Twitter Thread by Dr Anna Jerzewska



Dr Anna Jerzewska
@AnnaJerzewska

Better late than never. Here we go. What does this deal mean for borders, border formalities, customs & trade facilitation?

Long one. TL:DR very little at the moment but has potential

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> Lots of stuff on technical barriers and customs cooperation. See @AnnaJerzewska for more on the latter. pic.twitter.com/3sC5xHD3Z8
>
> — Steve Peers (@StevePeers) December 26, 2020

Borders
When compared to no deal the deal changes very little in terms of border procedures. All formalities and checks will still be required.

Reminder - we're not starting from 0 here – both our container ports and our ro-ro ports are already congested

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On top of that, all the issues related to border readiness: lack of capacity and space, IT systems not ready, shortages of customs agents, treader readiness – have not been solved.

The deal doesn't help with that.

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Here is where we are:
■■The UK will phase-in border formalities over 6 months (customs and SPS)
■■The EU will introduce full formalities in 3 days (customs + SPS)
■■Irish Sea border also fully operational in 3 days with some short-term SPS easements

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Pre-notifications (safety & security declarations) not initially required on the UK side, needed for imports into the EU.

So what's in the deal?

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Anti-smuggling and safety&security checks according to each side's criteria but signs of cooperation and data exchange.

Not much of that going on on the UK's side anyway in the first 6 months.

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Customs cooperation
The text is actually very good. Covers standard provisions plus elements from the WTO Trade Facilitation Agreement. It's comprehensive and encouraging.

Plus we have a Protocol on Mutual Administrative Assistance in Customs Matters

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3. At the request of the applicant authority, the requested authority shall take the necessary steps in accordance with its applicable laws and regulations to ensure special surveillance of and to provide the applicant authority with information on:

(a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;

(b) goods that are or may be transported in such a way that there are reasonable grounds for believing that they have been or are intended to be used in operations in breach of customs legislation;

(c) places where stocks of goods have been or may be stored or assembled in such a way that there are reasonable grounds for believing that these goods have been or are intended to be used in operations in breach of customs legislation;

(d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation.; and

(e) premises suspected by the applicant authority of being used to commit breaches of customs legislation.

(Side note - further case in point that a Mutual Administrative Assistance agreement is not the same as a trade deal and can be signed with or without one)

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https://t.co/QRsegE8Zm9

> This is a Customs Mutual Assistance Agreement, nothing to do with a tread deal. The EU and other countries have these agreements with many partners whether or not there is an FTA (trade deal) in place.
>
> This doesn't make the UK-US deal any more or less likely
>
> /1 https://t.co/555Ku48r5d
>
> — Dr Anna Jerzewska (@AnnaJerzewska) December 16, 2020

Non-committal language of the chapter in practice means that there is potential for deeper cooperation e.g. “consider developing joint initiatives” but no obligation.

This is in line with what we normally see in such chapters.

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(b) working together on the customs-related aspects of securing and facilitating the international trade supply chain in accordance with the SAFE Framework;

(c) considering developing joint initiatives relating to import, export and other customs procedures including technical assistance, as well as towards ensuring an effective service to the business community;

(d) strengthening their cooperation in the field of customs in international organisations such as the WTO and the WCO, and exchanging information or holding discussions with a view to establishing where possible common positions in those international organisations and in UNCTAD, UNECE;

(e) endeavouring to harmonise their data requirements for import, export and other customs procedures by implementing common standards and data elements in accordance with the Customs Data Model of the WCO;

For example ■ from the UK's initial proposal - a pilot for joint customs offices.

Again, plenty of scope for deeper cooperation but not initially.

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revenue collection or safety and security, and facilitating legitimate trade; such exchanges may include export and import declaration data on trade between the Parties, with the possibility of exploring, through pilot initiatives, the development of interoperable mechanisms to avoid duplication in the submission of such information. Exchanges under this point shall be without

Ro-ro ports

Helpful language but less than in the UK's initial proposal. The EU did not commit to the proposed 2h time-limit for clearance.

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Pre-lodgement, advanced processing and exchange of information.

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(a) shall adopt or maintain procedures allowing for the submission of import documentation and other required information, including manifests, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival; and

Customs procedures
Full or simplified (deferred - UK). The key difference here vs no deal - no tariffs, provided that rules of origin are met. A quick explainer on how this will work below.

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https://t.co/Z4FJHbIebO

> So on origin, it\u2019s getting a bit hard to keep up with all the rumours so here is where I think we are with this (correct me if I missed something)
>
> /1 https://t.co/N5dDcbH7u7 pic.twitter.com/ff77fdV1Mx
>
> — Dr Anna Jerzewska (@AnnaJerzewska) December 28, 2020

Simplified procedures
Interesting provision. Both parties already have simplified procedures and have previously committed to introducing the ones they don't currently have. So this is not technically new. But perhaps there is scope here for something more. Eventually.

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2. Each Party shall adopt or maintain measures allowing traders or operators fulfilling criteria specified in its laws and regulations to benefit from further simplification of customs procedures. Such measures may include *inter alia*:

(a) customs declarations containing a reduced set of data or supporting documents;

(b) periodical customs declarations for the determination and payment of customs duties and taxes covering multiple imports within a given period after the release of those imported goods;

(c) self-assessment of and the deferred payment of customs duties and taxes until after the release of those imported goods; and

(d) the use of a guarantee with a reduced amount or a waiver from the obligation to provide a guarantee.

AEO and mutual recognition.
This is good. Still not that many benefits of having AEO but mutual recognition is helpful.
Commitment to allow SMEs to qualify but not many SMEs are able to given the current criteria.

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3. The trade partnership programme referred to in Article CUSTMS.9 [Authorised Economic Operators] of this Agreement shall include the following treatment:

(a) taking the AEO status granted by the other Party favourably into account in its risk assessment to reduce inspections or controls and in other security and safety-related measures;

(b) giving priority to the inspection of consignments covered by exit or entry summary declarations lodged by an AEO, if the customs authority decides to proceed with an inspection;

(c) taking the AEO status granted by the other Party into account with a view to treating the AEO as a secure and safe partner when assessing requirements concerning business partners for applicants under its own Programme; and

(d) endeavouring to establish a joint business continuity mechanism to respond to disruptions in trade flows due to increases in security alerts levels, border closures and/or natural disasters, hazardous emergencies or other major incidents where priority cargos related to AEOs could be facilitated and expedited to the extent possible by the customs authorities of the Parties.

The only thing is, as I have often pointed out - to get mutual recognition our AEO programme needs to be compatible with EU's AEO.

Meaning total revamping of UK's AEO programme isn't happening. We can't diverge that much

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Article 3 Compatibility

1. The Parties shall cooperate to maintain compatibility of the standards applied to each of their trade partnership programmes with respect to the following matters:

(a) the application process for granting the AEO status to operators;

(b) the assessment of AEO status applications;

(c) the granting of the AEO status; and

(d) the managing, monitoring, suspension and re-assessment, and revocation of the AEO status.

The Parties shall ensure that their customs authorities monitor AEOs' compliance with the relevant conditions and criteria.

SPS
Little if any changes vs no deal in terms of what needs to happen at the border.
Not much on SPS in general. Read more ■ from SPS expert.

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https://t.co/tWsjD2gHeF

> Some thoughts on the skinny Sanitary & Phytosanitary terms of the \U0001f1ea\U0001f1fa\U0001f1ec\U0001f1e7TCA Agreement that will result in significant barriers to trade.

> While the Chapter introduces world-first language on the \u2018softer\u2019 issues, it goes little beyond the WTO SPS Agreement on the rest \U0001f9f5\U0001f447
>
> — Emily Rees (@emilyrees_eu) December 27, 2020

Northern Ireland
Nothing in the deal but having a deal, in theory, means managing of the Irish Sea Border will be easier. With the new trusted trader programme and more than a light-touch approach to RoOs it should be easier.

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To sum it all up – in 3 days border procedures will look pretty much the same as they would under no deal. In terms of customs – obviously no tariffs (hello origin).

In the future, who knows, plenty of scope for deepening customs cooperation.

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