An Roinn Airgeadais
Department of Finance

Brexit Readiness – Taxation and Customs Issues
Tax Strategy Group – TSG 21/12

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Contents

1. Introduction

In June 2016 the United Kingdom (UK) held a referendum to decide whether to leave or to remain in the European Union (EU). 51.89% of the electorate voted to leave the EU. The Brexit process was initiated in March 2017 by Prime Minister Theresa May's formal notification to the EU (invoking Article 50 of the Treaty of the European Union) that the UK intended to withdraw from the European Union by March 2019.

Ultimately, the UK formally left the EU on 31 January 2020, in accordance with a Withdrawal Agreement concluded between the EU and the UK. The Withdrawal Agreement provided for a transition period during which the status quo was effectively maintained until the end of 2020, but without UK participation in EU institutions and governance structures. The Withdrawal Agreement also included a dedicated Protocol on Ireland/Northern Ireland[1]. This Protocol upholds measures to protect the Good Friday Agreement and safeguard the gains of the peace process, to avoid a hard border on the island of Ireland, and to protect the integrity of the Single Market and Ireland's place within it. It recognises the Common Travel Area, maintains the necessary conditions for continued North South cooperation and the Single Electricity Market and reaffirms the EU and UK commitment to the PEACE PLUS programme. The Protocol includes commitments to ensure no diminution of rights, safeguards and equality of opportunity, as set out in the Good Friday Agreement.

A Political Declaration setting out the framework for the future relationship between the EU and the UK was agreed in November 2019. It set out intentions for partnership and cooperation in a number of key areas, including in respect of customs and taxation.

Following the successful conclusion of negotiations on 24 December 2020, a new EU-UK Trade and Cooperation Agreement (TCA) took effect from 1 January 2021. The EU Parliament ratified the Trade and Cooperation Agreement on 27th April 2021 and it was adopted by the Council of the European Union on 28th April 2021. The TCA ensures tariff and quota free EU-UK trade for qualifying goods. It also provides for EU-UK cooperation in a range of other areas of key importance for Ireland, such as energy, transport and law enforcement. The UK has, however, left the EU Single Market and Customs Union, meaning that a range of regulatory and customs checks and controls are now necessary.

The worst Brexit scenarios have been avoided and the initial impacts on Ireland's economy have been mitigated to the greatest extent possible through the implementation of the Government's Brexit Readiness Action Plans, together with the considerable efforts of businesses and citizens and while also meeting significant challenges arising from the

[1] The Protocol on Ireland/Northern Ireland provides that Northern Ireland will remain aligned to a limited set of EU rules, notably related to goods, and the Union's Customs Code will apply to all goods entering Northern Ireland.

COVID-19 global pandemic. The welcome conclusion of the TCA marked a significant milestone in establishing the future relationships between the EU and the UK. The conclusion of the TCA, together with the Withdrawal Agreement (including the Protocol on Ireland/Northern Ireland) meant that Ireland's key Brexit objectives were largely achieved. That is not to say that Brexit has not brought a range of new challenges and risks. This paper sets out some remaining customs and taxation issues that may need resolution, for the information of the Tax Strategy Group.

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2. Background

2.1 Context

This paper is the fifth edition in a suite of Brexit related papers prepared for the Tax Strategy Group since the UK's Referendum on its European Union membership in 2016. Previous publications for the Tax Strategy Group, commencing with the '*Brexit Taxation Issues Paper*' in July 2017, examined the implications of the UK decision to leave the EU on the administration of taxation in Ireland. Subsequent papers considered ongoing issues as the negotiations evolved throughout the period. This paper considers Ireland's taxation and customs situation post-Brexit and outlines any outstanding issues in these areas. In particular, it considers issues arising from the UK's implementation of the Protocol on Ireland/Northern Ireland.

2.2 EU-UK Developments

The institutions set up under the Trade and Cooperation Agreement (Partnership Council, plus 23 Specialised Committees and Working Groups) which will oversee the implementation of the agreement have begun holding their first meetings.

Separately, the Withdrawal Agreement also established a Joint Committee to oversee the implementation of the Withdrawal Agreement. The Joint Committee will be supported in this work by six Specialised Committees including the Specialised Committee on Ireland/Northern Ireland. The EU and UK continue to work through outstanding issues on implementation of the Protocol on Ireland/Northern Ireland (including Sanitary and Phytosanitary checks (SPS), medicines, VAT on second-hand vehicles, and tariff rate quotas) under the Specialised and Joint Committees.

Grace periods were put in place to allow the UK to prepare for Protocol implementation changes, particularly relating to medicines and food movements into Northern Ireland. Among other matters, the UK's unilateral decision in March 2021 to extend the supermarket supplier grace period (proposing to phase it out from October 2021) led to the beginning of infringement proceedings from the Commission.

Following a UK request, the EU agreed to an extension of the grace period for GB to NI chilled meat supplies until the end of September 2021. In the context of ongoing EU-UK engagement on outstanding issues relating to the implementation of the Protocol, the EU has set out proposed changes to rules around movements of medicines and livestock among other matters.

On 21 July, the UK published a Command Paper seeking a series of changes to the operation of the Protocol. While ruling out renegotiation of the Protocol, the Commission will continue to engage with the UK on outstanding issues of concern.

3. Overview of Government responses to Brexit

3.1 Preparations from March 2017

The UK's decision to leave the European Union in 2016 and the subsequent triggering of Article 50 in March 2017 initiated extensive readiness preparations by the Government to scope out, anticipate and mitigate the potential impacts of a number of possible Brexit scenarios. Initial Irish priorities in the negotiations on the UK's withdrawal from the EU were drawn up in *Brexit: Ireland's Priorities* (May 2017) together with a series of information notes. The four headline challenges identified were: 1) Brexit could damage the Northern Ireland Peace Process; 2) Brexit could impede trade and the economy; 3) Brexit could inhibit the Common Travel Area; 4) Brexit could weaken the EU and/or Irish influence in it.

Efforts to address these challenges (and others as they arose) across many different Departments and Agencies have resulted in a range of supports, campaigns, actions plans, infrastructure, IT and staff investment to prepare for and manage the impacts of Brexit.

3.1.1 BREXIT LEGISLATION

Legislation was drafted by all government departments during 2019, in the form of a Brexit Omnibus Act, in anticipation of a no-deal Brexit. This legislation was enacted but not commenced as the EU-UK Withdrawal agreement was agreed in October 2019. The Agreement provided for an orderly withdrawal of the UK from the EU, with agreement of an extension to the transition period to 31 December 2020 being of central importance. A second Brexit Act was drafted during 2020. While the 2019 Act catered primarily for the possibility of a disorderly UK withdrawal from the EU, the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020 (the 2020 Act) deals with the permanent changes that took place at the end of the transition period. The overarching aim of the Act is to protect citizens and consumers, facilitate the sound functioning of key sectors, and ensure our businesses are not disadvantaged. The 2020 Act also supports aspects of the Common Travel Area and North-South cooperation.

The Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020 was signed into law by the President Michael D. Higgins on 10th December 2020.

3.1.2 CONTINGENCY AND ACTION PLANS

The Government's domestic work on Brexit Readiness and Contingency planning were set out in the Action Plans of December 2018, July 2019 and September 2020. These informed a Brexit Readiness Action Plan published in September 2020. The implementation of the

Government's Brexit Readiness Action Plans, along with the considerable efforts of businesses and citizens, at a time when they have also been grappling with the ongoing challenges of the COVID-19 pandemic, has assisted in mitigating the worst Brexit scenarios, and reducing its impact on our economy to the greatest extent possible.

The Government has provided financial, upskilling and advisory supports for business and other sectors, facilitated extensive stakeholder outreach and held a multi-year public communications campaign. Over €1 billion has been allocated in support of Ireland's Brexit objectives, including substantial investment in infrastructure, IT systems, and provision for 1,500 additional staff to support and carry out the necessary checks and controls.

Notwithstanding these extensive readiness preparations, and even with the Withdrawal Agreement, the Protocol on Ireland/Northern Ireland, and the very welcome conclusion of the Trade and Cooperation Agreement, challenges and risks remain and additional issues may come to the fore as the impact of the pandemic recedes and businesses come to realise the full consequences of Brexit.

3.2 The Trade and Co-operation Agreement and post-Brexit

The Trade and Co-operation Agreement between the EU and UK that went into effect on 1st January 2021 provided an orderly end to the transition period and established a 'post-Brexit' relationship between the EU and UK. It now governs a broad range of areas of trade and cooperation between Member States of the European Union and the UK. It ensures a continuation of tariff-free, quota-free trade in qualifying goods for Irish firms exporting to, and importing from GB. However, EU-UK trade is not frictionless. New regulatory processes, checks and controls, with associated administrative costs, present challenges to supply chains and trade flows from GB to Ireland and from Ireland to GB when compared to previous arrangements.

The Protocol means that no new procedures apply to goods moving between Northern Ireland and Ireland (or other EU Member States) in either direction. The Protocol also means that Northern Ireland continues to apply EU VAT rules on goods. EU VAT rules on services do not apply to Northern Ireland.

In relation to the Protocol, UK decisions to unilaterally extend certain agreed grace periods, to unilaterally derogate from other areas of EU law that apply to Northern Ireland (e.g. VAT margin scheme), and on-going COVID-19 impacts, mean that some measures in respect of customs and taxation have not yet been fully implemented. The European Commission continues to engage with the UK on these matters.

4. Budget Measures

4.1 Budgets 2017 to 2021: Preparing for Brexit contingencies

The Department of Finance began preparing for Brexit prior to the referendum in 2016, with work intensifying following the result and the invocation of Article 50 in 2017. The decision of the UK to leave the European Union gave rise to unprecedented challenges for Ireland across all economic sectors. The Government have taken steps to maximise the resilience of the economy so that it could effectively manage the negative economic consequences of Brexit.

National Budgets for the years 2017 to 2020 included measures to support those sectors most adversely affected and to prepare the economy for the challenge of Brexit. These included a range of economic, tax-related and income-related supports to businesses and employers, additional expenditure to prepare for customs changes and establishing dedicated funds if needed to protect against a no-deal Brexit.

Budget 2021 measures were focused on mitigating the social and economic impacts of the twin challenges of the COVID-19 global pandemic and Brexit. Having entered 2020 with a Budget surplus of €1.8 billion and a Rainy Day Fund of €1.5 billion, measures introduced to increase health care capacity, protect household income and support business and employment resulted in a deficit of €18.4 billion in 2020 and, an expected deficit of €20.3 billion in 2021.

Budget 2021 included two contingency funds totaling €5.4 billion – the COVID Contingency Fund and the Recovery Fund. Given the evolving nature of COVID-19 and Brexit, the contingencies were designed to be flexible and were not allocated at a departmental level. They provided the Government with the means to react swiftly to a constantly changing environment, without impacting the baseline budgetary arithmetic.

Following the introduction of level 5 restrictions in December 2020, and their subsequent extension, the Funds have been primarily needed to meet costs arising from the major labour and business support schemes; the Pandemic Unemployment Scheme and the Employment Wage Subsidy Scheme. In recognition of this, a Further Revised Estimate has been presented in the Oireachtas to increase the gross voted allocation of the Department of Social Protection by €4,014 million. The allocation of this additional money has been provided for via the contingency funds. Given that c. €700m of the COVID Contingency Fund has been earmarked for a number of other departments and that payments made under the

COVID Restrictions Support Scheme (CRSS) are also drawn from the contingencies, the monies within the funds have now been fully accounted for.

Separately, the EU is providing for a Brexit Adjustment Reserve Fund whereby Member State's share is determined by three main factors: 1) the value of fish caught in the UK exclusive economic zone; 2) the importance of trade with the UK; and 3) a factor linked to the population of maritime border regions with the UK. Under the agreed position of the Council of the EU, Ireland's total allocation would be €1.165 billion, representing 21 per cent of the overall fund of €5.47 billion, in current prices (in 2018 prices Ireland's allocation is €1.065 billion of the €5 billion fund), in recognition that Ireland is the Member State most affected by Brexit. It is expected that the EU Regulation providing for the Brexit Adjustment Reserve will be formally approved in September, facilitating the flow of funding to Member States later this year.

4.2 Budget 2022: Post-Brexit and downstream COVID-19 impacts

Ireland entered 2021 on the back of an orderly end to the EU-UK 'transition period'. The Trade and Co-operation Agreement, agreed on Christmas Eve, now governs trade between Member States of the European Union and the UK; this ensures a continuation of tariff-free, quota-free trade in goods for Irish firms exporting to, and importing from, the UK. That said, bilateral trade under this new regime is far from frictionless, with administrative costs arising from non-tariff barriers (customs, regulatory and rules-of-origin checks) imposing an additional burden on firms trading with the UK. As noted, the Protocol on Ireland/Northern Ireland means that no new controls apply to goods moving between Ireland (and other EU Member States) and Northern Ireland in either direction.

Budget 2022 will be framed against the continued backdrop of the COVID-19 global pandemic. The impact of the pandemic on the domestic economy and the public finances has been severe. However, the ongoing progress of the vaccination programme means that the beginning of the end is, hopefully, now in sight.

5. Department of Finance: Preparations and on-going issues

5.1 Overview

In planning and preparing for Brexit, the Minister for Finance's key objectives were:

- To protect the economic and financial interests of the State as far as possible;
- To support the preparatory work of the Revenue Commissioners.

As with other Government preparations, the Department of Finance and the Revenue Commissioners collectively undertook a significant amount of work in anticipation of mitigating the impacts of a no-deal Brexit, especially in the areas of tax and customs. The Trade and Cooperation agreement provided for an orderly transition to a post-Brexit EU-UK relationship. Nevertheless, the Department of Finance and the Revenue Commissioners are continuing to work on on-going issues post-Brexit.

5.2 Legislative context

The Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020 (Brexit Omnibus Act) was signed into law on 10 December 2020. There are 22 parts to the Act under the remit of 11 Ministers. This Act complemented legal measures at EU level and as noted above focused on measures protecting Irish citizens in supporting the economy, enterprise and jobs, particularly in key economic sectors. The Government worked very closely with all Opposition parties in the Oireachtas and all members of the Dáil and Seanad to facilitate the passage of the legislation.

Four parts of the Act are under the responsibility of the Minister for Finance:

- Part 8 (Taxation);
- Part 9 (Financial Services: Settlement Finality);
- Part 10 (Financial Services: Amendment to the European Union (Insurance and Reinsurance) Regulations 2015, and the European Union (Insurance Distribution) Regulations 2018); and
- Part 12 (Amendment to the Customs Act 2015).

Arising from the Act, secondary legislation was prepared and introduced as appropriate.

- Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020 (Parts 8, 9, 10 and 11) (Commencement) Order 2020.
- Value-Added Tax Regulations 2010 (Regulation 14A) (Amendment) Regulations 2020.
- Value-Added Tax Regulations 2010 (Regulation 34A) (Amendment) Regulations 2020.
- Value-Added Tax Regulations 2010 (Regulation 15) (Amendment) Regulations 2020.
- Value-Added Tax Regulations 2010 (Regulation 37) (Amendment) Regulations 2020.

The Department of Finance will continue to review on an ongoing basis the potential impacts of Brexit on tax policy and customs operations in the context of its normal Finance Bill preparations.

5.3 VAT Retail Export Scheme and Duty Free

Under EU law, the default legal position at the end of the transition period was that the UK (excluding Northern Ireland) was treated as a "third country" for VAT, Excise and customs purposes. As a consequence, a Duty Free regime for the sale of excise goods (in the case of excise and VAT) and other goods (in the case of VAT) applies to passenger traffic between the UK (excluding Northern Ireland) and EU Member States, including Ireland with effect from 1 January 2021.

As a result of the EU Withdrawal Agreement and Protocol on Ireland/Northern Ireland, these changes do not apply to Northern Ireland as the Protocol provides that EU VAT (for goods) and Excise Directives will continue to apply to Northern Ireland. This means that the Duty Free and Retail Export Schemes cannot apply in respect of passenger travel between Northern Ireland and EU Member States, including Ireland.

5.4 Stamp duty on the acquisition of shares

5.4.1 SUMMARY

Central Securities Depositories (CSDs) are specialist institutions which settle securities such as equities or debt instruments. Ireland is the only member state in the EU that does not currently have its own CSD and prior to Brexit we availed of a UK based facility called CREST to settle securities traded on Euronext Dublin (formerly the Irish Stock Exchange). CREST also collected the stamp duty payable on the acquisition of the stocks and marketable securities of Irish incorporated companies on liable trades carried out through it, and transferred the resultant receipts to Revenue.

Following Brexit, a new CSD facility based outside the UK was required, and this was facilitated through the Migration of Participating Securities Act 2019 which provided for the migration of Irish listed securities from Euroclear UK & Ireland to a CSD based in the EU (Belgium) on a single day. That migration took effect on 15 March 2021.

Work on ensuring that the stamp duty payable on liable transactions would continue to be collected and transferred under the new post-migration CSD system took place in parallel.

The agreed model was finalised by the Department of Finance in cooperation with Euroclear Bank, and Revenue, and was provided for in a series of interrelated amendments to the Stamp Duties Consolidation Act 1999 (SDCA 1999), and other tax acts, contained in Finance Act 2020 (Section 62[2]), and through changes in the associated Revenue guidance.

5.4.2 BACKGROUND

A stamp duty of 1% is payable on the acquisition of the stocks and marketable securities of Irish incorporated firms. It delivered a net €507 million in 2020, €384 million in 2019, €473 million in 2018 and €449 million in 2017.

Prior to Brexit, a significant portion of the receipts under this stamp duty (e.g. 81% of them in 2017) were collected using a London based settlement system called CREST. Access to this system was no longer compatible with EU rules once the UK became a third country after Brexit.

As part of its Brexit contingency planning, the European Commission adopted a temporary and conditional equivalence decision in December 2018 for UK based Central Securities Depositories that allowed the Irish market to continue using the CREST settlement system based in London until end-March 2021 (subsequently extended to end-June 2021). This provided us with the additional time necessary to develop and implement an alternative system.

In October 2018, Euronext (the owners of the Irish Stock Exchange) announced that it had selected Euroclear Bank (EB) Belgium as its preferred long-term settlement provider post Brexit. This decision was noted at the time by the CBI.

Following that announcement, efforts focused on establishing a new settlement model for the Irish market and identifying any potential legal or legislative issues related to the new model, taxation and the actual migration process.

The Migration of Participating Securities Act 2019, which was enacted 26 December 2019, facilitated the migration of €100 billion of assets in some 50 listed companies from Euroclear UK & Ireland to Euroclear Bank Belgium with effect from 15 March 2021. It served to reduce

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the legal and administrative burden on issuers that would have arisen had they been required to effect migration individually. The Act also makes consequential amendments to certain provisions in the Companies Act 2014 to take into account the changes in the settlement model.

5.4.3 NEW STAMP DUTY MODEL

In relation to collection of stamp duty, a model was agreed in parallel to the work on the Act between the Department of Finance, Euroclear, and Revenue. This is designed to ensure the stamp duty payable on such trades continues to be collected post migration.

It applies the stamp duty charge to all chargeable transfers of dematerialised securities or interests in such securities and has been in operation since the migration of Irish securities to the Belgian CSD on 15 March 2021. It has been drafted so as to encompass particular Euroclear Bank and Euroclear UK and Ireland (the operators of CREST) arrangements and to also capture any other chargeable transfers, wherever and however executed.

The objective is to apply the stamp duty charge to all transfers of (beneficial) interests in dematerialised securities. The issue of securities into a CSD does not involve a transfer of beneficial interest and is not chargeable to stamp duty, therefore the migration event itself did not trigger a charge to Stamp duty. Existing exemptions are also being maintained; for example, for intermediaries and Central Counterparty Clearing Houses (CCP's).

5.4.4 ONGOING WORK

The two most pressing of a number of industry concerns communicated to the Department when the relevant legislative amendments were published were addressed through Dáil report stage amendments to Finance Act 2020 from the Minister.

The two issues in question were:

- **I.** An amendment to confirm that the SDCA 1999 (section 90) exemption for American Depository Receipts (ADRs) would continue post migration; and.
- **II.** An amendment to clarify that no stamp duty would arise on migration.

There is currently ongoing engagement with industry on a number of other issues including data retention requirements, whether stamp duty applies to all electronic transfers of book-entry interests in Irish equities wherever traded, and whether the new definition of "interest in securities" capture debt securities, which are usually traded without stamp duty applying.

Any requirement for further legislative amendments emerging from this work can be provided for as necessary in future Finance Bills.

6. Post Brexit Issues

6.1 Duty Free

From 1 January 2021 the UK (excluding Northern Ireland) became a ‘third country’ for the purposes of Excise duty and VAT (for goods), and Duty Free sales are now permitted at ports and airports for passengers travelling between Great Britain and Ireland. The Brexit Omnibus Act amended the Finance Act 2001 to allow for tax free shops to be established at a port, as well as at an airport, where appropriate conditions are in place for the security of excise products and where approval has been granted by Revenue. Prior to 1 January 2021, the legislation only allowed for Duty Free shops at airports as there were no ferry services to 3rd countries.

In the run up to Brexit, concerns had been expressed about the impact that Duty Free sales and the wider availability of low priced tobacco and alcohol products in the State would have on Exchequer revenues and on the Government’s public health policy. Concerns were also expressed that the development was likely to promote further fiscally motivated travel. The public health travel restrictions as a result of the COVID-19 pandemic has meant that there has been little impact to date, but this is likely to change as and when travel restrictions are lifted. Up to this point, duty free shops have operated in Dublin, Cork and Shannon airports. Following the reintroduction of duty free between Ireland and GB, one additional approval has issued to date in 2021 in respect of Kerry airport.

6.2 Vat Margin Scheme

6.2.1 BACKGROUND

Since 1 January 2021 an import of a vehicle from Great Britain is an import from a non-European Union (EU) country. Prior to presenting a vehicle imported from Great Britain for registration, a customs declaration must be completed and any customs duty if applicable must be paid along with VAT at 23%.

The UK has introduced significant changes to the VAT regime for used cars imported from Great Britain (GB) into Northern Ireland. The changes effectively remove the requirement established under the terms of the Withdrawal Agreement and the Protocol on Ireland/Northern Ireland to charge VAT at import on the importation of used cars into Northern Ireland and extends the scope of the GB Margin Scheme for Cars to include Northern Ireland. The UK had signalled that it would approach the European Commission to seek changes to the rules that apply under the Protocol but moved unilaterally on Thursday

14th January 2021 and published new rules that apply retrospectively from 31st December 2021.

6.2.2 EU VAT MARGIN SCHEME FOR USED CARS

VAT is normally chargeable on the full value of goods sold by a VAT registered person but under the EU VAT Directive special rules may be applied to the sale of second-hand goods, including motor vehicles. Under the Margin Scheme, a car dealer simply accounts for VAT on his or her gross profit margin on the sale of a used car, i.e. on the difference in the trade-in and resale prices. This is an efficient means of applying VAT to cars, both for Tax Administrations and for dealers and consumers. VAT is collected up-front on the sale of new cars, with further VAT collection applying only to the dealer's margin when used vehicles are traded-in and resold.

6.2.3 CHANGES TO THE VAT TREATMENT OF USED CARS UNDER THE WITHDRAWAL AGREEMENT AND PROTOCOL ON IRELAND/NORTHERN IRELAND

With effect from 31 December, the EU VAT Margin Scheme for car sales between Great Britain and the EU and between GB and Northern Ireland no longer applies. Imports of GB cars into the State and Northern Ireland are liable to VAT at import based on the customs value of the car i.e. the cost price of the car plus any shipping costs and customs duty payable. The VAT may be recovered by a dealer through the VAT system, but the dealer must charge VAT on the total sale price when the car is resold. Under the Protocol, Northern Ireland is part of the EU VAT system for goods and is therefore excluded from the UK Margin Scheme and this was reflected in the rules applied by the UK prior to the announcement.

Where a person has purchased a vehicle that was registered in Northern Ireland or registered to a person resident in Northern Ireland before 1 January 2021, this vehicle may be registered in the State, on payment of Vehicle Registration Tax (VRT), without any checks on its customs status. Furthermore, where a GB registered vehicle, irrespective of being re-registered in Northern Ireland, was brought into Northern Ireland before 1 January 2021, and which has remained there since, it can also be registered in the State with no customs obligations. However, proof of the vehicle's status in Northern Ireland prior to 1 January 2021 will be required. Vehicles first registered in Great Britain and subsequently registered in or brought into Northern Ireland after 1 January 2021 may be liable to customs duty, if applicable, and are liable to VAT at import if they are subsequently imported into the State.

Where the customs formalities have been completed in Northern Ireland and the person registering the car in Ireland provides a copy of the Northern Ireland import declaration that clearly identifies the vehicle, then no further customs formalities apply in Ireland. However, VAT at import must be paid or accounted for. If there is no copy of an import declaration then both customs duty (if applicable) and VAT must be paid. The VAT registered dealer will account for the VAT at import in their normal VAT return and take a simultaneous input VAT deduction. When the vehicle is sold the dealer must charge VAT at 23% on the full value of the sale (excluding VRT), not their margin. For all vehicles imported or routed through Northern Ireland, a Supplementary Import Declaration – VAT at Import declaration (SIDVID) is required to show that VAT on import has been both filed and paid in the State prior to registration for VRT.

6.2.4. EU RESPONSE TO UK MEASURES

The Commission continues to discuss the VAT treatment of used cars at technical level with the UK, as part of wider technical discussions on implementation of the Protocol.

The decision by Ireland to charge VAT at 23% on the full value of the vehicle which has been imported into the State from the UK after 1 January 2021, either directly or via Northern Ireland is a temporary measure pending a more long term solution to be agreed between the EU and the UK.

6.3 Review of the VAT Retail Export Scheme

The VAT Retail Export Scheme enables travellers who are resident outside the EU to benefit from VAT relief on goods that are purchased in the EU and subsequently exported when the traveller leaves. GB residents are eligible for VAT refunds on purchases of qualifying goods under the scheme. The VAT Retail Export Scheme does not apply between Ireland and Northern Ireland, as EU VAT rules on goods apply to Northern Ireland under the Protocol on Ireland/Northern Ireland.

As a result of Brexit the Government introduced a minimum purchase threshold of €75 to the scheme. Proof of declaration and payment of taxes in Great Britain where the value of the goods exceeds the UK personal allowance figure of circa €440 (STG 390) is also required. These changes balance the needs of the retail sector while also responding to concerns that there could be significant abuse of the scheme, given Ireland's proximity to Great Britain and the volumes of traffic between the two countries.

In the context of the Oireachtas debates around the imposition of the €75 threshold, a commitment was provided that the impact on the tourism sector of the imposition of the threshold would be reviewed in 2021. However, the public health restrictions on international travel arising from the pandemic means that there has been insufficient activity in this sector since the changes were introduced to carry out any meaningful assessment. Accordingly, the matter will be kept under review.

7. Revenue Commissioners and Customs developments

The trading environment between Ireland and Great Britain changed on 1 January with customs and SPS formalities now an integral part of trade with Great Britain. The Protocol on Ireland/Northern Ireland means that no new procedures apply to goods moving between Ireland (and other EU Member States) and Northern Ireland in either direction. The Government and State Agencies have been providing, and continue to provide, a range of advisory, financial and upskilling supports to assist businesses in moving goods, to, from or through Great Britain. Further information is provided on www.gov.ie/Brexit

Some businesses had undertaken extensive preparations and have adapted well to the new requirements. This is evident for example in that on average 83-85% of freight vehicle movements are being green routed on arrival in Ireland and are therefore permitted to leave the ports without any additional interaction with Customs or the other regulatory authorities.

It should be noted that, due to the nature of the goods traded with the UK e.g. high levels of foodstuffs, there will always be a level of documentary or physical examination of goods movements required to protect the Single Market and the Customs Union. In practical terms this means that there will never be a scenario where all goods (i.e.100%) arriving into Ireland from Great Britain will be green routed.

Some businesses were less well prepared or underestimated the level of preparations required and have found compliance with the new requirements challenging. Additionally, the tight timeframes involved in the just-in-time business model, which underpins trade with the UK, puts additional pressure on the supply chain to gather the detailed information required to complete customs and SPS formalities.

Some goods movements are being ‘orange routed’ due to unfamiliarity with the new requirements. In such instances, Revenue and other State Agencies have been actively and successfully working with the relevant responsible parties in the supply chain to overcome and rectify the issues as quickly as possible. In time, dealing with the customs and other regulatory formalities that now apply to goods moving to, from or through Great Britain will be routine for importers, transport companies and truck drivers. Revenue is continuing to work closely with individual businesses and business representative bodies to assist them in building capability and understanding so as to be able to complete the relevant customs and other regulatory requirements.

The TCA was agreed very late last year which did not allow much time for businesses to tailor their preparations, particularly in relation to rules of origin requirements, which are fundamental to allowing tariff free trade with the UK. Where additional guidance was needed this has been provided by Revenue via eCustoms Notifications. 45 such notifications have been issued so far in 2021. These are available on the Revenue website and are also emailed to anyone who has subscribed to the mailing list. Information is also available through Revenue's Brexit Latest News.

In the period from 1 January 2021 Revenue has:

- provided important Customs advice to hauliers and truck drivers moving goods from Great Britain (GB) into Irish ports regarding creating a Pre-Boarding Notification (PBN) and the channel routing look up facility.
- issued a detailed step by step guide (including screenshots from the systems) on how to create and, if necessary, edit a PBN for import and export declarations.
- made enhancements to the Customs RoRo Service so that the PBN can be created using API functionality.
- provided the ability to include two mobile phone numbers and one email address within the PBN meaning that the channel routing information can be sent to the contact points and that the driver will not have to use the 'look-up' function.
- provided information and clarification on the correct procedure for completing an Entry Summary Declaration (ENS) for Roll-On Roll-Off ferry movements.
- provided, on a temporary basis, an administrative easement and support service for businesses that were experiencing difficulties in lodging their safety & security ENS declaration. Businesses that availed of the temporary easement were able to develop the capability to complete the ENS formalities themselves or were able to engage the services of a provider/agent to act on their behalf. Consequently, the temporary administrative easement ended on 23 June 2021.
- engaged with representative bodies for freight forwarders;
- engaged with ferry companies in relation to companies having difficulties in boarding ferries in Great Britain.
- developed an API facility for ferry operators to allow them to display the channel routing information on screens on board the ferry.
- issued stakeholder group updates.
- engaged with individual businesses to resolve matters specific to their business models.
- provided significant support to businesses through its range of support services including the 24/7 Customs telephone helpline ((01) 7383685).
- jointly engaged, alongside DFA and DAFM, with the UK Trader Support Service to ensure the smoothest possible passage of goods moving to and from Northern Ireland via Irish ports.

Additionally, since 1 January 2021 Revenue has participated in 50 events aimed at providing additional supports to businesses and trade representative bodies. Most recently, Revenue held webinars marking the first 6 months of trade under the EU-UK TCA and to provide additional information on importing goods destined for Ireland via a port in Northern Ireland. This engagement has been extremely positive, and Revenue has been able to work with businesses in identifying solutions to their specific issues and to help mitigate some of the impacts of the UK's departure from the EU. Revenue will continue to work with trade and business, on both a collective and individual basis, to assist them in addressing the challenges and issues arising from the UK's departure from the EU. Customs and other State agency officials are working on a 24/7 basis at Dublin and Rosslare ports and in Dublin Airport, and continue to work with businesses to resolve issues as quickly as possible. Revenue will also continue to participate in outreach events during Q3 and Q4 to assist businesses in preparing for the phased introduction of UK import formalities.

Revenue is actively working with the Department of Agriculture Food and the Marine (DAFM) and the HSE's Environmental Health Officers (EHO) to improve interagency communication, to increase the opportunities to share data (thereby reducing the requirement for trade to submit the same data to multiple State Agencies) and to streamline processes in as far as is practicable. However, additional data requirements apply to SPS and controlled goods movements beyond those required for standard customs clearance purposes and in such circumstances documentary requirements can and will arise which have not previously been supplied as part of the engagement with Customs in any particular instance.

Revenue continues to work to optimise the efficiency with which legitimate trade can be processed, subject to the need for Ireland to play its part in protecting the integrity of the Single Market and the Customs Union and compliance with the overarching Union Customs Code legal framework and other similar frameworks such as the Official Control Regulations.

8. Conclusion

The conclusion of the EU-UK Trade and Cooperation Agreement (TCA) is to be welcomed. The TCA, together with the Withdrawal Agreement, including the Protocol on Ireland/Northern Ireland, means that Ireland's key Brexit objectives have largely been achieved.

Yet no set of arrangements negotiated as part of the withdrawal of the UK from the EU could possibly replicate the access and benefits of the UK being a member of the EU and being within the Single Market and Customs Union. Implementation of the Government's Brexit Readiness Action Plans, along with the considerable efforts of businesses and citizens, including during the challenging COVID-19 pandemic, has been successful in mitigating the worst Brexit scenarios, while limiting the initial impact on our economy to the greatest extent possible.

The Government, together with our EU partners, remains committed to continued progress on the implementation of the Withdrawal Agreement and the Trade and Cooperation Agreement. Ireland, together with our EU partners, is actively engaging through the EU-UK Joint and Specialised Committees to support full implementation of the Protocol on Ireland/Northern Ireland, which ensures there will be no hard border on the island of Ireland, safeguards the gains of the peace process, and protects the integrity of the Single Market and Ireland's place in it. The Department of Finance will continue to fully engage with this vital work.

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