



HM Government

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Meg Hillier MP
Chair, Committee of Public Accounts
House of Commons
London
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Dear Ms Hillier,

Follow up to the Letter from the Committee of Public Accounts, 5 December 2018

Thank you for your letter of the 5 December setting out your concerns about border preparedness in a no deal scenario. Delivering the deal is the Government's top priority, and the Government does not want or expect a no deal scenario. However, a responsible Government should prepare for every eventuality, including the possibility of no deal. That is why extensive work to prepare for a no deal scenario has been under way for around two years. Plans are in place to ensure there will be a functioning border from the day the UK leaves the European Union.

Readiness and engagement

The dates provided by the Director General of the Border Delivery Group (BDG) were the dates of the first meetings as part of wider 'day one no deal' planning with 135 airports and ports in the UK. This was part of phased work to share HM Government 'day one no deal' requirements covering passengers and goods with locations, their operators and various authorities under non-disclosure agreements. This also afforded an opportunity to identify associated issues and concerns, both general and specific, relating to those locations which have subsequently been followed up.

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This was not the first visit to many of these ports. Since its inception, the Border Delivery Group, working with other Government departments and agencies, has regularly engaged with a number of locations and operators and have coordinated stakeholder and steering groups, individual meetings and other specific discussions related to technical areas and those of wider interest.

In addition to the Border Delivery Group's engagement with ports and airports, individual departments are having, where appropriate, additional dialogue with ports and airports. For example, Border Force meets regularly with locations as part of its standard business responsibilities on behalf of HM Government. For Defra this includes meeting with its twenty-one highest priority ports and airports to build understanding around bespoke plans created for them. These plans detail the changes to systems, processes and procedures that will apply to Defra commodities that enter or exit the UK via that port or airport were the UK to leave the EU without a deal. The plans will ensure that ports and airports have the information and understanding to make the necessary preparations for no deal and will underpin further engagement over the coming months. Similar information will be shared with all other ports and airports that facilitate trade in the commodities for which Defra are responsible.

Small businesses

Your letter highlighted concerns about the preparedness of businesses for no deal, particularly the smallest businesses.

The Government has been working with a wide range of businesses and traders of all sizes to help them prepare for a no deal scenario. Small and Medium Enterprises (SMEs) make up a significant majority of the 145,000 businesses which trade only with the EU and we have been making steps to provide public communications to them. The Government has published 106 technical notices explaining to businesses what they need to do in a no deal scenario. 62 of these relate to what businesses need to do when crossing the border. In addition, the cross-government partnership pack was published on 15 November, providing additional support and guidance to traders. The Government has also been engaging with over 100 trade representative organisations, and has sent letters directly to over 145,000 traders to alert them to the coming changes, alongside the required actions to prepare.

We recognise that in a no deal scenario businesses and other external parties will need to make changes and that this may be challenging for businesses to do. In addition, many businesses have told HMRC that they will not take significant action until they have certainty on the UK's future trading relationship with the EU. HMRC are looking closely at how to ensure external parties are clear on what they need to do and have the support they need to be as prepared as they can be, whilst not undermining the benefits of securing a deal. The first step for many will be to apply for an EORI number to enable trade and we have already seen applications double, a clear sign of businesses accelerating preparedness. Ministerial statements this week will further stimulate demand and action.

As witnesses reported in oral evidence to the PAC on 5 November, business readiness is a top risk and HMRC is taking the action it can to address this. HMRC have set out what no deal would mean for businesses and the different intermediaries who facilitate the flow of trade through sending letters to c145,000 EU-only VAT registered traders, engaging with intermediaries through regular meetings and publishing information on gov.uk via Technical Notices and the Government's partnership pack. HMRC have also recently launched a £5m grant scheme, which is part of a wider £8m support package, to support customs intermediary training and increased automation. From 4 December, customs intermediaries and traders who complete customs declarations can apply for grants to support training and necessary IT improvements. HMRC will continue communicating to businesses affected in the New Year with more letters, stakeholder work and publication of information on GOV.UK.

Clare Moriarty wrote to you on 21 November regarding Defra's plans for communicating to businesses and customers about the actions that need to be taken in the event of no deal.

Calls to action in line with those plans are rolling out now, and will continue until either the Withdrawal Agreement is agreed or day one of a no deal scenario. Defra is engaging with stakeholders to make sure these messages are understood and to road-test new arrangements with them. For example, in recent weeks Defra has held stakeholder meetings with a hundred smaller organisations involved in animal imports and equine movements to demonstrate the new Import Notification System will take the place of TRACES, and to get valuable feedback.

Non-disclosure arrangements

Non-Disclosure Agreements (NDAs) with our key border delivery partners are crucial for open exchanges of information and opinions about options and scenarios. They ensure that planning, negotiations and decisions are based on what's achievable and most appropriate. As Sir Amyas Morse recently outlined to the EU Exit Committee on 10 October, NDAs are not unsatisfactory in their own right and are often legitimate when Government are consulting industry.

NDAs have been very valuable for stakeholders and Government, enabling over a hundred ports, airports and stakeholder organisations to engage with and contribute to Government plans and policies on EU exit. Confidentiality requirements are a common component of contractual obligations and are also used to protect commercial considerations as well as negotiation sensitivities. From December onwards, the Border Delivery Group will start to operate principally without NDAs across its Steering Groups.

The impact of EU exit in key sectors and locations

Border Delivery Group (BDG) and Border Force have been engaging with border locations since July 2017 on an ongoing basis to understand these locations, understand critical impacts, and to plan for both deal and no deal scenarios. In July 2018, an agreed set of no deal assumptions and requirements were shared with port operators at these border locations. The Border Delivery Group and Border Force completed visits to discuss this scenario with 135 locations in November. This enabled the identification of locations where specific contingencies are needed to deal with specific impacts, or the Government's planned mitigation of these impacts.

All border locations have Border Force officials who continue to work with the location to prepare for EU exit at the border. There is a system in place to monitor and escalate where additional new impacts are identified at 'less critical' locations. In addition, there is regular engagement through other forums to engage and provide information to other local stakeholders who will be involved in planning and preparation for EU exit, including Local Resilience Forums and other local and statutory authorities.

Livestock

As part of Defra's preparations for a potential no deal exit, consideration is being given to the impacts on export of livestock and animal products. This forms part of wider departmental work on the impacts that EU Exit will have on trade with the EU. Detailed modelling work into the impact of alternative post EU exit trade arrangements in the agriculture sector has been carried out, including by the Agri-Food and Biosciences Institute in 2017. Their report, whilst produced independently of Government, was co-funded by Defra, to model the impact of differing EU Exit scenarios, and is freely available to industry and Government. Defra are aware of the range of potential impacts on markets and will continue to meet the unique demands of differing markets, both by supporting industry with advice and guidance, but also by facilitating new and alternative markets for their products.

Chemicals

The Government will continue to engage with chemicals stakeholders to spread key messages regarding business preparedness, and this includes issues pertinent to exporting chemicals to the EU. The European Chemicals Agency (ECHA) published no deal guidance earlier this year. It outlined an intended mechanism by which UK companies can transfer their registrations to EU-based entities to maintain uninterrupted EU market access. The

Government is continuing to encourage ECHA to provide further information to help UK companies prepare. To minimise the potential burdens on UK business in the event of a no-deal, the Government will put in place a number of transitional measures, as set out in the Technical Notice published on the 24 September 2018 and the additional guidance on 4 December 2018. For example, should a UK substance registration have been transferred to an EU/EEA-based entity in the run-up to the UK leaving the EU in order to maintain EU/EEA market access, it will still be carried over into the UK system.

Availability of critical systems and infrastructure

Biosecurity

On risks, the Government is committed to maintaining high standards of biosecurity following our exit from the EU. Defra considers that future import controls should be risk-based and proportionate, taking advantage of available technologies to facilitate as frictionless trade as possible. Defra and the Food Standards Agency are working closely together to develop proposals for this and will consult on these proposals in 2019.

Port to Inland Clearance

You asked about the security of goods transiting from the port to inland pre-clearance facilities. As the Government has made consistently clear we will not compromise on the security of the UK at the border, and keeping goods flowing over the border in a no deal scenario is of vital importance. HMRC remains committed to promoting compliance and tackling avoidance and evasion to ensure everyone pays the right tax at the right time and maintain a level competitive playing field for law abiding UK businesses. HMRC will do that in a way that minimises disruption for the vast majority of traders who are compliant.

As part of the UK's wider approach to tackling customs fraud HMRC and Border Force already perform inland pre-clearance checks targeted at high risk traders. Actions include requiring importers to provide financial security, and in certain cases seizing mis-described goods. HMRC is moving its inland pre-clearance operations to new purpose-equipped sites at Hayes and Milton Keynes as the contracts on current sites come to an end. Moving checks inland for those who pose the highest fiscal risk is a proportionate measure to avoid congestion at ports and both new sites open on 2 January.

IT Systems

All of the twelve critical IT systems are subject to close scrutiny within departments, alongside scrutiny by the Border Delivery Group and the Infrastructure and Projects Authority, where applicable. For programmes where there are delivery risks departments have mitigation plans to address the risks and have ensured there are appropriate contingency plans in place. BDG and Government departments are also scrutinising plans for implementing the systems, including operational resources required, communications to stakeholders and user groups. These are complex changes and there are risks which are being managed, but all are being scrutinised and assured for readiness.

Customs Declaration Service (CDS)

The work to scale CHIEF to manage potential increases in the number of customs declaration arising from EU Exit remains on track. The live CHIEF service was successfully migrated onto new scaled infrastructure in November and testing to date has provided high confidence levels. The work to increase the capacity of CHIEF to handle peaks is close to completion, it can now handle six times the volume, but needs a fraction more for complete assurance. As HMRC have said many times before, HMRC's plan to deploy CDS alongside CHIEF means that the UK will have a functioning system capable of managing any potential increase in the volume of customs declarations arising from EU Exit after March 2019. On CDS, HMRC have always been clear with the Committee about the high level of risk associated with this complex programme and the tight timescale especially as it was brought forward a year because of Brexit. HMRC released all CDS import functionality in December 2018 as we set out in recent verbal evidence to the Committee. The final release providing export functionality is planned to be implemented in March 2019, at which point HMRC expect exporters will then begin to migrate to CDS.

Northern Ireland

Significant work has already been done in relation to specific border readiness in Northern Ireland. The Border Delivery Group has met with the Northern Ireland Civil Service, the Northern Ireland Police Service, Northern Ireland ports and airports and other Northern Ireland stakeholders three times, including twice as part of a Northern Ireland Borders Steering Group. It has also visited, with Border Force colleagues, each of the seven main Northern Ireland ports and airports to work through the potential impact of EU Exit at each location, based on same assumptions as we have applied to other UK ports and airports. Those localities and stakeholders are equipped to plan for a no deal scenario and the changes appear manageable. More work is required to prepare businesses who trade across the land border, as arrangements for these in no deal are still being confirmed. The Border Delivery Group is working closely with other Government colleagues who are developing the wider set of assumptions and plans for Ministers which would apply for Northern Ireland in the event of no deal.

The UK Government is firmly committed to maintaining the Common Travel Area (CTA). This means that under the future immigration model there will be no change to how people move within the Common Travel Area to the UK; there will continue to be no routine immigration controls on arrival in the UK. On the movement of goods, Border Force has been working closely with the Border Delivery Group, HMRC, Defra and other Government departments on future arrangements, including the solution for the unique challenge presented at the Irish land border.

The Government has committed to avoiding a ‘hard border’ at the land border. Letters from HMRC to traders went out across the UK to inform them about the action they need to take in the event of no deal. The letter for Northern Ireland set out clearly that those businesses who only trade across the Northern Ireland-Ireland Land border do not need to take action now and that HMRC will send information about arrangements for that trade in due course following Ministerial decisions.

Defra has been working closely with the Department of Agriculture, Environment and Rural Affairs (DAERA), the Northern Ireland civil service and Northern Ireland Office officials for months on planning for leaving the EU. For example, Defra are currently assisting them with developing plans relating to changes that may be needed at Northern Ireland ports and airports to help ensure smooth trade flows in a no deal scenario. Additionally, Defra facilitates direct engagement with DAERA and internal project leads to address queries and progress DAERA implementation activity.

Planning for a no-deal scenario

The Government has been clear that it does not want a no deal scenario. While the chances of no deal have been reduced, the Government will continue to do the responsible thing and prepare for all eventualities. The Civil Contingencies Secretariat, working with DExEU, is leading on the coordination of departments’ contingency plans for a no deal scenario with the aim of ensuring there are effective and proportionate contingency plans in place to mitigate the potential immediate impact leaving the EU without a settlement.

The Border Delivery Group leads on planning with respect to disruption of freight and passengers crossing the border. They have been working closely with Border Force, MHCLG, HMRC, DfT and local authorities to understand and plan for potential disruption. Activation of these plans will be an operational matter for the relevant departments and organisations.

You enquired about the Government’s assessment of the security downgrade that might result from the potential loss of EU law enforcement tools such as SIS II. On 28 November, the Government published a series of documents to support understanding and assessment of the agreement we have reached with the EU. This included a Command Paper entitled ‘*EU Exit: Assessment of the Security Partnership*’, which compared future cooperation envisaged in the Political Declaration with a no deal situation where we immediately lost

access to all EU law enforcement tools, including SIS II. The conclusion was that ‘the overall consequence of a no deal scenario would be a reduction in the quality and quantity of cooperation with EU partners, which risks increasing pressures on UK law enforcement and criminal justice agencies’

Should there be a loss of access to systems and data we are working intensively with operational partners in the UK and are in discussions with other Member States to ensure we are ready and well-placed to make most effective use of alternative channels and mitigating options. We would like to assure the Committee that our approach to border readiness incorporates any potential changes to the threat posed by Organised Crime Groups in all EU exit scenarios.

Our civil contingency planning should not be viewed in isolation. The Government has been open about our no deal planning, in particular with the publication of the 106 technical notices. Planning for a reasonable worst-case scenario is normal best practice in risk management. Our high level planning assumptions are not a prediction of what is going to happen, but reflect a responsible Government preparing for all scenarios. The biggest risk to the smooth functioning of the border is not all the UK side work, but the implications of member state controls and preparations they will have put in place to manage this. The Government published its assumptions on the reasonable best case and reasonable worst case scenarios in respect to implications of Member State customs controls on 7 December. These noted the potential for significant reductions in flow across the Channel routes, which may occur despite the mitigations that Government is putting in place.

All of us are working closely with the Civil Contingencies Secretariat to understand the potential impact on critical national infrastructure (CNI), and to develop plans to mitigate impact. Defra has the lead CNI responsibility for water and food supply, and they are engaging closely with Government partners and with industry to understand the potential impact and the mitigations. Defra are also implementing a resourcing model to ensure they have the capacity and capability to respond to any issues caused by a no deal exit.

Introducing new border arrangements

You also highlighted the period of time available to implement any future relationship agreed through negotiations. As HMRC set out before the Treasury Select Committee on 21 November, important elements of the Facilitated Customs Arrangement may be available by the end of 2020; however, this is reliant on having enough certainty about the model early, which of course is subject to negotiation. The current assessment is that it will take twenty-four months from certainty to deliver these important elements. The repayment mechanism, which will provide access to lower tariffs for some businesses, would take longer.

The Government agrees that there will need to be a significant increase in communications and engagement as we move closer to a potential day one no deal scenario. The Border Delivery Group is developing a major upscaling of engagement through digital media, local and national stakeholder events, working with intermediaries from January to March.

I trust this provides reassurance on our preparations for the border.

Yours sincerely,

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