

UK and EU reach trade agreement

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Executive summary

On 24 December 2020, negotiations between the United Kingdom (UK) and the European Union (EU) to conclude the [UK-EU Trade and Cooperation Agreement](#) (UK-EU TCA) ended in agreement. The UK-EU TCA, assuming it's ratified, will govern the UK and EU's economic and trading relationship after the end of the Brexit transition period on 31 December 2020 at 23:00 GMT.

The UK-EU TCA (or the avoidance of a no deal outcome) does not remove the need for businesses to make changes to their operations, but it does bring some certainty on many of the new trading rules that will apply after the end of the transition period, most notably tariffs.

Businesses now have less than three working days prior to 1 January 2021 to understand the new trading relationship and implement any changes in order to continue to trade effectively between the UK and EU from 2021 onwards.

Detailed discussion

Overview

More detailed analysis will be provided in due course but the headlines of the EU-UK TCA can be summarized as follows:

Positive outcomes for business

- ▶ **Zero tariffs:** There will be tariff-free, quota-free access for products traded between the UK and EU. However, this is accompanied by a number of new customs procedures and formalities, including new "rules of origin" requirements, which are needed in order to qualify for the tariff-free, quota-free treatment.
- ▶ **Technical barriers to trade:** Specific annexes were agreed to reduce the non-tariff barriers for medical products, automotive, chemical products, organic products and wine.
- ▶ **Government procurement:** Despite expectations that it would not be included, the UK and EU agreed to continue to allow access for their respective businesses to bid for each other's government procurement contracts, going beyond the obligations set out in the World Trade Organization Government Procurement Agreement.
- ▶ **Road haulage:** Hauliers can continue to operate between the UK and EU, and to transit through UK or EU territory. UK hauliers will also not need European Conference of Ministers of Transport (ECMT) permits.
- ▶ **Air transport:** Air transport of passengers and cargo can continue without quantitative restrictions on capacity or frequency (although UK airlines will no longer be able to fly between two points in the EU, so called "onward legs"). With regards to aviation safety, both sides will recognize the validity of each other's safety certificates and licenses.
- ▶ **EU programs:** The UK will continue to have access to various EU programs, including: Horizon Europe, the Euratom Research and Training Program, the fusion test facility ITER, Copernicus, and access to the EU's Satellite Surveillance & Tracking (SST) services. However, this will not include the Erasmus student program.
- ▶ **UK-Turkey:** Agreeing on the UK-EU TCA has enabled the UK to reach a continuity trade agreement with Turkey which will be extremely beneficial for many supply chains which rely on the EU-Turkey Customs Union to source products. The UK and Turkey have committed to expanding this agreement in the future to include services trade and investment.

Challenges for business

- ▶ **Services trade:** While services provisions have been included, they do not go much beyond existing EU practice, and notable barriers will limit the scope of many services providers to trade between the EU and the UK. Barriers include the end of the mutual recognition of professional

qualifications, and significant carve outs from the EU regarding the extent to which it commits to allowing UK service providers to access their EU customers.

- ▶ **Conformity assessments:** There is no agreement on the mutual recognition of conformity assessments, which means UK manufacturers will need to have their products assessed for compliance with an EU-notified body, and vice versa.
- ▶ **Agrifood:** The two sides have not agreed on how to reduce the burdens of sanitary and phytosanitary (SPS) checks and cooperation, which require enhanced regulation and physical checks for products of human, animal and plant origin. Agrifood businesses will be highly impacted, although the degree to which this is the case will depend on the implementation of the provisions of UK-EU TCA. There was also no agreement on geographical indications (GIs) beyond what was already set out in the Withdrawal Agreement.
- ▶ **Trade remedies:** Trade remedies are policy tools that allow governments to take remedial action against imports which cause injury to domestic industry. The UK-EU TCA includes virtually no restraints to prevent the UK and EU using trade remedies against each other. This means that the much-fought over level playing provisions may have less power than expected, because either side can revert to trade remedy action as an alternative resort.

Does this mean Brexit is now done?

No. One of the take-aways from the deal is that Brexit is not done. The first task for both sides will be to implement the UK-EU TCA across the broad range of issues and trade covered.

The UK-EU TCA is also not envisioned to be a static position; instead it sets the stage for future rounds of negotiations and discussions between the UK and EU on a host of issues. It includes a comprehensive governance structure with more than 20 new committees, councils and working groups in which the UK and EU will discuss their differences.

The outstanding issues fall into two categories: those issues where negotiators ran out of time to address them fully, and those issues where future cooperation would be desirable.

On the issues requiring more time:

- ▶ **Data adequacy:** Among the largest issues will be the data adequacy decision for which a temporary arrangement has been put in place to allow data to continue being transferred from the EU to the UK from 1 January 2021.

This will initially last for four months (extendable to six months) while the European Commission undertakes to make its adequacy decision. For companies which transfer such data, this additional time should allow for preparations to ensure compliance across their data collection, transfer, storage and processing locations.

- ▶ **Financial services:** Similarly, both sides have committed to setting out a “framework” for regulatory cooperation in financial services by March 2021 and will discuss the equivalence decisions which the EU has yet to make. The EU had made temporary equivalence decisions in respect of clearing (for 18 months), and central securities depositaries, recognizing the importance of UK infrastructure to EU markets and the potential financial stability risks of a cliff edge termination. The EU had not otherwise mirrored the UK’s other equivalence decisions or taken steps to smooth the transition. Read more analysis of the deal for financial services companies [here](#).

On the issues where further cooperation is seen as desirable, the UK-EU TCA sets out diverse areas from climate change to rules on public procurement.

What happens on 1 January 2021?

There is no phase-in or grace period. Businesses will need to meet many of the new requirements imposed as a result of the UK leaving the EU’s single market and customs union from 1 January 2021. These include new customs documentation and procedures, immigration changes and reduced services market access.

Businesses will also have to adapt to a changing environment through 2021 as the UK has announced a series of measures to stage the implementation on the customs requirements for products arriving from the EU, as well as phase-in periods for the UK’s new regulatory regime around product safety and chemicals.

Over the weekend of 26 and 27 December, the EU also announced that additional flexibilities for the documentary evidence necessary to qualify for rules of origin will be granted in the first year of the application of the UK-EU TCA. However exact details on this have yet to be confirmed.

Is it too late to prepare?

No. Below are the top five actions for businesses to begin before the end of the transition period:

1. **Check and brief your day one response team** which should include representatives from all the impacted business functions including supply chain, procurement, human resources, legal and IT. Ensure representatives are senior enough to make quick decisions.
2. **Communicate with your priority customers and suppliers** on any expected Brexit impacts on your business in light of the UK-EU TCA and understand their positions. Appoint appropriate contact points within your business for those customers and suppliers which can be reached over the coming days.
3. **Apply for relevant Economic Operators Registration and Identification numbers (EORI numbers)/ value-added tax registrations in Great Britain, EU and Northern Ireland** or confirm the status of these applications. These will be crucial to being able to complete the necessary customs procedures.
4. **Closely monitor the impact of Brexit on your cost base.** Prepare to reassess operations which may become unprofitable and quickly revise your pricing models.
5. **Collate a priority checklist of regulatory requirements (including registrations, labelling and markings)** required for shipments of products due to arrive after 31 December 2020. Be aware of the risks of non-compliance and implement changes needed.

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