Research into the checks on goods imported into the European Union

Author: Anna Jerzewska, Customs and Trade Consultant

Consultants to the lead author: Emily Rees and Dr Peter Holmes

Research commissioned by the Culture, Tourism, Europe and External Affairs Committee, Scottish Parliament.

Published 1 September 2020
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Ref: 2019/20/03/CTEEA

1. Executive summary

Border procedures and checks could be divided into three main groups, with each of them serving a different purpose:

1) Safety and security procedures and anti-smuggling.

Before the goods enter the EU, a safety and security declaration needs to be submitted. Such pre-notifications contain information which is used for risk analysis and screening. It is also used for anti-smuggling purposes. Carriers and other logistics providers are responsible for submitting pre-notifications before import. Further Border Force anti-smuggling and safety checks ensure that dangerous, prohibited or counterfeited goods are not smuggled into the country. Such checks are performed on a small percentage of imported goods – determined as a mix of random checks and risk-based criteria checks.

2) Customs clearance.

Goods coming from non-EU countries cannot be released from the border without being customs cleared (excluding cases where importers are authorised to clear the goods inland). In the simplest form, a customs declaration is a dataset of information about the goods which is submitted to customs authorities at the time of import or export. Imported or exported goods need to also be accompanied by appropriate paperwork. At this point, customs duties, import VAT and other taxes, such as excise duties or anti-dumping duties, are calculated. There are also occasional physical checks on imported goods. This involves, for example, checking that the goods have been correctly declared. Not all imported goods go through physical inspections.

3) Standards and regulatory procedures.

Sanitary and phytosanitary (SPS) requirements are measures designed to protect humans, animals, and plants from diseases, pests, or contaminants. Goods subject to these measures are food products, live animals, products of animal origin, animal feed as well as plants and plant products. SPS procedures and checks may vary depending on the product. In most cases, a veterinary or phytosanitary certificate is required prior to importation. SPS
border procedures can also take various forms. Goods also need to be pre-notified to the relevant authorities and need to enter the EU through a designated border import post (BIP) or border control post (BCP). SPS border checks range from document inspection, to further inspections, controls and testing.

The final type of checks is related to technical regulations, standards, and conformity assessments. Similar to SPS requirements, TBT measures will vary depending on the product and the country of export. Auto manufacturers will need to comply with different regulation than companies in the chemical sector that are subject to REACH regulation or pharmaceutical firms. In order to place the product on the EU market, the manufacturer needs to attest that the product complies with all applicable EU regulation. This includes completing a conformity assessment procedure which might differ depending on the type of the product. The responsibility of complying with the EU regulation and ensuring that the product has a conformity assessment falls on the producer (although the importer can end up being liable). As such, the border is not necessarily where the checks take place.

The way these three types of procedures and checks are applied in practice will depend on the type of border (land, sea or air) and the relationship the EU has with the trading partner. While various trade agreements do not remove the need for border procedures and formalities, they can help with the administrative burden.

2. Purpose of the report

The project aims to provide background information on different procedures and checks currently applicable to goods imported into the EU via different borders. The report will form part of the Culture, Tourism, Europe and External Affairs (CTEEA) Committee’s scrutiny of the EU-UK future relationship negotiations.

Several different types of formalities and checks occur when products enter the EU. Following the end of the Transition Period, these formalities and check will also apply to goods coming from the UK. The UK, on the other hand, will apply its own procedures to goods coming from EU member states. To understand this aspect of the future relationship as well as the impact on businesses, it is important to analyse the various border processes and their purpose.

3. Introduction

The report starts with a short introduction of the three types of formalities and related checks. This sets the context, defines terms and provides background. It is important to remember that checks are secondary to various requirements and formalities. While checks may or may not occur (only a small percentage of goods are subject to certain types of checks), the formalities still need to be completed. As such, while the report
covers border-related checks it also mentions different formalities and procedures, even if only a small percentage of imports are checked.

The report also introduces three different types of borders: land, sea and air borders. It talks about the specific constraints of each type. In addition, it briefly explains the infrastructure needed for each type of border crossing.

The report continues with case studies covering several EU borders. Each case study explains the type of trade relationship the EU has with the given trading partner and how that relationship impacts procedures at the borders.

4. General border procedures

In broad, general terms, border procedures and checks could be divided into three main groups, with each of them serving a different purpose:

1) Safety and security procedures and anti-smuggling
2) Customs clearance
3) Standards and regulatory procedures (which includes sanitary and phytosanitary procedures as well as procedures resulting from technical barriers to trade)

3a. Safety and security processes and anti-smuggling procedures

Before non-EU goods arrive at the external EU border, a pre-notification needs to be submitted to the first place of entry into the customs territory of the EU. Pre-notification is a form of advanced safety and security information about the imported good which is used for risk analysis and screening. These declarations have been introduced as mandatory in the EU in response to increasing concerns regarding the threat of terrorism and the safety of international supply chains. Similar requirements exist in other countries.

Pre-notifications are made electronically as an entry summary declaration submitted to the EU Member States’ Import Control Systems (ICS). When an entry summary declaration is submitted, a Movement Reference Number (MRN) is issued. Once the goods arrive in the EU, the MRN is entered via a customs declaration into the relevant national customs IT system. In the UK, it is currently the Customs Handling of Import & Export Freight system (CHIEF). A new IT system called Customs Decisions System (CDS) is gradually replacing CHIEF.

Entry summary declarations require about half of the number of data fields on the customs declaration. The information required is mostly about the importer and exporter, the mode of transport and the carrier. Only a high-level description of the goods or a commodity code on a 4-digit level is required.
Pre-notifications enable to assess and mitigate any potential risk before the arrival of goods. The information included in them is used to monitor the safety and security of goods crossing the EU borders and prevents any delays at the border. It is also used for anti-smuggling purposes. The information submitted as part of these declarations is run and assessed against the EU's risk criteria.

Carriers and other logistics providers are responsible for submitting a pre-notification before import. Some of this information and related paperwork (such as commercial invoice) needs to be provided by the company. After submitting the information, the carrier receives receipts/confirmations and the Movement Reference Number. The deadline for submitting entry summary declarations depends on the mode of transport. At the time of export, exit summary declarations are required. The procedure is slightly different as they are, in most cases, submitted at the same time as export declarations (on the same form). If for some reason, an export declaration is not submitted when goods leave the customs territory of the EU, an exit declaration is required.

In addition to entry summary declarations, some types of goods, such as products of animal origin, food products as well as goods considered potentially dangerous may require additional pre-notifications in a dedicated IT system.

When non-EU goods arrive at the EU border, border procedures commence. For example, if a cargo arrives in a port, an arrival notice is sent to port authorities. In the UK, a number of government departments and agencies are directly or indirectly involved in the process (Border Force, DEFRA, local councils and of course HMRC). Border Force anti-smuggling and safety checks ensure that dangerous, prohibited or counterfeited goods are not smuggled into the country. Such checks are performed on a small percentage of imported goods – determined as a mix of random checks and risk-based criteria checks. Some checks are also performed based on visual profiles. These border checks are completed separately from customs procedures and are based on different risk-assessment processes. While most vehicles pass through the checks, some can be asked for documentation or be subject to further inspections.

3b. Customs clearance

Before third-country goods can be released from the customs control at the border, they need to be customs cleared. In the EU this is done via submitting a customs declaration to the local customs system. Goods coming from non-EU countries cannot be released from the border without being customs cleared (although there are some limited exceptions). In the simplest form, a customs declaration is a dataset of information about the goods which is submitted to customs authorities.

The single administrative document (SAD) is the EU’s import and export customs declaration form. A template of the document can be found in the UCC Delegated Act (see Annex 1). The declaration is submitted electronically via a national customs IT
system and in advance of the arrival of the goods. Although in some cases a paper declaration can also be used.

Non-EU countries neighbouring with the EU such as Norway, Switzerland, Iceland, Turkey, the Republic of North Macedonia and Serbia, also used the SAD form.

There are over 50 data fields on a customs declaration. This includes a wide range of information on the traded goods and involved parties. For example:

- Commodity codes;
- Importer’s and exporter’s details;
- Agent’s details;
- Customs value;
- Origin of products;
- Where the goods were shipped from;
- Weight;
- Type of customs procedure the goods are entered into;
- Any applicable reliefs or customs duty suspensions.

The SAD document is also used for export declarations. Export declaration needs to be submitted before the goods are exported from the EU. It contains the same information as an import declaration. However, since there are no duties or taxes calculated at the time of import it is not usually subject to border checks or formalities in the EU.

Imported or exported goods need to be accompanied by appropriate paperwork. A number of documents are usually sent with each consignment:

- Customs declaration;
- Commercial invoice: a commercial invoice between a seller (exporter) and a buyer (importer) confirms the transaction which forms the basis of import. It lists the quantity of goods and value of the order. The document should include a clear description of goods, currency of the transaction, and Incoterms. A purchase order from the client, listing the ordered items, can also be included;
- Transport documentation: transport document such as air waybill, rail waybill, road waybill or bill of lading is used to certify that the goods have been received by a freight forwarder or a shipping agent. They also confirm that the goods have arrived at the port and have been loaded onto / unloaded from various modes of transport. Transport documentation indicates where the goods have been shipped from and to and allows to demonstrate compliance with direct shipment provisions needed to receive preferential tariffs. Forwarding instructions and insurance documentation covering goods during transport is also included;
• A packing list details how goods have been packed including the weight and dimensions of boxes, pallets or containers. Any markings on the packaging enabling customs authorities to identify the goods should also be included. Packing lists are not strictly required for customs purposes however, including them is part of best practice.

Other documents can also be required:

• Customs Value Declaration is used for all imports above the value of EUR 20,000. The document clarifies how the customs value has been calculated and verifies whether all of the required amounts have been added to or subtracted from the transaction value based on the customs valuation rules;
• Licenses and certificates may be needed for certain goods;
• Transit documents are required for goods under the transit procedure;
• Certificates of preferential origin are required for imports traded under a preferential tariff as a result of a free trade agreement. Non-preferential certificates of origin may also be requested, for example when anti-dumping duties are concerned;
• Movement certificates are required for goods traded under a customs union (e.g. with Turkey);
• Quota licenses are needed to import under quotas;
• A TIR (for customs transit) or ATA (for temporary importation) carnets are used as transport documentation under certain conditions.

This is not an exhaustive list and additional documentation may be required in highly regulated industries, such as pharmaceuticals or agriculture.

Goods exported from the EU are also accompanied by various documents. These documents are the same as for import purposes with the main difference being that they will be subject to review and checks at the time of import into the third country not at the time of export from the EU.

At this point, customs duties, import VAT and other taxes, such as excise duties or anti-dumping duties, are calculated. There are also occasional physical checks on imported goods. This involves, for example, checking that the goods have been correctly declared. Not all imported goods go through physical inspections. This is usually based on a mix of risk profiling and random checks. Once the goods are customs cleared a removal note is issued by the customs authorities and the goods can be released from the controlled area at the border.
3c. Sanitary and phytosanitary procedures

Sanitary and phytosanitary (SPS) requirements are measures designed to protect humans, animals, and plants from diseases, pests, or contaminants.

Goods subject to these measures are food products, live animals, products of animal origin, animal feed as well as plants and plant products. Under SPS rules, aquaculture products are classified as products of animal origin. Special measures are put in place to ensure that goods of such origin entering the EU fulfil the local requirements, health rules and other standards.

It is important to note that SPS procedures and checks may greatly vary depending on the product. Food products, live animals, products of animal or plant origin, propagating plant materials, and so forth, all need to meet specific criteria and are subject to different rules.

SPS border procedures can take various forms. In most cases, a veterinary or phytosanitary certificate is required prior to importation. Goods also need to be pre-notified to the relevant authorities. These pre-notifications are separate from the safety and security pre-notifications and are governed by different rules. In addition, special procedures apply to goods governed by SPS rules at the border. These products enter the EU via a designated border import post (BIP) or border control post (BCP)\(^1\), be it located within a maritime port or airport. In each member state, an authorised local authority deals with inspections of SPS goods\(^2\) although in practice most products enter via a restricted number of countries before redistribution within the Single Market.

SPS border checks range from document inspection, to further inspections, controls and testing. If checks requiring specialised veterinary or agronomical staff need to be conducted, they are also done at the BIP. The checks and controls introduced at the border are only a part of a wider SPS rules enforcement process within the EU.

Free trade agreements can make a substantial difference to SPS applicable measures and checks. The procedures laid down below are those the EU applies to third countries without preferential access.

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\(^2\) While DEFRA has the overall responsibility for food safety and imports of animal and food products in the UK, local County Councils carry out SPS border checks on goods imported from outside the EU.
Animals and animal products

Each consignment of animals and animal products needs to undergo veterinary checks in the country of origin, prior to entering the customs territory of the EU. Animal products entering the EU must be accompanied by a valid health certificate signed by a veterinarian registered with the appropriate authority approved by the EU. In some cases, a veterinarian must also supervise the loading of the products. There are further, product-specific requirements relating to traceability, packaging and transport of such products. The country where the goods are exported from must be approved for export of the specific product, with establishments listed and registered.

The EU retains discretionary power over authorisations to export animals and animal products. Importers and exporter of animals and animal products should first register with the relevant local authority or ministry. Authorised exporting establishments are listed per country of origin, with some countries gaining “pre-listing” authority, usually as part of a preferential trade agreement or bilateral technical agreement. Pre-listing allows for the authority in the exporting country to amend its list of abattoirs and aquaculture farms independently of the EU.

In addition, some animal products and products of animal origin require an import licence. This might either be a general import license (one that does not require an application but where conditions are clearly specified) or a specific license required for the type of animal/product imported (for example, such licenses are required for some live animals).

Animals and animal products also need to be pre-notified before entering the EU prior to arrival in the BIP. The Trade Control and Expert System (TRACES) is the EU’s IT system designed to handle SPS information. TRACES has recently been upgraded to TRACES NT. The system is used to pre-notify consignments prior to arrival at the border and input the outcomes of sanitary and phytosanitary border checks. The deadlines for pre-notifying SPS products depends on the type of product (e.g. 24h for live animals but generally before the consignment is unloaded). The responsibility for pre-notifying rests with either the company or service provider responsible for the consignment. Depending on the health risk posed by the product, particularly live animals, additional certifications may be required as part of the TRACES pre-notification.

The Common Health Entry Document (CHED) is the official document used in all EU’s member states to pre-notify the arrival of SPS goods. The form exists in different formats. For example, Common Veterinary Entry Document (CVED) is used for live
animals (pets not included), live animal products and products of animal origin intended for import to or transit, Common Entry Document (CED) is used for non-animal products for animals and CHED-PP for plants and plant products.

When entering the EU, consignments of animals and animal products must be presented at a designated port or airport BIP. Animal products accompanied by a health certificate need to be moved from the border zone to the BIP that they were previously pre-notified to. The BIP validates the pre-notified CHED document and completes other checks. Similar to customs procedures, checks at the BIP will vary. An identity check on each consignment is carried out to ascertain that the products correspond to the information given in the accompanying certificates and documents and when arriving in containers that the seal has been fixed by the competent authority in the exporting country.

If the non-EU country has been granted approval of pre-export checks, products will only require documentation check. Without this approval, EU official veterinarians will undertake physical inspections.

To assess what accompanying documentation products will require to enter the EU, three factors are considered:

(a) Health status at the place of destination: is the place of destination declared free or, or under surveillance or an eradication programme for, any of the listed non-exotic diseases?
(b) The species in question: are the animals of the consignment of species that are susceptible to or are regarded as a vector species to the non-exotic diseases for which the place of destination is declared free or under eradication or surveillance programme?
(c) Health status at the place of origin as regards non-exotic diseases. If the answer to the questions mentioned in (a) and (b) is yes, the issue is then whether the place of origin is declared free from the relevant non-exotic disease.

The importer needs to ensure that the BIP the goods are presented to is able to certify the type of imported products and warehouse them with authorised suppliers if needed. Not all BIPs can perform checks on all types of products: different BIPs are designated for entry of different types of SPS goods. In addition, BIPs have different timescales for processing consignments.

The importer is also responsible for covering BIP’s service fee. Goods leaving the BIP receive a validated Common Health Entry Document (CHED) with which they travel to

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the final destination. Further checks on the products may also be carried out at the final destination.

The EU aims to ensure a harmonised approach to physical veterinary check requirements for third-country imports. Unless otherwise specified by the European Commission via TRACES, Member States authorities decide on the frequency of physical checks. If veterinary checks in a BIP result in an unfavourable decision, the authority’s decision of rejection will be added to the CVED in the TRACES application and will trigger the Rapid Alert System for Food and Feed (RASFF) module in TRACES. In the eventuality of serious or repeated infringement at a BIP notified by the Member States through the RASFF, the EU will trigger reinforced checks. Reinforced checks require that authorities at the BIP carry out more stringent checks on 100% of consignments of products from the same origin. In particular, from the moment reinforced checks have been required via TRACES, the next ten consignments from the same origin must be impounded and a deposit lodged against inspection costs including the taking of samples and laboratory tests. Re-enforced checks are reviewed on a monthly basis by the European Commission to assess what action is required from third countries or Member States.

Plants and plant products

Importing plants and plant products into the EU is also highly regulated albeit in a different way than for animals and animal products. Phytosanitary rules apply to a wide spectrum of goods including plants for planting, fruits, vegetables, cut flowers, seeds and wood packaging.

There is no requirement for the country of import to be registered and authorised to export plants and plant products. However, importers need to be registered with the appropriate local authority to import plants and products of plant origin.

Plants and plant products listed in the Annexes of Regulation EU 2019/2072 must have a phytosanitary certificate guaranteeing inspection by the exporting country’s national plant protection authority and demonstrating that they are free from quarantine pests or within the requirements for regulated non-quarantine pests. Once the product is in the EU, a plant passport may replace the phytosanitary certificate. Currently, only five fruits do not require a phytosanitary certificate (pineapple, banana, coconut, durian and dates).

All regulated plants and plant products are prohibited from entry into the EU in passenger’s personal luggage unless accompanied by a phytosanitary certificate.

Similar to animal products, plants and plant products need to be pre-notified via the TRACES system and phytosanitary certificates must be uploaded into TRACES prior to importation.
To assess what accompanying documentation products will require to enter the EU, three factors are considered:

(a) Pest status at the place of destination: is the place of destination declared free or, or under surveillance or an eradication programme for, any of pests?
(b) The plant or plant product in question: are the products susceptible to be or are regarded as a vector species to pests for which the place of destination is declared free or under eradication or under a surveillance programme?
(c) Pest status at the place of origin. If the answer to the questions mentioned in (a) and (b) is yes, the issue is then whether the place of origin is declared free from the relevant pest.

When the plant or plant product is destined for human consumption, further laboratory checks may be conducted to ensure compliance with EC Regulation 395/2005 and its amendments that sets out maximum residue limits for pesticides and other plant protection products. A maximum residue level (MRL) is the highest level of a pesticide residue that is legally tolerated in or on food or feed. MRLs apply to 315 fresh products with EU legislation currently covering around 1100 pesticides. A general default MRL of 0.01 mg/kg applies where a pesticide is not specifically mentioned or banned for imports. Considering laboratory margins of error for ‘trace level’ MRLs, many importers de facto require residues to be 0.005mg/kg through the application of private standards.

Considering regional differences in pests and agricultural practices, some plant protection products may include molecules that are either not registered or banned in the EU. It is the responsibility of the exporter to keep abreast with regulatory changes to active substance limits and pesticides MRLs using the EU pesticide database.

The EU’s Plant Health Law determines protective measures against plant pests. The EU regularly updates the list of plants and plant producers it considers ‘high risk’ and ‘reduced risk’. High-risk plants may be banned from entry whereas ‘reduced risk’ may benefit from reduced checks upon entry into the EU.

In line with the Single Market’s regionalisation principle for SPS, an EU country may request special protection from harmful organisms with an extra layer of certifications and phytosanitary measures applied for imports.

Wood packaging and materials are plant products and therefore submitted to SPS requirements and controls. Such products must be debarked, heat-treated or fumigated and officially stamped.

As is the case with animals and animal products, Member State authorities decide on the frequency of physical checks with the EU currently moving toward stronger
uniformity. In the eventuality of serious or repeated infringement of products presenting pest symptoms, non-authorised maximum residue levels for pharmacologically active substances or contaminants requiring a RASFF notification, the EU may trigger reinforced checks. In such cases, the Commission may adopt a safeguard or emergency measure, directly included into TRACES to trigger a specific level of relevant checks that may reach 100 percent of consignments. In particular, from the moment reinforced checks have been required via TRACES, the next ten consignments from the same origin must be impounded and a deposit lodged against inspection costs including the taking of samples and laboratory tests. Re-enforced checks are reviewed on a monthly basis by the European Commission to assess what action is required from third countries or Member States.

3d. Technical barriers to trade

The final type of checks is related to technical regulations, standards, and conformity assessments. Technical barriers to trade (TBTs) are a diverse category. They can arise from:

- Standards - designed to protect the consumer or market, they are not barriers in themselves, however, complying with different standards can inadvertently create barriers;
- Regulations - may make compliance with a particular standard compulsory; and
- Testing requirements and certification procedures - demonstrate that products comply with the applicable product regulation.

Complying with the above requirements can often be more time consuming and costly than tariffs. If the product does not comply, it cannot be placed on the market.

Similar to SPS requirements, TBT measures will vary depending on the product and the country of export. Auto manufacturers will need to comply with different regulation than companies in the chemical sector that are subject to REACH regulation or pharmaceutical firms.

Testing and certification procedures must be done in a way that is recognised by the importer. The EU may agree to certain relaxations with a third country under a trade deal or bespoke arrangement. Trade agreements do not necessarily address these technical barriers on their own, but they may have associated provisions that help to reduce them.

In order to place the product on the EU market, the manufacturer needs to attest that the product complies with all applicable EU regulation. This includes completing a conformity assessment procedure which will differ depending on the type of the product. The producer is responsible for collecting all technical information related to
the product and signing a Declaration of Conformity. Depending on the product the
conformity assessment is either carried out by the manufacturer or, in some cases
specified in the legislation, requires the involvement of an external accredited
assessment body.

In addition, some products require a CE marking (Conformité Européenne or
European Conformity) to confirm that they conform with health, safety, and
environmental protection standards of the EU before being placed on the EU market.
In order to be able to affix a CE mark to the product, the producer needs to carry out
a number of tests and fulfil requirements specific to this product. As with conformity
assessment, for some products, the manufacturer will be able to self-certify based on
existing requirements\(^6\). For others, a certification by a notified, external body will be
required.

Where an external inspection is needed, for the conformity assessment or the CE
mark, the third-party country’s producer is required to certify the product via an EU
based or accredited inspection service. In some cases, the country where the good is
manufactured will have a mutual recognition of conformity assessment agreement in
place with the EU. Mutual recognition of conformity assessment allows conformity
assessment bodies in one party to test to the other party’s regulation and requirements
– a conformity assessment obtained from a domestic agency will be accepted when
the goods are imported into the EU.

The EU has Mutual Recognition agreements with Australia, Canada, Japan, New
Zealand, Switzerland, Israel (partially) and the US. These agreements do not always
cover all goods. For example, under the EU-Canada Comprehensive Economic and
Trade Agreement (‘CETA’), Canadian bodies are eligible to apply for the right to issue
certificates confirming conformity with the EU rules in a set of areas.

The responsibility of complying with the EU regulation and ensuring that the product
has a conformity assessment or a CE mark falls on the producer. As the product
cannot be placed on the market without fulfilling all the applicable requirements, other
parties along the supply chain may also verify whether the product has undergone the
applicable conformity assessment process.

As such, the border is not necessarily where the checks take place. Customs
authorities can request product documentation at the border as part of documentary
checks. There is a possibility that checks will be conducted to ensure the paperwork
is correct or in some cases to carry out physical inspections, for example when there
is a suspicion that dangerous goods are entering the market. However, border checks

\(^6\) A list of goods where third party certification is needed is available on the EU website at—
https://ec.europa.eu/growth/single-market/ce-marking/manufacturers_en
are not necessarily designed as the primary place for checking whether products comply with the regulation.

5. Types of borders

Border procedures remain the same across all EU borders. However, different types of borders will result in slightly different processes. This is mainly because each of these types of borders (land, sea and air) have different constraints.

4a. Land borders

Goods cross land borders via trucks, trailers or container carriages for rail transport and in most cases are accompanied by a carrier (the situation is slightly different for goods carried by rail). The deadline for submission of safety and security pre-notifications for transport by road is one hour prior to arrival. This means that border officials have a limited amount of time to conduct the pre-arrival risk-based assessment. Equally, the document and physical checks, if required, need to be concluded fairly quickly – the goods are accompanied and the driver waits for the checks to complete to be able to continue the journey. For that reason, there is less need for storage facilities and additional infrastructure at the border than with other types of borders.

Checks are conducted as the vehicles cross the border at a speed determined by the capacity of each border crossing. On many EU borders, drivers are often required to wait for
clearance. Waiting times differ substantially depending on the border crossing and time. Goods can also move under a transit procedure in which case checks and customs clearance procedures are not necessary. However, if there are no special lanes for goods under transit, these vehicles can be required to wait in the same line.

4b. Ports

Cargo ports can be designated as customs ports. They will differ in terms of required infrastructure depending on what type of shipping vessels they can accommodate. Port infrastructure involves infrastructure required to receive ships, ship handling facilities, machinery necessary for loading and unloading operations, storage facilities and dedicated customs areas for carrying out customs inspections and storage of duty suspended cargo.

Most ports are equipped with port community systems, an IT system that allow exchanging information between users, operators and various national authorities including customs. Port community systems allow, for example, to submit the import manifest or bill of entry and other logistics and customs documentation. These systems can communicate directly with various government systems and allow to inventory link ports. Ports that are inventory linked allow for an electronic clearance of goods.

For traders, there are additional charges for using port services – various port handling and service charges are levied.

There are three basic types of ports depending on the type of shipping vessels they can accommodate (some ports can accommodate a mix of these types):
1) Ro-ro ports are designed to accommodate roll on – roll off (ro-ro) traffic. Goods arrive and leave ro-ro ports on a moving vehicle. Drivers board the ferry or vessel and drive away on the other side. Goods are accompanied and there is a relatively short time to complete border procedures. There are several ro-ro ports in Europe, for example, Antwerp and Rotterdam as well as Dover or Felixstowe in the UK. Ro-ro crossings can be relatively short (e.g. Dover-Calais). Ro-ro ports require less infrastructure than other ports that accommodate other types of vessels. However, a dedicated customs area and additional space for carrying checks are required as well as some storage facilities.

2) Lo-lo ports are designed to accommodate lift on and lift off vessels – container vessels with cranes needed to lift the cargo on and off located on top of the vessels. In addition to the facilities mentioned above, lo-lo ports can require additional storage for goods if they are not picked up immediately after unloading as goods are often unaccompanied.

3) Container ports are designed to accommodate container vessels. The cranes used to load and unload cargo are located on the terminal. These ports move maritime containers and container ships of various sizes depending on the available space and size of cranes. Similar to lo-lo ports, cargo moves unaccompanied. As a result, there is more time available for border procedures and checks before the goods are picked up. There is also a need for more storage facilities.

The deadlines for submitting pre-notifications for goods imported into ports are as follows:

- for container maritime cargo: minimum 24 hours before loading commences in the port of export
- for bulk maritime cargo: minimum 4 hours before arrival
- for short sea shipping: minimum 2 hours before arrival
4c. Airports

Many airports also offer services for air cargo clearance. Cargo transported by air is mainly unaccompanied parcels and containers.

Similar to ports, airports can also be equipped in airport community systems that allow exchanging information between airport authorities and other actors. Various terminal handling charges can also be applied as well as additional fees for storing the goods. In order to offer cargo clearance services, airports need additional dedicated infrastructure. This would involve a secure area to store the goods as well as facilities dedicated to inspections conducted by customs authorities. In order to receive and store certain types of perishable goods, many airports offer cold storage facilities. In addition, a dedicated pick-up space needs to be provided to allow freight forwarders to receive the cargo.
The deadlines for submitting pre-notifications for goods imported into ports are as follows:

- for short-haul flights (less than 4 hours): at least by take off
- for long-haul flights (4 hours or more): minimum 4 hours before arrival

5. Case studies

5a. Norway and Iceland (EEA countries)

Norway, as a member of the European Economic Area (EEA), participates in the EU Single Market but is not a member of the Customs Union. Together with Iceland, Lichtenstein and Switzerland, Norway forms the European Free Trade Association (EFTA), which is essentially a free trade agreement. The three EFTA states: Iceland, Liechtenstein and Norway are also members of the EEA through which they participate in the EU’s Single Market. The EEA Agreement governs the conditions of Norway’s participation in the EU Single Market in several areas including regulatory convergence. However, from a purely customs perspective, the EEA resembles an FTA.
The EEA agreement covers goods falling under Chapter 25 to 97 of the Harmonised System (article 8 of EEA\(^7\)). Goods outside these Chapters may be subject to tariffs and no preferential tariffs are available.

Pre-notification declarations are not required between Norway and the EU\(^8\). This, however, is not due to EEA but a separate bilateral agreement between Norway and the EU. Norway and the EU decided to form a joint security area and recognise each other’s risk assessment. Under this agreement, both sides remove the need for pre-notification for goods coming from the other territory. Goods coming from third countries are pre-notified only in the first country of entry and the results of risk analysis are passed to customs authorities of the other if the goods travel onwards. This exemption applies also to Switzerland. Goods moving from Norway to Switzerland via the EU, are also not required to be pre-notified.

When moving goods between Norway and Sweden a normal customs declaration needs to be submitted. Goods within the scope of the EEA agreement, subject to preferential tariffs, require proof of origin in addition to a standard customs declaration. Customs declarations are usually submitted in advance. Traders are required to stop and demonstrate that customs formalities have been completed. One of the main simplifications available on this border are the Joint Customs Offices: when the trader arrives at the Norway-Sweden border, they are able to validate an export and import declaration and confirm that they have all the necessary documentation at the same office without having to stop on both sides of the border. This allows to streamline procedures and avoid having to re-enter data. This is made possible thanks to close cooperation between Norwegian, Swedish and Finish customs, predating the latter two countries joining the EU. As a result, goods can be customs cleared at either the Norwegian or EU customs office. Like with most borders, however, there is a possibility of delays and uncertainty regarding processing times although in most cases checks are kept to a minimum.

In addition, Norway, Sweden and Finland have established a 15-kilometre control zone on both sides of the border. Norwegian customs officers may carry out controls as far as 15 kilometres in Sweden and Finland and vice versa.

\(^7\) Full text of the agreement is available here: https://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Main%20Text%20of%20the%20Agreement/EEAagreement.pdf

\(^8\) See Section 3-1-2 of the Regulations to the Act on Customs Duties and Movement of Goods (Customs Regulations) available here: https://www.toll.no/contentassets/eb096d765fd3460c9415b6a3d158aect1/tollforskriften_sist-endret-21.-januar-2019.pdf
The Norwegian customs authorities have been conducting a pilot trial programme to introduce further simplifications of border procedures at the in Orje border crossings, one of the eight crossings between Norway and Sweden. To participate in the programme a company would need to first obtain an authorisation from customs authorities. Within the pilot programme, companies submit export and import declarations electronically and obtain pre-approvals from customs authorities. When the truck passes the border, the scanner picks up the license plate numbers and there is no need for the driver to stop. However, a customs declaration still needs to be submitted to customs, and license plates still need to be scanned at the border, so the pilot does not remove the infrastructure at the border. The customs documentation is also approved by a customs officer so the pilot does not offer full automation.

Norway and Iceland’s SPS relationship to the EU is covered by Annex I of the EU-EFTA Agreement. Inspections in these countries must be carried out in accordance with programmes equivalent to those of the EU while they are to be considered as third countries for the audits and listing of exporting establishments. The EU and EFTA countries share two main bodies, a veterinary committee and a zootechnics committee to address measures affecting trade. In case of disagreement between Parties, the SPS question is considered for discussion under the EEA Joint Committee.

Under this agreement, both Norway and Iceland have carved out specific rules to facilitate trade and the movement of animals. In Iceland, the SPS provisions only apply to fish and aquaculture, meaning that animals and animal products are excluded from the agreement. Norway, on the other hand, is not to be considered a third country to the EU in the movement of pets.

The EEA EFTA countries have agreed to align their mandatory standards to those of the EU, in goods covered by the EEA Treaty. As a result, not only the standards but
also the testing regime is the same. The testing and certification bodies in these countries are overseen by accreditation bodies approved by Brussels. EFTA Surveillance Authority and the EFTA Court oversee compliance.

5b. Switzerland

Switzerland is not a member of the EEA nor the EU Customs Union. Together with Iceland, Lichtenstein and Norway, it forms the European Free Trade Association (EFTA). Its relationship with the EU is governed by a series of agreements through which it participates in certain areas of the Single Market. It is also committed to legislative equivalence and has a number of mutual recognition agreements with the EU.

Similar to Norway, Switzerland has reached an agreement with the EU which means that pre-notifications are not required⁹. Both parties formed a joint security area in terms of import risk assessment. The need for pre-notifications for goods coming from the other country has been removed. Goods coming from third countries are pre-notified only in the first country and the results of risk analysis are passed to the customs authorities of the other if the goods travel onwards.

From a customs perspective, the relationship between the EU and Switzerland operates similarly to an FTA. A customs declaration is required when moving goods between Switzerland and the EU. There is physical infrastructure at the border and goods need to be customs cleared. Certificate of origin demonstrating that the goods are eligible for a preferential tariff is required.

There are some simplifications available. For example, EU trusted traders, called the Authorised Economic Operators (AEO), can get priority passage at the Swiss border. However, Switzerland operates a stricter customs regime than the EU and due to tariff differences, controls and checks are quite strict. A high proportion of trade between the EU and Switzerland occurs under a

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⁹ More information available on Swiss Customs' website available here: https://www.ezv.admin.ch/ezv/en/home/information-companies/declaring-goods/more-security-for-the-supply-chain.html
transit procedure whereby goods move through the EU and into Switzerland with customs duties suspended and without customs clearance at the border. The goods are then customs cleared in a customs office within the country of destination (Switzerland or a third-country) rather than at the border. A transit document is verified at the border but the clearance occurs inland. While the transit procedure speeds up the process at the border, the clearance inland can still be time-consuming if checks are required. Anecdotal evidence suggests that an “in an out” clearance takes approximately 40 min while on occasions drivers are held for several hours at the Basel office if there are issues with documentation.

The EU and Switzerland share a number of bilateral agreements relating to trade in agricultural products. In 2010, a joint Veterinary Committee was set up and under which specific derogations have been settled by joint decision (part of these derogations could include not having to pass through BIPs but needs to be checked). In practice, this translates in low numbers of checks for Swiss goods.

Thanks to a mutual recognition agreement, Swiss industrial goods do not require physical checks at the border: the agreement provides a mechanism for conformity assessments issued by Swiss bodies to be recognised by the EU in certain sectors.

5c. Turkey (Customs Union with the EU)

Turkey is not in the EU’s customs union but has a separate bilateral customs union with the EU. The EU and Turkey are joined by a partial customs agreement which covers most products apart from agricultural and coal and steel products, which are traded under a preferential agreement10.

The customs union requires Turkey and the EU to apply the same external tariff for goods coming in from all third countries. The EU signs FTAs with other countries which Turkey is not a party to but has to abide by. This leads to an asymmetrical relationship where goods from the EU’s FTA partners can enter Turkey on a preferential basis but

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not the other way around. In principle, Turkey aims to replicate the EU’s trade deals but this does not necessarily happen.

Turkey has a number of border crossings with the EU, for example, Pazarkule and Ipsala on the border with Greece and Kapikule, Hamzabeyli or Dereköy with Bulgaria. Pre-notification declarations are required for goods imported from Turkey into the EU. Customs declaration needs to be submitted and border formalities and checks are applicable.

Goods moving under the customs union require a movement certificate. A movement certificate is a document that demonstrates that the traded goods fulfil the conditions of a customs union: they are manufactured in the territory of the customs union or have been entered into free circulation (duty paid). The movement certificate takes the form of an A.TR document. The A.TR certificate needs to be validated prior to the goods arriving at the border by an appropriate domestic authority based on documents showing that conditions have been met. Similar to trading under preferential origin, simplifications and self-certification can be available for some traders. For goods traded between the EU and Turkey under the preferential agreement, a standard preferential origin certificate is required. In both cases, the certificate must be accompanied by the standard supporting documentation.

No specific local simplifications are available on this border and the Turkish trusted trader programme is not currently recognised by the EU. Waiting times at the border vary. Anecdotal evidence suggests an average time of 3 to 4h wait. A proportion of traffic on this border occurs under transit and the border procedures can be minimised to a couple of minutes. However, the delays are often caused by a knock-on effect.

In the context of its accession negotiations, Turkey has been evolving towards greater harmonisation of SPS measures with the EU. The EU and Turkey opened harmonisation discussions for Food Safety, Veterinary and Phytosanitary policy in 2010. Turkey has partially aligned its legislation in this area according to Law 5996 on Veterinary Services, Plant Health, Food and Feed.

**Under the customs union with the EU Turkey is required to harmonise its technical regulations with those of the EU. However, testing and certification were only mutually recognised in 2006.**

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12 Study of the EU-Turkey Bilateral Preferential Trade Framework, Including Customs Union, and an Assessment of its possible enhancement, Final Report, 26 October 2016, BKP Development for DG Trade, European Commission
5d. Ukraine (Association Agreement)

The Deep and Comprehensive Free Trade Agreement between the EU and Ukraine has been provisionally applied since 2016.

Pre-notifications and full customs formalities are required at this border. In addition, a certificate of origin is needed for goods to be able to profit from preferential tariffs.

Anti-smuggling and customs checks are applicable which can often increase processing time at the border. In recent years, press articles suggested waiting time of up to 25h on various crossings along this border\textsuperscript{13}. However, the official website of Ukrainian customs suggests that longer waiting times are also possible\textsuperscript{14}.

![Figure 9: Screenshot from Ukrainian customs website, available here:](http://kordon.sfs.gov.ua/en/home/countries/pl/o)

Ukraine is currently in the process of modernising its customs department. In the future, this might potentially lead to more streamlined procedures at the border.

The EU-Ukraine Association Agreement recognises the principle of regionalisation, allowing each part to establish a health status for animal and plant disease at a regional level, in accordance with World Organisation for Animal Health (OIE) and International Plant Protection Convention (IPPC) standards. The agreement establishes a mechanism for equivalency that applies to a sector, sub-sector, commodities or groups of commodities, with the withdrawal of rights by the importer remaining admissible in accordance with its own regulatory framework. For products of animal origin, the EU offers conditional approval for establishments whilst the frequency of physical import checks is set out by the SPS Sub-Committee.

In practice, this means that in the case of a disease or pest outbreak in a specific region of Ukraine, exporters from other regions may continue to sell to the EU. For example, when the Ukrainian region of Vinnytsia was confronted with an outbreak of


highly pathogenic avian influenza, the rest of the country maintained its ability to export poultry products. Without recognition of regionalisation, all exports of poultry products would have been banned from entry into the EU.

There is no mutual recognition agreement between Ukraine and the EU.

5e. Canada and Japan (FTAs with the EU)

Canada and the EU have signed the Comprehensive Economic and Trade Agreement (CETA) which has been provisionally applied since 2017. CETA is a trade agreement covering a number of areas including investment and government procurement. In terms of customs duties, tariffs have been removed on almost all products from the day the agreement entered into force.

A pre-notification declaration is required when importing goods from Canada to the EU. A full customs declaration is also required. In addition, in order to import under the reduced, preferential tariffs, companies need to ensure that their products meet the rules of origin contained in the agreement.

Certification of preferential origin under CETA is done by invoice declaration. The exporter confirms that goods fulfil rules of origin by placing a statement on a commercial invoice without the need to get the document certified by any external organisation. This process, referred to as self-certification, is available under a number of EU FTAs as an alternative to the standard EUR1 certificate. In order to use this simplification, exporters need to obtain a prior authorisation. However, on top of that, CETA also introduced a new mandatory registration. Companies wishing to export to Canada under preference must first register in the Registered Exporter system.

Since the border is not a land border waiting times are governed by domestic procedures at ports and airports.

The EU and Canada have agreed to SPS equivalence under CETA, meaning that the importing party accepts the SPS measure of the exporting Party as equivalent to its own. This allows for goods to be traded without pre-clearance and lays out the reduced frequency for import checks. Both parties have agreed to specific rules on adaptation to regional conditions that recognise the concept of zoning for diseases and pests. CETA lays down a 24h rule for emergency SPS measures and outlines a specific procedure for swift technical consultations.

In practice, the rapid consultation mechanism foreseen under CETA allows for Canada to argue in favour of pre-export checks, rather than reinforced controls at the BIP, in the case of an SPS issue as granted in the case of ochratoxin A in wheat and wheat flour exports.
CETA agreement contains a mutual recognition agreement for conformity assessment for TBT measures, however, it only covers a subset of products and the recognition of Canadian testing bodies is dependent on a further process laid down in the agreement. The EU only recognises a small number of Canadian conformity assessment bodies.

![Port of Yokohama, No SOLAS trouble reported at major Japanese ports, Jul 04, 2016, JOC, available here: https://www.joc.com/no-solas-trouble-reported-major-japanese-ports_20160704.html](image)

Customs procedures under the EU-Japan agreement resemble the ones under CETA. In order to self-certify preferential origin under the EU-Japan EPA, the EU exporters also need to register in the Registered Exporter System (REX). In addition, a new certification method, certification by the importer, has been introduced under this agreement. This type of self-certification is common in the US-style FTAs but has not often been included in the EU trade agreements. This system places the full responsibility of certifying origin on the importer who also needs to obtain documentation substantiating the preferential origin claim.

The EU-Japan Economic Partnership Agreement lays down rules for SPS that are far more specific than that of CETA. With the objective of facilitating trade, the SPS rules between the EU and Japan focus on eliminating unnecessary administrative burdens and curbs the space for discriminatory practices. For instance, the agreement rules out specific import authorisations in the form of a licence or a permit.

In the area of plant health, each party recognises the concept of pest-free zones and low pest prevalence. They must ensure transparency on quarantined and other regulated pests and must immediately notify the exporter of any additional phytosanitary certificates and customs documentation. For animals and animal products, any emergency measure must be accompanied by “full explanation and supporting data” based on OIE texts.

Unlike under CETA, equivalence remains a limited concept in the EU-Japan FTA. Each party may request the opening of consultations to achieve equivalence of SPS
measures. Only where equivalence has been determined, alternative import conditions and simplified certificates may be agreed. Given how recent the entry into force of the EU-Japan EPA, such simplified measures have not yet been agreed to.

The EU's FTAs with Korea and Japan cover some standardisation and mutual recognition matters. The EU Japan FTA agreement provides for harmonisation of standards for vehicles and makes the EU UNECE car standards mandatory. It eases but does not eliminate documentary requirements in certain other areas. There is a separate mutual recognition agreement that provides a process for recognition of Japanese certification agencies. However, to date only two bodies (one in electronics and one in telecoms) have been accredited by the EU.

5f. Faroe Islands

Faroe Islands have a free trade agreement with the EU as well as a bilateral Fisheries Agreement. The FTA between the EU and the Faroe Islands covers goods of chapters 25 to 97 of the Harmonized System (excludes agriculture).

Goods traded under preferential tariffs require proof of origin and full customs border procedures are required.

The European Union and the Faroe Islands signed a Veterinary Protocol in 1999 which sets up a joint Veterinary group. The SPS subgroup has enabled decisions relating to fish health in order to facilitate trade. In particular, the Faroe Islands have acceded to the EU’s Animal Disease Notification System and set up a contingency plan for fish diseases.

5g. Australia

![Figure 11: Port of Melbourne, Lacking rail, Melbourne to be surpassed by Sydney as biggest box port, 22 August 2015, available here: https://www.seanews.com.tr/lacking-rail-melbourne-to-be-surpassed-by-sydney-as-biggest-box-port/152527/](image)

Trade between countries which do not have any free trade agreement or customs union in place, for example, Australia, occurs under the WTO rules. One of the main principles of the WTO rules is the Most Favoured Nation principle. Under this principle, countries are not allowed to discriminate between their trading partners. Most Favourite Nation tariffs are set by each country for each product. Once set, they apply to all third-party trading partners -
MFN tariffs are the base rate of customs duties applicable to imports from other countries.

Goods imported from Australia into the EU require a pre-notification and customs declarations and full customs procedures are also required. Goods can also be subject to a number of different types of checks.

The main difference when trading under the WTO rules is that no tariff preferences are granted. Imported goods are subject to the full rate of tariffs applicable to all third-party countries. As there are no preferences offered, there is no need to provide preferential origin certificates nor movement certificates.

The EU and Australia do not have an SPS Agreement but are currently negotiating provisions under ongoing trade negotiations.

The EU has a mutual recognition agreement with Australia on testing and certification. However, it only covers a subset of products and the recognition of Canadian testing bodies is dependent on a further process laid down in the agreement. Only 3 Australian testing bodies have been approved by the EU to date.
Annexe 1 – SAD document

SAD document template, UCC Delegated Act, Annex B-01

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