

Customs Flash

Brexit: Recent developments

Background

In the last few weeks both the UK Government and the European Union (EU) have issued papers related to the future Customs agreement between the UK and the EU after the UK leaves the EU. The two papers have approached the topic quite differently, with the UK focusing on future trading arrangements with the EU, whereas the EU is focusing on the days immediately surrounding the UK's withdrawal and has not, as yet, commented on the UK's paper.

The UK Government paper, [Future customs arrangements - a future partnership paper](#), has set out a vision based on three strategic objectives:

- Ensuring UK-EU trade is as frictionless as possible;
- Avoiding a 'hard border' between Ireland and Northern Ireland; and
- Establishing an independent international trade policy.

The UK has developed two approaches to meet these objectives:

1. A highly streamlined Customs arrangement (similar to the EU Customs Union).

Under this approach the UK will seek to continue with some of the agreements and processes currently in place, implement new unilateral trade agreements, and use technology-based solutions to comply with Customs procedures.

2. A new Customs partnership with the EU (outside of the EU Customs Union).

The UK will seek to implement a borderless Customs frontier with the EU whereby there would be a negotiated waiver from the requirement to present import and export declarations for goods moving across the border.

The EU's paper, [Customs related matters needed for an orderly withdrawal of the UK from the Union](#), could be considered as being more technical, and is focused on the

treatment of goods around the date of the UK's withdrawal from the EU in so far as the goods:

- Are currently in the EU or the UK and have a Customs status; i.e., Union or non-Union;
- Are currently being held under a special Customs procedure such as temporary storage, inward processing, customs warehousing, etc;
- Are en route to the EU/UK;
- Are being shipped between the EU/UK;
- Are being exported outside of the EU/UK.

Achieving the UK's strategy

It is likely that the UK's plan to achieve a highly streamlined Customs arrangement will be based on a number of existing ideas including self-assessment, Intrastat-type Customs declarations and use of technology. This approach will require a high level of maturity within organisations related to Customs processes as well as a robust technology infrastructure. This approach will also require that HMRC is able to deploy its new Customs Declaration Service (CDS) in line with the UK's withdrawal from the EU.

The approach may also require that the UK implements Authorised Economic Operator (AEO) in line with the current EU approach and that this is subject to a mutual recognition agreement. It is also contingent on companies applying for AEO in line with business needs and HMRC having the resource and capability to approve AEO applications in a timely basis.

Perhaps the biggest obstacle to achieving the strategy will be obtaining the agreement of the EU, which may view the current proposal as favouring UK over EU interests.

The UK Government plans to provide additional information on its Customs strategy when it publishes a Customs Bill in the autumn.

The focus of the EU

Referring to EU legislation and the Court of Justice of the European Union, the EU's paper is more focused on the technical aspects of goods rather than setting out a vision for the future. The EU is looking to agree the Customs treatment of certain goods around the date of the UK's withdrawal from the EU. The EU is also looking to agree a method for cooperation in respect of Customs matters that relate to facts established prior to the withdrawal date. Customs aspects covered by the EU include:

- Customs debt
- Export controls and dual-use items
- Origin and preferential trade
- Transit
- Exchange of information.

Next steps

It is expected that, based on communication from the European Commission, a meaningful discussion on how to structure a future Customs arrangement can only commence when there is sufficient progress on the terms under which the UK can withdrawal from the EU. This casts some doubt that the content of the UK's Customs paper can realistically be agreed before the UK leaves the EU at the end of March 2019. It is anticipated that the UK Government's Customs Bill will bring new insights on its suggested Customs partnership with the EU pending progress on the negotiations on the terms under which the UK will exit the EU.

Although there remains uncertainty regarding the UK's future trading arrangements, companies should continue to act now to:

- Consider and plan for the cost and logistical infrastructure requirements of a least change and largest change Brexit;
- Evaluate the current internal Customs maturity level and technological capability;
- Map out a roadmap to achieve AEO status and build competency in respect of Customs and global trade.

We will continue to keep you informed of developments but should you wish some insight into the above, then please get in touch with your local Deloitte Global Trade Advisory specialists, or one of the below contacts.

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