



Earl of Kinnoull  
EU Select Committee Chair  
House of Lords  
London SW1A 0PW

25 February 2021

## International Agreements Committee's submission on the TCA

Dear Charles

I am writing to set out the International Agreements Committee's views on the UK-EU Trade and Cooperation Agreement (TCA) and, in particular, its impact on trade with non-EU countries and the position of UK companies in international supply chains.

As you know, Chapter 2 of the TCA sets out the rules that goods must meet to qualify for tariff-free exports under the TCA. In broad terms, they state that:

- goods produced in the UK can be treated as if they originated in the EU, and vice versa;
- EU materials used in UK products, and UK materials used in EU products will also count as their own, i.e. as "originating" in exports to each other (subject to some minimum processing thresholds).

This means those goods and materials can continue to be traded tariff-free between the UK and the EU in an arrangement known as bilateral cumulation.

Because UK and EU supply chains are highly enmeshed, UK negotiators had, however, pushed for more liberal rules of origin, allowing for so-called diagonal cumulation of origin between the UK, the EU and those countries with which both the UK and the EU have free trade agreements. This would have allowed UK manufacturers to count, for example, South Korean parts as originating in the UK in exports to the EU. Equally, EU manufacturers would have been able to continue to count UK parts as originating in the EU in exports to South Korea. Full preferential access would have been maintained by all three Parties into each other's markets.

To mitigate the loss of such full preferential access after the end of the transition period with trade partners that both the UK and EU have trade agreements with, the roll-over trade agreements negotiated by the UK Government all include an extended cumulation of origin, allowing the UK and the other Party to recognise materials from the EU as their own. In some agreements this arrangement is open-ended, while in others it is time-limited.

The UK's recent agreement with Canada, for example, enables producers and manufacturers in the UK and Canada to use EU materials and count these as originating in exports to one another for a minimum period of three years.<sup>1</sup> This benefits UK and Canadian producers and manufacturers as they can keep their existing supplier base and do not need to source their materials from elsewhere. It also benefits the EU suppliers, whose position in the supply chain remains secure and unaffected by the changed UK-EU trading relationship.

However, UK companies supplying materials or parts to EU companies for subsequent export to a common trade partner country, do not enjoy equivalent benefits under the terms of the TCA. Where the final product has been substantially transformed by the EU company or the use of the UK material does not breach the permitted limits for non-originating content—and this will vary by export destination—this is of course not an issue. However, there will invariably be instances where using a UK supplier will mean the EU company losing preferential access for its exports. In those cases, the UK company will likely become less attractive as a supplier and may lose its place in the supply chain.

A few industries, such as the aerospace sector, will be shielded from the impact of the new rules of origin because of multilateral international agreements that already provide for zero tariffs on specified goods. And some sectors will be more affected than others. The integrated nature of automotive supply chains means the car industry is particularly exposed. For example, when the Committee took evidence on the UK's trade agreement with Japan, witnesses emphasised that diagonal cumulation was crucial for the car industry. The Society of Motor Manufacturers explained that the UK is “part of a European industry and a European supply chain, so a lot of our parts and components...come into the UK, are processed and might go back again.”<sup>2</sup>

The North East England Chamber of Commerce told us that diagonal cumulation was vital for the UK's manufacture of electric vehicles, as the EU is not well developed in electric vehicle production and many parts need to be imported from Japan. We therefore welcome the transitional rules of origin in Annex Orig-2B of the TCA that allow for a higher proportion of non-originating materials to be included in electric accumulators for automotive use and electric vehicles until the end of 2026.

We however regret the way in which the Government has presented the benefits of the new trade agreements concluded to date. The new trading terms are being compared persistently against those that would have applied in the absence of any agreement, rather than against those that applied to the UK as a member of the EU. As set out above, failure to secure diagonal cumulation in the TCA inevitably means that for some UK businesses trading terms with third countries will now be worse than they were. Any overall benefits that may result from our ability to conclude our own deals are, as yet, unproven.

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<sup>1</sup> Agreement, done at Ottawa on 9 December 2020, between the United Kingdom of Great Britain and Northern Ireland and Canada on Trade Continuity, CP 351, 2020, Annex 30-D:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/942941/CS\\_Canada\\_1.2020\\_Agreement\\_on\\_Trade\\_Continuity\\_UK\\_Canada.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/942941/CS_Canada_1.2020_Agreement_on_Trade_Continuity_UK_Canada.pdf) [accessed 19 February 2021]

<sup>2</sup> Q12 (Mike Hawes)

I hope you have found this letter helpful for the purposes of the Committee's reports on the UK-EU TCA. It is based on our experience of scrutinising roll-over trade agreements and on evidence collected in past inquiries. I am copying this letter to Baroness Verma as Chair of the EU Goods Sub-Committee, given it touches on areas also covered by, and of interest to, her Committee.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Lord Goldsmith', with a large, stylized flourish extending to the right.

Rt Hon the Lord Goldsmith QC  
Chair of the House of Lords International Agreements Committee