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ICOS Briefing Note: Trade and Agricultural Elements of the EU-UK Trade and Co-operation Agreement

Tariffs

Central to the agreement is that there are no tariffs and no quota restrictions on the trade of goods. This is an unprecedented situation within a free trade agreement and as such additional conditions were also established in order to safeguard fair trade, including:

- The application of WTO agriculture safeguard in terms of unfair trading practices regarding price surge or declines.
- The restriction of products which can avail of this preferential access through specific rules of origin requirements. The agreement allows for bilateral accumulation (in input materials), but not for inputs which originate from third countries, i.e. goods and their component materials must originate from either the EU or UK, without any significant content from third countries. These rules are aimed at preventing the UK exporting products from third countries to the EU. Any goods which do not satisfy these rules of origin will have to pay the full import tariff.
 - For the agri-food sector there is a tolerance of a maximum of 15% of inputs to be non-EU/UK originating.
 - Accounting segregation (as provided for under the EU-Canada agreement) is possible.
 - If a product is imported into the UK (or EU), it must undergo “sufficient processing” before it can be reexported to the EU (or UK). For instance, if Mozzarella cheese is imported into the UK from Ireland, machine grated and exported back into the EU, that counts as ‘sufficient processing’. But if it is imported into a UK distribution center, repackaged and sent back to the EU, that is “insufficient processing” and the product would be subject to full EU tariffs.
 - A statement of origin (issued by the exporter) or “importer’s knowledge” that the product satisfies the relevant origin rules is needed to claim tariff free trade. The precise language to be used in the statement of origin is set out in [Appendix 1 of the Agreement](#). The process is more flexible than under many EU FTAs in that there is no need for an exporter to have “approved exporter” status. There is flexibility provided for 2021, to allow operators time to collect the necessary documentary evidence.
- Unlike many FTAs, the agreement does not include a “no drawback” clause. Such a clause normally means that no tariff preferences can be claimed by the importer if the exporter has benefitted from not having to pay import duties on imported input materials under an inward processing process, for example. In this agreement no such prohibition is included and it will therefore be possible for an Irish business to use inward processing for production in the EU, while an UK customer can still claim tariff preferences upon import into the UK.

VAT and excise

Imports into the EU are subject to payment of import VAT as well as excise payments, regardless of whether the import benefits from tariff preferences. As is currently the case, deferment of import VAT payments or zero-rating may however be possible. Imports into the UK will also be subject to UK import VAT. Payment and recovery of import VAT can be accomplished through VAT returns. With regard to

excise, the UK has established its own Excise Movement and Control System (EMCS) for movements of goods subject to excise suspensions from the port of entry to their final destination.

Controls

While import tariffs have been avoided, customs controls do now apply to EU-UK trade. Declarations are required for imports and exports, and formalities also apply to goods in transit. Businesses must become familiar with, and ensure they have access to, relevant IT systems or have appropriate logistics operations established. The impact of these formalities is however for the minute delayed, as:

- The UK has decided to introduce its Border Management Plan on a phased basis, with safety and sanitary documentation required for imports into the UK for products of animal and plant origin only from April and full physical checks only from July. Businesses also have up to 6 months to submit customs declarations. However full controls apply today for imports from the UK to the EU. From July, EU exports to the UK will face the same restrictions and controls as UK export do now, as the UK to use the same rules as the EU regarding sanitary and phytosanitary documentation, controls and restrictions.
- Additionally, a temporary derogation has been provided for trade from Great Britain to Northern Ireland (exclusively), on the requirement for products of plant and animal origin to have export health certificates, which will be in place until April 2021 and regarding the import of chilled (unfrozen) meat products, which will be banned from July 2021.

Trade Facilitation Measures

However, the following trade facilitation measures have been agreed:

- Mutual recognition of Authorised Economic Operator status (based on the EU's existing criteria) which allows certain simplified procedures on customs, and the waiving of certain obligations for the faster clearance of goods.
- Co-operation to simplify roll-on, roll-off traffic (used by Irish businesses utilising the landbridge).
- Promotion of electronic certification
- Creation of a "Single Window" to submit documents required for imports/exports/transit
- Simplified process for the approval of imports, by drawing up lists of establishments that are eligible to export to the other party, based on guarantees provided by the authorities
- Either party can unilaterally reduce the frequency of certain import controls, taking into account the extent to which their safety and sanitary rules converge.
- Flexibility for businesses to use detachable labelling, in order to facilitate labelling adjustments.
- Self-certification by producers for low-risk products (determined based on sectors allowed to self-certify in the Union). This is intended to ease red tape for businesses and will be notably helpful for organic products and certain agro-chemicals.
- Mutual recognition of organic products until 2023.

Level Playing Field

The agreement contains a number of provisions which aim to create a "level playing field" for trade between the EU and UK, covering issues such as competition rules, subsidies and state aid, taxation transparency and non-regression commitments on labour, social and environmental standards. These include commitments to at least maintain existing targets in areas such as air emissions and air quality; nature and biodiversity conservation; and the management of impacts on the environment from agricultural or food production, notably on the use of antibiotics. Specific policies on these matters can differ, as long as standards are not reduced. The agreement also reaffirms the political commitment of

both the EU and UK to be climate neutral by 2050 and it references the Paris Climate Agreement as an essential element to guide all policy and co-operation. There is a tool box of measures to ensure these elements are enforced including a dispute settlement mechanism and unilateral retaliation.

However, product standards or professional standards are not covered under this and the UK is free to diverge on these as it wishes. Therefore, on marketing or hygiene standards or animal health and welfare requirements, the rules in the UK could in future differ substantially from the EU's. An example of this has already arisen, with a UK government decision to grant a temporary authorisation to a pesticide banned in the EU.

Product standards are to be based on the same references however, in that there is an agreement to use definitions agreed to in international standards. This should allow for some convergence of technical regulation on product standards.

There is also a commitment within the agreement for the EU and UK to co-operate in the fight against antimicrobial resistance, promotion of sustainable food systems and protection of animal welfare.

Transport Co-operation

The two sides recognised each other's licences and permits and agreed to transit rights, allowing UK and EU hauliers to move goods to, from and through each other's territories. Although there are limits on the number of cabotage operations that a haulier may take in the other's territory- UK hauliers are limited to a single drop-off and single pick-up from inside an EU member states and two pick-ups and drop-offs when crossing EU member states.

The agreement does allow for transit through the UK to EU and into third countries, which is essential for Irish hauliers delivering goods to Switzerland for example.

The maritime agreement allows for unlimited access to each other waters and ports.

Governance

In accordance with the agreement a "Partnership Council" will meet once a year to take stock of implementation and will conduct a review of the agreement every 4 years, to check to see if it delivering- such as review could lead to a new agreement or parts of the agreement being renegotiated. A number of specialised committees will meet on a more regular basis and feed into this council on the relevant issues arising in their fields. These committee, which are relevant for Irish co-operatives include:

- Trade Specialised Committee ("TSC") on Goods
- TSC on Customs Co-operation and Rules of Origin
- TSC on Sanitary and Phytosanitary Measures (this committee will discuss the implementation of the trade facilitation measures; can provide for further definitions for example)
- TSC on Technical Barriers to Trade ("TBTs").
- TSC on Level Playing Field for Open and Fair Competition and Sustainable Development

It is not yet clear how often each committee will meet or where, however EU members states will have the ability to send a representative.

European Commission Vice President Maroš Šefčovič will oversee implementation and monitoring of the Agreement and will lead the EU delegation in the Partnership Council.

Northern Ireland and All-Ireland Production

The EU-UK Trade and Co-operation Agreement governs trade between Great Britain and the EU and will be implemented in tandem with the EU-UK Withdrawal Agreement which governs the unique position of Northern Ireland, as being within the UK's customs territory but also within the EU Single Market for goods. The Withdrawal Agreement and specifically the protocols on Ireland will determine trade between Northern Ireland and the EU and between Great Britain and Northern Ireland.

Unfortunately, products produced on an all-Ireland basis are now excluded from EU market support measures and from existing EU Free Trade Agreements with third countries, including for example with Canada, Japan, Singapore, Vietnam and South Korea. The agreement reached no conclusion on how to resolve this issue.