

# Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach

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*Brexit: Matters relating to Customs, Trade and Tariffs.*

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Thank you Chairman for the opportunity to contribute to your Committee's work.

I will base my input on the customs requirements and regulations which will impact on Ireland should the UK leave the Customs Union in 2019.

These comments are based on the provisions set out by the Union Customs Code (Regulation 952/2013) and Delegated and Implementing Regulations (as amended).

The original Customs Code Legislation (Regulation 2913/92) established the integration of custom procedures across the Member States of the European Union following the implementation of the Single Market.

The new Union Customs Code continues to solidify that. It lays out the "common risk criteria and standards" which must be followed in order to facilitate legitimate trade and fight against fraud.

Paragraph 19 of the UCC establishes this quite clearly when it states

*"Use of information and communication technologies should be accompanied by harmonised and standardised application of customs controls by the Member States, to ensure an equivalent level of customs control throughout the Union so as not to give rise to anti-competitive behaviour at the various Union entry and exit points".*

Thus the Customs Control of imports into and exports out of the EU is delegated to the Customs Authorities to ensure all controls at all borders are applied equally.

The UCC reinforces this by stating "the completion of the internal market, the reduction of barriers to international trade and investment and the reinforced need to ensure security and safety at the external borders of the Union have transformed the role of customs authorities giving them a

leading role within the supply chain and, in their monitoring and management of international trade, making them a catalyst to the competitiveness of countries and companies”<sup>1</sup>.

The reason I reference this is that the Customs Code Legislation is directly applicable in Ireland as in all other Member States and therefore the lee-way for Customs in implementing alternative rules to those set out by the UCC is limited.

The Customs Code requires

- 1) The implementation of the Common Customs Tariff.

This means that all goods being imported into (or exported out of) the EU are subject to the same duty rate and controls on import and export.

- 2) The identical application of Customs Trade Legislation as set out by the UCC.

This means therefore that when goods clear Customs, in any Member State, they are able to move freely within the EU and are not subject to Customs Controls in other Member States.

Once the UK leaves the EU Customs Union they will, for Customs purposes, be a Non-EU or “Third Country”. As a non-EU country operating outside the Common Customs Tariff and Union Customs Code, it is therefore difficult to see how, at this point, the UK would not be subject to the same import and export controls as any other non-EU country.

This was re-iterated last week by Michel Barnier when he stated that

- *“Because we are part of the EU, businesses can trade goods without customs duties and documentation requirements are very simple.*
- *“This is what a Member State enjoys and **what it loses when it leaves the Union.**”*

Customs controls require the following:

1. An Import Declaration must be lodged with Customs for all imports into the EU and an Export Declaration for all exports out of the EU.
2. This declaration requires 54 boxes of information from details of the consignor to the consignee, the product details and tariff details, values, country of origin information, weights and packaging information and terms of trade.
3. In terms of lodging Customs Declarations there are two options:

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<sup>1</sup> Par 16 UCC

- a. A company can employ a clearance agent to act as their representative, or
  - b. They can request authorisation to lodge these declarations themselves.
- 4. Most goods are cleared for import/export instantly however 8% will be subject to checks by Customs. This is required by harmonised risk management rules.
- 5. Importers and Exporters can be subject to post clearance audit checks by Customs any time within the following three years.
- 6. When goods are imported duty (and import vat) is payable on arrival unless a deferred payment authorisation is agreed with Customs. This allows for payment of duty (and import vat) to be deferred to the 15<sup>th</sup> of the month following entry. This facility is however subject to a provision of a bank guarantee.

All of the above apply, for example, to trade with any non-EU country, for example the US.

The implication of this for Irish Industry is significant.

Firstly there will be a requirement to lodge customs declarations on all imports from and exports to the UK. It is to be assumed the same requirement will be implemented in the UK. There is a necessary cost for this, either in the payment of a clearance agent or the recruitment of staff in addition to logistics related costs. A reasonable estimate would be €100 per movement.

Secondly there is a significant learning curve to ensure declarations lodged with Customs are correct to ensure compliance, minimize risk of delays and avoid additional charges. This can be achieved but will involve investing time and effort in upskilling. At the same time we do need to take on board that this is completely achievable and many Irish companies engage in this non-EU trade without difficulty every day.

Thirdly, and for the agri-food industry in particular, it is critical that delays at the borders are minimized and every simplification allowed by the Customs Code is provided to Irish Business to enable them to streamline their customs processes.

Fourthly there are cash-flow considerations to build into any future business model.

Finally, depending on whether a Free Trade Agreement is concluded or not, there may be Customs Tariffs. These tariffs average 5% however they can range from 0% to 20% depending on the industry. In addition, for companies trading in agricultural and food products, there are additional agricultural levies to consider. In this context it is also critical that Irish Business are educated to the duty savings

opportunities provided for in the Customs Code which will reduce duty costs on, for example goods for temporary import and re-export.

In BDO we have carried out an Optimism Index where we found that Brexit is having an impact on business confidence, with first-quarter projections at their weakest since 2013.

Of particular concern however is that we found that only 4pc of Irish companies have sought external advice and support on the implications of Brexit and just one in 20 firms have a plan in place to deal with a potential customs border with the North following the Brexit vote.

We are therefore advising our clients that it is critical at this point to start the preparatory work in getting ready for Brexit. This is to ensure:

- 1) Companies have the information available to complete declarations
- 2) They have built in the additional costs and potential delays at border crossings
- 3) They have accounted for the potential risk of tariffs.

In addition a particular focus is on ensuring companies are established to move their goods as seamlessly as possible across the Northern Ireland Border. Again the only way to achieve this will be by preparing and developing their customs capabilities to ensure they can take advantage of any simplifications Revenue introduce as well as ensuring they qualify for all duty saving procedures provided for by Customs.

It is clear from our work that Brexit presents challenges and opportunities for companies operating in Ireland but our key message is that planning is key in order that our clients continue to be able to access the lucrative UK market.