



Brussels, 22 November 2019  
REV1 – replaces the Note published on  
11 March 2019<sup>1</sup>

## GUIDANCE NOTE

### WITHDRAWAL OF THE UNITED KINGDOM AND CUSTOMS RELATED MATTERS IN CASE OF NO DEAL

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. Following a request by the United Kingdom, the European Council (Article 50) agreed on 29 October 2019<sup>2</sup> to extend further<sup>3</sup> the period provided for in Article 50(3) TEU until 31 January 2020. This means that the United Kingdom will be, as of 1 February 2020 ('the withdrawal date') a 'third country'.<sup>4 5</sup>

This guidance note addresses a situation where the UK becomes a third country on the withdrawal date without a withdrawal agreement and hence without a transition period provided for in the draft Withdrawal Agreement.<sup>6</sup>

As of the withdrawal date, the Union rules in the field of customs no longer apply to the UK. The UK will be treated as any other third country with which the EU does not have any preferential trade relationship or customs or other agreements or arrangements. Preferences shall not be granted either to goods originating in the **Overseas Countries and Territories which have special relations with the UK** and are listed in Annex II of the TFEU (UK

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<sup>1</sup> Main changes are amendments to sections 1 and 4, some clarifications in sections 5.1 and 5.2, an additional subsection in section 8.2, more explanations in section 10, and a new section 11.

<sup>2</sup> European Council Decision (EU) 2019/1810 taken in agreement with the United Kingdom on 29 October 2019 extending the period under Article 50(3) TEU, OJ L 278 I, 30.10.2019, p. 1.

<sup>3</sup> Following a request by the United Kingdom, the European Council had decided earlier on a first extension on 22 March 2019 (European Council Decision (EU) 2019/476, OJ L 80I, 22.3.2019, p. 1) and on a second extension on 11 April 2019 (European Council Decision (EU) 2019/584, OJ L 101, 11.4.2019, p. 1).

<sup>4</sup> A third country is a country not member of the EU.

<sup>5</sup> In addition, if the Withdrawal Agreement is ratified by both parties before that date, the withdrawal takes place on the first day of the month following the completion of the ratification procedures or on 1 February 2020, whichever is the earliest.

<sup>6</sup> Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ C 384 I, 12.11.2019, p. 1.

OCTs).<sup>7</sup> As of that date, appropriate rules in the field of customs, including the common customs tariff, and EU commercial policy measures will apply to the UK.

Furthermore, the UK will no longer have access as a Member State to the EU customs IT systems.<sup>8</sup>

This guidance note aims to give guidance on the consequences for customs processes as of the withdrawal date<sup>9</sup> and should be read in conjunction with the Guidance note on excise issues.<sup>10</sup>

## 1. ECONOMIC OPERATOR REGISTRATION IDENTIFICATION (EORI)

a) Following the withdrawal of the UK the trade patterns of persons, **established in the Union**, who currently carry out transactions only with economic operators or other persons in the UK might change. While they are currently not involved in trade with third countries but only in intra-Union transactions, and hence have not been assigned an EORI number by any MS, they will carry out transactions requiring customs formalities. This requires, according to UCC<sup>11</sup> legislation, them to register with customs authorities in the Member State where they are established.

Nothing prevents those economic operators to submit the required data (Annex 12-01 UCC DA<sup>12</sup>) or undertake the necessary steps for the registration already in advance of the withdrawal date.

b) Two categories of persons currently **established in the UK or registered with a UK EORI number** need to be distinguished:

- Persons who are currently not involved in trade with third countries but only in intra-Union transactions, and who hence have not been assigned an EORI number by any MS, but as of the withdrawal date intend to carry out transactions requiring customs formalities, which, according to UCC legislation, requires them to be registered with customs authorities in the Union.

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<sup>7</sup> The UK OCTs listed in Annex II of the TFEU are: Anguilla, Cayman Islands, Falkland Islands, South Georgia and the South Sandwich Islands, Montserrat, Pitcairn, Saint Helena and Dependencies, British Antarctic Territory, British Indian Ocean Territory, Turks and Caicos Islands, British Virgin Islands and Bermuda.

<sup>8</sup> UK will have access to certain customs IT systems related to the NCTS when it has acceded to the Convention on a common transit procedure (CTC).

<sup>9</sup> This **guidance** note further complements the "Notices to stakeholders" published by the Commission services in the area of EU customs law ([https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#tradetaxud](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#tradetaxud)).

<sup>10</sup> [https://ec.europa.eu/info/files/guidance-excise-ongoing-movements-goods\\_en](https://ec.europa.eu/info/files/guidance-excise-ongoing-movements-goods_en)

<sup>11</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

<sup>12</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

- Economic operators and other persons, including third country operators, who have a currently valid EORI number assigned by the UK customs authority which will be invalid in the EU27 as of the withdrawal date.

In this case, economic operators must be aware of the fact that they have to register with the competent customs authority in the EU27 and to use the new EORI number when applying for a customs decision after the withdrawal.

Following the withdrawal, economic operators established in the UK or in another third country, who have a permanent business establishment in a Member State as defined in Article 5(32) UCC have to register according to Article 9(1) UCC with the customs authorities in the Member State where the permanent business establishment is situated. Economic operators who do not have a permanent business establishment in a Member State, have to register according to Article 9(2) UCC with the competent customs authority in a Member State responsible for the place where they first lodge a declaration or apply for a decision; in addition, those economic operators need to appoint a tax representative, where required by current legislation.

Nothing prevents also those economic operators to submit the required data (Annex 12-01 UCC DA) or undertake the necessary steps for the registration already in advance of the withdrawal date. Customs authorities of the Member States should accept requests already before the withdrawal date and assign to them EORI numbers with the withdrawal date or thereafter as the "start day of EORI number", according to the requests of the persons concerned.

## **2. CUSTOMS DECISIONS**

### **2.1 Authorisations**

The impact of the UK withdrawal on authorisations depends on the type of authorisation including the issuing customs authority, the holder of the authorisation and the geographical coverage.

#### *Authorisations granted by UK customs authorities*

As a rule, any authorisation already granted by UK customs authorities are no longer valid in the EU27 as of the withdrawal date. The customs authorities of the UK are no longer an EU competent customs authority as of that date.

When the UK accedes to the Convention on a common transit procedure<sup>13</sup> (CTC) as a Contracting Party in its own right as of the withdrawal date, authorisations granted by the UK for transit simplifications<sup>14</sup> will no longer be valid in the EU27 Customs Decisions system, but need to be treated in the UK's national system as a Contracting

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<sup>13</sup> OJ L 226, 13.8.1987, p. 2, as last amended by Decision 1/2017, OJ L 8, 12.1.2018, p 1.

<sup>14</sup> Authorisations for comprehensive guarantee including waiver and authorisations to use the electronic transport document (ETD) as a transit declaration for goods carried by air as authorisations with a link to the EU27.

The use of the comprehensive guarantee requires a recalculation of the reference amount due to the changes of the customs status of the goods to be covered under common transit.

Party to the CTC. Where then the UK communicates to the EU27 Member States which of those authorisations continue to be valid within the framework of the CTC the EU27 Member States shall accept those authorisations as valid.

*Authorisations granted by the EU27 customs authorities*

In general, authorisations granted by an EU27 customs authority will remain valid but need to be amended by the customs authority on their own initiative or following an application to amend from the economic operator in view of the geographical coverage or elements of the authorisation related to the UK.<sup>15</sup> In order to facilitate the preparation by the stakeholders, it is also possible for the customs authority to amend authorisations without a prior application.

However, authorisations granted to economic operators with UK EORI numbers are no longer valid in the EU27 as of the withdrawal date, unless the economic operator is established in the EU27, has the possibility to obtain an EU27 EORI and to apply for an amendment of the authorisation to include the new EU27 EORI instead of the UK EORI number. Where an authorisation cannot be amended by replacing the UK EORI by an EU27 EORI, the economic operator should apply for a new authorisation with his new EU27 EORI.

The authorisations granted to economic operators with EU27 EORI numbers, which are currently also valid in the UK need to be amended in order to take account of the withdrawal and the corresponding geographical coverage, e.g. in the authorisation concerning the Regular Shipping Service, the routes containing UK ports will have to be deleted.

A Single Authorisation for Simplified Procedures (SASP) which today covers the UK and a single MS will no longer be valid as of the withdrawal date. Nonetheless, it might be amended and could become a national authorisation. Where a SASP authorisation covers the UK and more than one EU27 Member State, that authorisation remains valid, but needs to be amended. In case the SASP authorisation covers simplified declarations, it should be noted that the economic operator needs to submit the supplementary declaration covering also the UK only for the period until the day before the withdrawal date; a separate supplementary declaration covering the remaining Member States only has to be made for any remaining days of that calendar month.

Authorisations to use the comprehensive guarantee where the guarantor is established in the UK will be suspended until the economic operator has replaced the UK guarantor by a guarantor established in the EU27.

The use of the comprehensive guarantee requires a recalculation of the reference amount due to the changes of the customs status of the goods to be covered under common transit.

Economic operators who currently do not require authorisations but whose situation will change as of the withdrawal date need to apply for the relevant authorisation.

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<sup>15</sup> See Article 23(4)(a) UCC, Article 15 UCC DA.

Operators who are currently holders of authorisations granted by UK customs authorities and who draw the conclusion that they will meet the UCC requirements after the withdrawal need to apply for the relevant authorisations to the EU27 customs authorities. The applications may already be submitted in advance of the withdrawal date to allow the competent customs authority to prepare taking the decision. In any case, the decision shall only take effect as of the withdrawal date at the earliest.

This applies also to economic operators who are currently registered with a UK EORI, and have an EU27 Member State EORI number with a future starting date. In their case, however, the Customs Decision System (CDS) does not accept an EORI number, which will become valid only in the future, while it allows for a future validity date of the authorisation. Consequently, applications for authorisations, which are covered by CDS<sup>16</sup> and submitted by those economic operators, have to be dealt with outside CDS. As of the withdrawal date, when the EORI becomes valid, the authorisation should be entered into the system.

## **2.2 Decisions relating to binding tariff information (BTI decisions)**

A decision relating to binding tariff information (BTI decision) is an official written decision issued by a customs authority which provides the applicant with an assessment of the classification of goods in the EU tariff nomenclature prior to an import or export procedure. The BTI decision is binding on all the EU customs authorities and the holder of the decision.

The BTI decisions already issued by the customs authorities of the UK will no longer be valid in the EU27 as of the withdrawal date.

Any BTI applications submitted to the customs authorities of the UK or applications by or on behalf of persons holding a UK's EORI number made to the customs authorities of other Member States before the withdrawal date, but not processed before that date, shall not result in BTI decisions as of the withdrawal date.

The BTI decisions issued by the customs authorities of the EU27 Member States to holders with UK EORI numbers will no longer be valid as of the withdrawal date as the EORI numbers will no longer be valid in the customs territory of the Union and as BTI decisions may not be amended (Article 34(6) UCC). This will be reflected automatically in the EBTI-3 system. Those BTI decision holders shall register with the customs authorities in accordance with Article 9(2) and (3) UCC and Article 6 UCC DA to obtain a valid EORI number before applying for a new BTI decision in the EU27. The applicant could request a reissuing of his previous BTI decision by including a reference thereto in the application form.

## **2.3 Decisions relating to binding origin information (BOI decisions)**

A decision relating to binding origin information (BOI decision) is a written decision by a customs authority taken upon application, which provides its holder with a determination of the origin of goods prior to an import or export procedure. The BOI

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<sup>16</sup> See Article 5 of Implementing Regulation 2017/2089, OJ L 297, 15.11.2017, p. 13.

decision is binding on all the customs authorities in the EU and on the holder of the decision.

The BOI decisions already issued by the customs authorities of the UK will no longer be valid in the EU27 as of the withdrawal date.

Any applications for BOI decisions submitted to the customs authorities of the UK or applications by or on behalf of persons holding a UK's EORI number made to the customs authorities of other Member States before the withdrawal date, but not processed before that date, shall not result in BOI decisions as of the withdrawal date.

In addition, with a view to taking BOI decisions as of the withdrawal date, the customs authorities of the EU27 shall not consider UK inputs (materials or processing operations) as having an 'EU origin' (for non-preferential purpose) or being 'originating in the EU' (for preferential purpose) for the determination of the origin of goods incorporating those inputs.

The BOI decisions issued by the customs authorities of the EU27 to holders with UK EORI numbers will no longer be valid as of the withdrawal date, as the EORI numbers will no longer be valid in the customs territory of the Union insofar as BOI decisions may not be amended (Article 34(6) UCC). Those BOI decision holders have the possibility to register with the customs authorities to obtain a valid EORI number before applying for a new BOI decision in the EU27.

BOIs issued before the withdrawal date referred to goods including UK inputs (materials or processing operations) which were determinant for the acquisition of origin will no longer be valid as of the withdrawal date.

### **3. BAGGAGE TAGS**

A baggage tag as set out in Annex 12-03 UCC IA may be affixed on hold baggage, which is scheduled to leave the UK with an aircraft before the withdrawal date, but arrives at an EU27 airport as of that date.

### **4. TARIFF QUOTAS**

For all aspects related to tariff quotas, please refer to the dedicated "Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of tariff rate quotas"<sup>17</sup>.

### **5. PREFERENTIAL ORIGIN<sup>18</sup> ASPECTS**

As of the withdrawal date the UK becomes a third country to which the EU preferential trade arrangements with third countries cease to apply.

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<sup>17</sup> [https://ec.europa.eu/info/sites/info/files/notice-tariff-rate-quotas\\_en.pdf](https://ec.europa.eu/info/sites/info/files/notice-tariff-rate-quotas_en.pdf)

<sup>18</sup> References to "originating" or "non-originating" in this section should be considered only in relation to preferential origin.

## 5.1 Consideration of the preferential origin

### a) UK inputs

As from the withdrawal date UK inputs (material or processing operations) are considered as 'non-originating' under preferential trade arrangements for the determination of the preferential origin of goods incorporating those inputs, in accordance with the “*Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of customs and external trade: Preferential origin of goods*”.<sup>19</sup>

### b) EU imports from the UK

**Goods imported into the EU from the UK** as of the withdrawal date will become non-originating goods for the purposes of their use under EU preferential arrangements. This means that:

- i. Goods produced in the UK before the withdrawal date, if imported into the EU as of the withdrawal date, are not considered as EU originating for the purposes of their direct exportation, or exportation after further processing, to an EU preferential partner country.
- ii. Goods produced in the EU27 before the withdrawal date, if imported from the UK as of the withdrawal date, are not considered as EU originating for the purposes of their direct exportation, or exportation after further processing, to an EU preferential partner country.
- iii. Goods originating in preferential partner countries and imported into the UK before the withdrawal date in accordance with the preferences provided by EU trade preferential arrangements, if imported into the EU after withdrawal, are not considered as originating in the corresponding partner country. These goods can therefore not be used for cumulation purposes with that partner country (bilateral cumulation) or with other partner countries (diagonal cumulation) under the EU preferential arrangements.

### c) EU exports to, and imports from, preferential partner countries via the UK

Goods **imported** as of the withdrawal date **from the EU27 via the UK into a third country** with which the EU has a preferential arrangement may be entitled for preferential treatment in that third partner country, provided that the provisions on direct transport/non-manipulation contained in the origin provisions of the relevant EU preferential arrangements are respected.

Similarly, goods **imported** as of the withdrawal date **from EU partner countries into the EU via the UK** may be entitled for preferential treatment in the EU provided that the provisions on direct transport/non-manipulation contained in the origin provisions of the relevant EU preferential arrangements are respected.

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<sup>19</sup> [https://ec.europa.eu/taxation\\_customs/sites/taxation/files/notice-to-stakeholders-brexite-preferential-origin-final\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/notice-to-stakeholders-brexite-preferential-origin-final_en.pdf)

## **d) UK Overseas Countries and Territories**

Materials originating and work or processing carried out in the UK Overseas Countries and Territories (Annex II TFEU), are not considered as originating when determining the origin of goods imported into the EU from other OCTs or from EU partner countries as from the withdrawal date. Guidance provided in point 5.2. c) is applicable to materials originating and work or processing carried out in the UK Overseas Countries, as equivalent to UK content.

## **5.2 Proofs of origin**

### **a) General principle**

In principle, proofs of origin can be issued or made out only if the products comply, at the time where the proofs are issued or made out, with the origin rules established in the relevant preferential trade agreement or arrangement. As of the withdrawal date, UK content will be considered as non-originating for the purposes of issuing or making out proofs of origin. Supporting documents (including proofs of origin and suppliers' declarations) can be relied upon for the issuance of proofs of origin on the condition that they do not concern UK content which is determinant for the acquisition of origin. Exporters and competent customs or other competent authorities issuing or making out such proofs of origin as of the withdrawal date are required to ascertain whether the supporting documents meet the conditions at the time of issuance of the proof.

### **b) Proofs of origin issued in the EU**

The following proofs of origin issued or made out before the withdrawal date in the EU remain valid, **where the export of the consignment has been effected or ensured before the withdrawal date.**

- Proofs of origin issued or made out in the UK before the withdrawal date;
- Proofs of origin issued or made out in the EU27 before the withdrawal date in relation to goods with a UK content;
- Certificates of origin issued by EU27 customs authorities for UK exporters before the withdrawal date;
- Invoice declarations, origin declarations or statements on origin made out by UK exporters for the exportation of the EU originating products from the EU27 before the withdrawal date.

The validity is limited to the period established under the relevant EU trade preferential arrangements, for the purpose of being used at importation in the partner country in accordance with the relevant provisions of the EU preferential arrangements.

However, EU preferential partner countries may question such proofs of origin and request verification when they accompany goods imported in the preferential partner countries as of the withdrawal date. In these cases, the EU27 Member State customs authorities will reply, to verification requests, in accordance with the possibilities



available to them to confirm the originating status of the goods or the authenticity of those proofs. For those purposes, the EU origin shall be determined as of the time when the proofs were issued, in light of the principle described in the first paragraph above.

### **c) Proofs of origin issued in the EU preferential partner countries**

Proofs of origin issued or made out in EU preferential partner countries before the withdrawal date in relation to goods with UK content which was determinant for the acquisition of the partner country origin, may be used for importation purposes in the EU during the period of its validity as provided under the relevant EU trade preferential arrangements, where the export of the consignment has been effected or ensured before the withdrawal date.

However, UK content incorporated in goods with EU origin imported in the EU preferential partner countries and accompanied by a valid EU proof of origin may not be used in the EU preferential partner countries for cumulation purposes as of the withdrawal date.

### **d) Specific types of proof of origin**

#### *i. Duplicate movement certificates*

Regarding goods that were exported before the withdrawal date, a duplicate movement certificate may be issued after the withdrawal of the United Kingdom at the request of an EU 27 exporter in relation to an original movement certificate issued for those goods by EU27 customs authorities before the withdrawal date.

#### *ii. Movement certificates issued retrospectively*

A movement certificate may be issued retrospectively after the withdrawal of the United Kingdom at the request of an EU27 exporter where the goods were exported before the withdrawal date.

#### *iii. Retrospective origin declarations, statements on origin and invoice declarations*

An EU27 exporter may make out an origin declaration after the withdrawal of the United Kingdom where the goods were exported before the withdrawal date.

## **5.3 Supplier's declarations for preferential trade purposes**

Supplier's declarations are supporting documents on which basis proofs of origin can be issued. As of the withdrawal date, they can be relied upon for the issuance of proofs of origin on the condition that they do not include UK content which is determinant for the acquisition of origin. Exporters and competent customs or other competent authorities issuing or making out such proofs of origin as of the withdrawal date are required to ascertain whether supplier's declarations meet the conditions at the time of issuance of the proof.

As of the withdrawal date, supplier's declarations made out by UK suppliers before the withdrawal date may not be used for the purposes of issuing or making out proofs of origin in EU27 Member States.

Suppliers in EU27 Member States providing the exporter or the trader with the information necessary to determine the preferential origin status of goods through supplier's declarations should inform the exporters and traders on the changes on the originating status of the goods supplied before that date and for which they provided such supplier's declarations.

In the case of long-term supplier's declaration, the suppliers established in the EU27 should inform the exporter or trader if the long-term supplier's declaration is not valid any longer as of that date for all or some consignments covered by the long-term supplier's declaration.

#### **5.4 Exporters under preferential trade**

As of the withdrawal date, the following aspects should be considered:

a) With respect to approved exporters for the purposes of making out invoice declarations or origin declarations in accordance with the relevant provisions on preferential origin of the Union:

- Authorisations granted by UK customs authorities to exporters and re-consignors to be approved exporters are no longer valid in the EU27 as of the withdrawal date.
- Authorisations granted by EU27 customs authorities to exporters and re-consignors established in the UK are no longer valid in the EU27 as of the withdrawal date.
- Authorisations granted by EU27 customs authorities to exporters and re-consignors established in the EU27 with a UK EORI number are no longer valid in the EU27 as of the withdrawal date.
- EU approved exporters and re-consignors established in the EU27 should inform the concerned national customs authority regarding changes on the fulfilment of the conditions subject to which they were authorised, considering that UK content will be non-originating as of the withdrawal date. Accordingly, EU27 customs authorities which authorised those exporters and re-consignors as approved exporters will amend or withdraw the authorisation as appropriate.

b) With respect to registered exporters (REX) for the purposes of making out statements on origin or origin declarations in accordance with the relevant provisions on preferential origin of the Union:

- Registration by UK customs authorities of exporters and re-consignors in REX are no longer valid in the EU27 as of the withdrawal date.
- Registrations by EU27 customs authorities to exporters and re-consignors established in the UK are no longer valid in the EU27 as of the withdrawal date.

- Registrations by EU27 customs authorities to exporters and re-consignors established in the EU27 with a UK EORI number are no longer valid in the EU27 as of the withdrawal date.
- EU registered exporters and re-consignors established in the EU27 should inform immediately the concerned national customs authority on any relevant change relating to information they provided for the purposes of their registration. Accordingly, EU27 customs authorities which have registered those exporters and re-consignors will revoke the registration if the conditions for being registered are no longer met.

## **5.5 Origin quota derogations established in certain EU FTAs**

Since origin quota derogations are covered by Article 56(4) UCC, the same rules as those for tariff quotas will apply (Section 4 of this guidance note).

## **6. VALUATION**

As of the withdrawal date, for the goods produced in the UK using assists<sup>20</sup> and imported into the EU27 after that date, the value of those assists will have to be added to the customs value of the goods, in accordance with the conditions<sup>21</sup> specified in Article 71(1)(b) UCC and Article 135 UCC IA.

## **7. ENTRY OF GOODS INTO THE CUSTOMS TERRITORY OF THE UNION**

### **7.1 Entry summary declaration (ENS)**

Goods brought from the UK into the customs territory of the Union as of the withdrawal date shall be covered by an entry summary declaration (ENS), where required, which has to be lodged within the time-limits set out in the UCC DA<sup>22</sup>. That covers also the goods moving between two points in the customs territory of the Union via the UK. A transit declaration comprising all security and safety data may be used to comply with ENS requirements and subject to time-limits being respected, e.g. where common transit is used.

Where an ENS was lodged at the customs office of first entry in the UK before the withdrawal date, it will not remain valid for subsequent ports or airports in the EU27 where the goods are arriving as of that date. The economic operator shall lodge a new ENS covering all goods arriving in the EU27. Where in those cases the operator could not comply with the respective time-limits, the ENS lodgement should be accepted.

Where an ENS was lodged at the customs office of first entry in the EU27 before the withdrawal date, with subsequent ports located in the UK and in the EU27, and where

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<sup>20</sup> Goods and services referred to in Article 71(1)(b) UCC.

<sup>21</sup> The value of assists, apportioned as appropriate, has to be added to the price when they are supplied directly or indirectly by the buyer/importer for use in connection with the production and sale for export of the imported goods, to the extent that their value has not been included in the price actually paid or payable.

<sup>22</sup> Article 105 UCC DA, as amended by Commission Delegated Regulation (EU) 2019/334 of 19 December 2018, OJ L 60, 28.2.2019, p. 1.

the vessel after calling at a UK port arrives in a subsequent EU27 port as of the withdrawal date, an ENS for all goods on the vessel shall be lodged.

The same applies in case of diversions. Goods covered by an ENS, which had been lodged before the withdrawal date with a customs office in the UK, were diverted and arrive in the EU27 instead as of the withdrawal date. In such case, the previous ENS will be deleted by the system and deemed not having been lodged after 200 days and the economic operator has to lodge a new ENS for the goods then brought to the EU27.

In the specific cases where goods leave the UK directly for the EU27 before the withdrawal date and arrive in the customs territory of the Union as of that date, no ENS is required.

## **7.2 Temporary storage of goods (TS)**

Authorisations for the operation of temporary storage facilities granted by the UK customs authorities will cease to be valid in the EU27 as of the withdrawal date. Authorisations granted by the EU27 customs authorities including the possibility to move goods to a temporary storage facility in the UK will have to be amended to exclude such possibility as of the withdrawal date.

Where goods in TS covered by an authorisation for the operation of TS facilities granted by the UK customs authorities will be moving between a temporary storage facility in the UK and another one in the EU27 and will arrive at the EU27 border as of the withdrawal date, those goods will be treated as non-Union goods brought to the customs territory of the Union from a third country.

Where goods in TS arrive in the EU27 already before the withdrawal date, but their movement to an EU27 TS facility is intended to continue as of that date, that movement will not be covered by a valid authorisation. Therefore, temporary storage situation for those goods covered by a non-valid authorisation should end before the withdrawal date (e.g. by placing the goods under a customs procedure or re-exporting them). Where due to exceptional circumstances the temporary storage for those goods cannot end before the withdrawal date, it should end without delay as soon as those circumstances have ended. If such regularisation does not take place, there will be a non-compliance of the obligations laid down in the customs legislation concerning the introduction of non-Union goods into the customs territory of the Union and therefore Article 79 UCC will apply, i.e. a customs debt due to non-compliance will incur.

In the case of goods in TS covered by an authorisation granted by the EU27 customs authorities and located in the UK as of the withdrawal date, such goods will be deemed to have been re-exported.

## **7.3 Customs status of goods**

As a general rule, for Union goods which are moving as intra-Union movement from the UK around the withdrawal date, their treatment will depend on when they enter the customs territory of the Union: where they enter the EU27 before the withdrawal date, they will keep their customs status of Union goods; where they arrive at the EU27

external border as of the withdrawal date, they will be treated as any other third-country goods.

For Union goods moving between two points in the customs territory of the Union via the UK, where the movement starts as an intra-Union movement, a proof of Union status shall be accepted where those goods re-enter the customs territory of the Union only as of the withdrawal date after having crossed the UK. Besides that, any formalities required for goods re-entering the customs territory of the Union will be required, e.g. ENS.

Where Union goods are carried by air and have been loaded or transhipped at a UK airport for consignment to an EU27 airport and are carried under a single transport document (STD) according to Article 119(2)(a) UCC DA issued in the UK and that movement actually leaves the UK airport before the withdrawal date and arrives at an EU27 airport on the withdrawal date, those goods will keep their Union status. This will be practically relevant only for aircraft leaving from a UK airport in the late hours before 00:00 CET on the withdrawal date on a direct flight to an EU27 airport and arriving there after 00:00 CET on the withdrawal date.

Where Union goods are carried by sea on a vessel assigned to a regular shipping service and the vessel called within an ongoing voyage at a UK port and left that UK port actually before the withdrawal date and arrived directly at an EU27 port as of the withdrawal date, i.e. without calling at any other port in a territory outside the customs territory of the Union or at any free zone in a Union port, and has not made any transshipments of goods at sea, those goods will keep their Union status.

Where Union goods are carried by sea on a non-regular shipping service vessel and that vessel leaves a UK port actually before the withdrawal date for an EU27 port and arrives at that port as of the withdrawal date, a proof of the customs status of Union goods shall be accepted.

Where motorised road vehicles registered in an EU27 Member State are returning from the UK and re-enter the customs territory of the Union, Article 208 UCC IA applies. To goods in baggage carried by a passenger arriving from the UK Article 210 UCC IA applies. Where packaging with Union status is returning from the UK as of the withdrawal date, its Union status shall be considered as proven in accordance with the rules set out in Article 209 UCC IA.

## **7.4 Relief from import duty**

### **Returned goods**

Where Union goods were temporarily exported from the UK before the withdrawal and are re-imported in the EU27 as of the withdrawal date complying with the conditions established in Article 203 UCC, those goods shall be considered returned goods and hence be imported with total relief.

Where Union goods are brought from the EU27 to the UK before the withdrawal date and where then such goods move back to the EU27 as of the withdrawal date, the provisions on returned goods referred to in Article 203 UCC should apply if the economic operator can provide evidence that the Union goods:

- were transported to the UK prior to the withdrawal date; and
- return in an unaltered state in accordance with Article 203(5) UCC and Article 158 UCC DA.

The withdrawal of the UK as such, however, may not be used as special circumstances in order to exceed the three-year period referred to in Article 203(1) UCC.

The proof that the Union goods were brought to the UK prior to the withdrawal date should be provided in particular by the respective transport documents and, if necessary, accompanied by other relevant documents (e.g. a lease contract). Where applicable, a proof may be required that the state of the goods has not been altered.

### **Duty Relief Regulation**

Concerning the duty relief for personal property belonging to natural persons transferring their normal place of residence from a third country to the Union, Article 5 of the Duty Relief Regulation<sup>23</sup> foresees a continuous period of at least twelve months at a normal place of residence outside the customs territory of the Union for duty-free treatment.

For that personal property as well as for other categories of goods covered by the Duty Relief Regulation, e.g. goods imported on the occasion of a marriage set out in Article 12 Duty Relief Regulation, the requested periods, e.g. the period of residence, may include also the period prior to the UK's withdrawal from the EU for the purpose of application of that Regulation.

## **8. SPECIAL PROCEDURES**

### **8.1 Transit**

#### **Union/common transit procedures**

As of the withdrawal date, the UK accedes to the Convention on a common transit procedure<sup>24</sup> (CTC) in its own right, hence it may use common transit and continue to have access to the New Computerised Transit System (NCTS) as a Contracting Party to the CTC. Consequently, the transit operations ongoing at the time of the withdrawal shall continue in the NCTS.

*Situations where goods were released for a transit procedure in the EU27 or in a common transit country or in the UK and are moving to, from or via the UK:*

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<sup>23</sup> Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty, OJ L 324, 10.12.2009, p. 23.

<sup>24</sup> OJ L 226, 13.8.1987, p. 2, as last amended by Decision 1/2017, OJ L 8, 12.1.2018, p 1.

- a) Goods moving under a transit operation from a customs office of departure in the EU27 or in a common transit country **to a customs office of destination in the UK**

Where goods are placed under a Union transit procedure in the EU27 or under a common transit procedure in a common transit country with destination in the UK and those goods are still located in the EU27 as of the withdrawal date, that Union transit procedure will continue as a common transit procedure in the UK. The customs office of entry in the UK will play the role of a customs office of transit, i.e. it shall request the relevant data from the customs office of departure and fulfil all tasks of a customs office of transit. At the external EU27 border an exit summary declaration (EXS) has to be lodged for security and safety purposes, unless the particulars necessary for risk analysis for security and safety purposes have already been provided with the transit declaration at the customs office of departure, and the obligation has therefore been fulfilled, or the obligation to lodge a pre-departure declaration is waived under the UCC.

Where the goods are already located in the UK as of the withdrawal date, the transit movement will continue to the customs office of destination.

- b) Goods moving under a transit operation **from a customs office of departure in the UK** to a customs office of destination in the EU27 or in a common transit country

Where goods are placed under a Union transit procedure in the UK with destination in the EU27 or in a common transit country and the goods are still located in the UK as of the withdrawal date, that Union transit procedure will continue as a common transit procedure to the destination in the EU27 or in the common transit country. The customs office of entry in the EU27 will play the role of a customs office of transit, i.e., it shall request the relevant data from the customs office of departure and fulfil all tasks of a customs office of transit. At the external EU27 border an ENS has to be lodged for security and safety purposes, unless the particulars necessary for the ENS have already been provided with the transit declaration at the customs office of departure, and the obligation has therefore been fulfilled, or the obligation to lodge an ENS is waived under the UCC.

Where the goods are already located in the EU27 as of the withdrawal date, that transit procedure continues to the destination in the EU27 or in the common transit country.

- c) Goods moving under a transit operation **via the UK**

Where goods move between a customs office of departure in an EU27 Member State or in a common transit country via the UK to a customs office of destination in an EU27 Member State or in a common transit country and those goods are still located in the EU27 or in a common transit country as of the withdrawal date, that transit procedure will continue as a common transit procedure in the UK. The customs office of entry in the UK and the customs office of entry in the respective Member State where the movement re-enters the customs territory of the Union, respectively, will play the role of customs offices of transit. They shall request the relevant data from the customs office of departure and fulfil all tasks of a customs office of transit. When leaving the EU27 territory (before entering to the UK) an EXS has to be lodged,

unless the particulars necessary for risk analysis for security and safety purposes have already been provided with the transit declaration or the obligation to lodge a pre-departure declaration is waived under the UCC.

Where the goods have crossed the UK and re-entered the customs territory of the EU27 or of a common transit country before the withdrawal date, that transit operation will continue until its destination.

Where the goods covered by a transit declaration are crossing the UK at the time of the withdrawal or have crossed and left the UK, but have not yet re-entered the customs territory of the EU27 by the time of the withdrawal, the customs office of entry into the EU27 will act as a customs office of transit. It shall request the relevant data from the customs office of departure and fulfil all tasks of a customs office of transit. At the external EU27 border an ENS has to be lodged, unless the particulars necessary for the ENS have already been provided with the transit declaration or the obligation to lodge an ENS is waived under the UCC.

Customs authorities may, for a period up to one year after UK accession to the CTC, continue to accept existing forms of the guarantor's undertakings and guarantee certificates<sup>25</sup> subject to the necessary geographical adaptations made manually and approved by the guarantor (in case of guarantor's undertakings) or by the customs authorities themselves (in case of guarantee certificates). By the end of that period, the holder of that procedure must provide a new undertaking according to the modified model.

Where an enquiry or recovery procedure was started, but not ended at the time of withdrawal, it is continued in the NCTS.

*Electronic transport document (ETD) used as a transit declaration for goods carried by air or sea*

Where goods are placed under an ETD transit procedure in the EU27 or in a common transit country with destination in the UK and the goods do not arrive in the UK before the withdrawal date that procedure will continue as an ETD common transit procedure to the UK airport of arrival as of that date.

Where goods are placed under an ETD transit procedure in the UK with destination in the EU27 or in a common transit country and the goods do not arrive in the EU27 or in the common transit country before the withdrawal date that procedure will continue to the airport in the EU27 or in a common transit country as of that date.

Where goods are carried by sea under an ETD transit procedure between the UK and the EU27 and the regular shipping service vessel has left the UK port before the withdrawal date and arrived directly at an EU27 port as of the withdrawal date, i.e. without calling at any other port in a territory outside the customs territory of the Union or at any free zone in a Union port, and has not made any transshipments of goods at sea, the transit procedure will continue to its EU27 destination.

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<sup>25</sup> Annexes 32-01, 32-02 and 32-03 and Chapters VI and VII in Part II of Annex 72-04 to the UCC IA.



### **Movement of goods under the TIR operations**

The UK (as all other Member States) is already today a Contracting Party to the TIR Convention<sup>26</sup> in its own right. As of the withdrawal date, as the UK's customs territory will no longer be part of the customs territory of the Union, border formalities will apply to TIR operations. Although the UK will have access to the NCTS as a Contracting Party to the CTC, that access does not cover the use of the NCTS for TIR operations.

a) Goods moving under a TIR operation from a customs office of departure/entry in the EU27 **to a customs office of destination/exit in the UK**

Where goods are placed under a TIR procedure in the EU27 with destination/exit in the UK and those goods are still located in the EU27 as of the withdrawal date, that TIR procedure will, at the latest, be terminated for the Union territory at the customs office of the physical exit from the EU27. That office will become the customs office of destination/exit. It shall request the relevant data from the customs office of departure and fulfil all tasks of a customs office of destination/exit<sup>27</sup>. For the exit of the goods at the external border of the EU27, an EXS is to be lodged, unless the particulars necessary for risk analysis for security and safety purposes have already been provided or the obligation to lodge a pre-departure declaration is waived under the UCC.

Where the goods are already located in the UK or have left but not yet arrived in the UK as of the withdrawal date, the TIR movement will be subject to UK customs law and to the TIR Convention. However, the UK customs office of destination/exit will not be able to send any NCTS TIR messages to the customs office of departure/entry located in the EU27 and thus this office will not be able to discharge those TIR operations in the NCTS with the usual electronic messages. Therefore, the holders of the procedure will have to provide an alternative proof of terminating the TIR procedure, and the customs office will have to terminate and discharge the operation manually.

b) Goods moving under a TIR operation **from a customs office of departure/entry in the UK** to a customs office of destination/exit in the EU27

Where goods are placed under a TIR procedure in the UK with destination in the EU27 and the goods are still located in the UK as of the withdrawal date, that TIR movement cannot continue until the destination in the EU27. When the goods arrive at a customs office at the external EU27 border, the operation will be treated as any TIR operation coming from a third country and formalities established for those goods will apply<sup>28</sup>. An ENS has to be lodged at entry into the EU27 at the UK/EU27 border, unless the particulars necessary for the ENS have already been provided or the

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<sup>26</sup> Customs Convention on the International Transport of Goods under cover of TIR carnets done at Geneva on 14 November 1975, OJ L 252, 14.9.1978, p. 2.

<sup>27</sup> In particular the tasks stipulated by Articles 278 and 279 UCC IA.

<sup>28</sup> TIR Handbook Section 1.2, Articles 273, 275 and 276 UCC IA, Article 184 UCC DA, Annex 10 (4) TIR Convention, Article 19 and Annex 2 TIR Convention.

obligation to lodge an ENS is waived under the UCC. In the NCTS, the TIR procedure started in the UK cannot be closed with the usual IE messages, the UK will have to write it off manually. A new NCTS TIR movement has to be lodged by the operator with the customs office at the external EU27 border which will act as a customs office of departure/entry for the TIR operation within the EU.

Where goods are placed under a TIR procedure in the UK with destination in the EU27 and the goods are already located in the EU27 as of the withdrawal date, that TIR movement can continue until the destination in the EU27. When the goods arrive at a customs office of destination/exit, the operation will be treated as any other TIR operation.

#### c) Goods moving under a TIR operation **via the UK**

Where goods move between a customs office of departure/entry in an EU27 Member State via the UK to a customs office of destination/exit in an EU27 Member State and those goods are still located in the EU27, before crossing the UK, the following applies: as of the withdrawal date, that TIR procedure shall, at the latest, be terminated at the customs office of exit from the EU27. This office then becomes the customs office of destination/exit. The "new" customs offices of destination/exit will request the relevant data from the customs office of departure and fulfil all tasks of a customs office of destination/exit. For the exit of the goods at the external border of the EU27, an EXS is to be lodged, unless the particulars necessary for risk analysis for security and safety purposes have already been provided or the obligation to lodge a pre-departure declaration is waived under the UCC.

Where the goods have crossed the UK and re-entered the customs territory of the EU27 before the withdrawal date the TIR movement can continue until destination.

Where the goods covered by a TIR Carnet are crossing the UK by the time of the withdrawal, the following applies: the goods arriving at the EU27 external border will have to be treated as any other TIR movement coming from a third country and formalities established for those goods will apply. An ENS has to be lodged before entering the customs territory of the EU27 again at the UK/EU27 border unless the particulars necessary for the ENS have already been provided or the obligation to lodge an ENS is waived under the UCC. However, in the NCTS, the TIR procedure started in the EU27 Member State could continue.

## **8.2 Special procedures other than transit**

### Customs warehousing (CW)

UK authorisations for customs warehousing are no longer valid in the EU27 as of the withdrawal date, including those which allow for the movement of goods between different customs warehouses. The same will apply to authorisations for movements of goods from customs warehousing facilities located in the EU27 to customs warehousing facilities located in the UK included in customs warehousing authorisations granted by the EU27 customs authorities (see Article 179(3) UCC DA).

Where goods stored in a UK customs warehouse are brought to the EU27 as of the withdrawal date, they have to fulfil the customs formalities established in the UCC for

non-Union goods entering the customs territory of the Union from outside this territory (i.e. ENS, temporary storage declaration and customs declaration).

Where goods will be moving between a customs warehouse in the UK and another one in the EU27 and arrive in the EU27 within a short period before the withdrawal date without sufficient time to reach the destination, and their movement continues in the EU27, as of that date those goods are not covered by an authorisation valid in the EU27. Therefore, the concerned economic operator should discharge this procedure before the withdrawal date (e.g. by placing the goods under a subsequent customs procedure). Such subsequent procedure may be CW as well, provided that the goods are covered by a valid authorisation granted by the EU27 customs authorities. If such regularisation does not take place, the concerned goods would not comply with the obligations laid down in the customs legislation concerning the storage of such goods within the customs territory of the Union and therefore Article 79 UCC will apply, i.e. a customs debt due to non-compliance will incur.

If goods placed under CW located in the EU27 are brought to the UK before the withdrawal date (i.e. because the movement was authorised by the customs authorities) and such goods are located in the UK as of the withdrawal date, the CW procedure will be deemed to have been discharged (i.e. the goods would be considered to be taken out of the customs territory of the Union). The economic operator concerned should provide a proof, if requested by the customs authorities, showing that the goods were brought to the UK before the withdrawal date (e.g. a transport document).

#### Free zones

Where goods placed under a free zone procedure in the UK are brought to the EU27 as of the withdrawal date, they have to fulfil the customs formalities established in the UCC for non-Union goods entering the customs territory of the Union from outside this territory (i.e. ENS, temporary storage declaration and customs declaration).

#### Temporary admission (TA)

Any authorisations granted by the UK customs authorities to place goods under TA before the withdrawal date will not be valid in the EU27 as of that date. The procedure for goods moved under those authorisations according to Article 219 UCC to the EU27 and located in the EU27 as of the withdrawal date should be discharged before that date, so the goods have to be a) re-exported, b) placed under a subsequent customs procedure, c) destroyed with no waste remaining, or d) abandoned to the State. Such subsequent procedure may be TA as well, provided that the goods are covered by a valid authorisation granted by the EU27 customs authorities. If such discharge does not take place, the concerned goods would not comply with the obligations laid down in the customs legislation concerning the TA of such goods within the customs territory of the Union and therefore Article 79 UCC will apply, i.e. a customs debt due to non-compliance will incur.

Where goods placed under temporary admission (TA) covered by an authorisation granted by the EU27 before the withdrawal date are located in the UK customs territory as of that date, and are brought from the UK to the EU27, they have to comply with the customs formalities established in the UCC for goods entering the

customs territory of the Union from outside this territory (i.e. ENS, temporary storage declaration and customs declaration).

Where goods placed under TA in the EU27 are moved to the UK before the withdrawal date and such goods are located in the UK as of the withdrawal date, the TA procedure will be deemed to have been discharged (i.e. the goods would be considered to be taken out of the customs territory of the Union). The economic operator concerned should provide a proof, if requested by the customs authorities, showing that the goods were brought to the UK before the withdrawal date (e.g. a transport document).

### ATA Carnets

The UK is a Contracting Party in its own right to the ATA Convention<sup>29</sup> and to the Istanbul Convention<sup>30</sup>, respectively. Therefore, UK ATA carnets remain valid for goods under temporary admission located in the UK as of the withdrawal date.

Economic operators which are currently bringing goods from the UK to another Member State or *vice versa* on a temporary basis (e.g. goods brought to temporary expositions) will have to place such goods under the temporary admission procedure as of the withdrawal date. They may use ATA carnets for that purpose.

Where goods covered by an ATA carnet were brought from a third country to the UK before the withdrawal date and those goods are re-exported from another Member State as of that date, the customs office of exit will stamp the re-exportation voucher, which can be used as a proof of re-export. That proof can be provided to the customs office in the UK where the goods were previously brought in. Any other documentary proof showing that the goods are outside the customs territory of the Union may also be accepted as a proof of re-export (e.g. a customs declaration showing that the goods were brought into a third country). This also applies where an ATA carnet covers goods brought to the EU27 from a third country before the withdrawal date and re-exported from the UK as of the withdrawal date.

ATA carnets issued in the EU27 for goods brought from the EU27 to the UK before the withdrawal date and brought from the UK to a third country as of that date will be considered as an export declaration (Article 339(4) UCC IA).

### End-use (E-U)

Any authorisations granted by the UK customs authorities to place goods under E-U before the withdrawal date will not be valid in the EU27 as of that date. The procedure for goods covered by those authorisations and located in the EU27 as of the withdrawal date should be discharged before that date, so the goods have to be a) taken out of the customs territory of the Union, b) used for the purposes laid down for the application of the duty exemption or reduced rate of duty, c) destroyed with or

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<sup>29</sup> Customs Convention on the ATA Carnet for the Temporary Admission of Goods done at Brussels on 6 December 1961, including any subsequent amendments thereof (ATA Convention).

<sup>30</sup> Convention on Temporary Admission, including any subsequent amendments thereof (Istanbul Convention), OJ L 130, 27.5.1993, p. 1.

without waste remaining, or d) abandoned to the State. The same applies in the case of authorisations for Transfer of Rights and Obligations (TORO) and for movement of goods as established in Articles 218 and 219 UCC. If the discharge mentioned above does not take place, the concerned goods would not comply with the obligations laid down in the customs legislation concerning the E-U of such goods within the customs territory of the Union and therefore Article 79 UCC will apply, i.e. a customs debt due to non-compliance will incur.

Where goods placed under end-use (E-U) before the withdrawal date are located in the UK customs territory as of that date, and move therefrom to the EU27, they have to comply with customs formalities applicable to any other third-country goods (i.e. ENS, temporary storage declaration and customs declaration).

Where goods placed under E-U in the EU27 are moved to the UK before the withdrawal date, and such goods are located in the UK as of the withdrawal date, the E-U procedure will be deemed to have been discharged (i.e. the goods would be considered to be taken out of the customs territory of the Union). The economic operator concerned should provide a proof, if requested by the customs authorities, showing that the goods were brought to the UK before the withdrawal date (e.g. a transport document).

#### *Inward processing (IP)*

Any authorisations granted by the UK customs authorities to place goods under IP before the withdrawal date will not be valid in the EU27 as of that date. The procedure for goods moved under those authorisations according to Article 219 UCC to the EU27 and located in the EU27 as of the withdrawal date should be discharged before that date, so the goods have to be a) re-exported, b) placed under a subsequent customs procedure, c) destroyed with no waste remaining, or d) abandoned to the State. Such subsequent procedure may be IP as well, provided that the goods are covered by a valid authorisation granted by the EU27 customs authorities. If such discharge does not take place, the concerned goods would not comply with the obligations laid down in the customs legislation concerning the processing of such goods within the customs territory of the Union and therefore Article 79 UCC will apply, i.e. a customs debt due to non-compliance will incur.

Where goods placed under inward processing (IP) before the withdrawal date are located in the UK customs territory as of that date, and are brought from the UK to the EU27, they have to comply with the customs formalities established in the UCC for goods entering the customs territory of the Union from outside this territory (i.e. ENS, temporary storage declaration and customs declaration).

In case of an IP EX/IM authorisation granted by UK customs authorities, if equivalent goods are exported before the withdrawal date, the equivalent amount of goods (raw material) should be brought to the customs territory of the Union with total relief from import duty before the withdrawal date. Otherwise, if the equivalent goods were brought to the customs territory of the Union as of the withdrawal date, they would be treated as third country goods entering the EU territory and the relevant import duties would apply.

Where goods placed under IP in the EU27 are moved to the UK before the withdrawal date, and such goods are located in the UK as of the withdrawal date, the IP procedure will be deemed to have been discharged (i.e. the goods would be considered to be taken out of the customs territory of the Union). The economic operator concerned should provide a proof, if requested by the customs authorities, showing that the goods were brought to the UK before the withdrawal date (e.g. a transport document).

### Outward processing (OP)

Any authorisations granted by the UK customs authorities to place goods under OP before the withdrawal date will not be valid in the EU27 as of that date. If the processed products resulting from goods placed under OP (authorisation granted by UK authorities) were not brought to the UK, but to the EU27, as of the withdrawal date, such processed products must comply with the customs formalities established in the UCC for non-Union goods brought to the customs territory of the Union. Such products cannot benefit from OP (i.e. the calculation of import duty cannot be done according to Article 86(5) UCC).

In case of an OP IM/EX authorisation granted by UK customs authorities, if equivalent goods are brought to the customs territory of the Union before the withdrawal date, the equivalent amount of goods (raw material) should be exported within the time limit of the authorisation. If such export does not take place, this would entail a non-compliance with the obligations laid down in the customs legislation concerning the OP procedure and therefore Article 79 UCC will apply, i.e. a customs debt due to non-compliance will incur.

## **9. GOODS TAKEN OUT OF THE CUSTOMS TERRITORY OF THE UNION**

### **9.1 Pre-departure declaration**

According to Article 263(3) UCC, the pre-departure declaration takes the form of either (i) a customs declaration for goods to be taken out of the customs territory of the Union; (ii) a re-export declaration; or (iii) an EXS. In most cases, the pre-departure declaration will be provided in the form of a customs declaration.

Where a pre-departure declaration was lodged and, where applicable, goods were released in the UK before the withdrawal date, that declaration will not be valid where those goods enter the EU27 as of the withdrawal date to exit via the EU27 and a new pre-departure declaration will be required for those goods in the form of a re-export declaration or of an EXS, which has to be lodged within the time-limits set out in the UCC DA.<sup>31</sup>

### **9.2 Export and re-export**

Where Union goods are to be brought from the EU27 to the UK and the economic operator has no knowledge whether the goods are taken out of the EU27 before the

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<sup>31</sup> Article 244 UCC DA, as amended by Commission Delegated Regulation (EU) 2019/334 of 19 December 2018, OJ L 60, 28.2.2019, p. 1.

withdrawal date, those goods may only be placed under the export procedure at any designated customs office in the EU27 as of the withdrawal date.

a) Export from the EU27 crossing the UK or with a customs office of exit in the UK

Where goods were released for export from the EU27 before the withdrawal date and are carried to the customs office of exit in the UK or cross the UK on their way to a customs office of exit in another EU27 Member State, there are the following possible scenarios:

- i. Where the goods on their way to the UK customs office of exit are still located in the EU27 as of the withdrawal date, the previously foreseen customs office of exit needs to be replaced by a customs office of exit located at the EU27 border (the diversion of the export movement is executed in ECS). This customs office will confirm the physical exit of the goods and send the respective message to the customs office of export. The same applies to goods on their way to an EU27 customs office of exit which are before crossing the UK still in the customs territory of the Union.
- ii. Where the goods on their way to the UK customs office of exit are already located in the UK as of the withdrawal date, the UK will not be able to send any messages via ECS confirming the physical exit of the goods. The customs office of export located in the EU27 will have to close the movement in ECS based on an alternative proof. Economic operators need to provide alternative proofs to the customs office of export in order to close the movement.
- iii. Where the goods already have crossed the UK on their way to a customs office of exit located in another Member State, there will be no impact on the current procedure (i.e. the customs office of exit at the external EU27 border will still confirm the physical exit of the goods to the customs office of export).

b) Export from the UK with a customs office of exit located in the EU27

- i. Where goods released for export from the UK with a customs office of exit in the EU27 are still located in the UK as of the withdrawal date, they will be subject to UK customs procedures when exiting the UK. When those goods enter the customs territory of the Union as of the withdrawal date, they will be treated as any other third country goods, i.e. an ENS shall be lodged at the first entry point of the EU27, the goods will have to be placed in temporary storage and, to reach the customs office of exit, if not already placed under a transit procedure in the UK, they can be placed under external transit procedure. When the goods have reached the EU27 customs office of exit, then a re-export notification, a re-export declaration or an EXS at the EU27 customs office of exit should be lodged.
- ii. Where goods released for export in the UK via an EU27 customs office of exit are already located in the EU27 as of the withdrawal date and reach the envisaged EU27 customs office of exit, that customs office will not be able to confirm the physical exit of the goods to the UK customs office of export, as the UK will be disconnected from the ECS as of the withdrawal date, however the customs office of exit can close the movement in ECS at their side. The customs office of exit should, upon request from the economic operator, issue a proof of exit (e.g. in the form of endorsement of the EAD).

## 10. CUSTOMS CONTROLS ON GOODS SUBJECT TO SPECIFIC REGULATIONS RELATING TO PROHIBITED AND RESTRICTED GOODS

### Safety, health and environment

EU legislation requires goods imported in the EU, in transit or exported outside the EU to comply with a number of safety, health and environmental rules. It is the role of the relevant national competent authorities to check if goods entering or leaving the EU comply with all those rules. As of the withdrawal date, the goods brought to the customs territory of the Union from the UK or taken out from the customs territory of the Union to the UK will be subject to those rules.

The controls on the compliance with those rules can include documentary checks on import/export licences for certain goods as well as physical checks on the goods and involves close cooperation and coordination with competent authorities who are responsible for the correct application of the relevant legislative requirements.

It is important to emphasise that customs will only release the goods once the relevant competent authority has fully completed their controls and this has been communicated to customs via the established procedures (e.g. authorisations, licences, electronic data communication system between customs and competent authority, etc.).

In the context of those persons who plan to travel (for private or business reasons) from the United Kingdom to the EU (and vice-versa) on the withdrawal date or thereafter a '*Notice on travelling between the EU and the UK following withdrawal of the UK from the EU*'<sup>32</sup> provides detailed information on customs controls on certain goods and animals that are prohibited or restricted from entering or leaving the EU.

### Import / export licences for certain goods

Economic operators engaged in shipments of goods which are subject to import/export licences or which may become subject to import/export licences as of the withdrawal date are reminded of the legal repercussions which need to be considered when the UK becomes a third country. They should confirm that their goods meet all licencing obligations in order to prepare for possible changes as a result of no deal.

Further details on the consequences of withdrawal in the field of import / export licences for certain goods can be found in the '*Notice to Stakeholders on the Withdrawal of the UK and EU rules in the field of import / export licences for certain goods*' published on 25 January 2018<sup>33</sup>.

The below addresses some specific goods subject to prohibitions and restrictions:

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<sup>32</sup> [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#travel](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#travel)

<sup>33</sup> [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#tradetaxud](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#tradetaxud)



### Waste

Waste shipments are subject to licencing requirements. Additional information is available in the "Notice to stakeholders – Withdrawal of the United Kingdom and EU waste law".<sup>34</sup>

### Hazardous chemicals

Certain hazardous chemicals are subject to a consent requirement. More information is available on the website of the European Chemicals Agency.<sup>35</sup>

### Dual use goods

The EU has added the UK to the list of third countries covered by the EU General Authorisation 001 that lifts the requirements for individual licences when trading in dual-use items.<sup>36</sup>

Further information relating to dual use goods is available in the '*Notice to Stakeholders – Withdrawal of the UK and EU rules in the field of dual use export controls*'.<sup>37</sup>

### Intellectual Property Rights

For the enforcement of IPR, as of the withdrawal date the EU rules on customs enforcement of intellectual property rights, and in particular Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights, no longer apply to the UK. Further details on the consequences of withdrawal in particular on the submission and validity of Union applications for action can be found in the '*Notice to Stakeholders – Withdrawal of the UK and EU rules in the field of customs enforcement of intellectual property rights*'.<sup>38</sup>

### Drug Precursors

With regard to EU legislation laying down rules for the monitoring of trade between the EU and third countries, Council Regulation (EC) 111/2005 in drug precursors<sup>39</sup>, certain operators will need to obtain a licence/registration and for certain transactions import/export authorisations will be needed when trading with the United Kingdom.

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<sup>34</sup> [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#env](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#env)

<sup>35</sup> <https://echa.europa.eu/advice-to-companies-q-as/pic>

<sup>36</sup> Regulation (EU) 2019/496 of the European Parliament and of the Council of 25 March 2019 amending Council Regulation (EC) No 428/2009 by granting a Union general export authorisation for the export of certain dual-use items from the Union to the United Kingdom, OJ L 85I , 27.3.2019, p. 20.

<sup>37</sup> [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#tradetaxud](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#tradetaxud)

<sup>38</sup> [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#tradetaxud](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#tradetaxud)

<sup>39</sup> OJ L 22, 26.1.2005, p. 1.

### Cultural goods

The EU rules on export of cultural goods, and in particular Council Regulation (EC) No 116/2009 of 18 December 2008 on the export of cultural goods, will no longer apply in the UK as of the withdrawal date. Further details on the consequences of withdrawal in particular for the export licence to the UK and the export licence to third countries can be found in the ‘*Notice to stakeholders – Withdrawal the UK and EU rules on the export of cultural goods*’.<sup>40</sup>

Additional information is available in the ‘*Notice on travelling between the EU and the UK following withdrawal of the UK from the EU*’.<sup>41</sup>

### Cash control

The EU rules on controls on cash entering or leaving the Union are contained in Regulation (EU) No 1889/2005<sup>42</sup>, which aims at preventing money laundering, terrorist financing and other illegal activities. Any natural person entering or leaving the EU and carrying cash of a value of EUR 10 000 or more is required to declare that sum to the competent authorities of the Member State through which he/she is entering or leaving the EU. As of the withdrawal date, this obligation applies also vis-à-vis the United Kingdom.

Additional information is available in the ‘*Notice on travelling between the EU and the UK following withdrawal of the UK from the EU*’.<sup>43</sup>

### Protection of endangered species (CITES)<sup>44</sup>

The EU Wildlife Trade Regulations implement CITES in the Union and provide a list of endangered species for which the international trade is restricted. The control is based on a system of permits or notifications for imports, exports and re-exports and there are specific consequences in the event of no deal withdrawal.

Further details relating to the impact on the import, export or re-export of such species are contained in both the ‘*Notice to stakeholders - Withdrawal of the UK and EU rules on trade in protected species of wild fauna and flora*’<sup>45</sup> and in the ‘*Notice on travelling between the EU and the UK following withdrawal of the UK from the EU*’.<sup>46</sup>

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<sup>40</sup> [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#tradetaxud](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#tradetaxud)

<sup>41</sup> [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#travel](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#travel)

<sup>42</sup> OJ L 309 25.11.2005 p 9.

<sup>43</sup> [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#travel](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#travel)

<sup>44</sup> Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein, OJ L 61, 3.3.1997, p. 1.

<sup>45</sup> [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#env](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#env)

<sup>46</sup> [https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices\\_en#travel](https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#travel)

## **11. ANNEXES TO THIS GUIDANCE NOTE**

[Annex I Brexit Transit Business Scenarios](#) and [Annex II Brexit Export Business Scenarios](#) contain practical examples for transit and export movements, respectively, described above in the respective sections.

European Commission  
Directorate-General Taxation and Customs Union