Brexit

What has changed for your business under the new UK/EU deal?

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> With Brexit, new opportunities arise for the fast movers of international trade. This is your chance to seize the moment by quickly solving challenges that others struggle with.

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Why does this affect me?

The UK and the EU have a new agreement on trade and cooperation. But it doesn't cover other countries. Any other country, including Switzerland, needs to negotiate new trading terms with the UK. And companies based in Switzerland need to make sure they're still doing things correctly in business in or with the UK or EU.

Following the UK's exit from the European Union on 31 January 2020, the two parties had until the end of the year to come to an agreement on their future relationship. On 24 December 2020 they agreed on mutual trade at preferential terms. The agreement covers trade in goods and services, plus matters related to investment, competition, government assistance, tax transparency, air and road transport, energy and sustainability, fisheries, data protection and coordinating social security. Think of it as an extended free trade agreement. There will still be a border between the EU and the UK, which means that trading goods between the two will constitute imports and exports.

These changes have implications that companies should be addressing as a matter of urgency. To make things easier we've produced this brief checklist of the most important points to examine and address.

Trade agreements

First let's look at what you have to check in connection with the trade agreements that are in place between Switzerland/the EU and the UK. Although the focus in the media has been the UK – EU trade deal, Switzerland also agreed on trading with the UK on preferential terms as of 1 January 2021. The parties needed to negotiate their own agreement as with the UK exiting the EU, the agreement between CH and EU does not cover the UK anymore.

Switzerland

The free trade agreement (FTA) between Switzerland and the UK allows traders to apply lower duty rates on imports into Switzerland or the UK – provided the goods qualify for UK or CH preferential origin on the basis of the requirements outlined in the agreement.

What you need to check:

- **Classification:** Do all your products have a classification code meeting the UK tariff schedule?
- **Valuation:** Check how you value your transactions. A correct valuation should already be in place for these flows.
- **Origin calculation:** Calculate preferential origin for the goods crossing the border.
- **Documentation requirements:** Make sure you can justify the origin with supplier declarations and documented calculations.
- **Processes:** You need to find out how the processes relating to origin declarations on invoices and the issuing of movement certificates changes.

EU

The free trade agreement (FTA) between the EU and the UK allows traders to apply lower duty rates on imports into the EU or UK – provided the goods qualify for UK or EU preferential origin on the basis of the requirements outlined in the agreement.

What you need to check:

- **Classification:** Many products you traded on the EU market before might not have a detailed enough classification, so you need to check this as soon as possible to limit compliance issues.
- **Valuation:** Valuation for customs purposes was not a requirement for your UK flows before. You now need to get customs valuation right to avoid higher duties, compliance issues and trucks being stopped at the border.
- **Origin calculation:** You should also take care to get this right, as only goods that acquire preferential origin based on the calculation and supporting documentation can be traded under preferential conditions.
- **Documentation requirements:** Check if you can justify the origin with supplier declarations and documented calculation. The UK has granted a one-year grace period for documentation, but it's subject to precise conditions and does not leave much time to respond.
- **Processes:** Look into the precise documentation requirements and formats you need to apply in accordance with the FTA.

Customs

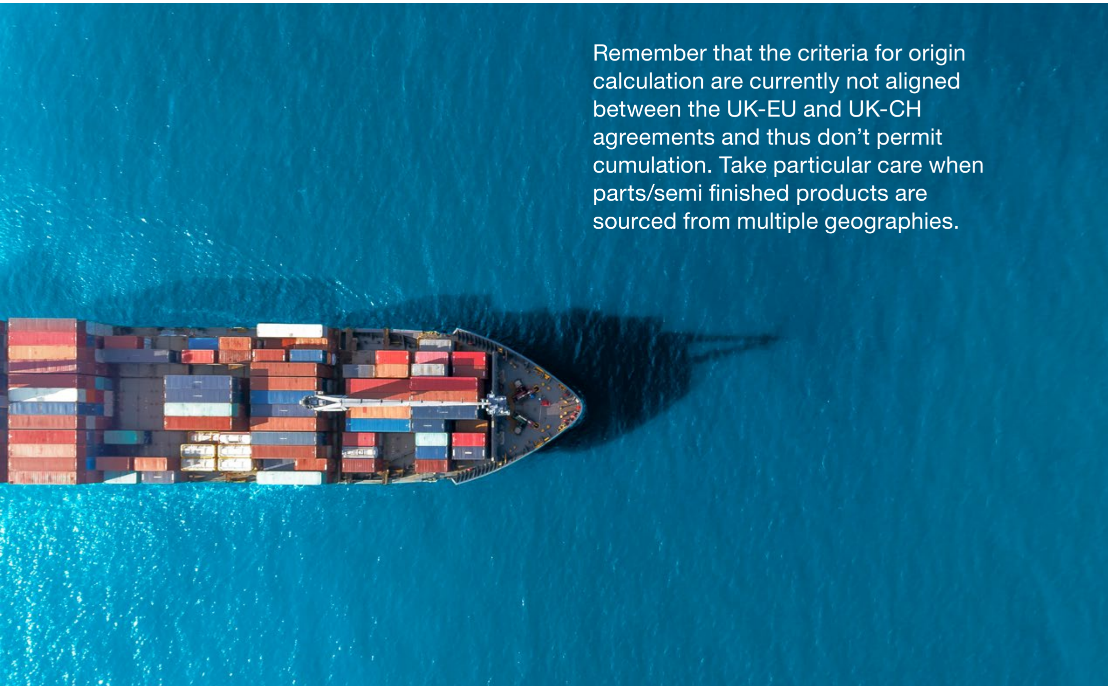
The trade agreement is just one aspect of the post-Brexit changes, mainly focusing on the applicable duty rates on imports. With a border rising between the EU and UK, some other fundamental customs topics also have to be considered:

Roles and representation

- The **importer of record** can be a non-established company, but only with an indirect representation (i.e. joint liability) arrangement. Direct representation is no longer possible for non-UK established companies.
- It's important to discuss roles and responsibilities and set up arrangements to limit **liability** for any broker non-compliance or inefficiency.

Import/export declarations

- Regularly check **what the broker is declaring** on your company's behalf.
- Monitor broker fees and consider **self-declaration** if this can be supported by a business case.
- If you're **self-filing,** you'll need an **appropriate system set-up.**
- Make sure you have the right **accompanying documents:** certificates and licences have to be in place; even if checks are currently limited or focused on the border, compliance is vital for business sustainability.



Remember that the criteria for origin calculation are currently not aligned between the UK-EU and UK-CH agreements and thus don't permit cumulation. Take particular care when parts/semi finished products are sourced from multiple geographies.

Other consequences of the new UK/EU relationship

The new agreement has implications in areas besides trade and customs. You might also have to make changes in relation to value-added tax (VAT), ERP systems and regulatory aspects.

VAT

Remember that any UK transaction is no longer an intra-community supply of goods or services.

- Examine the implications for VAT-exempt export and supporting documentation.
- Check the requirements and limitations to use deferment accounts.
- Remember that in the UK only the owner of the goods at the time of importation can claim back import VAT.
- Also keep in mind that import VAT is now due on UK > EU flows.
- Note that triangulation and call off (consignment stock) is no longer available.

Intrastat reporting

- **EU > GB:** Note that declarations will be required for the whole of 2021 (where a requirement existed in 2020).
- **EU > NI and NI > EU:** Note that declarations will be required for the lifetime of the Northern Ireland Protocol (at least until 2025).
- **GB > NI and GB > EU:** Note that no declaration is required from 2021.

GB > NI flows

- Note that this constitutes a local supply from VAT perspective.
- Remember that the transaction has to be declared as export and import via the Trader Support Service (TSS).

ERP systems

- Make sure you update your systems to reflect business changes: changes in locations, branch structures and outsourcing arrangements.
- Where your tax determination is automated, you'll need to reassess your tax logic in light of the changes:
  - UK as a third country
  - VAT recovery in relation to supplies to EU countries.
- Make sure system outputs are correct, including fiscal reps on invoices and the wording on invoices for certain supplies.

Regulatory considerations

- Remember that by default, no **certification** granted by UK authorities will be accepted in the EU and vice versa.
- Be aware of the **grace periods** announced by the respective authorities to enable businesses to implement the changes necessary under specific regulations.
- **Work out if your industry is affected:** pharma, life sciences, food, chemicals, electronics and toys are all fields where regulatory changes apply.
- Be aware that you might be affected by **new product labelling requirements.**

What next?

The three most important to-dos and must-haves if you do business in or with the UK or EU:

1. Look into the applicability of the EU – UK and CH – UK Free Trade Agreements for your flows.
2. Confirm that the correct customs value is declared for your transactions.
3. Check the VAT determination logic in your systems and make sure you recover import VAT on UK – EU flows.

Questions?

Contact us!

If you'd like additional support or a sounding board to help you get the transition right, feel free to call us:

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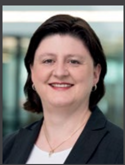

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