HOUSE OF COMMONS LIBRARY

BRIEFING PAPER

Number 8518, 13 March 2019

Brexit: trade tariffs if there is no deal

By Dominic Webb

1. Introduction

If there is a no deal Brexit, the UK will have to implement its own set of tariffs. This short note explains what tariffs are, how they work in the EU, the no deal tariffs announced by the Government and the role the House of Commons will play in scrutinising them.

2. What are tariffs?

Tariffs are taxes on imports. These are paid by the importer, although some or all of the tariff may be passed on to the consumer of the good. Tariffs apply only to goods imports – not services. They may be a percentage of the value of the good imported (*ad valorem* tariffs), a fixed amount per unit of weight or volume ("specific tariffs") or a combination of the two.

The tariff schedule sets out the tariff rate for each type of product. Tariffs are set for each type of good individually at a very detailed level. The EU has more than 17,000 separate tariff lines.[1]

The schedule is also likely to include Tariff Rate Quotas. These allow a certain volume of goods to be imported at a reduced tariff. Imports above the quota are charged the full tariff.

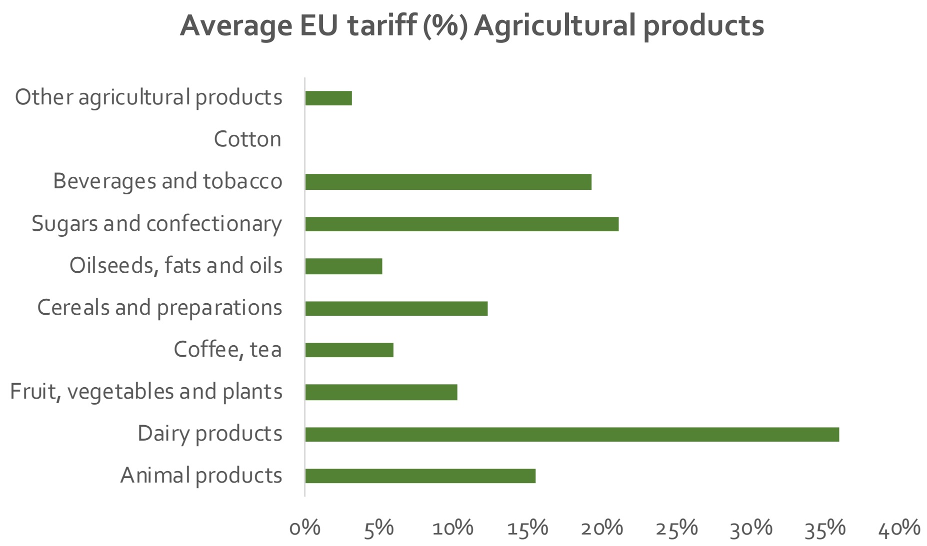
3. Pre-Brexit tariff levels

While the UK is still an EU member state, tariffs are set by the EU. The EU is a customs union which means all member states apply the same set of tariffs. There are no tariffs on trade between EU member states.

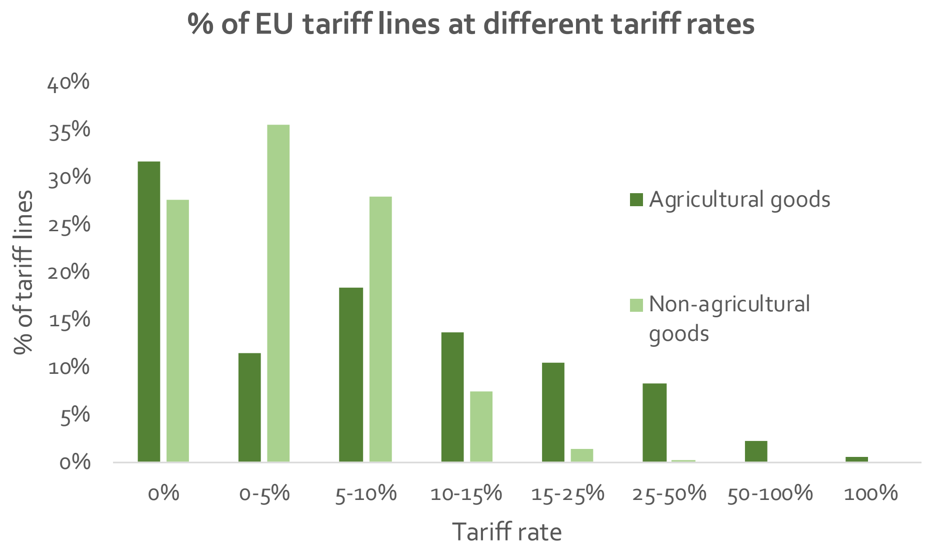
On average, tariffs are relatively low. But they are significant in some sectors. The EU's tariff on cars is 10%. Tariffs on some agricultural products are much higher. The trade weighted average EU tariff on non-agricultural goods was 2.8% in 2016 compared with 8.7% for agricultural goods.[2] The chart below shows average EU tariffs for types of agricultural products. Tariffs are particularly high in the dairy sector. Tariffs on some

[1] Taxation (Cross-border Trade) Bill Deb 25 January 2018 c91
[2] WTO, Tariff profiles: European Union

individual products are much higher (over 100% in some cases) than the averages shown in the chart.



It is also important to note that the EU tariff on around 30% of tariff lines is already zero with many more being less than 5% (see chart below). These figures are based on tariff lines rather than volume of imports.



4. Winners and losers

Changes to tariff rates create winners and losers. Significant cuts to tariff rates benefit consumers of those products. However, if high tariffs were to be removed or significantly reduced, domestic producers who compete against these products are likely to be made worse off as they face competition from cheaper imports.

Unilateral reduction of tariffs to all trading partners also reduces the advantage enjoyed by countries which already have preferential access, through a free trade agreement or other preferential access scheme. In addition, lowering tariffs unilaterally may reduce bargaining power in future trade agreement negotiations.

5. The UK's tariff schedule

If the UK leaves the EU without a deal, it will need its own tariff schedule as it will no longer be part of the EU customs union. If there is a deal, the UK will continue to apply EU tariffs, as now, during the transition period.

The tariff schedule sets the "default" tariffs. They are the tariffs which apply to trade on "WTO rules" (sometimes referred to as Most Favoured Nation (MFN) tariffs). There are, however, some important exceptions to this:

- Tariffs are reduced or eliminated where there is a free trade agreement or customs union;
- Developing countries are often given market access at reduced or zero tariffs under preference schemes such as the EU's Everything But Arms scheme and the Generalised Scheme of Preferences (GSP); and
- Tariffs are higher on specific products where anti-dumping duties are imposed on imports sold at unfairly low prices.

In the event of a no deal Brexit, the UK tariffs would be charged on imports from both EU and non-EU countries. EU countries would thus lose the advantage they currently have from tariff-free access to the UK market.

6. Publication of UK tariffs under no deal

The Government announced the no deal tariffs on 13 March 2019 – see Department for International Trade and HM Treasury: Temporary tariff regime for no deal Brexit published. Details of how to find tariffs for specific products is available here: Check temporary rates of customs duty on imports after EU exit.

This regime will apply for up to a year while a consultation and review on a permanent tariff regime takes place. There will be no tariffs on 87% of imports (measured by value). Tariffs will remain in the following areas:

- a mixture of tariffs and quotas on beef, lamb, pork, poultry and some dairy to support farmers and producers who have historically been protected through high EU tariffs
- retaining a number of tariffs on finished vehicles in order to support the automotive sector and in light of broader challenging market conditions'. However, car makers relying on EU supply chains would not face additional tariffs on car parts imported from the EU to prevent disruption to supply chains
- in addition, there are a number of sectors where tariffs help provide support for UK producers against unfair global trading practices, such as dumping and state subsidies. Tariffs would be retained for these products, including certain ceramics, fertiliser and fuel
- to meet our long-standing commitment to reduce poverty through trade, the government currently offers preferential access to the UK market for developing countries. To ensure that access for developing countries is

> maintained, we would retain tariffs on a set of goods, including bananas, raw cane sugar, and certain kinds of fish[3]

82% of imports from the EU would be tariff-free under no deal (compared with 100% now). 92% of imports from non-EU countries would be tariff-free (compared with 56% now).[4]

The tariffs will not apply to goods imported into Northern Ireland from Ireland. This is to avoid checks at the Irish border. Tariffs will be payable on goods imported into Great Britain from the EU via Northern Ireland.[5]

Announcing the tariffs, George Hollingbery, the trade minister, said:

> Our priority is securing a deal with the European Union as this will avoid disruption to our global trading relationships. However, we must prepare for all eventualities.
>
> If we leave without a deal, we will set the majority of our import tariffs to zero, whilst maintaining tariffs for the most sensitive industries.
>
> This balanced approach will help to support British jobs and avoid potential price spikes that would hit the poorest households the hardest.
>
> It represents a modest liberalisation of tariffs and we will be monitoring the economy closely, as well as consulting with businesses, to decide what our tariffs should be after this transitional period.[6]

The Government had been criticised for not announcing the no deal tariff rates earlier. For example, the *Financial Times* reported in early March that "business groups are growing frustrated by the lack of information from ministers about what would happen under a no deal Brexit".[7] Business groups have criticised the lack of consultation and short time to prepare for tariff changes.[8]

7. Parliament's role

The *Taxation (Cross-border Trade) Act 2018* (often referred to simply as "the Customs Act") gives the Government powers to create a set of import tariffs for the UK. Section 8(1) of the Act says:

> The Treasury must make regulations establishing, and maintaining in force, a system which—
>
> (a) classifies goods according to their nature, origin or any other factor,
>
> (b) gives codes to the goods as so classified,
>
> (c) specifies the rate of import duty applicable to goods falling within those codes (whether by a formula or otherwise), and
>
> (d) contains rules for determining the amount of import duty applicable to those goods

3 HM Treasury, Department for International Trade, Temporary tariff regime for no deal Brexit published, 13 March 2019
4 'Most imports tariff-free under no-deal plan', *BBC News*, 13 March 2019
5 'Most imports tariff-free under no-deal plan', *BBC News*, 13 March 2019
6 HM Treasury, Department for International Trade, Temporary tariff regime for no deal Brexit published, 13 March 2019
7 'Government postpones outlining no-deal Brexit tariff plans' *Financial Times,* 6 March 2019
8 'Most imports tariff-free under no-deal plan', *BBC News*, 13 March 2019

Section 32 of the Act says that these Regulations are to be made by statutory instrument. On 13 March 2019, HMRC published a number of regulations connected with the customs tariff (some in draft).

Section 32 also sets out that the "made affirmative" procedure is to be used. Section 32(2) says:

> A statutory instrument containing any regulations to which this subsection applies must be laid before the House of Commons, and, unless approved by that House before the end of the period of 28 days beginning with the date on which the instrument is made, ceases to have effect at the end of that period.

This procedure will be used for the first regulations setting out the customs tariff (Section 32(3)). The period of 28 days is extended to 60 days if section 52 applies (i.e. if the Government considers it appropriate in connection with Brexit). The use of the made affirmative procedure was criticised by two House of Lords Committees. The Constitution Committee said:

> We are concerned that the 'made affirmative' procedure, which may be justified in a limited number of urgent cases, is being sought for non-urgent reasons as a convenient means of executive law-making.[9]

The Delegated Powers and Regulatory Reform Committee made a similar point:

> We consider that the preferable approach for affirmative instruments is the one normally adopted by the Government. "Draft affirmative" instruments should be the norm. "Made affirmative" instruments should be confined to urgent cases.[10]

[9] Constitution Committee, *Taxation (Cross-border Trade) Bill*, 23 February 2018, HL Paper 80, para 9

[10] Delegated Powers and Regulatory Reform Committee, *11th Report of Session 2017-19*, 17 January 2018, HL Paper 65, para 9