

Communiqué de presse

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autonomiesuisse salue l'accord du Brexit entre l'UE et le Royaume-Uni

L'accord du Brexit donne à la Suisse la possibilité de conclure un meilleur accord-cadre

- L'accord entre l'UE et le Royaume-Uni crée de nouvelles possibilités de négociations entre la Suisse et l'UE. En effet, le Royaume-Uni a fait passer ses intérêts sur des points essentiels.
- Contrairement à l'accord-cadre actuel entre la Suisse et l'UE, l'accord du Brexit prévoit le règlement des différends politiques sans l'intervention de la Cour de justice de l'UE (CJUE). En outre, l'accord du Brexit ne prévoit aucune adoption dynamique ou automatique du droit communautaire par le Royaume-Uni, tout en obtenant des conditions de marché comparables.
- A la différence de l'accord-cadre entre la Suisse et l'UE, l'accord du Brexit ne contient pas de clauses guillotines qui font pression sur le partenaire contractuel. Etant donné que la libre circulation des personnes ne fait pas partie du traité, la directive sur la citoyenneté de l'UE ne s'applique pas.
- Les questions politiques de souveraineté ont été en grande partie réglées lors des négociations du Brexit; c'est ce qu'autonomiesuisse cherche également à obtenir pour l'accord-cadre Suisse-UE. Du point de vue des entreprises, la souveraineté est essentielle pour le succès à long terme de l'économie suisse. L'accord du Brexit montre qu'il existe un potentiel de négociation avec Bruxelles.

L'accord du Brexit montre qu'il vaut la peine de poursuivre les négociations avec Bruxelles

La conclusion de l'accord du Brexit permet d'éviter, à partir du 1er janvier 2021, une relation chaotique entre le Royaume-Uni et le Continent du point de vue des échanges de biens et de la circulation des personnes. Les compromis obtenus montrent les solutions possibles pour mieux résoudre les aspects controversés de l'accord-cadre prévu entre l'UE et la Suisse.

Il est très important pour la Suisse d'avoir une relation cadrée en tant que vrai partenaire de l'UE. autonomiesuisse soutient sans réserve les accords bilatéraux mais s'engage pour un meilleur accord-cadre qui permettra à la Suisse de rester un modèle de réussite à l'avenir. Ce dernier doit inclure la souveraineté - essentielle en vue de créer de bonnes conditions cadres pour l'économie et la société -, la démocratie directe et le système unique au monde qu'est le fédéralisme.

Pour autonomiesuisse, l'actuel accord-cadre Suisse-UE contient trois aspects cruciaux qui ont un impact trop néfaste sur notre souveraineté.

- 1.) La Cour de justice de l'UE (CJUE) tranche la résolution des conflits en tant qu'arbitre de la partie adverse. Considérant que l'UE catégorise de plus en plus de questions comme étant pertinentes pour le marché intérieur, la portée de la CJUE en Suisse ne cesserait de s'étendre.
- 2.) L'adoption dynamique de la loi ne permet pas un Opting out équitable car, au-delà des sanctions matérielles, des menaces de suspension de traité et une clause guillotine pourraient être envisagées, et une nouvelle loi contestée devrait être mise en œuvre provisoirement en cas de litige.
- 3.) L'inclusion de l'accord de libre-échange de 1972 conduit à une clause guillotine générale pour tous les accords de marché de l'UE et limite considérablement les futures possibilités de la Suisse en matière de politique commerciale mondiale. En outre, l'exclusion explicite de la directive sur les citoyens de l'Union est importante.

Comparaison entre l'accord-cadre et l'accord du Brexit

Il est intéressant de comparer l'accord du Brexit avec l'accord-cadre. Cela montre que l'accord du Brexit est susceptible d'ouvrir de nouvelles perspectives pour les négociations entre la Suisse et l'UE. Par exemple, le règlement des différends ne nécessite pas le modèle dit de l'Ukraine avec la CJUE, qui est à la base de l'accord-cadre et que l'UE avait également cherché à obtenir pour

l'accord du Brexit. Dans ce dernier, un règlement politique des différends, sans rôle pour la CJUE, a été convenu. Cette situation est comparable aux traités bilatéraux actuels entre la Suisse et l'UE.

En outre, l'accord du Brexit ne prévoit pas d'adoption dynamique ou automatique du droit communautaire par le Royaume-Uni tout en garantissant des conditions de marché comparables («level playing field») afin de s'assurer une concurrence loyale. Si une partie fixe des conditions de marché différentes afin d'obtenir des avantages concurrentiels, l'autre partie peut exiger des mesures compensatoires. Toutefois, comme dans le droit de l'OMC, celles-ci sont limitées à des sanctions matérielles. En cas de désaccord, un tribunal d'arbitrage indépendant tranchera.

Opting out – dans l'accord du Brexit, la solution est équitable

L'accord-cadre ne prévoit pas seulement des sanctions matérielles en cas de non-adoption du droit communautaire : en outre, une suspension du traité et même une guillotine, c'est-à-dire la dissolution de tous les traités, sont possibles. Cette menace potentielle - associée au rôle important de la CJUE – réduirait notre démocratie directe au folklore sur de nombreuses questions soumises à votations. **autonomiesuisse** est d'avis qu'un opting-out peut coûter quelque chose, mais que ces coûts doivent être prévisibles. Dans le cadre prévu de l'adoption dynamique de la législation, il convient de chercher un opting-out équitable. Comme pour le traité du Brexit et les règles de l'OMC, elle devrait être limitée à des mesures matérielles.

De plus, les accords du Brexit ne contiennent pas de clauses guillotines pour mettre les partenaires contractuels dans une impasse. Etant donné que la libre circulation des personnes ne fait pas partie du traité, la directive sur la citoyenneté de l'UE est également exclue de celui-ci.

L'accord du Brexit et celui de l'accord-cadre n'ont pas le même contenu. Par exemple, le traité du Brexit ne prévoit pas d'accord de reconnaissance mutuelle (ARM), or il était plus important pour le Royaume-Uni de retrouver sa souveraineté sur la pêche. En comparant les points de négociation, il est à constater que les arguments du Royaume-Uni ont prévalu sur plusieurs points.

Tel que voulu par **autonomiesuisse** pour l'accord-cadre, les questions politiques de souveraineté – qu'**autonomiesuisse** considère comme prioritaires pour le succès à long terme de l'économie suisse – ont été largement réglées dans le cadre des négociations du Brexit. Cela montre qu'il existe un potentiel de négociation avec Bruxelles sur ces points. L'accord du Brexit donne à la Suisse la possibilité de conclure un meilleur accord-cadre, qui, après le Conseil fédéral et le Parlement, peut également être approuvé par le peuple et les cantons par voie de référendum.

Négocier comme les Britanniques

Vous trouverez en annexe une analyse détaillée montrant que le Royaume-Uni a obtenu 2,5 fois plus de succès et de "victoires" dans les négociations avec l'UE.

autonomiesuisse – une initiative de l'économie suisse qui gagne en importance

autonomiesuisse est une initiative de grande envergure soutenue par des entrepreneurs suisses et des personnalités de l'économie du centre. Elle s'engage en faveur d'une collaboration économique partenariale avec les pays de l'UE, mais également du monde entier. Son indépendance politique assure à la Suisse d'excellentes conditions cadres au niveau de l'économie et de la société. Le modèle de réussite suisse qui en découle doit rester viable à l'avenir également.

Contact

En tant que comité de pilotage de la coprésidence d'autonomiesuisse, nous sommes à votre disposition pour répondre à toutes vos questions sur l'accord-cadre entre la Suisse et l'UE d'un point de vue économique et commercial.

Hans-Jörg Bertschi

+41 79 330 50 72

hans-joerg.bertschi@bertschi.com

Martin Janssen

+41 79 413 20 00

martin.janssen@ecofin.ch

Hans-Peter Zehnder

+41 79 330 58 08

hans-peter.zehnder@zehndergroup.com

Réseaux sociaux



TABLE OF VICTORIES - nearly three times as many UK victories as EU ones

Number of key issues - 65

Total UK WIN - 28 = **43%**

Total EU WIN - 11 = **17%**

Total mutual compromise - 26 = **40%**

UK wins 2.5 times more victories than the EU.

	UK OPENING ASK	EU OPENING ASK	UK or EU WIN
GOODS			
SPS	The Agreement should protect our high SPS standards while facilitating access to each party's market. It should ensure parties' SPS measures do not create unjustified barriers to trade in agri-food, through a regulatory equivalence mechanism, and preserve each party's autonomy over their own SPS regimes. Recognition of regionalisation and compartmentalisation. Co-operation on antimicrobial resistance and animal welfare.	Partnership should build on and go beyond the WTO Agreement on SPS measures. Recognition of the EU as a single entity, and regionalisation. The SPS provisions should respect Union rules and international standards. Regulatory harmonisation is preferred. Co-operation on animal welfare and antimicrobial resistance	MUTUAL COMPROMISE – both parties protect their SPS standards and right to regulate while being open to regular review of the SPS provisions.
Market Access	No tariffs, fees, charges and quantitative restrictions on trade in manufactured and agricultural goods between UK and EU, where goods meet relevant rules of origin	No tariffs, fees, charges having equivalent effect or quantitative restrictions across all sectors provided that a level playing field is ensured through robust commitments. All customs duties or taxes on exports or any measures of equivalent effect should be prohibited and no new ones should be introduced.	MUTUAL COMPROMISE - zero tariffs and zero quotas

Rules of Origin	RoO similar to provisions in recent EU FTAs such as EU-Japan and CETA.	Appropriate rules of origin based on the standard preferential rules of origin of the Union and taking into account the Union's interest.	MUTUAL COMPROMISE – Provisions largely based on well-precedented EU proposals, with bespoke rules for batteries and electric vehicles that work for both sides, and bespoke rules for certain other UK priority sectors like aluminium and chocolate.
Cumulation	Cumulation between the UK and EU, allowing EU inputs and processing to be counted as UK input in UK products exported to the EU, and vice versa	Bilateral cumulation of materials only.	UK WIN – full bilateral cumulation of both materials and processing included, encouraging trade between both markets, including complex supply chains
Trade Remedies	A chapter that reaffirms our WTO commitments on trade remedies. Select 'WTO plus' provisions that covered the application of an economic/public interest test, the lesser duty rule in accordance with their domestic legislation, and that neither party may apply multiple safeguard measures to the same good, at the same time.	A handful of provisions reaffirming WTO provisions at a high level. None of the UK proposed 'WTO plus' provisions, but one specific 'WTO plus' provision seeking to restrict our ability to challenge 'Green Box' agricultural subsidies at the WTO.	UK WIN - The UK's WTO plus proposals were all included in some form. The EU's unprecedented proposal protecting 'green box' agricultural subsidies (part of the CAP) from challenge was not included.
Technical Barriers to Trade	Assert UK's right to regulate, applying to trade in all manufactured goods, as well as to agri-food products for issues not covered by sanitary and phytosanitary (SPS) requirements.	EU wanted to tie the UK more closely to its regulatory framework.	UK WIN - The text makes clear the UK's right to regulatory autonomy, but at the same time contains helpful provisions on regulatory cooperation, which the Commission had resisted. In specific areas such as our approach to conformity assessment (testing to ensure the safety of goods) the UK successfully resisted attempts to tie us to EU approaches.

Technical Barriers to Trade 2	A comprehensive TBT chapter spanning technical regulation, conformity assessment, standardisation, accreditation, metrology, market surveillance, and marking and labelling, building upon the WTO TBT Agreement, and in line with recent EU Free Trade Agreements such as CETA and the EU-Japan EPA.	EU ambitions in a TBT chapter were more limited except in areas where they saw an advantage to themselves in going further than the WTO TBT agreement.	MUTUAL COMPROMISE – much of the chapter is in line with the WTO TBT agreement but helpfully goes beyond it in certain areas where either the UK wanted stronger provisions (e.g. regulatory co-operation) or the EU did (supplier's declaration of conformity).
Mutual recognition of conformity assessment	A Protocol on the mutual recognition of conformity assessment (product testing) results to facilitate trade in goods that are subject to third party conformity assessment processes, consistent with provisions found in CETA and applying to all relevant sectors.	The EU resisted an MRA agreement, insisting that it was not in their interest to agree an MRA which they felt would allow the UK to continue acting as an EU "certification hub".	EU WIN - There is no MRA
Sectoral Annexes	The UK wanted annexes to the TBT chapter on chemical substances; motor vehicles and parts; organic products, and medicines.	The EU resisted inclusion of such annexes.	UK WIN – There are five sectoral annexes including on chemicals, motor vehicles and medicines, organics and wine even though the Commission had previously resisted inclusion of any annexes at all (although the annexes are less ambitious than initial UK proposals).
Customs – trusted trader schemes	Wanted mutual recognition of authorised economic operator (trusted trader) security and safety schemes (AEOS schemes) in place from 1 January.	EU wouldn't commit to a timeframe for implementing mutual recognition, saying it didn't need to be in place from January 2021.	UK WIN – Mutual recognition of trusted traders schemes in place from 1 January, so eligible businesses face fewer controls at the border.

Customs – bespoke trade facilitations	Wanted cooperation at roll-on roll-off ports to maximise flow, including clarification that mandatory pre-lodgement of declarations is legal, and a ‘single declaration’ pilot involving sharing import and export data to minimise admin burdens for businesses.	EU didn’t want any bespoke facilitations – their focus was much more on enforcement and much less on reducing the burden on business.	<p>UK WIN – Agreed cooperation on managing flow at ‘roll-on roll-off’ ports like Dover and Holyhead and also on exploring the possibility of sharing import and export declaration data, including by setting up pilot programmes where appropriate.</p> <p>[EU refused to state legality of mandatory pre-lodgement at roro ports in the text of the agreement.]</p>
Customs – mutual administrative assistance	Wanted to cooperate on enforcement of both sides’ customs regimes while preserving the UK’s right to regulate and to protect its own financial and security interests.	Wanted to cooperate on enforcement of customs regimes, but also wanted to commit the UK to harmonising its regime with the EU approach.	<p>MUTUAL COMPROMISE – we have agreed proportionate cooperation arrangements with full recognition of UK regulatory independence.</p>
VAT and debt recovery	Did not see any need to agree for 1 January, although welcome cooperation on VAT agreed to longer timeframe, on Norway model [position not stated to Cion.]	Wanted unprecedented agreement of cooperation provisions on recovery of indirect taxes (VAT, customs duties, excise) and direct taxes.	<p>MUTUAL COMPROMISE – we have agreed a VAT and debt recovery protocol that builds on international agreements but with modernised terms and appropriately restricted to indirect taxes (VAT, customs duties and excise), rather than the disproportionate measures proposed by the EU.</p>
SERVICES			
Legal Services	The agreement should include provisions regarding the practice of home title legal services. This will improve the clarity of lawyers’ market access after 1 January.	No provisions	<p>UK WIN – The agreement includes provisions on home title legal services^[ii]. They will improve the clarity and certainty of market access for UK lawyers seeking to practise UK or international law in the EU.</p>

Core rules on trade in services and investment	The agreement should include provisions on market access, national treatment, prohibition of performance requirements, local presence, senior managers and boards of directors, and MFN (if the deal is high ambition).	The agreement should include provisions on market access, national treatment, prohibition of performance requirements, senior managers and boards of directors, and MFN (if the deal is high ambition).	<p>MUTUAL COMPROMISE</p> <ul style="list-style-type: none"> – The agreement includes modern rules on trade in services and investment. This provides business with certainty and confidence about the operating environment for services supply and investment. <p>The UK secured local presence; the EU secured a less ambitious outcome on senior managers and boards of directors.</p>
Mode IV	Mode IV provisions building on CETA and EU-Japan	Several elements less ambitious than EU-Japan (length of stay for several categories, no national treatment provisions for short-term business visitors, no investor category)	<p>MUTUAL COMPROMISE</p> <ul style="list-style-type: none"> – The agreement includes EU-JP elements that were not tabled by the EU, most notably on short-term business visitors. <p>The agreement did not include an investor category, in line with the EU's proposal, which was incompatible with the UK's domestic immigration policy.</p>
MRPQ	A pathway to recognition with comprehensive coverage, while respecting regulatory autonomy.	Include a framework for negotiations on the conditions for the competent domestic authorities to recognise professional qualifications necessary to the pursuit of specific regulated professions, where in the Union's interest	<p>EU WIN – The Agreement will establish a framework for qualification recognition, in line with CETA. On the plus side, the UK extracted concessions including (a) making clear in the agreement that other non-FTA routes exist for recognition and (b) introducing the possibility of opening up more tailored approaches.</p>

Telecoms	Fair and equal access to networks and services, preventing anti-competitive practices and delivering benefits for consumers.	No more than what is precedented in other EU FTAs. No EU-Japan provisions on regulatory cooperation regarding mobile roaming.	UK WIN – the agreement goes beyond EU's best precedent on foreign shareholding, authorisation and net neutrality, with clarifications to protect the UK's regulatory autonomy – in particular our ability to protect children from online harms. The agreement also encourages regulatory cooperation on mobile roaming, in line with EU-Japan.
Delivery Services	Commitments to promote trade in postal and delivery services.	Regulatory provisions in line with existing Union free trade agreements in specific sectors such as delivery services	MUTUAL COMPROMISE - Agreement based on best EU precedent.
International maritime transport services	The UK mandate did not include specific provisions on international maritime transport services or SMEs. It did propose sector-specific content on Audio-Visual	The agreement should include sector specific obligations regarding international maritime transport services but not on audio visual services. It should include a chapter on SMEs.	EU WIN – the Agreement includes a specific section on international maritime transport services and an SME chapter. AV is excluded. None of these was a significant win for the EU. The UK was not particularly defensive on IMTS or the SME chapter (and indeed these appear in other UK FTAs). We always knew that the French would veto AV content, but it was important for us to include it as a signal of intent of what we want to do in our other trade agreements.

Financial Services	A chapter that builds on EU-JPN in areas like new financial services. As well as (annexed) provisions on regulatory cooperation.	A chapter only reflecting standard EU precedent and no annex.	EU WIN - The FS chapter text is very heavily precedented. There is no regulatory cooperation annex although there is a short Joint Declaration which says both parties will agree by March 2021 a Memorandum of Understanding establishing the framework for structured regulatory cooperation on financial services, based on a shared commitment to preserve financial stability.
Financial Services	We wanted to avoid measures which would allow the EU to restrict the outsourcing of financial services.	The EU wanted to introduce a technical provision – a “headnote” – which would have justified EU measures to greatly restrict the outsourcing of financial services, including portfolio delegation.	UK WIN we saw off the “Headnote”. This is of particular benefit to UK firms providing certain financial services to EU firms.
Financial Services – avoidance of cross suspension	The UK wanted to exclude Financial Services from cross-retaliation if there is a breach of another part of the agreement.	The EU wanted to be able to retaliate on financial services if it considered the UK to have breached another part of the agreement which had nothing to do with Financial Services	UK WIN - We have insulated financial services from cross-retaliation should a dispute arise in another area of the agreement. This is important to protect financial stability.
Digital	Facilitate modern forms of trade [...] in both new, technology-intensive businesses and traditional industries...in specific areas, go beyond precedents to reflect the direction of travel in current digital trade negotiations	Facilitate digital trade, addressing unjustified barriers to trade by electronic means	UK WIN - Deal is near the level of their best precedent, with most notably the first EU FTA provisions on open government data and unprecedented provisions prohibiting requirements to store or process data in a specific location, thus reducing burdensome costs for British business.

Intellectual Property	The agreement should provide for high standards of protection for IP rights, making reference to and exceeding standards set out in international agreements.	The agreement should provide for high standards of protection for IP rights, making reference to and exceeding standards set out in international agreements. The agreement should also include a provision on artist's resale rights.	MUTUAL COMPROMISE – the agreement provides for high standards of protection for IP rights, including artist's resale rights.
Geographical Indications	Any agreement on GIs must respect the rights of both parties to set their own rules on GIs and the future directions of their respective schemes.	The envisaged partnership should confirm the protection of existing geographical indications as provided for in the Withdrawal Agreement and establish a mechanism for the protection of future geographical indications ensuring the same level of protection as that provided for by the Withdrawal Agreement.	NEITHER SIDE WIN – there is no geographical indications chapter – just a review clause which allows both Parties to agree to negotiate one in future if they should decide they want to
Public procurement	The UK mandate did not include public procurement.	The agreement should include provisions regarding public procurement that build on the Parties' commitments at the WTO. The envisaged partnership should commit the Parties to standards based on and going beyond those of the GPA.	MUTUAL COMPROMISE - The agreement includes provisions regarding public procurement. However, though they build on the Parties' commitments at the WTO, the UK watered down the EU's original text significantly to remove its over-prescriptive elements and make it compatible with the UK introducing its own independent public procurement system.
LEVEL PLAYING FIELD / OPEN AND FAIR COMPETITION			

EU law / EU standards	The UK asked to use the tried and tested ways of preventing unfair competition of standard FTAs - i.e. use concepts based on international law.	The EU asked for an unprecedented level of alignment with their own regulatory framework: it wanted EU standards in the areas of social, environmental, tax, state aid and competition matters to serve as a point of reference.	UK WIN - The LPF provisions are not based on EU law. There is no concept of EU law in the Treaty.
Equivalence / The 'Rebalancing mechanism'	Wanted a tool to allow the Treaty to be reopened in the future and change LPF provisions if they prove too onerous	Wanted the ability to impose unilateral tariffs in the event the UK diverged too substantially from EU norms.	UK WIN - The UK rejected the EU's asks for an 'equivalence' mechanism, and instead secured a review and rebalancing clause which allows either side to initiate a formal review of the economic parts of the deal, including the level playing field provisions, and update the balance of the agreement over time. Any short-term rebalancing measures are strictly limited and proportionate and subject to the approval of an independent arbitration panel.
Subsidies	The UK was clear that it intended to establish its own regime of subsidy control. We asked for reciprocal transparency commitments and a right to request consultations on any subsidy that might be considered to harm each other's interests.	The EU wanted us to accept dynamic alignment with EU state aid policy and wanted the UK to adopt the same procedures that exist in the EU, particularly "ex ante" approval of subsidies by an independent body. . In addition, it wanted a unilateral right to impose remedial measures (eg tariffs) on the UK if it considered the UK granted inappropriate aid. This option would be available only to the EU, not to the UK.	UK WIN - The deal allows the UK to set up its own subsidy regime and not have to follow the EU's state aid regime or procedures (the UK can, if it wants, have an ex-post regime). However, the UK will have to ensure that its subsidy regime respects certain principles that are set out in the Treaty. The deal also allows both parties to adopt remedial measures on a reciprocal basis and with tight controls, including compensation for abuse of the mechanism.

Non-regression / 'Ratchet mechanism'	The UK agreed there should be a mutual commitment to preventing trade distortions, by upholding common high standards. But we insisted on preserving decision-making autonomy and on a clear link between any perceived regression and an intention to distort trade. . We did not want this area covered by the horizontal dispute settlement – but instead to have a panel of experts, that could issue non-binding decisions.	The EU wanted the UK to maintain EU rules on labour, climate and the environment regardless of whether any changes would have an impact on trade. It wanted to include a so-called "ratchet" mechanism which would have constrained UK's regulatory independence - by linking it to future EU levels of protection. The EU also wanted the horizontal dispute settlement mechanism to apply.	MUTUAL COMPROMISE - The UK and EU have agreed to non-regression clauses for the level of protection that exists on 31 December 2020, but the clauses permit the UK to abandon retained EU law so long as the overall level of protection doesn't fall (i.e. there is no special status for retained EU law). The obligation only applies to changes that have a clear impact on trade. There is no ratchet mechanism. The Parties agreed to a bespoke Panel of Experts approach which blends the UK's proposal for political dispute settlement with the option of trade remedies if a breach of the obligations has a serious impact on trade.
Sustainable development	We wanted a precedented approach, with both sides reaffirming their commitment to sustainable development internationally (covering areas of labour, environment, climate, and general provisions). We also sought clauses on co-operation and transparency	The EU wanted more detail in this section than the UK had proposed.	MUTUAL COMPROMISE – Recognising convergence on our positions in international fora and objectives for trade and sustainable development, the UK and EU agreed to adding more detail in this chapter while remaining in line with FTA precedents.
Competition	We asked for precedented commitments on maintaining effective competition laws, which did not require legal or regulatory alignment.	The EU wanted to prescribe aspects of our competition regimes, using EU competition law as the baseline. The EU also wanted the horizontal arbitration mechanism to apply to this chapter.;	UK WIN – The UK agreed to competition provisions based on precedent. We rejected the use of EU concepts in this chapter, ensuring that for the UK, the commitments are based on the UK's domestic competition law. We successful in ensuring that the horizontal DRM does not apply to this chapter.

Tax	The UK offered some commitments to upholding international standards on tax transparency and fighting tax avoidance, reflecting the UK's global leadership in this area.	The EU wanted the UK to be bound by EU tax standards, including the EU's Code of Conduct for Business Taxation. The EU wanted these commitments to be subject to the horizontal dispute resolution mechanism.	<p>UK WIN – We have rejected EU demands to be bound by their tax rules or Code of Conduct and delivered an agreement that fully respects UK tax sovereignty.</p> <p>We have instead agreed a stand-alone Joint Political Declaration on Countering Harmful Tax Regimes, reflecting work done by the OECD and existing UK commitments, as this creates an annual dialogue between the UK and the EU on these issues.</p> <p>The tax commitments are not subject to dispute resolution mechanism, which was a UK ask</p>
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FISHERIES

Fundamental principles	A framework agreement to facilitate annual negotiations on quota, access and TACs.	A long-term agreement which fixes quota and access in a continuation of the status quo, and facilitates joint management of shared stocks.	MUTUAL COMPROMISE – annual quota system returns after a 5 and a half year transition, during which access is fixed
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LAW ENFORCEMENT

Governance / EU preconditions	<p>Structure: Standalone agreement, with appropriate and proportionate governance arrangements.</p> <p>Suspension/termination: agreement should allow suspension or termination of some or all provisions by either party for any reason.</p> <p>Data adequacy / continued membership of European Convention Human Rights (ECHR) should not be set as a precondition for cooperation.</p> <p>DRM: political DRM, no role for the CJEU</p>	<p>Structure: part of main agreement.</p> <p>Suspension/termination: suspension of whole or part of agreement in case of breach of essential elements. Including: suspension of LE co-op if data adequacy decision is repealed/suspended /declared invalid; automatic termination of LE co-op if UK were to denounce European Convention Human Rights (ECHR) or automatic suspension if UK were to repeal domestic law giving effect to ECHR.</p> <p>DRM: arbitration panel backed by CJEU</p>	<p>UK WIN</p> <p>Structure: Part of main agreement, with bespoke governance provisions</p> <p>Suspension/termination: no automatic suspension or termination.</p> <p>Reciprocal ability to suspend in case of serious and systemic concerns on data protection or terminate in case of particular human rights concerns (agreement terminated on date of leaving European Convention Human Rights).</p> <p>EU preconditions: cooperation not contingent on an adequacy decision or ongoing commitment to ECHR</p> <p>DRM: political DRM, no role for CJEU</p>
Criminal Records	<p>Fast and effective exchange of criminal records data between the UK and EUMS.</p> <p>Capability similar to European Criminal Records Information System (ECRIS) (i.e. secure, automated, electronic system to exchange criminal records information within specific deadlines).</p>	<p>Arrangements appropriate to third country status, with the view of delivering capabilities that, in so far as technically and legally possible and considered necessary approximate those enabled by European Criminal Records Information System (ECRIS).</p>	<p>UK WIN – agreement provides for fast and effective exchange of criminal records data between UK and EUMS through shared technical infrastructure (European Criminal Records Information System (ECRIS)). No role for CJEU which EU previously pushed for.</p>
DNA, Fingerprint and Vehicle Registration Data (CRD)	<p>Fast and effective exchange of national DNA, fingerprint and vehicle reregistration Data between the UK and EUMS. Capabilities similar to Prüm with no jurisdiction for the CJEU.</p>	<p>Arrangements ensuring reciprocal access to data available at the national level on DNA and fingerprints of suspected and convicted individuals as well as vehicle registrations data (Prüm).</p>	<p>UK WIN - Fast and effective exchange of national DNA, fingerprint and vehicle registration data between the UK and EUMS via UK access to Prüm. No role for the CJEU which EU previously pushed for.</p>

Passenger Name Records (PNR)	Reciprocal transfers of PNR data from airlines to UK or EU MS competent authority with symmetrical safeguards.	Timely, effective, efficient and reciprocal exchanges between Passenger Information Units (PIUs) of PNR data. Provide a basis for transfers of PNR data by air carriers to the UK for the flights between the UK and EUMS. Should comply with the relevant requirements, including those set out in the Opinion 1/15 of the CJEU. EU sought an asymmetrical agreement.	EU WIN – PMR arrangements covering EU PNR data flowing to the UK, as well as PIU (Passenger Information Unit) to PIU information exchange. However, agreement is asymmetrical EU required PNR safeguards so have agreed a review clause + 3-year interim period to enable UK ability to delete data categories as specified under CJEU opinion on EU-Canada.
Real-time alerts on missing/wanted persons or objects / SIS II	Mechanism for the UK and EUMS to share and act on real-time data on persons and objects of interest including wanted persons and missing persons, per SIS II.	Simplified, efficient and effective exchange of existing information and intelligence between the UK and EUMS law enforcement authorities, in so far as is technically and legally possible, and considered necessary and in the Union's interest. EU offered the 'Swedish Initiative'	MUTUAL COMPROMISE – EU said that the UK could not access SIS II as not part of Schengen (i.e. not linked to CJEU position). UK did not accept Swedish Initiative, but we agreed Operational Cooperation providing another basis for bilateral information exchange between UK and EUMS law enforcement authorities.
Europol	Third country agreement with Europol, with ability to go beyond given scale / nature of UK contribution.	Third country agreement in line with precedents.	UK WIN – Arrangements based on third country precedent but which respect scale of UK contribution + fast and effective information exchange + access to SIENA secure messaging system and ability to second liaison officers.
Eurojust	Third country agreement with Eurojust, with ability to go beyond given scale / nature of UK contribution.	Third country agreement in line with precedents.	UK WIN – Arrangements based on third country precedent but which respect scale of UK contribution + ability to second Liaison Prosecutor and their assistant's to Eurojust HQ.

Extradition	Fast-track extradition arrangements based on NO/IS Surrender Agreement with further safeguards. Not seeking EAW participation.	Arrangements based on streamlined procedures subject to judicial control and time limits, providing for UK/EU MS surrender of suspected and convicted individuals expeditiously. Possibility to waive double criminality requirement, and to determine applicability for political offences and to own nationals.	UK WIN – Secured fast track arrangements in line with NO/IS model. With additional safeguards so that surrender can be refused if someone's fundamental rights are at risk, extradition would be disproportionate, or they are likely to face long periods of pre-trial detention.
Mutual Legal Assistance & Asset Freezing and Confiscation	Arrangements that improve on Council of Europe Conventions, including streamlined and time limited processes.	Arrangements that supplement relevant Council of Europe Conventions, including time limits and standard forms, and covering supplementary forms of Mutual Legal Assistance. Should deliver capabilities that 'approximate' those enabled by the Union instruments.	UK WIN – agreed arrangements improving on CoE Conventions in both cases. Also included arrangements on Asset Freezing and Confiscation (AFC) which was not part of the EU mandate.
Prisoner Transfer	Arrangements for reciprocal prisoner transfer that improve on Council of Europe Convention, which could include time limited processes.	No ask.	EU WIN - No prisoner transfer arrangements.
ENERGY			
Electricity and gas trading arrangements	The UK sought trading arrangements that would enable efficient electricity and gas trading over the interconnectors between the UK and EU.	EU proposed a framework that should include mechanisms to ensure <u>as far as possible</u> efficient trade over interconnectors over different timeframes.	MUTUAL COMPROMISE – Efficient electricity trading arrangements have been agreed that ensure capacity and electricity is sold together, maximising value for consumers. Furthermore, gas will continue to be traded efficiently using the PRISMA platform.

Market support measures	The UK sought to ensure that energy markets were suitably compatible to enable trade to take place, whilst respecting each party's right to make independent decisions on their energy policies.	The EU sought the inclusion of wide-ranging provisions that aimed to ensure energy markets were competitive, non-discriminatory and open to access.	MUTUAL COMPROMISE – UK limited the supporting measures to those most relevant to the trading arrangements, whilst retaining regulatory freedom. EU content their core energy market liberalisation provisions were included.
Technical cooperation	The UK sought technical cooperation between electricity and gas network operators and organisations in the planning and use of energy infrastructure connecting their systems. This included cooperation to support decarbonisation projects in the North Seas.	The partnership should establish a framework to facilitate technical cooperation between electricity and gas network operators and organisations.	UK WIN – The parties agreed cooperation across all the Energy Title. Most notable is the commitment to build on the North Seas Energy Cooperation, through the establishment of a specific forum for technical discussions in relation to jointly realising the large renewable energy potential of the North Seas. Securing this depth of cooperation on this issue was a priority ask for the UK.
CIVIL NUCLEAR			
Civil nuclear	The UK and European Atomic Energy Community (Euratom) should conclude a Nuclear Cooperation Agreement (NCA) for cooperation on civil nuclear matters. The NCA should cover compliance with international nuclear safeguards, safety and security standards, and will facilitate civil nuclear trade.	A nuclear agreement should include provisions for wide-ranging cooperation between the Euratom and the United Kingdom on peaceful uses of nuclear energy.	MUTUAL COMPROMISE - A nuclear agreement has been agreed
TRANSPORT			

Aviation	<p>A Comprehensive Air Transport Agreement (CATA) and Bilateral Aviation Safety Agreement (BASA)</p> <p>Unlimited rights between points in the UK and points in the EU (3rd and 4th freedoms+);</p> <p>Ownership and control, with no unnecessary restrictions on the nationality of who can own or effectively control a UK or EU airline</p> <p>Modern commercial practices, including liberal code-sharing and wet-leasing arrangements</p>	<p>Continued connectivity but not same level of access as MS. 5th freedoms possible under certain conditions.</p> <p>Reliance on EASA for certification processes; only one technical annex on airworthiness</p>	<p>UK win on air transport - EU agreed to more flexible ownership and control rules for existing UK airlines-</p>
Road	<p>UK and EU road transport operators should be entitled to provide services to, from and through each other's territories with no quantitative restriction</p> <p>The Agreement would leave the UK free to regulate domestic haulage and passenger transport, including in a way which reflects the circumstances of the island of Ireland.</p>	<p>UK should have less road access than MS; bilateral road freight transport only; limited transit rights through Ireland.</p> <p>There should be common standards specific to road transport, on top of horizontal LPF provisions.</p>	<p>MUTUAL COMPROMISE</p> <p>UK WIN - agreement on cabotage and cross-trade as well as bilateral rights</p> <p>EU WIN - UK agreeing to detailed standards</p>
PROGRAMMES			

Programmes	Standard third country participation terms for Horizon, Copernicus and Euratom	Novel terms for UK participation in EU programmes inc. 1-way financial correction mechanism on Horizon Europe; new participation fee to cover admin costs.	MUTUAL COMPROMISE – UK participates in Union programmes on a fair and balanced set of terms.
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THEMATIC COOPERATION

Health Security	Arrangements that enable future cooperation, particularly in light of C-19. Sought balanced access to health security for a, expert to expert cooperation, including use of Early Warning Response System (EWRS) where necessary.	Cooperation on health security in line with third country precedent, including international fora on prevention, detection and preparation in response to established and emerging health threats.	MUTUAL COMPROMISE – package to enable continued cooperation including on Covid-19 response measures. UK has ad-hoc access to EWRS through designated focal points (this builds on the EU proposal and provides a useful mechanism for agreeing access to the system) + linked status with the Health Security Committee to share expertise etc. Option to negotiate an MoU with European Centre for Disease Control (ECDC)
Cyber Security	No ask, but open to cooperation where it is in our interests.	Cyber dialogue and commitment to cooperate in international fora. Plus UK-CERT EU cooperation + UK participation in NIS Cooperation Group + UK participation in ENISA	MUTUAL COMPROMISE – We didn't initially want formal arrangements, and what we have agreed is permissive and mutually beneficial. Includes voluntary participation with expert committees and bodies including.
Security of Information Agreement (SOIA)	Precedented Security of Information Agreement based on international norms. Proposed a standalone agreement (in line with precedent).	EU asked for this to be a protocol and part of the FTA Reciprocal guarantees for the handling / protection classified information. + Arrangements on sensitive non-classified information.	MUTUAL COMPROMISE – We agreed the SOIA would be a supplementary agreement, rather than rolled in to the TECA. It takes account of our domestic regime.

Asylum and Illegal Migration	Formal UK-EU arrangements on returns + unaccompanied asylum-seeking children	Dialogue to tackle irregular migration + cooperation through Europol.	EU WIN – No formal arrangements. Agreed a joint political declaration noting importance of arrangements and that the UK will engage in bilateral with EUMS.
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SOCIAL SECURITY COOPERATION

Social Security Cooperation	Agreement should cover aggregation and export of pensions; necessary healthcare; prevention of payment of dual concurrent contributions for people working in the EU, covering all persons.	SSC provisions as part of a Mobility package. Practical copy paste of current EU SSC regulations, but applying only to a narrow cohort of students, researchers.	UK WIN - Personal scope widened to capture anyone going to travel, work or live between the UK or the EU. This will mean more individuals will benefit from the Protocol. The Protocol also allows the UK to restrict access to family benefits for EU citizens until they obtain permanent residence. The export of child benefits will also end for EU citizens coming to the UK in the future.
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GOVERNANCE

Form	"The parameters for [the] future relationship [should be] a Comprehensive Free Trade Agreement (CFTA) ... supplemented by a range of other international agreements covering, principally, fisheries, law enforcement and judicial cooperation in criminal matters, transport, and energy ... All these agreements should have their own appropriate and precedented governance arrangements ..."	A single agreement, under a single institutional framework.	EU WIN - A single agreement, under a single institutional framework, apart from two supplementing agreements on Civil Nuclear and Security of Information.
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Termination clauses	A single termination clause for the whole agreement	Separate termination clauses for all areas of the agreement which would normally be separate agreements	MUTUAL COMPROMISE
Type of governance / role of the ECJ	The Agreement should include provisions for governance arrangements ... based on a Joint Committee to support the smooth functioning of the Agreement, and provide mechanisms for dialogue, and, if necessary, dispute resolution. The arrangements will reflect the regulatory and judicial autonomy of the UK and accordingly there will be no role for the Court of Justice of the European Union in the dispute resolution mechanism.	A Partnership Council covering all areas of the single agreement, with commitments to transparency and exceptions. As above, with all areas subject to binding dispute resolution and with a role for the Court of Justice in the dispute resolution mechanism whenever Union law or concepts of Union law are in play.	UK WIN - There is no role for the ECJ (with clauses specifically prohibiting its role). A Partnership Council covering all areas of the single agreement and the two supplementing agreements on Civil Nuclear and Security of Information. Transparency and exceptions agreed. with binding or non-binding arbitration agreed in all areas, but with no role for the Court of Justice and no cross suspension between security and economic parts of the single agreement or across to the supplementing agreements on Civil Nuclear or Security of Information.
Essential Elements	The EU includes these in all of its FTAs, the UK didn't see the need to include them	We accepted these as a necessary precondition of the agreement, whilst ensuring they align with UK policy. We ensured the threshold for actually using them is extremely high.	EU Win
Cross-suspension	Cross-suspension across all areas of the agreement at the end of the arbitration process	Cross-suspension between economic elements with additional tests before suspension between areas that were separate agreements in the UK's original proposals.	MUTUAL COMPROMISE

ⁱⁱ The substantive provisions reflect current MS domestic rules which will not change as a result of the agreement. However, this inclusion does improve the transparency of these restrictions and raises the prospect that if MS domestic rules change in future, they will be locked in.