Preparing for Brexit

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DRIVING LIFELONG PROSPERITY

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1. Impact on trading and carrying out business

With the end of the Brexit transition period now approaching for the UK, there is plenty for businesses to consider to ensure that by 2021 they have the procedures and systems in place to deal with changes due to Brexit. One area which will be impacted is how business is carried out and UK businesses interact with European supply chains. We look at what businesses should consider in the coming months to ensure they are prepared.

Importing goods into the UK

From 1 January 2021, the UK will apply a UK-specific tariff to imported goods which will replace the EU's Common External Tariff. The tariff will apply to all goods imported into the UK unless an exception applies, for example a relief or tariff suspension, there is a trade agreement with the country you are importing from or the goods come from countries that form part of the generalised scheme of preferences. You can check the tariff which will apply to goods imported by using the Government UK global tariff tool, which can be used by searching for a product description, an 8-digit commodity code or a combination of the two.

Import declarations

For those businesses who import goods into the UK, from 1 January 2021 you will need to make customs declarations when importing goods from the EU. The rules currently support those countries outside of Europe. The company can make the declaration itself, or it can hire someone on its behalf to do it for them, for example, a courier or customs agent. Regardless, if you do this yourself or appoint someone to do it for you, before you make your first supplementary declaration you will need to have in place authorisation to use simplified declarations for imports, a CHIEF badge (Customs Handling of Import and Export Freight), software that works with CHIEF and a duty deferment account for paying any import duties and VAT. For those businesses that decide to do it themselves, there are Government grants available for businesses who invest in training, software, and new employees.

Customs delays

One thing which has been widely commented on is the expected delays at ports in the UK as it begins to operate outside of the EU, particularly with new customs rules coming in which will apply to freight traffic. To ease the pressure, the Government has permitted that for the first six months from 1 January 2021, businesses will have time to file their paperwork and pay duties they owe after the goods have entered the UK. There is still expected to be a significant delay at the ports across the UK, especially for those exporting goods to the EU with long tail backs expected.

Businesses should assess their supply chain and consider whether alternative suppliers exist in the UK or look to forward order to compensate for these anticipated delays. Any business with EU contracts should consider whether there is any cost of delays clauses which would also need to be considered and factored into the decision making.

Opening an overseas operation

Taking the above into account, we have seen many businesses opening offices in selected EU countries that form part of their strategy to ensure they continue to have a presence in Europe. Whilst this will benefit some companies, operating an overseas company will mean different regulations to adhere to and increased operating costs. If, however, this is something you are considering, Hazlewoods can help via our international network of professional advisers, HLB. We can support with setting up in a European country and provide advice to ensure you remain compliant with local legislation.

Overall, the way we trade in Europe is changing post Brexit and businesses need to prepare now or face running the risk of being unprepared.

2. Supply chains

With the UK having already had a couple of trial runs at Brexit in recent years, most would have thought we would be prepared for the end of the year and that businesses would have this under control, however, the disruption caused by coronavirus has created additional challenges which may impact upon the supply chains for businesses in the UK.

Coronavirus has meant many businesses have already been looking at their supply chain to make sure they are flexible and sufficient to accommodate the impact of COVID-19; this will hold them in good stead ahead of Brexit. There are, however, still matters for businesses to consider in the supply chain which we summarise below.

Customs and tariffs

|Understanding the impact of customs and tariffs being introduced will help understand the effect of these and how easy it is to absorb these additional costs into the current costing model of the business

Lead times

Understanding the current lead time of goods and working out the impact of the changes on margins and lead time will help with maintaining service levels. Businesses will have seen COVID-19 impacting lead times with shortage of goods, so many will have experienced some of this already, but the extent of the impact on the lead time may provide some insight into decisions you may have to make. For example, how will your warehouse management system be impacted by delays in lead time for goods and products? Will you need to consider using a UK based supplier to improve lead time? Is there capacity within the UK market to accommodate your demand? For those who have an increased lead time, looking to hold stock in Europe might be an option, but will incur additional costs.

Inventory strategy

For those businesses with cash at their disposal, ensuring they have sufficient stock on hand in the short term may be a strategy to implement. In previous Brexit scenarios many businesses increased stock to accommodate for the short fall in availability of products and to maintain service to their customer base. Whilst this might be a short-term strategy, in the long-term businesses will need to consider how they manages their inventory to maintain working capital. There is also the cost impact of doing this to consider, with more stock on hand requiring additional insurance or storage costs.

Managing data

Understanding your product lines and having the data available to make critical business decisions will be important. Most systems have the capability to document both current trends and expected orders, so using this data to harvest your sales outlook will lead into the supply chain, what goods you need to fulfil orders, and when you need it. Linking this into the inventory strategy will lead to an efficient ordering system and can save both costs of holding stock and ordering goods which have a long lead time.

For those businesses who will see their supply chain impacted, early planning is recommend to ensure you go into 2021 in the best possible position with minimal disruption to business. Where alternative UK based suppliers are an option, weigh up the cost of working with these and whether it is beneficial to the business overall to make such changes.

3. VAT aspects of trading with the EU post-Brexit

During the past two months, to highlight the immediacy of the end of the Brexit transition period, HMRC has been issuing letters to VAT-registered businesses that currently trade with the EU, highlighting the actions they need to take to continue trading with the EU from 1 January 2021.

Although targeted at VAT-registered businesses, the only specific reference to VAT in the letters is the reminder that businesses will be able to use postponed VAT accounting to account for import VAT on their VAT return for goods imported from anywhere in the world. An online monthly statement will be provided by HMRC which will show the total import VAT postponed for the previous month. The VAT due on imports for the period should be included in Box 1 and (to the extent it is recoverable) Box 4 of the return, and Box 7 should include the total value of all imports of goods for the period.

It should be noted that, for goods imported in consignments not exceeding £135 in value, the point at which VAT is collected will be moved from the point of importation to the point of sale. This will mean that UK supply VAT, rather than import VAT, will be due on these consignments, and if the customer is a UK VAT-registered business, a reverse charge process will apply.

As far as selling to the EU is concerned, business to business (B2B) sales of goods will now become exports – zero-rated in the UK but creating a liability for import VAT and duty on the part of the customer, if the latter is regarded as being the importer into the EU. However, arrangements can be put in place which will avoid payment of import VAT where goods are imported into certain member states and subsequently transported to the customer in another.

For sales to private individuals in the EU, distance selling rules no longer apply and UK businesses will need to zero-rate these sales as exports. The purchaser in the EU country will have to pay local VAT and also duty to their own government; either that, or the supplier will need to register in every EU country where sales are made (although the EU is proposing to introduce an Import One Stop Shop (IOSS) system from 1 July 2021, similar to the current VAT MOSS scheme). A possibility to consider here is that of creating an EU presence, obtaining a VAT registration in that member state alone and moving stock to that location to fulfil the distance sales. In this way, the current distance selling rules could still be used.

There will be limited changes to the VAT treatment of services for B2B transactions after the UK leaves the EU VAT regime. The reverse charge process will still apply; however, the UK may deviate from some of the current 'use and enjoyment' rules. For UK sellers of digital services to EU consumers, the UK will no longer be a member of the EU Mini One-Stop-Shop (EU MOSS) single VAT return scheme, so affected UK businesses will therefore have to register in any other EU state, as a non-Union business, in order to continue to file their VAT declarations for EU e-service sales.

4. People

The UK economy has relied on overseas labour for many years, and a significant number of industries continue to employ overseas workers in its businesses.

From 1 January 2021, there are changes being implemented which businesses that employ overseas workers need to consider.

Sponsor licence

Employers will need to obtain a sponsor licence to employ EEA and Swiss citizens coming to the UK to work from 1 January 2021. Businesses will need to check that they are eligible to apply for a licence, being either a tier 2 licence or tier 5 licence. Tier 2 licence covers long term or permanent employees, whereas Tier 5 covers temporary workers. The company will need to appoint people within the business to manage the sponsorship process when applying for the licence. There are costs involved with obtaining a licence and time required for those overseeing the sponsorship process, so these will need to be considered before applying. For those businesses who will use foreign labour and do not have a licence, the average turnaround of an application is eight weeks, so early preparation is required.

EU settlement scheme

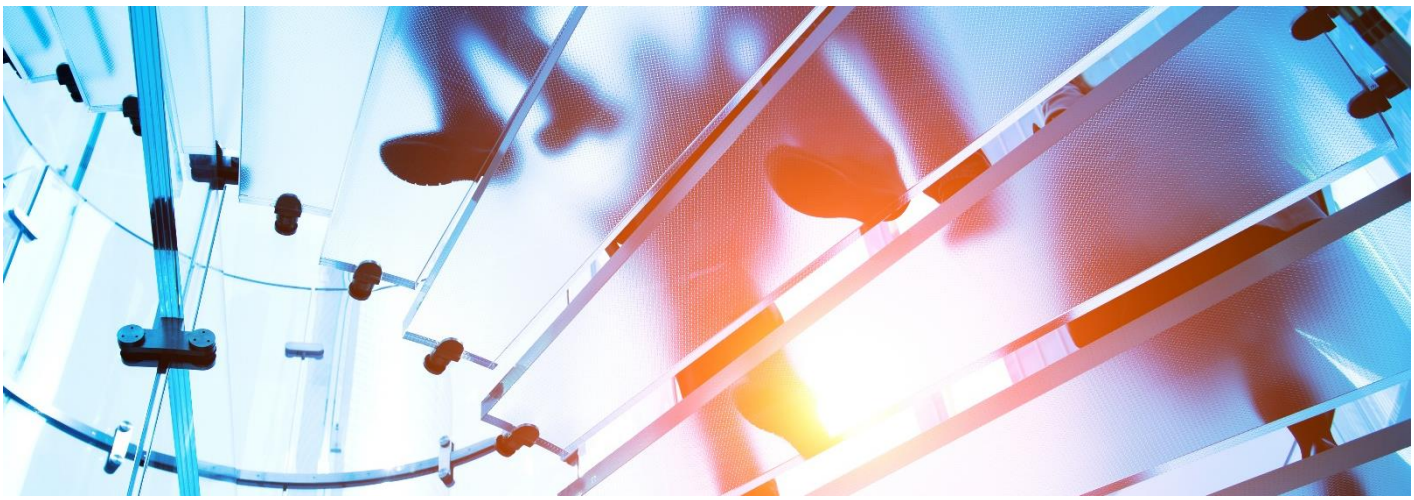
EU, EEA or Swiss employees will need to apply to the EU settlement scheme to continue living in the UK after 30 June 2021. The application window is now open and early completion is suggested given the expected volume of applications and the increased length of time taken to process due to COVID-19. Understanding which employees need to apply and whether they will be successful in obtaining settled or pre-settled status will help manage staff and whether any employees need to be recruited.

Freedom of movement

In recent times we have benefitted from travelling around Europe freely and with little need for any visa requirements. From 1 January 2021, visa requirements will change and those who travel to Europe for business will need to consider how this impacts their staff. COVID-19 has already changed the way in which we work and international travel has reduced as a result of this, but for those who still need to travel, ensuring that they have appropriate visas in place will ensure they can continue to travel in Europe.

Access to labour

For those businesses who have previously relied on foreign labour, having access to the necessary skills set needed may prove difficult to source. As seen previously when the UK was intending to leave the EU, many EU nationals returned home due to the uncertainty of being able to stay in the country. Whilst the settlement scheme and sponsor licence provide some clarity, a reduction in EU employees may mean businesses need to look at home grown talent to fill the void. Whilst this may require an element of training and upskilling, with the impact of coronavirus and an increase in unemployment, looking closer to home may now be an option.



5. Financing

Understanding how your finances might be impacted due to Brexit will help you ensure you have a comprehensive forecast cash flow during the early stages after the transition period finishes. Whether it be the increased costs of goods due to tariffs or fluctuating currencies, planning for these costs will help manage cash flow.

Foreign currency

Foreign currency continues to be volatile as a result of ongoing Brexit trade discussions and uncertainty around the end of transition period. For those businesses that buy or sell in foreign currencies, foreign currency hedging products can provide clarity over fixing in currency rates to manage cash flow. Whilst this can go against some businesses depending on the performance of the pound, having visibility of future currency rates may help decision making on contracts and selling prices.

Funding for Research and Development

Businesses that have been receiving EU funding for research and development will continue to get funding even after 31 December 2020. Each opportunity will have its own separate eligibility criteria and scope, so researching this in advance will assist in understanding whether you can make an application, with some funds continuing to take applications under the current framework into 2021.

Companies can continue to participate in programmes after 2020 and will continue to receive EU grant funding for the lifetime of individual projects. If for security reasons the funding for your project is stopped, then you should contact the relevant UK body in charge of your funding.

Forward planning

Most businesses will have spent a good proportion of this year planning for how their business will have been impacted by COVID-19, but as the transition period finishes and expected costs increase as a result of Brexit, businesses will need to consider how cash flow and working capital will now be impacted.

Preparing a 'worst case' scenario budget or budgets which can be flexed depending on different assumptions will help with decision making and what additional funds are required. For example, if it is a short-term funding requirement then the business may look for a temporary overdraft rather than entering into a long term debt option. There is also the option for government subsidies such as the grant available for recruiting, training and IT costs of Brexit which, depending on the size of organisation, can help towards the costs incurred.

There is no doubt that businesses will see the impact of Brexit so going into it as prepared as possible will help navigate the early stages which are expected to be uncertain. Whilst COVID-19 continues to be a distraction for many day to day, planning for Brexit should be high on the list of things to do to ensure companies have sufficient finances in place to operate.

6. Regulatory changes

For businesses trading in the EU and providing services or selling goods, Brexit will bring regulatory changes to how each of these business elements are conducted.

Provision of services in the EU

Businesses who are providing services in the EU will need to check the national regulations of the country they are operating in and how best to operate. For those businesses that have professionally qualified staff, these qualifications will need to be officially recognised by the EU customer, to be able to carry on providing these services from 1 January 2021. This applies to each country that services are being provided in, even if it is on a short-term contract or ad-hoc. If a business does not have the professional qualifications of its staff recognised, then it should not continue to provide services until this has been recognised by the country concerned.

In addition to this, for those businesses who provide consultancy services from the UK to the EU, they may face changes to the regulations which oversee remote service provisions. Some business may have to open an EU presence to continue providing these services or may seek to obtain authorisation requirements. This will be different for each sector and country that businesses are operating in and, therefore, we recommend researching this to ensure these services can continue to be provided.

Selling your goods in the EU

From 1 January 2021, any business which sells goods in the EU should check which regulations apply to its products and whether that product requires third party approval, particularly to continue selling such products in the EU.

UK based individuals and legal entities will no longer count as being established in the EU and vice versa. Businesses may need to appoint someone to act on their behalf in either the UK or EU.

For those businesses that are impacted, labelling on products will need to be updated to reflect the regulatory changes. This might also include any changes to product approvals or new representatives the business has appointed in the EU.

Intellectual property

During the transition period the intellectual property system has continued as it has previously, but some businesses will now need to consider whether changes to the framework will impact trade. Businesses who currently export intellectually protected goods from the UK to the EU may need to contact the rights holder to get permission to continue after the transition period. Depending on the outcome of these discussions, such businesses may want to review their business model or supply chain and how it might impact trade.

One other consideration for companies is that after the transition period finishes, unregistered community design will no longer cover the UK. Unless there is an agreement on disclosure, eligibility will be restricted to the territory which a design was first disclosed, be it in the EU or UK. The risk is that a business might not have IP protection in a market in which it has significant traction.

Owning, managing, or directing companies

UK businesses and individuals may face restrictions on their ability to own, manage or direct a company registered in an EEA country. Preparation is required regarding whether there are any additional requirements on the nationality or residency of senior management to understand if they can continue to hold these positions or if there are any limits imposed on the equity that can be held.

Timber regulation changes

Many sectors will have more specific regulations that apply to them from 1 January onwards.

Businesses that import or export timber between the UK and EU after the transition period will need to carry out due diligence checks to evidence that timber has been legally harvested. Those that are exporting timber to the EU may need to supply documentation about the legality and source of the timber so that EU customers can meet EU Timber Regulation due diligence rules. As due diligence will vary from business to business, it is recommended that businesses consider the implications of this and how this might impact how they import or export timber and what processes are needed to be implemented.

The regulatory environment is changing and depending on where a business is providing services or selling products it is likely changes will need to be implemented to ensure they can continue providing these goods or services.

7. Hazlewoods International team

For more information on trading internationally before and after Brexit, please contact one of our International team.

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