



## EU and UK agree on trade agreement as from 1 January 2021

### 1 Application of the new agreement as from 1 January 2021

The agreement, which the EU and UK consented to on 24 December 2020, serves to regulate the future of the parties' multi-layered relationships. The UK left the EU at the end of 31 January 2020. Only the transition phase agreed between the parties to continue until 31 December 2020 has so far prevented the UK's exit from the EU becoming noticeable in the daily movement of goods and people.

The new agreement does not replace the previous Withdrawal Agreement. Rather, it contains numerous regulations designed to govern the EU's relations with the UK after the transition phase has expired. It consists of three parts:

The most essential part of the agreement is certainly the free trade agreement. It is intended to comprehensively regulate future economic relations between the EU and the UK. The agreement also contains binding mechanisms for enforcing interests and settling disputes. This also includes the possibility of taking countermeasures in the event of violations by either of the contractual partners (e.g. distortion of competition, subsidies, etc.).

Finally, the agreement creates a new framework for law enforcement and judicial cooperation in criminal and civil matters. In particular, it lays the foundation for close cooperation in the fight against and prosecution of cross-border crime and terrorism.

The new agreement is to apply from 1 January 2021, although it has not yet been formally signed. Nevertheless, in order to guarantee the seamless transition of the post-Brexit period, the terms of the agreement will be applied provisionally up until 28 February 2021, by which time the formal approval process is expected to be completed.



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## 2 VAT Implications

The new agreement does not affect the Withdrawal Agreement that was originally concluded. From the point of view of the EU, the UK is and will remain a third country, even after the conclusion of the new agreement. The other provisions made in the Withdrawal Agreement with regard to VAT will also remain in place.

## 3 Customs Implications

Like every free trade agreement, the agreement negotiated between the EU and UK does not abolish the customs borders between the contracting parties. It only regulates the trade in goods and services between them. This includes e.g. regulations on technical requirements and standards for goods and services, investments, competition and aid. However, the need to clear goods in accordance with customs law, when crossing the border, remains. So import and export declarations have to be submitted. In addition, the movement of goods at the border will be controlled.

An essential part of the concluded free trade agreement is the exemption from import duties for goods that meet the respective rules of origin. The movement of goods between the EU and the UK is therefore not unlimited and unconditionally duty-free. Rather, a duty exemption is only possible for goods that have their preferential origin in the other area. This means that goods with a preferential origin in the UK can be imported into the EU duty-free and vice versa.

For this purpose, the agreement contains product-specific regulations for the definition of the origin of goods. Importing goods under duty exemption for goods with preferential origin of the respective other area requires corresponding proof. For this reason, the agreement contains regulations for the proof of the origin of goods in the form of a statement of origin and regulations for the submission of supplier's declarations.

## 4 Requirements for businesses

Businesses that, in the future, wish to benefit from the agreement's basic duty exemptions must therefore deal more closely with the matter of preferential right. The submission of statement of origin and its use in the importation process is, from a customs perspective, not without costs and risks. Businesses cannot simply make statements of origin. Rather, the agreement stipulates a specific wording. Furthermore, the registration as a Registered Exporter (REX) will be required for EU businesses if the statement of origin shall be submitted for shipments with a total value exceeding EUR 6,000. Such registration will be carried out by the competent main customs office on written request by assigning a registration number.

There is no need for an authorization as an Approved Exporter. Yet, businesses must ensure that they do not make incorrect statements of origin for the beneficiary import into the UK (and vice versa). Authorities may impose a fine for violations or initiate a criminal proceeding. For this reason, businesses must ensure that they comply with the rules of origin as part of an ongoing preference calculation and, in particular, monitor the origin of any primary materials. For the organizational safeguarding of these processes, detailed documentation, in the form of work and organizational instructions, will be required, although such documentation is not required for the registration as REX with the competent main customs office.

Businesses must check and assess whether this effort is worthwhile in each individual case. The additional effort to safeguard the submission of correct statements of origin will usually only prove worthwhile if the anticipated savings to be gained in import duties exceed these related costs.