

# Minutes of the Joint Customs Consultative Committee

Date of meeting: 12 February 2014

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. National Clearance Hub - forward look
4. Vine report - its implications for managing the frontier
5. Commission proposal for the harmonisation of customs penalties
6. The future of Customs Controls and Trade Facilitation - Trusted Traders
7. Update on the UCC (action point from previous meeting)
8. Chief replacement update (action point from previous meeting)
9. Sub-group update
10. Any Other Business

Annexes

- A - List of attendees
- B - Action Point update
- C - National Clearance Hub - forward look (paper)
- D - Vine report - its implications for managing the frontier
- E - Commission proposal for the harmonisation of customs penalties (paper)
- F - HMRC response to paper on Commission proposal for the harmonisation of customs penalties
- G - The future of Customs Controls and Trade Facilitation - Trusted Traders (paper)
- H - CHIEF replacement update
- I - Sub-group update

# 1. Introductions

1.1 The Meeting was chaired by Bill Williamson. He opened the meeting by welcoming all attendees - a list of those attending is at **Annex A**.

The chair welcomed Carole Upshall who replaces Kevin Franklin as the head of Border Force. Unfortunately, Carole could not make the meeting however, Sharon Mole attended in her place.

Gavin Roberts who represents the Confederation of British Industry (CBI) will also be representing the Food & Drink Federation (FDF) until further notice.

Mark Corby who represents The Chartered Institute of Logistics & Transport will also be representing the British Rail Consortium until further notice.

## 2. Minutes, action points and matters arising

### 2.1 Minutes October 2013

The minutes for the last meeting were accepted.

### 2.2 Outstanding action points

All outstanding action points from the last meeting were discharged. Please see Annex B - there were 6 action points.

Action point 1 from the previous JCCC meeting was for HMRC to produce an organisation chart showing senior staff in customs directorate and their responsibilities. The chart was distributed to all trade members prior to the February JCCC meeting. BW reiterated that the information was for the sole use of the JCCC trade members and that the chart should not be passed on. Trade members should use the customs leaflet which was issued with the June JCCC minutes which details HMRC public offices that deal with Customs matters.

RW asked for JCCC trade members to be notified of any updates. Bill Williamson said that he will ensure that JCCC representatives are included on the update distribution list.

TR referred to agenda item 6 (Commissioners' Direction on Passenger Information) from October's JCCC meeting. A paper came out shortly after the last JCCC meeting stating that the Direction was incorrect. He feels that there should be a process in place to acknowledge this and correct the Direction. He asked what process was in place to revisit the Direction again.

KR explained that Directions are legal documents and therefore cannot be ignored. This Direction was drafted with flexibility in mind and includes the provision 'unless otherwise agreed with the Commissioners.' The latest CIP states that a review of the new 2013 Directions identified some operational difficulties and whilst discussions are underway the time limits specified in the new Directions on passenger information will not be enforced.

HMRC and BF are working closely with the General Aviation Sector to draft new Directions. New Directions will be circulated to JCCC members for discussion.

RW referred to AP5 'PS to provide an update on UCC at the next JCCC meeting' and feels that there should be a 'one off' meeting between Customs and the Trade. BW agreed to revisit this issue. HMRC now have a sub group structure in place and can use the relevant sub group meeting to accommodate this.

### 3. National Clearance Hub - forward look

## Andrew Bryant and Alistair Baird

### 3.1 Introduction

Andrew Bryant and Alistair Baird from the National Clearance Hub (NCH) discussed the future of the NCH service provision. The NCH is the UK's central office for all pre-clearance activities on imports and exports selected for a documentation check under customs controls. The session was aimed at focusing on areas that have direct impact on our customers and JCCC members.

The purpose of the NCH is to assure the efficient passage of legitimate goods into and out of the UK. An examination of the business processes highlighted that the NCH purpose was being affected by IT and office hardware system constraints, imposed time targets, restrictive profiles and limited utilisation of the knowledge and skills of NCH staff.

They plan to modernise the process and meet the needs of the trader, UCC and reduce the cost to the taxpayer.

They are currently exploring options and are working on changes to the R1/R2 process and reforming the R1/R2 service standards.

### Process

The NCH currently does not have an electronic system which impacts on clearance time. Case flow will help the system become more efficient and a standardised. They are considering removing the current option of using faxed documents except for 'fallback' cases. The next step is consultation with trade and HMRC's technical team. NCH plan to canvass the views of the trade shortly.

### Service standards

The NCH has to consider how their workload will change. Currently, 85% of their workload is received between 0700 and 1900 and the extension of ALVS will change the dynamics of the workload and how it is received. They are currently analysing the work flow data and how data is received at other EU states. This will give benchmarks to beat.

The cost, reputation of the UK and logistics of movement in trade all need to be taken into consideration. Change requires Ministerial support. It may become apparent that one size does not fit all so they are looking to tailor services more accurately to the needs of the customer.

Their paper (annex C) updates JCCC members on business process re - engineering at the National Clearance Hub.

## **Discussion**

PM felt that a 'reduction' of service standards should not be the starting point and a more holistic review needed to be approached. He believed that ALVS will reduce route '1's but ALVS is currently only available 80% of the time. PM said that to be of true benefit the review has to cover both NCH and industry processes.

RW felt disappointed that HMRC is looking at the SLA again. It was reviewed in 2011 when the NCH set up gives a guaranteed clearance time. We need to think about the future and BIFA won't accept any degradation of service.

PC felt that regulating deliveries and collections will impact on the review.

GR agreed and felt that industry was imposing shorter delivery times which caused concerns for SLA delivery.

JOC felt that the apparent lack of communication between NCH and other government departments caused delays in delivery times, especially BIS for strategic exports.

SM explained that Single Window developments will help ALVS to reduce clearance times. IW felt that more detail was required from industry about ALVS only being available 80% of the time.

AB stated that the NCH meets regularly with other government departments such as BIS, DEFRA, FSA and BF. MOUs are in place and trading standards issues were solved with electronic communications.

There are no agreed options yet. The NCH is analysing data at the moment and will consider any comments and issues highlighted.

BW reiterated that this was exploratory work and there are no pre conceived ideas. The review that the NCH is carrying out will be reported in the Customs Change Sub group of the JCCC. He confirmed that it was important to continue to have a two way dialogue between NCH and the trade.

## 4. Vine Freight Report - its implications for managing the frontier Peter MacSwiney

### 4.1 Introduction

PM introduced his paper and stated that he wanted to be objective and supportive however, he felt that BF can not carry out customs work efficiently because they do not have enough workforce. There is inefficient communications between BF and HMRC at operational level as well as BF being invisible to industry at the border.

### Discussion

SM explained that a CIP had been issued on the Vine Report on Border Force's freight operations summarising the findings of this inspection and its recommendations which had all been accepted. PM's paper highlighted several areas that had already been identified as areas for improvement. On its international trade activities BF is aware that there are capacity and training issues, and areas that need improving to adopt a consistent approach.

Improved mechanisms are now in place to issue guidance and new members of staff are currently being trained across the complete range of customs activities delivered by Border Force to enable more flexible workforce deployments. A joint Border Force and HMRC Freight Management Strategy is also being developed to support short and long term improvements.

Border Force has Strategic Partner Groups for consultation with industry stakeholders. SM will establish latest arrangements for these and report back to JCCC members.

### **AP1 SM to establish details of the Border Force Strategic Partner Groups and report back to JCCC members**

PC stated that a BF forum on Vine is in place. However, one group of uniformed personnel (UKBF), operating 2 or more different regimes at the border, made it difficult to establish who is doing what, where and for what purpose.

RW feels that Vine has let BF off lightly and although it looks at how issues will be taken forward they have not addressed the underlying problems. Customs and immigration should not have been joined together because their regimes are too different, immigration is transactional and Customs more focused on risk, intelligence and customer knowledge. He is happy with the existence of the JCCC but not all stakeholders are invited.

TR discussed staff availability and felt that a hit rate of 1% on anti smuggling exams was pretty poor. A shortage of staff has been reported however staff appear to be available when they are not needed. There has always been tension between strategic priorities and local practice. The solution is knowledge, training, understanding of business and legal requirement. The report has been published so what is happening in the short/medium term?

HL highlighted the financial impact to industry. What evidence could trade provide to improve things?

SM confirmed that BF is committed to addressing issues raised in the Vine review. They will identify and gather the right people to discuss and tackle issues that have been identified. BF has mechanisms in place to deal with changes to legislation. BF is happy to discuss any key issues bi - laterally or within the JCCC group.

BW thanked SM for a good and constructive discussion and stated that BF and HMRC want this topic to be open and transparent . There is a Freight Management forum chaired by Sally Thurlow in mid February. Members are welcome to attend.

CIP 13(80) notified to members of the JCCC sub groups and members need to nominate themselves.

AP 2 AS to re issue CIP 13(80) to JCCC members

SM has established that BF hold the following key industry stakeholders meetings:

- the Air Carrier Group
- the maritime Partner Group
- the General Aviation Group
- the General Maritime Group

JCCC members can contact the Secretariat:  
[BorderForcePartners@homeoffice.gsi.gov.uk](mailto:BorderForcePartners@homeoffice.gsi.gov.uk) for further details.

## **5. Commission proposal for the harmonisation of Customs Penalties Robert Windsor**

## **5.1 Introduction**

RW produced a paper to discuss the Commission's proposals for harmonising customs penalties across the member states. Members wanted to obtain customs' thoughts on the issue and address the trades' concerns that the creation of the new system did not allow for local, commercial and social differences.

KR produced a paper for JCCC members stating that HMRC provided an initial response to the Cion's proposals and are now considering a more detailed response. A summary of their initial concerns are listed in KR's paper. HMRC welcomes members' comments and are willing to take trade views.

## **Discussion**

There is currently a draft directive in the public domain.

### **AP 3 KR to send link of proposed directive to JCCC members**

PW confirmed that the Cion is trying to do something similar in the transport sector.

BW confirmed that the Commission is serious about progressing the Directive. Any feedback from the trade is very welcome.

MC pointed out that the UCC lays penalties to MS but the Cion is now trying to change this by Directive.

## **6. The future of Customs Controls and Trade Facilitation - Trusted Traders Mark Corby and Howard Levene**

### **6.1 Introduction**

HL introduced the paper which is a list of ideas discussed in the past by the SAGE Group. The trade would like to re-establish a dialogue on finding more benefits for trusted traders. They are concerned that the JCCC future focus on trade facilitation may not be correctly targeted without a debate from the perspective of the AEO.

Trusted traders should be allowed to 'get on with it' and the development of the data pipeline might enable this to happen. Resources are reducing in customs so self regulation could be a big driver. The discussion on how traders work with HMRC on implementation should be discussed in this forum and independent of the JCCC sub groups.

## **Discussion**

AM felt that the discussion paper needed to be taken to the Commission. The message from HMRC was clear and stated that any ideas will be considered. The concept that AEO is considered a 'trusted trader' should be emphasised. If HMRC continues to audit AEOs every year traders wanting to join the scheme will reduce.

PM said that tax avoidance is quite high. HMRC seem to focus on companies that are trying to be compliant and engage with the department whilst ignoring those that make no attempt to comply or engage. There is a need to differentiate between checks required for release at the frontier and tax audits.

PC proposed using the code of conduct as used for clandestines as a template and adding other details as required. This would bring the various regimes operated by UKBF closer together.

IW confirmed that the ideas will be discussed in his sub group and agreed that AEOs should not be audited every year.

HW hoped that UCC will provide companies with the opportunity to discuss the issues highlighted in his paper.

## **7. Update on UCC      Bruce Stewart**

BS updated members on key dates and the timetable for the Union Customs Code.

- IT work programme to be agreed by 01/05/14 with transitional arrangements up to 31/12.2020
- Implementing and Delegated Acts to be agreed by mid 2015
- 12 months lead-time for introduction of UCC 1 May 2016
- Implementing Act of the Work Programme 1 May 2014
- Final Delegated Act for standard rules 1 May 2015
- General Implementing Act to apply to the standard rules 1 May 2015
- Two review cycles in 2014 consisting of week long meetings planned every 4 weeks.

The Customs Change sub group is already discussing the UCC. Bi-laterals with various trade associations have taken place and various CIPs have been released. There is an email box for traders to send comments.

PM felt that HMRC and industry are not a million miles apart on UCC but more industry representatives needed to be present at the Customs Change sub group meetings. However, 2 hour meetings were not long enough to discuss UCC issues. A separate meeting may be necessary.

BW confirmed that customs would be happy to invite any key industry players to future Customs Change sub group meetings and welcomed any nominees identified by trade members.

AM proposed a half day meeting to discuss key issues that HMRC and industry had including a 20 minute session explaining how to read the document.

**AP 4 BS to organise a half day meeting between HMRC and Trade to discuss UCC issues.**

AM and JOC wondered if it was possible to see the issues from all MS. BS explained that issues are not identified by member state in Cion papers.

## **8. Update on CHIEF Replacement Programme (CRP)**

### **Steve Casey**

SC provided an update on the progress of the CHIEF Replacement Programme (CRP).

A paper had been distributed prior to the meeting giving members an overview of the CRP.

The system is being replaced for several reasons including an ageing infrastructure, the current service delivery contract coming to an end and the UCC. The scope of CRP has recently been extended to include the transformation of postal processing. Requirements gathering continues and representations/observations from the industry are welcome.

Baselined requirements are currently due to be in place by the first week in April with supplier Boot Camps in mid April. The CRP team has also been carefully evaluating the information obtained during the Request to Information event held in November and the subsequent 1-2-1's held. BF has been fully involved in the requirements gathering process.

PM felt that funding was still an issue and stated that it was crucial that the system worked from day one. There could be a potential conflict of interest on the Programme Board and would like to see a confidentiality document drawn up. He also expressed concerns about scope creep and the involvement of other MS.

SC explained that the project is going through a formal funding process with HMT but Lin Homer is committed to supporting funding from within HMRC baseline. He accepted PM's views on conflict of interest. The question of Programme Board representation was currently under discussion with HMRC Solicitors Office.

JCCC members and trade groups are invited to submit their views and comments for further consideration.

Following the meeting CRP has been conducting further detailed planning ahead of progressing to the next stage. As a consequence the proposed Boot Camp will not be taking place in April but a formal Boot Camp followed by an Invitation to Tender will take place later in the year.

## **9. Sub - group update      JCCC Secretariat**

The sub-group update was presented without comment.

## **10. Any other business**

AM said that members were concerned about the 'through put' period for IPR and special procedures. The total storage time is not enough causing time and money issues. Members were told to apply to Customs for extra 'through put' time.

**AP 5 IW to discuss at the next Customs Products and Processes sub group the issue of 'through put' for IPR and Special procedures.**

HL felt that members of the public were using the JCCC contact list for marketing purposes.

In future, the names of the attendees will not be published and only the names of the organisation will be published.

**AP 6 Secretariat to publish the names of the organisations alone when the finalised minutes are published on the HMRC internet.**

BS stated that Open Data was discussed at the G8 summit and a Charter produced. Import and export data has been identified as 'key data'. Different MS have different standards. A public consultation is expected in spring.

**AP 7 Agenda item for next JCCC - 'Open Data'**

**The next JCCC meeting will be 16 June 2014.**

<b>Summary of Action Points - 12/02/14</b>	
AP1	SM to update members on the Strategic Partner Groups
AP2	AS to reissue CIP 13(80)
AP3	AP 3 KR to send link of proposed directive to JCCC members
AP4	BS to organise a half day meeting between HMRC and Trade to discuss UCC issues
AP5	IW to discuss at the next Customs Products and Processes sub group the issue of 'through put' for IPR and Special procedures
AP6	Secretariat to publish the names of the organisation alone when the finalised minutes are published on the HMRC Internet
AP7	Agenda item for next JCCC - 'Open Data'

# Annex A - list of attendees - February 2014

## Trade organisations

Trade organisation	Representative
Association of International Courier and Express Services (AICES)	(JOC)
Association of Freight Software Suppliers (AFSS)	(GT)
Automated Customs and International Trade Association (ACITA)	(DH)
British Association of Ship Suppliers (BASS)	(AM)
British International Freight Association (BIFA)	(RW)
Chamber of Shipping	(TR)
The Chartered Institute of Logistics & Transport (UK)	(MC)
Community System Providers (CSPs)	(PM)
Confederation of British Industry (CBI) Food and Drink Federation (FDF)	(GR)
Freight Transport Association (FTA)	(DA)
Institute of Chartered Shipbrokers (ICSB)	(NI)
Road Haulage Association (RHA)	(PC)
Society of Motor Manufacturers and Traders	(HL)
UK Major Ports Association	(PB)

## HMRC/OGD attendees

<b>Department</b>	<b>Representative</b>
HMRC Director Customs	(BW) (Chairman)
HMRC Head of Customs Product and Processes	(AS)
HMRC Head of Business Transformation	(MC)
HMRC Business Transformation Team	(BS)
HMRC Customs Product and Processes Team	(IW)
HMRC Excise and Customs Law Team	(KR)
HMRC National Clearance Hub	(AB)
HMRC National Clearance Hub	(ALB)
HMRC Chief Replacement Programme	(SC)
Border Force Deputy Director	(SM)
Secretariat	(SA)

# Apologies

<b>Organisation</b>	<b>Representative</b>
Airline Operators Committee for Cargo UK (AOCC)	(BG)
Association of International Courier and Express Services (AICES)	(BS)
British Chamber of Commerce	(PW)
Customs Practitioners Group (CPG)	(BS)
Customs Practitioners Group (CPG)	(GC)
British International Freight Association (BIFA)	(JC)
British Rail Consortium	(DM)
DHL	(SP)
UK Aerospace Industry Customs Group (UK AICG)	(GT)
Pharmaceutical Trade Group	(AW)
UK Warehousing Association	(MH)
HMRC Deputy Director Customs	(JM)
HMRC Head of Legal Powers	(AT)
HMRC BT Change Directorate	(GW)
Border Force Director	(CU)
BIS	(MW)

## Annex B - JCCC meeting action points

For February meeting

No	Action point	Update
<b>Agenda Item 2 Minutes, Matters Arising and Action Points</b>		
AP1	AS to produce an organogram of senior staff in Customs Directorate	Discharged.
AP2	Remove 'draft' from the Customs leaflet and issue with October JCCC minutes	Discharged. Leaflet distributed with October minutes.
<b>Agenda Item 3 - Future of JCCC</b>		
AP3	Chief Programme team to provide JCCC trade members with update on current activity	Agenda item at February 2014 meeting. Speaker - Steve Casey.
<b>Agenda Item 4 - Update on the Customs and Excise law modernisation Project &amp; Update on Civil penalties</b>		
AP4	Anne Treadwell to look at possibility of showing draft measures to the trade	Has agreed to full consultation with the trade on revised Commissioners Directions including sharing draft legislation.
<b>Agenda item 5 - Update on UCC</b>		
AP5	<b>Pete Stirling to provide an update on UCC at the next JCCC meeting</b>	Agenda Item at February 2014 meeting. Speaker - Bruce Stewart.
<b>Agenda Item 6 - (February meeting) Authorised Economic Operator</b>		
AP6	Valerie Smith to ensure that meetings held by Valuation, Origin and Special Procedures EU Committees are shared with JCCC members	Discharged.

## ANNEX C

Slides for National Clearance Hub update on business process re- engineering :

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**JCCC 12 February 2014**

# **Business Process Re-Engineering at the National Clearance Hub – Update**

**Alistair Baird - NCH**

# Key Findings from the BPR

- The purpose of the NCH is to assure the efficient passage of legitimate goods into and out of the UK, ensuring compliance with declaration requirements and the correct payment of taxes and duties
- Achievement of this purpose was being adversely impacted by system constraints such as IT and office hardware, imposed timeliness targets, restrictive profiles, and limited utilisation of the knowledge and skills of NCH staff
- This created waste in the process and additional work

# Activities

Our response to these findings has been to consider the operating requirements within the NCH to:

- Modernise it for the digital age
- Better meet the needs of traders
- Fit with the Union Customs Code
- Reduce the cost to the taxpayer

Initial work is concentrating on two elements:

- Changes to the R1 / R2 process
- Exploring options to reform the current service standards for that process, i.e. if there is a continuing need for a 24 / 7 / 365 service and a 2 hour (air) and 3 hour (maritime) standard

# Changes to the R1 / R2 Process

- Current system is limiting for both NCH staff and our customers – and is costly to implement for HMRC
- A quick solution is required, moving away from paper to on-screen processing
- Requires changes to both the way the NCH works, but also some adjustments to how our customers provide data to the NCH
- How will we deal with entries sent by fax?
- Important that the NCH works with customers and stakeholders

# Reforming R1 / R2 Service Standards

- Why is another review being proposed review so soon after the Moules review?
- Important that we consider all aspects of providing a 24 / 7 / 365 service and 2 / 3 hour standards. It's not just about the cost to HMRC
- Important that the NCH works with customers and stakeholders

**Thank you.**

**Do you have any Questions or Comments?**

# Annex D



## Joint Customs Consultative Committee

Meeting: 12 February 2014

Agenda Item: 4

Author: Peter MacSwiney

Vine Report - its implications for managing the frontier

The recently published Vine Report highlights a number of areas where the Border Force's delivery of HMRC policy has been lacking. This is borne out by anecdotal evidence from the forwarding community in the course of bi-lateral meetings at the frontier. One reason for this situation seems to be created or at best exacerbated by a critical lack of resource meaning that the BF are, in reality, unable to carry out the activities for which they are responsible. Even if we accept that 99.9% of trade is legitimate (although current wisdom is that it's nearer 90%) it's no good resourcing for 0.5% intervention. There needs to be an appropriate resource put in place to deliver both the checks and services that both HM Government and trade require.

Customs work is a secondary priority for the BF and we are unaware as to whether there are any SLA's in place between the BF and HMRC. We do know that some SLA's between the port operators and the UKBA were negotiated but we do not know if these were finalised and whether they have been adopted by the BF. There are no SLA's in place between the BF and the forwarder, such as completion of Rte 2 inspections, equivalent to the 2 hour clearance of Rte 1's. At LHR for instance, it is common practice for these inspections to be handled by a specific member of the BF staff, rather than the team in general. If that person goes off shift without actioning the clearance, very often, nothing happens until person comes back to work. There is no consistency in the application of policy, or the working practices, between different frontier locations and the levels of service vary widely.

An organogram would be helpful. We have no real idea of who works for whom and what their responsibilities are. The mechanism for disseminating information between HMRC and the BF is unclear as is the mechanism for BF / HMRC policy being communicated to the frontier staff. We are unsure of the relationship between BF Policy and BF Operations. We are also unsure of the relationship between Anti-Smuggling and Profiling but it is clear that there are a number of teams working in the freight targeting area that seem to operate independently of each other.

Lack of BF attendance at JCCC working Groups means that there are opportunities missed where potential lack of agreement over policy can be thrashed out. The recent Temporary Storage review highlights this. There were a number of occasions where staff at frontier locations seemed unwilling to accept HMRC policy which required some changes to or ratification of long established working practices, particularly when an enhanced level of facilitation was required. Where these issues were identified there was no clear resolution mechanism available. This meant that even where specific potentially contentious areas had been previously discussed, between HMRC and the trade, and a solution agreed these were regularly brought up again locally and not automatically referred back to the HMRC policy holder for a definitive ruling or clarification.

The involvement of the BF in CHIEF replacement is unknown. Are the BF actively engaged in this program and discussions on the UCC, either independently or in partnership with HMRC? Both of these items are covered by the JCCC Change Sub Group where there is no BF attendee. Both current CHIEF and CHIEF replacement will be reliant, to one extent or another, on the CSP systems. The relationship between the BF and the CSPLO's is unclear leading to, potentially, 4 interpretations of what the rules mean (HMRC, CSPLO, BF and Forwarder). It would be beneficial to all concerned if CHIEF replacement evolved through the combined input of Trade, HMRC and BF rather than 3 separate bi-laterals which may or may not ultimately come together. The UCC will create new business opportunities, which will benefit UK trade, and we will be devising pilot schemes to take advantage of these. Attendance by the BF would benefit all parties.

Currently BF receive advance shipment information via the, largely ineffective ICS system and paper manifests. Given the various pilot schemes currently being trialled, what mechanism is envisaged for future pre notification of arrivals? The trade would like to see one system in place rather than multiple systems varying by port and mode of transportation. Additionally BF intervention should be aligned with HMRC processing times. When a shipment is 'cleared' on CHIEF it should have gone through all necessary checks and actually be cleared, not subject to some random additional hold at a later time.

Currently the main trade / BF engagement relating to policy seems to be at the JCCC level and it is pleasing to see that there has been a BF representative at all of the 2013 JCCC meetings. Additionally the Bifa regional committees all enjoy a positive relationship with BF frontier staff albeit generally over operational matters. There seems to be a large hole in the middle and no mechanism where the conflicting pressures of compliance, facilitation and business process can be discussed and a mutually acceptable solution found and disseminated to all of the parties involved.

The review of the current JCCC working groups should give an ideal opportunity for the BF to engage with their partners. We would like to see a commitment, from the BF, that they will send senior staff to actively participate in these meetings. The government are committed to making the UK a better place to do business and a totally joined up approach, by all of the agencies operating at the frontier, is essential in allowing us to create a safe and speedy environment in which to handle goods.

# Annex E



## Joint Customs Consultative Committee

Meeting: 12 February 2014

Agenda Item: 5

Author: Robert Windsor

Harmonisation of Customs Penalties

### Background

In 2012 the Commission consulted the industry stakeholders on a future proposal to harmonise customs infringements and align the 28 national sets of related sanctions. BIFA via CLECAT submitted the Member organisations' comments.

On Friday 13 December 2013 (an ominous date if ever there was one) the Commission published its Proposal for a Directive of the European Parliament and of the Council on the Union legal framework for customs infringements and sanctions.

The consequences of violating the common rules vary across the customs union. They depend on the 28 different legal orders and administrative or judicial traditions of the Member States. In the absence of a common approach, there is a patchwork of responses to rule-breakers. For example, sanctions for certain infringements range from small fines in some Member States, to imprisonment in others. The subject of penalties was discussed at a recent BIFA Kent and East Sussex meeting where the differences between the UK and French systems were discussed.

In the UK there is a graded and well understood approach that starts off at the civil penalty level with increasing penalties being available to the authorities to use against repeat offenders, which tend to cover mistakes. Criminal action can be invoked as appropriate, in France an error on a customs is a criminal offence.

Also the financial threshold for deciding whether an infringement is criminal or not ranges from €266 to €50 000, according to the country it occurs in. National time limits for sanctioning customs offences also vary widely, from 1 to 30 years, while some Member States have no time limit at all.

The proposal should provide more uniformity in the way that breaches to EU customs law are treated across the Member States-and there could be a case for arguing that with centralised clearance some form of standardisation is necessary.

It sets down a common list of acts that constitute breach of EU customs rules. These are differentiated by the level of severity, and some are categorised as to whether there was intent or negligence. Examples of the listed infringements include non-payment of customs duties, failure to declare goods to customs, falsifying documents to obtain preferential treatment, removing goods from customs supervision without authorisation, or failing to

present the proper documentation. Inciting, aiding and abetting an infringement is also punishable.

The proposal then sets out a scale of effective, proportionate and dissuasive sanctions to be applied, depending on the infringement. These range from a fine of 1% of the value of goods for inadvertent or administrative errors, to a fine of 30% of the value of the goods (or €45 000 if not related to specific goods) for the most serious breaches. When applying sanctions, Member States must also consider the nature and circumstances of the infringement, including the frequency and duration, whether a 'trusted trader' is involved, and the amount of evaded duties. Harmonised time limits are set for pursuing breaches, and administrative procedures will have to be suspended if a criminal procedure is opened on the same case.

For more information, read:

[Customs proposals \(legislation\) \(Opens new window\)](#)

### **Discussion**

It would be interesting to ascertain Customs thoughts on this issue. Some of my Members have verbally expressed concerns because they feel that the creation of this system does not allow for local legal, commercial and social differences.

# Annex F



## Joint Customs Consultative Committee

Meeting: 12 February 2014

Agenda Item: 5

Author: Karen Rourke

### Response Harmonisation of Customs Penalties

We welcome the views of Trade to this proposed Directive and are happy to take any further views.

HMRC have provided an initial response to the proposal, despite the very short timescales after this Directive was first exposed.

We are currently considering a more detailed response to the proposal and we are working closely with other like-minded Member States. We have started to feed our views, the latest being at CUG, which was on 10 February.

### Summary of initial views

The main concerns we have identified at the moment are detailed below:

- the current form of the proposal is highly prescriptive and we are concerned that it goes further than is necessary to achieve the stated objectives and may consequently breach the EU principle of proportionality
- it is unlikely that the proposal in its current form will have support from other Member States since when the Commission first raised this proposal at a high-level compliance seminar in 2012 it was only supported by one Member State
- a harmonised penalties regime makes no allowance for the possibility that, for reasons of geography, infrastructure, or trade patterns, certain customs infringements may be particularly prevalent in particular Member States or regions, which may wish to tailor their penalty regime accordingly - in regions where the probability of detection is low a commensurately higher penalty would be necessary in order to ensure compliance. The result of compelling those Member States to adopt a harmonised penalty regime would be to make them disproportionately attractive to certain operators, undermine the customs union and potentially distort the local economy
- it takes no account of the possibility that, for various economic reasons, certain infringements may disproportionately affect operators within one Member State or region, or may have particular effects on the wider economy within that area
- it provides no scope for administrative or judicial discretion in terms of how to respond to customs infringement - this could disproportionately affect smaller Member States which would be obliged to instigate proceedings irrespective of their cost-effectiveness
- it provides limited scope for judicial or administrative discretion as to the penalty to be applied - in particular it could have a disproportionate effect in weaker economies,

- it is unlikely to result in a significant harmonisation of the legal standards to be applied - in the absence of an EU-wide definition of legal concepts such as negligence or strict liability, Member States would continue to apply their own understanding of those terms, or use the most closely analogous pre-existing legal concept within their jurisdiction
- where the penalty proposed for intentional infringements is a percentage, it is a percentage of the value of the goods involved - it would be both more appropriate and more in line with the UK approach for the penalty base to be the amount of duty that has been put at risk

### **Next steps**

If any member of the JCCC wishes to submit a view, we would be very happy to take it.

# Annex G



## Joint Customs Consultative Committee

Meeting: 12 February 2014

Agenda Item: 6

Author: Mark Corby and Howard Levene

### The Future of Customs Controls & Trade Facilitation - Trusted Traders

From the outset we are looking at this from a perspective of Trusted Traders who have gone beyond the current demands of AEO. AEO+ is used here.

- the use of a data pipeline approach (HMRC CORE model et al) which gives greater supply chain visibility and enhanced and/or earlier data to HMRC gives potential criteria for AEO+
- AEO+ should grant a trader benefits over and above those (limited ones) in AEO.
- admissibility vs. Fiscal checks - as an AEO why are there admissibility checks at all, if they are 'trusted'?
- separate the release of cargo and frontier control from the fiscal and statistical part of reporting customs information and paying duties. Again 'risk-based' - as an AEO+ they are less risky and the 'pipeline' leads to this concept nicely.
- work towards self-assessment/control by the AEO+. The AEO+ should manage their own compliance.
- remove formal entry requirements; if declarations are necessary/required at all, use a monthly/quarterly return as the basis for customs entry information.
- AEO+ should not be audited every year - work towards five years minimum unless any 'material' changes occur. Even better, why audit **at all** if the trader is good and reports voluntarily any issues. Perhaps AEO+ should be required to submit an annual signed statement confirming all detected errors have been voluntarily reported (or in similar vein to SAO)
- consider independent audit (as per DfT Air Cargo Security) and/or 3<sup>rd</sup> party validation. Consider this against the background of lessened HMRC resource
- look at what is in the UCC that allows some or all of these ideas: Temporary Storage as a status might allow Unitary Relief of Virtual FTZ operations, for example. Does the UCC support pre-arrival release; would AEO Mutual Recognition and pipeline data allow it?

At all levels, HMRC needs to accept that legitimate traders make their money from their operations, not fraud. Making errors is not the same as fraud... Again, at all levels, there needs to be a better conversation between HMRC & Business

## **Discussion**

How can traders work with HMRC on interpretation/implementation? What are HMRC doing about looking for 'pilot' traders for some of the ideas that might be allowed under the UCC as Trusted traders?

Where could trusted traders benefit from existing ideas and proposals such as the 2009 HMRC Blueprint; the CORE project; 'The Vision of Africa Networks of Trust' sponsored by DG TRADE and DG TAXUD, the TTIP etc?

# Annex H



## Joint Customs Consultative Committee

Meeting: 12 February 2014

Agenda Item: 8

Author: Steve Casey, Stakeholder Management and Engagement Lead, CRP

Update on CHIEF Replacement Programme (CRP)

### 1. Purpose

To provide an update to JCCC representatives on the progress of the CHIEF Replacement Programme (CRP)

### 2. Background

HMRC is responsible for delivering an end-to-end declaration processing service, allowing the efficient passage of legitimate imports and exports to and from countries outside of the EU, known as third Countries. HMRC are in the process of replacing the Customs Handling Import and Exports Freight (CHIEF) system because:

- EU legislative changes, requiring significant IT transformation, cannot be accommodated by the current, aging CHIEF service infrastructure
- the current service delivery contract is reaching end of life

CRP will deliver a new import/export declaration management service for HMRC by 31.01.17. As indicated above the Programme scope includes international trade supply chain process changes which are mandated by the Union Customs Code (UCC) and EU - Multi Annual Strategic Plan (MASP). The system will be designed to be flexible enough to incorporate future EU mandated changes.

The scope of CRP has recently been extended to include transformation of postal declaration processes. The intention is to use core IT components common to both freight and postal movements.

### 3. Update

The programme is following HMRC Change Framework programme and project management governance, and will ultimately lead to an open procurement for the software solution, following Cabinet Office Lean guidelines.

As part of the programme towards procurement HMRC is keen to ensure the capture of key requirements from all major stakeholders at an early stage, including those of other impacted Government Departments.

The Programme Management team is currently working closely with all stakeholders, including those within HMRC, OGDs (eg DEFRA, Border Force), trade users and potential suppliers to understand and articulate requirements for the new service comprehensively and accurately. This is a complex set of tasks and activities to complete them will be ongoing from now until early April 2014. There is also ongoing consultation with a number of key trade user Groups.

#### **4. EU Dimension**

HMRC is currently leading collaborative work with five EU Member States to develop common specifications for core declaration processing functions. This work will enable greater sharing of services developed to deliver the MASP and UCC changes, and may incentivise bidders in HMRC's declaration management system procurement process. Member States would find delivery of complex EU changes far easier to deliver, with a common architecture, data sets and interfaces making changes quicker, cheaper, and easier to deliver and sustain. The opportunity to provide products capable of use in more than one country offers clear commercial advantage. This initial collaborative work is expected to complete in April 2014, in time to be reflected in the Invitation to Tender documents the Programme team will be preparing.

#### **5. Timescales**

The build and testing of a new service is expected to take a significant period of time; the earliest expectation for the replacement service to be in live operation is January 2017.

The Cabinet Office LEAN Sourcing initiative places great emphasis on early (pre-competition) market engagement including the issue of Prior Information Notices (PINs) to raise awareness in the market of forthcoming financial investment. It also advocates the use of supplier events to explore innovation and new technology to better inform the development of the requirement or specification. PINs are issued via the Official Journal of the EU (OJEU).

The CRP team held an initial stakeholder event (for internal and external stakeholders) to explain the process, drivers, scope scale and complexity of this change initiative in September 2013. In November 2013 an initial Supplier Engagement (Request for Information) event took place, which was attended by more than 50 companies.

1-2-1 meetings subsequently took place with potential suppliers in December 2013, which helped us to better understand their interests, provided more information and enabled HMRC to learn what the market can offer. Information gathered in these meetings will inform our business case and change planning. A revised Outline Business case, reinforced with information gathered from potential suppliers, will be delivered to HMRC's Investment Committee in March 2014.

CHIEF is a customer facing service. End-users/customers are both internal (HMRC) and external - such as Border Force, Isle of Man customs administration, OGDs, and world wide Trader systems. It is fully understood that potential changes to CHIEF will impact upon the processes and systems that are currently in place within HMRC and OGDs, so the need for future enhancement to these services is being considered and timescales adjusted accordingly.

#### **6. Next steps**

Engagement with stakeholders - more especially Border Force business areas and trade groups - to ensure that we have captured all requirements, is ongoing with a view to finalisation of a Prioritised Requirements List in April ahead of a formal 'Boot Camp' for potential suppliers later that month.

The information which is gained from this event, together with the experience of the previous events, will help form the basis for the Invitation to Tender for a new software solution which is currently planned for May 2014.

## **7. Summary**

The scope, scale and complexity of the CRP programme are significant. A robust Declaration Management Service is critical to the UK's economy, so there is no margin for error in delivering the new service/s. Amongst our partners Border Force is clearly a key stakeholder but we welcome active engagement from all others.

We invite members of the JCCC, and the trade groups they represent, to submit their views and comments for further consideration. Certain trade groups have already engaged with CRP in this way. However if you wish to contact CRP outside of this process, our email address is: [replacementprogramme.chief@hmrc.gsi.gov.uk](mailto:replacementprogramme.chief@hmrc.gsi.gov.uk)

# Annex I

## Joint Customs Consultative Committee

**Date of meeting:** 12 February 2014  
**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
- **JCCC Working Group** - for 'perpetual' meetings;

JCCC Secretary, Email - [JCCC Secretariat](#)

Name of group / Type of group	Next meeting	Contact	Update and key issues from recent meetings
<b>Customs product and processes</b>		Ian Wilkins	First meeting to be held in a couple of months time.
<b>Duty liability</b>	5 March 2014	Valerie Smith	The group last met on 23 October 2013. A range of issues were discussed including: Future of the Duty Liability sub group Anti Dumping Duty - update on ceramic tableware and solar panels Transatlantic Trade Investment Partnership UCC update Tariff Classification issues including: Split Consignment Facility Classification of Monitors Use of Electronic BTI applications and the review of the Classification Helpline
<b>International Trade Operating Systems Working Group (ITOSWG)</b>	May 2014	Amanda Milne	Changes affecting CHIEF on the 18 May 2014 Release:- ↘ <u>Restriction of the use of Tax type overrides when using specific CPC's (Imports)</u> ↘ <u>Waiver of secured revenue (Imports)</u>

			Disaster Recovery Rehearsal dates - Feb 25 through to 11 March
<b>Modernising freight management</b>	14 February	Sally Thurlow	This is the first meeting. At this stage therefore, there is nothing to report back on.
<b>Customs change</b>	21 February	Mike Coussins	<p><b>Revised TORs</b> were agreed by the Group at December meeting (9 December 2013) and circulated</p> <p><b>Minutes</b> were agreed from the 5 meeting of the Group and the Action Points arising were reviewed with one outstanding concerning circulation of Revision 12 of the MASP, once available</p> <p><b>Union Customs Code</b> updates were given to the Group, confirming the ratification of the UCC ON 30/10/13.</p> <ul style="list-style-type: none"> <li>➤ Anticipation of the first draft Commission Acts were highlighted - Issued in January (13)</li> <li>➤ IT Work programme to be agreed by 01/05/14 with transitional arrangements up to 31/12/2020.</li> <li>➤ Key dates to be addressed: <ul style="list-style-type: none"> <li>• Implementing and Delegated Acts to be agreed by mid 2015</li> <li>• 12 months lead-time for introduction of UCC 1 May 2016</li> <li>• Implementing Act for the Work Programme 01/05/2014</li> <li>• Final Delegated Act for standard rules 01/05/2015</li> <li>• General Implementing Act to apply to the standard rules 01/05/2015</li> </ul> </li> </ul> <p>There would be 2 Review Cycles in 2014 and week long meetings planned every 4 weeks commencing in February.</p> <p><b>MASP</b> update confirmed recent discussion should allow for circulation to trade members shortly</p> <p><b>CHIEF Replacement Programme</b></p>

		<p>would be the revised name for the project, highlighting the interaction with key topics including the UCC and the MASP.</p> <ul style="list-style-type: none"> <li>• 1:1 Workshops had commenced with potential suppliers.</li> <li>• Implementation currently planned for 2017 subject to satisfactory testing in advance.</li> <li>• Current CHIEF Contract finishes in 2018 and resourcing had been agreed to address staffing levels to August 2014.</li> <li>• Sally Thurlow would be the lead contact for CRP from Business and John McManus would be the SRO</li> <li>• Ongoing discussions were taking place with the full backing of HMRC Senior Management Team</li> <li>• Regular feedback to be given at JCCC and its sub groups and trade engagement identified as paramount throughout the process</li> <li>• Guy Westhead to provide a scoping document for CRP against other Key Deliverables</li> </ul> <p><b>Known error lists</b> are a series of IT releases referring to EU run initiatives. The last KEL release (25) had been successfully delivered in the UK and the next release (KEL 26) in baselines and due for delivery in June 2014. KEL 27, due in December 2014, would address issues concerning AEO and Mutual Recognition Agreements.</p> <p><b>AoB</b> Members of the Group were asked to consider those sectors of Trade not represented in the sub Group and forward nominees to the Secretary.</p>
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