



Guide for Spanish companies to a possible Hard Brexit

Why is it necessary for Spanish companies to prepare for a possible scenario of exit from the UK from the EU without an agreement?

Following recent events in the United Kingdom, there is a risk that on 31 October 2019, there will be a possible, abrupt withdrawal of the United Kingdom from the European Union, which in practice would mean a drastic change in trade between the Member States of the European Union and the United Kingdom.

In the context of a potential abrupt exit by the United Kingdom, it will automatically be considered a third state in its trade relations with the European Union. Therefore, in the short and medium term, such trade will be governed by the rules of the World Customs Organisation.

The customs formalities related to trade and the commercial measures applicable to such movements will thus be re-established. Such measures are not applicable to trade between Member States.

In the tax field, the absence of an agreement will lead to the elimination of all the simplifications provided for in the field of Value Added Tax (hereinafter VAT) and manufacturing excise duties, since they are only applicable to the

movement of goods between the Member States of the European Union.

That is why, taking into account the proximity of this new scenario, those companies that currently carry out commercial exchanges with the United Kingdom will be forced to adapt their work processes and procedures in order to be able to face a correct adaptation to the planned changes as soon as possible and mitigate, where appropriate, their economic impact.

Imports

Imports of goods into the United Kingdom

For goods originating in the EU, a new simplified import scheme has been approved applicable to those businesspeople or professionals who are established and/or registered in the United Kingdom.

This new simplified import scheme allows simplified import clearance, with the operator required to submit a summary declaration at the end of the monthly period (first four working days following the end of the monthly period).



The tariffs will be paid until the 15th of the month following the date of arrival of the goods, thus allowing for a deferment in the payment of the tariffs, provided that certain circumstances are met. It is important to note that the United Kingdom has already adopted a Customs Tariff fixing the tariff rates applicable to imports of the goods and that this would enter into force on 1 November 2019.

Regarding **import VAT quotas**, they may be included in periodic VAT returns and settlements, which will mitigate the impact of the accrual of import VAT quotas for businesspeople or professionals who are entitled to recover these quotas, in accordance with internal regulations.

This system for settling VAT on importation will be applicable to all those businesspeople or professionals registered in the United Kingdom, who are obliged to file ordinary returns and settlements.

However, the recovery of import VAT paid by businesspeople or professionals not registered in the United Kingdom will be governed by the procedure for the recovery of VAT paid under the 13th Directive.

Thus, within the framework of a potential hard Brexit, such VAT rates could be a cost in the absence of a reciprocity agreement between Spain and the United Kingdom in this respect. Imports of goods subject to excise duty (hereinafter referred to as IIEE) shall be subject to the excise movement control systems that may be developed at national level by the United Kingdom.

Imports of goods into the EU

These operations shall be subject to the control mechanisms laid down in customs matters for the import of products from third countries. In a non-agreement scenario, products originating in the United Kingdom will be classified as products originating in third countries and their importation will therefore be subject to the payment of the tariffs provided for third countries, not being able, in principle, to benefit from any tariff reduction.

Likewise, and due to their nature, commercial measures will be applied, such as, for example, phytosanitary controls, veterinary controls, REACH registrations for chemical products, prior import authorizations in the case of medicines, or import licenses in the case of imports of weapons, war material and explosives, or products subject to dual-use control policies.

Regarding VAT, imports of products originating in the United Kingdom will give rise to the accrual of VAT quotas on importation and these quotas will be recoverable in accordance with the provisions of our internal regulations.

It is important to bear in mind that, as a third country, import VAT rates paid by British businesspeople or professionals who are not established in other Member States and are not required to file periodic VAT returns, cannot be recovered in the absence of a reciprocity agreement signed between the United Kingdom and Spain.

In addition, we would like to emphasise that those British businesspeople or professionals who import into Spain will be obliged not only to appoint a customs representative but also to work with the mediation of a fiscal representative for VAT purposes as a consequence of having the qualification of businessperson or professional established in a third state.



Exports

Exports of goods from the United Kingdom

The departure of goods from the United Kingdom to the European Union will be considered as an export and must be formalised by the presentation of the corresponding export declaration.

It will be necessary to determine the nature of the goods to be exported in order to confirm whether their departure is subject to the presentation of additional documentation, such as export authorisations or licences.

Export of goods from the EU

The departure of goods from the European Union to the United Kingdom will be considered as an export and must be formalised by the presentation of the corresponding export declaration.

In such cases, it will be necessary to determine the nature of the goods to be exported in order to confirm whether their departure is subject to the presentation of additional documentation such as export authorisations or licences.

This transaction is exempt from VAT on supplies of goods for export, provided that the conditions laid down in Article 21 of the LIVA (VAT law) are met.

Action Plan

Bearing in mind the high probability that, on 31 October 2019, it won't be possible to reach an agreement, we consider it necessary to carry out an initial analysis, the following being a possible working scheme:

On the one hand, it would allow us to assess the administrative cost associated with all the changes to be implemented in terms of declarations, control and management of these movements and, on the other hand, the customs and tax cost derived from the introduction of borders and the impossibility, in certain cases, of recovering VAT quotas on importation, which will entail a higher cost, for which reason the content of the contracts must be reviewed in order to reduce the tax impact.

Initial analysis: possible Hard Brexit

1

Check if your company has commercial exchanges with UK

Confirm that the company has an EORI and if not request one;

Authorise a customs representative for import/export formalities in the EU;

Quantify the administrative cost;

Quantify the cost of potential delays in supplies.

2

If you import goods originating in the EU into the UK

Identify the goods and assess the tariff and fiscal cost of imports;

Properly document shipments to avoid delays, depending on the type of goods;

Assess the need for registration in the UK;

Talk to trading partners to mitigate impact and reduce potential delays.

3

If you import goods originating in the UK into the EU

Identify the goods and assess the tariff and fiscal cost of imports;

Properly document shipments to streamline import controls based on the type of goods;

Assess the need for registration and / or creation of a permanent establishment in Spain;

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Assess the need to implement customs structures to mitigate costs

