

BSI – Written evidence FUU0023

The British Standards Institution (BSI) makes this submission as the UK's National Standards Body. BSI has a public function in support of the UK economy and brings together stakeholders (including government, industry and consumers) to facilitate the development of standards which underpin the trade in products and services.

BSI is committed to supporting the work of the Committee. We would welcome the opportunity to provide additional oral evidence to the committee on any issue related to technical barriers to trade in the TCA.

This submission focuses on relevant provisions of Chapter 4 'Technical Barriers to Trade' (TBT) of the EU-UK Trade and Cooperation Agreement (TCA), which sets out the role of technical regulation, standards and conformity assessment procedures in underpinning the new trading relationship between the UK and EU. This submission addresses questions 1, 2 and 6 of the inquiry.

Executive Summary

1. In this submission BSI refers to standards which are voluntary, consensus-based good practice agreements developed in a multi-stakeholder process. In some cases, these standards enable regulatory conformity.
2. BSI welcomes the UK-EU TCA. It provides a basis for ongoing trade between the UK and the EU, as separate regulatory jurisdictions and consistent with the UK's commitments in the WTO TBT Agreement.
3. In particular, BSI supports the definition of 'international standard' within the TCA. Adopting an agreed basis with our trading partners for determining what is an 'international standard' is critical for the promotion of UK interests in global trade. The definition in TCA ensures that UK stakeholder voices from business, industry, consumers and regulators are systematically heard in international standards referenced in UK regulation. It therefore gives the maximum opportunity for UK influence over the terms of international trade and reflects existing UK leadership in both ISO and IEC.
4. European standards, which are distinct from EU regulation, are the most advanced part of the international system of standards. European standards are adopted, in the absence of international standards, to promote trade in Europe based on the specific requirements of the region's stakeholders.
5. The UK's involvement in standards development in Europe already goes far beyond the stated ambition of the TCA around standards cooperation. For example, BSI's continued membership of the independent European standards organizations, CEN and CENELEC will enable UK stakeholders to shape the technical standards used for market access across the European continent, including for trade with the EU single market.

6. Trade frictions which may arise from the UK's departure from the EU single market are mitigated by the use of the same set of standards in the UK and across Europe, including to support regulatory conformity.
7. BSI's role as a leader in developing international and European standards can make an important contribution to supporting government-led cooperation efforts to implement the TCA's TBT chapter through the Trade Specialised Committee on TBT and through other relevant cooperation provisions in the chapter and elsewhere in the TCA.
8. Standards have a key role to play in enabling a pro-innovation autonomous regulatory environment that supports government's domestic policy priorities while meeting the UK's WTO commitments. The UK's leadership in international standards development in ISO and IEC will ensure that the UK is well placed to increase access to global markets.
9. When recognising standards for regulatory conformity in the UK, BSI recommends that UK government designates standards that have received UK stakeholder input through the National Standards Body. This is the most effective way of ensuring that products placed on the market in the UK meet national business and consumer needs. It can also be the basis for reciprocal market access with trading partners as those standards will be adoptions of international standards wherever they meet UK stakeholder needs.
10. BSI supports using the template of the TBT Chapter of the TCA as the basis for other trade agreements. This will help ensure the best possible outcome for the UK as a global trading nation alongside the best possible protection of UK consumers.

Introduction

11. BSI is the UK's National Standards Body, incorporated by Royal Charter and responsible independently for preparing British Standards and related documents, and for coordinating the input of UK experts to European and international standards committees.
12. BSI is appointed by UK government as the national standards body through a Memorandum of Understanding. This constitutes a public function in support of the UK economy, in which BSI brings together stakeholders (including government, industry and consumers) to facilitate the development of standards which underpin the supply of products and services.
13. Within this role, BSI is well placed to provide insight to the government on the role of international standards in future UK trade policy including within trade agreements. BSI works closely with the Department for International Trade

and the Department for Business, Energy and the Industrial Strategy to help support policymakers in negotiating standards related provisions in trade agreement chapters related to technical barriers to trade.

14. BSI has a globally recognized reputation for independence, integrity and innovation ensuring standards are useful, relevant and authoritative. BSI represents the UK interest in the development of international standards in ISO and IEC, and regionally via the European Standards Organizations CEN (the European Committee for Standardization) and CENELEC (the European Committee for Electrotechnical Standardization); BSI is a member of ETSI (The European Telecommunications Standards Institute) and provides support to DCMS through their membership of ITU (the International Telecommunication Union).

What we mean by 'standards'

15. In this submission we refer to standards within the meaning of the WTO Agreement on Technical Barriers to Trade and as distinct from regulation. Standards are good practice agreements for voluntary use developed through a multi-stakeholder, consensus-based process that involves open public consultation and regular review.
16. Standards are developed when there is a defined market need through consultation with stakeholders and a rigorous development process. BSI brings together representatives of all relevant interests in national committees. These committee members represent their constituencies in developing standards and related documents. They include government, business, consumers and other social interests, academic institutions, regulators and trade unions. BSI's robust standards development process requires open and full consultation with all stakeholders to build consensus-based outcomes. This gives standards the legitimacy and degree of market acceptance to be used for public policy purposes.

The role of international standards in trade

17. Standards have significant impact on the ease of market access between trading partners. Where regulation requires national standards that differ or conflict one with another, considerable friction can result adding to the cost of trade between countries.
18. The use of globally-agreed standards as a basis for technical regulation lowers technical barriers, reduces production and supply chain costs, builds confidence in business services and enhances consumer trust. International standards can constitute a 'passport to trade' and their use increases the global competitiveness of businesses.

19. Manufacturing to an international standard that is referenced in national regulation reduces the need for multiple product variants in different markets. This lowers the cost of production and so minimizes trade barriers.
20. International standards are a cornerstone of the WTO rules-based system and the TBT Agreement mandates WTO members to make use of them as a basis for technical regulation unless they are ineffective or inappropriate for the fulfilment of the objectives of that regulation.
21. International standards are developed within international standardising bodies, primarily the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC). These bodies bring together the views of national stakeholders through their representative delegations. The development processes and governance build international consensus and therefore carry the necessary legitimacy to be considered global best practice. ISO and IEC encourage national adoption of international standards to give, as far as possible, one standard for any given aspect of a product or service around the world.
22. The UK has significant influence in the development of international standards. In ISO, for example, the UK has more participating experts in technical committees than any other country. In addition to that, BSI has a permanent seat of ISO Council and BSI's Director-General, Standards, Scott Steedman, is currently ISO's Vice President Policy.
23. BSI's stakeholders have consistently stated the need to have standards that enable market access globally and support global interoperability and supply chains, while ensuring a high level of consumer protection. For this reason, BSI pursues a policy of developing international standards as a priority to meet those needs. Today around 85% of British Standards have been developed through ISO and IEC or through their regional European equivalents. In many cases, and wherever possible, they are international standards that have then been adopted for the European region.
24. The European regional standardization system is the most advanced part of this international system of standards. It is based on a set of rules that require each member to adopt every European standard identically and to withdraw any conflicting national standards. European standards are in principle only developed when there is no international standard available or under preparation.
25. The three European standardization organizations, the European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC) and the European Telecommunications Standards Institute (ETSI) are private, independent bodies. They are not EU institutions or agencies, though a minority of European standards (about 15% of CEN and

CENELEC standards) support regulatory conformity in the EU, as well as in EFTA countries and the UK.

26. Supported by our stakeholders including consumers, business, industry and regulators, BSI has continued, following EU exit, to inform and influence standards developed for markets across the European continent through its ongoing membership of CEN and CENELEC and its status in ETSI. CEN and CENELEC have a broader membership than the EU, both covering 34 countries (EU, EFTA, UK, plus Turkey, North Macedonia and Serbia).

The role of standards in regulation

27. At the end of the EU exit transition period, there were over 3,500 'harmonized' European standards, cited for that purpose in the EU's Official Journal, that support EU and UK regulatory conformity. These standards have been developed through CEN, CENELEC and ETSI processes, including UK stakeholder participation through BSI, over many years for use in support of technical regulation of products manufactured and sold across the EU. This ranges from PPE to toys, machinery and construction products.

28. In this regulatory model, legal prescriptions are restricted to high level, performance-based 'essential' requirements (e.g. 'toys shall not pose a risk of strangulation'). Standards provide a convenient means of compliance with those requirements. Standards are referenced in an official governmental publication, meaning that a product that meets the standards is presumed to conform to the relevant parts of the regulation.

29. As the use of the standard remains voluntary, a manufacturer can opt to demonstrate conformity with regulation in other ways. An advantage of this system is that the regulator has the assurance that standards developed for the purposes of regulatory conformity have been through a rigorous process of stakeholder involvement to ensure they reflect the needs of all concerned parties.

30. As at the end of the transition period, UK government maintained this regulatory regime, amending it only to ensure its operability in an autonomous UK jurisdiction for Great Britain. All 3,500 harmonized standards that were cited in the EU Official Journal were designated for UK by the relevant Secretary of State. Those standards now provide a means for manufacturers both to meet the requirements of autonomous UK regulation in GB and to enable market access in the EU and other jurisdictions across Europe.

31. Due to the specific arrangements laid down in the 2019 Withdrawal Agreement, Northern Ireland will effectively remain within the EU's single market meaning that EU product regulation and harmonized European standards, cited by the European Commission, will continue to provide presumption of conformity with UK regulatory requirements for relevant

products placed on the market in Northern Ireland. This includes products originating in Great Britain.

32. BSI will continue to serve the needs of stakeholders across the United Kingdom with standards necessary for regulatory conformity. This includes Northern Ireland.

Question 1: As opposed to other possible outcomes, what does the presence of an EU-UK free trade agreement mean for trade in goods?

33. BSI welcomes the UK-EU TCA. It provides a basis for ongoing trade between the UK and the EU, as separate regulatory jurisdictions and consistent with the WTO TBT Agreement.

Question 2: What is your assessment of the relevant provisions in the TCA and their impact on your business or policy area?

General Comments

34. The TBT Chapter provides a degree of clarity on the nature of the new economic relationship between the UK and EU consistent with UK government's stated aim of an FTA type relationship with the EU with no automatic regulatory alignment. This section is similar to equivalent chapters in other trade deals in that it contains broad commitments to the WTO TBT Agreement and its provisions on TBT. A significant part of the TBT Agreement is incorporated into the TCA and form part of the agreement. Notably, the TCA, like the TBT Agreement, commits the parties to develop technical regulations based on international standards unless they are an ineffective or inappropriate means to meet the legitimate objectives of regulation.

Definition of international standard

35. Key to promoting UK interests in global trade is for our trading partners to agree to adopt the same basis for determining what is an 'international standard'. In TBT.4 'Technical regulations', international standards are defined as standards developed in international standardising bodies (namely the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC), the International Telecommunication Union (ITU) and Codex Alimentarius Commission for food standards) or in other bodies provided that they meet the WTO TBT Committee 'six principles' and develop standards, based on consensus, either through national delegations or government participation.
36. BSI considers this a very positive development, supporting the UK's interests in international standards. The requirement for development by specific bodies or in processes comprising national or government delegation ensures that UK

stakeholder voices from business, industry, consumers and regulators are systematically heard in international standards referenced in UK regulation. This gives the maximum opportunity for UK influence over the terms of international trade and reflects existing UK leadership in both ISO and IEC.

Cooperation on standardization

37. The UK's place in the process of stakeholder-driven, consensus-based voluntary standards development in Europe already vastly exceeds the stated ambition of the TCA around standards cooperation. In TBT.5 'Standards', the TCA encourages cooperation between standardising bodies established within the territory of the parties with a specific focus on cooperation around international standards. This cooperation is envisaged to be both bilateral and within international standardising bodies. The agreement also points to cooperation in 'regional standardising bodies'.

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38. An additional framework for cooperation is established in TBT 9 on cooperation on standardisation related activities for the purposes of non-food products safety and compliance and later in TBT 11 which establishes a framework for cooperation in the Trade Specialised Committee on Technical Barriers to Trade.

39. Specific provisions exist elsewhere (Article ENER.25) in the agreement for cooperation between standardisation bodies with respect to energy efficiency and renewable energy. BSI is already a key player within the European standards organizations in efforts to promote the development of international and European standards to support energy efficiency and renewable energy. One such area is in standards to support a reduction in energy consumption within organizations where NSBs across Europe have developed a standardised approach, building on international best practice, in areas such as the conduct of energy audits.

40. We see significant opportunities for UK stakeholders to work together with other NSBs across Europe to develop new international standards to underpin the circular economy and in sustainable finance. Such work is crucial in meeting the UK's Paris Agreement climate change mitigation commitments and in showing global leadership as the UK prepares to host COP-26 in Glasgow in September.

Other provisions

41. The main TBT Chapter is supported by additional sectoral annexes which provide further detail addressing technical barriers to trade in specific sectors, namely automobile manufacturing, medicinal products, chemicals, organic products and the trade in wine. BSI welcomes these sectoral annexes and encourages the UK government to work with the EU to target other product sectors for future inclusion as a means of ensuring specific, targeted measures

to reduce trade friction, including where relevant the role of international standards. Furthermore, BSI welcomes provision in Annex TBT-XX for the future exchange of information on the safety of non-food products.

Question 6: Within the parameters of the TCA, what should the UK seek to accomplish with the EU in relation to your industry or policy area in the short, medium and long term?

42. The UK's status operating in a separate regulatory jurisdiction and therefore as a third country outside the EU's single market may create some new trade friction. BSI's continued membership of CEN and CENELEC will enable UK stakeholders to maintain influence over the technical standards used for market access across the European continent including with the EU's single market. This is an important factor in preventing the emergence of additional barriers to trade between the UK and EU. The members of CEN and CENELEC are currently updating the terms of BSI's membership to reflect the UK's new economic relationship with the EU.
43. With respect to TCA implementation over the medium to long term, we encourage government to make full use of the cooperation mechanism established in the Trade Specialised Committee on Technical Barriers to Trade and the relevant committees established in the sectoral annexes. In particular, there is considerable scope through regulatory cooperation for both the UK and EU to jointly promote globally the pro-innovation approach to regulation based on stakeholder driven voluntary standards supporting public policy objectives. BSI stands ready to support the government in ensuring that standards continue to play a role in reducing trade friction between the UK and EU and around the world.

Looking to the future: the role of standards in support of autonomous UK regulation and global trade agreements

44. BSI welcomes the decision of the government to ensure continuity in the use of standards for regulatory conformity in Great Britain after the end of the transition period through the creation of a system of 'designated standards'. This means that as of the end of the EU exit transition period, the standards designated for regulatory conformity in the UK are the same as in the EU. This is a significant factor in maintaining a low friction trading environment in the absence of any formal regulatory alignment.
45. When contemplating future UK product regulation, international and European standards, shaped by UK stakeholders, can continue to provide a successful means of delivering pro-innovative and flexible solutions. Changes in regulation can, in many cases, be achieved through referencing the same

international best practice as now. This ensures the UK government is able to fully benefit from regulatory autonomy while enabling manufacturers to maintain one standard for any given aspect of a product or service in multiple markets.

46. BSI is aware that the UK's agreement with the EU will not be the UK's only trading relationship and we encourage further recognition of the role of international standards in enabling new trading opportunities for UK business through trade agreements all over the world.
47. To ensure the best possible outcome for the UK as a global trading nation alongside the best possible protection of consumers here in the UK, we recommend using the template of the TBT Chapter of the UK-EU TCA as the basis for other trade agreements. This includes, critically, agreeing a common basis for defining the meaning of 'international standard', which ensures systematic UK influence in standards referenced in UK regulation.
48. The same applies for UK policy towards designating standards for regulatory conformity. BSI encourages the designation of standards that have received UK stakeholder input through the National Standards Body. This is the most effective way of ensuring that products placed on the market in the UK meet national business and consumer needs and enabling reciprocal market access with trading partners.
49. There are significant opportunities in trade agreements for cooperation with trading partners on standards. BSI has mechanisms in place for bilateral cooperation with standards bodies in all the nations with whom the government is looking to negotiate agreements, and would welcome the opportunity to support the government in developing further trade policy in a way that is consistent with an open, global Britain which is ready to do business with other nations across the world.