



The end of a customs union and what it means for aircraft owners

With the likely outcome that the UK will leave the EU with a no-deal on 31 December 2020, it can be difficult for aircraft owners to know how to prepare for a hard border between the EU and the UK.

As of the date of writing this article, there is no agreement in place with the EU which means that there is only one thing that we can be certain about – there will be two separate customs areas, the EU and the UK, Isle of Man and the Channel Islands. This means that if an aircraft is imported into the EU from the UK, in 2021 it will no longer be in 'free circulation' in the EU.

In light of the above, we are working with our Clients and are providing restructuring advice and solutions in order to ensure continuity in operations on 1 January 2021.

There are a number of options available for aircraft owners to ensure seamless operations within the two custom areas which include:

1. Dual importation as aircraft imported into the EU via the UK will no longer be in free circulation in the EU and may require full importation into the EU
2. Temporary Admission (TA)

It should however be stressed that TA only applies to private users and private business users providing the following three main requirements are met:

- i. The aircraft is registered outside the territory being visited;
- ii. the aircraft is owned outside of the territory being visited; and
- iii. the user of the aircraft needs to be resident or established outside of the territory being visited

3. Placing the aircraft onto an AOC with a commercial operator.

It should also be stressed that even if the aircraft has been imported into the EU or UK with an AOC operator, the AOC operator needs to ensure that the aircraft is in free circulation in both jurisdictions.

The above considerations are crucial with private jets costing in excess of US\$100 million. With import VAT being assessed on the customs value of the aircraft, the owner could face a considerable tax payment to the authorities if import VAT becomes payable, with the rate in the EU of approximate 20%.

Taking one step back, I would now like to discuss why it is so crucial to once again look into customs and VAT issues when these points most likely have been examined at length when the aircraft was originally purchased.

The nature of private jets is such that customs duty and VAT apply when the assets cross the borders. For those moving assets within the EU the concept of free circulation or temporary admission makes flying a private jet across borders within the EU far more simple than it otherwise might be. Once an asset is in free circulation, a private jet typically travels within the EU without any further costly imports or exports being made.

So how could the above directly affect aircraft owners in the likely case of a Brexit no-deal scenario?

The UK, Isle of Man and the Channel Islands would be outside the EU. This means that any time the plane is flown to the UK, there will be a deemed export and then an import when the jet flies back to the EU, or vice versa depending on where the aircraft is based.

In the EU, there are two taxes to consider, the customs duty and VAT. A private jet should generally attract a 2.7% customs duty rate at importation in the EU. There are however circumstances where this might not have been originally payable which could change post-Brexit. Alternatively, it might have been paid in full but as a consequence of a no-deal Brexit the owner of the jet may have to decide whether they want the jet to be considered in free circulation in the UK or in the EU.

Having said that, it is crucial for aircraft owners to query whether a VAT liability may arise under the current structure when the circumstances change due to Brexit and put a solution in place to mitigate any potential tax/customs liability.

¹This is a term referring to an aircraft's status within EU territory. It means that import taxes have been paid in the EU and goods can move between countries within the EU Customs Union without tax/duties owed when crossing borders.



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