



What companies need to know to prepare to the end of the transitional period

1. Possible scenarios after December 31, 2020

The United Kingdom left the EU on 31 January 2020 to become a third country. Since that date, and until 31 December 2020, the so-called transitional period, during which the rules of the single market and the customs union of the EU prevail.

On this date, the United Kingdom will exit the single market and the customs union, leaving the free movement of goods, services, people and capital - between the EU and the United Kingdom. The EU and the United Kingdom are negotiating the terms of a future Partnership, including a free trade agreement, which is expected to be completed in time for its entry into force after the transitional period.

Two scenarios are possible:

There is a free trade agreement

Exports to the United Kingdom
and
Imports from the United Kingdom
will be subject to **customs duties
awake**

There is no free trade agreement

Exports United Kingdom will be subject to the
customs duties of the **Schedule
UK Customs.**

Imports from the United Kingdom will be subject
to **Common Customs Tariff**
from the EU

However, even if a free trade agreement is concluded, it should create a relationship very different from the UK's current participation in the EU's single market and customs union.

2. Customs formalities, checks and controls

From 1 January 2021, the United Kingdom will no longer be part of the EU Customs Union. Whether or not there is a free trade agreement, as of that date **trade in goods between the EU and the United Kingdom is now subject to customs formalities, checks and controls.**

On the EU side, customs authorities will carry out controls based on the Union Customs Code, in accordance with the common risk-based system applied to any third country with regard to the movement of goods.

These controls are likely to entail **higher costs** for companies (for example, related to customs clearance, storage, preparation of documentation, compliance with **longer lead times** supply chains (which may imply significant changes in the organization of these chains)).

EU companies wishing to import or export to the UK should ensure that they have a **Registration and Identification Number of Economic Operators (EORI)** to complete customs formalities. In addition, EORI numbers issued by the United Kingdom will no longer be valid in the Union. UK-based companies wishing to import into the Union will need to receive an EU EORI number, or appoint a Union customs representative, where applicable.

Also from 1 January 2021, **Authorizations from Authorized Economic Operators** or other authorizations issued by the United Kingdom will no longer be valid in the Union. When economic operators wish to obtain EU authorizations, they will have to apply for them in an EU Member State.

3. Customs Tariffs

From 1 January 2021, goods traded between the EU and the United Kingdom will be subject to customs duties:

- If there is no free trade agreement:
 - EU exports to the UK will be subject to UK Global Tariff customs duties (<https://www.gov.uk/guidance/uk-tariffs-from-1-january-2021> and <https://www.gov.uk/trade-tariff>);
 - EU imports from the United Kingdom will be subject to the EU Common Customs Tariff (<http://pauta.portaldasfinancas.gov.pt/pt/Pages/default.aspx> and <https://madb.europa.eu/madb/euTariffs.htm>);
- If there is a free trade agreement, the customs duties applicable to imports / exports from / to the United Kingdom will be those established between the parties during the negotiations.

4. VAT, excise duties and trade defense measures

From 1 January 2021, value added tax (VAT) will be payable on imports of goods from the United Kingdom brought into the EU, at the rate that applies to the supply of the same goods within the Union. EU should familiarize themselves with the relevant VAT procedures and prepare for their application. Goods exported from the Union to the United Kingdom will be exempt from VAT if they are shipped or transported, as would happen to any other destination outside the European Union.

From that date, imports from the United Kingdom to the Union will be subject to the payment of excise duties. These taxes are levied on certain product groups (alcoholic beverages, tobacco products, etc.), are payable when importing from third countries into the Union and paid when the goods are placed on the market. Similarly, Union exports to the United Kingdom for some product groups (alcoholic beverages, tobacco products, etc.) will be subject to the payment of excise duties that the United Kingdom has established in the UK Global Tariff.

UK imports may be subject to anti-dumping, countervailing or safeguard measures under the European Union's trade defense policy. In turn, Union exports may also be subject to anti-dumping, countervailing or safeguard measures under the UK's trade defense policy.

5. Rules of origin

If there is a free trade agreement, the original character of the traded goods will have to be demonstrated so that they can be entitled to preferential treatment. Goods that do not comply with the requirements of origin, established in that free trade agreement, cannot be given preferential treatment and will be subject to customs duties.

Trade between the EU and partners in other free trade agreements will also be affected, as the UK's content (in terms of material operations and processing) will become 'non-originating' for the purpose of determining origin preferential treatment of goods incorporating such UK content.

EU companies must reassess their supply chains, and it may be necessary to relocate production or switch suppliers in order to continue to benefit from the Union's preferential trade agreements.

Union importers requesting preferential treatment in the EU should also ensure, after the end of the transitional period, that the third country exporter is able to prove that the goods meet the requirements regarding preferential origin.

6. Product certificates and authorizations, establishment requirements, labeling and marking

From 1 January 2021, the Union and the United Kingdom will be two separate regulatory and legal spaces. This implies that all products exported from the Union to the UK will have to comply with UK rules and standards and will be subject to all regulatory compliance checks and controls applicable to imports.

From the UK :

- The marking or labeling of products placed on the United Kingdom market, which concern bodies or persons established in the EU, will no longer comply with Union labeling requirements. Until 1 January 2022, the CE mark will
- continue to be accepted for the purposes placing most EU goods on the UK market, as long as EU requirements match those in the UK (except for some products, which will be subject to different rules, such as chemicals, medicines, vehicles, aerospace). This includes goods that have been assessed by an EU-recognized notified body.
- From 1 January 2022, placing goods from the EU on the UK market will involve the use of the UKCA brand, the only one to be accepted for conformity assessment purposes. Authorized representatives of EU manufacturers or 'persons
- responsible' for EU-based regulatory compliance will no longer be recognized in the United Kingdom since 1 January 2021. For any asset to be placed on the British market, it will be necessary for the authorized representative / responsible person to be based in the United Kingdom.

Likewise, all products imported from the UK into the Union must comply with Union rules and standards and will be subject to all regulatory compliance checks and controls applicable to imports, for safety, health and other public policy purposes .

On the part of the Union :

- Certificates or authorizations issued by the United Kingdom authorities or by bodies established in the United Kingdom will no longer be valid for placing products on the Union market.
- In cases where Union law requires a certificate issued by an EU notified body (for example, for some medical devices, machines, personal protective equipment or construction products), products certified by bodies established in the UK will no longer be placed on the Union market.
- In cases where Union law requires registration of products in the databases, this may have to be done by a Union importer or by an authorized representative of the United Kingdom manufacturer.

- In cases where Union law provides for a requirement of establishment in the Union for certain economic operators or other natural or legal persons (for example, authorized representatives of manufacturers from third countries or "persons responsible" for regulatory compliance), the establishment in the United Kingdom United Kingdom will no longer be recognized in the Union. This implies that it will be necessary to relocate the UK authorized representative / responsible person to the Union, or the appointment of a new authorized representative / responsible person established in the European Union.
- The marking or labeling of products placed on the Union market, which concern bodies or persons established in the United Kingdom, will no longer comply with Union labeling requirements.
- Union rules that prohibit or restrict certain imports / exports of products for public policy reasons, such as health, safety and environmental protection will apply to trade with the United Kingdom, as with any third country.

7. Trade in services

From 1 January 2021, freedom of establishment and freedom to provide services as provided for in Union treaties will no longer benefit UK natural persons and companies operating in the EU or EU natural persons and companies operating in the United Kingdom. Similarly, as from that date, authorizations granted by UK authorities within the framework of the EU's single market will cease to be valid in the Union. This fact is particularly relevant in the fields of financial services, transport, audiovisual media and energy services .

To access the Union market, service providers in the United Kingdom and professionals established in the United Kingdom must demonstrate compliance with any rules, procedures and / or authorizations that condition the provision of services in the Union by foreign citizens and / or established companies outside the Union. Likewise, EU service providers and professionals established in the Union and operating in the United Kingdom must demonstrate compliance with all applicable UK rules.

8. Recognition of professional qualifications

As of 1 January 2021, the United Kingdom will no longer be covered by Union rules on the recognition of professional qualifications, and the recognition of qualifications obtained in EU Member States by the United Kingdom will be subject to British law.

UK nationals, regardless of where they acquired their qualifications, and EU citizens with UK acquired qualifications will have to recognize them in the Member State concerned, based on that country's rules for third country nationals and / or qualifications from third countries.

9. Mobility

From 1 January 2021, free movement between the EU and the United Kingdom ends, which will have an impact on the ease of mobility for all EU citizens [who are not beneficiaries of the Withdrawal Agreement] who wish to remain in the Kingdom United for longer periods, whether students, workers, pensioners or members of their families.

All of your moves to the UK will be governed by UK immigration laws. UK companies wishing to recruit EU citizens will have to follow UK rules that do not currently apply under the Union regime.

All UK citizen movements to the EU [who are not beneficiaries of the Withdrawal Agreement] will be governed by the migration rules of the Union and the Member States. EU companies wishing to recruit UK citizens will have to follow the rules applicable to EU third country nationals and their respective Member States. In addition, the current coordination of social security systems provided for in Union regulations will cease to exist.

The current coordination of social security systems provided for in Union regulations will cease to exist. There will be no cross-border social security protection as broad as under current Union rules, as Union rules will no longer apply. Even in the context of a future partnership agreement with the United Kingdom, only a few social security rights can possibly be guaranteed (depending on the outcome of the ongoing Partnership negotiations, currently underway).

10. Intellectual property

During the transitional period, an owner of an intellectual property right, such as an EU trademark, cannot rely on it to oppose the sending of goods from the United Kingdom to the EU, provided that the goods have been placed on the market of the United Kingdom under that trademark by the right holder or with his consent ("principle of exhaustion" of the rights conferred by the intellectual property right) and vice versa. As of 1 January 2021, EU traders are no longer able to claim exhaustion in relation to rights holders when purchasing products from the United Kingdom.

In addition, from 1 January 2021, although the EU's unitary intellectual property rights (EU trademarks, Community designs, Community plant variety rights and geographical indications) remain protected by the Withdrawal Agreement, any new EU unitary rights will have a reduced territorial scope as they will cease to have an effect in the UK.

11. Data transfer and protection

Currently, personal data can move freely between EU Member States. From 1 January 2021, transfers of personal data to the United Kingdom may continue, but will have to comply with specific Union rules and safeguards regarding the transfer of personal data to third countries, as set out in the General Regulation on Protection Data Protection Act (GDPR) or the Law on Data Protection Directive.

The European Commission is in the process of evaluating the data protection regime by the end of 2020. If the British regime is found to comply with the applicable conditions, an adequacy decision may be taken, which will allow the transfer of personal data to the United Kingdom without restrictions. However, companies should assess whether, in the absence of a suitability decision, they will be able to ensure that transfers of personal data to the United Kingdom are compliant with Union data protection legislation.

On the UK side, the Data Protection Act provided EU Member States with adequacy by the end of 2024, which needs to be re-examined by that date.

For more information:

- Consult the European Commission website, where notices of preparation for the end of the transitional period are published: <https://ec.europa.eu/info/european-union-and-united-kingdom-forgingnew-partnership/future-partnership/getting-ready-end-trans>
- Consult the DGAE website, where information is published, in Portuguese, to support this preparation effort: <http://www.dgae.gov.pt/brexit>
- Contact DGAE directly via email info.brexit@dgae.gov.pt

This document is informative in nature and should not be understood as legally binding. Its content does not affect the negotiations for the future Partnership between the EU and the United Kingdom.