



Swiss–UK relations post Brexit

February 2020

The United Kingdom (UK) left the European Union (EU) on 31 January 2020. The UK's withdrawal marks the beginning of a transition period until 31 December 2020 – subject to a possible extension – during which the bilateral agreements between Switzerland and the EU will continue to apply to the UK. A new set of bilateral agreements between Switzerland and the UK will apply thereafter.

As part of its 'Mind the gap' strategy, Switzerland concluded at an early stage a series of new agreements with the UK in the areas of trade, migration, road and air transport and insurance. The aim of the 'Mind the gap' strategy is to safeguard existing mutual rights and obligations as far as possible. In a second step, cooperation between Switzerland and the UK is to be expanded beyond the current level where this is in the interests of both sides ('Mind the Gap plus').

Chronology

- 31.12.2020 Expected end of the transition period
- 31.01.2020 UK withdrawal from the EU
- 31.10.2019 Signing of a provisional agreement on the coordination of social security schemes
- 10.07.2019 Signing of a provisional agreement on mutual access to the labour market and a memorandum of understanding on police cooperation
- 25.2.2019 Signing of the citizens' rights agreement
- 11.2.2019 Signing of the trade agreement
- 25.1.2019 Signing of the insurance agreement and the overland transport agreement
- 17.12.2018 Signing of the air transport agreement
- 29.03.2017 Initiation by the UK of the withdrawal process from the EU under Article 50 of the Treaty on European Union (date originally set for withdrawal: 29.03.2019)
- 19.10.2016 Adoption of 'Mind the gap' strategy by the Federal Council
- 23.06.2016 UK's referendum on withdrawal from the EU (leave: 51.9%)

Transition period and negotiations on future EU–UK relations

After the British electorate voted in favour of leaving the EU (Brexit) in a referendum on 23 June 2016, the British government formally notified the EU of its withdrawal decision on 29 March 2017. Following long and difficult negotiations and several extensions of the withdrawal date, in October 2019 the British government and the EU reached an agreement on the terms of an orderly withdrawal by 31 January 2020 and on a political declaration setting out the parameters of future relations. The withdrawal agreement received parliamentary approval from both sides in January 2020, allowing the UK to formally withdraw from the EU at the end of January 2020. The agreement provides, in particular, for a transition period until 31 December 2020, which may be extended by one or two years, subject to both parties' agreement. During this transition period, the UK will remain part of the EU single market and customs union (but without codecision rights). The EU

and the UK are also engaged in negotiations on their future relations. If they fail reach an agreement by the end of December 2020 and the transition period is not extended in time (no deal scenario), relations between the EU and the UK will be solely governed by the existing rules of international law (trade relations, for example, would fall under WTO rules).

Consequences for Switzerland of Brexit

The UK was Switzerland's sixth-largest trading partner in 2018, with a trade volume of over CHF 36 billion. In 2017, the UK was the third most important market for the export of Swiss services, while Switzerland ranked third for British direct investments. Approximately 58.600 flights operate annually between Switzerland and the UK. Some 34.500 Swiss citizens live in the UK and 43.000 British citizens live in Switzerland.

Relations between Switzerland and the UK are largely based on the bilateral agreements between Switzer-

land and the EU. In order to safeguard as far as possible and, where appropriate, to extend in certain areas the existing mutual rights and obligations with the UK on the basis of a new legal framework after the UK withdraws from the EU, the Federal Council adopted its 'Mind the gap' strategy early on, in October 2016. In April 2018, the Federal Council clarified its 'Mind the gap' strategy, deciding that in the event of an orderly UK withdrawal from the EU (deal scenario), the possibility provided for in the EU–UK withdrawal agreement of temporarily continuing third-country agreements during a transition period was also to apply to the bilateral agreements between Switzerland and the EU. This is what has now happened. The EU and Switzerland have exchanged notes formally confirming that the bilateral agreements between Switzerland and the EU will continue to apply during the transition period. The bilateral agreements between Switzerland and the EU will therefore continue to apply to relations between Switzerland and the UK until the end of the transition period on 31 December 2020 (subject to a possible extension).

New Switzerland–UK agreements

In order to ensure as far as possible that the existing mutual rights and obligations will continue after Brexit, Switzerland has drawn up new agreements with the UK which will come into effect when the bilateral agreements between Switzerland and the EU no longer apply to the UK. This means that the substantive provisions of the agreements between Switzerland and the EU will be retained with respect to the UK. On the Swiss side, this work was and continues to be coordinated by an interdepartmental steering group headed by the Directorate for European Affairs (DEA). On the UK side, work will continue to be coordinated by the Department for Exiting the European Union until its closure at the end of January 2020.

The new **trade agreement** (signed on 11 February 2019) makes it possible to replicate in substance the majority of economic and trade agreements with the EU in the future relationship between Switzerland and the UK. This includes the 1972 Free Trade Agreement, the Agreement on Government Procurement, the Agreement on Combating Fraud, part of the Agreement on Mutual Recognition in relation to Conformity Assessment (MRA) (namely the three chapters on motor vehicles, good laboratory practice, and good manufacturing practice for medicinal products) and part of the 1999 Agreement on Agriculture. Some agreements between Switzerland and the EU are based on the harmonisation of regulations between Switzerland and the EU and at present can-

not (or cannot fully) be incorporated into the relationship between Switzerland and the UK (namely the 2009 Agreement on Customs Facilitation and Security, certain sections of the Agreement on Agriculture, including the annex on the veterinary agreement, and certain sectors under the MRA). The agreement also provides scope for exploratory talks on the further development of trade relations.

An **overland transport agreement** signed on 25 January 2019 ensures that carriers will continue to be exempted from obtaining permits to transport freight by road between Switzerland and the UK, and that reciprocal road access for transporting goods and passengers will also be maintained. The agreement still prohibits cabotage, i.e. the transport of goods or passengers within the territory of the other state. A new **air transport agreement** signed on 17 December 2018 will preserve the existing air traffic rights.

The **insurance agreement** signed between Switzerland and the UK on 25 January 2019 guarantees freedom of establishment for insurance companies in the field of direct insurance other than life insurance and thus incorporates the terms of the 1989 agreement on insurance between Switzerland and the EU.

In relation to migration, Switzerland and the UK signed a **citizens' rights agreement** on 25 February 2019. If the free movement of persons ceases to apply to the UK, this new agreement will protect the rights of Swiss citizens living in the UK – which they acquired under the Agreement on the Free Movement of Persons (AFMP) – such as residency and social security rights and the recognition of professional qualifications. Reciprocal conditions will apply to UK citizens in Switzerland.

UK citizens will continue to be **exempt from any visa requirement** once the UK leaves the EU. The UK, for its part, has given assurances that Swiss citizens will also remain exempt from the requirement to obtain a visa.

In the area of **migration**, two temporary agreements were concluded which would have applied in the event of a disorderly withdrawal from the EU (no deal). The agreements would have eased the admission requirements for citizens of one country wishing to take up gainful employment in the other (agreement on mutual access to the labour market) and ensured that the rules on social security were maintained (social security agreement). As the existing provisions of the Agreement on the Free Movement

of Persons (FMPPA) will continue to apply to relations between Switzerland and the UK for as long as the transition period lasts, the two agreements will not enter into force and will not be applied.

The trade agreement and the agreement to safeguard existing citizens' rights require parliamentary approval. These agreements were submitted to Parliament with the corresponding Federal Council dispatch. If the parliamentary approval procedures are not completed by the end of the transition period, these agreements will apply provisionally. The foreign affairs committees of the National Council and the Council of States have been consulted in accordance with the Parliament Act and have approved this course of action.

Further work

Switzerland will continue to work on its future relations with the UK as part of its 'Mind the gap' strategy. The main aim is to work with the UK to close any remaining legal gaps where possible. In particular, legal gaps remain in areas subject to domestic political decisions in the UK and/or the future relationship between the UK and the EU. If the UK and the EU fail to reach an agreement to harmonise certain regulations, it may prove impossible to completely close the legal gaps in some areas.

To prepare for the end of the transition period, work is also under way in other areas that will not require new agreements.

- **Data protection:** After the UK withdraws from the EU, it will continue to provide a high level of protection of personal data. The Federal Data Protection and Information Commissioner (FDPIC) has no information at present that would indicate a change in the UK's status on the list of states that provide an adequate level of data protection. The UK has also stated that it will continue to recognise that Switzerland provides an adequate level of data protection. This means that it will still be possible to easily exchange personal data between the UK and Switzerland. If this situation changes, the FDPIC and its British counterpart, the Information Commissioner's Office, will work out a coordinated solution.

- **Lugano Convention:** Legal continuity is also to be ensured with respect to the rules governing jurisdiction and the recognition and enforcement of judgments in **civil and commercial matters** provided for in the Lugano Convention. The Lugano Convention will continue to apply to the UK during the transition period. After the end of the transition period, the rules governing jurisdiction and declarations of the enforceability of judgments between Switzerland and the UK will in principle once again be governed by national legislation. Nevertheless, Switzerland welcomes the UK's intention to accede to the Lugano Convention as an independent contracting party and will support the UK's application to that effect.

In addition to ensuring continuity, Switzerland is also considering a possible **further development of relations** with the UK ('Mind the gap plus'). The Federal Council is currently exploring areas where there may be enhanced cooperation and the two countries may have common interests post Brexit. The trade agreement already specifies that Switzerland and the UK will hold exploratory talks following Brexit in order to replace, update or further develop the agreement. Furthermore, in July 2019 Switzerland and the UK signed a memorandum of understanding on strengthening police cooperation and combating and preventing crime and terrorism, in which the two countries declared their shared ambition to explore more formal arrangements to further strengthen cooperation.

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www.fdfa.admin.ch/europe/brexit_en

Further information

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