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# **Brexit: Overview, Trade, and Northern Ireland**

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## Brexit: Overview, Trade, and Northern Ireland

The United Kingdom (UK) withdrew from the European Union (EU) on January 31, 2020. Under the withdrawal agreement negotiated by the two sides, the UK continued to apply EU rules during a transition period lasting to the end of 2020. In December 2020, UK and EU negotiators concluded a Trade and Cooperation Agreement (TCA) that sets out terms of the future relationship, including on trade, economic relations, and cooperation on a range of other issues. The agreement left numerous questions and issues unresolved, however, meaning many aspects of the UK-EU relationship may evolve over time and through subsequent negotiations.

### Trade and Economic Impacts

After the transition period, the UK left the EU customs union and regained the ability to pursue an independent national trade policy. The TCA avoids the severe disruption to UK-EU trade that many feared with a *hard Brexit* on World Trade Organization (WTO) terms but does not replicate the far more frictionless trading that occurs in the EU single market. Analysts predict the disruption resulting from Brexit and the adjustment to the new UK-EU trading relationship under the TCA may have a negative economic impact on the UK, at least in the near term; many businesses in the UK have been taking steps to mitigate potential economic losses. In the first few months under the TCA, many UK businesses reportedly have faced supply chain disruptions, customs delays at the border, and other challenges to doing business with the EU. Brexit and the TCA have considerable implications for the UK's trade arrangements with other countries, as well. Since Brexit, the UK has sought agreements with various countries to ensure continuity in its trading relations, which previously were governed under the EU's trade agreements. The UK also is pursuing new trade agreements, including with the United States.

### Northern Ireland

Many observers expressed concerns that Brexit could destabilize the Northern Ireland peace process, especially if it resulted in a *hard border* with physical infrastructure and customs checks between Northern Ireland (part of the UK) and the Republic of Ireland (an EU member state). Conditions in Northern Ireland have improved considerably since the 1998 peace accord (known as the Good Friday Agreement or the Belfast Agreement), but analysts assess that peace and security remain fragile. Concerns about a hard border mostly receded in light of the provisions on Northern Ireland in the UK's withdrawal agreement with the EU. Under the deal, Northern Ireland is to maintain regulatory alignment with the EU (essentially creating a customs border in the Irish Sea) to preserve an open border with the Republic of Ireland while safeguarding the rules of the EU single market.

Some in Northern Ireland argue the post-Brexit arrangements for the region are untenable. Brexit has added to divisions within Northern Ireland, and it poses challenges for Northern Ireland's peace process, economy, and—possibly, in the longer term—its constitutional status as part of the UK. The end of the Brexit transition period has seen some difficulties in trade between Northern Ireland and the rest of the UK. UK-EU tensions over the post-Brexit provisions for Northern Ireland have been exacerbated by a dispute related to EU export controls on Coronavirus Disease 2019 (COVID-19) vaccines that could have impacted Northern Ireland and by the UK's unilateral decision to extend the grace period for regulatory checks on certain goods transferred between Northern Ireland and the rest of the UK.

### U.S.-UK Relations and Congressional Interest

President Biden and top officials in the Biden Administration generally have maintained a skeptical view of Brexit, although many observers expect the Administration to seek pragmatic cooperation with both the UK and the EU. Former President Trump expressed strong support for Brexit. Members of Congress hold mixed views on the merits of Brexit. The UK likely will remain a leading U.S. partner in addressing many foreign policy and security challenges, although Brexit has fueled a debate about whether the UK's global role and influence are likely to be enhanced or diminished. In 2018, the Trump Administration notified Congress, under Trade Promotion Authority, of its intent to negotiate a bilateral free trade agreement (FTA) with the UK after Brexit. The United States and the UK conducted five rounds of negotiations in 2020; although the parties reported progress on numerous fronts, the negotiations remained pending. If the Biden Administration continues the FTA negotiations, Congress may actively monitor and shape them and could consider implementing legislation for any final agreement. The Biden Administration and some Members of Congress also are concerned about Brexit's possible implications for Northern Ireland's peace process, stability, and economic development.

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## Introduction and Issues for Congress

The United Kingdom's (UK's) exit from the European Union (EU), commonly termed *Brexit*, has been a predominant issue in UK politics since 2016. In a June 2016 national referendum, 52% of UK voters favored leaving the EU. In March 2017, the UK officially notified the EU of its intention to leave the bloc and the UK and the EU began negotiations on the terms of the UK's withdrawal.<sup>1</sup> Brexit originally was scheduled to occur in March 2019, but the UK Parliament was unable to agree on a way forward due to divisions over what Brexit should look like and challenges related to the future of the border between Northern Ireland (part of the UK) and the Republic of Ireland (an EU member state). In early 2019, the UK Parliament repeatedly rejected the withdrawal agreement negotiated between then-Prime Minister Theresa May's government and the EU, while also indicating opposition to a *no-deal* scenario, in which the UK would exit the EU without a negotiated withdrawal agreement. (For more information on the period 2017-2020, see CRS Report R45944, *Brexit: Status and Outlook*, coordinated by Derek E. Mix.)

Unable to break the stalemate over Brexit in Parliament, Prime Minister May resigned as leader of the Conservative Party in June 2019. Boris Johnson became prime minister in July 2019, after winning the resulting Conservative Party leadership contest.

In October 2019, EU and UK negotiators concluded a new withdrawal agreement with a renegotiated Protocol on Ireland/Northern Ireland aimed at maintaining an open border on the island of Ireland. Prime Minister Johnson continued to encounter challenges in securing the UK Parliament's approval of the deal, however. In an early election held on December 12, 2019, Johnson's Conservative Party scored a decisive victory, winning 365 out of 650 seats in the UK House of Commons. The result provided Prime Minister Johnson with a mandate to proceed with the withdrawal agreement. The UK and the EU ratified the withdrawal agreement in January 2020, and the UK withdrew from the EU on January 31, 2020.

Under the terms of the withdrawal agreement, the UK continued to apply EU rules during a transition period lasting to the end of 2020, while the two sides worked to negotiate the terms of their future relationship. After the Coronavirus Disease 2019 (COVID-19) pandemic slowed negotiations, disagreements over a number of issues became protracted obstacles to concluding the deal. Amid growing concerns the transition period would end without an agreement on the future relationship, the two sides announced on December 24, 2020, that they had concluded a Trade and Cooperation Agreement (TCA). The UK ratified the TCA on December 30, 2020; the agreement applies provisionally pending final ratification by the European Parliament.

Many Members of Congress have a broad interest in Brexit. Brexit-related developments are likely to have implications for the global economy; U.S.-UK and U.S.-EU political, economic, and trade relations; and transatlantic cooperation on foreign policy and security issues.

In 2018, the Trump Administration formally notified Congress under Trade Promotion Authority of its intent to launch U.S.-UK free trade agreement (FTA) negotiations after the UK left the EU.<sup>2</sup> Congress may consider how Brexit developments affect the prospects for a potential agreement,

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<sup>1</sup> The United Kingdom (UK) notified the European Union (EU) by formally invoking Article 50 of the Treaty on European Union, the legal mechanism under which a member state may withdraw from the EU.

<sup>2</sup> Office of the U.S. Trade Representative (USTR), "Trump Administration Announces Intent to Negotiate Trade Agreements with Japan, the European Union, and the United Kingdom," October 16, 2018.

should the Administration of President Joe Biden continue the negotiations, and could consider implementing legislation for any final agreement.<sup>3</sup>

Some Members of Congress also have demonstrated an interest in how Brexit might affect Northern Ireland.<sup>4</sup> Strong bipartisan support exists in Congress for the Northern Ireland peace process, and successive U.S. Administrations have long viewed the 1998 peace accord—known as the Good Friday Agreement or the Belfast Agreement—as the best framework for achieving lasting peace and reconciliation in Northern Ireland. U.S. officials and many Members of Congress have asserted that Brexit must not damage the Northern Ireland peace process and have expressed support for the Ireland/Northern Ireland protocol amid implementation challenges and other difficulties that have emerged since it took effect in January 2021. For example,

- In April 2019, House Speaker Nancy Pelosi said there would be “no chance whatsoever” for a U.S.-UK trade agreement if Brexit were to weaken the Northern Ireland peace process.<sup>5</sup>
- On December 3, 2019, the House passed H.Res. 585, reaffirming support for the Good Friday Agreement in light of Brexit and asserting that any future U.S.-UK trade agreement and other U.S.-UK bilateral agreements must include conditions to uphold the peace accord.
- S.Res. 117, introduced on March 16, 2021, would express support for the Good Friday Agreement and the Ireland/Northern Ireland protocol, and it would assert that any future U.S.-UK trade or other bilateral agreements must “take into account” whether obligations in the Good Friday Agreement are being met.
- On March 17, 2021, during annual St. Patrick’s Day meetings with officials from the Republic of Ireland and Northern Ireland, President Biden and Vice President Kamala Harris reiterated strong U.S. support for the Good Friday Agreement and conveyed support for the Northern Ireland protocol.<sup>6</sup>

## The Withdrawal Agreement

After taking office in July 2019, Prime Minister Johnson announced his intent to negotiate a new withdrawal agreement with the EU.<sup>7</sup> Johnson’s main goal was to discard the contentious Northern Ireland *backstop* provision, which was the primary reason for the UK Parliament repeatedly rejecting the withdrawal agreement negotiated by Theresa May’s government (see text box on “The Rejected Backstop Provision,” below).<sup>8</sup>

On October 17, 2019, negotiators from the European Commission and the UK government reached a new withdrawal agreement that included a renegotiated Protocol on Ireland/Northern

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<sup>3</sup> See CRS In Focus IF11123, *Brexit and Outlook for a U.S.-UK Free Trade Agreement*, by Shayerah I. Akhtar, Rachel F. Fefer, and Andres B. Schwarzenberg.

<sup>4</sup> See CRS Report R46259, *Northern Ireland: The Peace Process, Ongoing Challenges, and U.S. Interests*, by Kristin Archick.

<sup>5</sup> Simon Carswell, “Pelosi Warns No US-UK Trade Deal If Belfast Agreement Weakened by Brexit,” *Irish Times*, April 15, 2019.

<sup>6</sup> See, for example, the White House, “Readout of Vice President Kamala Harris Meeting with First Minister Arlene Foster and Deputy First Minister Michelle O’Neill of Northern Ireland,” March 17, 2021.

<sup>7</sup> Prime Minister’s Office, “Boris Johnson’s First Speech as Prime Minister: 24 July 2019,” July 24, 2019.

<sup>8</sup> Prime Minister’s Office, “UK Proposals for a New Protocol on Ireland/Northern Ireland,” October 2, 2019.

Ireland.<sup>9</sup> Under the agreement, Northern Ireland remains legally in the UK customs territory but practically in the EU single market and customs union, which essentially creates a customs border in the Irish Sea between Northern Ireland and the rest of the UK. As with the rejected backstop, the purpose of these arrangements is to prevent a *hard border* with physical infrastructure and customs checks on the island of Ireland, thereby helping to protect the peace process and ensuring Brexit does not compromise the rules of the EU single market. The main elements of the protocol, which took effect at the end of the transition period (i.e., the end of 2020), include the following:

- Northern Ireland remains aligned with EU single market regulatory rules, thereby creating an all-island regulatory zone on the island of Ireland and eliminating the need for regulatory checks on trade in goods between Northern Ireland and Ireland.
- Any physical checks necessary to ensure customs compliance are to be conducted at ports or points of entry away from the Northern Ireland-Ireland border, with no checks or infrastructure at this border.
- Four years after the arrangement comes into force, the arrangement's renewal is to be subject to the consent of the Northern Ireland Executive and Assembly (with the conclusion of the transition period at the end of 2020, this vote presumably would take place in late 2024).
- At the end of the transition period (i.e., the end of 2020), the entire UK, including Northern Ireland, left the EU customs union and now conducts its own national trade policy.

Aside from these provisions, the withdrawal agreement replicated most of the main elements from the original agreement reached in November 2018 between the EU and the May government. Both agreements included

- Guarantees pertaining to the rights of the approximately 3 million EU citizens residing in the UK and the approximately 1 million UK citizens residing in the EU;
- A commitment by the UK to pay outstanding budgetary and financial pledges to the EU, likely totaling more than £30 billion (approximately \$42 billion) over the next three decades;<sup>10</sup> and
- A transition period, lasting through 2020, in which the UK was bound to follow all rules governing the EU single market while the two sides negotiated their future relationship and implemented steps needed to effect an orderly separation.

### The Rejected Backstop Provision

The Northern Ireland backstop provision in the original withdrawal agreement concluded in November 2018 between the European Union (EU) and the government of then-Prime Minister Theresa May would have required the United Kingdom (UK) to remain in the EU customs union until the two sides agreed on their future trade relationship. Fearing negotiations with the EU could take as long as 5-10 years, many Members of Parliament strongly opposed the backstop arrangement, viewing it as potentially curbing the UK's sovereignty and limiting the UK's ability to conclude free trade deals.

Like the renegotiated protocol in the final withdrawal agreement, the purpose of the backstop was to prevent a *hard border* with customs and security checks on the island of Ireland and to ensure Brexit would not compromise

<sup>9</sup> See Department for Exiting the European Union, *New Withdrawal Agreement and Political Declaration*, October 19, 2019, at <https://www.gov.uk/government/publications/new-withdrawal-agreement-and-political-declaration>.

<sup>10</sup> Matthew Keep, *Brexit: The Financial Settlement – In Detail*, House of Commons Library, December 30, 2020.

the rules of the EU single market. The EU had proposed a “Northern Ireland-only backstop” in 2018 to address these concerns, largely resembling the eventual Protocol on Ireland/Northern Ireland in the final agreement negotiated by the government of Prime Minister Boris Johnson. In the 2018 agreement, however, the backstop provision ultimately was extended to the entire UK after Prime Minister May backed the Democratic Unionist Party’s (DUP’s) adamant rejection of a Northern Ireland-only provision. The DUP, the largest unionist party in Northern Ireland, was providing parliamentary support to May’s minority government at the time and thus held the balance of power in Parliament, which it sought to wield in ongoing Brexit debates. The DUP contended a Northern Ireland-only backstop would create a regulatory barrier in the Irish Sea between Northern Ireland and the rest of the UK and thus would threaten the UK’s constitutional integrity. The DUP strongly opposes the provisions for Northern Ireland in the final withdrawal agreement, especially the customs border in the Irish Sea, for the same reasons. See the section on “The Irish Border and the Peace Process” for additional details.

## December 2019 UK Election

Prime Minister Johnson hoped to hold a yes or no vote on the renegotiated withdrawal agreement quickly, but Parliament decided to delay the vote, forcing the prime minister to ask the EU for an extension to the negotiation timeline. With the deadline extended until January 31, 2020, Parliament agreed to set an early general election for December 12, 2019.

Many observers came to view a general election that produced a clear outcome as the best way to break the political deadlock over Brexit and provide a new mandate for the winner to pursue Brexit plans. With Brexit the defining issue of the campaign, the Conservative Party won a decisive victory, winning 365 out of 650 seats in the House of Commons, an increase of 47 seats compared with the 2017 election (see **Figure 1**). The opposition Labour Party, unable to present a clear alternative vision of Brexit to the electorate and unable to gain sufficient traction with voters on issues beyond Brexit, suffered a substantial defeat, with the loss of 59 seats.<sup>11</sup> The Scottish National Party, which supports Scotland becoming independent from the UK and joining the EU, gained 13 seats to hold 48 of the 59 constituencies in Scotland. More than 60% of 2016 referendum voters in Scotland had supported remaining in the EU.<sup>12</sup> With the gains made by Johnson’s Conservative Party, Northern Ireland’s staunchly pro-UK Democratic Unionist Party (DUP) lost its outsized influence in Parliament over the Brexit withdrawal agreement.

## Ratification and Departure

The 2019 election outcome put the UK on course to withdraw from the EU by the January 31, 2020, deadline. After the election, the UK government introduced a revised Withdrawal Agreement Bill, the implementing legislation that transposed the withdrawal agreement into UK law, and Parliament adopted the legislation on January 23, 2020.<sup>13</sup> The UK government subsequently ratified the withdrawal agreement. The European Parliament voted its consent to the agreement on January 29, 2020, and the Council of the EU completed the EU’s ratification the following day.<sup>14</sup> On January 31, 2020, the UK concluded its 47-year membership in the EU.

<sup>11</sup> *BBC News*, “General Election 2019: Blair Attacks Corbyn’s ‘Comic Indecision’ on Brexit,” December 18, 2019.

<sup>12</sup> Severin Carrell, “Sturgeon Demands Scottish Independence Referendum Powers After SNP Landslide,” *Guardian*, December 13, 2019.

<sup>13</sup> See UK Parliament, *European Union (Withdrawal Agreement) Act 2020*, at <https://services.parliament.uk/bills/2019-21/europeanunionwithdrawalagreement.html>.

<sup>14</sup> Council of the European Union, “Brexit: Council Adopts Decision to Conclude the Withdrawal Agreement,” January 30, 2020.

**Figure 1. December 2019 United Kingdom (UK) General Election Results**

Party	#of Seats	Net # of Seats +/-	% of Vote
Conservative Party	365	+47	43.6%
Labour Party	203	-59	32.2%
Scottish National Party	48	+13	3.9%
Liberal Democrats	11	-1	11.5%
Democratic Unionist Party	8	-2	0.8%
All Others	15	+2	7.9%

Source: BBC News, “UK Results: Conservatives Win Majority,” at <https://www.bbc.com/news/election/2019/results>.

## The Trade and Cooperation Agreement

With the UK’s formal exit from the EU, an 11-month transition period began, during which the UK continued to follow all EU rules and remained a member of the EU single market and customs union. The withdrawal agreement allowed for a one- or two-year extension of the transition period, but Prime Minister Johnson strongly opposed the idea of an extension and inserted language in the implementing legislation that the transition period would conclude at the end of 2020 without an extension.<sup>15</sup>

During the transition period, the UK and the EU engaged in complex negotiations on the future UK-EU relationship. In keeping with the political declaration accompanying the withdrawal agreement, the two sides sought to discuss “an ambitious, broad, deep, and flexible partnership” centered on the trade and economic relationship but also including “wider areas of cooperation.”<sup>16</sup> The talks were relatively contentious, especially on trade and economic issues, and delays due to the COVID-19 pandemic further slowed progress. By late 2020, negotiations remained stalled by disputes over fishing rights for EU vessels in British waters, the principle of a *level playing field* (due to concerns over potential future UK state aid to British industries), and mechanisms for enforcing the agreement.<sup>17</sup> Observers braced for a potentially chaotic *no-deal* scenario, in which the transition period would end without a new framework for bilateral relations.

<sup>15</sup> Alasdair Sandford, “What Has Changed with Boris Johnson’s New Brexit Bill?” *Euronews*, December 20, 2019.

<sup>16</sup> HM Government, *Political Declaration Setting Out the Framework for the Future Relationship Between the European Union and the United Kingdom*, October 19, 2019, p. 2.

<sup>17</sup> See Chris Morris, “Brexit: What Is a Level Playing Field?” BBC, December 31, 2020, stating, “The level playing field is a trade-policy term for a set of common rules and standards that prevent businesses in one country gaining a competitive advantage over those operating in other countries.” See also European Commission, “Questions and Answers: EU-UK Trade and Cooperation Agreement,” December 24, 2020, stating, “Given their geographic proximity and economic interdependence, the EU and the UK agreed to robust commitments to ensure a level playing field for open and fair competition and to contribute to sustainable development.”



On December 24, 2020, one week before the end of the transition period, UK and EU negotiators concluded an approximately 1,200-page TCA, along with two other accords on nuclear cooperation and the protection of classified information.<sup>18</sup> The UK Parliament approved the TCA at the end of December 2020, and the deal applies provisionally pending a vote on formal ratification by the European Parliament (expected by the end of April 2021).<sup>19</sup>

Although most UK and EU officials, stakeholders, and outside experts regard the TCA as better than a no-deal outcome, the TCA is relatively narrow in scope compared with the comprehensive partnership some observers had envisioned at the start of negotiations. Key elements of the agreement include the following (see the section “Brexit and Trade” for more detailed analysis of economic and trade issues related to the TCA):<sup>20</sup>

- The TCA maintains tariff- and quota-free trade in goods, provided those goods meet certain rules-of-origin criteria. It does not include mutual recognition of product standards.
- Although the agreement contains some trade-facilitation measures that streamline the customs process, it does not waive customs requirements or cabotage rules, nor does it prevent new trade barriers in the form of regulatory and customs checks.
- Compared with its treatment of trade in goods, the agreement addresses trade in services in a more limited fashion. It does not include mutual recognition of professional qualifications.
- Although both sides reserve the right to set their own policies and priorities on subsidies, environmental protection, and labor rules, regulatory divergence by the UK could lead to the imposition of tariffs by the EU (and vice versa under level-playing-field commitments).
- The agreement left decisions on equivalency for financial services and data protection for a later date. (On February 19, 2021, the European Commission released two draft adequacy decisions finding the UK ensures a level of personal data protection equivalent to that provided under EU law to permit the continued transfer of personal data between the UK and the EU in the commercial and law enforcement sectors. If approved by the EU member states, the decisions would apply for a period of four years, subject to renewal.<sup>21</sup>)
- The TCA establishes frameworks for cooperation on energy, fisheries, aviation, and road transport.
- The agreement establishes a framework for law enforcement and judicial cooperation but not for foreign policy or defense cooperation.

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<sup>18</sup> See European Commission, Trade and Cooperation Agreement Between the European Union and the European Atomic Energy Community, of the One Part, and the United Kingdom of Great Britain and Northern Ireland, of the Other Part, December 31, 2020, at [https://ec.europa.eu/info/publications/eu-uk-trade-and-cooperation-agreement\\_en](https://ec.europa.eu/info/publications/eu-uk-trade-and-cooperation-agreement_en) (hereinafter cited as Trade and Cooperation Agreement).

<sup>19</sup> See UK Parliament website, European Union (Future Relationship) Act 2020, at <https://services.parliament.uk/Bills/2019-21/europeanunionfuturerelationship.html>; and Reuters, “EU to Seek Until April 30 to Ratify Brexit Deal,” February 10, 2021.

<sup>20</sup> Stefano Fella et al., *The UK-EU Trade and Cooperation Agreement: Summary and Implementation*, House of Commons Library, December 30, 2020.

<sup>21</sup> European Commission, “Data Protection: European Commission Launches Process on Personal Data Flows to UK,” February 19, 2021.

- The two sides agree to review the TCA every five years, and either side can terminate the agreement with 12 months' notice.

Analysts observe that the TCA reflects the UK government's prioritization of reclaiming sovereignty over maintaining economic integration with the EU.<sup>22</sup> The agreement satisfies a number of objectives promoted by Brexit advocates:

- **Ending the free movement of people.** Maintaining more seamless ties with the EU single market likely would have required the UK to continue granting EU citizens the right to freely enter, reside, and work in the UK. Reciprocal treatment of member states' citizens is one of the fundamental principles of the EU. The UK government viewed ending the free movement of people as essential to regaining sovereignty over immigration policy. Under the TCA, guarantees of certain rights apply to those with preexisting residency status, and EU citizens may continue to apply for residency in the UK. (Brexit also introduced new requirements for UK citizens living in EU member states to apply for residency or work authorizations in those countries.)
- **Freedom from EU rules.** Although the UK agreed to maintain the principles of a level playing field, full departure from the EU single market and customs union frees the UK to set its own national regulations and conduct its own national trade policy. The UK may choose to diverge from the EU where advantageous, but doing so could have consequences for UK-EU trade and economic relations, potentially including the imposition of tariffs by the EU.

**Freedom from EU courts.** With the end of the transition period, most decisionmaking in the UK is no longer subject to the jurisdiction of the Court of Justice of the European Union (CJEU). A UK-EU Partnership Council oversees the operation of the TCA, with decisions made by mutual consent and an independent arbitration tribunal handling dispute settlement. European courts have no role in settling disputes over the TCA. Failure to comply with an arbitration decision could result in economic retaliation or partial suspension of the agreement.

The UK is not completely clear of the CJEU, however. The court retains jurisdiction over the interpretation and application of the operational elements of the withdrawal agreement, including citizens' rights issues and the Protocol on Ireland/Northern Ireland. The CJEU also retains jurisdiction over any cases pending before the end of the transition period, including appeals, and the withdrawal agreement gives the EU four years from the end of the transition period to bring cases against the UK for infringements alleged to have occurred during the transition period.<sup>23</sup>

## UK-EU Relations Post-Transition

The TCA's relatively limited scope means continued negotiations about unresolved issues may be a feature of UK-EU relations for years to come. Negotiations may seek to adjust or deepen

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<sup>22</sup> Charles Grant, *Ten Reflections on a Sovereignty-First Brexit*, Centre for European Reform, December 28, 2020.

<sup>23</sup> Sylvia de Mars, *Brexit Next Steps: The Court of Justice of the EU and the UK*, House of Commons Library, February 7, 2020.

aspects of the TCA or aim to establish a framework for areas not covered in the agreement. Analysts note there is no guarantee the relationship will develop a deeper and more robust formal framework;<sup>24</sup> the two sides may choose not to expand upon the foundation established by the TCA, or tensions in the UK-EU relationship could limit cooperation.

In December 2020, UK and EU officials reached agreement on how to apply the provisions of the Protocol on Ireland/Northern Ireland at the end of the transition period.<sup>25</sup> Since the protocol took effect on January 1, 2021, some implementation difficulties have affected trade between Northern Ireland and the rest of the UK. Such difficulties, combined with a dispute over abandoned EU plans to restrict COVID-19 vaccine exports to Northern Ireland, have given rise to significant UK-EU tensions, which have put pressure on the post-Brexit arrangements for Northern Ireland (see section on “The Irish Border and the Peace Process” for more information).

In response to a unilateral decision by the UK in March 2021 to extend the grace period for regulatory checks on certain goods transferred between Northern Ireland and the rest of the UK, the EU launched a formal process accusing the UK of breaching the withdrawal agreement.<sup>26</sup> If not resolved by negotiation, the process could end up in the CJEU for a ruling or move to binding arbitration under the withdrawal agreement’s dispute settlement mechanism. A ruling against the UK in either forum could result in a financial penalty. If the EU determines the process has failed to bring the UK into compliance with the withdrawal agreement, it could suspend some of its obligations under the agreement, suspend parts of the TCA (and impose tariffs on the UK), or delay a decision on financial services equivalency.<sup>27</sup>

## Brexit and Trade

Brexit introduced significant changes to the UK-EU trade and investment relationship, previously anchored in the UK’s participation in the EU customs union and single market and the EU’s exclusive responsibility for trade policy outside of the EU. In 2019, the UK was the second-largest economy among EU member states, comprising 15.3% of the bloc’s gross domestic product (GDP), after Germany (20.9% of GDP), the bloc’s largest economy, and ahead of France (14.7% of GDP), the third-largest economy. The EU, as a bloc, remains the UK’s largest trading partner; by country, the United States is its largest (see **Figure 2**). UK-EU trade is highly integrated through supply chains and trade in services, as well as through foreign affiliate activity of EU and UK multinational companies.

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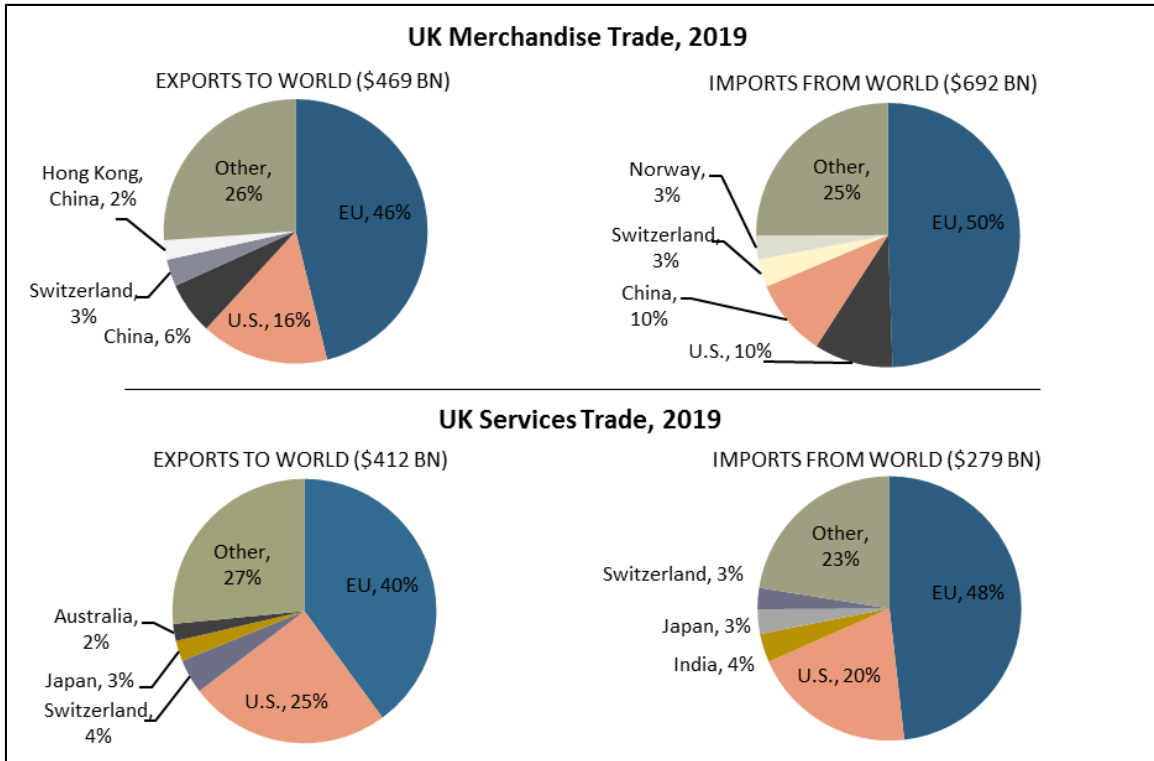
<sup>24</sup> Sam Lowe, “The EU-UK Trade and Co-operation Agreement: A Platform on Which to Build?”, Centre for European Reform, January 12, 2021.

<sup>25</sup> Jess Sargeant and Maddy Thimont Jack, “Northern Ireland Protocol: Agreement in the UK–EU Joint Committee,” Institute for Government, December 14, 2020.

<sup>26</sup> European Commission, “Withdrawal Agreement: Commission Sends Letter of Formal Notice to the United Kingdom for Breach of Its Obligations Under the Protocol on Ireland and Northern Ireland,” March 15, 2021.

<sup>27</sup> John Campbell, “Brexit: EU Legal Action Imminent over UK Extension to Grace Periods,” *BBC News*, March 5, 2021; and Philip Blenkinsop, “Explainer: How the EU Will Respond to Britain’s Northern Ireland Move,” Reuters, March 5, 2021.

**Figure 2. UK World Trade**



**Source:** Congressional Research Service (CRS), based on World Trade Organization (WTO), *Trade Profiles 2020*.

**Note:** Figure may not sum to 100% due to rounding.

## UK-EU Trade Relations Under the Trade and Cooperation Agreement

At the end of the post-Brexit transition period, the UK left the EU single market and customs union, shedding its rights and obligations as an EU member state. The UK regained control over its national trade policy and became free to conclude its own international trade agreements. UK-EU trade now is governed on a provisional basis by the TCA. Many firms, facing years of uncertainty after the Brexit referendum, expressed relief that the TCA appeared to avoid the severe trade and economic disruption that many observers say would have been expected from a *hard Brexit* on World Trade Organization (WTO) terms.

The TCA covers market access and rules for trade in goods, services, agriculture, government procurement, investment, and energy and transportation; trade-related rules on data flows, intellectual property rights (IPR), and other areas; regulatory cooperation; sustainable development standards; and other issues. The agreement is enforceable through binding dispute settlement and governed by an institutional framework. It includes exceptions, limitations, and transition periods, and it leaves a number of issues open-ended for future discussions. A separate protocol in the withdrawal agreement governs trade between the EU and Northern Ireland (see the section “Brexit and Northern Ireland,” below). TCA commitments in certain areas are summarized below.

**Goods.** The TCA gives the UK and the EU tariff-free, quota-free access to each other’s markets for trade in goods, including agricultural products. It provides greater nondiscriminatory trade

liberalization than if the UK and the EU used WTO-only terms; the UK avoids incurring EU tariffs on UK exports that would have been, on average, 11.4% and 4.2% for agricultural and nonagricultural products, respectively, and higher in certain sectors.<sup>28</sup> The TCA does not fully replicate trading within the EU single market. Under the rules of origin, only goods of UK or EU origin (based on detailed TCA requirements regarding how much of a good is obtained, produced, or processed in the exporting country) benefit from tariff-free access. Critical for the integrated nature of UK-EU trade, the TCA allows for *bilateral cumulation*, meaning UK exports can count EU inputs to gain *originating* status and vice versa.<sup>29</sup> Many businesses in the UK still face tariffs in their trade with the EU due to the nature of their supply chains; a business that imports products from Asia, for instance, and then reexports them to the EU with little or no processing faces tariffs in both directions.<sup>30</sup> Brexit introduced new licensing requirements, border checks, and regulatory compliance requirements, some of which the TCA aims to simplify with various provisions.

Although UK regulatory frameworks have been aligned with the EU for many years, Brexit makes the UK a *third country* from the EU perspective. The EU makes determinations on whether UK measures comply with corresponding EU regulatory frameworks. Even if the determination is positive, the EU can revoke it at any time; such revocations might disrupt UK-EU trade. The TCA does not include mutual recognition of *conformity assessments*; thus, in general, manufactured goods for sale in UK and EU markets must undergo separate checks by product regulators in each jurisdiction. The agreement includes limited commitments to streamline conformity assessments in certain sectors: autos, medicinal products, chemicals, organic products, and wine.

**Agriculture.** In contrast to goods overall, the TCA has limited provisions on agricultural trade. Nearly two-thirds of UK agricultural trade is with the EU, based on highly integrated supply chains. Without the TCA, products such as “beef, dairy, poultry, pork, lamb, cereals, sugar and several processed foodstuffs could have faced tariffs of some 50% or above” under WTO rates.<sup>31</sup> The TCA does not include any assessment by the EU of the UK’s sanitary and phytosanitary (SPS) regime for the purpose of listing it as a third country allowed to export food products to the EU. The agreement could impact agricultural trade between the UK and the EU. Each side will be subject to different regulatory, legal, and customs regimes related to SPS and other technical standards.<sup>32</sup> UK-EU agricultural trade also may be subject to two different kinds of regimes on geographical indications (see “Intellectual Property Rights (IPR)” subsection, below).

**Services and Investment.** The TCA’s treatment of services, which have comprised around 80% of the UK’s GDP and half of its exports, also is more limited than its treatment of goods.<sup>33</sup> The deal leaves a number of services trade issues open for future UK-EU discussion, such as in financial services and cross-border data flows (see “Trade and Cooperation Agreement and

<sup>28</sup> These tariff rates are 2019 simple average most-favored-nation (MFN) applied tariff rates. World Trade Organization, EU Tariff Profile.

<sup>29</sup> The Trade and Cooperation Agreement (TCA) does not include *diagonal cumulation*, which would have allowed inputs sourced from third countries with which both the UK and the EU have a trade agreement to count toward originating status (e.g., components sourced from Japan for UK auto exports to the EU).

<sup>30</sup> Stanley Reed, “Red Tape Due to Brexit Threatens UK Firms,” *New York Times*, January 19, 2021; and Jonathan Eley and Daniel Thomas, “UK Retailers Stumped by Post-Brexit Trade Deal with EU,” *Financial Times*, January 7, 2021.

<sup>31</sup> European Union, *Questions & Answers: EU-UK Trade and Cooperation Agreement*, December 24, 2020.

<sup>32</sup> European Commission, *The EU-UK Trade and Cooperation Agreement*, December 31, 2020, at [https://ec.europa.eu/info/relations-united-kingdom/eu-uk-trade-and-cooperation-agreement\\_en](https://ec.europa.eu/info/relations-united-kingdom/eu-uk-trade-and-cooperation-agreement_en).

<sup>33</sup> Ilze Jozepa, Matthew Ward, and Daniel Harari, *Trade in Services and Brexit*, UK Parliament, House of Commons Library, December 20, 2019.

Selected UK Economic Sectors” section, below). For services and investment, in general, UK and EU commitments in the TCA build on WTO rules and are common to other EU trade agreements, including on market access and nondiscriminatory treatment.

**Government Procurement.** The UK and the EU each committed to providing the other’s suppliers transparent, nondiscriminatory access to government procurement opportunities in its market, building on the WTO Government Procurement Agreement.<sup>34</sup> They also agreed to additional market access in certain sectors, including “the gas and heat distribution sector; private utilities that act as a monopoly; and a range of additional services in the hospitality, telecoms, real estate, education and other business sectors.”<sup>35</sup> A UK government summary of the TCA states that the deal “ensures that the UK can maintain a separate and independent procurement regime and will enable the Government to enact reform of our system.”<sup>36</sup>

**Intellectual Property Rights (IPR).** The TCA commits both sides to continue to uphold high standards of IPR protection and enforcement, including and, in many cases, exceeding multilateral IPR commitments. The UK’s summary document states that the TCA “retains regulatory flexibility” to allow the UK to develop an intellectual property system based on its “domestic priorities.”<sup>37</sup> For geographical indications (GIs), which protect distinctive products from a certain region and apply primarily to agricultural products, the UK and the EU agreed to protect each other’s GIs that existed as of December 31, 2020, under each side’s own GI scheme. The UK and the EU did not agree to a common GI framework but, per a TCA review clause, “may jointly use reasonable endeavor to agree [to] rules” for GI protection and domestic enforcement.

**Labor and the Environment.** The two sides committed to minimum standards on labor and social standards and on the environment and climate change. They pledged not to lower these standards in a manner affecting trade and investment. According to the UK summary of the TCA, the agreement allows each side regulatory freedom in these areas (subject to level-playing-field provisions; see next subsection).<sup>38</sup>

**Level Playing Field.** To try to ensure “level playing field for open and fair competition and sustainable development,” the TCA includes a unique *rebalancing mechanism*. This rebalancing mechanism allows each side to reduce market access unilaterally if it assesses that the other side’s actions in such areas as labor, the environment, and social issues, as well as state aid, result in subsidies that create market distortions.<sup>39</sup> A joint UK-EU arbitration panel then would decide whether the tariffs imposed could remain. This mechanism may let the UK diverge from EU rules, while allowing the EU to protect the integrity of the single market.

**Dispute Settlement.** The TCA is governed by an institutional framework and enforced through binding government-to-government dispute settlement. The TCA does not include any specific mechanism to resolve investor-state disputes apart from the TCA’s main dispute settlement

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<sup>34</sup> Economist Intelligence Unit (EIU), *Brexit: Risk and Resilience for Business*, January 20, 2021 (hereinafter cited as EIU, *Brexit: Risk and Resilience*).

<sup>35</sup> UK Government, *UK-EU Trade and Cooperation Agreement: Summary*, December 2020 (hereinafter cited as UK Government, *TCA Summary*).

<sup>36</sup> UK Government, *TCA Summary*.

<sup>37</sup> UK Government, *TCA Summary*.

<sup>38</sup> UK Government, *TCA Summary*.

<sup>39</sup> UK Government, *TCA Summary*.

mechanism. In addition, certain commitments, such as on labor and the environment, are not governed by this main dispute settlement but rather by a “panel of experts” process.

## Impact on UK Economy and Trade

Brexit’s impact on the UK’s economy and trade continues to evolve. In 2016, after the Brexit referendum, the British pound fell to a record low and inflation grew, while real wages declined.<sup>40</sup> Concerns emerged about widespread harm to the UK economy from Brexit. Doomsday fears have largely abated, but prolonged uncertainty over Brexit appears to have affected the UK economy. In 2018 and 2019, the UK economy saw its lowest annual growth rate (1.3%) since 2012 (1.5%), amid challenges of weak business investment, productivity, and income growth.<sup>41</sup> Facing the effects of both Brexit and the COVID-19 pandemic, the UK economy shrank by 10.0% in 2020, the largest contraction of any of the G-7 countries.<sup>42</sup>

Business surveys indicate uncertainty over Brexit has led some firms to scale back investments in the UK. The UK reported a net decline in inward foreign direct investment (FDI) for three successive years (2017-2019).<sup>43</sup> The UK continues to have other features that may be attractive to foreign investors.<sup>44</sup> How the TCA may affect business investment remains to be seen.

### Brexit’s Impact on the UK Economy: Studies and Estimates

Various studies have sought to estimate Brexit’s likely impact on the UK economy. These studies use different methodologies and make different assumptions about Brexit outcomes. Estimates vary, but most studies project the UK will be worse off economically due to Brexit. Most analyses also predict that, even with a UK-EU trade deal, the UK’s economic growth will be lower in the long term than it would have been if the UK had remained in the EU—though not as low as it would have been without a deal, in which case the UK and the EU would have reverted to World Trade Organization terms of trade.

Some analysts expect negative consequences of Brexit to emerge from higher costs of trade; even with the elimination of tariffs under the Trade and Cooperation Agreement (TCA), nontariff barriers (in the form of greater administrative, technical, and regulatory barriers to trade) raise the costs of UK trade with the EU. Increased trade costs may translate into reduced trade volumes and also may affect foreign direct investment. In turn, productivity may be adversely affected. Costs may be passed to consumers through higher prices for goods and services and potentially a smaller selection.

The impact of Brexit, and the TCA, may vary over time. In some cases, the changes to the UK-EU trading relationship may result in short-term shocks and disruptions that abate in the longer term as businesses adjust their supply chains and operations; in other cases, it may take time for the impacts, costs, and benefits of the TCA to emerge. Brexit’s impact on economic growth and output also may vary based on sector (see “Trade and Cooperation Agreement and Selected UK Economic Sectors” section). Some studies estimate there may be gains from Brexit—potentially in the form of deregulation, to the extent it is politically feasible—but the scope may be limited.

**Sources:** See, for example, Organization for Economic Cooperation and Development, *The Economic Consequences of Brexit: A Taxing Decision*, April 2016; Daniel Harari, *End of Brexit Transition Period: Economic Impact*, UK House of Commons, December 18, 2020; and Bank of England, *Monetary Policy Report – February 2021*, February 4, 2021.

<sup>40</sup> Jonathan Portes, “Macroeconomic Outlook,” in *Brexit and Beyond, UK in a Changing Europe*, January 19, 2021, p. 101.

<sup>41</sup> International Monetary Fund (IMF), *World Economic Outlook*, October 2020.

<sup>42</sup> IMF, *World Economic Outlook Update*, January 2021; and Jason Douglas and Andrew Barnett, “British Economy, Post-Brexit and Pummelled by Covid, Is Worst in G-7,” *Wall Street Journal*, January 25, 2021.

<sup>43</sup> Matthew Ward, “Foreign Direct Investment Statistics,” UK Parliament, House of Commons Library, December 23, 2020.

<sup>44</sup> The UK ranked 8 out of 190 countries on ease of doing business. World Bank Group, *Doing Business 2020*, 2020.

For nearly five years, with the approach of each new deadline in the Brexit negotiations, many businesses in the UK have been taking contingency measures to prepare for trade disruptions—expected whether the outcome was a hard Brexit or a UK-EU trade deal. Some companies in the UK have reportedly been stockpiling food, medicine, and auto parts and making arrangements for additional warehouse space to address potential backlogs at the border, as well as of financial and other companies restructuring operations (see “Financial Services” subsection below in “Trade and Cooperation Agreement and Selected UK Economic Sectors” discussion).

The TCA reduced some economic uncertainty and increased business confidence, but the full implications of the deal—with its exceptions, limitations, and transition periods—will take time to become fully apparent. The first few months of “full Brexit” were marked by reports from many businesses in the UK of supply chain disruptions, customs checks delays, and other challenges to trading with the EU—in some cases, alongside ongoing trade constraints due to the pandemic.<sup>45</sup> The UK Office of National Statistics (ONS) reported that, compared with December 2020, in January 2021, UK exports to the EU declined by 40.7% and UK imports to the EU declined by 28.8%.<sup>46</sup> These are the first UK data to include UK trade after the transition period ended. The period also coincides with a national lockdown that went into effect on January 6, 2021. ONS notes that caution should be taken when making comparisons of short-term trade movements.

The UK government previously estimated the deal would result in 215 million customs declarations each year, totaling £7 billion (approximately \$9.6 billion) in costs.<sup>47</sup> Due to new customs paperwork requirements, French-Irish trade that previously would have used a more direct UK “land bridge” through Northern Ireland has been diverted to sea routes, increasing activity at French and Irish ports.<sup>48</sup> Some companies, especially small businesses, have reported struggling to navigate new customs requirements.<sup>49</sup>

The Johnson government has likened the disruption to “teething problems” as the UK adjusts to operations outside of the EU and has sought to provide guidance to affected businesses.<sup>50</sup> Some businesses, however, have expressed concerns about further disruptions in the coming months as various TCA grace periods expire and the deal’s full implications become clearer.

Brexit’s long-term impacts on the UK economy and trade depend on a number of factors, including how the TCA is fully implemented and how outstanding issues under the TCA are resolved, as well as the UK’s ability to conclude other new trade deals with countries outside of the EU. Given that aspects of the TCA and the overall agreement are subject to future discussion

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<sup>45</sup> See, for example, *Politico*, “5 Ways Brexit Got Real,” January 6, 2021; David Milliken and William Schomberg, “UK Factories Fear Shortage of Materials as COVID and Brexit Hit,” Reuters, January 21, 2021; Jill Lawless, “Post-Brexit Trade Frustration Rises; Some Companies Experience ‘Significant Disruption,’ but British Government Likens Problems to ‘Teething,’” *Los Angeles Times*, February 4, 2021; and Make UK, “Manufacturers Face Disruption as New EU-UK Arrangements Kick In,” January 2, 2021.

<sup>46</sup> UK Office for National Statistics, “UK Trade: January 2021,” March 12, 2021.

<sup>47</sup> Pan Pylas, “What Now for British Economy with UK-EU Trade Deal Reached?,” Associated Press, December 5, 2020.

<sup>48</sup> Victor Mallett and Arthurs Beesley, “Brexit Trade Disruption Fuels Boom at French and Irish Ports,” *Financial Times*, February 15, 2021.

<sup>49</sup> Make UK, “Govt Urged to Address Border Delays and Red Tape as Survey Shows Widespread Disruption,” January 2, 2021; and Catherine Erdly, “Brexit Bites for Small Businesses: Reality Hits as Retailers Grapple with New Rules,” *Forbes*, January 11, 2021.

<sup>50</sup> William Schomberg, “Johnson Says Lots of Teething Problems, Employers Fear Worse to Come,” Reuters, January 28, 2021.



and review, the UK and the EU could agree to further trade liberalization at some point. To the extent that businesses adapt to the current trading terms, the benefits of any future UK-EU trade liberalization could be limited.<sup>51</sup> The limited treatment of some issues in the TCA, and maintenance of trade frictions introduced by Brexit, may allow the UK more flexibility in its national policies and in trade negotiations with other countries. How the UK approaches regulatory issues may have differing impacts on businesses, depending on businesses' integration with the EU, comparative advantage, and other factors.<sup>52</sup> New UK trade deals could boost economic growth, but potentially not by enough to offset the loss of the UK's membership in the EU single market.

## Trade and Cooperation Agreement and Selected UK Economic Sectors

The economic impact of Brexit and the TCA may vary across UK economic sectors, industries, and firms.<sup>53</sup> Those industries and sectors with stronger trade and investment links with the EU, including those that are significantly integrated with EU production and supply chains or labor, likely will be more affected than others. Certain sectors, industries, and firms may be more resilient than others in the face of changing UK-EU trade dynamics, for instance, to the extent that they have flexibility to adjust their operations or business models or additional growth markets outside of the EU. Likewise, certain sectors, industries, and firms that have benefited from UK-EU regulatory alignment may face additional costs to the extent that the UK and the EU diverge in regulations and standards going forward; for others, future regulatory divergence may result in productivity gains. TCA provisions for selected UK economic sectors are highlighted below.

**Autos.** As a bloc, the EU is the UK's largest trading partner for motor vehicles and parts.<sup>54</sup> The UK auto sector uses *just-in-time production*, which has relied on the free flow of trade in component parts between the UK and the EU.<sup>55</sup> With the TCA, the UK avoids EU tariffs that would have been 10% on autos. The TCA includes a phase-in period for auto rules of origin.<sup>56</sup> The TCA commits each side to accept the other's "valid UN type-approval certificate as compliant with its domestic technical regulations, markings and conformity assessment procedures, without requiring any further testing or marking to verify or attest compliance with

<sup>51</sup> Philip Stafford, Camilla Hodgson, and Chris Giles, "London Unlikely to Regain Lost EU Share Trading, Warn City Figures," *Financial Times*, January 6, 2021; and William Wright, "Brexit & the City: Some Initial Reflections," *New Financial*, January 2021.

<sup>52</sup> EIU, *Brexit: Risk and Resilience*.

<sup>53</sup> See, for example, Gemma Tetlow and Alex Stojanovic, *Understanding the Economic Impact of Brexit*, Institute for Government, November 2018; Jiaqian Chen, "The Uneven Path Ahead: The Effect of Brexit on Different Sectors in the UK Economy," *IMF Blog*, IMF, December 4, 2018; and EIU, *Brexit: Risk and Resilience*.

<sup>54</sup> By country, the United States is the UK's largest export market for motor vehicles (22%) and Germany is the UK's largest import source (34%). See Matthew Ward, *Geographical Pattern of UK Trade*, House of Commons Library, November 25, 2020; and European Automobile Manufacturers Association, "EU-UK Automobile Trade: Facts and Figures," March 2020.

<sup>55</sup> Automotive News Europe, "Automakers Warn Millions of Jobs at Risk in No-Deal Brexit," Reuters, September 23, 2019; and European Automobile and Manufacturers Association, "Brexit and the Auto Industry: Facts and Figures," March 2019.

<sup>56</sup> Japanese automaker Nissan announced it would be shifting production of batteries for certain electric cars that it manufactures from Japan to an existing factory in the UK, in light of the TCA's rules of origin for autos.

any requirement covered by the UN type approval certificate concerned.”<sup>57</sup> The TCA also has cooperation and information-sharing provisions for autos, such as on future technical regulations and standards.

**Chemicals.** For trade in chemicals, the EU accounts for the majority of UK exports and imports.<sup>58</sup> With the TCA, the UK avoids tariffs that would have been up to 6.5% on chemical exports to the EU. Post-Brexit, the UK is no longer a part of the European Economic Area regulatory framework known as REACH (Registration, Evaluation, Authorisation, and Restriction of Chemicals Regulation). The UK opted to set up its own regulatory regime for chemicals (UK-REACH).<sup>59</sup> To maintain access, UK and EU companies now must register in both markets.<sup>60</sup> The UK and the EU committed to implementing guidelines issued by specified international organizations and bodies, as well as to facilitating the exchange of nonconfidential information.

**Data Flows.** The TCA does not fully address the treatment of cross-border data flows, which underpin UK-EU services trade.<sup>61</sup> Potential blockage of or constraints on data transfers could have implications for UK companies seeking to transfer personal data out of the EU—including not only technology companies but also businesses in other industries.<sup>62</sup> Although UK regulatory frameworks for data protection and flows currently align with those of the EU, the EU delayed a final decision on whether the UK provides adequate personal data protection. On February 19, 2021, the European Commission published a draft adequacy decision concluding “that the UK ensures an essentially equivalent level of protection to the one guaranteed under the General Data Protection Regulation,” which governs the transfer of personal data in the EU and regulates the transfer of data to countries outside the EU.<sup>63</sup> For the draft decision to come into force, the EU member states would need to approve it. The adequacy decision would be valid for four years and then would be subject to review and potential renewal, leaving a level of uncertainty.

**Financial Services.** Financial services account for about 7% of UK GDP, 1 million jobs, and 21% of UK services exports to the EU.<sup>64</sup> The TCA does not fully address continued access to the EU market for financial services firms in the UK. Previously, UK firms had access through a *passporting* right that allows financial services firms established and authorized in one EU member state to apply for the right to provide certain defined services throughout the EU or to open branches in other countries with relatively few additional requirements (including not having to establish legally separate subsidiaries). The UK and the EU aim to establish a framework for cooperation by March 2021. Absent alternative arrangements, continued trade in financial services may require UK and EU businesses to restructure their operations.<sup>65</sup> The UK

<sup>57</sup> Trade and Cooperation Agreement, p. 514.

<sup>58</sup> Georgina Hutton, *Brexit and Chemicals Regulation (REACH)*, House of Commons Library, September 19, 2019. Hereinafter, Hutton, *Brexit and Chemicals Regulation (REACH)*.

<sup>59</sup> Hutton, *Brexit and Chemicals Regulation (REACH)*.

<sup>60</sup> Stanley Reed, “For One British Industry, Brexit’s Red Tape Is Just Beginning,” *New York Times*, January 27, 2021.

<sup>61</sup> CRS In Focus IF10896, *EU Data Protection Rules and U.S. Implications*, by Rachel F. Fefer and Kristin Archick.

<sup>62</sup> Mehreen Khan, Jim Pickard, and Janina Conboye, “No-Deal Brexit: How Prepared Are the UK and the EU?,” *Financial Times*, July 31, 2019.

<sup>63</sup> European Commission, “Data Protection: European Commission Launches Process on Personal Data Flows to the UK,” press release, February 19, 2021. Following the issuance of the draft decision, a process is taking place for its continued consideration. Adoption of the adequacy decision requires the European Commission’s approval.

<sup>64</sup> Georgina Hutton and Ali Shalchi, *Financial Services: Contribution to the UK Economy*, House of Commons Library, February 2021; and Matthew Ward, *Statistics on UK-EU Trade*, House of Commons Library, November 10, 2020.

<sup>65</sup> Silla Brush and Alexander Weber, “London’s Fight to Remain a Financial Hub After Brexit,” *Washington Post*, July 3, 2019.

previously granted equivalence to a wide range of EU financial services. The EU, which granted time-limited equivalence to the UK for derivatives clearing (18 months) and settling Irish securities (6 months) in November 2020, has said it needs more clarification on UK plans to diverge from EU regulations before it can consider granting further equivalence.<sup>66</sup> By one estimate, financial companies, for instance, reportedly have shifted 7,500 employees and \$1.6 trillion in assets from the UK to other parts of Europe as part of Brexit contingency planning, with more shifts expected to occur.<sup>67</sup> Primary destinations in Europe for financial services firms include Amsterdam, Dublin, Frankfurt, and Paris.<sup>68</sup> Since the conclusion of the transition period, trading in stocks and derivatives worth billions has shifted from London to cities such as Amsterdam, Paris, and New York. Amsterdam, for instance, has overtaken London to be Europe's largest share trading center for euro-denominated stocks, due to EU restrictions on the trading of these shares.

**Professional Services.** The EU is the UK's largest trading partner for business services.<sup>69</sup> The UK is no longer a part of the EU recognition regime that "allowed professionals such as doctors, nurses, dental practitioners, pharmacists, veterinary surgeons, lawyers, architects, or engineers to supply services" across the EU under simplified, and in some cases automatic, procedures. The TCA lacks automatic mutual recognition of professional qualifications. It allows for the possibilities of professional bodies moving toward mutual recognition in specific sectors and of recognition of professional qualifications between the UK and individual EU member states.

## Global Britain

Since the referendum, the UK government has championed a notion of *Global Britain*, initially under the May government and now under the Johnson government. The idea of Global Britain promotes the UK's renewed engagement in a wide range of foreign policy and international issues, with trade as a significant aspect of the broader concept. Global Britain envisages, among other things, an outward-looking UK strengthening trade linkages around the world.<sup>70</sup> For Brexit supporters, a major rationale was for the UK to regain a fully independent trade policy, which would allow the UK to tailor agreements to its specific interests. The UK now has less leverage in trade negotiations than it did when negotiating as a part of the EU, given the UK's smaller economic size relative to the EU bloc, and could risk losing market access to the EU if the UK significantly diverges from EU rules.

Seeking continuity and strength in its trade ties after Brexit, the UK has acted on a number of fronts, including in the following areas.

- **WTO.** Although the UK is a WTO member in its own right, it previously did not have an independent schedule of commitments; the EU schedule applied to all EU members, including the UK. Now outside of the EU, the UK negotiated and

<sup>66</sup> Huw Jones, "EU Trade Deal Brings Little Progress for UK's Giant Financial Sector," Reuters, December 24, 2020.

<sup>67</sup> Bloomberg and Viren Vaghela, "Banks Are Moving \$1.6 Trillion in Assets Out of the U.K. Ahead of Brexit Cutoff," *Fortune*, October 1, 2020.

<sup>68</sup> Joe Wallace and Mischa Frankl-Duval, "Mapping Brexit: Where the Finance Jobs Are Heading," *Wall Street Journal*, December 23, 2018.

<sup>69</sup> Matthew Ward, *Geographical Pattern of UK Trade*, House of Commons Library, November 25, 2020. By individual country, the United States is the UK's largest trading partner for business services, accounting for 30% of both UK exports and imports of business services.

<sup>70</sup> UK Government, "Foreign Secretary Crosses the Atlantic to Expand Post-Brexit Opportunities for Global Britain," press release, August 6, 2019.

submitted to the WTO its own schedule of commitments on goods, services, and agriculture.<sup>71</sup> The UK is now a full party in its own right to the WTO plurilateral Government Procurement Agreement, following accession negotiations with other parties to the agreement and the UK's submission of its instrument of accession.<sup>72</sup>

- **Continuity Trade Agreements.** Previously, the UK was a part of over 40 trade agreements with around 70 countries by virtue of its EU membership. As of January 1, 2021, EU trade agreements no longer apply to the UK. To ensure continuity in its trading relations, the UK has been engaged in negotiations, during the transition period and subsequently, to replicate existing EU trade deals with non-EU countries (e.g., Switzerland, Iceland, Norway, South Korea, and Turkey). Signed UK agreements, to date, cover one-quarter of total UK trade, with around 60 economies.<sup>73</sup>
- **New Trade Agreements.** The UK also has been pursuing new trade agreements that do not roll over existing EU trade agreements. In addition to the United States (see “Trade and Economic Relations and Prospective U.S.-UK Free Trade Agreement” section, below), countries of UK interest include Australia, China, India, and New Zealand. The UK and Japan signed a trade agreement in September 2020; rather than rolling over the EU-Japan FTA, Japan sought to negotiate new terms with the UK.<sup>74</sup> The UK requested to join the regional Comprehensive and Progressive Agreement for the Trans-Pacific Partnership, which was concluded by the Trans-Pacific Partnership's remaining 11 parties after the U.S. withdrawal in 2017.<sup>75</sup>
- **Regulatory Agreements.** The UK has negotiated mutual recognition agreements (MRAs), as distinct agreements in some cases and as part of trade agreements in others, to assure continued acceptance by UK and partner-country regulators of each other's product testing and inspections in specific sectors (e.g., telecommunications and marine equipment in U.S.-UK MRAs).<sup>76</sup> The UK government has signed MRAs with Australia, New Zealand, and the United States. The UK-Japan pharmaceutical MRA was incorporated into the UK-Japan trade agreement.

<sup>71</sup> A *schedule of commitments* refers to the commitments WTO members make to all other WTO members on the nondiscriminatory market access (i.e., *most-favored-nation*, or MFN, access) they will provide for trade in goods, services, agriculture, and government procurement.

<sup>72</sup> WTO, “UK to Join Government Procurement Pact in Its Own Right Next Year,” press release, October 20, 2020; and WTO, Government Procurement Agreement, “Parties, Observers, and Accessions,” at [https://www.wto.org/english/tratop\\_e/gproc\\_e/memobs\\_e.htm](https://www.wto.org/english/tratop_e/gproc_e/memobs_e.htm).

<sup>73</sup> UK Government, “UK Trade Agreements with Non-EU Countries,” January 29, 2020, at <https://www.gov.uk/guidance/uk-trade-agreements-with-non-eu-countries>.

<sup>74</sup> UK Government, “Trade with Japan,” September 20, 2019, at <https://www.gov.uk/government/consultations/trade-with-japan>.

<sup>75</sup> UK Government, Department for International Trade, “Formal Request to Commence Accession Negotiations to CPTPP,” February 1, 2021. CPTPP = Comprehensive and Progressive Agreement for the Trans-Pacific Partnership.

<sup>76</sup> See European Commission, “Mutual Recognition Agreements,” at [https://ec.europa.eu/growth/single-market/goods/international-aspects/mutual-recognition-agreements\\_en](https://ec.europa.eu/growth/single-market/goods/international-aspects/mutual-recognition-agreements_en).

## Brexit and Northern Ireland<sup>77</sup>

In the 2016 Brexit referendum, Northern Ireland voted 56% to 44% against leaving the EU. Brexit poses considerable challenges for Northern Ireland, with potential implications for its peace process, economy, and, in the longer term, constitutional status in the UK. Following Brexit, Northern Ireland is the only part of the UK to share a land border with an EU member state (see **Figure 3**). Preventing a *hard border* on the island of Ireland (with customs checks and physical infrastructure) was a key goal, and a major stumbling block, in negotiating and finalizing the UK's withdrawal agreement with the EU.

Northern Ireland's history of political violence complicated arrangements for the post-Brexit border between Northern Ireland and the Republic of Ireland. Roughly 3,500 people died during *the Troubles*, Northern Ireland's 30-year sectarian conflict (1969 to 1999) between *unionists* (Protestants who largely define themselves as British and support remaining part of the UK) and *nationalists* (Catholics who consider themselves Irish and may desire a united Ireland). At the time of the 1998 peace accord in Northern Ireland (known as the Good Friday Agreement or the Belfast Agreement), the EU membership of both the UK and the Republic of Ireland was regarded as essential to underpinning the political settlement by providing a common European identity for both unionists and nationalists in Northern Ireland. EU law also provided a supporting framework for guaranteeing the human rights, equality, and nondiscrimination provisions of the peace accord.

### The Good Friday Agreement

For years, the UK and Irish governments sought to facilitate a negotiated political settlement to Northern Ireland's sectarian conflict. After many ups and downs, the two governments and the Northern Ireland political parties participating in peace talks announced an agreement on April 10, 1998 (the peace talks were led by former Senate Majority Leader George Mitchell, who was serving as President Bill Clinton's special adviser on Northern Ireland). The resulting Good Friday Agreement—also known as the Belfast Agreement—is a multilayered and interlocking accord, consisting of a political settlement reached by Northern Ireland's political parties and an international treaty between the UK and Irish governments.

At the core of the Good Friday Agreement is the *consent principle*—that is, a change in Northern Ireland's status as part of the UK can come about only with the consent of the majority of Northern Ireland's people (as well as the consent of a majority in Ireland). The Good Friday Agreement set out a framework for devolved government—the transfer of specified powers over local governance from London to Belfast—with a Northern Ireland Assembly and Executive Committee in which unionist and nationalist parties would share power. The agreement also contained provisions on the decommissioning (disarmament) of paramilitary weapons, policing, human rights, UK security normalization (demilitarization) in Northern Ireland, and the status of prisoners. In addition, the Good Friday Agreement created several new institutions to promote “north-south” cooperation on cross-border issues among leaders on the island of Ireland and “east-west” institutions to address regional issues affecting the UK, Ireland, the Channel Islands, and the Isle of Man.

For the text of the 1998 peace accord, see, <https://www.gov.uk/government/publications/the-belfast-agreement>.

Since 1998, as security checkpoints were dismantled in accordance with the peace agreement, and because both the UK and Ireland belonged to the EU's single market and customs union, the circuitous 300-mile land border between Northern Ireland and Ireland has effectively disappeared. The border's disappearance served as an important political and psychological symbol on both sides of the sectarian divide and helped to produce a dynamic cross-border economy. Many experts deem an open, invisible border as crucial to a still-fragile peace process, in which deep divisions and a lack of trust persist. Some analysts suggest differences over Brexit

<sup>77</sup> Also see CRS Report R46259, *Northern Ireland: The Peace Process, Ongoing Challenges, and U.S. Interests*, by Kristin Archick.

also heightened tensions between the unionist and nationalist communities' respective political parties and stymied the reestablishment of the regional (or devolved) government for close to three years following the last legislative assembly elections in March 2017.

## The Irish Border and the Peace Process

In the aftermath of the 2016 Brexit referendum, many on both sides of Northern Ireland's sectarian divide expressed deep concern that Brexit could lead to a return of a hard border with the Republic of Ireland and could destabilize the peace process. Police officials warned that a hard border post-Brexit could pose considerable security risks. During the Troubles, the border regions were considered "bandit country," with smugglers and gunrunners. Checkpoints were frequently the site of conflict, especially between British soldiers and militant nationalist groups (or *republicans*), such as the Irish Republican Army (IRA), that sought to achieve a united Ireland through force. Militant unionist groups (or *loyalists*) also were active during the Troubles.<sup>78</sup> Security assessments suggested that if border or customs posts were reinstated, violent dissident groups opposed to the peace process would view such infrastructure as targets, endangering the lives of police and customs officers and threatening the security and stability of the border regions and beyond.<sup>79</sup>

Many in Northern Ireland and Ireland also were eager to maintain an open border to ensure frictionless trade, safeguard the north-south economy, and protect community relations. Furthering Northern Ireland's economic development and prosperity is regarded as crucial to helping ensure a lasting peace in Northern Ireland. Establishing customs checkpoints would have posed logistical difficulties, and many people in the border communities worried that any hardening of the border could affect daily travel across the border to work, shop, or visit family and friends. Estimates suggest there are roughly 208 public road crossings along the border and nearly 300 crossing points when private roads and other unmarked access points are included.<sup>80</sup> Some roads cross the border multiple times, and the border splits other roads down the center. Only a fraction of crossing points were open during the Troubles, and hours-long delays due to security measures and bureaucratic hurdles were common.<sup>81</sup>

After the 2016 Brexit referendum, UK, Irish, and EU leaders asserted repeatedly that they did not want a hard border and worked to prevent such a possibility. In the initial December 2017 UK-EU agreement setting out the main principles for the withdrawal negotiations, the UK pledged to uphold the Good Friday Agreement, avoid a hard border (including customs controls and any physical infrastructure), and protect north-south cooperation on the island of Ireland. Many analysts suggested, however, that reaching agreement on a mechanism to ensure an open border

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<sup>78</sup> William Booth, "Northern Ireland Has Become an Unexpected Hurdle for Brexit," *Washington Post*, February 28, 2018.

<sup>79</sup> Sarah Lyall, "On Irish Border, Worries That Brexit Will Undo a Hard-Won Peace," *New York Times*, August 5, 2017; Henry McDonald, "Police Chief Says 'Hard Brexit' Irish Border Would Be Paramilitary Target," *Guardian*, February 7, 2018.

<sup>80</sup> In comparison, there are 137 land crossings on the 3,700-mile eastern frontier that separates the EU from Belarus, Moldova, Russia, and Ukraine. Brian Hutton, "Ireland Has 208 Border Crossing, Officials from North and South Agree," *Irish Times*, April 26, 2018; and Maeve Sheehan, "Irish Army Identifies 300 Border Crossing Points," *Belfast Telegraph*, December 17, 2018.

<sup>81</sup> The UK government asserts there are 15 principal crossing points along the Northern Ireland-Ireland land border and "many" other crossing points; it estimates there are 110 million person border crossings annually. UK Government, "Additional Data Paper: Common Travel Area Data and Statistics," in *The UK's Exit from the European Union: Northern Ireland and Ireland*, position paper, August 16, 2017. Also see Bryn Colton, Sam Dodge, and Rodney Jefferson, "The 310 Miles Breaking Brexit," *Bloomberg.com*, September 9, 2019.

was complicated by the UK government’s decision to keep the UK outside of the EU’s single market and customs union.

**Figure 3. Map of Northern Ireland (UK) and the Republic of Ireland**



**Source:** Graphic created by CRS using data from Esri (2017).

Some in the UK contended security concerns about the border were exaggerated and the border issue was exploited by the EU and those in the UK who would have preferred to retain closer ties to the EU single market and/or customs union. The Good Friday Agreement commits the UK to normalizing security arrangements, including the removal of security installations “consistent with the level of threat,” but does not explicitly require an open border. The Irish government and many in Northern Ireland—as well as most UK government officials—argued an open border had become intrinsic to peace and to ensuring the fulfillment of provisions in the Good Friday Agreement that call for north-south cooperation on cross-border issues (including transport, agriculture, and the environment).<sup>82</sup>

Concerns about a hard border developing on the island of Ireland mostly receded in light of the arrangements for Northern Ireland in the withdrawal agreement and its approval by the UK Parliament. In December 2020, a joint committee of UK and EU officials reached an agreement on how the Ireland/Northern Ireland protocol in the withdrawal deal would be implemented after the end of the transition period. Among other issues, the committee agreed on a process for checks on animals and plants, and rules for the supply of medicines and food products, entering Northern Ireland from the rest of the UK; the EU presence in Northern Ireland; export declaration

<sup>82</sup> John Campbell, “Brexit: Does the Irish Peace Accord Rule Out a Hard Border?,” *BBC News*, January 30, 2019; and Tom McTague, “Brexit’s Ulster Problem,” *Politico*, June 12, 2019.

requirements; and criteria for goods to be considered “not at risk” of entering the EU (and thus not subject to tariffs).<sup>83</sup>

The UK government also withdrew the provisions in its Internal Market Bill (adopted in December 2020 as the United Kingdom Internal Market Act 2020) that would have allowed UK officials to override parts of the Ireland/Northern Ireland protocol in the absence of a joint committee implementation agreement and an UK-EU trade deal. The EU and Ireland had strongly opposed these controversial portions of the Internal Market Bill—as well as provisions expected in the Taxation Bill—in part because they viewed these provisions as jeopardizing the protections against a hard border in the Brexit withdrawal agreement. The conclusion at the end of December 2020 of the broader UK-EU Trade and Cooperation Agreement did not change the main tenets of the post-Brexit arrangements for Northern Ireland in the withdrawal agreement. The continuation of Northern Ireland’s effective position within the EU’s single market and customs union is to be subject to the consent of the Northern Ireland Assembly in 2024.<sup>84</sup>

Brexit has further exacerbated political and societal divisions in Northern Ireland. As noted, the DUP—led by Northern Ireland First Minister Arlene Foster—opposed the Northern Ireland arrangements in Prime Minister Johnson’s renegotiated withdrawal agreement because it viewed these provisions as treating Northern Ireland differently from the rest of the UK and undermining the union. Amid ongoing demographic, societal, and economic changes in Northern Ireland that predate Brexit, some in the unionist community perceive a loss in unionist traditions and dominance in Northern Ireland. The new post-Brexit border and customs arrangements for Northern Ireland could enhance this sense of unionist disenfranchisement, especially if Northern Ireland is drawn closer to the Republic of Ireland’s economic orbit in practice post-Brexit.<sup>85</sup>

Meanwhile, long-standing nationalist doubts about the trustworthiness of the UK government were heightened by the controversy over the Internal Market Bill. For many nationalists, the introduction of the contentious provisions in the draft UK legislation renewed fears that the UK government was not committed to the post-Brexit arrangements aimed at protecting the Good Friday Agreement and preventing a hard border on the island of Ireland. Officials from Sinn Féin—the leading nationalist party in Northern Ireland—were highly critical of the draft provisions in the bill; Sinn Féin’s leader in Northern Ireland and Northern Ireland Deputy First Minister Michelle O’Neill asserted that UK officials “do not care about what happens to us in the north. They have demonstrated that time and time again.”<sup>86</sup> Although many analysts believe the original provisions in the Internal Market Bill largely were an attempt by the UK government to gain leverage in the ongoing UK-EU trade negotiations, the incident further eroded trust within Northern Ireland, as well as between the UK and Irish governments. As the guarantors of the

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<sup>83</sup> The UK-EU TCA is expected to further reduce concerns about “at risk” goods, as the deal provides for tariff-free and quota-free merchandise trade between the UK and the EU (if rules-of-origin requirements are met). *BBC News*, “Brexit: UK and EU Reach Deal on Northern Ireland Border Checks,” December 8, 2020; and European Commission, “Questions and Answers: Joint Committee Formally Adopts a Set of Implementation Measures Related to the EU-UK Withdrawal Agreement,” December 17, 2020.

<sup>84</sup> *Politico*, “The Brexit Deal Explained,” October 19, 2019.

<sup>85</sup> See, for example, Ceylan Yeginsu, “In Northern Ireland, Brexit Deal Is Seen as Betrayal,” *New York Times*, October 24, 2019; Dieter Reinisch, “After Brexit, Will Northern Ireland Return to Violence?,” *Washington Post*, December 5, 2019; and Simon Carswell, “Loyalists on Brexit: A One-Way Route to an Economic United Ireland,” *Irish Times*, January 30, 2020.

<sup>86</sup> As quoted in Suzanne Breen, “A Step Forward or Using Northern Ireland as a Pawn: Parties Divided over Boris Johnson’s Proposals to Break EU Deal,” *Belfast Telegraph*, September 9, 2020. Also see Michael McHugh, “Internal Market Bill, Sinn Féin Condemns Johnson’s ‘Reckless’ Brexit Plans,” *Sunday Times*, September 22, 2020.



Good Friday Agreement, cooperation between the UK and Ireland is deemed essential to the accord's continued functioning and implementation.<sup>87</sup>

Since the Ireland/Northern Ireland protocol took effect on January 1, 2021, the post-Brexit arrangements for Northern Ireland have faced challenges. The protocol's customs and regulatory requirements on goods entering Northern Ireland from the rest of the UK have posed difficulties for some businesses and consumers in Northern Ireland. Problems have included shipping delays and product shortages, especially for Northern Ireland supermarkets dependent on suppliers elsewhere in the UK (despite the grace periods for full implementation of the new rules).<sup>88</sup> In early February 2021, customs and regulatory checks at Northern Ireland ports were suspended temporarily amid reported loyalist threats to port workers and EU officials; Northern Ireland police officials subsequently determined there were no credible threats, but the incident may have caused further shipment delays and sparked a dispute between nationalists and unionists within Northern Ireland's devolved government.<sup>89</sup>

In addition, in late January 2021, renewed UK-EU tensions arose after the Ireland/Northern Ireland protocol became entangled in EU efforts to control the export of COVID-19 vaccines outside the bloc. As part of these new EU vaccine export control measures, the EU initially approved triggering Article 16 of the Northern Ireland protocol—an emergency override mechanism available to either the UK or the EU—to prevent vaccines being exported from Northern Ireland to the rest of the UK.<sup>90</sup> Invoking Article 16 could have resulted in border checks between Northern Ireland and Ireland. Although the EU almost immediately reversed itself on Article 16 amid a diplomatic outcry from UK, Irish, and Northern Ireland officials, the incident is widely viewed as calling into question Northern Ireland's post-Brexit arrangements.<sup>91</sup> EU officials claimed that invoking Article 16 as part of the bloc's new vaccine export control regulation was a simple mistake made in haste in light of the ongoing pandemic, but analysts assess that this error has helped bolster the DUP's claim that the protocol is “unworkable.”<sup>92</sup>

The DUP and other unionists are urging the UK government to abandon the protocol by invoking Article 16 itself. First Minister Foster asserts that the EU's willingness to invoke Article 16 has “lowered the bar” for the UK to do the same.<sup>93</sup> Among other steps in an escalating campaign against the protocol, the DUP and other unionists have launched legal action to challenge the

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<sup>87</sup> See, for example, Matthew O'Toole, “Of Course the Internal Market Bill Threatens Northern Ireland,” *Politico*, September 23, 2020; and Etain Tannam and Mary C. Murphy, “The Internal Market Bill May Further Erode Trust and Security in Ireland/Northern Ireland,” London School of Economics, September 24, 2020.

<sup>88</sup> See, for example, Conor Macauley, “Problems in First Week of Post-deal GB-NI Trade,” *BBC News*, January 6, 2021; and Shawn Pogatchnik, “Supermarket Pleas Mount as Brexit Leaves Northern Ireland Shelves Bare,” *Politico*, January 13, 2021.

<sup>89</sup> Shawn Pogatchnik, “Inspectors Pulled from Brexit Checks at Northern Ireland Ports over Threats,” *Politico*, February 2, 2021; and Freya McClements, “Brexit Checks to Resume at NI Ports Following Threats,” *Irish Times*, February 9, 2021.

<sup>90</sup> See, for example, John Campbell, “Brexit: EU Introduces Controls on Vaccines to NI,” *BBC News*, January 29, 2021; and Emilio Casalicchio et al., “Dublin and London Blast Brussels over Brexit Deal Override in Vaccine Fight,” *Politico*, January 29, 2021.

<sup>91</sup> European Commission, “Commission Statement on the Vaccine Export Authorisation Scheme,” January 29, 2021. Also see, for example, David M. Herszenhorn and Jakob Hanke Vela, “EU Drops Irish Border Move in Plan to Curb Vaccine Exports,” *Politico*, January 30, 2021; and John Curtis, “Northern Ireland Protocol: Article 16 and EU Vaccine Export Controls,” UK Parliament, House of Commons Library, February 2, 2021.

<sup>92</sup> *BBC News*, “Arlene Foster Urges PM to Replace ‘Unworkable’ NI Brexit Deal,” January 30, 2021.

<sup>93</sup> As quoted in Shawn Pogatchnik, “Brexit Protocol Row Adds Pressure to Northern Ireland Unionists,” *Politico*, February 4, 2021.

protocol in judicial review proceedings. The DUP intends to argue that the new customs and regulatory arrangements for Northern Ireland violate the UK Act of Union, which guarantees unfettered trade throughout the UK, and were imposed without the consent of the public (which the DUP claims also violates provisions in the Good Friday Agreement). In addition, DUP leaders assert that they will not cooperate with the Irish government in implementing the protocol and have threatened to boycott meetings of the North-South Ministerial Council and other meetings with Irish officials in which the operation of the protocol is to be discussed.<sup>94</sup>

The UK government has appeared reluctant to discard the protocol. UK officials have been seeking to resolve operational problems with the EU and have called for additional implementation flexibilities, such as extending the grace periods that limit checks on agri-food products, medicines, and other items until 2023. EU officials, however, have raised concerns about how the UK is implementing certain aspects of the protocol; many observers doubt the EU would be willing to agree to significant changes, including to the grace periods.<sup>95</sup>

With the end of the first grace period approaching and with UK-EU talks over an extension largely stalled, the UK government announced in early March 2021 that it would unilaterally extend the first grace periods due to expire on April 1 (for certain agri-food products and parcels) for six months, until October 1, 2021.<sup>96</sup> The UK government also unilaterally relaxed EU restrictions on the movement of plants and used agricultural machinery into Northern Ireland from the rest of the UK.<sup>97</sup> EU officials claimed these unilateral steps were in breach of international law, would undermine trust, and could have implications for the European Parliament's ratification of the TCA. The European Parliament subsequently postponed ratifying the TCA until the end of April 2021.<sup>98</sup> On March 15, 2021, the EU took the first step in launching a legal infringement process against the UK by sending a letter of formal notice to the UK for breaching the provisions of the Northern Ireland protocol. The infringement process could lead to the UK's referral to the CJEU, potential fines, and/or the imposition of tariffs on imports of goods from the UK.<sup>99</sup>

The difficulties with the protocol's implementation—compounded by the dispute with the EU over vaccine export controls—have heightened tensions between the UK, the EU, and Ireland and

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<sup>94</sup> *BBC News*, “Brexit: DUP Vows to Send ‘Strong Message’ to Irish Government over NI Protocol,” February 2, 2021; and Brian Hutton, “DUP Plans Legal Challenge to Northern Ireland Protocol,” *Irish Times*, February 21, 2021.

<sup>95</sup> Lisa O’Carroll, Heather Stewart, and Daniel Boffey, “UK in ‘Constructive’ Talks with EU over Northern Ireland Protocol,” *Guardian*, February 3, 2021; and Denis Staunton and Naomi O’Leary, “UK and EU Appear to Harden Positions on Implementing Northern Ireland Protocol,” *Irish Times*, February 11, 2021.

<sup>96</sup> On March 3, 2021, Secretary of State for Northern Ireland Brandon Lewis announced the extension of the grace period for agri-food products in the UK House Commons via a written ministerial statement, available at <https://questions-statements.parliament.uk/written-statements/detail/2021-03-03/hcws819>. On March 4, 2021, the UK government issued guidance similarly extending the grace period for most parcels, available at <https://www.gov.uk/guidance/sending-parcels-between-great-britain-and-northern-ireland>.

<sup>97</sup> The UK guidance relaxing restrictions on plants and agricultural machinery is available at <https://www.gov.uk/guidance/export-plants-and-plant-products-from-great-britain-and-northern-ireland#contents>. Also see Shawn Pogatchnik, “Soiled Deal: UK Defies EU Ban on British Dirt on Plants Shipped to Northern Ireland,” *Politico*, March 5, 2021; and David Wright, “UK Eases Controls on Soil to NI,” *Irish Farmers Journal*, March 5, 2021.

<sup>98</sup> Shawn Pogatchnik and Matt Honeycombe-Foster, “EU Says UK Risks Breaking Law with Solo Bid to Ease Northern Irish Checks,” *Politico*, March 3, 2021; Daniel Boffey and Rory Carroll, “EU Postpones Setting Date for Ratifying Brexit Trade Deal,” *Guardian*, March 4, 2021; and Maïa de la Baume and David M. Herszenhorn, “European Parliament to Ratify UK Trade Deal in Late April, President Says,” *Politico*, March 23, 2021.

<sup>99</sup> European Commission, “Withdrawal Agreement: Commission Sends Letter of Formal Notice to the United Kingdom for Breach of its Obligations Under the Protocol on Ireland and Northern Ireland,” March 15, 2021. Also see Jim Brunsten and George Parker, “EU Launches Brexit Legal Action Against UK,” *Financial Times*, March 15, 2021.

have exacerbated frictions between the unionist and nationalist communities and their respective political parties in the devolved government. In early March 2021, loyalist paramilitary groups announced they were withdrawing support for the Good Friday Agreement temporarily due to concerns about the Northern Ireland protocol and the effective Irish Sea border. Although the loyalist paramilitary groups remain on cease-fire and reportedly asserted that opposition to the post-Brexit border arrangements should be “peaceful and democratic,” they also noted that the current tensions and problems, if not resolved, could lead to the “permanent destruction” of the peace accord.<sup>100</sup> UK officials have expressed concern that growing unionist unhappiness with the post-Brexit arrangements could increasingly threaten stability in Northern Ireland. Sinn Fein and other nationalists have asserted that the UK government has reneged on commitments made in the protocol and accused the UK government of pursuing a “reckless and partisan approach” to implementing the protocol.<sup>101</sup>

## The Economy

Many experts express concern about Brexit’s possible economic consequences for Northern Ireland. According to a UK parliamentary report, Northern Ireland depends more on the EU market (and especially that of Ireland) for its exports than does the rest of the UK.<sup>102</sup> In 2018, approximately 59% of Northern Ireland’s exports went to the EU, including 37% to Ireland, which was Northern Ireland’s top single export and import partner.<sup>103</sup>

In particular, significant fears existed that a no-deal Brexit would have jeopardized labor markets and industries that operate on an all-island basis. Many manufacturers in Northern Ireland and Ireland depend on integrated supply chains north and south of the border. For example, raw materials that go into making products such as milk, cheese, butter, and alcoholic drinks often cross the border between Northern Ireland and Ireland several times for processing and packaging.<sup>104</sup> The vast majority of cross-border transactions are made by micro and small businesses, which dominate the Northern Ireland economy.<sup>105</sup>

UK and DUP leaders maintained that the rest of the UK is overall more important economically to Northern Ireland than the EU, given the value of exports. In 2018, sales to other parts of the UK (£10.6 billion) were more than double the value of exports to Ireland (£4.2 billion) and roughly four times the value of exports to the rest of the EU (£2.5 billion).<sup>106</sup> Among the DUP’s objections to the renegotiated UK-EU withdrawal agreement, the DUP argued that the Northern

<sup>100</sup> As quoted in Guy Faulconbridge and Amanda Ferguson, “Northern Irish Loyalist Paramilitaries Withdraw Support for 1998 Peace Deal,” Reuters, March 4, 2021. Also see *BBC News*, “Loyalist Group Withdraws Support for Good Friday Agreement,” March 4, 2021; and Shawn Pogatchnik, “Who Are the Northern Ireland Loyalists Threatening to Shun the Peace Deal Over Brexit Fears?,” *Politico*, March 5, 2021.

<sup>101</sup> As quoted in Ali Gordon, “Boris Johnson Visits Northern Ireland amid Unionist Tension,” *BBC News*, March 12, 2021. Also see, for example, Denis Staunton, “Johnson Has No Option but to Rein in Rhetoric on Northern Ireland Protocol,” *Irish Times*, February 4, 2021; *BBC News*, “Pandora’s Box Opened over UK-EU Vaccine Row, Says Gove,” February 8, 2021; Emilio Casalicchio, “Northern Ireland Secretary Warns DUP over Brexit Focus,” *Politico*, February 24, 2021; and Guy Faulconbridge, “Britain Says Unionist Anger over Brexit Deal Could Put Northern Ireland ‘in Quite a Dangerous Place,’” Reuters, March 19, 2021.

<sup>102</sup> Report of the UK House of Lords European Union Committee, *Brexit: UK-Irish Relations*, December 2016.

<sup>103</sup> Northern Ireland Statistics and Research Agency, *Overview of Northern Ireland Trade*, June 15, 2020.

<sup>104</sup> Simon Marks, “Brexit Is (Maybe) the Ruin of Irish Whiskey,” *Politico*, March 3, 2017; and Colm Kelpie, “Brexit: How Would No-Deal Affect Northern Ireland?,” *BBC News*, September 22, 2019.

<sup>105</sup> Northern Ireland Statistics and Research Agency, *Overview of Northern Ireland Trade*, June 15, 2020.

<sup>106</sup> Northern Ireland Statistics and Research Agency, *Overview of Northern Ireland Trade*, June 15, 2020.

Ireland arrangements would be detrimental to the region's economy, especially to trade between Northern Ireland and the rest of the UK. The DUP asserts that such concerns have proven correct given the supply problems and shipping delays affecting Northern Ireland since the new post-Brexit customs and regulatory requirements took effect.<sup>107</sup>

UK officials maintain that the government is determined to safeguard Northern Ireland's interests and "make a success of Brexit" for Northern Ireland.<sup>108</sup> They insist that Brexit offers new economic opportunities for Northern Ireland outside the EU. Supporters of the post-Brexit arrangements for Northern Ireland argue they will help improve the region's economic prospects. Northern Ireland will remain part of the UK customs union and thus will be able to participate in future UK trade deals, but Northern Ireland also will retain privileged access to the EU single market. These post-Brexit arrangements may increase the competitiveness of Northern Ireland firms and make the region a more attractive destination for foreign direct investment.<sup>109</sup>

## Constitutional Status and Border Poll Prospects

Brexit has revived questions about Northern Ireland's constitutional status. Sinn Fein argues that "Brexit changes everything" and could generate greater support for a united Ireland.<sup>110</sup> Since the 2016 Brexit referendum, Sinn Fein has repeatedly called for a *border poll* (a referendum on whether Northern Ireland should remain part of the UK or join the Republic of Ireland) in the hopes of realizing its long-term goal of Irish unification.<sup>111</sup> The Good Friday Agreement provides for the possibility of a border poll in Northern Ireland, in line with the *consent principle*, which stipulates that any change in Northern Ireland's status can come about only with the consent of the majority of its people.

Any decision to hold a border poll in Northern Ireland on its constitutional status rests with the UK Secretary of State for Northern Ireland, who, in accordance with the Good Friday Agreement, must call a border poll if it "appears likely" that "a majority of those voting would express a wish that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland."<sup>112</sup> At present, experts believe there is not sufficient evidence to convince the UK government to call a referendum on Northern Ireland's constitutional status. Most opinion polls indicate that a majority of people in Northern Ireland continue to support the region's position as part of the UK. Although a January 2021 survey found that 51% of people in Northern Ireland would support holding a border poll in the next five years (with 44% opposed and 5% having no opinion), it also found that 47% favored Northern Ireland remaining in the UK versus 42% in support of a united Ireland.<sup>113</sup>

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<sup>107</sup> John Campbell, "Brexit Deal Could Reduce Spending, Investment, and Trade in NI," *BBC News*, October 22, 2019; and Peter Foster, Judith Evans, and Daniel Thomas, "Brexit One Month On: What Has Changed?," *Financial Times*, January 31, 2021.

<sup>108</sup> UK Government Press Release, "Brokenshire Holds Inaugural Meeting of Northern Ireland Business Advisory Group," September 1, 2016. Also see Stephen Walker, "Brexit: Northern Ireland Can Be Success Outside EU," *BBC News*, October 4, 2016.

<sup>109</sup> Arthur Beesley and Andy Bounds, "Business Checks on Irish Sea Trade Loom as Next Flashpoint," *Financial Times*, January 28, 2020; and Clodagh Rice, "Brexit: My NI Business Now Has the Best of Both Worlds," *BBC News*, February 5, 2021.

<sup>110</sup> Sinn Fein Discussion Document, *Towards a United Ireland*, November 2016.

<sup>111</sup> *BBC News*, "Brexit: Sinn Fein Repeats Call for Border Poll If No Deal," July 30, 2019.

<sup>112</sup> UK Government, Northern Ireland Act 1998.

<sup>113</sup> Gerry Moriarty, "Northern Ireland: Polls Can Provide More Confusion Than Clarity," *Irish Times*, September 5, 2020; and Gerry Moriarty, "Poll Finds Majority Favours Holding a Border Poll in Next Five Years," *Irish Times*,

At the same time, some surveys suggest that views on Northern Ireland's status may be shifting and that a "damaging Brexit" in particular could increase support for a united Ireland. A September 2019 poll found that 46% of those polled in Northern Ireland favored unification with Ireland, versus 45% who preferred remaining part of the UK.<sup>114</sup> Analysts note that Northern Ireland's changing demographics (in which the gap between the Catholic, largely Irish-identifying population and the Protestant, British-identifying population is narrowing)—combined with the post-Brexit arrangements for Northern Ireland that could lead to enhanced economic ties with the Republic of Ireland—could boost support for a united Ireland in the longer term.<sup>115</sup>

Irish unification also would be subject to Ireland's consent and approval. Some question the current extent of public and political support in the Republic of Ireland for unification, given its potential economic costs and concerns that unification could spark renewed loyalist violence in Northern Ireland. In Ireland's February 2020 parliamentary election, however, the nationalist Sinn Fein party (which has a political presence in both Northern Ireland and the Republic of Ireland) secured the largest percentage of the vote for the first time in Ireland's history. Sinn Fein's election platform included a pledge to begin examining and preparing for Irish unification, but housing, health care, and economic policy issues dominated the Irish election. Sinn Fein appeared to benefit mostly from the Irish electorate's desire for domestic political change rather than from the party's stance on a united Ireland. Nevertheless, some commentators suggest Sinn Fein's electoral success in the Republic of Ireland could add momentum to calls for a united Ireland.<sup>116</sup>

## Implications for U.S.-UK Relations

Many U.S. officials and Members of Congress view the UK as the United States' closest and most reliable ally. This perception stems from a combination of factors, including a sense of shared history, values, and culture; a large and mutually beneficial economic relationship; and extensive cooperation on foreign policy and security issues. The UK and the United States have a particularly close defense relationship and a unique intelligence-sharing partnership.

Former President Trump was outspoken in repeatedly expressing his support for Brexit.<sup>117</sup> The former president counts leading Brexit supporters, including Boris Johnson and former Brexit Party leader Nigel Farage, among his personal friends.<sup>118</sup> He publicly criticized Theresa May's handling of Brexit and stated during the 2019 Conservative leadership race that Boris Johnson

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January 24, 2021.

<sup>114</sup> Jonathan Bell, "Brexit Impact on Northern Ireland Could Sway Border Poll Result," *Belfast Telegraph*, October 25, 2017; and *Irish Times*, "Slight Majority for Unification in Northern Ireland – Poll," September 11, 2019.

<sup>115</sup> Tony Barber, "Brexit Raises the Spectre of the UK's Break-Up," *Financial Times*, October 22, 2019.

<sup>116</sup> Naomi O'Leary, "In Brexit Talks, Belfast Loyalists See Risk of Return to Violence," *Politico*, September 23, 2019; Henry Farrell, "After Britain's Elections, People Are Talking About a United Ireland. Don't Hold Your Breath," *Washington Post*, December 13, 2019; Pat Leahy and Vivienne Clark, "UK Election: Varadkar Warns Against Move Towards United Ireland," *Irish Times*, December 13, 2019; and Naomi O'Leary, "Sinn Fein Surge Makes Irish Political History," *Politico*, February 9, 2020.

<sup>117</sup> Sam Levin, "Donald Trump Backs Brexit, Saying UK Would Be 'Better Off' Without EU," *Guardian*, May 5, 2016; and Justin Wise, "Trump Says He Supports UK Leaving EU Without a Brexit Deal," *The Hill*, June 2, 2019.

<sup>118</sup> Steve Holland and Guy Faulconbridge, "Ahead of UK Visit, Trump Praises Brexit-Supporting 'Friends' Johnson and Farage," Reuters, May 30, 2019.

would “make a great prime minister.”<sup>119</sup> He also repeated his support for Johnson prior to the December 2019 UK election and celebrated Johnson’s win, writing on social media that the election outcome would allow the United States and the UK to reach a new trade deal.<sup>120</sup>

President Biden and top officials in the Biden Administration have maintained a skeptical view of Brexit.<sup>121</sup> (Prior to the Brexit referendum, then-President Obama conveyed his perspective that Brexit was not in the U.S. interest.)<sup>122</sup> President Biden has expressly stated the position that Brexit must not harm the Good Friday Agreement, echoing Speaker Pelosi’s assertion that any U.S.-UK FTA is contingent on avoiding the establishment of a hard border on the island of Ireland.<sup>123</sup> The Biden Administration also has expressed support for the Ireland/Northern Ireland protocol as “a way to manage the practical challenges around the EU single market while preventing a return of a hard border” on the island of Ireland.<sup>124</sup> At the same time, Administration officials assert that the current difficulties related to the protocol’s implementation are trade issues for the UK and the EU to resolve and that the Biden Administration “is interested in having strong relations with both the UK and the EU.”<sup>125</sup>

The U.S. presidential transition from President Trump to President Biden caused some advocates of close U.S.-UK ties to express anxiety about the relationship.<sup>126</sup> There have been some concerns in the UK that Prime Minister Johnson’s close relationship with former President Trump, as well as past comments about former President Obama, might hurt his standing with the Biden Administration.<sup>127</sup> Some observers suggest the Biden Administration is likely to place relatively strong emphasis on seeking to renew U.S.-EU ties and relations with the post-Brexit UK, including a trade deal, may not be a top U.S. priority.<sup>128</sup> Nevertheless, President Biden and Prime Minister Johnson have conveyed an intention to establish a pragmatic working relationship, and analysts suggest the two leaders are likely to move aside any personal differences and find common ground for cooperation on numerous issues.<sup>129</sup>

## Foreign Policy and Security Issues

During the Trump Administration, the United States and the UK remained broadly aligned on many foreign policy and security concerns. The two countries maintained close cooperation, for

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<sup>119</sup> Max Greenwood, “Trump: Boris Johnson Would ‘Make a Great Prime Minister,’” *The Hill*, July 12, 2019.

<sup>120</sup> Rachel Elbaum, “Trump Rejoices over Johnson’s Victory in British Election,” *NBC News*, December 13, 2019.

<sup>121</sup> Vincent Wood, “Biden’s Secretary of State Pick Compared Brexit to ‘A Dog Being Run over by a Car,’” *The Independent*, November 24, 2020; and U.S. Embassy in Ireland, “Remarks by the Vice President to the Irish People,” June 24, 2016, at <https://ie.usembassy.gov/vice-president-biden-speech-dublin-castle/>.

<sup>122</sup> Tom McTague, “9 Takeaways from Barack Obama’s Brexit Intervention,” *Politico*, April 22, 2016.

<sup>123</sup> George Parker and Katrina Manson, “Joe Biden Warns Boris Johnson Not to Let Brexit Upend Northern Ireland Peace Process,” *Financial Times*, November 9, 2020.

<sup>124</sup> White House, “Background Press Call by Senior Administration Officials on President Biden’s Upcoming Virtual Bilateral with Ireland,” March 17, 2021.

<sup>125</sup> White House, “Background Press Call by Senior Administration Officials on President Biden’s Upcoming Virtual Bilateral with Ireland,” March 17, 2021.

<sup>126</sup> Mo Abbas, “Britain Courted Trump. The Biden Era May Be a More ‘Challenging Time,’” *NBC News*, February 13, 2021.

<sup>127</sup> George Parker, Jasmine Cameron-Chileshe, and Katrina Manson, “Boris Johnson on Back Foot as UK Tries to Reset Relationship with U.S.,” *Financial Times*, January 15, 2021.

<sup>128</sup> Ryan Heath, “Britain Braces for Not-So-Special Relationship with Biden,” *Politico*, December 31, 2020.

<sup>129</sup> James Politi, “Biden Talks Up Transatlantic Ties in First Call with Boris Johnson,” *Financial Times*, January 23, 2021; and Jon Allsop, “Why Boris Johnson Won’t Clash with Joe Biden,” *Foreign Policy*, January 20, 2021.

example, on issues such as counterterrorism, combating the Islamic State, and seeking to end the conflict in Syria. Prime Minister Johnson also expressed support for the Trump Administration's Middle East Peace Plan, reversing Theresa May's earlier criticism of the Administration's recognition of Jerusalem as Israel's capital.<sup>130</sup>

Despite the close relationship between President Trump and Prime Minister Johnson, however, there were substantive U.S.-UK policy differences and backlash from the UK side over various statements made by the former president. The UK government defended both the Joint Comprehensive Plan of Action agreement (known as the Iran nuclear deal) and the Paris Agreement to combat climate change, for example, and disagreed with the Trump Administration's decisions to withdraw the United States from those agreements.<sup>131</sup> UK officials also expressed concerns about U.S. policies and lack of consultation in instances such as the January 2020 U.S. strike that killed Iranian General Qasem Soleimani in Iraq and the October 2019 Turkish incursion into Syria.<sup>132</sup>

Although the Johnson government may miss the Trump Administration's strong support for Brexit and a U.S.-UK FTA, many experts say the Biden Administration's emphasis on alliances and multilateralism, maintaining international norms, and combatting climate change appear more aligned with UK foreign policy preferences.<sup>133</sup> The Biden Administration's decision to rejoin the Paris Agreement appears to offer a particular opportunity for U.S.-UK cooperation, as Prime Minister Johnson seeks to promote ambitious climate policies and highlight UK leadership on climate issues.<sup>134</sup> Combatting the COVID-19 pandemic, potentially reengaging in diplomacy with Iran, and addressing a range of challenges posed by China could be additional focal points for U.S.-UK cooperation.

The UK has opportunities to assert an international leadership role post-Brexit, as it currently holds the G-7 presidency and is expected to host the 2021 United Nations Climate Change Conference (COP26) in November. Brexit has forged opposing viewpoints about the potential trajectory of the UK's international influence in the coming years. The Conservative Party-led government has outlined a post-Brexit vision of a Global Britain that benefits from increased economic dynamism; remains heavily engaged internationally in terms of trade, political, and security issues; and maintains close foreign and security policy cooperation with both the United States and the EU.<sup>135</sup> The government's March 2021 *Integrated Review* document sets out ambitions for the UK to remain a world leader in security and defense issues, diplomacy and development, science and technology, cyber capabilities, and action to combat climate change.<sup>136</sup>

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<sup>130</sup> Rowena Mason, "Boris Johnson Praises Trump's Middle East Peace Plan at PMQs," *Guardian*, January 29, 2020.

<sup>131</sup> Foreign and Commonwealth Office, "Foreign Secretary's Statement on the Iran Nuclear Deal Following Brussels Meeting," January 11, 2018; and Rob Merrick, "Theresa May Rebukes Donald Trump for Pulling Out of Paris Agreement," *Independent*, September 20, 2017.

<sup>132</sup> Mark Landler, "Boris Johnson's Balancing Act with Trump and Europe on Iran" *New York Times*, January 6, 2020; and Dan Sabbagh, "UK Voices Concerns over a Turkish Invasion of Kurdish-Run Syria," *Guardian*, October 8, 2019.

<sup>133</sup> Melissa Quinn, "British PM Boris Johnson Welcomes 'Incredibly Encouraging' Early Moves from Biden," *CBS News*, February 14, 2021.

<sup>134</sup> Danielle Sheridan and Asa Bennett, "Britain Has a 'Responsibility' to Lead the Charge on Climate Change, Boris Johnson Says," *Daily Telegraph*, February 4, 2020.

<sup>135</sup> Foreign and Commonwealth Office, Cabinet Office, and Prime Minister's Office, *Global Britain: Delivering on Our International Ambition*, September 23, 2019, at <https://www.gov.uk/government/collections/global-britain-delivering-on-our-international-ambition>.

<sup>136</sup> Cabinet Office, *Global Britain in a Competitive Age: The Integrated Review of Security, Defence, Development and Foreign Policy*, March 16, 2021, at <https://www.gov.uk/government/publications/global-britain-in-a-competitive-age-the-integrated-review-of-security-defence-development-and-foreign-policy>.

Other observers contend that Brexit is likely to reduce the UK's ability to influence world events and that, without the ability to help shape EU foreign policy, the UK will have less influence in the rest of the world.<sup>137</sup> Rather than striving to be a “miniature great power,” one expert proposal suggests the UK instead could sustain international influence by leveraging its strengths to act as a “broker of solutions” to a range of global challenges.<sup>138</sup> Developments in relation to the UK's global role and influence likely will have consequences for perceptions of the UK as either an effective or a diminished partner for the United States.<sup>139</sup>

Parallel debates apply to a consideration of security and defense matters. Analysts believe close U.S.-UK cooperation will continue for the foreseeable future in areas such as counterterrorism, intelligence, and the future of the NATO, as well as on numerous global and regional security challenges. NATO remains the preeminent transatlantic security institution; in the context of Brexit, UK leaders have emphasized their continued commitment to be a leading country in NATO.

In 2019, the UK had the world's sixth-largest military expenditure (behind the United States, China, Saudi Arabia, Russia, and India), spending approximately \$54.8 billion.<sup>140</sup> The UK is also 1 of 10 NATO countries to meet or exceed the alliance's defense spending benchmark of 2% of GDP (according to NATO, the UK's defense spending was expected to be 2.43% of GDP in 2020).<sup>141</sup>

Nevertheless, Brexit has added to questions about the UK's ability to remain a leading military power and an effective U.S. security partner. U.S. officials have expressed concerns about reductions in the size and capabilities of the British military in recent years.<sup>142</sup> Negative economic effects from Brexit could exacerbate concerns about the UK's ability to maintain defense spending, investment, and capabilities. In November 2020, the UK government sought to alleviate such concerns with the announcement of a £16.5 billion (approximately \$22.9 billion) defense spending increase over the next four years; the *Integrated Review* made additional spending commitments.<sup>143</sup>

Brexit also could have a substantial impact on U.S. strategic interests in relation to Europe more broadly and with respect to possible implications for future developments in the EU.<sup>144</sup> Observers commonly regarded the UK as the strongest U.S. partner in the EU, a partner that frequently shared U.S. views, and an influential voice in EU policies and initiatives. Brexit could have an effect with regard to the trajectory of the EU Common Security and Defense Policy (CSDP). In the past, the UK essentially vetoed several initiatives to develop a stronger CSDP, arguing that such efforts duplicate and compete with NATO. U.S. officials hold mixed views on CSDP, debating over the last 20 years whether EU security and defense efforts complement or detract

<sup>137</sup> Reuters, “Britain to Become ‘Second Rate’ in the World After Brexit: EU’s Tusk,” November 13, 2019; and Emilio Casalicchio, “UK Will Be ‘Diminished’ After Brexit, Rutte Warns Tory Leadership Hopefuls,” *Politico*, June 20, 2019.

<sup>138</sup> Robin Niblett, *Global Britain, Global Broker*, Chatham House, January 11, 2021.

<sup>139</sup> *Economist*, “Britain Has Lost the EU. Can It Find a Role?,” January 2, 2021.

<sup>140</sup> International Institute for Strategic Studies, *The Military Balance 2020*, p. 21.

<sup>141</sup> NATO Public Diplomacy Division, *Defence Expenditures of NATO Countries (2013-2020)*, October 21, 2020.

<sup>142</sup> See, for example, Steven Erlanger, “Austerity-Battered U.K. ‘Retreating Behind a Nuclear Shield,’” *New York Times*, April 27, 2019; and Ewen MacAskill, “U.S. Defence Secretary Intervenes in UK Military Budget Row,” *Guardian*, July 2, 2018.

<sup>143</sup> *BBC News*, “What Has Happened to Army Spending and Size?,” March 22, 2021; and Andrew Chuter, “UK to Boost Defense Budget by \$21.9 Billion. Here’s Who Benefits—And Loses Out,” *DefenseNews*, November 19, 2020.

<sup>144</sup> Erik Brattberg, “What Can Europe Offer Biden on Security and Defense?,” in *Working with the Biden Administration: Opportunities for the EU*, ed. Rosa Balfour, Carnegie Endowment for International Peace, January 26, 2021.

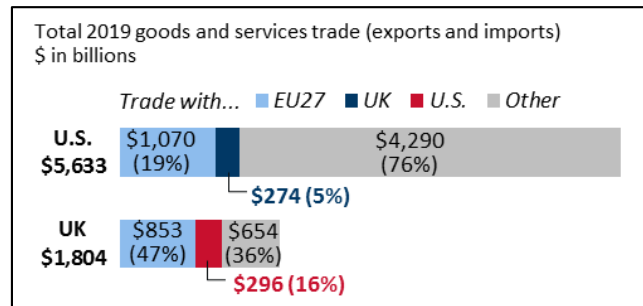


from NATO. Brexit also may affect the perceived influence of EU foreign policy on broader issues such as human rights and sanctions, as well as the EU’s ability to be a robust, effective global partner for the United States, given the UK’s past prominent role in shaping and driving the EU position on many foreign policy challenges.

## Trade and Economic Relations and Prospective U.S.-UK Free Trade Agreement

The UK is a major U.S. trade and economic partner, and FDI and affiliated activity are key aspects of bilateral ties. The United States is the UK’s largest trading partner by country, whereas the EU, as a bloc, is the UK’s largest overall partner (see **Figure 4**). Presently, WTO terms govern U.S.-UK trade; these terms continue to apply after Brexit unless the two sides secure more preferential access to each other’s markets through the conclusion of a bilateral FTA.

**Figure 4. Share of U.S. and UK Total Trade, 2019**



**Source:** CRS, based on U.S. Bureau of Economic Analysis and UK Office for National Statistics data.

**Note:** Figure may not sum to 100% due to rounding.

Given the high level of integration of UK-EU trade and investment and the UK’s role as a platform for firms to access the EU market, Brexit has caused uncertainty and added complexity for U.S. firms exporting and operating in the UK in terms of market access, supply chains, labor, rules and regulations, and other areas. U.S. and other exporters will need to manage separate customs regimes and relationships for the UK and the EU.

The UK’s departure from the EU opened up the possibility of negotiating a U.S.-UK FTA, as it allowed the UK to regain an independent national trade policy. The UK-EU trade deal injects more certainty into the future UK-EU trade and economic relationship, but how the deal is implemented and how outstanding issues are treated may affect negotiating positions and flexibility in U.S.-UK FTA talks. For instance, many U.S. firms have relied on UK-EU data flows to communicate with UK and EU customers, partners, and subsidiaries; these firms likely will closely monitor final EU determinations of the adequacy of the UK’s data protection framework. If the Biden Administration continues the U.S.-UK FTA negotiations that the Trump Administration initiated, Congress may actively monitor and shape these talks and could consider implementing legislation for any final agreement.

In July 2017, the United States and the UK established a bilateral working group to lay the groundwork for a potential future bilateral FTA post-Brexit and to ensure commercial continuity in U.S.-UK ties. The initiative followed President Trump’s strong support for Brexit and interest

on the part of both the Trump Administration and many in Congress in a potential U.S.-UK FTA. The bilateral working group met regularly to discuss a range of trade issues.<sup>145</sup>

On October 16, 2018, the Trump Administration notified Congress, under Trade Promotion Authority (TPA), of its intent to enter into comprehensive FTA negotiations with the UK.<sup>146</sup> Over the next two years, the United States and the UK followed up with information on their specific negotiating objectives for the talks.<sup>147</sup> Then-U.S. Trade Representative Robert Lighthizer said trade negotiations with the UK are a “priority” and would start as soon as the UK was in a position to negotiate, but he cautioned that the negotiations may take time.<sup>148</sup> On May 5, 2020, the United States and the UK launched FTA negotiations; the two sides conducted a total of five rounds of negotiations over the year.<sup>149</sup> Despite high interest on both sides and reported progress, including on issues related to small- and medium-sized enterprises, investment, and digital services, the negotiations remained pending over other outstanding issues.<sup>150</sup> Hopes for a reported U.S.-UK “mini” deal that might address tariffs did not materialize.<sup>151</sup> The Biden Administration’s *2021 Trade Policy Agenda and 2020 Annual Report* stated that U.S. and UK negotiators “made considerable progress towards a comprehensive, ambitious trade agreement.”<sup>152</sup>

### Agreements Under U.S.-UK Trade and Investment Working Group

As part of the bilateral working group, the United States and the UK signed five new product-specific agreements with the aim of avoiding disruptions in U.S.-UK trade in these specific products. The agreements, which entered into force on December 30, 2020, cover

- winemaking and labeling practices;
- mutual recognition of distilled spirit names;
- mutual recognition of conformity assessment procedures for telecommunication equipment, electromagnetic compatibility, and pharmaceutical good manufacturing practices;
- mutual recognition of certificates of conformity for marine equipment; and
- prudential supervision measures for insurance and reinsurance.

The two sides also have taken steps in other areas, such as to ensure continuity in U.S.-UK derivatives trading and clearing activities, trade in organics products, and recognition of veterinary inspections.

**Source:** Office of the U.S. Trade Representative, *2021 Trade Policy Agenda and 2020 Annual Report*, March 2021.

The Biden Administration may continue with the trade negotiations or may engage, for instance, on specific bilateral trade issues first. If FTA negotiations continue, it is unclear what priority the United States may afford them in relation to other potential U.S. trade negotiations, such as with

<sup>145</sup> See, for example, USTR, “Sixth Meeting of the U.S.-UK Trade and Investment Working Group,” press release, July 15, 2019.

<sup>146</sup> USTR, “Trump Administration Announces Intent to Negotiate Trade Agreements with Japan, the European Union and the United Kingdom,” press release, October 16, 2018.

<sup>147</sup> USTR, *United States-United Kingdom Negotiations: Summary of Specific Negotiating Objectives*, February 2019, at [https://ustr.gov/sites/default/files/Summary\\_of\\_U.S.-UK\\_Negotiating\\_Objectives.pdf](https://ustr.gov/sites/default/files/Summary_of_U.S.-UK_Negotiating_Objectives.pdf); and UK Government, Department for International Trade, “The UK’s Approach to Trade Negotiations with the US,” press release (links to UK negotiating objectives), March 2, 2020, at <https://www.gov.uk/government/publications/the-uks-approach-to-trade-negotiations-with-the-us>.

<sup>148</sup> Fox Business interview with U.S. Trade Representative Robert Lighthizer, December 17, 2019.

<sup>149</sup> USTR, “Joint Statement of USTR Robert Lighthizer and UK Secretary for International Trade Elizabeth Truss,” press release, May 5, 2020.

<sup>150</sup> Anna Isaac, “U.S.-UK Trade Talks Joe Biden Inherits,” *Politico*, December 14, 2020.

<sup>151</sup> Faisal Islam, “UK and U.S. Fail to Do Mini-Trade Deal as Trump Exits,” *BBC News*, January 19, 2021.

<sup>152</sup> USTR, *2021 Trade Policy Agenda and 2020 Annual Report*, March 2021.

the EU. To be considered under the current TPA, an agreement must be concluded by July 1, 2021; in addition, the President must notify Congress at least 90 days before concluding an agreement, or by April 1, 2021. For the Johnson government, the early completion of a UK-U.S. trade deal has been a major goal to demonstrate the viability of an independent UK trade policy.

Following a call between President Biden and Prime Minister Johnson, a UK government readout noted the two sides “discussed the benefits of a potential free trade deal” and the “Prime Minister reiterated his intention to resolve existing trade issues as soon as possible.”<sup>153</sup> In contrast, the White House’s readout of the same call did not mention the trade talks and focused instead, for instance, on multilateral cooperation.<sup>154</sup> The Biden Administration has not provided a timeline for any potential U.S.-UK trade talks.<sup>155</sup> In February 2021, the UK ambassador to the United States said, “We don’t want to get it done just for the sake of getting it done. We want a comprehensive deal rather than a quick one.”<sup>156</sup> When asked during her February 2021 Senate confirmation hearing how she would prioritize U.S.-UK trade negotiations, U.S. Trade Representative nominee Katherine Tai (subsequently confirmed on March 17, 2021) stated, “I would want to have the opportunity, if confirmed, to review the discussions and the negotiations that have taken place so far in light of all of these developments in the most recent years and months” (referring to the UK-EU withdrawal and future relationship agreements and to the pandemic).<sup>157</sup> As the UK continues to conclude other trade agreements (see “Global Britain” section, above), U.S. businesses could lose competitive advantages in UK markets in the absence of a U.S.-UK FTA.

If FTA negotiations are renewed, some experts are optimistic about the talks’ success in light of close U.S.-UK ties and historical similarities in trade approaches. Many U.S. and UK businesses and other groups see an FTA as an opportunity to enhance market access and to coordinate on U.S. and UK regulatory approaches to eliminate divergences and align mutual national regulations with industry-supported international standards and best practices.<sup>158</sup> Some also see U.S.-UK trade talks as an opportunity to engage in policy areas where they view EU approaches as concerning, whereas others call for continued cooperation across U.S., UK, and EU jurisdictions.<sup>159</sup> Other stakeholders oppose what they view as efforts to weaken UK regulations

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<sup>153</sup> UK Government, Prime Minister’s Office, “PM Call with President Joe Biden: 23 January 2021,” press release, January 23, 2021.

<sup>154</sup> White House, “Readout of President Joseph R. Biden Call with Prime Minister Boris Johnson of the United Kingdom,” press release, January 23, 2021.

<sup>155</sup> White House, “Press Briefing by Press Secretary Jen Psaki and National Economic Director Brian Deese,” press release, January 22, 2021.

<sup>156</sup> Eric Martin, “UK Favors Comprehensive over Quick U.S. Trade Deal, Envoy Says,” *Bloomberg*, February 5, 2021.

<sup>157</sup> U.S. Congress, Senate Committee on Finance, *Senate Finance Committee Holds Hearing on the Nomination of Katherine Tai to Be US Trade Representative*, transcript, 117<sup>th</sup> Cong., 1<sup>st</sup> sess., February 25, 2021, transcript accessed via ProQuest Congressional; and Ana Swanson, “Biden’s Pick for Trade Representative Promises Break with Past Policy,” *New York Times*, February 24, 2021.

<sup>158</sup> See, for example, in response to USTR, “Request for Comments on Negotiating Objectives for a U.S.-United Kingdom Trade Agreement,” Docket Number USTR-2018-0036, 83 *Federal Register* 57790, November 16, 2018, (hereinafter, USTR, “Request for Comments on U.S.-UK Trade Agreement Negotiating Objectives”), submissions by Pharmaceutical Researchers & Manufacturers of America and Coalition of Services Industries. See also U.S. Chamber, “U.S.-UK Negotiations: Private Sector Priorities,” May 5, 2020.

<sup>159</sup> See, for example, in response to USTR, “Request for Comments on U.S.-UK Trade Agreement Negotiating Objectives,” submissions by Computer & Communications Industry Association and Securities Industry and Financial Markets Association.

and call for any U.S.-UK trade deal to include high standards, such as for worker rights and the environment.<sup>160</sup>

If the Biden Administration continues U.S.-UK trade agreement negotiations, certain issues may be particularly prominent in discussions.<sup>161</sup> Such issues may include the following:

- **Food safety.** Some U.S. stakeholders view UK food safety and animal welfare regulations as protectionism.<sup>162</sup> Meanwhile, UK farmers and some in civil society have voiced concerns about the implications of U.S. demands for greater access to the UK market and potential changes to UK food safety regulations.<sup>163</sup>
- **Pharmaceuticals.** One specific trade negotiating objective of the United States was to seek standards to ensure government regulatory reimbursement regimes are transparent and nondiscriminatory and provide full market access for U.S. pharmaceutical products.<sup>164</sup> Some in UK civil society have expressed concern that a U.S.-UK FTA could lead to the UK privatizing services or raising drug prices; UK officials repeatedly have maintained that these issues are not up for negotiation.<sup>165</sup> Some previous statements by the Trump Administration suggested the United States may seek to include treatment of the UK's National Health Service in U.S.-UK trade agreement negotiations, but other statements were to the contrary.<sup>166</sup>
- **Other issues.** Financial services, investment, e-commerce, geographical indications, and other regulatory issues may be among other points of contention. The Biden Administration also may place differing emphases than the Trump Administration did, such as on labor and environment issues.<sup>167</sup>

Complexities for the U.S.-UK trade talks also may include frictions over tariffs and other policy issues. For instance, the Trump Administration threatened the UK with tariffs over its plan to apply a new digital services tax. Other issues, such as the U.S. Section 232 national security-based steel and aluminum tariffs, and various retaliatory measures could add complications.<sup>168</sup> The Biden Administration's approach to these issues remains to be seen.

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<sup>160</sup> See, for example, in response to USTR, "Request for Comments on U.S.-UK Trade Agreement Negotiating Objectives," submissions by American Federation of Labor and Congress of Industrial Organizations and Institute for Agriculture & Trade Policy.

<sup>161</sup> Dharshini David, "UK-U.S. Trade Talks Will Not Be an Easy Ride," BBC, May 5, 2020.

<sup>162</sup> See, for example, in response to USTR, "Request for Comments on U.S.-UK Trade Agreement Negotiating Objectives," submission by American Farm Bureau Federation.

<sup>163</sup> See, for example, Laura Heighton-Ginns, "Don't Sacrifice Us for Trade Deal, Says UK Farmers," BBC, August 21, 2019; and National Farmers Union (UK), "NFU Responds to Mandate on UK/U.S. Trade," March 3, 2020.

<sup>164</sup> USTR, *United States-United Kingdom Negotiations: Summary of Specific Negotiating Objectives*, February 2019, p. 8.

<sup>165</sup> UK Government, Department for International Trade, "Liz Truss Kick-Starts UK-U.S. Trade Talks," press release, March 11, 2020; and UK Government, Department for International Trade, "The UK's Approach to Trade Negotiations with the U.S.," press release (links to UK negotiating objectives), March 2, 2020.

<sup>166</sup> President Trump White House (archives), "Remarks by President Trump and Prime Minister May in Joint Press Conference," press release, June 4, 2019, at <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-prime-minister-may-joint-press-conference/>; and Emilio Casalicchio, "Donald Trump: U.S. Not Interested in [National Health Service] 'Even If Handed Over on a Silver Platter,'" *Politico*, December 3, 2019.

<sup>167</sup> David J. Lynch, "Biden Aims for New Course on Trade, Breaking with Trump and Predecessors," *Washington Post*, January 14, 2021.

<sup>168</sup> CRS Report R45249, *Section 232 Investigations: Overview and Issues for Congress*, coordinated by Rachel F.

Many Members of Congress support a U.S.-UK FTA.<sup>169</sup> Some Members of Congress have cautioned that they would oppose a deal if Brexit undermined the Northern Ireland peace accord and jeopardized the open border on the island of Ireland.<sup>170</sup> The Chairman of the House Committee on Ways and Means, who has repeatedly linked U.S. support for a free trade deal to such conditions, reportedly has said he feels “hopeful” about completing a U.S.-UK trade deal in light of the post-Brexit arrangements for Northern Ireland.<sup>171</sup> Other Members have not explicitly tied their support for a U.S.-UK trade agreement to protecting the Northern Ireland peace process.<sup>172</sup>

## Conclusion

The TCA between the UK and the EU answered many immediate questions related to Brexit. However, analysts expect to monitor developments and longer-term impacts with regard to numerous unresolved issues, such as

- whether and how the UK and the EU will seek to deepen their relationship on trade and economic issues and on foreign policy;
- conversely, whether and to what degree post-Brexit tensions might result in a chillier and more distant relationship between the UK and the EU;
- how the UK will develop its national trade policy and whether the UK’s economic choices will result in regulatory divergence from the EU; and
- whether tensions over the Ireland/Northern Ireland protocol will continue or will be resolved and what will be the ongoing effects of Brexit on peace and stability in Northern Ireland and the UK’s constitutional integrity.

Regardless of the precise turn of events, Brexit’s aftermath is expected to remain a primary focus of UK politics and an unavoidable issue for the EU for the foreseeable future.

During the 117<sup>th</sup> Congress, developments related to Brexit may remain of interest to Members of Congress. Such developments are likely to have implications for U.S.-UK and U.S.-EU relations and foreign policy and security cooperation, as well as for the global economy and trade issues. The topic of a prospective U.S.-UK FTA may be a particular area of congressional interest. Congress also may consider how Brexit could affect Northern Ireland and the Northern Ireland peace process.

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<sup>169</sup> Some Members of Congress previously moderated their support for a U.S.-UK FTA with calls to ensure the negotiation of such an agreement does not undercut the promotion of broader transatlantic trade relations. See, for example, U.S. Congress, House Committee on Foreign Affairs, Subcommittee on Terrorism, Nonproliferation, and Trade and Subcommittee on Europe, Eurasia, and Emerging Threats, *Next Steps in the “Special Relationship”-Impact of a U.S.-UK Free Trade Agreement*, 115<sup>th</sup> Cong., 1<sup>st</sup> sess., February 1, 2017.

<sup>170</sup> See, for example, Simon Carswell, “Pelosi Warns No U.S.-UK Trade Deal If Belfast Agreement Weakened by Brexit,” *Irish Times*, April 15, 2019; and H.Res. 585 (116<sup>th</sup> Congress), reaffirming support for the Good Friday Agreement in light of Brexit and asserting that any future U.S.-UK trade agreement and other U.S.-UK bilateral agreements must include conditions to uphold the peace accord.

<sup>171</sup> Representative Richard Neal, “Chairman Neal Statement on UK-EU Brexit Negotiations,” September 8, 2020; Suzanne Lynch, “Hard Border a Roadblock to U.S.-UK Trade Deal, Congressman Says,” *Irish Times*, March 14, 2019; and “Neal ‘Hopeful’ Trade Deals With UK, Kenya Will Be Considered by Congress This Year,” *Inside U.S. Trade*, February 9, 2021.

<sup>172</sup> Senator Chuck Grassley, “Grassley Joins Colleagues in Letter Pledging to Back Britain After Brexit,” August 6, 2019.

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