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THE TARGET OPERATING MODEL

THE "HOLY GRAIL" OF UK CUSTOMS AND TRADE

OR AN UNHOLY MESS OF RED TAPE?

PORTORIUM

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What triggered the Target Operating Model ?

Since the United Kingdom exited the European Union, its trade and customs representatives have been in firefighting mode to regulate the unexpected consequences manifested across all industries. Brexit isn't going away — the trade and mobility frictions that were triggered by leaving the EU are permanent and corrosive.

All of a sudden, the UK had to implement border and customs controls for goods coming not only from third countries, but also from the EU. Every industry was impacted and struggled to adjust their internal processes to conform to the new legal procedures, even though the new procedures were never clear. These administrative changes started a domino effect, resulting in supply chain delays and higher trade costs overnight.

Fast moving consumer goods (FMCG) is one of the most impacted industries due to their specific needs for short-term transport, quality control, product safety, and comprehensive regulatory compliance.

In order to regulate all of this, the UK government has finally come forward with an ambitious Border Target Operating Model (TOM) to create an ecosystem of rules on providing a bio-secure border for GB whilst supporting trade needs for a smoother border operation in harmony with trade compliance. The TOM is a document focused on the various levels of SPS (sanitary and phytosanitary) checks that food imported into GB will have to pass through. This white paper focuses on the import of food from the EU into GB.

The new TOM was originally due to be introduced in 2021 as part of the post-Brexit changes to the the UK's trading arrangements but was delayed to allow more time to fine-tune arrangements and allow for a smoother transition.

Portorium's view of the Target Operating Model

The TOM categorises which products will be labelled as high, medium, and low risk to our health; defines the checks that will be carried out on each product; and explains how these risks will be assessed.

The UK's implementation of border controls, even for EU goods, is just another step toward crystallising Brexit and shining light once more on the key role that customs stakeholders will play in executing this new model—execution that was previously managed by the EU.

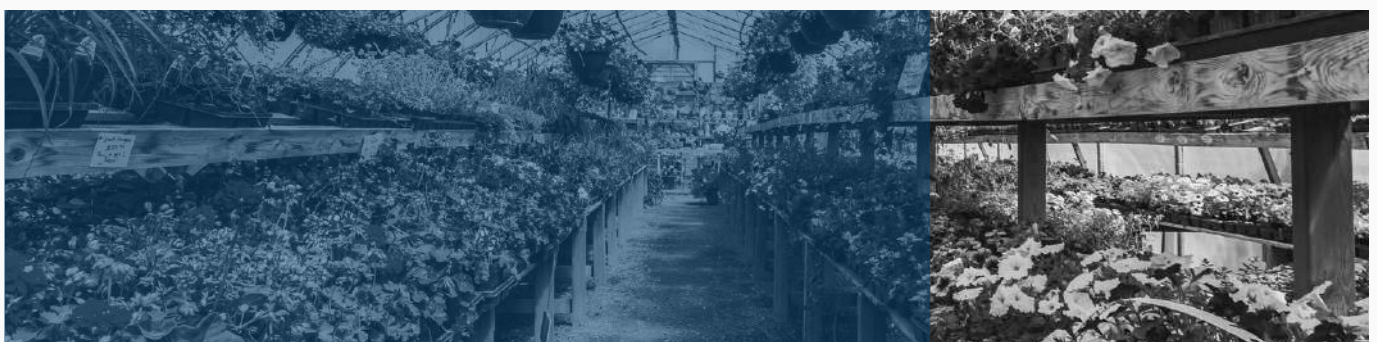
What this means depends on which stakeholder you ask. GB farmers and trade negotiators welcome TOM as a balance between them and EU traders who so far have been freely importing into GB. For hauliers and traders who do business with the EU supply chain and imports, it's a serious hassle.

This set of rules is solely based on goods classification and their origin and it prefers goods with EU origin,

making the impact of preferential treatment and origin management once more the queen of customs compliance.

Ambitious plans to standardise and digitalise trade are always encouraged, but did the TOM succeed in delivering on everything the UK government promised through the years? Is it really the innovative model the UK government is touting? How realistic is it for industries to implement these procedures and to digitalise their processes per the TOM? Is the UK customs and border infrastructure ready and established to perform all the checks?

In this paper, we offer a different perspective on customs processes affected, business improvements suggested by the TOM, and unintended repercussions derived from the TOM, focusing on **the food and horticulture industry**.



The Target Operating Model intro

We have noticed there is a lot of noise on the trade side about the real impact the TOM will bring and what it will actually mean for all involved customs and trade stakeholders

To be able to exactly estimate the impact of the TOM on trade for imports to GB from the EU and whether it will make trade more difficult, at least from an administrative point of view, depends on the type of product.

One of the latest announcements regarding the TOM, including details of the proposed regime for all sanitary and phytosanitary (SPS) checks, was made in April 2023 and was subject to a six-week consultation period welcoming all trade stakeholders to provide their feedback on several open questions that the UK government laid out in the draft document. The final TOM was introduced in August 2023 and a lot of the suggestions coming from stakeholders were taken into consideration.

At that time in April 2023, a timeline was clearly laid out for implementation, with the first set of checks due to come into force in October 2023. The UK government delayed the release of the final document to evaluate feedback on the draft document along with concerns that additional costs caused by the TOM would be passed on to consumers at a time when the government's number one priority is fighting inflation.

Despite the many frustrations around further delays, another delay to get the implementation right made sense. The new deadline is 31 January 2024 for the first step of the introduction of the Border Target Operating Model.

This is a major change, not only from a customs perspective, but for the entire supply chain and business processes for all involved in the import of SPS goods to GB from the EU and the rest of the world (RoW).

What is addressed in the TOM?

The Target Operating Model applies to imports of live animals, germinal products, animal products, plants, and plant products from all countries into GB, and describes the implementation of new security and biosecurity controls on imports from the EU.

How will the Target Operating Model be implemented?

The model will be implemented through three milestones, and the government is urging importers and their supply chains to start their preparations for the first milestone now and furthermore familiarise themselves with the other two milestones.

These milestones apply to medium- to high-risk animal products, plants, plant products, and high-risk food and feed of non-animal origin (SPS goods).

✦ 31 January 2024

The introduction of health certification on imports of medium-risk animal products, plants, plant products, and high-risk food (and feed) of non-animal origin from the EU. Also, the removal of pre notification requirements for low-risk plant and plant products from the EU.

✦ 31 October 2024

Safety and security declarations for EU imports will come into force. Alongside this, the UK will introduce a reduced dataset for imports and use of the UK Single Trade Window will remove duplication where possible across different pre-arrival datasets, such as pre-lodged customs declarations.

✦ 30 April 2024

The introduction of documentary and risk-based identity and physical checks on medium-risk animal products, plants, plant products, and high-risk food and feed of non-animal origin from the EU. Existing inspections of high-risk plants/plant products from the EU will move from destination to Border Control Posts. Simplifications of imports from non-EU countries will also take effect. This will include the removal of health certification and routine checks on low-risk animal products, plants, and plant products from non-EU countries, and the reduction of physical and identity check levels on medium-risk animal products from non-EU countries.

What about low-risk consignments?

It is important to consider the import requirements for low-risk SPS goods as well. These products include a wide range of fresh produce which does not carry an identified pest/disease risk but where there isn't sufficient evidence to confirm there is no risk. This category also includes processed, shelf-stable products, such as composites, certain canned meat products, processed animal by-products, certain fishery products, and aquatic animal products from lower risk countries.

The TOM outlines that the importation of low-risk consignments will have minimal routine border controls applied. However, provision of a pre-notification for low-risk animal products and commercial documentation will still be required, and potentially a Common User Charge will be applicable for goods that will be checked for compliance, which we will discuss in more detail below. There will be no requirement for health certification or routine physical border checks.

Low-risk consignments can only enter ports designated for their commodities. Irrespective of minimal routine border controls for these low-risk consignments, these goods would still need to enter via a port that has a Border Control Post (BCP) designated for that type of commodity. This requirement has been set because the BCP links to a port health authority to administer the pre-notification. If local evidence suggests that a physical inspection of a low-risk consignment is necessary, a BCP is the most suitable location for this to occur.

The requirement for goods to be routed via a port that has a BCP for the designated commodity could pose an issue for traders that import low-risk SPS goods via a port that has limited controls capability, such as the Port of Dover.



How might Dover be impacted by the Border Target Operating Model?

Since 45% of GB's imports and exports come from the EU, and Dover is Europe's busiest roll-on roll-off ferry port in GB and ties the Eurotunnel for the quickest route to and from Europe, Dover is a vital international gateway for the movement of trade. However, due to its limited border control capability, there is a serious risk of disruption to existing trade routes via the Port of Dover and the Eurotunnel for consignments containing SPS products. This was suspected to be one of the main reasons for the final TOM's delay.

Can the financial and economic impact already be evaluated?

Currently, much of the food imported into GB from the EU flows freely into the country without physical border checks. This will change per category. One of the most essential changes, and the most discussed one, is the fact that for almost every consignment entering GB via a BCP, a Common User Charge will be assessed. Even though the final TOM does not indicate the exact amount, the UK Department for Environment, Food, and Rural Affairs (Defra) has indicated that the Common User Charge is estimated to be in the region of £20 to £43 per consignment, inclusive of VAT. This is a hefty charge that will definitely burden GB's internal and external market prices and will put at an unfair disadvantage on small traders that import goods from the EU.

What the TOM requires for each risk category

If your consignment is in the low TOM risk category:

Use the import of products, animals, food, and feed system ([IPAFFS](#)) to notify authorities before the goods arrive in GB. This only counts for low-risk animal products; plants and plant products are exempt from the pre-notification. You do not need a health certificate. Low TOM risk category consignments must come with a commercial document from the supplier.

In addition to the documentation, a payment will have to be executed per each consignment. Defra has proposed a discounted charge to low-risk animal product consignments, which could bring the Common User Charge as low as £10 for low-risk goods. If your low-risk goods are travelling in groupage with high- or medium-risk goods, they will also be stopped and subject to delay.

If your consignment is in the medium TOM risk category:

Use IPAFFS to notify authorities before the goods arrive in GB. The consignment must have a simplified [health certificate](#) issued by the competent authority in the country where the goods originate, or an official importer declaration (where applicable). In addition to the documentation, the Common User Charge of £20 to £43 per consignment will have to be executed per each consignment. From 30 April 2024 products in the medium TOM risk category may be subject to identity and physical import checks.

That means that if you are, for example, a Dutch cheese maker or Italian salami manufacturer that has been exporting to the GB, as of 30 April 2024 you will need to make arrangements for a veterinary certificate and have all the necessary paperwork before sending your goods to GB. GB importers receiving these goods will want to confirm that their suppliers are compliant with the new rules to avoid empty shelves.

This medium-risk category is the most affected, as it represents the majority of the goods imported into GB and consignments are currently not checked at the border. Considering the market needs and new product innovations, it is mentioned in the TOM that risk categories are not static and can change over time.

If your consignment is in the high TOM risk category:

Use IPAFFS to notify authorities before the goods arrive in GB. The consignment must have a health certificate issued by the competent authority in the country where the goods originate. Most consignments in the high TOM risk category are already subject to physical import checks. These checks will continue in the same way, and for some categories these checks might be 100% checks. In addition to the documentation, the Common User Charge of £20 to £43 per consignment will have to be executed per each consignment.

Trust me, I'm your trusted trader:

Introducing the Trusted Trader Scheme (TTS)

One of the TOM's main elements is trusted trader schemes (TTS), which allow specific traders to go through the border with fewer checks. Status is expected to be granted via an authorisation after a certain vetting process to prove an entity is trustworthy and compliant.

The TOM draft proposes the pilot concept mentioned as the "Accredited Trusted Trader Scheme" in the UK for animal products as well as a Trusted Trader approach for plants including fruits and vegetables. Companies can send an email expressing interest in the TTS and Defra will eventually reach out. These two schemes are slightly different from one another.

The animal TTS is intended to allow GB-registered businesses that periodically import animal and animal origin products to avoid routine physical checks at BCPs. Authorisation would require a commitment from the traders that they are able to self-perform the routine checks and take the samples. The person or department trusted with this task will need to:

- complete special training.
- have a good compliance background.
- be independent from the rest of the company and have the necessary means to identify, manage, and monitor the risks.
- implement government standard procedures.
- have the necessary conditions to conform to bio-secure premises and infrastructure, provide end-to-end supply chain documentation, etc.

The plant TTS proposes more of an Authorised Operator Status (AOS), whereby the business, which must have properly trained staff and internal control systems, achieves recognition that their level of expertise is sufficient to self-perform physical and identity import checks. Eligible operators who have met the criteria of having premises designated as a Control Point (CP) will then be responsible for performing relevant physical import checks¹.

¹Augustus Bambridge-Sutton for food navigator 16 May 2023

What will the business impacts of the TOM be?

One of the main reasons why the final TOM was postponed is its business and economic impact, which spans a variety of areas.

The Common User Charge

The aforementioned Common User Charge is the charging model developed by Defra to recover operating costs for government-run BCPs in the UK ahead of planned implementation of SPS checks on EU imports beginning in April 2024. The proposal is to administer a single Common User Charge: a flat rate levied on every SPS consignment (Plants and Plant Products (P&PP) and Animal Products) that is checked at a BCP and enters through the Port of Dover or Eurotunnel Le Shuttle. *This does not include goods arriving as rail freight via the Channel Tunnel, or personal imports arriving on the Eurostar and Dover Ferry passenger services, as these goods will not be subject to SPS checks at a BCP.*

The Common User Charge approach flattens the rates, spreads the burden, and provides a high level of certainty to importers. This charge of between £20 and £43 per consignment (the exact amount is expected to be announced in the autumn of 2023) would be separate from any charges applied by the Port Health Authority and Animal and Plant Health Agency (APHA) for inspections. The Common User Charge also does not include charges levied by other government agencies for activities outside of the BCP, such as any customs checks.

The Common User Charge will only be applied to government-run BCPs and it is up to commercial ports to determine their own charging structure and rates.

There is a consensus that a Common User Charge should not be payable for those businesses using CPs rather than BCPs as this is an 'unfair tax'. If this is sanctioned in the final TOM, it would increase the benefit of becoming a trusted trader and establishing your own CP.

Rising food costs

The UK's post-Brexit border strategy risks further pushing up food prices according to the Fresh Produce Consortium². Traders in the food supply chain are warning they will not be able to absorb the extra cost of charges levied for import checks on goods entering the country from the EU and the RoW.

The trade body, known as the voice of the Fresh Produce Industry, claims that the current border proposals would add costs, delays, and disruption to imports of fresh produce and could lead to gaps on retailers' shelves, similar to those seen earlier this year. The same effects would also be seen on perishable goods. Food waste and increased carbon emissions would also be a fallout of delays and disruptions. In short, longer delivery times for these goods is highly problematic, as GB imports two-thirds of the fruit and vegetables eaten by British consumers.

**“GB BORDER STRATEGY
WILL BE DIRECTLY
RESPONSIBLE FOR GB
FOOD INFLATION.”**

Nigel Jenney, Chief Executive, FPC

Groupage and direct delivery

Groupage and direct delivery to depot are predominant concerns, particularly in relation to trade from Europe. The TOM appears to assume that all imports are delivered to a GB warehouse prior to being delivered to GB customers. This is incorrect, as both wholesalers and retailers mostly deliver directly from the European source to customers.

The main impact of groupage is that inspection frequencies for goods sharing the same vehicle could range from 0-100%. If that particular vehicle is selected for inspection, the 0% low-risk goods are subject to the same delays as the 100% high-risk goods. In many cases, the option to distribute goods based on risk category is uneconomical due to the mix of goods required by the customer and distribution distances involved.

Let's elaborate on a few concerns rightfully raised by small- and medium-sized enterprises during the six-week consultation period following the TOM announcement in April 2023.

²<https://www.theguardian.com/politics/2023/jun/26/post-brexit-import-checks-risk-further-pushing-up-food-prices-industry-group>

“Small and medium-sized enterprises are going to face additional costs due to the phytosanitary costs for smaller consignments whereas larger nurseries will be able to afford this as they are trading in bulk. Delays will affect the reputation of market traders due to availability issues and ultimately our viability to trade.”

“Another flower wholesaler advised that inspection costs have risen to £40k/year and this may double, which will make him uncompetitive with larger businesses.”

A wholesale trader of cut flowers and plants

“There is no way our current just-in-time import model can exist. Many of our customers have intake (morning) and loading out (afternoon) practices and shipments will just not arrive in time for intake where arrival cutoffs are often early afternoon. Delays mean cancelling orders and letting customers down. Friday night deliveries into market customers may be a thing of the past.”

A large wholesale business

IT system investments

Customs process automation is the ideal, however not all companies have the budget or in-house expertise to adjust to digital customs management right away. Traders are concerned that they will be required to invest in expensive IT systems in order to demonstrate administrative control and provide necessary visibility for the government in response to both TOM and Single Trade Window requirements. There are also concerns of functionality issues based on experience with previous systems migration. For example, many experienced significant delays during CDS implementation. The food and horticulture industry requires clear assurances that there will be contingency plans in place during the implementation phase, which for the time being does not exist.

Electronic Phytosanitary Certificates (e-phyto) delivery

The TOM proposed a digital portal to issue electronic phytosanitary certificates (e-phyto), replacing the paper versions. There is concern that the functionality of using e-phyto is not developed adequately for the 31 January 2024 deadline, which will result in a paper-based system and additional costs.

It is expected that as of January 2024, the functionality to send the phytosanitary certificates digitally will be extended from live animals to imports of animal products.

For this, Defra is still dependent on their trading partners' ability to deliver on the digitalised platforms proposed for sending certificates through. For the Netherlands, it is still expected that the portal for plants and plant products will be introduced in the summer of 2023 and for animal products in the beginning of 2024 via the EU system TRACES.

The TTS pilot delays

The TTS (Trusted Trader Scheme) is fundamental to reducing the risks of delay and subsequent additional costs to the food and horticulture industry. The TTS must be delivered in line with the 30 April 2024 inspection deadline or else the implementation date must be delayed. Failure to ensure this critical option will force consignments through a limited number of BCPs or CPs at the point of entry. GB will become less economically viable to trade with due to the risk of delay and considerable additional costs and disruption.

Practical business decision-making

The current draft document lacks adequate detail to make effective commercial decisions across complex supply chains. Further information is required relating to the following headings:

→ 1. Risk-Based Information

There is no clear explanation of the 'new GB-focused risk-based' approach to inspection. How is the risk defined and what is the process for communication of changes to risk rating?

- A 'lookup' function for traders to check the risk rating and subsequent SPS requirements would be extremely useful to allow cost planning and logistics management.
- Industries are still awaiting RoW risk categorisation (due later in the year)

→ 2. Cost Information

- There isn't yet any confirmation of official BCP operation and inspection costs.
- There is no impact assessment of the cost to the food and horticulture industry or consumers. There is no justification for the UK government's statement "We believe this new model will reduce costs to businesses by around £400m per annum". The true cost to consumers will be the additional operational costs.
- There is no consideration for 'light-touch' approaches for SMEs, including official fees.
- Will the documentary check charges be waived when e-phyto is launched?

→ 3. Inspection Process Information

- The inspection process and frequency needs clarification, e.g., how is the percentage of inspection effectively applied given seasonality and the impact of groupage and directs?
- The trade of organic produce and need for Certificates of Inspection are still not referred to in the final document. Consignments may be included in the same groupage vehicles. How will this be handled at the border?
- The document fails to offer a solution for direct deliveries and groupage and fails to understand the logistics of the food and horticulture sector. It assumes that deliveries are dispatched to intermediary GB business warehouses rather than direct to depot.
- There is no clarity on the declaration timescales required for GVMS and IPAFFS information input.
- There is lack of clarity on the TTS pilot scheme and associated timelines.
- There is no clear process for how drivers will be directly contacted when the consignment has been pulled for inspection.
- There is no service level agreement commitment regarding the inspection arrival process and potential for delay.
- Whilst products are under the control of UK government BCPs, confirmation of liability and responsibility for damage and delay beyond the SLA terms is required.
- Will formalities take immediate effect or will there be a grace period?

→ 4. Lack of Technical Knowledge and Management

- There is no concrete plan to avoid a Brexit 2.0 around Christmastime for exporters who don't have the bandwidth to deal with the paperwork.

Portorium's conclusions and recommendations

Conclusions

1. Complex customs and trade impact: The TOM has significant implications for the food and horticulture industry, particularly in relation to goods imported into GB from the EU.

2. Risk Categorisation: The TOM categorises products as high, medium, or low risk, impacting the inspection procedures and costs associated with each category.

3. Business Impact: The TOM introduces charges, such as the Common User Charge, which could substantially raise costs for the fresh produce industry and potentially lead to supply chain disruptions.

4. Trusted Trader Schemes: The TOM emphasises Trusted Trader Schemes to expedite border processes for compliant traders, but concerns remain about implementation and readiness.

5. IT System Challenges: There are concerns about the readiness of IT systems and the potential burden on businesses to invest in new systems that facilitate customs automation in response to timelines imposed by the UK government.

6. E-Phyto Delivery: E-phyto implementation is a concern, as its functionality might not be fully developed by the proposed deadline, leading to potential paper-based processes.

7. Groupage and Direct Delivery: The TOM assumes all imports go through GB warehouses, when in actuality many businesses deliver directly from the source. This could lead to inefficiencies and delays.

Recommendations to traders

1.Be prepared: It is beneficial for traders to ensure that they are prepared for what is about to come. It is important to know in what category your goods fall and what requirements are there for those commodities when entering the UK.

2.Review the movement of your goods: If you want quick movement of your goods, it is recommended to think about how your goods are brought in. Is this in a mixed consignment that might get stopped by customs or is it purely a consignment consisting of low-, medium-, or high-risk goods. The latter provides more predictability but might be more difficult to organise for enterprises dealing with a multitude of commodities.

3.Assess your IT setup: Assess whether some time can be won by looking at your current IT setup. In many cases, efficiencies and compliance can be gained by having a look at how some processes are currently running.

What should be delivered quickly in the TOM and potentially reconsidered

1. Fast-Track the Trusted Trader Scheme: The TTS should be fast-tracked for immediate adoption. Alternatively, delaying the inspection requirement until the Approved Operator Scheme can be available or ensuring businesses are trained and accredited sooner is in order.

2.Address Groupage and Direct Delivery: The TOM revision needs to provide effective solutions for groupage and direct deliveries, including the provision of mixed high/medium/low-risk consignments.

3.Clear Risk Communication: Definitive and clear communication on risk status of products is urgently required. A lookup function is recommended as an essential business tool to support decision-making processes.

4.Reevaluate Common User Charges: The Common User Charge should not be adopted and is not supported by the food and horticulture industry. Ultimately, this is viewed as a mandatory levy to fund government-managed BCPs and may lead to a displacement of trade to other points of entry. In addition, a fee by consignment will adversely impact SMEs trading low-risk products or companies using alternative inspection facilities, e.g., CPs.

5.Address IT System Challenges: Address concerns about IT system readiness and functionality to ensure a smooth transition and prevent disruptions.

6.Ensure E-Phyto Readiness: Ensure that e-phyto implementation is ready by the proposed deadline to avoid reliance on paper-based processes.

7.Clarify Inspection Processes: Provide clarity on inspection processes, frequencies, and timescales for declarations to enable businesses to plan effectively.

8.Consider Small Businesses: Provide exemptions or lighter-touch approaches for small- and medium-sized enterprises to avoid disproportionately burdening them.

9.Provide a Clear Enforcement Plan: Clearly communicate enforcement procedures and potential grace periods for implementation to avoid sudden disruptions.

10.Address Industry Concerns: Address concerns related to technical knowledge and management, and provide guidance to support businesses in navigating the new customs procedures effectively.

About Portorium

Portorium blends customs expertise and best-of-breed software to simplify the complexities of customs management. Portorium's comprehensive offering consolidates customs operations under a single umbrella, providing a full-spectrum software + services solution that keeps companies compliant with changing laws, regulations, and requirements while giving them control of and visibility into all aspects of their international trade. This differentiates Portorium from software houses, customs brokers, customs advisors, and traditional consultancies, which only solve one piece of the complex customs puzzle. For more information, visit www.portorium.solutions.

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