

EXPLANATORY MEMORANDUM FOR EUROPEAN UNION LEGISLATION AND DOCUMENTS

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS on the Implementation of Free Trade Agreements 1 January 2017 – 31 December 2017.

And accompanying Individual Reports and Information Sheets on Implementation of Free Trade Agreements

Submitted by Department for International Trade on 14 November 2018.

SUBJECT MATTER

1. This document is an annual report on the implementation of EU Free Trade Agreements (FTAs) and covers the period 1 January 2017 to 31 December 2017. It aims to provide an overview of progress towards and challenges associated with FTA implementation.
2. The main purpose of the report is to enable all those with a stake in EU trade policy, including EU Member States, civil society, business and the wider public, to scrutinise and debate the way in which FTAs are being implemented. The Commission is also seeking to make stakeholders aware of the potential benefits arising from FTAs and to find ways of helping business to make better use of them. The Commission emphasises its wish to discuss the report's conclusions and its openness to debate on trade policy in general and on the FTAs in particular.
3. The report categorises the FTAs within its scope as follows:
 - a. New Generation FTAs (comprising agreements with Canada, South Korea, the Andean countries and Central America);
 - b. Deep and Comprehensive FTAs (comprising Ukraine, Georgia and Moldova);
 - c. First Generation FTAs (such as with Norway, Switzerland, Mexico and Chile);
 - d. Economic Partnership Agreements (EPAs) with African, Caribbean and Pacific countries.
4. For most of these FTAs the report provides an overview of trade flows and preference utilisation rates, of labour and other rights, and of progress towards implementation. It also provides multiple case studies intended to showcase the practical benefits of EU trade liberalisation, though none of these studies are drawn from the United Kingdom. The report concludes with updates on sustainable development, agri-food trade, planned activity and legal enforcement.
5. The main findings of the report include the following:

- a. In 2017 overall trade in goods between the EU and partner countries increased. The report suggests that, where EU exports decreased, this was caused by external factors affecting the economy of the partner country rather than by any problems inherent in the FTA;
 - b. Overall, the Mediterranean countries made good use of the FTA preferences granted by the EU, as did Ecuador. In 2017 Central America, Mexico, Chile, Switzerland and Norway made better use of EU preferences than they had done previously. There are in some cases insufficient data to determine the extent to which EU exporters are using preferences provided by partner countries. From CETA onwards, therefore, all 'new generation' FTAs contain a legal commitment to data sharing;
 - c. Services trade has increased with South Korea, Colombia, Ecuador, Peru and Central America since their 'new generation' FTAs came into force. A similar trend can be observed for 'first generation' agreements with Chile and Mexico. 'First generation' agreements with the Mediterranean countries, however, focus on trade in goods rather than services;
 - d. The Commission has been using FTA institutional frameworks to resolve problems with partner countries as they arise. On Sanitary and Phytosanitary (SPS) measures, Chile opened its market to EU beef and Peru provided almost full access for EU dairy products. On technical and administrative barriers to trade, Mexico lifted barriers relating to the registration and approval of health products and agri-chemicals. On business climate issues, Mexico improved access to FDI by removing equity caps in the telecoms, energy and insurance markets, whilst Egypt and Tunisia enacted new investment laws;
 - e. The report also highlights several unresolved issues with partner countries. South Korea has for example retained its ban on EU beef imports, whilst some of the Mediterranean countries continue to apply registration schemes, certification processes and technical controls in ports. Corruption and poor governance, too, continue to affect EU businesses operating in the Eastern Neighbourhood countries (i.e., Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) and in the Western Balkans.
6. Since 2010 all 'New Generation' FTAs and Deep and Comprehensive FTAs have included a legally binding Trade and Sustainable Development (TSD) chapter. The report states that, following widespread debate on TSD efficacy, the Commission published in 2017 a non-paper outlining 15 points of action. These points demanded that Member States, European Parliament and international organisations should cooperate; that civil society should be empowered to participate in TSD implementation; that enforcement should be undertaken more assertively; and that communication and transparency should be enhanced. The FTA Implementation Report claims that this new approach is already starting to deliver results. South Korea, for example, has communicated to the Commission a timeline for tripartite discussions on the steps needed for South Korea's ratification of International Labour Organisation (ILO) conventions.
7. The report also states that agri-food trade with FTA partner countries is growing, with exports from EPA partner countries increasing in value by 71% since 2007 and EU exports to South Korea increasing by 113% over the past eight years.

This growth has been achieved in part by securing tariff rate quotas (TRQs) and in part by addressing the trade barriers associated with SPS measures. In 2017, the Commission secured from Mexico and Peru increased market access in relation to EU pork and dairy exports, respectively. Recent FTAs have also ensured a high level of Geographical Indication (GI) protection where, in most cases, no such protection existed previously. The Commission is seeking to build on these positive outcomes by resolving outstanding market access issues, including that with South Korea over EU beef exports; by improving TRQ usage; and by using EU funds to provide technical assistance in the Western Balkans, Eastern Partnership region and African, Caribbean and Pacific regions.

8. On pending and future activities, the report outlines a number of initiatives intended to maximise FTA usage. It states that the Commission is developing an online portal to provide small and medium enterprises (SMEs) with product-specific information, guidance on customs clearance processes and an alert system customised to individual users. The Commission is also seeking reliable information from FTA partner countries on preference usage rates and introducing into all future FTAs a data-sharing commitment. A new Expert Group on EU Trade Agreements is providing advice to the Commission on FTA implementation and a new TSD Member States' Expert Group is now scheduled to meet four times per year. And market access teams at EU delegations in third countries are seeking to use EU funds to support FTA implementation.
9. The report concludes by noting that all EU FTAs provide for robust enforcement of commitments but that in 2017 the Commission did not use this mechanism.
10. The report also comprises annexes on preference usage rates (where available), and on acronyms. It is accompanied by a Commission Staff Working Document that includes country reports and data tables. Given the number of countries covered in the report, this information is at a very high level.

SCRUTINY HISTORY

11. The EU's first annual report on implementation of free trade agreements was issued in 2017. The Department for International Trade (DIT) submitted an Explanatory Memorandum (EM) on EU document 14111/17, "Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Implementation of Free Trade Agreements 1 January 2016 to 31 December 2016".
12. The House of Commons European Scrutiny Committee (ESC) cleared the EM in their 8th report on 10 January 2018 (Session 2017-19) as a document not warranting a substantive report to the House. The House of Lords European Union Committee (EUC) cleared at the Chairman's Sift no 1674 on 5 December 2017 (Session 2017-19) but sent to the External Affairs Sub-Committee for information.

MINISTERIAL RESPONSIBILITY

13. The Secretary of State for International Trade has primary responsibility for trade policy matters, which includes the negotiation and implementation of FTAs. Other Secretaries of State with an interest include the Secretary of State for Foreign Affairs, the Secretary of State for International Development, the Secretary of State for the Environment, Food and Rural Affairs, the Secretary of

State for Business, Energy and Industrial Strategy, the Secretary of State for Home Affairs, the Secretary of State for Transport, the Secretary of State for Work and Pensions, the Minister for the Cabinet Office and First Secretary of State.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

14. The UK's policy in this area is a reserved matter under the UK's devolution settlements. However, the devolved administrations have an interest in trade policy matters and have therefore been consulted in the preparation of this EM.

LEGAL AND PROCEDURAL ISSUES

15. None. This report concerns a review of implementation of existing EU FTAs already in force and is not a proposal for legislation.

APPLICATION TO THE EUROPEAN ECONOMIC AREA

16. Not applicable. This is an annual report and is not a legislative proposal. EU FTAs are not directly applicable to EEA states.

SUBSIDIARITY

17. This annual report does not raise subsidiarity issues.

POLICY IMPLICATIONS (including Exit implications where appropriate)

18. On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

19. Since this document represents an annual review of existing FTAs and an assessment of the current impact of existing EU agreements, there are no immediate EU Exit implications. So long as the UK is an EU Member State we will continue actively to support the EU's trade agenda and its existing agreements. The UK Government is committed to seeking continuity in its current trade and investment relationships after EU Exit, including those covered by EU FTAs or other EU preferential arrangements.

CONSULTATION

20. Not applicable. This is not a legislative proposal. The report does not impose any costs or burdens on UK business.

IMPACT ASSESSMENT

21. Not applicable. This is not a legislative proposal.

FINANCIAL IMPLICATIONS

22. Not applicable. This is not a legislative proposal. There are no financial implications for the UK.

TIMETABLE

23. Not applicable. The proposal is for information only and is not a proposal for legislation. No further Council conclusions or discussions are due to take place in relation to the published report.

OTHER OBSERVATIONS

24. As detailed in Table 1 (Overview of the FTAs covered by this report) a full list of the FTAs under analysis is as follows:

"New Generation" FTAs

EU-South Korea: applied since July 2011.

EU-Colombia-Peru-Ecuador: applied since March 2013 for Peru and August 2013 for Colombia.

EU-Central America Association Agreement: applied since 2013.

EU-Canada Comprehensive Economic and Trade Agreement (CETA). 21 September 2017

Deep and Comprehensive Free Trade Areas

EU-Georgia: applied since 1 September 2014, and fully entered into force on 1 July 2016.

EU-Moldova: applied since 1 September 2014, and fully entered into force on 1 July 2016.

EU-Ukraine: applied since 1 January 2016, and fully entered into force on 1 September 2017.

Economic Partnership Agreements

EU-Cariforum (Antigua & Barbuda; Belize; Bahamas; Barbados; Dominica; Dominican Republic; Grenada; Guyana; Jamaica; St. Kitts & Nevis; St. Lucia; St. Vincent & the Grenadines; Suriname; and Trinidad & Tobago): applied since 29 December 2008.

EU-Pacific (Fiji, Papua New Guinea): applied since 28 July 2014 for Fiji and since 20 December 2009 for Papua New Guinea.

EU-Eastern and Southern African (ESA) sub-region (Madagascar, Mauritius, Seychelles, and Zimbabwe): applied since 14 May 2012.

EU-Cameroon (Central Africa): applied since 4 August 2014.

EU-Southern Africa Development Community (SADC) (South Africa, Botswana, Lesotho, Namibia, eSwatini): applied since 10 October 2016. Mozambique, 4 February 2018.

EU-Ghana: applied since 15 December 2016.

EU-Côte d'Ivoire: applied since 3 September 2016.

"First Generation" FTAs

EU-Turkey Customs Union: Association Agreement signed in 1963; final phase of the customs union completed on 1 January 1996.

EU-Switzerland: applied since 1972.

EU-Norway: applied since 1 July 1973.

EU-Algeria: applied since 1 September 2005.

EU-Egypt: applied since 21 December 2003.

EU-Israel: applied since 1996.

EU-Jordan: applied since 1 May 2002.

EU-Lebanon: applied since 1 March 2003.

EU-Morocco: applied since 1 March 2000.

EU-Palestine: applied since 1 July 1997.

EU-Tunisia: applied since 1 March 1998.

EU-South Africa Trade, Development and Cooperation Agreement:
applied since 1 January 2000.

EU-Mexico Global Agreement: applied since October 2000.

EU-Chile Association Agreement: applied since 1 February 2003.

EU-Serbia Stabilisation and Association Agreement: applied since 1 July 2008.

EU-former Yugoslav Republic of Macedonia: interim agreement on trade on 1 June 2001.

EU-Montenegro: interim agreement on trade on 1 January 2008.

EU-Bosnia and Herzegovina: interim agreement on trade on 1 July 2008.

EU-Albania: interim agreement on trade on 1 January 2008.

A handwritten signature in blue ink, appearing to read 'George Hollingbery', with a stylized flourish at the end.

George Hollingbery MP
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Department for International Trade