

Guidance

Trading with the EU if there's no Brexit deal

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A scenario in which the UK leaves the EU without agreement (a 'no deal' scenario) remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome.

Negotiations are progressing well and both we and the EU continue to work hard to seek a positive deal. However, it's our duty as a responsible government to prepare for all eventualities, including 'no deal', until we can be certain of the outcome of those negotiations.

For two years, the government has been implementing a significant programme of work to ensure the UK will be ready from day 1 in all scenarios, including a potential 'no deal' outcome in March 2019.

It has always been the case that as we get nearer to March 2019, preparations for a no deal scenario would have to be accelerated. Such an acceleration does not reflect an increased likelihood of a 'no deal' outcome. Rather it is about ensuring our plans are in place in the unlikely scenario that they need to be relied upon.

This series of technical notices sets out information to allow businesses and citizens to understand what they would need to do in a 'no deal' scenario, so they can make informed plans and preparations.

This guidance is part of that series.

Also included is an overarching framing notice¹ explaining the government's overarching approach to preparing the UK for this outcome in order to minimise disruption and ensure a smooth and orderly exit in all scenarios.

¹ <https://www.gov.uk/government/publications/uk-governments-preparations-for-a-no-deal-scenario>

We are working with the devolved administrations on technical notices and we will continue to do so as plans develop.

Purpose

The purpose of this notice is to inform businesses of the implications for the trade in goods between the UK and EU countries and the actions they may want to now consider taking to mitigate the potential impacts in the event that the UK leaves the EU on 29 March 2019 with no agreement in place.

While the UK government is confident that it will agree a deal, as a responsible government it will continue to prepare for all scenarios, including the unlikely outcome that the UK leaves the EU on 29 March 2019 without a deal.

This is contingency planning for a scenario that the UK government does not expect to happen, but people should be reassured that the government is taking a responsible approach.

At the heart of government's approach to preparing for a 'no deal' scenario is a commitment to prioritise stability for citizens, consumers and business. This is equally true in our approach to customs as elsewhere. We will continue to apply highly automated, risk based and intelligence targeted customs controls when the UK leaves the EU. As they do today, HM Revenue & Customs (HMRC) will work closely with industry to ensure its interventions are conducted in a way which minimises delays and additional burdens for legitimate trade, while robustly ensuring compliance. The approach of continuity does not mean that everything will stay the same, but the priority is maximising stability at the point of departure through the government's action.

Businesses should consider how a 'no deal' scenario could affect them, and may want to begin taking steps to mitigate against such a risk, however unlikely. This technical notice provides further details to support early planning on customs and excise to help businesses understand the potential impacts, and the UK government will provide further details, including specific actions that businesses should take, in due course.

In summary, actions businesses can take now to prepare include the following:

- understand what the likely changes to customs and excise procedures will be to their businesses in light of this technical notice
- take account of the volume of their trade with the EU and any potential supply chain impacts such as engaging with the other businesses in the supply chain to ensure that the necessary planning is taking place at all levels
- businesses should consider the impact on their role in supply chains with EU partners. In the event that the UK and the EU does not have a Free Trade Agreement (FTA) in place in a 'no deal' scenario, trade with the EU will be on non-preferential, World Trade Organisation terms. This means that Most Favoured Nation (MFN) tariffs and non-preferential rules of origin would apply to consignments between the UK and EU. Further information on preferential trade under the UK's existing trade agreements will be captured in the 'Trade Agreement Continuity' technical notice
- if necessary, put steps in place to renegotiate commercial terms to reflect any changes in customs and excise procedures, and any new tariffs that may apply to UK-EU trade. Look at the existing guidance for importing and exporting outside of the EU on GOV.UK to familiarise themselves with the key processes
- consider how they will submit customs declarations for EU trade in a 'no deal' scenario, including whether they should engage the services of a customs broker, freight forwarder or logistics provider to help, or alternatively secure the appropriate software and authorisations
- register for the HMRC's EU Exit update service. On GOV.UK, search for 'HMRC videos, webinars and email alerts', click to register to get business help and education emails, enter your email and select 'EU Exit'.

Before 29 March 2019

Businesses can currently move goods freely between EU member states. For customs, this means that businesses trading with the rest of EU do not have to

make any customs import or export declarations, and their trade with the EU is not subject to import duty.

Certain goods are subject to excise duty. This is a tax charged on the importation and manufacture of alcohol, tobacco and oils. These goods are currently free to move between the UK and the rest of the EU with excise duty suspended.

What would happen to customs and excise procedures in a 29 March 2019 'no deal' scenario?

If the UK left the EU on 29 March 2019 without a deal there would be immediate changes to the procedures that apply to businesses trading with the EU. It would mean that the free circulation of goods between the UK and EU would cease.

For businesses trading with the EU, the impacts would include:

- businesses having to apply the same customs and excise rules to goods moving between the UK and the EU as currently apply in cases where goods move between the UK and a country outside of the EU (customs duty may also become due on imports from the EU – see the separate 'Classifying your goods in the UK Trade Tariff if there's a no Brexit deal' technical notice). This means customs declarations would be needed when goods enter the UK (an import declaration), or when they leave the UK (an export declaration). Separate safety and security declarations would also need to be made by the carrier of the goods (this is usually the haulier, airline or shipping line, depending on the mode of transport used to import or export goods). More detail is provided below
- the EU applying customs and excise rules to goods it receives from the UK, in the same way it does for goods it receives from outside of the EU. This means that the EU would require customs declarations on goods coming from, or going to, the UK, as well as requiring safety and security declarations
- for movements of excise goods, the Excise Movement Control System (EMCS) would no longer be used to control suspended movements

between the EU and the UK. However, EMCS would continue to be used to control the movement of duty suspended excise goods within the UK, including movements to and from UK ports, airports and the Channel tunnel. This will mean that immediately on Importation to the UK, businesses moving excise goods within the EU, including in duty suspension, will have to place those goods into UK excise duty suspension, otherwise duty will become payable.

What businesses trading with the EU need to know

This section describes the implications for businesses importing from, or exporting to, the EU, and for UK carriers, for example haulage firms who are transporting the goods.

This technical notice takes each of these groups in turn.

Businesses importing from the EU in a 29 March 2019 'no deal' scenario

After the UK leaves the EU, in the event of a 'no deal' scenario, businesses importing goods from the EU will be required to follow customs procedures in the same way that they currently do when importing goods from a country outside the EU. This means that for goods entering the UK from the EU an import declaration will be required, customs checks may be carried out and any customs duties must be paid.

Before importing goods from the EU, a business will need to:

- register for an UK Economic Operator Registration and Identification (EORI) number. Businesses do not need to do anything now. There will be further information available later in the year. For those businesses that sign up for the EU Email updates, they will be contacted when this service becomes available
- ensure their contracts and International Terms and Conditions of Service (INCOTERMS) reflect that they are now an importer

- consider how they will submit import declarations, including whether to engage a customs broker, freight forwarder or logistics provider (businesses that want to do this themselves will need to acquire the appropriate software and secure the necessary authorisations from HMRC). Engaging a customs broker or acquiring the appropriate software and authorisations from HMRC will come at a cost
- decide the correct classification and value of their goods and enter this on the customs declaration. To help classify the goods correctly, the following may be useful:
- HMRC publishes tariff information² and guidance alongside the list of commodity codes needed to classify goods together with all the tariff rates, and measures

When importing goods from the EU, a business will need to:

- have a valid EORI number
- make sure that their carrier has submitted an Entry Summary Declaration at the appropriate time (see section 3)
- submit an import declaration³ to HMRC using their software, or get their customs broker, freight forwarder or logistics provider to do this for them
- pay Value Added Tax (VAT) and import duties including excise duty on excise goods unless the goods are entered into duty suspension (for example a customs or excise warehouse – a financial security will be required to cover the duty liability of the goods whilst they are being moved to the warehouse). Import VAT may also be due and more information regarding paying import VAT can be found in the ‘VAT for businesses if there’s no Brexit deal’ technical notice
- once excise goods leave a customs suspensive arrangement, they may be immediately entered into an excise duty suspension regime. A business will need to declare the goods on EMCS for onward movement via a Registered Consignor. Further information on how to do this can be found in Public Notice 197.

² <https://www.gov.uk/trade-tariff>

³ <https://www.gov.uk/starting-to-import/importing-from-noneu-countries>

Businesses may also need to apply for an import licence or provide supporting documentation to import specific types of goods into the UK, or to meet the conditions of the relevant customs import procedure. Find out more about importing and licencing requirements⁴ - see also other technical notices covering importing goods.

For information on the VAT process for UK business importing good from the EU please consult the 'VAT for businesses if there's no Brexit deal' technical notice.

Businesses exporting to the EU in a 29 March 2019 'no deal' scenario

After the UK leaves the EU, in the event of a 'no deal' scenario, businesses exporting goods to the EU will be required to follow customs procedures in the same way that they currently do when exporting goods to a non-EU country.

Before exporting goods to the EU, a business will need to:

- register for an UK EORI number. You do not need to take action now but you will want to familiarise yourself with this process
- ensure their contracts and International Terms and Conditions of Service (INCOTERMS) reflect that they are now an exporter
- consider how they will submit export declarations, including whether to engage a customs broker, freight forwarder or logistics provider (businesses that want to do this themselves will need to acquire the appropriate software and secure the necessary authorisations from HMRC). Engaging a customs broker or acquiring the appropriate software and authorisations from HMRC will come at a cost.

When exporting goods to the EU, a business will need to:

- have a valid EORI number
- submit an export declaration to HMRC using their software or on-line, or get their customs broker, freight forwarder, or logistics provider to do this for them. The export declaration may need to be lodged in advance

⁴ <https://www.gov.uk/starting-to-import/importing-from-noneu-countries>

so that permission to export is granted before the goods leave the UK (the export declaration also counts as an Exit Summary Declaration – see section 3)

- businesses may also need to apply for an export licence or provide supporting documentation to export specific types of goods from the UK, or to meet the conditions of the relevant customs export procedure.

When exporting duty suspended excise goods to the EU, a business will need to continue to use EMCS to record the duty suspended movement from a UK warehouse or premises to the port of export. Find out more about how to move, store and trade duty-suspended and duty-paid excise goods⁵.

For information on the VAT process for UK businesses exporting goods to the EU please consult the ‘VAT for businesses if there’s no Brexit deal’ technical notice.

Carriers moving goods between the UK and the EU – Safety and Security Declarations⁶

After the UK leaves the EU, in the event of a ‘no deal’ scenario carriers (for example hauliers, and train, vessel or aircraft operators) will need to make a Safety and Security Declaration for goods moving between the UK and EU. There are two types of Safety and Security Declarations: an Exit Summary Declaration (EXS) and an Entry Summary Declaration (ENS).

A carrier is generally required to submit an EXS to the customs authority of the country from which the consignment is being exported. For consignments exported from the UK the EXS generally forms part of the Export Declaration (a customs declaration).

A carrier is required to submit an ENS to the customs authority of the country that the consignment is entering.

⁵ <https://www.gov.uk/guidance/receiving-storing-and-moving-excise-goods>

⁶ The RHA understands that HMRC consider that lorry operators moving goods by ferry or train are considered to be the carriers.

Further information on ENS/EXS declarations can be found in the import and export guides on GOV.UK referred to at the end of this technical notice.

Mitigations businesses may consider in a March 2019 'no deal' scenario

Businesses should now consider the impacts on them in a 'no deal' scenario, which would mean a requirement to apply the same customs and excise rules to goods traded with the EU that apply for goods traded outside of the EU, including the requirement to submit customs declarations. Businesses should consider whether it is appropriate for them to acquire software and/or engage a customs broker, freight forwarder or logistics provider to support them with these new requirements.

Businesses may want to consider whether using customs procedures would be beneficial. These allow businesses to delay or relieve the payment of customs duty for goods they import into the EU until goods are ready to be released into free circulation. A customs broker, freight forwarder or logistics provider can advise in the event of a 'no deal' scenario whether one of these procedures would be suitable for your business. Customs procedures include the following:

- **customs warehousing:** this allows businesses to store goods with duty or import VAT payments suspended. Once goods leave the warehouse, duty must be paid unless the business is re-exporting, or moving goods to another customs procedure. The warehouse must be authorised by HMRC
- **inward processing:** this allows businesses to import goods from non-EU countries for work or modification in the EU. Once this has been completed, any customs duty and VAT due must be paid, unless goods are re-exported or moved to another customs procedure, or released to free circulation
- **temporary admission:** this allows business to temporarily import and or/export goods such as samples, professional equipment or items for auction, exhibition or demonstration into the UK or EU. As long as the

goods are not modified or altered while they are within the EU, the business will not have to pay duty or import VAT

- authorised use: this allows a reduced or zero rate of customs duty on some goods when used for specific purposes and within a set time period.

For excise duty purposes, goods are not regarded as imported if they are immediately placed under one of these customs procedures. Businesses need to pay excise duty when these goods are released for free circulation, unless they are immediately placed in excise duty suspension.

As part of considering the potential impacts, businesses should take account of the volume of their trade with the EU and any potential supply chain impacts.

Businesses should now begin to look at the guidance for importing and exporting outside of the EU on GOV.UK to familiarise themselves with the key processes (see 'Further Information' section below). The UK government will provide further information on action to take to prepare for this scenario over the coming months.

As part of the government's own preparations, the UK has applied to re-join to the Common Transit Convention (CTC) when it leaves the EU. The CTC facilitates cross border movements of goods between contracting parties to the Convention, by enabling any charges due on those goods to be paid only in their country of destination. The negotiations on the UK's membership of the CTC are ongoing.

The UK government is committed to deliver a functioning customs, VAT and excise system that enables trade to flow, revenues to be collected and for the UK to have a secure border following the UK's exit from the EU.

Businesses in Northern Ireland importing and exporting to Ireland

The UK government is clear that in a 'no deal' scenario we must respect our unique relationship with Ireland, with whom we share a land border and who are co-signatories of the Belfast Agreement. The UK government has consistently placed upholding the Agreement and its successors at the heart of

our approach. We recognise the basis it has provided for the deep economic and social cooperation on the island of Ireland.

It is the responsibility of the UK government to continue preparations for the full range of potential outcomes, including 'no deal'. In such a scenario, the UK would stand ready to engage constructively to meet our commitments and act in the best interests of the people of Northern Ireland, recognising the very significant challenges that the lack of a UK-EU legal agreement would pose in this unique and highly sensitive context. This would include engagement on arrangements for land border trade. We will provide more information in due course.

The Irish government have indicated they would need to discuss arrangements in the event of no deal with the European Commission and EU member states. We would recommend that, if you trade across the land border, you should consider whether you will need advice from the Irish government about preparations you need to make.

More information

The steps and obligations businesses will need to take to continue to trade with the EU if the UK leaves without a deal are broadly the same as those that apply to businesses that trade with countries outside of the EU. There is information on how to trade with countries outside of the EU on GOV.UK. This includes details on customs procedures, excise rules and VAT.

For further information on starting to import on GOV.UK search for 'Starting to import' and then select 'Importing from non-EU countries'. For further information on starting to export based go to 'Export goods' and then select 'exporting goods outside the EU'.

Further information and instructions specifically tailored to cover the actions that businesses would need to take in a 'no deal' scenario will be published in the coming months.

This notice is meant for guidance only. You should consider whether you need separate professional advice before making specific preparations.

It is part of the government's ongoing programme of planning for all possible outcomes. We expect to negotiate a successful deal with the EU.

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Note: Only RHA comment is footnote 6.

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