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Baroness Verma
Chairman, EU External Affairs Sub-Committee
House of Lords
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Dear Baroness Verma,

I would like to thank the EU External Affairs Sub-Committee for publishing its report *Brexit: the customs challenge.* The report was the culmination of careful consideration and analysis by the Committee and I know that Parliamentary Under Secretary of State, Robin Walker was pleased to give evidence as part of the Committee's inquiry alongside the previous Financial Secretary to the Treasury, Rt Hon Mel Stride MP, last year.

HMRC has a vital purpose as the UK's tax, payments and customs authority to ensure there is a fully functioning border that collects revenues and enforces UK laws. As part of this role, HMRC facilitates legitimate international trade while, together with Border Force, protecting the UK's fiscal, economic, social and physical security before and at the border.

The Government's priority is to keep goods moving and avoid delays at the border. As the customs authority, HMRC will act to ensure that border processes are as smooth as possible, without compromising security.

I am aware that the House of Lords had the opportunity to debate the report earlier this year and I am sorry that a Government response was not published by this point. As Rt Hon Lord Bates told the House during the debate, the Government is always keen to provide select committees with the most up to date and comprehensive information possible. With ongoing negotiations with the EU and significant developments within Parliament at the time this has proved challenging. Nevertheless, I am pleased now to set out the Government's response below which takes account of further developments since the report's publication and I hope will therefore prove helpful for the Committee's current and future inquiries.

As agreed with the Clerks of your Committee, this response will focus on your no deal questions.

JAMES CLEVERLY MP
PARLIAMENTARY UNDER SECRETARY OF STATE
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G*OVERNMENT RESPONSE TO *BREXIT: CUSTOMS ARRANGEMENTS

HMRC have estimated that, overall, the cost to UK businesses under 'no deal' would be £18 billion per year. We call on HMRC to provide an itemised breakdown of its figures and we urge the Government to set out its plans for supporting businesses in assessing the additional costs they would face under a 'no deal' scenario. (Paragraph 90)

On 10th October 2018, Sir Jonathan Thompson wrote to you and the Public Accounts Committee (PAC) setting out the detail of some of the ongoing customs costs of a no deal scenario. The letter explained that, in a no deal scenario, the direct ongoing annual cost to businesses from submitting customs declarations and tariffs for UK-EU trade will logically be at least the same order of magnitude as the static estimate of the £17-20 billion annual cost to businesses for all UK-EU trade in a 'Highly Streamlined Customs Arrangement' (HSCA) scenario, although the HSCA scenario constitutes different components. The detail of the £17- £20bn static annual cost estimate under a HSCA scenario, based primarily on 2016 HMRC trade data, was set out in a letter Sir Jonathan Thompson wrote to the Treasury Select Committee on 4th June 2018. A copy of both letters is annexed.

The full costs of a no deal exit for UK businesses would exceed the total costs of declarations and tariffs. Furthermore, the costs of a no deal exit would include the resultant costs of any delays at the border and the wider costs of EU exit issues. HMG's long-term analytical publication of November 2018 includes a no deal scenario that sets out an assessment of the overall macroeconomic impacts.

There are several existing customs facilitations, such as trusted trader schemes. While they may be appropriate for larger companies, we urge the Government to take account of the fact that they could place an unacceptably high burden on smaller businesses. (Paragraph 91)

The Government understands that many traders will be asked to comply with many new and unfamiliar customs requirements if the UK leaves the EU without a deal. HMG's aim is to support legitimate traders through these changes and help businesses who are trying to comply with new requirements, rather than penalise them.

It should be noted that the use of customs facilitations is optional. Facilitations allow businesses to interact with the customs regime in ways that are either simpler, or more cost effective. While some of these will impose a one-off cost and/or ongoing costs (for example, maintaining a customs warehouse or submitting a transit declaration), the long-term benefits are expected to outweigh these costs and can help to reduce the ongoing burden of complying with the requirement to submit customs declarations and/or payment of import duty.

Maximising business access to facilitations, where appropriate, is an important objective of HMRC and it will continue to look at ways of reducing the administrative burdens that a customs regime brings, for example by providing further guidance on how to prepare for and comply with requirements in a no deal scenario, and providing support for the customs intermediary sector to help foster more customs agents who can help businesses meet these new obligations. As the Chancellor announced at Budget last year, HMRC is looking at how it can streamline its processes (whilst also ensuring they remain sufficiently robust) to halve the time it takes to become and Authorised Economic Operator (AEO) and other types of customs authorisation, from 120 days to 60 days. This will encourage traders to apply for these authorisations. HMRC will implement the improvements within 2 years.

Listening to concerns from various trade sectors, HMRC announced temporary easements for a no deal scenario including Transitional Simplified Procedures (TSP). TSP will make importing easier for businesses who import goods from the EU, allowing those traders to submit customs declarations after the goods are imported and delay payment of any duty due. TSP is designed to be available to most businesses, including smaller businesses through a simple registration process.

Additionally, the government announced £8 million available to train customs agents and to increase automation, further encouraging the intermediary sector to support businesses. This includes £2 million to fund training for intermediaries and traders completing customs declarations, or intending to complete customs declarations in the future, and £3 million in IT improvement funding for small and medium sized employers in the customs intermediaries' sector. This extra funding will ensure that there are more agents available to carry out customs processes. Applications to the grant scheme closed on 31 May 2019.

Disruption to UK-EU supply chains could decrease the attractiveness of trading with UK businesses. We urge the Government to set out its plans for protecting existing supply chains in the case of 'no deal'. (Paragraph 94)

The Government's priority is to keep goods moving and avoid delays at the border in any scenario. As the customs authority, HMRC will act to ensure that border processes are as smooth as possible, without compromising security.

If the UK leaves the EU without a deal, on 31 October 2019, many UK businesses will need to apply the same procedures to EU trade that apply when trading with the rest of the world. However, HMRC has put in place Transitional Simplified Procedures to make it easier for traders to import goods from the EU, and these will be reviewed 3 to 6 months after they're introduced.

In addition to direct easements, and to support businesses and trade more broadly, HMRC has also:

- Made **£8million available to train customs agents and to increase automation**, further encouraging the intermediary sector to support businesses. Recognising the

important role customs agents play in the system, HMRC has allowed agents greater authority to make third party customs declarations on behalf of their clients;
- Introduced postponed accounting for import VAT, enabling VAT registered businesses to wait until their next VAT return to declare and recover import VAT on goods, helping their cash flow and reducing costs at the point of import;
- Negotiated **re-accession to the Common Transit Convention (CTC)** so that both imported and exported goods can continue to flow across international borders without the payment of duties until they reach their destination;

HMRC is currently reviewing the easements already announced in consultation with business in light of the Article 50 extension and trader readiness.

Although the Government has announced temporary easements to help businesses make this transition, the UK Government is only in control of customs processes in the UK.

The Government's position that, in the case of 'no deal', customs checks of goods arriving from the EU could be unilaterally suspended, may be in breach of WTO rules. We call on the Government to set out its plans to ensure fair and equal treatment of all imported goods coming in on most favoured nation terms. (Paragraph 120)

In the event of a 'no deal' businesses who trade with the EU will broadly be subject to customs controls in the same way as businesses who are trading with the rest of the world, and easements will be put in place to help in this scenario.

HMRC's approach to compliance will focus on supporting businesses in meeting their obligations before and at the border. It is scaling up capacity to carry out compliance checks for higher risk businesses before goods are cleared through customs, and will also continue to carry out risk-based post-clearance checks.

This approach is consistent with the UK's obligations under the WTO.

Consistent with WTO rules, the UK will also apply the same tariffs to all countries without trade agreements in place. This is called the Most Favoured Nation (MFN) principle. In a no deal scenario, this will include the EU.

However, the UK tariff and customs checks would not apply to goods crossing from Ireland into Northern Ireland. The Government are confident that the policy is in line with our WTO obligations, taking into account the unique set of social, political and economic circumstances of Northern Ireland. In developing our policy, alongside WTO rules, the Government has also had to take into consideration a broader set of international obligations, including those under the Good Friday Agreement. Furthermore, as the Government has set out, these arrangements are strictly temporary.

At the UK-EU border we're not unilaterally waiving checks - we're taking a risk based approach to compliance as we always do. Given the challenges businesses will face adjusting to a new system overnight, we're introducing some temporary easements to simplify the process.

Even if the UK decided unilaterally not to introduce customs controls in the case of 'no deal', the EU has indicated that it would introduce such controls. As the ports of Dover and Calais operate as a 'closed-loop system', this would lead to delays on both sides of the Channel. To mitigate this, the ports of Dover and Calais will need to collaborate on contingency arrangements and we urge the Government to support such efforts. The Government should also articulate a plan for continued co-operation with EU customs authorities in the event of a 'no deal' Brexit. (Paragraph 121)

The Government recognises that locations such as Dover and Calais depend on a fast flow of traffic, which would be significantly affected if customs controls and regulatory checks were reintroduced for UK-EU trade. As the customs authority, HMRC will act to ensure that UK border processes are as smooth as possible, without compromising security.

In the event of a no deal, businesses who trade with the EU will broadly be subject to customs controls in the same way as businesses who are trading with the rest of the world, although there are a number of specific requirements in place to ease flows at Roll on Roll off locations like Dover, and temporary easements in place to help businesses make this transition.

HMRC will continue to engage with a range of stakeholders who are users, or potential users, of customs, excise and VAT systems. This includes intermediaries such as ports and hauliers; as well as important trade partners in key EU Member States. HMRC and its partners across Europe benefit from close cooperation, and the UK wants that to continue as the UK leaves the EU.

In addition, the UK is currently a member of the Common Transit Convention (CTC) as part of its membership of the EU. It has now been agreed that when the UK leaves the EU, it will continue to be a member of the CTC, which will help traders move their goods across the border more simply. CTC is a streamlined customs facilitation that allows for the free movement of goods across international borders without the payment of duties until arrival at their final destination. It provides cash flow benefits to business and aids trade flow at points of entry, such as Dover. It also reduces administrative burdens by removing the need for additional import/export declarations when transiting across multiple customs territories. This will help reduce frictions on the movement of goods between the UK and other CTC contracting parties (including the EU, EFTA countries and Turkey).

Signing up to an AEO scheme involves costs for businesses. If the Government wants to ensure that the uptake under the new scheme is higher than under the existing one, it needs to provide guidance to businesses and simplify the process for applying. (Paragraph 185)

HMRC is aware that some users have found the AEO application process challenging and has taken steps to address that. As a result, it is looking at how the whole process can be improved so that it is easier for businesses to apply, and the application process is as streamlined as possible.

A digital case management system has been introduced to integrate with the new Customs Declaration Service (CDS). This will provide a more efficient electronic case management system and greater access to customer data.

AEO application guidance to trade is under review to make this more customer friendly and reduce application errors. In the longer term:

- HMRC is also exploring possibilities to digitalise the application form and add validation checks on the information provided, with the aim to improve user experience and reduce levels of error rates in applications. Work is ongoing to look at the value for money of these plans.
- By further streamlining the process the end-to-end customer journey to identify simplifications that can be made to the application process and reduce the time between application and authorisation.

HMRC has established an AEO Working Group with trade representatives (as a sub-group of the Joint Customs Consultative Committee) to work collaboratively to identify options for improvements.

The uncertainty over whether there will be a negotiated agreement between the two sides hinders both UK and EU businesses in their preparations for Brexit. It also adversely affects the ability of UK and EU customs authorities to plan for possible changes. The Government should provide clarity at the earliest possible time. (Paragraph 195)

The Government is aware of the impact that continued uncertainty has on firms. The Government is committed to leaving the EU in a way that underpins prosperity and avoids unnecessary disruption for businesses across the UK.

Of course, the best way to avoid uncertainty would be for the UK to leave the EU with a deal in place.

As a responsible government we have though been preparing to minimise any disruption in the event of no deal for over two years. We are working hard to ensure businesses are prepared for EU Exit, whatever the final scenario.

HMRC is delivering the changes needed to its systems and processes to ensure that UK borders will continue to function from when the UK leaves the EU, if the UK leaves the EU without a negotiated agreement. That includes the changes that are required to ensure the continued movement of goods, passengers and parcels, and to maintain the flow of traffic through UK ports and airports.

DEPARTMENT FOR EXITING THE EUROPEAN UNION
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