

A Business Guide to Post-Transition Trading with the EU (following UK's Exit) March 2021



**Isle of Man
Government**

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Guide Contents

Item	Page
1 UK - EU Cross Border Trade - Customs, Rules of Origin, Postal Rules etc.....	3
2 Taxation - Import VAT and General VAT, Special Regimes.....	5
3 Product Regulation - Standards, Conformity Assessment and Labelling.....	6
4 Currency Risk Management	6
5 Intellectual Property Rights - Copyright, Patents, Trademarks and Design Rights	6
6 Other Legal Issues - Contracts and INCOTERMS	8
7 Employment of EEA Staff and Immigration Applications	8

As a result of the Brexit process, the UK legally ceased to be a Member of the EU on 31 January 2020 and went on to conclude the end of its Transition Period arrangements on 31 December 2020.

From 1 January 2021, the newly agreed **UK - EU Trade and Co-operation Agreement (TCA)** came into preliminary operation and this now governs the terms of trade across the UK - EU border, especially in goods, which is the main focus of this Business Guide.

At the same time, the UK's and in turn, Isle of Man's Customs Union with the EU ended. As a result, for Customs and VAT purposes, goods imported and exported are now subject to import and export controls and procedures similar to those which take place between the UK and the rest of the world.

The Isle of Man's Customs and VAT arrangements with the UK are, however, unchanged meaning that there is no customs border between the Isle of Man and UK and, unless subject to any product specific regulatory or standards controls, goods can continue to move freely between the Isle of Man and UK.

This Guide, issued March 2021, is a pointer to where additional information can be found so as to help local businesses with practical matters they may need to take into account when trading with the EU.

While the Isle of Man did not leave the EU as such, the end of the Transition Period saw the end of Protocol 3, which provided our rights of access to the EU market for Island's goods, but these rights are now preserved for the Isle of Man in the relevant goods and Customs chapters of the new TCA.

Importantly, Isle of Man companies which move goods in and out of the EU, while having to comply with the new regime for the cross - border movement of goods, (including new Customs and VAT arrangements and regulatory conformity arrangements), can do so just as businesses can do in the UK.

Meanwhile, for services (including digital and financial services), the Isle of Man was previously and remains a 'third country' in respect of trade with the EU, which is the position the UK has now defaulted to, so there is little change for us in services. The Isle of Man will nevertheless look for any opportunities for alignment on services in FTAs which the UK negotiates with other countries.

In this post - Transition environment, businesses are still coming to terms with the practical issues of the new terms of trade with the EU, which in particular, affect manufacturers and others such as retailers, wholesalers and construction businesses conducting import or export of goods with the EU.

There is a popular misconception that the TCA automatically delivers tariff and barrier free trade between the UK and EU. This is not true. Preferential zero rate tariffs can be available if procedures are followed and rules are met. This can present initial trials and tribulations for some businesses. But there are also some inevitable long term additional costs and administrative burdens associated with customs clearance and logistics to adapt to and these can be difficult to mitigate for some businesses.

This simple guide is intended to help with the basics of how to navigate this. Other help is available from IOM Customs and DFE and the UK Government has a host of information available at www.gov.uk

To help support local businesses beyond this, the Department for Enterprise has a grant category under its Business Improvement Scheme for external consultancy to help solve Brexit - related issues:

- Businesses in any sector may apply, not just exporters;
- 50% support (up to a maximum of £5,000) is available, on prior application to the Department.
- See also DFE's FAS Scheme that can help with the cost of new plans for overseas marketing.

Area	Context	Considerations/Actions
1 Cross Border Trade		
<p>UK/EU customs checks and declarations</p> <p>Obtaining an EORI Number for imports and exports</p>	<p>The IOM and UK are now ‘third countries’ outside of EU customs regime.</p> <p>IOM and UK exporters must make customs declarations on all goods destined for the EU.</p>	<p>If you are familiar with customs arrangements and documents you need to comply with for non - EU markets you will already know the basics and you will have to apply much the same treatment to all imports from, and exports to, the EU in future. You should also expect to have goods/checked inspected at the EU border.</p> <p>Businesses that will import goods from the EU or export goods to the EU will need to hold or apply for an EORI number. Details of how to apply for an EORI number can be found here:</p> <p>1) if you are VAT registered: EORI for Isle of Man applicants</p> <p>2) if you are <u>not</u> VAT registered: https://www.gov.uk/eori</p>
<p>Custom documents</p> <p>Managing cross - border supplies and potential delays/ costs at UK/EU borders and Northern Ireland borders</p>	<p>With potential customs checks on shipments between the UK and EU borders, there may be some delays in shipments. Correct documentation and declarations will be required.</p> <p>(NB: Special customs arrangements apply to goods destined for Northern Ireland).</p>	<p>Have you consulted your freight/customs agent, to ensure they can offer you the support you need with customs paperwork to minimise delays and costs? They will most likely charge you a fee per consignment. See the link below if you need to find one: https://www.gov.uk/guidance/appoint-someone-to-deal-with-customs-on-your-behalf</p> <p>If you do much overseas trade, an alternative is for you to obtain the software, knowledge/training for the customs documentation.</p> <p>Consider also how resilient your supply chain is to UK/EU border checks and delays, (in both directions), as you may want to manage supplies differently, especially if these are perishables.</p> <p>Exporters can find out more here: https://www.gov.uk/check-duties-customs-exporting</p> <p>Importers can find out more here: https://www.gov.uk/import-goods-into-uk</p>
<p>Postal rules on exports</p> <p>Rules for small value imports and online purchases of items from overseas</p>	<p>Exporting items by post now needs a customs declaration.</p> <p>UK/IOM buyers of goods (including online marketplace purchases).</p>	<p>Special rules on exported items apply according to their value, see: https://www.gov.uk/government/publications/notice-143-a-guide-for-international-post-users/notice-143-a-guide-for-international-post-users</p> <p>UK buyers may be charged VAT at point of sale where goods are purchased from overseas via an online marketplace, or may be charged import VAT on goods valued at £135 or less. Import duties may also be payable on shipments exceeding £135 in value and shipping companies may also charge an admin fee. See: https://www.gov.uk/guidance/vat-and-overseas-goods-sold-to-customers-in-the-uk-using-online-marketplaces</p>

<p>Rules of Origin in UK - EU Trade</p>	<p>In FTAs, (including the new UK - EU TCA), zero - tariff trade in both directions is NOT automatic.</p> <p>IOM and UK export companies need to prove that their products are of IOM/UK origin to claim tariff duty preferences.</p> <p>IOM and UK importers need information and/or documentation from their EU suppliers to demonstrate they have met Rules of Origin to claim the zero tariffs.</p>	<p>If you are an exporter / manufacturer of goods, you will need to be able to meet product rules of origin in order for your EU customer to claim the tariff - free preference.</p> <p>Your customer will need to have ‘adequate knowledge’ of your product, or you will need to provide him with a ‘self- declaration’ statement in a prescribed format, backed up by evidence.</p> <p>Your products will also need to meet the tests under these rules to prove both ‘origin of materials’ and ‘sufficient production’ in the UK/Isle of Man.</p> <p>You will need to know the international HS classification codes for all your products and materials in order to check the TCA agreement for the relevant rules. See: https://www.gov.uk/guidance/finding-commodity-codes-for-imports-or-exports</p> <p>Where some materials come from non - EU countries, the origin rules may still permit an amount of ‘cumulation’ to take place.</p> <p>If you are an importer bringing goods from the EU to the UK, you can only claim the zero tariff if you can show either your ‘expert knowledge’ that the goods meet the rules, or you have received an exporter’s statement of declaration of EU origin, in order to evidence your claim to Customs.</p> <p>For more information on Rules of Origin see: https://www.gov.uk/guidance/claiming-preferential-rates-of-duty-between-the-uk-and-eu</p>
<p>Continuity of EU Trade Agreements with existing Third Countries (FTAs) and New Trade Agreements</p> <p>New market potential</p>	<p>The UK has secured for itself some of the 40+ agreements with 70 countries the UK had benefited from via the EU. Where this is the case, preferential trade terms for UK and IOM may continue to be available with these countries.</p> <p>The UK is also working on new agreements (which may also benefit the IOM) with other countries.</p>	<p>Consider if you currently benefit from preferential duties and trade terms on goods with third countries which were previously available to you by virtue of the UK’s EU membership (eg the EU’s FTA with South Korea)?</p> <p>You may want to check if these FTA benefits remain in place and have been secured by the UK, or may be available in the future.</p> <p>Consider if these are critical markets and your customer’s potential reaction to any changes - there may be increases or even decreases in costs of doing business with them ahead.</p> <p>The Isle of Man intends that FTAs secured by the UK on a grandfathering basis from the EU will continue to apply to the Isle of Man to the extent they did previously, when the rollover of these takes place. The UK also intends to negotiate some new agreements and these may have the potential to be applied to the Isle of Man for both goods and services with attendant new market opportunities eg USA, Japan, Canada, Australia etc. See: https://www.gov.uk/guidance/uk-trade-agreements-with-non-eu-countries</p>

<p>Special customs facilitation and reliefs etc after 2020.</p>	<p>There are a number of duty relief/deferral schemes available to IOM and UK businesses from Customs.</p> <p>There is also a trusted trader scheme - AEO (Authorised Economic Operator). IOM Customs and Excise can advise.</p>	<p>Consider if there may be any additional customs reliefs or trusted trader schemes you might use - for example, customs warehousing if you have goods arriving into UK from China for onward shipment to the EU. Contact IOM Customs and Excise for information.</p> <p>See also: https://www.gov.uk/duty-relief-for-imports-and-exports</p> <p>Experienced traders with in house expertise may also want to look at special arrangements such as obtaining AEO status. See: https://www.gov.uk/guidance/authorised-economic-operator-certification</p> <p>Consider if your staff have sufficient knowledge of customs matters and if additional staff or training might be valuable.</p>
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2 Indirect taxation - VAT

<p>Import VAT and VAT Deferment Accounts</p>	<p>Both the UK and IOM have exited the EU VAT area. UK's HMRC and IOM Customs and Excise now permit import VAT to be declared on VAT returns for VAT registered businesses. For those not registered, VAT may be payable at the border on all goods imported.</p>	<p>Consider cash flow and other implications of having to make earlier VAT payments or the possibility of setting up a 'deferment account' with Customs, for duty and /or VAT, particularly if you import a lot of goods.</p> <p>See also: https://www.gov.uk/guidance/check-which-type-of-account-to-apply-for-to-defer-duty-payments-when-you-import-goods</p>
<p>VAT - General and VAT Postponed Accounting</p>	<p>Businesses may need to have VAT registrations in EU countries in future if they want to hold stocks there.</p> <p>Businesses may no longer be able to recover VAT incurred in EU countries which is presently possible under the EU refund scheme.</p>	<p>Consider the impact of VAT changes on the business and any financial, accounting and other planning implications. If you are VAT registered, it is possible to apply to HMRC in the UK to benefit from postponed accounting for VAT, enabling import VAT to be settled alongside monthly VAT returns. See: https://www.gov.uk/guidance/check-when-you-can-account-for-import-vat-on-your-vat-return</p> <p>Traders may in future need to register under the MOSS Scheme (Mini One Stop Shop) in an EU country. The UK/IOM has discontinued this scheme. See: https://www.gov.uk/guidance/changes-to-the-vat-moss-rate-for-other-countries Consult IOM Customs and Excise if uncertain of further changes ahead.</p>

3 Product Standards and Regulation

EU Regulation/Conformity/ Labelling	<p>In some cases, the EU will no longer recognise UK conformity assessments without reassessment by an EU body.</p> <p>Self -declared CE marked goods will not be affected and CE marks will be valid for most goods in the UK during 2021, despite the UK introducing a new CA mark.</p>	<p>Consider which regulatory bodies (Notified Bodies) and measures you have to comply with and whether you may have to take steps to deal with EU bodies instead of UK ones.</p> <p>You may need to check if your goods are those which can continue to use the CE mark or which might eventually need a new 'UK CA' mark for the UK market after 2021. See: https://www.gov.uk/guidance/ce-marking</p> <p>The UK will have its own new 'UK CA' marks for certain goods assessed against UK approval bodies for UK markets but will accept CE marking during 2021. See: https://www.gov.uk/guidance/using-the-ukca-mark-from-1-january-2021</p> <p>Consider also whether your labelling or packaging will need to be changed.</p>
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4 Currency Risk and Hedging

Currency exchange rates	<p>The Bank of England had anticipated ongoing volatility in Sterling depending on the strength of any EU trade agreement reached.</p>	<p>The main depreciation risk of sterling attached to a 'no deal' has been averted. However, it is still prudent business risk management to consider the currencies you are paid in, possible future currency movements and their impact on your cash flow/finances.</p> <p>It may be worth considering if new forward contracts or orders can be made more favourable to you to cover this, or if other hedging methods for currency risks can be employed by you.</p>
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5 Intellectual Property Rights

Copyright	<p>Copyright protection is underpinned by international treaties and does not depend on the UK's membership of the EU, so is not affected by the UK leaving the EU. There are a number of 'cross -border' EU mechanisms but only one of these, the sui</p>	<p>Businesses should not need to do anything new to protect existing copyright, but newly created sui generis database rights are an exception.</p> <p>Isle of Man and UK residents and businesses will not be eligible to receive or hold database rights in the EEA for databases created on or after 1 January 2021.</p> <p>Owners of databases created on or after 1 January 2021 should consider whether they can rely on alternative means of protection in the EEA, for example - licensing agreements or copyright, where applicable.</p>
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	<p>generis database rights, applies in the Island.</p>	
<p>Patents</p>	<p>The IOM does not have its own Patent Office. Instead, patent applications made to the UK IPO (Intellectual Property Office) automatically cover both the UK and the IOM. UK and EU law on patents applies to the IOM. Supplementary Protection Certificates, will remain in place.</p>	<p>There should be no need for action for existing patents as the existing rules remained in place at the point the UK exited the EU on 31 December 2020.</p> <p>The European Patent Office (EPO) is not an EU Agency and the UK leaving the EU does not affect the current EU patent system. Existing European patents covering UK and IOM are unaffected.</p> <p>Application can be made for a European Patent through the UK IPO or directly to the EPO to protect a patent in more than 30 countries in Europe using the (non - EU) European Patent Convention. This grants a series of national patents rather than a single pan - European one.</p> <p>Supplementary Protection Certificates (SPCs) where needed are granted by the IPO and are national rather than EU wide rights and are covered by arrangements in the UK's Withdrawal Agreement.</p>
<p>Trademarks and registered designs</p>	<p>The IOM does not have its own Trade Marks Register. The UK trade mark system applies to the UK and IOM as a single area and thus trade marks registered in the UK IPO are protected in Manx law.</p> <p>Design rights (registered and unregistered) may be similarly protected.</p> <p>Note also changes brought in on Supplementary Unregistered Designs and Exhaustion of IP rights.</p>	<p>For EU trade marks pre -existing at 1 January 2021, the UK IPO is creating a comparable UK trade mark for every one registered and there will be no fee and minimal administration involved in that.</p> <p>For protection in countries that are EU Members, application can still be made to the European Intellectual Property Office (EUIPO) in Spain to register new trade marks but this will not cover the UK or IOM for which a UK IPO application would be required.</p> <p>An EEA attorney will be needed for a EUIPO registration where there is no EU place of business, establishment or domicile.</p> <p>For pre - existing Registered Community Designs, the UK will record these on the UK Designs Register to ensure ongoing protection in the UK and IOM.</p> <p>Unregistered Community Designs that arose before 1 January 2021 continue to be protected in the UK for the remainder of their 3 year protection term.</p> <p>The UK has a related unregistered UK design right - a Supplementary Unregistered Design (SUD) which came into UK law on the same date. The terms of SUD protection will be similar to that conferred by Unregistered Community Design. However. It will not extend to cover the EU. It is intended to introduce this legislation in the IOM.</p> <p>NOTE: IP rights in goods placed on the UK or IOM market with the right - holder's consent will no longer be exhausted if they are then placed in the EEA. Right holder's consent may be needed. Imports from the EEA to IOM are unaffected by this.</p>

6 Other Legal Issues

<p>Contracts and INCOTERMS</p>	<p>Terms of contracts with EU customers and suppliers in existing contracts may no longer be valid, relevant, or enforceable after 2020. New terms may be needed and may benefit from expert legal advice.</p>	<p>Consider what contracts may be open to challenge or non-performance and if they depended on references to the EU and EU regulations, seek expert legal advice, as appropriate to update.</p> <p>Sales of goods between the UK and EU (and vice versa) are no longer ‘dispatches’ and ‘acquisitions’ but ‘imports’ and ‘exports’ and importers and exporters have specific legal responsibilities.</p> <p>Relationships with customers may need to change including legal terms of delivery (INCOTERMS) which define the point at which legal ownership and insurance risk passes during the sale and delivery process.</p> <p>See: https://iccwbo.org/resources-for-business/incoterms-rules/incoterms-2020/</p>
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7 Employment, staff and immigration

<p>Workforce retention and Settlement of existing EEA staff</p>	<p>If you employed EEA nationals prior to 1 January 2020, the IOM has a Settlement Scheme offering the same rights to them and their families to stay in IOM as in the UK (as negotiated by the UK in the Withdrawal Agreement).</p>	<p>Affected employees may be reassured about their status and should apply for Settlement via the IOM Immigration Office.</p> <p>They have until 30 June 2021 to do so.</p> <p>See: https://www.gov.im/categories/travel-traffic-and-motoring/immigration/eu-eea-and-swiss-citizens/eu-settlement-scheme/</p>
<p>Recruitment of new EEA staff</p>	<p>UK introduced new immigration rules from 1 January 2021 for new applicants (including EEA and non - EEA Nationals) and the IOM’s position largely mirrors these.</p>	<p>EEA nationals entering the UK or IOM are now subject to immigration controls and rules and an appropriate visa will be required to work.</p> <p>Foreign Nationals wishing to apply for a visa for the Isle of Man should apply online via their nearest British Embassy or High Commission.</p> <p>An exception is Irish Nationals who are not required to hold a visa for entry under the Common Travel Area arrangements, though they may still need a work permit.</p> <p>Travel from the EEA to visit the UK (eg to attend an interview, but not to work) may be undertaken visa - free for up to 90 days.</p> <p>See: https://www.gov.im/categories/travel-traffic-and-motoring/immigration/immigration-in-the-isle-of-man/</p>

For further information:

DEPARTMENT FOR ENTERPRISE:

UK - EU Trade: Business Help Desk - Steven Beevers: tel.686400; email steven.beevers@gov.im

Manufacturing & Construction Lead - Kirree Goberman: tel.687148; email Kirree.goberman@gov.im

Retail Lead - Rachel Hopkinson: tel.687175; email Rachel.hopkinson@gov.im

Business Improvement & FAS Scheme (Grants): tel.687333; email enterprisesupport@gov.im

See also: <https://www.iomdfenterprise.im/assets/PDFs/fda08d92ca/Grants-Assistance-Factsheet-v.0005.pdf>

IOM CUSTOMS AND EXCISE

VAT Advice Centre: tel. 648130; email Customs@gov.im

Customs Enquiries: tel. 648130; email Customs.GeneralEmail@gov.im

IMMIGRATION OFFICE

<https://www.gov.im/immigration>

CABINET OFFICE

UK - EU Trade (Brexit) Website: <https://www.gov.im/about-the-government/departments/cabinet-office/eu-uk-trade-and-cooperation-agreement-2020/>

OTHER USEFUL LINKS

Personalised Brexit Rule Checker: <https://www.gov.uk/transition>

Full Text of the UK - EU TCA:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948119/EU-UK_Trade_and_Cooperation_Agreement_24.12.2020.pdf

