

ADS SUBMISSION TO HOUSE OF LORDS EUROPEAN COMMITTEE INQUIRY INTO TRADE IN GOODS BETWEEN GREAT BRITAIN AND THE EU

1. SUMMARY

- 1.1 ADS is the trade association for the UK's aerospace, defence, security, and space industries. ADS has more than 1,100 member companies across all four sectors, with over 95% of these companies identified as Small and Medium Size Enterprises (SMEs). The UK is a world leader in the supply of aerospace, defence, security and space products and services. From technology and exports to apprenticeships and investment, our sectors are vital to the UK's growth – generating £79 billion turnover a year in the UK, including £45 billion in exports, and supporting over one million jobs.
- 1.2 The UK Aerospace sector continues to face challenges because of the impact of the COVID-19 pandemic. There have been 15,000 redundancies announced within the sector because of the pandemic and changing patterns of aviation demand. More broadly, the civil aerospace sector and other areas of the ADS membership made extensive use of the furlough scheme throughout the pandemic during periods of reduced demand. ADS estimates that around 17,000 workers from aerospace manufacturing were on furlough at the peak of the pandemic in Q2 2020.
- 1.3 ADS therefore welcomed the agreement between the UK and EU to ensure tariff-free trade from 1st January 2021 and regulatory cooperation in key areas such as aviation safety. The Trade and Cooperation Agreement (TCA) does not achieve everything our sectors require. For example, there are gaps to address in the aviation safety provisions, the Chemicals Annex does not include access to the EU Chemicals Agency data, and it does not include a comprehensive defence and security partnership. However, when compared to a non-negotiated result, the TCA did achieve some positive outcomes and provides the basis for a deeper and more comprehensive relationship in the future.
- 1.4 The UK Government's decision to leave the EU's Customs Union, Single Market, and its agencies and institutions means that significant non-tariff barriers are unavoidable. However, the agreement could have gone further to minimise these barriers. For ADS members, this is particularly apparent in the areas of aviation safety, rules of origin, and chemicals, as well as the subsequent agreement on data adequacy by the EU.
- 1.5 It is vital that the UK and EU continue to work together to overcome obstacles presented by the change in trading arrangements. For businesses in Northern Ireland in particular, the issue of goods defined as 'at risk' of moving into the EU is causing a significant degree of confusion and uncertainty. The EU remains the UK's largest trading partner and both sides must work together to deepen the relationship and strengthen regulatory cooperation in the medium to long-term for our collective prosperity and security.

2. WHAT HAVE BEEN THE OVERALL CONSEQUENCES TO DATE OF THE IMPLEMENTATION OF THE TCA AND THE END OF THE TRANSITION

PERIOD FOR GB-EU TRADE IN GOODS, IN THE UK'S FIRST YEAR OUTSIDE OF THE SINGLE MARKET AND CUSTOMS UNION?

- 2.1.1 ADS members made significant preparations for the implementation and changes to the way they trade in goods in advance of the TCA being signed in late 2020. However, across our membership, the size and scale of companies has impacted their ability to smoothly adopt new procedures and requirements. One of the main consequences companies have reported is the increased time and cost associated with moving goods. ADS members not only spent years before the end of the transition period preparing for new requirements but have continued to adapt and work through the new rules and processes required of them throughout the first year of the UK being outside of the Single Market and Customs Union.
- 2.1.2 When compared to a non-negotiated outcome, the TCA does achieve some positive outcomes in the mutual recognition of Authorised Economic Operator (AEO) schemes. UK companies with AEO status benefit from simplified customs declarations and paperwork when trading with the EU. However, the agreement does not remove the need for administration and customs documentation for goods moving between the UK and EU.
- 2.1.3 Furthermore, to apply for and be granted AEO status is a complex, costly, and time-consuming process. It is not easily achievable for SMEs, which make up 95% of ADS members, particularly given many smaller companies have no experience of dealing with customs formalities and would therefore find it challenging to pass the initial auditing process. For example, it took a major UK aerospace OEM six years to comply and successfully achieve AEO status.
- 2.1.4 Additionally, the introduction of rules of origin under the TCA has created a new challenge for ADS members as they have not previously had to comply with rules of origin requirements, which are very complex. For the aerospace sector, the WTO Agreement on Trade in Civil Aircraft negates the need to utilise the origin provisions in the TCA, but this doesn't apply to raw materials and certain components further down the supply chain. Furthermore, military goods are not covered by the WTO plurilateral and therefore members operating in the defence sector are now encountering rules of origin requirements for the first time. Many do not have the required sophisticated systems and software to calculate 10-digit level codes, or the information on the previous origin of goods that are needed to calculate content.
- 2.1.5 There is also a unique challenge for companies based in Northern Ireland importing non-originating goods from Great Britain. ADS has spoken to members that currently import raw material from Great Britain for processing into airworthy parts, which would then not be subject to tariffs if they moved into the EU due to the WTO agreement previously mentioned. However, because the raw materials are being moved into Northern Ireland for processing, they would now be defined as 'at risk' of moving into the EU and would therefore attract the EU tariff. This puts aerospace companies in Northern Ireland at a competitive disadvantage when compared to their counterparts in Great Britain and undermines the

intention of the Internal Market Act “to ensure there are no harmful new barriers to trade between all parts of the UK.” An example of this would be titanium bolts imported to Great Britain from the USA and then moved into Northern Ireland for processing. HMRC has suggested several actions businesses can take to avoid the tariff; however, all these options come with a cost of their own, be it direct or indirect.

- 2.1.6 ADS has made proposals for solving the Northern Ireland issue specifically. The UK Government should, through the UK-EU Joint Committee, seek to agree an exemption for Northern Irish aerospace companies importing parts and materials for processing into Northern Ireland from Great Britain. Aerospace companies in Northern Ireland should be able to use their CAA approval (or equivalent) to apply for a ‘trusted trader’ type status which would allow them to import parts and materials from Great Britain without having to pay a tariff. This could even be added as an additional criterion for approval through the UK Trader Scheme. This would avoid having to set up a separate scheme entirely. HMRC could audit these companies in much the same way as they would for other businesses authorised under the UK Trader Scheme and, given the aerospace sector is already highly regulated, this would not add a significant burden on the sector.
- 2.1.7 Finally, one of the main consequences of the TCA is the new barriers to trade in aerospace goods. While a member of the EU, the UK enjoyed the benefits of EASA membership. Aerospace companies in the UK had their designs, products and maintenance work regulated and certified by EASA, and then had access to not just the whole EU market, but also to markets with which EASA has bilateral agreements and working arrangements in place.
- 2.1.8 The TCA does achieve mutual recognition of each other’s products meaning that UK companies producing aerospace parts can continue to sell into the EU with just an approval from the UK CAA. However, there are additional costs associated with this, and not all activity is covered.

2.2 WHAT HAVE BEEN THE KEY CHALLENGES OF EXISTING BORDER CONTROLS FOR GB-EU TRADE IN GOODS SO FAR? TO WHAT EXTENT HAVE THESE CHALLENGES IMPROVED OR WORSENERD OVER THE COURSE OF 2021, AND HOW MIGHT THEY BE MITIGATED FURTHER?

- 2.2.1 Key challenges regarding the existing border controls for GB-EU trade have been centred on the operational implementation of new rules rather than the overall policy design. ADS members have reported that EU member states have often had a different interpretation of the requirements than the approach understood in the UK, which has generated additional delays and challenges to the movement of goods.
- 2.2.2 This is true for both companies who have chosen to use the TCA to move goods and for those who have chosen to not use the TCA and to move goods through customs special procedures as part of their complex global supply chains. ADS and members have been engaging closely with the

Border Protocol Delivery Group (BPDG) and HMRC to raise issues as they have arisen where, in many cases, bi-lateral conversations have helped to resolve any confusion or provide near-term mitigations.

- 2.2.3 The introduction of customs controls between the UK and EU have been somewhat disruptive to business as usual for ADS members. To date, no significant disruption to production or flow of goods has been reported from ADS members, due to COVID suppressing demand over the last year and a half.

3. DO YOU AGREE WITH THE GOVERNMENT'S DECISION TO DELAY FURTHER THE INTRODUCTION OF CERTAIN CHECKS AND CONTROLS ON IMPORTS OF EU GOODS INTO GB? WHAT ARE THE ADVANTAGES AND DISADVANTAGES OF THIS DECISION?

- 3.1.1 The UK Government's decision to further delay the full introduction of certain checks and controls on imports of EU goods will be welcomed by some members, especially SMEs, as it provides breathing space to continue implementing new requirements. Most relevant to ADS members is that safety and security declarations on imports will now be required as of 1 July 2022 as opposed to 1 January 2022. However, as previously noted, many ADS members have already been preparing for the full implementation of these requirements and so the postponement is just delaying an eventuality that they have already come to terms with.

4. WHAT ARE THE IMPLICATIONS OF CONTINUED 'ASYMMETRY' BETWEEN GB AND EU BORDER CONTROLS, FOR EXAMPLE ON THE COMPETITIVENESS OF GB BUSINESSES, ON BORDER SECURITY, AND ON CUSTOMS REVENUE? ARE THESE ASYMMETRIC ARRANGEMENTS SUSTAINABLE?

- 4.1.1 The current asymmetry in border controls, ADS understands, is designed to try and support GB businesses who have been tasked with complying with new regulations and requirements that previously many would not have been familiar with.
- 4.1.2 More broadly, ADS sees no benefit in divergence of safety requirements between GB and EU border controls or wider regulatory standards. However, when it comes to trade in goods between business that have long-standing relationships, there is usually a record of compliance and level of trust. ADS believes that good compliance history should be taken into consideration to ease controls and requirements on businesses in both the UK and EU. A relaxation to allow businesses to demonstrate through regular reporting that they continue to be compliant and adhere to the new rules, rather than provide information on every single shipment as it happens, would ease the burden on businesses. This is one way in which a balance in arrangements could be sought that is sustainable and supports businesses and supply chains across the UK and EU.

4.2 HAVE THE UK AUTHORITIES APPLIED EXISTING CHECKS AND CONTROLS CONSISTENTLY TO IMPORTS FROM DIFFERENT EU MEMBER STATES?

4.2.1 As noted above, ADS is aware of some bilateral dialogues to help smooth processes of moving goods between the UK and member states; however, this has been mostly on outbound goods (for export) and ADS is not aware of checks and controls differing between goods arriving from different member states.

4.3 TO WHAT EXTENT ARE BUSINESSES, PORTS, HAULIERS, THE CUSTOMS INTERMEDIARY SECTOR AND OTHER RELEVANT GROUPS READY FOR THE INTRODUCTION OF FULL CUSTOMS CONTROLS, AND THE EXPIRY OF OTHER RELEVANT GRACE PERIODS, FROM 1 JANUARY 2022, AND FOR ADDITIONAL SPS CONTROLS FROM 1 JULY 2022? ARE THERE ANY PARTICULAR CHALLENGES OR CONCERNS AHEAD OF THESE DEADLINES? HOW DO CURRENT LEVELS OF PREPAREDNESS COMPARE TO PREVIOUS PREPAREDNESS FOR THE END OF THE TRANSITION PERIOD ON 31 DECEMBER 2020?

4.3.1 ADS have received reports that some customs intermediaries are still failing to properly follow instructions given to them by businesses. As it stands, we believe this is because they are overwhelmed with an extreme increase in workload and so are getting goods through customs controls by any means necessary, even if as not instructed by the customer (businesses). When customs intermediaries do not follow instruction given to them by businesses, this often results in costs to industry. For example, a haulier using their own duty deferment account will create issues for the guarantees approved in industry own customs accounts. Similarly, if goods are cleared through customs using a different procedure than stated, businesses can find themselves having to go back to HMRC to make corrections on declarations which often go against them in audit and can also result in financial penalties.

4.3.2 ADS has also been made aware that some customs intermediaries were turning away the business of new clients (particularly SMEs) owing to them reaching their capacity. ADS believe that these concerns and challenges will remain in place until the supply of intermediaries increases or the amount of processing they are required to do is streamlined. In addition, there is a disproportionate shortage of customs agents in Northern Ireland.

4.3.3 The demand for customs support has potentially been underestimated by all of those who are involved in the trade and movement of goods from GB to EU. Many firms have opted to outsource support, but the availability of the support is not enough to satisfy the increased demand. This is something that, over time, will need to continue to be monitored to ensure that all of those involved, particularly customs intermediaries, are providing reliable and compliant services to industry.

4.3.4 ADS is unable to comment on the level of preparedness of ports, hauliers, and intermediaries, but businesses and members of ADS continue to work

closely with authorities to ensure they are preparing for new requirements and controls as they enter into force.

5. AHEAD OF THESE CHANGES, WHAT IS YOUR ASSESSMENT OF THE QUALITY OF EXISTING GOVERNMENT COMMUNICATIONS, GUIDANCE, ADVICE, FUNDING AND SUPPORT FOR TRADERS AND PORTS? IF THERE ARE ANY SHORTCOMINGS, HOW SHOULD THESE BE ADDRESSED?

5.1.1 ADS and members have had particularly close and good engagement with several government departments throughout the design and implementation of the UK border. However, in practice, some operational challenges are still in existence that have created delays. For that reason, ADS continues to work with government to help strengthen the level of support offered to industry.

5.2 HAVING MADE THE DECISION TO DELAY THE INTRODUCTION OF CERTAIN CHECKS, HOW SHOULD THE GOVERNMENT BEST USE THIS EXTRA TIME?

5.2.1 The Government must support the training of more customs intermediaries and ensure the EU member states and GB borders agree on the interpretation and requirements of the new rules to avoid further disruptions when full import controls are introduced. Additionally, the UK Government can use this time to help strengthen supply chains and provide further support to businesses who are not only struggling with disruption caused by Brexit but also other factors including but not limited to: driver shortages, COVID-19, and energy supply disruptions.

6. IS DISRUPTION TO TRADE FLOWS OR SUPPLY CHAINS EXPECTED FROM THE IMPLEMENTATION OF ADDITIONAL CHECKS AND CONTROLS FROM JANUARY AND JULY 2022? IF SO, WHAT FORM MIGHT ANY DISRUPTION TAKE, AND CAN IT BE MITIGATED BY GOVERNMENT ACTION?

6.1.1 As more companies are required to comply with more customs controls and checks, there is a degree of further disruption anticipated. ADS members have continued to prepare for full customs controls and checks, and whilst there will be some who continue to familiarise themselves with new requirements, we anticipate that the increase in paperwork and checks will have a more profound impact on ports, hauliers and intermediaries who will be at the forefront of the increased workload.

6.1.2 A refreshed communications campaign to 'check an HGV is ready' would be welcome government action to ensure that all of those heading to the border are prepared to cross. Similarly, a campaign on the EU side to ensure GB importers and EU exporters have completed all necessary paperwork before goods depart would be useful, although potentially less achievable.

7. WHAT, IF ANY, IS THE RELATIONSHIP BETWEEN THE TIMETABLE FOR THE INTRODUCTION OF NEW CHECKS AND CONTROLS AND THE

CURRENT CHALLENGES FACING SUPPLY CHAINS DUE TO LABOUR SHORTAGES?

- 7.1.1 ADS are aware of these labour shortages impacting the wider manufacturing industry but there are limited reports in ADS sectors. This may be due to the lower demand levels currently being experienced in aerospace production and the operational dynamics of the defence sector.

8. HOW WOULD YOU ASSESS THE CHECKS AND CONTROLS THAT GB EXPORTS TO THE EU HAVE FACED SINCE JANUARY 2021, SUCH AS SANITARY AND PHYTOSANITARY REQUIREMENTS, CUSTOMS FORMALITIES, RULES OF ORIGIN, AND VAT?

- 8.1.1 ADS members have been impacted by the differences in requirements or interpretation of the new rules between member states as they try to export goods to the EU. The impacts have mostly been faced on goods being received into EU member states rather than as an exit GB export control.

8.2 WHAT HAS BEEN THE IMPACT OF THESE CHECKS AND CONTROLS ON BRITISH TRADERS AND HAULIERS?

- 8.2.1 These checks and controls have generated additional friction and damaged the cash flow of UK businesses trading with the EU. For example, members reported that the French customs authorities were requesting T1 forms for goods that it transpired were UK-France movements and therefore don't need them. It was believed this was happening because those receiving goods in France do not have the ability to clear goods at the point of entry so were requesting a T1 so they can move them to where they can be cleared. This is causing additional work (and cash flow tied up in guarantees) to members impacted.

8.3 HAVE THESE CONTROLS ON GB EXPORTS BEEN APPLIED FAIRLY, PROPORTIONATELY AND CONSISTENTLY ACROSS EU MEMBER STATES?

- 8.3.1 ADS members have reported that across certain member states there is a lack of consistency in requirements, particularly paperwork linked to proving origin or to prove goods have been received. Members have reported experiences with businesses in EU member states requesting information beyond that detailed in Incoterms. ADS members have been reluctant to provide this information as it can often result in goods being processed incorrectly, which will incur costs to them and often result in them being non-compliant.

9. ARE THERE ANY OTHER CONCERNS OR ISSUES RELATING TO GB-EU GOODS TRADE, EITHER TO DATE OR IN THE FUTURE, WHICH YOU WOULD LIKE TO HIGHLIGHT.

- 9.1.1 As mentioned in sections 1.1.5 and 1.1.6, the impact of the new requirements relating to GB-EU trade has also had a knock-on impact on the trade in goods and goods production in Northern Ireland. Companies

that have more exposure to Great Britain are disproportionately negatively impacted by the new arrangements, which is why there is such a variable cost implication. Companies who process parts in both Great Britain and Northern Ireland for final sale in the EU seem to be worst impacted by new additional costs. ADS has estimated that the range of costs could be from £50m-80m to the aerospace sector in one year as companies are faced with costs arising from customs compliance, potential tariffs, increases in logistics costs and administration for aerospace goods moving from Great Britain to Northern Ireland. The long-term impact of these additional costs will harm the competitiveness of the UK aerospace sector, which faces threats from a range of international competitors.

26 October 2021