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End of Brexit transition: trade

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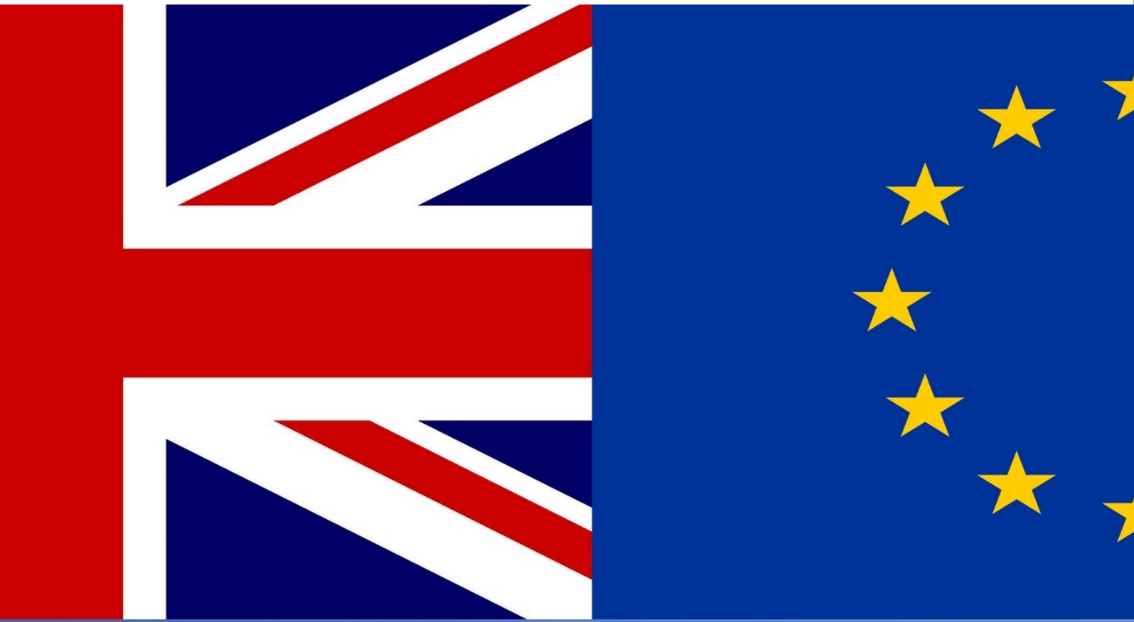
Contents:



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Summary

Introduction

This paper examines the implications of the end of the Brexit transition period for UK trade with the EU. It is one of a number of Commons Library briefings looking at the consequences of the end of the transition period for a number of policy areas. All these briefings are available on the Commons Library website.

The UK left the EU on 31 January 2020. Since then, the UK has been in a transition period during which most EU rules, including those of the EU single market and customs union, continue to apply in the UK. The UK leaves the transition period on 31 December 2020. In doing so, the UK will leave the EU single market and customs union.

This will mean major changes in the UK's trade relationship with the EU. Barriers to trade will be higher. Many of these changes will occur even if a deal is reached with the EU. Free trade agreements generally seek to reduce barriers to trade between the parties. Any agreement between the UK and EU will be highly unusual in that it will result in higher trade barriers than before, although a deal would mean lower barriers than no deal.

The EU, as a bloc, is the UK's largest trading partner: the UK exported £294 billion of goods and services to the EU in 2019 (43% of all UK exports) and imported £374 billion (52%).

Changes will occur regardless of whether there is a deal

Regardless of whether there is a deal with the EU, there will be more checks at the border. HMRC estimates that the number of customs declarations the UK will need to process could increase to 270 million from 55 million now. There will also be regulatory changes.

The Government has taken a number of steps to mitigate problems at the border. These include phasing in border processes over the first six months of 2021, building more infrastructure, such as the Kent lorry parks, and seeking to increase capacity in the customs intermediary sector.

Preparations for the end of the transition period have, however, been hampered by COVID-19. The Public Accounts Committee and others have raised concerns about the risk of disruption at the border. The Government's own "Reasonable Worst Case Scenario" warns that there could be queues of up to 7,000 trucks in Kent and delays of up to two days.

There are also concerns over how ready businesses will be for the changes coming in at the end of the year. Business groups have called for more information from the Government and pointed out that continuing uncertainty over whether there will be a deal has hampered preparations.

Outside the EU single market, UK service providers will no longer be covered by the harmonised EU standards in certain sectors, and the common EU regulatory and supervisory framework. UK businesses will have to follow the national rules of each EU Member State in which they have a branch or sell a service (the so-called host state rules).

Changes will affect among others, the right of establishment, the recognition of professional qualifications, business travel, financial services, and the transfer of data between the UK and EU. For example, investors setting up a subsidiary in the EU may be required to reside in a country or get a licence to provide a service. Automatic mutual recognition of professional qualifications available to doctors, nurses, engineers, architects

and other so-called regulated professions in the EU will fall away. Qualifications will have to be recognised in each EU Member State separately. Financial services providers will lose their "passport", which allows them to operate in another EU Member State without having to seek new authorisation.

No deal

No deal would mean tariffs being imposed on UK exports to the EU and vice versa. While these are relatively low *on average*, they are high in some sectors such as agriculture. These sectors would see a large impact from the imposition of tariffs.

No deal would also mean businesses might have to certify that their goods meet product standards in the UK and EU separately. No deal might also mean less flexibility and co-operation in applying customs rules.

The difference between the deal being sought by the UK and trading under WTO terms is more limited for services than it is for goods. However, sector organisations have said that in absence of an agreement barriers could be significant for various professional services industries.

Barriers to goods trade resulting from no deal could have further implications for the UK services industry which is part of manufacturing supply chains.

Both the UK and EU can take unilateral decisions on the equivalence of the other party's financial services regulations independently from trade negotiations. The same is true for decisions on adequacy of data protection laws, which support trade in services. If the EU does not grant this recognition, trade will be more difficult.

Deal

A deal is likely to mean no tariffs on UK-EU trade. This would, however, be subject to rules of origin under which products would need to demonstrate that they originated in the UK (or EU) to benefit from zero tariffs. This could mean that some sectors, such as the car industry, might find it difficult to take advantage of zero tariffs.

A deal could contain measures on mutual recognition of conformity assessment in some sectors, removing the need for separate product certification in the UK and EU. A deal might also contain measures on customs facilitation aimed at simplifying customs procedures and smoothing cross-border trade.

A deal on services would offer more clarity and certainty to businesses. It could also secure a continued dialogue and cooperation between regulators and in other ways mitigate the effects of leaving the single market for services. Both sides have offered regulatory cooperation across a wide range of services sectors. Both are seeking to reduce barriers to business establishment in the other, for example by limiting barriers for investment. But the UK has offered more generous terms for business travel and the mutual recognition of professional qualifications. So far, the EU has not accepted the proposals and limited its offer to terms which are in line with its most recent free trade agreements.

1. Background

1.1 The Transition Period

The UK formally left the EU in January 2020 and entered a transition period lasting until the end of 2020. During the transition period, most EU rules still apply to the UK. The major change in the UK's trading relationship with the EU will therefore come on 1 January 2021.

At the end of the transition period, the UK will leave the EU single market and customs union and will become a 'third country' from the EU's point of view. This will increase barriers to trade between the UK and EU, irrespective of whether there is a trade deal.

The Institute for Government (IFG) has said:

> the difference now between a deal and no deal is not as stark as it would have been under Theresa May's plans. Whatever happens in the negotiations, the UK will leave the EU single market and customs union. This will mean that there will inevitably be new requirements for goods trading into the EU and it will be more difficult for UK firms to offer services the other side of the Channel. Much of what both government and business need to do to prepare will be necessary whatever the outcome of the talks – although this message does not seem to have cut through to the public.[1]

The European Commission has said:

> Leaving the Single Market and Customs Union will lead to additional barriers to trade and to the cross-border mobility of people, and adjustments will be necessary both on the side of the Union and of the United Kingdom.[2]

A deal will eliminate or reduce some of these barriers (such as tariffs for example), but some barriers will increase even if there is a deal.

The sections below describe the changes which will occur to trade between Great Britain and the EU. Separate arrangements, contained in the Northern Ireland Protocol, govern trade between Northern Ireland and the EU.

1.2 COVID-19

Preparations for the end of the transition period have been hampered by COVID-19. The second national lockdown in England came just weeks before the end of the transition period. COVID-19 has reduced the bandwidth available in government and business to prepare for changes and has placed business under financial pressure.

The IFG has commented:

> The government made a choice when it decided not to seek an extension to the transition period so set itself and the country a difficult task in preparing to leave the EU while battling a global

1 Institute for Government, Preparing for Brexit: How ready is the UK?, 3 November 2020, p9

2 European Commission, Getting ready for changes, July 2020

> pandemic. In the weeks ahead, the government needs to prove that it made the right call.[3]

In its report on border preparedness, the NAO said that the "government's emergency response to COVID-19 delayed preparations that were already rated high-risk."[4]

3 IFG Preparing for Brexit: How ready is the UK?, 3 November 2020, p50

4 NAO, The UK border: preparedness for the end of the transition period, HC371, 6 November 2020, p9

2. What will change irrespective of whether there is a deal?

2.1 Introduction

The Government's decision to leave the EU single market and customs union means there will be increased barriers to UK-EU trade, including increased border processes and regulatory barriers. These will occur irrespective of whether a trade deal is reached with the EU.[5] An agreement with the EU would reduce, but not eliminate, some of these barriers.

The European Commission's document, Getting ready for changes gives an overview of the changes which will happen regardless of whether there is a deal. Box 2 in this paper looks at the implications of the end of the transition period for the UK food sector in particular.

2.2 Changes at the border

EU border

UK trade with the EU will be subject to all the customs formalities required by EU law. The European Commission has said:

> On the EU side, customs authorities will carry out controls on the basis of the Union Customs Code, according to the common risk-based system applied to any other external border of the Union with regard to the movement of goods in relations to third countries. These controls are likely to lead to increased administrative burdens for businesses and longer delivery times in logistical supply chains.[6]

It is expected that the EU will impose full border controls on its imports from the UK from 1 January 2021.

UK border

Introduction

Border formalities will apply to all goods imported into the UK from the EU. The Government has announced that UK controls will be introduced in three phases: on January 2021, April 2021 and July 2021.

Box 1: The Border Operating Model

On 8 October 2020, the Government published an updated "Border Operating Model", providing guidance on how the GB-EU border will operate after the end of the transition period. A previous version had been published on 13 July 2020. This guidance does not cover Northern Ireland/Ireland where separate arrangements are in place.[7]

[5] Cabinet Office, Government publishes updated GB-EU Border Operating Model, 8 October 2020
[6] European Commission, Getting ready for changes, p6
[7] The UK Government published guidance on Moving goods under the Northern Ireland Protocol on 7 August 2020

According to the Government:

> This publication gives traders further information on the changes and opportunities they need to prepare for as a result of us leaving the EU Single Market and Customs Union. These steps will be needed regardless of whether we reach a trade agreement with the EU.[8]

The Border Operating Model also provides:

- Details of the Kent Access Permit
- Intended locations of inland border infrastructure, providing additional capacity to carry out checks on freight. The proposed sites are Sevington Ashfield, Ebbsfleet International Station, North Weald airfield and Warrington. Waterbrook Ashfield is described as a contingency site. Potential sites are Thames Gateway, Birmingham, Holyhead, South Wales and Dover.[9]

Types of UK import controls

Customs declarations

Import controls will include, for example, customs declarations and safety & security declarations. Customs declarations will be required on UK-EU trade from 2021. HMRC estimates that the number of customs declarations could increase to 270 million compared with 55 million now.[10]

Safety and security declarations

HMRC uses safety and security declarations to identify high-risk goods that need to be checked at the border. HMRC expect the number of safety and security declarations to increase from 7 million to 92 million a year.[11]

SPS checks

Imports of plants and animals and related products will be subject to extra requirements known as Sanitary and Phytosanitary (SPS) checks. These include providing advance notification of the arrival of goods, certification, and documentary, identity and physical checks. According to the Border Operating Model, from July 2021:

> commodities subject to sanitary and phytosanitary (SPS) controls […] must arrive at an established point of entry with an appropriate BCP [Border Control Post] and there will be an increase in physical checks and the taking of samples. SPS checks for animals, plants and their products will take place at GB BCPs.[12]

Exports of animals and plants and related goods need an Export Health Certificate to demonstrate compliance with the rules of the destination country.

More extensive checks will also be carried out on goods covered by international conventions or commitments: such as CITES (the

8 Cabinet Office, Government publishes updated GB-EU Border Operating Model, 8 October 2020
9 HM Government, The Border with the European Union, October 2020, pp23-25
10 NAO, The UK border: preparedness for the end of the transition period, HC371, 6 November 2020, p6
11 NAO, The UK border: preparedness for the end of the transition period, HC371, 6 November 2020, p30
12 HM Government, The Border with the European Union, October 2020, p16.

Convention for the International Trade in Endangered Species of Wild Flora and Fauna) and on excise goods.[13]

Government border preparations

The Government has taken a range of measures to ease the changes which will happen on 1 January 2021.

Phasing-in border checks

Border processes applying to imports from the EU will be phased in during 2021 to smooth the transition to the new arrangements. There will be three stages in January, April and July. The sections below give a broad, general outline. Detailed guidance for business is in the Border Operating Model.

From January 2021

From January 2021, for non-controlled goods, traders will have up to six months to complete customs declarations. Traders will be required to keep records of imported goods. Payment of any tariff can be deferred until the customs declaration is made.[14] Traders with a poor recent compliance history will not be able to defer customs declarations.[15] Full customs declarations will be needed from 1 January 2021 for controlled goods[16] and excise goods (eg alcohol and tobacco products).

Particular rules will apply to animal and plant products. The Border Operating Model says:

> There will also be physical checks at the point of destination or other approved premises on all high-risk live animals and high-priority plants and plant products, and a requirement to obtain the relevant documentation and pre-notify for certain movements, but they will not be required to enter GB via a point of entry with an appropriate Border Control Post (BCP).[17]

Export declarations and UK exit Safety and Security declarations will be required for all goods.

From April 2021

All products of animal origin such as meat, honey, milk or egg products and all regulated plants and plant products will also require pre-notification and the relevant health documentation. Any physical checks will continue to be conducted at the point of destination until July 2021.[18]

From July 2021

Traders importing any goods from the EU will be required to make full customs declarations and pay relevant tariffs. Delaying customs declarations will no longer be permitted. Products subject to Sanitary

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13 HM Government, The Border with the European Union, October 2020, p20
14 HM Government, The Border with the European Union, October 2020, p14
15 HMRC, Letter to VAT-registered businesses about new trade arrangements with the EU from 1 January 2021, 19 October 2020
16 Controlled goods include, for example, controlled drugs, explosives and firearms (see HMRC, List of goods imported into Great Britain from the EU that are controlled from January 2021, 16 October 2020
17 HM Government, The Border with the European Union, October 2020, p14
18 HM Government, The Border with the European Union, October 2020, p15

and Phyto-sanitary checks must arrive at an established port of entry with an appropriate Border Control Post and these products will be subject to more physical checks.[19]

Infrastructure

The introduction of new processes at the border means that new infrastructure will be needed. For example, not all ports have the necessary space for new border checks to take place. The Government has therefore decided to use various inland sites to provide space for some of these checks to be done. Phasing in of customs controls means much of this infrastructure is not required until July 2021. Infrastructure is also needed to manage traffic flows such as space to hold lorries if there is disruption.[20] The Border Operating Model provides details of the new border infrastructure the Government believes will be necessary and lists ten intended or potential inland sites for border infrastructure.[21] It has been reported that one of the sites in Kent, Sevington, will not be able to undertake customs checks until the end of February.[22]

According to an NAO report, as of October 2020, the Cabinet Office's Border and Protocol Delivery Group reported the readiness of all the sites needed for January 2021 was either red, amber-red or amber.[23]

The Government has also introduced measures designed to prevent a build-up of lorries with incorrect paperwork, including a "Kent Access Permit." In October, the Department for Transport announced:

> The new rules confirm that it will be mandatory for all heavy goods vehicles (HGVs) using the Short Straits channel crossings to obtain a digital Kent Access Permit (KAP), following completion of the government's new easy-to-use 'Check an HGV' service. This will ensure that HGV drivers who come prepared can move smoothly through Kent to the UK's trading ports.[24]

In July 2020 the Government announced £470 million of funding for port and inland infrastructure. In October 2020, the Government announced that £200 million of this would be allocated to a Port Infrastructure Fund to allow the building of new facilities.[25] The fund is intended for ports which have the space to build new infrastructure on their current sites.

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19 HM Government, The Border with the European Union, October 2020, p16
20 NAO, The UK border: preparedness for the end of the transition period, HC371, 6 November 2020, p44
21 HM Government, The Border with the European Union, October 2020, p25. The NAO report (p46) provides more information the function and state of readiness of these sites. The NAO also lists Manston which is not in the Border Operating Model.
22 Brexit lorry park next to M20 Junction 10a in Ashford won't be fully ready until February, Kent Online, 14 December 2020
23 NAO, The UK border: preparedness for the end of the transition period, HC371, 6 November 2020, p46
24 Department for Transport, Government steps up plans to keep trade flowing at the end of the transition period, 22 October 2020
25 Cabinet Office and Department for Transport, £200 million Port Infrastructure Fund opens for bids, 2 October 2020. NAO, The UK border: preparedness for the end of the transition period, HC371, 6 November 2020, p75

Customs agents

Many more private sector customs agents will be needed to help businesses getting their goods through customs. It has been estimated that as many as an extra 50,000 customs agents might be needed after the end of the transition period.[26] Others estimate the figure at around 35,000 or possibly lower if there is a deal.[27]

In June 2020, the Government announced an extra £50 million in funding for the customs intermediary sector to help with training, recruitment and IT. This brought the total for the customs intermediary sector to £84 million.[28] In October 2020, the Government announced an increase in the amount of support that businesses can receive from the Customs Grant Scheme.[29] HMRC told the Treasury Committee in October that around £52 million of the £84 million allocated had been spent.[30]

Concerns about UK border readiness

There are concerns that the steps taken by the Government to prepare the border for the end of the Transition Period may be insufficient to prevent delays and disruption to goods trade between the UK and EU. There are also worries that businesses will not be ready for the end of the transition period. Businesses groups have accused the Government of giving them insufficient information and time to prepare adequately.

Government

A report by the Public Accounts Committee said that there were "significant risks to the country being ready for the end of the transition period" and that the "government still only seems to be taking limited responsibility for that readiness." The Committee's report went on to say:

> There is still a significant risk of disruption connected to the short Channel crossings. In previous reports we have repeatedly raised concerns about the readiness of key border systems and been assured that they are on track or that delays are being managed. And yet these border systems remain in development and plans for managing disruption or prioritisation of key goods are unclear.[31]

A report by the National Audit Office said:

> While the UK has now left the EU, preparations to manage the border at the end of the transition period remain very challenging and have continued to be significantly affected by the ongoing negotiations and wider political context, and by the impact of COVID-19 on both the government's and businesses' ability to prepare.

26 UK falling short of post-Brexit target for customs agents, warns industry, Financial Times, 26 May 2020
27 IFG, Preparing for Brexit: How ready is the UK? 3 November 2020, p33
28 HMRC, New measures to support customs intermediaries, 12 June 2020
29 Cabinet Office, Government publishes updated GB-EU Border Operating Model, 8 October 2020
30 Treasury Committee, UK Customs Policy: Oral evidence, 13 October 2020, HC 776, Q171
31 Public Accounts Committee, Whitehall preparations for EU Exit, HC 682, 2 December 2020, p3

> […]
>
> However, despite the funding being committed by government, there remains significant uncertainty about whether preparations will be complete in time, and the impact if they are not. Some of this uncertainty could have been avoided, and better preparations made, had the government addressed sooner issues such as expanding the customs intermediary market, developing a solution for roll-on, roll-off (RORO) traffic, upscaling customs systems and determining the requirements for infrastructure to enforce a new compliance regime.[32]

The Institute for Government commented:

> The government has bought itself more time to prepare the GB–EU border, but poor trader readiness and EU checks from January mean disruption is inevitable. More work is needed to ensure that new border controls, to check customs paperwork and carry out inspections, are introduced without causing major disruption to trade. The government is just about on track to deliver the IT systems, infrastructure and people needed at the border. But even then, it still needs to make sure traders know how to navigate the new ways of working – and are prepared for EU controls from January.[33]

Business

Businesses have said that the lateness of any deal which might be struck, together with a lack of detailed guidance from the Government, has hampered preparations for the end of the transition period. In an article in the Times, Tony Danker (director general of the CBI), said: "Companies have done as much as they can to prepare in the absence of a deal. This late in the day, it is now impossible for many to be ready on January 1."[34] The CBI has published Smoothing the cliff edge which recommends a number of steps to manage disruption after the end of the transition period.

Helen Dickinson, chief executive of the British Retail Consortium, recently said "The 11th hour has passed and every passing moment of uncertainty makes it harder for businesses to prepare effectively for the 1st January."[35] The Government has been criticised for not giving business adequate information to allow them to prepare:

> Logistics UK, the business group representing the sector charged with keeping the UK economy stocked with the goods and raw materials it needs, has today (11 November 2020) called on government to provide the clarity and systems its members require to prepare for Brexit, so that trade can keep flowing across the UK's borders after 31 December 2020. Without these, the organisation warns, the UK's highly interconnected supply

32 NAO, The UK border: preparedness for the end of the transition period, HC371, 6 November 2020, paras 23 and 25
33 IFG, Preparing for Brexit: How ready is the UK? 3 November 2020, p5
34 Tony Danker, It's too late now for business to be ready for Brexit, The Times, 18 December 2020
35 British Retail Consortium, Ongoing uncertainty is making it "harder for businesses to prepare", 13 December 2020. See also, Financial Times, Business hits out at lack of clarity on UK-EU trade terms, 13 December 2020

> chain will break, with the potential for disruptions including lorry queues in Dover …[36]

The Institute for Government said:

> Business readiness is the biggest problem for the end of 2020, with the Covid crisis leaving many firms less prepared than last year. There is only so much the government can do alone to prepare; businesses too need to be ready for new trading conditions and to comply with new checks and regulations. Yet, the government's own figures paint a worrying picture of just how few businesses are even aware of the changes coming, let alone prepared for them. As late as October, a third of small businesses believed that the transition period would be extended, despite the deadline for any extension having passed in June. The economic damage wrought by coronavirus has robbed many of the bandwidth, and cash, to do what is needed.[37]

In September 2020, the Government published its "Reasonable Worst Case Scenario" for borders at the end of the transition period.[38] This said that 40-70% of lorries travelling to the EU might not be ready for the new border controls. There could be queues of up to 7,000 trucks in Kent and delays of up to two days. The document said:

> Disruption could be lower in the initial days of January but we would expect sustained disruption to worsen over the first two weeks as freight demand builds. There could be a significant drop in disruption and improvement in flow capacity within the first three months as fewer unready HGVs arrive at the border, although Schengen passport controls at the juxtaposed controls could continue to cause disruption until the French relax checks or add more capacity to undertake checks.

2.3 Regulatory changes

There will be a number of changes relating to product regulations. These will arise in both a deal and a no deal scenario. The European Commission's document, Getting ready for changes, states that from 1 January 2021, the UK and EU will become two "separate regulatory and legal spaces."

Products exported from the UK to the EU will have to comply with EU rules and standards and be subject to any applicable regulatory compliance checks and controls on imports, and vice versa.

The EU document sets out a number of changes applying to UK firms doing business in the EU:

- Certificates and authorisations issued by UK authorities will no longer be valid for placing products on the EU market
- Where EU rules require a business to be established in the EU, establishment in the UK will no longer be recognised

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36 Logistics UK, Fix gaps in Brexit guidance to avoid delays and shortages, says Logistics UK, 11 November 2020

37 IFG, Preparing for Brexit: How ready is the UK? 3 November 2020, p5

38 Cabinet Office, Reasonable Worst Case Scenario for borders at the end of the transition period on 31 December 2020, 23 September 2020

- Labelling of goods placed on the EU market which refer to bodies or persons established in the UK will no longer meet EU labelling requirements.

Box 2: What will the end of the transition mean for UK food producers?

In either a "deal" or a "no-deal" scenario, there will be new barriers on UK exports of food to the European Union. This is because the UK is leaving the EU Single Market and Customs Union, and therefore UK agri-food exports would be subject to either new or increased customs and sanitary-phytosanitary (SPS) checks.

The Library's briefing paper *Brexit: trade issues for food and agriculture* (CBP 7974, 5 November 2019) provides background information on UK agri-food trade and the possible implications of various EU exit scenarios.

Tariff impacts

Depending on whether a trade agreement is reached, and the detail of that agreement, the EU could apply new tariffs to exports of food from the UK. The UK Government's February 2020 Command Paper on its approach to the EU negotiations stated that a deal should "ensure there are no tariffs, fees, charges and quantitative restrictions on trade in manufactured and agricultural goods between the UK and the EU, where goods meet the relevant rules of origin".[39] In a "no-deal", the EU would apply its Common External Tariff to UK goods – that is, the same tariffs that are imposed on goods from other countries with which the EU has no free trade agreement.

The Agriculture and Horticulture Development Board (AHDB) has noted that the Common External Tariff is designed to protect EU agriculture, and therefore "represents a significant barrier for exporters"; this difficulty in exporting would mean "downward pressure on domestic prices" in the UK.[40] The Food and Drink Federation said in August 2020 that a "no-deal" outcome, with UK exporters facing tariffs "averaging 23 per cent or more", would "jeopardise […] a large share of the UK's £14 billion annual food and drink exports to the EU".[41]

The potential impact of tariffs in a "no-deal" has been particularly emphasised for the lamb sector. According to the National Farmers' Union, in 2017, 31% of domestic sheep meat production was exported, with 94% of this destined for the EU.[42] The National Sheep Association said in September 2020 that new trade agreements with non-EU countries "cannot replace our trade volumes to the EU in the time scales we are talking about", further stating that "our UK sheep sector is so reliant on the EU market that if things go wrong we will be expecting support to carry us through these potentially turbulent times".[43]

For the UK's part, the new UK Global Tariff (see section 3.1) would apply to countries with whom the UK has no trade agreement, including the EU in a "no-deal". The AHDB said that the new tariff regime announced in May 2020 would "broadly mirror" the Common External Tariff for beef and lamb (i.e. tariffs would remain high), and is "more protectionist" than the "no-deal" tariffs originally announced in March 2019.[44] Defra has also acknowledged the particular challenge facing the sheep sector, with George Eustice telling the Environment, Food and Rural Affairs Committee on 8 December 2020 that previous proposals to intervene in this market were still being considered:

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39 HM Government, *The Future Relationship with the EU: The UK's Approach to Negotiations*, February 2020, p. 5

40 AHDB, After the transition period – what happens next?, 21 July 2020

41 Food and Drink Federation, *FDF priorities for a future UK-EU Preferential Trade Agreement*, August 2020, p. 2

42 NFU, Why a no-deal Brexit is catastrophic for British farming, 10 April 2019

43 National Sheep Association, NSA states the case for necessary continuation of free trade negotiations, 8 September 2020

44 AHDB, UK beef and lamb import tariffs to remain high post-Brexit, 21 May 2020; idem., An update on post-Brexit trade deals, 28 September 2020

> The one that would potentially have a challenge is the sheep sector. It is important to recognise, though, that lamb prices are currently around 15% higher than they were 12 months ago, and some 20% higher than they were five years ago. The lamb market is currently in a very strong position, driven by a big increase in demand from China and a global shortage in supply. We would keep a very close eye on this, but we should also recognise that the sheep sector goes into this situation in quite a strong market position internationally.
>
> We have to see how that goes and what the impacts would be, but, in terms of what we might do, we designed 18 months ago the types of interventions that would be appropriate. It would probably be something like a headage payment for breeding ewes or a slaughterhouse premium for lambs, depending on the time of year a problem presented itself.[45]

Non-tariff impacts

Whether or not a deal is reached, leaving the single market will also mean UK food exports to the EU face new SPS requirements, which stakeholders have said would lead to both new administrative costs and potential delays at borders. In the first instance, the UK will need to be included on the EU's relevant lists of approved third countries for products of animal origin. The UK successfully gained listing prior to previous "no-deal" deadlines, and Defra has said "there has been no change to the UK's status (in terms of animal disease) and on this basis we remain confident of achieving listed status," with an update expected "by 14/15 December 2020."[46]

The Food and Drink Federation has produced a table showing that "most animal and plant products would face 100 per cent documentary and identity checks on each consignment and physical checks on a large share of consignments, with pre-notification times of over 24 hours". The FDF has said that "current third country SPS requirements in most EU preferential trade agreements would not work for the UK food and drink sector", highlighting the likely costs of completing and arranging veterinary certification for Export Health Certificates (EHCs), and called for a deal to minimise necessary checks through mutual recognition of regulations.[47]

The UK's policy paper on the future relationship with the EU, published in February 2020, proposed an equivalence mechanism for SPS standards, based on recent EU FTAs such as with Canada or the EU-New Zealand Veterinary Agreement. The UK Government said that this would allow agri-food goods to be subject to reduced border checks, and possibly simplified certification.[48]

As well as this broader SPS regime, marketing requirements will also apply to specific UK exports such as organic products and products with protected names (Geographical Indications, or GIs). On organics, UK organic control bodies have called for a UK-EU deal to include equivalence arrangements for mutual recognition of organic standards.[49] If this is not established for UK organic standards in general, acceptance of UK organic products in the EU will be on the basis of approval of individual certifiers, which all UK certifiers have now achieved.[50] On GIs, the UK will set up its own scheme but all UK GIs registered under the EU GI schemes by the end of the transition period will continue to receive protection in the EU.[51]

45 Environment, Food and Rural Affairs Committee, Oral evidence: The work of Defra, HC 261, 8 December 2020, Qq141
46 PQ 90242 [on Fish: Exports], 23 September 2020
47 Food and Drink Federation, *FDF priorities for a future UK-EU Preferential Trade Agreement*, August 2020, p. 3
48 HM Government, *The Future Relationship with the EU: The UK's Approach to Negotiations*, February 2020, chapter 6
49 FDF et al to Lord Frost and Michael Gove, 8 September 2020
50 Soil Association, *Export for organic businesses after Brexit* [accessed 14 December 2020]
51 GOV.UK, *Protecting food and drink names from 1 January 2021* [accessed 14 December 2020]

2.4 Trade in Services

The UK leaving the EU single market will increase barriers to trade in services between the UK and EU. This will happen irrespective of whether there is a trade agreement. The difference between the deal being sought by the UK and a no-deal outcome is more limited for services than it is for goods.

The services sector accounts for nearly 80% of UK economic output. In 2019, service industries accounted for 46% of UK exports and 30% of imports. The UK is the world's second largest exporter of services behind the US, selling more than £317 billion worth in 2019, an increase of almost three quarters since 2009. This data does not include the significant amount of services sold through foreign branches of UK companies.

The US is the UK's largest single national trading partner, accounting for 23% of the UK's total trade in services in 2019. However, taken as a bloc, the EU is much larger, accounting for 43%.

Business services (including accounting, engineering and legal services), together with financial services, accounted for just over half of UK services exports. But services are sold across country borders in many other sectors like travel, transport, telecoms, IT, film, culture and education.

However, there have been concerns that regardless of the major role of the services sector in UK trade, similarly to the EU withdrawal process, trade in non-financial services has been overlooked in the negotiations.[52]

Complexity

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 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. Reaching trade agreements over regulation of services and mutual recognition is complex. For background information on trade in services see Commons Library briefing CBP 8586, Trade in services and Brexit.

Box 3: What is mutual recognition?

Mutual recognition of rules involves countries recognising each other's standards or regulatory regimes as equivalent. Their rules may be different, but they achieve comparable outcomes. These rules are generally managed by shared processes or institutions. In the EU single market, the term is also used to refer to automatic mutual recognition (or recognition by virtue of complying with one Member State's regulations).

52 HL EU Services Sub-Committee, 13th Report of Session 2019–21, The future UKEU relationship on professional and business services, HL Paper 143, p3

What will change?

Because the EU is the largest market for UK services exports as well as the main source of imports, for many businesses leaving the EU single market will mean a major shift.[53] UK service providers will become 'third country' providers in the EU. They will no longer be covered by the harmonised EU standards in certain sectors, and the common EU regulatory and supervisory framework.[54]

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.

On the other hand, for businesses that import services from the EU, there should not be significant immediate changes – except in the case of some financial services.[55]

Below, the changes for trade in services are discussed in further detail.

In the single market

The Organisation for Economic Co-operation and Development has shown that trade in services inside the EU single market is considerably freer than trade with partners outside the trade bloc.

Box 4: EU 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.[56] Within the single market, companies and individuals:

- are free to establish and run a business in any Member State;[57]
- can provide services from their 'home' Member State, in any EU country – crossing the border, online or at a distance;[58]
- can consume services in or from a Member State other than the one where they are established.[59]

This freedom extends essentially to all services sectors, covering services provided by companies on a temporary basis or through their 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.[60] Mutual recognition of professional qualifications provides that certain groups of 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.

53 In 2019, 39% of UK services exports went to the EU taken as a single entity. The EU was the source of 49% of all UK service imports. Source: ONS, Balance of Payments, UK: April to June 2020, 30 September 2020, Tables B and C
54 Gov.uk guidance Selling services to the EU, Switzerland, Norway, Iceland and Liechtenstein from 1 January 2021, accessed on 16 December 2020
55 CBI.org.uk, Trading services with the EU: post-transition guidance, accessed on 17 December 2020
56 The Treaty on the Functioning of the European Union (TFEU)
57 TFEU Articles 49, 54
58 TFEU Article 56
59 European Commission, Single Market for Services, webpage accessed on 18 December 2020
60 European Commission, Services Directive: quick guide, accessed on 18 December 2020

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

Within the EU single market, businesses have the freedom to provide services and establish themselves in any Member State. This is possible due to a combination of common EU rules for various types of services, including financial services, and the principle of mutual recognition. As a result, a business that followed UK rules and standards was considered compliant across the EU and vice versa.

Other cross-cutting EU rules also facilitate trade in services. For example, the rules on freedom of movement make it easier for people to work across the EU. The directives on the recognition of qualifications mean that professionals like nurses, vets and engineers can practice in other EU states. Common data protection rules cover all Member States and support many services that rely on the free flow of personal data.

Outside the single market

The EU Communication on readiness at the end of the transition period sums up:

> As of 1 January 2021, the freedom of establishment and the freedom to provide services, as provided for by the Union treaties, will no longer benefit individuals and businesses from the United Kingdom operating in the European Union or EU individuals and businesses operating in the United Kingdom.
>
> Authorisations granted by UK authorities under the EU Single Market framework will no longer be valid in the Union as of 1 January 2021.

UK firms and service providers may face additional legal, regulatory and administrative barriers as a result. This is particularly relevant for the areas of financial services, transport, audiovisual media, and energy services.

End of mutual recognition & and freedom to provide services

At the end of transition, the mutual recognition of regulatory regimes of the UK and the EU[61] 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 (so-called schedules) which are part of the EU obligations under the WTO General Agreement on Trade in Services (GATS).[62] They are often referred to as **host state rules**.

The House of Lords EU Services Sub-Committee has said that such 'national reservations' in individual EU Member States could lead UK businesses facing a patchwork of rules. It has warned that an FTA might not provide a solution:

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61 Regarding trade in services, the EU Member States in this paper refers to EEA states including EU 27 plus Norway, Iceland and Lichtenstein.

62 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

> An added complication is the fact that many of these issues fall outside the exclusive competence of the European Union. For instance, each Member State is responsible for determining the conditions under which nationals of third countries (now including the United Kingdom) are entitled to enter and settle in their territory. The result is that any UK-EU agreement could be subject to numerous 'national reservations', which are typically used by Member States to protect particular sectors from foreign competition.[63]

On the UK side, the regulatory framework is unlikely to change in the short run, but 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.

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.[64]

Establishment: setting up a business in the EU

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.[65] Each country 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. Permissions or licenses may be required, depending on the sector and the EU Member State. There could be restrictions on foreign ownership of a business or real estate, and additional requirements for management or directorship of a company.[66] For instance, 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.[67]

However, once established in an EU Member State, companies owned by UK nationals and having their head office or principal place of business in the EU will have the freedom to provide services within the bloc.[68]

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63 HL EU Services Sub-Committee, 13th Report of Session 2019–21, The future UKEU relationship on professional and business services, HL Paper 143, p3

64 Department for International Trade, Selling services to the EU, Switzerland, Norway, Iceland and Liechtenstein from 1 January 2021, December 2020

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

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

67 Law Society, Factsheet Brexit and the legal services sector in the EU, 2019

68 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

Cross-border trade

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.[69] There is some evidence of such movement in the financial services sector.[70] The Exiting the EU Committee concluded in its July 2019 report "The consequences of "No Deal" for UK business":

> One way to mitigate this loss of market access 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.

Recognition of professional qualifications

Automatic mutual recognition of professional qualifications available to doctors, nurses, engineers, architects and other so called regulated professions in the EU will fall away. 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.[71]

Mobility: Business travel

The end to the free movement of people will have an effect on UK-EU trade in services.

UK firms' access to qualified workers from the EU will be less straightforward than now because of the end of free movement.

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.[72] For example, transfers of employees between UK company branches based in the EU and outside the EU will

69 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

70 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.

71 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
Gov.uk Selling services to the EU, Switzerland, Norway, Iceland and Liechtenstein from 1 January 2021

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

be subject to the intra-corporate transfers Directive[73] which applies to third-country nationals and covers stays in the EU of up to 3 years for managers and specialists.[74]

Service provision on a fly-in-fly-out basis may require work visas. The manufacturers' organisation MakeUK is concerned that the limitations of business travel for service engineers would not only arise in a no-deal scenario but could arise if a trade deal falls short in this respect.[75] As a result, many firms would struggle to fulfil their on-site maintenance contracts. Creative industries and touring artists have also voiced concerns about their access to short-term work.[76]

In some countries, special permits are required for visits to conferences or exhibitions. Many of the business visitor rules in EU member states do not cover freelance or self-employed individuals. Few EU countries currently allow immigration of self-employed / freelancers to work there.[77]

The Government has said that it is open to negotiating reciprocal arrangements to facilitate business visits.

Gov.uk offers some country guidance for UK businesses providing services in the EEA and EFTA countries.

Digital trade and free flow of data

Digital trade (such as e-commerce)[78] and a large proportion of other services is supported by free flow of data within the EU. In order to continue free flow of personal data between the EU and UK both for commercial and other purposes beyond the transition period, the EU still needs to take a 'data adequacy decision', meaning it is satisfied that the UK will continue to provide adequate protection to EU citizens' data. The UK has already granted the EU the equivalence and retained the current regulation on data protection in domestic law after the end of the transition. These 'adequacy decisions' are not part of the FTA negotiation.

The House of Lords EU Services Sub-Committee has reiterated that "the reciprocal granting of adequacy decisions is by far the preferred mechanism to support continuing UK-EU data transfers."[79]

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73 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

74 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

75 UK business travellers to EU 'face fines' over post-Brexit permits, Guardian, 10 December 2020

76 HL EU Services Sub-Committee Chair Baroness Donaghy, Letter to Oliver Dowden Secretary of State for DCMS, 25 September 2020

77 Written evidence submitted by the Price Waterhouse Coopers (pwc) (FRE0112), Committee on the Future Relationship with the European Union, August 2020

78 Digital trade refers to digitally-enabled transactions of goods and services that can either be digitally or physical delivered and involve consumers, firms and governments. Underpinning digital trade is the movement of data across borders. In M. Gasiorek, UKTPO, UK-EU trade relations: A checklist of 10 key issues, 20 Nov 2020

79 HL EU Services Sub-Committee, 13th Report of Session 2019–21, The future UKEU relationship on professional and business services, HL Paper 143, para 202

There will also be changes to eCommerce at the end of transition period. The eCommerce Directive which allows EU online service providers to operate in any EU country, while only following relevant rules in the country in which they are established, will no longer apply to the UK. UK eCommerce traders will have to follow the host state rules of the country they operate in.

For a summary of changes in data rules at the end of transition see the Institute for Government explainer UK–EU future relationship: what difference would a Brexit deal make?

Financial services: loss of passporting

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". Passporting regulations provide, in their own specific areas, that a firm authorised in one Member State would be able to operate in another without having to seek new authorisation. All passporting rights will be lost when the UK leaves the European single market on 31 December 2020. The consequences are discussed in Commons Library insight, 'Equivalence' with the EU on financial services, 19 November 2020.

Business preparedness

Government has published guidance to support service businesses trading with the EU (see box below).

Box 5: Government end of transition guidance for service providers

The Government has provided guidance for trade in services sectors after the transition where it explains expected changes from 2021:

Selling services to the EU, Switzerland, Norway, Iceland and Liechtenstein from 1 January 2021

Accounting for UK companies from 1 January 2021

Auditing for UK auditors and audit firms operating in the EEA from 1 January 2021

Structuring your business from 1 January 2021

Individual businesses can find further guidance 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 businesses remains unchanged for most non-financial services in the UK.

There's evidence that business readiness for the end of transition varies between services sectors. The Institute for Government notes:

> The highly regulated services sectors – such as financial and legal services – are generally well prepared for Brexit. While these sectors are among those most affected by leaving the EU, it has been clear for some time that any deal was unlikely to include extensive services provisions, providing greater certainty that preparations would be needed, deal or no deal.[80]

For example, the England and Wales Law Association has stressed that "all negotiation outcomes will result in a significant loss of market

80 Institute for Government, Preparing for Brexit: How ready is the UK?, 3 November 2020, p39

access for the UK legal sector, and our priorities are aimed at mitigating – rather than avoiding – this."[81]

Many large firms have taken steps to mitigate any effects of multiple scenarios, but SMEs have less resources available for that, and are more likely to rely on external guidance. However, such guidance cannot be provided until an end state is clear.[82]

Sam Lowe, researcher at the Centre for European Reform has warned that many businesses that sell goods and services between the EU and UK may unwittingly be breaching the law because they will not be familiar with the details of local regulations. A degree of initial leniency could be expected but it would certainly come to an end:

> On January 1st 2021 hundreds, perhaps thousands, of companies selling goods or services between the UK and EU will be breaking some rule or other, if only by mistake. […]
>
> Generally speaking, short-term business visitors will not be able to sell products or services to the general public or receive payment from a business or person based in the EU. Meetings and consultations might be permitted, while market research and commercial transactions might not be. However, there is no EU-wide list setting out which activities are permitted or not (although a future EU-UK free trade agreement could provide a partial one) and the types of permitted activities vary by member-state. […]
>
> For EU nationals entering the UK for a business trip, breaching the terms of their visa could see their employer face civil penalties of up to £20,000 per non-compliant visitor, jail time and severe reputational damage.[83]

PriceWaterhouseCoopers has argued that in order to ensure the continuation of the delivery of services especially in the financial, legal, research and engineering industries, administrative burdens should be minimised where possible.[84]

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81 Written evidence submitted by the Law Society (FRE0081), Committee on the Future Relationship with the European Union, July 2020

82 HL EU Services Sub-Committee, 13th Report of Session 2019–21, The future UKEU relationship on professional and business services, HL Paper 143, para34; George Riddell, Twitter, 13 October 2020

83 Sam Lowe, CER, Navigating accidental illegality, 30 November 2020

84 Written evidence submitted by the Price Waterhouse Coopers (pwc) (FRE0112), Committee on the Future Relationship with the European Union, August 2020

3. What happens if there is no deal?

3.1 Tariffs

Introduction

If there is no deal, the UK and EU would trade on World Trade Organization (WTO rules). These are the default rules which govern trade where there is no free trade agreement (or other preferential trade arrangement) between countries.

Trade with the EU on WTO terms would mean UK goods exports to the EU would be subject to the EU's Most Favoured Nation (MFN) tariffs (see box below) and UK goods imports from the EU would be subject to the UK's MFN tariffs.

Box 6: 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. This rules out the possibility of punitive tariffs being targeted at a particular trading partner.

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.

UK exports to the EU

Under a no deal Brexit, UK exports to the EU would be subject to the EU's tariffs. UK exports to the EU were not subject to tariffs while the UK was in the EU or during the transition period. This would be a significant change as the UK exported £171 billion of goods to the EU in 2019 (45.7% of all UK goods exports).[85]

The EU's tariffs are, *on average*, quite low. In 2018, the average EU tariff was 6.3% (14.2% on agricultural products and 4.2% on non-agricultural products).[86]

85 ONS, Pink Book 2020, Table 9.4
86 Simple average tariff. Source WTO, Trade Policy Review: European Union, 7 July 2020, Table 3.3, p62

For some products, the EU tariff is zero. This is the case for 27% of the EU's tariff lines. Imports of these products into the EU from countries with which it does not have a trade agreement would be tariff-free.[87]

Tariffs on some individual products are, however, higher (and in some cases, much higher). The EU tariff on cars, for example, is 10%. The average EU tariff on sugar and confectionery is 27.0% and on dairy products is 32.3%. Some individual products have tariffs of over 100%.[88]

UK exporters to the EU would be put at a competitive disadvantage. They 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). In a report published in July 2019, 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.[89]

UK imports from the EU

If there is no deal, UK imports from the EU will also be subject to tariffs. There were no tariffs on UK imports from the EU while the UK was in the EU or during the transition period. This will be a significant change as UK imports of goods from the EU amounted to £267 billion in 2019 (53.0% of all goods imports).[90]

The UK set out its tariff schedule (the UK Global Tariff) in May 2020.[91] [92] From the end of the Brexit transition period, these tariffs will apply to imports into the UK from countries with which the UK does not have a free trade agreement (or other preferential arrangements, such as tariff reductions to help developing countries).

For many products, there is a zero tariff. 47% of products will have a zero tariff under the UK Global Tariff, compared with 27% under the EU's Common External Tariff.[93] The average UK tariff will be 5.7%. Tariffs on agricultural goods will be higher on average (16.1%) while the average tariff on industrial goods will be 2.5%.[94]

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87 WTO, Trade Policy Review: European Union, 7 July 2020, Table 3.4, p63
88 WTO, Trade Policy Review: European Union, 7 July 2020, Table 3.4, p63
89 Exiting the European Union Committee, The consequences of "No Deal" for UK business, HC 2560, 19 July 2019, p5
90 ONS, Pink Book 2020, Table 9.4
91 DIT, UK Global Tariff backs UK businesses and consumers, 19 May 2020
92 The Government has recently introduced legislation to implement the Global Tariff. There are some minor changes compared with the announcement in May.
93 DIT, Public Consultation: MFN Tariff Policy – the UK Global Tariff: Government Response and Policy, May 2020, p10
94 DIT, Public Consultation: MFN Tariff Policy – the UK Global Tariff: Government Response and Policy, May 2020, p10

3.2 Mutual recognition of conformity assessment

Once the UK has left the EU single market, its exports to the EU will need to demonstrate that they conform to EU standards. This is easier if there is agreement on mutual recognition of conformity assessment. This would mean the EU accepting that UK bodies can certify that UK goods meet EU standards and vice versa.[95]

Commenting on this issue, the think tank UK in a Changing Europe wrote:

> No deal – or no agreement on this in any deal - would mean that businesses would potentially have to certify their goods on both sides of the UK–EU border even if UK and EU regulations remain identical. In many sectors (such as aerospace, chemicals and pharmaceuticals), this is their biggest concern.[96]

Anton Spisak of the Tony Blair Institute for Global Change said:

> A failure to secure such arrangements would increase costs for manufacturers of regulated products, as well as for consumers, and put the UK's regulatory arrangements behind countries even without an FTA with the EU, such as the US and Australia.[97]

Box 7:What would a "no-deal" mean for UK food supply and prices?

Food is considered to be a Critical National Infrastructure Sector, and the Cabinet Office has published an overview of the Government's assessment of the sector's resilience (more detailed plans are classified).[98] The Government has said that the UK has "a high level of food security built upon a diverse range of sources including strong domestic production and imports from other countries", which it says will continue in either a "deal" or a "no-deal" scenario.[99] In 2018, the UK was around 62% self-sufficient in food, and 75% self-sufficient in "indigenous type food".[100] In 2019, 70% of UK food, feed and drink imports were from the EU.[101]

Tariffs and prices

In a "no-deal" scenario, the UK would apply tariffs to most agricultural imports, which would need to be set at the same level for imports from the EU as from elsewhere in the world (the "Most Favoured Nation" principle; see Box 66). The UK Government has published details of the new UK Global Tariff on Gov.uk

The Agriculture and Horticulture Development Board (AHDB) said in May 2020 that the new UK regime "largely maintained tariffs on agricultural goods" from the existing EU tariffs, although some tariff lines had been "streamlined and simplified" (in most cases involving rounding down), or "completely liberalised".[102] The AHDB also called the UK Global Tariff "more protectionist" than the "no-deal" tariffs originally announced in March 2019.[103] In a "no-deal", this tariff regime would apply to imports

95 It is important to note that this is about mutual recognition of certifying bodies, not mutual recognition of the standards themselves by the UK and EU.
96 UK in a Changing Europe, What would no deal mean? 22 September 2020, p11
97 Anton Spisak, Unpacking the Brexit Deal: What to look out for, November 2020, p4
98 Cabinet Office, *Public Summary of Sector Security and Resilience Plans 2018*, 22 March 2019, p. 17
99 For example PQ HL10646 [on Schools: Food Supply], 9 December 2020
100 Defra et al, *Agriculture in the United Kingdom 2019*, June 2020, table 14.1
101 Ibid., p. 135
102 AHDB, UK announces updated external tariff schedule, 19 May 2020
103 AHDB, UK beef and lamb import tariffs to remain high post-Brexit, 21 May 2020; idem., An update on post-Brexit trade deals, 28 September 2020

from the EU, as well as those from non-EU countries. The new tariff regime could affect the prices of specific products in different ways, and prices do not just depend on tariffs but also other variables.

Some food trade bodies have said that new tariffs being imposed on imports from the EU would lead to food price rises for consumers. For example, the Food and Drink Federation, representing the food manufacturing sector, said in October 2020 that "imported food and drink from the EU will face eye-watering tariffs averaging 18% kick starting price rises".[104] The British Retail Consortium, with members including supermarkets, also said in December 2020 that "without a deal, the British public will face over £3bn in food tariffs and retailers would have no choice but to pass on some of these additional costs to their customers".[105]

Defra Secretary George Eustice told the Environment, Food and Rural Affairs Committee on 8 December 2020 that modelling suggested "between 2% and 3% [price rises] is possible", but said that such fluctuations were "not unusual" in any given year. He also said that tariffs would not have a large impact on consumer prices:

> The main driver of food prices is exchange rates. Fuel costs also have quite a big impact on food prices. Tariffs do not have a big impact on consumer prices. They have a significant impact on producer prices. If you are an EU producer seeking to export to the UK, it would hit your income quite hard. If you are a consumer, however, the impact on the average shopping basket is quite marginal.
>
> If you look at the staple products like bread, for instance, we have highly competitive homegrown manufacturing; we have some of the cheapest bread in the world for that reason. The products where you might see an impact on consumer prices, for instance beef or pork, make up a relatively small percentage of the average shopping basket, no more than about 2% of the total weekly shop for beef and only about 1% for pork.[106]

Potential border and storage issues

The food industry is particularly dependent on "just-in-time" supply chains, whereby minimal stock is stored and supplies are expected to move seamlessly from production to consumer as quickly as possible. It has been suggested that the new checks being phased in at the UK border (see section 2.2 of this paper) could lead to delays in the supply of food, particularly impacting upon perishable produce, as well as generating new costs for food businesses. The Food and Drink Federation said in August 2020 that, in addition to tariffs, "border delays and disruption" would bring further costs that would not be absorbed by the industry.[107] It has also been reported that businesses attempting to stockpile food ahead of 31 December have faced issues with storage capacity, with other pressures on space coming from Covid-19 and the Christmas period.[108]

The Government has said that it is "working in partnership with food suppliers to ensure there continues to be a flow of food into the country" following the end of the transition period, and that the phased Border Operating Model (see Box 1) "prioritises border flow in the early months of 2021". However, while stating that "there will not be an overall shortage of food", Defra has acknowledged that the availability of certain fresh seasonal produce, such as salad products imported from the EU, may be "temporarily impacted by reduced border flow rates".[109]

104 Food and Drink Federation, Food and Drink Federation response to Prime Minister's Brexit negotiations update, 16 October 2020
105 British Retail Consortium, Ongoing uncertainty is making it "harder for businesses to prepare", 13 December 2020
106 Environment, Food and Rural Affairs Committee, Oral evidence: The work of Defra, HC 261, 8 December 2020, Qq149-50
107 Food and Drink Federation, Food and Drink Federation response to Prime Minister's Brexit negotiations update, 16 October 2020
108 *The Grocer*, Food and drink warehouse space running out for Brexit stockpiling, 1 October 2020 [paywall]
109 PQ HL10646 [on Schools: Food Supply], 9 December 2020; PQ HL10611 [on Vegetables: Imports], 7 December 2020

Further information
For background information on UK agri-food trade and the possible implications of various EU exit scenarios, see the Library's briefing paper published in late 2019, *Brexit: trade issues for food and agriculture* (CBP 7974, 5 November 2019). For an introduction to food security generally, see the Library's Insight on *Food security: what is it and how is it measured?* (7 February 2020).

3.3 Services

If both sides do not reach an agreement, UK trade in services with the EU will be governed by the rules of the WTO General Agreement on Trade in Services (GATS). As set out in section 2.4 above, UK businesses will also have to abide by the rules set by each Member State where they operate as opposed to a set of EU rules.

The Lords EU Committee wrote in its 2017 report on Brexit and non-financial services that trading on WTO terms:

> … would provide less favourable trading conditions than membership of the Single Market or an FTA. WTO terms would require the UK and the EU to comply with the 'Most Favoured Nation' principle: the UK would not be able to trade on more preferential terms with the EU, unless it applied those same terms to all other WTO member countries (and vice versa).[110]

For services trade, various experts have noted that the difference between a free trade agreement with the EU and no deal is limited. However, an FTA could potentially provide significant mitigation. See section 4.4 below.

The WTO 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.

The changes to the rules on service provision described in section 2.4 of this briefing would apply if there was no deal.

Services in the supply chain

Services trade cannot be easily separated from goods trade. Services such as logistics, banking, insurance or post-production maintenance are not only exported directly to EU countries, but also sell within domestic supply chains to UK manufacturing exporting to the EU.[111]

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[110] European Union Committee, Brexit: trade in non-financial services, 18th Report, Session 2016–17, HL Paper 135, para 81
[111] UK Trade Policy Observatory, The Managing Partners' Forum and CityREDI – Written evidence (PBS0025), July 2020

Services such as R&D, engineering, IT, or the so-called embedded services make up an increasingly important share of the value added in the production of goods.[112] These services are not only exported directly to EU countries, but also sell intensively within domestic supply chains to UK manufacturing exporting to the EU. The UK in a Changing Europe thinktank explains:

> For example, Rolls Royce is known for its production of aircraft engines. However, the majority of the company's revenue comes not from the sale of the goods it produces, which in 2017 accounted for 48% of revenue, but in the accompanying services, which accounted for 52%. These services include the long-term maintenance of the engines and other post-production activities. Consequently, services will be affected by what happens to manufacturing […][113]

Barriers to goods trade resulting from no deal could have further implications for the UK services industry and exports to the EU.[114]

Services sectors reaction

The Professional and Business Services Council states that in absence of an agreement barriers could be significant for various professional services industries:

> … the UK professional services industries would face significant barriers under WTO terms compared to the EU Single Market rules on freedom of establishment and the provision of services under which they currently operate. In the absence of an agreement they would be subject to local laws as each EU member state lists its own limitations on the market access and national treatment of professional services providers as reservations within the EU schedule of GATS commitments.
>
> 21.For example, the rules governing establishment for the legal sector differ widely across the EU. Examples of legal sector barriers include: an inability to partner with non-EU lawyers (France, Spain, Sweden); restrictions on permitted corporate forms (France, Spain, Portugal); and a requirement to be qualified in local law in order to practise 3rd country law (France).
>
> Within the audit sector, joint UK-EU ownership of audit firms will no longer be permitted in certain member states in the absence of an agreement on corporate forms and on the equivalence of UK professional recognition leading to statutory audit rights.[115]

Research undertaken by Frontier Economics shows that the impact of leaving the EU without an agreement and moving to Most Favoured Nation terms would reduce architecture exports by 15%. However, services agreements with the US and China could mitigate this impact considerably. According to Royal Institute of British Architects:

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[112] Trade in services and Brexit, Commons Briefing Paper CBP-8586, 14 June 2019, section 2.2

[113] UK in a Changing Europe, Services and Brexit, June 2020, p4

[114] International Trade Committee, Oral evidence: Trade in services, HC 1776, 13 March 2019, Q 72
UK Trade Policy Observatory, The Managing Partners' Forum and CityREDI – Written evidence (PBS0025), HL EU Services Sub-Committee, July 2020, Q 2

[115] Professional and Business Services Council – Written evidence to the HL EU Committee (PBS0007), 22 June 2020

> Frontier Economics found that the majority of this impact would be due to increases of restrictiveness around movement of people, on areas such as navigating new visa systems and the end of mutual recognition agreements.[116]

The UK Government has made preparations to allow EU qualified nationals to have a framework for recognition of professional qualifications in the event of a 'no deal'. But the lack of a reciprocal agreement could potentially hamper trade and discourage EU nationals from studying and qualifying in the UK.[117]

The Law Society has said that leaving without a deal would result in its members dealing with a regulatory patchwork; in some Member States, firms and lawyers would lose the ability to practice, or face increased restrictions in such areas as entering partnerships with local firms, shareholding, requalification for their practice, and lose the ability to provide cross-border advice in person on a fly-in-fly-out basis.[118]

3.4 Wider consequences of no deal

Even if no deal is reached before the end of the transition period, it is possible that the UK and EU might want to negotiate a free trade agreement at some point in the future, given the volume of trade between them. If a no deal Brexit were to lead to a deterioration in relations between the UK and EU, this could make reaching an agreement in the future more difficult.[119] Furthermore, a fractious no deal Brexit might mean that the EU would be less willing to be flexible in enforcing border measures or offer unilateral measures to facilitate trade.[120]

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[116] Royal Institute of British Architects, Written evidence submitted by the Royal Institute of British Architects (FRE0088), Committee on the Future Relationship with the European Union, July 2020

[117] Royal Institute of British Architects, Written evidence submitted by the Royal Institute of British Architects (FRE0088), Committee on the Future Relationship with the European Union, July 2020

[118] Written evidence submitted by the Law Society (FRE0081), Committee on the Future Relationship with the European Union, July 2020

[119] Joe Marshall, The government must be clear about the difficult realities of a no-deal Brexit, Institute for Government, 23 September 2020

[120] Joe Marshall, The government must be clear about the difficult realities of a no-deal Brexit, Institute for Government, 23 September 2020. On 10 December 2020, the EU put forward some targeted contingency measures for a possible no deal Brexit relating to, for example, road and air connectivity.

4. What happens if there is a deal?

At the time of writing, we do not know whether there will be a deal with the EU or what such a deal might contain. This section is therefore based on statements by the two sides and views of commentators.

4.1 Goods

Tariffs

Both the UK and EU have said they are aiming for a zero-tariff and zero quota deal. For example, the UK's February 2020 paper on its approach to the negotiations said:

> The provisions [of the agreement] on market access should be comprehensive and ensure there are no tariffs, fees, charges and quantitative restrictions on trade in manufactured and agricultural goods between the UK and the EU …[121]

The EU said:

> The EU intends to establish a free trade agreement with the UK which ensures that zero tariffs and quotas apply to trade in goods.[122]

A zero-tariff deal would maintain the current tariff-free trade between the UK and EU and avoid the tariffs which would have occurred in a no deal scenario.

Rules of origin

However, even in the event of an agreement, goods traded between the UK and EU will need to demonstrate that they qualify for tariff-free treatment under rules of origin. Products traded between the UK and EU did not need to demonstrate their origin while the UK was in the EU customs union.

Rules of origin determine the "economic nationality" of a good. This issue is particularly relevant for industries with cross-border supply chains. In the car industry, for example, components may be sourced from a number of countries.

In essence, enough of a good must originate in the UK for it to qualify for a zero tariff if exported to EU. These rules are necessary to stop goods from third countries with no (or very little) UK content being routed through the UK to the EU qualifying for the zero tariff under the UK-EU agreement. As the EU's Getting ready for changes document says:

> As of 1 January 2021, the originating status of goods traded will have to be demonstrated in order for them to be entitled to preferential treatment under a possible future EU-UK agreement. Goods not meeting origin requirements will be liable to customs

[121] HM Government, The Future Relationship with the EU: The UK's Approach to the Negotiations, CP211, February 2020, p5

[122] Council of the EU, EU-UK relations: Council gives go-ahead for talks to start and adopts negotiating directives, Press Release, 25 February 2020

> duties even if a zero-tariff, zero-quota EU-UK trade agreement is put in place.[123]

Rules of origin can be expensive to comply with.

The details of the rules of origin will also be important. The UK has sought more expansive arrangements that would allow companies to count all EU and UK content as local, as well as content from other countries with which Britain and the EU both had trade deals, such as Japan. However, the BBC reported in September that this request had been turned down by the EU:

> Under the terms of an anticipated deal with the EU, any components from EU countries can count as British - something known as "cumulation".
>
> But the letter reveals the requirement for that to be extended to other partners of the UK and EU, in particular Japan and Turkey, is being refused.[124]

4.2 Mutual recognition of conformity assessment

It is possible that an agreement with the EU may be reached covering mutual recognition of conformity assessment. Some commentators have suggested that the UK may get less than it wanted in this area. For example, Michael Gasiorek of the UK Trade Policy Observatory at the University of Sussex, has written:

> The UK's ask in this regard was ambitious and hoped for mutual recognition in a wide range of sectors, but the EU is unlikely to agree to these requests, and at best, there may be a small number of sectoral mutual recognition agreements for certain manufacturing sectors.[125]

4.3 Customs facilitations

More customs checks on UK-EU trade will be required even if there is a deal (see section 2). The deal may, however, include customs facilitations aimed at making these border processes more efficient. Anton Spisak of the Tony Blair Global Institute has written:

> The UK and the EU have been negotiating range of measures to simplify customs procedures, such as mutual recognition of trusted trader schemes (Authorised Economic Operator). While these measures would not remove the need for customs declarations entirely, they could reduce new costs, particularly by allowing eligible firms to use simplified procedures at the border and ease administrative burdens.[126]

These measures were also referred to by Sue Catchpole, a Treasury official, in evidence to the Treasury Committee in October:

> The ongoing negotiations on customs relate to some trade facilitations and customs co-operation between UK and EU

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123 European Commission, Getting ready for changes, 9 July 2020, p7
124 BBC News, Brexit: Blow to UK car industry in search for EU deal, 30 September 2020
125 Michael Gasiorek, UK-EU trade relations: A checklist of 10 key issues, UKTPO blog, 20 November 2020
126 Anton Spisak, Unpacking the Brexit Deal: What to look out for, November 2020, p5

> authorities. Some of those will provide facilitations to traders. For example, both the EU and the UK are looking to achieve an agreement about mutual recognition of authorised economic operators, but the core message in relation to customs is that the requirements will be there whether there is a free trade agreement or not.[127]

Sam Lowe, a trade expert at the Centre for European Reform think tank, has commented:

> A free trade agreement would probably include provisions that formalise co-operation between EU and UK customs agencies. It would also create a more positive working environment, rather than the inevitable animosity that would accompany failure to reach a deal. Customs co-operation would open up opportunities for both parties to work together on the ground to ensure that approaches are co-ordinated, information is shared, and that EU-UK borders do not grind to a halt on day one.[128]

4.4 Services

It may be true that for many services sectors the gap between EU membership and a deal is a lot larger than the gap between the likely FTA and no deal. However, various sector organisations have stressed that a deal would certainly offer more clarity and certainty to service providers.[129] A deal could also secure continued dialogue and cooperation between regulators and in other ways mitigate the effects of leaving the single market for services.

What has been proposed?

Both the UK and the EU have proposed draft agreement texts on trade in services and investment.[130] Although with at times substantial differences, both proposals contain commitments similar to and at times beyond the "new generation" EU FTAs like CETA and EU-Japan EPA. However, these provisions by no means replace the loss of access to the EU single market.[131]

Both sides envisaged regulatory cooperation across a wide range of services sectors. Both the UK and EU are seeking to reduce barriers to business establishment in the other, for example by limiting barriers for investment. For the UK, liberalisation could go beyond standard FTAs in areas like professional and business services. UK priorities also include

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127 Treasury Committee, UK Customs Policy, Oral evidence, HC 776, 13 October 2020, Q147

128 Sam Lowe, Five reasons why even a basic EU-UK trade deal is better than nothing, CER, 18 august 2020

129 See for example, TechUK evidence, CFREU inquiry Progress of the negotiations on the UK's future relationship with the EU, HC 203, 21 October 2020, Q 910

130 The UK and EU positions going into the negotiations were summarised in the Library briefing paper CBP 8834, The UK-EU future relationship negotiations: process and issues.
European Commission, Draft text of the Agreement on the New Partnership with the United Kingdom, 18 March 2020
HM Government, DRAFT UK-EU Comprehensive Free Trade Agreement (CFTA), published on 19 May 2020

131 Written evidence, Dr Minako MORITA-JAEGER, UK Trade Policy Observatory (FRE0063), HL EU Services Sub-Committee, June 2020

temporary business travel for natural persons, and mutual recognition of professional qualifications.

Both the EU and the UK propose chapters on business travel for natural persons, however UK **proposals on business visitors** offer commitments which in some aspects, such as intra-corporate transfers of specialists and senior personnel, and investor visas, go further than the UK's historical position. The Government has clarified that, among others, it is seeking a reciprocal agreement that could allow UK citizens to undertake some business activities in the EU without a work permit, on a short-term basis.[132] Some creative industry sectors, like professional musicians, have argued that touring performers are not satisfactorily covered by the current draft texts.[133]

Regarding the **mutual recognition of qualifications,** the UK proposal goes further than the EU text. The UK side is proposing to include an ambitious set of requirements on mutual recognition included in the agreement. A specified procedure of recognition would be set out. The more limited EU proposal would consider mutual recognition of professional qualifications where this is in the EU's interest. In those areas, EU and UK professional bodies would enter into negotiations on a future MRA.[134] The Institute for Government notes that the UK and individual EU member states could also seek additional bilateral agreements so long as allowed by the UK-EU deal.[135]

Both sides' position on digital trade appear to be close, although the issue of personal data transfers is outside the scope of the FTA (see below).

The draft UK text includes provisions on audio-visual services and telecommunications, including cooperation on mobile roaming. The EU, in line with its FTA practice, excludes audio-visual services altogether and does not include provisions for mobile roaming. If the traditional EU position prevails, the access of the UK audiovisual services sector to the EU market would be more limited.[136]

See Commons Library briefing CBP 8920, The UK-EU future relationship negotiations: summary of positions, 3 June 2020

Financial services: unilateral equivalence decisions

As noted above, also if an FTA is reached, the basis for market access for financial services will be unilateral UK and EU equivalence decisions that allow mutual recognition of a range of financial and related services. These include insurance, audit, credit rating agencies etc.

132 Oliver Dowden, Secretary of State for Digital, Culture, Media and Sport, Letter to Baroness Donaghy, Chair of the HL EU Services Sub-Committee, 2 September 2020

133 Written evidence submitted by the Musicians Union (FRE0093), Committee on the Future Relationship with the European Union, August 2020

134 Written evidence submitted by the Law Society (FRE0081), Committee on the Future Relationship with the European Union, July 2020, paras 19-22

135 Institute for Government, UK–EU future relationship: what difference would a Brexit deal make? Services

136 European Commission, Notice to stakeholders withdrawal of the united kingdom and EU rules in the field of audiovisual media services, 26 May 2020
Secretary of State for DCMS, Oliver Dowden, letter to Baroness Donaghy, Chair of the HL EU Services Sub-Committee, 27 October 2020

See Commons Library, 'Equivalence' with the EU on financial services, 19 November 2020.

A UK-EU FTA would likely include a chapter on financial services with some limited provisions. The UK ask in this area is very limited compared to the passporting, but goes beyond what the EU has offered in its recent FTAs. The EU would be able to withdraw an equivalence decision on 30 days' notice without cause. To mitigate the potential effects "the UK is seeking to make the withdrawal of equivalence a negotiated process."[137] The UK also proposes reciprocal most-favoured nation access for financial services, with no restrictions or limitations and provisions for "new" financial services, that could pave the way for, for example, fintech cooperation.

The EU is offering similar financial services content to its recent FTAs. Throughout the negotiations, the EU has emphasised the unilateral nature of its equivalence decisions. The EU has also highlighted the importance of UK financial services regulation remaining closely aligned with the EU in order for equivalence to be maintained. The EU's chief negotiator has rejected UK draft text proposals as unacceptable.[138]

Data adequacy

The Government and EU are separately negotiating, as part of the wider discussions on the future UK-EU relationship, provisions aimed at reducing barriers to transfers of personal and non-personal information for business purposes. The UK Government has already passed regulations to recognise the adequacy of EU data.[139] At the time of publication of this briefing, the EU decision is still pending. If the UK's data regime is deemed adequate, UK firms will be able to continue transferring data between the EU and UK.

Commentary

British business bodies and trade experts have voiced concerns that even if a deal is signed off, barriers to services trade would be erected. A deal would be preferable as it would reduce uncertainty for UK businesses exporting to the EU. But except for some specific areas, it would not be very different from trading without a deal.[140]

In November, the Observer reported Carolyn Fairbairn, the outgoing director general of the CBI saying that her "really big disappointment"

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137 Eversheds Sutherland LLP, Equivalence and the financial services content of the draft UK-EU free trade agreements, 14 July 2020 and Comparison table which lists the main differences between the proposed texts.

138 See Commons Library briefing CBP 8920, The UK-EU future relationship negotiations: summary of positions, 3 June 2020

139 HL EU Committee, Services sub-committee, 13th Report of Session 2019–21 The future UKEU relationship on professional and business services, HL Paper 143, paras 199-201; EU has duty to decide fast on UK data adequacy so businesses can prepare, minister says, MLex.com, 8 December 20202

140 HL EU Committee, Services sub-committee, 13th Report of Session 2019–21 The future UKEU relationship on professional and business services, HL Paper 143, para 31

was the lack of help for British services in the potential deal, adding that the CBI would immediately fight to broaden the agreement."[141]

Jill Rutter, senior research fellow at the UK in a Changing Europe thinktank, commented on the government's insistence on a thin FTA:

> The UK's insistence on sovereignty and fish, and that it was asking for no more than Canada has, as many commentators noted, meant that it failed to pursue its own legitimate offensive interests.
>
> The UK has said that it wants trade policy freedom to pursue the interests of its services businesses not prioritised by the EU negotiators, and may find that it has failed to deliver much for those very same businesses in their most successful overseas market.[142]

On 13 October 2020, the House of Lords EU Services Sub-Committee published a report on the future UK-EU relationship on professional and business services. The Committee observed that compared to goods or financial services, the needs of the professional and business services industry had been overlooked in the UK-EU negotiations. It pointed out that one of the main concerns is the potential effect of national reservations – or exemptions – on UK professional services providers. EU Member States would be able to apply such reservations (essentially, the host state rules) to third country service providers under an FTA:

> We are deeply concerned about the potential for any national reservations to the agreement to undermine services trade liberalisation by imposing restrictions at the national level. We have received evidence that national reservations to the agreement such as economic needs tests and rules on local presence could be catastrophic for the UK's professional and business services sectors.[143]

The Committee also noted that mutual recognition of qualifications was "one area where a bad deal could be worse than no deal," referring to a bad deal as an agreement which would prohibit bilateral UK – individual Member State arrangements in this area. The Committee urged the Government to ensure that an agreement explicitly allows for the conclusion of supplementary bilateral arrangements on the mutual recognition of qualifications, including at the Member State level.[144]

A thin deal is better than no deal

At the same time, experts tend to agree that a deal would be a considerably better outcome for services than a no deal. The Institute for Government writes:

> A deal could also make it easier for UK firms and individuals to continue providing services in the EU – although the offer is likely

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[141] UK industry chief says business needs more from 'thin' Brexit deal, *The Guardian,* 1 November 2020

[142] Jill Rutter, UKandEU, Relief at a deal - if there is one - should not obscure its thinness, 14 December 2020

[143] HL EU Services Sub-Committee, 13th Report of Session 2019–21 The future UKEU relationship on professional and business services, HL Paper 143, 13 October 2020, p3

[144] Ibid, para 133

> to be far less generous on services than goods. For instance, the UK wants to allow short business trips to continue freely and agree a route to mutual recognition of professional qualifications, which could remove the need to re-qualify in each member state or seek work permits.[145]

Centre for European Reform thinktank also writes that an FTA could pave the way for "a framework for the continued recognition of professional qualifications in both the EU and UK, and make it easier for people to fulfil short-term services contracts in both territories."[146]

So far, the EU has publicly ruled out agreeing to UK asks in these areas that go beyond standard FTAs.

A springboard of global opportunities?

Even without substantial provisions for services, a deal which provides tariff-free access for manufactured goods could create some goodwill for future UK-EU cooperation on services. It could also make it easier for services industries to explore new, global opportunities. The Institute for Government explains:

> Even without [substantial provisions on services], a deal could make a big difference to other businesses – like manufacturers – that are major customers of the financial, legal and professional services firms. The political goodwill a deal could bring could also help sustain good co-operation between UK and EU regulators – which could help firms more easily weather divergent regulatory regimes. There is some hope that a deal on goods will pave the way to agree more access on services in future,[5] but it is unclear what incentives the EU would have to continue negotiations on matters that would so clearly benefit the UK, which sells more services to the EU than it buys from the bloc.[6] [147]

David Henig, ECIPE thinktank, agrees that a positive start to the new relationship with the EU would build a stronger foundation for services trade as one of the UK trade priorities. He writes that "if the EU deal safeguards UK manufacturing in particular, focus on finding new global opportunities for the UK's strong services sectors could then increase."[148]

More information

HL EU Committee, Services Sub-Committee, 13th Report of Session 2019–21 The future UK-EU relationship on professional and business services, HL Paper 143, 13 October 2020

Written evidence for the House of Commons Committee on the Future Relationship with the European Union, ongoing inquiry 'Progress of the negotiations on the UK's Future Relationship with the EU.'

145 Institute for Government, Preparing Brexit. How ready is the UK? November 2020, p3
146 Sam Lowe, Five reasons why even a basic EU-UK trade deal is better than nothing, Centre for European Reform, 18 August 2020
147 Institute for Government, Preparing Brexit. How ready is the UK? November 2020, p10
148 David Henig, ECIPE, Ambition on Unstable Foundations: The UK Trade Policy Readiness Assessment 2020, July 2020

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