



BRIEFING PAPER

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The UK-EU future relationship negotiations: Transport

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Summary

This short paper summarises the key transport issues on which the UK and the EU will seek to reach agreement over the course of 2020, as set out in their February 2020 negotiating positions and the draft texts published by the EU in March and the UK Government in May 2020.

The UK left the EU on 31 January 2020 at 11 pm UK time. The transition (or implementation) period in the [Withdrawal Agreement \(WA\)](#) was conceived as a bridging period while the UK and the EU negotiate a new relationship. It will last until 31 December 2020 unless both sides agree to an extension to complete negotiations.

Alongside the WA in October 2019, the UK and the EU agreed a [Political Declaration](#) (PD) setting out the framework for the future relationship between the two. The Government's vision for the UK's future relationship with the EU was further set out in the [Conservative Party's manifesto](#) for the December 2019 General Election, and, subsequently, in the [Prime Minister's speech in Greenwich](#) on 3 February 2020 and his [Written Ministerial Statement](#) on the same day.

Also on 3 February the European Commission set out its [recommendation for a European Council decision](#) authorising the opening of negotiations for a new partnership with the UK.

The European Council published its [negotiating directives to the Commission](#) on 25 February and the UK published its [approach to negotiations](#) on 27 February.

The transport-related provisions of the negotiation documents are discussed in this paper on a sector-by-sector basis. Where particularly relevant they include horizontal or 'level playing field' issues that will form part of the negotiations and significantly affect transport (such as subsidies and social provisions like drivers' hours).

The two main issues are aviation and international road transport, particularly haulage. The other two transport sectors – maritime and rail – receive barely a mention. This is largely due to the UK Government's previously stated position to pull out of all EU institutions in these areas and make bilateral agreements with individual EU Member States where appropriate. It will also continue to apply international law, which particularly in maritime guides a great deal of key decision-making.

In March 2020 the European Commission published a [draft text for the proposed new partnership with the UK](#) – this reflects the EU's negotiating position. In May 2020 the UK Government published a [series of draft Agreements and Annexes](#) that together reflect the UK's negotiating position.

At date of publication there had been three rounds of negotiations – in March, April and May. Aviation and road transport were discussed during the [second round](#), on 21-23 April and during the [third round](#) on 12-13 May.

More policy background on how EU law affects UK transport policy and the potential implications of the UK's exit can be found in Commons Library briefing paper [Brexit and Transport](#), CBP 7633, November 2018.

1. The end of the beginning

1.1 Exit

The United Kingdom (UK) left the European Union (EU) on 31 January 2020 at 11 pm UK time.

This followed the vote by the UK on 23 June 2016. The then Prime Minister, Theresa May, triggered [Article 50](#) of the Treaty on European Union (TEU) on 29 March 2017 to begin the process of exit.

Since the UK issued its notice to leave, discussions on UK withdrawal and the future relationship with the EU have been governed by Article 50 TEU. That process is now complete.

Since 1 February the legal basis for negotiations between the UK and EU has been based on the same procedures applied for negotiations with other 'third countries' – [Article 218](#) of the Treaty on the Functioning of the EU (TFEU).

1.2 Transition/implementation

The transition (or implementation) period in the [Withdrawal Agreement \(WA\)](#) was conceived as a bridging period while the UK and the EU negotiate a new relationship. It will last until 31 December 2020 unless both sides agree to an extension to complete negotiations.

There is provision for this period to be extended for one or two years, but the Government has said it will not seek an extension. It has also legislated to prohibit itself from doing so ([section 33](#) of the *European Union (Withdrawal Agreement) Act 2020*).

During this period nearly all EU rules will continue to apply to the UK. The UK will still be part of the EU single market and customs union. Existing trade arrangements and rules for travelling within the EU will continue to apply.

The jurisdiction of the Court of Justice of the EU in relation to the application of EU law in the UK will continue as before until this period ends.

The UK will also continue to pay into the EU budget as part of the [financial settlement](#) in the WA.

The UK is no longer represented in the EU institutions (since 1 February) and does not participate in EU decision-making. UK MEPs have left the European Parliament, and the UK no longer has voting rights in the Council of the EU. It will be possible for UK representatives to participate in meetings of EU bodies where discussions are relevant to the UK, but the UK will not have voting rights in these meetings.

1.3 The future relationship

As indicated in [section 1.2](#), unless the Government changes its mind on not extending the transition/implementation period, the above arrangements will end on 31 December 2020.

The House of Commons Library has produced a series of briefings covering all aspects of the UK's exit from the EU, [all available on our website](#).

For more information on what happens during transition, see Commons Library Insight [Brexit next steps: The transition period](#), 31 January 2020.

Some areas of the UK-EU relationship will be covered by the WA. These include the rights of EU citizens living in the UK and UK citizens living in the EU at the end of the transition period and aspects of Northern Ireland's relationship with the EU.

The nature of arrangements for other aspects of the UK-EU relationship will depend on what is agreed during the transition period. Arrangements from 1 January 2021 will also depend on whether a UK-EU agreement can be reached and ratified by the end of 2020.

Alongside the WA in October 2019, the UK and the EU agreed a [Political Declaration](#) (PD) setting out the framework for the future relationship between the two. The PD was described by the parties as follows:

... this declaration establishes the parameters of an ambitious, broad, deep and flexible partnership across trade and economic cooperation with a comprehensive and balanced Free Trade Agreement at its core, law enforcement and criminal justice, foreign policy, security and defence and wider areas of cooperation. Where the Parties consider it to be in their mutual interest during the negotiations, the future relationship may encompass areas of cooperation beyond those described in this political declaration.

[...] The Union and the United Kingdom agree that prosperity and security are enhanced by embracing free and fair trade, defending individual rights and the rule of law, protecting workers, consumers and the environment, and standing together against threats to rights and values from without or within.

[...] The period of the United Kingdom's membership of the Union has resulted in a high level of integration between the Union's and the United Kingdom's economies, and an interwoven past and future of the Union's and the United Kingdom's people and priorities. The future relationship will inevitably need to take account of this unique context. While it cannot amount to the rights or obligations of membership, the Parties are agreed that the future relationship should be approached with high ambition with regard to its scope and depth, and recognise that this might evolve over time.¹

The Government's vision for the UK's future relationship with the EU was further set out in the [Conservative Party's manifesto](#) for the December 2019 General Election, and, subsequently, in the [Prime Minister's speech in Greenwich](#) on 3 February 2020 and his [Written Ministerial Statement](#) on the same day.

Also on 3 February the European Commission set out its [recommendation for a European Council decision](#) authorising the opening of negotiations for a new partnership with the UK.

The European Council published its [negotiating directives to the Commission](#) on 25 February and the UK published its [approach to negotiations](#) on 27 February. In March 2020 the European Commission published a [draft text for the proposed new partnership with the UK](#) – this reflects the EU's negotiating position. In May 2020 the UK Government published a [series of draft Agreements and Annexes](#) that together reflect

¹ HMG, [Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom](#), 19 October 2019, paras 3-5

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the UK's negotiating position. All of this is discussed in more detail in the following two sections.

At date of publication there had been three rounds of negotiations – in March, April and May. Aviation and road transport were discussed during the [second round](#), on 21-23 April and during the [third round](#) on 12-13 May.

2. The February 2020 negotiating positions

As stated in [section 1.3](#), above, on 25 February the European Council published its [negotiating directives to the Commission](#) and the UK published its [approach to negotiations](#) on 27 February.

Negotiators from the UK and the EU met in Brussels on 2–5 March 2020 for the first round of negotiations on the UK-EU future relationship. Michael Gove, Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office, told the House of Commons on 9 March that discussions in some areas “identified a degree of common understanding of the ground that future talks could cover” while in other areas, such as the level playing field (see [section 2.5](#), below), there were “as expected, significant differences”.²

On 18 March both sides exchanged draft legal texts.³ The UK Government has said that by June 2020 it “would hope that”:

... the broad outline of an agreement would be clear and be capable of being rapidly finalised by September. If that does not seem to be the case at the June meeting, the Government will need to decide whether the UK’s attention should move away from negotiations and focus solely on continuing domestic preparations to exit the transition period in an orderly fashion. In so doing, it will be necessary to take into account in particular whether good progress has been possible on the least controversial areas of the negotiations, and whether the various autonomous processes on both sides are proceeding on a technical basis according to agreed deadlines.⁴

It is not clear what, if any, impact the current coronavirus pandemic will have on this timetable. At his daily press conference on 18 March the Prime Minister, Boris Johnson, responding to a question from *The Sun*’s Tom Newton Dunn, said that he has ‘no intention’ of changing the legislation that currently fixes the end of the transition at 31 December 2020.⁵

The transport-related provisions of the negotiation documents are discussed further, sector-by-sector, below. Where particularly relevant they include horizontal or ‘level playing field’ issues that will form part of the negotiations and significantly affect transport (such as subsidies and social provisions like drivers’ hours).

Information on the timetable and process for negotiations can be found in Commons Library Insight: [What is happening in the UK-EU future relationship negotiations?](#), 7 April 2020

You can read more about the level playing field provisions in Commons Library paper [CBP 8852](#), 17 March 2020

² [Negotiations on the UK’s future relationship with the EU: update: Written statement, HCWS153](#), 9 March 2020

³ [“Britain and EU exchange Brexit agreement drafts”](#), *Reuters*, 18 March 2020

⁴ HMG, [The Future Relationship with the EU: The UK’s Approach to Negotiations](#), CP211, 27 February 2020, para 9

⁵ <https://www.youtube.com/watch?v=Fkbu-GF6McE>

What is the 'level playing field'?

The Institute for Government [describes](#) a 'level playing field' as follows:

... a trade policy term that refers to a set of common rules and standards that are used primarily to prevent businesses in one country undercutting their rivals in other countries, in areas such as workers' rights and environmental protections.

Beyond ensuring fair and open trade, level playing field provisions can support other objectives such as sustainable development or meeting climate change commitments.

The UK in a Changing Europe provides a [similar definition](#):

Level playing field measures are often included in trade agreements to ensure that minimum requirements in areas such as labour rights and environmental standards are maintained by both sides. They ensure that neither can gain a competitive advantage by deregulating their domestic market. This might include rules on subsidising industries or agriculture beyond levels allowed by EU rules.

In this regard, in its analysis of the two mandates the Institute for Government observed that:

The EU places two caveats on any transport deal: the UK must accept level playing field commitments as well as further alignment on "common levels of protection" (in the form of non-regression clauses).⁶

EU's current role in UK transport policy development

Before we get to the negotiating positions, it may be useful to provide some background on the reach of EU law as it affects transport.⁷

The EU's competences in transport are set out in the EU Treaties, which provide the basis for any actions the EU institutions take. The EU can only act within the limits of the competences conferred on it by the Treaties, and where the Treaties do not confer competences on the EU they remain with the Member States. There are three different types of competence. Transport is a 'shared' competency, meaning that either the EU or the Member States may act, but the Member States may be prevented from acting once the EU has done so.⁸

The development of the [EU's Common Transport Policy \(CTP\)](#) has resulted in the focusing of action in five policy areas, specifically:

- **Economic** – including the creation of a single market in transport services that facilitates the free movement of goods, services and people, and the creation of an integrated transport system;
- **Social** – including the promotion of high safety standards, security and passengers' and workers' rights;
- **Environmental** – including ensuring that the transport system works in a way that does not impact negatively on the environment

Policy background on how EU law affects UK transport policy and the potential implications of the UK's exit can be found in Commons Library briefing paper [Brexit and Transport](#), CBP 7633, November 2018.

⁶ IfG, [UK-EU future relationship: UK and EU mandates](#) [accessed 18 March 2020]

⁷ There is a significant amount of transport law and regulation in the UK that applies as a direct result of our membership of the EU. The key legislation is set out in: HMG, [Key EU transport legislation](#), 14 May 2013

⁸ HMG, [Call for Evidence on the Government's Review of the Balance of Competences between the United Kingdom and the European Union: Transport](#), 14 May 2013, p5

(including reducing the impact of noise, pollution, harmful emissions and greenhouse gases);

- **Infrastructure** – including the creation of a Trans-European Transport Network (TEN-T) connecting national networks together, making them interoperable and linking outside regions of the EU; and
- **External relations** – including developing relations with third countries and, in some cases, allowing the EU to act collectively at an international level.⁹

The specific provisions of the CTP are contained in Title VI of the [Treaty on the Functioning of the European Union \(TFEU\)](#) on Transport (Articles 90 to 100).

Over the years of the UK's EU Membership there was broadly a balance between the common perceived benefits to the UK transport market and transport companies (e.g. the single market for transport services which has brought down costs through liberalisation and competition) and the burdens, (e.g. disproportionate or excessive regulation). There were long-standing concerns about EU regulatory burdens and the costs these have imposed, and about the difficulties in finding the right level of legislative prescription to achieve the stated aims without being disproportionate.

2.1 Aviation

The main points in each negotiating position relevant to aviation are set out in the table below:

Area	UK Government position	European Union position
General	Two separate agreements: a Comprehensive Air Transport Agreement (CATA) and a Bilateral Aviation Safety Agreement (BASA)	Address comprehensively the aviation relationship with the UK and consider arrangements typically included in Union bilateral aviation agreements. Certain elements of the partnership may be implemented in a phased approach
Traffic rights	Traffic rights for UK and EU airlines to operate passenger, all-cargo and charter services between points in the UK and points in the EU without restrictions on frequency or capacity	Encompass on a reciprocal basis certain traffic rights to ensure continued connectivity. Elements included in the Fifth Freedom of the Air may be considered if, taking into account the geographical proximity of the UK, they are balanced with corresponding obligations and in the interest of the Union ¹⁰
Airline ownership and control	No unnecessary restrictions on the nationality of who can own or effectively control a UK or EU airline	

⁹ Ibid., pp9-10

¹⁰ There are [nine 'freedoms of the air'](#); the fifth freedom is the right, in respect of scheduled international air services, granted by one State to another State to put down and to take on, in the territory of the first State, traffic coming from or destined to a third State (e.g. a flight begins in the UK, then sets down and picks up passengers in Germany on the way to Dubai)

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	making use of the traffic rights in the CATA	
Code-sharing	Any UK or EU airline should be able to enter into code-sharing arrangements, without restriction, with any airline of the parties, or any airline of a third country, so long as the operating carrier has the necessary traffic rights	
Wet-leasing	UK and EU airlines to wet-lease from each other, without restriction or time limits, and with minimal administrative burden, on condition of compliance with the relevant safety standards ¹¹	
Aviation security	Mutual recognition of designations of air carriers transporting cargo on the basis that both sides apply equivalent minimum aviation security standards Cooperative arrangements between technical experts on the development of aviation security standards, and the right to attend airport inspections	Air security provisions that are as stringent as possible
Air navigation services and air traffic management	Mutual recognition of certificates for air navigation service providers Continued cooperation on the functioning of the European Geostationary Navigation Overlay Service (EGNOS) Facilitate cooperation between the UK and EU on the research, development and deployment of new ATM technologies, regulations and network management functions	
Level playing field issues	The UK will have its own regime of subsidy control Agree to eliminate all forms of discrimination and unfair practices, including subsidies Commit the UK and EU to build on current levels of environmental protection , while not restricting the regulatory autonomy of either side	Application of Union State aid rules to and in the United Kingdom Cover multilateral environmental agreements and initiatives , such as in the International Civil Aviation Organization (ICAO) Not prohibit taxation on a non-discriminatory basis of aircraft fuel supplied to aircraft
Aviation safety	Mutual acceptance of safety and other certification processes where possible and limit the duplication of recertification or retesting assessments A broad range of technical annexes to BASA, including design certification;	Facilitate trade and investment in aeronautical products, parts and appliances through cooperation in areas such as certification and monitoring, the production oversight and environmental approval and testing

¹¹ 'Wet leasing' refers to an agreement between air carriers pursuant to which an aircraft is operated under the air operator certificate of the lessor

<p>product organisation approvals; maintenance organisation approvals; flight simulator qualification; and personnel licensing and training</p> <p>Facilitate regulatory cooperation, including the provision of information on any significant revisions proposed to aviation safety regulations</p> <p>Provide for the exchange of relevant safety information and data</p>	<p>Negotiations should be based on both Parties being satisfied with the other Party's requirements, regulatory processes and capacity to implement them</p> <p>Nothing in the envisaged partnership should entail reciprocal acceptance of the standards and technical regulations of the Parties</p> <p>Appropriate co-operation mechanisms to verify on a reciprocal basis the continued fitness and ability of the regulatory bodies involved in implementation</p> <p>Adequate mechanisms for verification and information exchange</p>
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In its 5 March 2020 report on the EU's negotiating directives for UK-EU relationship, the House of Lords European Union Committee noted the following key points about the EU's position vis aviation:

- It has dropped the reference in the Political Declaration to a bespoke 'Comprehensive Air Transport Agreement', suggesting instead that aviation should fall under the umbrella of the wider economic partnership;
- It emphasises that UK-based operators should not enjoy the same benefits as EU carriers, while leaving open the possibility of allowing 'fifth freedom' rights and operational and commercial flexibility arrangements; and
- It envisages regulatory cooperation within aviation safety, subject to each Party being satisfied as to the other's aviation safety requirements and processes, and mechanisms being in place to monitor the "continued fitness and ability" of regulatory bodies.¹²

The Committee concluded that "there is substantial common ground in the areas that would be covered" by an agreement.¹³

International comparators

Given the UK's position that the agreement should generally "be on the lines of the FTAs already agreed by the EU in recent years with Canada and with other friendly countries" or at the least, if agreement on these lines is not possible "look similar to Australia's",¹⁴ it may be worth looking at those agreements to give some contrast. The EU's aviation agreements with the United States and Switzerland also provide some useful comparison.

¹² HL EU Committee, [Report pursuant to section 29 of the European Union \(Withdrawal Agreement\) Act 2020: Council Decision authorising the opening of negotiations with the United Kingdom of Great Britain and Northern Ireland for a new partnership agreement](#) (8th report of session 2019-21), HL Paper 32, 5 March 2020, paras 86-88

¹³ *Ibid.*, para 89

¹⁴ *Op cit.*, [The Future Relationship with the EU: The UK's Approach to Negotiations](#), paras 6 and 7

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It is worth bearing in mind that all these agreements were reached when the UK – with the third largest aviation network in the world and the largest air transport system in Europe in 2015¹⁵ – was a member of the EU. It remains to be seen whether any of these countries will seek to revise their EU agreements and seek more favourable terms, given their loss of access to the UK market via this route.

Canada

The [EU-Canada Air Transport Agreement](#) was signed on 17/18 December 2009. The UK Government has described the Agreement as one that “aims to promote competition within the aviation marketplace with minimum government interference and regulation”. It grants EU and Canadian carriers the right to fly between any point in Canada and any point in the EU, as well as points beyond, on services originating in the EU or Canada. The agreement emphasises the need for parties to work collaboratively, particularly on areas such as security and safety. Parties are encouraged to exercise mutual recognition of security arrangements and reciprocal acceptance of safety certificates and licences. Where there are reasonable grounds, and/or a contracting party departs from the agreement, parties can act to suspend, limit or revoke the arrangements.¹⁶

It also contains a provision on airline ownership and control, specifically that each Party shall permit full ownership of its airlines by nationals of Canada or a an EU Member State or States subject to substantial ownership and effective control of the airline being vested in nationals of the relevant Party, the airline being licensed as a Party’s airline, and the airline having its principal place of business in the territory of the Party. [Article 4 & Annex 2] It permits full code-sharing and wet-leasing. [Article 13]

Australia

The [EU and Australia signed a horizontal agreement](#) on 29 April 2008.¹⁷ This agreement allows any EU airline to operate flights between Australia and any EU Member State where it is established and where a bilateral agreement with Australia exists and traffic rights are available.¹⁸ It does not replace the bilateral agreements but adapts them to bring them into line with EU law.

Switzerland

The [EU-Switzerland Air Transport Agreement](#) was signed on 21 June 1999 but did not enter into force until 1 June 2002. The UK Government has described the EU-Switzerland Air Transport Agreement as a “bespoke bilateral agreement”. Switzerland agreed in 2002 to adopt and implement

¹⁵ HMG to Committee on Exiting the European Union, [Aviation Sector Report](#), November 2017, para 4

¹⁶ Op cit., [Aviation Sector Report](#), paras 63-4

¹⁷ A horizontal agreement is an international agreement negotiated by the European Commission on behalf of EU Member States, in order to bring all existing bilateral air services agreements between EU Member States and a given third country in line with EU law

¹⁸ A list and the texts of Australia’s bilateral arrangements with individual EU Member States can be found on the website of the Australian Government’s Department for Infrastructure, Transport, Regional Development and Communications, [Australia’s Air Services Agreements/Arrangements](#) [accessed 19 March 2020]

the aviation acquis in full. Switzerland has been granted liberalised access to the internal market, though its traffic rights do not extend to the ability to fly between two destinations within a Member State (the ninth freedom of the air).¹⁹

Some of the other interesting features of the Agreement include:

- Article 13 effectively prohibits state aid except in certain circumstances defined in that Article;
- Article 21 provides for the establishment of a Joint Committee, composed of representatives of the contracting parties, to administer the Agreement and manage its implementation. Under other articles it has various powers as regards dispute resolution between the parties, and consultation on various matters; and
- The Annex to the Agreement lists those EU legislative instruments that would also apply with Switzerland as in the same way to any EU Member State and to Swiss air carriers in the same way as to EU carriers. It includes all the main liberalisation measures and compensation requirements.²⁰

United States

The [EU-US Air Transport Agreement](#) (commonly called ‘Open Skies’) was signed on 25 April 2007. The UK Government has described the EU-US ‘Open Skies’ Air Transport Agreement as offering “liberal market access for the EU and US, with air carriers being able to fly an unlimited number of frequencies on any route between the US and EU Member States”. The agreement encourages principles of competition and regulatory cooperation.²¹

Two interesting features of the Agreement are:

- Article 3 removed all restrictions on international routes between the EU and US (the third/fourth freedom), routes beyond the EU and US (the fifth freedom) and granted seventh freedom rights²² for all-cargo and passenger services operated by EU airlines; and
- Article 10 provided for code-sharing between EU, US and third country airlines and wet-leasing of EU aircraft to US airlines for use on international routes between the US and any third country.

A large part of the Agreement is dedicated to airline ownership, investment and control mechanisms, largely by virtue of US legal requirements. On the EU side, the Annex to the Agreement contains a provision reserving the EU’s right to limit investments by US nationals in the voting equity of a Community airline. It also provides for a role for a Joint Committee in matters concerning ownership and control, to develop a common understanding of the criteria used by the EU and the US in making their respective decisions in cases concerning airline control.

¹⁹ Op cit., [Aviation Sector Report](#), para 60

²⁰ [Agreement between the European Community and the Swiss Confederation on Air Transport](#), 30 April 2002

²¹ Op cit., [Aviation Sector Report](#), para 61

²² To carry passengers or cargo between two foreign countries without continuing service to one’s own country

2.2 Road transport

The main points in each negotiating position relevant to road transport are set out in the table below:

Area	UK Government position	European Union position
Transport of goods	UK and EU road transport operators should be entitled to provide services to, from and through each other's territories with no quantitative restrictions	Open market access for bilateral road freight transport, including unladen journeys, for EU hauliers from the territory of the EU to the territory of the UK and vice versa and by UK hauliers to the territory of the EU, and vice versa Appropriate transit arrangements UK hauliers should not be granted the same level of rights and benefits as those enjoyed by EU hauliers in respect of road freight transport operations from one Member State to another ('grand cabotage') and road freight transport operations within the territory of one Member State ('cabotage')
Transport of passengers	Secure continued connectivity for commercial passenger transport services	Take account of the multilateral Interbus Agreement and the Protocol to that Agreement regarding international regular and special regular services
Driver and licensing rules	UK hauliers and passenger transport operators would be expected to comply with the relevant international rules (such as ECMT and AETR) ²³ when operating outside of the UK	Ensure that the common level of protection in relation to operators and drivers (including social rules) in the area of road transport is not reduced below the level provided by the common standards applicable in the EU and the UK at the end of the transition period Address requirements for tachograph technology
Trade in vehicles and parts	Technical Barriers to Trade (TBT) annex on motor vehicles and parts facilitate trade in all categories of motor vehicles, equipment and parts, based on international standards on vehicle safety and environmental protection	
Traffic offences	Discuss an agreement on law enforcement and judicial cooperation in criminal matters, including data exchange for law enforcement purposes	

²³ This refers to [European Conference of Ministers of Transport \(ECMT\) road haulage permits](#) and the [European Agreement Concerning the Work of Crews of Vehicles Engaged in International Road Transport \(AETR\) rules](#), now the same as EU drivers' hours rules

Level playing field issues	The UK will have its own regime of subsidy control Commit the UK and EU to build on current levels of environmental protection , while not restricting the regulatory autonomy of either side Respect the UK's autonomy as a third country and not require the UK to follow EU standards	Application of EU State aid rules to and in the United Kingdom
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In its 5 March 2020 report on the EU's negotiating directives for UK-EU relationship, the House of Lords European Union Committee noted the lack of clarity in the UK's stated ambition that UK and EU road transport operators should be allowed "to provide services to, from and through each other's territories with no quantitative restrictions". The Committee stated that it is unclear whether this is a request for cabotage rights.²⁴

International comparators

The UK acknowledges that its ambition for UK and EU road transport operators to be able to provide services to, from and through each other's territories with no quantitative restrictions has "no direct EU precedent". It notes that this is largely because the EU's existing free trade agreements "are with countries where significant cross-border road transport is impractical for geographical reasons" and states that the UK's ambition "is consistent with many commercial road transport bilateral agreements EU Member States have with countries outside the EU".²⁵

The UK makes specific reference to Chapter 7 and Annex 2-C of the [Economic Partnership Agreement \(EPA\) between the EU and Japan](#), signed on 1 February 2019 in the context of its proposal for a Technical Barriers to Trade (TBT) annex on motor vehicles and parts.²⁶

2.3 Maritime

On maritime transport the UK position does not contain any specific provisions. There is one related ambition for a Technical Barriers to Trade (TBT) protocol on the mutual recognition of certificates of conformity for marine equipment (similar to the [EU-US agreement on the same topic](#)). It states that mutual recognition should be provided for, based on both Parties' adoption of the relevant international instruments of the International Maritime Organisation (IMO) and the relevant testing standards. It should also include dedicated provisions on cooperation, information-sharing and market surveillance.²⁷

The EU's negotiating directives set out ambitions to:

²⁴ Op cit., [Report pursuant to section 29 of the European Union \(Withdrawal Agreement\) Act 2020: Council Decision authorising the opening of negotiations with the United Kingdom of Great Britain and Northern Ireland for a new partnership agreement](#), para 93

²⁵ Op cit., [The Future Relationship with the EU: The UK's Approach to Negotiations](#), para 62

²⁶ Op cit., [The Future Relationship with the EU: The UK's Approach to Negotiations](#), para 19

²⁷ Op cit., [The Future Relationship with the EU: The UK's Approach to Negotiations](#), para 15

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- address market access for the international maritime transport sector with appropriate level playing field requirements; and
- cover climate change mitigation-related multilateral initiatives, such as in the International Civil Aviation Organization (ICAO).²⁸

In its 5 March 2020 report on the EU's negotiating directives, the House of Lords European Union Committee remarked that the directives were “striking” for the “lack of any reference to cooperation between the European Maritime Safety Authority and the UK’s Maritime and Coastguard Agency—even though this was proposed in the PD (paragraph 63)”.²⁹

2.4 Rail

The UK’s approach document does not mention rail.

The EU’s negotiating directives make one mention of rail transport: to “address, if necessary, the specific situation of the Channel Tunnel and the Belfast-Dublin Enterprise Line”.³⁰

²⁸ [Annex to Council Decision authorising the opening of negotiations with the United Kingdom of Great Britain and Northern Ireland for a new partnership agreement](#), 5870/20 ADD 1 REV 3, 25 February 2020, paras 78 and 109

²⁹ Op cit., [Report pursuant to section 29 of the European Union \(Withdrawal Agreement\) Act 2020: Council Decision authorising the opening of negotiations with the United Kingdom of Great Britain and Northern Ireland for a new partnership agreement](#), para 94

³⁰ [Annex to Council Decision authorising the opening of negotiations with the United Kingdom of Great Britain and Northern Ireland for a new partnership agreement](#), para 77

3. Draft texts, March-May 2020

As stated in [section 1.3](#), above, in March 2020 the European Commission published a [draft text for the proposed new partnership with the UK](#) – this reflects the EU’s negotiating position. In May 2020 the UK Government published a [series of draft Agreements and Annexes](#) that together reflect the UK’s negotiating position.

Negotiators from the UK and the EU met in Brussels on 20-24 April and 11-15 May 2020 for the second and third rounds of negotiations on the UK-EU future relationship. Aviation and road transport were discussed at both rounds. Michael Gove, Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office, told the House of Commons on 19 May that:

Discussions showed that a standard Comprehensive Free Trade Agreement, with other key agreements on issues like law enforcement, civil nuclear, and aviation alongside, all in line with the Political Declaration, could be agreed without major difficulties in the time available.

However, there remain some areas where we have significant differences of principle – notably fisheries, governance arrangements, and the so-called “level playing field”. It remains difficult to reach a mutually beneficial agreement while the EU maintains an ideological approach.

In order to facilitate discussions in the fourth Round and beyond, the Government is today making publicly available the draft legal texts we have shared with the Commission and which have formed the basis of our discussions, together of course with the EU’s draft Agreement.³¹

Both the Commission’s [draft text](#) and the UK Government’s [collection of draft texts](#) ([Comprehensive Free Trade Agreement \(CFTA\)](#) and [annexes](#); [Air Transport Agreement \(ATA\)](#); and [Civil Aviation Safety Agreement \(CASA\)](#) and [annexes](#)) reflect their negotiating positions, as set out in February. And the detailed provisions seek to put those positions into legal text.

Given that the draft texts are negotiation tools and thus subject to change, and given that they reflect previously stated positions, and the differences between them as set out in [section 2](#), above, it may be worth at this stage reflecting on the *general* principles that they seek to enshrine. These in themselves show interesting differences and similarities of approach.

The general principles, as they relate to aviation and international road transport, given in the draft texts, are shown in the table on the following page.

Information on the timetable and process for negotiations can be found in Commons Library Insight: [What is happening in the UK-EU future relationship negotiations?](#), 7 April 2020

³¹ [Negotiations on the UK's future relationship with the EU: update: Written statement - HCWS245](#), 19 May 2020

Area	UK Government principles	European Union principles
Air transport	<p>To facilitate liberalised market access to promote air connectivity between the EU and the UK and value for money for passenger and cargo operators.</p> <p>To maintain or improve existing standards on the safety of passengers, crew, ground personnel and the general public in all matters related to safeguarding against acts of unlawful interference with civil aviation.</p> <p>To facilitate and promote continued cooperation on air traffic management to ensure the efficient management of shared European airspace [ATA, Art 1]</p>	N/A [Title XII, Ch 1]
Air safety	<p>To enable the reciprocal acceptance, as provided in the Annexes to this Agreement, of Findings of compliance made and Certificates issued by either Party's Competent Authorities or Approved organisations.</p> <p>To promote cooperation toward a high level of civil aviation safety and environmental compatibility.</p> <p>To facilitate the multinational dimension of the civil aviation industry.</p> <p>To facilitate and promote the free flow of Civil Aeronautical Products and services. [CASA, Art 1]</p>	<p>To enable the reciprocal acceptance, as provided for in the annexes to this Chapter, of findings of compliance made and certificates issued by either Party's competent authorities or approved organisations.</p> <p>To promote cooperation toward a high level of civil aviation safety and environmental compatibility.</p> <p>To facilitate the multinational dimension of the civil aviation industry.</p> <p>To facilitate and promote the free flow of civil aeronautical products and services. [Title XII, Ch 2, Art AVSAF.1]</p>
International road transport	<p>Aimed at ensuring liberalised access by the Parties for the international carriage of goods and passengers by road between and through their respective territories ... based on the principles of reciprocity.</p> <p>The Parties agree not to take discriminatory measures when applying this Chapter.</p> <p>Nothing in this Chapter shall affect the national carriage of goods or passengers within the territory of one of the Parties by a carrier established in that territory. [CFTA, Art 20.1]</p>	<p>To ensure, as regards the transport of goods by road, continued connectivity between the territories of the Parties and to lay down the rules which are applicable to such transport. [Title XII, Ch 3, Art ROAD.1]</p>

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