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RetailEconomics

Navigating the Road Ahead: The Final Destination

UK Retail Brexit Trade Review – January 2021

Executive Summary

- No new tariff costs on imports from the EU, avoiding up to £7 billion of new tariff costs.
- New red tape will emerge at the UK/EU border, but the agreement contains provisions to minimise the cost of this.
- E-commerce sales of less than €150 in value from the UK to the EU will be exempt from customs duties. The corresponding value for EU e-commerce to the UK is £135.
- Most EU preferential trade deals have been extended to the UK, so there should be no increase in import costs for these countries (e.g. SACUM trade bloc).
- Existing preferential tariff arrangements for developing countries have largely been rolled over.
- UK imports of many products from Most Favoured Nation (MFN) supplier countries will enjoy marginally lower tariff rates, and a handful will enjoy significant reductions in tariff rates.
- The UK will scrap additional duties on bicycles from China and a range of consumer goods from the US.
- Reasonable prospects for future free trade agreements (FTAs) with Australia, New Zealand and the US.
- Possibility of tariffs on UK/EU trade in the future in very strictly defined circumstances.

Overview

The new UK/EU trade agreement provides a much-needed resolution to the future trading relationship of each party and establishes a level of certainty for UK retailers sourcing from the EU and for retailers selling directly to consumers in the EU via e-commerce. The new relationship, however, does require significant changes to previous systems and processes.

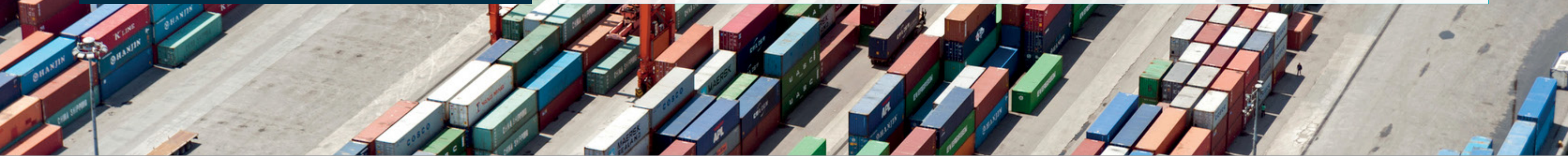
New tariff costs on trade with the EU have been avoided altogether, within a "rules of origin" regime, and the agreement contains a number of provisions that should help minimise the cost of new customs and other regulatory friction that will emerge at the border. However, some uncertainty remains over how effective and efficient new import systems will be in practice, and particular attention needs to be paid to the effect of the "rules of origin" regime on cross-border supply chains.

Overall tariff costs associated with importing from non-EU countries will reduce, although reductions will be marginal in most instances. In some specific cases (e.g. bicycles from China and horticultural products from around the world), the reductions in tariffs will be material.

Having secured an FTA that meets the UK's core objective of tariff-free/quota-free trade, the government should feel confident to move forward with trade negotiations with other key partners, such as Australia, New Zealand and the US. The UK/EU agreement restricts itself to arrangements between the UK and the EU, and the UK is free to make its own arrangements with other countries. However, if an agreement with another country involved a change to UK domestic law that breaches the UK/EU agreement (e.g. the level playing field provisions), the EU could challenge through the arbitration process.

Outside the Customs Union, goods imported from other countries to the UK and then exported to the EU will retain their original country of origin for customs purposes. For example, goods from China would face tariffs on importation to the UK and then additional tariffs when imported to the EU. Goods from a country that the UK has an FTA with but the EU does not would face no tariffs when imported into the UK, but would face tariffs when subsequently exported to the EU. If both the EU and the UK have an FTA with another country (e.g. Japan), no tariffs would apply at any point, provided that the goods met the relevant preferential rules of origin in each country.

Agreements with these countries, and new agreements with countries with which the UK has agreements that roll over the previous EU FTAs, would constitute a new chapter in the UK's independent trade policy, which could deliver significant reductions in import costs for a range of consumer products, most notably food and drink.



Executive Summary

Next Steps for UK Trade Policy

Now that it has secured a trade agreement with the EU, and agreed to roll over most other existing bilateral FTAs, the UK can turn its attention to other trading partners. In particular, trade negotiations with Australia and New Zealand were opened in 2020 and should be able to move forward quickly given the strong and important relationship between the UK and these countries.

Trade negotiations have also been opened with the US and these could move forward relatively quickly under a new US administration, particularly as the UK has removed the elements of the Internal Market Bill that caused concern for President-elect Biden. New FTAs with these key supplier countries could lead to a significant reduction in tariff costs on imports of consumer goods, especially food and drink products.

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"For most businesses, a deal is much better than no deal. That is partly because of the detail of what is agreed, and partly because the acrimony likely to be caused by no deal would also be damaging to the overall atmosphere. The deal we have is not perfect – no tariffs or quotas is great (and is a significant first in a deal with the EU). Things like rules of origin and the bureaucracy of trade will make things more complicated. And there is quite a lot more that needs to come – in services, in regulatory recognition, data transfers, etc. So this is far from the end of the Brexit journey. But it is a start, on a more positive note than many had feared. It was a real challenge for businesses to prepare for a new year change that was only agreed on Christmas Eve. But it is clear that a lot of work had been done, and we have started to adapt to our new way of trading with our neighbours."

Matthew Kirk, International Affairs Advisor, Squire Patton Boggs

"The agreement is a massive relief to UK business. There has been a huge amount of discussion over the last two years about supply chain disruption in the face of no deal, but disruption does not stop now that we have a deal. The impact of Brexit on the supply chain is already being felt, in particular around Northern Ireland. We are seeing a number of retailers reviewing their supply chains as they face the issue of tariffs on re-exporting goods to the EU.

What was billed as a deal preserving zero-tariff and zero-quotas is not as clear-cut as goods or commodities that are sourced from outside (or even inside) the trading bloc and then brought into the UK, and re-exported to the EU could attract a tariff."

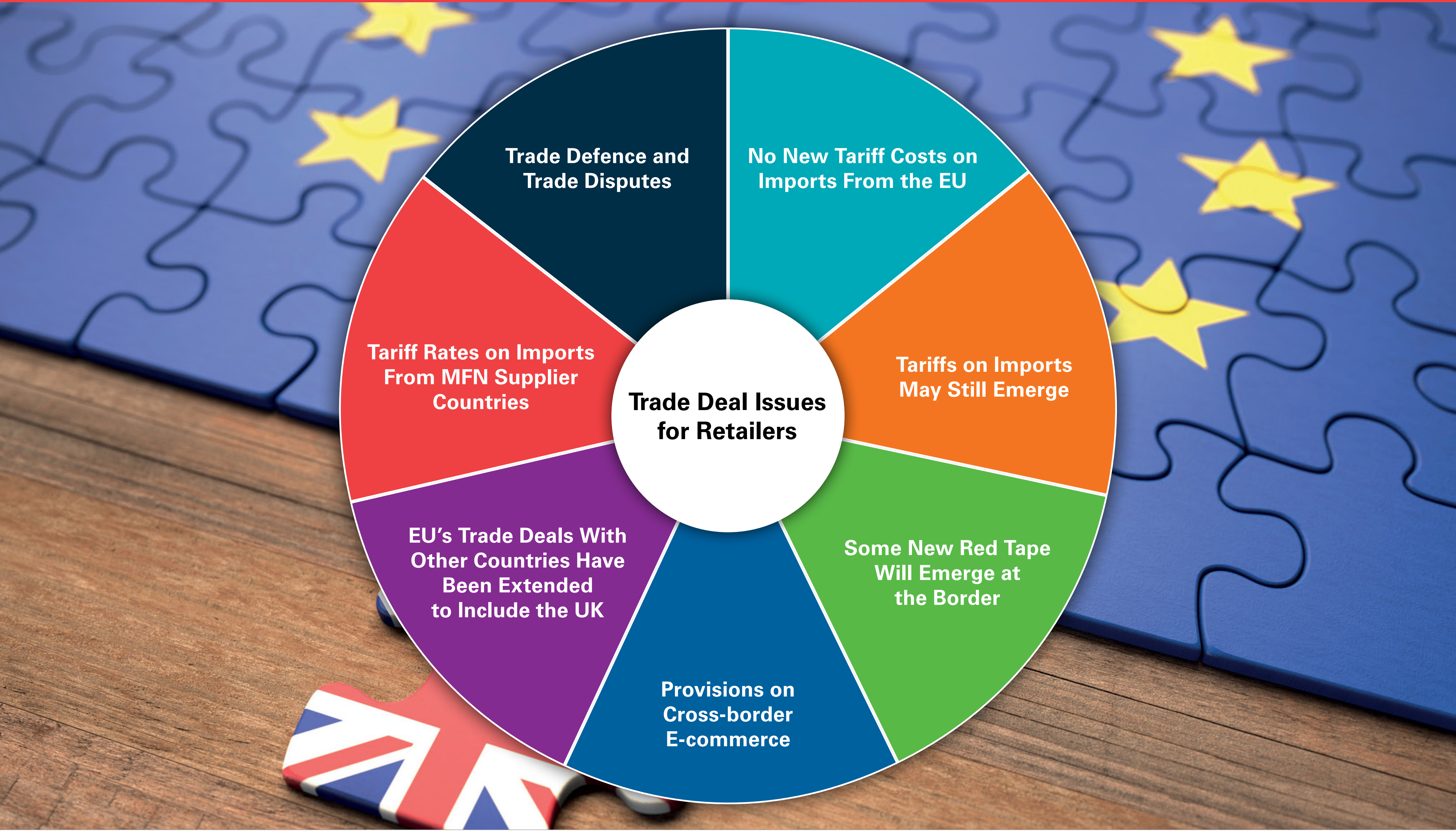
Richard Lim, Chief Executive, Retail Economics

"We have seen news reports of retailers suspending deliveries to customers in Northern Ireland and other EU countries. In a year that has seen retail sales being the worst for 25 years (according to the British Retail Consortium figures), it is important that retailers appreciate the complicated rules around re-exporting, which could mean goods imported from tariff-free developing countries attract tariffs when re-exported. The last thing retailers need are empty shelves. Also, consumers could be looking at higher prices and less choice as companies grapple with post-Brexit changes. Looking on the optimistic side, there are ways to avoid tariffs by reviewing logistics, warehousing and distribution.

Longer term, the short-term issues and workarounds will be superseded by an abundance of opportunities as the government looks to reduce red tape and continue to build the global brand with more trade deals to come."

Matthew Lewis, Partner, Head of Retail, Squire Patton Boggs

UK/EU Trade Deal Analysis – What This Means for Retailers



No New Tariff Costs on Imports From the EU

The centrepiece of the new UK/EU Trade & Co-operation Agreement is a commitment by both sides to abolish tariffs on all trade in goods, including agricultural products. This is the first trade agreement the EU has ever signed that achieves this. Every other EU FTA includes some exceptions to the principle of total tariff-free trade, even the much-heralded agreement with Canada, which the UK often referred to as a benchmark. In this sense, the UK/EU agreement is truly historic. Granted, the two sides started from a position of no tariffs by virtue of the UK's membership of the EU Customs Union.

This aspect of the agreement alone will ensure that UK retail imports from the EU avoid up to £7 billion in new tariff costs, including up to £5.3 billion on food alone.

However, there are conditions that must be met, principally rules of origin. These rules require that goods are "wholly obtained", contain a substantial proportion of raw materials or have been substantially transformed in the UK or the EU. The precise rules differ from product to product, which are outlined in a long annex to the main agreement.[1]

As goods arrive in the UK from the EU, a declaration of preferential origin must be submitted to qualify for tariff-free treatment, completed by either the exporter or the importer. While the completion of preferential origin declarations undoubtedly adds new administrative costs, the trade agreement allows for single declarations to cover multiple shipments of the same product, thereby simplifying the process.

However, if goods are deemed not to have met the relevant preferential rules of origin, they will be liable for the full rate of MFN duty. This may affect goods that have come into the UK from the EU for processing, and are then re-exported to the EU – companies operating cross-border supply chains will need to pay particular attention to the effect of the rules of origin provisions.

Tariffs on Imports May Still Emerge

The UK/EU agreement allows either side to impose tariffs on trade in the future, but in strictly defined circumstances. These are mainly when one side or the other has been judged to have breached its "level playing field" commitments.[2]

More widely, both sides have retained the right to use WTO-compatible "trade defence" measures to combat "unfair" trade from the other party. The two main instruments at their disposal are Anti-dumping tariffs (against "dumped" imports) and Countervailing tariffs (against unfairly subsidised imports). In both cases, tariffs may only be applied following a detailed investigation, they must be restricted to the goods that have been dumped or subsidised, and they must be proportionate in amount to compensate for the level of subsidy or dumping.

Some New Red Tape Will Emerge at the Border

All imports from the EU will need to be covered by an import declaration,[3] which can be made digitally. The import declaration can be submitted by the importer directly, but often it is delegated to a customs agent working on behalf of the importer. Simple declarations can cost as little as £50. The UK/EU agreement contains provisions aimed at facilitating trade and keeping the cost of customs paperwork to a minimum. These include simplified forms, periodic submission of import declarations, self-assessment of duties, deferred payment of duties[4] and special procedures for RO-RO traffic.[5]

Imports of many food products will require extra documentation to demonstrate conformity with Sanitary and Phytosanitary (SPS) requirements, which are focused on the safety of food. The UK/EU agreement does not impose any new substantive SPS regulation; it simply requires that compliance with SPS rules be demonstrated at the border. This requirement is already in place for imports of food from outside the EU (see Appendix 1 for more details).

It remains to be seen how these new arrangements will work in practice, and what impact they will have on retailers' costs, although it is clear from the agreement that every effort has been taken to establish rules that will facilitate trade and reduce costs without lowering levels of consumer and product safety.

1 Annex ORIG-2: Product Specific Rules of Origin.

2 For example, if the EU was to lower the level of its environmental protection and that gave its manufacturers a clear economic advantage over UK competitors, the UK could increase tariffs on imports from the EU. Any such measures by the UK would need to be proportionate to the damage it suffered as a result of the EU's action.

3 The claim of preferential origin is included as part of the import declaration.

4 Article CUSTMS.5: Simplified Customs Procedures.

5 Article CUSTMS.18: Facilitation of roll-on, roll-off traffic.

Provisions on Cross-border E-commerce

Cross-border e-commerce is a vital growth channel for UK retailers and it has flourished in the EU Single Market. The development of this trade has been facilitated in part by the fact that all intra-Community e-commerce is free of any customs checks or tariffs.

Now outside the EU, e-commerce sales from the UK to anywhere in the EU will become subject to customs procedures, and possibly tariffs if an individual package exceeds a value threshold. This threshold is EUR150.[6]

E-commerce from the UK to the EU will be subject to customs documentation and possibly tariffs if the value of the package exceeds EUR150. The level of tariff will be determined by the nature of the product and its origin. The threshold for tariffs on e-commerce from the EU to the UK is £135 pounds. In these cases, the specific amount of duty payable will depend upon the actual origin of the product.[7]

The EU's Trade Deals With Other Countries Have Been Extended to Include the UK

The EU has signed FTAs with a small but growing number of countries. These trade agreements allow imports from the specified countries at lower rates of duty compared to the MFN rate. The UK has secured agreements with most of these third-party countries to extend the terms of their bilateral FTAs to include the UK once it leaves the EU Customs Union. This will mean that imports to the UK from these countries can continue to enjoy preferential tariff treatment (see Appendix 2 for more details). The UK is likely to seek to negotiate revisions to these "roll-over" agreements, in order to put in place new FTAs that are better calibrated onto the UK's trade with each of these countries.

In addition, discussions with Albania, Algeria, Bosnia and Herzegovina, Cameroon, Ghana, Montenegro and Serbia are ongoing. Some of these countries will fall back on to Generalised System of Preferences (GSP) – for the rest, trade will revert to MFN terms until a bilateral trade agreement can be secured and implemented.

A number of developing countries receive some form of preferential treatment for their exports to the EU. These tariff preferences are granted unilaterally. Least developed countries (LDCs) benefit most and receive across-the-board tariff-free access for all products except arms. A shorter list of countries that have made pledges in relation to the rule of law and other international commitments are entitled to an enhanced level of preferential access known as GSP+. Other developing countries receive more modest reductions to the standard MFN tariff rate. The UK has largely replicated these tariff preferences and will apply them through its own GSP scheme from 1 January 2021 (see Appendix 3 for more details).

6 Article.ORIG.23: Small consignments.

7 For example, a package consigned from the UK containing a wool dress of Chinese origin with a value of €600 would attract a rate of duty of 12%. However, if the dress were of UK origin, the duty rate would be 0%. In order to benefit from preferential tariff treatment, a declaration of preferential origin must accompany the package.

Tariff Rates on Imports From MFN Supplier Countries

From 1 January 2021, the UK will operate an independent trade policy. This includes the right to set its MFN tariff rates for imports from countries that do not have a bilateral FTA with the UK, or who are not entitled to unilateral tariff preferences by virtue of their status as developing countries.

Major supplier countries that will face MFN tariff rates in the UK include China, the US, Australia, New Zealand, Russia, Brazil and Argentina.

In May 2020, the government published its "Schedule" of MFN tariff rates. The Schedule broadly follows the contours of the EU Schedule so that high EU tariff rates are mirrored by high UK rates and low EU tariff rates are mirrored by low UK rates.

However, there are some important differences between the Schedules of the EU and the UK that result in UK rates being marginally lower than their corresponding EU rates, and in some instances much lower.

The first key difference is that the UK Schedule has a simplified set of tariff bands that rise in increments of two percentage points up to 20% and then five percentage points up to 50%. Thereafter, tariffs are banded at 60% and 70%.

In the process of transposing the EU Schedule into the UK Schedule, tariff rates have been rounded down to the next available tariff band.[8] Where the rate in the EU Schedule corresponds exactly to a tariff band in the UK Schedule, the rate has generally been copied over.[9]

Any rate in the EU Schedule that is 2.5% or less has been liberalised (abolished) altogether in the UK Schedule.[10] There are a handful of retail products that attract rates of more than 2.5% in the EU Schedule, but which have been liberalised altogether in the new UK Schedule:

Product	Tariff Rate (%)
Sanitary Products	(3.8%-6.3% in EU Schedule)
Sewing Machines	(3.7%-9.7% in EU Schedule)
Most Live Plants	(8.3% in EU Schedule)
Metal Articles (e.g. screws, bolts, etc.)	(3.7% in EU Schedule)
Solvents	(6.5% in EU Schedule)
Metal Kitchenware (knives, forks, etc.)	(3.2% in EU Schedule)
Mirrors	(4% in EU Schedule)
Artists Paints	(6.5% in EU Schedule)
Cameras	(4.2% in EU Schedule)
Pianos/Electric Keyboards	(4% in EU Schedule)

8 For example, the tariff rate for briefcases is 9.7% in the EU Schedule, which is rounded down to 8% in the UK Schedule.

9 For example, the rate for most items of clothing in the EU Schedule is 12% and that rate has been simply copied over in the UK MFN tariff.

10 For example, refrigerators attract a tariff rate of 2.5% in the EU Schedule and 0% in the UK Schedule.

Tariff Rates on Imports From MFN Supplier Countries

UK MFN tariffs on food and drink generally reflect the high rates applied by the EU, but the principle of rounding down tariff rates to the next lower tariff band is applied.[11]

A handful of food products have been liberalised altogether in the UK Schedule:

Product	Tariff Rate (%)
Olives	(6.4% in EU Schedule)
Herbs and Spices	(7%-12.5% in EU Schedule)
Cocoa Powder	(8% in EU Schedule)
Tapioca	(6.4% + €15.1/100kg in EU Schedule)
Cooked/Preserved Mushrooms	(14.4%-18.4% in EU Schedule)

Some food and drink tariffs are expressed as a fixed amount per weight and volume of a product in the EU Schedule. For example, the EU MFN rate for cheddar cheese is €167.1/100kg. These are called "specific" duties. Where the EU uses specific duties in its MFN Schedule, the UK does the same, although the fixed amount is expressed in sterling rather than euros. In converting from euros to sterling, the fixed amount is rounded down to the next full pound.[12]

Some EU tariffs are complicated and contain several components. An extreme example is sweet biscuits, where the EU MFN tariff is 9% + EA (MAX 24.2%) + ADSZ. "EA" stands for "Agricultural component" and is derived from the average milk fat/sugar content of the product. "ADSZ" stands for "additional duty on sugar contents". This highly complicated formulation is simplified in the UK tariff to 8%.

Finally, UK MFN specific rates for some products have been reduced by a greater amount than would have been achieved by simply applying the standard currency conversion rate and rounding to the next lowest pound. This is particularly evident for rice and some wines.

The combined effects of all these changes (reducing tariff rates to the next lowest band, rounding specific duties down to the next full pound, using a currency conversion rate that overprices sterling, simplifying opaque and complex EU tariffs, liberalising tariffs altogether on some products and reducing substantially rates for other products) is to substantially reduce the burden of tariffs in the UK Schedule compared to the EU Schedule. The precise impact of these various adjustments will vary from product to product, but Retail Economics estimates that the impact overall is to reduce total tariff costs on MFN imports by around 10%.

Trade Defence and Trade Disputes

From 1 January 2021, the UK will be free to set its own policy with regard to Anti-dumping, Anti-subsidy and trade disputes. The UK has already announced that it will abolish the additional Anti-dumping duties (average of 30%) on imports of bicycles and electric bicycles from China. The UK will also disapply additional 25% duties imposed on a range of products from the US, including certain food and drink and clothing products. These additional duties had been recently imposed by the EU following a WTO ruling about illegal subsidies to Boeing.

In the future, the UK will conduct its own trade defence (Anti-dumping, Anti-subsidy and Safeguard) investigations and apply measures acting independently.

11 For example, the rate for preserved tuna in the EU tariff is 24% but is rounded down to 20% in the UK Schedule. The rate for preserved anchovies is 25% in the EU Schedule and is also 25% in the UK Schedule.

12 So, the rate for cheddar cheese goes from €167.1/100kg in the EU Schedule to £139/100kg. In making its conversions from euros to sterling, the UK uses a rate of €1 – £0.83687. This significantly overvalues sterling, which traded at £0.90413 on 29 December 2020.

Appendix 1 – Sanitary & Phytosanitary (SPS)

The relevant provisions governing SPS rules, in the agreement, are contained in Part Two, Heading One, Title 1, Chapter 3: SPS measures. This chapter allows both parties to develop their own national systems of SPS control. Article SPS.7.3 says, "The importing Party may require that imports of particular products are subject to authorisation." The competent authority in the exporting party must provide the necessary information to demonstrate conformity. Article SPS.7.4 limits the scope for increasing regulatory burdens and says, "The importing party shall not introduce authorisation requirements which are additional to those which apply at the end of the transition period." The cost of compliance with SPS requirements at the border is also limited. Artcile.SPS.7.12 says, "A party may collect fees for the costs incurred to conduct specific SPS frontier checks which should not receive the recovery of costs." This chapter also includes provisions that allow for physical checks of goods at the border for SPS purposes, but Article.SPS.7.13-15 allows these to be kept to the minimum necessary.

Part Two, Heading One, Title 1, Chapter 4: Technical Barriers to Trade establishes a framework within which each party can establish technical rules and standards for non-food products. This includes how national standards for non-food products should be set, conformity assessment procedures, marking and labelling of products and co-operation between agencies in each party dealing with product safety. It is worth mentioning that compliance and enforcement of these rules is in-market, whereas SPS measures are enforced at the border.

Appendix 2 – Bilateral EU FTAs Extended to the UK

Bilateral EU FTAs Extended to the UK – Americas

Andean Countries	CARIFORUM trade bloc		Central America
• Colombia	• Antigua and Barbuda	• Dominica	• Costa Rica
• Ecuador	• Barbados	• Dominican Republic	• El Salvador
• Peru	• St. Kitts and Nevis	• Grenada	• Guatemala
Chile	• Belize	• Jamaica	• Honduras
Canada[13]	• Bahamas	• St. Vincent and the Grenadines	• Nicaragua
Mexico[14]	• St. Lucia	• Trinidad and Tobago	• Panama

Bilateral EU FTAs Extended to the UK – Europe and Near Neighbours

Egypt	Faroe Islands	Georgia
Israel	Iceland	Kosovo
Jordan	Norway	Moldova
Lebanon	Liechtenstein	North Macedonia
Morocco	Switzerland	Ukraine
Palestinian Authority		Turkey[15]
Tunisia		

Bilateral FTAs Extended to the UK – Africa, Asia and Pacific

SACUM trade bloc	ESA trade bloc	Japan
• Botswana	• Mauritius	Pacific States
• Eswatini	• Seychelles	• Fiji
• Lesotho	• Zimbabwe	• Papua New Guinea
• Mozambique	Cote d'Ivoire	Singapore
• Namibia	Kenya	South Korea
• South Africa		Vietnam

13 Preferential tariff rates shall apply from 1 January 2021, though the full agreement will not enter into force until later in 2021.

14 UK/Mexico FTA signed, but will not be ready for application from 1 January 2021. Gov.UK website states, "We're exploring all options to minimise the effect that any delay in implementing [this agreement] could have on UK businesses."

15 The UK and Turkey intend to extend the tariff benefits of the EU/Turkey Customs Union.

16 The recently concluded UK/Japan FTA contains similar provisions to the EU/Japan FTA

Appendix 3 – UK Unilateral Tariff Benefits for Developing Countries (GSP)

GSP Beneficiaries	Enhanced Framework Beneficiaries (GSP+ in the EU Scheme)	Least Developed Countries Framework (Known as Everything but Arms in the EU Scheme)	
Algeria	Armenia	Afghanistan	Malawi
Cameroon	Bolivia	Angola	Mauritania
Congo	Cape Verde	Bangladesh	Myanmar
Cook Islands	Kyrgyzstan	Benin	Nepal
Ghana	Mongolia	Bhutan	Niger
India	Pakistan	Burkina Faso	Rwanda
Indonesia	Philippines	Burundi	Sao Tome & Principe
Micronesia	Sri Lanka	Central African Republic	Senegal
Nigeria		Cambodia	Sierra Leone
Niue		Chad	Solomon Islands
Syria		Comoros	Somalia
Tajikistan		Democratic Republic of Congo	South Sudan
Uzbekistan		Djibouti	Sudan
		Eritrea	Tanzania
		Ethiopia	Timor-Leste
		Gambia	Togo
		Guinea-Bissau	Tuvalu
		Haiti	Uganda
		Kiribati	Vanuatu
		Laos	Yemen
		Liberia	Zambia
		Madagascar	