

# Trading with Europe: Business to Business



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**Growth Hub**  
Connected Business Support



**Grant Thornton**



# Trading with Europe post-Brexit Business-to-Business

9 March 2021



# Today's speakers



**Tom Rathborn**

Political and Economic Affairs



**Alex Baulf**

Indirect Tax



**Adam Taylor**

Customs



**Kevin Wilson**

Operational Advisory

# Agenda

- Welcome and Introductions
- Overview of the Trade and Cooperation Agreement
- Inco terms – who is responsible?
- Customs considerations
- VAT Considerations
- Summary
- Q&A



# The Deal

## Trade and Cooperation Agreement

# The Trade and Cooperation Agreement

## A significant change

		2020	Softer Brexit		TCA	Harder Brexit
		Full EU Membership	EFTA EEA (Norway)	Customs Union (Turkey)	Free Trade Agreement	WTO
Goods	Tariff free access in goods?	Yes	Yes	Yes	Yes [BUT]	No
	Avoidance of technical barriers?	Yes	Yes	Partial	No [BUT]	Partial
	Avoidance of EU-UK customs administration?	Yes	No	Yes	No	No
Services	Market access for services?	Yes	Yes	No	Partial	No
People	Free movement of labour?	Yes	Yes	No	Partial	No
Data	Avoidance of restrictions on EU-UK data transfers?	Yes	Yes	Possible	Possible	Possible

# The Trade and Cooperation Agreement

## Overview of key changes

Impact of agreement	Benefits of Agreement
UK goods no longer benefit from free movement of goods	Zero tariffs or quotas on goods that qualify
New customs formalities	Traders can self-certify the origin of goods and enjoy 'full cumulation'
VAT and Tariffs applicable	Mutual recognition of trusted trader schemes – E.g. AEO
UK exports must have valid certification	Specific facilitation arrangements for some sectors

# Moving goods across borders

## Inco terms



# Who is responsible?

## Incoterms – who does what?

Groups	Freight Collect Terms						Freight Prepaid Terms				
	Any Mode or Modes of Transport		Sea and Inland Waterway Transport				Any Mode or Modes of Transport				
Incoterm <sup>®</sup>	EXW Ex Works (Place)	FCA Free Carrier (Place)	FAS Free Alongside Ship (Port)	FOB Free On Board (Port)	CFR Cost and Freight (Port)	CIF Cost Insurance & Freight (Port)	CPT Carriage Paid To (Place)	CIP Carriage & Insurance Paid to (Place)	DAP Delivered at Place (Place)	DPU Delivered at Place Unloaded (Place)	DDP Delivered Duty Paid (Place)
Transfer of Risk	At Buyer's Disposal	On Buyer's Transport	Alongside Ship	On Board Vessel	On Board Vessel	On Board Vessel	At Carrier	At Carrier	At Named Place	At Named Place Unloaded	At Named Place
Obligations & Charges:											
Export Packaging	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Loading Charges	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Delivery to Port/Place	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Export Duty, Taxes & Customs Clearance	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Origin Terminal Charges	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Loading on Carriage	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Carriage Charges	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Insurance	Negotiable	Negotiable	Negotiable	Negotiable	Negotiable	*Seller	Negotiable	**Seller	Negotiable	Negotiable	Negotiable
Destination Terminal Charges	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller
Delivery to Destination	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller
Unloading at Destination	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Buyer
Import Duty, Taxes & Customs Clearance	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller

# Customs considerations

# Understanding Customs

## Four pillars of customs compliance



# Four pillars of customs compliance

## Classification

### What is it?

- Legal requirement to correctly classify imported and exported goods
- 16000+ commodity codes
- Online trade tariff to identify commodity code  
<https://www.trade-tariff.service.gov.uk/trade-tariff/sections?day=6&month=6&year=2018>
- Advanced Tariff Rulings

# Four pillars of customs compliance Classification

## Important considerations

- Multi-functionary products
- What is key component/provides essential character?
- General Interpretive Rules (GIRs)
- Provides duty rates and licencing requirements
- Customs special procedures often commodity code specific

# Four pillars of customs compliance

## Classification – example



Code: 9404300000

Description: Sleeping bag

Tariff: 3.7%

Or

Code: 6111309000

Description: Babies garments

Tariff: 12%

# Four pillars of customs compliance

## Valuation

### What is it?

- Ad-valorem tax therefore a value is required
- 'Customs value'
- 6 methods of customs valuation – WTO rules
- Transaction value
- Identical goods
- Similar goods
- Cost plus
- Sales minus
- Fallback method



# Four pillars of customs compliance

## Valuation

### Why is it important?

- Interaction with Incoterms
- Additions and subtractions
- Insurance!
- Related part transactions/transfer pricing and customs
- Supplies to branches
- ‘Pass throughs’
- Leased goods
- Goods vs Services



# Four pillars of customs compliance

## Origin

### What is 'origin' and how is it determined?

The Origin is the 'economic nationality' of the good

**NOT NECESSARILY WHERE IT WAS SHIPPED FROM**

Origin **can** change where the last significant process took place:

- Wholly produced (grown, mined, reared)
- Production process
- Change in tariff classification (CTH / CTSH)
- Maximum value or net weight (exc packaging) of non-originating material
- Other requirement specified

# Four pillars of customs compliance

## Origin

### Identifying the origin

- New product specific rules in TCA – electric cars, textiles and textile articles
- Identify commodity code
- Select rule to apply
- Where more than one rule offered can choose either
- ‘Insufficient production’ (Article ORIG.7)

# Four pillars of customs compliance

## Origin

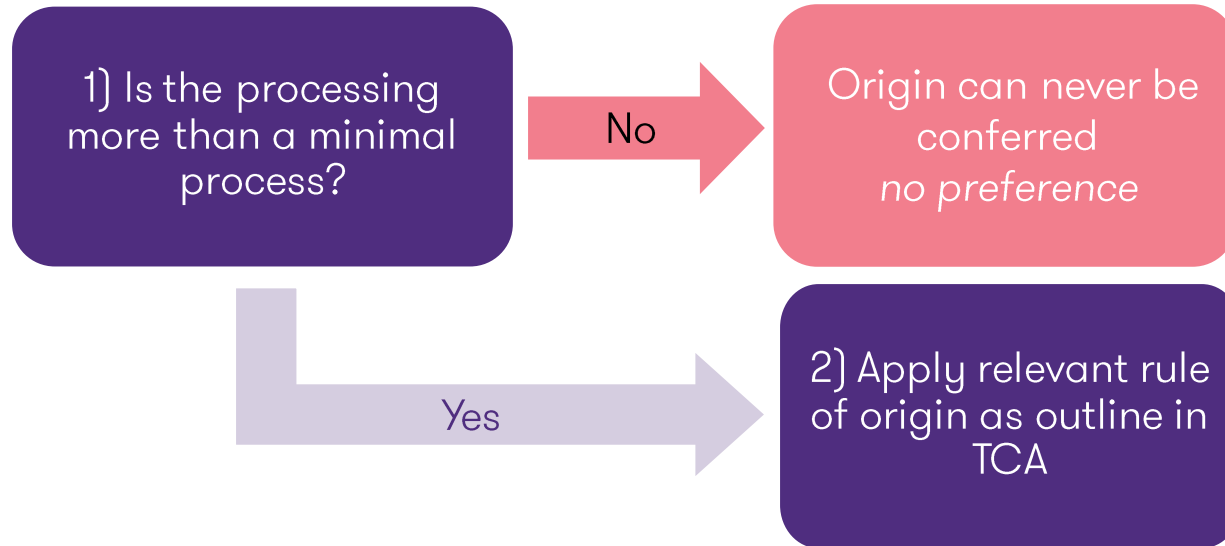
### Insufficient production

- Simple operations – mixing, labelling, screening, dilution peeling, assembly
- ‘2. For the purposes of paragraph 1, operations shall be considered simple if neither special skills nor machines, apparatus or equipment especially produced or installed are needed for carrying out those operations.’
- Advanced Ruling – AFKA ‘BOI ruling’

# Four pillars of customs compliance

## Origin

### 2 step process to confirm origin



# Four pillars of customs compliance

## Origin

### Key points

Cumulation with EU origin goods permitted – ‘bilateral cumulation’

Evidence – LTSDs should be obtained

Invoice declaration by exporter – specific wording in TCA

UK-EU – EORI number to be quoted

EU-UK – REX number required (Registered Exporter Number)

# Four pillars of customs compliance

## Origin

### **Responsibilities**

Preferential rate claimed at import and accuracy of claim is the responsibility of the importer (Code '300')

Importer can make claim without exporter declaration if they are confident they know full product details. (Art ORIG.18 2(b) & Art ORIG.21)

This is a risk.

# What problems have we seen?

## Some early pitfalls

- EU → UK → EU with no UK processing = EU tariffs on second leg
- Non-EU → UK → EU = duties due on entry to UK and EU
- Diagonal Cumulation: EU content used in UK for supplies to Switzerland, Israel, Norway, Canada
- Insufficient production/minimal processes
- Application of rules of origin

# Paying the tax

## Duty Deferment

- Taxes must be 'paid or secured' to release goods from customs
- Possible to defer duty and import VAT until 15<sup>th</sup> of following month through duty deferment account
- Bank guarantee may be required (UK vs EU)
- Must obtain approval and Deferment Approval Number from HMRC
- Duty Deferment Summary Schedules
- Postponed VAT accounting



# Are there any mitigations?

## Customs Special Procedures/Tariff mitigation

### Available options

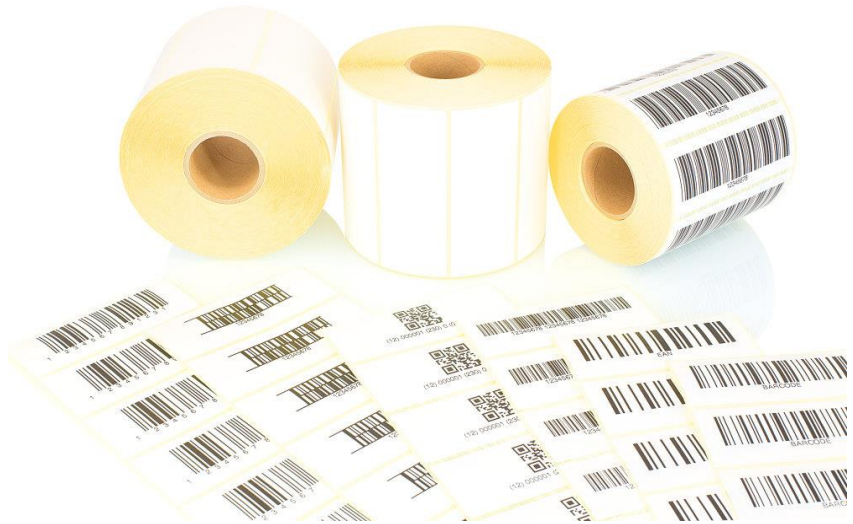
- Inward Processing Relief (IPR)
- Outward Processing Relief (OPR)
- Customs Warehousing
- Temporary Admission (TA)



# What is the paperwork involved?

## Documentation

- C88 (customs entry / SAD)
- E2 print (import only)
- Invoice, packing list, AWC, Certificate of Conformity
- Transport documents – airway bills, bills of lading
- Requirement to keep records accessible
- Export documentation – preference certificate, AWC



# Getting the paperwork right

## Checking customs declarations

**Box 8** – Importer and EORI number

**Box 22** – Currency and Value

**Box 31** – Item description

**Box 33** – Commodity code

**Box 34** – Country of origin

**Box 37** – Customs Procedure Code (CPC)

**Box 44** – Additional information box (esp. for customs reliefs)

**Box 47** – Calculation of taxes

**Box 48** – Deferred payment

# Additional accreditation Authorised Economic Operator

- Supply chain accreditation
- Customs simplifications – Safety and Security
- Mutual Recognition of UK and EU AEOs
- Reduced declaration requirements/Priority at borders



**UK Authorised Economic Operator**

# VAT considerations

# Key changes

## Postponed VAT Accounting

- Applies from 1 January 2021.
- No approval required from HMRC. Need to sign up to Customs Declaration Service (CDS) in order to access postponed import VAT statements.
- Select on the customs declaration that you will account for import VAT on the VAT return.
- To use postponed VAT accounting, the goods must be for use in your business.
- Monthly postponed import VAT statement in PDF obtained through CDS via Government Gateway login. Available in first half of the month and can be accessed/downloaded for six months.
  - If delaying customs declarations – estimate the import VAT due from records of imported goods.

# Getting the paperwork right

## UK VAT return post-Brexit

Box	Contents of box
<b>1</b>	VAT due on sales and other outputs (1)
<b>2</b>	VAT due on acquisitions from other EU Member States [NI only]
<b>3</b>	Total VAT due
<b>4</b>	VAT reclaimed on purchases and other inputs; including acquisitions from the EU (2)
<b>5</b>	Net VAT to be paid or reclaimed to/from Customs
<b>6</b>	Total value of sales and all other outputs excluding any VAT
<b>7</b>	The total value of all purchases and imports of goods excluding any VAT
<b>8</b>	Total value of all supplies of goods and related costs, excluding any VAT, to EU member states (3)
<b>9</b>	Total value of all acquisitions of goods and related costs, excluding any VAT, from EU member states (4)

### Notes

1. Box 1 includes the VAT due in the period on imports accounted for through postponed VAT accounting ('PVA')
2. Box 4 includes the VAT reclaimed in this period on imports accounted for through PVA
3. Box 8 only used relating to Northern Ireland to EU from 1 January 2021
4. Box 9 only used relating to EU to Northern Ireland from 1 January 2021

# What problems have we seen?

## Common VAT issues associated with Brexit

- Delivery of goods on delivered duty paid ('DDP') to EU customers – generally VAT registration requirement (unless EU member state has a domestic reverse charge)
- **Fiscal representation** – a number of EU countries require non-established VAT registered businesses to appoint a fiscal representative.  
*NB We are seeing some relaxations in the past few weeks (e.g. Poland and Italy)*
- **Drop-shipping / chain transactions** - "Triangulation" no-longer available (limited use in Northern Ireland), triggering VAT registration requirements where the UK is intermediary.
- Reverse charge is due on virtually all services imported from outside the UK (not just limited to EU suppliers adding "reverse charge" narrative).
- Main B2B rule for services is tax where customer is established and therefore EU customer still outside scope of UK VAT – subject to reverse charge.



# What does it all mean?

# Summary

## Key takeaways

### **Understand new compliance issues**

- Four pillars of customs
- New VAT requirements

### **Understand the financial impact**

- Cost of tariffs and customs declarations
- How much does your supply chain now cost?
- How much will your profit be affected?

### **So what?**

- Does your business model and your supply chain still work?
- Does this change the way you operate and is there something more you can do?

# Q&A

**With thanks to our guests for speaking today.**

**For further business support, if you would like to give any feedback or have any more questions please call or email the Growth Hub:**

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