



## BRIEFING PAPER

Number 7840, 17 December 2019

# Brexit Glossary

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# 1. Summary

This House of Commons Library briefing contains a list of commonly-used words, terms and acronyms that have needed clarification since the United Kingdom voted in the June 2016 referendum to leave the European Union.

It is not a comprehensive list but will be expanded and updated periodically.

## 2. A-Z of terms

### **Acquis Communautaire**

The Acquis Communautaire is the whole body of EU rights and obligations. It comprises the content, principles and political objectives of the EU Treaties, EU legislation and the case law of the Court of Justice of the EU, declarations and resolutions adopted by the EU, instruments under the Common Foreign and Security Policy, international agreements concluded by the EU and those entered into by the Member States among themselves in areas of EU activity.

### **Agreement on Government Procurement (GPA)**

The Agreement on Government Procurement (GPA) is an agreement between the EU and 18 countries to open up their public procurement markets to each other, under the WTO. The GPA focusses on larger procurements, above certain thresholds. It covers procurement of goods, services and construction services, by both central government and other public sector bodies. The coverage can vary by country, often depending on what procurement that country has itself committed to open up – so exact coverage can differ across pairs of countries. The UK is currently a party to the GPA through its EU membership.

On 27 February 2019, the Government [announced](#) that the WTO had confirmed that the UK will join the GPA as an independent member if the UK leaves the EU without an agreement. Alternatively, the UK will remain a member under EU schedules should a UK-EU withdrawal agreement be approved and there is a transition period.

### **Alternative arrangements**

Alternative arrangements are solutions, primarily technical, that might allow the border between Ireland and Northern Ireland to remain 'open' i.e. frictionless and without infrastructure and checks at the border.

These arrangements would be an alternative to the 'backstop' (see entry), which would see the UK as a whole entering a temporary customs union, and Northern Ireland aligning to single market regulations for goods, and in other areas such as energy.

The December 2017 Joint Report (see entry) and the UK/EU Withdrawal Agreement both provide for the UK to come up with "specific solutions", as an alternative to solving the border problem through the future relationship agreement/s that will be negotiated when the UK leaves the EU. These are more often called alternative arrangements.

The Political Declaration (see entry) also states that during negotiations on the future relationship "facilitative arrangements and technologies will also be considered in developing any alternative arrangements for ensuring the absence of a hard border on the island of Ireland on a permanent footing".

Many trade experts are sceptical about the extent to which technology is the 'answer' to the border problem. The Northern Ireland Affairs Select Committee concluded in March 2018 in [a report on the](#)

[Ireland/Norther Ireland border](#), that: “we have had no visibility of any technical solutions, anywhere in the world, beyond the aspirational, that would remove the need for physical infrastructure at the border.”

However, a [later report](#) from the Committee, published in March 2019, struck a more optimistic note. Some, but not all of the trade experts gave evidence that suggested that a ‘maximum facilitation approach’ could help ‘solve’ the border problem. This solution would consist of sharing “highly integrated digital systems”, “special solutions for agricultural goods” and “highly sophisticated risk-based enforcement measures away from the border”, and it could be “designed, trialled and piloted within the 21-month implementation period”. The majority, but not all of the Committee members signed up to these conclusions.<sup>1</sup>

Such a solution would require the agreement and cooperation of the European Union, who remain of the view that while technology can play a role in keeping the border frictionless, it cannot deal adequately with non-tariff barriers to trade and problems of regulation, and that in the meantime only sustained regulatory alignment between Northern Ireland and Ireland will keep the border as it is today.

## Article 50 TEU

Article 50 of the [Treaty on European Union](#) (TEU) was inserted into the European Union (EU) Treaty by the Lisbon Treaty in 2009. It allows a Member State to leave the EU and sets out a procedure for doing so.

Article 50 provides that the EU and the withdrawing state shall negotiate an agreement setting out arrangements for its withdrawal. The withdrawing Member State will cease to be a member of the EU when the withdrawal agreement comes into force or (if there is no agreement), two years after notifying the EU of its intention to leave, unless the European Council (EU heads of state or government) agrees unanimously to extend the Article 50 period.

The UK issued a notification to leave the EU under Article 50 on 29 March 2017, making 29 March 2019 the default date of withdrawal. The European Council has subsequently agreed two extensions to the notice period. The Article 50 extension agreed by the European Council meeting on 10 April, extends the Article 50 period until 31 October 2019. The UK has the option of leaving earlier if it ratifies the Withdrawal Agreement agreed with the EU in November 2018. See also entry for Flexension.

For further discussion of Article 50, see Commons Briefing Paper 7551, [Brexit: how does the Article 50 process work?](#)

For further discussion of the two Article 50 extensions see Commons Briefing Paper 8496, [Extending Article 50: could Brexit be delayed?](#); and Commons Briefing Paper 8549 [Brexit delayed again: until 31 October 2019?](#)

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<sup>1</sup> The section quoted from the March 2018 report was agreed by all Members of the Committee present.

## Association Agreement

An Association Agreement (AA) is a treaty between the EU and a third country that establishes a framework for EU co-operation with that state. AAs promote political association and economic integration; they liberalise trade and largely eliminate tariffs and many non-tariff barriers; they also cover other issues such as energy, security and defence, participation in a range of EU Agencies.

The EU has concluded association agreements that incorporate 'Deep and Comprehensive Free Trade Agreements' (DCFTAs) with three 'Eastern partners' - Georgia, Moldova and Ukraine.

## Backstop

The backstop is a guarantee that whatever happens during the negotiations between the EU and UK on the future relationship, the open border between Ireland and Northern Ireland will be maintained, and the Belfast/Good Friday Agreement respected. It is often described as an 'all weather insurance policy'.

The backstop started life when the UK and the EU agreed the December 2017 Joint Report. Paragraph 49 of the report stated that if no other solution to keeping the border between Ireland and Northern Ireland open can be found in the negotiations, the UK will maintain "full alignment with those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all-island economy and the protection of the 1998 agreement". Negotiations stalled over differing opinions as to whether this commitment means the UK as a whole will align with relevant Single Market and Customs Union rules if need be (the UK view), or if Northern Ireland alone will (the EU view).

The backstop was formalised in the UK/EU Withdrawal Agreement (see entry), in a section called the 'Protocol on Ireland/Northern Ireland' (the Protocol). The UK government managed, in part, to secure its preferred 'vision' for the backstop in the Protocol, in that it contained UK-wide elements such as a temporary customs union with the EU, covering all goods (except for fish). Under the backstop, the whole UK will also be subject to 'level playing field' restrictions, principally the EU's rules on state aid and competition law, with commitments to not downgrade domestic policies in areas such as labour, social and environmental standards.

However, there will be some aspects which will apply to Northern Ireland only, for example EU regulations in areas such as VAT, agriculture, the environment, electricity markets and the EU's Customs Code. The UK government has [committed](#) to maintaining alignment with these EU regulations so there will be no divergence between Northern Ireland and Great Britain.

The backstop will come into operation automatically at the end of the transition period (Article 185 of the Withdrawal Agreement). Article 1 of the Protocol states that its legal provisions will stay in force "unless and

until they are superseded, in whole or in part, by a subsequent agreement”.

The UK can suggest ‘specific solutions’ often called ‘alternative arrangements’ (see entry), to the border problem, instead of trying to solve the issue through the future relationship it is negotiating with the EU. However, both the EU and the UK must agree these alternative arrangements fully solve the problem of maintaining an open border between Ireland and Northern Ireland. (For more information see Library Insight [‘The Backstop Explained’](#), and Section 8 of Library briefing paper [‘The UK’s EU Withdrawal Agreement’](#)).

## Barnier, Michel

1 October 2016 – present. Chief EU Brexit negotiator in the Task Force for the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50 TEU.

## Brexit

Brexit is the abbreviation for ‘British exit’ from the EU. It was used before the referendum on 23 June 2016 in which a majority of the UK electorate voted to leave the EU, and has been used ever since in the media and by commentators and experts on the subject of the UK’s withdrawal from the EU.

Brexit has not happened yet, although many reports suggest that it has. The UK voted for Brexit in the referendum but the UK will remain in the EU until 11pm on 29 March 2019. Negotiations can be extended beyond the two years stipulated in Article 50 if all EU Member States agree.

- **hard Brexit**  
A situation in which the UK leaves the EU swiftly and probably with a basic free trade agreement (FTA) with the EU. A very hard Brexit would involve resorting to WTO rules with no agreement with the EU in place (a no deal Brexit).
- **soft Brexit**  
A situation in which the UK leaves the EU but negotiates, for example, continued membership of the European Economic Area (EEA) or largely staying in the single market and customs union while giving up influence over single market rules.
- **smooth Brexit**  
An orderly, negotiated, prepared Brexit.
- **red, white and blue Brexit**  
The Prime Minister used this to describe the kind of Brexit she hopes to achieve, continuing: “the right Brexit for the UK, the right deal for the UK”. But its precise meaning has been debated.
- **blind Brexit**  
Because we do not know what the future relationship between the EU and UK will be before the UK leaves the EU, this situation has been referred to as a ‘blind Brexit’.
- **BRINO – Brexit in Name Only**  
Coined by Jacob Rees-Mogg MP, this refers to a very ‘soft’ Brexit

in which the UK leaves the EU but aligns with EU Single Market rules including freedom of movement. It would keep the Irish border open and facilitate trade and travel much as at present.

### **Canada model, Canada + and Canada +++**

The 'Canada model' refers to the CETA free trade agreement struck between the EU and Canada. It opens up trade in goods and, to a limited extent, services, but does not involve supranational institutions or free movement of people.

'Canada plus' is a term used to describe a CETA-style trade relationship that is deepened by mutual recognition of EU and UK standards.

'Canada plus plus plus' is what Donald Tusk has called the EU's offer of a CETA-style trade agreement, but also further agreements covering other areas of cooperation, like security, foreign policy, research, and so on. The EU's proposed trade agreement with the UK would also go further than CETA by eliminating all tariffs on goods. The former Brexit Secretary, David Davis previously said he wanted a 'Canada plus plus plus' deal which would take from the best elements of the EU's existing trade deals and go further in relation to services trade.

### **Charter of Fundamental Rights of the European Union**

This is a set of basic political, social, and economic rights for EU citizens and residents, set out in six titles: Dignity, Freedoms, Equality, Solidarity, Citizens' Rights, and Justice. It was first 'proclaimed' in 2000, and under the Lisbon Treaty was given a legally binding status equal to the EU Treaties.

### **Chequers plan**

The Prime Minister's plan for the UK's future relations with the EU agreed by the Cabinet at Chequers in July 2018 and then published in a White Paper, [The future relationship between the United Kingdom and the European Union](#). The plan proposed:

- An Economic partnership based on 'bilateral autonomy'; includes an independent trade policy, trade in goods, services and investment, the digital sector, future mobility, competition, the environment, transport and energy; new arrangements for services, financial services and the digital sector; a Facilitated Customs Arrangement; no hard Irish border;
- A Security partnership: operational capabilities on internal security are maintained, but the UK has an independent foreign policy, sometimes working with the EU; cooperation or participation in law enforcement and criminal justice, data exchange, cyber security, extradition, counter-terrorism, sanctions, space, asylum and illegal immigration;
- Cross-cutting and other cooperation: UK participation in several EU agencies, continued participation or cooperation in science and innovation, data protection, culture and education, and fishing opportunities;

- Institutional arrangements: an EU-UK Association Agreement and other separate agreements; a new governing body of UK and EU officials and a Joint Committee; UK participation in EU agencies, making a financial contribution to the EU budget; UK respect for remit of the CJEU and a role for the UK Parliament in scrutinising rules made under the agreements.

Underpinning the economic partnership is the idea of the 'common rulebook' - the standards and regulations followed by all EU Member States and non-EU EEA States which facilitates the functioning of the Single Market in goods and services.

## **Common Agricultural Policy**

Agriculture is a key shared competence of the European Union. It has its origin in the Treaty of Rome and the policy was established in 1962. The initial purpose was to increase food production across Europe by offering guaranteed prices. The policy has evolved, where production levels are now separated from subsidy payments. The aim of the policy is to support food production, the management of natural resources and the development of rural areas. The CAP has two 'pillars': pillar 1 supports agriculture through direct payments to farmers (through, for example, the 'direct payment scheme') and pillar 2 supports rural development activities in Member States.

The policy applies across the EU but individual Member States have some scope over how they implement the policy. In the UK agriculture is a devolved matter so there are variations in how the CAP is implemented in each country of the UK.

The CAP is subject to review and reform on the same timescale as Multiannual Financial Framework, with the current scheme running until 2020.

## **Common Market 2.0**

The Common Market 2.0 proposal has been put forward by a cross-party group of Conservative and Labour MPs. This is also known as the Norway-plus model (see entry for 'Norway model') whereby the UK negotiates continuing membership of the European Economic Area through the European Free Trade Association (enabling continued EU Single Market membership) and enters a customs union with the EU. This would be designed to prevent friction on trade between the UK and EU and obviate the need for checks on the border between Northern Ireland and Ireland.

Advocates of the Common Market 2.0 model however suggest that a customs union with the EU need not be permanent and would only be necessary until alternative arrangements to prevent a hard border on the island of Ireland can be agreed. The term Common Market is a reference to the name by which the European Economic Community was popularly known in the UK before it became the European Union in 1993.

The Common Market 2.0 proposal did not win a majority in the indicative votes held in the House of Commons on 27 March and 1 April 2019.

See a discussion of this proposal in Commons Briefing Paper, [Brexit: Proposals for the future UK-EU relationship](#)

### **Common rulebook**

The standards and regulations followed by all EU Member States and non-EU EEA States which facilitate the functioning of the Single Market in goods and services. These harmonised standards cover a vast range of areas, including, e.g. chemicals, emissions, pharmaceuticals, aerospace, automotive, health, safety, food safety, and environmental protection. In the White Paper the common rulebook includes state aid and competition but not rules on the environment, employment and taxation. The common rulebook for goods would cover only those rules required for “frictionless trade at the border”. The UK Parliament would be free not to maintain harmonisation in the future, but this would be in the knowledge that there would be consequences (e.g. for market access).

### **Common Travel Area**

The Common Travel Area (CTA) is a special travel zone between the Republic of Ireland and the UK, the Isle of Man and the Channel Islands. British and Irish citizens can travel freely within the CTA without being subject to passport controls. Such arrangements have existed since the establishment of the Irish Free State in 1922. Both the UK and the Republic of Ireland maintain separate immigration policies but there is a significant degree of practical cooperation and policy coordination in order to ensure the security of the CTA.

The arrangements for nationals of other countries are more complex. Although there are minimal immigration checks for journeys started within the CTA, nationals of other countries must have the relevant immigration permission for the country they are seeking to enter. EU, EEA and Swiss nationals have prevailing rights of entry and residence in the UK and the Republic of Ireland under EU ‘free movement’ law.

There are also reciprocal ‘associated rights’ or related arrangements that the UK and Ireland operate, that support residency for each other’s citizens. These include, for example, access to certain social security schemes for British and Irish citizens resident in each other’s countries, and access to primary and secondary education.

### **Common External Tariff**

A common external tariff applies where countries have formed a custom union (e.g. the EU Customs Union). This is a common set of tariffs on imports from countries outside of the EU. See also entry for Customs Union.

### **Competences**

‘Competence’ describes who has the power to act in a particular policy area. The EU has competences conferred on it by the EU Treaties. Under this principle, the EU may only act within the limits of the competences conferred upon it by the EU Member States in the Treaties to achieve the objectives provided in them.

According to the EU Treaties, competences not conferred upon the EU remain with the EU Member States.

EU competences are defined in Articles 2-6 of the [Treaty on the functioning of the European Union](#) (TFEU).

## Constitutional Reform and Governance Act (CRaG Act)

Under the [Constitutional Reform and Governance Act 2010](#) (CRaG Act), the Government must lay before Parliament signed treaties it wishes to ratify, along with an Explanatory Memorandum (EM). Parliament then has 21 sitting days in which it may choose to scrutinise a signed treaty before the Government can ratify it. The Act gave statutory effect for the first time to parliamentary disapproval of treaties, and the House of Commons has a power to delay ratification repeatedly. However, the CRaG Act does not require Parliamentary scrutiny, debates or votes on treaties.

## Council of Europe

The [Council of Europe](#) is not an EU body. It is a regional organisation for human rights and democracy, founded in 1949, which produced the European Convention on Human Rights and the European Court of Human Rights in Strasbourg. It has 47 Member States, including all 28 EU Member States. Its structures include the Committee of Ministers and the Parliamentary Assembly of the Council of Europe.

Withdrawing from the EU does not automatically mean withdrawing from the Council of Europe.

## Court of Justice of the EU

The Court of Justice of the European Union (CJEU) was established in 1952 and is located in Luxembourg. It ensures that EU law is interpreted and applied in the same way in all EU Member States. It settles legal disputes between national governments and EU institutions. It can also, in certain circumstances, be used by individuals, companies or organisations to take action against an EU institution for an alleged infringement of their rights.

The CJEU comprises two courts:

- [Court of Justice](#) which deals with requests for preliminary rulings from national courts, certain actions for annulment and appeals. This Court has [one Judge per Member State](#) (28) and is assisted by 11 Advocates-general (the number of A-Gs may be increased by the Council if the Court requests this).

Each Judge and advocate general is appointed by national governments for a renewable six-year term. The Judges of the Court of Justice elect from among themselves a President and a Vice-President for a renewable term of three years.

- [General Court](#) which rules on actions for annulment brought by individuals, companies and, in some cases, EU governments. In practice, this means that this court deals mainly with competition law, State aid, trade, agriculture, trademarks. This

Court has [47 Judges](#) and will consist of two Judges per Member State from 1 September 2019.

Judges are appointed by common accord of Member State governments after consulting a panel which gives an opinion on the candidates' suitability to perform the duties of judge. Their term of office is six years renewable. General Court Judges may be called upon to perform the task of Advocate-General, as the General Court does not have permanent A-Gs.

## **Coveney, Simon**

Irish Minister for Foreign Affairs and Trade with responsibility for Brexit and *Tánaiste* (Deputy Prime Minister).

## **Customs union**

The EU is a customs union: there are no duties on trade between Member States and there is a common external tariff on imports from countries outside the EU. In other words, goods coming into the union pay the same tariff irrespective of which Member State they are imported into. Leaving the customs union would mean more customs checks on trade between the UK and EU. Members of a customs union are severely limited in their ability to pursue their own individual tariff policies. Turkey is in a customs union (with some exceptions in agriculture and services) with the EU but is not a member of the EU.

## **Customs warehouse**

A customs warehouse is a place, authorised by HM Revenue and Customs, that traders can use to store non-Community goods where customs duty, import VAT and (where appropriate) excise duty payments are suspended. Duty must be paid when goods leave the warehouse, unless they are re-exported or move to another customs procedure.

## **De-dramatisation**

De-dramatisation was a term used by Michel Barnier to indicate a softening of the EU solution to the Northern Ireland border 'backstop' problem. The EU proposal is to keep Northern Ireland aligned with relevant customs union and Single Market legislation, which would necessitate regulatory checks in the Irish Sea – but Michel Barnier then [indicated](#) that those checks would not have to take place at (air)ports, but could take place within Great Britain, thus not imposing tangible border controls on the Irish Sea. This is what he has termed 'de-dramatisation'.

## **Decision (EU)**

An EU Decision is binding on those to whom it is addressed (e.g. an EU Member State or an individual company) and is intended to be directly applicable. Some EU Decisions require further implementation in the UK.

Common Foreign and Security Policy (CFSP) Decisions and Common Positions affect the UK's international relations.

## Department for Exiting the European Union (DExEU)

[Department for Exiting the European Union](#) is responsible for overseeing negotiations to leave the EU and establishing the future relationship between the UK and EU. [Created July 2016](#).

## Department for International Trade (DIT)

[Department for International Trade](#) is responsible for promoting British trade across the world. [Created July 2016](#).

## Direct effect

Direct effect means domestic courts can use international law as a direct basis for a decision even if it has not been made part of national legislation.

This is rare in the UK, where implementing legislation is usually required to incorporate international law obligations into domestic law that can be relied on in the UK courts.

Some EU law has direct effect in the UK. Under the European Communities Act 1972, EU Regulations and certain articles of the EU Treaties are automatically incorporated and binding in UK law as soon as they enter into force, without the need for a further Act of Parliament.

## Directive (EU)

Under [Article 288](#) of the Treaty on the Functioning of the European Union, a Directive is: “binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods”.

A Directive can be addressed to one, several or all Member States – mostly all of them. How Directives are implemented is up to the individual Member States. The national measures must achieve the objectives set by the Directive and national authorities must communicate these measures to the European Commission. Failure to transpose a Directive or incorrect transposition can lead to infringement proceedings before the Court of Justice of the EU.

Directives are often detailed and can take a while to implement in all Member States. Transposition must take place by the deadline set when the Directive is adopted (generally within two years).

## Equivalence regime

Financial services in the EU are regulated activities. This means that firms must be authorised and approved of by a regulator before they can operate in a market. In the EU, authorisation in one EU Member State can mean that the firm can operate and sell in all EU countries if it has a passport for that activity. This is called passporting.

With respect to the relation between the EU and countries outside, there is an alternative system of recognition called EU [Equivalence](#).

The European Commission can recognise that a country’s rules and oversight of specific business lines are in compliance with its own rules.

This allows the EU to rely on firms' compliance with those frameworks, reducing overlaps on both sides as well as reducing capital costs for EU companies exposed to equivalent third countries.

Most EU financial-services acts contain provisions for equivalence, including the updated markets rules known as MiFID II, which [came into effect](#) in 2018. Equivalence is also possible for some purposes in the EU's bank capital rules and in Solvency II, which governs the insurance industry.

Whereas passports, when they exist, are integral to a directive, equivalence agreements are negotiated on a case by case basis with their country and are subject to removal.

## EU 27

Refers to the other 27 [European Union Member States](#). Under the Article 50 format the EU 27 agreed guidelines for the European Commission in its negotiation of a withdrawal agreement with the UK and the extensions of the Article 50 period requested by the UK.

## EU Budget

The EU's annual financial plan laying out its spending and how it will raise revenues to cover its spending.

The budget is negotiated annually by the European Commission, Council of the European Union and the European Parliament. The annual budgets are set within the spending limits set out in the EU's multiannual financial frameworks (see below).

For further information, see Commons Briefing Paper 6455, [A guide to the EU budget](#).

## EU-Canada Comprehensive Economic and Trade Agreement (CETA)

The Comprehensive Economic and Trade Agreement (CETA) is a free trade agreement between the EU and Canada. CETA has been in force provisionally since September 2017. Most, but not all, of the agreement is in force.

CETA removes all tariffs on industrial products traded between the EU and Canada. Most were removed when the agreement came into force provisionally. All will be removed within seven years. There is substantial liberalisation of trade in agricultural products. EU businesses will be allowed to bid for public procurement contracts in Canada.

There is more information in [Commons Briefing Paper-7492](#).

## Euratom

Euratom (the European Atomic Energy Community) is a treaty organisation which regulates the civil nuclear industry, including safeguards for nuclear materials and technology, disposal of nuclear waste, ownership of nuclear fuel, and research and development (for instance major nuclear fusion projects).

Euratom is a separate legal entity from the EU, under the [1957 Euratom Treaty](#), but it is governed by the EU's institutions (including the Court of

Justice of the EU). The UK Government has announced that, as part of the process of leaving the EU, the UK will also withdraw from Euratom.

## European Arrest Warrant

The European Arrest Warrant is a procedure for the surrender of individuals between EU Member States for the purpose of conducting a criminal prosecution or executing a custodial sentence. It replaced and simplified extradition procedures within the EU. The National Crime Agency provides [European Arrest Warrant statistics](#).

## European Commission

The European Commission is the executive body of the EU. It is responsible for proposing legislation, implementing decisions, upholding the EU treaties and managing the day-to-day business of the EU.

There are 28 Commissioners in all, one from each EU Member State and including the High Representative of the Union for Foreign Affairs and Security Policy (currently Josep Borrell Fontelles). Each Commissioner has a portfolio of subject areas for which he/she is responsible (see [EU who is who](#)).

The Commission administration consists of about 23,000 European civil servants who are divided into departments called directorates-general and services. The Members of the Commission and their 'cabinets' (teams) are based in the Berlaymont building in Brussels. The Commission operates in English, French and German.

The Commission is known as the 'Guardian of the Treaties' in that it is responsible for ensuring that the EU Treaties and law are upheld. The Commission can take Member States or another EU institution to the Court of Justice for an alleged failure to uphold EU law.

The current President of the European Commission is Ursula von der Leyen.

## European Communities Act 1972

The [European Communities Act 1972](#) (ECA) is the Act of Parliament by which the UK joined the then European Economic Community (EEC or Common Market), the European Coal and Steel Community (ECSC) and the European Atomic Energy Community (EURATOM). It also legislated for the incorporation of EC (now EU) into the UK's domestic law.

[Section 2\(1\)](#) ECA provides that all rights, powers, liabilities, obligations and restrictions "from time to time created or arising by or under the Treaties" to have legal effect in the UK. It gives the authority for "directly applicable" EU law, such as Regulations, to have legal effect in UK law without needing further UK enactment.

[Section 2\(2\)](#) ECA provides a power for subordinate legislation to be made where the EU Treaties require Member States to make provisions in their domestic law, such as for the implementation of Directives, and also provides that other powers to adopt subordinate legislation in other Acts are interpreted as enabling them to be used to implement EU obligations.

Section 2(3) authorises payments to the EU or to a Member State from the Consolidated Fund, the National Loans Fund or “moneys provided by Parliament”.

[Section 3 ECA](#) provides for judicial notice to be taken of the Treaties, of the EU Official Journal and of any decision of, or expression of opinion by, the European Court of Justice.

Brexit will involve repealing this Act, which is the purpose of [section 1](#) of the *European Union (Withdrawal) Act 2018*. But this Act does not take account of any transition/ implementation period in which the UK will continue to apply most EU legislation until 31 December 2020 (or possibly longer). To deal with this situation, the Government set out in its July 2018 White Paper, [Legislating for the Withdrawal Agreement between the United Kingdom and the European Union](#), its intention to amend the EU Withdrawal Act to provide for the continued effect of the *European Communities Act 1972* until the end of the transition period, thereby allowing EU law to continue to apply in the UK throughout that period.

## European Convention on Human Rights

The European Convention on Human Rights is not an EU instrument. Instead it comes from the 47-Member Council of Europe (see above).

The European Court of Human Rights in Strasbourg oversees implementation of the Convention.

Withdrawing from the EU does not mean withdrawing from the European Convention on Human Rights.

## European Council

The European Council comprises the Heads of State or Government of the 28 EU Member States, the European Commission President and the High Representative for Foreign Affairs & Security Policy. It usually meets four times a year.

The European Council does not adopt legislation, but defines the EU's overall political direction and priorities. It sets the EU's policy agenda, usually by adopting 'conclusions' during its meetings which identify issues of concern and actions to take. It recently adopted a 'strategic agenda' of priority areas for longer-term EU action and focus.

It usually takes decisions by consensus.

The current President of the European Council is Charles Michel.

## European Economic Area (EEA)

The European Economic Area (EEA) is made up of all 28 EU Member States + Norway, Iceland and Liechtenstein. The three non-EU EEA members apply most EU Internal Market laws, but not in the following policy areas:

- Common Agricultural Policy and Common Fisheries Policy (except some provision on trade)
- Customs union
- Common trade policy

- Common Foreign and Security Policy
- Justice and Home Affairs (but EFTA States are part of the Schengen area)
- Economic and Monetary Union.

## European Free Trade Association (EFTA)

The European Free Trade Area (EFTA) comprises four States - Norway, Iceland, Liechtenstein and Switzerland.

Norway, Iceland and Liechtenstein are in the EEA, but not Switzerland.

Switzerland has a bilateral Free Movement of Persons Agreement with the EU which means EU citizens wishing to live or work in Switzerland can do so.

## European Parliament

The European Parliament (EP) is composed of 751 Members (MEPs) from the 28 EU Member States. It is directly elected every five years by universal suffrage, but voter turnout has generally been low.

MEPs are organised into seven parliamentary groups, including thirty non-attached Members.

The EP has co-legislative powers with the EU Council to adopt legislation in a process called the Ordinary Legislative Procedure. It shares control with the Council of the EU budget, elects the President of the Commission, and approves or rejects the appointment of the Commission as a whole.

Controversially, the EP has three places of work: Brussels, Luxembourg (the administrative offices) and Strasbourg. Meetings of the whole Parliament (plenary sessions) take place in Strasbourg and Brussels. Committee meetings are held in Brussels.

The current EP President is David-Maria Sassoli.

## European Scrutiny Committee

The [European Scrutiny Committee](#) scrutinises EU documents, reports on them or recommends some for further debate in European Committee or on the floor of the House of Commons.

## European Statutory Instruments Committee

The [European Statutory Instruments Committee](#) (ESIC) was established by the House of Commons to 'sift' proposed negative instruments following the passing of the EU (Withdrawal) Act 2018.

## European Union

The European Union was formally established by the *Treaty on European Union* or Maastricht Treaty, which came into force in November 1993. The over-arching Union comprised three 'pillars': the European Community, the Common Foreign and Security Policy and Justice and Home Affairs.

The Lisbon Treaty 'collapsed' the pillars and brought all but the CFSP and defence into the one European Union pillar. Now, the Treaty on European Union includes CFSP, defence and matters of international law such as treaty amendment and EU membership. Treaty Articles on

EU policies are contained in the Treaty on the Functioning of the European Union (TFEU).

### **European Union (Notification of Withdrawal) Act 2017**

An [Act](#) which conferred power on the Prime Minister to notify, under Article 50(2) of the Treaty on European Union, the United Kingdom's intention to withdraw from the EU.

For information on the Bill and all Commons Library briefings, see Parliamentary [bill documents](#) page.

### **European Union (Withdrawal) Act 2018**

The [Act](#) cuts off the source of EU law in the UK by repealing the European Communities Act 1972 and removing the competence of EU institutions to legislate for the UK. The Act provides for a complex mixture of constitutional change and legal continuity.

The Act provides legal continuity during Brexit by copying over the entire body of EU law onto the UK's post-exit statute book. Without the legislation, huge holes would open up within the statute book on exit day. It creates a new category of domestic law for the UK: 'retained EU law', which will consist of all the converted EU law and preserved EU-related domestic law in force on the day before the UK left the EU. Some elements of EU law will not be retained: the rights under the Charter of Fundamental Rights, for example. Retained EU law may subsequently be amended, replaced or repealed by the UK Parliament.

For information on the Bill and all Commons Library briefings, see Parliamentary [bill documents](#) page.

### **European Union (Withdrawal) Act 2019**

Also known as the 'Cooper-Letwin Bill'. This [Act](#) provided a one-off legal mechanism by which a majority of MPs could compel the Prime Minister to seek an extension of Article 50(3).

The Act was the result of a Private Member's bill initiative by Yvette Cooper, Oliver Letwin and others. The Bill was notable because it completed its Parliamentary stages expressly against the Government's wishes. Several procedural hurdles had to be overcome to pass the Bill, since Government business normally takes precedence over all other business in the House of Commons.

Advocates of the Bill feared that, without the compulsion of legislation, the Government might not seek an extension. This would have likely led to a no-deal exit on 12 April 2019.

The practical effect of this Act was to compel the Prime Minister to seek a second extension: beyond 12 April and until 30 June. Under the legislation the Government was expressly permitted to agree to a longer extension if offered it instead. The European Council offered an extension until 31 October 2019, to which the UK Government then agreed.

For information on the Bill and all Commons Library briefings, see Parliamentary [bill documents](#) page.

## Europol

Europol is the EU's law enforcement agency. Its main objective is to support and strengthen action by Member States' law enforcement authorities and facilitate cooperation between authorities in preventing organised and serious crime, and terrorism, where there is a cross border dimension. It provides support for UK law enforcement investigations and has analytical capabilities, processing data and making links between crimes in different countries.

## Everything But Arms (EBA)

Under the [Everything But Arms scheme](#), the least developed countries of the world are able to sell all their products except arms and armaments in the EU Single Market free of customs duties and quotas. The EBA is part of the EU Generalised Scheme of Preferences (GSP).

## Exit day

'Exit day' is the day the UK leaves the EU, either with or without a withdrawal agreement. In the November 2018 [Withdrawal Agreement](#) and [Section 20\(1\)](#) of the *EU (Withdrawal) Act 2018* 'exit day' was defined as 29 March 2019, which was two years after the Prime Minister notified the European Council President of the UK's intention to leave the EU. Following a request for an extension of the Article 50 period, a [Decision](#) of the European Council (EU27) made 'exit day' 12 April 2019 (at 11 pm UK time). After a second extension, another [European Council Decision](#) has made 'exit day' 31 October 2019, but it could be earlier in the following circumstances:

- If the UK is still in the EU on 23-26 May (European Parliament election period) but has not ratified the Withdrawal Agreement and has not held EP elections, exit day will be 1 June 2019;
- If the UK and the EU ratify the Withdrawal Agreement before 31 October, 'exit day' will be the first day of the month after ratification or 1 November (whichever is earliest).

The two Article 50 extensions have required that Statutory Instruments (SIs) be laid to change 'exit day' as defined by *the EU (Withdrawal) Act 2018* (EUW Act 2018) to align exit day in UK law with the EU Decision.<sup>2</sup> The *European Union (Withdrawal) Act 2019*<sup>3</sup> amended the *EUW Act 2018* so that any regulations that change "exit day" will no longer require approval by both Houses under the draft affirmative procedure. The Government may make regulations subject only to annulment by either House, which was the procedure used on 11 April for the extension agreed the previous day. 'Exit day' was changed by SI 2019 No. 859, [The European Union \(Withdrawal\) Act 2018 \(Exit Day\) \(Amendment\) \(No. 2\) Regulations 2019](#).

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<sup>2</sup> See e.g. [Commons Library Insight, EU 'exit day' is changed in UK law](#), 28 March 2019.

<sup>3</sup> For information on the Bill, see Commons Library Briefing Paper 8541, [European Union \(Withdrawal\) \(No. 5\) Bill 2017-19](#), 2 April 2019.

## Exiting the European Union Committee

[The Exiting the European Union Committee](#) is appointed by the House of Commons to examine the expenditure, administration and policy of the [Department for Exiting the European Union](#) and matters falling within the responsibilities of associated public bodies.

## Flextension

'Flextension' is a term coined to describe the flexible extensions to the Article 50 period agreed by the European Council meetings of 21 March and 10 April 2019. On 21 March the European Council agreed to delay Brexit until 22 May if the Withdrawal Agreement (WA) was approved by the House of Commons by 29 March, or otherwise until 12 April. On 10 April, the European Council agreed to delay Brexit day until 31 October, but with a provision enabling the UK to leave earlier if it ratified the WA. The UK would also have to leave by 1 June if it did not participate in the European Parliament elections of 23-26 May 2019.

## Free trade agreements

A free trade agreement (FTA) is an agreement between countries to reduce barriers to trade between them. FTAs have generally concentrated on trade in goods with less liberalisation of trade in services. Free trade agreements generally do not go as far in removing barriers to trade as the Single Market. A free trade agreement differs from a customs union in not requiring its members to set the same tariffs on trade with countries outside the agreement.

## Freedom of movement

Freedom of movement is one of the four fundamental principles of the EU, dating back to the Treaty of Rome of 1957. The other three principles are the free movement of goods, services and capital.

Article 45(2) TFEU states the general principle of free movement. Other Treaty Articles concerning free movement are:

Article 18 TFEU (non-discrimination on the grounds of nationality)

Articles 20 and 21 TFEU (as they relate to nationality, citizenship and free movement of persons)

Articles 45-48 TFEU (free movement of workers)

Free movement is also guaranteed by EU legislation:

- [Directive 2004/38/EC \(the Free Movement Directive\)](#), 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States
- [Regulation 492/2011](#) of 27 May 2011 (Free Movement of Workers Regulation) codified the rights associated with the free movement of workers (access to employment in another Member State, pay and working conditions, social and tax advantages, access to training, trade union membership, housing and access to education and training for the children of EU migrant workers).

- [EP and Council Regulation \(EC\) No 562/2006, 15 March 2006](#), establishing a Community Code on the rules governing the movement of persons across borders.

EU citizens exercising their right to free movement in the EU are not, strictly speaking, migrants, although they are often referred to as such.

### **Future relationship**

This term refers to any agreement(s) that the UK and the EU will conclude after the UK stops being an EU Member State. The framework for the future UK-EU relationship is set out in a [Political Declaration](#) in November 2018 (see below).

### **Geographical indication (GI)**

Geographical indication is a name or sign used to identify a product that originates in a specific geographical area and is known for its quality, method of production or another characteristic. A Protected Geographical Indication (PGI) is a form of intellectual property. A PGI protects a registered product from imitation or misuse of a name and is comparable to a trademark that belongs to a particular company. Scotch Whisky, Feta from Greece and Prosciutto Toscano ham from Italy are examples of European PGIs. There are basic WTO rules on PGI's but the EU is a leader in promoting geographical indications and it tends to include PGIs in its free trade agreements.

### **General Agreement on Tariffs and Trade (GATT)**

The General Agreement on Tariffs and Trade (GATT) is an international agreement between countries and its general purpose is to promote international trade in goods. The GATT rules help eliminate trade barriers such as tariffs and quotas. The GATT is a predecessor of the World Trade Organisation (WTO) and its texts are now part of the WTO legal framework. The original agreement was signed in 1947 and provided a forum for multilateral negotiations on trade liberalisation (so called 'rounds'). In 1994, GATT 1947 was updated (GATT 1994) to include new obligations and to create the WTO.

### **General Agreement on Trade in Services (GATS)**

The General Agreement on Trade in Services (GATS) is a treaty of the World Trade Organization (WTO) that creates a system of international rules for trade in services. The GATS aims to remove barriers to trade in services by encouraging countries to adjust their domestic laws which restrict or forbid foreign providers from offering services on their markets. GATS prohibits discrimination between members and mandates national treatment of foreign providers. GATS members can choose to either open up their services markets to international trade in a handful of sectors or in a wide range of services.

### **Generalized Scheme of Preferences (GSP and GSP+)**

The Generalized Scheme of Preferences (GSP) refers to unilateral programmes whereby developed countries grant preferential (lower or zero) tariffs to imports from developing countries. Under its own [EU GSP](#) scheme, the EU currently grants lower or zero tariffs on two thirds of product categories imported from low and middle income developing

countries. The [EU list of GSP beneficiaries](#) includes 17 countries in Africa, Asia, Latin America, Pacific region, as well as Syria.

GSP+ is a special incentive “arrangement for Sustainable Development and Good Governance” whereby the EU offers vulnerable developing countries full removal of import tariffs on two thirds of product categories in exchange for their commitments on human and labour rights, environmental protection, and good governance. GSP+ countries include Armenia, Bolivia, Cabo Verde, Kyrgyzstan, Mongolia, Pakistan, Philippines, Sri Lanka, and Paraguay.

## Great Repeal Bill

The ‘Great Repeal Bill’ was the term used to describe the Bill the Prime Minister announced on 2 October 2016 to repeal the ECA and convert EU law into domestic law “wherever practical”. For further information, see Commons Briefing Paper 7793, [Legislating for Brexit: the Great Repeal Bill](#), 21 November 2016. See European Union (Withdrawal) Act 2018)

## Harmonisation

The EU law term for approximation of laws, whereby a variety of potentially different laws in Member States are instead replaced with a single ‘law’ at EU law level, ensuring laws that are identical to a minimum standard across the entirety of the EU. Harmonisation of laws is a core aspect of the functioning of the Single Market, where many areas of law are fully harmonised (and so Member States are precluded from adopting legislation in these areas themselves).

## Henry VIII clauses

The Government sometimes adds this provision to a Bill to enable the Government to repeal or amend it after it has become an Act of Parliament. The provision enables primary legislation to be amended or repealed by subordinate legislation with or without further parliamentary scrutiny.

Such provisions are known as Henry VIII clauses, so named from the Statute of Proclamations 1539 which gave King Henry VIII power to legislate by proclamation.

## Indicative Votes

Indicative votes refers to the process used in the House of Commons on 27 March and 1 April 2019 whereby MPs were given the opportunity to vote on a number of different options in relation to Brexit and the future UK relationship with the EU. MPs could vote on more than one option, and the process was instigated as a means to test whether there was any option that could command a majority of the House in order to break the impasse on Brexit. None of the options voted upon on these dates won majority approval. Indicative votes were also used in 2003 when MPs voted on a number of options for House of Lords reform. No option gained a majority on this occasion either.

## Indirect jurisdiction

Various UK Future Partnership papers on post-Brexit relations with the EU have said that with Brexit, ‘direct jurisdiction’ of the CJEU in the UK

will end. As an EU Member State, all CJEU rulings are automatically binding on the UK, including ones that declare UK domestic law to be in violation of EU law; this is what is meant by 'direct' jurisdiction. However, statements made by the UK government since August 2017 have made it clear that where appropriate, UK courts (while not generally bound by CJEU rulings) will be expected to continue to pay close attention to CJEU rulings, particularly in areas where regulatory alignment is agreed between the UK and the EU. This has been called 'indirect jurisdiction', because the practical consequence of 'following' CJEU case law voluntarily is that UK law will still track CJEU judgments.

## Internal Energy Market (IEM)

Relevant EU legislation: Articles 114 and 194 of the Treaty on the Functioning of the European Union.

The [Internal Energy Market](#) (IEM) (sometimes also called the 'single energy market') is the equivalent of the Single Market for energy trading and supply. However, unlike the Single Market, it is not fully integrated yet and still faces barriers to free trading and competitive prices that successive legislative packages have aimed to redress over the past twenty years. It has been put forward that, once fully integrated, the IEM will use interconnectors to allow unconstrained trade of energy across the EU and maximum competition.

As a member of the EU, the UK is currently a member of the IEM, but membership is not exclusively reserved to EU Member States. Some countries like Norway and Switzerland have access to the IEM through bilateral agreements (e.g. through membership of the European Economic Area for Norway). This means that the future of UK membership of the IEM will depend on the outcome of Brexit negotiations and is entirely [separate](#) from the UK membership of the Single Market.

The issue of UK membership of the IEM is linked to that of unbundling,<sup>4</sup> sharing infrastructure (interconnectors), investment in energy networks, price regulation and network codes.

## International Trade Committee

[International Trade Committee](#) is appointed by the House of Commons to examine the expenditure, administration and policy of the [Department for International Trade](#) and its associated public bodies.

## Joint Report

The phrase 'joint report' in the context of Brexit refers to the December 2017 '[Joint Report](#)' from the negotiators of the EU and the UK Government on progress during Phase One of negotiations under Article 50 TEU. The Joint Report set out political commitments agreed by both parties and formed the basis for the various drafts of the withdrawal agreement.

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<sup>4</sup> The separation under EU law of energy production and energy supply.

## Liabilities

A liability is a legally binding obligation payable to another entity. Liabilities may include, for example, pensions and other employee benefits or invoices that haven't yet been settled.

## 'Malthouse Compromise'

The Malthouse Compromise is the name given to a two-stage Brexit plan that was created by members of the Conservative party in an attempt to reach a consensus within the party on what type of Brexit to pursue.

The first 'stage' would require the UK government to renegotiate the current Withdrawal Agreement so as to replace the Northern Ireland backstop solution with 'alternative arrangements'. It also replaced the current proposed transition period with a longer three-year transition period so as to ensure that a future relationship free trade agreement was concluded before the transition ends.

If the first 'stage' did not succeed, the second 'stage' of the Malthouse compromise required the UK to negotiate what has been called a 'managed no deal' with the EU. This would involve continuing annual payments in exchange for a transition period (without changes) during which a new free trade agreement could be negotiated. It effectively would result in a Withdrawal Agreement without a backstop or alternative arrangements.

It is unclear if the UK government has presented the Malthouse Compromise to the EU, but as the EU has been firm on the necessity of the backstop and unwillingness to reopen the Withdrawal Agreement for further negotiations, it seems unlikely that it would agree to the first or the second stage.

## 'Managed No Deal'

The term 'managed no deal' has been used to describe a situation where the UK does not conclude a Withdrawal Agreement with the EU, but negotiates so as to prevent a legal vacuum from existing from exit day onwards. Despite being called a 'managed no deal', in its usage it normally describes a situation where a variety of 'smaller' deals are reached with the EU so as to avoid a cliff-edge withdrawal – see, for example, the second 'stage' of the Malthouse Compromise, as proposed.

## 'Meaningful vote'

The 'meaningful vote' is best understood both as a specific Parliamentary process, and as a term that describes Parliament's broader role in shaping the terms on which the UK leaves the EU.

In its narrow sense, the 'meaningful vote' is the House of Commons' vote on a Government motion to approve the withdrawal agreement and framework for the future relationship: two texts that would have first been agreed by the UK Government and the EU's negotiators. This is a vote that is legally guaranteed by the *European Union (Withdrawal) Act 2018*. The Government cannot ratify the withdrawal agreement if the Commons does not pass this motion.

In its broader sense, the argument about the 'meaningfulness' of this vote (and other key Parliamentary votes on Brexit) concerns the extent to which Parliament can express a view about the alternatives to approving the Government's deal. Advocates of a 'meaningful vote' want Parliament to be able to influence what the Government does if the Commons is unhappy with the deal brought back from Brussels.

## Michel, Charles

[President of the European Council](#) since December 2019. The President of the European Council is elected for a 2.5-year term by the European Council by a qualified majority. The President may not hold a national office at the same time.

## Miller case

[R \(on the application of Miller and Dos Santos\) v Secretary of State for Exiting the European Union](#) [2016] is a UK constitutional law case brought by Gina Miller and other claimants concerning the constitutional principle of parliamentary sovereignty in a representative democracy.

The Government's position was that the Crown's prerogative allowed it to give notice under Article 50 of the UK's intention to leave the EU. But the High Court held on 3 November 2016 that the Royal Prerogative may not be used to nullify rights that Parliament has enacted through primary legislation. The decision was against. The Government appealed the High Court ruling to the Supreme Court, which heard the case from 5 to 8 December 2016.

In its judgment on 24 January 2017, the Supreme Court ruled that the UK Government could not initiate withdrawal from the EU by formal notification to the European Council as prescribed by Article 50 TEU without an Act of Parliament authorising it to do so. See House of Commons Library, [Brexit & Miller: what next for Parliament?](#) 24 January 2018.

The Miller [hearings](#) and [judgment](#) can be found on the High Court website and there is further information on the Miller and associated cases on the [Supreme Court website](#).

## Mixed agreements

Mixed agreements are those EU external agreements which contain some provisions in policy areas in which the EU has competence and others in which the Member States have competence. Free trade agreements (FTAs) are usually mixed competence agreements.

It is not always clear which areas in an FTA fall within the EU's exclusive competence and which areas fall within the remit of the Member States. The European Commission determines on a case-by-case basis whether an agreement is 'mixed', depending on its content.

The Commission decides on the legal nature of the agreement once the negotiations are concluded and the text is finalised, but sometimes the Commission asks the Court of Justice of the European Union (CJEU) for its opinion on the content of external agreements.

Mixed agreements must be ratified by the EU and the Member States, and national ratification is in addition to the conclusion by the EU Council, following the consent of the European Parliament under Article 218 TFEU. CBP 7192, 29 March 2016, [EU External Agreements: EU and UK procedures](#) looks at EU treaty making and procedures in the EU and UK.

### **Most Favoured Nation (MFN) principle**

The Most Favoured Nation (MFN) principle is a non-discrimination requirement. In the WTO framework, the MFN principle requires member states to extend any market access concession immediately and unconditionally to every other WTO member: grant one country lower tariff rates or recognise its product standards, and the same must be done for every other WTO member state.

Free trade areas and customs unions like the EU, and developing countries are exempted from the MFN principle. Goods within a free trade area or a customs union can be traded under better terms than with the rest of the world. Also, lower rates which countries offer to imports from developing countries do not have to be granted to others.

Free trade agreements (FTAs) between countries can also contain MFN clauses. The purpose of these is to protect participating countries from erosion of the deal, when one of the parties might wish to sign another trade agreement and offer more liberal access to its market to a third country. A MFN clause requires that the better terms of access granted to a third country are also extended to the partner of the 'original' FTA.

### **Multiannual financial frameworks**

The EU plans its spending over seven-year periods through the Multiannual Financial Framework (MFF). The MFF broadly sets out maximum EU spending across different categories. It also sets an overall maximum for the amount of actual payments the EU can make in a year. The MFF is not a budget spanning several years, but instead provides a framework for the annual budgets that are negotiated each year

The MFF is negotiated by the European Commission, European Council and the European Parliament. It requires unanimous agreement at the European Council – which means each Member States' head of government must agree to it – and agreement by the European Parliament.

For further information, see Commons Briefing Paper 6455, [A guide to the EU budget](#).

### **Mutual recognition**

Mutual recognition is a term used in trade relationships between countries. It guarantees that any product lawfully sold in one country can be sold in another.

Mutual recognition of rules involves two countries recognising each other's standards as equivalent. They may have different rules but these

achieve the same outcomes. These rules are generally managed by shared processes or institutions.

Mutual recognition of conformity assessments acknowledges the differences between regulatory regimes but permits one party to test and certify that a product complies with the other party's regulations.

CBP 8384, [Future trade with the EU: Mutual recognition](#), 8 October 2018, looks at mutual recognition in greater detail.

### **'No deal'**

This means the UK leaving the EU without a withdrawal agreement. Terms used to describe a 'no deal' outcome to the negotiations include 'cliff edge' Brexit, 'hard Brexit' and the UK 'crashing out' of the EU. No deal could be the result of various scenarios:

- The EU and UK do not agree on the terms of a withdrawal agreement and/or a framework for future relations because of lack of time and/or because there are intractable disagreements and no willingness to compromise – the talks break down;
- There is agreement in principle on the substance of a withdrawal agreement but more time is needed and the other EU Member States refuse to extend negotiations;
- There is agreement in principle on the substance of a withdrawal agreement but more time is needed; the EU27 are willing to extend negotiations under Article 50 TEU but the UK refuses to ask for an extension;
- The UK Parliament rejects the negotiated withdrawal agreement and framework for future relations;
- The European Parliament rejects the negotiated withdrawal agreement and framework for future relations;
- The Council (EU27) does not endorse the withdrawal agreement;
- A withdrawal agreement is concluded and enters into force, but at the end of the transition period there is no agreement on future EU-UK relations; or there is an agreement, but it has not been implemented in the UK or ratified in the EU27 and has not entered into force provisionally.

### **Norway model**

The 'Norway model' refers to the relationship between the EU and Norway. Norway is a member of the EEA and accepts the 'four freedoms' of the Single Market: movement of people, services, goods and capital. Norway has no direct input into EU decision-making on the Single Market and pays large contributions to the EU budget (but less per capita than the UK). Norway has its own trade policy (it is a member of EFTA), and its adherence to Single Market rules is supervised by the EFTA Court rather than the CJEU.

The 'Norway-plus' model has also been advocated by some Labour and Conservative MPs and would involve both membership of the EEA and a new UK-EU customs union in order to prevent any new frictions to trade emerging between the UK and EU after Brexit (see also entry for Common Market 2.0).

See a discussion of these options in Commons Briefing Paper, [Brexit: Proposals for the future UK-EU relationship](#).

## Passporting

Financial services in the EU are regulated activities. This means that firms must be authorised and approved of by a regulator before they can operate in a market. In the EU, authorisation in one EU Member State can mean that the firm can operate and sell in all EU countries if it has a passport for that activity. In the UK context, financial firms like to set up in London – which has lots of advantages over other European cities – get authorisation from the UK regulator and then use the passport to operate freely across the EU. Firms do not need to get authorisation from multiple jurisdictions. There are [individual passports](#) for separate activities.

Further information on passporting can be found on the [Bank of England website](#).

## Political Declaration setting out the Framework for the Future Relationship between the European Union and the United Kingdom

The [Political Declaration](#) is the product of Phase Two of the Article 50 negotiations. It was agreed by the negotiators on 22 November 2018 and endorsed by EU27 leaders on 25 November 2018. It sets out the shared intentions of the UK and the EU regarding the future relationship agreement(s) which they will start negotiating once the UK leaves the EU.

## Provisional application

A treaty or parts of a treaty can be applied provisionally, if the treaty specifies that it can, pending the completion of ratification procedures by the parties to the treaty and full entry into force. Provisional application is provided for in Article 25 of the Vienna Convention on the Law of Treaties (VCLT – see below) and is a mechanism commonly used by the EU, especially for mixed competence trade agreements.

## Ratification

Ratification is the main way in which governments show their consent to be bound by a treaty under international law.

In the UK the Government does not need Parliament's consent to ratify treaties, but Parliament can object to ratification and delay it (indefinitely, if the Commons keeps objecting).

## Regulation (EU)

EU Regulations are EU laws which apply directly and uniformly in all Member States, without the need for further national implementing measures. Article 288 TFEU states: "A regulation shall have general

application. It shall be binding in its entirety and directly applicable in all Member States”.

### **Regulatory alignment, equivalence and divergence**

The terms regulatory alignment, regulatory divergence and regulatory equivalence refer to various degrees of compatibility between regulatory regimes of countries. In the context of Brexit those terms have been used to describe the level of harmonisation and recognition of UK and EU laws and standards.

For the UK, regulatory alignment or full regulatory alignment would imply following EU regulations in specific areas – like the single market and customs union legislation – as closely as possible, meaning that the content and the structure of the regulations remain essentially the same as the EU regulations.

Regulatory divergence denotes UK introducing changes to domestic legislation in certain areas and gradually departing from EU’s laws and standards.

Regulatory equivalence means that one country recognises the other’s standards or regulatory regimes as being ‘equivalent’ to its own, as opposed to [mutual recognition](#) between the two. A decision on equivalence is a unilateral one and a country can withdraw it at any time. Equivalent regulations would have the same objectives, achieved by different means and delivering equivalent outcomes. For example, an EU decision to grant [equivalence](#) to UK financial services or data protection regime would allow UK companies in those sectors to trade on the Single Market.

### **Replacement treaties/agreements**

To prepare for either the end of the implementation/transition period (if the withdrawal agreement is ratified) or a ‘no deal’ scenario (the UK leaves without a withdrawal agreement), the Government has been identifying which international agreements need to be retained on exit, and has been seeking to put in place arrangements with third countries to replicate the effects of their current agreements with the EU.

If the UK leaves the EU without a deal, it will no longer be covered by EU-only international agreements, or by ‘mixed’ bilateral agreements between the EU/its Member States and a third party, unless the UK and the third party agree to ‘transition’ the agreement or agree other measures to ensure continuity of effect.

The Government also refers to “replicating the effects” of EU agreements and “replacing” EU agreements “as far as possible” and “in a bilateral context”. See also entry for ‘rollover agreements’.

### **Rollover agreements**

Rollover is the term sometimes used to describe the Government’s attempts to replace the EU’s international agreements with third countries to which the UK is party, with a UK-specific agreement with the third countries to replicate and provide for continuity of arrangements with these countries. In many cases however it is not possible to simply roll over the terms of the EU’s agreements with third

countries as arrangements may need to differ once the UK has left the EU and some aspects of the agreements are only applicable to the UK as an EU Member State. It is therefore more accurate to refer to replacement agreements rather than rollover agreements. See also entry for 'replacement agreements'.

## Rules of Origin

Rules of Origin are (RoO) laws, regulations and administrative procedures which determine the 'economic nationality' of traded goods and their components. If goods consist of materials from more than one country, the RoO determine which country is the country of origin. This is based on the origins of the materials, the value added in the production process, and where the final substantial production phase took place. RoO can vary from country to country.

Imports from outside a customs territory (a state, a customs union or another territory with distinct customs regulations) are usually subject to the RoO checks, even if they come from a country which has a trade agreement with that particular customs territory. This ensures that a correct customs tariff is applied and goods do not enter the market illegally via a lower tariff country.

Free trade agreements between countries can include preferential RoO. For example, if the UK and the EU sign a Free Trade Agreement (FTA) and agree to remove tariffs on each other's goods, this grants a preference not available to other countries. As a consequence, a UK exporter to the EU will have to prove that the exported goods originate in the UK for them to qualify for the zero (preferential) tariff rates. Provisions for '[cumulation](#)' allow countries, which are part of a trade agreement, count each other's share in a product towards the RoO in order to jointly enjoy lower tariffs.

## Sassoli, David

Current [European Parliament president](#), elected July 2019.

## Secretary of State for Exiting the European Union

[Stephen Barclay MP](#) was appointed as Secretary of State for Exiting the European Union on 16 November 2018. Previous post-holders were David Davis (July 2016 to July 2018) and Dominic Raab (July 2018 to November 2018).

## Secretary of State for International Trade and President of the Board of Trade

[The Rt Hon Elizabeth Truss MP](#) was appointed Secretary of State for International Trade on 24 July 2019. The previous post-holder was Liam Fox (July 2016 to July 2019).

## 'Settled Status' and 'Pre-Settled Status'

Under the draft Withdrawal Agreement negotiated between the UK and EU, UK and EU nationals currently exercising free movement rights in the EU and the UK respectively will be able to continue to live, work and receive equal treatment to home nationals for the duration of their stay in their host state. The Home Office's terms for granting EU nationals

with such rights in the UK a recognisable status is 'settled status', if they have exercised 5 years of Treaty Rights by the time the UK leaves the EU, and 'pre-settled status', if they have exercised fewer than 5 years of Treaty Rights by the time the UK leaves the EU.

## Sincere Cooperation

The term 'sincere cooperation' refers to the principle of sincere cooperation (also known as the principle of loyalty), found in Article 4(3) of the Treaty on European Union. It reads as such:

Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties.

The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union.

The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives.

The principle requires both the Member States and the EU institutions to work together in genuine efforts to achieve the goals set out by the EU Treaties. The Court of Justice has interpreted the principle as being justiciable, and the Commission will pursue actions against Member States when they fail to 'sincerely cooperate' by complying with their EU law obligations: such as when they fail to implement directives on time, or fail to provide information as required under the Treaties. It has also regularly been used in enforcement actions against Member States that fail to comply with the EU's other international obligations, or otherwise frustrate EU external relations policy (by, for example, not reflecting EU interests in international organisations the EU cannot join as it is not a state, or negotiating separately from the EU in organisations where both the EU and Member States are parties).

## Single Market

The EU Single Market is an economic area where barriers to trade between its members have been removed. The Single Market is based on the "four freedoms": free movement of goods, services, capital and labour.

There are no customs duties, tariffs or quotas on trade in goods between Member States. The Single Market also aims to create a level playing field by removing non-tariff barriers such as regulations (for example on packaging, labelling or documentation) or technical specifications. As tariffs have generally fallen over time, non-tariff barriers have become relatively more important as obstacles to trade. The Single Market in goods is generally thought to be more developed than the Single Market in services.

The phrase "access to the Single Market" is used to cover a wide array of trading arrangements. Member States of the EU clearly have access to the Single Market. But countries like China and the US also export large amounts to the EU so also have access to the Single Market. The

key question is the terms on which this access is possible and the costs and benefits imposed by these terms.

Countries outside the Single Market have access to it in the sense that they can export to the EU but their exports must comply with EU rules and regulations. Imports into the EU from these countries will be subject to any relevant tariffs, quotas or non-tariff barriers, unless these are removed by a free trade agreement with the EU. Countries trading with the EU on these terms are not required to accept free movement of people, make contributions to the EU's finances or be subject to the European Court of Justice.

"Membership" of the Single Market (or being "in" the Single Market), defined as membership of the European Economic Area, means there are no tariffs or quotas on trade between members. Non-tariff barriers are also reduced. Members accept free movement of people, make a financial contribution to the EU and are required to adopt EU legislation on the Single Market. Non-EU EEA members are subject to the EFTA Court which closely follows the European Court of Justice.

## **Sovereignty**

National sovereignty is understood as the authority of a state to govern itself and determine its own laws and policies. In the UK parliamentary sovereignty is the principle that Parliament is the highest source of authority and can make laws without restriction.

For Eurosceptics sovereignty has been compromised by EU membership, by qualified majority voting to adopt EU law, by the legal requirement to enact EU law and by its supremacy over national law.

For EU supporters the UK voluntarily accepted a 'pooling' of sovereignty when it joined the EEC by ratifying the Treaty of Rome, and when it agreed to Treaty changes which gave the EEC/EC/EU more powers; and parliamentary sovereignty is maintained because a UK Act of Parliament gives the EU Treaties and EU law force in the UK. An Act of Parliament can be repealed – although doing so unilaterally would leave the UK in breach of its EU and international obligations.

## **Super Qualified Majority**

The Brexit withdrawal agreement will be approved by a 'super qualified majority' vote among the other 27 EU Member States, without the UK.

This qualified majority is defined in Article 238(3)(b) as at least 72% of the participating members of the EU Council, comprising at least 65% of the population of those Member States. This will equate to 20 of the other 27 Member States representing 65% of the EU27 population.

## **Swiss model**

The 'Swiss model' refers to the relationship between the EU and Switzerland. This is governed by bilateral agreements between the two parties. The 'Swiss model' can be distinguished from the EEA in that it does not involve a supranational court like the EFTA court, but in practice, the bilateral agreements between the EU and Switzerland cover the same volume of law as the EEA does. Under the 'Swiss model', free movement of persons, services, goods and capital would

continue. The EU is unwilling to negotiate a 'Swiss model' relationship again, as disputes under this model have been very difficult to resolve in the absence of a supranational court.

## Tariff

Tariffs are taxes paid on imported goods. They may be ad valorem (a percentage of the value of the goods) or specific (a fixed amount per kilogram or other measure of volume). Tariffs have generally fallen over time and are now relatively low. Nevertheless, they remain high for some goods, especially agricultural goods. The trade-weighted average EU tariff is 2.3% for non-agricultural goods and 8.5% for agricultural goods.

## Temporary Customs Arrangement

The UK government proposed in June 2018 a '[Temporary Customs Arrangement](#)' (TCA) with the EU, should a future relationship agreement not be negotiated before the end of the transition period in December 2020. The TCA is a UK-wide 'bare-bones' customs agreement with the EU, which would see the UK staying parts of the Customs Union, or creating a Customs Union with the EU, which continue to allow tariff-free trade in goods without checks (including for the rules of origin). The arrangement would be time limited.

The UK would leave the EU's Common Commercial Policy, so it would allow the UK to conclude trade agreements with other countries. The UK have suggested the TCA could act as a 'backstop' for the Irish border.

However, the EU have [rejected](#) the TCA as insufficient as a backstop as it doesn't cover regulatory checks on goods, and would be time limited.

## Trade Continuity Programme

The Government has been implementing a Trade Continuity programme by which it is seeking continuity for existing EU trade agreements in which the UK participates as a member of the EU. This is to prepare for the possibility of the UK leaving the EU without a withdrawal agreement and therefore without the transition period during which the UK would be treated as a Member State for the purposes of its international agreements. The Government has also referred to this as 'transitioning' trade agreements (see also rollover of treaties and replacement treaties).

## Trade quotas

Quotas are restrictions on the volume or quantity of goods which may be imported. Quantities of goods inside a quota are charged lower tariff rates, than those outside the quota and are also called "tariff-rate quotas" or TRQs. TRQ's are usually applied to sensitive goods like food and agricultural products and allow a certain volume of goods to be imported at lower or zero tariffs. For example, the EU has a system of tariff rate quotas (TRQs) which allow a certain volume of agricultural imports into the EU single market at low or zero tariffs.

## Trans-Atlantic Trade and Investment Partnership (TTIP)

TTIP is a free trade agreement currently being negotiated between the US and the EU. The negotiations started in 2013. The future of this agreement is in doubt following opposition in both the EU and the US.

## Transition

This is the move from being an EU Member State to being outside the EU. A transition (or implementation) period is written into the negotiated withdrawal agreement. In earlier drafts transition would end on 31 December 2020. In the latest draft (22 November 2018), the transition can be extended by “up to” two more years.

## UK Representation in Brussels (UKRep)

[UKRep](#), based in Brussels, represents the UK in negotiations that take place in the EU.

UKRep is headed by Tim Barrow KCMG LVO MBE, the UK’s Permanent Representative to the EU, who represents the UK at weekly Committee of Permanent Representatives (Coreper II) meetings in the EU Council. Coreper II deals largely with political, financial, justice, policing and foreign policy issues.

Katrina Williams is the UK’s Deputy Permanent Representative to the EU and represents the UK on the Committee of Deputy Representatives (Coreper I) in the EU Council. Coreper I covers social, environmental and economic issues.

A third grouping of ambassadorial level representatives from each Member State discusses CFSP issues. Paul Johnston represents the UK on the Council’s Political and Security Committee (PSC).

## UK Shared Prosperity Fund

In the 2017 Conservative manifesto (and later in the November 2017 [Industrial Strategy](#)), the Government committed to creating a Shared Prosperity Fund to replace the structural funding that the UK currently receives from the EU. Structural funding is intended to promote economic growth across EU Member States, particularly in those regions which are less economically developed.

In July 2018, James Brokenshire (Secretary of State for Housing, Communities and Local Government) made a [Written Statement](#) setting out more details about the Fund. The statement confirmed that the Fund’s purpose is to “tackle inequalities between communities by raising productivity, especially in those parts of our country whose economies are furthest behind”, and that it will operate right across the UK. It also stated that the Government would consult on how the Fund should work during 2018.

## Ukraine model

The EU-Ukraine Association Agreement has more favourable provisions on goods and services than those of the trade agreement with Canada. The Ukraine agreement does not include free movement of people and only limited involvement of the Court of Justice of the EU (unlike the

Norway option). There is no Single Market membership or customs union, but deep and comprehensive market access and customs co-operation on condition that Ukraine aligns domestic law with EU law in 'regulatory approximation' (Ukraine implements around 80-90% of EU law and regulations). The EU can unilaterally withdraw market access if it decides it poses economic or financial threats.

The AA includes cooperation in defence and with Europol.

### **Varadkar, Leo**

Irish Prime Minister (*Taoiseach*) and leader of the Fine Gael party since June 2017. Mr Varadkar has made the inclusion of a 'backstop' (q.v.) in the Withdrawal Agreement, his number one priority in the Brexit negotiations.

### **Verhofstadt, Guy**

Belgian Member of European Parliament since 2009, leader of the Alliance of Liberals and Democrats for Europe, the EP's Brexit representative and leader of EP's Brexit Steering Group.

### **Vienna Convention on the Law of Treaties**

This 1969 international treaty codified existing customary law and practice in treaty making. The [Vienna Convention on the Law of Treaties](#) was drafted by the International Law Commission of the United Nations and adopted on 23 May 1969. The UK signed it on 20 April 1970 and ratified it on 25 June 1971. It entered into force in January 1980.

The Convention sets out rules for the conclusion and adoption of treaties, the consent of parties to be bound by them, reservations to treaties, the application and interpretation of treaties, amending treaties, grounds for terminating, suspending, denouncing and withdrawing from treaties, and rules for depositaries, registration and ratification. It provides the International Court of Justice with jurisdiction over disputes arising from the application of treaty rules. It also contains provisions on the effects on treaties of changes of government, and changes to consular relations and the outbreak of hostilities between states.

### **Von der Leyen, Ursula**

Ursula Von der Leyen is President of the European Commission. She took office in December 2019.

Under Article 17 TEU, as amended by the Treaty of Lisbon, the Commission President is appointed by Member State leaders (heads of state or government). The European Council votes by qualified majority for a nominee for the post of President, taking account of the latest European elections. The European Parliament must approve the nomination by an absolute majority.

### **Wightman case**

The *Wightman* case concerns the UK's potential ability to revoke its notification of Article 50 of the Treaty on European Union (TEU). Following a dispute between the UK Government and several Scottish MSPs and MPs, the Scottish Inner House of the Court of Session referred a question to the Court of Justice of the European Union (CJEU)

to ascertain if unilateral revocation of Article 50 TEU notification (to withdraw from the EU) was possible, with or without conditions.

On 10 December 2018, the CJEU ruled on *Wightman* and found that unilateral 'unequivocal and unconditional' revocation of Article 50 TEU was a sovereign right for any Member State to pursue. The decision to revoke notification would need to follow a 'democratic process' that satisfied national constitutional requirements (as notifying under Article 50 TEU also does) and the revocation would have to be made before a concluded withdrawal agreement had entered into force or (if there was no agreement) before the Article 50 negotiating period had expired (whether extended by unanimous European Council agreement or not). It further stressed that revocation would result in the Member State remaining an EU Member State on identical terms – meaning that for the UK, a decision to revoke Article 50 TEU would not result in the loss of the UK's various opt-outs or the budget 'rebate' negotiated by the Thatcher government.

For more detail, see Commons Library Briefing CBP-8461, [Brexit: Article 50 TEU at the CJEU](#) (10 December 2018).

## Withdrawal Agreement

The legal agreement that sets out the terms and conditions applicable to the UK's withdrawal from the EU; drafts of it have been circulating since 2018 and a [draft legal text](#) was published on 14 November 2018. The [final negotiated text](#) was approved by EU leaders on 25 November 2018.

## Withdrawal Agreement Bill

The *Withdrawal Agreement Bill* (WAB) is the proposed Bill by which the Government intends to implement the November 2018 Withdrawal Agreement. The Bill has not yet been introduced in Parliament and its future is uncertain given the continued lack of a parliamentary majority in favour of the Withdrawal Agreement.

## World Trade Organization (WTO)

The WTO was established in 1995 as the successor to the General Agreement on Tariffs and Trade (GATT). It is an international organisation with over 164 member countries. The UK is a member of the WTO although the European Commission represents EU Member States.

The WTO provides a forum for negotiating multilateral trade agreements. It monitors the application of rules on international trade and settles disputes between its members.

## WTO Article 24

[Article XXIV of the GATT](#) treaty (the forerunner to the WTO, and now a WTO agreement) sets out rules for bilateral and plurilateral (between several countries) trade agreements. It permits countries to form a customs union (CU) or a free trade area (FTA) by allowing exceptions to the *Most Favoured Nation* rule. Article XXIV (5) allows countries to adopt an interim agreement necessary for the formation of a customs union or a free-trade area. This is a recognition of the fact that a CU or

an FTA cannot be concluded rapidly and might need gradual implementation.

An interim agreement can apply for a "reasonable length of time", understood to be 10 years, which would give countries time to build up to full implementation.

Some advocates of the UK leaving the EU without a deal have claimed that this GATT provision would allow the UK to continue its tariff free trade with the EU for a certain number of years. However, trade and WTO law experts [emphasise](#) that GATT Article XXIV (5) does not offer any automatic continuation of the status quo to the UK should it leave the EU without a deal and would not give room for unilateral action on the part of the UK. In order to continue its tariff free trade with the EU, the UK and the EU would first have to reach an agreement providing for this. Then both could choose to present an interim agreement to the WTO under Article XXIV (5), but this would need to come alongside a plan to reach a full agreement and could also be blocked by other WTO members.

Article XXIV is key to any preferential trade relationship between the UK and the EU. However, it is unlikely that the option of an 'interim agreement' will be of use. Article XXIV is much more likely to be used to notify the WTO of a full free trade agreement. See Commons Library Insight, [No-deal Brexit and WTO: Article 24 explained](#).

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