# HM Treasury publishes Customs Bill White Paper

**Indirect Tax**

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Business needs certainty in order to prepare for changes to cross-border trade post-Brexit.

HM Treasury published the Customs Bill White Paper on 9 October 2017, ahead of the draft Bill being released before the end of the year. CIOT representatives met with HM Treasury and HMRC Customs policy leads in mid-October to discuss initial reactions to the paper before submitting a formal response.

The paper gives rise to an unusually complex mix of legal and technical issues within equally complex political constraints. It is not the CIOT's remit to enter into the political debate but the consequential lack of clarity makes the technical analysis somewhat more difficult.

## Business needs certainty

The key point, in our view, is that the lack of political certainty (and therefore, detail) around a negotiated settlement with the EU means that businesses are forced into preparing for the 'contingency scenario' of the UK leaving the EU without an agreed customs and trade arrangement. Alternatively, businesses have to 'wait and see'; risking being severely underprepared for a sudden and severe change to the way cross-border trade operates.

## Our initial reaction

We welcome HMT's focus on frictionless trade and its recognition of the need for clarity and certainty, in order for businesses and other enforcement agencies to plan effectively for exiting the EU and the future. The White Paper describes HMT's

preferred route; an interim implementation period (with as little change as possible) followed by a ‘highly streamlined customs arrangement’ where a number of simplification and facilitative measures are adopted.

We strongly endorse the need for an implementation period to allow time for all involved to adopt necessary changes and move towards the end-goal of a final agreement between the UK government and the EU.

In the absence of any real detail, businesses have no option but to plan for the ‘contingency scenario’ of the UK leaving the EU without an agreed customs arrangement. For certain sectors, the time for making decisions about future supply chains is imminent and we are aware of planned supply chain alterations to exclude the UK because of uncertainty.

There is a distinction to be made between (1) the discussion around trade deals (tariffs, quotas etc) and (2) the critical need for an agreement with the EU on the machinery (systems, infrastructure, information flows etc). Without some form of cooperation on the machinery aspect, we have strong concerns about the UK’s ability to continue operating in relation to cross border trade in the way it needs to if the government’s aim is to secure as frictionless trade as possible.

## Law-making process

We have concerns about the law-making process (whilst appreciating the unusual context in which this Bill is made) particularly around appropriate scrutiny and safeguards. The Bill aims to introduce primary framework legislation with much of the detail following in secondary legislation; giving wide powers to change primary legislation using delegated legislation such as Statutory Instruments. Our concerns echo some of those highlighted in our response (www.tax.org.uk/ref349) to the EU Withdrawal Bill.

## Timing

The combined impact and timing of changes for the Indirect Tax sector, with Brexit, Making Tax Digital and the fulfilment house due diligence scheme planned for March / April 2019, is causing apprehension. Will business be able to cope? Will HMRC?

## What next?

We aim to comment on the Bill when it is published and plan to meet with HMT and HMRC again to explore the evolving policy. We are planning a roundtable event to inform parliamentary and wider debate over the Customs White Paper and Customs Bill, with the ultimate aim of contributing to a Customs system post-Brexit that works for UK business, consumers and all others concerned with it.

We welcome any comments members have on the issues raised in the White Paper.