The Chartered Trading Standards Institute (CTSI) – Written evidence (FFT0026)

The Chartered Trading Standards Institute (CTSI) is the professional membership association for trading standards in the UK. Founded in 1881, we represent the interests of trading standards officers and their colleagues working in the UK.

At CTSI and through the trading standards profession we aim to promote good trading practices and to protect consumers. We strive to foster a strong vibrant economy by safeguarding the health, safety and wellbeing of citizens through empowering consumers, encouraging honest business, and targeting rogue practices.

We provide information, guidance and evidence based policy advice to support local and national stakeholders including central and devolved governments.

Following a Government reorganisation of the consumer landscape, CTSI are responsible for business advice and education in the area of trading standards and consumer protection legislation. To this end, we have developed the Business Companion website to deliver clear guidance to businesses on how to meet their legal and regulatory obligations.

CTSI are also responsible for the Consumer Codes Approval Scheme which facilitates high principles of assisted self regulation through strict codes of trading practice. This ensures consumers can have confidence when they buy from members of an approved scheme and also raises the standards of trading of all businesses that operate under the relevant sector's approved code.

CTSI is also a key member of the Consumer Protection Partnership, set up by central government to bring about better coordination, intelligence sharing and identification of future consumer issues within the consumer protection arena.

We run training and development events for both the trading standards profession and a growing number of external organisations. We also provide accredited courses on regulations and enforcement.

A key concern for CTSI is diminishing resources. UK local authority trading standards services enforce over 250 pieces of legislation in a wide variety of areas vital to UK consumers, businesses and the economy. Since 2009 trading standards services have suffered an average reduction of 46% in their budgets and staff numbers have fallen by 53% in that same period.

CTSI Response

Introduction

This response has been prepared by gathering evidence from a number of CTSI Lead Officers - specialists in specific trading standards subject areas. Throughout the evidence, there was a general theme in all sectors that the current regulations, standards and conformity assessment procedures currently in place in the UK and derived from EU Directives, should be recognised as providing important consumer and business protections which we should maintain at the current level as a minimum in the UK.

Regulations that protect UK market standards are vital for our economy and any potential new trade deals. There is a clear need to ensure that UK consumers and businesses are not exposed to lower standards and greater risks as we negotiate our EU departure and make new trade deals. CTSI welcomes the expressed determination in the Political Declaration by the UK and the EU to work together to safeguard the high standards consumer protection.

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?

UK law sets rules in place for consumer contracts, in terms of information that should be provided and the right for consumers to change their mind when purchasing at a distance and in their own homes. Consumers also have very clear rights when buying goods from traders. This protection is based upon a common set of rules across the EU, sometimes 'gold-plated' in the UK, which enable businesses to compete on an equal basis with their European counterparts. These measures are in place, and have been for some time. On that basis, the rules should not be a barrier to UK business already familiar with the requirements and aware of the need to comply with relevant national legislation when trading outside the UK. The rules could however, be perceived as a barrier by businesses from outside the EU who wish to trade in the UK. It would be CTSI's view that this should not necessarily lead to a change to these rules, as protection of UK consumers and businesses should be the priority.

For goods, current trade arrangements rely on regulatory harmonisation and removal of internal barriers to trade. Once outside of that the UK is a 'third country' for the purposes of such trade and therefore subject to the regulatory barrier which is set up by Regulation 765/2008 for all ports of entry to the EU market. All goods being imported into the EU are subject to this barrier, and the powers of customs and market surveillance officials to prevent goods reaching that market on grounds of safety, environmental impact or labelling. Importers of UK products into the EU will be required to assemble conformity assessment documentation in the language of the country that it is placed on the market and take responsibility for that conformity assessment. The product may be removed from the market if they are unable to do this or the documentation is not to the satisfaction of the

market surveillance authorities. All of these factors will add cost and delay to the supply chain.

In terms of metrology, the most likely barriers would be import licences, import quotas and customs delays. These could increase should UK regulation diverge from EU regulation. Rules of origin marking are less likely to be a factor as weighing equipment certification would reveal the country of origin. Whilst packaged goods are required to have packer/manufacturer/importer contact details which could reveal this, EU rules permit the importer to be responsible and be able to demonstrate compliance. Therefore, the importer in the EU of UK goods may face delays because of increased market surveillance activity.

Most weighing and measuring equipment is sold via a dealership network, but in some situations buyers of scales can go directly to the manufacturer. In a no deal scenario anyone buying from an EU manufacturer in the UK would become an importer and would have requirements placed upon him where previously there would have been none (Chapter 2 of the Non-automatic Weighing Instruments Regulations 2016). In this situation the customer becomes the importer and takes on many onerous responsibilities for which they could be unprepared for and possibly unaware of. Most buyers of such equipment would be unwilling to take on these responsibilities therefore would have to source equipment from a UK manufacturer thereby reducing choice and potentially increasing costs.

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?**

   For metrology regulation, technical barriers would increase should UK regulations diverge from those in the EU. Compliance with technical regulations, assessment and certification; placing equipment and quantity marked products on the market can currently cross EU borders unhindered, as UK legislation is equivalent to that in the EU. A negotiated trade agreement could include mutual recognition of equivalent compliance which would continue to allow equipment and goods to continue to pass unhindered. If no such agreement occurs, the UK becomes a third country to the EU, so UK equipment and products could not automatically be accepted without the manufacturers seeking assessment and certification from EU organisations providing these. The UK has devised equivalent marks (UKCA) to demonstrate compliance to current law which at the moment is intended to continue as it is now and is equivalent. Full harmonisation with all EU laws was not achieved in all equipment sectors (some remains unregulated as certain parts of the Measuring Instruments Directive (MID) were not adopted in the UK).

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

   It is essential that the Competition and Markets Authority (CMA) remains able to work with their EU counterparts, to protect UK consumers. If this co-

operation is not in place, along with arrangements for court action in the EU, UK consumers could be the victim of scammers without enforcement authorities being able to work together to stop these practices. In essence a version of current Consumer Protection Co-Operation Regulations needs to remain in place to ensure cross UK/EU border co-operation remains in place. Without this UK consumers and legitimate UK businesses are likely to suffer.

Consumer advice agencies are important to enforcers as their eyes and ears. Few consumers report for reporting sake, they come for advice and assistance -both offered by the European Consumer Centre (ECC). In terms of scams, the CMA has historically delivered the Consumer Protection Cooperation (CPC) for the UK, passing on intelligence on EU rogues targeting UK consumers. The ECC network has various and improving mechanisms for assisting the CPC type role.

With a lack of interest from EU enforcers, civil redress routes become even more important and it is important that there is not a reduction in civil redress options such as losing the European Small Claims Procedure, or assistance and support in using other civil address mechanisms. Whilst enforcement is important, the support for redress and informal resolution methods have historically also had an economic impact to help create and maintain consumer confidence. Generally, enforcement only has limited confidence impacts, whereas consumers getting redress, such as refunds, has significantly more. To support these economic benefits, enforcement needs to be coupled with advice and assistance.

For product safety, some regulatory frameworks also require specific testing and design approval by an EU notified body and the UK currently has a number of these, but this notified status will lapse at the end of the year, so UK manufacturers will be forced to engage with other notified bodies to have their products checked, again adding time and cost. This assumes that there is continued regulatory harmonisation with the EU such that the legal requirements to place a product on the UK market are the same as those to place it on the EU market. If there is any regulatory divergence with the EU then this will mean different conformity assessment and testing requirements for products for the UK and EU markets, again adding cost and delay.

In terms of metrology, the UK has membership of Global/International bodies providing convention to laws and technical regulation and opportunity for harmonisation. It is assumed that this activity will continue as normal.

Regarding EU bodies, the UK is a Founder member and active participant of WELMEC (the European cooperation in the field of legal metrology). Continuation of membership of various accreditation and certification co-operations are possible, as they include countries not in the 27, such as Norway, however this is where the future rules could not be influenced by the UK, who would have to accept the imposition of future agreement or risk border checks.

EU law requires each country to appoint a National Accreditation Body (NAB) - in the UK this is UKAS. UKAS has been granted a two-year extension of European Economic Area membership post EU exit. The EU rules stipulate only one NAB per state and the UK may elect not to follow this restriction in

future if it permits trade deals with other nations by allowing NABs from outside the UK to operate in the UK. Equally the UK may decide that choice in the accreditation system is desirable and allow other bodies e.g. The British Standards Institution (BSI) to 'bid' for NAB status.

Trade deals with other countries may include recognition of other accreditation bodies, which would remove the UKAS monopoly, but could then affect mutual recognition of certification and introduce the need for a second process, costly to manufacture with EU trade.

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?**

In relation to metrology, mutual recognition is key. Any other arrangements will impose cost which will have to be passed on the consumers within the EU, which will make the UK products less competitive. Using EU accreditation and certification bodies as other third countries do now, would minimise cost, but crucially, there would be additional cost compared to now. Future recognition by both the EU and UK of developing International Digital and Artificial Intelligence solutions to compliance would assist minimising cost. Should mutual recognition not make it into any kind of deal then there are other ways to minimise disruption. For example, should UK manufacturers wish to be approved under module D of NAWI/MID a UK CAB could be subcontracted by an EU one to provide this service. Similarly, EU NBs could be subcontracted to provide approval to apply the UKCA mark for goods entering the UK market.

For product safety also, mutual recognition could also reduce trade friction.

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?**

The UK has rules, based upon the Unfair Commercial Practices Directive, that ensure that consumers are not misled as to the country of origin of a product. This could become more important to UK consumers, in particular with regard to trade with businesses based outside of the UK. Consumers might become more alert to where their goods actually come from.

For weighing and measuring equipment identity indication of the manufacturer is required and in the case of the New Approach regulation, the Notified Body responsible for placing on the market verification should be on the equipment and in accompanying documents.

For quantity marked products, the packer, or person who is responsible for the packages is currently required to identify themselves and their established place of business. It is not expected that this would change depending on trade deal negotiations.

Once again, mutual recognition is key to minimising costs.

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

   For metrology, developing International Digital and Artificial Intelligence solutions to compliance and information provisions. Being 'international' would also assist with non-EU trade. Certification and accreditation would play a part, but there may be a need for more intervention of national competent bodies at source.

   As the UK will no longer have EU Competent Authority status, exports will rely on either acceptance that the UK system is equivalent whilst it remains "as is", likely requiring some periodic verification by the EU, or the product from the UK will have to undergo conformity assessment within the EU. Whether an EU notified body can undertake its conformity assessment on the UK mainland to permit for UK production to effectively be placed on the EU market at source is unclear.

   The Government has already revealed that Packers will not have to comply with Regulation 11 of The Weights and Measures (Packaged Goods) Regulations 2006 post Brexit if no there is no trade deal. It is therefore likely that businesses will seek accreditation/certification from the private sector, unless the recipient country requires it to come from the competent authorities. As the EU requires a NAB as stated earlier, they are unlikely to accept goods which have not been accredited/certified by a mutually recognised NAB, again introducing additional cost in the event the UK NAB ceases to have accepted status within the EU.

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?**

   From a metrology perspective, this inquiry does not directly address the future roles of existing UK Notified bodies, either the Module B type, (NMO Certification), Module D (manufacturers), nor third party, under Module F – which includes Local Authorities. It does not directly address Market Surveillance (currently with the National Regulator) of Metrology Equipment. Until the intentions of the Government are clarified in this respect how the system will be policed is in part unclear.

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

   From a metrology perspective, if the UK adopts an approach of deregulation in order to reduce costs associated with non-tariff barriers, this could lead to future costs or barriers being imposed later down the line.

   An example of this occurring is in relation to packaged goods. Regulation 11 of The Weights and Measures (Packaged Goods) Regulations 2006 and the associated offence at Regulation 15(2), will be revoked by Schedule 11 of the Product Safety and Metrology etc (Amendment etc) (EU Exit) Regulations 2019 should the UK leave the EU without a deal. This means that packers would no longer have to notify their Local Metrology Authority (LWMA) of the address at which "e" marked goods are being packed. The purpose was to

give the LWMA intelligence to allow them to inspect the packing process and increase credence in the "e" mark itself. In practice, LWMA are not being notified and Regulation 11 is not enforced. There is therefore an assumption that the competent department inspects packers processes. EU countries may no longer make an assumption that UK packaged goods are compliant with EU standards and may start to require proof.

In order to give confidence to trading partners in the EU and around the world that our packaged goods are metrologically compliant and require no further checks the UK Government could consider adopting OIML G21 which provides an international system of certifying that packaged goods conform to OIML R87.

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 relation to the first part of this question, please refer to responses to the questions above.

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