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# Prospects for a post-Brexit customs cooperation

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## Abstract

As the negotiations on Brexit's terms have started, both the United Kingdom and the European Union have published position papers on the parties' respective visions of the United Kingdom's withdrawal from the Customs Union. The United Kingdom is focused mainly on scenarios available for long-term cooperation, whereas the European Union is more concerned with a smooth transition during the withdrawal period.

## Introduction

Ever since the Brexit referendum, held on 23 June 2016, there has been much speculation on Brexit's implications for various economic topics. One issue is international trade and how the relationship between the European Union and the United Kingdom will evolve in this regard.

On 15 August 2017, the UK government published a paper<sup>1</sup> highlighting its vision for the future relationship with the European Union in customs matters, which was followed by a White Paper published on 9 October 2017.<sup>2</sup> The European Union also published a position paper<sup>3</sup> on its standpoint on the topic on 21 September 2017.

## UK position

The United Kingdom envisages two different models for long-term cooperation with the European Union concerning customs. At the same time, the United Kingdom also acknowledges that an interim implementation period will be required for a smooth transition; accordingly, the UK government has developed contingency measures in the event that the negotiations with the European Union cannot be concluded by the withdrawal date.

## Highly streamlined customs arrangement

Once the United Kingdom has left the EU Customs Union, it will trade with the European Union as a third country. Consequently, domestic customs processes will need to be extended to all UK trade with EU Member States. Because the European Union is its largest trading partner, the United Kingdom will have to introduce customs procedures that will promote the free flow of trade while maintaining revenues from duties and monitoring the movement of goods. To reach this goal, the United Kingdom has a few proposals in mind.

First, the United Kingdom would intend to remove obstacles for goods to cross borders. For example, there could be an agreement on the waiver of the requirement for declarations to be filed upon entry and exit. The United Kingdom

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<sup>1</sup> See [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/637748/Future\\_customs\\_arrangements\\_-\\_a\\_future\\_partnership\\_paper.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/637748/Future_customs_arrangements_-_a_future_partnership_paper.pdf). See also [https://online.ibfd.org/highlight/data/tns/docs/html/tns\\_2017-08-16\\_uk\\_1.html](https://online.ibfd.org/highlight/data/tns/docs/html/tns_2017-08-16_uk_1.html).

<sup>2</sup> See [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/650455/customs\\_bill\\_white\\_paper\\_print.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/650455/customs_bill_white_paper_print.pdf). See also [https://online.ibfd.org/data/tns/docs/html/tns\\_2017-10-11\\_uk\\_1.html](https://online.ibfd.org/data/tns/docs/html/tns_2017-10-11_uk_1.html).

<sup>3</sup> See <https://ec.europa.eu/commission/sites/beta-political/files/customs.pdf>. See also [https://online.ibfd.org/data/tns/docs/html/tns\\_2017-10-10\\_e2\\_1.html](https://online.ibfd.org/data/tns/docs/html/tns_2017-10-10_e2_1.html).

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could also join an agreement similar to the Common Transit Convention,<sup>4</sup> which would mean that import and export declarations do not need to be completed each time goods cross a border.

Second, the United Kingdom would like to reduce the time spent on fulfilling administrative formalities like the obligation to mutually recognize authorized economic operators. It would also like to implement IT solutions that would enable the processing of customs information before the goods arrive at the border, so that there is no undue delay when they do arrive.

Third, by way of customs cooperation projects, the United Kingdom would aim to protect state revenues and mitigate security risks.

Fourth, the United Kingdom would be open to introducing unilateral measures to reduce compliance costs. These measures could include self-assessment of customs duties, automatization of certain customs processes or improvement of existing simplified procedures.

## **New customs partnership with the European Union**

Alternatively, the United Kingdom could imagine an innovative and unique cooperation with the European Union that would be a middle ground between third-country status and a customs union. This would require the United Kingdom to apply the same customs tariffs and the same rules of origin as the European Union concerning goods transported through the United Kingdom and destined for the European Union. At the same time, the United Kingdom would be able to apply its own customs rules to other trade arrangements with other third countries.

## **Interim implementation period**

Because the majority of customs-related topics are regulated at the level of the Customs Union, the United Kingdom will need to create its own customs regime for the period following the withdrawal. To mitigate the costs and administrative burdens of shifting between regimes for traders, the United Kingdom intends to adopt interim measures.

Some of these measures can be unilaterally implemented. This involves maintaining existing customs treatment and remedy measures (such as the special customs status granted under EU law) after the withdrawal date. Other measures would require an agreement with the European Union. This could mean, for example, a transitional customs union, under which no customs processes or duties would be introduced for EU-UK trade as long as external tariffs continue to be shared.

## **Contingency plans**

If an agreement with the European Union is not reached by the withdrawal date, the United Kingdom will have a contingency plan. Customs-related matters would be regulated by the United Kingdom. Significantly, trade with the

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<sup>4</sup> See [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01987A0813\(01\)-20160501&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01987A0813(01)-20160501&from=EN).

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European Union would be treated the same way as trade with any other third country. The contingency rules are to ensure that the smooth flow of trade is not disrupted.

Consignments entering on vehicles going through roll-on roll-off ports<sup>5</sup> may need to be pre-notified to the customs authority, or the carrier may be required to file a pre-arrival safety and security declaration. Technological solutions could save time and resources.

Additionally, goods transported in personal baggage and small parcels will have to be carefully regulated. Since the United Kingdom considers the free movement of travellers important, no significant changes to the current rules are contemplated. In the case of small parcels, however, the United Kingdom would like to protect its own businesses without overburdening UK parcel operators with the administration of duties. Again, technological solutions may be the best way forward.

## EU position

In contrast to the UK papers, the EU paper focuses more on short-term concerns. Assuming that the United Kingdom will have the status of a third country after the withdrawal, it describes transitional arrangements for the United Kingdom's exit from the Customs Union, which are based on the general principle that the customs treatment that applied to the goods *before* the date of the withdrawal should be followed.

For example, if a transaction involving goods is qualified as Union goods before the withdrawal date and the transportation of these goods between the United Kingdom and other EU Member States commenced before this date, it is to be regarded as an intra-Community transaction for customs, VAT and excise duty purposes. Similarly, cooperative procedures (such as information exchange, investigative actions and verification of proofs of origin) that were initiated before the withdrawal date should be subject to the relevant EU regulations after the effective date of the withdrawal.

The European Union also urges that the withdrawal agreement should contain provisions relating to the possibility of similar cooperative procedures *after* the withdrawal date.

Finally, the European Union is of the view that the withdrawal agreement between the parties should contain a provision on the settlement of customs duties collected before the withdrawal date. This is not surprising, as customs duties are traditionally regarded as EU revenue.

## Conclusion

It would seem that the United Kingdom and the European Union approach the same subject from different angles. Both parties evidently consider a close cooperation in the future to be highly important. Nevertheless, the *form* of this cooperation remains unresolved.

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<sup>5</sup> Points where ships or trains carrying loaded vehicles enter the territory of a country.