Constitution, Europe, External Affairs and Culture Committee
Thursday 9 May 2024
11th Meeting, 2024 (Session 6)

Review of the EU-UK Trade and Cooperation Agreement inquiry

1. The Committee is conducting an inquiry into the Review of the EU-UK Trade and Cooperation Agreement (TCA). The focus of the inquiry is on how trade in goods and services between the EU and UK is currently working, if there are areas where it can be improved, and whether there is an interest in developing the trading relationship further.

2. A call for views opened on 29 September and closed on 30 November. It received 16 submissions which are available to view online.

3. In terms of evidence sessions: on 8 February there was a scene-setter for the inquiry – a roundtable session with members of the Scottish Advisory Forum on Europe; on 7 March a panel of representatives of the agri-food sector; on 14 March evidence from the UK in a Changing Europe; on 21 March a roundtable with businesses who were members of either Food and Drink Federation Scotland or Agricultural Industries Confederation; on 28 March a panel with Scottish Quality Crops, Seafood Scotland, Scottish Meat Wholesalers Association, and Salmon Scotland; and on 2 May an evidence session focused on the Windsor Framework.

4. This week we have two panels, one with business representative organisations, the other with Scottish Enterprise / Scottish Development International.

5. A SPICe briefing is attached at **Annexe A**, a submission by Prosper at **Annexe B,** and a submission by the Federation of Small Businesses at **Annexe C**. The Scottish Chambers of Commerce are not able to attend but have provided a briefing – see **Annexe D**. A submission from Scottish Enterprise / Scottish Development International is also attached at **Annexe E.** Any late papers will be circulated subsequently.

Clerks to the Committee
May 2024

Annexe A: SPICe briefing

SPICe The Information Centre
An t-Ionad Fiosrachaidh

Inquiry into the review of the EU-UK Trade and Cooperation Agreement – the business perspective

Terms of trade under the Trade and Cooperation Agreement

The terms for trading between the UK and the EU are set out in a basic free trade agreement which encompasses part of the Trade and Cooperation Agreement (TCA). This means there are zero tariffs and zero quotas on the trade in goods between the UK and the EU.

Whilst the deal addresses tariff barriers, it does not include any sort of agreement in terms of Non-Tariff Barriers (NTBs). As the UK in a Changing Europe outlines:

> "Non-tariff barriers (NTBs) can also make trading difficult. For example, countries want to be confident that imported food is safe, that animals and plants are free from disease or pests, and that other goods meet safety or labelling requirements. Exporters must produce goods that satisfy the requirements of importing countries and provide paperwork to show that those requirements are met. Even after Brexit, UK manufacturers wanting to sell into the EU market will have to produce their goods in accordance with EU standards."

The EU's Q&A on the agreement addresses the issue of NTBs stating:

> "Trading under 'FTA' (free trade agreement) terms – even one as ambitious as this one, with zero tariffs or quotas – will inevitably be very different compared to the frictionless trade enabled by the EU's Customs Union and Single Market. In particular:
>
> - rules of origin will apply to goods in order to qualify for preferential trade terms under the agreement
> - all imports will be subject to customs formalities and will need to comply with the rules of the importing party;
> - and all imports into the EU must meet all EU standards and will be subject to regulatory checks and controls for safety, health and other public policy purposes."

During previous evidence sessions, the Committee has heard concerns about the challenges in negotiating the non-tariff barriers which face business when exporting to and importing from the EU. For example, the Agricultural Industries Confederation told the Committee:

> "It is important to state that a number of non-tariff barriers remain in place as a result of the Trade and Cooperation Agreement (TCA), for the UK animal feed, fertiliser, seed, crop protection and grain sectors, including Scottish businesses. AIC takes regular surveys of members on key issues faced, and EU exit, and its impact on importing and exporting critical agricultural goods, is one that is raised most frequently. Almost all AIC Members involved in import/export trade have experienced at least some degree of friction for a variety of reasons."

These non-tariff barriers have been described by other witnesses as leading to increased complexity in trading with the EU.

<u>Regulatory standards</u>

The TCA does not provide for common regulatory standards for goods. As such, manufacturers who wish to place goods on both the UK and EU markets will need to comply with the regulatory rules for those goods in the UK and EU even where they are different.

A number of witnesses have highlighted the challenge faced as a result of the UK no longer being automatically aligned to EU laws and regulations. In particular witnesses have discussed the difficulty in continuing to monitor changes in EU laws following EU exit.

Witnesses have also highlighted where the lack of regulatory alignment has impacted on businesses ability to continue exporting to the EU. For example, EU rules mean the export of processed meats is no longer possible which has meant that Scottish suppliers are no longer able to export fresh mince and meat preparations, like sausages to the EU. A further example is that it is no longer possible to export Scottish seed potatoes to the EU.

<u>Sanitary and phytosanitary checks</u>

Sanitary and phytosanitary (SPS) requirements are measures designed to protect humans, animals, and plants from diseases, pests, or contaminants. Goods subject to these measures are food products, live animals, products of animal origin, animal feed as well as plants and plant products.

Following Brexit, UK exporters of agri-food products are now required to meet the EU's SPS requirements. These exports are subject to checks at the EU border and where appropriate will require the checking of export health certificates. More information on export health certificates is provided in a SPICe blog.

The Committee has heard from a number of witnesses that an SPS agreement between the UK and the EU would help to reduce the challenges to exporting to and importing from the EU. For example, Seafood Scotland's written evidence stated:

> "Additional processes, certification and documentation, mainly to ensure compliance with customs rules of origin and SPS requirements under the TCA and to meet EU official controls for third countries, have added a considerable time and cost burden for Scottish seafood traders."

As a result of these challenges, Seafood Scotland suggested that:

> "There is certainly also an interest in developing the UK-EU trading relationship further through an agreement on SPS measures, whether that be based on existing agreements the EU has with other third countries (eg Switzerland, New Zealand) or a bespoke UK-EU agreement which reflects our unique trade relationship."

Rules of Origin

Following the UK's departure from the EU manufacturers in the UK are required to demonstrate the originating status of goods traded with the European Union (EU) in order for these to be entitled to preferential treatment under the Trade and Cooperation Agreement (TCA) between the UK and the EU. Make UK define Rules of Origin in the following way:

> "Rules of Origin (ROO) allows an importing country to identify and classify the origin of a product. It is a straightforward process when the product is produced in a single country. Given modern global supply chains comprising of components and processes undertaken in numerous states, the application of this ROO can be very complex. ROO's provide different functions but how they are set affords either a degree of protection or liberalisation offered to a given industry by the importing country. ROO's are lawful international trade tools, allowed for under World Trade Organisation (WTO) terms and common practice within international trade agreements. A range of different types of ROO rules apply and more than one rule can apply to a product."

In written evidence to the Committee, the Scottish Chambers of Commerce suggested that the Rules of Origin requirements in the TCA could be addressed during the review:

> "Look afresh at whether adjustments to certain product-specific rules of origin would be of mutual benefit to both the UK and the EU; for example in the electric vehicle industry and pan-European supply and sourcing chains."

The Food and Drink Federation Scotland also raised the issue of Rules of Origin in its written submission to the Committee:

> "To benefit from tariff-free trade, products must comply with rules of origin requirements. This means a certain percentage of the product must originate in the UK or the EU. Meeting these rules can be complex for industries with

> global supply chains, potentially affecting the cost and efficiency of production."

<u>What checks should be taking place on goods coming from the EU?</u>

When the United Kingdom left the EU's legal order at the conclusion of the transition period at the end of December 2020, customs and regulatory checks at the EU border were immediately imposed on UK goods being exported to the European Union. However, the UK Government delayed the introduction of routine regulatory checks on goods being imported to the UK from the EU.

The UK's exit from the EU means that it is no longer required to observe EU rules – this means that over time the rules and regulations observed by the UK might diverge from those observed by EU countries. As a result, it will be necessary to carry out checks on goods being imported into the UK from the EU to ensure they comply with UK rules. For example, checks and declarations will be required to ensure that goods comply with UK safety and production standards and have met UK customs requirements.

Checks at the UK border are also needed to ensure continued biosecurity and food safety. This requires sanitary and phytosanitary checks, for example on:

- live animals
- products of animal origin
- high risk food not of animal origin
- plants and plant products.

A number of witnesses have highlighted the lack of checks taking place on EU goods coming into the UK in contrast to the checks being carried out at the EU border on UK exports. On checks on exports to the EU, Quality Meat Scotland told the Committee:

> "Where the border control checks have involved physical inspections, this can result in significant delays to shipments, potentially reducing the value of fresh product on arrival. Products which face physical checks are wasted while, in addition, when physical checks are performed at the border, it is understood that there have been instances where trailer doors have been left open, raising the internal temperature of refrigerated trucks and leading to the condemnation of the products. Flexibility in the percentage of consignments that need to be physically checked can, at times, also lead to increased delays."

The Border Target Operating Model

Witnesses have suggested the lack of checks on EU goods coming into the UK has led to the lack of a level playing field and expressed hope that the new UK Government Border Operating Model which was introduced on a phased basis from the end of January 2024 will begin to address this issue.

In August 2023, the UK Government published its Border Target Operating Model which set out:

> "the new approach to Safety and Security controls (applying to all imports), and Sanitary and Phytosanitary controls (applying to imports of live animals, germinal products, animal products, plants and plant products) at the border."

These new checks are being rolled out in a phased approach with an early focus on the introduction of sanitary and phytosanitary checks as set out below:

> **31 January 2024** – The introduction of health certification on imports of medium risk animal products, plants, plant products and high-risk food and feed of non-animal origin from the EU. The removal of pre notification requirements for low-risk plant and plant products from the EU. Pre-notification requirements remain for medium and high-risk products. Pre-notification requires importers to pre-notify authorities before high-risk goods arrive in Great Britain.
>
> **30 April 2024** – The introduction of documentary and risk-based identity and physical checks on medium risk animal products, plants, plant products and high-risk food and feed of non-animal origin from the EU. Existing inspections of high-risk plants/plant products from the EU will move from taking place at their destination to Border Control Posts. There will also be a simplification of imports from non-EU countries meaning a similar approach to checks on low-risk goods as will take place on EU goods. This will include the removal of health certification and routine checks on low-risk animal products, plants, plant products from non-EU countries as well as reduction in physical and identity check levels on medium-risk animal products from non-EU countries.

The Scottish Government set out its position on the Border Target Operating Model in response to a recent Scottish Parliament written question.

Support to business in negotiating the new post-EU environment

The Committee has heard from witnesses about the complexity of negotiating the non-tariff barriers to export and import goods between the EU and the UK. The Committee heard that for smaller businesses these challenges are particularly acute. Gary Stephenson from Devro highlighted that:

> "Smaller businesses might need somebody to guide them to that information, and that could be done from the Scottish Government side."

In written evidence to the Committee, the Scottish Chambers of Commerce wrote about the non-tariff barriers businesses now face that:

> "For most businesses, this has become part of the everyday task of cross-border trade, but for others, in 2023 as in the previous two years, the burden proved too much, and some stopped exporting to the EU."

In addition, as outlined above, business continues to face the challenge of tracking changes in EU law and possible divergence between UK and EU law.

Scotland Food and Drink set out the need for further guidance across a range of TCA issues in its written submission:

> "We agree with the broad points made in other submissions to the committee including possible solutions such as simpler guidance including on customs and Rules of Origin, reducing trade friction, and avoiding divergence in standards."

Labour supply

The Committee has heard from witnesses during the inquiry that various sectors have experienced labour shortages following the UK's departure from the EU. For example, Donna Fordyce from Seafood Scotland set out how labour shortages were affecting the sea food industry:

> "That has been compounded by the labour issue. Such companies do not have the ability to process as much product because of their reliance on the eastern European workforce. Across Scotland, 52 per cent of the workforce in the seafood sector comes from eastern Europe; in the north-east, the figure is 78 per cent. Some factories rely on the eastern European workforce to the extent that it accounts for up to 90 per cent of the workforce. Following Covid and Brexit, those people cannot be replaced. The visa processes are very expensive, and the smaller companies cannot afford that. The shrinkage in turnover is due not only to the loss of market, but to the loss of people who can process the product."

The witnesses giving evidence to the Committee on the Windsor Framework on 2 May 2024 also highlighted labour shortages as being a concern going forward particularly for the logistics industry and for the staffing of ferries between Northern Ireland and Scotland.

Today's evidence session

Today's evidence session is an opportunity for the Committee to discuss with business representative groups what challenges the businesses they represent face in trading with the EU following the UK's departure from the EU. It is also an opportunity to discuss with the groups what changes to the TCA the businesses they represent would welcome.

The evidence session is also an opportunity for the Committee to discuss with the business representative groups whether the businesses they represent have changed their approaches to trading with the EU. For example, this could focus on whether businesses have changed the products they export to the EU or whether in some cases some businesses have stopped exporting to the EU totally.

The second panel provides the opportunity for the Committee to discuss with Scottish Development International how it is supporting Scottish businesses to navigate the new processes and procedures following the UK's departure from the EU.

Members may wish to discuss how businesses are supported to track relevant developments in EU law and also how SDI supports businesses in navigating the new non-tariff barriers faced by Scottish businesses who export to and import from the EU.

Iain McIver, SPICe Research

Annexe B: Submission from Prosper

Introduction
Prosper is the new trade name for the Scottish Council for Development and Industry (SCDI). Forging and increasing the value of Scotland's international trading relationships has been a high priority for our organisation since its formation. At a time of change in the UK's trading relationships with the world, Prosper re-established our International Business Committee (IBC) in 2021 to drive Prosper's international trade policy and engagement with governments. An early priority for its work was to investigate the economic impact of the EU-UK Trade and Co-operation Agreement (TCA) in its first year.

Prosper gathered evidence from a range of sectors and areas in December 2021 and early 2022, and published a report in March 2022. This proposed practical and deliverable actions by businesses, organisations and governments to improve UK-EU trade and cooperation in support of the Scottish economy in the near and the longer term.[1] This included a recommendation that Prosper should lead a delegation on a Policy Mission to Brussels to meet Scottish, UK and EU organisations. This took place in April 2023.[2]

Prosper has again gathered evidence from members for this submission. As a membership organisation, our submission comments on the effects of new trade arrangements across our membership rather than on Prosper as an organisation. Prosper is a member of the UK-EU Trade and Cooperation Agreement Domestic Advisory Group. Its recently published its 2024-2025 Priorities Report has also informed our submission.[3]

How have Brexit and the new UK-EU trade and economic arrangements affected your organisation?

The report on the TCA by Prosper's IBC highlighted a wide variety of challenges:

Goods
- Significantly increased paperwork at customs, time delays and costly processes
- Export health certificates for the export of live animals or animal products
- Groupage for Products of Animal Origin, especially for SMEs
- Introduction of import checks for Products of Animal Origin into the UK
- Lack of cohesion around definitions, certifications and systems between HMRC and the UK Department for the Environment, Food and Rural Affairs/ Animal and Plant Health Agency for the import of some products e.g. feed products for salmon farming
- Proposed high costs for exports through new Borders Control Posts into the European Economic Area (the EU single market, Norway and Iceland), and Switzerland
- Import duties for re-exporting into the EU

[1] Prosper's Report is available here.
[2] Prosper's Review of the Policy Mission is available here.
[3] The Domestic Advisory Group's report is available here.

- GB-Northern Ireland is effectively a full customs control system
- Large increases in the costs of importing raw materials from the EU for a range of sectors e.g. annual growth in construction materials cost rises are at a 40-year high[4]

Services

- Lack of detail in the TCA on financial services and of clarity on ratification by the EU of a Memorandum of Understanding (MoU) to follow through on the joint commitment to 'agree to establish structured regulatory co-operation on financial services'
- Greater uncertainty in areas such as mobility and rights of establishment, which will now be determined by each jurisdiction adding a significant degree of operational complexity

Education and Skills

- Uncertainty around UK association to future Horizon Europe funding impacting on research
- Student recruitment from the EU is continuing to decline at universities and colleges
- Reduced mobility of students and staff by the UK not participating in Erasmus
- Lack of clarity about mutual recognition of qualifications frameworks

Cross-Cutting

- Loss of EU customers who will only trade with EU companies
- Staff recruitment and retention (compounded by the pandemic)
- Costs and administrative workload of new immigration visas and surcharges
- Difficulties caused by potential regulatory divergence
- Uncertainty about the UK Subsidy Control Bill to replace the EU state aid regime and the UK and Scottish governments' plans for public subsidies e.g. public investment in infrastructure for offshore renewables developments, such as ports and harbours

Many respondents reported challenges due to differing implementation of the TCA by EU states or authorities. Some of these appeared to be due to a lack of understanding of the rules. There was a perception among some respondents that some states or authorities were being more deliberately unhelpful. There was also a view that some of the challenges were not transitional, but simply a fact of life in trading with the EU as a non-member.

Companies responded to the challenges in different ways, but most respondents said that they had stopped or reduced some activity. Other businesses continued to trade, but were burdened by extra admin, handling and storage costs, reducing their competitiveness. Some businesses had opened warehouses or subsidiaries in EU markets to serve customers and clients or meet EU market rules, reducing economic activity in Scotland.

[4] Construction materials cost increases reach 40-year high (rics.org)

Has this position been improving or not for your organisation as the new arrangements settled down / are developed?

The position varies between organisations and sectors. In general terms, businesses did what they could to prepare for the new arrangements and have adapted to the new realities. Depending on the business and sector, this new reality may, for example, include:

- Liability for export tariffs
- Compliance with both EU and UK rules
- Time consuming customs procedures
- Running EU-based warehouses and offices
- Fewer transport companies delivering from the UK to the EU
- Increased shipping lead times for some non-EU imports

While upfront investments (such as opening warehouses or offices and changing tooling to comply with both EU and UK rules) have been made, there are ongoing operational costs. Overall, a wide range of businesses have faced higher costs, decreased export values from sales into the EU and/or cancelled or delayed plans for expansion into the EU market.

Major challenges persist for many businesses in Scotland’s food and drink sector, especially for those exporting perishable and often time-sensitive foods to the EU market.

The agreement last year of a Memorandum of Understanding establishing a framework for financial services regulatory cooperation was overdue but nonetheless welcome. This fell short of full equivalence and the UK must continue to negotiate bilateral Memorandums of Understanding and agreements with Member States. It will be essential that the Joint EU-UK Financial Regulatory Forum makes more rapid progress as regulatory regimes evolve, with a focus on working together on topics of mutual interest and global standards. The financial sector continues to face compliance uncertainties and complexities due to legislative differences, which are resource intensive and leads to questions from clients.

We welcome the agreement between the UK and EU for the UK to reassociate with Horizon Europe. The UK was amongst the most successful countries in bidding for funding under its predecessor programme. It is vital that Scottish businesses and researchers are ready to take advantage of the opportunities to secure funding for collaborative research projects. However, the loss of Erasmus programme mobility for students in Scotland has significantly limited mobility of students and impacted education and development, especially for those from deprived backgrounds. The UK Government’s Turing Scheme has neither the scale nor the traction to make a major difference to the student experience.

What are the major barriers to EU trade and cooperation for your organisation?

Major barriers vary between organisations and sectors. In general terms, the new UK-EU trade and economic arrangements are significantly more costly and complex.

They have been introduced at a time of serious business and supply chain difficulties. SMEs face particular challenges in ensuring their ongoing compliance - for instance with complex rules of origin requirements. Some companies have struggled to maintain cost competitiveness with EU rivals. Some EU-based customers have come to view buying from UK firms as more difficult and time consuming than from their EU located competitors.

Regulatory drift (passive) or divergence (active) is a barrier to trade and cooperation that will only become more disruptive over time without joint monitoring and management.

Decisions about the regulation of new technologies will be particularly important and challenging. Given the greater size of the EU market and regulatory influence of the EU, there are benefits to the UK aligning with EU regulations, but if the UK waits (as increasingly seems to be the case) for the EU to regulate more tech businesses will locate in the EU.

Labour and skills shortages are a critical concern for many businesses. These have been exacerbated by the end of Freedom of Movement and changes to immigration rules.

Which improvements in UK-EU trade and economic arrangements could support opportunities for your organisation?

Businesses' top priority for Government is the delivery of long-term economic growth.

In Prosper's manifesto for the General Election, we recommended that the next UK Government should build on the EU-UK Trade and Cooperation Agreement by working with the EU to address gaps and weaknesses (e.g. mutual recognition of professional qualifications, youth mobility and a veterinary agreement) and increase mutual benefits (e.g. market access for supply chains and cooperation on energy and financial services).[5]

Food and Drink Federation Scotland and Salmon Scotland are members of Prosper's IBC and businesses in the food and drink sector are often members of both their trade associations and Prosper. Food and drink is the UK's largest manufacturing sector and salmon is the UK's leading food export by value. The sector is key to productivity and employment in rural areas of Scotland. Prosper has seen the written evidence submitted by the Food and Drink Federation Scotland and Salmon Scotland to this inquiry and fully supports the recommendations that both organisations have made in their submissions – such as creating a bespoke and mutually convenient Sanitary and Phytosanitary (SPS) agreement, and removing the unnecessary requirement for UK-wide 'not for EU' labelling.

The UK-EU TCA UK Domestic Advisory Group's report identified a range of key priorities which, as members, Prosper would support. In addition to the priorities already stated above, this includes Implementation of the UK Border Target

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[5] Prosper's Manifesto is available here.

Operating Model, alignment of the planned EU and UK Carbon Border Adjustment Mechanisms, UK participation in North Seas Energy Cooperation, and rules and rights for people travelling on business.

Prosper also recommends that the EU and UK should work towards equivalence (e.g. labelling) in new Sustainability Disclosure Standards for companies. If this is not achieved then businesses will face the costs and complexities of compliance with two regimes.

The report on the TCA by Prosper's IBC proposed 6 key actions:

Action	**Including by:**	**Primary Responsibility**
1. Work with industry to capture and act on trade frictions	• Creating domestic TCA advisory groups • Tasking Government overseas offices with resolving trade frictions • Sharing examples of successful actions	UK and Scottish governments, industry
2. Work with EU counterparts to close gaps in the TCA		UK Government and regulators
3. Deliver secure and efficient digital borders		UK Government
4. Secure future Horizon Europe access		UK Government
5. Engage positively with the EU on policy development and impact	• Scaling-up Scotland House Brussels' engagement with EU institutions and Scottish industry/stakeholders • Facilitating a programme of regular Policy Missions from Scotland to EU institutions	Scottish Government, industry and civic organisations
6. Increase industry/ civic engagement with EU counterparts		Scottish industry and civic organisations, Scottish and UK Governments

Prosper welcomes the positive progress in relation to some of these actions.

Prosper's IBC has also frequently raised the importance of a dedicated, widely known and regularly updated trade information portal to support SMEs with compliance with existing and new trading requirements, and signpost them to sources of advice and assistance.

Annexe C: Submission from Federation of Small Businesses

1. FSB is a non-profit making, grassroots and non-party political business organisation that represents members in every community across the UK. Set up in 1974, we are the authoritative voice on policy issues affecting the UK's 5.5 million small businesses, micro businesses and the self-employed.

2. FSB welcomes the opportunity to provide evidence to the Committee on the EU-UK Trade and Cooperation Agreement. Unless otherwise stated, the data used in this submission is taken from FSB's 2023 report *Customs Clearance*.

SME export activity

3. A fifth (22%) of UK SMEs exported their goods, products or services overseas in 2022, most commonly to other businesses (53%) and directly to consumers (41%). FSB research has consistently shown that Europe, is the largest destination for UK SME exports whether they trade in goods or services, with (93% of exporters say they sell to European countries). The largest country destination markets for UK SME exports are the Republic of Ireland, Germany and France and the biggest non-EU markets are the USA, Australia and Canada.

4. FSB Scotland's 2023 *Big Small Business Survey* found that the majority (90%) of Scottish SMEs sell to other parts of the UK, while almost two fifths export to both Europe and further afield. The research also found that over two fifths of Scottish small businesses continue to generate some of their income from the EU.

Trade in goods and services between the EU and UK

5. FSB welcomed the agreement of the TCA and the avoidance of the legal uncertainty, disruption and costs that failing to reach a deal would have created for a considerable proportion of the UK's small businesses. Nonetheless, moving to an FTA relationship means that small businesses have had to overcome a significant number of new requirements and processes in order to continue trading goods and services with the EU.

6. Very few small firms have a dedicated staff member (7%) or team (2%); those that do are more likely to have more employees (38% of SMEs with over 50 employees compared to 5 per cent of businesses with fewer than 10 employees).

7. FSB surveyed members on the impact of the Trade and Cooperation Agreement (TCA) on their trade activity during the first 8 quarters following the UK's formal exit from the EU. The number of small firms that have stopped trading temporarily with the EU fell from two in ten (19%) in early 2021 to one in ten (9%) in Q4 2022

while the number that reported stopping permanently remained around 4-5 per cent.[6]

8. Feedback gathered through interviews and focus groups with FSB members shows that many small firms still find navigating UK-EU trading rules extremely burdensome.

9. With regard to goods trade, the most commonly reported issues relate to the loss of or delays in product transportation, difficulties completing customs paperwork and navigating VAT processes. While there are options available to businesses to facilitate EU trade, such as warehousing in an EU Member State, these arrangements are often expensive and relatively few SMEs have opted to do so: in Q4 2022 just 5 per cent of exporters said they had or were looking to warehouse in the EU.[7]

10. In relation to services trade, mobility of professionals for business purposes is one of the top barriers reported by FSB members. While provisions on mobility and Mode 4 services in the TCA were welcome, they represented a significant change to the status quo for independent professionals and contractual service providers versus single market membership. The many national reservations in the agreement, which create a regulatory patchwork that small firms must navigate, have been particularly difficult for SMEs in highly regulated professions such as architecture, accounting, engineering, and legal services.

Developing the trading relationship further

11. There remain several policy options that UK Government and the European Commission could pursue to further boost trade at this critical time and to address the barriers and frictions of UK-EU trade. These include:

    a. Removing the requirement to appoint an intermediary to use the EU Import One Stop Shop (IOS) for VAT;
    b. Working towards mutual recognition for conformity assessment;
    c. Accelerating the mutual recognition of professional qualifications in key sectors;
    d. Agreeing a veterinary agreement to remove or reduce the number of SPS checks for food, drink, and products of animal origin.

12. We would also encourage UK Government and the European Commission to support maximum cooperation through the TCA through setting up all Working Groups envisaged by the Treaty, in particular the SME Committee.

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[6] FSB Small Business Index, Q1 2021-Q4 2022
[7] FSB Small Business Index, Q4 2022

Annexe D: Submission from Scottish Chambers of Commerce

Introduction:

The third year of the Trade and Co-operation Agreement (TCA) has seen several significant milestones that have changed some of the dynamics of the UK's trading relationship with the EU. These include the introduction and phased implementation of the Windsor Framework, a welcome thawing of UK-EU relations thereafter, and the UK rejoining the Horizon Europe research and scientific co-operation programme, as well as Copernicus.

Domestically, the UK government chose to pull back on some of its deregulatory agenda under the Retained EU Law (Revocation and Reform) Act. It removed the sunset clause on all retained EU law initially in scope of the legislation, and scrapped only a few hundred affected laws, instead of more than 4,000 originally planned. It also made a welcome and pragmatic decision to allow certain categories of CE marked goods to continue be placed on the UK internal market, in respect of Great Britain.

Businesses continue to manage the compliance burdens introduced in 2021, for traders in Great Britain sending goods to the EU.

These include, but are not limited to:

- customs declarations,
- safety and security certificates,
- evidence of origin of goods, or inputs into the manufacture of goods,
- import VAT requirements,
- export health certificates for certain food and plant origin products, and
- requirements under the EU's REACH system (the Registration, Evaluation, Authorisation and Restriction of Chemicals).

For most businesses, this has become part of the everyday task of cross-border trade, but for others, in 2023 as in the previous two years, the burden proved too much, and some stopped exporting to the EU.

- **Almost two thirds (60%) of firms trading with the EU say it is now more difficult to do so than it was a year ago.**
- **Almost half (49%) of exporters disagree the Brexit deal is helping them grow sales.**
- **Two fifths (41%) of firms exporting under the Brexit deal say they face difficulties adapting to its rules on buying and selling goods.**

There is a mood of realism but also ambition from Scottish and EU businesses after three years of the TCA. The political context is also relevant, with European Parliament elections looming (leading to new institutional mandates from mid-2024), the US Presidential election next November, and a likely general election in the UK. Therefore, major changes in the trading relationship appear unlikely, but this does not mean we cannot seek clarity or movement on a range of issues.

These include mobility and professional qualifications recognition, creation of new youth mobility schemes, clear decision-making on emissions trading schemes linkages, improvements in the operation of VAT and SPS (sanitary and phytosanitary) rules. These are all achievable goals in the near term, allied to reforms in how future divergence is managed through regulatory dialogue involving business.

The following sections contain policy recommendations based on our engagement with Scottish businesses, actions that the UK government and EU institutions could take in the next twelve months.

These can be made via the Specialised Committees under the TCA, while the more structural reforms could be a focus for both sides in the run up to the 2025/2026 review or other political discussions after the 2024 election cycle is complete.

<u>Policy Recommendations:</u>

Given the range of issues which Chamber member companies have raised on the realities of trade with the EU in 2023, our policy recommendations are split into three categories:

- **Short-term** issues which the UK government and the European Commission could resolve over the next twelve months. This could be through the Trade Partnership Committee and the sectoral trade committees, under the TCA, which have now started to meet;
- More **medium-term** issues, which could be addressed by side agreements to the TCA as part of the initial review of its operation in 2025/26; and
- **Longer-term** issues, which will require a more substantial review of the TCA.

SHORT-TERM:

- Engagement between the UK government and the European Commission (and in the future, the proposed European Customs Agency) to develop simpler guidance on customs, rules of origin and other key issues. This must then be consistently applied across all 27 EU member states and in the UK. Joint guidance should be produced which is clear, practical, and accessible for business in both the EU and UK.
- Reach an agreement on VAT cooperation with the EU to reduce the number of UK companies requiring a fiscal intermediary in the EU to conduct cross-border trade – as exists for companies in Norway.

- Focus on making agreements with regulators individual EU member states, as appropriate, on mutual recognition of professional qualifications.
- Ensure the trusted trader arrangements, introduced from 2024 for inbound Great Britain border control of goods, are as open and usable as possible by small, medium and larger-sized importers and their suppliers. This should keep compliance burdens, on animal and plant product controls, light touch.
- Engage comprehensively with businesses in Great Britain and Northern Ireland on implementation of the Windsor Framework. This should include the forthcoming customs processes, their implementation, and food labelling requirements. This will ensure stability in both Northern Ireland and for the overall UK-EU trading relationship. Extend the operation of the Windsor Framework labelling adjustment fund to SMEs involved in phases two and three of compliance in October.
- Develop stronger arrangements for regulatory co-operation between the EU and UK (including business dialogue and consultation) to minimise business compliance frictions with new rules.
- New UK regulations or decisions not to regulate, undertaken following regulatory dialogue with our major trading partners, should be evaluated to check whether they increase net trade costs for importers and exporters in the economic sectors concerned.

MEDIUM-TERM:

- Negotiate a veterinary or animal origin and plant product agreement with the EU, either to reduce the complexity of, or to eliminate, the need for Export Health Certificates on agri-food imports and exports.
- Negotiate a supplementary mutual recognition agreement on conformity assessment and markings of industrial, electrical and electronic goods.
- Deliver further flexibility on travel for business purposes and the range of business activities which can be undertaken.
- Make agreements with the European Commission and – where appropriate – bilaterally with member states, on widening access for labour mobility across key sectors of the economy. And reach agreements on mutual recognition of professional qualifications.
- Develop a closer regulatory policy relationship to ensure better co-ordination between the EU and UK, so that businesses do not face new trade barriers through passive regulatory divergence, without appropriate scrutiny and the ability to have their voices heard.
- Negotiate comprehensive Youth Mobility schemes between the UK and EU, covering school visits and exchanges, associate membership of Erasmus+, and the ability to work for young people, under time-limited visas.

LONGER-TERM:

- Deepen VAT co-operation and adopt common regulatory approaches. Facilitate e-commerce and greater cross-border trade in goods, by cutting cross-border VAT red tape. Produce a cost benefit analysis on a cross-EU-UK framework for VAT on traded goods.

- Look afresh at whether adjustments to certain product-specific rules of origin would be of mutual benefit to both the UK and the EU; for example in the electric vehicle industry and pan-European supply and sourcing chains.
- Deepen provisions on digital trade and facilitate trade in green goods and services, to ensure these can be traded in both directions at lower cost and with fewer barriers on market access.
- Broaden the categories for cross-border labour mobility and increase the qualifying days in each six-month period.
- Develop deeper regulatory cooperation on conformity assessment, chemicals and technical barriers to trade. Where strong economic and business arguments exist then trade volumes can be increased, and regulatory compliance costs lowered.
- Develop policies for more efficient trade facilitation, including whether agreements and waivers can be reached to dispense with safety and security certificates on goods movements.
- If not already resolved, reach solutions on lowering costs of agri-food imports and exports by simplification, digitalisation and elimination of export health certificates (EHCs).
- Consider the convincing case for the UK rejoining the Lugano Convention, to allow businesses certainty on enforcement of civil and commercial judgements in the UK and the EU.

ENDS

ABOUT SCC: The Scottish Chambers of Commerce Network sits at the heart of local business communities, representing over 12,500 businesses in Scotland. With 30 local Chambers rooted in communities across Scotland, the Chamber Network provides practical advice and support to Scottish companies through unrivalled expert leadership, business-to-business connections, mentoring/coaching, business support services and international trade support.

Annexe E: Submission from Scottish Enterprise

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3 May 2024

Clare Adamson MSP
Convener – Constitution,
Europe, External Affairs and
Culture Committee,
Scottish Parliament
Edinburgh
EH99 1SP

By email:
CEEAC.committee@parliament.scot

Dear Ms Adamson,

CEEAC committee inquiry into the E-UK Trade and Cooperation Agreement

As Scotland's national economic development agency with a focus on building Scotland's international competitiveness, we welcome the opportunity to contribute to the Committee's important work examining how well the EU-UK Trade and Cooperation Agreement ("TCA") is working for trade and whether there is an interest in developing the EU-UK trading relationship further.

The EU is an important export market for Scottish exporters, and the TCA is central to their ability to trade effectively as possible with countries within the EU. Scottish exporters have had to adapt to the changes brought in by the TCA, to ensure compliance and to take advantage of the new opportunities and facilitations provided by the agreement. As outlined in the submission below, the TCA has presented challenges to companies, and we have worked closely with these companies to understand these challenges and provide support to address them, where we can.

We look forward to sharing more detailed information on the challenges faced by companies since the introduction of the TCA the opportunities that may exist to develop the EU-UK trading relationship moving forward.

Your sincerely,

JAN ROBERTSON
DIRECTOR, OF GLOBAL TRADE
SCOTTISH ENTERPRISE

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Scottish Enterprise

Introduction

Scottish Enterprise

Scottish Enterprise is Scotland's national economic development agency. Our purpose is to support businesses to innovate and scale to transform Scotland's economy by focusing on the areas where we make the biggest difference – innovation, investment and international. SE's international ambitions align with those of Scotland's National Strategy for Economic Transformation (NSET) with our ambition being to win an even greater share of international opportunities, particularly within markets and sectors which offer the most significant opportunity for growth.

Scottish Enterprise – International Operations

The role of Scottish Enterprise International Operations[1], is to help grow Scotland's exports, increase inward investment in Scotland and secure new capital investment to fund a just transition to net zero. We provide international support to businesses across Scotland, including on behalf of Highlands & Islands Enterprise (HIE), and South of Scotland Enterprise (SOSE). As part of a Team Scotland approach, we work in partnership with a range of organisations including Skills Development Scotland, Department for Business & Trade, Visit Scotland, Scottish Funding Council, Business Gateway, Local Authorities, and Industry bodies such as Scotland Food and Drink. Our overseas team work in close partnership with UK Government teams within the respective embassies and high commissions, where we are often co-located.

Our team is based in Scotland and overseas. Overseas we have c.100 staff, across 24 different countries working across 32 different offices, with six in the Americas, ten in Asia pacific and 16 in EMEA. We are co-located with Scottish Government colleagues in USA, China, Canada, Denmark, France, Germany, Ireland, Belgium, and England where the teams work together to support joint aims around trade and investment objectives.

How we work – Trade support

The Scottish Government's 10-year Export Growth Strategy, A Trading Nation (ATN) sets the strategic direction for growing Scotland's exports alongside Scotland's Vision for Trade, which sets out the principles and values for the trading relationships we want Scotland to have in the future. ATN therefore sits at the heart of how we support companies to export, the priority countries and the priority sectors we want to focus on; and how we support businesses via our team in Scotland and overseas. Within the ATN strategy, 11 out of the 15 priority markets are in EU, recognising the importance of the EU to Scotland's exporters.

Our delivery model for providing one to one trade support for Scottish companies is structured around three customer-facing global trade teams: Consumer Industries, Energy Transition, and Science & Technology with each sector team consisting of trade specialists (based in Scotland) and in-market trade specialists based in key international markets. The Scotland

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[1] Note: Scottish Development International is the brand used to promote the activities we undertake overseas to deliver our international operations

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based trade specialists each lead on engagement with a portfolio of exporters, with in-market specialists leading on the provision of international insight, identifying new trade opportunities, and making buyer introductions. We have experienced in-market trade specialists located in North America, Canada, Mexico, France, Germany, Spain, Poland, Netherlands, Denmark, Switzerland, Ireland, Japan, Indonesia, Australia, India, China, UAE and Singapore, and these staff lead on in-market trade development work. We also have teams that deliver specialist services such as digital delivery of export support, products and programs, international market events and the GlobalScot network.

We provide tailored support to exporters who can make the most significant contribution to growing Scotland's exports. We do that by targeting priority markets which offer the most significant opportunity for growth and sectors where Scotland's greatest export strengths lie. Our role is to raise awareness of exporting opportunities, encourage companies to be ambitious about exporting, and help build capability to create a pipeline of future exporters. We provide support alongside partners to optimise Scotland's trade potential.

Results of our work – Trade Support

We have detailed metrics to measure the impact of our activities across trade and investment, a selection of which are shared below. In the year ending March 2023 (FY22/23), trade support we provided to companies across Scotland resulted in £1.73bn of planned international sales, an increase on FY21/22 which was £1.16bn, a figure which had fallen due to covid-19 from £2.22bn in FY19/20 (pre-covid).

We supported Scottish firms to enter 324 new markets in 22/23, with a focus on targeting our efforts in priority markets. Top markets included: United States, China, Germany, Spain, and France. Our in-market trade specialists identified 1,236 new trade opportunities for Scotland's exporters. We saw opportunities from Asia Pacific increase by 50% compared to FY21/22 levels, reflecting both an appetite from Scottish companies to explore new market opportunities, and the growing opportunities this market offers. For the same period, trade opportunities identified in the EU declined by 96%. We also led delegations to some of the world's biggest trade events. These included Seafood Global and Mobile World Congress in Barcelona, Wind Energy in Hamburg and numerous high-profile trade shows in the United States, including America Clean Power

Supporting businesses before EU exit day and during the EU transition period

Scottish Enterprise has been supporting companies to prepare for a potential EU exit and then adjust to the requirements of the EU-UK Trade and Cooperation Agreement since November 2018. Our support has including creating a Prepare for Brexit microsite with the support of other agencies and partners to help companies prepare. We also set up an EU transition helpline to help with company enquiries.

From 1st of January 2021, our focus has been on supporting companies to operate after Brexit using the microsite to provide a Scottish entry point to appropriate UK-wide sources of funding and advice including information on VAT, taxes, customs, funding, logistics and labelling. Our support has included engaging intensively with exporters on a one-to-one basis, to support them to understand new rules and regulations and to adapt to a new trading relationship with

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Europe, providing advice and guidance, gathering insights and exploring solutions where challenges exist.

We have supported businesses to improve the resilience of their supply chain by helping them establish new sources of supply outwith the EU. We have facilitated access to technical expertise from the Institute of International Trade and Exports and provided advice on new routes to market in the EU and advice on establishing subsidiary operations in the EU. We have also used grant support via programmes such as International Growth Support to help companies build their profile in the EU and explore new market opportunities in other global markets.
Delivering international events in Europe which includes supporting Scottish companies to exhibit at key trade shows, participate in outward and inward trade missions and learning journeys has been critical to maintaining and building Scotland's reputation in the EU, and helping companies to investigate and be educated about opportunities in other fast growing markets.

TCA Challenges – Feedback from SE supported companies

Our direct relationship and support for exporters has enabled us to identify themes where companies have faced specific challenges. These include **non-Tariff barriers,** particularly increased costs of exporting to the EU due to additional paperwork and administration. For smaller exporters, this has been a significant challenge with many exporters deciding to refocus on the UK market or focus their available resources on fewer export markets. Due to issues with **international supply chains** (e.g. longer lead times and higher supply costs caused by a combination of the TCA and other global factors) some businesses are looking at UK-based suppliers, particularly in the manufacturing sector. Companies are also reporting significant challenges in **recruiting labour** due to the removal of freedom of movement rights for workers after 31st of December 2020. Exporters are now recruiting from a smaller pool of available staff, and this is impacting on their ability to service exports markets. We have insights via our overseas staff that some European buyers in the food and drink industry would now prefer not to source from Scotland or UK, where they can source locally within Europe, because trading with Scotland has become more challenging, e.g. products taking longer to arrive, and increased costs in some cases. This can have impacts on our ability to grow demand for Scottish products within the EU and facilitate new trade opportunities for Scottish exporters.

Concluding remarks

The TCA continues to provide challenges for Scottish companies across a range of sectors. We are focused on understanding these challenges and supporting companies to address them. Our support to-date has focused on providing information companies need to understand how the TCA impacts them, helping companies understand options to address any challenges as they arise, supporting companies to adapt to the new requirements, including sharing learning from other companies where this is possible. Alongside this, we continue to engage in key discussions and forums helping to inform discussions ahead of the planned TCA review.

We will continue to undertake this dual role, in collaboration with other Team Scotland partners, to ensure that we can grow exports to the EU to positively benefit Scotland's economy.