# The red tape challenge

Business priorities for the future UK-EU economic relationship

February 2020

EU Negotiations

# How the CBI determines its policies

## 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.

## CBI Council in numbers

**1175**
Commitee and Council representatives

**50%**
Representatives of the CBI Council at C-Suite level, while 36% are at Director level

**28**
Sector, regional and policy Standing Committees

**80%**
Portion of the CBI Council from non-FTSE 350 businesses

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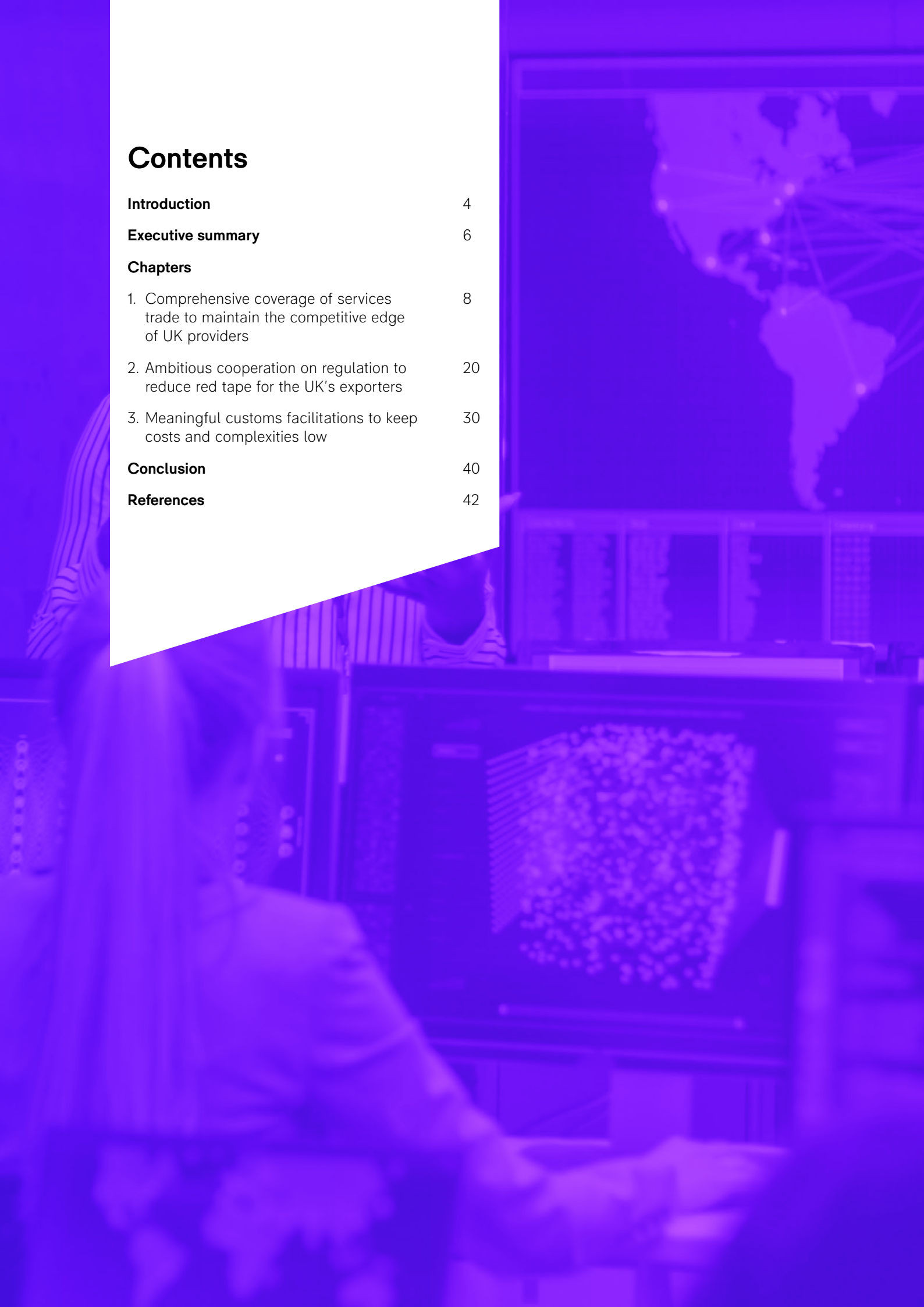


# Introduction

As the UK and EU prepare to negotiate their new economic relationship, the role of business will be vital. A clear democratic decision has been made to leave the EU and it will be up to business to seize the opportunities presented and help minimise disadvantages. Through their investment, innovation and job creation, British firms are committed to building the strongest possible economy for the UK outside of the EU.

The purpose of this report is to set out the priorities for the future UK-EU relationship that will underpin economic success. It aims to reflect the sense of purpose and direction of this government, and fully respects the parameters of the negotiations that have been set down. It focusses on outcomes, not specific models or negotiating strategies, and is rooted in evidence from the heart of British business.

To compile this report, the CBI has held conversations with hundreds of firms of all sizes, from garden shed builders to game designers, lamb farmers to legal practitioners.

From this deep and wide consultation, the CBI has developed 22 concrete and practical recommendations for the Future Economic Relationship that would support the UK economy while falling within the boundaries of the government's stated principles. They cover trade in services, trade in goods and customs arrangements, along with three key principles:

- The UK is a world-leader in services trade. As around 40% of the UK's services exports go to the EU,[1] **comprehensive coverage of services trade** in the UK-EU FTA, alongside deals on mobility and data, will be important to maintain this competitive edge.
- In traded goods, proliferation of red tape – from veterinary checks to double testing of sauna stoves – for the UK's exporters should be avoided through **cooperation on regulation** with the EU
- While leaving the EU Customs Union will inevitably create new costs, negotiators should aim to **keep customs costs and complexities low** so firms can focus resource on R&D and innovation, rather than unproductive new administration procedures.

The CBI has taken as the premise for every one of these recommendations that the UK is leaving the Single Market, leaving the Customs Union and that frictionless trade is coming to an end. This is not without its challenges.

Business backs many of the government's objectives for the future trading relationship set out in the negotiating mandate. Tariff-free trade would keep costs low for businesses on both sides, the mutual recognition of qualifications would enable UK and EU professionals to work across borders, and a data adequacy agreement would maintain cross-border data flows.

In other areas, how the UK strikes the balance between access and control is less clear. Firms are future-facing and agree the UK must be well placed to grasp new opportunities, setting regulations for emerging technologies, whether in AI, distributed ledger technologies or quantum computing. But for the UK to truly be spearheading this new frontier, its world-leading industries must not be distracted by significant new burdens on their exports. The business community has constructive suggestions for keeping red tape low, while recognising that sovereignty and the ability of the UK to set its own rules are central to the government's ambitions.

With complex issues to solve in the negotiations ahead, business is offering to help. The CBI and its members are keen to make their expertise available to negotiators to secure the most prosperous future possible for the UK economy.

# Executive summary

Through consultation with companies of all sizes and sectors across the country, the CBI has identified business' top 22 recommendations for negotiation in the three key areas of trade in services, trade in goods and customs arrangements.

In many areas, such as a qualifications, data adequacy, mobility and zero tariffs, the UK government and business community share the same objectives. In other areas, such as customs documentation, regulated service provision and regulatory cooperation, there has been less clarity from policy makers on both sides. Given the rapidly diminishing timelines and complexities involved, this report aims to provide negotiators with the information they need to make decisions that support growth across the UK.

Businesses are looking for negotiators to agree:

**Trade in Services: Comprehensive coverage of services trade to maintain the competitive edge of UK providers including:**

**1.** A deal that provides for all services sectors

**2.** A mobility and social security deal

**3.** Ambitious market access for regulated services sectors

**4.** Mutual recognition of professional qualifications

**5.** Mutual recognition of professional bodies and standards of conduct

**6.** A Market Access Agreement for transportation services

**7.** A separate UK-EU Air Services Agreement

**8.** An adequacy decision on data

**Trade in Goods: Ambitious cooperation on regulation to reduce red tape for the UK's exporters including:**

**9.** A mechanism to manage divergence over time

**10** Mutual recognition of assessment processes by trusted regulators

**11.** Regulatory cooperation on testing and compliance

**12.** A protocol on conformity assessment

**13.** Cooperation between UK and EU authorities on market surveillance

**14.** Formal UK cooperation agreements with EU agencies where third-country involvement exists

**15.** Commitments to European and International voluntary standards

**Customs Arrangements: Meaningful customs facilitations to keep costs and complexities low including:**

**16.** Zero tariffs on UK-EU goods

**17.** A modern approach to Rules of Origin

**18.** Simplification of administration and documentation

**19.** Full cooperation and communication between customs authorities

**20.** Mutual recognition of trusted trader programmes

**21.** Minimised customs burden for goods moving from Great Britain to Northern Ireland

**22.** Dedicated inter-agency workstreams on customs technology

Successful negotiation of these priorities would allow for the UK to take full advantage of the freedoms provided by its exit from the EU, while balancing the needs of the economy for deep mutual market access and the needs of the EU to trust the UK.

# Comprehensive coverage of services trade to maintain the competitive edge of UK providers

Both the UK and the EU have committed to a comprehensive agreement on services on the basis of a free trade agreement. In some sectors, such as professional and business services and digital trade, the UK government has said there is scope to go beyond the existing EU Free Trade Agreements (FTAs). There are also welcome joint ambitions for EU and UK nationals to undertake short business trips to supply services and an intention to negotiate a data adequacy agreement, critical for continued cross-border data flows.

This is a step in the right direction. The UK is second only to the US for global services exports,[2] and 40% of these exports are to the EU.[3] Supporting the country's world-leading services trade means a comprehensive agreement between the UK and the EU going above and beyond provisions in the EU's existing FTAs to reduce red tape imposed by 27 different nations. The rules for trading services differ between countries and modes of services provision **(see Exhibit 1)**, can be put in place to cut across service sectors, or be very sector specific – creating real burdens for service providers looking to expand into international markets, which negotiators can help to reduce.

**81%**

Share of UK GVA accounted for by services.

**Source:** ONS Gross Value Added, 2018

**Exhibit 1** How trade in services works

*There are 5 different "modes" of international trade in services*

01.

**When a UK company sells computer software to a customer in Poland**

This is an example of "Mode 1" services trade - defined as when the supplier and consumer are based in different countries, and the service is provided without travel beind needed.

02.

**When Dutch tourists visit the UK and spend money in a hotel or resturant Or when Hungarian students study at a UK university**

This is an example of "Mode 2" services trade - defined as when the consumer travels to the supplier's country to purchase their services

03.

**When an Italian architecture firm opens a branch in the UK**

This is an example of "Mode 3" services trade - defined as when the supplier moves to the consumer's country and sets up an office staffed by local employees to provide services

04.

**When a UK lawyer flies to Paris to advise a French client on UK or International law**

This is an example of "Mode 4" services trade - defined as when the supplier travels to the consumer's country to provide services, either on a temporary or permanent basis

05.

**When a UK company provides engineering services as part of the production of a German car**

This is an example of "Mode 5" services trade - defined as when services are "inputs" in the manufacturing goods
*NB: This is not currently defined in the WTO GATS*

The EU's most ambitious FTA on services to date, the Comprehensive Economic and Trade Agreement with Canada (CETA), is patchy on services. While the EU and Canada agreed the free trade of postal, telecommunications, energy and maritime transport services, and mutual access to public procurement, the CETA model would result in significant market access barriers for some of the UK's leading services sectors including aviation, broadcasting, electricity and financial services. The UK and EU have already proposed a more ambitious approach than this and – in support of this objective, the business community has 8 practical recommendations for negotiators.

## The comprehensive coverage of services trade, alongside deals on data and air services, will maintain the competitive edge of the UK's world-leading service providers.

### 1. A deal that provides for all services sectors

The current Political Declaration between the UK and the EU sets out high-level commitments to facilitate services trade, and mentions many different service sectors including telecommunications, courier and postal services, distribution, environmental services, financial services and transportation services. However, certain sectors are not explicitly included – construction, engineering and architectural services for example. **It is important that the negotiators take a negative-list approach for services trade in the UK-EU FTA to provide for the widest possible range of sectors,** particularly for the industries of the future so they can assume mutual market access from their origins.

One of the most notable absences from the Political Declaration is broadcasting. It has been clear for some time that the UK-EU FTA will not include negotiations on cross-border trade for audiovisual services. Up until this moment, the UK has been broadcasting over 700 TV Channels internationally, more than any other nation in the EU. Under the current arrangements with the EU, broadcasting providers need only achieve a license in their host country to automatically operate their channels across the EU. UK industry has taken great advantage of this. After December 2020, this cross-border broadcasting via the country of origin principle will no longer be possible, and providers of these services have been moving jobs out of the UK and into the EU to continue providing their channels to EU audiences. As this sector has already lost activity to the EU, and future EU rule changes may mean it loses even more, it is extremely important that UK negotiators take into account the other needs of the broadcasting, advertising and audio-visual services sectors – such as mobility of film crews across Europe, carnets, and access to skills and talent. **For other sectors which negotiators do not achieve dedicated chapters for, the same calculations should be made by the UK about other priorities to support firms' competitiveness.**

**£120bn**

Total value of UK service exports in 2018.

**Source:** ONS, Pink Book 2019

## 2. A mobility and social security deal

**Striking an ambitious agreement which allows people to travel on business trips to supply their services will be a key facilitator for services trade,** allowing employees to travel to advise clients, sign contracts, service machines, and establish new business links. Businesses have warmly welcomed ambition in the negotiating mandates of both the UK and the EU to reach a reciprocal agreement on temporary entry and stay of individuals to provide services. To ensure this objective is achieved, negotiators should seek an agreement that is far-reaching, covering all sectors and contractual service suppliers. As well as mobility to allow for direct provision of services, it should also provide for enough flexibility to allow mobility for services linked to the sale of a good – for example a British engineer traveling to repair an engine previously sold to a European client. Getting provisions for travel right is an important step that will reduce potentially seriously prohibitive red tape from creating barriers to market access, avoiding the need for UK firms to rely on the differing national immigration and travel systems of the 27 EU Member States, supporting a range of the UK's growing services sectors.

### Case Study:

**The benefits of cross-border mobility case study**

A medium-sized UK based law firm is currently able to offer its clients UK legal advice using UK lawyers in any EU Member State. It regularly advises clients over the phone and by email, but for major transactions or disputes, clients will often request in-person advice. The firm relies on being able to send its lawyers to provide EU clients or UK clients doing deals in the EU with "fly in fly out" legal advice – requiring lawyers to travel and stay in EU Member States on a short-term basis, often for just a single day or week.

Because only a limited number of EU Member States currently allow foreign lawyers to give legal advice in person under WTO rules, the firm would lose its ability to send UK lawyers to the EU without an effective agreement – even if that advice is limited to UK law. The firm is extremely worried by the prospect of their lawyers being prevented from travelling to the EU to provide legal advice in person after the UK has left. If their lawyers are unable to take part in negotiations in person, or are limited to using video conferencing to offer advice, they believe EU clients will feel the level of service falls below the requisite standards and will transfer their business to competitors. Negotiators have the right ambitions to avoid this.

**$75bn**

UK services "re-exported" by EU27 to third countries in 2015.

**Source:** OECD, TiVA database

**However, firms want to see even greater ambition in a UK-EU agreement on mobility, beyond short-term business travel.** In 2019, the ability to move UK workers across the EU was a key concern for UK firms, with nearly half (48%) citing it as a current threat to the UK's competitiveness, rising substantially from 27% in 2018.[4] A comprehensive mobility framework should include a reciprocal agreement on business visitors, independent professionals and intra-company transfers. Further detailed agreement is also needed on mobility for research, study, training and youth exchanges. Business has accepted that free movement will come to an end, and believe that a reciprocal mobility deal will allow controlled movement of skilled, employed individuals that will contribute to growth in the UK – in line with the government's overarching objectives on immigration.

When individuals move for work across borders they encounter different social security systems. Current EU rules mean employees are only covered by the legislation of one country at a time, and as such they only pay contributions in one country. Companies have welcomed the ambition shared by the UK and the EU to reach agreement on social security coordination. This is a positive step that would substantively reduce complexities and costs for firms and individuals.

### 3. Ambitious market access for regulated services sectors

The EU single market in services is incomplete, which means that not all services require the UK and the EU to negotiate dedicated sectoral provisions for market access. Services that are unregulated, such as management, education and strategy consulting services, can still be provided across borders post-Brexit without specific provisions. The success of these sectors' trade will be influenced by cross-sectoral elements of these negotiations, such as the UK's ability to attract and move international talent instead.

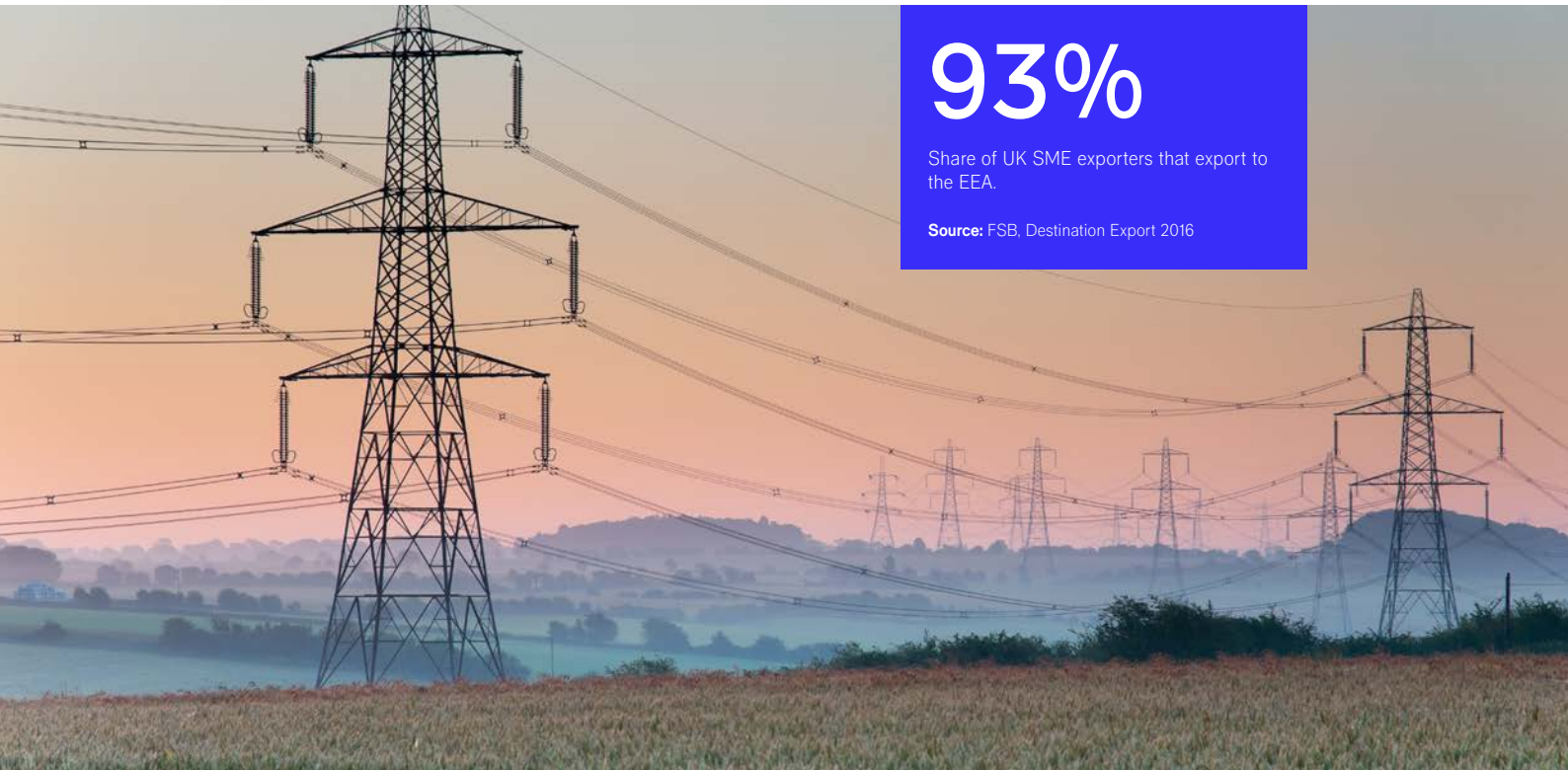
**However, there are some regulated services sectors which are looking for comprehensive, dedicated chapters in the UK-EU FTA in order to avoid the international red tape that would limit their ability to do trade in the EU.** Two examples are the energy sector and financial services.

## Energy

A comprehensive energy and climate change agreement would help to deliver secure, clean and affordable energy to consumers and businesses, as well as progress the European climate change and UK decarbonisation agendas. Low-carbon energy supplies are the bedrock of a modern, industrial economy, supplying house and businesses and underpinning the economic health and prosperity of the UK. The energy industry invests over £13.1 billion annually, delivers around £85.6 billion in economic activity through its supply chain and interaction with other sectors, and supports over 764,000 jobs in every corner of the country.[5]

**Mechanisms to facilitate cooperation and collaboration between the UK and the EU on energy will be important,** as the UK is physically connected to Europe through sub-sea interconnectors, which will require the UK and EU to work together to manage. Northern Ireland the Republic of Ireland also operate an **all-island single electricity market which will require continued regulatory cooperation** to preserve. Business has welcomed acknowledgements to date from both sides to facilitate this cooperation in order to protect consumers and businesses on both sides of the border. The creation of **a linked-UK Emissions Trading System and alignment with the Internal Energy Market** would also help to maintain the smooth functioning of energy markets and the continued free flow of energy to and from the UK.

**Commitments to collaborate on energy related issues beyond December 2020 –** whether they be future interconnection projects or cooperation on progress towards ambitious climate change action – would foster the exchange of ideas, innovation and technology to support the decarbonisation agendas of the UK and the EU, while ensuring that climate change action is carried out in the most cost-effective as way as possible for customers and businesses. This is a global challenge which the EU and UK can take a lead in, post-Brexit.



**93%**

Share of UK SME exporters that export to the EEA.

**Source:** FSB, Destination Export 2016

## Financial Services

**An agreement on financial services that establishes regulatory cooperation between the UK and the EU that reflects the importance of access between both markets will benefit savers, investors and businesses on both sides.** Financial services are the UK's second largest category of service exports, making up 21% of UK service exports. The EU as a whole is the UK's largest export market for financial services accounting for 42% of the sector's exports, equivalent to £26.1 billion. Overall, 7 of the UK's 10 largest export markets for financial services were EU Member States last year.[6] The UK's relationship with the EU is one of the keys to this success. One third of business conducted in the City is EU-related, and perhaps one fifth is dependent on passports or membership of the single market.[7]

From December 2020, Single Market passporting facilities will no longer be available to UK financial service firms, which will no longer be able to fully service their EU customers from the UK. The Association of Financial Markets in Europe (AFME) have suggested this reduced market access for UK financial services and significant changes for wholesale banking would hit European SMEs the hardest, as they are most likely to be priced out of financial products due to a Brexit-related squeeze in capacity in the financial services sector.[8] Another study shows that while the EU might gain from relocation of financial services activities, ultimately there are 'no winners' from an increase in fragmentation which results in higher costs of financial services to EU27 consumers and businesses.[9]

**Financial services are looking for a dedicated agreement that provides market access for firms, while respecting the regulatory and decision-making autonomy of both the UK and the EU.** This will be critical to maintain the commitment to preserve financial stability, market integrity, investor and consumer protection and fair competition.

## 4. Mutual Recognition of Professional Qualifications

From installing equipment or clearing asbestos to providing professional advice or mending plane wings, many individuals who provide services require specific qualifications. For individuals to operate across borders or to work temporarily abroad, these qualifications must be recognised by national authorities. The EU has a system of preferential recognition of qualifications which dramatically simplifies the process for practitioners. Both the UK and the EU have committed in their negotiating objectives to reach an agreement on the mutual recognition of qualifications, which has been warmly welcomed by services industries. This will go a significant way towards reducing the red tape the UK's world-leading services providers have to manage to sell their services abroad.

This agreement is also important for continuing to support the UK's further and higher education systems. In 2018, 30,000 non-Irish EU citizens were registered with UK professional bodies. Many of these begin their careers in the UK to build up experience post-qualification before returning to the EU to share their knowledge and expertise. As long as qualifications from UK institutions are recognised in the EU, it will still be an attractive factor for these students to study and contribute to the UK economy.

### Case Study:

#### Mutual recognition of accountancy qualifications

Under current rules, for British accountancy qualifications to be recognised in the Netherlands, British accounts have to submit their diploma, accompanied by an endorsement from the British accountancy competent authority. They also have to take two short tests, of an hour each.

Without mutual recognition of qualifications, British accountants will need to provide details of their Grades list, study programmes and literature on which the testimonial or diploma is based, all supporting programmes, reports and examination programmes they have undertaken, as well as to provide 60 pieces of evidence of practical knowledge and 137 pieces of evidence of theoretical knowledge.

#### Mutual recognition of auditing qualifications

Under current rules, a UK registered auditor can achieve recognition in an EU Member State, and the right to practise in audit, without the need to undertake the entire qualification procedure of the relevant national profession and associated bodies. Presently, it is necessary only to pass an aptitude test in that Member State. There is no requirement for audit experience specifically in the EU host Member State and the aptitude test purely covers the specific divergence between the home country qualification training and that of the host body with regards to statutory audit.

In the absence of an agreement between the UK and the EU in this area, a UK auditor would be required to complete a full re-qualification in the Member State in which they wish to practise. This would mean the completion of new exams and the completion of a minimum three years of monitored practical experience requirements, all of which could take up to five years.

### 5. Mutual recognition of professional bodies and standards of conduct

The ability of firms to provide services between the UK and the EU, particularly those professional and business services, is underpinned by their ability to establish a commercial presence or subsidiaries to provide services directly in a foreign jurisdiction, or to provide services remotely to foreign clients. For regulated businesses such as architecture, engineering, legal services, audit and accountancy services, these barriers can be very high. For example, most EU Member States make commercial presence or establishment a pre-condition of market access for legal services. Others, such as Belgium and Cyprus, place nationality-based conditions of representation in domestic courts and member of the domestic bar.

Negotiating mutual recognition of qualifications as well as professional bodies (competent authorities) and standards of conduct in key sectors would help businesses navigate complex establishment rules and allow UK and EU qualified professionals to provide vital cross-border services. For example, maintaining mutual recognition between the UK Bar Council and the Law Society (as well as the Law Society of Scotland and the Law Society of Northern Ireland) – the professional bodies responsible for regulating the conduct of UK-qualified legal professionals – and EU professional bodies would allow UK practitioners to represent EU clients in legal proceedings, establish a practice in any Member State, appear before EU courts and institutions, as well as give legal advice to EU clients – if they are registered with the home professional body. Similarly, a statutory auditor that is approved in the UK could be approved in another, following the completion of either an aptitude test or an adaption period, without having to requalify in the EU, and vice versa.

However, UK and EU negotiators must aim to go beyond the framework for mutual recognition of professional qualifications contained in CETA, which only 'encourage' professional and representative bodies in their jurisdiction to negotiate bilateral mutual recognition agreements (MRAs) between Canada and individual EU member states' professional bodies respectively. To date, no MRAs have been adopted under CETA, splintering access to the EU market between 27 professional bodies and significantly hindering market access across the EU. Avoiding this situation will be critical to enable UK-qualified professionals to provide vital services to EU corporates.

**1st**

The UK's ranking for FDI in Europe in 2018.

**Source:** EY, Europe Attractiveness Survey 2019

## 6. A Market Access Agreement for Transportation Services

Moving goods between the UK and the EU relies on a variety of arrangements – regulatory requirements of the goods themselves, customs requirements and, crucially, requirements on the lorries and drivers that move the goods. Millions of heavy goods vehicles cross between the UK and the EU each year, 86% of the tonnage of which are unloaded in one of five EU countries: Irish Republic (31%), France (22%), Belgium (15%), the Netherlands (9%) and Germany (9%).[10] Those vehicles and their trailers then often return to the UK with goods for import.

To ensure the UK haulage industry is able to deliver goods to and from Europe, it will be important to avoid permits and quotas on haulage. To operate across borders, haulage companies have to achieve a Standard International Operator License and a specific Community License for the EU. Without the Community License, a permit system would come into place. There is an existing permit system available (ECMT), but this is a multilateral permit system that is severely limited by quota and insufficient to meet the needs of UK or EU hauliers. It may be possible at agree a bilateral permit system country by country in the event no EU – UK agreement is reached, but this would also directly reduce market access and restrict the ability of UK and EU operators to meet the demand of their customers.

One way to avoid these substantial costs and red tape is for negotiators to **agree a Market Access Agreement for road haulage between the UK and EU that will allow UK operators with an International Operators Licence to undertake permit and quota-free International road haulage to, from and through all EU Member States. This would have to be reciprocal, with the UK recognising the Community Licences held by EU operators.**

**Including mutual recognition of drivers' licences in the Market Access Agreement, mutual recognition of the Community Licence and Driver licencing qualifications** will help keep the UK haulage industry competitive. Currently, a driver qualified to operate a lorry in the UK can do so freely in any EU Member State. This qualification is a twostep process. Firstly, the driver must achieve a HGV licence. In the UK, this means drivers taking four sets of tests – on theory, handling of a HGV, appropriate reactions in particular scenarios and on road driving. Secondly, the driver must achieve a Driver Certification of Professional Competence (CPC), which is valid for five years. In the UK, the DVLA ensures HGV drivers have 35 hours of the latest safety training to meet the requirements needed for achieving this certificate. The requirements of and the processes conducted by the DVLA are equivalent to the ones that HGV drivers must meet if taking their tests in France, Sweden, Hungary or any other Member State. Drivers are therefore permitted to move between European nations without seeking additional permissions. Negotiation of mutual recognition of drivers' licenses and the CPC will reduce red tape for the haulage industry and for individual drivers – who are often self-employed. With the reported profit margin of the top 100 road hauliers around 4%,[11] avoiding this red tape will free up precious resource to focus on decarbonisation of the industry.

### 7. A separate UK-EU Air Services Agreement

To maintain the infrastructure that allows goods and services to be traded, **a separate deal on air transport services will be required.** In an increasingly interconnected world, the aviation industry is one of the great facilitators. The sector plays a vital role in the economy, with 63% of business travellers reaching the UK via air,[12] and goods worth around £178 billion shipped by air between the UK and non-EU countries in 2016 – over 40% of the UK's extra-EU trade by value.[13]

By the end of 2020, a new agreement on aviation will be needed to ensure that there continues to be a legal framework that allows airlines to fly between destinations in the UK and the EU. As aviation does not form part of the World Trade Organisation system, this will have to be negotiated separately from the UK-EU FTA. Negotiators should seek to agree a liberal UK-EU air services agreement, one which ensure airlines whose business models are built on short-distance, intra-EU flights can continue operating without making major transfers of their ownership.

To accompany this air services agreement, there should be a further, separate agreement on aviation safety. This should be centred around continued participation in the European Aviation Safety Agency (EASA). Participation in EASA is achievable on the basis as outlined by the Prime Minister to ensure governance and dispute arrangements are based on a relationship of sovereign equals. Application of safety regulation in the UK would also be under the jurisdiction of British courts. It is in both the UK and EU's mutual interest to find an arrangement along such lines that satisfy respective positions on sovereignty and regulatory cooperation.

### 8. An adequacy decision on data

The free flow of data between the UK and the EU is vital for maintaining the seamless flow of goods and services in sectors across the economy. Cross border data flows underpin trade between the UK and the EU, with over 75% of UK data transfers made with EU countries.[14] Data flows facilitate the seamless movement of goods and services across borders: they are a key component of e-commerce, helping European and British citizens purchase goods online, and pay sellers located in different countries. In fact, data flows now generate more economic value than global goods trade.[15]

Both sides should prioritise securing an adequacy decision for the UK's data regime. The EU has made a welcome commitment to endeavouring to make an adequacy decision by the end of 2020. This is ambitious as the shortest adequacy decision took 18 months, but the UK should have an advantage as it has already implemented the General Data Protection Regulation that is essential for adequacy. Both the UK and the EU should **prepare evidence to meet this deadline and facilitate making an adequacy decision as a matter of urgency.** While negotiations are ongoing on the adequacy decision, the UK should strive to avoid even the perception of considering divergence on data rules to avoid putting EU adequacy in jeopardy. Securing this adequacy decision rapidly will provide a significant boost for the UK's thriving digital and tech sector in particular, and ensure red tape on data flows is kept low for small businesses.

*"Drug development relies on international collaboration, and needs multiple datasets to be shared throughout their lifespans. Failing to get an adequacy decision would require a lengthy and repetitive legal process to put in place safeguards with our European partners. Without adequacy, it will become more difficult to make data-driven medical leaps forward that are hugely beneficial for patients."*

**Pharmaceutical Company**

# Ambitious cooperation on regulation to reduce red tape for the UK's exporters

The UK and EU have committed to an "ambitious" trading relationship on the basis of a free trade agreement, with the mention of deep regulatory cooperation. This will be a substantive change for businesses as trade between the UK and EU will no longer be frictionless. For manufacturing businesses in heavily regulated sectors, such as automotive, aerospace, chemicals, consumer goods and medicines how that change is managed and how deep that regulatory cooperation is will have a substantial impact on the amount of red tape they have to manage to export, and therefore how competitive and productive they are.

An "ambitious" free trade agreement between the UK and the EU must go above and beyond the EU's existing FTAs to keep costs low and free manufacturers, exporters and importers from onerous red tape. To sell products in both the EU and Canada, businesses on both sides must – in the main – comply with two sets of rules, get products cleared by two sets of regulators, pay for two sets of licenses and in some instances, even pay for the authorities on the other side to randomly inspect their product lines for Canadian goods and EU ones. This adds significant cost to business operations. . For example, it is estimated that duplicate testing of vehicles could add up to £500,000[16] to the cost of securing type approval for a single new model car, the Office of Health Economics states it takes 2-3 months longer for European-licensed medicines to be cleared for trade in Canada,[17] and one machinery manufacturer tod the CBI that getting approvals to sell a single machine to Canada costs £5,600 more than to the EU.

In support of negotiators' efforts to seek deep regulatory cooperation, the business community has 7 practical recommendations for negotiators.

**21**

EU member states have trade surpluses with the UK in goods.

**Source:** ONS Pink Book 2019

## Ambitious cooperation on regulation to reduce red tape for the UK's exporters.

### 9. A mechanism to manage divergence over time

The UK government has rightly stated that the UK and the EU start these negotiations from a point of perfect alignment of rules related to trade. The former Chancellor, meanwhile, has stated that divergence will only take place from EU rules where it economically sensible to do so. This is a position which businesses trading goods with the EU warmly support, but which only brings real economic benefit if the EU recognises UK rules as fulfilling the same purpose as its own until divergence takes place.

A **mechanism that assumes mutual recognition of rules of UK-EU goods trade until such a time as the UK or the EU chooses to diverge** has multiple benefits. It would reduce the amount of time required for the negotiation of individual sectoral chapters in the Free Trade Agreement. It would reduce the need for significant adjustment at the end of 2020, reducing the necessity for or length of any period of implementation. It would lower costs for the UK government: instead of increasing the capacity of UK regulators and agencies to take on work currently done by EU bodies, the UK government would be able to commit this funding to goals that enhance growth directly across the country. And it would substantially reduce otherwise significant volumes of red tape on businesses in a single action.

As well as having benefits in terms of time and resource, a mechanism for managed divergence is important for three reasons: it would recognise the complexity of the rules the EU and UK currently share, would acknowledge the reality of global rules, and would engender trust between the UK and the EU. A good example of this is REACH – an EU regulation nominally for the chemicals industry but which matters to a whole range of manufacturing industries including firms making adhesives, artificial limbs, automotive parts, cosmetics, dialysis machines, food packaging, military helmets, inks, pesticides, sports equipment, solar panels, window frames and more. It is complicated: over 500 pagers long, REACH provides rules and systems that track chemicals though the supply chain, to ensure the risks posed by substances which are potentially dangerous is minimised. It is seen as the gold standard in the international chemicals industry: some multi-national companies have adopted REACH despite not exporting to the EU, to bring their own compliance to the strongest standard; and the Chemical Industries Association reports that Brazil, Canada, China and Japan are increasingly influenced by REACH. And it is important to the EU that these chemicals, when entering its territory, are safely handled and tracked which is why this regulation is so stringent. As a result, the burden of red tape for UK businesses would be high if REACH was chosen as an area for the UK to diverge immediately, with no mutual recognition or a mechanism for it. A mechanism for managing any divergence and maintaining harmonisation in the meantime would allow the EU to trust the UK, providing for open challenge and discussion when and if divergence takes place.


# £94bn

Total EU surplus in goods with UK in 2018.

**Source:** ONS Pink Book 2019

Another important example of where mutual recognition is important to maintain until the economic case for divergence is made is food and drink. Driven by geography, shelf-life and customer tastes, the EU market is the largest source of UK food imports and the largest destination for UK food exports. However, the production, transportation and even the packaging of agri-food is highly regulated, and food and drink products from outside the EU's regulatory area will need to pass through Border Control Posts (BCPs), where food from non-EU countries is checked to ensure it meets the stringent hygiene standards of EU rules. These tests are varied: Border Control Posts examine the levels of heavy metals in white crab meat and the levels of salmonella in pork, undertake veterinary checks on the feathers and trophy animals, ensure pet food is correctly labelled, compare certificates for frozen fish against the real products, and much more. It is unclear which EU BCPs will accept which live animals and it is currently understood that some, such as Calais, will accept none other than horses. This will create significant disruption to the export of high value live animals for breeding purposes for example. Negotiating mutual recognition of UK and EU food and drink rules will be essential to keep UK producers, exporters and importers competitive and ensure consumers and shoppers can continue to enjoy the same – or better – choice, quality and price for their food and drink.

In areas where the UK and/or the EU choose to diverge, the mechanism should **ensure the consequences of divergence for market access are discrete, unattached to other aspects of the FTA, and proportionate.** The business community has been able to identify a number of areas the UK could reduce red tape without lowering standards as it leaves the EU. Agricultural businesses believe there may be some opportunities in improving how water quality is protected from nitrates and how the process of authorising plant products is undertaken, while distilleries believe more innovative gins could be brought to market with some changes and environmental services believe the UK could improve how recycling targets are set. The UK would have the freedom to pursue these after December 2020 – but all of these changes should be managed carefully, close consultation with businesses, to avoid unintended consequences and disproportionate reduction in market access. Where these could have consequences for the UK-EU relationship, that could be managed through the mechanism without the pressure of self-imposed deadlines, allowing the UK to build a more competitive regulatory system in a considered, economically beneficial way.

**Case Study:**

**Poultry and egg farming**

"EU rules set out a surprising amount for our industry. For our egg handling facilities, there are provisions for how our facilities should be laid out to ensure that washing dirty eggs and breaking them open takes place in different locations, the 21 day sell by date, the 4°C temperature eggs should be stored at, and how much shell and membrane residue can remain inside our products."

"Even if the UK removed all these rules, we would still have to follow them to export to the EU. If the UK or EU diverged and required higher standards, for example greater amounts of training for abattoir employees, we would meet the higher standard for all our goods. But the bigger worry is if the UK regulates in a way that contradicts the EU's rules substantially enough to require two separate production lines or chickens for different markets raised separately. That would reduce the flexibility we have to manage our flocks effectively. So if we are to diverge, it has to be done carefully so there are benefits and all consequences are thought through, and not in one big jump."

### 10. Mutual recognition of assessment processes by trusted regulators

Businesses are hopeful negotiators and will be pragmatic about mutual recognition of assessments and approvals when they are given by a trusted national or European regulator. At present, in order to sell a new flavouring, UK businesses have to apply through the European Food Safety Authority for permission before putting their flavouring on sale in the EU. This involves going through intense scientific risk assessments, examination of their formula and testing of its effects. This is a complex multi-stage process which takes 3-9 months. However, once it has gone through this process, its flavouring is automatically given a license to be sold across the EU. Similarly, to bring a new medicine or medical device to market, UK businesses have to go through clinical trials in the EU, and the European Medicines Agency or a national regulator in the EU have to pass the medicine for sale and marketing. The manufacturers themselves have to apply for authorisation to manufacture, any businesses bringing the medicine into the country has to apply for authorisation to import, firms distributing the medicine have to have authorisation to distribute, and the manufacturer has to undertake regular routine testing and monitoring on an ongoing basis. Member anecdote suggests, just duplicating the marketing authorisations of this process, a single step, is anticipated to add £45,000 per medicine. This red tape is intended to keep consumers safe, and current arrangements mean firms only have to go through this process once to sell to the whole EU.

**54%**

Share of total UK goods imports that came from EU27 in 2018.

**Source:** ONS Pink Book 2019

Given the rigour of European regulators, and UK expertise in areas such as good manufacturing processes, **dynamic mutual recognition of approvals, or expediated approvals of goods already approved by regulators on the other side, should be negotiated.** It will also save firms costs, save regulators time, bring innovative products to market faster, by reducing significant red tape for some of the UK's most advanced industries. This is important for consumer choice, because the UK is a smaller market for firms to sell into than the EU, and companies have warned that in some instances the UK will be further down the priority list for launching products.

**Case Study:**

**Cosmetics, chemicals and costs**

"We were preparing to register all our products – shampoos, conditioners, make up and dyes – on the new UK REACH system in case of no deal. It would have taken years and around £2 million to enter the formulas and details of our data, with then ongoing costs as we have to double re-register in the UK and the EU."

"Even though the UK's REACH regulation was all but identical to the EU's, the manual processes of requesting our legal documents, proprietary formulas and the active administration of submitting that data by hand was a significant burden. We could be spending that money on developing sustainable packaging, innovation, or breaking into new markets if mutual recognition of our rules is maintained until the case for divergence is proven," – European cosmetics firm employing thousands in the UK."

### 11. Regulatory cooperation on testing and compliance

At present, regulated goods – such as food, toys, safety equipment, goods for military use and medicines – that have permission to be sold in the UK are automatically able to be sold across the EU. For these higher risk goods, conformity to EU rules must be proven before sale. Some have to be tested by trusted third parties or regulatory authorities, some have to achieve a CE mark, and some have to go through registration processes, logging their ingredients or components, addresses, formula, manufacturing process and more. The regulatory cooperation the EU and UK are seeking should aim to avoid duplication of testing and compliance processes in order to save costs and ensuring resource can be used productively instead of on administration. This matters for exporters directly as well as firms in their supply chains, and can be achieved in a number of ways.

Particularly if a mechanism for overarching managed divergence cannot be achieved, **the negotiation of regulatory cooperation on testing and compliance is important**, not just to reduce tape but also to reduce waste. To sell mattresses to the UK and the EU, mattress makers have to set fire to their products to demonstrate flammability resistance. If the rules for mattress flammability is still equivalent in both geographies, negotiators should ensure firms only have to set fire to their mattresses once. If a new rule is being developed in this space by one side in the future, regulatory cooperation should also occur to explore whether both sides which to harmonise and avoid the need for multiple production lines for the UK and EU markets. The same is true for oven gloves and children's clothes tested for fire resistance, for toys being tested for breakability, and for cars being crashed into walls to test air bags, and many other regulated products. This would require innovative solutions and flexibility from negotiators but will make a big difference to the amount of red tape faced by exporting firms.

*Divergence can sound easy but it does need to be managed carefully as it can cost an unexpectedly high amount. For example, if all the stickers on our ovens and fridges that had an EU flag on need a UK flag for products sold in the UK, the act of adding the stickers will have to be done once the product arrives in the UK. This will mean opening 3 million boxes and adding the new stickers on manually, and staff will have to be diverted to undertake this unproductive work, away from growth activities."*

Household appliance company

### 12. A protocol on conformity assessment

At the very least, **the negotiation of a conformity assessment protocol** could reduce some behind the border non-tariff barriers. If managed divergence and mutual recognition of rules and testing cannot be achieved, the ability of UK-based testing facilities to test to EU requirements will help UK businesses, cutting down on transportation costs and emissions, avoiding firms having to ship products to Europe for testing and vice versa.

The independent, private-sector Notified Bodies in the UK that undertake these assessments test products for conformity against EU rules – measuring the levels of harmful chemicals in wigs and testing ski goggles for resistance to ultra-violet radiation, for example. Once a Notified Body has determined a manufacturer has conformed to the relevant assessment criteria, it will usually issue an EU type-examination certificate to show the product assessed meets legal requirements and – in some instances – issue a CE mark. Currently, type examination certificates issued by UK Notified Bodies are recognised across the EU (and vice versa).

Negotiating mutual recognition of the UK and EU Notified Bodies as competent to test to each other's standards has precedent. CETA provides for mutual recognition of conformity bodies for testing of electrical equipment like TVs and phones, radio and telecommunications terminal equipment, toys, construction products, machinery, measuring instruments, hot-water boilers, equipment for use in explosive atmospheres, equipment for reducing noise emissions, yachts and other recreational craft. The UK should seek this mutual recognition across all categories of goods covered by the New Approach Directive, and ensure the process for applying for mutual recognition is simplified if the UK Notified Body has been approved by UKAS, as CETA's provisions for this are notoriously underutilised.

Depending on the outcomes of these negotiations, negotiators should also consider carefully the future of CE marking, and whether to **recognise CE marks as sufficient to assuming product safety** to keep costs low on UK imports and vice versa. This is particularly important for consumer goods and construction materials in the UK. If not, from December 2020, UK manufacturers will need to apply the new UKCA product mark which will supersede the present CE mark – a step which will create new red tape for businesses.

### Case Study:

**Automotive testing**

Securing mutual recognition of type approvals is a key priority for the automotive sector. Before a vehicle or part is put on the market to be sold it must go through rigorous testing to ensure it meets the necessary technical, safety and environmental standards. Currently, a range of EU rules must be adhered do, such as the Pedestrian Protection Regulation which requires all cars to have energy absorbing bonnets and front bumpers, and the General Safety Regulation which – among many other things – requires all new buses and trucks to have advanced emergency braking systems. International rules, set at the UNECE, must also be adhered to.

In the UK, the Vehicle Certification Agency (VCA) is responsible for issuing type approvals, while several technical services undertake testing. Whole vehicles require hundreds of tests before they can be approved to be placed on the market. These are complex, and costly. Were full duplicate testing to be required for vehicles that are to be sold in the UK and the EU, an additional £50,000 to £100,000 could be added to the cost of approving a volume model, and upwards of £500,000 in the case of a high performance model. Where approval is needed for a completely new vehicle type, the need for duplicate prototype vehicles and components could add a further £250,000 - £500,000 to the cost of approvals for a volume model. Given the fine margins that automotive manufacturers operate on, this level of additional costs seriously impact manufacturers' profitability, undermining future investment plans and technology implementation timetables. Securing mutual recognition of UK and EU automotive type approvals should be an objective for the UK government, to avoid these costs and unnecessary red tape.

### 13. Cooperation between UK and EU authorities on market surveillance

Both sides will benefit if negotiators can agree to continued cooperation and data exchange between market surveillance and enforcement bodies to protect consumer welfare. For example, the UK contributes substantially to ongoing pan-European pharmacovigilance, as part of a coordinated system that alerts all EU Member States to problems detected with medicines licenses for sale, so action can be taken across the EU to preserve patient safety. For consumer products, one of the most important and far reaching pieces of EU legislation is the General Product Safety Directive, which provides a baseline standard for safety – setting the rules that both businesses and regulators must abide by to provide and regulate most products for sale. If goods are proven unsafe under these regulations, action is taken on a pan-European basis through the Safety Gate system (formerly RAPEX) which allows national authorities to quickly exchange information about products that have been proven to be dangerous.

These alerts can be triggered by a huge variety of faults and harmful products neither the UK nor the EU would want on their markets, ranging from perfumes which have not been properly labelled with the allergens they contain and tattoo ink that contains dangerous levels of lead, to lights that catch fire when plugged in too long and dolls that contain carcinogens in the plastic. The UK submitted 134 alerts through this system in 2019, but received information about 2,029. Negotiating **routes for the UK to continue to submit and receive data automatically from these systems** will benefit consumers on both sides, even if regulations diverge over time.

## 14. Formal UK cooperation agreements with EU agencies where third-country involvement exists

The Political Declaration identifies key areas to explore the possibility of UK cooperation with EU agencies – such as the European Aviation Safety Agency, the European Chemicals Agency and the European Medicines Agency. Business supports continued deep, formal relationships between UK industry and regulators with these important European agencies, and would encourage negotiators to widen the scope of this cooperation even further, including to the European Food Safety Authority. These EU bodies are world-leading, setting precedent and policy at an international level – not just an EU one. The UK's voice has been lifted as a result of its involvement in these organisations, and that has had competitive benefits in terms of UK industry's reach across the world. Additionally, UK exporters will have to abide by the rules set by these bodies whatever the deal agreed and so have an interest in their development.

Dependent on the constitutional arrangements of these agencies, **cooperation agreements, memorandums of understanding, or third country participation should be sought in negotiations.** There is precedent for this, with Albania a full member of the EU's agency for broadcasters, the National Regulatory Agency of Montenegro sending experts to the EU's energy agency and with Turkey a full member of the European Environment Agency.

**Exhibit 2** Key European Agencies

| | |
|---|---|
| **The European Medicines Agency (EMA)** | The EMA is an effective network of national institutions with different aspects of expertise that ensure safe licensing of medicines across Europe. Thousands of medical professionals are involved in this process across 50 competent authorities, and the UK has played a significant role, with 300 UK experts serving in the EMA's scientific committees, second only to Germany until the UK's exit from the EU.<br><br>Norway, Iceland and Lichtenstein have observer status at the EMA's Management Board and their experts participate equally to Member States. |
| **The European Chemicals Agency (ECHA)** | ECHA has responsibility for managing one of the most complex areas of industry regulation – the handling of chemicals and biocides. Because of the hazards involved in chemicals handling, regulation in this area is detailed and constantly evolving. ECHA has responsibility for 4 pieces of EU regulation - REACH, Classification, Labelling and Packaging, Biocidal Products and Prior Informed Consent. Under this regulatory framework it processes files on chemicals from industry and ensures compliance across Europe, focusing on the most hazardous substances crossing borders.<br><br>Norway, Iceland and Lichtenstein all have observer status at ECHA. |
| **The European Aviation Safety Agency (EASA)** | EASA is a unique technical agency, responsible for the rules and regulations on airports, airlines, aerospace manufacturers and related maintenance and repair operations. It works with its members to shape EU rules as well as to enforce them. EASA also allows a forum for experts to come together, and provide oversight and support to the national civil aviation authorities where competence is shared, including in the areas of Air Operations and Air Traffic Management. |

*"As a truly international sector with mobile assets, it makes sense for safety regulation to be led at the European level. Our collective expertise has made the UK highly influential and helped generate good regulation."*

UK aviation company, 9000 employees

### 15. Commitments to European and International voluntary standards

Shared European and International voluntary standards enable trade to be simple and for consumers to have confidence in the products they buy. Through the British Standards Institution (BSI), the UK is an active member in the European standards organizations CEN & CENELEC, where industry, experts and consumer groups come together across 34 member countries. They work to agree common standards and conflicting national standards are withdrawn, making compliance simpler for traded goods. From portable fire extinguishers to paragliding equipment, children's cots to chainsaw safety kits, agreeing a shared set of standards significantly reduces the level of red tape for firms selling products to both the UK and EU markets – with an estimated 160,000 national standards being reduced to some 22,000 European standards today.

The UK will and should continue to participate in CEN & CENELEC, which are independent of the EU, through BSI – but it is important to note that this does not stop the UK having purely British Standards in the absence of international standards, including those adopted through the European regional system. Through BSI, just under 13,000 UK industry, consumer, academic and government experts will continue to develop standards worldwide, including those that are used to support regulatory requirements.

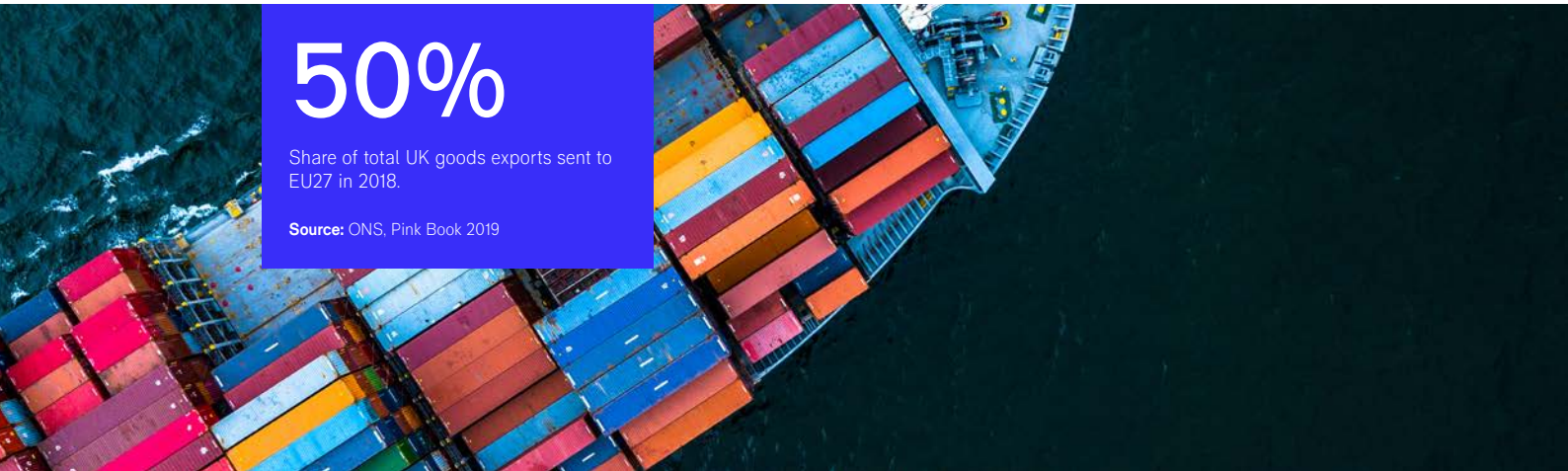
To maintain the UK's leadership in the European and International standards system, a future trade agreement with the EU should **recognise that both parties have regulatory autonomy, but that both sides benefit from using the same business driven voluntary standards** to support market access and meet regulatory requirements. This should include **text in the Technical Barriers to Trade chapter that fully reflects the attachment of both parties to use international standards,** primarily through the recognized international standards organizations of ISO and IEC, as a basis for technical regulation.

# Meaningful customs facilitations to keep costs and complexities low

The UK and EU share a number of aims for the new customs arrangements. The UK and EU are both seeking to establish a free trade area that would ensure that businesses would not face tariffs, fees or charges when goods would cross the border. This is a positive step: the CBI calculates that if the UK's exports faced even half the non-tariff barriers through regulatory and customs red tape that US exports do, it would be the equivalent of a 6.5%[18] tariff on all its goods. However, details on the future customs arrangements are vague and currently more aspirational than concrete. Businesses have concerns that, if detail is not added rapidly enough and negotiators' ambitions are not sufficiently ambitious, importers, exporters and customs authorities at the border will face significantly increased administration at the border.

Both sides will need to escalate these workstreams rapidly to reduce red tape from substantive customs requirements, which would require resources to be diverted away from focusing on growth across the UK. Leaving the EU Customs Union will create new frictions for businesses, but there are a number of steps negotiators can take to keep customs costs and complexities lower than a WTO relationship so business can focus resource on innovation and growth, rather than unproductive new administration procedures. It is in both sides' interests to negotiate new, groundbreaking customs facilitation arrangements that eliminate as many burdens and as much red tape as possible. A smooth and easy to use customs system will help enable businesses of all kinds to trade – from SMEs that have never experienced customs paperwork before to large advanced manufacturers with trans-European supply chains.

In support of negotiators' efforts to seek reciprocal cooperation on customs, the business community has 7 practical recommendations for negotiators.



**50%**

Share of total UK goods exports sent to EU27 in 2018.

**Source:** ONS, Pink Book 2019

## Meaningful customs facilitations to keep costs and complexities low while freeing the UK to seek new trade deals.

### 16. Zero tariffs on UK-EU goods

For 47 years, products exported and imported between the UK and EU have enjoyed zero tariffs, fostering lower prices for everything from apples to aeroplane wings and enabling complex supply chains to be built across the continent. The EU and the UK have stated that they both aim to base the future economic relationship on zero tariffs on all goods. This is one of the single biggest steps negotiators could commit to in order to keep UK goods businesses competitive in the European market, as well as keeping costs low for consumers on both sides, and as such is welcomed by the entire European business community.

Zero tariffs on UK-EU trade is one of the keys to keeping the cost of UK exports low, limiting damage to competitiveness in key sectors. Estimates suggest that negotiating zero tariffs on UK-EU trade will save export costs of up to £5.7 billion,[19] based on WTO Most Favoured Nation (MFN) terms. While all sectors will benefit from this, it is more important for some sectors than others. It will mean the agriculture sector, for example, avoids an average tariff of 16.4%, and that finished clothing will avoid the next highest tariff at 12%. Due to its size and relatively high tariffs (10% on vehicles and 4.5% on components), the automotive sector will avoid the highest overall single export cost of up to £1.9 billion[20] which, if passed on to consumers, could have raised the price of UK-built cars sold in the EU by an average of £2,800, and that of light commercial vehicles by £2,000 – affecting demand, profitability and jobs.[21]

Zero tariffs on UK-EU trade will also keep import costs low for businesses and consumers. The UK runs trade deficits with the EU across many categories of goods, the largest of which are food and live animals at £17 billion, chemicals £13 billion and machinery and transport equipment £45 billion[22] – with the exceptions being fuel & lubricants, and aerospace & defence. As a result, CBI estimates suggest the cost of tariffs on imported goods could be almost double the cost on exports, based on the expectation that the UK apply WTO MFN tariffs equivalent to the EU's MFN tariff rate.[23] The future UK MFN tariffs are currently under consultation by the Department of International Trade, with the proposals indicating that they will be based on a simplified WTO MFN tariffs, rounded down. Based on this estimate, the cost would be lower, but only slightly. These costs would eventually be paid by the consumer. Negotiating zero tariffs between the UK and EU on all goods will therefore keep the costs of goods from the EU from increasing for both businesses and the UK consumer.

For businesses to be able to benefit from zero tariffs across all goods in reality, **zero quotas will also be required.** Tariff rate quotas (TRQs) limit the quantity of goods that can be imported at a particular tariff rate. Anything over that quota then faces higher tariffs. For example, New Zealand has the largest quota for sheep meat exports to the EU, at around 80% of the total quota – 228,254 tonnes. This is currently sufficient for New Zealand's sheep meat exports to the EU: they use around three quarters of their allowance. In comparison, Australia has a smaller quota of 19,000 tonnes and comes close to filling it. If Australian lamb exports were to go over the quota, those companies would be subject to ad valorem tariffs of 12.8%, plus a fixed amount ranging from €902 to €3118 per tonne depending on the cut.[24] This is an uncompetitive price – consumers in the EU would not purchase it. As a result of these high tariffs, very few other nations export lamb to the EU. It is therefore important this risk is avoided for UK goods, and that negotiators ensure TRQs do not limit the amount that the UK could export to the EU tariff-free. The CBI welcomes the European Commission President Ursula von der Leyen's comments[25] that the EU is open to exploring zero quotas in the FTA with the UK, which would benefit agri-food businesses and consumers on both sides of the Channel.

### 17. A modern set of Rules of Origin

In order for UK businesses to access the vital zero tariffs the UK and the EU aspire to, **a modern set of Rules of Origin is needed.** Outside of the EU and in an FTA with a zero tariffs regime, UK goods destined for export to the EU will only qualify for the zero rate if they can be proved to originate from the UK. Otherwise, tariffs apply. This is to ensure companies from third countries don't benefit from trade deals their nations aren't a party to. For simple goods produced entirely in one country, such as minerals or live animals, origin is simple to determine. For manufactured goods however, from cakes to industrial machines, it is more complex as products often contain many components or parts from different markets across the world.

It can be extremely difficult to calculate origin, particularly for businesses with established and locked in supply chains to comply with origin requirements quickly. To calculate origin, firms have to show that a product "wholly originates" in a particular market, or show that a product's components have been sufficiently transformed in the market to make the product they constitute a local or "originating" product. They do that, for example, by showing that they've "transformed" an imported roll of fabric into a dress. However, transformation is not black and white. It is harder to prove that a dress which was imported and then dyed another colour is sufficiently transformed, for example.

**78%**

Share of UK exporters that sell in the EU.

**Source:** BIS UK SMEs in the Supply chain of Exporters to the EU, 2016

### The Canadian/EU (CETA) Rules of Origin agreement

CETA annex on Rules of Origin is 205 pages long and provides that a product originates from the EU/Canada if it:

a) has been wholly obtained
b) has been produced exclusively from originating materials or
c) has undergone sufficient production in the EU/Canada.

In addition, a product must:

a) not have undergone further production or any other operation outside the EU/Canada (other than unloading,
b) remain under customs control while outside the EU/Canada

These requirements mean the negotiation of modern Rules of Origin that take into account the unprecedented nature of this negotiation and the highly integrated nature of UK and EU manufacturing, and can cope with these complexities is an important priority. If the Rules of Origin regime does not work for business, companies will face tariffs on their goods. This may put UK firms at risk of being excluded from global supply chains. Zero must mean zero.

**To help reduce tariffs on UK-EU trade as a result of Rules of Origin, cumulation arrangements will be crucial.** Cumulation ensures that goods originating in either party are treated as originating in both for the purposes of origin determination. Diagonal or extended cumulation go a step further and would mean that the UK, the EU and preferential trading partners both have in common allow goods sourced from any of the three markets to be treated as originating in all or any of them. As the UK and the EU already have many trading partners in common, this will be particularly beneficial to all parties, and allow zero tariffs to apply to a greater range of goods and supply chains.

**Members of the Pan-European Mediterranean Convention:**

- EU Member States
- EFTA States (Switzerland, Norway, Iceland and Liechtenstein)
- The Faroe Islands
- Participants in the Barcelona Process (Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestine, Syria, Tunisia and Turkey),
- Participants in the EU's Stabilisation and Association Process (Albania, Bosnia and Herzegovina, the Republic of North Macedonia, Montenegro, Serbia and Kosovo
- The Republic of Moldova

Negotiators should consider the timelines for the implementation of new Rules of Origin requirements in order to reduce challenges for businesses having to adapt, as this is not always simple. For example, one large automotive company reported they locked-in their international supply chain in 2015, before the EU referendum, until 2028 and so an origin regime that resulted in the finished car not qualifying as "originating" in the UK after it is transformed into the final product could face up to 10% export tariffs going into the EU, wiping out their profit margins. Even if the firm had the contractual freedom to adapt to UK only suppliers, it would not be possible as only around 40% of the parts required to build a car are produced in the UK. Reasonable timelines are essential.

**Case Study:**

**Chicken Curry Ready Meal**

- A ready meal made from the ingredients of chicken breast (26%) rice (40%) and tomato sauce and spices (34%) and manufactured and packaged in the UK. It is sold under a large retailer's 'own brand' in the UK and the EU single market, and Ireland in particular.
- The chicken meat elements of this ready meal are procured frozen from low-cost suppliers in Thailand, while the basmati rice ingredients are sourced from India and Pakistan, with supplier choice reflecting global prices.
- While the UK was in the EU, tariffs were paid on any imported inputs, such as frozen chicken from Thailand, the origin of the product is irrelevant in the EU single market.

- Under CETA, a chicken curry ready meal is a local 'originating' product provided it is manufactured from any other tariff line than already slaughtered meat.
- Notwithstanding the potential inclusion of bilateral and diagonal cumulation provisions in a future EU-UK FTA, under either a CETA origin framework the sourcing of chicken from South East Asia suppliers would automatically disqualify the product from preferential import tariffs into the EU single market and could face the EU MFN tariff of 10.9%.

**Source:** FDF/NABIM, Rules of Origin in an EU-UK FTA (2018)

### 18. Simplification of administration and documentation

Utilising global best practice to keep trade simple is important to support existing levels of trade and encourage more UK businesses to get exporting, whether from customs and safety and security declarations, export health certificates or more, leaving the Customs Union will inevitably introduce new paperwork and burdens on the customs and border process, for both businesses and customs officials. It is estimated that the reintroduction of import and export declarations alone will add an additional £7.5 billion of annual costs for industry,[26] and hundreds of people will need to be diverted to unproductive administrative roles to manage these. Negotiating **a comprehensive customs facilitation chapter in the future trade agreement between the UK and the EU which adopts global best practice to ease customs requirements** is therefore important for the UK's productivity.

**The new UK import scheme should simplify forms and documentation to simplify where it can while still meeting international requirements, and negotiate export waivers where possible.** For example, waivers on Export Health Certificates (ECH) will be difficult to achieve, but important to explore. For a business to obtain an ECH, business exporting products of animal origin will need to obtain the services of a vet at their factory or firm to attest the health of foods. This can cost from £200-£900 as the vet is paid by their time, and not on a per certificate basis. If mutual recognition of sanitary, phytosanitary and agri-food regulation is negotiated or maintained temporarily by a mechanism for managing divergence, then there should be a strong case to agree a waiver for such paperwork for the UK's agri-food exports, saving significant costs and red tape for firms.

Another example of costly customs red tape negotiators could seek to avoid are ATA Carnets. Carnets are international customs document that permits the tax-free and duty-free temporary export and import of goods for up to one year and can be used in multiple countries for multiple trips during the 12 months of its validity. These are particularly beneficial to industries that have to move goods across international territories in order to use them, but intend to bring them back – such as samples for fashion shows, production equipment for filming on location, instruments and amplifiers for orchestras and bands, and motorsports cars for racing. Consisting of unified customs declaration forms which are prepared for use at every border crossing point, ATA Carnets are a globally accepted guarantee for customs duties and taxes, designed to replace security deposits required by each customs authority. Nonetheless, obtaining an ATA Carnet can be costly and cumbersome for businesses and negotiators should consider including provisions for duty-free temporary movement of goods for these purposes. There is precedent for the inclusion of duty-free temporary admission of certain goods in the EU-Japan Agreement, with Article 2.10 allowing for goods used for display or use at exhibitions, fairs, professional audio-visual equipment for broadcasting and cinematic photography. Exploring **innovative solutions to avoid carnets where possible,** particularly for the creative industries, would be a positive step forwards to avoid red tape for exports.

Simplification will particularly benefit small businesses that will want to continue to use the EU as a launch pad for exports. The EU is SMEs' most popular market, with 82% of SMEs that export doing so to the EU in 2016.[27] SMEs often find it difficult to reap market access benefits from FTAs because of the high costs of accessing technological platforms and experience in managing complex paperwork. Specific facilitations, such as trusted trader schemes, for SMEs would help avoid red tape and encourage smaller firms to get exporting.

### Case Study:

**Paperwork and estimated costs for an SME exporting fresh beef lasagne**

The required paperwork and preparation to export the lasagne to the EU would include:

- Pre-notification on TRACES - usually 24hrs
- **Export declaration** for low volume, small traders and VAT registered - **£56**
- **Import declaration** for low volume, small traders and VAT registered - **£46**
- **Rules of Origin preferential paperwork** - braking down the origin of the component ingredients to ensure that it would qualify for zero tariffs
- **Export Health Certificate** - £200-900

Additionally, if not negotiated otherwise, the lasagne would have to enter the EU via a Border Control Post to inspect the product and ensure that it is compliant with animal product regulations.

### 19. Full co-operation and communication between customs authorities

**A highly ambitious agreement on how authorities can work together** would help smooth trade at the border, but this must begin at home. The UK has 36 agencies overseeing elements of the policy and operations for customs,[28] ranging from HMRC and other central government departments, to agencies ensuring that there is regulatory compliance at the border, to specialists checking plant products, to diamonds and local authorities. After the UK leaves the EU, this complex web of different bodies will have to ensure that they speak with once voice in the new customs framework and are coordinated in their interaction and cooperation with the EU Member States' customs authorities.

In parallel with this domestic coordination, firms have identified a number of areas where the UK and EU's authorities can work together to minimise red tape. These include:

- Enforcement of intellectual property rights by the customs authorities;
- Facilitation of transit movements and transhipment
- Interagency coordination at borders
- Relations with the business community
- Supply chain security and risk management
- Exchanges on the use of information technology, data and documentation requirements
- Checks and controls at the border

### 20. Mutual recognition of trusted trader programmes

Trusted Trader programmes, such as Authorised Economic Operators (AEO), are statuses granted to businesses that have demonstrated that their role in the international supply chain is secure and that their customs controls and procedures are efficient and meet UK and EU standards in order to qualify. If companies gain AEO status, they are able to "fast track" shipments through certain customs and safety and security processes such as entry and exit summary declarations, making the movement of goods between the UK and EU smoother and simpler for the trader.

The process to apply is often complex, costly and often takes sometimes years to complete. UK and EU Member State customs authorities are the ones that process applications and ensure compliance of them. Many EU trade agreements have this as a customs facilitation measure such as in the recent EU-Japan Agreement. The CBI welcomes the EU's commitment to **mutually recognising these trusted trader schemes** as this would allow both UK and EU businesses – and those that operate in both markets - who have gone through the often 2-3 year long application process to gain AEO status to continue to be recognised as trusted and enjoy the facilitation benefits, speeding up customs processes at the border.

**Both sides should also explore accreditation regimes or Trusted Trader programmes that are be accessible and affordable to SMEs** so that they too can benefit from them. Several countries already process 70-80% of their trade under trusted trade programmes, whereas the UK's AEOs number only in their hundreds. Improvement here would be beneficial not just for UK-EU trade but for trade with the rest of the world.

## 21. Minimised customs burdens for goods moving from Great Britain to Northern Ireland

**Work should begin rapidly to develop the detail underlying the Northern Ireland Protocol, with minimising additional customs burdens on goods travelling from Great Britain to Northern Ireland, while it stays in the UK's customs territory as a top priority.** The protocol states that Northern Ireland will remain aligned with the EU on goods (including certain laws for VAT on goods) and applies EU tariffs in Northern Ireland except for movements within the single customs territory of the United Kingdom. This means tariffs will not be required on goods moving from Great Britain to Northern Ireland, unless those goods are at risk of moving on into the EU, in which case they will pay the EU's tariffs. While the definition of what goods are "at risk" of this is to be defined by the Joint Committee currently being established, the operating assumption is that all goods passing from GB-NI are "at risk" of onward movement to the EU.

Businesses are concerned that if they are moving goods from Great Britain to Northern Ireland, ones that will only ever stay in Northern Ireland and in the UK will nonetheless be required to go through the full regulatory checks and customs declarations. Negotiating mutual recognition of regulation, testing and enforcement would mitigate some of the need for checks for goods moving from Great Britain to Northern Ireland and facilitate this movement.

**Goods moving from Great Britain to Northern Ireland that can be proved to not be at risk of going on to the EU should not have to face the same customs administration as "at risk" goods.** There should be an accessible route to prove that goods are not "at risk" of moving on to the EU, which spares them from tariffs and should spare them the same weight of customs declarations and other paperwork. This is essential for the retail industry and consumer-led e-commerce which make up a substantial volume of goods purchased by Northern Irish businesses from Great Britain. The latest figures from the Northern Ireland Statistics and Research Agency show that 65% of goods purchased by NI businesses from GB businesses, worth £10.5 billion, were aimed at the NI wholesale and retail sector.[29] For example, one large UK-wide supermarket sends 30 lorries of produce across the Irish Sea every day to Northern Ireland. These goods should qualify for zero tariffs as they will only go to Northern Irish supermarkets but could nevertheless face additional red tape such as customs declarations and export health certificates. Avoiding these administrative burdens and potential delays is important to manage the costs of living for the Northern Irish consumer, not least as around 255,500 (14%) people in Northern Ireland live in absolute poverty before housing costs.[30]

### 22. Dedicated inter-agency workstreams on customs technology

Both parties will need to agree **a comprehensive governance mechanism to oversee the customs facilitation aspects of the FTA.** This will address any issues that may arise or changes that may need to be made going into the future. For example, the EU-Japan Agreement provides for a "Joint Customs Co-operation Committee" consisting of officials from both parties that meet to discuss any issues in the implementation or operation of customs, such as Rules of Origin. This will be important to help manage any technological developments in customs and borders, as well to facilitate data sharing and support trust when issues arise – such as in the infamous case around Chinese imports and HMRC.

Within the governance mechanism for customs, there should be **a dedicated workstream on the adoption of customs technology** and innovative advances at borders. The committee leading this workstream should include representation from industry, government and regulators. Meeting annually, the committee should review global development and innovation in customs technology and discuss partnerships between actors to enhance customs practices at scale. This would create a regular touchpoint at which discussions could take place about reducing red tape and digitising customs as far as possible.

**68%**

Share of UK exporters whose first export market was the EU.

**Source:** FSB, Keeping Trade Easy 2017

# Conclusion

The start of 2020 has seen a welcome lift in business confidence. The new UK government has brought with it an exciting and bold domestic agenda. Negotiating a future economic relationship between the UK and the EU will be important to deliver this. A trading relationship that lets businesses focus on growth, on R&D and innovation without distraction.

This report sets out how negotiators can achieve this outcome. Compiled through consultation with hundreds of businesses of all sizes it sets out 22 key recommendations for negotiators on both sides. If delivered, these recommendations will maintain the competitive edge of the UK's world-leading services firms, free UK exporters hands from the costly, inadvertent multiplication of red tape and keep customs costs and complexities low so businesses can focus on innovation, not import licenses.

The CBI have focused on specific areas of the negotiation: the FTA, data adequacy, financial services and an aviation arrangement. There are, of course, other areas of the negotiations that will matter to firms – not least the arrangements with European programmes such as the future of HorizonEurope, which will be of huge benefit to innovation and progress in the UK. There are also the highly politicised arrangements on level playing field. And beyond the negotiations, adapting for the new arrangements for 2021, maintaining close diplomatic and business relationships with Member States, and the UK's existing global future as it deepens international economic relationships are all important priorities for business.

The experience of businesses across the country will be essential in the months ahead. They know first-hand the market access barriers that negotiators will try to remove and can advise on the most serious and solvable of these. Utilising this expertise will be key. The CBI and its members look forward to continuing to work with the UK government and the EU to secure the best possible outcome in the vital months ahead.

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