

FAQ on Brexit and customs

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Will free movement of goods remain active during the transition phase?

Nothing has been decided. A transition phase in which the UK (United Kingdom) will remain part of the European Single Market and the customs union with all four fundamental freedoms, until the expected de-facto exit on 31 December 2020, has been politically agreed in the draft for the exit treaty. Whether the exit treaty will, however, be accepted by the British parliament or not is still unclear. If there is a transition phase, however, movement of goods will remain free during it.

What consequences will restriction of free movement of goods have, apart from customs formalities?

Apart from the introduction of customs processing and additional effort in procurement of proofs of origin, the end of free movement of goods will have the following consequences:

- Acceptance of common norms and standards as it applies within the EU, is no longer ensured.
- Customs formalities and border controls may extend delivery times in trade between the EU and the United Kingdom.
- The previous VAT provisions will change when dealing with the UK, since the United Kingdom will become a third country.

What will a free trade agreement between the EU and Great Britain do?

A free trade agreement is to facilitate trade between the EU and Great Britain. It is not only about customs duties and bureaucracy, but, among other things, also about opening the market for companies and the production standards for consumers, the environment and employees.

On 23 March 2018, the EU heads of state and government declared their support for a free trade agreement with the United Kingdom. Such an agreement could be passed at the end of the planned transition phase that is expected to run until 31 December 2020.

A free trade agreement between the EU and the UK would mean that goods with British or EU origins would not be subject to customs duties or, depending on the result of negotiations, that these would at least be reduced as compared to the WTO customs rates in the movement of goods between the United Kingdom and the EU.

Trade without customs duties between the EU and the United Kingdom would, however, only be possible for goods for which EU or UK proofs of preference are present. The effort for procuring or compiling these certificates of origin may be time-consuming. Therefore, it should be critically questioned whether customs preferences actually do have an advantage. That means: If the rate of duty charged for your product is low, preference calculation and rendering proof may not pay off.

Will customs clearance still be necessary with a free trade agreement

Yes, if the EU and the United Kingdom conclude a free trade agreement, customs duties for the goods originating in either region are not expected to apply, but the corresponding formalities for import and export of goods still must be observed. Quite the opposite: Customs will have to review whether the goods are actually exempt from customs duties. Only goods produced or predominantly processed in the EU or the UK with corresponding proofs of origin would be exempt from customs. Regular external tariffs would apply to goods not originating in the EU.

From when onwards are customs declarations required in writing/electronically?

If the value of the shipment does not exceed 1,000 Euro and a net weight of 1,000 kilograms, and the goods are not subject to any prohibitions, limitations or other special formalities for export, and if no granting of export refunds or other amounts, or refunds of duties, is intended, the shipment may be registered orally directly with the outbound customs office.

Are there any simplifications in customs?

Yes. There are various simplifications of the proceedings that may also be granted in connection with the United Kingdom after Brexit. For example, there is the principle of "authorised consignor" or "authorised economic operator (AEO)".

Attention: Use of any simplification generally is subject to customs approval.

As an authorised consignor, you can perform shipping processes in the transit procedure without having to present the goods at the point of departure or to submit the corresponding transit declaration.

The AEO status has greater advantages. This includes:

- Reporting of whether the shipment will be inspected after the summary declaration already
- No safety-relevant data necessary in the export registration
- Priority treatment if controls are performed

What happens if there will be no free trade agreement or customs union between the UK and the EU?

The UK and the EU both are WTO members. If the "hard Brexit" happens, trade between the UK and the EU will be according to WTO rules. There will no longer be any free movement of goods, as it is the case on the European Single Market at the moment, between EU and the UK anymore then.

What are the WTO rules?

The WTO rules are the basic standard between the 164 WTO countries. The predominant target of the WTO is removing all obstacles in global trade. This includes tariff-related trading obstacles (in particular customs duties) and non-tariff-related ones (e.g. technical standards and provisions or time-consuming bureaucratic obstacles) alike.

The following are some of the fundamental WTO principles:

- **Most-favoured-nation principle:** By the principle of the most-favoured nation, WTO-members are obligated to grant the benefits that they grant one trading partner to every other WTO member as well.
- **Principle of reciprocity:** The principle of reciprocity particularly applies to negotiations on tariff dismantling: If country A grants advantages to country B, these should be reciprocal. Country B then is to grant the same advantages to country A.

Example: There is a hard Brexit and an EU company wants to deliver cars to the UK in 2022; the WTO rate of duty is 10 percent (as of October 2018). The UK cannot apply a rate of duty of 15 percent to goods from the EU, since this would not correspond to the most-favoured-nation principle. A free trade agreement would permit reduction down to 0 percent.

Duty-free deliveries usually will only be possible in the scope of a free trade agreement or a customs union in future. Of course, there are also some products for which the WTO rules stipulate a rate of duty of 0 percent.

What is to be done if goods are only temporarily brought into Great Britain after Brexit?

Until now, temporary shipments of goods, e.g. equipment for trade fairs or for exercising a profession, to the UK weren't any issue. After Brexit, two options are expected: Temporary use or Carnet A.T.A.

The Carnet A.T.A. is an international customs permit document, that facilitates the temporary export of the goods named above. The prerequisite is that the goods are returned to the EU unchanged after the temporary export. The Carnet A.T.A. serves as a customs document both for German customs and for customs in the destination country, which permits speedy border processing. No further customs formalities are required. Payment of customs duties or depositing collateral in the import countries will not be necessary. The issuing offices are the respective locally competent Chambers of Industry and Commerce.

The prerequisite for this is that the United Kingdom will still participate in the Carnet A.T.A. procedure after Brexit.

Will Brexit affect export control?

Yes. Once the UK is no longer part of the EU after Brexit, the scope of provisions to be reviewed by German companies will increase. This specifically applies to export control, which is subject to comprehensive European provisions stipulating exports into third countries. Instead of the relatively rare transfer licenses, export licenses will be required much more often.

It is likely that the UK will be part of a privileged group of countries for export control, so that it will probably be possible to use general authorisations in many cases.

Does anything have to be observed for imports after Brexit?

Yes. Just as for export, companies will have to observe the European provisions on import after Brexit, in addition to the national provisions to be observed already. Some products will be subject to restrictions based on international provisions and treaties, as well as EU provisions.