

# UK-EU Trade and Cooperation Agreement

## UK Domestic Advisory Group

### 2024-2025 Priorities Report

#### Introduction

The UK Trade and Cooperation Agreement (TCA) Domestic Advisory Group (DAG) has created this priorities report to monitor and highlight emerging and ongoing issues related to the Trade and Cooperation Agreement.

With the aim of structuring the UK DAG's ongoing external engagement, this document brings together the priorities of UK DAG member organisations representing business, workers and civil society. The issues and priorities in this paper will evolve over time and the work of the subgroups is on-going. Subgroups will continue to work on appropriate issues for wider discussion with the full DAG, and as such, this document will be updated as required. While this report is an expression of the DAG as a whole, it should not be seen as a reflection of the policy position of every single individual organisation.

The report highlights both short term TCA implementation issues, longer-term priorities for the forthcoming review of the TCA as well as other, future, opportunities to develop the agreement.

The paper covers the five areas of the DAG subgroups: Trade and Customs, Level Playing Field and Regulatory Cooperation, Energy and Climate Change, Business and Labour Mobility and Issues affecting Nations and Regions. The scope of the report may change with future iterations and with changes to the subgroups.

The Nations and Regions subgroup brings a collective, democratic and regional perspective to the work of the UK DAG. The subgroup recognises some areas of overlap with other subgroup work but sees this as complementing and enhancing those views. For simplicity and clarity, these areas of overlap are identified with an asterisk (\*) against other sub-group short- and long-term priorities. The themes therefore raised in the nations and regions report are very much a citizens' perspective and therefore do not always fall strictly into TCA implementation issues.

Where possible, the UK DAG will take the opportunity to raise these issues with all parties, including the UK Government, EU Commission and Parliament and EU DAG and – where appropriate – consider the recommended actions to resolve issues and enable organisations to benefit from the full potential of the EU-UK trade agreement.

Some of the key priorities highlighted in the report are:

- Implementation of Border Target Operating Model (BTOM).
- EU restrictions on food and animal products.
- Carbon Border Adjustment Mechanism (CBAM).

- TCA Level Playing Field commitments.
- Technical Barrier to Trade (TBT) working groups.
- UK participation in North Seas Energy Cooperation (NSEC).
- Implementation of alternative day-ahead electricity trading arrangements.
- EU Entry Exit System.
- Transparency of information on the entry and temporary stay of British citizens in EU Member States.
- Improvement of mobility, including cultural Visa waivers for artists and associated technical support staff.
- Strengthening devolved involvement in the institutions of TCA Governance.
- Citizens' Rights and Equality issues.

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## Cross-cutting issues

<b>Short term issues for action</b>
Members of the DAG to be observers on Specialised Committees.
Close working between Parliamentary Partnership Assembly (PPA) and DAG.
Monitoring both active and passive divergence.
Inclusive and close working between UK Government and devolved governments on TCA issues.
Rules of Origin—address lack of transparency and sufficient guidance (Automotive Aerospace, Food & Drink, SMEs).
Set up all Working Groups (including Medicinal Products, Motor Vehicles & Parts, and Organics) envisaged in the TCA, to be operational as soon as possible as to have maximum impact and closer sectoral technical and horizontal regulatory cooperation.
<b>Long term priorities</b>
Monitor and keep under review the cumulative impact of change, in particular trade and customs obligations, and phasing on businesses conducting international trade between GB, NI and EU.
Ensure all parties issue clear and transparent timetables and communications which allow businesses to reasonably transition and comply with new rules and obligations.
Monitor and keep under review TCA Rules of Origin and transitional arrangements, and where appropriate modify, review or simplify rules for the mutual benefit of UK-EU trade, maintain tariff free, quota free trade, avoid potential costly cliff-edges and learning from the recent experience of batteries and electrified vehicles.
Marking and labelling requirements. Develop a shared and mutual understanding on the benefits of mutual recognition for conformity assessment where appropriate.

## Trade and customs

<b>Short term issues for action</b>
Address Sanitary and Phytosanitary (SPS) issues, including digital health certificates; EU-UK non-harmonisation on health checks; UK Border Target Operating Model (BTOM) operational implementation; food and animal product restrictions e.g. EU's ban on seed potatoes.*
Provide sufficient customs guidance and training for traders and Border control staff; ensure current and future inter-operability of EU and UK systems particularly with introduction of new GB border operations.
Consider EU Carbon Border Adjustment Mechanism (CBAM) applicability to Northern Ireland and wider Customs reporting requirements into/from GB and EU markets.*
Urgently agree shared EU-UK guidance on the definition of Active Cathode Materials pending since the Trade Specialised Committee mandated the parties to agree on the guidance in 2022.
<b>Long term priorities</b>
Develop a shared and mutual understanding on the benefits of mutual recognition for conformity assessment where appropriate.
Mitigate the end of EU cumulation in future UK FTAs (all sectors).
Ensure import VAT can be deducted even if the name of consignee/ importer record does not match the owner record (all sectors).
Address lack of transparency and sufficient guidance (Automotive Aerospace, Food & Drink, SMEs) and monitor Rules of Origin changes and implementation.

### Explanation

### TCA Implementation

#### **Rules of Origin:**

- Produce clear and detailed guidance about the evidence levels required to demonstrate that sufficient UK domestic processing and by implication bilateral cumulation requirements have been met.
- Factor in wider requirements around trader knowledge and competence in understanding custom documentation completion requirements such as tariff knowledge, tariff code classification.
- Continue to monitor Rules of Origin changes and implementation across all affected sectors to ensure mutual benefit, maintain tariff free, quota free trade, identify and avoid potential costly cliff-edges or unintended consequences, and learn from the recent experience of the extension to batteries and electrified vehicles.
- Seek transparency on utilisation rates (e.g. percentage of eligible products that actually make use of preferential rates under the TCA) which should be easy to access and available at least at HS chapter level if not for specific tariff lines ensure successful implementation and intent of TCA is delivered.

**Customs:**

- UK border and future customs planning and coordination between UK and EU must continue to consider options for future cross-border inter-operability, be proportionate and risk-based, minimise trader disruption and ensure new systems work for UK and EU business.
- UK and EU traders need confidence in business readiness to meet new requirements, and that systems are at operational readiness and minimise costs to the user.
- Need for greater engagement between UK and EU customs authorities.
- Need for local exceptions to the Union Custom Code (UCC) rules to be removed.
- Minimise different interpretations or better align understanding, evidence requirements and interpretation by Member State Customs authorities on the implementation and interpretation of EU customs requirements towards GB and NI exported product across and within EU Member States.
- Need to upgrade the UK's status on EU pet travel from a part 2 listing to part 1 (Customs/import conditions/health). The status of pet travel affected by part 2 listing includes animals that are used for human assistance and service activity.

**Carbon Border Adjustment Mechanism (CBAM):**

- The implementation of EU CBAM — including applicability to Northern Ireland and wider Customs reporting requirements into/from GB and EU markets – must be considered to ensure clarity and operational requirements can be met reasonably met by businesses and deliver the intended outcome. Alignment between UK and EU CBAM should be considered alongside Emissions Trading Scheme linkage which the TCA envisages. The UK and EU should avoid divergence in scope or the creation of new regulatory friction which may affect mutual trade with similar standards and climate ambitions shared by all parties. *See also Energy and Climate Change.*

**SPS, including digital health certificates:**

- The imminent introduction of BTOM SPS (including digital health certificates) and related physical checks for EU originated animal and related products remains a concern to UK importers and their EU supply chain. Equally, UK importers are concerned by the non-harmonisation of SPS clearances across the EU including the sampling and time costs associated with physical checks.
- In the medium to long-term both the EU and UK Government should consider the possibility of negotiating, for example, an UK/EU/EFTA SPS zone, which part of the UK (Northern Ireland) is already in. Such a zone could build on the foundations of mutual recognition and equivalence of each others' regulations.

**Banned goods – GB exports:**

- The EU ban on seed potato imports from GB following EU withdrawal is significantly impacting GB exports. EU and GB producers would support a GB

derogation based on demonstrating equivalence of regulations. A reciprocal arrangement may benefit EU Member States' equivalence applications for UK market access.

**Active Cathode Material definition:**

- Urgently agree shared EU-UK guidance on the definition of Active Cathode Materials for the purposes of Rules of Origin for batteries and battery manufacturing, which has been pending since the Trade Specialised Committee mandated the parties to agree on the guidance in 2022.

**Changes to TCA Text**

**Professional / Regulated services, (including Legal):**

- Expansion of the minimum categories of permitted services that can be supplied for a fee, and by whom, under a home title.
- The addition of clear requirements for, and paths to, the Mutual Recognition of Professional Qualifications (MRPQ).

**UKCA/CE product labelling:**

- The UK and EU should look to opportunities that can develop a shared and mutual understanding on the benefits of mutual recognition for conformity assessment, or unilateral recognition by both sides of the other's CA processes linked to international standards.

**Solvable via supplementary agreement**

**Northern Ireland:**

- The UK DAG welcomes the return of the Northern Ireland Executive and recognised the impact of the new Command Paper on future trade and governance. In light of the changes and institutions this paper introduces, the UK DAG reflects that there is a clear opportunity to place trading relations on a renewed footing, requiring further analysis and monitoring of GB-NI-EU trade, to ensure free, fair and smooth trade with all parties and look forward to engaging on these emerging issues. We anticipate several previous issues related to trade between GB-NI-EU under the early phases of the Windsor Framework can be addressed under the newly constituted Executive.
- Previous examples include but are not limited to:
  - Initial evidence of product labelling such as the provision of dual addresses (EU and GB) has meant the logistics of certain goods movements were not eligible for the green lane. This can cause problems for Stock Keeping Unit (SKU) control. Some specific sector issues have been emerging at border controls on goods that were applicable for prompt entry into Northern Ireland (i.e. chemicals-based products). Continued awareness and guidance are needed to ensure businesses are ready, implementing the parallel regimes and

specifically aware and prepared for Northern Ireland's unique dual market access regime;

- The dual market access and regulatory regime on Northern Ireland business and commerce has created uncertainty on the applicability and timeliness of new policies and legislative requirements that are being applied by the EU on GB business (and vice versa). For example, the EU's adoption and implementation of new trade and sustainability dossiers - e.g. de-forestation free products regulation and CBAM - has correspondingly different implementation requirements and timelines for Northern Ireland compared to GB. Businesses remain uncertain about how/whether these new policies will apply for Northern Ireland, and on goods moving and traded between GB and Northern Ireland, and with the EU.

#### **Critical Materials Co-operation:**

- The parties should explore an enhanced partnership, co-operation and relations regarding critical minerals and supply chain resilience recognising the increasing importance to new technologies, dealing with both raw and recycled critical materials to ensure access to inputs of production that support industrial and climate ambitions.

#### **Other avenues: UK or EU own initiatives**

##### **UKCA/CE product labelling:**

- The UK DAG notes the importance of maintaining clear product labelling guidance for businesses trading into the EU and UK and keeping that guidance under constant review.
- The UK and EU should look for future opportunities to develop a shared and mutual understanding about the benefits of mutual recognition for conformity assessments. The importance of maintaining a regulatory environment which helps ensure the ready availability and smooth trade of imported products from EU exporters, but which also supports UK businesses in accessing the EU market is critical.
- From a UK perspective, the new UKCA guidance issued for 21 market sectors under the regulatory responsibility of the Department for Business & Trade provides some helpful clarity, including with respect to indefinite recognition in GB of the EU's CE marking.
- Where appropriate, other products and market sectors should be considered for a similar approach by respective UK Government departments as limited progress has been made to further extensions to date.
- A continued review is needed to ensure that further CE labelling extensions are both necessary and practical for the ability of continued trade flow between the UK and EU and that all systems works for business where there is no alternative bilateral solution available.
- There is a need to maintain a consistent review of product labelling guidance issued for UK & EU businesses.

## Level playing field and regulatory cooperation

<b>Short term issues for action</b>
Parties maintain Level Playing Field and human rights commitments in the TCA and common high standards on employment and social rights.*
Agree a mutual recognition agreement on medicines batch testing.*
Make full use of the TBT chapter provisions and ensure full operation of sectoral annexes.
Activate TCA provisions for cooperation between regulators on unsafe consumer products, specifically through reaching an arrangement for UK authorities to have access to 'Safety Gate', the EU's register of unsafe consumer products.*
Remove barriers to trade for seed potatoes.
Co-operate to put in place effective digital customs co-operation to minimise delays at the UK/EU and GB/NI borders and reduce costs (e.g. for importing medicines, investigative medicinal products and kit/devices vital for healthcare and health research). Modify/simplify Rules of Origin in UK-EU trade rules.*
<b>Long term priorities</b>
Monitor respective approaches to shared policy commitments (i.e. deforestation, corporate due diligence, battery regulations, gene editing (plants)).
<b>Technical Barriers to Trade (TBT) Chapter:</b> <ul style="list-style-type: none"> <li>• Avoid creating undue trade friction, consider developing better cooperation mechanisms within the TCA structures to coordinate regulatory approaches in areas of relevance to the trading relationship.</li> <li>• Consider revising aspects of the TBT chapter to better reflect geographical proximity and the nature of the economic relationship between the UK and EU.</li> <li>• Negotiate the broader mutual recognition of conformity assessment results for UK and EU regulatory requirements in key sectors. This process is not necessarily linked to the review of the TCA.</li> <li>• Develop mature SPS systems that recognise the shared objectives of safe and healthy food as well as build processes that provide a basis for the management of proposed future regulatory divergence.*</li> <li>• Agree a mutual recognition agreement on batch testing of medicines.*</li> </ul>
<b>Data:</b> <ul style="list-style-type: none"> <li>• Agree greater data sharing, including UK access to the EU-REACH database while committing to ensuring the highest common chemical protection standards with the EU.</li> <li>• Expand and improve the UK-EU data sharing agreement on secure cross-border data flows, ensuring that the agreement is maintained and renewed beyond the end of the sunset clause on 27 June 2025.</li> <li>• Agree formal third country participation in the second EU Joint Action to develop the policy of the European Health Data Space and EU data sharing standards and rules.*</li> </ul>
<b>Research:</b> <ul style="list-style-type: none"> <li>• Agree terms of UK third country access for UK researchers to EU funding opportunities and projects that will benefit patients, given the UK's association with Horizon now in place.*</li> <li>• Agree mutual recognition of clinical trials sponsors.*</li> </ul>



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| <ul style="list-style-type: none"><li>• Enable performance study sponsors to have legal representation in the EU.</li><li>• Agree access to CTIS (the EU's Clinical Trials Information System) for UK clinicians and researchers, and other relevant databases (e.g. EU REACH).*</li><li>• Agree formal UK participation in the European Reference Networks for rare diseases.*</li></ul> |
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## Explanation

### **TCA Implementation**

#### **Level Playing Field:**

- It is important both parties uphold and build on Level Playing Field commitments in the EU-UK Trade and Cooperation Agreement (TCA) to ensure effective and robust frameworks for competition policy (Part 2, Heading 1, Title XI, Chapter 2) and subsidy control (Part 2, Heading 1, Title XI, Chapter 3); high levels of employment and social protection (Part 2, Heading 1, Title XI, Chapter 6); environmental and climate protection (Part 2, Heading 1, Title XI, Chapter 7) and that fundamental International Labour Organisation commitments are fully implemented.
- In considering and applying the Level Playing Field commitments, it is important parties' actions are consistent with the commitment in the Withdrawal Agreement to the non-diminution of rights, safeguards and equality of opportunity in Northern Ireland (Article 2 Protocol on Ireland/Northern Ireland, now referred to as the Windsor Framework). The Northern Ireland Human Rights Commission (NIHRC) and the Equality Commission for Northern Ireland (ECNI) are tasked with the responsibility to monitor the implementation of Article 2.1. The Group notes the High Court in NI in the recent Dillon judgment took a broad interpretation of the scope of Article 2, considering it to have direct effect, and the UK Government is appealing both matters presently to the NI Court of Appeal. Over the last several months the NIHRC has issued a legal challenge in respect of an alleged breach of Article 2 in relation to the Illegal Migration Act 2023, using the powers provided to it under section 78C of the Northern Ireland Act 1998.3. The Northern Ireland Executive and Assembly have devolved powers over areas that relate to the Level Playing Field commitments, including employment and equality laws. When considering any policy or legislative measures that may affect the level playing field, the UK Government should clearly identify any impact that such proposals may have on Northern Ireland.

#### **Human rights:**

- It is crucial that both parties' actions remain consistent with their joint commitment to upholding and promoting human rights and the European Convention on Human Rights, as human rights constitute as essential element of the TCA (Preamble para 1, Articles, 125, 524, 570, 763).

#### **Aviation regulations/civil aviation authorities:**

- Close cooperation between the UK Civil Aviation Authority (CAA) and the European Aviation Safety Agency (EASA) is critical and was recognised strongly in the Political Declaration. The Specialised Committee on Aviation Safety (SCAS) is a mechanism through which this cooperation can be

achieved, most prominently through the negotiation of a Maintenance Annex to the TCA, which would benefit the aerospace and aviation industry in both the UK and EU.

### **Technical Barriers to Trade (TBT):**

- The DAG underlines the importance of making fully operational the provisions of the TCA related to technical barriers to trade. Given that the TCA provides for mainly tariff free and quota free trade between the UK and the EU, the principal source of trade friction stems from so-called 'non-tariff measures' including compliance with regulation, customs documentation, veterinary inspection for food and feed and conformity assessment requirements for product regulation.
- The TBT chapter provides a basis to address trade friction that may come from approaches to domestic regulation in both the UK and EU. One of the most important ways in which both the UK and EU commit to maintaining low-friction trade environment is through maintaining a common commitment to base technical regulations on international standards where they exist and a common understanding of how both parties should determine what is an international standard.

### **Standards:**

- The use of a common set of standards between trading partners is a key way to ensure trust and confidence in products and services bought and sold on both markets. The UK, through the British Standards Institution, continues to be part of the European regional standards system, helping to ensure that technical specifications linked to products remain largely the same in both the UK and EU despite being separate regulatory jurisdictions. This continuity has helped prevent additional costs for businesses and trading in both the UK and EU arising from the UK's departure from the EU. The DAG also welcomes the continuity provided by the system of designated standards in the UK through which European regional standards, influenced by UK stakeholders, continue to provide a voluntary means of meeting regulatory requirements in both the UK and EU.

### **Consumer interests:**

- The DAG notes further that the TBT chapter of the TCA is of relevance to the interests of consumers in both the UK and EU. We encourage both parties to make full use of the provisions of the TBT chapter to promote regulatory cooperation to ensure that consumers are not put at risk from unsafe or non-compliant goods. We urge both sides to accelerate the process of reaching a formal arrangement to share information on non-compliant goods between the EU's database for unsafe products Safety Gate and its UK equivalent. In addition, cooperation between the EU and the UK around non-compliant products should be accompanied by increased cooperation between national market surveillance authorities.

### **EU-UK TCA Joint Committees:**

- The DAG is encouraged by the constructive meeting of the various trade and specialised committees envisioned under the TCA. It is paramount that both

sides continue to consult with business and civil society in advance of these meetings so that progress is made on priority issues.

- Areas of cooperation or where further work is needed should not be limited to these annual meetings, and we would encourage officials on both sides to continue constructive dialogue and cooperation to resolve outstanding issues throughout the year.
- It is positive that the terms of reference for the three sectoral working groups under the TBT Committee (Medicinal Products, Automotive, Organic Chemicals) have been agreed – we urge both sides to consult with interested parties in advance of these meeting in 2024 to make best use of the time.

### **Changes to TCA Text**

#### **Sanitary and Phytosanitary measures (SPS):**

- There is a need to develop mature SPS systems that recognise the shared objectives of safe and healthy food and the overwhelmingly common legislative starting point of the UK and EU, thereby removing remaining barriers to trade (e.g. seed potatoes), as well as complex administrative requirements and high frequency of border checks. Moreover, both parties should discuss the impact of regulatory divergence and consider equivalency on a case-by-case basis.
- There is a need for food and feed goods exported to each party's territories to operate under clear sanitary and phytosanitary requirements. Both the EU and UK should cooperate in ensuring that the requirements placed on exporters are consistent and seek to remove any inconsistencies in interpretation or guidance.

#### **EU Rules of Hazardous Substances:**

- It is important to maintain alignment of health and safety standards for workers exposed to hazardous substances.

#### **Deforestation:**

- The UK and EU should cooperate over their respective policies related to deforestation and trade in deforestation risk goods. Respecting each parties' autonomy and rights to regulate on this policy within their territories, both parties should work towards mutual recognition and timely implementation of one another's regulatory approaches to ensure consistency and reduce and barriers to trade in the goods under scope.

#### **Chemical regulation:**

- The UK should maintain regulatory cooperation with the EU and be enabled access to the EU-REACH database, while committing to ensuring the highest common chemical and protection standards with the EU.

#### **Data protection:**

- The UK and EU should expand and improve the UK-EU data sharing agreement on secure cross-border data flows, ensuring that the agreement is maintained and renewed beyond the end of the sunset clause on 27 June 2025 and GDPR rules on data protection are maintained.

- The UK should continue to engage constructively with the EU as its new legislation for data protection progresses; it is vital that the UK's adequacy status is maintained.

### **Solvable via supplementary agreement**

#### **Mutual Recognition Agreement (MRA) on medicines batch testing:**

- The UK should encourage a reciprocal arrangement with the EU on batch testing, covering human medicines, through an expanded Mutual Recognition Agreement (MRA), to bring the UK into line with other developed life sciences exporters to the UK.
- Mutual recognition of batch testing by the EU and UK would support patient access to medicines and boost supply chain resilience. In jurisdictions with very high standards of regulation, the need for repeated testing is an unnecessary, duplicative requirement that complicates the supply chain and can delay the batch of medicine reaching patients for an average of 6 weeks and costs £1,500 per batch.
- Removing these trade barriers would meet the EU Commission's new plans to address supply chain vulnerabilities of medicines by diversifying global supply chains through international strategic partnerships with third countries.
- The EU has MRAs with the same markets as the UK – it is an anomaly that there is no agreement between the EU and UK.
- Utilising a standalone agreement can be a useful way of ensuring the MRA is not held up by slower progress in other areas in the free trade agreement negotiation.
- The Medicinal Products Working Group, envisaged in Annex TBT-2 of the TCA should be used as a forum to discuss this key issue. We hope that this may enable progress on closer regulatory compatibility as a longer-term goal.
- There should be cooperation to agree closer regulatory compatibility and elimination of unnecessary UK-EU technical barriers in the marketing, authorisation, and cross-border trade in medical devices to protect EU and UK patient safety and patient access.

#### **Veterinary medicines:**

- A similar agreement to that which was agreed for human medicines is needed for veterinary medicines, to assure the long-term availability of veterinary medicines in Northern Ireland.
- The UK should also encourage a reciprocal arrangement with the EU on batch testing, covering veterinary medicines, through an expanded Mutual Recognition Agreement (MRA).

#### **Financial Services:**

- Regulatory cooperation in financial services, including via the Joint EU-UK Financial Regulatory Forum agreed alongside the TCA, will be important as both regulatory regimes evolve over time, and will enable the parties to discuss plans as they develop.
- Changes to the UK and EU's evolving regulatory regimes should be grounded in proportionality, predictability, and drive support for international standards to encourage global cross-border markets. The Forum will provide a platform

to address shared challenges and opportunities, with a focus on where The UK and EU can work together on topics of mutual interest, including their collaboration on global standard-setting bodies in financial services.

**Research collaboration:**

- There should be a Memorandum of Understanding (MoU) encompassing:
  - Clinical trials: mutual recognition of UK, EU and EFTA sponsors is needed to eliminate the requirement for EU-based legal representation for UK-based clinical trial, clinical investigation and performance study sponsors;
  - Formal UK participation in the European Reference Networks for rare diseases;
  - UK access to the EU's Clinical Trials information system and other relevant databases.
- Research funding programmes: The UK and EU should agree third country access to other mutually beneficial EU funding opportunities and projects.

## Energy and climate change

<b>Short term issues for action</b>
Implement alternative day-ahead electricity trading arrangements, including the establishment of a new deadline as soon as practicable for the arrangements to be in place by.
Ensure full transparency of the UK's participatory goals/objectives and status in North Seas Energy Cooperation (NSEC).*
<b>Long term priorities</b>
Link UK & EU Emissions Trading Systems (ETS linkage).
Continue cooperation and active dialogue between both Parties on energy security of supply.*

### Explanation

#### **TCA Implementation**

With regards to energy and climate, the UK DAG has a number of specific asks and recommendations. More generally, however, the promise of greater cooperation with the EU that could allow the UK to reach net zero quicker and at a lower cost, remains largely unfulfilled.

Going forwards, the UK DAG would like to see the UK Government and European Commission heighten their engagement and dialogue with the aim to fulfil the obligations on energy and climate that are set out within the TCA. These include:

#### **Alternative Day-Ahead Electricity Trading Arrangements:**

- Both Parties should heighten their cooperation to enable the design and implementation of alternative and more efficient day-ahead electricity trading arrangements over the interconnectors between GB and the EU.
- As detailed within the TCA, this workstream follows the de-coupling of the electricity trading arrangements over the interconnectors between GB and the EU. Post-Brexit, electricity is now traded via a less-efficient, more complex, and costly model. Interconnector capacity is also now allocated via a patchwork of different arrangements across different interconnectors.
- Alternative day-ahead trading arrangements (in the form of a multi-region loose volume coupling (MRLVC) model) should have been designed and implemented by the agreed TCA deadline of April 2022. However, a mix of technical challenges, certain geo-political developments (i.e., the Russian invasion of Ukraine and subsequent international gas crisis) and limited political will has resulted in the April 2022 deadline being missed.
- Electricity interconnectors are important for security of supply – helping to support the build-out of renewables in and around the British Isles and Continental Europe, whilst minimising the risk of renewables curtailment. Equally, interconnectors provide a much-needed source of grid flexibility and will be critical to helping both Parties to achieve net zero.

- Facilitating the efficient and effective trade of electricity over the interconnectors will be critical, and indeed the TCA commits both Parties to ensuring the most efficient use of electricity interconnectors across all relevant timeframes (i.e., forward, day-ahead, intraday and balancing – with the priority given to the day-ahead market) through this MRLVC workstream.
- This workstream also underpins many of the ambitions of the North Seas Energy Cooperation (discussed below) particularly with regards to the development of Multi-Purpose Interconnectors. As such, the UK DAG asks for both Parties to:
  - Agree and establish a new deadline for the alternative trading arrangements to be in place by;
  - Heighten their cooperation and dialogue on this workstream to facilitate the swift implementation of alternative electricity trading arrangements;
  - UK Government to ensure its continued engagement with industry on the progress of this workstream, including next steps following meetings of the Specialised Committee on Energy.

#### **North Seas Energy Cooperation:**

- Following the signing of the Memorandum of Understanding (MoU) in December 2022, the UK DAG asks for heightened transparency from the UK Government around the UK's participation and status in the North Seas Energy Cooperation (NSEC).
- The UK DAG asks for the UK Government to provide full transparency of:
  - Its overarching strategy to cooperate within NSEC;
  - Its North Sea priorities;
  - Its next steps following the Ostend Summit in April 2023;
  - The status of the UK within NSEC, including whether the UK has full access to all NSEC information, discussions, and developments.
- NSEC supports and facilitates the deployment of renewables (such as offshore windfarms) in the region, and development of offshore grids and joint ventures such as Multi-Purpose Interconnectors; helping to maximise the 'powerhouse' potential of the North Sea and deliver net zero faster and more cost-effectively.
- UK is one of the leading developers of offshore wind. As such, UK participation in NSEC is of value to the UK and EU. UK DAG encourages proactive dialogue between the UK and NSEC members to enable both Parties to build-out and connect their offshore wind farms, pool resources and share infrastructure, whilst working together to protect other maritime sectors as well as fragile marine ecosystems in the North Sea region.

#### **Carbon Pricing:**

- The TCA commits both Parties to giving 'serious consideration' to linking the UK Emission Trading System (ETS) with the EU's ETS.
- ETS linkage is important for a number of reasons. For example, linkage would demonstrate both Parties shared leadership to fighting climate change,

facilitate a more cost-effective delivery of net zero and enable both GB and EU market participants to have access to a larger, more liquid market.

- A harmonised Emission Trading System price would also remove the need for Carbon Border Adjustment Mechanisms (CBAMs) between the EU and UK markets. In turn, linkage would also remove the challenges and negative implications for market participants/businesses of applying carbon borders between the EU and UK markets.
- The UK DAG calls for the UK Government to begin negotiations with the EU as soon as practicable to link the EU and UK ETSs together.
- However, in the absence of linkage in the short-term, the UK DAG would encourage the UK Government to implement a domestic CBAM similar to the EU's.

**Energy Security:**

- The UK DAG encourages both Parties to continue to cooperate on energy security of supply, including the sharing of information relating to risk preparedness and emergency plans. The exchange of dialogue between the Parties should also be heightened every year in preparation of the Winter months and especially in the event of emergency situations.



## Business and labour mobility

<b>Short term issues for action</b>
Ensure a pragmatic approach to the EU Entry Exit System is taken, and the appropriate infrastructure put in place, so as to avoid delays.
Fully implement Article 145 of the TCA – Transparency of information on the entry and temporary stay of British citizens in EU Member States.*
Uniformly implement rules to avoid unexpected situations at the border, such as business travellers being held/subject to long questioning despite having the correct documents.*
Negotiate youth mobility schemes.*
Re-instate the ability for UK passport holders to use e-gates at EU entry ports.*
Allow artists and associated technical support staff to travel visa-free for more than 90 in 180 days.*
Exempt organisations transporting material carried under an ATA carnet from cabotage regulations.*
<b>Long term priorities</b>
Negotiate broader range of activities for short-term business visitors and allow remunerated work.
Remove some of the non-conforming measures/country-specific barriers for short-term business visitors in certain EU Member States.
Create Permitted Paid Engagement equivalent for UK visitors to the EU.
Agree cap on visa processing times and costs.
Improve Mutual Recognition of Personal Qualifications (MRPQ) provisions.*
Improve provisions for contractual service suppliers and independent professionals, including through extension of categories to facilitate the activities of younger professionals.
Broaden the range of visitor categories under the UK's own immigration system.

### Explanation

#### TCA Implementation

##### **Full implementation of Article 145 of the TCA:**

- This would include publishing information on the entry and temporary stay of British citizens in each EU Member State. This information should include:
  - Categories of visa, permits, or any similar type of authorisation for the entry and temporary stay of British citizens;
  - Documentation required and conditions to be met;
  - Method of filing an application and options on where to file, such as in consular offices or online;
  - Application fees and an indicative timeframe for applications;
  - The maximum length of stay for each type of authorisation;
  - Conditions for renewal or extension;
  - Rules regarding accompanying dependants;
  - Available review or appeal procedures;
  - Relevant laws of general application pertaining to the entry and temporary stay of natural persons for business purposes.

### **Business Travellers' rules and rights:**

- Uniform implementation of rules to prevent unexpected situations at the border when travelling on business from the UK to the EU and from the EU to the UK.
  - Business travellers have been held at borders and subjected to lengthy questioning and sometimes refused entry despite having the correct travel documents.
- The employment rights of mobile workers must be respected, and labour market enforcement agencies must be properly resourced to ensure workers' rights are enforced.

### **Changes to TCA Text**

#### **Short Term business visitors:**

- As part of the review of the TCA due by 2026, the UK should seek to negotiate with the EU a broader range of activities for short-term business visitors and allow work (including work paid by the client in the host state) on a short term basis without the need for a work permit or economic needs test or indeed the need for a visa, provided that the activity is permitted under Annex 21.
  - The current roster of activities permitted to short-term business visitors under the TCA, listed in Annex 21 of the Agreement, significantly hampers the ability for service suppliers to move between the UK and the EU. Certain sectors are facing costly work stoppages due to the inability for specialised service suppliers to travel between the UK and the EU;
  - In addition, Article 142(b) of the TCA establishes that short-term business visitors “do not, on their own behalf, receive remuneration from within the Party where they are staying temporarily”;
  - The activities for short term business visitors listed under Annex 21 are specifically earmarked for review in 2026 under the terms of the TCA;
  - The list of activities for short-term business visitors in Annex 21 paragraph 8 should be expanded to suit sector specific requirements;
  - A provision should be added clarifying that UK service providers have the right to receive remuneration from a client located within the EU when travelling under the Short-Term Business Visitors (STBV) route if they carry out one of the permitted activities;
  - In addition to benefiting service suppliers, such a provision would benefit clients and consumers in the host state by ensuring that they have access to a service that would not be provided without the ability of the service provider to receive payment.
- The review of the TCA could also be used to address and remove some of the non-conforming measures (Annex 21, para 6) that apply to short-term business visitors in specific EU Member States. Sector specific requests will follow.
- An equivalent to the Permitted Paid Engagement route should be created for UK visitors to the EU, which allows for business visitors to be remunerated for services rendered abroad by the client in the host state. Such a route should be for a practical period of time (e.g. at least three months) and be unrestricted as regards the type of services provided. Such a route would of

course be reciprocal and thus the existing UK in-bound provisions should be reflected in the text of the TCA too.

**Cap on visa processing times:**

- A reviewed TCA should include an agreed cap on visa processing times and costs in situations where EU Member States or the UK require a visa/work permit. Slow visa processing times and high costs contribute towards the loss of economic activity, particularly for small and medium enterprises.

**Mutual recognition of professional qualifications:**

- Provisions for the recognition of professional qualifications should be improved. The UK has recently concluded an Agreement on the Recognition of Professional Qualifications with Switzerland which commits the parties to allowing access to, and pursuit of, regulated professions in the host country to professionals from the other country with comparable qualifications, potentially subject to compensatory measures (an aptitude test or adaptation period – with regulators committed to offering both options to lawyers).
  - While it does not fully replicate the provisions which were in place for UK professionals before Brexit, this agreement contains more ambitious provisions on the recognition of professional qualifications compared to the TCA and could be used as a model to push for better MRPQ provisions when the TCA is reviewed.

**Contractual Service Supplier (CCS) and Independent Professional (IP) route:**

- These routes should be made visa-free for EU citizens coming to the UK and for British citizens heading to an EU Member State. This can be done unilaterally but it is best done by mutual agreement and on the basis of reciprocity. There should also be a prohibition on any requirement for there to be a sponsor in the host state.
- As regards the IP route, to promote youth mobility and enhance opportunity, the number of years of professional qualification required ought to be reduced from six to three.
- Consideration needs to be given to removing the mobility and regulatory restrictions that apply under this route for the occupations already listed (Annex 22, paras 10-11) as well as to the EU's reservations (Annex 22, para 12). Sector specific requests will follow.
- Further consideration ought to be given to adding additional occupations, including unregulated ones, such as musicians, creatives, and associated technical support staff.

**Solvable via supplementary agreement or can be addressed domestically by the UK**

**Youth Mobility:**

- Youth mobility schemes as regards study, work and volunteering should be negotiated with EU Member States and there should be greater coordination with current EU and UK mobility programmes where possible.
- The system should be more flexible and allow more than a once-in-a-lifetime opportunity for young people to travel between the UK and the EU for work. For example, provision should be made for young people to apply for a work

permit in-country at the end of the period of stay under youth mobility provisions.

### **Entry Exit System:**

- The EU prepares to roll out a new Entry-Exit System (EES), an automated IT system for registering travellers from third countries including the UK, when they cross an EU external border, replacing passport stamping.
- As the new system enters into force in October 2024, it is important that a pragmatic approach is taken, and the appropriate infrastructure is put in place, so as to avoid delays and disruption to UK-EU travellers.

### **E-gates:**

- The ability for UK passport holders to use e-gates at EU entry ports should be reinstated. This would be transformational for UK passport holders travelling to the EU, including those travelling on business.

### **Cultural visa waiver and cabotage regulations exemptions:**

- Musicians and other artists and associated technical support staff should be allowed to travel visa-free for longer than 90 in 180 days.
  - A cultural visa waiver should be created for artists and crew;
  - The current system is not adapted to the realities of the labour market for musicians;
  - In the cultural industry, musical performance tours often go beyond the current limits. Shipping personnel also face similar issues.
- Companies and organisations transporting material carried under an ATA carnet, i.e. the stage, sound, lighting equipment etc, should be considered exempt from the cabotage regulations contained within the TCA to allow the most efficient use of vehicle on Cross-Border tours. They are not conducting general haulage but simply moving material from one location to another, so do not disrupt the local haulage market.

### **Improvements to UK's inbound mobility:**

The UK's own immigration regime should have a broader range of visitor categories tailored to sector-specific needs.

- The Standard Visitor route should be improved to cater for service providers who do not meet requirements for the skilled worker visa and other economic migration routes. The revised route should be consistent with and reciprocal to a Permitted Paid Engagement visitor route to be agreed for UK visitors to the EU.
- A category for service suppliers should be created which does not require sponsorship or English language qualifications.
- The Permitted Paid Engagement route could be used as a basis to develop a more flexible business mobility route, for example by making full provision for switching in-country into any economic migration route.
- Visas should be renewable subject to ongoing employment. There should be a route to settlement to workers in both the UK and EU.
- The expansion of activities permitted to Standard Visitors in the UK introduced in January 2024, including an extended and clarified list of activities permitted to visiting foreign lawyers, is a good starting point towards improved EU-UK

mobility. However, further improvements are needed, and Government should continue to engage with businesses, unions and civil society on this. Any improvement to the UK's inbound mobility rules should be used as a basis to negotiate improvements to the mobility provisions in the TCA.

## Issues affecting nations and regions

<b>Issues for action solvable via TCA implementation, supplementary agreement or can be addressed domestically by the UK</b>
<p><b>Address barriers to incoming and outgoing mobility - organisations and stakeholders consulted by the nations and regions subgroup noted that current UK – EU arrangements have had a significant negative impact on opportunities for cross-border education and mobility and strategic partnership arrangements. The following should be considered by the UK and EU:</b></p> <ul style="list-style-type: none"><li>• More straightforward guidance on business and professional mobility should be provided, as well as ensuring uniform application of the rules on both sides.</li><li>• The UK and EU should agree procedures to facilitate coordinated action and partnerships between Erasmus+ and domestic UK mobility schemes like the Welsh Taith programme, Turing and the upcoming Scottish Government scheme.</li><li>• The UK Government should work with the EU Commission and individual Member States to lessen administrative barriers, particularly visa requirements and delays for incoming and outgoing mobility, e.g.: Taith not recognised for visa purposes in some EU Member States.</li><li>• The UK should make changes to the Turing programme to improve accessibility, address delays which have had equality implications and address administrative barriers.</li><li>• Where domestic programmes have been provided to fill gaps (e.g.: Taith), these should be committed to in the long-term to allow organisations to plan around them. Including the provision of UK level funding.</li></ul>
<p><b>Continue to strengthen devolved, intergovernmental, and cross-sectoral input and involvement in the institutions of TCA Governance:</b></p> <ul style="list-style-type: none"><li>• The UK and EU delegations to the PPA should agree a formal process for involving wider civil society stakeholders in and/or in the run-up to the PPA.</li><li>• The Senedd, Scottish Parliament and Northern Ireland Assembly should be given the opportunity in good time to feed into the agenda of the Parliamentary Partnership Assembly (PPA).</li><li>• Representative members of the devolved legislatures should be able to participate in plenary, as well as the breakout sessions at the PPA. The devolved legislatures should be provided with the draft agenda for upcoming meetings of the Parliamentary Partnership Assembly at the earliest opportunity to facilitate their own engagement with elected representatives and stakeholders.</li><li>• The devolved governments should be consulted and involved as active participants where appropriate, in the specialised committees.</li><li>• The UK should reconsider how to ensure that the annual Civil Society Forum involves civil society organisations other than those that are represented on the DAG.</li></ul>
<p><b>Citizens' &amp; Equality Issues:</b></p> <ul style="list-style-type: none"><li>• Ensure recognition of UK disabled parking documentation across all EU Member States and local regions.</li></ul>

- Improve transparency and consistent delivery / implementation of disabled people's parking rights for UK travellers in the EU, ideally by working towards a single framework with the EU in this area.
- The UK and devolved governments should monitor progresses in equality and social policy in the EU and ensure that UK frameworks do not fall behind in areas like pay equality and transparency and accessibility etc.
- Organisations consulted asked the UK to explore interoperability with the EU's new system of mutual recognition of disability status and disabled people's parking rights (EU Disability Card and European Parking Cards).

**Improve experience for people to send and receive personal parcels / gifts between the UK and EU:**

- Improve available information and transparency around sending / receiving personal post / parcels between the UK and the EU.
- Ensure uniform application of rules so that fees are understandable, consistent, and correctly applied.

**Safeguarding the Union Command Paper:**

- The Nations and Regions Sub-Group recommends the DAG request information on engagement and consultation with civil society around how new commitments will be discharged - Under the new arrangements for an independent review of the functioning of the Windsor Framework, outlined in the Safeguarding the Union command paper, published on 31 January 2024, there is provision for consideration of the specific implications for Northern Ireland's place in the Union and in the UK's internal market; and the impact of any retained EU law on the manufacture of goods. This includes provisions for including civil society in consultation around any specific issues that need to be addressed, and the commitment to ensuring they command cross-community support.

**Organisations and stakeholders consulted by the nations and regions subgroup noted that current UK – EU arrangements have had a significant negative impact on opportunities for cross-border education and mobility and strategic partnership arrangements. The following should be considered by the UK and EU:**

- The UK and EU should negotiate new cross-border educational mobility arrangements that are better tailored to the new relationship.
- The UK should conduct a review of domestic cross-border mobility schemes. The Turing scheme should be expanded to include the provision of opportunities for young people outside of FE/HE institutions. E.g.: cross-border apprenticeships; cross-border volunteering; third sector strategic partnerships and staff exchange; activities typically available under Erasmus+ Key actions 2 and 3.
- The UK DAG Nations and Regions sub-group also recommends that the UK revisit associating with a variety of EU funded programmes, including but not limited to: Creative Europe, the European Solidarity Corps, LIFE and Erasmus+.

## Explanation

### **TCA Implementation**

#### **Address administrative barriers to incoming and outgoing mobility:**

- Administrative barriers to incoming and outgoing mobility are having a negative impact on cross-border volunteering opportunities available, as well as attraction and retention of volunteers and staff from the EU. Organisations reported a negative impact on the reputation of the UK as a destination for work and volunteering. Occasionally, delays in the delivery of visas have resulted in placements having to be cancelled or volunteer candidates dropping out. The creative industries have also reported specific disruption, as have disabled people's organisations insofar as the mobility and resulting availability of personal assistants from the EU has been impacted.
  - The UK Government should work with the EU Commission and individual Member States to lessen administrative barriers, particularly visa requirements for incoming and outgoing mobility. Some examples include the well documented issues faced by the creative industries also some limitations in the Welsh education programme- Taith not being recognised by all EU Member States' authorities for visas.

#### **Devolved input into other TCA governance structures:**

- The Nations and Regions Sub-Committee welcomes progress made to date on the involvement of devolved legislatures and administrations into the operation of the Parliamentary Partnership Assembly (PPA). However, in discussion with stakeholders outside of the UK's DAG, it was felt that some improvements to the inclusiveness of TCA governance should be considered.
  - The devolved legislatures have a close connection with stakeholders in their respective parts of the UK, so maximising opportunities for MSs, MLAs and MSPs to participate directly in the agenda setting and oral proceedings of the PPA should be encouraged.
- Greater involvement of civil society organisations in and around the PPA on the UK's side would be welcomed.
- Some organisations also reported disappointment to us that the UK's delegation to the 2023 Civil Society Forum was limited to UK DAG members and asked us to call on the UK Government re to reconsider this approach in the future.

#### **European Convention on Human Rights:**

- The TCA provides, as part of the agreement around law enforcement and judicial cooperation, that the cooperation provided for in these areas is based on "the protection of fundamental rights and freedoms of individuals, including as set out in the European Convention on Human Rights, and on the importance of giving effect to the rights and freedoms in that Convention domestically." The Belfast (Good Friday) Agreement commits to the incorporation of the ECHR into Northern Ireland law, including direct access to the courts and remedies for breaches. This is currently provided for via the Human Rights Act 1998.



- We recognise and are monitoring concerns raised by parties over the introduction of the Safety of Rwanda (Asylum and Immigration) Act, its impact on commitments to the Windsor Framework and the TCA, and compatibility with the Belfast/Good Friday Agreement; as well as emphasising the importance of maintaining commitments to the ECHR. These areas will be subject to ongoing DAG scrutiny and review.

### **Solvable via supplementary agreement or can be addressed domestically by the UK**

#### **Youth Mobility:**

- The UK and EU should collaboratively reassess the impact of the new relationship on cross-border educational and mobility opportunities, with an emphasis on the UK rejoining Erasmus+. To further address gaps in youth mobility opportunities, the UK Government should also revisit its decision to not associate with other programmes such as the European Solidarity Corps and Creative Europe. Additionally, both the UK and the EU should prioritise deficiencies in apprenticeships and traineeships provision, recognising its role in fostering skill development and workforce mobility among young individuals.

#### **Equality & Citizens' Rights:**

While these issues do not fall strictly within the remit of the TCA, they nevertheless relate to the UK – EU relationship and were brought to the Sub Committees attention by stakeholders.

- The Nations and Regions Sub-Committee UK DAG welcomes the negotiation of parking rights for disabled people with individual EU Member States. However, this is not yet in place across all Member States. Even where implementation is mutually agreed, often local variations apply. As a result, the information available is not always easily understood by citizens. The European Commission recently agreed a Disability Rights package that would apply to all Member States universally. This provides an opportunity to ask for an extension to the UK which would also benefit all EU citizens, extending a cooperation agreement in a mutually applicable way.
- The Nations and Regions Sub-Committee welcomes the decision to retain some EU equality rights (E.g.: Article 157 TFEU rights to equal pay for equal work). The Sub-Committee recommends that the DAG continue to monitor potential divergences in this area. In particular the UK and devolved governments should monitor policy progresses in the EU and ensure that citizens in the UK do not miss out on enhanced rights (E.g.: Gender pay gap; pay transparency; mutual recognition of disability status; accessibility).
- The UK and devolved governments should continue to support EU citizens in the UK in securing their rights, and funding organisations to support applications to the EUSS. Despite the EU Settlement Scheme (EUSS) application deadline passing almost three years ago, a significant number of individuals still require support and guidance in navigating the post-Brexit landscape. On 16 January 2024 the UK Home Office published revised

guidance on the EU settlement scheme to enable EU citizens who had a reasonable belief that they did not need to apply for EUSS to submit late applications. Concerns remain however that the changes are still very limited in scope and that vulnerable EU citizens remain at risk of refusal. The Sub-Committee is aware that the Independent Monitoring Authority has previously expressed concern about the identification and support of looked after children and care leavers by local authorities in Wales. While these have been addressed, local authorities in other parts of the UK should be supported to effectively support these groups.

- The Belfast (Good Friday) Agreement provides that the Republic of Ireland would have “at least an equivalent level of protection of human rights” as in Northern Ireland. The NIHRC, ECNI and Irish Human Rights and Equality Commission (IHREC), which have been working jointly in overseeing Article 2 Windsor Framework issues that have an island of Ireland dimension, have highlighted their view that long-term North-South equivalence of rights is important to ensure there is no diminution of rights in Northern Ireland and that human rights and equality protections are subject to continual improvement. For stakeholders such as trade unions, potential divergence in rights and equality protections is an ongoing concern. The NIHRC, ECNI and IHREC have begun to track this potential divergence, reporting in December 2023 that there have already been developments in EU law that could potentially strengthen rights and equality protections in Northern Ireland, but which will not be required to be implemented in Northern Ireland under the Windsor Framework. The Commissions recommend that North-South equivalence of rights and protections is ensured, by Northern Ireland law keeping pace with changes to EU equality and human rights law that strengthen protections.

### **Sending and receiving parcels and gifts between the UK and EU:**

It has become difficult and, in some instances, costly for people living in the UK to send and receive cross-border parcels and gifts.

- The information available on UK sources (UK Government website, Royal Mail) is extremely complex and difficult to understand, even for non-lay people.
- People, especially with cross-border families, have adjusted their behaviour to either no longer send or significantly reduce the frequency at which they send gifts between the UK and EU. This is because they have experienced fees, even where it was understood that they were below relevant thresholds, because the recipient had to pay to receive the gift or indeed because it was too difficult to understand what the applicable rules and fees should be.
- Stakeholders noted that the entire experience now undermines the very notion of gift giving because:
  - 1) One must declare the precise nature of the gift on the customs form which will be immediately visible to the recipient (noting that this must be very specific – in this example conveyed to us, the person was told “clothes” was not appropriate, but instead ‘men’s shirt’ is necessary;

- 2) The price of the item must be declared, also immediately visible to the recipient;
  - 3) The recipient will often have to pay to receive their gift.
- The Nations' and Regions sub-committee has become aware that often sole traders sending bespoke and speciality items to customers in the EU are often having them returned because of administrative charges beyond what has been paid for the item.
  - The Sub Committee believes that these could be unintended consequences where citizens and sole traders are being penalised unnecessarily and asks that the DAG raises this with the UK Government as a possible area for resolution.