



Council of the European Union
General Secretariat

Brussels, 28 December 2020

WK 14991/2020 INIT

LIMITE

UK

WORKING PAPER

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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Post-transition measures

Delegations will find attached a Commission non-paper on measures that will have to be in place by 1 January 2021.

Non-paper for Member States on measures to be set in place by 1 January 2021

As requested by Member States, the Commission would like to provide a few elements of clarification as to the measures that will have to be in place by 1 January 2021 in any event as the United Kingdom leaves the European Union, and as per the provisions of the draft Trade and Cooperation Agreement.

This list complements the ongoing work that Member States are conducting related to notifications required by provisions of the draft Trade and Cooperation Agreement, in relation to the law enforcement and judicial cooperation Part, the Social Security Coordination Protocol and the draft Agreement on cooperation for safe and peaceful uses of nuclear energy.

Customs: No Member States' action needed to implement specifically the draft Trade and Cooperation Agreement. But obviously, Member States will have to apply procedures as foreseen under the Union customs code (UCC) for exports to and imports from a third country to all trade with the UK starting from 1 January 2021. In addition, Member States will have to apply procedures for preparation at the borders to check UK nationals, which has been discussed between the Commission and national authorities since 2018.

Market access: The Commission will adopt amendments to Commission Implementing Regulation (EU) 2020/761 and Commission Implementing Regulation (EU) 2020/1988, to implement Article GOODS.18 'Use of existing WTO tariff rate quotas' of the Agreement. Until that happens, Member States will be asked i) not to accept licence applications for products originating in the UK, ii) not to issue TRQ licences for products originating in the UK, and iii) not to allow the release for free circulation under these TRQs of products originating in the UK, save for rights previously acquired that cannot be withdrawn. A notice will be published on the Europa website to inform stakeholders, Member States will be informed in due course.

Services and investment, digital trade, intellectual property, public procurement: No specific Member States' action under the draft Trade and Cooperation Agreement other than complying with the provisions in practice. For example, if there is a public procurement procedure and a UK bidder has the right under the agreement to participate, then the domestic law should allow for it. This applies similarly for all other obligations, but is for Member States to ensure themselves.

Level playing field: No specific Member States' action required under the draft Trade and Cooperation Agreement.

TBT: No Member States' action needed to implement specifically the draft Trade and Cooperation Agreement. But obviously, Member States will have to do in-market surveillance and (under the applicable rules in the EU) checks of imported goods from the UK from 1 January 2021.

SPS: No Member States' action needed to implement specifically the draft Trade and Cooperation Agreement. But obviously, Member States will have to do the SPS controls of animal products, live animals and plants entering the EU from the UK as of 1 January 2021.

Air transport: Member States have to issue the operating authorisations and permissions on the basis of Article AIRTRN.6(1)(3) and the authorisation on the basis of Article AIRTRN.3(9), provided the conditions set out therein are fulfilled.

Aviation safety: No Member States' action needed to implement specifically the draft Trade and Cooperation Agreement. The Commission has been in contact with EU Aviation Safety Agency (EASA) to ensure implementation of the relevant provisions.

Road haulage: No Member States' action needed to implement specifically the draft Trade and Cooperation Agreement. But obviously, Member States will have to ensure control and enforcement

of the new rules applicable to UK road haulage operators providing services in the EU as from 1 January 2021.

Passenger services by road: To avoid gaps in regular bus services to the UK on 1 January 2021, competent authorities may provide an authorisation for a regular service under the Agreement that corresponds to an existing authorisation under Regulation 1073/2009, for the same duration and with the necessary adaptations to reflect the different traffic rights provided in the Agreement compared to EU law. In that case, the agreement of the competent authorities in whose territories passengers are picked up or set down are deemed provided (Article X+6(3) of Title II of Heading 3 of Part 2).

Fisheries: Member States concerned should submit the information in relation to fishing vessels to the Commission (DG MARE), cf. Section 2 of Chapter II of Regulation (EU) 2017/2403). DG MARE stands ready to provide more guidance. The list of EU vessels that will need access to fish in UK waters as of 1 January 2020 will be notified by the Commission to the UK according to Section 2 of Chapter II of Regulation 2017/2403. It is recalled that the “contingency Regulation” (EU) 2020/2227 amending Regulation (EU) 2017/2403 (OJ L437, 28.12.2020, p. 102) is not going to apply (Article 2 of Regulation (EU) 2020/2227).

Social Security Coordination: no specific measures to be taken by 1 January, in addition to the notification on posted workers. Nevertheless, the Commission would already like to draw Member States’ attention to the annexes to the draft Trade and Cooperation Agreement, where Member States are invited to supplement/amend/update national legislation where necessary and provide any modification back to the Commission in track-changes. This procedure will fall under the activities of the Specialised Committee. In particular, and as soon as possible, it concerns ANNEX SSC-1: CERTAIN BENEFITS IN CASH TO WHICH THE PROTOCOL SHALL NOT APPLY. It is especially about the new parts we introduced for the first time in this agreement: part 2 - long-term care benefits and part 3 - the winter payment fuel.

- Long-term care: Member States need to add the name of the LTC benefit and the respective national legislation;
- Winter Payment Fuel: Member States need to assess whether they have something like that and if they assess that they do, they need to send us the name and the respective national legislation.

Union Programmes: No Member States’ action needed to implement specifically the draft Trade and Cooperation Agreement.