



Brexit countdown, read this paper to get an overview of the what-ifs

– discussing post-Brexit customs procedures when flying within the EU and the UK POST-BREXIT!

The final countdown to Brexit has now started and everyone is trying to figure out what will happen in order to prepare for the post-Brexit years. We don't know what will happen exactly, but we have written this paper in order to create an overview of the possible scenarios.

This paper will be updated continuously whenever we have any new relevant information, therefore please bookmark this page so it is easy to find again.

This paper is made to address aircraft owners and operators based within EU27, the UK and any EU outsiders. The goal is to describe the post-Brexit consequences and the impact these consequences might have on the customs importation and admission procedures used when flying within the EU and the UK.



We know that we may be walking on thin ice with the risk of being totally wrong, but several aircraft owners and operators have been asking for our opinion on the different Brexit scenarios, so we dare the risk. We will update this paper as soon as we become aware of any changes or when we have any new knowledge of how the situation is developing.

This paper is written as simple and short as possible in order to make this complex matter comprehensible.

The following six Brexit scenarios have been observed as relevant. Some of them are more likely than others, but all six scenarios are still possible. Please, see figure 1.

Terminology

UK: includes the UK, the Isle of Man, and the Channel Islands

EU27: All EU member states, except the UK

EU outsiders: all countries outside EU27 and the UK, e.g. countries within Asia, Middle East or North America

EFTA (The European Free Trade Association): Norway, Lichtenstein, Iceland and Switzerland. The EFTA members trade between themselves and has free trade deals with numerous non-EU countries

EEA (European Economic Area): The EEA is a collaboration of all EU member states plus the three EFTA states: Norway, Lichtenstein, and Iceland. All EEA members including the EFTA countries have full access to the EU single market

The Brexit date is the 29th of March 2019. Any period before this date is referred to as pre-Brexit while the period following is referred to as post-Brexit

Figure 1: The six Brexit scenarios

Description	Comments
1. The settled Brexit withdrawal agreement from November 2018 (and amended October 2019) made between EU27 and the UK*	The British parliament have approved this withdrawal agreement December 2019 and the European parliament is expected to ratify the same agreement on 29 January 2020. This agreement will leave the UK within the EU customs union at least until the end of 2020
2. The Norway model used by Norway, Lichtenstein and Iceland, all member of both EFTA and EEA NOT RELEVANT ANY LONGER	This scenario is often mentioned as an alternative to scenario 1. The Norway model is favored by fractions in the Labour Party and the Conservative Party. The UK will then be a part of the EU Single Market but not the EU customs union
3. Soft Brexit NOT RELEVANT ANY LONGER	Any other variant of the above 2 scenarios, but where the UK will not necessarily be included in the EU customs union
4. Hard Brexit	This scenario describes an EU exit with only a trade agreement like the one Canada have with the EU
5. No deal	A Brexit without any agreements whatsoever
6. The UK are staying within the EU NOT RELEVANT ANY LONGER	This could be a result of a new referendum, if the people of the UK are asked to vote again

*A transition period has been agreed but will only be valid if the settled Brexit agreement from November 2018 made between EU27 and the UK is actually signed by all parties, and approved by the British parliament. The transition period will prolong all pre-Brexit regulations until the end of 2020, so extra time is gained for the UK to make their own and eventually changed regulations.

The important points – inside or outside the EU customs union?

The post-Brexit consequences and the impact of these consequences depend on whether or not the UK will be placed inside OR outside the EU customs union.

It is understood that the UK also will be a part of the [EU customs territory](#), if the UK, post-Brexit, stays within the EU customs union.

Please, see the below figure 2 to assess whether or not the UK will be a part of the EU customs union in a specific post-Brexit scenario and to view the consequences and impact of these consequences in part A or B, respectively. Full importation cases where the aircraft have been sold after the importation are not discussed in the below figures 3-6.

Figure 2: Is the UK inside or outside the EU customs union post-Brexit?

Brexit scenarios Inside or outside the EU customs union Consequences and impact

Brexit scenarios	Inside or outside the EU customs union	Consequences and impact
1. The settled Brexit agreement from November 2018 made between EU27 and the UK	Inside, at least until end of 2020	See part A for the period until end of 2020 See part B for the period from 2021 and forward
2. The Norway model used by Norway, Lichtenstein and Iceland, all member of both EFTA and EEA	Outside	See part B
3. Soft Brexit	Both inside and outside are possible	See part A and B
4. Hard Brexit	Outside	See part B
5. No deal	Outside	See part B
6. The UK are staying in the EU	Inside	See part A

The preconditions for using full importation and Temporary Admission are not mentioned in this paper. Please, see the links at the end of the paper for more knowledge about the situation. It is taken as a given that all preconditions must, of course, be fulfilled continuously when using these customs procedures.

Part A: The UK are staying within the EU customs union

This means that the UK will leave the EU (unless scenario 6 happens) but remain a part of the EU customs union. Basically, nothing will change in the short term with regards to aircraft importations/admissions. EU27 will still acknowledge any pre-Brexit full importation or Temporary Admission paperwork made pre-Brexit in the UK and vice versa. Please, see figure 3.

Figure 3: The post-Brexit validity of customs paperwork executed pre-Brexit

Customs paperwork executed where	Still valid in EU27	Still valid in the UK
Full importation is executed in the UK	YES	YES
Full importation is executed in EU27	YES	YES
Temporary Admission is executed in the UK	YES	YES
Temporary Admission is executed in EU27	YES	YES

EU27 and UK aircraft owners and operators can still only use full importation, where EU outsiders can use both full importation and Temporary Admission. Please, see figure 4.

Figure 4: Which customs procedures can be used post-Brexit?

Aircraft owner/operator from	Flying in EU27	Flying in the UK
EU27	Full importation	Full importation
The UK	Full importation	Full importation

EU outsiders	Full importation or Temporary Admission	Full importation or Temporary Admission
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Part B: The UK is NOT staying within the EU customs union

This means that the UK will NOT be a part of the EU and the EU customs union. EU27 can NOT accept any pre-Brexit full importation or Temporary Admission paperwork made in the UK and vice versa, unless some kind of mutual agreement is made. A pre-Brexit importation executed in the UK will therefore not be valid in EU27 and vice versa. Please, see figure 5.

Figure 5: The post-Brexit validity of customs paperwork executed pre-Brexit

Customs paperwork executed where	Still valid in EU27	Still valid in the UK
Full importation is executed in the UK	NO*	YES
Full importation is executed in EU27	YES	NO*
Temporary Admission is executed in the UK	NO*	YES
Temporary Admission is executed in EU27	YES	NO*

*An importation/admission is not valid unless some kind of mutual agreement, to accept any pre-Brexit customs arrangements, is eventually made between EU27 and the UK.

EU27 aircraft owners and operators can only use full importation when flying within EU27 but can use both importation options, full importation and Temporary Admission, when flying within the UK. UK aircraft owners and operators can only use full importation when flying within the UK but can use both importation options, full importation and Temporary Admission, when flying within EU27. EU outsiders can both use full importation and Temporary Admission when flying within EU27 and the UK. Please, see figure 6.

Figure 6: Which customs procedures can be used post-Brexit?

Aircraft owner/operator from	Flying in EU27	Flying in the UK
EU27	Full importation	Full importation or Temporary Admission
The UK	Full importation or Temporary Admission	Full importation
EU outsiders	Full importation or Temporary Admission	Full importation or Temporary Admission

The EU regulations for both full importation and Temporary Admission are of course unaffected by Brexit, and UK aircraft owners and operators will post-Brexit, when flying within the EU, be considered as EU outsiders. Please, see the links under OPMAS online resources for further information.

A short introduction to full importation and Temporary Admission when flying in the UK post-Brexit? - mainly for UK outsiders

It is assumed that the UK will use the existing guideline for Temporary Admission within the UK, at least initially. The UK's usage of Temporary Admission is today completely aligned with the EU regulations and they have fully implemented the description from [the 2014 working paper from EU Customs Code Committee](#), but please be aware that the Isle of Man's usage of Temporary Admission includes abnormalities which have never been in sync with the UK/EU regulations.

Temporary Admission granted within the UK will allow UK outsiders, to roam freely within the UK for a certain period. An aircraft is considered as an UK outsider when it is both owned, registered, operated and based outside the UK (all criteria must be fulfilled).

Most UK outsiders will practically have the same flying privileges as under full importation since the few limitations does not influence the typical flight. Temporary admission will even offer the typical operator more flexibility and extra advantages like unrestricted personal, family or guest usage without any consequences and with no tax, VAT (Value Added Tax) or duty liability anywhere. Many of these points are often a problem and a burden when using full importation. Temporary Admission should therefore be the preferred option for most UK outsiders.

Temporary Admission cannot be used by UK insiders which means that the aircraft is either owned, registered, operated, based or mainly used inside the UK (just one criterion must be fulfilled). Mandatorily, UK insiders must use full importation.

A few practical matters when using Temporary Admission in the UK

UK have always been one of the most uncomplicated countries for users of Temporary Admission with a very detailed guideline from HMRC (UK customs) called [Notice 3001 Annex C](#).

For instance, a single entry into London Farnborough (EGLF) followed by a direct departure out of the UK will be a flight regulated by the Temporary Admission regulation and is without any limitations.

Internal flights between two or more UK destinations are still regulated by the Temporary Admission regulation, but the Temporary Admission usage is relatively easy in the UK. HMRC sees corporate flying as private use and allows EU/UK passengers on-board under the Temporary Admission regulation without any restrictions. The restrictions related to EU-resident persons on-board are only related to the pilots and not the passengers.

HMRC furthermore directly mentions in Notice 3001 annex C (paragraph 2.35) that *"no formal application for authorization or customs declaration to claim relief will be required when arriving directly from a country outside the EU"*. This simply means that it is not mandatory to get a customs stamp on the ['Supporting form for an oral customs declaration'](#) and that such a stamp will not exempt the operator for any payment of the UK VAT and customs duty if the terms for the Temporary Admission are violated. Just for the record, a lack of compliance with the Temporary Admission regulation will activate a full importation with a full payment of the UK VAT even though a supporting form is actually signed and/or stamped by an EU customs agency like the HMRC.

A few practical matters when using Full importation in the UK

Full importation can be the only option, if the aircraft is mainly/often based in the UK. Please, be aware that the criteria for using full importation include that the aircraft must be used for correct economic activities for a minimum of 5 years, but only as long as the aircraft is owned and/or operated by the same entity, and that any wrong usage/handling can trigger a payback of the importation VAT reclaimed, deferred or exempted during the importation.

 **KNOW MORE:** [SURVEY 8: What is the limit for multiple continuous stays at the same place?](#)

Owners and operators should also consider the risk of ending up in a situation with a double European VAT liability if an aircraft is fully imported post-Brexit in both the EU and the UK. This could mean that the same wrong use of the aircraft could cost a repayment both in the EU and the UK. Non-business use is often an issue and is only allowed if handled correctly according to EU/UK regulations. Both the EU and the UK will include all worldwide usage of an aircraft during an audit. This means that any non-business legs flown locally in the USA by an American Part 91 operator will actually have an impact on both the EU and the UK VAT assessment, if not handled correctly according to EU/UK regulations.

The above-mentioned American Part 91 operator will therefore have to respect contradictory practices between the EU/UK and the USA. The mentioned domestic USA trip is correctly handled in the USA with the use of the SIFL system (the size of the compensation payment) and imputed income, but the SIFL values are often too low to be accepted and imputed income is not accepted as a compensation type for non-business use within the EU and the UK. So, a full importation scenario can end up being a choice between the plague and cholera, if it is not planned correctly from the beginning.

 **KNOW MORE:** [SURVEY 1: Is the term "predominately used for business" accepted by various EU VAT authorities?](#)

 **KNOW MORE:** [SURVEY 3: Does the flight pattern/geography and size/type of compensation matter?](#)

For both Temporary Admission and full importation in the UK

[The UK GAR \(General Aviation Report\)](#) must always be filed with a complete list of all persons on-board and commercial operators must apply for traffic rights on internal flights.

Again, the full preconditions for using full importation and Temporary Admission are not mentioned in this paper, but please see the links for further information.

OPMAS online resources

[OPMAS Short articles](#): gives a short insight in various topics

[OPMAS Short stories](#): get the essence of the two importation alternatives in a short and quick way

[OPMAS Reviews](#): present an overview and a deeper insight in various subjects

[OPMAS Quick Guides](#): compare the different importation alternatives

[OPMAS Video](#): use 3 minutes to get a quick introduction

[OPMAS Surveys](#): in-depth analysis of specific topics

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