

A close-up photograph of the European Union flag, showing the blue field with twelve yellow stars, partially overlapping a red and white flag.

ACEM position on Brexit

INTRODUCTION

Over the last decades, Europe has become a leading production base for many companies manufacturing powered-two, three and four wheeled L-category vehicles (comprising mopeds, motorcycles, tricycles and quadricycles – in this paper referred to as “motorcycles”), ranging from global players to Small and Medium Enterprises. All of these companies form part of a highly internationalised, globally integrated sector, manufacturing high-quality vehicles providing advanced mobility and leisure solutions to the European market.

The result of the EU referendum held in the UK created significant uncertainty for the European motorcycle sector.

Following a peak in 2007 at more than 2,500,000 vehicles, and progressively recovering from the impact of the subsequent crisis, altogether the European L-category vehicle market in 2017 amounted to 1,313,000 vehicles, out of which 105,000 in the UK.

Out of an overall European production close to 500,000 vehicles, nearly 20,000 are produced in the UK. Including manufacturing, upstream and downstream activities, the motorcycle sector in Europe is estimated to employ around 300,000 people, out of which over 40,000 in the UK. In terms of structure, the European motorcycle sector is characterised by a large number of companies active in vehicle, parts, components, sales, maintenance and repair – 8% of these companies are based in the UK.

ACEM, representing the motorcycle industry, would like to actively contribute to the impending discussions on the withdrawal of the UK from the EU, transitional arrangements and the future relationship between the UK and the EU.

This paper identifies and explains the topics we are facing in the wake of the withdrawal negotiations to facilitate a swift result and to re-establish a solid, dependable basis for future planning and investment. The following position paper will provide stakeholders with viewpoints on key topics linked with the withdrawal agreement, a transitional agreement and the framework for the future relationship.

As such, ACEM urges the EU and the UK to move swiftly towards negotiating a new free trade deal, given the damage to the European economy and to the automotive industry that could ensue if no deal is in place.

1. ACEM PRIORITIES FOR THE WITHDRAWAL AGREEMENT AND THE TRANSITIONAL ARRANGEMENTS

ACEM strongly supports a ‘transitional arrangement’ to act as a bridge between Brexit and the conclusion of an agreement regarding the future relationship between the EU and the UK. Any transitional agreement should adhere to the principle that the European motorcycle sector must only have to adapt to Brexit once. A scenario in which everything stays the same includes maintaining access to the Single Market and Customs Union, the prolongation of Union law to the UK and the application of existing regulatory, judiciary and enforcement instruments and structure.

With regard to the duration of the transitional arrangement, ACEM acknowledges that the EU27 have defined that 31 December 2020 should be the end date. ACEM is concerned that this 21-month transition period is too short especially as the UK Government has indicated that it intends to leave the Single Market and the Customs Union. It gives business and public administration (for example customs authorities) an extremely limited period to prepare for the final deal. It is also doubtful that the scale and the scope of the future relationship can be negotiated within such a short period. In our view, the transitional period should last until the new UK – EU relationship has been agreed and is in force.

An open question remains whether the benefits of EU trade agreements extend to the UK during the transitional phase. ACEM recognizes that it is up to the third country to decide whether preferential market access is granted to the UK and if the cumulation of EU and UK content continues to be recognised. Due to the high degree of integration between the EU and the UK an extension would be highly supported by ACEM.

2. ACEM PRIORITIES FOR THE FRAMEWORK FOR THE FUTURE RELATIONSHIP

The EU applies import tariffs of 6% on motorcycles and 3.7% on parts and components. When the UK leaves the EU, it will no longer be a member of the EU Single Market, which will cause additional costs for investors and exporters – independently of the setup of the future EU / UK relationship. Without an agreement on the future relationship, there is a risk that tariffs could be introduced between the EU and the UK. In addition, the withdrawal of the UK from the EU requires the creation of a customs border imposing formal import and export procedures in order to access each other’s market. Customs procedures will add significant cost to operations and endanger the just-in-time production systems employed by ACEM members.

ACEM favours a simple model for the future relationship – without any tariffs or additional administrative burden. The future relationship should in a best-case scenario provide for full and unrestricted access to the EU Single Market and to the UK for motorcycles and related products.

In our view, a Customs Union between the UK and the EU and UK membership in the EU Single Market would provide the best conditions for the highly integrated European motorcycle industry. Such an arrangement would avoid the imposition of tariffs, the avoidance of rules of origin checks and maintain the smooth flow of goods across the EU-UK border. This would also prevent SMEs in the supply chain from facing the cost and complexity of dealing with import and export declarations for European trade. In case this is politically not feasible, a customs union between the EU and the UK would be the second-best option.

2.1. Regulatory continuity

Regulatory continuity during the transitional period is of utmost importance for the sector. Without legal continuity there would effectively be chaos in the market place to the detriment of the consumers and business. The transitional arrangement must also ensure that certificates (including new ones) issued by EU authorities will continue to be valid in the UK during this period and vice-versa.

For what concerns vehicles, separating the UK legal and regulatory system from that of the EU, whilst ensuring maximum continuity thereof post Brexit, needs to recognise the various industry needs including but not limited to regulatory continuity and, regulatory alignment with other key ambits, appropriate lead-time, technical feasibility and technology neutrality.

Once the UK leaves the EU there will be almost complete regulatory convergence. Following Brexit, however, this regulatory proximity may reduce over time, leading to regulatory divergence between EU and UK laws due to independent legal reform in both systems. Even if regulation and laws were synchronised “by the letter”, the independent judicial systems in the EU and the UK could interpret nominally similar rules differently. Such regulatory or judicial divergence will have a negative impact on business certainty.

It is essential that the EU and the UK establish a mechanism to ensure a maximum degree of synchronisation between EU and UK provisions for future regulation, both on the legislation and jurisdiction side. Given the UK’s desire to leave the direct jurisdiction of the ECJ, we recommend that a recognised third-party mechanism, is adopted to ensure regulatory enforcement.

2.1.1. Type approval

On type approval ACEM supports the following specific provisions:

In the context of the Brexit negotiations the UK and the EU should work towards finding the less disruptive solutions for the industry. Both parts are called to agree on a long transition period within which e11 approvals granted by the UK approval authority would continue to be accepted in the EU, and all other approvals granted by a Member State would continue to remain valid in the UK.

Since the negotiations have not yet concluded on any formal agreement yet, and taking into consideration the period of time remaining before effective Brexit, ACEM would like to stress the importance of the following:

Vehicles type-approved before Brexit:

Vehicles approved by the UK approval authority before Brexit must continue to be accepted for registration within the EU after Brexit.

Equally, vehicles approved within the EU before Brexit should be accepted for registration within the UK after Brexit.

Extensions and revisions of existing type approvals must still be possible and accepted after Brexit.

To that end, as already acknowledged in the EC roadmap (2018)2236797, published on 26/04/2018, ACEM supports the establishment of a simple mechanism to allow the transfer of an existing Type Approval certificate granted by the UK approval authority to another member state without the need for new testing.

Correspondingly, the UK should ensure that as of this date EU type approvals should continue to be recognised by the UK.

In order to avoid unnecessary duplication both parties must mutually recognise reports, certificates and authorisations issued by the conformity assessment bodies of either the UK or the EU27. As legislative compatibility is a prerequisite for mutual recognition the UK needs to transpose all relevant regulation into its national law and maintain harmonisation in the future.

Post Brexit, it is essential that the EU and the UK establish a mechanism to ensure a maximum degree of synchronisation between EU and UK provisions for future regulation, both on the legislation and jurisdiction side.

For further information please see annex.

2.1.2. REACH

Chemical regulation should also seek to achieve continuity, in order to limit the economic impact on business that would come from regulatory divergence and unnecessary duplication of effort.

More specifically:

The UK should adopt and continue to apply all REACH relevant legislation in its own national law.

The UK should follow decisions on substance evaluations and subsequent authorisations or restrictions to avoid supply chain disruption and potential barriers to trade.

3. CUSTOMS

The ACEM view is that the EU and UK should remain in a Customs Union.

Both sides should implement a simplified import/export procedure for goods of free circulation enabling the exchange of goods between the EU and the UK with minimised administrative efforts for economic operators and customs authorities. By using a self-assessment scheme economic operators will further be able to exchange their goods without interruption. Furthermore, goods will be available for economic operators at all time without waiting for release response of the customs authorities.

Applying simplifications to mutually-recognised Authorised Economic Operators (AEOs) would be helpful to ACEM members but do not cover all stakeholders in the supply chain. UK customs law should remain completely aligned with that of the Union Customs Code in order to minimise the impact of withdrawal on trade over the long term. In addition, a significant reinforcement of customs capacity will be needed in order to enable authorities on both sides of the Channel to handle the inevitable and sudden massive increase in customs procedures, checks that leaving the Customs Union would imply.

In case a Customs Union is not feasible and the future EU – UK future trade relationship is a free trade agreement, the treaty should include the change of tariff heading principle for rules of origin for motorcycles.

4. LABOUR MOBILITY

With regard to the free movement of labour, the European motorcycle industry depends on flexible access to the EU28 labour market. Any employment environment post Brexit should include the following characteristics:

Complete access of current non-UK workers and employees legally resident in the UK to the UK job market needs to be ensured. In order to prevent a sudden exodus of EU workers, this certainty needs to be established as soon as possible.

Any post-Brexit situation should guarantee unfettered access to the skills and talent market in the EU and internationally via the free and unbureaucratic mobility of labour.

UK employees need free and unbureaucratic access to subsidiary or company related sites in the EU and other countries for business trips, training and secondments. The new UK-EU relationship thus needs to ensure lenient residential rights for UK citizens in EU and third countries.

On the other hand, the full access of current UK workers and employees legally resident in the EU to the EU job market needs to be ensured.

ANNEX

ACEM feedback on the roadmap for a regulation complementing EU type-approval legislation with regard to the UK withdrawal from the EU (Brexit preparedness)

ACEM welcomes the initiative of the Commission to bring forward legislation that gives relief to those manufacturers that are currently holders of e11 type approvals or using e11 type-approved parts, systems or components. Currently, the vehicle manufacturers represented within ACEM, either directly or indirectly through its national association's member MCIA (the motorcycle industry association in the UK), hold the vast majority of the 200 Euro 4 e11 type-approvals. These are held by UK companies, e.g. Triumph, but also by many non-UK manufacturers.

ACEM would hereby like to draw the European Commission's attention to the seasonal nature of the motorcycle market which means that manufacturers will hold maximum stock levels immediately prior to the main selling season starting in early spring. The timescale for legislation allows almost no time to purge stocks of motorcycles tied to e11 COCs, meaning that stock valued in €millions could be denied access to the market. MCIA conservatively estimates stock holding to be around €0.6 billion in March 2019. It is therefore of utmost importance that a proposal for a Council and European Parliament Regulation would be published as soon as possible, and of course adopted soon thereafter.

Nevertheless, due to the clear eventuality that some vehicles with e11 COCs would remain in stock at the time of the Brexit cut-off date, ACEM request that the regulation will also contain a provision to allow that vehicles whose COC was lawfully issued on basis of a UK type approval before the Brexit withdrawal date, can be continued to be registered and placed on the market after the withdrawal date until they naturally expire, e.g. due to new requirements that are mandated for new vehicles. This would create a level playing field between manufacturers holding a United Kingdom type approval and those already holding EU-27 approvals. According to 168/2013, Euro 4 approvals for L-category vehicles remain valid until 31.12.2020 as no new technical requirements come in until 01.01.2021. ACEM also refers to the general principle in the [TF50 EC position paper](#) that guarantees free circulation on both UK and EU27 market for vehicles, placed on the EU28 market prior to the withdrawal date.

Regarding parts, systems and components fitted to vehicles at the time of manufacturing or made available as spare parts, some have been type-approved by the UK Type-Approval authority. These are used by many manufacturers, not only on or for e11 type-approved vehicles. Accordingly, ACEM requests that the solution which could be proposed by the EC for vehicles would also apply to e11 parts, systems and components.

Furthermore, clarification is needed as to the validity of e11 approvals for already registered vehicles, as VCA will not be entitled to employ activities on conformity of production and re-calls of products not in conformity with safety or environmental requirements.

ACEM also calls on the European Commission to recognise that Brexit is an unprecedented matter and to use all possible means that will expedite the situation that has the potential to bring undue financial stress on manufacturers that are innocently caught in this situation.

UK currently being the 4th biggest motorcycle market in the EU, ACEM also calls on the European Commission to make sure that a similar back-up solution will be offered vice versa, which will guarantee acceptance of vehicles with an EU-27 approval, which will need to be registered in the UK after the withdrawal date.

About ACEM

The European Association of Motorcycle Manufacturers (ACEM) represents manufacturers of mopeds, motorcycles, three-wheelers and quadricycles (L-category vehicles) in Europe.

ACEM members include 17 manufacturing companies: BMW Motorrad, Bombardier Recreational Products (BRP), Ducati Motor holding, Harley-Davidson, Honda, Kawasaki, KTM, KYMCO, MV Agusta, Peugeot Scooters, Piaggio, Polaris Industries, Renault, Royal Enfield, Suzuki, Triumph Motorcycles and Yamaha.

ACEM also represents 17 motorcycle industry associations in 14 different European countries. About 300,000 jobs depend on the L-category industry in Europe. There are about 35.3 million motorcycles and scooters on Europe's roads (2015 figures).

To find out more about ACEM please visit www.acem.eu