

BRIEFING

Implementation of the EU-UK Trade and Cooperation Agreement: Challenges for the Single Market and Customs Union

CLECAT represents European freight forwarders, logistics service providers and customs brokers. These companies together handle approximately 65% of all transport and 80% of all customs procedures in Europe. CLECAT members play a crucial role in global supply chains and the exchange of information within these supply chains. As such, they have been of a strategic importance to ensure the orderly withdrawal of the UK from the EU and an as smooth as possible flow of goods under the post-Brexit economic arrangements.

Post-Brexit trade agreement was good news for businesses

CLECAT welcomed the conclusion of the EU-UK Trade and Cooperation Agreement (TCA) and its recent ratification by the EU. The conclusion of the trade deal came as good news for business on both sides as it finally brought clarity to the European business community and a platform for constructive cooperation between the EU and the UK. However, only a swift and effective implementation of the agreement will provide the necessary certainty and predictability and allow industry to reap the benefits of the new deal, and keep goods flowing across the EU-UK borders. It is also vital that the implementation of the TCA is supported by proper and pragmatic application of the Protocol on Ireland and Northern Ireland of the Withdrawal Agreement.

The TCA contains a standard Chapter on Customs and Trade Facilitation which refers to key international customs agreements and encourages cooperation on customs issues as well as the use of international standards. Important for traders is the mutual recognition of Authorised Economic Operator (AEO) status, which allows for certain simplifications and facilitations for AEO-certified companies. The AEO status can give access to simplified customs procedures, waivers of certain obligations and faster clearance of goods. The TCA also provides for cooperation on roll-on, roll-off traffic and confirms a commitment by the parties to establish a Single Window environment.

But a trade deal does not remove customs formalities and border checks

Whereas the predicted long queues were not seen at the borders early January as some predicted, trade had to adapt to red tape, extra paperwork and border disruption. While the TCA brought stability on many of the new requirements for trade, the agreement did not remove the need for businesses to make extensive preparations and adjust their operations when trading between the EU and the UK. Thousands of companies unfamiliar with non-EU trade had to learn and prepare for the new procedures, as well as possibilities and risks involved. Whereas the freight forwarding industry and customs brokers have been well prepared and equipped for the new trade realities from early on, many of their customers still need to adapt their processes and prepare for export and import

declarations and other administration for cross-border trade. Almost five months into the 'new normal', we see that traders are still not fully prepared.

The industry was confronted with new red tape and barriers to the flow of goods, including additional paperwork, customs controls, veterinary and phytosanitary (SPS) checks on food and agricultural products, additional costs and delays. These new formalities and procedures brought about numerous practical challenges for supply chains which will certainly take time to overcome. It has been made clear that seamless trade across the Channel is a thing of the past. What is more, the impact of the ongoing COVID-19 pandemic does not yet allow for a full assessment of the TCA's effect on trade.

Furthermore, the UK has not yet fully rolled out its border controls on EU imports and EU goods currently enter Great Britain with minimum controls. Additional challenges will certainly be created with the upcoming phases of the GB-EU Border Operating Model, which will introduce further documentation and pre-notification requirements on EU imports of certain goods subject to SPS controls in GB (October 2021), and full customs declarations at the time of import for all goods (January 2022). CLECAT therefore continues to stress the need for governments and trade to make all necessary preparations in a timely manner to avoid unnecessary delays and operational chaos.

In this context, CLECAT would like to highlight three specific areas where our industry sees a gap in ambition, and where we consider that further discussions or guidance are needed from the EU and the UK to improve bilateral trade and provide the much-needed ease for businesses.

Cooperation on customs security will facilitate legitimate trade

During the negotiations on the future partnership, the EU and the UK did not agree on a joint security area. Therefore, customs safety and security declarations are required for goods entering or leaving the EU. These declarations have to be filled in addition to the already required import, export and transit declarations which contain largely the same information and form a major additional administrative burden for transport and logistic operators. The procedures for filing those declarations and the associated controls are intrusive in logistic processes, as they are performed at time-critical moments in the supply chain and at the entry and exit points of the respective customs territories.

CLECAT therefore continues to stress the need for an agreement to waive advanced security filings in trade between the EU and the UK. For example, a waiver can be granted for the provision of safety and security declarations similar to the agreement the EU already has with Switzerland.

Common sanitary and phytosanitary standards to support agri-food supply chains

The EU and the UK could neither secure an agreement on equivalence of sanitary and phytosanitary (SPS) standards. In fact, the TCA's SPS provisions do little to reduce trade friction. Consequently, agri-food supply chains are severely impacted by strict veterinary and phytosanitary rules, which is particularly burdensome to small- and medium- sized companies. Trade in animal and plant products is now subject to additional paperwork and physical inspections. The new documentary requirements cause significant problems due to administrative errors and inconsistent interpretation, leading to blocked EU imports and delays, as well as severe cost impact on supply chains. The new barriers and compliance costs make supply chains slower and less flexible.

While the disruption caused by the additional paperwork might ease as traders adapt to the new environment, of more serious concern is the requirement for physical checks of the goods, which are likely to have a long-term detrimental effect on UK-EU trade. It needs to be noted, however, that these first months might not present an accurate picture of post-Brexit agri-food trade, due to stockpiling and the impact of the COVID-19 pandemic. The overall effects of Brexit are yet to become fully visible.

CLECAT believes that the new economic partnership is not ambitious enough and that an agreement on common animal health and food safety standards is necessary to ease and preserve agri-food supply chains.

More clarity and pragmatic approach to rules of origin and associated procedures

Another area, where CLECAT members experience persisting problems relates to the rules of origin and procedures under the TCA and particularly the issue of returned goods. The TCA provides for tariff- and quota-free access for products traded between the UK and the EU. However, this is made contingent on compliance with new complex origin requirements and associated formalities, which must be fulfilled in order to qualify for preferential treatment. The flow of goods across the Channel has met major obstacles due to the overall lack of knowledge and understanding of the new rules, which is due to the late conclusion of the agreement and lack of sufficient guidance and clarification.

Additionally, EU goods that have only been temporarily stored in the UK can return back to the EU only as returned goods under the applicable EU rules. Since 1 January, there have been many cases where duties had to be paid on those EU goods simply because the procedures associated with claiming returned goods duty relief are too burdensome and not practically feasible. This has a major impact on EU consumers and the Internal Market. CLECAT considers that there is an urgent need to find a more flexible and pragmatic approach to this situation.

Important ingredients for successful implementation

Five months post-Brexit trade, CLECAT members still witness a lack of awareness of border formalities and processes among parties in the logistics chain, causing significant operational issues, tax risks and risks of non-compliance. While CLECAT greatly appreciates all communication and information sharing activities that have been carried out on both sides of the Channel, we continue to stress the need for better targeted and meaningful communication and cooperation between government authorities, as well as between authorities and the private sector. The stability of supply chains depends on the competence and readiness of EU Member States and the UK to support and guide businesses during this period of transition. Furthermore, the unique nature of EU-UK supply chains requires readiness to look outside the box for innovative and practical solutions. CLECAT believes that the key element is realistic and pragmatic approach to the implementation of the TCA, which has been, and will remain, a learning curve for governments and trade alike.

CLECAT remains at the disposal of interested parties for any further information.

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