



Free Trade and Cooperation Agreement EU/UK

Briefing note

The new Free Trade Agreement (FTA) between the EU and the UK is in place since the 1st of January 2021.

Firstly, the agreement covers the free trade of goods. For goods, there will be no tariffs or quota. However, products will have to respect standards or a legal framework which may diverge. For this reason, checks at the borders, as well as additional paperwork, have been introduced. This is already resulting in some difficulties and increased costs for some sectors.

For services, the agreement does not provide for direct & complete free access. There is no automatic recognition of services or qualification of service providers and some restrictions are in place, however the scope for the free movement of services the agreement foresees "openness beyond international agreements" including a wide range of professional and business services (e.g. legal, auditing, architectural services), delivery and telecommunication services, computer-related and digital services, financial services, research and development services, most transport services and environmental services. Furthermore, the scope of the Agreement applies to investments in sectors other than services such as manufacturing, agriculture, forestry, fisheries, energy and other primary industries. Among the exceptions to the scope of liberalization there are public services and services of general interest; some transport services as well as audiovisual services.

Furthermore, the EU has not (yet) adopted on its so-called "equivalence" decisions and therefore, open access for UK operators and providers to the EU financial services market is therefore no longer possible under the EU passporting rights, and UK service providers can only provide such services in the EU if they have relocated their relevant business to the EU.

The Free Trade Agreement also regulates the cooperation in other areas, such as environment and climate change, fisheries (for 5 years), social and labour rights (including some specific rights for nationals who travel to, or work or live on the other side of the Channel, with the introduction of a visa plan for stays longer than 90 days in a 180 days period), level playing field in the area of competition (in particular to avoid state aid or taxation measures that would unduly distort competition), public procurement, intellectual property rights, transport (including aviation), energy, as well as the participation of the UK in some EU programs, provided it contributes to the EU budget. Finally, the deal also comprises provisions on governance and establishes a Joint Partnership Council for interpreting the deal and settling the (very likely) disputes.



Some areas of the EU/UK relations are still to be defined in detail, for instance how the exchange and access to data flow will be shaped; the participation of the UK into Europol, or the access to security databases or data protection, where "adequacy" decisions have not been adopted yet. This means for instance that the flow of data from the EU to the UK is subject to restrictions and will require compliance with different obligations.

Cooperation on foreign policy, external security and defense are not covered. As under other EU FTAs, public services, services of general interest, some transport services and audio-visual services (including roaming rules) are excluded from the agreement.

A Protocol on Ireland and Northern Ireland provides for no hard border on the island of Ireland. This means that the EU legislation, including the Union Customs Code, legislation on goods, sanitary rules for veterinary controls ("SPS rules"), rules on agricultural production/marketing, or VAT and excise in respect of goods will apply to all goods entering Northern Ireland and that goods coming from the rest of UK are considered as imports subject to checks and controls for safety, health and other public policy purposes.

Gibraltar, which as part of the UK follows UK legislation, will be subject to a specific Protocol, to be negotiated between the UK and Spain during the first six months of 2021. In the meanwhile, the free movement of people and goods is still granted.

Despite the FTA, it is a fact that the UK is not part of the EU any longer and that "the EU and the UK will form two separate markets; two distinct regulatory and legal spaces. This will create barriers to trade in goods and services and to cross-border mobility and exchanges– in both directions".

The Agreement is currently applied on a provisional basis (until 28 February 2021), to enable the scrutiny and formal approval by the European Parliament. The UK Parliament has already approved the deal.

For more info:

FTA:

https://ec.europa.eu/info/relations-united-kingdom/eu-uk-trade-and-cooperation-agreement_en

Q&A:

https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_2532

January 2021