



# TCG – Update on Brexit



13 November 2020

*DG TAXUD*

# Agenda

1. Welcome and adoption of agenda
2. General aspects
3. Questions and answers by clusters
  - a) Processes and movements – cross-cutting issues
  - b) Implementation of the Withdrawal Agreement and ongoing movements
  - c) Implementation of the Northern Ireland Protocol
4. Any Other Business – future agreement
5. Closing remarks

## 2. General aspects – our limits!

- We only reply to questions on **Union** customs rules and procedures
- Commission alone cannot avoid delays in trade flows at the EU-UK border on 1 January 2021:
  - we work in close collaboration with Member States;
  - we advise to keep close contact with national authorities;
- **Guidelines** will be updated asap:
  - updates depend on still ongoing discussions,
  - we are aware of the time constraint
- **Implementation ('grace') period:**
  - there is no plan nor possibility for grace period;
  - as of 1.1.2021, the UK will be a third country trading with the EU on the basis of a bilateral agreement or WTO terms in its absence.

# 3a. Processes and movements – cross-cutting issues

## 3a. Processes & movements from 2021 (I)

- Regardless of the outcome of the FTA negotiations, customs formalities will apply **from 1 Jan 2021**:
  - UCC **import formalities** for entry, including the entry summary declaration (ENS) apply to goods entering the EU from the UK, including goods in transit
  - UCC **export formalities**, including the pre-departure declaration, apply to goods exiting the EU to the UK including goods in transit
  - **UK has shown no interest in an ENS/EXS waiver**
- The future agreement will “only” determine whether tariffs and quotas apply
- Using **CP 42** for goods imported from UK will be possible
- **Excise goods**: GB EMCS and EU EMCS will not communicate, although there will be NI EMCS and EU EMCS communication

## 3a. Processes & movements from 2021 (II)

### TRANSIT

- Printing of TAD will be necessary until upgrade to NCTS5
- Movements of Union goods from IT through CH to the UK:
  - The T2-Corridor remains applicable to Union goods moved by rail from Italy to UK when crossing Switzerland.
  - A T2 procedure is not required to cross the EU.
  - The T2 transit procedure may be an option to enter and transport the goods in the UK.

## 3a. Processes & movements from 2021 (III)

- **Export followed by transit:** the office of exit can be at the airport (Art 329 UCC IA) if:
  - Transit starts at the airport
  - There is a single transport contract STC
- **Special Procedures possibilities:**
  - bottles may be brought from GB to NI
  - be placed under customs warehousing in NI
  - be subsequently in inward processing in IE (holder of IP authorisation may be IE trader)

## 3a. Processes & movements from 2021 (IV)

- **Empty returnable supplies (or ULD):**
  - Empty returnables (or ULD) brought back to the EU from GB will be subject to customs formalities, i.e. ENS and customs declaration are required
  - These returnables may be declared orally
  - MSs concerned will take the appropriate measures to control each trader
- UK based suppliers with **safety stocks** in the EU:
  - UCC will apply to these safety stocks, i.e. if they are non-Union goods they will be subject to a customs declaration if they are sold for consumption in the EU
  - Customs formalities will apply if these stocks are taken to GB
- **Company owned aircraft parts**
  - Customs formalities will apply if they are brought from EU or NI to GB
  - Facilitations provided in the UCC are possible



## 3a. Processes & movements from 2021 (V)

### CUSTOM DECISIONS

- **UK holders of existing EU customs decisions** – including deferred payment – need to be established in the EU, except if UCC is not requiring it (e.g. BTI) and have EU EORI
- Economic operators can only have **one valid EORI number** in the Union, so the new EORI number of UK economic operators established in the Union can become valid **from 1 Jan 2021 only**, even if pre-applications are accepted now
- Consequently, applications for authorisations in the Customs Decision System submitted by those economic operators have to be dealt with outside CDS. From 1 Jan 2021, when the EORI becomes valid, the authorisation is to be entered into the system

## 3a. Processes & movements from 2021 (VI)

USE OF Geo-codes for implementing the IE/NI Protocol

- **Guidelines** shared with TCG on 6 Nov Circa BC Link (<https://circabc.europa.eu/ui/group/e4acd3f4-55b0-4a97-9a71-1182943c0bd0/library/9818abbf-fe06-42a9-b22f-ec1c90f1ee02/details> )
- **Code XU** will not be used in Customs
- **Code XI** will be used XI United Kingdom (Northern Ireland) Code to be used if United Kingdom (in respect of Northern Ireland) needs to be distinguished according to the conditions laid down in the relevant Union provisions.
- Depending on the context, the **code GB** will refer to the whole territory of the United Kingdom or to the whole territory of the United Kingdom without Northern Ireland.

## 3a. Processes & movements from 2021 (VII)

### NCTS Combined Declarations with S&S data

- UCC provisions allow this functionality but put the decision at each MS side
- To enable the functionality of combined NCTS declarations with ENS and EXS data
  - the national NCTS system must enable filing of combined NCTS declarations with S&S data and then this information is transferred in the common domain to the other countries
  - UK should enable this functionality for Trade in their NCTS system
  - MS receiving combined NCTS declarations should accept them as equivalent to Customs declaration and at the same time as ENS and/or EXS declarations
  - If the customs authority accepts the combined NCTS declaration, it should have the means to perform Risk analysis and controls for S&S purposes on the basis of the provided information on the combined NCTS declaration

# 3b. Implementation of the Withdrawal Agreement

## 3b. Implementation of the Withdrawal Agreement - Open Movements' handling (I)

- Withdrawal Agreement for Open Movements Handling after the 1<sup>st</sup> January 2021 foresees a period of 1 month for ECS and 7 Months for ICS for closing open movements, continuing the operations of ECS / ICS systems for this activity for UK and MS
- RFC proposal for ECS/ICS developed in full alignment with UK Withdrawal Agreement (April 2020)
- ECCG approval of the RFC proposal for ECS/ICS (June 2020)
- DG TAXUD launched coordination activity with UK and MS with high volume of open movements for closing long-life open movements until December 2020 and monitor the progress of the activity

## 3b. Implementation of the Withdrawal Agreement - Open Movements' handling (II)

- UK will stop the GB connection to ICS and ECS on 31 December 2020
- UK submitted an alternative proposal to DG TAXUD for open movements handling deviating from the formal UK Withdrawal Agreement (Oct. 2020)
- DG TAXUD is analysing the UK proposal and will handle the open movements in alignment with all parties involved – trade and Member States (Dec. 2020 – Jul. 2021)

## 3b. Implementation of the Withdrawal Agreement – Export movements (I)

For export open movements with country of export EU accepted before the 1<sup>st</sup> of January 2021:

- After the end of the transition period, MS will request Trade to provide alternative proofs confirming the exit of goods through EU
- EU Office of Export closes the open export movement **by alternative evidence** (Article 335(4) UCC IA).
- UK will provide at the beginning of February one consolidated Excel reports to each MS on the status of open movements at that time. **UK excel sheet** can be used as **information tool** and for applying consistency checks
- MS ECS IT systems must be updated with the correct status of Export movements exited through UK and report to the taxation authorities so as to acknowledge the export for the purpose of the VAT exemption

## 3b. Implementation of the Withdrawal Agreement – Export movements (II)

For export open movements with country of export UK accepted before the 1<sup>st</sup> of January 2021:

- EU MS Customs Office of Exit is able to close the export movements automatically in the ECS system
- Traders will receive automatically the exit confirmation from the respective ECS system of the MS Customs office of Exit
- In case of diversion, UCC fall-back procedures will be applied
- Each EU-27 MS will provide a consolidated report to UK with the status of open UK movements expected to exit/exited from their respective borders, as confirmed by EU-27 MS Customs offices in their ECS systems



## 3b. Implementation of the Withdrawal Agreement – Import movements - ICS

### Entry Summary Declarations open movements after the 1<sup>st</sup> January 2021

- The amendment of ENS declarations related to UK (lodged in 2020), shall not be allowed after 01/01/2021. A new ENS will be lodged instead in GB or EU27+XI as needed.
- For Entry Summary Declarations lodged in the UK in 2020 where the means of transport arrives in EU after the 1st January 2021, MS would request Carriers to provide a new ENS entering EU-27.
- In case of MS where timers are applied the processing will continue with the subsequent Customs formalities, without requesting a new ENS.

## 3b. Implementation of the Withdrawal Agreement – Proof of Union status

Proof of Union Status – need to distinguish between Article 47 (2), (3) and (4)

- Art 47(2)
  - **states the general rule:** the status of Union goods that started to be moved before the end of the transition period but reach their final destination after that date, **irrespective of the means of transport used, must be proven as well as the start of the movement;**
  - **documents to be used as proof of status:** any of the means referred to in Art 199(1) of UCC IA can be used; the air waybill is one of the documents that can be used as proof for the start of the movement
  - Limitation to 5 days not in the Agreement (trucks to and from Eastern EU)
- Art 47(3) and (4)
  - refers only to movement of goods by air and sea;
  - for air - Union status of goods is preserved for flights on 31 December

## 3b. Implementation of the Withdrawal Agreement – Special Procedures

- **Temporary storage** after end of transition period:
  - UCC will apply to goods in TS in the UK before end of TP and until end of TS or until end of 90-day time limit, even after 1 January 2021
- UCC will also apply to goods placed under a **special customs procedure** in the UK before the end of the transition period and until the procedure is discharged or until the time limit established in Annex III WA expires

# 3c. Implementation of Northern Ireland Protocol

## 3c. Implementation of Northern Ireland Protocol

- Movements of goods NI– EU ( including Ireland)
  - Should be treated as intra-Union movements
  - Including for VAT, excise and related SEED registration same intra-EU
  - In principle the data exchange with NI should be similar to the data exchange among same intra-EU MS (at least on due time)
- Use of CP42 for imports via NI is possible from a legal perspective

## 3c. Implementation of Northern Ireland Protocol

- Rules applicable on movements between EU MSs are the same as the ones applicable on movements between IE and NI
- Criteria for defining the **goods that are considered at no risk of being subsequently moved to the rest of the Union:**
  - must be established by a decision of the Joint Committee;
  - discussions between the EU and the UK continue; the Joint Committee shall adopt before the end of the transition period.

# 4. AOB: future Agreement with the UK

## 4. AOB: future agreement (I)

### ISSUES FOR WHICH WE HAVE NO REPLY YET

- **Ro-ro traffic**
  - The EU is willing to cooperate with UK to avoid congestions in ro-ro traffic within the limits of existing legislation and without putting any business model at a disadvantage
- What **Rules of Origin** will apply?
  - We have taken good note of industry's views. The final result, however, is not known yet
  - We are exploring options to facilitate EU operators to benefit from the Agreement because we are aware that the time in which the RoO will be known and applied is short



## 4. AOB: future agreement (II)

- **Processed product in UK using EU protein:**
  - No need to have incoming EU certificate for raw material
  - Processed product will need official certificate for import including guarantees on EU origin of the raw material
- **SPS controls:**
  - No agreement on SPS controls inland in the EU
  - Goods subject to SPS controls will undergo these controls when reaching EU after 31/12/20 at midnight (EU time), regardless the time of departure from UK

## 4. AOB: future agreement (III)

- There will not be a recognition in the EU of **conformity assessments** by third party assessment bodies in the UK
- Equal recognition of the electronic provision of services and electronic signing of contracts not foreseen
- Dialogue in **emerging technologies** proposal included in the EU-UK political declaration under negotiation

# 5. AOB: Status of the testing activities

## 5. NA CT progress for Trans-European Systems

National Administrations	Customs TES CT Activities		
	NCTS	ECS	ICS
AT	No CT	No CT	No CT
BE	Mode 3 Completed	No CT	No CT
BG	No CT	No CT	No CT
CH	Mode 2 Completed	N/A	N/A
CY	No CT	No CT	No CT
CZ	No CT	No CT	No CT
DE	Not started	Not started	Not started
DK	No CT	No CT	No CT
EE	No CT	No CT	No CT
ES	No CT	No CT	Mode 3 Not started
FI	No CT	No CT	No CT
FR	Mode 3 Not started	No CT	Mode 3 Not started
GR	No CT	No CT	No CT
HR	Not started	Not started	No CT
HU	No CT	No CT	No CT
IE	In Progress	In Progress	In Progress
IT	No CT	No CT	No CT
LT	Completed	No CT	No CT
LU	No CT	No CT	No CT
LV	In Progress	In Progress	In Progress
MT	No CT	No CT	Not started
NL	Completed	No CT	No CT
PL	Completed	Completed	No CT
PT	In Progress	Not started	In Progress
RO	No CT	No CT	No CT
SE	Completed	No CT	Completed
SI	No CT	No CT	No CT
SK	No CT	No CT	No CT

### CT On-Going

- LV (NCTS, ECS, ICS)
- PT(NCTS,ICS)

### Ready to Start CT:

- PT (ECS)
- MT (ICS)
- HR (NCTS, ECS)

### CT Completed:

- LT (NCTS)
- NL (NCTS)
- PL (NCTS,ECS)
- CH (NCTS)
- SE (NCTS,ICS)

### Self-testing:

- FI (NCTS)
- LT (ECS, ICS)
- GR (NCTS, ECS, ICS)

# 6. Closing remarks

## 6. Closing remarks

- We know that there are still important questions open but others are also clear.
- From 1 January 2021:
  - Treat movements with UK as third country movements
  - Treat movements with NI as intraUnion movements
- We thank you for your participation

# Thank you



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# 1. Overview of UK activities

