

Position Paper: The future economic partnership between the EU and UK

Summary

The UK's paper on the future relationship between the UK and the EU, which was published on 17 July, notes in the first sentence of the first chapter: *"Following the decision of the people of the UK in the referendum, the UK is leaving the EU, and as a result will leave the Single Market and the Customs Union."* As a consequence, trade between the UK and the EU27 Member States will become more complicated to companies and individuals who buy and sell goods.

Being outside of the Customs Union and the Single Market does not mean that trade will become impossible and is also not a new situation. Modern Customs legislation and technology provides for numerous simplifications and facilitations through which goods can move across borders unhindered, while at the same time Customs and other border inspection services can ensure safety and security and proper tax and duty collection. Therefore, **all the ingredients to ensure an orderly exit process of the UK from the EU are already available.**

Currently it remains difficult to have a clear view on the results of the ongoing negotiations. Preparing for the worst-case scenario, a no-deal situation, seems the only scenario preparations can be made for. But, as the negotiators of both parties have stated repeatedly, it is unlikely this scenario will become a reality. Wasting valuable ingredients like human resources, budgets and IT capacity is not something trade or its (logistic) service providers can afford and therefore, **preparing for a No-Deal scenario is actually near to impossible for the private sector and a No-Deal should be prevented at all cost.**

The UK paper on the Future Relationship should provide a basis for preparations towards a more realistic scenario. However, unfortunately it leaves out several critical aspects and at the same time introduces aspects with which no trader, customs service provider or (customs) authority is familiar. **CLECAT believes that the concept of the FCA and ideas like a free trade area or a common rule book might be good solutions which may be worth exploring, but many aspects of those proposals need far more detail and need to include more aspects in order to be able to apply them in practice.**

Some of the ideas behind the economic relationship as proposed in the UK paper could still be worth exploring. However, **as a concept like the FCA would considering the current state of the negotiations and the reality that implementing such a concept like the FCA would require five to ten years before it can be applied in practice, CLECAT does not perceive the proposed relationship as entirely viable within the given timeframe of the final withdrawal and therefore does not consider this as a scenario for the future relationship companies can prepare for.**

This means that we consider that the only realistic scenario is the scenario in which a Regular EU external trade environment is developed. An agreement over the withdrawal including a reasonable transitional period, a trade agreement certain (Customs) conventions (like the Common Transit Convention and/or a security agreement) and other arrangements or facilitations as they currently exist, would be the most realistic and would limit damage for both economies the least.

Working towards this situation still requires considerable preparation efforts: thousands of new Customs experts need to be recruited and trained in the EU and UK; IT systems need to be able to cope with millions of extra declarations, notifications etc.; thousands of new authorisations have to be acquired; thousands of companies which haven't dealt with extra-EU trade before, need to be made aware of the procedures, possibilities and the risks of doing so; and the right infrastructure at (air)ports and other corridors (both physical and IT) needs to be in place. It is not impossible to achieve what is needed to ensure an orderly withdrawal, but CLECAT considers that several conditions need to be met.

1. There needs to be an understanding that a Brexit with a regular trade environment may sound as a negative or unfavourable situation, but it is actually the most **realistic and pragmatic approach** at this stage of the withdrawal.
2. To **provide clarity as soon as possible** where it can be given. CLECAT appreciates the technical notices which were published so far. However, especially the UK notices are published with the remark that they are only meant for a no deal situation and at the same time it is mentioned that this situation is unlikely to occur. This leads to an unnecessary confusing situation.
3. An orderly Brexit requires a situation for which trade can prepare. It is therefore advisable to provide **as much stability as possible** for business.
4. The time frame provided by in the Withdrawal Agreement for the transitional period (March 2019 - December 2020) is very short. A back-up plan, which provides **enough time** by extending the transitional period or which provides a second transitional period, would provide several benefits.
5. Acquiring (customs) authorisations which enable almost frictionless border processes can be a lengthy process. Therefore, CLECAT strongly urges customs and other authorities involved to ensure that applications for authorisations can be processed **quickly and in a clear process**, possibly through single contact points.
6. CLECAT continues to emphasize on the need for **honest, open and meaningful communication and cooperation**. Only once this is provided companies can start preparing for a situation that limits possible damage for the involved economies.

CLECAT urges the negotiators, and especially the UK, to work towards a **Regular EU external trade environment**. An agreement over the withdrawal including a reasonable transitional period, a trade agreement, certain (Customs) conventions (like the Common Transit Convention and/or a security agreement) and other arrangements or facilitations as they currently exist, would be the most realistic and has the most potential to limit damage for the economies involved.



Introduction

CLECAT is the European organisation representing the interest of 19,000 freight forwarders, logistics service providers and customs brokers. These companies together handle approximately 65% of all transport and 80% of all customs procedures in Europe and make extensive use of IT systems, dedicated terminals and warehousing to respond to the needs of their customers. Therefore, freight forwarders, customs agents and other logistics service providers play a crucial role in global supply chains and the exchange of information within these supply chains. As such it remains critical to freight forwarders and customs agents to start preparations as soon as possible for issues such as acquiring authorisations, recruiting and training staff and advising their customers, the companies buying and selling goods.

Scope

The focus of this paper concerns mainly the future relationship between the EU and UK, although it also covers parts of the Withdrawal Agreement (especially the transitional period and Ireland and Northern Ireland), the EU and UK preparedness notices and the UK Cross Border Trade Bill. As regards the future relationship, this paper addresses the economic partnership relating to trade in goods. It does not address specific goods or their possibly related duties.¹ However, trade in goods across (Customs) borders is not possible without the provision of transport and many other logistic services, like storage and distribution, customs- fiscal- and other compliance services and insurance, payment and certain financial services like provision of guarantees. Because of this interdependency between trade in goods and the services required to actually transport goods, this paper also addresses various aspects of a possible future relationship regarding services

Possible Scenarios

Brexit could lead to various types of future EU-UK relationships depending on the result of the negotiations. Often reference is made to a “hard” or “soft” Brexit. There are diverting interpretations about what a hard or soft Brexit actually means. This terminology used also has a certain connotation, which leads to many parties being biased and complicates meaningful discussions. Therefore, for the sake of clarity CLECAT defines the following 4 scenarios:

1. **No deal;** the UK becomes a third country after 29 March 2019 and there is no transitional period.
2. **Regular EU external trade environment:** there is an agreement over the withdrawal including a transitional period, a trade agreement (lower or no duties), certain (customs) conventions are put in place (like the Common Transit Convention and/or a security agreement), but for trade between the EU and UK, or vice versa, customs declarations are required and there are no exceptional arrangements other than currently exist for other non-EU countries with which the EU and UK have a close economic partnership or dependency. The fact that Customs declarations are required, does not mean that various simplifications or facilitations, which

¹ However, some goods, like agricultural goods, require border processes which are more intrusive in the logistic chain than for other types of goods. Therefore, this paper will not just focus on the impact of Brexit on issues related to Customs and indirect taxation, but on a wider range of regulations and procedures related to moving goods across the borders.

enable mitigation of procedures at the physical border, cannot be used. Current Customs legislation already provides numerous of such possibilities, also for trade with for example China or the US.

3. **A Special (currently not existing) Arrangement:** in this scenario all of the aspects described under a Regular Trade Environment apply. However, next to that there is a special/new arrangement by which “usual” border procedures, like declarations and other simplifications or facilitations, can be handled differently than currently is provided by EU legislation. This scenario resembles what is referred to in the UK’s [policy paper on the Future Relations](#) as the Facilitated Customs Arrangement, especially concerning the proposed free trade area and the common rule book.
4. **No Brexit;** in this scenario either the British people would eventually decide not to leave the EU at all or an agreement would be reached between the EU and UK in which no Customs border for goods would exist (there would be a Customs Union and a Single Market). If a Customs Union and Single Market would remain, trade in goods would continue as currently is the case and effectively there would be no Brexit.

Modern Practices in International Trade

The [UK’s paper on the future relationship between the UK and the EU](#), which was published on 17 July, notes in the first sentence of the first chapter: “*Following the decision of the people of the UK in the referendum, the UK is leaving the EU, and as a result will leave the Single Market and the Customs Union*”. As a consequence, trade between the UK and the EU27 Member States will become more complicated to companies and individuals who buy and sell goods. The freight forwarding, logistics and customs service industry provides the services to the buyers and sellers which ensure that goods can move across borders in the least frictionless way possible, while remaining compliant and ensuring that duties and taxes are paid. To our industry, Brexit is a matter which we will have to deal with and it will in any case lead to changes and thus challenges, regardless of the outcome of the negotiations. To freight forwarders and customs brokers, it is part of their core business to deal with trade to and from countries where there is no Customs Union or Single Market in place, for example China, US, Brazil, India, South Africa, Canada or even Switzerland. Goods are being imported and exported from and to these countries in huge volumes on a daily basis. Therefore, having no Customs Union or Single Market does not mean that trade will become impossible and it is also not an entirely new situation despite the fact that for individual traders this situation can be new.

Next to that, when the UK returns to a relationship with other EU countries which resembles a relationship from before the 1990’s, does not mean a return to (border) processes which were in place prior to the 1990’s. Since then Customs has evolved hugely. Almost all declarations, notifications, checks etcetera, are made electronically or have been automated. A Customs border between countries would not necessarily mean that all goods will be physically checked at the border. There is 100% customs supervision over goods crossing borders, but that is something very different than performing actual checks. Physical inspection of goods by Customs only occurs in about 5% of all cases. And only a portion of those checks is performed at the actual physical border or even a Customs office. Modern Customs legislation provides for numerous simplifications and facilitations through which goods can move across borders unhindered, while at the same time Customs and other border inspection services can ensure safety and security and proper tax and duty collection. For cases where goods need to be inspected at the border (for example for drug smuggling or terrorism prevention)



also simplifications and technological solutions like (x-ray) scanning equipment can be used in order to ensure that compliant shipments are hindered in the least possible manner.

Especially the UK and the countries neighbouring the UK are already making extensive use of these modern technologies and legally provided simplifications. Therefore, all the ingredients to ensure a smooth exit process of the UK from the EU and which allow almost frictionless trade after the exit, are already available². For this reason, **CLECAT considers that Brexit in the first place should be a matter of finding the right combination of those exiting ingredients and to start preparations for actually ‘cooking and serving the meal’, given the short timeframe that is left.**

Analysing the Facilitated Customs Arrangement

However, preparing a meal without knowing what to prepare for, does not make much sense. Currently, October 2018, the outcome of the negotiations on the withdrawal agreement and future relationship remains unclear and negotiations are still ongoing. All of the previously mentioned scenarios remain possible results of the negotiations. Preparing for the worst-case scenario, a no-deal situation, seems the only scenario preparations can be made for. But, as the negotiators of both parties have stated repeatedly, it is unlikely this scenario will become a reality. So, there is a substantial risk that valuable “ingredients” are wasted while preparing for a no-deal. **Wasting such ingredients like human resources, budgets and IT capacity is not something trade or its (logistic) service providers can afford and therefore, preparing for a No-Deal scenario is actually near to impossible for the private sector and should be prevented at all cost.**

The UK paper on the Future Relationship should provide a basis for preparations towards a more realistic scenario. However, unfortunately it leaves out several critical aspects and at the same time introduces ingredients with which no trader, customs service provider or (customs) authority is familiar. Over the course of the past year, CLECAT and its members have had several discussions with the UK Government regarding the proposed future relationship and the answer to many questions remains that more detail will be provided at a later stage. Where answers can be provided, it has become clear that the Facilitated Customs Arrangement (FCA) only covers a smaller/specific part of trade between the UK and EU and thus it is not comprehensive and in its current form will still lead to “regular” customs procedures. For the part of trade which is covered by the FCA, it is still proposed as a voluntary solution and thereby it is also proven that it will not be suitable or desirable for all parties involved and still regular border process will have to be put in place. **CLECAT believes that the concept of the FCA and ideas like a free trade area or a common rule book might be good solutions which can be worth exploring, but many aspects of those proposals need far more detail and at the same time it needs to include more aspects in order to be able to apply them in practice.**

Detailing those aspects, having agreement on them and codifying it in legislation will probably last until the end of the currently proposed transitional period (end of 2020). From a private sector perspective, only after this clarity is given the traders (shippers) can start arranging their trade/supply chains and only after that the logistics service providers can start to truly prepare themselves. Even with the FCA, these preparations will still include for example educating employees, implementing IT systems and -connections, acquiring authorisations (for becoming the proposed trusted trader) and preparing and agreeing on various contracts. This would require at least one year. So, an agreement on the future relationship based on the current proposals from the UK will not enable the vast majority

² See Annex A for a brief overview of already existing possibilities to mitigate friction at customs borders



of companies to apply it in practice once the UK is not a Member of the EU anymore. In the first one to two years after the final Brexit date, companies will still have to comply with regular border processes, as if there is were no deal at all. The chaos which should be prevented by the FCA will thus very likely occur because of the FCA.

It also has to be taken into account that in the EU almost all fundamental aspects concerning trade are currently “under construction” for the EU Member States, companies and the Commission. The new Union Customs Code (UCC) is still in the process of implementation, which implicates the re-assessment of all authorisations, including AEO, and the update of hundreds of IT systems on EU, national and private sector level. The EU VAT system is also being renewed, especially regarding international trade and ecommerce (internet sales/low value consignments). For agricultural products, new legislation is being created which, again, fundamentally changes border inspections and other accompanying processes. And finally, the EU is implementing many other trade agreements or sanctions and restriction with other parts of the world. Each of these aspects separately already have an impact on international trade which is just as big as dealing with Brexit. So, introducing more new/non-existing systems and procedures will potentially lead to more complications instead of relief.

At the same time, the EU negotiators keep repeating that key aspects of the UK proposal are not in line with core values of the EU and that the EU is not prepared to give up those values. Furthermore, the UK proposes a different kind of arrangement for goods than for services. However, goods cannot be traded across borders without the accompanying logistics services and they cannot be treated entirely separately in a possible agreement. **Considering the current state of the negotiations and the reality of implementing such a proposal as described above, CLECAT does not perceive the proposed relationship as entirely viable and thus not a scenario companies can prepare for.**

Therefore, CLECAT strongly calls upon the UK negotiators to focus its negotiations more on the core principles and consequences of leaving the EU, as described in the first sentence of its own paper. CLECAT commends the efforts of the UK to achieve an ideal situation for trade between the UK and EU, but leaving the EU, from an EU-UK trade perspective, is never an ideal situation. Currently there is already a relationship which results in completely free trade through the Customs Union and the Single Market. Leaving those will always result in a less favourable situation for trade. So, instead of trying to negotiate an ideal situation, the negotiations should focus on damage limitation and mitigating the negative impact on business through the use of existing and familiar “ingredients”. **The ideas behind the economic relationship as proposed could still be worth working towards, but CLECAT considers this more suitable for a long term (5-10 years) than for the very short period that is left until the UK is not a Member of the EU anymore.**

Working towards a Regular EU external trade environment

Despite the fact that many people still hope for and attempt to achieve a No Brexit scenario, as defined in this paper, the chances that there will be no Brexit are just as (un)likely as a no deal scenario. **This means, the only suitable scenario is the scenario described in this paper as a Regular EU external trade environment.** An agreement over the withdrawal including a reasonable transitional period, a comprehensive trade agreement, certain (customs) conventions (like the Common Transit Convention and/or a security agreement) and other arrangements and facilitations as they currently exist, would be the most realistic and would limit damage for both economies the least.



Working towards this situation still requires considerable preparation efforts: thousands of new customs experts need to be recruited and educated in the EU and UK; IT systems need to be able to cope with millions of extra declarations, notifications etc.; thousands of new authorisations have to be acquired; thousands of companies which haven't dealt with extra-EU trade before, need to be made aware of the procedures, possibilities and the risks of doing so; and the right infrastructure at (air)ports and other corridors (both physical and IT) needs to be in place.

Achieving this would under normal circumstances still require an implementation period of about 5 years for both the public and private sector. Unfortunately, the rules that accompany the choice of the British people to leave the EU provide little to no room for more time than provided by the currently agreed under the Withdrawal agreement. It is not impossible to achieve what is needed to ensure an orderly withdrawal, but CLECAT considers that several conditions need to be met:

1. Realism

The reality of Brexit is that not being part of the EU Customs Union and the Single Market means that border procedures need to be dealt with. Even for the Customs Union which the EU holds with Turkey, declarations need to be submitted and processed and other formalities need to be taken care of. With the short time period left, companies and public authorities are advised to start preparing immediately. However, as long as some parties keep promising solutions that exclude the realities of extra-EU trade, companies with little or no experience with this trade (which includes the majority of SME's impacted by Brexit), will not start preparing. On the other hand, negotiators often paint a picture in which, if a deal is not achieved, a complete meltdown of trade will occur and all goods will be checked at borders and it involves a lot of paper and stamps. This of course is also not true, as for example regular trade with the US and China generally does not involve such situations. If this message is repeated over and over, it might become a self-fulfilling prophecy, because those businesses which have no experience in working outside of the internal market (whether it is the traders, transporters or ports) will prepare for a situation which we would want to avoid: a situation which will lead to bottlenecks and congestion because of trucks driving up to borders with a stack of papers expecting a customs officer to process, check and stamp those papers and thus traffic jams and other disruptions will actually occur.

CLECAT can understand the political reasons for the depiction of those two extreme scenarios, but also wants to remind negotiators, and especially the UK, that international trade is very closely linked to economic prosperity and that jobs, welfare and general wellbeing is something that goes way beyond the next press release, headline, tweet or even elections. It is in the best interest of all stakeholder involved, to be honest and realistic about what Brexit will imply. **A Brexit with a regular trade environment may sound as a negative or unfavourable situation, but, according to CLECAT, it is actually the most realistic and pragmatic approach at this stage of the negotiations.** The current binary approach of the UK (FCA or no deal) will very likely lead to no deal; a situation all stakeholders involved want to prevent.



2. Clarity

For the sake of fair negotiations, it can be logical to stick to the principle that nothing is agreed until everything is agreed. Currently negotiators report that approximately 90% is agreed. The main aspect where there is no agreement is the border between Ireland and Northern Ireland. This is of course, as everybody knows, a very delicate matter which is not easy to solve and requires a special arrangement. But because of this delicacy in combination with the rule that 'nothing is agreed until everything is agreed', no clarity can be provided, and companies are not even able to prepare for the 90% were they could be able to start preparations. With regards to the future relationship there seems to be consensus over various main aspects, like the UK becoming part of the Common Transit Convention. CLECAT appreciates the technical notices which were published so far. However, especially the UK notices are published with the remark that they are only meant for a no deal situation and at the same time it is mentioned that this situation is unlikely to occur. This leads to an unnecessary confusing situation. If trade can start preparing for certain aspects, trade would want to be informed as soon as possible and if there are specific aspects that can and need to be dealt with separately, please do as well.

3. Stability

As described throughout this paper, striving for an ideal trade situation following Brexit with the support of highly innovative concepts is something that we as an association and sector constantly strive for. However, in case of Brexit, it could lead to additional burden, confusion and non-compliance. An orderly Brexit requires a situation for which freight forwarders and customs brokers (dealing with 80% of border processes in Europe) can prepare and preparing for a non-existing situation is not possible within the short timeframe. It is therefore advisable to provide as much stability as possible for business.

Next to that, the UK has repeatedly said that especially in the shorter time frame, the UK will "mimic" certain legislation like the Union Customs Code (UCC). This is highly appreciated by CLECAT. Currently, the UCC is the most modern and advanced customs legislation that exists and thus the best option for trade, as the private sector has already become familiar with it over the past years. Unfortunately, we see that the UK Cross Border Trade Bill has diverted more and more from the UCC over the course of its drafting and adoption process. This is the case for several key aspects like liability, responsibility and representation. Especially the terminology used diverts from what is currently known to our sector, which implicates a change in hundreds of thousands of contracts just to change wording. Again, we highlight our concern that this will lead to confusion and extra burdens and worries for an orderly exit. **CLECAT therefore strongly calls upon the UK to remain close to its initial promises to create a stable and familiar environment.**



4. A call for sufficient time to prepare

The time frame provided by the Withdrawal Agreement for the transitional period (March 2019 - December 2020) is very short. CLECAT is aware that this is linked to the EU Budget. However, with every implementation and creation of major IT systems, infrastructure or legislation delays can be expected and are almost a certainty. Next to that acquiring and allocating budgets on national, local and company level for such major investments as required for Brexit, will by itself probably already require the entire time provided by the transitional period. This reality needs to be taken into account. Therefore, a back-up plan, which provides possibilities to extend the transitional period or which provides a second transitional period, actually already needs to be in place.

CLECAT urges the negotiators to seriously consider a longer or second transition period, while at the same time agreeing that certain difficult aspects of the withdrawal agreement will be agreed at a later stage as they require more time³. This could provide also other benefits, like less pressure on the negotiations, more time to find a suitable solution for Ireland and Northern Ireland and it could provide an opportunity to have more meaningful discussions for a possible FCA/customs cooperation scheme in a more comprehensive and suitable form. Such a situation would also “fit” better with the current implementations of the EU regarding for example the implementation of the UCC and the renewed VAT system. However, a longer transition period should certainly not lead to postponement of those meaningful discussions.

5. Speed and flexibility

Acquiring (customs) authorisations which enable almost frictionless border processes can be a lengthy process. A good example is the process for the authorisation to become an Authorised Economic Operator (AEO). Normally, companies need months of preparation before the application can be submitted and the assessment and approval processes also take several months. When dealing with Brexit this time is not available. Therefore, CLECAT strongly urges the customs and other authorities involved to ensure that applications for authorisations can be processed quickly and in a clear process, possibly through single contact points. It is also very important that a certain amount of flexibility and pragmatism is applied when assessing authorisations. Of course, this flexibility and pragmatism, should still be within the boundaries the legislation provides and there should not be a more favourable treatment than in other cases, but there needs to be a certain understanding that at the start of Brexit not all companies are full customs experts and nevertheless timely action is needed for assessing applications.

After the withdrawal, a certain amount of flexibility is also required. Of course, customs and other border services have an important task in protecting society, the environment, the economy and duty and tax collection, but it is also a reality that many companies will not be fully aware or familiar with the huge amount of highly complex rules and regulations in international trade. This will certainly lead to unintended non-compliance. Harshly punishing these companies for non-compliance in this situation would not be fair and will lead to unnecessary delays and burdens. Therefore, a more educative approach is highly desirable. If a company is being fined and/or goods are being detained,

³ Such an agreement would still be in line with the principle of ‘nothing is agreed until everything is agreed’, because agreeing that more time is needed for certain aspects including a longer transition, still is an agreement on all aspects.



but the company does not know why, it will probably make the same mistake over and over. EU departments like DG Budget and OLAF also need to be aware of this.

6. Honest, open and meaningful communication and cooperation

CLECAT continues to emphasize on the need for clear and honest communication which has been lacking in some cases because of political reasons, individual (commercial) interests and public/media reports. The difference between a free trade agreement and a Customs Union, for example, has become somewhat blurred for many parties involved. Nobody can or should be blamed for this situation, but nonetheless it is very important that joint efforts are made by the key stakeholders like the negotiators, government authorities and trade representatives that one clear message is being communicated about what Brexit will actually mean.

It is also important that the authorities of the UK, EU institutions and EU Member States are able to cooperate as soon as possible with each other and with trade representatives on practical implications of the most likely outcome; a Regular EU external trade environment, as described under scenario 2 in this paper. Current negotiation rules and tactics do not always allow such cooperation in the cases where it is needed, despite the fact that all parties involved have this urgent need. CLECAT strongly calls on the negotiators of both sides to provide sufficient room for the people which have to eventually deal with Brexit in practice to cooperate on practical matters in order to not lose valuable time on issues that have to be dealt with for certain on both the public and private side.

Two of those main areas where cooperation is highly desirable are recruitment and education. Many factors in international trade, like increased safety and security measures, increased trade barriers, anti-(tax)fraud and evasion measures, ever increasing food-, health- and environmental regulations, and, despite all of this, a continuing general growth of international trade, are already leading to substantial shortages in customs and trade compliance personnel. On top of that, for Brexit thousands of new employees need to be recruited and educated for both the private and public sectors. The (basic) educational requirements for the private and public sector are generally very similar. Therefore, it could be very much possible to have joint efforts in providing this education, instead of each organisation managing this by themselves.

Joint efforts on recruitment can also provide mutual benefits. The main issue with recruitment of personnel, is that the field of customs and international trade is either entirely unknown or has a somewhat boring image and thus is not seen as a desirable career by many people and especially young adults (despite that Brexit by itself already proves that this is not exactly the case). **CLECAT strongly believes that joint efforts to promote jobs and provide education in the field of customs and trade compliance and can be very beneficial for both the private and public sector.** Similar joint efforts were also made when the borders opened in the 1990's to re-educate and re-allocate employees. Now, for the reversed process, it would make even more sense.



Conclusions

Following the decision of the people of the UK in the referendum, the UK is leaving the EU, and as a result will leave the Single Market and the Customs Union. As a consequence, trade between the UK and the EU27 Member States will become more complicated to companies and individuals who buy and sell goods. More complicated does not have to mean that a complete meltdown of trade between the EU and UK will occur, as moving goods across customs borders already happens in large volumes on a daily basis for trade with countries like the US and China. Modern Customs legislation provides for numerous simplifications and facilitations through which goods can move across borders unhindered, while at the same time Customs and other border inspection services can ensure safety and security and proper tax and duty collection.

CLECAT believes that the concept of the FCA and ideas like a free trade area or a common rule book might be good solutions which can be worth exploring, but many aspects of those proposals need far more detail and at the same time it needs to include more aspects in order to be able to apply them in practice. The detailing of those aspects, legislation them and implementing it will require more time than is given by the current transitional period. Considering the current state of the negotiations and the reality that implementing a concept with which no private sector party or authority is familiar with, will in itself lead to confusion, burdens and delays, CLECAT does not perceive the proposed relationship as entirely viable within the given timeframe of the final withdrawal and thus it is not a scenario companies can prepare for.

CLECAT does believe however, that if sufficient realism, clarity, stability, time, flexibility and proper communication and cooperation is provided, freight forwarders, logistics service providers and customs brokers (the companies that handle 60% of all transport and 80% of all customs processes), will be perfectly able to ensure almost frictionless trade by using already existing technological means and legal simplifications, as is currently also the case with all other trade outside the EU. Therefore, CLECAT urges the negotiators, and especially the UK, to work towards a **Regular EU external trade environment**. An agreement over the withdrawal including a reasonable transitional period, a trade agreement (lower or no duties), certain (Customs) conventions (like the Common Transit Convention and/or a security agreement) and other arrangements as they currently exist, would be the most realistic and would limit damage for both economies the least.

CLECAT remains at the disposal of interested parties for any further information.

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ANNEX A: Existing Simplifications and Facilitations

The list in this annex provides an overview of currently existing and commonly used legal customs simplifications, which can be used to ensure almost frictionless movement of goods across customs borders. This list only provides a very generic overview. More detail can be found in the various DG TAXUD Guidance documents: [UCC - Guidance documents](#)

Most of these simplifications require combinations of various authorisations and possibly require specific (community) IT systems. Not all simplifications are suitable for everybody or every case, although they can be accessible by using service providers. The Choice for (combination) of options depends on:

- Volumes
- Complexity and risk
- Type of goods
- Transport mode
- Origin and destination
- Overall supply chain characteristics (just-in-time, returns, way of distribution etc)

Possibilities for movement of goods (across borders)

Basic options for presentation of goods (at entry)

- Customs office
- Temporary Storage Facility
- Places approved by the customs authorities (once or permanent)
- Places designated by the customs authorities (once or permanent)
- Art. 5 (33): "presentation of goods to customs" means the notification to the customs authorities of the arrival of goods at the customs office or at any other place designated or approved by the customs authorities and the availability of those goods for customs controls;
- Other articles: Art. 135, 139, 140, 147, 148 UCC

Simplified Transit Procedures

- Common Transit Convention=must
- Simplified procedure (authorised consignor/consignee) allows to send or receive goods at own premises
- Almost no (physical) customs involvement possible
- Time out if customs control
- Also possible to submit declaration prior to presentation
- Possible for service provider to have multiple authorised locations
- Article 233 (4) UCC: Upon application, the customs authorities may authorise any of the following simplifications regarding the placing of goods under the Union transit procedure or the end of that procedure:
 - (a) the status of authorised consignor, allowing the holder of the authorisation to place goods under the Union transit procedure without presenting them to customs;
 - (b) the status of authorised consignee, allowing the holder of the authorisation to receive

goods moved under the Union transit procedure at an authorised place, to end the procedure in accordance with Article 233(2);

(c) the use of seals of a special type, where sealing is required to ensure the identification of the goods placed under the Union transit procedure;

(d) the use of a customs declaration with reduced data requirements to place goods under the Union transit procedure;

Replacement of transit by Transport document and/or STC

- For Rail, Sea and Air possibilities to replace transit (status) by e.g. CIM, manifest or AWB; art. 233 (e) UCC: the use of an electronic transport document as customs declaration to place goods under the Union transit procedure, provided it contains the particulars of such declaration and those particulars are available to the customs authorities at departure and at destination to allow the customs supervision of the goods and the discharge of the procedure.
- Single Transport Contract can replace exit process and transit entirely; art. 239 (6)&(7) UCC IA
- Not in all cases digital processes yet, but proposed regulation 2018/0140 (COD) on electronic freight transport information should make this possible

Movement under Temporary Storage or Customs Warehouse

- Possible to move between facilities without transaction-based transit declaration
- Supervision through administration of facility holders + guarantee
- Liability for movement can be for sending or receiving facility
- In some cases (community) systems allow for more auditing options (art. 145(6) UCC)
- Possibility of movement between MS, but discussions just started
- Also certain possibilities for “fictive” or temporary approved locations
- Temporary storage: art. 148 (5) UCC
- Customs warehouse: art. 219 UCC

Movement under simplifications in combination with special procedures

- Simplified (incomplete) declaration is done at or prior to arrival
- Goods can be moved to (final) location of unloading
- Supervision through administration – final declaration
- Possibility of waiver for presentation (art 182 (3))
- Various combinations possible for movement under special procedures (art 219 UCC) and simplifications (art. 166, 179, 182 and 185 UCC)

Possibilities for simplifications to declare goods

“Normal” transaction-based declaration

- “Normal” import & export, especially without duties,
- can be done quite fast (less than an hour)
- Relatively cheap
- Requires little to no investment or preparation



- Importer/exporter sends invoice packing list and maybe some other document by email and within an hour he receives an email back noting that the goods are released

Simplifications created by service providers

- Provision of (legal & it) infrastructure and guarantees
- Transaction based declarations can be (partially) automated
- Can be centralised for customer through use of various authorisations and IT
- Possibilities to connect with order, planning, warehouse or other systems
- Possibilities for customers to submit own data (weights, container number, packaging etc)

Simplified declaration

- Incomplete declaration at or prior to arrival
- Missing or more specified data (mainly relating to fiscal aspects) will be provided at a later stage
- “Moves” inspection and other efforts to later stage (consolidation of declarations)
- Requires discipline and cooperation
- Article 166 UCC, article 145 UCC DA and articles 223-224 UCC IA

Declaration prior to presentation (+AEO benefit)

- Submitting a full or simplified declaration to customs before goods arrive (Article 171 UCC)
- AEO facilitation: art. 24 (3) UCC DA: 3. *Where an AEO lodges a temporary storage declaration or a customs declaration in accordance with Article 171 of the Code, the customs office shall, where the consignment has been selected for customs control, notify the AEO of that fact. That notification shall take place before the presentation of the goods to customs.*
- Documentary checks can be ready by the time goods arrive
- Helpful with planning (inspections) in advance, especially for high-risk goods or for example veterinary inspections
- Prevents mistakes (can be corrected before goods are presented)
- Presentation notification can be automated (=PN of transport means)

EIDR (Entry into declarants records)

- Use of service provider (representation) legally possible
- Presentation waiver possible – 182 (3) UCC (AEO)
- Can create frictionless border process
- Especially suitable for repetitive shipments & without duties
- Article 182 UCC, article 150 UCC DA and articles 233-235 UCC IA

Self assessment

- AEO C can carry out certain customs formalities that are to be carried out by the customs authorities
- Holder of the authorisation can determine the amount of import duty by himself
- Holder of the authorisation can perform certain controls, customs would otherwise do
- SA can basically be used for every type of customs procedure or declaration
- Article 185 UCC, articles 151-152 UCC DA and article 237 UCC IA