

UK Leaves the EU

Impact on U.S. Exporters



UK Brexit – December 1, 2021

Background

UK referendum held June 23, 2016

---Question: Should the United Kingdom remain a member of the European Union or leave the European Union?

- Result:

- 51.9% leave

- 48.1% remain

Turnout –72.2% over 33.5 million votes.

What has happened since?

Negotiations begin – summer of 2017

Boris Johnson takes over as UK Prime Minister – July 24, 2019

UK finally leaves the European Union – January 31, 2020

But transition period for ongoing trade negotiations put in place

until December 31, 2020.

Result of Transition – Trade and Cooperation Agreement --TCA

- TCA sets the rules for the new relationship between the UK and EU
- 1200 page agreement covers areas of goods and services, digital trade, intellectual property , aviation and road transport, energy, fisheries, and law enforcement and judicial matters
- TCA signed on December 20, 2020 and entered into force on May 1, 2021
- TCA did not match the commercial relationship the UK had with the EU when it was a member state but goes beyond a traditional free trade agreement



UK and Free Trade Agreements

UK Free Trade Agreements

- UK leaders believed that separating from the EU would give them a chance to make Free Trade Agreements with countries around the world
- So far, the UK has negotiated Free Trade Agreements with several South America, African, Central American and West Indies countries, along with Norway, Switzerland and Turkey. The UK is negotiating Free Trade Agreements with Australia and New Zealand.

Free Trade Agreement with the US?

- The UK's most important Free Trade Agreements at this time are with Canada and Japan.
- In May 2020, the UK and US opened negotiations for a Free Trade Agreement. The two sides held five sessions, and then the new US Administration suspended the talks to evaluate the situation. The status of the talks are still being analyzed.
- Information on UK FTA's at www.gov.uk/freetradeagreements

US-UK Trade Balance in Goods & Services

2019 Data (\$ billions)

	Goods	Services	Total
U.S. Exports	\$69.2	\$77.7	\$146.9
U.S. Imports	\$63.2	\$62.8	\$126.0
Total U.S. Trade	\$132.4	\$140.5	\$272.9

Commerce Department Statistics

US-UK Trade Balance In Goods and Services (2020 Data – Billions of dollars)

	Goods	Services	Total
U.S. Exports	\$58.4	\$62.6	\$121.0
U.S. Imports	\$50.3	\$52.5	\$102.8
Total U.S. Trade	\$108.7	\$115.1	\$223.8

--Trade facts – UK is the fifth largest goods export market for the US in 2019; top export categories were precious metal and stone, aircraft, mineral fuels, machinery and electrical machinery.

--According to Commerce Department figures, U.S. trade with the UK supports 665,000 jobs in the US (latest figures from 2015).

Effects of Brexit on U.S. Exporters -- logistics

- EU and UK negotiated a non-tariff trade agreement (for goods and some services) in December 2020, just before Brexit took place on January 1, 2021
- Goods can be traded between the UK and EU with no duties charged as long as the goods originate in either the UK or EU
- However, products coming from the U.S. such as computers, set to be stored in a warehouse in the UK and later sold in Europe will be charged two tariffs, one when the product enters the UK and the other at the point of entry into the EU.

Effects of Brexit on U.S. Exporters -- logistics

- Example I: U.S. company has warehouse in UK, shipping auto parts to EU locations.
- Company thought it could ship product from the U.S. to UK and on to Europe with one tariff but found out it had to pay tariffs to the UK and then to the EU because of rules of origin.
- Company decided to leave the UK and built a warehouse in Rotterdam to serve larger market in EU
- Example II: U.S. company making party goods (hats and balloons) decides to keep UK warehouse because of large UK market share.

Effects of Brexit on U.S. Exporters – CE Mark

- UK leaves European Union on January 1, 2021
- In order to give businesses time to adjust, UK gives a two-year transition period where CE marked products are accepted in the UK through December 31, 2022. (In otherwords CE mark products will be accepted in the UK next year).
- However, that's not the end of the story.
- Results from notified bodies in the UK (now called Conformity Assessment Bodies or CABs) are not accepted in the EU as of 1/1/21.

Effects of Brexit on U.S. Exporters – CE Mark

- UK notified bodies established branches in the EU to accommodate their clients and ensure that documentation would continue to be recognized in the EU.
- The results from EU notified bodies are accepted in the UK since the UK is accepting the CE mark until January 1, 2023 (and June 30, 2023 in the case of the Medical Device Regulation).
- After January 1, 2023, companies selling products into the UK covered by CE mark legislation will have to mark their products with the UKCA mark. A CE mark can also appear on the product.

Effect of Brexit on U.S. Exporters – CE Mark

EU Directives to List on Declaration of Conformity

- Electromagnetic Compatibility Directive, 2014/30/EU
- Machinery Directive, 2006/42/EC
- Low Voltage Directive, 2014/35/EU
- Radio Equipment Directive, 2014/53/EU
- Toy Directive, 2009/48/EC

• UK Directives to List on Declaration of Conformity

- Electromagnetic Compatibility Regulations, 2016
- Supply of Machinery (Safety) Regulations, 2008
- Electrical Equipment (Safety) Regulations, 2016
- Radio Equipment Regulations, 2017
- Toy (Safety) Regulations, 2011

Effects of Brexit on U.S. Exporters – Other Issues

- UK rules require authorized representative for the Medical Device Regulation
- Similarly, companies selling machinery (covered by the Machine Safety Directive) into the UK will have to line up a UK-based representative.
- Northern Ireland is located in Ireland but is under British control. At this time, it's being treated like it's part of the EU, ie there are no border controls, even though it's not part of the EU. Products going to Northern Ireland need to have the mark UKNI after January 1, 2023.

What Happens After January 1, 2023?

- UK companies will have had several years of experience dealing with this split UK – EU market – from 2020 to 2023.
- Several British notified bodies, like BSI and SGS, established a branch in the EU so its clients' documentation continued to be accepted in the EU market after the EU stopped accepting certificates from UK notified bodies.
- During this time, EU notified body certificates have been accepted in the UK

Post Brexit Market – CE Marking

- After January 1, 2023, EU certificates covering CE mark directives such as Personal Protective Equipment, Pressure Equipment, Machinery, Medical Devices and others will not be accepted in the UK.
- At this point, both EU and British companies (and U.S. firms) will need dual certifications in order to apply the CE mark and UKCA mark and have their products accepted in the UK and EU markets.
- If a company is using an EU notified body that doesn't have a branch in the UK, then the company will have to pick a UK notified body to handle a job for the UK market where the product needs the UKCA mark

Post Brexit Market

- Companies will look at the UK and EU market and will have to assess the value of doing business in both markets vs. the cost of needing a dual certification for the CE mark and UKCA mark.
- These cost issues apply mainly to products that need notified body approvals, not as much to products that can be self-certified or tested at an independent lab. Examples of products that do not need notified body approval in most cases are the Machine Directive, Low Voltage, Electromagnetic Compatibility (EMC) and Radio Equipment Directives.

Post Brexit Market – notified bodies

- Notified bodies that can offer dual certification for the UKCA mark and the CE mark will have a big competitive advantage.
- Otherwise a company will have to work with one notified body in the UK and one notified body in the EU.
- Still, the cost of a dual certification is going to be higher than it was when the UK was in the Single Market and a single certification would enable the company to have access to both the EU and UK markets.

Helpful Websites and Webinars on Brexit

- The following websites are excellent sources of information:
- <https://www.gov.uk/guidance/placing-manufactured-goods-on-the-market-in-great-britain>
- <https://www.gov.uk/guidance/using-the-ukca-marking>
- Webinar
- <https://www.gov.uk/guidance/webinars-for-using-the-ukca-marking-and-placing-goods-on-the-market-in-great-Britain-and-northern-ireland>

Helpful websites and webinars on Brexit

Webinars coming up:

Tuesday December 7--2 pm (UK time)--Preparing for UKCA labeling requirements

Tuesday December 14 --2 pm (UK time)—Placing Goods on the Market in Great Britain

EU Environment Program and Brexit

- The Restriction of Hazardous Substances (RoHS) Directive and the Energy Related Products (ErP) Directive are both CE mark directives that are key parts to the EU's environment program.
- The UK has adopted the text of the CE mark directives, including RoHS and ErP. However, after January 1, 2021, the UK can adopt its own regulations. The UK could change RoHS by adding more substances or might modify ErP by adding new product categories.

EU Environment Program and Brexit

- REACH (Registration, Evaluation and Authorization of Chemicals) is not a CE mark directive. There could be some changes in the UK's version of REACH compared to the EU REACH.
- UK REACH website: www.hse.gov.uk/reach/index.htm

Contact Information

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Accepted in the UK until
January 1, 2023 (until June
30, 2023 for medical devices)

Mandatory on the UK
Market after January 1,
2023

CE

**UK
CA**