

European Commission publishes communication on Brexit readiness

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On 9 July 2020, the European Commission (the Commission) published a new communication ahead of Brexit, titled "Getting ready for changes: Communication on readiness at the end of the transition period between the European Union (EU) and the United Kingdom (UK)."¹

The Commission has urged businesses that "there is no room for complacency or postponing readiness and adaptation measures in anticipation that an agreement would ensure continuity, because a large number of changes will be inevitable."

The Commission's communication

The communication sets out where businesses will need to adapt, regardless of any free trade agreement (FTA) which could be agreed between the EU and the UK by the end of 2020. The main areas of change include:

- ▶ **Trade in goods and Customs:** The establishment of a customs border between the EU and UK means that customs formalities under Union law will apply to all goods either entering the EU from the UK or leaving the EU to the UK (other than goods subject to the Northern Ireland Protocol). Any Economic Operator Registration and Identification (EORI) numbers and Authorized Economic Operator (AEO) authorizations previously issued by

the UK will no longer be valid in the EU. To the extent that any preferential treatment for EU-UK trade in goods is agreed as part of an FTA, the originating status of goods will need to be demonstrated for this to apply. In any case, EU exporters will need to reassess their supply chains, as the UK will no longer be a preferential partner under any existing preference agreements.

- ▶ **Trade in services:** Any provision of services in the EU by UK suppliers will be subject to the relevant third country rules and compliance requirements of each Member State, marking a large shift away from the single point of authorization that exists currently. Authorizations granted by UK authorities under the EU Single Market Framework will no longer be valid. This will include financial services, transport services (by railway, air, and road), and audio-visual services. The simplified processes for mutual EU-UK recognition of professional qualifications will no longer apply.
- ▶ **Energy:** The UK will no longer participate in the EU's dedicated platforms.
- ▶ **Travelling and tourism:** Recent legislation by the EU has ensured that UK nationals will remain exempt from any visa requirements when entering the EU for short stays, subject to reciprocity from the UK for EU nationals. However, UK nationals travelling to the EU will need to meet the entry requirements for third country nationals and will be subject to the restrictions on length of intended stay.
- ▶ **Mobility and social security coordination:** The residence and work rights of EU citizens lawfully residing in the UK, and those of UK citizens residing in the EU, will be protected following the end of the Transition Period. However, all other movements to the UK by EU citizens will be governed by UK immigration laws, and vice versa.

▶ **Company law and civil law:** UK incorporated companies, and any EU branches of those companies, will be considered third country companies from an EU perspective and will therefore be subject to the relevant laws set by each EU Member State. Union rules facilitating cross-border enforcement of legal judgments will no longer apply.

▶ **Other aspects, data, digital and intellectual property rights:** Traders will no longer be able to rely on exhaustion with respect to intellectual property right-holders when sourcing products from the EU (i.e., an EU rights-holder could, in principle, object to the shipment of goods from the EU to the UK, despite consent formerly having been given).

In the absence of an adequacy agreement being reached, EU-UK transfers of personal data will be governed by the EU's third country regulations. UK-established businesses with no EU establishment will be ineligible to hold an .eu domain name going forwards.

▶ **International agreements of the EU:** The UK will no longer be covered by any agreements reached between the EU and its international partners.

The Commission has also announced that it is in the process of reviewing all the stakeholder notices (102 in total) which were published prior to the conclusion of the Withdrawal. They have updated 51 of these, with further updates expected over the coming weeks and months.

Next steps

The publication by the Commission of this document highlights potential issues and focus points for contingency planning across supply chain, trade in goods, trade in services, talent, regulations and compliance, tax and finance, legal and contracts, and IT and data.

Endnote

1. <https://ec.europa.eu/info/publications/getting-ready-changes-communication-readiness-end-transition-period-between-european-union-and-united-kingdom>.

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EYG no. 004820-20Gbl

1508-1600216 NY

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