

In Bullet Points: The Key Terms of the Brexit Deal

U.K. Prime Minister Boris Johnson's post-Brexit trade deal is unique in that it will leave businesses facing more barriers to trade than they did while Britain was a member of the European Union.

But that's the price of reclaiming sovereignty. While he can claim to have taken back control of Britain's domestic fishing waters and ended the role of the European Court of Justice, businesses and consumers will face a slew of additional barriers to trade after Dec. 31 2020.

The following encapsulates the main points of the deal, based on a copy of the deal obtained by Bloomberg, as well as summaries provided by the two sides.

Trade in Goods

Summary: The agreement ensures that most goods traded between the EU and U.K. won't face new tariffs or quotas. However, British exporters will face an array of new regulatory hurdles that will make it more costly and burdensome to do business in Europe.

- Market access: U.K. and EU goods will continue to receive tariff-free and quota-free treatment.
- Rules of origin: New rules require the U.K. to self-certify the origin of its exports to the EU. Certain products that contain a high threshold of inputs from outside the EU and U.K. may face new tariffs.
- Health and safety: The EU will require U.K. agri-food exporters to provide health certificates and undergo sanitary and phyto-sanitary controls at border inspection posts.
- Testing and certification: The absence of a mutual recognition agreement means U.K. regulatory bodies won't be able to certify products for sale in the EU, a potentially big barrier to trade.
- Trade remedies: The EU and U.K. may pursue tariffs and other sanctions according to rules established at the World Trade Organization.

Financial Services

Summary: The deal offers little clarity for financial firms. There is no

decision on so-called equivalence, which would allow firms to sell their services into the single market from the City of London. The agreement only features standard provisions on financial services, meaning it doesn't include commitments on market access.

- The U.K. and EU will discuss how to move forward on specific equivalence decisions. The European Commission, which is in charge of allowing access to the EU's market, said it needs more information from the U.K. and it doesn't plan to adopt any more equivalence decisions at this point.
- Regulatory cooperation: The two sides made a joint declaration to support enhanced cooperation on financial oversight. They aim to agree on a Memorandum of Understanding by March.

Level Playing Field

Summary: Both sides committed to upholding their environmental, social, labour and tax transparency standards to make sure they don't undercut each other.

- The deal doesn't include a ratchet mechanism that would force the U.K. to stiffen its rule in lockstep with the EU.
- Instead, it has a re-balancing mechanism: Either side will be able to impose with tariffs if they diverge too much. "Such measures shall be
- restricted with respect to their scope and duration to what is strictly necessary and proportionate in order to remedy the situation," according to the agreement. They will also be subject to arbitration by an independent panel -- not the European Court of Justice.
- Both sides will be prevented from giving an unlimited state guarantee to cover a company's debts or liabilities. In line with EU law, the U.K. won't be able to rescue a failing firm without a restructuring plan, and any aid to failing banks will have to be the minimum necessary to help it wind down.
- The U.K. and the EU will have to disclose the subsidies they award.

Dispute Settlement

Summary: Disputes on the deal must be negotiated between the EU and the

U.K. with no role for the EU courts.

- An arbitration panel may rule on some areas and can order one side to resolve the problem or offer compensation.
- Failure to do so allows the other side to "suspend obligations" which could mean blocking some access or cooperation.
- If there's a "serious economic, societal or environmental difficulty," either side can react with time-limited measures.

Fishing Rules

Summary: This was one of the most contentious areas after disputes over the control of British fishing grounds came to symbolize the country's desire to leave the EU.

- U.K. fleets will take 25% of the current EU catch in British waters, worth 146 million pounds (\$198 million), phased in over five years. Britain's opening negotiating position called for an 80% increase, so this represents a significant compromise.
- There is a transition period of five-and-a-half years during which reciprocal access rights to each other's waters remain unchanged.

Customs

Summary: Both sides pledge to limit customs red tape, including through programs for trusted traders known as Authorized Economic Operators (AEOs have benefits including fewer controls).

- "Bespoke" measures including cooperation at "roll-on roll-off" ports such as Dover and Holyhead in Britain are also foreseen, according to the U.K., while the EU refers to specific "facilitation arrangements" for wine, organics, automotive, pharmaceuticals and chemicals.
- The U.K. exit from the European single market on Jan. 1 was going to lead to more customs bureaucracy for both sides regardless of whether they reached a free-trade deal or not. The accord largely commits the EU and Britain to follow international practices aimed at minimizing customs costs for businesses.

Aviation and Trucking

Summary: The EU has stopped short of granting automatic recognition to British aerospace designs and products, according to the U.K. government.

- Such recognition will be confined to minor changes until the EU “gains confidence in the U.K.’s capability for overseeing design certification,” the document says.
- On trucking: Both sides commit to “good and efficient management of visa and border arrangements for road hauliers, in particular across the U.K.-Union border” and to “appropriately facilitate the entry and stay of” truckers.

Data Flows

Summary: The deal includes a temporary solution to keep data flowing between the EU and U.K. until the bloc has adopted a data adequacy decision.

- This bridge period starts on the date the new deal takes effect and will last a maximum six months, or end as soon as the EU’s data adequacy decision has been finalized, which is expected to happen in early 2021.
- Personal data shipped to the U.K. during this interim period “shall not be considered as transfer to a third country” under EU law, the document says, adding that the U.K. has to suspend its own transfer mechanism.
- If the U.K. applies a new transfer tool to ship data to a third country during the interim period, it should “as far as is reasonably possible” inform the EU.
- Both sides 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.

Energy

Summary: The U.K. won’t have access to the EU’s internal energy market. This was expected but there will be new arrangements in place by April 2022 to make sure that trading is smooth and efficient on interconnectors -- huge power cables that run between the U.K. and Europe.

- The U.K. is a net importer of electricity and gets 8% of its power from the continent. As an island nation, making sure trading across these interconnectors is efficient is important to Britain.
- Making trading smooth will “benefit U.K. consumers and help integrate renewables and other clean technologies onto the grid in line with our domestic commitment to net zero emissions” the U.K. document says.
- The deal includes guarantees on security of energy supply.
- The U.K. is no longer part of the EU’s emissions trading system but both sides agreed to cooperate on carbon pricing in future and “consider linking their respective systems.”
- The U.K.-EU agreement would be suspended if either side breaches their commitments to the 2015 Paris Agreement on climate, according to the summaries.

Professional Services

Summary: The deal means that there will no longer be automatic mutual recognition of professional qualifications.

- “Doctors, nurses, dentists, pharmacists, vets, engineers or architects must have their qualifications recognized in each member state they wish to practice in,” according to the deal.
- This is a loss for the U.K., which had wanted “comprehensive coverage” to ensure there were no “unnecessary” barriers to regulated services.
- However the deal does create a framework for the recognition of qualifications in future

Business Travel

Summary: The U.K. and EU agreed that short-term business visitors won't need to hold work permits or undergo economic needs tests.

- “Managers and specialists” will be allowed to stay for up to three years and trainees for up to a year. People visiting to set up businesses will be permitted to remain for as long as 90 days in any six-month period, according to the deal.

Taxation

Summary: “There are no provisions constraining our domestic tax regime or tax rates,” according to the U.K. government. Both sides pledged to “uphold global standards on tax transparency and fighting tax avoidance.”

Agriculture

Summary: Trade of farm goods will benefit from the zero-tariff, zero-quota terms between the two sides. However, there will be new requirements at the border, adding costs and hurdles for shippers.

- No tariffs: The lack of levies is “[especially important](#)“ for the agriculture and fishing sector, as some meat and dairy products would have faced taxes topping 40% under WTO terms, the EU's summary said.
- Extra checks: “U.K. agri-food consignments will have to have health certificates and undergo sanitary and phyto-sanitary controls at Member States' border inspection posts.
- Both sides will be able to maintain their own sanitary standards going forward.

Law Enforcement

Summary: The deal will allow cooperation between the U.K. and EU, particularly as part of investigations into terrorism and serious crime, including with the exchange of DNA, fingerprint and airline passenger information.

- There will be cooperation between U.K. and EU law-enforcement agencies, but the U.K. loses membership in Europol and Eurojust.
- Extradition: The U.K. said there will similar cooperation on extraditions to that between the EU and Norway and Iceland, “but with appropriate further safeguards for individuals beyond those in the European Arrest Warrant.”
- An arrest warrant “may not be refused on the grounds that the offense may be regarded by the executing State as a political offense, as an offense connected with a political offense or as an offense inspired by political motives.”
- Where extradition isn't possible, there will still be “a path to justice in every case” such as requiring EU countries to refer cases to prosecution.

SOURCE: <https://www.bloomberg.com/news/articles/2020-12-24/in-bullet-points-the-key-terms-of-the-brex-it-deal>