

“No Deal” Fear-checkerNo 9, 5th February 2019**“Supermarkets will run out of food and people’s health will be at risk”****The claim**

If there is a no-deal Brexit, tariffs and formalities will cause chaos at ports and on the roads, [resulting in price increases and food shortages](#).

The problem

The UK imports [30%](#) of its food from the EU, an amount that will be at its peak in March due to the low availability of domestic fresh produce at that time. Much of it comes through the Calais to Dover ferry route or the Eurotunnel. As it stands, if we leave the EU without a transition period – which would hold tariffs and regulatory inspections at zero - the UK will apply import duties to food imported from the EU, importers will have to complete customs declarations, and there will be new regulatory barriers when the UK and EU are in separate regulatory systems.

Currently imports from the EU do not have to be declared for customs or checked for regulatory compliance. They also have a more advantageous treatment for VAT purposes; the VAT is accounted for in the importer’s regular VAT return rather than immediately on import (which is the case for imports from the rest of the world at present). This would change with effect from 11.01pm on the 29th of March, if a withdrawal agreement is not ratified in time, and traders who have never had to deal with these formalities would be faced with new fiscal obligations and regulatory requirements. If they cannot get to grips with the formalities and the cash flow implications, they may either cease trading with the EU or cause disruptions at the ports - as hauliers that do not have the right documentation will not be allowed on to ferries or Eurotunnel trains, or may be stopped by the authorities in the UK ports.

Because the channel ports and the tunnel have tight turnaround times, delays in processing lorries at either end can quickly cause long queues and gridlock on the roads around the ports, causing perishable food items to spoil. As these items can’t be stockpiled, it would be difficult for supermarkets to obtain enough fresh fruit and vegetables to meet demand. For meat and animal products, there is an additional barrier: in the normal course, when these products are imported from outside the Single Market they must go through a Border Inspection Post, at or near the border to be checked by a vet. At present there are minimal facilities for this at Dover and Calais, as the vast majority of trade through these ports has been intra-EU. The UK will be copying the relevant regulations into UK law through the Withdrawal Act and, in the absence of arrangements to the contrary, imports from the EU will have to go through all of these controls.

The potential solutions

In respect of customs clearance, there are many ways in which modern laws and systems have simplified and accelerated the process. Declarations are made almost entirely electronically and pre-cleared by the authority in the importing country before a consignment is shipped. IEA paper [Under Control](#), co-authored with customs trade association ACITA, describes these technical and legal simplifications. They operate under the EU's customs legislation, the Union Customs Code ("UCC") - which the UK will largely be retaining in law after Brexit - and facilitate international trade to the extent that a very small percentage of consignments from outside the customs union are inspected at EU ports. A documentary check that the goods have been declared is all that is required, and all other checks are carried out inland if the customs authorities wish to do so.

HMRC has [notified](#) businesses and advisers that it will be implementing these kinds of simplifications for traders so that the process of making declarations and passing through the ports will be as streamlined and accessible as possible. It has also confirmed that postponed accounting for VAT will apply to all imports. For regulations, in its response to concerns raised by the Northern Ireland Affairs Committee, the UK Government [confirmed](#) that: "Defra Ministers and Food Standards Agency have taken the decision that the UK will take a risk based approach to import checks. This means the UK will not impose additional border checks (of the kind it currently conducts on imports from third countries) on imports of animals (including equines), plants and their products from the EU on Day 1, as it would be disproportionate to the risk posed. This is however based on a Day 1 risk assessment that is time limited and could change." This means that the veterinary and other checks that can cause significant delays to food imports will not be imposed on goods from the EU in the event of no deal. Of course this does not mean that the authorities of the EU member states importing goods from the UK will do the same, so there would still be delays and frictions on the UK's exports (although the volume of such exports can be expected to decline significantly if there is no deal and the EU's tariffs apply to food and agricultural imports from the UK, so it is questionable how much impact these checks would have on traffic flows at the ports).

In any event, port operators and Eurotunnel have indicated that they expect to be ready for all contingencies, and the French Prime Minister has [stated](#) that France will have border officials and infrastructure in place to keep trade flowing through Calais. Dutch authorities and ports have made similar claims, and competition in the sector is such that they are all incentivised to make preparations - or lose business to better prepared rivals.

Aside from the formalities, the fiscal impact of introducing tariffs on imports from the EU is also in the hands of the UK government. Food products attract high tariffs under the Common External Tariff ("CET"), so applying this to imports from the EU would cause price rises for consumers. Although the UK has indicated that it will retain the CET as its baseline tariff at the WTO, it would still be open to HM Treasury to apply lower or no tariffs at all, as long as this was applied to all countries without discrimination. The Government has not made its position on this clear, but should be seriously considering eliminating tariffs, at least on food products, if no deal is agreed with the EU. Aside from averting the new burden on imports from the EU, this would improve competition and likely lead to better value for consumers. It could also be a temporary measure to smooth the exit process for a period, with the possibility to reimpose tariffs at a later date if considered beneficial, for example to give greater leverage in trade negotiations.

Conclusion

Legal and technical measures are available and being put into place in the UK and member states to keep trade flowing. However, even with implementation by the UK and neighbouring member state authorities of the available facilitations, there is a serious risk that companies and the intermediaries that support international trade, like hauliers and customs brokers, will not be ready and will present with incorrect documentation, causing queues and delays. Many of the companies who have made the most recent claims already import from around the world and should have been well placed, after more than two years notice, to make necessary adjustments. Smaller businesses and intermediaries will need more support, and all affected traders need certainty from government as to what the legal parameters will be.

Intensive presence of Border Force, HMRC and customs brokers at or near Channel ports should keep traffic moving, prioritising flow over compliance in the immediate term to ensure that shelves are stocked.

Victoria Hewson

Senior Counsel, International Trade and Competition Unit