



28.02.2020

New EU-UK partnership – what is needed for dairy trade

As of 31 January 2020, the UK has ceased to be a member of the European Union. While they will remain in the EU customs union and single market and will continue to apply EU legislation until the end of 2020, it is clear that Brexit is an irreversible process and the priority now is to carve out a post-Brexit reality that works for both sides. The much-feared ‘cliff-edge’ scenario has been avoided, with the withdrawal agreement keeping everything afloat for now. Relief must not however give way to complacency as considerable efforts will be required to reach an agreement on the future relationship in the few months that remain before the UK would definitively exit the Single Market and the Customs Union and trade (in both directions) would be conducted on standard third country (WTO) terms - effectively a ‘no-deal’ scenario. The UK and EU have the opportunity to agree by 1 July 2020 on an extension of the ongoing transition period by up to 1 or 2 years but it seems quite clear from the position of the UK government that it will not be pursuing any extension.

As Eucolait, our baseline position remains unchanged: the future trade relationship between the EU and the UK should be as close to the present situation as possible, with trade unfettered by tariffs or quotas and with as few non-tariff barriers as possible. Nevertheless, given that the UK will be out of the single market and the customs union at the end of this year, trade cannot remain as frictionless as today.

Focusing on the essentials

Given that it will most likely not be possible to negotiate a comprehensive trade deal within the available time frame, it could be preferable to aim for a stage 1 agreement on key issues, such as the absence of tariffs and quantitative restrictions, by the end of the year, followed by a fully-fledged trade agreement at a later stage.

From our perspective, the key components of the future trade deal need to include duty and quota free access to each other’s markets, an alignment or equivalence regime for food legislation and customs facilitations.



No tariffs or quantitative restrictions

The impacts of a lack of agreement on tariffs are well known by now. The EU external tariff would eliminate virtually all dairy imports from the UK, currently amounting to almost € 2 billion worth of products. This would also displace EU exports to the UK since a large share of the products previously exported to the EU27 would then remain on the UK market.

The duties that would apply to EU dairy exports, in case there is no trade agreement in place, are not yet fully known. However, the tariff schedule published by the UK in March 2019 (which would have seen tariffs on the bulk of dairy products reduced to zero) has now been definitively withdrawn. The UK government is currently conducting a consultation on a new external MFN tariff schedule, but all indications suggest that most headings would be set at levels very close to those in the EU's Common External Tariff, which the UK would expect to face when exporting to the EU. This would have a very substantial impact.

Dairy supplies from the EU to the UK exceed € 3,5 billion, making it our most important export market by far. More than half of the exports are cheese, but the volumes of fermented products, butter, infant formula and liquids are also substantial. Maintaining duty free access across all dairy product categories is therefore of utmost importance. Dairy companies on both sides are operating in an integrated supply chain that has to be maintained.

Assuming that the current EU external tariffs were to be applied by both sides from the end of 2020, the dairy sector would be among those hardest hit, with estimates suggesting more than 90% of current trade being eliminated. This said, the UK is far from self-sufficient in dairy and as such will have to continue importing large volumes of dairy products, in particular cheese, or face product shortages and price inflation.

As we do not have tariffs in place today, we do not see any reason why import duties on dairy products should be reintroduced in the future. It would only create additional costs for both businesses and consumers. Tariff free trade between the EU and UK is in no way contradictory with the UK's desire to conduct its own trade policy as the duty-free treatment should only apply to goods of EU and UK origin. The extension of benefits to other countries can and should be excluded with rules of origin, (i.e. 'wholly obtained' requirement for EU dairy) like in any free trade agreement.

Level playing field

The EU negotiating directives suggest that access to the sizeable EU market should be conditional on maintaining a level playing field through robust commitments in areas such as environmental protection, labour standards, competition or food safety. While we agree with the objective to establish a partnership that is as close as possible, it is worth noting that the



EU has granted very comprehensive access to its market, including free access for dairy, to other trading partners such as Canada or Japan, without such comprehensive level playing field provisions. Furthermore, the UK's track record while part of the EU does not give reason to believe that a lowering of standards in these areas will take place.

The UK decided to leave the EU to regain its freedom to regulate. This choice needs to be respected and therefore the level playing field commitments should focus on reaching broadly equivalent outcomes, rather than tying the UK to the EU acquis. The future partnership agreement could contain a safeguard clause on market access to prevent any race to the bottom on the initiative of either side.

Customs facilitation

For trade to flow relatively freely and to resemble in any respect the situation of today, enhanced customs facilitation will need to be a key part of the new partnership. We accept that completely frictionless border arrangements will be impossible and that there will need to be certain customs procedures and border checks. The partnership should make full use of all possible facilitations within the framework of the EU customs code, taking into account the longstanding membership of the UK to the EU and the trustworthiness of its administration and operators.

Preferential Rules of Origin

As far as dairy products are concerned, Eucolait does not see a need for rules of origin that differ from the standard EU rules of origin used in most free trade agreements concluded by the EU. The "wholly obtained" rule should apply to dairy products and bilateral cumulation should of course be allowed. For processed products with dairy components, adequate thresholds for non-originating materials should be set, preferably based on weight rather than value.

Sanitary and veterinary solutions

In addition to keeping customs channels open, Eucolait wishes to see continued alignment and co-operation in the field of food safety and veterinary rules. This would prevent cumbersome divergence in rules and standards in the years to come. It is worth reflecting that the starting position with the UK is very different to that of a regular third country trading partner. Currently there is already perfect alignment. Food safety rules need not remain identical in the future but they have to remain sufficiently close to allow for reasonably frictionless trade.



We strongly believe that the EU should strive for arrangements without veterinary controls to avoid serious delays at border control posts. The Brexit preparedness exercises showed that neither the UK, nor EU Member States would have had the capacity to deal with the current EU – UK trade flows in animal products.

When food safety systems are closely aligned, it is possible not to have veterinary checks at the border. The most comprehensive evidence of this is the veterinary co-operation between the EU and Switzerland, which allows for the movement of dairy products without veterinary controls. Equivalence has applied to health and safety requirements for all foods of animal origin between the EU and Switzerland since 2006 and border checks between the two territories have been abolished since 2009. Veterinary certificates are no longer a requirement in this common veterinary area. We fully acknowledge that the overall EU-Switzerland trade arrangements are extremely complex and should not be used as blueprint. However, purely on food safety matters, it is an example worth looking at.

Aside from avoiding or minimising the disruption caused by border checks, a regulatory committee should be set up to ensure continuous coherence between the EU and UK on food safety matters. This would help to avoid the creation of trade barriers in the future caused by diverging standards.

Conclusion

Maintaining a very close partnership, economic and otherwise, is clearly in the interest of both parties. Pragmatic solutions will be required to address those areas where UK wishes to diverge from EU rules and policies. It is evident that a third country cannot be granted the same benefits as a Member State and that Brexit will inevitably have negative economic repercussions but matters should not be made worse with additional, unnecessary hurdles. With the painful separation process completed, the focus now needs to be on maintaining a strong relationship in the interest of EU and UK citizens and businesses. The dairy trade will be able to cope with some friction due to customs controls but otherwise trading conditions within the EU-UK dairy supply chain need to remain unchanged.