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Manageable but Material

The consequences of No Deal and how the Government should respond

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Executive Summary

Subject to the outcome of ongoing negotiations with the EU, debates in Parliament, and a likely General Election, there remains a significant chance of a No Deal Brexit. Even if the Government is forced to seek a further extension to the Article 50 negotiations on 19 October, No Deal remains the default outcome of the process unless a deal is concluded or Brexit is reversed altogether.

This report is not an assessment of the merits or otherwise of No Deal. Instead, it seeks to examine the potential consequences as fairly as possible, and assess how best the UK Government should prepare for and respond to them.

No Deal will cause some disruption, but can be managed with the right set of responses

Some claim that No Deal would be relatively painless, or even a positive outcome for the UK; others that it would be an unmitigated disaster. Our assessment is that neither of these positions captures the issues accurately. No Deal would undoubtedly mean some short-term disruption; in the absence of a Withdrawal Agreement, preferential economic arrangements that flow from the UK's EU membership would abruptly fall away on exit day. Nevertheless, the UK Government is not powerless in a No Deal scenario, and – unencumbered by the restrictions of EU membership - can take unilateral action to reduce the scale and scope of disruption.

> "It's not going to be the end of the world, in the sense that trade is going to stop and that everything is going to fall down, no. But it's not going to be a walk in the park either."
>
> - *Roberto Azevedo, Director-General, World Trade Organisation.*[1]

In many areas, Government preparation for No Deal is in good shape. However, there are still important steps that need to be taken. The main outstanding problems to address are:

1. **Ports.** In particular, UK exporters entering pinch points such as Dover without the correct paperwork risk causing queues and delaying trade flows.
2. **People.** The lack of a bilateral deal on citizens' rights creates uncertainty for EU nationals in the UK, UK nationals in the EU, and employers. There are also well-documented problems with the application of the EU Settlement Scheme, as well as unanswered questions over the UK's long-term immigration policy.
3. **Perceptions.** The challenges of No Deal are real, and many businesses and individuals are not yet ready to respond to them. Equally, there is a risk that predictions of disaster become a self-fulfilling prophecy, for example if predictions of shortages lead to consumer panic-buying.

Accordingly, the Government should take urgent action to address these problems. In particular, it should:

[1] Roberto Azevedo, quoted in *BBC News*, 'Brexit: What is the 'no deal' WTO option?', 29 July 2019: https://www.bbc.co.uk/news/uk-45112872

1. **Take action to alleviate pressure on UK ports and the Dover-Calais route,** by ensuring both import and export processes are as smooth as possible. The priority should be to keep non-compliant exporters away from vulnerable ports – such as by pre-clearing trucks at regional centres away from the border.
2. **Provide greater certainty for EU nationals and their employers.** The Government should achieve this by continuing to push for a bilateral deal with the EU on citizens' rights and addressing issues with the EU settlement scheme. The Government should also seek to send early signals that it will pursue a liberal, pro-business immigration policy in the long-term. In particular, the salary threshold for skilled migrants should either be reduced or replaced by an alternative needs-based assessment.
3. **Take action to effectively communicate No Deal issues,** so that businesses and individuals are clear on what further actions they need to take and are fully aware of where the Government has already solved problems or minimised risks.

In addition, the Government should also:

- **Provide businesses with greater clarity over the UK's long-term tariff regime.** The current temporary regime offers little certainty beyond an initial twelve months.
- **Avoid imposing any checks or controls at the Irish border.** Such a unilateral commitment is insufficient to ensure an open border, but is the only politically appropriate action the Government can take in the short-term.
- **Provide short-term support for sectors and regions hit by new trade barriers.** The UK cannot prevent the EU from imposing third country tariffs and checks on UK exports, so efforts here will have to focus on compensation.
- **Provide continuity for product regulation but put wider economic competitiveness measures back on the table.** This approach would balance short-term regulatory stability for businesses with wider regulatory reforms to restore competitiveness.
- **Continue to pursue continuity trade agreements for EU FTAs, but temper expectations of a quick trade deal with the United States.** The UK should only sign major deals when it has a clearer idea of its trade policy objectives, and should be realistic about the practical and political obstacles to a US FTA.
- **Pull available economic levers to offset any disruption, in both the short-term and the medium-term.** There are a variety of actions, such as reducing income or corporation tax, which the Government can pursue to support the economy, maintain business and consumer confidence, and ensure the UK is seen as open to business.

Overall, our judgment is that a No Deal will not be painless for the UK or the EU, and that a negotiated exit would be a preferable outcome. Nevertheless, with the right set of policy responses, No Deal remains a scenario the UK government can manage.

No Deal preparedness: the state of play

- It is essential that Government and business are clear-eyed about the risks and potential disruption that a No Deal exit could bring. The UK should take the EU at its word that there will be no temporary standstill transition period or a series of "mini-deals" in the event of No Deal. The only circumstances under which zero-tariff or existing arrangements could apply require the EU's consent.

- Similarly, it is important that businesses and individuals are reassured that many of their worst fears can be avoided through government action. Predictions of disaster risk becoming a self-fulfilling prophecy – for example, if exaggerated claims about food and fuel shortages trigger unnecessary consumer panic-buying.
- It is difficult to predict the precise consequences of No Deal with certainty. The Government's recently published Operation Yellowhammer planning assumptions paint a stark picture of No Deal disruption. But Yellowhammer is a "reasonable worst case scenario," not a prediction, and does not fully take Government mitigation into account.
- The UK and the EU have already put a number of mitigation measures for No Deal in place. These are not bilateral "mini-deals"; they are unilateral measures which either side can withdraw, and are often temporary and limited in scope. Nevertheless, they do mean that some of the worst potential consequences of a No Deal Brexit, such as the grounding of air traffic, are no longer a risk on day one.
- On the whole, the UK has taken a more generous and extensive approach to No Deal mitigation measures than the EU. As a result, the worst affected areas in No Deal are likely to be those beyond the UK's control. For example, UK exporters are expected to experience more disruption than UK importers, due to asymmetry in the tariffs, checks and controls the UK and EU are set to introduce.
- Managing No Deal also relies on the level of business preparedness. In general, large businesses are better prepared for No Deal than SMEs. The Government needs to do all it can to ensure traders are ready, particularly goods exporters.
- The impact of No Deal on the UK will also vary significantly from sector to sector, and even from firm to firm. Businesses which face high tariffs, are in heavily regulated sectors, or are particularly reliant on trade with the EU, are likely to experience more disruption than those which do not.
- Overall, manufacturing and, in particular, agriculture are more highly exposed to No Deal than trade in services – partly as the latter is less EU-orientated than trade in goods. The difference between a deal and No Deal scenario is also much greater for goods than it is for services. Under the backstop, UK goods would have enjoyed tariff and quota-free trade with the single market, whereas UK service providers would have faced new non-tariff barriers (degrees of which they are likely to face under any Brexit scenario short of full single market membership).

The colour-coded table below summarises Open Europe's assessment of 20 key areas affected by No Deal. It takes into account both the extent of disruption, and whether the problem can be mitigated by UK Government action.

Green: zero or limited short-term disruption.

Yellow: moderate short-term disruption, but can be mitigated by UK Government action.

Amber: moderate short-term disruption, little mitigation possible without EU co-operation.

Orange: potentially severe short-term disruption, but can be mitigated by UK Government action.

Red: severe short-term disruption, little mitigation possible without EU co-operation.

Category	Area of potential disruption	What is the issue?	Mitigation measures
People	**EU citizens' rights in the UK**	Without action, many of the legal rights of EU citizens would expire when the UK becomes a third country.	The Government has committed to unilaterally upholding EU citizens' rights and has given them until December 2020 to apply for settled status. There should therefore be no immediate disruption in this area. However, there are reports of problems with the Government's application of the EU Settlement Scheme, which has led to uncertainty for EU citizens.
	UK citizens' rights in the EU	UK nationals resident in the EU27 will cease to be EU citizens, with all the associated rights that this entails.	This is beyond the UK Government's control and relies on the EU27. Some member states have acted to protect UK citizens' rights, but this uneven patchwork varies from country to country and does not fully match the UK's commitments. The EU has so far resisted UK proposals to fully carve out the citizens' rights provisions from the rest of the Withdrawal Agreement.
	Immigration	The Government's announcement in mid-August that it would seek to end free movement of people immediately in a No Deal scenario caused confusion and uncertainty. Possible reduced migration flows between the UK and the EU, potentially causing labour shortages for businesses.	The Government has now reversed the proposal to end free movement of people on day one of a No Deal Brexit. Instead, new arrivals between exit day and 31 December 2020 will be granted Temporary Leave to Remain for a period of three years. Questions remain over the Government's long-term immigration policy, such as the high salary threshold for skilled migrants and the availability of temporary labour.

Trade in Goods	**Tariffs: UK imports**	After No Deal, the UK can set its own tariffs on imports. Under WTO rules, it must offer the same tariff access to non-EU and EU countries. There is therefore a trade-off between minimising costs to consumers and barriers to trade, and protecting vulnerable UK producers from cheap imports from elsewhere.	The UK has published a temporary (12 month) No Deal tariff regime, which abolishes tariffs in 87% of goods imports and retains them in a few sensitive sectors (some tariffs are designed to protect domestic producers, while others protect developing countries' preferential access to UK markets). There are currently ongoing discussions in Government over potential adjustments to the No Deal tariff regime.
	Tariffs: UK exports	UK exports to the EU will face new tariffs in a No Deal Brexit. In some sectors, such as agriculture, these tariffs are prohibitively high. However, in many other sectors EU MFN tariffs are lower. Research elsewhere has found that 49% of UK goods exports to the EU27 by value would be tariff-free even in No Deal. Of the remainder, 45% would face tariffs of 10% or lower, and 6% would face tariffs of over 10%.[2] For some industries, new tariffs may be offset by currency devaluation. However, this is unlikely to be the case for industries facing higher tariffs or reliant on imported inputs.	Tariffs on exports are beyond the UK Government's control, and can only be removed in the context of a bilateral deal with the EU. Some UK exporters will be hit harder by tariffs than others. The Government can take unilateral action to compensate the most adversely affected sectors, such as agricultural producers.
	Trade with non-EU partners	Without securing continuity agreements, the UK would lose access to dozens of EU trade deals with third countries in a No Deal Brexit.	The Government has secured continuity agreements with some important trading partners (such as Switzerland, Norway and South Korea), but not others (such as Japan, Turkey and Canada).
	Regulatory barriers: UK imports	If the UK imposed new regulatory checks on imports from the EU, this would introduce new friction and delay the flow of goods into the UK.	The Government has already said it will unilaterally recognise EU regulations in highly-regulated and import-sensitive sectors. However, this would be for an unspecified length of time.
	Regulatory barriers: UK exports	UK exports of regulated goods will face EU third country regulatory checks and controls in a No Deal scenario. Although UK products would still be compliant with EU standards, in some highly regulated sectors the EU also requires this conformity to EU rules to be proven and tested	The EU is unlikely to recognise UK regulatory standards outside of the context of a deal. The EU is expected to grant the UK 'listed status' as a third country to allow exports of animals and animal products to continue in a No Deal scenario. Listing was previously granted in advance of the 12 April deadline, but will

[2] See Dmitry Grozoubinski, 'What Will No-Deal Tariffs Mean, And Are They Enough To Break The EU's Will?', *Explaintrade.com*, 26 June 2019: https://www.explaintrade.com/blogs/2019/6/26/no-deal-tariffs

		by EU-approved bodies. Goods exports in less-intensively regulated sectors would not face the same challenges.	need to be reapplied ahead of 31 October.
	The border: import processes	Additional customs and import processes mean there is a risk of significant delays at points of entry to the UK, especially Dover and the Channel Tunnel.	The UK Government is already taking a number of measures to alleviate delays at UK ports, including customs procedures, postponed accounting for VAT, and procuring ferries for additional freight capacity. There are further actions the Government can take to ensure businesses are ready and understand the mitigations available to them.
	The border: export processes	If trucks carrying UK goods exports do not have the correct paperwork to meet EU compliance checks when they arrive at ports such as Dover, this risks causing major delays on the UK side. Disruption to exports could quickly have a knock-on effect on imports. Additional delays at UK-facing ports in the EU could also have a knock-on effect in the UK. Dover-Calais is a "closed loop" where delays on one side quickly spread to the other.	Some attempts to communicate the importance of having the right paperwork to traders have been made by the Government, but more needs to be done to ensure that traders without the correct paperwork do not cause delays for compliant trade. EU member states are taking unilateral action to reduce logistical delays at ports and points of entry.
Trade in Services	**Service imports**	EU service providers will lose some preferential access rights and protections in the UK. However, the UK is not expected to erect many new barriers to service imports, and has taken a more liberal approach than the EU. In the medium-term, ending freedom of movement may restrict the provision of services in the UK by EU nationals. However, this is not expected to be a problem from day one.	The UK has prepared several contingency measures, including a Temporary Permissions Regime for EEA financial services firms and provisions to recognise professional qualifications for EU service providers. Overall, the UK is not expected to introduce many new regulatory barriers to EU service provision in the UK.
	Service exports	UK service providers will face new barriers to exporting to EU markets, including the loss of mobility rights and recognition of professional qualifications.	This is beyond the UK's control, and is a matter for the EU. However, unlike traded goods, the difference between trading services on WTO terms and under a UK-EU FTA is not as significant. For example, the financial services sector was already expecting to lose EU "passporting" rights. The main difference is one of timescale, as there would be no standstill transition period. The UK and the EU have taken some temporary measures to provide

			market stability for financial services.
	Data flows	No Deal could disrupt data flows between the UK and the EU, as the UK would become a third country with no data adequacy decision in place.	The Government has said it will take unilateral action to allow data flows from the UK to the EU to continue. However, without a data adequacy decision from the EU, there will be some disruption of data flows from the EU to the UK.
Northern Ireland	**Common Travel Area (CTA)**	Some border communities fear that the CTA, which provides for free movement of people between the UK and Ireland, would be disrupted in a No Deal scenario.	The UK and Ireland have already agreed that the CTA will continue to operate as normal in a No Deal scenario. This needs to be communicated more effectively to border communities.
	Single Electricity Market (SEM)	Concerns had previously been raised that No Deal would disrupt the operation of the SEM.	The Ireland and Northern Ireland energy regulators have announced that the SEM will continue to operate in the event of No Deal.
	Trade in goods: UK side	Customs and regulatory checks at or near the land border would be seen as breaching the spirit of the Good Friday Agreement, would disrupt all-island trade, and could pose a security risk.	While the UK cannot unilaterally prevent the emergence of a "hard" border, it intends to keep its side of the border open in the short-term by refraining from imposing new checks or controls. For example, goods entering NI would be exempt from the UK's No Deal tariff regime, with all products zero-rated. This would risk violating WTO rules, but the UK could cite permitted exemptions under the GATT to argue that avoiding checks is necessary in the circumstances.
	Trade in goods: Irish side	As above. In contrast to the UK's approach, the EU will expect Ireland to impose checks, to ensure that Northern Ireland does not become a back door to the single market. EU tariffs and checks on exports from NI to the Republic would be disruptive to specific Northern Irish sectors such as agriculture.	This is beyond the UK's control. Ireland will have to implement checks and controls on goods from Northern Ireland, although it is expected these will take place away from the border. Ultimately, resolving the Irish border can only be achieved with intensive cooperation between the UK, Ireland and the EU.
Transport connectivity	**Aviation**	Without any contingency measures in place, there was a risk of significant disruption to flights between the UK and the EU.	Mitigation measures are in place. The EU has adopted a Regulation to ensure UK-EU point to point flights largely continue as now, which the UK will reciprocate. UK-based airlines will lose access to cabotage rights in the EU, but airlines have taken measures to register in the EU for this purpose. The EU's contingency measure is unilateral and temporary. It is currently

			due to expire on 30 March 2020, but the Commission has recently proposed extending this deadline to 24 October 2020.
	Road Haulage	Without any contingency measures in place, logistics firms, transport managers and drivers with UK-issued certification would no longer meet requirements to operate within the EU, and vice versa.	Mitigation measures are in place. The EU has adopted a Regulation which would allow UK hauliers to transport goods, and the UK intends to reciprocate. However, the EU's contingency measure is unilateral and temporary. It is currently due to expire on 31 December 2019, but the Commission has recently proposed extending this deadline to 31 July 2020. The measure also represents reduced access for UK hauliers compared to the status quo. The haulage sector could also be adversely affected by wider disruption to trade in goods, even with connectivity measures in place.
Other	**EU funding**	The UK would no longer be part of the EU budget. UK businesses, universities and local organisations will therefore lose access to EU funding.	The UK Government has already said it will guarantee any funding secured through EU programmes up to the end of 2020. As a net contributor to the EU budget it is in a position to do this.

Further action required to mitigate a No Deal Brexit

There are further measures the UK Government should pursue in order to mitigate the disruption of a No Deal Brexit. Some of these are measures to be taken in advance of exit day; others should form part of the response in the weeks and months after No Deal. These are summarised below, and discussed further in the relevant chapters of this paper.

1. **Provide greater certainty for EU nationals and their employers**
    - The UK's existing unilateral commitments should be preserved, and should be communicated more effectively to reduce residual uncertainty for the 3.2 million EU citizens in the UK.
    - The Government must also communicate its plans to enact a more gradual transition away from free movement of people, which run contrary to earlier announcements.
    - The Government should also take further steps to provide certainty for citizens and employers:
        - **1. Continue efforts to persuade the EU to agree a bilateral 'carve-out' of citizens' rights in the event of No Deal.** This would give much greater certainty than unilateral measures, particularly with regard to UK citizens in the EU.
        - **2. Address administrative issues with the EU Settlement Scheme.** In particular, there have been widespread reports that the Government is issuing large numbers of EU nationals who qualify for permanent settled status with temporary settled status (i.e. for five years only).

2. **Alleviate pressure on UK ports and the Dover-Calais route**
    - The Government has already done a lot of work on preparing the UK border and ports for disruption in a No Deal scenario. However, there are further steps the Government could take to ensure the flow of imports is as smooth as possible, including:
        - **Divert pressure from Dover and the Channel Tunnel.** Both ports are key arteries to the EU. Increasing the availability of inland clearance facilities and encouraging freight traffic to re-route to other UK ports could reduce the risk of bottlenecks and tailbacks in Kent.
        - **Further promote the use of customs procedures amongst businesses,** particularly the Transitional Simplified Procedure (TSP), which allows traders to avoid making a full customs declaration at the border and postpone payment of import duties.
        - **Provide financial and logistical support for traders.** This could include offering voucher-based grants to businesses for legal and professional advice on customs processes.
    - Separately, the Government should also take urgent action to prevent disruption to the flow of exports. If just a few UK goods exporters arrive at Dover after No Deal without the correct paperwork, there is a risk of disruption to trade flows as queues build up. The Government should:

- **Launch a major communications campaign to raise awareness of what exporters need to do.** The aim should be that 100% of goods exporters arriving in ports are compliant.
- **Take practical steps to keep non-compliant trucks away from vulnerable ports.** This could include pre-clearing UK trucks carrying goods exports at regional triage points away from ports, and finding a way to divert non-compliant trucks to ports with lower volumes of freight traffic.
- **Consider a compensation scheme if a larger number of trucks need to cross the Channel empty,** so that they are at least able to return to the UK with imported goods.

3. Provide businesses with greater clarity over the UK's long-term tariff regime

- The UK's temporary No Deal tariff regime has been criticised by business groups because it offers little clarity beyond an initial twelve months. In the event of No Deal, the Government should develop, consult and communicate a workable long-term tariff policy.
- The UK should not revert to imposing the EU's MFN tariffs after twelve months. On the other hand, a policy of full unilateral liberalisation is unlikely to be politically feasible and risks granting third countries access to UK markets for nothing in return.
- Alternatives between these two poles include a selectively liberalised approach (similar to the No Deal tariff regime), or a revenue-neutral equilibrium approach that seeks to offset new costs to EU imports through reduced costs on non-EU imports. (For example, rather than imposing a 12% tariff on clothing, a reduced tariff of 5.8% would prevent overall increases in duty costs while protecting UK customs revenue).
- The Government should also review specific tariffs where the UK is not a major domestic producer, such as textiles and certain fruits. In these areas, tariffs have been maintained to preserve preferential access for developing countries; it is unclear whether this should be an immediate priority in the event of No Deal.
- If changes are made to the tariff regime, the Government should properly consult businesses and stakeholders - who may be reluctant to endorse a second set of major changes.

4. Do not impose any checks or controls at the Irish border

- The Government should not introduce any checks or controls at the Irish border in a No Deal scenario. The current policy of "no checks with limited exceptions" meets this, as the "limited exceptions" would not require checks at the border itself.
- While such a unilateral commitment is insufficient to ensure an open border, it is the only appropriate political action the Government can take, given the sensitivities on the island of Ireland.

- If the UK is challenged at the WTO for enforcing border controls and tariffs unevenly at different points of entry, it could cite exemptions provided for in the General Agreement on Tariffs and Trade (GATT) – either Article 21 (national security), or Article 20(a) ("public morals").
- Ultimately, the Irish border can only be kept fully open in the context of agreement and co-operation between the UK, Ireland and the EU. In a No Deal scenario, all parties should engage in intensive emergency talks to agree on temporary solutions for the border as soon as possible.

5. **Provide short-term support for sectors and regions hit by new trade barriers**
    - While the UK has control over the tariffs and regulatory checks it imposes on imports from the EU after No Deal, it cannot prevent the EU from imposing third country tariffs and checks on UK exports. In some sectors, the burden of high tariffs and/or burdensome checks will make UK exports to the EU economically unviable.
    - As such, the focus will have to be on compensating and assisting the worst-hit industries, within the constraints of WTO rules on export subsidies. Any assistance should focus both on affected sectors (such as sheep farming) and affected regions (such as Northern Ireland).

6. **Provide continuity for product regulation but put wider economic competitiveness measures back on the table**
    - The Government has said it will unilaterally recognise EU regulations in the event of No Deal, such as product standards for food and medicines and professional qualifications for services providers. This will provide businesses with some much-needed regulatory stability.
    - The Government has indicated that this would be a temporary approach, but has not said how long this would last. At a minimum, a sensible measure would be to unilaterally mirror the length of the transition period in the Withdrawal Agreement (up until December 2020 at the earliest).
    - In the context of securing the Withdrawal Agreement, the UK's commitments to non-regression in social and environmental regulation made sense. However, a No Deal Brexit could force the UK to adapt its economic model to regain competitiveness.
    - Therefore, if No Deal becomes a lasting state of affairs, the Government should put wider economic competitiveness measures in the areas of taxation, employment policy, environmental policy, and financial services back on the table in order to ensure the UK is seen as open to business and investment.

7. **Continue to pursue continuity trade agreements for EU FTAs, but temper expectations of a quick trade deal with the US**

- The Department for International Trade should continue to pursue continuity agreements with third country partners in the run-up to exit day, prioritising those countries with which the UK does the most trade.
- A No Deal Brexit will allow the UK to have a fully independent trade policy. However, the UK should not rush to sign new trade deals before it has a clearer idea of its trade policy objectives. In particular, there are significant practical and political obstacles to an FTA with the US. Unilateral UK policies on tariffs and inward investment are likely to have a greater economic impact over the short and medium term than rushed FTAs.

8. Pull economic levers to offset disruption, in both the short-term and the medium-term

- There are offsetting economic measures the UK Government could take in the short-term to counteract any economic costs of No Deal; the National Institute of Economic and Social Research (NIESR) and others have found that the Government has short-term fiscal headroom to draw on in this scenario.
- The aims of the **short-term policy response** should be to support the economy and restore business confidence, and dispel any international perceptions that the UK is no longer open for business. Measures available include:
    - **Tax cuts to benefit consumers.** This could include reducing income tax and increasing the National Insurance contributions threshold.
    - **Bringing forward reductions to corporation tax.** This could include bringing forward the planned cut of corporation tax rates from 19% to 17%, currently scheduled for April 2020. The UK should also reform its capital cost recovery policy, which is currently a significant drag on the competitiveness of the UK's corporate tax regime.
    - **Short-term tax cuts for SMEs.**
    - **Abolishing air passenger duty.**
- No Deal is also expected to be a drag on the UK's medium-term economic growth. Modelling commissioned by Open Europe in 2018 found that the cumulative effects of trading with the EU on WTO terms would see real UK GDP 0.5% - 2.2% lower by 2030 than if the UK remained in the EU, depending on the UK's efforts to liberalise trade.
- However, the UK's trading relationship with the EU is not the only determinant of its economic fortunes. If No Deal persists in the medium-term, there are other steps the UK Government can take to help the economy adapt.
    - **Liberal, controlled immigration policies.** The Government should consider reducing the salary cap for skilled migration – or replacing it with a needs-based assessment, which would allow low-skilled migration in sectors where the UK has a skills shortage to continue.
    - **Reducing the regulatory burden on business**.
    - **Encouraging investment in high-yield technological innovation and infrastructure.** For example, PwC estimates that artificial intelligence alone could boost UK GDP by 10.3% by 2030. New infrastructure

projects, meanwhile, could boost employment in regions of the country which are hit hardest by No Deal.

- Not all of these policy options depend on Brexit – some could have been implemented within the EU. Nevertheless, their availability demonstrates that a No Deal Brexit is not a self-determining economic event, nor an end in itself. What the Government does next is just as important.

The medium-term political fallout from No Deal is unpredictable

- The political consequences of a No Deal Brexit are difficult to predict. Ultimately, the case for a UK-EU trade deal being agreed will remain strong for both parties. No Deal is likely to provide a reset rather than a resolution to the ongoing negotiations between the UK and the EU.
- The consequences of No Deal for UK politics are also unclear. With the parliamentary arithmetic as it is, it is likely that a No Deal Brexit would be preceded, or followed, by a General Election – particularly in the light of recent events. Any Brexit, whether via No Deal or a revised UK-EU Withdrawal Agreement, would be very difficult to reverse politically. It would provide new facts on the ground for the UK's internal domestic Brexit politics and would require a case to be made for re-joining the EU, rather than not leaving it. Moreover, a government with a majority for its chosen course of action would be a different proposition in Brussels to the situation the EU has faced for the past three years.

1. Background

1.1. No Deal is the default scenario for EU withdrawal

The new Prime Minister, Boris Johnson, has repeatedly stated his intention to ensure the UK leaves the EU on 31 October "do or die." The new Government's position is that the current Withdrawal Agreement is unacceptable, and that the Northern Irish backstop should be removed. Meanwhile, the EU refuses to reopen the Withdrawal Agreement to fundamentally alter the backstop.

Open Europe's view was that the advantages of the Withdrawal Agreement negotiated by Theresa May and the EU were downplayed, and its disadvantages overstated.[3] However, the political reality is that the deal on the table has been rejected by Parliament three times and disowned by the current Prime Minister. And even if there is a new deal between the UK and the EU, the parliamentary timetable and arithmetic for ratifying such a deal before 31 October is challenging.

The potential for a No Deal exit is the logical consequence of the 2016 referendum. 494 MPs – 80% of them – voted to empower the Government to trigger Article 50 in March 2017. Ever since, a No Deal exit has been the legal default unless a deal is ratified or Brexit is reversed altogether. The successive extensions of the Article 50 deadline to 31 October have merely put off the choices facing Parliament.

Despite claims to the contrary, recent efforts to force the Prime Minister to seek an extension Article 50 do not necessarily prevent a No Deal exit. A unanimous decision by the EU27 to extend cannot be taken for granted, and even an implemented extension would only delay the moment of reckoning. Therefore, governments and businesses in the UK and the EU still need to take decisive action to prepare for such an outcome.

1.2. UK No Deal preparations to date

1.2.1. Government

The UK Government has been preparing for a No Deal Brexit since 2016. Preparations were ramped up significantly in the summer and autumn of 2018, when a series of technical notices were published, giving advice and guidance on how public bodies, individuals, and businesses should prepare for No Deal.[4] A February paper on the implications of No Deal for business and trade outlined that Government departments were on track for around 85% of No Deal projects, but added, "within that, [the Government is] on track for just over two thirds of the most critical projects."[5]

Following the second extension of Article 50 to 31 October, large parts of the Government's contingency plans for No Deal were initially scaled back. Around 6,000 civil servants who had

[3] See *Open Europe*, 'The proposed UK-EU Brexit deal: an explainer', November 2018: https://openeurope.org.uk/intelligence/britain-and-the-eu/the-proposed-uk-eu-brexit-deal-an-explainer/

[4] *HM Government*, 'How to prepare if the UK leaves the EU with no deal,' 2018: https://www.gov.uk/government/collections/how-to-prepare-if-the-uk-leaves-the-eu-with-no-deal

[5] *HM Government*, Implications for Business and Trade of a No Deal Exit on 29 March 2019 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/781768/Implications_for_Business_and_Trade_of_a_No_Deal_Exit_on_29_March_2019.pdf

been working on No Deal preparations were re-directed to other roles.[6] Operation Yellowhammer, an overarching contingency plan for No Deal, was temporarily stood down; so too was Operation Brock, a contraflow system established to reduce the risk of traffic gridlock on the M20 in Kent.

The new administration under Boris Johnson then ramped up No Deal preparations again. The Chancellor of the Duchy of Lancaster, Michael Gove – responsible for leading on No Deal planning – has said that the Government is now "working on the assumption" of a No Deal exit.[7] Business groups have reported a much greater sense of urgency and accountability for No Deal planning, while maintaining that more work needs to be done.[8] Chancellor Sajid Javid has announced an extra £2.1bn of funding to prepare for No Deal, although Whitehall experts have pointed out that some of this will not be spent before the 31 October deadline.[9] Gove has recently said that the Government is more prepared, overall, for an October No Deal than it was for a March No Deal. However, for some sectors the timing of an October No Deal may make matters worse – particularly because of the lack of available storage space for food and other goods in the run-up to Christmas.[10]

Recently, the Government's 'Reasonable Worst Case Planning Assumptions' under Operation Yellowhammer were published, following a 'humble address' motion passed by MPs.[11] The Yellowhammer report warned that some of the risks of a No Deal exit included major delays at ports, shortages of medicine and some fresh foods, and significant economic damage to Northern Ireland. However, Yellowhammer is a set of "reasonable" worst case assumptions, not a prediction of what the Government thinks will happen.[12] It also does not fully take into account mitigation measures. For example, one of the underlying assumptions is that "Public and business readiness for a No Deal will remain at a low level, and will decrease to lower levels… further limited by increasing EU Exit fatigue." This assumption of low business readiness underpins some of the potential consequences highlighted in the report, especially delays at ports. However, business readiness may be higher than this in practice, in the light of

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[6] *The Guardian*, 'UK stands down 6,000 no-deal Brexit staff - after spending £1.5bn', 11 April 2019: https://www.theguardian.com/politics/2019/apr/11/uk-stands-down-6000-no-deal-brexit-staff-after-spending-15bn

[7] *BBC News*, 'No-deal Brexit now 'assumed' by government, says Gove', 28 July 2019: https://www.bbc.co.uk/news/uk-politics-49141375

[8] See *Financial Times*, 'Is business still right to fear a No Deal Brexit?', 22 August 2019: https://www.ft.com/content/2429443c-c40f-11e9-a8e9-296ca66511c9

[9] Joe Owen, 'Extra no-deal Brexit money sends a signal – but not much more,' *Institute for Government*, 1 August 2019: https://www.instituteforgovernment.org.uk/blog/extra-no-deal-brexit-money-sends-signal-not-much-more

[10] *UK in a Changing Europe*, 'No Deal Brexit: Issues, Impacts, Implications,' p29, 4 September 2019: https://ukandeu.ac.uk/wp-content/uploads/2019/08/UKIN-No-Deal-Brexit-Issues-impacts-and-implications.pdf

[11] HM Government, 'Operation Yellowhammer: HMG Reasonable Worst Case Planning Assumptions as of 2 August 2019', published 11 September 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831199/20190802_Latest_Yellowhammer_Planning_assumptions_CDL.pdf

[12] There have been suggestions in the media that the Yellowhammer assumptions are actually the Government's "base case" scenario, rather than the "worst case" scenario. However, this is a misunderstanding of what "base case" means in the context of Yellowhammer. Rather than representing a separate category distinct from "worst case", "base case" refers to the prevailing and underlying *parameters* underpinning the Yellowhammer assumptions – for example, that the UK leaves the EU without a deal on a particular date, and with no bilateral mitigation deals in place. "Reasonable worst case" assumptions of the consequences of No Deal are then built on top of the underlying "base case." As such, "base case" and "reasonable worst case" are not incompatible or distinct sets of assumptions. See *HM Government*, 'Brexit Facts: Yellowhammer Factsheet', 12 September 2019: https://brexitfacts.blog.gov.uk/2019/09/12/yellowhammer-factsheet/

recent Government communication efforts. Indeed, the Yellowhammer report itself says that the assumption of low business readiness and Brexit fatigue is "to be reviewed."[13]

It is important to note that the Government being "prepared" for No Deal is not enough to neutralise every aspect of No Deal disruption. Business preparedness, actions taken by the EU, and the constraints of international law also play key roles. Two recently departed senior civil servants who had been involved in No Deal preparations – former DexEU Permanent Secretary Philip Rycroft, and former HMRC head of cross-border delivery Karen Wheeler – have both stressed in recent interviews that the Government being prepared "doesn't mean there won't be an impact."[14]

1.2.2. Legislation

Strictly speaking, the Government does not need to pass any further legislation before a No Deal Brexit. It has already passed the EU Withdrawal Act, which transposes EU law into UK law and thereby avoids a legal vacuum after Brexit. Other key pieces of Brexit legislation, including the Nuclear Safeguards, Healthcare, and Customs Bills, have also completed their passage through parliament.

It was previously thought that the Government needed to pass five outstanding Brexit Bills into law before a No Deal exit: the Trade Bill[15], the Agriculture Bill[16], the Fisheries Bill,[17] the Immigration Bill[18], and the Financial Services Bill.[19] All of these have now fallen away thanks to the prorogation of Parliament. However, the Government has taken the view for some time that it will not need to pass these Bills before Brexit; on 27 June, Brexit Secretary Stephen Barclay said that "all primary legislation necessary for No Deal is in place."[20] It seems that instead of the Bills, the Government are relying on legislative workarounds – for example,

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[13] HM Government, 'Operation Yellowhammer: HMG Reasonable Worst Case Planning Assumptions as of 2 August 2019', published 11 September 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831199/20190802_Latest_Yellowhammer_Planning_assumptions_CDL.pdf

[14] Philip Rycroft, comments to *BBC Panorama*, 'No-Deal Brexit: Are We Ready,' 8 July 2019: https://www.bbc.co.uk/iplayer/episode/m0006nzb/panorama-nodeal-brexit-are-we-ready ; Karen Wheeler, comments at Institute for Government event, 'Could the UK cope with a no deal Brexit?', 3 July 2019: https://www.instituteforgovernment.org.uk/events/could-uk-cope-no-deal-brexit

[15] This had three main functions: giving the Government the power to "roll over" EU trade deals with third countries; establishing a Trade Remedies Authority; and providing the domestic legal basis for the UK's membership of the Government Procurement Agreement (GPA).

[16] This would authorise new expenditure on agriculture and rural development, in anticipation of the UK's departure from the Common Agricultural Policy (CAP).

[17] This would provide the Government with powers to set annual quotas for fishing in UK waters and amend other fisheries regulations, in anticipation of the UK's departure from the Common Fisheries Policy (CFP). See *House of Commons Library*, 'The Fisheries Bill 2017-2019', 11 April 2019: https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8442

[18] This would establish the settled status regime, repeal free movement while preserving the Common Travel Area with Ireland, and amend EU law governing social security coordination. See *House of Commons Library*, 'The Immigration and Social Security Co-ordination (EU Withdrawal) Bill 2017-2019', 25 January 2019: https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8473

[19] This would give the government the power to implement future EU financial services regulations in the UK. See *House of Commons Library*, 'Financial Services (Implementation of Legislation) Bill 2017-2019', 2 March 2019: https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8493

[20] Stephen Barclay, *Hansard*, 27 June 2019: https://hansard.parliament.uk/Commons/2019-06-27/debates/1A2E649A-D61E-4452-B75D-88059EDDB038/TopicalQuestions#contribution-01593C6E-7E6B-402A-9B12-937BE28ADFAF

using powers in the Taxation (Cross-border Trade) Act, rather than the Trade Bill, to set up a trade remedies authority.[21] However, without the Bills passed into law, ministers will have limited ability to make policy changes in several key areas. As such, several of the outstanding Bills would likely need to return to Parliament after a No Deal exit.[22]

The Government may not be able to avoid legislation entirely in the run-up to No Deal. The Institute for Government has highlighted two potential reasons why primary legislation might be needed: a pre-No Deal "emergency budget," and legislation to reintroduce Direct Rule in Northern Ireland if power-sharing is not restored.[23]

Separately, the Government has laid hundreds of Statutory Instruments (SIs) to ensure legal continuity ahead of Brexit. This process is now very close to completion, with around 528 out of 550 now laid before the House of Commons.[24] One of the most important SIs, the Customs Tariff (Establishment) Regulations – which would give effect to the UK's No Deal tariff schedule – has not yet been laid.

1.2.3. Business

A lot of policy delivery in a No Deal scenario, particularly of cross-border trade and customs, is primarily conducted by the private sector. Indeed, business readiness – particularly in the case of small and medium-sized enterprises (SMEs) – is one of the biggest challenges of No Deal. The Government needs to do more to communicate the actions businesses should take in a No Deal scenario and provide them with logistical and financial support – particularly SMEs.

Although businesses have spent billions of pounds preparing for No Deal, many companies are not yet expected to be ready. In February, the Government said that "there is little evidence that businesses are preparing in earnest for a No Deal scenario." The state of business preparation is also estimated to be poor in Northern Ireland, which is uniquely exposed to the economic consequences of No Deal.[25]

The lack of preparedness among the business community partly stems from political uncertainty. Both in the run-up to March and since, businesses have had little clarity over whether No Deal might actually happen – or indeed when it will happen, given that another Article 50 extension has always been an underlying possibility. Some businesses therefore take the view that the cost of No Deal preparation is not worth it, and instead intend to respond to No Deal if and when it becomes a reality. Communication between Government and business has also been a problem. According to Allie Renison, head of EU and Trade Policy at the Institute of Directors, the Government's advice on preparing is often too generic for

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[21] Joe Marshall, 'No deal Brexit could be a legal mess', *Institute for Government*, 21 June 2019: https://www.instituteforgovernment.org.uk/blog/no-deal-brexit-could-be-legal-mess
[22] *Institute for Government*, 'Preparing for Brexit: No Deal', July 2019: https://www.instituteforgovernment.org.uk/sites/default/files/publications/preparing-brexit-no-deal-final_0.pdf
[23] Ibid
[24] However, some of the SIs which have passed are now out of date because the EU law which they seek to replicate has now changed, while other SIs have been withdrawn and re-laid due to drafting errors. See Joe Marshall, 'No deal Brexit could be a legal mess', *Institute for Government*, 21 June 2019: https://www.instituteforgovernment.org.uk/blog/no-deal-brexit-could-be-legal-mess
[25] Aodhan Connolly, comments to *BBC Panorama*, 'No-Deal Brexit: Are We Ready,' 8 July 2019: https://www.bbc.co.uk/iplayer/episode/m0006nzb/panorama-nodeal-brexit-are-we-ready

businesses, and leaves unanswered questions over the detailed technical and legal implications of No Deal.[26] The Government should rectify this as soon as possible.[27]

1.3. EU No Deal preparations to date

1.3.1. EU Commission

The European Commission began its No Deal Brexit preparedness programme in December 2017. In December 2018 it published a Communication with proposals for unilateral measures on the EU's side in areas including citizens' rights, financial services, aviation and road transport. By June 2019 most of these proposals were adopted by both the European Council and the European Parliament.

These measures are adopted unilaterally and thus can be suspended by the EU; they are not "mini-deals." The EU also insists they are strictly temporary, and "should not replicate the benefits of membership of the Union, nor the terms of any transition period." The Commission has also discouraged member states from concluding bilateral agreements with the UK in case of No Deal.

Following the Article 50 extension agreed at the European Council summit on 11 April, the EU noted that all its contingency measures "remain fit for purpose" and that it does not plan any new measures before 31 October. It recognised, however, that the deadlines for some contingency measures might need to be extended in order to reflect the new Brexit deadline – and has recently made proposals to adjust these deadlines.[28]

Despite the EU claiming it is fully prepared for No Deal, there have been warnings that its measures are not complete. On 21 March 2019, the lobby group Business Europe sent a letter to the Commission saying that the EU's contingency plans "fall short of what is needed to limit major disruptions," adding that "the European business community is getting increasingly concerned by the potential disruptions for citizens and businesses."[29] The CBI has argued that the EU has taken far fewer steps to prepare for No Deal than the UK, and has taken "a noticeably less generous, more limited approach" to reducing disruption.[30]

1.3.2. EU member states

The EU27 member states have also been making their own preparations to mitigate the consequences of No Deal. Most governments have guaranteed the rights of UK citizens

[26] Allie Renison, 'The Government should make Brexit planning tax deductible,' *The Telegraph*, 30 July 2019: https://www.telegraph.co.uk/business/2019/07/30/government-should-make-brexit-planning-tax-deductible/
[27] See also *Confederation of British Industry*, 'What comes next? The business analysis of No Deal preparations', July 2019: https://cbicdnend.azureedge.net/media/3093/what-comes-next.pdf?v=20190731.2
[28] *European Commission*, 'Brexit 'no-deal' preparedness: Final Commission call to all EU citizens and businesses to prepare for the UK's withdrawal on 31 October 2019', 4 September 2019: https://europa.eu/rapid/press-release_IP-19-5509_en.htm
[29] *Business Europe*, 'Shortcomings in EU contingency measures for a No Deal Brexit – letter from Luisa Santos to the European Commission Secretariat General', 21 March 2019: https://www.businesseurope.eu/publications/shortcomings-eu-contingency-measures-no-deal-brexit-letter-luisa-santos-european
[30] *Confederation of British Industry*, 'What comes next? The business analysis of No Deal preparations', July 2019: https://cbicdnend.azureedge.net/media/3093/what-comes-next.pdf?v=20190731.2

residing in their countries and have implemented temporary legislation for UK residents to regularise their status.

Some countries, such as Ireland, France, Belgium, the Netherlands, are more exposed to No Deal than others, and have therefore been planning more intensely. All four of these countries have been expanding their port infrastructure and hiring additional customs officers and veterinarians to prepare for additional checks and controls on imports from the UK.

1.3.3. EU businesses

Just as in the UK, firms based on the EU27 have been urged by the Commission and national governments to prepare. Many member states have launched specific measures to help companies, plus websites and campaigns to raise awareness about the possible disruption caused by a No Deal scenario. These include the French Government's Brexit website,[31] Ireland's 'Getting Ireland Brexit Ready',[32] and Brexit Impact Scanners to assess businesses' exposure to Brexit in the Netherlands[33] and Belgium.[34]

The most affected member states are also planning to provide funding for businesses in order to compensate potential costs from a No Deal - within the constraints of WTO rules on subsidies and EU rules on state aid. The UK could learn from some measures which EU governments have taken, notably the 'voucher' systems for businesses offered by the Irish and Dutch governments:

- The Irish Government has a Brexit Loan Scheme to give loans between €25,000 and €1.5m to small and medium-sized enterprises.
- The Dutch Government offers 'Brexit vouchers' of up to €2,500 to help smaller firms obtain advice on the consequences of Brexit.

The outgoing head of the European Central Bank (ECB), Mario Draghi, warned EU leaders at the European Council summit in March that the EU's evaluations of business preparations were overly optimistic, saying that firms have "underestimated the logistical and administrative complexities of managing a No Deal Brexit."

[31] *Government of France*, 'Brexit': https://brexit.gouv.fr/sites/brexit/accueil.html
[32] *Government of Ireland*, 'Getting Ireland Brexit Ready': https://www.dfa.ie/brexit/getting-ireland-brexit-ready/
[33] *Government of the Netherlands*, 'No Deal Brexit: impact and measures': https://www.government.nl/topics/brexit/documents/publications/2019/03/29/no-deal-brexit-impact-and-measures
[34] *Government of Belgium*, 'Determine Brexit's impact on your business using the Brexit Impact Scan': https://www.belgium.be/en/news/2018/determine_brexits_impact_your_business_using_brexit_impact_scan

1.4. Rolling deadlines: the first two years of No Deal

Many of the mitigation measures the UK and the EU have prepared for No Deal are time-limited, which will create a series of rolling deadlines. The table below illustrate some of the important deadlines the UK and EU will face in the first two years of a No Deal scenario. Some of these are subject to change – as discussed in Chapter 7, the EU has recently proposed, but not yet implemented, an extension of the deadlines for its contingency measures on flight connectivity and road haulage permits to reflect the extension to Article 50.

UK deadline: the Government could move this unilaterally if it wished.

Joint deadline: can only be moved if both sides agree.

EU deadline: can only be moved by the EU.

Deadline	Measure
31 October 2019 [subject to extension]	UK leaves the EU with No Deal.
31 December 2020 [subject to extension]	EU Regulation for road haulage permits due to expire. The Commission has recently proposed extending this deadline to **31 July 2020.**
30 March 2020 [subject to extension]	EU Regulation for flight connectivity due to expire. The Commission has recently proposed extending this deadline to **24 October 2020.**
31 July 2020	EU Regulation for UK aviation safety certificates expires.
30 October 2020	UK No Deal tariff regime due to expire.
31 October 2020	EU equivalence decision for clearing financial derivatives expires.
31 December 2020	Deadline for EU citizens in the UK to apply for special status. Temporary Leave to Remain scheme for new EEA arrivals ends.
1 January 2021	UK promise to guarantee EU funding expires.
31 October 2021	EU equivalence decision for over-the-counter derivatives expires.

2. Citizens' Rights

Area of potential disruption	What is the issue?	Existing mitigation measures
EU citizens in the UK	Without action, many of the legal rights of EU citizens would expire when the UK becomes a third country.	The Government has committed to unilaterally upholding EU citizens' rights and has given them until December 2020 to apply for settled status. There should therefore be no immediate disruption in this area. However, there are reports of problems with the Government's application of the EU Settlement Scheme, which has led to uncertainty for EU citizens and should be addressed.
UK citizens in the EU	UK nationals resident in the EU27 will immediately cease to be EU citizens, with all the associated rights that this entails.	This is beyond the UK Government's control and relies on the EU27. Some member states have acted to protect UK citizens' rights, but this uneven patchwork across EU member states does not fully match the UK's commitments. The EU has so far resisted UK demands to fully carve out the citizens' rights provisions from the rest of the Withdrawal Agreement.

Recommendations	The UK's existing unilateral commitments should be preserved, and should be communicated more effectively to reduce any residual uncertainty for the 3.2 million EU citizens in the UK. However, the UK should also continue its attempts to persuade the EU to agree a bilateral 'carve-out' of citizens' rights in the event of No Deal. This would give much greater certainty to UK citizens in the EU. The Government should also take action to address the administrative issues that have beset the EU Settlement Scheme to date.

2.1. EU citizens in the UK

On 6 December 2018, the UK Government published a policy paper, outlining how it would protect the rights of EU citizens living in the UK in a No Deal scenario.[35] The measures would amount to unilaterally upholding large parts of the Withdrawal Agreement's commitments on citizens' rights. The UK would continue to run the EU Settlement Scheme, to secure the rights of EU nationals to legally remain in the UK – and the Government will waive the previous £65 fee for settled status.[36] As in the Withdrawal Agreement, EU citizens resident in the UK up to exit day would be given temporary leave to remain until 31 December 2020 in order to apply for status under the scheme. They would only lose their right to settled status if they were absent from the UK for five consecutive years, and would continue to have access to benefits and services on the same terms as now. Elsewhere, citizens from the EU, the European Economic Area (EEA) and Switzerland would be able to enter the UK for up to three months without being required to hold a visa.

In theory, the mitigation measures announced by the Government ensure there should be little immediate disruption to the rights of EU citizens in the event of No Deal. Because the EU Settlement Scheme runs until December 2020, the Article 50 deadline, whether that is 31 October or later, will not be a 'cliff-edge' for EU citizens' rights. This will provide some short-term certainty for both citizens and employers. The main priority for further Government action should be to communicate further reassurances to EU citizens that their rights will be guaranteed in the event of No Deal. Nevertheless, unilateral measures can only go so far; a full bilateral agreement on citizens' rights between the UK and the EU would represent a better outcome in providing citizens in both jurisdictions with full certainty.

However, there have been reports of administrative issues with the Government's EU Settlement Scheme – specifically, that the Home Office has been denying applications for permanent settled status to EU nationals who meet the requirements, and instead issuing them with temporary status for five years.[37] Although this problem is not one which interacts directly with exit day itself (as EU nationals have until December 2020 to apply for settled status), it has caused considerable uncertainty for EU citizens in the UK, and should be addressed as soon as possible.

2.2. UK Citizens in the EU

As UK nationals will immediately cease to be EU citizens in a No Deal Brexit, their rights in the EU27 will change and will depend on the different arrangements put in place by the EU27 member states.

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[35] *Department for Exiting the European Union*, 'Citizens Rights in the UK and UK nationals in the EU: Policy Paper,' December 2018: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/790570/Policy_Paper_on_citizens_rights_in_the_event_of_a_no_deal_Brexit.pdf

[36] *BBC News*, 'Brexit: Theresa May scraps £65 fee for EU citizens to stay in UK', 21 January 2019: https://www.bbc.co.uk/news/uk-politics-46950719

[37] See Fraser Nelson, 'Battle Begins', *The Spectator*, 31 August 2019: https://www.spectator.co.uk/2019/08/battle-begins/; *The Guardian*, 'Rise in EU citizens not getting UK settled status causes alarm', 30 August 2019: https://www.theguardian.com/politics/2019/aug/30/eu-citizens-uk-settled-status-alarm

In April 2019 the EU adopted legislation guaranteeing UK citizens visa-free entry for short-term stays of up to 90 days in any 180-day period, if this is reciprocated by the UK.[38] However, the European Commission has not itself guaranteed the rights of UK citizens currently living in the EU. The residency rights of third country citizens are subject to national laws in the EU27, meaning the Commission has not been involved in preparing legislation related to UK citizens' rights after Brexit. In December 2018, it recommended that the EU27 "take a generous approach to the rights of UK citizens in the EU, provided that this approach is reciprocated by the UK."[39]

Many member states have adopted temporary legislation to guarantee the rights of UK citizens in a No Deal. A majority allow a 'grace period' for UK citizens to be able to stay with existing EU permits and to apply for official resident status under the national immigrant laws, though the length and scope of these vary. For example, UK citizens residing in France must apply for a long-term residence permit within six months, while those in Germany have three months. Many governments have also organised campaigns via special websites or with the help of UK embassies to inform UK citizens about their rights and obligations, and how to change their legal status to be able to stay.

However, the provisions put in place by member states are uneven, with a variety of rules, processes and deadlines in place. Not all member states have fully reciprocated the measures put in place by the UK.[40] UK citizens in the EU would also lose their freedom of movement rights to move to another member state immediately under No Deal (rather than at the end of the transition period, as per the Withdrawal Agreement).

Separately, the Operation Yellowhammer report also warns of potential passenger delays for UK nationals travelling to the EU, as UK citizens "may be subject to increased immigration checks at EU border posts."[41]

Meanwhile, the Commission has been leading coordination efforts on social security entitlements of UK citizens in the EU27, in order to guarantee minimum social security rights. A Contingency Regulation was put in place to ensure that state authorities in the EU27 would take into account employment in the UK before Brexit when calculating social security benefits and pensions. This is a unilateral measure and, as explained by Employment Commissioner Marianne Thyssen, it does "not guarantee a uniform treatment across the EU.

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[38] *European Council*, 'Visa-free travel after Brexit: Council and European Parliament reach agreement,' April 2019: https://www.consilium.europa.eu/en/press/press-releases/2019/04/03/visa-free-travel-after-brexit-council-presidency-and-european-parliament-reach-provisional-agreement/

[39] *European Commission*, 'Brexit: European Commission implements "no-deal" Contingency Action Plan in specific sectors', 19 December 2018: https://europa.eu/rapid/press-release_IP-18-6851_en.htm See also *HM Government*, 'Operation Yellowhammer: HMG Reasonable Worst Case Planning Assumptions as of 2 August 2019', published 11 September 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831199/20190802_Latest_Yellowhammer_Planning_assumptions_CDL.pdf

[40] *Confederation of British Industry*, 'What comes next? The business analysis of No Deal preparations', July 2019: https://cbicdnend.azureedge.net/media/3093/what-comes-next.pdf?v=20190731.2

[41] *HM Government*, 'Operation Yellowhammer: HMG Reasonable Worst Case Planning Assumptions as of 2 August 2019', published 11 September 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831199/20190802_Latest_Yellowhammer_Planning_assumptions_CDL.pdf

Notwithstanding our coordination, each one of the EU27 Member State has its own contingency measures in place and some are more comprehensive than others."[42]

In the Republic of Ireland, UK citizens' rights will be guaranteed by the 1949 Ireland Act, allowing British nationals to keep the same rights without the need to apply for settled status - regardless of the Brexit scenario.

2.3. The Costa amendment: a bilateral 'carve-out'?

Notwithstanding unilateral measures, the UK Government has also pursued a bilateral approach to citizens' rights. Following the adoption of an amendment by Conservative MP Alberto Costa, approved unanimously by Parliament, the Brexit Secretary Stephen Barclay has attempted to negotiate with the EU a 'carve-out' of the citizens' rights provisions in the Withdrawal Agreement.[43] This would ensure the rights of UK citizens in the EU were also ring-fenced in the event of No Deal, and also provide for reciprocal healthcare and social security coordination (which cannot be guaranteed unilaterally).

However, EU Chief Brexit Negotiator Michel Barnier has twice raised technical concerns about the proposal.[44] On 19 July, a cross-party delegation of MPs led by Costa met with Barnier to further discuss the matter; the EU's negotiator reiterated his position that the Withdrawal Agreement remains the best way to guaranteeing citizens' rights after Brexit.

Although there is no guarantee the EU will agree, the Government should continue its efforts to seek a 'mini-deal' on citizens' rights that delivers on the Costa amendment – particularly in respect of healthcare and social security rights.

If an overarching deal is not possible, the Government should engage bilaterally with European governments to identify and resolve any problems that UK citizens might face under the current proposals.

[42] Marianne Thyssen, 'Brexit Preparedness in the area of Social Security Entitlements', 9 April 2019: https://europa.eu/rapid/press-release_SPEECH-19-2076_en.htm
[43] Letter from Stephen Barclay to EU Chief Brexit Negotiator Michel Barnier, 4 March 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/783570/2019-03-02_Costa_letter_-_FINAL__3__1_.pdf
[44] Letters from Michel Barnier to Stephen Barclay, 25 March 2019 (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/790471/Ares_2019_2069376_-_MB_-_Barclay.pdf) and 18 June 2019 (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/811445/Second_reply_from_Michel_Barnier.pdf).

3. Immigration

Area of potential disruption	What is the issue?	Existing mitigation measures
Ending free movement of people	The Government's announcement in mid-August that it would seek to end free movement of people immediately in a No Deal scenario caused confusion and uncertainty. No Deal could also mean reduced migration flows between the UK and the EU, causing problems for employers.	The Government has now reversed the proposal to end free movement of people on day one of a No Deal Brexit. Instead, new arrivals between exit day and 31 December 2020 will be granted Temporary Leave to Remain for a period of three years.

Recommendations	The Government was right to revert to a continuity approach to transition more gradually away from free movement. Questions remain over the Government's long-term immigration policy. There is scope for a more liberal approach than the current White Paper, such as by reducing the salary threshold required for skilled immigrants.

In mid-August, the Government said that it was now policy to end free movement from the EU as soon as possible if a No Deal Brexit happened on 31 October.[45] This approach made little sense from a policy perspective, and would have caused a number of self-inflicted problems:

- It would be very difficult in practice for employers, landlords and others to distinguish between EU citizens present in the UK before 31 October, and those who arrive after. Properly enforcing an immediate end to free movement would likely mean impinging on EU citizens currently living and working in the UK.
- Some short-term policy responses to No Deal rely on the availability of labour. New restrictions on EU migrants would undermine this by creating labour shortages where they did not previously exist. This would be particularly problematic in the run-up to Christmas, when many retailers and suppliers rely on seasonal migrant labour.
- Designing, building and implementing a new immigration system in just eight weeks was always unlikely to be feasible, and would give businesses and individuals little time to adjust to changes they were not expecting to face on day one. Politically, the

45 *BBC News*, 'Brexit: EU migration rules "to end straight after no-deal"', 19 August 2019: https://www.bbc.co.uk/news/uk-politics-49393556

Government also risked over-promising and under-delivering – which would have done little to restore public confidence and trust over immigration.[46]

- As the Institute for Government pointed out, ending free movement immediately would probably require primary legislation before 31 October, in order to provide a legal basis for the new immigration system.[47] It was therefore unclear how the Government's immigration policy sat with their broader strategy of avoiding a legislative confrontation with Parliament in the months leading up to 31 October.

These issues with an immediate end to freedom of movement highlight the need for a gradual, transitional adjustment to a new immigration system. Fortunately, the Government has recently reverted to an approach based on continuity. EEA nationals who arrive after 31 October but before December 2020 will now be eligible for a new Temporary Leave to Remain scheme, lasting three years. Alongside this, the Home Office has announced that it will introduce "a tougher UK criminality threshold" for EEA citizens.[48]

Questions remain over the Government's long-term immigration policy in either a 'deal' or a No Deal scenario. It has said it will introduce a new "points-based" immigration system in the future, but it is not clear how this would differ – if at all – from the White Paper published by the previous Government. As discussed in Chapter 8, we believe that the Government should signal its intention to implement a liberal, pro-business immigration policy. It has already made moves in this direction, for example by proposing an extension of post-study leave to remain for international students (from four months to two years).[49] Further important steps could include reducing the salary threshold required for "skilled" migrants from £30,000 a year, and considering temporary visas for low-skilled jobs where the UK has a skills shortage. Alternatively, the salary threshold could be replaced altogether by a new assessment based on UK businesses' needs.

[46] Sunder Katwala, 'The government risks over-promising on immigration, again', *CapX*, 21 August 2019: https://capx.co/the-government-risks-over-promising-on-immigration-again/
[47] Joe Owen, 'The government's new no deal Brexit immigration plan looks undeliverable,' *Institute for Government*, 19 August 2019: https://www.instituteforgovernment.org.uk/blog/governments-new-no-deal-brexit-immigration-plan-looks-undeliverable
[48] *Home Office*, Government announces immigration plans for No Deal Brexit, 4 September 2019: https://www.gov.uk/government/news/government-announces-immigration-plans-for-no-deal-brexit
[49] *BBC News*, 'Immigration status: Ministers reverse May-era student visa rules', 11 September 2019: https://www.bbc.co.uk/news/uk-49655719

4. Trade in Goods

4.1. Imports: the UK's No Deal tariffs

Area of potential disruption	What is the issue?	Existing mitigation measures
Tariffs: UK imports	After No Deal, the UK cannot offer the EU tariff-free access to the UK without removing tariffs on goods from third countries. There is a trade-off between minimising trade barriers with the EU and protecting vulnerable UK producers from cheap imports from elsewhere.	The UK has published a temporary (12 month) No Deal tariff regime, which abolishes tariffs in 87% of goods trade and retains them in a few sensitive domestic sectors. There are currently ongoing discussions in Government over whether any adjustments should be made to the No Deal tariff regime. It is unclear whether any changes will be made when the temporary tariff regime expires.

Recommendations	The Government's temporary No Deal tariff regime offers business little clarity beyond the initial twelve months. If a No Deal state persists, the Government should develop, consult and communicate a liberal long-term tariff policy. The UK should not revert to imposing EU MFN tariffs after twelve months, as this would amount to imposing a regressive tax on consumers. On the other hand, a policy of unilateral liberalisation is unlikely to be politically feasible. The Government should therefore consider alternatives between these two extremes – either an adjusted version of the No Deal tariff regime, or a revenue-neutral equilibrium approach that seeks to offset new costs to EU imports through reduced costs on non-EU imports. The Government should also consider removing tariffs where the UK is not a major domestic producer, such as on textiles. If changes are made to the tariff regime after the twelve months, the Government should properly consult businesses and stakeholders – which it failed to do in March. It should also be clear about the trade-offs inherent in tariff adjustment, by publishing a full impact analysis of the effect of the new tariff policy on businesses and the economy.

The UK's No Deal tariffs are relatively liberal

In the event of No Deal, the Government will be able to set the UK's tariffs on imported goods. The main constraint is the WTO's Most Favoured Nation (MFN) principle; the UK's tariffs would have to apply evenly to goods from all trading partners with which the UK does not have a trade deal, including the EU. Allowing EU goods preferential tariffs would amount to discrimination against other WTO members.

The Government published details of the UK's temporary tariff regime for a No Deal scenario on 13 March.[50] The regime would apply for up to 12 months after exit date, while a full consultation and review on a permanent approach to tariffs is undertaken. The Government claims that 87% of all goods imports to the UK by value would be eligible for tariff-free access. The remaining 13% would be subject to tariffs of varying levels. This includes most meat and dairy products, finished vehicles (though not car parts), and some ceramic products. The UK is also imposing some relatively high tariffs and quotas on goods where it is not a major producer – this includes bananas (€114 per 1000kg), rice (€145 per 1000kg), and cocoa butter (7.7%). This is designed to preserve preferential trading terms for certain developing countries, which are granted zero-tariff access to UK markets for these products.[51]

The effect of the new tariff regime is relatively liberal, particularly in respect of products from outside the EU. The UK Trade Policy Observatory estimates it would mean 81% of UK imports from the EU would be tariff-free. This is a reduction down from 100% now, but well above what would have been the case had the UK mirrored the EU's MFN tariffs; in this scenario, only around 32% of UK imports from the EU would have been tariff-free. Meanwhile, 92% percent of UK imports from the rest of the world would be tariff-free, up from 62%.[52]

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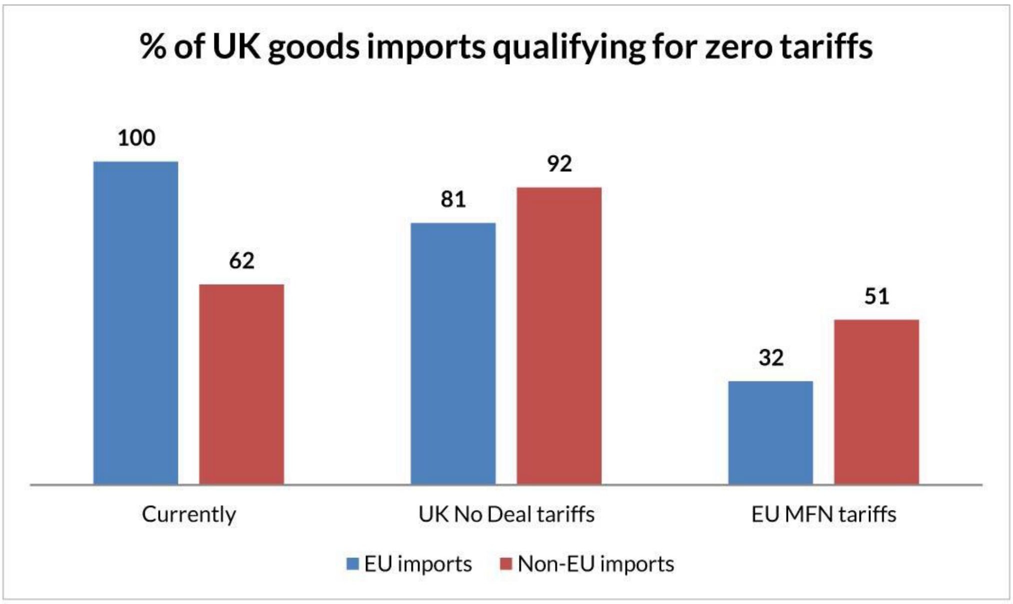
[50] *HM Government*, 'Temporary tariff regime for no deal Brexit published,' 13 March 2019: https://www.gov.uk/government/news/temporary-tariff-regime-for-no-deal-brexit-published

[51] The WTO's Enabling Clause permits members to deviate from the MFN principle in order to grant preferential market access to developing countries.

[52] Michael Gasiorek and Julia Magntorn Garrett, 'Deal or No Deal? The economic consequences of the UK's No Deal tariffs,' *UK Trade Policy Observatory*, March 2019: https://blogs.sussex.ac.uk/uktpo/publications/deal-or-no-deal-the-economic-consequences-of-the-uks-no-deal-tariffs/



Source: UK Trade Policy Observatory

The Government's proposed policy of targeted tariff liberalisation with some protections in key sectors is broadly the right approach – preferable to either imposing EU MFN tariffs (harming consumers and importers), or unilaterally liberalising across the board (which risks harming some producers). However, there have been recent suggestions that the Government is considering some adjustments to the existing proposal. In a recent letter to the House of Lords EU Committee, Michael Gove said, "Since announcing the policy in March, the Government has continued to listen to stakeholder feedback and remains responsive to their needs... The Government's tariff schedule will be published shortly in its final form."[53] The Financial Times reports that planned changes include a cut to the tariff on imports of heavy goods vehicles, and an increase to the tariffs on bioethanol.[54]

If the Government does make any adjustments to the tariff regime, it could address some of the specific criticisms that have been made of it in March and since:

- At the time, businesses complained that the plans had been rushed through without sufficient consultation.[55] If any further adjustments are to be made, this must be done on the basis of stakeholder engagement and with as much time for businesses to prepare as possible.[56]

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[53] Michael Gove, letter to the Chairman of the House of Lords European Union Committee, 9 September 2019: https://www.parliament.uk/documents/lords-committees/eu-select/no-deal-preparations/gove-evidence-session-letter.pdf

[54] *Financial Times*, 'Ministers to overhaul planned tariff plan for no-deal Brexit', 18 September 2019: https://www.ft.com/content/9528de1a-d966-11e9-8f9b-77216ebe1f17

[55] *Economia*, 'Business slams temporary tariff regime', 13 March 2019: https://economia.icaew.com/news/march-2019/business-slams-temporary-tariff-regime

[56] The CBI has also called on the Government to clarify the status of goods in transit at the point of No Deal, and ensure that any goods which started their journey before Brexit will pay duties at pre-exit level. *Confederation of British Industry*, 'What comes next? The business analysis of No Deal preparations', July 2019: https://cbicdnend.azureedge.net/media/3093/what-comes-next.pdf?v=20190731.2

- Normally, tariff schedules charge similar tariffs on similar products, in order to avoid incentives for deliberate misclassification. The UK's No Deal tariffs have not done so.[57] This could present exporters with opportunities for non-compliance that might be difficult to detect.
- The wisdom of specific tariff lines on certain products has been questioned – some as too high, others as too low. For example, the British Retail Consortium and the UK Fashion and Textile Industry have criticised the decision to impose tariffs of up to 12% on many textile products, highlighting the fact that many clothes and textiles are currently imported tariff-free from Italy (an EU member) and Turkey (which is in a customs union with the EU).[58] This appears to have been designed to preserve the preferences granted to textile exporters from developing countries, but it is not clear whether this is in the interests of the UK consumer. At the other end of the spectrum, the Government is reviewing the decision to remove tariffs on fuel imports, after warnings that this would undermine the competitiveness of UK oil refineries.[59]
- While protecting some domestic producers in a No Deal scenario may be preferable to the alternatives, new tariffs on EU imports will still hit businesses and consumers. For example, cars from the EU make up 5.8% of total UK imports, and these would all be subject to average UK tariffs of 10% in a No Deal scenario. This has the potential to cause significant price rises for consumers. The UK's tariffs on cars would also have a negative impact on EU exporters – for example, the UK accounted for 20% of German car exports in 2016.[60]

Ultimately, trade-offs between protecting producers versus consumers means any policy will create winners and losers. Any major changes to the No Deal tariff regime now would likely cause additional uncertainty and adjustment costs for businesses; the focus instead should be on getting the UK's long-term approach to tariffs right.

Box 1: Will the UK's low tariffs undermine its ability to strike third country trade deals?

The UK's decision to reduce most tariffs to zero in the event of No Deal has been criticised on the grounds that it removes the incentive for third countries to sign trade deals with the UK. After all, if the UK is willing to grant third countries tariff-free access without demanding the same in return, third countries may see little value in a trade deal with the UK. For countries that currently trade with the UK via an EU FTA – such as Canada – the issue is exacerbated by the fact that the UK's No Deal tariffs give competitor countries who do not have a preferential trade deal the same levels of access (this is known as "preference

[57] For example, they would impose an 8% duty on frozen freshwater fish but a 15% duty on other frozen fish. *Office for Budget Responsibility*, Fiscal risks report, July 2019: https://obr.uk/docs/dlm_uploads/Fiscalrisksreport2019.pdf
[58] *Fashion United*, 'No deal Brexit tariffs a "mixed bag for fashion"', 18 March 2019: https://fashionunited.uk/news/business/no-deal-brexit-tariffs-a-mixed-bag-for-fashion/2019031842203
[59] *BBC News*, 'Government to review tariff plan for fuel imports', 21 August 2019: https://www.bbc.co.uk/news/business-49425202
[60] *Reuters*, German carmakers warn hard Brexit would be 'fatal', 16 January 2019: https://www.reuters.com/article/uk-britain-eu-autos-germany/german-carmakers-warn-hard-brexit-would-be-fatal-idUSKCN1PA173

erosion").

Nevertheless, the UK's No Deal tariff regime does represent inferior trading terms for third country partners. Unlike an FTA, the UK's tariffs will not be zero across the board and, more importantly, the No Deal tariffs are only temporary – after a year, the UK might choose to reintroduce tariffs in some sectors. Third countries would have greater surety of continued access to the UK's markets if they signed a trade deal which bound all tariffs at zero. Additionally, the UK's No Deal tariff regime also does nothing to address areas which third countries might wish to see covered in a full FTA, such as services and non-tariff barriers.

However, if the UK chose to pursue a long-term approach of unilateral tariff liberalisation *beyond* the initial twelve months, this certainly would limit its leverage vis-à-vis potential third country partners. The costs of this would need to be weighed up against any benefits of long-term liberalisation for consumers and competition.

The Government needs a plan for when the 'temporary' No Deal tariffs expire

One key uncertainty that remains in terms of the UK's No Deal tariff regime is the fact that it is an explicitly temporary arrangement. If there is still no trade agreement with the EU after 12 months, the Government has several options:

- **Revert to EU MFN tariffs.** This might restore some leverage vis-à-vis third country partners and offer some protection for domestic producers. The Office for Budget Responsibility (OBR) estimates that imposing tariffs on EU imports would provide a revenue boost to the Exchequer of £6.3bn a year.[61] However, prioritising revenue over trade flow would be a mistake in a long-term No Deal context. Raising tariffs again would amount to a second dramatic adjustment for businesses, would exacerbate trade barriers with the EU, and would impose a regressive tax on consumers.
- **Continue with a version of the No Deal tariff regime on a longer-term basis.** The aim here would be to seek as much continuity as possible for businesses, while also considering whether any changes are needed to the tariff regime in the light of experiencing its practical impacts for the first year of No Deal.
- **Pursue a 'revenue-neutral equilibrium.'** Rebalancing external tariffs at a new revenue-neutral level in key sectors, i.e. allowing new costs to EU imports to be netted off against reduced costs on non-EU goods. The aim of this policy would be to minimise any aggregate price increases for businesses and consumers, while maintaining levels of customs revenue. Next Plc has suggested this model for the clothing sector, arguing that reducing the UK's external tariff on clothes from 11.8% to 5.8% in a No Deal scenario would prevent overall increases in duty costs of clothing, while protecting UK customs revenue.[62] This approach would also level the playing field for non-EU imports.
- **Further open up UK markets to developing countries.** The UK could improve on the preferential terms offered to developing countries beyond the EU's Generalised

[61] *OBR*, 'Customs duties in a No Deal Brexit', Fiscal Risks Report, July 2019: https://obr.uk/box/customs-duties-in-a-no-deal-brexit/
[62] *Next PLC*, 'Results for the half-year ending July 2018', 25 September 2018, p46: https://www.rns-pdf.londonstockexchange.com/rns/7905B_1-2018-9-25.pdf

Scheme of Preference (GSP) scheme by extending product coverage. For example, the EU's GSP scheme allows tariff-free access for cocoa beans from developing countries, but imposes a 4.2% tariff on cocoa butter and a 6.1% tariff on cocoa powder. This is known as tariff escalation, and can stifle the growth of the food-processing industry in developing countries; the UK could consider adopting its own, more liberal GSP scheme. Such a policy could be adopted either in tandem with the revenue-neutral equilibrium model, or as a modification to the No Deal tariff regime.

- **Full unilateral liberalisation.** The UK Government could follow a more radical policy of full unilateral liberalisation of import tariffs, either from day one in place of the temporary tariff regime or after the 12 months have expired. This would remove burdensome border operations relating to customs and alleviate business costs stemming from No Deal. It would also mean the UK would not have to carry out rules of origin checks; if all products are tariff-free, there is no need to check their origin. It might also have price benefits for British consumers. However, full tariff liberalisation would significantly increase import competition. This is likely to put pressure on production in UK manufacturing and agriculture, which would therefore be a difficult political move for the UK Government.

If changes to the tariff regime are made after the twelve months, the Government should learn from the mistakes it made in March. To rush through a second set of tariff adjustments without properly consulting businesses and stakeholders would be unwise; the decision should be made and communicated well in advance. It should bear in mind that businesses will be reluctant to adjust to more than one set of major changes. Ultimately, the Government should be clear about the trade-offs inherent in tariff adjustment, but we believe they have been correct to err on the side of tariff liberalisation and should continue to do so.

4.2. Exports: the EU's MFN tariffs

Area of potential disruption	What is the issue?	Existing mitigation measures
Tariffs: UK exports	UK exports to the EU will face new tariffs in a No Deal Brexit. The level and impact of these tariffs varies sector to sector. Research elsewhere has found that 49% of UK goods exports to the EU27 by value would be tariff-free even in No Deal. Of the remainder, 45% would face tariffs of 10% or less, and 6% would face tariffs of over 10%.[63]	Tariffs on exports are beyond the UK Government's control, and can only be removed in the context of a trade deal with the EU. Some UK exporters will be hit much harder by tariffs than others.

Recommendations	There is nothing the UK can do unilaterally to prevent the imposition of tariffs on exports, in the absence of a deal with the EU. However, the Government can take unilateral action to support and compensate the most affected sectors, including agriculture and the car industry.

While the UK is acting to reduce the tariff burden on imported goods, the EU is unlikely to reciprocate. In a No Deal scenario, the EU is highly unlikely to unilaterally eliminate or reduce any of its MFN tariffs, even on a temporary basis, in order to limit the disruption to trade with the UK; to do so would open it up to significant import competition from the rest of the world. It has also been argued that the imposition of MFN tariffs on UK exports in the event of No Deal might help the EU to recoup some of the fiscal shortfall if the UK is no longer contributing to the EU budget.[64]

Box 2: GATT Article 24 and No Deal

During the Conservative Party leadership campaign, there were suggestions that the UK could rely on Article 24 of the GATT to secure tariff-free trade with the EU even in the event of No Deal. However, Article 24 is not a solution in itself. It is simply the WTO legal basis that covers any free trade agreement in goods, ranging from a simple agreement to scrap

[63] See Dmitry Grozoubinski, 'What Will No-Deal Tariffs Mean, And Are They Enough To Break The EU's Will?', *Explaintrade.com*, 26 June 2019: https://www.explaintrade.com/blogs/2019/6/26/no-deal-tariffs
[64] *German Economic Institute*, 'If Nothing is Achieved: Who Pays for the Brexit?', 9 October 2018, p276: https://www.iwkoeln.de/en/studies/external-studies/beitrag/michael-huether-matthias-diermeier-markos-jung-who-pays-for-the-brexit.html

tariffs to a customs union. Advocating the use of GATT Article 24 is nothing more than calling for a free trade deal covering goods.[65]

By definition, a deal of this kind would need agreement from the EU. The EU has made clear that it is not considering such a deal in the immediate aftermath of a No Deal Brexit.[66]

In any case, a deal with the EU that only covered tariffs and quotas would do nothing to address regulatory barriers for either goods or services, or address many of the non-trade aspects of the future UK-EU relationship. It would not amount to a "standstill transition" of the kind provided for in the Withdrawal Agreement.

EU MFN tariffs vary considerably sector-by-sector. For many products, such as pharmaceuticals, the EU's MFN tariffs are set at zero – trade expert and former WTO negotiator Dmitry Grozoubinski has calculated that around 49% of UK goods exports to the EU27 by value would be tariff-free, even in the event of No Deal.[67] Some UK goods exports to the EU27 would face relatively low tariffs of 5% or less. However, a minority of products would face high tariffs of 10% or more. For example, British cars, which make up 10% of UK exports to the EU, would face a 10% tariff. This would put UK car manufacturers which currently sell into the EU at a competitive disadvantage, compared to manufacturers based in the EU27.

Higher still are tariffs on agricultural products – the National Union of Farmers estimates that EU tariffs would average 84% on beef, 53% on wheat, and 48% on lamb.[68] This would have a severe impact on parts of the British agricultural sector – for example, 94% of British lamb exports are sent to the EU. UK exporters would also face new tariffs on exports to third countries with which the UK has failed to roll over EU trade deals. Canadian MFN tariffs on dairy products, for example, are often over 200%.[69]

Even relatively low tariffs could have a detrimental effect if they are enough to deter European importers (who would be responsible for actually paying the tariff) from buying British products. For example, a recent local authority report warned that EU tariffs of 4.7% on fuel imports could make UK refineries uncompetitive, and that this could be exacerbated by the UK's zero-rated No Deal tariffs on fuel imports.[70] However, not all new tariffs will necessarily be prohibitive for EU importers looking to buy UK products. Research has shown that EU import demand for UK exports to the bloc is fairly inelastic, with a No Deal exit estimated to

[65] Peter Ungphakorn, 'A real beginner's guide to GATT Article 24,' 14 July 2019: https://tradebetablog.wordpress.com/2019/06/24/beginners-guide-gatt-article-24/#more-6908
[66] *Reuters*, 'No hope of avoiding tariffs in 'no deal' Brexit - EU's Malmstrom', 14 June 2019: https://uk.reuters.com/article/uk-britain-eu-trade/no-hope-of-avoiding-tariffs-in-no-deal-brexit-eus-malmstrom-idUKKCN1TF24M
[67] Dmitry Grozoubinski, 'What Will No-Deal Tariffs Mean, And Are They Enough To Break The EU's Will?', *Explaintrade.com*, 26 June 2019: https://www.explaintrade.com/blogs/2019/6/26/no-deal-tariffs
[68] *National Farmers' Union*, 'NFU reacts to no-deal applied tariffs announcement', 21 March 2019: https://www.nfuonline.com/news/latest-news/nfu-reacts-to-no-deal-applied-tariffs-announcement/
[69] Faisal Islam, 'What happened to post-Brexit free trade nirvana?', *BBC News*, 22 July 2019: https://www.bbc.co.uk/news/business-49075764
[70] *BBC News*, 'Brexit: No-deal plan threatens UK fuel plants', 20 August 2019: https://www.bbc.co.uk/news/business-49405270

reduce total UK exports to the EU by 2% in the short-run; in some areas, European importers might accept higher costs and continue importing goods from the UK.[71]

Box 3: Would a fall in the pound offset the cost of EU tariffs?

It is possible that the costs of new EU tariffs could be partially offset in a No Deal scenario by the expected depreciation of sterling, which would make UK exports cheaper to foreign buyers.

However, the nature of integrated supply chains means that many manufacturing exports rely on imported inputs, which will be more expensive if the pound falls. The Society of Motor Manufacturers and Traders has pointed out, "Sterling devaluation may make exporting cheaper, but it makes automotive manufacturing more expensive and will not offset the cost of tariffs. UK automotive manufacturing is integrated into the European supply chain network with the majority of parts used to build cars here imported, thereby negating any cost advantage."[72] Currency devaluation is also unlikely to make a significant difference to sectors facing very high tariffs, such as agriculture.[73]

In any case, the experience of recent years suggests that the overall impact of currency devaluation on exports is limited. The pound has already fallen significantly in response to the referendum result, yet there is little evidence this has boosted exports to date.[74]

Although the impact of EU tariffs will be relatively small as a share of UK GDP (for example, agricultural products are a relatively small proportion of UK exports to the EU - 6.4% in 2017), the most negative impacts will be highly concentrated.[75] The Government will therefore need to consider ways to compensate the hardest hit exporting sectors.

Ministers have already said that the Government is looking at compensation for severely hit sectors. A notable example is farming, where the Government is planning to buy excess lamb or beef at the point of slaughter.[76] However, the extent to which the Government can support affected industries is constrained by WTO rules. The UK cannot simply subsidise exporters to cover the cost of the tariff, as this would be classed as an "export subsidy" and would enable other WTO members to raise a challenge or impose countervailing measures. If the Government wished to compensate sheep farmers, it would need to invest in the sector as a whole, rather than just those farmers who export to the EU.

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[71] *Vox.eu*, 'Short-term impact of Brexit on the UK's export of goods', 22 October 2017: https://voxeu.org/article/short-term-impact-brexit-uk-exports

[72] *Society of Motor Manufacturers and Traders*, 'Automotive Brexit myths - busted': https://www.smmt.co.uk/industry-topics/brexit/automotive-brexit-myths-busted/

[73] *FG Insight*, 'Anger at Minister's claim fall in value of pound would offset no deal tariff costs,' 5 Feb 2019: https://www.fginsight.com/news/news/anger-at-ministers-claim-fall-in-value-of-pound-would-offset-no-deal-tariff-costs-79076

[74] Josh de Lyon and Dr Swati Dhingra, 'UK economy since Brexit vote: slower growth, lower productivity, weaker pound', *UK in a Changing Europe*, 22 March 2019: https://ukandeu.ac.uk/uk-economy-since-the-brexit-vote-slower-gdp-growth-lower-productivity-and-a-weaker-pound/ ; see also *Financial Times*, 'What is the effect of the falling pound on Brexit Britain?', 30 July 2019: https://www.ft.com/content/0ee55f40-b2c9-11e9-8cb2-799a3a8cf37b

[75] Open Europe analysis of trade statistics in Office for National Statistics Pink Book 2018.

[76] *The Times*, 'No-deal Brexit: £500m plan to help farmers', 31 July 2019: https://www.thetimes.co.uk/article/no-deal-brexit-500m-plan-to-help-farmers-bx5pnx9qq

4.3. Trade with non-EU partners

Area of potential disruption	What is the issue?	Existing mitigation measures
Trade with non-EU partners	Without securing continuity agreements, the UK would lose access to dozens of EU trade deals with third countries in a No Deal Brexit.	The Government has secured continuity agreements with some important trading partners (such as Switzerland, Norway and South Korea), but not others (such as Japan, Turkey and Canada).

Recommendations	The Department for International Trade should continue to pursue continuity agreements with EU third country partners in the run-up to exit day. In the event of No Deal, it should also seek, if possible, to swiftly restore any deals which were not completed in time. While a No Deal Brexit will allow the UK to have a fully independent trade policy, the UK should not rush to sign new trade deals, such as with the US, before it has a comprehensive strategy for doing so.

Securing continuity for EU FTAs

The UK is currently party to numerous international trade agreements with third countries as a member of the EU. In 2017, around 13.35% of total UK trade was covered by EU agreements with third countries.[77] Since the referendum, the Department of International Trade (DIT) has been engaging with third countries in order to "roll over" the terms of their existing trade deals with the EU so that these can apply bilaterally with the UK – either from the end of the transition period if there is a deal, or from exit day in No Deal.[78] So far, the Government has rolled over 11 deals out of a total of 36. Some of these deals are more significant than others; many of those which the Government has not signed are with countries which amount to less than 0.05% of UK trade. A full table of the Government's progress on rollovers to date can be found in Annex I of this paper.

The Government has also signed a number of other international agreements, not all of which are related to trade:[79]

- Mutual Recognition Agreements (MRAs) with Australia, New Zealand and the US.
- Agreements on citizens' rights with the European Free Trade Association (EFTA) countries and Switzerland.

[77] Open Europe analysis of 2017 trade statistics in ONS Pink Book 2018. This figure does not include Japan, as the EU-Japan deal was not in force in 2017.
[78] In a 'deal' scenario, a number of third country partners have agreed to treat the UK as if it were an EU member state for the duration of the transition period. See letter to the International Trade Committee by former International Trade Secretary Liam Fox, 22 July 2019: https://www.parliament.uk/documents/commons-committees/international-trade/correspondence/190722-Liam-Fox-to-Chair-EU-Trade-agreements.pdf
[79] *House of Commons Library*, 'UK replacement of the EU's external agreements after Brexit', 23 May 2019: https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8370

- Aviation continuity agreements with the US, Canada, Albania, Georgia, Iceland, Israel, Kosovo, Montenegro, Morocco and Switzerland.
- Nuclear co-operation agreements with Australia, Canada, and the US.
- Post-Brexit membership of the WTO's Government Procurement Agreement (GPA).

Former International Trade Secretary Liam Fox claimed in July that the trade deals rolled over so far amount to 63% of the UK trade for which continuity agreements are being pursued, including important trading partners Switzerland (1.9% of UK goods exports), South Korea (1.9%), and Norway (1%).[80] However, the 63% figure excluded those agreements where the Government has decided a rollover will not be possible - including major partners Japan (1.9% of UK goods exports) and Turkey (also 1.9%). When these countries are taken into account, the 63% figure drops to around 44%.[81] Japan has refused to roll over its deal with the EU because it believes it can get better trade terms from the UK via a bespoke deal after Brexit, while preserving UK-Turkey trade on current terms will not be possible in a No Deal scenario given Turkey's customs union with the EU. Elsewhere, talks to roll over the EU's trade deal with Canada (CETA) have stalled, due to Canadian concerns that the UK's low No Deal tariffs would lead to preference erosion.

Even existing rollovers do not provide for full trade continuity. For example, the deal with Switzerland does not cover services, which make up over half of UK-Swiss trade; and the UK-Norway-Iceland deal does not cover regulatory alignment on product standards. The lack of cumulation of rules of origin between the UK and the EU will also add new barriers to trade in goods with countries which are integrated into UK-EU supply chains.

The Government should continue to pursue continuity trade agreements in the run up to exit day, prioritising those partners with which the UK does the most trade. An agreement in principle was recently reached with the Southern African Customs Union (0.7% of UK goods exports).[82] Aside from Canada (1.8% of UK goods exports), the most important outstanding deals which DIT still hopes to complete before exit day are Mexico (0.5%) and Egypt (0.4%). In the event of No Deal, DIT should seek, if possible, to swiftly restore any deals which were not completed in time.

Independent trade policy

While a No Deal Brexit will allow the UK to have a fully independent trade policy, the Government should temper any expectations that the UK will swiftly sign dozens of trade deals with third countries. In the short-term, Government bandwidth will need to focus on mitigating No Deal disruption. Negotiating capacity and a clear idea of the UK's trade policy objectives will also need to be built from the ground up.

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[80] Statistics taken from *House of Commons Library*, 'UK progress in rolling over EU trade agreements', 19 July 2019: https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7792#fullreport. In our judgement, goods exports are the most relevant metric of UK trade with these countries in a No Deal context, as it is here that trade barriers would do the most damage if continuity agreements are not secured. In contrast, goods imports would be less affected by new tariffs and non-tariff barriers, because of the liberal approach the UK is taking. And services are not always included in trade agreements anyway, including some of the trade continuity agreements the UK has signed.

[81] Open Europe analysis of 2017 trade statistics in ONS Pink Book 2018.

[82] SACU consists of South Africa, Mozambique, Namibia, Botswana, Lesotho and Swaziland. Of these, South Africa is by far the most important trading partner for the UK. *Department for International Trade*, 'UK agreed trade continuity with six African nations', 11 September 2019: https://www.gov.uk/government/news/uk-agreed-trade-continuity-with-six-african-nations

In particular, 'quick' trade deals with large economies such as the US, China and India will likely only be possible if the UK accepts all of these countries' demands. International Trade Secretary Liz Truss has said that a trade deal with the US is one of her top priorities – but while such a deal should not be ruled out in the medium-term, there are a number of practical and political obstacles which will need to be taken into account.[83] For example, US demands in areas such as food standards, digital services and drug procurement would be difficult for the UK to accept. It is also far from clear that a UK-US FTA would be ratified, either by a fractured UK House of Commons or by the Democrat-controlled US Congress. It might be possible, however, for the UK and the US to agree narrower deals which boost trade between the two but fall short of a fully-fledged FTA.

[83] Dominic Walsh, What would No Deal mean for trade beyond the EU?, *ConservativeHome*, 7 August 2019: https://www.conservativehome.com/platform/2019/08/dominic-walsh-what-would-no-deal-mean-for-trade-beyond-the-eu.html

4.4. Product regulations

Area of potential disruption	What is the issue?	Existing mitigation measures
Regulatory barriers: UK goods imports	If the UK imposed new regulatory checks on imports from the EU, this would delay the flow of goods into the UK.	The Government has already said it will unilaterally recognise EU regulations in highly-regulated and import-sensitive sectors. However, this would be for an unspecified length of time.
Regulatory barriers: UK goods exports	UK goods exports will face EU third country regulatory checks and controls in a No Deal scenario. Although UK products would still be compliant with EU standards, in highly regulated sectors the EU also requires this conformity to EU rules to be proven and tested by EU-approved bodies. Goods exports in lower-regulated sectors would not face the same challenges.	This depends on the EU, which is highly unlikely to recognise UK regulations outside of the context of a deal.

Recommendations	The Government needs to provide businesses with clarity as to how long unilateral recognition of key EU-derived product regulations will last. A sensible course of action would be to unilaterally mirror the length of the transition period in the Withdrawal Agreement (December 2020 at the earliest). There is little the UK can do unilaterally to prevent the imposition of regulatory checks on goods exports, in the absence of a deal with the EU. As with tariffs, the Government can and should take unilateral action to support and compensate sectors affected by new trade barriers.

4.4.1. Imports from the EU

In theory, the UK could impose new regulatory checks on product standards from the EU in a No Deal Brexit. However, there is no strict requirement for the UK to impose new regulatory checks on imports from the EU (see box below), and indeed it would not be in the UK's interest to do so as it would delay the flow of goods into the UK. The Government has rightly adopted a "continuity approach" in "harmonised goods sectors… that are subject to EU common rules," which would mean "some form of continued recognition of EU product requirements and associated compliance activity would continue for a limited period."[84] The "harmonised" sectors identified by the Government as qualifying for this approach are medicines, automotive, aerospace and chemicals. This should help reduce disruption to the flow of imports and preserve regulatory stability for business.

Box 4: WTO constraints on regulatory checks

The WTO's MFN principle does not apply to regulations in the same way that it does to tariffs, so the UK would not be required to treat goods from all third countries in the same way as it treats goods from the single market.

However, the UK would still potentially be open to challenge from other WTO members with identical levels of product standards to the EU to offer their goods similarly liberal treatment. For instance, other countries might cite Article 2.3 of the WTO Sanitary and Phytosanitary (SPS) Agreement, which states that "Members shall ensure that their sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail."

The Government might, therefore, wish to be selective if it pursues unilateral recognition of EU product standards, targeting highly-regulated products where the EU imposes specific regulatory standards that the UK continues to apply.

Imports of medicine are potentially exposed in a No Deal context, as73% of the UK's pharmaceutical imports come from the EU.[85] The Government has said since August 2018 that it will prioritise regulatory stability - including accepting batch testing of medicines carried out by EU, EEA and some EU partner countries and directly recognising medical devices approved for sale in the EU.[86] Recognising EU regulations in this area is an important step to ensuring the flow of medicines into the UK, although medicine imports (and indeed other imports) may still be exposed to any delays in the passage of goods across the Channel.

In the automotive sector, the UK Government has indicated that manufacturers with EU certification could apply for temporary UK type-approvals in the two years following a No Deal outcome.[87] This would grant motor manufacturers a simplified process of obtaining market authorisation to continue operating in the UK immediately after Brexit, allowing businesses a transition period during which they can obtain permanent UK type-approval.

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[84] *HM Government*, 'Implications for Business and Trade of a No Deal Exit on 29 March 2019', February 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/781768/Implications_for_Business_and_Trade_of_a_No_Deal_Exit_on_29_March_2019.pdf
[85] *House of Commons Business, Energy and Industrial Strategy Committee*, 'The impact of Brexit on the pharmaceutical sector,' 17 May 2018: https://publications.parliament.uk/pa/cm201719/cmselect/cmbeis/382/382.pdf
[86] *HM Government*, 'Businesses supplying medicines and medical devices – what to expect on day one of a no deal scenario', 6 February 2019: https://www.gov.uk/guidance/businesses-supplying-medicines-and-medical-devices-what-to-expect-on-day-one-of-a-no-deal-scenario
[87] *HM Government*, 'Vehicle type-approval if there's no Brexit deal', 25 February 2019: https://www.gov.uk/guidance/vehicle-type-approval-if-theres-no-brexit-deal

In terms of food, the Government has already announced it will carry over EU regulations on food and nutrition into domestic law in the event of a No Deal Brexit.[88] The Department for the Environment, Food and Rural Affairs (DEFRA) has said that importers will be able to continue their usual trade activities for importing food from the EU, with no additional checks or controls other than a requirement to notify the UK authorities about imports of high-risk food products from the EU.[89] However, there will be some new import processes in the agri-food sector. For example, importers of live animals would be required to notify the Animal and Plant Health Agency (APHA) or the Department of Agriculture, Environment and Rural Affairs (DAERA) in Northern Ireland at least 24 hours in advance. Importers of food from outside the EU would also no longer have access to the EU's food import systems and will have to adjust to a new UK system.

In all sectors, unilateral recognition of EU regulations by the UK would likely be a temporary measure. An obvious option would be to maintain key EU rules and regulations relevant to goods trade in domestic law until December 2020 at the earliest, which would mirror the length of the transition period under the Withdrawal Agreement. Regulatory policies are likely to diverge in the future if no bilateral preferential trading relationship is reached, and businesses would need to adapt to this.

4.4.2. Exports to the EU

In the event of No Deal, exporting requirements for some UK manufacturers and farmers that trade with the EU would change on day one. Whereas the UK's No Deal measures aim to preserve the flow of trade, the EU's approach prioritises the application of its rules. As such, it is highly unlikely to unilaterally recognise UK regulations or market approval certification in order to facilitate the easy flow of British goods into the EU. In its December Contingency Action Plan, the Commission said, "If the Withdrawal Agreement is not ratified, all relevant EU legislation on imported goods and exported goods will apply as of the withdrawal date. This includes the levying of duties and taxes and the respect of the formalities and controls required by the current legal framework."[90]

Although UK products would still be compliant with EU standards, in some highly regulated sectors the EU also requires this conformity to EU rules to be proven and tested by EU-approved bodies. UK Notified Bodies, which test certain products to ensure they meet the required standards, would lose their right to make conformity assessments that are valid in the EU market. Although there is little reason to believe that UK products would no longer meet these EU standards, the mere fact of additional controls risks additional delays and costs for businesses. For some sectors, these non-tariff barriers could be as damaging, if not more so, than tariffs. The impact will depend on whether businesses are prepared, both logistically and financially, to undergo additional processes.

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[88] *Food Standards Agency*, 'Prepare your business for the UK leaving the EU', 30 August 2019: https://www.food.gov.uk/business-guidance/prepare-your-business-for-the-uk-leaving-the-eu
[89] *HM Government*, 'Importing animals, animal products, high-risk food and feed not of animal origin if there's a no-deal Brexit', 20 February 2019: https://www.gov.uk/guidance/importing-animals-animal-products-and-high-risk-food-and-feed-not-of-animal-origin-if-the-UK-leaves-the-EU-with-no-deal
[90] *EU Commission*, 'Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: Implementing the Commission's Contingency Action Plan', 19 December 2018: https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=COM:2018:890:FIN

The impact of new regulatory controls will vary sector by sector. Not all products require testing for compliance; the affected sectors would be those in which products are highly regulated, such as chemicals and pharmaceuticals (19% of UK goods exports to the EU) and food and beverages (7%).[91] Goods exports in lower-regulated sectors would not face the same challenges.

Some regulatory checks are also more burdensome by nature than others. On agri-food, the EU will need to list the UK as a third country for the purpose of exporting animals and animal products. The EU did list the UK in the run-up to the previous 12 April deadline, but will need to do so again in advance of 31 October.[92] If listed status is not granted, UK companies will not be able to export livestock and other animal products to the EU at all in a No Deal scenario – though there is little reason to expect the EU not to list the UK, given that it did so previously. Even with listed status in place, however, the regulatory burden on food exports remains significant. EU law requires extensive hygiene and veterinary tests to be carried out at Border Inspection Posts (BIPs) at or near the border. The proximity of these checks to the border itself means that food exports are at greater risk of delays than other products.

In other sectors, regulatory checks will mainly entail additional costs and bureaucracy for businesses, rather than having a direct impact on the *flow* of goods across the border. For exporters of chemicals, the main requirement is for UK companies to register their chemicals with an EEA-based organisation. For medicines, the European Medicines Agency (EMA) has said that UK testing of medicines will no longer be recognised.[93] For some regulated manufactured goods, UK firms will need to make adjustments to their testing processes, particularly by ensuring their products are tested by EU bodies rather than those based in the UK. However, the EU will continue to recognise CE markings on UK goods if they were placed on the EU market before Brexit.[94]

In the medium-term, increased barriers to trade between the UK and EU may incentivise some UK firms to onshore in the EU in order to benefit from frictionless trade within the single market in the medium-term. However, this is a distinct issue from the more pressing question of short-term disruption and delays at UK ports. Moreover, a key difference between regulatory barriers and tariffs is that the former would also have been an issue in some 'deal' Brexit scenarios. Without full single market membership or EU acceptance of a future relationship based on the Chequers plan for a 'common rulebook', manufacturers in Great Britain (though not Northern Ireland under the backstop) would likely have experienced some new regulatory barriers after the transition period.

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[91] Open Europe analysis of Office of National Statistics Trade in Goods by classification of product (2017, Q2).
[92] *BBC News*, 'Brexit: UK can export animals to EU after no deal', 10 April 2019: https://www.bbc.co.uk/news/uk-northern-ireland-47878355 ; *HM Government*, '[Withdrawn]: UK listed status application approved to assure animal and animal product movements in a no-deal Brexit', 25 June 2019: https://www.gov.uk/government/news/uk-listed-status-application-approved-to-assure-animal-and-animal-product-movements-in-a-no-deal-brexit
[93] See European Commission communication, 'State of play of preparations of contingency measures for the withdrawal of the United Kingdom from the European Union', 12 June 2019: https://eur-lex.europa.eu/resource.html?uri=cellar:40eadc58-8dc8-11e9-9369-01aa75ed71a1.0016.02/DOC_1&format=PDF
[94] CE markings indicate that products meet EU quality standards. See *Confederation of British Industry*, 'What comes next? The business analysis of No Deal preparations', July 2019: https://cbicdnend.azureedge.net/media/3093/what-comes-next.pdf?v=20190731.2

4.5. The border: import and export processes

Area of potential disruption	What is the issue?	Existing mitigation measures
Import processes at the UK border	Additional customs and import processes mean there is a risk of delays at points of entry to the UK, especially Dover and the Channel Tunnel.	The UK Government is already taking a number of measures to alleviate delays at UK ports, including customs procedures, auto-enrolling VAT-registered businesses for EORI numbers, postponed accounting for VAT, and procuring ferries for additional freight capacity.
Export processes at the UK border	If outbound trucks carrying UK goods exports do not have the correct paperwork to meet EU compliance checks when they arrive at ports such as Dover, this risks causing delays. Disruption to exports could quickly have a knock-on effect on imports. Additional delays at UK-facing ports in the EU could also have a knock-on effect in the UK. Dover-Calais is a "closed loop" where delays on one side quickly spread to the other.	Some attempts to communicate the importance of having the right paperwork to traders have been made by the Government, but more needs to be done. EU member states are taking unilateral action to reduce logistical delays at ports and points of entry.

Recommendations	Urgently consider options for preventing non-compliant exporters from causing outbound delays, such as pre-clearing exports well away from ports, diverting non-compliant trucks to low volume ports, and sending some trucks across the Channel empty, so that they are at least able to return to the UK with imported goods. This should be accompanied by a major communications campaign. Divert pressure from Dover and the Channel Tunnel. Increase the availability of inland clearance facilities and re-route freight traffic to other UK ports, to reduce the risk of bottlenecks and tailbacks in Kent. Further promote the use of customs procedures, particularly the Transitional Simplified Procedure (TSP). Expand and promote the use of bonded warehouses. Open up access to advice on Authorised Economic Operator (AEO)

	status, a form of 'trusted trader' scheme. Upgrade and stress-test ICT systems in the run-up to No Deal. Financial and logistical support for traders, such as offering voucher-based grants to businesses for legal and professional advice on customs processes.

4.5.1. The challenges of managing the border in a No Deal scenario

In a No Deal Brexit, tariffs and regulatory checks are only part of the challenge the UK will face in terms of preserving trade flows. The combination of additional paperwork and the UK's high reliance on the Dover-Calais crossing risks delays, which would increase transaction costs and make some time-sensitive imports and exports economically unviable. Chancellor of the Duchy of Lancaster Michael Gove has recently said that if every business is aware of what it needs to do in order to export, there should not be any delays at all – but ensuring 100% readiness will be a huge challenge for the Government.[95] If there are delays, some manufacturers may initially avoid trading and rely on stockpiled goods, but this will only be possible for the first few weeks.

While much Government and media attention has focused on ensuring the free flow of imports into the country, the flow of exports is also a significant concern. Cross-channel ferry companies have warned that they will not allow trucks to board ferries bound for Europe unless they have the right paperwork. Gert Jakobson, a spokesman for DFDS, which transports 1.2 million trucks between Dover and Calais/Dunkirk each year, said, "If a truck doesn't have the right document we cannot board him. We cannot take lorries across that cannot enter the country."[96] Michael Gove recently told the Exiting the EU Committee, "if a lorry were to arrive and were not to have the necessary documentation before it left the UK, then it is estimated that it could take up to two hours to ensure that the lorry then had the documentation in order to complete its journey."[97] As such, non-compliant trucks arriving at Dover risk holding up compliant traders behind them, thereby causing major tailbacks and bottlenecks. The Yellowhammer report, for example, estimates that if 50-85% of HGVs travelling through the short straights are not ready for French customs, this could reduce the rate of flow to 40-60% of current levels for up to three months.[98]

Outbound delays would also have a knock-on effect onto imports. Many trucks will routinely transport a consignment of goods from the UK to the EU, and then later return with a separate consignment of goods going back in the opposite direction. If the first leg of their journey is delayed by congestion, then the flow of goods into the UK could become disrupted too.

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[95] Michael Gove, *Exiting the EU Committee*, 6 September 2019
[96] *BBC News*, 'Ferry companies warn of gridlock in no-deal Brexit,' 17 July 2019: https://www.bbc.co.uk/news/business-49019511
[97] Michael Gove, *Exiting the EU Committee*, 6 September 2019
[98] Again, this is not a prediction; it is an estimate of what a certain level of unpreparedness would do to trade flows. If a higher proportion of traders are ready for No Deal, the disruption to trade flow would accordingly be lower. *HM Government*, 'Operation Yellowhammer: HMG Reasonable Worst Case Planning Assumptions as of 2 August 2019', published 11 September 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831199/20190802_Latest_Yellowhammer_Planning_assumptions_CDL.pdf

Dover-Calais is also a closed-loop system, where delays on one side spread to the other quickly. For example, in June 2015, strikes by French workers in Calais resulted in over 30 miles of tailbacks along the M20 in Kent and the closure of the road to coast-bound traffic for almost two weeks. The Government's recent downgrading of anticipated disruption to cross-Channel freight traffic (from 75-87% of trade flow to 40-60%) was revised on the basis of new preparations by French authorities at Calais, rather than improved preparations on the UK side.[99]

Unmitigated, severe delays at ports would disrupt the flow of vital goods, and it is therefore critical that the Government takes action. Medicines are particularly at risk; around three quarters of medical imports enter the UK via the short straits, transportation methods are highly regulated, and some No Deal mitigation measures – such as stockpiling – are not appropriate for certain medical goods.[100] As such, it is no surprise that life-saving drugs and medical devices are the Government's top two priorities in terms of safeguarding imports in a No Deal scenario.[101] The Government has also made plans to secure additional freight capacity for medical imports, encouraged pharmaceutical suppliers to build up buffer stocks, and intends to recognise EU regulations on medicines and medical devices.[102]

Border delays could also disrupt food imports to the UK, although the extent of this has been overstated. If No Deal occurs in October, the effects could be compounded by seasonal issues which were not present in March – for example, the end of the growing season and preparations for Christmas.[103] However, even under the 'reasonable worst case scenario' assumptions that underpin the Yellowhammer report, the expectation is that disruption to the supply of fresh food "will not cause an overall shortage of food in the UK, but will reduce availability and choice of products and will increase price."[104] A major "known unknown" is consumer behaviour, which could exacerbate, or create, shortages of certain products. However, it should also be noted that food retailers already have to show flexibility to adapt to seasonal changes to food supply, and may be able to implement their own contingency measures to mitigate disruption. The Government could help them by removing regulatory obstacles – for example, by enacting the food industry's recent request to waive aspects of competition law so that retailers can co-ordinate supplies.[105]

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[99] *BBC News*, 'Brexit: UK assumes French plans "will ease no-deal disruption"', 7 August 2019: https://www.bbc.co.uk/news/business-49270872

[100] *HM Government*, 'Operation Yellowhammer: HMG Reasonable Worst Case Planning Assumptions as of 2 August 2019', published 11 September 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831199/20190802_Latest_Yellowhammer_Planning_assumptions_CDL.pdf

[101] *iNews*, 'No Deal Brexit: these are the Government's "priority" imports, 21 July 2019: https://inews.co.uk/news/brexit/no-deal-brexit-these-are-the-governments-priority-imports/

[102] *HM Government*, 'Medicines and medical products supply: government updates no-deal Brexit plans', 26 June 2019: https://www.gov.uk/government/news/medicines-and-medical-products-supply-government-updates-no-deal-brexit-plans

[103] *HM Government*, 'Implications for Business and Trade of a No Deal Exit on 29 March 2019', February 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/781768/Implications_for_Business_and_Trade_of_a_No_Deal_Exit_on_29_March_2019.pdf ; see also *UK in a Changing Europe*, 'No Deal Brexit: Issues, Impacts, Implications,' p29, 4 September 2019: https://ukandeu.ac.uk/wp-content/uploads/2019/08/UKIN-No-Deal-Brexit-Issues-impacts-and-implications.pdf

[104] Ibid.

[105] *BBC News*, 'Brexit: Food industry seeks no-deal competition waiver', 7 August 2019: https://www.bbc.co.uk/news/business-

A lot of Government work has already gone into preparing the UK border and businesses for a No Deal Brexit, including plans to ensure import processes are as smooth as possible. However, there are further measures the Government could take to mitigate disruption in a No Deal Brexit, particularly with regards to ensuring that the ports operate as effectively as possible.

4.5.2. Current border mitigation plans

Automatic enrolment of firms for EORI numbers

UK businesses exporting to the EU will need a UK Economic Operator Registration and Identification (EORI) number to continue exporting to the EU in the event of No Deal.[106] HMRC estimates that there are around 240,000 UK businesses which only trade with the EU, and therefore need an EORI number to continue trading.[107]

The Government recently announced that it would automatically issue EORI numbers to all VAT-registered traders who have not yet applied for one.[108] This policy, which had long been called for by the British Chambers of Commerce, is an important improvement to the state of No Deal preparation. Under the previous policy of requiring traders to apply themselves, only 72,000 companies had applied for an EORI number. The Government says the auto-enrolment scheme will mean another 88,000 firms would be registered.[109] As the below chart shows, this will improve the level of EORI enrolment among EU-only traders from 30% to 67%. The remaining third – around 80,000 firms – are those who still need an EORI number but are not eligible for the auto-enrolment scheme. These are mostly small businesses which are not VAT-registered.

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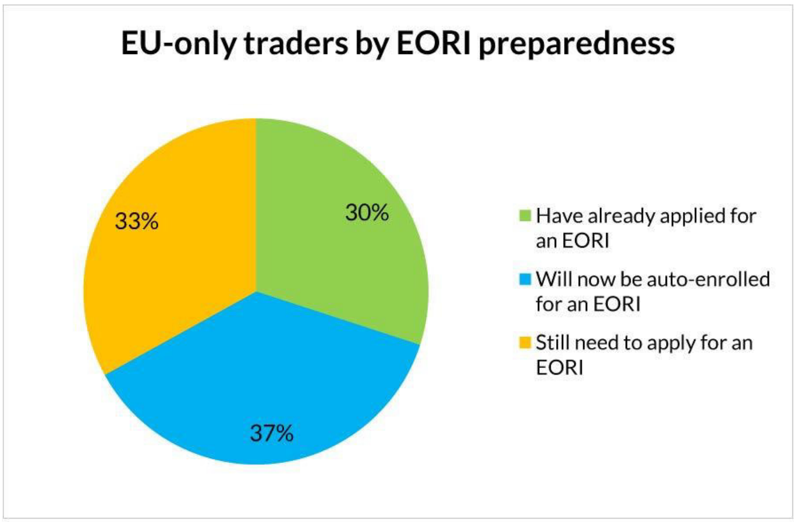
[106] There is an exception here for businesses exporting only from Northern Ireland to the Republic of Ireland. The majority of these will not require an EORI number. See *HM Government*, 'EORI Mythbuster', September 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/830050/EORI_mythbuster.pdf

[107] *HM Government*, 'HMRC urges business owners to make sure they are ready for No Deal', 28 February 2019: https://www.gov.uk/government/news/hmrc-urges-business-owners-to-make-sure-they-are-ready-for-no-deal

[108] *HM Government*, 'Chancellor accelerates Brexit preparations for businesses', 21 August 2019 https://www.gov.uk/government/news/chancellor-accelerates-brexit-preparations-for-businesses

[109] Ibid



Source: Open Europe analysis of HM Government figures

Transitional Simplified Procedure (TSP)

In February, HMRC announced that it is planning a scheme known as the Transitional Simplified Procedure (TSP) to make customs processes easier.[110] Importers will not have to make a full customs declaration at the border and will be able to postpone payment of import duties; instead, they would file a short "simplified frontier declaration" online two hours before crossing the Channel, and then drive straight through the border without any further paperwork. This will be a temporary measure for an initial period of around one year. However, businesses importing controlled goods, such as animal products and most plants, or excise goods like alcohol or tobacco, will have to provide additional customs information before import.

Postponed accounting for VAT

VAT is not levied on intra-EU trade, with the tax only being charged once the good is sold to the final customer. In the event of a No Deal Brexit, the UK would leave the EU VAT area, and taxes could be imposed upfront on goods as they enter the UK.

However, the Government has committed to keeping VAT procedures "as close as possible" to the status quo."[111] In August 2018, it announced that under No Deal, it would introduce postponed accounting for import VAT, allowing UK businesses to account for all import VAT periodically as part of their normal VAT returns, rather than at the border. This would reduce cash flow issues for UK importers of EU goods. This measure was welcomed by a range of business groups, including the British Chambers of Commerce.[112]

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[110] *HM Government*, 'HM Revenue and Customs simplifies importing from the EU as part of no deal preparation', 4 February 2019: https://www.gov.uk/government/news/hm-revenue-and-customs-simplifies-importing-from-the-eu-as-part-of-no-deal-preparation
[111] *HM Government*, 'VAT for businesses if there's no Brexit deal', last updated 30 August 2019: https://www.gov.uk/government/publications/vat-for-businesses-if-theres-no-brexit-deal/vat-for-businesses-if-theres-no-brexit-deal
[112] *Reuters*, 'British businesses relieved at no-deal VAT tweak', 23 August 2018: https://uk.reuters.com/article/uk-britain-eu-vat/british-businesses-relieved-at-no-deal-brexit-vat-tweak-idUKKCN1L81N5

However, the Government has limited ability to reduce the VAT burden of a No Deal exit on UK exporters to the EU. UK businesses would need to register for VAT in every EU member state in which they directly sell products. Exports will continue to be zero-rated for UK tax purposes, but when entering an EU member state will be faced with their respective rules for imports from non-EU countries. British businesses would also no longer have access to the EU VAT refund system.

Ferry procurement

The Government is also putting in place a new framework agreement that will allow transport companies to bid for contracts to provide extra freight capacity.[113] In the run-up to March, this aspect of No Deal preparation was beset by problems. The Government awarded Seaborne Freight a £13.8m contract which it was forced to cancel after it transpired that Seaborne Freight had no ships or trading history. This contract, as well as separate contracts awarded to DFDS and Brittany Ferries, were awarded without a full public tender process, and prompted legal action from Eurotunnel which cost the Government £34m. The DFDS and Brittany Ferries contracts were also cancelled in the wake of the Article 50 extension, with the Government forced to pay a further £51m in cancellation fees. The Department for Transport says it is pursuing a more transparent procurement process this time.

EU member state actions

Meanwhile, the EU and key member states are also taking some limited unilateral mitigating action, to push delays away from borders and other points of entry.[114] The EU member states most exposed to trade disruption are Ireland, Belgium, the Netherlands and France. French Public Accounts Minister, Gerald Darmanin, has said, "We will have to manage logistical and congestion problems… We are looking at how to reinforce checks upstream and downstream, to limit the control time at ports."[115] The French Government has been in the process of hiring an extra 700 customs officers between 2018 and 2020. The port of Calais has also set aside an "amber lane" for up to 300 non-compliant lorries to be held away from other outbound traffic. The Belgian Government has been focusing on making sure that the ports of Zeebrugge and Antwerp are ready for the need to conduct checks, and the Belgian customs force is being increased from 386 to 3,486. The Netherlands are also planning to hire 928 extra customs officials by the end of 2019, as well as an additional 143 veterinarians to conduct animal examinations in the Port of Rotterdam. In Ireland, the Dublin Port Company has been expanding its infrastructure to enable checks on goods arriving from ports in Great Britain.

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[113] *BBC News*, 'UK seeks new no-deal Brexit freight plan', 29 June 2019: https://www.bbc.co.uk/news/business-48810069
[114] Pieter Cleppe, 'The view from Brussels: How are the EU27 preparing for a 'No Deal' Brexit?', *Open Europe*, 30 August 2018: https://openeurope.org.uk/today/blog/the-view-from-brussels-how-are-the-eu27-preparing-for-a-no-deal-brexit/ . See also *Institute for Government*, 'Other EU countries' preparations for No Deal,' 12 June 2019: https://www.instituteforgovernment.org.uk/explainers/other-eu-countries-preparations-no-deal
[115] Gerald Darmanin, interview with *Les Echos*, 2 October 2018: https://www.lesechos.fr/economie-france/budget-fiscalite/0302336544652-gerald-darmanin-nous-devons-nous-preparer-a-un-hard-brexit-2210063.php

4.5.3. Further Government action

There are many measures the Government has put in place to ease the flow of goods into the country. The main challenge now is to ensure businesses are aware of the procedures and how they can benefit from them, though there are also further steps the Government could take.

Ensuring non-compliant exporters do not cause delays

As outlined above, a major concern in a No Deal Brexit is that non-compliant exporters arrive at Dover and are cannot proceed – creating a potential bottleneck that prevents compliant exporters from leaving the UK. Addressing this should be one of the Government's top priorities for ports in a No Deal scenario. Ultimately, the aim should be that 100% of trucks arriving in ports are fully compliant with the necessary exporting requirements. There are several options the Government should pursue here, such as:

- **Pre-clearing trucks carrying goods exports away from the border.** This would require the creation of regional inland clearance facilities, well away from sensitive ports in Kent. This would ensure that any congestion is dispersed away from the points at which it would do the most damage to the flow of goods. Non-compliant trucks would be able to turn around without significantly delaying other exporters.
- **Diverting non-compliant trucks to lower-volume ports.** As discussed further below, UK trade with the EU is heavily reliant on two or three ports: Dover and the Channel Tunnel in Kent, and to a lesser extent Holyhead in Wales. Trucks which are not compliant could be diverted to smaller ports which are less vital for trade with the EU.
- **Consider sending non-compliant trucks across the Channel empty,** so that they are at least able to return to the UK with imported goods (at present, many hauliers transport a consignment of goods from the UK to the EU, and then later return with a separate consignment of goods from the EU to the UK). This may require a compensation scheme for "empty leg" journeys. Sending empty trucks across the Channel is certainly preferable to holding them in a lorry park, which would remove them from the flow of trade entirely.

Any or all of these options should be accompanied by a major communications campaign, targeted in particular at smaller businesses. Exporters and hauliers need to know exactly what they need to do to be compliant with customs requirements, and should be told that they must not attempt to export if their shipment is non-compliant. They should also be made fully aware of any contingency measures the Government intends to take.

Diverting pressure from Dover and the Channel Tunnel

The above measures should be part of a broader effort to divert imports and exports alike away from vulnerable ports. In particular, the port of Dover is a key artery to the EU, and could be put under significant pressure from a No Deal exit. It handled £122bn of trade in 2017, accounting for 17% of the UK's total trade in goods,[116] and 30% of the UK's trade in goods with the EU.[117] Dover is also the largest UK port for roll-on roll-off traffic and has limited space to expand customs facilities or manage increased stationary lorries. Customs capacity at UK

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[116] *Port of Dover*, 'Port of Dover announces fifth consecutive record year for freight', 9 January 2018: https://www.doverport.co.uk/about/news/port-of-dover-announces-fifth-consecutive-record-y/13341/

[117] *Associated British Ports*, 'Keeping Britain trading after Brexit', September 2017', p21: http://www.abports.co.uk/content/files/downloads/2017%20Report%20Magazine%20-%20Issue%203.pdf

ports has historically been scaled to the amount of non-EU trade the port processes, and in contrast to other UK ports – such as Southampton and Liverpool – 99% of all trade at the port of Dover is with the EU. This means that Dover has little experience of the reality of third country checks and controls, and is vulnerable to delays; the deputy chief of Britain's Freight Transport Association, James Hookham, has previously warned that a two-minute delay in processing vehicles could lead to a 17-mile tailback.[118] By contrast, the likelihood of major disruption to other ports is lower. According to the Government's Yellowhammer report, "Analysis to date has suggested a low risk of significant queues at ports outside of Kent which have high volumes of EU traffic."[119]

As well as Dover, the Channel Tunnel at Folkestone is also a key UK-EU trade route. In 2015, Dover's annual lorry traffic was 2.5 million, while the Channel Tunnel's was 1.6 million. The next busiest point of entry by annual lorry traffic was the Irish-facing Welsh port of Holyhead, at 286,000. All three of these ports do over 75% of their trade with the EU.[120] The reliance on the two Kent ports is not just a localised issue, as their economic footprint extends across the UK. For example, in 2015 20% of all goods exports by value from the West Midlands passed through the Channel Tunnel.[121]

One part of the Government's contingency plan for managing traffic in Kent is Operation Brock, devised by Highways England, Kent County Council and Kent Police, and overseen by the Department for Transport. Brock would set aside three locations where up to 13,000 trucks could be parked away from Dover and Folkestone - Manston airfield and two sections of motorway (one on the M20, the other on the M26).

The Government could also ease congestion at ports by increasing the number of inland clearance facilities in the UK. This would allow consignments to be waived through upon entry for checks and inspections at designated warehouses and depots. To operate such facilities, the Government would need to identify feasible locations and ensure adequate funding and staff to operate them. As discussed above, inland clearance facilities could be used to triage for outbound traffic as well.

Several port operators have already called on the Government to divert freight traffic away from Dover to reduce congestion after Brexit; attempts to procure additional ferry capacity in the run-up to March was partly designed to meet this aim. While Dover is designed efficiently to process roll-on roll-off freight from the EU, other UK ports – particularly those that currently process non-EU trade – will be better prepared to manage additional customs procedures.

[118] *Financial Times*, 'Why Dover is braced for customs gridlock after Brexit', 18 October 2018: https://www.ft.com/content/7ff7c97c-b33c-11e7-a398-73d59db9e399
[119] *HM Government*, 'Operation Yellowhammer: HMG Reasonable Worst Case Planning Assumptions as of 2 August 2019', published 11 September 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831199/20190802_Latest_Yellowhammer_Planning_assumptions_CDL.pdf
[120] *Institute for Government*, 'Implementing Brexit: Customs', September 2017: https://www.instituteforgovernment.org.uk/sites/default/files/publications/IfG_Brexit_customs_WEB_0.pdf
[121] *Getlink Group*, 'Economic impact of the Channel Tunnel fixed link,' October 2016: https://www.getlinkgroup.com/uploadedFiles/assets-uk/the-channel-tunnel/EY-Channel-Tunnel-UK.pdf

Associated British Ports (ABP) has previously suggested increased investments into ports on the Thames, the East Coast or the Humber to prepare for re-routed trade from Dover.[122] More recently, a report commissioned by ABP argued that traders based in central and northern England could cut their journey times by up to five hours if they used the Humber ports (Hull and Immingham) for exporting to the EU, rather than Dover. ABP also calculated that for every 1% percent of the 2.6 million HGV loads that could be rerouted from Dover to a Humber port, there would be a reduction of 10,407 tonnes in CO^2 emissions thanks to reduced driving time.[123]

PRB Associates, which focuses on economic and operational analysis of shipping, has found that up to 20% of container traffic from Dover could move to alternative crossings, adding that there is spare capacity on routes across the North Sea.[124] Peel Ports Group has also argued that non-perishable and non-urgent goods could be transported as 'unaccompanied freight' from UK ports - this means that they can be transported without a driver.[125] If goods were diverted from Dover in this way, the longer sea leg could be made up for by a drop in haulage costs.

The Government and businesses could also redirect exports to the EU away from Calais, to other European ports, if the Dover-Calais route is particularly congested. Although all EU customs officials will be imposing the same set of checks on UK exports, the delays caused by these checks may vary depending on the infrastructure in place at individual European ports. However, businesses would need to take into account longer journey times; the Dover-Calais route takes approximately 90 minutes, whereas the Hull-Rotterdam route takes approximately 11 hours. The option of avoiding Calais may therefore only be available to those exporters whose goods are not perishable or embedded in just-in-time supply chains.

Further promoting and clarifying the use of customs procedures

The Government should continue encouraging businesses to register for the TSP scheme. Much more needs to be done; an investigation by BBC Newsnight found that as of 26 May, only 10% of the firms estimated to require the TSP scheme had applied for it.[126] The Government should also encourage non VAT-registered firms, who are not eligible for the EORI auto-enrolment scheme, to apply for an EORI number independently.

There has also been confusion recently as to whether UK traders also need to apply for an EORI number, as well as a UK one, in order to continue trading with the EU in a No Deal scenario.[127] In a recent press release, HMRC said that its "understanding" is that UK importers and exporters will only need a UK EORI number, whereas EU EORI numbers will be needed by

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[122] *Associated British Ports*, 'Keeping Britain trading after Brexit', September 2017, p21: http://www.abports.co.uk/content/files/downloads/2017%20Report%20Magazine%20-%20Issue%203.pdf
[123] *Associated British Ports*, 'A Comparative Analysis of Short Sea Import and Export Routes to and from the UK', June 2019: https://www.abports.co.uk/news-and-media/publications-download/
[124] *Ibid*.
[125] *Peel Port Group*, 'Brexit unlocked: A contingency option using uncongested ports': https://www.peelports.com/media/3463/brexit-unlocked.pdf
[126] *BBC News*, 'Brexit: UK firms 'not even close to ready' for no deal', 12 June 2019: https://www.bbc.co.uk/news/business-48611754
[127] *The Times*, 'Brexit guidance on EU trade after No Deal leaves firms baffled', 21 August 2019: https://www.thetimes.co.uk/article/brexit-guidance-on-eu-trade-after-no-deal-leaves-firms-baffled-0p2r55cbj

EU-based importers and UK exporters who deal with EU customs.[128][129] However, business groups continue to complain about the lack of clarity, and the Government should address this urgently. If traders are confused about which preparations they need to make to ensure goods flow, this will make No Deal more disruptive than it needs to be.

The Government should further encourage businesses to pay customs duties in arrears via a duty deferment account, which allows them to pay monthly by direct debit rather than shipment by shipment. Companies can already apply to HMRC for a duty deferment account, but it is not clear whether this has been effectively communicated to them to date. As well as diverting the need for payment of customs duties away from the border, duty deferment account is an eligibility requirement for the TSP scheme.

Expanding bonded warehousing

As part of its No Deal preparations, the Government is attempting to secure additional warehousing space for the stockpiling of sensitive goods, particularly medicines. However, the UK Warehousing Association (UKWA) has warned that there is very little spare warehousing capacity, with the proximity of the October deadline to the Christmas retail season seen as a particular problem. Data seen by BBC Newsnight shows that the estimated vacancy rate for warehouses of over 100,000 square feet is just 6.8% nationwide, and lower in South East England where the bulk of EU-UK trade flows take place.[130] Peter Ward of the UKWA warned, “The biggest concern at the moment is that the October deadline comes right bang in the middle of peak season. From a timing point of view it couldn't be worse.”

However, stockpiling is not the only potential use of warehousing and storage facilities in the context of a No Deal Brexit. If appropriate facilities are available, the Government should also consider promoting the use of bonded warehousing to store newly imported goods away from the border. Bonded warehouses are HMRC-authorised facilities where UK-based companies can store imported goods, and suspend duty payments (including of import VAT) until goods are removed from the warehouse to be sold in the UK. By postponing the payment of import duties and moving duty processes away from points of entry, increased usage of bonded warehousing could both address importers’ cash flow concerns in the event of a No Deal, and relieve congestion at points of entry to the UK. Bonded warehousing would also complement the TSP scheme by providing locations where goods with outstanding duties could be stored until they are ready to be released onto the market - although this will only be applicable for goods where the UK is applying tariffs, such as cars.

HMRC could provide faster authorisation for regular warehouses to be transformed into bonded ones. In June 2017, the UK Warehousing Association recommended removing the recently-introduced requirement for UK warehouse-keepers to obtain a financial guarantee in order to create a bonded facility.[131] Applications for a financial guarantee can take up to 120

[128] Tweets from *HMRC Press Office*, 23 August 2019:
https://twitter.com/HMRCpressoffice/status/1164951642544005122
[129] In a minority of cases, the same trader will interact with both UK and EU customs. These traders will therefore need two EORI numbers.
[130] *BBC News*, ‘Brexit stockpiling warning: UK warehouses already full’, 2 July 2019:
https://www.bbc.co.uk/news/business-48843038
[131] *UK Warehousing Association*, ‘UKWA position paper for HMRC on Brexit’, June 2017:
https://www.ukwa.org.uk/wp-content/uploads/2017/06/20161125_-_UKWA_Position_Paper_for_HMRC_on_BREXIT.pdf

days to be approved, delaying authorisation of bonded warehousing. The Government has said that storage facilities will not usually require a guarantee to operate a customs warehouse in the first 12 months after Brexit.[132] However, with current storage space limited, and demand likely to increase, the Government could further expedite the process by removing the guarantee requirement altogether. Simultaneously, an awareness campaign of the advantages of bonded warehouses and a public list of available facilities could lead to higher take up particularly among SMEs.

The Government should also further promote the use of temporary storage facilities, which fulfil a similar purpose (albeit goods can only be stored there for 90 days). However, storing imports away from the border for any length of time (whether in temporary storage facilities or bonded warehouses) only works for goods which are not perishable or time-sensitive – it is not a viable option for fresh food, for example.

Open up access to advice on Authorised Economic Operator (AEO) status

Another step the Government should take would be to promote advice on how businesses can access Authorised Economic Operator (AEO) status in the UK. This 'trusted trader' status can help expedite customs procedures and reduce the occurrence of checks for accredited traders. However, given that applications for AEO status are an administratively burdensome process, the Government could seek to make it easier for businesses to access necessary logistical and legal support. In October 2018, the Government announced its ambition to "halve the time it takes companies to become Trusted Customs Traders from 120 to 60 days."[133] However, little information has been provided on how HMRC would achieve this. As recently as March 2019, it was reported that less than half of applications for AEO status since 2016 had been authorised by HMRC.[134]

However, the Government also needs to communicate that AEO status is desirable, rather than essential, in a No Deal context. Customs and logistics consultancy Oakland have advised traders not to start with AEO applications, and to prioritise completing other aspects of customs preparation such as providing a Customs Comprehensive Guarantee and securing a duty deferment account.[135] In March 2019, an HMRC spokesman told the BBC that "AEO status will only suit traders that regularly interact with customs and carry out high volumes of customs transactions. For most UK firms TSP will be the most practical system to import into the UK from the EU if we leave without a deal."[136]

[132] *HM Government*, 'Using customs procedures in a no-deal Brexit', last updated 4 February 2019: https://www.gov.uk/guidance/customs-procedures-if-the-uk-leaves-the-eu-without-a-deal#running-a-storage-facility
[133] *HM Government*, 'International trade budget boost for global Britain', 31 October 2018: https://www.gov.uk/government/news/international-trade-budget-boost-for-global-britain
[134] *BBC News*, 'Brexit: Less than half of trusted trader applications approved', 19 March 2019: https://www.bbc.co.uk/news/business-47628769
[135] *Oakland Invicta*, 'Brexit Import Guide', January 2019: https://www.dbschenker.com/resource/blob/579712/281856b81e64d001d7ff48eeb47380e4/import-guide-data.pdf
[136] *BBC News*, 'Brexit: Less than half of trusted trader applications approved', 19 March 2019: https://www.bbc.co.uk/news/business-47628769

Engaging with private sector operators

A challenge for Government action at the birder is how little of the process it directly controls.[137] As well as having to orchestrate emergency policy measures across multiple departments and public bodies, the Government also relies on a complex web of private sector organisations for infrastructure, logistics and paperwork – port operators, clearance agents, freight forwarders and customs brokers. UK ports are fully privatised, limiting the Government's ability to develop and improve infrastructure at short notice. To act effectively, the Government will need to engage with the diverse range of public and private organisations involved in customs delivery.

It should also consider further financial support for business, for example by meeting longstanding calls from the Institute of Directors (IoD) to provide voucher-based grants to small businesses similar to the schemes operating in Ireland and the Netherlands. This would help business to offset the cost of legal and professional advice needed to prepare for Brexit.[138] The IoD has also suggested making business expenditure on planning and responding to Brexit tax deductible.[139] Another potential measure, advocated by the CBI, would be to provide free customs training for traders who will be undertaking customs processes for the first time. Schemes such as these will need to be properly advertised and communicated – according to BBC News, an existing training fund scheme has had a very low take-up, with just 741 companies applying for grants.[140]

[137] *Institute for Government*, 'Implementing Brexit: Customs', 11 September 2017: https://www.instituteforgovernment.org.uk/sites/default/files/publications/IfG_Brexit_customs_WEB.pdf
[138] *Institute of Directors*, 'IoD calls on Chancellor to issue Brexit planning vouchers to help small businesses', 17 October 2018: https://www.iod.com/news/news/articles/IoD-calls-on-Chancellor-to-issue-Brexit-planning-vouchers-to-help-small-businesses
[139] Allie Renison, 'The Government should make Brexit planning tax deductible,' *The Telegraph*, 30 July 2019: https://www.telegraph.co.uk/business/2019/07/30/government-should-make-brexit-planning-tax-deductible/
[140] *BBC News*, 'Brexit: "Low take-up of no-deal fund concerning"', 7 August 2019: https://www.bbc.co.uk/news/uk-politics-49255061?intlink_from_url=https://www.bbc.co.uk/news/politics/uk_leaves_the_eu&link_location=live-reporting-story

5. Trade in Services

Area of potential disruption	What is the issue?	Existing mitigation measures
Service imports	EU service providers will lose some preferential access rights and protections in the UK. However, while some disruption to service imports is expected, the UK is not expected to erect many new barriers to service imports, and has taken a more liberal approach than the EU. In the medium-term, ending freedom of movement may restrict the provision of services in the UK by EU nationals. However, this is not expected to be a problem from day one.	The UK has prepared several contingency measures, including a Temporary Permissions Regime for EEA financial services firms and provisions to recognise professional qualifications for EU service providers.
Service exports	UK service providers will face new barriers to exporting to EU markets, including the loss of mobility rights and recognition of professional qualifications.	This is beyond the Government's control, and is a matter for the EU. However, unlike trade in goods, WTO terms for trade in services are similar to the conditions that would exist under a UK-EU FTA. The main difference is one of timescale, as there would be no standstill transition period. The UK and the EU have taken some temporary measures to provide market stability for financial services.
Data flows	No Deal could disrupt data flows between the UK and the EU, as the UK would become a third country with no data adequacy decision in place.	The Government has said it will take unilateral action to allow data flows from the UK to the EU to continue. However, without a data adequacy decision from the EU, there will be some disruption of data flows from the EU to the UK.

Recommendations	Put in place legislation to allow the UK to implement EU legislation on financial services which will no longer be automatically on-shored after exit day, such as through the Financial Services (Implementation of Legislation) Bill. Communicate the impact of No Deal for services to the business community, particularly SMEs. Disruption to services trade is likely to be much less visible than disruption to trade in goods. On data, the UK should attempt to persuade the EU to accelerate the granting of an adequacy decision – but in full knowledge that this may not be negotiable.

5.1. Service imports

5.1.1. Financial Services

The UK Government has prepared measures to provide continuity for EU financial services firms operating in the UK in the event of a No Deal Brexit. Its contingency plans include a Temporary Permissions Regime for European Economic Area (EEA) firms to conduct business in the UK with minimal disruption. The regime is expected to last for a maximum of three years.

Financial regulatory bodies on both sides have also prepared contingency measures. In March, the Bank of England and the Financial Conduct Authority (FCA) signed a Memorandum of Understanding with the European Banking Authority (EBA), to agree the continuation of information-sharing between UK and EU27 financial regulators in a No Deal Brexit.[141]

Despite this, some disruption to cross-border trade in financial services is still expected. In July 2019, the Association for Financial Markets in Europe (AFME) industry lobby group, said that "while a very substantial amount of work has already been undertaken to mitigate risks by both firms and regulators, a No Deal Brexit is likely to have a significant impact on the financial services sector and regulatory and operational challenges remain."[142] The Bank of England has said that "most risks to UK financial stability from disruption to cross-border financial services in a No Deal Brexit have been mitigated," but added, "Financial stability is not the same as market stability. Significant volatility and asset price changes are to be expected in a disorderly Brexit."[143]

5.2.2. Professional and business services

The Government has prepared legislation to update the Recognition of Professional Qualifications Regulations, which will protect the recognition decisions already made and allow EU professionals to complete the service provisions started before 31 October. It is also

[141] *Bank of England*, 'PRA and FCA agree Memorandum of Understanding (MoUs) with EBA', 20 March 2019: https://www.bankofengland.co.uk/news/2019/march/pra-and-fca-agree-mous-with-eba
[142] *Association for Financial Markets in Europe*, 'Brexit: Remaining no-deal risks in financial services', 16 July 2019: https://www.afme.eu/globalassets/downloads/publications/annex-1---20190710-brexit-remaining-no-deal-risks-in-financial-services.pdf
[143] *Bank of England*, 'Financial Stability Report and Record', July 2019: https://www.bankofengland.co.uk/financial-stability-report/2019/july-2019

planning to retain a new system where UK regulators will be able to recognise EU/EEA qualifications "which are of an equivalent standard to UK qualifications in scope, content and level."[144]

However, some EU firms may not be able to provide services in the UK in the same way as they do today. EEA-qualified lawyers will need to transfer to the UK legal profession to continue providing some legal services. The UK's post-Brexit system for recognition of professional qualifications will not include the same set of obligations on regulators as the current system. And EEA businesses will no longer be covered by the EU Services Directive, which would allow UK regulators to impose more restrictive requirements – although they are not expected to do so in practice.[145]

The provision of services by EU firms in the UK at present also depends on free movement, which allows EU nationals to work in the UK. However, while the Government's medium-term policy of ending freedom of movement may ultimately restrict the provision of some services by EU nationals in the UK, this is not expected to be a problem from day one.[146]

5.2. Service exports

In a No Deal scenario, the UK will become a third country service provider. UK-EU trade in services will fall back on international rules, set out in the WTO's General Agreement on Trade in Services (GATS). In this scenario, the export of UK services to the EU will depend on the national measures in place in each member state rather than EU rules. This is because the single market in services is less complete than the single market in goods; it liberalises service trade within the single market, but does not always impose uniform barriers to service providers from outside (with notable exceptions, such as the financial services 'passport'). This means the extent of disruption to UK service provision in the EU may vary from member state to member state.

The obstacles to trade would involve Non-Tariff Barriers (NTBs) and regulations imposed by member states. Some governments will demand extra conditions are fulfilled, for example re-submitting information to their national regulators, while others will be less demanding. These barriers are likely to be much less visible than those to trade in goods.

5.2.1. Financial Services

The EU has drawn up some specific contingency measures for financial services, which mostly focus on guaranteeing financial stability in the EU27. They include "temporary and conditional" equivalence decisions in order to avoid immediate disruption to central clearing of derivatives and to services provided by UK central securities depositories, lasting 12 and 24 months respectively. There will also be a facilitation period of 12 months to preserve the regulatory treatment of certain over-the-counter derivatives contracts which are currently exempted

[144] *HM Government*, 'Providing services including those of a qualified professional after Brexit', 12 October 2018: https://www.gov.uk/government/publications/providing-services-including-those-of-a-qualified-professional-if-theres-no-brexit-deal
[145] Ibid.
[146] See Chapter 3.

from the clearing obligation.[147] Member states have also been making their own preparations, which mostly consist of granting UK firms temporary permission to continue operations, particularly in insurance and derivatives. Nevertheless, a No Deal Brexit will mean that UK firms will lose access to their passporting rights which currently allow them to provide financial services in the EEA.

5.2.2. Professional and business services

The Mutual Recognition of Professional Qualifications Directive (Directive 2005/36/EC), which allows the free movement of skilled professionals across member states, will no longer apply to the UK and there will be less legal certainty about the recognition of UK professionals, for instance accountants and architects. A Government paper notes, "UK businesses would face barriers to establishment and service provisions in the EU which they had not previously faced, including nationality requirements, mobility, recognition of qualifications and regulatory barriers when setting up subsidiaries in EU member states."[148]

UK service exporters would also lose mobility rights in the EU. Thousands of UK nationals who regularly travel to the EU to provide short-term, 'fly-in fly-out' services would default to third-country immigration status. The EU has proposed visa-free travel for UK nationals in the event of No Deal, but this is not necessarily an entitlement to work or provide services.

At the same time, the effect of the transition from the Single Market to WTO terms for UK services exports to the EU is relatively similar to the scenario of a future UK-EU free trade agreement - though with the key difference that without a transition period, businesses would have less time to prepare. Even under an FTA, UK service providers would face requirements set by individual member states, which vary. CETA, for example, does not go much further on mutual recognition of professional qualifications than the GATS/WTO.

As Open Europe has argued before, mutual recognition of qualifications is more important for some professions than others and the adjustments required by withdrawal from the Single Market will vary.[149] An example below is the provision of legal services.

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[147] *European Commission*, 'Brexit preparedness: EU completes preparations for possible "no-deal" scenario on 12 April', 25 March 2019: https://europa.eu/rapid/press-release_IP-19-1813_en.htm
[148] *HM Government*, Implications for Business and Trade of a No Deal Exit on 29 March 2019 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/781768/Implications_for_Business_and_Trade_of_a_No_Deal_Exit_on_29_March_2019.pdf
[149] *Open Europe*, 'Striking a Balance: a blueprint for the future UK-EU economic partnership', June 2018: https://openeurope.org.uk/intelligence/britain-and-the-eu/striking-a-balance-a-blueprint-for-the-future-uk-eu-economic-partnership/

Case Study: legal services

Firms providing legal services in the EU face the risk of losing their rights to practice if they do not fulfil the requirements of the relevant member state. In April 2019, an ECJ official urged lawyers to take the "necessary steps" to be able to continue taking cases in the EU. These steps can include acquiring EU citizenship, re-qualifying, passing extra examinations, or registering in the country's bar. The Lawyers' Services Directive and Lawyers' Establishment Directive, which allow specified lawyers to provide legal services in the EU, as well as to establish and practice in another member state, will also no longer apply to the UK.

Lawyers could face national barriers for third country firms to practice, such as the need to be qualified in local law (France), rules prohibiting local lawyers to partner with third country lawyers (Spain, Sweden), or restrictions on foreign investments in law firms (France, Spain, Portugal).

In the long term, some of these issues could be mitigated by professional bodies reaching bilateral Mutual Recognition Agreements (MRAs) on qualifications. However, MRAs take some time to be agreed, and do not address issues regulated by member states, such as immigration law.

However, for legal services, a WTO-based exit would not be significantly different to an FTA scenario. Most of the EU's agreements, except for that with South Korea, do not contain any commitments on liberalising the provision of legal services. Even in the case of the EU-South Korea agreement, EU member states' legislation for the provision of legal services still applies. As the Law Society notes, "a UK-EU FTA risks being a de facto No Deal for legal services, and in many respects the ability to provide legal services would fall back on international rules governing trade in services such as the GATS." [150]

5.3. Data

Data flows from the UK to the EU (and EEA) would not be adversely affected in a No Deal Brexit, as the UK Government intends to take unilateral action.[151] This would include preserving EU General Data Protection Regulation (GDPR) standards in domestic law, recognising all EEA countries as adequate, and replicating EU adequacy decisions with respect to third countries. The Information Commission Office (ICO) has said that it is a "myth" that No Deal will prevent transfers of personal data from the UK to the EEA; the issue is flows in the other direction.[152]

In contrast, a No Deal Brexit is expected to cause new barriers to data flows from the EEA to the UK, as the UK would become a third country with no data adequacy decision in place. Adequacy decisions allow the free flow of personal data from the EU, without the EU data exporter having to implement any additional safeguards or being subject to further conditions.

[150] *The Law Society*, 'The UK-EU future partnership – legal services sector,' 1 August 2019: https://www.lawsociety.org.uk/policy-campaigns/articles/uk-eu-future-partnership-legal-services/
[151] *HM Government*, 'Using personal data in your business or organisation if there's no Brexit deal,' 6 February 2019: https://www.gov.uk/guidance/using-personal-data-after-brexit
[152] *Information Commissioner's Office*, 'How will personal data continue to flow after Brexit?': https://ico.org.uk/about-the-ico/news-and-events/blog-how-will-personal-data-continue-to-flow-after-brexit/

In the absence of adequacy, EU law would require additional measures to be put in place when personal data is transferred from the EEA to the UK. This would introduce legal risks for companies that transfer data to the UK (both for EEA companies or UK companies with EEA-based data centres).

An adequacy decision from the European Commission in the event of a No Deal Brexit is possible, but does not seem likely in the immediate short-term. The Brexit Secretary Stephen Barclay told the Commons Exiting the EU Committee that EU data adequacy decisions typically take around 18 months, and that the process cannot begin until the UK has become a third country.[153] As such, it will not be possible for UK adequacy to be in place by 31 October. So far, the Commission has rejected the possibility of a 'side-deal' on data, as it considers this to be "cherry-picking." The UK should continue to pursue this, but in full knowledge that it may not be negotiable.

Without an adequacy decision, the legal position is that the UK would lose access to EU internal security and policing databases on day one of No Deal. Significant Home Office work on mitigating this, including bilateral engagement with the EU, is ongoing. This is expected to be a particular problem in Northern Ireland, where a lot of UK-Ireland security data-sharing is operationally and logistically reliant on EU systems.

There are options for lawful transfers of EU data to the UK in the absence of an adequacy decision. Organisations will have to provide one of the safeguards set out in the GDPR. These include Binding Corporate Rules (BCRs), Standard Contractual Clauses (SCCs), certification and codes of conduct, and derogations (the latter applying to EU data exporters only). However, these do not have the same scope as a full adequacy decision, and would amount to costly and time-consuming barriers for organisations currently used to the easy transfer of data between the EU and the UK.

[153] Stephen Barclay, evidence given to *Exiting the European Union Committee*, 17 July 2019: https://www.parliamentlive.tv/Event/Index/757d492d-e483-46c4-96e1-fd9511fdb5ac

6. Northern Ireland

The Northern Irish border has proved one of the most difficult elements of the Brexit negotiations – ironically, a No Deal outcome would likely be triggered partly by a failure to agree on a "backstop" solution for the border. In a No Deal scenario, aspects of the Northern Irish border will continue to prove difficult to resolve. However, it is important to maintain perspective about precisely what a "hard border" would mean for Northern Ireland on day one of No Deal. In particular, the issues of movement of people and movement of goods are too often conflated.

This chapter covers the key economic and technical issues around the border in a No Deal scenario: the Common Travel Area, the Single Electricity Market, and cross-border trade in goods. The political, security and societal consequences of No Deal for Northern Ireland, which could be significant, are beyond the scope of this paper.

Area of potential disruption	What is the issue?	Existing mitigation measures
Common Travel Area (CTA)	Some border communities fear that the CTA, which provides for free movement of people between the UK and Ireland, would be disrupted in a No Deal scenario.	No mitigation is required; the CTA will continue to operate as normal in a No Deal scenario.
Single Electricity Market (SEM)	Concerns had previously been raised that No Deal would disrupt the operation of the SEM.	Reciprocal measures are in place. Ireland and Northern Ireland energy regulators have announced that the SEM will continue to operate in the event of No Deal.
Cross-border trade: UK side	Customs and regulatory checks at or near the land border would be seen as breaching the spirit of the Good Friday Agreement, would disrupt all-island trade, and could pose a security risk.	While the UK cannot unilaterally prevent the emergence of a "hard" border, it intends to keep its side of the border open in the short-term by refraining from imposing new checks or controls.
Cross-border trade: Irish side	As above. However, the EU will expect Ireland to impose checks, in order to ensure that Northern Ireland does not become a back door to the single market.	This is beyond the UK's control. Ireland will have to implement checks and controls on goods from Northern Ireland, although it is expected these will take place away from the border.

Recommendations	The UK and Irish governments need to communicate more effectively that a No Deal Brexit will not disrupt the functioning of the Common Travel Area. The Government should uphold its commitment not to introduce any checks or controls at the Irish border in a No Deal scenario. While such a unilateral commitment is insufficient to ensure an open border, it is the only appropriate political action the Government can take. If this action is challenged at the WTO, the UK could refer to the GATT to argue that avoiding checks is necessary – citing either Article 20(a) ("public morals") or Article 21 (security reasons). Clarity is needed on the scope of many of the "temporary" proposals for Northern Ireland in a No Deal scenario, particularly Northern Ireland's exemption from the UK's tariff regime and proposals to avoid regulatory checks. Any plans to compensate and support businesses affected by No Deal should prioritise Northern Ireland in particular. Ultimately, the Irish border can only be kept fully open in the context of agreement between the UK, Ireland and the EU. An initial No Deal exit does not change this fundamental fact. All parties should engage in intensive emergency talks in the run-up to and aftermath of exit day to agree on temporary solutions for the border as soon as possible.

6.1. Common Travel area and movement of people

The UK and Irish governments have confirmed that the Common Travel Area (CTA) – a UK-Ireland agreement on free movement of people, which predates both countries' EU membership – will be preserved in a No Deal Brexit. No further mitigation is required. Preserving the CTA is of significant importance to people and businesses on both sides of the border. Recent estimates suggest that around 27,000 NI citizens live in the Irish counties along the border, with a similar number of Republic-born citizens living in NI border counties.[154]

Despite reassurances to the contrary, there is evidence that some members of border communities fear they will lose their rights to free movement across the border in the event of No Deal. The UK Government should conduct a communications campaign, perhaps acting jointly with the Irish Government, to clarify and reassure citizens and businesses in border communities that the CTA will continue in all circumstances. This course of action has already been recommended by the CBI, as well as by the Prosperity UK Commission on Alternative Arrangements.[155]

[154] *Confederation of British Industry*, 'What comes next? The business analysis of No Deal preparations', July 2019: https://cbicdnend.azureedge.net/media/3093/what-comes-next.pdf?v=20190731.2
[155] *Confederation of British Industry*, 'What comes next? The business analysis of No Deal preparations', July 2019: https://cbicdnend.azureedge.net/media/3093/what-comes-next.pdf?v=20190731.2; Prosperity UK, 'Alternative Arrangements for the Irish Border: Report & Protocols', 18 July 2019: https://www.prosperity-uk.com/wp-content/uploads/sites/43/2019/07/AAC-Final-Report-and-Protocols-18-07-2019.pdf

Notwithstanding the preservation of the CTA, it should be noted that there are some potential barriers to cross-border movement of people which might arise in a No Deal Brexit. One example is transport. NI citizens working or travelling on the Irish side of the border will not need an International Driving Permit (IDP) to drive in Ireland, and can continue using UK-issued licenses.[156] However, anyone living on the Irish side of the border and holding a UK-issued licence will need to exchange it for an Irish license before 31 October.[157] Elsewhere, UK driving insurance will still be valid on both sides of the border, but UK motorists will require a Green Card as proof of insurance to drive in EU member states, including the Republic of Ireland. The same is true in the other direction for Irish and other EU citizens driving in the UK, including NI.[158]

6.2. Single Electricity Market

Previously, concerns had been raised that a No Deal Brexit would disrupt the operation of the Single Electricity Market (SEM), which covers both the Republic of Ireland and NI. The SEM is not itself an EU structure, but it is designed to integrate the all-island electricity market within the wider European Internal Energy Market, and is therefore designed to comply with the EU's energy package of directives.[159] In particular, the recent update of the SEM brings it fully into line with the EU Target Model, the framework for the fully liberalised internal energy market. As such, there were concerns that the practical operation of the SEM could be disrupted once NI is outside EU regulatory frameworks.

On 14 March 2019, the Ireland and Northern Ireland energy regulators announced that the SEM would continue in the event of a No Deal Brexit. They added that trade between the SEM and Great Britain would be "less efficient" than before, as Great Britain would no longer be part of the EU's energy market.[160] There may also be potential issues if GB diverges in the long-term. Nevertheless, even in the worst case scenario, the Government does not currently expect immediate disruption to electricity in Northern Ireland.[161]

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[156] *HM Government*, 'Driving in the EU after Brexit', 12 August 2019: https://www.gov.uk/guidance/driving-in-the-eu-after-brexit

[157] *National Driver License Service Ireland*, 'FAQ on Brexit and Driving Licenses', 22 March 2019: https://ndls.ie/images/FAQ_on_Brexit_and_Driving_Licences_22Mar19.pdf

[158] *ABI*, 'Travelling to the EU in the case of a No-Deal Brexit': https://www.abi.org.uk/products-and-issues/choosing-the-right-insurance/motor-insurance/travelling-to-the-eu-if-a-no-deal-brexit/

[159] *House of Lords European Union Committee*, 'Brexit: energy security,' Chapter 8: The island of Ireland, 29 January 2018: https://publications.parliament.uk/pa/ld201719/ldselect/ldeucom/63/6302.htm ; Meabh Cormacain, 'An electric fence? Assessing the impact of Brexit on the Single Electricity Market in Ireland,' *LSE European Politics and Policy Blog*, 9 August 2018: http://blogs.lse.ac.uk/europpblog/2018/08/09/an-electric-fence-assessing-the-impact-of-brexit-on-the-single-electricity-market-in-ireland/

[160] *Northern Ireland Utility Regulator*, 'Electricity and Gas trading arrangements in the event of a no deal Brexit', 11 March 2019: https://www.uregni.gov.uk/news-centre/electricity-and-gas-trading-arrangements-event-no-deal-brexit

[161] *HM Government*, 'Operation Yellowhammer: HMG Reasonable Worst Case Planning Assumptions as of 2 August 2019', published 11 September 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831199/20190802_Latest_Yellowhammer_Planning_assumptions_CDL.pdf

6.3. Cross-border trade: imports and UK side

Goods trade across the Irish border is a joint issue which cannot be resolved unilaterally, even in the context of No Deal. The May Government's 2017 position paper on the issue noted that "unilateral flexibility is insufficient to deliver UK objectives on the border. The UK must reach an agreement with the EU in order to ensure that the Irish side of the land border, which is subject to relevant EU regulations, is also as seamless and frictionless as possible. The nature of the border clearly means that we must aim for an agreed, reciprocal solution."[162]

The Government's No Deal guidance states that goods entering the UK via the Irish border will face different procedures compared to other UK-EU trade. The Government's temporary tariff regime would not apply to goods entering NI from the Republic (meaning all goods entering across the land border would do so tariff-free).[163] Goods crossing the Irish border will be subject to UK import VAT and excise duties, but this will be collected by postponed accounting rather than at the border itself.[164] The only new procedures importers will face are requirements to notify authorities if they are moving high-risk products, such as dangerous chemicals and endangered species – and this would not involve infrastructure or checks at the border itself. This approach is known as "no checks with limited exceptions."

While NI's exemption from the No Deal tariff regime is understandable given the need to avoid checks, it carries a risk that businesses in Ireland and elsewhere will seek to divert exports to the UK via Northern Ireland to avoid paying tariffs. Tariff differentials between NI and the Republic also raise the risk of an increase in cross-border smuggling, which is historically linked to paramilitary activity.

In the long-term, there is a question as to whether foregoing border enforcement would be sustainable absent a bilateral agreement, given the possibility of increased fraud and compliance issues. The Yellowhammer report warns that the "no checks with limited exceptions" model may "prove unsustainable due to significant economic, legal and biosecurity risks." In that scenario, the Government could consider the recommendations for possible customs facilitation measures outlined in a recent report by the NI Department for the Economy.[165] The Government's has said that its approach is "strictly temporary" and that it is "committed to entering discussions urgently with the EU and Irish Government to agree long-term measures" in the event of No Deal.[166] The lack of clarity about what "temporary" means in terms of NI's exemptions from tariffs or regulatory checks is a source of considerable uncertainty for NI businesses, but is largely unavoidable under a No Deal scenario.

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[162] *HM Government*, 'Northern Ireland and Ireland: Position Paper', August 2017: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/638135/6.3703_DEXEU_Northern_Ireland_and_Ireland_INTERACTIVE.pdf
[163] *HM Government*, 'Temporary tariff regime for No Deal Brexit published', 13 March 2019: https://www.gov.uk/government/news/temporary-tariff-regime-for-no-deal-brexit-published
[164] *HM Government*, 'VAT on goods you move from Ireland to Northern Ireland in a no-deal Brexit', last updated 22 August 2019: https://www.gov.uk/guidance/vat-on-goods-you-move-from-ireland-to-northern-ireland-if-the-uk-leaves-the-eu-without-a-deal
[165] Northern Ireland Department for the Economy, 'The Irish Land Border: Existing and Potential Customs Facilitations in a No-Deal Scenario,' 10 June 2019: https://www.economy-ni.gov.uk/publications/irish-land-border-existing-and-potential-customs-facilitations-no-deal-scenario
[166] *HM Government*, 'Avoiding a hard border in Northern Ireland in a no deal scenario', 13 March 2019: https://www.gov.uk/government/news/avoiding-a-hard-border-in-northern-ireland-in-a-no-deal-scenario

Box 5: The Irish border and the WTO

It has been argued that, under WTO rules, the UK would be required to introduce checks at the Irish border in the event of No Deal.[167] However, failure to introduce checks per se so would not necessarily contravene international law. As former WTO official Peter Ungphakorn has noted, there is no specific WTO requirement for members to secure their border.[168]

However, there is a risk that the UK could be in breach of WTO rules by not enforcing border controls or applying tariffs at the Irish land border, while retaining them at other points of entry. Article 10 of the GATT requires that members administer their trade regulations in a "uniform" manner. The UK could be therefore be considered non-compliant if, for example, a product imported from Turkey via a British port faced more burdensome border administration than an identical product from Ireland imported across the Northern Irish land border.

In a No Deal context it is possible that the UK – and perhaps Ireland and the EU – could cite Article 21 of the GATT to justify a decision not to impose border checks.[169] Article 21 provides for members to take "any action which it considers necessary for the protection of its essential security interests," even if such actions would otherwise constitute a violation of WTO law. In the context of Northern Ireland, there is a strong argument that imposing burdensome checks at the border would be a security risk. The possibility of using the security exemption has been cited in a recent No Deal paper from the Northern Ireland Department for the Economy, as well as by several trade experts.[170]

However, recent reports[171] have suggested that the Government is instead considering referring to Article 20(a) of the GATT, which allows members to exempt themselves from WTO obligations in order to take measures "necessary to protect public morals."[172] According to the Telegraph, the "public morals" exemption in Article 20 is seen by the Government as preferable to the "security interests" exemptions in Article 21, as the latter

[167] *Politico*, 'Philip Hammond: UK will enforce hard border in Ireland if there is no Brexit deal,' 1 October 2018: https://www.politico.eu/article/philip-hammond-brexit-ireland-uk-will-enforce-hard-border-in-ireland-if-there-is-no-brexit-deal/

[168] *Trade Beta Blog*, 'Does the WTO require countries to control their borders?', 18 July 2018: https://tradebetablog.wordpress.com/2018/07/18/does-the-wto-require-countries-to-control-their-borders/

[169] General Agreement on Tariffs and Trade, Article XXI: https://www.wto.org/english/res_e/booksp_e/gatt_ai_e/art21_e.pdf

[170] *Northern Ireland Department for the Economy*, 'The Irish Land Border: Existing and Potential Customs Facilitations in a No-Deal Scenario,' 10 June 2019: https://www.economy-ni.gov.uk/publications/irish-land-border-existing-and-potential-customs-facilitations-no-deal-scenario. See also Elvire Fabry, Senior Research Fellow at the Jacques Delors Institute, quoted in *BBC News*, 'Brexit: Does NI tariffs plan violate WTO law?', 14 March 2019: https://www.bbc.co.uk/news/uk-northern-ireland-47559880; David Collins, Professor of International Economic Law at City University, 'Could international trade law support a frictionless border between the EU and Northern Ireland?', *The UK in a Changing Europe*, 18 July 2018: https://ukandeu.ac.uk/could-international-trade-law-support-a-frictionless-border-between-the-eu-and-northern-ireland/

[171] *BBC News*, 'Brexit: Does NI tariffs plan violate WTO law?', 14 March 2019: https://www.bbc.co.uk/news/uk-northern-ireland-47559880

[172] General Agreement on Tariffs and Trade, Article XX: https://www.wto.org/english/res_e/booksp_e/gatt_ai_e/art20_e.pdf.

has recently been used by the US Government to justify arbitrary and discriminatory tariffs on aluminium and steel.[173] However, several trade experts have expressed scepticism over the "public morals" defence in the context of the border.[174]

In short, the GATT provides two exemptions which the UK Government could use to justify not imposing checks or tariffs at the Irish border. While neither are watertight, both illustrate that there are potential routes to avoiding border checks without becoming embroiled in a dispute at the WTO. A separate alternative would be for the UK (and perhaps the EU) to seek a "waiver" from WTO obligations in the event of No Deal, though "waivers" are typically time-limited.[175]

It should also be noted that any challenge against the UK for discriminatory practice at the Irish border would not be automatic – it would require a case to be raised by a member at the WTO. Given the sensitive circumstances on the island of Ireland, a short-term decision to waive controls at the Irish border in the event of No Deal may not be met by immediate opposition from international partners.[176] However, the UK would need to consider how long a goodwill gesture from other WTO members will last, and what signal it would send of the UK as a rules-based international partner if challengeable action is upheld in the longer term.

In addition to goods, No Deal would also entail disruption to all-Ireland trade in services. A report by the NI Department for the Economy found that NI firms that export services to the Republic face non-tariff barriers of an Ad Valorem Equivalent (AVE) of between 14% and 47% in a No Deal scenario. It should be noted, however, that the backstop under the proposed Withdrawal Agreement could also have entailed some disruption to North-South service trade, as it only provides for regulatory alignment on goods.

6.4. Cross-border trade: exports and Irish side

Like its UK counterpart, the Irish Government has committed not to introduce checks on the border itself even in the event of a No Deal exit. In June 2018, Irish Taoiseach Leo Varadkar said, "The UK has said they won't do it. And I've made it very clear to other European Prime Ministers and Presidents, that's something Ireland will never do."[177] Accordingly, Irish

[173] *The Telegraph*, 'Special treatment for Northern Ireland on no-deal tariffs legally 'unwinnable', lawyers warn', 14 March 2019: https://www.telegraph.co.uk/business/2019/03/14/special-treatment-northern-ireland-no-deal-tariffs-legally-unwinnable/
[174] E.g. Dr Lorand Bartels, senior counsel at law firm Linklaters, quoted in *BBC News*, 'Brexit: Does NI tariffs plan violate WTO law?', 14 March 2019: https://www.bbc.co.uk/news/uk-northern-ireland-47559880 ; James Bacchus, former chairman of the WTO's appellate body, quoted in *The Times*, 'Britain warned over legality of Irish border plan for no-deal', 18 March 2019: https://www.thetimes.co.uk/article/britain-warned-over-legality-of-border-plan-g3hck5kkw
[175] *Northern Ireland Department for the Economy*, 'The Irish Land Border: Existing and Potential Customs Facilitations in a No-Deal Scenario,' 10 June 2019: https://www.economy-ni.gov.uk/publications/irish-land-border-existing-and-potential-customs-facilitations-no-deal-scenario
[176] *House of Commons European Scrutiny Committee*, 'Oral evidence: EU withdrawal', 27 June 2018: http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/european-scrutiny-committee/eu-withdrawal/oral/86251.pdf
[177] *Bloomberg*, 'Ireland Tells EU It Won't Accept a Brexit Border', 11 June 2018: https://www.bloomberg.com/news/articles/2018-06-11/ireland-tells-eu-it-won-t-accept-a-brexit-border-pm-says

contingency plans for additional infrastructure and checks have focused exclusively on East-West trade flowing through Ireland's ports and airports, not North-South trade across the land border.[178]

However, while the UK has some flexibility to uphold its pledge to avoid checks unilaterally, Ireland would be significantly constrained by its EU obligations. Absent a Withdrawal Agreement, the Irish land border will become an EU external border with a non-preferential third country, and the Irish Government will be legally bound by EU obligations to secure it. For instance, security controls on the movement of third country goods, required under the EU's customs code, would need to be applied at all points of entry to the EU, including the Irish border.[179] More difficult still are Sanitary and Phytosanitary (SPS) controls, which must be enforced on trade in all animals and animal products upon entry into the EU at designated Border Inspection Posts.[180] This is particularly difficult given the importance of the agri-food sector to cross-border trade – it accounts for 49% of trade between the Republic of Ireland and Northern Ireland.[181]

A No Deal exit would therefore present Ireland with a very difficult choice, caught between its obligations as an EU member state, and its good faith commitment to ensuring an open Irish border. Prioritising its obligations as a member of the single market would mean implementing EU controls on goods from Northern Ireland (though some of these could be done away from the physical land border); prioritising the need for no new checks or infrastructure would require additional checks on Irish goods exports to the EU26 in order to protect the single market.

The Irish Government has recently made it clear that it will take the latter approach, although it will seek to make any checks in Ireland as unobtrusive as possible. In July 2019, Tanaiste Simon Coveney told the BBC's Andrew Marr Show, "We're not going to create a security risk by putting border checks in place on the border," but added, "there will need to be checks somewhere... it has to be in Ireland... if it is in France or Holland or Belgium, it means that Ireland is being taken out of the single market and customs union."[182] More recently, Leo Varadkar suggested that some of these checks might have to take place "near" the border.[183] Irish Government contingency plans also note that North-South trade "could no longer be as frictionless as it is today" in a No Deal scenario.[184]

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178 *Government of Ireland*, 'Preparing for the Withdrawal of the United Kingdom from the European Union: Contingency Action Plan Update', July 2019: https://merrionstreet.ie/MerrionStreet/en/News-Room/News/Brexit_Contingency_Plan_July_2019.pdf
179 *European Commission*, 'The European Union Explained: Customs,' November 2014, pp3-4: https://www.eesc.europa.eu/sites/default/files/resources/docs/customs_en-1.pdf
180 Regulation (EU) 2017/625 of the European Parliament and Council: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0625&from=EN
181 *Northern Ireland Audit Office*, 'The UK border: How prepared is Northern Ireland for exiting the EU?', 26 October 2018: https://www.niauditoffice.gov.uk/sites/niao/files/media-files/Final%20Brexit%20Report.pdf
182 Simon Coveney, comments on *The Andrew Marr Show*, 21 July 2019: http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/21071902.pdf
183 *Reuters*, "Ireland raises prospect of some No Deal Brexit checks near border,' 5 September 2019: https://uk.reuters.com/article/uk-britain-eu-ireland/ireland-raises-prospect-of-some-no-deal-brexit-checks-near-border-idUKKCN1VQ2L0
184 *Government of Ireland*, 'Preparing for the Withdrawal of the United Kingdom from the European Union: Contingency Action Plan Update', July 2019: https://merrionstreet.ie/MerrionStreet/en/News-Room/News/Brexit_Contingency_Plan_July_2019.pdf

Even though the Irish Government intends to ensure any new checks are light-touch, new tariff and regulatory barriers on North-South trade will also have a significant impact on Northern Ireland's economy. InterTradeIreland has estimated that in 2016, 37.1% of NI exports to the Republic were agricultural or food products, which are highly exposed to tariff and regulatory barriers in a No Deal scenario. Inward and outward processing of milk products is particularly vulnerable – supply chains are highly integrated at present, with milk from North and South mixed together and often crossing the border seven or eight times in the process of production.[185]

There is therefore a risk that large parts of North-to-South trade become economically unviable in a No Deal scenario. Some businesses may stop trading with the Republic altogether, while others may continue trading but pass the new costs on to consumers.[186] The NI Department for the Economy has warned that 40,000 jobs in NI are at risk, based on an assessment of employment size against EU export exposure.[187] While Great Britain remains more important than the Republic of Ireland in terms of NI's overall trade profile, the disruption that new North-South trade barriers would bring to particular sectors of the NI economy should not be underestimated.[188] Given this, any measures which the Government introduces to compensate affected industries in a No Deal scenario should prioritise Northern Ireland in particular, especially its agri-food sector.

Ultimately, the Irish border question can only ever be satisfactorily solved by co-operation between the UK and the EU. This applies in the context of a deal as much as it does in a No Deal scenario - whether an open border is achieved via the backstop, 'alternative arrangements,' or some other method, it cannot be done unilaterally.

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[185] *The Guardian*, 'Northern Ireland faces prospect of no-deal Brexit "milk lake"', 4 April 2019: https://www.theguardian.com/politics/2019/apr/04/northern-ireland-faces-prospect-of-no-deal-brexit-milk-lake

[186] *HM Government*, 'Operation Yellowhammer: HMG Reasonable Worst Case Planning Assumptions as of 2 August 2019', published 11 September 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831199/20190802_Latest_Yellowhammer_Planning_assumptions_CDL.pdf

[187] *Northern Ireland Department for the Economy*, 'Northern Ireland Trade and Investment data under No Deal,' 10 July 2019: https://www.economy-ni.gov.uk/sites/default/files/publications/economy/NI-trade-investment-data-under-no-deal.pdf

[188] Prosperity UK, 'Alternative Arrangements for the Irish Border: Report & Protocols', 18 July 2019: https://www.prosperity-uk.com/wp-content/uploads/sites/43/2019/07/AAC-Final-Report-and-Protocols-18-07-2019.pdf

7. Transport connectivity

7.1. Aviation

Area of potential disruption	What is the issue?	Existing mitigation measures
Flights between the UK and EU	Without any contingency measures in place, there was a real risk of significant disruption to flights between the UK and the EU.	Unilateral measures are in place on both sides. The EU has adopted a Regulation to ensure UK-EU point to point flights largely continue as now, which the UK will reciprocate. UK-based airlines will lose access to cabotage rights in the EU, but airlines have taken measures to register in the EU for this purpose. However, the EU's contingency measure is unilateral and temporary. It is due to expire on 30 March 2020, though the Commission has recently proposed extending this deadline to 24 October 2020.

Recommendations	Additional mitigation in this sector relies on the EU. Although the EU is likely to extend the March 2020 deadline for the current mitigation measures to October 2020, the UK should still pursue a full bilateral deal with the EU on aviation as soon as possible.

Air transport connectivity had previously been cited as a major source of potential disruption in a No Deal Brexit. Unlike trade in goods, there is no WTO-style fall-back for aviation. Without any contingency measures in place, there was a risk that flights could have been suspended between the UK and the EU, leading to serious disruption for airlines and passengers.

However, in December 2018, the EU Commission proposed two Regulations to avoid immediate disruption to aviation; these were then adopted by the European Council on 14 March.[189]

[189] See Dominic Walsh and Anthony Egan, 'The EU's latest contingency preparations for No Deal', *Open Europe*, 20 December 2018: https://openeurope.org.uk/today/blog/the-eus-latest-contingency-preparations-for-no-deal-a-summary/

The first Regulation ensures that point to point flights between the EU and the UK would largely continue as now.[190] As well as direct flights between UK and EU airports, this Regulation would also allow UK airlines to fly over EU territory without landing and make stops at EU airports for non-traffic purposes (such as refuelling); it would also ensure continuity for flights between the EU and third countries where the aircraft's journey either originates or ends in the UK. This measure is unilateral, and conditional on UK reciprocation – which was confirmed, separately, on 7 March. It is also time-limited. Currently, if there is no bilateral deal between the UK and the EU on aviation after a No Deal exit, the measure would end on 30 March 2020. This was originally calibrated on the basis of a No Deal Brexit on 29 March 2019. The Commission has recently proposed an extension of this deadline to 24 October 2020, "reflecting the logic and the duration of the original Regulation."[191]

The Commission's second Regulation covers aviation safety.[192] It would allow the Commission to extend certain aviation safety certificates held by UK operators to give the European Aviation Safety Agency enough time to issue third country safety certificates. The certificates covered will remain valid for a period of nine months after the UK leaves (31 July 2020 in the event of a 31 October 2019 departure). Unlike the air connectivity Regulation, the aviation safety Regulation is limited by length rather than with an end-date, and therefore does not need to be updated to take into account the extension to Article 50.

The UK Government confirmed on 7 March that it would grant airlines licensed in EU countries a level of access to the UK that is at least equivalent to the EU's contingency measures.[193]

The main omission with regard to aviation contingency is that UK and EU airlines would lose the right to operate flights point-to-point within each other's territory – known as cabotage rights. However, this would likely be absent even in a comprehensive UK-EU aviation deal – the EU does not typically grant cabotage rights to third countries. Some UK airlines have prepared for this by changing their ownership model – EasyJet, for example, has set up an entity in Austria to ensure it maintains cabotage rights. The UK, meanwhile, has said that it does not intend to allow EU providers full cabotage rights as this would undermine the competitiveness of domestic airlines.

Ultimately, the UK and EU will need to agree a bilateral deal on aviation on a long-term basis. This could be pursued either as a sectoral deal, or as part of the wider future relationship.

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[190] *Official Journal of the European Union*, Regulation (EU) 2019/502 of the European Parliament and of the Council, March 2019: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0502&from=EN

[191] *European Commission*, 'Brexit 'no-deal' preparedness: Final Commission call to all EU citizens and businesses to prepare for the UK's withdrawal on 31 October 2019', 4 September 2019: https://europa.eu/rapid/press-release_IP-19-5509_en.htm

[192] *Official Journal of the European Union*, Regulation (EU) 2019/494 of the European Parliament and of the Council, 25 March 2019: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0494&from=EN

[193] *HM Government*, 'Flights protected in No Deal Brexit scenario', 7 March 2019: https://www.gov.uk/government/news/flights-protected-in-no-deal-brexit-scenario

7.2. Road Haulage

Area of potential disruption	What is the issue?	Existing mitigation measures
Road haulage	Without any contingency measures in place, logistics firms, transport managers and drivers with UK-issued certification would no longer meet requirements to operate within the EU, and vice versa.	Reciprocal measures are in place. The EU has adopted a Regulation which would allow UK hauliers to transport goods. The UK intends to reciprocate. However, the EU's contingency measure is unilateral and temporary – currently due to expire on 31 December 2019. It also represents reduced access for UK hauliers compared to the status quo. Unlike aviation, the haulage sector will also be adversely affected by wider disruption to trade in goods, even with connectivity measures in place.

Recommendations	Additional mitigation in this sector relies on the EU. Although the EU now looks likely to extend the December 2019 deadline for its mitigation measures to July 2020, a bilateral deal will still need to be agreed to provide hauliers with long-term certainty.

The road haulage sector has been seen as one of the sectors most highly exposed to No Deal disruption.[194] Without any mitigation in place, logistics firms, transport managers and drivers with UK-issued certification would no longer meet requirements to operate within the EU, and vice versa. This could create significant spill-over effects in goods sectors closely integrated in EU supply chains.

As with aviation, the international fall-back system for road haulage is wholly inadequate for the needs of industry. Without mitigation, UK hauliers would lose access to EU Community Licences, which give a firm the right to provide cargo road transport services within the EU. The system of international permits under the ECMT (European Conference of Ministers of Transport - a multilateral European regulatory framework which predates the EU) would only

[194] Dmitry Grozoubinski, 'No deal, no trucks? What a no-deal Brexit will mean for road transport', *LSE Blog*, 17 August 2018: https://blogs.lse.ac.uk/brexit/2018/08/17/no-deal-no-trucks-what-a-no-deal-brexit-will-mean-for-road-transport/

allow a limited number of UK trucks access. The UK's annual quota for ECMT permits is 1,224, which the Road Haulage Association has estimated is less than 5% of the number of Community Licences currently used by UK operators.[195] There would also be no legal basis for the EU to accept the professional qualifications of UK drivers, or for firms to operate a freight business in the EU without permanent establishment in the bloc.

As with aviation, the EU has put temporary measures in place to mitigate much of the disruption to road transport in the event of No Deal – proposed in December 2018 and adopted in March 2019.[196] These are described as "temporary phasing out measures" to allow hauliers to "perform a limited number of additional operations." UK hauliers would be permitted to transport goods without any additional licensing requirements, provided that the UK grants equivalent rights to EU operators and maintains a level playing field for competition. Another article in the same Regulation provides for some short-term continuity for bus and coach services between the UK and the EU.

However, the EU's measures do not entirely avoid the prospect of disruption to the haulage sector, and can be revoked unilaterally by the EU. In a similar way to the aviation contingency measures, the road transport Regulation was initially conceived as a 9 month "grace period". The extension to Article 50 means that it is currently due to expire on 31 December 2019 - meaning many UK road hauliers theoretically face the prospect of losing access to the EU just two months after exit day. However, the Commission has recently proposed extending this deadline to 31 July 2020, reflecting the logic of the original Regulation. If enacted, this will provide hauliers with greater short-term certainty.

The Road Haulage Association continues to express considerable concerns over the prospect of a No Deal Brexit - in particular, the knock-on effect of barriers to cross-border trade and potential delays (discussed in Chapter 4).[197] Moreover, even under the existing contingency measures, hauliers would not have the same access to the continent as they do now. For example, a UK haulier would no longer be able to drive through the EU to a third country – e.g. to Switzerland via France – without an ECMT permit. Cabotage and cross-trade are also limited, as operators would be allowed a maximum of two deliveries within the EU after transporting goods from the UK, falling to one and then none over time.[198]

[195] *Road Haulage Association*, 'Brexit and the UK haulage industry – no deal, no jobs, no food', 29 July 2018: https://www.rha.uk.net/news/press-releases/2018-07-july/brexit-and-the-uk-haulage-industry-%E2%80%93-no-deal-no-jobs-no-food

[196] *Official Journal of the European Union*, Regulation (EU) 2019/501 of the European Parliament and of the Council, 25 March 2019: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019R0501&from=EN

[197] *Road Haulage Association*, 'Government needs to do more to prepare firms for a 'no-deal' Brexit', 3 July 2019: https://www.rha.uk.net/news/press-releases/2019-07-july/government-needs-to-do-more-to-prepare-firms-for-a-%E2%80%98no-deal%E2%80%99-brexit

[198] *HM Government*, 'Carry out international road haulage after Brexit,' last updated 29 August 2019: https://www.gov.uk/guidance/carry-out-international-road-haulage-after-brexit

8. EU funding

Area of potential disruption	What is the issue?	Existing mitigation measures
EU funding	The UK would no longer be part of the EU budget. UK businesses, universities and local organisations will therefore lose access to EU funding.	The UK Government has already said it will guarantee any funding secured through EU programmes up to the end of 2020.

Recommendations	N/A. No further mitigation is needed.

The UK is a net contributor to the EU budget – the House of Commons Library estimates that between 2013 and 2017, the UK's average net annual contribution was £7.9bn.[199] However, specific UK businesses, universities and local organisations rely on funding via EU programmes, and expected this to continue until 2020 under the transition period in the Withdrawal Agreement. In a No Deal scenario, the UK would no longer be part of the EU Budget; UK organisations would therefore no longer receive EU funding.

In 2017, the UK received a total of €4.1 billion in public sector receipts from the EU. The majority of this, €3.3 billion, was allocated under the EU's Common Agricultural Policy (CAP).[200] The UK also received €428 million in Structural Funds, encompassing the European Regional Development Fund and the European Social Fund. A significant proportion of this funding is allocated to UK regions classified as 'less developed,' notably Wales and Cornwall.[201]

Additional EU funding is issued directly to the private sector, including research funding via programmes such as Horizon 2020, and the EU's education and training support programme, Erasmus+. The Government estimates that in 2015, these private sector receipts were worth an additional €1.5 billion.[202]

The Government confirmed in July 2018 that it will guarantee any funding secured through EU programmes up to the end of 2020 in the event of a No Deal Brexit.[203] This would include the UK's full allocation for structural and investment fund projects, as well as private "funding for UK organisations which successfully bid directly to the European Commission on a

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[199] *House of Commons Library*, 'The UK's contribution to the EU budget', 24 June 2019: https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7886
[200] *HM Treasury*, 'European Union Finances 2017', March 2018, p52: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691017/EU_finances_2017_Cm9576_web.pdf
[201] *Institute for Government*, 'European Structural Funds after Brexit,' 5 September 2018: https://www.instituteforgovernment.org.uk/explainers/european-structural-funds-after-brexit
[202] *HM Treasury*, 'European Union Finances 2017', March 2018, p11: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691017/EU_finances_2017_Cm9576_web.pdf
[203] *HM Treasury*, 'The government's guarantee for EU-funded programmes if there's no Brexit deal', 8 August 2019: https://www.gov.uk/government/publications/the-governments-guarantee-for-eu-funded-programmes-if-theres-no-brexit-deal/the-governments-guarantee-for-eu-funded-programmes-if-theres-no-brexit-deal

competitive basis while we remain in the EU." The Government has promised to continue to commit the same cash total in funds for farm support until the end of the current Parliament,[204] and has also pledged to underwrite the payment of awards to UK applicants for all successful Erasmus+ bids submitted before March 2019.[205]

However, unilateral funding guarantees only address some of the problems faced by these sectors in the event of No Deal. For Erasmus+, the EU has established a Regulation to allow students participating in Erasmus+ at the time of the UK's withdrawal to be able to complete their studies and continue to receive the relevant funding or grants.[206] However, the Government will need to reach agreement with the EU for UK organisations to continue participating in Erasmus+ projects.

For Horizon 2020, third country participation is an established part of the project. However, some technical discussions with the EU would be needed, for example to establish a mechanism whereby UK co-ordinators of research projects would disburse EU funding to other partners. In January, the Commission proposed a draft regulation that would allow the UK to continue participating in EU programmes in all circumstances until the end of 2019, in return for continuing to contribute to the 2019 budget. The Government is "currently analysing this proposal."[207]

For the farming sector, the guarantee of continued funding to replicate CAP will not fully offset the threat to farming business models associated with high EU tariffs on UK exports. Further compensation efforts will be needed.

As the Government's guarantee only lasts until the end of 2020, the long-term prospects for organisations reliant on EU funding remains uncertain, and will be subject to future UK Government decisions.

Box 6: What happens to the 'divorce bill' in a No Deal Brexit?

Some politicians, including ministers, have claimed that a No Deal Brexit would mean the UK would instantly "save £39bn" by avoiding payment of the financial settlement in the Withdrawal Agreement - money which they say could be used for spending on public services.

However, the financial settlement is no longer "£39bn". A portion of it is the UK's EU budget contributions for 2019 and 2020, which would be paid during the transition period as if the UK was still a member. Some of the 2019 budget contribution has therefore already been

[204] *HM Government*, 'Farm payments if there's a no-deal Brexit', 19 December 2018: https://www.gov.uk/government/publications/farm-payments-if-theres-no-brexit-deal/farm-payments-if-theres-no-brexit-deal
[205] *HM Government*, 'Register to claim Erasmus+ and ESC funding from the government guarantee', 8 April 2019: https://www.gov.uk/guidance/register-to-claim-erasmus-and-esc-funding-from-the-government-guarantee
[206] *Official Journal of the European Union*, Regulation (EU) 2019/499 of the European Parliament and of the Council, 25 March 2019: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0499&from=EN
[207] *HM Government*, 'The government's guarantee for EU-funded programmes if there's no Brexit deal', last updated 8 August 2019: https://www.gov.uk/government/publications/the-governments-guarantee-for-eu-funded-programmes-if-theres-no-brexit-deal/the-governments-guarantee-for-eu-funded-programmes-if-theres-no-brexit-deal

paid, due to the extension of the UK's EU membership. The OBR now estimates the financial settlement to be £33bn.[208]

Secondly, the financial settlement was due to be paid over the course of several years. As such, any *immediate* saving associated with not paying it would not amount to the full £33bn.

The question of whether the UK legally owes the EU any money in a No Deal scenario is less clear.[209] A House of Lords report from 2017 argued that "the UK would be subject to no enforceable obligation to make any financial contribution at all" in a No Deal scenario.[210] On the other hand, the EU argues that the bill covers the UK's existing obligations, and should be paid in full in any circumstances – including approximately £12bn to cover the UK's budget contributions for the remainder of 2019 and 2020. While there are arguments that the UK should uphold some of its financial obligations in a No Deal scenario, it is not clear why this should include money intended to cover a transition period which no longer exists.

Ultimately, the UK could withhold the financial settlement in the short-term, but such a decision would have consequences. The EU could take legal action through the International Court of Justice or the Permanent Court of Arbitration; a protracted legal battle is likely to further sour political relations between the two sides, and make joint co-operation to minimise No Deal disruption less likely. Additionally, the EU is likely to make payment of the UK's financial obligations a central condition for any trade deal with the UK in the aftermath of an initial No Deal exit. It is also possible that non-payment of the financial settlement would damage the UK's wider international reputation.

[208] *Office for Budget Responsibility*, 'Fiscal risks report', July 2019: https://obr.uk/docs/dlm_uploads/Fiscalrisksreport2019.pdf#page=172
[209] Peter Foster, 'The £39bn question: could 'PM Boris' withhold the UK's Brexit divorce payment?', *The Telegraph*, 10 June 2019: https://www.telegraph.co.uk/politics/2019/06/10/39bn-question-could-pm-boris-withhold-uks-brexit-divorce-bill/
[210] *House of Lords European Union Committee*, 'Brexit and the EU budget', 4 March 2017: https://publications.parliament.uk/pa/ld201617/ldselect/ldeucom/125/12503.htm#_idTextAnchor003

9. The wider economic response to No Deal

In of itself, No Deal is likely to be a sub-optimal economic event. Businesses will have to adjust to new barriers to trade with the EU, the climate of uncertainty is already discouraging investment, and sterling is likely to fall further against the euro and the dollar. To address this, the Government's response to No Deal should not only focus on directly mitigating short-term disruption, but should also include a package of wider measures to support the economy. The aim of these measures should be to restore business confidence and dispel any international perceptions that the UK is no longer open for business and investment.

In the short-term, any wider economic disruption resulting from No Deal is likely to be met with an expansionary fiscal response, including targeted tax cuts and increased public spending. The primary focus should be on business confidence; while measures to support consumers should also be considered, to date the uncertainty of Brexit has had a more detrimental impact on business confidence than it has on consumer spending.[211] A low fiscal deficit and low interest rates mean there is space for the Government to loosen fiscal policy in the short-term, which the Prime Minister and Chancellor have said they will use.[212]

The National Institute of Economic and Social Research's (NIESR) forecast finds that a combination of accommodative monetary policy and expansionary fiscal policy would "stabilise real disposable income, consumption and thus, GDP growth over a period of 2–3 years." The fiscal measures considered include "a combination of income tax reductions and higher transfers to households," which would lead public sector borrowing to increase by 2% of GDP.[213] Similarly, the Centre for Policy Studies estimate that the Chancellor will have roughly £44bn to weather a No Deal Brexit.[214]

Any longer-term adjustment to greater trade barriers with the EU will require more fundamental reform of the UK economy to boost growth, and would entail greater adjustment to the existing UK economic model than a deal scenario. Estimates of the long-term impacts of a No Deal exit vary but the consensus is that it would dampen UK growth compared to UK exit with a deal. Modelling undertaken for Open Europe in 2018 found that the long-run cumulative effects of a No Deal Brexit would see UK real GDP 2.2% smaller in real terms by 2030 than if the UK remained in the EU. We found that unilateral trade liberalisation could see the UK recover up to 1.7% of that reduction in real GDP over the same period, with the net effect leaving UK real GDP 0.5% lower in 2030 than would have otherwise been the case.[215]

The long-term economic effects of No Deal are likely to be felt gradually and Brexit is only one of a number of factors which will affect the UK's economic growth over the coming decade.

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[211] *GfK*, 'UK Consumer Confidence sunnier in May, but long-term forecast is less certain', 31 May 2019: https://www.gfk.com/en-gb/insights/press-release/uk-consumer-confidence-sunnier-in-may/
[212] Jonathan Portes, 'How bad would a no-deal Brexit be for the economy?', 2 August 2019: https://www.newstatesman.com/politics/brexit/2019/08/how-bad-would-no-deal-brexit-be-economy
[213] *NIESR*, 'NiGEM observations – No 14: Update: modelling the short- and long-run impact of Brexit', 29 May 2019: https://www.niesr.ac.uk/sites/default/files/publications/NiGEM%20Observation%2014%20-Modelling%20the%20short%20and%20long%20run%20impact%20of%20Brexit.pdf
[214] *Centre for Policy* Studies, 'A budget for No Deal: How to stabilise and stimulate the economy in the wake of a no-deal Brexit", 8 May 2019, p10-11: https://www.cps.org.uk/files/reports/original/190307171809-ABudgetforNoDeal.pdf
[215] *Open Europe*, 'No Deal: The economic consequences and how they can be mitigated', 15 October 2018: https://openeurope.org.uk/intelligence/britain-and-the-eu/no-deal-the-economic-consequences-and-how-they-could-be-mitigated/

The OBR has noted that "It is important to emphasise that any adjustment we do make to our potential growth forecast as a result of Brexit is likely to be relatively small compared to the degree of uncertainty surrounding the underlying path."[216]

It is also important to put any costs resulting from Brexit in perspective. The Committee on Climate Change and the Department for Business, Energy and Industrial Strategy estimate that achieving the target of net zero greenhouse emissions by 2050 would have an annual cost of £50bn-£70bn respectively until 2050, the equivalent of 1-2% of GDP. This has been subject to far less intense political debate and public scrutiny than Brexit. Whether it is zero emissions or leaving the EU without a deal, political choices have economic consequences.

9.1. Short-term policy recommendations

Short-term measures available to the UK include:

- **Tax cuts to benefit consumers.** In particular, reducing income tax and increasing the National Insurance contributions threshold would increase take-home pay for many workers and thereby increase consumer spending power.
- **Bringing forward reductions to corporation tax.** This could include bringing forward the planned cut of corporation tax rates from 19% to 17%, currently scheduled for April 2020.[217] The UK should also reform its capital cost recovery policy, which is currently a significant drag on the competitiveness of the UK's corporate tax regime. The Centre for Policy Studies estimated that bringing forward the planned corporation tax reduction to 17% and carrying out reforms to the "capital cost recovery" would cost the Treasury £13bn in the policy's first year, but would be offset in the future by increased tax revenue linked to this induced investment.[218]
- **Short-term tax cuts for small and medium sized businesses (SMEs),** which might include:
    - Reducing business rates
    - Cutting employers' National Insurance Contributions
    - Temporary VAT cuts
    - Reducing fuel duty
- **Abolishing air passenger duty.** PwC found that this would provide a stimulus of 0.45% of GDP within 12 months.[219]

[216] *OBR*, 'Brexit and the OBR"s forecasts', October 2018, p97: https://obr.uk/docs/dlm_uploads/BrexitDiscussionWebVersion.pdf
[217] *HMRC*, 'Rates and allowances: Corporation tax', 10 June 2019: https://www.gov.uk/government/publications/rates-and-allowances-corporation-tax/rates-and-allowances-corporation-tax
[218] *Centre for Policy* Studies, 'A budget for No Deal: How to stabilise and stimulate the economy in the wake of a no-deal Brexit", 8 May 2019, p18: https://www.cps.org.uk/files/reports/original/190307171809-ABudgetforNoDeal.pdf
[219] *PwC*, 'The economic impact of air passenger duty', February 2013: http://airlinesuk.org/wp-content/uploads/2013/09/APD-study-Abridged.pdf

9.2. Longer-term policy considerations

Over the medium to long-term, numerous policies could be pursued to stimulate economic growth, improve the long-run potential of the economy and ensure the UK is seen as open to business.

A controlled but liberal immigration system

The Government should build on its immigration White Paper to make it easier for skilled migrants to live and work in the UK.[220] Previous Open Europe research has found that on immigration, the public prioritises control over a simple reduction in numbers[221]; Government policies should reflect this. The Government has already proposed extending post-study leave to remain for international student from four months to two years, but there are further steps that could be taken to send the message that the UK is open to international talent. This should include:

- The salary threshold required for "skilled" migrants should either be reduced from £30,000, or replaced altogether by an alternative assessment based on the needs of the economy and business.
- In low-skilled but understaffed sectors, such as construction and social care, temporary visa systems should be considered.
- Barriers which skilled immigrants face should be reduced, such as through recognition of professional qualifications and swift visa processing.
- Arbitrary migration targets, such as the "tens of thousands" target that was Government policy until December 2018, should not be reintroduced.

Putting reforms to ensure economic competitiveness back on the table

Before Article 50 was triggered, the then Chancellor Philip Hammond suggested that a No Deal Brexit could force the UK to "change our economic model… to regain competitiveness."[222] This was widely interpreted as a threat to reduce taxes and regulations to regain a competitive advantage over the EU in a No Deal scenario.

During the negotiations, talk of major deregulation was downplayed in order to secure an agreement. The EU has placed major importance on so-called level-playing field provisions designed to prevent the UK from gaining unfair competitive advantage. Indeed, some EU member states felt that the level-playing field clauses contained in the Northern Irish backstop, which provided for 'non-regression' rather than 'dynamic alignment,' did not go far enough.[223]

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[220] *HM Government*, 'The UK's future skillls-based immigration system', December 2018: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766465/The-UKs-future-skills-based-immigration-system-print-ready.pdf

[221] Open Europe, 'Beyond the Westminster Bubble: What people really think about immigration', December 2017: https://openeurope.org.uk/intelligence/immigration-and-justice/beyond-the-westminster-bubble-what-people-really-think-about-immigration/

[222] *Die Welt*, 'Philip Hammond issues threat to EU partners', 15 January 2017: https://www.welt.de/english-news/article161182946/Philip-Hammond-issues-threat-to-EU-partners.html

[223] See Jacob Osborne, 'European states are unhappy with some aspects of the Withdrawal Agreement,' *Open Europe*, 20 November 2018: https://openeurope.org.uk/today/blog/european-states-are-unhappy-with-some-aspects-of-the-withdrawal-agreement/

In the immediate aftermath of No Deal, the Government may still wish to conclude a trade deal with the EU, and this might merit a degree of caution where deregulation is concerned. However, if trading with the EU on WTO terms became a long-term state of affairs, negotiation-orientated arguments against regulatory reforms would no longer apply. Within the constraints of domestic politics, the Government would be able to put targeted measures back into play in order to seek a competitive advantage over the EU.

Previous research conducted by Open Europe highlighted potential annual savings of £12.8bn a year from deregulation in several areas where the UK was previously constrained by EU rules.[224] Some of the biggest potential savings would be in areas would be in areas such as environmental protections and employment rights, where the UK currently exceeds EU requirements. However, significant deregulation in this area would be politically controversial.

The UK should also exploit its natural strengths. Reassessing the regulation of financial services has been encouraged by Bank of England Governor Mark Carney, who identified areas such as the banking levy, aspects of insurance regulation, and easing the regulatory burden on building societies and challenger banks.[225] The government should also seek to minimise regulatory barriers to high-yield technological innovations, such as driverless cars.

Pursuing a global trade policy and investing in customs infrastructure

While the UK should pursue advantageous trade deals after Brexit, FTAs are not the only way to pursue the UK's trade interests. The UK should also seek to promote trade outside of formal FTAs, such as by exploiting soft power assets and prioritising services trade (where the UK is a world leader).[226] If full FTAs with major partners, such as the US, are difficult to negotiate, then the Government can still seek to improve trade with these countries – such as by addressing non-tariff barriers and promoting investment.

The Government should also invest in upgrading customs ICT systems to match international best practice. According to the World Bank's 2018 Logistics Performance Index, the UK is ranked 11th out of 160 for customs performance, falling six places since the 2016 rankings.[227] Open Europe has previously examined some of the steps the Government should take in the future to improve customs processing, including the introduction of a trade "Single Window."[228] This is a technological platform that creates a common gateway for all trade-related communication and declarations between businesses and government departments. It increases efficiency and reduces the administrative burden on businesses, allowing them to submit all documentation through a single joined-up portal. The UK could start, for instance, by integrating customs, excise and VAT programmes, to reduce the administrative cost of compliance for businesses.

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[224] *Open Europe*, 'What if…? The consequences, challenges & opportunities facing Britain outside EU', March 2015, p88: https://openeurope.org.uk/intelligence/britain-and-the-eu/what-if-there-were-a-brexit/
[225] *FT*, 'Carney suggests some financial rules could be rolled back after Brexit', 29 November 2017; https://www.ft.com/content/fc97d944-d148-36c4-a914-c18a909c3ba2
[226] See *Open Europe*, 'Global Britain: priorities for trade beyond the European Union', April 2017: https://openeurope.org.uk/intelligence/economic-policy-and-trade/global-britain-priorities-for-trade-beyond-the-eu/
[227] *World Bank*, '2018 Logistics Performance Index': https://lpi.worldbank.org/international/global/2018?sort=asc&order=Customs#datatable
[228] *Open Europe*, 'Nothing to Declare: A plan for UK-EU trade outside the Customs Union', March 2017: https://openeurope.org.uk/intelligence/economic-policy-and-trade/nothing-to-declare-a-plan-for-uk-eu-trade-outside-the-customs-union/

Invest in high-yield technological innovation and infrastructure projects

Rapidly advancing technological developments and innovation in the private sector, such as driverless cars and artificial intelligence, could also boost the UK's economic growth in the coming decade. For example, PwC estimates that artificial intelligence alone could boost UK GDP by 10.3% by 2030.[229] To promote technological innovation, the Government should engage with stakeholders, remove regulatory barriers to innovation, and foster an environment that encourages firms to develop new tech in the UK.

Elsewhere, the Government could also invest in high-yield infrastructure projects on a cost-benefit basis. This could include boosting housing supply, investing in road maintenance, and expanding broadband coverage. By prioritising those infrastructure projects with the best cost-benefit payoff, the government can optimise where it commits resources. Such an approach could also take account of regional differences in the economic impact of a No Deal Brexit, by seeking to boost employment in regions that suffer disproportionately from new trade barriers.

Brexit is not the only determinant of the UK's long-term economic fortunes

The fact that growth enhancing government reforms have not already been implemented illustrates that they come with political challenges. Nor are all of these policy options contingent on Brexit – for example, EU membership is not preventing the UK from investing in infrastructure, cutting taxes, or promoting trade outside of FTAs.

Nevertheless, the numerous policy options available to the Government highlight that Brexit is only one of a number of factors that will impact the UK economy in the coming decade. As the Director General of the British Chamber of Commerce, Adam Marshall, has stressed in the past, "Our future success depends not just on Brexit negotiations, but also on the big economic decisions that must be made here in the UK."[230] In other words, Brexit – even a No Deal Brexit - is not a self-determining event nor an end in itself. What the Government does next is just as important.

[229] *PwC*, 'The economic impact of artificial intelligence on the UK economy,' June 2017: https://www.pwc.co.uk/services/economics-policy/insights/the-impact-of-artificial-intelligence-on-the-ukeconomy.html
[230] *British Chambers of Commerce*, 'BCC to Prime Minister: Time to 'fix the fundamentals' for UK growth', 22 May 2018: https://www.britishchambers.org.uk/news/2018/05/bcc-to-prime-minister-time-to-fix-the-fundamentalsfor-uk-growth

Annex I: UK progress on rolling over EU FTAs[231]

Green: agreement transitioned

Amber: agreement not transitioned, but engagement ongoing

Red: agreement not expected to be transitioned before exit day

Country or Trade Bloc	% of UK goods exports (2017), to nearest 0.1%	Comments
Switzerland (+ Liechtenstein)	1.9%	The rollover of this deal does not include services, which make up over half of UK-Swiss trade. The lack of cumulation of rules of origin between the UK and the EU in a No Deal context will likely add additional barriers to UK-Swiss goods trade, some of which is integrated into pan-European supply chains. In addition, several SPS measures in the EU-Swiss agricultural agreement are disapplied, as they rely on harmonisation with EU law. A number of EU-Switzerland Mutual Recognition Agreements have also not been replicated. A trilateral deal between Switzerland, Liechtenstein and the UK extends the UK-Swiss deal to Liechtenstein, which is part of Switzerland's customs territory.
South Korea	1.9%	
Japan	1.9%	The EU-Japan deal was signed in July 2018 and entered into force in February 2019. The Government has said it will not be possible to roll over this deal before the UK leaves. It has been reported that the Japanese Government has resisted rolling over the trade deal as it believes it can get better trade terms from the UK via a bespoke deal after Brexit.
Turkey	1.9%	Given Turkey's customs union with the EU, the UK and Turkey will not be able to preserve their current trade patterns in the absence of a deal with the EU.
Canada	1.8%	Canada has so far refused to roll over the EU-Canada deal (CETA) with the UK because of concerns that

[231] *House of Commons Library*, 'UK progress in rolling over EU trade agreements', 22 August 2019: https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7792

		the UK's low No Deal tariffs would lead to preference erosion.
Iceland + Norway	1.1%	Like the Swiss deal, the continuity agreement with Norway and Iceland does not include services or SPS. It also does not cover regulatory alignment on product standards, as this would require the UK to make legal commitments to align with EU law.
Southern African Customs Union (SACU – consists of Botswana, Swaziland, Lesotho, Mozambique, Namibia, and South Africa)	0.7%	A continuity deal has not yet been signed, but an agreement in principle was reached on 10 September.[232] Of the six countries in the SACU, the overwhelming majority of UK trade is with South Africa.
Mexico	0.5%	
Egypt	0.4%	
Israel	0.4%	
North Macedonia	0.2%	
Morocco	0.2%	
Andean Countries (Peru, Ecuador and Colombia)	0.2%	
Chile	0.2%	
Ghana	0.1%	
Ukraine	0.1%	
Algeria	0.1%	Not expected to be agreed prior to exit day.
Lebanon	0.1%	
Jordan	0.1%	
CARIFORUM (Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica,	0.1%	12 of the 14 CARIFORUM countries have signed the continuity agreement, while the Bahamas and Suriname have agreed in principle and are expected to sign shortly.

[232] *Department for International Trade*, 'UK agreed trade continuity with six African nations', 11 September 2019: https://www.gov.uk/government/news/uk-agreed-trade-continuity-with-six-african-nations

Dominican Republic, Grenada, Guyana, Jamaica, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Suriname, and Trinidad and Tobago)		
Central America (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama)	0.0%	
Tunisia	0.0%	
Cote d'Ivoire	0.0%	
Eastern and Southern Africa (Madagascar, Mauritius, Seychelles, Zimbabwe)	0.0%	
Serbia	0.0%	
Georgia	0.0%	
Moldova	0.0%	Previously classified as not possible to complete before 29 March.
Pacific states (Papua New Guinea and Fiji)	0.0%	
Cameroon	0.0%	
Faroe Islands	0.0%	
Montenegro	0.0%	
Andorra and San Marino	0.0%	Andorra and San Marino are both in a customs union with the EU. As with Turkey, it will not be possible to roll this over in the context of No Deal.
Albania	0.0%	
Palestinian Authority	0.0%	
Bosnia-Herzegovina	0.0%	
Kosovo	-	

Annex II: Sector-by-sector issues for goods trade under a No Deal Brexit

Sector		Tariffs	Regulations	Border-related issues
Agri-food	Imports	The UK's schedule has maintained tariffs on agri-food imports, but generally at a lower level than the EU's MFN tariffs. Average tariffs include 48% on lamb (the same as the EU tariff), 45% on beef (down from 84%), and 22% on poultry (down from 37%).[233] Other agri-food products, such as wheat, potatoes and eggs, will see their tariffs cut to zero.	EU regulations on food and nutrition will be carried into domestic law. UK committed to maintaining SPS regulatory alignment with the EU for 9 months.	Transitional simplified procedures at 'roll-on roll-off ports' will make it easier for traders to comply with customs procedures. Many agri-food products are perishable, and are therefore sensitive to delays at the border.
	Exports	High for many products, e.g. average of 84% on beef, 53% on wheat, 48% on lamb.	UK agri-food exports will be treated as third country exports and relevant checks will apply.	EU requirements for SPS controls on all animals and animal products at designated Border Inspection Posts, which could create delays and problems for perishable foods.
Automotive industry	Imports	10% tariff applies to finished cars but car parts can be imported tariff-free.	The UK will adopt a 'continuity approach' with recognition of EU product requirements for a limited period of time. Manufacturers with EU certification could apply for temporary UK type-approvals within two years.	Delays at the border in either direction could create disruption for 'just in time' manufacturing activity.
	Exports	10% import duty on finished cars, and approximately 3.8% import duty on components.	Subject to third country checks.	
Medicines	Imports	The UK is not imposing any tariffs on pharmaceutical or medical products.	The UK will prioritise regulatory stability and 'continuity approach' to recognise EU regulations, e.g. accepting batch testing of medicines carried out in the EU and	Medicine imports are time-sensitive and vulnerable to delays, particularly radioactive isotopes with a short half-life.

[233] According to the National Farmers' Union. Note that these are average tariffs, and do not fully take quotas into account. See *National Farmers' Union*, 'NFU reacts to no-deal applied tariffs announcement', 21 March 2019: https://www.nfuonline.com/news/latest-news/nfu-reacts-to-no-deal-applied-tariffs-announcement/

			continuing imports of EU-produced medicines and medical devices.	The Government has developed contingency plans to secure express freight capacity for medicines, stockpiling life-saving drugs, securing warehouse space and fast-tracking medical imports.
	Exports	Under the WTO's Pharmaceutical Tariff Elimination Agreement, finished pharmaceutical products are subject to 0% tariffs. This does not include many new products and ingredients; EU duties for some active pharmaceutical ingredients are between 4 – 6.5%.	Most centrally authorised medical products have been brought into regulatory conformity by the European Medicines Agency. However, the EU has said it will not recognise UK testing of medicines.	EU Commission's plans are almost complete. More work remains to be done for products that are authorised at national level.
Chemicals	Imports	Different UK tariffs will apply, e.g. 6.5% for anti-freezing chemicals.	Companies importing chemicals will have a 120-day grace period to register. The Government will adopt a 'continuity approach' to provide recognition of EU regulations. Legislation has been passed to bring provisions of REACH into UK law.	The Government has developed contingency measures for 'roll-on, roll-off' freight capacity to import vital goods, including chemicals.
	Exports	The average EU tariff for chemicals is 4.6-5%. Many speciality chemicals have tariffs up to 6.5%.	UK chemicals exporters need to register with an EEA-based organisation to be registered in the European Chemicals Agency. REACH registrations of 463 substances had been transferred to the EU27.	Delays at borders risk disrupting the supply chain.

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