

UK and EU Strike Brexit Trade Deal

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A trade and partnership agreement has just been reached between the European Union and the United Kingdom. The agreement avoids the possibility of a 'chaotic Brexit' but falls well short of ensuring the continuity of frictionless trade between the EU and the UK.

The core of the agreement is the elimination of tariffs and quotas for trade in goods. The agreement guarantees that there will be no costly tariffs or long custom forms to fill in for companies trading in goods between the EU and the UK. However, companies will still need to comply with content origin requirements. In this respect, though the details have not yet been released, it is understood that the agreement does not allow for the possibility of UK manufacturers to count products from countries with which both sides have a deal as 'products of British origin', as the UK initially wished.

The elimination of quotas and tariffs also applies to most agricultural products. And an agreement has also been reached on a multi-year quota for fisheries.

The agreement includes cooperation in the fields of aviation, road transport, energy, climate change, research and education. None of it amounts to the regulatory harmonisation that currently exists under the EU Single Market. Thus, there will be increasing regulatory divergencies between the EU and the UK in most sectors. In order to avoid such regulatory divergence to have a detrimental effect on competitive conditions in each market, the agreement includes provisions to avoid 'regulatory dumping'. Those provisions are underpinned by a dispute settlement mechanism based on arbitration that includes robust unilateral sanctions if regulatory dumping occurs.

Cooperation in the areas of security and defence is also envisaged in the agreement, though it does not cover the sharing of data for antiterrorism purposes.

While the agreement provides for predictability, it includes a four-year review clause to ensure that both parties are abiding by the rules and that the regulatory 'level playing field' is respected.

One of the areas where there will be most changes is on the mobility of people, where much will depend on the specific immigration provisions unilaterally imposed by both parties. For example, the UK has already announced that it will not participate in the Erasmus programme that allows European students to move freely throughout the EU.

The end of the Brexit transition on 1 January and the entry into force of this agreement means that US companies that operate in both the EU and the UK will need to comply with increasingly divergent trade rules, specifications and regulatory conditions in both markets.

The EU trade practice at Cohen & Gresser is ideally positioned to help your company navigate these evolving regulatory environments. We advise clients on the impact of existing trade rules and the best way to comply with and navigate these rules. With lawyers and public affairs advisers in the UK, the EU and the U.S., we also provide strategic advice on new and forthcoming regulatory developments so businesses can anticipate and adapt seamlessly to the complex and evolving EU/UK regulatory needs.

The Author



Miriam González Durántez advises clients on international trade and regulation, with a particular focus on European Union law and issues arising globally from the departure of the UK from the EU (Brexit). Her practice also includes international sanctions, export control, and cross-border investigations.

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