

1. What do they mean with “Brexit-scenarios”?

The result of the negotiations will need to prescribe how the UK should end its membership of the EU, and manage issues such as its future relationship with the EU Single Market (and the EU Customs Union). There are several possible future scenarios, and different degrees of market harmonisation are possible.

2. What does a “Hard Brexit” mean?

A “hard Brexit” scenario would see the UK leaving both the Single Market and the EU Customs Union, which is currently the stated aim of the UK Government. The rules governing trade between World Trade Organization (WTO) members (which include the UK, the EU and all EU Member States) would then apply and the UK would need to negotiate its WTO commitments in its own right, given its current membership is as part of the EU.

3. What do the countries involved need to do in case of a Hard Brexit-scenario?

The hard Brexit scenario, likely to be the most disruptive from a trade perspective, would require EU and UK businesses to deal with a new border, including applying the related tariff. It also could lead to differences in regulatory regimes between the EU and the UK, and the rise of “non-tariff barriers.” A hard Brexit would require customs agencies in the EU and the UK to treat imports from, and exports to, the other party in the same way as they currently manage relations with non-EU/EEA/Customs Union states, bringing new burdens in controls and risk management, as well as additional resources in relation to information technology systems and staff.

With numerous free trade agreements (FTAs) and trade arrangements currently in place between the EU (including the UK) and third countries, a hard Brexit would imply that the UK would need to renegotiate these FTAs on a bilateral basis. In the event an FTA with the EU is negotiated, similar to Norway or Switzerland’s current situation, this would mean that exporters would need to comply with cumbersome specific rules of origin, which would be negotiated under the agreement. The Norwegian and Swiss models, which both allow some access to the single market, also impose certain obligations that would restrict the UK’s ability to act as it wishes , e.g. in terms of the free movement of people.

4. What does a “Soft Brexit” mean?

Theoretically a “soft Brexit” scenario would see the UK stay in the EU Customs Union, which would guarantee the free movement of goods (with no tariff barriers) with the EU and common external tariffs for goods entering both the UK and the EU from third countries. However, this route would mean the UK could not negotiate its own new trade deals with third countries.

The UK might also retain much of its current level of access to the Single Market in a soft Brexit scenario, although the precise nature of that access would depend on the nature of the scenario agreed.

5. What happened so far? And what implications can be made of the chosen scenarios?

After the first three rounds of Brexit talks took place between negotiating parties in Brussels, discussions about the future customs and trade relationship have yet to take place, with the EU stating that as yet they do not have sufficient detail from the UK to enable them to progress the exit negotiation priorities (being the 'exit bill', the Northern Irish border, the rights of EU citizens, the possibility of transitional arrangements, and the outcome for EU agencies currently based in the UK). The EU remains steadfast that trade talks cannot begin until these issues are further progressed towards resolution, so it remains unclear which model will be chosen.

Part of a "hard Brexit scenario", the least advantageous option would likely be the (interim) solution that WTO membership would provide if no other agreement is reached, which would mean that "most-favoured nation" duties would apply, along with full border controls and inspections. The likelihood of such a (WTO) scenario is not negligible but is not the outcome sought by the UK Government. Ahead of the third round of negotiations, the UK Government published a Position Paper containing the key principles on what will happen to goods on the EU and UK markets after the point of departure in March 2019, stating that the UK Government will "seek an agreement with the EU which allows the freest and most frictionless trade possible in goods and services".

In trade negotiations, good intentions are not a guarantee of good outcomes. Similarly, whereas the expressed UK Government commitment to avoiding disruptions during the move to the future partnership are welcomed, it is no guarantee to a continuation of frictionless trade after the new trade relation enters into force. At this stage, it seems almost unavoidable that the rules will change and will become less favourable for both parties.

With respect to the important trade relationship between the UK and the other EU Member States, the consequences of redefined external borders and new "rules of the trade game" may have far-reaching implications and bring significant disruption. 44% of UK exports go to the EU states, while only 7% of EU exports have the UK as their destination. According to Eurostat, the annual value of exports from the UK to the EU-27 more than doubled between 2003 and 2015 (from EUR 110 billion to EUR 230 billion), with an annual average growth rate of 6%. Whereas the Netherlands and Germany have the highest trade surplus in terms of intra-EU trade, the UK shows the highest negative trade balance (importing EUR 119 billion more than the country exported in 2015).

6. What are the considerations for the negotiators

From a customs and trade perspective, inter alia the following issues are to be taken into account by Brexit negotiators and companies when assessing the different options:

- A new regulatory framework on customs and global trade will need to be established in the UK, to deal with the movement of goods across borders, as well as cooperation between customs authorities.
- The UK will need to draft a new customs code with respect to customs handling and cooperation (the UK could copy the current EU Union Customs Code that entered into force in 2016).
- The status of “authorised economic operator” (AEO) authorisations issued by HMRC (the customs and excise authorities in the UK) is uncertain—will they remain valid, or will they be revoked by the UK and/or the EU? The same question applies to binding origin and classification information (BOIs and BOTs), valuation rulings, inward processing relief authorisations, (cross border) bonded warehouse authorisations, simplified procedures, and other items granted by HMRC. The installation of borders could create a significant burden; for example, in Ireland today there are no border or inspection points, but over 250 road border crossings that would potentially be subject to border checks after the UK leaves the EU Customs Union. Acknowledging the deep integration between the UK and Northern Ireland, including across the land border between Northern Ireland and Ireland, the UK Government has recently published a Position Paper on the Ireland issue, where it expresses a commitment to finding a solution “that protects businesses’ ability to access these important markets” and “avoids a hard border with regards to the movement of goods”².
- Full border controls and inspections for goods traded between the UK and EU would require the collection of duties and taxes, and inspections according to the agreed standards and conditions for imports.
- A concern related to border controls is the customs authorities’ capacity to manage additional work (including the performance of the current customs management systems used by the UK and the EU). It is estimated that the number of declarations that would need to go through the UK HMRC customs system if the UK leaves the Customs Union would surpass 400 million annually, which the current system (CHIEF) cannot handle. HMRC had already commissioned a new system, called Customs Declaration Services prior to the Referendum vote.

7. Will companies be affected during the negotiation period?

- ***Are new labelling obligations, tariffs or longer delivery periods to be expected?***

During the withdrawal negotiations, the United Kingdom will remain a full member of the EU (except for discussions on the withdrawal) that must observe applicable law. The fundamental freedoms of the European internal market, including freedom of establishment and the free movement of services and capital, will continue to apply during the withdrawal negotiations. And during that period, the United Kingdom must not adopt any rules that are not in line with EU law. Thus there must be no tariffs or any new labelling obligations. As regards border controls, the United Kingdom is not a member of the Schengen Agreement on the abolition of checks at common borders. Therefore, it has never abolished border controls.

- ***Will Brexit impact on trade with the United Kingdom? What will be the consequences for companies exporting products to the United Kingdom?***

During the negotiation period, EU provisions will also continue to apply to the business activities of companies in The Netherlands, Germany, France and other EU countries. These countries can export their products to the United Kingdom and import goods from there just like before. The functioning of the internal market is not jeopardised. The long-term economic impact after Brexit will depend on what the future relationship between the United Kingdom and the EU will look like.

- ***What will change for companies that are located or have subsidiaries in the United Kingdom?***

Subsidiaries of EU companies can do business in the United Kingdom according to the same rules as before.

8. What steps could companies take to prepare for Brexit?

Companies can consider the following among options to prepare for Brexit:

- Assess the level of exposure under different potential trade scenarios and identify any actions that should be prepared ahead of time
 - Alongside applying for new licenses and rulings, company processes will need to be adjusted and systems will need to be changed, including both compliance and ERP systems (e.g. in relation to the determination of tax codes).
 - New controls may need to be designed, implemented and embedded in processes.
 - All contractual arrangements in place will need to be reviewed or redesigned.
- Economic operators that are dealing with customs authorities today may understand and recognize some of these points. However, small and medium-sized enterprises (SMEs) that trade between EU and UK today are less likely to be fully prepared to deal with Brexit-related challenges. Currently, SMEs can freely move and ship goods without the obstacles of borders and controls, and they will face new customs and trade requirements, such as the administrative burden of imports and exports, including proof of origin.

9. What steps did Lubbers take to prepare for the different Brexit-scenarios?

Lubbers is closely monitoring Brexit from both the UK and Continental side – through our own industry network, as well as external advisors. In terms of preparations, Lubbers took the following measures:

- A Brexit-scan is executed by consultant KPMG
- An internal Brexit project team was appointed
- Custom consultant appointed and trained
- Operations managers briefed on Brexit by TLN/FENEX en EVOfenedex
- Additional Custom Clearance Knowledge in insourced
- Lubbers applied for the UK CEMT permits and for the Dutch CEMT (See below)
- The storage site in IJmuiden is enlarged
- Lubbers kept a close dialogue with ferry operators reference their preparations (documentation flows, physical preparations at the terminals and (alternative) sailing schedules).

CEMT permits (Conférence Européenne des Ministres des Transports)

CEMT allows companies to dispatch goods in international road transport between Member States. A CEMT permit is necessary when one of the involved parties is not a member of the European Union. A CEMT permit does not apply to national traffic or exchange of goods between member countries and countries that are not members.

Lubbers is in close dialogue with the ferry operators to keep up with their preparations, from documentation flows to physical preparations at the terminals as well as (alternative) sailing schedules.

Number of Drivers

Due to the Lubbers network, we expect no issues related to drivers, in relation to waiting time at ferry's. Through our own set-up on both sides, our trailers will go unaccompanied on the ferries and be picked-up by local drivers on each side for onwards transport and delivery.

10. How can Lubbers support me/my company with Brexit?

- We can transport your goods (non-perishable) between the UK and CEU-countries
- We can offer storage options in Rotterdam, IJmuiden, Den Helder, Newcastle and Great Yarmouth
- We can assist with custom formalities
- We can supply information about ferry sailing schedules
- We can inform you about expected transit times (and waiting times)

11. What can you do NOW to prepare?

Even though specific filing requirements are not published yet, you should make sure that any data which may be required is available. It is safe to assume that preparing for a 'hard Brexit' will prepare you best for any given scenario.

Some practical examples:

- Make sure your '**master data**' is correct and readily available within your company.
- Have processes in place to **efficiently share** them with Customs Agents.
- Have a full insight in all flows of goods from and to your company between the EU and the UK.
Make **projections**, so you know the amount of work that is needed to complete these.
- Make sure your legal **documentation** is in order (PoA, commercial contracts, etc.) so Customs Agents can clear your goods.

12. What can we do to help you?

Lubbers is working together with two full-service Customs Agents with offices in EU and a partner in the UK to provide filing services in all UK and EU ports. Besides transport and customs clearance activities, Lubbers, together with her partners provides advisory services to clients world wide.

Lubbers can assist with and advise on all customs related issues, but we can't do that without you. Let's go through the aforementioned examples to give you a clear picture:

1. **Master Data:** it is essential that all data fields required for customs clearance are correct and available within the company. This means that basic information such as to value, weight, volume, insurance, and delivery conditions are kept in a structured database. A key element that needs to be captured is a product description and the HS code (Customs Code) data. Enriching a product database with correct HS code information is a time-consuming process that requires specialist knowledge. Don't wait until March 29th with this. This can be done in advance. Lubbers and her partners provides 'classification services' to help companies establishing, enriching or updating the product database and be prepared for customs filings. You should make sure that data like the basic product information is correct.
2. **EORI number:** Companies only doing business within the EU or companies that are considering importing or exporting goods to or from the UK need to get an EORI number. An EORI number is a European Union registration and identification number for businesses that want to import or export goods into or out of the EU. An EORI number is assigned by the member state where your company is established. Once you have an EORI number, this number will be valid in all other EU member states.

The EORI number is used as an identification number in all customs procedures when exchanging information with Customs administrations.

The procedure for applying for an EORI number varies per country. Please find the information for several EU countries below:

[The Netherlands](#)

[Belgium \(Dutch and French only\)](#)

[Germany](#)

[France](#)

[UK](#)

[Italy](#)

3. **Efficient data sharing:** The increase in customs activities following the Brexit will put enormous pressure on the customs authorities and the customs clearance industry. Manual input of customs filings will be a challenge. As all filings are made digitally, and most data will be available in WMS or ERP systems, agreeing on a digital transfer of data will expedite your flows. You should align this transfer with your Customs Agent. Lubbers and her partners are able to receive and process customs data in multiple formats. We can process .xls/.xml/.csv and many other format documents or connect through, for example, an EDI connection straight with your IT infrastructure. Establishing a process takes time, so it is important to develop, test and agree on these processes well ahead of March 29th. Lubbers and her partners can assist in this process.

4. **Projections:** All filings are required to be checked and enriched/completed by a Customs Agent. Given the expected increase in filings post-Brexit, a shortage of specialist agents is expected. Reserving capacity at your customs agent is important to make sure that filings happen on a timely basis. This prevents shipments being detained by Customs in Europe or the UK. Make sure that you have an overview of expected volume on a monthly basis for at least 2019 and share this with us. On the basis of this information, procedures and IT connectors can be developed in a joint effort.

5. **Documentation:** Customs Agents must obtain a power of attorney to provide customs clearance services. Every exporter/importer needs to process such a PoA. This is generally a time-consuming process, especially for freight forwarders and other entities with a large pool of clients.

You should make timely decisions on how you will approach the upcoming surge in documents and make sure all legal documentation is in order.

Lubbers and her partners can assist in preparing and gathering the proper documentation in a timely manner. If you have any questions or issues concerning Brexit or any other customs-related matter, then please do not hesitate and contact us directly per mail at brexit@lubbers.net.

13. Where can I find more information?

- <https://www.government.nl/topics/brexit/question-and-answer>
- <https://fullfact.org/europe/brexit-questions-answered/>
- <https://www.tln.nl/onderwerp/brexit> (Dutch -> related to the Transport Sector)
- <https://www.customssupport.nl/brexit/>

