

German-British Trade Barriers

In our daily work we are frequently in contact with companies that are engaged in trade in the German-British corridor. A number of hurdles have arisen, in particular as a result of the UK's withdrawal from the European Union's Common Customs and Economic Area. We asked our members about the most pressing problems in bilateral trade, and we summarise the most frequently mentioned points below:

- 1. Legal and structural company forms hamper free trade**
- 2. Product compliance**
- 3. Differing standards between the EU and UK could jeopardise the common market**
- 4. Profit repatriation from Germany to the UK**
- 5. Freight transport handling**
- 6. Poor accessibility of customs authorities in the UK**
- 7. Migration / movement of individuals**
- 8. Student and research exchange**
- 9. Additional uncertainties due to upcoming laws in 2024**

You'll find more details on these top 9 trade barriers that exist in the German-British economic area on the following pages. We provide cross-sector recommendations and examples of how to respond to these problems.

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1. Legal and structural company forms hamper free trade

- Small and medium-sized British companies are often unaware of the different legal forms when planning to do business in Germany on a long-term basis, or open a representative office. Previously accepted and fulfilled orders e.g. with a British limited company, can lead to disadvantages in Germany since Britain's departure from the EU.
- The establishment of a German subsidiary e.g. as an "Unternehmergeellschaft" or entrepreneurial company, is possible but costly and often leads to British companies no longer pursuing potential business opportunities in other EU countries.

2. Product compliance:

- Lack of detailed regulation around recognising EU regulations on product compliance when importing into the UK.
- Increased divergence of product compliance regulations between the EU and the UK post Brexit
- There is a lack of long-term clarity for manufacturing and trading companies: does my product need to be planned/produced differently for the UK market? Are there different regulations, tests, forms? How long will the current regulations still apply?
- In the absence of long-term clarity, it is difficult for the manufacturing industry in particular to adapt its production processes without a concrete timetable and detailed content.

Comment from the British Embassy in Berlin on UKCA labelling:

Whether products fall within the [scope of application](#) and how they must be [labelled](#) may be viewed on the Department for Business and Trade website. For some other products that do not fall within the above-mentioned scope, there are already [announcements](#) about when UKCA labelling will become mandatory.

We therefore believe that detailed information is indeed available at this time. However, as the various links were updated in January, it is quite possible that some of this information may not yet have reached some retailers.

3. Differing standards between EU and UK could jeopardize the common market

- From a business perspective, with the UK leaving the common EU economic area, care must be taken to ensure that regulations in all areas do not drift too far apart. For the UK in particular, it would be a competitive disadvantage to distance itself too greatly from European legislation. Were they to do so, UK-based companies would in future scrutinize even more closely whether it is worth offering their products and services in the EU, given the additional bureaucratic effort involved.
- Specifically, this is to be feared for the EU CBAM, the carbon border adjustment mechanism, which will be introduced in a similar way in the UK. If, as has been announced, the two systems are not adapted and compatible with one another, this would mean significantly increased effort and higher costs in trade with the UK (see point 8).
- The same applies to health standards and authorisation procedures for medicines and food.

4. Profit repatriation from Germany to the UK

- Since Brexit, UK-based companies have been subject to a 5% capital gains tax under the double taxation agreement between the UK and Germany when they distribute profits from Germany to the UK.
- The pre-Brexit Parent-Subsidiary Directive, which under certain conditions did not provide for such a charge, no longer applies to the UK as a third country since Brexit.
- In order to avoid the above burden, companies are increasingly taking into account having to turn to the more complex (and therefore more costly) company legal structures in Germany.

5. Freight transport handling

- British companies often lack in-depth knowledge of export regulations and customs. This leads to problems and misunderstandings in the handling of goods traffic.
- When exporting from Germany to Great Britain, German freight forwarders often request the British EORI number from the German shipper for import into Great Britain (GB). This could be for the following reasons:
 - The German forwarder does not wish to liaise with the UK consignee
 - or, if they contact the consignee, they do not receive an appropriate response because, as mentioned above, there is a lack of knowledge
 - there are not enough declaration clerks active in the UK.
- There are cases in the UK where deliberately false declarations of origin are made in order to save the British recipient customs duties.
- If German companies deliver to private end users in the UK, the German company may have to register for UK VAT in the UK and potentially also submit customs import declarations. This is too time-consuming and too expensive for many German companies. They do not consider their prices to be competitive.

6. Poor accessibility of customs authorities in the UK

- For large manufacturing companies with international supply chains and factories in the UK, goods must be cleared through customs (inbound and outbound) during operating hours to avoid line stoppages and interruptions.
- Currently, this also applies to companies that are authorised consignees and AEO-certified: if control movements and/or requests for physical inspection are received shortly before the end of the agency's opening hours – even if the company processes them on that day – a response from the authorities will probably not be received until the following working day, which can lead to shortages of parts and potential disruptions to production.
- One solution to this problem could be the creation of an "after-hours procedure" (e.g. on weekdays from 4 pm to 8 am / in urgent cases also on weekends and public holidays). Similarly conceivable would be a special arrangement for after-hours emergencies (e.g. 45 minutes automatic release) for trusted traders (e.g. AEO) and other authorised consignees or specific goods, as well as pre-arranged overtime approvals with the relevant destination offices in critical situations on a case-by-case basis.

7. Migration/ movement of individuals

- Sending employees from Germany to the UK is now much more time-consuming and costly, as one has to obtain advice on the immigration law category under which an individual can enter the country.
- For multinational companies, this is already a problem for their internal postings. For small and medium-sized companies, the effort involved is so great that they either give up trading with the UK or not even start: "A German medium-sized company expanding internationally for the first time will now go to the EU states and not to the UK."
- This also makes the fulfilment of internationally-awarded contracts problematic, as British companies are as a result more expensive than EU competitors. If, for example, the German government or companies put a contract out to tender, this places British companies at a major competitive disadvantage.

8. Student and research exchange

- There are numerous European research alliances and funding projects from which UK institutions have had to withdraw as a result of Brexit. The readmission of the UK to Horizon Europe and Copernicus is an important step. However, many ongoing projects have been terminated or continued with other European partners due to the withdrawal.
- The need for UK researchers to apply for visas to conduct research in the EU is hampering collaboration, with the result that European institutions will now often decide not to include UK institutions in their international projects.

- In the area of student exchange, no follow-up framework has yet been found for the British withdrawal from the Erasmus programme. Students at British universities are therefore increasingly remaining in the country for the entire duration of their studies, as a semester abroad involves considerable administrative and financial effort.
- This has already led to a situation where it is mostly children from financially better-off homes who can take advantage of such stays abroad – an inequality that was previously addressed by the Erasmus programme.
- If only a few people from specific backgrounds are able to become personally acquainted with life in other countries, this will lead to developments among the next generation that are as yet unforeseeable but will certainly have an overall negative impact as they will not be suitably equipped for international cooperation. This is a dangerous development in the long term when this generation later occupies key positions in the British economy and society or plays a part through their voting decisions.

9. Additional uncertainties due to upcoming laws in 2024

- **UKCA declaration:** The transitional arrangement under which products with a CE mark can also be offered for sale in the UK will remain in place until 31 December 2024. It is not yet clear what will happen after this date and whether only UKCA-labelled products will be allowed to be sold in the UK thereafter. On 1 August 2023, the British government announced the indefinite continued use of the CE standard for various products and in January 2024 announced the extension of recognition to three further areas but did so unilaterally without consulting the EU Commission.
- **Carbon Border Adjustment Mechanism (CBAM)** will be fully rolled out in the EU on 1 January 2026. Until then, there will be time to harmonise these regulations as far as possible with UK CBAM, which is due to come into force in 2027.
- The same applies to many other current economic policy issues that generally affect the EU to the same extent as the UK in global competition. These include further ESG regulations, particularly on sustainable finance and the issue of supply chains. The **EU CSDDD** is currently the subject of heated debate but will also directly affect British companies and goods offered in the UK if it comes into force. The question is how and whether the UK will also take regulatory action on these issues.
- When it comes to AI, the UK government has positioned itself as the new global hub for the development and utilisation of the technology. This suggests that regulation from the political side will not be too strict, a position that should not be taken to the same extent by the EU. The EU is currently writing the legal text of its **EU AI Act**. If different regulations apply in the UK and the EU for this technology, which will be widely used throughout the global economy in the future, this will in turn lead to trade barriers. In multinational companies, this can also have a practical, negative impact on work in international teams with artificial intelligence.
- The **Windsor Framework** was a very important signal and course of action for UK-EU trade. However, it also defines some significant dates, for example, the Northern Ireland Parliament must have approved five articles of this pact by the end of 2024; and from summer 2025, all food to be sold in the UK will have to be individually labelled.
- **TCA review 2026:** When the Trade and Cooperation Agreement between the EU and the UK (TCA) was concluded, a review of the agreement and its application was agreed for 2026. Whereas this date plays a subordinate role for EU dialogue partners, politicians in the UK see this as an opportunity to realign the economic relationship in *de facto* new negotiations. These could have a positive outcome, but in turn mean uncertainty for companies that are still adjusting to the current rules. On the other hand, this could lead to political upsets were the EU to reject a new overall intention on the part of the UK to negotiate.
- The **European Travel Information and Authorisation System (ETIAS)** is to be introduced this year, with 90-day visas for the Schengen area and pre-issuance to UK citizens. This is an important step in mobility, but British companies need to be informed about and trained in the possibilities and limitations in connection with their employee posting problems, as this will not be linked e.g. to a work permit for the EU area.