



BRIEFING PAPER

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UK adoption of EU external agreements after Brexit

By Stefano Fella

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Summary

How many international agreements does the EU have?

The UK is currently party to numerous international agreements with third countries as a member of the EU. The EU's Europa online Treaties database lists 1,256 international agreements that the EU is party to. How many of these are pertinent to the UK is as yet unclear.

A report in the *Financial Times* in May 2017 suggested that there were 759 separate EU international agreements with potential relevance to Britain. This included 295 agreements related to trade, as well as agreements related to regulatory co-operation, fisheries, agriculture, nuclear co-operation and transport co-operation (including aviation). The agreements cover 168 countries, with multiple accords with certain countries.

The International Trade Secretary Liam Fox has indicated that such high figures are misleading, and that not all of the treaties would require action to maintain continuity following Brexit. Some of these treaties have been superseded, are redundant or no longer relevant to the UK, and there are also multiple agreements that could be understood as one agreement.

Dr Fox said in December 2017 that work was “ongoing” to “identify the full range of agreements that are affected by exit and to take action to ensure continuity for businesses and individuals on exit.”

Mixed agreements

Around a quarter of the EU's international agreements have been classified as mixed agreements because they cover competences shared by the EU and Member States. This means that they have been ratified separately by EU Member States as well as approved at EU level. While EU-only agreements will cease to apply to the UK once it leaves the EU, some legal experts have suggested that aspects of mixed agreements could continue to apply. However, the EU has stated that all agreements will cease to apply.

Rollover of the EU's international trade agreements

The Government has indicated that it is seeking the transitional adoption or “rollover” of all the EU's trade agreements and other preferential trade arrangements with third countries. The Trade Bill has been introduced to help with this. This will enable current trade arrangements with third countries that the UK is currently party to through the EU to be replicated in UK-third country agreements when the UK leaves. This would not preclude a fuller revision of these agreements in the longer term to create a more bespoke trading arrangement.

There is less clarity however with regard to how the Government intends to address arrangements covered by the numerous EU international agreements on non-trade issues.

The Government's Impact Assessment for the Trade Bill published in November 2017 referred to 88 third countries covered by EU trade agreements, accounting for 13% of UK trade. This figure did not take into account newly signed agreements such as the EU-Japan partnership.

The Government said in January 2018 that it had engaged with 70 countries covered by over 40 EU international trade agreements and had received a positive reaction in relation to its objective of ensuring continuity in these trading relationships.

A report from the International Trade Select Committee published in February 2018 however warned of trade with 70 nations “falling off a cliff edge” if the Government did not act quickly to roll over the EU’s trade deals. It also said there was an urgent need for clarity “over the number, type, scope, extent and importance of the EU's trade-related agreements.” It also warned that substantive amendments to the rolled-over agreements were almost certain to be required.

International agreements during the transition phase

In December 2017, the EU’s chief Brexit negotiator Michel Barnier indicated that the EU’s trade deals with third countries would not apply to the UK during the envisaged transition/implementation period from March 2019 to December 2020 when the UK will remain bound by single market and custom union rules.

In February 2018 the Government published a Technical Note stating it would seek continued application of EU international trade and other related agreements during the transition/implementation phase by agreement of all the parties concerned (although this would apply only to the EU’s bilateral agreements, not its multilateral agreements).

Information on the Government’s preparations to replace or address arrangements covered by the numerous EU international agreements on non-trade issues has so far been lacking. However, the Technical Note did refer to EU agreements covering a wide range of other policy areas including nuclear cooperation and aviation, and said that action was required to clarify the application of these agreements during the implementation period.

At the March European Council, the EU agreed to notify other parties to international agreements that the UK is to be treated as a Member State during the transition period for the purposes of these agreements. However, this remains a request and it is possible that the third countries concerned may not agree.

The Government published a Technical Note in June 2018 indicating that it would seek the continued application to the UK of EU international trade agreements should the temporary ‘backstop’ customs arrangement be implemented to prevent a hard border appearing between Northern Ireland and the Republic of Ireland, in accordance with the UK-EU agreement of December 2017.

In evidence to the International Trade Select Committee in July 2018, Liam Fox said that agreements in principle had been reached with third countries in terms of continuing trading arrangements but that countries were waiting to see if there would be an implementation/transition period first, with a view to using the extra time to negotiate a more bespoke agreement rather than simply rolling over the existing arrangements.

1. How many international agreements does the EU have?

Leaving the EU in 2019 could mean that the UK will no longer be party to numerous international agreements that the EU has signed with non-EU countries.

The UK Government has indicated that it wishes to replicate the terms of the EU's international trade agreements with non-EU countries in new or 'rolled-over' agreements, so that there is continuity following Brexit. This would require an agreement with the countries concerned.

It is not yet clear how many of the EU's current international agreements the UK Government's approach would apply to.

1.1 The EU Treaties database

The EU's Europa Treaties [database](#) lists 1,256 international agreements that the EU is party to as of 17 July 2018. This comprises 974 bilateral agreements (where the EU has negotiated an agreement with just one country) and 282 multilateral agreements (agreements with more than one country).

Of these agreements, a total of 1,070 agreements (831 bilateral and 239 multilateral) had entered into force as of 17 July 2018. 186 agreements had yet to enter into force.

House of Commons Library [Briefing Paper CBP-7850](#) published in January 2017 listed multilateral international treaties on the EU Treaty database up until June 2015 and bilateral international treaties up until December 2015.

Sections 4 and 5 of this paper lists treaties signed since these dates (* denoting that the agreement has not yet come into force).

It remains unclear how many of these agreements are of current relevance to the UK, and would therefore require replacement with a new agreement or 'rollover' of the EU agreement in order to ensure continuity in the UK's post-Brexit relationships with third countries.

1.2 UK Treaties database

The UK Treaties Online ([UKTO](#)) service on the Foreign Office website provides a searchable [database](#) of treaties that the UK is party to, covering over 14,000 treaties involving the UK. This also includes treaties the UK is party to as a member of the EU. However, it does not provide a list of these treaties or enumerate them.

Treaties published since 2002 can also be found on the [archived version of the website](#) (updated to 31 December 2012). Although it provides lists of certain types of treaties, it does not provide a list of treaties which the UK is party to as a member of the EU.

1.3 Financial Times Analysis

In an article in May 2017, based on an analysis of the EU Treaty database, the [Financial Times](#) said it had found 759 separate EU agreements with potential relevance to Britain. 295 of these agreements related to trade with non-EU countries. Aside from trade, the article said that the 759 agreements covered critical matters such as air services, allowing UK aeroplanes to land in third countries, and nuclear accords permitting trade in spare parts and fuel for Britain's power stations.

There were 202 agreements relating to regulatory co-operation, as well as agreements on customs, fisheries, agriculture, nuclear co-operation and transport co-operation (mainly airline services). See the table below drawn from the *Financial Times* analysis.

The article also referred to agreements that appeared less material to UK interests, giving examples of agreements on swordfish conservation in Chile, and one relating to the "rules of procedure of the International Rubber Study Group".

Type of Agreement*	Number of agreements
Trade	295
Regulatory Co-operation	202
Fisheries	69
Transport	65
Customs	49
Nuclear	45
Agriculture	34

*Source: Financial Times analysis

According to the *Financial Times*, the agreements cover 168 countries and involve multiple accords with certain countries, for example 49 with Switzerland, 44 with the USA and 38 with Norway. The article contains a number of useful [graphics](#) which break down the number and type of agreement by continent and highlight some of the difficulties the UK may encounter in renegotiating them.

The article also said that around 110 separate opt-in accords at the United Nations and World Trade Organisation were excluded from the estimates, as were narrow agreements on the environment, health, research and science. It said that some additional UK bilateral deals outside of the EU framework might also need to be revised because they make reference to EU law.

1.4 Redundant and outdated agreements

Several Treaties on the EU database may no longer be relevant to the UK once it has left the EU, or be viewed as not of great importance or fairly straightforward to replace. For example, among recent bilateral agreements signed are agreements with Morocco, Lebanon, Jordan, Egypt and Algeria on these countries' participation in the joint EU-Mediterranean research and innovation programme, protocols to EU agreements with Chile, Egypt, Mongolia, Bosnia-Herzegovina, Uzbekistan and the Kyrgyz Republic to take account of Croatian accession to the EU, an amending protocol to the EU agreement with Andorra relating to taxation of savings, and an EU fishing partnership agreement with Mauritius. Several treaties relate to visa arrangements for third countries, for example with China, Peru, the Marshall Islands, Kiribati and Tuvalu.

The EU Treaties database also refers to agreements that relate to specific time periods that have now passed, and may contain errors. For example, the multilateral treaties database includes the 'Agreement between the European Union, Iceland, the Principality of Liechtenstein and the Kingdom of Norway on an EEA Financial Mechanism 2009-2014.' Although this agreement relates to a time period which has now passed, it is rather confusingly denoted as not yet in force.

1.5 Government position on the number of EU international agreements

Commenting on the numerous treaties in the EU Treaties database, International Trade Secretary Liam Fox said in a [letter](#) to the Chair of the International Trade Select Committee in December 2017 that:

Not all of these Treaties require action on exit, as a number are superseded, redundant or no longer relevant for the UK. A precise meaningful figure cannot be provided for a number of reasons. For example, some countries have been superseded by later agreements, as countries have joined the EU over time, and when amendments and new protocols have been added to existing Treaties.

Dr Fox said that work was "ongoing" to "identify the full range of agreements that are affected by exit and to take action to ensure continuity for businesses and individuals on exit." He said that the Department for Exiting the EU (DExEU) was leading the work across the Government on this.

Dr Fox also pointed out that there are instances on the EU Treaties Office database of multiple treaties which "may be referred to in some contexts as a single agreement (for example, the EU's 1972 trade agreement with Switzerland has since been enhanced by a number of further agreements which add to the 1972 original").

Additionally, Dr Fox said that "the EU is a party to a number of agreements which have only been partially or provisionally applied, or are signed but not yet entered into force."

Dr Fox said that for these reasons the Government referred to "around 40 trade agreements covering over 55 countries "and we believe it would be

misleading to attempt to provide a definitive figure which disregards the complexities involved.” In relation to these agreements, Dr Fox said:

The Government is seeking to replicate the effects and benefits of our existing trading agreements, though not necessarily their number. We are discussing with our trading partners how continuity can best be achieved. We have had positive reactions from partner countries to our approach so far, but it is too early to say what exactly it will mean in a particular case or for any particular country.

The Government’s [Impact Assessment](#) for the Trade Bill published in November 2017 identified 40 EU free trade or preferential trade agreements with 88 third countries (see below).

1.6 Recently signed agreements

Neither the EU Treaties database nor the Government’s Trade Bill Impact Assessment list include recently signed but not yet approved EU international trade agreements which could come into force by the time the UK leaves the EU or prior to the end of a post-Brexit transition/implementation period.

These include the EU-Japan Economic Partnership Agreement (EPA) signed on 17 July 2018 and Free Trade Agreements with Singapore and Vietnam.

The EU-Singapore deal was finalised in 2014, and the EU-Vietnam deal in 2015. Following legal delays, both these agreements are expected to be approved in 2019.¹

In a [written statement](#) to the House of Commons on 11 June 2018 International Trade Secretary Liam Fox, said that the UK and Japan had agreed to “work quickly to establish a new economic partnership between Japan and the UK based on the final terms of the EPA as the UK leaves the EU.”

¹ See European Commission, [Overview of FTA and other trade negotiations](#), July 2018

2. Mixed and Exclusive competence agreements

Close to three-quarters of the agreements on the EU Treaties database have been negotiated and approved by the EU on the basis of an EU exclusive competence (where the EU Treaties give the EU alone the power to negotiate and conclude the agreement).

This includes customs matters, competition rules, monetary policy for eurozone countries, the conservation of marine biological resources and common commercial policy (covering international trade relations with non-EU countries).

Where competence is shared between the EU and its Member States, the agreement is concluded both by the EU and by the EU Member States. These are known as [mixed agreements](#)², to which EU Member States must give their consent, meaning that Member States will need to approve the agreement according to their own constitutional procedures.³

This includes a number of recent EU trade agreements which cover services and intellectual property as well as trade in goods. The Court of Justice of the EU (CJEU) ruled in 1994 in relation to the World Trade Organisation Agreement that while trade in goods is an exclusive competence of the EU, certain aspects of services and intellectual property rights are shared with Member States.

In 2017, the CJEU ruled that the inclusion of investment provisions in the recently negotiated EU-Singapore Agreement rendered it a mixed agreement requiring Member State ratification. Both the EU-Singapore agreement and the similar EU-Vietnam agreement have subsequently been split up into Free Trade Agreements requiring approval at the EU level only, and Investment Protection Agreements requiring Member State ratification.⁴

The European Commission is now taking this approach for other trade agreements in order to avoid the ratification problems that have beset the recent EU-Canada Comprehensive Economic and Trade Agreement (CETA).⁵ For example, the recently signed EU-Japan agreement is also an EU exclusive competence agreement, while a separate agreement covering investment provisions is also being negotiated.

House of Commons Library [Briefing Paper CBP-7850](#) on the EU's external agreements, published in January 2017, explored in more detail the

² See the explainer of the EU's external competences on the EU's eur-lex website [here](#) and the explainer of mixed agreements on the UK in Changing Europe website [here](#).

³ For further information on the UK approval process for international treaties, see House of Commons Library Briefing Paper, [Parliament's Role in ratifying treaties](#), CBP-5855, 17 February 2017. See also House of Commons Library Briefing Paper, [EU external agreements: EU and UK procedures](#), CPB-7192, 29 March 2016, which examines how the EU negotiates these agreements and how the UK scrutinises and ratifies them.

⁴ See European Commission, [Overview of FTA and other trade negotiations](#), updated July 2018

⁵ See House of Commons Library Briefing Paper, [CETA: the EU-Canada agreement](#), CBP-7492, June 2018

different types of agreement, UK approval processes for mixed agreements, and discussions at the time as to whether or not mixed agreements would continue to apply to the UK when it leaves the EU. It identified 230 mixed agreements at the time of writing (with the status of some Treaties unclear).

2.1 Application of mixed agreements after Brexit

The consensus among most analysts is that both exclusive and mixed agreements will fall on Brexit day, and will have to be renegotiated after Brexit, or possibly in parallel with negotiations on the withdrawal agreement. However, there is also a view that where the UK has ratified a mixed agreement in its own right, aspects of the mixed agreement might remain in force, depending on the wording of the agreement

In the case of the EU exclusive competence agreements, Brexit will mean that the UK will no longer be bound by the agreement. Most of these agreements also have a 'territorial application' clause restricting the application of the agreement to the territories in which the EU Treaties applies, meaning they will no longer cover the UK post-Brexit.

There has been greater uncertainty over mixed agreements. Prior to the referendum on leaving the EU in 2016, the Treasury Select Committee concluded as follows:

Were the UK to leave the EU, it is very uncertain whether it would be able to continue to participate in these agreements. The extent to which the UK would have to enter into negotiations to ensure its continued participation would probably depend on the attitude of the contracting parties, about which little is known.

In evidence to the House of Lords European Union Committee's inquiry into options for trade after Brexit at the of 2016, international trade experts indicated that the EU's mixed agreements would also cease to apply to the UK following Brexit.

The inquiry report, [Brexit: the options for trade](#), cited evidence from Dr Markus Gehring, Lecturer in Law at Cambridge University who said it would not be possible for the UK to continue to enjoy the benefits of the EU's free trade agreements (FTAs) post-Brexit, including mixed agreements which tended to "specify that the application of the agreement is really restricted to EU Member States".

It also cited Luis González García, Associate Member of Matrix Chambers, who noted that the "language of the FTAs does not leave room to differentiate which commitments belong to the EU and which ones [are] for individual Member States". It followed that: "If a country ceased to be part of the Union the FTA is no longer applicable."

The report also referred to correspondence from the Government in relation to the recently negotiated EU-Canada CETA agreement. In an appendix to a letter to Lord Boswell, Chair of the Lords EU Committee, received in October 2016, former International Trade Minister Lord Price wrote that the Government's assessment was that:

On leaving the EU, the UK will no longer retain access to the trade preferences contained within CETA unless arrangements to do so are

put in place as part of our negotiations with the EU. This outcome will not be impacted by whether or not the existing trade deal was signed as a mixed agreement.

An alternative view was taken in an Oxford University law [blog](#) in May 2017, by Robert Volterra, a leading international public lawyer and Visiting Professor of Law at University College London. He suggested that the UK would continue to qualify as a 'party' to most mixed EU free trade agreements (FTAs) after Brexit.

Volterra pointed out that as mixed EU FTAs are international agreements concluded in writing between States, they are governed by the provisions of the Vienna Convention on the Law of Treaties (VCLT). Under the VCLT, a State constitutes a 'party' to an international treaty so long as it has consented to be bound by the provisions of that treaty, which continues to be in force with respect to it and which has not been terminated in conformity with its own terms, or the VCLT rules on the termination of treaties. Volterra wrote that:

Whilst most mixed EU FTAs contain specific provisions for the termination of their operation, they do not provide for a special termination clause in case of withdrawal of a State from the EU. Accordingly, since the UK has signed and ratified these FTAs together with the EU and has not (yet) formally terminated them, it has consented to be bound by the provisions of these FTAs. Those provisions will continue to be in force with respect to it, as the UK will continue to be a 'party' to them under public international law.

However, Volterra explained that this did not automatically mean that mixed EU agreements will continue to apply to the UK post-Brexit.

Each is a separate agreement interpreted in accordance with its own wording, taking into account its specific context, its object and purpose, as well as any special meaning that the parties might have intended, pursuant to Article 31 of the VCLT.

Each mixed EU agreement would therefore need to be considered on a case-by-case basis. Volterra pointed to different wordings with regards to the "*ratione personae*" (the parties to the treaty) in different treaties, which might have a bearing on this interpretation:

Some FTAs enumerate each Member State separately from the EU (of the one part), and the third country (of the other part), collectively referring to them as 'the parties'. Other FTAs define the EU and its Member States together as 'the EU, of the one part'.

Volterra noted that interestingly, in the recently agreed EU-Canada Comprehensive Economic and Trade Agreement (CETA), the parties are defined as "the European Union or its Member States or the European Union and its Member States, within their respective areas of competence as derived from the [EU Treaties] (hereinafter referred to as the 'EU Party')".

Both the definition of the parties and the existence or not of a 'territorial clause' limiting the application of the mixed agreement may have a bearing on whether the agreement would continue to apply to the UK post-Brexit,

though these points would all be open to legal interpretation, Volterra suggested.

An [article](#) by Ramses A. Wessel, Professor of International and European Law at the University of Twente, published in the *Common Market Law Review* in May 2018, makes similar observations. Professor Wessel suggests that theoretically “it would not be impossible” for the UK to remain a party to mixed agreement “as long as all parties agree.”

This would seem to require a legal instrument (e.g. a protocol) “stating that the withdrawing Member State takes over the rights and obligations it previously had under the agreement as an EU Member State and that it joins the agreement as third party” Wessel wrote. This would most likely also trigger negotiations “to accommodate unforeseen practical problems.”

2.2 EU position on mixed agreements

Statements from the EU have nevertheless been categorical that its international agreements (including mixed agreements) will not apply to the UK after Brexit.

The European Council [guidelines](#) for the Brexit negotiations published in April 2017 stated:

Following the withdrawal, the United Kingdom will no longer be covered by agreements concluded by the Union or by Member States acting on its behalf or by the Union and its Member States acting jointly.

[Slides](#) on international agreements and trade policy published by the European Commission’s Brexit negotiations task force in February 2018 provided further details of the EU’s position.

The slides confirmed that both the EU’s “EU only” and bilateral “mixed” international agreements would no longer apply to the UK from the day of withdrawal from the EU. The Commission stated:

The UK will no longer be covered by:

“EU only” agreements: agreements concluded by the EU (and/or Euratom); or by the Member States on its behalf

Bilateral “mixed” agreements: concluded on the one hand by the Union and its Member States, and on the other hand by the third country partner (e.g. Association agreements; Cooperation and partnership agreements; Aviation agreements; European Economic Area).

However, the slides stated that the UK will remain party to multilateral agreements to which the EU is also a party “to the extent that UK is party in its own right”, for example WTO agreements and the Paris Climate Change agreement, in relation to which the UK will recover full competence.

3. Rollover of Trade Agreements

The Department of International Trade White Paper, [Preparing for our future UK trade policy](#), published in October 2017, stated that the Government intended to “seek to transition all existing EU trade agreements and other EU preferential arrangements,” in order to “ensure that the UK maintains the greatest amount of certainty, continuity and stability in our trade and investment relationships.”

It said the Government would also prepare for a new position in the World Trade Organisation outside the EU. This would involve establishing UK-specific commitments in UK-only “schedules” on trade in goods and services, as far as possible replicating its existing commitments as set out in the EU’s schedules of commitments. These would be submitted for certification at the WTO ahead of leaving the EU.⁶ The Government would also take specific steps to ensure that the UK remained part of the WTO Government Procurement Agreement (GPA).⁷

In November 2017, in [oral evidence](#) to the International Trade Select Committee, the International Trade Secretary Liam Fox said that the Government was seeking transitional adoption of existing EU trade agreements to provide “a technical replication of the conditions that exist today, so that there is no disruption at the point at which we leave the European Union.” This would not preclude a revision to these trading terms at a later date in order to develop “a more bespoke agreement” with these countries.

3.1 The Trade Bill

The Trade Bill was introduced in the House of Commons in November 2017. The Bill seeks to provide a legal basis for the implementation in UK law of any new trade deals with non-EU countries which replicate or ‘rollover’ the trade agreement that the UK is currently party to as a Member State of the EU. It also includes legislative measures to enable implementation of the GPA and the establishment of a new UK trade remedies framework for when the UK leaves the EU.⁸ The Bill completed its Commons stages on 17 July 2018.

In its [Impact Assessment](#) for the Trade Bill, the Government identified the countries or blocs with which the EU currently has free trade or preferential trade agreements. These cover 88 third countries (several agreements are

⁶ The UK and EU sent a joint letter to the WTO in October 2017 informing it of their agreed plans to apportion existing agricultural quotas, as well maintain existing levels of farm subsidies. However, it was [reported](#) in April 2018 that following opposition to these plans from Australia, New Zealand, the USA and others the EU was now proposing a full renegotiation of WTO schedules but this was being opposed by the UK Government.

⁷ The Agreement on Government Procurement (GPA) is a voluntary (plurilateral) agreement between the EU and 18 countries to open up their public procurement markets to each other, under the World Trade Organization (WTO).

⁸ See House of Commons Library Briefing Paper, [The Trade Bill](#), CPB 8073, Updated 2 July 2018.

multilateral, covering more than one country), accounting for nearly £140 billion of UK trade (13% of the total) in 2015.⁹

The Government said its aim was to transition the EU's existing Free Trade Agreements and other preferential trade agreements, including Mutual Recognition Agreements to ensure "maximum continuity" from the day of EU exit.

The Impact Assessment divided the trade agreements into three categories:

- i) Traditional Free Trade Agreements (FTAs) – these tend to be the broadest and most detailed agreements in trade terms;
- ii) Economic Partnership Agreements (EPAs) – these are development focused FTAs that aim to provide long-term, predictable frameworks to help increase trade and investment, and support sustainable growth and poverty reduction. EPAs are asymmetric in their degree and pace of market liberalisation; and
- iii) Association Agreements - these are usually much broader agreements in general terms (e.g. covering political cooperation, energy, etc.) but with a notable trade component.

3.2 Trade with EFTA countries and Switzerland

The countries listed in the Trade Bill Impact Assessment included the four European Free Trade Association (EFTA) states: Iceland, Liechtenstein and Norway, which participate in the EU's single market through the European Economic Area agreement, and Switzerland which participates in aspects of the single market through a series of bilateral agreements. The list also includes Turkey, San Marino and Andorra, which have partial customs union with the EU. Rolling over current trade arrangements with these countries would be difficult given that the UK Government has ruled out both membership of the single market and a future customs union with the EU.

3.3 Initial Government progress on rolling over agreements

In his [oral evidence](#) to the International Trade Select Committee in November 2017, Liam Fox said that the Government was at "a fairly advanced stage" with some of the countries covered by EU trade agreements with regard to rolling over the agreements post-Brexit. Dr Fox said:

We are at a fairly advanced stage with some of those, and we have not had any indication from any of them that they did not want to get bilateral market access and continue where we are. Of course there are issues. It is not quite as simple as rolling them over, because we have disaggregation of quotas, for example, in some of those, and we have been involved in discussions about the

⁹ If newly signed agreements, such as the EU-Japan Economic Partnership, were taken into account this figure would be more than 15% (2.3% of UK exports go to Japan). See House of Commons Library Briefing Paper CBP 8340, [The EU-Japan Economic Partnership Agreement](#), 15 June 2018.

methodology by which we will do those. But remember it is a transitional adoption, with an implicit understanding that this agreement is to ensure market stability at the point we leave the European Union, but with a view to being able to develop a more bespoke agreement with those countries in the future.

In a [letter](#) to the Chair of the International Trade Select Committee in January 2018, the then International Trade Minister Greg Hands updated on progress. He wrote:

We are currently engaging with the countries with whom the UK has existing free trade agreements via our membership of the EU, to agree how continuity is best achieved as we leave the EU. Since the creation of the department in July 2016, we have engaged with over 70 countries in relation to around 40 international agreements and the reactions have been positive. Both we and our partner countries maintain a clear focus on avoiding any disruption to trading arrangements at the point at which existing agreements cease to apply to the UK, and are keenly aware of the timelines involved.

Without wishing to be seen to pre-empt the outcome of the discussions, I remain confident that the necessary progress is being made to provide businesses, consumers and investors with the certainty and stability they require as we leave the EU.

3.4 International Trade Select Committee report on Continuing Application of EU trade agreements

The International Trade Select Committee report on [Continuing Application of EU trade agreements after Brexit](#) published on 28 February 2018 provided an overview of the trade agreements to which the EU is currently a party, together with an assessment of the Government's rollover plans and how these would be implemented.

The Committee said that the Government "still needs to show that it has a legally watertight and practically viable strategy for achieving 'transitional adoption' at the point when it will need to take effect."

The Committee warned of trade with 70 nations "falling off a cliff edge" if the Government did not act quickly to rollover EU trade deals, and said that the Government still needed to work out a number of important details before continuity could be achieved. These included the exact number of EU trade and trade-related agreements which appeared "to be a matter of some uncertainty." It referred to the figure of 759 agreements (with 168 countries) and said there was an urgent need for clarity "over the number, type, scope, extent and importance of the EU's trade-related agreements."

The Committee also warned that substantive amendments to rolled-over trade agreements will almost certainly be required.

Similar concerns were cited in the report of the Exiting the EU Select Committee on [The future UK-EU relationship](#) published in April 2018. It cited evidence from David Henig, Director of the UK Trade Policy Project, who said that it was likely that third parties may wish to reopen parts of their trade agreements. For example, he suggested that South Africa would want access for a citrus fruit currently not allowed into the EU, while South Korea may want to reduce UK access to its legal services market.

The International Trade Committee report also referred to the difficulties of rolling over agreements with the EFTA states and Turkey and said that the Government needed to consider the implications of this in its negotiations on the future UK-EU partnership. It referred to the [oral evidence](#) to the Committee from then International Trade Minister Greg Hands in January 2018, in which he said that the agreements with the EEA, Switzerland, Turkey and the European microstates were the responsibility of the Department for Exiting the EU, rather than the Department for International Trade.

3.5 Application of agreements in the post-Brexit Transition/Implementation period

Although a transition period is envisaged until the end of 2020, during which the UK will remain bound by the rules of the single market and customs union, the EU's chief Brexit negotiator Michel Barnier [indicated](#) in December 2017 that the EU's trade deals with third countries will no longer apply to the UK during this period.

In a press conference on 20 December, Barnier said: "Legally speaking, the day after the UK has left the EU institutions, the UK will no longer be covered by our international agreements. They will be leaving approximately 750 agreements which we have signed as the European Union which cover today the UK." He said that the UK would need to "prepare as of now to be able to replicate those agreements."

At a press conference on 29 January 2018, Barnier [said](#) that "we cannot ensure in Article 50 that the UK keeps the benefits for these international agreements. Our partners around the world may have their own views on this."

On 8 February 2018, the Government published a [Technical Note](#) stating that it would seek continued application of EU international trade and other related agreements during the transition/ implementation period by agreement of all the parties concerned.

The note referred to EU agreements covering a wide range of key policy areas including, trade, nuclear cooperation and aviation with over 100 third countries "that will have an interest in their continued proper functioning during the implementation period." It said action was required "to clarify the application of these agreements to the UK during the implementation period."

It proposed that these third country agreements "should continue to apply to the UK in the same way for the duration of the implementation period." However, it said that multilateral agreements to which the EU is a party "raise different considerations and are not covered by this note."

The Government note also referred to the European Council's negotiating directives in which it said the EU had "adopted the same position" i.e. that "the Union acquis should apply to and in the United Kingdom [during the implementation period] as if it were a Member State", pointing out that third country agreements "are an important part of the EU acquis".

The note said that the UK Government view was that:

the UK view is that the best approach would be for the parties to confirm that, for the duration of the implementation period, these agreements continue to apply to the UK and that the UK is to be treated in the same way as EU Member States for the purposes of these agreements. This would be achieved by agreement of the parties to interpret relevant terms in these international agreements, such as “European Union” or “EU Member State”, to include the UK.

The note said that this should be used “both to ensure the UK’s continued participation in mixed EU third country agreements to which the UK is already a listed party, as well as the continued application to the UK of EU-only third country agreements for the duration of the implementation period.”

The International Trade Committee [report](#) published on 28 February welcomed this new approach from the Government but said it was “difficult not to see this as an admission that its policy of negotiating new agreements by March 2019 might not be achieved and may be failing.”

The Committee said however that it was still far from clear that it will be possible to secure continued application of EU trade agreements during the post-Brexit transition period.

Draft Withdrawal Agreement, March 2018 European Council

The draft Withdrawal Agreement text agreed at the March 2018 European Council indicated that the EU had agreed to assist the UK in achieving the approach set out in the Government’s Technical Note on 8 February. The Withdrawal Agreement text included a [footnote](#) to Article 124 relating to the EU’s international agreements in the section on transition arrangements. This stated that:

The Union will notify the other parties to these agreements that during the transition period, the United Kingdom is to be treated as a Member State for the purposes of these agreements.

In a [letter](#) accompanying the Government response to the International Trade Committee’s February report sent in May, Liam Fox cited the Draft Withdrawal Agreement text agreed in March referring to the “major steps” that “had been taken towards securing continuity for EU trade agreements.”

However, the Draft Withdrawal Agreement wording remains a request to third parties on the part of the EU, and it is possible that the third country trading partners concerned may not agree to maintaining continuity in these agreements during the transition.

The [slides](#) on international agreements and trade policy published by the European Commission’s Brexit negotiations task force in February 2018 emphasised that “the Withdrawal Agreement cannot guarantee the extension of the benefits from those international agreements to the UK.”

The Government’s response to the International Trade Committee also stated:

The Government is not making assumptions, but basing its judgement on the evidence of continuous engagement with partner

countries. It remains the case that all partner countries are committed to ensuring there is no disruption to our trading relationship. We have a mature relationship with our partner countries, and in discussions cover a range of scenarios to ensure continuity.

3.6 Possible continuation of EU trade agreements under temporary customs arrangement (Northern Ireland backstop)

The Government issued a [Technical Note](#) on the Temporary Customs Arrangement on 7 June 2018. This would apply as the 'backstop' solution to prevent a hard border appearing between Northern Ireland and the Republic of Ireland in accordance with the UK-EU [Joint Report](#) on the first phase of Brexit negotiations in December 2017.

The arrangement would be applied following the end of the transition/implementation period if no other agreement on UK-EU relations could be reached preventing the emergence of a hard border.

The note makes clear that the arrangement is not the UK Government's preferred option and "would only come into force following the Implementation Period, in specific and narrow circumstances, such as delay in the implementation of the end state customs arrangement, and would be time-limited."

The note explains that the arrangement would ensure that tariffs, quotas, rules of origin and customs processes would remain absent for all UK-EU trade (given that the UK has ruled out a specific solution for Northern Ireland which would see similar barriers emerging between Northern Ireland and the rest of the UK).

Should the temporary arrangement be applied, the UK would be outside the scope of the Commons Commercial Policy but would continue to apply the EU's Common External Tariff (CET). The UK would also be able to negotiate, sign and ratify free trade agreements and implement those elements that do not affect the functioning of the temporary customs arrangement.

The note also includes a section on securing continuity in EU free trade agreements. It states:

To operate the CET during a temporary customs arrangement, the UK will need to apply the preferential tariff rates to rest of world trade as set out in the EU's existing FTAs. Further technical discussions would be required with the EU to explore a shared solution to ensure the UK is able to apply the CET in full, and so that the UK continues to benefit from existing EU FTAs or any new ones signed during the period, and ensure that we remain WTO compliant.

3.7 Arrangements after the Transition/ Implementation Period

The Government's response to the International Trade Committee also stated:

In parallel to arrangements for the Implementation Period, the Government continues the important work with partner countries to ensure continuity of effect of our international agreements beyond the Implementation Period, to avoid any disruption in trade from January 2021 onwards.

In an interview with [The Times](#) published on 23 June 2018, Dr Fox referred to "technical reasons" which might prevent some third countries from rolling over their agreements with the UK. Dr Fox said:

Our ambition is that they all do. We've not actually had any resistance from countries saying they don't want to. After all, they're talking about market access with the fifth biggest economy in the world. Who wouldn't want that? So there's a strong element of self-interest involved.

He also said:

As with anything, including the EU itself, the question is getting it right, not getting it quickly. I don't recall any of my patients saying 'I don't care what treatment you give me, just give it to me quickly.' Not sure that would have been a very smart approach.

3.8 Liam Fox Evidence to International Trade Select Committee, July 2018

In [oral evidence](#) to the International Trade Select Committee on 11 July 2018, International Trade Secretary Liam Fox said that the UK Government had "an agreement in principle with all those we have had discussions with" in terms of continuing trade with third countries on the same basis as in their existing agreements with the EU.

He also highlighted "extensive discussions" with South Korea and Switzerland on their wish to continue with existing trade arrangements.

With regard to continuing of trade agreements during the transition/implementation period, Dr Fox said "we still await the EU's notification formally of these countries on that."

Dr Fox said that agreements in principle had not been put to paper, as third countries were waiting to see if there would be an implementation period first, with a view to using the extra time to negotiate a more bespoke agreement rather than simply rolling over the existing arrangements:

We will want to come to a bespoke agreement, because we have agreements in place, and we have had discussions about what happens if we have to have an agreement that gives us just a bilateral rollover, but most of the countries are waiting to see now whether we have a longer period where we can then come to a bespoke agreement once we have the implementation period in place.

Nevertheless, Dr Fox said it was still the Government's intention to meet his previous promise that there would be 40 agreements in place "the second

after midnight in March 2019” and that the Government hoped to have the texts of agreements ready “as soon as possible.”

4. EU Multilateral Agreements

EU Multilateral Agreements since October 2015¹⁰

Title	Type	Date of Signature
Treaty establishing the Transport Community (*)	Multilateral	09/10/2017
Protocol of Accession to the Trade Agreement between the European Union and its Member States, of the one part, and Colombia and Peru, of the other part, to take account of the accession of Ecuador (*)	Multilateral	11/11/2016
Agreement extending the Framework Agreement for International Collaboration on Research and Development of Generation IV nuclear energy systems (*)	Multilateral	10/11/2016
Agreement establishing the EU-LAC International Foundation (*)	Multilateral	25/10/2016
Economic Partnership Agreement between the European Union and its Member States, of the one part, and the SADC EPA States, of the other part (*)	Multilateral	10/06/2016
Agreement between the European Union, Iceland, the Principality of Liechtenstein and the Kingdom of Norway on an EEA Financial Mechanism 2014-2021 (*)	Multilateral	03/05/2016
Paris Agreement adopted under the United Nations Framework Convention on Climate Change	Multilateral	12/12/2015
Agreement continuing the International Science and Technology Center (*)	Multilateral	09/12/2015

¹⁰ For EU Multilateral Agreements before this date see House of Commons Library [Briefing Paper CBP-7850](#)

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<u>International Agreement on Olive Oil and Table Olives, 2015</u> (*)	Multilateral	09/10/2015
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5. EU Bilateral Agreements

EU Bilateral Agreements since February 2016¹¹

Title	Type	Date of Signature
Agreement for scientific and technological cooperation between the European Union and the Kingdom of Morocco setting out the terms and conditions for the participation of the Kingdom of Morocco in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) (*)	Bilateral	10/04/2018
Agreement between the European Union and Iceland on supplementary rules in relation to the instrument for financial support for external borders and visa, as part of the Internal Security Fund for the period 2014 to 2020 (*)	Bilateral	02/03/2018
Agreement for scientific and technological cooperation between the European Union and the Republic of Lebanon setting out the terms and conditions for the participation of the Republic of Lebanon in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA)	Bilateral	27/02/2018
Protocol to the Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Kyrgyz Republic, of the other part, to take account of the accession of the Republic of Croatia to the European Union (*)	Bilateral	06/02/2018
Amendment 1 to Memorandum of Cooperation NAT-I-9406 between the	Bilateral	13/12/2017

¹¹ For EU Bilateral Agreements before this date see House of Commons Library [Briefing Paper CBP-7850](#)

<u>United States of America and the European Union (*)</u>		
<u>Amendment 1 to the Agreement on cooperation in the regulation of civil aviation safety between the European Community and the United States of America (*)</u>	Bilateral	13/12/2017
<u>Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius (*)</u>	Bilateral	08/12/2017
<u>Agreement between Canada and the European Union on security procedures for exchanging and protecting classified information (*)</u>	Bilateral	04/12/2017
<u>Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Norway concerning additional trade preferences in agricultural products (*)</u>	Bilateral	04/12/2017
<u>Comprehensive and enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part (*)</u>	Bilateral	24/11/2017
<u>Agreement between the European Union and the Swiss Confederation on the linking of their greenhouse gas emissions trading systems (*)</u>	Bilateral	23/11/2017
<u>Agreement for scientific and technological cooperation between the European Union and the Hashemite Kingdom of Jordan setting out the terms and conditions for the participation of the Hashemite Kingdom of Jordan in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA)</u>	Bilateral	10/11/2017

<u>Agreement for scientific and technological cooperation between the European Union and the Arab Republic of Egypt setting out the terms and conditions for the participation of the Arab Republic of Egypt in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA)</u>	Bilateral	27/10/2017
<u>Agreement for scientific and technological cooperation between the European Union and the People's Democratic Republic of Algeria setting out the terms and conditions for the participation of the People's Democratic Republic of Algeria in the Partnership for Research and Innovation in the Mediterranean Area (PRIMA) (*)</u>	Bilateral	26/10/2017
<u>Bilateral Agreement between the European Union and the United States of America on prudential measures regarding insurance and reinsurance</u>	Bilateral	22/09/2017
<u>Framework Agreement between the European Union and its Member States, of the one part, and Australia, of the other part (*)</u>	Bilateral	07/08/2017
<u>Protocol to the Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Uzbekistan, of the other part, to take account of the accession of the Republic of Croatia to the European Union (*)</u>	Bilateral	17/07/2017
<u>Agreement between the European Union and New Zealand on cooperation and mutual administrative assistance in customs matters</u>	Bilateral	03/07/2017
<u>Third Additional Protocol to the Agreement establishing an association between the European Community</u>	Bilateral	29/06/2017

<u>and its Member States, of the one part, and the Republic of Chile, of the other part, to take account of the accession of the Republic of Croatia to the European Union (*)</u>		
<u>Agreement between the European Union and the Republic of Chile on trade in organic products</u>	Bilateral	27/04/2017
<u>Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, to take account of the accession of the Republic of Croatia to the European Union (*)</u>	Bilateral	10/04/2017
<u>Agreement between the European Union and the Republic of Moldova on security procedures for exchanging and protecting classified information (*)</u>	Bilateral	31/03/2017
<u>Agreement between the European Union and Iceland on the protection of geographical indications for agricultural products and foodstuffs</u>	Bilateral	23/03/2017
<u>Agreement in the form of an Exchange of Letters between the European Union and Iceland concerning additional trade preferences in agricultural products</u>	Bilateral	23/03/2017
<u>Cooperation Agreement on Partnership and Development between the European Union and its Member States, of the one part, and the Islamic Republic of Afghanistan, of the other part (*)</u>	Bilateral	18/02/2017
<u>Protocol to the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, to take account of the accession</u>	Bilateral	15/12/2016

of the Republic of Croatia to the European Union		
Political Dialogue and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Cuba, of the other part (*)	Bilateral	12/12/2016
Agreement between the European Union and the Kingdom of Norway on supplementary rules in relation to the instrument for financial support for external borders and visa, as part of the Internal Security Fund for the period 2014 to 2020	Bilateral	08/12/2016
Acquisition and cross-servicing Agreement between the European Union and the United States of America (ACSA)	Bilateral	06/12/2016
Agreement between the European Union and the Principality of Liechtenstein on supplementary rules in relation to the instrument for financial support for external borders and visa, as part of the Internal Security Fund for the period 2014 to 2020	Bilateral	05/12/2016
Agreement in the form of an Exchange of Letters between the European Union and the Federative Republic of Brazil pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedule of the Republic of Croatia in the course of its accession to the European Union	Bilateral	25/11/2016
Framework Agreement between the European Union and Kosovo* (*This designation is without prejudice to positions on status, and is in line with UNSCR 1244(1999) and the ICJ Opinion on the Kosovo declaration of independence.) on the general	Bilateral	25/11/2016

<u>principles for the participation of Kosovo in Union programmes</u>		
<u>Protocol to the Framework Agreement on Partnership and Cooperation between the European Union and its Member States, of the one part, and Mongolia, of the other part, to take account of the accession of the Republic of Croatia to the European Union (*)</u>	Bilateral	31/10/2016
<u>Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part (*)</u>	Bilateral	30/10/2016
<u>Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Canada, of the other part</u>	Bilateral	30/10/2016
<u>Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands</u>	Bilateral	14/10/2016
<u>Agreement between the European Union and Solomon Islands on the short-stay visa waiver</u>	Bilateral	07/10/2016
<u>Partnership Agreement on Relations and Cooperation between the European Union and its Member States, of the one part, and New Zealand, of the other part (*)</u>	Bilateral	05/10/2016
<u>Agreement between the European Union and the Federated States of Micronesia on the short-stay visa waiver</u>	Bilateral	19/09/2016
<u>Agreement in the form of an exchange of letters between the European Union and the Islamic Republic of Afghanistan on the extension of the Agreement between the European Union and the Islamic Republic of Afghanistan on the status</u>	Bilateral	04/08/2016

of the European Union Police Mission in Afghanistan (EUPOL AFGHANISTAN) OJ L 273, 8.10.2016, p. 3		
Stepping stone Economic Partnership Agreement between Ghana, of the one part, and the European Community and its Member States, of the other part (*)	Bilateral	28/07/2016
Amending Protocol to the Agreement between the European Community and the Principality of Monaco providing for measures equivalent to those laid down in Council Directive 2003/48/EC	Bilateral	12/07/2016
Agreement between the European Union and Tuvalu on the short-stay visa waiver (*)	Bilateral	01/07/2016
Agreement between the European Union and the Republic of the Marshall Islands on the short-stay visa waiver (*)	Bilateral	27/06/2016
Agreement between Georgia and the European Union on security procedures for exchanging and protecting classified information	Bilateral	23/06/2016
Agreement between the European Union and the Republic of Kiribati on the short-stay visa waiver (*)	Bilateral	23/06/2016
Agreement between the United States of America and the European Union on the protection of personal information relating to the prevention, investigation, detection, and prosecution of criminal offences	Bilateral	02/06/2016
Additional Protocol to the Agreement between the European Economic Community and the Kingdom of Norway	Bilateral	03/05/2016
Additional Protocol to the Agreement between the European Economic	Bilateral	03/05/2016

Community and the Republic of Iceland		
Agreement between the Kingdom of Norway and the European Union on a Norwegian Financial Mechanism for the period 2014-2021	Bilateral	03/05/2016
Protocol amending the Euro-Mediterranean Aviation Agreement between the European Union and its Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, to take account of the accession to the European Union of the Republic of Croatia (*)	Bilateral	03/05/2016
Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Lebanon of the other part, to take account of the accession of the Republic of Croatia to the European Union (*)	Bilateral	28/04/2016
Agreement in the form of an Exchange of Diplomatic Notes with Japan in accordance with Article 15(3)(b) of the Agreement on Mutual Recognition (MRA) in order to amend Part B of the Sectoral Annex on Good Manufacturing Practice (GMP) for medicinal products (*)	Bilateral	22/04/2016
Agreement in the form of an exchange of letters between the European Union and the People's Republic of China pursuant to Article XXIV:6 and Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions in the schedule of the Republic of Croatia in the course of its accession to the European Union	Bilateral	19/04/2016
Participation Agreement between the European Union and the Swiss	Bilateral	13/04/2016

<u>Confederation on the participation of the Swiss Confederation in the European Union Advisory Mission for Civilian Security Sector Reform in Ukraine (EUAM Ukraine)</u>		
<u>Participation Agreement between the European Union and the Swiss Confederation on the participation of the Swiss Confederation in the European Union CSDP mission in Mali (EUCAP Sahel Mali)</u>	Bilateral	13/04/2016
<u>Agreement between the European Union and the Republic of Peru on the short-stay visa waiver</u>	Bilateral	14/03/2016
<u>Protocol to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, regarding the participation of the Republic of Croatia as a Contracting Party, following its accession to the European Union</u>	Bilateral	04/03/2016
<u>Agreement between the Council of Ministers of the Republic of Albania and the European Union on security procedures for exchanging and protecting classified information</u>	Bilateral	03/03/2016
<u>Agreement between the European Union and the People's Republic of China on the short-stay visa waiver for holders of diplomatic passports</u>	Bilateral	29/02/2016
<u>Amending Protocol to the Agreement between the European Community and the Principality of Andorra providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments</u>	Bilateral	12/02/2016

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