



## **Brexit agreement finally reached - key points summarised**

Just a matter of days before the transition agreement expired at the end of 2020, a 'Trading & Co-operation Agreement' (TCA) was reached between the UK government and the European Commission. The agreement will govern the UK/EU economic and trading relationship into the future.

The complete document runs to over 1,200 pages, so we have pulled out the essential points to save you the trouble.

### **The Brexit situation as of 1 January 2021**

The TCA will be provisional until the legislative processes have been concluded by all parties. The UK and the EU have now separated into two distinct regulatory and legal markets. This has created barriers (as well as opportunities) to trade in goods and services, and to cross-border mobility and exchanges.

Businesses now have to adapt and make changes to their operations as a result of leaving the single market. Such issues as customs, people and recruitment, data protection and regulatory compliance all need to be considered.

## **Goods and services**

The TCA goes beyond recent EU free trade agreements with other third countries, such as Canada and Japan, by providing for zero tariffs and zero quotas on all goods. This is especially important for sensitive goods such as agricultural and fishery products.

However, to benefit from these trade preferences, businesses must prove that their products fulfil all necessary 'Rules of Origin' requirements. This ensures that the trade preferences granted under the TCA benefit the EU and the UK, rather than third countries. To facilitate compliance, the agreement allows traders to self-certify the origin of goods and provides for full bilateral cumulation (permitting UK and EU parts to count towards local content rules).

Those completing customs declarations must have knowledge of the 'processing' of the product – that is, how and where it was manufactured and from what components. Greater awareness of the supply chain will be a big part of business success – minimising or eliminating costly tariffs which might otherwise be imposed.

Authorised Economic Operator (AEO) trusted traders will be recognised and should lead to speedier efficiencies on documentary clearance, advance rulings, etc. AEOs assessed and recognised under the UK or EU scheme will face fewer controls relating to safety and security when moving their goods cross-border – facilitating trade and flow.

The TCA is primarily about the rules for goods crossing borders. It says far less about the trade in services. It is hoped that there will be an agreement which will recognise UK rules governing financial services as roughly 'equivalent' to EU rules. A memorandum of understanding is expected by the end of March. For now, the automatic mutual recognition of professional qualifications has ended – this covers doctors, nurses, architects, accountants, solicitors, etc. Decisions will be made on a profession-by-profession state-by-state basis in the interim.

## **People, recruitment and staffing from the EU**

EU citizens and their families must arrive in the UK before 30 June 2021 in order to apply for pre-settled status – the pre-cursor to applying for settled status on completing five years' UK residency.

We have known for several months that it was coming, but finally a points-based system (PBS) for immigration was introduced on 1 January 2021. UK employers looking to recruit from the EU must now apply to be a licensed sponsor and the prospective employee must meet certain skills criteria.

UK short-term business visitors may travel to the EU for 90 days in any 180-day period. Work permits will not be imposed on business visitors for establishment purposes. Intra-corporate transferees can be accompanied by their partners and dependents when placed in an EU state.

Employers will only be liable to pay social security contributions in one EU state at a time. Generally, this will be in the country where work is undertaken, irrespective of whether the worker resides/or is based within the EU or the UK.

Where the UK or an EU member state is responsible for the healthcare of an individual, they will be entitled to reciprocal healthcare cover. This includes certain categories of cross-border workers and state pensioners who retire to the UK or to the EU27.

In addition, the protocol ensures that necessary healthcare provisions – akin to those provided by the European Health Insurance Card (EHIC) scheme – continue. Individuals temporarily staying in another country, for example, a UK national who is in an EU member state for a holiday, will have their necessary healthcare needs met for the period of their stay.

The Erasmus scheme for overseas students has ceased, to be replaced in September 2021 by a worldwide Turing scheme for UK students to study abroad.

### **Data protection and regulatory compliance**

The TCA includes a temporary solution to keep data flowing between the EU and the UK until a data adequacy decision is reached. The deadline is effectively 30 June 2021. Personal data passed to the UK during this interim period ‘shall not be considered as a transfer to a third country’. Both sides have committed to upholding high levels of data protection standards and to ensure ‘cross-border data flows to facilitate trade in the digital economy’ without imposing limits on where data can be stored or processed.

The agreement commits both parties to upholding common high standards ensuring the protection of labour and social standards, environmental protection and tax transparency.

Goods exported to the EU from the UK must be proven to have been produced according to standards that make them acceptable for sale in the EU. They will be subject to any applicable regulatory compliance checks and controls. Requirements relating to product standards – including the respective responsibilities of the manufacturer and the importer for product safety, conformity assessment and labelling – will not change substantively as a result of the TCA.

Further steps have been agreed for the car, pharmaceutical, chemical, aerospace and agri-food sectors. For example, agri-food retailers will still have to meet all

sanitary and phytosanitary import requirements and be subject to official controls at border posts.

The UK had sought agreement on mutual recognition of product conformity assessments (MRAs) by accredited bodies, enabling a UK-issued certificate of conformity to be valid across the EU. No such recognition has been agreed and, as a result, UK exporters will need to apply for a new certificate issued by an EU body. The CE mark can continue to be used for most goods until 31 December 2021, unless product regulations diverge before then.



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