

Call for evidence on freeports

Please treat this whole submission as anonymous and please do not publish paragraphs 1-3 as they are likely to lead to the identification of our organisation.

Our organisation and the reasons for our submission

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Introductory remarks on freeports

4. Currently, there are no freeports in the UK (except for one on the Isle of Man). However, this has not always been the case. There were 7 freeports operating in the UK between the 1980s and 2012, when the legislation establishing freeports expired. It is unclear why this legislation was not renewed, although some concerns about customs assurance were reported.¹ Nevertheless, the Treasury still has the power to designate new freeports by statutory instrument under the Customs and Excise Management Act 1979.
5. In addition, the UK hosts bonded warehouses (or “customs warehouses”), although their functioning is fundamentally different from that of freeports. Bonded warehouses enable importers to delay the payment of custom duties and/or VAT until the goods leave the warehouse

¹ <https://hansard.parliament.uk/Commons/2018-10-11/debates/95BAE0F2-0F29-4F5C-8C2E-82D0D61DF65D/Freeports>

procedure or enter another customs procedure. As opposed to goods in freeports, goods under a bonded warehouse procedure are considered within the customs territory of the UK. In practice, however, the government has recognised that customs warehouses are “generally not used for art transactions in the same way as freeports in other non-EU jurisdictions.”²

6. There are many freeports dotted around the globe. They are generally reaching far beyond the definition of a traditional storage facility, with some freeports offering bespoke services to the art world such as art photography, restoration, scientific lab, and more. Although the Government’s proposal is not directly targeted at art market participants, the project undoubtedly offers them business opportunities.

The Government’s Proposal

7. The Government’s ambition is to create state-of-the-art freeports, drawing on international best practice. This proposal is highly influenced by Brexit. Some have suggested that the UK could not introduce freeports until the UK left the EU because freeports are incompatible with EU law. That is not the case. First, as noted above, freeports were operating in the UK until 2012. Secondly, a freeport has been operating in Luxembourg, an EU country, since 2017. Having said that, the establishment and functioning of freeports in the EU are to an extent hindered by rules on state aid. State aid rules regulate how governments can support companies and aim to prevent the receipt of unfair advantages by companies which, in some circumstances, could be considered as distorting competition. Depending on the deal (if any) agreed with the EU, the expectation is that the UK will be able to support the creation of freeports through public/private partnerships, a model currently being explored.

Commentary

8. The freeports located outside the UK are routinely used to store works of art, antiques and collectible items. The advantages of freeports for the storage of art are numerous:
 - 8.1. State-of-the-art storage facilities designed specifically to store art;
 - 8.2. State-of-the-art security, such that high value art can be stored for long periods of time on terms acceptable to insurance companies;
 - 8.3. The ability to visit one’s art stored in a freeport. Some of our clients have converted their storage rooms in freeports into private museums they visit regularly;
 - 8.4. Easy access by air (commercial and private) because freeports are often located close to international airports (e.g. Geneva and Zurich, Singapore, Luxembourg);

2

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/795670/20190415_Consultation_on_the_Transposition_of_5MLD_web.pdf

- 8.5. The ability to move art in and out of freeports free of tax such as import VAT;
 - 8.6. The ability to sell and buy art in freeports free of tax such as VAT;
 - 8.7. The presence on site or in the vicinity of the freeport, of service providers with expert knowledge of works of art, antiques and collectable items such as fine art packers, fine art shippers, restorers and valuers. For example, the Luxembourg freeport has attracted numerous service providers with art expertise who were not present in Luxembourg until then;
 - 8.8. A degree of anonymity. Anonymity in freeports has been eroded in the last 10 years, nonetheless it is still possible to store art in freeports without attracting attention.
9. In the UK, we envisage that:
- 9.1. One or two freeports near London would be licenced to store works of art, antiques and collectible items in state-of-the-art facilities with trained staff, appropriate access facilities, environmental conditions and security.
 - 9.2. These facilities would be approved by fine art insurance providers.
 - 9.3. These facilities would be as near as possible to one of London's main airports, to minimise transit time and risk of loss or damage in transit.
 - 9.4. It would be possible to store and inspect works of art, antiques and collectible items in freeports. Special viewing rooms would be available to view the art in the freeports themselves.
 - 9.5. It would be possible to import, export, buy and sell art in the freeports free of tax.
 - 9.6. Art could be stored in freeports indefinitely.
 - 9.7. UK freeports would comply with anti-money laundering rules.
 - 9.8. Controls would be in place to minimize the risk that looted art is stored in UK freeports.
 - 9.9. Works of art, antiques and collectible items in UK freeports would not be subject to UK export control rules applicable to art.
 - 9.10. The procedure in place to import art stored in UK freeports into the UK would be as straightforward and automated as possible.
 - 9.11. Bespoke services such as restoration services, art photography and more would be an appealing addition.
10. The use of freeports in the art world has largely been associated with secrecy, tax evasion and illicit activities. Recent scandals have nothing but encouraged such belief. Interestingly, the Luxembourg Freeport has sought to address these 'misconceptions' head on, please visit the page

below on the website of the Freeport: <https://www.lefreeport.lu/8-misconceptions-about-le-freeport/>. If freeports are launched in the UK, the way in which they are promoted will require careful consideration, to minimize the risk of bad press associated with freeports.

11. To tackle the risk of money laundering, the EU 5th Anti-Money Laundering Directive has placed certain freeports within its scope and imposed due diligence obligations on their operators. The Directive is nevertheless limited in scope and not designed to address all aspects of freeport storage. Issues pertaining to illicit provenance, sanctions or tax evasion, for instance, remain to be addressed. The onus will be on the Government to strike the right balance between laissez-faire and regulation, or else the art market (as well as other specialist trades) may well be deterred from using freeports.
12. Freeport operators and freeport businesses authorised to handle and store works of art, antiques and collectible items should be asked to show that they are familiar with laws applicable to these categories of assets and they commit to comply with them. They can be grouped under headings including:
 - 12.1. Stolen art/handling stolen goods;
 - 12.2. National treasures;
 - 12.3. Art misappropriated during armed conflicts;
 - 12.4. Unlawful export;
 - 12.5. For antiquities and other property that might have been removed from heritage sites, lawful removal from the heritage site;
 - 12.6. Endangered species;
 - 12.7. International sanctions;
 - 12.8. International conventions related to cultural property;
 - 12.9. Forgeries and counterfeit goods.
13. Finally, freeports offer the opportunity to regenerate heritage sites. One example is the Grimsby ice factory which featured on the World Monuments Fund watchlist in 2014. Located on the Humber Estuary and providing strategic access to the North Sea, the port town of Grimsby has a long maritime history and once claimed the title of the world's largest fishing port. Grimsby's livelihood was tied to seafaring and trade since its establishment by the Danes in the ninth century, but gradual silting of its harbour led to a period of decline. The modern renaissance of the seaport began in the middle of the nineteenth century, catalysed by the arrival of the railway in 1848 and the opening of the Grimsby Docks in 1852. The Grimsby ice factory was created to meet the growing demand for ice to supply merchants and fishing boats. Built in 1900–03, the ice

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factory came to produce 1,200 tons of ice per day at its peak. The surrounding precinct of docks, quays, transportation infrastructure, industrial facilities and shops became a bustling hub of commercial activity known as the Kasbah. The ice factory closed in 1990 due to decreased demand. The red-brick building is an almost intact survivor of the Victorian industrial era. Following decades of abandonment, community members set up the Great Grimsby Ice Factory Trust in 2010. The founders' goals were to adaptively reuse the ice factory and promote the revitalization of the Kasbah. The campaign has energized many stakeholders, but increased public and private support is needed to address the challenges posed by this sort of historic urban redevelopment. A freeport in Grimsby would be a unique opportunity to regenerate the Kasbah.

We are grateful for the time taken to consider the evidence we have put forward and remain at your disposal should you wish to discuss anything in further detail.