The Community Customs Code (CCC) is over 20 years old and is very much a product of its time. Since its adoption in 1992, the world of commerce has changed significantly. The use of Information Technology (IT) by both customs and economic operators and the complexity of supply chains have developed to previously un-thought of levels. A set of legislation is necessary to reflect these changes.

The UCC is a revision of the Modernised Customs Code (MCC) to take account of the Lisbon Treaty which became law on 1 December 2009. The Lisbon Treaty introduced new powers for the European Union (EU) Commission and these had to be taken into account in all post- Lisbon legislation. The opportunity was also taken to make a few necessary amendments to the MCC to take further account of IT developments.

The main changes are:

1. The introduction of Self-Assessment and Centralised Clearance
2. Mandatory guarantees for special procedures' and temporary storage
3. The ability to move goods under temporary storage rather than national transit or New Computerised Transit System (NCTS)
4. The removal of the earlier sales provisions relating to valuation
5. All communications between customs authorities and economic operators must be electronic

It is highly likely that some changes to internet systems will be required. Much will depend on what authorisations are held and what procedures/processes the business utilises.

Manual declarations will no longer be allowed. The UCC requires that all exchanges of information for example declarations between customs authorities and economic operators must be electronic.

The Union Customs Code (UCC) has been finalised and issued, but the supporting legislation in the form of the implementing and delegated acts are still the subject of negotiation.

The only firm start date for UCC changes to start is 1 May 2016. However, there may be a staggered introduction of the changes.

The main changes

1. The introduction of Self-Assessment and Centralised Clearance.
2. Mandatory guarantees for special procedures and temporary storage.
3. The ability to move goods under temporary storage rather than national transit or New Computerised Transit System (NCTS).
4. The removal of the earlier sales provisions relating to valuation.
5. All communications between customs authorities and economic operators must be electronic.

Legislation

The new legislation can be found on the EU's main website, as well as EU national Customs/Revenue websites, including the UK’s website at http://www.gov.uk. It is then possible to follow the link to the UCC.

Guidance

In the UK, HM Revenue and Customs (HMRC) is aiming to update notices and guidance by May 2015. There may also be EU guidance available, but that is not expected until after the legislation is introduced.

Publicising the Changes

Besides the normal methods of communication, such as Customs Information Papers, guidance and notices, HMRC staff will continue to attend a large number of trade organised events to explain and discuss UCC developments.

Internet Changes

It is highly likely that some changes will be required to your systems to conform to the new UCC. A lot will depend on what authorisations you hold and what procedures/processes your business uses.

A plan for the major IT changes is already in place.

The Multi-Annual Strategic Plan (MASP) and its supporting legislation contained in the work programme lays down dates by which functional specifications must be provided together with proposed implementation dates between 2016 and 2020. The MASP can be read on the EU website, namely:


Manual declarations are not allowed under UCC

The UCC requires that all exchanges of information for example declarations between customs authorities and economic operators must be electronic. This will be a significant change to many traders and HMRC are currently in the process of scoping the impact and will consult through the established Joint Customs Consultative Committee route when we have further details.

It is not HMRC policy to provide certificates of approval or compliance to software packages.

Economic Operator Registrations Identification (EORI)

EORI rules have not changed in the current draft text. The trader needs an EORI number if they intend to be involved in the movement of goods into or out of the EU, even if they have an agent that handles everything.

Authorised Economic Operator (AEO)
It is not mandatory to become an AEO unless the trader wishes to obtain a duty deferment guarantee reduction or they wish to be authorised for:

- moving goods in temporary storage between different member states
- Centralised Clearance
- waiver of the presentation of goods requirement when making declarations in your records
- Self-Assessment
- Single Transport Contract

Many authorisations and simplifications within the UCC require the trader to meet some or all of the AEO (c) criteria. Unless the trader wishes to obtain an authorisation for any of the above (and therefore an AEO (c) certificate is required), they will need to make a commercial decision about AEO status based on the information available, their business activities and their role in the supply chain.

**AEO criteria are changing**

A new condition has been introduced concerning professional competence. The European Commission is working with Member States to determine the details behind the new criterion: ‘Practical standards of competence or professional qualifications related to the activity carried out’.

In addition, the current test on compliance with customs rules has been expanded to cover all the taxation elements of your business activities (VAT, Corporation Tax and National Insurance for example).

In real terms there is little difference between meeting AEO criteria and being an authorised AEO apart from those areas where authorisation is a specific requirement. The main difference is that in most instances only some of the AEO criteria have to be met (perhaps only 2 or 3 of the basic conditions) and therefore you might not wish to go through the whole authorisation process.

AEO authorisation does not automatically qualify the trader for an authorisation within the UCC, but in most cases it will make the authorisation process easier. For example, if the trader is an authorised AEO who wishes to expand their business to include customs warehousing, their AEO status would not automatically qualify them for a customs warehouse authorisation. Some additional checks would have to be carried out concerning their new venture but Customs would not repeat tests previously carried out.

**Existing AEOs**

If the trader already holds AEO status, they will not need to reapply but their authorisation will need to be re-assessed to take into account the new conditions. Those who cannot meet the new criteria may lose their status, but they will be given time to make the necessary changes. HMRC will work with the trader wherever possible to ensure the new criteria can be met. The EU Commission has indicated that there is likely to be a transitional period to allow current AEO businesses time to meet the new criteria but, as at late 2015, that has yet to be agreed.

**Valuation**

There are a number of changes proposed within the UCC. The main ones are to Earlier Sales, Royalties and License Fees.

**Earlier sales rules**

It is proposed that the current earlier sale facility be withdrawn and will be replaced by a last sale only rule.
Royalties and licence fees

Currently, the very basic requirements as to whether or not a royalty fee is dutiable are that:

- it relates to the imported goods
- it is paid as a condition of sale of those imported goods

Under the UCC, Royalties/Licence Fees will generally be considered to be paid as a condition of sale of the goods and should therefore be included in the customs value.

Guarantees

Under the current legislation, a Member State has the discretion to decide when a guarantee is or is not required. Under the UCC there will be circumstances where the provision of a guarantee is compulsory. The UK now asks for guarantees under the UCC.

Calculation of the guarantee

Guarantee reference amounts will be calculated on the basis of:

- the volume of goods placed under the procedure (using data from the previous 12 months or commercial records that indicate the intended volumes)
- the length of time the goods will remain in the procedure
- the revenue that would be due on them at the time they entered the procedure

How to waive or reduce a guarantee

A reduction/waiver will depend on the type of guarantee held or required and the circumstances in which the guarantee can be used. For example, a single guarantee (transaction by transaction) cannot be waived. A comprehensive guarantee for a special procedure can be reduced or waived while a guarantee for a deferment account can only be reduced, not waived.

The trader will need to hold an AEO (c) authorisation in order to reduce the guarantee to cover the payment of actual debts (for example, reduce the level of deferment guarantee). The trader will not need to hold an AEO (c) authorisation to benefit from a waiver or reduction in the level of the guarantee for potential debts (for example, goods held in duty suspension) but certain AEO criteria will have to be met.

Multiple authorisations requiring a guarantee

The total volume of goods entered to each procedure will need to be covered by a guarantee, but you do not need to hold separate guarantees for each. The trader may choose to apply for a comprehensive guarantee for all your potential liabilities under a single guarantee.

Using guarantees (and any relevant waivers/reductions) across the EU

There may be certain circumstances in which guarantees may be used in more than one Member State.

Imports that attract 0% duty under preference

If the goods are to be placed under an authorised procedure (resulting in revenue not being paid at the time of import) then a guarantee would be required to cover the potential duty liability. This would be calculated at the highest applicable duty rate. However, where the imported goods
attract a duty rate of 0% according to the tariff (e.g. computers), then a guarantee would not be required, as only import VAT would be payable.

How to get a guarantee

Operational procedures for guarantees under the UCC are not yet known.

Apply for a guarantee if the trader qualifies for a waiver

The trader needs to apply for a comprehensive guarantee and provide evidence to support any waiver of the amount secured.

Imports

Manual import entries under the UCC.

The UCC requires that all exchanges of information for example declarations, between customs authorities and economic operators must be electronic. HMRC (and its EU counterparts) is currently scoping the impact of this and will consult through the established JCCC route when we have further details.

Temporary Storage (TS)

TS will fundamentally remain unchanged except in 2 important areas guarantees and movement of goods. In addition, new data items may be required.

Guarantees

In order to operate a TS facility after 1 May 2016, you will need to provide a financial guarantee. If you can meet certain criteria, you may be able to obtain a guarantee waiver or reduction. You will not require a guarantee to simply place goods under TS.

Additional terms and conditions

If you want to continue to operate a TS facility after 1 May 2016, you will need to sign up to additional terms and conditions that will added to your existing TS approval.

Customs Declaration

As TS is not a customs procedure, no customs declaration is required. However, certain data will need to be provided in the form of a TS declaration by way of a manifest or transport documentation. The range of data has still to be agreed but indications are that it will be similar to that currently provided.

External Temporary Storage Facility (ETSF)

TS situated outside of the traditional air/port environment will be treated in a similar manner to those TS facilities within an (air)port. Therefore item 1.3 will equally apply to ETSF.

Movements between TS sites in the UK

The current national transit simplifications will no longer be available. In its place, goods will be able to move, subject to certain conditions, between TS facilities under cover of the TS authorisation. This method will be available for movements between different authorisation holders or within the same authorisation. Alternatively, NCTS can be used.
**Movements between Member States involving one authorisation**

If you have a TS authorisation covering facilities in more than one Member State, movements can be carried out under cover of the authorisation provided that the trader holds an AEO authorisation. Alternatively, NCTS can be used.

**Movements between Member States involving more than one authorisation**

If you wish to move TS goods to another authorisation holder in another Member State, the movement can be carried out under cover of the TS authorisation provided both parties are AEO (c) authorisation holders. Alternatively, NCTS can be used.

**Simplified Customs declarations**

Customs Freight Simplified Procedures will stay the same under the UCC, but there will be increased requirements regarding notification of arrival under Local Clearance Procedures (LCP), which is to be renamed ‘Entry in the Declarants Records’ (EIDR). EIDR remains subject to discussion. Further details will be published when available.

**National Transit/Temporary Storage/LCP for imported goods**

All movement of goods from TS at the (air)port will be permitted under the terms and conditions of the TS approval. As an alternative, NCTS will be available.

**Centralised Clearance**

The scope of Centralised Clearance and exactly how it will work is still the subject of negotiations. However, the basic theory is that a declaration will be lodged at an office in the Member State which granted that authorisation while the goods will be presented and imported in another Member State.

The current single authorisation for simplified procedures which can be seen as a form of centralised clearance will continue in its current form until centralised clearance is finalised.

One or more of 4 possible models for Centralised Clearance may eventually be adopted:

- full declaration
- entry in the declarant’s records with notification
- entry in the declarant’s records with notification waiver
- simplified declaration.

Anyone who is an authorised AEO (c) and that meets any additional conditions that may be in place will be able to use Centralised Clearance.

**Self-Assessment**

The scope of self-assessment has not been established and is still the subject of negotiations. However, the principle of self-assessment is that an authorised person will take responsibility for and perform certain formalities/controls normally undertaken by customs.

HMRC envisage the basic principle of self-assessment to be:

1. Economic operators (EO) will manage and monitor their customs activities through their own business account and financial administration and its supporting IT systems.
2. EO will determine the amount of import/export duty payable and notify customs periodically of the amount of duty payable for the defined period for example monthly.

Customs activities to be covered by self-assessment have yet to be defined, it may be limited to declarations to free circulation or include all customs declarations. It may include exports as well as imports, include prohibitions and restrictions, trade policy measures, supply chain security, trade statistics, import VAT and excise duty, or not.

Anyone use it provided that they are an (AEO) authorised AEO (c) and meet any additional conditions that may be in place.

**Returned Goods Relief (RGR)**

The current draft text does not suggest any changes to RGR.

**Customs Procedures with Economic Impact (CPEI)**

All authorisations issued under the current Customs Code and intended to be used from 1 May 2016 must be in line with the UCC.

CPEI are becoming:

- special procedures’ made up of Processing (Inward Processing and Outward Processing)
- specific use (temporary admission and end use), transit (external and internal transit)
- storage (customs warehousing and free zones)

Existing authorisations expire on 30 April 2016. If the trader wishes to continue to use special procedures, a new application (including any new requirements) will need to be submitted.

The following CPEI will be unavailable:

- free zone type II
- customs warehouse type D
- processing under customs control (but see Inward Processing (IP) below)
- inward processing drawback system
- addition, the following changes will be introduced
  - a financial guarantee will be a mandatory requirement of authorisation
  - the requirement to re-export IP goods will be removed
  - compensatory interest will be abolished

**Changes to IP**

In order to operate IP after 1 May 2016, the trader will need to provide a financial guarantee. If the trader can meet certain criteria, they may be able to obtain a guarantee waiver or reduction.

With the removal of the re-export requirement and compensatory interest, the trader will normally be able to choose how the amount of duty payable on release to free circulation can be calculated - either on the basis of the imported goods or on the basis of the processed products. Goods cannot be entered to IP drawback on or after 1 May 2016. However, goods entered to IP drawback prior to that date can be kept under that procedure until the expiry of the through put period. Provided that the goods are correctly disposed of (for example, by export) drawback claims can be submitted and paid.

**Changes to customs warehousing**
In order to operate a customs warehouse after 1 May 2016, the trader will need to provide a financial guarantee. If the trader can meet certain criteria, they may be able to obtain a guarantee waiver or reduction.

Goods cannot be entered to a Type D customs warehouse on or after 1 May 2016. However, goods entered prior to that date can be kept under Type D arrangements until they are correctly disposed of (for example, by release to free circulation) and the charging rules appropriate at the time of entry can be maintained.

From 1 May 2016 and in addition to those sales currently permitted, the trader will be able to make retail sales from the premises of a customs warehouse provided that it is by means of the internet, catalogue or any other distance selling method. The trader will not be able to invite customers into the premises to make face to face retail sales.

**Changes to end use**

In order to operate end use after 1 May 2016, the trader will need to provide a financial guarantee. If they can meet certain criteria, you may be able to obtain a guarantee waiver or reduction.

A periodic return will be introduced. It will be similar to the Bill of Discharge currently used under IP. Full details will be published when they are available.

**Changes to Temporary Admission**

Where a comprehensive guarantee is used a waiver or reduction may be available.

**Transit**

There is no provision for UK national transit simplifications using the port/airport inventory systems within the UCC. However, the UCC will allow for goods in temporary storage to be moved between different facilities as an alternative to placing them under the external transit procedure.

**Level 1 and level 2 air/sea simplified procedures**

As the level 1 procedure is based on the use of a paper manifest, this simplification will no longer be available. The UCC provides for operators to apply for authorisation to use an electronic transport document as a customs declaration to the transit procedure. It is expected that this will allow the use of an electronic manifest similar to the current air/sea level 2 simplifications. This simplification will also be available to other modes of transport (road/rail).

**Other transit simplifications**

The current simplifications for authorised consignor, authorised consignee and the use of seals of a special type will continue to be available. There will also be a new simplification allowing the use of a customs declaration (on the NCTS) with reduced data requirements.

**AEO and transit simplifications**

You will not need to hold an AEO authorisation to apply for transit simplifications. However, you will need to demonstrate that you can meet certain AEO (c) criteria.

**T2F internal transit procedure**

The T2F transit procedure for movements between the UK and the Channel Islands or other special fiscal territories of the EU will no longer be required for direct movements of Union goods
between one of the EU special fiscal territories and a single Member State. Therefore direct movements between the Channel Islands and the UK will no longer require the T2F transit procedure and the current simplification for these movements will no longer be applicable.

However, the T2F procedure will still be required for Union goods moved from one of the special fiscal territories where the movement ends in a Member State other than the Member State of first entry into the EU.

**Proof of Union Status (POUS)**

A new electronic system will replace paper T2L. Traders will communicate with customs electronically to request endorsement of a proof of Union status (POUS). The proof will be ‘presented’ to customs by communicating the Master Reference Number (MRN) of the proof. Traders who are approved as ‘authorised issuers’ will not need to request endorsement of the POUS.

**Exports**

The Single Transport Contract (STC) is remaining under the UCC.

Anyone who holds an STC authorisation and an AEO (c) authorisation can operate an STC.

**Export Accompanying Document (EAD) at the office of exit**

A hardcopy EAD will no longer need to be presented at the office of exit with the goods. Instead, the Master Reference Number (MRN) of the export declaration needs only to be communicated to the office of exit when presenting the goods for exit from the Union.
Authorized Economic Operator (AEO)

Definition/Scope

An Authorized Economic Operator (AEO) is defined by the WCO SAFE Framework of Standards as a party involved in the international movement of goods, in whatever function, that has been approved by, or on behalf of, a national Customs administration as complying with WCO or equivalent supply chain security standards. AEOs include inter alia manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses and distributors.

Problem statement

Since many years, in some cases even since the 1970s, Customs administrations have been increasingly involved in the security of the international trade supply chain, and have more recently developed security programmes in a global context. The AEO is part of these programmes and the WCO adopted an international AEO standard, the SAFE Framework of Standards, in 2005. Since then, traders have to make, in a number of cases, substantial investments in order to obtain AEO status and must continue to invest to maintain such a status. However, in return, Customs often do not offer substantial benefits in the form of trade facilitation, which increases the cost of trading. Consequently, the uptake of AEO programmes worldwide is slow.

Implementation guidance

Customs should work on a substantial benefits package as part of their AEO programme in close consultation with their trading community. Standard 6 of Pillar II of the WCO SAFE Framework of Standards encourages cooperation between Customs and trade for maximising security and facilitation. However, this standard puts security before facilitation, which is part of the dilemma. To overcome this, the WCO developed specific AEO Guidance (contained as Chapter 5 in the SAFE Framework of Standards) and an AEO Benefits Paper, which was a private sector contribution. These benefits include fewer inspections and priority treatment for inspections, mutual recognition with foreign AEO programmes, reduced security and guarantee requirements, expedited release and pre-clearance, simplified procedures, priority treatment in emergency situations, etc.

Under the Union Customs Code (UCC), It is not mandatory to become an AEO unless the trader wishes to obtain a duty deferment guarantee reduction or wishes to be authorised for one of the following:

1. Moving goods in temporary storage between different member states
2. Centralised Clearance
3. Waiver of the presentation of goods requirement when making declarations in your records
4. Self-Assessment
5. Single Transport Contract (STC)

However, many authorisations and simplifications within the UCC require the trader to meet some or all of the AEO (c) criteria. Unless the trader wishes to obtain an authorisation for any of the above (and therefore an AEO (c) certificate is required), they will need to make a commercial decision based on the information available, their business activities and their role in the supply chain on whether AEO certification is for the trader or it is sufficient for the trader to prove that they meet the AEO standards.

The AEO criteria are also changing. A new condition has been introduced concerning professional competence (see 1.4 below). In addition, the current test on compliance with
customs rules has been expanded to cover all the taxation elements of the trader's business activities (e.g. VAT, Corporation Tax and National Insurance). Under the UCC, traders will need to be re-assessed to take into account the new conditions.

There is very little difference between meeting AEO criteria and being an authorised AEO, apart from those areas where authorisation is a specific requirement. The main difference is that in most instances only some of the AEO criteria have to be met (perhaps only 2 or 3 of the basic conditions) and therefore you might not wish to go through the whole authorisation process.

In most cases, holding an AEO Authorisation will make the authorisation process easier. For example, if you are an authorised AEO who wishes to expand your business to include, for example, customs warehousing, your AEO status would not automatically qualify you for a customs warehouse authorisation. Some additional checks would have to be carried out concerning your new venture but we would not repeat tests previously carried out.

As part of the ongoing relationship between AEOs and customs, HMRC will work with the trader wherever possible to ensure the new criteria can be met. The EU Commission have indicated that there is likely to be a transitional period to allow current AEO businesses time to meet the new criteria but that has yet to be agreed.