

Which? – Written evidence (EEH0032)

Summary

1. It is positive that the Trade and Cooperation Agreement (TCA) ensures that food, along with other goods, can continue to be traded tariff free. The extent to which customs and border controls will cause disruption to supply chains is still to be seen and is a particular issue for consumers in Northern Ireland. Working to simplify procedures, while still ensuring effective protections against unsafe or fraudulent imports, must be a priority for the government, along with mitigating the impact of any shortages or price rises for consumers.
2. The Agreement means that the UK and EU will now set their own regulatory standards for food and other consumer products. The UK's approach going forward will be crucial given how important food standards are for consumers. The Agreement emphasises the importance of maintaining a precautionary approach and for non-regression in key areas including for antimicrobials and decontaminants. The government must stand firm on its commitment to maintain UK food standards for imported food as well as domestically produced food and use the greater flexibility to enhance them in key areas, including as part of commitments to more sustainable food systems.
3. The TCA puts tackling climate change at the heart of the agreement and reaffirms commitments to the Paris Agreement. As with many other aspects of the agreement, the mechanisms that are now taken forward to ensure effective cooperation will be crucial and provide important opportunities for global leadership on this issue in the run up to COP26.
4. Many elements of the deal and how they will apply in practice are subject to further negotiations, including energy trading, for example. It is essential that the government sets out how the various bodies set out in the TCA, including a civil society forum and trade specialised committees will operate and how it will be ensured that they include a breadth of stakeholder interests, including consumers, and operate transparently.

Introduction

5. The EU-UK Trade and Cooperation Agreement (TCA) is relatively ambitious for a free trade deal but will mean a number of changes that will impact on consumers in the short, as well as the longer-term. The deal provides for cooperation and further negotiations in a number of areas and so the implications may take many years to become clear in some important areas. It is important that the government sets out a comprehensive, transparent implementation plan.
6. Our evidence focuses on what the agreement means for consumers in relation to food and agriculture, energy, environment and climate change. It also considers the implications of the cross-cutting governance provisions within

the agreement and importance of ensuring that these are inclusive and take account of consumer interests.

Food

7. Of particular importance, given the real risk of no deal, the agreement ensures that trade between the UK and EU should continue tariff free, subject to rules of origin. If tariffs had been imposed consumers would have seen significant price rises, with tariffs on food especially high.
8. It is already clear, however, that the introduction of non-tariff barriers, in the form of customs and border controls is having some impact on the free flow of goods between the UK and EU. It is unclear the extent to which this is impacting on consumers in Great Britain in terms of disruption to supply chains or additional costs – although some retailers have warned that it will mean some price rises. This deal includes provisions for further negotiations on customs and so it is important that these are simplified as much as possible, along with border checks and conformity assessments.
9. For consumers in Northern Ireland, the impacts are already far more serious. There have been many reports of how new border controls between Great Britain and Northern Ireland are causing problems in terms of supply and availability and will therefore impact on food prices. Consumers in Northern Ireland already on average spend a higher percentage of their household expenditure on food than anywhere else in the UK, so will be hit particularly hard. Further border control checks are due to come into effect in the coming months. It is important that the government works with the food industry, as well as the EU to try and ease the disruption and impact on consumers.
10. The UK will impose additional checks at the border from July, which could cause more disruption for consumers across the UK. The UK took the decision not to impose immediate checks on high risk products. It is however important that the UK also ensures that consumers are adequately protected against food crime, given that food fraud has always thrived when there are food shortages, higher prices and consumers who are facing financial difficulty. It would be welcome to hear more from the government as to how they are working to counter such risks at this time.
11. Our research has repeatedly shown how important it is for consumers that the UK maintains its food standards after leaving the EU – and ideally takes opportunities to enhance these. This was a key finding of the deliberative public dialogues Which? has recently organised involving people around the country and from all walks of life, but has also been a consistent finding from the surveys we regularly conduct with representative samples from around the UK.
12. The deal allows for both parties to set their own standards. The UK will therefore be free to determine how it regulates food in the coming years. It is therefore important that Ministers stand firm on commitments that they have made in recent months to maintain standards, although this has not been

enshrined in the Agriculture Act or Trade Bill. It is vital these commitments stand both in respect to imported food as well as domestically produced food.

13. The approach and principles that underpin the food system and how it is regulated are also key. It is therefore welcome that the TCA highlights the importance of a precautionary approach. The non-regression provisions within the deal will also relate to food given the focus on the environment and specific mention of antimicrobials and decontaminants in this context. These provisions provide for the introduction of tariffs should there be divergence – but the test of this would not be from a consumer protection perspective, but in terms how trade is affected.
14. Several areas of cooperation are set out within the agreement, including on animal welfare, sustainable food systems and tackling antimicrobial resistance. It will be important that there are inclusive and transparent mechanisms for how these will be taken forward.
15. The Trade Specialised Committee on Sanitary and Phytosanitary (SPS) Measures will have an important role in defining how provisions are applied and therefore the standards that UK consumers can expect. Due to this, it is important that the Committee has strong consumer interest representation from across government and operates transparently. Reference is made to Codex standards as reference for many aspects of the work of the Committee. It is therefore important that the UK continues to proactively engage in Codex's work – but also recognises that its standards, reached by international consensus, will not always offer UK consumers the protection that they expect. How Technical Barriers to Trade (TBT) issues are dealt with also has important implications for the standards that consumers can expect in areas such as labelling - and this is an area where Codex can often lag behind national measures and evolving industry practices. A 'lowest common denominator' approach to food standards must therefore be avoided.
16. Given the global nature of food supply chains and of food sustainability and security challenges, it is crucial that the UK and EU continue to cooperate closely. We would hope that this would extend to continued cooperation between its food agencies on technical matters, including sharing information on food safety alerts and food fraud intelligence. Although article SPS 12 refers to notification of significant food safety issues, the agreement does not contain the same commitment to work to share information via each other's respective rapid alert systems for food, as is the case for non-food products. SPS 15 refers to resourcing for competent authorities and so it will be important that the government ensures that there is adequate resourcing of food surveillance in order to ensure it is delivering on its commitments to uphold food standards.
17. Overall, the agreement reflects the implications of leaving the single market for free flow of food products between the UK and EU. It is important that both parties work together to minimise disruption and that the government closely monitors, and mitigates, the direct impact on consumers as much as possible, working with the food industry. Longer-term, the government needs to demonstrate that it will use the flexibility provided to diverge from EU

legislation and standards in a positive way that will uphold the high level of protection consumers expect.

Energy

18. The maintenance of open energy trading arrangements between the UK and EU is important so that there remains flexible access to gas and electricity to help avoid increased costs for consumers. The UK will no longer be part of the EU single energy market – although Northern Ireland will continue to be part of the Single Energy Market with Ireland. EU regulations regarding ‘solidarity’ supply of gas and electricity between countries in the event of a crisis have unfortunately not been reflected in the Agreement as regards the EU and the UK, and it would be positive if this could be achieved in future.
19. The EU and the UK will establish a new framework for future cooperation on energy to ensure the efficiency of cross-border trading, along with cooperation and strong commitments on climate change, including to promote energy efficiency and the use of energy from renewable sources. There are also provisions in the Agreement regarding control of energy-related subsidies, as in relation to subsidies in other areas, which will need to be monitored to ensure that energy market interventions for the benefit of consumers are not prevented.
20. As with much of the agreement, the precise nature of how the new frameworks will work and what they will mean for consumers has still to be determined. The timetable for establishing new electricity trading arrangements is challenging and the Agreement requires it to be done by April 2022. It is important for consumer prices that this timetable does not slip. There are also considerations regarding gas trading and added costs and regulatory burdens, including licensing and customs processes on imports and exports.
21. A Specialised Committee on Energy will be established, and as with the other committees and new governance arrangements, this should operate transparently and involve all stakeholders, including consumers. The cooperation frameworks between UK and EU energy regulators and operators require Specialised Committee Guidance to be agreed ‘as soon as practicable’ and it is crucial that this guidance is progressed urgently.

Environment and climate change

22. The Agreement uniquely and crucially places tackling climate change central to the agreement as an essential element and core basis for cooperation. It includes strong commitments to tackling climate change and the Paris Agreements and reaffirms the ambition of both parties to reach net zero by

2050. Environmental provisions also form a key part of the non-regression and future balancing provisions within the agreement.

23. As with many other aspects of the Agreement, the mechanisms that are now taken forward to ensure effective cooperation will be vital and provide important opportunities for global leadership on this issue in the run up to COP26. The Government should clarify as soon as possible how the commitments on carbon-pricing will be taken forward.

24. On environmental and sustainability matters, the application of the 'precautionary approach' and the level-playing field commitments generally, consumer interests and views should be properly considered at all stages. For example, the Agreement provides that Panels of Experts may request or receive written submissions or any other information from persons with relevant information or specialised knowledge.

Standards

25. Technical Barriers to Trade provisions within the agreement will also be crucial in terms of the future approach to standards – whether that is food standards, such as those covering labelling and composition or standards that underpin environmental commitments, including those relating to product standards.

26. The agreement importantly sets out a shared view for which standards bodies are to be the international benchmark – for example UNECE in relation to cars and International Standards Organisation (ISO) in relation to wider standards. The UK and EU both agree to continue to cooperate on standards development. It will therefore be important that the British Standards Institution (BSI) can continue to be able to work as part of CEN and CENELEC for the longer-term as well as the provisional continued membership that has been agreed. The UK and EU should work together to drive up standards globally.

27. The agreement also includes important provisions for cooperation on market surveillance. This is for example important in terms of cooperation on the safety of non-food consumer products. Our research has repeatedly highlighted challenges with online marketplaces selling unsafe products for example, many of which come from outside of the UK and EU. It is therefore important that the UK and EU urgently take forward the commitment to further negotiations to agree to mutual access to each other's rapid alert systems for non-food consumer products.

Governance mechanisms

28. A wide range of bodies will be created to oversee the implementation of the deal, including the Partnership Council. As set out above there are a wide range of trade specialised committees being established, as well as working groups on specific issues, such as organic foods and motor vehicles and parts. The agreement also requires a civil society forum, as well as domestic advisory groups to be established to enable a dialogue on the implementation

of the deal. It is important that the government sets out its plans for how these arrangements will ensure an inclusive and transparent approach as soon as possible.

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About Which?

Which? is the UK's consumer champion. As an organisation we're not for profit - a powerful force for good, here to make life simpler, fairer and safer for everyone. We're the independent consumer voice that provides impartial advice, investigates, holds businesses to account and works with policymakers to make change happen. We fund our work mainly through member subscriptions. We're not influenced by third parties - we never take advertising and we buy all the products that we test.