National Audit Office

Report
by the Comptroller
and Auditor General

Cross-government

The UK border: preparedness for EU exit

HC 1619 SESSION 2017–2019 24 OCTOBER 2018

Key facts

145k to 250k

traders, estimated by HM Revenue & Customs (HMRC), who would need to make customs declarations for the first time in the event of 'no deal'

205m

passengers who crossed the border between the UK and the rest of the EU in 2017, not including an unknown number of passengers who crossed the border between Northern Ireland and Ireland

£40bn

estimated tax and duty collected in 2017-18 on border transactions

260 million HMRC's revised estimate of the number of customs declarations it may need to process if the UK leaves the EU with 'no deal', compared with current volumes of 55 million

8% Planned increase in Border Force operational staff from the 7,734 it employed in 2017-18. This follows a 7% reduction in staff numbers from 2014-15 to 2017-18.

11 Out of 12 critical IT systems at the border that the Border Delivery Group has assessed as being at risk of not delivering on time and to acceptable quality (rated amber or above) by 29 March 2019

Summary

Introduction

1 On 29 March 2019, the United Kingdom (UK) is set to leave the European Union (EU). The government is preparing for when the UK-EU relationship changes and the EU begins treating the UK as a non-member state and a third country for the purposes of EU law.

2 The government is currently negotiating the terms of the withdrawal and the text of a document setting out a framework for the future of the UK-EU relationship. Departments are planning on the basis that these negotiations will be successful and a 'deal' is reached. Departments are also planning should the UK leave the EU with no 'deal' in place.

3 If a 'deal' is reached there would – based on a draft withdrawal agreement published earlier this year – be a transition or implementation period until the end of 2020. Although the UK will have left the EU, in practice most EU law would continue to apply in the UK and many of the practical day-to-day arrangements between the UK and the EU would remain unchanged until after December 2020.

4 If there is 'no deal' then there would be no implementation period, with a sudden change in the UK-EU relationship. This would have implications for the movement of goods, people, services, and areas of cooperation such as data-sharing and security. The precise impact would depend on whether the UK and EU could quickly reach agreements on issues such as travel, data-sharing and customs arrangements before March 2019.

5 In whichever situation the UK leaves the EU there will be implications for how the UK border is managed. The UK's management of the border is currently heavily influenced by its membership of the EU, which allows free movement of goods, services, capital and people across member states. The ongoing negotiations on the UK's future relationship with the EU will determine how the border operates when the UK leaves the EU. If the UK leaves the EU with no 'deal' in place on 29 March 2019 ('day one of no deal'), or at any stage thereafter, then trade between the UK and the EU would be governed by World Trade Organization (WTO) rules including the principle of 'most favoured nation'. This principle requires non-discrimination between trading partners and the consistent application of customs checks, tariffs and non-tariff barriers to trade. This means that new customs controls, tariffs and non-tariff barriers might apply to around £423 billion of trade at the UK border. This could require government to put in place new systems, upgrade existing systems and make extensive other changes.

Statement from the Comptroller and Auditor General

How well the government manages the UK's border is seen as an important test of the success of the UK's transition to a new relationship with Europe and the rest of the world after it leaves the European Union in March 2019. Delivering an effective border is an enormous challenge, requiring coordinated action from many government departments in a compressed timeframe. This report is intended as an objective document of record about the government's progress on planning and implementing these changes to achieve 'a smooth and orderly exit'. Although the government has achieved much and its planning efforts have increased in momentum, given the scale of the task, there are inevitably gaps and risks to its progress that I am obliged to point out. But I do so while recognising that these are not normal times for individual departments or the government as a whole.

6 The border is more than a traditional line on a map; it is a combination of physical and virtual controls, many of which are carried out away from the many physical border crossing points. These controls can take place before or after travel. In October 2017, our report *The UK border* noted that border management is fundamentally important to national security, effective trade, tourism, well-managed migration, healthy communities and the environment. We found that government departments already face significant operational challenges at the border including expected increases in border crossings over time, the nature of security threats changing, funding constraints and a heavy reliance on old technology. We concluded that the UK exiting the EU could significantly increase these challenges.

7 Many government departments have a responsibility for the border. Key government departments that set policy or operate controls at the border include Border Force (a part of the Home Office), HM Revenue & Customs (HMRC), the Department for Environment, Food & Rural Affairs (Defra), and to a lesser extent the Department for Transport. In addition, the private sector plays a very significant role. Organisations such as freight forwarders, couriers, ferry providers, and airlines physically bring people and goods across the UK border. Ports, Eurotunnel and airport operators manage the points of entry for ships, trains and planes arriving in the UK.

8 The Department for Exiting the European Union (DExEU) has had responsibility since it was created for coordinating departmental EU exit-related issues, including those affecting the border. Initial scoping work demonstrated both the scale and complexity of this issue. In March 2017, the Cabinet Office created the Border Planning Group, a cross-government oversight group. This was supported by a border coordination team, which was strengthened and expanded in April 2018, becoming the Border Delivery Group. The Group is hosted by HMRC, reporting jointly to the Chief Executive of HMRC and the Second Permanent Secretary of the Home Office.

9 The purpose of this report is to assess how prepared government departments are for the changes required at the border after EU exit. Our focus is on the progress government has made with its operational planning and delivery of the changes to border operations which will be required by the UK's exit from the EU. We have examined 20 high-impact border-related EU exit work streams and have visited key ports, Eurotunnel and airports to understand the operational impact of changes in the relationship between the UK and the EU. Our methodology and further detail on work streams are set out at Appendices One, Two and Three. We have not assessed the value for money of departments' overall preparations or individual border-related programmes. We recognise that the government's work in the areas covered by this report is developing quickly and our analysis is based on information available up to 19 October 2018.

Key findings

10 The effectiveness of departments' border planning and delivery has been affected by ongoing uncertainty and delays in negotiations. The uncertainty from the ongoing UK-EU negotiations has made it difficult to make clear planning assumptions. Delays in UK-EU negotiations have reduced the time available to departments to plan and implement new border regimes that might be required. For example, there is now less time to make any necessary changes to systems and infrastructure, increasing the risks to effective border operations. These delays have also constrained departments' ability to communicate with stakeholders and traders who will play a very significant role in implementing new customs and regulatory arrangements if there is no 'deal'. For example, HMRC originally intended to communicate about the new Customs Declaration Service (CDS) with businesses that trade exclusively with the EU in early 2018 but only started communicating in August 2018. As the negotiations have been further delayed in 2018, there have also been changes in the focus of departments' planning effort as the likelihood of 'deal' and 'no deal' scenarios has fluctuated (paragraphs 2.2, 2.9, 2.12, 2.13, 3.24 and Figure 5).

11 The Border Delivery Group (BDG) has improved government's understanding of the changes that need to be put in place at the border but it has not been able to address all areas of its responsibilities. BDG has undertaken some work on all scenarios and locations but has focused its efforts on preparations for 'no deal' and the impact at ports described as 'roll-on, roll-off' (RORO) such as the Dover ferry port. It has concentrated on defining the outcomes, such as effective customs arrangements, that need to be in place for the border to function properly. BDG has brought together the many departments and industries with a role at the border, and has assessed whether they are on track to deliver the changes to systems, infrastructure and resources needed. Its interventions have helped to ensure departments' attention is focused on key operational risks such as the readiness of traders to implement the changes required. However, BDG has not always been able to unblock difficult issues. Largely due to time constraints and ongoing negotiations, there are some important areas of its responsibilities it has not yet been able to address. BDG has only recently begun its detailed planning work in relation to Northern Ireland (paragraphs 2.6 to 2.12 and Figure 4).

12 Planning for border operations in the event of a 'deal' is less developed than that for 'no deal' because of the ongoing uncertainty regarding the nature of the future relationship between the UK and the EU. The exact nature of a 'deal' between the UK and the EU is still to be determined but, if a 'deal' is reached, government departments expect there to be little immediate change at the border. They consider that, overall, the scale of the challenge to implement a 'deal' would be much less significant than the work required to be ready for a 'no deal'. This is because departments consider that many of the 'no deal' projects and programmes would no longer be necessary and there would be more time to implement those that are still required. However, introducing new border arrangements as part of a 'deal' could still involve a large amount of work leading up to and beyond the end of the implementation period in December 2020. For example, HMRC is currently designing how it could implement an interim capability to allow a Facilitated Customs Arrangement to operate from the end of the implementation period but expects that implementing the full system would take longer (paragraphs 2.4, 2.12, 2.16 to 2.19 and Appendix Three).

13 **There is a high delivery risk attached to government departments' border programmes for 'day one of no deal' due to their scale, complexity and urgency; this risk is magnified by the degree of interdependence between the programmes**. In particular:

- **Key system developments are at risk**. In September 2018, BDG reported that 11 of 12 major projects to replace or change key border systems were at risk of not being delivered on time and to acceptable quality. BDG highlighted several underlying reasons for this including complex dependencies between programmes and limited time for system development, business change and preparations (paragraph 3.5 and Figure 6).
- **Infrastructure identified by government departments cannot be built before March 2019**. For example, HMRC will need to develop infrastructure to enable the tracking of goods, and Border Force will require space and facilities to physically examine goods. Significant changes will not be possible before 29 March 2019, in part because ports and others need certainty on future arrangements before they will invest in new infrastructure. Without the necessary infrastructure, HMRC, Border Force and others may not be able to fully enforce compliance regimes at the border on day one. They are exploring alternative options for carrying out enforcement action such as 'trusted trader' schemes and inland checking facilities (paragraphs 3.19 to 3.23 and Figure 8).
- **The additional resources required to operate the border may not be ready by March 2019.** As at October 2018, Border Force plans to recruit 581 full-time equivalent additional operational staff and intends to increase numbers over the months following EU exit. Border Force's estimate of additional staff is based on incomplete information from departments and there is some uncertainty on what the future regime will be. Border Force has estimated that it could require around 2,000 staff to meet all requirements in the event of 'no deal', such as full compliance with WTO rules and other international obligations. Given the uncertainty, and the length of time to recruit, security clear and train staff, Border Force acknowledges that there is therefore a significant risk that it will not deploy all the staff it plans to recruit by 29 March 2019. However, Border Force will only be required to enforce a reduced compliance regime on 'day one of no deal'. Border Force is also establishing a readiness task force of 300 staff who can be deployed to help meet peaks in demand and allow existing staff to be trained in new requirements. It expects to have 281 of these in place by the end of December 2018 (paragraphs 3.12 to 3.16).

- **Delivery risk is increased by the high interdependence between government programmes**. Some of the government's EU exit work streams are dependent on the success of other EU exit work streams. These interconnections can lead to a multiplication effect where one programme, which is at risk of not delivering, is reliant on another at risk programme. For example, seven of the most critical systems have interdependencies with CDS and/or its legacy system CHIEF (Customs Handling of Import and Export Freight); where one system is reliant on another and both must be ready on day one for the border to operate as planned. Similarly, Border Force's difficulties in recruiting, training and deploying staff are increased because Border Force is unsure exactly how many staff it may need, as it has not received sufficient detailed information from other government departments on the compliance regime that they require it to enforce (paragraphs 3.5, 3.8, 3.12 and Figure 7).

14 **Businesses do not have enough time to make the changes that will be needed if the UK leaves the EU without a 'deal'**. Government departments can only implement some of the changes that are required at the border. They are also heavily dependent on third parties, such as traders, being well-informed and making changes to their systems and behaviours. Many of these third parties will need to comply with customs, regulatory or other processes for the first time. For example, HMRC estimates that between 145,000 and 250,000 traders who have not previously done so would need to make customs declarations. Government papers from July 2018 stated that it was already too late to ensure that all traders were properly prepared for 'no deal'. Also in July 2018, HMRC stated that it would cost ports a considerable amount of money and time to make the necessary changes, and that the point had already passed where these changes could be put in place by March 2019. Our work confirmed that key ports and suppliers need reasonable certainty before making significant investments in infrastructure, people, systems or processes. Although the government started publishing technical notices to help businesses and the public prepare for 'no deal' in August 2018, these may not contain sufficient detail to enable businesses to justify investment decisions (paragraphs 3.9 and 3.20 to 3.26).

15 **The most complex issues relating to the border in the event of the UK leaving the EU without a 'deal' remain to be resolved**. The government has not yet taken a policy decision regarding whether and how to implement customs arrangements at the Northern Ireland and Ireland land border in the event of 'no deal'. The government's current planning assumptions would aim to take into account different types of business, consider the feasibility of new systems, and ensure the facilitation of cross border movements. HMRC also needs to design and implement a system that will allow RORO ferry ports and Eurotunnel to operate smoothly. The government has not yet determined how this will happen but currently plans on requiring customs declarations to be made in advance of arrival at RORO locations. This represents a major business change for traders and hauliers. Systems also need to be implemented to allow HMRC to match a customs declaration to the movement of goods for compliance purposes. Discussions regarding how this will operate in practice are still ongoing with ports and representatives of the businesses who will need to operate the system (paragraphs 3.27 to 3.32).

16 **In the event of 'day one of no deal' the government has accepted that the border will be 'less than optimal'**. The government does not have enough time to put in place all of the infrastructure, systems and people required for fully effective border operations on day one. It has decided to prioritise security and flow of traffic over compliance activity in the short term. Initially, Defra intends not to apply regulatory or safety checks on the majority of agricultural and food-related products and other goods arriving from the EU. This is because its planning assumption is that risks at the border will not change immediately, and that overall patterns and volumes of border crossings will initially remain the same. HMRC expects that most traders will be compliant and declare the duties that they owe as now. The government has not defined what 'less than optimal' might mean but this could include delays for goods crossing the border, increased opportunities for tax and regulatory non-compliance and less information to inform checks of people crossing the border (paragraph 2.13, 2.14, 3.22 and Figure 5).

17 **To avoid a long period of sub-optimal border functioning following a 'no deal' scenario, the government will need to address some significant issues**. Government's assumption that the risks will not change materially on day one is reasonable in the short-term but organised criminals and others are likely to be quick to exploit any perceived weaknesses or gaps in the enforcement regime. This, combined with the UK's potential loss of access to EU security, law enforcement and criminal justice tools, could create security weaknesses which the government would need to address urgently. For example, in September 2018 the National Crime Agency said that any loss of access to shared EU tools and databases would mean the UK's response to crime would be more fragmented and less effective. After day one, government will need to respond to new and emerging risks and develop its approach to effectively deploying resources to address these risks (paragraphs 2.13 to 2.16 and Figure 5).

18 **To manage potential disruption at the border after 29 March 2019, government departments have begun civil contingency planning**. In the event that member states apply third country controls to imports from the UK, there will be a significant impact on the flow of traffic crossing the border. The BDG is working with departments and the Cabinet Office's Civil Contingencies Secretariat to put civil contingency plans in place. Plans are progressing to cope with issues such as queues of traffic in Kent, and to enable the continued supplies of essential goods and medicines (paragraphs 2.20 to 2.23).

Conclusion

19 Effective management of the border is critical for the UK after it leaves the EU. It is fundamentally important to our national security, economy and international reputation. Leaving the EU will trigger some important changes to how the border is managed, but making such changes is not easy. It requires significant effort and the coordination of large numbers of organisations, many parts of government and millions of border users.

20 If the government reaches a withdrawal agreement with the EU, industry and government will have until December 2020 to design and implement any new arrangements. This could involve significant work, such as the implementation of new customs arrangements, and the time available to meet these challenges is not long compared to many complex government programmes. However, the scale of this change will be nowhere near that required if the UK and the EU cannot reach an agreement.

21 If there is no withdrawal agreement, the government has recognised that the border will be 'less than optimal'. We agree with this assessment, and it may take some time for a fully functioning border to be put in place. Individuals and businesses will feel the impact of a sub-optimal border to varying degrees. The government is putting in place coping responses where it can. How effective they will be remains to be seen.