

**Second Meeting of the Trade Partnership Committee  
UK-EU Trade and Cooperation Agreement**

**Joint Minutes**

**Brussels and virtual | EU Host |**

**1st December 2022**

**13:30 to 16:30 GMT / 14:30 to 17:30 CEST**

**1. Opening and adoption of the agenda**

In its opening remarks, the EU stated its desire to have a positive and stable relationship with the United Kingdom. Both Parties face the same global challenges, where upholding the rule of law is imperative. For that to happen, the relationship must be based on the full respect of the agreements both Parties have negotiated, namely the Withdrawal Agreement - including the Northern Ireland Protocol - and the Trade and Cooperation Agreement (TCA). The EU stressed that the implementation of the TCA works without major problems.

The UK emphasised that the Trade Partnership Committee is a crucial part of TCA governance and that ensuring the agreement works is in our mutual interest. Responding to the EU's opening remarks, the UK noted its overall priority is to preserve stability in Northern Ireland and would prefer a negotiated outcome. The UK added its disappointment that the EU continues to draw links between the Withdrawal Agreement and the TCA by refusing to allow UK participation in Union programmes.

The agenda was adopted.

**2. Review of this year's Trade Specialised Committees**

The Parties shared reflections on the second round of Trade Specialised Committees. Both Parties agreed that they had been a positive and constructive set of technical exchanges. The EU expressed the need to work and agree on the agendas more in advance, suggesting the Parties should aim to agree draft agendas three weeks prior to Committee meetings. The EU also stated that the Parties should start exchanging agendas at least 6 weeks before the meeting. This would allow sufficient time for the EU to consult with its Member States in the Council of the EU. The EU also noted that the hybrid format works well.

The UK agreed that more time is needed to agree agendas, and suggested next year's Trade Specialised Committee meetings should be spread out over a longer period than 4 weeks.

Both Parties agreed that further discussion on the planning of next year's committees would take place early in 2023.

### **3. Update on the UK Target Operating Model (TOM)**

The EU referred to the second Trade Specialised Committee on Customs Cooperation and Rules of Origin of 17 October 2022, where the UK gave some initial indications of its ambitions for the future of its customs under the UK Border Strategy 2025. The EU noted their specific interest in the controls and checks applied to EU goods imported in the UK as regulated in the Border Operating Model, now called Target Operating Model (TOM). The new procedures applied to EU goods are being put in place in different phases, some of which have been postponed. The UK had intended to publish the TOM in autumn 2022.

The EU asked about the state-of-play regarding the TOM and the replies to the list of questions that the EU submitted to the UK ahead of the Trade Specialised Committee on Customs Cooperation and Rules of Origin in October 2022. The EU also expressed its willingness to cooperate with the UK to raise awareness and ensure smooth application for any new measure.

The UK informed the EU that it was not yet in a position to publish the TOM. The UK explained that the Government's decision to delay the implementation of import controls was a result of the widespread disruption to supply chains and businesses as a result of the Covid pandemic and war in Ukraine. The new regime of controls will fully respect the UK's international obligations and protect against biosecurity risks. The UK Government and Devolved Administrations are discussing this as a priority. The UK stated that it hoped to make an announcement shortly but could not commit to a precise timetable. The UK also informed the EU that at the point of announcement it intends to make a publication of its plans to enable stakeholders from the EU to have the necessary time to prepare for changes.

The EU requested that the information is made available in good time to allow operators to prepare and provide feedback prior to application. Both Parties acknowledged the very good cooperation on the procedures that the UK introduced in the beginning of 2022 and agreed to continue with the same cooperation for the TOM before the new procedures come into force.

### **4. EU import bans on seed potatoes and live bivalve molluscs**

The UK raised the issue of resuming trade in seed potatoes and undepurated live bivalve molluscs (LBMs) from Class B waters. The UK restated its request for specific EU risk assessments as requested most recently at the Trade Specialised Committee on SPS on 19 October 2022 and in writing in June 2022, noting Article 77 of the TCA. The UK stated the EU

that Article 73 of the TCA requires both parties' SPS measures to be based on risk assessments according to the relevant provisions, including Article 5 of the SPS agreement. The TCA also requires SPS measures to be proportionate to risk and no more trade restrictive than necessary, with no unjustified discrimination where similar or identical SPS conditions exist. The UK stated its view that the EU's measures on these commodities are not consistent with these requirements. The UK noted that dynamic alignment is not required under the TCA, WTO or within the EU's current plant health regulation, referring to the existing Canada derogation for seed potatoes. The EU stated that their trade restrictions on seed potatoes and LBMs, introduced whilst the UK was an EU Member State, have applied to imports from third countries for many decades. The EU explained that now the UK has chosen to be a third country with a separate SPS regulatory regime it is subject to these measures too. The EU acknowledged receipt of the UK's letter requesting to receive risk assessments relevant to the EU measures on seed potatoes and live bivalve molluscs, and informed the UK that the request is being examined by the Commission Services.

The UK closed the item by noting that, to address its legal concerns, it would need to see a risk assessment justifying the EU's import restrictions on seed potatoes and LBMs.

## **5. EU Single Market Emergency Instrument**

The UK raised concerns about the possible future chilling effect of the EU Single Market Emergency Instrument on contracts between the EU and UK, and argued international cooperation is a critical tool to manage supply chain resilience during crises.

The UK asked:

- whether the EU had engaged with businesses and thought about the burden placed on traders through information requirements?
- what would be covered under the instruments and whether the EU intend to notify any measures taken under the instrument, either at the WTO or the UK under the TCA?

The EU underlined that the proposal is still at the outset of the ordinary legislative procedure and co-legislators may bring changes. The EU explained that the emergency instrument would include a governance structure, as well as a framework for contingency planning, vigilance and emergency. It will improve coordination, cooperation and transparency during crises that will have a significant impact on the functioning of the Single Market. The toolbox will also include exceptional measures needed to ensure the availability of crisis-relevant goods in a situation of last resort and will be fully complementary with other EU crisis frameworks and tools. The EU expressed that the instrument is proportionate and consistent with the EU's international obligations and that it will notify whatever was notifiable in accordance with such obligations.

The EU also stressed that the instrument's philosophy is to build on what industry already does and if that is assessed as non-existent or insufficient to tackle the crisis at hand, the EU may consider activating specific measures. Furthermore, the EU noted that the instrument fills in the gaps when there is no other specific instrument addressing a potential crisis within the single market.

## **6. UK Sponsorship system**

The EU raised its concerns that UK companies and organisations must request a "sponsor licence" from the UK Home Office if they want to hire an EU Contractual Service Supplier, Independent Professional or Intra-Corporate Transferee. The EU explained that EU stakeholders have expressed concern about the opacity, complexity, length and costs of this system and argued that this sends a clear deterrent signal when hiring EU service suppliers that are covered by the TCA.

The UK argued that the sponsorship system was not within the scope of relevant provisions of the TCA and that the costs associated were marginal in the context of service supply. Furthermore, the UK stated that the sponsorship system has been a core component of the UK's immigration system since 2008 and is a means of regulating the movement of workers and contracted persons providing services in the UK.

The EU explained that it has a different view on whether the sponsorship system is covered by the TCA. In order to evaluate the impact of the programme, the EU asked to receive statistical data on average processing times. The EU also requested from the UK information about any updates to the sponsorship scheme, including to the guidance that UK authorities will provide to EU business and workers. The UK asked the EU to provide more details on the stages at which delays were being experienced by stakeholders and the duration of these delays and the EU engaged to follow up with the UK on the matter.

## **7. Cyber certification scheme in one EU Member State**

The UK expressed its concerns around data localisation measures in the EU, noting that such measures risk undermining digital trade between the parties. Specifically, the UK stated that it has received complaints about one EU Member State's cyber-certification scheme and questioned its compatibility with the Digital and Procurement titles of the TCA, and the Agreement on Government Procurement (GPA). The UK also stated that it was concerned with the proposed data localisation elements of the EU cloud certification scheme and sought an update on the draft scheme's progress.

Based on these concerns, the UK made a number of requests. The UK asked that the Member State define 'sensitive' based on clear and specific circumstances in which the data being

stored or processed is genuinely sensitive, remove the recommendation to privilege certified cloud services providers when handling 'non-sensitive' data and ensure non-discrimination with third party suppliers.

The EU asked the UK to provide examples of actual obstacles that UK cloud providers had encountered when offering their cloud services to the public sector in this Member State. The EU also reiterated its view that the measures adopted for cybersecurity purposes by this Member State were fully compatible with EU's commitments under the GPA and the TCA and clearly fell under the security and general exceptions of both agreements, provided that they remained necessary and proportionate to address this legitimate public concern. Moreover, the EU informed the UK that this Member State's authorities were currently working on the update of the measure in question to define as precisely as possible the actual scope of the particularly sensitive data and the update should be published soon.

The UK urged that this update is issued without delay and requested an expected timeline for publication.

## **8. UK freeports policy**

The EU sought clarifications on the measures announced under the UK Freeports policy and expressed concerns about the possible effects of these measures on trade or investment for the Union. The EU raised a number of questions on the measures, notably on any potential effect on trade or investment for the Union of the subsidy measures, the non-regression from environmental and labour standards within Freeport, and the impact of the non-coverage of international maritime transport for the Union in conjunction with the Freeports model.

The UK outlined that one of the main objectives of the Freeports programme is to regenerate left behind areas and communities. The UK explained that Freeports benefit from a comprehensive package of measures, which are designed to support new investment and jobs in those areas that are disadvantaged economically. They include tax reliefs, and simplified customs processes. The tax incentives are available for a limited time, can only be claimed on new investment and are limited to designated tax sites, which are distinct areas within Freeports. The UK explained that Freeports must comply with all existing legislation protecting the environment, climate and labour rights. The EU also asked about Investment Zones but the UK was unable to go into details as the policy is still being developed.

The EU proposed to have a follow up meeting at technical level to discuss these issues more in detail also to follow up with written questions.

## **9. EU Chips Act**

The UK opened by asking:

- for information on how the EU's decisions related to Pillar 3 would be made and how the EU will cooperate with international partners when introducing export controls.
- questions on subsidy control, including on the EU's rationale behind the scale of intervention; whether funding would only be available for EU companies; and how the EU would assess Chips Act funding in line with the EU's TCA subsidy obligations.

The EU gave a presentation on the design and objectives of Pillars 2 and 3 under the Act and underlined that their proposal is still at the outset of the ordinary legislative procedure and co-legislators may bring changes.

On Pillar 3, the EU explained that crisis response measures presented are linked to a targeted and proportional approach to ensure supply to critical sectors, which would be used in a crisis as measures of last resort. The EU also expressed that crisis response measures would be taken in accordance with its international obligations and informed by ongoing cooperation with international partners in the context of preventing and mitigating semiconductor supply chain disruptions, for example the US in the context of US-EU Trade and Technology Council.

The UK requested a technical exchange on the EU's Single Market Emergency Instrument and the European Chips Act. The UK also committed to follow up with written questions. The EU explained that the two possible instruments are at an early stage of the legislative process and next years Committee meeting may be an opportunity to further update on the process.

## **10. Implementation of the UK Subsidy Control Act**

The EU stressed its great interest in the UK Subsidy Control regime and noted that the EU is following the implementation very closely. In particular, the EU raised questions regarding the powers of the Subsidy Advice Unit of the Competition and Markets Authority on subsidy control, the role of granting authorities, the effectiveness of the UK subsidy control system as laid down in the Subsidy Control Act 2022 and the control of subsidies granted by means of Acts of Parliament.

The UK provided an overview of the UK Subsidy Control regime in order to address the questions of the EU. The UK explained that the Subsidy Control Act provides the framework for a UK-wide subsidy control regime in line with the UK's international obligations, including the terms of the TCA.

Due to the very technical nature of the questions it was agreed that the EU would follow up with further written questions.

## **11. AOB**

### **Working Groups**

The UK raised its ongoing concerns that the Technical Barriers to Trade Working Groups as established in the TCA are not up and running. The UK highlighted that the Specialised Committee on Fisheries had already set up a Working Group which was running effectively.

The EU responded that the Parties have yet to agree on the model Rules of Procedure for Working Groups. Furthermore, the EU stated that these Working Groups are a lower priority for the EU and that the context created inter alia by the EU Retained Law bill introduces a degree of uncertainty that would not facilitate cooperation under the Working Groups.

### **Retained EU Law (Revocation and Reform) Bill**

The EU raised its concerns as regards the process and current state of play on the Retained EU Law Bill. The EU expressed its interest in better understanding whether the sunset clause with a deadline of 2023 would be extended

The UK noted that the Retained EU Law Bill had been introduced to the UK Parliament in September and had continued its passage through Parliament. The UK noted that around 2,500 pieces of retained EU law had been identified; and that these were publicly available to view on the UK Government's online dashboard. The UK explained that the purpose of the legislation was to take stock of retained EU law and ensure that regulation was tailored to meet the needs of the UK. The UK stated that it would continue to meet its international obligations and maintain its high standards in areas such as environment, climate and labour protections. The UK also noted that the Bill included a mechanism to enable extension of the sunset date to June 2026 for specific pieces of retained EU law where necessary.

## Participation list

### UK Delegation

- UK Co-chair of the Trade Partnership Committee
- UK Government Officials from the Foreign, Commonwealth and Development Office
- UK Government Official from the UK Mission to the European Union
- Scottish Government Officials
- Northern Ireland Executive Officials
- Welsh Government Officials
- Officials from the Isle of Man, Bailiwick of Jersey and Bailiwick of Guernsey

### EU delegation

- EU Co-chair of the Trade Partnership Committee
- European Commission Officials (TRADE, SecGen, GROW, CNECT, COMP, SANTE, EMPL, ENV, CLIMA, TAXUD and AGRI)
- EU Officials from Delegation of the European Union to the UK
- Representatives of EU Member States



**The second meeting of the Trade Partnership Committee under the UK-EU Trade and  
Cooperation Agreement**

**Brussels, 1 December 2022**

**13:30 – 16:30 (BST) / 14.30-17.30 (CEST)**

***(Brussels and via videoconference)***

**Provisional agenda**

1. Opening and adoption of the agenda
2. Review of this year's Trade Specialised Committees
3. Update on the UK Target Operating Model (TOM)
4. EU import bans on seed potatoes and live bivalve molluscs
5. EU Single Market Emergency Instrument
6. UK Sponsorship system
7. Cyber certification scheme in one EU Member State
8. UK freeports policy
9. EU Chips Act
10. Implementation of the UK Subsidy Control Act
11. AOB
  - Working Groups
  - Retained EU Law (Revocation and Reform) Bill
12. Closing remarks