

Customs and VAT post the transitional period

30 OCTOBER 2020

Speakers



Today's moderator:
Frank Haskew- Head of Tax
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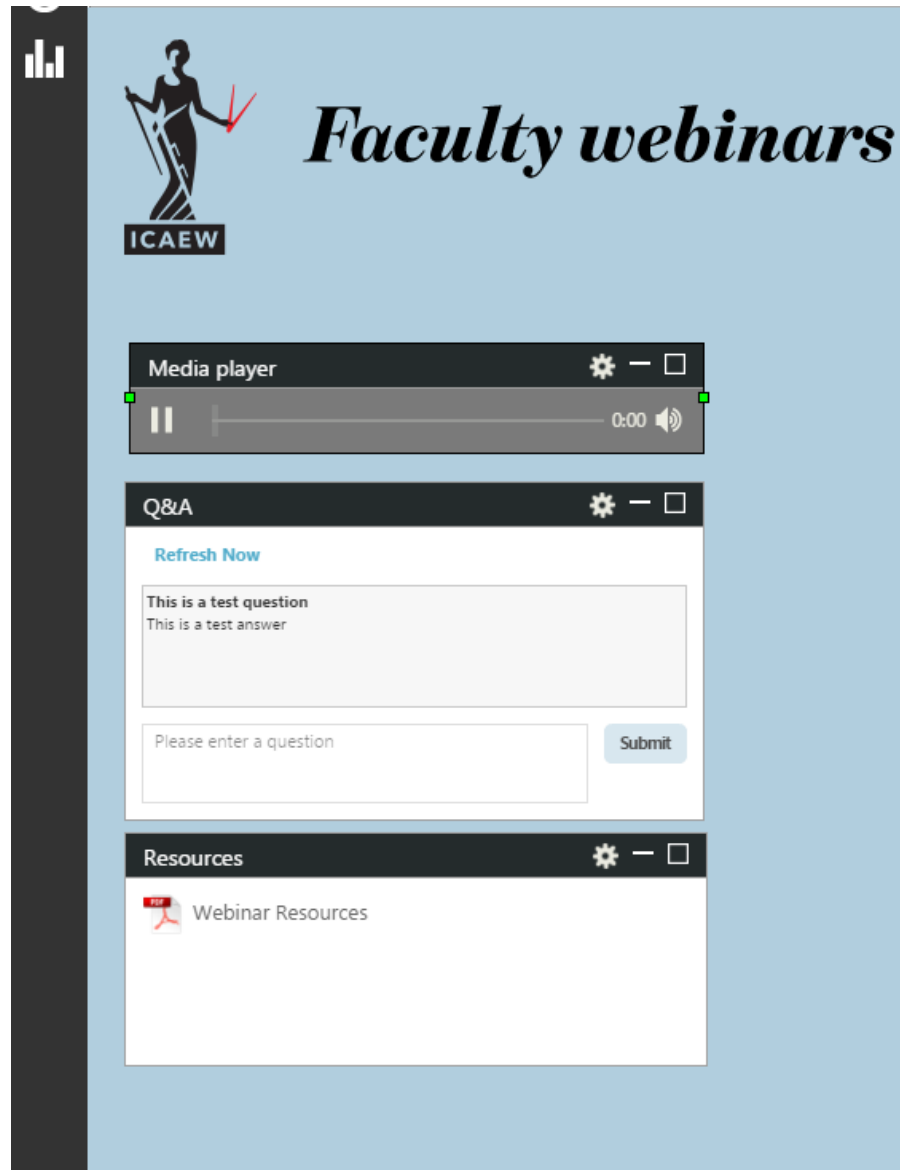


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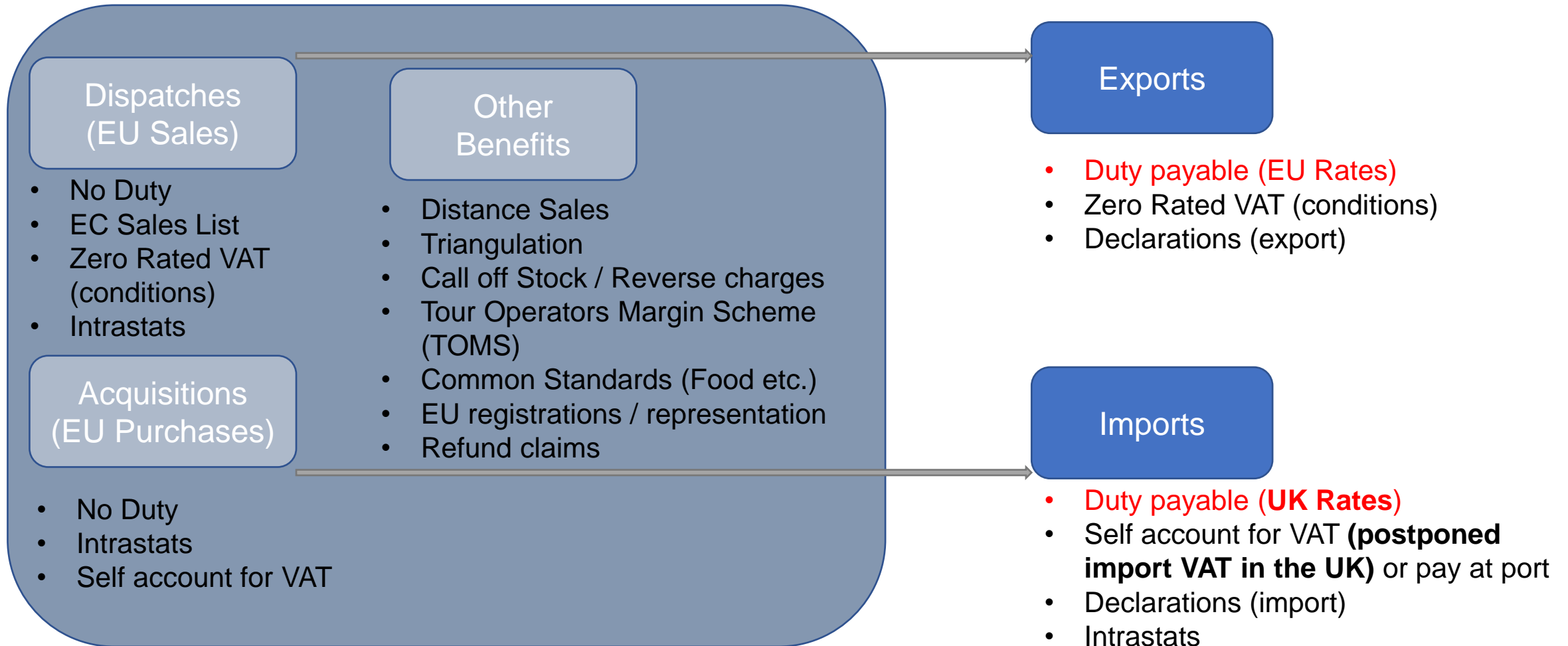
Session Agenda

- Introduction
- Duty and VAT Implications of Brexit
- Goods Entering the UK from the EU
- E-Commerce Changes UK (from 1 January 2021)
- Goods Entering the EU from the UK
- E-Commerce Changes EU (from 1 July 2021)
- VAT Refunds
- Supply Chain Considerations
- Take Away Points

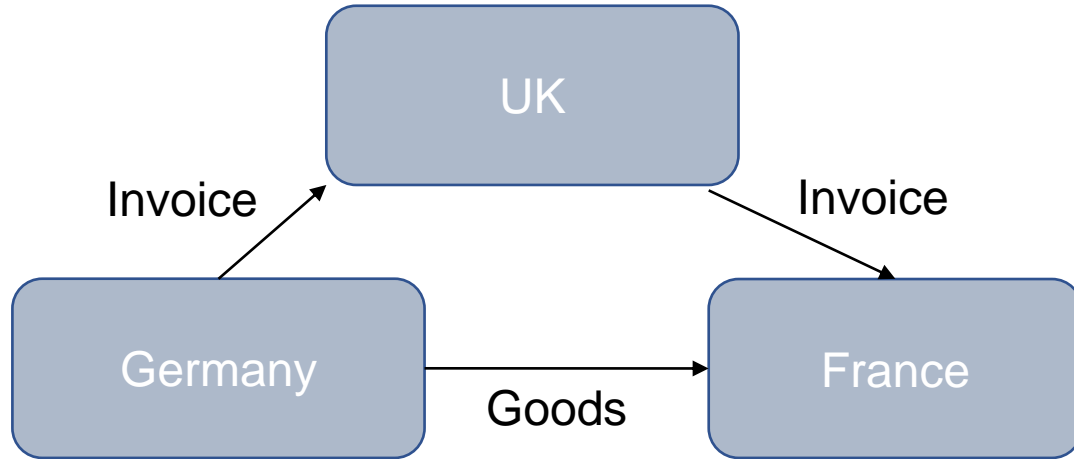
Introduction

- The UK left the EU on 31st January 2020, the UK is no longer a Member State
- Transition period in place until 31 December 2020 – **the first deal**
- Government announced on 12 June 2020 that it will not extend
- UK remains in Single Market and Customs Union until 31 December 2020
- UK is seeking to enter into a comprehensive Free Trade Agreement (FTA) with the EU
- 15 October 2020 was supposed to be New Deal or No Deal – US election?
- Regardless of an FTA with the EU, businesses still have supply chains to consider, lots to learn and practical things to do now

Duty and VAT Implications of Brexit



Implications of losing a simplification - Triangulation



Current Treatment

- Use Triangulation simplification
- Not shown on UK VAT return
- No requirement to register in EU
- Submit EC Sales list (indicator 2)

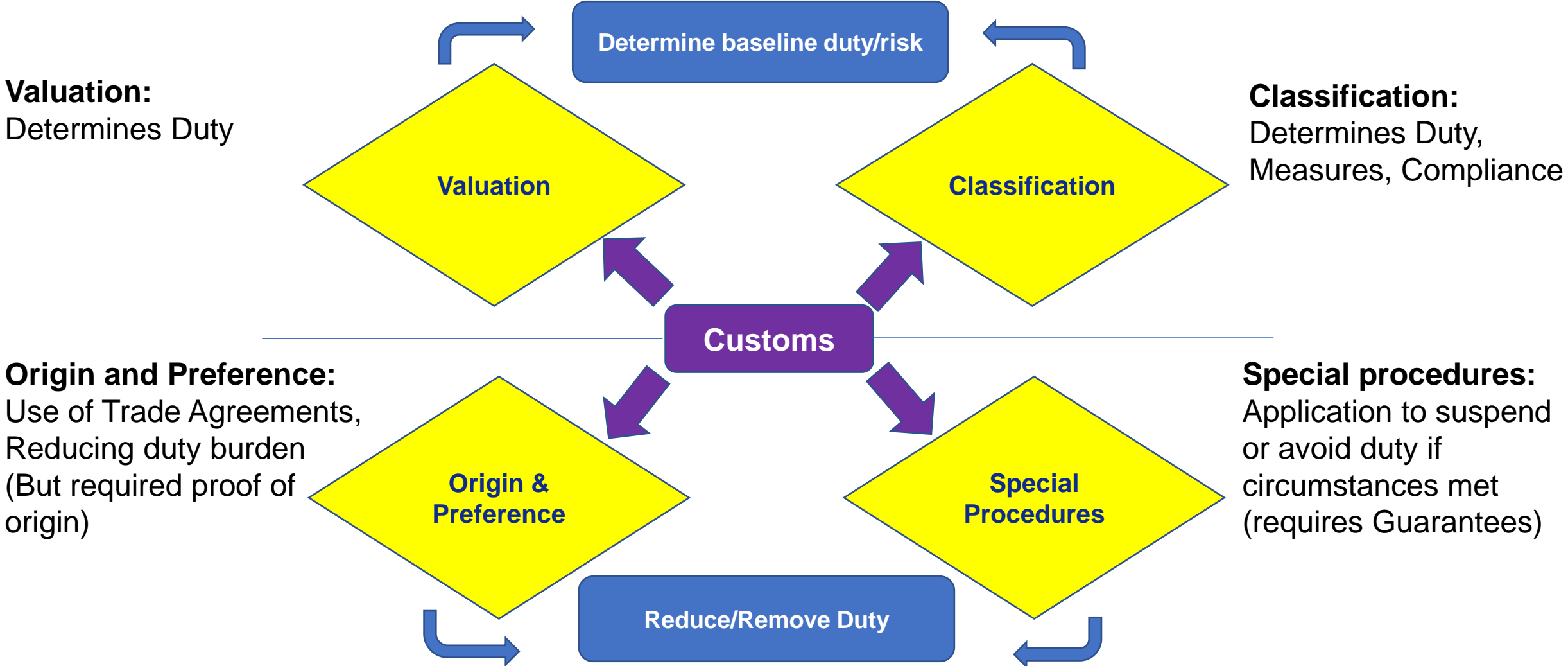
Options

1. Move goods to UK then France
2. Register in Germany
3. Register in France
4. Register in another EU member state

Considerations

- Cost of duty / declarations / freight and storage if crossing UK / EU border
- Apply for registration;
 - How long will it take and cost?
 - Do I need a fiscal representative?
 - How / when to submit returns (VAT, EC Sales list, Intrastat)?
 - What information do I need to maintain / provide to who and when?

Customs Duty Explained



Custom Duty Considerations

Commodity Code

This code is determined by your specific product. It is used to determine the import duties you will be liable to pay, licences and other documentation / pre notification requirements. Also used when considering rules of origin / preference. It is important you have **classified** your products correctly.

Customs Value

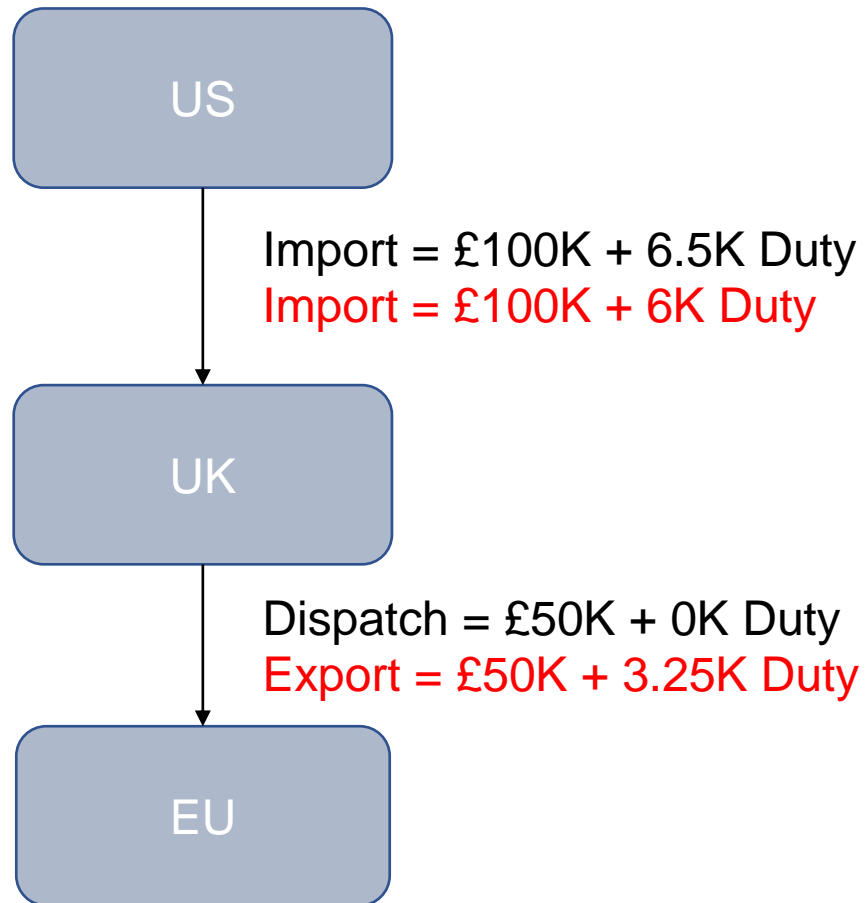
Entered on customs declaration. It is made up of the invoice price plus the cost of transport and insurance (CIF).

Rules of Origin

Businesses need to know where the product being imported or exported originates from. This is not the same as shipped from. Wholly obtained or Sufficiently worked or processed. List rules, direct transport / non-alteration.

Existing Non-EU customers? Continuity Agreements / New FTAs

Custom Duty Considerations



Current Treatment

- One clearance / declaration
- EU Sale (EC Sales list, Intrastat)

Options

1. Split US Consignment (2 shipments from US)
2. Special Procedure (Customs Warehouse / Inward Processing)
3. Change Prices
4. Consider EU Supplier / Distributor

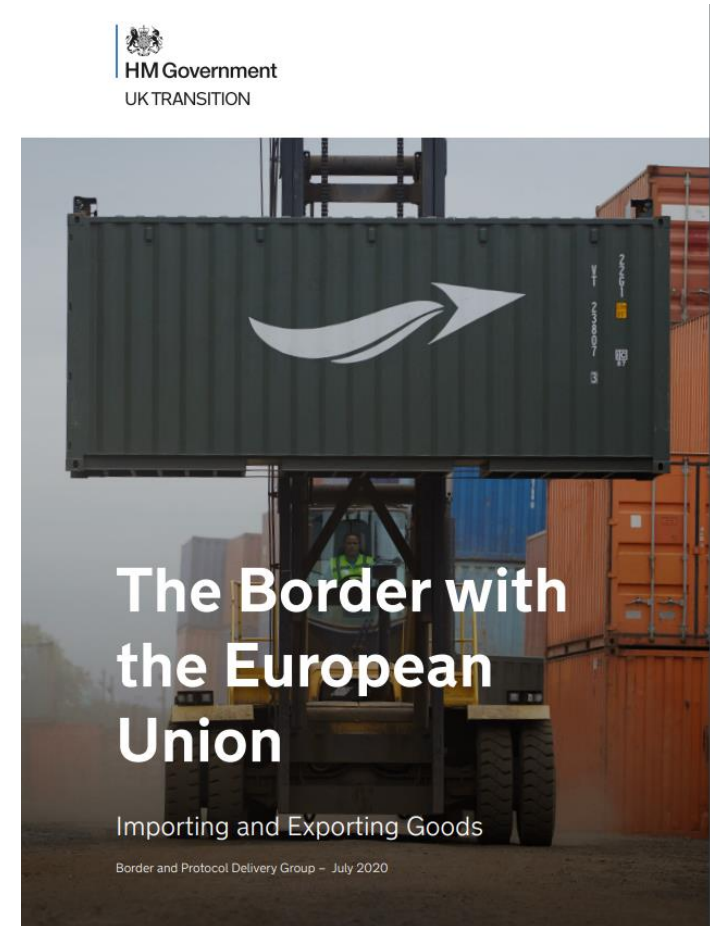
Considerations

- Who will be importer of record in EU?
 - Incoterms?
 - EU EORI required?
- Who will recover EU import VAT and how?
 - VAT registration required?
 - 13th Directive Reclaim
- Which EU country?
 - Is Transit required?

Goods Entering the UK from the EU

“The Border Operating Model (BOM) will be a live document going forward and as we are able to provide further details, we will update the Border Operating Model on an ongoing basis.”

- Applies to imports from EU from 1 January 2021 (**optional**)
- Allows 6 months delay to submit declarations and **pay duty**
- Only until 30 June 2021 (6 month rolling basis)
- From 1 July 2021 all imports into UK may be subject to border checks and require full import declaration
- Not currently due to be reciprocated by EU – full export declarations required
- Non-UK businesses can use this but must appoint a UK Agent
- Does not apply to some controlled goods (3 phases)

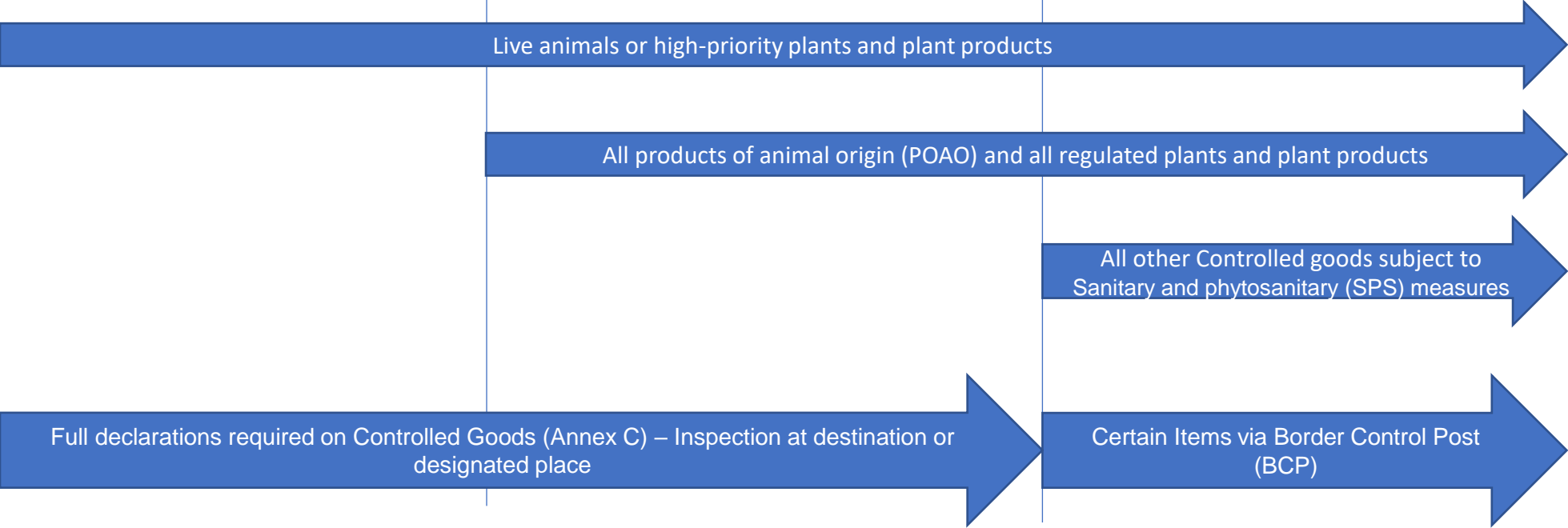


Controlled Goods into UK from the EU

1 January 2021 – 31 March 2021

1 April 2021 – 30 June 2021

1 July 2021 - Onwards



Controlled goods (Annex C): Excise goods, Endangered species (animals / plants), Fishery products, Fertilisers, Weapons / explosives, Torture equipment, Drugs and certain chemicals, products subject to additional duties ADD, CVD Safeguarding.

= Requires a full declaration, pre-notification and documentation

UK Global Tariff

<https://www.gov.uk/guidance/uk-tariffs-from-1-january-2021>

The UK Global Import Tariff essentially reduces the overall duty payable on imports compared to the current EU Tariff Free Lines – UK 47%, EU 27%. Average Duty rate UK 5.7%, EU 7.2%

Tariff Implications	Percentage of Tariff Applicable (11,830 lines)
No Change	33.5%
Liberalised – Reduced to Zero	16.9%
Simplified – Rounded down or banded, one rate	40.1%
Currency Conversion (food, wine, watches)	9.4%
Reduced (goods vehicles, road tractors)	0.1%

- How much will it cost without an FTA – you / customers?
- Goods from the EU may now have duty on them if no FTA
- Goods from the rest of the world may become cheaper (Interaction with FTAs)

Deferred Declarations – EIDR

- On import simply make an entry in your own commercial records – keep all the detail which will be required for a full customs declaration
- 6 months after the time of import (i.e. 6 months from when the standard goods enter the UK from 1 January – 30 June 2021) submit a supplementary declaration to HMRC and pay the duty (if any) due
- To make the supplementary declaration client or agent needs Customs Freight Simplified Procedure (CFSP) authorisation and a Duty Deferment Account (DDA)
- Must have good compliance history to defer in this way
- Does not apply to certain controlled goods – full declaration needed from 1 January 2021
- Non-UK established must use authorised agent

Deferment Account

- Already have one?
- Can I use someone else's?
- Current method for a new one is via a Customs Comprehensive Guarantee (CCG) can take up to 120 days!
- What about the No Deal Deferment account?
- What about the new Deferment account?
 - From 1 November 2020?
 - No requirement for guarantee if monthly duty amount <£10,000
 - What about potential debts?

Postponed VAT Accounting

- Available for imports from **all** countries from 1 January 2021 – no authorisation required but need EORI and VRN
- Not compulsory unless deferring the duty and customs declaration under the New BOM
- Means Import VAT does not need to be paid at time of import but is delayed until you submit next VAT return (but do not wait the 6 months until you submit the deferred customs declaration!)
- No more C79s - HMRC will issue a statement of imports after full declaration made (?)
- Enter import VAT in Box 1, Box 4 (if can recover as Input VAT) and Box 7. **Not Box 6.**
- <https://www.gov.uk/guidance/check-when-you-can-account-for-import-vat-on-your-vat-return>

E-Commerce Changes UK – 01/01/2021

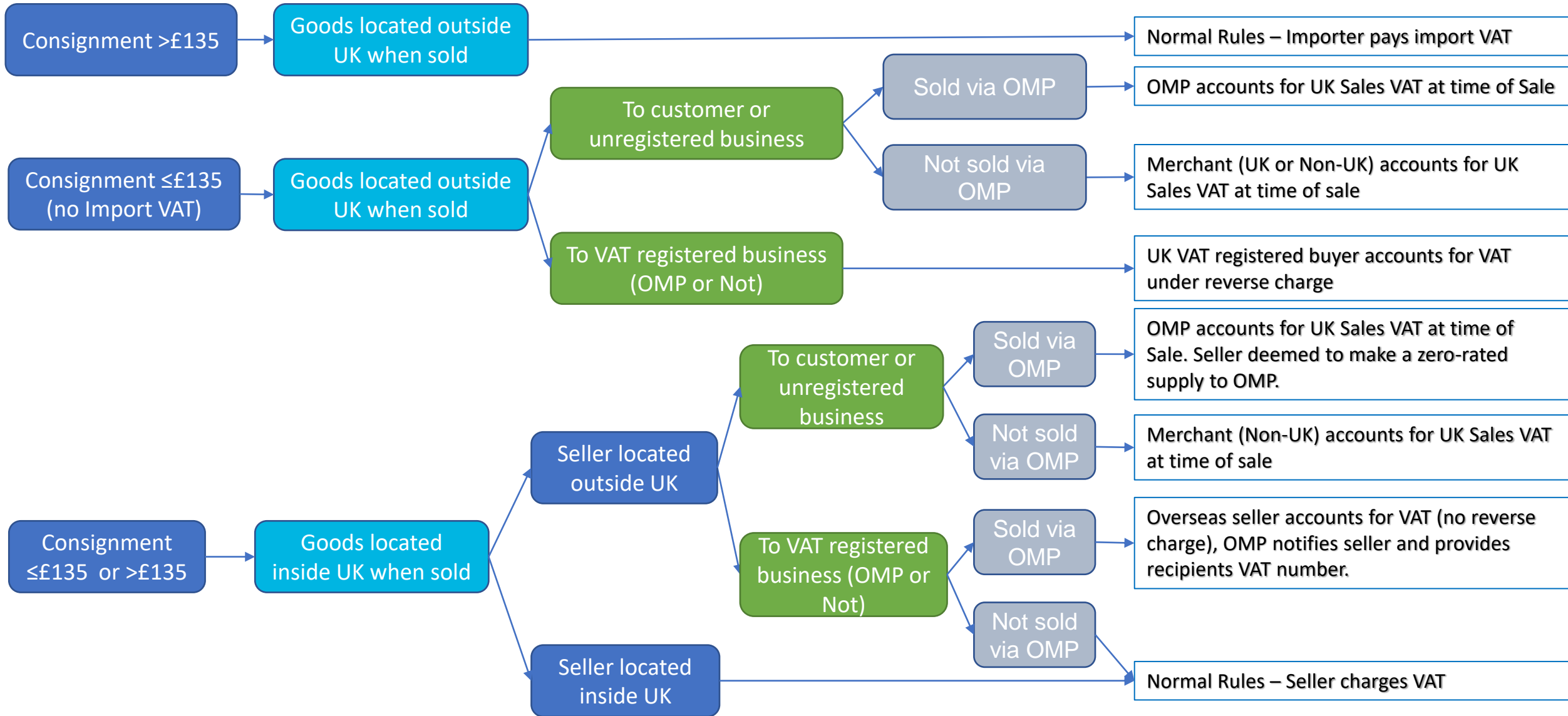
UK VAT registration required for:

- Any business that operates an Online Market Place (OMP) that facilitates sales of goods to UK customers
- Any business that sells goods directly (without OMP involvement) to UK customers where the goods are:
 - (a) Outside UK at the point of sale
 - (b) Imported to the UK in consignments not exceeding £135 in value

New arrangement details

- Low value consignment relief <£15 removed
- Where consignment value \leq £135 (not excise goods or gifts)
- Tax point is when sold (on website) not when imported – VAT invoice required
- OMP becomes deemed supplier
- Less detailed customs declaration required
- Where value over £135 can use Postponed Import VAT
- Does not impact the Jersey and Guernsey arrangement with the UK

E-Commerce Changes UK – 01/01/2021



Goods Entering the EU from the UK

The 'Intelligent Border' one single application for the whole of the Channel facing ports.



Goods Entering the EU from the UK

The 'Intelligent Border' one single application for the whole of the Channel facing ports.

- Tested with the UK in March, September and October 2019 – and again 4th quarter 2020 – it works!
- All the ports, the Tunnel and 3 shipping companies involved in the validation process.
- 5 million trucks cross Channel/North Sea each year
- 20% of the movements from the UK are to France (destination country).

Goods Entering the EU from the UK

The 'Intelligent Border' one single application for the whole of the Channel facing ports.

Three key principles apply:

- **A**nticipation – declarations BEFORE arrival at point of exit
- **I**dentification – truck registration plates – matched with declarations – BEFORE crossing the Channel
- **A**utomation – only those vehicles subject to specific controls and those for which customs formalities have not been completed will be stopped.

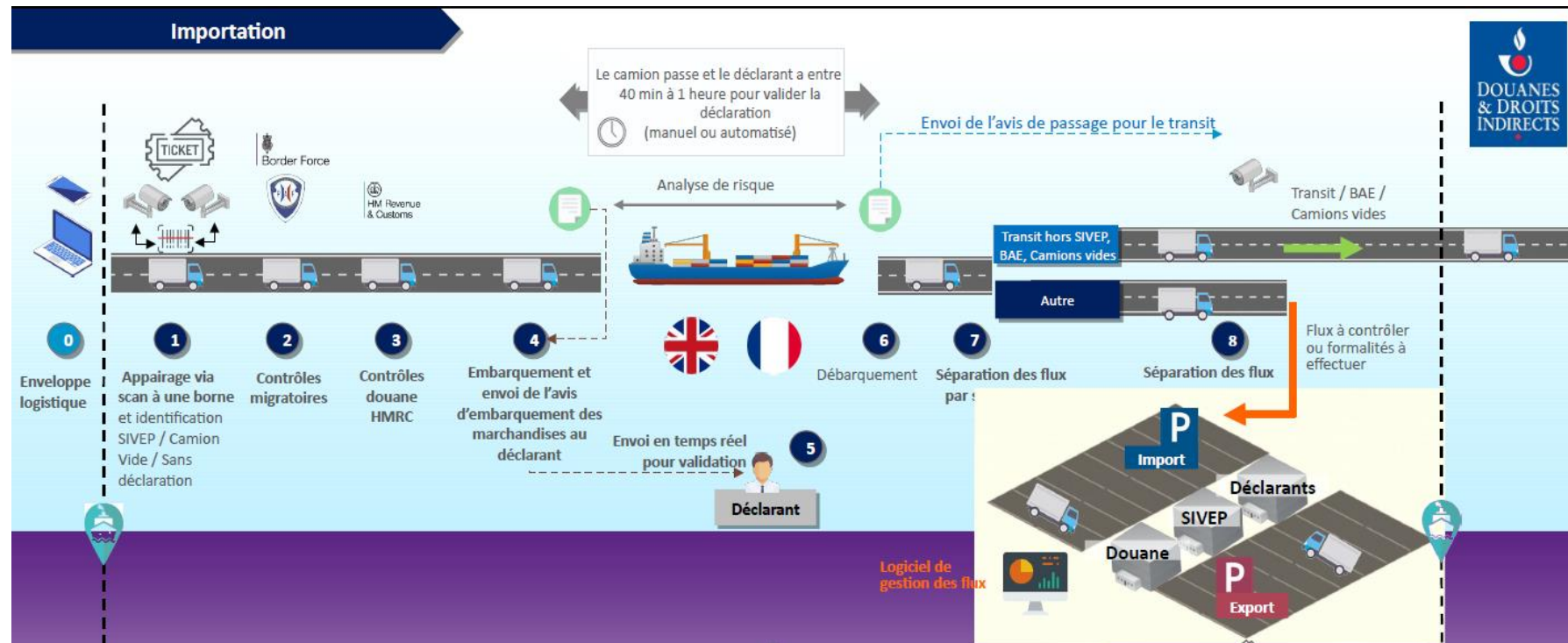
Goods Entering the EU from the UK

VAT registrations in EU Member states

- Check current VAT registrations
 - Will a tax representative be required – 19 Member states can require them?
 - Will your business flows and types of activity change post 31 December?
 - If Incoterms are changed – will this lead to a VAT registration requirement in the EU eg DDP as opposed to DAP.
 - Will you need an EU EORI number?
 - Have you applied to use the import VAT reverse charge – check customs agent is AEO accredited?
 - If French customer agrees – he can be shown as the importer on the import declaration – simplification para 160 BOI-TVA-CHAMP-20-70
 - ‘Triangular’ (A-B-C) operations France – France...
- No more Intrastats with the UK, (in France DEB) - from 31/12.

Goods Entering the EU from the UK

Import flows and procedures UK-France



Goods Entering the EU from the UK

Customs procedures before importations commence – what to do now

- Identify and contract with customs agent
 - Define his role – direct/indirect representation
 - Will you need/use any transit procedures, who will apply, guarantees to be provided?
 - If as importer you decide to apply – this should be done asap.
 - Will you declare your importations directly – application to use French customs' system DELTA G
- Ensure documentation available to support customs value if related party transactions, for example
- Ensure all additional items to be included in customs value eg royalties, transport...are identified and quantified
 - If not quantified or quantifiable consider application for use of provisional customs values
- Put into place customs deferral account – 30 days deferral.
- If VAT registered - VAT deferral – reverse charge – for non-EU must use an AEO agent.

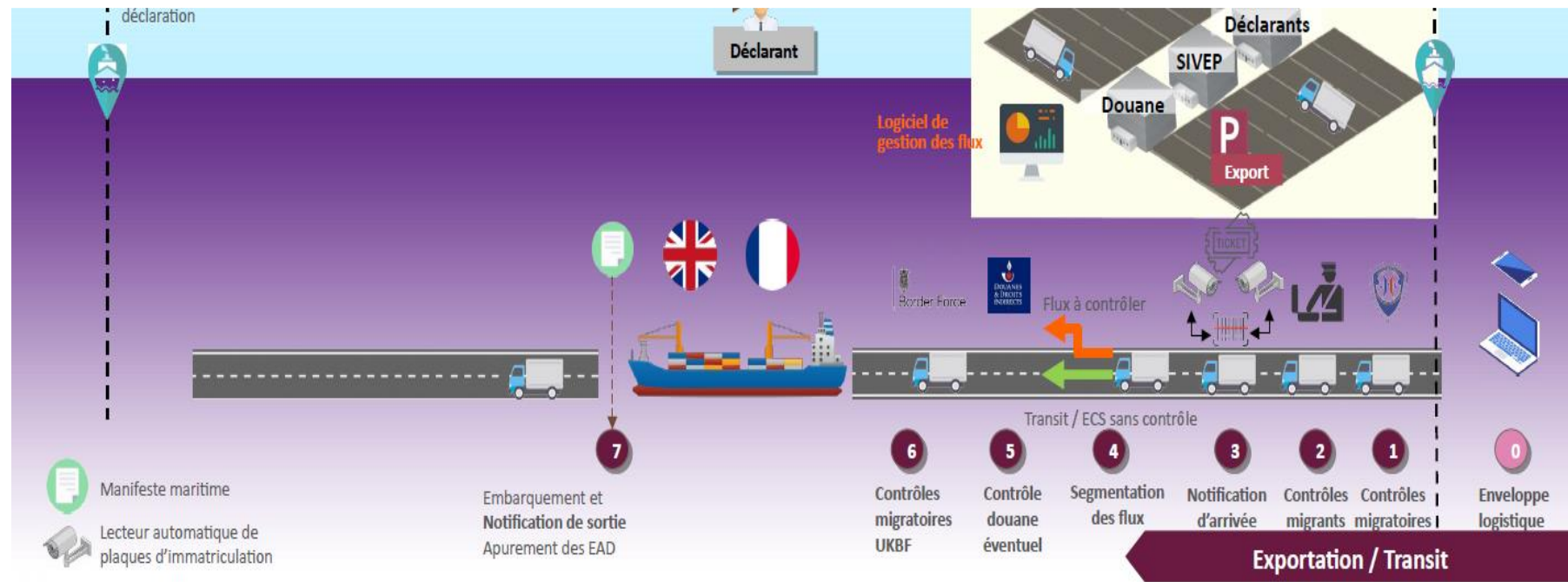
Goods Entering the EU from the UK

Customs procedures before importations commence – what to do now

- Submit pre-arrival declaration into Delta G (French customs' system) – up to 30 days before arrival;
- Ensure you have all customs documents with bar code
 - Document scanned on arrival
- If carrying livestock, meat and food products and or fish – sanitary controls maybe required (for fish the controls are carried out in Boulogne)
 - For animals, animal products, vegetables and vegetable based products notify importation via TRACES
- If goods moved under TIR or ATA – presentation to French customs – sanitary controls still required.
- Chemical products etc registration in the REACH system – some products are prohibited eg mercury
- Drugs/medicines etc – prior authorisation to place products on the market (exceptions exist)
- In all other cases truck, contents etc must be presented to French customs.
- During ferry/tunnel crossing driver will be told which customs lane to use.

Goods Entering the UK from the EU

Import flows and procedures France-UK



Customs registrations in EU Member states

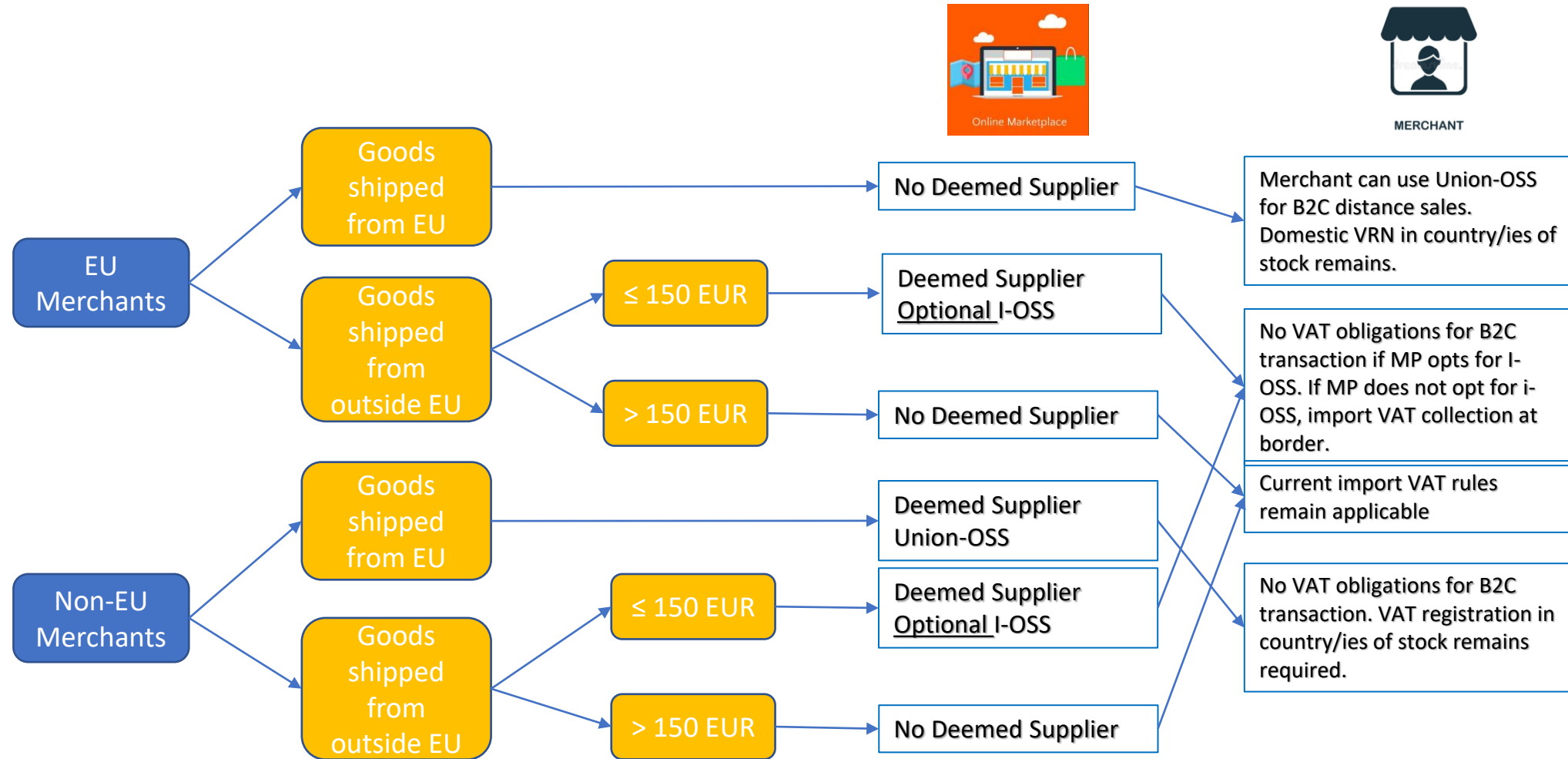
- Will you be able to export from the EU (to the UK) if the UK business is not established in the EU? Will the customs agent under indirect representation accept to act?
 - Tax representatives will not act in this capacity.
- Will the UK business, if it exports from the EU, be able to obtain/retain 'Authorised Exporter status' for EU origin certification for example?
- Any binding origin information including UK products no longer valid post 31/12.
- Will exporting from France to UK require a pre-authorisation eg food, weapons, health products etc...?

E-Commerce Changes EU – 01/07/2021

- 3 Different systems to 01 July 2021.
 - Up to 31 December 2020 – distance sales – local thresholds – except TBE single EU threshold of €10,000.
 - From 1 January to 30 June – imports into the EU ≤€150 simplified declaration (except excise goods for example)
 - From 1 July new VAT regime.
- What business should be doing now.
- What is the VAT in the Digital Age project?

E-Commerce Changes EU – 01/07/2021

VAT compliance impacts for merchants selling through online marketplaces



Commissions Action Plan

Commission's Action Plan of 15 July – 8 specific VAT actions – leading to 5 proposals

1. VAT in the Digital Age
2. Transforming the VAT Committee
3. Update VAT on financial services
4. Revise the TOMS
5. Greener taxation of passenger transport

VAT Refunds in the EU

- From 1 January 2021 the UK is a non-EU country and as for all non-EU established businesses the application for refund of EU VAT is via the 13th VAT Directive 86/560/EEC – in many countries still paper based – time limits to claim vary.
 - Member states can impose reciprocity conditions – article 2
 - Member states can require the appointment of a tax representative – eg France.
- By 31st March 2021 claims, for VAT with a tax point in 2020, under Directive 2008/9/EC (replaced the 8th VAT Directive in 2010) must be submitted (UK claimants of non-UK (EU) VAT), non-UK (EU) claimants of UK VAT.

Supply Chain Considerations

- Need to map out supply chain routes (current and future)
- Establish contractual relationship / Incoterms with suppliers and customers
- Consider the VAT and Duty implications of each
- Which require EU registrations? (where is best to register?)
- Will Special Procedures help?
- Do goods need to go through a certain port / Border Control Post?
- Is additional paper work required?
- Is pre-lodging required?
- Is Transit necessary?
- Costs?

Take Away Points

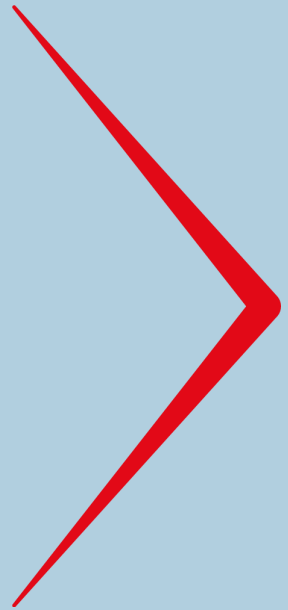
Trade in the EU will change significantly from 1 January 2021 and then again 1 July 2021

Businesses should:

- Speak to their logistics providers / customs agents
- Speak with their suppliers and customers about the changes
- Get familiar with customs duty requirements and classify their goods
- Apply for a GB / EU EORI Numbers and VAT registrations where applicable
- Consider the implications of the E-Commerce changes
- Not forget EU VAT refunds – 31 March 2021

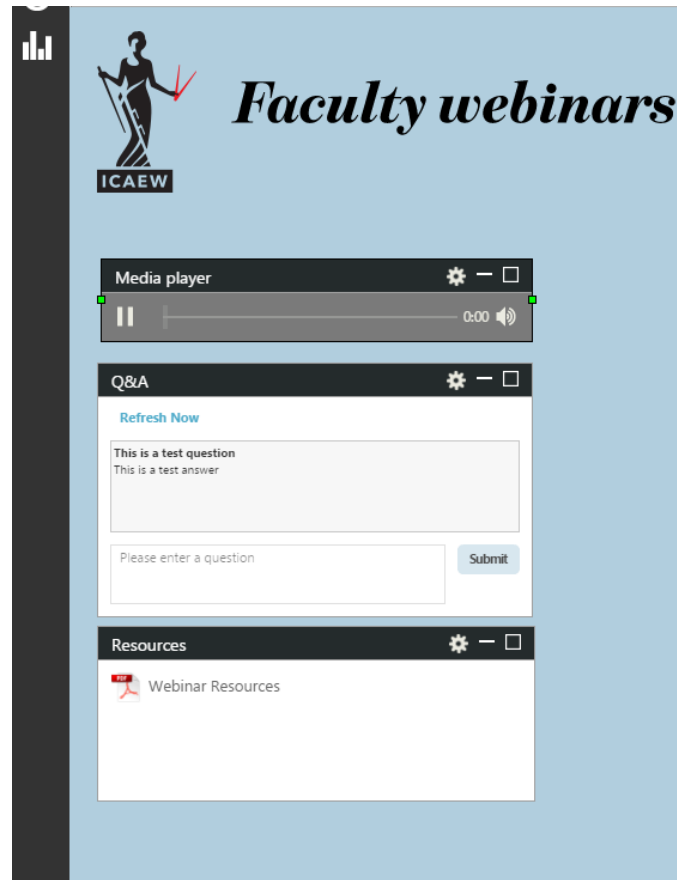
Glossary

- Authorised Economic Operator (AEO)
- Border Control Post (BCP)
- Common Transit Convention (CTC)
- Community System Providers (CSPs)
- Customs Comprehensive Guarantee (CCG)
- Customs Handling of Import and Export Freight (CHIEF)
- Duty Deferment Account (DDA)
- Economic Operators Registration and Identification (EORI)
- Excise Payment Security System (EPSS)
- Safety & Security (S&S) Declarations (ENS) (EXS)
- Postponed VAT accounting (PAS)
- Sanitary and phytosanitary (SPS)
- Simplified Import VAT Accounting (SIVA)
- Transit Accompanying Documents (TADs)
- UK Global Tariff (UKGT)



*Any
questions?*

Ask a question or download resources



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Future webinars

- Tax Faculty webinars
 - 23 November 2020 – Off-Payroll working
 - 09 December 2020 – VAT tips for your SME business clients
 - 15 December 2020 – DAC 6 affects SMEs too

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Thank you for attending



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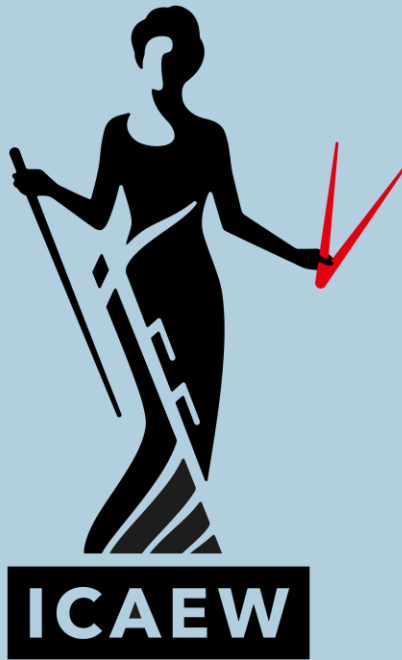
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