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# **The Impact of the EU-UK Trade and Co-operation Agreement on Caribbean Exporters**

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### Abstract

The UK’s departure from the EU customs union and single market has created new trade challenges along triangular supply chains where goods have to cross on EU/UK border prior to delivery to the final customers. This affects both Caribbean-to-UK-to-EU and Caribbean-to-EU-to-UK supply chains. Agri-food products are most seriously affected since these products face the highest MFN tariffs, strict phytosanitary import controls and are often more commercially sensitive to delivery delays. While many Caribbean export sectors are affected, the worst affected products appear to be sugar, rum, fruit and vegetables (including bananas), fisheries products and to a lesser degree cocoa-based products. The current arrangements have disproportionately large effect on small firms than larger exporters. Significantly, policy initiatives can facilitate private sector adjustments and mitigate challenges faced by Caribbean exporters.

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## Abbreviations and Acronyms

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ASR	American Sugar Refining
BSI	Belize Sugar Industries
CTC	Common Transit Convention
CTH	Change in Tariff Heading
CTSH	Change in Tariff Sub-Heading
DFQF	Duty-Free/Quota-Free
EBA	Everything But Arms
EPA	Economic Partnership Agreement
EU	European Union
FTA	Free Trade Area
GB	Great Britain
LDC	Least Developed Country
MFN	Most-Favoured Nation
RoRo	Roll-on/Roll-off
TCA	Trade and Cooperation Agreement
UK	United Kingdom

## Executive Summary

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As a result of the UK's departure from the European Union (EU) customs union and single market, new trade challenges have surfaced along triangular supply chains where goods have to cross on EU/UK border prior to delivery to the final customers. This affects Caribbean countries exports to the UK and the EU markets.

Five main areas of impact on the functioning of triangular supply chains are:

- Rules of origin/MFN tariff issue.
- Phytosanitary import controls.
- Trade administration challenges.
- Border control challenges.
- Logistical challenges

Agri-food products are most seriously affected since these products face the highest MFN tariffs, strict phytosanitary import controls and are often more commercially sensitive to delivery delays. The worst affected appear to be sugar, rum, fruit and vegetables (including bananas), fisheries products and to a lesser degree cocoa-based products. Those less affected tend to be larger exporters with close corporate links, greater internal administrative capacities, greater familiarity with Common Transit Convention (CTC) procedures and who ship less price sensitive products to both the UK and EU.

Responses to these challenges are possible at two levels: policy initiatives or private sector adjustments.

Policy responses could include:

- The unilateral adoption by the UK and EU of diagonal cumulation arrangements for DFQF beneficiaries, which can be achieved through a modification of the 'direct transport' article of EPAs and the introduction of simplified verification or origin arrangements.
- Establishing simplified system for issuing phytosanitary re-export certificates and waiving the need for re-export certificates where controls carried out on entry prior to re-export.
- Promoting a dialogue on policy initiatives to simplify trade administration on re-exports and the extension of support to strengthen internal business capacity to meet trade administration requirements.
- Simplifying systems of trade administration for re-exports along triangular supply chains (including providing greater clarity on practical use of CTC processes for countries enjoying full DFQF access to EU and UK market).
- Addressing border control challenges which arise from the serious infrastructure, staffing and IT system constraints faced in operating new UK/EU border controls.

Private sector responses include reorientating routes to market to avoid crossing EU/UK borders or making greater use of the CTC process.



# 1. Introduction

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At the time of the UK's decision to leave the European Union (EU), it was unclear what impact this would have on trade relations between the UK and the EU and on the UK's pre-existing trade relationship with Commonwealth countries, established while the UK was part of the EU. In the immediate post-referendum period, while there was some initial discussion of the UK remaining part of either the EU customs union or the single market (or even both), as the political debate in the UK evolved, the UK government made the decision to leave both the customs union and the single market.<sup>1</sup> The decision to leave the EU customs union generated the need to establish a separate basis for trade relationships between Commonwealth countries and the UK. At an early stage, the UK government made a commitment to replicating in full the tariff preference arrangements established in favour of developing countries while the UK had been part of the EU.

This saw the replication of the UK's Everything But Arms (EBA) initiative,<sup>2</sup> established to provide full duty-free/quota-free (DFQF) access for least developed countries (LDCs). It also saw the launch of negotiations to conclude Continuity Agreements,<sup>3</sup> intended to provide 'continuity' in market access arrangements for countries that had concluded reciprocal preferential trade arrangements with the EU (known as economic partnership agreements – EPAs).<sup>4</sup>

Given ongoing uncertainties in the core Brexit process, which saw the UK's initially scheduled departure from the EU deferred, progress in negotiations for 'UK-only' Continuity Agreements was slow, with many believing that some form of accommodation would be found that would ensure continuity of access to the UK market under existing arrangements. However, by July 2019, it had become apparent that the UK government would leave both the EU customs union and the single market and would seek to negotiate a free trade area (FTA) agreement with the EU. The aim was to provide continued DFQF trade between the UK and the EU within the framework of the proposed FTA.

The EU took the view that such an FTA agreement could not be negotiated until the UK was no longer a member of the EU. As a

consequence, the process of the UK's withdrawal from the EU was divided into two distinct components: the withdrawal of the UK from the EU as a political entity, which was subject to conclusion of a formal Withdrawal Agreement;<sup>5</sup> and the negotiation of an alternative basis for EU–UK trade negotiations.

The UK government set 1 January 2021 as the deadline for its withdrawal from the EU customs union and single market but there were delays in concluding the Withdrawal Agreement, which then created a situation whereby the FTA negotiations needed to be conducted and concluded within 11 months. This was a very tight timeframe for the conclusion of a comprehensive trade agreement. In line with the UK government's objective of completing the withdrawal process by 1 January 2021, negotiations for an EU–UK FTA were concluded on 24 December 2020, with the agreement signed on 30 December 2020 and entering into effect on 1 January 2021. This agreement is known as the EU–UK Trade and Cooperation Agreement (TCA).

The EU–UK TCA allowed continued duty-free trade between the EU and the UK for 'originating goods'. This created a need for rules of origin<sup>6</sup> that define what constitutes an 'originating good' and hence can benefit from duty-free access under the TCA. While it had been expected that the EU and UK would agree 'diagonal cumulation' provisions,<sup>7</sup> which would allow produce enjoying DFQF access to both the EU and the UK to be counted as 'originating inputs', no such agreement could be reached.

What is more, the TCA left unresolved the operational modalities to be applied across a range of non-tariff issues falling under the remit of the EU single market regime. This created a situation whereby, from 1 January 2021, the EU applied standard third-country controls on goods entering from Great Britain (GB).<sup>8</sup> This applies not only to GB 'originating' products but also third-country products shipped to the territory of the EU via GB. The UK government, for its part, decided first to phase in border controls on goods entering from the EU over the first three months of 2021 and subsequently deferred the full implementation of third-country border controls until July 2022.

While the UK sought to ensure continued duty-free access for developing country exports to the UK, consistent with the pre-existing common EU trade framework the UK had applied, the absence of ‘diagonal cumulation’ provisions meant that, unless specific shipping procedures were followed or rules on the use of non-originating content were complied with, the duty-free access arrangements in favour of Commonwealth exporters applied only to goods directly shipped to the UK. Similar issues also face Commonwealth exporters serving EU markets via initial ports of landing in GB. Along these routes, specific shipping procedures or rules on the use of non-originating content also need to be complied with, if goods shipped via the UK are to enjoy duty-free access upon entry to the final EU market served.

What is more, the absence of specific arrangements for dealing with non-tariff trade issues previously covered by the single market regulatory framework has led to border clearance and trade administration complications for Commonwealth exporters who ship products to final markets along triangular supply chains – that is, supply chains that involve the crossing of an EU–GB customs and regulatory border to deliver goods to the final customer. This includes consequences arising from the EU and UK now being two distinct phytosanitary territories, with their own separate regulatory frameworks and phytosanitary import control arrangements. This poses particular problems for fresh and chilled produce,

in which a range of Commonwealth African, Caribbean and Pacific (ACP) group exporters have substantial export interests and for which triangular supply chains play an important role. These complications have in turn given rise to logistical challenges in the onward shipment of products across the new EU–UK customs and regulatory border.

The main focus of this study is three-fold:

1. To break down the impact of the Brexit process on the functioning of Commonwealth Caribbean triangular supply chains, based on the underlying motivation for the utilisation of triangular supply chains in delivering goods to the final market and the very real constraints on direct delivery to markets.
2. To identify appropriate areas for unilateral<sup>9</sup> policy action by EU and UK authorities to address issues of concern for Commonwealth exporters, so as to facilitate the maintenance of existing triangular supply chains where possible.
3. To identify potential business-level responses and supply chain adjustments to address the challenges faced along triangular supply chains, with reference to illustrative products and final markets served, in light of the specific constraints now faced in the international shipment of goods arising from the knock-on effects of the Covid-19 pandemic.

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## 2. The general Caribbean-EU trade context and Brexit effects along triangular supply chains

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Caribbean manufactured product exports to the EU in 2019 were dominated by oil-related products and associated chemical products (20.2 per cent of total exports, valued at €927 million). Textiles and clothing, footwear, and headgear accounted for only 1.5 per cent of total Caribbean Forum (CARIFORUM) exports to the EU in 2019 (€67 million). Miscellaneous manufactured products accounted for 0.2 per cent of total exports to the EU (€9 million). If we look at the structure of exports of Caribbean countries that are part of the ACP group to the

EU28 market in 2020, we find the following composition:

- 35.5 per cent of exports are accounted for by mineral products, base metals, and pearls and precious metals (and articles thereof), on which most-favoured nation (MFN) tariffs are zero and on which no phytosanitary issues arise.
- 32.3 per cent of exports are accounted for by manufactured exports, dominated by chemical products (12.4 per cent), on which MFN



tariffs are small and phytosanitary issues do not arise. Only 0.5 per cent is accounted for by clothing and textile exports, where serious MFN tariffs could be faced if re-exports take place outside of customs supervision.

- Agricultural and fisheries products account for 28.0 per cent of total exports, with high MFN tariffs faced in the case of onward trading across EU/GB borders outside of customs supervision and with serious phytosanitary import administration issues as a result of the Brexit process if products are traded along triangular supply chains.
- This means that the most serious effects of the Brexit process will be felt along agri-food and drink sector and fisheries sector triangular supply chains. A clear identification of the quantitative impact on Caribbean exports of Brexit issues along triangular supply chains requires an exploration on a supply-by-supply chain basis, in light of what is generally known about the problems arising along triangular supply chains. In this context, several points should be noted:
  - Large-scale exporters will be better placed to adjust their triangular supply chain arrangements than smaller companies.
  - Caribbean exporters of ‘luxury purchase’ products, which are less price-sensitive, will be better placed to carry additional costs generated by the Brexit process than will exporters of ‘necessity purchase’ products, which are price-sensitive (organic bananas compared with ordinary bananas, quality-differentiated rum compared with general undifferentiated rum exports).
  - Caribbean exporters with strong corporate links to multinational distribution companies will be better placed to adjust to the new post-Brexit realities than those without such commercial linkages (e.g. Belize Sugar Industries (BSI), which is owned by America Sugar Refiners (ASR), the parent company of Tate & Lyle Sugar, compared with Guyana’s GUYSUCO).
  - Caribbean companies with significant levels of exports to both the UK and the EU27 market will face fewer problems in making routing adjustments in

continuing to serve both markets than those that are solely or largely focused on the UK or the EU27 market.

- Caribbean companies that already have experience of dealing with Common Transit Convention (CTC) procedures will be better placed to access CTC processes in managing the re-export of goods across EU–GB borders than those that have no such experience.

At the operational level, it is difficult to differentiate between the impact of Brexit and that of the Covid-19 pandemic on Caribbean export trade. This is particularly so with regard to the impact on the functioning of triangular supply chains.

Within triangular supply chains, five main areas of impact of the Brexit process can be identified:

1. The rules of origin/MFN tariff issue;
2. The new phytosanitary import control requirements;
3. The new border clearance requirements;
4. The new trade administration requirements;
5. The logistical challenges and associated cost increases along cross-border triangular supply chains.

### 2.1 The rules of origin/MFN tariff issue

Under this issue, duty-free access to the final market is lost if:

- Goods simply shipped along triangular supply chains do not remain under customs supervision, under the CTC, throughout the shipment process; or
- Simple processing operations occur that are insufficient to gain UK or EU originating status prior to re-export but are sufficient to result in the loss of the initial Caribbean originating status on which duty-free access is granted under the Caribbean–EU EPA or the UK–Caribbean Continuity Agreement (e.g. from raw sugar to refined sugar or the simple bottling of bulk rum); or
- The use of non-originating inputs (including Caribbean-produced inputs) exceeds the permitted levels set out the rules of origin annexed to the EU–UK TCA concluded on 24 December 2020.<sup>10</sup>

## 2.2 Phytosanitary import control requirements along triangular supply chains

Problems currently arise along GB-to-EU re-export supply chains from:

- An emerging divergence in EU and UK phytosanitary certification requirements, which prevents the entry of certain re-exported products to the EU market where a phytosanitary certificate is no longer required for entry to the GB market but is still required for entry to the EU market;<sup>11</sup>
- The need for the issuing of phytosanitary re-export certificates for all goods requiring phytosanitary certificates re-exported from GB to the EU,<sup>12</sup> with this profoundly affecting GB-to-Republic of Ireland supply chains, given the close integration of Irish manufacturers, wholesalers and retailers with GB-focused supply chains;
- The introduction of standard phytosanitary import inspection requirements on goods re-exported along GB-to-EU supply chains, which can result in delivery delays and a loss of value for short shelf-life fresh and chilled produce exports

Similar problems with regard to phytosanitary re-export certificates and standard phytosanitary import inspection requirements will emerge along EU-to-GB supply chains from July 2022 for all products requiring phytosanitary certification to enter the UK market.<sup>13</sup> The exception along EU-to-GB supply chains relates to live plants and cuttings, where phytosanitary import requirements are already being phased in.

## 2.3 Border clearance challenges

With the EU having introduced standard border clearance requirements from 1 January 2021 on goods entering from GB, delays have occurred at all EU ports of entry, with this being particularly acute along GB-to-Republic of Ireland supply chains, given the shortcomings in Irish border control post infrastructure along the main ‘roll-on/roll-off’ (RoRo) ferry routes.

The singular absence of border control post infrastructure along the main EU-to-GB RoRo ferry routes has been an important factor in the UK government’s decision to defer the implementation of full border controls on goods crossing from the EU until July 2022. However,

from July 2022, border clearance delays could be faced along the main EU-to-GB cross-channel ferry routes similar to those currently faced along GB-to-Republic of Ireland supply chains. The severity of these delays will be determined by the operational progress of UK government plans for investments in physical infrastructure at border controls posts, trade-related information technology systems and staffing levels along the main EU-to-GB supply routes, as well as the success of trader awareness programmes. Trader confidence will be an important factor in the evolution of EU-to-GB trade flows post-July 2022.

## 2.4 Trade administration challenges

In shipping along triangular supply chains, a host of new trade administration requirements need to be met, with even the most basic of tasks (pre-export notification) requiring what the House of Lords has described as a ‘staggering’ amount of information. When new phytosanitary requirements, financial guarantees, CTC procedural requirements, and safety and security documentation are factored in, for businesses involved in the re-export trade the trade administration now required to move goods across an EU–GB customs and regulatory border could act as a major drag on wider activities, particularly in the face of wider Covid-related supply chain challenges. This could lead to business partners involved in the re-export of Caribbean produce across an EU–UK customs and regulatory border simply exiting this trade.

## 2.5 Logistical challenges

Unless exceptionally high freight rates are paid, which cover the risks hauliers face in moving goods across EU–GB customs and regulatory borders under the new terms and conditions for cabotage operations in the UK, the cost-increasing and delay-inducing complications now being faced are leading many road haulage companies to decline contracts for the movement of goods across an EU–UK border.

These problems are particularly acute for ‘groupage’ cargoes. ‘Groupage’ road haulage cargoes consist of small volumes of multiple products shipped as single consignments. The trade administration requirements for such loads are so extensive as to make this road haulage model no longer commercially viable across EU/UK borders. This is a particularly severe problem for exporters of low volumes of

### Box 1: The new complexities – the case of Caribbean exports of dasheen to France

St Vincent and the Grenadines identified a market in France for dasheen (taro) exports but available shipping options meant exports in 2021 still had to take place via GB. Mindful of the potential complexities of shipping cargo to France via GB in the new post-Brexit context, the initial export took place under CTC procedures (in transit). This should have simplified the entire process. However, a consignment destined for the French market that shipped in February 2021 faced serious disruptions, with this example being illustrative of wider challenges now faced in shipping along triangular supply chains.

This particular consignment of dasheen, after unloading in Portsmouth prior to onward transport to Le Havre by truck, faced difficulties when the French shipping agent cancelled the delivery in response to a communication from the French plant health authority (Service d'inspection vétérinaire et phytosanitaire aux frontières – SIVEP), indicating that it would not accept the documents used for pre-notification and the goods could not be cleared into France. This problem arose from a small clerical error – namely, omission of the scientific name for the product in the original phytosanitary certificate issued in the country of production. Given a global shortage and imbalanced distribution of containers as a result of the Covid-19 pandemic, containers had to be unloaded, with the goods taken into a storage shed in a customs-controlled area, where they remained in a temperature-controlled environment. The authorities in St Vincent and the Grenadines quickly couriered a replacement phytosanitary certificate to Portsmouth. However, SIVEP did not accept this as sufficient and requested additional phytosanitary documentation from the UK authorities, in the form of a phytosanitary re-export certificate.

The concerned UK authorities (Department for Environment, Food & Rural Affairs – DEFRA/Animal and Plant Health Agency – APHA) maintained that this additional phytosanitary documentation was not required, since the consignment had never cleared UK customs, and had remained in transit under customs supervision in cold storage at all times. The UK authorities therefore initially declined to issue a phytosanitary re-export certificate. Eventually, though, they were persuaded of the obligation to issue one. However, SIVEP rejected the document as it did not state the weight of the cargo. The UK authorities declined to issue a replacement document, contesting the necessity of this French request.

After a third attempt to resolve the issue, the UK authorities issued a phytosanitary re-export certificate, which SIVEP accepted. Unfortunately, by this time, the validity of the original transit document had lapsed, leading to further delays. Eventually, the issue was resolved, and the consignment was collected from Portsmouth and delivered to Le Havre, after a total delay in the shipment of around nine weeks. The payment received by the Caribbean exporter included a deduction for spoilage and delays. It remains unclear whether alternative intercontinental shipping options exist for the delivery of cargo from St Vincent and the Grenadines direct to an EU27 port and whether the French importer has any interest in further shipments after this experience.

products to individual retailers and wholesalers (e.g., cases of bottled rum).

In some instances, these various Brexit effects interact with each other and can be compounded by Covid-related freight disruptions (see Box 1).

The next section seeks to identify the impact of these various Brexit-related challenges in specific product areas that are potentially

vulnerable to Brexit-related disruptions when shipments take place along triangular supply chains. However, it should be noted that there are difficulties in quantifying the specific impact on Caribbean exports along triangular supply chains purely on the basis of statistical trade data, since the country of origin of goods re-exported along triangular supply chains is difficult to identify.

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## 3. Potential sectoral concerns

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This section examines the specific concerns pertaining to exports of sugar, fruits and vegetables, rum, fisheries, cocoa and manufactured goods.

### 3.1 Sugar sector

#### 3.1.1 The raw to refined sugar complication

In terms of exports to the UK in 2019, Caribbean sugar accounted for fully 46.2 per cent of

extra-EU UK sugar imports (215,342 tonnes out of total UK extra-EU imports of 466,403 tonnes). In contrast, Caribbean exporters accounted for only 1.5 per cent of the EU27's total extra-EU sugar imports (30,430 tonnes out of total EU27 extra-EU imports of 2,084,932 tonnes). As a consequence, the main area of Brexit-related triangular supply chain concerns in the sugar sector relates to GB-to-EU trade flows.

**Table 1. Caribbean sugar exporters to the UK, 2019**

Country	Tonnage	Value (€)	% UK extra-EU imports (vol.)
Belize	161,091	51,191,672	34.5%
Guyana	47,951	14,409,618	10.3%
Jamaica	6,000	1,936,466	1.4%
Barbados	300	232,587	0.1%
<b>Total Caribbean ACP</b>	<b>215,342</b>	<b>67,770,343</b>	
% total extra-UK sugar imports	46.2%		
Total UK extra-EU imports	466,403	160,916,359	

**Source:** European Commission Market Access Database, <https://trade.ec.europa.eu/access-to-markets/en/statistics?includeUK=true>

This arises as a result of the rules of origin applicable to refined sugar exported along GB–EU supply chains. Under the rules of origin of the EU–UK TCA, a change in tariff heading (CTH) is required for originating status to be granted to refined sugar traded between the EU and GB. Since the movement from raw sugar (HS 170191) to white sugar (HS 170199) involves only a change in tariff sub-heading (CTSH) and not the CTH stipulated in the product-specific rules of origin of the TCA (Annex ORIG-2), the simple processing of raw cane sugar into refined sugar will not secure ‘originating’ status under the TCA for the white sugar produced.

Originating status can be retained only if Caribbean sugar remains under customs supervision throughout the refining process. However, the provisions of the CTC applicable to goods in transit require that no manipulation of the product should take place while the good remains under the transit procedure.

This creates a situation where Caribbean raw sugar, if refined in the UK or EU, becomes a ‘stateless good’ when traded across an EU–GB border, in terms of the application of tariff preferences. As a consequence, Caribbean raw sugar refined in GB faces the standard MFN tariff of €419/tonne when re-exported to the EU and that refined in the EU faces a UK MFN tariff of £350/tonne when re-exported to GB.

This is creating serious commercial obstacles to the continued EU–UK trade in refined sugar produced on the basis of imports of raw cane sugar from Caribbean ACP countries. In terms of Caribbean exports, the main concern relates to GB-to-EU trade flows, given the much higher value of Caribbean exports to the UK market compared with EU27 markets.

In 2019, UK white sugar (17019910) exports to EU member states were valued at €84.8 million, with a further €10.5 million under the category of other sugars (17019990). This trade

**Table 2. Value of UK white sugar (17019910) and other sugar (07019990) exports to the EU trade by main trade partners (€2 million+)**

	UK white sugar exports to the EU		UK other sugar exports to the EU		
	Tonnes	Value (€)	Tonnes	Value (€)	
Total	184,373	84,795,824	9,861	10,474,759	
<b>Country</b>			<b>Country</b>		
Ireland	46,573	20,046,971	Ireland	1,586	2,537,365
Belgium	32,026	13,467,278	Belgium	2,383	3,037,504
Italy	30,625	13,451,882	Spain	1,884	1,314,181
France	16,502	9,359,235			
Greece	16,433	7,493,551			
Netherlands	14,125	5,922,550			
Germany	10,094	5,180,490			
Spain	7,230	3,175,103			

**Source:** European Commission Market Access Database, extracted 14 September 2021, <https://trade.ec.europa.eu/access-to-markets/en/statistics?includeUK=true>

accounted for 194,234 tonnes of UK sugar production, which was traded into EU27 markets. It is unclear what percentage of this trade is based on GB beet sugar production and what percentage consists of refined raw cane sugar. However, raw cane sugar imports account for around 25 per cent of UK sugar consumption, with Caribbean raw cane sugar exports to the UK accounting for 46 per cent of total UK cane sugar imports.

The impact of this dimension of the rules of origin/MFN complication arising in the sugar sector could therefore carry important implications for demand for Caribbean sugar. This is particularly the case in a context where around 25% of UK sugar exports go to a single EU27 market, the Republic of Ireland, which accounts for only 1.1% of the total EU27 population.

### 3.1.2 The use of imported cane sugar in value added food and drink products

However, the forgoing is not the only area of potential impact. The new rules of origin applicable to GB–EU27 trade also carry implications

for the use of cane sugar in high sugar content food and drink products manufactured in the UK, for both the UK and the EU27 markets. This needs to be seen in a context where 70 per cent of all EU/UK sugar consumption is taking place in the form of processed food and drink products.

The new reality faced under the EU–UK trade arrangement is that, for high sugar content food and drink products to enjoy duty-free access under the EU–UK TCA, the final products need to meet specific CTH requirements and value and/or volume tolerance requirements (see Box 2). The situation is complex, with food and drink manufacturers serving both EU and UK markets needing not only to meet the value tolerance thresholds required under the TCA but also to verifiably document compliance. This can be something of an administrative burden.

In this context, for companies producing high sugar content products, it could well become much simpler to switch away from the use of imported cane sugar to EU/UK

#### Box 2: Specific volume tolerance requirements for sugar

While at the general level the non-originating volume and value tolerance threshold for products in tariff chapters 2 and 4–24 are 15 per cent and 10 per cent of the volume and value of the final product, respectively, for a range of products containing sugar the volume and value tolerance threshold is different. For example, we find:

- For sugar and sugar confectionery falling in product category HS 1702, a volume tolerance of 20 per cent of the final weight of the product applies to all materials falling under HS headings 1701 (raw and white sugar), 1703 (cane molasses) and 1101–1108 (flour).
- For white chocolate falling under product category HS 1704, there is a total weight tolerance for sugar (HS 1701) and cane molasses (HS 1703) of 40 per cent and a value tolerance for sugar (HS 1701) and other sugar (HS 1702) of 30 per cent, while all dairy products must be 'wholly obtained'.
- For other products falling under HS 1704 (pastes, throat pastille, cough sweets and sugar-coated goods), the weight tolerance is 40 per cent, while all dairy products must be 'wholly obtained'.
- For cocoa powders (HS 180610), there is a weight tolerance of 40 per cent of non-originating sugar (HS 1701) and other sugars (HS 1702), while all dairy products must be 'wholly obtained'.
- For cocoa preparations in blocks of more than 2 kg (HS 180620), other blocs and slabs and bars (HS 080631) and cocoa spread and preparations for beverages, the non-originating weight threshold is 40 per cent and the non-originating value threshold is 30 per cent, while all dairy products must be 'wholly obtained'.
- For preparations of vegetables, fruit, nuts and other plants (HS 2004–2009 – which includes jams), the weight tolerance for sugar (HS 1701) and other sugar (HS 1702) is 40 per cent.
- For miscellaneous edible preparations falling under tariff code HS 2101 (extracts, essences and concentrates of coffee, tea and mate) and HS 2102 (active yeast, inactive yeast and baking powder), the volume tolerance is 20 per cent of the weight of the final product.
- For miscellaneous edible preparations falling under tariff codes HS 2104–2106, which includes soups, broths and ice cream, the weight tolerance for sugar (HS 1701) and other sugar (HS 1702) is 20 per cent.
- For beverages and spirits falling under product codes HS 2201–2206 (which includes beer, wine and cider), the weight tolerance for sugar (HS 1701) and other sugar (HS 1702) is 20 per cent.
- For gums and resins (HS 1301) and vegetable juices and extracts (HS 1302), the weight tolerance for sugar (HS 1701) and other sugar (HS 1702) is 20 per cent.
- For all dairy products falling in categories HS 0401–0410, the weight tolerance for sugar (HS 1701) and other sugar (HS 1702) is 20 per cent.

originating beet sugar or other forms of EU/UK originating sweeteners. This needs to be seen in a context where in most manufactured products locally produced and imported sugar is inter-changeable.

Where the costs of administrative verification of compliance with rules of origin requirements exceed any cost savings that may be made from using imported cane sugar, manufacturers of high sugar content food and drink products in both the EU and the UK are likely to switch to using EU/UK beet sugar rather than imported cane sugar. The first international brand to announce such a shift in sugar sourcing was Nestle UK and Ireland. This is especially the case given that, in manufactured products, locally produced and imported sugar are interchangeable in most uses.

Should this be a prelude to a general exodus of UK and EU food and drink manufacturers from the use of cane sugar, this could have a serious impact on the overall demand for raw cane sugar imports.

Illustrative of this is the trade in white chocolate (HS 17049030 – which contains approximately 60 per cent sugar). In 2019, the GB-to-EU27 export trade in white chocolate was valued at €32.3 million and consumed around 8,000 tonnes of sugar. This trade in white chocolate would fall foul of the new EU-GB rules of origin if imported cane sugar was used in its production. However, the issue reaches well beyond this export trade. If companies decide to switch from cane sugar to beet sugar to avoid rules of origin complications, this is unlikely to be restricted to production for export. It is much more likely to affect whole product lines, with this carrying far more serious import demand implications

### 3.1.3 Which Caribbean sugar exporters should be most concerned?

Two Caribbean sugar exporters could well find their markets in the UK further undermined by the new rules of origin/MFN tariff complications arising as a result of Brexit – namely, Belize, which accounted for 34.5 per cent of total UK extra-EU sugar imports in 2019, and Guyana, which accounted for 10.3 per cent in 2019.

While Belize would appear to be most exposed, with 91 per cent of its exports to European markets going to the UK, the close

integration of Belize Sugar Industries (BSI) with the American Sugar Refining (ASR) corporate family means it is much better placed to adjust to Brexit-related rules of origin/MFN tariff complications than is GUYSUOCO (the situation is different for other Belizean sugar producers). Not only would BSI be seen as the preferred supplier, given its position within the ASR corporate family, but also the option would exist of, for example, refining Belize Fairtrade sugar for the Irish market at one of the affiliated ASR refineries operated by Tate & Lyle Sugar in mainland EU27 member states, thereby sidestepping all Brexit-related complications.

## 3.2 Fresh and chilled fruit and vegetable sector

### 3.2.1 The rules of origin/MFN tariff issue in fruit and vegetables

Fruit and vegetable exports shipped along triangular supply chains face two major challenges: the rules of origin/MFN tariff challenge and new phytosanitary import requirements. Secondary challenges also arise with regard to trade administration, border clearance and logistical issues.

For the ACP group as a whole, if we take just the top 10 horticulture and floriculture exports to the EU28 market, we find:

- 64.7 per cent would face MFN tariffs above 10 per cent if onward-traded across an EU-UK border outside of customs supervision.
- 19.8 per cent would face MFN tariffs of between 5 and 10 per cent if onward-traded across an EU-GB border outside of customs supervision.
- 15.6 per cent would enjoy either duty-free access or face MFN tariffs between 0 and 5 per cent.

However, the significance of MFN tariffs is even higher for the Caribbean, where bananas account for 86 per cent of the value of total Caribbean fruit exports to the UK and almost 79 per cent of Caribbean fruit exports to the EU27 market, with bananas re-exported from the EU to GB facing MFN import tariffs of £95/tonne and bananas re-exported from GB to the EU facing an MFN import tariff of €114/tonne, if onward shipment took place outside of customs supervision.

**Table 3. Caribbean fruit and vegetables exports to the UK and the EU27, (2019)**

	UK		EU27		UK share (%)	
	Fruit (08)	Vegetables (07)	Fruit (08)	Vegetables (07)	Fruit	Vegetables
CARICOM						
Antigua and Barbuda	117,182		2,042	81,364	98.3	0
Barbados	279,543	16,175			100.0	100
Belize	31,290,109	16,692	23,602,232	601,094	57.0	2.7
Dominica	–	577,869	20,503	95,423	0	85.6
Grenada	82,125	13,876	–	214,109	100.0	36.0
Guyana	8,637	–	–	–	100.0	–
Jamaica	777,754	3,351,789	293,891	21,073	72.6	99.4
St Kitts and Nevis			–	42,109		100.0
Saint Lucia	4,427,699	179,194	–	–	100.0	100.0
St Vincent and the Grenadines	22,288	736,326	–	–	100.0	100.0
Trinidad	3,204	3,094	–	–	100.0	100.0
Subtotal	37,008,541	4,895,015	23,918,668	1,150,595	60.7	81.0
Dominican Republic	110,105,525	2,514,358	204,318,404	9,432,780	35.0	21.0
Total Caribbean	147,114,066	7,409,373	228,237,072	10,583,375	39.2	85.6

Source: EC Market Access Data Base.

Given the current depressed state of banana prices across Europe, such tariffs would be commercially unsustainable. Against this background, the fact that bananas do not require phytosanitary certificates for entry to either the EU or the UK market pales into insignificance. This needs to be seen in the context of GB banana exports to the EU, which were valued at €51.3 million in 2019, and EU27 banana exports to GB, which were valued at €30.9 million.

Clearly, given the absence of GB domestic banana production, all of these GB-to-EU banana exports are re-exported products. This is not necessarily the case for the EU-to-GB trade, although, given the absence of banana production in Ireland, Belgium and the Netherlands, it can be assumed that the bulk of this trade (the ‘origin’ of 85 per cent of this EU-to-GB banana export trade) from these countries to the GB consists of re-exports.

However, it is unclear to what extent Caribbean bananas form part of this GB-to-EU or EU-to-GB re-export trade. This will need to be determined through research in Belize, the Dominican Republic, Saint Lucia and, to a minor degree, Jamaica.

Beyond bananas, the other main exports to the EU27 and UK markets are mango, avocado, pineapple and citrus fruit.

While mango and guava enjoy duty-free access at the MFN level and hence escape the rules of origin/MFN tariff issue, given the divergence in UK and EU phytosanitary certification requirements, re-exports from GB to the EU27 markets have been greatly complicated. The onward trade in mango and citrus products along GB-to-EU27 supply chains has similarly been complicated by the divergence in UK and EU phytosanitary standards. These complications will potentially halt the onward trade in these products along GB-to-EU27 supply chains

Table 7 sets out the value of mutual GB-to-EU27 trade in mango, avocado, pineapple and citrus fruit. However, once again it is unclear to what extent this trade consists of re-exports that originated in Caribbean ACP countries.

### 3.2.2 The phytosanitary complications in fruit and vegetables

The major Caribbean exports to GB, bananas, do not fall foul of the phytosanitary re-export certification complication since phytosanitary certificates are not required for entry to the GB or EU market. Similarly, Caribbean pineapple exports do not require a phytosanitary certificate for entry to the GB or EU market.

Table 4. Value of EU/UK trade in bananas (0803) by main trade partners (€1 million+), 2019

	UK Bananas Exports to the EU		EU Bananas Exports to the UK	
	Tonnes	Value (€)	Tonnes	Value (€)
Total	60,099	51,346,807	40,649	30,891,137
<b>Country</b>			<b>Country</b>	
France	36,606	26,606,330	France	3,798
Ireland	5,800	5,710,582	Ireland	11,413
Germany	1,545	5,165,823	Germany	125
Netherlands	4,592	3,021,538	Netherlands	15,540
Slovakia	2,978	2,371,464	Slovakia	–
Poland	3,054	2,337,913	Poland	9
Belgium	1,769	1,383,855	Belgium	7,572
Spain	1,103	1,380,811	Spain	214
Other EU	2,652	3,368,491		1,978

**Source:** European Commission, Market Access Database available at: <https://trade.ec.europa.eu/access-to-markets/en/statistics?includeUK=true>

However, for mango and citrus fruit, while phytosanitary certificates are no longer required for entry to the GB market, they are still required for entry to the EU market. This creates serious problems for re-exports from GB-to-EU mango and citrus supply chains, since, if no phytosanitary certificate accompanies the initial exports to GB, there is no basis for issuing the phytosanitary re-export certificate required for entry to the EU market and hence entry to the EU market will be denied. However, Caribbean exports in these two product categories to GB are relatively small, amounting to only around €7.5 million.

In terms of EU-to-GB re-export supply chains for Caribbean mango and citrus fruit, no phytosanitary re-export certificates are required for entry to the GB market, although such phytosanitary re-export certificates would be required for re-exports of Caribbean avocado (with an export value for avocado to the EU27 of €20.6 million in 2019).

### 3.2.3 Border and logistical challenges in fruit and vegetables

For all Caribbean exports of vegetables to GB that are re-exported, the phytosanitary re-export certificate requirement will increase costs and potentially generate delivery delays unless the system for issuing phytosanitary re-export certificates is improved. Similarly, phytosanitary re-export certificates for re-exports

from the EU27 to GB will see new costs and sources of delay arise from July 2022.

These delays could serve to exacerbate the existing reluctance of EU hauliers to carry re-exports across EU–GB regulatory borders and could even see European and GB business partners being reluctant to engage in the re-export trade. This is especially likely if issues related to the future use of ‘groupage’ road haulage practices are not addressed.

Previously, ‘groupage’ practices allowed the low-cost onward shipment of mixed cargo loads to final wholesalers and retailers. However, post-Brexit, the border clearance of groupage loads is dependent on the clearance of each individual consignment within the ‘groupage’ load, with the whole load being delayed if any individual consignment is not border clearance ready. Fresh and chilled fruit and vegetables are particularly vulnerable to these delays. This is seeing the virtual abandonment of low-cost ‘groupage’ road haulage practices for mixed consignments of fruit and vegetables across EU–GB customs and regulatory borders.

This is having serious implications for the costs of shipping fruit and vegetables to final markets along triangular supply chains. However, it is unclear what value of Caribbean fruit and vegetable exports is being adversely affected by these developments. It is likely that smaller volume fruit and vegetable exporters will be more severely affected than larger



Table 5. Main Caribbean fruit exports to the UK and EU27, 2019 (€)

Country	UK					EU				
	Mango	Avocado	Banana	Citrus	Mango	Avocado	Pineapple	Banana	Citrus	
Dominican Republic	7,111,609	7,355,119	95,622,625	-	22,644,583	20,532,051	2,480,108	156,551,558	723,808	
Belize	-	-	31,096,307	193,802	-	-	-	23,297,701	304,531	
Saint Lucia	98,790	8,476	4,036,152	-	-	-	-	-	-	
Jamaica	-	52,945	67,375	60,181	-	-	-	-	261,346	
Grenada	30,281	1,764	-	-	-	-	-	-	-	
Suriname	-	-	-	-	45,288	-	-	-	12,055,260	
St Vincent and the Grenadines	-	15,341	-	-	-	-	-	-	-	
Guyana	8,637	-	-	-	-	-	-	-	-	
Haiti	-	-	-	-	-	-	-	-	8,705	
Trinidad and Tobago	-	3,204	-	-	-	-	-	-	-	
Dominica	-	-	-	-	4,496	3,393	-	10,937	1,626	

Source: EC Market Access Database.

**Table 6. EU and UK MFN tariffs applicable to selected Caribbean exports if re-exported outside of customs supervision**

Product	EU tariff	UK tariff
Mango	0	0%
Pineapple	5.8% + UP €68.80/100 kg	4%
Avocado	4% + UP €295.01/100 kg	4%
Citrus	12–16% + SIV €90/100 kg	2% or 12% or 16%
Banana	€114/tonne	£95/tonne

Source: EC Market Access Database.

volume exporters (e.g. bananas). What seems likely is that smaller volume exporters will be the first to be driven out of EU–GB re-export supply chains.

This would be unfortunate, given the efforts put into supporting the diversification of Caribbean agri-food exports away from banana and sugar dependence over the past 20 years.

### 3.3 Rum exports

#### 3.3.1 The current situation for rum

Caribbean rum industry sources suggest the major Caribbean rum exporters are not experiencing any particular issues in their trade into the EU and the UK at the present time. This needs to be seen in context where, of the €133,448,231 of rum exported to EU28 member states in 2019, almost 86 per cent was shipped to EU27 member states.

With the UK having once again deferred the full implementation of border controls on

goods crossing from the EU (this time until July 2022), and with transitional arrangements in place with regard to tariff treatment, which allows exporters to self-certify the country of origin of their product (with documentary verification of origin being required only within six months of initial entry to the UK), it seems likely that Caribbean rum exporters shipping along triangular supply chains will not yet have felt any major effects of the Brexit process.

The effects of the Brexit process on the triangular trade in Caribbean rum may be felt only as the ‘grace period’ on the submission of supporting documentation for self-certified origin claims comes to an end and from July 2022, when full UK border control on goods crossing from the EU are introduced. This allows time for Caribbean rum exporters to identify vulnerabilities to different cost-increasing impacts of the Brexit process and where necessary to make adjustments, at the business level or in terms of advocacy for policy-level adjustments.

The current situation, where no problems are reported by major Caribbean rum exporters, needs to be seen against a background where traditionally:

- Some larger Caribbean rum exporters shipped container loads to mainland EU countries (Spain, Holland or France) where the load was broken down into smaller shipments (pallets, boxes), which were then forwarded to specific customers across Europe, including to the UK.
- Some brands exported bulk rum to mainland EU countries (e.g. Spain) where it was bottled prior to onward distribution across Europe, including to the UK, with in the

**Table 7. EU/UK bilateral trade in products where re-exports of Caribbean produce could be taking place**

	UK exports to the EU		EU exports to the UK	
	Tonnes	Value (€)	Tonnes	Value (€)
Orange (080510)	28,861	15,730,185	135,365	98,944,996
Mandarin, clementine, etc (080521)	3,701	3,774,442	30,449	27,586,304
Avocado (080440)	11,745	34,659,199	28,199	75,957,582
Pineapple (080430)	26,874	19,521,895	10,984	7,738,704
Mango, etc. (080450)	3,307	9,740,009	16,592	26,189,715
Total	74,488	83,425,740	221,589	236,517,301

Source: EC Market Access Database.

past bottling operations also occurring in mainland EU countries for supermarket-own label products in the UK.

### 3.3.2 The rules of origin/MFN tariff issue in rum

The Caribbean rum industry lobbied Caribbean trade negotiators to seek the inclusion of special provisions on transshipment arrangements that would permit the breaking down of container loads and their re-consignment as smaller shipments across EU–GB borders. However, in other product areas, there have been suggestions that EU member states officials have adopted different approaches to the application of transit procedures when it comes to breaking down loads for reconsignment. Caribbean rum exporters will need to keep a close eye on the extent to which the customs practices of different EU member states' customs administrations evolve, in light of the ongoing EU–UK trade tensions.

What is clear from the rules of origin attached to the EU–UK TCA is that simple repackaging (e.g. the bottling of bulk rum) is insufficient to gain originating status for the granting of

duty-free access but is sufficient to result in the loss of the initial Caribbean originating status, since the provisions of the CTC require that goods in transit undergo no substantive transformation (with bottling being taken as involving a substantive transformation).

This creates a situation where Caribbean bulk rums bottled in the EU for delivery in GB would *de facto* become 'stateless goods' from a rules of origin perspective, unable to claim duty-free access under either the EU–UK TCA or the CARIFORUM-UK Continuity Agreement. As a consequence, such products would then face standard MFN treatment, with this in some instances resulting in the imposition of tariffs (see Table 9 for the MFN tariff treatment of different rum categories).

However, it should be noted that the significance of the Brexit-related rules of origin/MFN tariff issue along rum triangular supply chains will be critically influenced by the established patterns of triangular trade in Caribbean rum products.

The bulk of Caribbean rum exports to the EU27 would face no MFN tariffs, even if

**Table 8. Value of Caribbean rum exports to the EU and UK facing duty or duty-free (220840\*\*)**

	EU27			UK		
	Total	Facing duty	Duty-free	Total	Facing duty	Duty-free
Antigua and Barbuda	151,268	31,330	119,938	–		
The Bahamas	9,074	773	8301	6,517	0	6,517
Barbados	10,898,266	5,933,776	4,964,490	851,783	278,231	573,552
Belize	293,724	0	293,724	–	–	–
Dominica	23,202	0	23,202	–	–	–
Dominican Republic	72,457,834	11,734,222	60,723,612	459,897	42,088	417,809
Grenada	594	0	594	73,376	70,127	3,249
Guyana	8,406,706	6,292,335	2,114,371	7,406,236	7,131,098	275,138
Haiti	198,967	4,795	194,17	–	–	–
Jamaica	9,694,641	4,619,769	5,074,872	9,516,284	9,023,485	–
St Kitts and Nevis	18,764	76	18,688	6,974	–	–
Saint Lucia	667,153	155,861	511,292	274,220	–	–
St Vincent and the Grenadines	121	121	0	1,990	1,990	0
Suriname	113,255	58,530	50,725	–	–	–
Trinidad and Tobago	11,342,060	3,681,878	7,660,182	484,325	425,568	58,757
Subtotal	114,366,629	32,710,466	81,656,163	19,081,602	16,972,587	2,190,015

**Source:** For UK data see, European Commission Market Access Database, <https://trade.ec.europa.eu/access-to-markets/en/statistics?includeUK=true>, for EU27 data see European Commission Market Access Database, <https://trade.ec.europa.eu/access-to-markets/en/statistics>

onward-shipped across an EU–GB border outside of customs supervision, since the MFN duty for these products is zero (see Table 8 for a summary and Annex 1 for more details). Only specific categories of rum exports would lose their duty-free access and face MFN tariffs if re-exported along triangular supply chains. Indeed, based on the composition of Caribbean rum exports in 2019, fully 71.4 per cent of Caribbean rum exported to the EU27, if onward-traded outside of customs supervision, would not face any MFN tariffs when entering the GB market (see Table 9 for the level of tariffs that would be faced for other rum categories). The situation is less favourable along GB-to-EU supply chains, where only 11.1 per cent of Caribbean rum exports to GB would enjoy duty-free access to EU markets, if re-exported outside of customs supervision. However, the volume of this trade is believed to be very small, with considerable scope for re-routing cargoes to avoid the need to cross a GB-to-EU customs and regulatory border, particularly in serving markets in the Republic of Ireland.

However, it should be noted that different Caribbean rum exporters have different levels of exposure to MFN tariffs if any ‘re-export’ trade takes place outside of customs supervision. Thus, we find:

- 74.8 per cent of the total value of Guyana’s rum exports to the EU27 would face some level of MFN tariff if shipped across an

EU-to-GB border outside of customs supervision, while 96.3 per cent of exports to GB would face some level of MFN tariff if re-exported to the EU outside of customs supervision.

- 54.4 per cent of the total value of Barbados rum exports to the EU27 would face some level of MFN tariff if shipped across an EU-to-GB border outside of customs supervision, while 32.7 per cent of exports to GB would face some level of MFN tariff if re-exported to the EU outside of customs supervision.
- 47.7 per cent of the total value of Jamaican rum exports to the EU27 would face some level of MFN tariff if shipped across an EU-to-GB border outside of customs supervision, while 94.8 per cent of exports to GB would face some level of MFN tariff if re-exported to the EU outside of customs supervision.
- 95.6 per cent of the total value of Grenada’s rum exports to GB would face some level of MFN tariff if re-exported to the EU27 outside of customs supervision.
- 32.5 per cent of the total value of Trinidad and Tobago rum exports to the EU27 would face some level of MFN tariff if shipped across an EU-to-GB border outside of customs supervision, while 87.9 per cent of the total value of rum exports to GB would face some level of MFN tariff if re-exported to the EU27 outside of customs supervision.

**Table 9. UK tariffs on rum**

Code	Product description	UK tariff
Other: In containers holding 2 litres or less:		
2208 40 11	Rum with a content of volatile substances other than ethyl and methyl alcohol equal to or exceeding 225 grams per hectolitre of pure alcohol (with a 10% tolerance)	€0.50/%vol/hl + €2.60/hl
Other:		
2208 40 31	Of a value exceeding € 7.9 per litre of pure alcohol	Zero duty
2208 40 39	Other	€0.50/%vol/hl + €2.60/hl
In containers holding more than 2 litres:		
2208 40 51	Rum with a content of volatile substances other than ethyl and methyl alcohol equal to or exceeding 225 grams per hectolitre of pure alcohol (with a 10% tolerance)	€0.50/%vol/hl + €2.60/hl
Other:		
2208 40 91	Of a value exceeding €2 per litre of pure alcohol	Zero duty
2208 40 99	Other	€0.80/%vol/hl + €5.30/hl

**Source:** Tariffs on goods imported into the UK, available at: <https://www.gov.uk/guidance/tariffs-on-goods-imported-into-the-uk>

In contrast, 83 per cent by value of rum exports from the Dominican Republic are in product categories that would face no MFN tariffs if onward-shipped across an EU–GB border outside of customs supervision.

This new reality, however, is currently being masked by the transitional arrangements for self-certification of the country of origin and the deferment of full UK border controls on goods crossing from the EU until July 2022.

In other sectors, UK customs intermediaries have warned that businesses involved in the ‘re-export’ trade could be sleep-walking into a financial disaster, if self-certified claims of originating status are invalid or cannot be documented and verified.

The importance of this issue is unclear. Her Majesty’s Revenue and Customs (HMRC) service has indicated that it may not be in a position to pursue all involved claims for misreporting of originating status. As a consequence, it is recognised that the UK may have to forego revenues that could be legally collected, given the constraints under which HMRC is operating.

There is a line of thinking that suggests that the transition since 1 January 2021 has been difficult for all parties concerned, and it may therefore be inappropriate to pursue payments for false reporting when there has been little time for the concerned businesses to familiarise themselves with the new rules. Caribbean rum exporters traditionally involved in the onward shipment of rum across EU–GB borders should keep a close eye on this issue.

This is important since, as has been acknowledged, reorienting trade flows to avoid crossing an EU–GB regulatory border would be likely to incur significant extra shipping costs, with smaller consignments facing higher unit costs. Once again, smaller exporters would be likely to be more affected by these additional costs than larger-scale exporters.

### 3.3.3 Trade administration, border clearance and logistical issues in rum

It should be noted that, in dealing with non-tariff Brexit-related issues, Caribbean rum exporters affiliated with large international drinks companies are better placed to cope with the new complications. These companies have considerably more experience and capacity, to get to grips with both the new border clearance processes and the trade administration

challenges the Brexit process has thrown up (including changes to VAT and excise duty administration).

As in so many sectors, smaller exporters without access to the capacities of larger marketing and distribution infrastructure are more likely to be affected.

A final current reality worthy of note is that, along the main GB-to-EU re-export route, to the Republic of Ireland, the UK government has so far declined to implement the controls on goods crossing from GB to Northern Ireland required under the Northern Ireland Protocol. This is a source of considerable tension in EU–UK trade relations.

This current reality creates a situation whereby, in the absence of UK controls on goods moving from GB to Northern Ireland and the absence of a border on the island of Ireland, Brexit-related complications along GB-to-Republic of Ireland routes can be side-stepped by shipping goods to distribution centres in Northern Ireland, and from there to markets in the Republic of Ireland and even onward to EU27 member states. This longer routing avoids all customs and regulatory controls that increase costs along direct GB-to-Republic of Ireland routes.

The larger food and drink distribution companies, with which many Caribbean rum exporters are affiliated, can currently take advantage of this reality. It is unclear how long this loophole will continue to exist.

What is more, these larger food and drink distribution companies are also better placed to deal with the logistical challenges that the Brexit process has thrown up, since they often own their own road transport fleets and storage facilities.

## 3.4 Fisheries exports

### 3.4.1 The current fisheries trade situation

Caribbean fisheries exports to the EU28 market have been focused almost exclusively on exports to EU27 countries. Of total Caribbean exports of fisheries products entering the EU28 in 2019 of €77,431,699, fully 99.5 per cent were destined for EU27 destinations, with this being split between Channel coast countries and Spain. In the fisheries sector, therefore, any Brexit-related issues that arise will emerge along EU-to-GB supply chains.

### Box 3: Areas of concern for Caribbean rum exporters shipping along triangular supply chains

The UK's departure from the EU customs union and single market potentially creates problems for Caribbean rum exporters in terms of:

- The rules of origin/MFN tariff issue that arises when goods are onward-traded across an EU–GB border outside of customs supervision. This is a direct result of the creation of GB as a separate customs territory from that of the EU;
- Trade administration/border clearance complications that are a direct result of the establishment of an EU–GB customs and regulatory border (while these are two sides of the same coin, for analytical purposes there is a need to address these issues separately);
- Increased logistical costs for the onward shipment of cargoes, resulting from the creation of an EU–GB customs and regulatory border, which has seen a virtual abandonment of the low-cost 'groupage' road haulage model for the movement of goods across EU–GB borders.

These effects along the main Caribbean rum export supply chains are not yet being fully felt, because of the deferral of the implementation of UK border controls on goods crossing from the EU and the special transitional arrangements set in place for dealing with rules of origin issues. However, in the course of 2021, and certainly from July 2022, Brexit effects along the main Caribbean rum supply chains could begin to be felt.

The main area where effects may already have been felt is through the impact of VAT and excise administration changes, which have undermined the online sale of Caribbean rum products across EU–UK borders. Once again, this is likely to affect smaller exporters who have sought to penetrate markets via e-commerce. In future, this may require separate e-commerce distribution arrangements for the GB and EU markets in order to avoid the complications that have arisen for online product deliveries across a GB–EU border since 1 January 2021.

The deferment of the full implementation of UK border controls on good crossing from the EU until July 2022, along with the grace period on the presentation of documentation supporting self-certified originating status claims, means the Brexit effects on Caribbean fisheries exports have largely been deferred.

However, fisheries sector relations are a particular source of tension in EU–UK relations

in the post-Brexit period. GB-to-EU fisheries exports have been severely affected by the introduction of standard EU phytosanitary import requirements, with the concerned UK government departments being poorly equipped to issue the newly required export certification.

EU fisherfolk meanwhile are facing increasing difficulties in accessing traditionally fished waters, which now fall exclusively under UK

### Box 4: Composition of Caribbean fish exports

Suriname fisheries exports consist mainly of shrimps and prawns (030617 – €12,649,417), shipped mainly to the Netherlands; other frozen fish (030389 – €5,701,721); and yellowfin tuna (030342 – €1,901,636), mainly exported to Portugal. For frozen shrimps and prawns, an MFN tariff of 12 per cent would be faced if they are re-exported outside of customs supervision, while for yellowfin tuna the duty would be 20 per cent and for other frozen fish it would be 14 per cent.

Belize's exports under the frozen fish category 0303 consist mainly of yellow fin tuna (030342 – €9,869,529), exported mainly to Spain; skipjack tuna (030343 – € 2,507,887); and bigeye tuna (030344 – €872,682). In all of these tuna product categories, a duty of 20 per cent is faced if there is onward trading to GB from an EU27 member state outside of customs supervision. For swordfish (030357 – €712,560), hake (030366 – €3,257,802) and dogfish and other shark (030381 – €407,047), a 6 per cent MFN tariff would be faced, while for rays and skates (030382 – €93,074) a 14 per cent MFN tariff would be faced). Other frozen fish not specifically identified (030389 – €317,465) would face MFN tariffs of between 8 and 14 per cent.

Bahamas fisheries exports consist exclusively of frozen rock lobster (030611 – €15,439,924), which are shipped to Belgium and France and would face an MFN tariff of 12 per cent if re-exported outside of customs supervision.

Guyana fisheries exports to the EU27 consist mainly of shrimps and prawns (030617 – €7,688,253); other frozen fish (030389 – €4,587,113); and yellowfin tuna (030342 – €218,903).

Jamaica fisheries exports to the EU27 consist mainly of frozen rock lobster (030611 – €2,552,506), mainly destined for French territories; live lobsters (030632 – €211,024), shipped mainly to Belgium; and frozen stromboid conchs (030784 – €1,083,484).

**Table 10. Value of Caribbean fisheries exports to the EU27, 2019 (€)**

		MFN tariffs applicable if products re-exported across a GB–EU border outside of customs supervision					
		Value (€)	Value (€)	Value (€)	Value (€)	Value (€)	Value (€)
Country	HS 03	HS 0303	HS 0306	HS 0307	HS 0304	HS 0305	HS 0302
Suriname	23,627,537	7,771,670	12,727,025	–	1,223,076	1,287,366	610,397
Belize	20,300,997	18,055,057	1,361,096	840,336	–	–	–
The Bahamas	15,439,924	–	15,439,924	–	–	–	–
Guyana	13,253,288	4,876,329	7,714,543	–	662,416	–	–
Jamaica	4,082,222	–	2,811,534	1,270,688	–	–	–
Antigua and Barbuda	199,492	43,333	156,159	–	–	–	–
Grenada	103,385	–	–	–	–	–	103,385
Total	77,006,845						

Source: EC Market Access Database.

jurisdiction. Should EU–UK fisheries sector tensions escalate, either in their own right or as a by-product of ongoing tensions around implementation of the Northern Ireland Protocol, then any triangular trade in fisheries products could come to face trade administration and border clearance delays.

### 3.4.2 The rules of origin/MFN tariff issue in fisheries

Where it is determined that Caribbean fisheries exports are ultimately destined for the GB market, there would appear to be a need for

the concerned businesses to familiarise themselves with CTC procedures, which need to be used in shipping fisheries products to GB via the EU, if duty-free access to the GB market is to be assured. This needs to be seen in a context where, if re-exports from the EU to GB take place outside of customs supervision, then import tariffs of 20 per cent would be faced on frozen tuna, 14 per cent on frozen rays, skates and other non-specified frozen fish exports, 12 per cent on frozen lobster, shrimps and prawns and 6 per cent on frozen hake and dogfish.

**Table 11. UK tariffs on re-exports of fish from EU if traded outside of customs supervision**

Fisheries product	UK tariff on re-exports from EU
Frozen yellowfin tuna (030342)	20%
Frozen skipjack tuna (030343)	20%
Frozen bigeye tuna (030344)	20%
Frozen swordfish (030357)	6%
Frozen hake (030366)	6%
Frozen dogfish and other shark (030381)	6%
Frozen rays and skates (030382)	14%
Other frozen fish (030389)	14%
Frozen rock lobster (030611)	12%
Frozen shrimps and prawns (030617)	12%
Live lobsters (030632)	8–10%
Stromboid conchs (030784)	10%

Source: Tariffs on goods imported into the UK, available at: <https://www.gov.uk/guidance/tariffs-on-goods-imported-into-the-uk>

The alternative is to move over to direct shipment of fisheries products to the GB market, thereby avoiding the need to cross an EU-GB border.

### 3.4.3 The phytosanitary import control issue in fisheries

A critical issue in this regard will be the process established in each concerned EU member states (France, the Netherlands, Belgium and Spain) for the issuing phytosanitary re-export certificates for fisheries products, where these are required for entry to the GB market.

### 3.4.4 Trade administration, border control issues and logistical costs in fisheries

Depending on the trade administration complications and the efficiency of UK border control operations along the main EU-to-GB supply routes in the post-July 2022 period, the logistical costs of the onward shipment of Caribbean fisheries products from the EU to the UK could increase significantly. Already in the immediate post-Brexit period, early complications along EU-to-GB routes have seen road hauliers turning their back on the transport of 'groupage' cargoes across EU/GB borders. Previously, 'groupage' practices allowed the low-cost onward shipment of mixed cargo loads to final wholesalers and retailers. However, post-Brexit, the border clearance of groupage loads is dependent on the clearance of each individual consignment within the 'groupage' load, with the whole load being delayed if any individual consignment is not border clearance ready. This is particularly problematic for products requiring phytosanitary import inspections prior to delivery to final customers. This is seeing the virtual abandonment of low-cost 'groupage' road haulage practices for mixed consignments across EU-GB customs and regulatory borders. This in turn is adding to the onward road freight cost escalation for smaller-scale exporters.

It is important for Caribbean fisheries exporters shipping to the EU27 market to determine to what extent their products are ultimately destined for the UK market. If their exports are ultimately destined for the UK market, then it is essential that, wherever possible, Caribbean exporters secure payment for their products at the first point of landing in the EU27 and not on final delivery to UK customers. Ensuring such payment arrangements would help insulate Caribbean fisheries exporters from the

financial consequences of Brexit-related uncertainties that could give rise to cost increases from July 2022.

## 3.5 Cocoa exports

### 3.5.1 The current cocoa trade situation

Fully 99.7 per cent of Caribbean cocoa product exports to the EU28 were destined for EU27 markets in 2019, with only a miniscule direct export trade to the UK. This means the main areas of Brexit-related concern for Caribbean cocoa exporters arise along EU-to-GB supply chains.

The rules of origin/MFN tariff issue is of less significance for Caribbean cocoa exporters than in other sectors given the structure of Caribbean cocoa exports. Caribbean cocoa exports consist largely of cocoa beans (94.1 per cent), on which the MFN tariff is zero, even when re-exported. This is significant since, in 2019, fully 30 per cent of British imports of cocoa beans consisted of re-exports from other European countries, mainly France.

### 3.5.2 Rules of origin/MFN tariff issue in the value-added cocoa products sector

The bulk of Caribbean value-added cocoa products where MFN tariffs are faced if re-exported across an EU-GB border outside of customs supervision consists of cocoa butter (1804) and cocoa paste (1803), which are exclusively exported from the Dominican Republic, and where MFN tariffs of 8 per cent and 6 per cent, respectively, would be faced if they were onward-traded across an EU-GB border outside of customs supervision.

The only other Caribbean exports of cocoa products potentially facing MFN tariffs if they take place across an EU-GB border outside of customs supervision are of chocolate and other food preparations containing cocoa (1806) from Trinidad and Tobago. For initial originating status to be retained and hence duty-free access to be enjoyed, such triangularly traded products would need to remain under customs supervision (under CTC procedures) prior to landing and customs clearance in the UK.

The rules of origin in the cocoa sector are less problematical than those in the sugar sector. Under the EU-UK TCA, for basic value-added cocoa products, the rules of origin require a CTH for EU 'originating status' to be granted and hence duty-free trade to take



Table 12. Caribbean cocoa exports to the EU27 and UK, 2019 (€)

Exports to	MFN tariffs applicable if products re-exported across a GB–EU border outside of customs supervision												
	EU27	Value (€)	HS 1801	Value (€)	HS 1802	Value (€)	HS 1803	Value (€)	HS 1804	Value (€)	HS 1805	Value (€)	HS 1806
<b>Country</b>	HS 18	HS 1801	HS 1802	HS 1803	HS 1804	HS 1805	HS 1806						
Dominican Republic	95,281,375	89,838,791	277,025	151,777	4,980,781	5,246	27,755						
Haiti	3,728,393	3,728,393	–	–	–	–	–						
Trinidad and Tobago	1,343,080	497,401	–	–	–	1,324	844,355						
Belize	311,565	311,565	–	–	–	–	–						
Dominica	207,632	207,632	–	–	–	–	–						
Jamaica	131,626	129,818	–	–	–	–	1,808						
St Vincent and the Grenadines	69,599	69,599	–	–	–	–	–						
Total	101,073,270	94,783,199	277,025	151,777	4,980,781	6,570	873,918						
On entry to	GB	0%	0%	8%	6%	0%	8%	8% (18061015)					
								8%+€21/100kg (18061020)					
								8%+€35/100kg (18061030)					
<b>Exports to</b>	<b>UK</b>	<b>Value (€)</b>	<b>Value (€)</b>	<b>Value (€)</b>	<b>Value (€)</b>	<b>Value (€)</b>	<b>Value (€)</b>	<b>Value (€)</b>	<b>Value (€)</b>	<b>Value (€)</b>	<b>Value (€)</b>	<b>Value (€)</b>	<b>Value (€)</b>
Country	HS 18	HS 1801	HS 1802	HS 1803	HS 1804	HS 1805	HS 1806						
Dominican Republic	104,339	–	–	–	–	101,344	2,995						
Saint Lucia	99,232	99,232	–	–	–	–	–						
St Vincent and the Grenadines	33,271	33,271	–	–	–	–	–						
Grenada	15,176	15,176	–	–	–	–	–						
Jamaica	5,532	5,532	–	–	–	–	–						
Trinidad and Tobago	1,295	1,295	–	–	–	–	–						
Total	258,845	154,506	–	–	–	101,344	2,995						
On entry to	EU27			9.6%	7.7%	8%	8%	8% (18061015)					
								8%+€25.20/100kg (18061020)					
								8%+€31.40/100kg (18061030)					

**Note:** 1801 cocoa beans; 1802 cocoa shells, husks, skins and waste; 1803 cocoa paste; 1804 cocoa butter; 1805 cocoa powder; 1806 chocolate and other food preparations containing cocoa.

**Source:** EC Market Access Database.

### Box 5: The complex situation of high sugar content value-added cocoa products

For cocoa powders containing sugar falling under tariff heading HS 180610 (cocoa powder, containing added sugar or other sweetening matter), the rules of origin are more complicated. Not only is a CTH necessary but also all dairy products included must be 'wholly obtained' in the EU or UK, while the use of non-originating sugars classified under headings HS 1701 and 1702 must 'not exceed 40% by weight of the product'.

Similarly for cocoa powders containing sugar falling under categories HS 180620–180690, all dairy products included have to be 'wholly obtained' in the EU or the UK, while use of non-originating sugars classified under headings HS 1701 and 1702 must 'not exceed 40% by weight of the product' and the value of the non-originating sugars must 'not exceed 30% of the ex-works price of the product'.

This needs to be seen in a context where, if 'originating status' is lost, the MFN tariffs to be paid range from 8 per cent to 14 per cent with, in some instances, supplementary levies ranging from £21/100 kg to £35/100 kg depending on the sugar content of specific products.

place between the EU and GB. This covers the processing of products from cocoa beans (HS 1801) to cocoa paste (HS 1803) or cocoa butter (HS 1804) or cocoa powder not containing sugar (HS 1805). This means the onward trade from the EU to GB (and from the UK to the EU) in 'cocoa paste', 'cocoa butter' and 'cocoa powder not containing sugar', produced in the EU27 or GB from Caribbean cocoa beans, will not face tariffs when traded across an EU–GB border. This is quite different from the situation in the sugar sector, where the refining of ACP raw sugar results in the loss of initial originating status.

In the cocoa sector, problems arise only where high volumes of non-originating sugar (neither EU nor UK sugar) are included in the cocoa-based product traded across an EU–GB border.

#### 3.5.3 Phytosanitary import control issues along triangular cocoa supply chains

In the cocoa sector, phytosanitary import control issues are not an issue along triangular supply chains, although standard sanitary requirements related to pesticide residues, mycotoxins, polycyclic-aromatic hydrocarbons and microbiological contamination such as Salmonella (a low risk for cocoa) will need to be complied with.

#### 3.5.4 Trade administration and border clearance issues in cocoa

General border clearance challenges along EU-to-GB triangular supply chains will be faced only after 1 July 2022. After this date, re-exports of Caribbean value-added cocoa products may well require the services of customs intermediaries in negotiating new UK border control arrangements along triangular supply chains. Large European cocoa traders will be

fully equipped to deal with the trade administration requirements, the fulfilment of which will ease border clearance processes.

In terms of trade administration requirements, Caribbean cocoa exporters shipping along triangular supply chains now need separate EU- and UK-issued Economic Operator Registration Identification (EORI) numbers for entry to the EU and GB, respectively. While most Caribbean cocoa exporters will have already obtained separate EORI numbers, the intermittent nature of the operations of some Caribbean cocoa exporters may have seen Covid-19 freight disruptions preventing the shipment of cargoes to Europe since 1 January 2021. Once these exporters re-enter EU or UK markets, the need for separate EORI numbers for shipments along triangular supply chains will need to have been addressed. Alternatively, Caribbean cocoa exporters will need to ensure their EU trade partner has a valid UK-issued EORI number.

Particular trade administration challenges would appear to arise for exports of organic cocoa along triangular supply chains. The EU continues to use its electronic organic certification system, while the UK has reverted to a paper-based system for organic trade documentation.

While the simple solution to avoid the loss of organic status for cocoa shipped along triangular supply chains would involve the UK authorities accepting printouts of electronically transmitted documents, this could prove a problem, since such documents would not carry the original stamp of the organic certification agency in the country of origin. Unless this issue is addressed, Caribbean organic cocoa exporters, shipping along triangular supply chains, could lose organic status and hence the organic price premium when onward shipping to the UK.

These administrative issues could arise for both re-exports of Caribbean organic cocoa beans and organic value-added cocoa products.

Given the level of ‘fine cocoa’ in Caribbean cocoa exports and the fragmented nature of the customer base for fine cocoa, particular trade administration and logistical challenges could arise along triangular supply chains. The onward shipment of small volume consignments using ‘groupage’ road haulage arrangements has been greatly complicated by the Brexit process. This has seen considerable freight cost increases along triangular supply chains. This has been compounded by the general shortage of HGV drivers across Europe, but particularly in the UK. This means hauliers can now pick and choose the loads they contract to move across EU–GB borders.

This may require considerable adjustments to the management of the onward shipment of fine cocoa re-exports to GB from the EU. Indeed, it may require the establishment of distribution centres in GB to receive larger consignments that can then be broken down for onward delivery to niche chocolate manufacturers who utilise Caribbean fine cocoa. This could sidestep some of the freight cost escalation now being faced along triangular supply chains.

### 3.6 General manufactured exports

Caribbean manufactured product exports to the EU in 2019 were dominated by oil related

products and associated chemical products (20.2% of total exports valued at €927 million). Textiles and clothing, footwear and headgear accounted for only 1.5% of total CARIFORUM exports to the EU in 2019 (€67 million). Miscellaneous manufactured products accounted for 0.2% of total exports to the EU (€9 million). This contrasts with the 21.3% share of total exports accounted for by agricultural and fisheries exports and the 35.5% accounted for by mineral products, base metals and pearls and precious metals (and articles thereof).

Manufactured goods tend to face low MFN tariffs and no phytosanitary issues and hence are largely unaffected by these dimensions of the impact of the Brexit process along triangular supply chains. However, Caribbean manufactured exports will need to adjust to the new trade administration arrangements, new GB border controls on goods crossing from the EU (when fully introduced from 1 July 2022) and the impact of Brexit of the use of ‘groupage’ road shipment arrangements from the onward move of cargoes from the EU to GB or from GB to the EU.

This will require exporters of manufactured goods to consider adjusting their routes to markets towards direct exports to the final destination market or making investments in ensuring they can make full use of CTC procedures, so as to minimise trade administration complications and border delays.

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## 4. Policy responses

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### 4.1 The rules of origin/MFN tariff issue

In addressing the rules of origin/MFN tariff issue facing some Caribbean exporters, the policy-level response required can be divided into two components:

- The need for general policy commitments from the EU and UK, respectively, to unilaterally allow ‘diagonal cumulation’ from all countries that enjoy full DFQF access to both the EU and the GB markets.
- The operational establishment of simplified arrangements for verification of the country of origin of ‘re-exports’ from countries that

enjoy DFQF access to both the EU and the GB markets.

In terms of policy commitments, there is a need to modify the ‘direct transport’ articles of the rules of origin attached to the respective trade agreements Caribbean ACP governments have concluded with the UK and EU. This should enable the retention of the initial ‘originating status’ of their products even when ‘re-exported’ across an EU–GB border outside of customs supervision, for all products where DFQF to both the EU and the GB markets is enjoyed.

Such amendments should also allow the simple processing or repackaging of products without any loss of duty-free access when re-exported, where such products can be imported directly on a duty-free basis to EU and UK markets.

This issue needs to be taken up in the relevant consultative committee structures set up under the recently concluded CARIFORUM-UK Continuity Agreement and the longer-established Caribbean–EU EPA.

At the operational level, the core issue relates to the unilateral adoption by the UK and the EU, respectively, of simplified procedures for the verification of the initial ‘originating status’ of Caribbean ACP products. This should apply to both products re-exported in an unaltered state across an EU–GB border and products used as inputs in EU or UK products where the use of such products should be allowed provided the exporting country enjoys DFQF access to both GB and EU markets. This should include products undergoing simple processing (e.g. raw to refined sugar) or repackaging operations (bulk rum to bottled rum) prior to ‘re-export’ across an EU–GB customs and regulatory border.

At the core of the simplification of country-of-origin verification process needs to be an acceptance of other existing country-specific trade documentation, as proof of origin for the purpose of claiming tariff preferences.

Probably the simplest sector where existing country-specific trade documentation is routinely accepted by both UK and EU authorities is the fruit and vegetable sector. Here, for the vast majority of products, country-specific phytosanitary certificates are routinely accepted by national plant health authorities as proof of the country of production (or country of origin). There would appear to be no reason why such phytosanitary certification should not also be used as ‘proof of country of origin’ by national customs authorities for the purpose of granting tariff preferences under DFQF access trade arrangements even where such products are shipped along triangular supply chains outside of customs supervision.

This being noted, for the Caribbean main fruit export, bananas, this option is not available, since neither the EU nor the GB requires phytosanitary certification for bananas to enter its market. As a consequence, from a Caribbean perspective, it is important that alternative

options for simply verifying the country of origin are set in place, based on routine trade documentation.

For organic bananas, this could include the organic certification documentation issued in the country of origin. For sea fisheries products, sustainable fishing certification could be used as proof of country of origin, as could Fairtrade certification. Where these options are not available, other simple systems could be set up using other forms of routine trade documentation (purchase contracts, supplier invoices or other standard officially recognised commercial trade documentation).

These policy measures would bring benefits to Caribbean exporters shipping along triangular supply chains in the:

- Sugar sector – where the issue of refining Caribbean raw cane sugar and the use of imported cane sugar in high sugar content value-added food and drink products would then fall away for products destined for both EU and UK markets;
- Fruit and vegetable sector – where products are simply re-exported across an EU–GB border;
- Rum sector – where bottling operations for cross-border delivery and the simple re-export of bottled rum broken down from larger consignment would fall away;
- Fisheries sector – where MFN tariff issues on simple re-exports would fall away;
- Cocoa sector – where the main gain would be in simplifying the delivery of ‘fine cocoa’ to end users along triangular supply chains.

#### 4.1.1 Phytosanitary import control issues

##### *Phytosanitary re-export certificates*

There is a need to establish simplified systems for the issuing of phytosanitary re-export certificates, with timeframes consistent with the needs of short shelf-life product triangular supply chains. This requires:

- A clear designation of the officials responsible for issuing phytosanitary re-export certificates, with appropriate staffing levels where physical verification inspections are deemed to be required;
- A clear specification of the timeframes within which phytosanitary re-export certificates should be issued;

- A clear specification of the fee schedules to be levied for this service;
- The publication and dissemination of clear guidance on the circumstances and procedures to be followed for the issuing of phytosanitary re-export certificates.

This applies to the current phytosanitary re-export certification process along Caribbean ACP-to-GB-to-EU supply chains and the pending phytosanitary re-export certification process along Caribbean ACP-to-EU-to-GB supply chains.

#### *Divergent EU and UK phytosanitary certification requirements*

Where UK and EU phytosanitary requirements diverge, action is required in the country of production. Upon request from the exporter, national phytosanitary authorities in the Caribbean ACP country of production should issue phytosanitary export certificates even where this is no longer a requirement for entry to the GB market.

In parallel, the agreement of the responsible UK body should be sought for the issuing of phytosanitary re-export certificates for products where phytosanitary certification is no longer required for entry to GB.

In the absence of such arrangements, the concerned Caribbean ACP exporters will have no alternative but to restructure their supply chains to avoid crossing a GB-to-EU regulatory border.

#### *Phytosanitary import inspections*

In terms of general phytosanitary import controls applied to 're-exported' products, provided there has been no weakening of phytosanitary import controls (either in the EU or in the UK), phytosanitary inspections for 're-exports' should be waived where such products have been subject to phytosanitary inspections prior to re-export. This would be entirely in line with UK practice throughout 2021 and the first six months of 2022. Such action would be based on the absence of any phytosanitary risk linked to previously phytosanitary cleared third-country products.

This could primarily benefit Caribbean fruit, vegetable and fisheries product exporters who ship along triangular supply chains, where these products require phytosanitary certification to enter the final market.

#### **4.1.2 Border clearance and trade administration challenges**

There are three general dimensions to the policy-level response to border clearance issues:

- Expediting investment programmes in infrastructure, staff training and the operational deployment of trade-related systems;
- Intensifying dialogue between the UK and the EU on expedited processes for the practical application of the new border controls, including with regard to the minimisation of border control requirements and the operational compatibility of trade-related systems;
- Intensifying efforts to heighten business awareness of the operational processes for moving goods across EU–UK borders through the compilation of simple yet comprehensive official guidance notes on the practical steps to be taken in expeditiously transporting re-exports across an EU–GB border.

Specifically with regard to border clearance for 're-exports', a policy commitment is required to remove unnecessary border clearance requirements that have been subject to parallel controls upon initial entry to the territory from which onward shipment takes place (e.g. where the phytosanitary risk is minimal since equivalent controls have been carried out at the initial port of entry prior to re-export).

It further requires the compilation and dissemination of product-specific, simple yet comprehensive official guidance notes on the practical steps to be taken in expeditiously transporting 're-exported' products across an EU–GB border. This should include the contact details of officials and helplines and timeframes for the conduct of border controls consistent with the delivery requirements of the short shelf-life products.

The lack of a basic consensus on the respective roles of the government and private sector has caused delays in establishing the necessary border infrastructure, while ongoing tensions around implementation of the Northern Ireland Protocol provide a far from propitious environment for intensified EU–GB dialogue around the implementation of new border processes. This makes the compilation of operationally relevant official guidance notes extremely difficult.

In terms of internal trade administration challenges, the focus needs to be on building internal capacity to meet the new trade administration requirements or contracting in the necessary services from customs intermediaries. Given the wider supply chain challenges being faced as a result of the disruptions generated by the Covid-19 pandemic, making the internal investments required to address Brexit-related trade administration challenges is not always seen as a priority.

This is particularly the case since, even if a business gets its own internal administrative arrangements in order, it could still face trade disruption as a result of broader logistical and policy-related challenges, as well general border clearance issues. This could see returns on investments in building internal administrative capacity profoundly undermined, with available capacities being redirected to other immediate supply chain concerns.

It is against this background that a range of enterprises are choosing to exit the 're-export' trade between the EU and GB, with Caribbean ACP exports caught up within this wider process.

In terms of the contracting in of the services of customs intermediaries, given the acute shortage of customs intermediaries (only 40 per cent of required capacity) this can be extremely costly and can make a continuation of the 're-export' trade commercially non-viable. Critical to the viability of this option under current conditions is the scale of the 're-exports' involved. The larger the scale of the re-export trade and the more homogenous the products being traded, the greater the prospect that the contracting-in of customs intermediary services will be possible and commercially sustainable.

Once again, it is smaller-scale exporters who will face the greatest challenges in getting to

grips with the internal trade administration challenges to which the Brexit process has given rise.

#### 4.1.3 Logistical challenges

Since road freight rate increases for re-exported cargoes crossing an EU-GB border are an indirect consequence of new cost-increasing requirements and uncertainties linked to the operational application of new customs and regulatory requirements, the principal policy responses that will ease these lie in policy areas dealing with the application of customs and regulatory controls on re-exported products. More specifically, road freight inflation would be reduced if:

- Simplified systems for the verification of country of origin of 're-exports' were established;
- Phytosanitary inspections for 're-exports' of fresh fruit and vegetables were waived;
- Financial guarantees were waived from hauliers carrying cargoes that enjoy duty-free access to both GB and EU markets and are not subject to VAT or excise duties in the UK;
- Agreements on officially recognised pre-export documentation centres for the preparation of 'groupage cargoes' were reached, with this being linked to expedited border clearance arrangements;
- A definitive operational guide to meeting the requirements of the CTC along triangular 're-export' supply chains were drawn up, identifying the changes to current business practices required to allow 're-exports' to take place without any danger of losing duty-free access to GB or EU markets.

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## 5. Possible business-level responses

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### 5.1 The re-routing option

Re-routing exports to avoid the need to cross an EU-GB customs and regulatory border is the simplest means of avoiding the multiplicity of cost-increasing effects to which the Brexit process has given rise along Caribbean ACP

triangular supply chains. This sidesteps costs linked to the rules of origin/MFN tariff complication; phytosanitary import control complications; border clearance complications; internal trade administration complications; and 'groupage' road haulage complications.

However, the gains from cost savings and value retention benefits need to be balanced against the costs of making such routing adjustments.

The easiest triangular supply chain in which to make routing adjustments is along GB-to-Republic of Ireland. Since 1 January 2021, direct ferry services between mainland EU countries and the Republic of Ireland have more than tripled. By making use of these expanded ferry services, Caribbean ACP exporters can land cargoes in EU27 countries (mainly the Netherlands, Belgium, Luxembourg or France) rather than GB, with these cargoes being onward-shipped to the Republic of Ireland without any need to cross an EU-GB customs or regulatory border. This sidesteps all the additional costs faced when goods have to cross an EU-GB border.

While the ferry service cost component along these routes is more expensive, this additional cost can be mitigated if the imbalance in Irish food exports and imports is fully exploited. Currently, many trucks on return journeys to Ireland travel back empty. This creates opportunities for securing low-cost freight rates for cargoes destined for Irish markets.

The immediate challenge thus lies in finding an appropriate basis for the organisation of a 'match-making' service, which would effectively link up Caribbean ACP exporters with Irish hauliers returning empty to the Republic of Ireland.

The options for re-routing the exports from Caribbean ACP countries over to direct shipment to GB are more limited, with these having been profoundly affected by Covid-related air freight and sea freight shipping disruptions.

In terms of air freight services, particular problems have arisen from the UK's 'red list' travel restrictions, which served to stifle the nascent recovery in passenger-based air freight services underway at the beginning of 2021. These passenger-based freight services previously offered low-cost delivery services for short shelf-life products. While the UK 'red list' travel restrictions have recently been revised, the Dominican Republic remains on the 'red list', and hence is subject to the most severe form of travel restrictions.

Covid-linked disruptions to sea freight services have seen some international shipping operators 'skipping' calls at UK ports in favour of single unloading operations at continental

European ports, followed by the use of 'feeder' cargo services to GB. This trend narrows the options available to Caribbean ACP Sea freight exporters to shift away from the use of triangular supply chains in favour of direct exports to the UK.

This expansion of demand for 'feeder' cargo services to the UK also complicates efforts to shift onward shipment along triangular supply chains away from RoRo ferry ports to inland or east coast GB ports, which have established border control post infrastructure for the conduct of standard import inspections, and which increasingly have good onward rail connections to distribution centres.

The re-routing of produce shipped along ACP-to-GB-to-mainland EU supply chains is less problematic for many Caribbean ACP exporters, given the wider range of shipping options available to EU27 ports.

Individual exporters who have a foot in both the EU and the GB markets will face less serious challenges in re-routing direct to mainland EU markets than those exclusively focused on the UK in shipping goods to EU28 markets. However, exporters with little or no presence on mainland EU markets are likely to face the most serious re-routing challenges. These exporters may need to seek out new trade partners in the EU to help establish new direct trading routes to serving markets in the mainland EU.

Overall, in the face of the ongoing effects of Covid-19 international freight disruptions, addressing the policy constraints on the continued smooth functioning of triangular supply chains would appear to be essential, if smaller-scale Caribbean ACP exporters, who currently use triangular supply chains, are not to be squeezed out of markets served through triangular supply chains.

One alternative to re-routing is making effective use of the CTC to avoid the rules of origin/MFN tariff complication. Caribbean ACP exporters can launch dialogues with their trade partners in the EU/GB on the issue of the commercial sustainability of investing in the use of CTC procedures. This needs to factor in the volume and value of cargoes being 're-exported' across an EU-GB border; the commercial consequences of reversion to standard MFN tariff treatment; the routes to market used by competing suppliers; and the new costs they may or may not face.

This basic cost/benefit analysis is complicated by the current shortcoming in the necessary physical infrastructure for the handling and discharge of ‘transit’ cargoes and the practical challenges faced in moving over to direct shipments in light of Covid-related freight service challenges.

If a favourable assessment is made, a period of intensive training on how CTC procedures need to be accessed will be needed for the relevant departments of the concerned businesses, and investments will then need to be made in ensuring compliance with CTC requirements throughout the supply chain.

Smaller-scale exporters are likely to face particular problems in using CTC procedures, especially those dealing with short shelf-life products re-exported in response to short-term market shortfalls. Better-organised supply chains with long-term structural relationships are likely to be better placed in accessing and effectively utilising CTC procedures.

Alternatively, the services of large international freight companies that have invested in expanding and ‘Brexit-proofing’ the logistical services they offer could be sought. However, these services come at a price, which needs to be balanced against the savings made. This option needs to be assessed on product-by-product, supply chain-by-supply chain basis.

In the context of the Caribbean region, consideration may need to be given to consolidating consignments prior to export, so as to pool the costs of the use of the expanded services of international freight companies.

## 5.2 Addressing phytosanitary import control issues at the business level

In terms of phytosanitary re-export certification, it would appear essential for UK–EU trade partners to establish good working relationships with the local office of the government department responsible for re-issuing phytosanitary re-export certificates (in the case of the UK, DEFRA/APHA).

Along ACP-to-EU-to-GB supply chains, there is still time for ACP exporters and EU traders to initiate a dialogue with the concerned EU member state authorities on the processes through which phytosanitary re-export certificates can be most expeditiously obtained, at minimum additional cost.

In terms of dealing with the divergence in UK and EU phytosanitary certification

requirements, this issue can be addressed by ensuring an original phytosanitary certificate is sent along with the consignment destined for the UK, even when this is no longer a UK statutory requirement. However, Caribbean ACP exporters will need to factor in the additional costs involved in securing initial phytosanitary certificates for exports to a destination where the primary market no longer requires such certification.

In terms of dealing with phytosanitary inspection requirements, unless there is a change at the policy level, beyond the re-routing option, there is little action that Caribbean ACP exporters and their partners in the UK/EU can take, beyond making sure all paperwork is in order and building inspection process delays into their delivery schedules.

## 5.3 Road haulage challenges at the business level

Along ACP-to-EU-GB supply chains, one option for sidestepping road haulage logistical challenges is to shift over to the delivery of unaccompanied cargoes to GB inland or east coast ports with good onward railway connections to distribution centres. This option is, however, being complicated by intercontinental sea freight disruptions that have seen expanded demand for the use of ‘feeder’ cargo services to GB.

Alternatively, Caribbean ACP exporters may need to give consideration to the identification of trade partners with their own HGV fleets for the delivery of cargoes across EU–GB borders, and who have committed to continuing the onward ‘re-export’ trade across EU–GB borders.

In terms of getting to grips with warehousing and cold storage capacity challenges that triangular supply chain exporters will face, consideration should be given to making use of the UK Warehousing Association supply and demand matching electronic tools and services.

Alternatively, it will require seeking business alliances with trade partners who have access to their own warehousing and/or cold storage capacity.

## 5.4 Contractual issues

Given the multiplicity of new costs arising along triangular supply chains, a critical consideration is the contractual arrangements for payment for the delivery of goods.

Caribbean ACP exporters shipping along triangular supply chains can sidestep all of the



cost-increasing effects of the Brexit process if supply contracts are negotiated on the basis of payment in the first European country of landing, rather than on the basis of payment on delivery to the customer in the final destination market. The issue of the point of delivery at which payment is made will need to be taken up in the Incoterms.<sup>14</sup>

However, there are real limitations on the negotiating power of most Caribbean ACP exporters when it comes to renegotiating

payment arrangements, with this depending on the market circumstances faced.

Efforts to alter the point of payment contractual arrangements to sidestep new Brexit-related cost increases could simply result in a reduction of orders, as the importer decides to exit the 're-export' trade or seek other partners willing to take full responsibility for the costs of cross-border and inland delivery to the final point of sale.

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## Notes

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- 1 The EU customs union consists of a common external tariff around the territory of all EU member states, within which goods can flow freely without the application of any border import duties. The EU single market consists of a comprehensive regulatory framework covering the territory of EU member states, designed to ensure the application of equivalent standards to all products freely traded within the EU. Significantly, it came to be an important point of principle within the UK government's approach that the UK would be subject to as few EU rules as possible.
- 2 EBA extends unilaterally full duty-free/quota-free (DFQF) access to all least developed countries (LDCs) on a non-reciprocal basis. The UK has produced parallel 'UK-only' non-reciprocal preferential market access arrangements for LDCs, which directly mirror the EU arrangement. In the Pacific, issues could arise for countries scheduled to 'graduate' from LDC status, if appropriate market access 'bridging mechanisms' are not set in place.
- 3 For the status of all UK Continuity Agreements and bridging mechanisms, see 'UK Trade Agreements with Non-EU Countries', last updated 19 July 2021 (<https://www.gov.uk/guidance/uk-trade-agreements-with-non-eu-countries>).
- 4 An EPA is a reciprocal preferential trade agreement concluded between the EU and regional groupings of African, Caribbean and Pacific countries. With the exception of Nigeria, all non-least developed Commonwealth members of the African, Caribbean and Pacific Group are signatories of EPAs. 'Continuity Agreement' was the name initially given to the 'UK-only' arrangements designed to replicate the reciprocal preferential market access to the UK market previously made available under the EU's EPAs. In the case of two Pacific Commonwealth ACP countries, Fiji and Papua New Guinea, the Continuity Agreement is being provisionally applied; for two other Pacific Commonwealth ACP countries, Samoa and Solomon Islands, the UK has established a special market access 'bridging mechanism'.
- 5 The Withdrawal Agreement set out the terms of the UK's orderly withdrawal from the EU and sought to 'offer legal certainty once the Treaties and EU law will cease to apply to the UK.' It set out provisions on how the Agreement should be understood and applied in areas such as citizens' rights, separation issues, the transition period, the financial settlement, the overall governance structure for the Agreement and a legally operational backstop to ensure there would be no hard border between Ireland and Northern Ireland, with special protocols on the UK Sovereign Base Areas in Cyprus, and the specific situation of Gibraltar. The Withdrawal Agreement did not deal with the future trade relationship between the EU and the UK.
- 6 Rules of origin are the criteria needed to determine the national source of a product. This determination is essential for the application of tariff preferences under bilateral preferential trade agreements. This is not simply an issue of meeting the rules of origin criteria but is also about being able to verifiably document compliance. This can generate a substantial internal administrative burden, with this internal administrative consideration often being as important as the basic rules of origin applied. Within a customs union subject to a common external tariff, there is no need for rules of origin since goods can be traded freely across national borders once they have entered the territory of the customs union on the basis of commonly agreed external trade arrangements.
- 7 'Diagonal cumulation' provisions would have allowed inputs from third countries to which both the EU and the UK grant duty-free access to be counted as 'originating inputs' when simply onward-traded between the EU and the UK or used as inputs in products subsequently onward-traded between the EU and the UK.
- 8 Given the Northern Ireland complication, for analytical purposes it is important to distinguish between the United Kingdom of Great Britain and Northern Ireland (referred to as the UK) and Great Britain (GB), the territory of the United Kingdom without Northern Ireland. This distinction is adopted to facilitate clear analysis and understanding of what is at stake in a complex situation and is not intended to denote any judgement as to the political status of Northern Ireland within the UK.

- 9 The tensions in the EU–UK trade relationship around the implementation of the Northern Ireland Protocol are such there is little prospect of jointly agreed ‘technical’ solutions gaining traction. This was recognised in the House of Lords EU Committee March 2021 reports, which called for the UK government to initiate a unilateral programme of measures to address issues of concern.
- 10 Official Journal of the European Union, ‘Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the One Part and the United Kingdom of Great Britain and Northern Ireland, of the Other Part’, 31 December 2020 ([https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22020A1231\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22020A1231(01)&from=EN)).
- 11 This includes citrus fruit, mango, guava, kiwi, bitter orange, persimmon, passionfruit, kumquat, curry leaves and cotton (bolls).
- 12 This includes all fresh and chilled fruit and vegetable products except bananas, pineapples, coconuts, dates and durian fruit.
- 13 This includes all fresh and chilled fruit and vegetable products except bananas, pineapples, coconuts, dates, durian fruit, citrus fruit, mango, guava, kiwi, bitter orange, persimmon, passionfruit, kumquat, curry leaves and cotton (bolls).
- 14 The Incoterms, or International Commercial Terms, are a series of pre-defined commercial terms published by the International Chamber of Commerce relating to international commercial law. They are widely used in international commercial transactions or procurement processes and their use is encouraged by trade councils, courts and international lawyers. The Incoterms rules are intended primarily to clearly communicate the tasks, costs and risks associated with the global or international transportation and delivery of goods. Incoterms inform sales contracts defining respective obligations, costs and risks involved in the delivery of goods from the seller to the buyer, but they do not themselves conclude a contract, determine the price payable, currency or credit terms, govern contract law or define where title to goods transfers.

## Annex 1: Rum products subject to duty when onward-traded – EU imports by value, 2019 (€)

	EU27				UK			
	2208 40 11	2208 40 39	2208 40 51	2208 40 99	2208 40 11	2208 40 39	2208 40 51	2208 40 99
Antigua and Barbuda	31,330	-	-	-	-	-	-	-
The Bahamas	384	389	-	-	-	-	-	-
Barbados	2,147,088	67,443	3,170,859	548,386	216,137	59,518	2,576	-
Belize	-	-	-	-	-	-	-	-
Dominican Republic	5,898,489	2,255,320	40,196	3,540,217	-	-	-	42,088
Grenada	-	-	-	-	7,469	21,499	41,159	-
Guyana	5,028,878	-	79,501	1,183,956	499,893	-	83,735	6,547,470
Haiti	4,795	-	-	-	-	-	-	-
Jamaica	1,939,796	1,891	2,230,609	445,473	250,084	2,664,620	970,243	5,138,538
St Kitts and Nevis	76	-	-	-	-	-	-	-
Saint Lucia	68,766	42,462	46,633	-	-	-	-	-
St Vincent and the Grenadines	121	-	-	-	-	1,990	-	-
Suriname	37,311	21,219	-	-	-	-	-	-
Trinidad and Tobago	92,459	30	291,016	3,298,373	1,165	-	424,403	-
Subtotal	15,249,493	2,388,754	5,858,814	9,016,405	474,855	2,747,627	1,522,116	11,728,096

**Source:** Tariffs on goods imported into the UK. <https://www.gov.uk/guidance/tariffs-on-goods-imported-into-the-uk> and EC Market Access Database.

