DIRECTOR GENERAL

Ms Ilze JUHANSONE
Secretary-General
Secretariat-General (SG)
EUROPEAN COMMISSION
B-1049 BRUSSELS

Brussels, 8 June 2023

Subject: ACEA response to European Commission questionnaire on battery rules of origin.

Dear Ms Juhansone,

As you are aware, ACEA has submitted a request to the European Commision to urgently review the rules of origin for batteries that apply under European FTAs, in particular the UK Trade and Cooperation Agreement (TCA), to avoid cutting off our electric vehicle export potential before it can even begin to grow.

Failure to meet these rules of origin (ROO) will have a negative effect on our members' businesses and their ability to remain competitive on global electric vehicle[1] (EV) markets. ACEA has requested the Commission to agree with the UK to maintain the current first-phase transitional rules for batteries in the TCA until the end of 2026.

As noted in our letter to you last month, we met with your services on 3 May, when the Commission expressed its intention not to review the rules. During that meeting, the Commission also put to ACEA a set of questions focused on assessing compliance with the TCA rules. We have analysed this request for data, shared it with our members and now provide our response in an attachment to this letter.[2]

As a preface to our formal questionnaire response, we would like to highlight the following important disclosures, based on the aggregated responses of our members:

1. Compliance: in 2024 our members expect a **compliance rate of just over 10%** with the TCA rule of origin at the level of the electric vehicle, due to the introduction of the new rule of origin at the level of the battery.

[1] EVs refers to full battery electric vehicles only and excludes hybrids of all types.
[2] In response to the questionnaire, ACEA received input from 10 members, representing 71.8% of EU manufacturing and 70% of EV exports to the UK in 2022 (based on ACEA own data and Eurostat statistics).

Compliance at the level of the vehicle, will reach almost 30% by 2026. This contrasts with the current expected preference compliance rate of over 99%[3].

EVs that fail to meet their ROO will be subject to tariffs on imports into the UK.

2. Manufacturing: tariffs will have a direct impact on EU manufacturing given their potential to negatively affect sales in our number one export market, the UK. ACEA asked manufacturers to explain what that could mean in different scenarios, including if they were obliged to pass this cost on to consumers and what that might translate to in terms of lost sales. In a worst-case scenario, they report that this could diminish their EU EV production by almost 113,846 units in 2024 and by over 184,123units in 2026. The impact over the three-year period covered by our request could be a total **loss of 479,360 EVs not manufactured in the EU**.

   The potential knock-on effect to the European economy would be substantial.

3. Financial impact: in terms of direct financial costs, failure to meet the TCA ROO for EVs means that the UK would apply a 10% tariff on those vehicles. Members shared with ACEA the total volumes and values of their forecast exports to the UK for the period in question. In addition, they calculated what it would cost if they paid a 10% tariff on those volumes which will not meet the EV ROO.

   Based on total expected ROO non-compliant EV exports to the UK, our manufacturers would pay €1.081 billion in tariffs in 2024 alone, increasing in line with a rapidly expanding EV market to total €1.630 billion in payments in 2026. In total, over the three-year period, European manufacturers would pay to the UK Exchequer an expected **total of €4.265 billion in customs duties**.

   Due to the significant trade surplus in our favour for EVs, the expected total customs duties payable on exports from the EU to the UK will be a multiple of payments due on exports from the UK to the EU.

Based on the input from our members to these questions, the impact of the impending tariffs on manufacturing will clearly be massive and the payment of duties would be an unnecessary burden for EU businesses in a time of critical industrial transformation.

In addition to the above, there are a number of other key elements which we encourage you to consider when reflecting on our request.

- ACEA's request is to temporarily liberalise the battery ROO only for the period 2024 to 2026. ACEA does not contest that a more restrictive permanent rule of origin for batteries should come into force in line with the development of capacity in the EU battery supply chain.
- Three years between the conclusion of the TCA and the application of restrictive rules for batteries is simply too short for all players in a complex and capital intensive supply chain to be able to plan and execute investments. Events during those years, not least

[3] Actual compliance is 87%, however once all retrospective claims for tariff preferences are processed by our members utilisation is expected to be 99.7%.

the impact of the energy crisis on this energy intensive industry, have made execution of those investments more challenging.

- Massive investment by OEMs in the European battery industry has happened but it will take time for production to materialise and to scale up to the extent necessary. Ultimately, contracts for supply of batteries in the period 2024-2026 have already been concluded, in many cases before the TCA was completed. Nothing that the EU and the UK might agree on the ROO for this period will in any way effect the nature or substance of those contracts and the structure of the supply chain in the next 3 years.
- ACEA members are localising their battery supply chains. Localisation is driven by several factors, most notably for supply chain management and decarbonisation reasons but also in the expectation that regulation will hamper imports in the future. For example, through maximum carbon thresholds for batteries that will create potential cell import risks; the linking of ESG requirements to public procurement rules; the extension of carbon border adjustment to batteries; etc.
- ACEA expects that the temporary flexibility it requests should actually help the development of the European battery supply chain by rewarding investments already made by battery manufacturers in Europe, who can use their EU originating battery status as leverage with OEMs. Without this, automobile manufacturers have no incentive to channel EV production through the EU.
- The longer-term implications on the potential loss of competitiveness on our key export market are substantial. The EU share of the UK EV market moved from 44% in 2019 to just 47% in 2022. In the same period, China's share of the market grew from 2% up to 32%, despite a 10% customs duty. Should European EVs have to pay the same entry tariff, they will lose out to third country competition. Once lost, this market will be incredibly difficult to recapture.
- Moreover, the application of tariffs on zero-emission vehicle exports, while combustion engine vehicles are exported tariff free to the UK would be counter-productive to the ambitions of the Green Deal and will inhibit the economies of scale needed to successfully scale up EV production in the EU.
- Finally, we have noted the public comments of UK Government ministers in the last two weeks expressing their interest in resolving this issue and willingness to discuss it with the EU.
- As the data we present in annex shows, the balance of financial interests in reviewing this case is on the EU's side.

Conclusion

At this critical juncture in our industry's green transformation, the application of unachievable rules of origin will have significant direct consequences in terms of a potential loss of EV manufacturing output in Europe. The payment of massive unnecessary customs duties risks significantly reducing our UK market share in the long-term.

Moreover, while the restrictive ROO is ostensibly a tool to drive investment in European battery supply chains, its application will be counter-productive in the short term by creating a situation in which no player in the supply chain is able to comply.

Given our investment in EU electromobility supply chains and the coming online of more developed battery supply chain in the next years, we ask the Commission to urgently consider our proposal for a bridging mechanism for the implementation of battery ROO in the TCA.

As mentioned in our letter to you from 10 May, we are willing to meet you and your European Commission colleagues as soon as possible on this issue.

Yours sincerely,

Sigrid de Vries

Encl.

cc: Ms Sabine Weyand, Director-General, Directorate-General for Trade, European Commission

Ms Kerstin Jorna, Director-General, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, European Commission

Mr Gerrasimos Thomas, Director-General, Directorate-General for Taxation and Customs Union, European Commission

Cabinet of President Ursula von der Leyen

Cabinet of Executive Vice-President Valdis Dombrovskis - An Economy that Works for People, and Commissioner for Trade

Cabinet of Vice-President Maroš Šefčovič - Interinstitutional Relations and Foresight

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