

## **Food and Drink Federation (FDF) – Written evidence (FFT0017)**

### **FDF Response to the House of Lords EU Goods Sub-Committee Inquiry on Facilitating Future UK-EU Trade in Manufactured Goods**

#### Introduction

1. This submission is made by the Food and Drink Federation (FDF), the trade association for food and drink manufacturing. Food and drink is the largest manufacturing sector in the UK accounting for almost 20 per cent of the total manufacturing sector, turning over more than £105 billion per annum; resulting in Gross Value Added (GVA) over £28 billion and employing more than 430,000 people. Our industry is larger than automotive and aerospace combined in terms of employment, GVA and turnover.
2. International trade is a key driver of growth and innovation at home and abroad. With a footprint in every constituency, the UK's food and drink industry is a global success story. We are committed customers of domestic producers and this will not change. However, in adding value to domestically produced raw materials, we also depend on having access to high quality imported ingredients. For example, to ensure consumers can buy fresh bread and quality pasta all year round, UK producers depend on a seasonal basis on imports of high protein and durum wheat from Canada, the United States and other countries.

#### Summary

3. Our industry's top priority for future international trade is to ensure that existing tariff-free trade in agri-food and drink remains tariff free after 31 December 2020. This is especially true for trade with the EU which due to geographical proximity and shared consumer preferences is by an overwhelming margin our largest market and our largest supplier. We welcome the UK Government's indication that this is a priority outcome in trade talks with the EU.
4. When the transition period ends on 1 January 2021, the terms on which food and drink are traded between the UK and EU will change. Goods will go from being traded seamlessly on the EU's Single Market to become products that are exported and imported, with an inevitable increase in friction, regardless of the outcome of the current negotiations.
5. However, with the right trade agreement, we can maintain essential cross-border, inter-dependent supply chains that ensure a resilient UK food and drink supply-chain. Our priorities for a preferential trade agreement that will achieve this are:
  - a. A zero-for-zero tariff agreement
  - b. Generous and flexible rules of origin
  - c. Minimal certification requirements and border friction
  - d. A comprehensive customs agreement
  - e. Minimal technical barriers to trade

6. In our response, we focus on three key areas from these priorities: ensuring rules of origin that meet the needs of UK manufacturing, minimising border friction and ensuring the maintenance of high UK food standards that facilitate continued trade with key EU partners.

### **Rules of origin**

7. Rules of origin are a critical component in trade agreements that are frequently overlooked in the wider discussion of international trade because of the focus on reducing tariffs. They are the terms and conditions businesses must meet to access preferential tariffs secured in a trade agreement. If these rules are not set at appropriate levels or designed with sufficient flexibility to reflect the varied needs of food and drink supply chains, our industry will be negatively impacted.
8. Food and drink are at the heart of daily life, essential to our security and a critical part of the UK's economy. At the end of the transition period, the terms on which food and drink are traded will change. We hope that negotiators will be able to agree tariff free trade in food and drink, but these goods will nevertheless go from being traded seamlessly on the EU's Single Market to becoming products which are exported and imported between the UK and the EU, with an inevitable increase in friction. It is strongly in all our interests – businesses, governments and consumers – to promote continued trade and to minimise avoidable disruption wherever possible. This will be essential to support the post-Covid-19 economic recovery.
9. We welcome the commitment both sides have given towards negotiating a trade agreement that delivers tariff and quota-free trade. However, the devil of such an agreement will be in the detail. A tariff-free preferential trade agreement will be meaningless if businesses are unable to access these preferential tariff rates. In the case of food and drink, this will only be possible if both sides agree to put in place bespoke rules of origin.
10. UK food and drink faces a unique challenge in terms of seasonality and the impacts of climatic conditions which mean from one year or even one season to the next, sourcing arrangements will frequently change. For producers of value-added food and drink products in the UK, existing models of rules of origin fail to address these challenges. A sub-optimal outcome, based on these models will inhibit rather than promote future trade between the UK and the EU, to the detriment of our businesses, employees and crucially consumers and shoppers. Manufacturers in both the UK and the EU would face the unwelcome prospect of either a costly restructuring of supply chains or a de facto barrier that blocks valuable trade flows.
11. We believe this doesn't have to be the case. Our industries have taken the initiative and identified a series of constructive solutions in developing a model based on examples of best practice to minimise damaging impacts of these stringent rules on food and drink producers. These solutions are needed to ensure highly integrated European supply chains can continue to operate. They will allow UK producers to continue adding value to required third country raw materials that are exported as finished goods to the EU. They will ensure UK producers can continue to utilise a wide range of EU originating raw materials in products that are consumed in the UK or exported to the EU or to other

preferential trade partners. They will also help protect the interests of producers in least developed countries (LDCs) that otherwise could be disadvantaged.

12. The five key elements that we have set out in this model are:
  - a. **Full bilateral and diagonal cumulation** between the EU, the UK and shared preferential trade partners to protect the close and integrated supply chains between EU and UK food and drink producers which have built over the last decades;
  - b. Options allowing **origin determination by value** should be allowed to avoid harming continued trade in manufactured products, to aid application by SME producers and to ensure an approach that is consistent with provisions in CETA;
  - c. Any **transformation that brings about a change in tariff classification** should be considered sufficient to confirm origin to help provide greater simplicity and clarity for businesses seeking to access preferential tariffs;
  - d. A joint EU-UK exemption for all **originating imports from least developed countries (LDCs)**. Developing countries should not be inadvertently disadvantaged by the UK's decision to leave the EU; and
  - e. A **10 per cent tolerance margin by value** for non-originating inputs in any exported good without impacting on its originating status.
13. Taking these recommendations one step further, we produced a formal legal protocol providing examples of how our five recommendations can be used in a trade agreement. This was shared on 12 June 2020 with the UK and EU lead negotiators David Frost and Michel Barnier, supported by 57 UK and EU food and drink associations. This text provides solutions that can help UK and EU policymakers design a genuinely best-in-class agreement that avoids damaging supply chains that are central to our economies and our food security.

#### Borders and customs

14. Customs and border requirements and inspections are incredibly complex and time-intensive exercises for businesses, and can even outweigh the cost of a tariff. With the UK due to leave the Single Market and the Customs Union at the end of the transition period and seeking only a basic preferential trade agreement, this means the following documentation, processes, and systems will likely be required:
  - a. Origin documentation to meet rules of origin criteria;
  - b. Customs declarations;
  - c. Sanitary and Phytosanitary (SPS) Certification for animal and plant-based goods;
  - d. Safety and Security Declarations;
  - e. Interactions with customs and SPS IT systems;
  - f. Pre-notification of goods travelling to the border;
  - g. Entry via designated Border Control Posts (BCPs) for some animal and plant-based goods; and
  - h. Physical and documentary checks and inspections on arrival of the border.
15. It is clear from the EU and UK draft negotiating texts that both deal and no deal scenarios will lead to similar new processes and certification requirements for businesses trading in food and drink, meaning a range of new compliance costs,

whatever the outcome of the talks. The burdens of additional trade administration requirements and inspections will not dramatically change if a deal is agreed, though depending on the ambition of any agreement concluded, it could reduce the frequency of checks.

16. Where tariffs and rules of origin permit businesses to continue trading with the EU, new compliance requirements risk undermining the competitiveness of UK food and drink manufacturers and imposing significant additional costs at an already challenging time for our industry due to the closure of the hospitality and out of home sectors. Most food and drink trade with the EU uses roll-on roll-off ports where speed is critical to continued flows of goods. It is difficult to see how changes can be made to processes at the Port of Dover in such a way that would work for UK businesses without impeding essential just-in-time supply chains. This presents a particular challenge in the current context where businesses have effectively exhausted stockpiles of goods in response to Covid-19 and their capacity to cope with disruption is greatly reduced.
17. We continue to urge both the UK and EU to pursue a facilitative and flexible approach to implementing a trade deal. To deliver an agreement that works for food and drink businesses on both sides, burdens need to be reduced in two critical areas: compliance costs and the number of inspections required at the border.

### **Minimising certification and border friction**

18. The imposition of checks and inspections on large volumes of food and drink should be kept to a minimum to facilitate trade and minimise compliance costs, while ensuring continued safety and consumer confidence. This can best be achieved by delivering:
  - a. a **mutual recognition agreement (MRA)** recognising high existing levels of alignment between the UK and EU, including in animal and plant products, organics and flour (further details on this are set out below);
  - b. an agreement that both the UK and the EU will waive the requirement that traded goods should use **heat treated wooden pallets**;
  - c. an agreement that UK-based exporters can use a **'UK' health mark** where required;
  - d. authorisations for UK and EU businesses to continue trading in **products of animal origin (POAO) and plant** products;
  - e. a **streamlined and innovative digital certification process** for businesses to complete Export Health Certificates (EHCs) and obtain certifications from veterinarians;
  - f. a **single electronic pre-notification system** for the submission of EHCs and other required paperwork that avoids the need for time-based pre-notification;
  - g. a **'First-Place-of-Arrival scheme' for POAO** and plant products for registered traders, with any documentation pre-submitted and required checks and inspections taking place away from the border; and
  - h. A **single Government-supported portal for import and export guidance** should be set up to ensure businesses, particularly SMEs, are able to successfully comply with changing requirements and processes when trading with the EU. This will be important to raise awareness of potential market access barriers.

## Comprehensive customs agreement

19. A comprehensive customs agreement between the UK and EU will be needed to help ensure businesses can avoid significant additional costs and administrative burdens that would threaten the viability of future trade and highly integrated just-in-time supply chains:
  - a. special provisions for roll-on roll-off (ro-ro) ports including a simple and streamlined **electronic system for the submission of documents** for import and export prior to the arrival of goods, to process and release the goods immediately on arrival;
  - b. the UK should seek a **waiver for safety and security declarations** as permitted in the Union Custom Code (UCC);
  - c. mutual recognition of EU and UK **Authorised Economic Operator (AEO)** schemes, with enhanced benefits to speed up flows of goods for 'trusted traders';
  - d. efficient application of **origin checks** for goods moving in both directions that guard against the risk of fraud and minimise new burdens faced by good operators;
  - e. the UK and EU should cooperate to deliver world-leading efficient processes at borders, supported by **maximum customs and risk data sharing** to reduce the number of physical checks required; and
  - f. a long-term shared plan to deliver a **single window for customs processes** that minimises documentation and requirements, investigating options for business-friendly facilitations including annual declarations and options for self-auditing by trusted traders.
20. Separately, the UK should implement customs easements to help businesses manage customs requirements by amending the **Customs Freight Simplified Procedures (CFSP)** to deliver the benefits that would have been provided by Transitional Simplified Procedures (TSP) in previous no-deal scenarios, including allowing retrospective checks, a streamlined application process and allowing a simplified customs declaration prior to the arrival of imports at the border with immediate clearance for traders.

## Non-tariff barriers to trade

21. It is inevitable after the UK leaves the EU that regulations will begin to diverge. If not managed successfully, we face the creation of barriers that could impede trade between the UK and EU in food and drink. It is important that we maintain a stable and consistent regulatory framework between the UK and EU which ensures UK industry can remain competitive and that also encourages investment.
22. It will be in the UK's best interests to maintain access to the risk assessment expertise of the European Food Safety Authority (EFSA) in the short term until an equivalent robust and independent UK scientific risk assessment body is fully functioning to ensure future regulations continue to be based on sound science and evidence. This would provide a mutual benefit in ensuring the UK continues to have access to intelligence gathering tools including the Rapid Alert System for Food and Feed (RASFF), the European Food Fraud Network and EFSA's Emerging Risks Exchange Network.

## Regulatory equivalence

23. As noted above, the UK and EU should **maintain regulatory equivalence** to ensure trade can be conducted much as it is today. If, and where, divergence in regulation occurs over time, mutual recognition of food regulations between the UK and EU will be essential to ensure continued trade in food and drink products.
24. Without this, exports to the EU will automatically face complex documentary and physical inspection requirements which would make exporting more difficult and costly for UK producers, while similar challenges could face essential imports. These issues could be amplified in some EU Member States as the absence of regulatory agreement could result in a move towards the use of non-tariff barriers to trade as part of a protectionist trade policy. Even with mutual recognition, some checks would still be required, but the UK Government must ensure these are essential, manageable and kept to an absolute minimum.
25. It is similarly important that we **avoid regulatory fragmentation within the UK's single market** and that the impact of any proposed changes to food and drink legislation by the devolved administrations is fully understood and subject to detailed consultation with industry. It is also important that there is mutual recognition within the UK single market and between the EU, particularly in the context of Northern Ireland. The Northern Ireland Protocol threatens to introduce enormous complexity for trading businesses and a range of technical barriers to trade that would impede the movements of goods from Great Britain and the availability of products for consumers in Northern Ireland.
26. The UK Bread and Flour Regulations 1998 are a potential barrier to trade in the absence of a mutual recognition agreement that allows UK products containing **statutory fortified UK flour** to be exported into the EU and unfortified EU flour to be imported into the UK for use in products that are sold on both the UK and EU markets. Without this agreement, UK manufacturers would no longer be able to produce flour-containing products that can be sold in the UK as well as the Irish/EU export market. Costly labelling and infrastructure changes would otherwise be required, such as a dual flour supply, separate production lines and finished products.
27. To avoid companies being forced to produce separate stock keeping units (SKUs) for the EU (e.g. ROI) and UK markets, the agreement should ideally allow UK Food Business Operators (FBOs) to continue using a **UK business name and address** on their labels for goods that are exported to the EU, and vice versa for EU producers exporting to the UK. Both sides should also deliver the commitment to the continued recognition of existing Geographical Indications (GIs) set out in the Withdrawal Agreement.
28. For trade in products of animal origin (**POAO**), non-EU third countries must be on the EU's permitted list to export POAO to the EU and products must also originate from EU approved premises. Only the European Commission (EC) can amend the permitted list/approve premises and it is essential that this is done prior to the end of the transition period to ensure there is no break in market access.
29. All **wooden packaging material** including wooden pallets moving between the UK and EU will be required to undergo heat treatment and marking and may be subject to border checks. Mutual recognition of SPS rules between the UK and EU can help to avoid this costly, disruptive and unnecessary requirement.

30. For **organic products**, the EU organic logo will no longer be allowed to be used on UK products unless the UK control body is authorised by the EU to certify UK goods for export to the EU. Each of the approved UK organic control bodies need to apply to the EC for organic equivalence. The EC has said they cannot progress these applications until the UK becomes a third country and approvals may take up to nine months. Until the control bodies are recognised by the EU as equivalent, UK produced organic goods will not be allowed to be exported to the EU where labelled as organic. We have urged Government to rapidly facilitate the EU's recognition of the UK's organic control bodies to enable continued export of organic products at the end of the transition period.

#### A period of adjustment

31. It is clear for food and drink manufacturers that depend on continued trade with the EU that a period of adjustment will be required after the transition period ends to allow time for a range of required changes to be implemented. The complexity of the challenge that faces business may also mean that the Government will need to consider operating an amnesty period for trading businesses given the difficulties that many will face in the months ahead and the difficulty of ensuring 100% compliance on 1 January 2021.
32. An example of where this will be required is for changes to labelling. Government's advice remains that UK businesses should maintain EU labelling compliance throughout the transition period, for example, for health and ID marks. Given continued uncertainty regarding what will be required on labels after the transition period ends, it is clear there is no longer sufficient time remaining for most businesses to change labels to ensure compliance on 1 January 2021. A formal period of adjustment of sufficient length is also required for the UK market. The 21-month adjustment period for labelling changes provided in the UK's previous no-deal scenario preparations could be reintroduced to apply from 1 January 2021.
33. A further example would be where Government introduces new trade administration and customs processes and procedures. Only when clarity is provided can businesses begin the difficult process of adapting and responding to meet these complex new requirements. Crucially, it will take time to ensure they are fully compliant. The needs of food and drink businesses will vary depending on the size and composition of their supply chains. Consultation with our members demonstrates that the time required to adapt to different measures largely falls into three categories, each depending on the size and scale of change required:
- a. Minor operational changes or amending transportation routes would typically require at least a month for businesses to adapt. This can include on altering a supply route where required to enter via a new or different Border Control Post (BCP) that would make their current supply route no longer viable.
  - b. Changes that require the involvement of third parties and some minor changes to ways in which their business operates would typically require at least three months. This can include amending import procedures to adapt to new pre-notification requirements, which for some food products can be more than 24 hours. This would require significant changes to supply chains to ensure they have continued and consistent access to key

ingredients, that they remain fresh and will be able to deliver sufficient shelf life to meet the requirements of their customers. Businesses will potentially need to ensure all documentation is submitted and compliant before the goods arrive at the port. Ensuring this can be achieved while retaining these essential just-in-time supply chains will require time to adjust and test these operations.

- c. Finally, measures that require products to be changed, for businesses to implement new methods of working to ensure compliance or to recruit or retrain staff will take upwards of 6 months to implement. This includes being able to ensure businesses have the expertise and can demonstrate they are able to comply with required certifications on origin, customs, safety and security, as well as SPS controls. These require companies to assess their supply chains in detail to ensure their compliance and to guarantee they have both the required information and trained staff to evidence and secure required certifications, using multiple new IT systems many of which are not yet available to businesses.

34. These changes are not one single uniform action that any company can undertake. Preparations including ensuring compliance for customs declarations, origin and SPS controls each require separate preparations and often separate teams to do this. Requirements to ensure compliance with SPS controls are very different from standard customs requirements faced by business trading in non-food goods. **Any period of adjustment should only begin when precise details of the future UK-EU trading relationship has been agreed, ratified and clearly communicated to industry.**

**1 July 2020**

## **The UK Food and Drink Manufacturing Industry**

The Food and Drink Federation (FDF) is the voice of the UK food and drink manufacturing industry, the largest manufacturing sector in the country. Our industry has a turnover of more than £105 billion, which is almost 20 per cent of total UK manufacturing, and Gross Value Added (GVA) of more than £28 billion. Food and drink manufacturers directly employ over 430,000 people across every region and nation of the UK. Exports of food and drink make an increasingly important contribution to the economy, exceeding £23 billion in 2019, and going to over 220 countries worldwide. The UK's 7,400 food and drink manufacturers sit at the heart of a food and drink supply chain which is worth more than £120 billion to the economy and employs 4.3 million people. The following Associations actively work with FDF:

ABIM	Association of Bakery Ingredient Manufacturers
ACFM	Association of Cereal Food Manufacturers
BCA	British Coffee Association
BOBMA	British Oats and Barley Millers Association
BSIA	British Starch Industry Association
BSNA	British Specialist Nutrition Association
CIMA	Cereal Ingredient Manufacturers' Association
EMMA	European Malt Product Manufacturers' Association
FCPPA	Frozen and Chilled Potato Processors Association
FOB	Federation of Bakers



GFIA	Gluten Free Industry Association
PPA	Potato Processors Association
SA	Salt Association
SNACMA	Snack, Nut and Crisp Manufacturers' Association
SSA	Seasoning and Spice Association
UKAMBY	UK Association of Manufacturers of Bakers' Yeast
UKTIA	United Kingdom Tea & Infusions Association Ltd

FDF also delivers specialist sector groups for members:

Biscuit, Cake, Chocolate and Confectionery Group (BCCC)

Frozen Food Group

Ice Cream Committee

Meat Group

Organic Group

Seafood Industry Alliance