

FREE TRADE AGREEMENT BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND ICELAND, THE PRINCIPALITY OF LIECHTENSTEIN AND THE KINGDOM OF NORWAY

SUMMARY

On 4 June 2021, Iceland, Liechtenstein and Norway (the three Member States of the European Free Trade Association that are Parties to the Agreement on the European Economic Area) and the United Kingdom concluded in substance the negotiations on a comprehensive Free Trade Agreement. The UK is a key trading partner for all three EEA EFTA States and this Free Trade Agreement seeks to safeguard as close trade relations as possible following the UK's withdrawal from the European Economic Area.

The EEA EFTA States-UK Free Trade Agreement is an ambitious, progressive and comprehensive free trade agreement which covers the full range of trade in goods, services and investment, digital trade, capital movements, government procurement, intellectual property, competition, subsidies, small and medium sized enterprises, Good regulatory practices and regulatory cooperation, recognition of professional qualifications, trade and sustainable development, as well as legal and horizontal issues including dispute settlement.

Negotiations towards the comprehensive Free Trade Agreement between the two sides commenced in September 2020 and due to a tight timeframe and urgency the negotiations were conducted simultaneously in all respective substance areas, with regular meetings between Chief negotiators. Due to the unprecedented social-distancing measures and travel restrictions during the Covid-19 pandemic, the negotiation teams from the UK, Iceland, Liechtenstein, Norway with support from the EFTA Secretariat, met solely via video conferencing throughout the negotiating period.

CONTENT OF THE AGREEMENT

The Agreement covers the following main subject chapters:

- Preamble
- General provisions
- Trade in goods
- Services and investment
- Digital trade
- Capital movements
- Government procurement
- Intellectual property
- Competition
- Subsidies
- Small and medium sized enterprises
- Good regulatory practices and regulatory cooperation
- Recognition of professional qualifications
- Trade and sustainable development
- Exceptions
- Institutional provisions

- Dispute settlement
- Final provisions

PREAMBLE

The Preamble of the Agreement sets out the framework for the trade relations between the EEA EFTA States and the United Kingdom by reflecting common principles, such as their commitment to democracy, the rule of law, human rights and fundamental freedoms, environmental protection, sustainable development, combatting corruption, and good corporate governance.

GENERAL PROVISIONS

The general provisions Chapter contain provisions on *inter alia* objectives, trade and economic relations governed by this Agreement, and transparency. Furthermore, the Chapter sets out the territorial application of the Agreement. Certain Chapters of the Agreement related to the trade in goods will apply also to the United Kingdom's Crown Dependencies.

TRADE IN GOODS

General Provisions

The agreement ensures continued tariff-free trade for all industrial products, giving exporters continuity and certainty about trading conditions.

For seafood exports to the UK, the agreement offers tariff elimination or tariff quotas that offer meaningfully improved market access for a number of Icelandic and Norwegian exports. The agreement also simplifies the tariff rate quotas for seafood. For agricultural goods the parties have agreed improved market access or tariff rate quotas for a number of products while protecting sensitive products.

The parties commit to reviewing market access for trade in seafood and agricultural goods every five years in order to consult on further liberalisation.

Technical Barriers to Trade

Parts of the WTO Agreement on Technical Barriers to Trade are incorporated into the EEA EFTA – UK Agreement. The Chapter includes principles for the elaboration of technical regulations, standards and conformity assessment procedures, marking and labelling and cooperation on market surveillance. It also provides for technical discussions, cooperation and transparency between the Parties, including a Committee on Technical Barriers to Trade.

The Chapter has five sector-specific annexes with additional provisions on Motor vehicles, Medicinal products, Chemicals, Organics and Trade in wine.

Sanitary and Phytosanitary Measures

This agreement section applies to all SPS measures that may affect trade between the Parties. It affirms the rights and obligations of the parties under the SPS Agreement, as well as setting out

detailed obligations for transparency and exchange of information, notifications and consultations and recognition of plant pest status and regional conditions. The Section includes a no less favourable treatment clause for any sanitary measures agreed between the UK and the EU, as well as a clause on future cooperation between the Parties on sanitary matters. The section also contains provisions regarding cooperation between the Parties on animal welfare, antimicrobial resistance and sustainable food systems.

The Section establishes a Joint Management Committee for Sanitary and Phytosanitary Measures which shall report to and provide recommendations to the Joint Committee. The Joint Management Committee can establish Working Groups to address specific SPS issues.

There are two sector specific annexes to the SPS section. Annex I contains detailed provisions regarding the specific arrangements concerning Sanitary and Phytosanitary Matters. The Annex includes a chapeau explaining the applicability of the provisions for Iceland and Norway in light of their obligations under the EEA Agreement. Annex II concerns future cooperation on sanitary matters and is therefore currently empty.

Customs and Trade Facilitation

The Agreement contains detailed provisions on trade facilitation, including some “WTO plus” provisions. This includes simplification of customs procedures, rapid release of goods and safeguarding predictability and legal rights for the business environment. The Parties further affirm their rights and obligations under the WTO Agreement on Trade Facilitation. The Agreement further contains a Protocol on Mutual Administrative Assistance in Customs Matters with the view to further developing trade facilitation, while ensuring compliance with customs laws and requirements and improving supply chain security in key customs areas.

Trade Remedies

The provisions in the Agreement on Trade Remedies establish disciplines regarding anti-dumping, countervailing and safeguard measures. These provisions are excluded from the Agreement’s dispute settlement Chapter.

As regards anti-dumping and countervailing measures, the Parties pledge to endeavour to refrain from initiating anti-dumping procedures against each other, while also reaffirm their rights under the relevant WTO Agreements. The Agreement also provides for certain disciplines relating to the Parties’ anti-dumping or countervailing investigations.

As regards safeguard measures, the Parties pledge to impose them in a way that least affects bilateral trade, while also reaffirming their rights under the relevant WTO Agreements. A Party intending to take a safeguard measure also commits to provide notification that contains all pertinent information when initiating safeguard investigation and the provisions and/or final findings of a safeguard investigation.

Protocol on Rules of Origin

In a Protocol to the Trade in Goods Chapter the Agreement provides for liberal rules of origin, based on the European models revised “alternative” Pan-Euro Mediterranean Convention rules (PEM). The

provisions allow for full cumulation with the EU as well as extended accumulation with the EU and other European partners and the possibility for extending such provisions to other third parties under certain conditions. The agreement foresees self-declaration of origin as the only proof of origin and allows for the use of electronic signatures for the UK and authorization numbers for EEA EFTA.

The agreement preserves the traditional list of insufficient operations which do not confer origin, accounting segregation may apply to fungible materials, and the non-alteration provisions stipulates activities that may be undertaken for originating products in third countries. The product-specific rules are modern, flexible and allow for simpler product rules, for instance elimination of cumulative requirements, lower thresholds of local value added, new double transformation for textiles (more finishing operations confer origin) and multiple choice rules for chemicals (chemical reactions confer origin).

SERVICES AND INVESTMENT

This state-of-the-art Chapter on Services and investment will allow service providers and investors from both sides to continue to benefit from mutually advantageous market access conditions that are as close as possible to what they previously were under the internal market regime of the EEA. The Services and Investment Chapter covers all modes of supply and reflects wide-ranging market access commitments in negative lists subject to standstill and ratchet in the Annexes.

The core chapter on Services and Investment is complemented by subsections containing specific disciplines on domestic regulatory frameworks of relevance to services and investment, financial services, telecommunications, international maritime transport and the provision of legal services.

DIGITAL TRADE

An ambitious chapter on Digital Trade sets out a common legal framework governing digital trade between both sides. The provisions set out therein take due account of the importance of recent technological developments and contain mechanisms for future collaboration, allowing for a stable and predictable framework for current and future trade relations that increasingly rely on digital flows.

Strong commitments in key areas pertaining to digital trade are complemented by ample safeguards for implementing public policy objectives.

CAPITAL MOVEMENTS, PAYMENTS AND TRANSFERS

The chapter on Capital Movements sets out both sides' understanding on applicable rules underpinning the free movement of capital and payments related to transactions liberalised under the Agreement.

GOVERNMENT PROCUREMENT

The Agreement incorporates the WTO Government Procurement Agreement (GPA) and provides for additional legal security and market access beyond the commitments in the GPA. This section provides for additional reciprocal market access for: utilities and privately owned procuring entities governed by public law, additional services as listed in the agreement and concessions contracts. Limitations or precisions to the market access listed have been included in notes. The Agreement regulates

calculations of threshold and list for transparency reasons contact points and websites with information on jurisprudence and notices of procurement.

The agreement also contains legal requirements beyond the GPA in the following areas: use of electronic means, electronic publication of procurement notices, supporting evidence, conditions for participation, registration systems and qualification procedures, selective tendering, abnormally low prices, facilitating participation of SMEs in procurement, environment, social and labour consideration including a reference to the chapter on trade and sustainable development, modifications and rectifications of market access commitment and further negotiations of market access commitments on a reciprocal basis.

The agreement includes a high level of legal requirements and market access commitments.

INTELLECTUAL PROPERTY

The agreement includes a comprehensive chapter on Intellectual Property Rights (IPR) providing for high standards of protection for, and enforcement of, IPR within the areas, including copyrights and related rights, trademarks, designs, geographical indications and indications of source and country names, patents, protection of undisclosed information. The agreement refers to and, in some areas, exceeds standards set out in key international agreements within the area of IPR such as the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and World Intellectual Property Organization (WIPO) treaties.

With respect to the areas of copyright and related rights, trademarks and designs the agreement sets out detailed standards reflecting the high level of protection granted across the parties and addressing key interest of stakeholders.

With respect to Geographical Indications (GIs), the agreement covers on the one hand agricultural products and foodstuffs originating in the territories of the UK and Iceland and on the other hand it addresses wines, aromatised wines and spirits drinks originating in the territories of Iceland, Norway and the UK. The agreement does not apply to recognition and protection by Norway of GIs for agricultural products and foodstuffs originating in the UK. The agreement is accompanied by three country specific annexes setting out lists of GIs which have been and continue to be protected in the territories of the Parties or are to be protected in said territories following appropriate domestic processes as set out in the Agreement. This section also addresses the important protection of indications of source and country names in line with obligations under the Paris Convention.

The patent section of the agreement is complemented by the parties' commitment to comply with the European Patent Convention.

Under the section on undisclosed information, protection of trade secrets is addressed as well as the protection of data relating to the marketing authorisations of both medicinal products as well as plant protection and biocidal products.

The enforcement section aims at ensuring a high level of protection and addresses a range of civil and administrative enforcement measures which shall be available to right holders and which address key elements of provisional and precautionary measures, injunction and preservation of evidence. Further to that a section on border measures is included applying to trademarks, copyrights and related rights,

geographical indications, patents, utility models, industrial designs, topographies of integrated circuits and plant variety rights.

COMPETITION

The Parties recognise the importance of free and undistorted competition in their trade relations. The Parties acknowledge that anti-competitive business conduct has the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation.

SUBSIDIES

The Parties recognise that subsidies may be granted by a Party when they are necessary to achieve public policy objectives. However, certain subsidies have the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation. In principle, subsidies should not be granted by a Party when it finds that they have or could have a significant negative effect on trade between the Parties.

SMALL AND MEDIUM SIZED ENTERPRISES

In this Chapter the Parties recognise the importance of and seek to enhance the ability of small and medium-sized enterprises (SME), including micro-sized enterprises to take advantage of the Agreement. Each Party shall make information regarding the Agreement and relevant government agencies or authorities and websites, publicly and freely available online. Each Party shall, upon entry into force of the Agreement, promptly designate an SME contact point and notify the other Parties of the contact details. The contact points shall jointly or individually inter alia shall seek to exchange SME-related information, including any matter brought to their attention by SMEs in their trade and investment activities with another Party. The provisions of this Chapter shall not be subject to dispute settlement.

GOOD REGULATORY PRACTICES AND REGULATORY COOPERATION

This Chapter provides for information exchange and cooperation between the Parties regarding the setting of regulations in a transparent manner, including public consultations wherever practicable. Regulatory cooperation is encouraged but voluntary.

RECOGNITION OF PROFESSIONAL QUALIFICATIONS

The Chapter on Recognition of Professional Qualifications establishes a framework to facilitate a transparent and consistent regime for recognition by the Parties. This Chapter applies where the profession is regulated both in the home and host jurisdictions and equally where the profession is only regulated in the host jurisdiction. If access to or pursuit of a regulated profession in the host jurisdiction is contingent upon possession of specific professional qualifications, the relevant authority shall recognise the qualifications of a professional who applies for recognition in the host jurisdiction and possesses comparable qualifications for the same profession in the home jurisdiction.

A relevant authority may only refuse to recognise qualifications for the same profession or require a professional to take an aptitude test where certain conditions are met. Furthermore, the Chapter lays down a procedure for the handling of applications for recognition of professional qualifications.

TRADE AND SUSTAINABLE DEVELOPMENT

The Chapter on trade and sustainable development is divided into five sections: General Provisions, Trade and Labour, Women's Economic Empowerment and Trade, Trade and Environment; and Institutional Mechanisms. This chapter includes elements that have never before been included in FTAs concluded by the EFTA States.

The Parties recognise that economic development, social development and environmental protection are interdependent and mutually reinforcing. The Chapter's general provisions include definitions of labour and environmental laws and affirm the parties right to establish its own level of protection and to adopt or modify laws, regulations and policies in a manner consistent with its international obligations. Parties also commit to encourage a high level of protection and not to encourage trade or investments between the Parties by relaxing or lowering the level of protection or to waive or derogate from these standards or fail to effectively enforce its laws, regulations and standards to encourage trade and investment between the parties. The section also contains commitments with regard to transparency, public information and awareness, scientific and technical information, cooperation, promotion of trade and investment favouring sustainable development, responsible business conduct and anti-corruption.

The Trade and Labour section contains commitments to promote the Decent Work Agenda and to develop and enhance measures for decent working conditions, promote social dialogue among the social partners and with the government, labour enforcement system and non-discrimination and to effectively implement ILO conventions which each party has ratified. The section also includes commitments with regard to non-discrimination and equality in the workplace as well as a provision on access to remedies and procedural guarantees.

In the novel Women's Economic Empowerment section, the Parties acknowledge the importance of the gender perspective in international trade in order to achieve sustainable economic growth and agree to incorporate the gender perspective in the Parties' trade and investment relationships. Furthermore, the Parties to the Agreement agree to effectively implement relevant international agreements to which they are a party and to cooperate in a number of areas. The section is not applicable to the chapter's dispute settlement provisions.

The fourth section contains commitments regarding effective implementation of environmental agreements to which the countries are a party, the sustainable management of forests, including the fight against illegal logging and the promotion of certification schemes. In the article on trade and climate change, the Parties commit to effectively implement the UNFCCC and the Paris Agreement and recognise the importance of trade to contribute to the fight against climate change. Furthermore, the agreement includes thematic articles with regard to air quality, ozone depleting substances, trade and biological diversity, conservation of marine ecosystem and species, trade and sustainable management of fisheries and aquaculture, trade in waste, chemicals and prevention of pollution, and trade and sustainable agriculture and food systems.

This Chapter's Institutional Mechanism establishes a sub-committee on trade and sustainable development, and includes articles on implementation and dispute resolution, consultations and panel proceedings. The result of any consultations and/or a report by a panel will be made public. The parties shall decide upon a mutually satisfactory action plan to implement the final report by the

panel. Stakeholders may be asked for advice both in the consultation phase and at the panel stage, and relevant international organisations may be asked for advice or to provide information in the panel proceedings.

EXCEPTIONS

The Agreement foresees certain exceptions from its provisions, based on the relevant provisions of GATT and GATS, and on national security grounds. Moreover, the Agreement contains an exception for taxation measures.

INSTITUTIONAL PROVISIONS

Under the Chapter on Institutional Provisions a Joint Committee is established, comprising representatives of each Party, to supervise and administer the Agreement and to oversee its further development. The Joint Committee normally meets every year and may amend the Agreement where provided for, and may also consider amending the Agreement in the event of developments in the relations between the EEA EFTA States and the United Kingdom as well as between each of them and third parties relevant to this Agreement. Five sub-committees are established under the Joint Committee: a) Committee on Trade in Goods; b) Technical Barriers to Trade Committee; c) Joint Management Committee for Sanitary and Phytosanitary Measures; d) Committee on Services and Investment; and e) Sub-committee on Trade and Sustainable Development. All sub-committees act by consensus.

DISPUTE SETTLEMENT

The Chapter on Dispute Settlement sets out the rules and procedures applying with respect to the avoidance or settlement of any disputes that may arise between Parties concerning the interpretation or application of the Agreement.

If a dispute may not be solved by amicable resolution under the consultations mechanisms, the complaining party may request the establishment of an arbitration panel composed of three arbitrators. A Party to the Agreement, which is not a party to the dispute, may participate in the consultations and/or arbitration procedure.

FINAL PROVISIONS

The final provisions contain rules on amendments to the Agreement as well as its entry into force. Regarding the entry into force the Agreement, it is subject to national ratification procedures. It will enter into force on a bilateral basis between either of the EEA EFTA States and the United Kingdom that have notified ratification.
