

Agricultural Industries Confederation – Written evidence (EEH0034)

The AIC

The AIC (Agricultural Industries Confederation) is the trade association which represents the UK Agri-supply industry which has a farmgate value of over £8 billion.

We represent a wide range of members who supply farmers with the key inputs and advice they require to produce crops and livestock products. Our industry is therefore an integral part of the agri-food supply chain. The key sectors in which our members operate are shown below.



1. *Please indicate which of the following industries or policy areas are you responding in relation to: energy, environment, health, food trade, agriculture, fishing, climate change, chemicals.*

For this inquiry, the AIC covers the agricultural and food trade sectors.

2. *What is your assessment of the relevant provisions in the UK-EU Trade and Cooperation Agreement, and their impact on your business or policy area?*
3. *What do those provisions achieve?*

Tariffs

AIC strongly welcomed the avoidance of tariffs between the UK and EU under the UK-EU Trade and Cooperation Agreement (TCA). This prevented the need for a large number of agricultural inputs and products to have a tariff placed upon them and raising their cost to UK farmers and consumers.

Despite the avoidance of tariffs, we have to be explicitly clear that, contrary to claims made upon the signing of the TCA, there are considerable non-tariff barriers

that have emerged as a result of the TCA in trading agricultural inputs between GB, NI and the EU.

Rules of origin

A significant aspect of the TCA lies in rules of origin (ROO) on goods. It was evident that a chapter on ROO was always necessary, however it was disappointing that the provisions did not go further. As currently drafted, friction has been introduced to supply chains where products are either being brought in from the outside EU or UK for further processing, or where GB or EU origin products are limited in their scope to be moved across EU and UK borders.

Level Playing Field

It is welcome that the TCA puts a number of provisions in place to encourage minimised technical and regulatory divergence, as well as using international standards.

The TCA's equivalence agreement on organics is very welcome, as it means that products certified as organic in one market can be recognised as organic in the other. This was a major concern in the run up to 31st December 2020, and it now means that this important trade, including feed and cereals, can continue. The further provisions for regulatory cooperation to combat fraud, upholding the integrity of organic production, and co-operation on the future development of organic standards is also welcome.

On chemicals, the TCA outlines a separation between the regimes of both parties, but does look to facilitate high levels of environmental and health protection and cooperation between authorities. Joint commitments to implementation of international classification and labelling rules and ongoing cooperation and information exchange are welcome. Crucially however, the UK will not have access to EU chemicals data.

A key provision lies in the 'rebalancing mechanism' in the TCA, which allows for measures to be taken in the event that standards deviate from one party, and not reciprocated by the other, leading to possible competitiveness issues. This is especially relevant to agricultural products and inputs, where standards put in place can become highly politicised in either the EU or the UK. Indeed, the Prime Minister cited pig production systems as one such example of this and as a result, this requires careful consideration. In agriculture, there have often been complex debates surrounding changes in standards and to what extent they impact on competitiveness. It is inevitable that in the future both parties will want to move apart from one another in certain agricultural standards, and AIC would urge the Committee to examine what this could mean for agricultural businesses and necessary inputs.

Sanitary and phytosanitary (SPS) requirements

One of the most important aspects of the TCA lies in the agreement to maintain separate SPS regimes regulating human, plant and animal health. Although the agreement places a requirement on both sides to ensure that any SPS border controls are "proportionate to the risks identified", we have to be clear that this represents a significant challenge to trade friction. As we know from varying SPS

regimes around the world, these often require longer term negotiation and discussion between both parties as to how individual goods can be interpreted within the scope of one another's SPS regimes, and the necessary paperwork required. It is imperative we look ahead to the regular reviews from the new Trade Specialised Committee on Sanitary and Phytosanitary Measures.

Environment

It is notable that the TCA gives provisions for neither side to lower environmental protection and climate protection, especially in a way that impacts trade or investment. Similar to the level playing field provisions, it will be extremely important to look closer at the provisions allowing the imposition of countermeasures (impose duties), if either party perceive unfair competitive advantages to have arisen as a result of environmental standards. Recent pronouncements by the UK on moving away from EU standards could lead to this mechanism being triggered, and serious thought needs to be given to its potential application in the future.

4. *What, if any, challenges arise because of those provisions? How could these challenges be resolved?*

Below is a summary of the immediate challenges and difficulties that have arisen as a result of the provisions to AIC members:

Feed

- Feed materials and export health certificates (EHCs). It is unclear whether or not EHCs are required for exports to NI and EU/EEA of feed containing certain processed animal proteins. This is particularly relevant for feeds containing materials such as milk and milk derived products, gelatine, hydrolysed proteins, eggs, dicalcium phosphate and collagen. **Currently, there is no clear guidance on certification, and as a result livestock feed exporters are unable to export products to NI or the EU. This is a critical issue affecting GB based businesses who export feeds to the EU. This needs to be resolved with the European Commission as a matter of urgency for the Government.** Experience of our members exporting POAOs to NI has been that EHCs are automatically required and as such our members have spent time and money providing these where they should not be needed.
- To take advantage of tariff free trade into EU & NI, businesses must be able to prove *preferential origin* of raw materials. Many UK businesses' suppliers in the EU are entirely unfamiliar with the production of this document and are asking for advice which is unclear.
- Businesses supplying all classes of feed, including feed materials to the EU (including NI), must now appoint a representative in the EU (including NI or EEA). Some businesses have been advised by freight forwarders that for some EU countries (France and Ireland), separate representatives in those locations are required meaning engaging with multiple representatives at cost. To our understanding a single representative in the EU should cover all countries and clarification in this respect is needed.

- Businesses supplying all classes of feed, including feed materials to EU (including NI), now have to adhere to new labelling requirements to comply with EU Regulations. Both this and the appointment of a representative have added administrative costs to businesses.
- Business must also ensure that all export documentation is correct to enable shipments to cross borders. This comprises commercial invoices including statement of origin, packing lists, an EHC and TRACES confirmation. Simultaneously the haulier must complete details on ENS/GVMS systems and the customer must complete an import declaration.
- Members have reported issues with use of TRACES and TRACES NT which are not user-friendly and are not understood by customers who have no one to provide them with advice, but our member businesses. Paper confirmations should be acceptable at least for a short period during which all business can get to grips with the software registration, certification and notification systems and processes.

Seeds and Grains

- **At this stage, the EU has not granted equivalence on GB seed, and there is no timeline on when this will change. Failure to grant the UK equivalence means that GB seed cannot be exported to NI or the EU from GB. This needs to be addressed as a matter of urgency.**
- It has been confirmed in letters from Defra that phytosanitary certificates are not required for the export of GB grain to the EU, or EU grain to the UK. We do however have evidence that this information has not been fully absorbed by personnel at points of entry in EU member states. This misunderstanding needs to be resolved by both parties in order to ensure predictable outcomes on trade in both directions.
- The Rules of Origin provisions are, for many businesses including SMEs, complex and challenging. Given the TCA was agreed so late in December, it was understandable that this would take time to be understood fully. With so many products subject to different rules and sufficient thresholds for processing provisions, the guidance from Government to business needs to be much improved. AIC would suggest that a tool similar to the online trade tariff tool be used for ROO, so that products can be searched for by commodity code, and relevant ROO requirements detailed for each export and import market. This would help small and large businesses enormously.

Fertilisers

- Under the TCA, there will be a 2-year transitional period during which businesses will be able to continue to manufacture and sell material labelled as an 'EC fertiliser' (2003/2003) for use in GB, provided those products conform to EU standards.
- Detonation resistance testing (DRT) for production and importation of high concentration ammonium nitrate is a legal requirement, now limited to one single UK based laboratory which lacks capacity to meet demand. The nature of the product additionally limits its easy transport between countries by courier. There is a current derogation of 2 years to allow European sourced

ammonium nitrate to continue to be tested in EU accredited laboratories. This derogation must be extended to allow testing in any accredited ISO laboratory.

- UK fertiliser manufacturers hoping to export to the EU or NI will need to be established within the EU or NI. Products must be labelled accordingly with the EU established manufacturer or importer as appropriate

Plant Protection Products (PPPs)

- It is envisaged that over time PPPs approved for use in the EU and NI may diverge from those approved for use in GB. In GB, active substances which were due to expire in the EU within 3 years of 31 December 2020 have been granted a 3 year extension under the new GB regime (with the caveat that CRD reserve the right to review an active substance at any time). As the EU active substance review process continues, divergence will mean that some active substances not renewed within the EU will continue to be available in GB.
- CRD is the competent authority for authorisation of products for GB and NI. As active substance renewals diverge between GB and NI / EU, the timing of authorisations of products containing these active substances will also diverge. This means that authorisation holders will face additional authorisation fees (possibly doubled) to access the GB market and the NI market, whereas prior to the end of the transition period one fee was applicable to access the UK market.
- GB and EU / NI Maximum Residue Levels (MRLs) divergence. Amended EU MRLs applying to some active substances on certain products came into force in January 2021. These are different from GB MRLs (retained from EU legislation). The Internal Market Act allows produce from NI produced in accordance with EU MRLs to be placed on the market in Great Britain where EU and GB MRLs diverge. However GB treated produce exported to NI / EU must comply with EU MRLs. This will require GB farmers and agronomists to be vigilant to MRL changes and requirements of end purchasers in particular if based in NI or EU.
- GB and NI crop production methods may have to meet environmental standards within the EU Green deal. This could mean produce treated with a PPP approved for use in GB would not be acceptable for export to the EU, regardless of compliance with MRLs, due to the perceived environmental impacts from the production method.

Registration, Evaluation, Authorisation & restriction of Chemicals (REACH)

- UK REACH, the UK's independent chemicals regulatory framework is now in place and separate from EU REACH. UK REACH and EU REACH regulations will operate independently from each other. Companies that are supplying and purchasing substances, mixtures or articles to and from the EU/EEA/NI and GB will need to ensure that the requirements are met under both pieces of legislation. The costs associated with registering chemicals in the UK are unlikely to be easily shared within a consortium as is currently achieved under EU REACH. This will mean some chemicals will be commercially

unviable to register and consequently supply in the UK. For PPPs this could mean changes to product formulations with subsequent changes to approvals, or low volume products used in niche markets being becoming commercial unviable in GB.

- Under the NI Protocol the EU REACH Regulation will continue to apply in NI. This means GB businesses must provide information on any authorisation matter, including new authorisation application, grandfathering of existing authorisations, and downstream user notifications of authorised uses.
- The separation in approach will cost UK businesses significant time and money in compiling evidential dossiers to justify approval of chemicals imported into the UK. The inability to rely on the EU chemicals database means starting from scratch in some cases, where grandfathering does not apply. Where businesses were not previously required to register with the HSE, it seems they now will as either importers or downstream users. The process is complex and not well understood by industry leading to a rise in consultancy costs which could have an eventual knock-on effect on consumer prices.

5. *What should the UK seek to accomplish with the EU in relation to your industry or policy area within the parameters of the Agreement in the short- and mid-term?*

There are clearly a number of challenging issues for agri-supply businesses in the UK to respond to as a result of the TCA. However many problems are not necessarily with the TCA itself, but the the way it has been implemented, and regulations interpreted by the European Commission.

1. Resolving exports of feed and seed

As a matter of urgency, UK Government must focus upon the restrictions on exports of feed and relevant certification, as shown in bold under the *feed* sub-heading above. This is clearly no longer a technical issue and needs political resolution to move it forward.

AIC would equally press Government to urge the European Commission for clarity on the timeline of the seeds equivalence issue. It is understood by AIC the European Commission are supportive of granting equivalence but a number of approval steps with the European Parliament remain to be completed.

It cannot be stated how much market share is being lost for every day that exports are physically prevented from entering the EU market. Many of these businesses are large multinational firms who will simply see the UK aspect of their businesses as a location not worth investing in, or worse reducing resources towards them. It should equally be noted that for the many SMEs that are sending specific products to the EU, this is equally affecting their whole business models and viability.

2. Border Operating Model (BOM)

The Government has control of the way in which imports to GB are undertaken. We know that under the BOM, further inspections and checks will take place on goods from April and July of 2021. As indicated earlier in this response, we do not yet

have a clear picture of how these phased in checks will take place, especially on those goods that require SPS checks or have payable tariffs.

We need a clear roadmap from Government, in detail, as to how this will work. For example, From 1st July 2021, all industries are expected to provide sanitary and phytosanitary certificates when importing goods from EU into GB. This will be a key date for agricultural products that UK farmers rely upon. If shipments are delayed due to a lack of documentation, this will have a significant negative impact on supply chain. We would urge the Committee to consider how delays of this nature can be avoided, perhaps by having a retrospective certification requirement or a period of days of grace following import so that those unable to comply in time can do so afterwards without stopping supplies at points of import.

ENDS.

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