



Department for  
International Trade

# Continuing the United Kingdom's trade relationship with the Republic of Fiji and the Independent State of Papua New Guinea ("the Pacific States")

Agreement establishing an Interim Economic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one Part, and the Pacific States, of the other Part

March 2019





# **Continuing the United Kingdom’s trade relationship with the Republic of Fiji and the Independent State of Papua New Guinea (“the Pacific States”)**

Presented to Parliament

by the Secretary of State for International Trade

by Command of Her Majesty

March 2019



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## Introduction

1. In line with the Government's commitment in the Trade Bill 2018-2019 this report explains the Government's approach to delivering continuity in the United Kingdom's ("UK") trade relationship with Fiji and Papua New Guinea ("the Pacific States") as the UK leaves the European Union ("EU").
2. As the UK leaves the EU, the Government has sought to deliver the maximum possible certainty to businesses and consumers through ensuring continuity in the UK's existing trade relationships. It is in no-one's interests to disrupt existing trade flows.
3. To achieve this, the Government has developed new bilateral agreements that replicate, as far as possible, the effects of the Government's existing trade agreements with existing partners. The agreements provide for entry into force when the existing agreements between the EU and a third country cease to apply to the UK, whether the UK leaves the EU with no agreement or with an agreement in place on transitional arrangements. In either event, the new bilateral agreements will form the starting points for the UK's future trade agreements with partners.
4. Wherever possible, the UK has sought a technical replication of these agreements, but in some cases the UK has applied bespoke solutions for individual agreements as necessary to ensure continuity of effect in a UK-only context.
5. In accordance with the commitments provided for in the Trade Bill 2017-19, this report gives details of, and explains the reasons for, any significant differences between:
  - a. the trade-related provisions of the Agreement establishing an Interim Economic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the Pacific States, of the other part ("the Pacific States EPA"); and
  - b. the trade-related provisions of the Agreement establishing an Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part, signed in London on 30 July 2009 ("the existing EPA").
6. The report first sets out the general drafting changes which are consistent across all the UK's continuity trade agreements and which do not have a significant impact on the effect of the UK's current trade relationships. It then explains any significant differences between the trade-related provisions in the Pacific States EPA and the existing EPA. The report includes some discussion of the impacts and focuses solely on the changes made to the relationship between the UK and the Pacific States as a result of moving from the current to a new agreement. Any impacts resulting from the UK's exit from the EU or the nature of the Future Economic Partnership have been excluded from this report.
7. The UK has chosen the form that the States involved agree is the most pragmatic and sensible in the circumstances, taking into account the wishes of partner countries. Accordingly, some agreements have been drafted in long form to reflect these wishes. The Pacific States EPA is a long form agreement.

## Legal approach

8. To draft the Pacific States EPA the negotiating States have reproduced all relevant sections of the existing EPA with necessary technical and administrative changes to make this operable in a UK-only context.

9. The existing EPA is the only trade agreement between the EU and the Pacific States.

## Resources

10. This report is intended to aid businesses, consumers and parliamentarians in understanding any significant differences made to the UK's trade relationship with the Pacific States, the reasons for any changes, and their impact.

11. Should you wish to view the existing EPA as originally published, it can be found online on [the European Commission's website](#).

12. More detail, including decisions of the Association Council and Association Committee established under the existing EPA for the purpose of administering the Pacific States EPA, can be found on the [EUR-Lex website](#). A consolidated version of the Pacific States EPA can also be found on the EUR-Lex website. The consolidated text is not an authoritative version of the Pacific States EPA but will assist readers to understand how the Pacific States EPA has been amended since its entry into force.

13. Should you wish to view the full text of the Pacific States EPA, it will be laid in Parliament alongside an Explanatory Memorandum as part of the UK's treaty ratification process in accordance with the Constitutional Reform and Governance Act 2010. The text will also be available on GOV.UK.

## Economic Background

### Trade between the UK and the Pacific States

14. This section provides a country-specific background analysis of trade between the UK and Fiji and Papua New Guinea.
15. Total trade in goods and services between the UK and Fiji and Papua New Guinea ('the region') was £0.4 billion in 2017, less than 0.1% of UK trade<sup>1</sup>. Papua New Guinea is the UK's 111th largest trading partner<sup>2</sup>, and Fiji is the UK's 143rd largest trading partner.
16. In 2017, UK exports to the region were £0.2 billion. Papua New Guinea is the UK's 105th largest export market, and Fiji is the UK's 135th largest export market.
17. UK imports from the region were £0.1 billion. Papua New Guinea is the UK's 106th largest import market and Fiji is the UK's 140th largest import market.

**Table 1: Trade between the UK and the Pacific, 2017 (£ million)**

	Trade in Goods	Trade in Services	Total trade
<b>UK exports to the region</b>	21	200	221
<b>UK imports from the region</b>	144	4	148
<b>Total trade</b>	165	204	369

Source: [ONS, \(2018\). UK trade: August 2018](#); [ONS, \(2018\). UK trade in services by partner country experimental data: April to June 2018](#)

18. Of the two, the Pacific State with the larger value of trade with the UK in 2017 was Papua New Guinea. The trade between the Pacific States and the UK is shown in the table below.

**Table 2: Trade between the UK and Papua New Guinea and Fiji in 2017 (£, million)**

	UK Exports Goods	UK Exports Services	UK Imports Goods	UK Imports Services	Total trade
<b>Papua New Guinea</b>	17	137	117	3	274

<sup>1</sup>[ONS, \(2018\). UK trade: August 2018](#); [ONS, \(2018\). UK trade in services by partner country experimental data: April to June 2018](#).

<sup>2</sup>Treating EU members as individual trading partners with the UK.

<b>Fiji</b>	4	63	27	1	95
<b>Total</b>	21	200	144	4	369

Source: [ONS, \(2018\). UK trade: August 2018](#); [ONS, \(2018\). UK trade in services by partner country experimental data: April to June 2018](#).

19. Using data from HMRC for trade in goods only, the table below shows the top goods exported to the region were in optical, photographic and medical instruments (HS90, £14 million), and electrical machinery and equipment (HS85, £8 million). The UK's top goods imported from the region were in animal and vegetable oils including palm oil (HS15, £105 million) and sugar (HS17, £23 million), together representing around 90% of UK goods imports from the region. Palm oil imported by the UK from the region is exported by Papua New Guinea, and sugar imported by the UK from the region is exported by Fiji.

**Table 3: Top 5 UK goods exports to & imports from the region, 2017 (at HS2, £ million)**

<b>Top 5 UK goods exports to the region</b>	<b>Value</b>	<b>Top 5 UK goods imports from the region</b>	<b>Value</b>
Optical, photographic and medical instruments	14	Animal and vegetable oils	105
Electrical machinery and equipment	8	Sugars and sugar confectionary	23
Machinery and mechanical equipment	7	Preparations of meat and fish	7
Articles of iron or steel	1	Beverages and spirits	2
Vehicles	1	Coffee, tea, mate and spices	2

Source: [HMRC trade statistics by commodity code](#), accessed December 2018.

*Sectors classified according to Harmonised System Chapters. Data presented is recorded on a 'physical movement' basis where a good is recorded as an export (import) if it physically leaves (enters) the economic territory of a country.*

20. A detailed breakdown of types of services traded is not available for UK trade with Papua New Guinea or Fiji.
21. ONS data is recorded on a 'Balance of Payments' or 'change of ownership' basis where a good or service leaving (entering) the economic territory of a country is recorded as an export (import) only if it has changed ownership between the resident of the reporting country and

non-residents. Goods exports (imports) are recorded by HMRC if a good physically leaves (enters) the economic territory of a country.

## Economic impact of the existing EPA

22. In 2007, the European Commission published a Sustainability Impact Assessment (SIA) covering all their ACP EPAs<sup>3</sup>. It found that EPAs have a positive effect on two-way trade flows (for both Least Developed Countries [LDCs] and non-LDCs) and a positive impact on the economy through increased production (for both LDCs and non-LDCs). It also estimated that there would be a positive social impact through greater employment and incomes. However, there was uncertainty over the effects on the environment.
23. The European Commission has highlighted other general development benefits associated with EPAs for partner countries<sup>4</sup>. These range from creating new business, trade and investment opportunities, to positive labour market impacts and support for farmers, to promoting economic integration into the local region.
24. Both Pacific States excluded some products from sensitive sectors and those important for revenue from liberalisation in the existing EPA. While Papua New Guinea agreed to open its market to 88% of EU imports from the date of application of the agreement, Fiji agreed to open up its market to 87% of EU imports over 15 years<sup>5</sup>. In addition, if local industry is threatened because of import surges from Europe, EPAs allow measures to be triggered to protect industrial sectors and infant industries<sup>6</sup>.
25. In 2015, the Department for International Development commissioned a Rapid Evidence Assessment (REA) on the empirical impact of FTAs between developed and developing countries on economic development in developing countries<sup>7</sup>. The assessment concluded that there is mixed evidence on the observed impacts of FTAs on trade between developed and developing countries, and while some studies find large positive impacts of FTAs on the value of trade flows, others find minor or no impacts. This could be explained either by differences in the methodology between studies, or by differences in the impacts of agreements, which in turn could be driven by differences in the content of different agreements or the political, economic and institutional conditions of FTA partners. The REA also found that the empirical literature did not provide conclusive guidance on the overall impact of FTAs on economic development, due to a few significant gaps in coverage.

## Potential loss to UK if the Pacific States EPA is not ratified

26. Not being able to ratify the Pacific States EPA would result in UK businesses losing the preferences negotiated in the existing EPA. This would include the re-imposition of many

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<sup>3</sup> European Commission (2007), '[Sustainability Impact Assessment of the EU-ACO Economic Partnership Agreements – Summary of key findings, policy recommendations and lessons learned – Executive summary](#)'

<sup>4</sup> European Commission (2016) '[10 benefits of Economic Partnership Agreements \(EPAs\)](#)'

<sup>5</sup> European Commission [website](#), accessed February 2019

<sup>6</sup> European Commission (2017), '[Economic Partnership Agreements](#)'

<sup>7</sup> DFID (2015), '[The Impact of Free Trade Agreements between Developed and Developing Countries on Economic Development in Developing Countries](#)'

tariffs, returning to MFN treatment with the region. The benefits derived from trading under preferences within the FTA, such as increases in trade flows, may then be reversed.

27. It is unlikely that the entire effect of the Pacific States EPA achieved so far would disappear. Many tariffs would automatically revert to MFN rates, discussed in further detail below, but it could take longer for some of the other benefits to be lost. Some gains might endure even in the long-run. For example, the UK might still benefit from any regulatory arrangements agreed because of the existing EPA. Business connections formed because of the existing EPA might endure.
28. In addition, the existing EPA has been applied since 20 December 2009 (Papua New Guinea and EU) and 28 July 2014 (Fiji), with tariff implementation concluding 15 years after the date of application. Therefore, the full benefits of the deal will not yet have materialised.
29. The size of the impact of not ratifying the Pacific States EPA would depend on the responsiveness of trade flows to increased costs brought about by the loss of provisions within the Agreement<sup>8</sup>.

## Immediate impact if not ratified

### Tariffs

30. Much international goods trade takes place in products for which MFN rates are already zero. However, EPAs provide additional opportunities by reducing tariffs in products where this is not the case. If the Pacific States EPA were not signed, tariffs between the UK and Pacific countries would automatically revert to MFN rates for all trade, other than where specific partner countries benefitted from preferential access to the UK market under a unilateral preference scheme. This would lead to an increase in duties on some UK exports to and imports from the Pacific.
31. To estimate the potential impact of losing tariff preferences, assumptions have to be made. If all current trade between the UK and the Pacific region occurred at the negotiated preferential tariff rate, if current patterns of trade remained unchanged in future, and without taking into account the effect of any unilateral preferences, reverting to the UK and partner countries' current MFN tariff rates would result in an implied annual increase in total duties of around £19 million<sup>9</sup>. This would entirely be duties on imports from the region, as according to available data from the Market Access Maps database, UK exports do not yet access the markets of the Pacific States at a preferential rate. Under the agreement preferences for some UK exports to the region are due to be phased in over time. Around £10 million of the possible annual increase in total duties would be made up of duties on imported goods from Papua New Guinea, with around £9 million of implied additional duty on imports from Fiji.

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<sup>8</sup> Head K and Mayer T. '[Gravity Equations - Workhorse, toolkit and cookbook](#)' 2013 and Dhingra and others, '[Beyond Tariff Reductions: What Extra Boost From Trade Agreement Provisions?](#)' 2018

<sup>9</sup> DIT's own calculations using tariff data from [ITC Market Access Map](#) and [HMRC trade statistics](#). Implied additional duties are calculated using the difference in MFN and preferential tariff rates and the current value of trade for each product at HS2 level, 2017. MFN tariff rates for imports into the UK are trade-weighted average rates using a reference group of countries by ITC Market Access Map, rather than bilateral trade data. This is to overcome endogeneity bias which may show low average tariff rates where there are low bilateral trade values. These results assume all trade occurs under preferential EPA tariff rates. Different approaches to this analysis are likely to yield different results.

32. These estimates assume that all tariff preferences offered under the existing EPA are fully utilised by exporters. In 2016, the Department for International Trade estimates suggested that around 100% of the UK's eligible goods imports from the Pacific (defined as those which occurred under tariff lines where a preferential rate was offered under the existing EPA) actually utilised the tariff preferences<sup>10</sup>. If this figure were significantly less than 100% it would mean that the actual increase in duties would be lower than the estimates above.
33. The total duty which would in fact be charged on exports and imports would depend on how quantities and prices of traded products adjusted to the imposition of tariffs. If UK producers were not previously utilising the preferential rates or producers and consumers changed their behaviour in response to higher tariffs, this cost would be lower than the estimate above. These are strong assumptions, so this figure should be treated as an indicative estimate of the magnitude of the trade barrier under this scenario.
34. As a lower middle-income country, it is anticipated that Papua New Guinea would qualify for GSP market access, meaning a reduction in the duties which would apply. Under current trading patterns and UK MFN and GSP tariff schedules, trading under GSP would mean around 3% of UK goods imports from Papua New Guinea would not face tariffs as the MFN rate is currently zero, 69% would not face tariffs as GSP provides a reduced tariff of zero, and 28% would face reduced but non-zero tariffs compared to MFN, and less than 1% would face non-zero MFN tariffs<sup>11</sup>. The £10 million figure above is therefore an overestimate of duties which would in fact apply.
35. As an upper-middle income country, Fiji would not benefit from unilateral preferences and would therefore face UK MFN tariffs in the absence of an EPA.
36. Without accounting for unilateral preferences, the largest increases in import duties would be for sugars (HS17) at more than £8.6 million; animal and vegetable oils including palm oil (HS15) at £7.8 million; and preparations of meat and fish (HS16) at £2.1 million. The remaining products all have implied additional duties below £100 thousand. These estimates are the implied additional duties which would result from reverting to the UK's current MFN tariff rates for UK trade with the region. For products where a significant proportion of UK imports from the region come from Papua New Guinea, which is eligible for GSP, and where GSP would provide for a reduced or zero tariff rate for these products compared to the UK's current MFN tariffs, the implied additional duties provided are an overestimate of additional duties which would in fact apply on these imports from the region. Most significantly, accounting for unilateral preferences would substantially reduce the additional import duty for animal and vegetable oil (HS15), as Papua New Guinea accounts for all UK imports of these products from the region and GSP provides for a reduced or zero tariff rate for these products.
37. Indicative estimates of implied additional tariff duties are provided to give a sense of scale of possible additional costs of trade. Tariff duties are transfers, where the cost to business is equal to the benefit felt by the UK Exchequer and Pacific countries' governments which could collect more tariff revenue. However, depending on businesses' response to the change in duties, there could be wider effects of increased costs of trade, including negative impacts on

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<sup>10</sup> DIT's own calculations using data from [Eurostat](#) (accessed 19<sup>th</sup> November 2018). Note that using a single year does not account for fluctuating trends in bilateral trade flows, which can be significant. In general, data on the preference utilisation of trade deals is not readily accessible and should be treated with caution. They indicate whether businesses trading in goods are benefitting from negotiated preferences, but do not tell us which or how many businesses are using these preferences. Nor do they cover services trade.

<sup>11</sup> DIT's own calculations using EU MFN and GSP tariff data at CN8 level from TARIC, with ad valorem equivalents taken from WITS using the UNCTAD methodology where relevant, and HMRC trade statistics (Sources: [TARIC](#), [HMRC Trade statistics](#), [WITS](#))

consumer choice, prices, and ultimately economic growth and welfare. Estimates of implied additional duties therefore do not constitute an estimate of the impact.

38. It is the Government's intention that countries that currently benefit from preferential access to the UK through the Generalised Scheme of Preferences (GSP) would continue to receive the same access through a new UK trade preferences scheme<sup>12</sup>. This includes countries that benefit from Everything But Arms who would receive duty-free quota-free access on all goods, and those who would be eligible for standard GSP preference which would provide tariff reductions on two thirds of all tariff lines, but not the same level of access as that offered by an EPA. Higher income partner countries would not benefit from unilateral preferences.

## **Businesses**

39. Additional duties could be absorbed by either business from the UK or Fiji and Papua New Guinea (depending on whether it is the importer or exporter paying the duty), passed on to consumers, or existing trade patterns could be interrupted. This could impact UK competitiveness, leading to disruptions in supply chains and job losses in the short term.
40. Businesses that rely on imports as part of their supply chains may be affected if import prices rise, including UK exporters that rely on regional inputs to export goods to the rest of the world. In 2015 (latest data), around 15.1% of the value added in UK's gross exports reflected imports from abroad. UK companies which rely on regional imports would become less competitive<sup>13</sup>. Given the small share of UK trade under the Pacific States EPA, in this case the Government would expect these impacts to be very small, although the impacts could be noticeable for some specific companies.

## **Consumers**

41. Imported products could be more expensive for consumers if retailers pass on additional duties to consumers through increases in domestic prices. This could disproportionately affect certain groups of consumers, for example those at the lower end of the income distribution, depending on the specific sectors affected. Consumers might also see a reduction in choice of products and services available. Given the small share of UK trade under the Pacific States EPA, in this case the Government would expect these impacts to be very small overall, although impacts could be noticeable on specific product lines.

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<sup>12</sup> The Taxation (Cross-Border Trade) Act enables the UK to put in place a UK trade preferences scheme for developing countries. The necessary secondary legislation is now well advanced and regulations will be laid in Parliament ahead of leaving the EU. The Government intends to put in place a trade preference scheme which maintains the preferential market access we currently offer to around 70 developing countries under the EU's Generalised Scheme of Preferences (GSP). This will grant duty-free, quota-free access to Least Developed Countries which is a target in the UN's Sustainable Development Goals and is in line with our commitments in the WTO. It will also maintain the generous tariff reductions for other developing countries.

<sup>13</sup> OECD, 2018. [Trade in Value Added \(TiVA\): Origin of value added in gross exports, December 2018](#). Experimental statistics. No data available for Fiji or Papua New Guinea.

## Longer term impact

42. In the long run, the UK would forgo the longer-term benefits that the existing EPA would have brought to the UK. This could result in the long-term UK GDP marginally decreasing if a deal is not reached. Given the small share of UK trade under this agreement, the Government would expect the impact on GDP to be very small.
43. The Government expects the Pacific States EPA to support jobs and economic development in the Pacific economies by providing continuity in trading arrangements with the UK, including duty-free quota-free UK market access. This could be of particular benefit to partner firms producing goods where the UK is an important export market. In 2017 the UK accounted for 24% of Papua New Guinea's total exports of palm oil, and 28% of Fiji's total exports of sugar<sup>14</sup>.

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<sup>14</sup> DIT's own calculations using UN COMTRADE data accessed from [WITS](#). Figures are given for imports by the UK from Fiji and Papua New Guinea as a proportion of imports from all countries of products categories HS 1511 (*Palm oil and its fractions, whether or not refined, but not chemically modified*) and HS 1701 (*Cane or beet sugar and chemically pure sucrose, in solid form*)

## **Explanation of this Agreement, including Significant Differences between the Pacific States EPA and the Existing EPA**

44. This section provides a discussion of changes in the Pacific States EPA.

## General Provisions

### Removal and replacement of references to the EU

45. Once the UK leaves the EU it will not generally be appropriate for UK agreements to reference the EU. Consequently, where applicable, references have been removed or replaced by references to the “United Kingdom” or “UK” (as appropriate).
46. Reference to the “European Union”, the “EU”, “EU Party” and, similarly, references to all EU Treaties, EU legislation made under those Treaties or commitments and reservations made by other “EU Member States” have also been removed or replaced, as have references to the “European Commission”, the “EC”, and the “EC Party”.
47. References to “Member States” have been deleted or replaced with references to the “United Kingdom” (as appropriate). References to EU institutions have been replaced with appropriate UK-equivalent institutions or deleted (as appropriate). References to the “Treaty on European Union” and “the Treaty on the Functioning of the European Union” have been deleted or replaced (where appropriate).
48. Certain provisions relevant only to the EU, such as provisions which apply only to EU Outermost Regions, have been deleted, as have provisions relating to the accession of EU Member States and to EU languages (other than English and other languages which remain relevant to particular agreements).

### Territorial Application

49. The Territorial Application article sets out to which territories this agreement applies, and how it applies to them.
50. In the existing EPA, the Territorial Application article defined the EU’s territorial coverage of the agreement by referencing the EU treaties.
51. In the Pacific States EPA, this has been replaced by an article which ensures that the agreement applies to the UK and the territories engaged in trade for whose international relations it is responsible in the same way as the previous agreement did.
52. The territories to which this agreement may apply are separated into two categories based upon the application of the EU Treaties under EU law to date. These categories of territory, are:
  - a. the Crown Dependencies (Isle of Man, Jersey, Guernsey), to which, broadly, provisions relating to tariffs and trade in goods apply;
  - b. the Overseas Territories (Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; Cayman Islands; Falkland Islands; Montserrat; Pitcairn Islands; St Helena, Ascension and Tristan da Cunha; South Georgia and the South Sandwich Islands; Turks and Caicos Islands; and British Virgin Islands), which benefit from some specific provisions on cumulation with respect to rules of origin.

## **Continuation of Time Periods**

53. Parts of agreements that contain a transitional period, requiring a party to complete an action within a certain timeframe, and which have not yet been fulfilled under the conditions of the original EU agreement, have been amended so that the new UK agreement reflects the remaining time in which the obligation must be fulfilled.

## **Entry into Force provisions**

54. Entry into force provisions specify the date from which the terms of the agreement will bind the parties. Existing entry into force provisions have been replaced with new provisions to ensure that, whatever the scenario in which the existing EPA ceases to apply to the UK, the Pacific States EPA can enter into force as swiftly as possible. For the Pacific States EPA to enter into force, it must first be ratified by both the UK and Pacific States. In UK domestic law, before an agreement subject to ratification may be ratified by the Foreign Secretary, it must be laid before Parliament for scrutiny under the CRAg Act.
55. Provisional application is a mechanism which allows an agreement to be applied prior to its entry into force. This means that the treaty can be applied provisionally without its having completed the scrutiny or other procedures required by the domestic law of the respective negotiating States, provided any necessary domestic implementing measures are in place. A number of the existing EU agreements provide for provisional application and were provisionally applied.

## **Provisional Application**

56. The existing EPA provides for provisional application. Given that the UK is seeking to maintain effects of the existing EPA with the Pacific States as we leave the EU, we have retained this provision in the Pacific States EPA. This provides us with the option of a proportionate approach to manage the demands on parliamentary time during this unique period, whilst minimising disruption to businesses and consumers as we leave the EU. Provisional application would allow businesses that use this agreement in the UK and Pacific States to continue to access this agreement.

## **Dispute Settlement**

57. The economic benefits of a free trade agreement can only be realised if they are faithfully implemented and complied with. A dispute settlement mechanism in an agreement signals the parties' intention to abide by the agreement, thereby increasing business and stakeholder confidence that commitments set out in the agreement can, and will, be upheld. The dispute settlement mechanism therefore provides an important deterrent function. It

also provides an effective mechanism for enforcing those commitments, and for resolving any disputes arising.

58. One of the impacts of transitioning the dispute settlement chapters in the existing EU trade agreements is that, in the event that a dispute arises, the UK will be directly responsible for any relevant costs associated with the dispute settlement process.

# Annexes and Protocols

## Goods

59. Goods chapters in trade agreements set out the treatment and the level of access to the domestic market granted goods from partner countries. This includes setting tariff levels on various products, establishing bilateral safeguards and determining the Rules of Origin.
60. In the Pacific States EPA, commitments on tariffs for both the UK and Pacific States have been transitioned without changes. This means that tariff preferences applied by the UK to goods from Fiji and Papua New Guinea will remain the same as those applied by the EU under the existing EPA, and likewise those countries will continue to apply the same preferences to goods from the UK that they are currently applying to goods from the EU.
61. In cases where import duties remain subject to staged tariff reductions, reductions will continue at the same pace as scheduled in the existing EPA.

## Rules of Origin

62. In free trade agreements, Rules of Origin are used to determine the economic nationality of a good. To qualify for preferential tariff rates, a good must “originate” in the territory of one of the parties to the agreement. Trade agreements may also allow materials originating and/or processing in a country other than the exporting party to count towards meeting the specific origin requirements for preferential treatment, a process known as “cumulation”.
63. There are two categories relevant to determining whether goods “originate” in the exporting country for the purposes of a free trade agreement:
  - a. Wholly obtained – these are goods that are wholly obtained or produced entirely in a single country. Examples include 1) mineral products extracted from the soil; 2) live animals born and raised.
  - b. Substantial transformation – these are goods that are made from materials which come from more than one country, and the origin is therefore defined as that of the country where the goods were last substantially transformed. This can be determined in three ways:
    - i. Value added – this type of rule requires that a proportion of the final value of the product be added in the exporting country.
    - ii. Change in Tariff Classification (CTC) – This type of rule requires that the final product be sufficiently different from the imported materials so that it moves to a different tariff classification altogether.
    - iii. Specific processing or manufacturing – These rules typically apply where value-added or CTC rules may not adequately determine originating status, and where specific processes are required to meet originating criteria.

64. As a member of the EU, all UK content is currently considered as “originating” in the EU and UK exports are designated as being of “EU origin”. This means that materials from, and processing in, the UK and the rest of the EU can be used interchangeably in bilateral trade with existing EU trade agreement partners. This will no longer be the case when existing EU trade agreements stop applying to the UK. At this point, the designation of UK exports will shift from “EU” originating to “UK” originating and EU content will (unless specific provision is made in new agreements) no longer count towards meeting the origin requirements for preferential treatment for either party. This would have implications for goods traded between the UK, EU and the Pacific States.
65. To address these implications and to provide maximum continuity for business, it has been agreed in the Pacific States EPA that EU content and processing can be recognised (i.e. cumulated) in UK and Pacific States exports to one another. The cumulation arrangements are set out in detail in the Title II (Definition of the concept of ‘originating products’) of the Rules of Origin Protocol and subject to satisfying the conditions specified in the agreement.

## **Impact**

66. If cumulation of EU content for the UK and the Pacific States were not permitted under the Pacific States EPA, some UK and Pacific States based exporters might find themselves unable to access preferences as they are currently able to under the existing EPA. UK exporters to the Pacific States who rely on EU content might have to revert to paying Most Favoured Nation (MFN) tariff rates, if they continued using EU content, or they might have to review and reassess their existing supply and value chains as a result of this change. The impact would, of course, vary across sectors.
67. The Pacific States EPA provides only for trade between the UK and Pacific States and does not provide for either Party’s direct trade with the EU, including, for example, where UK and Pacific States based exporters use content from each other in exports to the EU.

## **Trade Remedies**

68. Trade remedies provide a safety net for domestic industry against unfair or injurious trading practices caused by dumped, subsidised or unexpected surges of imports of goods. All major WTO members have a trade remedies regime; the UK will operate its own regime once outside the EU.

## **Bilateral Safeguards – Sugar**

69. The existing EPA includes a provision that allows the EU (i) to apply a bilateral safeguard duty to imports from the Pacific States if certain conditions are satisfied, including for example if a disturbance in an EU agricultural product market arises (the ‘bilateral safeguard’); and (ii) to determine that a disturbance in the EU sugar market for this purpose has arisen if the price of sugar falls below a certain level (the ‘trigger price mechanism’). In line with the principle of technical replication we are transitioning these provisions and establishing a trigger price mechanism for the UK sugar market.

70. Data is not, however, available to determine what the appropriate level for the trigger price mechanism should be in the UK at this time. This is particularly the case given recent volatility in sugar prices following the reform of the EU domestic sugar regime. To ensure that the Pacific States EPA is operable upon entry into force, we have agreed with our partners to suspend the trigger price mechanism temporarily. We have agreed that the Parties will review the price trigger after entry into force of the Pacific States EPA. The price trigger set in the existing EPA will reapply after a period of five years, unless the Parties reach agreement on a replacement trigger price.
71. We do not envisage that suspending the safeguard mechanism will have an impact on the UK. Given the substantial convergence of UK and EU sugar prices with those prevailing on world markets, it is unlikely that it will be appropriate to deploy safeguards in the foreseeable future. Indeed, the EU has not previously needed to utilise this mechanism to implement safeguard duties for sugar. The temporary suspension of the trigger price mechanism does not prevent the UK applying a bilateral safeguard duty to sugar imports based on the standard procedures applicable in the Pacific States EPA.

## Cotonou Agreement

72. The existing EPA contains a range of references to the Partnership Agreement between the EU and the African, Caribbean and Pacific (ACP) Group of States<sup>15</sup> (“the Cotonou Agreement”). The Cotonou Agreement provides a framework for the EU’s political, development and trade relations with these 79 developing countries. When the UK leaves the EU the Cotonou Agreement will cease to apply to the UK.
73. Some references to the Cotonou Agreement contained in the existing EPA can be deleted without any change to the effect of the Pacific States EPA. For others, we have sought to ensure continuity of the effect of the references in the existing EPA to the Cotonou Agreement which are relevant to the UK’s trade relationship with Fiji and Papua New Guinea. Those references include the objectives and essential and fundamental elements set out in the Cotonou Agreement and the ability to take appropriate measures in the event of a violation of those elements. For these references we have replicated the relevant provisions of the Cotonou Agreement in the Pacific States EPA as Annex IV.
74. Annex IV replicates the language of the Cotonou Agreement and the existing EPA to ensure that respect for human rights, democratic principles and the rule of law, and good governance remain as essential and fundamental elements of the Pacific States EPA; and that if needed, appropriate measures can be taken in the event of a violation of these elements. Annex IV also outlines the principles that will apply to any development cooperation provided by the UK to the Pacific States to support implementation of the Pacific States EPA. The overall result is a replication of the effects of the Cotonou references in the existing EPA.

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<sup>15</sup> Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part, signed in Cotonou on 23 June 2000, revised on 25 June 2005, and further revised on 22 June 2010.

## Amending the Agreement

75. In line with the continuity principle, we have not made any changes to provisions providing for amendment in the existing EPA. The language of these provisions has been fully replicated and so allows for the Trade Committee to make suggestions for its amendment to the Parties. In addition, as currently provided for, the Trade Committee may amend the provisions of the Rules of Origin Protocol and the Special Committee on Customs Co-operation and Rules of Origin may also take decisions regarding derogations from the Rules of Origin protocol.<sup>16</sup>

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<sup>16</sup> This paragraph was updated on 9th April 2019 to correct a drafting error.

## **Future Comprehensive Agreement**

76. The Pacific States EPA replicates the commitment under the existing EPA for the Parties to the Agreement to negotiate a future “comprehensive” Economic Partnership Agreement (EPA). This involves concluding a comprehensive EPA which will “contain all relevant elements and include all interested Pacific Islands”.
77. The fulfilment of this commitment is not time-bound.

## Accession of Pacific Countries

78. The existing EPA provides for other Pacific countries<sup>17</sup> to apply to accede to it, subject to the completion of necessary procedures. The Solomon Islands, Tonga and Samoa have all shown interest in acceding to the existing EPA. The Pacific States EPA carries over the commitment to allow other Pacific countries to apply for accession.
79. On 6 December 2018, the European Commission adopted a Decision to allow Samoa's accession. Samoa's parliament then notified the Commission to confirm ratification. As a result, Samoa has been provisionally applying the existing EPA since 21 December 2018. If Samoa wished to accede to the Pacific States EPA its application to do so would require the consent of the UK, Fiji and Papua New Guinea.

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<sup>17</sup> The Cook Islands, Fiji, Kiribati, the Marshall Islands, Micronesia, Nauru, Niue, Palau, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu and Vanuatu.





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