

EU-UK Trade and Cooperation Agreement (TCA): Implementation and Substantial Changes in the EU-UK Relationship

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Four years after the Brexit referendum, the EU and the United Kingdom have reached agreement on the [EU-UK Trade and Cooperation Agreement \(TCA\)](#), which follows the [Brexit Withdrawal Agreement](#). BLOMSTEIN presents the key contents of the new trade agreement in a briefing series. In Part 1, we look at how and in what timeframe the TCA came about, as well as the main substantial changes in the EU's relationship with the UK.

Implementation and timeline

The negotiations between the EU and the United Kingdom were concluded a few days before the end of the transition period. In such a short period of time, it was obviously not possible to ensure an informed parliamentary scrutiny of the agreement, especially by the European Parliament - whose consent is, however, required. In order to avoid a chaotic “no deal” January without an effective agreement, the Commission proposed the provisional application of the agreement until the final decision of the European Parliament. This proposal was unanimously [adopted](#) by the 27 member states.

The European Parliament now has a deadline of February 28, 2021, within which the treaty document, which is over a thousand pages long, must be examined in detail and approved. In view of the far-reaching negative consequences of a “no deal”, it can be assumed that the European Parliament will approve the agreement. If, contrary to expectations, the European Parliament should demand changes to the agreement, the contracting parties would have to renegotiate - with an uncertain outcome.

With the end of the transition period, on January 1, 2021, also the Withdrawal Agreement will apply fully and comprehensively. This agreement guarantees reciprocal rights for citizens of the EU and the United Kingdom, provides for a one-off payment by the United Kingdom to compensate for its financial obligations as an EU member state, and contains provisions to avoid a “hard” border between the Republic of Ireland and Northern Ireland. The United Kingdom's interim request to amend the agreement (unilaterally) is thus off the table for the time being according to [agreements](#) reached in this regard.

Significant changes in EU-UK relations

Upon expiry of the transitional phase and implementation of the present agreement, the United Kingdom will leave the EU completely and will no longer enjoy any special rights compared with other third countries. As a result, the former member state will also leave the European single market and the customs union. Overall, the cooperation agreement is therefore largely a 'classic' free trade agreement, as it is also the case with other non-EU countries such as Japan, South Korea or Canada. However, this observation should not obscure the fact that the depth of cooperation secured by the agreement and the interlocking of the different legal frameworks is largely unique in an international comparison: The parties to the agreement completely waive tariffs and have established extensive governance structures and conflict resolution mechanisms.

The **treaty document** published by the parties governs the future relationship between the EU and the United Kingdom on more than 1,200 pages. In addition to 800 pages of annexes and supplementary protocols, the first 400 pages of the document are divided into seven sections. In addition to the “General and Institutional Provisions” (Part 1) and the “Final Provisions” (Part 7), Parts 2 to 5 deal with substantive agreements (e.g. on trade in goods or on joint law enforcement cooperation), while Part 6 contains provisions on dispute settlement.

The contracting parties have used a **special form of designating the provisions** both in the text of the contract itself and in the annexes. Thus, provisions are not numbered consecutively for the entire document. Rather, there is an addition of the respective subject area in the provision designation. Thus, the first provision in the area of “Fisheries” is designated as “Article FISH.1” (this also explains the statement by British Prime Minister Boris Johnson that the agreement is “[full of fish](#)”) and the corresponding provision for energy topics is designated as “Article ENER.1”. The same applies to the annexes, which are referred to for example as “Annex ORIG-2: Product Specific Rules of Origin” or “Annex ROAD1: Transport of Goods by Road”. Within the annexes, the individual regulations are referred to as “Rules”, “Notes” or “Articles”, but without the aforementioned thematic supplement.

On the one hand, the thematic headings in the main part of the agreement make it easier to determine the scope of application of a particular provision. On the other hand, they lead to unfamiliar and altogether very long chains of references. Overall, the document – which is probably due to the sheer mass of regulatory areas and the speed of the negotiations – is therefore not characterized by particular readability.

BLOMSTEIN is monitoring the foreign trade law implications of the new free trade agreement with the United Kingdom and their impact on companies. [Dr. Roland M. Stein](#) and [Dr. Leonard von Rummel](#) are available for this purpose at any time.