

EU-UK Trade and Cooperation Agreement (TCA): Transport and Aviation, Fishing, Social Security Cooperation, Freedom of Movement, Other Cooperations

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Four years after the Brexit referendum, the EU and the United Kingdom have reached an 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 have looked at the implementation and substantial changes in the EU-UK relationship. [Part 2](#) focused on the trade in goods. [Part 3](#) looked at a variety of areas from services and investments to digital commerce, energy and the level playing field. In Part 4, we analyze the areas of transport and aviation, fishing, social security cooperation, freedom of movement and other cooperations.

Transport and aviation

As a result of the United Kingdom's withdrawal and the expiration of the transition period, British citizens and companies will no longer benefit from the free movement of persons and the free movement of goods. Transport companies, whether they operate across borders by land, sea or air, will subsequently have to comply with both European and UK regulatory requirements and certification standards. The requirement for customs controls at border crossings will in some cases result in longer waiting times and an increased level of bureaucracy.

In the aviation sector, the United Kingdom's membership of the European Union Aviation Safety Agency (EASA) will end on January 1, 2021. In addition, British airlines will no longer benefit from the EU's liberalized and single aviation market from that point on. The new Cooperation Agreement allows British airlines to **fly over** European airspace and to operate flights from the United Kingdom to the EU or vice versa (Art. AIRTRN.3 Nr. 1 EU-UK-FTA-E). For the time being, however, the operation of flights between two airports in the EU is excluded, as well as – if transportation begins in the UK – onward transportation from one EU member state to another member state or to a third country (e.g. London-Rome-Athens or Manchester-Warsaw-Moscow). However, EU member states may enter into bilateral agreements with the United Kingdom regarding all-cargo flights (Art. AIRTRN.3 Nr. 4 EU-UK-FTA-E).

Fishing

Heading 5 deals with an issue that was [highly controversial](#) in the final weeks of the negotiations: fishing in EU and UK waters. On January 1, 2021, the United Kingdom left the “[Common Fisheries Policy](#)”. In the event of a no-deal Brexit, both European and British fishers would have had to largely refrain from fishing in each other's waters, which would have meant a significant restriction for certain fishing communities.

The negotiating parties have agreed on a 5.5-year transitional phase during which the previous regulations on mutual access to each other's waters will be maintained (Annex FISH.4: Protocol on Access to Waters, Art. 1 EU-UK-FTA-E). The exact fishing quotas (“Total Allowable Catch” – TAC) will be gradually adjusted to the modified conditions (Annex FISH.1; EU-UK-FTA-E). Subsequently, the fishing quotas are set in annual consultations (Art. FISH.6 EU-UK-FTA-E).

Cooperation in the field of social security

The agreement includes provisions on the coordination of social security instruments. For example, years spent working in the jurisdiction of the other contracting party are taken into account for unemployment insurance benefits, pension entitlements or disability pensions (Protocol on Social Security Coordination, EU-UK-FTA-E). In addition, EU citizens do not have to take out separate health insurance for short-term stays in the United Kingdom (study, tourism). The same applies to persons who are insured through their pension rights but live in the territory of the other contracting party (e.g. British “expats” in southern Spain) (Art. SSC.15 ff., Protocol on Social Security Coordination, EU-UK-FTA-E).

Free movement

On January 1, 2021, the free movement of British citizens in the EU and vice versa ended. In principle, the new Cooperation Agreement contains only limited separate travel facilitations. For short stays (up to 90 days in a period of 180 days), the European Union – and a little later also the United Kingdom – had already [decided](#) on visa-free entry for UK citizens (now governed by Art. VSTV.1 EU-UK-FTA-E). However, these travel facilitations are subject to the condition of reciprocity, so that if even one European member state restricts visa-free travel, the process of suspension is automatically set in motion with respect to UK citizens. For longer-term stays, the general rules for third-country nationals now apply in the EU and the United Kingdom in the absence of separate agreements.

Other cooperations

The agreement contains an extensive Part 3 on **law enforcement** cooperation in criminal matters. The intention of close cooperation despite the withdrawal should be emphasized here, as well as the explicit reference – demanded by the EU – to human rights and in particular the European Convention on Human Rights and the ECtHR (Art. LAW.GEN.3; Art. COMPROV.4 EU-UK-FTA-E).

The parties to the agreement also commit to thematic cooperation in the areas of health and pandemic protection (Part Four, Title I, EU-UK-FTA-E) and cyber and information security (Part Four, Title II, EU-UK-FTA-E). In addition, the United Kingdom will be given the opportunity to participate in certain EU programs in return for financial contributions (Part Five, EU-UK-FTA-E). Widely known in this context is the UK's decision not to continue participating in the European [Erasmus+ program](#). This was even reported in the [U.S. press](#).

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.