

The UK - EU

Trade and Cooperation Agreement

On 24th December 2020, Prime Minister Boris Johnson presented an early 'Christmas present' in the shape of a 1,246 page UK - EU Trade Deal. Titled the Trade and Cooperation Agreement, this is the first modern trade deal created with the intent of disintegrating a pre-existing trading partnership and defining new market boundaries. The deal applies to 28 countries and covers a collective market worth £905 billion (as of 2019).

It is unsurprising that negotiations ran to the last minute, as the increasing threat of a 'no deal' was a strong negotiating stance. There is little doubt that having a deal, as opposed to not having one, provides certainty and stability for UK business and supply chains, particularly in light of the taster of chaos served to the UK by the Covid-19 instigated closure of European borders in mid-December. It will take considerable time and practice to determine whether this deal is rigorous enough to enable the UK to fulfil the oft repeated mantra of 'taking back control'. Will the opportunities that 'Global Britain' is supposedly in reach of be worth the costs of four and a half years' worth of negotiation?

This briefing note analyses what the deal means for agriculture and the rural sector. It focuses on changes to agricultural trade, moving on to discuss the bigger picture of industry cooperation within the deal, how the deal might change in the future and what this means for 'Global Britain'.

Free to trade

The key success of this agreement is that there are no tariffs (taxes on trade) or quotas (limits on the quantity of goods traded) to be introduced for goods traded between the UK and the EU. This means that the amount and type of agri-food products imported and exported between the UK and EU will be similar to pre-Brexit levels, transport of goods can continue, and therefore it is unlikely that there will be large changes in market dynamics. For consumers in the UK, this comes as a relief as food prices are unlikely to rise as much as they would if tariff barriers had been imposed. However in retaining the status quo, a surge in demand for domestic agricultural production (and hence rise in value) is unlikely, reducing the impact that this might have had on the rural sector.

Existing tariff rate quotas to non-EU countries have been apportioned between the EU and UK based on average use. In some cases, such as New Zealand's sheep meat quota, where the UK import share varied over three reference years, exporters are unhappy at the market inflexibility that the split creates as it increases the likelihood of part of the quota being unused. However, it is unlikely that an appeal will be made as the gain is not substantial enough.

Within the agreement subsidies are retained for specific reasons, including agriculture, climate change initiatives, and for social and short term correction or encouragement. Each party is able to place its own independent system of subsidy control and neither party is bound to follow the rules of the other. The UK's ability to implement its own subsidy system will have impacts for how future free trade agreements are negotiated.

Non-tariff barriers

Despite the tariff-free deal, significant non-tariff trade barriers are necessarily introduced into trade between the UK and EU. These barriers come in the form of additional administrative procedures such as increased product checks, customs documentation, consular visas, Customs Valuation Agreements, export licences and importantly compliance with Rules of Origin.

Rules of Origin are common in most trade agreements and require producers to identify the full component origins of their goods in order to qualify for preferential tariffs. These rules exist in order to prevent either trading party acting as a backdoor which would allow third party countries to circumnavigate tariffs. The Rules of Origin within this deal are sector specific, and many are concerned that the Rules of Origin could have serious implications for certain processed food products.

These non-tariff barriers will increase the cost of trade, however not substantially enough to significantly distort trading dynamics. The AHDB has suggested additional transaction costs will be in the range of 2-8% and higher for livestock products than crops. These additional transaction costs will vary depending on the type and quantity of exports, but the increased import cost will likely be absorbed within general price fluctuations on goods. The greatest cost comes with the risk that products fail to pass customs completely due to non-compliance for example.

Within a separate agreement, the EU has granted the UK 'third-country listing' status, which confirms that the UK has met the necessary animal health and biosecurity standards needed to export live animals and animal products to the EU. This is a technical requirement for imports of products adhering to sanitary and phytosanitary standards into the EU. Being granted 'third country listing' status doesn't mean exporters are exempt from audits and inspections. Export Health Certificates will need to be signed by an official veterinarian, alongside other additional administration.

It is important to note that for the UK, these non-tariff barriers are being phased in over the course of the next six months, in theory reducing immediate disruption. Experts are concerned about the steep learning curve required for traders, and believe the risk of accidental non-compliance will be high. Non-tariff barriers such as these illustrate that in some cases the UK has accepted an increased degree of friction in its trade with the EU in order to allow itself the flexibility to strike deals with other parts of the world.

What does cooperation look like?

There is a substantial and perhaps surprising inclusion within the deal of an intent to cooperate on important emerging issues such as sustainable food systems, climate change, antimicrobial resilience and animal welfare. In contrast to other free trade agreements, there is increased and specific referencing to international agreements on climate and the environment, sustainable development, labour protection and the trading of endangered or illegal species. The targets set within the 2015 Paris Agreement on climate change are explicitly stated, as is the concept of supporting carbon pricing systems. This increases the mutual pressure on both parties to meet their wider international goals. However admirable these clear and ambitious intentions may be, it is less clear how they could be enforced by either party. Action in these areas will depend on the ambition of individual parties rather than the clout of this deal, nevertheless, their inclusion reflects the direction in which international trading relationships need to move in order to ensure social and environmental values are represented alongside economic considerations.

A sticking point in negotiations has been how the EU and the UK will guarantee a level playing field in future trade relations. This has been resolved within the deal through the principle of 'managed divergence', meaning that both parties reserve the right to retaliate, after a judicial review process, if they believe that the other party has gained an unfair competitive advantage. To some extent, this intent to cooperate in promoting ideals, seeking to lead in setting international trading standards, doubles the power both parties have in establishing global standards on technical barriers to trade such as animal welfare and antimicrobial resistance.

To monitor the deal, a host of new governance bodies have been set up to oversee and advise on future developments. Four working groups have been proposed, and it is surprising to see that one is to focus solely on organic products. There are substantial complexities around the concept of organic and its implications for food supply as well as environmental protection, and organic production has yet to receive significant attention within the Agriculture Act (England), or future Scottish policy. No doubt there is much debate to be had.

A global Britain?

For many, Brexit was intended to open Britain's gates up to global trade. In this regard, it is worth considering how the UK-EU trade deal may impact on international and intra-national relations. There is reason to think that this deal reduces the desire for a UK-USA trade deal. There is less pressure to strike a deal from a UK perspective, as we have retained our ability to trade effectively with the EU, and President Elect Joe Biden is less insistent on a future UK-USA trade deal, meaning perhaps this EU deal will to some degree undermine pressure to agree a free trade relationship with the USA. The UK-EU agreement arguably may reduce the appetite for other international free trade agreements as well, and the UK will have less to offer in agricultural terms, due to EU demand. It will be interesting to see whether the gates of 'Global Britain' are flooded with trading interest or not.

In terms of intra-national relations, the trade deal makes the implementation of the Northern Ireland Protocol, and the new Irish Sea border it creates, easier. The Protocol keeps Northern Ireland in the EU's single market for goods and Northern Ireland has to apply EU customs rules at its ports. The deal means that there is no longer concern over certain 'risk' goods which might have entered the EU through a less regulated Irish backdoor, as there are no tariff barriers to be avoided. However, the deal does not change the fact that Northern Ireland will stay in the EU single market, meaning businesses shipping food products from Britain to Northern Ireland will face increased administrative procedures. There has been discussion on whether this may over time move Northern Ireland closer to the Republic of Ireland, hinting at reunification, just as the notion of Scottish independence and IndyRef3 grows.

Worth noting...

The deal includes provisions for UK researchers to be able to participate in certain EU research programmes, specifically the EU's 2021 – 2027 €95.5 billion research programme, Horizon Europe. It is hoped that the UK may receive associate status, similar to Switzerland whereby non-EU countries can pay in order to enable researchers to receive EU funding. There was concern among British researchers that the cost of inclusion would be too

expensive, therefore this provision comes as a relief for many. However, the UK will not have the same level of influence over the programme as it did when part of the EU, and it is not unheard of for the EU to bar associate countries from Horizon as a retaliation to other disputes (for example in 2014 the EU barred Switzerland from Horizon 2020 for three years after the Swiss denied Croatian workers access to its labour market).

At the start of December 2020, the government launched its new Points Based Immigration System, meaning any EU national who wants to come to the UK will need to qualify for a visa. The system replacing work permits is known as the Skilled Worker Visa, which requires immigrants to be in a job that requires an A level or higher exam level of skill. This means that a large number of agricultural jobs are excluded from the Skilled Worker category. However, the government is also formally introducing the Seasonal Worker Visa, which will cover jobs including glasshouse vegetables, field vegetables, fruit, vines, vines and mushrooms. This visa requires businesses to pay a fee for a four year visa licence, however it means concerns over harvest labour are reduced.

Wiggle room

Despite the fanfare and evident relief that the cliff edge has been averted, this deal is by no means set in stone. It has been agreed, and it creates degrees of certainty for businesses. However, there is still room for alterations and renegotiations. The UK is awaiting EU council votes on certain aspects of the deal such as adequacy decisions on data sharing and financial services equivalence (noting that financial services have been omitted from the deal, at some possible cost to the UK economy). Equally the deal allows the EU to withdraw market access if UK does not follow the rules that both parties have agreed. There are to be revisions to the fishing quotas, and importantly after four years the agreement can be reviewed in its entirety. This flexibility is valuable and sensibly cautious in this one-of-a-kind deal, however it could also lead to significant changes within the agreement, and ongoing debate about the relationship.

Final thoughts

The much anticipated UK-EU deal provides security and clarity to businesses. Without it, the UK would be facing the dual threat of supply disruption on top of an unrelenting Covid-19 pandemic. Therefore it is welcomed cross sector as a step forward. For the rural sector, trade dynamics will remain largely similar, with increased border friction raising trading costs slightly, which may have a short term impact on agricultural incomes. Savills believes the Rules of Origin could have significant detrimental impacts on certain processed exports – on this the devil will remain in the detail. However, this trade deal also has wider implications for the sector, in terms of the international environmental cooperation it speaks to, the effect it may have on future trade deals, and Brexit's impact on devolution. It is worth remembering that there is room for change, and the practical reality of the deal will take several months, at the very least, to kick in.

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