





Foreign, Commonwealth  
& Development Office



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## ***Working with Europe and the EU – A New Context***

# 2.2

Practitioner Training for UK Civil Servants


organised by the European Institute of Public Administration  
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## **Working with Europe and the EU – A New Context 28-30 January 2025**


*Day 2*

How does the new framework of UK-EU relations work?


**- Trade-related elements**

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# TCA Structure

Parts	One: Common and institutional provisions	Two: Trade, transport, fisheries and other arrangements						Three: Law enforcement and judicial cooperation in criminal matters	Four: Thematic Cooperation	Five: Participation in Union programmes, sound financial management and financial provisions	Six: dispute settlement and horizontal provisions	Seven: Final provisions	Annexes
Headings		One: Trade	Two: Aviation	Three: Road Transport	Four: Social Security Coordination and visas for short-term visits	Five: Fisheries	Six: Other provisions						
Titles	I General Provisions II Principles of interpretation and definitions III Institutional framework	I Trade in goods II Trade in services and investment III Digital trade IV Central government, payments, transfers and temporary safeguard measures V Intellectual property VI Public procurement VII Small and medium-sized enterprises VIII Energy IX Global regulatory practices and regulatory cooperation X Level playing field for open and fair competition and sustainable development XI Exceptions	I Air transport II Aviation safety	I Transport of goods by road II Transport of passengers by road	I Social security coordination II Visas for short-term visits			I General provisions II Requests for extradition and judicial cooperation data III Transfer and processing of passenger name record data IV Cooperation on operational information V Cooperation with Europol VI Cooperation with Eurojust VII Surrender VIII Extradition IX Exchange of criminal record information X Anti-money laundering and counter-terrorist financing XI Crime and confiscation XII Other provisions XIII Dispute settlement	I Health security II Other security		I Dispute settlement II Basis for cooperation III Fulfillment of obligations and safeguard measures		



## Trade and Cooperation Agreement: Overview

- Part 1: Common and Institutional Provisions
- **Part 2: Trade**
- Part 3: Law and Enforcement and Judicial Cooperation in Criminal Matters
- Part 4: Thematic Cooperation
- Part 5: Participation in Union Programmes
- Part 6: Dispute Settlement and Horizontal Provisions
- Part 7: Final Provisions

+ Annexes



## Part 2: Trade

- **Heading One: Trade**
- Heading Two: Aviation
- Heading Three: Road Transport
- Heading Four: Social Security Coordination and Visas for short-term visits
- Heading Five: Fisheries

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## Part 2: Heading One (Trade)

- Trade in Goods
- Trade in Services and Investment
- Digital Trade
- Capital Movements and Payments
- Intellectual Property
- Public Procurement
- SMEs
- Energy
- Transparency
- Good regulatory practices and regulatory cooperation
- Level playing field provisions
- Exceptions

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## Part 2: Heading One (Trade)

No tariffs or quotas

But...

Customs checks  
Regulatory checks  
(including rules of origin)

Dual burden on regulatory  
compliance  
No harmonised trade  
rules

Level Playing Field  
requirements

And...

Northern Ireland



## Part 2: Heading One (Trade)

- No customs duties (*Article 21*)
- But only for goods 'originating in the other parties' (see *Articles 37-68 and six Annexes*)
- Rationale for **rules of origin**:
  - Limit preferential tariffs that originate in the UK or EU
  - Avoid undermining arrangements with third countries
  - Avoid distortion of competition



## Level Playing Field Provisions in Part 2: Heading One (Trade)

- **Areas**

Subsidy control; competition; state-owned enterprises; taxation; labour and social policy; environment and climate; other rules on trade and sustainability  
Specific limitations for each area

- **Enforcement**

Domestic enforcement mechanisms

Dispute Settlement under TCA (not for competition) with special procedures in LPF

Unilateral measures

- **Rebalancing Measures (Article 411)**



## Just a minute...



## Northern Ireland

- The TCA does not apply to trade between the EU and Northern Ireland
- Trade is subject to the *Windsor Framework*
  - Northern Ireland applies EU internal market rules to ensure free trade (but VAT and excise duty adjustments; recognition of medicines approved in GB; restriction of EU subsidy control regime)
  - Some checks for trade between GB and NI
- Windsor Agreement seeks to ensure smooth flow of trade within the UK Internal Market
  - Green lanes and red lanes;
  - Recognition of medicines approved in GB
  - Supply of certain products (agrifood, parcels)

## Northern Ireland

- **Trade between EU and NI**
  - No customs procedures or controls
- **Trade between GB and NI**
  - EU tariffs are applied to goods from GB by the UK on behalf of the EU unless those goods are not 'at risk' of moving to the EU (in particular Ireland)
  - Checks when goods are at risk (red lane)
  - Simplified process of moving goods that are not 'at risk' (green lane)
  - Special framework for agrifood retail trade, parcel deliveries, and movement of pets
- **Trade between NI and GB**
  - Limited checks

## Northern Ireland – Unique processes

- Article 16 WF: **Safeguard Measures**
  - Initiation when “...application of Protocol leads to serious economic, societal or environmental difficulties that are liable to persist or to diversion of trade”
  - Unilateral action to take appropriate safeguard measures, with priority for those that least restrict the functioning of the Protocol
- Article 13 WF: **Stormont Brake**
  - Measure of “last resort” for Assembly, when an amended act has a “significant impact specific to everyday life of the communities in Northern Ireland”
  - Requires UK government to decide whether to apply amendment
- Both designed as failsafes, should regular close UK-EU-NI coordination not work



## Services: TCA

- **Host state regulation** (*Article 123(2)*)
- **No automatic right to offer services**
- **Movement restrictions** for natural persons and legal persons
  - Companies may have to establish themselves in the host state
  - Immigration rules of the parties apply
  - Visas for long-term stays necessary
- **No automatic or general mutual recognition of qualifications** (but specific provisions address this point)
- **No passporting rights**

➤ Similar to other FTAs



## Services

### Principles

- Market Access (*Articles 128 and 135*)
- National Treatment (*Articles 129 and 137*)
- Most Favoured Nation Treatment (*Articles 130 and 138*)
- No general requirement of local presence for cross-border supply (*Article 136*)

### Exceptions

- Numerous exceptions (*Annexes 19 and 20*)
- Long list of non-conforming measures of the EU/MS
- Market access varies by sector and MS



## Services: exceptions by MS

- No automatic or general mutual recognition of professional qualifications: Qualifications have to be recognised by the MS in which the service is provided
- MS may require visa and work permits
- MS may impose establishment requirement or economic needs or performance requirement
- Service may even be prohibited





## Key Points

- Trade in Goods is the central element of the current formal UK-EU relationship
- Structure and degree of trade arrangements much in line with other similar treaties
- Despite zero-zero provisions, many more barriers to UK-EU trade exist than during membership
- Fundamental change in Northern Ireland arrangements likely to be bound up in general UK-EU changes