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No deal Brexit: trade

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Summary

The Government's stated position is that it wants a deal with the EU. Nevertheless, it wants to keep a no deal Brexit as an option. This paper examines the effect of no deal on the UK's trade with both EU and non-EU countries.

Trade with the EU

Leaving the EU with no deal would mean the UK leaving the EU single market and customs union. Trade with the EU would be on World Trade Organization (WTO) rules. No deal would increase barriers to trade between the UK and EU in both goods and services. Trade in goods would be subject to tariffs. Goods and services trade would face more non-tariff barriers. This would have an adverse effect on the UK economy which, at the moment, is highly integrated with the EU through cross-border supply chains. Operation Yellowhammer documents reveal the problems which might arise. A no deal Brexit has been described as a "cliff-edge".

No transition period

No deal would also mean there would be no transition period. Businesses would therefore have much less time to prepare for Brexit. The UK, the EU and some other EU Member States have announced measures to help businesses prepare for Brexit. There have been concerns about the take-up of some of these schemes in the UK and the preparedness of business for no deal (especially small businesses).

Independent trade policy

A no deal Brexit would allow the UK to take control of its trade policy. Supporters of Brexit view this as one of the main advantages of leaving the EU. UK trade policy can be focussed solely on UK interests and on faster-growing parts of the global economy. The new Government has prioritised a trade agreement with the US. The UK will however lose the "clout" which comes with being part of a major trade bloc. Many doubt whether more trade outside the EU can fully compensate for higher trade barriers with the EU.

No deal tariffs

Leaving the EU means that the UK will have the freedom to set its own tariffs on imports. The UK announced its initial tariffs in March. These will be applied equally to imports from EU and non-EU countries (except where the UK has a free trade agreement). Tariffs are reduced to zero on many products under these proposals. Imports of some agricultural products will still be subject to tariffs. UK tariffs will also remain on certain non-agricultural products, such as cars and some ceramics. While the UK is in the EU, there are no tariffs on imports from other Member States. Under no deal, tariffs would be payable on some imports from the EU. The same set of tariffs would be applied to imports from non-EU countries. More goods imported from non-EU countries would be tariff free: 92% of imports from non-EU countries would be tariff-free (compared with 56% now). The Government has said that the tariffs announced in March are not the final word and any changes are likely to be published before 14 October 2019. The Government implied that large changes were unlikely.

UK tariffs would not apply to goods imported into Northern Ireland from Ireland as part of the Government's policy of doing all it can to keep the Irish border open. Concerns have been raised about the impact of this on business in Northern Ireland, whether it is compliant with WTO rules and whether it risks encouraging smuggling.

UK exports to the EU would face tariffs. This would make UK products less competitive in the EU compared with imports from other EU Member States (or countries with which the EU has a trade agreement) as these would not face tariffs.

Trade in services

Barriers to trade in services between the UK and the EU would also be raised. The mutual recognition of regulatory regimes between the UK and the EU would come to an end. UK businesses would no longer be treated as if they were local businesses in the Member State where they offer their services but as businesses of any third country. To be compliant they would have to follow the so-called host state rules set by each EU Member State in which they have a branch or sell a service. Trade would be governed by WTO rules and commitments which offer less liberal terms than the EU single market.

In practice it would mean that UK citizens wishing to set up a business in an EU Member State may face additional restrictions, such as limits on foreign ownership of real estate or additional requirements concerning management or directorship of a company.

In the absence of mutual recognition, services sold from the UK and compliant with UK regulations would not be regarded as automatically compliant in the EU. Depending on Member States' laws, UK firms might need to acquire authorisations, licences or observe certain quotas. In some sectors individuals may have to get their professional qualifications recognised because the existing regime of mutual recognition of professional qualifications between the EU and the UK would end. Changes to the free flow of data which currently supports a large proportion of services could create an additional challenge.

Also, the end of free movement of persons between the UK and the EU could affect UK service providers. On the one hand, their access to qualified professionals from the EU would become less straightforward. On the other hand, EU27 national rules on business travel, residency and work permits would then apply to UK nationals and would affect both UK businesses and self-employed professionals.

Rolling over EU trade agreements

In a no deal Brexit, the UK will no longer be party to the EU's trade agreements with other countries. The UK has succeeded in rolling over a number of these agreements. But EU agreements with some important trading partners, such as Canada, Japan and Turkey, have not been rolled over. The UK agreements do not fully replicate the EU agreements in all cases.

Future trade deal with the EU

It is unlikely that no deal would mean the end of Brexit. The UK will probably want to reach an agreement with the EU on future trade relations at some point in the future, given the importance of trade with the EU. After a no deal Brexit, this would be on a different legal basis from Article 50. This could well make negotiations more difficult as Member State governments and parliaments would have a greater role.

1. Introduction

This note sets out the consequences for trade of a no deal Brexit.

Section 2 considers trade with the EU in both goods and services. It looks at tariff barriers and non-tariff barriers. The implications for the automotive sector and professional/business services are highlighted.

Leaving the EU will allow the UK to have an independent trade policy. Section 3 looks at the UK's progress in rolling over the EU's free trade agreements and possible future UK trade deals with, for example, the US. Section 3 also considers public procurement. It also looks at the possibility of, and challenges posed by, reaching an agreement with the EU at some point in the future.

Section 4 looks at the policies announced by the Government, the EU and individual Member States to help mitigate the effects of a no deal Brexit.

2. Trade with the EU

A no deal Brexit would mean the UK leaving the EU's single market and customs union with no agreement in place on future trade relations between the UK and EU. A no deal Brexit would mean no transition period. The UK would become a 'third country' for the EU.[1] The UK's trade with the EU would revert to World Trade Organization (WTO) terms after 31 October. This would raise barriers to trade between the UK and EU.

Leaving the EU with no deal would mean the UK would have the freedom to set its own tariffs on imports. The Government announced its initial no deal tariffs earlier in the year.[2] Tariffs would be cut to zero on the majority of goods but would be maintained in a number of sensitive sectors.

For UK services exports, a no deal exit would mean reduced access to the EU market and more non-tariff barriers.

2.1 Trade in goods

Tariffs

According to a Guidance Note issued by the European Commission, in the event of no deal, "[t]he UK will be treated as any other third country with which the EU does not have a preferential trade relationship or customs or other agreements or arrangements."[3]

Trade with the EU on WTO terms would mean UK goods exports to the EU would be subject to the EU's tariffs and UK goods imports from the EU would be subject to the UK's tariffs. While the UK is a Member State of the EU, there are no tariffs on UK-EU trade.

The CBI has commented:

> The reintroduction of tariffs to the UK's trade with the EU (as well as a number of other markets around the world) would represent a huge step backwards for UK business and UK trade policy.[4]

Not all businesses are pessimistic about no deal. Lord Wolfson, chief executive of Next, told the BBC that, while he hoped there would be a deal, recent contingency planning meant that the UK was better prepared for no deal.[5]

UK exports to the EU

Under a no deal Brexit, UK exports to the EU would be subject to the EU's tariffs. While the EU's tariffs are, *on average*, quite low, tariffs on some individual products are higher. The EU tariff on cars, for example,

1 A 'third country' is a country which is not a member of the EU.
2 The Government has said that there may be some alterations to these which they hope to announce before 14 October 2019 (see below).
3 European Commission Guidance Note: Withdrawal of the United Kingdom and customs related matters in case of no deal, 11 March 2019
4 CBI, What comes next: The business analysis of no deal preparations, July 2019, p57
5 BBC News, Brexit: Next boss says UK can avoid no deal chaos, 13 August 2019

is 10%. The average EU tariff on sugar and confectionery is 28% and on dairy products is 44%. Some individual products have tariffs of over 100%.[6]

UK exporters to the EU would be put at a competitive disadvantage. UK exporters to the EU would face tariffs which would not apply to trade between EU Member States (or to exports to the EU from countries with which the EU has a trade agreement). Commenting on the impact on the motor industry, the Exiting the EU Committee said:

> Leaving the EU without a deal would mean that the UK automotive sector would be subject to the EU's Common External Tariff on its exports to the EU27, its largest market, adding costs estimated at around £2,700 for UK cars. These costs would undermine the competitiveness of UK exported cars compared to cars manufactured and traded within the EU and cars manufactured in countries, including South Korea and Japan, with free trade agreements with the EU.[7]

The EU also has a system of "tariff rate quotas" (TRQs). These allow imports of certain goods to come into the EU at a lower tariff rate up to a set level. Above this threshold the standard tariff applies. The EU has TRQs for agri-food products like dairy, beef, lamb and vegetables.

The Agricultural and Horticultural Development Board (AHDB) explain the consequences of a no deal Brexit on beef and sheep meat trade:

> When discussing trade, tariffs tend to take pole position, however, TRQs also form a major part of the picture. Market access for imports of beef into the UK will increase for non-EU countries if a No Deal Brexit comes to pass. At the same time, exports of beef to the EU would be severely cut as the TRQs available would be insufficient and specification restrictions could also inhibit value adding opportunities.
>
> Sheepmeat trade will be even more severely impacted. Access to the EU would almost completely collapse, facing the same tariff rates as any other non-EU country without preferential access. Meanwhile, imports from non-EU countries (predominantly New Zealand and Australia) would remain at similar levels to present.[8]

UK imports from the EU: UK's no deal tariffs

If the UK leaves the EU without a deal, it will need its own tariff schedule as it will no longer be part of the EU customs union. The tariff schedule sets the "default" tariffs. They are the tariffs which apply to trade on "WTO rules" (sometimes referred to as Most Favoured Nation (MFN) tariffs).[9]

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6 WTO, World Tariff Profiles 2019, p88

7 Exiting the European Union Committee, The consequences of "No Deal" for UK business, HC 2560, 19 July 2019, p5

8 AHDB, Impact of tariffs and tariff rate quotas (TRQs) on beef and sheepmeat trade, 18 July 2019. There is more information in The Andersons Centre, Red meat route to market project report, 31 May 2019 and Commons Library briefing Brexit: trade issues for food and agriculture

9 See also Department for International Trade: Trading under WTO rules, 15 August 2019

Box 1: Most Favoured Nation principle

The WTO Most Favoured Nation (MFN) principle is a non-discrimination requirement. The MFN principle demands that WTO members extend any market access concession immediately and unconditionally to every other WTO member: for example, grant one country lower tariff rates, and the same must be done for every other WTO member. There are, however, some important exceptions to this:

- Tariffs are reduced or eliminated where there is a free trade agreement or a customs union;
- Developing countries are often given market access at reduced or zero tariffs under preference schemes such as the EU's Everything But Arms scheme and the Generalised Scheme of Preferences (GSP); and
- Tariffs are higher on specific products from certain countries where anti-dumping or anti-subsidy duties are imposed on imports sold at unfairly low prices, or where temporary safeguards are in place to protect industry from serious injury.

The same applies to trade in services. If a country allows foreign competition in a sector, the MFN principle mandates that similar opportunities in that sector are given to providers from all other WTO members. Free trade agreements on services are exempted from this requirement.

In the event of a no deal Brexit, the UK tariffs would be charged on imports from both EU and non-EU countries. Where the UK opts to impose a tariff, EU countries would lose the advantage they currently have from tariff-free access to the UK market.

The Government announced the temporary no deal tariffs on 13 March 2019.[10] This regime will apply for up to a year while a consultation and review on a permanent tariff regime takes place. There will be no tariffs on 87% of all imports (measured by value). Tariffs will remain in the following areas:

- a mixture of tariffs and quotas on beef, lamb, pork, poultry and some dairy to support farmers and producers who have historically been protected through high EU tariffs
- retaining a number of tariffs on finished vehicles in order to support the automotive sector and in light of broader challenging market conditions. However, car makers relying on EU supply chains would not face additional tariffs on car parts imported from the EU to prevent disruption to supply chains
- in addition, there are a number of sectors where tariffs help provide support for UK producers against unfair global trading practices, such as dumping and state subsidies. Tariffs would be retained for these products, including certain ceramics, fertiliser and fuel
- to meet our long-standing commitment to reduce poverty through trade, the government currently offers preferential access to the UK market for developing countries. To ensure that access for developing countries is maintained, we would retain tariffs on a set of goods, including bananas, raw cane sugar, and certain kinds of fish[11]

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10 HM Treasury, Department for International Trade, Temporary tariff regime for no deal Brexit published, 13 March 2019

11 HM Treasury, Department for International Trade, Temporary tariff regime for no deal Brexit published, 13 March 2019

Under these proposed tariffs, some goods imported from the EU would be subject to tariffs: 82% of imports from the EU would be tariff-free under no deal (compared with 100% now). More goods imported from non-EU countries would be tariff-free: 92% of imports from non-EU countries would be tariff-free (compared with 56% now).[12]

Announcing the tariffs, George Hollingbery, the then trade minister, said:

> Our priority is securing a deal with the European Union as this will avoid disruption to our global trading relationships. However, we must prepare for all eventualities.
>
> If we leave without a deal, we will set the majority of our import tariffs to zero, whilst maintaining tariffs for the most sensitive industries.
>
> This balanced approach will help to support British jobs and avoid potential price spikes that would hit the poorest households the hardest.
>
> It represents a modest liberalisation of tariffs and we will be monitoring the economy closely, as well as consulting with businesses, to decide what our tariffs should be after this transitional period.[13]

Michael Gove, Chancellor of the Duchy of Lancaster, told the Exiting the EU Committee:

> They [the no deal tariffs announced in March] are not the final word. We will be confirming shortly what alterations, if any, take place, but there is a bias towards keeping things as they are, overall.[14]

He said he hoped that any alteration would be confirmed by 14 October adding "my preference is sooner rather than later".[15]

Changes to tariff rates create winners and losers. Significant cuts to tariff rates benefit consumers of those products. However, if high tariffs were to be removed or significantly reduced, domestic producers who compete against these products are likely to be made worse off as they face competition from cheaper imports.

Unilateral reduction of tariffs to all trading partners also reduces the advantage enjoyed by countries which already have preferential access, through a free trade agreement or other preferential access scheme. In addition, lowering tariffs unilaterally may reduce bargaining power in future trade agreement negotiations.

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12 Most imports tariff-free under no-deal plan, BBC News, 13 March 2019

13 HM Treasury, Department for International Trade, Temporary tariff regime for no deal Brexit published, 13 March 2019

14 Committee on Exiting the European Union, The progress of the UK's negotiations on EU withdrawal, 5 September 2019, HC 372, Q5060

15 Committee on Exiting the European Union, The progress of the UK's negotiations on EU withdrawal, 5 September 2019, HC 372, Q5061

Box 2: Operation Yellowhammer

The Government published the Operation Yellowhammer document on 11 September 2019, having been forced to do so by Parliament.[16] The document contains the Government's planning assumptions for a reasonable worst case scenario. Details had been leaked to the Sunday Times in August.

Among other things, the document said:

- Public and business readiness for no deal remains low
- On day 1, 50-85% of HGVs travelling via the short Channel Straits may not be ready for French customs
- The flow rate of HGVs could be reduced to 40-60% of current levels
- HGVs could face maximum delays of 1½ to 2½ days
- The no new checks approach to the Irish border was likely to prove unsustainable.

The Government have emphasised that the document is a reasonable worst case scenario (although others argue it is a "base case") and that steps have been put in place to mitigate the effects of no deal.[17]

In a letter to Hilary Benn, chair of the Exiting the EU Committee, Michael Gove said:

> It is also my intention, as I stated at your committee, to publish revised assumptions in due course alongside a document outlining the mitigations the Government has put in place and intends to put in place. I hope to publish these as soon as possible and will write to you shortly with publication plans.[18]

No checks on goods crossing from Ireland to Northern Ireland

The Government has said that tariffs will not apply to goods imported into Northern Ireland from Ireland. This is to avoid checks at the Irish border. Tariffs will be payable on goods imported into Great Britain from the EU via Northern Ireland.[19]

UK Government guidance

In guidance originally issued in March 2019 (updated in April 2019), the Government said:

> We are confirming a strictly unilateral, temporary approach to checks, processes and tariffs in Northern Ireland. This would apply if the UK leaves the EU without a deal.
>
> The UK government would not introduce any new checks or controls on goods at the land border between Ireland and Northern Ireland, including no customs requirements for nearly all goods.

16 Operation Yellowhammer, HMG Reasonable Worst Case Planning Assumptions As of 2 August 2019
17 Why Yellowhammer risks are real, Financial Times (Brexit Briefing), 12 September 2019; Faisal Islam, Twitter, 11 September 2019
18 Letter from Rt Hon Michael Gove to Rt Hon Hilary Benn, Operation Yellowhammer: planning assumptions, 11 September 2019
19 Most imports tariff-free under no-deal plan, BBC News, 13 March 2019

> The UK temporary import tariff announced would therefore not apply to goods crossing from Ireland into Northern Ireland.
>
> We would only apply a small number of measures strictly necessary to comply with international legal obligations, protect the biosecurity of the island of Ireland, or to avoid the highest risks to Northern Ireland businesses - but these measures would not require checks at the border.
>
> Because these are unilateral measures, they only mitigate the impacts from exit that are within the UK government's control. These measures do not set out the position in respect of tariffs or processes to be applied to goods moving from Northern Ireland to Ireland.[20]

The guidance went on to say:

> We recognise that Northern Ireland's businesses will have concerns about the impact that this approach would have on their competitiveness. That is why we remain determined to secure a deal and an orderly exit from the EU.
>
> A negotiated settlement is the only means of sustainably guaranteeing no hard border and protecting businesses in Northern Ireland. This is why we are, first and foremost, still committed to leaving the EU with a deal. In a no deal scenario, the UK government is committed to entering into discussions urgently with the European Commission and the Irish Government to jointly agree long-term measures to avoid a hard border.
>
> We also recognise that there are challenges and risks for maintaining control of our borders, monitoring the flow of goods into the UK, and the challenge posed by organised criminals seeking to exploit any new system. That is why we are clear that this approach will only be strictly temporary.

Comment

Legality

The CBI has asked for Government legal advice to be published "to reassure firms in Northern Ireland that they will be operating without contravening international law by following UK government advice."[21]

Smuggling

There are also concerns that this approach could encourage smuggling. The CBI commented:

> Firms doing legitimate business on the island are particularly concerned about what the UK government's plans will mean for smuggling across the Irish border, firstly and most obviously because the proceeds of smuggling in Northern Ireland are used to fuel crime within communities. Smuggling will only be encouraged by the tariff differentials arising from the UK government's temporary plans not to impose tariffs on goods moving from the Republic of Ireland into Northern Ireland. The Northern Ireland Food and Drink Association has estimated that a 28t lorry can expect to have a tariff differential North-South of £70,000 for beef or £52,000 for cheese and butter, creating huge incentives to dodge duties.[22]

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20 Brexit: Avoiding a hard border in Northern Ireland in a no deal scenario, 2 April 2019
21 CBI, What comes next: The business analysis of no deal preparations, July 2019, p65
22 CBI, What comes next: The business analysis of no deal preparations, July 2019, p67

The Operation Yellowhammer document said that the proposals for the Irish border were "likely to prove unsustainable due to significant economic, legal and biosecurity risks and no effective unilateral mitigations to address this will be available."[23]

Non-tariff barriers

In the event of a no deal Brexit, the UK would face various non-tariff barriers to trade. For example, trade with the EU will require customs declarations to be made. The Government's guidance says that '[c]ompleting a customs declaration is complicated and you'll need software.'[24] A European Commission Brexit preparedness notice for a no deal scenario indicates, for example, that imports from the UK entering its territory may be subject to customs controls. Businesses will have to submit customs declarations and may be required to provide guarantees to cover potential customs debts.[25]

Trade with the EU is facilitated by a range of single market rules. Leaving the EU is expected to increase non-tariff barriers with some estimating that these costs will be greater than costs from tariffs on UK-EU trade. The CBI said:

> Much of the goods trade that the UK does with the EU is underpinned by joint rules, processes and testing – which means that goods cleared for sale in the UK are automatically allowed to be sold in the EU. Some products do not require testing, but a huge range of goods do – including toys, safety equipment, goods for military use, chemicals, medicines and more. The rules that underpin these regulated goods remove non-tariff barriers to trade. In no deal, these non-tariff barriers are expected to be equivalent to an additional tariff of 6.5% on UK exports to the EU – nearly double the average WTO Most Favoured Nation tariff.[26]

Agri-food products would be particularly affected. According to the CBI:

> UK exports [of food and drink] will face costly and damaging regulatory changes from day one. These will include veterinary checks at the European border, where stringent hygiene tests are carried out. Food will have to be diverted to Border Inspection Posts (BIPs) at or near the European border, where a range of tests will be undertaken …[27]

The import of certain goods from the UK and the export of such goods to the UK will become subject to import/export licensing. Examples of goods affected include waste, hazardous chemicals and genetically-modified organisms. The existing licences issued by the UK authorities will cease to be valid.[28] The licensing requirements will also apply to controlled goods, such as firearms and dual-use items, such as nuclear

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23 Operation Yellowhammer, HMG Reasonable Worst Case Planning Assumptions As of 2 August 2019, para 18

24 HMRC, Customs declarations for goods brought into the EU, 11 January 2019; HMRC Customs declarations for goods taken out of the EU, 14 January 2019

25 European Commission, Notice to Stakeholders, Withdrawal of the United Kingdom and EU Rules in the Field of Customs and Direct Taxation, 30 January 2018

26 CBI, What comes next: The business analysis of no deal preparations, July 2019, p43

27 CBI, What comes next: The business analysis of no deal preparations, July 2019, p57

28 European Commission, Notice to Stakeholders, Withdrawal of the UK and EU Rules in the Field of Import/Export Licences for Certain Goods, 25 January 2018

materials, technologies or certain software components, that can be used for both civil and military purposes.

The Operation Yellowhammer document said that there could be delays of up to 2½ days for lorries crossing the English Channel in "a reasonable worst-case scenario". There could be significant disruption at the short Channel Straits for up to three months.[29] Commenting on Operation Yellowhammer, which had been leaked to the Sunday Times, James Hookham, deputy chief executive of the Freight Transport Association, said:

> "FTA, which speaks for the logistics sector, is concerned that none of the planned scenarios leaked in today's report (Sunday Times) have been shared with the logistics industry in meetings over the past three years. We are ready and waiting to adopt and adapt to new trading practices but without knowing the scenarios the government believes industry should prepare for, logistics operators cannot be expected to take adequate steps to get ready for a No Deal Brexit.[30]

The leak was described as a worst-case scenario and scaremongering by the Government.[31] The Government has announced various schemes to mitigate the effects of no-deal. These are discussed in section 4.

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29 Operation Yellowhammer, HMG Reasonable Worst Case Planning Assumptions As of 2 August 2019, para 3

30 FTA's response to leaked No Deal Brexit report19 August 2019

31 Brexit: No deal dossier shows worst-case scenario – Gove, BBC News, 18 August 2019

Box 3: Non-tariff barriers in practice – an example

The French ministry of agriculture and food has published the following summary guide to controls on plant and animal products entering France from the UK after Brexit under a no deal scenario:[32]

2.2 Case study: the automotive sector

The automotive sector is a leading manufacturing sector, accounting for 8% of UK manufacturing output.[33] The UK automotive industry is the fourth largest in Europe and produced 1.5 million cars in 2018,[34] 82% of which were exported.[35] UK car manufacturing is dominated by foreign owned companies – the three manufacturers that produce the most cars in the UK are Jaguar Land Rover (owned by Tata, an Indian company), Nissan (a Japanese company) and BMW (a Germany company which produces the Mini in a plant near Oxford).[36]

In common with other high value manufacturing industries, the automotive sector is particularly reliant on cross-border supply chains and 'just in time' delivery of components, both of which may be disrupted if the UK leaves the EU without a deal. These and other potential impacts on the industry if the UK leaves without a deal are discussed below.

32 https://t.co/C1SOQi9akh and https://t.co/C1SOQi9akh
33 ONS, GDP estimates, Low Level Aggregates Table
34 European Automobile Manufacturers Association, Production statistics, 2019
35 Society of Motor Manufacturers and Traders (SMMT), UK automotive trade report 2019, July 2019, p4
36 SMMT, Motor Industry Facts, 2019 p8

Tariffs

Whilst the UK is part of the EU's customs union, no tariffs are charged on cars and automotive components that are imported or exported between the UK and the EU.

The UK government has published a temporary tariff regime that would be put in place immediately after a no deal Brexit, and would remain for up to a year "while a full consultation and review on a permanent approach to tariffs is undertaken."[37] The key points related to the automotive sector are:

- There will be zero tariffs on imported automotive components. This is so that car manufacturers involved in cross-border supply chains will not incur additional tariff costs when importing the components needed in their manufacturing.[38]
- However, the government will introduce tariffs of 10% on imported finished cars in order to protect UK car manufacturers from cheaper cars assembled elsewhere.[39]

UK automotive exports to the EU would likely attract the standard EU (most favoured nation) tariffs of 4.5% on average for automotive components and 10% for complete cars.[40] The Society of Motor Manufacturers and Traders (SMMT) argue that these tariffs would damage the competitiveness of UK-built cars by adding an average of £2,800 to the cost of a UK-built car sold in the EU, if the impact of the tariff was passed directly onto consumers.[41]

Non-EU trade

The WTO's 'most favoured nation' principle means that the temporary tariffs applied in the event of no deal by the UK to EU automotive imports would also apply to imports from other countries not covered by free trade agreements.

Currently, UK automotive exports to countries with which the EU has a free trade agreement attract zero tariffs (for example, South Korea, Mexico or Turkey) or reduced tariffs (for example, South Africa, Columbia and Canada).[42] The UK has rolled over a number of these agreements but not all of them. The EU's agreement with Canada has not been rolled over, for example (see section 3.4).

Rules of origin

For an exported car to benefit from the preferential tariffs currently in place, the car must conform to the 'rules of origin' which are a standard part of most trade agreements. These rules stipulate the threshold for how much of a finished product must be produced in the UK in order for the product to count as UK-made. These thresholds vary in different

37 HM Government, Temporary tariff regime for no deal Brexit published, 13 March 2019
38 HM Treasury, Trade tariff commodity code look up: Code 8708, 13 March 2019
39 HM Treasury, Trade tariff commodity code look up: Code 8703, 13 March 2019
40 Exiting the EU Select Committee, The consequences of "No Deal" for UK business, 16 July 2019, HC2560, para 52
41 SMMT, UK automotive trade report 2019, July 2019, p20
42 Ibid p22

trade agreements, but average around 55% for car exports in EU agreements.

Box 4: Rules of origin

Rules of Origin (RoO) are criteria which determine the 'economic nationality' of traded goods and their components. If goods consist of materials or input 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 vary from country to country. Imports of goods are usually subject to RoO checks in order to ensure that a correct customs tariff is applied, and goods do not enter the market illegally via a lower tariff country. Provisions for 'cumulation' allow countries, which are part of a trade agreement, to count each other's share in a product towards the RoO in order to jointly enjoy preferential tariffs.

Under existing arrangements, the automotive sector is able to "cumulate" content. This means that if a minimum of 55% of the components of a car assembled in the UK (for example) were produced anywhere in the EU, then that car can be declared 'UK-made'. Cars assembled in the UK actually contain around 44% content made in the UK.[43]

If future trade arrangements between the UK and non-EU countries do not include the ability to cumulate content from other EU countries for automotive exports, then UK-built cars will be "unlikely to … qualify for preferential treatment".[44]

Customs arrangements

The EU customs union and single market mean that there are minimal administrative procedures required to move goods across EU borders. Shipments imported to the UK from other EU countries are not routinely checked at the border and require only the most straightforward documentation.[45]

In the event of no deal, it is likely that more documentation and more complex customs checks would be required to move goods into the UK. SMMT state that the introduction of this "friction" at the border "would undermine the competitiveness of UK Automotive".[46]

Delays at the border are viewed by the automotive industry as particularly damaging because of the "just in time" nature of the industry's manufacturing processes. An SMMT spokesperson explained the industry's approach in evidence to the Exiting the EU Committee:[47]

> The way [automotive companies] operate is not to have a warehouse. It is to have the trucks as their warehouse. The component arrives just in time and just in sequence.

43 Exiting the EU Select Committee, The consequences of "No Deal" for UK business, 16 July 2019, HC 2560, para 54
44 SMMT, UK automotive trade report 2019, July 2019, p22
45 Ibid, p21: Shipments of below £1.5 million in value require an EU Intrastat declaration, whilst shipments over this threshold require a supplementary declaration and compliance information.
46 SMMT, UK automotive trade report 2019, July 2019, p21
47 Exiting the EU Select Committee, The consequences of "No Deal" for UK business, 16 July 2019, HC 2560, para 57

To mitigate against disruption to this sequence, car manufacturers might be required to invest in warehousing capacity and stockpiles of components, or shorten their supply chains so that fewer non-UK manufacturers contribute to cars assembled in the UK. Both these solutions would be costly to manufacturers.

Manufacturing regulations

Cars sold in the EU must meet certain safety regulations. Cars are tested using the 'type approval' process. Background information about the 'type approval' process is available in the Library's Briefing Paper, *What if there's no Brexit deal?* published in February 2019 (see page 98).

In brief, type approval is the mechanism by which new cars are safety approved for sale in the EU. Manufacturers must register with a Type Approval Authority (TAA) in a Member State. That TAA then tests their cars and issues a safety certificate that is valid across the EU and which is required if manufacturers want to sell the car. The UK's TAA is the Vehicle Certification Agency. This organisation would lose its status as an EU recognised TAA in the event of no deal.

The Government have produced type approval guidance for UK car manufacturers.[48] This states that, in the event of no deal:

- For cars to be safety approved for sale in the UK, manufacturers must follow the guidance of the Vehicle Certification Agency, and their cars must be approved by this agency. There is no suggestion that UK safety guidance will diverge from existing EU guidance immediately after Brexit.
- For cars manufactured in the UK to be safety approved for sale in the EU, manufacturers must register with a TAA in an EU27 country, and that TAA must test and issue a safety certificate.

The Exiting the EU Committee report *The consequences of "No Deal" for UK business* states that:[49]

> A majority of UK car producers are understood to have obtained approvals from a TAA in the EU27 prior to the end of March 2019 in anticipation of a no deal exit.

Box 5: Government guidance on goods trade in a no deal Brexit

The Government has provided guidance goods trade in the event of no deal:

Export from the UK to the EU after Brexit
Import from the EU to the UK
Transporting goods out of the UK by road
Exporting animals and animal products in a no-deal Brexit

HMRC has more detailed guidance on import, export and customs, including Brexit related-issues.

[48] Department for Transport, Vehicle type-approval if there's no Brexit deal, February 2019

[49] Department for Exiting the EU Select Committee, The consequences of "No Deal" for UK business, 16 July 2019, HC2560 2017-19, para 60

Box 6: The World Trade Organization (WTO)

The UK is a founding member of the WTO in its own right, but as an EU Member State it is in practice represented in the WTO by the European Commission. After Brexit the UK will no longer be represented by the EU and will be a fully independent member of the organisation. The UK will need to update the terms of its WTO membership, including establishing its own 'schedule' of trade commitments at the WTO.[50] This process is not expected to be straightforward.[51]

The WTO represents a rules-based trading system, based on multiple multilateral agreements between Member States. Its General Agreement on Trade and Tariffs (GATT) governs how tariffs are applied and addresses non-tariff barriers (quotas, rules of origin and various other legal or bureaucratic trade restrictions) on goods. The leading principle of non-discrimination requires WTO members not to treat any member less advantageously than any other: grant one country preferential treatment, and the same must be done for everyone else. There are exceptions for free trade areas (under free trade agreements) and customs unions like the EU, preference schemes for developing countries, and anti-dumping and anti-subsidy duties (which are not determined on a non-discrimination basis). Beyond these, the tariff and treatment that applies to the 'most-favoured nation' (MFN) must similarly apply to all.

The General Agreement on Trade in Services (GATS) constitutes a global set of rules governing trade in services. The GATS contains general obligations and principles, which are binding on all members, as well as country-specific commitments to liberalise certain sectors. The MFN principle applies to trade in services in the same way it applies to trade in goods, albeit with more options for members to retain exceptions. The GATS principle of national treatment requires treating foreign service providers the same as the domestic ones. In practice, services trade can be more liberal than the members' commitments in the WTO would suggest, but countries can back down on such policies more easily if their commitments are not embedded in a trade agreement. For more information see section 5 of the Commons Library briefing Trade in Services and Brexit.

Is there much trade on WTO terms alone?

It is rare to trade under WTO rules and only those. Most countries have bilateral or regional free trade agreements and facilitation agreements which cover other aspects than tariffs. There are agreements that facilitate trade, for example through customs cooperation or try to minimise regulatory barriers through mutual recognition of standards. These agreements impact trade flows and volumes, and WTO tariffs on goods are only a part of the picture.

According to the BBC report Reality Check, the EU (and with it the UK) trades with 24 countries and territories under WTO rules alone with respect to tariffs on goods. These include the US, China, Russia, Brazil, Argentina, Australia, New Zealand and Saudi Arabia. However, the Institute for Government notes that this trade is also facilitated by various bilateral agreements: on customs co-operation, data exchange, product standards and more.[52]

UK WTO schedules

In order to re-establish its autonomy from the EU in the WTO, the UK has to agree its stand-alone 'schedules' for goods and services. These country-specific commitments refer to maximum tariff levels and tariff rate quotas (TRQs - quantitative restrictions on imports) on goods and levels of agricultural subsidies. In their services schedules, members commit to grant market access to foreign companies and list any limitations on MFN treatment imposed upon foreign providers.[53] Members can limit foreign access to their markets to a handful of sectors or open up a wide range of services. EU member states have specified their national limitations in the EU's services schedule.

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50 The UK will almost certainly have to establish its independent position at the WTO, irrespective of whether there is a deal with the EU.

51 P. Ungphakorn, Nothing simple about UK regaining WTO status post-Brexit, International Centre for Trade and Sustainable Development, 27 June 2016

52 BBC News, Reality Check: Does the UK trade with 'the rest of world' on WTO rules?, 6 November 2017; Institute for Government, Do other countries trade with the EU on 'WTO-only' terms?, 22 June 2017

53 WTO, Services: rules for growth and investment; Department for International Trade, Trade White Paper: Preparing for our future UK trade policy - Government Response, 5 January 2018, chapter 1.1

The Government has stated that it plans to replicate as far as possible its current commitments in the WTO after Brexit.[54] Regarding trade in goods, the Commission and the UK agreed to apportion the UK's TRQs based on recent years' trade flows.[55] On 24 July 2018, the UK notified its draft schedule for goods commitments to the WTO. Several major agricultural exporters, including the US, Argentina, Australia, Brazil, Canada and Thailand, questioned the proposed Tariff Rate Quota split between the EU and the UK, and some expressed formal reservations about the proposal.[56] The Secretary of State for International Trade informed Parliament on 25 October that the UK would open formal negotiations with those partners.[57] This would ultimately lead to the approval of the schedules.

For services schedules the UK must comply with the GATS obligations and specify its commitments for each particular service sector, detailing the levels of market access and treatment under national laws.[58]

On 3 December 2018, the UK submitted its draft services schedule to the WTO.[59] Russia, Taiwan and Costa Rica have submitted objections to the UK's schedule thus removing hopes of quick certification.

If the objections to the UK's proposed schedules cannot be resolved before it leaves the EU, the UK's schedules will remain uncertified. The Government does not anticipate there to be any problems though as it is not uncommon for WTO members to operate on uncertified, provisional schedules for periods of time.[60] [61]

2.3 Trade in services

Having left the single market without a deal, the UK will become a 'third country' for the purposes of service provision in the EU. Trade will be governed by the rules of the WTO General Agreement on Trade in Services (GATS). In addition, UK businesses will have to abide by the rules set by each Member State where they operate as opposed to a set of EU rules.

The services sector accounts for nearly 80% of UK economic output. It includes areas as diverse as banking, medical services, publishing, consulting, tourism, creative industries – such as film and fashion – retail and transport, to name just a few.

Services made up 45% of UK exports and 26% of imports in 2018, which is high by international comparison.[62] Professional and business services, together with financial services, account for half of UK services exports, but international trade takes place in many other sectors.

Services can be traded in various ways – across the border (online or through other channels), in person (when a consumer travels to the supplier or the supplier goes to the client), or through a subsidiary

54 Department for International Trade, Trade White Paper: Preparing for our future UK trade policy – Government Response, January 2018, Chapter 1.1

55 European Commission Proposal on the apportionment between the United Kingdom and the EU27 of tariff rate quotas included in the World Trade Organisation schedule of the Union, COM(2018)321 final, 22 May 2018

56 IEG Policy, UK to enter into negotiations with WTO partners on Goods Schedule after TRQ objections, 25 October 2019

57 HCWS1034, 25 October 2018

58 House of Lords European Union Committee, Brexit: the options for trade,13 December 2016, HL 72, chapter 6

59 WTO, United Kingdom submits draft post-Brexit services commitments to WTO, 3 December 2018

60 For the Government's position see Department for International Trade, Trade White Paper: Preparing for our future UK trade policy – Government Response, January 2018, para 1.1

61 The EU for example, updated its schedules in 2016, twelve years after its enlargement from 15 to 25, and in 2017, to reflect its size of 28 Member States.

62 ONS, UK Trade, June 2019, 9 August 2019, Table 1

company abroad (this refers to foreign direct investment). Unlike goods trade, services are generally not restricted by tariff barriers and border checks. Instead, national regulations - on licensing, quotas, professional qualifications or immigration - prescribe if and under which conditions foreign providers are allowed to enter a market.

As the EU is the largest market for UK services exports as well as the main source of imports, for many businesses the new terms of services trade with the bloc will mean a major shift.[63] Among others, there will be changes to the right of establishment, the recognition of professional qualifications, free movement of persons and free flow of data. The Government's assessment of the implications of no deal on businesses says that:

> [t]he UK would risk a loss of market access and increase in non-tariff barriers. UK businesses would face barriers to establishment and service provisions in the EU which they had not previously faced, including nationality requirements, mobility, recognition of qualifications and regulatory barriers when setting up subsidiaries in EU member states.[64]

At the same time, services trade cannot be easily separated from goods trade. Services such as logistics, banking, insurance or post-production maintenance are supporting trade in goods, while R&D, engineering, IT and other types of services make up an increasingly important share of the value added in the production of goods.[65] Barriers to goods trade could have implications for the exports of UK services to the EU.[66]

Single market for services

Free movement of services – alongside free movement of goods, people and capital – is one of the four fundamental freedoms of the EU single market.[67] Within the single market, companies and individuals:

- are free to establish and run a business in any Member State;[68]
- can provide services from their 'home' Member State, in any EU country – crossing the border, online or at a distance;[69]
- can consume services in or from a Member State other than the one where they are established.[70]

This freedom extends essentially to all services sectors, covering services provided by companies on a temporary basis or through their

63 In 2018, 41% of UK services exports went to the EU taken as a single entity. The EU was the source of 50% of all UK service imports. Source: ONS, Balance of Payments, UK: January to March 2019, 28 June 2019, Tables B and C
64 HM Government, Implications for Business and Trade of a No Deal Exit on 29 March 2019, 26 February 2019, paras 39-42
65 Trade in services and Brexit, Commons Briefing Paper CBP-8586, 14 June 2019, section 2.2
66 International Trade Committee, Oral evidence: Trade in services, HC 1776, 13 March 2019, Q72
67 The Treaty on the Functioning of the European Union (TFEU)
68 TFEU Articles 49, 54
69 TFEU Article 56
70 European Commission, Single Market for Services, webpage accessed 29 August 2019

permanent presence in another Member State, as well as to services provided by (self-employed) individuals.

Freedom to provide services across the EU and freedom of establishment are enabled by common rules and standards as well as mutual recognition of regulatory regimes. Common rules such as the Services Directive [2006/123/EC] help service providers to more easily establish in another EU country or provide services across borders.[71] Mutual recognition of professional qualifications guarantees that qualified service professionals are recognised as such throughout the EU without having to re-qualify. EU rules on VAT, e-commerce, intellectual property and data protection and EU regimes of competition, state aid and public procurement facilitate free trade in services. There is also a range of rules for specific sectors such as legal services or audio-visual media.

Finally, under the EU legal framework businesses can enforce their right to provide services directly before Member States' courts.

Recent research by the Organisation for Economic Co-operation and Development (OECD) demonstrates that trade in services within the European single market is considerably freer than EU trade with third countries.[72] At the same time, numerous barriers remain.[73]

End of mutual recognition

After leaving the EU without a deal, the mutual recognition of regulatory regimes of the UK and the EU[74] will cease and UK businesses will have to follow the national rules of each EU Member State in which they have a branch or sell a service. These rules correspond to the Member States' individual commitments under the EU GATS schedules.[75] They are often referred to as **host state rules**.

Although the UK regulatory framework is unlikely to change in the short run, it will no longer be recognised under EU law. UK businesses will no longer be treated as if they were local businesses in the Member State where they offer their services but as businesses of any non-member state, like the US or Australia. As a result, services sold from the UK and compliant with UK regulations will not be regarded as automatically compliant in the EU. UK firms may need to acquire authorisations or licences or observe quotas. Individuals may have to get their professional qualifications recognised.

71 European Commission, Services Directive: quick guide, accessed 29 August 2019
72 S. Benz, F. Gonzales, "Intra-EEA STRI Database: Methodology and Results", OECD, Trade Policy Papers, No. 223, 2019, http://www.oecd.org/trade/topics/services-trade/
73 European Parliament, IMCO Committee, Report Contribution to Growth: The Single Market for Services, February 2019, chapter 3.
74 The EU Member States in this paper refers to EEA states including EU 27 plus Norway, Iceland and Lichtenstein.
75 European Commission, notice to stakeholders, Withdrawal of the United Kingdom and EU rules on the provision of Services and posting of workers, 28 June 2019

The same will be true for EU businesses operating in the UK: they will lose preferential access rights and protections in the UK as guaranteed by EU law and will be treated as third country providers.[76]

Having to comply with different regulations in each Member State implies an increase in trading costs for UK firms supplying services to the EU.[77]

The Government has published guidance for UK service providers which trade with the EU (see box 7).

Box 7: Government guidance on services in a no deal Brexit

The Government has provided guidance for trade in services sectors in case of no deal where it explains the potential changes:

- Providing services including those of a qualified professional if there's no Brexit deal
- Accounting if there's a no-deal Brexit
- Auditing if there's a no-deal Brexit
- Structuring your business if there's a no-deal Brexit
- Guidance for financial services

Further guidance for specific sectors can be found on this government website.

There is also a limited country guide for UK businesses providing services in the EEA and EFTA countries.

Provision of services regulations: guidance for UK service providers and Competent Authorities explains how the rules for most non-financial services will operate in the UK if there's a no deal Brexit.

Establishing in an EU Member State

The EU does not have a uniform policy on EU external trade in services. Instead, individual EU Member States often have different policies for providers from within versus from outside the EU.[78] Each has its own set of rules on business and property ownership, business visa regimes for third country nationals and rules for the recognition of third country educational qualifications.

UK citizens wishing to set up a business in an EU Member State may face additional restrictions, depending on the sector and the EU Member State. There could be restrictions on foreign ownership of real estate or additional requirements for ownership, management or directorship of a company.[79] For instance, senior managers or directors may be required to reside in the country of business.

In highly regulated sectors, like legal services, UK lawyers may be restricted in their ability to set up their practices in Member States or permitted activities may be limited.[80] See section 2.4 of this briefing on professional and business services.

[76] Department for Business, Energy & Industrial Strategy, Guidance on the provision of services regulations, March 2019, section 3

[77] Olga Pindyk, The future of UK services trade is unlikely to be bright, whatever form Brexit takes, 21 August 2019

[78] I. Borchert, Services trade in the UK: what is at stake? UKTPO Briefing Paper, 6 November 2016, p6

[79] Government Guidance, Structuring your business if there's a no-deal Brexit, 8 August 2019

[80] Law Society, Factsheet Brexit and the legal services sector in the EU, 2019

However, once established in the EU27, companies owned by UK nationals and having their head office or principal place of business in the EU27 will have the freedom to provide services within the EU.[81]

Several economists and trade researchers have argued that for firms which currently sell their services to other Member States directly from their UK offices or by temporarily sending their professionals to provide services on the spot, the increased costs of such trade may be an incentive to establish a commercial presence by setting up offices in the EU instead.[82] There is some evidence of such movement in the financial services sector.[83] The Exiting the EU Committee concluded in its July 2019 report "The consequences of "No Deal" for UK business":

> Leaving without a deal would mean the UK will be outside the EU regulatory regime for services. One way to mitigate this loss of market access is for UK businesses to open a presence in an EU27 Member State. This could lead to a reduction in services delivered by Mode 4 (temporary movement of the person delivering the service) and an increase in services delivered by Mode 3 (establishing a commercial presence within the EU27). The UK is creating circumstances that incentivise the UK services industry to relocate part of its operations outside the UK.[84]

Box 8: Financial services

The UK's financial services sector is the largest in Europe and is deeply connected with it. European banks and insurance companies operate in London, as UK companies do in Europe, under a system of "passports". Any company authorised in any EU Member State can operate in any other EU Member State under its passport. It is the sudden loss of this passport without other arrangements in place that is the biggest potential problem arising out of no deal. The consequences for the UK financial services sector are discussed in Commons Library briefing Brexit and financial services.[85]

Recognition of professional qualifications

Automatic mutual recognition of professional qualifications available to doctors, nurses, engineers, architects and other professions in the EU will fall away if there is no deal. Qualifications will have to be recognised in each EU Member State separately, under their distinct rules. Host state rules will apply as explained in European Commission guidance. However, the status of one's UK qualifications which have been formally recognised before Brexit will not change.[86]

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81 European Commission, notice to stakeholders, Withdrawal of the United Kingdom and EU rules on the provision of Services and posting of workers, 28 June 2019

82 Olga Pindyk, The future of UK services trade is unlikely to be bright, whatever form Brexit takes, 21 August 2019; S. Lowe, Brexit and services. How deep can the UK-EU relationship go?, Centre for European Reform, 6 December 2018, p3

83 William Wright, Christian Benson & Eivind Friis Hamre, New Financial think tank, Report: Brexit & the City – the impact so far, March 2019 provides some evidence of a shift towards larger commercial presence in the EU in the banking and financial sector due to Brexit uncertainty.

84 Exiting the EU Committee, The consequences of "No Deal" for UK business, HC 2560, 19 July 2019, para 41

85 Brexit and financial services, Commons Briefing Paper CBP-7628, 13 August 2019

86 European Commission, Notice to stakeholders Withdrawal of the United Kingdom and EU rules in the field of regulated professions and the recognition of professional qualifications, 21 June 2018

An end to free movement of people

Restrictions on the free movement of people are expected to have an effect on mutual trade in services.

Firstly, UK firms' access to qualified workers from the EU will be less straightforward than now. Secondly, rules regarding business travel to the EU and visa requirements will change; again, host state rules will apply. UK nationals, both employees of UK businesses and self-employed professionals, will lose their automatic right to supply services in the EU. While short stay business visits will not be limited, policies on long term residence and rights to work will be more restrictive.[87] For example, transfers of employees between UK company branches based in the EU and outside the EU will be subject to the intra-corporate transfers Directive[88] which applies to third-country nationals and covers stays in the EU of up to 3 years for managers and specialists and up to 1 year for trainees.[89]

Free flow of data

A large proportion of services trade is supported by free flow of data within the EU. The Exiting the EU Committee pointed out in its July 2019 report that ensuring a free flow of data between the EU and the UK will be challenging in a no deal. Securing a data adequacy decision from the European Commission is a process that would take considerable time. The Committee notes that an absence of a transition period where this could be negotiated would "create considerable bureaucratic and legal obstacles for businesses that depend on the free movement of data" and leave the UK less able to influence future EU policies on data protection.[90]

More reading

Trade in services and Brexit, Commons Briefing Paper CBP-8586, 14 June 2019

Exiting the EU Committee, The consequences of "No Deal" for UK business, HC 2560, 19 July 2019

House of Lords EU Internal Market Sub-Committee, Brexit: trade in non-financial services, 22 March 2017, HL 135

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87 S. Peers, Travelling to the EU after Brexit: Schengen visa waivers for UK citizens, EU Law Analysis blog, 3 April 2019

88 European Commission, Directive [2014/66/EU] on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, OJEU L/157/1, 15 May 2014

89 European Commission, Notice to stakeholders Withdrawal of the United Kingdom and EU rules on the provision of Services and posting of workers, 28 June 2019

90 Exiting the EU Committee, The consequences of "No Deal" for UK business, HC 2560, 19 July 2019, para 40

2.4 Case study: professional and business services sector

Profile of the sector

The professional and business services sector includes industries that provide specialist, knowledge-intensive services to businesses. It includes legal services, accountancy, advertising, architectural services, engineering and management consultancy. It is a large sector and one in which the UK has a high international reputation. The professional and business services sector: [91]

- includes 628,000 businesses, 24% of all businesses in the UK in 2018;[92]
- employed 4.1 million people, 14% of employment in Great Britain in 2017.[93]
- generated economic output (in terms of Gross Value Added) of £214 billion, 11% of the UK's economic output in 2018.[94]

The professional and business services industry provides essential services to all parts of the economy. Employees are typically highly skilled professionals. Businesses in this sector range from very large firms operating throughout the world and providing a range of services (such as the 'Big Four' accountancy firms or the 'magic circle' law firms), to small and medium sized enterprises that support a specific kind of business in one region of the UK.[95]

Impact of no deal

In the event of a no-deal Brexit, UK professional and business services companies operating only in the UK are unlikely to see any major direct impact. These services are largely regulated on a domestic basis, so EU-wide rules have only a limited impact.[96] However, the end of free movement may limit the sector's access to skilled professionals from the EU.

In areas where the regulatory framework is harmonised by EU Directives, a no deal Brexit is also unlikely to have any immediate impact for UK firms operating solely in the UK. For example, the Provision of Services Regulations 2018 will retain as UK law the effects of the EU Services Directive which aims to reduce barriers to services trade. Another example is statutory audit, which is specified under the Audit Directive [2006/43/EC]. UK regulations will presumably remain unchanged in many respects for some time after withdrawal, whether

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91 The Industry is defined as the following Standard Industrial Classification codes: 69, 70, 71, 72, 73, 74, 77, 78, 82.

92 ONS, Business activity, size and location, 2018, via Nomis Database

93 ONS, Business register and employment survey, 2018, via NOMIS database

94 ONS, Quarterly National Accounts Q1 2019, Low Level Aggregates Table, June 2018

95 Exiting the EU Select Committee, HM Government Sectoral Brexit Impact Assessments; Professional and business services, December 2017, p3

96 Exiting the EU Committee, HM Government Sectoral Brexit Impact Assessments; Professional and business services, December 2017, p9

or not a deal is reached. Any divergence would probably happen over several years.[97]

At the same time, a no deal scenario will have an immediate impact on UK companies operating or seeking to operate in the EU, and on EU companies operating or seeking to operate in the UK. Without a deal, these businesses will be viewed as third-country businesses. Which rules apply would depend on company law in each Member State, so it is possible that some Member States would allow UK businesses to provide services as now, but this is not guaranteed.[98]

For example, UK lawyers and businesses will no longer have EU guaranteed freedom to provide cross-border legal services on a 'fly-in fly-out' basis. They will be responsible for ensuring they can operate in each Member State where they want to work. They will also no longer have EU guaranteed freedom to set up law firms, agencies or branches in other Member States. Some activities like rights of audience in EU courts are reserved for EU lawyers.[99]

The Government guidance on Accounting if there's no Brexit deal and Auditing if there's no Brexit deal clarifies the effects of no deal for audit, accounting and corporate reporting.

Mutual recognition of qualifications

Another important area for the professional and business services sector in which no deal could have a major impact is the mutual recognition of professional qualifications in the EU and the UK. At present, EU laws allow for this mutual recognition, for example for lawyers and architects.

After a no deal Brexit, UK professionals going to work in the EU may no longer be recognised as having valid professional qualifications; this would depend on the Member States' rules on the recognition of qualifications awarded by third countries.[100]

The European Commission has said that with no deal the UK's third country status would mean:

> [t]he recognition of professional qualifications of United Kingdom nationals in an EU-27 Member State will be governed by the national policies and rules of that Member State, irrespective of whether the qualifications of the United Kingdom national were obtained in the United Kingdom, in another third country or in an EU-27 Member State. [101]

97 Ibid, p11
98 European Company Law Experts, The consequences of Brexit for companies and company law, Section 5: Third Country firms: the post-Brexit regime, May 2017
99 HM Government, Implications for businesses and trade of a No Deal Exit on 29 March 2019, 26 February 2019, para 40
100 HM Government, guidance Providing services including those of a qualified professional if there's no Brexit deal, 12 October 2018
101 European Commission, Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of regulated professions and the recognition of professional qualifications, June 2018, p3

The Commission also notes that this would apply to non-UK EU citizens in the UK (whose status would depend on the sector-by-sector rules in the UK regarding third country qualifications), and those EU citizens holding professional qualifications awarded in the UK but working in other EU countries.[102]

Box 9: GATT Article XXIV

Some advocates of leaving the EU without a deal have suggested that invoking GATT Article XXIV could secure a "standstill" period that would allow the UK to continue its tariff free trade with the EU for a certain number of years.

The WTO's fundamental Most Favoured Nation (MFN) rule prevents discrimination between its members. If trade preferences are offered to one member, they have to be given to all. There are several exceptions to this rule and one of those is GATT Article XXIV, under which countries can form a customs union or a free trade area, like the EU or EFTA. Such a free trade agreement essentially allows discrimination against WTO members which are not parties to this preferential deal. A precondition is that a free trade agreement has to cover 'substantially all the trade'.

Interim agreements and notification

As reaching free trade agreements requires time, Article XXIV (5) allows countries to adopt interim agreements.[103] An interim agreement has to include a plan and a timetable leading to a full free trade agreement and can apply for a "reasonable length of time" – generally not more than 10 years.

As a protection of non-members' existing rights, Article XXIV requires new free trade agreements, both full and interim, to be notified to the WTO for the purpose of scrutiny. In contrast to a full agreement, an interim agreement can be blocked by other members and therefore is a less attractive path.

No automatic standstill

Article XXIV does not offer an automatic continuation of the status quo to the UK should it leave the EU without a deal. It also does not give room for unilateral action on the part of the UK. Trade law experts have pointed out that a temporary agreement is possible while the UK is negotiating any type of a final trade deal with the EU. The UK and EU could potentially conclude a basic free trade agreement that eliminates tariffs and then notify it to the WTO as a fully-fledged agreement to remain in force until a replacement is agreed. But any type of a deal would require the EU to agree.

Only goods

GATT Article XXIV only applies to trade in goods. A future UK-EU trade relationship involves many other areas such as the level of regulatory alignment, mutual recognition of standards, and crucially, trade in services, for which the equivalent of GATT Article XXIV is GATS Article V.

More background

Commons Library Insight No-deal Brexit and WTO: Article 24 explained, 4 February 2019

2.5 Public procurement

The European Commission has said that becoming a third country would mean no mutual rights of access to public procurement markets in the UK and the EU – although many contracts may in practice still be open. The EU rules on public procurement would no longer apply and EU Member States' authorities would have to treat potential UK suppliers as any businesses based in a third country with which the EU did not have an agreement on procurement.[104]

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[102] Ibid p4

[103] See P. Van den Bossche, W. Zdouc, The Law and Policy of the World Trade Organization, 4th edition, Cambridge University Press, 2017, chapter 3.3, p687

[104] European Commission, Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules in the Field of Public Procurement, 18 January 2018

This ‘cliff-edge’ and possible exclusion of UK bidders from procurement procedures in the EU is largely avoided by the UK joining the General Procurement Agreement of the WTO (GPA). Signatories of the GPA agree to mutually open up their public procurement markets. The UK is currently a party to the GPA by virtue of its EU membership. Independent GPA membership would ensure that it continues to have access to the EU27 procurement market for most tenders above certain thresholds once outside the EU.

In June 2018, the Government applied to accede to the Agreement as an independent member in its own right, once it has left the EU. The UK offered access to its market on terms which replicate its current commitments as an EU Member State. In February 2019, other GPA members agreed to this offer.[105] As the accession to the GPA will be formalised after Brexit and may take up to 30 days to come into force, the Government is anticipating a short gap where UK businesses may temporarily lose some of their rights protected under the GPA.[106]

The GPA does not give the UK the same full access to EU procurement markets that it currently enjoys.[107] However, Professor Sue Arrowsmith of the University of Nottingham has commented that some differences in scope between the EU Procurement directives and the GPA appear to be of limited importance to the UK:

> The scope of procurement covered for the EU/UK under the GPA is narrower than the scope of covered procurement under the EU procurement directives in relation to a few utility sectors, coverage of private utilities, the defence sector, some services, (possibly) concessions, and certain private contracts subsidised by government. The GPA also does not include below-threshold procurement. However, some of these differences are of limited importance in the UK context. Further, the procurement that does fall into the gaps between the directives and GPA, at least above the directives’ thresholds, could easily be added to the GPA UK if desired.[108]

For further information on the UK and the GPA, see the Commons Library briefing Brexit: Public Procurement.

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105 WTO, UK set to become a party to the Government Procurement Agreement in its own right, 27 February 2019; Department for International Trade, WTO agreement secures £1.3 trillion market for British contractors, 27 February 2019

106 HCWS1365 28 February 2019, Government guidance, Bidding for overseas contracts: what to expect if there's a no-deal Brexit, 16 August 2019

107 Institute for Government Explainers, Public procurement

108 Prof Sue Arrowsmith, Consequences of Brexit in the area of public procurement, a study for the European Parliament Committee on Internal Market and Consumer Protection, April 2017

3. Pursuing an independent trade policy

3.1 Summary

The UK will no longer be covered by the EU's free trade agreements with third countries if there is no deal. The UK Government has succeeded in negotiating replacement agreements with a number of countries. It seems unlikely that agreements with Japan, Canada and Turkey will be negotiated by exit day. Some of the rolled over agreements do not entirely replicate the benefits of the EU agreements. For example, the agreement with Norway and Iceland (both EEA members) is for goods only.

3.2 New UK legislation

The *Taxation (Cross-border Trade) Act* received Royal Assent in 2018. This Act gives the Government various powers, including the power to set the UK's trade tariffs.

The *Trade Bill*, originally introduced into the House of Commons in November 2017, completed its passage through the House of Lords in March 2019. The Bill fell when Parliament was prorogued in September 2019.[109]

This Bill would have given the Government powers in relation to rolling over trade agreements and also relating to the Government Procurement Agreement. It also would have established a Trade Remedies Authority (TRA). Until the TRA is established, the Trade Remedies Investigations Directorate has been established on a temporary basis within the Department for International Trade.[110]

Liam Fox, then Secretary of State for International Trade, told the International Trade Committee that while he would have liked to see the *Trade Bill* passed to provide continuity, its main functions could be carried out by other means:

> Dr Fox: No, the Trade Bill had three functions. The first was to maintain our ability to trade with countries that had agreements with the European Union. We have the legal powers to do that, whether we have the Trade Bill or not. The second aim was to get trade remedies in place so British businesses would not be disadvantaged in the event of no deal. We have those in place—in fact, they are up and running. The third was to achieve membership of the Government procurement agreement, which we also have. It would be much better to put it on a long-term statutory basis and to have the Trade Bill go through, but I'm afraid you are quite wrong: we are able to carry out the three main functions of the Trade Bill by other means, without that legislation passing. Would I like to see it and those three sections

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[109] Maddy Thimont Jack, Twitter, 10 September 2019
[110] PQ 280256 1 August 2019

on the statute book to provide long-term continuity? Yes, I would. Is it absolutely necessary? No, it's not.[111]

3.3 UK's no deal tariffs

In the event of a no deal Brexit, the UK would set its own tariffs. These would be applied equally to imports from both EU and non-EU countries (see section 2.1 above).[112] More goods imported from non-EU countries would be tariff free: 92% of imports from non-EU countries would be tariff-free (compared with 56% now).[113] This could lead to lower prices for consumers for these goods, but also greater competition for domestic businesses.

3.4 Rolling over EU trade agreements

As an EU Member State, the UK is party to the EU's free trade agreements. The EU has around 40 agreements covering over 70 countries.[114] These include Canada, South Korea and Japan. The EU is also currently in negotiations over future trade agreements with a number of countries, including Australia and New Zealand.

Under the Withdrawal Agreement previously agreed between the UK and EU, the UK would have continued to be bound by the obligations of these agreements during the transition period. The partner countries would have been asked to treat the UK as if it were a Member State during the transition period. A number of countries had expressed their willingness to do so.[115]

In the event of a no deal Brexit, there would be no transition period and the UK would no longer be covered by the EU's free trade agreements. Unless alternative arrangements are put in place, the UK would lose the benefits of the EU trade agreements as trade would revert to WTO rules. The Government is therefore seeking bilateral agreements with these countries to ensure continuity in trade relations.[116]

The Government has negotiated bilateral agreements to replace EU agreements with a number of countries (see update on signed agreements on gov.uk). Agreements have been signed (or have been agreed in principle) with the countries listed below. In most cases, a Parliamentary report, Explanatory Memorandum and the text of the

111 International Trade Committee, Work of the Department for International Trade, HC 436, 3 July 2019, Q879
112 There would be some exceptions to applying tariffs to all countries equally, such as countries with whom the UK had concluded a trade deal, or developing countries granted trade preferences by the UK.
113 Most imports tariff-free under no-deal plan, BBC News, 13 March 2019
114 Letter from Rt Hon Dr Liam Fox MP, Secretary of State for International Trade, to Angus Brendan MacNeil MP, Chair of the International Trade Committee, 4 February 2019
115 Letter from Rt Hon Dr Liam Fox MP, Secretary of State for International Trade, to Angus Brendan MacNeil MP, Chair of the International Trade Committee, 22 July 2019
116 Department for International Trade Guidance, Existing trade agreements if the UK leave the EU with no deal, 10 September 2019

Agreement have been published. The links below take you to these documents.

- Chile
- Faroe Islands

  ESA (Eastern and Southern African states - Madagascar, Mauritius, Seychelles and Zimbabwe. Madagascar has agreed in principle and is expected to sign shortly).[117]
- Switzerland[118]
- Israel
- Palestinian Authority
- Fiji and Papua New Guinea
- Cariforum (Antigua and Barbuda, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Jamaica, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tobago).[119] According to the Government, the other members of Cariforum (Bahamas and Suriname) have approved the agreement in principle and are expected to sign shortly.[120]
- Iceland and Norway
- Andean countries (Colombia, Peru, Ecuador)
- South Korea
- Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama)
- Agreement initialled with Southern African Customs Union (South Africa, Botswana, Lesotho, Namibia and Estwatini) and Mozambique[121]

The Government provided an update on negotiations with countries with which the EU has a trade related agreement. In many cases, this was described as "engagement ongoing". The Government said that a number of agreements, including those with Japan and Turkey, would not be rolled over by exit day.[122]

Canada has refused to roll over CETA, its trade agreement with the EU. The Institute for Government said:

> More recently, the Canadian government has refused to roll over the trade agreement it recently signed with the EU. In large part this is because the UK's proposed no-deal tariff schedule, announced in late March, means the benefits of doing a deal have

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117 Signed UK trade agreements transitioned from the EU

118 The Government has also published details of an Additional Agreement extending certain provisions of the UK/Swiss Trade Agreement to Liechtenstein, see here.

119 Department for International Trade Press Release, UK signs trade continuity agreement with Caribbean countries, 22 March 2019

120 CARIFORUM-UK Economic Partnership Agreement

121 Department for International Development and Department for International Trade, UK agreed trade continuity with six African nations, 11 September 2019

122 Department for International Trade, Existing trade agreements if the UK leaves the EU with no deal, 10 September 2019

> been eroded, leaving many governments asking why it would be worth investing time in negotiating with the UK when it has just given them most of what they wanted, for free.[123]

Some of the rolled over agreements do not entirely replicate the benefits of the EU agreements. For example, the agreement with Norway and Iceland (both EEA members) are goods only. The House of Lords EU Committee said:

> While preserving tariff preferences, the Trade Agreement will significantly change the nature of the UK's trade relationship with Iceland and Norway. It will not address non-tariff barriers to trade in goods, and trade in services is excluded entirely.[124]

Rules of origin and cumulation

There are concerns that UK businesses may risk being excluded from supply chains under no deal due to rules of origin (see box 4 above).

The EU has said that UK components in EU products will no longer be counted as EU content for the purposes of the EU's trade agreements.[125] This means that EU exporters to the EU's trade agreement partners may prefer EU suppliers to those in the UK.

Sam Lowe of the Centre for European Reform told the International Trade Committee:

> With the qualifier that we have not seen the text of this yet—or at least I have not so I am working off the statements of the Korean Government and the Secretary of State—when it comes to cumulation we have been told that it is similar to what has been agreed with the Swiss. In that for three years Korea will continue to accept EU inputs to UK exports to Korea as being local to the UK for the purpose of qualifying for the agreement. Of course, that is wonderful if you are a UK direct exporter to Korea but it does not necessarily help if you are part of a supply chain where the final product is exported from the EU, in that the EU exports to Korea will no longer be able to account for UK inputs as being local to the EU for the purpose of their agreement with Korea. There will be an impact on British businesses if they are caught up in European supply chains. I know from talking to people in the EU, the advice of the Dutch Government is, "If you do think you have this problem where you have a UK supplier, find someone else, find someone within the EU".[126]

Business groups have raised concerns about this. For example, the CBI said:

> There is also significant concern from businesses that EU firms may seek to replace UK companies in their supply chains so that

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[123] Joe Owen, Maddy Thimont Jack, Jill Rutter, Preparing Brexit: No Deal, Institute for Government, July 2019, p7

[124] House of Lords European Union Committee, Scrutiny of international agreements: Treaties considered on 14 May 2019, HL Paper 362, para 30

[125] European Commission, Notice to Stakeholders, Withdrawal of the United Kingdom and EU Rules in the Field of Customs and External Trade, Preferential Origin of Goods, 4 June 2018

[126] International Trade Committee, No deal: impacts for trade with non-EU countries, HC 2507, 24 July 2019, Q4

> they can qualify for zero tariffs through EU FTAs as they will not be able to in no deal.[127]

Stephen Phipson of Make UK (formerly the Engineering Employers' Federation) told the International Trade Committee:

> Also it is the terms of those rollovers that are important. I would like to highlight that point. For example, when I look at the Swiss agreement, the lack of cumulation for manufactured goods is a serious problem right now, because we have had lots of companies that are supplying parts to Swiss products, and now those in the future agreement will not be considered as EU cumulation going forward for products from Switzerland into the EU. The result of that right now is that we are being designed out of Swiss systems because they cannot take the risk going forward, so although we have a continuity agreement—I would also talk about the Mutual Recognition Agreement as well, where we have three categories agreed in there. Automotive is one of them, which is good, but there are 17 other categories of manufactured goods that are not and so people are saying, "What does that mean to us in terms of our continued agreements?" Some very large companies are supplying Swiss manufacturers with parts of their complete products that then the Swiss export to Europe. It is not just about rolling them over. It is about making sure that we have similar, if not better, terms rather than less good terms than we have at the moment.[128]

3.5 New trade deals

One of the arguments for Brexit was that leaving the EU would allow the UK to pursue an independent trade policy and sign its own trade agreements. These could reflect UK, rather than EU-wide, interests and focus UK trade on faster growing parts of the world economy. If there is no deal with the EU, reaching new trade agreements is likely to become more important. Writing in the Daily Telegraph, International Trade Secretary Liz Truss said:

> For too long, Britain has been tied to an inward-looking, protectionist EU bloc.
>
> […]
>
> So as we leave the EU, we're going to strike the free-trade deals that will open up new markets for our products, and give people access to a greater variety of goods and services from across the globe.
>
> […]
>
> We will maintain existing trade agreements but also seize new opportunities - with Commonwealth countries, with which we share so much history, as well as with our other long-standing partners and a range of exciting new markets that are calling out for British products.[129]

In a debate on future international trade opportunities, the then Trade Minister, George Hollingbery, said:

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[127] CBI, What comes next: The business analysis of no deal preparations, July 2019, p109

[128] International Trade Committee, No deal: impacts for trade with non-EU countries, HC 2507, 24 July 2019, Q55

[129] Liz Truss, I'll make Britain a beacon for free trade, Daily Telegraph, 29 July 2019

> The patterns of world trade are shifting. We are entering a Pacific century after four Atlantic ones. The latest World Bank figures show China adding an economy the size of Portugal to its GDP ever four months—a pretty astonishing statistic. The UK will be one of the few developed countries to stay in the top 10. We can take advantage of that shift if we act now. That is why the Government have consulted on new trade agreements with the USA, Australia and New Zealand, and on potential accession to the catchily named Comprehensive and Progressive Agreement for Trans-Pacific Partnership, a cross-Pacific agreement that covers 11 nations and already 13% of the world's GDP, including many of the growing markets to which my hon. Friend referred in his speech.[130]

Boris Johnson's Government is prioritising a trade agreement with the US. Speaking about her visit to the US in August 2019, Liz Truss said:

> Negotiating and signing an exciting new free trade agreement with the US is one of my top priorities. Having already laid the groundwork, we are working at pace to make sure our businesses are able to take advantage of the golden opportunity to increase trade with the US as soon as possible.
>
> The US is our biggest trading partner and we have more than $1 trillion invested in each other's economies. We want to get formal talks moving quickly.[131]

Trade deals are, however, complex and may require difficult trade-offs. They also take time to negotiate. It can take years to negotiate and fully implement a trade agreement.[132]

3.6 Public Procurement and third countries

The UK is currently part of the WTO Agreement on Government Procurement (GPA) through its EU membership. Under the GPA, many large public sector procurement opportunities must be opened up to suppliers in countries which are parties to the Agreement.

The Government has formally requested to re-join the GPA under terms similar to the EU's. Signatories to the GPA agreed to the UK's offer in February 2019.[133] The accession process will be completed once the UK has left the EU. Re-joining the GPA would ensure that the UK maintains a similar level of access to the government procurement markets of the (non-EU) signatories of the GPA as before Brexit.

The GPA does not, however, cover the enhanced terms of access which the EU has agreed for operators of its Member States under its free trade agreements with third countries like Canada and Japan. This would be a matter for the UK's future bilateral trade treaties with these countries.

130 HC Deb 1 May 2019 c177WH
131 Department for International Trade Press Release, International Trade minister visits Washington DC and New York City, 7 August 2019
132 Tim Durrant et al, Negotiating Brexit: Preparing for talks on the UK's future relationship with the EU, Institute for Government, April 2019, p14
133 WTO, Parties to government procurement pact approve UK's terms of participation post-Brexit, 27 November 2018; WTO, UK set to become a party to the Government Procurement Agreement in its own right, 27 February 2019

3.7 Future trade agreement with the EU

It is likely, even after a no deal Brexit, that the UK would want to conclude a free trade agreement with the EU at some point in the future. As Catherine Barnard of Cambridge University points out, no major country trades only on WTO rules and it would not make much sense to for the UK to do so with its nearest and biggest trading partner.[134] Michael Gove, Chancellor of the Duchy of Lancaster, made this point in the House of Commons on 3 September 2019:

> we must be ready to leave without a deal on 31 October. Leaving without a deal does not mean that talks with our European partners end altogether. In those circumstances, after we depart without a deal in place, we will all want to discuss how we can reach new arrangements on trade and other issues.[135]

James Kirkup (director of the Social Market Foundation) wrote:

> Here's another fact: leaving the EU without a deal won't mean the UK avoids that vast task of agreeing a future relationship with the Union. It will just mean that when the UK comes back to the table to talk about that new relationship, negotiations with the EU are longer, harder and less likely to give Britain what it wants.
>
> It is true, as Johnson says, that a deal serves EU interests more than no deal; both sides pay a price for interrupting trade. But it is also true that that cost falls more heavily on us than them; Britain's need to return to talks would be greater than the EU's, meaning we'd start those talks as the weaker player.
>
> The process would be harder too.
>
> Leave without a deal and we wave goodbye to Article 50 of the Treaty on European Union, written to enable a member state to leave with an agreement. Britain then becomes a "third country" and talks about UK-EU relations are covered by Article 218. It says that when the EU strikes a trade deal with a foreign country, final approval rests with European governments and parliaments. If we leave without a deal, any subsequent trade agreement we might strikes with the EU would be subject to veto by politicians from Stockholm to Sofia.
>
> […]
>
> So when you see pictures of that countdown clock in No 10, or hear ministers talking about getting Brexit "done" soon, remember this: the act of leaving the EU, something that has poisoned our politics and paralysed our government for three years, is actually just the short, easy start of the endless Brexit story. It's what comes next that should be worrying our leaders - which is precisely why they'd rather not talk about it.[136]

Similarly, the Institute for Government have said:

> But no deal would not be the end of Brexit. The UK will be out of the European Union, but the all-encompassing job of adapting to the new reality and building a new relationship with the EU will

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134 Professor Catherine Barnard, A no-deal Brexit would just be the beginning, Financial Times, 3 September 2019

135 HC Deb 3 September 2019 c49

136 James Kirkup, Leaving on October 31 won't be the end of this. Brexit will never be over, Evening Standard, 5 August 2019

> still be incomplete. The biggest questions surrounding Brexit will still need to be settled. The difficult choices that have been unresolved for the last three years will not evaporate overnight on the 31 October.[137]

[137] Joe Owen, Maddy Thimont Jack, Jill Rutter, Preparing Brexit: No Deal, Institute for Government, July 2019, p1

4. Preparation for no deal

4.1 Introduction

A no deal Brexit would mean no transition period, giving businesses much less time to prepare for leaving the EU. The Exiting the EU Committee found that many businesses, especially small businesses, are not taking all the measures necessary for no deal.[138] The Operation Yellowhammer document said that business was not well-prepared for no deal due to Brexit "fatigue" caused by earlier extensions of the Article 50 period and lack of clarity over the future relationship between the UK and the EU.[139]

The UK, EU and individual Member States have announced measures to mitigate the effect of no deal.

4.2 UK

The Government has introduced a number of measures to mitigate issues arising from a no deal Brexit. Michael Gove, Chancellor of the Duchy of Lancaster, made a statement on Brexit preparations to the House of Commons on 3 September 2019.[140] This statement referred to the Government's "Get ready for Brexit" public information campaign. The statement also referred to an extra £20 million "to ensure that traffic can flow freely in Kent and trucks arriving at Dover are ready to carry our exports into the EU."[141] Mr Gove also said that the Treasury was "making money available for companies that are fundamentally viable but may face particular turbulence in the event of no deal, to ensure their survival in the future."[142]

Other Government measures are discussed below.

Funding for training and IT for customs

In December 2018, the Government announced a £8 million scheme under which customs intermediaries and businesses completing customs declarations could apply for grants to help with IT and training.[143] Applications closed at the end of May 2019. There were concerns over the low take-up of this scheme.[144] A further £16 million for IT and training on customs was announced on 3 September 2019.[145]

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138 Exiting the European Union Committee, The consequences of "No Deal" for UK business, HC 2560, 19 July 2019, p4
139 Operation Yellowhammer, HMG Reasonable Worst Case Planning Assumptions As of 2 August 2019, p1. See also Business groups admit many companies ill-prepared for no-deal Brexit, Financial Times, 18 August 2019
140 HC Deb 3 September 2019 cc49-64
141 HC Deb 3 September 2019 c50
142 HC Deb 3 September 2019 c61
143 HM Treasury and HMRC, £8m funding scheme for customs intermediaries and traders open, 4 December 2018
144 Brexit: Low take-up of no deal fund concerning, BBC News, 7 August 2019
145 HMRC, Apply for grants if your business completes customs declarations, 3 September 2019; HM Treasury, £16 million funding boost to support thousands more customs experts, 3 September 2019

Transitional Simplified Procedures

Under Transitional Simplified Procedures, available for at least a year, HMRC will reduce the amount of information traders need to provide in an import declaration when goods cross the border from the EU. Traders will be able to delay submitting a full customs declaration and paying duties.[146] Businesses need to register for this scheme. As of 9 June 2019, 17,900 businesses had applied.[147] There have been concerns about low take-up of the scheme and low awareness of it among businesses.[148]

£2.1 billion from Treasury

In July, the Chancellor announced an extra £2.1 billion for Brexit preparations.[149] Of this, £1.1 billion was to prepare critical areas for EU exit immediately and £1 billion would be available "to enhance operational preparedness" this year, if needed.

£344 million was for borders and customs:

- An extra 500 border force officers, meaning we will have added up to 1,000 more officers this year.
- Boosting capacity to process UK passport applications this year, helping avoid delays.
- Doubling the support made available for customs agents to train new staff or invest in better IT so businesses can get the support they need to complete customs declarations.
- Improving transport infrastructure around ports and additional funding for 'Operation Brock' to manage traffic disruption in Kent.
- Enhancing support available on government helplines.[150]

Funding was also announced to help ensure continuity of supply of medicines, to support business and for public communications. See below for some examples of how this money will be spent.

Spending Round 2019

The Chancellor announced a further £2 billion of funding for 2020-21. The Chancellor told the House of Commons:

> if we leave with no deal, we will be ready. Within my first few days as Chancellor, I provided £2.1 billion of extra funding for Brexit and no-deal preparedness, and today I can announce that we will provide a further £2 billion for Brexit delivery next year as well.[151]

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146 HMRC Guidance, Transitional Simplified Procedures, 4 February 2018
147 PQ 265542 20 June 2019
148 CBI, What comes next: The business analysis of no deal preparations, July 2019, p18; Where the no deal Brexit funding boost will be spent, Financial Times, 1 August 2019
149 HM Treasury, Chancellor announces billions to turbo-charge no deal preparations, 31 July 2019
150 HM Treasury, Chancellor announces billions to turbo-charge no deal preparations, 31 July 2019
151 HC Deb 4 September 2019 c178

EORI numbers

The Government has announced that VAT-registered businesses will be automatically enrolled for an Economic Operator Registration and Identification (EORI) number.[152] This is an ID number that enables them to be identified by customs authorities. An EORI number is needed to trade with EU Member States. According to the Government, more than 88,000 businesses will be allocated a number. 72,000 companies have already registered. Companies which are not registered for VAT will still need to register. There is guidance on EORI numbers on gov.uk.[153]

Dr Adam Marshall, Director General of the British Chambers of Commerce, welcomed this announcement, but said it was long overdue and was only a first step.[154] The Federation of Small Businesses had also called for automatic registration of VAT-registered businesses, noting that only around a third of businesses which need an EORI number had applied for one.[155]

Extra funding for local areas

In August 2019, the Government announced an extra £9 million to help local areas. This funding is part of the £2.1 billion announced by the Treasury in July.[156] Secretary of State for Housing, Communities and Local Government, Robert Jenrick, said it was "to help local areas get ready for Brexit, whatever the circumstances."[157]

£5 million will go to local councils which contain, or are close to, a major air, land or sea port. £2.6 million of this will go to local authorities in Kent. The Government has published funding allocations for each council.

£4 million will be allocated to 'local resilience forums' (partnerships made up of representatives from local public services in England).

The Government said:

> The funding can be used by local areas to support the development of robust Brexit plans for their areas and for continued preparedness activities, including additional staffing costs.
>
> The extra funding follows a £20 million boost for councils announced in August to ramp-up preparations for leaving the EU by appointing a designated Brexit lead.

152 HM Treasury, Chancellor accelerates Brexit preparations for business, 21 August 2019
153 Get an EORI number
154 British Chambers of Commerce, Success for BCC campaign to simplify trade procedures as Government acts to issue EORI numbers, 21 August 2019
155 Letter from Martin McTague, Federation of Small Businesses, The Times, 8 August 2019
156 HM Treasury, Chancellor announces billions to turbo-charge no deal preparations, 31 July 2019
157 Ministry of Housing, Communities and Local Government Press Release, £9 million announced to get ports and local areas ready for Brexit, 21 August 2019

> This brings the total funding allocated by the government to help local areas prepare for Brexit to £77 million to date.[158]

According to the Government, the money has been allocated based on a number of factors "including the expected impact on the local area, the amount of EU goods received by port areas into the country and the area's wider importance to the UK's trade network."[159]

The Government explained what the funding would be used for:

> This funding is not for the infrastructure of ports, if required, that comes from the Department for Transport. The £5 million for local councils with, or near to, a major air, land or sea port is for councils to buy in additional staff and specialist expertise where necessary.
>
> […]
>
> The £4 million funding for local resilience forums (LRF) will be used to support LRFs in the development of robust Brexit plans for their areas and supporting their additional staffing costs.[160]

Scotland, Wales and Northern Ireland will receive £1.7 million in Barnett consequentials.

The extra funding was described as "too little, too late" by the leader of Portsmouth Council.[161]

£30 million for ports

On 30 August 2019, the Department for Transport announced £30 million to be spent on improving port infrastructure, road and rail links and to build resilience in local government.[162] This is part of the £2.1 billion announced by the Treasury (see above).

English ports will be able to bid for a share of £10 million as part of the Port Infrastructure Resilience and Connectivity competition. This aims to deliver enhanced capacity and maintain trade flow. £5 million will be divided between four key Local Resilience Forums (LRFs – see above) in areas with important freight ports. These funds are for infrastructure improvements. £15 million will be spent on longer-term projects to improve road and rail links to ports.

£10 million business readiness fund

Business Secretary, Andrea Leadsom has announced a £10 million fund to help businesses prepare for Brexit.[163] This money will be available to business organisations and trade associations to help business prepare for Brexit. The scheme will support free events, training and advice

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158 Ministry of Housing, Communities and Local Government Press Release, £9 million announced to get ports and local areas ready for Brexit, 21 August 2019

159 Ministry of Housing, Communities and Local Government Press Release, £9 million announced to get ports and local areas ready for Brexit, 21 August 2019

160 HM Treasury, Chancellor announces billions to turbo-charge no deal preparations, 31 July 2019

161 Brexit no deal funding "too little, too late", says Portsmouth council leader, Guardian, 21 August 2019

162 Department for Transport, Government pledges £30m to bolster ports for Brexit, 30 August 2019

163 Department for Business, Energy and Industrial Strategy, Business Secretary launches £10 million Brexit readiness fund for business organisations, 29 August 2019

which will be open to both members and non-members of these organisations to ensure that businesses of all sizes can benefit.

4.3 European Union

In a no deal scenario public international law, including rules of the WTO will govern the UK-EU relationship. The European Commission has said that, as a consequence:

> [t]he EU will be required to immediately apply its rules and tariffs at its borders with the UK. This includes checks and controls for customs, sanitary and phytosanitary standards and verification of compliance with EU norms. Despite the considerable preparations of the Member States' customs authorities, these controls could cause significant delays at the borders.[164]

In its June assessment of preparedness, the Commission acknowledged the disruptive impact of a disorderly Brexit on both the UK and the EU's economy. It argues however that a serious negative economic impact of a 'no deal' Brexit would be proportionally much greater in the UK.[165]

Long-term and short-term preparedness

The EU's preparations for the UK leaving the bloc broadly follow general preparedness and contingency measures. The former address legal steps to be taken regardless of the form of EU-UK future relationship and include measures such as moving EU bodies and infrastructure away from the UK or dividing UK and EU tariff rate quotas for the purposes of WTO schedules (see box 6 above). The contingency measures on the other hand address the practical and immediate consequences of the UK leaving the EU without an agreement.[166]

A European Scrutiny Committee report HC 301-lxix (Annex to section 6) contains a concise overview of the most important Brexit preparedness and contingency measures adopted by the European Commission.

EU-wide measures

The Commission has co-ordinated EU-wide contingency measures since its initial announcement in November 2018. On 25 March 2019, the Commission announced that its no-deal 'Brexit preparedness' programme was complete, but in April, June and September 2019 it has revisited the measures to take stock of necessary updates considering the deadline of 31 October.[167]

The Commission has stressed that its contingency measures can only mitigate the most significant disruptions. The Commission's programme

[164] European Commission, 'No-deal' Brexit preparedness: European Commission takes stock of preparations and provides practical guidance to ensure coordinated EU approach, 10 April 2019, p3

[165] Commission Communication State of play of preparations of contingency measures for the withdrawal of the United Kingdom from the European Union, 12 June 2019

[166] European Scrutiny Committee report HC 301-lxix, 16 July 2019, p34

[167] European Commission Communication 'No-deal' Brexit preparedness: European Commission takes stock of preparations and provides practical guidance to ensure coordinated EU approach, 10 April 2019; Communication State of play of preparations of contingency measures for the withdrawal of the United Kingdom from the European Union, 12 June 2019

is one of unilateral damage limitation in areas that would be most seriously affected and could create problems for the EU27. The Institute for Government has noted:

> […] the unilateral measures to which the EU has already committed itself are in areas that disproportionately ease the impact of no deal on EU member states, rather than the UK. But these are not agreements, and the EU could change, revoke or extend them whenever it wanted. In short, it is likely that, for some time at least, no deal really 'means no deal'.[168]

With regard to trade with the UK, the contingency programme includes measures in the financial sector, transport and travel, customs and the export of goods, the export of dual-use items,[169] trade in services and foreign direct investment. The measures will, for example, facilitate road haulage, rail and aviation continuity between the UK and the EU27. The measures are mostly temporary (around 9-12 months) and a future EU-UK relations agreement is expected to provide long-term arrangements.

There are no EU-wide contingency measures in other areas like flows of personal data currently covered by the General Data Protection Regulation, or Member States' obligations to carry out sanitary and phytosanitary controls of agri-foods imported from the UK.

Commentary

Both EU and UK business organisations and commentators have criticised the EU preparedness levels, with some pointing out that the European Commission has addressed various legal and technical aspects, taking a more "limited approach to reducing the disruption of no deal" as compared to the UK Government, but the overall business preparedness in EU Member States has been lagging behind.[170]

Funding and support

The Commission's assessment is that although the effects of disorderly withdrawal of the UK will be felt throughout the EU, the highest costs associated with this scenario would be borne by specific regions and economic sectors:

- First, the Member States neighbouring the United Kingdom, which have had to invest in upgrading border control infrastructure. Although all Member States have to introduce additional customs and SPS checks and controls, for some Member States the volumes of expected controls will be particularly high.[171]

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[168] Joe Owen, Maddy Thimont Jack and Jill Rutter, Institute for Government, Preparing Brexit: No Deal, July 2019, p14

[169] Dual use items refers to goods, components or technology with strategic importance, which can be used for both civil and military applications.

[170] Politico Pro, EU business lobby: Commission's no-deal Brexit plans 'fall short', 22 March 2019; CBI, What comes next? The business analysis of no deal preparations, July 2019, p12, p123; Financial Times, The EU must prepare for a no-deal Brexit, 28 July 2019;

[171] The most immediately affected countries are Ireland, Belgium, France and the Netherlands. These countries can also be considered to be the best prepared for a no deal outcome. See Institute for Government.

- Second, the economic cost will be particularly high for sectors that are most exposed to the United Kingdom. This includes, for example, agri-food exporters, fishing businesses who depend on access to UK waters, and regions which rely on UK tourists.
- Third, small and medium-sized enterprises (SMEs) trading with the UK are less well equipped to prepare than large companies. SMEs sometimes lack the administrative and legal capacity to implement a full contingency plan.[172]

The Commission has been exploring how existing programmes and instruments of the Union budget can be used to provide financial aid to the affected businesses and regions.[173] For example, financial assistance would be possible in areas such as the training of customs officials, and sanitary and phytosanitary controls.[174] On 4 September, the Commission proposed to make money from the European Solidarity Fund available to Member States to alleviate serious financial consequences of a no deal Brexit.[175] The Guardian reports that nearly € 600 million could be freed up from this fund which is intended to help Member States deal with 'major disasters'.[176] A further € 150 million from the European Globalisation Adjustment Fund could be made available to support workers who might lose jobs as a result of no deal.

The Commission has also clarified how Member States' authorities can use the flexibility of EU state aid rules to provide direct support to businesses particularly exposed to trade with the UK. So, SMEs may be offered financial aid to tackle cash-flow problems as a result of a no deal. Governments can also provide consultancy services and training to help businesses prepare for changing customs rules. Several governments, including Ireland, the Netherlands and Spain have designed specific support schemes for businesses.[177]

Member States preparedness

The EU27 have their own plans and adopted measures to address the expected uncertainties. The European Commission has coordinated and supported these national preparations.

The Member State likely to be the most exposed to the immediate effects of a disorderly Brexit is **Ireland** as there will be no settlement for the border with Northern Ireland, it is greatly exposed to trade with the

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172 European Commission, Communication 'Addressing the impact of a withdrawal of the United Kingdom from the Union without an agreement: the Union's coordinated approach', 10 April 2019, p5
173 Ibid, p5
174 European Commission, Brexit preparedness: EU completes preparations for possible "no-deal" scenario on 12 April, 25 March 2019
175 European Commission, Brexit 'no-deal' preparedness: Final Commission call to all EU citizens and businesses to prepare for the UK's withdrawal on 31 October 2019, 4 September 2019
176 The Guardian, EU to declare a no-deal Brexit a major natural disaster, 3 September 2019
177 See for more examples Institute for Government, Other EU countries preparations for no deal, Institute for Government, 20 July 2019 and Commons Library Briefing EU Preparations for a no-deal Brexit', 8547, 29 July 2019

UK and its businesses use Great Britain as a land bridge for transit to the continent.

While Ireland is preparing for a no deal scenario, for example through enhancement to port, airport and customs facilities,[178] there is little information as to what will happen at the UK-Ireland border. As noted above, the UK Government has stated it would not introduce any new checks or controls on goods at the land border. The EU insists there should be no hard border on the island of Ireland, that the integrity of the Single Market must be respected and that checks on goods will have to take place somewhere, if not directly on the border. The same has been reiterated by the Irish government.

As of July 2019, Irish government had confirmed that North-South trade will no longer be as frictionless as it is today, due to the impact of tariffs, customs, SPS requirements and other checks. As a potential solution to the need for border checks to protect the single market, the Irish government was reportedly considering setting up port checks for food and animal products on the whole island of Ireland. But treating the whole island of Ireland the same with regard to agri-food and SPS checks would require the UK admitting to Northern Ireland being treated differently.[179]

The EU Scrutiny Committee noted in its 16 July report that it was "[t]he major unknown [..] what would happen at the UK-Ireland border, given the lack of infrastructure there". It said that market access for the UK would not be equivalent to what is available through single market membership or under the Withdrawal Agreement. Also, "the contingency measures could be altered, extended, limited or abolished by the EU unilaterally."[180]

The CBI has said that "[c]urrent plans for no deal and the Irish border are temporary and untenable, providing little reassurance for firms operating across the island of Ireland."[181]

Other neighbouring Member States – including **France, the Netherlands and Belgium** – with large sea ports servicing trade flows to and from the UK and with strong trade links with the UK are also likely to face immediate effects. According to the Institute for Government, these EU Member States appear to be the most advanced in their preparations. They, as well as Ireland, have for example invested significantly in additional capacity and technology at the border and recruited additional customs and veterinary staff.[182] Other Member States have contingency programmes of their own.

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178 Government of Ireland, Update to Contingency Action Plan, 30 January 2019
179 Commons Library Briefing EU Preparations for a no-deal Brexit, p40
180 European Scrutiny Committee report HC 301-lxix, 16 July 2019, para 6.10
181 CBI, What comes next: The business analysis of no deal preparations, July 2019, p67
182 Institute for Government Explainer Other EU countries' preparations for no deal, 12 June 2019

Information on EU preparedness

Commission Communication, Finalising preparations for the withdrawal of the United Kingdom from the European Union on 1 November 2019, 4 September 2019

Commission Communication, State of play of preparations of contingency measures for the withdrawal of the United Kingdom from the European Union, 12 June 2019

The Commission has published preparedness notices and several Brexit Factsheets and Questions and Answers and information on no deal advice from all EU Member States.

The Institute for Government Explainer Other EU countries' preparations for no deal has a concise overview of the main contingency measures in the EU27.

Commons Library Briefing EU Preparations for a no-deal Brexit reviews measures proposed and implemented by the European Commission and in each of the EU 27 states.

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