

Competere – Written Evidence (TIG0004)

EU-GB Movements

Improvements to EU-UK TCA

There are a number of improvements to the UK-EU TCA which would lead to greater trader simplification and facilitation. This includes the following key areas:

EU-UK TCA Rule of Origin

The restrictive rules of origin of the EU-UK TCA are causing trader issues. In many cases rules of origin mean that goods in GB or EU which have content from outside of the Parties may not qualify for the preferential rate of zero for the trade agreement. This significantly lessens the value of the TCA.

In addition, goods which move from the EU to GB in free circulation, and then move on to NI lose their originating status in the EU, and in GB (if insufficient processing takes place there). This means that EU tariffs must be paid for GB to NI movements in these cases.

We suggest a number of solutions:

1. The UK to seek bilateral and, if possible diagonal cumulation for the EU-UK TCA.
2. While many have suggested the PEM Convention as a solution to some of the RoO problems, we are more skeptical about this as PEM Convention countries are generally those that are more closely aligning to EU customs rules which the UK is not. In addition the UK is working to secure FTAs with a range of other countries as well as CPTPP accession which is not consistent with PEM.
3. Specific rules should be introduced into the FTA and the NIP to ensure that goods in free circulation in the UK that would satisfy rules of origin, but for the EU to GB movement into free circulation, are not subject to tariffs when they move into NI on an "at risk" basis. (Note all goods moving not "at risk" do not pay any tariff anyway).

Mutual Recognition

A significant gap in the EU UK TCA are any provisions on mutual recognition. These will be important in lowering the level of checks and process required for trade and will significantly simplify trade between the parties.

At the very least mutual recognition of conformity assessment (testing) should be sought, but the UK should seek mutual recognition of market surveillance and indeed where possible underlying product market regulation.

There are precedents where the EU has agreed, in certain cases mutual recognition of underlying product regulation, such as CETA, the NZ-EU veterinary agreement, and the EU-US Insurance covered agreement.

Customs Facilitation and Managing UK Border

The TCA has a chapter on customs and trade facilitations. These have not been fully explored and they should be fully explored.

On the other hand, the UK has placed easements on its border through the Border Operating Model (BOM) which delayed the need to submit frontier declarations at the border until January 1, 2022. We are concerned that traders will not get ready for the requirement for frontier declarations unless they truly believe that these will be required. As long as the easement is in place, the UK border is not secure. In addition our trading partners with whom we are making substantially progress on trade deals will ask why EU imports are being preferred. While this was acceptable for a temporary period, any further delay would not be welcomed.

We believe that the history of the easements in both the GB-EU and GB-NI context shows that traders do not use the time to get ready when easements are extended. However when those requirements are put in place albeit with "training wheels" traders do make efforts to get ready. Both government systems which are due to take effect from January 1, 2022 can be run in ways that limit the risk of trucks stopped at the port for a limited period while traders still have to do frontier declarations. This will give much greater clarity and security to the border.

Services

The UK is one of the world's leading exporters of services, and the services chapter of the TCA is limited. We would argue for significant deepening of the services chapter along the following dimensions:

1. Financial services. The TCA should deepen concepts of equivalence between the two parties, and further explore the scope of prudential carve-outs. These are too often used to prevent reasonable market access. We include detailed recommendations on financial services generally [here](#) and in the financial service chapter of a model EU-UK FTA we drafted in 2018 [here](#). We recommend in particular the explanatory notes associated with this model agreement.
2. The model FTA included specifically [here](#) includes language in the competition chapter to address market distortions which could be used to inform the TCA's level playing field provisions and in particular the criteria for trade and investment distortions to support the use of rebalancing tariffs. While some may argue that rebalancing tariffs can be applied whenever there is a divergence between the EU and UK regulatory systems, the actual language of the chapter refers to trade and investment distortions. Arriving at a shared understanding of how anti-competitive market distortions damage international trade flows will help inform the application of rebalancing tariffs, and will assist both parties in prosecuting these problems as they find them in other countries, especially in China in partnership with the US and others.

27 October 2021