

UK Government Publishes Papers on Future Trade Relationships and on Customs Bill

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Overview

Publication of the two papers fleshes out the UK's negotiating aims in preparation for a Trade Bill and a Customs Bill but highlights the many complexities that lie ahead. The papers also discuss the legislation needed to bring the changes into effect. The Government links the papers by three main negotiating objectives: trade should remain as frictionless as possible, there should be no hard border between Northern Ireland and Ireland and the UK will establish an independent international trade policy. The proposals on trade are less detailed; perhaps inevitably given that they hinge on the outcome of UK/EU negotiations. The customs white paper, a precursor to a Customs Bill, considers some of the practical consequences of both a negotiated settlement with the EU and where there is no agreement. Stakeholders are asked to comment on some of the proposals in the papers as the UK/EU negotiating rounds continue.

The White Paper on future UK trade policy

The foreword to the trade White Paper describes it as “an early step” in establishing a trade policy for the UK after it has exited the EU and after the “time-limited implementation period” (or transitional period) which it is aiming to agree with the EU is over. To this extent, it is supportive of a liberal system of international free trade in which the UK would aim to play a role underpinned by its Industrial Strategy, whilst also

ensuring that any free trade agreements are made in a way that is “transparent and inclusive” (with an appropriate level of Parliamentary involvement and consultation with all regions of the UK).

The proposals are built around five key principles: transparent and inclusive trade; supporting a rule-based global trading environment; boosting the UK's trade relationships; supporting developing countries to reduce poverty and developing a framework for trade remedies and disputes. These sections confirm the Government's negotiating aims.

- There is a commitment to continuing free trade with Europe and elsewhere whilst also upholding a “high level of protection for intellectual property, consumers, the environment and employees”. During any implementation period, it is suggested that the UK and EU would retain access to one another's markets on current terms. However, the UK Government wishes to negotiate with countries outside the EU during this phase (although arrangements which were inconsistent with the terms of the implementation period would not be brought into effect until this had ended).

- The Government intends that the UK will “regain its independent seat at the WTO” once it has left the EU. The paper refers to earlier Government announcements that it will, “as far as possible”, replicate the EU’s schedules of commitments after exit. The UK will also look to conclude plurilateral agreements as an alternative to agreements in the full WTO and will work with partners across groups such as the G7 and G20 to support international free trade systems. The paper also deals with the question of public procurement in terms of WTO rules: it confirms that the UK will rejoin the WTO Government Procurement Agreement (GPA) as an independent member, with its own schedule. While the currently applicable EU rules on procurement are based on the GPA, there are differences between those two systems. The UK will require new legislation for this and potentially to align any future domestic regime under the GPA with EU rules if necessary.
- The UK will also try to secure access to overseas markets for UK goods and encourage increasing liberalisation of global services, investment and procurement markets. A key part of this would be through what it terms “digital trade packages”, underpinned by domestic data protection rules.
- The paper contains specific consultation questions on ensuring that a trade preference scheme with duty-free-quota-access can continue for least developing countries, with particular emphasis on maximising opportunities for business.
- After it has left the EU, the UK will need its own regime for managing trade disputes – and the paper discusses this in some detail. Alongside overriding principles governing the rationale behind applying any remedies, a new investigating body will have to be operational before the UK leaves the EU. The paper hints at the amount of work required before this can take place, from establishing the investigation and appeals process to determining the relevant economic interest test and threshold to be applied in trade investigations.

The White Paper on the Customs Bill

This paper, which covers customs rules and regimes, sits alongside the trade paper, as any Customs Bill will

establish the future work to set quotas and preferences. It largely repeats proposals first put forward in the Government’s Future Partnership paper and is published in preparation for the Customs Bill to be introduced to Parliament in the next few months. Again, public comments are sought.

The paper covers several scenarios: a deal with the EU (which it hopes will result in either a “highly streamlined customs arrangement” or a “new customs partnership”) or where there is no deal (which the paper deals with as a contingency plan). It makes it clear that, in each case, the UK will need to develop its own rules on customs, VAT and excise arrangements after Brexit. In order to avoid uncertainty for business, the Government intends to base the Bill on the Union Customs Code. It also wants these arrangements to continue during an interim implementation period after Brexit, the length of which “needs further consideration and will be linked to the speed at which the implementation of new arrangements could take place”.

A streamlined customs model?

The streamlined customs model presented is aimed at reducing additional requirements in the EU/UK customs arrangements. This includes remaining within the Common Transit Convention (to remove the need for customs declarations), aiming to negotiate a continued waiver on entry/exit declarations as between the UK and EU and ensuring that arrangements at ports minimise disruption as far as possible (agreeing mutual recognition of Authorised Economic Operators for faster clearance at borders and implementing a new IT system of pre-arrival notification for roll-on, roll-off ports). This paper also proposes a system of cross-border trade exemptions for smaller business across the Northern Ireland-Ireland border and, for smaller businesses, streamlined “trusted trader” administrative procedures.

The Government is also taking the opportunity to consider how to streamline administrative requirements for UK imports, including the self-assessment of customs duty and aggregation of customs declarations and the streamlining of certain authorisation processes (e.g. on duty reliefs).

The new customs arrangements

The new customs partnership (where the UK is outside the EU's customs arrangements) is rather more speculative and, again, is based on the Future Partnership paper. These proposals aim to remove the UK-EU customs border, for example by adopting the EU's rules on imports from the rest of the world in the UK. This scenario would also mean that there would be no need for customs processes for trade between Northern Ireland and Ireland.

The contingency plan

Under the contingency plan, in the event of no agreement between the UK and EU (and no agreement on an interim period), a standalone customs regime would need to be in place immediately after Brexit. In this scenario, the Government would set the levels of customs duty which would apply globally, unless specific preferential trade agreements were in place. As a consequence, UK traders dealing only with the EU would have to make customs declarations and have to be registered. Customs duty and import VAT would apply to imports and export declarations would also be required.

The considerable impact of this scenario on roll-on, roll-off ports and airports is also discussed.

The paper also sets out certain of the key provisions which the Customs Bill will contain:

- mechanisms for the UK to transition to a new regime, including necessary changes to existing customs and excise rules; ensuring that existing

arrangements for traders and goods (e.g. authorisations and customs status) can continue under UK law, if appropriate;

- elements necessary for a standalone customs regime such as charging and varying customs duty on exports and imports (including on goods from the EU if necessary); classification of goods for duty purposes; determining territories to join a customs union with the UK; setting a new UK tariff and related provisions and mechanisms for collecting tax-related information;
- provisions to allow flexibility on the UK's VAT and excise systems so that they can continue to operate whatever the result of the EU/UK negotiations. This is intended to ensure that movements of goods and services are not interrupted on the day of exit. This will require IT systems to be updated to be able to deal with VAT and movements for which excise duty has been suspended;
- allowing the Government to use certain delegated powers in order to be able to respond rapidly to the outcome of Brexit negotiations.

Next steps

The Customs Bill is due to be introduced to Parliament in the coming months, with the Bill on Future Trade relationships to follow later. This is just the start of the process. Much of the detailed work remains to be done and the clock is ticking. The UK Government appears interested in hearing the views of business during its negotiations with the EU. However, the papers also highlight the volume of high level negotiating and detailed implementation which needs to take place for a clearer picture to emerge.

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