

The Federation of Small Businesses (FSB) – Written evidence (FFT0030)

1. The Federation of Small Businesses (FSB) is the UK's leading business organisation representing small businesses. Established over 45 years ago to help our members succeed in business, we are a non-profit making and non-party political organisation that is led by our members, for our members.
2. We welcome the opportunity to respond to the EU Goods Sub-Committee's 'Beyond tariffs: facilitating future UK-EU trade in manufactured goods inquiry.' FSB would be happy to provide further detail on any of the issues raised in this response.
3. FSB research has consistently shown that the EU is the largest trading partner for small firms, with nine out of ten exporting small businesses trading with the EU (92% of exporters and 85% of importers), and one in five exporting small firms trading exclusively within the EU single market.
4. Moreover, according to our most recent trade survey in August/September 2019, 62% of small business exporters and 55% of small business importers regard the EU single market and customs union as a key market to meet their international trade ambitions over the next three years.

Question one: 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?

5. Non-tariff barriers are of great importance to small businesses in relation to their trade in goods. In FSB's 2017 report on the future UK-EU trade, *Keep Trade Easy*, more than half of small firms state that non-tariff barriers play a role in where they export (53%) or import (59%).¹
6. The biggest concern is increased administrative burdens, which would pose a real challenge and cost to small businesses trading. Major trade barriers for SMEs include quotas and stringent rules of origin; different foreign technical standards and procedures; licensing procedures and certifications; complex custom procedures; export controls; lack of IPR enforcement; inefficient and opaque IP registration systems; and lack of transparency regarding regulations, standards, and licensing procedures.

Question two: 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?

7. SME participation in international trade is known to be significantly lower than the trading activities of larger-sized businesses, and utilisation of the preferential market access afforded by Free Trade Agreements (FTAs) is undoubtedly lower

¹ FSB, *Keep Trade Easy: What small firms want from Brexit*, March 2017, <https://www.fsb.org.uk/resources-page/keep-trade-easy---what-small-firms-want-from-brexit-pdf.html>

amongst SMEs. Previous FSB research, conducted in 2018, supports this, suggesting that only 19% of smaller businesses exporting to the rest of the world (i.e. markets outside the EU) are currently using a free trade agreement to support their trade of goods and services, whereas 52% are not, while a further 29% don't know.

8. While this underutilisation may be because the smaller businesses concerned were trading with overseas markets for which no such formal agreement existed, such as the US or Australia, it can often also be due to reasons relating to the often-limited resources of small businesses. This can include a lack of awareness of the relevant provisions of a given FTA or due to complexity involved in utilising the relevant rules. In addition, lack of information, or information asymmetries, are a major reason behind reduced trade participation of SMEs and low utilisation rates of FTAs, even if helpful provisions are in place.
9. As developed in the report *The Representation of SME Interests in Free Trade Agreements*, published by FSB in conjunction with the UK Trade Policy Observatory in January 2020, one of the foremost ways an FTA can help overcome these issues is through the incorporation of a comprehensive, standalone small business chapter.²
10. This small business chapter should commit both parties to creating a comprehensive designated help desk for SMEs (modelled on EU-JEPA), or SME contact point, to act as a one-stop-shop containing information for UK and EU SMEs on provisions including: regulations concerning IPRs; technical regulations and standards, foreign investment regulations; business registration procedures; employment regulations; and taxation information.
11. In addition, the chapter should commit both parties to establishing or maintaining its own publicly accessible website containing information on the agreement such as chapter summaries and online query tools in an accessible manner, based on the CPTPP & EU Japan EPA agreements.
12. Furthermore, the chapter should commit both parties to establishing a dedicated SME Committee, based on the USMCA or CPTPP agreements. The SME Committee should have a meaningful say in all areas that affect the trading prospects of small businesses, and allow for both parties to raise issues relating to implementation of the agreement that impede small businesses from utilising its provisions.
13. In addition, the SME Committee should work to identify ways to assist small businesses take advantage of commercial opportunities under the agreement, exchange and discuss experience and best practice in supporting and assisting small exporters, and explore opportunities for capacity building.
14. Finally, the small business chapter should catalogue small business-friendly provisions in other chapters, for instance in chapters on e-commerce, procurement, mobility, etc., to allow small businesses to easily identify potential

² FSB, *The Representation of SME Interests in Free Trade Agreements: Recommendations for Best Practice*, January 2020, <https://www.fsb.org.uk/resources-page/fsb-trade---tpo-report-pdf.html>

provisions that they might benefit from. Any small business chapter should not be negotiated in place of small business-friendly provisions in other chapters.

Question three: What form of regulatory cooperation should there be between the UK and EU, including cooperation with EU agencies?

15. The UK and EU should commit to publish laws, regulations, procedures on matters which the FTA covers and make them available to those who are interested.
16. Both parties should promote good regulatory practices and regulatory cooperation with the aim of enhancing bilateral trade and investment. This includes promoting an effective, transparent and predictable regulatory regime, promoting compatible regulatory approaches, reducing burdensome duplicative requirements, discussing regulatory measures, practices or approaches, and reinforcing bilateral cooperation.
17. Both parties should make publicly available descriptions of the processes and mechanisms under which its regulatory authorities prepare, evaluate and reviews its regulatory measures. This includes references to guidance, rules or procedures, including those regarding opportunities for the public to provide comments.
18. Both parties should endeavour to promote regulatory compatibility by considering the promotion of common principles, guidelines, codes of conduct, mutual recognition of equivalence and implementing tools to avoid unnecessary duplication of regulatory requirements, as well as cooperate in relevant international fora with a view to developing and promoting international regulatory standards.
19. When preparing major regulatory measures, the regulatory authorities in the UK and EU should, in accordance with domestic rules, publish draft regulatory measures or consultation documents providing sufficient details about regulatory measures under preparation to enable assessment, and offer reasonable opportunities to provide and consider comments received. Moreover, the regulatory authorities should systematically carry out impact assessments of major regulatory measures, with a focus on the impact on SMEs and cross-border trade.
20. Both parties should exchange information on their good regulatory practices, such as those relating to impact assessments, including the assessment of the effects on trade and investment.
21. Both parties should establish a forum or Committee on Regulatory cooperation to identify and manage mutual recognition and future regulatory change. This could be modelled on the Canada-US Regulatory Cooperation Council to ensure small business representation.

Question four: 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?

22. In order to minimise the costs and disruption associated with testing and compliance processes, the UK and EU should:

- Incorporate those provisions of the WTO's Technical Barriers to Trade Agreement (TBT). In particular, the obligations regarding the notification of draft technical regulations to the WTO, with ample and appropriate time-periods to provide comments.
- Promote cooperation in the areas of technical regulations, standards, market surveillance, and conformity assessment procedures to facilitate trade.
- Commit to mutual recognition on conformity assessments for checking products, as well as cooperation between UK and EU standardisation bodies.
- Commit to ensuring that products originating in the UK or EU subject to technical standards can be marketed or used across all the territory of each party on the basis of a single authorisation, approval or certificate of conformity.
- Commit to ensure that their technical regulations, as far as possible, are compatible with one another. This includes endeavouring to work towards global harmonisation of technical requirements in accordance with existing and planned international standards in bodies the UK and EU participates.

Question five: 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?

23. The UK and the EU should commit to developing rules of origin that enable businesses of all sizes to take advantage of the agreement to facilitate UK-EU supply chains. In particular, FSB has welcomed that HMG's draft text proposes that bilateral cumulation between UK and EU should be allowed, as well as diagonal cumulation with countries with which both the UK and the EU have trade agreements.

24. Furthermore, in order to reduce costs for small firms, both sides should ensure claims for preferential tariff treatment are based on a written or electronic self-declaration or certification of origin completed by the importer, exporter or producer, and need to be in the importer's possession when the claim for preferential access is made.

25. In addition, both parties should agree that the declaration or certification of origin does not have to follow a prescribed format, and does not require third-party issued certificates of origin to support an importer's claim of preferential tariffs.

Question six: How could customs processes and documentation be simplified to support UK-EU trade? What role could new technology play in this regard?

26. Within the future agreement, the UK and EU should commit to promote trade facilitation for goods traded between the UK and EU while ensuring effective customs controls, considering the evolution of trade practices.
27. Both parties should ensure transparency of customs legislation, other trade-related laws and regulations, and consistency with international standards.
28. Both parties should ensure predictable, consistent and non-discriminatory application of customs legislation and other trade-related laws and regulations.
29. Both parties should further develop risk management techniques to facilitate legitimate trade while securing supply chains.
30. Both parties should commit to further simplify requirements and formalities for customs procedures in order to reduce the time and costs for traders and operators, including SMEs. This includes commitments to release normal trade within 48 hours and express shipments within 6 hours.
31. Both parties should adopt or maintain measures allowing traders or operators fulfilling specific criteria to benefit from further simplification of customs procedures.
32. Both parties should commit to enable advance electronic submission and processing of information before physical arrival of goods to enable their release upon arrival, if no risk has been identified or if no random checks are to be performed; and provide for clearance of certain goods with a minimum of documentation.
33. Both parties should commit to fully implementing the provisions of the Trade Facilitation Agreement, in particular Article 10.4 establishing or maintaining a single window for customs, which enables traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single-entry point to the participating authorities or agencies.
34. Both parties should adopt or maintain procedures to facilitate the movement of goods from or to the other Party that are in transit through or in transshipment within its customs territory, while maintaining appropriate control.
35. Both parties should maintain or enhance cooperation on customs matters to further develop trade facilitation, including on simplification of customs procedures, harmonisation of data requirements in line with the World Customs Organisation (WCO) standards, on securing and facilitating the international trade supply chain in accordance with the SAFE framework, on risk management techniques, and in international organisations such as the WTO and WCO on matters of common interest, tariff classification, customs valuation and origin.

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

36. The UK's most comprehensive facilitation scheme currently in place is the Authorised Economic Operator (AEO) scheme, but it has been recognised that its criteria are difficult to meet, particularly for small firms, not least because the process could take about eight months in total to complete and may require investments in IT and changes to written processes.

37. Generally, therefore, accreditation procedures for trusted trader regimes in FTAs should be designed to be accessible for SMEs who will largely lack the dedicated and specialised internal resources found in larger businesses.

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