



TRANSITIONING TO NEW BORDER ARRANGEMENTS: EU-UK TRADE FROM 1 JANUARY 2021

The UK Government has revealed the border controls that will apply on the UK border between the UK and the European Union following the end of the Brexit transition period (Transition Period), anticipated to be on 1 January 2021. This follows its announcement in June 2020 that import controls on goods moving from the EU to the UK would be introduced in phases over the first six months of 2021, giving importers 'time to adjust' and avoiding a cliff edge of regulation.

“The phased introduction, and scope for deferment of various requirements will surely be a relief for UK-EU traders.”

Even so, the 200 page guidance document entitled *'The Border with the European Union: Importing and Exporting Goods'* (also described as the *'Border Operating Model'*)¹ is comprehensive and detailed, demonstrating the sea-change that those trading with the EU will face from the beginning of next year. Commercial operators should familiarise themselves with the new rules (as applicable to their business) and ensure that they have taken all necessary steps to prepare.

The nature and timing of the new restrictions and requirements that will apply depend on the nature of the goods in question, and whether they are being imported from or exported to the EU. The UK Government's guidance document draws a distinction between the 'Core Model', which reflects changes that will affect all goods, and 'Additional Requirements' which only apply to a narrower set of goods. These changes will apply irrespective of the detail of any trade deal between the EU and UK.

There are three key dates for the introduction of border controls: 1 January, 1 April and 1 July.

Imports – Core Model

From 1 January 2021 importers of goods from the EU to the UK must:

- Complete customs declarations for controlled goods. Traders moving standard goods may defer their declarations for six months, or submit standard declarations.
- Account for customs duties under the new UK Global Tariff, as applicable for imports from the rest of the world. Payment may be deferred.
- Account for import VAT – how this is to be achieved will depend on whether customs declarations have been deferred.
- Goods subject to sanitary and phytosanitary controls
- Goods with specific customs requirements
- Other goods, including medicines, firearms and waste

From 1 July 2021 it will also be required to

- Complete customs declarations at the time of import i.e. importers may no longer defer making declarations.
- Submit Safety and Security Declarations in respect of all goods, as is currently required for imports from 'Rest of the World' countries.

Imports – Additional Requirements

Additional requirements and restrictions will apply in respect of the following types of goods:

- Goods covered by International Conventions/Commitments, such as endangered flora and fauna (CITES), and rough diamonds (Kimberley)

Each of these classes of goods is subject to additional requirements, which will be introduced at one of the three key dates mentioned above. In particular, it should be noted that from 1 April imports of goods subject to sanitary and phytosanitary controls, including products of animal origin will be subject to import pre-notification, health certification and checks (documentary, identity and physical).

Import preparations

All traders intending to import goods from the EU to the UK after the end of the Transition Period should take the following steps to prepare for and ensure compliance with the introduction of border controls:

- Determine the classification of goods, and consider whether only the Core Model applies, or whether the goods are subject to Additional Requirements.
- Determine what tariffs apply to the goods by reference to their commodity code. In cases of uncertainty HMRC can be asked to

1 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/899991/200713_BPDP_-_Border_Operating_Model_FINAL_1320_edit.pdf



make a ruling on the classification of the goods and their origin.

- Assess the customs value of the goods.
- Register for a GB Economic Operator Registration and Identification (EORI) number. This can take up to 5 days to obtain depending on whether HMRC determine checks need to be made.
- Consider applying for a duty deferment account, which can be used to pay customs duty, excise duty and import VAT monthly via direct debit as opposed to on an ad hoc basis.
- Prepare either to pay or account for import VAT. This may be achieved either through postponed VAT accounting or by payment as part of the customs process depending on the trader's VAT status.

Exports - Core Model

From 1 January 2021 exporters of goods from the UK to the EU will be required to complete a UK customs export declaration (which may be deferred by up to four weeks if a simplified customs declaration is made upfront), and an EU import customs declaration. EU customs import declarations will also be required, but details on these have

not yet been made available. Further, all exports will require a Safety and Security declaration.

Export – Additional Requirements

As for imports, additional requirements will apply in respect of certain categories of goods. The list of relevant goods is the same as listed above in respect of imports, with the addition of strategic exports i.e. military and dual use goods.

Export preparations

In order to prepare for the end of the Transition Period, all businesses and persons that intend to export goods from the UK to the EU from 1 January 2021 should take the following steps:

- Determine classification of goods, and consider whether only the Core Model applies, or whether the goods are subject to Additional Requirements.
- Determine what tariffs apply to the goods by reference to their commodity code. In cases of uncertainty HMRC can be asked to make a ruling on the classification of the goods and their origin.
- Register for a GB EORI number. This can take up to 5 days to obtain depending on whether HMRC determine checks need to be made.

- Decide whether you will be making use of an intermediary, such as a freight forwarder to complete customs requirements. This will be the appropriate course for most exporters. If you decide not to use an intermediary you will need to register for the CHIEF and S&S systems.

Conclusions

The scale and depth of the guidance reflects the significance of the end of the Transition Period on the EU-UK trading relationship. The phased introduction, and scope for deferment of various requirements will surely be a relief for UK-EU traders.

While we have sought to provide a high level overview of the changes in this briefing, the details are naturally beyond the scope of this publication. In any event all commercial operators that will be trading between the EU and UK from 1 January 2021 should familiarise themselves with the new requirements and when they will be introduced. In order to minimise and mitigate the risks of disruption to trade at the end of the Transition Period, operators should take steps now to prepare.

For further information,
please contact the authors
of this briefing;



ANTHONY WOOLICH

Partner, London

T +44 (0)20 7264 8033

E anthony.woolich@hfw.com



DANIEL MARTIN

Partner, London

T +44 (0)20 7264 8189

E daniel.martin@hfw.com

HFW has over 600 lawyers working in offices across the Americas, Europe, the Middle East and Asia Pacific. For further information about our EU, competition and regulatory capabilities, please visit [hfw.com/EU-Competition-and-Regulatory](https://www.hfw.com/EU-Competition-and-Regulatory).

[hfw.com](https://www.hfw.com)

© 2020 Holman Fenwick Willan LLP. All rights reserved. Ref: 002291

Whilst every care has been taken to ensure the accuracy of this information at the time of publication, the information is intended as guidance only. It should not be considered as legal advice. Holman Fenwick Willan LLP is the Data Controller for any data that it holds about you. To correct your personal details or change your mailing preferences please email hfwenquiries@hfw.com

Americas | Europe | Middle East | Asia Pacific