

International Trade Committee

Oral evidence: UK-EU trading relationship, HC 1206

Thursday 11 February 2021

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Members present: Angus Brendan MacNeil (Chair); Mark Garnier; Sir Mark Hendrick; Anthony Mangnall; Mark Menzies; Lloyd Russell-Moyle; Martin Vickers; Mick Whitley; Craig Williams.

Questions 1-28

Witnesses

I: Mike Cherry OBE, National Chair, Federation of Small Businesses, Fergus McReynolds, Director of EU Affairs, Make UK, and Liam Smyth, Director of Trade Facilitation, British Chambers of Commerce.



Examination of witnesses

Witnesses: Mike Cherry OBE, Fergus McReynolds, and Liam Smyth.

Chair: Welcome to this afternoon's extra session—it is unusual to have a week with a second session. Today, it is on the UK-EU trading relationship, a matter of much current interest.

We have two panels this afternoon, a first panel of three and a second panel of four. The panels will take about an hour, the first from 2.30 pm to 3.30 pm, and the second from 3.30 pm to about 4.30 pm.

The three members of the first panel are Mike Cherry, Liam Smyth and Fergus McReynolds. I will let them introduce themselves. Name, rank and serial number, as you yourselves see fit, starting with Mike Cherry, please.

Mike Cherry: Thank you, Chair. Good afternoon. I am Mike Cherry, national chair at the FSB.

Liam Smyth: I am Liam Smyth, director of trade facilitation at the British Chambers of Commerce, and director of Chamber Customs.

Fergus McReynolds: I am Fergus McReynolds, director of EU and international affairs at Make UK, the manufacturers' organisation.

Q1 **Chair:** Thank you. Mr McReynolds. You might wish to know that a mutual friend of ours from Wiltshire, has asked that you get a particularly tough time this afternoon for some reason. I cannot imagine why.

On to the serious matters at hand, since the deal was signed by the Prime Minister back in December, what has your members' real experience been of the UK-EU trading arrangements? I will start with Mike Cherry, please.

Mike Cherry: Clearly, our members welcomed the agreement of a zero-tariff trade deal. That avoided no deal and provided greater certainty for businesses. However, our members are reporting a range of challenges in adjusting to the TCA.

The most common issues that members have reported to date include unfamiliarity with customs procedures and, more importantly, with rules of origin, and the resulting costs and administrative burdens. As we all know, it is often the small businessperson's staff time that is one of the bigger problems for them. In addition, there are costs relating to VAT, disruption to supply chains, including increased costs of shipping, and some of the issues that we have seen for fast parcel operators.

Liam Smyth: To add to what Mike has already covered on costs, there are the additional costs of time and money. In some cases, those additional costs are making business uneconomic.



HOUSE OF COMMONS

At the BCC, we think that there are three broad types of problem: first, the areas where there is an issue of how business is adjusting to the change, such as through the lack of guidance or access to reliable advice; secondly, those where there is something about how the deal has been implemented; and, thirdly, those where there is something in the nature of the deal.

There remain considerable problems with how the new arrangements are operating across a range of fronts, and businesses of all sorts and sizes are facing big challenges, exacerbated by the demands that have been placed on them due to the pandemic. We are becoming increasingly aware of businesses that are simply turning away from international trade, where there is an existential problem in the way that the deal is operating for them and where the demands are making trading with the EU uneconomic for their business.

We worry that the pace of this is going to accelerate, as we are not really seeing the full volume of traffic and trade going through our borders yet. Our Brexit survey, published today, reports that half of exporters have reported difficulties in adapting to these new trading arrangements.

Q2 Chair: Thank you very much. Fergus McReynolds, from Make UK, you represent many big manufacturers. Can you give your own view, in addition to what you've heard?

Fergus McReynolds: Thank you, Chair. I very much echo Mike's comments about the fact the deal certainly avoided the end of last year being no deal. That is welcome. The achievement of both sides to achieve a zero-tariff and zero-quota deal shouldn't be underestimated; that was the preferential outcome for us at the end of the year.

Despite that, the detail of the agreement is always where this was going to rise or fall. As Liam has already highlighted, we are certainly seeing additional costs. We knew some of those would come, but the level of disruption has come as a bit of surprise to many of us.

In terms of the facts, we published our Brexit survey last week. We saw that nine in 10 companies—90% of companies—are experiencing increased costs. Despite being ready, about 61% of companies are saying they are seeing disruptions at the moment. The deal addresses a number of the key asks that we have, but it doesn't come close to the level of ambition that we had to protect the integrated manufacturing supply chains across the European ecosystem.

Q3 Chair: The UK is the only sizeable state in western to central Europe that is outside both the single market and the customs union. We were promised in the beginning that we wouldn't be like Belarus and Russia, which would be outside both; we would still be in the market. If you had a magic wand, would you want to stay within both the single market and the customs union, or, if you had to choose one or the other, would you have preference for either one? I will start first with Liam Smyth with that question.



HOUSE OF COMMONS

Liam Smyth: I think we have to recognise that democracy prevailed. The vote was for us to move outside the customs union and the single market. It is fair to say that the degree to which we participate in trade with the EU is made much easier by having alignment on matters of customs, for sure. That would come through agreeing some simplifications with the European Union, where goods could more freely flow between our two markets.

There are some fundamental matters that are baked into this deal, probably as a result of us no longer being in the single market, Chair. Accepting that we are outside that and we are a third country, we should be focusing and concentrating on those areas where we can ease the flow of trade between our two markets and more readily facilitate trade for businesses, and on areas where we can help businesses to understand the process of moving goods from a third country into another market and into another customs union.

Those are the short-term and medium-term fixes that we need to focus and concentrate on. How do we help businesses to trade under these new conditions that prevail, and that fall short of us being part of the customs union in the European single market, because we have left?

Q4 **Chair:** Thank you. Mr McReynolds, while there is gratitude that they are not in the deepest level of Dante's "Inferno", there was still a better model. Would your members wish to be back in that model? Would they prefer the customs union or single market? Or are they just going to make the best of the level they find themselves in at the moment?

Fergus McReynolds: I think we are on the record, as Make UK, in terms of the priorities we had at the beginning of this stage, and certainly a close relationship was what we favoured—something that protected the integrated supply chains that many of our members are part of. I think, as Liam has said, that a number of the decisions that were made in terms of priorities from the UK Government negated the forms of relationship that we had potentially favoured.

Right now, it is, as Liam has said, about making this work, helping businesses to overcome any barriers that exist and using the TCA as the framework and foundations for a co-operative trading relationship. There is a lot that we can do, under the structures of the TCA, to improve that, and certainly our priority is making sure that those supply chains thrive in the new relationship.

Q5 **Chair:** Finally, Mike, regarding the barriers that are unavoidable when you are outside the customs union and single market, do you feel that this will be temporary or more long term?

Mike Cherry: I agree with what both Liam and Fergus have said. Clearly, we are where we are. I think all of us want to see some pragmatic and workable resolutions to some of the issues that our members are facing, in particular. And then, obviously, there need to be further discussions on any of the systemic issues that have to be resolved between the UK Government and the EU. But we have equivalence in a lot of areas, and



HOUSE OF COMMONS

that is one thing that businesses would urge politicians to work on: there should not be restrictive issues, where we do have equivalence, that impact so much on small businesses, in particular.

Just to give this a little bit of context, it is one in five of our members who actually exports: 77% of those are in goods, 24% are in services and, in addition, 30% export intangible goods such as software. So it does have a huge impact for small businesses. I think that urgently finding a workable resolution to some of the problems is much more where we need to be seeing both sides coming to agreement.

Q6 Chair: This is my very final point. You are where you are. I am not hearing clearly that you want to be somewhere else. The things on offer were no deal, a deal, the single market and customs union, or membership.

Mike Cherry: Part of the problem has been that the deal came in so late—as many expected it would do—that we just haven't been able to resolve a lot of the detail that enables small businesses to get the information, to get the support and to get the help in place to stop some of these issues being as damaging as they are at the present time. On that basis, we have been calling for some considerable time for vouchers to help small businesses, and it was really pleasing to see this morning that the Government has at least announced that there will be some support for small businesses to enable them to overcome some of the detail that was very, very late in coming when it came through at the back end of last year.

Chair: Thank you. I will hand over to one of my colleagues, Mr Mark Garnier.

Q7 Mark Garnier: Thanks, Angus. Fergus, may I turn to you on the thorny issue of rules of origin requirements? Obviously, these are very complicated, but how easy is it for exporting businesses to meet all the rules of origin requirements? Is this something that your members are finding easy, difficult or impossible?

Fergus McReynolds: Thank you, Mark. In terms of rules of origin, this wasn't something that was talked about a lot last year; it is something that has been talked about a lot in the last month. What we need to recognise is that it wasn't part of the general discourse, despite all the best efforts of a number of the business organisations ourselves, including in highlighting to businesses how important it would be. But we also need to recognise that that was the final piece of the puzzle, which we didn't see until 24 December, so we didn't actually see the black and white of what was going to be required under rules of origin until then.

There certainly are challenges for businesses. We have several tens of thousands of manufacturers in the UK who have never traded other than inside the single market and customs union, so all these processes are new. Drawing on the comment that Mike made, we had called for both sides to recognise that a period of easements and an introductory phase



HOUSE OF COMMONS

for this agreement would have been in the best interests of manufacturers in both the UK and Europe.

On the specific issue of rules of origin, 25% of our companies—one in four—had no experience with rules of origin, which clearly highlights how many companies there are out there for whom this is new. There are probably issues—

Q8 **Mark Garnier:** 25%?

Fergus McReynolds: 25%.

Q9 **Mark Garnier:** Of all your companies, or of the companies that are in exporting?

Fergus McReynolds: Of all the companies that we surveyed in the Brexit survey. It is a challenge for those companies. It is something new. Because the deal came so late in the day, I am not surprised that rules of origin has been one of the biggest issues that companies have had to grapple with in the first months of the deal.

It is also important to say that rules are so specific to the individual company that it is very difficult to provide general advice on rules of origin. It is a product-specific category, which means that you have to look specifically at the commodity codes of the product that you are producing, you need to be able to define that very well and then you need to look at the specific rule that applies to that. General rules around added value and changes of tariff chapters do not mean anything unless they apply specifically to your product. There is a lot more detail that companies need to get into.

Looking at the issue in a broad context, there are probably system issues and structural issues. There is a difference in those two, from my perspective. System issues are the lack of knowledge and some of the inconsistency in interpretation. Those issues can in time be righted. It will become part of day-to-day business.

Some issues are structural, which means that, in a classic FTA-style relationship, and with the rules of origin that have been negotiated, some business models will not work economically in that structure. So there is a difference between system and structure, and right now, in the early stages of the application, it is difficult to differentiate between those two. They are both live issues right now.

Q10 **Mark Garnier:** You have opened up an awful lot in that. I keep thinking about the example of a conrod manufacturer in my constituency that forges conrods that are then sent to Spain to be finished, then sent back to be put into a BMW engine. That then goes to Bavaria and gets put into, I think, a Mini—I can't remember where it goes—and then it gets exported to, you know, Korea. I guess a lot of your members are manufacturing conrods, as opposed to assembling engines—they are probably tier 3, 4 or 5, maybe—and for those who are making an assembled part, the problem with all this is that, presumably, they have



HOUSE OF COMMONS

to have a huge amount of paperwork to try to give a full audit of where the value has been created and where the input comes, in order to meet these rules of origin requirements. Presumably that is quite difficult, as you say, for businesses in the automotive supply chain that have only ever worked within the single market.

Fergus McReynolds: It absolutely is. Certainly, where you have the product-specific rule associated with the value-added component, that is a new process. Many companies do not have access to that information—it is not part of their commercial contract, and it is not part of their commercial relationship with their suppliers to supply that information. That is a new process and it is causing delay, which is causing additional cost.

However, there are also elements of the agreement that look at the change in chapter and the change in sub-chapter heading, which is essentially about changing the nature of the product. That is actually a much simpler mechanism to qualify for, and you do not necessarily require the same level of supply chain auditing to have that. The areas with rules that are more about the change of chapter are probably an easier category, and quite a few of the product-specific rules are in that space. However, I would not underestimate the additional cost and additional burden. It will have to become part of businesses' day-to-day considerations where they source things from and how that will impact their processes.

We will also need to become much more familiar, as I said, with some of the specialised customs procedures, such as inward and outward processing—the example that you gave. There are specialised processes that could be applied to that, which could provide some mitigation. It is always important to say that this is some mitigation; it does not mitigate the entire problem. Certainly, even if you are paying zero tariff, that does not negate the requirement to have the paperwork in place. Even if you are not paying the tariff, there is still a huge administrative and cost burden to complying with the legislation. That is a symptom of being outside the customs union.

Q11 **Mark Garnier:** Diagonal cumulation—the TCA does not allow for that. Is that another huge problem?

Fergus McReynolds: It is something that we would have favoured. Certainly, there was a general rationale that where the UK had roll-over trade agreements with third countries that the EU already had existing relationships with, it would have made a lot of sense from our perspective for that to be negotiated. However, it was always the EU's intention not to have that as part of the agreement. They made that very clear from the outset. They did not see that diagonal cumulation would be in their interest; they saw only that bilateral cumulation was what they wanted to achieve in the agreement. It would help. Again, it depends on the individual product. It really does depend on the individual sector and where you are sourcing things from. Again, a change in chapter heading might be an easier product and will not necessarily benefit from the cumulation. But where you have the value add—certainly in those sectors



and in those product categories—diagonal cumulation would have been a better outcome.

- Q12 **Mark Garnier:** Liam, I saw that you were nodding in furious agreement on some of these points. Obviously, the British Chambers of Commerce are fantastically helpful in terms of their support for export and all the rest of it, but I think you were nodding most enthusiastically when Fergus was talking about the complication of form filling and all that paperwork. At what point does this administrative burden that has been put on to your members outweigh the economic benefit of exporting?

Liam Smyth: I should kick off, Mr Garnier, by saying that the form filling for preferential origin is not, in and of itself, complicated or particularly costly. It is the process of auditing your supply chain, understanding the inputs into the finished product and deciding whether you then need to substitute some further UK manufactured product in order that you reach those thresholds. I will just describe the guidance in that audit process. We have already talked about how complex this is. On 29 December, which was two days prior to the end of transition, HMRC published the guidance on preferential origin. It runs to 12,000 words and 40 pages—that is just the origin chapter of the TCA. There are implications outside of that chapter that would apply and that would have a consequential impact for origin.

It is complicated to go through this, and we have many businesses that just don't know how to do that and, in the face of it, decide not to bother. That is a risk—that they don't bother to do that. Some traders just do not want to understand the guidance; it is just too complex. I welcome today the funding of £2,000 that has been announced. I wait to see the detail on it, but that is a very welcome addition for businesses to be able to go and seek out advice that they can trust and rely on in order that they bottom out the way that they declare origin. It should be remembered that this is a fiscal declaration either for goods being exported and received by a buyer in the EU, or in the other direction, when goods are received under preference in the UK. The buyer of those goods, in declaring a preferential tariff, runs the risk of having that clawed back if they are not able to rely on the seller's statement of origin being the EU or another country with which we have a bilateral deal. There is a degree of risk here for businesses, as well as the burden of reconfiguring a supply chain in order to meet the threshold for declaring a UK origin of goods.

- Q13 **Mark Garnier:** There is a solution to this, though, which is potentially good and potentially bad: the reallocation of exports and import substitution. For example, if you are BMW manufacturing these engines or assembling these engines in the EU, doesn't it make life a huge amount easier to stop buying any parts and components from the UK and just do that all in the single market? That works both ways, of course. Similarly, if you are Nissan or Honda, why wouldn't you move all of that? I realise there are natural hedging issues to do with currency exposure, which is why this is done like that, but if you are finding these very intricate and complicated audit problems about where bits and pieces come from, the answer ultimately has got to be import and export



substitution to clear away the confusion, which potentially runs a risk of disruption to the businesses.

Liam Smyth: I think we are already facing that risk of disruption to businesses and substitution. If you are a manufacturer of a component part in the way that you describe for a BMW engine, the truth is that in some circumstances, some of the businesses that are at the end of that supply chain are reconsidering where they source those products, because of the complication that exists within the current supply chain.

We should also remember that in the UK we have lots of businesses that either buy goods, never reprocess them and then resell them out to the European Union, for whom there are now tariffs, or they have a combination of goods they manufacture and goods they buy and sell. For those businesses—we have been hearing from lots of them over the last month—as Fergus said, it has become a hot topic, as they have come to realise that the tariff that they were avoiding paying as part of the single market now is a factor. Some of these manufacturing firms are on very narrow margins already. What can seem like a low tariff at, say, 1.7% for machinery, has a huge impact when the business is running at a margin of 5% or 6%.

Those are the businesses that are facing this existential challenge of choosing one of three options. The first option is absorb the tariff and the duty. If you are an exporter, you can absorb the tariff in your pricing, but you have then got to persuade the buyer of your goods in the EU to handle the customs formalities in the other country.

The second option is just to stop selling to the EU. The third is to import the goods, if they are coming from another country, directly into the European Union and set up a distribution centre there. This week, JD Sports has been ruminating about that very thing.

A lot of UK trade is based on buy-sell. It is not always that we manufacture here and can make that substitution.

Q14 **Mark Garnier:** Mike Cherry, you and I have known each other for a decade now, I think. One of the things we talk about is the appalling burden of bureaucracy on your members, the small and medium-sized businesses. We have just heard that some will take a whack of 20% of their margins. What is this going to do to SMEs?

Mike Cherry: Good afternoon, Mark. In our recent survey, we have found that the majority of FSB members just don't have any experience of dealing with rules of origin. Many are reporting difficulties in meeting the new requirements. That is particularly the case, as Fergus has mentioned, on supply chains, where they have very little influence.

We welcomed the provisions in the TCA that allowed firms to prove origin via a supplier's declaration or importer's knowledge, which saves the cost of purchasing a certificate of origin. We also strongly support the 12-month derogation on the need to provide a declaration. However, businesses are still required to meet the rules of origin to benefit from



HOUSE OF COMMONS

preferential treatment under the TCA and will definitely need more support.

Coming back to your question on diagonal cumulation, throughout the negotiations, as Liam has been, we have been calling for rules of origin based on diagonal cumulation to be included in the TCA. The lack of that will make it much more difficult for FSB members to meet the rules of origin, due to the narrow range of sourcing options that they have for originating components or materials. Clearly, if they cannot meet the rules of origin for their specific product, this will result in duties. It will result in increased costs. It will reduce margins—if they have a margin at the moment, frankly. Those costs cannot be easily absorbed by small businesses.

The administrative requirements and the calculations involved in determining whether goods meet the rules of origin, particularly for complicated manufactured goods, can often be beyond the capabilities of many small businesses. If they cannot meet those rules and they incur duties, this will have an impact on their competitiveness and it will undoubtedly influence their decision on whether or not they trade with the single market. So it is going to be a serious problem. We do not have data as yet on how far these rules of origin requirements will impact on members' supply chains.

Mark Garnier: Mike, thank you very much. I am grateful to Angus. We are halfway through and we have got a lot more.

Chair: Mark Menzies has had to duck out for a wee while, so we will go directly to Craig Williams.

Q15 **Craig Williams:** Thanks, Chair. Some of these details have been teased out, but can I ask the panel, starting with Liam as he's unmuted already, about the experience of members so far with regard to customs formalities? Have the members seen, for example, enough trained customs agents or other relevant personnel and nitty gritty on the border? We will start with Liam.

Liam Smyth: Thank you. Apologies for being unmuted—I am in a quiet house. Those that have been moving goods have found it challenging. It is worth saying that many of our members, not knowing what kind of deal we would have, did move goods in advance and either placed them with their customers or withdrew them from their suppliers in order that they avoided the December/January potential no-deal scenario, not knowing what the deal would be. So we have got very unusual circumstances right now.

The Government statistics on the movement of vehicles may be accurate, but lots of vehicles are moving out of the UK with empty trucks. They are not moving goods. We do not have a measure of the movement of goods beyond what we can draw on from our experience, but I can give you some evidence. Around about a 40% volume drop in the issuance of certificates of origin by chambers across the UK in January is indicative of



a greater fall in the movement of goods than we would expect in any given year. Remember that those certificates of origin are not going to the EU. They never really did go to the EU. They are for rest of world trade, so that gives you a bit of an indicator on the rest of the world volume of movement.

On the number of customs agents required, when we looked at this three years ago and we saw the National Audit Office report suggesting that the number of declarations would rise from 55 million to 260 million, later revised to 300 million, our estimate was that around 35,000 customs agents would be required. In fact, we leaned into the problem by devising and investing in Chamber Customs as a way of helping businesses to get those declarations done, and we are active in that market. We think there is probably now in the range of 13,000 to 15,000 customs agents. There is still a deficit if we are operating at volume. The deficit might not be between 15,000 and 35,000. We have seen some participate in this market who are offering a tech solution that allows for higher throughput of declarations, particularly around fast parcel operators and some others, including ourselves, and that will help, but there is still, without question, a deficit.

What we are also seeing—Mike alluded to it earlier in his statement on members of FSB—is that businesses are seeing a significant increase in the price of either hauling goods between one market and another or the cost of the paperwork being carried out on their behalf. A factor in that is the availability of drivers who are prepared to come from the European Union to drop a load in the UK and then take another load back. Empty trucks tell you that they are not happy. They were held up at Marston. They get paid typically by kilometre travelled in the EU rather than by the hour in the UK. Therefore, when they were standing stationary at Manston airport, they were not earning. They got their fingers burnt, and they are determined not to have them burnt again. The impact of that is higher cost of freight and moving freight. There is still a significant gap, Craig, and we need to do something as a nation to fill that. We definitely do.

Q16 Craig Williams: I wonder whether I can draw you very quickly, before I ask Fergus and Mike, on the digital solution. We have heard it is not quite the panacea that we have been told, but I was interested that you as Chambers have it, and other providers. Are you seeing a practical impact now? Could you quantify that at all yet?

Liam Smyth: A practical impact from what, sorry?

Craig Williams: We were just talking about the customs agents, and you were saying that there is a digital offer that you are now providing to your members, and other solutions out there.

Liam Smyth: Yes, there are solutions out there. The digital offer is that the trader has to be sufficiently skilled to input some of the content. There is definitely a gap in trader confidence about inputting the content into a front-end—a kind of Amazon solution. We are not completely there yet, but we are on the road to getting to that point. Certainly, that is our



HOUSE OF COMMONS

vision, but the gap at the moment is trader knowledge to be able to look up the commodity code and provide the information that they need in a way that they understand in order to give an instruction. The dynamic between an intermediary and a trader is that the trader must provide the instruction. The intermediary cannot tell them what to say or what to do; they have to receive it. There is a gap, in some cases, of traders' knowledge in being able to provide that instruction and therefore being able to self-serve.

We have seen this with DPD, DHL and others, simply bringing whole loads back from the continent because some of the information that had been declared was incorrect. We have members who have goods stuck in places or that have been delivered back to them, having never arrived at the customer, despite the fact that their paperwork was okay. That is a big systematic issue that needs to be addressed through knowledge, and partly through technology and being able to read a commercial invoice through scanning and using artificial intelligence and machine learning. That is all possible, but it requires people to participate confidently in that process.

Q17 Craig Williams: Fergus and Mike, can I bring you in? Feel free just to agree unless you want to add something.

Fergus McReynolds: I think Liam has painted an accurate picture of where we see things at the moment. Just to add, in our survey one in five companies did say that they were not seeing disruption, but close to a third were saying that there was disruption on both imports and exports. The only thing that I would add to Liam's summary of the requirement for the customs agents is that there is a requirement for customs knowledge. We as Make UK have echoed the call that the Federation of Small Businesses has made around the voucher scheme. Some of that really should be directed towards bringing the level of knowledge within companies, as well as outside in other parts of the economy, higher in terms of customs and understanding their responsibilities in company, as well as relying on agents.

Mike Cherry: One of the most difficult things when you have not been dealing with rules of origin, customs forms or anything else is where you actually find the commodity codes that you need to input or give that instruction to in the first place. They are not easy. Some of them are obviously a different number of digits compared with others, and that all creates confusion for a business that is not used to it. Once businesses have got used to doing this, digitalisation will obviously help, and we have long been calling for a lot of customs procedures globally, let alone between the UK and the EU, to be able to facilitate that.

The main reason for some of the delays, according to our members, is incorrect, incomplete paperwork and increased checks, and some hauliers have been unwilling to accept groupage shipments due to the increased paperwork and checks required when carrying multiple loads. As the Chair may well be aware, a Scottish whisky distillery had to temporarily suspend



HOUSE OF COMMONS

its own production because a shipment of corks, which I presume was groupage, came in from Italy two weeks late.

- Q18 **Craig Williams:** Before I hand back to the Chair, I wonder whether I could tease out of you how SMEs in particular are finding it, becoming authorised economic operators under the TCA, and whether you could outline quickly the advantages of the AEO status, and the importance of it.

Mike Cherry: Small businesses that do participate in international trade often, as I have said a moment ago, do so on tight margins. They have limited resources and they will not, in most cases, have the time or the technical knowledge required to successfully apply for AEO status. So clearly the voucher scheme that has been announced hopefully will enable some of that help to be given to them, but it is still a very difficult process.

Craig Williams: Liam, did you want to add to that?

Liam Smyth: I just wanted to add that the only real significant advantage to AEO status is a 70% reduction that you get on your duty deferment account; so instead of putting up £10,000 for duty deferment you put up £3,000 and you get £10,000. Of course, with the guarantee waiver on deferment actually that advantage is largely gone for SMEs; so I wouldn't really understand why an SME would apply for AEO status. There isn't a green lane at the border that you go faster through, or anything like that. It simply has been about duty deferment, and postponed VAT accounting with guarantee waivers actually delivers most of what an SME would gain out of AEO, in my view.

Craig Williams: That is very useful. Chair, I will pass back.

Chair: Thank you very much. Just a reminder: we are about two thirds of the way through our allocated time, and if we can make answers briefer, and questions briefer, it would be appreciated. Antony Mangnall.

- Q19 **Anthony Mangnall:** Thank you, Chair, and thank you to the witnesses who are joining us today. Can I just start with Liam? I wonder if you might have any response to the chap in charge of the port of Dover who is saying that it has returned to 90% levels of export as they would have expected at this time of year and that the data that is being suggested around export figures was artificially low because of stockpiling already. I would be interested in your response on that.

Then the broader question to everyone is how we are going to improve the flow of trade between the UK and EU. I would be particularly interested if any of you have any thoughts around the specialised trade committees that are there. Just referencing my own constituency, there is a phytosanitary and sanitary specialised trade committee and a trade committee around fishing, and of course I have got a very big fishing port so you can see I have got a hand in the game on this, but do you take any stock from those committees as being a good solution to being able to get out of the difficulties, the teething issues, that we are currently facing? I will start with Liam, if that is all right.



HOUSE OF COMMONS

Liam Smyth: Thank you, Anthony. In terms of the port of Dover report, I think I already mentioned the difference between a truck moving empty and a truck moving full. I do think that the stockpiling has been a factor in that, as people avoided any issues around December and January. Of course most of the issues we have seen have been with perishable goods, with food and foodstuffs, which are more difficult to stockpile and by their very nature have to be moved. While goods do appear to be moving again the volumes, we think, are artificially low, still, at this stage, and we have yet to see the full impact on that.

In terms of the specialist committees, we would look forward to having the opportunity to engage with some of them as we perhaps find reasons why both the EU and the UK might review some of the terms of the treaty, in order that we provide easements for traders on both sides of the EU single market and the United Kingdom.

Fergus McReynolds: Absolutely. We welcome the fact that the TCA governance structure provides for the specialised committees—and a very wide range of specialised committees. I think there is going to be a task for them to deliver. I think the specialised committee is clearly a structure which is drawn from the experience of the withdrawal agreement and I think we learned the lessons that when there is common endeavour in the specialised committees they can produce results. I think it will be very interesting, notwithstanding the difficulties at the moment in terms of the Northern Ireland protocol, but some of the test bed of finding pragmatic solutions to things like SPS will probably come out of the experiences which we learned there.

In terms of them delivering in the coming months, from my understanding of the TCA, the specialised committees cannot be formally constituted until the agreement is in force. With the EU applying for a delay to the full ratification until the end of April, that means that we are talking about May before they become constituted. While they will deliver in the future, to address the issues that are here on the ground today we need greater dialogue between the two partners.

Anthony Mangnall: Mike, do you have any thoughts to add?

Mike Cherry: Very briefly, we see that we need to have further detailed sectoral guidance—that would be welcome. Small businesses cannot absorb the costs of the additional arrangements, and we may need bespoke advice beyond what the Government is able to give to us. One of our real concerns is that the grace periods, whenever they are due to end, either in July or in December, are going to cause even more problems for small businesses once we are out of these interim periods.

Anthony Mangnall: Thank you. I will go back to the Chair in the interests of time.

Chair: Yes, the grace periods will be fascinating, because then the importers will have the exact same problem as the exporters.



Q20 Lloyd Russell-Moyle: The TCA involves new provisions for VAT and other charges. Many residents have already started contacting me about that from their end. How has that started affecting UK businesses, both in terms of exporting and importing? What I am more interested in is whether there are solutions that can mitigate the impacts of those issues on consumers and businesses, which the Government or someone else could step in and help facilitate.

Mike Cherry: Clearly, there are provisions on co-operation and mutual assistance on VAT and other taxes, which are welcome, but FSB members are reporting significant issues relating to leaving the EU VAT area. Many are having to consider whether they need to register for VAT in multiple member states, often for relatively low volumes in sales. Some businesses may also be required to appoint a fiscal representative, which can be prohibitively costly for small businesses. Others have reported uncertainty regarding how the new provisions of VAT apply on their own businesses, and other have reported having orders returned due to customers refusing to pay customs duties or VAT when it is due on delivery. It is causing some very real problem for small businesses. It comes back to the time, effort and cost, and at the end of the day if you are working on low margins, it will have an impact on whether you continue to deal with customers in the EU.

Lloyd Russell-Moyle: Fergus, did you want to say something?

Fergus McReynolds: Thank you, Lloyd. As Mike said, there clearly are issues, and it is certainly one of the areas, in terms of requests for information from the membership, that we are receiving a large volume of calls on. It is also complicated by the integrated supply chain mechanisms that operate in the manufacturing sector. You are potentially going to be dealing with several jurisdictions with the transfer of goods. It is certainly a cashflow problem, and we are seeing that for some businesses.

This is one of those areas that really highlights that, in the areas of European competence where the member states have competence—tax is one of them—it is a harmonising system, not a centralised system. That means that the single market looks very much like a single market from the inside, but it doesn't look like a single market from the outside, because each individual country has its own set of rules on tax. Therefore, unlike some of the other issues in the trade negotiation or the trade deal, where you treat Europe as a bloc, for the purposes of VAT it really is 27 countries, and you have to deal with 27 different sets of rules. From the outside, the single market doesn't look nearly as united.

Liam Smyth: I do not want to repeat anything that Mike and Fergus have said, but one of the challenges leading up to the end of transition was persuading businesses that they should look at the international contract terms—often referred to as Incoterms—at the point at which the title of goods moves between one party and another.

Typically, in the period leading up to the end of transition and during the period of potential no deal, many businesses were placing contract terms



HOUSE OF COMMONS

on their suppliers that they would deliver duty paid, so that they would take care of the export demands from the country of export and of the importation of the goods into the country that the buyer of the goods was domiciled in. That is not really sharing the burden, but oftentimes the buyer of a good in Germany, say—or indeed in the UK being supplied—wants things to be as they were before. So, they placed those contract terms on the suppliers, thinking, “Well, I can dust my hands of that. That’s the job dealt with”, not realising the challenge of that for the seller of the goods and having to establish in another entity.

Co-operating and reaching agreement is the best way, where the buyer in the tax entity that they are operating in already has an arrangement with the tax authority. Typically, they can reclaim the VAT and deal with those things. The seller passes title at some point during the movement of the goods, typically when the goods are at sea in the English Channel, if they are going by sea, or halfway—when the goods are halfway there—title moves and the responsibility for the importation is with the buyer and not the seller. That is the best way to find a solution. Getting businesses to agree that, though, is pretty challenging.

- Q21 Lloyd Russell-Moyle:** Is there something that the UK Government or trade bodies could be doing to alleviate some of that, such as providing clearing houses for VAT collection, assuming that we do not yet—and we will not, for the foreseeable future—have an agreement on harmonisation of VAT? Or is it something about which nothing much can be done, apart from hoping that we get better co-operation between each respective business, on either side?

Liam Smyth: For me, in our experience, the best solution is co-operation between buyers and sellers. We have lots of examples where that has been able to happen, where both parties realised that that compromise makes life easier for everyone—often in long-standing, decades-long, supplier-trader arrangements. Beyond that, there are plenty of professional firms in the EU and the UK that will help firms to establish and will act as their representative, but it is costly, as I think Fergus said. You have to be running a high-margin business to be able to afford that and to absorb those costs into your business model.

- Q22 Lloyd Russell-Moyle:** Is there a way for the Government to bring that cost down? Say, the Government acting in that way, or underwriting some of it perhaps for small businesses. Or is it just one of those things that businesses have to bear the burden of?

Liam Smyth: Allowing businesses to tax deduct those costs of trade and to offset them against profits would be very helpful. That might mean that businesses were more prepared to incur the costs, if they had some way of mitigating them.

Lloyd Russell-Moyle: That sounds like a very fair thing. Fergus and Mike, did you want to come in on anything else, or are you happy?

Chair: Time is pressing. Thank you. Mick Whitley.



HOUSE OF COMMONS

Q23 Mick Whitley: Good afternoon to all our witnesses. This question is to Mike Cherry and Liam Smyth. What has been the impact on your members of the TCA's provision on trade in services, particularly regarding the right to provide services, granting of visas and recognition of professional qualifications?

Mike Cherry: Although the TCA secures a level of market access that is comparable to the rolled-over UK-Canada agreement and the recent UK-Japan agreement, there has been a significant change to the status quo for FSB members providing services in the single market.

Some of those significant challenges facing members are limiting lists of activities that are permitted without the requirement for a work permit or a visa, and restrictive provisions for independent professionals and contractual service providers. For example, independent professionals must now hold a university degree or equivalent qualification and six years' experience in their field, as well as holding any relevant recognised qualifications in the member state in question. That is obviously a difficulty in getting that mutual recognition between the qualifications. There is also the need to navigate a complex patchwork of national requirements, which may restrict market access, including visa qualifications and local presence requirements.

Again, coming back to what I said in my opening remarks, understanding and complying with the rules of each member state is incredibly time-consuming and costly for many small businesses.

Liam Smyth: I don't want to repeat anything that Mike has said, because our members are reflecting many of those things that he has talked to.

However I would say, regarding services, that in a recent survey that we published today, overall 14% of services firms said that they faced difficulties in adapting to changes in delivering those services, and 10% said they found adapting easy. However, the percentage that had difficulty rose from 14% to 21% for those firms that were exporting their services. So, you have got 14% overall, which is those typically importing, and add in those that that are also exporting, and you get to one in five. One in 10 say they have no difficulty; one in five say that when they are exporting their services, they have difficulty.

So, services companies are much less affected than those trading goods. However, they are affected. And it may be that the impact of that effect is not being fully felt yet, as people come to terms with the issues around passporting and issues around visas.

We have heard a comment from businesses that have said to us that the availability of the specialisms that they look for in people and employees has significantly narrowed, because of the issues around work visas contained within the TCA.

Mick Whitley: Thank you.

Q24 Martin Vickers: I suppose that, in many respects, with my question,



HOUSE OF COMMONS

which wants to look to the future, the answers are dictated by the problems that you have outlined. However, my basic question is this: if we look beyond the present situation, since we are no longer bound by EU rules, how would members like to see the new regulatory freedoms being exercised? I will go to Fergus first.

Fergus McReynolds: Thank you. I think there are two points to make on this. The first is about stability, right now. We have had a period of five years of a great deal of uncertainty and we certainly would not be rushing to look at changing the overall regulatory environment as a priority right now. Our priority at the moment is making sure that the deal beds in and that we get to understand how that relationship works.

The second point to make here is that, in many cases, companies—particularly those supplying manufactured goods into the European market—will still have to follow market rules anyway for the goods to be eligible in that market.

So, while there is the opportunity for us to look at our regulatory framework and we will certainly engage in that activity, first we would like a period of stability and predictability after five years of a great deal of uncertainty. And secondly, we need to recognise that in some cases there will already be requirements on goods entering the European market.

Manufacturers' aim is always to try to make one product for multiple markets, rather than having to make multiple products for multiple markets, and so anything that drives away that efficiency and creates a parallel regulatory environment, where you aren't able to make a product for both the UK market and the EU market, would not be something that would be favoured by our sector.

Martin Vickers: Liam?

Liam Smyth: I will give you a one-word answer to the new regulatory freedom being exercised: we would say "sparingly".

Martin Vickers: Right. [*Laughter.*] A succinct answer, there—very good, yes.

Liam Smyth: Not for the sake of it—don't make change for the sake of it. Fergus has outlined the reasons why.

Martin Vickers: Mike?

Mike Cherry: I would certainly broadly agree with both Liam and Fergus. But one thing that we have all got to recognise is that small businesses are adapting to the most significant change to the UK's trading arrangements in around 50 years. Although by having the deal we avoided the uncertainty of no deal, the TCA does represent a change to the status quo for UK firms trading with the EU, which as a bloc is still the largest trading partner for small businesses. We therefore encourage the Government in the short term to allow members to adjust to the new trading relationships before introducing any significant regulatory changes



HOUSE OF COMMONS

that would have a further impact and just add to the burden of bureaucracy, administrative problems and, indeed, additional costs.

Martin Vickers: I think it can be taken as read from your replies that you would be concerned about rebalancing measures if we were to embark on our own mass change. I can see Liam nodding. I guess Fergus and Mike would probably nod to that as well. Thanks, Chairman.

Chair: Thank you very much. I see that Mark Menzies is back, in very good time. If he wants to pick up the area that he was intending to pick up, that would be fantastic.

Q25 **Mark Menzies:** This is directed first to Fergus McReynolds, please. What has been the impact on your members of the UK and the EU not agreeing comprehensive mutual recognition of conformity assessment?

Fergus McReynolds: This draws back to the last question, which was about essentially having to have dual processes of certification for both markets. I think it is also important to highlight that, while at the moment under the Northern Ireland protocol there is a set of standards for Northern Ireland that are in line with the EU, it is also prudent for companies to look at how they do that, because the rules of the protocol are slightly different. In this context, we are advising companies, where they may have the same requirements, to look separately at the GB market, the Northern Ireland market and the EU market.

It is a very welcome move from the UK Government to provide the easement on continued recognition of CE marking into the GB market for a period. We would have liked to have seen the same easement on the other side, particularly while the rules governing that conformity assessment have not changed. I think it is one of those areas that is provided for in terms of the TCA.

There is a framework to discuss this. That is welcome, and certainly it will be a huge push, not just on the UK side but from our European partners, for us to really have some conversations about how we create that infrastructure and start to build a better relationship in terms of conformity assessment.

It was definitely something that we pushed for. We were disappointed that it is not in the deal. The direct impact right now is that companies will have had to make sure that where they have a certification process, where they have a notified body, if they are supplying into the EU market, that has to be in the EU27. I am not entirely sure that the communication message on that has been particularly good. I am concerned at the moment about whether businesses have really fully digested that there are different requirements in terms of placing goods on the market.

I will go back to the statement. In terms of where we see this going forward, it is about one product for multiple markets and one set of certifications to prove that they meet those standards. That has always been the driving force for creating efficiency within the supply chain.



Q26 **Mark Menzies:** Mike, do you have anything to add to that?

Mike Cherry: I have nothing to add to what Fergus has outlined in terms of the detail that he has given you.

Mark Menzies: That's fine. I am conscious of time, so I will let it lie there.

Q27 **Chair:** That is fantastic, thank you. Just to come to an end, when an iteration of the Committee in an earlier Parliament was in North America we saw at the Canadian-USA border that some would not use the NAFTA, as it was then, agreement but would just pay the tariff. Has any of the three witnesses come across that among members who would rather dispense with the paperwork and just pay the tariff that is due?

Mike Cherry: We have no evidence to date on that. I think it is a bit too soon to drill into what members are or are not paying in tariffs. We would certainly be prepared to come back to the Committee once we have that evidence in a few months' time.

Chair: That would be great.

Liam Smyth: I would cite the EU regular report on utilisation of free trade agreements as evidence that there are times when either businesses are not aware that they could benefit from duty-free access to markets, or simply avoid the paperwork and absorb the tariff, particularly with businesses where the margin is sufficiently flexible to be able to do that.

Fergus McReynolds: I would echo the comments that Liam has made. The issue here will be about the profit margin, as Liam has said, and the margins that you are operating on. Traditionally, where you have under-utilisation of FTAs and preferential trade, that tends to be on long-distance FTA transit, where the margins are probably more flexible. A 2% tariff or a single-digit percentage tariff might not necessarily be that difficult to absorb in that margin.

The way that we have set up our integrated supply chains in Europe, those margins are considerably tighter. There is likelihood that that would happen, but, as Mike has said, it is probably early days, and I don't think we have the evidence for that.

Q28 **Chair:** Okay. This is the final point. There are now 27 states in Europe that can trade seamlessly with 26 other states and with difficulty with one. There is one state that trades with 27 states with difficulty, but with none with the ease I mentioned earlier. Do you think any of your members look with envy at businesses in other countries in that situation? Yes or no? Or are they just getting on with it and with what they have got?

Liam Smyth: I think businesses are getting on with it and trying to secure as much of the existing trade that they have.

Fergus McReynolds: I would agree with that, absolutely.



HOUSE OF COMMONS

Mike Cherry: They just want to make it work in the way that makes it as easy possible for them to continue to do the business that they want to do.

Chair: Thank you very much. I would love to ask businesses in Europe if they would like to swap positions. Thank you to all three witnesses from Make UK, the Federation of Small Businesses and the British Chambers of Commerce. We are very grateful for your time this afternoon. We will now move on to our second panel.