

## Research Briefing

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# Brexit and the UK's Overseas Territories

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## Summary

This briefing looks at the significance of the UK's departure from the EU for the UK's 14 Overseas Territories (OTs). Many Territory Governments have raised concerns that this decision has impacted negatively on their access to markets, EU development funding, and funding for environmental protection. The UK Government has [pledged to work with the Territories](#) to manage the transition and establish new funding and trading opportunities.

## What are the UK Overseas Territories?

Around 260,000 British nationals live in the ten permanently inhabited OTs. Each inhabited Territory has its own elected government and/or legislature, and [UK-appointed Governors retain responsibility for their external affairs](#). The OTs have no separate international representation or right to negotiate, or agree to, international agreements without the UK's permission.

Aside from Gibraltar, the Territories were never part of the EU. Instead, like other European territories overseas they were [part of an overseas territory association](#). This gave them access to certain funding and the single market.

## UK-EU agreement and the Territories

Despite the request of the UK Government, the EU declined to allow the Territories to be covered by the [UK-EU Trade and Cooperation Agreement \(TCA\)](#). Because some OT exports to the EU now face tariffs, Territory governments have [raised concerns for their economies and public finances](#) (PDF). They have also [cited potential benefits](#) (PDF) including access to Asian markets under new trade agreements and access to UK funding.

## Access to EU funding and UK replacements

OTs access to funding varies, being mainly dependent on their level of income. Many received funding through two EU schemes:

- **The European Development Fund (EDF).** Eligible Territories are expected to [receive funds until 2024](#). Six Territories, including Pitcairn and Montserrat, will receive [around £69 million in total](#) (PDF). The EDF has supported infrastructure development, tourism, and education.

- The **Biodiversity and Ecosystem Services in Territories (BEST)** provided around £1 million each year to [support the UK OT environments](#).

Discussions on replacements are on-going. The UK Government has committed to consider long-term funding and to [account for shortfalls when planning](#). The UK provides its own funding streams to the Territories:

- **The UK aid budget:** Three OTs are eligible for [£76 million in 2021/22](#). Others are ineligible due to their high incomes or being uninhabited.
- **Conflict, stability, and security funding (CSSF):** All are eligible. Spending [reached £62.1 million in 2020/21](#). Funding helps Territories respond to natural disasters, fund infrastructure, and address Covid-19.
- **Darwin Plus:** A competitive environmental scheme open to all OTs. The UK has [committed £30 million for the next three years](#).

## Trade agreements and UK-OT-EU trade

OTs are not automatically covered by the UK free trade agreements, but they can agree to their inclusion in a trade deal should they choose. Some OT goods face tariffs when imported into the EU because they are not covered by the TCA. However, the OTs' access to the UK market is [tariff- and quota-free](#).

UK-OT trade is heavily concentrated on a small number of Territories. In 2019, the Cayman Islands, Bermuda and Gibraltar accounted for [91% of UK exports to and 98% of UK imports from the OTs](#). Data on the Territories' EU trade is only available for trade in goods. In 2021, they exported US\$0.5 billion and imported US\$2.0 billion, [resulting in a trade deficit](#).

As the OTs are not covered by the TCA [tariffs are in place for key OT exports](#), such as fish. This is particularly significant to the Falklands, where fisheries constitute around [35-48% of its Gross Domestic Product](#) (PDF). The UK has provided [technical support for the Falklands to navigate the tariffs](#) (PDF).

## Sovereignty of the Falklands and Gibraltar

Argentina [disputes UK sovereignty over the Falklands](#). The Territory's Government considered the UK's EU membership to [offer "considerable certainty and support" to it](#). The Argentinian Government has [said that it now "expects more support" from the EU](#) following Brexit. The UK continues to [reject the claims](#) and stresses the Falkland's right to self-determination.

Spanish Governments have sought to [reclaim Gibraltar](#) by peaceful means. They have also [proposed shared or joint sovereignty](#) with the UK. Successive UK Governments have rejected making any changes against the wishes of the Gibraltarians. Gibraltar was not covered by the TCA, and instead a separate agreement is to be negotiated. As of July 2022, [discussions are ongoing](#).

# 1 Background: The Overseas Territories

The 14 Overseas Territories (OTs) have a total population of around 260,000 (2019). Four of the territories have no permanent British population. Akrotiri and Dhekelia (Cyprus) has a resident population of 12,000 Cypriots and 4,000 UK service personnel.<sup>1</sup>

Pitcairn is estimated to have a population of only fifty people.<sup>2</sup>

The Overseas Territories: UK Population			
Mediterranean		Pacific and Indian Oceans	
Gibraltar	34,000	British Indian Ocean Territory	No permanent population
Sovereign Base Areas of Akrotiri and Dhekelia (Cyprus)	No permanent UK population	Pitcairn	No UN estimate
Caribbean		South Atlantic	
Anguilla	15,000	British Antarctic Territory	No permanent population
Bermuda	62,000	Falkland Islands	3,000
British Virgin Islands	30,000	South Georgia & the South Sandwich Islands	No permanent population
Cayman Islands	66,000	St Helena, Ascension and Tristan da Cunha	6,000
Montserrat	5,000		
Turks and Caicos Islands	39,000	<b>Estimated total</b>	<b>260,000</b>

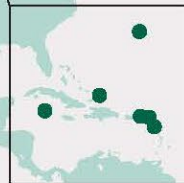
Source: United Nations, [World Population Prospects 2019: Total Population-both sexes](#), 2019

Aside from Gibraltar, the Antarctic Territories, and the Sovereign Base Areas in Cyprus, the OTs are all small islands or archipelagos. The map below shows their position.

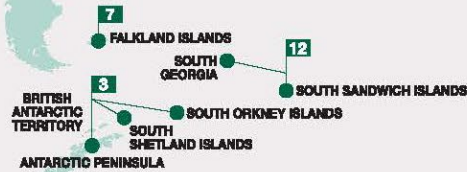
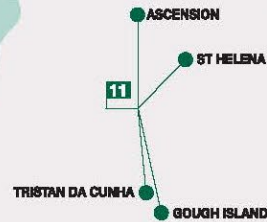
<sup>1</sup> Strategic Command, [Overseas bases in focus: Cyprus](#), 9 February 2021, accessed 30 June 2022

<sup>2</sup> Pitcairn Islands Government, [Homepage](#), accessed 30 June 2022

# UK Overseas Territories



- 1 Anguilla
- 2 Bermuda
- 3 British Antarctic Territory
- 4 British Indian Ocean Territory
- 5 British Virgin Islands
- 6 Cayman Islands
- 7 Falkland Islands
- 8 Gibraltar
- 9 Montserrat
- 10 Pitcairn Islands
- 11 St Helena, Ascension & Tristan da Cunha
- 12 South Georgia & the South Sandwich Islands
- 13 Sovereign Areas of Akrotiri & Dhekelia
- 14 Turks & Caicos Islands





## 2 The OTs, the EU and Brexit negotiations

### The OTs, UK-appointed Governors, and external affairs

UK-appointed Governors of the OTs [are responsible for most aspects of their external affairs, including security and relations with foreign governments](#).

International treaties that the UK has signed are not automatically extended to the Territories.

In the British Virgin Islands and the Cayman Islands, the Governor is expected to delegate responsibility for engagement with the European Union and Caribbean regional organisations to locally elected governments. However, without UK Government permission they cannot agree to enter a treaty or make political declarations on foreign affairs. They also cannot make invitations to foreign governments without the Governor's permission.<sup>3</sup>

### 2.1 Most Territories were not EU members

Aside from Gibraltar, the Territories were never part of the EU when the UK was a member. This meant EU law did not in general apply to the OTs, other than Gibraltar.

The Sovereign Base Areas of Cyprus were part of the EU customs area, but not the EU or single market. The UK has a treaty with Cyprus dating back to the country's independence from the UK in 1960. Under this, the Base Areas were, and must still, apply law in line with the Republic of Cyprus (which has been an EU member since 2004).<sup>4</sup>

#### Association Agreement

Like the overseas territories of France, the Netherlands and Denmark, the inhabited OTs (aside from Gibraltar) were part of the [Overseas Countries and Territories \(OCTs\)-EU Association](#). This Association was governed by Council of the EU decisions that have emphasised areas of cooperation such as

<sup>3</sup> Commons Library, [The UKOTs and their Governors](#), CBP 9583, pp35-6

<sup>4</sup> European Scrutiny Committee, [Documents considered by the Committee on 18 July 2018: Cyprus](#), 24 July 2018, para 8.15; [Consolidated Version of the Treaty Establishing the European Community](#), Section 229(b) (PDF)

poverty reduction and supporting the economic competitiveness of the Territories.<sup>5</sup>

A 2013 Council Decision said the EU should offer “the best possible treatment offered to any other trading partner through comprehensive most favoured nation clauses” to the Territories. It gave goods imports from the OTs tariff and quota-free access to the EU market: See section 5.3.<sup>6</sup>

Under the Association, the Territories were eligible to participate in, and receive funding from, programmes financed by the general budget of the EU. Gibraltar was eligible for European regional development and social funding. See below, page 16, for more on EU programmes and their replacements.

There are also some French Caribbean Territories that are fully part of the EU, as they are part of France proper. This is particularly significant for neighbouring UK OTs such as Anguilla and Montserrat, which rely on them for energy and some core services such as health.<sup>7</sup>

## 2016 referendum

Aside from Gibraltar, none of the Overseas Territories participated in the 2016 referendum which resulted in the UK voting to leave the EU. 96% of the 20,000 votes cast in Gibraltar were to remain in the EU.<sup>8</sup>

## 2.2

## Initial response to Brexit by the OTs

Much of the response of OT Governments has focused on the potential loss of EU funding, free movement, and market access. Market access does not solely refer to the EU market, but access to [EU overseas territories](#).

OT Governments have cited potential opportunities including greater regional integration of the OTs (for example with Caribbean regional organisations), expansion into new markets in Asia, and a strengthened funding relationship with the UK.<sup>9</sup>

In 2017, the UK Government pledged to work with the Territories to protect and strengthen their status post-Brexit:

[The Government in consultation with OT Ministers] reiterated our objective to achieve a deal in the negotiations that works for all parts of the UK family. We

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<sup>5</sup> European Commission, [Overseas countries and territories](#), accessed 5 July 2022

<sup>6</sup> [Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union](#); Replaced by [Council Decision \(EU\) 2021/1764 of 5 October 2021 on the association of the Overseas Countries and Territories with the EU](#)

<sup>7</sup> European Commission, [EU & outermost regions](#), accessed 7 July 2022

<sup>8</sup> House of Lords EU Committee, [Brexit: Gibraltar](#), HL 116, 2016-17, 1 March 2017, para 6

<sup>9</sup> [House of Lords Select Committee on EU Exit to Secretary of State for Exiting the EU](#), 13 September 2017 (PDF), paras 45-9

will seek to ensure the security and economic sustainability of the Overseas Territories is preserved and, where possible, strengthened post Brexit.<sup>10</sup>

The below is not an exhaustive list of Territory responses. For further details on trade, see section 5, and for Gibraltar, section 8.

## Anguilla

In 2017 Anguilla's Government published a report, [Britain's forgotten EU border](#) (PDF). The Territory has direct borders with French and Dutch overseas Territories, which provide access to essential supplies, including electricity. The EU was also a significant source of funding.

The Anguillan Government suggested a potential option of a customs union with European countries and territories in the Eastern Caribbean. It expressed its willingness to adhere to EU rules in local legislation.<sup>11</sup>

## Bermuda

In 2016, then-Premier Michael Dunkley said his main concerns included freedom of movement for British Overseas Territory Citizen passport holders and ensuring the EU's financial regulations did not penalise the Territory.<sup>12</sup>

However, as the Territory did not receive aid from the EU, the Territory's Premier from 2017, David Burt, said it would be less affected than others.<sup>13</sup>

## Cayman Islands

For Cayman, the reported main concerns were financial services and trade arrangements.<sup>14</sup> Its Government undertook a consultation on the potential impact of Brexit on the Territory in 2017.<sup>15</sup> Reported concerns included the potential for greater EU criticism of the Cayman's taxation practices (the Islands are a low-tax jurisdiction) once the UK left the union.<sup>16</sup>

## Falklands

In 2016, members of the Falkland Islands Legislative Assembly raised concerns over its access to EU markets, environmental funding, and free

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<sup>10</sup> HCWS355 [[OT Joint Ministerial Council](#)], 14 December 2017

<sup>11</sup> Anguilla Government, [Anguilla and Brexit: Britain's forgotten EU border](#), 2017 (PDF), pp23-4, 34, 75

<sup>12</sup> Government of Bermuda, [UK withdrawal from the EU](#), 21 November 2016

<sup>13</sup> The Royal Gazette, [Burt: Bermuda to be "less affected" by Brexit](#), 27 November 2019

<sup>14</sup> Cayman News Service, [Brexit overshadows first day of Joint Ministerial Council](#), 5 December 2018

<sup>15</sup> Cayman Islands Government, [Consultation on the potential impact of Brexit on the Cayman Islands](#), 13 January 2017

<sup>16</sup> Cayman Compass, [Cayman's leaders in London for Brexit summit](#), 5 February 2017

movement. They estimated 70% of Falklands Gross Domestic Product (GDP) was dependent on access to the European market.<sup>17</sup>

## Gibraltar

In 2016, Gibraltar's Government backed remaining in the EU. It argued membership strengthened its economy, helped Spanish workers contribute to Gibraltar's economy by crossing the border without restriction, and provided protections against any hostile action by Spain that challenged the UK's sovereignty over Gibraltar (which Spain contests).<sup>18</sup>

## Montserrat

Montserrat's Government raised the loss of EU development funding and free movement to the neighbouring French Territories of Guadeloupe and Martinique. The former is a significant provider of health care for the OT.<sup>19</sup>

## Pitcairn

Pitcairn is a small Territory of 50 people. Pitcairn representatives raised the issue of continued funding and access to EU markets to trade Pitcairn honey.<sup>20</sup>

## St Helena, Ascension and Tristan da Cunha

The Government raised EU funding for development and the environment.<sup>21</sup>

## Turks and Caicos

Like other OTs, the Turks and Caicos Government raised the issue of EU funding,<sup>22</sup> and freedom of movement.<sup>23</sup>

### Further reading on OT reaction

- Peter Clegg, [Brexit and the OTs: Repercussions for the periphery](#), Commonwealth Journal of International Affairs, vol. 105, 2016, pp543-55

<sup>17</sup> [Written evidence from Sukey Cameron, Representative, Falkland Islands Government, to the Foreign Affairs Committee](#), EUM0033, February 2016

<sup>18</sup> [Written evidence from HM Government of Gibraltar to the Foreign Affairs Committee](#) (EUM0034) March 2016

<sup>19</sup> [House of Lords European Union Committee to Secretary of State for Exiting the EU](#), September 2017 (PDF), paras 10, 39

<sup>20</sup> As above, paras 11, 23

<sup>21</sup> As above, paras 16, 17

<sup>22</sup> As above, paras 13, 14

<sup>23</sup> Turks and Caicos' Weekly News, [UK promises funding of EU projects to continue to 2020](#), 17 December 2018

Sets out EU-OT relations, and the potential effects of Brexit on the OTs, including free movement, market access, and funding.

- Alistair Sutton for the Constitution Society, [Relics of empire or full partners of a new global UK?](#), 2018 (PDF)

Pages 16-20 describe the OT's relationship with EU to 2018. The remainder discusses future options for OT-EU relations.

- [House of Lords European Union Committee to Secretary of State for Exiting the EU](#), September 2017 (PDF)

12-page summary of OT Government evidence to the Committee. The Committee [received further evidence](#) from Territory and UK Governments in 2017-18 and conducted [an oral evidence session](#) in 2017.

## 2.3

# Withdrawal Agreement Protocols for Gibraltar and Cyprus Sovereign Base Areas

The UK-EU Withdrawal Agreement, which came into force when the UK left the EU on 31 January 2020, included Protocols on Gibraltar and the Sovereign Base Areas in Cyprus.

The Protocols were agreed in November 2018 as part of the first version of the Withdrawal Agreement negotiated with the EU by Theresa May's Government. They remained unchanged in the final version of the Withdrawal Agreement concluded by Boris Johnson's Government and the EU and implemented in January 2020.

## Protocol on Gibraltar

The Protocol on Gibraltar sets out areas of bilateral cooperation that will be underpinned by future arrangements between Spain, the UK and Gibraltar.

Following on from agreement of the draft protocol, the governments of the UK and Spain, together with the Government of Gibraltar, concluded [four Memorandums of Understanding on Gibraltar in November 2018](#). These covered citizens' rights, cooperation on environmental matters, cooperation in police and customs matters, tobacco, and other products. The three governments also agreed to conclude a tax agreement covering tax transparency and cooperation.<sup>24</sup>

Some of these arrangements were intended to apply until the end of the Brexit transition period, at which point it was envisaged that new agreements would

<sup>24</sup> Foreign, Commonwealth and Development Office (FCDO), [Brexit negotiations: Gibraltar memoranda of understanding](#), 30 November 2018

enter into force. However, negotiations for these are ongoing. In the meantime, some bridging agreements are in place (see section 8 of this briefing).

A [Concordat between the UK and Gibraltar governments](#) (PDF) states that the Memorandums and the Protocol on Gibraltar will be implemented in accordance with the Constitution of Gibraltar, with the Gibraltar Government responsible for implementing them.<sup>25</sup>

## Protocol on Sovereign Base Areas

The [Protocol on the Sovereign Base Areas \(SBAs\)](#) largely enables the continuity of existing arrangements in and around the SBAs, beyond the Brexit transition period (from 31 December 2020). The EU institutions retain powers in relation to the implementation and application of Protocol provisions.<sup>26</sup>

Cyprus and the UK will cooperate in ensuring the implementation of the Protocol and Cyprus will be responsible for implementing and enforcing EU law in the SBAs.

The SBAs remain in the EU customs territory after Brexit and EU law on customs and the Common Commercial Policy will apply to and in the SBAs. Cyprus will be responsible for customs formalities, controls and the collection of import duties. There are various exceptions to this in relation to military goods and the personal goods of UK military personnel (see section 9.1 below).

### Further reading on Withdrawal Agreement Protocols

- Commons Library, [The UK's EU Withdrawal Agreement](#). Section 9 of this linked briefing provides further detail on the Protocols on Gibraltar and the Sovereign Base Areas in Cyprus

## 2.4 The UK-EU trade and cooperation agreement

### UK request for the Territories to participate

During the negotiations that culminated in the UK-EU Trade and Cooperation Agreement (TCA), the UK Government said it wanted to negotiate on behalf of

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<sup>25</sup> [Concordant concerning the implementation of the Gibraltar protocol \[...\] between HM Government and HM Government of Gibraltar](#) (PDF)

<sup>26</sup> [Agreement on the withdrawal of the UK from the EU and the European Atomic Energy Community: Protocol relating to the SBAs](#)

the Overseas Territories as well as the UK. It would seek “outcomes that support their security and economies.”<sup>27</sup>

However, the EU refused to include the Territories in this agreement. This means that tariffs now apply on exports from the Territories.<sup>28</sup>

For EU countries and their overseas Territories, the TCA applies to [EU Outermost regions](#) (including some French overseas departments) but not [EU overseas countries and territories](#) (OCTs).<sup>29</sup>

The Territories considered part of the EU and status of various other Territories are set out in [Territorial status of EU countries and certain territories](#).

The TCA is separate to Withdrawal Agreement (WA): The WA is primarily focused on UK-EU separation arrangements, including citizens’ rights, the financial settlement and arrangements to prevent a hard border on the island of Ireland (the Northern Ireland protocol).

## Trade and Cooperation Agreement applies to Crown Dependencies but not OTs

Article 774 of the TCA sets out its territorial scope. It states the Agreement does not apply to Gibraltar or other UK Overseas Territories.<sup>30</sup>

Certain provisions do apply to the **Crown Dependencies** of Guernsey, Jersey and the Isle of Man, however. The Crown Dependencies have a different relationship to the UK and the EU than the OTs. They were previously part of the customs territory of the EU and implemented some related EU legislation.<sup>31</sup>

The parts of the TCA which apply to the Crown Dependencies are aspects of the **fisheries** provisions (Heading Five in the TCA) and certain **trade** provisions. These include provisions on trade in goods, and sanitary and phytosanitary measures (SPS), and technical barriers to trade. The Crown Dependencies are considered by the TCA as part of the customs territory of the UK.<sup>32</sup>

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<sup>27</sup> PQ 20455 [on [Falkland Islands: Trade with EU](#)], 4 March 2020

<sup>28</sup> PQ 33160 [on [Falkland Islands: EU external trade](#)], 21 July 2021

<sup>29</sup> Note that overseas French departments and Spanish and Portuguese islands identified in Article 355 of the Treaty on the Functioning of the EU are classified as “Outermost Regions” of the EU. These have some special adjustments in terms of the application of customs, trade and other EU policies. See [EU & outermost regions - Regional Policy - European Commission](#) and [Outermost regions \(ORs\) | Fact Sheets on the European Union | European Parliament](#)

<sup>30</sup> UK Government, [UK/EU and EAEC: Trade and Cooperation Agreement \[TS No.8/2021\]](#), 30 April 2021

<sup>31</sup> For more, see the Commons Library briefing, [The Crown dependencies](#), CBP 8611, section 4.2

<sup>32</sup> Trade provisions applying to the Crown Dependencies are set out in Article 520 of the TCA. See also section 7.3 of the Commons Library briefing, [The UK-EU Trade and Cooperation Agreement: governance and dispute settlement](#), CPBP9139

No similar provisions are made for the Overseas Territories. In 2021, the House of Lords EU Committee [described this absence as “striking”](#) (PDF) and called upon the UK Government to continue to protect the interests of the Territories:

The outlook for the other Overseas Territories, following their exclusion from the TCA, is more worrying. We note for instance the serious economic implications for the Falkland Islands of the imposition of tariffs and quotas upon its trade in fisheries (including Loligo squid) with the EU.<sup>33</sup>

In response, the Government said it would continue to provide both financial and technical support to the Territories to manage the transition.<sup>34</sup>

## Access to EU programmes

The TCA makes provision for UK participation in some EU programmes (yet to be signed off by the EU), but the Territories are not referenced as participants. Third country participation is possible in some EU programmes, however.<sup>35</sup>

By virtue of the UK's membership of the EU, the OTs could participate in several EU programmes:<sup>36</sup>

- **Horizon Europe** (funding research and innovation). None of the Territories were participants.<sup>37</sup>
- **Erasmus** (the education programme). This will be replaced by the UK's Turing Scheme and will include the OTs.<sup>38</sup>
- The **European Social Fund** will be replaced by the **UK Shared Prosperity Fund**. This does not include the OTs as potential beneficiaries (note all were previously eligible for the social fund).<sup>39</sup>

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<sup>33</sup> House of Lords EU Committee, [Beyond Brexit: The institutional framework](#), HL 246, 2019-21, 22 March 2021 (PDF), paras 43, 46

<sup>34</sup> [Government response to the Lords EU Committee's 21 report of session 2019-21](#), 20 July 2021, pp2-3

<sup>35</sup> Commons Library, [Is the UK still participating in EU programmes?](#), 18 November 2021

<sup>36</sup> [FCDO to Foreign Affairs Committee](#), 14 January 2019

<sup>37</sup> European Commission, [Updates on the association of third countries to Horizon Europe | European Commission](#), 21 December 2021

<sup>38</sup> HM Government, [Turing scheme: The UK's global programme to study and work abroad: FAQs](#), April 2022 (PDF), p4

<sup>39</sup> Department for Levelling Up, Housing & Communities, [UK shared prosperity fund: Prospectus. Delivery geographies](#), updated 15 June 2022; PQ 256921 [on [Falkland Islands: UK shared prosperity fund](#)], 21 May 2019



In 2021/22, the UK Community Renewal Fund provided a one-off £500,000 to Gibraltar to manage the transition away from these programmes.<sup>40</sup>

## UK OTs response to the Trade and Cooperation Agreement

In February 2021, the UK OT Association (UKOTA) said the Territories now found themselves in a “challenging” situation. It said its priorities are lifting tariffs, establishing a new relationship with the EU, and new UK funding mechanisms.<sup>41</sup>

The [UKOTA](#) is a group of all OT Governments but has no formal or legal powers.

In June 2021, the UKOTA signed a Memorandum of Understanding with the Overseas Countries and Territories Association of the EU.<sup>42</sup> The agreement is intended to increase collaboration between the two on issues such as climate change, biodiversity, oceans, energy, and post-Covid-19 economic recovery.<sup>43</sup>

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<sup>40</sup> Department for Levelling Up, Housing & Communities, [UK community renewal fund](#), updated 11 May 2021, section 3

<sup>41</sup> UKOTA, [UKOTA newsletter](#) (PDF), February 2021, p3

<sup>42</sup> UKOTA, [UKOTA newsletter](#), September 2021 (PDF), p3

<sup>43</sup> Gouv.nc, [A new partnership with the British Territories](#), 25 June 2021

### 3 EU funding for the Territories

None of the OTs are members of the International Monetary Fund or the World Bank. This means they are ineligible for multilateral funding, including from the UN. Funding to the OTs comes from the UK or EU; major streams are shown below.<sup>44</sup>

What funding streams have the OTs been eligible for?					
	Darwin Plus (UK)	Conflict, stability, and security fund (UK)	Regular aid budget (UK)	European Development Fund (EU)	Biodiversity and Ecosystem Services in Territories (EU)
Anguilla	✓	✓		✓	✓
Ascension*	✓	✓		✓	
British Antarctic Territory	✓	✓			✓
Bermuda	✓	✓			✓
British Indian Ocean Territory	✓	✓			✓
British Virgin Islands	✓	✓			✓
Cayman Islands	✓	✓			✓
Sovereign Base Areas Cyprus	✓	✓			
Falklands	✓	✓		✓	✓
Gibraltar	✓	✓			
Montserrat	✓	✓	✓	✓	✓
Pitcairn	✓	✓	✓	✓	
South Georgia & the South Sandwich Islands	✓	✓			✓
St Helena*	✓	✓	✓	✓	✓
Turks and Caicos Islands	✓	✓		✓	✓
Tristan Da Cunha*	✓	✓	✓	✓	✓

Note: \*St Helena, Ascension and Tristan Da Cunha form a single Territory but have varying eligibility based on their population and income. Sources: Department for Environment & Rural Affairs (DEFRA), [Consultation outcome \[on safeguarding the environment of the OTs\]](#), 8 April 2020, Annex B; DEFRA, [Darwin Plus](#), updated 24 August 2021, and EDF funding in section 3.1, below

<sup>44</sup> Department for International Development (DFID), [Summary of DFID's work in the OTs](#), 2011 (PDF), p1

The remainder of section 3 of this briefing discusses EU funding to the Territories, with a focus on the European Development Fund (EDF) and Biodiversity and Ecosystem Services in Territories (BEST). It also covers discussions on replacements.

Section 4 discusses the three major existing funding streams from the UK to the Territories: the UK's aid budget, the environmental Darwin Plus scheme, and the cross-government Conflict, stability, and security fund (CSSF). Most Territories are ineligible for support from the UK's aid budget due to their high incomes or lack of population.

## 3.1 What EU funding did the Territories receive?

### European Development Fund (EDF)

Under the Withdrawal Agreement, the OTs continue to benefit from the current EDF round, expected to run until 2024.<sup>45</sup> The table below shows the value of EDF funding committed to the Territories in the last round—six Territories will receive around £69 million in total.

EDF funding to the OTs under the 11 <sup>th</sup> funding round			
Territory	Value (€) 2021 prices	Value (£) 2021 prices	Purpose
Anguilla	€14.1m	£12.7m	Education
Montserrat	€18.4m	£16.6m	Sustainable growth
Turks and Caicos	€14.6m	£13.2m	Education
Pitcairn	€2.4m	£2.2m	Tourism
Falkland Islands	€5.9m	£5.3m	Connectivity
Saint Helena, Ascension and Tristan da Cunha	€21.5m	£19.4m	Connectivity
<b>Total</b>	<b>€76.9 million</b>	<b>£69.4m</b>	-

Source: European Commission, [11<sup>th</sup> EDF OCT indicative territorial allocations](#) (2014-2020) (PDF), January 2021 and HMRC, [January 2021: Monthly exchange rates](#), updated 19 November 2021

Total funding in the 11<sup>th</sup> round was 26% higher than the previous (2008-13), when €62.3 million was committed to the Territories. Note this does not include regional funding which UK OTs were also eligible to receive.<sup>46</sup>

The EDF has also provided aid to the Cayman Islands and Turks and Caicos in the aftermath of hurricanes and natural disasters.<sup>47</sup>

<sup>45</sup> PQ 19029 [on [British OTs: Overseas aid](#)], 2 March 2020

<sup>46</sup> European Commission, [OCT-EU relations in detail](#), archived January 2016

<sup>47</sup> Peter Clegg for the UKOTA, [The UK OTs and the EU: Benefits and prospects](#), 2016 (PDF), para 27

The significance of the EDF varies between Territories, but is particularly important for funding capital investments (such as infrastructure):

- **Montserrat:** EU funding represented 37% of capital funding in 2017/18.<sup>48</sup>
- **Anguilla:** 36% of total capital budget was EDF funding in 2017.<sup>49</sup>
- **Falklands:** 33% of total revenue for its capital programme came from the EDF in 2020/21.<sup>50</sup>
- **Pitcairn:** 30% of its annual budget in the 9th to 11<sup>th</sup> EDF rounds (from 2000).
- **St Helena:** EU capital aid has formed as much as 10% of its GDP.<sup>51</sup>

The EDF has supported a range of projects. In Montserrat, for example, it has supported renewable energy, provided fibre-optic cables for data communication, affordable housing, and improvements to the airport.<sup>52</sup>

## Biodiversity and Ecosystem Services in Territories (BEST)

The BEST initiative aims to protect biodiversity in the Overseas Territories and the “outermost regions” of EU countries. Between 2011 and 2017, it provided a total of €14.7 million to all territories (not just UK OTs).<sup>53</sup>

The UK Government says UK Territories received around £1 million per year from the BEST initiative.<sup>54</sup> The Falkland Islands, for example, received €622,000 in funding from 2013 to 2017 (around £530,000).<sup>55</sup>

BEST funding was used, for example, between 2013 and 2015 for a project led by Kew Gardens to help the Falkland Islands Government with conservation of native plants, and between 2016 and 2019 funded another to help the conservation of sea turtles in Anguilla.<sup>56</sup>

### Biodiversity in the OTs

The UK's Overseas Territories are of great significance to global biodiversity. They contain an estimated 94% of all the unique species that the UK is

<sup>48</sup> Government of Montserrat, [2017-2018 budget statement](#), 2017 (PDF), p8

<sup>49</sup> House of Lords Media, [Will the UK government support its OTs in face of loss of EU funding?](#), 2017

<sup>50</sup> Falkland Islands Executive Council, [Draft budget and financial plans for 2021/22 and beyond](#), 12 May 2021 (PDF), p33

<sup>51</sup> House of Lords European Union Committee, [Brexit: OTs](#), 13 September 2017 (PDF), paras 7-18

<sup>52</sup> Government of Montserrat, [The power to change](#) (PDF), 2022

<sup>53</sup> European Commission, [BEST Initiative, projects 2011-2017](#) (PDF), p56

<sup>54</sup> DEFRA, [Call for evidence document](#), updated 8 April 2020, para 2.3

<sup>55</sup> [Supplementary written evidence—Falkland Islands Government, OST0004](#), July 2017, para 3

<sup>56</sup> European Commission, [BEST Initiative, projects 2011-2017](#) (PDF), p56

responsible for and have marine areas that extend over 2% of the world's ocean surface.

For more on their environmental significance, the challenges they face, and UK/EU funding on this issue, see the Library Briefing [The UK OTs: Climate change and biodiversity](#), October 2021.

## 3.2 Commitments to replace EU funding

### What has the UK Government pledged?

In 2019, the Government committed to guarantee funding for OT participants in EU programmes up to 2020, in the event of a “no deal” Brexit.<sup>57</sup>

Since then, the Government has reiterated its position that OTs should make use of their own resources in the first instance, but that it will consider further funding requests on a case-by-case basis. It will also take account of situations where self-sustainability is not possible (due to remoteness, for example).<sup>58</sup>

In 2021, the UK and OT Governments also agreed to prioritise climate change and environmental issues in future Territory funding.<sup>59</sup>

The Government has also said it will work in consultation with Territory Governments when designing new programmes and policies.<sup>60</sup>

### Calls for clarity, 2019

In 2019, the Commons Foreign Affairs Committee raised concerns that losses in EU funding will be significant for capital funding, development, and the environments of the Overseas Territories.

The Committee called for the Government to clarify its “long-term vision for funding the OTs,” including replacing any lost EU funding.<sup>61</sup>

In response, the Government said longer-term funding replacements, including a dedicated OT fund, would be considered in the next spending review, due for 2020.<sup>62</sup> The Review was [delayed due to the coronavirus](#)

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<sup>57</sup> [FCDO to Foreign Affairs Committee](#), 14 January 2019

<sup>58</sup> FCDO, [2021 UK-OT Joint Ministerial Council 2021](#), 18 November 2021, ‘Economic resilience’

<sup>59</sup> As above, 18 November 2021, ‘Climate change’

<sup>60</sup> FCDO, [2021 UK-OT Joint ministerial Council 2020](#), 27 November 2020, ‘Exit from EU’

<sup>61</sup> Foreign Affairs Committee, [Global Britain and the British OTs: Resetting the relationship](#), HC 1464, 21 February 2019, 2017-19, para 56

<sup>62</sup> [Government response to the Foreign Affairs Committee report on Global Britain and the British OTs](#), 29 April 2019, para 4

[pandemic](#).<sup>63</sup> The following year, the Government said EDF funding would continue until 2024.<sup>64</sup>

The Government also said it will consider any shortfall in funding decisions:

We will take into account any shortfalls that arose from the end of EU funding, as we plan future UK spending in the OTs. We will focus this funding on the greatest needs and to deliver the greatest impact.<sup>65</sup>

In 2021, Lord Goldsmith of Richmond Park, Minister for Pacific and the Environment, said [the Foreign, Commonwealth and Development Office \(FCDO\) was developing a “new stream of activity”](#) for supporting small island developing states and the OTs.

He said the FCDO believed the pandemic had highlighted the vulnerability of the Territories on multiple levels so there was a “strong case” for more support.<sup>66</sup>

## What might the replacements be?

Several suggestions for what should replace EU funding have been made:

- In 2020, the then-Premier of the British Virgin Islands (BVI), Andrew Fahie, called for the UK to establish a **sustainable development fund** for all OTs to fund climate change, biodiversity and sustainable energy projects.<sup>67</sup>
- In 2018, then-BVI Premier Dr Orlando Smith suggested a **UK investment facility** to replace the EU’s Overseas Countries and Territories investment facility provided by the European Investment Bank, to provide lending to the Territories.<sup>68</sup>
- In 2017, the Royal Society for the Protection of Birds (RSPB) suggested the UK’s environmental programme, **Darwin Plus, should have a funding increase** to make up any shortfalls from the ending of BEST.<sup>69</sup> The RSPB has also suggested some funding streams should be small and available only for organisations within Territories, to improve upon the EU BEST programme.<sup>70</sup>
- In 2018, the UK-based West India Committee suggested the UK **retained associate membership of the EDF**, with the UK making contributions.

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<sup>63</sup> HM Treasury, [Spending review to conclude late November](#), 21 October 2020

<sup>64</sup> PQ 19029 [on [British OTs: Overseas aid](#)], 2 March 2020

<sup>65</sup> FCDO, [UK-EU Trade and Cooperation Agreement: UK statement on the OTs](#), 30 December 2020

<sup>66</sup> Environmental Audit Committee, [Oral evidence: Biodiversity and ecosystems](#), HC 636, 13 January 2021, Q179

<sup>67</sup> BVI News, [Gov’t asks UK to create a sustainable development fund for OTs amid Brexit](#), 4 February 2020

<sup>68</sup> [Premier of BVI to EU Committee](#), 24 October 2018 (PDF), p2

<sup>69</sup> [Written evidence—RSPB, OST0005](#), 20 July 2017

<sup>70</sup> [Written evidence—RSPB, BIO0023](#), September 2020 (PDF), p7

Alternatively, it suggested the UK could grant **greater foreign policy autonomy** to the Territories to allow them to access development finance.<sup>71</sup>

- In 2020, the Commons Environmental Audit Committee suggested the Government should consider **match-funding private contributions** for some environmental projects, such as the eradication of invasive species.<sup>72</sup>

The UK already provides funding to the OTs. This is described in the next section.

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<sup>71</sup> West India Committee, [Anguilla and Brexit: The solution](#), March 2018 (PDF), pp42-3

<sup>72</sup> [Government response to the Environmental Audit Committee report on invasive species](#), 13 May 2020, paras 61-3

## 4 UK funding for the Territories

Funding to the Territories is from different sources—one of the most significant is UK aid funding, as well as environmental funding.

The Government says OTs are “a first call on the aid budget.”<sup>73</sup> However most are ineligible because either they are uninhabited, or their incomes are too high. Environmental schemes, however, include all the Territories.

### 4.1 Three Territories are usually eligible for aid

Three Territories are eligible for regular funding from the UK's aid budget:

- Montserrat, in the Caribbean.
- St Helena, Tristan da Cunha (but not Ascension, which has no permanent right of abode, but forms part of the same Territory), in the Atlantic.
- The Pitcairn Islands, in the Pacific.

Only three are eligible because UK aid spending must meet international rules on supporting inhabited Territories and for them to be classified as low- or lower-middle income economies.

UK aid work focuses on strengthening OT economies, reducing their dependency due to their remote locations, and supporting skills development to fill gaps in their workforce. Aid also helps ensure physical access (eg harbours, airports), supports key services (such as education and health) and their response resilience to natural disasters and resilience.<sup>74</sup>

The table below shows the value of aid committed to Montserrat and St Helena and Tristan da Cunha from 2016 to 2020.

Data for Pitcairn is not reported in the FCDO's statistical series because the numbers are too low. Separate figures state it will receive £8.6 million in budget assistance from March 2021 to March 2023.<sup>75</sup>

<sup>73</sup> FCDO, [2021 UK-OT Joint Ministerial Council 2021](#), 18 November 2021, 'Economic resilience'

<sup>74</sup> FCDO, [OTs: Objectives 2020 to 2021](#), updated 24 June 2021, Chapter 3

<sup>75</sup> FCDO Development Tracker, [Pitcairn financial aid 2021 to 2023](#), updated 27 May 2022



UK aid to St Helena, Tristan Da Cunha and Montserrat Thousands					
	2016	2017	2018	2019	2020
Montserrat	£28,500	£27,500	£26,100	£24,850	£34,000
St Helena and Tristan da Cunha	£75,000	£51,000	£41,300	£39,200	£45,900

Source: FCDO, [Statistics on international development: Final UK aid spend 2020](#), September 2021, Tables A4a and A4c

## Planned aid spending

The FCDO planned for the Overseas Territories to receive £74 million in aid in 2020/21 and to see a small increase to £76 million in 2021/22.

Note these relate to financial years—final spending will be reported for the calendar years in the FCDO's release of spending statistics in September 2022.<sup>76</sup>

## Grounds on which other Territories are eligible for aid

In 2018, the UK Government said it had secured an agreement which allows high-income countries (and the Overseas Territories) to be eligible to apply for aid if they experience economic shocks caused by crises like natural disasters.

They will be eligible for aid related to long-term economic recovery and reconstruction, rather than humanitarian assistance. This is in the event their economies are hit badly enough to fall under the World Bank High Income threshold. This is a Gross National Income of US\$12,695 per capita in 2021/22.<sup>77</sup>

This means that Territories vulnerable to hurricanes, such as those in the Caribbean, may become eligible.<sup>78</sup>

## 4.2

## Conflict, stability and security fund

Launched in 2015, the conflict, stability and security fund (CSSF) is a cross-government fund intended to support stability overseas, including in the Overseas Territories. All Territories are eligible.<sup>79</sup>

<sup>76</sup> FCDO, [Annual reports and accounts 2020 to 2021](#), September 2021, p254

<sup>77</sup> World Bank, [New World Bank country classification by income level: 2021-2022](#), 1 July 2021

<sup>78</sup> DFID, [UK secures change to international aid rules](#), 1 November 2018

<sup>79</sup> UK Government, [CSSF: About us](#), accessed 8 July 2022

The table below shows the headline CSSF spending on the OTs. Spending in 2020/21 was more than 5.5 times higher than in 2016/17.

Spending peaked in 2017/18 in response to Hurricanes Irma and Maria. These impacted Anguilla, the Turks and Caicos, the British Virgin Islands, and Montserrat.<sup>80</sup>

UK funding to the OTs via the CSSF	
2020/21	£62.1m
2019/20	£41.3m
2018/19	£44.3m
2017/18	£90.0m
2016/17	£11.0m

Sources: [CSSF Annual report 2020 to 2021](#), December 2021, p20; [CSSF Annual report 2019 to 2020](#), January 2021, p27; [CSSF Annual report 2018 to 2019](#), July 2019; [CSSF annual report 2017/18](#), July 2018 p28; [CSSF Annual report 2016/17](#), July 2017, p12

## How has the CSSF supported the Territories?

### Overall programmes

- **Border security:** Funding of £0.65 million in 2020/21. This helps improve border security, customs and immigration processes, and cyber-security in several OTs.<sup>81</sup>
- **Covid-19 programme:** Funding of £12.1 million in 2020/21. This helped OTs respond to the pandemic. It included provision of medical equipment, technical advice from Public Health England, and additional personnel support to health and other public services.<sup>82</sup>
- **Climate change and sustainability:** Funding of £4.44 million in 2020/21. This consisted of support to address invasive species and to protect and map Territory marine environments. This includes the UK's [blue belt programme](#).<sup>83</sup> The programme has supported the creation of Marine Protected Areas, most of which ban commercial fishing and extraction from the seabed.<sup>84</sup>

<sup>80</sup> Commons Library, [UK assistance to affected British OTs after Hurricanes Irma and Maria](#), CBP8109, October 2017

<sup>81</sup> UK Government, [CCSF: OT border security programme summary 2020 to 2021](#), 15 July 2021

<sup>82</sup> UK Government, [CCSF: OT Covid-19 programme summary 2020 to 2021](#), 15 July 2021

<sup>83</sup> UK Government, [CCSF: OT environmental sustainability and climate change programme summary 2020 to 2021](#), 15 July 2021

<sup>84</sup> UK Government, [The blue belt programme](#), updated 8 June 2022

- **Governance:** Funding of £2.57 million in 2020/21. This provided public health support, maritime governance, public finance management, poverty reduction, child welfare programmes, and financial regulation.<sup>85</sup>
- **Justice:** Funding of £2.5 million in 2020/21. This supported law enforcement, prisons, and probation.<sup>86</sup>

### Anguilla

Funding in 2020/21: £36.1 million. Funding has supported reconstruction after Hurricane Irma, strengthening revenue collection, and a new jetty.<sup>87</sup>

### Ascension

Funding in 2020/21: £0.4 million. Funding supported infrastructure development, with funding for a new waste treatment works and to strengthen health and fire services.<sup>88</sup>

### British Virgin Islands

Funding in 2020/21: £1.8 million. This focused on building resilience to hurricanes and drafting an improved security and justice policy.<sup>89</sup>

## Further resources on the CSSF's work in the OTs

The Government has published details of CSSF programmes in individual Territories. For a breakdown of this spending by year and its impact, see:

- [CSSF: Programme summaries 2020 to 2021](#), July 2021
- [CSSF: Programme summaries 2019 to 2020](#), November 2019
- [CSSF: Programme summaries 2018 to 2019](#), November 2018
- [CSSF: Programme summaries 2017 to 2018](#), July 2017

## 4.3

## Environmental funding

The list on environmental funding below is in addition to the environmental funding provided through the CSSF, such as the Blue Belt programme.

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<sup>85</sup> UK Government, [CCSE: OT governance programme summary 2020 to 2021](#), 15 July 2021

<sup>86</sup> UK Government, [CCSE: OT justice programme summary 2020 to 2021](#), 15 July 2021

<sup>87</sup> UK Government, [CSSF programme summaries for the OTs 2020 to 2021: Anguilla](#), 15 July 2021

<sup>88</sup> UK Government, [CSSF programme summaries for the OTs 2020 to 2021: Ascension](#), 15 July 2021

<sup>89</sup> UK Government, [CSSF programme summaries for the OTs 2020 to 2021: British Virgin Islands](#), 15 July 2021

The Commons Library briefing, [The UK OTs: Climate change and biodiversity](#), provides further information.

## Darwin Plus

[Darwin Plus](#) (also known as The Overseas Territories Environment and Climate Fund) is a competitive grant scheme that works to achieve long-term results for OT environments.

All OT Governments, civil society organisations, research bodies and private sector organisations are eligible to apply, regardless of whether the OT is eligible for aid.<sup>90</sup>

From 2012 to 2022, the UK provided £38 million to 180 projects in the Territories on environmental projects. These included collecting scientific data on the invasive lionfish in Bermuda, and developing a related management plan, and increased monitoring of penguin colonies in Antarctica.<sup>91</sup>

The Government has committed to making a further £30 million available over the next three years.<sup>92</sup>

## Blue Planet Fund

In June 2021, the UK Government announced the £500 million [Blue Planet Fund](#). It is aimed at lower-income states to protect their marine environments and reduce poverty but will also support Territories eligible to receive UK aid.

Details are yet to be announced. It has four objectives: to improve biodiversity and support livelihoods; help recipients adapt to, and manage, climate change; reduce marine pollution; and ensuring seafood is sustainable. Programmes will include delivering marine science technical assistance, action on plastic, and funds for coral reefs.

The programme will run for at least five years.<sup>93</sup>

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<sup>90</sup> FCDO and DEFRA, [Darwin Plus: Environment funding for the OTs](#), updated 24 August 2021

<sup>91</sup> Commons Library briefing, [The UK OTs: Climate change and biodiversity](#), CBP 9290, p29

<sup>92</sup> PQ 3573 [on [Environmental Protection: British OTs](#)], 24 May 2022

<sup>93</sup> FCDO and DEFRA, [Blue planet fund](#), 5 November 2021

## 5 Overseas Territories' trade

### 5.1 Are Overseas Territories part of UK trade agreements?

Whereas the UK Government is responsible for the external relations of Overseas Territories, they are not automatically covered by the UK free trade agreements (FTAs). While in trade negotiations, the Government's position is to seek "trade outcomes that support British Overseas Territories' economic interests, and which reflect their unique characteristics," Overseas Territories can ask, or agree to, their inclusion in a trade deal should they choose.<sup>94</sup>

Foreign, Commonwealth & Development Office (FCDO) [guidance on UK treaties](#) explains that unless expressly authorised by the UK Government, Territories do not have authority to be a party to a Treaty in their own right:

Crown Dependencies [Guernsey, Jersey and the Isle of Man] and Overseas Territories do not have the authority to become a party to treaties in their own right. The UK must extend the territorial scope of its ratification of treaties to include them. This is normally done either at the time of ratification, or at some later date.<sup>95</sup>

Neither can the Government compel a Territory to request extension of an agreement to cover that Territory. It will instead present arguments to encourage the OT when deemed beneficial.

The UK is also ultimately responsible for fulfilling agreement obligations under international law, which involves assessing whether an Overseas Territory is willing to accept a Treaty and can implement its obligations.

The Government aims to consult OTs at the earliest stage of negotiations and allow them a sufficient length of time to consider what having a trade agreement extended to them would mean. Where appropriate, the Government may seek the input of an OT to shape its negotiating position.<sup>96</sup>

To cover all OTs or a particular Territory, a UK free trade agreement will include an [extension mechanism](#) (PDF).<sup>97</sup>

<sup>94</sup> PQ 152448 [[Trade Agreements: India](#)], 25 February 2021

<sup>95</sup> Foreign & Commonwealth Office (FCO)/ FCDO, [Guidance: UK Treaties](#), updated July 2019

<sup>96</sup> FCO/ FCDO, [Guidelines on extension of treaties to overseas territories](#), updated November 2019

<sup>97</sup> PQ 11664 [[Overseas Trade: British Overseas Territories](#)], 13 June 2022

## UK trade continuity agreements

As an EU Member State, the UK was part of the EU's free trade agreements with third countries. To preserve the existing trade ties with those countries, the UK has concluded independent bilateral free trade agreements, referred to as continuity or roll-over agreements. These agreements entered into force after the end of the transition period. For an overview of the UK trade continuity agreements see GOV.UK, [UK trade agreements with non-EU countries](#).

The UK Government said that by negotiating trading relationships with partners around the world it will continue to represent the interests of the OTs, engage with them “meaningfully,” and take their interests into account.<sup>98</sup>

The territorial application articles of continuity trade agreements generally ensure that an agreement has the same territorial extent and coverage as the EU free trade agreement it has replaced.<sup>99</sup> In some cases the OTs are covered only by parts of an agreement.<sup>100</sup>

Some agreements, such as the UK Comprehensive Economic Partnership agreement with Japan (UK-Japan CEPA), include a mechanism allowing the agreement's provisions to be extended to the Crown Dependencies and Overseas Territories at the point of ratification or any time thereafter.<sup>101</sup>

## New UK trade agreements

The Government has said it will consider the interests of the Territories when negotiating new trading relationships with partners around the world.<sup>102</sup>

The UK has concluded its first new free trade agreements with [Australia](#) and [New Zealand](#), and is in negotiation with the US, India, and [other partners](#).

The Government has also started negotiations to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) of 11 states

<sup>98</sup> FCDO, [2021 UK-OT Joint ministerial Council 2020](#), 27 November 2020, 'Exit from EU'

<sup>99</sup> See for example, for the UK-Canada Trade Continuity Agreement, Department for International Trade (DIT), [Continuing the UK's trade relationship with Canada: parliamentary report](#), 10 December 2020, paras 42-44. According to DIT [Continuing the UK's Trade Relationship with the Republic of Korea: parliamentary report](#) (paras 40-41), the UK-Korea FTA extends to Gibraltar, the Channel Islands and the Isle of Man, but not to OTs.

<sup>100</sup> For example, under the UK Economic Partnership Agreement with the CARIFORUM States and the Interim Economic Partnership Agreement with Pacific States, the OTs are covered by some specific provisions in relation to goods trade, that is on [cumulation with respect to rules of origin](#). See DIT, [Continuing the UK's trade relationship with the CARIFORUM States. Parliamentary report](#), May 2019, para 53; DIT, [Continuing the United Kingdom's trade relationship with the Republic of Fiji and the Independent State of Papua New Guinea \(“the Pacific States”\)](#). Parliamentary Report, March 2019

<sup>101</sup> DIT, [The United Kingdom's future trading relationship with Japan: Parliamentary report](#), para 30; See Article 1.3.5. of [UK-Japan CEPA](#).

<sup>102</sup> FCDO, [2021 UK-OT Joint ministerial Council 2020](#), 27 November 2020, 'Exit from EU'

around the Pacific. For an up-to-date list see the Library briefing, [Progress on UK free trade agreement negotiations](#).<sup>103</sup>

The UK's FTA with Australia, agreed in December 2021, includes an extension mechanism for Crown Dependencies and Overseas Territories. Parts of the agreement will be applied to specific Territories once extension negotiations with Australia are completed and the necessary implementing legislation for the Territories has been passed.<sup>104</sup>

The UK agreement with New Zealand, signed on 28 March 2022, includes similar provisions and mechanisms.<sup>105</sup>

## 5.2 Trade between the UK and its OTs

In 2021:

- The UK exported **£7.8 billion** of goods and services to UK Overseas Territories and **imported £1.8 billion**, resulting in a trade surplus of £5.9 billion. This was composed of a surplus in goods of £0.7 billion and a surplus in services of £7.1 billion.
- **Overseas Territories accounted for 1.2% of UK exports and 0.3% of imports.** Taken as a single entity, UK Overseas Territories were the UK's 22<sup>nd</sup> largest export market and 47<sup>th</sup> largest source of imports.
- **Services** made up 92% of the UK's total trade with the Overseas Territories (ie, the combined value of exports and imports).
- Taken as a single entity, the Territories were the **UK's 9<sup>th</sup> largest export market for services**, accounting for 2.3% of UK service exports and 24<sup>th</sup> largest source of imported services, accounting for 1.0% of UK service imports.

The table below breaks down UK trade with the OTs in 2021 by import and export. The Cayman Islands received the most UK exports of all the OTs, and most imports came from Bermuda.

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<sup>103</sup> Commons Library Briefing, [Progress on UK free trade agreement negotiations](#), CBP-9314

<sup>104</sup> UK-Australia FTA, Article 32.4. See Department for International Trade, [Explanatory memorandum on the Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and Australia \(PDF\)](#), para 6.2

<sup>105</sup> UK-New Zealand FTA, [Article 33.6](#)

## UK trade with British Overseas Territories, 2021

£ millions, goods and services

	Exports	Imports	Balance
Cayman Islands	3,287	115	3,172
Bermuda	2,125	926	1,199
Gibraltar	1,680	765	915
British Virgin Islands	557	30	527
Falkland Islands	95	12	83
St. Helena	22	0	22
Turks & Caicos Islands	17	0	17
Anguilla	6	1	5
British Indian Ocean Territory	3	0	3
Montserrat	0	0	0
Pitcairn	0	0	0
South Georgia	0	0	0
<b>Total</b>	<b>7,792</b>	<b>1,849</b>	<b>5,943</b>

Source: ONS, [UK total trade: all countries](#)

Official statistics did not record the UK as undertaking any trade with Montserrat, Pitcairn and South Georgia, as well as no import trade with St. Helena and the Turks and Caicos Islands – trade with a value of under £1 million is not recorded in official statistics.

UK trade with the Territories is heavily concentrated on a small number of Territories – the Cayman Islands, Bermuda and Gibraltar accounted for 91% of UK exports to and 98% of UK imports from UK OTs.

## Trade in services dominates

Trade with these Territories is heavily concentrated on services rather than goods – 98% of UK exports to and 100% of UK imports from the Cayman Islands were services.

## UK trade with British Overseas Territories, 2021

% total, goods and services

	Exports		Imports	
	Goods	Services	Goods	Services
Cayman Islands	2%	98%	0%	100%
Bermuda	9%	91%	0%	100%
Gibraltar	24%	76%	1%	99%

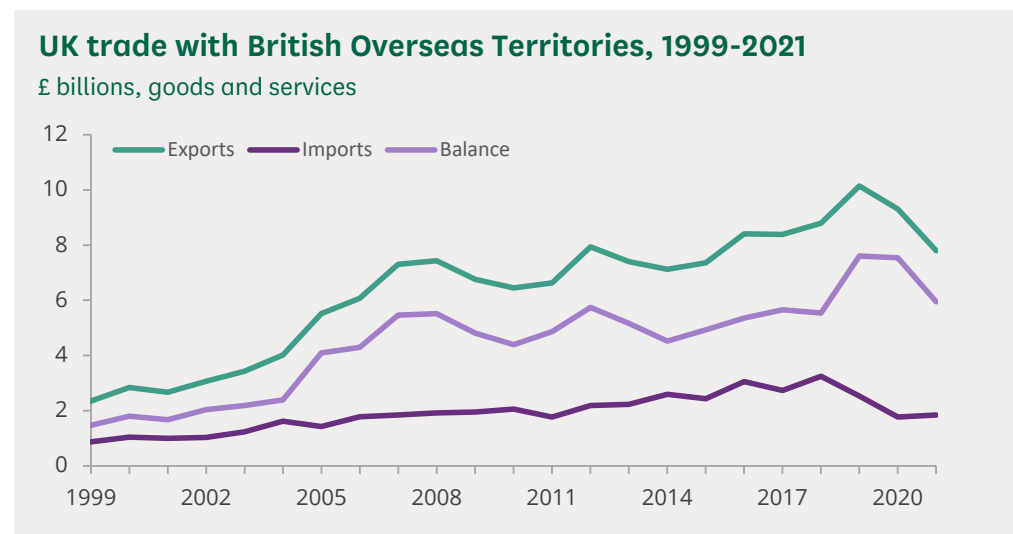
Source: ONS, [UK total trade: all countries](#)



Data on trade between the UK and Overseas Territories by type of service is not available, though data on total trade suggests this is concentrated on financial services, other business services and insurance and pension services.<sup>106</sup>

## Recent trends in UK-OT trade

The UK has recorded a trade surplus with the OTs every year since 1999 (the longest period for which comparable data is available), the largest being £7.6 billion in 2019. In cash terms, the value of UK exports to the Territories peaked at £10.1 billion in 2019, while the value of UK imports from the OTs peaked at £3.3 billion in 2018.



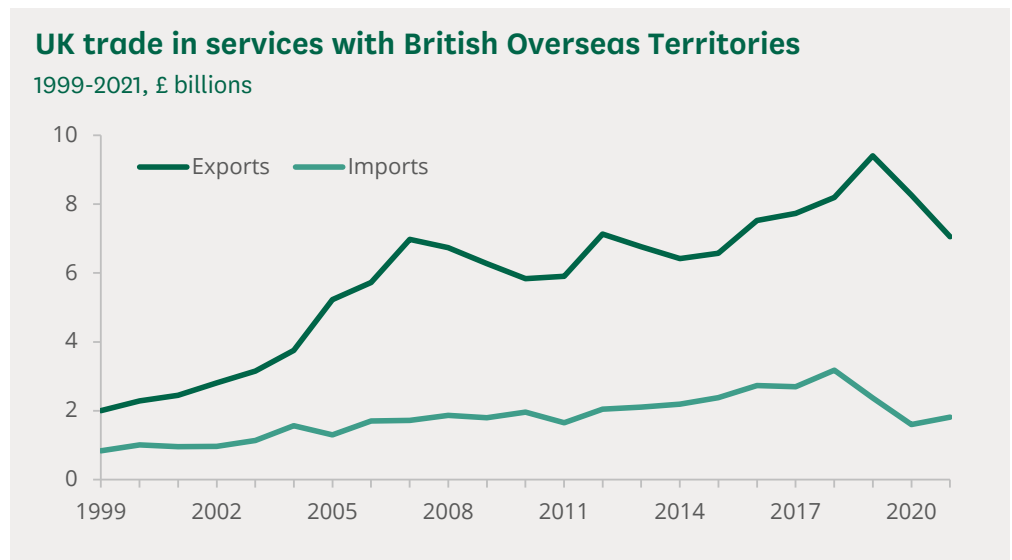
Source: ONS, [UK total trade: all countries](#)

In general, the value of UK trade fell markedly between 2019 and 2020 owing to disruptions in international trade caused by the coronavirus pandemic – in cash terms, the value of all UK exports to the OTs fell by 13% between 2019 and 2020, while the value of imports fell by 16%.

The value of UK exports to the Overseas Territories fell by 8% in cash terms between 2019 and 2020 and by a further 16% between 2020 and 2021; the value of UK imports from the OTs fell by 30% in cash terms between 2019 and 2020 before growing by 5% between 2020 and 2021.

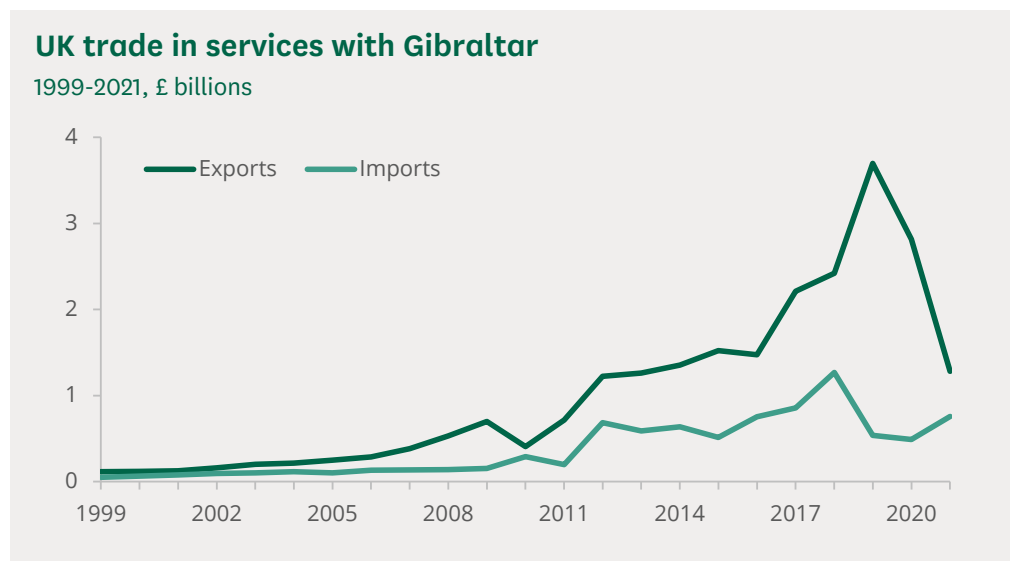
The fall in the value of UK trade with the OTs since 2019 has been more pronounced in services than goods. In 2021, compared to 2019, the value of UK service exports to the Overseas Territories was 25% lower in cash terms, while the value of service imports from the UK OTs was 23% lower.

<sup>106</sup> “Other business services” includes legal, accounting, advertising, research and development, architectural, engineering and other professional and technical services



Source: ONS, [UK total trade: all countries](#)

Most of this fall can be accounted for by the fall in UK trade in services with Gibraltar– in cash terms, the value of UK service exports to Gibraltar has fallen by 65% between 2019 and 2021. In 2021, Gibraltar accounted for 18% of UK service exports to the Overseas Territories, compared to 34% in 2019.



Source: ONS, [UK total trade: all countries](#)

### Trade arrangements between the UK and OTs

Goods originating from the Territories have tariff and quota-free access to the UK market under the November 2020 [Arrangement for import duty on trade in goods from certain British Overseas Territories](#) (“the Arrangement,” link opens Word document).<sup>107</sup>

<sup>107</sup> This has been set out in the [Arrangement for import duty on trade in goods from certain British Overseas Territories \(9 November 2020\)](#) and implemented through the [Customs \(Tariff-Free Access](#)

The position of Gibraltar and Sovereign Base Areas in Cyprus is different and is covered in the UK-EU Trade and Cooperation Agreement (TCA). See sections 8 and 9.1, below.

For the UK OTs' trading relationship with the UK, the Arrangement has replaced the EU association agreement (see section 2.1 above) – [namely the EU Overseas Association Decision \(OAD\)](#) – which gave goods originating in the Overseas Territories tariff-free access to the EU (and the UK) market. The OAD ceased to apply to the UK and the covered UK Overseas Territories after the end of the transition period (31 December 2020).<sup>108</sup>

Considering their development needs, the Overseas Territories can choose to maintain duties or quantitative restrictions on imports of UK goods. However, UK imports may not be treated less favourably than imports from any other developed country.<sup>109</sup>

With respect to trade in services, the UK will generally offer persons and businesses of OTs terms no less favourable than the best terms available to UK trade agreement partners.

## 5.3 How much trade do the Territories have with the EU?

Data on UK Overseas Territories' trade with the EU is only available for trade in goods.

In 2021, the Overseas Territories exported US\$0.5 billion of goods to the EU and imported US\$2.0 billion, resulting in a trade deficit of -US\$1.5 billion. All British Overseas Territories except the Falkland Islands and Montserrat recorded a trade deficit in goods with the EU.

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[for Goods from British Overseas Territories \(EU EXIT\) Regulations 2020 No. 1434](#), made under sections 9 and 31(6) of the Taxation (Cross-border Trade) Act 2018

<sup>108</sup> [Arrangement for import duty on trade in goods from certain British Overseas Territories](#), 9 November 2020 (opens word document)

<sup>109</sup> As above, paras 5.1 -5.2

## British Overseas Territories trade with the EU

\$ millions, goods only

	Exports	Imports	Balance
Falkland Islands	291	58	233
Gibraltar	111	635	-524
Cayman Islands	25	865	-840
British Virgin Islands	8	255	-246
Bermuda	6	125	-118
Saint Helena	3	4	-1
Montserrat	2	1	1
Turks and Caicos Islands	0	16	-16
Anguilla	0	15	-15
<b>Total</b>	<b>449</b>	<b>1,975</b>	<b>-1,526</b>

Source: [UNCTAD](#)

As the table above shows, trade between the EU and UK OTs is concentrated on a small number of Territories – the Falkland Islands accounted for 65% of British Overseas Territories' goods exports to the EU, while Gibraltar accounted for 25%.

Both Territories' goods exports were heavily focused on the EU. The Falkland Islands exported 92% of its goods exports to the EU in 2021 and Gibraltar's exported 74%.

In 2021, fish accounted for 97% of the Falkland Islands' total goods exports to the EU. Most of this, 98%, was to Spain.<sup>110</sup>

Several other Overseas Territories depend on trade with the EU. This includes exports of honey from the Pitcairn Islands, fish from Anguilla, and lobster from Tristan da Cunha.<sup>111</sup>

Of the goods imported from the EU to the OTs, 76% went to Gibraltar and the Cayman Islands combined. The Cayman Islands sent 66% of its goods imports in 2021 to the EU, and 76% of Gibraltar's goods imports went to the EU.<sup>112</sup>

## No tariff-free access to the EU market

At the start of the UK-EU future relationship negotiations, the UK Government said that with any free trade agreement with the EU, it will negotiate on

<sup>110</sup> [UNCTAD](#)

<sup>111</sup> HL European Union Committee, [Letter of Lord Jay of Ewelme to Rt Hon David Davis, Secretary of State for Exiting the European Union](#) (PDF), 13 September 2017, paras 21-26

<sup>112</sup> [UNCTAD](#)

behalf of the Territories and “seek outcomes that support their security and economies.”<sup>113</sup>

However, the EU’s disagreed with including the Overseas Territories in the UK-EU Trade and Cooperation Agreement, and they lost tariff-free access to the EU market (see further section 2.4 above).

The OTs are not part of the updated Overseas Association Decision which the EU concluded with its overseas territories in October 2021. However, most non-European OTs, save the Falkland Islands and Tristan da Cunha, have little substantive trade with the EU.<sup>114</sup>

The UK Government has said it continues to support the Falkland Islands and other Overseas Territories to mitigate against the impact of tariffs on their exports to the EU, and to allow them benefit from the UK’s new trade opportunities.<sup>115</sup>

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<sup>113</sup> PQ 20455 [on [Falkland Islands: Trade with EU](#)], 4 March 2020

<sup>114</sup> [Council Decision \(EU\) 2021/1764](#) on the association of the Overseas Countries and Territories with the European Union including relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other (Decision on the Overseas Association, including Greenland), 5 October 2021

<sup>115</sup> [PQ 33160 \[Falkland Islands: EU External Trade\]](#), 21 July 2021; [PQ 6711 \[Anguilla: Trade Agreements\]](#), 31 May 2022

## 6 Sectoral impacts: Financial services and fishing

The Territories have diverse economies—here we focus two sectors.

### 6.1 Financial Services

Financial services are particularly significant to the economies of some Overseas Territories. Note those in the Caribbean may be more focused on American markets than European:

- **British Virgin Islands:** International business and finance contributed 33% of Gross Value Added (GVA) in 2014. GVA is [similar economic measurement to Gross Domestic Product \(GDP\)](#).<sup>116</sup>
- **Cayman Islands:** Financial and insurance services contributed 30% of GDP in 2019.<sup>117</sup>
- **Bermuda:** Financial and insurance services were the second-largest contributor to GDP in 2020, at 14.3% of GDP or US\$1.1 billion.<sup>118</sup> The European market is particularly important to Bermuda: In 2011 Bermudan companies wrote 20% of European property catastrophe reinsurance.<sup>119</sup>
- **Gibraltar:** Up to 40% of its GDP is related to financial services and online gaming.<sup>120</sup> Its Government says 90% of its financial services business in the EU single market was with the UK market.<sup>121</sup>

### The significance of the UK's departure is mixed

Some Territories were more engaged with the EU than others: For example, Bermuda had already aligned part of its financial system with the EU by

<sup>116</sup> Capital Economies, [Creating value: The BVI's global contribution](#), 2017, p49

<sup>117</sup> Cayman Islands Government, [The Cayman Islands' economic assessment and stimulus plan](#), 2020, p6

<sup>118</sup> Government of Bermuda, [National economic report of Bermuda](#), 2020 (PDF), p2

<sup>119</sup> European Insurance and Occupational Pensions Authority, [Advice to the European Commission, October 2011](#) (PDF), para 19

<sup>120</sup> European Union Committee, [Brexit: Gibraltar](#), HL 116, 2016-17, 1 March 2017, para 15

<sup>121</sup> Gibraltar Chronicle, [UK guarantees Gibraltar's post-Brexit access for financial services and gaming](#), 8 March 2018, access 5 July 2022

[reaching equivalence](#) in its insurance under the [Solvency II financial regime](#). The Bermudian Government says the UK withdrawal will not affect this.<sup>122</sup>

Equivalence is a system which can be used to grant domestic market access to foreign firms in certain areas of financial services. It's based on the principle that the countries where they are based have regimes which are 'equivalent' in outcome.

Concerns in Anguilla, the British Virgin Islands and Bermuda have primarily focused on the loss of a UK and OT voice in EU financial discussions, rather than any immediate economic impact.<sup>123</sup>

Several OTs have in the past, or continue to be, listed by the EU as non-cooperative jurisdictions. These have included Anguilla, Bermuda, the British Virgin Islands, Cayman Islands, Montserrat and the Turks and Caicos Islands.<sup>124</sup> This list highlights Territories and countries considered by the European Commission to not comply with international tax standards and transparency.

To be removed from the list, the Territories and countries must be judged by the Commission to have made progress on transparency and taxation. Steps EU members may take include reinforced monitoring and auditing of those who benefit, or use, the tax regimes of these countries and Territories.<sup>125</sup>

## 6.2

## Fisheries

### Falklands

The Falkland Islands Government has raised concerns that the loss of quota-free and tariff-free access to EU markets could cause "significant damage" to its economy. In 2017, it told the House of Lords EU Committee that:

- The Falkland Islands fishing industry is the Territory's largest: At between 35% and 48% of GDP (it varies from year to year).
- Annually, it exports around £120 million fishery products to the EU. Spain absorbs 80% of this.
- It expected import tariffs of between 6% on loligo (squid) and 15% on toothfish, reducing the competitiveness of the industry.

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<sup>122</sup> Government of Bermuda, [EU referendum—UK withdrawal from the EU](#), 24 June 2016; European Commission, [Solvency II overview-FAQs](#), 12 January 2015

<sup>123</sup> [House of Lords EU Committee to Secretary of State for Exiting the EU](#), 13 September 2017 (PDF), paras 27-9

<sup>124</sup> European Council, [Evolution of EU list of non-cooperative jurisdictions for tax purposes](#) (PDF), updated 24 February 2022

<sup>125</sup> European Council, [EU list of non-cooperative jurisdictions for tax purposes](#), accessed 7 July 2022

- Any decline would therefore have a significant impact on government revenues.<sup>126</sup>

The strength of the Islands' fisheries is also partly dependent on joint ventures with Spanish companies.<sup>127</sup> In 2017, The Falklands Government estimated that with import tariffs, the Falkland Islands' fishing industry would lose £8 million per year in the loligo market alone. It hoped for a trade agreement.<sup>128</sup>

## Tristan da Cunha

Fishing represents 75% of the islands' economy. Tristan da Cunha was first able to sell its lobsters in the EU in 2014. This was tariff-free.<sup>129</sup> This constituted 9% of the Territory's overall exports in 2014.<sup>130</sup>

## Anguilla

For Anguilla, French and Dutch St Martin were its main market for fish. Anguilla's Government also hoped to access the EU market to facilitate trade after Brexit.<sup>131</sup>

## The significance of Brexit

The Falkland Islands Fisheries Association said the profitability of its sector will be affected as the OTs are not included in the EU-UK Trade and Cooperation Agreement. In 2021, it said it was working with the Falklands Government to address this.<sup>132</sup>

Derek Twigg, Chair of the All-Party Parliamentary Group on the Falklands, has echoed these concerns. In 2022, the Falkland Islands Government said it had been in discussions with Spain and had made "some limited progress" in seeing tariffs removed for a "small proportion" of its exports.<sup>133</sup>

The UK Government has said it has provided technical assistance to the Falklands to help them manage the application of EU import tariffs.<sup>134</sup>

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<sup>126</sup> [Supplementary written evidence from the Falkland Islands Government to the Lords EU Select Committee](#), OST0004, 19 July 2017

<sup>127</sup> Peter Clegg, [The UK and its OTs: Still a "benevolent patron"?](#), Small States & Territories, vol 1, 2018, pp149-68, at p5 (PDF page numbering)

<sup>128</sup> [House of Lords EU Exit Committee to the Secretary of State for Exiting the EU](#), 13 September 2017 (PDF), para 22

<sup>129</sup> Tristan da Cunha, [Tristan Lobster gains access to EU markets](#), accessed 8 July 2022

<sup>130</sup> [House of Lords EU Committee to the Secretary of State for Exiting the EU](#), 13 September 2017 (PDF), para 25

<sup>131</sup> As above, para 24

<sup>132</sup> Merco Press, [Falkland fishing companies anticipated the instant impact of the Brexit deal](#), 8 January 2021

<sup>133</sup> Independent, [Brexit has "brought problems" Falkland Islands' fishing industry. MP warns](#), 18 April 2022

<sup>134</sup> [Government response to the Lords EU Committee's 21 report of session 2019-20](#), July 2021 (PDF), p3



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# 7 UK sovereignty of the Falklands

## 7.1 Background

The Falklands are a UK OT, which are also claimed by Argentina, which calls them Las Malvinas. The dispute between the two countries escalated into conflict when Argentina invaded the Falkland Islands in 1982.

Successive UK Governments have denied Argentine claims and emphasise the right of the Falklands to self-determination.

For more on the UK, Falkland and Argentine Government positions, see the Lords Library note [Sovereignty since the ceasefire: The Falklands 40 years on](#), June 2022.

## 7.2 The EU and the Falklands

[Annex II of the Treaty on the Functioning of the European Union](#) recognised the Falkland Islands as an Overseas Territory of the UK.

The Falkland Islands Government considered UK membership of the EU to offer “considerable certainty and support from EU member states” and during the 2016 referendum campaign suggested that:

Were the UK no longer a member of the EU, that support would be much less certain from a large number of those EU member states and might encourage Argentina to be much more aggressive in its approach.<sup>135</sup>

In February 2022 the Argentinian Government said it “expected more support from the European Union on the Malvinas issue after Brexit.”<sup>136</sup> The EU has not set out a position on the sovereignty dispute.

In 2021, the UK Government’s Integrated Review and associated Defence Command Paper confirmed the UK will “continue to defend the UK’s sovereignty of the Falkland Islands” and will maintain a permanent military presence there.<sup>137</sup>

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<sup>135</sup> Falkland Islands Government, [Submission to the Foreign Affairs Select Committee on the issue of the EU referendum](#), April 2016

<sup>136</sup> South Atlantic News Agency, [“Argentina expects more support from the EU on the Malvinas issue”](#), 5 February 2022

<sup>137</sup> HM Government, [Global Britain in a competitive age \(PDF\)](#), CP403, March 2021, p.64

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## 8 Gibraltar and the EU

### 8.1 Background

Gibraltar was ceded by Spain to Britain under [Article X](#) of the 1713 Treaty of Utrecht.

Greater domestic responsibilities were given to the Gibraltar Government by a new constitution in 2006. It has a high level of internal self-government, but the UK Government is responsible for Gibraltar's external affairs. This includes its international borders.<sup>138</sup>

### 8.2 Relations with Spain

In recent years, reclaiming Gibraltar by peaceful means has been Spanish Government policy.<sup>139</sup> Spain has also proposed shared or joint sovereignty with Britain.<sup>140</sup>

Successive UK governments, including the present one, have maintained the position they will never transfer the sovereignty of Gibraltar against the wishes of the people of Gibraltar.

The border between Spain and Gibraltar was closed between 1969 and 1985, shortly before Spain joined the then European Community (EC).

European free movement rules meant that the border was open after Spain joined the EC. In preparation for Spain becoming a member of the EC, Spain and the UK signed the [Brussels Agreement](#) in 1984. This provided for discussions between the UK and Spain on topics including sovereignty. In these discussions, known as the Brussels process, Spain proposed integrating Gibraltar into Spain. This included a proposal for an indefinite transitional period of joint sovereignty.<sup>141</sup>

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<sup>138</sup> Europa World, [Gibraltar: History](#), accessed 29 March 2022

<sup>139</sup> The basis for the Spanish claim is clarified on the Spanish Ministry for Foreign Affairs and Cooperation website, [History and Legal Aspects of the Dispute](#), accessed 29 March 2022

<sup>140</sup> See Gibraltar Chronicle, 5 October 2016, [Picardo says 'no' as Spain pitches joint sovereignty at UN](#); also Gibraltar Panorama, 8 July 2016, [A short history on 'joint sovereignty'](#), Joe Caruana, accessed 29 March 2022

<sup>141</sup> Foreign Affairs Committee, [Gibraltar: Time to get off the fence](#), 24 June 2014.

The Brussels process was revived in 2001 and a proposal for shared UK-Spanish sovereignty over Gibraltar was put to the people of Gibraltar in a 2002 referendum. 99% of voters in Gibraltar rejected the proposal.<sup>142</sup>

There were various attempts to revive talks and establish a new forum for dialogue on Gibraltar between the 2002 referendum and the UK decision to leave the EU in 2016, which added a new dimension to talks.

### Further reading

For more detail on Gibraltar's status, political system and former status within the EU see Commons Library Briefing Paper, [Brexit and Gibraltar](#).

## 8.3

### Impact of Brexit on Gibraltar

Gibraltar joined the then European Community in 1973 as an external European territory of the UK. Gibraltar was exempted from the Customs Union and EU external trade policy and certain other provisions, but otherwise enjoyed full access to the single market.

Gibraltarians took part in the EU referendum in 2016 and voted overwhelmingly (96% in favour) to remain in the EU. During the Brexit negotiations, the UK Government insisted that Gibraltar's constitutional status post-Brexit would remain secure, and the Spanish Government confirmed that sovereignty was not part of the negotiations.

### Withdrawal Agreement

The UK-EU Withdrawal Agreement (WA) included a Protocol on Gibraltar, followed by Memorandums of Understandings adopted in November 2018.<sup>143</sup>

At the insistence of the Spanish Government, Gibraltar was not covered in the negotiations on a new UK-EU agreement which culminated in the UK-EU Trade and Cooperation Agreement (TCA) in December 2020. Instead, a separate agreement would be negotiated, with the prior agreement of Spain.

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<sup>142</sup> The results were as follows: "18,176 voted representing 87.9% of the electorate. There were 89 papers spoilt of which 72 were blank 18,087 of which 187 Voted YES, and 17,900 voted NO", [Gibnet.com](#), accessed 29 March 2022.

<sup>143</sup> For further detail on the Protocol on Gibraltar, Memorandums of Understanding and background see: Section 9.2 of the Commons Library Briefing Paper on the November 2018 Withdrawal Agreement, [The UK's EU Withdrawal Agreement](#), CBP8453.

## Negotiations on the future EU-Gibraltar relationship

Discussions between the UK and Spain were held in parallel to the negotiations on the TCA, leading to a non-binding framework agreement on 31 December 2020.

This was intended as the basis of negotiations between the UK and EU on an agreement relating to Gibraltar. The framework agreement included a provision for Gibraltar to become part of the EU internal border-free Schengen area. Physical infrastructure and barriers to the movement of goods and people at the Gibraltar-Spain border would be removed.<sup>144</sup>

Some bridging arrangements remain in place between Gibraltar and the EU following the end of the Brexit transition period on 31 December 2020.

The EU subsequently published its proposals for talks in July 2021. These were met with objections from both the UK and Gibraltar Governments.<sup>145</sup> The EU proposals involved:

- A role for Spanish officials in carrying out border checks on Gibraltar territory (the EU later modified this proposal).
- Spain being responsible for issuing residence permits and visas in respect of Gibraltar.
- Gibraltar's adherence to a large body of EU single market legislation and Schengen and law enforcement rules.
- Oversight by the European Commission and EU Court of Justice.

The UK Government described some of these proposals as “unnecessary and clearly disproportionate.”<sup>146</sup>

Negotiations began in October 2021 and have continued into 2022. There had been indications that an agreement might be ready by Easter 2022, but this did not materialise.<sup>147</sup>

### 2022 negotiations

Following the eighth round of negotiations in May 2022, the Chief Minister of Gibraltar, Fabian Picardo, made a statement to the Gibraltar Parliament and indicated that there would need to be at least two more rounds of formal

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<sup>144</sup> El Pais, [Gibraltar after Brexit: Spain, UK reach 'preliminary agreement' that will see an end to the border with Gibraltar](#), 31 December 2020, accessed 29 March 2022

<sup>145</sup> Wendy Morton MP, Minister for European and the Americas, [Letter to the Chair of European Scrutiny Committee: Negotiations with the European Union in respect of Gibraltar](#), 13 October 2021

<sup>146</sup> Council of EU, [EU-UK relations: Council authorises the start of negotiations for an agreement in respect of Gibraltar](#), 5 October 2021, accessed 29 March 2022

<sup>147</sup> Politico, [Post-Brexit talks on Gibraltar's future drag into 2022](#), 16 December 2021, accessed 29 March 2022

negotiations. He said there had been positive progress in recent weeks. He said that no text had yet been agreed, but that principles were being refined.

The Chief Minister said the key issue to be resolved was arrangements for checks on persons entering the Schengen area via Gibraltar.

As set out in the framework agreement in December 2020, Spanish officials would have responsibility for carrying out checks on people entering the Schengen area via the entry points in Gibraltar. This would prevent any need for checks at the border between Spain and Gibraltar. Spanish officials would be assisted in doing this by the EU Frontex border agency for an initial four-years. The practicalities of implementing these arrangements still however needed to be agreed.<sup>148</sup>

There has been speculation that the EU may halt talks, or hold back on finalising an agreement, in response to the UK's decision to [make unilateral changes to the Northern Ireland Protocol](#) of the Withdrawal Agreement.<sup>149</sup>

There have also been reports in recent months of the Spanish authorities implementing stricter checks on people crossing the border from Gibraltar. This included denying entry to UK nationals with temporary resident permits in Gibraltar.<sup>150</sup> The matter has been raised with the UK Government by the House of Commons European Scrutiny Committee.<sup>151</sup>

## Further reading on the EU and Gibraltar

- European Union Committee, [Brexit: Gibraltar](#), HL 116, 2016-17, 1 March 2017
- Commons Library, [Brexit and Gibraltar](#), May 2017
- Commons Library, [Brexit: Gibraltar update](#), April 2018
- Northern Ireland Assembly Research, [Gibraltar after the UK's exit from the EU: A comparison with Northern Ireland](#), June 2021

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<sup>148</sup> Gibraltar Government, [Chief Minister's Statement to Parliament: UK/EU Treaty negotiations - 341/2022](#), 16 May 2022

<sup>149</sup> GBC online, [As tensions rise between the EU & UK over the Northern Ireland protocol, could Gibraltar's treaty talks be halted?](#), 11 May 2022

<sup>150</sup> SUR in English, [More stringent controls being carried out by Spanish police at the Gibraltar border](#), 19 April 2022

<sup>151</sup> European Scrutiny Committee, [Negotiations with EU over Gibraltar border 'no small issue': MPs launch inquiry](#), 9 June 2022. See also [letter from The Rt Hon. James Cleverly MP Minister of State Europe and North Americas to the Chair of the European Scrutiny Committee](#), 30 May 2022 (PDF)

## 8.4

# UK defence of Gibraltar

The UK continues to maintain a permanent joint military presence of approximately 1,100 personnel in Gibraltar (British Forces Gibraltar) and maintains a Forward Mounting Base there. This includes:

- Her Majesty's Naval Base Gibraltar, home to the Royal Navy Gibraltar Squadron, which contributes to maritime security operations around the strategically vital Straits and helps assure the integrity of British Gibraltar Territorial Waters.
- RAF Gibraltar, which supports contingent operations as well as providing Gibraltar with its international airport.
- The [Royal Gibraltar Regiment](#), a light infantry battalion that provides security and force protection for the forward mounting base, and contributes to the protection of Gibraltar.

The bases communication systems, runway facilities and harbour also make it an important base for NATO.<sup>152</sup>

The UK Government's 2021 Integrated Review highlighted the need to "continue to deter and challenge incursions in British Gibraltar Territorial Waters."<sup>153</sup>

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<sup>152</sup> Further information is available at: [The British Army in Gibraltar](#).

<sup>153</sup> HM Government, [Global Britain in a Competitive Age](#), CP403, p71

## 9

# UK defence of the OTs

## UK responsibility

Defending the Overseas Territories, including their territorial waters, airspace and maritime zones is a standing military task of the Armed Forces, reiterated in the [2021 Integrated Review](#). Permanent UK military forces are based in the Falkland Islands, Gibraltar, the British Indian Ocean Territory and in the Sovereign Base Areas in Cyprus.

### Significance of EU membership was limited

The UK's membership of the EU and its participation in the EU's Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP) had little impact on the UK Government's sovereign responsibility for the OTs.

From a military perspective, therefore, the UK's departure from the EU has had relatively little affect. With the exception of Falkland Islands sovereignty, the primary concern has been economic security, access to markets (see above) and the status of Cypriots living in the Sovereign Base Areas.

## 9.1

### Sovereign Base Areas – Cyprus

When Cyprus became independent in 1960, the UK retained the two main military bases of Akrotiri (the 'Western Sovereign Base Area') and Dhekelia (the 'Eastern Sovereign Base Area') and surrounding land as Sovereign Bases and Overseas Territories of the UK.

They were recognised as such by Cyprus, Greece and Turkey in the [Treaty of Guarantee](#).<sup>154</sup> The UK's sovereignty and controls of the Sovereign Bases Areas (SBAs), therefore, is unaffected by Brexit.

However, when Cyprus joined the EU in 2004, the arrangements between the UK and Cyprus for managing issues like customs, taxes and the movement of people needed to be formalised and amended in international law.

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<sup>154</sup> UK, Greece, Turkey and Cyprus, [Treaty of Guarantee](#), 16 August 1960

This was done in [Protocol 3](#) attached to Cyprus's 2003 Treaty of Accession to the EU. This agreement was premised on both the UK and the EU being members of the EU.<sup>155</sup>

To ensure the continuity of existing agreements in and around the SBAs from the end of the transition period, the [Withdrawal Agreement between the EU and the UK](#) contains a Protocol on the SBAs.<sup>156</sup>

The Protocol covers areas such as EU data protection laws, taxation, goods, agriculture, fisheries, and veterinary and phytosanitary rules.

There are exceptions for the UK military. For example:

- Checks on goods entering and exiting the SBAs will be done by the Cypriot authorities (as the SBAs will remain in the EU's customs territory),
- Military goods and the personal goods of UK military personnel will be checked by the SBA authorities.
- Existing relief and exemptions from duties and taxes that apply to UK Armed Forces and associated personnel have continued after Brexit (eg, goods or services imported for use by UK military or civilian staff or for supplying their canteens).
- While the Protocol confers responsibility on Cyprus for the implementation and enforcement of EU law in relation to most of the areas covered, security and military affairs are excepted.
- The Protocol also ensures that Cypriot civilians living and working in the SBA areas do not lose any rights, and the laws applicable to them are the same as the laws of Cyprus.

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<sup>155</sup> [Act concerning the conditions of accession of the \[...\] Republic of Cyprus \[...\]—Protocol No 3](#), 2003

<sup>156</sup> Department for Exiting the EU, [New withdrawal agreement and political declaration](#), October 2019: Protocol relating to the SBAs




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