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**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

Table of Contents

1. Introduction.....	2
2. Institutional framework, enforcement tools and dispute settlement	2
3. Sectorial implementation	3
3.1. Trade in goods	4
3.2. Services and investment, digital trade, intellectual property, public procurement and small and medium-sized enterprises	5
3.3. Energy	6
3.4. Transport.....	7
3.5. Fisheries	8
3.6. Social security coordination	9
3.7. Law enforcement and judicial cooperation in criminal matters	9
3.8. Participation in Union programmes	9
4. Overview of complaints	10
5. Evolution in the law of the United Kingdom.....	10
5.1. Cross-cutting matters	11
5.2. Level playing field for open and fair competition and sustainable development.....	12
6. Effects on trade flows and movement of persons	13
6.1. Trade flows	13
6.2. Movement of persons	17
7. Conclusions.....	18
Annex 1: Meetings of the joint bodies established under the TCA in 2022.....	19

1. Introduction

As of 1 January 2021, trade and cooperation between the European Union (EU) and the United Kingdom of Great Britain and Northern Ireland (United Kingdom) are governed by the Trade and Cooperation Agreement (TCA) signed on 30 December 2020.¹ The TCA covers a wide range of areas including trade, transport, fisheries, energy, social security coordination, law enforcement and judicial cooperation in criminal matters, providing a comprehensive basis for the relationship between the parties and ensuring a level playing field for fair competition and sustainable development, as well as respect for fundamental rights.

This is the Commission's second report on the TCA's implementation and application, as required by Article 2(4) of Council Decision (EU) 2021/689 of 29 April 2021.² It provides an overview of the main developments in the functioning of the institutional framework (section 2), as well as in a range of areas that fall within its purview (section 3), including an overview of complaints received in 2022 (section 4). The report also addresses regulatory developments in the United Kingdom taking place in 2022 (section 5). Finally, two years after the end of the transition period, the report looks at the effects for the EU of the United Kingdom leaving the internal market, the Customs Union and the various Union policies (section 6).

2. Institutional framework, enforcement tools and dispute settlement

The TCA's institutional framework was completed in 2022 and became fully operational.³

The parties met in the joint bodies established by the TCA to supervise and facilitate its implementation. The list of meetings is presented in Annex 1. The Commission published the agendas and the minutes of the meetings.⁴ 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.

In 2022, the EU and the United Kingdom established their parliamentary cooperation, according to Article 11 of the TCA. The inaugural meeting of the Parliamentary Partnership Assembly consisting of 35 members of the European Parliament and 35 members of the

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 149/10) [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22021A0430\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22021A0430(01)&from=EN)

² 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 L149/2) <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021D0689&from=EN>

³ The panel of experts foreseen in Article 409 of the TCA is expected to be established in 2023.

⁴ https://ec.europa.eu/info/strategy/relations-non-eu-countries/relations-united-kingdom/eu-uk-trade-and-cooperation-agreement/meetings-eu-uk-partnership-council-and-specialised-committees-under-trade-and-cooperation-agreement_en

United Kingdom's parliament took place in Brussels on 12 and 13 May. The second meeting took place in London on 7 and 8 November.⁵

The process of involving civil society in the implementation of the TCA continued. The EU Domestic Advisory Group, established according to Article 13 of the TCA, composed of 24 representatives of civil society organisations and six representatives of the European Economic and Social Committee,⁶ met several times to discuss the TCA implementation.⁷

Furthermore, the first meeting of the Civil Society Forum,⁸ bringing together civil society representatives from the EU and the United Kingdom, according to Article 14 of the TCA, was held on 4 October 2022.⁹ The EU representatives included employers' and workers' organisations, as well as academics and non-governmental bodies.

With regard to dispute settlement, a list of individuals with expertise in the sectors covered by the TCA who are willing and able to serve as members of an arbitration tribunal was adopted by the Partnership Council, pursuant to Article 752 of the TCA.¹⁰

To enable the EU to exercise its rights in the implementation and enforcement of the Withdrawal Agreement and the TCA in an effective and timely manner, the European Parliament and the Council reached a political agreement on a regulation covering the Withdrawal Agreement and the TCA as regards matters falling within the scope of the Treaty on the Functioning of the European Union. It is expected that the Council adopts a regulation covering the TCA, as regards matters falling within the scope of the Euratom Treaty in 2023.

These regulations will provide a legal basis for the Commission to adopt the defensive measures provided for in both agreements. In particular, the Commission will be able to suspend obligations under the TCA if the United Kingdom does not comply with a ruling of the arbitration tribunal established under the TCA or the Withdrawal Agreement.¹¹ In certain cases, the Commission will be able to act unilaterally to protect the EU's interests without first engaging in an arbitration procedure, for instance, in cases where a subsidy in the United Kingdom risks causing a significant negative effect on trade or investment between the parties.¹²

3. Sectorial implementation

In the sectorial implementation of the TCA, no major difficulties arose in 2022. Stakeholders largely adapted to the new trading reality resulting from the United Kingdom's withdrawal

⁵ The agendas of the Parliamentary Partnership Assembly's meetings:

<https://www.europarl.europa.eu/delegations/en/d-uk/activities/inter-parliamentary>

⁶ The full composition of the EU Domestic Advisory Group under the TCA is published here:

<https://www.eesc.europa.eu/en/sections-other-bodies/other/eu-domestic-advisory-group-under-eu-uk-tca/organisation>

⁷ Minutes of the meetings are published here: <https://www.eesc.europa.eu/en/sections-other-bodies/other/eu-domestic-advisory-group-under-eu-uk-tca/events>

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022D0567>

⁹ The agenda of the meeting is published here: https://policy.trade.ec.europa.eu/events/first-eu-uk-trade-and-cooperation-agreement-civil-society-forum-2022-10-04_en

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22022D2550>

¹¹ Article 749(4) TCA

¹² Article 374(3) TCA

from the internal market, the Customs Union and the various Union policies. Certain challenges nevertheless remain: the implementation of the electricity trading arrangements provided for in the TCA proved more complex than anticipated (see section 3.3 below) and the full and correct implementation of the provisions on fisheries continued to present challenges (see section 3.5 below).

3.1. Trade in goods

The implementation of the TCA in the area of trade in goods focussed on the effective application of the rules agreed by the parties and the resolving of outstanding issues. Overall, the trade arrangements established in the TCA worked well, although certain implementation difficulties persisted.

As regards fiscal aspects, national customs authorities raised concerns with regard to the correctness of operators' self-declarations of origin and replies provided by the United Kingdom's customs authorities concerning the verifications of origin.¹³ In order to support the work of customs authorities, the Trade Specialised Committee on Customs Cooperation and Rules of Origin adopted a decision¹⁴ outlining the procedure to be used in case of denial of preferential tariff treatment. The agreed procedure will help the Member States' customs authorities to refuse the preferences when justified and instead apply Most Favoured Nation tariffs, while guaranteeing at the same time that preferences are not refused without proper consultation.

While the control of the correct rules of origin is, as in all trade agreements, challenging, the balance of the horizontal and product specific rules in the TCA is satisfactory. In particular, the Commission does not intend to revisit product specific rules beyond technical adaptations.¹⁵ The Commission considers that these rules strike a fair balance while contributing to the Union's overarching objective of achieving strategic autonomy in essential sectors.

In the sanitary and phytosanitary (SPS) area, despite the commitment to promote the use of electronic certification to facilitate trade,¹⁶ there was only limited progress in accepting EU paperless certificates by the United Kingdom, although interim solutions offered by the EU allowed to improve the situation. In addition, despite the obligation to align its official certification requirements with international standards,¹⁷ the United Kingdom continued to require guarantees in relation to certain animal diseases, which is not in line with the current standards of the World Organisation for Animal Health.¹⁸ Technical discussions with the United Kingdom about its certification requirements, including their compatibility with the EU's single entity, did not produce concrete results in 2022.

¹³ In EU-UK trade in goods, customs duties are due on non-originating goods, as well as those originating in the United Kingdom, for which no preferential tariff was claimed ("non-utilisation"). Based on 2021 data, it can be estimated that customs duties for products imported from the United Kingdom into the EU total approximately EUR 1.2 billion annually.

¹⁴ <http://data.europa.eu/eli/dec/2022/2064/oj>

¹⁵ Cf. Annexes 3 and 5 of the TCA

¹⁶ Article 74(2) TCA

¹⁷ Article 74(1)(a) TCA

¹⁸ <https://www.woah.org/en/what-we-do/standards/codes-and-manuals/>

Furthermore, the United Kingdom questioned EU rules governing imports of certain products from third countries, such as seed potatoes and unpurified live bivalve molluscs and sought special treatment for its exports to the EU. However, as a consequence of a separate SPS regulatory regime following its withdrawal from the EU, the United Kingdom is subject to all EU rules applicable to third countries not dynamically aligning with EU legislation.

The Commission took action in the framework of the WTO dispute settlement mechanism with regard to the ‘Contracts for Difference’¹⁹ scheme, which is the main mechanism for supporting low-carbon electricity generation in the United Kingdom. The Commission contested the scheme’s local content criteria favouring United Kingdom content over imported content as breach of WTO non-discrimination rules. In July 2022, the EU and the United Kingdom agreed on a way forward to address the Commission’s concerns and clarified that the scheme’s beneficiaries do not need to achieve any particular level of United Kingdom content to receive payments.²⁰ Additional guidance was published to ensure that this position is fully understood by industry.²¹

As regards developments in the United Kingdom, the implementation of certain import procedures and checks, in particular those pertaining to SPS requirements for products from the EU, was repeatedly postponed. On 28 April 2022, the United Kingdom announced the fourth postponement of the implementation of the checks, which had been scheduled to begin on 1 July 2022.²² The date upon which the United Kingdom’s new regime of border import controls applicable to goods from the EU would go into effect remains uncertain.

In the area of conformity assessment, in response to significant concerns from industry over the implementation of the UK Conformity Assessment (UKCA) marking for products placed on the market of Great Britain, a third extension of the deadline for its introduction was announced in November 2022.²³ This means that the United Kingdom will continue to accept products meeting EU requirements until 31 December 2024, with respective EU certificates and CE marking remaining valid until the end of 2027, including currently applicable labelling provisions, importer information and responsible persons’ information. Separate announcements concerning medical devices, aircrafts, rail products and maritime equipment are expected.

3.2. Services and investment, digital trade, intellectual property, public procurement and small and medium-sized enterprises

There were no significant implementation problems in the areas of services and investment, digital trade, intellectual property, public procurement and small and medium-sized enterprises. However, some issues persisted.

¹⁹ <https://www.gov.uk/government/publications/contracts-for-difference/contract-for-difference>

²⁰ https://policy.trade.ec.europa.eu/news/eu-and-uk-agree-way-forward-wto-dispute-concerning-uks-green-energy-subsidy-scheme-2022-07-01_en

²¹ [Contracts for Difference \(CfD\) Allocation Round 4: Supply Chain Plan questionnaire and guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/new-approach-to-import-controls-to-help-ease-cost-of-living)

²² <https://www.gov.uk/government/news/new-approach-to-import-controls-to-help-ease-cost-of-living>

²³ <https://questions-statements.parliament.uk/written-statements/detail/2022-11-14/hcws366>

The immigration skills charge imposed by the United Kingdom in respect of intra-corporate transferees continued to be a concern. In line with the TCA,²⁴ the Commission insisted on the removal of this charge by the end of 2022 at the latest. The United Kingdom agreed by making amendments to the Immigration Skills Charge Regulations (2017) that took effect on 1 January 2023.²⁵ As a result, the skills charge no longer applies to intra-corporate transferees from the EU.

The new Global Business Mobility rules²⁶ adopted by the United Kingdom in April 2022 raised concerns in light of the TCA provisions on the entry and temporary stay of natural persons for business purposes. According to the new rules, businesses and organisations in the United Kingdom must apply for a sponsor licence from the Home Office if they want to hire an EU contractual service supplier, independent professional or intra-corporate transferee. Without a sponsor licence, businesses and organisations in the United Kingdom are unable to issue individual sponsorship certificates, which are required to hire EU service providers. In the Commission's view, the sponsorship scheme may deter businesses in the United Kingdom from choosing to work with EU companies or independent professionals to deliver services covered by the TCA. The Commission engaged with the United Kingdom on this matter.

In the area of professional qualifications, the first joint recommendation, pursuant to Article 158 of the TCA, on the recognition of architects' qualifications was submitted to the Partnership Council on 3 October 2022 by professional bodies from the EU and the United Kingdom. The Partnership Council is due to review the consistency of the joint recommendation with the rules on services and investment of the TCA.

3.3. Energy

The implementation of the TCA in the area of energy focused on strengthening cooperation on security of supply, establishing a framework for offshore renewable energy cooperation and developing new electricity trading arrangements. Despite its highly technical nature, good progress was made in some areas, while it was slower in others.

Trade in electricity and gas between the United Kingdom and the EU increased in 2022²⁷ as a result of the energy crisis caused by the Russian invasion of Ukraine and of challenges for electricity generation in the EU.

²⁴ Paragraph 7 of annex 21 (Business Visitors for Establishment Purposes, Intra-Corporate Transferees and Short-Term Business Visitors) requires the United Kingdom to remove any charge, fee or tax imposed (other than fees associated with the processing of a visa, work permit or residence permit application or renewal) on the grounds of being allowed to perform an activity or to hire a person who can perform such activity in the territory of the United Kingdom, unless it is a requirement consistent with Article 140(3) of the TCA, or a health fee under national legislation in connection with an application for a permit to enter, stay, work, or reside in the territory of the United Kingdom.

²⁵ https://www.legislation.gov.uk/ukdsi/2022/9780348239614/pdfs/ukdsi_9780348239614_en.pdf

²⁶ <https://www.gov.uk/government/publications/sponsor-a-global-business-mobility-worker>

²⁷ For example, UK exports of gas increased by 336% and of electricity by 138% in 2022 when compared with the total exports in 2021: Data extracted from the ENTSO-E Transparency Platform (<https://transparency.entsoe.eu>) and ENTSO-G Transparency Platform (<https://transparency.entsoe.eu>), aggregated by the Joint Research Centre.

In line with the provisions in the TCA on “security of supply” of gas and electricity,²⁸ the EU exchanged with the United Kingdom the necessary information pertaining to the security of supply of electricity and gas in a meeting of the Specialised Committee Energy on 28 September 2022. However, while this information exchange is useful, it is recalled that the United Kingdom pursues its own energy policy, including on security of supply.²⁹

Building on Article 321 of the TCA, a Memorandum of Understanding on offshore energy cooperation was signed in December 2022 between eight Member States, Norway and the United Kingdom, promoting the development of energy renewables in the North Seas and helping the parties to reach their respective climate change objectives.³⁰ This Memorandum of Understanding creates a forum for technical discussions with the United Kingdom in relation to offshore grid development and the large renewable energy potential of the North Sea region.

As far as the trading arrangements for electricity flows between the EU and the United Kingdom foreseen in Article 312 of the TCA are concerned, the Specialised Committee on Energy came to the conclusion that more work was needed to adequately analyse the options for developing such arrangements. To this end, it agreed to adopt a recommendation for both parties’ electricity transmission system operators to provide additional information with a view to put in place a framework for future electricity trading.

Furthermore, pursuant to Article 311 of the TCA, the Commission endorsed a multi-party agreement between the transmission system operators from the EU and the United Kingdom concerning compensation for the costs of hosting cross border flows of electricity.³¹

3.4. Transport

The implementation of the TCA in the area of transport, including aviation, focussed on the effective exercise of the rights mutually granted by the parties and was unproblematic.

In the area of road transport, the Specialised Committee on Road Transport adopted a decision concerning technical and procedural specifications of the use of the Internal Market Information System by the United Kingdom.³² This system allows for the electronic processing of posting declarations of both parties’ hauliers. The United Kingdom will contribute to the budget for maintaining the IT tool.

In the area of air transport, six Member States (Belgium, Hungary, Ireland, Cyprus, Greece and France) concluded bilateral agreements with the United Kingdom, in accordance with Article 419 of the TCA. Moreover, agreements between Italy and the United Kingdom, as well as Austria and the United Kingdom, were authorised by the Commission and are expected to be concluded in 2023.

²⁸ Article 315 of the TCA

²⁹ In addition, while not based on the TCA, the Commission invited the United Kingdom to participate in a meeting of the Gas and Electricity Coordination Groups to exchange information on winter preparedness.

³⁰ https://energy.ec.europa.eu/nsec-uk-memorandum-understanding_en

³¹ [https://ec.europa.eu/transparency/documents-register/detail?ref=C\(2022\)6624&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=C(2022)6624&lang=en)

³² https://commission.europa.eu/content/decisions-and-recommendations-specialised-committees-and-trade-specialised-committees_en

In the area of aviation safety, out of fourteen applications submitted for validation of certificates issued by the United Kingdom's Civil Aviation Authority, eleven were approved by the European Union Aviation Safety Agency on the basis of Article 446 in conjunction with Annex 30 of the TCA. The United Kingdom authorities validated six out of twelve projects submitted by EU applicants concerning changes to the existing designs. These figures are within the expected range of activity in terms of validation.

Finally, while not directly related to the TCA, the Commission adopted an implementing decision³³ on the recognition of the United Kingdom as regards the system for training and certification of seafarers pursuant to Directive (EU) 2022/993, after determining that all training and certification requirements specified in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers³⁴ had been satisfied. It also authorised the agreement between France and the United Kingdom on safety certification in respect of rail transport services through the Eurotunnel ("Channel Fixed Link").³⁵

3.5. Fisheries

Efforts continued to ensure the full implementation of the TCA in the fisheries sector. While good progress was made in some areas, certain important issues remained unresolved.

In spite of significant challenges, the Commission made substantial progress in acquiring the requested licences for a number of eligible vessels to fish in the waters of the United Kingdom and the Crown Dependencies, in line with Protocol 38 and Article 502(1) of the TCA. In 2022, almost 1600 EU vessels continued to have access to the United Kingdom's exclusive economic zone and 151 EU vessels had access to the territorial waters. In addition, 138 French boats had licences to fish around Jersey and 44 around Guernsey. Despite this progress, important challenges remained. In particular, in the second half of 2022, the EU, the United Kingdom, Jersey and Guernsey held intense discussions regarding the level of access for the licenced fishing vessels.

The Commission monitored the management measures notified by the United Kingdom under Article 496(3) of the TCA in light of the commitments of the United Kingdom under the TCA. While acknowledging the regulatory autonomy of each party, the Commission regrets that insufficient communication on a number of measures made it difficult for the Commission to effectively interact with the United Kingdom's authorities, undermining its ability to provide comments and ask for clarifications in line with the TCA.

In December, the EU and the United Kingdom concluded their annual consultations to determine the Total Allowable Catches for shared stocks in 2023. The parties reached a comprehensive agreement covering all stocks, thus securing fishing opportunities of over 350 000 tonnes for the EU fleet, estimated to be worth around EUR 1 billion based on historic landing prices, adjusted for inflation.

³³ https://transport.ec.europa.eu/news/eu-recognition-uk-system-training-and-certifying-seafarers-2022-10-27_en

³⁴ <https://www.imo.org/en/OurWork/HumanElement/Pages/STCW-Conv-LINK.aspx>

³⁵ Commission Implementing Decision of 14.6.2022 authorising France to conclude a new agreement pursuant to Article 14(5) of Directive 2012/34/EU for the purposes of Article 10(9) of Directive (EU) 2016/798 C(2022)3813 final

3.6. Social security coordination

The implementation of the TCA in the area of social security coordination was unproblematic. No structural problems were identified.

Preparatory steps were undertaken to implement the financial provisions concerning the reimbursement of the cost of sickness benefits in kind provided by a State other than the competent one. The parties also examined the use of the Electronic Exchange of Social Security Information in the context of the Protocol, as well as the applicability of the relevant decisions and recommendations of the Administrative Commission for the Coordination of Social Security Systems.

3.7. Law enforcement and judicial cooperation in criminal matters

Overall, the TCA functioned well in the area of law enforcement and judicial cooperation and progress was made in resolving remaining implementation issues.

Following the evaluation of the United Kingdom, the EU declared that, as of 30 June 2022, the Member States could supply personal data regarding DNA profiles and dactyloscopic data (i.e. fingerprints) to the United Kingdom in line with Articles 530 and 534 of the TCA.³⁶ By the end of 2022, 15 Member States and the United Kingdom gave each other access to their national DNA databases for automated searching, and five Member States and the United Kingdom did so in respect of fingerprints.

Furthermore, the TCA provides a legal basis for the transfer of Passenger Name Record (PNR) data by air carriers to the United Kingdom for flights between the EU and the United Kingdom. It regulates the processing and use of PNR data by the United Kingdom competent authorities and requires the United Kingdom to delete PNR data after passengers' departure from the country, unless a risk assessment indicates a need to retain such data. In view of special circumstances that had prevented the United Kingdom from making the necessary technical adjustments, the United Kingdom was allowed to derogate from this obligation for an interim period of one year after the entry into force of the TCA, which was extended by one year in December 2021.³⁷ On 21 December 2022, the Partnership Council, having considered information provided by the United Kingdom on the applicable safeguards and actions taken in view of enabling the deletion of data, decided to extend the interim period for another and final year, based on Article 552(13) of the TCA.³⁸

3.8. Participation in Union programmes

The TCA makes it possible for the United Kingdom to participate in certain Union programmes, including Horizon Europe, as an associated country, subject to the adoption of

³⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022D1014&from=EN>

³⁷ Decision No 2/2021 of the Partnership Council established by 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, of 21 December 2021 as regards the extension of the interim period during which the United Kingdom may derogate from the obligation to delete Passenger Name Record data of passengers after their departure from the United Kingdom, OJ L 467, 29.12.2021, p. 6, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22021D2323>

³⁸ <https://eur-lex.europa.eu/eli/dec/2022/2549/oj>

bilateral protocols and financial contributions. However, the TCA does not provide for a binding timeframe or a precise deadline to complete the association of the United Kingdom.

Although the EU recognises the benefits of cooperation in science, research and innovation with third countries, the protocols necessary for the association of the United Kingdom could not be adopted in 2022, taking into account the significant difficulties in the implementation of the Withdrawal Agreement. In line with the rules of procedure under the TCA, the United Kingdom requested consultations, which were held in the framework of the meeting the Specialised Committee on Participation in Union Programmes that took place on 22 September 2022. The consultation process under the TCA was concluded at that stage.

In the absence of association, entities from the United Kingdom could participate in some programmes without being eligible for Union funding. Furthermore, those entities could benefit from the “transitional arrangements” put in place by the Commission for potential participants from third countries, such as the United Kingdom, that are candidates for association to certain programmes, including Horizon Europe. As a consequence, calls for proposals underwent evaluation under the same conditions as associated countries. However, the signing of grant agreements and the funding of entities from the United Kingdom remains conditional on the United Kingdom's association to Horizon Europe. Applications from entities based in the United Kingdom represented 6.53% of the eligible applications received by 5 December 2022.

The Commission looks forward to a resolution of the difficulties that would enable the United Kingdom to become associated to certain Union programmes.

4. Overview of complaints³⁹

At the time of conclusion of the TCA, the Commission committed to setting up centralised tools for the lodging of complaints, taking into account the scope of areas covered in the TCA. In order to fulfil this commitment, a central complaint form was developed in 2021, which is operational in all EU official languages.⁴⁰

In 2022, no complaint was received through the abovementioned tool. While the Commission registered five entries, they were not related to the implementation of the TCA. The Commission services reverted to the senders of the submissions and provided the necessary information.

5. Evolution in the law of the United Kingdom

The freedom to diverge from EU rules and policies was among the reasons for the United Kingdom's withdrawal from the EU. Following its departure, the United Kingdom

³⁹ In line with the political agreement between the European Parliament and the Council on the exercise of EU's rights in enforcing the TCA, the Commission is required to include in its annual report an overview of the complaints received regarding the TCA as well as their follow-up.

⁴⁰ https://ec.europa.eu/assets/sg/complaint_eu_uk_tca/complaints_en/

announced an extensive regulatory reform. In January 2022, the Cabinet Office released a report identifying the guiding principles for future regulatory policy.⁴¹

Throughout 2022, the Commission services monitored regulatory developments in the United Kingdom in order to determine whether they pose a risk of non-compliance with the TCA, notably in the areas relevant for the level playing field.

While a number of announcements were made by the United Kingdom in 2022, few laws were adopted. Indeed, replacing EU legislation and standards with domestic ones is a challenging task in practice, as acknowledged by the country's National Audit Office⁴² and the House of Commons Committee of Public Accounts.⁴³ Having examined the long-term regulatory strategy and the operational capability of certain regulatory agencies, both bodies concluded that the withdrawal from the EU had significantly affected the United Kingdom's regulators, which had assumed new responsibilities, previously carried out by the EU institutions, while losing access to EU data sharing and cooperation arrangements.

The following section summarises the developments of the relevant United Kingdom's law of a cross-cutting nature (section 5.1.) and those pertinent to the level playing field (section 5.2.), looking at the most significant legislative proposals (bills) and adopted legislation (acts). Where legislation is adopted, the report highlights the relevance from the point of view of the TCA. Ministerial announcements of policy intentions, as well as public consultations, are not addressed. While they may indicate a policy direction, it would be premature to draw conclusions on their basis.

5.1. Cross-cutting matters

In 2022, the United Kingdom government tabled three important bills, which may have repercussions on the functioning of the TCA in many areas.

The Bill of Rights Bill was tabled in June 2022⁴⁴ with the objective to repeal and replace the Human Rights Act 1998, which incorporates the European Convention on Human Rights into domestic law of the United Kingdom. In accordance with its section 1(2), the bill "re-balances" the relationship between United Kingdom's courts, the European Court of Human Rights and the United Kingdom's parliament. Notably, the Supreme Court of the United Kingdom would determine the meaning and effect of Convention rights for the purposes of domestic law. The United Kingdom's courts and public authorities would no longer be required to read and give effect to United Kingdom's legislation, so far as possible, in a way which is compatible with the Convention rights. The United Kingdom's courts would have to give the greatest possible weight to the principle that decisions about the balance between different policy aims, different human rights and rights of different persons are made by the United Kingdom's parliament. The bill "affirms" that "judgements, decisions and interim measures of the European Court of Human Rights are not part of domestic law in the United Kingdom and do not affect the right of Parliament to legislate" (section 1(3) of the bill).

⁴¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1054643/benefits-of-brexits.pdf

⁴²<https://www.nao.org.uk/reports/regulating-after-eu-exit/>

⁴³<https://committees.parliament.uk/publications/30148/documents/174754/default/>

⁴⁴<https://bills.parliament.uk/bills/3227>

The Data Protection and Digital Information Bill was tabled in July 2022⁴⁵ with the objective to reform the United Kingdom's data protection framework, on which the Commission's decisions on the adequacy of the level of protection for personal data provided by the United Kingdom are based. The bill introduces changes in several areas, notably the legal grounds for the processing of personal data, the exercise of data subject rights, the rules for the transfer of personal data to third countries and the set-up and functioning of the independent data protection supervisory authority.

Finally, in the Retained EU Law (Revocation and Reform) Bill⁴⁶ laid before the parliament in September 2022, the government proposes to overhaul a body of EU law retained by the United Kingdom at the end of the transition period, automatically sun-setting it on 31 December 2023, unless otherwise preserved. The bill also grants ministers the authority to amend retained EU law through secondary legislation and gives the courts discretion to deviate from EU case law. The government intends to review all retained EU law by the end of 2023.

5.2. Level playing field for open and fair competition and sustainable development

5.2.1. Subsidy control and taxation

The Subsidy Control Act (2022)⁴⁷ was adopted in April 2022, setting out the framework for implementing the United Kingdom's international commitments on subsidy control, including those under the TCA. The new regime came into force in January 2023. Ahead of its implementation, subsidy control statutory guidance was adopted in November 2022 to assist public authorities in awarding subsidies.⁴⁸ Further secondary legislation is expected.⁴⁹ As outlined in the previous Commission report,⁵⁰ before granting subsidies, public authorities will have to evaluate them against a number of principles. Some categories must be referred to the Subsidy Advice Unit within the Competition and Markets Authority for assessment. The Subsidy Advice Unit does not have the power to prohibit subsidies. It may only issue a non-binding opinion on the compliance of the subsidies with the Subsidy Control Act. The Commission will monitor carefully the application of the new subsidy regime.

5.2.2. Labour and social standards, environment and climate

In the area of labour and social standards, the statutory instrument revoking the Conduct of Employment Agencies and Employment Businesses Regulations⁵¹ entered into force in July 2022. The instrument repealed a prohibition imposed on employment agencies to provide temporary staff to fill in for workers taking part in an industrial action. In September 2022,

⁴⁵ <https://bills.parliament.uk/bills/3322>

⁴⁶ <https://bills.parliament.uk/bills/3340>

⁴⁷ <https://www.legislation.gov.uk/ukpga/2022/23/enacted>

⁴⁸ <https://www.gov.uk/government/publications/uk-subsidy-control-statutory-guidance>

⁴⁹ <https://www.legislation.gov.uk/ukdsi/2022/9780348240023/introduction>

⁵⁰ https://ec.europa.eu/info/publications/annual-report-implementation-and-application-trade-and-cooperation-agreement-between-european-union-and-united-kingdom-great-britain-and-northern-ireland_en

⁵¹ <https://www.legislation.gov.uk/uksi/2003/3319/regulation/7/made>

trade unions in the United Kingdom took this file to the International Labour Organization (ILO) for assessment.⁵² This is relevant in view of the United Kingdom's commitment under Article 399(5) of the TCA to implement ratified ILO conventions.

In the area of environment, the Genetic Technology (Precision Breeding) Bill⁵³ was introduced in May 2022. This bill relaxes the rules for release and marketing of “precision bred organisms” (i.e. plants and animals that could have been produced by traditional breeding techniques) in England.

6. Effects on trade flows and movement of persons⁵⁴

This 2022 report provides an opportunity to take stock of the economic impact for the EU of the United Kingdom's decision to withdraw from the EU. While 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, certain economic implications of the withdrawal became increasingly visible. This holds not only for trade flows in goods and services, but also for the movement of people.⁵⁵

6.1. Trade flows

6.1.1. Trade in goods⁵⁶

Looking at the short term, following a sharp decline in early 2021, both EU exports and imports had a significant recovery in the first three quarters of 2022, approaching the 2019 pre-pandemic levels (Figure 1).⁵⁷

⁵² <https://www.tuc.org.uk/research-analysis/reports/tuc-submission-ilo-committee-experts>

⁵³ <https://bills.parliament.uk/bills/3167>

⁵⁴ Unless indicated otherwise, all figures presented in this chapter are based on EURASTAT data.

⁵⁵ For a macroeconomic analysis and outlook, reference is made to the Commission's European Economic Forecast (Autumn 2022) https://economy-finance.ec.europa.eu/system/files/2023-01/ip187_en.pdf

⁵⁶ All figures presented in this section are based on seasonally adjusted data.

⁵⁷ Data on trade with the United Kingdom for reference periods up to December 2020 were based on statistical concepts applicable to trade between the EU Member States. As of January 2021, data on trade with the United Kingdom is based on a mixed concept. For trade with Northern Ireland, the statistical concepts applicable are the same as those for trade between Member States while for trade with the United Kingdom excluding Northern Ireland, the same statistical concepts are applicable as for trade with any other extra-EU partner country.

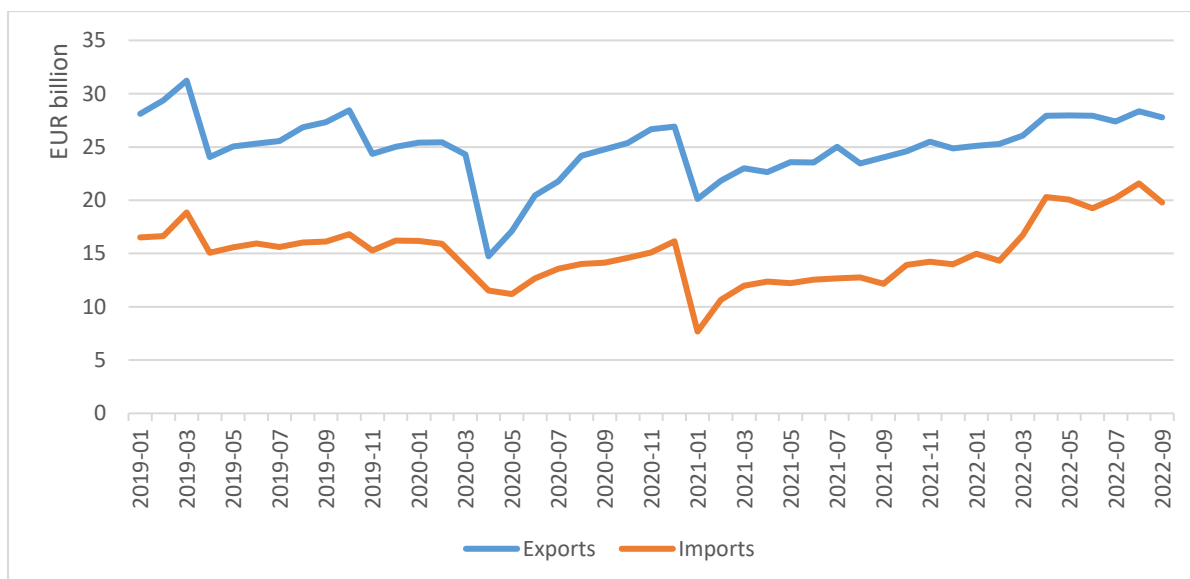


Figure 1: EU trade in goods with the United Kingdom (source: Eurostat (EXT_ST_EU27_2020SITC))

In the first three quarters of 2022, the EU exported goods worth EUR 243 billion to the United Kingdom, which represents an 18% increase when compared to the same period of 2021. The value of EU imports from the United Kingdom during this period was EUR 167 billion, a 59% increase compared to the value of imports in the first three quarters of 2021.

The sectors where EU exports to the United Kingdom had the strongest increase when compared to 2021 included mineral fuels and chemicals. Equally, the increase in EU imports from the United Kingdom in the first three quarters of 2022 was primarily driven by mineral fuels. The smallest growth was observed in the EU imports of manufactured goods, in particular machinery and transport equipment.

Looking at the longer term, however, data shows that imports and exports combined remained rather stagnant during the 2016 – 2022 period. This contrasts sharply with the EU trade with its other international partners. While the EU total trade with its international partners excluding the United Kingdom increased by 70% when compared to the first three quarters of 2016 and almost 40% when compared to the first three quarters of 2019, the increase was significantly lower in the case of trade with the United Kingdom: only 10% when compared to the first three quarters of 2016 and only 6% when compared to the same period of 2019 (Figure 2).

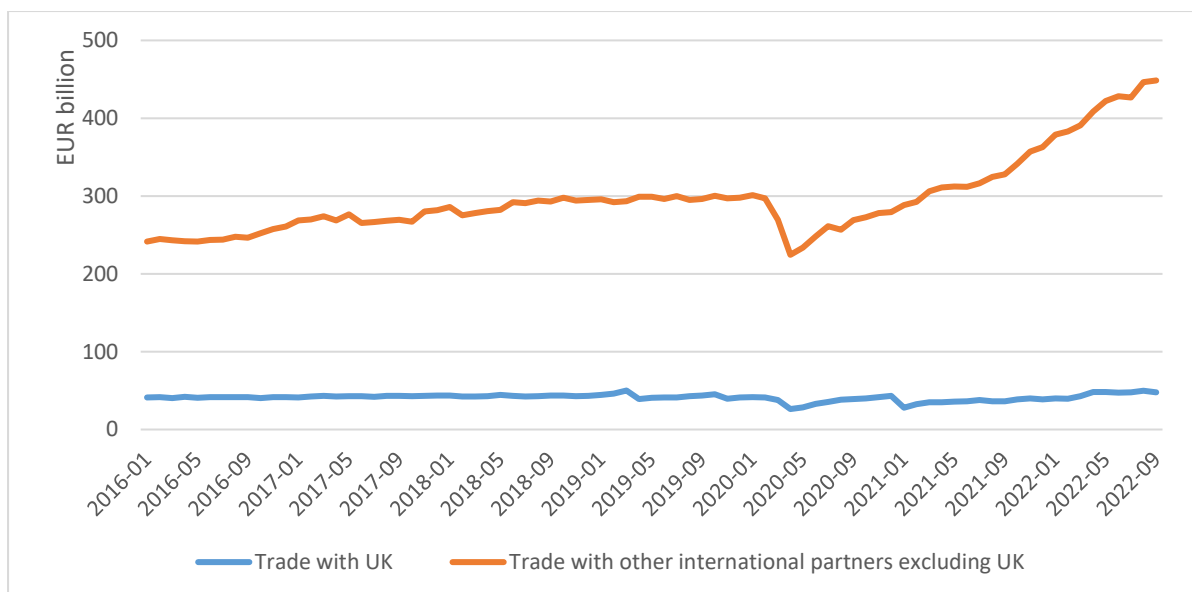


Figure 2: EU trade in goods with the United Kingdom and other international partners (source: Eurostat EXT_ST_EU27_2020SITC)

6.1.2. Trade in services

As in goods, when looking at the shorter term, bilateral trade in services for both EU exports and imports had a significant recovery in the first three quarters of 2022, exceeding the 2019 pre-pandemic levels (Figure 3).

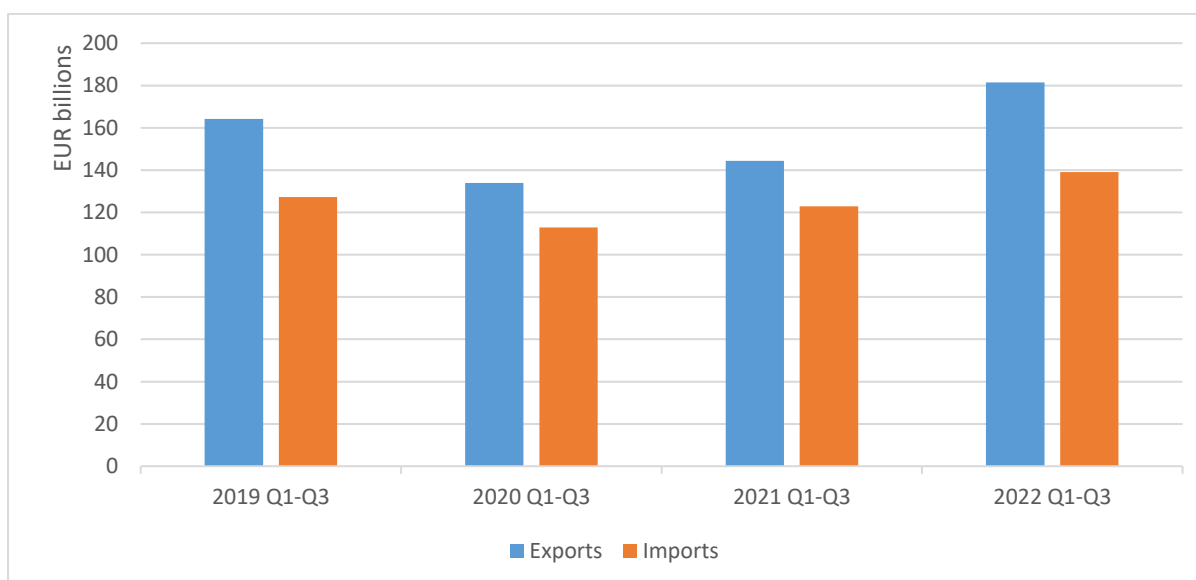


Figure 3: EU trade in services with the United Kingdom (2019 – 2022); source: Eurostat (BOP_EU6_Q)

The value of EU exports to the United Kingdom in the first three quarters of 2022 amounted to EUR 181 billion, representing a 25.6% increase when compared to the same period in 2021. The value of EU imports from the United Kingdom amounted to EUR 139 billion, representing a 13.1% increase when 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%.

Also looking at the longer term, both EU exports and imports of services with the United Kingdom were less dynamic in comparison with EU trade with other international partners. While in 2022, the EU total trade in services with its international partners excluding the United Kingdom increased by 51% compared to the first three quarters of 2016, this increase was lower in the case of trade in services with the United Kingdom: 38% when compared to the same period of 2016 (Figures 4 and 5).

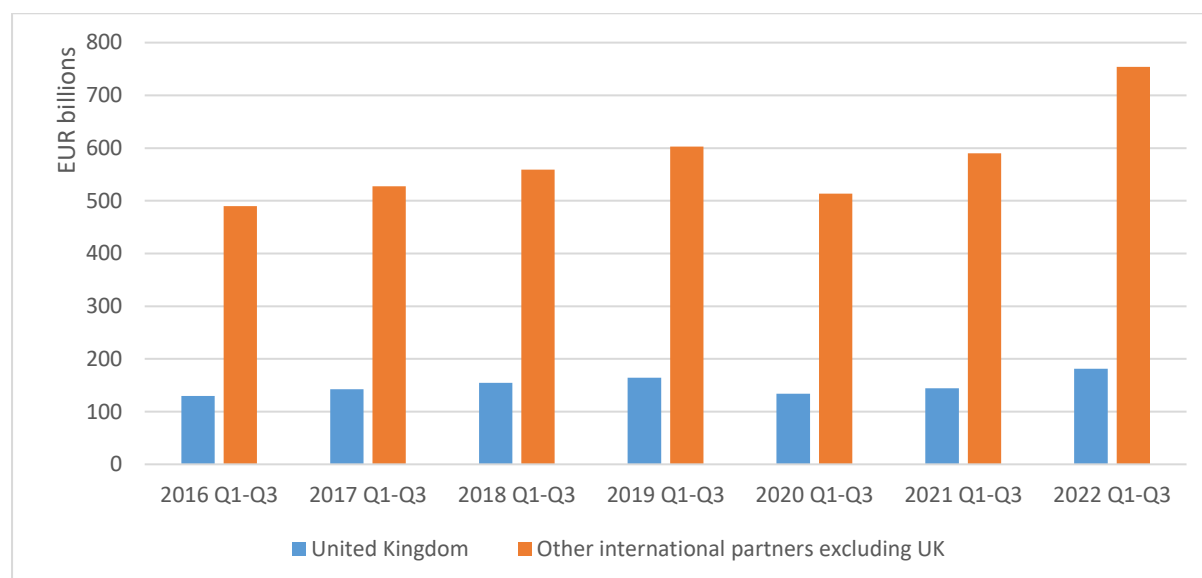


Figure 4: EU exports of services to the United Kingdom and other international partners (2016 - 2022); source: Eurostat (BOP_EU6_Q)

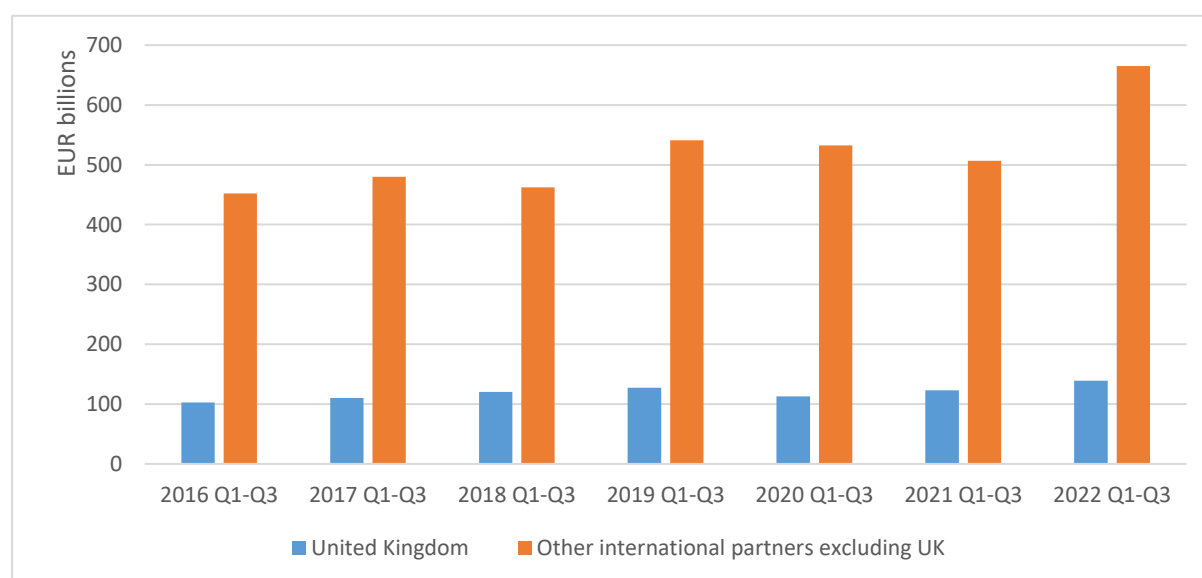


Figure 5: EU imports of services from the United Kingdom and other international partners (2016 – 2022); source: Eurostat (BOP_EU6_Q)

6.1.3. Conclusion

The data presented above demonstrate that the withdrawal of the United Kingdom had, as expected, a negative impact on trade flows between the EU and the United Kingdom. They are in tune with numerous assessments carried out by various bodies, institutions and

stakeholders. For example, the United Kingdom's Office for Budget Responsibility, which provides independent analysis of public finances, estimates that the total trade volumes with the EU are 15% lower than they would be if the United Kingdom remained a Member State.⁵⁸ Increased costs for UK companies exporting to the EU resulting from the withdrawal of the United Kingdom from the EU have been estimated at GBP 15 billion per year.⁵⁹ This has, for instance, led some food producers from the United Kingdom to stop exporting to the EU.⁶⁰

6.2. Movement of persons⁶¹

The end of free movement of persons between the EU and the United Kingdom led, as anticipated, to a sharp decline of mobility. It also had an effect on short-term visits. While some of the data presented below relates to the year 2021, as not all 2022 statistics were available when this report was adopted, nothing suggests that the trends changed. In fact, between June 2021 and June 2022, more EU citizens left the United Kingdom than arrived, resulting in a negative net migration of EU citizens of 51.000.⁶² Approximately 52.000 EU citizens received visas allowing them to live in the United Kingdom, which represents only 5% of all visas granted.⁶³

6.2.1. Mobility of workers and students

Since 1 January 2021, EU citizens need work visa to take up employment in the United Kingdom. In 2021, around 34,000 EU citizens applied for work visas, including short-term and frontier workers. The latter category made more than a third of all work visa applications from EU citizens. Overall, applications made by EU citizens accounted for only 13% of all work visa applications filled in the United Kingdom.⁶⁴

EU citizens became also less likely to study in the United Kingdom. Applications from EU citizens to enrol in the United Kingdom's universities fell significantly: from 98.580 in 2020 to 48.350 in 2022, which represents an almost 50% decrease.⁶⁵

In the EU, 44.403 citizens of the United Kingdom were issued first residence permits for employment, family, education or other reasons in 2021. Among these were 8.960 first residence permits for employment reasons and 4.959 first residence permits issued for education reasons.⁶⁶

⁵⁸ <https://obr.uk/forecasts-in-depth/the-economy-forecast/brexit-analysis/>

⁵⁹ <https://ukandeu.ac.uk/the-new-costs-for-business-post-brexit/>

⁶⁰ The agri-food industry alone evaluated the cost of Brexit-related red tape at GBP 60 million.

<https://www.foodmanufacture.co.uk/Article/2022/02/23/Brexit-red-tape-has-cost-food-businesses-60m>

⁶¹ This section does not consider the movements of Irish and British nationals between the United Kingdom and Ireland in the Common Travel Area.

⁶² <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/bulletins/longterminternationalmigrationprovisional/yearendingjune2022>

⁶³ <https://ukandeu.ac.uk/what-have-we-learned-about-migration-from-the-census/>

⁶⁴ <https://migrationobservatory.ox.ac.uk/resources/briefings/work-visas-and-migrant-workers-in-the-uk/>

⁶⁵ <https://migrationobservatory.ox.ac.uk/resources/briefings/student-migration-to-the-uk/>

⁶⁶ No data is available for Malta and Slovakia.

6.2.2. Short-term visits

There is currently no visa requirement for short-term visits of EU citizens to the United Kingdom and vice-versa. However, this does not automatically entail a right of entry. In fact, the number of EU citizens who were denied entry into the United Kingdom and subsequently returned increased substantially with the end of the transition period. The data released by the United Kingdom in 2022⁶⁷ reveal that, while in 2020 1.722 EU citizens had been denied entry to the United Kingdom accounting for 17% of all refusals, this figure rose sharply to 12.523 EU citizens in 2021 (68% of all refusals). For comparison, the number of United Kingdom's citizens who were denied entry to the EU in 2021 represented just 3.2% of all refusals. A 2022 report by the United Kingdom's Independent Chief Inspector of Borders and Immigration concluded that certain EU nationals seeking to enter the country were subject to higher levels of scrutiny by Border Force, without sufficient justification.⁶⁸

7. Conclusions

The TCA is a very good agreement for the EU: It addresses the EU's interests in terms of trade and cooperation with the United Kingdom. At the same time, the agreement fully reflects the political red lines the EU and Member States established jointly in the wake of the United Kingdom's decision to withdraw from the Union.

Overall, the TCA functions well. In 2022, much progress was made in finalising the institutional arrangements, and, while challenges remain, the sectorial provisions of the TCA are operational. Most of the remaining challenges were linked to the United Kingdom's persistent refusal to uphold its legal obligations under the Withdrawal Agreement. However, in the Windsor Political Declaration of 27 February 2023, both the European Commission and the Government of the United Kingdom expressed their intention to fully exploit in the future the potential of the Trade and Cooperation Agreement.⁶⁹

In terms of the evolution of the United Kingdom's law, 2022 was marked by announcements. Monitoring the cases in which the announcements will lead to legislative or regulatory action with regard to the level playing field commitments of the TCA will continue to be of critical importance.

While being one of the most ambitious and comprehensive agreements of its kind, the TCA is conceptually very different from participation in the Union's single market and the Customs Union. After two years of the application of the TCA, the impact of unravelling deep economic integration provided by the single market, the Customs Union and other flanking policies became more apparent.

⁶⁷ <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-march-2022/how-many-people-are-detained-or-returned>

⁶⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1111534/An_inspection_of_juxtaposed_controls_May_June_2022.pdf

⁶⁹ <https://commission.europa.eu/system/files/2023-02/political%20declaration.pdf>

Annex 1: Meetings of the joint bodies established under the TCA in 2022

Joint body	Date
Specialised Committee on Energy (2 nd meeting)	30 March 2022
Specialised Committee on Fisheries (3 rd meeting)	27 April 2022
Specialised Committee on Air Transport (2 nd meeting)	28 June 2022
Specialised Committee on Social Security Coordination (2 nd meeting)	30 June 2022
Specialised Committee on Fisheries (4 th meeting)	20 July 2022
Specialised Committee on Participation in Union Programmes (2 nd meeting)	22 September 2022
Specialised Committee on Energy (3 rd meeting)	28 September 2022
Trade Specialised Committee on Goods (2 nd meeting)	5 October 2022
Trade Specialised Committee on Administrative Cooperation in VAT and Recovery of Taxes and Duties (2 nd meeting)	6 October 2022
Trade Specialised Committee on Intellectual Property (2 nd meeting)	10 October 2022
Trade Specialised Committee on Level Playing Field for Open and Fair Competition and Sustainable Development (2 nd meeting)	12 October 2022
Specialised Committee on Law Enforcement and Judicial Cooperation (2 nd meeting)	13 October 2022
Trade Specialised Committee of Customs Cooperation and Rules of Origin (2 nd meeting)	17 October 2022
Trade Specialised Committee on Sanitary and Phytosanitary Measures (2 nd meeting)	19 October 2022
Trade Specialised Committee on Services, Investment and Digital Trade (2 nd meeting)	20 October 2022
Specialised Committee on Fisheries (5 th meeting)	21 October 2022
Trade Specialised Committee on Technical Barriers to Trade (2 nd meeting)	24 October 2022
Trade Specialised Committee on Regulatory Cooperation (2 nd meeting)	26 October 2022
Trade Specialised Committee on Public Procurement (2 nd meeting)	27 October 2022
Specialised Committee on Aviation Safety (2 nd meeting)	14 November 2022
Specialised Committee on Road Transport (2 nd meeting)	21 November 2022
Trade Partnership Committee	1 December 2022
Partnership Council	--