

Written evidence submitted by OGUK (BBP0004)

Introduction

OGUK is the leading representative organisation for the UK offshore oil and gas industry. Our membership includes over 400 organisations with an interest in the UK's upstream oil and gas and other energy sectors. As the champions of industry, we work to inform understanding with facts and evidence, engage on a range of key issues and support the broader value of this industry in a changing energy landscape. From exploration through to decommissioning and located across the length and breadth of the UK, our members are critical to safely providing security of energy supply, while supporting around 270,000 jobs and contributing billions of pounds to the economy each year.

The oil and gas industry does understand that from the end of the implementation period, on 1 January 2021, its organisations, which deal with the European Union will have to follow new rules on exports, imports, tariffs, data and hiring.

Our sector is currently being challenged by the "triple whammy" of COVID-19, a dramatic crash in oil price and the lowest gas prices for 14 years. The OGUK Autumn snapshot, published in November 2020 showed that industry expenditure is set to fall by £3-4 billion, compared with initial expectations for this year. Companies across our supply chain continue to see revenue and margin reductions and many are operating at unsustainably low levels. OGUK estimates that it could take two to three years to recover the activity lost from 2020. It is important that activity levels on the UKCS do recover in line with other basins around the world to ensure it remains a competitive place for supply chain companies to anchor their activity and invest in resources the UK will need not only for ongoing oil and gas production, but also for the development of solutions and technologies essential to achieving the UK's climate change targets. Our supply chain has world class skills and capacity that is vital for the development of industrial scale carbon capture and hydrogen production in the UK and without which the UK will not achieve its net zero emission target.

It is against this background that the oil and gas industry has sought to prepare for the end of transition.

To what extent are your Members prepared for the changes that will be taking place as of 1 January?

In light of the pandemic, many organisations have had to redirect resources and delay their preparations for the end of the transition period. Ahead of a dedicated Brexit session in November with SME member companies, OGUK conducted a survey among them with the following results:

- I. "MY ORGANISATION IS WELL-PREPARED FOR BREXIT"
 - a. 50% agree
 - b. 40% disagree
 - c. 10% strongly disagree

- II. "MY ORGANISATION HAS UNDERTAKEN A FORMAL RISK ASSESSMENT TO BETTER UNDERSTAND THE RISKS AND CHALLENGES REPRESENTED BY BREXIT"
 - a. 10% agree

- b. 70% disagree
 - c. 20% strongly disagree
- III. "MY ORGANISATION IS BEING ASKED BY OUR CLIENTS AND CUSTOMERS ABOUT OUR READINESS FOR BREXIT"
- a. Yes – 20%
 - b. No – 80%

Accordingly, OGUK are now working with SME member organisations on practical mitigations, where appropriate.

Are there any areas of uncertainty that are of particular concern for your sector?

In preparation for the end of the implementation period, in 2018 OGUK convened a Brexit Contingency Council comprised of twenty-five member companies from across the broad spectrum of the OGUK Membership.

Through consultation with this OGUK Brexit Contingency Council, completed initially in Q3 2018 and revisited in Q2 2020, companies identified the following as primary areas of concern:

- I. **Customs – Import / Export**
Industry remains concerned regarding a number of key areas: (1). Readiness and roll-out of new IT systems, (2). Business having insufficient time to 'cleanse / scrub' datasets to make them compatible for use in Customs Documentation, and (3). Specific detailed operational requirements around the application of the Border Operating Model.
- II. **Chemical Supply & Control – UK alternative to EU 'REACH'**
Currently, the supply and management of chemicals required to support operations and production in the UKCS is governed and controlled by EU Regulation. Industry has a number of queries and concerns related to the transfer from EU Regulation to UK Regulation
- III. **Employment / Immigration / Movement of People**
Whilst acknowledging the extensive work undertaken by UK Government, the offshore oil and gas industry still has queries in a number of key areas. These include, but are not limited to, (1). Frontier Workers, namely those people who work in one country but who live primarily in another. Free movement laws enabled this working pattern to develop and flourish within the EU, but Brexit has left frontier workers who commute into the UK in a precarious position, (2). Regulations around 'Business Travellers' to / from the UK and (3). Personnel involved in the provision of 'Offshore Services', especially with Norway.
- IV. **Employment Law**
Much of UK employment law is either based on EU legislation or is EU law that is directly effective in the UK. Some of the employment law rules we apply have also been established through the interpretation of European laws by the European Court of Justice. An example of this is the rules on including elements of pay such as commission in holiday pay.
- V. **Aviation Practices & Regulation**
The UKCS is almost wholly reliant on Helicopter Service Providers for the transfer of workers off / on shore. EASA (European Union Aviation Safety Agency) currently has a central governing role in much of the administration of Helicopter Service Provision - e.g.

Pilots' Training Records, Medicals, etc in very simple terms, effective 1 January 2021, will UK airframes be able to fly across international sectors as they do today?

VI. **Environmental Issues**

Industry has questions around the post-transition position across a number of key areas, including: (1). EMSA (European Maritime Safety Agency) - Pollution Response, (2). IPPC Directive (Integrated Pollution Prevention & Control), (3). BREFs under the Industrial Emissions Directive and (4). Carbon Pricing and Emissions Trading Schemes (ETS)

VII. **Commercial Contracts**

Businesses need to consider how their contracts will be affected by the commercial and economic implications of Brexit. The commercial effect of Brexit after the end of the transition period could be felt in many ways. The result could be financial hardship for one of the parties, the degree to which will be determined whether or not a deal is concluded, via any or all of the following: (1). Exchange rates, (2). Tariffs, (3). Effect of customs checks, (4). Parallel regulation and (5). Effect on labour market.

VIII. **Intellectual Property**

Certainty is sought around changes to be made to the protection of Intellectual Property, given that from the 1 January 2021, European Union Trademarks (**EUTMs**) will no longer protect trademarks in the UK.

IX. **Data Protection**

Data protection arrangements, and in particular transfers of personal data from EEA states to the UK, are perceived as one of the more immediate issues that need to be addressed before the end of the transition period.

X. **AEO Status**

The EU has announced that from 1 January 2021 it will no longer recognise AEO accreditations issued by UK customs. HMRC has, therefore, adopted its own UK AEO accreditation identical in nearly every respect to EU standards. It is expected, but not yet confirmed, that the EU and UK will recognise each other's AEO schemes after Brexit.

Two key points to note:

- I. There was little or no change among our member companies between 2018 and 2020 in terms of areas of concern or their weighting – the picture remained broadly consistent
- II. Whilst the above items represent the ten most common areas of concern, not all were regarded to be of equal weighting – the first three topics on the list reflect the most significant uncertainty for OGUK Members

Are you expecting any short-term disruption to the business operations of your Members, and what would be the impact of this?

The immediate implementation of the Border Operating Model is anticipated to cause short-term disruption to the business operations of those companies, who import goods and materials. Post transition period, UK Government have identified an expedited transportation process for Category 1 goods in the event of border delays. Currently, goods and materials in our industry are deemed to be Category 1 but are not covered by the Government's expedited transportation process. Given the importance of the Oil & Gas Sector and its importance to the security of energy supply, we would ask that the industry be included in the expedited transportation process, where appropriate.

What obstacles, if any, are preventing your Members from being fully prepared for Brexit?

OGUK has consistently advocated that a trade agreement between the UK and EU would be in the best interest of our members. The lack of certainty on this issue makes it difficult for industry to be fully prepared for Brexit.

In the absence of an agreement, from 1 January 2021, the UK becomes a “third country” and will default to global trade rules set by the World Trade Organization (WTO) in this scenario. Preparation for this scenario is extensive and complicated, which reflects the increased requirement for bureaucracy, which may limit the ‘agility’ of international commerce.

Uncertainty over whether there will be a deal and the possible consequences of no deal comes at a difficult time for our sector, which is being challenged by the “triple whammy” of COVID-19, the dramatic crash in oil price and the lowest gas prices for 14 years. The OGUK Autumn snapshot, published in November 2020 showed that industry expenditure is set to fall by £3-4 billion, compared with initial expectations for this year. Companies across our supply chain continue to see revenue and margin reductions and many are operating at unsustainably low levels.

Through engagement with Government and its agencies, which has been very welcome, we have been able to give our member organisations some greater detail on how they should be preparing. However there remains ongoing uncertainty and gaps at a more detailed and technical level that still require answers. These are in the following areas:

- I. Customs – Import / Export
- II. Chemical Supply & Control – UK alternative to EU ‘REACH’
- III. Employment / Immigration / Movement of People
- IV. Employment Law
- V. Aviation Practices & Regulation
- VI. Environmental Issues
- VII. Commercial Contracts
- VIII. Intellectual Property
- IX. Data Protection
- X. AEO Status

How satisfied are you with the engagement, communication, and guidance your Members are receiving from the Government in the lead up to the end of the transition period?

The level of engagement has been good. However, industry is still awaiting answers to some of the more detailed/technical queries put to Government via OGUK.

OGUK has weekly engagement with the BEIS oil and gas policy team who are coordinating with other departments to help find answers to industry questions.

The UK Government has also offered regular engagement senior officials via Sector Panel meetings and various webinars and ad hoc briefings organised by OGUK (e.g. HMRC participation in a Border Operating Model webinar and DEFRA participation in a UK REACH – Chemical Supply and Control webinar)

What action should the Government take to support businesses to prepare? How should the remaining few weeks of the transition period be used to avoid disruption to business operations?

The weekly 'Brexit Readiness' meetings with BEIS look at specific issues and challenges facing the oil and gas industry. Each of the queries is evaluated to identify those, which require a full response before 31 December. Various scenarios and questions have been posed, by the following OGUK Departments:

- I. HSE
- II. Sustainability
- III. Supply Chain & Operations
- IV. Legal

These forums have provided, and continue to provide, very good sources of general information. However, as the transition period comes to an end and industry 'Brexit awareness' matures and develops, a more focussed and specific oil and gas sector focus is required. Organisations now have more detailed and technical queries requiring answers.

November 2020