An IEA Briefing

UNDER CONTROL

What HMRC can do to prepare and optimise customs processes for all outcomes

April 2018

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About iTCU

The International Trade and Competition Unit (iTCU) at the IEA is dedicated to promoting open trade, competitive markets and property rights, which are the fundamental building blocks of wealth creation and growth.

iTCU works on initiatives around the world which will improve these building blocks in all nations.

We engage at four different levels. First, what countries can do unilaterally to improve their own trade and regulatory systems to promote competition, and remove trade barriers. Second, how bilateral trade agreements can achieve these results. Third, we examine what regional and platform agreements can do to promote trade and competitive regulatory frameworks. And finally, how the global trading system can deliver these goals.

While some of our work is theoretical, such as our work to measure anti-competitive market distortions, iTCU is also acting as a resource on all aspects of the UK leaving the EU and developing an independent trade policy.

About ACITA

The Automated Customs and International Trade Association Ltd, ACITA, is a trade association formed in the early 1990's and is incorporated as a private company limited by guarantee. It is a self-help and non profit-making group.

Members of the Association include importers and exporters from most business sectors, including large multi-national companies, small and medium-sized enterprises (SME's), sole traders, specialist consultants, freight forwarders, software houses and other service providers.

ACITA holds regular bilateral meetings with HM Revenue & Customs Directorate as well as being represented on many multilateral consultative committees.

Key Recommendations

- Implement self-assessment for customs declarations, to reduce the burden of additional returns on HMRC system and resources.
- Train and support businesses to be able to achieve authorisations for full extent of available facilitations/simplification.
- Use private sector to carry out training and audits to alleviate resourcing pressures on HMRC.
- Relax or repeal requirements for comprehensive customs guarantees, to alleviate burden on businesses.
- Extend postponed accounting for all imports, to negate cash flow impact from ending acquisition VAT and boost competitiveness of supply chains importing from rest of world.

Introduction

The debate surrounding the United Kingdom leaving the European Union has focussed on negotiations between the parties. But there are many important actions that the UK government can take in preparation for leaving the EU customs union and pursuing an independent trade policy. These include looking at reducing tariffs, reforming agriculture and fisheries policy and exploring regulatory improvements.

The Chancellor made £3 billion available to departments for Brexit preparations in the November 2017 Budget. The Taxation (Cross-border Trade) Bill ("TCT Bill"), which will provide a legislative framework for the UK's independent trade and customs arrangements, is progressing through Parliament.

The IEA International Trade and Competition Unit and customs and trade experts at ACITA have formulated recommendations focussed on customs processes for HMRC and the Department for Exiting the European Union, as they prepare for the United Kingdom leaving the EU. The actions highlighted below should be priorities for the spending and powers under the TCT Bill.

Scope of recommendations

Customs-related

The recommendations are aimed at customs matters controlled by HMRC. We have not included other border activities in connection with regulations and standards.

Unilateral

The focus at this stage is on measures that are unilaterally available to UK government, whilst being mindful of frameworks that will need to be respected for international cooperation with the EU and others. Nonetheless, the items listed are intended to be applicable to the generality of trade between the UK and the EU.

These recommendations deliberately do not include matters for specific negotiation with the EU, such as transitional arrangements and cooperation with other authorities. Recommendations for bilateral arrangements with the EU and partner authorities in key member states (such as Ireland, France, Netherlands, Belgium and Germany) will follow in a later briefing.

Not negotiation-dependent

The recommendations are supportive of the trade objectives outlined in the Building our Industrial Strategy Green Paper published in January 2017, and of general benefit to UK trade, irrespective of outcome of negotiations with EU.

They will constitute planning for a full spectrum of scenarios that could be in play by March 2019—from no deal at all, to a full free trade and customs agreement, by way of interim measures and incremental mutual recognition agreements. They will also be useful facilitations applicable to trade whatever is or is not agreed with the EU.

Recommendations

The recommendations are divided into two broad categories: A) Immediate actions, i.e. those that can be commenced and implemented in a short timeframe before the date of withdrawal from the EU; and B) Longer-term deliverables, i.e. those that should be commenced, but due to legal and operational constraints will be unlikely to be implemented by the withdrawal date.

Where relevant we have highlighted relevant UK legislation, or draft legislation, that can be used to deliver the recommendation. We have provided a glossary explaining the technical terms and acronyms in the Appendix.

A. IMMEDIATE ACTIONS

1. Transparency and communication

New entrants and smaller businesses can be deterred from international trade by perceived bureaucracy; established traders face uncertainty as to the steps being taken by HMRC to deal with new customs borders with the EU. Improving communications, and providing information and training will allow traders to invest with certainty in their own readiness activities. Government should therefore:

a. Establish communications channels with businesses to update and support them on changes to systems and processes and consult with them and receive input. Consider using existing Business Tax Account system for large-scale communications with small and medium sized businesses.

b. Publicise actions that are being taken to support preparedness, to supplant/re-direct alarmist media commentary currently filling information vacuum.

c. Promote uptake of CFSP, such that use of the expedited procedures under it become standard for all businesses. This could include:

educating businesses on the benefits of periodic reporting, increased management of compliance and building relationships with local control officers;

working with customs brokers and users to expand the offering of brokerage services to ensure competitive, cost effective solutions are available.

Relevant legislation: Schedules 1 and 2 TCT Bill and regulations/notices under them

2. Build resource within HMRC

Many businesses' international trade experience is within the EU customs union only. Businesses already engaged in trade outside the EU customs union report delays in processing applications for important facilitations and responses to technical enquiries. To prepare for exit from the EU customs union, and in anticipation of efficient, less distorted global trade flows both types of business will need extensive support that HMRC may not be best placed to provide in-house. To address this HMRC should:

a. Focus on providing IT support skills training for businesses who will be involved in customs compliance for the first time.

b. Consider engaging external professional services firms to carry out audits and training.

3. Self-Assessment

Re-establishing customs borders with EU member states and liberalising trade with global partners will lead to a huge increase in the number of customs declarations to HMRC systems. Empowering traders to take control of their compliance will reduce the number of declarations to HMRC systems. This will lower the risk of instability and outages in the system and reduce compliance burdens for businesses. HMRC should therefore:

a. Roll out self-assessment in full production using current CFSP systems as basis.

b. Encourage as many businesses as possible to move to submission of declarations by self-assessment to free up capacity in the CDS IT system and HMRC resources to support compliance for smaller businesses who are less familiar with customs operations.

Relevant legislation: Schedule 1 TCT Bill and regulations/notices under it

4. Authorised Economic Operator

The UK currently has a low uptake of this important trusted trader scheme, which can materially reduce border frictions. Wider use of this programme will give confidence to businesses of all sizes to continue low friction trade with the EU and engage fully with opportunities of a new global trade policy. HMRC should therefore:

a. Improve facilitation of Authorised Economic Operator (AEO) accreditation, including by recognising externally provided training towards capability assessment and prioritising operators who already hold Customs Freight Simplified Procedures (CFSP) accreditation.

b. Automatically continue AEO accreditation for operators who are already AEOs under the EU's scheme.

c. Address accreditation issues of businesses who trade in UK and EU only, and therefore have no record of compliance. In particular, we would urge Government to ensure that the criteria and conditions to be applied should take account of the difficulties of businesses that presently trade only with the EU in demonstrating a record of compliance to date.

d. Provide a clear vision as to what benefits AEO will offer, and what it will expect of traders in return for these benefits.

Relevant legislation: Regulations to be made under clause 22 of the TCT Bill

5. Ports and airports

An increase in the activities at ports and airports, as more goods are subject to customs controls, will require space and resource. Investment in infrastructure at the border and deployment of agile resources at inland locations and remotely will both be required. The latter is essential for the above recommendations on CFSP and self-assessment, and is consistent with the direction of travel of best practice in customs operation. To address this Government should:

a. Ensure ports and airports have physical infrastructure and systems to handle reintroduction/ expansion of customs controls and other border operations.

b. Enable maximum physical inspections to be carried out away from the border at business / trader's premises.

Relevant legislation: clauses 46 and 47 Finance (No. 2) Bill

6. Customs Procedures

There will be a huge increase in the number of imports and exports subject to customs procedures, as a result both of leaving the EU customs union and of expected future trade policy. If systems are not improved and streamlined, trade costs and complexity will be a barrier for entry for smaller businesses, and a drag on competitiveness of larger operators. Improving the operation of customs procedures that are already available is a low risk approach to maintaining existing trade flows and facilitating new and increased global trade. HMRC should therefore:

a. Streamline processes to enable greater use of CFSP, through the application and approval process, and by publicising the technology requirements, for example by publishing a list of preferred suppliers of the software that supports the operation.

b. Improve uptake of existing customs procedures, such as inward and outward processing relief, by publicising and educating businesses to apply for them, and improving HMRC support in authorisation process.

c. Introduce new entry-level procedures like Inward Storage Relief to mitigate disruption to distribution networks and enable new customs operators to establish a record of compliance and familiarity with customs procedures.

d. Create a policy framework that strikes the correct balance between the need to facilitate trade against the need to protect from non-compliance.

Relevant legislation: Schedule 2 TCT Bill and regulations/notices under it

7. VAT

The abolition of acquisition VAT for imports of goods from the EU means that, as with imports from the rest of the world, VAT will be due at the point of import, which entails material cash flow disadvantage for many importers. Extending the treatment currently enjoyed by EU imports to non-EU imports will address the distortions in the VAT regime that currently disadvantage businesses that trade globally and give traders a cash flow boost. Government should therefore:

Reintroduce postponed accounting for VAT to all imports to negate cash flow disadvantage from abolition of acquisition VAT for imports from EU and improve competitiveness of businesses importing from rest of world. This will negate the cash flow disadvantage between domestic and international trade. Postponed accounting for the receipt of EU goods in the UK will improve competitiveness. Many EU member states operate postponed accounting for import VAT, as the UK did until 1984. Although this would cause a one off cash flow disadvantage for the Exchequer on introduction, we would urge the Government to balance this against the boost to business, especially small businesses.

Relevant legislation: Clause 54 TCT Bill

B. LONGER TERM DELIVERABLES

There are also a lot of larger infrastructure projects and activities with a longer timeframe than the above recommendations that the Government should be planning and preparing for. We have listed five of these below covering legal, resourcing and technology solutions:

1. Reincorporate Border Force goods functions into HMRC.

2. Integrate agencies and systems into a Single Window System.

3. Reform the Union Customs Code (UCC), for example repealing/amending aspects not supported by UK at EU level, such as first sale, royalties, drawback provisions; restore end-use transfer of liabilities and discharge. Relax or repeal requirements for comprehensive customs guarantee.

4. Invest in skills and retention of customs officials.

5. Utilise flexibility available in VAT when the UK is no longer an EU member.

Conclusion

The recommendations in this paper present practical steps that can be started now. They will require focus and resource, but such investment will bring wide benefits in terms of the Brexit process and wider trade priorities, and for large and small businesses.

Appendix glossary of terms and background information

AEO–Authorised Economic Operator:
an accreditation for traders who can demonstrate satisfactory record-keeping capacity and physical security in terms of manufacturing processes and logistical arrangements. There are two kind of AEO–customs simplification (AEOC), and security and safety (AEOS). Businesses can apply for either or both.

AEOS benefit from:
- a faster application process for customs simplifications and authorisations
- reductions or waivers of comprehensive guarantees

AEOCs can qualify for:
- a notification waiver when making an entry in a declarant's records (EIDR)
- a 70% reduction in a business's deferment account guarantee
- completing self-assessment (when implemented)

AEOS status is required to benefit from arrangements under mutual recognition agreements with third countries.

AEO accreditation is not compulsory, and at present relatively few businesses in the UK have applied for it. To date 508 UK businesses have been accepted as AEOs, compared to 5,984 in Germany, 1511 in the Netherlands and 412 in France. AEO status is a globally recognised accreditation managed by the World Customs Authority, so more businesses should be encouraged to consider applying for it to achieve the recognised tangible benefits of becoming an AEO, including self-assessment, with a view not only to future trade with EU countries but to the global trade opportunities that the government will be pursuing. This should be a priority as applications take up to six months to process and could take longer if there is a spike in applications in the run up to March 2019.

Business Tax Account:
an online service operated by HMRC allowing tax payers to view and manage their tax payments. It is aimed at the five million small and medium- sized businesses (SMEs) in the UK. It is intended to provide SMEs an easy way to find advice and information, and lets them see tax transactions across the range of business taxes.

CDS–Customs Declaration Service:
the IT system being implemented to replace the CHIEF system that is currently in operation for traders to make customs declarations.

CSFP–Customs Freight Simplified Procedures:
this procedure allows various simplifications for importers and exporters, for example electronic pre-notification of freight movements and customs control away from the border at the importers' premises. To be able to use CFSP, traders must be authorised by HMRC. This paper recommends that HMRC actively encourage businesses, especially those who are new to customs compliance to become authorised such that it becomes the default way of working for traders in the UK, minimising activity at the border whilst providing greater control for business and the authorities through periodic audits.

EIDR–Entry in Declarant's Records:
this is a process available under CFSP where, instead of an import declaration directly to HMRC, an importer can make an entry in its own records, enabling the goods to be released to a customs procedure away from the border. This can include keeping the goods at authorised business premises. The formal declaration to HMRC is made later with a Supplementary Declaration and any duty and VAT is paid through the trader's Duty Deferment Account. This process should become the standard way of making declarations and releasing goods.

Industrial Strategy:
the Government's Building our Industrial Strategy Green Paper published by the Department for Business, Innovation and Skills in January 2017. One of the key challenges set out in the Green paper is to "make the UK one of the most competitive places in the world to start or to grow a business". One of the 10 pillars that are proposed as underpinning the industrial strategy is "Encouraging trade and inward investment—government policy can help boost productivity and growth across our economy, including by increasing competition and helping to bring new

ways of doing things to the UK.” The recommendations in this briefing would be key to delivering this pillar.

Inward Storage Relief:
a new customs regime proposed by ACITA members that is designed to be accessible to smaller businesses who import and distribute goods as an entry point to using customs regimes, allowing them to build up a record of compliance and graduate to more complex arrangements. It is also more flexible that Customs Warehousing, both in terms of location, time limits and documentation. The importer would declare the goods to free circulation and pay any import duty due. The goods would then be stored at suitable authorised premises, un-opened and unused, before being exported and the duty could be reclaimed. This is a relatively simple and low risk process, because unlike the existing Inward Processing Relief regime, the duty is paid and reclaimed, rather than suspended. Inward Storage Relief is also specifically design for storage and re-export, rather than intermediate processing.

Postponed accounting:
when goods are imported from outside the EU, the default rule is that import VAT is payable by the importer at the same time that customs duty is paid, and before the goods can be released. When goods are imported from an EU member state, acquisition VAT is payable and this is accounted for in the normal course of the importer’s quarterly VAT return (this is known as “postponed accounting”. Although the applicable rates of VAT are generally the same, there is a material cash flow benefit from being able to account for the acquisition VAT that comprises input VAT in the quarterly return and claim the credit for it against any output VAT in the same period. For authorised operators there is a mechanism available for deferring payment of import VAT (the Deferred Duty Scheme). This is subject to a requirement for a bank guarantee, unless the trader is also approved for Simplified Import VAT Accounting (SIVA), which eliminates the requirement for a guarantee in respect of VAT (although it is still required against customs duties that are paid under the duty deferment account).

Given the administrative burden and approval requirements in connection with operating the Deferred Duty Scheme and SIVA, and the cash flow implications for traders of the difference between immediate, monthly and quarterly accounting for VAT this paper recommends extending postponed accounting to all imports. This will entail a one-off cash flow disadvantage to the Exchequer, but we consider that this will be more than off-set by the benefits to business, especially small business, and competitiveness, especially as against traders in EU member states where postponed accounting is already the default.

Self-Assessment:
a mechanism that allow traders and businesses to take responsibility for and perform certain formalities or controls normally undertaken by customs. It is not currently available in the UK but has been trialled and is expected to be offered to all businesses in due course. To qualify for self-assessment, businesses must be AEOC authorised, and HMRC may impose additional conditions. It will enable businesses to:

- manage and monitor their customs activities through their own business accounting, financial administration and supporting IT systems
- determine the amount of import/export duty and import VAT payable
- notify customs periodically of the amount of duty payable for the defined period – for example, monthly

eSelf-assessment by itself doesn't dispense with the need to provide a formal customs declaration for imports. The business (or their representative) will still be responsible for lodging an import/export declaration unless they have also obtained an additional authorisation for EIDR (see above).

Single Window:
a single window system is a trade facilitation concept, usually a technology solution, that brings together all authorities and agencies (for example those concerned with customs, immigration, agriculture, environment protection, marine safety) concerned with border operations in a country or territory. It allows traders to submit regulatory documents, typically customs declarations, applications for import/export permits, and supporting documents such as certificates of origin and trading invoices at a single location. This reduces frictions and saves time and costs. A number of countries have implemented single window systems, such as Japan, South Korea, Singapore and Hong Kong, and all have benefited from significant time and cost savings as well as improvements in compliance.

UCC–the Union Customs Code
UCC comprises the EU regulations concerning the rules and procedures for customs throughout the EU. It is the intention of the UK government that the UCC will be carried into UK law, with amendments necessary for it to work in domestic law. All of the recommendations for immediate priority measures in this briefing are available in accordance with the UCC.

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