



The EU-UK Trade and Cooperation Agreement two years on: Unpacking early evidence

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Assessment

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European Implementation Assessment

On 14 November 2022, the European Parliament's Conference of Presidents approved a joint request from the Committee on Foreign Affairs (AFET) and the Committee on International Trade (INTA) to entrust them with the drafting of an implementation report entitled: Implementation of the EU-UK Trade and Cooperation Agreement (rapporteurs: Andreas Schieder, S&D, Austria, and Sean Kelly, EPP, Ireland). Another 10 committees (AGRI, CULT, ECON, EMPL, ENVI, ITRE, IMCO, LIBE, PECH and TRAN) are associated to the file. This European implementation assessment seeks to support the scrutiny work of the AFET and INTA committees on this issue and accompany the preparation of the aforementioned implementation report.

This study analyses the early outcomes, benefits, risks and challenges linked to the implementation of the EU-UK Trade and Cooperation Agreement (TCA), in provisional application since January 2021 and in force since 1 May 2022, for the EU and its Member States. Its chief focus is on the implementation of the level-playing-field provisions – in particular, those dealing with environmental and social/labour rights protection – and on trade flows between the European Union (EU) and the United Kingdom (UK).

The study first sets the scene, outlining the potential sources of tension in EU-UK relations that hinder the application of the EU-UK TCA. It then examines the EU evaluations of the TCA's implementation at national and regional level, while also presenting experts' views on how the agreement has been performing. The study also provides a longitudinal and visual analysis of EU-UK trade flows to explain the changes and continuities observed. It then analyses the European Parliament's scrutiny of the EU-UK TCA. It concludes by charting the possible paths for enhancing the performance of the EU-UK TCA, so that it can contribute to building trust between the two parties.

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Executive summary

The Trade and Cooperation Agreement (TCA) between the European Union (EU) and the United Kingdom (UK) of Great Britain and Northern Ireland was signed on 30 December 2020. It took provisional effect on 1 January 2021. Following the completion of the ratification processes in the EU and the UK, it formally entered into force on 1 May 2021.

The EU-UK TCA resets the EU-UK relationship following the UK's departure from the EU. It provides for tariff and quota-free trade in all goods, as well as for comprehensive market access, while also setting out rules for services and investment. Preferential arrangements have been agreed in areas including, but not limited to, trade in goods and services, public procurement, aviation, road transport, energy and fisheries. These new cooperation arrangements are underpinned by mutual commitments to ensure a level playing field for open and fair competition and to contribute to sustainable development.

While considering the fact that the TCA has only been in application for two years, this EPRS study seeks to analyse and evaluate what the early outcomes, benefits, risks and challenges linked to the TCA's implementation are for the EU and its Member States. Due to time constraints, the study focuses on three specific areas of TCA implementation. For this purpose, it:

- › examines the reports of the EU institutions and provides data collected from the regions of the EU Member States focusing on the initial consequences and (potential) impact of the EU-UK TCA on environmental and social/labour rights protection in the EU Member States;
- › provides a visual and longitudinal analysis of EU-UK trade flows (as of 2016), while also taking into consideration internal and external disruptive factors, therefore contextualising the data provided by the European Commission;
- › analyses the European Parliament's position on the EU-UK TCA, delving into its relevant resolutions, oral and written questions and its activities exploring avenues for further EU-UK cooperation and improved TCA monitoring.

Overall, there is little data on the impact of TCA implementation on the EU in particular. Academic and policy research has produced several contributions on its (potential) impact on the UK in several policy areas, more specifically in relation to business. The EU perspective, whether at aggregate or Member State level, has received less attention. This may be explained by the fact that, as argued by researchers and practitioners alike, there has been structural and market asymmetry between the EU and the UK from the outset. Moreover, on average, the TCA has had a stronger impact on the UK than on the EU in all areas, and its impact on the EU will be felt in the medium and long term rather than in the short term.

To sum up, this study has found that, despite the TCA, trade and cooperation between the EU and the UK have become more complex and challenging compared to when the UK was an EU Member State. The EU's goal of establishing a stable and positive relationship with the UK is a work in progress, but there have been advances in setting up the structures for cooperation envisaged under the TCA, and the bodies tasked with monitoring its implementation are now in place. These bodies are meeting regularly and are engaging in substantive dialogue on diverse issues ranging from regulatory divergence and difficulties in trading to issues purposely left outside the TCA, such as foreign and security policy. Some challenges remain, though. For instance, the EU continues to face difficulties in its broader relationship with the UK, particularly regarding the implementation of the Ireland/Northern Ireland Protocol and the application of the Windsor Framework, and due to the lack of clarity regarding the potentially disruptive effect of the 'Retained EU Law' Act.

As expected, trade provisions in the TCA have caused disruption. For instance, while the TCA permits tariff- and quota-free movement for goods, non-tariff measures and rules-of-origin requirements render trade more cumbersome and costly. A number of external factors – such as the coronavirus pandemic and the restrictions it entailed, Russia's war against Ukraine, the energy transition and inflationary pressures – have also affected EU-UK trade. Other hindrances, whether internal or bilateral (EU-UK), have been the difficult adaptation to and lack of knowledge of the procedures, the significant bureaucracy and red tape caused by the UK's withdrawal from the EU single market, and the new costs (transport, packaging, mobility of workers, etc.) that have hit small and medium-sized businesses harder than others. In addition, the – at times – tense EU-UK political relations have lent an air of unpredictability and insecurity to the business climate.

In the shorter term, bilateral trade in goods and services for both EU exports and imports recovered in 2022, exceeding 2019 pre-pandemic levels. Nevertheless, what also emerges from the analysis is that the UK's goal of rendering its market more autonomous from the EU single market finds reflection, to some extent, in a decreasing share of UK trade in goods with the EU-27 in the past five years. EU-UK trade in services has become more complex, and a longitudinal analysis of data shows that it remained rather stagnant in 2016-2022. This contrasts sharply with the EU's trade with its partners from the rest of the world.

Moving forward, five lines of action have been put forward to enhance the implementation of the EU-UK TCA and address potential mid-term impacts:

- 1 **Addressing unforeseen circumstances and deficiencies** that have emerged in the Ireland/Northern Ireland Protocol and ensuring that the Windsor Framework is implemented. A number of palpable potential challenges include: reactions to the introduction of new border control posts; costs linked to the labelling and packaging of products that will only be sold in Northern Ireland; differing applications of VAT; and different interpretations by the EU and the UK of the EU State aid rules. By extension, tensions in the application of the Windsor Framework are likely to affect the implementation of the EU-UK TCA.
- 2 **Strengthening EU-UK political relations** could also improve goodwill to implement the EU-UK TCA consistently. Discussions are already taking place at political and diplomatic levels even on policy areas outside the TCA, notably security and defence, and on the response to Russia's war of aggression against Ukraine. These issues are also addressed in the context of the Partnership Council and the EU-UK Parliamentary Partnership Assembly. This demonstrates that, while the UK remains committed to ascertaining its autonomy and decoupling from the EU, both sides continue to share many global interests, be it on multilateralism, global health or European security.
- 3 To **counter the unpredictability that business is facing in the context of EU-UK trade relations**, EU stakeholders are asking for a UK economic policy that is clear, reliable, sustainable and well communicated. To this end, EU research has made proposals for actions in three key policy areas. Actions include: i) facilitating trade in goods through greater mutual recognition of product rules and conformity assessments, especially for the automated and financial sectors, and for agricultural and medical products; ii) facilitating trade in services through simpler and more transparent regulations prescribed by a single source; and iii) facilitating labour mobility through a uniform work visa.

- 4 Experts have called on the EU to **focus more on the subnational level and promote relations between EU and UK sub-state players**, among them devolved administrations, regions and cities, civil society, academia and think tanks. When bottlenecks appear at the national or supranational level and EU-UK relations become conflictual, it is at the subnational level where building of trust can take place. Ideas put forward in support of this option include decentralising student exchange initiatives, strengthening twinning projects, and twinning cities. As regards climate action in particular, subnational players can have an increasingly important role in exerting pressure and building transnational networks to achieve critical mass and exchange best practices.
- 5 **The EU and the UK should work together on the climate agenda**, which is a global agenda. This could be done by capitalising on the two sides' close cooperation developed in response to the energy security challenges posed by Russia's invasion of Ukraine. At a time when the extent of UK regulatory divergence is not clear, studies have demonstrated that the potential lowering of UK levels of environmental protection could have a direct impact on the EU biosphere and would directly undermine the EU transnational agenda.

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List of acronyms

AFET	European Parliament's Committee on Foreign Affairs
AGRI	European Parliament's Committee on Agriculture and Rural Development
BUDG	European Parliament's Committee on Budgets
CJEU	Court of Justice of the European Union
CoR	European Committee of the Regions
CULT	European Parliament's Committee on Culture and Education
DAG	Domestic Advisory Group under the EU-UK Trade and Cooperation Agreement
D-UK	European Parliament's Delegation to the EU-UK Parliamentary Partnership Assembly
EEB	European Environmental Bureau
ECA	European Court of Auditors
ECON	European Parliament's Committee on Economic and Monetary Affairs
ECHR	European Convention on Human Rights
EEAS	European External Action Service
EMPL	European Parliament's Committee on Employment and Social Affairs
ENVI	European Parliament's Committee on Environment, Public Health and Food Safety
EPP	European Peoples' Party, European Parliament
EP	European Parliament
EPRS	European Parliamentary Research Service, European Parliament
ETUC	European Trade Union Confederation
ETS	emissions trading system
EU	European Union
FAP	fishery and aquaculture products
FISC	European Parliament's Subcommittee on Tax Matters
FTA	free trade agreement
GCC	Gulf Cooperation Council
GDP	gross domestic product
GDPR	EU General Data Protection Regulation
GI	geographic indications

Greens/EFA	The Greens/European Free Alliance Group, European Parliament
HR/VP	EU High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the European Commission
ICT	information and communications technology
ID	Identity and Democracy Group, European Parliament
ILO	International Labour Organization
IMCO	European Parliament's Committee on the Internal Market and Consumer Protection
ING2	European Parliament's Special Committee on foreign interference in all democratic processes in the European Union, including disinformation, and the strengthening of integrity, transparency and accountability in the European Parliament
INTA	European Parliament's Committee on International Trade
ITRE	European Parliament's Committee on Industry, Research and Energy
JURI	European Parliament's Committee on Legal Affairs
LIBE	European Parliament's Committee on Civil Liberties, Justice and Home Affairs
LRAs	local and regional authorities
MFF	multiannual financial framework
MRA	mutual recognition agreements
MoU	memorandum of understanding
NFBS	enterprises in the non-financial business sector
NGO	non-governmental organisation
NSEC	North Seas Energy Cooperation grouping
OECD	Organisation for Economic Co-operation and Development
PECH	European Parliament's Committee on Fisheries
PETI	European Parliament's Committee on Petitions
PNR	passenger name records
PPA	EU-UK Parliamentary Partnership Assembly
REGI	European Parliament's Committee on Regional Development
RoP	European Parliament's Rules of Procedure
Renew	Renew Europe Group, European Parliament
S&D	Socialists & Democrats Group, European Parliament
SIS	Schengen Information System
SME	small and medium-sized enterprise
SPS	sanitary and phytosanitary
VIII	

TACs	total allowable catches
TBT	technical barriers to trade
TCA	(EU-UK) Trade and Cooperation Agreement
TEU	Treaties of the European Union
TRAN	European Parliament's Committee on Transport and Tourism
TSD	trade and sustainable development
UK	United Kingdom
UKCG	European Parliament's United Kingdom Contact Group
VAT	value added tax
WA	Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community 2019/C 384 I/01 (referred to as the UK Withdrawal Agreement)
WTO	World Trade Organization

1. Introduction

The EU-UK Trade and Cooperation Agreement (TCA) was signed on 30 December 2020 and started provisionally applying on 1 January 2021, following the end of the Brexit transition period on 31 December 2020.¹ It entered into force on 1 May 2021, following the consent of the European Parliament on 27 April 2021 and its adoption by the Council of the EU on 20 May 2021.² It took nearly five years of tumultuous EU-UK negotiations to arrive at the agreement, if counted from the date of the Brexit vote (23 June 2016), and only seven months, if counted from the signing of the UK Withdrawal Agreement (explained by the fact that negotiations on the TCA were fast tracked).

The EU-UK TCA, which defines and governs relations between the two parties, follows on from the Withdrawal Agreement (WA), which established the terms of the UK's orderly withdrawal from the EU, in accordance with Article 50 of the Treaty on European Union (TEU). The WA entered into force on 1 February 2020, after having been agreed upon on 17 October 2019. Importantly, the WA encompasses the Protocol on Ireland/Northern Ireland (the Protocol) and the Windsor Framework, both of which seek to avoid the establishment of a hard border on the island of Ireland by safeguarding the all-island economy and the Good Friday Agreement.³

The EU-UK TCA avoided the feared 'hard Brexit' and sought to bring back stability and predictability in relations between the EU, its Member States and the UK.⁴ Overall, the TCA aims to safeguard the integrity of the EU's single market and the indivisibility of the four freedoms (free movement of people, goods, services and capital). Not only does the TCA cover trade in goods, services, investment, public procurement and intellectual property rights, but also a broad range of other key areas of strong EU interest, such as air and road transport, energy and sustainability, fisheries, and social security coordination. The rules on trade and investment are underpinned by comprehensive commitments to a level playing field and sustainable development. More specifically, the level-playing-field provisions seek to safeguard fair competition between the parties. A notable component in the TCA are the provisions on social, labour and environmental protection and climate change, often referred to as the 'trade and sustainable development' (TSD) chapters in other free trade agreements (FTAs).

The TCA goes well beyond traditional FTAs and provides a solid basis for preserving the EU and the UK's longstanding friendship and cooperation. At the same time, it aims to guarantee the parties' autonomy and sovereignty. The TCA also contains a provision for periodic updates and for 5-yearly reviews of 'the implementation of this Agreement and supplementing agreements and any matters related'. Following these reviews, with one year's notice, either side can terminate the agreement (Article FINPROV.8).⁵

¹ [Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part](#), OJ L 149, 30.4.2021, pp. 10-2539.

² European Commission, [The EU-UK Trade and Cooperation Agreement](#), 30 April 2021.

³ For an analysis of the implementation of the UK Withdrawal Agreement, see A. Neville, I. Hallak and S. Mazur, [Implementation of the UK Withdrawal Agreement: Financial provisions, citizens' rights and the Northern Ireland Protocol](#), EPRS, European Parliament, January 2022.

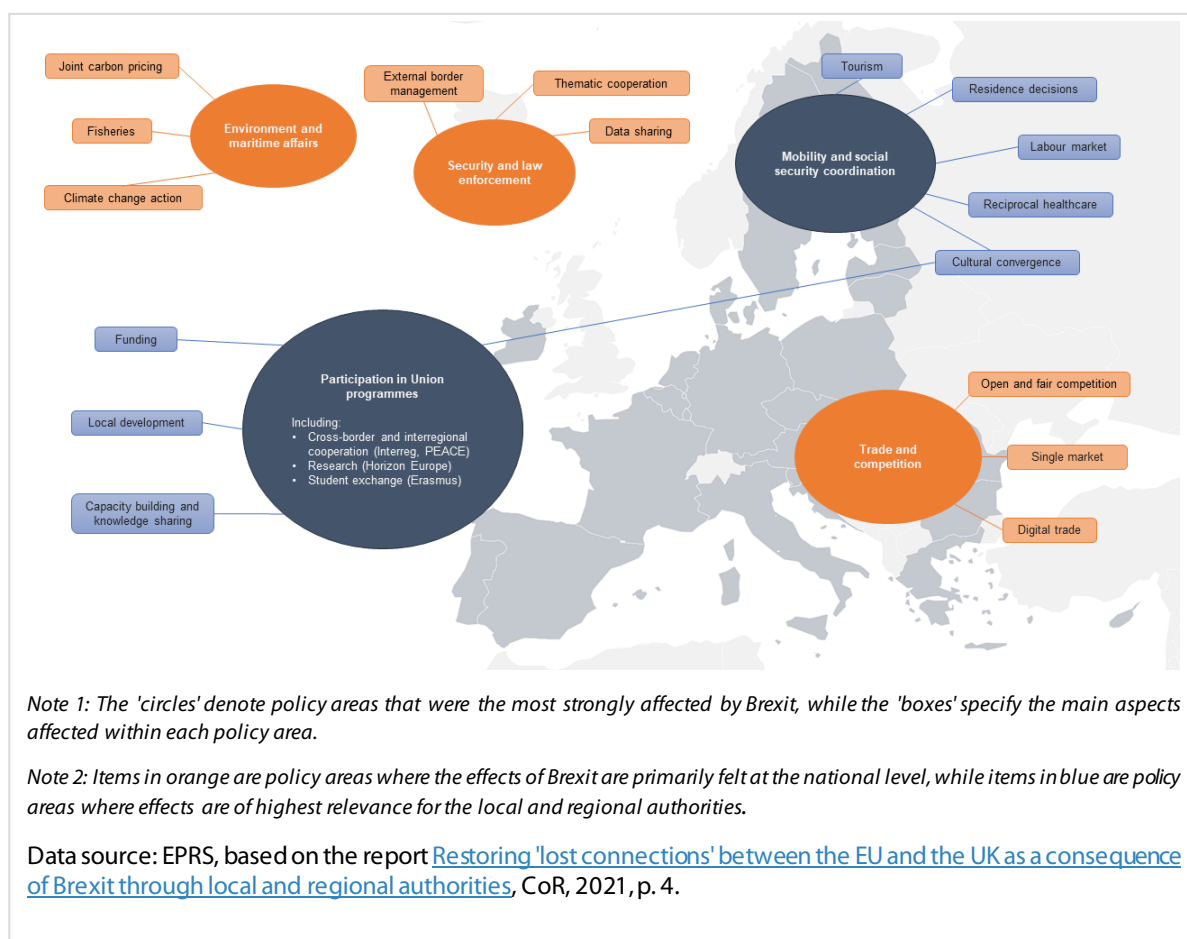
⁴ J.J.A.M. Korving and J.C. van der Have, 'Brexit: The Direct and Indirect Effect of the EU-UK Trade and Cooperation Agreement', *INTERTAX*, 50(1), pp. 28-39; European Commission, [EU-UK Trade and Cooperation Agreement: protecting European interests, ensuring fair competition, and continued cooperation in areas of mutual interest](#), Press release, 24 December 2020.

⁵ *ibid.*

At the UK's request, cooperation on foreign policy, external security and defence was excluded from the TCA, unlike what the non-binding Political Declaration initially envisaged.⁶ In addition, the TCA does not cover any commitment relating to equivalence in financial services,⁷ the adequacy of the UK's data protection regime, or the assessment of its sanitary and phytosanitary (SPS) regime for listing it as a third country allowed to export food products to the EU. These are and will remain unilateral decisions of the EU and are not subject to negotiation.⁸

1.1. The four pillars of the EU-UK TCA

Figure 1 – EU policy areas affected by Brexit



The EU-UK TCA broadly encompasses four pillars: a free trade agreement (FTA) defining the EU and the UK's new economic and social partnership; a framework for economic, social and environmental

⁶ [Political declaration setting out the framework for the future relationship between the European Union and the United Kingdom \(2019/C384 I/02\)](#), OJ C 384I, 12.11.2019, pp. 178-193.

⁷ Equivalence in financial services as regards the UK follow the EU's [approach to assessing the regulatory frameworks of 'third' \(non-EU\) countries](#). The TCA provides for a [memorandum of understanding \(MoU\) on regulatory cooperation](#); such an MoU was [signed](#) on 27 June 2023.

⁸ European Commission, [EU-UK Trade and Cooperation Agreement: A new relationship, with big changes](#), December 2020.

cooperation; a new partnership for EU citizens' security; and a horizontal agreement on governance. These are outlined in greater detail below.

Firstly, the EU-UK TCA includes an **FTA** described as one 'of unprecedented ambition, which will provide significant benefits to both sides compared to trading under World Trade Organization terms'.⁹ The FTA covers not only trade in goods and services but also a broad range of other key areas of strong EU interest, such as investment, competition, digital trade, intellectual property, public procurement and rules for fair competition and sustainability. It provides for zero tariffs and zero quotas on all goods that comply with the appropriate (bilateral) rules of origin. This is especially important for sensitive goods such as **agricultural and fishery products**. The exceptional zero tariffs and zero quotas on all products are in fact unique. Nevertheless, some experts have criticised the fact that the final TCA opted for more of a 'WTO plus' approach rather than an 'EU minus' one.¹⁰

The TCA also contains detailed principles on State aid to prevent either side from granting unfair, trade-distorting subsidies. The TCA seeks to prevent unnecessary technical barriers to trade, e.g. by providing for self-declaration of regulatory compliance for low-risk products and facilitations for other specific products of mutual interest, such as automotive, wine, organics, pharmaceuticals and chemicals. However, all UK goods entering the EU still have to meet the EU's **high regulatory standards**, including on food safety (e.g. SPS standards) and product safety. Under the TCA, **customs procedures** are meant to be simplified, as both parties have agreed, for instance, to recognise each other's programmes for trusted traders (authorised economic operators). Arrangements have been made to facilitate short-term business trips and temporary secondments of highly skilled employees. EU service suppliers wanting to offer services in the UK will not be treated any less favourably than UK operators in areas covered by the TCA, so long as they comply with UK rules.

Secondly, the EU-UK TCA provides for broad **economic, social and environmental cooperation** in areas of mutual interest. The TCA is underpinned by provisions seeking to ensure a **level playing field, sustainable development** and respect for fundamental rights. It therefore commits both parties to upholding equally high labour and social standards while also adhering to environmental protection, the fight against climate change, including carbon pricing, and tax transparency. To fulfil these commitments, the two parties will need to ensure effective domestic enforcement and apply a binding dispute settlement mechanism, as provided for in the TCA. The two parties are also offered the possibility to take remedial measures. This pillar introduces a new framework for the joint management of **fish** stocks in the respective EU and UK waters. Consequently, the UK will be able to develop its fishing activities further, while the activities and livelihoods of EU fishing communities will be safeguarded and natural resources preserved. On **transport**, the agreement aims to ensure continued and sustainable air, road, rail and maritime connectivity, even if market access is below what the single market can offer. Provisions seek to guarantee that competition between EU and UK operators is not distorted, so that passenger rights, workers' rights and transport safety are not undermined. On **energy**, the TCA provides for a new model of trading and interconnectivity, with guarantees for open and fair competition, including on safety standards for offshore, and production of renewable energy. On **social security** coordination, the agreement seeks to ensure a number of rights of EU citizens working in, travelling or moving to the UK and those of UK nationals working in, travelling or moving to the EU as of 1 January 2021.¹¹ The TCA also enables the UK's

⁹ European Commission, op. cit., [EU-UK Trade and Cooperation...](#), December 2020, p. 3.

¹⁰ C. Barnard and E. Leinarte, 'Movement of Goods under the TCA', *Global Policy*, 2022, 13 (Suppl. 2), pp. 106-118.

¹¹ Benefits covered include old-age and survivors' pensions, healthcare (e.g., European Health Insurance Card) pre-retirement benefits, maternity/paternity benefits related to the birth of a child, or accidents at work.

continued participation in a number of **flagship EU programmes** over the 2021-2027 period (subject to a financial contribution by the UK to the EU budget), such as Horizon Europe.

Thirdly, the TCA also establishes **a new partnership for EU and UK citizens' security** through the creation of a new framework for law enforcement and judicial cooperation in criminal matters. It recognises the need for strong cooperation between national police and judicial authorities, in particular for fighting and prosecuting cross-border crime and terrorism. The TCA includes ambitious arrangements for reciprocal exchanges of air passenger data (passenger name records (PNR)), criminal record information, as well as DNA, fingerprint and vehicle registration data (collectively referred to as Prüm data). It envisages new operational capabilities, such as cooperation between Europol, Eurojust and the relevant UK authorities, in line with the EU rules applicable to third countries. Security cooperation can be suspended in case of violations by the UK of its commitment for continued adherence to and domestic enforcement of the European Convention of Human Rights.

Fourthly, to give maximum legal certainty to businesses, consumers and citizens, the TCA also includes a **horizontal agreement on governance**. Structurally, the TCA resembles an association agreement – a type of agreement the EU has with a number of neighbouring countries. Accordingly, it has a **Partnership Council** (whose members are EU and UK representatives), 11 **specialised committees**, four working groups, and a consultation procedure to deal with specific elements. The Partnership Council oversees the implementation of the TCA and can make amendments to the TCA and to any supplementing agreements 'in the cases provided for' in the agreement. The Partnership Council meets in different configurations depending on the matter at hand and has the power to take binding decisions by mutual consent. It is assisted in its work by the specialised committees and the working groups.

The top level of **dispute settlement** (Part Six, Title I) applies to the whole agreement except for 10 specified areas that either have no procedures for settling disputes (but where any arising disputes can be taken to the Partnership Council) or have alternative arrangements (Article INST.10). It is accompanied by credible and robust enforcement and safeguard mechanisms, including the possibility to suspend market access commitments, e.g. by reintroducing tariffs and/or quotas in the affected sector. Broadly, the TCA envisages confidential consultations between the parties, allows for requesting an independent arbitration procedure and a compliance review (Part 6, Title I; ANNEX INST-X). In the event of non-compliance, the respondent party may offer 'temporary compensation' (Part Six, Title I, Article INST.24.1, Temporary remedies) and/or the complaining party may notify the other party of any intended suspension of obligations (Article INST.24.2), subject to certain conditions. Moreover, both parties are able to cross-retaliate if the other does not comply with a ruling of an independent arbitration tribunal. The decisions and rulings of the arbitration tribunal are binding on both parties (Article INST.29).¹² Any substantial breach of obligations enshrined as 'essential elements' of the TCA (the fight against climate change, respect for democratic values and fundamental rights, or non-proliferation) can trigger the suspension or termination of all or part of the entire EU-UK TCA.

Binding enforcement and dispute settlement mechanisms aim to ensure that rights of businesses, consumers and individuals are respected. This means that businesses in the EU and the UK, which compete on a level playing field, cannot use their regulatory autonomy to grant unfair subsidies or distort competition. It also means that both parties can also engage in cross-sector retaliation in case of violations of the agreement; cross-sector retaliation applies to all areas of the economic partnership. Some experts have argued that this may trigger a nearly endless series of negotiations

¹² E. Lydgate et al., [Taking Stock of the UK-EU Trade and Cooperation Agreement: Governance, State Subsidies and the Level Playing Field](#), Briefing Paper 54, UK Trade Policy Observatory, January 2021.

and that the various dispute settlement procedures imply continuing uncertainty about the stability of EU-UK trade relations.¹³ In response to requests from the Member States, the European Commission has set up a central point allowing stakeholders – businesses, NGOs, employers, trade unions and members of the public – to register **complaints** related to the implementation of the TCA.

1.2. State of play

From the EU's vantage point, two factors in EU-UK relations appear to have a potentially substantial impact on the implementation of the EU-UK TCA: the application of the recently concluded Windsor Agreement; and the uncertainties and consequences linked to the UK government's 'Retained EU Law' Act.

1.2.1. Windsor Framework

Since the very beginning, the implementation of the **Protocol on Ireland/Northern Ireland** (the Protocol), which forms an integral part of the 2020 Withdrawal Agreement, has been marred by rising tensions and political challenges. Consequently, both the implementation of the EU-UK TCA and wider EU-UK relations have also been strained. Professor of Political Science and Law Daniel Kelemen had warned about the difficulties of addressing Boris Johnson's, which was also Theresa May's, 'Brexit dilemma'. In essence, this dilemma refers to tackling three conflicting demands at the same time:

- › no hard border between Northern Ireland and the Republic of Ireland;
- › no checks at the border between Great Britain and Northern Ireland, and;
- › the UK to leave the EU's customs union and single market.¹⁴

According to the Protocol, all goods entering Northern Ireland from outside the EU, including those from Great Britain, must be accompanied by an entry summary declaration for food and live products, in accordance with EU law. In the UK, this declaration was viewed as creating a trade barrier within its internal market, as it potentially deterred suppliers from shipping goods from Great Britain to Northern Ireland. The obligation to establish border controls on goods moving between Great Britain and Northern Ireland is motivated by the lack of alignment in food and animal standards – SPS rules – between the EU and the UK. The EU-UK TCA confirmed in its SPS provisions that parties may maintain separate SPS regimes and that the exporting party has to ensure that the exported products meet the importing party's SPS requirements; the importing party may carry out audits and verifications.¹⁵ Thus, the complexities of the trading rules between Great Britain and Northern Ireland were left unresolved.

On 27 February 2023, the European Commission and the UK government came to a political agreement on the **Windsor Framework** – a deal aiming to address, in a definitive manner, the challenges concerning Northern Ireland following the UK's withdrawal from the EU. Its overarching goal is to reaffirm the two parties' full commitment to the Good Friday (Belfast) Agreement; to ensure lasting certainty and predictability for people and businesses in Northern Ireland; and to

¹³ I. Fusacchia, L. Salvatici and L.A. Winters, 'The consequences of the Trade and Cooperation Agreement for the UK's international trade', *Oxford Review of Economic Policy*, (38)1, spring 2022, pp. 27-49; S. Fella and P. Butchard, '[The UK-EU Trade and Cooperation Agreement: Governance and Dispute Settlement](#)', House of Commons Library Briefing Paper 09139, 3 August 2021; E. Lydgate et al., '[Taking Stock of the UK-EU Trade and Cooperation Agreement: Governance, State Subsidies and the Level Playing Field](#)', UKTPO Briefing Paper 54, UK Trade Policy Observatory, 2021.

¹⁴ R.D. Kelemen, [Great thread on the Brexit dilemma...](#), Twitter, 31 July 2019.

¹⁵ I. Hallak, [EU-UK relations: Difficulties in implementing the Northern Ireland Protocol](#), EPRS, European Parliament, July 2021.

preserve the integrity of the EU and the UK internal markets.¹⁶ In practice, the Windsor Framework provides for:

- › the establishment of a 'green lane' for trusted traders from Great Britain selling directly to consumers in Northern Ireland, therefore also establishing a new UK Internal Market Scheme for the movement of goods;
- › the introduction by the UK government of a duty reimbursement scheme, which is to reimburse the amounts of EU customs duties paid on goods moved into Northern Ireland that were not sold or used in the EU. In effect since 30 June 2023,¹⁷ the scheme applies retroactively to goods moved since 2021;
- › the establishment of the Northern Ireland Retail Movement Scheme, which entails the creation of a 'Not for EU' labelling on agri-food goods that are moved from Great Britain into Northern Ireland for end consumption there. New safeguards would prevent such goods from entering the EU's single market. Hence, goods prohibited in the EU single market would still be allowed to be sold in Northern Ireland.¹⁸

The Windsor Framework builds on the provisional agreement reached by the Council presidency and the European Parliament on a regulation on autonomous measures. This regulation lays down the rules and procedures that would allow the EU to ensure a timely and effective exercise of its rights in enforcing and implementing the WA and the EU-UK TCA. The measures include:

- › remedial, rebalancing and compensatory measures in a number of areas;
- › the temporary suspension of the relevant preferential treatment of certain products;
- › the refusal, revocation, suspension, limitation or conditioning of the authorisations or permissions of air carriers and their operation;
- › measures restricting trade, investment or other activities.¹⁹

The implementation of the Windsor Framework will happen in stages through to July 2025, to provide businesses with time to adapt to new arrangements.²⁰ On 30 May 2023, the Council of the EU adopted **three regulations aimed at implementing** the solutions agreed between the EU and the UK on public, animal and plant health issues, medicines and certain steel products, and facilitating the implementation of the Windsor Agreement. The new trading rules will make it considerably easier to move a range of goods from Great Britain to Northern Ireland, if they are destined for consumption there. At the same time, safeguards will be put in place to protect the EU's single market.²¹ In practice, the new rules on SPS measures, which protect animal, public and plant health, will make it possible to move agri-food retail products from Great Britain to Northern Ireland for end consumption there with minimal certification requirements and controls, once the agreed safeguards have been put in place. The movement of certain plants for planting, based on a special plant health label, will become easier, as will the movement of agricultural machinery. The ban on

¹⁶ European Commission, [The Windsor Framework: A new way forward for the Protocol on Ireland/Northern Ireland](#), 27 February 2023.

¹⁷ Once the Customs (Northern Ireland: Repayment and Remission) (EU Exit) (Amendment) Regulations 2023 was enforced.

¹⁸ Institute of Export & International Trade, [An overview of the Windsor Framework](#), Northern Ireland Customs & Trade Academy, 2023.

¹⁹ Council of the EU, [EU-UK relations: Council Presidency and European Parliament reach provisional agreement on a regulation on autonomous measures](#), Press release, 30 November 2022.

²⁰ Council of the EU, EU-UK relations: [EU takes further steps to implement the Windsor Framework](#), press release, 30 May 2023.

²¹ For an analysis of the difficulties in implementing the Protocol and on the provisions of the Windsor Framework, see M. Szczepanski, [The Windsor Framework: A new way forward for the Protocol on Ireland/Northern Ireland](#), EPRS, European Parliament, April 2023.

seed potatoes will be removed. Another set of new rules will ensure that all medicines, including novel ones, will be available in Northern Ireland at the same time as in the rest of the UK.²²

The Windsor Framework speaks of a growing readiness for cooperation, but how and to what extent it will be implemented is yet to be seen. A British-German Chamber of Commerce survey from April 2023 among its business community revealed that overall, the respondents generally expected the Windsor Framework to lead to some improvement in EU-UK economic and political relations. However, only 2 % of respondents expected the Windsor Framework to have any significant effect on their business activities in the UK. The 57 respondents came primarily from the manufacturing sector (26 %), business-to-business services (19 %) and construction (13 %). Other sectors represented at substantially lower levels included logistics/distribution, wholesale, travel/hospitality, retail, health care/pharmaceuticals, and business-to-consumer services (in that order).²³

1.2.2. 'Retained EU Law' Act

Freedom to diverge from EU rules and policies, and by extension regain its autonomy, was among the reasons given by the United Kingdom for its withdrawal from the EU. Following its departure, the UK announced an extensive regulatory reform, and in January 2022, the Cabinet Office released a report identifying the guiding principles for future regulatory policy.²⁴ On 29 June 2023, the **Retained EU Law (Revocation and Reform) Act 2023** completed its passage through Parliament and was granted Royal Assent. However, its journey was not a smooth one.²⁵ From the outset, the Act provoked controversy, uniting trade unions, industry bodies and employers against it over the uncertainty it threatened to introduce.²⁶ There have been concerns within the EU as well, linked to the UK's obligations under the WA and the TCA and to fears that the 'Retained EU Law' Bill (and now Act) could give rise to significant regulatory divergence.²⁷ The UK government has insisted that the Act would not lead to indiscriminate regulatory divergence. At the latest EU-UK PPA, co-chair Sir Oliver Heald said that the UK is a place of high standards and that, while there will be divergence and some 'sensible deregulation', this will not lead to a lowering of standards.²⁸

The Retained EU Law Bill was introduced on 22 September 2022, to 'restore Parliamentary sovereignty' following the UK's departure from the EU and to enable the government to create regulations 'tailor-made to the UK's needs', by ending the special status of retained EU law in the UK. 'Retained EU Law' – essentially a snapshot of all EU and EU-derived law that was in force in the UK at the end of the transition period on 31 December 2020 – ensures that this body of law would continue to apply in UK domestic law.²⁹

One red line running through the entire 'Retained EU Law' Bill was that any new or replacement legislation may not increase the regulatory burden on businesses. This aspect was welcome news

²² They will be put on the market in accordance with UK rules and authorisation procedures. This complements the solution the EU adopted in April 2022 for the supply of generic medicines to Northern Ireland. See, Council of the EU, [EU-UK relations: EU takes further steps to implement the Windsor Framework](#), Press release, 30 May 2023.

²³ German-British Chamber of Business and Industry, [German-British Business Outlook Spring 2023](#), April 2023.

²⁴ UK government, [The Benefits of Brexit: How the UK is taking advantage of leaving the EU](#), January 2022.

²⁵ [Retained EU Law \(Revocation and Reform\) Act 2023](#), 29 June 2023.

²⁶ ['Employment Law and the Retained EU Law Act 2023'](#), Linklaters, 4 July 2023.

²⁷ European Commission, [Minutes of the Second Meeting of the Partnership Council on the Trade and Cooperation Agreement, in London](#), 24 March 2023.

²⁸ European Parliament, [Press point by Nathalie Loiseau, co-chair of the EU-UK PPA and Sir Oliver Heald MP on the third meeting of the EU-UK Parliamentary Partnership Assembly](#), 4 July 2023.

²⁹ UK Parliament, [Retained EU Law \(Revocation and Reform\) Act 2023, Government Bill that originated in the House of Commons, Session 2022-23](#) (last updated: 3 July 2023).

to employers. Following the UK's exit from the EU on 31 January 2020, the EU and the UK sought to ensure that a level playing field was maintained in terms of employment law rights. Initially, the scope of the Bill was broad, covering more than 2 400 pieces of retained EU legislation, and much of the EU-derived secondary legislation applicable in the UK was anticipated to be affected. Although it was expected that much of the current legislation would be restated or amended, as opposed to entirely revoked, the fact that the Bill would automatically revoke retained legislation unless specific steps were taken to preserve it indicated that significant changes to the current landscape of employment law could be expected.³⁰

On 10 May 2023, however, the UK government undertook a major reversal in its approach when it removed the key sunset provision from the Act, which would have automatically revoked most retained EU law at the end of 2023. Having acknowledged the scale of the task involved in identifying all of the legislation that would have been affected by this move, the UK government replaced the sunset provision with a list of around 600 pieces of legislation, which will be repealed at the end of 2023.

While the new approach provided some immediate certainty for businesses, the Act contains other sunset provisions, which affect the content and implementation of the 'Retained EU Law' Act and its rules of interpretation. From 1 January 2024, the Act will abolish directly effective rights and bring an end to the principle of supremacy of EU law. Furthermore, at the end of 2023, general principles of EU law will cease to form part of UK law. This means that courts will no longer consider questions of interpretation in line with EU principles, including proportionality, purposive interpretation and legal certainty.

Before the Act comes into force, the UK government can use its powers under the Act to restate or amend secondary retained EU legislation. The power to revoke, restate or amend applies until 23 June 2026 may be used in respect not only of secondary but also of primary legislation, where retained EU law provisions were inserted by secondary legislation. It has also been argued that the Act removes additional parliamentary scrutiny requirements that currently apply when modifying some types of EU-derived domestic secondary legislation.³¹

These changes could have far-reaching consequences for environmental, consumer protection, intellectual property, and employment law. The Act will change the way that EU-derived law is interpreted in the UK, but it will also undermine the existing body of case law, creating doubt about the scope, meaning and application of key EU-derived employment rights. Consequently, this uncertainty will make it difficult for businesses to understand their obligations and for employees to understand their rights. It could even further discourage EU business, more specifically EU-27 SMEs, from seeking opportunities in the United Kingdom.³² However, the UK government could also choose to write back into domestic law the principles established in retained EU case law in order to avoid an unintended change in the effect of employment rights.

According to the European Commission's latest annual report on the implementation of the EU-UK TCA, the UK adopted just a few of the laws it had announced in 2022 that it was planning to adopt.³³ Indeed, replacing EU legislation and standards with domestic ones is a challenging task, as

³⁰ V. Buckingham, [Retained EU Law \(Revocation and Reform\) Bill 2022-23: what is the impact on employment law?](#), Dentons, 25 October 2022.

³¹ [Retained EU law](#), The Law Society, 27 June 2023.

³² *ibid.*

³³ European Commission, Report from the Commission on the implementation and application of the Trade and Cooperation Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland (1 January – 31 December 2021), [COM\(2022\) 126 final](#), 24 March 2022.

acknowledged by the UK's National Audit Office³⁴ and the House of Commons' Committee of Public Accounts.³⁵ Following the examination of the long-term regulatory strategy and the operational capability of certain regulatory agencies, both bodies concluded that the UK's withdrawal from the EU had significantly affected the UK regulators, which had assumed new responsibilities previously carried out by the EU institutions, while losing access to EU data sharing and cooperation arrangements.³⁶

The **Bill of Rights Bill** was tabled in June 2022³⁷ with the objective to repeal and replace the Human Rights Act 1998, which incorporated the European Convention on Human Rights into UK domestic law. Under section 1(2), the Bill 'rebalances' the relationship between the UK courts, the European Court of Human Rights and the UK Parliament. Notably, the UK Supreme Court would determine the meaning and effect of rights under the convention for the purposes of domestic law.

The **Data Protection and Digital Information Bill** was tabled in July 2022³⁸ with the aim of reforming the UK's data protection framework, on which the Commission's decisions on the adequacy of the level of protection for personal data provided by the UK are based. The Bill introduces changes in several areas, notably the legal grounds for the processing of personal data, the exercising of data subject rights, the rules for the transfer of personal data to third countries and the setting-up and functioning of the independent data protection supervisory authority.

1.3. Context of the research

Against this backdrop, on 14 November 2022 the European Parliament's Conference of Presidents approved a joint request from the Committee on Foreign Affairs (AFET) and the Committee on International Trade (INTA) to draft an implementation report, entitled 'Implementation of the EU-UK Trade and Cooperation Agreement'. The two committees are jointly responsible for handling the task under Rule 58 of Parliament's Rules of Procedure (RoP). Another 10 committees (AGRI, CULT, ECON, EMPL, ENVI, ITRE, IMCO, LIBE, PECH and TRAN) are associated to this highly political file and are providing opinions under Rule 57 RoP, while BUDG and REGI are drafting their opinions under Rule 56 RoP.³⁹

The objective of the AFET/INTA implementation report is to take due account of the availability of reliable facts regarding the state of implementation of the TCA. According to Parliament's RoP, AFET has competence over the implementation of the EU's foreign policy and INTA over the implementation and monitoring of the EU's common commercial policy and external economic relations. The 10 associated committees either share competences with AFET/INTA or have exclusive competences over several aspects of the TCA. This study has been prepared to support the work of the jointly responsible committees and more specifically the preparation of their implementation report.

³⁴ UK National Audit Office, [Report – Value for money: Regulating after EU Exit](#), 18 May 2022.

³⁵ House of Commons, [Regulating after EU Exit](#), Nineteenth Report of Session 2022-23, Committee of Public Accounts, 22 September 2022.

³⁶ European Commission, op. cit., [COM\(2022\) 126 final](#), 24 March 2022.

³⁷ <https://bills.parliament.uk/bills/3227>

³⁸ UK Parliament, [Data Protection and Digital Information Bill](#), Government Bill, Originated in the House of Commons, Session 2022-23 (last updated: 5 May 2023).

³⁹ AGRI: Agriculture and Rural Development; BUDG: Committee on Budgets; CULT: Culture and Education; ECON: Economic and Monetary Affairs; EMPL: Employment and Social Affairs; ENVI: Environment, Public Health and Food Safety; ITRE: Industry, Research and Energy; IMCO: Internal Market and Consumer Protection; LIBE: Civil Liberties, Justice and Home Affairs; PECH: Fisheries; REGI: Committee on Regional Development; TRAN: Transport and Tourism.

1.4. Scope and objectives

Given that the EU-UK TCA has only been in effect since January 2021, the EPRS evaluation seeks to provide an analysis of early outcomes, benefits, risks and challenges linked to the implementation of this agreement on the EU and its Member States. Due to time constraints and for reasons of feasibility, the scope of the research has been limited, while also keeping in mind the needs of the AFET and INTA committees in drafting their implementation report. Therefore, while the EU-UK TCA is subdivided into seven parts (plus annexes and protocols) that deal largely with economic activities,⁴⁰ the study sets itself the task of:

- › providing an overview of the situation, outlining the potential sources of tension in EU-UK relations that could spill over into the implementation of the EU-UK TCA;
- › examining the reports issued by the European Commission and the evaluations carried out by other EU institutions and experts, as well as providing data collected by and from the EU Member States' regions. Here the analysis focuses on the initial consequences and (potential) impact of the EU-UK TCA on environmental and social/labour rights protection in the EU Member States;
- › providing a visual and longitudinal analysis of the trade flows resulting from the implementation of the EU-UK TCA and a textual explanation of the changes and continuities observed;
- › analysing Parliament's position on the EU-UK TCA, delving into the relevant Parliamentary resolutions, oral and written questions and its activities (plenary debates, missions, etc.);
- › outlining the options for moving forward, for mitigating the potential mid-term effects of the TCA, and for building on experience where cooperation has been successful.

1.5. Methodology

The study aims to provide a qualitative assessment of the TCA's implementation and to focus in particular on how effective it has been and what outcomes it has achieved. In addition to qualitative, robust data, where possible, the research is underpinned by quantitative data illustrating the benefits, challenges and risks in trade in goods and services.

Time constraints in the preparation of the study and the short period of implementation of the EU-UK TCA have meant that a fully-fledged ex-post evaluation against the EU Better Regulation criteria for ex-post evaluation – relevance, effectiveness, efficiency, coherence and EU added value – has been difficult to conduct. It is worth recalling that the European Commission's Better Regulation Guidelines recommend carrying out evaluations only when a reasonable amount of data has been collected over at least three years.⁴¹ Instead, the study maps and assesses the early implementation outcomes, benefits, challenges and risks of the TCA. It focuses on the consequences of the TCA's implementation for the EU in selected areas: EU-UK trade; environmental and labour protection and respect for social rights; and EU-UK regulatory divergence.

Considering the short delivery deadlines for this assignment, primarily secondary (existing) data was used to carry out the research. Furthermore, the author examined review work carried out by EU

⁴⁰ [Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part](#), OJ L 149, 30.4.2021, pp. 10-2539; see also, I. Hallak, [EU-UK Trade and Cooperation Agreement: An analytical overview](#), EPRS, European Parliament, February 2021.

⁴¹ European Commission, [Better Regulation Guidelines](#), SWD(2021) 305, 3 November 2021.

and international institutions (e.g. the European Commission, the Organisation for Economic Cooperation and Development (OECD)), and by the EU Member States, the UK government and UK Parliament, think tanks, academia, civil society and stakeholders from various sectors. Data on the impact of the EU-UK TCA on the EU, including EU Member States and EU regions and local authorities is limited, since this agreement has only been in force for two years. Moreover, data on the monitoring and assessment of the implementation of the EU-UK TCA is still uneven and haphazard. As a result, the study paints a partial picture of the implementation of the EU-UK TCA thus far.

Academic and policy research examines the (potential) impact of the TCA on the UK in several domains, but has largely focused on the effects of the agreement on the UK (and UK business). On the contrary, the EU perspective, whether on an aggregate or Member State level, has received less attention. In an effort to bridge this gap, the author of the study reached out to the European Investment Bank, the European Environment Agency, the Committee of Regions and the European Court of Auditors and used their reports.

In addition, EPRS sent a general request for input to all the governmental organisations that are part of the EPRS's Linking the Levels Unit network. This was done through the monthly 'The Link' newsletter, which is sent to 1 437 contacts. The network encompasses representatives of public authorities at regional, local, national and EU levels. Targeted requests for input were also sent to umbrella bodies of public authorities, such as the Council of European Municipalities and Regions, as well as regions or provinces in Austria (Carinthia, Lower Austria, Salzburg, Styria, Tirol, Upper Austria, Vienna), Belgium (Flanders), France (Normandy and Hauts-de-France), Germany (Hamburg and Bavaria), Ireland, and the Netherlands. The working hypothesis was that the regions in some of the EU Member States neighbouring the UK, including France, the Netherlands, Belgium and Ireland, are those where the strongest negative effects of the implementation of the EU-UK TCA are expected. Because of time restrictions, the consultation was open for about three weeks. Consequently, the author did not aim to gather comparable data, but rather, to provide a snapshot of case studies.

It should also be noted that the UK's withdrawal from the EU is an unprecedented event and that the TCA has been implemented alongside the coronavirus pandemic and Russia's war on Ukraine, both of which have had consequences on the supply chains and the global (and by extension the EU) economy. In that light, it has been difficult to clearly identify the causes of changes in EU-UK relations and attribute them specifically to the implementation of the EU-UK TCA. Since the TCA has only been implemented for two years, this study is able to only point to initial outcomes emanating from its implementation, with all the risks involved when assumptions are based on an analysis of short-term changes.

2. Evaluations of the EU-UK TCA with a focus on business and environment and labour protection

This chapter analyses the initial and potential impact of the EU-UK TCA and addresses specifically the effect of the agreement (in its short two years of implementation) on environmental and labour protection and, by extension, on social rights, as requested by AFET. It also focuses on the effect of the TCA on business, as requested by INTA. The TCA's effect on trade flows between the EU/EU-27 and the UK is examined in Chapter 3. In both cases, the study seeks to analyse how the TCA has affected the EU and its Member States. Considering the asymmetry between the UK market and the EU single market, the literature, perhaps unsurprisingly, focuses primarily on the effect of the TCA for the UK, where arguably most of the adaptation and regulatory change has had to take place.

The data available on the effect of the TCA on the EU and its Member States are much more haphazard, based on case studies and mainly focused on the limitations of the TCA provisions rather than on how the deal has affected the EU. Given the limited academic literature on the issue, this chapter relies primarily on data from EU institutional sources and relevant stakeholders, notably the business sector, local authorities and regions in the EU Member States, and NGOs. In that light, the chapter first analyses how the provisions on environmental and labour protection are articulated in the TCA and points to their limitations, and then examines the evaluations by the European Commission, the European Economic and Social Committee, the European Committee of the Regions, the European Investment Bank, and the business and expert community. Overall, while some information is available on labour and social protection, little concrete evidence on the effect of the EU-UK TCA on environmental protection is available.

The European Court of Auditors (ECA) has not prepared a special report on the implementation of the EU-UK TCA. However, the ECA has scrutinised UK spending of EU budget funds in the context of its audit of the EU budget.⁴² Under the WA, the UK committed to honour all of its financial obligations under previous MFFs arising from its EU membership. During the transition period, which ended on 31 December 2020, the UK continued to contribute to and benefit from the EU budget as if it were a Member State. Following the end of the transition period, further mutual obligations on the part of the EU and the UK gave rise to certain liabilities and receivables for the EU. These obligations must be reflected in the EU's annual accounts. In its 2021 annual report on the implementation of the EU budget, the ECA concluded that 'the estimate of the total asset recognised in relation to the UK's withdrawal process is presented fairly in the consolidated annual accounts'.⁴³ The 2022 annual report had not yet been published at the time of writing.

2.1. The provisions on environmental and labour protection

Title XI of Part Two – Trade, Transport, Fisheries and other Arrangements sets out the level-playing-field provisions, designed to safeguard open and fair competition. They touch on a range of areas, including labour and social standards, environment and climate, and other instruments for trade and sustainable development (TSD). While typical TSD provisions aim to promote convergence of labour and social standards and environment and climate change policy, the objective of establishing a level playing field in the TCA is to avoid 'significant' divergence, since the EU and the

⁴² Every year, the ECA audits the revenue and expenditure sides of the EU budget and provides its opinion on the extent to which the annual accounts are reliable and income and spending comply with the rules and regulations.

⁴³ ECA, [2021 Annual reports on the implementation of the EU budget for the 2021 financial year and on the activities funded by the 8th, 9th, 10th and 11th European Development Funds \(EDFs\) for the 2021 financial year](#), 2022, p. 17.

UK were already sharing the same standards and the two economies were contiguous and substantially interconnected when the TCA came into (provisional) application.⁴⁴

When it comes to **labour and social rights protection**, the level-playing-field commitment (Title XI, Part II) in the EU-UK TCA) covers several key areas, namely: fundamental rights at work; occupational health and safety standards; fair working conditions and employment standards; information and consultation rights at company level; and restructuring of undertakings. There are separate commitments on the road transport section of the TCA requiring both parties to comply with working time rules (including rest breaks and periods) for drivers transporting goods between the UK and the EU.

On **environmental protection**, the TCA's preamble acknowledges the importance of global cooperation to address shared interests, including climate action. The TCA also explicitly identifies the fight against climate change as one of the partnership's essential elements, alongside democratic principles, the rule of law, human rights and non-proliferation of weapons of mass destruction. Chapter I (General provisions) explicitly declares the 'right to regulate' and acknowledges the 'precautionary approach' (principle) for the environment and human health; the parties commit to climate neutrality by 2050. Chapter 7 of the TCA covers the environment and climate. Article 390 sets out the definition of 'environmental levels of protection' as 'prevention of a danger to human life or health from environmental impacts' and 'climate level of protection' as linked to protection from emissions, removals of greenhouse gases and the phasing-out of ozone depleting substances. Article 397 of the TCA sets the foundations and broad objectives for trade and sustainable development.

Three key provisions govern labour, social rights, environment and climate protection:

- 1 The TCA prohibits the EU and the UK from weakening or reducing the level of rights that were in place in the WA at the end of the transition period (31 December 2020), in a manner affecting trade or investment between the parties. The **non-regression principle from levels of protection** can be found in Article 387(2) for labour and social standards and Article 391(4) for environment and climate. It implies that there are limits to the overhaul the UK government can apply to its employment law (also in the context of the 'Retained EU Law' Act). Moreover, the TCA requires that both the EU and the UK maintain a system for effective domestic enforcement of employment rights, including labour inspections, the possibility for court actions and consequent effective remedies (e.g. interim relief). Nevertheless, the TCA recognises that both the EU and the UK 'retain the right to exercise reasonable discretion on how to allocate labour enforcement resources'.⁴⁵
- 2 Chapter 8 (Other instruments for TSD) makes general commitments and lists several political declarations (e.g., Agenda 21, the Rio Declaration on Environment and Development, the UN 2030 Agenda for Sustainable Development). In Article 399, the parties commit to promoting and implementing the **core labour standards** recognised in the International Labour Organization's (ILO) eight fundamental conventions. These include freedom of association and the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the abolition of child labour; and the elimination of discrimination in employment. Equally, Article 393 sets out the **environmental and climate principles** of the TCA, including a commitment to multilateral environmental agreements.

⁴⁴ For an analysis on level playing field for labour and environment in the EU-UK TCA, see I. Hallak, [The level playing field for labour and environment in EU-UK relations](#), EPRS, European Parliament, November 2021, p. 2.

⁴⁵ L. Morrison, [What does the Brexit trade deal with the EU mean for UK employment law?](#), Dentons, 7 January 2021.

- 3 For redress, the TCA contains a **dispute settlement** mechanism to address, through consultation, a 'matter arising' under Chapters 6-8, or the provision reaffirming the ambition of economy-wide climate neutrality by 2050 (Article 355(3)). A panel of experts will consider any dispute after a 90-day consultation period, during which the parties will try to resolve the matter. In addition, if the UK implements changes to employment law that impact trade and investment considerably, the EU will be able to implement '**rebalancing measures**', including tariffs (Article 411 on rebalancing).⁴⁶ This should encourage the UK to adopt a cautious approach to changes it makes in the domain of employment law. The enforceability of non-regression by allowing temporary and proportionate remedial measures to offset any 'material impacts on trade or investment' resulting from 'significant divergences' between the two parties can help prevent a race to the bottom so that standards in each party would not drop (e.g. the Paris Agreement's goal of limiting global warming to below 2°C). Equally, this mechanism could also discourage either side from raising its standards through fear of competitive disadvantage, which could lead to bilateral tensions.⁴⁷

The TSD provisions in the EU-UK TCA are considered innovative, since for the first time an EU trade agreement includes these chapters within the scope of the level playing field.⁴⁸ Obligations on labour standards are stricter than those normally contained in EU FTAs, since most of the provisions are hard (enforceable) obligations and parties can take 'temporary remedies' (trade remedies) when obligations are breached.⁴⁹ Nevertheless, experts have criticised the fact that the non-regression and rebalancing provisions in the TCA are conditional only on measures causing an impact on trade or investment, with the bar of proof for demonstrating this impact having been set very high.⁵⁰ The rebalancing measures will rely on 'reliable evidence' and not on 'conjecture or remote possibility' that divergence has an impact, and therefore are likely to be used very rarely.⁵¹

For this reason, legal scholar Giulia Claudia Leonelli argues that, 'overall, the TCA has followed a lowest common denominator approach to environmental protection and climate change' and is therefore far from ambitious. She explains that the relevant provisions have marked a shift from the EU's initial attempts to exercise its extra-territorial leverage for high levels of transnational environmental protection. Similarly, law professor Anu Bradford argues that, '[w]ith the United Kingdom leaving [the single market], both the EU's market size and its regulatory capacity will diminish, weakening the first two conditions sustaining the de facto Brussels effect'. The Brussels effect refers to the considerable and often pre-eminent global impact that EU market regulations can have.⁵²

Instead, the TCA provisions on environment and climate change focus on the *stricto sensu* economic level playing field, on potential impacts on trade and investment between the parties.⁵³ The narrow

⁴⁶ The European Court of Justice does not play a role in enforcing the level-playing-field provisions.

⁴⁷ J. Wachowiak, [EU-UK climate cooperation post-Brexit: A case for optimism?](#), European Policy Centre, Brussels, 28 June 2021, p. 2.

⁴⁸ G.C. Leonelli, 'Transnational Environmental Protection to Distortions of Competition: The Level Playing Field in the EU-UK Trade and Cooperation Agreement', *Journal of Environmental Law*, 2021(33), pp. 611-638.

⁴⁹ E. Ares, D. Carver, S. Fella, D. Ferguson, I. Jozepa, A. Seely and A. Shalchi, [The UK-EU Trade and Cooperation Agreement: Level Playing Field](#), Briefing Paper Number 9190, House of Commons Library, 20 May 2021.

⁵⁰ M. Morris, [The agreement on the future relationship: first analysis](#), Institute for Public Policy Research, December 2020, p. 7.

⁵¹ I. Hallak, *op. cit.*, November 2021, p. 10.

⁵² A. Bradford, *The Brussels Effect: How the European Union Rules the World*, Oxford University Press, 2020.

⁵³ G.C. Leonelli, *op. cit.*, 2021, p. 636.

economic framing of the level playing field is safeguarded for as long as regulatory divergences do not distort competition and do not have an impact on trade and investment between the parties. The provisions, as they stand, cannot guarantee high levels of protection in regulatory areas where reductions in UK levels of environmental protection would not directly affect the EU. These areas include, among others, access to environmental information, public participation and access to justice in environmental matters, environmental impact assessment and strategic environmental assessment. These areas are no longer part of Chapter 7 on Environment and climate.⁵⁴

Environmental groups have criticised this 'trade and investment test', pointing out that the impact might be difficult to prove, potentially rendering the provisions ineffective.⁵⁵ These provisions leave out many aspects of environmental protection, which were expressly presented in the February 2020 European Parliament resolution on the proposed mandate for the EU-UK TCA. In that resolution, Parliament offers its own take on the inclusion of SPS standards in the level playing field, which can be justified from the point of view of environmental and public health protection.

European Parliament warns about environmental shortcomings in the EU-UK TCA

The issue of environmental protection was expressly raised for the first time in the Parliament's resolution of February 2020 on the proposed mandate for the EU-UK TCA. The resolution focuses on environmental and public health matters and reflects a very broad framing of the level playing field, in pursuit of high levels of transnational environmental protection. In its resolution, Parliament holds that the EU-UK TCA would have to adhere to the precautionary principle, to the principle that environmental damage should, as a priority, be rectified at source, and to the polluter pays principle. Regarding the scope of application of the level playing field, the resolution says (in paragraph 36) it should encompass several areas of environmental regulation:

- › access to environmental information, public participation and access to justice in environmental matters;
- › environmental impact assessment and strategic environmental assessment;
- › air emissions and air quality targets and ceilings;
- › nature and biodiversity conservation;
- › waste management;
- › industrial emissions;
- › the protection and preservation of the aquatic environment;
- › the protection and preservation of the marine environment;
- › the prevention, reduction and elimination of risks to human health or the environment arising from the production, use, release and disposal of chemical substances or plant protection products;
- › climate change and the precautionary principle.

Furthermore, the resolution (paragraph 22) asserts the need to maintain a level playing field in the areas of food safety and SPS measures, meaning that these are product standards, and that they must be complied with in full in order to ensure access to the EU market.

Source: European Parliament resolution of 12 February 2020 on the proposed mandate for negotiations for a new partnership with the United Kingdom of Great Britain and Northern Ireland (2020/2557(RSP)), [P9_TA\(2020\)0033](#).

⁵⁴ Article 7.1(1) limits the areas of environment and public health protection to industrial emissions, air emissions and air quality; nature and biodiversity conservation; waste management; the protection and preservation of the aquatic and marine environment; the prevention, reduction and elimination of risks to human health or the environment arising from the production, use, release or disposal of chemicals; and the management of impacts on the environment from agricultural or food production, notably through the use of antibiotics and decontaminants.

⁵⁵ See S. Williams, [Greener UK – Written evidence \(EEH0030\)](#), UK Parliament, 2021.

According to Leonelli, 'such broad scope of application for the agreement's level playing field provisions would have enabled the EU to exercise its extra-territorial leverage and safeguard high levels of transnational environmental protection'.⁵⁶ It would have therefore enabled the 'Brussels effect'.

In addition, sanitary standards in the food and agricultural sectors are no longer included in Chapter 7 of the EU-UK TCA. In the field of risk governance and food safety standards, UK reductions in levels of protection would undermine EU efforts to uphold precautionary risk management and sustainability at the transnational level. Moreover, the very thin Chapter 3 on Sanitary and phytosanitary measures does not refer to the precautionary principle or 'precautionary approach'.⁵⁷

2.2. European Commission reports

The EU, in Council Decision (EU) 2021/689 of 29 April 2021 (Article 2(4)) on the conclusion of the UK/EU TCA,⁵⁸ committed to publishing reports on the implementation of the EU-UK TCA annually until 2026, after which it will continue to publish them biennially. The European Commission has sent its implementation reports – two, thus far (for 2021 and 2022) – to the European Parliament and the Council for information. These reports cover: the TCA's institutional framework; trade in goods; trade in services; energy; transport; fisheries; social security coordination; law enforcement and judicial cooperation; participation in Union programmes; the evolution of law in the United Kingdom; a level playing field for open and fair competition and sustainable development; and trade flows.

In its **report on the implementation of the TCA (covering 1 January-31 December 2021), the European Commission** assessed that, despite there being no customs duties on originating goods, businesses reported widely about disruptions in supply chains. The difficulties faced by EU businesses were consistent with what could be expected, namely: 'increased costs because of having to comply with dual regulatory systems and additional formalities; delays at the border due to new procedural requirements; and difficulty in complying with changing import rules'.⁵⁹ To rectify the situation, the Commission issued guidance notes on the correct application of the SPS rules, the rules of origin and other customs-related issues, all of which it made available on its website.⁶⁰ To facilitate trade in goods that fall under SPS requirements, the Commission shared with all Member States electronic model health certificates required for exports to Great Britain. It was acknowledged that '[t]heir application may be challenging for EU exporters and Member States due to the logistical impact of the new procedures, in particular the need to submit required declarations and supporting documents before goods are shipped from EU ports to the UK, as well as the complexity of the IT system put in place by the UK'.⁶¹ Regarding labour and social standards, environment and

⁵⁶ G.C. Leonelli, op. cit., 2021, p. 618.

⁵⁷ G.C. Leonelli, op. cit., 2021, p. 622.

⁵⁸ [Council Decision \(EU\) 2021/689 of 29 April 2021 on the conclusion, on behalf of the Union, of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, and of the Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland concerning security procedures for exchanging and protecting classified information](#), OJ L 149, 30.4.2021, pp. 2-9.

⁵⁹ European Commission, Report from the Commission to the European Parliament and the Council on the implementation and application of the Trade and Cooperation Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland 1 January-31 December 2021, [COM\(2022\) 126 final](#), 24 March 2022, pp. 6-7.

⁶⁰ European Commission, [New import formalities to bring goods from the EU into the UK as of 1 January 2022](#), Taxation and Customs Union (last updated: 12 July 2022).

⁶¹ European Commission, op. cit., [COM\(2022\) 126 final](#), 24 March 2022, p. 7.

climate, and sustainable development, the report focused on: the monitoring of the UK's intention to establish a single enforcement body for employment rights; the UK's adoption of its 2021 Environment Act and the subsequent setting up of relevant offices for its application; the UK's compliance with TCA obligations on the chemical sector; and the UK's emissions trading scheme.⁶²

The most recent **European Commission implementation report on the EU-UK TCA (covering 1 January-31 December 2022)**, concludes that '[o]verall, the TCA functions well'. The report maintains that, in 2022, much progress was made in finalising the institutional arrangements and that, while challenges remain, the sectoral provisions of the TCA are operational. Most of the remaining challenges were linked to the UK's persistent refusal to uphold its legal obligations under the WA.⁶³ Regarding the movement of persons, the report maintains that, between June 2021 and June 2022, more EU citizens left the UK than arrived in it, which led to a negative net migration of EU citizens of 51 000. There were fewer work visa applications by EU citizens, who were also less likely to study in the UK. There is currently no visa requirement for short-term visits of EU citizens to the UK and vice versa. However, this does not automatically entail a right of entry.⁶⁴ Regarding fiscal aspects, national customs authorities raised concerns with regard to the correctness of operators' self-declarations of origin and replies provided by the UK's customs authorities concerning the verifications of origin. While exercising control over the correct application of the rules of origin is, as in all trade agreements, challenging, the balance of the horizontal and product-specific rules in the TCA is deemed satisfactory. In the SPS area, despite the UK's commitment to promoting the use of electronic certification to facilitate trade, there was only limited progress in accepting EU paperless certificates.⁶⁵

The European Commission's 2022/2023 **European SME Performance Review** puts the situation of EU-27 SMEs into a broader context, taking geopolitical instability and global economic activity into account.⁶⁶ Although the review does not mention the EU-UK TCA, the current geopolitical circumstances must be taken into account when considering the challenges EU-27 SMEs face when trading with the UK, especially in the context of ongoing tensions between the two parties. The review concludes that, overall, EU-27 SMEs are in a perilous situation and will remain so in the near future. A breakdown of the distribution of EU-27 SMEs across enterprises in the non-financial business sector (NFBS) industries shows that, in 2022, SMEs were concentrated in a few industries.⁶⁷ The biggest group – SMEs in wholesale and retail trade – accounted for 24 % of all EU-27 SMEs in

⁶² European Commission, op. cit., [COM\(2022\) 126 final](#), 24 March 2022, pp. 15-16.

⁶³ European Commission, Report from the Commission on the implementation and application of the Trade and Cooperation Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland (1 January-31 December 2021), [COM\(2022\) 126 final](#), 24 March 2022, p. 18.

⁶⁴ European Commission, Report from the Commission to the European Parliament and the Council on the implementation and application of the Trade and Cooperation Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland, 1 January-31 December 2022, [COM\(2023\) 118 final](#), 15 March 2023, pp. 17-19.

⁶⁵ *ibid.*, pp. 4-5.

⁶⁶ L. Di Bella, A. Katsinis and J. Lagüera-González, [Annual Report on European SMEs 2022/2023: SME Performance Review 2022/2023](#), Joint Research Centre and Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, European Commission, 2023.

⁶⁷ The NFBS excludes agriculture, forestry and fishing; financial and insurance activities; public administration and defence; compulsory social security; education; human health and social work activities; arts, entertainment and recreation; activities of households as employers; undifferentiated goods- and service-producing activities of households for own use; and activities of extraterritorial organisations and bodies. European Commission, op. cit., [Annual Report on European SMEs 2022/2023](#), 2023, p. 16.

the EU-27 NFBS, followed by SMEs engaged in professional, scientific and technical activities (20 %) and in construction (15 %).⁶⁸

Since early 2020, due to the coronavirus pandemic, the 24 million EU-27 SMEs and, more generally SMEs throughout the world have faced unprecedented economic uncertainty and turmoil. Moreover, throughout a part of 2021 and 2022, SMEs faced difficulties in hiring new staff to meet an unexpectedly strong rebound in demand, while also having to deal with numerous new challenges. Inflation rates increased drastically, especially in 2022, pushing interest rates up, which in turn reduced access to financing. Energy and raw materials price rises have also put extra pressure on enterprises. Additionally, with the discontinuation of financial aid from governments once the pandemic subsided, the resilience capacity of SMEs weakened, exposing to further risk the fragile situation most of them were in. Furthermore, EU-27 SMEs have been affected by the Russian invasion of Ukraine, both directly (in a limited context, though, and depending on the EU Member State's location), and indirectly through broader war-related developments that jeopardise their growth. SMEs have also had to prepare for the transition to a digital and sustainable economy.

The study notes that there are a few exceptions to this bleak picture. Specifically, SMEs with fewer than 10 employees seem to have outperformed all other SME size classes but have not proven their resilience to the aforementioned challenges. In terms of sectors, SMEs in energy renewables, retail, and the knowledge-intensive sector have managed to expand their business amidst the crisis, even when factoring in the 2022 inflation.⁶⁹

2.2.1. Institutional framework and monitoring bodies⁷⁰

In 2022, the TCA's institutional framework was completed and became fully operational. The parties met 22 times in the joint bodies established by the TCA, according to the annex in the Commission report, to supervise and facilitate its implementation.⁷¹

The **Partnership Council** has met twice since the start of the EU-UK TCA's application: in June 2021 and in March 2023. It did not meet in 2022. In its first meeting, the Partnership Council discussed the TCA's implementation as regards SPS measures, customs and trade facilitation, fisheries (particularly licences for access to waters of the Channel Islands), non-discrimination between Member States on work visa fees, law enforcement and judicial cooperation, and the UK's participation in EU programmes. In its statement following the meeting, the European Commission highlighted the importance of 'continuous dialogue and transparency in the implementation of the TCA' and of building 'a mutually beneficial and stable relationship' and 'committed to [the TCA's] full and timely implementation, including its governance structures'. The Partnership Council also acknowledged its duties vis-a-vis the Parliamentary Partnership Assembly and the Civil Society Forum.⁷² In their second meeting, the Partnership Council members discussed energy cooperation (including the EU Green Deal industrial plan, the goals on climate change, and decoupling from Russian hydrocarbons); regulatory cooperation (progress on signing a memorandum of understanding on financial services, and the UK working with the EU intellectual property offices); security cooperation

⁶⁸ L. Di Bella et al., op. cit., 2023, p. 22.

⁶⁹ L. Di Bella et al., op. cit., 2023.

⁷⁰ The monitoring bodies set up for parliamentary oversight are discussed in Chapter 4.

⁷¹ The EU was represented in the meetings of the joint bodies by the European Commission, whereas positions to be taken on behalf of the EU were coordinated with the Council.

⁷² European Commission, [Statement by the European Commission following the first meeting of the Partnership Council under the EU-UK Trade and Cooperation Agreement](#), June 2021.

in view of Russia's ongoing war in Ukraine; and the UK's participation in EU programmes.⁷³ Both meetings noted the need to address the difficulties in implementing the WA and the Protocol.

By 2022, all 11 **specialised committees** had been set up and started meeting regularly. The Specialised Committee on Fisheries has met the most (three times), followed by the ones on energy and transport (twice each). The Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development under the UK-EU Trade and Cooperation Agreement has met twice. Discussions addressed issues related to subsidy control and competition; UK and EU labour market enforcement; ongoing legislative files and how the UK is diverging from relevant EU regulations; the UK environmental impact assessments; wastewater treatment; and climate issues. The European Commission has made the agendas and the minutes of the meetings publicly available on its website.⁷⁴

2.3. Monitoring by the European Economic and Social Committee

According to Article 13 of the TCA, both the EU and the UK are to set up a Domestic Advisory Group (DAG) of representatives of civil society organisations. Established in 2022, the DAGs constitute the civil-society monitoring pillar of the deal. The EU DAG established for the TCA is the largest EU DAG under an EU trade agreement. It has 34 members from EU civil society organisations and six from the European Economic and Social Committee (EESC). It includes equal numbers of employers' representatives and third-party groups. It is also the first DAG to monitor an entire agreement, with a particular focus on the level-playing-field provisions. The EU DAG is organised into three thematic groups of 10 members each: a business group, a workers' group and a group on other organised NGOs, including organisations, for example, dealing with consumers, animals or the environment.⁷⁵

Regular meetings normally take place four times a year, in addition to informal meetings with other EU institutions monitoring the implementation of the EU-UK TCA, most notably the European Commission. Since its first meeting on 25 November 2021, the EU DAG under the TCA has held six meetings focused on different implementation issues and provisions of the TCA.⁷⁶ Following the meeting between the EU DAG and the UK DAG in 2022, a brief statement pointed to their joint commitment to the monitoring and consultation process, and to working closely with the EU-UK PPA. The structure for cooperation between the DAGs has been set up, but, from an EU perspective, improvements are needed in how the DAGs engage with the civil society forum. The EU DAG has called for EU-UK cooperation to move forward, especially on the regulatory front.⁷⁷ In its most recent meeting of 9 March 2023, the EU DAG focused on the Windsor Framework on Northern Ireland and discussed the technical aspects of the level-playing-field provisions. Increased interest was shown towards the UK's then Retained EU Bill (now Act) and the Strikes (Minimum Service Levels) Bill.⁷⁸ It

⁷³ European Commission, [Minutes of the Second Meeting of the Partnership Council on the Trade and Cooperation Agreement, in London](#), 24 March 2023.

⁷⁴ European Commission, [Meetings of the EU-UK Partnership Council and Specialised Committees under the Trade and Cooperation Agreement](#).

⁷⁵ Presentation by Tanja Buzek (EESC), [Joint AFET and INTA hearing on 'The implementation of the EU-UK Trade and Cooperation Agreement'](#), European Parliament, 25 May 2023.

⁷⁶ EESC, [The EU Domestic Advisory Group under the EU-UK TCA – Related Events](#), 2023.

⁷⁷ Presentation by Tanja Buzek (EESC), *op. cit.*, 25 May 2023.

⁷⁸ The Strikes Bill, laid before Parliament on 10 January 2023, would allow employers to serve 'work notices' on trade unions organising industrial action in relevant services where the government has set minimum service levels. The Bill is far more sweeping than the government first suggested, and could affect those working in health, fire and rescue, education, transport, decommissioning of nuclear installations and management of radioactive waste and spent fuel, and border security. If a union does not take 'all reasonable steps' to ensure that its members identified in the work notice comply and attend work, rather than participate in industrial action, it risks being sued. The

was recognised that 'the new reality for now is one of increasing divergence [between the EU and UK] that will require proper management'. During discussions, EU DAG members voiced concerns about these provisions relating to issues such as services and data protection, deforestation, labour standards and the balance between natural divergence and necessary cooperation.⁷⁹

2.3.1. EU-UK Relations Issues Tracker

To structure the dialogue on the TCA's implementation between all parties concerned, the EU DAG publishes an EU-UK Relations Issues Tracker, its latest edition being from January 2023.⁸⁰ This document covers an evolving list of sectoral issues and recommendations prepared by the EU DAG member organisations representing the views and priorities of EU civil society related to sectors affected by the TCA and its implementation. The areas covered include customs, transport, the cultural and creative industries, the boating industry, the metal, engineering and technology-based industries, insurance regulation and financial services, agriculture, SPS measures, pharmaceuticals, the Lugano Convention, the European Works Councils, workers' rights, animal welfare, consumers' rights, EU programmes and fisheries. A number of overarching issues – the institutional framework and enforcement, UK trade, the Protocol and digital technology – are also assessed. The objective is to contribute to a more open and focused discussion, while at the same time providing the European Commission with relevant information to use in its interactions with its UK counterparts.

The January 2023 Issues Tracker points to the detrimental impact that **customs procedures under the EU-TCA have on transport and logistics**. It explains that, since there are fewer logistics and transport companies, shipment costs are much higher. This is compounded by additional fixed costs for all shipments between the UK and the EU, in both directions. The administrative burden for businesses has increased, due to the need for health certificates, the absence of digital certificates and the absence of sufficient border checkpoints. This has resulted in significant costs for agriculture and customs clearance, as well as increasing delivery times.

Other costs and administrative burdens have also increased. **VAT** must now be paid for goods subject to VAT between the UK and EU; effectively this entails a 20% price increase for a wide range of goods, including those bought through e-commerce. Moreover, much uncertainty remains about how to apply the principle of bilateral **cumulation of origin** and what constitutes 'sufficient processing' in this regard, particularly for agri-food products. In that context, EU operators are unsure about the quantity of UK ingredients that can be included in the final product. Equally, UK customs have been requesting that the **statement of origin** indicate the specific Member State from which the product originates (even though, according to the TCA, the statement should only mention 'the Union' as the origin).

The January 2023 Issues Tracker also raises concerns about the UK decision to set up seven (maritime) **freeports and free zones** that would act as national hubs for global trade and investment in their region. The main concern raised is that to attract more investment, UK freeports are in a position to offer more benefits to the companies established there than the EU free zones, as the UK has more freedom regarding the flexibilities and tax concessions it can offer their free zones, including tax relief, planning liberalisations and incentives for innovation. By contrast, EU free zones are governed by the Union Customs Code and the EU rules on State aid, which stop Member States from using selective tax exemptions and financial incentives to distort competition. UK freeports could benefit from this competitive advantage, which could ultimately lead to business

employees who do get identified also face losing unfair dismissal protection and will risk being fired if they do not comply.

⁷⁹ See EESC, [Note on the 6th meeting of the EU DAG under the TCA](#), 9 March 2023.

⁸⁰ See EESC, [EU DAG under the TCA – EU-UK relations Issues Tracker](#), 19 April 2023.

moving from the EU to the UK. These plans are therefore seen as potentially being in conflict with the provisions on the level playing field and State aid in the TCA.

In addition, several **port stakeholders** have expressed concern about the risk of cargo leakage due to possible stops by cargo ships at UK ports rather than EU ones, to avoid falling within the scope of the EU emissions trading system (ETS) as much as possible and thereby cut costs. The EESC Issues Tracker insists that such practices must be prevented to protect the integrity of EU climate policy and to avoid undermining the competitiveness and connectivity of EU markets and ports. As long as the UK does not introduce carbon dioxide pricing or participate in the EU ETC Directive, the competitive position of EU seaports could be negatively affected.⁸¹

Furthermore, while the TCA encourages cooperation on a range of topics, '**consumer rights enforcement is absent**'. The Issues Tracker notes that the UK government is failing to adequately enforce **employment law** in the UK (Article 388, Chapter 6 in the TCA), including legislation around minimum wages and health and safety for workers on its seasonal worker pilot scheme. The UK does not have a sufficient number of labour inspectors to enforce rules on: minimum wage, health and safety; licensing standards in exploitative sectors; and agency worker legalisation.⁸²

2.4. European Committee of the Regions

While the UK's withdrawal from the EU was negotiated at the highest levels of national governments and EU authorities, it affects all levels, including the local and the regional ones. In recognition of this fact, the European Committee of the Regions (CoR) launched a UK Contact Group intended to maintain lines of communication between local and regional authorities (LRAs) in EU and UK cities, regions, and devolved administrations.

A study commissioned by the CoR shows that the primary impact of the EU-UK TCA on LRAs is likely to be in the form of **changes to the economic environment of local and regional communities, and less seamless cross-border processes**. Similar to the findings of an OECD-commissioned study on the impact of the EU-UK TCA,⁸³ the study finds that the **TCA's impact varies across sectors and, in this case, across regions**. While regions in northern and western Europe on average are most affected, the extent of the TCA's impact depends heavily on a region's sectoral specialisation and diversification. The impact on EU Member States is likely to be highly uneven, with the strongest negative effects expected in the neighbouring countries, including France, the Netherlands, Belgium, and Ireland. Nevertheless, while the level of cooperation between EU and UK LRAs could be affected to a certain degree,⁸⁴ established connections are likely to be maintained [and] be driven by decades of successful cooperation, developed partnerships, and established economic, social, and cultural links regardless of available funding'. In addition, the EU-UK TCA will likely create opportunities for new synergies and partnerships between LRAs.⁸⁵

⁸¹ EESC, op. cit., 19 April 2023, pp. 4-6.

⁸² EESC, op. cit., 19 April 2023, pp. 15, 17.

⁸³ F. Van Tongeren, C. Arriola, A. Mourougane and S. Benz, '[Trade Impacts of the Trade and Cooperation Agreement between the European Union and the United Kingdom](#)', Economics Department Working Paper No 1698, OECD, December 2021.

⁸⁴ This may be the result of the discontinuation of the common cooperation frameworks (i.e. frameworks enabling cooperation under funds such as the regional development and cohesion funds, agriculture and rural development funds, and NextGenerationEU, among others) and a decrease in the funding dedicated to joint cross-border initiatives.

⁸⁵ M. Bergstra, J. Hagemejer and K. Karunska, '[Restoring 'lost connections' between the EU and the UK as a consequence of Brexit through local and regional authorities](#)', study for the Commission for Citizenship, Governance, Institutional and External Affairs, European Committee of the Regions, 2021, p. 5.

The fact that the UK can no longer participate in EU programmes has affected sectors that are key to the LRAs the most, since the UK's non-participation risks **disrupting cross-border cooperation** and reducing the scope of student and professional exchange.⁸⁶ The study also points out that **effects on the labour market** will mostly be felt in the bordering regions where a large number of people have to cross borders daily to go to work. Already in 2017, the Irish Central Border Area Network reported that Brexit had forced a number of people and businesses in the bordering regions to relocate across borders to keep the benefits associated with EU membership. A number of sectors that rely on migrant workers are also expected to be affected. This would also apply to the workers themselves, especially new migrants, who would be facing higher recruitment costs after Brexit. The sectors concerned are primarily the UK construction and social care sectors, which rely heavily on a skilled EU labour force, and the tourism and agriculture sectors, which employ the majority of their seasonal workers from outside the UK.⁸⁷ The study also demonstrates that the TCA seems to bring about higher costs in trade and decreased EU exports to the UK, while also and disproportionately affecting SMEs, which struggle to adapt to the TCA rules more than companies conducting international trade.⁸⁸

Similarly, another study published in 2022 by the CoR examines how regions across the EU Member States have been affected by Brexit and what they have done to mitigate the negative consequences. It shows that many of the problems created by Brexit persist. Firstly, the same regions currently affected by the TCA were also more strongly affected by Brexit. Regions in northern and western Europe were more exposed to Brexit than regions in southern or eastern Europe. Proximity to the UK market undoubtedly also played a role. However, the results were not uniform. For example, in western **Sweden**, the costs and challenges of dealing with the TCA might be higher for local service companies or SMEs having no trade experience with countries outside the EU. Furthermore, a municipality in **Spain** mentioned the costs for the management of procedures, licences, etc. for drivers and road transport, and the loss of UK clients/importers in general, as some of the drawbacks of the TCA.⁸⁹

For **economic sectors**, the study finds that, overall, Brexit has had a stronger impact on sectors relying on high TCA regulatory compliance, such as those for agri-food products and beverages, machinery, cars, and textiles. In addition, despite the fact that it has prevented the potentially larger disruptive effects on trade and investment flows of a no-deal scenario, the TCA entails higher costs for trade. These costs are especially relevant to exporters who are subject to the rules of origin and animal and plant health checks. Costs related to rules of origin affect more strongly sectors producing components and parts that are extremely complex and numerous (e.g. the automotive sector, which ranks first in terms of EU trade with the UK), while costs related to animal and plant health checks could render agri-food trade more costly. Moreover, the TCA has had a notably high impact on tourism and real estate sales.

Moreover, the **costs for adjusting** to the TCA have been particularly high for smaller companies that have not traded with third countries before, and especially for those operating in the agri-food sector and for e-commerce companies (where the difference before and after the TCA in terms of cost is greatest). The increased administrative burden (i.e. the customs checks and declarations

⁸⁶ M. Bergstra et al., op. cit., 2021, p. 29.

⁸⁷ M. Bergstra et al., op. cit., 2021, p. 8.

⁸⁸ M. Bergstra et al., op. cit., 2021, pp. 2-3.

⁸⁹ M. Alessandrini, C. Bettini, E. Iacobucci, E. Gløersen, S. Zillmer, H. Gorny, K. Hat and A. Münch, [New trade and economic relations between EU-UK: the impact on regions and cities](#), European Committee of the Regions, 2022, pp. 72-73, 77.

required from enterprises) induced by the TCA rules could push local enterprises to redirect their business to markets other than the UK.⁹⁰

2.4.1. Strategies on and impact of the EU-UK TCA in several EU regions

To complement the data in the previous section, EPRS reached out to a select number of regions in the Member States whose trade data ranks them as the top trading partners with the UK from among EU regions. Special attention was paid to the regions that are potentially most affected by Brexit and would likely benefit from the EU-UK TCA (i.e. benefit from a structured relationship regulating all relevant EU policies). For this purpose, EPRS contacted its wide-ranging network of representatives of public authorities at regional, local, national and EU levels. Targeted requests for input were also sent to umbrella bodies of public authorities, such as the Council of European Municipalities and Regions, as well as regions or provinces in Austria (Carinthia, Lower Austria, Salzburg, Styria, Tirol, Upper Austria, Vienna), Belgium (Flanders), France (Normandy and Hauts-de-France), Germany (Hamburg and Bavaria), the Republic of Ireland, and the Netherlands.

Due to the time restrictions, the consultation was open for three weeks only and did not set itself the goal of gathering comparable data. The consultation yielded a limited number of responses, probably also because the TCA has not been implemented long enough to provide a clear picture of its persisting effects. Hence, this section provides a snapshot of the situation in the EU regions that took part in the consultation and shared data on what they had done to implement the EU-UK TCA and what initial effects this implementation had had on them.

Some respondents did not specifically analyse the impact of the TCA at the level of provinces. In the **Netherlands**, the respondents from the province of Gelderland suggested that attention be paid instead to data at the national level. In **Austria**, Vienna pointed out that the UK had not been an important trading partner for the region, while the Tyrolean region provided data only on trade flows (included in the next chapter), and stated that trade in goods had picked up after the pandemic, even if not at pre-pandemic levels. The **Irish** Regions European Office did not have any direct information on the effect of the TCA on regional trade to share with EPRS.

Interestingly, the **French** region of Normandy has drawn up a strategy related to Brexit, presenting its consequences not only in relation to trade but also to identity. For Normandy, the exit of the UK from the EU has meant that the Channel coastal area has become a new EU border region. In 2021, the fishing licence crisis, on the one hand, and the inflow of migrants to the UK from across the Channel, on the other, showed how difficult the geographical neighbourhood could be to manage. The Regional Council for Economic, Social and Environmental Affairs of Normandy, one of the rare structures to specifically address the impacts of Brexit, recommended drawing up a genuinely Norman strategy for the Channel area, in particular one targeted at incentivising engagement and building cooperation. According to the strategy, 'multiplying the forms of cooperation would make it possible to respond as accurately as possible to the needs of the territories and the expectations of stakeholders'. Normandy, perceiving an 'absence of an initiative at European and national levels', took it upon itself to develop such a strategic approach at the regional level.⁹¹

In terms of employment or GDP, there have been no conclusive negative effects of Brexit in Normandy, and exports from Normandy to the UK have remained stable. With the automation of the customs declaration system, logistics traffic has become relatively fluid. The port in Cherbourg has experienced a surge in activity, due to a diversion of truck traffic from the UK. Only the fishing

⁹⁰ M. Alessandrini et al., op. cit., 2021, pp. 80, 112, 121, 129, 133-134.

⁹¹ H. Fleury, *La Normandie face au Brexit: Un exercice de stratégie régionale dans un contexte d'incertitudes persistantes*, Regional Council for Economic, Social and Environmental Affairs, October 2022.

sector was disrupted in 2021, with tensions around licences. Normandy's socio-cultural sector appears to be much more negatively affected than its economy, the most telling symbol being the end of Erasmus+ with the UK, which practically closes the door to the UK for EU students. In addition, there are no more subsidies for developing projects between France and the UK. Equally, cultural exchanges are hampered by red tape and the disinterest of the UK government.⁹²

In **Germany**, Bavaria made available a study on the impact of the TCA on Bavaria, commissioned by the Bavarian Business Association. The study concludes that the EU-UK TCA has been a 'success' from the point of view of the Bavarian economy, in terms of facilitating EU-UK trade in goods and to a lesser extent trade in services. However, various areas are not sufficiently regulated or are too complicated, and new trade barriers have emerged. For example, the study notes that, when it comes to trade in goods, SMEs in particular suffer from the often time-consuming process of having to prove their compliance with the rules of origin. In addition, trade in goods is hampered by the lack of mutual recognition of product regulations and conformity assessments, which have been made more difficult; new UK certification and registration systems apply. Moreover, trade in agri-food is subject to sanitary and phytosanitary measures, which have further slowed down control processes. Trade in services is hindered by the lack of clear rules and by the fact that important services are not covered by the TCA. In addition, limitations to the movement and settlement of persons have also affected Bavarians' (and by extension Germans' and EU citizens') right to employment in the UK.⁹³

2.5. European Investment Bank

While the European Investment Bank (EIB) has not prepared any specific studies on the implementation of the EU-UK TCA, a recent EIB study on trade distortions provided a useful overview of the challenges that EU firms face when trading in the current complex geopolitical landscape. The study focuses on two ways firms have responded to the challenges: diversification across imported inputs and heavier reliance on domestic market alternatives. The study found that the majority of the firms in the EU report have experienced trade disruptions since 2021. At least a third of the firms perceived trade disruptions as a major obstacle to their business. Trade disruptions have indirectly also affected a significant share of non-trading EU firms, which have faced difficulties with local suppliers (in turn hit by disruptions) or their imported inputs that they acquired via wholesalers. As such, trade disruptions are more likely to discourage non-traders from using imported inputs than trading companies. For their part, more productive, innovative and digitalised firms were more likely to take action to mitigate the effects of trade-related obstacles. Furthermore, low productivity firms are more likely to choose to focus on domestic markets rather than not take action. Firms that are more productive and globally competitive are more likely to choose diversification as a response strategy and expect gains – that is, increased sales.⁹⁴

2.6. Expert community

The literature on the initial impact of the EU-UK TCA on the EU and its Member States is limited. Most data focus on the potential impact, implying that, given the asymmetry between the British and EU markets and the fact that regulatory changes were an imperative on the UK side, the consequences for the EU will be felt in the medium to long term. As a result, academic and policy research

⁹² H. Fleury, op. cit., October 2023, p. 3.

⁹³ J. Weiß, E. Willer, M. Böhmer and P. Kreuzer, [Der Brexit und die Folgen: Die bayerische Wirtschaft ein Jahr nach dem Brexit](#), Prognos and vbw – Vereinigung der Bayerischen Wirtschaft e.V., 2021, pp. 30-31.

⁹⁴ A. Brasili and P. Harasztosi, [Trade disruptions in Europe: Evidence from the EIB Investment Survey 2022](#), EIB Working Paper 2023/02, EIB, June 2023.

examining the impact of the EU-UK TCA has centred on the UK's adaptation to its new reality and how it is dealing with the consequences of its departure from the EU single market. As explained earlier, this is not the focus of this study. As the immediate consequences of the TCA appear to affect the business sector, the research carried out in preparation for this study sought to examine material produced by business associations, members of the EU DAG, academia and the community of experts. Very little is available in terms of the TCA's impact on the environment and climate.

A persisting hurdle in the implementation of the EU-UK TCA is the **bureaucracy and red tape** that the withdrawal of the UK from the EU has created in EU-UK cooperation. By regaining regulatory autonomy and despite the fact that no tariff or quota trade conditions were placed on UK originating goods, the UK has lost the right to free movement of goods and open access to the EU single market and customs union.⁹⁵ Trade is therefore subject to a range of costs, including border costs (customs procedures); technical barriers to trade and SPS measures (to verify food and sanitary regulations of the country they enter into are met); rules of origin (to check the genuine origin of the imports and prevent fraud); and costs from behind the border regulations (to check that imports meet standards and regulations before they are sold in the country they enter into).⁹⁶ This red tape has affected **businesses**, including businesses in the EU Member States. **SMEs** are more exposed to the effects of bureaucracy because of capacity, budgetary and human resources constraints. These make SMEs more vulnerable to change and to uncertainty, as the studies prepared for the CoR and the EESC's EU-UK relations Issues Tracker (analysed in the previous sections) have demonstrated.

In an attempt to remedy this situation, in 2020 the Belgian province of Flanders launched a mobile app, Gateway2Britain, in an effort to make EU-UK trade 'as frictionless as possible' and assuage fears that UK investment would shift away. It allows traders to fill out just one data set online and share it with supply chain and logistics partners. Since 2020, more than 100 UK businesses seeking a foothold in the EU have invested in Flanders. Research carried out among UK traders found three-quarters had considered alternative markets because of bureaucracy. Half said they would buy and sell more if the process were simplified. In 2022, the total value of UK exports to Flanders amounted to €34 billion, making the UK Flanders' fourth-biggest export market. While it is unclear what the real effect of this app has been, Minister-President of Flanders Jan Jambon holds that Gateway2Britain has put an end to bureaucracy and helped set up simplified processes while meeting all the demands of the post-Brexit rules.⁹⁷

The TCA's impact has also been analysed **sectorally**. One major area of interest in this regard was the **fisheries** sector, for which the TCA's impact was analysed in three studies for the PECH committee (see box in Chapter 4 on Parliament's oversight, Section 4.3.1). Echoing findings on the overall economic impact, research investigating the TCA's potential impact for both the EU and the UK on trade aspects related to fisheries and aquaculture shows that, overall, the TCA has had a negative impact on the trade, production and consumption of fish and aquaculture products (FAPs), but in a minor way at EU level. However, the impact varies significantly across Member States. The largest losses for the EU are expected in the fish processing sector. While the production of FAPs at EU level is expected to decline only by 2.5 %, individual Member States may be much more affected by the TCA: Ireland's production volume is expected to decline by 11 %, Sweden's by 6 % and the Netherlands' by 5 %. This trend is also reflected on the consumer side, as prices are expected to rise by 0.6 % at EU level, in Ireland by 5 % and in France and the Netherlands by 1.5 % each.⁹⁸

⁹⁵ C. Barnard and E. Leinarte, op. cit., p. 114.

⁹⁶ F. Van Tongeren et al., op. cit., 2021, p. 5.

⁹⁷ A. Bounds, 'Appy trading', *The Financial Times*, 6 June 2023.

⁹⁸ H. Martelings and Z. Smeets Křístková, [Workshop on impacts of the EU-UK Trade and Cooperation Agreement on fisheries and aquaculture in the EU, Part II: Trade aspects](#), European Parliament, 2022, pp. 7-8.

On **labour rights**, a 2021 policy paper on the TCA and **workers' rights** published by the European Trade Union Institute comments on three TCA chapters that are relevant for the protection of workers' rights: Chapter 6 on Non-regression, Chapter 8 on Multilateral labour standards and Chapter 9 on the Supervisory and dispute resolution framework. It argues that overall, the TCA is weak on labour rights and that the few additional labour clauses it contains and the overall weak supervision and dispute resolution procedures form an unsatisfactory regulatory framework, one that is unlikely to deter future UK governments from eroding present-day standards. The paper notes the 'key role will [...] be played by parliamentary scrutiny by both the European and British Parliaments'.⁹⁹ Similarly, in his research, Institute for Public Policy Research Associate Director Marley Morris argues that the TCA provisions are likely to constrain UK divergence from EU labour and social standards only to some extent, be it as 'active divergence' through deregulation or 'passive divergence' through the UK failing to keep pace with EU developments. The main constraint, however, is that, as the level playing field does not safeguard against all forms of divergence, the decision on whether or not to pursue a formal complaint or enact rebalancing measures is ultimately in the hands of the EU. This means that, in practice, the labour provisions in the TCA will be used under limited circumstances.¹⁰⁰

Similarly, a 2021 study published by the Irish Government Economic and Evaluation Service examined the TCA's impact on **employment** in Ireland. There, too, the main argument is that the effect varies across sectors with respect to both imports and exports that are particularly exposed to any Brexit-related shock due to their dependency on trade with the UK market. The sectors that appear to be most affected at EU level are food and live animals, financial services (including insurance and real estate activities) and manufactured goods (tobacco, textiles, wood). The TCA has had moderate effects on administrative services, ICT, professional services and transport. These effects further vary depending on the region within the country. Unsurprisingly, Ireland's border region was shown to have the highest proportion of 'severely' exposed sectors to a potential Brexit trade shock.¹⁰¹

The results of the surveys carried out by the German Chamber of Industry and Commerce illustrate the overall negative consequences of the TCA on business and trade barriers for German companies. These results are summed up in the box below.

⁹⁹ N. Countouris, K.D. Ewing and J. Hendy QC, [The EU-UK Trade and Cooperation Agreement and workers' rights](#), ETUI Policy Brief no. 3/2021, European Trade Union Institute, January 2021, p. 5.

¹⁰⁰ M. Morris, [What does the UK-EU deal mean for workers' rights?](#), Institute for Public Policy Research, January 2022, p. 21.

¹⁰¹ J. McNaboe, C. Shally, N. Condon, D. Coates, J. Dwan-O'Reilly, A. Brioscú, R. Geary and O. Murphy, [An Examination of the Employment Exposures to Brexit](#), Irish Government Economic and Evaluation Service, October 2021; M. Alessandrini et al., op. cit., 2021, pp. 21-22.

Effects of the EU-UK TCA on German business

Surveys by the German Chamber of Industry and Commerce

The German Chamber of Industry and Commerce (DIHK) issues annual surveys targeting German businesses that are active in a foreign country. Conducted every year in the first half of February, the questionnaire-based surveys ask participants to assess their current and future business prospects and trade barriers in the respective countries or regions where they do business. The results are released in the annual 'Going International' reports, two of which have been published since the start of the TCA's implementation.

In the latest 2023 survey, of the approximately 2400 German companies that participated, 39% reported an increase in trade barriers with the UK, only second to Russia. Beyond the focus on trade barriers, companies were asked to rate their current business as either 'good', 'satisfactory' or 'poor'. Some 16% of German business respondents found their current business in the UK to be good, while 45% found it to be poor. Additionally, companies assessed their business outlook in the respective countries or regions where they do business for the coming months as either positive or negative. Based on these assessments, the average business outlook for German companies in the UK was pessimistic (at -26 points), therefore the majority of companies expect their business in the UK to worsen in the coming months.

Since Brexit, the DIHK has also published a special report on its consequences alongside the Going International reports, informed by a similar survey to that above, but this time targeting specifically German companies that are active in the UK. Around 1500 German companies took part in the latest 2022 report. Overall, the report finds that the 'the trade simplifications of the TCA cannot replace the economic integration depth of the internal market', which is evident in the self-assessments relating to current and future business in the UK. Some 43% of businesses rate current business with the UK as 'bad', 40% as 'satisfactory' and only 17% as 'good'. For the coming 12 months, 33% of German businesses rate their business outlook as 'worse' than it currently is, 55% expect no change and 12% expect it to improve. On the question about the effects of Brexit on their business, a majority of 67% of businesses reported an increase in bureaucracy related to customs, followed by problems related to logistics (52%) and an increase in tariff barriers to trade (46%). Compared to 2021 when 46% of respondents cited legal uncertainty and the inability to plan as major barriers, in 2022 only 32% were concerned with these issues.

Source: [Going International 2023: Experiences and prospects of German business in foreign business – results of a company survey](#), Association of German Chambers of Industry and Commerce, 2023; [Auswirkungen des Brexit: Sonderauswertung der Ergebnisse der Unternehmensumfrage Going International vom Februar 2022](#), Association of German Chambers of Industry and Commerce, 2022.

At the time of writing, there was no information specifically addressing the TCA's impact on the environment and climate, as it will only become evident in the medium term. The European Environmental Bureau (EEB), which is represented in the EU Domestic Advisory Group under the TCA, where it shares its views on its implementation, sees the TCA as a potential monitoring instrument for the enforcement of environmental standards and the SDGs.¹⁰² No EEB studies refer specifically to the environmental and climate impacts of the TCA. However, in a memorandum to the Swedish Presidency of the Council of the EU, the EEB calls for pushing forward the reform of the EU's international trade policy and ensuring that 'the relations with the UK do not lead to a deterioration of environmental protection standards'.¹⁰³ In addition, the Irish Environmental Network and the Northern Ireland Environment Link published together a report titled 'Linking the Irish Environment', which focuses chiefly on the implications of the Protocol on environmental cross-border cooperation and only points to the TCA to explain the limitations of its environmental

¹⁰² EEB, [EU-UK Relationship](#).

¹⁰³ EEB, [The EEB's Memorandum to the Swedish Presidency of the EU, January-June 2023](#), 2022.

provisions, similar to what Giulia Claudia Leonelli demonstrated in her research (as described in Section 2.1 above). In particular, the report explains that the TCA provisions are focused on trade and investment (which should have an impact on the environment), that the TCA centres on the UK and the EU as a whole, rather than on Northern Ireland or Ireland, and that it is very challenging to enforce. Thus, the report considers that overall, the TCA has a partially limiting effect on divergence and the decline of standards. It may indeed drive up standards in principle, but whether it can be used in the same way for national laws is seen as questionable.¹⁰⁴

¹⁰⁴ C. Brennan, F. Brereton, M. Dobbs, V. Gravey, H. Gould, A. Hough and L. Whitten, [Linking the Irish Environment](#), Interim Report, Irish Environmental Network, January 2023, p. 40.

3. Impact of the TCA on EU-UK trade flows

At the time when it voted to leave the EU in 2016, the UK was a leading economy. It generated about 16 % of EU GDP, and the remaining EU countries accounted for almost half of the UK's total trade.¹⁰⁵ At the end of the transition period, on 31 December 2020, the UK and the EU split into two separate customs territories and two separate markets for goods, each with its own regulatory regime, which inevitably created barriers to trade. This chapter analyses EU-UK trade relations closely, focusing on the changes in bilateral trade flows (both trade in goods and trade in services). It first examines the relevant provisions in the TCA, then analyses the data in the European Commission reports and data received by EPRS from EU regions, before turning to an analysis of trade numbers. Three years have been chosen to map the evolution of trends in the available Eurostat data:

- › 2018 (after the Brexit vote, but before the signing of the EU-UK TCA);
- › 2021 (end of the first year of the TCA's implementation), and;
- › 2022 (end of the second year of the TCA's implementation, the latest available data).

Furthermore, this chapter analyses how the EU-UK TCA has affected (if at all) trade flows between the UK and its top international and EU trading partners. Equally, it examines any changes in the composition of the EU Member States' and the UK's partners with the coming into force of the EU-UK TCA. Taking into account the global economic trends and the complex geopolitical landscape, the chapter demonstrates that the UK has managed to progressively become less dependent on EU trade in goods, and that changes in EU-UK trade in services have been less disruptive for both parties. Thus, similar to economics and finance professors Buigut and Kapar, this study does not find that the implementation of the TCA has had a significant effect on EU-UK trade flows.¹⁰⁶

3.1. Trade provisions and forecasts

Chapter 3 of the TCA lays out the general provisions for cross-border trade in services, with notable exceptions – financial services (for which an adequacy decision is pending) and audio-visual trade (which the EU always excludes from its FTAs).

3.1.1. Provisions

The EU-UK TCA contains clear provisions on the standards to be respected in the traded goods, the rules of origin, trade in services and other areas of trade. These are briefly outlined below.

Standards

The TCA's Chapter 4 on Technical barriers to trade (TBT) defines international standards, thus anchoring both parties to the international standardisation system, and identifies the relevant international standard-setting bodies. It seeks to ensure that domestic product standards of both the EU and the UK and their respective technical regulations continue to be based on the same international references. The TCA features provisions on several highly regulated industries, which should make it possible to reduce administrative costs of compliance, particularly for the pharmaceutical (good manufacturing practice), automotive, chemicals, organics and wine industries. The chapter offers a common definition of international standards and the possibility to self-declare conformity of low-risk products, with the aim of facilitating exports to both markets for producers. However, the TCA does not allow for mutual recognition of conformity assessments for

¹⁰⁵ S. Buigut and B. Kapar, 'How did Brexit impact EU trade? Evidence from real data', *The World Economy*, 2023, 46, pp. 1566-1581.

¹⁰⁶ *ibid.*

a vast range of products, meaning that many goods – from lipsticks to mattresses to toys – will have to undergo two sets of conformity assessments rather than one. Customs declarations and paperwork to process the movement of goods – including SPS checks for live animals and products of animal origin – are required since 1 January 2021 for UK exports to the EU. The UK government adopted a phased approach to the introduction of checks and controls on goods imported into the UK from the EU over 2021 and 2022, except for SPS checks for food, animal and plant products, which will be rolled out from the end of 2023.¹⁰⁷

Rules of origin

The TCA provides for zero tariffs and zero quotas on all goods that comply with the relevant rules of origin. These rules of origin, which determine where a good is considered to be 'originating', are set out in detailed annexes that specify how much of the value of the product must be created in the territory of either party to the agreement in order for the product to be eligible for tariff-free trade. The TCA contains a provision for 'full' bilateral cumulation of origin. This allows traders to include the value of components originating and processing undertaken in either the UK or the EU when determining origin for the purposes of the TCA. However, cumulation with products originating in third countries is not allowed. Mutual recognition of trusted trader programmes ensures lighter customs formalities and smoother flows of goods.

Trade in services

With the TCA, which essentially addresses financial services only marginally, the EU and the UK agreed to undertake commitments on market access for services for commercial establishment and to apply internationally agreed standards in this sector. These commitments seek to prohibit discrimination between EU and UK citizens and remove the requirement for businesses to open a local subsidiary before services can be provided. The European Commission maintains that some of the 'ambitious outcomes' of the negotiations on the TCA include:

- › a comprehensive coverage of all modes of service supply and investment, in almost all economic sectors;
- › market access on services and investment beyond the level achieved in other trade agreements;
- › common regulatory provisions for a number of services sectors, such as delivery services, telecommunications services, international maritime transport services and, for the first time, a regulatory chapter on legal services resulting in a clearer presentation of the EU's existing commitments;
- › best practice rules on licensing and qualifications;
- › a mechanism to agree on arrangements for the mutual recognition of professional qualifications;
- › rules on temporary stays of persons for business purposes, in line with the highest standards of EU services agreements.¹⁰⁸

Nevertheless, there are a number of exceptions to the scope of liberalisation in the TCA (namely, public services and services of general interest; some transport services; and audiovisual services),

¹⁰⁷ UK Parliament, [Constituency casework: New customs rules for trade with the EU](#), House of Commons Library, 12 May 2023; see also, UK Parliament, [Trade in goods between Great Britain and the EU: European Affairs Committee report](#), House of Lords Library, 24 January 2023.

¹⁰⁸ European Commission, Annual Information Sheet on the Implementation of the EU-UK Trade and Cooperation Agreement, in Individual information sheets on implementation of EU Trade Agreements, Accompanying the document Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Implementation and Enforcement of EU Trade Agreements, [SWD\(2022\) 730 final](#), 11 October 2022 pp. 97-98.

and the level of access for UK services firms will vary from one sector to another sector and from one Member State to another. Service providers from the EU and the UK must now comply with specific domestic requirements when offering cross-border services, which may vary between EU Member States. Locally established enterprises owned by nationals of the other party will be able to continue to provide services, but may be subject to conditions applicable to foreign direct investment, in accordance with the market access schedules of the TCA. Moreover, both parties retain the right to unilaterally adopt or maintain measures for prudential reasons ('prudential carve-out'), in order to preserve financial stability and the integrity of financial markets. Furthermore, under the TCA, recognition of professional qualifications is decided respectively by the laws in the UK and each of the concerned EU Member States separately.¹⁰⁹

Movement of goods and services

The TCA includes separate sections on digital trade, aviation, road haulage, and the movement of natural persons. On the movement of natural persons for business purposes (GATTS 'Mode 4'), the TCA includes a broad range of reciprocal commitments that allow a company located in the EU to transfer certain employees, as intra-corporate transferees, to work in a group company located in the UK – and vice versa. The TCA also allows for unlimited point-to-point traffic between EU and UK airports, whilst it excludes UK carriers from operating flights between EU destinations based on a UK-issued licence. Similarly, the road transport provisions of the TCA allow for unlimited point-to-point access for hauliers carrying loads between the EU and the UK, while the UK is no longer allowed unlimited cabotage operations within the single market.

Experts argue that 'a plausible response to frictions on cross-border trade will be for services firms to relocate (part of) their business to their destinations. This will have consequences for cross-border trade and tax revenues. The level of access the EU is offering the UK to its markets is roughly equivalent to that which it offers Canada, but with some detailed differences. Several restrictions that remain pertain to Member States individually, rather than the EU as a whole, increasing the informational burden of trading.'¹¹⁰

3.1.2. Forecasts

Studies have demonstrated that the TCA has had a significant impact on the UK economy. While the most important factors behind current economic problems in the UK and in the EU – especially the rise in energy prices – are global, the comparative weakness of both UK trade and investment over the past few years is at least in part the result of Brexit. The UK is the only major economy where output remains below pre-pandemic levels.¹¹¹ Research by Jun Du et al. attributes the UK's poor relative economic performance to the impact of the EU-UK TCA. While the TCA has kept trade between the EU and UK tariff- and quota-free, it has been less effective at preventing non-tariff measures from increasing. In addition, the decline in trade (in goods) is likely to be disproportionately large among small, resource-constrained UK firms that export single products or a limited range of products and whose exports are less intensive relative to the overall sales. At the same time, the authors find signs of increased concentration of export values onto fewer products and fewer exporters. The significant contraction in the UK's trading capacity in terms of the varieties of goods

¹⁰⁹ European Commission, [Questions & Answers: EU-UK Trade and Cooperation Agreement](#), 20 December 2020.

¹¹⁰ I. Fusacchia, L. Salvatici and L.A. Winters, 'The consequences of the Trade and Cooperation Agreement for the UK's international trade', *Oxford Review of Economic Policy*, 38(1), spring 2022, pp. 27-49.

¹¹¹ See, for example, A. Menon, [Where Next? The Future of the UK-EU Relationship, UK in a Changing Europe](#), 20 January 2023.

being exported to the EU due to the limits imposed by the TCA hints at some serious long-term trends in the UK's future exports and productivity.¹¹²

The impacts of the EU-UK TCA on the EU, whether on an aggregate or Member State level, have received less attention. This may be explained by the fact that, on average, the TCA has affected the UK more strongly than the EU, as a 2021 working paper commissioned by the OECD has shown.¹¹³ As mentioned earlier in this study, since the agreement has only been implemented for a relatively short time, the scope of studies is generally restricted to the *potential* impact on trade. In this context, a 2021 OECD outsourced study analyses scenarios on the medium-term (5-10 years) impact of the UK leaving the EU single market under the terms of the TCA, and finds that the agreement's impact varies across Member States and sectors. According to the simulation exercise in the study, the EU would experience losses as a result of the UK leaving the single market. Regarding the TCA's broader economic impact, the EU's real GDP loss could amount to around 0.6 % in the medium term. The analysis shows that even with an FTA in place, regulatory divergence and increased border measures between the two parties would result in a real GDP decline of 0.4 % in the EU.¹¹⁴

While on the aggregate level the impact of the TCA on EU trade would be modest, there is considerable variation across Member States, with real GDP losses ranging from between 0.1 % in Romania to more than 2.5 % in Ireland.¹¹⁵ Not surprisingly, EU Member States with strong trade relations with the UK, especially in economically important sectors, would experience a more significant decline in output and trade. Ireland, Luxembourg and Denmark, small open economies, are the three countries that would be most affected. Eastern EU Member States, such as Bulgaria, Romania and Slovakia, which are less reliant on UK trade, would be somewhat shielded from the effect of Brexit.¹¹⁶ These findings are similar to other, now dated, Brexit studies.¹¹⁷

Furthermore, according to the scenarios presented in this study, this impact depends on a variety of factors, such as the Member State's current bilateral trade relations with the UK and the sector in which it specialises. While EU imports and exports to the UK would decline across all sectors covered by the TCA, the biggest decline would be felt in the export and import of professional services, most notably in the financial services and insurance sector, communication, and other business services, due to the regulatory divergence between the EU and the UK.¹¹⁸

¹¹² J. Du, E. Beyza Satoglu, and O. Shepotylo, 'How did Brexit affect UK trade?', *Contemporary Social Science* 2023, 18(2), pp. 266–283.

¹¹³ It should be noted that the analysis does not include any transitional costs linked to the full implementation of the TCA, nor does it take into account stress on the economy as a result of the coronavirus pandemic. Lastly, only the impact on services trade as a result of regulatory restrictions on the free movement of people has been taken into account in the analysis, while the wider labour market impacts of cross-border movement of people has been left aside. See F. Van Tongeren et al., op. cit., 2021.

¹¹⁴ F. Van Tongeren et al., op. cit., 2021, p. 14.

¹¹⁵ The impact on Ireland will also depend on the implementation of the Windsor Framework and the Northern Ireland Protocol.

¹¹⁶ F. Van Tongeren et al., op. cit., 2021, pp. 17-18.

¹¹⁷ T. Mayer, V. Vicard and S. Zignago, [The Cost of Non-Europe, Revisited](#), CEPII Working Paper 2018-06, Centre d'Etudes Prospectives et d'Informations Internationales, April 2018; International Monetary Fund (IMF), Long-Term Impact of Brexit on the EU, in [Euro Area Policies: Selected Issues](#), IMF Country Report 18/224, 19 July 2018.

¹¹⁸ F. Van Tongeren et al., op. cit., 2021, p. 19-20.

3.2. European Commission evaluations of EU-UK trade flows

The **European Commission implementation report on the EU-UK TCA for 2021** ascertained that it was too early to assess the full economic impact of the UK's exit from the EU single market. Data showed that EU-UK trade flows had partially stabilised in 2021, after an initial drop following the end of the transition period. However, they remained lower than in 2019 and earlier. EU imports and exports of goods with the rest of its partners rose sharply in 2021 compared to 2020 (+27 % and +14.6 % respectively) and above the 2019, pre-pandemic, levels (12.5 % for imports and 4.7 % for exports), while trade with the UK was still far from its pre-pandemic levels. Machinery and transport equipment, which represent a sizeable share of bilateral trade, were particularly affected. EU imports from the UK in this sector contracted by 26.2 % in 2021 compared to 2020 and by 37.9 % compared to 2019. EU exports contracted by 3.1 % in 2021 relative to 2020 and by 20.5 % relative to 2019. In absolute terms, EU imports and exports in machinery and transport equipment with the UK, in 2021, were more than €52 billion below the level recorded in 2019.¹¹⁹

Likewise, the long list in the TCA of EU Member States' specific market access reservations, notably on financial data processing services, has rendered trade in services more challenging. Businesses that plan to deliver services or investors that wish to establish themselves in the other party's territory face new regulatory and administrative barriers. Data for the first three quarters of 2021 show that trade in services had not returned to pre-pandemic levels and that the travel sector was the most affected. Looking at the longer term, both EU exports and imports of services with the UK were less dynamic in comparison with EU trade with other international partners. While in 2022, the EU's total trade in services with its international partners excluding the UK increased by 51 % compared to the first three quarters of 2016, this increase was lower in the case of trade in services with the UK: 38 % compared to the same period of 2016.¹²⁰

In its implementation report on the EU-UK TCA for 2022, the European Commission reiterates its stance that it is still too early to determine the long-term economic impact, two years after the end of the transition period and over six years after the referendum. It explains, however, that certain economic implications of the withdrawal have become increasingly visible. In the short term, following a sharp decline in early 2021, both EU exports and imports in goods made a significant recovery in the first three quarters of 2022, approaching the 2019 pre-pandemic levels. Bilateral trade in services for both EU exports and imports recovered significantly in the first three quarters of 2022, exceeding the 2019 pre-pandemic levels. EU exports in services to the UK in the first three quarters of 2022 amounted to €181 billion, representing a 25.6 % increase compared to the same period in 2021. EU imports from the UK over the same period in 2022 were worth €139 billion, representing a 13.1 % increase compared to the same period in 2021. However, this growth was less dynamic when compared to EU trade in services with other international partners, where EU exports increased by 27.8 % and imports by 31.3 %. Looking at the longer term, data show that imports and exports in services combined remained rather stagnant during the 2016-2022 period. This contrasts sharply with EU trade with its other global partners.¹²¹

¹¹⁹ European Commission, op. cit., [COM\(2022\) 126 final](#), 24 March 2022, pp. 7-8.

¹²⁰ European Commission, op. cit., [COM\(2022\) 126 final](#), 24 March 2022, pp. 10-14.

¹²¹ European Commission, op. cit., [COM\(2023\) 118 final](#), 15 March 2023, pp. 13-16.

3.3. Trade flows between EU regions and the UK

A number of the EU regions from which EPRS had requested information on the consequences, initial outcomes and potential impact of the implementation of the EU-UK TCA provided data on trade. Below is an overview of this data.

In **Austria**, the authorities from the region of Tyrol did not yet have any figures for Tyrol's trade with the UK for 2022, but, based on figures for the 2019-2021 period, they pointed out that both the national and the Tyrolean trade balance for trade in goods with the UK showed a regular and stable surplus. The UK was the sixth most important export market in goods for Tyrol in 2019-2020, then fell to ninth place in 2021. Austria-wide goods exports to the UK recovered in 2022 and amounted to €5.1 billion (up from €4.5 billion in 2019). It is expected that this recovery will also be reflected in the Tyrol region's figures for 2022.

The forecast made by the Austrian Institute for Economic Research in a January 2021 study on the potential impact of the EU-UK TCA on the Austrian economy had been more pessimistic: Austrian agricultural exports to the UK would likely fall by up to 23 %, while imports from the UK would fall by up to 46 %. Austria's motor vehicle exports and motor vehicle supplier exports to the UK were likely to fall by around 5.7 %, while UK exports to Austria in that sector would drop by around 13 %. Moreover, Austrian financial services exports to the UK would decrease by around 13.9 %, while Austrian financial services imports from the UK were likely to fall by around 8.9 %.¹²²

In **Germany**, the study by Prognos on the impact of the TCA on the Bavarian economy shows that, in recent years, Bavarian-British foreign trade had already suffered from the uncertainties brought about by the news on Brexit. After the UK's de facto withdrawal from the EU single market at the end of 2020, trade declined yet again, while Bavaria's foreign trade with the rest of the world increased significantly in 2021. Between January and September 2021, Bavarian imports from the UK were 19 % lower than in 2020. Exports had also fallen by 3 % in 2021 compared to 2020. At the same time, Bavarian trade (imports and exports) had recorded growth of 18 % and 15 % respectively in 2021.¹²³

3.4. Changes and continuities in EU-UK trade in numbers

The trade part of the TCA 'has, predictably, caused disruption'.¹²⁴ While the TCA permits tariff- and quota-free movement for goods, non-tariff measures and rules-of-origin requirements render trade more cumbersome and costly, as explained in the previous section. The analysis below contextualises the European Commission's findings in its reports, by putting the Eurostat data in a longer timeframe (since the 2016 Brexit vote). It furthermore tries to unpack the data to show why it is too early to say whether the TCA is meeting its goals. What becomes clear is that many external factors have affected EU-UK trade: the coronavirus pandemic and related restrictions, Russia's war against Ukraine, the consequences of the energy transition and inflationary pressures. Some internal and bilateral (EU-UK) factors have also played a detrimental role: a difficult adaptation to and lack of knowledge of the procedures, as well as the fact that EU-UK political relations have, at times, been strained. What seems to emerge, however, is that the UK's objective of rendering its market less dependent on the EU single market may be taking shape, at least in trade in goods.

¹²² H. Oberhofer, M. Pfaffermayr and Y. Wolfmayr, [Die Auswirkungen des Brexit auf Österreichs Wirtschaft](#), Austrian Institute of Economic Research, January 2021.

¹²³ J. Weiß et. al., op. cit., 2021.

¹²⁴ J. Wachowiak, op. cit., 28 June 2021.

Figure 2 – EU-UK trade in goods and services, 2010-2022

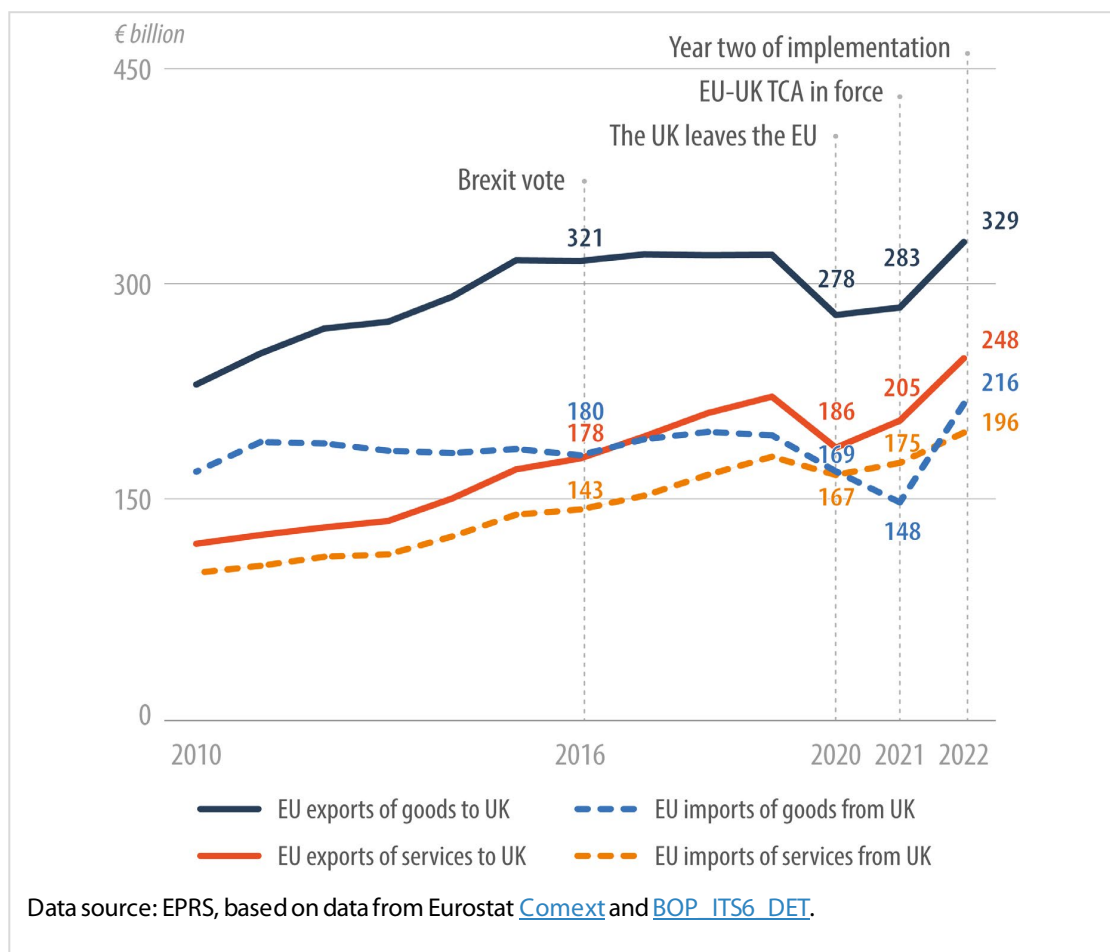


Figure 2 shows that in aggregate value in billions of euro, Brexit has not had a major effect on EU-UK trade – whether in terms of EU exports or imports from the UK and in terms of EU-UK trade in goods or EU-UK trade in services. However, as the same figure illustrates, EU-UK trade started to plunge around 2019, reaching its lowest point in 2020 for EU exports in goods and services from the UK and for EU imports of services from the UK. For their part, EU imports of goods from the UK reached their lowest point in 2021. EU exports to and imports from the UK had dropped respectively by 14.3 % and 35.4 % in the first three months of 2021.¹²⁵ Nevertheless, EU-UK trade in goods and services did not fall below the volume of trade before the Brexit vote.

EU-UK trade started to peak again in 2021-2022, reaching unprecedented levels. Admittedly, it is difficult to decouple the effects of the implementation of the EU-UK TCA from those of the pandemic and its consequences on the economy and global trade. The drop in EU-UK trade in early 2021 for several EU Member States can be attributed mainly to the lack of time for businesses to adapt to the new rules, given the short period between the moment of the TCA's signature and its provisional application, and the lack of guidance to businesses on the new legislative requirements.¹²⁶ One should also note the impact of high inflation since 2021 in both the UK and the EU-27, which has yet

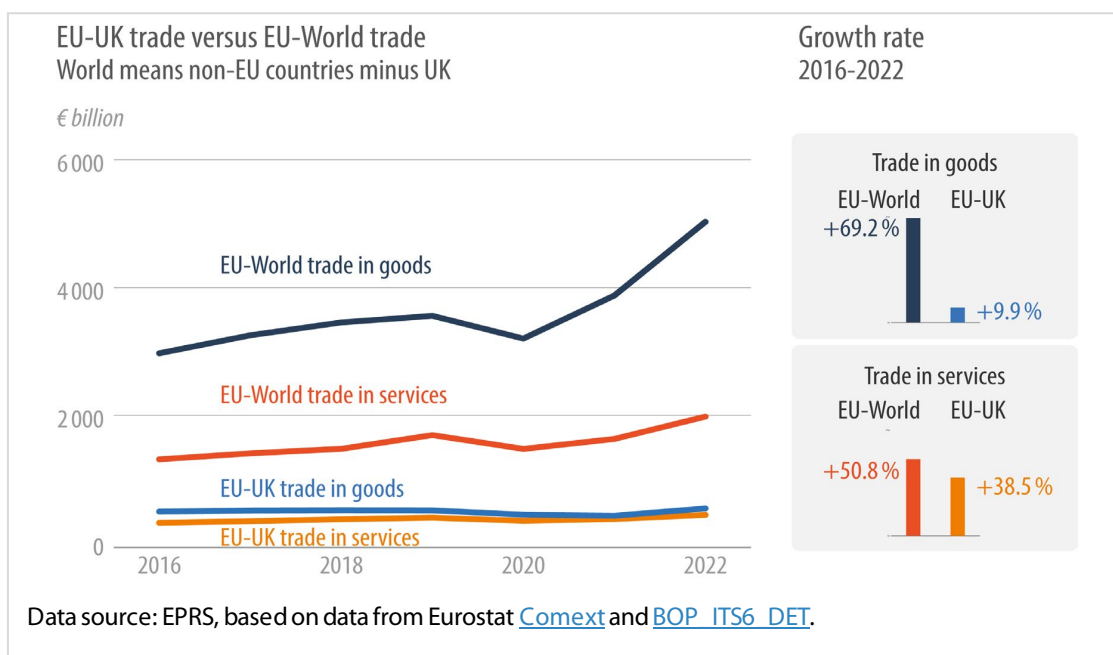
¹²⁵ Eurostat, [March 2021 – Euro area international trade in goods surplus €15.8 billion](#), Euroindicators 59/2021, 18 May 2021.

¹²⁶ M. Alessandrini et al., op. cit., 2021, p. 129.

to be discounted from the raw data. Between the third quarter of 2021 and the third quarter of 2022, there was a significant increase in extra-EU trade, mainly caused by rising commodity prices, particularly for imports of energy and food, as the Russian invasion of Ukraine put additional upward pressure on these products.¹²⁷ It is therefore not possible to attribute the changes in the volume of trade to the EU-UK TCA.

While one could conclude by looking at Figure 2 that the EU-UK TCA has boosted EU imports from and exports to the UK of both goods and services, Figure 3 helps to put the trade activity between the two parties in context. As EU international trade picked up again after experiencing a significant drop during the pandemic,¹²⁸ the boost in EU-UK trade post-2021 is only relative. According to Figure 3, the growth in EU trade in goods with the 'world' – extra-EU countries minus the UK – has been exponential since 2020 (post-pandemic), with EU global trade during 2016-2022 having increased by 69.2%. In parallel, during this same period – that is, since the Brexit vote – EU-UK trade in goods has only gone up by 9.9%. The difference in trade in services is less dramatic. Figure 3 shows that global EU trade in services (with extra-EU countries minus the UK) has risen by 50.8% (2016-2022), while in the same period EU-UK trade in services has risen by 38.5%.

Figure 3 – Trends in EU-UK trade versus trade between the EU and the rest of the world (trade in goods and services, imports and exports)



¹²⁷ European Commission, [EU trade balance deficit returns to almost zero](#), Eurostat, 24 May 2023.

¹²⁸ Looking at the last decade of EU total trade in goods, the export growth rate, after recording particularly high values (12% in 2011 and 9% in 2012), remained positive until 2019 before sharply decreasing in 2020. In 2020, EU-27 trade was hit hard by the coronavirus pandemic, with significant drops observed for both exports (-9.4%) and imports (-11.6%) compared with 2019. European Commission, [EU trade in goods strongly impacted by the COVID-19 pandemic in 2020](#), Eurostat, 25 March 2021.

Figure 4 provides a detailed picture of the UK share in the EU-27's total trade in goods. It shows that the UK share in EU trade in goods almost halved from 2007 to 2022, dropping from 16.3% to 9.8% of EU total trade. It also shows that the most substantial drop was observed during the two years since the EU-UK TCA has been implemented. The decline in the UK share in EU total trade in services over 2010-2022 was much less dramatic (2.3 percentage points), with the most recent peak in 2018.

Figure 4 – UK share in EU total trade

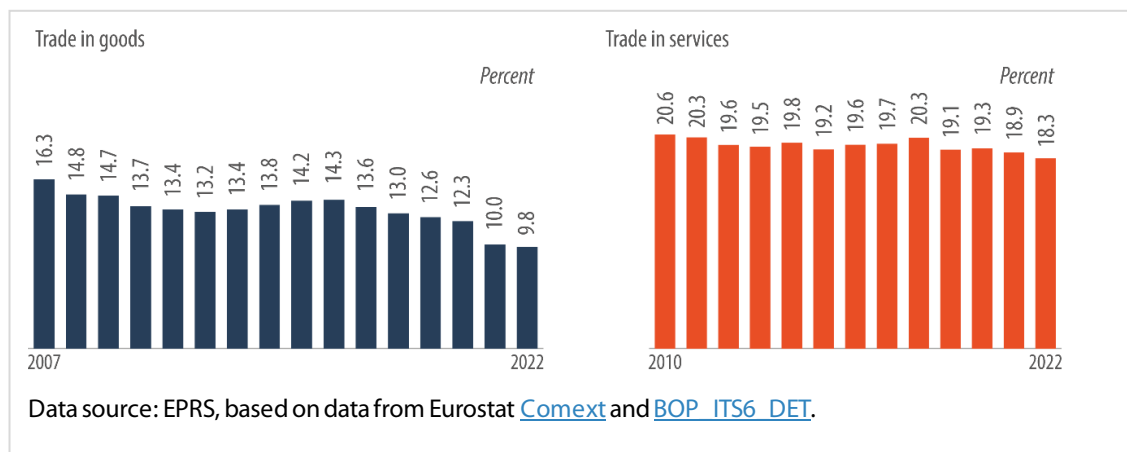
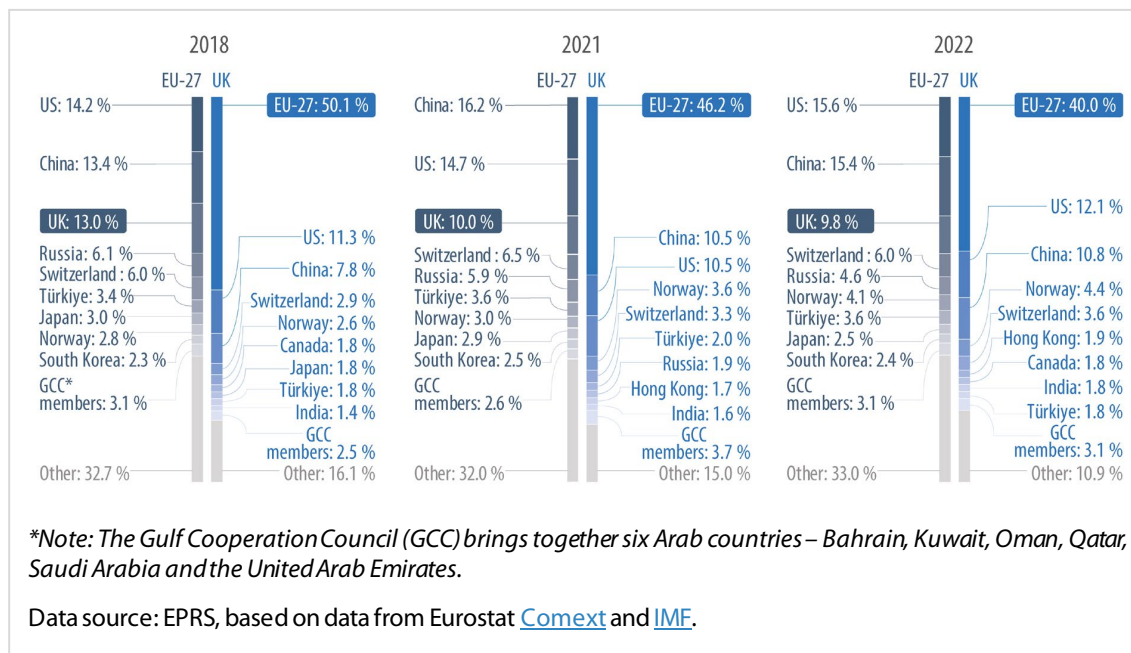


Figure 5 below depicts how the UK's and the EU's shares of total trade in goods have evolved over time and in comparison to the EU's top 10 trading partners in goods. It shows that, at an aggregate level, the UK has remained the EU-27's third largest partner as regards trade in goods, right after the United States and China, and that despite Brexit.

Figure 5 – Main EU-27 and UK partners in terms of trade in goods (exports and imports)



According to Eurostat data, in 2022 the United States was the largest destination for EU exports of goods, while China was the largest origin for EU imports of goods.¹²⁹ In 2021, the UK was the second largest partner for EU exports of goods (13 %) and the fourth largest partner for EU imports of goods (6.9 %).¹³⁰ Yet, as Figure 4 shows, despite the easing of trade that the EU-UK TCA brought for the two parties, the UK share in the EU-27's trade in goods fell from 13 % of the EU-27's total trade in 2018 to 10 % in 2021 (end of the first year of implementation of the TCA) and to 9.8 % in 2022 (end of the second year of implementation of the TCA).

In terms of the EU-27's share in the UK's total trade in goods, Figure 5 shows that, at aggregate level, the EU-27 has solidly remained the UK's top trading partner, with a substantial difference from the UK's next two largest trading partners (the United States and China). However, while trade between the UK and the United States, China and its other top 10 trading partners – such as Norway, Switzerland, Hong Kong, India and the Gulf Cooperation Council (GCC) members – has consistently increased, the EU-27's share of the UK's total trade has consistently shrunk. It fell from 50.1 % of the UK's total trade in 2018 (after the Brexit vote, but before the UK's withdrawal from the EU) to 46.2 % in 2021 (end of the first year of the implementation of the TCA) and to 40 % in 2022 (end of the second year of the implementation of the TCA). Although the UK still depends on EU trade in goods, the 10-percentage point contraction in the share of UK trade with the EU-27 in five years can be considered significant.

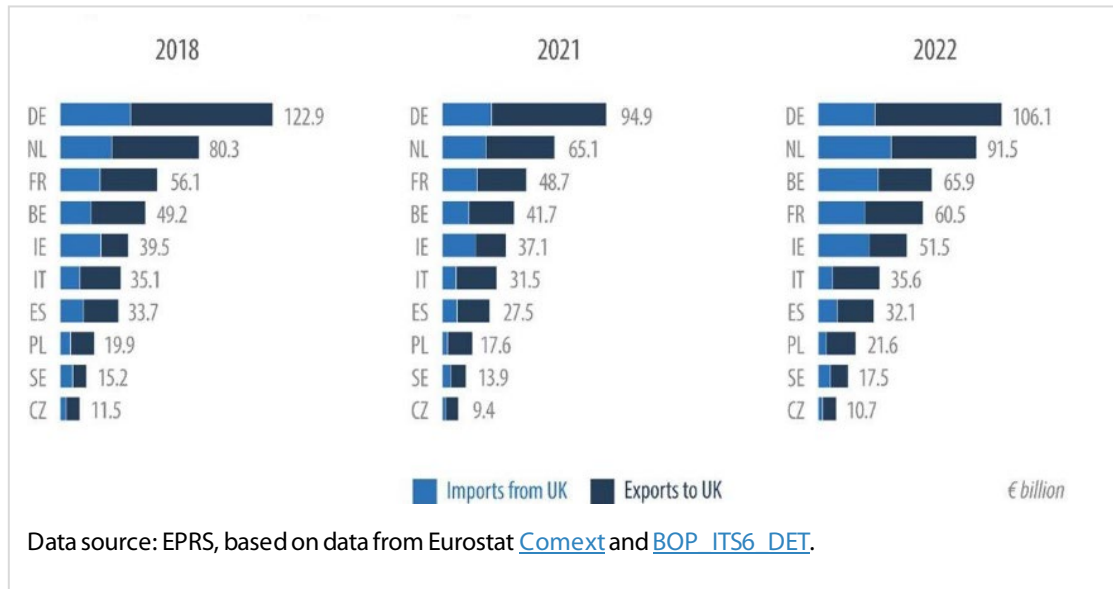
Figure 6 portrays a relative stability in the UK's top 10 EU Member State partners in terms of trade in goods. Not only have these partners remained the same, but most of them have also retained their ranking. In that light, the implementation of the EU-UK TCA does not seem to have had a notable impact on bilateral trade in goods between the EU-27 and the UK. The only change in ranking concerns Belgium, which overtook France in 2022 to become the UK's third biggest trade partner in goods. In addition, in 2022, while Germany remained the largest exporter of goods to the UK, the Netherlands and Belgium surpassed Germany in imports of goods from the UK. An important element to factor into the analysis is that Rotterdam (Netherlands) and Antwerp (Belgium) are the EU's two biggest ports and serve as key hubs where many goods are unloaded and reloaded (transhipped) for other destinations. Economists speak of the 'Rotterdam-Antwerp effect' to refer to errors in the way trade is calculated when goods flow through ports on their way to final destinations outside the country or trading block. While not inflating total trade flows, the 'Rotterdam-Antwerp effect' will distort the breakdown between one country's trade with the EU and with non-EU countries, although there is no agreement on the extent of distortion'. Interest in the Rotterdam-Antwerp effect has increased since Brexit and particularly since the end of the transition period, given its relative importance to the UK's trade with the EU and non-EU countries.¹³¹

¹²⁹ European Commission, [International trade in goods](#), Eurostat, 30 March 2023.

¹³⁰ European Commission, [United Kingdom-EU – international trade in goods statistics](#), Eurostat, 1 July 2022.

¹³¹ As an illustration, if an African country (X) exports corn oil to the UK, the corn oil shipment will likely pass through Rotterdam on its way to the UK. If this is recorded as a flow from country X to the EU, and then from the EU to the UK, it will have the effect of over-valuing EU trade with the UK and undervaluing non-EU trade with the UK. See N. Williams, [Trade Distortions and the EU](#), CIVITAS – Institute for the Study of Civil Society, July 2011; ['The Rotterdam effect'](#), *Economics Online*, 27 January 2020.

Figure 6 – The UK's top 10 EU Member State partners in terms of trade in goods (imports and exports)



As Figure 6 illustrates, before the UK's withdrawal from the EU, Germany was both the largest EU importer of goods from and largest exporter of goods to the UK in 2021 and in 2018. In 2020-2022, the Netherlands became the EU's main entry point for goods from third countries (including UK imports), before dispatching them to destinations within the EU. Ireland was the EU Member State with the largest share of trade for both imports and exports with third countries, which is not surprising, as the UK is its top trade partner.¹³² In 2022, a large majority of EU countries traded more within the EU single market than with countries outside the EU.¹³³ This is corroborated by Buigut and Kapar, mentioned earlier in this study, according to whose estimates the TCA has contributed to an increase in intra-EU trade by around 4.6%. This is an indicator that, to avoid incurring regulatory costs linked to exports to the UK, companies have started looking for substitute markets within the EU single market.¹³⁴

Figure 6 also shows that Ireland continues to be the EU Member State with the largest share of imports in goods from the UK relative to its trade with the UK. It has also consistently been the one EU Member State to import more goods from the UK than it has exported, regardless of Brexit or the EU-UK TCA. One could extrapolate that the EU-UK TCA and the Protocol have facilitated the trading relationship between Ireland and the UK. However, a longer-term perspective is needed to draw solid conclusions. Belgium is the only other EU Member State to have imported more goods from the UK (€34.6 billion) than it exported (€31.3 billion) in 2022, as shown in Figure 6.

Zooming in on EU-UK trade according to sectors, the following four figures analyse the evolution of EU exports and imports in goods to/from the UK, as well as the evolution of EU exports and imports in services to/from the UK. Once more, this evolution is studied across three chosen points in time:

¹³² European Commission, op. cit., [EU trade in goods strongly...](#), 25 March 2021; European Commission, [Maritime transport of goods – quarterly data](#), Eurostat, March 2023; E. Jones, [European Maritime Day 2023: Facts & Stats](#), Martide, 23 May 2023.

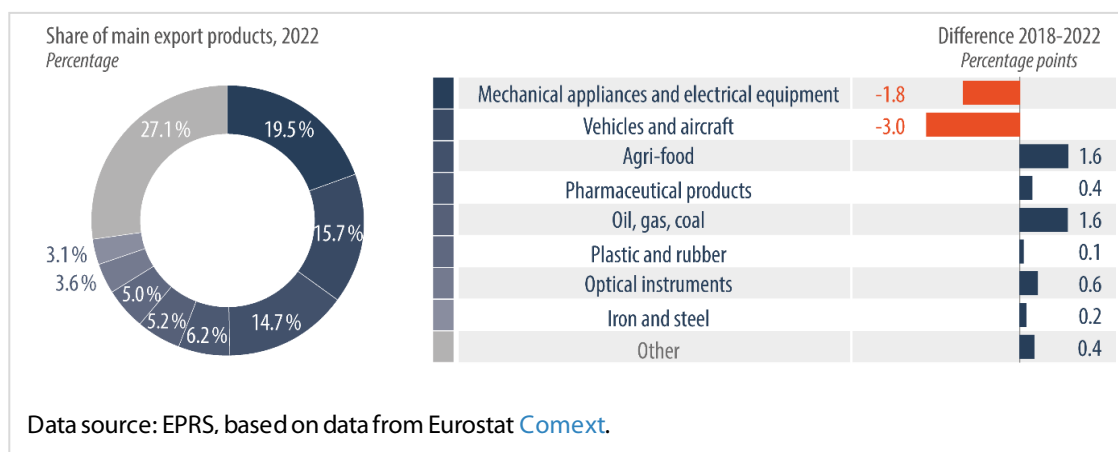
¹³³ European Commission, [International trade in goods](#), Eurostat, 30 March 2023.

¹³⁴ Buigut and Kapar, op. cit., p. 1577.

2018 (after the Brexit vote, but before the normalisation of EU-UK relations) and the two first years of implementation of the EU-UK TCA (2021 and 2022).

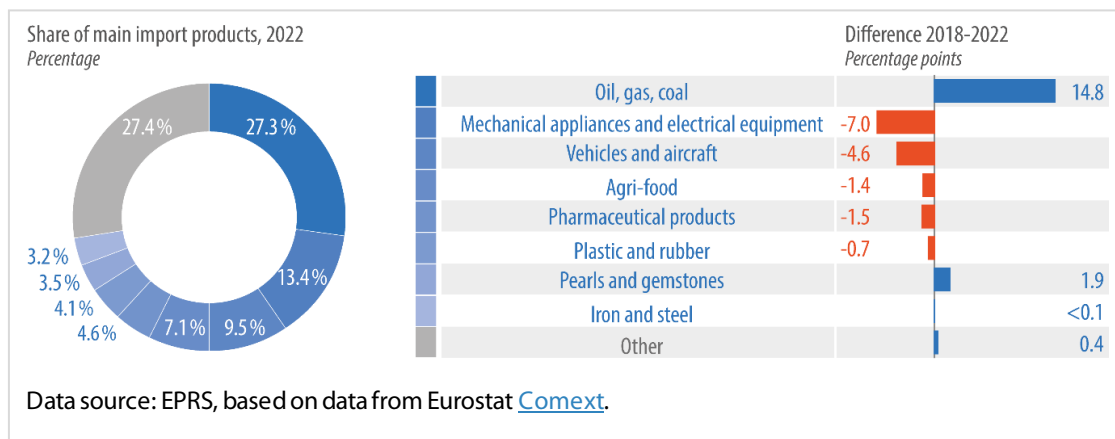
Figure 7 illustrates the share of the EU's main goods exported to the UK. It shows that the two sectors in EU goods exports to the UK that are the most affected when comparing figures for 2018 and 2022 are mechanical appliances and electrical equipment (with an overall loss of 1.8 percentage points) and vehicles and aircraft (with an overall loss of 3 percentage points). Goods from these two sectors have also been the most exported by the EU to the UK. The decrease has been consistent but gradual and, overall, limited, with the share of exports of mechanical appliances and electrical equipment standing at 20.6% of total EU exports of goods to the UK, and that of vehicles and aircraft at 15.4% in 2021. Regarding the majority of other goods examined in Figure 7, EU exports have remained stable, with only a marginal increase. This holds true for pharmaceutical products, plastic and rubber, and – to a lesser degree – for optical instruments. The two sectors where there has been a noticeable increase in EU exports in goods to the UK in 2018-2022 are i) agri-food and ii) oil, gas and coal. These changes may well be the consequence of Russia's war in Ukraine and the redistribution of value chains of supply.

Figure 7 – EU goods exports to the UK



When it comes to EU imports of goods from the UK, Figure 8 shows the substantial increase in EU imports of oil, gas and coal when comparing 2018 to 2022, with an almost 11-percentage point increase in just one year – from 16.6% in 2021 to 27.3% in 2022. This notable change is also likely linked to the energy crisis in the EU resulting from Russia's war in Ukraine. This has meant that the oil, gas and coal sector has moved up from third to second (from 2018 to 2021) to first place (in 2022), thus accounting for the largest share of EU imports of goods from the UK. Effectively, as of 2022, the share of imports of mechanical appliances and electrical equipment has fallen to second place, losing 3.2 percentage points in only one year (from 2021 to 2022). The share of EU imports of vehicles and aircraft from the UK has also experienced a substantial drop by 4.6 percentage points between 2018 and 2022, pushing it down from second to third place among the top sectors of EU goods imports from the UK. The agri-food, pharmaceutical products, plastic and rubber sectors have suffered small losses and have maintained their significance in EU goods imports from the UK. Finally, the share of imports of pearls and gemstones experienced a loss between 2021 and 2022, falling from 5.3% to 3.5%. It should be noted, however, that this sector did not feature among the top eight goods imported from the UK in 2018.

Figure 8 – EU goods imports from the UK



Changes in EU trade in services with the UK have been less significant, except for the share of EU exports in the travel sector (personal, business, tourism, and of goods and services). As Figure 9 illustrates, the share of travel in EU exports has more than doubled from 2021 to 2022. Equally, the share of transport services in EU exports has increased from 13.3% in 2021 to 15.3% in 2022. While the lifting of restrictions at the end of the pandemic likely played a role in the change in EU exports of travel services to the UK, these exports did not reach their pre-pandemic or pre-Brexit levels in terms of value in billions of euro. While travel was the second most exported service by the EU to the UK in 2018, it fell to fifth place in 2021 and to third place in 2022. The category 'various business services', which covers research and development, accounting, consulting, public relations, advertising, market research, public opinion polling, architectural, scientific, waste and trade related services, engineering, and operating leasing, has consistently retained its first place as the EU's most exported service to the UK. Nevertheless, the net value of EU exports in various business services fell from 2021 to 2022, as it did in information and communication technologies (ICT) and financial services.

Figure 9 – EU services exports to the UK

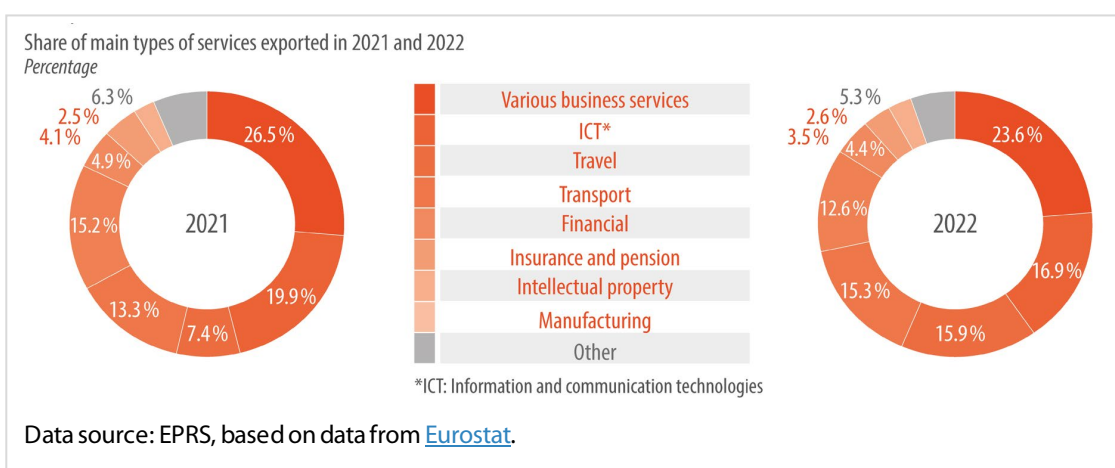
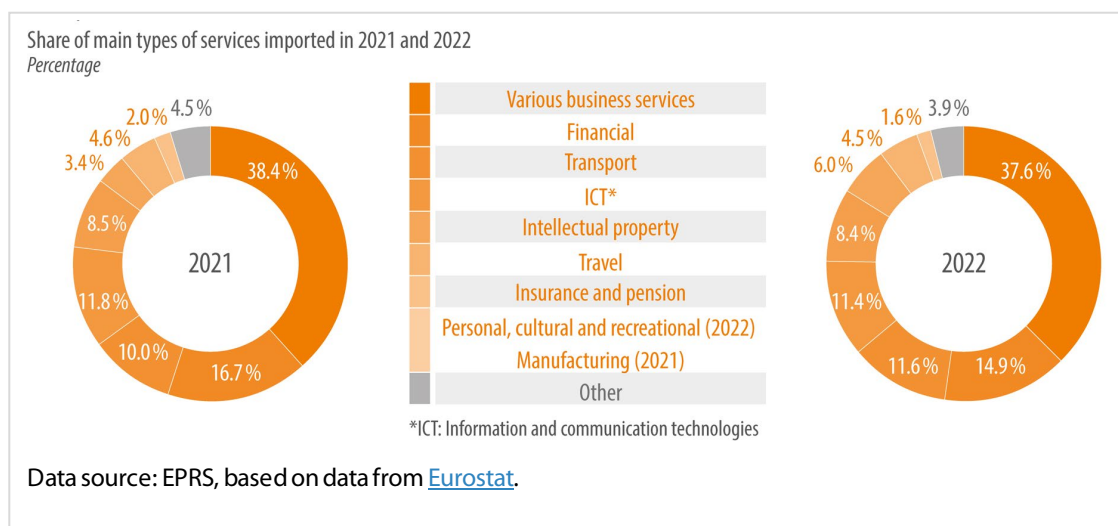


Figure 10 below tells a different story about the evolution of EU imports of services from the UK. Various business services and financial services have held their ranks throughout the crises (coronavirus, Russia's war in Ukraine, inflation), Brexit and the implementation of the EU-UK TCA, with minor changes. While the share of EU imports of various business services from the UK marginally decreased by less than 1 percentage point between 2021 and 2022, the share of EU imports of financial services decreased by less than 2 percentage points. The shares of EU imports of transport and travel services to the UK both increased: transport incrementally by 1.6 percentage points and travel (as with EU exports in services to the UK) almost doubling (from 3.4% to 6%). The composition of the list of top eight EU service sectors imported from the UK changed over the years, affecting the lowest-ranking entries. Thus, as Figure 10 shows, while manufacturing was seventh in the list of top eight EU services imported from the UK in 2021, it fell off the list, to be replaced by 'personal, cultural and recreational' services. In 2018, construction was in eighth place among EU imports of services from the UK.

Figure 10 – EU services imports from the UK



4. Parliament's oversight of the EU-UK TCA

The following section examines the recommendations put forward in European Parliament resolutions on the EU-UK TCA since its provisional application and analyses Members' questions posed to the European Commission, the High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the European Commission (HR/VP) and the Council of the EU.¹³⁵ It then looks at Parliament's oversight and monitoring activities regarding the EU-UK TCA – for instance, committee missions to the UK, committee hearings and workshops on the topic and debates in plenary. When assessing Parliament's level of activity in relation to the TCA, one should consider that Parliament has, in parallel, been equally active in relation to the WA¹³⁶ and to other Brexit-related issues. Examples of activities include questions (yet unanswered) on the consequences of Brexit on Ireland, the negotiation of the Windsor Framework, and the development of EU-UK relations on security and defence cooperation, which have remained outside the scope of the EU-UK TCA.¹³⁷

4.1. Parliament's position

So far, Parliament has outlined its position on the EU-UK TCA primarily through its resolution of 28 April 2021 on the outcome of the EU-UK negotiations on the TCA.¹³⁸ It has become increasingly common for Parliament to accompany its formal consent to the conclusion of an international agreement, in accordance with Rule 105(2) of the RoP, with a separate non-legislative resolution 'setting out the reasons why Parliament should give or refuse its consent and, where appropriate, making recommendations for the implementation of the proposed' agreement.¹³⁹ In addition, Parliament has addressed concerns regarding the TCA on two other occasions, one in the context

¹³⁵ This section focuses on Parliament's scrutiny and oversight role as of the provisional application of the EU-UK TCA (1 January 2021) until the time of writing (9 July 2023).

¹³⁶ See, for example, European Parliament resolution of 18 September 2019 on the state of play of the UK's withdrawal from the European Union (2019/2817(RSP)), [P9_TA\(2019\)0016](#); European Parliament resolution of 15 March 2023 on the implementation report on the Agreement on the withdrawal of the UK from the EU (2020/2202(INI)), [P9_TA\(2023\)0080](#); European Parliament legislative resolution of 13 March 2019 on the proposal for a regulation of the European Parliament and of the Council laying down provisions for the continuation of ongoing learning mobility activities under the Erasmus+ programme in the context of the withdrawal of the United Kingdom of Great Britain and Northern Ireland ('United Kingdom') from the European Union (COM(2019)0065 – C8-0040/2019 – 2019/0030(COD)), [P8_TA\(2019\)0167](#); European Parliament legislative resolution of 13 March 2019 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 1316/2013 with regard to the withdrawal of the United Kingdom from the Union (COM(2018)0568 – C8-0385/2018 – 2018/0299(COD)), [P8_TA\(2019\)0191](#); European Parliament resolution of 5 April 2022 on the future of fisheries in the Channel, North Sea, Irish Sea and Atlantic Ocean in the light of the UK's withdrawal from the EU (2021/2016(INI)), [P9_TA\(2022\)0103](#); European Parliament legislative resolution of 4 April 2019 on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, as regards the withdrawal of the United Kingdom from the Union (COM(2018)0745 – C8-0483/2018 – 2018/0390(COD)), [P8_TA\(2019\)0336](#).

¹³⁷ See, for instance, European Parliament resolution of 15 March 2023 on the implementation report on the Agreement on the withdrawal of the UK from the EU (2020/2202(INI)), [P9_TA\(2023\)0080](#); European Parliament resolution of 12 February 2020 on the proposed mandate for negotiations for a new partnership with the United Kingdom of Great Britain and Northern Ireland (2020/2557(RSP)), [P9_TA\(2020\)0033](#); European Parliament resolution of 17 February 2022 on the implementation of the common foreign and security policy – annual report 2021 (2021/2182(INI)), [P9_TA\(2022\)0039](#).

¹³⁸ European Parliament resolution of 28 April 2021 on the outcome of EU-UK negotiations (2021/2658(RSP)), [P9_TA\(2021\)0141](#).

¹³⁹ European Parliament, [Rule 105 on the Rules of Procedure of the European Parliament: Consent procedure](#), 9th parliamentary term – July 2022.

of requirements for the UK to protect personal data and another relation to the decision on the numerical strength of the EU-UK Parliamentary Partnership Assembly (PPA).

In its 28 April 2021 resolution giving its consent to the EU-UK TCA, Parliament expresses strong concern over its **limited scope**, pointing to the fact that a range of key areas (e.g. foreign policy, the Erasmus+ programme, judicial cooperation in civil matters and asylum) were left outside the agreement.¹⁴⁰ To remedy this, Parliament suggests 'that future cooperation and coordination between the EU and UK should be governed by a systemic platform for high-level consultations and coordination on **foreign policy** issues, including challenges posed by countries such as Russia and China, a close engagement on security matters, including in the framework of EU-NATO cooperation, and a systematic preferential cooperation as regards in particular peacekeeping operations' (paragraph 22). To have the opportunity to reconsider its decision on the **Erasmus+ programme**, Parliament urges 'the UK to use the "cooling-off" period provided for under the Joint Declaration on Participation in EU Programmes to reconsider its position' (paragraph 53).

On **judicial cooperation in civil matters**, Parliament 'emphasises the need to reach a joint understanding in this area as soon as possible' (paragraph 59). It also 'regrets that the agreement gives no role to the Court of Justice of the European Union [CJEU], in spite of the commitment of the parties in the Political Declaration to ensure that the arbitration panel would refer to the CJEU for a binding ruling in case a dispute between them raised a question of interpretation of concepts of EU law' (paragraph 61). Even if the TCA does not provide a 'detailed and meaningful solution with regard to matrimonial, parental responsibility and other family matters', Parliament welcomes 'the possibilities for enhanced cooperation, at least in key family law issues and matters of practical cooperation in the areas of parental responsibility, child abduction and maintenance obligations, that can be offered via the participation of the UK as an observer to the meetings of the European Judicial Network on civil and commercial matters' (paragraph 60).

On the missing common approach to **asylum, migration and border management**, Parliament 'calls for a relevant agreement that would replace the Dublin Regulation to be agreed swiftly between the EU and the UK' (paragraph 36). Moreover, Parliament 'regrets the lack of ambition of the Agreement on mobility policies and calls for the development of safe legal migration pathways between the EU and UK' (paragraph 37). Furthermore, Parliament calls for thorough scrutiny 'to ensure that the Agreement does not contain loopholes that allow [the UK Crown Dependencies and UK Overseas Territories] to be used as counterparts for developing new harmful tax schemes impacting the functioning of the internal market' (paragraph 44), given that these territories are excluded from the EU-UK TCA.

In addition, the 28 April 2021 resolution points to several **areas where no arrangements were found between the EU and UK in the context of the TCA**. One example are **geographical indications** (GIs), with Parliament observing that it 'regrets that no arrangements regarding future GIs could be found contrary to the commitments taken in the Political Declaration' and 'acknowledges nevertheless the "rendez-vous" clause to extend protection in the future and urges both parties to activate this clause as soon as possible' (paragraph 16). Another example is taxation, which 'is not subject to dispute settlement provisions nor to rebalancing measures'; Parliament therefore 'recalls [...] the possibility to request a review of the trade heading four years after the entry into force of the Agreement should imbalances arise' (paragraph 18 iv). Moreover, Parliament notes that the material scope for **social security** and the approach to **health security** remain limited,

¹⁴⁰ Indicatively, a study prepared at the request of the JURI committee and that analysed ways of ensuring efficient EU-UK cooperation in civil law matters, does not mention the EU-UK TCA once. See, L.B. Dittrich, [Ensuring Efficient Cooperation with the UK in civil law matters: Situation after Brexit and Options for Future Cooperation](#), Policy Department for Citizens' Rights and Constitutional Affairs, Directorate-General for Internal Policies, March 2023.

adding that 'family benefits, long-term care and non-contributory cash benefits and the exportability of unemployment benefits are not included' in the TCA. This means that parties must 'immediately provide citizens affected by restrictions to free movement with solid and reliable information regarding their rights to residence, to work and to social security coordination' (paragraph 33). Parliament also notes that cooperation in health security 'has been limited to assess[ing] 'significant' public health risks, and to coordinat[ing] the measures that could be required to protect public health' (paragraph 46).

The 28 April 2021 resolution furthermore points to several **procedural deviations hampering scrutiny**. Parliament highlights the 'resulting uncertainty [from the TCA negotiations] which is imposing high costs on citizens and economic operators and has also impacted Parliament's prerogatives to scrutinise and apply democratic oversight of the final text of the Agreements ahead of their provisional application' (paragraph 7). In light of this, Parliament 'stresses that in no way can this process constitute a precedent for future trade agreements, where the usual format of cooperation and access to information must be guaranteed, in line with Article 218(10) TFEU, including the sharing of all negotiating texts, regular dialogue, and sufficient time for formal Parliament scrutiny and debate of agreements'. Parliament also 'underlines that agreements must not be applied provisionally without the consent of Parliament' (paragraph 7). The resolution stresses that 'EU rights to fish are being questioned with diversionary means through the impossibility to timely adopt an agreement on TACs and quotas and through unacceptable technical measures, as well as through controversial restrictive interpretations concerning the conditions to acquire licences' (paragraph 29). Equally, Parliament is 'concerned that the Partnership Council is allowed to amend Annexes 35, 36 and 37' and 'requests that Parliament be properly consulted ahead of any such change' (paragraph 28).

To strengthen scrutiny, in its decision on setting up a delegation to the EU-UK PPA, Parliament defined the numerical strength and established 'a new standing delegation to the EU-UK Parliamentary Partnership Assembly with 35 members' respectively, which the EU-UK TCA provides for. The EU-UK PPA 'may request relevant information regarding the implementation of that agreement and any supplementing agreement from the EU-UK Partnership Council' and it 'shall be informed of the decisions and recommendations of the EU-UK Partnership Council; and may make recommendations to the EU-UK Partnership Council'.¹⁴¹

Parliament's resolution of 28 April 2021 also includes a relatively long, detailed and assertive Section 6 on the **implementation of the Protocol**.¹⁴² In it, Parliament takes a firm position against the UK's 'unilateral actions' to extend grace periods, which it considers to be in breach of the WA and to pose a 'serious threat to the integrity of the single market'. Parliament also calls 'strongly' on the UK government to act in good faith and fully implement the terms of the agreements it has signed, without delay, and on the basis of a credible and comprehensive timetable set jointly with the European Commission in accordance with the good faith obligation under the WA. In addition, Parliament encourages the Commission to pursue infringement proceedings against the UK 'with vigour', and notes that persistent non-compliance with the outcome of dispute settlement proceedings under the WA may also result in the suspension of obligations and restrict the unprecedented levels of market access under the TCA. It considers the risk that the TCA may be suspended to serve as a potential instrument for enforcing the WA.

¹⁴¹ European Parliament decision of 5 October 2021 on setting up a delegation to the EU-UK Parliamentary Partnership Assembly, and defining its numerical strength (2021/2917(RSO)), [P9_TA\(2021\)0398](#).

¹⁴² European Parliament resolution of 28 April 2021 on the outcome of EU-UK negotiations (2021/2658(RSP)), [P9_TA\(2021\)0141](#).

As regards **interim provisions in the EU-UK TCA**, in its 28 April 2021 resolution Parliament highlights the 'interim provision for transmission of personal data to the UK', reiterating its stance taken in its resolutions of 12 February 2020 and 18 June 2020 on the importance of data protection 'both as a fundamental right, as well as a key enabler for the digital economy' (paragraph 34). It therefore urges the European Commission 'not to adopt a positive adequacy decision if the conditions set under EU law and case law are not fully respected' and 'stresses that an adequacy decision may not be the object of negotiation between the UK and the EU since it refers to the protection of a fundamental right recognised by the European Convention on Human Rights (ECHR), the Charter and the EU Treaties' (paragraph 34). In its 21 May 2021 resolution on the adequate protection of personal data by the UK, Parliament also mentions that, importantly, the TCA provides a number of safeguards and conditions for exchanging relevant personal data in the context of law enforcement and includes 'a "bridging clause" as an interim solution, conditional upon the commitment by the UK not to change its current data protection regime, in order to ensure the continuation of personal data flows between the UK and the EU until the adoption of an adequacy decision'.¹⁴³

In its 28 April 2021 resolution, Parliament also 'stresses the need for **greater investment in customs control facilities** and for further coordination and exchange of information between both parties' to prevent trade disruptions and 'preserve the integrity of the customs union in the interest of consumers and businesses' (paragraph 26). Moreover, the resolution points to the need for close EU-UK cooperation to prevent unnecessary delays and disruptions in the transport system. It also points to the need for financial support to certain ports to rapidly remove hurdles to physical infrastructure at the border crossings so as to maintain connectivity to the greatest extent possible (paragraph 49).

On 9 May 2023, Parliament agreed on three laws to implement the Windsor Framework. One of them concerns certain steel products subject to tariff quotas brought from Great Britain to Northern Ireland, which will no longer be subject to the 25 % tariff linked to EU safeguard measures, to ensure these transfers are economically viable.¹⁴⁴ Parliament's legislative resolution on the application of Union tariff rate quotas and other **import quotas to certain products transferred to Northern Ireland** also refers to these steel products subject to tariff rate quotas. The law adopted in the context of the Windsor Framework clarifies the issue brought up in Parliament's aforementioned legislative resolution, which refers to the fact that the EU-UK TCA confers on the EU the right to introduce tariff rate quotas or other import quotas with regard to imports of goods originating in the UK under certain circumstances. In this context, the resolution points to the need to clarify whether goods originating in the UK and released for free circulation in Northern Ireland are eligible for treatment under the TCA's tariff rate quotas or other import quotas.¹⁴⁵

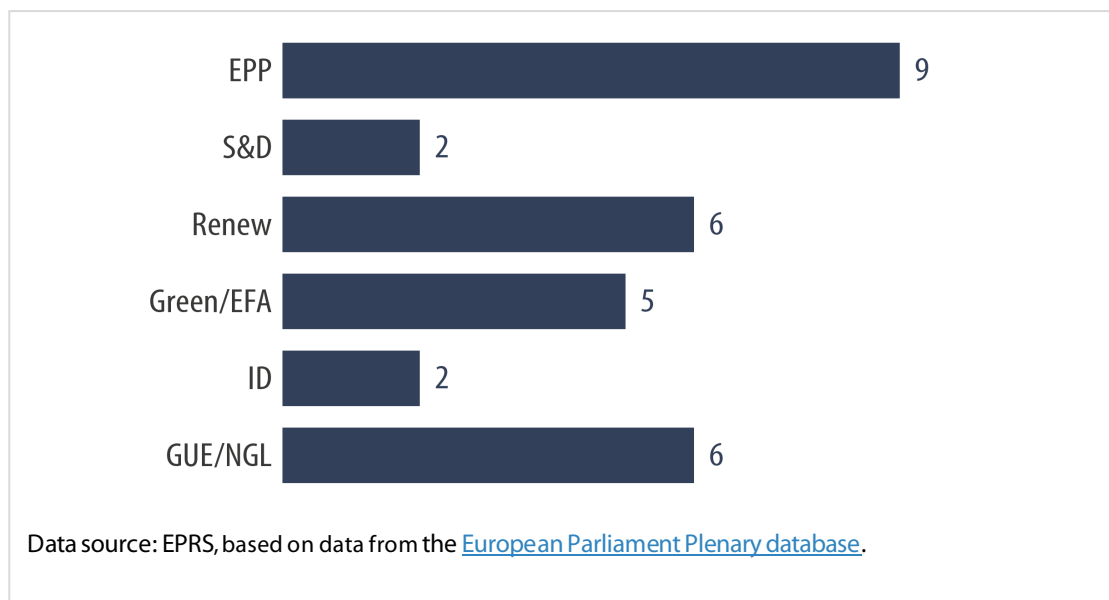
¹⁴³ European Parliament resolution of 21 May 2021 on the adequate protection of personal data by the United Kingdom (2021/2594(RSP)), [P9_TA\(2021\)0262](#), p. 4, E.

¹⁴⁴ European Parliament, [EU-UK relations: Parliament adopts three laws to implement the Windsor Framework](#), Press release, 9 May 2023.

¹⁴⁵ European Parliament legislative resolution of 9 May 2023 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2020/2170 as regards the application of Union tariff rate quotas and other import quotas to certain products transferred to Northern Ireland (COM(2023)0125 – C9-0032/2023 – 2023/0063(COD)), [P9_TA\(2023\)0121](#).

4.2. Questions put forward by Members

Figure 11 – Political affiliation of Members having posed written questions



In line with Rule 138 of Parliament's RoP,¹⁴⁶ the Members of the European Parliament have made frequent use of their right to forward written questions to the Council of the EU, European Commission and/or to the HR/VP. Throughout the current legislature up until July 2023, when this study was completed,¹⁴⁷ Members had posed 31 written questions on the EU-UK TCA, including its implementation. All but two questions were addressed to the European Commission, one to the HR/VP¹⁴⁸ and another one to the Council.¹⁴⁹ In addition, a Member posed an oral question on behalf of the Committee on Legal Affairs (JURI). As defined in Rule 136 of Parliament's RoP, a committee, a political group or a Member can also pose a question for an oral answer with a debate.¹⁵⁰

Figure 11 (on the left) shows that the Members having submitted questions came from almost all political groups in the Parliament, with those from the EPP Group taking the lead. A total of 66 Members from 10 Member States posed 31 written questions on the EU-UK TCA. Of these, 10 were put forward by groups of Members.

¹⁴⁶ European Parliament, [Rule 138 of the Rules of Procedure of the European Parliament: Questions for written answer](#), 9th parliamentary term – July 2022.

¹⁴⁷ The last update took place on 9 July 2023.

¹⁴⁸ European Parliament, Written question by François Alfonsi (Greens/EFA), [E-003781/2021](#), 28 July 2021.

¹⁴⁹ European Parliament, Written question by Patrick Breyer (Greens/EFA), [E-003397/2021](#), 1 July 2021.

¹⁵⁰ European Parliament, [Rule 136 of the Rules of Procedure of the European Parliament: Questions for oral answer with debate](#), 9th parliamentary term – July 2022.

Figure 12 – Number of Members having posed written questions by nationality

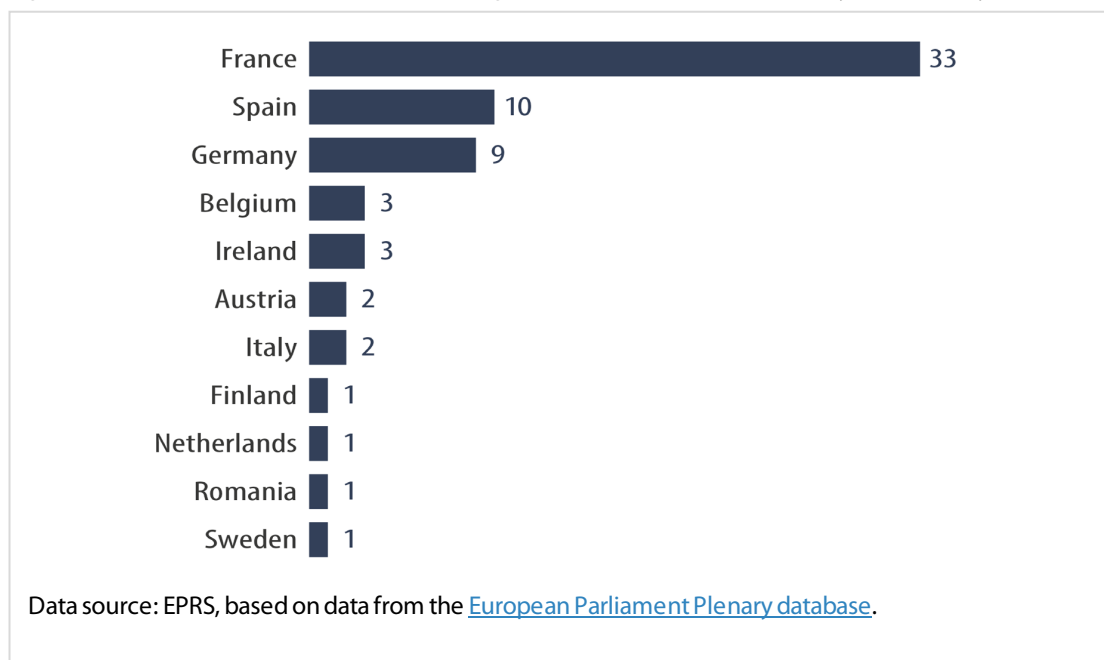


Figure 12 shows that the majority of Members having posed written questions come from France, Spain and Germany, with French Members accounting for more than half of the authors (33). One third of written questions (10) was put forward to the Commission by groups of Members, representing different political groups. Moreover, two questions benefited from the support of Members other than the authors. One question was written by one Member but received the support of over 24 other Members of the same group across different nationalities,¹⁵¹ while another question received the support of another two French Members.¹⁵² Past EPRS research has demonstrated that grouped written questions to the European Commission tend to have a bigger impact than questions posed by a single Member.¹⁵³

Figure 13 – Average time range between Members' questions and Commission or Council answers in days



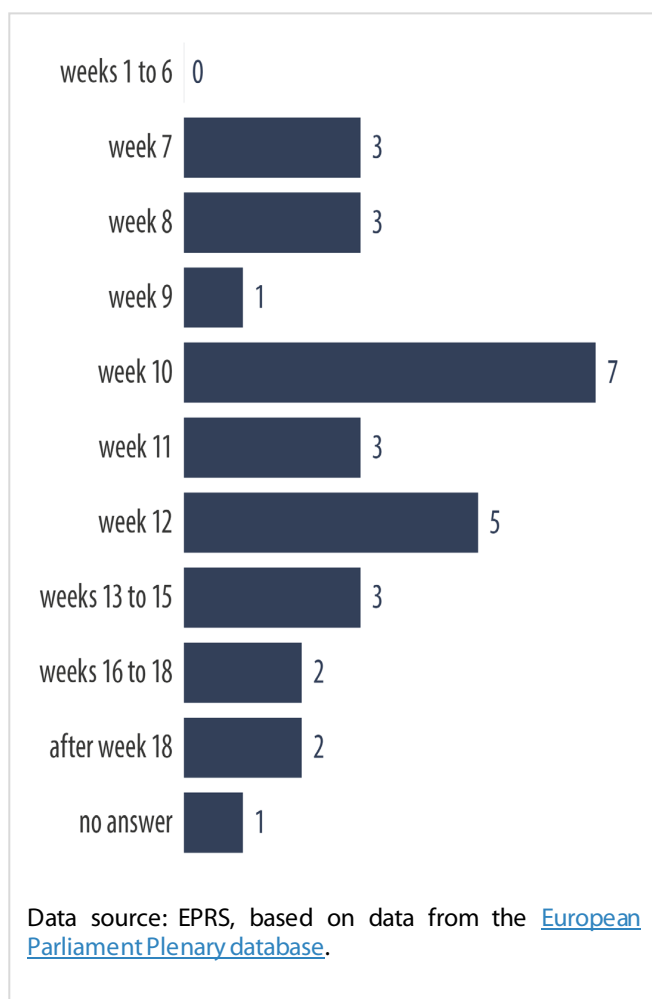
¹⁵¹ European Parliament, Written question by Nathalie Loiseau (Renew), [P-000826/2021](#), 10 February 2021.

¹⁵² European Parliament, Written question by France Jamet (ID), Herve Juvin (ID), H el ene Laporte (ID), Julie Lechanteux (ID), Jean-Fran ois Jalkh (ID), Andr e Roug e (ID), Jean-Paul Garraud (ID), [E-000345/2021](#), 20 January 2021.

¹⁵³ See I. Ioannides, [EU Guidelines on Human Rights Defenders – European Implementation Assessment](#), EPRS, European Parliament, 2022, pp. 51-57.

Rule 138 of Parliament's RoP sets the maximum time within which a Member should receive an answer to their question from the Commission/Council at six weeks (42 days).¹⁵⁴ Of the 31 analysed questions, only one was not answered, remaining open for three months after having been filed.¹⁵⁵ None of the Members' written questions were answered within the 42-day deadline. Figure 13 shows that, on average, the addressees, primarily the Commission, took 79 days to answer a Member's question. The Commission's swiftest reply came in 43 days,¹⁵⁶ and its slowest in 142 days.¹⁵⁷

Figure 14 – Number of answers to Members' written questions according to the week of reception



In general, Parliament received the answers to its written questions between week 6 and week 21 after the question was posed. Figure 14 clusters questions according to the timeframe within which an answer was received. While no question was answered within the 42-day deadline, three questions were answered within week 7. The figure also illustrates the variation of time taken for answering questions, demonstrating that an answer to the majority of questions was received within weeks 7 and 12.

The Members' questions related to the EU-UK TCA addressed a number of horizontal and policy issues, as shown in Figure 15 below. At a horizontal level, Members were interested in finding out about the governance framework (seven questions) and its application, and the respecting of EU standards (three questions). Most of the policy-related questions focused on fisheries, and to a lesser degree on trade and social dumping, EU standards and justice and home affairs (including data protection). The fewest number of questions were on education, space and the EU's humanitarian response.

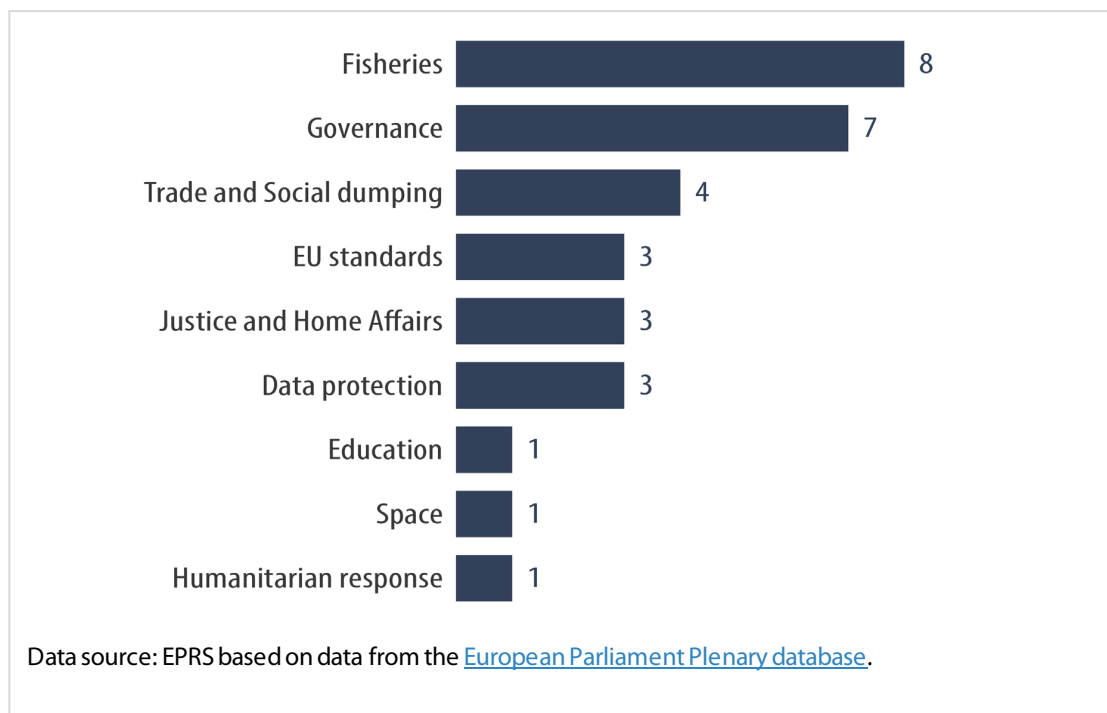
¹⁵⁴ European Parliament, [Rule 138 of the Rules of Procedure of the European Parliament: Questions for written answer](#), 9th parliamentary term – July 2022.

¹⁵⁵ European Parliament, Question for oral answer by Adrián Vázquez Lázara on behalf of the Committee on Legal Affairs, [O-000022/2021](#), 22 June 2021.

¹⁵⁶ European Parliament, Written question by Francisco José Millán Mon (EPP), [E-001224/2022](#), 23 March 2022.

¹⁵⁷ European Parliament, Written question by Niklas Nienaß (Greens/EFA), Ville Niinistö (Greens/EFA), [P-000332/2022](#), 26 January 2022.

Figure 15 – Number of Members' questions per horizontal and sectoral category



Regarding the **governance of the EU-UK TCA**, Members inquired about the instruments that the European Commission has in place under the Withdrawal Agreement and the TCA to ensure that judgments handed down by EU and Member State courts are enforced in the UK.¹⁵⁸ A similar question by a Member on the enforcement of judgments was about the Commission's stance on the UK's possible accession to the Lugano Convention.¹⁵⁹ Concerning the transparency and parliamentary approval of amendments initiated by the Partnership Council, Members were also interested in which cases the scrutiny process by the European Parliament would be triggered.¹⁶⁰ In relation to transparency, Members queried whether the list of arbitrators composing the arbitration mechanism under the TCA would be made public.¹⁶¹ Another related question focused on the need for more consultation, especially with the European Parliament, to ensure the proper implementation of the EU-UK TCA.¹⁶²

Yet another question addressed the uncertainty over the validity of a notice by the European Commission regarding the EU Rules on European Works Councils in light of the UK's withdrawal

¹⁵⁸ European Parliament, Written question by Francisco José Millán Mon (EPP), [E-002350/2022/rev.1](#), 29 June 2022.

¹⁵⁹ European Parliament, Question for oral answer by Adrián Vázquez Lázara on behalf of the Committee on Legal Affairs, [O-000022/2021](#), 23 June 2021.

¹⁶⁰ European Parliament, Written question by Emmanuel Maurel (GUE/NGL), Younous Omarjee (GUE/NGL), Manon Aubry (GUE/NGL), Manuel Bompard (GUE/NGL), Leila Chaibi (GUE/NGL), Anne-Sophie Pelletier (GUE/NGL), [E-000329/2021](#), 20 January 2021.

¹⁶¹ European Parliament, Written question by France Jamet (ID), Herve Juvin (ID), Hélène Laporte (ID), Julie Lechanteux (ID), Jean-François Jalkh (ID), André Rougé (ID), Jean-Paul Garraud (ID), [E-000345/2021](#), 20 January 2021.

¹⁶² European Parliament, Written question by Nathalie Loiseau (Renew), [P-000826/2021](#), 10 February 2021.

from the EU. The question sought to clarify whether this notice was still valid after the end of the transition period.¹⁶³

One Member inquired about the effect of the Union declaration on the Chagos Archipelago/British Indian Ocean Territory, adopted on 1 June 2021. According to the declaration, the remark on the territory in Article 774 of the TCA should be interpreted and implemented in line with applicable international law. Since the respective Article of the TCA specifies that the TCA does not apply in this territory, the Member asked about the effect of this declaration in practice. Additionally, the Member was concerned about the specific terminology used with regard to the Chagos islands in the agreement. While the EU-UK TCA refers to these islands as the 'British Indian Ocean Territory', it was argued that the denomination that complies with international law is 'Chagos Archipelago'.¹⁶⁴

Members raised three questions regarding the (lack of) respect for **EU standards**. Firstly, Members asked the European Commission for action to ensure the protection of and information about EU citizens' rights.¹⁶⁵ Secondly, they questioned the proposed 'free port' arrangement on European soil, highlighting the need for compliance with EU standards.¹⁶⁶ The third question emphasised the need for mutual recognition agreements (MRA) between the EU and the UK. While the UK already has several MRAs in place, European notified bodies would be disadvantaged by the absence of an MRA between the EU and the UK.¹⁶⁷

The impact on the economy and trade-related topics, such as **dumping**, have often been at the heart of Members' questions. Fiscal and social dumping and consequent risks for fair competition between the EU and the UK economies were an issue of concern in two questions posed by Members.¹⁶⁸ In their first question, Members asked, among other things, what procedures were in place in the TCA to ensure fair competition in the event of major divergences between the EU and the UK in business taxation arrangements. In the second question, Members wanted to know how, given that the non-regression clauses (clauses seeking to prevent social dumping) do not include a list of rights that must be upheld, fair competition between the two economies would be ensured and how the material impact of social dumping on trade would be identified in the event of a dispute over workers' rights. As part of the second question, Members asked the Commission what means it had to fight against the development of a network of freeports by the UK.¹⁶⁹ In yet another related question, Members were particularly concerned about the long-term impact of the EU-UK TCA on the EU and UK's GDP levels and on their bilateral exports.¹⁷⁰

In other questions, a Member addressed the need to give EU and UK customs officials training on the TCA rules, as well as highlighting the problems in cross-border trade, such as uncertainties, delays, increased costs at customs, and the UK and the different EU Member States implementing

¹⁶³ European Parliament, Written question by Billy Kelleher (Renew), [P-000494/2021](#), 27 January 2021.

¹⁶⁴ European Parliament, Written question by François Alfonsi (Greens/EFA), [E-003781/2021](#), 28 July 2021.

¹⁶⁵ European Parliament, Written question by Nicola Danti (Renew), [P-002650/2021](#), 17 May 2021.

¹⁶⁶ European Parliament, Written question by Emmanuel Maurel (GUE/NGL), [E-001396/2021/rev.1](#), 11 March 2021.

¹⁶⁷ European Parliament, Written question by Marion Walsmann (EPP), [E-003503/2021](#), 8 July 2021.

¹⁶⁸ European Parliament, Written question by Emmanuel Maurel (GUE/NGL), Younous Omarjee (GUE/NGL), Manon Aubry (GUE/NGL), Manuel Bompard (GUE/NGL), Leila Chaibi (GUE/NGL), Anne-Sophie Pelletier (GUE/NGL), [E-000326/2021](#), 20 January 2021; European Parliament, Written question by Emmanuel Maurel (GUE/NGL), Younous Omarjee (GUE/NGL), Manon Aubry (GUE/NGL), Manuel Bompard (GUE/NGL), Leila Chaibi (GUE/NGL), Anne-Sophie Pelletier (GUE/NGL), [E-000325/2021](#), 20 January 2021.

¹⁶⁹ European Parliament, Written question by Emmanuel Maurel (GUE/NGL), Younous Omarjee (GUE/NGL), Manon Aubry (GUE/NGL), Manuel Bompard (GUE/NGL), Leila Chaibi (GUE/NGL), Anne-Sophie Pelletier (GUE/NGL), [E-000325/2021](#), 20 January 2021.

¹⁷⁰ European Parliament, Written question by Kathleen Van Brempt (S&D), Paolo De Castro (S&D), [E-000479/2021/rev.1](#), 27 January 2021.

the TCA differently. In light of this situation, they asked the Commission what it thought of the burden the TCA currently places on customs officials, and of the problem of streamlining customs procedures.¹⁷¹

Besides these horizontal issues, Members raised questions about specific policies. Fisheries, data protection, education, and justice and home affairs issues were of particular interest. Eight Members' questions concerned **fisheries**, mostly regarding the implementation of the EU-UK TCA in this policy domain. As the agreement envisages the establishment of different bodies, such as a Special Committee on Fisheries or an advisory group, the questions were about the setting up and meetings of these bodies.¹⁷² Since the Commission is supposed to publish an annual implementation and application report, a Member was interested in whether this report would also focus on fisheries provisions, for instance those on granting licences to EU vessels.¹⁷³ In other questions, Members focused on the UK's and Ireland's compliance with specific articles of the agreement, and asked the Commission to share its planned actions aimed at ensuring and monitoring compliance.¹⁷⁴

In another question, Members raised the issue about import tariffs for Patagonian squid caught in the waters around the Falkland Islands. Since the UK's withdrawal from the EU has major implications for the EU fleet operating in other parts of the world, such as the waters around the Falkland Islands, the Member asked the Commission about the additional measures it was planning to take to lift import tariffs on Patagonian squid caught in the waters around the Falkland Islands.¹⁷⁵

On another occasion, Members stressed that the UK is delaying the issuing of fishing licences to replacement vessels regulated by the EU-UK TCA. Hence, they inquired about how the Commission was planning to ensure the UK's compliance with the provisions and whether a common guideline had been developed to ensure a better application and joint understanding of replacement vessels.¹⁷⁶ Members also focused on specific EU-UK TCA provisions – for instance, those relevant to cuts in catches and their expected impact.¹⁷⁷ In this same context, after pointing out the negative impact of the EU-UK TCA on the Irish fishing industry, a Member asked if the Commission was planning to implement a voluntary decommissioning scheme for Irish fishing vessels and their owners who want to leave the Irish fishing sector.¹⁷⁸

Three questions dealt with **justice and home affairs** matters. In light of the UK's delay in forwarding details regarding the convictions of EU citizens to their home countries and the fact that it concealed this delay from other EU Member States, the Commission was asked to provide an overview of the actions it had taken and the exchanges it had had with the UK authorities on this issue. As part of the same question, the Member asked how the Commission would strictly implement and enforce the TCA if the UK continued not to properly cooperate with the EU on law enforcement and judicial cooperation in criminal matters.¹⁷⁹ In addition, conscious of the detrimental effect that the coronavirus pandemic was having on tourism in the EU Member States, Members pointed to a further negative impact on EU tourism resulting from the way the UK classifies countries and the

¹⁷¹ European Parliament, Written question by Jörgen Warborn (EPP), [E-002325/2021/rev.1](#), 29 April 2021.

¹⁷² European Parliament, Written question by Francisco José Millán Mon (EPP), [E-002936/2021](#), 2 June 2021; [E-001765/2022](#), 12 May 2022.

¹⁷³ European Parliament, Written question by Francisco José Millán Mon (EPP), [E-001224/2022](#), 23 March 2022.

¹⁷⁴ European Parliament, Written question by Grace O'Sullivan (Greens/EFA), [E-003784/2021](#), 28 July 2021.

¹⁷⁵ European Parliament, Written question by Francisco José Millán Mon (EPP), [E-001769/2022](#), 12 May 2022.

¹⁷⁶ European Parliament, Written question by Stéphanie Yon-Courtin (Renew), Pierre Karleskind (Renew), Catherine Chabaud (Renew), [P-001635/2022](#), 29 April 2022.

¹⁷⁷ Written question by Nicolás González Casares (S&D), [E-000106/2021](#), 11 January 2021.

¹⁷⁸ European Parliament, Written question by Chris MacManus (GUE/NGL), [E-002823/2021](#), 27 May 2021.

¹⁷⁹ European Parliament, Written question by Sophia in 't Veld (Renew), [E-001244/2021](#), 3 March 2021.

fact that it makes no distinction between regions. The Members posing the question were particularly concerned about island regions, such as the Balearics and the Canary Islands in the case of Spain, which used to receive a large number of British tourists before the pandemic.¹⁸⁰

On another occasion, a Member requested information on whether criteria had been agreed upon under which UK authorities may deny EU nationals entry into the UK. Additionally, the question sought to establish whether the EU and the UK exchange information on the most prominent reasons for UK authorities to deny entry to the UK.¹⁸¹

Linked to justice and home affairs, three additional written questions addressed **data** and its **protection**. Members expressed their concern about compliance with the high EU standards for data protection, especially in relation to passenger name record (PNR) data,¹⁸² requested information about the number of deleted and non-deleted datasets in Europol or Schengen Information System (SIS) databases,¹⁸³ and brought up the issue of DNA data exchange. In this third question, since DNA and fingerprint data is exchanged across borders, a Member asked for information about the current encryption, hash algorithms and the obligations to encrypt other personal data used for criminal or police matters.¹⁸⁴

Certain policies seem to have attracted less attention, with only one question asked respectively for each of the policies mentioned below. On **education**, a Member asked about the Commission's plans to establish a new programme that promotes cross-border academic exchanges and is equivalent to the Erasmus programme, in which the UK chose not to prolong its participation.¹⁸⁵ On **space** policy, Members addressed the risk of a gap in the funding for the Copernicus programme following the withdrawal of the UK from the EU. Specifically, Members were interested in the Commission's role in avoiding an interruption in funding, including EU instruments available in case the negotiation talks with the UK did not continue as expected.¹⁸⁶ On the issue of the **EU's humanitarian response capacity**, Members inquired about the Commission's plans regarding the establishment of a formal agreement on humanitarian aid within the TCA. They asked if and how a new European humanitarian response capacity was planned and highlighted the need for EU coordination mechanisms to ensure a coherent EU approach.¹⁸⁷

4.3. Parliament's activities at committee and plenary level

As Parliament geared up for the consent procedure on the EU-UK TCA, it set the tone for the commitment it expected from the UK in implementing the TCA and in stabilising EU-UK relations. In a press conference organised on 27 April 2021, prior to the vote on the EU-UK TCA, David McAllister (EPP, Germany), chair of the Committee on Foreign Affairs (AFET), and Bernd Lange (S&D, Germany), chair of the Committee on International Trade (INTA) – the two lead committees – and Andreas Schieder (S&D, Austria) and Christophe Hansen (EPP, Luxembourg), the rapporteurs on the EU-UK

¹⁸⁰ European Parliament, Written question by Francisco José Millán Mon (EPP), Gabriel Mato (EPP), Rosa Estaràs Ferragut (EPP), Pablo Arias Echeverría (EPP), [E-002624/2021](#), 13 May 2021.

¹⁸¹ European Parliament, Written question by Vlad Gheorghe (Renew), [P-000504/2022](#), 4 February 2022.

¹⁸² European Parliament, Written question by Gwendoline Delbos-Corfield (Greens/EFA), Patrick Breyer (Greens/EFA), Saskia Bricmont (Greens/EFA), Anna Cavazzini (Greens/EFA), Terry Reintke (Greens/EFA), Sergey Lagodinsky (Greens/EFA), Damien Carême (Greens/EFA), Philippe Lamberts (Greens/EFA), [E-000575/2021](#), 29 January 2021.

¹⁸³ European Parliament, Written question by Cornelia Ernst (GUE/NGL), [E-000334/2021](#), 20 January 2021.

¹⁸⁴ European Parliament, Written question by Patrick Breyer (Greens/EFA), [E-003397/2021](#), 1 July 2021.

¹⁸⁵ European Parliament, Written question by David McAllister (EPP), [E-004666/2021](#), 14 October 2021.

¹⁸⁶ European Parliament, Written question by Niklas Nienaß (Greens/EFA), Ville Niinistö (Greens/EFA), [P-000332/2022](#), 26 January 2022.

¹⁸⁷ European Parliament, Written question by Harald Vilimsky (ID), Georg Mayer (ID), [E-005648/2021](#), 21 December 2021.

TCA, stressed Parliament's serious concerns regarding the implementation of the Protocol. They also declared that the Withdrawal Agreement would have to be respected and faithfully implemented, that unilateral violations by the UK were unacceptable, and that customs duties and a clear timetable would need to be set.¹⁸⁸

In a speech on the EU-UK TCA, given on the same day, Manfred Weber, chair of the European People's Party (EPP) Group in the Parliament, sent a clear message to then UK Prime Minister Boris Johnson: 'the challenges you face are immense and you have a responsibility to respect your commitments. Don't play with fire!'.¹⁸⁹ Equally, in a statement also published on 27 April 2021, Parliament's Socialists and Democrats (S&D) Group, Iratxe García Pérez (S&D Group chair, Spain), Andreas Schieder (co-rapporteur on the EU-UK TCA, S&D, Austria) and Vice-President Pedro Silva Pereira (S&D representative on the Parliament's UK Coordination Group, Portugal), warned that they would not 'let their guard down' ahead of the EU-UK TCA's ratification. They also stated that they would remain 'extremely vigilant' and use 'all tools possible' to ensure that the TCA was properly implemented and respected, not least given the UK government's 'recent breaches of the WA', and they expected 'nothing less than full compliance' from the UK 'with the commitments under international law, including the Northern Ireland Protocol'.¹⁹⁰

4.3.1. Committee meetings, workshops and hearings

A number of Parliamentary committees (AFET, INTA, AGRI, ITRE, IMCO, EMPL, ENVI, ECON, TRAN, PECH, LIBE, CULT, FISC and ING2) have followed the negotiation and implementation of the EU-UK TCA closely. They have done so by engaging with different stakeholders and exchanging on issues relating to the consequences of the agreement for their respective policy areas. In that context, PECH organised a workshop and a public hearing, while IMCO and CULT organised a public hearing each, and AFET and INTA held a joint public hearing.

On 26 May 2021, IMCO organised a public hearing to allow Members and stakeholders to exchange views on the consequences of the EU-UK TCA for the EU's internal market and customs union with a specific focus on customs, standardisation, health and safety, services and recognition of professional qualifications. Representatives of the European Commission's Secretariat-General were also present to explain institutional and legislative aspects relating to the internal market and customs union in the context of EU-UK relations.¹⁹¹

PECH has been the most active when it comes to engaging with stakeholders on the TCA at committee level. On 16 March 2022, PECH held a public hearing on the future of EU-UK fisheries relations after Brexit, to address growing discontent among EU fishers about the TCA's implementation in their sector and assess the early implementation of the TCA and its consequences for EU-UK fisheries relations.¹⁹² Stakeholders from various Member States first expressed views on the TCA's implementation as regards access to waters, resources, ports and markets, as well as

¹⁸⁸ European Parliament, [Press conference by Andreas Schieder and Christophe Hansen, rapporteurs, David McAllister, Chair of the Committee on Foreign Affairs, and Bernd Lange, Chair of the Committee on International Trade](#), 27 April 2021.

¹⁸⁹ [EU-UK: TCA – Manfred Weber](#), Twitter (EPP Group), 27 April 2021.

¹⁹⁰ Socialists & Democrats Group, [S&Ds: We will not let our guard down as next chapter of EU-UK relations begins](#), Press release, 27 April 2021.

¹⁹¹ European Parliament, [Implementation of the EU-UK Trade and Cooperation Agreement: challenges for the integrity of the Single Market and the Customs Union](#), Programme, Public Hearing, Committee on the Internal Market and Consumer Protection, 26 May 2021.

¹⁹² European Parliament, [Public Hearing on 'Future of EU-UK fisheries relations after Brexit'](#), Committee on Fisheries, 16 June 2021.

commenting on its governance. In a second part, different national perspectives on the EU-UK fisheries relations were shared and discussed.¹⁹³

As part of its meeting of the same day, PECH held a workshop on 'Impacts of the EU-UK TCA on fisheries and aquaculture in the EU'. Organised by the Parliament's Policy Department for Structural and Cohesion Policies, the workshop was divided into three parts, focusing on legal, trade and fishing opportunities aspects respectively (a study on each had been produced in advance, see box below).¹⁹⁴ Information about the second study, which investigates specifically the TCA's potential impact on aspects of EU and UK trade related to fisheries and aquaculture, is included in Chapter 2.6 above.¹⁹⁵

Studies on the impact of the TCA on EU fisheries and aquaculture for PECH workshop

A study (published in December 2021) analysed **legal aspects of the TCA related to fisheries**, notably Part Two, Heading Five of the agreement. The authors recommend that the TCA's implementation in the fisheries domain focus on alignment with the ambitious objectives and principles on conservation and sustainable use of fisheries. They also suggest that the EU and the UK find a compromise on sustainable total allowable catches (TACs) and come up with further measures during their annual consultations. Regarding access to waters, the authors expect the UK to strive to reduce the EU's access to its waters throughout the annual negotiations after 2026. With a view to upholding the EU-UK partnership, the study calls on both parties to act with moderation and in good faith, and to show restraint in the use of dispute resolution instruments. The authors suggest recourse to the general dispute resolution mechanism.

Source: Valentin Schatz and Alexander Proelss, [Workshop on impacts of the EU-UK Trade and Cooperation Agreement on fisheries and aquaculture in the EU, Part I: Legal aspects](#), European Parliament, 2021.

Another study (published in February 2022) concerned the **TCA's potential impact on fishing opportunities for the EU fishing industry at two moments (2021 and 2025), with a focus on France and the Netherlands**. The study finds that the TCA would reduce the fishing opportunities for the EU-27 as a whole, affecting Ireland, the Netherlands, France and Denmark the most. As the exact effects of the TCA on fishing opportunities will depend on what TACs the EU and the UK agree upon, the study calls for a timely agreement on TACs. The study also calls for clarifying the role of the advisory councils in the negotiations between the EU and the UK under the Specialised Committee on Fisheries. Furthermore, it urges the EU to sign an agreement on the operational definition of a replacement vessel and to consider extending the issuing of fishing authorisations for replacement vessels to waters adjacent to the Bailiwicks of Guernsey and Jersey. Under the TCA, EU vessels may be granted access to UK waters if operators can prove they have a historical record of activities in UK waters or if the same EU provider operates a new vessel replacing those with historical activity (the replacement vessel). However, there is uncertainty regarding the definition of direct replacement vessels, specifically for vessels less than 12 metres long that are not included in the Vessel Monitoring System and therefore lack proof of their historical activity in some cases. Additionally, the TCA does not include a procedure for granting access to replacement vessels from Jersey and Guernsey. Moreover, the study encourages more EU Member States to draw up national compensation plans for their fishing sectors.

Source: Benoît Caillart and Pavel Salz, [Workshop on impacts of the EU-UK Trade and Cooperation Agreement on fisheries and aquaculture in the EU, Part III: Fishing opportunities aspect](#), European Parliament, 2022.

¹⁹³ European Parliament, [Public Hearing on 'The Future of EU-UK fisheries relations after Brexit'](#), Programme, 16 June 2022.

¹⁹⁴ European Parliament, [Workshop on impacts of the EU-UK Trade and Cooperation Agreement on fisheries and aquaculture in the EU](#), PECH Committee Workshop, Policy Department for Structural and Cohesion Policies, Directorate General for Internal Policies, 16 March 2022.

¹⁹⁵ H. Martelings and Z. Smeets Křístková, op. cit., 2022.

In light of the UK's decision to withdraw from the Erasmus+ programme, on 15 June 2022 CULT organised a hearing in association with PETI¹⁹⁶ to assess the impact of this decision on higher education institutions and students.

On 25 May 2023, AFET and INTA held a joint public hearing on the implementation of the TCA, with a view to supporting the drafting of a joint implementation report by the two committees, for which this study was prepared. The hearing was hosted by a panel of four speakers: the chair of the EU-UK domestic advisory group (DAG) of the EESC, a European officer from the European Trade Union Confederation (ETUC), a senior fellow in trade and productivity at the Tony Blair Institute and the director for EU and international affairs at manufacturers organisation Make UK.¹⁹⁷ The EESC representative described how each party had proceeded with setting up its DAGs, what their working methods were, what progress they had made and what challenges they were facing (Chapter 2.3 provides a more detailed analysis of the DAGs' work).¹⁹⁸ In a related meeting from March 2022, INTA focused on the trade-related aspects of the Protocol. Many speakers attending the meeting called for more direct engagement from EU institutions.¹⁹⁹

4.3.2. Committee missions and formal exchanges with UK counterparts

Several **Parliamentary committees organised missions to the UK**, some directly linked to the TCA and others exploring issues related more broadly to EU-UK cooperation, including policies that were not included in the agreement. On 19-21 December 2022, five IMCO Members visited Dublin and several border counties between Ireland and Northern Ireland, to meet with the Irish government, representatives of business and consumers, and two private sector businesses. The mission did not solely focus on the effects of the TCA but also on obtaining an Irish perspective of the effects of all relevant agreements, namely the UK Withdrawal Agreement and TCA, the Good Friday Agreement and the Protocol, on the EU single market and consumers. According to the mission report, it was the TCA that the delegation discussed in its meetings with senior Irish Foreign Ministry officials and consumer organisations. It therefore featured regularly in the exchanges between the two parties despite the mission's broader focus.²⁰⁰

On 13-14 October 2022, a delegation of seven INTA Members visited Belfast to discuss the implementation of the Protocol.²⁰¹ They met civil society representatives, the Business Brexit Working Group, Assembly Speaker Alex Maskey, party representatives, EU officials in Northern Ireland and students. While the mission focused on the implementation of the Protocol, some TCA provisions and their impact on Northern Ireland were also discussed. Specifically, stakeholders highlighted the fact that limitations in the TCA regarding arrangements for EU-UK trade in services are negatively affecting the island of Ireland as a whole.²⁰²

On 2-4 November 2022, a delegation of six LIBE Members visited the UK to discuss the UK's adequacy under the EU's General Data Protection Regulation (GDPR) and the Law Enforcement Data

¹⁹⁶ European Parliament, [Public Hearing on 'The United Kingdom and Erasmus+](#)', Committee on Culture and Education, 15 June 2022.

¹⁹⁷ European Parliament, [The implementation of the EU-UK Trade and Cooperation Agreement](#), Joint AFET and INTA public hearing, draft programme, 25 May 2023.

¹⁹⁸ Presentation by Tanja Buzek (EESC), [Joint AFET and INTA hearing on 'The implementation of the EU-UK Trade and Cooperation Agreement'](#), European Parliament, 25 May 2023.

¹⁹⁹ European Parliament, [Parliamentary trade delegation to visit Northern Ireland](#), Press release, 12 October 2022.

²⁰⁰ European Parliament, Mission Report following the IMCO mission to Ireland, Dublin and Border Counties, 19-21 December 2022, [PE740.654v01-00](#), Committee on the Internal Market and Consumer Protection, 18 January 2023.

²⁰¹ European Parliament, [Parliamentary trade delegation to visit Northern Ireland](#), Press release, 12 October 2022.

²⁰² European Parliament, Mission Report following the INTA delegation to Belfast, Northern Ireland, the United Kingdom, from 13 to 14 October 2022, [PE737.435v02-00](#), Committee on International Trade, 20 October 2022.

Protection Directive. The proposed Bill of Rights and the 'Retained EU Law' Act were also addressed. The delegation met with members from both houses of the UK Parliament, the UK government, representatives of the Information Commissioner, NGOs, data protection experts and academics. After the end of the visit, the head of the delegation, Annalisa Tardino (ID, Italy), noted that, while the UK wishes to follow a more flexible approach on data protection, the 'divergence of the legislative proposals from the GDPR may affect the UK's adequacy status with the EU'.²⁰³

On 20-21 February 2023, a delegation of six ECON Members visited London to meet with legislators, government officials, regulatory agencies, businesses and think tanks. These exchanges provided 'important input for our parliamentary work in the context of the implementation of the Northern Ireland Protocol, among other things'. Moreover, the delegation took part in two round table discussions with representatives of businesses operating in the City of London.²⁰⁴

A number of visits to the UK took place in June 2023. A delegation of the FISC subcommittee visited London on 19-20 June to discuss EU-UK relations in international taxation. The delegation met with members of several House of Commons committees, Treasury Minister Baroness Joanna Penn, and stakeholders from civil society, associations and academia. Beyond its focus on the implementation of the OECD/G20 international tax reform, the delegation also discussed post-Brexit tax policies in the UK and their impact on the EU, in particular corporate taxes, tax incentives, free zones and compliance of the UK tax policy with the EU Code of Conduct on business taxation. Additionally, Members discussed EU-UK cooperation in international taxation and the implementation of the Windsor Framework regarding VAT and excise duties.²⁰⁵

A delegation of six CULT Members visited Edinburgh on 19-21 June²⁰⁶ to discuss EU-UK cooperation in education, culture and youth post-Brexit. The Members met with representatives of Scottish educational institutions, students, cultural organisations, youth policy and volunteer organisations, and with members of the Scottish Parliament and government. The head of the delegation, Niyazi Kizilyürek, (GUE/NGL, Cyprus) stressed that the findings of the mission only confirmed that Brexit has had negative consequences for education, culture and youth in Scotland; these findings will inform CULT's opinion on the implementation of the TCA.

On 26 June, a delegation of seven ING2 Members visited London to exchange experiences with UK legislators and senior officials on transparency, ethics and anticorruption. These issues were discussed with independent enquiry bodies, notably the House of Lords' Commissioners for Standards and the House of Commons' Parliamentary Commissioner for Standards, as well as relevant high-level officials in the Cabinet Office.²⁰⁷

4.3.3. EU-UK Parliamentary Partnership Assembly and UK Contact Group

Beyond parliamentary committee visits, the **EU-UK Parliamentary Partnership Assembly (PPA)** as set up by the TCA has fostered cooperation between the EU and the UK parliaments through its inter-parliamentary meetings. Since its constitutive meeting on 9 December 2021, three regular inter-parliamentary meetings have been held, the first of which took place in Brussels on 12-13 May 2022. In its first session, the meeting discussed the state of play in the Partnership Council and EU-UK cooperation in relation to the war in Ukraine. It also adopted its rules of procedure and agreed

²⁰³ European Parliament, [MEPs conclude data protection-themed visit to the UK](#), Press release, 27 October 2022.

²⁰⁴ European Parliament, [Economic and Monetary Affairs MEPs conclude visit to London](#), Press release, 22 February 2023.

²⁰⁵ European Parliament, [FISC mission to London, United Kingdom](#), Draft programme of the mission, 19 June 2023.

²⁰⁶ European Parliament, [MEPs in Scotland: Brexit has had a fundamental negative impact on education, culture and youth](#), Press release, 21 June 2023.

²⁰⁷ European Parliament, [ING2 mission to London, United Kingdom, on 26 June 2023](#), 26 June 2023.

on what type of information to seek and share with the Partnership Council. In its second session, the meeting focused on the impact of Withdrawal Agreement issues on the work of the Partnership Council, and on the significance of building a new multi-dimensional EU-UK relationship and establishing cooperation in the field of energy. Matters related to the future work of the PPA were also discussed.²⁰⁸

On 7-8 November 2022, the PPA held its second meeting, the first to have been held in London, at which it exchanged views on EU-UK energy cooperation, the future of the PPA and the future of EU-UK relations.²⁰⁹ Members met in three thematic groups to discuss touring artists, cooperation on defence and security, with particular reference to cyber-defence and data exchange, and citizens' rights. Discussions also focused on the future of Europe; the future cooperation between the PPA and civil society, and between the PPA and the devolved legislatures within the UK; and the future work of the PPA. The PPA issued a set of recommendations to the Partnership Council on EU-UK energy cooperation.²¹⁰ In light of significant interconnections between the EU and UK gas and electricity markets and Russia's war of aggression against Ukraine, the recommendations recalled the measures included in the TCA to ensure a fair energy market and non-discriminatory access to networks, energy trading, security of supply and environmental sustainability. The PPA encouraged both parties to accelerate the development and implementation of measures that would render electricity trading more efficient, and urged them to work together to encourage the production of offshore renewable energy. The PPA pointed to the North Seas Energy Cooperation (NSEC)²¹¹ as a possible forum for this purpose and welcomed the recent commitment of the UK, the European Commission and the NSEC countries in negotiating a draft memorandum of understanding on offshore renewable energy cooperation, in December 2022.²¹²

The third EU-UK PPA took place on 3-4 July 2023 in Brussels. Beyond assessing the state of play within the Partnership Council, a large part of the exchange of views on the first day centred on the future of foreign and security policy, including in the framework of the European Political Community. Discussions were held in three thematic breakout groups on: i) the mobility of persons (focusing on artists, youth and pre-settlement status); ii) climate change and energy efficiency (with a focus on decarbonisation, rules of origin and electric car batteries and the net-zero goal); and iii) twinning and civil society cooperation (including the Horizon programme). Other topics of discussion included the EU and the UK's shared efforts to support Ukraine, cooperation on trade and industrial policy, and the response to the US Inflation Reduction Act.²¹³ Regarding shared efforts to support Ukraine, the PPA issued a recommendation to the Partnership Council calling on the EU and the UK to continue their strong cooperation and ensure the proper implementation of sanctions against Russia.²¹⁴ During the press point with the PPA's co-chairs on 4 July 2023, co-chair Nathalie Loiseau (Renew, France) called on both partners to remain mindful of their shared commitments, especially to upholding high standards, and stressed the importance of the level-playing-field

²⁰⁸ European Parliament, [Inter-parliamentary meetings](#), Delegation of the European Parliament to the UK, not dated.

²⁰⁹ EU-UK Parliamentary Partnership Assembly, Agenda of the Joint Meeting of the EU-UK PPA, [D-UK OJ\(2022\)1107-08_01](#), UK Parliament, Westminster, 7-8 November 2022.

²¹⁰ EU-UK Parliamentary Partnership Assembly, [Recommendation concerning UK-EU energy cooperation](#), November 2022.

²¹¹ The members of the NSEC are: Belgium, Denmark, France, Germany, Ireland, Luxembourg, the Netherlands, Norway, Sweden and the European Commission; see European Commission, [The North Seas Energy Cooperation](#), not dated.

²¹² European Commission, [NSEC-UK Memorandum of Understanding](#), Directorate-General for Energy, 18 December 2022.

²¹³ European Parliament and UK Parliament, [Third meeting of the EU-United Kingdom Parliamentary Partnership Assembly](#), Statement by the co-chairs, European Parliament, 3-4 July 2023.

²¹⁴ EU-UK Parliamentary Partnership Assembly, [Recommendation on EU-UK common effort to support Ukraine and effective cooperation on sanctions](#), not dated.

provisions in the TCA. In response, the PPA's co-chair, Sir Oliver Heald, recalled that the UK is 'a country of high standards' and is committed to upholding a high level of protection,²¹⁵ indicative of the UK's continued effort to decouple from the EU and reclaim its autonomy. Importantly, both the European Commission and the European Parliament were represented at the highest level, respectively by Vice-President Maroš Šefčovič and President Roberta Metsola, and expressed their commitment to the implementation of the EU-UK TCA.

Parliament has also engaged on matters related to the TCA through its two main points of contact with the UK: the **UK Contact Group (UKCG)** and the **European Parliament's Delegation to the EU-UK Parliamentary Partnership Assembly (D-UK)**. Both groups have recently issued statements on UK bills that threaten certain provisions of the TCA and have called on the UK government to abide by its responsibilities under the TCA. In a press release of 14 June 2022, the UKCG called on the UK government and parliament to refrain from adopting the proposed Northern Ireland Protocol Bill, introduced in the House of Commons on 13 June 2022.²¹⁶ According to this bill, specific aspects of the Protocol, notably those related to customs, movement and regulation of goods, state aid and the application of EU law, do not 'have effect in the UK'. It also grants the UK government the authority to decide on the effect of other provisions laid out in the Protocol.²¹⁷ According to the press release signed by the Group's co-chairs, David McAllister (EPP, Germany) Bernd Lange (S&D, Germany), and Nathalie Loiseau (Renew, France), the Northern Ireland Protocol Bill 'puts into question the credibility of the UK government to comply with its international obligations under the Withdrawal Agreement and the Trade and Cooperation Agreement'. The press release stressed that reciprocal compliance with the 'mutually agreed, legally binding commitments' is key for EU-UK relations and recalled that the conclusion of the WA was set as a precondition for the negotiation of the TCA.²¹⁸

Similarly, concerned with upholding the two parties' mutual responsibilities under the TCA, on 26 January 2023 the D-UK Chair Nathalie Loiseau (Renew, France) and Vice-Chairs Sean Kelly (EPP, Ireland) and Tsvetelina Penkova (S&D, Bulgaria) issued a statement on the then 'EU Retained Law Bill',²¹⁹ now an Act. After commenting on the potential impact of the Bill on EU-UK relations, the D-UK Bureau Members criticised it for its potential to invoke higher costs in EU-UK trade and investments. They concluded by saying that the Bill therefore contradicts the mutual responsibilities agreed-upon in Articles 387 and 391 of the TCA, in which 'both sides have committed to refraining from weakening their levels of social, labour and environmental protection'.²²⁰

4.3.4. Parliament's plenary

The TCA has featured in five plenary debates. On 27 April 2021, Parliament held a plenary debate on the TCA prior to its vote on the agreement.²²¹ The majority of Members across party affiliations and nationalities stressed the importance of the agreement for businesses, companies and citizens as a source of stability and increased certainty, and reaffirmed their commitment to a broad future

²¹⁵ European Parliament, [Press point by Nathalie Loiseau, co-chair of the EU-UK PPA and Sir Oliver Heald MP on the third meeting of the EU-UK Parliamentary Partnership Assembly](#), 4 July 2023.

²¹⁶ European Parliament, [Serious breach of international law: MEPs call on UK not to adopt new bill](#), Press release, European Parliament's UK Contact Group, 14 June 2022.

²¹⁷ See I. Hallak, [The UK's Northern Ireland Protocol Bill](#), EPRS, European Parliament, July 2022.

²¹⁸ European Parliament, [Serious breach of international law: MEPs call on UK not to adopt new bill](#), Press release, European Parliament's UK Contact Group, 14 June 2022.

²¹⁹ European Parliament, [Statement by the D-UK Bureau Members on the EU Retained Law Bill](#), 26 January 2023.

²²⁰ European Parliament, op. cit., [Statement by the D-UK Bureau...](#), 26 January 2023

²²¹ European Parliament, The EU-UK Trade and Cooperation Agreement – The outcome of EU-UK negotiations, Plenary debate, [CRE 27/04/2021 – 4](#) and [CRE 27/04/2021 – 6](#), 27 April 2021.

partnership under the TCA. In the light of the UK's unilateral actions in disregard of the Protocol, the Members also voiced their concerns over the implementation of the TCA by the UK. They repeatedly recalled the measures built into the TCA in support of the proper implementation of the agreement and encouraged the use of all tools available under the WA and the TCA to ensure compliance. Overall, Parliament reaffirmed scrutiny of the agreement as its key responsibility and called for an active role in the monitoring and implementation of the TCA.

Beyond the general implementation of the TCA, plenary debates have also touched on specific areas of the agreement. In a plenary debate of 20 May 2021²²² on the Council and Commission statements regarding the 'Schrems II' CJEU court case²²³ and the adequate protection of personal data by the UK, the Council of the EU and the European Commission representatives recalled the data protection arrangements under the TCA in their opening statements. The European Commissioner for Justice, Didier Reynders, recalled the TCA provisions that safeguard the transfer of data under the legislative requirements of the transferring party. He also stressed the need for a comprehensive instrument for data transfers to provide for a high level of protection and ensure compliance with the EU's level of data protection. He summarised the two draft adequacy decisions the Commission had proposed, one under the General Data Protection Regulation (EU 2016/679) and another under the Law Enforcement Directive (EU 2016/680).²²⁴ Once adopted, these adequacy decisions would deem the UK's level of data protection to be adequate for a period of four years.²²⁵ This would allow for continued data transfers after the conclusion of the 'grace period' for up to a maximum of six months, in line with the TCA. During this period, data transfers between the EU and the UK would not be considered as transfers with a third country. Ana Paula Zacarias, President-in-Office of the Council of the EU, reiterated the importance of the TCA's sunset clause aimed at ensuring a high level of personal data protection and the prevention of divergences in this domain for the EU's economic activity. The ensuing debate with Members focused on the Commission's draft adequacy decisions regarding the transfer of personal data between the EU and the UK.

Regarding fisheries, on 4 April 2022 Parliament held a debate on the report on the future of fisheries in the English Channel, North Sea, Irish Sea and Atlantic Ocean in light of the UK's withdrawal from the EU.²²⁶ According to rapporteur Manuel Pizarro (S&D, Portugal), this report and debate mark the first time the European Parliament has investigated the implementation of the TCA in the field of fisheries. While the TCA set out conditions and rules for both sides, certain matters, especially regarding the access of EU vessels to British waters, have not been clarified fully, leading to differing interpretations between parties. Members across various party groups and nationalities commented on the negative consequences of Brexit and the TCA for EU fishers. The majority of contributions focused on the divergences between the EU and the UK as regards the limited access of EU vessels to UK waters contrary to related provisions in the TCA, difficulties in obtaining fishing licences and divergences on technical aspects of fisheries. Members encouraged the European Commission to ensure compliance with these provisions and called for the implementation of the

²²² European Parliament, [Data Protection Commissioner v Facebook Ireland Limited, Maximillian Schrems \('Schrems II'\) – Case C-311/18 – The adequate protection of personal data by the United Kingdom](#), Plenary debate, 20 May 2021.

²²³ European Court of Justice, Judgment of the Court of 16 July 2020, [Case C-311/18 – Data Protection Commissioner v Facebook Ireland Ltd and Maximillian Schrems](#).

²²⁴ European Commission, [Data protection: European Commission launches process on personal data flows to UK](#), Press release, 19 February 2021.

²²⁵ The Commission adopted two adequacy decisions for the United Kingdom – one under the General Data Protection Regulation (GDPR) and the other for the Law Enforcement Directive – on 28 June 2021. See European Commission, [Data protection: Commission adopts adequacy decisions for the UK](#), Press release, June 2021.

²²⁶ European Parliament, Future of fisheries in the Channel, North Sea, Irish Sea and Atlantic Ocean, Plenary debate, [CRE 04/04/2022 – 17](#), 4 April 2022.

TCA in good faith. Several Members voiced concerns about the fisheries policy post-2026, when the transition period will end, as stipulated in the TCA.

Lastly, plenary debates on the implementation of the TCA highlighted the difficulties in applying the Protocol. On 6 July 2022, in a debate on the Council and Commission statements on the UK's unilateral introduction of the Northern Ireland Protocol Bill,²²⁷ the Council, the Commission and Members of the European Parliament reaffirmed their commitment to the Protocol and the TCA. The AFET Chair, David McAllister (EPP, Germany), recalled that the Withdrawal Agreement, including the Protocol, is the foundation of the TCA. Vice-President Pedro Silva Pereira (S&D, Portugal) commented on the measures the Commission will be forced to take (e.g. the potential activation of trade sanctions), which in turn could hamper the TCA's implementation.

In its most recent plenary debate involving the TCA, on 14 March 2023, Parliament discussed the implementation report on the Withdrawal Agreement and the European Commission's communication on the Windsor Framework.²²⁸ Thijs Reuten (S&D, Netherlands) recalled the EU and the UK's common economic interests, while pointing out that hampering workers' rights, environmental standards and social protection goes against the TCA. Rapporteur Pedro Silva Pereira (S&D, Portugal) recalled, in his concluding remarks, the EU and UK's common economic interests and urged for increasing the focus on the implementation of the TCA.

²²⁷ European Parliament, [The UK government's unilateral introduction of the Northern Ireland Protocol Bill and respect for international law](#), Plenary debate, 6 July 2022.

²²⁸ European Parliament, Implementation report on the Agreement on the withdrawal of the UK from the EU – the Windsor Framework, Plenary debate, [CRE 14/03/2023 – 19](#), 14 March 2023.

5. Moving forward

The EU-UK TCA started applying provisionally on 1 January 2021 and entered into force on 1 May 2021. At the outset, the two parties faced important structural disparities – a clear power asymmetry in terms of market size, interdependency and experience in negotiating trade deals. This can also explain why, so far, the TCA's implementation has largely affected the UK and has affected the EU to a lesser degree. As this study has shown, there is not enough evidence to show what the TCA's medium- and long-term effect will be on the EU and its Member States. Early evidence analysed in the study has shown that the TCA's immediate effects on Member States depend, among other things, on their geographical proximity and the main economic sectors in which they are active. Inevitably, EU-UK trade has become more complex compared to when the UK was an EU Member State. Some of the immediate consequences of the TCA are linked to the lack of clarity in the implementation of rules and administrative processes to follow, the costs this creates for the business sector, the obstacles to the mobility of workers and transfer of goods, and the ongoing political disputes between the two parties. A number of options are presented below that could help redress some current obstacles and which would ease the TCA's impact in the medium term.

5.1. Address deep-seated disagreements decisively and transparently

The **Windsor Framework** aims to address, in a definitive way, unforeseen circumstances or deficiencies that have emerged since the adoption of the Protocol. It seeks to respond to the everyday issues faced by people and businesses in Northern Ireland, at the same time supporting and protecting the Good Friday (Belfast) Agreement in all its parts. Nevertheless, while the EU party has pinned its hopes on the implementation of the Windsor Framework, a number of fundamental questions effectively remain unresolved. One of these is that the Protocol is fundamentally linked to the constitutional position of Northern Ireland in the UK. The fact that polling results show that the Northern Ireland population is increasingly convinced that the two sides of Ireland will unite has led to Unionists becoming the most sensitive to the Windsor Framework. This is because of fears that its implementation may facilitate trade on the island of Ireland while simultaneously complicating trade between Northern Ireland and Great Britain. A number of potential challenges are palpable. They include:

- › firstly, the possible negative popular **reactions to border crossings being put in place**. The Windsor Framework offers a substantial cut in customs bureaucracy for goods moving from Great Britain and destined to remain in Northern Ireland (and not onward to the EU's single market in the Republic of Ireland), through a 'green lane'. In exchange, the UK, as a mark of goodwill, must comply with a series of EU conditions, including building long-delayed border control posts and providing high-quality, real-time data to the European Commission;
- › secondly, the **costs regarding labelling and packaging products** that are for sale only in Northern Ireland have also raised concerns. Specifically, companies in Great Britain shipping certain goods, such as meat and fresh milk, to Northern Ireland through the green lane will have to label them 'Not for EU'. Supermarket chains in Great Britain have argued this will create prohibitive costs by forcing them to have separate production runs, packaging and segregated stock. Companies such as Marks & Spencer have explained that the added complexity and cost of different labelling requirements would remain, regardless of the Windsor Framework. Moreover, Northern Ireland's fishing industry is concerned that it will still be subject to EU checks on catches in the region's own ports, over claims that the fish from those catches has come from a third country;

- › thirdly, although the Windsor Framework provides for the UK to scrap **VAT** on some goods in Northern Ireland as in the rest of the UK, this rule applies only to 'immovable property', such as solar panels, wind turbines and home heat pumps, because these are less likely to end up in the EU's single market in the Republic of Ireland. The UK can reduce VAT on a longer list of goods than under the Protocol if the two parties agree on the goods on that list and the European Commission can ensure that there is no risk of these goods entering the EU single market; this has not happened yet. The list will be reviewed every five years, and in the meantime, the UK will not be required to apply a special EU VAT scheme for small enterprises in Northern Ireland, which is coming into force in January 2025. To be exempted from the scheme, the annual turnover of a given firm in Northern Ireland must not exceed a set EU-wide threshold;
- › fourthly, a potentially **different interpretation by the EU and the UK of the EU State aid rules** in the Protocol, following the signing of the Windsor Framework, may be the source of further uncertainty for business and trade between the two parties. More specifically, from a UK perspective, Article 10(1) of the Protocol states that EU State aid rules are to be applied in cases where aid provided to companies could 'affect trade' in goods and electricity between Northern Ireland and the EU. An EU-UK joint declaration on the circumstances in which subsidies could be considered to affect trade between Northern Ireland and the EU's single market, was signed as part of the Windsor Framework. The UK understanding of that joint statement is that more than 98% of existing Northern Ireland subsidies would no longer need to be referred to the European Commission for approval, thus facilitating trade between Northern Ireland and the EU single market. By not responding, the Commission has left room for ambiguity.²²⁹

These tensions are likely to affect more broadly the implementation of the EU-UK TCA and negatively affect EU-UK relations. As early as next autumn, the modalities of the implementation of the Windsor Framework could become clearer, since the Retail Movement Scheme for movement of retail agri-food will be put in place in October 2023. It will concern, more particularly, 'Not for EU' agri-food retail labelling, especially some dairy and pre-packed meat and box labelling. In October 2023, border control posts built in Northern Ireland will become operational, as will the additional temporary product inspection facilities for SPS in four Northern Ireland ports.²³⁰

5.2. Build a strong EU-UK political relationship

Relations between the EU and the UK have faced tensions and mistrust since Brexit, hindering cooperation and the implementation of the EU-UK TCA. However, the atmosphere seems to have improved markedly since Prime Minister Rishi Sunak took the helm in the UK in October 2022²³¹ and an agreement on the Windsor Framework was reached. EU-UK cooperation on Russia's war of aggression against Ukraine, within the NATO framework, has also helped bring the parties closer.

In an April 2023 report, the UK House of Lords put forward a number of recommendations to deepen relations, which, if taken on, could not only strengthen trust between the EU and the UK, but also

²²⁹ C. Gallardo, '[Devil in the details: 5 potential snags in the UK's big EU deal](#)', *Politico Europe*, 3 March 2023.

²³⁰ Institute of Export & International Trade, '[An overview of the Windsor Framework](#)', Northern Ireland Customs & Trade Academy, 2023.

²³¹ M. Szczepanski, '[The Windsor Framework: A new way forward for the Protocol on Ireland/Northern Ireland](#)', EPRS, European Parliament, April 2023.

improve goodwill to implement the EU-UK TCA.²³² On the **political and diplomatic front**, the report calls for regular EU-UK summits similar to those that the EU holds with other major international partners. More specifically, the report urges that greater use be made of existing structures that have been largely inactive in recent times, due to the dispute over the Protocol. It also praises the launch of the new European Political Community, which includes the UK, among others. The TCA has also provided for the setting-up of important structures (such as the Partnership Council, the specialised committees and the EU-UK PPA) that can play this role, as this study has shown. In 2022, the specialised committees established under the TCA met 22 times, considering a wide range of implementation issues spanning from investment to energy cooperation.

The report goes on to say that, on matters involving **foreign policy, defence and security cooperation**, the EU and the UK have closely coordinated their response to the Russian invasion of Ukraine. This cooperation will be essential also in the context of the post-war reconstruction of Ukraine; closer cooperation is necessary, in particular, for monitoring and evaluating the implementation and enforcement of sanctions. In this context, the House of Lords notes the recent establishment of the Enforcement Coordination Mechanism by the G7. Appropriate structured cooperation arrangements, as foreseen in the EU-UK Political Declaration that was published alongside the Withdrawal Agreement in October 2019, could also be developed (beyond the UK's participation in the military mobility project that is part of the EU's permanent structured cooperation).

While the TCA – on the UK's insistence – did not include the **EU Common Foreign and Security Policy**, aspects of it have been discussed in the context of all EU-UK PPA meetings. The first PPA meeting, in March 2022, included an exchange of views on EU-UK cooperation regarding Ukraine,²³³ while, during the second PPA meeting, in November 2022, its members addressed cooperation on defence and security, with particular reference to cyber-defence and data exchange.²³⁴ Equally, at the third and latest EU-UK PPA meeting, in June 2023, much attention was dedicated to support for Ukraine and the future of foreign and security policy, including in the framework of the European Political Community, and a number of joint recommendations were made.²³⁵ The most recent meeting of the EU-UK Partnership Council also highlighted the parties' broad cooperation in responding to Russia's illegal invasion of Ukraine, which is a reminder of the parties' shared values and commitment to European security.²³⁶ It demonstrates that, while the UK remains committed to ensuring its autonomy and decoupling from the EU, both sides continue to share many global interests, be it on multilateralism, global health or European security.

5.3. Safeguard predictability and promote clear rules

The UK's withdrawal from the EU brought to an end the regulatory alignment between the EU and the UK. While the TCA has redefined trade relations between the EU and the UK, much uncertainty remains. Firstly, as already analysed, research has shown that the total costs of the TCA (on trade in goods, but in the medium-term potentially also on trade in services) could be more pronounced for

²³² House of Lords, [The future of UK-EU relationship](#), European Affairs Committee, 4th Report of Session 2022-23, 29 April 2023.

²³³ European Parliament and UK Parliament, [First meeting of the EU-United Kingdom Parliamentary Partnership Assembly](#), Statement by co-chairs, Brussels, 12-13 May 2022.

²³⁴ European Parliament, [Inter-parliamentary meetings](#), EU-UK Parliamentary Partnership Assembly, not dated.

²³⁵ European Parliament and UK Parliament, [Third meeting of the EU-United Kingdom Parliamentary Partnership Assembly](#), Statement by the co-chairs, European Parliament, Brussels, 3-4 July 2023.

²³⁶ European Commission, [Minutes of the Second Meeting of the Partnership Council on the Trade and Cooperation Agreement, in London](#), 24 March 2023.

EU businesses, once the costs for the services sector are added to those for the manufacturing sectors. Secondly, the ongoing and future legislative developments in the UK will play a key role in demonstrating the UK's goodwill and desire for the effective implementation of the TCA. The TCA's fragility, due to tensions surrounding the implementation of the Protocol, potential problems with the application of the Windsor Framework, and the consequences of the 'EU Retained Law' Act, as well as persisting elements of uncertainty (e.g. long adjustment periods for sectors such as fisheries and the review of the TCA after five years) create a degree of unpredictability for both enterprises and people. Thirdly, the impact of the TCA on migration, especially on migrant workers, is currently unclear, as there is very little information at both national and regional level on EU-UK people flows.²³⁷ That, too, creates fear and unpredictability.

Trade could benefit from the development of a strategy and the creation of framework conditions in the UK's economic policy that are clear, reliable, sustainable and well communicated. In addition, where the UK government wishes to use the leeway it has gained unilaterally, it would be best if it did so in a way that is also calculable for foreign partners. In general, EU companies – especially SMEs – doing business with the UK have had to shoulder high transfer/transport costs and an increased administrative burden. Mobility and migration of workers has also been a challenge. Companies, including SMEs, need to regain confidence in the legal certainty and predictability of cooperation with UK companies. To overcome these bottlenecks, research has put forward proposals in three key policy areas: trade in goods, trade in services, and labour mobility. **Trade in goods** would be facilitated by greater mutual recognition of product rules and conformity assessments, especially for the automated and financial sectors, but also for agricultural or medical products. **Trade in services** would be facilitated by the simplest and most transparent regulations possible from a single source. **Labour mobility** would be facilitated by the adoption of a uniform work visa. In addition, qualifications should be mutually recognised as widely as possible.²³⁸

5.4. Engage in building trust from the bottom up

While the TCA is less comprehensive than was envisioned in the Political Declaration, it reflects the two parties' proximity and interconnectedness.²³⁹ The EU-UK PPA provided a solid, structured framework for cooperation between the two parties, addressing even crucial issues that are on the political agenda, are beyond the remit of the TCA, and require multilevel cooperation. **Enhancing cooperation between local and regional authorities** has also been put forward as a promising approach, with the idea that links on these levels may help with trade and cooperation. Inviting regional contacts in future EU-UK PPA sessions for a broader discussion on such cooperation could be a way of taking this idea forward.

Experts have called on the EU to focus more on the subnational level and promote relations between sub-state players on both sides of the TCA, such as devolved administrations, regions and cities, civil society, academia and think tanks. When bottlenecks appear at the national or supranational level and EU-UK relations become conflictual, the subnational level is where building of trust can take place. Ideas put forward include decentralising student exchange initiatives, strengthening twinning projects, and twinning of cities. Especially in climate action, 'subnational actors can play an increasingly important role in exerting pressure and building transnational networks to increase their critical mass and exchange best practices'.²⁴⁰ Indicatively, in the spirit of strengthening

²³⁷ M. Alessandrini et al., op. cit., 2021, pp. 116, 132.

²³⁸ J. Weiß et al., [Der Brexit und die Folgen: Die bayerische Wirtschaft ein Jahr nach dem Brexit](#), Prognos and vbw – Vereinigung der Bayerischen Wirtschaft e. V., 2021, pp. 30-31.

²³⁹ J. Wachowiak, op. cit., 28 June 2021.

²⁴⁰ J. Wachowiak, op. cit., 28 June 2021, p. 4; M. Bergstra et al., op. cit., 2021.

relations with the UK, the Normandy region's strategy focuses on four areas of intervention that may resonate with other regions bordering the UK:

- 1 Reinvalidate socio-cultural ties by, for example, winning back British tourists.
- 2 Rebuild partnerships in education, higher education and research by creating a service dedicated to international mobility, promoting exchanges between the region's establishments and the British business world. Maintaining and restoring the closest possible cooperation in higher education and research is also seen as beneficial for both sides, according to the German Land of Bavaria. The UK House of Lords study adds the importance of holding school visits and developing reciprocal youth mobility partnerships. 'In common with existing youth mobility arrangements that the UK and individual EU Member States have agreed with other jurisdictions, this would allow young people to apply for fixed-term visas to travel and work in the other partner on preferential terms'.²⁴¹
- 3 Establish a network for multi-stakeholder cooperation at regional level through trans-regional and cross-border cooperation in the Channel area, the North Sea, with other regions, the UK, Ireland, and the Channel Islands, among others.
- 4 Restoring twinning between cities and creating platforms for fact-based debate and dialogue on cross-Channel migration.

5.5. Adapt to the new climate realities together

Researchers explain how potential reductions in UK levels of environmental protection could have a direct **impact on the EU biosphere** and would directly undermine the EU transnational agenda. In view of the ambitious European Green Deal agenda, some researchers call on the EU to 'focus on setting self-standing and sufficiently ambitious environmental protection commitments for the parties to comply with, including relevant targets and timeframes. These clauses should be mandatory, enforceable and backed up by effective remedies'.²⁴²

On the **energy security and climate change** front, the UK House of Lords' study urges the EU and the UK to capitalise on their close cooperation to effectively respond to the energy security challenges in the aftermath of Russia's invasion of Ukraine. Cooperation in this regard should be deepened through greater use of the TCA Specialised Committee on Energy and the establishment of closer ties at political level. The House of Lords has urged the UK government to closely engage in EU policies and instruments – including the emissions trading system and the carbon border adjustment mechanism²⁴³ – that would have major implications for the UK. This position could be a way to further develop EU-UK cooperation in the monitoring bodies provided for in the TCA.

²⁴¹ The report specifies that numbers of youth visiting should be capped and that participants should have no automatic permanent residence rights in the country that they visit. House of Lords, op. cit., 2023, 29 April 2023, p. 82.

²⁴² G.C. Leonelli, op. cit., 2021, p. 637.

²⁴³ House of Lords, op. cit., 29 April 2023.

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This study analyses the early outcomes, benefits, risks and challenges linked to the implementation of the EU-UK Trade and Cooperation Agreement (TCA), in provisional application since January 2021 and in force since 1 May 2022, for the EU and its Member States. Its chief focus is on the implementation of the level-playing-field provisions – in particular, those dealing with environmental and social/labour rights protection – and on trade flows between the European Union (EU) and the United Kingdom (UK).

The study first sets the scene, outlining the potential sources of tension in EU-UK relations that hinder the application of the EU-UK TCA. It then examines the EU evaluations of the TCA's implementation at national and regional level, while also presenting experts' views on how the agreement has been performing. The study also provides a longitudinal and visual analysis of EU-UK trade flows to explain the changes and continuities observed. It then analyses the European Parliament's scrutiny of the EU-UK TCA. It concludes by charting the possible paths for enhancing the performance of the EU-UK TCA, so that it can contribute to building trust between the two parties.

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