

3rd EU-UK Trade Specialised Committee on Customs Cooperation and Rules of Origin under the EU-UK Trade and Cooperation Agreement

27th September 2023, London

Joint Minutes

1. Opening remarks by the Co-Chairs

The UK and the EU Co-chairs welcomed participants to the meeting.

2. Adoption of the agenda

The agreed agenda was adopted as final, without changes.

3. Exchange of information on the Parties' respective customs regimes and border strategies, including legislative developments.

The UK presented on the Border Target Operating Model. The EU thanked the UK for its presentation. The UK thanked the EU for the questions that had been shared in writing and committed to providing replies as soon as possible.

The EU presented on the Union Customs Code reform package. The UK thanked the EU for its presentation and noted it is keen to work with the EU on common customs challenges to reduce administrative burdens for traders. The UK explained that it had taken steps towards modernising and streamlining the UK customs system with a package of measures announced earlier this year. The UK looked forward to continuing to engage with the EU and noted it would send some follow up questions in writing.

4. Discussion on procedural aspects of the TCA

Following discussions at the last Trade Specialised Committee related to difficulties in replying to verification requests, both Parties confirmed that they are using the verification template agreed between the two Parties to frame responses to verification requests under the TCA. The UK and the EU agreed that this had progressed positively.

Regarding cumulation of EU materials, the UK confirmed it had accepted the EU position that EU materials located in the UK prior to entry into force of the TCA will not qualify under the cumulation provision. Both Parties noted the positive liaison which allowed resolution on these topics.

5. Guidance on definition of Cathode Active Materials (CAM) within the Product Specific Rules (PSR) on batteries - State of play.

The UK thanked the EU for the collaboration on this area to date, and noted it is keen to agree shared guidance for industry on the definition of Cathode Active Materials in order to give clarity to both UK and EU stakeholders with regards to originating content assessments for

Electric Vehicle batteries. The UK noted the need for clarity before the end of the year given the scheduled changes in 2024. The UK looked forward to receiving the EU's comments on the draft guidance.

The EU thanked the UK for sharing its draft guidance. The EU noted the complexity of the issue and that it was still under technical examination. The EU hoped to return comments soon.

Both Parties agreed to continue working together to agree guidance.

6. Electric Vehicle Rules of Origin (RoO) - State of play.

The UK highlighted concerns from the UK and EU automotive industries with changes in the TCA's Rules of Origin for batteries for electric vehicles (EVs) scheduled from 2024.

The UK made clear to the EU that, in line with both UK and EU manufacturers' views, it wanted to reach agreement with the EU to maintain the existing rules for battery cells and battery packs until the end of 2026. The UK clarified that it was not proposing to change the 2027 rules given both sides' shared ambition to develop UK/EU battery production.

The UK noted that the resolution of this issue is outside the scope of this committee, but a solution is possible within the framework of the TCA by decision of the Partnership Council under Article 68.

The EU noted these points and the UK's explanation of their position.

7. Technical adaptation of the Product Specific Rules (PSR) annex due to the 2022 update of the Harmonised System (HS) - State of play.

The EU noted that at the second meeting of the Specialised Committee in 2022 it had agreed to analyse the possible technical changes to the UK-EU Trade Cooperation Agreement Product Specific Rules (PSR) schedule following the 2022 update to the Harmonised System, and had provided a draft of the suggested changes for the UK's consideration.

The UK confirmed it had reviewed the proposed technical changes and was content with the EU's suggested amendments.

Both Parties agreed to work together to implement the changes to the PSR schedule in the TCA.

8. Acquisition of origin to used items, with a particular focus on clothing.

The UK set out that it was keen to work with the EU on a joint interpretation of the Product Specific Rule (PSR) for used clothing under the TCA. The UK noted that it continues to receive requests from Member States to verify the origin of used clothing, which were difficult to respond to without a shared interpretation of the PSR.

The UK set out its view building on an earlier paper, that it would be beneficial to clarify terminology and ensure respective customs authorities assess used clothing according to common criteria. The UK looked forward to receiving the EU's reflections on the paper. The UK also asked to confirm that, pursuant to Article 63(3) of the TCA, the consultation deadline for the denial of preferences related to used clothing will remain extended until the Parties can agree a joint interpretation.

The EU noted that work was ongoing on the detail of this issue. Legal issues had come to light that cast some doubt about a possible flexible interpretation of the PSR for used goods generally.

The EU noted that the challenges related to used clothing may have implications for other used goods, including used tyres, and it was important to consider other relevant rules in the same manner. Furthermore, the EU noted that there is no jurisprudence at an EU-wide level on this matter.

The EU committed to sharing further reflections once its technical work had concluded. Both Parties recognised the constructive discussions on this issue to date, committing to continued joint working.

9. Implementation of the Protocol on Mutual Administrative Assistance (MAA) on Customs Matters – State of play:

The EU confirmed it had shared updated contact information with the UK prior to the meeting. The UK committed to sharing updated contact information.

The EU noted that several hundred requests had been exchanged between the EU and the UK since the last meeting. The EU also noted that MAA was generally working well in terms of both quality and speed, and no specific issues had been raised, although some requests are still awaiting a reply. Since the last meeting, the EU and the UK had pursued technical discussion on excise-related exchanges and agreed to use the MAA Protocol for such exchanges provided there is a link to a customs operation, as well as the AFIS Mail for the secure exchange of excise-related information. As to the possibility of using the MAA Protocol for simultaneous controls, including multilateral control audits, the EU indicated that this issue required careful consideration at EU level.

The UK agreed that the MAA Protocol was working well, and the volume of requests had increased. The UK had recorded over 1600 requests for the 12 months to 1st September 2023, taking inward and outward together. The UK believed a deeper understanding of what could be done under the Protocol had increased its use. The UK thanked the EU for its engagements in coming to an understanding regarding the resumption of excise mutual assistance requests, where they are linked to a customs operation, and for securing an AFIS Mail inbox. The UK looked forward to continuing to work together to ensure the MAA Protocol does an effective job of helping all parties tackle breaches in customs legislation. The EU confirmed its openness to discuss and clarify, at technical level, any issues within the scope of the MAA Protocol in order to facilitate and improve the practical and operational implementation of the Protocol.

10. AOB

There were no items of other business raised.

11. Conclusion and Next Steps

Co-chairs concluded the meeting.

The UK agreed to share answers to the EU's questions on the BTOM as soon as possible. The UK also agreed to share the UK's questions on the EU's UCC Reforms.

The EU agreed to send comments on the Cathode Active Materials (CAM) Guidance.

The EU committed to send further reflections on used goods once its technical work had concluded.

Both Parties agreed to work together to implement the technical changes to the Product Specific Rules schedule.

The UK agreed to share updated contact point information for MAA requests.

12. Closing remarks from Co-Chairs

Co-chairs agreed on the draft operational conclusions for each agenda item.

Annex 1 – Participants of the Third Meeting of the Specialised Committee on customs cooperation and rules of origin

UK Delegation (32 participants)

- UK Co-chair of the Trade Specialised Committee
- UK Government Officials from HM Treasury; HM Revenue & Customs; Foreign, Commonwealth & Development Office (including UK Mission to the EU); Department for Business and Trade
- Government of the Isle of Man Officials
- Government of Guernsey Officials
- Government of Jersey Officials
- Welsh Government Officials
- Scottish Government Officials
- Northern Ireland Executive Officials

EU Delegation (31 participants)

- EU Co-Chairs of the Trade Specialised Committee
- European Commission Officials
- Representatives of the EU Delegation to the UK
- Representatives of EU Member States