



Swiss–UK relations post Brexit

November 2019

Switzerland and the United Kingdom (UK) are linked by a close and important partnership, which today is largely based on the bilateral agreements between Switzerland and the EU. After the UK has left the EU, these treaties will no longer be applicable, at the latest after a transitional period. In the context of its ‘Mind the gap’ strategy, Switzerland has concluded a number of new agreements with the UK. This ‘Mind the gap’ strategy aims to secure and, where appropriate, extend existing mutual rights and obligations. They cover, among others, trade, migration, road and air transport and insurances.

Chronology

- 31.01.2020 New exit deadline
- 31.10.2019 Signing of a provisional agreement on the coordination of social security schemes
- 10.07.2019 Signing of a provisional agreement on mutual access to the labour market and a memorandum of understanding on police cooperation
- 25.02.2019 Signing of the citizens’ rights agreement
- 11.02.2019 Signing of the trade agreement
- 25.01.2019 Signing of the insurance agreement and the overland transport agreement
- 17.12.2018 Signing of the air transport agreement
- 29.03.2017 Initiation by the UK of the withdrawal process from the EU under Article 50 of the Treaty on European Union (date originally set for withdrawal: 29.03.2019)
- 19.10.2016 Adoption of ‘Mind the gap’ strategy by the Federal Council
- 23.06.2016 UK’s referendum on withdrawal from the EU (leave: 51.9%)

Swiss–UK relations

Relations between Switzerland and the UK are close and multifaceted. In 2018, the UK was Switzerland’s sixth biggest export market (CHF 9.4 billion) and the eighth largest source of Switzerland’s imports (CHF 7.7 billion). The UK is Switzerland’s fourth largest direct investor (based on 2017 figures). Around 58,600 flights a year connect Switzerland and the UK; Germany is the only country with which Switzerland has more flight connections. 35,412 Swiss citizens live in the UK and 41,375 British citizens live in Switzerland.

Negotiations on the UK’s exit from the EU

After the British electorate voted in favour of leaving the EU (‘Brexit’) in a referendum on 23 June 2016, the British government formally notified the EU of its withdrawal decision on 29 March 2017. This triggered a two-year period for negotiations with the EU on the conditions for an orderly withdrawal on 29 March 2019. In November 2018 the British government and the EU reached a withdrawal agreement, which included a transition period running until the end of 2020 (with the option to extend this by one to two years, subject to the approval of both parties). During this transition period, the UK would remain part of the EU single market and customs union (but without codecision rights). EU third-country agree-

ments, for example the Switzerland-EU bilateral agreements, would also continue to apply to the UK. A joint declaration on long-term future relations was also published. The agreement requires parliamentary approval from both sides. After the agreement repeatedly failed to gain a majority in the House of Commons, the British government and the EU agreed on certain adjustments in October 2019. This amended version has yet to be approved. The deadline for the withdrawal has been extended until 31 January 2020.

Consequences for Switzerland of Brexit

At present the very close relations enjoyed by Switzerland and the UK are largely based on the bilateral agreements between Switzerland and the EU. After Brexit, these agreements will cease to apply to the relationship between Switzerland and the UK and will have to be replaced by new agreements (in the event of an orderly departure under a withdrawal agreement to be concluded after a transition period). Through these new agreements, Switzerland wishes to ensure that the existing mutual rights and obligations in its relationship with the UK will continue to apply as far as possible after the UK leaves the EU, and to expand them where necessary in certain areas. The Federal Council adopted its ‘Mind the Gap’ strategy early on, in October 2016. On the Swiss side, this work is coor-

minated by an interdepartmental steering group headed by the Directorate for European Affairs. On the UK side, work is coordinated by the Department for Exiting the European Union.

In April 2018, the Federal Council clarified its 'Mind the gap' strategy, deciding that in the event of an orderly UK withdrawal from the EU (deal scenario), the possibility provided for in the EU-UK withdrawal agreement of temporarily continuing third-country agreements during a transition period is also to apply to the bilateral agreements between Switzerland and the EU. This would require formal mutual notification to that effect between the EU and Switzerland. The bilateral agreements between Switzerland and the EU would therefore continue to apply to Swiss-UK relations from the withdrawal date until the end of the transition period. This would extend the time frame for agreement on the future relationship between Switzerland and the UK. Nevertheless, such a temporary extension of the bilateral agreements between Switzerland and the EU would require parliamentary approval from both sides and ratification of the UK's EU withdrawal agreement.

The Federal Council is also preparing in close cooperation with the UK for the possibility that the withdrawal agreement might not be ratified (no-deal scenario). Even in this case of a disorderly withdrawal, the existing rights and obligations between Switzerland and the UK are to be preserved as far as possible.

New Switzerland–UK agreements

To ensure that these rights and obligations are preserved, Switzerland has drawn up new agreements with the UK which will apply when the bilateral agreements between Switzerland and the EU no longer apply to the UK (whether under a deal or no-deal scenario).

The new **trade agreement** (signed on 11 February 2019) makes it possible to replicate in substance the majority of economic and trade agreements with the EU in the future relationship between Switzerland and the UK. This includes the 1972 Free Trade Agreement, the Agreement on Government Procurement, the Agreement on Combating Fraud, part of the Agreement on Mutual Recognition in relation to Conformity Assessment (MRA) (namely the three chapters on motor vehicles, good laboratory practice, and good manufacturing practice for medicinal products) and part of the 1999 Agreement on Agriculture. Some agreements between Switzerland and the EU are based on the harmonisation of regulations between Switzerland and the EU and at present cannot (or cannot fully) be incorporated into the relationship between Switzerland and the UK (namely the 2009 Agreement on Customs Facilitation and Security, certain sections of the Agreement on Agriculture, including the annex on the veterinary agreement, and

certain sectors under the MRA). The agreement also provides scope for exploratory talks on the further development of trade relations. A no deal scenario would also require provisional unilateral measures in the area of technical barriers to trade (MRAs – in the sections on trade in goods not covered by the new trade agreement between Switzerland and the UK).

An **overland transport agreement** signed on 25 January 2019 ensures that carriers will continue to be exempted from obtaining permits to transport freight by road between Switzerland and the UK, and that reciprocal road access for transporting goods and passengers will also be maintained. The agreement still prohibits cabotage, i.e. the transport of goods or passengers within the territory of the other state. A new **air transport agreement** signed on 17 December 2018 will preserve the existing air traffic rights.

The **insurance agreement** signed between Switzerland and the UK on 25 January 2019 guarantees freedom of establishment for insurance companies in the field of direct insurance other than life insurance and thus incorporates the terms of the 1989 agreement on insurance between Switzerland and the EU.

In relation to migration, Switzerland and the UK signed a citizens' rights agreement on 25 February 2019. If the free movement of persons ceases to apply to the UK, this new agreement will protect the rights of Swiss citizens living in the UK – which they acquired under the Agreement on the Free Movement of Persons (AFMP) – such as residency and social security rights and the recognition of professional qualifications. Reciprocal conditions will apply to UK citizens in Switzerland.

UK citizens will continue to be exempt from any **visa requirement** once the UK leaves the EU. The UK, for its part, has given assurances that Swiss citizens will also remain **exempt from the requirement to obtain a visa**.

In the **area of migration**, two further agreements (fallback agreements) have been concluded which would only apply for a limited period in the event of a no-deal Brexit and would have to be replaced in the medium term by a more permanent regulation of future relations relating to migration:

- For people wishing to migrate from Switzerland to the UK or vice versa after the AFMP ceases to apply, the Federal Council signed an **agreement** on 10 July 2019 **on admission to the respective labour market**. This agreement will only come into force in the event of a no-deal Brexit and will in principle terminate on 31 December 2020. For

a limited transitional period, this eases the admission requirements for citizens of one country wishing to take up gainful employment in the other. The agreement provides for a temporary waiver of the requirement to verify professional qualifications and to prioritise the domestic workforce for UK nationals wishing to access the Swiss labour market. The agreement also states that the number of UK citizens admitted to live in Switzerland will be determined by quotas, to be set annually by the Federal Council. Likewise, Swiss citizens wishing to stay in the United Kingdom for longer than three months would have to register and would be given a three-year residence permit. This fallback solution mitigates the effects of an abrupt end of the free movement of persons and creates legal and planning certainty for Swiss businesses.

- In addition, a **social security agreement** was signed on 31 October 2019, which will also remain in force until 31 December 2020, and under which in the event of a no-deal Brexit the rules for the coordination of the social security systems provided for in the AFMP will continue to apply.

Three of the agreements (trade, citizens' rights and mutual access to the labour market) require Parliament's approval. In the event of a disorderly withdrawal of the UK from the EU, the agreements would therefore have to apply provisionally. The foreign affairs committees of the National Council and the Council of States have been consulted in accordance with the Parliament Act and have approved this course of action.

The above-named new agreements would come into immediate effect only in the case of a disorderly withdrawal. If there is an orderly withdrawal, there will be a

transitional period and the bilateral agreements between Switzerland and the EU will continue to apply to the UK during this period. The new agreements (with the exception of the two fall-back solutions for access to the labour market and social security) would only enter into force after the transition period had elapsed. If this occurs, Switzerland's new trade and migration-related agreements with the UK could be supplemented with other provisions depending on how the relationship between the UK and the EU develops. Brexit-related preparations are also under way in other areas that will not require new agreements: e.g. **data protection** and the jurisdiction and the recognition and enforcement of judgments in **civil and commercial matters** (Lugano Convention). Here too, the aim is to ensure legal continuity.

In addition to ensuring continuity, Switzerland is also considering a possible **further development of relations with the UK** ('Mind the gap plus'). The Federal Council is currently exploring areas that may lend themselves to enhanced cooperation post Brexit and where the two countries may have common interests. The trade agreement already specifies that Switzerland and the UK will hold exploratory talks following Brexit in order to replace, update or further develop the agreement.

Link to PDF

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Further information

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