



## IRU Position on Brexit - detailed technical analysis

### I. BACKGROUND

Article 50 of the Treaty on the European Union was prompted by the British Government on 29 March 2017 as a result of the referendum result of June 2016 where a majority of UK voters voted in favour of Brexit.

Since then, there have been several further developments at EU level. A number of recent sources have shed light on the priorities and agenda of the EU. These include minutes from the College of Commissioners meetings, non-papers, and position papers from the EC and the European Council. From the EC side, Michel Barnier, the EC's chief Brexit negotiator, has highlighted the need for unity, transparency, public debate, certainty and order. He also underlined the importance of coming to an agreement and mentioned in particular the risks of border chaos and UK supply issues if an agreement was not reached by 29 March 2019. The EC also highlighted the importance of making sure transport operators were kept well-informed.

Regarding the timeline, Barnier explained that an agreement on an orderly withdrawal would have to be reached before there could be any further discussion on the future relationship between the UK and the EU. The framework for this future relationship would most likely be based on Article 8 of the Treaty on the EU, as well as Article 217 of the Treaty on the Functioning of the EU. This would take the form of a trade agreement with cooperation in several other areas, for example security. It has been proposed that the aim would be to reach a withdrawal agreement by autumn 2017, followed by scoping on the future relationship beginning in late 2017, and then finally discussions on arranging for the transition to the future relationship.

More information is available on the EC's website where [a dedicated page on the Article 50 Task Force](#) shows news and updates on the process. It should be noted that in the organigram of positions, there is no mention of road transport.

In early April, the European Parliament (EP) adopted a [joint motion for a resolution](#) on the key principles and conditions for its eventual approval of a withdrawal agreement. The resolution reiterates the EC position that the withdrawal agreement must be negotiated before talks on transitional agreements can begin. The resolution highlights the fundamental four freedoms of the EU Single Market, including the free movement of goods, but also advises against a piecemeal economic relationship based on sector-specific deals.

The European Council has also developed draft guidelines for the Brexit negotiations which it adopted during an extraordinary session on 29 April (see Annexe 1). These guidelines define the framework for the negotiations with the UK and set out the overall EU positions and principles.

In the last weeks and months, negotiating parties have come forward with several of their positions on important items, such as customs, citizens' rights, and border matters, but after six rounds of negotiations, little progress has been made. In October 2017, the EU negotiating team assessed whether sufficient progress was made during the negotiations. If it is deemed that sufficient progress was made, the EU has stated that they would be open to discussing the future EU-UK post-Brexit relationship with the UK government.

## **II. IRU's role**

IRU aims to seek the best possible solutions to the different issues faced by the UK and the remaining 27 Member States' hauliers in order to facilitate trade, road freight transport, and logistics operations.

## **III. Issues to be addressed for road freight transport operators**

Various issues have been identified which would need to be addressed during Brexit negotiations and in a post-Brexit deal in order to avoid any potential negative impact on road freight transport and logistics facilitation. The issues are outlined as follows.

- *Communication of a clear time-line and a comprehensive transition period:* Currently, strong trade-focussed negotiations are expected for the post-Brexit settlement. However, they are also expected to cover other domains such as customs, transport, security and financial services. Considering the complexity and thus possible length of trade related negotiations and in order to avoid challenges during the negotiation periods for both the withdrawal agreement and post-Brexit settlement, the negotiating parties need to agree as soon as possible on a comprehensive transition regime that would safeguard the status quo. Such an agreement should be communicated to industry in due course in order to allow businesses to prepare properly.
- *Alignment of access to the professional rules to ensure smooth enforcement:* Currently, this is governed by EU rules. The UK also participates in the European Electronic Register for Road Transport Undertakings (ERRU). It is very likely that the current EU rules will be fully transposed into UK legislation. However, issues may arise if this regulation is revised. From a practical point of view, there will ideally need to be an arrangement to ensure that UK rules keep in line with EU rules on cross-border transport and cabotage. This will be important for the mutual recognition of qualifications. Issues may also arise in relation to the ERRU and the mutual information mechanism for infringements committed outside the country of establishment. The same will apply to the use of risk rating systems. If there is no guaranteed transposition of future EU rules, there will be a number of points of contention, such as how infringements committed in the UK will be considered in the future by other Member States and how the UK will consider infringements committed by its operators in the 27 remaining Member States.
- *Alignment of access to the road haulage market rules to ensure the unhindered free movement of goods:* Currently, these issues are governed by EU rules. Questions are already being raised about the potential reintroduction of authorisation systems (bilateral, transit and cross-trade) and quotas. How this proceeds will depend on the type of post-Brexit deal that the EU and UK conclude. It should not be excluded

that the ECMT multilateral quota system could become an important tool in guaranteeing additional market access rights (The International Transport Forum is currently examining the likely impact of Brexit on the multilateral quota system). It should be kept in mind that the UK's departure from the single market could have an impact on certain types of road freight transport operations, such as cabotage. For instance, in the EU-Swiss Land Transport Agreement, Swiss hauliers can carry out cross-trade between two EU Member States but may not undertake cabotage operations on the territory of individual Member States. There could also be issues relating to the sending of unaccompanied trailers or semi-trailers across the English Channel.

- *Guaranteeing continued connection between the Republic of Ireland and the EU26:* The impact of Brexit on the Republic of Ireland will have a two-fold impact on Irish hauliers. Firstly, the border between the Republic of Ireland and Northern Ireland will become an external EU border. Some Irish hauliers currently cross the border up to 40 times per day. Secondly, the UK will become a land-bridge linking Ireland with EU26. It will be imperative that road transport operators are ensured thoroughfare. The question of port infrastructure will also have to be addressed to consider the possibility of increasing traffic via the Channel.

For Ireland, there is an additional particular issue in that for a considerable number of domestic transports in the Republic of Ireland, vehicles have to pass in transit through Northern Ireland. It is clear that this is a very important issue for continued trade and road freight transport between the UK and the EU and that the sheer number of transactions will require not only flexibility but also determination that a solution will be found in time.

- *Alignment of social conditions to facilitate the operations of EU and UK hauliers:* This is covered by a framework of rules including driving and rest times, digital tachograph, working time (general and mobile workers), and posting of workers. One possibility is for the UK to move into the AETR framework (the United Nations' European Agreement concerning the Work of Crews of Vehicles Engaged in International Road Transport) after Brexit, which may in the future deviate from the EU rules given the potential incompatibility in the digital tachograph domain. Many other EU rules relevant for social conditions, such as working time, social security, and posting of workers, do not have a framework outside the EU and will need to be settled somehow in an EU-UK deal. As outlined before, even if the UK fully transposes EU rules into UK law, there is no guarantee that UK rules will remain aligned with the EU. This might be of concern for cross-border operations and potentially cabotage. It may be unclear which legislation will apply to UK hauliers operating in the 27 Member States and EU hauliers operating in the UK.
- *Assurances for future access to the labour market:* The UK relies on a substantial number of professionals, including truck drivers, from other EU Member States. After Brexit, it is not certain if the UK will be able to continue to do so. This is a dossier that could become very closely linked with politically sensitive issues such as the free movement of people and free movement of workers. Mutual recognition of professional competences could also become an issue due to potential misalignment of rules. At the same time, it is probable that the EU27 will continue to face labour shortages (including of professional drivers) and may

therefore wish to focus on trying to keep their own labour force in the EU27.

- *Effective customs procedures with sufficient infrastructure to ensure fast and efficient transit:* From a customs perspective, the UK may not be able to move shipments to Europe as freely and without constraints as it does today and vice versa. In addition, substantial amounts of EU27 freight may have to transit through the UK on the way to and from the Republic of Ireland. There will likely be a requirement for customs declarations on all UK-EU and EU-UK shipments, including those on transit, with VAT also accounted for at the UK-EU or EU-UK border. Not only will this represent significant additional costs, but also electronic customs clearance systems may not be sufficiently scalable and so will require significant systems changes. While the UK is currently a member of the EU Customs Union (EUCU), the UK government has clearly repeated that it wants to leave the EUCU. It should however be understood that it is possible for countries outside of the EU, hereafter referred to as 'third countries', such as Turkey, to be part of the EUCU without becoming a member of the EU. It is also worthwhile to mention the deal between Norway and the EU on customs matters. Norway is part of the EEA agreement, which gives tariff-free access to the European internal market, with the exemption of agricultural/fishery products. However, Norway is not part of the EUCU. This means that Norway still has customs borders and every truck that crosses the Norwegian border needs to stop at a customs office. As the cooperation with the Swedish and Finnish police and customs authorities is very good, there is only one customs office conducting the relevant checks when a truck crosses the border. This makes Norwegian border crossings very efficient. Moreover, in order to have quicker and easier border crossings, Norway is a part of the Convention on a common transit procedure<sup>1</sup>, thus committing itself to the NCTS (New Computerized Transit System, called TVINN in Norway). EEA is also part of Regulation (EC) no. 1225/2009<sup>2</sup>, introducing an obligation of advanced notification, authorisation and risk assessments of all imports and exports between the EU and third countries. Import and export between Norway and the EU has been exempted from these security rules and Norway applies the same rules for trade with third countries. It should be noted that apart from the EEA agreement, the EFTA organisation still exists with 27 free trade agreements covering 28 countries. A country can be a member of EFTA without being a member of the EEA, while all members of the EEA are members of EFTA.

The usable customs frameworks (TIR and or EU NCTS) will very much depend on what the UK and EU decide in terms of a post-Brexit deal. A comeback of TIR for UK-EU trade could be a potential scenario and should the UK stay in the EUCU, and therefore inside the scope of the Convention on a common transit procedure, road transport operators could use the NCTS and the TIR procedure in parallel, which would give them more choice than they have today.

There is a danger that, depending on the post-Brexit impact on customs between the EU and UK, new infrastructure may have to be put in place to allow customs clearance and vehicle checks at borders. Reintroduction

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<sup>1</sup> Convention on a common transit procedure: <http://eur-lex.europa.eu/legal-content/CS/ALL/?uri=URISERV:111025>

<sup>2</sup> Council regulation on protection against dumped imports from countries not members of the European Community [http://trade.ec.europa.eu/doclib/docs/2010/april/tradoc\\_146035.pdf](http://trade.ec.europa.eu/doclib/docs/2010/april/tradoc_146035.pdf)

of additional physical checks could in turn create a substantial bottleneck (there is an estimated total movement of about 8 million vehicle units per year between the UK and the continent and the UK and Ireland; about 4.2 million pass through Dover alone) at border crossings and when loading and unloading ferries and trains. Therefore, not only would it be necessary to install infrastructure for checks but also infrastructure able to absorb substantial queues. One option would be to seek a sufficient transitional arrangement which would reflect the status quo in terms of customs matters. This would extend the current benefits for as long as possible and allow time for operators to implement systems, facilities, staffing changes and training.

- *Mutual recognition of customs and security-related accreditation systems:* After Brexit, the UK's borders with the remaining EU27 will become external EU borders. Currently when carrying goods to the UK, considerable security and migration-related border controls already take place in continental ports and in some cases, these checks are repeated when entering the UK. It is of utmost importance for road transport operators that EU and UK customs and security accreditation systems be mutually recognised in a post-Brexit scenario, where, despite differences, they should be comparable with respect to their eligibility criteria. This is key as customs and security has proven to be a potential bottleneck for transport operations and road transport operators have a strong and legitimate interest in having their operations cleared as efficiently as possible. This applies especially to Authorised Economic Operator (AEO) programmes, particularly in the case of the UK setting up its own AEO programme if it leaves the EUCU (which includes an EU AEO programme which was established in 2008).
- *Assurances that other border-related issues will be addressed:* Depending on the deal that the UK and EU agree upon, physical border checks could become permanent again. This could have a particularly negative impact on travel and trade between the UK and the Republic of Ireland. Another issue will be the extent to which the UK can agree with individual EU Member States on continuing to carry out border controls on the continent such as with France in the Le Touquet Agreement from 2003, which could become the subject of renegotiation. This agreement provides for France and Britain to erect juxtaposed border controls in Channel ports. That effectively moved the French frontier to Kent and the UK frontier to Calais. A scraping of that agreement could likely lead to additional waiting times and costs.
- *Mutual recognition of traffic rules and continued information exchange for enforcement:* The UK has not yet ratified the 1969 Vienna Convention on road traffic. Many of the provisions of this Convention are covered by EU rules, such as vehicle registration. However, whereas this may not cause problems in an initial post-Brexit era, difficulties might occur in terms of mutual recognition for both UK operators operating in the EU and for EU operators operating in the UK. New issues could arise in the case of unaccompanied UK trailers and semi-trailers being towed by non-UK vehicles in the EU.

In terms of enforcement, existing, albeit limited (e.g., vehicle registration information, information on cross-border road safety infringements) EU provisions on cooperation and exchange of information in terms of enforcement in which the UK participates, could become jeopardised.

- *Commitment to prioritise digitalisation and efforts taken to ensure the administrative burden on hauliers does not increase:* The EU and UK should commit to the further digitalisation of road freight transport and logistics operations, including enabling and encouraging the use of electronic transport documents. Further digitalisation would alleviate additional costs that transport operators could possibly face in a post-Brexit EU-UK deal.
- *Special transports:* Issues could arise in relation to special types of transport, such as transport of waste, transport of live animals, and transport of abnormal loads.

#### **IV. Negotiation of a post-Brexit deal**

It is important to examine how issues relating to road freight transport and logistics could be best addressed in any type of future EU-UK deal. A number of aspects have to be taken into consideration when looking at how these issues could be potentially addressed.

- For the road freight transport and logistics sector, maintenance of the current level of free movement of goods and freedom to provide services should be ensured to as large an extent as possible. As many issues as possible should be dealt with in one single deal. A level playing field and mutual acceptance will be essential. Operators from one side should not be placed in a better position than operators from the other side in terms of market access. This is a key point given the current trade and road freight transport activity imbalances. Additionally, the interests of road freight transport and logistics operators should not be traded for the interests of other economic sectors.
- The UK government's current position is that it wishes to leave the European Union completely (including the Customs Union) and to build a new relationship with the EU. The UK government would like to have a close relationship with a very strong emphasis on free trade. Implicitly, road freight transport should be considered a key facilitator. The UK's White Paper setting out the priorities and the broad strategy for negotiations with the EU is within Annexe 1. It should be noted that it is not yet certain if the impact of the recent national elections in the UK will alter this approach.
- The EU has used a wide range of different types of agreements to establish trade and other relations with third countries. One such agreement is the Association Agreement which does not necessarily include a provision relating to potential future EU Membership candidacy, but indicates a special partnership between the EU and the third country concerned. There are other types of trade-related agreements such as CETA, the EU Canada Free Trade Agreement.
- Different types of existing trade agreements have tended to deal with issues such as trade facilitation, customs, mutual recognition and transposition of various EU rules as well as transport, but the scope has been limited to maritime and air transport matters.
- In the field of land transport, the EU currently only has one bilateral agreement covering road and combined transport (road-rail) and it is with Switzerland. Switzerland is important for the EU as a transit country on the North-South route. The UK will also become an important transit country

linking the Republic of Ireland to the rest of the EU. From this perspective, some of the contents of the EU-Swiss Land Transport Agreement could also be relevant for a potential EU-UK Agreement on similar issues. It could be worthwhile to explore what provisions such an agreement could contain.

Considering these elements and the EU's negotiating guidelines in Annexe 1, currently it is very difficult to establish with a great deal of certainty how a deal on road freight transport would look and whether it could be agreed on. It is however quite likely that road transport, logistics and trade will be dealt with as a part of a much larger deal which will be stipulated in one or several (interlinked) agreements. Such agreements could include provisions relating to the transposition of a number of EU rules by the UK, including in the field of road freight transport and logistics related matters.

# Annexe 1

## EU NEGOTIATION GUIDELINES AS AGREED AT THE EUROPEAN COUNCIL MEETING OF 29 APRIL 2017

The European Council agreed on a number of negotiation general principles and guidelines. The most important ones are as follows:

- If by 30 March 2019 no deal can be reached on Brexit, all EU related treaties cease to apply to the UK and the UK becomes a third country. The European Council and the UK can unanimously agree to extend this deadline.
- There will be a phased approach to the negotiations.
- Any agreement on a post-Brexit EU-UK relationship can only be finalised and concluded once the UK has become a third country.
- The arrangements which will apply during a transition period will depend on the degree of understanding between the UK and EU over a framework for their future relationship. Therefore, these arrangements cannot yet be determined.
- Preserving the EU Single Market integrity excludes a participation in the Single Market based on a sector-by-sector approach.
- Nothing is agreed upon until everything is agreed upon.
- The autonomy of the EU in decision-making should be respected, including the role of the European Court of Justice.
- The rights, freedoms and principles of the EU Treaty will continue to be preserved and protected in the EU during the Brexit negotiations and after the UK withdrawal from the EU.



## UK GOVERNMENT'S WHITE PAPER ON BREXIT

The government of the United Kingdom published their White Paper on Brexit in February 2017. The White Paper sets out 12 priorities and a broad strategy to guide the UK in negotiations with the EU, as follows:

- Provide certainty and clarity
- Take control of their own laws
- Strengthen the Union
- Protect strong historic ties with Ireland and maintain the Common Travel Area
- Control immigration
- Secure rights for EU nationals in the UK and UK nationals in the EU
- Protect workers' rights
- Ensure free trade with European markets
- Secure new trade agreements with other countries
- Ensure the United Kingdom remains the best place for science and innovation
- Cooperate in the fight against crime and terrorism
- Deliver a smooth, orderly exit from the EU

Broadly speaking, it highlights that the rules currently "devised and agreed" at EU level (including the comprehensive set of rules relating to road transport and logistics) will be determined by the UK after Brexit, that there will be a "phased exit" in order to allow businesses to prepare, and that the UK will not seek an unlimited transition period.

On the topic of road freight transport and logistics, the White Paper is rather vague. It does underline the need to ensure that heavy goods vehicle operators are able to continue carrying goods to, from, and through EU27 countries. It does not cover the rights of companies established in the EU to have access rights to the UK market or to transit through UK territory.

### TRANSITION AND POST-BREXIT SETTLEMENT POSSIBLE SCENARIOS CUSTOMS CLEARANCE

#### I. INTRODUCTION

Once the UK leaves the European Union and the Customs Union of the EU (EUCU), the customs procedures could change in different ways depending on what is eventually agreed between the EU and the UK. Part of an agreement could also include a transition period. IRU is particularly concerned about customs clearance procedures at the border, involving coaches and trucks moving by road between the EU and UK (inbound and outbound). The aim of the scenarios developed below is to give an overview of the potential customs scenarios which could develop, their impact on the EU and UK road freight transport operators and shippers, and the impact on government authorities. In this context, IRU would like to make reference to the published position papers from the UK government and the EU on customs, 'Future Customs Arrangements', and 'Customs related matters needed for an orderly withdrawal of the UK from the Union', respectively, and to the EU's guiding principles and the UK's position paper regarding Ireland/Northern Ireland.

#### II. POST-BREXIT CUSTOMS SCENARIOS

Regarding the scenarios outlined below, it is worth highlighting that, post-Brexit, the UK would not be able to move shipments to the EU as freely as it does today and vice-versa, especially with regard to the procedures at EU and UK ports and border posts for goods in trucks as facilitated through e.g. Le Touquet Agreement. Not only will this represent significant additional costs, but also electronic customs clearance systems may require significant systems changes. Apart from risk-based anti-smuggling checks, there are currently no international trade checks at all concerning trade flows between the UK and the other 27 EU Member States and that could change substantially in a post-Brexit world.

The possibility of the use of available customs transit systems (TIR and or EU NCTS) will very much depend on what the UK and EU decide in terms of a post-Brexit deal.

##### 1. UK remains in (partial) EUCU (e.g., following the example of Turkey)

When leaving the EU, the UK could still ask to retain partial or entire participation in the EUCU, which would mean that the provisions of the Union Customs Code and of its delegated regulations would continue to apply to its territory. That would put the UK in a similar position with regard to its trade and customs relationships to the EU, as it is already the case with Turkey and the EU today where a partial customs union has been established that covers certain processed agricultural and industrial goods.

From the perspective of customs transit procedures, the EU NCTS rules would continue to apply, but freight operators would have the right to choose between NCTS and TIR for freight transports between the UK and the remaining 27 EU Member States.

However, considering that the UK government has repeatedly declared that it wants to leave the EU and the EU Customs Union, such a scenario seems to be rather unlikely.

### ***IRU Recommendations***

The UK-EU trade and customs relationships should not be built as they have been built between Turkey and the EU for multiple reasons. One reason is that there is a hard border between the EU and Turkey which would potentially lead to cumbersome governmental border controls and checks at the EU and UK border. That would be detrimental to the competitiveness of the road transport industry. This is especially true with regard to the UK-EU land border between Northern Ireland and the Republic of Ireland as such a scenario could potentially lead to highly disproportionate waiting times, even in a highly streamlined scenario.

## **2. UK EEA Membership (e.g., following the example of Norway)**

After leaving the EUCU, the UK could look for further alternatives for membership. One option could be joining the European Economic Area (EEA), as Norway has done. In such a situation, trade relationships with the EU would not change significantly: the UK would get access to the EU internal market and vice versa, and the principles of the free movement of goods and services would continue to apply.

However, the UK would not be part of the EU customs territory, which means that customs checks at the borders, even if highly streamlined, would be reintroduced. TIR and NCTS could therefore in parallel provide facilitation to UK-EU cross-border movements, reducing administrative burden and waiting times for customs authorities, logistic companies and freight operators.

The UK government has already outlined that it does not want to be part of the EEA. That is mainly due to the principle of the free movement of people which would apply to post-Brexit EU-UK relationships, should the UK become a member of the EEA, which is exactly what the UK does not want. Furthermore, if the UK became a member of the EEA, it would be bound to the judgements of the European Court of Justice and it is exactly the influence of that body on the applicable legal order in the UK that the UK government would like to reduce.

### ***IRU Recommendations***

As outlined in IRU's Position on Brexit in the top six priorities, the road transport industry is calling for a safeguarding of the status quo, which de facto means that customs checks, even if highly streamlined, are to be avoided between the UK and the EU post-Brexit. If the UK were to become a member of the EEA, however, it would mean exactly that and therefore IRU is of the opinion that such a solution would be counterproductive to the competitiveness of the road transport industry.

## **3. Bilateral arrangements with EU (e.g., following the example of Switzerland)**

Such a scenario would be very complex for governments and freight transport operators and would require numerous negotiations for each agreement. Switzerland has around 100 bilateral agreements with the EU, the EU Swiss Free Trade Agreement being the cornerstone of it.

#### ***IRU Recommendations***

This scenario is also not ideal. Despite its potentially high degree of flexibility, it would take quite some time to have all the relevant agreements negotiated and implemented in order to have the necessary legal certainty for business ensured and guaranteed.

#### **4. Full divorce with EU (UK becomes third country)**

As a last possible scenario, the UK could become a fairly independent country, leaving the EU and the EUCU whilst still being bound to its global obligations under, e.g., UN law and WTO regulations. This is potentially the most disruptive scenario possible because it would come with many uncertainties for business, typically described as the 'cliff edge effect' or the so called 'Big Bang'.

Under such a scenario, EU NCTS rules would not be applied and the use of TIR between the EU and the UK, in particular the purchase of individual national guarantees, would become the only alternatives with regard to customs transit.

However, the situation with Ireland would require separate negotiations because the Irish economy is highly interlinked with the economy of the UK. If the UK leaves the EUCU, in principle there would need to be checks at the border between Northern Ireland and the Republic of Ireland. An option would be a Swiss example (not in the EU, or the EUCU), which sets out special procedures to facilitate trade despite the different trade rules with the rest of the world.

#### ***IRU Recommendations***

As the potentially most disruptive scenario possible, IRU calls for a different solution which is more business friendly. A full divorce scenario would come with too many disruptive elements for the business community which is why another solution should be found.

### **III. CUSTOMS TRANSIT IN A POST-BREXIT WORLD: NCTS AND TIR**

In this section, an overview on the regionally oriented EU customs procedure (NCTS) and the globally oriented UN TIR customs procedure.

NCTS is a regional (EU) computerised transit system based on the exchange of electronic messages. As a general rule, the use of NCTS is mandatory for all common/Union transit operations: the T1 transit procedure being used for non-Union goods and the T2/T2F for Union goods.

The common transit procedure is used for the movement of goods between the EU Member States, the EFTA countries (Iceland, Norway, Liechtenstein and Switzerland), Turkey, the former Yugoslav Republic of Macedonia, and Serbia. The rules of the common transit procedure are set out in the [Convention on a common transit procedure, 1987](#). It is therefore important to note that while Turkey is a partial member of the EUCU using NCTS, the EFTA countries,

Serbia, and the former Yugoslav Republic of Macedonia are users of the NCTS but are not members of the EUCU.

The Union transit procedure has its legal basis in the Union Customs Code and its regulations ([Regulation \(EU\) No 952/2013](#)) and is used for customs transit operations between the EU Member States, and Andorra and San Marino.

The Union/common transit procedures are in general applicable to the movement of non-Union goods, for customs duties and other charges at import, and Union goods, which, between their point of departure and point of destination in the EU, have to pass through the territory of a third country.

Today, TIR is the world's only customs transit system, aimed at simplifying and harmonising customs procedures on a global level. The principal legislation governing the TIR procedure is the 'Customs Convention on the International Transport of goods under cover of TIR Carnets' ([TIR Convention 1975](#)), prepared under the auspices of the United Nations Economic Commission for Europe (UNECE).

Currently, the TIR Convention has 71 contracting parties including the European Union and its 28 Member States. However, a TIR operation is possible only in the countries that have authorised guaranteeing associations (58 countries). In contrast to the common and Union transit procedures, the TIR procedure is structured on a universal international guarantee system based on a chain of national guaranteeing associations. TIR is only open to authorised operators in accordance with the UN TIR convention.

Over 34,000 transport and logistics companies worldwide use TIR to quickly and reliably move goods across international borders. For moving high value goods, TIR is especially interesting, because the guarantee coverage for customs duties and taxes goes up to EUR 100,000.

TIR helps customs authorities facilitate trade using customs-to-customs and business-to-customs data exchange systems: modern TIR risk management tools allow cargo details to be sent electronically and simultaneously to multiple border crossings before the truck arrives. This enables customs officials to carry out better risk assessments and prioritise which cargo to inspect.

### TRANSITION AND POST-BREXIT SETTLEMENT POSSIBLE SCENARIOS ACCESS TO THE ROAD HAULAGE MARKET

#### I. INTRODUCTION

The UK leaving the European Union will have implications on the free movements of goods between the UK and the EU (including the 27 individual Member States) unless the EU can reach a comprehensive agreement with the UK that would cover, e.g., continued free mutual market access for road freight transport. The nature and content of such an agreement depends on the outcome of the Brexit negotiations and the post-Brexit settlement. The lack of an agreement could create a situation whereby the UK and the 27 individual Member States would have to negotiate bilateral agreements in order to determine the conditions for mutual market access and transit through other countries.

Market access rights could also be provided by the [ITF Multilateral Quota System](#) that does not cover cabotage, because there is no cabotage with third countries. The ITF Multilateral Quota System provides licences for pan-European road haulage and allows hauliers from the contracting parties to undertake multilateral road haulage operations subject to a number of conditions. Since 1 January 2016, participating hauliers should comply with the conditions of the Quality Charter for Road Haulage. The number of licences is subject to a quota allocated to each contracting party. The Multilateral Quota System also provides a number of incentives to promote the use of safer and cleaner vehicles in road haulage operations under coverage of its licences.

#### II. POST-BREXIT CUSTOMS SCENARIOS

The following scenarios could develop and can be classified by the degree of quantitative restrictions involved in providing market access:

##### 1. **No quantitative restrictions, market access is based on qualitative criteria**

###### a) Bilateral EU-UK agreement in road freight transport:

The UK and EU would agree on a bilateral deal involving the facilitation of mutual road freight transport market access. Such an agreement could form part of a wider agreement between the EU and UK or could be limited to transport or even road transport matters. The agreement could also include mutual acceptance of a number of road freight transport related rules and regulations. This agreement could contain a mutually accepted road freight transport market access regime that is aligned with EU rules on good repute, appropriate financial standing, effective and stable establishment in a member state, and requisite professional

competence for cross-border operations without quantitative restrictions, and could be extended to cabotage.

### ***IRU Recommendations***

Such an agreement would not necessarily involve the acceptance of the complete EU road freight transport acquis and would not necessarily involve full EU Single Market conditions. However, it could provide a very wide range of market access possibilities for cross-border services free of authorisation and quantitative restrictions and could potentially be extended to include cabotage rights which would provide a regime very close to the EU Single Market in terms of market access. It would not entail market access related formalities at borders.

#### b) UK EEA membership:

The UK would become a member of the European Economic Area through Membership of the EFTA. EEA Membership entails a number of obligations such as acceptance of the Community acquis (*'acquis communautaire'*) in several domains, including road freight transport, the acceptance of Fundamental Rights, including the free movement of persons and an annual financial contribution to the EU budget. The UK would not have a say on the content of the Community acquis.

The road freight transport acquis would however apply to EU hauliers operating in the UK and to UK hauliers operating in the EU 27 and no authorisations would be required for road freight transport operations.

### ***IRU Recommendations***

The UK being able to conclude such a deal with the EU will not only depend on the EU but on third parties such as EFTA for it to become a member of the EEA. EEA membership entails other obligations such as acceptance of part of the Community acquis, acceptance of the free movement of persons and a financial contribution which the UK might not want to fulfil.

However, for road freight transport operators, this scenario is very close to business-as-usual in the EU Single Market as it would guarantee a free movement of goods with close to no quantitative restrictions for road freight and combined transport and would not entail any authorisations which would need to be checked at borders and which could entail time losses. It would also provide mutual cabotage rights based on EU rules on access to the road haulage market.

As already specified in the annexe on customs, the UK government does not want to become part of the EEA and therefore this scenario is not a realistic one.

## **2. Market access is ruled by quantitative restrictions**

#### a) Bilateral EU-UK agreement in road freight transport:

The UK and EU would agree on a bilateral deal granting mutual road freight transport market access subject to a quota system. Such an agreement could form part of a wider agreement between the EU and UK or could be limited to transport or even road transport matters. The agreement could also include provisions on a number of road freight transport related rules and regulations. Having access to the profession and an operating licence (or Community Licence) would not be sufficient. Authorisations would be involved. A number of

different authorisations should not be excluded depending on whether bilateral, transit, cross-trade and/or cabotage transport would be carried out. Quotas for authorisations would have to be negotiated on a yearly basis and on the EU side the authorisations for UK access or transit would have to be divided among Member States according to a system yet to be agreed upon.

### ***IRU Recommendations***

Such a scenario would be very complex for governments and road freight transport operators. It would be particularly problematic to guarantee access between the Republic of Ireland and the other 26 EU Member States and would be very restrictive for operators active between the Republic of Ireland and the UK on a highly frequent basis. It would require authorisations to be checked at, e.g., borders or on the road, and may entail additional time loss. Such a system would have to be run digitally with electronic authorisations being kept in a register. However, this would require considerable investment to set up. The annual quotas would remain very complex to negotiate and to manage. Obtaining authorisation could also involve fees for the transport operators as well as administrative procedures.

It is a scenario to be avoided.

#### **b) Bilateral agreements:**

In a scenario where the UK and EU do not succeed in agreeing on an individual bilateral deal, including in terms of road freight transport, the UK and the 27 individual EU Member States would have to revert to 27 individual bilateral agreements in order to obtain mutual road freight transport market access. On the EU side, the access rights would be limited to the territory of individual Member States. The degree of market access rights may vary from member state to member state and could include quantitative restrictions and quotas for bilateral market access, transit through a country, cross-trade, and cabotage.

### ***IRU Recommendations***

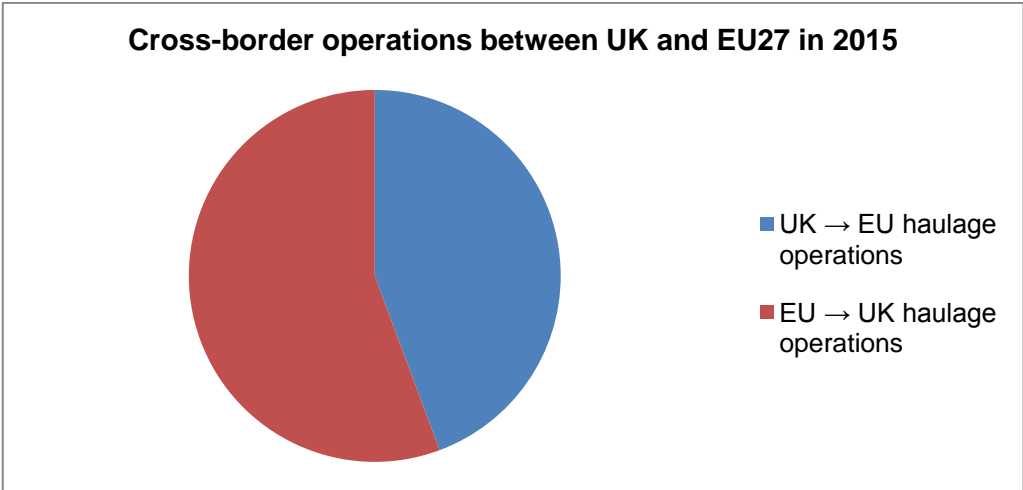
Such a scenario would be even more complex for governments and road freight transport operators. All agreements would have to be negotiated and many imbalances could emerge from the different negotiations leading to a potentially significant fragmentation of the European road haulage market. Again, it would be particularly problematic to guarantee access between the Republic of Ireland and the other 26 EU Member States and would be very restrictive for operators active between the Republic of Ireland and the UK on a very frequent basis. It would require authorisations to be checked at borders and may entail additional time loss. Such a system would have to be run digitally with electronic authorisations being kept in a register. However, this would require considerable investment to set up. The annual quotas would remain very complex to negotiate and to manage. Obtaining an authorisation could also involve fees for the transport operators as well as administrative procedures. An operator would need to obtain several authorisations from several Member States in order to arrive at a destination.

It is a scenario to be avoided.

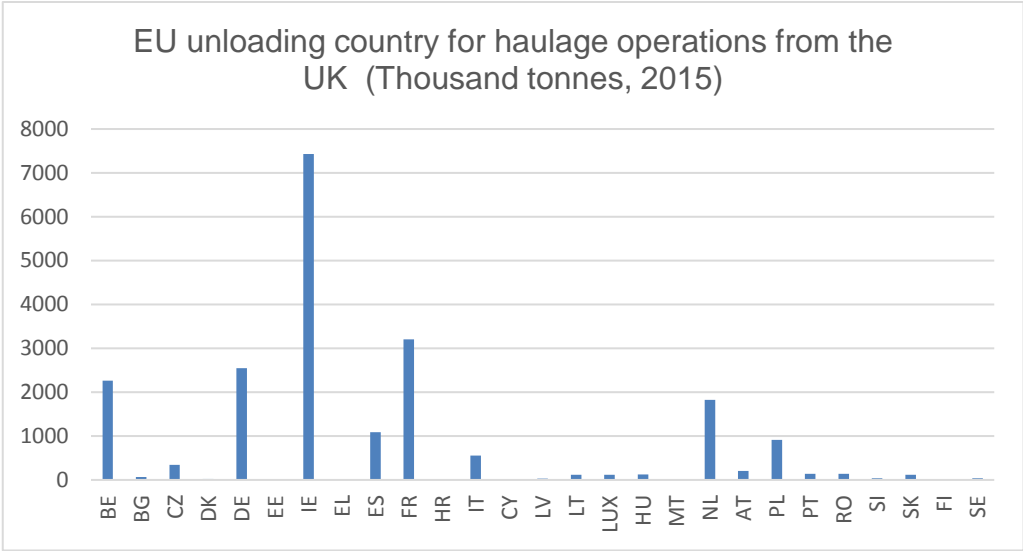


EUROSTAT TRADE AND ROAD FREIGHT TRANSPORT DATA (2015)  
 CROSS-BORDER ACTIVITIES UK – EU 27

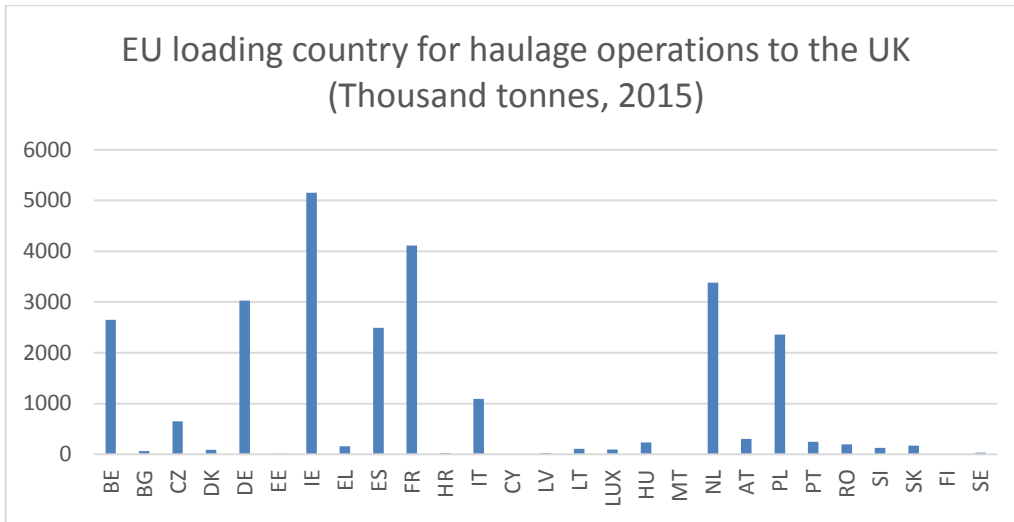
1. Overall trade



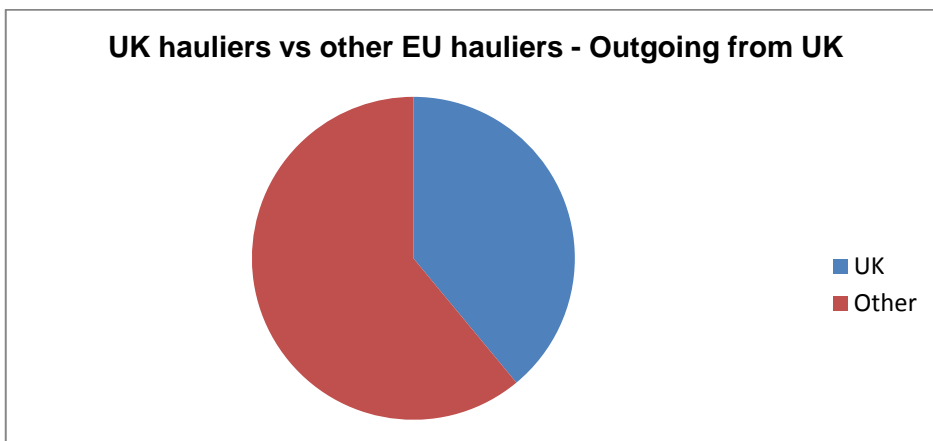
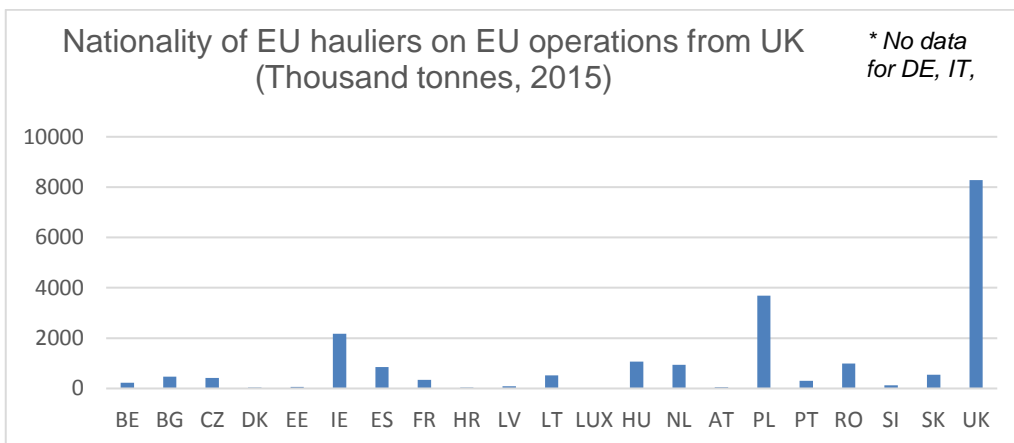
2. UK – EU 27 by destination



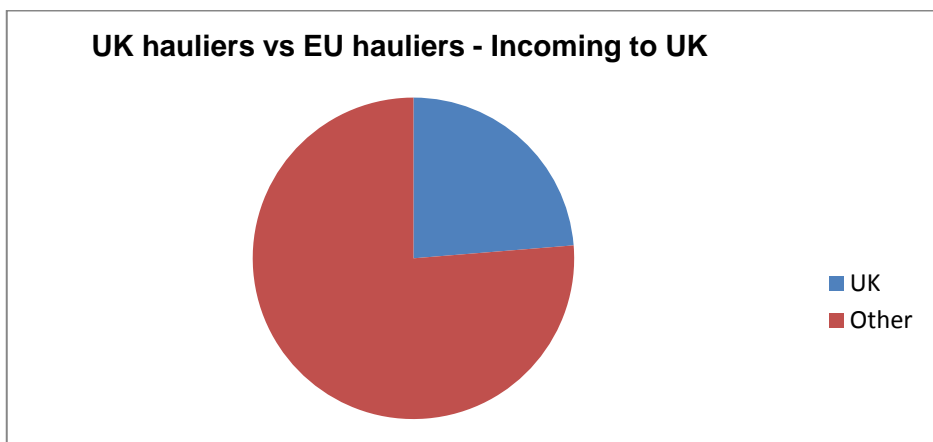
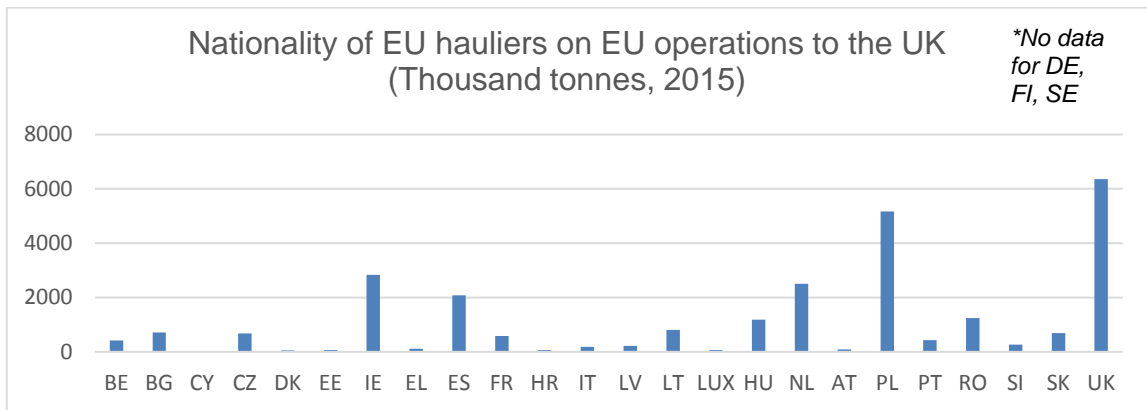
### 3. EU 27 – UK by country of origin



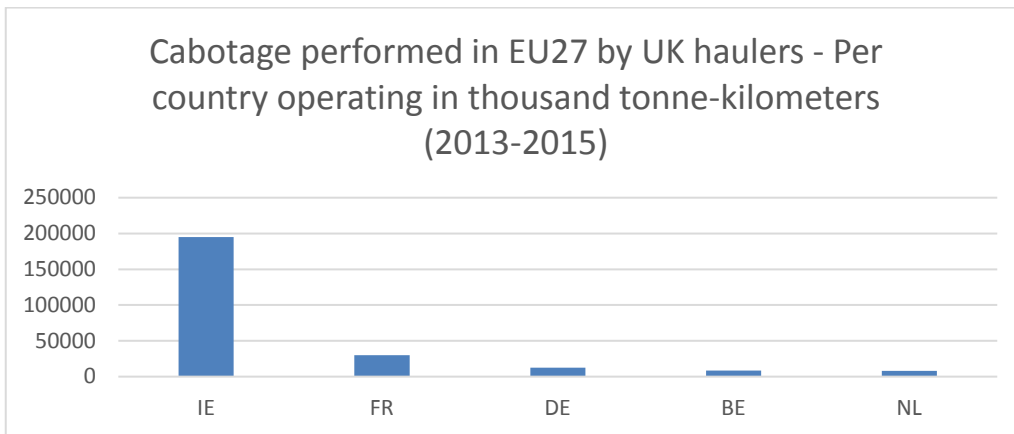
### 4. UK – EU 27 by nationality of the haulier



## 5. EU 27 – UK by nationality of the haulier



## 6. Cabotage – UK hauliers in EU27 by host country



## 7. Cabotage – EU27 in the UK by nationality of the haulier

