

## AIC Scotland's response to the Constitution, Europe, External Affairs and Culture Committee's *Call for Views: Trade and Co-operation Agreement (TCA)*

### Summary

Although it is welcome that the TCA enabled a free trade agreement in goods between the EU and the UK (notwithstanding differences with Northern Ireland due to the Protocol and latterly the Windsor Framework), there remain a number of fundamental challenges with the TCA that contribute to considerable friction in trading goods that AIC member business cover between the UK and EU.

- There has been no formal policy or mechanism established by the UK Government to monitor or track the emerging and increasing divergence in *policy* between the EU and UK. UK Trade Bodies and businesses have been left to undertake this work themselves.
- There has been no formal mechanism established by the UK Government to monitor or track the divergence in technical standards and between the EU and UK. UK Trade Bodies and businesses have been left to undertake this work themselves.
- UK Government must also consider the regulatory requirements of domestic authorities and bodies (APHA, FSA, FSS etc) and their resourcing in order to meet basic regulatory requirements, which have exacerbated since EU Exit.
- Where market access issues have arisen to the EU or Northern Ireland, support from UK Government to address them with the EU have been limited. Trade Associations and individual businesses have largely had to attempt to navigate the new and often inconsistent import requirements of EU member states, often with the support of EU based associations.
- The UK should seek to have a formal SPS and market access dialogue as part of the TCA. Unlike other EU Free Trade Agreements, there is no mandatory regular dialogue on SPS issues with the UK and where they are raised under SPS Committees or through the DAG, it is far too infrequent. AIC believes that should be addressed in order better understand market access constraints.

## **About the AIC: Policy**

The Agricultural Industries Confederation (AIC) is the agri-supply industry's leading trade association with over 230 Members in the agri-supply trade and represents £17 billion turnover at farmgate. AIC represents several sectors within the agri-supply industry including: Animal Feed; Crop Protection and Agronomy; Fertilisers; Grain and Oilseed; Seed. AIC is represented UK wide.

## **About the AIC: Europe**

AIC is a member of three European trade bodies: COCERAL (grain trading), FEFAC (animal feed) and Euroseeds (seeds) and takes an active role within them. AIC sits on the Boards of each of the three organisations. We believe that our ongoing membership is vital in ensuring that information in policy changes between the EU and UK can be exchanged between one another, helping AIC track divergence in policy and standards. Membership of these organisations also helps AIC maintain dialogue with European institutions, which has been critical for overcoming market access barriers to the EU that have arisen since EU Exit.

## **About the AIC: The DAG**

AIC is a member of the TCA's UK Domestic Advisory Group (DAG), a consultative body that enables the government to hear from those most affected by the operation of the Agreement. The DAG member organisations discuss progress made in implementing the Agreement and submit their views to the government.

## **About the AIC: Supply Chain Assurance**

AIC also runs and manages a range of trade assurance schemes for specific sectors of the UK agri-supply sector. The UK feed sector schemes are the Feed Material Assurance Scheme (FEMAS), Trade Assurance Scheme for Combinable Crops (TASCC) and the Universal Feed Assurance Scheme (UFAS). These schemes have over 4000 participants and are externally audited to UKAS standards. These services ensure that the nation's animal feed, fertiliser, seed and grains are delivered to and from UK farms safely and professionally. As a result of this, AIC is in regular dialogue with European regulatory

authorities and European based trade associations, to ensure a consistency on standards and continuity of trade.

## The TCA and its impact on AIC member businesses

It is important to state that a number of non-tariff barriers remain in place as a result of the Trade and Cooperation Agreement (TCA), for the UK animal feed, fertiliser, seed, crop protection and grain sectors, including Scottish businesses. AIC takes regular surveys of members on key issues faced, and EU exit, and its impact on importing and exporting critical agricultural goods, is one that is raised most frequently. Almost all AIC Members involved in import/export trade have experienced at least some degree of friction for a variety of reasons.

### EU imports

- The main problems cited are physical readiness at ports/points of entry and costs such as tariffs/agent fees/customs (usually a combination of all).
- AIC Members still state they are not confident of what would be expected of them when full inspection checks phase in under the Border Target Operating Model, based upon previous iterations of phased in checks.

### EU exports

- The most common problems with EU exports lie with finding hauliers or couriers, customs or tariff procedures or incorrect documentation such as Export Health Certificates (EHCs) being asked for by importing authorities.
- Whilst most Members feel that information from UK Government is consistent, they have also stated that EU Member state guidance remains inadequate and inconsistent.
- This challenge is particularly apparent in the **animal feed** sector, including those containing animal by-products or no animal by-products.

### NI exports

- The main challenges for businesses includes finding hauliers or couriers, customs or tariff procedures, or incorrect documentation such as Export Health Certificates being asked for.
- Members in seed and feed sectors report that because they cannot provide guarantees goods will stay in NI, goods have to be routed via 'red lanes'. Members have reported that little differences have been experienced since the signing of the Windsor Agreement.

## Rules of Origin

It should also be recognised that with regard to third countries, the ongoing challenges over Rules of Origin (ROO) has meant that many third countries are bypassing trade with the UK. This is because in many cases, insufficient processing takes place in the UK in order to bring about a change of 'chapter' of product. This means that tariffs are liable when either routed via the EU or the UK to onward destinations. The combination of having to understand processes for specific products, and then having to pay additional transaction costs has led to considerable challenges to UK based businesses. It is welcome that some provisions under trade deals between the UK and other third countries allow for *rules of origin* trade with the EU, however this is very much the exception and not the norm.

## Divergence

Since the UK's exit from the EU, it has become apparent that current and previous Westminster Governments have advocated policies that represent a divergence in regulatory standards from the European Union. With UK's 'regulatory' exit from the EU over three years ago, AIC members are now starting to witness the consequences of diverging policy and regulation, most notably in trading goods in both directions. Whilst divergence is only being witnessed in Great Britain due to the NI Protocol/Windsor Agreement, it also highlights the challenges of businesses having to manage divergence between both the EU and NI.

It has become more apparent now that businesses are generally clearer of what processes they need to follow than three years ago, even if it is accepted that the time and costs of doing them have increased.

The challenge that is starting to instead emerge now lies in the divergence in regulatory standards between GB and the EU and is causing difficulties for members to trade goods. This is leading to greater difficulties in which members are having to track import requirements to the EU/NI, which are complex and quickly changing or being amended.

## Examples of divergence

1. EU Market Access issues
  - a. Due Diligence requirements vs EU's deforestation requirements
  - b. MRLs on EU-UK trade in grains, oilseeds and pulses

- c. Non-harmonisation of legislation of EU regulations to exports of seed and animal feed
2. Difference in regulatory approach by UK and EU
    - a. Carbon Border Adjustment Mechanism (CBAM)
    - b. GB Reach v EU Reach
    - c. Fertiliser Regulations
    - d. England approach to Gene Editing vs EU 'New Genomic Techniques'
  3. Lack of capacity for UK authorities to adapt own legislation
    - a. Plant Reproductive Material (PRM) regulations in seed
    - b. Seed Treatments
    - c. GB PPP regime
    - d. Regulated Products (AIC has estimated that the current backlog of regulated products (450 applications) will take over 18 years to be cleared (95 approvals in 4 years by the end of 2024)

### What this means for AIC Businesses

- Cease exports to EU given that they are now non-competitive – costs and delays mean EU customers go elsewhere. This is particularly relevant for those who have established direct to farm business or direct to end user (equine supplements and fishing bait) business. Problems with logistics compounds the difficulties – many couriers and groupage operators are refusing to carry these products.
- Move logistics operations to EU. UK businesses are investing in EU based warehousing and logistics in order to reduce number of dispatches from UK. Implications for cashflow, shelf-life, employment law etc all need managing. AIC members have already reported moving operations to other EU member states.
- Move manufacturing capacity out of UK in order to service EU and other export trade.

### Conclusion

AIC Scotland would be happy to provide the Committee with worked examples explaining the above challenges from the perspective of Member businesses. Although it has been welcome that Scottish

Government has worked with Scottish stakeholders to try and mitigate the impacts of the TCA, it cannot be overlooked that this is a UK wide issue and key actions are required by UK Government:

1. Establish a formal UK-EU policy divergence monitoring mechanism for industry to be able to consult and contribute to;
  2. Establish a formal UK-EU SPS and technical standards divergence monitoring mechanism for industry to be able to consult and contribute to;
  3. Establish a formal GB-NI SPS and Policy divergence monitoring mechanism for industry to be able to consult and contribute to;
  4. Seek to establish regular SPS and market access meetings with the EU, using a clear and transparent divergence register (as detailed in 1 and 2) to provide UK businesses with updates with progress made (this would be beneficial for EU and UK based businesses and trade bodies);
  5. Address resourcing and decision-making procedures in UK wide statutory bodies that have taken on regulatory functions since EU Exit.
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