



# Library Note

## Leaving the European Union: Customs Unions—An Introduction

On 17 January 2017, the Prime Minister, Theresa May, made a speech at Lancaster House outlining the Government's position on the UK's future once it leaves the European Union. As part of these remarks, Mrs May stated that the Government would not be pursuing continued membership of the EU's single market, or membership (in its current form) of its customs union.

Customs unions are extensions of conventional free trade agreements (FTAs), where parties to the agreement have agreed to provide each other with trade benefits such as reduced or removed tariffs. In addition to this basic premise, customs unions apply a common external tariff across its members. Therefore, goods imported into one member of a customs union should attract the same tariffs as those imported into another. Customs unions can help facilitate trade between their members by removing the need for complex 'rules of origin' for goods imported into the trade area from third countries. Members of the World Trade Organisation are able to establish customs unions (and free trade agreements) in accordance with article XXIV of the General Agreement on Tariffs and Trade.

Advocates of customs unions contend that there are a number of reasons as to why a country may prefer to pursue a customs union over a free trade agreement, including a desire to further facilitate trade, but also in some cases as a first step towards closer political or economic cooperation. However, customs unions can face a range of challenges. For example, it can be a politically and economically complex process to agree a common external tariff and member countries generally forfeit their ability to set their own trade policies.

The European Union is the most comprehensive functioning customs union in the global economy. This extends into the single market, which provides further harmonisation of standards to facilitate the four freedoms: freedom of movement of goods, capital, services and people. However, a number of other customs unions operate outside of the EU, examples include the Caribbean Community (CARICOM).

This briefing provides information on how customs unions operate, how they differ from free trade agreements, and how they interact with World Trade Organisation rules on most-favoured-nation status. The briefing also examines the arguments advanced for why countries may wish to join customs unions and also political and practical criticisms customs unions might face. A summary of the EU's customs union is also presented alongside an explanation of its relationship to the 'single market'. Finally, a list of other customs unions which operate around the world is provided, alongside a map compiled from data from the World Trade Organisation's Regional Trade Agreements Information System. It does not consider the arguments for and against the UK remaining in the EU customs union.

**Table of Contents**

- I. What are Customs Unions? ..... 1
  - 1.1 Customs Unions and the World Trade Organisation ..... 2
- 2. Customs Unions in Practice..... 3
  - 2.1 Potential Reasons for Joining a Customs Union..... 3
  - 2.2 Operation of Customs Unions: Practical Considerations and Criticisms ..... 5
- 3. Customs Unions Around the World ..... 8
  - 3.1 European Union..... 8
  - 3.2 Rest of the World..... 10
- 4. Further Information ..... 13

## 1. What are Customs Unions?

Customs unions are a form of regional free trade area where the members agree to establish a common external tariff on imports originating from outside the union.<sup>1</sup> The Organisation for Economic Cooperation and Development (OECD) states that the parties to a customs union agree to do two things:

1. Agree to allow free trade on products within the customs union.
2. Agree to a common external tariff with respect to imports from the rest of the world.<sup>2</sup>

Therefore, goods imported into any given member country of a customs union from outside that union will be subject to the same import tariffs. The goods can then generally be imported or exported between the members of the customs union tariff-free. The World Trade Organisation (WTO) consider both free trade agreements (FTAs) and customs unions to be forms of regional trade agreements (RTAs), in that they both involve “reciprocal preferential trade agreements between two or more partners”.<sup>3</sup> The WTO also explains that the degree of preferential treatment conferred varies from one RTA to another, and modern RTAs (not just those linking the most developed economies) can go “far beyond” simply cutting tariffs:

They provide for increasingly complex regulations governing intra-trade (eg with respect to standards, safeguard provisions, customs administration, etc) and they often also provide for a preferential regulatory framework for mutual services trade. The most sophisticated RTAs go beyond traditional trade policy mechanisms, to include regional rules on investment, competition, environment and labour.<sup>4</sup>

For example, the Comprehensive Economic and Trade Agreement (CETA) between Canada and the EU will, amongst its provisions, “allow for the mutual recognition of some qualifications” and “protect traditional European food and drink products (known as Geographical Indications) from being copied”.<sup>5</sup> CETA is subject to ratification by the European Parliament and the member states.<sup>6</sup>

The WTO has stated that RTAs in general “have risen in number and reach over the years, including a notable increase in large plurilateral deals under negotiation”.<sup>7</sup> Following the notification to the WTO of the RTA between Mongolia and Japan in June 2016, all WTO members now have an RTA in force.<sup>8</sup>

---

<sup>1</sup> Iana Dreyer and Nicu Popescu, *The Eurasian Customs Union: The Economics and the Politics*, March 2014, European Union Institute for Security Studies, p 2.

<sup>2</sup> Organisation for Economic Cooperation and Development, ‘[Glossary of Statistical Terms: Customs Unions](#)’, accessed 24 January 2017.

<sup>3</sup> World Trade Organisation, ‘[Regional Trade Agreements](#)’, accessed 24 January 2017.

<sup>4</sup> World Trade Organisation, ‘[Scope of Regional Trade Agreements](#)’, accessed 24 January 2017.

<sup>5</sup> European Commission, ‘[CETA Explained](#)’, accessed 26 January 2017.

<sup>6</sup> Further information on this process can be found in: House of Commons Library, *[CETA: The EU-Canada Free Trade Agreement](#)*, 17 January 2017.

<sup>7</sup> World Trade Organisation, ‘[Regional Trade Agreements](#)’, accessed 24 January 2017.

<sup>8</sup> *ibid.*

## 1.1 Customs Unions and the World Trade Organisation

As of 29 July 2016, there are 164 member countries of the WTO.<sup>9</sup> Members of the WTO have agreed to a shared set of rules and procedures to be followed in the trading relationships between members. This includes rules and procedures on the establishment of FTAs and customs unions.

Under WTO agreements, members cannot normally discriminate between their trading partners—in other words, where a country wishes to give another country preferential treatment (for example by providing it with more favourable customs rates on certain products) it must do so for all other WTO members. This concept is referred to as Most-favoured Nation (MFN).<sup>10</sup> The WTO explains that the term ‘most-favoured’ is not about special treatment, rather it refers to treating trade partners equally:

Each member treats all the other members equally as “most-favoured” trading partners. If a country improves the benefits that it gives to one trading partner, it has to give the same “best” treatment to all the other WTO members so that they all remain “most-favoured”.<sup>11</sup>

Ordinarily, the concept of FTAs and customs unions are a departure from the principle of MFN.<sup>12</sup> However, article XXIV of the General Agreement on Tariffs and Trade (GATT) and article V of the General Agreement on Trade in Services (GATS) allow for the creation of FTAs and customs unions subject to certain conditions.<sup>13</sup> For the purposes of article XXIV of the GATT, customs unions are defined as “the substitution of a single customs territory for two or more customs territories”,<sup>14</sup> with the effect that:

- (i) Duties and other restrictive regulations of commerce (except, where necessary, those permitted under articles XI, XII, XIII, XIV, XV and XX) are eliminated with respect to substantially all the trade between the constituent territories of the union or at least with respect to substantially all the trade in products originating in such territories, and,
- (ii) Subject to the provisions of paragraph 9, substantially the same duties and other regulations of commerce are applied by each of the members of the union to the trade of territories not included in the union.<sup>15</sup>

Article XXIV also defines a FTA. It states that:

- (b) A free-trade area shall be understood to mean a group of two or more customs territories in which the duties and other restrictive regulations of commerce (except, where necessary, those permitted under articles XI, XII, XIII, XIV, XV

<sup>9</sup> World Trade Organisation, [‘Understanding the WTO: The Organization, Members and Observers’](#), accessed 24 January 2017.

<sup>10</sup> *ibid.*

<sup>11</sup> *ibid.*

<sup>12</sup> World Trade Organisation, [‘Scope of Regional Trade Agreements’](#), accessed 24 January 2017.

<sup>13</sup> House of Lords European Union Committee, [Brexit The Options for Trade](#), 13 December 2016, HL Paper 72 of session 2016–17, p 16.

<sup>14</sup> [General Agreement on Tariffs and Trade, article XXIV](#), para 8(a).

<sup>15</sup> *ibid.*

and XX) are eliminated on substantially all the trade between the constituent territories in products originating in such territories.<sup>16</sup>

Together with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), GATT and GATS address all three of the main trade areas covered by the WTO.<sup>17</sup>

Writing in 2011, Soamiely Andriamananjara, a senior economist for growth and competitiveness practice at the World Bank Institute in Washington DC, suggested there are a range of features that categorise the differences between FTAs and customs unions, as summarised in Table 1 below:<sup>18</sup>

**Table 1: Key Differences Between Free Trade Agreements and Customs Unions**

	Size	Geography	Time Taken to Agree	Requires a CET?	Implications for Wider Trade Policy
<b>Free Trade Agreements</b>	Smaller number of parties, “frequently, just two” <sup>19</sup>	Parties tend to be geographically distant	Relatively fast	No.	Tends to “preserve a member’s sovereignty over its trade policy vis-à-vis the rest of the world” <sup>20</sup>
<b>Customs Unions</b>	Relatively larger number	Parties tend to be geographically contiguous	Relatively slow	Yes.	Entails “a certain loss of policy-making autonomy” <sup>21</sup>

He argued that the “primary effect” of both customs unions and FTAs is the same. That is, to expand trade flows between the participating countries “often at the expense of trade with non-members”.<sup>22</sup>

## 2. Customs Unions in Practice

### 2.1 Potential Reasons for Joining a Customs Union

In addition to the desired aim of increasing trade flows between participating countries, Soamiely Andriamananjara identified a number of other reasons as to why a country might want to join a customs union:

- The establishment of a customs union may be seen by some countries as a prerequisite to the establishment of a closer political union, or the first step to a deeper economic relationship such as a common market.

<sup>16</sup> [General Agreement on Tariffs and Trade, article XXIV](#), para 8(b).

<sup>17</sup> World Trade Organisation, ‘[Understanding the WTO: Basics, Principles of the Trading System](#)’, accessed 23 January 2017.

<sup>18</sup> Soamiely Andriamananjara, ‘Customs Unions’, in Jean-Pierre Chauffour and Jean-Christophe Maur (eds), [Preferential Trade Agreement Policies for Development: A Handbook](#), 2011, pp 111–20.

<sup>19</sup> *ibid*, p 111.

<sup>20</sup> *ibid*.

<sup>21</sup> *ibid*, p 112.

<sup>22</sup> *ibid*, p 113.

- A customs union may allow participating countries to ‘pool’ their market power by coordinating trade policies. The Caribbean Community (CARICOM) is an example.<sup>23</sup>
- A customs union can “foster trust and familiarity” among members and “may even decrease the risk of conflicts, as has been the case with the EU”.<sup>24</sup>
- A customs union can simplify trade between its members to a greater extent than a conventional FTA.

The final point is related to the issue of so-called ‘rules of origin’ requirements under FTAs. In a conventional FTA, where parties maintain different external tariffs, but trade with each other tariff free, so-called ‘trade deflection’ may be an issue. Mr Andriamananjara defined trade deflection as a situation in which goods are imported into a country with lower tariffs and then exported tariff free (under the FTA) to the originally intended destination country. This avoids the intended destination country’s higher tariffs.

A rules of origin system in the FTA seeks to address trade deflection by requiring parties to the FTA to demonstrate that the goods originated in their country, and were not first imported from a third country. Rules of origin help to ensure that goods attract the tariffs for which they qualify. The WTO explains that there is a wide variation in the approach that governments take to rules of origin:

While the requirement of substantial transformation is universally recognized, some governments apply the criterion of change of tariff classification, others the ad valorem percentage criterion and yet others the criterion of manufacturing or processing operation. In a globalizing world it has become even more important that a degree of harmonization is achieved in these practices of members in implementing such a requirement.<sup>25</sup>

In addition to determining correct tariffs, rules of origin can be used for the following purposes:

- To implement measures and instruments of commercial policy such as anti-dumping duties and safeguard measures;
- For the purpose of trade statistics;
- For the application of labelling and marking requirements; and
- For government procurement.<sup>26</sup>

Soamiely Andriamananjara argued that in practice rules of origin are “particularly complex, and their implementation costs can be high”, and that they “necessitate significant internal border controls [within the FTA area] to ensure compliance and to collect the relevant customs

---

<sup>23</sup> Soamiely Andriamananjara, ‘Customs Unions’, in Jean-Pierre Chauffour and Jean-Christophe Maur (eds), [Preferential Trade Agreement Policies for Development: A Handbook](#), 2011, p 113.

<sup>24</sup> *ibid.*

<sup>25</sup> World Trade Organisation, [‘Technical Information on Rules of Origin’](#), accessed 26 January 2017.

<sup>26</sup> *ibid.*

duties”.<sup>27</sup> Similarly, the House of Lords European Union Committee stated that rules of origin create additional costs through “additional bureaucracy, including the difficulty of identifying the origin of goods with a complex supply chain and an additional cost for consumers in importing goods”.<sup>28</sup> In an article published in December 2016, the *Economist* cited one trade lawyer as saying that rules of origin “can be so burdensome that sometimes companies prefer to pay export tariffs”.<sup>29</sup>

By applying a common external tariff, customs unions can help mitigate the problem of trade deflection. In a “fully implemented” customs union Mr Andriamananjara asserted that customs unions simplify and encourage cross-border trade between participating countries by removing the need to maintain internal border controls for customs purposes or to “design and implement the cumbersome and costly rules of origin”.<sup>30</sup> However, border controls may still be needed for the collection of other taxes, controlling the movement of persons and the enforcement of other legal requirements such as health and safety standards.<sup>31</sup>

Reporting for the *Financial Times*, Alan Beattie argued that sometimes “more is made” of rules of origin than is “warranted”.<sup>32</sup> He stated that although Norway is not part of the EU’s customs union it can still export to the EU via Sweden without “every consignment being checked”.<sup>33</sup> Although, Mr Beattie said that there was “no doubt” that rules of origin did impose some costs.<sup>34</sup>

## 2.2 Operation of Customs Unions: Practical Considerations and Criticisms

### Practical Considerations

There are a number of issues that have to be addressed when a customs union is established. Firstly, a common external tariff has to be set for the customs union and then a mechanism for the collection of the common external tariff has to be negotiated between the membership. Soamiely Andriamananjara suggested that the effect of the common external tariff will be different for different member countries as each adjusts their previous tariffs to the new common external tariff with the “net economic effect of a customs union crucially [depending] on how the adjustment of the external tariff affects the degree of discrimination vis-à-vis non-member countries”.<sup>35</sup> Mechanisms for the collection of the common external tariff also have to be determined and any form of revenue redistribution system has to be agreed and created.

Secondly, the question of how the common external tariff is set, and at what levels, are complex economic and political questions. Soamiely Andriamananjara argued that these

<sup>27</sup> Soamiely Andriamananjara, ‘Customs Unions’, in Jean-Pierre Chauffour and Jean-Christophe Maur (eds), *Preferential Trade Agreement Policies for Development: A Handbook*, 2011, p 113.

<sup>28</sup> House of Lords European Union Committee, *Brexit: The Options for Trade*, 13 December 2016, HL Paper 72 of session 2016–17, p 31.

<sup>29</sup> *Economist*, ‘[There is a Case for Staying in the Customs Union](#)’, 3 December 2016.

<sup>30</sup> Soamiely Andriamananjara, ‘Customs Unions’, in Jean-Pierre Chauffour and Jean-Christophe Maur (eds), *Preferential Trade Agreement Policies for Development: A Handbook*, 2011, p 113.

<sup>31</sup> *ibid.*, p 119.

<sup>32</sup> Alan Beattie, ‘What Are Advantages of Britain Remaining in the EU’s Customs Union?’, *Financial Times*, 19 December 2016.

<sup>33</sup> *ibid.*

<sup>34</sup> *ibid.*

<sup>35</sup> Soamiely Andriamananjara, ‘Customs Unions’, in Jean-Pierre Chauffour and Jean-Christophe Maur (eds), *Preferential Trade Agreement Policies for Development: A Handbook*, 2011, p 114.

negotiations can be “long and involved” and that it took the EU “eleven years (1957 to 1968) to complete its common external tariff, and Mercosur members took four years just to agree on their non-agricultural common external tariff”.<sup>36</sup>

Finally, customs unions are also focused on goods and they, it is argued, do not generally improve trade in services. The House of Lords European Union Committee reported that this is because customs unions “principally eliminate tariffs”.<sup>37</sup> They therefore do not directly facilitate trade in services as services often face “non-tariff barriers”.<sup>38</sup> In support of that conclusion, the Committee quoted Dr Peter Holmes, Reader in Economics at the University of Sussex, who said that such a distinction between goods and services brings complications because “more and more trade today consists of good and services bundled together”.<sup>39</sup> Dr Holmes argued that “you cannot quite separate goods and services as much as you could in the past”.<sup>40</sup>

### Criticisms

Writing for the EU Institute for Security Studies (EUISS), Iana Dreyer and Nicu Popescu argued that regional trade areas (RTAs) in general can effect trade in two ways:

On the one hand, [RTAs] create trade, because they offer a bigger market for producers, thus generating economies of scale. On the other hand, [RTAs] also divert trade. Since there is a preference for trade with partners from within the zone, less efficient and more expensive producers can be propped up to the detriment of more competitive ones from outside, thus harming consumers and reducing economic gains.<sup>41</sup>

In order for trade creation to outweigh any trade diversion, the authors considered that “liberalisation among members must cover (close to) all areas of trade” and trade barriers with third countries should not be raised.<sup>42</sup> They criticised customs unions for failing to do this, arguing that they “often initially raise the average levels of trade protection of their members vis-à-vis the outside world”.<sup>43</sup> They asserted that customs unions often fail to be “market-liberal in their economic outlook”, and protectionist policies can “raise political tensions over the redistribution of rents while failing to raise prosperity”.<sup>44</sup> Such issues can normally only be surmounted if members of the customs union hold a shared willingness “to relinquish their trade policy autonomy as part of a broader transfer of political sovereignty”.<sup>45</sup> The transfer of sovereignty was reflected in comments made by Dr Holmes to the House of Lords European Union Committee. Dr Holmes argued that joining any customs union came at a “price”, and that “you completely lose your ability to have your own independent external trade policy”.<sup>46</sup>

<sup>36</sup> Soamiely Andriamananjara, ‘Customs Unions’, in Jean-Pierre Chauffour and Jean-Christophe Maur (eds), *Preferential Trade Agreement Policies for Development: A Handbook*, 2011, p 114.

<sup>37</sup> House of Lords European Union Committee, *Brexit: The Options for Trade*, 13 December 2016, HL Paper 72 of session 2016–17, p 32.

<sup>38</sup> *ibid.*

<sup>39</sup> *ibid.*

<sup>40</sup> *ibid.*

<sup>41</sup> Iana Dreyer and Nicu Popescu, *The Eurasian Customs Union: The Economics and the Politics*, March 2014, European Union Institute for Security Studies, p 2.

<sup>42</sup> *ibid.*

<sup>43</sup> *ibid.*, p 3.

<sup>44</sup> *ibid.*, p 2.

<sup>45</sup> *ibid.*

<sup>46</sup> House of Lords European Union Committee, *Brexit: The Options for Trade*, 13 December 2016, HL Paper 72 of session 2016–17, p 33.

Iana Dreyer and Nicu Popescu argued that this inability for customs union members to pursue their own tariff or trade policies with third parties explains why customs unions are rather “uncommon”, compared with “classic” FTAs.<sup>47</sup>

However, not all customs unions are comprehensive in their coverage of economic sectors. Soamiely Andriamananjara wrote that there are numerous cases whereby a customs union member has negotiated an FTA with a third country:

Examples of such a situation include the FTAs between the EU and South Africa (a member of SACU [Southern African Customs Union]) and between the United States and Bahrain (a member of the GCC [Gulf Cooperation Council]).<sup>48</sup>

As a consequence of both the practical and political considerations in establishing a customs unions, Iana Dreyer and Nicu Popescu argued that customs unions are “seldom successful” and the only “fully-fledged and well-functioning” customs union is that of the EU:

The EU has managed to avoid the pitfalls of other customs unions. It is part of an ‘ever closer union’ designed to consolidate a liberal political and market order on the European continent, for the sake of which member states have agreed to relinquish part of their national sovereignty gradually and voluntarily. Apart from certain sectors (such as agriculture), the European customs union can be said to be fairly liberal by international standards.<sup>49</sup>

Writing in March 2014, they asserted that other customs unions were either incomplete or had not fully resolved political questions over the distribution of costs and benefits:

[T]he EU-Turkey customs union, established in the mid-1990s, excludes agricultural products; Mercosur—founded by Brazil, Argentina, Paraguay and Uruguay in 1991—has failed to establish a common external tariff (to avoid reversals in trade liberalisation) and avert political tensions.<sup>50</sup>

As with Iana Dreyer and Nicu Popescu, Soamiely Andriamananjara argued that the difficulties in agreeing a common external tariff have led to several customs unions having incomplete coverage:

In many developing-country customs unions, the difficulties of agreeing on a common external tariff and on the distribution of revenues have proved to be so great that the resulting tariff schedules tend to include numerous country or sector-specific exceptions and sensitive lists. Although the CARICOM common external tariff is largely in place, it allows broad scope for tariff reductions and suspensions, as well as for national derogations. The common external tariff in Mercosur does not cover all sectors, and it includes special regimes for the automotive and sugar sectors.<sup>51</sup>

---

<sup>47</sup> Iana Dreyer and Nicu Popescu, [The Eurasian Customs Union: The Economics and the Politics](#), March 2014, European Union Institute for Security Studies.

<sup>48</sup> Soamiely Andriamananjara, ‘Customs Unions’, in Jean-Pierre Chauffour and Jean-Christophe Maur (eds), [Preferential Trade Agreement Policies for Development: A Handbook](#), 2011, p 119.

<sup>49</sup> Iana Dreyer and Nicu Popescu, [The Eurasian Customs Union: The Economics and the Politics](#), March 2014, European Union Institute for Security Studies, p 2.

<sup>50</sup> *ibid*, p 2.

<sup>51</sup> Soamiely Andriamananjara, ‘Customs Unions’, in Jean-Pierre Chauffour and Jean-Christophe Maur (eds), [Preferential Trade Agreement Policies for Development: A Handbook](#), 2011, p 115.

### 3. Customs Unions Around the World

#### 3.1 European Union

As with other customs unions, within the EU's customs union a common tariff is applied to goods entering member states from outside the EU. EU member states are unable to negotiate their own free trade deals with non-EU countries. Trade agreements are coordinated through the EU's [Common Commercial Policy](#), which is the EU's policy for trading with non-member states. According to Article 207 of the Treaty on European Union:

The Common Commercial Policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies.<sup>52</sup>

The EU is also tasked with: handling negotiations in the World Trade Organisation (WTO) in regards to the levels of tariffs on goods being imported to EU member states from non-EU countries; concluding trade agreements with non-EU countries; and deciding “what to do about goods ‘dumped’ on the EU market”.<sup>53</sup> The EU explains that its customs union has four principles:

- No customs duties at internal borders between the EU member states.
- Common customs duties on imports from outside the EU.
- Common rules of origin for products from outside the EU.
- A common definition of customs value.<sup>54</sup>

The six founding member states of the current EU (Belgium, France, Germany, Italy, Luxembourg and the Netherlands) reached agreement on these principles, leading to the establishment of the customs union on 1 July 1968. This process was originally set out in the 1957 Treaty of Rome. After 1 July 1968 a legal framework was established which covered the following:

- Ensuring that the common tariff is applied in the same way all along the EU's external borders.
- Introducing a common approach on warehousing procedures.
- Facilitating movements of goods in “customs transit”.
- Replacing the wide variety of customs documents with a single administrative document.<sup>55</sup>

<sup>52</sup> EUR-Lex, [Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union](#), 9 May 2008, p 140.

<sup>53</sup> UK in a Changing Europe Initiative, [‘The Customs Union’](#), accessed 14 January 2016.

<sup>54</sup> European Commission, [‘About the Customs Union’](#), accessed 20 January 2017.

These rules were consolidated in the Community Customs Code, adopted in 1992. On 1 May 2016, the Unified Customs Code (UCC) entered force. The UCC is “part of the modernisation of customs and serves as the new framework regulation on the rules and procedures for customs throughout the EU”.<sup>56</sup>

The EU’s single market is an extension of its customs union. The concept of the European single market was first introduced in the Treaty of Rome, which came into force in 1958.<sup>57</sup> The Treaty aimed to create a “common market”, covering the whole territory of the then European Economic Community. The common market committed members to the free movement of goods, which comprised of a single external customs tariff and the abolition of duties between member states. However, it also included provisions on the free movement of capital, services and people which is where it is extended beyond a typical customs union. These mechanisms and provisions “continue to form the core of the single market (the more usual term nowadays for the common or internal market), today”.<sup>58</sup> A number of other European countries outside the EU also participate in the single market, such as Iceland, Liechtenstein and Norway, who are parties to the European Economic Area (EEA) agreement, and Switzerland, which has a number of bilateral agreements with the European Union.<sup>59</sup> However, these countries are not part of the EU’s customs union. Therefore they are able to set their own trade tariffs independently of the EU’s common external tariff.

Whilst the UK remains a member of the EU’s customs union, and is bound by the Common Commercial Policy, it is unable to sign FTAs with countries outside of the EU. On 17 January 2017, the Prime Minister said that this would be a key consideration in the UK’s negotiation on its withdrawal from the EU. Mrs May stated that she wanted the UK to negotiate its own trade agreements, and not be bound by the EU’s Common Commercial Policy. However, the Prime Minister said that she did want a customs agreement with the EU:

Whether that means we must reach a completely new customs agreement, become an associate member of the customs union in some way, or remain a signatory to some elements of it, I hold no preconceived position. I have an open mind on how we do it. It is not the means that matter, but the ends.<sup>60</sup>

Regarding the single market, Mrs May said remaining within it and having to accept the ‘four freedoms’ of goods, capital, services and people would “to all intents and purposes mean not leaving the EU at all”.<sup>61</sup> Consequently, the Prime Minister said that the Government did not “seek membership of the single market. Instead we seek the greatest possible access to it through a new, comprehensive, bold and ambitious free trade agreement (FTA). In answer to a written parliamentary question the Government stated that it would seek to “take advantage of all the opportunities available to us to ensure that Britain becomes a global leader in free trade once we leave the EU”.<sup>62</sup>

---

<sup>55</sup> European Commission, ‘[About the Customs Union](#)’, accessed 20 January 2017.

<sup>56</sup> European Commission, ‘[UCC: Introduction](#)’, accessed 24 January 2017.

<sup>57</sup> UK Government, [Review of the Balance of Competences between the United Kingdom and the European Union: The Single Market](#), July 2013, p 6.

<sup>58</sup> *ibid*, p 13.

<sup>59</sup> *ibid*.

<sup>60</sup> Prime Minister’s Office, ‘[The Government’s Negotiating Objectives for Exiting the EU: PM Speech](#)’, 17 January 2017.

<sup>61</sup> *ibid*.

<sup>62</sup> House of Commons, ‘[Written Question: Trade Agreements](#)’, 19 January 2017, 60174.

Keir Starmer, Shadow Secretary of State for Exiting the European Union, has described the Government's position as "high risk":

Last week, the Prime Minister committed herself to swapping the known benefits of single market membership and the customs union for the hoped-for benefits of a free trade agreement, with a fall-back position of breaking our economic model. That is high risk, and there are big gaps, inconsistencies and unanswered questions in her approach.<sup>63</sup>

Responding to the Government's statement in the House of Lords on a new partnership with the EU on 17 January 2017, Baroness Hayter of Kentish Town, Shadow Spokesperson on Exiting the European Union, said that not being fully in the EU's customs union could mean that the UK would "not be able to import and export finished products or components without country of origin rules and checks", describing these as "costly and time-consuming".<sup>64</sup> In the House of Commons, Tom Brake (Liberal Democrat MP for Carshalton and Wallington) described the Government's decision on the UK's membership of the customs union as "inflicting huge damage on families and businesses up and down the country".<sup>65</sup> In contrast, Henry Smith (Conservative MP for Crawley) observed that the New Zealand Prime Minister and US President Trump had expressed interest in free trade deals with the UK but that "we cannot negotiate global free trade deals if we remain members of the customs union".<sup>66</sup>

### 3.2 Rest of the World

Outside of the EU, there are several other customs unions in operation. The WTO's Regional Trade Agreements Information System (RTA-IS) lists a number of customs unions as being currently in force, as at 24 January 2017.<sup>67</sup> Table 2 below shows the names and membership of those customs unions about which the WTO had been so notified.<sup>68</sup> Figure 1 plots these countries onto a world map. The EU is included for completeness.

---

<sup>63</sup> [HC Hansard, 24 January 2017, col 163.](#)

<sup>64</sup> [HL Hansard, 17 January 2017, col 117.](#)

<sup>65</sup> [HC Hansard, 24 January 2017, col 176.](#)

<sup>66</sup> [HC Hansard, 17 January 2017, col 814.](#)

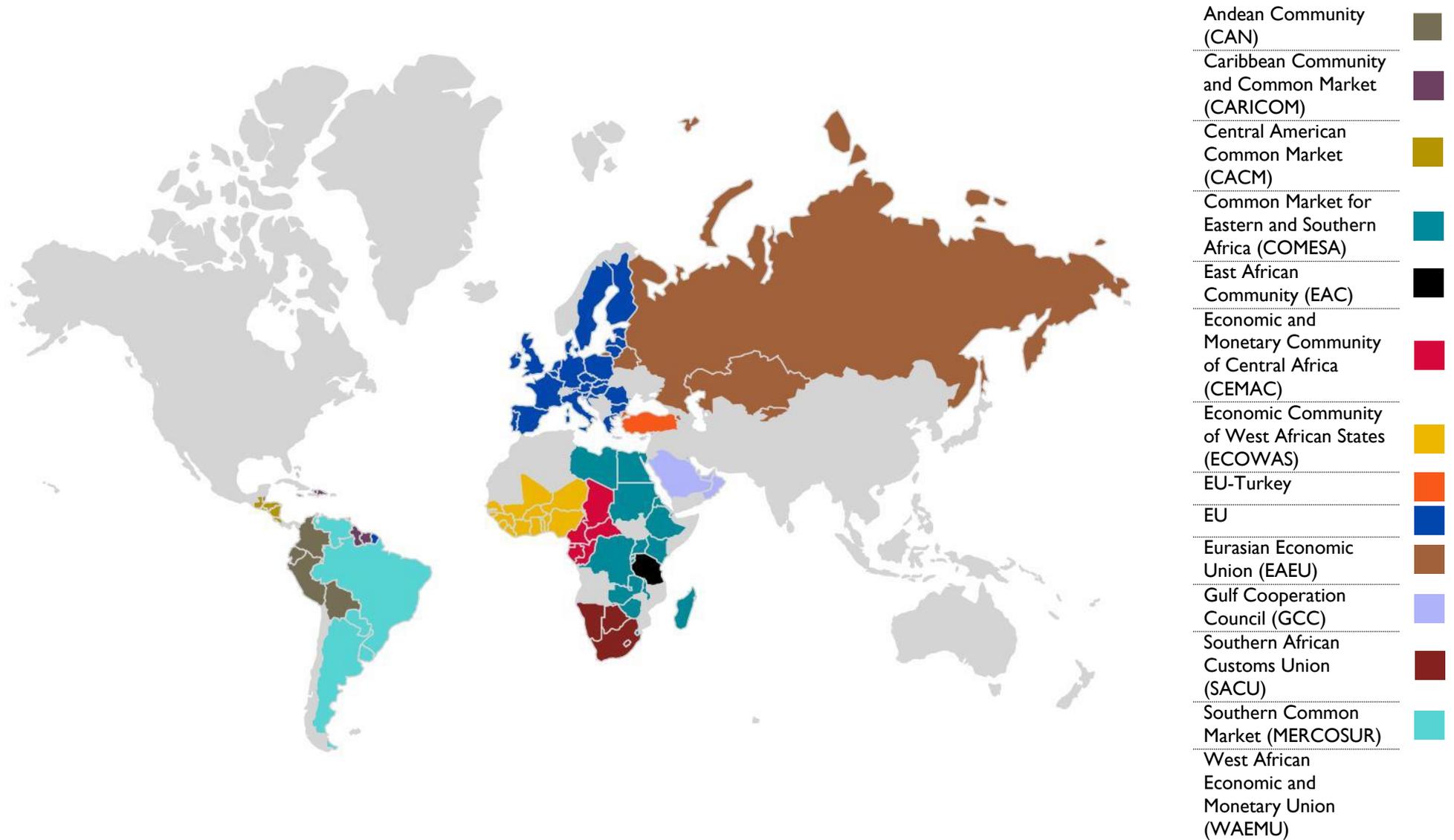
<sup>67</sup> The RTA-IS "contains information on only those agreements that have either been notified, or for which an early announcement has been made, to the WTO (World Trade Organisation, '[Welcome to the Regional Trade Agreements Information System \(RTA-IS\)](#)', accessed 24 January 2017).

<sup>68</sup> It is important to note that these customs unions represent different levels of economic integration and may have different exceptions to their arrangements and may also be at different stages in their establishment. Some are also part of larger integration projects, notably the EU.

**Table 2: Customs Unions as Reported by WTO's Regional Trade Agreements Information System**

<b>Name</b>	<b>Signatories</b>
Andean Community (CAN)	Bolivia; Colombia; Ecuador; Peru; Bolivia
Caribbean Community and Common Market (CARICOM)	Antigua and Barbuda; Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; Haiti; Jamaica; Montserrat; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Suriname; Trinidad and Tobago
Central American Common Market (CACM)	Costa Rica; El Salvador; Guatemala; Honduras; Nicaragua
Common Market for Eastern and Southern Africa (COMESA)	Burundi; Comoros; Democratic Republic of the Congo; Djibouti; Egypt; Eritrea; Ethiopia; Kenya; Libya; Madagascar; Malawi; Mauritius; Rwanda; Seychelles; Sudan; Swaziland; Uganda; Zambia; Zimbabwe
East African Community (EAC)	Burundi; Kenya; Rwanda; Tanzania; Uganda
Economic and Monetary Community of Central Africa (CEMAC)	Cameroon; Central African Republic; Chad; Congo; Equatorial Guinea; Gabon
Economic Community of West African States (ECOWAS)	Benin; Burkina Faso; Cabo Verde; Côte d'Ivoire; Ghana; Guinea; Guinea-Bissau; Liberia, Republic of; Mali; Niger; Nigeria; Senegal; Sierra Leone; The Gambia; Togo
European Union-Andorra	Andorra
European Union-San Marino	San Marino
European Union-Turkey	Turkey
European Union (EU)	Austria; Belgium; Bulgaria; Croatia; Cyprus; Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Ireland; Italy; Latvia; Lithuania; Luxembourg; Malta; Netherlands; Poland; Portugal; Romania; Slovak Republic; Slovenia; Spain; Sweden; United Kingdom
Eurasian Economic Union (EAEU)	Armenia; Belarus; Kazakhstan; Kyrgyz Republic; Russian Federation
Gulf Cooperation Council (GCC)	Bahrain; Kuwait; Oman; Qatar; Saudi Arabia; United Arab Emirates;
Southern African Customs Union (SACU)	Botswana; Lesotho; Namibia; South Africa; Swaziland
Southern Common Market (MERCOSUR)	Argentina; Brazil; Paraguay; Uruguay; Venezuela
West African Economic and Monetary Union (WAEMU)	Benin; Burkina Faso; Côte d'Ivoire; Mali; Niger; Senegal; Togo; Guinea Bissau

**Figure 1: Map of Customs Unions as Reported by WTO's Regional Trade Agreements Information System<sup>69</sup>**



<sup>69</sup> The members of WAEMU are all also members of ECOWAS. Of the EAC only Tanzania is not also a member of COMESA. EU-Andorra and EU-San Marino are not shown.

#### 4. Further Information

- House of Lords Library, [Leaving the European Union: The Single Market, the Rights of EU Citizens in the UK and the UK's Future Economic Requirements](#), 20 January 2017
- House of Commons Library, [Statistics on UK-EU Trade](#), 9 January 2017
- House of Commons Library, [CETA: the EU-Canada Free Trade Agreement](#), 22 December 2016
- House of Lords Library, [Leaving the European Union: Future UK-EU Relationship](#), 25 November 2016
- House of Commons Library, [Brexit: Trade Aspects](#), 8 September 2016

House of Lords Library Notes are compiled for the benefit of Members of the House of Lords and their personal staff, to provide impartial, politically balanced briefing on subjects likely to be of interest to Members of the Lords. Authors are available to discuss the contents of the Notes with the Members and their staff but cannot advise members of the general public.

Any comments on Library Notes should be sent to the Head of Research Services, House of Lords Library, London SW1A 0PW or emailed to [purvism@parliament.uk](mailto:purvism@parliament.uk).