



# Brexit & Future EU

An Ibec campaign

# Ibec Tracker on EU-UK Future Relationship

22 February 2020

Ibec has developed this tracker to assist business leaders to follow developments on the post-Brexit EU-UK economic and trading relationship. It will be updated as the agreed arrangements are implemented, outstanding issues progressed and arising difficulties are addressed. For information on the Protocol on Ireland / Northern Ireland, please consult our dedicated Tracker.

## Background

Following the UK's departure from the EU on 31 January 2020, the EU and UK engaged in negotiations towards agreeing terms for their economic and trading relationship following the end of the transition period on 31 December 2020.

On 24 December 2020, the EU and UK announced a deal had been reached on the terms of future cooperation from 1 January 2021 following agreement on the most problematic areas of the level playing field for fair competition, fisheries access and quotas, and the overarching governance of the agreement. The EU via President of the European Council, Charles Michel, and the President of the European Commission, Ursula von der Leyen, and the UK via Prime Minister Boris Johnson signed the TCA on 30 December. The agreement has provisionally applied since 1 January 2021 pending the formal approval of the European Parliament.

The EU-UK Trade and Cooperation Agreement (TCA) includes an FTA guaranteeing zero tariffs and zero quotas on all goods that comply with the appropriate rules of origin requirements alongside broad cooperation on economic, social, environmental and fisheries policies.

By joint agreement, the talks were limited in scope, focussed on reaching an FTA which would facilitate trade and reduce potential trade barriers, including achieving zero tariffs and zero quotas on trade in goods as part of a broader treaty on the EU-UK future relationship.

# Background

Specifically, the negotiations included the following eleven areas:

1. Trade in goods
2. Trade in services and investment and other issues
3. Level playing field for open and fair competition
4. Transport
5. Energy and civil nuclear cooperation
6. Fisheries
7. Mobility and social security coordination
8. Law enforcement and judicial cooperation in criminal matters
9. Thematic cooperation
10. Participation in Union programmes
11. Horizontal arrangements and governance

The TCA does not cover any decisions relating to equivalences for financial services, the adequacy of the UK data protection regime, or the assessment of the UK's sanitary and phytosanitary regime for the purpose of listing it as a third country allowed to export food products to the EU. The aforementioned items are subject to unilateral EU decisions and were not part of the negotiations. In addition, foreign policy, security and defence is not covered by the TCA by the UK's decision, including the imposition of sanctions on third country nationals or economies.

# Executive Summary

## **The TCA consists of three main pillars:**

1. A Free Trade Agreement (FTA), including cooperation on economic, social, environmental and fisheries policies;
2. A partnership on citizens' security;
3. An overarching governance framework.

## **The Structure of the FTA is as follows:**

1. Part One: Common and Institutional Provisions
2. Part Two: Trade, Transport, Fisheries and other arrangements
3. Part Three: Law Enforcement and Judicial Cooperation in Criminal Matters
4. Part Four: Thematic Cooperation
5. Part Five: Participation in Union Programmes, Sound Financial Management and Financial Provisions
6. Part Six: Dispute Settlement and Horizontal Provisions
7. Part Seven: Final Provisions
8. Annexes

In this executive summary, the most relevant aspects of the TCA to Irish business are summarised in alignment with the structure of the agreement. For further information on the TCA, please consult the Analysis section, beginning on p.10.

## **Part One: Common and Institutional Provisions**

The opening section of the TCA outlines the general provisions, including on good faith, definitions, and public international law, as well as the institutional framework of the agreement. To govern the TCA, the EU and the UK have agreed to create a joint body, the Partnership Council, which will be jointly chaired by a Member of the European Commission and a representative of the UK at ministerial level. It will meet at least once per year and all decisions will be taken by mutual consent. The Partnership Council will oversee the attainment of the objectives of the TCA and the EU or the UK can refer any issue relating to the implementation, application and interpretation of the TCA to it. In support of its work, the Partnership Council will be assisted by Specialised Committees and technical working groups, each covering a wide array of topics, in a similar, albeit significantly more comprehensive, structure to that which was adopted to govern and implement the Withdrawal Agreement.

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## **Part Two: Trade, Transport, Fisheries and other arrangements**

### **Heading One: Trade**

#### **I. Trade in goods**

The FTA provides for zero tariffs and zero quotas on all goods that comply with the appropriate rules of origin requirements. The agreement includes full bilateral cumulation, but does not include diagonal cumulation which would include inputs sourced from third countries.

In relation to geographical indications, the agreement includes that the EU and the UK may introduce their own rules and that joint provisions could be agreed in future. As per the Withdrawal Agreement, all existing geographical indications remain protected.

## II. Trade in services and investment and other issues

The FTA includes agreement on market access for services, national treatment, local presence, short-term business trips, a most-favoured nation clause, and specific measures for some services such as telecommunications, maritime transport and delivery. These provisions are subject to the exceptions according to differences between EU Member States.

The EU and UK have agreed to establish a framework for regulatory cooperation on financial services via a non-binding declaration and a framework for the mutual recognition of new professional qualifications through the Partnership Council. The agreement also includes specific provisions for some sectors, including telecommunications, audiovisual and legal.

## III. Digital Trade

The TCA includes that the EU and UK are committed to cross-border data flows to facilitate trade in the digital economy, including outlining agreement on actions which cannot be taken such as requiring the localisation of data for storage or processing. The TCA also outlines provisions on personal data, including that these rights should be protected and that either party may change their laws provided this does not affect data transfers.

Furthermore, the TCA enables contracts to be completed by electronic means with a series of exceptions for some services, including broadcasting, gambling and legal, among others. The agreement also includes provision for exchanging information on digital trade.

In order to provide certainty for data transfers in advance of a data adequacy decision, the EU has agreed to a temporary arrangement to facilitate data to continue to be transferred from the EU to the UK for four months (extendable to six months). It is expected that the EU will conclude a data adequacy decision in advance of the end of this period.

## IV. Capital Movements, Payments, Transfers and Temporary Safeguard Measures

The TCA includes that both parties will follow applicable international laws and details specific provisions aimed to enable the free movement of capital and payments between the EU and the UK, subject to consistency with applicable domestic laws (e.g., on bankruptcy). The EU and UK will continue to work on areas of mutual interest via the Trade Specialised Committee on Services, Investment and Digital Trade under the Partnership Council.

## V. Intellectual Property

The agreement outlines that intellectual property rights will continue to be protected as per the international agreements to which both the UK and the EU are party without precluding either party from introducing more extensive protections.

## VI. Public Procurement

The agreement commits both parties to follow the WTO Agreement on Government Procurement and extends rights beyond this for some areas including telecommunications.

## VII. Small and Medium-sized enterprises

The agreement includes a dedicated chapter aimed to assist SMEs to benefit from the provisions of the TCA on trade in goods and services. This includes that both parties will maintain public websites with detailed information to inform SMEs on trade and collaborate to ensure SMEs in either jurisdiction can trade more easily in the other.

## VIII. Energy

The agreement includes that the UK will have access to the EU energy market with added restrictions and that both sides will cooperate in areas of mutual interest. The TCA includes a specific competition tool to handle energy. Nuclear cooperation is addressed via a dedicated agreement. The TCA includes a commitment to reflecting the unique geographical situation on the island of Ireland in terms of energy security.

## IX. Transparency

The TCA includes a dedicated section on transparency with a view to providing mutually predictable regulatory environments as well as efficient procedures for economic operators, especially SMEs. This is based upon the WTO Agreement, but includes additional cooperation.

## X. Good Regulatory Practices and Regulatory Cooperation

The TCA includes a dedicated section on best regulatory practices including public consultation, impact assessments, and retrospective evaluation, as well as confirming the creation of a Trade Specialised Committee on Regulatory Cooperation which, among other items, will encourage international regulatory cooperation.

## XI. Level playing field for open and fair competition and sustainable development

The TCA includes extensive provisions on the level playing field. This includes that neither party may lower labour, social, environmental and climate protections or introduce business subsidies in a manner which would lead to unfair competition. In these areas, the agreement affords both sides the right to impose tariffs where they interpret the other has breached the agreement as part of a dispute settlement scheme.

On competition, the parties agree to a set of common principles. On taxation, the agreement includes that neither party may lower standards below that of the OECD as of 31 December 2020. In these two areas, the agreement does not allow for any form of dispute settlement, akin to other EU FTAs.

In the event where one party considers that the other has breached the agreement or if a measure has been in place for a year, after four years a review of the whole trade pillar of the agreement can take place. If not resolved within one year, it may lead to the suspension of parts of the agreement, including the FTA or aviation.

### Heading Two: Aviation

#### I. Air Transport

On aviation, the agreement means flights between the EU and the UK can continue without restrictions. However, UK-established airlines will not be able to operate services within the EU. The TCA includes mutual recognition of certificates of airworthiness and competency and licences. On air traffic management, the competent authorities will cooperate towards enhancing safety and efficiency.

#### II. Aviation Safety

The TCA includes a high degree of cooperation on aviation safety and the creation of a Specialised Committee on Aviation Safety under the Partnership Council.

### Heading Three: Road Transport

#### I. Goods

On road transport, the agreement allows hauliers to operate between the UK and EU and to transit through the UK and EU territory. However, operators between the UK and the EU will have restrictions e.g. less cabotage rights. The TCA includes additional rights for Northern Irish hauliers to reflect the unique geographical situation on the island of Ireland.

#### II. Passengers

The TCA includes provisions to ensure continued connectivity between, through and within the EU and the UK for passenger transport providers.

### Heading Four: Social Security Coordination and Visas for Short-Term Visits

#### I. Social security coordination

The agreement includes a dedicated Protocol on Social Security Coordination, meaning EU Member States and the UK shall coordinate their social security systems to secure the social security entitlements of the persons concerned.

#### II. Visas for Short-Term Visits

The FTA includes agreement on short-term business trips and to provide reciprocal healthcare access for tourism and business trips.

## **Heading Five: Fisheries**

The agreement includes that UK vessels will have to right to an increased share in UK waters and EU vessels will maintain the agreed level access to UK waters for an adjustment period of five-and-a-half years. As detailed above, both parties will be able to trade in the other market without tariffs or quotas. From 2026, the EU and UK will conduct annual negotiations. Significantly, the UK's market access and the entire TCA is closely tied to the EU's access to UK waters. In the event of the UK limiting EU access to its waters in future, the EU may elect to impose tariffs or limit cooperation elsewhere.

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### **Part Three: Law enforcement and judicial cooperation in criminal matters**

The agreement includes a high level of cooperation between law enforcement and judicial authorities. Specifically, the EU and the UK have agreed to establish a new framework for cooperation on criminal matters, including extradition and data exchanges, including sensitive information that may impact human lives or rights. This includes provisions for exchanging Passenger Name Records and the protection of data shared by EU airline carriers to the UK. In this area, the UK must apply standards equivalent to those of the EU.

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### **Part Four: Thematic cooperation**

**Health security:** The agreement includes that the EU and UK will inform each other of any serious cross-border threat to health affecting the other party and may cooperate more closely, including by granting the UK access to the EU Early Warning and Response System.

**Cybersecurity:** The TCA includes a commitment to regular dialogue and cooperation on mutual issues through EU committees and agencies, and international bodies and forums.

**Security of Information:** In a separate agreement, the EU and the UK agreed to permit the exchange of classified information on a case-by-case basis.

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### **Part Five: Participation in Union programmes**

The UK will participate in some EU funding programmes governed by the newly established Specialised Committee on Participation in Union Programmes, including Horizon Europe. The UK will not participate in the Erasmus+ scheme.

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### **Part Six: Dispute Settlement and Horizontal Provisions**

The agreement includes the EU-sought horizontal governance framework, whereas the UK wanted individual governance agreements by sector. If disputes arise, they will be brought to the newly established EU-UK Joint Partnership Council. If this fails, most disputes will be referred to an independent tribunal. Where they cannot, either party could introduce tariffs or suspend parts of the agreement. Substantial breaches could lead to the suspension of the whole agreement.

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## Next steps

The agreement has provisionally applied since 1 January 2021 pending the formal approval of the European Parliament. The provisional application will cease on 28 February 2021 or another date as decided by the EU-UK Partnership Council. The TCA will formally apply following a consent vote by the European Parliament (date TBC).



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# Analysis

Issue	Description	Outcome
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## 1. Common and Institutional Provisions

### General

On 30 December 2020, the EU and the UK approved the Provisional Application of the EU-UK TCA. This section of the TCA outlines how the parties agree to implement and govern the agreement.

The opening section of the TCA outlines the general provisions, including on good faith, definitions, and public international law, as well as the institutional framework of the agreement.

To govern the TCA, the EU and the UK have agreed to create a joint body, the Partnership Council, which will be jointly chaired by a Member of the European Commission and a representative of the UK at ministerial level. It will meet at least once per year and all decisions will be taken by mutual consent.

The Partnership Council will oversee the attainment of the objectives of the TCA and the EU or the UK can refer any issue relating to the implementation, application and interpretation of the TCA to it. In support of its work, the Partnership Council will be assisted by Specialised Committees and technical working groups, each covering a wide array of topics, in a similar, albeit significantly more comprehensive, structure to that which was adopted to govern and implement the Withdrawal Agreement.

## 2. Trade, Transport, Fisheries and other arrangements

### Heading One: Trade

#### I. Trade in goods

### General

Since 1 January 2021, the UK is no longer part of the EU Customs Union. This means customs formalities required under Union law will apply to all goods from and to Great Britain. For information on trade in goods with Northern Ireland, please consult our dedicated Tracker on the Protocol on Ireland / Northern Ireland.

Irish and EU businesses that import from or export to the UK will need an Economic Operators Registration and Identification (EORI) number. Businesses based in the UK that import into the EU will require an EU EORI number or appoint an EU customs representative where applicable.

### Overview

The FTA provides for zero tariffs and zero quotas on all goods that comply with the appropriate rules of origin requirements. The TCA includes that all customs duties on bilateral imports and exports for goods originating in the other jurisdiction are prohibited on a reciprocal basis. In that respect, a claim for preferential tariff treatment for imports into Ireland can be made only where the goods are of UK origin. Likewise, a claim for preferential tariff treatment for imports into the UK can be made only where the goods are of EU origin.

In addition, the TCA includes that no performance requirements on licensing may be introduced for imports or exports.

Issue	Description	Outcome
	<p>For importing goods from a non-EU country (i.e., Great Britain), businesses have custom controls, may pay VAT, excise and customs, need an import declaration, an import safety and security declaration and may require a licence under prohibition and restriction rules. For exporting, they require an export declaration, have custom controls, and may also require a licence.</p> <p>The EU Excise Movement Control System (EMCS) will no longer be available to economic operators based in Great Britain for movements into the EU (including Ireland). Entry Summary Declarations (ENS) will need to be completed and submitted prior to the good leaving the factory in GB and being allowed on the ferry for goods not staying in Northern Ireland. For movements of excisable products from Northern Ireland to Ireland, existing procedures under EU law will remain in place.</p> <p>These changes apply regardless of the TCA, including the FTA with zero tariffs and zero quotas on goods which comply with rules of origin requirements.</p>	<p><b>Custom formalities</b> As of 1 January 2021, substantial new customs formalities apply for trading with Great Britain. Tariffs and quotas may apply to some goods where they are neither UK origin for imports nor EU origin for exports. Businesses, or an agent acting on their behalf, must have the facility to lodge electronic customs declarations to Revenue. (see the below dedicated section on Rules of Origin for further information).</p> <p>The TCA includes some basic easements such as that the EU and the UK will recognise each other's Authorised Economic Operators programmes and it provides closer cooperation than provided under the WTO Trade Facilitation Agreement (2017) on transit, transparency, risk management, and RORO traffic.</p> <p><b>Goods arriving to GB</b> The goods and the Transit Accompanying Document (TAD) must be presented at an office of transit. The Office of Transit process can be completed digitally from January, using the new Goods Vehicle Movement Service (GVMS). Hauliers are required to submit their Transit Movement Reference Numbers (MRNs) and vehicle/trailer registrations via the GVMS before checking in at the port of departure.</p> <p><b>Automated Import System (AIS)</b> Revenue introduced a new national import system in November 2020 for all imports from outside of the EU. This has applied to Great Britain (GB) from 1 January 2021. This new Automated Import System (AIS) is to ensure compliance with the provisions of the Union Customs Code (UCC). AIS will ensure that businesses can import goods legally from outside the EU using the most efficient process possible. The AIS will operate alongside the system it will replace, the Automated Entry Processing (AEP), until 31 March 2021 to allow customs agents and businesses additional time to complete their transition to the new system.</p> <p><b>Automated Entry Processing (AEP)</b> The Automated Entry Processing (AEP) system handles the validation, processing, duty accounting and clearance of customs declarations. Exports will continue to be processed through the AEP system until 2023. If you export and import goods from and to the EU you must use AEP for your export declarations and only AIS for your import declarations from 1 April 2021.</p>

Issue	Description	Outcome
		<p><b>UK Border controls</b></p> <p>The UK will introduce its new border controls in three stages up until 1 July 2021. UK Safety and Security declarations will not be required on imports for the first six months. Although standard customs declarations will be needed from this date for controlled goods and excise goods like alcohol and tobacco products as well as export declarations and UK Exit Safety and Security declarations for all goods.</p> <p>From January to July 2021, traders moving non-controlled goods can use delayed declarations for up to six months from the point of import. Business must have a Duty Deferment Account for this. Or the trade can use existing customs processes to complete a full customs declaration at point of entry to GB (or use Simplified Customs Declaration Procedures if authorised to do so).</p> <p>From 1 January 2021, there will be physical checks at the point of destination or other approved premises on all high-risk live animals and plants, and a requirement to pre-notify for certain movements, but they will not be required to enter GB via a Border Control Post (BCP).</p> <p><b>EU border controls</b></p> <p>Since 1 January 2021, the EU has introduced and operated full import controls on goods moving from GB to the EU.</p>

## Rules of Origin

As of 1 January 2021, the UK is a 'third country'. The origin of goods traded will have to be indicated from the 1 January 2021 for them to be entitled to EU preferential trade arrangements with an EU FTA partner. After this date, UK inputs, including those from Northern Ireland, (materials or processing operations) are considered as 'non-originating' under a preferential trade arrangement, for the determination of the preferential origin of goods incorporating those inputs.

Therefore, for goods exported from the EU, exporters in the EU-27 may, upon request from a third country with preferential treatment, must prove the EU origin of the goods taking into account that UK inputs no longer account as 'EU content'. For goods imported into the EU, UK inputs incorporated in goods obtained in third countries with which the EU has preferential trade arrangements and imported into the EU as of the withdrawal date will be 'non-originating', in the context of cumulation of origin with the EU.

Goods not qualifying will pay customs duties even if there is a zero-tariff, zero-quota EU-UK trade agreement.

## Overview

The FTA provides for zero tariffs and zero quotas on all goods that comply with the appropriate rules of origin requirements.

### Bilateral cumulation (EU-GB)

The agreement includes full bilateral cumulation meaning that all customs duties on bilateral imports and exports for goods originating in the other jurisdiction are prohibited on a reciprocal basis. In this regard, the primary condition is that goods being exported to Ireland from GB must be of UK preferential origin to avail of the 0% tariff rate to enter the EU and goods being imported to GB from Ireland must be of EU preferential origin to avail of the 0% tariff rate to enter the UK.

In that respect, a claim for preferential tariff treatment for imports into Ireland can be made only where the goods are of UK origin. Likewise, a claim for preferential tariff treatment for imports into the UK can be made only where the goods are of EU origin.

The conditions on bilateral cumulation includes both materials and processing, between the UK and the EU, allowing EU inputs and processing to be counted as UK input in UK products exported to the EU and vice versa. This is particularly significant for manufacturing industries such as the automotive sector in avoiding tariffs.

The Rules of Origin provisions in the TCA mean that goods which pass through GB on the way to Ireland may not enter free circulation on the GB market. In such cases, the goods may be considered to have been placed on the market in GB and will therefore incur a tariff on subsequent import to Ireland. For detailed information on this issue and the available customs procedures to avoid such a scenario, please see our dedicated advice [here](#).

### Diagonal cumulation (third country-GB-EU)

The agreement does not include diagonal cumulation which would include parts sourced from third countries.

In practical terms, products imported from a third country to the UK which do not undergo a substantial transformation such as processing will not qualify for access to the EU tariff-free. In some cases, the requirements are less restrictive for a set period or for limited quantities of goods. Significantly, any goods which are exported from either the EU or a third country to Britain and then subsequently re-exported to the EU will incur tariffs. This principle also applies to goods moving from Britain to the EU and back to Britain. In the case of third country goods, this will incur tariffs on import to Britain and additionally on the subsequent import to Ireland. These provisions are

Issue	Description	Outcome
		<p>designed to avoid Britain becoming a distribution hub for moving goods to the EU.</p> <p>According to the UK Government, the rules are supported by agreement on set and low-cost administrative arrangements for proving origin. The UK Government has announced that businesses which import components from outside the EU will be granted some specific exemptions from elements of rules of origin declarations on arrival in the UK until 1 January 2022. However, businesses will still need to abide by the origin rules under the TCA and may be required to demonstrate compliance with declarations retrospectively.</p> <p>The UK has announced that EU material will be recognised as originating in all their continuity trade agreements, including with Japan and Canada.</p> <p>For details on the precise rules of origin requirements under the TCA please consult the detailed annexes.</p> <p><b>Checklist</b>  Business needs to know where their goods originate, their value for customs purposes, tariff classification and invoicing currency. Business should carry out a Brexit impact assessment to understand where and how their supply chain may be impacted.</p>

## Regulatory cooperation

All products exported from the EU to the GB will have to comply with UK rules and standards and will be subject to any applicable regulatory compliance checks and controls on imports. Likewise, all products imported from GB to the EU will need to comply with EU rules and standards and will be subject to all applicable regulatory compliance checks and controls on imports for safety, health, and other public policy purposes.

Certificates or authorisations issued by UK authorities or by bodies based in the UK will no longer be valid for placing products on the EU market. Such products will require an EU Notified Body.

## Overview

As of 1 January 2021, the EU and GB have separate regulatory and legal regimes. This means that all products traded between the EU and GB must abide by the relevant local rules, standards, regulatory compliance checks and controls. Some imports and exports require a certificate or licence, business should contact the relevant regulatory authority or regulator to put the necessary measures in place.

Within the TCA, the EU and the UK agreed to various items to avoid technical barriers to trade in goods, including: collaboration on a common definition of international standards in key sectors and compatible technical regulations based on these standards, permission of self-declared compliance for low and medium-risk products, cooperation on market surveillance, and specific agreements for some sectors (cars, chemicals, medicines, wine and organics). In order to ensure this, the TCA includes agreement on rules of Regulatory Impact Assessment of planned regulations, including that the other party may participate in public consultations and regular reviews will take place (see X. Good Regulatory Practices and Regulatory Cooperation).

## Great Britain

From 1 January 2021 to 1 January 2022, in Great Britain the CE marking will continue to be recognised where EU and UK requirements remain the same.

From 1 January 2022, Great Britain will no longer recognise the CE mark for most goods and will require producers to have harmonised products tested against the requirements of the new UKCA mark. However, a product bearing the CE marking would still be valid for sale in Great Britain if it also is UKCA marked and complies with the relevant UK rules.

In the TCA, the EU and the UK agree that they will both promote cooperation between their regulators and standardisation bodies to facilitate the development of international standards specifically in relation to energy efficiency and renewable energy. In addition, the UK will remain in international standardisation bodies and aligned with international frameworks in some sectors.

For product regulatory purposes, GB must comply with the associated obligations for third countries. In that respect, GB companies will no longer qualify as EU importers, GB conformity assessment bodies are no longer accredited for EU product conformity assessments, and GB authorised representatives and responsible persons are no longer recognised by the EU.

Furthermore, UK companies will no longer hold EU chemical (REACH) registrations meaning companies will need to comply with UK REACH.

Issue	Description	Outcome
		<p>Under the TCA, the EU and UK will form a Partnership Council which will include Trade a Specialised Committee on Technical Barriers to Trade such as regulation or standards.</p> <p><b>Northern Ireland</b> As per the Protocol on Ireland/Northern Ireland, Northern Ireland will remain aligned to EU rules relating to the placing on the market of manufactured goods. Therefore, the UKCA marking cannot be used on the Northern Ireland market, instead the EU CE marking or UKNI marking are required.</p>
<p><b>Sanitary and phytosanitary (SPS) control</b></p>	<p>SPS control inspections are required at the EU/Third Country borders under EU law on the protection of animal health, plant health and food safety. These controls (referred to as official controls) apply to live animals and animal products, as well as plants and plant products entering the Single Market. They will have to be carried out at ports and airports which are designated as Border Inspection Posts (BIPs) or Designated Points of Entry (DPEs).</p>	<p><b>Overview</b> The TCA confirms that the UK and the EU will have different regulatory regimes on animal health, plant health and food safety. The agreement places a duty on both sides to ensure that SPS border controls are proportionate to the identified risks while the agreement includes an aim to maintain check as a minimum.</p> <p>The deal includes a joint commitment to cooperate on animal welfare, antimicrobial resistance and sustainable food systems, electronic certification, and a mechanism to allowing imports from pest and disease-free areas in the event of outbreaks.</p> <p>If either side has concerns regarding a food safety, plant or animal health or an SPS measure of the other, it can request technical consultations, or request audits and verifications of the inspection and certification system.</p> <p>The TCA includes some measures aimed at limiting SPS import procedures, including that either party may unilaterally decide to reduce the amount of some border import controls, accounting for similarities in SPS rules, and ensuring a simplified process for the approval of imports.</p> <p>Furthermore, lists of approved export establishments will only be required for the products for which was required prior to the end of the transition period. For the products concerned, establishments will be listed based on the guarantees provided by the exporter, without prior inspection of individual establishments by the importer.</p> <p>The agreement does not include the UK's request to establish various equivalence mechanisms aiming to maintain facilitated access to the EU market without remaining aligned with EU rules.</p> <p>The TCA permits the EU and the UK to unilaterally reduce the frequency of certain types of border import controls with conditions.</p>



Issue	Description	Outcome
		<p><b>EU</b></p> <p>The EU has separately granted the UK national listed status, which will facilitate the trade of live animals and products of animal origin and plants to continue. From 1 January 2021, SPS controls have been introduced and GB agri-food exporters must meet all import requirements and be subject to official controls at Border Control Posts. Where required, these controls include the verification of health certificates.</p> <p><b>UK</b></p> <p>EU agri-food exporters must meet all UK SPS import requirements. The UK will implement checks on EU goods entering GB in a phased manner. For full information, please consult the UK Government Border Operating Model. Checks will also be required on goods moving from GB to Northern Ireland under the Protocol on Ireland/Northern Ireland.</p> <p><b>Next steps</b></p> <p>Under the TCA, the EU and the UK will form a new Trade Specialised Committee on Sanitary and Phytosanitary Measures under the Partnership Council to determine if further cooperation and easing of burden could be agreed.</p> <p>This may include agreement on an equivalence mechanism or a reduced level of checks and/or fees like the EU–New Zealand veterinary agreement. However, this would be predicated on greater regulatory alignment.</p>

## II. Trade in services and investment and other issues

<p><b>General</b></p>	<p>As of 1 January 2021, the freedom of establishment and the freedom to provide services, as provided for by the EU treaties, no longer applies to individuals and businesses from the UK operating in the EU or EU individuals and businesses based in the UK.</p> <p>UK service providers and professionals established in the UK will need to demonstrate compliance with any EU and/or EU Member State national rules, procedures and/or authorisations to access the Union market. Likewise, any EU service providers and professionals established in the Union and operating in the UK will have to comply with applicable UK rules.</p>	<p><b>Overview</b></p> <p>The TCA's provisions on services go beyond the baseline of the WTO's General Agreement on Trade in Services and are broadly comparable with the EU-Japan EPA.</p> <p>The TCA includes sectoral coverage for professional and business services, delivery and telecommunication services, computer-related and digital services, financial services, research and development services, most transport services, and environmental services.</p> <p>Additionally, the TCA applies to investment in sectors other than services such as manufacturing, agriculture, forestry, fisheries, energy and other primary industries.</p> <p>There are also some areas where the scope of liberalisation is limited, including public services, some transport services, and audiovisual services.</p>
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Issue	Description	Outcome
		<p>The TCA includes agreement on:</p> <ul style="list-style-type: none"> <li>• market access for the establishment and operation of companies in the other jurisdiction;</li> <li>• national treatment (ensuring equal treatment for EU nationals and companies);</li> <li>• local presence;</li> <li>• short-term business trips with restrictions (90 days in any 180-day month period);</li> <li>• a most-favoured nation clause with exceptions (both sides must offer the other party “best conditions” afforded to any other trading partner); and</li> <li>• specific measures for some services such as telecommunications, maritime transport and delivery.</li> </ul> <p>In general, the TCA includes the prohibition of onerous requirements such as required establishment or residency, and mandatory transfer of technologies or domestic content requirements. However, these provisions, as those listed above, may be subject to the many exceptions included in the agreement for services. Furthermore, there are differences in requirements between EU Member States.</p> <p>The TCA does not affect the EU or UK’s right to regulate in a non-discriminatory manner in order to achieve legitimate policy objectives and does not liberalise public services.</p> <p>In relation to business trips, there are restrictions due to the UK’s stated intention to stop the free movement of EU citizens to the UK. The TCA allows:</p> <ul style="list-style-type: none"> <li>• the transfer of certain employees from companies located in the UK to work in an associated company located in the EU for a maximum of 3 years, and vice-versa;</li> <li>• facilitates the movement of “contractual service suppliers” or “independent professionals” of the EU to supply services in the UK, and vice-versa, on the basis of existing contracts and under certain conditions;</li> <li>• business visitors not supplying services will also be allowed entry and short-term stay (90 days in any 180-day month period) in order to carry out certain activities.</li> </ul> <p>The TCA includes agreement that the requirements and procedures for authorisations, qualifications and licenses must be transparent and based on objective criteria. Additionally, the same rules on authorisations apply to all operators in services and non-services sectors and there must be transparency and streamlined procedures to help businesses active on the other market.</p>

Issue	Description	Outcome
<b>Recognition of professional qualifications</b>	<p>From 1 January 2021, the recognition of qualifications obtained in EU Member States by the UK is a matter of UK law. UK nationals, regardless of where they received their qualifications, and EU citizens with qualifications acquired in the UK will need to have them recognised in the relevant Member State.</p> <p>The Withdrawal Agreement ensures that for EU professionals whose qualifications have been recognised by the UK before the end of the transition period will be able to keep working in the UK and vice versa. Only people who seek the recognition of their qualifications from 2021 will be affected until mutual recognition is agreed in this area.</p>	<p><b>Overview</b></p> <p>The EU and UK have agreed to a framework for the mutual recognition of new professional qualifications through the newly established Partnership Council. However, this will be done on a case-by-case basis and will be limited to specific professions.</p> <p>On legal services, the EU and the UK will allow lawyers to provide legal services relating specifically to the practice of international law (excluding EU law) and the law of the country where they are authorised. The TCA facilitates and supplements the application of the Council of Europe convention on mutual assistance with third countries in criminal matters.</p>
<b>Financial services</b>	<p>From 1 January 2021, UK authorisation to provide financial services across the EU ended. The UK will be subject to the relevant third country rules of the Member State concerned to provide services. Union businesses, banks or investors that currently rely on these services should be aware of this change and act accordingly. EU financial services providers with operations in the UK should also abide by all relevant UK rules.</p> <p>Under the equivalence frameworks foreseen in certain Union legal acts, the EU can permit specific interactions between the EU and UK financial systems. Only a limited number of these equivalences allow third-country firms to provide their services to EU clients.</p>	<p><b>Overview</b></p> <p>The TCA includes that both markets will be open for operators seeking to supply services through establishment from the other jurisdiction. In addition, the agreement includes a mutual commitment to following internationally agreed standards in the financial services sector.</p> <p>The EU and the UK also agreed to preserve their rights to adopt or maintain measures for prudential reasons ('prudential carve-out'), including to preserve financial stability and the integrity of financial markets.</p> <p>The TCA does not include an accompanying EU equivalence decision which would enable harmonised market access for most types of UK financial services. Furthermore, the most-favoured nation clause and its review clause agreed excludes financial services.</p> <p>The EU and UK have agreed to establish a framework for regulatory cooperation on financial services via a non-binding declaration which they aim to agree by March 2021. As part of this regulatory cooperation, there will also be a dialogue on equivalence, but there is no deadline for this discussion.</p>

Issue	Description	Outcome
		<p>However, the TCA does not significantly remove financial services licensing barriers due to the UK's stated intention to preserve regulatory autonomy. In the absence of regulatory and supervisory cooperation, the UK must rely on unilateral EU equivalence decisions.</p> <p><b>EU</b></p> <p>In relation to equivalence decisions, the Commission has confirmed that it will seek clarifications on a range of issues as it continues its assessments before taking further unilateral decisions. These include UK divergence from EU frameworks, use of supervisory discretion regarding EU firms, and the impact of the UK's temporary regimes on EU firms.</p> <p>The EU has persistently confirmed that it will not permit financial passporting. There have been two bridging equivalence arrangements agreed since the summer to help facilitate financial services and stability.</p> <p>The EU is currently implementing the EMIR 2.2 Regulation to enhance the supervision and regulation of non-EU clearing activities that are of systemic importance for the Union. On 21 September, the European Commission adopted a time-limited equivalence decision to the UK to give EU financial institutions 18 months from the end of the transition period to reduce their exposure to UK-based central counterparties (CCPs). Therefore, EU financial institutions will be allowed access to London clearing houses until 30 June 2022.</p> <p>On 25 November, the European Commission extended temporary equivalence to facilitate the continued operation of UK based central securities depositories (CSDs) for European Union entities until 30 June 2021.</p> <p><b>UK</b></p> <p>The UK granted equivalence to the EU in 22 areas and published principles for its equivalence framework in November 2020. Furthermore, the UK introduced some temporary solutions following the end of the transition period, including temporary permissions regimes and contractual continuity measures. to allow firms to continue operating.</p> <p>In addition, the UK authorities have agreed memoranda of understanding with their EU and Member State counterparts to enable continued cooperation and exchange of information.</p>

Issue	Description	Outcome
<b>Audiovisual services</b>	<p>From 1 January 2021, the applicable EU legislation, including the AVMS Directive, the revised AVMSD, no longer apply, meaning the country-of-origin principle in turn no longer applies.</p> <p>The European Convention on Transfrontier Television Framework is unaffected by the UK's departure from the EU.</p>	<p><b>Overview</b></p> <p>The TCA expressly excludes audiovisual services.</p> <p>The European Convention on Transfrontier Television Framework by the UK's departure from the EU, meaning the 20 EU Member States party to the agreement must allow freedom of reception to services under UK jurisdiction. However, this will be subject to differences in local implementation.</p> <p>This does not apply to video-on-demand services, the providers of which must comply with AVMSD jurisdiction rules. Additionally, UK broadcasters will no longer benefit from the country-of-origin principle under the Satellite and Cable Directive for the licensing of copyright material in cross-border satellite broadcasts.</p>
<b>Telecommunications services</b>	<p>As of 1 January 2021, the relevant EU regulation has been converted into the UK acquis. Under the terms of the TCA, the UK may elect to diverge on regulation subject to commitments under the WTO's General Agreement on Trade in Services</p>	<p><b>Overview</b></p> <p>The cross-border provision of services may continue under the WTO's General Agreement on Trade in Services which includes a commitment by all parties to liberalise telecommunications markets, in accordance with common regulatory principles. However, while the TCA prohibits formal requirements for pre-authorisation, it clarifies that authorisation will be subject to local rules in each EU Member State, where some require local presence.</p> <p>From 1 January 2021, UK consumers may no longer rely on the EU Roaming Regulation meaning surcharge-free roaming is not guaranteed legally. However, several UK mobile operators have confirmed an intention not to change their pricing. In support, the TCA includes that the EU and UK will cooperate on roaming rates.</p> <p>The TCA includes a commitment by the UK and EU to respect net neutrality.</p>
<b>Legal services</b>	<p>The TCA includes additional coverage as compared to most EU FTAs. However, UK lawyers will be subject to local requirements in EU Member States who may restrict or ban UK lawyers from advising on domestic law. This could include limitations on advising on UK law in the EU.</p>	<p><b>Overview</b></p> <p>On legal services, the EU and the UK will allow lawyers to provide legal services relating specifically to the practice of international law (excluding EU law) and the law of the country where they are authorised. The TCA facilitates and supplements the application of the Council of Europe convention on mutual assistance with third countries in criminal matters.</p> <p>As of 1 January 2021, EU and UK lawyers will be able to provide advice to clients on their jurisdiction's law and international in the other jurisdiction when located in the other jurisdiction using their local title without a requirement to requalify.</p> <p>However, under the TCA this does not extend to allow UK lawyers to advise on EU law or practice before EU bodies.</p>

Issue	Description	Outcome
III. Digital Trade		
<p><b>General</b></p>	<p>As of 1 January 2021, the EU acquis no longer applies to the UK, including the GDPR. However, these laws have been converted into the UK's domestic acquis via the Data Protection Act 2018.</p>	<p><b>Overview</b></p> <p>The TCA includes that the EU and UK are committed to cross-border data flows to facilitate trade in the digital economy, including outlining agreement on actions which cannot be taken such as requiring the localisation of data for storage or processing or a requirement for the disclosure of source code. The TCA also outlines provisions on personal data, including that these rights should be protected and that either party may change their laws provided this does not affect data transfers.</p> <p>Furthermore, the TCA enables contracts to be completed by electronic means with a series of exceptions for some services, including broadcasting, gambling and legal, among others. The agreement also includes provision for exchanging information on digital trade.</p> <p>In Section 7 on Provisions of the TCA, in order to provide certainty for data transfers in advance of a data adequacy decision, the EU has agreed to a temporary arrangement to facilitate data to continue to be transferred from the EU to the UK for four months (extendable to six months). The UK has conferred data adequacy on EU Member States until the end of 2024.</p> <p>It is expected that the EU will conclude a data adequacy decision in advance of the end of this period. In this regard, the EU and the UK issued a joint declaration alongside the deal which confirms the EU will undertake an adequacy assessment, both sides are committed to facilitating cross-border data flows and confirming that the TCA prohibits either side requiring that data be stored or processed in their territory.</p> <p>The European Commission is continuing to advance a prospective data adequacy decision pending receipt of further information from the UK. Once it is satisfied with the information received, the Commission will launch the adoption process, requesting an opinion from the European Data Protection Board and then seeking the approval of the Council.</p> <p>The TCA includes a commitment to uphold high levels of data protection standards, including that where personal data are transferred, the transferring Party shall respect its rules on international transfers of personal data. Some parts of the deal, including on security cooperation, customs cooperation and fishing have dedicated provisions on data sharing.</p>

Issue	Description	Outcome
IV. Capital Movements, Payments, Transfers and Temporary Safeguard Measures		
<p><b>General</b></p>	<p>The TCA includes that both parties will follow applicable international laws and details specific provisions aimed to enable the free movement of capital and payments between the EU and the UK, subject to consistency with applicable domestic laws (e.g., on bankruptcy). The EU and UK will continue to work on areas of mutual interest via the Trade Specialised Committee on Services, Investment and Digital Trade under the Partnership Council.</p>	<p><b>Overview</b></p> <p>The TCA includes that both parties will follow applicable international laws and details specific provisions aimed to enable the free movement of capital and payments between the EU and the UK, subject to consistency with applicable domestic laws (e.g., on bankruptcy). The EU and UK will continue to work on areas of mutual interest via the Trade Specialised Committee on Services, Investment and Digital Trade under the Partnership Council.</p>
V. Intellectual Property		
<p><b>General</b></p>	<p>From 1 January 2021, the agreement outlines that intellectual property rights will continue to be protected as per the international agreements to which both the UK and the EU are party.</p> <p>Since 1 January EU law on geographical indications has no longer applied in the UK. The WA provides for continued protection in the UK of the stock of the geographical indications registered in the EU at the end of the transition period. Under the terms of the WA, registration in the UK of the stock of EU geographical indications will be free of charge.</p>	<p><b>Overview</b></p> <p>The TCA includes that the UK and EU can determine which intellectual property rights are exhausted and cooperation on enforcement.</p> <p>On <b>trademarks</b>, UK-registered European Trade Marks have been moved to the UK equivalent, whereas the remaining trademarks still cover the EU-27. For pending applications, the applicant must liaise with the UK body within nine months. In addition, any oppositions and invalidity actions made to the European Intellectual Property Office based solely on former UK national rights automatically fell on 31 December 2020. The TCA includes protections for well-known trademarks and prevention of bad faith applications.</p> <p>In relation to <b>patents</b>, the TCA does not affect existing laws in the UK and under the European Patent Convention.</p>

Issue	Description	Outcome
		<p>On <b>copyright</b>, the TCA commits the EU and the UK to remain signatories to the relevant international agreements, meaning protections of rights and a commitment to cooperate and be transparent in the collective management of rights.</p> <p>In relation to <b>geographical indications</b>, the agreement includes that the EU and the UK may introduce their own rules and that joint provisions could be agreed in future. As per the Withdrawal Agreement, all existing geographical indications remain protected and the TCA includes that this list can be extend in the future to cover new GIs.</p> <p>From 1 January 2021, the registration by the EU of geographical indications relating to products originating in the UK must comply with the conditions that apply for geographical indications from third countries. Applications for registration of names, which were pending with the EU at the end of the transition period, will no longer cover the United Kingdom, once registered.</p>

## VI. Public procurement

### General

The agreement commits both parties to follow the WTO Agreement on Government Procurement and extends rights beyond this for some areas including telecommunications.

### Overview

The TCA includes agreement on common rules for transparent and non-discriminatory procurement on the basis WTO Agreement on Government Procurement (GPA).

It also includes an agreement on non-discrimination for EU companies established in the UK and vice-versa. Additionally, the TCA includes elementary rules on competitive tendering and requirements for impartial administrative authorities.

The TCA extends the right of some sectors beyond this including hospitality, telecoms, real estate, and education, among others. This includes allowing bids from companies in either territory and ensures non-discrimination as compared to domestic bidders.

## VII. Small and Medium-sized enterprises

### General

The TCA seeks to maintain favourable cross-border trade conditions for SMEs in relevant areas. It includes specific provisions on facilitating SMEs' access to the framework created by the future economic partnership, namely via online platforms and dedicated bilateral cooperation.

### Overview

The agreement includes a dedicated chapter aimed to assist SMEs to benefit from the provisions of the TCA on trade in goods and services.

This includes that both parties will maintain public websites with detailed information to inform SMEs on trade and collaborate to ensure SMEs in either jurisdiction can trade more easily in the other.



Issue	Description	Outcome
		<p>This covers customs procedures, intellectual property rights, and public procurement, and commits the EU and the UK to providing a searchable online database, on measures such as customs duties, taxes and rules of origin.</p>
<p>VIII. Energy</p>		
<p><b>General</b></p>	<p>As of 1 January 2021, the UK is no longer part of the EU internal energy market. However, Northern Ireland will maintain the Single Electricity Market with Ireland. For information on the Protocol on Ireland / Northern Ireland, please consult our dedicated Tracker.</p> <p>The UK has left the EU's Emissions Trading Scheme and the European Atomic Energy Community (Euratom).</p>	<p><b>Overview</b></p> <p>Accounting for the level of integration of the EU and UK energy markets, the TCA includes agreement to establish a new framework for future cooperation to ensure the efficiency of cross-border trading.</p> <p>The UK will have access to the EU energy market with added restrictions and both sides will continue to cooperate in areas of mutual interest, including on climate change and offshore energy.</p> <p>The TCA includes provisions guaranteeing non-discriminatory access to energy transport infrastructure and as well as predictable and efficient use of electricity and gas interconnectors, which they must agree by 2022. The TCA also foresees the possibility to agree separate arrangements for trade over interconnectors.</p> <p>It includes a new framework for cooperation between EU and UK Transmission System Operators and energy regulators. Furthermore, the parties have agreed to ensuring the security of supply in Ireland, noting Ireland will remain isolated from the EU internal energy market until new interconnections become operational.</p> <p>This agreement is underpinned by some specific measures to ensure fair competition including agreed principles and provisions to regulate subsidies and to promote renewable sources in a non-discriminatory manner. The TCA contains clauses to prohibit export restrictions and dual pricing, and to set out provisions on authorisations for exploration and production.</p> <p>Nuclear cooperation is addressed via a dedicated agreement between Euratom and the UK including cooperation on nuclear safety and nuclear energy, a commitment to comply with international non-proliferation obligations and non-regression of current nuclear safety standards.</p>

Issue	Description	Outcome
IX. Transparency		
<b>General</b>	The TCA includes a dedicated section on transparency with a view to ensuring a predictable regulatory environment.	<p><b>Overview</b></p> <p>The TCA includes a dedicated section on transparency with a view to providing mutually predictable regulatory environments as well as efficient procedures for economic operators, especially SMEs.</p> <p>This is based upon the WTO Agreement, but includes additional cooperation such as a requirement to publish measures electronically, clarify contact points for enquiries, to administer measures objectively, and to review and appeal administrative decisions in trade matters.</p>
X. Good Regulatory Practices and Regulatory Cooperation		
<b>General</b>	The TCA includes a dedicated section on good regulatory practices and regulatory cooperation to promote best practices and to provide a horizontal structure for cooperation.	<p><b>Overview</b></p> <p>The TCA includes a dedicated section on best regulatory practices including public consultation, impact assessments, and retrospective evaluation, as well as confirming the creation of a Trade Specialised Committee on Regulatory Cooperation which, among other items, will encourage international regulatory cooperation.</p>
XI. Level playing field for open and fair competition and sustainable development		
<b>General</b>	<p>The EU and the UK have agreed to a series of commitments to ensure a level playing field for open and fair competition and to contribute to sustainable development following the UK's departure from the EU.</p> <p>The agreement in this area is wide-ranging due to the need to prevent distortions of unfair competition in response to the scale of the economic partnership agreed, which provides zero tariffs and zero quotas for bilateral trade in all goods, market access and rules on services and investment.</p>	<p><b>Overview</b></p> <p>The TCA includes a detailed agreement on horizontal measures aimed to ensure a level playing field for open and fair competition between the EU and the UK, including rules on non-regression and enforcement.</p> <p>The TCA includes a “strong prohibition” that neither party may lower labour, social, environmental and climate <b>standards</b> in a manner which would lead to unfair competition. The non-regression obligations include future targets which were in law prior to the end of the transition period. To complement, the TCA includes agreement on commitment to the precautionary, polluter pays, and integration principles; and to implement a carbon pricing system.</p> <p>For these standards, there is a commitment to domestic enforcement and a dedicated dispute settlement mechanism via a bespoke Panel of Experts procedure whereby of there is significant divergence, the affected party can introduce “rebalancing measures” within 30 days but can be subject to counter measures pending a ruling.</p>

On **state subsidies**, there are binding rules included which aim to will prevent distortions created by subsidies, anti-competitive practices, or discriminatory and abusive behaviour by state-owned enterprises. The TCA includes specific assessment principles for key sectors such as transport and energy, and for types of subsidies including for rescue and restructuring.

Suspected breaches can be challenged and verified by courts in either the EU or the UK which have the power to order recovery. As well as a dispute settlement system, the EU and the UK have the right to take unilateral remedial measures including the introduction of tariffs and quotas on products where a subsidy has a serious negative effect on trade or investment.

In these areas, the agreement affords both sides the right to **impose tariffs** where they interpret the other has breached the agreement as part of a dispute settlement scheme.

On **competition**, the parties agree to a set of common principles, a commitment to enforce competition law and to have independent competition authorities and that competition authorities on either side may enter into a separate agreement in order to cooperate effectively on cases based on the same or similar transactions. Significantly, on this issue the commitments are not subject to dispute resolution as compared to state subsidies and standards.

On **taxation**, the agreement includes an “absolute prohibition” that neither party may lower standards below that of the OECD as of 31 December 2020 via a dedicated non-regression clause. In these two areas, the agreement does not allow for any form of dispute settlement, akin to other EU FTAs. Furthermore, the EU and the UK published a joint political declaration which sets out the EU and UK’s shared view for tax policy, including on transparency, countering tax avoidance and on harmful tax regimes and practices, on which they will hold an annual dialogue on the application of these principles.

In relation to **energy**, some specific measures apply including agreed principles and provisions to regulate subsidies and to promote renewable sources in a non-discriminatory manner. The TCA contains clauses to prohibit export restrictions and dual pricing, and to set out provisions on authorisations for exploration and production.

Regarding **aviation**, the TCA also includes specific provisions including on business issues such ground handling and slots, to protect passenger rights, and to ensure that neither the EU nor the UK can prohibit the taxation of fuel supplied to aircraft on a discriminatory basis.

In the event where one party considers that the other has breached the agreement too much or if a

Issue	Description	Outcome
		<p>measure has been in place for a year, after four years a <b>review</b> of the whole trade pillar of the agreement can take place. If not resolved within one year, it may lead to the suspension of parts of the agreement, including the FTA or aviation.</p> <p>Additionally, the TCA includes a wide-ranging set of commitments to ensure that trade supports sustainable development.</p>

## Heading Two: Aviation

### Air Transport and Safety

As of 1 January 2021, the UK will no longer be part of the EU Single Market. Therefore, all transport businesses conducting operations between the EU and the UK will have to ensure compliance with EU and UK certification requirements.

The UK has left the EU Single Aviation Market and will no longer be a member of the European Union Aviation Safety Agency.

### Overview

On **aviation**, the agreement sets out new terms and conditions for market access, as well as arrangements for cooperation on aviation **safety**, security, and air traffic management. This means flights between the EU and the UK can continue without restrictions. However, UK-established airlines will not be able to operate services within the EU but will be limited to (so-called 3<sup>rd</sup> and 4<sup>th</sup> freedoms). However, the TCA permits EU Member States to bilaterally exchange for extra-EU all-cargo operations (so-called 5<sup>th</sup> freedom).

From 1 January 2021, UK air carriers must hold a valid UK licence, have their principal place of business in the UK and be majority UK-owned and controlled. However, UK carriers that were majority UK-/EEA- and/or Swiss-owned and controlled at the end of the transition period may continue to operate.

EU air passenger rights will continue to apply to UK-EU flights by an EU airline, or to EU-UK flights operated by an EU or a UK airline. They will not apply to UK-operated UK-EU flights. The TCA includes measures to ensure rights are upheld.

## Heading Three: Road Transport

### Goods and passengers

As of 1 January 2021, the UK will no longer be part of the EU Single Market. Therefore, all transport businesses conducting operations between the EU and the UK will have to ensure compliance with EU and UK certification requirements.

The UK has also departed the EU Single Road Haulage Market. Therefore, UK haulage operators will have limited access rights as compared to Member States' operators.

On **road transport**, the agreement allows hauliers to operate between the UK and EU and to transit through the UK and EU territory. However, operators between the UK and the EU will have restrictions such as less cabotage rights. The TCA provides for quota-free point-to-point access for operators between the EU and the UK. The same rights are conferred to EU hauliers travelling from the EU to the UK, and back from the UK to the EU. However, UK companies will not be able to perform transport services within the EU beyond two additional operations once they have crossed the border. This will also limit EU companies in the UK.

Issue	Description	Outcome
		<p>Accounting for the unique geographical situation on the island of Ireland, the TCA includes special provisions to allow Northern Irish hauliers to perform two cabotage operations in Ireland.</p> <p>The TCA provides additional market access rights for <b>passenger</b> transport operators, above the baseline of the multilateral Interbus Agreement, including that operators will be able to continue running occasional services to, from and through each other's territories. The TCA also provides a temporary bridging arrangement for regular and special regular services to continue in anticipation that the Interbus Agreement will be updated.</p> <p>Services on the island of Ireland will also be able to pick up and set down passengers in both Ireland and Northern Ireland, enabling cross-border services to continue without restriction.</p> <p>On maritime transport, the agreement includes the principle of unrestricted access to international markets such as access to ports and port services such as pilotage and containers repositioning.</p>

## Heading Four: Social Security Coordination and Visas for Short-Term Visits

<p><b>Social Security Coordination</b></p>	<p>The UK will no longer participate in the free movement of persons to and from the EU.<sup>1</sup> UK citizens will be subject to the local immigration rules in each EU and EEA state.</p>	<p><b>Overview</b></p> <p>The FTA includes that the social security position of certain important benefits is protected. The Protocol on Social Security Coordination provides for continuing access to healthcare during short term visits between the UK and the EU, and reciprocal healthcare arrangements for state pensioners and certain categories of cross-border workers. The Protocol allows for the continuation of the existing coordination rules for calculating state pension entitlements for people who spend periods living and working in the UK and EU.</p> <p>The Protocol on Ireland/Northern Ireland protects the Common Travel Area ensuring that the rights of British citizens in Ireland and Irish citizens in the UK are unaffected by Brexit. For information on the Protocol on Ireland / Northern Ireland, please consult our dedicated Tracker.</p>
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<sup>1</sup> This is without prejudice to the Withdrawal Agreement on the rights of citizens already residing in either jurisdiction.

Issue	Description	Outcome
<b>Visas for Short-Term Visits</b>	<p>The UK will no longer participate in the free movement of persons to and from the EU.<sup>2</sup> UK citizens will be subject to the local immigration rules in each EU and EEA state.</p> <p>In terms of <b>tourism</b>, UK nationals travelling to the EU will be third-country nationals, and therefore subject to entry conditions, checks at borders and a limit of no more than 90 days in any 180-day period without requirement for a visa.<sup>3</sup> EEA nationals will be to visit the UK for a maximum period of six months.</p> <p>The UK government has introduced a new <b>immigration</b> policy as of 1 January 2021, treating EU migrants equally to those from the rest of the world. EEA nationals who entered the UK before 31 December 2020, will remain protected by the EU Settlement Scheme, under the Withdrawal Agreement, which is open for applications until 30 June 2021.</p>	<p>The TCA includes agreement that the UK will treat the EU as a bloc for short-term visit visas, providing equal rights for citizens of the EU, with the exception of Irish citizens whose rights are unaffected under the Protocol on Ireland / Northern which protects the Common Travel Area. Equally, British citizens' rights in Ireland will be unaffected and they will have equal rights to access each other EU Member State. These provisions will not automatically apply to any future EU Member States.</p> <p>At present the UK allows for visa-free travel for short-term visits in respect of nationals of all EU Member States. However, the UK may determine to change this in future.</p>

## Heading Five: Fisheries

### General

As of 1 January 2021, the UK has left the EU Common Fisheries Policy. Following protracted negotiations, the EU and the UK have found an agreement between the EU's wish for a sustainable and long-term solution in the interest of its Member States and the UK red line to control its own waters.

### Overview

The agreement includes that UK vessels will have to right to an increased share in UK waters and EU vessels will maintain the agreed level access to UK waters for an adjustment period of five-and-a-half years.

As detailed elsewhere, both parties will be able to trade in the other market without tariffs or quotas, including fisheries. However, the TCA ensures that the UK's market access is closely tied to the EU's access to UK waters. From 2026, the EU and UK will conduct annual negotiations.

In detail, the UK's share of fishing quotas will increase by 25% of the value of the EU catch in UK waters. The EU quotas in UK waters will be gradually reduced.

<sup>2</sup> This is without prejudice to the Withdrawal Agreement on the rights of citizens already residing in either jurisdiction.

Issue	Description	Outcome
		<p>The annual fisheries negotiations will concern the Total Allowable Catch for shared stocks and access to each other's waters. If an agreement is not reached, both sides will set a provisional Total Allowable Catch and during the provisional application of this the UK and the EU will grant the other access for three months.</p> <p>As well as in the case of breaches of the level playing field, fisheries has dedicated arrangements for dispute resolution including the swift suspension of obligations by the other party in case of breaches of commitments. The TCA includes arrangements for compensation if either party elects to limit access including limiting access and ending the preferential tariffs on fishery products.</p> <p>The EU or UK could also end preferential tariffs on other goods or suspend parts of the broader agreement. As per the general governance mechanism, an arbitration process will follow sanctions.</p> <p>Either party may terminate the agreement with nine months' notice with existing obligations continuing until the end of the year. If enacted, this would automatically terminate the trade, aviation, and road transport sections of the agreement.</p> <p>Under the Partnership Council, a Specialised Committee on Fisheries will be established.</p> <p><b>UK rules</b></p> <p>From July 2021, fishery products will be subject to import controls in line with those applying to animal products. These include the requirement for an Export Health Certificate, import prenotifications and entry via an established point of entry with an appropriate Border Control Post. Different rules apply for direct landings.</p> <p>EU-registered fishing vessels intending to land their catch directly into GB must land into an appropriately designated port in line with IUU fishing rules and the North East Atlantic Fisheries Commission convention.</p>

### 3. Law enforcement and judicial cooperation in criminal matters

The UK and the EU have committed to continuing cooperation between law enforcement and judicial authorities. Additionally, they have agreed to address cooperation on external security and defence following the conclusion of the present negotiations.

#### Overview

The UK and the EU have committed to continuing cooperation between law enforcement and judicial authorities via a new framework. On 24 December, the Commission press release explained that it "builds new operational capabilities, taking account of the fact that the UK, as a non-EU member outside of the Schengen area, will not have the same facilities as before".

Issue	Description	Outcome
		<p>There will be an exchange of Passenger Name Record (PNR) data, sharing of DNA and fingerprint data through Prüm, exchange of information relevant to policing operations, a framework for co-operation with Europol and Eurojust, including data-sharing, a new surrender agreement, mutual legal assistance and obligations to combat money laundering and terrorist financing.</p> <p>The TCA includes that security cooperation can be suspended in case of violations by the UK of its commitment to continued adherence to the European Convention of Human Rights and its domestic enforcement.</p>

## 4. Thematic Cooperation

Under thematic cooperation, the EU and the UK negotiated cooperation agreements in additional areas of shared interest. This includes on the exchange of information and partnership on cyber security and irregular migration, including via Europol, and in addition to cooperation envisaged under law enforcement and judicial cooperation in criminal matters. As per the Political Declaration, also encompassing civil protection and health security.

### Overview

On **health security**, they will inform each other of any serious cross-border threat to health affecting the other party. The EU can grant the UK access to its Early Warning and Response System and invite the UK to participate in an EU committee to support the exchange of information and coordinate on the health risk. Both permissions can only be on a temporary basis.

On **cybersecurity**, they endeavour to have regular dialogue and cooperate on mutual issues through EU committees and agencies, and international bodies and forums.

In a separate text the EU and the UK have concluded a Security of Information Agreement. This will allow the EU and the UK to exchange classified information on a case-by-case basis.

## 5. Participation in Union programmes

As of 1 January 2021, the UK no longer has the right to participate in any EU programmes.

However, where it is in the interest of the EU, non-EU countries can participate under clearly defined conditions set under the MFF 2021-27 and each programme's own rules.

### Overview

The UK will continue to participate in some EU programmes for the period 2021-2027. These include Horizon Europe (the EU's research and innovation programme), Euratom Research and Training programme, the International Thermonuclear Experimental Reactor and Copernicus. The UK will make a financial contribution to the EU budget for this access.

Both parties have separately jointly committed to continue with PEACE+, the EU's cross-border programme for Northern Ireland and the Border Region of Ireland. This is not included in the deal.



Issue	Description	Outcome
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## 6. Dispute Settlement and Horizontal Provisions

The agreement includes the EU-sought horizontal governance framework which governs all aspects of the agreement including a dispute settlement mechanism. The UK has iterated a preference for separate agreements, governed individually rather than through an overarching framework.

The EU contended that this overarching mechanism was required as the TCA includes not only an FTA, but also provisions on a range of other subjects including transport, energy, fisheries, law enforcement and judicial cooperation, health security, cyber-security and social security.

As requested by the UK, the Court of Justice of the European Union does not have a role in the overall governance of the agreement.

### Overview

The agreement includes the EU-sought horizontal governance framework, whereas the UK wanted individual governance agreements by sector.

To govern the TCA, the EU and the UK have agreed to create a joint body, the Partnership Council which will be co-chaired by a Member of the European Commission and a representative of the UK at ministerial level. It will meet at least once per year and all decisions will be taken by mutual consent. The Partnership Council will oversee the attainment of the objectives of the TCA and the EU or the UK can refer any issue relating to the implementation, application and interpretation of the TCA to it. In support of its work, the Partnership Council will be assisted by Specialised Committees and technical working groups in a similar structure to that which was adopted to govern and implement the Withdrawal Agreement.

Furthermore, the TCA enables the European Parliament and the UK Parliament to create a joint parliamentary assembly to exchange views and make recommendations to the Partnership Council.

The TCA includes a **horizontal dispute settlement mechanism** to resolve disputes that may arise between the EU and the UK on the interpretation or implementation of their commitments. This mechanism covers arising economic disputes arising, including trade and level playing field commitments, social security coordination, energy, transport, and fisheries. This mechanism does not address law enforcement and judicial cooperation which has a dedicated mechanism.

If disputes arise, the EU and the UK have committed to consult each other in good faith, either informally or via the newly established Partnership Council. If this fails, most disputes will be referred to an independent arbitration tribunal consisting of a panel of six, with each selecting three members. The tribunal will then deliver a binding ruling within a set timeframe.

Issue	Description	Outcome
		<p>If a party does not comply with the ruling or the matter was not referred to arbitration, either party could introduce tariffs or suspend parts of the agreement in a proportionate manner and substantial breaches could lead to the suspension of the whole agreement. This includes the suspension of obligations across all economic areas or “cross-suspension” whereby tariffs could be imposed on goods if a party breaches its obligations on fisheries. The use of cross-suspension mechanisms can be challenged before an arbitration tribunal.</p> <p>Furthermore, some areas of cooperation also have dedicated arrangements, including the swift suspension of obligations by the other party in case of breaches of level playing field or fisheries commitments.</p>

## 7. Final Provisions

The section of the TCA details the provisions which apply to the agreement such as the entry into force, review and termination clauses, data adequacy and the territorial scope.

The agreement has **provisionally applied** since 1 January 2021 pending the formal approval of the European Parliament. The provisional application will cease on 28 February 2021 or another date as decided by the EU-UK Partnership Council. In advance, the European Parliament will hold a consent vote on the TCA.

The TCA will be **reviewed** every five years and permits expansion should a new Member State join the EU.

The TCA may be **terminated** as a whole unilaterally with 12 months’ notice.

In this section of the TCA, in order to provide certainty for data transfers in advance of a **data adequacy** decision, the EU has agreed to a temporary arrangement to facilitate data to continue to be transferred from the EU to the UK for four months (extendable to six months). The UK separately has conferred data adequacy on EU Member States until the end of 2024 (see the section on Digital Trade for more information).

This section details the territorial scope of the TCA, including that it applies to the UK and, in some respects, to the UK’s Crown Dependencies. The TCA does not apply to the overseas countries and territories of the EU and nor does it apply to the UK’s Overseas Territories. In relation to Gibraltar, the UK, Spain and Gibraltar will continue to negotiate arrangements.



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