

Brexit and its impact on trade in goods

Brexit from a customs perspective

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Initial situation

- At the time of the editorial deadline of this report the future relationship of the UK to the EU was not nearly foreseeable.
- This also illustrates the situation of companies with economic relations with the UK which do not know what to prepare for.
- Customs border. Immediately or after a transitional period. Third country duty rates? Trade agreements, including which preferential rules of origin? Customs Union as with Turkey? Which costs have to be considered?

Possible scenarios and their effects

- No-Deal-Brexit.
- Trade Agreement - on what basis?
 - EFTA
 - Comprehensive Economic and Trade Agreement (CETA) - EU/Canada
 - Economic Partnership Agreement (EPA) - EU/Japan
- Customs Union - as with Turkey?
- Exit from Brexit - a probably unfulfillable wish.

Possible customs law scenarios from the current perspective

- In principle, a customs border separates the EU and the UK in all three scenarios! Deal-Brexit after a transitional period.
- In many print media the customs union is described in such a way that there will be no changes in the cross-border-trade. However in the current examples of a customs union there is always a customs border. This is justified by the different taxes (VAT, excise duties, etc.) and the different trade policy measures.

Possible customs law scenarios from the current perspective

- From a customs law perspective cross-border-trade in goods with the UK will be handled like with any other third country!
- From a customs law perspective Deal, No-deal or customs union differ only by the amount of the applicable duty!!!!

Impact of a customs border for exports from Austria to the UK

- Customs declaration on customs procedure export (electronically with very large data volume).
- Acceptance of the customs declaration and opening of the transit procedure from a customs office of departure in Austria to a customs office of destination in the UK.
- Since the customs offices of destination in the UK are all located in the ports or at the tunnel, long waiting times can be expected.
- Possible solution - Customs offices inside the UK.
- Control of the transit document at the external border of the EU.
- Control of the shipping document at the customs border of the UK
- Check whether the goods are prohibited or restricted in the UK. For example, sanitary or phytosanitary measures.

Impact of a customs border for exports from Austria to the UK

- In the case of Brexit, the Austrian Ministry of Finance expects about 360,000 additional customs applications. This causes additional costs of 25 to 30 million Euros only for customs declarations.
- This cost estimate is confirmed by a study conducted the DIHK. This study indicated additional costs for German companies amounting to 300 million Euros p.a.
- Additional costs due to delays in goods transport, adjustment of internal processes and controlling are not taken into account.

Example of sanitary measures

- For many products, import is completely prohibited or certificates have to be provided and a control by the border veterinary has to be conducted. For example: living animals, animal products and their processed products, goods containing milk or meat!
- Registration of the shipment one day before arrival with the common veterinary document for the import (CVDE). Common veterinary entry documents for all above mentioned goods products entering the Union regardless which customs procedure is applied.

Example of sanitary measures

- Only when the documents and goods have been released by the border veterinarian duty can be paid on the goods.
- According to the operator company, 1.7 million trucks were transported through the tunnel in 2018 . Considering that 700,000 living horses were transported through the tunnel (2000 per day), you can imagine how complex the procedure is and what extensive preparatory work is required.
- Possible Solution: Mutual recognition of sanitary measures (but currently not yet in sight).

Example of phytosanitary measures

- For shipments from outside the EU or shipments scheduled to be sent outside the EU, wood treatment conforming to ISPM No. 15 is required.
- **International Standards For Phytosanitary Measures No. 15 (ISPM 15)** is an International Phytosanitary Measure developed by the International Plant Protection Convention that directly addresses the need to treat wood materials of a thickness greater than 6mm, used to ship products between countries. Its main purpose is to prevent the international transport and spread of disease and insects that could negatively affect plants or ecosystems.

Example of phytosanitary measures

- ISPM 15 includes all wood packaging material (paletts, crates, dunnage, etc.) requiring that they be debarked and then heat treated and stamped or branded, with a mark of compliance. This mark of compliance is colloquially known as the "wheat stamp".
- Products exempt from the ISPM 15 are made from an alternative material, like paper, plastic or wood panel products (i.e. OSB, hardboard, and plywood).
- Heat Treatment - The wood needs to be heated until its core reaches 56° C for at least 30 minutes.
- Possible Solution: Mutual recognition of sanitary measures (but currently not yet in sight).

No-Deal-Brexit

- The simple procedure for the exchange of goods within the EU is not longer applicable.
- In this case, only the WTO regime applies.
- EU trade agreements are no longer applicable in the UK. For this reason a temporary exemption of customs duty was granted „erga omnes“ for a majority of the goods.
- In practice this means
 - Customs declaration export from Austria
 - Transit procedure to the office of destination
 - Customs declaration import in the UK
 - Payment of import VAT and, if necessary, customs duty

Deal-Brexit

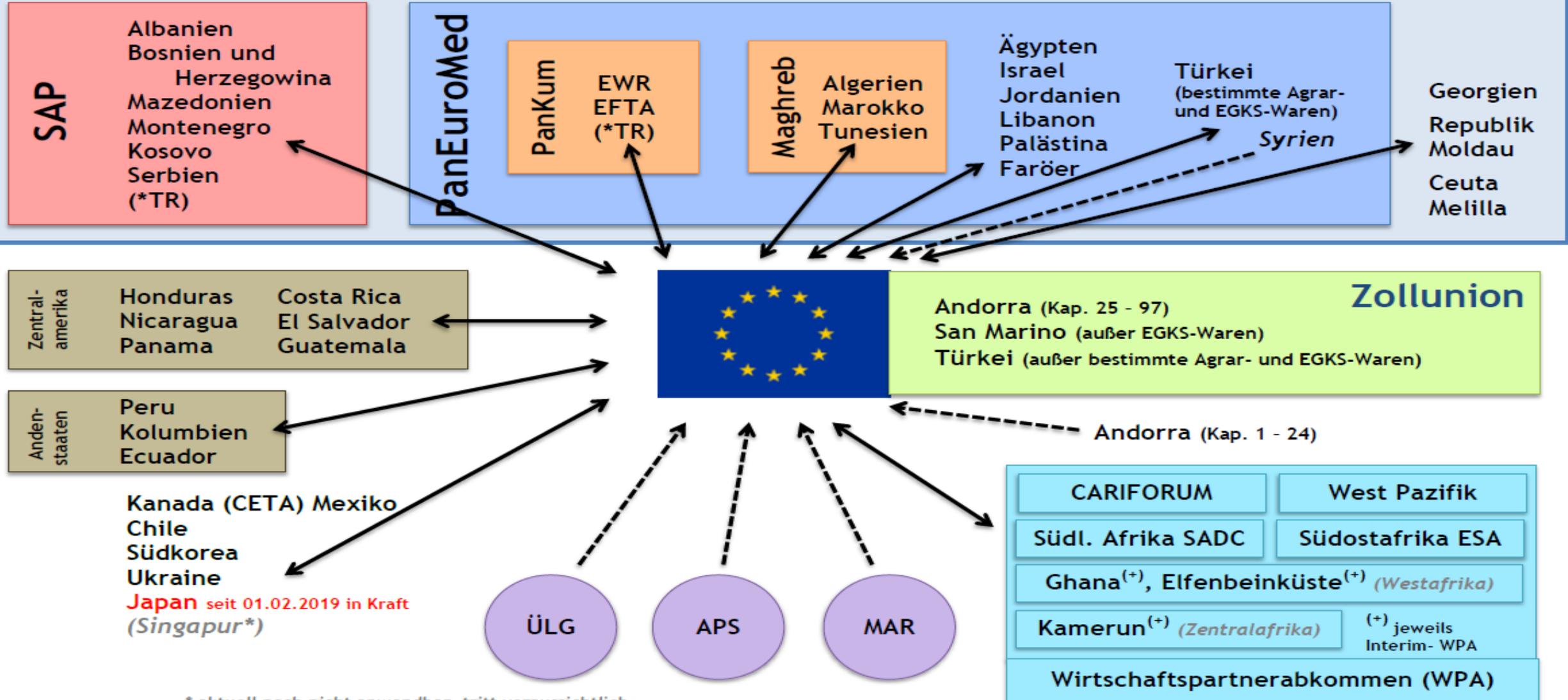
- During a transitional phase in which a trade agreement is to be negotiated, the exchange of goods (including the additional VAT system) remains unchanged. Thereafter, originating goods, i.e. goods which comply with the rules of origin of the agreement can be imported under preferential terms.
- Disadvantage:
 - Elaborate rules of origin
 - Costs
 - No influence on existing free trade agreements, as not linkable (no accumulation possible).
 - Only originating EU products are duty-favored in the UK and vice versa.

Deal-Brexit

- Estimates show that control of the rules of origin of a trade agreement causes costs between 2 and 6% of the goods value.
- These consist of the examination and evidence of the suppliers' declaration and other preferential proofs and the ongoing control of the production processes.

Grafische Übersicht der Präferenzregelungen zwischen der EU und Drittländern (Stand 01.02.2019)

Regionales Übereinkommen über Pan-Europa-Mittelmeer Präferenzursprungsregeln



* aktuell noch nicht anwendbar, tritt voraussichtlich im ersten Halbjahr 2019 in Kraft

(*TR) Kumulierung mit TR-Ursprungswaren im SAP (nur Zollunionswaren) und in der PanKum (gesamte Waren)

←----- einseitige Präferenzgewährung der EU

↔ Präferenzregelung auf Gegenseitigkeit

Customs Union - a possible alternative?

- In a customs union, as with Turkey, goods can circulate between the contractors, regardless of the country of origin.
- They only have to be in free circulation. However, even with this solution there is a customs border.
- Given the simplifications that a customs union offers, it is not surprising that the UK industry has been calling for this solution for some time.
- However, the UK would have to fully implement the customs and trade policy of the EU. This is rejected by the proponents of the Brexit.

Preparations of the UK

- Increase in customs declarations from the currently 50 million to 300 million expected.
- Inadequate structure and staffing (average of 7,670 full-time Border Force officers) of the customs authority of the UK.

93. We are increasingly alarmed about the impact that inadequate resources are having on the capacity for Border Force to operate effectively. This is a system which has not functioned properly for a number of years, in large part due to insufficient staffing. The consequences of a lack of resources have implications for the smooth operation of the border, the morale and wellbeing of staff, and the quality of frontline immigration services.

Source:

https://publications.parliament.uk/pa/cm201719/cmselect/cmhaff/421/42105.htm#_idTextAnchor052

Preparations of the UK

- At present, customs offices that operate are only found in the ports. Currently, inland customs offices are planned to clear the goods to a customs procedure.
- To apply for either AEO status or TSP status, trading firms first need to acquire an economic operator registration and identification (EORI) number from HMRC.
- HMRC said that as of 8 March there had been around 57,000 registrations for an EORI number, out of an estimated 240,000 firms that need one.

Preparations of the UK

- Transitional simplified procedure (TSP)

“HM Revenue and Customs (HMRC) has written to 145,000 VAT-registered businesses trading with the EU about simplified importing procedures and also updated them on the actions that they need to take to prepare.

Transitional Simplified Procedures (TSP) for customs will make importing easier for an initial period of one year, should we leave the EU without a deal, to allow businesses time to prepare for usual import processes.

Once businesses are registered for TSP, they will be able to transport goods from the EU into the UK without having to make a full customs declaration at the border, and will be able to postpone paying any import duties.”

- Effect:

- deferred payment of customs duties , VAT and other taxes
- provisional and incomplete customs declaration
- minimum of physical controls

Preparations of the UK

“Up to 15 March 2019, there have been 7,980 TSP registrations. That's out of 145,000 VAT-registered UK businesses that trade with the EU, who have been written to by HMRC to encourage them to apply.”

Source:

Brexit: Less than half of trusted trader applications approved

By Ben Chu BBC Newsnight economics editor

19 March 2019

<https://www.bbc.com/news/business-47628769>

Thank you for your attention.