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TRADE AND CUSTOMS IN THE UK BEYOND BREXIT

— THOUGHT LEADERSHIP

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TRADE AND CUSTOMS IN THE UK BEYOND BREXIT

As of 1 January 2021, the transition period of the UK's access to the EU's Single Market and Customs Union ended, meaning the EU's trade law regime no longer applies to the UK following Brexit. For the first time in 48 years, importers and exporters must grapple with a UK trade and customs administration entirely independent from the EU, including new domestic regulations, international trade agreements and, in some cases, government agencies.

This article was originally published on 18 August 2021 in the Lexology Trade and Customs Guide. During the course of 2021, the UK has become one of the most relevant and influential trade law regimes in the World, implementing new domestic legislation governing trade remedies, customs duties, trade barriers, export controls and sanctions. Although similar to the previous EU rules, UK law and the approach taken by investigating government agencies differs in several important ways, most notably trade remedies investigations conducted by the new UK Trade Remedies Authority. For example, in recent months the UK has removed several previously enacted EU trade remedy measures and initiated its own investigations on the basis of applications by UK producers.

In the area of international trade agreements (often termed FTAs), the UK has successfully negotiated dozens of treaties with EU trading partners to continue the terms of pre-existing EU deals, as well as brand-new FTAs with Japan, Australia and, crucially, the EU itself. These deals affect tariffs on numerous UK imports, now governed by the new UK Global Tariff regime. The Trade and Cooperation Agreement with the EU alone affects approximately half of all UK exports and imports. The UK continues to negotiate FTAs with the United States, New Zealand and others, and seeks accession to the 11 member Comprehensive and Progressive Agreement for Trans-Pacific Partnership.

Another key aspect of Brexit is that the UK now represents itself independently from the EU at the WTO, giving it the right to negotiate multilateral and plurilateral WTO agreements, investigate potentially unlawful trade barriers imposed by other Members and initiate formal disputes before the WTO Dispute Settlement Body.

Brexit has also imposed additional obligations on the UK in the areas of export controls and sanctions investigations, including adopting several measures previously imposed by way of EU regulations by way of new legislation.

Finally, 2021 has seen the UK further develop its own regulatory framework on critical international trade issues, including climate change (e.g. the UK's independent Emissions Trading Scheme) and trade in digital services (e.g. the proposed Digital Services Tax).

LEGAL FRAMEWORK

Domestic legislation

The Taxation (Cross-border Trade) Act 2018 , as amended, provides the statutory basis for the powers conferred on the Trade Remedies Authority (TRA) to investigate trade remedies issues, and also those powers granted to the Secretary of State to impose measures upon the recommendation of the TRA. The TRA was established in UK law under section 6 of the Trade Act 2021.

The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (SI 2019/450), as amended, governs the

rules and procedures dealing with Anti-Dumping Duties and Countervailing Duties.

The Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019 (SI2019/449), as amended, provides the basis for the investigation and application of safeguards (Safeguard Regulations).

The Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019 (SI 2019/910), as amended, sets out the basis for an appeal of a trade remedy decision (R&A Regulations).

Following the UK's exit from the EU and the end of the transition period on 31 December 2020, EU trade defence measures no longer apply. The UK has maintained 42 of the existing 114 EU anti-dumping or anti-subsidy measures then in place, and 19 of the 28 safeguard measures, where these were determined to continue to be in the UK's interests.

International agreements

Following the EU-UK Withdrawal Agreement and exit from the EU on 1 January 2020, the UK has engaged on an ambitious independent trade agenda, including negotiating an FTA with the EU that took effect at the end of the transition period on 31 December 2020 (the EU-UK Trade and Cooperation Agreement).

Prior to the end of the transition period, the UK negotiated Continuity Agreements with 63 countries to ensure the continuation of pre-existing EU trade preferences. The UK agreed an FTA with Japan on 22 October 2020, which provides additional modifications to the EU-Japan arrangement. Countries without a Continuity Agreement (or under the UK Generalised Scheme of Preferences regime) trade with the UK on the basis of the rules and applicable UK most favoured nation (MFN) tariff rates of the World Trade Organisation (WTO).

The UK continues to negotiate several new trade agreements, separate from previous EU deals, including a recently agreed FTA with Australia, as well as ongoing negotiations with the US and New Zealand. It also seeks accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership. The UK has committed to a free trade policy Government and will likely seek to negotiate further trade deals in the coming years, although certain obstacles may apply, for example, access to the UK's heavily regulated food and pharmaceutical markets.

The UK is a founding member of the WTO and its predecessor, the GATT and now represents itself independently from the EU in all WTO committees and the Dispute Settlement Body. The WTO has not yet conducted a trade policy review of the UK as it only recently withdrew from the EU.

Since leaving the EU, the UK has not initiated or defended a dispute at the WTO although it is participating as a third party in seven disputes. The UK supports the full functioning of the Appellate Body (AB) and has joined other WTO members in advocating for the nomination of new AB members. Although the UK remains subject to retaliatory tariffs imposed by the US against the EU in relation to the ongoing Airbus-Boeing subsidies dispute at the WTO, it agreed a bilateral deal with the US to suspend respective retaliatory tariffs for a period of four months from March 2021 to seek a negotiated settlement. The US and EU have since agreed a further five-year extension of this suspension.

TRADE DEFENCE INVESTIGATIONS (OUTSIDE THE WTO DISPUTE SETTLEMENT SYSTEM)

Government authorities

The Trade Remedies Authority (TRA) conducts trade remedy investigations in the UK. It is incorporated as a non-departmental public body by way of the Trade Act 2021, with the responsibility of advising the Secretary of State for International Trade on the imposition of UK trade remedies (section 7). The TRA takes over these responsibilities from the temporary authority of TRID (effectively

subsumed into the TRA along with all prior determinations). The Secretary

of State may impose various trade remedy measures on the advice of the TRA, including anti-dumping duties (ADDs), countervailing duties (CVDs) and safeguards. The TRA also undertakes all reviews of prior trade remedy decisions and imposed measures.

ADDs, CVDs and other duties on imports are collected by Her Majesty's Revenue and Customs (HMRC). The TRA is responsible for conducting investigations into alleged overpayment of duties, with decisions implemented by HMRC. Under the Northern Ireland Protocol between the UK and the EU, special rules apply to trade remedies measures and investigations in relation to Northern Ireland.

Complaint filing procedures

An investigation by the TRA concerning the potential application of an anti-dumping agreement, CVD or safeguard measure is generally initiated by a UK producer of goods or industry association, although the Secretary of State also has the power to order an investigation ex officio. Any natural or legal persons (including, for example, associations such as trade unions) may submit petitions to the TRA. The TRA's Pre-Application Office may assist petitioners with relevant economic data to include in submissions.

Petitioners should submit, in accordance with the relevant schedules of the Anti-Dumping Duties and Countervailing Duties (D&S) and Safeguard Regulations:

- a description of the good in question and directly competitive goods;
- the impugned exporting country;
- all known exporters;
- all known UK importers and the volume of imports;
- all known UK producers;
- as a threshold issue, evidence of at least a 25 per cent market share for supporting UK producers;
- prima facie evidence (with accompanying data) of dumping, subsidies or more general economic justification for safeguards, as applicable; and
- evidence of material injury, which should be 'more than negligible'.

In the case of safeguard investigations, evidence is also required of an increase in imports (whether in total quantity or relative to domestic production) and justification for provisional measures.

Petitioners must also provide non-business confidential versions of submissions for publication.

In the event that the submission requirements are met, the TRA has 40 days from the date of receipt to decide on whether to initiate an investigation, or 30 days in the case of a safeguard application.

Any decision to investigate must be followed by notification to the relevant exporting country's government and all known exporters. Safeguard investigations are, as a matter of practice, notified to the relevant WTO committees.

Guidance on the application process for petitioners and the TRA's investigation procedures can be found **here**.

Contesting trade remedies

Foreign exporters listed in the TRA's notification may provide submissions as interested parties, and can register their interest **online with the Trade Remedies Service**. A trade association may also act on behalf of an exporter. At the time of notification, the TRA is required to provide a defined period for parties to register an interest in the investigation. This period is not currently defined in the governing regulations, but recent transition reviews of pre-existing EU measures suggest a period of 20 days (see Transition Review TD0011: Cold-rolled flat steel). Extensions of deadlines are permitted upon application to the TRA. Information on all past and current TRA investigations is available **here**.

Interested parties may be sent a questionnaire by the TRA for data sampling, in particular evidence of domestic sales, exports and the cost of production of the relevant good. The TRA has not yet conducted a full investigation into a new petition since the UK's exit

from the EU. However, the standard procedure involves issuing a list of proposed sampling entities, which investigated exporters may respond to in written submissions. An exporter may challenge the TRA's decision to disregard certain information obtained from questionnaires and issue a recommendation on the basis of 'facts available', which may result in higher ADD/CVD determinations.

Foreign exporters are entitled to a hearing on factual issues, although the TRA may decide to conduct hearings following production of a 'statement of essential facts' and intended final determination. Preliminary reports are published for comments by all interested parties.

Where the TRA decides that imports have been dumped or subsidised, and this has caused injury, it may impose provisional trade remedy measures within six months (for ADDs) and seven months (for CVDs) of initiation of an investigation. Provisional measures cannot remain in force, generally, for longer than six months absent a final determination.

ADD and CVD investigations should be conducted, and recommendations made to the Secretary of State, within 11 months (but not later than 13 months). Safeguard investigations cannot extend beyond 10 months.

The full procedure for TRA investigations under the D&S Regulations and Safeguard Regulations can be found **here**.

WTO rules

The UK is a member of the WTO and its trade remedies regime is consistent with the principles contained in the WTO Covered Agreements, in particular the Anti-Dumping Agreement (ADA). Section 28, Taxation (Cross-border Trade) Act requires the TRA to give regard to the UK's international trade law obligations (including the ADA and related WTO Dispute Settlement Body (DSB) dispute reports) when conducting trade remedies investigations.

Although the TRA is expected to follow EU trade remedies inspection practice generally, it is not clear what, if any, exceptions it may adopt until new investigations (rather than EU measure transition reviews) are completed.

The TRA is permitted by law to use different methodologies to determine dumping margins in relation to exporters from markets where there is evidence of state distortion of prices. Although the TRA has not published a list of WTO members it deems non-market economies, it has maintained several EU trade remedy measures against certain exports from China and Russia where the EU found evidence of state distortion.

Appeal

An interested party may apply for a reconsideration of any decision by the TRA during the course of an investigation, from initiation up to and including an intended final determination and recommendation to the Secretary of State. Parties that may seek reconsideration of a decision include cooperating foreign exporters, representative trade associations and the government of the exporting state.

Decisions of the TRA may be subject to reconsideration under Regulations 9 to 14 of the R&A Regulations. Applications for reconsideration must be submitted within one month of publication of the decision; alternatively (where publication is not required) one month from the date on which the TRA notifies the applicant. The TRA is obliged to conduct a reconsideration procedure where the applicant is an eligible party and has provided both grounds of appeal and the relief sought. The reconsideration process may involve further fact-finding and hearings. The TRA may refer applications based on an alleged error of law in a decision to the Upper Tribunal. It is expected that the TRA, like the European Commission, will reconsider decisions only in very rare circumstances.

Any of a reconsidered decision, a refusal to reconsider by the TRA and the final decision of the Secretary of State, may be appealed to the Upper Tribunal under Regulations 16 and 17, R&A Regulations. The grounds for appeal are limited to those available in judicial review applications, namely:

- illegality (including for acting outside the scope of the TRA's authority);
- irrationality (including a manifest error in the assessment of ADD/CVD rates);
- procedural unfairness (including a failure to conduct sampling correctly); or
- legitimate expectations.

Further information on appeals before the Upper Tribunal can be found **here**.

The standard of review on appeal represents a high burden for appellants to meet, much in the same way as appeals of European Commission investigation decisions. Although no appeals have yet been submitted against TRA decisions, the prospects of success are expected to broadly reflect EU law practice.

A WTO member may challenge a particular measure imposed by the UK at the WTO, including before a panel established by the DSB.

Review of duties/quotas

Various types of reviews are available to interested parties. Exporters impacted by an imposed ADD/CVD may seek an interim review, subject to regulation 69 of the D&S Regulations, at any point after the first 12 months following a final determination and imposition of duties by the Secretary of State. An interim review involves a reinvestigation of the petition on the basis of new information.

Regulation 71, D&S Regulations, permits a new exporter that did not previously export the affected good at the time of the original review to request the calculation of an individual rate instead of the country-wide rate

Regulation 74, D&S Regulations, provides that interested parties may also challenge the scope of a measure within a year of its imposition (for example, to exclude certain goods).

Regulations 72 and 73, D&S Regulations, permits applications for circumvention and absorption reviews, in order to determine if an exporter is acting in a manner designed to circumvent an imposed measures (for example, by trade through another jurisdiction) and whether the imposed duty has been absorbed in the sale price, rendering the measure ineffective.

Expiry reviews are conducted by the TRA, subject to Regulation 70, D&S Regulations, prior to the scheduled date of termination of a measure. Applicants may request continuation of a measure not more than 12 months prior to its scheduled expiry.

Safeguard measures are subject to a 'mid-term' review by the halfway point of the intended duration of the measure, if more than three years, subject to Regulation 34 of the Safeguards Regulations.

Duties paid as a result of provisional measures, where no final measure was imposed, are automatically refunded to importers. Duties paid during the period of an expiry review, where the measure continues in place on a provisional basis until later terminated, are refunded to all relevant parties.

Importers may also submit evidence of the home market price of an individual import in order to demonstrate that this particular good was not dumped, thereby claiming a full or partial refund, with interest (Regulation 89, D&S Regulations). Claims are investigated by the TRA, which then authorises HMRC to make any refunds where approved.

Applications for refund should be submitted within six months of the application of the measure and are expected to be completed within 12 months of the request. The repayment investigation process is set out **here**.

Compliance strategies

Non-compliance with imposed trade remedy measures, through incorrect documentation or circumvention by importing from a third country, may lead to enforcement proceedings by HMRC, up to and including criminal prosecution. A circumvention review may also be initiated by UK producers to prevent exporters from selling goods through a third country where no relevant trade remedy measures apply.

Where importers have new information that certain goods should not be subject to the applicable rate of duties, they should request an interim or scope review. Importers may also request a refund of overpaid duties if an investigation determines that dumping or subsidisation has been eliminated or reduced to a lower level in respect of certain imports.

In relation to complex manufactured goods, careful consideration should be given to the non-preferential rules of origin for the product concerned (and the terms of the relevant trade remedy measure) in order to confirm the origin of the good (see the Customs (Origin of Chargeable Goods) (EU Exit) Regulations 2020). Supply chains may be restructured to source goods from countries not subject to ADDs/CVDs. However, where processing of goods undertaken in a third country is not 'economically justified', it will not confer third country originating status, potentially making the goods subject to trade remedy measures (and penalties).

CUSTOMS DUTIES

Normal rates and notification requirements

From 31 December 2020, the UK ceased to apply EU common external tariffs to imported goods. The Taxation (Crossborder) Trade Act 2018 (TCBTA) sets out the UK's independent customs regime and the applicable rates under the UK Global Tariff (UKGT). The UKGT applicable to individual product lines (or 'commodity codes') is available for review **here**, including current applicable MFN rates. Goods originating in the EU are not subject to tariffs provided they satisfy the criteria set out in the EU-UK Trade and Cooperation Agreement.

Goods of value less than GBP 135 do not incur customs duties, although excise goods such as alcohol and cigarettes are not covered by this exemption.

The Northern Ireland Protocol (part of the EU–UK Withdrawal Agreement), includes a number of specific requirements for goods moving from Great Britain to Northern Ireland.

In particular:

- Goods moving from Great Britain to Northern Ireland (subject to certain transitional arrangements) are generally
- required to satisfy EU customs and product regulation requirements (including SPS requirements and import declarations); and
- In circumstances where goods moving from Great Britain to Northern Ireland are determined to be 'at risk' of entering the Republic of Ireland, they will generally be subject to any applicable EU customs duties.

The EU and UK continue to engage in negotiations about the ongoing application of the Northern Ireland Protocol, and there may be further changes to requirements for movements of goods from Great Britain to Northern Ireland.

Upon application, Her Majesty's Revenue and Customs (HMRC) will issue a binding decision that provides legal protection against any later challenge as to goods' country of origin. HMRC will also continue to issue Binding Tariff Information decisions for goods imported from the EU into Northern Ireland. It may refuse to do so where the importer has already applied for a decision in an EU member state. These decisions provide a final calculation of applicable tariffs on the basis of a declared commodity code, quantitative restriction, etc. and are valid for three years.

All imports into the UK require prior notification through a summary declaration. Importers must register through the **Economic Operators Registration and Identification platform**, with separate requirements for Great Britain and Northern Ireland. Goods arriving by container cargo into a UK port must be declared at least 24 hours prior to departure with air carriage declarations no later than four hours before arrival. Other forms of transport require shorter notice periods. Sanitary and Phytosanitary certification is also required in respect of certain plant and animal products.

Special rates and preferential treatment

The UK has maintained the majority of pre-existing preferential tariffs on imports from third countries into the EU through Continuity Agreements with 67 EU trading partners. A list of all relevant agreements and guidance on applicable tariffs is available **here**.

The UK also maintains a Generalised Scheme of Preference (GSP), providing for reduced or zero tariffs applicable to imports originating from certain least developed and developing countries, available **here**.

Similarly to the EU, the UK maintains three different categories of GSP treatment, namely:

- the Least Developed Countries Framework (for countries that the UN classifies as Least Developed Countries);
- the General Framework (for countries that the World Bank classifies as low-income and lower-middle income countries); and
- the Enhanced Framework (for countries meeting certain development criteria, and which implement 27 separate conventions on labour rights, the environment and governance commitments).

The specific tariff preferences available vary depending on the GSP category. Countries that no longer meet the eligibility requirements are granted a three-year grace period before GSP tariff reductions are phased out.

The operation of the UK's GSP scheme is governed primarily by the Trade Preference Scheme (EU Exit) Regulations 2020 (the GSP Regulations), with the criteria for determining the originating status of a good set out in the Customs (Origin of Chargeable Goods: Trade Preference Scheme) (EU Exit) Regulations 2020.

Goods originating in a GSP country are eligible for reduced or zero tariffs. Importers must submit a GSP Form A or other origin declaration.

The GSP Regulations provide that a GSP country's tariff preference in respect of certain products may be suspended if they exceed a certain proportion of total imports from all GSP countries. The GSP Regulations also grandfather into UK law suspensions of GSP preferences made by the EU prior to 31 December 2020 and permit the UK to suspend GSP preferences on specific products through 'trade preference safeguard measures', where increased quantities of imports from GSP countries are causing or threaten to cause serious difficulties to UK producers of like or directly competing goods.

The UK applies similar duty suspension and autonomous tariff quota rules as those previously applicable under EU law. These rules apply to certain defined goods from any non-EU country on an MFN basis.

Importers may apply to the Department for International Trade for a duty suspension for a particular commodity code (based on the UKGT). Applications may be submitted for the next review period from 1 June 2021 to 31 July 2021. Applicants must show that: (1) they would have saved £10,000 in the previous year had the suspension applied; (2) the product is used in UK production; and (3) the product is not in sufficient supply in the UK. Objections may also be submitted. Any granted duty suspensions will take effect from early 2022 to mid-2024. Further guidance is available **here**.

The UK has not applied tariffs for national security reasons.

Challenge

Customs decisions are taken by HMRC and may be challenged directly by importers. In the event an importer believes an incorrect duty was applied, it should file form BOR 286 setting out the reasons for the application and providing the relevant customs declaration. If appealing a binding tariff or origin decision, applicants may either request a review of the decision by contacting the UK Tariff Classification Service and/or filing proceedings with the independent HMRC tax tribunal. Notice of a hearing is generally sent to applicants within 14 days of receipt of submissions.

Information on the tribunal procedures is available **here**.

TRADE BARRIERS

Government authorities

The Department for International Trade (DIT) is responsible for maintaining a record of trade barriers affecting UK exporters and investigating complaints. A list of existing trade barriers, including local content preferences, overly complex customs procedures, subsidies, tariffs and other discriminative practices are available **here**.

Complaint filing procedure

Exporters can report a new trade barrier **here**. Complaints are responded to within five days and, depending on DIT's investigation, may result in the UK engaging with the state imposing such measures and, potentially, escalation to the WTO (including through the Dispute Settlement Body).

Grounds for investigation

DIT has not yet established a formal procedure for investigations but has indicated that some relevant factors in assessing the merits of a reported complaint include the economic importance of the barrier to exporters, the relative resolvability of the issue and strategic considerations such as how these concerns impact on ongoing trade negotiations and the UK's positions on various trade issues at the WTO. Categories of potential trade barriers are available **here**.

Measures against foreign trade barriers

Where a dispute has arisen between the UK and another WTO member in relation to a particular trade barrier, the UK may suspend or withdraw concessions available to that member, and vary duties applicable to goods originating from that member under section 15 of the Taxation (Cross-border Trade) Act. Any imposed measures, including increases to customs duties, should be consistent with international trade law.

The UK has maintained existing retaliatory tariff measures against imports of various goods, including whisky, motorcycles and tobacco from the US, in response to section 232 duties applied by the US on aluminium and steel exports from the UK. These measures were first imposed by the EU and are currently under review.

Notable non-tariff barriers

The UK, like most jurisdictions, maintains a range of customs formalities such as labelling, import controls on certain sensitive goods such as military equipment, animal and plant health-related measures and other environmental restrictions.

A limited number of non-tariff barriers applicable to goods entering the EU have been retained under UK law after 31 December 2020, including:

- **import bans and licence requirements on defined goods**;
- phytosanitary certification and limited restrictions on plants;
- sanitary certification and limited restrictions on animals;
- special import rules on potentially dangerous products such as **chemicals** and pharmaceuticals; and use of 'CE' labelling requirements consistent with the **EU-UK Trade and Cooperation Agreement**.

EXPORT CONTROLS

General controls

Since 1 January 2021, exports from the UK to both EU and non-EU countries are subject to an export declaration, identifying the Economic Operator, its Economic Operators Registration and Identification number, and the commodity code of the exported good.

The UK government has produced a **step-by-step guide** to assist exporters with navigating through the process.

Government authorities

The Export Control Joint Unit (ECJU), an agency of the Department for International Trade, is responsible for granting export licences in relation to military and dual-use items through the SPIRE licensing system and enforcing

strategic export controls generally. The ECJU may issue an open general export licence (OGEL) to exporters requiring ongoing authorisation to trade in certain controlled goods to particular countries. In the event an OGEL is not available, exporters can seek individual licences on a case-by-case basis as required. The ECJU may also issue licences for certain activities connected with restricted goods, such as brokering the sale of military or dual-use technologies.

Special controls

Certain military and dual-use equipment are subject to specific export controls under the Export Control Order 2008 (as amended). This includes requiring an export licence.

Supply chain security

The UK has implemented an authorised economic operator system, consistent with the WCO Safe Framework of Sanctions. This allows for customs simplification and reduced checks on the basis of a prior certification by Her Majesty's Revenue and Customs (HMRC).

Applicable countries

Certain countries are subject to a variety of trade controls (including arms embargos) imposed either by the UK directly or in support of an international or regional organisation (eg, the light arms embargo issued by the Economic Community of West African States).

The list of countries subject to UK trade sanctions, arms embargoes and other trade restrictions can be found **here**.

Named persons and institutions

The UK restricts the export of certain goods to certain named individuals and persons. Rather than adopting blanket bans, the system consists of a series of targeted restrictions. For example, the Counter-Terrorism (International Sanctions) (EU Exit) Regulations 2019 (as amended) prohibits trade in listed military goods with named individuals suspected of participating in terrorist activities.

The UK government maintains a consolidated list of individuals and entities subject to UK sanctions and trade restrictions, available **here**. The precise terms of each restriction, as it applies to a specific designated person, are dependent upon the underlying Regulations pursuant to which each individual or entity has been designated.

Penalties

The potential penalties for violating applicable export controls may include revocation of licences, seizure of goods and (on criminal conviction) the imposition of a fine or imprisonment for up to 10 years.

FINANCIAL AND OTHER SANCTIONS AND TRADE EMBARGOES

Government authorities

The Foreign, Commonwealth & Development Office has overall responsibility for sanctions policy within the UK. However, the administration and enforcement of sanctions is delegated to various government departments.

The Office of Financial Sanctions Implementation, which is a part of HM Treasury, is responsible for the implementation and enforcement of financial sanctions in the UK.

The Department for International Trae (DIT) has overall responsibility for the statutory and regulatory framework of export controls, and for decisions to grant or refuse an export licence. The ECJU, which is part of DIT, administers the UK's system of export controls and licensing for military and dual-use items.

The Department for Transport, in turn, issues licences to allow time-limited and specific actions to take place which would otherwise be prohibited by transport sanctions imposed on the ownership, registration, movement and use of ships and aircraft in certain countries.

Applicable countries

The UK does not generally impose blanket restrictions prohibiting all business with entire territories or countries. Instead, the UK adopts a series of targeted prohibitions, restricting certain interactions with certain listed individuals and entities, or within certain jurisdictions.

The list of countries subject to UK trade sanctions, arms embargoes and other trade restrictions can be found **here**.

The list of countries subject to UK financial sanctions can be found **here**.

Specific individuals and companies

The UK government maintains a consolidated list of individuals and entities subject to UK sanctions and trade restrictions, available **here**.

Additionally, following the Russian annexation of Crimea in 2014, further sectoral sanctions were imposed targeting Russia's financial, defence and energy sectors.

CURRENT TRENDS

Trade and climate change

As part of the UKGT, the UK eliminated MFN tariffs on 104 identified 'green goods', being those identified as having a positive environmental effect. Although the UK has not adopted the EU's proposed Carbon Border Adjustment Measure (CBAM), or a domestic alternative, CBAM has the potential to impact a number of UK exporters. The UK's independent Emissions Trading Scheme (ETS), established under the Greenhouse Gas Emissions Trading Scheme Order 2020, regulates the cap and trade framework for permitted levels of carbon emissions by sector. Participants receive certain emission allowances and may trade allowances on an open market, similar to the EU ETS. Detailed guidance on how to register for the ETS can be found **here**.

Trade in digital services

On 22 July 2020, the UK adopted a Digital Services Tax of 2 per cent on certain search engine, social media and online marketplace platforms belonging to entities with revenues exceeding £500 million of which UK revenues amount to GBP 25 million. The US, where several of the impacted companies are based, responded on 2 June 2021 with tariffs of 25 per cent on a range of UK exports. These have been suspended subject to negotiations aimed at a plurilateral agreement to remove digital services-specific taxes in favour of corporate tax harmonisation.

The UK is also participating, along with 85 other WTO members, in the WTO's plurilateral E-commerce Joint Statement Initiative (JSI) negotiations aimed at concluding a global agreement on digital trade facilitation and regulation. The JSI negotiations are a key topic on the agenda of the WTO Ministerial Conference scheduled for November 2021.

Brexit

Following the exit of the UK from the EU on 1 February 2020, negotiations on the EU–UK Trade and Cooperation Agreement (TCA) were concluded on 31 December 2020. The TCA provides for tariff and quota-free trade in goods. Later, on 26 March 2021, the EU and UK agreed a memorandum of understanding (the MOU) for voluntary regulatory cooperation on trade in financial services.

Certain key issues in the UK-EU trade relationship remain unresolved, including: (1) the ratification of the MOU and establishment of the Joint EU–UK Financial Regulatory Forum; (2) negotiation of a potential deal on equivalence of financial services regulations; and (3) an agreement on the technical implementation of the Northern Ireland Protocol, which governs customs checks required by the EU on goods moved between Great Britain (England, Wales and Scotland) and Northern Ireland.

Regulatory divergence in financial services could lead to reduced exports of financial services from the UK to the EU, significantly impacting on London's position as a global leader in capital markets. EU members have yet to sign

the finalised MOU arising from the agreed technical negotiations and a deal on equivalence is unlikely.

Implementing the necessary checks on goods entering Northern Ireland from the rest of the UK has proven difficult, with over 30 separate issues still to be resolved by the UK–EU Joint Committee established under the Withdrawal Agreement. The UK has requested that the application of the Northern Ireland Protocol be revised to reduce the administrative burden on suppliers from Great Britain.

UK trade agreements with non-EU states

In the past 12 months alone, the UK has signed 19 trade agreements and negotiations are ongoing in relation to nine other agreements. In conjunction with its exit from the EU, the UK also concluded a number of product-specific agreements on standards and mutual recognition (eg, the UK–Australia Wine Agreement).

The UK has reportedly agreed the broad terms of an FTA with Australia. The UK also intends to conclude FTA negotiations with New Zealand in the coming year.

The UK's application to accede to CPTPP has been accepted, and it is expected to commence further bilateral negotiations with Canada and Mexico by 2022.

Prospects of a US–UK FTA have fallen, although the two countries have each agreed to suspend mutual retaliatory tariffs imposed as a result of the Airbus/ Boeing subsidies dispute, subject to further negotiations.

Coronavirus

The Trade Remedies Authority has approved several requests for extensions to deadlines for submissions in relation to trade remedies investigations. This policy has been maintained throughout 2020 and 2021.

A list of all trade-related covid-19 support measures taken by the UK and notified to the WTO is available **here**.

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