What happens now

10 business priorities for UK-EU trade after Brexit

Updated 25th October

On 28 April, the UK-EU Trade and Cooperation Agreement (TCA) was ratified by the European Parliament. Alongside the UK Parliament's approval earlier this year, these legislative approvals provide the legal underpinnings for the next chapter in the UK-EU trading relationship.

This moment can – and must – draw a line under the political wrangling of the past five years in UK-EU relations. It allows for a turning point in the relationship, where common sense, dialogue and goodwill prevail. Above all the key objective is normalisation. In a normalised trading relationship, both sides can move forward in the spirit of partnership and pragmatism as two independent trading partners with a historic and valuable trading relationship worth nearly £700bn.

Businesses understand that challenges will not be resolved overnight. Building significant levels of ambition on the TCA will be a marathon, not a sprint. Many of the changes firms are experiencing now – from new customs paperwork to rules of origin – are likely to be with us for the foreseeable future.

But a step-change in relations would be deeply helpful now. Ranging from business travel to goods travelling between Great Britain and Northern Ireland – and compiled in consultation with businesses of all sizes, shapes, and sectors – **the CBI has identified 10 immediate practical actions both sides can take to stabilise relations and strengthen cooperation.**

Taking these steps will help protect the trading relationship in the years ahead. After the punishing effects on our economies from COVID-19 and Brexit uncertainty, we cannot afford a trading relationship with our largest and nearest neighbour that is not fit for purpose. Our economic recovery, improving levels of business investment and tackling the biggest challenges of our generation depend on it.

Summary of recommendations:

1	Agree Lasting Solutions for the Operation of the NI Protocol
2	Work bilaterally with Member States to smooth out business travel issues and speed up visa processes, critical to the UK services sectors
3	Support supply chains on the cumulative burden as businesses enter the Christmas period
4	Agree a bespoke veterinary agreement to reduce SPS checks
5	Review the Shortage Occupation List to deal with the current labour market situation
6	Use the TCA's governance structures to meaningfully engage with business on the implementation of the agreement
7	Secure the recognition of Professional Qualifications
8	Approve UK application to the Lugano Convention
9	Continue the dialogue on Financial Services
10	Advance linkage between the UK and EU ETS schemes ahead of COP26

Key:

	Urgent
	Important
	Emerging

Recommendations

1. Agree Lasting Solutions for the Operation of the NI Protocol

The Protocol created a pathway for unfettered trade in both directions between Northern Ireland and the EU, and for NI firms selling into Great Britain. This unique opportunity of dual market access has allowed many firms in Northern Ireland to thrive, but for others its operation has introduced significant challenges.

Under the Protocol, Northern Ireland continues to apply EU rules on customs and standards. As a result, goods coming into Northern Ireland from GB are subject to a series of regulatory and customs processes. Generally speaking, the higher the level of regulation and control, the greater the problem. For this reason, the movement of highly regulated products like food and medicines has been challenging. The Northern Ireland economy is also dominated by SMEs who have limited human and financial resources to absorb the additional compliance costs in trading with GB.

In July the UK government published a Command Paper calling for fundamental changes to the framework. This included creating a dual regulatory regime and a revision of the governance arrangements. The EU responded with a series of proposals to build on the existing framework to address issues in customs, medicines, SPS (plant and animal health), medicines and representation. The UK government have introduced a "standstill arrangement" as and until an agreement is reached. This means existing easements (often referred to as grace periods) for the movement of food, plants, parcels and medicines will continue until an agreement is reached. The UK and the EU have intensified discussions since the publication of the EU proposals.

The existence of the Protocol is an acknowledgement that unique solutions are needed for a unique problem. The stop-start approach in finding solutions and temporary fixes is not sustainable. It's creating instability and risking investment. Business has been putting forward technical solutions since the Protocol was signed and remains optimistic that agreement can be found that creates that stability and certainty that protects prosperity in NI.

2. Work bilaterally with Member States to smooth out business travel issues and speed up visa processes, critical to the UK services sectors

The TCA set out the scope of visa-free, short-term business trips between the UK and the EU for specific purposes, limited to 90 days in any 180-day period, which was welcomed by businesses across the UK and EU member states. The nuances vary depending on the member state, meaning that a 'country-by-country' understanding will be required by businesses who have individuals travelling to the EU countries to deliver services such as selling goods or services directly to the public.

Due to COVID-19, and the ongoing travel restrictions, business travel is not operating as normal. Therefore, the business knowledge of the extent of these new requirements is still very low. Business welcomes the UK government's publication of individual member state guidance, but complying with the new rules is challenging and resource intensive for many businesses – particularly SMEs without large HR departments, adding new costs and time pressures.

Businesses who are moving staff to EU countries are reporting challenges such as lengthy visa and work permit delays. The length of time to process visas and increased volumes as travel resumes is a concern due to the potential knock-on impact on supply chains and damage to the business model.

Both sides should work together to speed up and improve these processes, so required documents are processed as quick as possible ahead of travel resuming to normal levels.

3. Support supply chains on the cumulative burden as businesses enter the Christmas period

The recent extension of the staged customs controls for UK imports from the EU do relieve some pressure on supply chains. The staged customs controls that were due to be introduced to goods imported to the UK and EU on 1 October 2020 and 1 January 2022 would have increased certification. Physical SPS checks on products of plant or animal origin have been extended into 2022.

These extensions will offer some relief to the ongoing pressure on supply chains by not adding to the cumulative burden of the challenges to the labour market and HGV drivers. However, maintaining asymmetrical trading conditions between the UK and EU will put UK food producers and exports at a competitive disadvantage with higher market access barriers.

Both short and long-term solutions are needed to bolster the UK's reputation as stable place to do business. In the short-term, EU Member States and the UK government should put all efforts into ensuring that the new vets, customs agents, and port infrastructure required to process the new checks and paperwork that are fully operational by the end of 2021 when staged customs controls end. In the long-term, the UK and EU should explore a bespoke Veterinary Agreement.

4. Agree a bespoke veterinary agreement to reduce SPS checks.

The introduction of Sanitary and Phytosanitary (SPS) checks for agri-food goods moving between the EU and the UK, means that business face new document and even physical checks on products of animal and plant origin– including live animals, meat, and plant products -that pose potential bio-security threats. While the UK government took the unilateral decision to extend the grace period for SPS checks on products entering from the EU to 21 January 2022, SPS checks on UK exports to the EU have been enforced from the 1 January 2020.

The impact that these checks have range from increased costs for businesses to obtain Export Health Certificates from vets, to long delays at ports while waiting for checks to take place, with the risk of whole perishable consignments being spoiled. This has been felt more acutely for goods moving between Great Britain and Northern Ireland. The EU SPS certification regime is not designed to be retrofitted for GB-NI movements, with data showing that in January and February this year 20% of all SPS checks in the EU took place in Northern Ireland[1].

A bespoke veterinary agreement that meets the challenges for GB-NI and EU-GB movements would significantly reduce the burden of SPS checks. To agree it, a tailored solution where a mechanism of equivalence on animal welfare and standards would have to be developed and work for both the UK and EU. This would then create a Veterinary Agreement that responds to the unique nature of GB-NI and EU-UK supply chains that is needed to overcome this issue. For more information on this, see the CBI's paper on a UK-EU Veterinary Agreement.

5. Review the Shortage Occupation List to deal with the current labour market situation

The current labour market shortages that the UK is seeing is due to complex economic circumstances, with additional pressures from the pandemic and the UK's departure from the EU. Many of the shortages that businesses are facing aren't new, but they are becoming much more difficult to manage. The shortage of HGV drivers is estimated to have grown from 60,000 to over 100,000. Shortages are also affecting other countries too with the US, Germany and France also hit by a lack of drivers. The UK is among the hardest hit because employers are responding to the impact of the pandemic on the labour market at the same time as the impact of leaving the European Union is felt.

Firms knew Free Movement would end when the UK left the EU. Sectors with a high number of EU workers also knew that they could rely on the EU Settlement Scheme to retain their existing workforce, and that they needed to change to attract more UK workers in the future. Some had started making plans to adjust, but many felt unable to. The necessity of dealing with the pandemic dominated businesses' capacity to react well before detailed immigration rules were published last October. Just two months earlier, only 8% of respondents to the CBI's Employment Trends Survey said that they understood the new immigration system and were prepared for it[2] .

This is more than a short-term issue and could take more than two years to resolve. To begin to address this, the UK government must immediately update the Shortage Occupations List by accepting the Migration Advisory Committee's September 2020 recommendations and urgently starting a new, comprehensive review.

6. Use the TCA's governance structures to meaningfully engage with business on the implementation of the agreement.

The TCA sets out a complex governance structure that will oversee its implementation. Headed by a Partnership Council – which will be co-chaired by David Frost and Maroš Šefčovič - and consisting of 23 specialised committees, these joint structures will be responsible for the oversight, amendment, and dispute settlement for the TCA. It is vital that the governance and engagement forums set out under the TCA are used to their best capacity to monitor, discuss and identify solutions to any challenges in implementation.

Many of these committees are meeting for the first time in the Autumn of 2021, including both the UK and EU Domestic Advisory Groups (DAG). The CBI responded to the UK

[1] Northern Ireland Statistics and Research Agency, Overview of Northern Ireland Trade, 15th June 2020

[2] CBI, Employment Trends Survey, 2020

Government's recent consultation on government engagement with business and civil society groups on implementation of the TCA with the following principals:

1. Convene the DAG as the primary strategic domestic advisory engagement forum on the implementation of the TCA.
2. Use the DAG to bring together a core group of stakeholders impacted by the TCA that balances strategic and technical expertise.
3. Allow the DAG to work in sync with the specialist committees to bring technical expertise to meetings.
4. Maintain the Brexit Business Taskforce and other business engagement forums to complement the DAG.
5. Ensure that the DAG engage on the areas where the TCA and Northern Ireland Protocol overlap.
6. Use the Civil Society Forum as a platform for joint and collaborative engagement with the EU and its stakeholders.

7. Secure the recognition of Professional Qualifications

Though the automatic mutual recognition of professional qualifications (MRPQs) between the UK and the EU has ended, the TCA creates a pathway for future agreements being struck between the UK and individual EU member states via the Partnership Council – although the exact process is still to be confirmed.

The loss of automatic recognition adds significant levels of complexity and administrative challenges for firms, particularly in the professional services sector. Newly qualified individuals in regulated sectors will not be able be allowed to work or to deliver services in the EU without this recognition, leaving UK professionals and businesses losing business to EU competitors.

The CBI welcomes the steps that have already taken place by the UK government in supporting regulator-to-regulator recognition across the UK and Ireland, with 10 agreements already made in various sectors. But the pathway for more agreements, as set out in the TCA, should be established as quickly as possible to support the trade in services on both sides. The EU should work constructively with the UK to facilitate this dialogue through the relevant governance mechanisms.

8. Approve UK application to the Lugano Convention.

In April 2020 the UK applied to join the Lugano Convention, which predates the Brussels (Recast Regulation) that ceased to apply in the UK on 1 January 2021. The Brussels (Recast) ensures parties' contractual choice of jurisdiction is enforced and that judgements from the courts of EU member states are recognisable and enforceable across the EU. The Lugano Convention provides for similar outcomes, although it is not a single market instrument and is in principle open for third countries to join.

Without UK accession to the Lugano convention, when claims, or claims against businesses are made, the UK-EU litigation process is likely to become more complicated and costly. This could result in the legal status of the transactions and contractual relationships not being as enforceable as they were previously. For many businesses and consumers in both the UK and EU this could result in reduced access to justice, as administered by the courts, which should be a crucial right for all those involved in any disputes.

Given the importance of the relationship between the UK and the EU in both commercial and civil matters, the EU Commission and members states should approve the UK's accession to the Lugano Convention: this would underpin the rule of law and respect for legal obligations.

9. Continue the dialogue on Financial Services

With the UK leaving the EU Single Market, the financial services sectors' relationships with the EU market fundamentally changed once the TCA was implemented. Though the TCA did not include provisions on financial services, it did introduce the scope for continued talks, and in March 2021 both sides concluded technical negotiations for a UK and EU Memorandum of Understanding (MoU) on financial services.

When finalised, the MoU will pave the way for greater regulatory cooperation on financial services, leading to better services for customers on both sides. It is critical that this happens quickly to ensure critical services such as clearing and payments are not disrupted, which could cause harm to both the financial system and the whole economy.

Building on the momentum of the negotiations, conversations must continue between relevant authorities to ensure future financial stability, support increasing flows of sustainable finance and to tackle cybercrime. Together with earlier draft data adequacy decisions, businesses will want this Memorandum of Understanding to signal growing services cooperation between the two trading partners.

10. Advance linkage between the UK and the EU ETS schemes ahead of COP26

2021 is a critical year for climate and the environment. Making meaningful progress on the linkage between the UK and EU ETS ahead of COP26 would reaffirm the UK and the EU as climate leaders and show that the UK remains a strong advocate for international carbon markets. A linkage between the UK and EU ETS would align decarbonisation pathways, create a stable environment for investment into low-carbon technologies, and show continued UK leadership in tackling climate change.

The advantages of linkage are clear in terms of liquidity, price discovery, and the ability to attract abatement from across Europe rather than just the UK. It would also create a level playing field in terms of carbon pricing, avoiding competitive distortions, and leading to aligned cost implications for industry across the UK and the European Economic Area (EEA). This would be beneficial for international commerce, minimise the risk of carbon leakage, and lower the costs of achieving Net Zero, thereby facilitating trade and investment between the Parties as per the objective of the Chapter on energy in the TCA.

Both sides should start the process of linking the new UK Emissions Trading System (UK ETS) with the EU's Emissions Trading System (EU ETS) as soon as practicable. Business welcomes the commitment to 'serious consideration' which the UK and EU have given to linking their respective carbon pricing systems in the Trade and Cooperation Agreement (TCA) and believes that linkage negotiations should begin as soon as possible. Given the similarities between the UK and EU's carbon trading regimes, there should be no two Emissions Trading Systems that are easier to link.

How the CBI determines its policy

The CBI represents a wide range of business voices across the whole UK.

The CBI is a non-political, Royal Charter organisation that speaks for 190,000 businesses, employing seven million people, equating to one-third of the private sector workforce. This number is made up of both direct members and our trade association members. We do this because we are a confederation and both classes of membership are equally important to us.

Our mandate comes from our members who have a direct say in what we do and how we do it.

The CBI Council is the main governance body of the CBI and is made up of all the CBI Councils and Standing Committees comprised of over 1,000 council and committee representatives from over 700 CBI member companies. 80 per cent of CBI Council members are from non-FTSE 300 businesses. The chair of each Standing Committee and Regional and National Council sit on the CBI's Chairs' Committee which is ultimately responsible for setting and steering CBI policy positions. Each quarter we engage these councils and committees on our work for either a steer, for information or for sign off and this is supported by wider member engagement from other committees, working groups, events and member meetings.

For further information on the details of this submission, please contact Nicola Hetherington.