

# Minutes of the Joint Customs Consultative Committee

Date of Meeting: 2<sup>nd</sup> March 2016

Location: The Auditorium, 1 Horse Guards Road, Westminster, London SW1A 2HQ

## Items discussed in this meeting

1. Introductions and Apologies
2. Minutes, Matters Arising and Action Points
3. Union Customs Code Update
  - Update on Temporary Storage Pilot Scheme
  - HMRC Software and Systems Testing and Accreditation
4. Future of the National Freight Approvals Unit
  
5. Customs Anti-Fraud Strategy
6. EU Referendum
7. Review & Appeals Team Update
8. JCCC Sub-group Update
9. Any Other Business

## Annexes

- A – List of Attendees
- B – Action Point Update
- C – Temporary Storage Pilot Scheme
- D – HMRC Software and Systems Testing and Accreditation
- E – Future of the National Freight Approvals Unit
- F – JCCC Sub-group Update

## 1. Introductions

**1.1** The meeting was chaired by JM (Deputy Director Customs). A list of those attending is at **Annex A**.

Apologies from Debbie Child the Deputy Director for Border Force Policy.

The Chairman congratulated Howard Levene on his re-election to the Committee as the member representing the Automotive Customs & Trade Association.

The Chairman introduced Alexander Pienaar, who is the new Head of EU and International for HMRC.

Syed Moinuddin (HMRC – EU & International) attended the meeting as an observer.

It was noted that this is an important period for International Trade and the Customs community and every effort will be made to ensure the presence of BIS at future JCCC meetings.

## 2. Minutes, action points and matters arising

It was noted that in future the trade will get an opportunity to agree the agenda prior to each meeting.

### 2.1 Minutes November 2015

The minutes for the last meeting were accepted and have been posted on the Gov.uk website.

All but one outstanding action points from the last meeting were discharged. Please see **Annex B**.

The wording for **AP6** has been amended to read 'HMRC (KR) to check powers of seizure when **NO** duty is involved in seized goods'

AP1 –Discharged. PM stated that the UCC questions submitted to IW (HMRC) had been dealt with by the relevant sub group.

AP2 – Discharged. IW confirmed that HMRC had prepared stock articles about UCC for communication. HMRC will continue to do so up to and beyond implementation on 1<sup>st</sup> May.

AP3 – AM (BASS) confirmed that a paper had been submitted to IW regarding self-assessment and entry in declarant's records. Ships suppliers would be a good candidate for any pilots because ships suppliers do not currently have the obligation to lodge pre departure declarations.

IW stated that it would be useful for ships suppliers to be considered and suggested that this be brought to the attention of the appropriate JCCC sub group.

Action closed and further development will be covered by the relevant sub group.

AP7 – Carried forward to next JCCC meeting. HMRC is still in the process of preparing a submission for ministers.

## 3. Union Customs Code (UCC) Update Ian Wilkins (HMRC)

IW (HMRC) provided an update on UCC to JCCC members.

The Delegated and Implementing Acts were published in December and are now available. The Transitional Delegated Act is expected to be published by the end of March and the work programme published March/April.

There are elements of the package that HMRC is happy with and elements that could have been further developed from a facilitation perspective.

HMRC is required to implement the legislation as is. However, at the last CPG there was an indication from the Commission that they are prepared to reconsider aspects that MS felt had missed the opportunity to modernise further.

The introduction of the twelve month change window was discussed. After 1<sup>st</sup> May, MS will have the opportunity to discuss issues that they feel should be considered further. HMRC has request input from the trade via a CIP. In the meantime, HMRC will continue to apply a pragmatic approach to the implementation of the legal requirements of the UCC.

Trade members were concerned that the UK is not taking a leading role in the production of guidance material. IW explained that the UK has already provided its own guidance to the Commission for reference purposes. As a result, UK thinking will heavily influence the EU guidance. Trade questioned what would happen if EU and UK guidance were at variance. IW replied that he hoped this would not be the case but trade should follow UK guidance. It must be remembered that this is guidance and any legal interpretation would always have to revert to the actual UCC text.

A number of trade bodies oppose the introduction of the 6 digit commodity code for the ENS. However, HMRC is in support of this and see it as a critical and integral part of border controls and One Government @ The Border. The aim is to have all data codified from a border perspective. The use of the commodity code will make it easier in terms of targeting practices, e.g. removing “chaff”.

Local Clearance Procedure will no longer exist under the UCC and has been replaced by Entry In Declarants Records (EIDR). This change is subject to a transitional period and ‘presentation waiver’, which currently forms part of the local clearance procedure process can continue until 2019 or alternatively when reauthorisation is sought. For new authorisations, presentation waiver will only be available to AEOC applicants.

There was concern at the lack of technical specifications which are part of the wider UCC programme. HMRC does not have anything to share with trade at this stage and continue to work with the Commission on this. Dave Morgan (currently part of the Customs Transformation Programme) will be returning to work with IW on the UCC Project. Dave has a lot of MASP experience and will provide trade with information on customs decisions at future meetings.

IW updated members on a briefing on the valuation of the sales in warehouse.

The primary method for determining the customs value is the actual sale if the sale for export exists when the goods arrive in the EU. Alternatively, when no such sales exist, the sale for export taking place during the warehouse operation will be taken as the relevant basis for the value of the goods. Where neither apply, the sale from warehouse will form the basis of the customs value. The ‘sunset clause’ on earlier sales will continue to apply to sales in warehouse up until the end of December 2017. The use of the transitional arrangements is restricted to contracts concluded prior to the 18<sup>th</sup> January 2016.

MA (FSPA) stated that members had discussed this issue during their JCCC trade meeting. They have come to the conclusion that the wording in the guidance from the Commission and subsequent guidance from HMRC does not mirror what is written in legislation. Members would like clarity on the situation. The guidance is helpful but does not have the force of legal backing behind it. If trade follow guidance can they be reassured that they will not be penalised.

**AP1 – AS to confirm that trade will not be penalised for following HMRC guidance on the valuation of the sales in warehouse.**

PM (CSPs) asked for clarification on the royalties' situation on duties which is not clear. It is something that HMRC needs to revisit with Brussels. Members are split on the fact that if they followed UK guidance and they were deemed to be in contravention of the law they would incur EU penalties.

**AP2 – AS to confirm that trade will not incur EU penalties for following UK guidance on royalties.**

IW stated that HMRC is prepared to challenge the exclusively operated definition for TS. This is where each individual temporary storage premises will require an individual authorisation as opposed to certain situations where they are currently under a blanket port based approval. The Commission is fairly rigid in its interpretation that 'exclusively operated' as a requirement. This is an area that HMRC propose to challenge during the twelve month window. Trade groups are welcome to provide information in support of this view at various EU committees.

SP (DHL) stated that the issue is who owns the transit shed and asked whether trade can outsource their work?

IW stated that temporary storage is part of the transitional arrangements so there will be no pressure from the UK prior to 2019 and HMRC hopes to be able to resolve the issue before the deadline.

AM (BASS) wanted confirmation that HMRC will place no pressure on trade for guarantees by May 1<sup>st</sup> because of the transitional period. IW confirmed there will be no requirement for guarantees until the end of transition period apart from new authorisations during this period where they would be required.

IW explained that HMRC has tried to accommodate industry needs wherever possible. HMRC has held meetings with CSPLO's and trade regarding some pilot activities on temporary storage and the introduction of new CPCs and the guidance which has just become available. Further issues have now been highlighted by trade following the release of the guidance. This has been driven by changes to CPCs for special procedures. HMRC cannot avoid introducing these on the 1st May because this would meandeferring implementation of the UCC for a period or HMRC would have to go live and not mandate those elements where a guarantee was mandatory. This would put HMRC in an ultra-virus position and at the risk of infraction.

HMRC is trying to minimise impact as much as possible and has provided information to software providers. A meeting will be organised shortly to discuss further and look at any software fixes which can be implemented.

Trade has a choice not to implement the new CPC's but this means that goods coming out of warehouses would have to use the full declaration process rather than the CSFP arrangements for a period of time until they are able to process the new CPCs.

PM (CSPs) stated that members had asked for an agenda item to discuss the issue of CIPs which do not appear to go through any form of accreditation process. It would be helpful if the trade is notified of system changes as early as possible so that they are ready for any changes and can deal with any issues that arise.

GT (AFSS) stated that trade have a good track record working with HMRC. There is an appreciation that the impact of CPC changes will be greater than originally recognised. As software becomes more sophisticated over the years, CPC changes will become easier.

**AP3 AS/IW – to request that HMRC inform trade members more timely on the issue of CIPs**

IW stated that tariff changes have been finalised and are now with the publishers.

Gov.uk pages for CFSP, AEO, special procedures and temporary storage have been updated and any outstanding Gov.uk pages will be updated by the end of March.

Public Notices are gradually being replaced on Gov.uk site. UCC updates are being made to AEO, CFSP, TS, special procedures, customs debts, guarantees and exports and drafts will be available by 14<sup>th</sup> March.

Imports and Exports manuals are being updated and should be published shortly.

A number of CIPs are currently being published.

The UCC authorisation toolkit published in December is still awaiting Gov.uk release.

Transition authorisation terms and conditions have now been finalised. Letters will be issued to all holders of Community Customs Code authorisations detailing the rules for the procedures during the transition period.

HMRC is considering changing the UK implementation date to 3<sup>rd</sup> May instead of the proposed 1<sup>st</sup> May. JCCC members responded collectively that that would support this and had requested this to the EU but it had not found favour.

IW explained that HMRC proposes to take a pragmatic approach during the first weeks of UCC implementation and understand that mistakes may be made. This will give trade an opportunity to get to grips with the changes.

A Q&A log on UCC has now been developed and is available for trade.

An iform is under development for guarantees, which is an interim mechanism subject to the introduction of the Customs Decisions project which will enable people to obtain their guarantees electronically. The guarantee handling processing function is being centralised in Harwich.

The opportunity to use a joint contractual liability as an alternative for a guarantee in certain circumstances where applicable under the legislation has been identified. A form of words for 'joint contractual liability' is currently being reviewed by HMRC solicitors.

AM (BASS) questioned whether the Commission will endorsed the 'joint contractual liability'

**AP4 IW to confirm that the Commission is in agreement with the implementation of 'joint contractual liability'**

PM (CSPs) wanted to know what options are open to new and existing users of LVBI.

AS (HMRC) confirmed that the UCC does not allow for incomplete declarations which is the legal base for LVBI. There is a transitional period for making changes to systems that will apply for LVBI consignments valued up to a value of £15. This does not apply to consignments valued at £15 - £135. HMRC will be discussing the new treatment of LVBI with stakeholders over the next few weeks and will update everyone formally by the end of March. HMRC will not be authorising any new customers to use LVBI. Consignments up to a value £15 for existing customers will cease when CDS goes live (probably early 2018).

PM (CSPs) explained that the mechanism for the new simplified procedures are unclear and trade have received conflicting responses from Leeds and Nottingham.

AS confirmed that there will be no new 'incomplete' declaration authorisations but traders can use simplified procedures such as Entry Ito Declarant's Records.

Current LVBI approval end dates may have to be extended to the date of deployment of CDS.

From the 1<sup>st</sup> May businesses will have to make a commercial decision on the declaration process they want to use for consignments valued £15-£135. The options are CFSP Entry into Declarant's Records, CSFP Simplified Declaration Procedure or a full declaration.

Guidance detailing the options has been drawn up and will be issued following stakeholder meetings taking place later this month.

AM (BASS) commended HMRC on all the information and CIPS that have been given to traders. Other countries have not provided as much information saying that they were waiting on guidelines from the Commission before issuing their respective

version of CIPs. HMRC'S practice helps to improve the understanding of UCC but what will happen if the guidelines and CIPs do not say the same thing?

IW said it is the interpretation (by solicitors) of the legislation that is legally enforceable. Our approach remains valid and consistent and hopefully there will be no difference.

### **Update on Temporary Storage Pilot Scheme**

PM (CSPs) presented his paper (**Annex C**) and stated that at the JCCC Steering Group meeting it was agreed that a number of pilot schemes would be initiated in order to trial opportunities and explore different working practices. Initially thoughts were that HMRC is supportive at a high level to trial anything that the trade prepared a case for. BF has been less keen to relax some of their current processes due to a perceived increase in the level of risk. Members would like to obtain endorsement from HMRC that they will support some potentially radical suggestions within the regime.

IW stated that HMRC is prepared to endorse proposals but will not break the law. Any aspect they found to be ultra-virus is not something that HMRC will consider within a pilot. For example, an important driver for the Temporary Storage review was to stop the potential for clearance on wheels between point A and point B so HMRC will not open up this debate again.

AS updated members on the Temporary Storage pilot that HMRC has agreed to carry out at Heathrow. There is a proposal for a pilot between CCSUK, BF, HMRC, DHL, Dnata and BA to look at the UCC temporary storage provisions and at different ways of operating that remove the requirement for manual books containing line upon line accounting of everything that arrives on a particular flight. The pilot will be carried out as a desk top exercise before rolling out for piloting in a 'live' environment.

DH (BF) stated that their key priority is to ensure that processes continue to ensure a secure border and are happy to continue to work with trade to explore new ways of working.

JM (HMRC) confirmed that HMRC and BF are prepared to be radical but will not cross the line into illegality.

IW stated that HMRC does not want to design a UK bespoke solution which then adversely affects other MS because this will isolate the UK when goods are moved across Europe.

PM (CSPs) said that movements within temporary storage to other European MS was discussed during a CSPs meeting. An action was taken to look at the messaging between European partners to establish whether messages they wish to use in the UK could be supported by the various MS.

IW said that this would be worth relaying to the Customs Product and Processes JCCC sub-group and that he had conversations with the Dutch and Swedish

administrations about whether they were open to the exchange of messages within a pilot capacity. If we can agree on what member states are happy to exchange we can then discuss this further.

GT (AFSS) said that he had been in contact with his European trade association equivalent in Belgium and the Netherlands. There appears to be a general principle that if they are provided with a standard message that they are intending to use in Europe they will look at it, comment on it and adopt as a good working solution.

PM (CSPs) said that in principle there has always been an agreement that CSPs would support intra CSP messaging. CCSUK is doing a lot of work at the moment to try to identify the tariffs and systems that may need to change. This is an ongoing discussion and CSP messaging needs to be sorted out before they can move forward.

### **HMRC Software and Systems Testing and Accreditation**

PM (CSPs) provided a short paper (**Annex D**) on HMRC software and systems testing and accreditation. Under UCC there is a requirement to make software changes. In order to connect to certain customs systems the software goes through a process of proving rather than accreditation. The criteria of 'proving' is causing concern.

GT (AFSS) said that some systems that are being examined by customs and HMRC policy are being compromised because there are no clear definitions of what is actually required. Trade would like a policy document in the form of a service delivery agreement which clearly defines the areas that need to be tested by HMRC. There needs to be an understanding of what is within the scope of the tests. The documentation and test environments that are needed for the assessments are not in place and is causing additional costs to the developers. Service level agreements will be more effective for the trade in reducing the cost of the development.

IW confirmed that the UCC has highlighted this issue. AEO is a key aspect of UCC and HMRC has clear rules around authorisation of an AEO and the systems checks required to support it are rigidly carried out and documented. HMRC is now looking at the application of AEO standards as part of the UCC and the same approach is applicable. HMRC requirements need to be visible and make clear the authorisations that may need to be carried out by publishing relevant information.

There needs to be a central standard model which applies to all software that interfaces with APIs. The CDS Programme is aware of this.

**AP5 IW to report back to members on HMRC software and systems testing and accreditation before the next JCCC**



## 4. Future of National Freight Approvals Unit

### Steve Parker (DHL)

PM (CSPs) spoke to a paper (**Annex E**) on BIFA's position on the role of the NFAU.

DHL (SP) questioned the resourcing of the NFAU and asked whether control could be reverted back to HMRC.

An issue was highlighted following a temporary storage warehouse application when the NFAU requested details of everyone who had access to the warehouse. The information is currently held within the AEO authorisation, however, the NFAU said that this was held by HMRC and not BF so the information would have to be supplied again. If control remains with BF it would save time if both agencies worked together to exchange the information they hold.

DH (BF) said that since the last JCCC meeting it had been confirmed that the NFAU would be getting additional staff. There is a new Grade 7 manager and three EOs.

(IW) said that there are no plans for HMRC to take back the function of NFAU but HMRC does have a responsibility to educate BF staff on customs polices.

Temporary storage reauthorisations are part of the transitional arrangements so even though there are resourcing pressures there is a window of up to May 2019 to get the work done.

JOC (AICES) wanted to know if HMRC policy teams and BF operational teams could work more closely together so that traders are not sent from one agency to another.

AS said HMRC staff are going out to various BF locations and giving sessions on UCC to improve their knowledge. HMRC does need to help BF understand HMRC policies better and this help will extended to new NFAU recruits. BF does have access to the AEO database so the situation stated above should not arise again.

AM (BASS) asked whether the training that BF is getting from HMRC is also taking place across other departments, such as, Indirect Tax or Excise Policy, where there is a clear connection to exports.

AS explained that HMRC is not training staff across other departments but rather is working with them. For example, people in Southend are having teleconferences with people in Manchester that have responsibility for excise duties to discuss how we can implement the UCC requirements in the excise environment.

Import Vat policy sits with Customs Directorate and is treated as a duty of customs at import so there should not be any split for trade between VAT and customs duty.

IW pointed out that there is a training programme in place for the Enforcement and Compliance teams and Large Business.

SM (HMRC) said that the Commission is looking at ways they can use the AEO 'badge' to work across government departments and there are discussions between EU and US trade at possible ways to extend AEO trusted trader facilitation. There should be a paper on this soon which will be shared with JCCC members.

JOC (AICES) wanted to know how training programmes for HMRC and BF compared with the structure of class room based training in other MS.

HMRC replied that the ITDLO (International Trade Development Officer) provides information and advice and there is a Tax Academy within HMRC which creates products that are used by various areas of the business. The products are delivered on-line and face-to-face. HMRC has started a graduate induction programme and have recruited 15 people who are on an 18 month training programme before being deployed.

BF has a number of core skills courses which deal with different areas within the organisation and which an officer has to complete. BF recognises that work needs to be done to increase Border Force customs knowledge and they are working with HMRC in a number of areas to improve training.

It was agreed that Laura Lucking, who heads capability for customs, will be invited to give JCCC members an update on the progress and plans on development and training at the next JCCC meeting.

**AP6 DH/LL to update JCCC members on development and training plans for customs.**

## 5. CUSTOMS ANTI FRAUD STRATEGY

Angela Shephard

AS gave JCCC members an update on HMRC's operational activity which addresses the undervaluation and abuse of onward supply relief. **Section redacted for publication.**

## 6. EU Referendum

Alexander Pienaar

AP (HMRC) updated members on the EU Referendum which is due to be held on 23<sup>rd</sup> June.

The government recommends that people of the UK opt to remain in the EU. There is no contingency plan in place for Customs, HMRC or the government around what might happen if the government fail to secure its desired outcome.

Ministers are free to take a different personal position on whether the UK should stay in the EU, however, their personal preference does not apply to EU business more

generally. EU activity is still 'business as usual' so HMRC continues to pursue the same negotiating objectives that have already been agreed.

There are strict rules on what civil servants can do during a Referendum to support ministers. HMRC will continue to support ministers in implementing and developing policy that supports the government's aim to stay in the EU.

Civil servants working on 'business as usual' must remain impartial by not supporting either of the two sides of the Referendum campaign. The business pursued by the department and HMG will be more in relation to the government's line rather than campaign specifics.

AM (BASS) wondered whether the results from the Balance of Competences Review would be taken into consideration by ministers.

AP confirmed that it is a significant and useful resource on actual facts that both campaigns will probably use to establish the split between the different competencies and Powers between the UK and the EU. The review process was completed and published on the Gov.uk website. See link below:

<https://www.gov.uk/government/news/final-reports-in-review-of-eu-balance-of-competences-published>

Up to date information can be found on the Gov.uk website.

## 7. Review & Appeals – update

M (HMRC) said that up until six years ago, the Customs Review and Appeals Team was geographically dispersed and not working in a consistent way and so it was centralised into one unit. Resource and work flow issues highlighted by JCCC members have now largely improved over the last year and a half.

Following a departmental review over the past ten months, about the way reviews and appeals capability could be better utilised within HMRC across all duties and taxes, a decision has been taken that appeals and review work (of all kinds) will fall to the Solicitor's Office in HMRC. The Review and Appeals Team will remain as a whole but will transfer to a new management chain. It will no longer be owned by Customs Directorate within HMRC.

The high levels of capability within the team will not be lost and JCCC members were asked to let HMRC know if levels decrease following the structural change.

## 8. JCCC Sub- group update

The written sub-group update was circulated for information with the agenda papers.

The update document is at **Annex F**.

## 9. AOB

### Lin Homer Successor

Lin Homer has decided to step down as CEO of HMRC.

Jon Thomson (currently Permanent Secretary MOD) will be the Chief Executive and will chair the Executive Committee. He will be responsible for implementing strategy and will account for all of the department's activities and spending.

Edward Troup (currently the Tax Commissioner and second Permanent Secretary) will chair the board of HMRC. He will be responsible for framing strategy.

## CHIEF OUTAGE

JOC (ACIES) explained that members would like more discussion prior to planned outages. Early discussion would be appreciated so that members can assess the likely impact. A recent outage heavily affected his trade sector when it was assumed by HMRC that impact would be minimal.

IW (HMRC) said that there was an external driver for the date of this particular outage date. Customs did challenge the proposed date, however, the external drivers made it impossible for the date to be changed. Customs agrees that trade require notification as soon as possible, however, sometimes it is out of our control.

JM (HMRC) explained that there is now a better relationship with CDIO who now understand how important systems like CHIEF are impacted and how outages affect trade.

## Rex Agenda Item

AM (BASS) requested an agenda item on Rex (Registered Export Systems) at the next JCCC meeting.

Rex is a self-certification form for exporters coming into force on 1<sup>st</sup> January 2017 and is the first e-system coming into force over the next four years.

Discussion in an open forum will help members obtain an idea on how the UK will manage Rex without CDS being in force. Members will also get an idea on how practically MS will make e-customs a reality step by step. This will move onto other things that will impact JCCC members including customs software providers who might have to change their systems following customs decisions on electronic

movements. JM recommended that the trade members of the JCCC decide if they want to take up this idea and to report to the Secretary.

JM closed the meeting and informed everyone that this will be his last meeting. He is retiring and wished all colleagues and members well.

The next JCCC meeting will be 25<sup>th</sup> July 2016.

<b>Summary of Action Points</b>	
<b>AP1</b>	AS to confirm that trade will not be penalised for following HMRC guidance on the valuation of the sales in warehouse
<b>AP2</b>	AS to confirm that trade will not incur EU penalties for following UK guidance on royalties.
<b>AP3</b>	AS/IW to request that HMRC inform trade members more timely on the issue of CIPs
<b>AP4</b>	IW to confirm that the commission are in agreement with the implementation of 'joint contractual liability'
<b>AP5</b>	IW to report back to members on HMRC software and systems testing and accreditation before the next JCCC
<b>AP6</b>	DH/LL to update JCCC members on development and training plans for customs.

## Annex A - List of Attendees – March 2016

### Trade Organisations

Trade Organisation	Representative
Airline Operators Committee for Cargo UK (AOCC)	(JOS)
Airline Operators Committee for Cargo UK (AOCC)	(AR)
Association of Freight Software Suppliers (AFSS)	(GT)
Association of International Courier and Express Services (AICES)	(JO)
Automotive Customs & Trade Association	(HL)
Automated Customs and International Trade Association (ACITA)	(DH)
British Association of Ship Suppliers (BASS)	(AM)
Community System Providers (COP)	(PM)
Chartered Institute of Logistics and Transport (CILT)	(SM)
Customs Practitioners Group (CPG)	(BS)
DHL Global Forwarding (UK) LIMITED	(SP)
Food and Drink Federation (FDF)	(GR)
Freight Transport Association (FTA)	(AV)
Institute of Chartered Shipbrokers (ICSB)	(RH)
International Meat Trade Association (IMTA)	(KD)
Federation of Sport and Play Associations (FSPA)	(MA)
Federation of Sport and Play Associations (FSPA)	(IW)
UK Aerospace Industry Group	(GT)

### HMRC/OGD attendees

Department	Representative
HMRC	(JM) (Deputy Chairman)
HMRC	(AS)
HMRC	(IW)
HMRC	(SM)
HMRC (Observer)	(AP)
Border Force	(DH)
Secretariat	(SA)
Secretariat	(PO)

### Apologies

Organisation	Representative
British Chamber of Commerce (BCC)	(PW)
British International Freight Association (BIFA)	(RW)
British Ports association (BPA)	(RB)
British Retail Consortium (BRC)	(MC)
Chartered Institute of Taxation (CIT)	(JC)
Chamber of Shipping (COS)	(TR)
Customs Air Transport Industry Consultative Group (CAITG)	(MF)
Road Haulage Association (RHA)	(PC)
UK Warehousing Association (UKWA)	(PB)
HMRC	(BW) (Chairman)
HMRC	(KR)
HMRC	(LL)
BIS	(SM)
BIS	(BC)

**Annex B - JCCC Meeting Action Points  
From November Meeting**

<b>Summary of Action Points - 09/11/2015</b>		<b>Update</b>
<b>AP1</b>	CSPs (PM) to summarise industry questions about UCC and forward to IW	Discharged
<b>AP2</b>	HMRC (IW) to prepare stock articles about UCC implementation for communication	Discharged
<b>AP3</b>	BASS (AM) to contact IW in writing with proposals around self – assessment and EIDR	Discharged
<b>AP4</b>	Any issues with how approvals policy is applied should be raised with BF e-mail david.huke@homeoffice.gsi.gov.uk with copies to HMRC (KR) via the JCCC Secretariat	Discharged (on agenda)
<b>AP5</b>	HMRC (AS) to prepare a briefing on AFS for industry members	Discharged (on agenda)
<b>AP6</b>	HMRC (KR) to check powers of seizure when no duty is involved in seized goods	Discharged
<b>AP7</b>	HMRC (AS) to update JCCC on postponed VAT accounting in early 2016	CF (to next JCCC)
<b>AP8</b>	HMRC (AS) to update AFSS about HMRC information outside the CIP process	Discharged



## Joint Customs Consultative Committee

Meeting: 2<sup>nd</sup> March 2016

Agenda Item 3: Temporary Storage Pilot Scheme

Author: Peter MacSwiney

### 1. Background:

At the JCCC Steering Group meeting it was agreed that a number of Pilot schemes would be initiated in order to trial opportunities to explore different working practices which are allowed under the UCC. Traders Entry in the Records, Guarantee Management and recently Self-assessment have been suggested but at this moment work has only started on TS at LHR. The purpose of the scheme is to explore what additional trade benefits can be identified without adversely affecting HMRC's control of the goods. We would like these schemes to consider radical ideas and to, in effect; push the envelope. I realise this may cause consternation in some areas but I don't think there should be any preconceptions about things that are or are not allowed under the current ETSF authorisations or areas that were not satisfactorily resolved during the ERTS review.

There have been a number of unrelated albeit connected discussions with the UKBF regarding providing them with more data in advance of the shipment arriving. The trade and Systems Providers have no issues with facilitating this but would ask that they receive some concessions in return. Currently goods cannot be entered to CHIEF until they have been physically checked in at the Transit Shed or ETSF. The period where the goods are physically moving between the 2 locations is currently covered by Transit and the goods are unable to be entered, during this period, as this would lead to them being in 2 regimes at once. After 1st May this year Transit is replaced by Movement in Temporary Storage so there seems no reason why goods cannot be entered as soon as the goods have arrived at the (air) port.

At the present moment most, if not all, of the risk profiles are triggered against the CHIEF entry so the earlier this is completed the more data is available to the UKBF giving them

additional time to intervene should they wish. We believe that the goods are not cleared and are still in TS until they have been arrived at the ETSF AND the release note has been printed. If the ETSF operator does not bring the goods back to the TS facility, they are in clear breach of the rules and conditions of the authorisation.

Currently the UKBF insist on one dedicated vehicle collecting from a maximum of one or two Transit Sheds and returning immediately to the ETSF. It would be useful if this could be revisited as there are benefits in reducing emissions and congestion at Transit Sheds by reducing vehicle numbers.

These points reflect the initial thoughts of the contributors to the pilot scheme working groups but are far from being the only changes under discussion. Movement between subsequent TS locations either within the UK or another Member State are also being discussed and it is fairly certain that additional scenarios will surface as the work continues.

## **2. Outcome:**

I would ask that HMRC endorse the radical objectives of the Pilot Scheme and work, with the trade and OGD's, to ensure that we end up with a quicker and simpler system.

## Joint Customs Consultative Committee

Meeting: 2<sup>nd</sup> March 2016

### Agenda Item 3: HMRC Software and Systems Testing and Accreditation

Author: Peter MacSwiney

There has recently been an increase in the areas of system functionality that has required accreditation by HMRC. Whilst it is recognised that accreditation may be necessary in some areas of software development, the approach to testing needs to be clearly defined and well documented.

It is recognised that both the software supplier and HMRC have a responsibility to organise themselves and conduct any testing in a manner that avoids unnecessary cost and effort to both parties.

With the introduction of the Customs Declaration System planned for 2017 the means and scope of the testing of software and systems may need to be re-defined.

AFSS would propose that HMRC set out the functional areas of any systems that requires accreditation in a Service Delivery Agreement (SDA). The SDA should also place a responsibility on the developer to initially conduct testing against a clear set of test specifications prior to engaging HMRC in any testing. It may be possible in some cases to conduct such tests without HMRC participation and provide the test results for scrutiny by HMRC.

Testing should be limited to those areas of functionality defined in the testing documentation.

Where there are requirements to produce printed documents or reports, the format of these should be defined in the functional specifications and included in the test scripts. Provision should be made for alternative options to a printed document. Results of the testing should be documented and agreed by both parties. No undue influence should be made as to the chosen method to connect to the HMRC system chosen by the software supplier.

The testing should not extend beyond the definition of those functional areas set out in the testing documentation and should not extend to system design or layout which may intrude on the Intellectual Property Rights of the supplier. All testing requirements documentation should be maintained and published on GOV.UK. HMRC should set out the service levels to initiate testing following an application from any developer. Software Developers should make adequate preparation to conduct their testing with HMRC in an effective and efficient manner.



## Joint Customs Consultative Committee

Meeting: 2nd March 2016

Agenda Item 4: BIFA position paper - Role of the National Freight Approvals Unit

Author: Peter MacSwiney

### Introduction

The efficient operation of Temporary Storage is vital to the effective operation of (air) ports and the wider import/export activities for in particular containerised cargo. The concept of removing uncleared freight from the initial port of (air) port of arrival to a customs controlled shed for final clearance and release is a well-established activity.

The main reasons behind the process are relatively straightforward:-

- It reduces the need for physically large sheds at location where rent/wages and other operating costs can be very high
- It allows the party with all relevant data /manifests to control the unloading and checking of cargo
- Often the temporary storage operator will clear a large percentage of cargo in their shed which closely aligns the handling and customs brokerage activities.

The implementation of the UCC, with its emphasis on AEO makes a review of the NFAUs role relative to Temporary Storage approvals appropriate.

### Reasons to consider bringing the approval of Temporary Storage Approval back to HMRC.

This matter is often discussed within BIFA and other trade associations, having to deal with two regulators often increases workload and delays in any discussions. A case in point was during the last drawn out Temporary Storage Review when trade felt that a conclusion had been reached with HMRC, only for UKBF as it was then to raise certain issues which probably added approximately 9 months to any discussions and a final agreement being concluded.

It is confusing and nonsensical for trade to have to discuss policy with HMRC and then with BF regarding implementation. It would be far more pragmatic and sensible from trade's

viewpoint to deal with one government department rather than two, both of which have an different agendas and cultures.

One issue that is regularly discussed is that the NFAU is understaffed, a fact that was tacitly acknowledged by the BF representative attending the last JCCC, when an increase in staffing was advised.

It is perceived that the main thrust of BF's activities whether in immigration or their other duties is transaction based (i.e. a passport is checked and person matched against the photo) the Agency focusses on detection and prosecution not facilitation. Customs approvals are more subtle and are process driven, it is the activity which is controlled, monitored and audited to ensure compliance.

Members have simply commented that if they need an authorisation to operate IPR, OPR, Customs Warehouse, CFSP the only department that they have to deal with is HMRC.

Whilst accepting that there will be disagreements and disappointments the view is that the department strikes a reasonable balance between regulation and business needs and will listen to sensible arguments when put to them.

From listening to general discussion within our Members there is a view that the BF when approving Temporary Storage Facilities are:-

- More prescriptive than HMRC would be
- Impose additional restrictions without being prepared to explain the legal background

Whilst BF personnel will in all probability still carry out the approval inspections, these should be only after the application has been submitted to and vetted by HMRC, who will also handle any appeals etc. against decisions.

### **Specific Example raised by BIFA members**

Having discussed the matter with members it was clear that they wished for all submissions to BIFA to be treated in the strictest confidence and that the views put to regulators should be on an anonymous basis.

There is a fundamental divergence of view between trade and certain elements within Government as to how to ensure compliance. Trade believes that modern IT systems providing management information which is visible to the authorities should be cornerstone of monitoring cargo movements. Unfortunately the BF, for whatever reason seems to be more comfortable with paper and physical controls-the latter may be because somebody from that Agency has to physically inspect cargo and detain as applicable.

The problems reported by Trade may not be individually significant but cumulatively they paint a worrying picture. A lack of consistency between different Border Force regions also adds to the confusion particularly for multi-site operators.

Below are some examples of the sort of issues raised by Members:-

- At certain locations BF insists on the boundaries of the ETSF being identified by yellow lines being painted on the floor
- The requirement at LHR to keep a manual daybook to record consolidations being received
- The requirement to remove cleared freight from an ETSF to a separate area within a warehouse for final delivery increasing handling and cost
- Reluctance to allow temporary changes in an ETSF's layout to cope with unexpected demand or congestion stemming from Christmas shutdown etc.
- Advising members that they could not store loose cargo on a pallet with shrink wrap around it because this changed the piece count

- Insisting that signage was changed to read Border Force rather than HMRC
- A reluctance to allow a freight forwarder to operate an ETSF within the boundaries of an airport.
- Refusal to authorise an ITSF and ETSF to be located in the same premises.
- Confusing and contrary instructions regarding ullage cage sizes and specification- with no regard to the simple fact that unused space is a cost.
- Inflexibility to grant temporary variations for working hours to allow for late running vehicles etc.

### **The Impact of Authorised Economic Operator (AEO)**

In many ways AEO has changed the argument regarding authorisations. AEO is in effect an overarching regime which aims to ensure trader compliance via documented procedures which are self-audited by the trader and Customs as appropriate.

AEO reinforces the importance of Customs role relative to all the regimes and procedures contained within the UCC-the Department is clearly established as the pre-eminent authority relative to ensuring in international trade matters. It is incumbent on Customs to understand and audit traders against the AEO criteria in general, and then the specific regime. BIFA's members have pointed out that traders that meet AEOC are deemed to be compliant when they apply to operate individual regimes including Temporary Storage.

Effectively the AEO compliant trader will be looking to HMRC as the arbiter on AEO and the policy holder on Temporary Storage to combine regulatory interventions where possible. The legislation clearly states that for non AEOC traders that they will have to comply with AEO criteria to be able to operate Temporary Storage. At this juncture it is worthwhile advising that most Members during their AEO revalidation process have their Temporary Storage procedures audited by HMRC.

Therefore, in order to ensure consistency for all Traders it is believed that the application and approval process should solely fall under the control of HMRC. **Members also feel that this would bring efficiency advantages for customs by having policy and authorisation under the control of one department and would ensure that the two elements were aligned.**

### **Conclusion**

If it was not for the increased importance of holding AEO certification enshrined within the UCC, BIFA would be raising its Members concerns with you in order to discuss ensuring consistency within the approval process.

However, AEO changes the nature of the relationship between trade and HMRC, which is moving from a transaction based approach to one based on auditing, approving and monitoring trader's processes and records.

BIFA encourages compliance and will always encourage members to assist in preventing smuggling, evading restrictions on certain goods etc. However, Members now believe that the approval of Temporary Storage facilities should revert to HMRC.

Annexe F

## **Update on JCCC Sub – Groups**

### **JOINT CUSTOMS CONSULTATIVE COMMITTEE**

**DATE OF MEETING:** 2<sup>nd</sup> March 2016  
**SUBJECT :** Update on JCCC Sub Groups

The information table below provides key issues and updates from JCCC Sub Group/ Working Group meetings. The minutes from each Sub Group or Working Group meeting will continue to be posted onto the [HMRC website](#)

#### Definitions

- **JCCC Sub Group** - for projects / initiatives which are finite; and
- **JCCC Working Group** - for “perpetual” meetings;

JCC Secretary, E-Mail – [JCCC Secretariat](#)

Name of Group / Type of Group	Next Meeting	Contact	Update and Key issues from recent meetings
Customs Change		Daniel Foster	<p>Meeting held on 11th February.</p> <p>DA and IA published in the OJ (OJL343) and currently minor editorial changes are being reviewed in a corrigendum issued by the Commission. Agreed minor changes and cross referencing issues should be released by the 1st May.</p> <p>Cost and burden review underway to identify impact of UCC Changes on Trade. Input has been requested from trade members.</p> <p>CDS timetable to launch a test in Feb 17 with live delivery in Oct 17. A revised end to end plan is due to be presented to April programme board.</p> <p>Latest revision of the MASP was received w/c 8th Feb and initial review period ended 23rd Feb. Agreement with Commission on flexibility as to when changes are implemented between 1st May and 2020.</p> <p>New exporter details facility will be launched on uktradeinfo.com on 8th April 2016.</p>



<p><b>Customs Product and Processes</b></p>	<p>22/4/16 Southend</p>	<p>Kevin Snow/David Rudd</p>	<p>Meeting held 15/1/16 Euston Tower.</p> <ul style="list-style-type: none"> <li>• DA and IA published</li> <li>• Update on UCC implementation activity – transition authorisation letters due end Feb 16; Tariff finalised apart from CPCs; 12 CIPs (inc Transit, Exports and Guarantees) awaiting publication; UK Trade info may be used as an alternative to Gov.uk; Public notices finalised in draft by mid March 16; Internal manuals ready end Feb 16; Authorisation manuals 22 Jan 16; Special procedures application forms now online</li> <li>• Authorisation holders mailshot has seen 10,000 letters issued</li> <li>• Explanation provided of the issues arising from RFC 28</li> <li>• Substantial update provided on AEO and guarantees</li> <li>• Update on EU/US FTA (TTIP)</li> <li>• NILPS update and introduction of WG</li> <li>• CITEX will be invited to all future meetings (were unable to make this one due to meeting/leave clash)</li> <li>• Members requested to contribute to discussion on stat data, CDS message format changes</li> </ul>

<b>Duty Liabilities</b>	18/5/2016	Valerie Smith	<p>The group last met on 17/2/16. A range of issues were discussed including:</p> <ul style="list-style-type: none"> <li>• UK Trade Tariff – a user feedback session was led by BitZesty for Government Digital Service</li> <li>• Update on the progress of TTIP and TPA trade agreements</li> <li>• Update on the Information Technology Agreement II</li> <li>• UCC implementation for Classification NB the group expressed the need for guidance on the implementation of UCC Valuation changes</li> <li>• Miscellaneous Tariff Classification issues, and</li> <li>• An overview of the EU audit process and approach</li> </ul>
<b>International Trade Operating Systems Working Group (ITOSWG)</b>		Maggie Kelly	<p>CHIEF Tech Refresh is due for completion end March. There is limited impact on service availability for the remaining technical work.</p> <p>A CHIEF DR exercise is scheduled for late April. As this will be the first since the refresh, additional actions need to be taken extending the normal 1 hour downtime to 3 or 4 hours (only applicable for this first test on the new infrastructure). To minimise trader impact and taking on board previous feedback, the DR rehearsal is likely to be undertaken on the Sunday daytime.</p>
<b>Modernising Freight Management</b>	17/05/2016	Alex Childs	<p>The last meeting was on the 19/01/2016</p> <p>The sub group were given an update on:-</p> <ul style="list-style-type: none"> <li>• Border Force Trusted trader Scheme</li> <li>• CORE EU Research Project</li> </ul>

			<ul style="list-style-type: none"><li>• One Government at the Border</li></ul> <p>There are currently no issues or open action point.</p>
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