

## **AMDEA (Association of Manufacturers of Domestic Appliances) – Written evidence (FFT0022)**

Written Submission from **AMDEA** (Association of Manufacturers of Domestic Appliances)

AMDEA (the Association of Manufacturers of Domestic Appliances) is the UK trade association for suppliers of all large and small domestic appliances, from large white goods to electric showers, vacuum cleaners and hairdryers. A large proportion of our activities concern the regulations and standards that our members have to meet in order to supply goods. For regulations we mainly work with UK government departments concerned with drafting and enforcing regulations and via our European partner APPLiA for EU regulations. Many technical regulations rely on standards to define detailed requirements or test methods and here AMDEA is involved at national, EU and international levels. The UK domestic appliance sector is grateful for the opportunity to reiterate to the UK Government the vital importance of minimising the technical and tariff barriers to trade with the EU and other parts of the world.-

Within the EU, at least for domestic appliances, we have a set of legislative requirements, many of which are supported by harmonised European standards. This has enabled consumers throughout the EU to benefit from a wide range of technologically advanced products in the knowledge that they are safe and have a high level of performance and environmental protection.

Some domestic appliances are designed and manufactured to meet world-wide requirements, but the major market for products outside of the UK is the EU. Therefore, it is in the interests of our industry for the UK to align its technical requirements for products as closely as possible with those applicable in the EU. It is also in the interests of consumers, who could face higher prices and less choice should the UK create legislation that results in TBTs between us and the EU.

### **Questions**

#### ***1. What are likely to be the key non-tariff barriers affecting future UK-EU trade in goods and how could these affect the operations of UK businesses?***

In order to eliminate the TBTs that hampered free trade between Member States it was agreed back in the early 1980s to create legislation that did not specify detailed technical requirements but only 'essential' requirements with harmonised standards to fill in the technical details which were expected to evolve with changing technological advancements. This is referred to as the "New Approach", even though it was formalised in 1985. Furthermore, the EU has set out risk-based principles for deciding how compliance with laws should

be determined and it also has laws for the creation and approval of the standards that underpin the new approach.

Even at this late stage, the UK has not set out how it plans to create its legislation to be “equivalent” to that within the EU, either technically or in terms of compliance, while also offering a lower level of TBTs with countries outside the EU. Hence, businesses are unable to plan ahead for an unknown future.

If the UK plans to use something akin to the EU’s New Approach, then it should enshrine this in law. Likewise, in terms of a systematic approach to conformity assessment and standards. Far from facilitating free trade agreements, the lack of such a structured system would seem to be a significant obstacle to reaching detailed agreements with both the EU and other countries.

In short therefore, we see the key non-tariff barriers to be:

- Regulatory Divergence
- Standards
- Conformity Assessment including Product Marking
- Customs Processes including Rules of Origin.

Without knowing how the UK intends to frame its laws in the future it is impossible for industry to plan ahead and make the necessary investments required to support the supply of goods to UK consumers and businesses.

***2. What are likely to be the most important technical barriers to UK trade with the EU? How could these be addressed in the future UK-EU trade agreement and what precedents exist in other trade agreements?***

**Regulatory Divergence.** The current UK proposals for regulatory co-operation are incoherent and lack any element of certainty. Any future changes to legislation in the EU or the UK could result in products for those markets having two different designs, two different production lines, plus two sets of tests and associated conformity assessment regimes (possibly including the need for certification). This will be prohibitively expensive for both UK exporters and importers. Some companies will inevitably decide that it is not worth their while to operate in both markets. Even where it does make commercial sense to design and gain separate approval for the UK market, this does not mean that the same range of goods will be offered for sale, nor that the costs of these goods will be competitive with similar goods supplied in the EU.

Ensuring that goods comply with all UK-specific requirements will also be a challenge for market surveillance authorities and customs officials. But equally, without adequate policing of compliance then the UK will simply

become an unofficial outlet for products that do, or may not, comply with EU requirements.

Most modern FTAs include provisions for regulatory cooperation. Since the UK and the EU currently have the same legal framework, it should not be difficult for the UK to ensure that it does not sacrifice this "free trade" in the current negotiations. Providing of course there is an appropriate underpinning of this framework within the UK's legal system.

### **Standardisation Divergence**

As indicated earlier, the EU has a legal basis for the creation of standards that underpin the many EU laws that facilitate free trade within its borders. This entails the European Commission requesting that standards be developed by the three European standards organisations (CEN, CENELEC and ETSI) to comply with specified technical objectives within a given timeframe. Often, the resulting European standards are themselves based on international standards published by ISO, IEC or the ITU. BSI is a member of all these European and international bodies. The UK has been able to shape these standards that support European laws, but, since leaving the EU, BSI's ability to influence these regulatory standards has been eroded.

As yet, the UK government has not defined in law whether, or how, it will use standards to support future legislation. Before leaving the EU this year, the government had indicated that it would have 'designated standards' that would correspond to the EU 'harmonised standards', but the mechanism for requesting such standards seemed to be left to the discretion of each Secretary of State rather than by following a transparent and uniform approach. As standards are so important within an EU context, there should be an agreed mechanism for agreeing alignment between designated standards and harmonised standards and this should be part of the UK's negotiations with the EU.

As mentioned above, BSI has played an important role in developing EU harmonised standards. Going forward, BSI could also play an important role in ensuring that the designated standards that support UK laws provide the lowest possible technical barriers to trade as compared with the harmonised standards that support EU laws. It could do this within both a European and international context. But while BSI can negotiate certain matters with its partners in Europe, it would seem to be hampered currently by the lack of a firm legal base within the UK.

### **Product Conformity Marking**

Our understanding is that the UK intends to introduce a product marking, the UKCA marking, to replace the EU's CE marking. We are unsure when this marking will be required as we have not yet seen any consultations containing the proposed laws that set the requirements with which it will

declare compliance. We are informed by BEIS that the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 [SI 2019 No. 696] will cover some of the legislation affected, but the CE marking requirement also applies to Directives with provisions not included in this SI.

Until there is clarity on when the existing laws, formulated when the UK was a full member of the EU and therefore requiring the CE marking, will be replaced by new UK laws, industry cannot plan for the future. We would hope that, at least to begin with, the UK will enact laws with the same technical requirements and conformity assessment provisions as those that apply during the transition phase. The legislation should permit a phased transition from the CE marking to the UKCA marking, since the requirements will be identical. There will need to be specific consideration of when the CE marking follows an assessment by an EU Notified Body, since the previous intention was to shift to a corresponding UK Approved Body, and AMDEA would suggest that the process and timing for achieving this should be set out in a consultation to take place very soon.

But first, industry needs clarity. There is as yet no explanation of how the UKCA marking will demonstrate conformity with UK law (and which laws). Manufacturers cannot risk the costs of implementing this marking with no idea what it means, what the conformity assessment requirements are, and what the penalties for non-conformity are. It is expected that, even if the UK requirements are the same as those in the EU to begin with, there will be administrative procedures to be put in place. Products, their packaging and user instructions etc will need to be revised to add the UKCA marking to the existing CE marking and approval information for other regions of the world – this will all take time and incur costs. Last year BEIS said that they would consult with industry on the timeframe for introducing these requirements, but so far, we are still waiting for this consultation process to start.

### **Customs and Origin Declarations**

It remains to be seen whether a UK-EU FTA will provide for customs process and rules of origin that will be simpler and less of an administrative burden than standard WTO-based practices. Even if they are, many UK exporters to the EU have previously only traded within the EU, so they will have no experience or expertise in making customs declarations.

### ***3. What form of regulatory cooperation should there be between the UK and EU, including cooperation with EU agencies?***

A robust Regulatory Cooperation should be agreed between the UK and EU, that loses as little as possible of those benefits of free movement of goods that we have previously enjoyed as an EU/EEA member.

AMDEA is a member of the body EURIS, whose separate submission outlines a proposal for a joint Committee to oversee the process with individual sub-

committees to cover different regulatory areas. Several members of EURIS, including AMDEA, have memberships of European trade bodies, which are in communication with the EU negotiating team so could facilitate cooperation between the two teams.

Where there are specific EU agencies involved in the regulatory framework, such as the European Chemicals Agency, close cooperation should be required with any equivalent UK agencies that may be created, both to avoid UK manufacturers being required to duplicate registration processes, and to ensure that UK consumers retain the same safeguards as EU citizens.

***4. How could the UK and EU minimise the costs and disruption associated with any testing and compliance processes that will be required, including conformity assessments? How effective would mutual recognition be in keeping these to a minimum?***

As already indicated, conformity with many EU laws that result in an attestation using a CE marking utilise compliance with standards. The UK should clearly indicate that it plans to follow the same approach, both within the UK-EU FTA and by passing the necessary laws to facilitate this. Technical harmonisation is then a matter of ensuring alignment between the principles upon which the regulations are set, together with procedures to ensure that the standards that support these regulations are transparent. Given that BSI has long been involved in CEN, CENELEC, ETSI, ISO, IEC and ITU, this latter point is already well-established. Therefore, agreements between the UK and the EU on regulatory alignment are key.

Many CE marking Directives and Regulations utilise a supplier's Declaration of Conformity to attest the conformity of products placed on the market and the UK should align its legislation to do likewise on a coordinated case-by-case basis.

Some EU legislation requires that conformity with the legal requirements is assessed by a Notified Body. Even in such cases, the principal means for assessing conformity will be via compliance with European standards by a conformity assessment body, itself assessed in accordance with standards that support EU Regulation No 765/2008. Since this EU Regulation currently applies to UK conformity assessment bodies and the standards referenced by it are produced by ISO/IEC, we find it difficult to understand why it is proving difficult to reach a Mutual Recognition Agreement (MRA) for Conformity Assessment in the UK-EU FTA negotiations. Perhaps it is due to the fact that the UK still has no legislation for requesting the designated standards for assessing conformity nor the process for approving third-party conformity assessment bodies?

**5. What arrangements on rules of origin should there be between the UK and the EU? What precedents are there for bespoke arrangements in other trade agreements?**

AMDEA understands that Rules of Origin rules vary across different FTAs. It would be helpful if any such rules adopted in the UK-EU FTA were matched in other UK FTAs to minimise the compliance burden for UK exporters.

**6. How could customs processes and documentation be simplified to support UK-EU trade? What role could new technology play in this regard?**

New customs procedures and border enforcement will engender significant additional costs, shipment delays and business disruption. The EU has introduced various options to simplify customs processes within the bloc but AMDEA is not clear how far such systems are available to third countries.

There is of course the added complication of the Northern Ireland Protocol. It remains unclear how the free movement of goods between Northern Ireland and the Irish Republic will be controlled and whether Irish businesses will be expected to comply with two potentially diverging customs zones. Or is it proposed that Northern Ireland in its entirety would become a Freeport?

**7. What improvements should be made to existing customs facilitations, such as trusted trader schemes, particularly for the benefit of small and newly-established businesses?**

Mutual recognition of Authorised Economic Operator (AEO) status should be explored. However, there will need to be a mechanism for assessing the eligibility of new businesses with no record of compliant trading.

**8. Are there any other areas where the UK or EU should be more ambitious in reducing the costs associated with non-tariff barriers?**

Businesses in Northern Ireland will be facing additional costs regardless of the arrangements made. However, since it is essential that the Irish border not be a route for counterfeit, dangerous and non-compliant products to reach either the UK or EU markets, enhanced market surveillance is essential. Unfortunately, it is difficult to see how NI business can operate in both regulatory and customs conformance or equivalence with both the UK and the EU unless there is a high level of alignment between the two regimes.

There is an opportunity for the UK-EU FTA to create simplified processes that could then be proposed for other FTA negotiations. However, this will take more time than the transition period allows so is likely to be one of many areas that will require further negotiations in the coming years rather than being part of any FTA signed this year.

**9. What impact would the absence of a UK-EU trade agreement at the end of the transition period have on non-tariff barriers and, consequently, UK businesses? How prepared are UK businesses for this situation and what should they be doing to get ready?**

In the absence of a UK-EU trade agreement, what would be the requirements for supplying goods to the UK market? Would these requirements be identical to those that apply during the transition phase or would they be different? Businesses can only be expected to make plans when they know for what they are planning. Equally, businesses cannot be expected instantly to introduce changes at the last minute because of poor planning and a lack of transparency by government.

If the requirements for placing goods on the UK market did not change immediately after cessation of the transition period then at least this would eliminate the TBTs, even though customs difficulties would remain. Obviously, this would require that UK market surveillance authorities would need to accept products having a CE marking (supported by an EU Notified Body where appropriate) until the end of a transitional period when the UKCA marking could be introduced.

Having no UK-EU FTA at the end of the transition period would mean that the UK would become a third country in relation to the EU. It would also be an WTO member with fewer FTAs than any other WTO members.

As well as UK exporters suddenly faced with new barriers, including tariffs on exports to the EEA, importers will have added costs (currently unknown) which will prompt them to review the profitability of the UK market for their products.

In addition to the ongoing uncertainty of the UK's future relationship with the EU manufacturers have been affected to varying degrees by the impact of Covid-19. It is still unclear how long and how severely this will continue to affect global supply chains and there remains the threat of repeated measures to counter a second and even third wave of the pandemic. While we are hoping that the reopening of electrical shops will release some pent-up demand for appliances this month it is clear that the UK is facing a deep recession, probably a depression, and businesses are facing another challenging six months. Any prospective improvements in 2021 could be wiped out by the disruption and reduction of trade from a "No-Deal" exit. There will be businesses that do not survive.

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