

Brexit – Are We Nearly There Yet?

by Rose Tierney

Has there been a day where it hasn't been in the news? We are five years on from the YES vote for the United Kingdom ("UK") to leave the European Union ("EU") and 9 months on from actually leaving. Yet we still have daily news reports of ongoing negotiations and only recently some fairly strong hints that the masterminds behind the exit strategy in the UK might not still think it was such a good idea after all. Only time will tell.

Meanwhile us ordinary folks have to get on with the day-to-day implementation. So, what have we learned in the last 9 months?

1. A bilateral agreement on trade and customs where only one side implements the checks and balances leaves a very lopsided trading arrangement.

From 1 January the EU made efforts to implement the full range of declarations and checks required for trade with 3rd countries, of which Great Britain ("GB") is now one. While this caused pain and delays for a load of traders, a lot of the initial issues have "settled down" at this point.

However, the delay in implementing similar declarations and procedures on the GB side, may have given a false sense of security that what we have now is the norm.

(a) Customs Declarations

While Customs import declarations are required to bring goods into either the EU or GB, the trader importing into GB has the option to use the deferred declaration scheme, including submitting supplementary declarations up to 175 days after the goods have been imported. This easement has now been extended to 1 January 2022.

This has caused problems for a number of traders selling into GB B2C or delivering duty paid ("DDP") where they are the importer in GB and responsible for the VAT and duties. The cases in question were where the

trader was unaware that the customs broker was using the declaration deferral and had not filed the GB import declarations to declare the GB import VAT and duty on import. This resulted in a nasty surprise - receiving a bill from the customs broker for all the customs duty and import VAT over six months after the sales were made. Not being totally familiar with the rules and relying on the customs broker is a mistake they won't make again.

(b) Safety and Security Declarations

From 1 January 2021 to 31 December 2021, you can import controlled and non-controlled goods to GB from the EU without making an entry summary declaration ("ENS") also known as the safety and security declaration. These are currently required for goods moving into Republic of Ireland ("ROI") from GB but are not required for goods moving from ROI into GB until 1 January 2022.

However, if the goods are moving from GB to Northern Ireland ("NI") then you do need to submit an ENS.

(c) Movements to NI

When a trucker rings the office and says that they are switching routes from Liverpool to Dublin and going from Cairnryan to Larne instead, that now involves a lot more than re-booking the ferry. While no declarations are required for non-controlled goods moving from NI to GB, there are both import and ENS declarations required for goods moving from GB to NI. So, the pre-logged declarations for the Liverpool/Dublin route are no longer any use

to them and a whole new set of declarations has to be filed with HM Revenue & Customs on a different system.

(d) Sanitary and Phytosanitary Checks ("SPS")

There has been some consternation by certain parties about the amount of checks imposed in the agri-food sector by the EU. Pre-notification requirements for Products of Animal Origin (POAO), certain Animal By-Products (ABP), High-Risk Food Not of Animal Origin (HRFNAO) and Export Health Certificate requirements for POAO and certain ABP are currently required for movements into ROI. However, the equivalent checks will not be required until 1 October 2021 for movements into GB. It is not that these checks are not legally required in GB, it is that the date for implementation in relation to products coming from the EU have been given a grace period which has been extended by the UK government.

Physical SPS checks for POAO, certain ABP, and HRFNAO already being carried out in ROI will not be required until 1 January 2022 for movements into GB. They will have to be carried out at Border Control Posts ("BCPs") at that point.

While physical SPS checks in GB on high-risk plants currently take place at the place of destination, from 1 January 2022 these will take place at BCPs instead.

Pre-notification requirements and documentary checks, including phytosanitary certificates, will be

required for low-risk plants and plant products entering GB from 1 January 2022. Then from March 2022, checks at BCPs will take place on live animals and low risk plants and plant products moving into GB.

So, for GB importers of animals, plants and food, who haven't faced the whole raft of checks yet, the next number of months will be very telling. This could have a significant impact on some parts of the agri-food sector in ROI, in terms of increased costs and a shrinking market in GB.

(e) Goods Movement Reference ("GMR")

While a Pre-Boarding Notification ("PBN") is required for goods moving both directions ROI to GB and GB to ROI, to allow the vehicle onto the boat, the equivalent is not the case in GB.

UK Ports which use the Goods Vehicle Movement System ("GVMS") require a GMR.

You need to create a GMR for the following journeys:

- Goods moving from the EU to GB only where you are moving goods under the Common Transit Convention using a Transit Accompanying Document.
- Goods from GB to NI a GMR is required for all movements into Northern Ireland ports using the GVMS i.e. Larne, Warrenpoint and Belfast.
- Goods from NI to GB a GMR is needed for:
 - Common Transit Convention movements.
 - TIR and ATA Carnet movements.
 - Movements from the ROI to GB through an NI port.
 - Movements from NI to GB under a customs special procedure or on a list of goods where specific international processes apply.

At present goods moving from GB to the EU, other than where mentioned above, do not require a GMR, but this is due to change on 1 January 2022.



2. Clarifications, Simplifications and Tweaks

When Brexit difficulties ensued on 1 January 2021, it was difficult to see a light at the end of the tunnel. Since then, greater familiarity with the procedures and software, and progressive work by the Revenue on tweaking their systems to accommodate certain simplifications, have over the last few months eased the burden on traders somewhat. That is not to say that it is all straightforward and there are no problems, it is just that there has been a significant reduction in problems.

(a) Safeguarding Quotas

The Steel Safeguarding Quota of which there is both an EU and a GB one, is still causing some businesses a bit of trouble.

In the early stages of claiming quota on the import declaration you couldn't claim it when pre-lodging the declaration for RoRo imports. You had to claim it in real time by amending the declaration close to the time it arrived in port.

Revenue worked on this and amended the AIS system to allow the quota claim to be entered on the pre-lodged declaration, although the quota wouldn't actually be claimed until it hit the AIS system in real-time, about 1.5 hours before docking.

Of course, if there wasn't sufficient quota left at that stage the importer would still suffer the 25% duty.

Traders learned quickly:

- That not claiming the quota cost them 25% duty.
- How to look up the available quota



(b) Indirect Export via NI ports

In initial stages the AIS system couldn't accommodate an indirect export via NI to GB.

Irish Revenue then amended the coding on the AEP export system to allow an indirect export from ROI to be facilitated through the NI ports of Belfast, Larne and Warrenpoint.

The office of export to be included on the export declaration is IEWSE100. The office of exit is for each of the ports is:

XI000142Belfast

XI005220Larne

XI005160Warrenpoint

And the goods location code is IEWSE100

This facilitates a lot of ROI hauliers as moving goods through Northern Ireland to Scotland and the North of England is a traditional route.

(c) Moving Van & Tools what's the procedure?

Initially the most popular method was to apply for an ATA Carnet from Dublin Chamber of Commerce. This application allowed the movement of tools and professional equipment temporarily without incurring customs duty and a security was put in place to cover any potential duty. <https://www.revenue.ie/en/customs-traders-and-agents/temporary-admission/ata-carnets-temporary-admission-and-export-of-certain-goods/index.aspx>

Revenue now accepts an alternative way of dealing with this.

The Van, Tools and Spare Parts can be exported and then re-imported by oral declaration.

Prior to boarding the ferry, the company must email customspb@revenue.ie and request a PBN ID for the movement of the van and tools that will be leaving to go to GB and later returning back to Ireland with the following details.

- The name of the Company/

Individual exporting the Van and tools

- The Van registration details
- A summary of the tools and parts in the van and the estimated value of the tools/parts
- Details of the duration of stay in the UK
- Details of the return journey where available

Where details of the return journey are known at the time of export that information should also be provided. In that case a PBN ID can then be requested for the return journey also.

A copy of these details should accompany the goods for inspection by customs on arrival if required. The trader should also forward ferry details etc. in advance to customspb@revenue.ie

The Brexit saga does seem like a very, very long journey, with some disgruntled, tired and hungry passengers in the back. But, as you can see from the above, we are only halfway there yet!



Rose Tierney

BA (Hons), BFP, FCA, CIOT CTA, AITI CTA, Cert in Customs Clearance Procedures, Cert in Customs Compliance & Trade Facilitation

Rose has nearly 30 years' experience in tax. Rose operates a cross border tax practice TTax & TTCustoms – Tierney Tax Consultancy on the Monaghan/Fermanagh border. The practice is one of the few with dual UK Irish qualified personnel who practice cross border tax, vat and customs on a day-to-day basis.

before ordering steel from GB.

- That it was a quarterly quota renewing on 1 April, 1 July, 1 October etc so they should consider delaying an order if close to the end of a quarter.

The declaration deferral mentioned at 1 above has also impacted GB importers of steel product and ROI sellers delivering DDP. The quota for steel products entering GB is also real-time.

The goods can pass into GB without being declared on an import declaration at the point of entry. You have 175 days to file it. If by the time the broker gets around to filing it the quota was exhausted for the period of import, then the 25% duty applies. It is important to make sure and file your declaration and make your quota claim in real-time.