**Commission addresses civil society and European Parliament on EU-UK Trade agreement**

The European Commission gave numerous briefings on the EU-UK Trade and Cooperation Agreement (TCA). First with civil society on 7 January as part of the DG AGRI Civil Dialogue Group on Stock Taking and three more with the Committee on Fisheries (PECH) and the Committee for International Trade (INTA) of the European Parliament on 11 January, which preceded a joint INTA and Committee on Foreign Affairs (AFET) meeting and a Committee on Agriculture and Rural Development (AGRI) meeting on 13 and 14 January respectively. The TCA, a comprehensive free trade agreement, was agreed by the European Commission and the United Kingdom on the 24 December 2020, prior to the United Kingdom’s departure from the customs union and single market.

The **EP INTA and AFET Committees** at the joint meeting, and the INTA Committee at its meeting, broadly welcomed the outcome of the TCA, but emphasised the need for deep parliamentary scrutiny. The two committees will eventually vote on the consent proposal and an accompanying resolution prepared by the two rapporteurs Hansen and Kati Piri (S&D, NL) [at the end of February or in March](https://www.europarl.europa.eu/news/en/press-room/20201228IPR94701/european-parliament-to-scrutinise-deal-on-future-eu-uk-relations). In addition to the plenary vote, Parliament will also vote on an accompanying resolution prepared by the political groups in the [UK Coordination Group](https://www.europarl.europa.eu/ukcg/en/home) and the [Conference of Presidents](https://www.europarl.europa.eu/about-parliament/en/organisation-and-rules/organisation/political-bodies). In addition to the plenary vote, Parliament will also vote on an accompanying resolution prepared by the political groups in the [UK Coordination Group](https://www.europarl.europa.eu/ukcg/en/home) and the [Conference of Presidents](https://www.europarl.europa.eu/about-parliament/en/organisation-and-rules/organisation/political-bodies).

The **AGRI Committee** meeting on 13 January also saw agriculture MEPs welcome the TCA, following the presentation by the Commission of the Agreement. This presentation looked at market access – highlighting notably that there would be no diagonal cumulation with third countries, and on SPS and technical barriers to trade and also on some aspects of interest to agri-food sector. <https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/AGRI/DV/2021/01-13/PowerPoint_presentation_the_EU_UK_Trade_Agreement_explained_DGTRADE_EN.pdf>

This meeting follows on from the [**INTA Committee meeting**](https://www.europarl.europa.eu/news/en/press-room/20210111IPR95307/trade-meps-promise-thorough-scrutiny-of-the-eu-uk-agreement) of 11 January where the European Commission provided a debriefing on the EU-UK Trade and Cooperation Agreement, which was warmly by MEPs, who nevertheless sought detailed scrutiny of the deal before a consent decision. Although it was lamented that the agreement did not go deeper on trade in services and that the UK would be leaving several EU programmes, it was nevertheless noted that given the fact that the trade deal was one of divergence rather than convergence, the outcome was the least worst outcome possible. Furthermore, most MEPs insisted that democratically elected institutions like the Parliament must have a role in the implementation and monitoring of the agreement or the selection of arbitration panel members.

The [**meeting of the EP PECH Committee** of 11 January](https://multimedia.europarl.europa.eu/en/committee-on-fisheries_20210111-1000-COMMITTEE-PECH_vd) saw a debriefing on the EU-UK Agreement on future relationship with the UK by representatives of the European Commission's Task Force for Relations with the United Kingdom. The UK and EU are now responsible, under international law, for jointly managing approximately 100 shared fish stocks. The TCA introduces a gradual phasing in of any changes of quota shares and provisions on access to waters. Under the TCA, and during a transition period until 30 June 2026, the UK and EU have agreed to grant each other’s vessels vessels full access to their waters to fish specified TAC and non-quota stocks in the respective Excusive Economic Zones (EEZs, 12-200 nautical miles); and in a specified part of the waters of the Parties between six and twelve nautical miles (Annex FISH.4, Article 2); and to the so-called Crown dependencies of the UK (Article FISH.10). After a period of stability of 5,5 years, during which the current rules will remain in place regarding reciprocal access, the agreement provides for annual consultations to establish the level and conditions of reciprocal access to each Party's Exclusive Economic Zones and territorial waters. There will be gradual changes to the quota shares for total allowable catches (TACs) of the shared stocks that also include stocks managed trilaterally (e.g. with Norway) or in multilateral settings. However, in absence of TACs agreed for 2021 between the EU and the UK for the jointly managed and shared fish stocks, the EU Council of Fisheries Ministers has agreed temporary fishing opportunities on 17 December. **MEPs in the PECH Committee**, whilst recognising that a deal was better than no deal, expressed significant frustration on the agreement achieved with respect to fisheries and uncertainties around future access by EU boats to UK fishing waters given that the agreement includes a clause to review the total allowable catch (TAC) after a transitionary period.

The **CDG meeting** focuses on the implications to trade in agri-food products of the TCA, addressing market access, technical barriers to trade, sanitary and phytosanitary standards, organics and GIs, rules of origin, including product specific rules, and the Withdrawal Agreement.

At the **CDG meeting**, on 14 January, the Commission, represented by members from the UK Task Force which led the negotiations (Stefaan De Rynck and Nicolas von Lingen), began with an overview of the agreement and on the level playing field.

The overview noted that although the TCA has been since 1 January 2021 under provisional application which is expected to last until the end of February 2021, with a potential extension for the benefit of the European Parliament to scrutinise the deal. TCA also has a Partnership Council which will meet annually at UK ministerial level and Commissioner level to take stock of implementation and take any necessary decisions on the TCA. Under the Partnership Council will be a number of specialised committees and working groups on relevant areas of cooperation .

According to the Commission, fisheries are included as an integral part of the TCA, in contrast to the UK’s desire to have a stand-alone fisheries agreement. This is important in terms of enforcement, whereby the TCA allows cross-retaliation. For fisheries, the UK and EU agreed to a transition period of five and a half years, at the end of which there will be negotiations in terms of access to waters.

In terms of **remedial measures**, the agreement foresees unilateral measures allowed by either party, first with rebalancing mechanisms to enforce the level playing field, subsidy controls although but these have an agricultural carve-out. Finally, safeguard measures are also included, whereby party can adopt a safeguard measure in case of serious economic, environmental or societal difficulties for a sector or regional nature, which is likely to persist. However, the other party can adopt rebalancing measures in case the safeguarding measures results in an imbalance of rights and obligations in an agreement.

Domenico Fornari, DG TRADE, discussed **market access**, which in the TCA involves duty free, quota free access with strong WTO+ disciplines. The key components are the prohibition of duties of all goods meeting origin rules, including export duties. Import export monopolies are prohibited as well as price controls and import export licensing controls. There are also provisions to address unfair trading practices such as dumping or subsidies, whereby the WTO trade defence instruments and agricultural safeguards are available (in case of import surges or price declines). An important provision is that the parties will not use each other’s existing WTO TRQs in order to respect the pre-Brexit market access rights of other WTO members.

Fabrizio Sacchetti from the UK Task Force elaborated on **technical barriers to trade**, highlighting the general chapter on TBT and five sector specific annexes of which two are of specific interest to the agri-food sector – one on organics, and a second on wine. The TCA achieved a clear definition on the concept of “relevant international standards” which is often a sticking point in FTAs, for example by recognising the role the Codex Alimentarius. There are also agreements on marking and labelling which reflect best practices and includes trade friendly provisions e.g. allowing the affixation of supplementary labels in the customs warehouse of the country of import.

Alia Atitar from DG AGRI elaborated on the **organics provisions** in the TCA which provides for equivalency recognition in organic certification between the EU and the UK; for the EU this is based in law on the current organic regulation (EC) No 834/2007, as by 1 January 2022 the EU will have a new organics regulation and framework. This mutual recognition was straightforward as for the most part the UK’s own organics framework was based on that of the EU under Regulation 83/2007, but there is also a provision in the TCA establishing that by 31 December 2023, each party will have to reassess the equivalency and if there is too much divergence between the UK and EU, then agreement can be suspended. Ingredients can be imported as organic but all other goods (unprocessed agri-food products, and food and feed) must be originating. Imported ingredients must have a certificate of inspection, but the UK has waived this for EU originating ingredients until 1 July 2021. On labelling and logos, EU and UK must ensure their products comply with the labelling rules of the other party and the goods can carry the logo of EU organic or future UK organic logo.

Daniela Planchensteiner (DG AGRI) explained the framework for trade in wine and GIs. On **geographical indications**, the UK under the withdrawal agreement had already committed to protect the entire stock EU GIs, traditional terms and specialities which are registered under the EU by the end of transition period, and the UK legislation on GIs broadly reflects that of the EU. A mechanism for the protection of future GIs does not currently exist in the TCA, but there is a review clause

The second part of the CDG concerned **WTO TRQ apportionment** negotiations which were affected by the UK’s departure from the EU. Willi Schulz-Greve (DG AGRI) provided a background to this issue, namely the decision by the EU and the UK to apportion the EU’s WTO bound TRQs based on reference period of trade between WTO members and the EU, of the years 2013 to 2015. This covers some 143 TRQs, some of which are sub-divided, others country specific and other *erga omnes*, that is, open to all countries. The reference period was favourable for the EU because a substantial share of the quotas would go to the UK, for example 30% of the volume of the TRQ for white sugar would go the UK under this favourable reference period for the EU. Most of the delegations in Geneva were not agreeable to this approach, which the EU tried to address using negotiations under article 28 GATTS, without offering any compensation as would normally be the case under this provision. Instead, the EU has made it possible to review its apportionment of the TRQ if a trading partner can provide substantive evidence that the current approach is not representative of trade between the partner and the EU, though without increasing the overall TRQ volume. Discussions were initiated with the 22 countries with negotiations / consultation rights with whom Commission has been engaging since 2018 to avoid retaliation or disputes.

No compensation but how to reflect best the historical trade flows, and open to adapting the apportionment between the UK and EU without increasing the overall volume or granting compensation. Additionally, and critically, the UK and EU committed not use the *erga omnes* TRQ under the TCA. To date, the EU has signed an agreement with Norway, with Cuba to follow soon. Agreement with Australia was initialled before Christmas 2020 and negotiations were finalised with Thailand, Egypt, Indonesia, Pakistan and Costa Rica, and formal procedures for signature will be launched. Argentina and Canada have seen constructive discussions, the EU hopes that Venezuela will soon follow, and one more meeting to conclude negotiations with the US is needed. Discussions are ongoing with Uruguay, Brazil and Russia. Discussions have proven more challenging with China, New Zealand, Chile and India. Consultations with Switzerland, Malaysia and Taiwan have been held, where their consent is needed but not an agreement. In some of these cases data will have to be reviewed and will result in a different apportioned than what was first set out in Geneva – either to give more to the UK or more to the EU but keeping overall volume the same. Some of the EUs TRQs were moved from licensing system to FCFS in 1 January 2021, and the subperiods of individual TRQs were also discussed where appropriate. The apportioned TRQs apply from 1 January 2021, and special measures for those TRQs which were already opened when the apportionment rules came into application were put in place. Fabien Santini elaborated on the technical and legal aspects of the apportionment as covered under regulation (EU) 2019/386, as amended by Commission Implementing Regulation (EU) 2020/2099. The TRQ quantities resulting from the methodology in these regulations are contained in Commission Implementing Regulations (EU) 2020/ 761 (simultaneous examination and licensing management) and 2020/1988 (first come, first served management). For the straddling quotas, whose period of application began before the 1 January 2020, the EU published on 4 January the exact available EU quota for each of the relevant TRQs for the remainder of their period of application. These regulations will eventually have to be amended by the outcomes of the EU’s negotiations with individual WTO members over the apportionment of the TRQs.

The third part of the presentations looked at **rules of origin**, and was covered by Marianna Molnar from DG TRADE, Maria Isabel Garcia Catalan from DG TAXUD and María Aguado from DG AGRI. The idea behind the rules of origin (RoO) provisions is to establish the originating criteria for the preferential market access and prevent circumvention, so the benefits of the TCA would only go to EU and UK products and not those of third countries. The key elements of the RoO are **full bilateral cumulation**, which means that both the materials and processing can be considered when assessing the origin of the product, but no inputs from third countries can be considered. This is in line with the EU standard approach compared to the broader approach initially sought by the UK. In terms of **tolerance for agricultural and processed agricultural products**, the tolerances are defined in weight, which allows maximum 50% of tolerances. A compromise on **accounting segregation** was found whereby this can be used for fungible materials and certain list of fungible products e.g. cereals, oils and vegetable oils. On the approach to the **duty drawback and inward processing**, the TCA allows for non-originating products which are imported and then incorporated into final products that are exported preferentially under the TCA, these input materials can benefit from duty drawback and inward processing schemes. However, given the sensitivity of the issue and the big difference it can make to the cost of production, a review clause has been built into the TCA on these provisions.

On **origination proof and verification** under the TCA, the preference may be claimed by the importer by the knowledge of the importer or through statement of origin provided by the exporter. This statement can be made in the EU by an exporter registered in REX for consignments with a value beyond EUR 6000, and for the UK, this statement can be made by any exporter with an EORI number. An EU implementing regulation has been published that allows EU exporters to make out a statement of origin based on supplier’s declaration that the exporter may not have but which they will have after a one-year transition period. Verification will take place either through customs authorities addressing verification to the importer or to the UK authorities to request the verification. On **customs and trade facilitation**, this is standard compared with other FTAs, although there are some additional features such as on security cooperation, mutual recognition, roll-on, roll-off traffic and administrative cooperation on VAT, excise and customs duties. Finally there is an anti-fraud clause and a provision on errors in the application of the preferences. In relation to **product specific rules** **(psr)**, of which there are 24 chapters of interest to agricultural trade, these can be divided into three clusters. Basic agricultural materials, which are mainly plant or animal origin – need to be wholly obtained, which means that these products can only be granted preferences if one can prove that they were produced or extracted from an animal in the place of production, namely either the EU or UK. First stage of processing products, made of one single agricultural products (e.g. flour or olive oil), will also need to be made out of wholly obtained materials. Finally, more processed agricultural products, allow some flexibility or tolerance on the use of non-originating materials, particularly sugar in confectionary and chocolate, and cereals in animal feed and pet food (tolerance for non-originating material will be expressed in weight, except for sugar in chocolate and white chocolate). Additionally, the rules on Chapter 19 on preparations of cereals and pastrycooks' products has been streamlined and does not include a requirement on originating wheat in flour.

Koen Van Dyck from DG SANTE covered **sanitary and phytosanitary standards (SPS)** measures in the TCA. The SPS+ elements are provisions which uphold the EU single entity concept (same certificates and import conditions for all EU member states and in relation to authorisation procedures for the future, that this allows EU wide authorisation). Regularisation allows for the grandfathering of existing regularisation measures and expedition of regularisation measures. Listing of establishments allows for pre-listing under the TCA, so audits are not needed. There are also provisions on cooperation on the multilateral fora, animal welfare, antimicrobial resistance and cooperation on sustainable food systems, as part of the EU’s Farm to Fork strategy. On implementation, there is an establishment of a trade specialised committee and its tasks and competences, in relation to SPS measures.

The **implementation of the Withdrawal Agreement** was elaborated on by Anne Becker with respect to the Northern Ireland Protocol and by Bernard Van Goethem on border controls and SPS. The NI Protocol entered into force on 1 February and applies since 1 January 2021. The objective is to avoid a hard border on the island of Ireland by including Northern Ireland in the single market for goods and in the customs union. This makes applicable relevant EU law in the annex to the agreement to and in the UK with respect to Northern Ireland. Single market regulation applies to all goods placed on the market in Northern Ireland, and the EU classified trade from NI to Great Britain as export and from Great Britain to NI as imports, but trade between NI and Ireland /EU-27 is circulation of goods in the single market. In terms of **goods not at risk** this is a distinction to establish whether EU or UK customs duties apply to goods in NI, whereby by default all goods entering NI are considered to be at risk of circulating into the EU. This means that of the goods are at risk of further circulation into the EU, then EU customs duties apply. But if the goods come from GB to NI and are not at risk of circulation into the EU, then no customs duties apply, and if the goods come from another third country into NI and are not at risk of circulation into the EU, then UK customs duties apply. There are specific cumulative criteria for establishing whether the goods are considered not at risk or at risk. Finally, the NI Protocol also has a provision to carve out of state aid for agriculture in NI, exempting scrutiny of UK state aid to NI from scrutiny and also state aid for NI in the case of special measures introduced in Ireland’s agricultural sector.

With respect to the **market situation**, Michael Scannell from DG AGRI acknowledged that the TCA is seen by many as a thin deal, essentially to maintain the existing market access for trade in goods between the EU and the UK. He elaborated on the developments in the short few days since the implementation of the agreement, that there had been no significant impact on trade volumes or prices noted. However, this has to be seen in the context of increased stocks held by traders and retailers during this period, in anticipation of disruption due to coronavirus and also as is standard for Christmas. Overall trade volumes have been low compared to historical figures as a result of these and other factors, including the postponement of trade transactions to avoid disruption and because of very high freight costs. International trade has been a factor contributing to an easing of the situation as there has been a reduction in international imports into the EU. The grace periods built into the agreement, varying from 3 to 6 months have also resulted in flexibility which reduces the impact on the market. However, as with the other factors, these measures and scenarios are temporary and it will be seen how the impact on the market will develop. It is already noted that SMEs are approaching EU-UK trade more cautiously due to uncertainty with how the TCA applies, and furthermore, it also remains to be seen what would happen in the case of a major disease outbreak, if there is a major divergence in the measures or the interpretation of the measures by the EU and UK, and also how third countries and consumers behave and respond to the new trading relationship between the UK and EU.

Finally, Lionel Mesnildrey from the EU delegation in London discussed the UK border operating model and Frank Bollen discussed the EU’s Brexit adjustment reserve of EUR 5 Billion, to support those Member States most affected by the departure of the UK from the EU.