

POSITION PAPER

EU-UK Future Partnership

Summary

As freight forwarders and customs brokers handle the vast majority of transport and customs formalities, they are of strategic importance to ensure an orderly flow of goods between the EU and the UK as of 1 January 2021. While appreciating all the efforts on both sides to provide more clarity and help the industry prepare, CLECAT would like to set out several remaining issues relating to customs, trade and transport that are important to be further addressed:

- CLECAT is aware of the complexity of the ongoing discussions between the EU and the UK. However, **if crucial information for preparedness is only available once the negotiations are concluded, there will not be sufficient time left for the industry to get ready.** This relates especially to negotiations on the border procedures for Northern Ireland.
- CLECAT urges the negotiation parties to conclude an **agreement through which customs safety and security declarations can be waived.** The so-called entry and exit summary declarations form major administrative burdens and are intrusive in logistic processes. If it would not be possible to reach such an agreement, the parties should **make optimal use of unilateral facilitation to waive such declarations.**
- CLECAT highlights the importance of **providing stability for businesses in the remaining few months.** Stability will provide an opportunity to move forward with resolving technical questions and details and analyse any possible scenarios, based on what is already known.
- While CLECAT understands that for the EU a phased approach, similar to the UK approach, is not feasible. Nonetheless we urge the EU to **take ongoing implementations into account when putting (border) formalities into place and at the same time ensure better coordination amongst the EU Member States.**
- In the first months after the transition period, customs and other border agencies should **reduce non-essential or non-time pressure related physical and administrative checks to a minimum** and focus on crucial formalities and at the same time **take an educative and supportive stance.**
- CLECAT acknowledges and appreciates the efforts of the UK Government to boost the capacity of the intermediary sector. However, we consider that to increase its effectiveness the **entrepreneurial risk should be covered,** and additional efforts could be taken to **increase the attractiveness of the sector.** CLECAT is also of the view that **the EU could take more efforts to increase the capacity of the intermediaries' sector.**

Introduction

CLECAT is the European association 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.

Meeting the goals of the Political Declaration in the negotiations

CLECAT is aware of the complexity of the ongoing discussions between the EU and the UK and understands the positions of both sides. However, it remains essential that both parties communicate as clearly and effectively as possible throughout the process on the progress made. All relevant available details should be communicated to the stakeholders to allow them to prepare as the discussions unfold. If crucial information for preparedness is only available once the negotiations are concluded, there will not be sufficient time left for the industry to get ready. For instance, in case an agreement over tariffs or mutual recognition can be reached this should be communicated.

According to the current state of play in the negotiations, operators on both sides would have to lodge entry and exit summary declarations, also known as safety and security declarations, at the end of the transition period. These customs declarations have to be filled in addition to the already required import, export and transit declarations which contain largely the same information. Therefore, the safety and security declarations are a major additional administrative burden for transport and logistic operators. Next to that, the procedures for filing those declarations and the checks on them are intrusive in logistic processes, as these checks are performed at time-critical moments in the supply chain and at the entry and exit points of the respective customs territories. The Political Declaration setting out the framework for the future relationship between the EU and the UK includes an objective to have 'an ambitious trading relationship on goods on the basis of a Free Trade Agreement, with a view to facilitating the ease of legitimate trade'. CLECAT considers that requiring customs safety and security declarations would not be in line with previously set goals.

In this context, CLECAT would like to stress that there are various possibilities to waive or replace the entry/exit summary declaration that should be further explored in the negotiations on the future partnership. For example, under a potential agreement on trade in goods between the EU and the UK, a waiver can be granted for the provision of safety and security declarations, similar to the agreement the EU has with Switzerland. In such a case, no additional data will have to be provided and, while checks on goods can still be performed, these checks can be less intrusive. CLECAT believes that a similar agreement will provide a viable solution and should not be conflicting with any of the UK or EU's red lines. The agreement, for example, includes an independent joint committee, dispute settlement and does not preclude prohibitions or restrictions on import and export in relation to public policy or public security, the protection of the health and life of humans, animals, plants or the environment, the protection of cultural goods, or the protection of industrial or commercial property.

CLECAT has participated in wide-ranging Brexit meetings and consultations with the EU Commission, its Member States, the UK Government and other relevant stakeholders. This allowed CLECAT to increase awareness on the practical aspects of trade facilitation and the needs and concerns of the logistic sector. In this context, we highlight the importance of continuing the consultation with the relevant stakeholders throughout the negotiation process.

Aiming for practical Implementation

CLECAT welcomes the decision of the UK Government to introduce customs formalities in 3 phases, as well as the Border Operating Model that provides additional details. The phased-in controls will give national authorities and businesses the necessary time to update processes and systems where needed. However, important details to the new processes and procedures are still missing. CLECAT stresses that as long as specific details and aspects, such as the technical specifications of the Goods Vehicle Movement Service (GVMS) system, are not known, it remains difficult for the industry to adjust systems and procedures, to allocate capacity and resources and to inform customers. The same relates to moving goods under the Northern Ireland Protocol and the Trader Support Service.

In this context, CLECAT highlights the importance of providing stability for businesses in the remaining few months. Even in the current situation, the time left for companies to prepare is very limited. Freight Forwarders, Customs Brokers and their employees are familiar with dealing with border procedures for goods and have systems, authorisations and procedures in place. If for the remaining months again new systems, procedures or authorisations are introduced, preparatory work has to be redone and educated employees have to be re-educated. Stability will provide an opportunity to move forward with resolving technical questions and details and analyse any possible scenarios.

On the EU side, even though the general rules and procedures for trading outside of the EU Customs Union are known, additional measures are needed. CLECAT believes that more efforts are required from the European Commission towards better coordination amongst its Member States. As preparedness measures and the communication of those are done at national level, the preparedness measures can be difficult to grasp and align for private sector stakeholders from across the EU. These difficulties arise especially for parties in Member States which do not directly surround the UK but nonetheless have to move goods to the UK through these Member States.

While CLECAT understands that for the EU a phased approach, like the UK has taken, is not feasible, we urge the EU to take its own ongoing implementations into account when putting (border) formalities into place. In the next couple of years, the UCC implementation and the Multi-Annual Strategic Plan for electronic Customs (MASP-C) will take full effect. This means that logistics operators will have to implement a large amount of new systems and accompanying procedures at EU and national level. Many of these implementations take place around the same time the UK will leave the EU, but the implementations are not aligned. This means that in various cases, old systems and procedures need to be implemented, only to be replaced shortly after by new national or EU systems. In that respect, CLECAT urges the EU and its Member States to further align the introduction of formalities caused by the departure of the UK with their ongoing legal and IT implementations.

A certain amount of realism is also required concerning the carrying out of customs and other border controls after the transition period. In the first months after the transition period, customs and other border agencies should reduce non-essential or non-time pressure related physical and administrative checks to a minimum and focus on crucial formalities. Also, the reality remains that many smaller and inexperienced 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. Punishing these companies for non-compliance in this situation would not be fair and will lead to unnecessary delays and burdens. We therefore call on authorities to take an educative and supportive stance.

Lastly, if it would not be possible to reach an agreement on a full waiver for entry and exit summary declarations (customs safety and security declarations) between the EU and the UK, CLECAT considers that the UK, EU and its Member States should make optimal use of simplifications and facilitations. Most notably, the possibilities provided in the EU by article 130 of the UCC to waive the lodging of an entry summary declaration in respect of goods for which, prior to the expiry of the time-limit for lodging that declaration, a customs declaration (e.g. import, export, transit) or a temporary storage declaration is lodged. Currently, not all EU Member States have implemented these possibilities, leading to a loss of important facilitations and an increase of burdens. CLECAT urges the relevant EU Member States, and especially the Republic of Ireland, to implement these possibilities as soon as possible. Where EU Member States are not able to implement this or not familiar with the possibilities provided by the Union Customs Code, CLECAT calls on the EU Commission to provide assistance.

Call for coordinated and clear Communication

CLECAT appreciates the recent communication from the Commission on readiness at the end of the transition period, as well as the detailed technical notices. However, CLECAT considers that the information provided by the EU Commission is either too generic or too legal-technical and doesn't always effectively contribute to the overall preparedness of businesses, which instead need more practical guidance. Moreover, the communication provided so far at EU level does not adequately reflect national measures and Brexit-related solutions. The EU Commission should therefore aim at more transparent and effecting information, by undertaking a better coordinated approach among Member States and preparing an overview of their respective measures. CLECAT considers that the communication and coordination at EU level should be improved to keep business informed and to support them in understanding the upcoming changes at the end of the transition period.

CLECAT further highlights the importance for the EU Commission to ensure that the preparedness guidelines and communication are better targeted towards the various stakeholders along the supply chain. The different stakeholders along the supply chain, such as customs brokers, road haulage operators and traders, which carry out different activities and have different roles and responsibilities. Those differences need to be acknowledged in the communication campaigns. For example, companies who buy and sell goods rarely submit their own customs declarations and instead outsource to customs brokers and freight forwarders. Technical details about border procedures and customs formalities are not useful to the trading companies. However, while outsourcing, they still need to provide correct information for their service providers. Giving these trading companies the impression that acquiring an EORI number is sufficient is counterproductive as information on their commercial arrangements (Incoterms), classification of goods, correct value information is far more relevant. In the EU Commission's communication, no such practical information is provided.

On the UK side, CLECAT commends the UK Government for its active engagement and efforts to keep businesses informed and prepared. The Border Operating Model published by the UK Government is helpful by providing further technical guidance on the implementation of the 3-phase border planning. The various specific guidance documents are also welcomed by CLECAT and its membership. However, sufficient practical and technical guidance regarding specific aspects and formalities at border crossings is still needed, as well as more information on the movement of goods into, out of and through Northern Ireland.

Boosting capacity

CLECAT acknowledges and appreciates the efforts of the UK Government to boost the capacity of the intermediary sector with additional financial grants for education and IT to help handle customs declarations. However, despite them being appreciated, the grants did not yet have fully the desired effect. In this context, CLECAT would like to highlight two remaining issues which are important for the intermediary sector in getting prepared.

Firstly, the financial support provided for trainings does not cover the entrepreneurial risk that companies need to take to hire additional staff. A lot of companies continue to refrain from making investments and prefer to wait until full clarity is given to assess what capacity they need, to avoid the risk of hiring personnel they would not need. Therefore, CLECAT considers that in order to ensure that sufficient capacity is available, the grants should be extended to mitigate the entrepreneurial risk employers take to boost human resources.

Secondly, additional efforts could be taken to encourage people to work in the customs intermediary sector. The intermediary sector is already coping with shortages as it is, and companies compete with each other over competent staff. CLECAT therefore advises that resources for increasing the capacity of the intermediary sector are not only spent on education but are also on increasing the attractiveness of the sector.

On the EU side, CLECAT notes that efforts to increase capacity were mostly targeted towards Customs administrations and importers/exporters. As noted previously, many importers and exporters have outsourced their customs procedures and formalities. At the same time, the EU Commission and several Member States did sufficient to boost the capacity of customs brokers and freight forwarders that handle the vast majority of transport and customs formalities. CLECAT considers that further efforts are needed towards ensuring that the intermediary sector in the EU is well prepared and has the necessary resources and that the education provided to traders covers their relations with intermediaries.

Lastly, CLECAT appreciates the efforts to increase the capacity of national customs administrations. However, while this is taking effect, we see that the right knowledge and experience of new staff is often lacking. Many of the newly employed staff seem to have had only basic theoretical training, which is insufficient to deal with the large volumes and complexities of international trade. This is already leading to delays, unnecessary burdens and an increased amount of incorrect decisions taken by Customs authorities. CLECAT stresses that educating customs staff is not a matter of merely providing basic theoretical customs training but should include also practical realities of international transport and trade. Additionally, where new staff starts working in the field, sufficient support by experienced staff should be provided.

Final remarks

The Freight Forwarding and Customs Brokerage industry is as prepared for the end of the transition period as it can be. Remaining operational issues and uncertainty, however, prevent businesses from being able to prepare. At the same time, many of the companies represented by CLECAT have expressed a certain level of “Brexit-fatigue” which becomes even more burdensome when combined with the need to deal with other matters that impact customs and trade, such as COVID-19, changes



in IT, new external trade regimes etc. CLECAT therefore calls for stability and timely communication of overall policies regarding the EU-UK future relationship, procedures and formalities.

CLECAT notes that the intermediary sector will have a crucial role in ensuring an orderly flow of goods between the EU and the UK as of 1 January 2021, as the vast majority of small and/or inexperienced traders will need help with the new requirements. The strategic importance of the intermediary sector should therefore be recognised and supported by increased efforts to boost its capacity on both EU and UK sides.

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

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