

# Customs: What the Government position paper told us

Today, the Government published its first Brexit position paper, which covers future customs arrangements. It is a short document, only 16 pages long and intended to be a precursor to a White Paper on trade which is scheduled to appear in the autumn.

What does it tell us? Firstly, the Government has been talking to businesses concerned about a “cliff edge” situation on 29th March 2019 and is seeking to ensure that we will end up with *“the freest and most frictionless trade possible in goods between the UK and the EU, and allows us to forge new trade relationships with our partners in Europe and around the world.”*

The paper expresses enthusiasm for striking trade deals with “old friends and new allies” – in other words, the Commonwealth nations and the rapidly growing economies of Asia. We can only do this from outside the EU and particularly, outside the Customs Union. It was announced very early after Mrs May took office that we will be leaving the EU’s customs union – in many ways, this was a bit of a non-issue as it was hardly mentioned during the referendum campaign.

The paper recognises the challenges of establishing a new relationship with the EU. As a short-term transitional measure, what is proposed is in effect a shadow customs union where by the EU will treat the UK as though it was a member of the customs union. David Davis, interviewed on Radio 4 today, was adamant that the transitional period would end before the next General election – probably no more than two years – to be replaced by a “deep and special partnership” with the EU. This, the paper admits, will be an innovative but

untested approach. It suggests two options:-

- A highly streamlined customs arrangement between the UK and the EU, streamlining and simplifying requirements, leaving as few additional requirements on UK-EU trade as possible. This would aim to: continue some of the existing agreements between the UK and the EU; put in place new negotiated and unilateral facilitations to reduce and remove barriers to trade; and implement technology-based solutions to make it easier to comply with customs procedures.
- A new customs partnership with the EU, aligning our approach to the customs border in a way that removes the need for a UK-EU customs border. One potential approach would involve the UK mirroring the EU's requirements for imports from the rest of the world where their final destination is the EU.

There is, in theory, a third option – failure to reach an agreement (see Paragraph 53), but the paper insists that “this is not the Government’s preferred outcome to the negotiations, but it is essential that the UK is prepared for all possible outcomes of customs arrangements.” As for the first option – a high-tech solution, there are some doubts as to whether it really will create frictionless borders, especially as soon as March 2019. As one analyst has said, “making sure there are no traffic jams in Dover will be more about the arts of management, politics and the law than technology.

The obvious concern on reading the paper through is that this paper is very much a UK wish list. The EU is under no obligation to say yes. What is a particular cause for concern is that its treaty-based structure **may not allow it** to treat us as an honorary member of its Customs Union. It is likely that we will be able to devise a system allowing goods from the EU a reasonably smooth passage through UK customs by March 2019, especially as the if the new customs declaration service using state-of-the-art technology is up and running by then.

What is far from certain is that our exports to the EU will enjoy anything like a seamless passage through their customs. The EU will have to change its customs procedures to adapt to the different status of the UK on Brexit. Are they prepared to do this?

We will have to wait a while for a formal response. So far, the main comment from Michel Barnier, the EU's chief negotiator, is that no discussions on customs can proceed until sufficient progress is made on the UK's exit bill, the Irish border and the rights of EU citizens living in the UK after Brexit. Guy Verhofstadt, representing the EU Parliament, was very sceptical, dismissing talk of a shadow customs union and invisible borders as "fantasy".

One also would like to know if the author(s) of this paper are sufficiently aware of the differences between a customs union and a customs clearance agreement. The latter is essential, the former almost certainly not, even as an interim arrangement.

The CBI has nonetheless described the proposal as "encouraging". David Davis' interview made it clear that his Department still has a few cards up his sleeve and that for tactical reasons, he was not prepared to give anything further away. What has been put into the public domain has shown that the Government is aware of the issues UK businesses will face but offers little detail on how they will be resolved.