

28 December 2020

## Overview of the EU-UK Trade and Cooperation Agreement

An agreement between the EU and UK was finally announced in the afternoon of Christmas Eve, following last minute marathon negotiations in Brussels. The 1246-page agreement and related material, including a helpful Q&A, have since been made available on the [EU Commission' website dedicated to the new partnership](#).

The deal that was reached was always going to be about damage control. While it is a very comprehensive trade agreement, even when compared to the new “gold standard” FTAs concluded by the EU in recent years, the starting point for this negotiation was also unprecedented. This agreement, even though very welcome, will move us away from almost the highest possible degree of integration to something much less valuable, whereas a typical trade negotiation aims to upgrade a trade relationship based on WTO terms only. In other words, the agreement represents the best possible outcome in this situation but is very different from the frictionless trade offered by the single market and customs union.

The EU-UK Trade and Cooperation Agreement is scheduled to be applied provisionally from 1.1.2021 to 28.02.2021, thereby avoiding a hard Brexit on 1 January. The provisional application and signature of the agreement should be authorised by the Council on 29 December. The European Parliament will then have two months to scrutinise the deal before giving its consent by the end of February. As a last step, the Council must adopt a decision concluding the agreement. On the UK side, the Parliament is expected to vote on the deal on 30 December.

### Main features of the agreement from a dairy trade perspective:

- **Zero tariffs and zero quotas:** this is by far the main benefit of the agreement.
  - **Preferential tariff treatment is subject to compliance with Rules of Origin.** For dairy products and ingredients in chapter 4, this means that they must originate to 100% in the EU and the UK (bilateral cumulation being allowed). For composite products containing dairy ingredients, the latter must be “wholly obtained”, i.e. originate in the EU and/or UK. The proof of preferential origin is given through a **statement of origin by the exporter**.
- Tariffs could be introduced in the future in case of divergence in the critical areas covered by the level playing field provisions



- **Food safety and standards**
  - The **SPS chapter is very thin considering** the level of integration today. **Dairy imports from the UK need to fully comply with all EU food safety and labelling requirements, be accompanied by a veterinary health certificate and be subject to checks at border control posts. In the same way, EU dairy exports to the UK must be in line with all relevant UK requirements.** On the UK side, SPS controls will be phased in over a 6month period and certificates for dairy products will not be required until 1 April. See more details [in our guidance document](#).
  - There is a possibility to reduce the frequency of import controls, taking into account the degree of convergence between EU and UK rules
  - Reciprocal recognition of equivalence of current EU and UK organic legislation and control system. Equivalence will be reassessed by the end of 2023.
  
- **Customs**
  - **All customs procedures and formalities apply.** The UK, in accordance with its Border Operating Model, will phase in customs requirements over a 6month period as outlined in our guidance document but this is a unilateral decision outside the scope of the agreement.
  - Mutual recognition of each other's Authorised Economic Operator (AEO) schemes and possibilities for further developing customs cooperation
  
- **Trade with Northern Ireland** is governed by the NI protocol included in the Withdrawal Agreement. EU legislation applies to products entering NI, subject to certain flexibilities during the first 6 months.
  
- **Level playing field for open and fair competition and to contribute to sustainable development**
  - Protection against lowering of current labour, social, environmental or climate standards if affecting trade or investment. This includes the “management of impacts on the environment from agricultural or food production, notably through the use of antibiotics and decontaminants”.
  - Prevention of market distortions created by subsidies, anticompetitive practices or abusive behaviour by state-owned enterprises



- To enforce these commitments, **it is possible for parties to unilaterally apply rebalancing measures in case of significant divergences affecting trade.** This could become relevant for instance if the cost of milk production in the EU27 and the UK diverges significantly because of evolving EU and UK agricultural, animal welfare and environmental policies. The agreement also provides for effective protection in domestic courts and via the bilateral dispute settlement mechanism or an arbitration panel.
  - Collaboration in the field of taxation to maintain transparency and tackle tax avoidance
  - Commitments to support sustainable development, building on similar chapters in previous FTAs
- **Transport**
    - Transport businesses need to ensure compliance with EU and UK certification requirements and standards. UK companies will no longer hold an EU licence.
    - UK lorries are allowed to transport goods to the EU and return to the UK. They are also entitled to perform two additional operations in the EU territory. The same applies to EU lorries in the UK. There are also common standards for working conditions, technical requirements for vehicles etc. (level playing field)
  - **Governance:** there is a single governance framework for the whole agreement, including a dispute settlement mechanism which is an independent arbitration tribunal.

### Conclusion

The agreement will allow for tariff-free trade to continue from 1 January. For the rest, there is little difference to other trade agreements except for the comprehensive rules ensuring fair competition. Because the level playing field is supposed to be future proof, negotiations between the EU and UK are likely to be a constant feature in the years to come. Neither the introduction of tariffs, nor significant barriers to trade on SPS grounds can be excluded in the future depending on how policies and regulation in key areas will develop.