



**THE TRADE AND COOPERATION
AGREEMENT: ONE YEAR ON
THE EXPERIENCES OF UK BUSINESSES**



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Introduction

On the afternoon of Christmas Eve 2020, businesses across the UK discovered the answers to key questions which had persisted since the 2016 EU referendum – what would be their new trading terms with their biggest market – the EU – when the transition period ended in just seven days’ time? However, the full text of the draft Trade and Cooperation Agreement (TCA) was not published until a couple of days later, and much of the detailed guidance for firms was published just hours before the end of the transition period on 31 December 2020.

Since the Prime Minister’s speech in Greenwich in February 2020, it had been clear that a more basic Free Trade Agreement (FTA) was on the cards than had been originally signposted in the Political Declaration in October 2019. It was obvious that after the 2019 UK General Election, the UK would leave the customs union, the common VAT area, and its Single Market relationships with the EU, at the end of the transition period. Nevertheless, many issues remained in play until that Christmas Eve afternoon.

These included:

- Cumulation arrangements within the product-specific rules of origin for traded goods qualifying for zero-tariff treatment.
- Whether full borders documentation and checks would apply for trade in both directions from 1 January 2021. Which specific customs and other documentation would be required on 1 January?
- Whether the UK would stay within the CE marking system for industrial and electrical goods, and if not, exit on what timescales?
- Precise scope of VAT rules to apply to GB importers and exporters.
- Market access in services, including for multiple sectors: financial, legal, design and architectural services, and the scope of UK and EU reservations on cross-border services (now numbering over 1,000).
- Extent of labour mobility between EU and UK, and precise terms for short-stay business activities.
- Full scope of easements for trade in wines, chemicals, pharmaceutical products and organic food.
- Whether data flows between the EU and UK would be permitted to continue, and under which legal routes, while a separate adequacy relationship with the UK on data was considered by the European Commission.

Businesses in Northern Ireland faced additional complexity over how customs, VAT and border checks on goods from GB were meant to operate from 1 January under the Protocol on Ireland/Northern Ireland in the Withdrawal Agreement, concluded in October 2019.

Businesses across the UK, given the incredibly short notice, did an outstanding job to prepare, get their supply chains ready, and follow the guidance from the UK government and European Commission as best they could. Supply chains often take years to adjust to regulatory changes. The notion that UK firms knew all of the answers to business-critical questions on EU-UK trade, months in advance of the end of the transition period, is a false one. On key issues businesses had days, and in some cases a matter of hours, to implement what had been decided on Christmas Eve, which represented the biggest set of changes in cross-border trade in half a century.

This document sets out how the last year has gone for these businesses.

In the course of our 2021 survey work on EU-UK trade, we have spoken with thousands of UK businesses. Chamber member businesses cover the whole range of economic activities, from services exporters to importers of food products. As many as half of them are involved in generating the export-led growth which the UK government’s Global Britain approach is supposed to champion. The data they provide, and the stories they tell of their experiences of the new cross-border trading terms with the EU, provide strong evidence of what needs to change to make the TCA work better for business as we enter its second year.

We make policy recommendations based on that evidence – on the actions the UK government and European Commission could take in the coming months; those issues which could be resolved before the first review of the TCA through side agreements; and the more structural reforms which both sides should focus on in the 2026 review.

SECTION 1

THE KEY PARTS OF THE TCA: WHAT TRADING TERMS CHANGED FOR BUSINESS?

Tariffs and Rules of Origin

Over 200,000 UK companies (including many SME exporters) had only ever traded across borders within the EU customs union and Single Market on a tariff-free, but also near frictionless, basis. They were aware that the UK would leave the EU customs union and not form any new customs union relationship with the EU. In itself, that change meant they had to be prepared by registering for EORI numbers, finding customs intermediaries or speaking to their local Chamber of Commerce or Chamber Customs about the process of making customs declarations, as well as familiarising themselves with relevant origin, safety and security certification to accompany consignments of goods moving to the EU.

This would apply to companies in GB. Companies in NI would need to be aware of checks on goods coming from GB, but under the Protocol, goods moving to/from NI to the EU were treated as if EU laws on customs, VAT, and other border checks applied to NI as they would in an EU member state.

Full border controls were applied to GB goods being exported into the EU from 1 January this year. Alongside customs documentation, that requires safety and security certificates to accompany consignments. A temporary waiver on the need to produce suppliers' certificates via these cross-border goods movements applies to goods moving in both directions until 1 January 2022. The BCC has been working hard with the Chamber Network and its members to ensure maximum awareness of these coming changes on 1 January, and the risk they represent to firms which do not have the documentary evidence required for zero-tariff treatment of their exported goods. Nevertheless, it is unlikely all firms will be in full compliance by the start of next month, with uncertain consequences from customs authorities.

The TCA contains rules on what inputs qualify for zero-tariff treatment. Apart from a few special cases, goods must contain the requisite percentage of originating material from either the UK and/or the EU to meet the terms of product-specific rules of origin, and claim zero-tariff treatment. Goods which contain too high a proportion of other content do not qualify for zero-tariff treatment. Goods which have not been sufficiently processed in the UK do not qualify either, if exported to the EU. The terms of these rules were not available until the legal text of the draft agreement and guidance on rules of origin was available after Christmas Eve.



The TCA has meant two important structural changes for GB businesses on tariffs and rules of origin:

1. Goods cannot be imported from the rest of the world, then re-exported tariff-free to the EU, without sufficient processing. So movements of non-originating goods have to be very carefully considered (with use of customs warehousing where appropriate) to mitigate exposure to additional tariffs on re-export to the EU.
2. Goods cannot be imported from the EU, then distributed from the UK (GB) back into the EU tariff-free, without sufficient processing. They are non-qualifying goods. Although some larger firms have been able to mitigate their exposure to customs duties through usage of customs warehousing and returned-goods relief, some companies have had no choice but to off-shore their distribution networks into the EU for EU-originating goods. In a move replicated by many others, one of our UK member companies which sought to trade in/from the EU using EU tariff preferences had to form a commercial entity and register for VAT in both the Netherlands and in Germany, to comply fully with relevant commercial and VAT rules. Distribution infrastructure for a growing number of companies trading across the new customs and VAT borders have moved from GB into the EU.

The lack of cumulation within the TCA rules of origin leads to reduced choice in sourcing components, ingredients or parts for UK manufacturers. This is undoubtedly one of the issues for the first fundamental review of the TCA in 2026, in addition to whether more off-the-shelf options such as UK accession to the Pan-Euro-Mediterranean (PEM) Convention, might provide UK businesses with additional flexibilities on cumulation alongside EU and UK inputs in goods.



Customs and Hauliers

In the early weeks of 2021, Roll on-Roll off freight from GB into the EU was 25% less than in January 2020. This recovered from around March 2021. Nevertheless, outbound HGV traffic from GB to the EU was 6.7% lower in the period between January and June 2021, compared with the same period in 2018¹. Information exchanged between French and UK customs authorities on how traders and hauliers could bring themselves into compliance with customs and other border control rules, led to a sharp fall in the number of non-compliant traders to very low levels by the end of February.

The forecasts of seven-mile-long truck and lorry queues in Kent in the reasonable worst-case scenarios² did not come to pass. However, this was partly caused by exporting traders refraining from exporting in the early weeks of 2021. The effects of the pandemic were also felt on cross-border and global trade over this period. When they did resume trading in greater numbers from March this year, they have reported inconsistent application of customs and other border rules in different EU member states.

These changes are only the first half of the new GB trading border with the EU. Inbound GB customs and border controls will be phased in throughout the year from January 2022. – placing new requirements on EU suppliers and importing traders in GB. The easement on filing of supplementary customs declarations into GB also ends on 1 January – which SMEs in particular will need to be familiar with ahead of next month.

The TCA customs rules are based on the WTO Trade Facilitation Agreement terms, not the EU Union Customs Code (UCC), so although there are ambitions to simplify customs processes over time and to move towards a Single Window for customs processes, there are no specific benchmarks to measure these words against. As the UK did not wish to align with the UCC (in respect of GB), exporters were required from 1 January to have safety and security certificates accompanying other customs documentation with their consignments. These have added further costs to exporting to the EU, which traders in Norway and Switzerland do not experience as their governments negotiated waivers with the EU.

¹ <https://www.nao.org.uk/wp-content/uploads/2021/11/The-UK-border-Post-UK-EU-transition-period.pdf> at page 36.

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/920675/RWCS_for_our_borders_FINAL.pdf



Agri-food Exports – Export Health Certificates and Border Checks

For GB agri-food goods being exported into the EU, export health certificates (EHCs) signed by a vet were required for consignments of products of animal origin. Physical and identity checks were also conducted, alongside other border checks, on a limited number of trucks and containers crossing from GB into EU territory.

The cost, complexity and requirement for veterinarian signature of EHCs caused significant hardship for agri-food exporters in 2021, particularly SMEs. The TCA rules were based upon the relevant WTO rules, but with little more in the way of facilitation for smoother trade. In the absence of an equivalence relationship, or a wider veterinary agreement with the EU, the UK in respect of GB had a weaker relationship with the EU on sanitary and phytosanitary (SPS) checks on these foodstuffs and plant products, than goods coming from New Zealand – more than 10,000 miles away. GB exporting businesses and their customers in the EU have paid the price through delays, wastage of food and higher costs as a result.

VAT

From our members' surveys throughout 2021, import VAT has emerged one of the key barriers to GB-EU goods trade, and its complexity has led some firms to establish commercial entities within the EU (and register for VAT purposes within the EU) to service EU customers, taking jobs and investment away from the UK. For companies wishing to trade in the EU under EU FTA trade preferences, some have faced requirements both to form commercial entities and to register for VAT purposes in more than one EU member state.

The TCA contained only limited references to VAT on future cooperation and information sharing in certain circumstances. On automatic departure from the EU Common VAT Area at the start of the year, GB traders became third country traders for EU VAT purposes. Goods movements ceased to be intra-EU transfers, subject to acquisition VAT; instead becoming imports subject to import VAT. Goods moving either from GB to the EU, or in the other direction, became subject to import VAT on arrival at customs in the receiving country. Couriers or freight forwarders then sought the VAT due and handling charges directly from customers, sometimes at point of delivery. In some cases, this led to unexpected charges for import VAT not explained at point of sale, leading to rejection of the goods and attempts to return them.

An easement on postponed VAT accounting for UK companies, called for by the BCC³, was adopted, which relieved the potential cashflow burden for UK importing firms. Different rules for NI traders operate under the Protocol, which treats them as if they were EU traders in terms of trade with EU businesses and customers, with goods movements not subject to import VAT.

There have also been problems caused by the ending of policy alignment between the UK and EU on VAT. On 1 January, the UK introduced a new online system for VAT accounting for third country importers, but the corresponding EU system was not introduced until 1 July.

The new EU import-one stop shop (iOSS) for third country (including GB) VAT payments has created further compliance issues for GB exporters. The system applies only to goods purchases of less than EUR150, with purchases above that value still subject to normal VAT levying processes at customs on arrival in the receiving country.

Furthermore, UK firms have been required to appoint a fiscal intermediary for trading in the EU for VAT purposes. Firms in Norway – similarly outside the EU Common VAT area – enjoy more convenient arrangements, which limit the requirements to have a fiscal intermediary in the EU and give firms greater flexibility. Similar provisions could be negotiated between the UK and the EU through some of the cooperation bodies created under the TCA – such as the Trade Partnership Council. Many of our companies, however, would like to see a real cost-benefits analysis of returning to the kind of arrangements under a common VAT framework between the UK and EU at some point.

³ <https://www.britishchambers.org.uk/news/2018/08/bcc-comments-on-brexit-notices-a-start-but-businesses-need-more-detail>



Services Access, Labour Mobility and Supply Chains

The TCA provisions on trade in services are largely based on WTO agreements (including the General Agreement on Trade in Services (GATS)). Audio-visual services are excluded, alongside financial services, accountancy, architecture, design and most legal services. Temporary stays in the other area for business purposes, for example conferences and internal company meetings, are permissible, but are restricted to 90 days in any 180-day period. Secondment is possible within companies with locations in either market. However, there is a lack of comprehensive provisions on mutual recognition of professional qualifications in the TCA.

Previous arrangements involving free movement of workers from the EEA ended on 31 December 2020, although applications for settled status in the UK by EU nationals have continued throughout the year. Member companies across the UK have reported significant levels of labour and skills shortages throughout the year in all sectors, from care to hospitality to HGV drivers to manufacturing production.

The issue of labour mobility between the EU and UK is unlikely to be comprehensively reconsidered prior to the 2026 review of the TCA. In terms of its own labour market policy, we recommend the UK government introduces broad temporary visas of up to two years duration, to allow the Migration Advisory Committee (MAC) to complete its work on the current state of the UK labour market and tender new advice to UK government ministers.

Conformity Assessment and Markings on Industrial and Electrical Goods

Conformity assessment processes on industrial and electrical goods fall within the category of Technical Barriers to Trade (TBT) within trade rules. The TCA provisions have the WTO TBT Agreement as the baseline, but no mutual recognition agreement was reached on conformity assessment. During the negotiations, the UK made clear it would not seek to remain part of the CE marking system of conformity assessment and markings, and would establish its own UKCA system for GB, with a separate UK (NI) system being required for NI as a result of the Protocol.

For products being sold on the GB and EU markets, separate conformity assessment processes will have to be undertaken and relevant markings affixed to goods. Dual-marked goods will be allowed to circulate in both markets – but the key issue for manufacturers, particularly SMEs, would be the cost and complexity of duplicating conformity assessment processes. This is subject to unilateral easements adopted by the UK government for GB to allow CE-marked components, goods and spare parts to circulate in GB until January 2023 (this was extended by a further 12 months this summer following BCC representations). The easement has additional flexibility if the UKCA markings are on accompanying letters or electrical cables; in these cases they may circulate in the UK without being affixed to the goods, until January 2024.

In the BCC's International Trade Survey in October 2021, almost two thirds of respondents for whom certification marking was applicable said their preference would be to permanently revert back to the EU's CE certification marking system. This is largely to keep costs low and allow for continuity of integrated supply chains. Goods finished and assembled in GB often contain components manufactured and conformity assessed in the EU or other countries which are part of the CE marking system. Businesses welcomed the extension of the unilateral easement on conformity assessment by the UK government, but find it insufficient to respond to the reality of complex manufacturing supply chains. 2023/4 does not provide sufficient time to reorder such supply chains; and therefore we call upon the UK government to take further action – unilaterally or through the Trade Partnership Council – to relieve this burden on businesses.



Chemicals

The TCA contained special annexes on trade in chemicals, which create the means for regulatory cooperation and exchange of information. The UK did not, however, pursue a relationship based on regulatory alignment, meaning that in respect of GB, it left the EU Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) system at the end of the transition period and created a separate UK REACH system for GB. "Grandfathering" of existing approvals was permitted; but for newly authorised products, duplication of registration by traders is now required for the sale of that product in both markets.

This has introduced significant new cost pressures. The UK government has offered a delay in compliance with full registration requirements involved with UK REACH, pushing compliance back until 27 October 2025 - also giving it time to consult business and others on compliance arrangements⁴. In NI under the Protocol, the EU REACH system continues to apply.

Data Flows

A temporary transition period on data flows between the UK and EU applied from January until the EU made adequacy decisions in late June, under the General Data Protection Regulation (GDPR) and the Law Enforcement Directive. These now permit the flow of personal data, such as employee or customer data, from the EU to the UK. These decisions were welcomed by businesses. In the BCC's International Trade Survey, only 11% of exporters said they were facing difficulties transferring data, compared with 20% finding the process easy. A sunset clause applies however; if divergence on significant parts of data protection or handling rules occurs by the UK in the future, the duration of the adequacy ruling may cease in 2025, after this initial four-year period.

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1038660/20211206-reach-letter-chemicals-industry.pdf

SECTION 2

WHAT BUSINESSES HAVE TOLD US IN 2021 ABOUT USING THE TCA

In terms of the macro-economic picture, services exports have been modelled by the UK Trade Policy Observatory (UKTPO) as having declined in the order of 30% since January 2021, with goods exports to the EU also down significantly. The Office for National Statistics (ONS) data on goods trade in September 2021 showed UK goods exports to the EU were still £0.5bn lower than in September 2018, despite having recovered since the start of 2021. The Office for Budget Responsibility (OBR) in its October analysis found a 4% structural lowering of long-term growth, as a result of the non-tariff barriers to goods and services trade erected by the TCA.

The BCC has an extensive research programme which has been surveying businesses on attitudes towards trade for many years. Since the start of 2021, we have been assessing the ease or difficulty with which businesses have adapted to rules flowing from the TCA, and our most recent survey on the subject was our International Trade Survey from October 2021. This survey had 1,066 respondents within the UK, with 41% in manufacturing, 28% engaging in Business to Consumer trade, and 31% in Business to Business trade. 93% of them were SMEs (fewer than 250 employees). Additionally, 61% of respondents reported that they export (which is broadly consistent with the profile of Chamber businesses).

The key messages from the survey were:

- Eight in ten firms report that their prices have increased compared to 12 months ago, with vehicle fuel, shipping containers, utilities and steel the top items for which firms are facing shortages, or price rises.
- Half of firms report skills or employee shortages for a wide range of roles, in particular for HGV drivers, engineers, warehouse staff and technical or professional roles.
- More firms are reporting difficulties adapting to changes flowing from the TCA, particularly to trade in goods, with almost two thirds of exporters reporting problems (up from half in January 2021).
- The vast majority of firms, including exporters, do not feel their views are considered when the UK government make decisions about trade deals.

The global economic shutdown in response to Covid-19, and subsequent reopening, led to a surge in demand for certain items (such as shipping containers) and job roles. Coupled with constrained supply, this has led to unprecedented inflationary pressures and skills shortages. However, around half of businesses we spoke to also pointed to increased costs and administrative burdens caused by the TCA, as contributory factor to inflation.



We received a selection of comments from businesses in the survey on their experiences of the trade deal since 1 January:

“Duty charges on goods from the EU. The free trade agreement does not cover country of origin.”

Medium-sized services firm, Sheffield.

“A combination of factors. The semiconductor shortages and increased global shipping costs have been caused directly by the pandemic. Other shortages and increased costs more locally, in terms of within the UK and in trading with the EU has been caused by Brexit. Brexit is an unmitigated disaster for British businesses generally. I cannot think of a single advantage which has been delivered with Brexit.”

Medium-sized manufacturer, Ayrshire

On labour shortages, these were widespread across many economic sectors, including services, covering HGV drivers, engineers, warehouse staff, accountants, chefs, IT roles and technical staff, as well as low-skilled or entry-level positions.

Making the TCA work better for business was also seen as one of the best strategies the UK government could pursue to raise investment within firms:

“Improved trading arrangements with Europe. Resolution/rationalisation of import/export documentation.”

Small construction firm, North East England

“If trade was more seamless and a need for less red tape and documentation, especially in EU where things used to be a lot easier.”

Micro manufacturing firm, South Wales

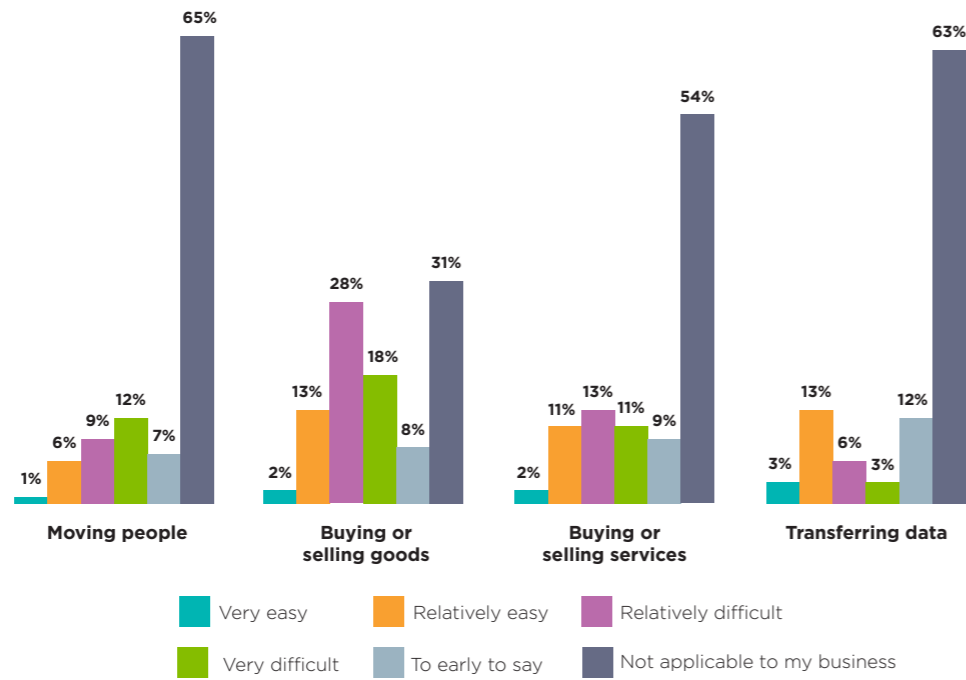


Trade & Brexit Survey 2021

All Respondents

Across each of the following broad areas, how easy or difficult has it been for your business or supply chain to adapt to changes flowing from the EU-UK TCA?

Overall, 21% of firms report difficulties in adapting to changes relating to movement of people, 46% report difficulties in buying/selling goods, 24% report difficulties in trading in services, and 9% report difficulties in transferring data

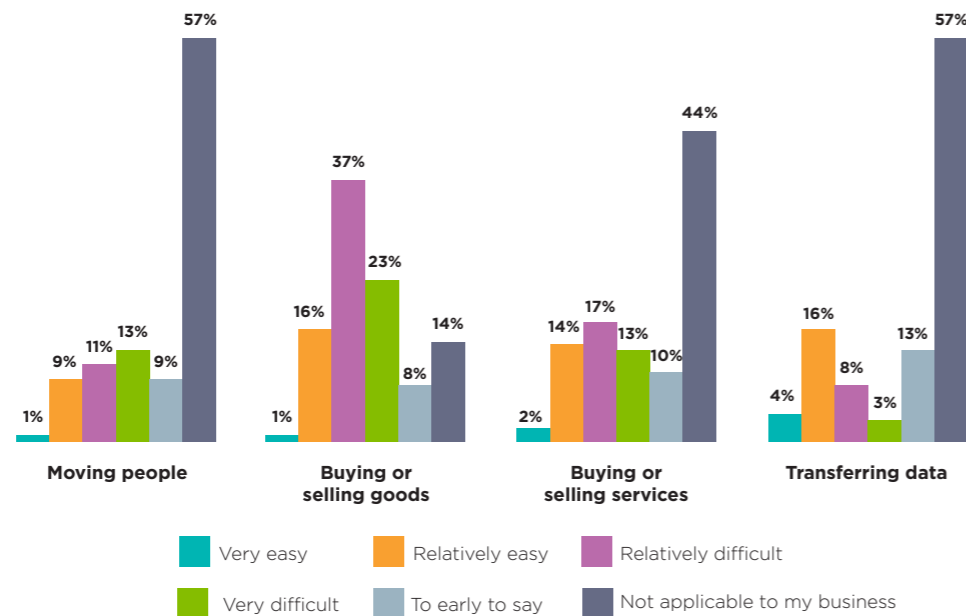


BASE: Moving people: N = 968; Buying or selling goods: N = 981; Buying or selling services: N = 968; Transferring data: N = 970

UK Exporters Only

Across each of the following broad areas, how easy or difficult has it been for your business or supply chain to adapt to changes flowing from the EU-UK TCA?

For UK exporters, 60% reported difficulties in adapting to changes in buying/selling goods. This is up from 49% in January.



BASE: Moving people: N = 588; Buying or selling goods: N = 601; Buying or selling services: N = 590; Transferring data: N = 591

In which areas have these difficulties in trading emerged?

SUPPLY CHAINS

“The utter nightmare of trying to get product from the UK to our EU customers on time and at a cost that makes the business worthwhile. The utter nightmare of trying to get commercial samples sent to potential new customers. The utter nightmare of trying to manage a supply chain for a business that sources ingredients and packaging from ten different EU countries and manufactures in three more.”

Micro manufacturer, Sussex

IMPORT VAT

“Increased costs due to EU VAT collection (iOSS) and bureaucracy; systems and countries not fully ready for it, despite the requirement to comply with it. Hard to export goods over 150 due to tariffs. Lack of consumer trust to buy from the UK - fear of unexpected duties or tax charges.”

Wholesale sole trader, Ayrshire

“Complex VAT regulation for cross border suppliers and expensive fixes required by registering overseas. For a small business this remedy is simply not cost effective.”

Micro services firm, Lancashire

“Despite having adapted to the new customs paperwork and requirements we are still getting our products returned to us from some countries. Different EU countries apply the rules incorrectly and are still not accepting our paperwork although it is complete. We now have to prepay VAT and yet are having goods returned that we have paid up front for. It is extremely difficult to sell to consumers in the EU now.”

Micro professional services firm, Herefordshire and Worcestershire

“EU customers not understanding the change made by the EU on their ability to purchase from us. This mainly is the lack of understanding that the EU requires businesses to now pay VAT at point of import (mostly without any VAT deferment programme) as well as the cost of customs clearance fees. The lack of understanding by small businesses within the EU27 is shocking and they truly believe this is UK Import Taxes to the EU.”

Wholesaler, East Midlands

“I don’t have the time to relate all of the difficulties we have experienced. We have experienced significant difficulties in customs procedures and processing, with increased costs and arbitrary fees, despite our goods being free from tariffs. Our EU customers do not like having to pay the VAT upfront and so choose other products. Shipping is now a complex procedure. We have had to appoint a local EU Authorised Representative because our products all carry the CE marking. We have had to change ALL the documentation on our product and all of our technical product labels as we have had to add the UK CA marking in addition to existing CE marking. As our products are electronic and are covered by multiple EMC and safety standards, our technical product labels and declarations must be approved by multiple authorities, making this a monumental task when we have nearly 100 different products. Brexit has therefore lost us business, increased our costs dramatically and killed our sales expansion in the EU.

None of the above really covers the increased workload and stress on our staff who have been doing their very best to cope and at the worst possible time (pandemic lockdown and subsequent waves of Covid-19). My anger and frustration with the entirely unnecessary decision on Brexit and its subsequent incompetent handling at the hands of the UK government cannot be properly expressed.”

Medium-sized manufacturer, Ayrshire

CUSTOMS - PAPERWORK AND INCONSISTENT APPLICATION OF THE RULES

"Each country appears to interpret the rules differently when we are exporting and so require different information on documents, even changing requirements from day to day. It has taken a long time to develop a document, and find a suitable carrier, which can cover all eventualities."

Medium-sized manufacturer, Greater Manchester

"The level of paperwork required, our clients having to set up brokers to assist with receiving our goods. Costs escalating in sending fabrics to our European manufacturing plant (set up due to Brexit)."

Small manufacturer, Essex

"Paperwork is complex, expensive and difficult to understand. Government guidance is there but virtually impenetrable"

Micro manufacturer, East Midlands

"Exports: Documentation requirements interpreted differently by different EU countries. Rules of origin for supplying goods back to Europe, no longer being able to triangulate goods. Not being able to deliver direct to end user as have to provide paper copy of commercial invoice which contains price sensitive information."

Manufacturer, Herefordshire

AGRI-FOOD RED TAPE

"Shipping groupage of food products to EU. Huge non-tariff barriers now exist. Huge SPS requirement. No freight companies will touch our products."

Wholesaler, Doncaster

DELAYS AND RED TAPE ON SENDING GOODS

"Bureaucracy (additional red tape), delays in transporting goods particularly with double supply chains back and forth to make a single product and just in time manufacturing (sometimes both), cost increases, availability of suitably trained and experienced HR. Some EU companies have decided it is too expensive to trade components with the UK and have switched to other suppliers in the EU."

Micro professional services firm, Hampshire

"Brexit has had a HUGE impact on our ability to trade with the EU. Luckily for us UK sales have compensated but we're missing out on growth due to customs, increased costs and border delays. We're also seeing massive increases in costs for raw materials, shipping container costs and huge delays in transit times from China. Also getting drivers to collect from a UK dock to get shipping containers to us has been challenging."

Micro retailer, East Lancashire

LABOUR SHORTAGES

"European staff are integral to hospitality in the UK so it has left a major shortfall in supply."

Micro hospitality firm, Kent

"Brexit is a big factor. Shortages in supply chains everywhere are affecting supply and demand. Driver shortage is a massive problem, as is staff recruitment."

Manufacturing firm, Aberdeen and Grampian

"We now need visas for our employees to work in Germany, this is a high cost in time and cash spent."

Professional services company, Herefordshire

SECTION 3

WHAT IS COMING NEXT IN 2022?

Full border, VAT and customs controls on GB goods moving to the EU were introduced by EU member states on 1 January 2021. The second part of the GB border controls on goods – inbound controls – are phased in from 1 January 2022. Import VAT requirements applied to goods moving from the EU to GB (and vice versa) from 1 January 2021. Only on 1 November 2022 will the entire set of controls on all goods imported from the EU have been introduced.

KEY DATES AND CHANGES

1 January 2022

- Expiry of easement on suppliers' declaration usage not being required at time of export. Companies will require to prove origin through a statement of origin (with a suppliers' declaration also being in place at the time of export of the goods) or by importer's knowledge.
- Expiry of easement on deferred supplementary customs declarations (importers have been permitted to defer these by up to 175 days during 2021). Declarations will need to be made at the point of entry alongside the goods from this date (although some traders may be authorised in advance on application to make simplified declarations).
- UK Commodity Codes change on this date.
- Introduction of GVMS (Goods Vehicle Movement System) in GB.
- Pre-notification of plant products and products of animal origin before consignments leave EU for GB begins. Goods not pre-notified to the UK Import of Products, Animals, Food and Feed System (IPAFFS) database cannot travel.

1 July 2022

- Documentary and identity checks at GB Border Control Posts (BCPs) on plant products and meats or meat products from the EU begins from this date.
- Safety and security certificates required to accompany consignments.
- New requirements for Export Health Certificates (EHCs) on animal origin product imports and Phytosanitary Certificates on plant product imports apply from this date.

1 September 2022

- Documentary and physical checks at GB Border Control (BCPs) on dairy and dairy products from the EU begin from this date.

1 November 2022

- Documentary and physical checks at GB Border Control (BCPs) on fish, fish products and composite products (ready meals, meat or fish pizzas, cream liqueurs) from the EU begins from this date.

For GB exporters to the EU, the corresponding easement on suppliers' declaration usage on goods origin on consignments being exported to the EU also expires on 1 January 2022. Firms unable to obtain authorisation for simplified declarations by 1 January will face a requirement to make full customs declarations at the point of entry of the goods from that date; quite different from the practices they have followed in 2021.

In terms of GB-NI movements of goods, the easements on customs, SPS and VAT continue while the negotiations between the UK government and European Commission on the Protocol are resolved. The next scheduled elections to the NI Assembly are on 5 May 2022.

Put together, these new rules represent a new import system for GB businesses being delivered in stages from 1 January 2022. The BCC and ChamberCustoms have been taking our members through these changes and what they mean, but trader readiness in the EU, and the sheer scale of the new import requirements, mean these will be a huge challenge for businesses, particularly for SMEs in a time of supply chain problems and a global pandemic.



SECTION 4

OUR POLICY
RECOMMENDATIONS

Given the range of issues which Chamber member companies have raised on the realities of trade with the EU in 2021, our policy recommendations are split into three categories:

1. Those which the UK government and the European Commission could resolve over the next twelve months, through the Trade Partnership Committee and the sectoral trade committees under the TCA which have now started to meet;
2. More medium-term issues, which could be addressed by side agreements to the TCA between now and the initial comprehensive review of the Agreement in 2026; and
3. Longer-term issues, which may require the cover of the 2026 review for serious consideration (after the next UK General Election).

SHORT TERM

- Simpler guidance on customs and other key issues, ensuring it is consistently applied across all 27 EU member states and in the UK. Joint guidance should be produced which is clear, practical and accessible for business in both the EU and GB.
- Reach an agreement on VAT cooperation with the EU to reduce the number of UK companies requiring a fiscal intermediary in the EU to conduct cross-border trade – as exists for companies in Norway trading with the EU.
- Introduce a range of short-term visas for work purposes for up to two years in duration, to deal with the current challenges of labour and skills shortages in many sectors of the UK economy.
- Focus on making agreements with the European Commission and individual EU member states as appropriate, on mutual recognition of professional qualifications.
- Prioritise the flow of goods through the GB border, in determining the frequency of documentary and physical checks carried out by UK Borders staff on goods moving inbound into Great Britain from 1 July 2022.
- Reflect the realities of modern manufacturing supply chains by not acting to prohibit CE-marked finished goods or components circulating in GB after January 2023/4.
- Adopt pragmatic approaches focused on ensuring companies can come back into compliance, rather than acting punitively, on the customs and suppliers' declarations requirements introduced on 1 January 2022.

- Increase the reach and effectiveness of Border and Protocol Delivery Group communications with EU suppliers and GB importers (and work with the Chamber Network) throughout 2022, ahead of each stage of border controls coming into operation.
- Scale up the early work of the EU-UK sectoral committees under the TCA by producing as much joint guidance as possible (for example on rules of origin), and sharing that in good time with business.
- Reach an agreed compromise on the implementation of the Protocol on Ireland/Northern Ireland with the European Commission in the early months of 2022, to ensure stability in NI and for the overall UK-EU trading relationship.

MEDIUM TERM

- Explore the case for a veterinary or SPS agreement with the EU, either to reduce the complexity of, or to eliminate, the need for Export Health Certificates on agri-food imports and exports.
- Consider a supplementary agreement on conformity assessment and markings of industrial, electrical and electronic goods.
- Deliver further flexibility on travel for business purposes and the range of business activities which can be undertaken.
- Make agreements with the European Commission and – where appropriate – bilaterally, with member states, on widening access for labour mobility across key sectors of the economy, and reaching agreements on mutual recognition of professional qualifications.
- Ensure better co-ordination of policies so that businesses do not face different compliance dates for significant changes in business practice (as we saw in 2021 over VAT).

EARLY ISSUES IDENTIFIED FOR THE 2026 TCA REVIEW

- Consider the balance between reservations and market access for services and economic priorities for both sides in a global context, where services exports provide greatest boost to growth.
- Deepen VAT cooperation and adopt common regulatory approaches to facilitate e-commerce and greater cross-border trade in goods, by cutting cross-border VAT red tape. Produce cost-benefits analysis on a cross-EU-UK framework or zone for VAT on traded goods.
- Consider the scope of the product-specific rules of origin and cumulation, including whether off-the-shelf options such as the UK re-joining the PEM Convention could provide additional flexibility in the absence of more bespoke arrangements.
- Deepen provisions on digital trade and facilitating trade in green goods and services, to ensure these can be traded across both markets at lower cost and with fewer barriers on market access.
- Broaden the categories, qualifying days in each six month period, and opportunities for cross-border labour mobility.
- Assess the case for deeper regulatory cooperation on conformity assessment, chemicals and technical barriers to trade, where strong economic and business arguments exist that trade volumes can thereby be increased and business costs lowered.
- Develop policies for more efficient trade facilitation, including whether agreements and waivers can be reached to dispense with safety and security certificates on goods movements.
- If not already resolved, reach solutions on lowering costs of agri-food imports and exports by simplification, digitalisation or even elimination of export health certificates (EHCs).
- Consider the strong arguments for the UK re-acceding to the Lugano Convention to allow businesses certainty on enforcement of civil and commercial judgements in the UK and the EU.



SECTION 5

CONCLUSIONS

The evidence of the first year in operation of the TCA is that, together with the pandemic, it is creating powerful economic headwinds for UK exporting companies to navigate in pursuing trade with the EU.

Our trade with the EU accounts for 42% of overall UK trade. Some of these headwinds may prove cyclical, but others appear highly structural in nature, and have already led to changes in commercial behaviour and structuring, particularly around labour, rules of origin and VAT. Companies made a cautious trading start to the year, but as export volumes have recovered, the difficulties in using the TCA have worsened for many firms as the year has gone on.

This should provide deep pause for thought by decision makers. A no deal scenario would have meant trading on WTO agreements where these apply, alongside tariffs on trade in goods. Business is relieved that was avoided. However, dissatisfaction about what is not in the TCA has grown among businesses, as the year has progressed. With the sudden imposition of non-tariff barriers in economic sector after sector, many businesses conclude it does not currently fit their definition of free trade.

The real lived experiences of exporting companies we have presented here should lead to more pragmatism in how the TCA can be made to work for businesses, and help generate more economic growth and tax revenues required for the UK, which is emerging from the huge costs of the pandemic. We have offered a range of policy options which could be adopted next year in some cases, well before 2026 in others, and broader themes for consideration in the initial comprehensive review of the TCA in 2026.

We hope the UK government and European Commission will listen carefully to our voice and ideas, to ensure that in 2022, and beyond, the TCA can work better for business.





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