

## FDF priorities for a future UK-EU Preferential Trade Agreement

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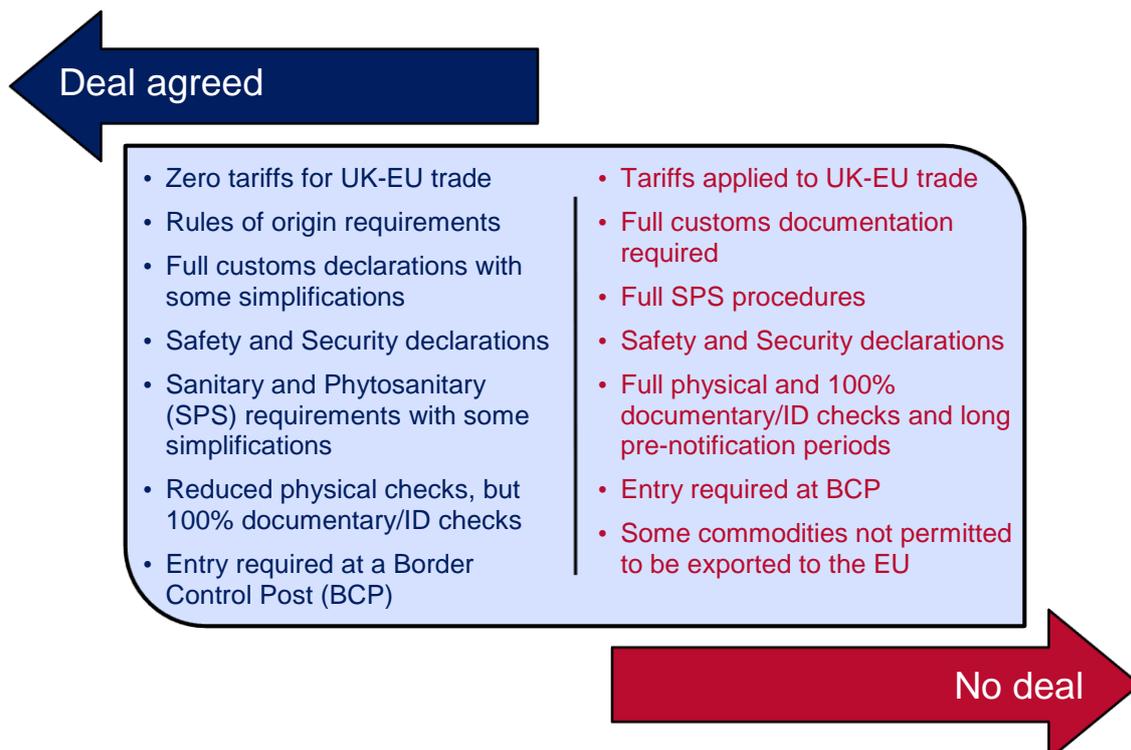
With only four months remaining until the transition period ends, it is vital that the UK and EU reach a deal that enables the UK's food and drink manufacturers to feed the nation and maintain UK food security. A no-deal or 'Australia-style' outcome would be deeply damaging for both businesses and consumers. However, a basic trade agreement also presents serious risks for UK manufacturers that depend on highly integrated UK-EU just-in-time supply chains and the seamless movement of goods without delays. This paper sets out the essential components that are needed in a deal to deliver the best possible outcomes for food and drink – the UK's largest manufacturing industry.

### The end of the transition period

When the transition period ends on 1 January 2021, the terms on which food and drink are traded between the UK and EU will change. Goods will go from being traded seamlessly on the EU's Single Market to becoming products that are exported and imported, with an inevitable increase in friction regardless of the outcome of current negotiations with the EU.

Adapting to new customs and border procedures will be a complex and resource-intensive exercise for businesses, many of which only have experience of trading within the EU's Single Market and Customs Union where the burdens of trade administration are minimal in comparison.

The UK Government has been clear that they are seeking a basic preferential trade agreement with the EU that is based on existing agreements. Key benefits for our industry of this outcome would be the welcome avoidance of tariffs where permitted by rules of origin, and a potential reduction in the frequency of physical inspections of goods traded between the UK and EU. In other respects, the outcome could be similar to no deal, with businesses needing to contend with a range of new processes and procedures that add cost and complexity when trading with the EU. We believe some of these are avoidable.



While our industry has demonstrated remarkable resilience during the COVID-19 pandemic, to ensure continued access to food and drink across the UK, a basic trade agreement inevitably presents serious risks for UK manufacturers that depend on highly integrated UK-EU just-in-time supply chains and the seamless movements of goods to deliver the full choice of safe and affordable food and drink all year round for UK consumers and shoppers.

The absence of an innovative approach to trade between the UK and EU will mean that either outcome will lead to food and drink businesses facing additional red tape and ongoing bureaucratic requirements that could result in significant border delays. A no-deal outcome would also impose tariffs that will jeopardise our access to required imports and a large share of the UK's £14 billion annual food and drink exports to the EU.

However, with the right trade agreement in place, we stand the best chance of maintaining our essential cross-border, interdependent supply chains. Our priorities and recommendations to achieve this through a preferential trade agreement with the EU are set out below.

## 1. A zero-for-zero agreement on tariffs

An agreement providing continued tariff-free market access would best ensure UK manufacturers can provide consumers with continued quality, choice and value for money, while offering the best chance of maintaining our £14 billion annual exports to the EU, which in the absence of a deal would face tariffs averaging 23 per cent or more.

The absence of a deal would mean the UK's access to nearly £35 billion of required imports that allow consumers to benefit from a wide variety of foods throughout the year would inevitably become more expensive. We await the Government's publication of a Tax Information and Impact Notice to fully understand the impact of the Global Tariff and the additional cost this would present for our industry.

It is clear from discussions with manufacturers that in a no-deal scenario, many businesses would be facing very large tariff bills for essential ingredients and raw materials that cannot be sourced in the UK. Such a scenario would have inevitable and immediate consequences for food prices in the UK, where many food and drink businesses operate with low single digit profit margins, so an agreement on tariffs is vital for the future viability and competitiveness of our industry.

## 2. Generous and flexible rules of origin

Rules of origin are the strict 'terms and conditions' that businesses on both sides will need to meet to benefit from preferential tariff rates. A zero-for-zero agreement on tariffs will be of little use to UK exporters if they are not able to access these preferential tariff rates where there are strict rules that offer little flexibility for food and drink producers.

UK food and drink faces unique challenges in terms of seasonality and the impacts of climatic conditions which mean from one year or even one season to the next, sourcing arrangements will change. For [many UK and EU producers](#) of food and drink, existing models of rules of origin, including that proposed by the EU, fail to address these challenges. A sub-optimal outcome will inhibit rather than promote future trade between the UK and the EU, to the detriment of our businesses, employees and to consumers and shoppers. Manufacturers would face the unwelcome prospect of either a costly restructuring of supply chains or a de facto trade barrier.

A UK-EU trade agreement must deliver [accommodating rules of origin](#) that fit the needs of highly integrated supply chains:

- a. **Full bilateral and diagonal cumulation** between the EU, the UK and shared preferential trade partners to protect the close and integrated supply chains between UK and EU food and drink producers which have built over the last decades;
- b. Options allowing **origin determination by value** should be allowed to avoid harming continued trade in manufactured products, to aid application by SME producers and to ensure an approach that is consistent with provisions in CETA;
- c. Any **transformation that brings about a change in tariff classification** should be considered sufficient to confirm origin to help provide greater simplicity and clarity for businesses seeking to access preferential tariffs;
- d. A joint UK-EU exemption for all **originating imports from least developed countries (LDCs)**. Developing countries should not be inadvertently disadvantaged by the UK's decision to leave the EU; and
- e. A **10 per cent tolerance margin by value** for non-originating inputs in any exported good without impacting on its originating status.

We produced a [formal legal protocol](#) providing examples of how these recommendations can be used in a trade agreement with the EU. This text provides solutions that can help UK and EU policymakers design a genuinely best-in-class agreement that avoids damaging supply chains that are central to our economies and our shared food security.

### 3. Minimising certification and border friction

Current third country SPS requirements in most EU preferential trade agreements would not work for the UK food and drink sector. The FDF estimates the cost of completing and arranging for a vet to certify Export Health Certificates (EHC) to be in the region of £200-800. Each product requires an EHC and many consignments require multiple EHCs. The current system used for non-EU EHCs is a paper-based postal system and Defra estimates that their capacity to issue and certify the number of EHCs that will be required needs to increase by 500 per cent by the end of the transition period. The same challenges face the certification of plant products.

As outlined in the below table of EU third country checks and inspections, most animal and plant products would face 100 per cent documentary and identify checks on each consignment and physical checks on a large share of consignments, with pre-notification times of over 24 hours. This increases to three days for some fish products. They would only be allowed to enter via designated entry points. This would create significant challenges for businesses and would likely lead to lengthy border delays, with UK exports becoming less competitive.

Product	Inspection by	Frequency of checks		
		Documentary	ID	Physical
Beef, lamb, pork	Official veterinarian	100%	100%	20%*
Poultry meat	Official veterinarian	100%	100%	50%*
Fish	EHO	100%	100%	20%**
Fresh Produce	PHSI/RPA/PHA	100%	100%	62%*
Pet food	Official veterinarian	100%	100%	<10%

\* Physical checks involve opening cartons and can also involve samples being taken and sent to the laboratory.

- \*\* 20% of consignments of fish products in hermetically sealed containers intended to render them stable at ambient temperatures, fresh and frozen fish and dry and/or salted fishery products;
- 50% of consignments of fishery products other than those mentioned above; and
- 50% of consignments of bivalve molluscs.
- There are reduced checks for seafood from Canada and New Zealand because of equivalence agreements. The legislation is Decision 94/360 as amended.

The imposition of checks and inspections on large volumes of food and drink should be kept to a minimum to facilitate trade and minimise compliance costs, while ensuring continued safety and consumer confidence. This can best be achieved by delivering:

- a. a **mutual recognition agreement (MRA)** recognising high existing levels of alignment between the UK and EU, including in disease control and production standards, animal and plant products, organics and flour to reduce the need for certification where possible (further details on this are set out below), and an agreement that both the UK and the EU will waive or defer the requirement that traded goods should use ISPM15 compliant **heat treated wooden pallets**;
- b. an agreement that UK-based exporters can use a **'UK' health mark** where required;
- c. authorisations for UK and EU businesses to continue trading in **products of animal origin (POAO) and plant products**;
- d. a **streamlined and innovative digital certification process** for businesses to complete Export Health Certificates (EHCs) and phytosanitary certificates, with them being validated by veterinarians or plant health inspectors;
- e. a **single electronic pre-notification system** for the submission of EHCs, sanitary and phytosanitary certifications and other required paperwork that avoids the need for time-based pre-notification;
- f. a **'First-Place-of-Arrival scheme' for POAO and plant products** for registered traders, with any documentation pre-submitted and required checks and inspections taking place away from the border;
- g. a commitment from both sides to jointly develop an **Authorised Economic Operator for Food and Drink (AEOfd) scheme** that builds on existing AEO benefits in customs processes by also reducing burdens faced by businesses in terms of SPS certification, checks and inspections for accredited and trusted traders exporting and importing food and drink between the EU and UK; and
- h. a **single Government-supported portal for import and export guidance** should be set up to ensure businesses, particularly SMEs, are able to successfully comply with changing requirements and processes when trading with the EU. This will be important to raise awareness of potential market access barriers.

#### 4. A comprehensive customs agreement

Businesses will need to understand and collect large volumes of detailed information about how their products are classified, when and where they are shipped prior to leaving the factory and to interact with a range of new and untested IT systems. Products shipped to the EU will require an export declaration, exit summary document, import declaration and entry summary declaration before the consignment arrives with the customer.

The estimated cost of a customs declaration is £20-55 per certificate. The UK's customs system CHIEF currently handles around 50 million customs declarations for non-EU trade. This will increase to over 250 million from 1 January 2021, adding significant cost and complexity for the UK's food and drink supply chain which will impact on its competitiveness.

A comprehensive customs agreement between the UK and EU that provides a commitment to cooperate in delivering efficient world-leading processes at borders can help to limit these new costs and administrative burdens:

- a. **a joint UK and EU customs committee that allows maximum customs and risk data sharing** to reduce the number of physical checks required and driving the digitisation of processes wherever possible;
- b. special provisions for roll-on roll-off (ro-ro) ports including a simple and streamlined **electronic and digital system for the submission of documents** for import and export prior to the arrival of goods, to process and release the goods immediately on arrival;
- c. the UK should seek a **waiver for safety and security declarations** as permitted in the Union Custom Code (UCC);
- d. mutual recognition of UK and EU **Authorised Economic Operator (AEO)** schemes, with enhanced benefits to speed up flows of goods for 'trusted traders';
- e. efficient application of **origin checks** for goods moving in both directions that guard against the risk of fraud and minimise new burdens faced by good operators; and
- f. a long-term shared plan to deliver a **single window and one-stop-shop for customs and border processes** that minimises documentation and requirements, investigating options for innovative, business-friendly facilitations including annual declarations and options for self-assessment by traders.

Separately, the UK should implement customs easements to help businesses manage customs requirements by amending the Customs Freight Simplified Procedures (CFSP) to deliver the benefits that would have been provided by Transitional Simplified Procedures (TSP) in previous no-deal scenarios, including allowing retrospective checks, a streamlined application process and a simplified customs declaration prior to the arrival of imports at the border with immediate clearance for traders.

## 5. Minimising technical barriers to trade

It is inevitable after the UK leaves the EU that regulations will begin to diverge. If not managed successfully, we face the creation of barriers that will impede trade in food and drink between the UK and EU. It is important that we maintain a stable and consistent regulatory framework between the UK and EU to ensure that both UK industry can remain competitive and that it also encourages investment in the UK.

It will be in the UK's best interests to maintain access to the risk assessment expertise of the **European Food Safety Authority (EFSA)** in the short term. This will help ensure UK regulations continue to be based on sound science and evidence until an equivalent robust and independent UK scientific risk assessment body is fully functioning. This would provide mutual benefits in ensuring the UK continues to have access to intelligence gathering tools including the Rapid Alert System for Food and Feed (RASFF), the European Food Fraud Network and EFSA's Emerging Risks Exchange Network.

As noted above, the UK and EU should **maintain regulatory equivalence** to ensure trade can be conducted much as it is today. If, and where, divergence in regulation occurs over time, mutual recognition of food regulations, disease control and production standards between the UK and EU will be essential to ensure continued trade in food and drink products.

Without this, exports to the EU will automatically face complex documentary, identify and physical inspection requirements that will make exporting more difficult and costly for UK producers, while similar challenges could face our key imports. These issues could be amplified in some EU Member States as the absence of regulatory agreement could result in a move towards the use of non-tariff barriers to trade as part of a protectionist trade policy. Even with mutual recognition, some checks would be required, but the Government must ensure these are essential, manageable and kept to an absolute minimum.

It is similarly important that we avoid **regulatory fragmentation within the UK market** and that the impact of any proposed changes to food and drink legislation by UK Government and the devolved administrations are fully understood, co-ordinated, and subject to detailed consultation with industry. It is also important that there is mutual recognition within the UK market and between the EU, particularly in the context of Northern Ireland. The Northern Ireland Protocol threatens to introduce enormous complexity for trading businesses and a range of technical barriers to trade that would impede movements of goods from Great Britain and the availability of products for consumers in Northern Ireland.

It is vital that we protect and enhance the UK's vibrant organics sector where producers currently face a devastating loss of market access in a no-deal scenario. The **organic sector** is worth £2.6 billion in the UK, over \$100 billion globally, and has been a consistently high growth industry over the last 10 years, regularly seeing double-digit annual growth. From 1 January 2021, UK organic producers will be barred from exporting products to the EU that are labelled as organic unless the UK's control body is authorised by the EU to certify exported UK products. Each of the approved UK organic control bodies needs to apply to the EC for organic equivalence. The EC has said they cannot process these applications until the UK becomes a third country and approvals may then take up to nine months. The organic sector has very strong growth potential in the UK and EU and the EU's Farm to Fork Strategy sets an ambition for 25 per cent of total EU farmland to be organic. Failure to secure an organics agreement will have damaging impacts for production on both sides and for the choice available to consumers and shoppers. We urge Government to rapidly facilitate the recognition of the UK's and EU's organic control bodies to enable continued export and import of organic products at the end of the transition period.

The UK Bread and Flour Regulations 1998 are a potential barrier to trade in the absence of a mutual recognition agreement that allows UK products containing **statutory fortified UK flour** to be exported into the EU and unfortified EU flour to be imported into the UK for use in products that are sold on both the UK and EU markets. Without this agreement, UK manufacturers would no longer be able to produce flour-containing products that can be sold in both the UK and Irish/EU markets. Costly labelling and infrastructure changes would otherwise be required, such as a dual flour supply, separate production lines and finished products.

To avoid companies being forced to produce separate stock keeping units (SKUs) for the EU (including Northern Ireland) and UK markets, the agreement should allow UK Food Business Operators (FBOs) to continue using a **UK business name and address** on their labels for goods that are exported to the EU, and vice versa for EU producers exporting to the UK. Both sides should also deliver on their commitment to the continued recognition of existing Geographical Indications (GIs) as set out in the Withdrawal Agreement.

For trade in products of animal origin (**POAO**), non-EU third countries need to be included on the EU's permitted list for approval to export to the EU. Products must also originate from EU approved premises and only the European Commission (EC) can amend the permitted list and approve UK sites. It is essential that this is done in advance of the end of the transition period to provide certainty and ensure there is no break in market access.

All **wooden packaging materials** including wooden pallets moving between the UK and EU will be required to undergo heat treatment and marking. These materials may also be subject to border checks. There are significant concerns about the availability of suitable pallets. Mutual recognition of SPS rules between the UK and EU can help to avoid this costly, disruptive and unnecessary requirement.

## 6. Protection of workers' rights and the right to work

The food and drink industry relies on being able to attract and retain a highly skilled and productive workforce of both domestic and migrant labour. Continued access to a high-quality labour force will be a key requirement for the industry. Current EU derived workers' rights standards should be maintained as the UK leaves the transition period.

The UK should also allow all EU citizens present in the UK by 31 December 2020 to apply for the EU Settlement Scheme regardless of the current June deadline and secure the rights of UK citizens working in other EU countries.

## 7. Periods of adjustment

It is clear for food and drink manufacturers that depend on continued trade with the EU that periods of adjustment will be required after the formal transition period ends to allow time for a range of required changes to be implemented. The complexity of the challenge that faces business may also mean that UK Government will need to consider operating an amnesty period for trading businesses given the difficulties that many will face in the months ahead and the almost impossible challenge of ensuring 100 per cent compliance on 1 January 2021.

An example of where this will be required is for changes to labelling. Government's advice remains that UK businesses should maintain EU labelling compliance throughout the transition period, including for Health and ID marks. Given continued uncertainty regarding what will be required on labels after the transition period ends, it is clear there is no longer sufficient time remaining for businesses to change labels to ensure compliance on 1 January 2021. A formal period of adjustment of sufficient length is required for the UK market. A 21-month adjustment period for labelling changes was provided in the UK's previous no-deal scenario preparations and should be reintroduced to apply from 1 January 2021.

A further example is where Government introduces new trade administration and customs processes and procedures. Only when clarity is provided can businesses begin the difficult process of adapting and responding to meet these complex new requirements. Crucially, it will take time to ensure full compliance. The needs of food and drink businesses will vary depending on the size and composition of their supply chains. Consultation with our members demonstrates that the time required to adapt to different measures largely falls into three categories, each depending on the size and scale of change required:

- a. Minor operational changes or amending transportation routes would typically require at least a month for businesses to adapt. This can include altering a supply route where required to enter via a new or different Border Control Post (BCP) that would make their current supply route no longer viable.

- b.** Changes that require the involvement of third parties and some minor revisions to ways in which their business operates would typically require at least three months. This can include amending import procedures to adapt to new pre-notification requirements, which for some food products can be more than 24 hours. This would require significant changes to supply chains to ensure they have continued and consistent access to key ingredients, that they remain fresh and deliver sufficient shelf life to meet the requirements of their customers. Businesses will potentially need to ensure all documentation is submitted and compliant before the goods arrive at the port. Ensuring this can be achieved while retaining these essential just-in-time supply chains requires time to adjust and fully test operations.
- c.** Finally, measures that require products to be changed, for businesses to implement new methods of working to ensure compliance or to recruit or retrain staff will take upwards of six months to implement. This includes being able to ensure businesses have the expertise and can demonstrate they are able to comply with required certifications on origin, customs, safety and security, as well as SPS controls. These require companies to assess their supply chains in detail to ensure their compliance and to guarantee they have both the required information and trained staff to evidence and secure required certifications, using multiple new IT systems that are not yet available to businesses.

There is no simple uniform action that business can take to prepare for these changes. Preparations including ensuring compliance for customs declarations, origin and SPS controls each require separate preparations and often input from separate teams. Requirements to ensure compliance with SPS controls are very different from standard customs requirements faced by businesses trading in non-food goods. **Periods of adjustment should only begin when precise details of the future UK-EU trading relationship have been agreed, ratified and clearly communicated in full to industry.**