UK Trade: Background and Future under the TCA and the Windsor Framework

by Blair Horan

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1. Glossary of Terms

CBI - Confederation of British Industry

CPTPP - Comprehensive and Progressive Agreement for Trans-Pacific Partnership

ECSC - European Coal and Steel Community

EFTA - European Free Trade Association

FTA - Free Trade Agreement or Free Trade Area

GATT - General Agreement on Tariffs and Trade

HMRC - His Majesty's Revenue and Customs

IEA - Institute of Economic Affairs

MFN - Most Favoured Nation (A WTO Trade Term)

NAFTA - North American Free Trade Agreement

NIESR - National Institute of Economic and Social Research

OBR - Office of Budget Responsibility

ONS - Office of National Statistics

REACH - EU Regulation on registration, evaluation authorisation and restriction of chemicals

SPS - Sanitary and Phytosanitary measures to protect human animal or plant life or health

TSS - Trader Support Service

UKCA - United Kingdom Conformity Assessed

About the author

Blair Horan is a member of the IIEA's UK expert group. He was a member of the Irish Executive Committee of the ATGWU (Unite) trade union in the Belfast office from 1980-1988. He worked for the Civil Public and Services Union trade union (one of the three founding Unions of FÓRSA) from 1988, becoming General Secretary and a member of the ICTU Executive Council from 1997-2011/12. He has represented ICTU on the following bodies: National Forum on Europe 2002-2009; Alternate member EU Economic and Social Committee 2010- 2015; Full member European Social Fund Committee 2011-2021; and Member of EU North-South Interreg Steering, Evaluation, and Monitoring Committees 2015-2023. Blair led the negotiations for the CPSU on the integration of customs staff members into the wider Revenue structure as part of the EU 1992 Single European Market Programme. He has an Honours BA Degree in Economics, and an Honours MA Degree in International Relations.

1. How Empire shaped UK trade policy

From the time of the Angevin Kings to the mid-17th century, the exports of England consisted of 80-90% wool/woollen cloth bound for Europe. In 1607, the first permanent English colony was established in Jamestown, Virginia, in what is now the United States, more than a century after the Spanish and Portuguese established a presence there. However, in place of looking for gold and silver bullion, English settlers focussed on cultivating crops for a growing market in the 'mother country' and Europe. Sugar, tobacco and cotton made the colonies ripe for expansion both in North America and the West Indies. The Navigation Acts and Stable Acts were enacted between 1651 and 1663, which governed Empire trade for two centuries. These Acts confined shipping to residents of England and its colonies, and required certain enumerated goods to land in England before re-export. Restrictions were placed on local manufacturing, and these colonies became a supplier of raw materials/provisions to the 'mother country' alongside lucrative products for re-export.[1]

This system, known as Mercantilism, was structured around state power and regulation, as trade was at that time viewed as a zero-sum game, with a gain for one power being a loss to others. Another benefit was the supply of seamen to the Navy which expanded to become *the* global naval power up until the 1920s. Mercantilism was viewed as the promotion of power by states, with wealth generated through trade forming the means to achieve and retain that power. Virginia, along with the southern colonies and the West Indies, became the core of the English plantation system in the 17th century, with the abduction and enslaving of African peoples the economic basis for colonialism. By the turn of the 18th century trade patterns had shifted decisively, with the re-export of colonial produce now constituting over 30% of English export trade and wool/woollen cloth falling below 50%.[2]

The Glorious Revolution brought renewed conflict with France in 1689 with the onset of the Nine Years War, and that rivalry would endure and manifest in various wars for over a century. At that time, English trade tariffs were 5% on imports/exports, and import tariffs were increased to 20-25% to secure revenue to fund wars. Over time, a highly protective trading system emerged. The Corn Laws protected agriculture and industry, which despite guaranteed closed overseas markets, sought high import tariffs, which rose to 50% to protect the home market.

Adam Smith's *Wealth of Nations*, published in 1776, was key to challenging the Mercantile system, influencing Prime Minister Shelbourne, and Chancellor Pitt the Younger, and leading to the Anglo-French Treaty of 1786, which lowered tariffs and restrictions on trade with France. Smith proposed that free trade and the self-interest of the 'invisible hand' would generate greater prosperity, because protected markets were inefficient, artificially raising profits and drawing capital which could be better utilised elsewhere. However, when France, under Napoleon, embarked on continental conquest and enacted a trade blockade of Britain's access to Europe, this act further reinforced trade protection until after the Congress of Vienna in 1815.[3] [4]

In 1792, US Treasury Secretary, Alexander Hamilton issued his *Report on Manufactures*, proposing infant industry protection, alongside modest import tariffs of 5%. When US restrictions on trade to the West Indies were circumvented through British Canada, US President Madison opted for war. Mercantilism had helped make Britian a major imperial power, with the world's most powerful Navy, and its industry a manufacturing powerhouse on global markets. The 1812 war led to the US prioritising its domestic industry through highly protective import tariffs. In 1833, these high tariffs led South Carolina to threaten to disapply them and secede from the Union. The American Way, as it was called, was an alliance of northern manufacturers with western farm interests to support legislation in Congress for improvements to canals and roads, to be paid for by increasing tariffs. But President Jackson vetoed an improvement scheme for Kentucky in 1833, on the grounds that it was not inter-state, which led to a resolution of the serious 1833 Nullification crisis with South Carolina, and an agreement to reduce US tariffs on a phased basis over 10 years.[5]

The Congress of Vienna in 1815 brought an end to the Napoleonic wars, and within a decade tariffs began a downward trend in Europe. The Latin American colonies began moves towards independence when Napoleon caused the Portuguese Court to flee to Brazil in 1807 and deposed the Spanish King the following year, and the British saw these developments as a new trading opportunity. The UK opposed the Holy Alliance Powers intervening in Latin America, proposing instead a joint UK-US initiative, which the US turned into a unilateral declaration through the 1823 Monroe Doctrine. During the 1820s the UK began a relaxation of the Navigation laws and, following the Reciprocity of Duties Act 1823, began to sign bilateral trade Treaties with other powers, including Prussia and Russia. By the 1830s, tariff levels had reduced closer to 30%, and the drive for the abolition of the Corn Laws had begun, spearheaded by the Radical MP Richard Cobden. By the 1840s the campaign was making progress and the Irish Famine of 1845 ultimately convinced Robert Peel, the Prime Minister, to support abolition in 1846. Corn Law abolition meant a policy of free trade was introduced for both agriculture and manufactures with tariffs now mainly for revenue. This policy stood for 87 years, before the 1930s Coalition Government reintroduced Imperial Preference in 1932. In 1860, Cobden negotiated the Cobden-Chevalier Treaty with France, which led to freer trade across Europe, through a combination of bilateral Treaties with reciprocity clauses, which had the effect of extending free trade terms wider. By 1870 most of Europe was covered by a matrix of trade agreements with significantly lower tariffs for the first time since the late 17th century.[6] [7]

The protectionist US Republican party, led by Abraham Lincoln, won the 1860 Presidential election on a policy of protective tariffs and restrictions on slavery. Victorious in the Civil War which ensued, the Republicans were dominant post *bellum*, with the South subject to Reconstruction measures which meant that tariffs rose significantly, with just two interludes under the Democrats in the 1880s and 1890s. An 1873 collapse in US railways stocks spread to Europe, triggering an economic crisis known as the first Great Depression. In the UK the impact lasted into the 1890s, but Germany under Bismarck resumed protectionist policies in 1879 for both agriculture and industry. France went back to protectionism in 1892 with the Meline tariff, as Europe generally did for agricultural protection. However, the UK stood firm for unilateral free trade, with cheaper food now available from the US due to quicker ocean transit in steamships. This decision severely impacted UK agriculture with some prices falling by up to 40% and the impact was devastating in Ireland resulting in misery, evictions and the Land War. The UK industrial sector fared better than agriculture, but business confidence and profits were down. It was an era of falling prices but increased output as the technological impact of railways and steamships reduced costs. The UK's free trade policy had become an outlier in a protectionist world, and was opposed by many UK groups with Fair-Trade campaigns in the 1880s.[8] [9] [10]

The Home Rule Bill of 1886 saw Liberal Unionists, which included Joseph Chamberlain, abandon the Liberal party to oppose Home Rule, and then join with the Conservatives. Joseph Chamberlain, known as Radical Joe, a Colonial Secretary in both the Salisbury and Balfour Governments, began a campaign on 3 May 1903 for the UK to return to Imperial Preference. Corn Law abolition in 1846 had disadvantaged the colonies, including the white settler colonies of Canada, Australia and New Zealand, through their loss of valuable imperial preference with Britain. The UK relied on them for food and raw materials, but other countries now had access to the UK market on similar terms. Canada in particular feared US encroachment. With both the US and Germany prospering and beginning to close the gap with the UK, the view of Imperial Preference advocates was that UK trade policy put the country at a disadvantage. Studies by O'Rourke have shown that countries in the late 19th century could have growth alongside trade protection, unlike post WW11, when liberal free trade was advantageous. Free traders such as Winston Churchill argued that because the UK imported mostly food and raw materials tariff free, that UK trade policy made sense, as UK exports were primarily manufacturing goods and any new UK import tariffs would lead to even higher tariffs on UK goods exports.[11] [12]

The sharp divisions on trade divided the Tory party, keeping it from office after 1906, until the war Coalition brought them back under Prime Minister Lloyd George in 1916. Despite wartime tariff increases and later safeguarding duties to protect new war-related industries, free trade as a policy was supported by citizens including the trade unions as Imperial Preference tariffs were considered a tax on the working persons' loaf. The Wall Street Crash of 1929 and the Great Depression changed UK trade policy, when the fall of the Labour Government saw the Tories return in a Coalition Government. Advocates of Imperial Preference were now dominant. By 1932 Britain was off gold, had re-introduced tariffs that February, and followed with the July Ottawa Imperial Conference which agreed a scheme of Imperial Preference. The Chancellor, Neville Chamberlain, finished his February 1932 Budget speech by referencing the proud moment that he, in the presence of his brother, Austin Chamberlain MP, had completed the great work began by their father.[13] [14] [15]

In the US, Democratic administrations with roots in the exporting South traditionally supported free trade, but the protectionist Republican administrations of the 1920s had steadily increased tariffs. The infamous Smoot-Hawley tariffs of June 1930, which began as a measure of agricultural protection, very quickly led to Congress logrolling, and with Hoover's refusal to veto this resulted in the collapse of world trade, as countries retaliated. The newly elected President, Franklin Delano Roosevelt, appointed Cordell Hull, a confirmed free trader as his Secretary of State in 1932, and the new administration soon began the decisive turn to free trade with the Reciprocal Trade Agreements Act 1934. Without this policy change, the new post war economic and trade structures of the IMF, World Bank and GATT/WTO would never have emerged. The RTAA gave the President a decisive influence, alongside Congress, on US trade policy for the first time, allowing the post war system to take shape. Congress still had a final say on trade policy, but the focus shifted to trade agreements, negotiated by the Executive and put before them for ratification, which allowed a series of US bilateral reciprocity treaties to emerge in the 1930s.[16] [17] [18]

2. Post WWII trade strategy: The UK decisions to join/ leave the EEC/EU

The new trade and economic policy pursued by Government did lessen the impact of the Great Depression in the UK. By the late 1940s, UK Government policy prioritised cheap food, coupled with domestic agriculture supports, with trade policy revolving around Commonwealth partners and raw material imports to support an industrial export economy. Both Tories and Labour considered this a successful economic model. As the only World War II victor in Western Europe, the UK considered it was entitled to take the lead, but the new Labour Government opposed closer European integration, fearing it would impede the central plank of its economic policy: the nationalisation of key industries including coal, steel and electricity. Returning to office in 1951 the Conservative Government followed the same path, promoting intergovernmental structures as the sole basis for European integration. The UK had reluctantly committed to end Imperial Preference in the 1941 Atlantic Charter agreed with FDR, but post-war the UK was determined to use

Imperial Preference to bargain further reductions in US tariffs in pursuit of its 'One World Policy'.

The Board of Trade viewed trade with economies, like the Empire and Dominions, rather than industrialised European economies, as the best economic option for the UK, and also feared a Customs Union in Europe would lead to a level of integration unsuited to British sentiment. At that time the UK sent 14% of its exports to the Six (Belgium, France, Germany, Italy, Luxembourg, and Netherlands) and more than twice that to the Commonwealth. Harold Wilson, in a House of Commons debate about joining the EEC in August 1961, reflected the deep reluctance to abandon Imperial Preference and the strong attachment to the Dominions when he said "we are not entitled to sell our friends and kinsmen down the river for a problematical and marginal advantage in selling washing machines in Dusseldorf". Still not thirty years in operation, UK trade policy with the Empire/Commonwealth already ran deep in the veins of the British.[19]

The failure of the European Defence Community in 1954, when the French National Assembly refused ratification, gave the UK further confidence that others depended on their leadership. It led to the successful UK initiative to create the Western European Union, allowing German and Italian participation in a revised Treaty of Brussels, followed by their incorporation into NATO. However, the UK underestimated the determination of the Six ECSC members to proceed with deeper European integration which they duly did at the Messina Conference of Foreign Ministers of the Six in July 1955. The UK was invited to join the resultant Spaak Committee to prepare proposals for a new Treaty, and duly sent a Board of Trade official whose remit was to promote a European free trade area, and he withdrew before the Spaak Report issued. It was only in September 1956, when the Six looked likely to succeed, that the UK finally decide to act, in the hope of derailing the process. The UK proposals for economic cooperation in Europe, Plan G, of a series of alphabetical options, A to G, was a compromise between various UK interests, which took no account whatsoever of the requirements of the Six. It was limited to free trade in industrial products, as the UK insisted on excluding agriculture. The UK operated a 'deficiency payments scheme' to compensate farmers, while following a cheap food policy sourced from Ireland and Commonwealth countries. The UK's Plan G, in theory, allowed imports to enter through the lowest tariff Free Trade Agreement (FTA) member state, with circulation in the whole of the European area including the Six, even if they were to form a customs union. While the UK did commit to an inspection of tariffs for sensitive goods it considered that tariff rates were best left to the market to decide. Negotiations with the Six began in September 1958, by which time the Six had become the EEC, with a first round of tariff reductions due in January 1959.

Unsurprisingly, these negotiations for a free trade area linked to the EEC ended in failure after only three weeks, when President de Gaulle vetoed a continuation, insisting on a common external tariff. This failure of a decade long national economic strategy was entirely predictable given that a number of countries, including France, Netherlands and Italy, needed outlets for their agriculture exports, which Plan G completely ignored. It should also be noted that the Spaak Committee deliberately chose the structure of the EEC to be a Customs Union/Common Market, because this much deeper level of economic integration would allow for both a common currency and the elimination of internal borders to be agreed over time. Yet again the UK had made proposals which suited only its own interests, and took no account of the requirements of key members of the Six. Agriculture again featured in the failure of the 1961/63 negotiations when de Gaulle vetoed the UK for a second time, and although EFTA had been established in 1960, by 1961 Macmillan had concluded the UK must join the EEC to avoid political isolation under a dual western world devoid of UK influence.[20]

The UK's post-war trade policy also took no account of the clear US preference for closer European integration, strongly influenced by the emerging Soviet threat, because a

European FTA discriminated against US exports just as much as a Customs Union did, but without the political compensation of a more unified Europe. The UK resisted losing the advantages of Imperial Preference and sought to salvage what it could in the 1970/71 accession negotiations, as talks with the Six were always driven by the UK's wish to 'have their cake and eat it'.

When Edward Heath, as Prime Minister, finally led the UK in to the EEC on 1 January 1973, he could only do so with assurances to the House of Commons, secured in a meeting with President Pompidou, that there was agreement that decisions should in practice be taken by unanimous agreement where national interests were at stake and, on this basis, he assured the House that joining the EEC, "does not entail a loss of national identity or an erosion of essential national sovereignty". Mr Pompidou had confirmed that the 'Luxembourg Compromise 1966' still applied. He needed the support of 69 rebel Labour MPs, after 39 Conservatives opposed the Bill, to get Parliament to agree to join.[21]

From then on, for each Treaty revision except Nice, the UK adopted a policy of linking UK ratification to special terms of membership through opt-outs. Prime Minister Thatcher opposed calling an Intergovernmental conference at Milan in 1985, with support from Denmark and Greece but, crucially, not Ireland, as Taoiseach Garret Fitzgerald opposed her stance, despite sensitive ongoing Anglo-Irish negotiations. The UK subsequently made a positive contribution to the Single Market negotiations, but Mrs Thatcher's opposition to an active Delors Commission soon had her at odds again. Her Bruges speech in 1988 set clear limits on the extent of future cooperation, and when she got embroiled in disputes with senior Ministers over the European exchange Rate Mechanism (ERM) and her hostility to moves towards European Monetary Union (EMU), it led to her resignation as Prime Minister. Mrs Thatcher's approach re-ignited a dormant UK euroscepticism, finding a ready audience with Tory voters as the UK increasingly viewed membership in purely transactional terms, revolving primarily around trade and economic advantages. Despite having opt-outs on the euro and social policy, which were the main Maastricht Treaty changes, the UK ratification process became the rallying cry for Tory Eurosceptic opposition to the EU. After 1997, being a committed Eurosceptic was essential to be selected as a Tory candidate, with successive leaders being strongly Eurosceptic. Open Europe, now part of the Policy Exchange think tank, began a campaign of relentless opposition to what they deemed excessive EU Regulation, and the Eurosceptics promoted a view that the UK could leave and secure better trade and economic terms once outside, through free trade agreements with the flexibility to set their own regulations.

To allow the EEC to focus on integrating its markets fully, French President Mitterrand helped resolve an ongoing row over the UK Budget contribution, for which a formula was agreed at the Dublin Summit in March 1974. This had its roots in Imperial Preference, as UK trade patterns with the Dominions resulted in higher import duties collected by the UK as part of EEC own resources. These were viewed in Britain as UK Budget contributions when in reality they were EEC financial resources collected by the UK. The formula agreed in Dublin failed to produce a rebate, primarily because North Sea oil revenues moved the UK Balance of Payments into surplus, while a rebate was contingent on a deficit. Nonetheless, at Fontainebleau in 1984, President Mitterrand decided to resolve the matter so that European progress could proceed.[22]

In the 1980s and 1990s, the only guaranteed trade option available outside the EEC and its satellites, was trading under GATT terms. European states, which opted not to join the EEC in 1972, were all in the Single Market, and required to adopt EU regulations without input into their creation. Both the US and EU had a small number of FTAs in place, mainly related to political factors such as Middle East peace or the EU Neighbourhood policy, established under the Barcelona Declaration of 1992. However, that began to change significantly after 1999 with the suspension of the new GATT round of negotiations in Seattle, which led the incoming US President, George W. Bush, to embark on a series of bilateral FTAs which over time led to 20 US trade agreements, some of which were finally ratified under the Obama administration. In the 1990s, President Clinton had, with some difficulty, secured congressional approval for the North American Free Trade Agreement (NAFTA) with Canada and Mexico, followed by China's WTO accession.

In the UK, William Hague, then Foreign Secretary and a former Party Leader, gave a deeply Eurosceptic speech in Manchester on 5 October 2011, referencing an earlier prediction that the euro would be like a burning building without exits, and warning that when the opportunity arose the UK would reset its relationship with the EU. On 24 October 2011, 81 Tory MPs rebelled on a motion on Europe, and called for a referendum on membership. The then Prime Minister David Cameron duly obliged in January 2013 by proposing a renegotiation of the UK's terms of membership, which would be followed by an In/Out referendum. By then, the availability of EU FTAs was extensive, as the EU had surpassed the US in agreeing FTAs to prevent loss of global market share. Mr Cameron's core message was that the UK only ever signed up to a Common Market, which he labelled as a free trade area, giving the Leave side their core message in the campaign, when the Referendum was called. FTAs were now readily available where previously it was mainly GATT/WTO terms, both as an EU member but crucially from outside the EU too. At the time of the UK referendum in June 2016 the US was engaged in FTA discussions with the EU under TTIP, and had agreed the Trans Pacific Partnership with eleven Pacific countries. As a consequence, Brexiteers could promote a UK-US FTA alongside an EU deal as a better option than EU membership.

This ready availability of UK FTA alternatives assisted the Brexiteers victory because of the free trade orientated instincts inherent in free market Thatcherite policy. The UK had replaced Imperial Preference with a European one in 1973, but the free market economists like Patrick Minford labelled this as a protectionist bloc that only increased prices. The need for the British public to appreciate the fundamental difference, in terms of costs and extent of trade access, between a Single Market which extended the UK domestic market throughout the EU, and a free trade area with its deep structural trade limitations and multiple restrictions, proved just too complex to grapple with in a referendum campaign. Based on a comprehensive study by Hufbauer and Schott on the trade impacts of different types of trade relationship, Morgenroth using this study along with other research for his chapter in a Brexit publication in 2017, concluded that leaving the EU and agreeing a bilateral trade agreement with the EU would reverse the increase in trade of about 20% through Customs Union and Single Market membership.[23] [24]

David Cameron's successor as Prime Minister, Theresa May, said the UK would leave the Customs Union and Single Market but sought a hybrid deal of being inside and outside the Customs Union at the same time under the Chequers plan. The EU made clear that outside the EU the UK would be seen as a major competitor, and therefore had a limited choice of either joining the European Economic Area (meaning Single Market access, but as a rule-taker, not a rule-maker), or agreeing a third country FTA, and ruling out mutual recognition of standards. Failing to get her deal through the Commons, her successor Boris Johnson won a 'Get Brexit done' election in 2019 and opted for the standard third country FTA with minor changes to the Protocol on Ireland/Northern Ireland, which had been negotiated by Prime Minister May's government. The TCA was signed in December 2020, as the UK had left the EU in January 2020 but had availed of a transition period which allowed a continuation of most of the terms of the UK's EU membership. This delayed the impact of Brexit until 1 January 2021.

3. Trade under the TCA

There is now trade data available for the 2 years and 9 months since the TCA came into force, but the benefits promised by the Brexiteers have yet to appear. Given the war in Ukraine, with supply chain restrictions and inflation due to energy price rises, it is true that this has not been a normal period. Nonetheless, the trade and economic outlook for the UK is not a positive one. Prior to the 2016 referendum there were a number of key reports showing that Brexit would lead to significant economic and trade costs - and the harder the Brexit the costlier the outcome. The HM Treasury 2016 report estimated the loss of GDP after 15 years to be 6.2% if the UK opted for an FTA outside of the Single Market. Even Single Market membership outside of the EU was estimated to cost the UK 3.8% of GDP. These are significant losses and would amount to a sizeable loss of tax revenue and lower living standards. The CBI estimated that leaving the EU would entail a loss of 4-5% of GDP, with a Centre for European Reform Report finding that membership boosted UK trade in goods with other members by 55%. To date there is nothing in the trade data since Brexit to suggested that the UK can prosper outside the Single Market under FTA trade agreements.[25]

ONS data at current prices, CP1, set out in Table 1 below shows that since 2015, the year before the UK voted to leave the EU that export trade both goods and services, EU and non-EU was above previous year levels for each year, except 2020 with a similar picture for imports. In the case of data for 2021 the trend shows that total export trade was behind trade in 2018 and 2019 and for 2017, as well in the case of goods trade for both EU and non-EU. This reflects the fact that inflation was a significant factor behind 2022 increases. It may be that the adjustment to the more cumbersome UK-EU export mechanisms and restrictions applied in 2021 was also a factor.

Table 1 ONS CP 1 Trade data. September 2023, 2015-2023 £billion. Includes Q1,2 and 3 comparisons 2022-2023 Current prices.

	Exports					Imports				
Year	**TT**	**TG**	**TS**	**TGEU**	**TGnEU**	**TT**	**TG**	**TS**	**TGEU**	**TGnEU**
2015	530.7	277.9	252.8	133.4	144.6	558.4	402	156.4	219.8	182.1
2016	572.2	295.9	276.3	143.7	152.2	609.1	434.4	174.7	238	196.4
2017	641.2	337.8	303.4	165.1	172.7	668.3	476.8	191.5	258.2	218.6
2018	678.1	352.4	325.7	174.7	177.7	705.2	491.1	214.1	267.6	223.5
2019	692.2	353.7	338.5	171.6	182.2	722.2	497.5	224.7	269.9	227.6
2020	614.1	303.5	310.6	146.9	156.6	602.9	432.5	170.3	232.7	199.8
2021	670.1	325.3	344.8	156.6	168.7	668.7	483.8	184.9	237.2	246.6
2022	801.7	390.5	411.2	195.7	194.7	892.9	633	259.9	306.3	326.7
2022	589.6	290.9	298.7	146	145	663.3	474	189.3	224.9	249.1
2023	634.6	284.2	350.4	139.1	145.3	667.6	435.7	231.9	239.2	196.5
%	**7.6**	**-2.3**	**17.3**	**-4.7**	**0.21**	**0.65**	**-8.1**	**22.5**	**6.4**	**-21.1**

However, when the impact of inflation is removed in CVM1 trade data set out in Table 2 below a clearer picture emerges. Total export trade for 2022 is below 2018 and 2019. Total goods exports, and goods exports to both EU and non-EU countries, are at or below each year since 2015. Only total services exports are performing better for the years since 2015. In all above comparisons the core pandemic year of 2020 is excluded. It is important to note that ONS trade data post Brexit is using HMRC and not the Intrastat data used when the UK was in the EU. The CVM1 trade data for goods exports in 2023 up to September shows UK goods exports trade performance has disimproved over 2023 for total goods and both EU and non-EU goods trade. This is certainly not what was promised by the Brexiteers for FTA type trading post Brexit.

Table 2 ONS CVM 1Trade data to September 2023. 2015-2023 £ billion. Includes Q1,2 and 3 2022-2023 comparison. Adjusted for Inflation.[26]

Exports **Imports**

Year	TT	TG	TS	TGEU	TGnEU	TT	TG	TS	TGEU	TGnEU
2015	609.1	329	280.1	160.2	168.7	643.4	461	182.4	248.5	212.6
2016	625.9	331.6	294.3	163.6	168	669.1	479.3	189.8	258.9	220.4
2017	670	356.9	313.1	174.3	182.5	692.4	493.1	199.3	264.5	228.7
2018	691.3	359.1	332.2	175.2	183.9	712.7	494.6	218.1	268.2	226.4
2019	692.2	353.7	338.5	171.6	182.2	722.2	497.5	224.7	269.9	227.6
2020	615	312.4	302.6	153	159.5	612.4	442.1	170.3	234.2	207.9
2021	650.8	320.9	329.9	152.3	168.6	649.5	467.2	182.3	232.4	234.8
2022	684	327.2	356.8	160.2	167	745	512.9	232.1	269.4	243.4
2022	510.4	246.1	264.3	120.5	125.6	559	386.7	172.3	201.2	185.5
2023	521.5	237.5	284	115.4	122	554.6	358.7	195.9	199.9	158.8
%	2.2	-3.5	7.5	-4.2	-2.9	-0.79	-7.2	13.7	-0.65	-14.4

The Resolution Foundation issued a Report entitled *Open for Business?* on UK trade performance since Brexit in February 2023. It found UK goods exports under the TCA were below pre-pandemic levels but that services were performing better, in particular travel and business services. UK trade data pre and post 2021 differs in a number of important respects as Staged Customs Controls allowed declarations to be delayed for up to 175 days, resulting in double accounting for up 5% of imports over 2021/22. However, the main change was the move from Intrastat to customs declaration as the basis for HMRC/ONS statistics, which has resulted in an upwards adjustment of 6% for UK imports and 5% for exports. This is due to a lower VAT threshold than Intrastat and inclusion of Parcel post. Adjusting for these this Report concluded that trade in Q4 2022 was 10.7% below that for Q4 2018. In the case of services, the brighter outlook may be temporary as the balancing adjustment for 2022 was £11.7 billion compared to a norm of only £1.3 billion a year between 2018-2021. In an interview with NIESR fellow Paul Mortimer-Lee by Deputy Director for Macroeconomics Stephen Millar, he was asked whether the impact of Brexit was evident in the ONS March 2023 data on export volumes where export volumes in Q4 2022 were below the pre pandemic average by more than 9%. In his reply, he said that, while untangling pandemic and supply chain effects was difficult, the fact that the UK recovered by far less than other countries indicated that Brexit was a factor, "with red tape and border checks part of the story which can be particularly important for firms with inventory management".[27 28]

A report issued from *Briefings for Britain* by Graham Gudgin, Jullian Jessop and Harry Western titled, *What impact is Brexit having on the UK economy*, argues that the negative impact of Brexit has been less than expected because exports to the EU in July 2022 are similar to 2018 on a CVM basis while exports to non-EU countries are down by 11%, but the authors claim that this cannot be due to Brexit. However, it is worth recalling the pre-referendum Brexiteers' claim that other trade agreements would be superior for the UK, which could thrive with smarter regulation. Furthermore, non-EU exports of goods can be impacted by Brexit because EU inputs to UK exports cannot be used in UK FTAs where bilateral cumulation applies, though they could in EU FTAs while the UK was a member. Similarly, Catherine McBride in *IEA Perspectives 5* states that the claims that Brexit has harmed UK trade are absurd, and emphasises a greater decrease in non-EU goods exports and references to TCA Rules of Origin as if these were unconnected to Brexit.

On the other side of the debate, the Centre for European Reform, a pro EU think tank in the UK, estimates that, compared to a chosen group of countries with similar trade patterns to the UK, Brexit has reduced UK goods trade by 13.6% but in the case of services it has increased by 7.9%. Brexiteers are critical of counterfactual based Reports and do not accept that such comparisons are valid. However, an implied consequence of the Brexiteers' argument, set forth by Patrick Minford in particular, was that leaving the EU would move the UK towards a more services-oriented economy. That of course would not bode well for the post-industrial regions of the UK, such as those in the Red Wall, and is more likely to benefit regions already more prosperous and not those in need of levelling up.[29] [30]

The key disadvantage of Brexit centres around the fundamental difference between trading inside a Single Market/Customs Union, which extends a country's domestic market over the entire area, and trading under FTAs, including the UK-EU TCA, with all the restrictions that entails. These include severe restrictions on product origins as inputs to UK exports as well as multiple extra costs involved with border administrative and agri-food Change to Sanitary and Phytosanitary (SPS) controls and restrictions, on top of the additional production costs inherent in complex Rules of Origin (RoO). Rules of Origin costs alone were estimated in the UK Balance of Competences Trade and Investment Review 2012 to be between 5% and 15%. The UK has rolled over the EU FTAs it had as a Member State in most cases, some with cumulation of EU product included, because it suited the FTA partner not to disrupt existing supply chains. However, both new FTAs with Australia and New Zealand are bilateral cumulation only, as is the TCA, and over time the rolled over FTAs will also likely revert to bilateral cumulation. The low value of the Australian and New Zealand FTAs at 0.08% and 0.03% of additional UK GDP also show the weakness of an FTA trade policy compared to a Single Market with a large near neighbour.

Brexit was sold on a promise of a Global Britain and the agreement to join the CPTPP, the Trans Pacific Partnership without the US, is seen as part of a pivot to Asia and the Pacific by the UK. The UK already has FTAs with nine of the current eleven CPTPP members and the possible addition of other applicants such as China, Ecuador, Costa Rica, Taiwan and Uruguay would add benefit. However, the prospect of China being accepted seems remote. One advantage of CPTPP membership is that extended cumulation with CPTPP countries is allowed, but the difficulty is that the cumulation rules are different to those in the individual FTAs the UK has with CPTPP members. It may suit some exporters and not others, but again the overall economic gain is likely to be small.

The TCA the UK has with the EU is a standard bilateral cumulation FTA which is better than trading under WTO tariffs but much inferior to trading as part of the EU Single Market/Customs Union. All goods exports must meet *CE* regulations and without mutual recognition of conformity assessments this must be carried out in an EU Member State by an EU body for all products requiring certification. For products that can be self-certified as meeting CE standards either an EU presence or a legal representative in the EU is required. From 1 January 2021, the EU applied full customs and border formalities to UK exports and that has impacted SMEs in particular, with estimates that up to 30% of product varieties have been impacted adversely by Brexit. Where products go by post or courier, customs and VAT arrangements can vary by EU Member State. The UK has yet to apply full border controls to EU exports with the October 2023 date postponed for the fifth time - to 2024. Similarly, the UK's plan to introduce a mandatory UKCA mark and conformity assessment has also been postponed after business complained about significant extra costs in meeting two separate standards and assessments. Areas such as chemicals under the EU REACH standards would have been particularly costly for UK businesses.

The UK may find it impossible to establish an independent regulatory framework to the EU, given the reach of EU regulation, and there is no guarantee that voluntarily aligning with EU regulations would automatically reduce EU-UK trade frictions as dynamic alignment with Court of Justice oversight may well be an EU requirement. This difficulty is not new as UK post-referendum ambitions for a mutual recognition of regulations and conformity assessments were consistently rebuffed by the EU. Yet another huge advantage that the UK has lost by leaving the EU and moving to FTA goods trading with its strict Rules of Origin is the ability to use intermediate goods from any source, where once the EU Most Favoured Nation (MFN) tariff is paid or a preferential tariff applies under an FTA, there are no RoO issues restricting the volume or value of product that can be used. The UK also imports intermediate goods in order to use inputs for inclusion in UK exports, but these now come with huge restrictions as a result of Brexit and TCA trading, where any non-EU inputs are also subject to very strict proportions under Rules of Origin of FTA (TCA) trading. Under the Windsor Framework, Northern Ireland manufacturing retains the unique advantage of trading as if it were still in the EU, and can source inputs worldwide based on simply paying the EU MFN tariff on entry.

A key expectation of the Brexiteers was that a UK-US trade agreement would more than compensate for leaving the EU. President Trump quickly put paid to that when he reversed 60 years of Republican support for free trade in January 2017, and Biden has set a different course again on trade that does not put a US-UK FTA on the agenda. The US trade agenda under Biden has shifted decisively. China is being contained for security and trade protection reasons and trade initiatives are more focused on supply chains and promoting high standards, in particular labour standards, with the office of US Trade not seeking to replicate the bilateral FTA approach of 20 years ago. Whatever FTAs the UK succeeds in negotiating over the next few years the EU will likely match, with trade negotiations with Australia approved in 2018 but currently suspended, and an agreement with New Zealand concluded in July 2023. So instead of being able to trade with new FTA partners using the advantage of EU wide supply chains, and those of the FTA partner, the UK will be unable to use EU inputs for its exports and, under the TCA, loses the right to use inputs from other EU FTA partners as it could pre-Brexit. The effect of the UK decision to opt for a Global FTA policy in place of the EU Single Market is to saddle itself with 1950s style national trade with border restrictions. Corn law abolition worked for the 1850s UK for 80 years, until severe economic depression proved it unsuitable. Imperial Preference then worked to maintain trade, until post WWII, when Europe became the better economic option. There is absolutely no basis for thinking that the UK can now prosper by reverting to 1850/1870s style UK trading arrangements in a world of increasing regional integration in North America, Europe and its neighbourhood, and Asia.

The UK has not prospered so far under FTAs and the TCA as the Brexiteers predicted. There is no gain and significant costs to trading outside of a Single Market for over 40% of trade volumes. The evidence already shows the accuracy of the pre-referendum predictions of less trade, lower productivity and living standards and a smaller UK economy as numerous Treasury and other Reports on the likely impact of Brexit predicted. The latest OBR estimates on the impact of Brexit in April 2023, conclude that long term productivity will be 4% lower due to impediments to exploiting comparative advantage, and that both exports and imports will be 15% lower in the long run. Evidence post-2020 shows the failures of Brexit with no smarter regulation dividend in sight, and very substantial costs and restrictions under FTA type trading. The UK is on course now to repeat the failed strategy of the 1950s, when Plan G ended in ignominious failure with the November 1958 de Gaulle veto, but this time the damage is deliberate and self-inflicted, by an ideological Tory party that induced the British people through lies and distortions to act completely contrary to their economic interests.

There is little prospect of Brexit being reversed in the short to medium term, but outside the EU the UK will struggle, compared to the greater prosperity on offer through membership. In addition, alongside this loss of available prosperity, the restrictions on travel and job opportunities will negatively affect young people in particular. Claims that the TCA review due for 2016 can make substantial improvements and reduce trade frictions are just more UK wishful thinking and talking to itself. Some improvements are possible, but this will not lead to any substantial change or the removal of trade frictions. That would require a new EU mandate and fresh negotiations, where the UK would still face the same 'cherry picking dilemmas' – the only positive alternative to the TCA remains being a rule taker inside the EU Single Market, with all four freedoms and with no control over Regulations, including in financial services. Or in time the UK may recognise the realities of the modern world as 'Supermac' did in 1961 and apply to rejoin. Seeking membership in the normal way under Article 49 of the Treaty would leave the UK without any of the opt-outs it negotiated as a member - that unquestionably would mean the UK being obliged to adopt the euro and join the Schengen area.

4 The Windsor Framework

On 8 December 2017, the EU and UK agreed the Joint Report, in which the UK committed, in Paragraph 49, to avoid a hard land border through either the overall relationship, specific solutions, or failing which Northern Ireland would align with the EU Single Market/ Customs Union. This was the price the UK had to accept to secure any trade agreement with the EU. Every UK Prime Minister since then has chosen an agreement over trading on WTO terms. However, Cameron's successor Theresa May still sought solutions the EU could never accept such as her Chequers plan; and Boris Johnson signed the Protocol on Ireland/Northern Ireland with no intention of ever honouring it, with Liz Truss adopting a similar approach. It was not until the current Prime Minister, Rishi Sunak, that the UK opted for a compromise primarily on the EU's terms. The Windsor Framework agreed on 27 February 2023 amends the October 2019 Protocol in a number of important respects and will make the formalities, administrative process and controls for GB-NI goods movements less onerous for many businesses, and retail in particular. There are also significant VAT/Excise changes, movement on State aid, Medicines, Tariff Rate Quotas, Stakeholder Involvement, and a new feature entitled the Stormont Brake that allows updated EU legislation, currently automatically applied, to be challenged under strictly defined circumstances.

The key change to the Protocol is that the customs data requirements, border control and SPS formalities will be much reduced. Businesses that qualify for an extended Trusted Trader scheme, which will now include GB business in addition to NI business regardless of size, and includes hospitality, schools, and canteens can submit a much-reduced customs data set using commercial invoice or shipping data. In the case of SPS formalities a single health certificate, in place of individual product certification, can cover a mixed load on each lorry, with real time monitoring of the Common Health Entry Documents (CHEDs). Trusted Traders can use the new Green lane with documentary checks on all movements, but with much reduced identity checks (currently 100% but reducing on a phased basis to 5% by July 2025), and physical checks (normally 15-30%) but moving to a risk assessed/ intelligence led basis.

Trusted traders are only required to supply product details at 6-digit and in some case 8-digit levels of description for a reduced customs data set. As many retail items are regular movements HMRC already has detailed information on these movements and can supply EU Observers with the customs data required, along with full SPS documentation for real time monitoring of risk.

The reduced formalities and border checks will be accompanied by labelling of GB produce as 'Not for EU' at product, box or shelf level and channelling of all movements from GB origin to NI final destination. Only UK or EU origin agri-food produce can qualify, unless the UK decides to comply with specified Union animal and plant health rules for rest of the world goods including on import into GB.[31/32]

To ensure all products can be available UK-wide, normally prohibited products such as sausages and minced meat, along with seed potatoes and certain plants will be allowed NI entry but individual health certification will be required. Also, products moving GB-NI can follow UK public health regulations in areas such as food additives organics, gene editing and marketing, but all EU animal and plant regulations will still apply. Production and processing in NI will continue to operate under EU regulations. Earlier in 2022 the EU had found solutions on human medicines, some tariff rate quotas, NI-GB-NI animal health movements, and pet movements. Discussions continue in relation to veterinary medicines with a grace period to 2025, and other tariff rate quotas. On VAT the EU has made significant movement on allowing UK VAT rates to apply to fixed goods such as heat pumps and solar panels. On beverages the UK can apply excise duty by alcoholic strength and apply UK rates for beverages for immediate consumption in hospitality provided EU minima are respected. SMEs will not have to apply the special EU VAT rate from 2025 once an EU wide threshold is respected and an EU special scheme on distance sale of goods need not apply GB-NI once UK VAT is paid. For State aid to impact GB-NI trade it would need a genuine and direct link to NI and would require real foreseeable effects that had a material impact on trade. Stakeholder consultation is now to be structured and an NI specific assessment of EU legislation will apply.

An important new feature of the revised Protocol is the Stormont Brake. It will allow updated EU legislation, under Article 13(3), to be subject to the NI cross-community consent mechanism and can be triggered by 30 MLAs from two parties. The UK Government has unilaterally decided to also extend this mechanism to new EU legislation under Article 13(4). The revised EU regulation must be significantly different in whole or in part, and must have a significant impact on everyday life in NI in a way likely to persist, for the Stormont Brake to be applied. Under the Protocol the applicable regulations were automatically updated but the UK had a right to refuse to adopt a new Regulation and if agreement could not be reached, the EU could apply remedial measures. If the Brake is activated under Article 13(3), the EU can challenge it at Arbitration if it considers that the qualifying criteria are not met. There is no limitation on how often it may be used once the relevant conditions are met, but the EU right to take remedial action will mean that NI access to the EU market will be affected where EU,s legislation is not implemented.

The Windsor Framework does improve the GB-NI goods movement for businesses, in particular retail and SPS goods that qualify for the Green Lane. Businesses such as manufacturing with no access to the Trusted Trader scheme see little benefit and consider that they will suffer as the unilateral grace period taken by the UK, on parcels movements which many use to source their inputs will end. The VAT and Stormont Brake are also clear concessions albeit with the right of the EU to apply remedial measures if the Brake is successfully triggered. There are strict conditions attached to the Framework which allow the EU to withdraw the measures if persistent abuse arises. The lighter touch Green lane approach has the substantial addition of requiring channelling from GB origin to NI destination which requires the labelling of both loose and packaged goods using the Lane, individually from July 2025 for non-shelf stable goods. It is clearly different and much better for many businesses and retail in particular, but it is largely a different method, and in many ways a more cumbersome one, of organising the official control function away from the GB-NI border.

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