesses who have never had to deal with customs procedures. Furthermore, the number of annual entry customs declarations is expected to increase by 1.5 million and the number of exit declarations by 5 million once the UK leaves the EU Customs Union³. According to estimates by the Dutch customs office, the number of domestic companies that need to file customs declarations will increase by 40%.

Similarly, drastic increases are expected elsewhere. In Germany, the Association of German Chambers of Commerce and Industry estimates that for German-UK trade alone, an additional 15 million customs documents will be necessary, resulting in an estimated annual cost of 500 million euros⁴. The French customs administration informed its business community that it anticipates 1.2 million to 2 million new import and export declarations, and launched a recruitment process to recruit approximately 700 to 750 new customs officers by 2020, with 250 recruited by 2018. In Ireland for instance, 91,000 companies trade with the UK⁵. Their customs declarations are expected to increase by up to 800% after Brexit. In Finland, the national customs authorities estimate that annual import and export declarations will increase by 230,000 and 36,000, respectively⁶. This additional paperwork alone could cost Finnish companies as much as €115 million annually.

² "Implementing Brexit: Customs", the Institute for Government, September 2017. Available at:

https://www.instituteforgovernment.org.uk/sites/default/files/publications/Ifg_Brexit_customs_WEB_0.pdf, P. 6.

³ "Brexit will have an enormous Customs impact on Dutch businesses", press release by KPMG, Amsterdam, 6 July 2017.

Available at: <https://home.kpmg.com/content/dam/kpmg/xx/pdf/2017/07/tnf-netherlands-july11-2017.pdf>

⁴ "Zollkontrollen nach dem Brexit kosten eine Milliarde Euro" press release by Deutscher Industrie- und Handelskammertag, 4 October 2017. Available at: <https://www.dihk.de/presse/meldungen/2017-10-04-treier-brexit>

⁵ "Brexit and the Consequences for Irish Customs", Office of the Revenue Commissioners, September 2016. Available at:

<https://www.revenue.ie/en/corporate/documents/research/brexit-and-the-consequences-for-irish-customs.pdf>

⁶ "Customs: Brexit could cost Finnish businesses over 100m euros in red tape", OYle Uutiset, 2 October 2017. Available at:

https://yle.fi/uutiset/osasto/news/customs_brexit_could_cost_finnish_businesses_over_100m_euros_in_red_tape/9862229



It should be stressed that the above-mentioned additional costs are caused solely by the estimated increase in administrative burdens related to customs declarations. They do not include potential extra costs related to tariffs or other barriers to trade, like sanitary and phytosanitary issues or non-tariff barriers. As such, even a very comprehensive and ambitious post-Brexit free trade agreement between the EU and the UK will lead to some unavoidable amount of friction, resulting in additional costs compared to the status quo.

Many companies have also set up IT systems that are shared with entities located in the UK. As a result, changes to procedures or formalities will require changes to Enterprise Resource Planning/IT systems, which will lead to significant costs for operators. Any changes in the classification of products, for instance, might require a change in IT systems and generate costs.

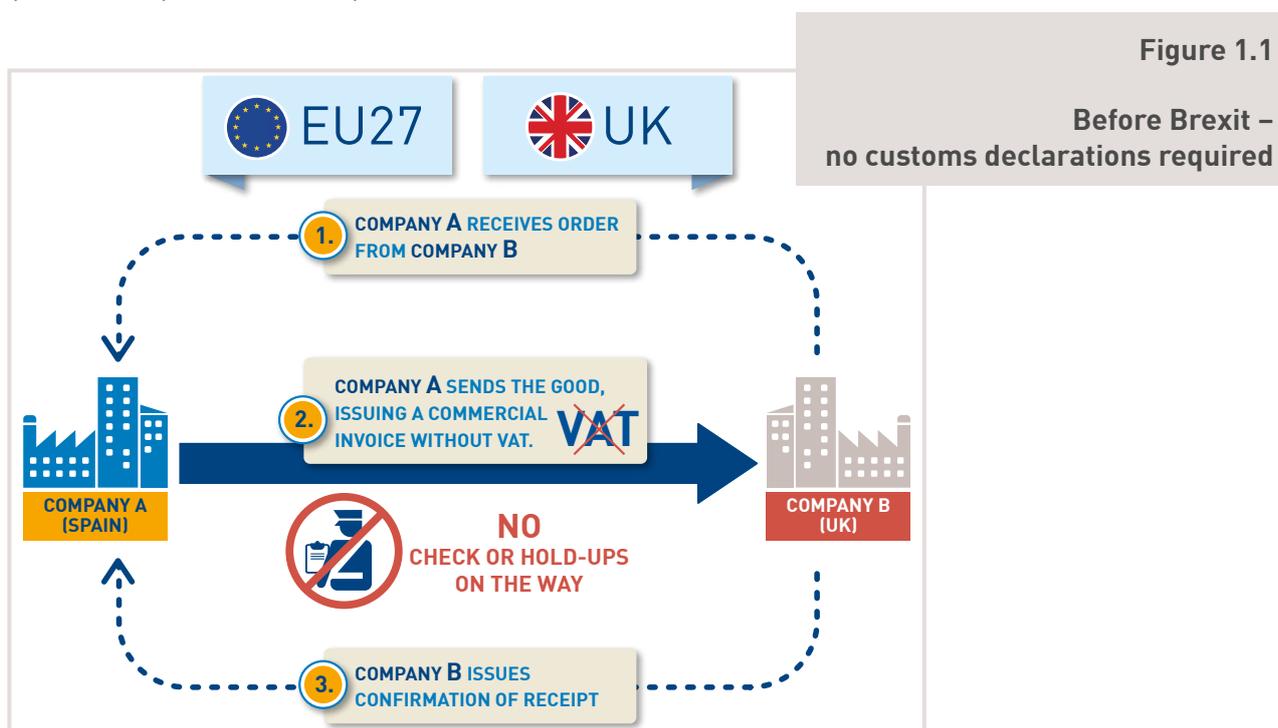
The concrete impact

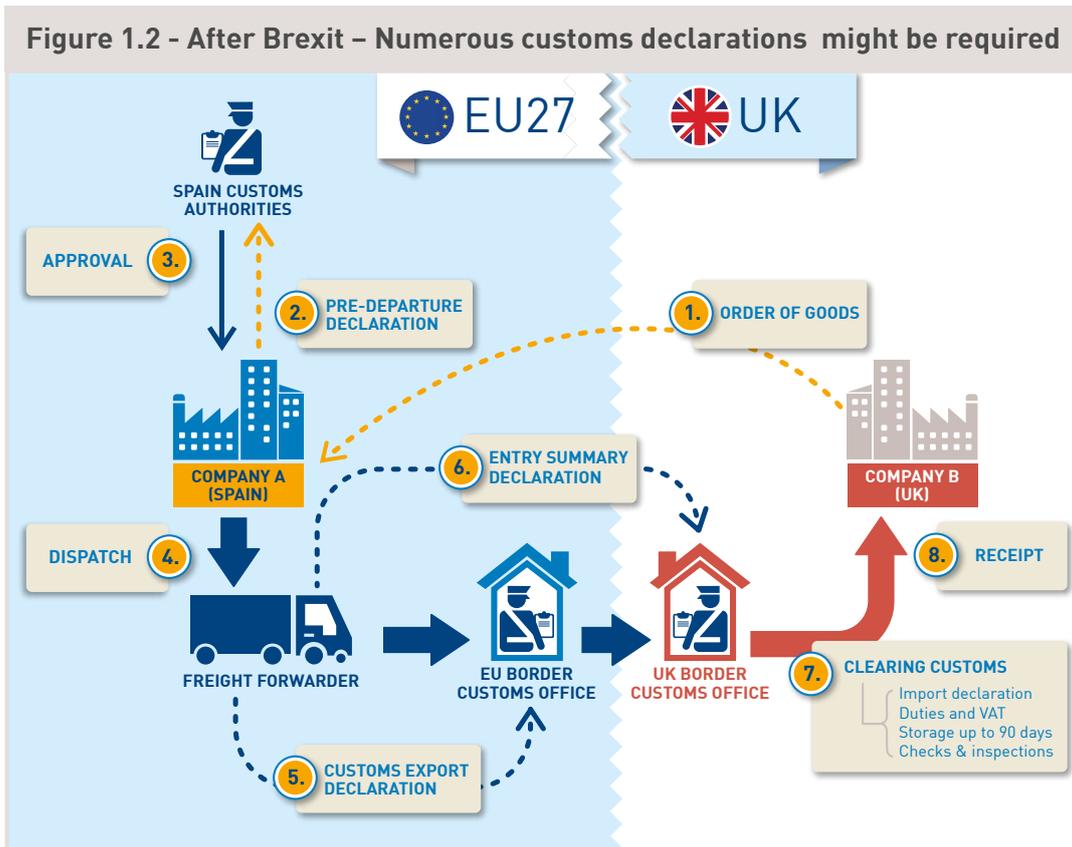
To better understand these aggregate figures of the costs of customs declarations, it is instructive to zoom in on UK-EU27 trade procedures today and compare them to the expected post-Brexit situation.

Since the UK is currently a member of the EU, trade from the UK to the EU27 and vice versa is not technically considered “exports” and “imports”. Instead, the shipment of goods within the EU is known as “intra-community trade”. This frees businesses from a large number of administrative procedures related to both customs and value-added tax (VAT). In practice, the process of purchasing and selling across borders within the EU is therefore very simple.

Figure 1.1 shows a fictional example of a Spanish company shipping a good to a company in the UK under the current rules. First, the British company sends an order for the desired goods to the manufacturer in Spain. The Spanish company prepares the dispatch and issues a commercial invoice without including VAT, which is permitted as long as both EU companies have a valid VAT registration number, saving time and administrative hassle. The product is then shipped from Spain to the UK (possibly by a freight forwarder, courier service or postal operator). There are no border checks or hold-ups on the way. Upon receipt of the good, the UK company issues a confirmation to the Spanish company. The EU’s “Single Euro Payments Area” (SEPA) makes it easy and cost-free to conduct the cross-border payment for the product.

Figure 1.2 illustrates a post-Brexit scenario where the UK and the EU consider each other as third countries. The transaction is no longer considered an intra-community transfer but rather as an export from Spain and an import to the UK.





The interaction again commences with the British company issuing an order for the desired goods to the Spanish manufacturer. Upon preparing the delivery, the Spanish company needs to send a pre-departure declaration to the Spanish customs authorities, declaring the type of product and the quantity thereof as well as the destination. The company then has to wait for an approval and receive an identification number for the shipment from the national customs authorities. This is usually done electronically.

As before, the good is then dispatched along with a commercial invoice, which needs to include more detailed information regarding the shipment, including identification numbers, exact description of the goods, weight and content of the package as well as shipment and possible insurance costs. Documents that prove the origin of the goods may also be required. These accompanying documents are included with the physical consignment.

The delivery of the goods would then usually be handled by a freight forwarder company that deals with the actual transportation as well as subsequent declarations and customs procedures⁷. Before commencing the export, the Spanish exporting company in the example above must issue an export declaration and file this to the customs office responsible for the company. After receiving approval from its customs authority, the company can ship the good while the shipment is registered in the customs export system under a special export registration number. When the good reaches the EU's external border (for instance, at the port of Calais), the export declaration (or the export shipment registration number) is provided to the customs authorities (in the case of Calais, this would be the French customs office). While the goods are being transported, the freight forwarder would also issue an Entry Summary Declaration (ESD) to the port of entry (in the fictional case, this would be sent to the British customs authorities). This declaration allows the customs authorities to conduct a risk assessment prior to the actual arrival of the goods at the British port or point of entry, which assists the choice of the subsequent checks and inspections.

Upon arrival in the UK, the goods would be declared to customs through an import declaration. At this point, the shipment would be subject to customs duties and possible import VAT that need to be paid. Furthermore, depending on the goods and sender in question, as well as the aforementioned

⁷ Special procedures are in place for postal operators that operate within the framework of the Universal Postal Union (UPU), which handle much of the volume from small businesses and consumers.

risk assessment, the shipment is subjected to checks and inspections. The time required would vary based on staff and capacity restraints as well as the type of inspection chosen. In any case, the hold-up of the goods could last up to 90 days.

Once the necessary checks are completed and the required duties are paid, the goods are cleared to leave customs and would then be transported to the location of the British company, which issued the original order. Payment would be conducted by international transfer, which may include additional charges compared to the SEPA framework.

SOLUTIONS

The cases above offer a very clear contrast between the relatively straightforward procedures enjoyed by British and European businesses today, and the risk of much more cumbersome and costly customs procedures that could become a reality after Brexit.

One approach for minimising the burden of increased customs declarations for European and British companies is based on two pillars – self-assessment and simplified procedures. These benefits should at the very least be extended to Authorised Economic Operators (AEO), whose status is obtained on the basis of a detailed analysis of the products, procedures, and partners in order to ensure that imports, exports and customs procedures will be handled in line with customs regulations. Consequently, customs should adopt a process-oriented approach to these procedures as opposed to transaction-based approach. This approach should be applicable for as many companies as possible.

Underpinning this approach, the UK and the EU and third countries should agree on rules for mutual recognition of AEOs. Mutual recognition of AEO companies between the EU and the UK has the potential of speeding up customs clearance procedures in the future trade relations between the two parties. UK companies with AEO status currently account for around 60% of the UK's imports and 74% of the country's exports, according to estimates by British customs authorities. At the same time, the number of AEOs in the rest of the EU is also increasing and their trade volume is substantial.

Many companies however, and especially SMEs, will not have the resources to undergo the AEO certification process. First, in order to obtain AEO status, companies need to have a history of trading outside the EU. Companies that only trade within the single market will not meet this criterion. Second, the cost and time requirement to obtain the AEO status will mean that this is not a realistic option for many SMEs. While the duration differs between member states, the process can easily take longer than six months. This means that most companies will not be able to benefit from simplifications if they are extended only to AEO holders. Indeed, as of December 2017 there were only 623 businesses in the UK with AEO status⁸.

Pre-clearance should also be explored as a possibility to prevent queues and ensure a smooth flow of goods. As many trucks as possible should be pre-cleared before they arrive at their destination. Pre-cleared cargo could exit the port immediately upon arrival through 'fast lanes'. This would minimise infrastructure needs at ports as it would avoid queues if the majority of cargo could be pre-cleared and green routed. This would be contingent upon good cooperation between EU member state authorities and UK customs authorities. The EU and the UK should also ensure that the movement of goods as small parcels, via postal operators and other parcel delivery service providers, continues to operate effectively post-Brexit.

To avoid additional costs due to different product classifications, European companies also call on policy-makers to maintain harmonised customs classifications based on the Integrated Tariff of the European Communities - TARIC code.

Customs declarations themselves should also be made as simple as possible, particularly in terms of the data required from both sides. There should also be an emphasis on paperless procedures.

⁸ "Overseas Trade: Written Question – HL3989", Written Question and Answer by HM Treasury, 21 December 2017. Available at: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2017-12-08/HL3989/>

Another example of where the EU and the UK can minimise the burden of increased customs declarations for European and British companies relates to Low Value Consignment Relief (LVCR). This is the threshold at which low value consignments can enter the EU and UK without taxes and duties payable. It should be maintained for low value consignments indefinitely after Brexit. This simplified customs process will avoid adding hundreds of millions of additional annual declarations into the EU's and the UK's IT systems, with knock-on effects on the wider economy.

The two sub-sections below explain in detail how self-assessment and the simplification of procedures can ease the burden of export and import declarations, respectively.

Fact box 1.1 – Authorised economic operator (AEO)

The AEO concept is based on the customs-to-business partnership introduced by the World Customs Organisation (WCO). Traders who voluntarily meet a wide range of criteria work in close cooperation with customs authorities to assure the common objective of supply chain security and are entitled to enjoy benefits throughout the EU. According to BusinessEurope, however, there is currently an imbalance between the costs and benefits of being an AEO as most of the benefits included in EU legislation are not implemented yet.

The EU established its AEO concept based on the internationally recognised standards, creating a legal basis for it in 2008 through the 'security amendments' to the Community Customs Code (CCC) (Regulation (EC) 648/2005) and its implementing provisions.

The EU has concluded and implemented mutual recognition of AEO programmes with Norway, Switzerland, Japan, Andorra, the US and China. Further negotiations are currently taking place or will be launched in the near future with other important trading partners. In addition, the EU is providing technical assistance to a number of countries to prepare them to set up AEO programmes.

Source: European Commission, [DG TAXUD](#)

Self-assessment and simplification of export declarations

If AEOs in both jurisdictions are mutually recognised as trustworthy operators on both sides of the EU-UK border, there is ample room for simplification of export declarations through self-assessment. This means that a large part of the necessary customs registration and procedures are undertaken by the company itself, with periodic (such as monthly) reporting of summary data replacing the necessity for repeated customs procedures at each and every transaction conducted.

Fact box 2.2 – AEO certification: conditions and criteria

“On the basis of Article 39 of the Union Customs Code (UCC), the AEO status can be granted to any economic operator meeting the following common criteria:

- Compliance with customs legislation and taxation rules and absence of criminal offences related to the economic activity.
- Appropriate record keeping.
- Financial solvency.
- Proven practical standards of competence or professional qualifications.

Source: European Commission, [DG TAXUD](#)

In practice, companies would first need to live up to the given requirements for achieving AEO certification (see Fact box 1.2). Upon being certified as an AEO – which can be a lengthy process – the company would be registered in a database to which only the relevant customs authorities have access. Naturally, all AEOs would be obliged to allow inspection of their customs handling at the request of the customs authorities.

After obtaining the AEO status, the company would have to apply for self-assessment. Customs would have to check the processes, products and partners of the company. If everything is in line with customs regulations and the requirements for self-assessment as described below are fulfilled, the company should be authorised for self-assessment, and obtain a registration number which would be listed in a special database. Figure 1.3 zooms in on the export side of the post-Brexit customs reality and showcases the potential relief self-assessment would provide.

First of all, the procedure for pre-departure declarations could be simplified by allowing companies to refer to their authorisation of self-assessment in a document accompanying the shipment. Thus, holders of an authorisation for self-assessment would not be required to submit individual pre-departure declarations to and await individual approvals from the national customs authorities (as was the case in figure 1.2). Instead, they would merely be required to submit summary pre-departure declarations for fixed periods of time (such as once per month). Even after companies have exported their goods, customs authorities could conduct plausibility checks regarding products that fall under self-assessment. Customs could also conduct spot checks at the company at any time. A further level of simplification would be achieved if the EU and the UK would agree on a global waiver for pre-departure declarations for holders of an authorisation for self-assessment. This way, certified companies in both jurisdictions would be exempted from pre-departure declarations altogether with regard to EU-UK trade.

The same approach could be adopted for the customs export declarations that would otherwise be necessary upon exit of the national jurisdiction (i.e. either the EU or the UK). The company in question could simply refer the customs authorities to its authorisation for self-assessment and the corresponding identification number.

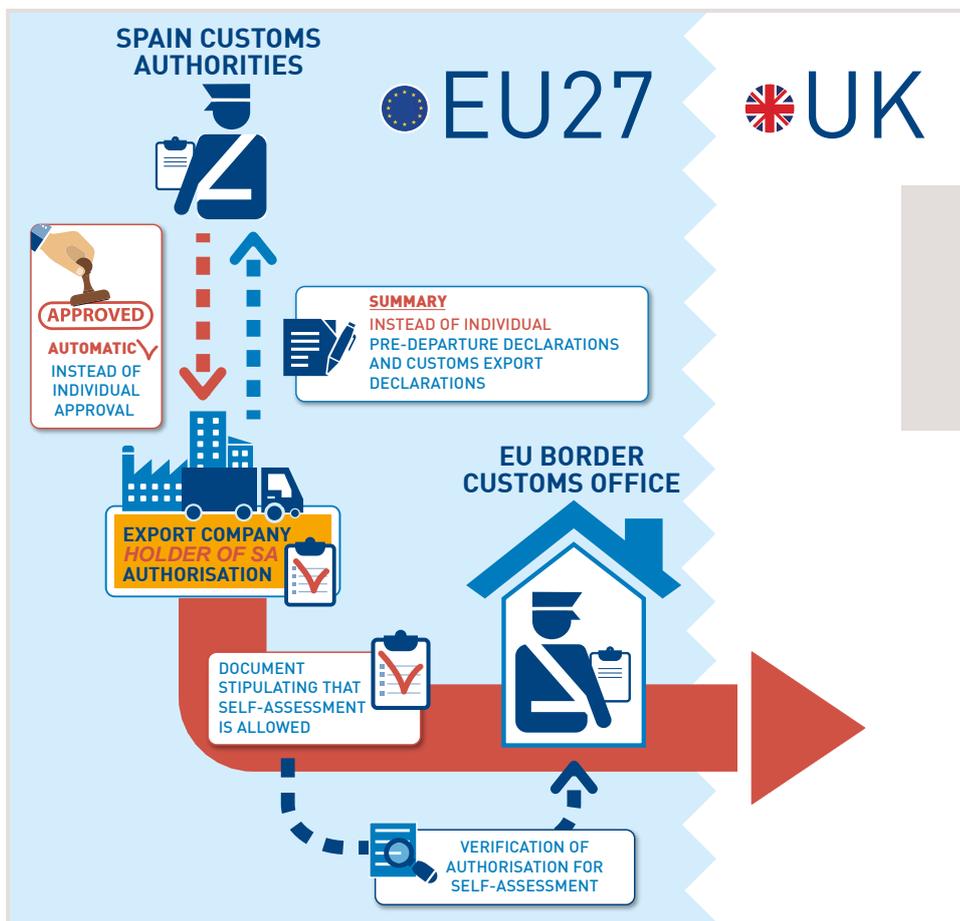


Figure 1.3
Example of simplification through self-assessment (exports)

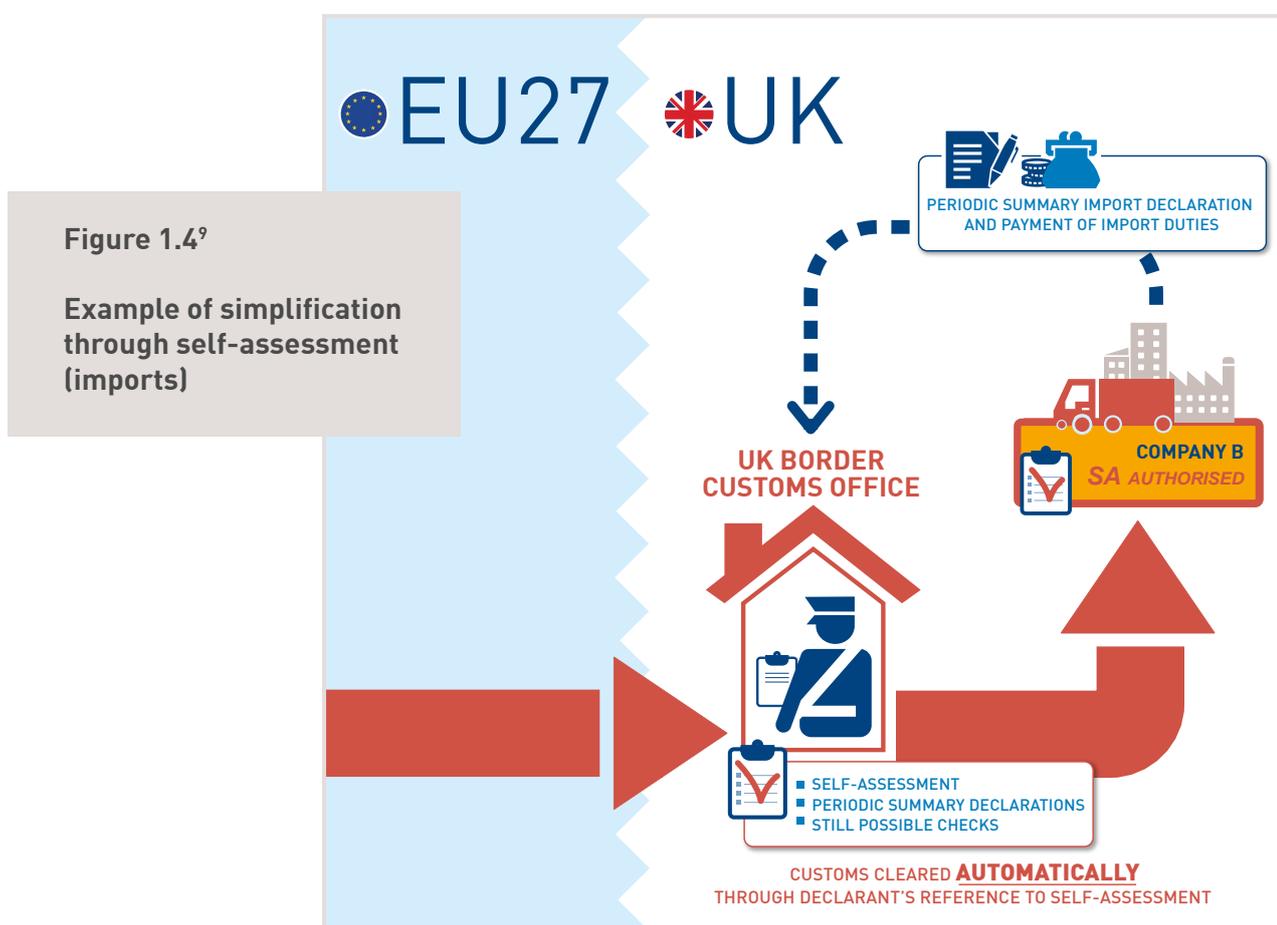
Customs authorities would then let the goods be exported without the need for individual declarations. As above, the simplified procedure could either include an element of summary export declarations at fixed time intervals, or a waiver on export declarations altogether (for an even stronger form of simplification).

Such a setup would inevitably require more administration than the status quo. Companies not yet certified as AEOs would need to live up to those standards and go through the approval procedures for AEO and self-assessment first. However, by trusting companies to self-assess, export declaration procedures would still be much lighter and less time-consuming than in the scenario illustrated in figure 1.2.

Self-assessment and simplification of import declarations

A similar simplification is possible through self-assessment on the import side. In the strongest form of simplification, goods and/or accompanying documents like the delivery note would be labelled with an identification number, the number of the authorisation for self-assessment, upon arrival in the EU (or the UK). Once the shipment reaches the border, the holder of an authorisation for self-assessment would merely need to indicate that it is certified to self-assess the imported good. Once this has been verified by customs, the goods are automatically released at the border. Instead of filing a separate import declaration for each shipment, a company authorised to conduct self-assessment could compile a summary declaration and duty payment periodically. The company should then be able to file customs declarations periodically as a means of simplification. In principle, the method would be the same as for Value Added Tax (VAT). Periodic customs declarations ought to be submitted with data summarised to the greatest extent possible. An example of this would be to have one amount for each customs procedure instead of the amount for each shipment.

Such simplification would reduce the administrative burden on the companies involved. Faster clearance at the border would alleviate the pressure on customs staff and infrastructure. However, depending on the actual agreement between the EU and the UK, there may still be a need for physical checks of imported goods for safety, sanitary or veterinary purposes.



⁹ This example of self-assessment should also apply vice-versa, when importing products from the UK into the EU27.

2.2. CUSTOMS STAFF AND INFRASTRUCTURE



ISSUE AND IMPACT

The UK's exit from the EU's Single Market and Customs Union will lead to increased pressure on customs authorities and related physical infrastructure on both sides of the border, as mentioned briefly above.

According to the UK government, in the case of a no-deal Brexit, the UK will need 5,000 new customs officials with comparable increases in demand for customs authorities of the EU27 Member States¹⁰. Part of the issue is that training customs officials requires a considerable amount of time. The requirements vary by Member States between around 6 months and up to 3 years. In case of France and Germany, two countries with a large volume of trade to and from the UK, the course for a customs official takes two and three years, respectively¹¹.

Physical infrastructure at key points of exit and entry will also be increasingly strained – even if a customs facilitation agreement is negotiated between the UK and the EU. Facilities at ports and airports on both sides of the upcoming border have been streamlined for maximum efficiency over the past decades, shedding both personnel and real estate that used to accommodate inspection, storage and parking facilities.

According to an Institute for Government report, less than 1% of lorries arriving in the UK through Dover or the Channel tunnel require customs checks today¹². Likewise, between Northern Ireland and the Republic of Ireland, there are more than 200 crossing points at the border, which today are entirely free of customs checks. A useful comparison is the handling of customs procedures at the UK border for lorries inbound from Switzerland. Despite the close relations and agreements, Switzerland is outside the Customs Union, and as such checks at the border take between 20 minutes to an hour. The sheer volume of trade between the UK and the EU means that even relatively frictionless procedures will result in congestion and delays that would be detrimental to the growth and competitiveness of European businesses. Many businesses have streamlined their supply chains over the years through “just-in-time manufacturing” (JIT) and also take advantage of the roll-on/roll-off (RORO) approach to transport cargo efficiently. The efficacy of both of these approaches are threatened by increased friction at UK and EU points of exit and entry.

Apart from road infrastructure, railway infrastructure will also face the consequences of Brexit. On a rail network, which is one of the most intensively used in Europe, delays due to greater border controls could have significant follow-on delays on domestic freight and passenger services. Additional rail infrastructure may be required for customs purposes and to manage delayed trains. Construction of additional rail infrastructure requires lead-times of often up to several years due to extensive plan-approval procedures and legal obstacles.

On the EU side, new facilities will also be needed for conducting veterinary and SPS checks of livestock and food products. The current capacity for such operations near the busy points of entry – such as Dover and Calais – will be insufficient in meeting the demand without an agreement between the two parties on the matter.

¹⁰ “UK could need 5,000 more customs officials after Brexit”, BBC, 15 September 2017. Available at: <http://www.bbc.com/news/business-41275324>

¹¹ “Customs teams in EU27 unprepared for hard Brexit”, Financial Times, 29 October 2017. Available at: <https://www.ft.com/content/86815328-ba5b-11e7-8c12-5661783e5589>

¹² “Implementing Brexit: Customs”, Institute for Government, September 2017, page 13.

SOLUTIONS

An obvious, yet expensive, solution to these significant issues is rapid investment in new infrastructure – as well as the training of new customs officers on both sides of the border. Staffing needs of agencies involved with issues such as sanitary and phytosanitary products and food safety should also be reviewed and augmented if necessary. Constructing new facilities will take time, and in some places, there is a physical lack of available real estate for new buildings and infrastructure. To maintain operability and smooth trade flows, customs personnel and back office systems will have to be scaled up to match the increased submission of declarations in member states. This must be in place to ensure a smooth transition to new rules. Recruitment and tendering processes should therefore begin immediately.

One method of decreasing the pressure on infrastructure and personnel is to implement the above-mentioned solutions based on self-assessment and simplification for customs declarations. Such an approach would speed up the process of clearing customs and require less physical space and fewer officials to execute the control procedures.

Another array of possible solutions would be to move the location where checks and control take place. For veterinary and phytosanitary checks, for instance, the agreement on a future EU-UK relationship must:

- demonstrate flexibility on the location of where checks and controls take place to avoid bottlenecks at the physical border and without prejudice to security;
- involve maximum collaboration on sanitary and phytosanitary standards and consumer information requirements for food products. It must also avoid divergence in the application of such standards into the future to ensure minimal disruption to trade, production operations and most importantly, consumer confidence.

This is an area where the concrete model of the future trading relationship between the EU and the UK will play a big part. It touches upon the capacity and political willingness of both parties to maintain aligned policies and practices with regard to SPS standards and control. A possible divergence over time could jeopardise the efficiency of sanitary and phytosanitary (SPS) checks at the border. Depending on the type of future relationship, a customs collaboration agreement would possibly be needed to enable UK and EU customs authorities to exchange information and resolve pressing issues.

2.3. IT INFRASTRUCTURE



Customs clearance is not just about the physical infrastructure. Many people and organizations need to work together effectively to facilitate a smooth flow of goods. IT systems are very important as rapid sharing of data is critical. A coherent approach to risk assessment is therefore also important.

ISSUE AND IMPACT

The EU is just in the starting phase of implementing the UCC. The two new EU customs simplifications, centralised clearance and self-assessment, will not cover the UK as these are scheduled to be implemented after Brexit.

The UK has its own IT infrastructure, its backbone being the Customs Handling of Import and Export Freight (CHIEF).

CHIEF is in the process of being replaced by a new system, the Customs Declaration Services (CDS), which was designed to meet the EU's new customs requirements in the UCC. However, the British system is likely to struggle meeting the new requirements after Brexit due to the increased volume of customs declarations. Updated IT systems will be fundamental to ensure the effectiveness of any new customs arrangements.

SOLUTIONS

The UK should replicate the UCC in its domestic legislation to ensure customs processes continue uninterruptedly and to ensure the compatibility of the CDS. Furthermore, the UK needs to accelerate upgrading its computer systems for electronic customs declarations in order to avoid any difficulties in handling the expected increasing amount of customs declarations. Additionally, the UK should remain a member of the New Computerised Transit System (NCTS) to facilitate transit.

The NCTS is a system within the EU and other parties to the Common Transit Convention, based upon electronic declarations and processing. It is designed to provide better management and control of EU and common transit. The UK should seek both to become party to the Common Transit Convention, so that the use of the respective common transit procedures, including NCTS, remains possible.

2.4. CUSTOMS VALUATION



The Union Customs Code requires customs authorities to be informed of the value of the goods in a customs declaration in order to calculate duties and taxes to be levied (such as customs duties, dock dues, additional duties, and VAT).

ISSUE AND IMPACT

If the UK were no longer part of the Single Market and the Customs Union, UK goods would no longer count as a domestic sale within the EU and would instead be treated as imports.

Depending on both the transition and future arrangements between the EU and the UK, duties could be introduced. For the EU, these would be calculated on the basis of Articles 70-74 of the UCC¹³. For the UK, they would depend on the UK's own customs legislation.

The cost would depend on the method of calculation, and any potential costs and changes should be clarified as early as possible so that business has time to adapt.

SOLUTIONS

Negotiating an agreement with full tariff liberalisation would avoid tariffs. In the event of a cliff-edge scenario or an FTA without full tariff liberalisation, duties would apply.

The European Commission should involve European business in the consultation process on the method of calculating the customs valuation, i.e. the cost, insurance and freight (CIF) value or free on board (FOB) value. European business would need to have clarity as soon as possible to adapt their systems if necessary. The UK government should also consult the business community with regard to the creation of valuation regulations in the UK.

¹³ Regulation (EU) No. 952/2013, A

2.5. CUSTOMS DUTIES



Any relationship that is less ambitious than a comprehensive free trade agreement between the EU and the UK would mean that companies on both sides would face customs tariffs. The introduction of tariffs between the EU and the UK would have a significant impact on bilateral trade.

ISSUE AND IMPACT

The impact of duties on different companies depends on the EU Common Customs Tariff and the future UK tariff in their product area, but also on the existence of international sector-based trade agreements, such as the WTO Information Technology Agreement (ITA) and the WTO Pharmaceutical Agreement.

Besides raising the cost of bilateral trade, tariffs would also reduce the attractiveness of European and British products in each other's markets vis-à-vis third country imports that benefit from an FTA or a unilateral system of preferences such as the Generalised System of Preferences (GSP). If tariffs are introduced, companies from third markets with which the EU has an ambitious free trade agreement, or with which the UK could sign new free trade agreements, could be able to trade on more favourable terms and displace UK goods on the EU market or vice versa. In this way tariffs would not only raise the cost of trade, but it could also mean that both EU and UK companies could lose part of their market share to third countries.

Moreover, in certain circumstances the EU suspends tariffs and quotas on certain imports of raw materials or semi-finished products if the good imported is not or is manufactured insufficiently in the EU. It is important that the UK adopts similar provisions, as companies operating in the UK will otherwise be faced with additional duties. Brexit also raises the question whether existing suspensions introduced following a request by the UK will be maintained after Brexit and would thus continue to benefit EU importers.

SOLUTIONS

Notwithstanding the type of future relationship between the EU and the UK, the EU and the UK should at the very least strike an ambitious free trade agreement that effectively liberalises all tariffs to zero to avoid certain sectors and supply chains from being upended due to increased costs.

At present, there are significant restrictions on the use of reliefs such as inward and outward processing in certain industries. A more flexible approach will be necessary after Brexit.

The UK also needs to establish special customs regimes that would allow the import of goods intended for re-export to the European market to be exempted from customs duties, VAT and trade policy measures, notably for the storage, use or processing of goods and vice versa.

2.6. VAT ISSUES



Brexit raises important questions and concerns related to VAT, particularly potential variations in VAT rates and repayment terms and time-frames.

ISSUE AND IMPACT

The UK import VAT regime could have an impact on the cash flow and working capital cost of businesses that could damage competitiveness and increase costs for consumers. Companies are calling for clarification in terms of UK VAT repayment terms and time-frames applied to non-UK companies that are not identified for VAT purposes in the UK.

Clear rules also need to be set to avoid double taxation.

SOLUTIONS

VAT regulations in the EU are national, based on Council Directive 2006/112/EC. In general, there are two solutions: postponed accounting and deferred payment. The following should be addressed in national VAT regulations, including in the UK:

1) Similar procedures

A mechanism should be made available to all VAT registered companies, whereby import VAT from a third country (the UK) is paid and accounted for in a simultaneous transaction. This would minimise cash flow and working capital implications as the eligible trader could claim the VAT as an input credit at the same time as declaring VAT liability.

2) Postponed accounting should be preferred

Many Member States presently do not allow postponed accounting. Postponed accounting would mean that import VAT is not paid but is deducted from a company's tax liabilities. This is more effective for all parties involved – both government and business. As VAT is regulated at national level, however, individual Member States must adapt their tax regulations to implement postponed accounting.

Postponed accounting is particularly important for the use of centralised customs clearance. Centralised clearance is an important simplification and will not work smoothly due to IT issues if postponed accounting is not implemented.

For these reasons, the UK should design its tax regulations to address the points described above. EU companies would also like to be involved in the discussions on the formalities, especially with regard to invoices (such as registration of the customer/supplier numbers; the indication of counter-value in the UK; UK VAT numbers for EU companies, etc.) The recommendation is that a simple, non-chronological or monthly summary should suffice.

2.7. FTAS, RULES OF ORIGIN AND CUMULATION



Defining preferential rules of origin is important, because it allows companies to benefit from trade preferences under a trade agreement and consequently import/export their goods with reduced or zero-rated customs duties, subject to a valid proof of origin.

Brexit raises important questions and concerns, because some value chains involve several trade operators in Europe and the UK that carry out manufacturing and/or transformation operations on certain goods. Globalisation has also increased and diffused the sourcing of components and raw materials for goods produced within the EU. Unless solutions are found with regard to rules of origin and cumulation, community origin status or UK origin status of these goods could no longer apply.

ISSUE AND IMPACT

The issue of rules of origin is two-dimensional – first, in case the EU and UK would negotiate an FTA, and second, for a possible solution for issues of cumulation within the EU's existing FTAs with third countries that currently apply to the UK.

In an EU-UK FTA

In order to achieve the benefits of a comprehensive agreement between the EU and the UK, rules of origin need to be determined in a way that allows companies in both markets to make use of the preferential tariffs under the FTA. At the same time, these rules also need to make sure that companies from third countries do not divert their trade through the EU or the UK to the other's market. This is a difficult exercise that could still lower effective market access even if all tariff lines are reduced to zero¹⁴.

Existing EU FTAs

If the UK becomes a third country, this means that a number of cross-border manufacturing and transformation operations currently performed within the UK and the EU27 might fail to obtain preferential status under some of the EU's FTAs.

For companies headquartered in the EU27 with operations in the UK, their export activities from the UK would be negatively affected with countries with which the EU has FTAs, since they would no longer be able to benefit from reduced or zero-rated customs duties. This might therefore impact their supply strategies and supply chains in general as well as force some companies to change their location.

Similarly, companies located in the EU27 that source materials from the UK could be impaired in their ability to meet the criteria for community origin status. The value or type of transformation performed in the UK could exclude these goods from achieving preferential status in the EU's FTAs. Companies previously benefiting from preferential or zero duties could therefore lose these benefits if the UK becomes a third country.

Depending on the life cycle of the products, for some sectors, this could be an important factor to consider in drafting the EU-UK agreement. It is therefore essential to have more clarity regarding the type of future EU-UK relationship, in order to limit its impact, ensure business continuity, or even adapt strategies if necessary.

SOLUTIONS

Given the issues, the authorities on both sides should closely involve the European business community in defining the rules of origin between the EU and the UK. It is important that the rules are clearly formulated with the objective of facilitating trade while simultaneously avoiding trade diversion from third countries. Duty drawback between the EU and the UK should also be allowed.

For relations with third countries, business should also be consulted in discussions over cumulation. It is important, for example, that the UK remains in the PanEuroMed (PEM) convention to ensure comprehensive cumulation among the 23 contracting parties, including the UK¹⁵.

¹⁴ For an explanation on how rules of origin can affect free trade, see "*Brexit and Rules of Origin: Why Free Trade Agreements Does Not Equal Free Trades*", Sam Lowe, Center for European Reform, 13 March 2018.

¹⁵ Members: the EU, Switzerland, Norway, Iceland, Lichtenstein, Faroe Islands, Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestine, Syria, Tunisia, Turkey, Albania, Bosnia and Herzegovina, FYROM, Serbia, Kosovo, Moldova.

In ongoing free trade negotiations, the EU could include diagonal cumulation provisions to open up the possibility of future diagonal cumulation with the UK, provided that the UK adopts the same rules of origin and after consulting with business. Diagonal cumulation operates between more than two countries that have an FTA with identical origin rules and a provision for cumulation between them. As with bilateral cumulation, only originating products or materials can benefit from diagonal cumulation. Cumulation essentially widens the definition of originating products and helps manufactured goods to meet the relevant origin rule. Typically, this would be diagonal cumulation, a form similar to bilateral cumulation but operating between more than two countries, provided they have concluded preferential trading agreements between one another.

The EU and UK must ensure that any origin requirements imposed on EU-UK trade are cumulative, meaning that goods originating in either market are treated as originating in both for the purposes of meeting origin requirements, thus protecting existing complex supply chains. The administrative burden of complying with origin requirements should be simplified to the greatest extent possible including the wider use of self certification, exemptions for low value shipments and extended validity for origin designations.

Evidence suggests that many companies, particularly SMEs, have challenges to understand rules of origin issues and how to satisfy the requirements of proof within FTAs, even if their product would qualify for a preferential tariff rate. Given the large number of EU and UK businesses that have no previous experience of trading outside the EU but trade between the EU27 and the UK, there should be comprehensive and wide-ranging outreach by national governments and the EU to better educate, inform and help companies that could be dealing with rules of origin issues for the first time after Brexit.

2.8. COUNTERVAILING DUTIES AND ANTI-DUMPING MEASURES



Trade remedies allow countries to defend themselves from unfair competition caused by under-priced and/or state subsidised goods. At present the provision and administration of trade remedies is entirely an EU competence, after Brexit this responsibility will fall on the UK government given its stated desire to leave the Customs Union and the Common Commercial Policy.

ISSUE AND IMPACT

If the UK opts for an independent trade policy, it will also have to choose whether or not to create its own trade defence instruments. The business community is concerned about the potential divergence of rules between the EU and the UK and their consequences, such as the risk of circumvention.

Accordingly, a UK regime on trade defence instruments should enter into force on day one of Brexit. This will need to receive parliamentary approval well in advance to provide companies with clarity on what rules will apply, to ensure a sufficient level of protection, and to avoid the risk of circumvention on day 1.

The EU has just reformed its trade remedies regime, for instance regarding the way in which dumping margins are calculated. However, the current UK bill is silent on whether the UK will follow this approach.

SOLUTIONS

International rules issued by the WTO and the GATT agreements address anti-dumping and subsidies concerns. However, the enforcement of such rules is difficult to implement at a global level. Ideally, therefore, the UK should align with the EU on trade defence policy.

In this perspective, the future FTA between the EU and the UK should address State aid and anti-dumping and subsidies rules sufficiently precisely in order to ascertain regulatory convergence between both sides of the Channel and a sufficient level playing field.

2.9. ECONOMIC SANCTIONS AND EXPORT RESTRICTIONS



In both policy areas – economic sanctions and export controls – the EU, through its Member States, is part of international regimes and arrangements, for instance under the United Nations, while it also maintains additional, unilateral measures. After Brexit, the UK would no longer be bound by EU regulations in these fields and might choose to develop its own regulatory framework regarding export control and sanctions in addition to international agreements.

ISSUE AND IMPACT

Export controls on dual-use items

The UK is already a member of the four existing multilateral export control regimes, namely: the Australia Group (AG), which focuses on preventing exports from contributing to the development of chemical or biological weapons, the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG) and the Wassenaar Arrangement (WA), which concentrates its work on export controls for conventional arms and dual-use goods and technologies. Even after Brexit, the obligations that the UK has undertaken under these regimes will continue to remain in place.

However, the UK will no longer be bound by the obligations imposed by Regulation (EC) 428/2009 (currently under revision), which also includes a number of complementary export controls, implemented only within the EU.

After Brexit, the UK may choose to develop its own unilateral regulatory framework. It is unclear to which extent a UK export control regime will be similar to the one by the EU. As supply chains are considerably integrated, divergent approaches may negatively affect EU exporters of dual-use items, lower competitiveness and limited markets access.

Furthermore, as the UK will be considered as a third country after Brexit, there is a risk of distorting supply chains. For instance, assurances are required that companies and their subsidiaries located on either side of the Channel, as well as companies that are part of the same supply chain, will be able to continue their business in the most frictionless manner.

As a third country, movements of dual-use goods to the UK will no longer count as intra-community deliveries and companies will need an export licence for all goods covered by the EU dual-use regulations.

Sanctions

Concerning sanctions, the EU has adopted measures, in addition to those internationally agreed, against a number of countries, including Russia, Iran, Iraq, Syria and Libya. The UK has been instrumental in developing the EU sanctions regime, the most prominent example of which are the sanctions against Russia. If the UK would choose to diverge from the EU sanctions regime, similar concerns to those raised about export controls would apply here as well.

SOLUTIONS

Export controls and sanctions are sensitive policy areas. From a business point of view, maintaining close cooperation and coordination between the EU and the UK in these fields is essential. Business is also concerned about an additional workload in case the UK does not apply the EU regulation on dual-use goods, such as licencing, classification and reporting.

Simplified export control procedures should be implemented for EU exports of dual use goods to the United Kingdom as well as for defence goods. Generally, and for the purpose of controlling proliferation risks worldwide, EU companies need to apply for export control procedures at their national export control agencies if they wish to export to a third country outside the EU.

Companies would like to call on the UK to apply EU legislation in this area (Regulation (EC) No. 428/2009 currently under revision). They favour introducing a general EU licence for the delivery of dual-use goods in the UK, including all the products listed in the annex to the EU regulation or the integration of the UK into the list of EU001 global licence countries. Similarly, the same process should apply to flows from the UK to the EU, probably through the creation (or amendment) of a British Open General Export Licence (OGEL) that includes EU countries. It is also essential to avoid any divergence regarding the classification system. Customs inspection procedures also need to be harmonised. Cooperation is required for customs clearance procedures at the border, which should be underpinned by a formal customs cooperation agreement.

Such export procedures can take weeks or months to be approved, as technical, country-specific and end-user-specific risk analysis are undertaken. However, the dual use and national defence regulations allow for exceptions for exports to countries with no or close to zero proliferation risks. Such country-specific simplifications are endorsed in the general authorisation licenses. Among other general licenses, the EU 001 is the general license under which (nearly) all dual use items can be exported with a single license to the following countries: Australia, Canada, Japan, New Zealand, Norway, Switzerland, and the United States. In the future, the United Kingdom should additionally be listed in the same country list of the EU001.

It would be necessary that the United Kingdom is also listed in Annex 2 Part 3 of Regulation (EC) 428/2009 as many national general licences refer hereon. In addition, it has to be ensured that the United Kingdom can still participate in the simplified export control procedures of global licences with respect to projects within the letter of intent/ agreement by Her Majesty's Revenue and Customs and the certification under Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying the terms and conditions for the transfers of defense-related products within the EU.

2.10. CENTRALISED CLEARANCE



Centralised clearance would greatly facilitate EU27-UK trade. It allows businesses to deal with all their import and export declarations at one customs office. The concept is enshrined in Articles 179 to 181 of the EU's Union Customs Code.

ISSUE AND IMPACT

It allows economic operators to lodge import and export declarations. Centralised clearance permits the economic operators to centralise and integrate accounting, logistics and distribution functions. This saves administrative and transaction costs.

However, there are several hurdles to overcome. Lodging claims at a one-stop shop is not yet possible for VAT tax at import, prohibition or restrictions at import (PoR), or export declarations. This is challenging due to the unharmonised import VAT, as VAT still varies among EU Member States, and national tax collection is involved.

SOLUTIONS

To make the largest possible use of centralised clearance, real centralised clearance should be advanced and digital means should be further utilised to take full advantage of the benefits of centralised clearance.

Therefore, three steps should be taken:

1. The EU should tackle existing hurdles to centralised clearance.
2. The EU should speed up its work on a 'Single Window' system. It should also introduce VAT tax declarations into its 'Single Window' system.
3. The UK should also implement a 'Single Window' system – a one-stop shop where traders can lodge all customs documentation.

2.11. THE IRISH BORDER

ISSUE AND IMPACT



Companies are concerned about a reintroduction of customs clearance points that would lead to changes to their logistics arrangements/supply chain, and consequently generate a significant financial burden (e.g. cost of storing goods).

The question of the Irish border is an important Brexit issue. Any solution to the Irish border issue must safeguard vital trade both North/South as well as trade across the Irish sea. Transit via the UK is also crucial and must be facilitated to avoid duplicate procedures and delays to and from the Irish market insofar as possible.

On the issue of the numerous roads which straddle both sides of the border, an acceptable and cost-effective solution will be difficult to arrive at in the absence of full regulatory alignment and Northern Ireland remaining at the very least part of the EU Customs Union.

SOLUTIONS

It is important to ensure that no hard border is created as this would have a negative impact on trade and potentially on the progress agreed under the Peace Accord embodied in the Good Friday Agreement.

Specific transit procedures will be required to allow goods exported to Ireland (and vice versa) to continue crossing the UK without additional customs controls, given the additional flow issues raised in this paper. As mentioned in section 4.1., to achieve this result the UK should remain a member of the NCTS.

3. PROCESSING - ISSUES, IMPACT AND SOLUTIONS



3.1. AEO AUTHORISATIONS

The AEO status is established in Article 39 of the EU's Union Customs Code. The status of Authorised Economic Operator (AEO) can be obtained by companies that are part of an international supply chain that complies with a range of criteria in close cooperation with customs administrations with the objective of securing these supply chains and simplifying procedures and the administrative burden of customs processes on companies. AEO goods can move more quickly, which translates into lower costs. The EU has concluded and implemented Mutual Recognition of AEO programmes with Norway, Switzerland, Japan, Andorra, the United States and China.

ISSUE AND IMPACT

In the event that the EU27 and the UK strike an ambitious free trade agreement, companies would be required to deal with additional paperwork to trade their goods between these territories (see section 2). To ease the administrative burden on companies that trade a large volume of goods, many will need to obtain the status of Authorised Economic Exporter.

Although the volume of AEO applications would be high in the short term, a more immediate concern for business is that they need sufficient time to adapt and apply for AEO status prior to any major changes taking place in the EU-UK trading relationship.

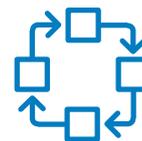
SOLUTIONS

To sufficiently ease the administrative burdens surrounding future EU-UK trade, it is essential for businesses on both sides that the UK introduces a system similar to the EU's AEO system. To avoid duplicating the time and effort companies will need to invest to obtain this status, it is important that there will be a mutual recognition of AEO status between the EU and the UK.

Companies should be able to benefit from AEO-related simplifications from the moment the new EU-UK trading relationship is settled and enters into force. This requires mutual recognition by the EU27 and the UK of the respective trusted trader status of companies located in the partner's customs zone.

However, applying for the AEO status is time-consuming and expensive, and the benefits do not always justify the costs. Thus, applying for AEO status should be simplified. Besides providing simplifications for AEO companies, simplifications should be extended to all businesses as much as possible given that the vast majority of companies trading between the EU27 and the UK do not hold AEO status.

3.2. INCREASE OF SPECIAL PROCEDURES



When the new EU-UK trading relationship enters into force, there will be a surge in special procedures such as inward processing, customs warehousing, outward processing, end-use and temporary admission. There will also be an increase in applications for simplified procedures.

ISSUE AND IMPACT

On the one hand, special procedures open up the possibility to save on duties. On the other hand, they increase the workload for all parties involved.

SOLUTIONS

Customs administrations on both sides need to be ready to deal with the surge in applications and procedures. Simplifications should be granted as much as possible in order to reduce this workload. Future oriented and innovative solutions like self-assessment as described under section 2.1 should be possible in relation to customs declarations. Only by using process-based instead of transaction-based solutions, can the workload for all parties be reduced to a minimum.

For alternative processing, simplifications and exemptions from using formal customs documents will be required. Alternatives like those included in the Union Customs Code and its Implementing Act and Delegated Act (such as Art. 176 (1) a) DA) should be made possible to use instead of formal customs documents. The UK should allow for the same possibilities.

As the number of authorisations will increase after Brexit, it is also important that these are issued on time. The option to grant prior authorisations should be used whenever feasible, as well as the possibility to issue retroactive authorisations that will take effect at the very earliest one year before the date of acceptance of the application (Art. 172 (2) DA) or in case of special circumstances these should apply, even earlier.

Moreover, companies that are regarded as trustworthy operators by customs authorities should be provided with even more tangible simplifications in administrative procedures, such as real discounts in customs securities and fast lane procedures.

Overall, however, the existing special procedures are fragmented and are unlikely to provide SMEs with sufficient options to handle administrative burden from customs procedures once Brexit enters into force. Both the EU and the UK should therefore invest in a close dialogue with their business communities to develop new and coherent special procedures that contribute to maintaining the strong position of SMEs in the trade relationship between the EU27 and the UK.

3.3. INCREASE IN APPROVED EXPORTER AUTHORISATIONS



To reduce the workload for all parties to a minimum, simplifications in the area of preferential origin are required. One of the most important ones is the so-called approved exporter. In this case, the company issues the proof of preferential origin directly while the company ensures that it fulfils the rules of preferential origin. In this case, customs authorities only conduct spot checks in case of postponed audits.

ISSUE AND IMPACT

If the EU27 and the UK negotiate an FTA, the number of required authorisations for approved exporter will increase.

SOLUTIONS

The most important priority for business is that the authorisations will be issued on time. The possibility to grant prior authorisation (prior to completing the full check of all requirements by audits) should be provided.

4. TRANSIT - ISSUES, IMPACT AND SOLUTIONS

4.1. TRANSIT OF GOODS THROUGH THE UK



ISSUE AND IMPACT

An additional customs-related Brexit issue has to do with the transit of goods from Ireland to continental Europe that passes through the UK (and vice versa). Without a post-Brexit deal, this could have a significant impact on European businesses trading with or from Ireland, as they would have to clear customs and be subjected to safety and other types of checks twice – upon entering the UK and upon entering the EU. This would result in additional costs, administrative burdens and time spent at the UK-EU border.

SOLUTIONS

As above, self-assessment and simplification have the potential to deal with the issue of transit through the UK. However, this solution would largely apply to customs declarations, whereas inspections for sanitary, phytosanitary, food safety or security purposes would still potentially have to be conducted twice.

A solution to this issue would be for the UK to remain a member of the Common Transit Convention, and thereby, ensure continued access to the EU's New Computerised Transit System (NCTS). The system is used to facilitate the movement of goods between two points of a customs territory (such as Ireland and Austria), via another customs territory (such as the UK). Goods can be transported in a sealed container, which allows for the temporary suspension of duties, checks and customs clearance formalities. These measures can then be executed at the final destination instead of the point of entry into the transit customs territory (in this case, the UK). While a sealed container system is envisaged in the EU regulation, this will not meet the needs of all traders and therefore a simplified system, which reduces burdensome regulations, should also be a part of the envisaged arrangement.

This would normally necessitate that traders provide substantial guarantees that act as financial securities for using the transit system. However, it could very well be feasible for the UK and the EU to agree on a waiver scheme for such guarantees for at least a portion of the conducted trade, thus easing both the administrative and financial burden on companies that deem it economical to use the UK as transit territory.

5. REGULATORY ISSUES - ISSUES, IMPACT AND SOLUTIONS

Import

5.1. REGULATORY ALIGNMENT AND COOPERATION



Regulatory alignment between the EU and the UK is of utmost importance to preserving value chains and avoiding non-tariff barriers to trade. If the model for future EU-UK relations is a free trade agreement, it should also include a chapter on regulatory cooperation as unnecessarily divergent regulations would have an impact on company value chains and raise costs or even halt trade altogether (like in the case of REACH). With this in mind, an unprecedentedly close relationship should be sought between key EU agencies and the UK post-Brexit to ensure that regulatory cooperation on a technical level remains strong.

ISSUE AND IMPACT

With regard to the customs chapter, controls potentially resulting from different requirements could also impact trade, such as security controls, food safety, consumer protection regulations and environmental regulations, etc. This applies *inter alia* to environmental protection, occupational health and safety, technical products, automotive, aviation and tourism, pharmaceutical products, chemical substances, biocidal substances and waste shipment.

More widely, products from the UK would have to comply with a large scale of EU single market rules such as:

- technical regulation such as health and safety regulations; REACH
- market access and level playing field rules such as competition rules (including state aid regime), export control, public procurement (and offset);
- intellectual property rules, personal data protection;
- lower-level texts (secondary legislation: delegated, implementing acts, soft law, individual decisions);
- etc.

It remains very difficult to provide an exhaustive list of all regulations applying to a product which will cross the EU border. Not only transversal rules (e.g. environment) but also sectoral rules will have to be taken into account. Any changes to rules in one sector also have significant knock-on effects for companies in other sectors and throughout interconnected supply chains. In addition, the regulatory convergence between the UK and the EU-27 would not only concern regulations as such, but also their interpretation and implementation, with an adequate enforcement mechanism.

In this perspective, risks of non-tariff impacts on trade flows remain highly problematic. Checks at borders could cause significant disruptions, additional delays, additional administrative complexity or increased costs. These negative impacts also concerns supply chains established on both sides on the Channel.

Deviation from the essential requirements, conformity assessment procedures and harmonised EU standards will introduce additional costs and complexities to operate in the UK market. UK specific product markings or other means to demonstrate conformity will create confusion and uncertainty for consumers without any benefits.

SOLUTIONS

Companies are aware that no free trade agreement has to date come even close to solving any regulatory divergence question and allowing the type of free flow that they will need.

CETA, the EU's FTA with Canada, is portrayed as the example in a new generation of FTAs and has pushed the limit in ensuring better recognition of mutual certification processes, but has not allowed a real convergence of single market norms, such as product norms or standards, environmental rules, soft law, etc.

In this perspective, the EU-27 and the UK face a big challenge to avoid possible regulatory divergence and duplication of rules as much as possible in their future relationship. One of the ways to address this challenge is for both sides to seek an unprecedentedly close relationship and an open regulatory dialogue between important EU agencies and the UK, so that regulatory divergence and its impact on complex European supply chains are minimised.

Companies are asking for regulatory stability in order to avoid divergences that are costly and cumbersome to manage on a daily basis. They advocate negotiating an ambitious agreement that includes a specific chapter on regulatory cooperation, so as to limit divergences in customs control requirements.

For example:

- Regulatory gaps should be avoided in areas currently covered by EU regulations, such as the "new approach" regulations (machinery, drug precursors, medicines, pressure equipment, medical devices, etc.). European companies support increased cooperation and regular monitoring in order to avoid any distortion (e.g. through mutual recognition). Cooperation is needed regarding CITES requirements (Convention on the trade of endangered species of wild fauna and flora). Currently sales certificates are required but in the future re-export permits may be necessary. UK standardisation bodies should be facilitated and encouraged to participate actively within the EU standardisation framework. Existing and future EU directives and regulations governing product safety, electromagnetic compatibility, environmental and other matters of public interest should be a basis for UK legislation even after Brexit - as they are currently for other EU neighbouring countries.
- The agreement on a future EU-UK relationship must involve maximum collaboration on sanitary and phytosanitary (SPS) standards and consumer information requirements for food products and must avoid divergence in the application of such standards into the future to ensure minimal disruption to trade, production operations and most importantly, consumer confidence. The UK should remain part of the Rapid Alert System for Food and Feed (RASFF)
- Oversight/enforcement of regulatory agreement should also be included in a chapter on regulatory cooperation.

5.2. COUNTERFEIT GOODS



The fight against counterfeit goods is a key pillar of EU-UK negotiations, as we need to protect respective intellectual property rights and expertise.

In some cases the goods are traded illegally to avoid tax or existing legislation. Many of these products might pose a risk to consumer health and safety (such as medicines and food supplements) as they do not respect existing legislation on manufacturing, conditioning and commercialisation¹⁶.

ISSUE AND IMPACT

To prevent the trade in counterfeit products from skyrocketing, border controls (as they are already established towards third countries) have to be established again (e.g. customs controls, border seizure applications) between the EU and the UK.

In order to facilitate consistent enforcement across the EU and enhance efficiency, electronic exchange platforms like the Rapid Alert System for Dangerous Non-Food Products (RAPEX) and the Information and Communication System on Market Surveillance (ICSMS) provide market surveillance authorities with information on products tested in other member states and whether these were declared as not conforming. UK market surveillance authorities currently also use these systems.

Beyond that, national market surveillance authorities regularly use EU platforms to communicate on surveillance activities. If the UK stops participating here, it is to be expected that enforcement in the UK and the single market will drift apart. Among other things, this could lead to products having to be tested twice or to different corrective measures being requested by the market surveillance authorities in the UK and the EU27 in the case of field incidents (e.g. warning, recall, sales stop). This would increase the bureaucratic and financial burden of manufacturers. After Brexit, EU manufacturers could thus be disadvantaged through the enforcement and interpretation of technical requirements that deviate from EU practices.

SOLUTIONS

Companies are calling for harmonised procedures in terms of applications for the withholding of goods suspected of infringing the intellectual property rights of European and British trade operators.

The idea of having a common procedure, whereby the application is addressed simultaneously to the European and British authorities, should be explored. In this case, harmonised request procedures should exist (free application filing, harmonised application deadlines, harmonised information for completing applications, harmonised terms for extending applications, online procedures for submitting applications, etc.)

Ideally, and to ensure coordinated actions in fighting illegal trade and stopping the commercialisation of goods that present a potential risk to consumers, the UK should remain part of RAPEX. This system enables quick exchange of information between 31 European countries and the European Commission about dangerous non-food products that pose a risk to the health and safety of consumers.

Apart from that, the information exchange on market surveillance practices and the notification duty in the business application platform should be maintained to avoid drifting apart in this field.

¹⁶ Figures from studies produced by the OECD and EUIPO show that counterfeit and pirated products represent up to 5% of all EU imports, worth up to 85 billion euros. Brands that suffer the most from IP infringements are primarily registered in the EU. In: *2017 Situation Report on Counterfeiting and Piracy in the European Union*, Europol and EUIPO, June 2017. Available at: https://www.europol.europa.eu/sites/default/files/documents/counterfeiting_and_piracy_in_the_european_union.pdf

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Avenue de Cortenbergh 168
B - 1000 Brussels, Belgium
Tel: +32(0)22376511 / Fax: +32(0)22311445
E-mail: main@businesseurope.eu

WWW.BUSINESSEUROPE.EU

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