What can UK businesses expect from the Trade & Cooperation Agreement?

By the CEF trade group

Contents

Executive summary

The dust has now settled on the frantic efforts by the EU and the UK government to secure a Preferential Trade Agreement (PTA). As business gets back to normal, we are beginning to see the effects of the shift from Single Market (SM) and Customs Union (CU) membership to the Trade and Cooperation Agreement (TCA) that the parties signed on Christmas Eve.

In this explainer we cover:

- What is changing in Great Britain's trade with the EU and Northern Ireland?
- How does the TCA compare with PTAs and trade arrangements that the EU has with other non-EU countries near and far?
- What are the likely impacts?

Whether the effects are net-positive or net-negative, the TCA represents a seismic shift in the UK's trading relationship with its largest market - the European Union - and with the policy priorities that govern its approach to this relationship.

For every action, there is a consequence. For every cost there is a related benefit. Every choice to enjoy one benefit is a choice not to enjoy a different benefit. Our goal in this summary is not to pre-determine whether the UK economy will succeed under the TCA. Rather, we aim to set out the trade-offs that the UK government has made – what it has traded off in exchange for what – and what this means for businesses.

By leaving the Single Market, the UK has traded away the ability of British citizens to live, work, study, retire, and deliver services seamlessly throughout the European Economic Area (EEA) and Switzerland in return for full control of the ability to similarly restrict EEA and Swiss citizens. It has traded away frictionless trade with respect to regulatory barriers for a level of regulatory autonomy that it has not enjoyed since the birth of the Single Market in 1993. By leaving the Customs Union, it has traded away frictionless trade with respect to customs documentation, to VAT and excise procedures, and to qualification under Rules of Origin for tariff-free trade, for the ability to reach PTAs with countries outside the EU.

Whether this is appropriate for the economic needs of the country remains to be seen. However, the stark choices that the government has made mandate it to be clear with affected businesses and consumers that these changes are material and not, in the near term, reversible. There will be real costs for British firms in continuing to serve continental and Northern Ireland clients through trade avenues that they had taken for granted as seamless but that will no longer be so.

In our upcoming regular series of trade bulletins, we will be providing examples of companies that are adapting to the new situation as well as of those enjoying new benefits. We will return in each bulletin to the themes that we set out here.

In this explainer, we will also compare the TCA to PTAs and other trading arrangements that the EU has struck with other third countries. In this comparison, there is a clear distinction between the EU's PTAs with distant countries – most of whom have more facilitations and fewer obligations than the UK now has – and its more integrated arrangements with neighbouring countries, compared to which the UK now has an unprecedented level of regulatory freedom. Of course, it also does not have many of the features of frictionless trade that are necessary to take advantage of proximity in the same way as those other EU neighbours do.

The success of the government's strategy depends on the relative magnitude of the benefits it seeks and the costs it has imposed. In this paper, we set out those costs and benefits.

1. What is changing in Great Britain's trade with the EU and Northern Ireland

Firms in Great Britain can expect several changes as a result of leaving the Single Market and the Customs Union and as a result of the special situation of Northern Ireland.

1.1. Leaving the Single Market

The European Economic Area (EEA) - also known as the Single Market – which the UK has just left was far more extensive than even the deepest PTA. This brought both benefits and costs.

The benefits have been essentially what Margaret Thatcher envisaged in 1988: the regulatory standards in the UK have been the same as those in any EEA country and Switzerland. For a UK firm, selling in France has been substantially the same as selling in the UK. All goods sold in France must meet French standards. But there was no need for ***proof***. If it came from the UK, then it met UK standards. UK standards were French standards, so *voilà*. There was no need for import/export documentation on food. Chemicals did not need a French agent. UK financial services firms were approved in France because they were approved in the UK.

The Single Market hence eliminated many non-tariff barriers (NTBs) to trade that would otherwise arise from different countries having different regulations.

However, it did this at the cost of removing member states' ability to set different regulations. As well as technical sectoral standards, the Single Market also works on the premise of common social standards: to ensure fair competition, workers' rights and environmental standards are at similar levels throughout the bloc. The Working Time Directive is a good example.

Leaving the EU did not necessarily mean leaving the EEA. Norway, Iceland, and Liechtenstein are all in the EEA while not in the EU's political union. Switzerland's array of bilateral treaties with the EU substantially replicates the EEA agreement. The government, however, chose to leave the EEA as well to have the freedom to regulate differently.

1.1.1. Goods: regulatory freedom, regulatory frictions

As is commonplace in PTAs, the TCA avoided tariffs and quotas on trade between the UK and the EU. The TCA also secures the UK's ability to regulate differently. NTBs, therefore, are back. Where they are present, NTBs are usually much more important as a barrier to trade than even very high tariffs. Hence, the TCA has solved only a marginal part of the problem of selling to customers in the EU from outside the EEA.

As this summary provided by the European Commission sets out, there will be no frictionless trade. All UK goods will have to meet 100% of EU standards. If those standards are different in each of the 27+3+1 (EU27 plus Norway, Iceland, Liechtenstein, and Switzerland) – for example in sectors in which the Single Market worked on mutual recognition rather than harmonisation – then UK providers will have to meet all 31 different sets of requirements rather than meeting them automatically simply by dint of meeting UK requirements.

UK goods will be subject to regulatory checks – including sanitary and phytosanitary (SPS) checks and evaluation of the voluminous new paperwork requirements for agri-food products – at the border. Away from the border, chemicals firms face new costs such as an Only Representative (OR) or EU legal entity. Across sectors, mutual recognition by EU countries of UK regulatory standards has ended, causing firms to require multiple authorisations where previously they needed one and to meet sector-specific EU paperwork requirements to pass the border. Some are moving activities to legal entities and locations within the EEA to avoid this.

Indeed, the recent media coverage of the difficulties facing UK fisheries distributors in selling British-caught fish in the EU provides a good example of new regulatory frictions. Many of the loads lack the paperwork that is now necessary and are subject to inspection.

Previously, the known fact that UK sanitary standards were the same as those in the destination country meant that that country's border authorities did not need to see such certificates. Ships from the UK sailed into port, and lorries from the UK drove off them and sailed through borders seamlessly. The UK's new-found freedom to diverge from those regulations means that the EU border authorities can no longer take the safety of anything from the UK as guaranteed. The lack of mutual recognition and need for multiple authorisations is a barrier that affects trade away from the border, as some companies simply find it prohibitive to operate from Great Britain.

Product conformity with standards is another area of difficulty. The CE ("conformité européenne") mark is affixed to certain goods to certify they have been assessed and meet EU standards. Currently there are 25 categories of goods that require the CE mark including, the safety of toys, radio equipment, machinery, medical devices, personal protective equipment (PPE) and construction products. While in the Single Market, UK manufacturers could simply comply with UK standards and put a CE mark on their product. Now they are in many cases required to complete an EU Declaration of Conformity and have the product tested by a conformity assessment house. The fact that Great Britain will have its own standard – UK Conformity Assessed (UKCA) – that it will introduce in 2022 (although Northern Ireland will remain under CE) is causing a duplicative authorisation process that is putting some firms off from trading in Great Britain.

The challenge for the government is to find benefits of different regulation that make up for these new frictions. It is already looking at various elements of employment law such as the Working Time Directive.

1.1.2. Non-financial services

British providers of services no longer enjoy the automatic right to provide services across the continent. They must meet all requirements of the individual member states in which they wish to operate. In some countries, for examples, individuals practising law must reside in the country; others do not have this rule. UK providers must research all national rules.

Mutual recognition of professional qualifications (MRPQ) across the 27+3 (the UK has some arrangements with Switzerland) has also ended. UK service providers will have to seek recognition or re-qualify in each country.

The end of reciprocal live-work-study-retire rights means that UK citizens are restricted in what they can do in the 90 out of every 180 days that they can spend in the EU's Schengen passport-free travel zone. Revenue-generating activities – such as on-site service provision – that do not

count as client visits, sales meetings, training, or research will typically require business visas. The Republic of Ireland, which is not in the Schengen zone, is an exception to this as it is part of a bilateral Common Travel Area (CTA) with the UK, within which citizens can live and work in all parts of the CTA – including Northern Ireland – without restriction.

Driving is also a service. UK hauliers driving lorries to the continent laden with British exports can expect checks on their ability to support themselves while in the EU and potential interrogations by border officers of their professional purpose and length of intended stay. They also are now allowed to make only two stops on any commercial journey to the EU.

The UK has no latitude to regulate differently on, for example, drivers' hours. Fatigued UK drivers can be a danger to EU citizens if they drive on the continent. Plus, different regulation here would give UK haulage firms a competitive advantage over EU ones for UK-EU routes. The TCA therefore rules it out.

However, the UK can regulate differently on many other services.

1.1.3. Financial services

The UK's most important industry, which generates 10-12% of its tax receipts, was the most significant loser in the TCA. UK firms are no longer authorised across the EEA – what was called "passporting" – simply by dint of being authorised in the UK.

The government intends to seek "equivalence" arrangements – that apply to one area of financial activity at a time – that allow UK firms to apply for authorisation across each of the 27+3 (the UK has already agreed a separate arrangement with Switzerland) but that the European Commission can unilaterally withdraw. So far, the EU has agreed to equivalence for the UK in two of approximately forty areas of financial activity.

Without equivalence, UK firms will have to navigate each member state's regulatory requirements and gain authorisation separately in each state in which they wish to operate.

The UK's new-found regulatory freedom of course extends to the City. But this may need careful management.

1.2. Leaving the Customs Union

Leaving the EU also did not necessarily mean leaving the EU Customs Union (EUCU), of which non-EU Turkey (for some sectors) and several European micro-states outside the EU are members. The EUCU ensures that each member state charges the Common External Tariff (CET), a schedule of levies – zero for those countries and most categories covered by PTAs – on goods from third countries. However, the UK government chose to leave the EUCU to have the freedom to reach PTAs with non-EU countries.

1.2.1. Independent trade policy

Under the EUCU, the EU negotiates PTAs on behalf of all member states. To date, the UK has concluded no new PTAs with countries with which it did not have one as a member of the EUCU. However, it has rolled over more than 50 with countries with which it did.

1.2.2. Customs paperwork

Trade within the EUCU is not subject to tariffs. The TCA also rules out tariffs. However, the EUCU further eliminated customs documentation within its borders. When the UK was in the EU, it would ask for the same paperwork from a Japanese company as French border forces would, but there was no customs paperwork between the UK and France. Now there is: UK exporters must file the Entry Summary Declaration (a pre-notification filed online) and the Single Administrative Document (SAD) describing the contents of the shipment.

There are many other paperwork requirements. All shipments are subject to being stopped and physically checked for their compliance with customs documentation requirements.

1.2.3. Customs charges

The TCA avoids tariffs, otherwise known as "customs duties", on British products entering the EUCU. However, it does not necessarily avoid customs charges. The customs authorities of an EU member state sometimes charge for their time in clearing goods that need extra processing: for example, if they do not have the correct paperwork or if VAT or excise (see below) has not yet been paid. Some even charge local VAT on their customs charge. In addition, parcel companies and distributors apply fees for this work. This adds to the end price to the consumer and potentially makes UK goods uncompetitive.

1.2.4. VAT and excise

The TCA avoids tariffs, otherwise known as "customs duties", on UK products entering the EUCU. However, UK producers sending goods to the EU still need to pay VAT, where applicable, at the rate of the country in which the customer lives, just as VAT-registered domestic and EU suppliers do.

As long as the UK was in the EU VAT area, UK providers would account for this VAT on their domestic VAT returns. Hence, goods did not have to be checked at the border for VAT compliance. Now, if the customs authorities are not satisfied that VAT has been paid, they can stop goods at the border pending payment by the customer. The delays potentially make UK products uncompetitive.

Furthermore, exporting UK producers who were not registered for VAT – those below the annual turnover threshold – now have to pay VAT for the first time to the government of the EU country to which they are exporting. The price increase that this is causing is making some small UK exporters uncompetitive. From July, when the EU ends Low Value Consignment relief (LVCR) – an exemption from VAT for low value shipments from outside the EU – more UK goods will be subject to VAT when exported to the EU.

Excise is a tax on specific goods such as alcohol, tobacco, and energy products. EU countries manage it under the free movement of goods through the Excise Movement and Control System (ECMS). As the UK has now left, there are new requirements for UK firms exporting goods that are subject to excise in the EU. These add time and costs to the process of exporting.

1.2.5. Rules of Origin (RoO)

The primary impact of leaving the CU, though, does not arise at the border but in the role of Rules of Origin (RoO). RoO were irrelevant to the UK's trade with members of the EUCU as long as the UK was a member of the EUCU. Once a good has entered the territory of one member of the EUCU, it is an EUCU product.

RoO ensure that only goods that should qualify for tariff-free export do qualify. The TCA removes tariffs on British exports to the EU, but what are "British goods"? A product assembled in Britain consisting of materials from abroad is a grey area. For that reason, a certain percentage of the value must be "domestic". To qualify for tariff-free export from Britain, it must arise in Britain. Firms must keep records of their production process to prove that their goods qualify under RoO. Furthermore, the question of where exactly value is added, and therefore whether a good can qualify under RoO, can be subject to judgement.

RoO are already causing significant difficulties even for large UK retailers.

1.3. Northern Ireland

Under the Northern Ireland Protocol, Northern Ireland operates the EU's Union Customs Code (UCC) at its borders and maintains alignment with those Single Market rules on goods that maintain the invisible and seamless nature of its land border with the Republic of Ireland. Whatever new frictions appear in Great Britain's goods trading relationship with the EU are therefore also true of its goods trading relationship with Northern Ireland.

However, the supply chain issues in Northern Ireland are potentially worse than between Great Britain and the EU. Northern Ireland is a small market. Hence, lorries travelling into Northern Ireland usually contain a mix of products, as entire lorryloads are not viable for a single product. The more product categories they are, the higher is the likelihood that one of them will be in a risk category that needs a border check. Simplified border controls are in operation on the new sea border between Great Britain and Northern Ireland until the end of March, but UK supermarket chains have warned of shortages if there are no measures to alleviate border problems in place when these end.

2. How does the TCA compare? Is it a good deal?

2.1. Compare to what?

This is the first question to ask in assessing the TCA. At the very beginning of this process, in 2016, Michael Gove promised that a future UK-EU trade agreement would maintain the "*current free trade arrangements*", while the official Vote Leave campaign went even further. At the same time, other Leave campaigners such as Priti Patel were promising a bonfire of EU red tape.

These two things do not typically go together, because the maintenance of the same regulatory standards plays a crucial role in the frictionless nature of trade in the internal market. There is a balance between market access and regulatory autonomy. The initial premise of the Leave campaign was that the UK would be an exception to this because of its importance to the EU as an export market. The government always attempted to gain both, but once it was clear that it could not have both privileged access to the EU market and regulatory autonomy, it prioritised regulatory autonomy. The question, therefore, is whether it achieved a balance of market access and regulatory autonomy equivalent to what other countries have.

Does the TCA give the UK government a level of freedom to make regulatory changes – many of which it promises it will not make but would like the latitude to make – that is commensurate with the access to the EU market that the UK has? Is the trade-off in these two priorities in the TCA favourable, comparable, or adverse to the ones that other countries made in their EU PTAs?

2.2. Regulatory freedom

The TCA contains "non-regression" clauses prohibiting a rollback of existing environmental and labour law. However, as domestic authorities will enforce these, they are not as binding as they might have been.

More interesting, though, is the rebalancing mechanism. Each side will have the right to take rebalancing actions if the other's firms have gained a distortive advantage through different regulation. If this happens repeatedly, they can request a review of the trade agreement – the T in TCA – at the end of 2024. They will review the entire TCA at the end of 2025. Moreover, as either side can terminate the entire agreement at 12 months' notice, the threat of the agreement ceasing to apply – leading to tariffs – is essentially omnipresent.

The TCA mandates Impact Assessments (IAs) of regulatory changes. In those IAs, the UK will need to consider rebalancing tariffs and the future of the TCA every time it looks to make different laws. Such obligations are not part of the comparatively very light Level Playing Field (LPF) provisions in the EU-Canada Comprehensive Economic and Trade Agreement (CETA),which was the precedent that the UK government liked to cite – "Canada-style free trade deal" – because it was a PTA that the EU signed that substantially eliminated tariffs but that gave the partner country regulatory freedom.

That the UK secured the autonomy that it did, though, is a political achievement. While its obligations are greater than those that Canada faces, they are still lower than the EU initially wanted. The theoretical and symbolic freedom to differ is there. This makes the UK exceptional *among neighbouring countries* to the EU. The EFTA countries – either through the EEA agreement or through Switzerland's treaties – incorporate Single Market regulations into their

domestic legislation. Other neighbouring countries that have PTAs with the EU are gradually doing the same as part of their (in many cases stalled) accession process.

2.3. Market access and non-tariff barriers (NTBs)

NTBs were always likely to return to some extent when the UK left the EEA and the EUCU. However, several countries that are less important to the EU as an export market have secured facilitations in their PTAs with the EU that are not in the TCA.

2.3.1. Mutual certification

The first example is mutual certification. Mutual recognition in the Single Market means that anything produced in one Member State meets the standards of all (the "Cassis de Dijon" principle). However, failing that, in some PTAs such as CETA there is "mutual certification", which is shorthand for "mutual recognition of conformity assessments". Under such a provision, producers in the partner country can get a certificate of compliance with EU standards from a testing house in their own country. The TCA, though, does not contain even this reduced provision. Rather, it has a commitment to *consider* mutual certification as one option. Obtaining multiple conformity assessments will make compliance costs prohibitive for many British companies.

2.3.2. Mutual recognition

Nor does it have facilitations for mutual recognition and authorisations for chemicals firms that South Korea has in return for incorporating REACH, the EU's chemical regulation, into Korean law through K-REACH, even though Great Britain will maintain UK-REACH. Looking at other sectors, the lack of mutual recognition of, for example, sanitary standards, will also maximise friction at the border.

2.3.3. Border easements

There are likely to be problems at the border once exporters attempt to pick up volumes again. The TCA does not replicate New Zealand's agreement (Annex 8A) to limit sanitary border checks of Products of Animal Origin (POAO) to 2%. It does not even replicate Canada's (Annex 5-J) provision to limit them to 10%. While the UK will wait 6 months to apply the panoply of border checks to imports, British exporters are seeing them appearing on the other side of the Channel. There is no agreement to limit them to a reasonable percentage of shipments. Those who believe in capricious Gallic whim should be fearful of French customs agents dialling up and down the friction at will.

The customs facilitations are not as favourable as those of Turkey; however, Turkey is in the EUCU and therefore has limited scope for an independent trade policy. Neither, though, does the UK have the customs facilitations at its key arteries Dover, Holyhead, or Larne that Norway and Switzerland – also not in the EUCU - have on their long EU land borders.

The Trade and Customs Facilitation (TCF) section consists of commitments to work together to ease the flow of trade traffic at borders. This is one place where we see scope to build. However, hauliers can expect disruption unless and until that collaboration yields something concrete.

2.3.4. RoO facilitations

The UK achieved its aim of including valued added in the EU as domestic value added, making it easier for UK firms to qualify their goods under RoO. The EU similarly can do the same for value added in the UK. This "bilateral cumulation" is common in PTAs.

The UK did not achieve its aims of including value added in countries with which the EU and UK both have PTAs – called "extended cumulation" – in the TCA. Unlike other neighbouring countries to the EU, the UK will also not be a party to the Pan-Euro Mediterranean Convention (PEM Convention) on RoO. The PEM Convention is a large "diagonal cumulation" zone: any signatory can include value added in the territory of any other signatory under domestic value added for the purposes of qualifying for tariff-free trade with any other signatory.

Furthermore, while bilateral cumulation is part of the deal, it does not extend to "re-export": the return of a product that has come from the EU that has not been subject to further processing in Great Britain. This is another benefit that Canada has in CETA that the UK does not have.

2.3.5. VAT and excise

No countries outside the EU are included in the EU VAT area or the EMCS.

2.3.6. Non-financial services

Service providers from Norway, Iceland, and Liechtenstein – unlike the UK – have the right to provide services throughout the EU and, like Swiss citizens, can take advantage of reciprocal live-work-study-retire rights to facilitate this. Of course, EU citizens enjoy the same facilitations in those countries. Furthermore, those countries must align their regulations with those of the EU Single Market.

Looking at non-European PTAs, we can also see that Canada has more facilitations in CETA than the UK does in the TCA. All four modes of supply are included *for some sectors* in CETA, whereas for the UK almost all revenue-generating activities are ruled out under mode four. Furthermore, CETA has provisions to work towards MRPQ provisions, although the lack of reciprocal live-work-study-retire rights will hinder their usefulness even if such provisions do arise.

2.3.7. Financial services

As the TCA has almost no provisions on financial services, it is inferior to the PTAs that many other countries have. However, in PTAs, financial services provisions are usually restricted to the General Agreement on Trade in Services (GATS) provisions in the WTO. If we look at where the UK stands on equivalence, its achievement of two areas of equivalence compares negatively with what many countries have achieved. We are already seeing significant financial activity moving to the EU because firms are not authorised to serve the EEA market from the UK. Michael Gove insists that this is temporary, and that business will return to the UK once more areas have achieved an equivalence ruling.

The government aims to reach a Memorandum of Understanding (MoU) with the EU on cooperation on financial services in the first half of 2021. This is not likely, however, to lead to quick equivalence decisions.

Chancellor Rishi Sunak has announced that he intends to explore deregulation in financial services. It would then be difficult to claim regulatory "equivalence" given that the point of deregulation is that regulations are not equivalent. The government will have to choose between the benefits of deregulation and UK firms being able to work across the EEA.

2.4. Overall comparison

Compared with the PTAs that the EU has signed with non-European countries, the TCA brings the UK more obligations and fewer benefits.

Compared with the EU's trading arrangements with neighbouring countries, however, the TCA brings the UK significantly fewer benefits but an unprecedented level of regulatory freedom.

The distinction between distant and proximate countries is important. Proximity meant that the EU was unwilling to grant benefits to the UK that it grants to other countries if the UK insisted on opting out of the level of regulatory alignment that is common to neighbouring countries. Those facilitations could have led to a unique deregulatory haven serving the EU market from the EU's doorstep. Hence it never wanted to treat the UK entirely as it does Canada or Japan.

The test will be whether the UK's new-found regulatory freedom can deliver benefits to make up for the new frictions.

2.5. Future development, review, and termination

As well as provisions to review and terminate the agreement, the TCA contains many provisions that suggest that the two sides could build on it. It creates several joint committees on technical issues. It allows the two sides to "consider" many of the facilitations on NTBs described above, suggesting that they could be agreed once trust is rebuilt. In particular, the UK might choose to align its regulations on certain areas to gain certain benefits. For example, alignment with EU sanitary standards may limit POAO checks as in EU-New Zealand.

The review and termination clauses apply at shorter time periods than those typically found in PTAs. We suggested the review clause – calling it a sunset clause – as a way to break the autumn impasse in the talks. With the UK insisting on regulatory autonomy and the EU concerned about being undercut by regulatory competition, a time-limited period of experimentation was indeed the only way to break the deadlock. Our dispute resolution compromise – to make LPF issues subject to dispute resolution as the EU wanted (another provision not in CETA), but remove the Court of Justice of the European Union (CJEU) from the process as the UK wanted – was also accepted.

The price of including review clauses to reach a deal is uncertainty: although investors looking to serve the entire EU market would have been unlikely to choose the UK as their platform anyway given the new frictions, the potential instability caused by review mechanisms exacerbates this.

The review clauses, however, do also provide the UK with an opportunity to reassess its own needs should the TCA prove insufficient.

3. What are the likely impacts?

3.1. Economic impact

The TCA can bring both positive and negative impacts.

	Positives	Negatives
Leaving the Single Market (SM) also known as European Economic Area (EEA)	• Ability to regulate differently • Ability to manage immigration from the 26+3+1 independently (though most analyses suggest that reducing immigration would be a net economic loss)	• Border frictions affecting time-sensitive exports (for example Just-In-Time (JIT) supply chains) • NTBs from loss of mutual recognition of UK regulatory standards across the 27+3+1 • UK-EU trade has evolved since 1993 to disproportionately include sectors that depend on SM facilitations • Losses associated with restricted movement by British citizens
Leaving the EU Customs Union (EUCU)	• Independent trade policy: PTAs with non-EU countries	• Border frictions as above • Procedures on VAT and excise and administrative customs charges • Not all goods qualify for tariff-free trade under Rules of Origin

The TCA is ultimately very similar to what government economists were assuming when they developed the "FTA" scenario on page 18 of this report. The only difference is the UK's constrained ability to regulate differently: different regulations may lead to tariffs, which would add another loss of export market share on top of that caused by NTBs. They may also lead to the termination of the agreement either at 12 months' notice or at the 2025 review point.

The government disputes that UK trade with the EU will fall by the 40% or so that is assumed in estimating the 4% drop in GDP relative to EEA and EUCU membership forecast in this cross-Whitehall estimate.

The true drop in UK-EU trade, of course, remains to be seen. When figures first become available from the Office for National Statistics (ONS), we will also have to compare them to a counterfactual rather than to the figures for 2020: because 2020 included a recession due to the Covid-19 pandemic, trade will likely bounce back to some extent in 2021, especially after vaccinations have reached a large percentage of the population and lockdowns have therefore ended. We will therefore attempt to compare the trajectory of UK-EU trade with what the expected trajectory coming out of recession would have been.

What we have seen so far on the news is unlikely to be representative of the long-term settled state of border traffic, for three reasons:

- Volumes of accompanied goods have been relatively light so far.
    - This is always the case after New Year;
    - Plus, many businesses stockpiled ahead of the end of the transition;
    - Still more deliberately avoided the beginning of the post-transition era.
        - ➔ Trade ramping up back to normal levels is likely to cause border queues and supply chain blockages to **worsen.**
- On the other hand, hauliers, brokers, and traders are still getting used to new requirements. The more they learn and reduce errors, the **more smoothly** traffic will flow;
- Furthermore, the increased incidence of Covid-19 checks for drivers at the border **will recede** once a significant proportion of the general population has been vaccinated.

Of course, many NTBs – such as duplicate regulatory authorisations, and record-keeping requirements and failure to qualify for tariff-free trade under RoO – affect firms away from the border. Hence, we have to look beyond the media coverage of border issues.

The benefit that the UK gains from different regulation and from non-EU PTAs also remain to be seen. They depend on the actions that the UK takes and what other countries agree.

3.2. Future developments

Until the 2025 review, the UK will have the theoretical ability to change whatever it wants. Yet the TCA, while it provides sovereignty, does not grant *impunity*. The UK will have to consider in IAs the consequences of its actions on its ability to trade with the EU, something that is already a casualty – through the NTBs that have already appeared – of the new regulatory freedom.

It is therefore up to those who cherish regulatory autonomy – and they say that they wish for practical sovereignty rather than merely legal sovereignty – to tell us what they want to change.

- Which Single Market regulations do they not like?
- Do the businesses affected want to change them and create new barriers with the EU?
- Why is getting rid of them worth the new costs that UK exporters are facing?
- Why is it worth the tariffs through which the EU can "rebalance" the deal?
- Why is it worth the possibility of the EU not renewing the agreement after 2025 or terminating the agreement at any 12-month notice period?

We will be following closely the consequences of the new frictions and the results of the UK's new freedoms.

In our upcoming regular series of trade bulletins, we will be providing examples of companies that are adapting to the new situation as well as of those enjoying new benefits. We will return in each bulletin to the themes that we set out here.

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