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## PREPARING FOR BREXIT – VERSION 2.0

**Updated tips and recommendations relating to the Brexit preparedness of the EU road freight transport industry – IRU urges members to increase preparedness activities for a “no deal” solution.**

### I. BACKGROUND

On 29 March 2019, the United Kingdom (UK) is scheduled to leave the European Union (EU). The likelihood of a “no deal”, hard Brexit is increasing, but there is no absolute certainty yet. There will be serious implications for road freight transport and logistics companies in the UK, the EU27 and EEA.

Given the persisting uncertainty relating to the nature of the UK departure and a potential post-Brexit relationship between the EU and the UK, providing the right information for the operators is challenging. The purpose of this document is to provide information on aspects where certainty already exists and raise flags where action might be needed. Caution remains important due to the uncertain situation.

Currently, the EU and the UK have a preliminary Withdrawal Agreement and have prepared a general outline document on the future EU-UK relationship. The preliminary Withdrawal Agreement has been approved by the UK Government and by the EU Heads of State. The UK House of Commons rejected this agreement on 15 January 2019 with an overwhelming majority.

Already towards the end of 2018, the European Commission increasingly anticipated a no-deal Brexit. On 19 December 2018, a new contingency plan including a number of legislative proposals was tabled in case the UK would leave the EU without a deal. The plan and legislative proposals contain unilateral EU measures for access to the EU market for road hauliers established in the UK and for customs clearance. These proposals have to be examined and adopted by the European Parliament and the Council. Their entry into force will depend on reciprocal British measures for hauliers established in the EU27. The European Commission could table more road freight transport-related legislative proposals.

### II. GENERAL

#### **Can road freight transport operators prepare themselves while many things are still uncertain?**

On 30 March 2019, the UK will no longer be an EU Member State and will become a third country. This will imply that, whether there is a deal or not, customs formalities will have to be complied with by EU, EEA and UK established operators. Goods will have to be declared for import and export. Road freight transport and logistics operators will have the choice to do this themselves, to leave this to their customer(s) or to outsource this. In case transport operators are not doing this themselves, they should at least ensure that all documents have been properly filled out before departure. They are not liable for this, but vehicles will be stopped if customs formalities have not been properly dealt with.

#### **Will a permit system be reintroduced?**

On 30 March 2019, a Community Licence may no longer be sufficient for EU and EEA established operators to carry goods to and from the UK. For road freight transport and logistics companies established in the UK, Community Licences and their True Certified Copies issued by UK competent authorities will cease to be valid and will have to be replaced by a UK equivalent. In case a multilateral free trade agreement would be agreed between the EU and UK and includes provisions on road freight transport market access, the introduction of permits for UK and EU established operators to undertake a bilateral journey(s), cross-trade

or even transit, should not be excluded. It is likely that cabotage will no longer be allowed. Such an agreement is becoming increasingly unlikely. **Road freight transport and logistics operators should urgently evaluate the impact on their current operations and try to estimate the number of permits they may need for the different types of operations.**

As of 30 March 2019, ECMT multilateral permits will become available for UK operators to use for journeys involving EU and EEA Member States and for EU and EEA operators to use for journeys involving the UK. Those permits are limited in number and are not necessarily available yet for transports to and from the UK. ECMT permits are important. From 30 March 2019 onwards, using ECMT permits could be the only way to undertake certain cross-Channel operations. **IRU members should check with their competent authorities for further information about the use of and application for ECMT multilateral permits and to what extent ECMT multilateral permits will be available for the UK in 2019. IRU members should also already raise the potential need to increase the ECMT permit quota for 2020 with their competent authorities.**

#### **Will certificates and attestations still be valid?**

On 30 March 2019, Certificates of Professional Competence for road freight transport operators issued by UK competent authorities will cease to be valid in the EU. UK authorities indicated that such certificates issued by an EU or EEA Member States would be accepted in the UK. **IRU members should verify with their competent authorities what the procedures are to exchange these and inform their transport operators and IRU thereof.**

Certificates of Professional Competence for drivers issued by UK competent authorities will also cease to be valid. UK nationals working for a company established in the EU27 or EU27 nationals residing in the UK (country of normal residence) but employed by a company established in the EU27 will have to follow professional training in the EU27 Member State where the company employing them is established. The UK indicated that it will recognise these certificates issued by EU27 Member States.

UK nationals who are not long-term residents in the EU and who are employed by a company established in the EU27 will have to obtain a third country drivers' attestation from the competent authority of the Member State where the company is established.

Member States who are Contracting Parties to the 1968 Vienna Convention on Road Traffic or 1949 Geneva Convention on Road Traffic (those who have not ratified the former) will have a system of mutual recognition of drivers' licences and vehicle registration documents<sup>1</sup>. The UK issued recommendations for what drivers' licence to use when travelling to the EU and third countries.

A visa will not be needed to enter the UK or for UK nationals to enter the EU. However, it is recommended that professional drivers use a passport rather than an identity card for journeys to and from the UK.

#### **Will there be border controls?**

When driving to and from the UK, heavy goods vehicles already have to stop at the border for identity checks and, when going to the UK, for people inspections against stowaways. The latter checks are random but already cause serious extra delays at borders.

After withdrawal, identity checks and people inspections could be increased. Customs checks could be added as well as market access permit checks. The UK has already indicated that it will not introduce systematic customs checks at its borders but may wish to route duty-sensitive goods to certain points (Heathrow and Holyhead have been mentioned) in the UK for checks. The EU has not made such a pledge.

Challenges related to the international migration crisis will continue. People inspections of vehicles to detect stowaways at EU exit ports will continue and could be randomly reinforced. **IRU members should raise their transport and logistics operators' awareness of the safety and security measures which they and their drivers should take when driving to the UK.** There is a serious risk of heavy penalties. Road freight transport and logistics operators and their drivers should follow the UK Border Force Code of Practice to show that they have done everything possible to avoid stowaways. They can also obtain an accreditation with the UK Border Force. The recently published EU voluntary security guidelines could also be a helpful tool to raise security awareness in general.

Certain goods such as fresh fruit and vegetables, meat, fish and flowers will also become subject to phytosanitary checks at borders and could require specific documentation to be prepared. Other types of

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<sup>1</sup> According to the European Commission, this could be an issue in the following Member States: Germany, Croatia, Estonia, Latvia and Lithuania.

goods such as live animals or waste may also become subject to specific additional requirements. Road freight transport and logistics operators should always check with their customers about checks that would be required and if the necessary documentation is available. Vehicles can be stopped if the documents are not in order. The UK indicated that it will not impose systematic checks for such goods.

On both sides of the Channel, various initiatives are being undertaken to alleviate long road freight transport vehicle queues at border checkpoints by establishing extra parking areas for trucks and by testing filter measures for gradual approach to checkpoints.

***Road freight transport and logistics operators should discuss these issues with their customers and should consider taking extra measures and reflect on extra costs, delays and waiting times in contractual relationships with their customers.***

### III. TRANSITION PERIOD

From 29 March 2019, the UK will become a third country and customs formalities will be introduced. What this will entail depends on the UK readiness to continue to use the NCTS system as newly accepted Contracting Party to the Common Transit Convention. In case of a “no-deal” Brexit, there will be no transition period for compliance customs clearance procedures.

There could also be a transition period for road haulage market access in case the UK leaves the EU without a deal. The European Commission tabled a proposal to grant UK hauliers, in case of a no-deal Brexit, access to the EU Internal Market for a period of nine months. The access will be limited to bilateral transports with a departure and destination in the EU or the UK. EU and third country transit to an EU Member State are included. Cabotage, cross-trade between two EU Member States and EU transit to and from a third country are not covered. The two latter types of operations will have to be carried out with ECMT multilateral permits. The entry into force of the proposed regulation will be subject to reciprocal measures by the UK and does not foresee the possibility to extend the nine month period.

### IV. CUSTOMS PROCEDURES

Without a withdrawal agreement and a transition period, the UK will become third country on 30 March 2019 and customs formalities will be introduced because the UK will no longer be a member of the EU Customs Union. In its most recent contingency plan, the European Commission has stressed again that in case of a no-deal Brexit, all relevant EU legislation on imported and exported goods will apply as of the withdrawal date. Member States will have to be ready to apply the Union Customs Code (UCC) and relevant indirect taxation rules to all imports and exports from and to the UK. They should use existing possibilities to issue authorisations for facilitation measures provided for in the UCC. In December 2018, the EU accepted the UK as a Contracting Party to the Common Transit Convention (CTC). This will allow for continued use of the NCTS System as of the withdrawal date. The UK has not ratified the CTC yet (expected end of January 2019). TIR will also become a useful customs clearance tool in parallel with the NCTS System. Depending on the UK readiness, bilateral import and export declarations at borders or TIR could be the only tools available for customs clearance during the immediate post-Brexit period.

The UK Customs Code will mirror the UCC to a very large extent, but there will be some differences. There will be an obligation to do an additional safety and security pre-declaration for every single entering consignment. Data will be required for 21 fields. The pre-declaration can be done by the road freight transport and logistics operator, the customer(s) or could be outsourced to a third party.

***IRU members should enquire with their national customs authorities about their level of readiness to handle TIR declarations on large scale in case of a hard Brexit and inform IRU thereof. IRU members should also raise the awareness of their road freight transport and logistics operators about the use of TIR in case of a “no-deal” Brexit and should notify IRU if they require assistance. UK members should keep IRU informed about progress in UK preparations to apply the CTC as of 30 March 2019.***

#### **Will transport operators have to take care of customs formalities?**

This is the choice of the road freight transport and logistics operator who can leave this to the customer or outsource it, in which case the operator will have to check if all documents are available and duly completed and all formalities complied with. Otherwise, a vehicle may be stopped.

In case road freight transport and logistics operators decide to take care of customs formalities themselves, they will have to apply for an Economic Operators Registration and Identification number (EORI) with their competent customs authorities. This identification number is required when a company wants to deal with

customs. Even when companies outsource this, and declarations are done in their own name, an EORI number is required. In case of a “no-deal” Brexit, companies deciding to take care of customs formalities themselves may be required to apply for more than one EORI number. The EORI numbers obtained in an EU27 Member States will only allow export from and import to the EU. An UK EORI number will be needed to export from and import to the UK. Partners can be sought to take care of imports and exports as well. ***IRU members should enquire with their national customs authorities about the procedures to apply for EORI numbers and inform their member companies and IRU thereof. It is understood that currently not all Member States allow an application for more than one EORI number.***

Some Member States have already provided more detailed information on customs procedures<sup>2</sup>.

***IRU members should at least ensure that their member companies are fully informed about what customs procedures will have to be complied with and what customs documentation will be required for transports between the EU and UK, even if the member companies decide to outsource customs formalities.*** Road freight transport and logistics companies and their drivers should know the procedures in order to avoid being delayed at borders because not everything has been complied with.

#### **Should transport companies obtain Authorised Economic Operator Status (AEO)?**

Today, very few road freight transport operators have AEO status because it is not needed, and it requires considerable investment and effort to obtain. Obtaining AEO will only provide benefits if a company decides to take care of customs formalities itself. In order to be able to benefit in the EU and in the UK, a mutual recognition agreement will be required between the two Parties. This means that in case of a “no-deal” Brexit, an AEO status will have to be applied for in the EU27 and the UK in order to benefit from this status on both sides of the Channel. ***IRU members should enquire with their national customs authorities about the procedures to obtain an AEO status and about potential special procedures for mutual recognition and inform their member companies and IRU thereof.***

#### **Which rules will apply to the fuels and lubricants used by vehicles and special containers?**

On 30 March 2019, the UK becomes a third country. The provisions of Directive 2003/96/EC on taxation of energy products and electricity will no longer apply to vehicles registered in the UK entering the EU. Instead, the provisions of Regulation (EC) No 1186/2009 on a Community system for a relief of customs duty will apply to such vehicles. This Regulation specifies that the fuel and lubricants contained in the standard tank of the vehicle are exempt from duties when entering the EU. However, Member States can decide to limit the exemption to 200 litres. Special rules can also be applied to border areas within 25 km from the border. ***IRU members should enquire with their national customs authorities about potential limitations and special rules applying to the fuels and lubricants in the standard tank of third country registered vehicles when entering their territory and inform IRU thereof.***

It is not yet known what will apply to EU27 vehicles and special containers entering the UK.

## **V. MARKET ACCESS**

The European Commission proposal on ensuring basic road freight connectivity in case of a no-deal Brexit indicates that without a Withdrawal Agreement and transition period, EU Member States will not be allowed to negotiate bilateral road freight transport agreements with the UK. The proposal foresees a bilateral access regime to the EU for road freight transport and logistics operators established in the UK for a transition period of nine months. Cabotage, cross-trade between two EU Member States and transit of the EU to a third country are not covered by the proposal. The scope is not limited to vehicles above 3.5 tonnes. Market access rights to the UK for road freight transport and logistics operators established in the EU or EEA will depend on new rules established by the UK. ***IRU members should contact their national competent authorities regarding this proposal and should inform IRU thereof. The proposal is currently being discussed in the Transport Working Group of the Council and will also have to be examined by the European Parliament.***

ECMT permits would become more significant to guarantee road freight transport between the UK and the EU27 in case of a no-deal Brexit. From 2020 onwards, ECMT multilateral permits may become the only means for market access. ECMT permits will allow transit, bilateral transports and cross-trade. Cabotage will not be possible.<sup>3</sup> Road freight transport and logistics operators are recommended to contact their national

<sup>2</sup> Links to the [FR](#) and [NL](#) information.

<sup>3</sup> It must be understood that the quotas for 2019 have already been fixed. The possibility of an additional emergency quota to be used in 2019 in case of a no-deal Brexit will be discussed by the International Transport Forum in February



competent authorities for further information about the use of and application for ECMT multilateral permits. Some EU27 Member States such as Belgium, have already opened the possibility to apply for ECMT permits for the UK. The UK already started its application procedure in September 2018.

#### **Will unaccompanied shipments become more attractive?**

If road freight transport market access becomes restricted, sending unaccompanied semi-trailers or trailers to and from the UK could be an option. However, there is currently no guarantee that their market access will not be restricted. In addition, customs formalities will have to be complied with. Available capacity on other modes of transport might be limited. There might be additional waiting times and delays which might have an impact on contractual obligations. Partnerships might have to be established to ensure pickup of the unaccompanied vehicle units. ***Road freight transport and logistics operators should discuss this with their customers and inform other modal providers about availability and customs formalities to be complied with in due time. In case of UK semi-trailers being towed by EU-registered tractor units, the UK vehicle units would need to have their own registration number.***

#### **Will market access rules change for own account transport?**

Currently own account road freight transport can be carried out without access to the profession and Community Licence. It is not yet sure to which extent own account road freight transport will need a specific licence or permits. ***IRU members should contact their competent authorities to enquire about the market access regime for own account transport and inform IRU thereof.***

### **VI. SANITARY AND PHYTOSANITARY REQUIREMENTS**

Without a Withdrawal Agreement and transition period, the entry of many goods<sup>4</sup> and animals subject to sanitary and phytosanitary rules will be prohibited to enter the EU unless the UK is accepted as a "listed" third country. The UK will have to fulfil all applicable conditions laid down in EU veterinary legislation in order to allow the entry of live animals and animal products. The UK has already started the application procedure to become a "listed" country. When the UK becomes a "listed" country, strict health related import conditions applied to third countries will be required and these imports will have to undergo sanitary and phytosanitary controls by Member State authorities at border inspection posts<sup>5</sup>. New border inspection posts and existing ones that are extended will have to be approved by the European Commission<sup>6</sup>.

The UK issued a note indicating that in case of a no-deal Brexit, there would be no immediate change in the current import procedures providing the goods or animals come directly from the EU27.

***IRU members should enquire with their national competent authorities about approved border inspection posts and inform IRU thereof.***

### **VII. ACTION FOR MEMBERS**

Members are invited to carefully examine the content of this updated document and use it to help preparing their road freight transport and logistics operators for a "no-deal", hard Brexit. They should also contact their national competent authorities to try to obtain additional information relating to a number of questions raised in the document and should communicate this information to IRU [REDACTED] as soon as possible.

IRU will also continue to enquire with the EU, UK and ECMT to obtain useful information on available option. This document will be updated regularly as substantial new and useful information becomes available.

This document will be further updated in due time. IRU will keep members informed of developments.

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and March 2019. The quotas for 2020 will have to be fixed by the ITF Leipzig Summit in May 2019 and difficult discussions might take place on an increase of the existing quotas in case of a no-deal Brexit. In ITF, decisions on quotas have to be taken by unanimity.

<sup>4</sup> The European Commission issued a specific notification on EU Food Law in case of a no-deal Brexit.

<sup>5</sup> More info on such controls, including a list of approved control posts, can be found here.

<sup>6</sup> The control posts in France are: Le Havre, St. Malo, Dunkirk and Calais.

