



Foreign &  
Commonwealth  
Office

# Continuing the United Kingdom's Trade Relationship with the Republic of Kosovo

**Partnership, Trade and Cooperation Agreement between the United Kingdom of Great  
Britain and Northern Ireland and the Republic of Kosovo**

December 2019





# **Continuing the United Kingdom's Trade Relationship with the Republic of Kosovo**

Presented to Parliament

by the Secretary of State for Foreign and Commonwealth Affairs

by Command of Her Majesty

December 2019



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## Introduction

1. This report explains the Government's approach to delivering continuity in the United Kingdom's ("UK") trade relationship with the Republic of Kosovo (Kosovo) 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 trade agreements the UK has with existing partners. In the event of either a negotiated agreement or no agreement with the EU, the UK-Kosovo Agreement is intended to take effect whenever the EU-Kosovo Agreement ceases to apply to the UK (or as soon as possible thereafter). In either event, the bilateral agreements will form the starting point for the UK's future trade arrangements with its partners.
4. Wherever possible, the Government has sought a technical replication of the existing EU agreements through these new bilateral 'continuity trade agreements', but in some cases, it has applied bespoke solutions for individual agreements as necessary to ensure continuity of effect in a bilateral context.
5. This report gives details of, and explains the reasons for, any significant differences between:
  - a. The trade-related provisions of the Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Kosovo ("the proposed UK-Kosovo Partnership, Trade and Cooperation Agreement or the UK-Kosovo Agreement"); and
  - b. The trade-related provisions of the existing Stabilisation and Association Agreement between the European Union, the European Atomic Energy Community and the Republic of Kosovo ("the EU-Kosovo Stabilisation and Association Agreement or the EU-Kosovo Agreement").
6. This report first sets out the general drafting changes necessary across all the UK's short form continuity trade agreements and which have no significant impact on the UK's current trade relationships. It then considers articles of the UK-Kosovo Agreement, in turn explaining any significant differences between the trade-related provisions of the UK-Kosovo Agreement and the corresponding provisions of the EU-Kosovo Agreement. To assist the reader, we have included some discussion of the economic impacts as appropriate. This report focuses on the changes made to the trading arrangements and future political relationship between the UK and Kosovo in preparation for the UK ceasing to be bound by the EU-Kosovo Agreement and entering into the UK-Kosovo Agreement. Any wider economic impacts resulting from the UK's exit from the EU or the nature of the Future Economic Partnership (the "FEP") have been excluded from this report.
7. The UK has agreed with many third countries that the most appropriate and proportionate form of legal instrument to ensure continuity in the current circumstances is a short form

agreement which incorporates by reference the relevant provisions of the underlying EU-third country agreement with relatively few but necessary modifications. Other Agreements have been drafted in long form to reflect the wishes of partner countries.

## Legal approach

8. The UK and Kosovo have agreed to the short form approach as the most pragmatic and sensible in the circumstances. The approach is like that used in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), where Article 1 of the CPTPP incorporates by reference the provisions of the Trans-Pacific Partnership Agreement, of 4 February 2016, into and makes them part of, *mutatis mutandis*, the CPTPP. The advantages of this approach include:
  - a) The short form agreement may more easily be adapted to accommodate different scenarios, such as the various possible outcomes of the UK's ongoing negotiations with the EU regarding the end state of the UK-EU relationship;
  - b) The format itself will send a clear message to businesses, consumers and investors in both the UK and Kosovo that the aim is simply to secure continuity in existing trading arrangements, with the only changes being the ones clearly specified on the face of the agreement;
  - c) The approach will provide a clear legal text, defining rights and obligations where they had by necessity changed; and
  - d) The approach avoids the need to re-write text in the EU-Kosovo Agreement which is being replicated, reducing the burden on both countries of legal scrubbing and translation.
9. The UK-Kosovo Agreement reproduces the effects of the EU-Kosovo Agreement as closely as possible, including the establishment of institutional arrangements between the UK and Kosovo based on existing structures (such as the "Partnership, Trade and Cooperation Council", which is referenced in the EU-Kosovo Agreement as the "Stabilisation and Association Council") that allow for the ongoing management and updating of the Agreement.
10. Many of the general changes to the EU-Kosovo Agreement (such as replacing "EU" with "UK") are applied by reading the incorporated text of the EU-Kosovo Agreement *mutatis mutandis*, that is, with the technical changes necessary to apply the EU-Kosovo Agreement as if it had been concluded between the UK and Kosovo in the first instance. This has avoided the need to reproduce every page and has significantly reduced the volume of text required.
11. Where more substantive amendments were required to ensure operability, in a bilateral context, or where the UK and Kosovo jointly agreed that *mutatis mutandis* would not deliver adequate certainty over rights and obligations, detailed amendments have been included in the Annex to the UK-Kosovo Agreement.



## Resources

12. This report is intended to aid businesses, consumers and parliamentarians in understanding any significant changes made to the UK's trade relationship, or political, economic or social cooperation with Kosovo, by the UK-Kosovo Agreement, the reasons for any changes, and their impact.
13. Should you wish to view the EU-Kosovo Agreement as originally published, it can be found online on the [European Commission's website](#).
14. More detail, including decisions of the Stabilisation and Association Council and Stabilisation and Association Committee established under the EU-Kosovo Agreement for the purpose of administering the UK-Kosovo Agreement, can be found on the [EUR-Lex website](#).
15. Should you wish to view the full text of the UK-Kosovo Agreement, 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 "CRaG Act"). The text will also be available on GOV.UK.

## Economic Background

16. This section provides a country-specific background analysis of trade between the UK and Kosovo.

### Trade between the UK and Kosovo

17. There is less data available on trade flows between the UK and Kosovo than for most other bilateral trade relationships. As reported by the ONS, total trade between the UK and Kosovo was £1 million in 2018. This was entirely made up of UK goods exports to Kosovo of £1 million. Goods imports to the UK from Kosovo were negligible and all trade in services was also negligible.<sup>1</sup>

18. Data from HMRC for trade in goods only shows significant differences with the ONS data stated above. Table 1 shows the top goods exported to Kosovo in 2018 were meat and edible meat offal (HS02, £3.2 million), pharmaceutical products (HS30, £0.6 million), and machinery and mechanical appliances (HS84, £0.5 million), together representing over two-thirds of the total value of UK goods exported to Kosovo. The UK's top goods imported from Kosovo were live trees and other plants (HS06, £0.6 million), and beverages, spirits and vinegar (HS22, £0.1 million), together representing over two-thirds of the total value of goods imported from Kosovo.

**Table 1: Top 5 UK goods exports and imports from Kosovo 2018 (HS2, £ million)**

<b>Top 5 UK goods exports to Kosovo</b>	<b>Value</b>	<b>Top 5 UK goods imports from Kosovo</b>	<b>Value</b>
Meat and edible meat offal	3.2	Live Trees and plants	0.6
Pharmaceutical products	0.6	Beverages, spirits and vinegar	0.1
Machinery and mechanical appliances	0.5	Furniture; bedding, mattresses, cushions	0.1
Electrical machinery and equipment	0.3	Edible vegetables	0.1
Optical, photographic, cinematographic and medical equipment	0.3		

Source: [HMRC trade statistics by commodity code](#) (accessed 9<sup>th</sup> May 2019). Sectors classified according to Harmonised Systems 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.

19. A detailed breakdown of the type of services traded is not available between the UK and Kosovo.

<sup>1</sup> [ONS \(January to March 2019\), UK total trade: all countries, non-seasonally adjusted](#)

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.

For example, table 1 (above) in 2018, "meat and edible meat offal" physically leaving the UK for Kosovo (is listed as £3.2m) – thus counting as an export for HMRC, but may remain the property of a UK resident, and thus not counting as an export for the ONS methodology, which captured total UK goods exports to Kosovo in 2018 as £1m.

There are inherent deviations between ONS and HMRC data for UK goods (exports and imports), most likely due to classification differences between the two sources and data collection - thus reporting inconsistencies between the two.

## **UK businesses exporting to and importing from Kosovo**

20. The number of businesses registered trading with Kosovo is not available. For context, provisional survey data from the ONS shows that around 340,500 (non-financial) registered businesses in the UK traded in either goods or services or both in 2017 with another country.<sup>2</sup> This was just under 15% of all VAT/PAYE registered businesses. There were around 203,900 (non-financial) registered businesses in the UK engaged in goods trade with another country and 194,600 (non-financial) registered businesses trading in services in 2017. Some of these businesses traded in both goods and services. There will be other businesses trading internationally, which are not identified by these surveys as they are not registered for VAT. Neither of these sources include businesses trading below the VAT registration threshold.

## **Economic impact of the EU-Kosovo Agreement**

21. The EU-Kosovo Stabilisation and Association Agreement was signed in 2015 and entered into force in 2016. The Agreement includes the gradual establishment of a free trade area over a transitional period lasting up to 10 years.

22. A 2018 European Commission report looking at implementation of EU free trade agreements included information on the EU-Kosovo Agreement.<sup>3</sup> It highlighted that total trade in goods between the EU and Kosovo increased by 7.5% between 2016 and 2017. It is not possible, however, to indicate whether this increase was as a result of the Agreement.

## **Potential loss to UK if the UK-Kosovo Agreement is not entered into force**

23. Not being able to bring into effect this transitioned agreement would result in UK businesses losing the preferences negotiated in the EU-Kosovo Agreement. This would include the re-imposition of many tariffs, returning to World Trade Organization ("WTO") Most-Favoured-Nation (MFN) treatment with Kosovo. The benefits derived from trading

<sup>2</sup> ONS, (2018). [Annual Business Survey: Non-financial business economy, exporters and importers in Great Britain 2017](#).

<sup>3</sup> European Commission. (2018). ['Individual reports and info sheets on Implementation of EU Free Trade Agreements'](#).

under preferences within the EU-Kosovo Agreements, such as increases in trade flows, may then be reversed.

24. It is unlikely that the entire effect of the agreement would disappear. Tariffs would 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 between Kosovo and the EU, under the EU-Kosovo Agreement. Business connections formed because of the EU-Kosovo Agreement might endure.
25. The size of the impact of not bringing into effect the UK-Kosovo Agreement would depend on the responsiveness of trade flows to increased costs brought about by the loss of provisions within the agreement.<sup>4</sup>

## Immediate impact if not entered into force

### Impact of tariffs under current MFN rates<sup>5</sup>

26. Much international goods trade takes place in products for which MFN rates are already zero. However, a Partnership, Trade and Cooperation Agreement provides additional opportunities by reducing tariffs in products where this is not the case. If the UK-Kosovo Agreement did not enter into effect, tariffs between the two countries would revert to MFN rates for all goods trade, other than where Kosovo benefitted from preferential access to the UK market under the unilateral preference scheme that the UK is implementing after EU exit (see para 30). This would lead to an increase in duties on some UK exports to and imports from Kosovo.
27. To estimate the potential impact of losing tariff preferences, assumptions have to be made. If all current trade between the UK and Kosovo 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 other than the UK's GSP tariff rates, reverting to the UK and Kosovo's current MFN tariff rates would result in an annual increase in total duties of <£1 million based on 2018 figures. This would predominately be duties on UK exports increasing by <£1million, with duties on UK imports from Kosovo increasing by a negligible amount.<sup>6</sup> Around half of the total implied increases in UK export duties corresponds to meat and edible meat offal (HS02), the top category of goods which the UK exports to Kosovo.
28. However, these estimates assume that all tariff preferences offered under the current agreement are fully utilised by exporters. This is unlikely to be true. For example, in 2016, the evidence suggests that 35% of the UK's eligible goods exports to Kosovo (defined as those which occurred under tariff lines where a preferential rate was offered under the

<sup>4</sup> Head K and Mayer T. (2014). '[Gravity Equations - Workhorse, toolkit and cookbook](#)'. *Handbook of International Economics*, 4, pp. 131-195.

Dhingra S, et al. (2018). '[Beyond Tariff Reductions: What Extra Boost From Trade Agreement Provisions?](#)'. *CEP Discussion Paper No 1532*, LSE, pp. 1-38.

<sup>5</sup> Tariff schedules used in this impact assessment are the applied tariff rates, not bound tariff rates.

<sup>6</sup> DIT calculations using tariff data from [ITC Market Access Map \(MacMap\)](#) and [HMRC trade statistics](#) (accessed February 2019). Implied additional duties are calculated using the difference in MFN and preferential tariff rates and the 2018 value of trade for each product at HS6 level. Different approaches and data sources for this analysis are likely to yield different results. These estimates do not take into account the effect of plurilateral agreements such as those on pharmaceuticals and civil aviation, or inward/outward processing rules. The estimate of implied additional duties may be different to which would be generated if trade and tariff data at a more disaggregated level (CN8 level) were used.

agreement) actually utilised the tariff preferences.<sup>7</sup> This means that, for exports, the actual increase in duties could be lower than the estimates above.

29. 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 estimated 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.
30. As the UK leaves the EU, it is the Government's intention to establish a unilateral trade preference scheme that offers the same level of access to low and lower-income countries as under the EU Generalised Scheme of Preferences. Kosovo is classified as a Lower-Middle Income Country by the World Bank, as such Kosovo would be eligible for unilateral preferences under this the UK's GSP. This would provide some tariff reductions, but not the same level of access as that offered by a Stabilisation and Association Agreement.
31. Indicative estimates of implied additional tariff duties are provided above 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 extra tariff revenue collected by the UK Exchequer and Kosovo's government. However, there could be wider effects of increased costs of trade, including negative impacts on consumer choice, prices, and ultimately economic growth and welfare.

## Businesses

32. Additional duties could be absorbed by either UK or Kosovan businesses (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.
33. Businesses that rely on imports as part of their supply chains may be affected if import prices rise, including UK exporters that rely on Kosovan 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, though the data does not provide how much of this is from imports from Kosovo.<sup>8</sup> UK companies which rely on Kosovan imports would become less competitive. Given the small share of UK trade under this agreement, in this case we would expect these impacts to be relatively small.

## Consumers

34. 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

<sup>7</sup> Nilsson L and Preillon N. (2018). ['EU Exports, Preferences Utilisation and Duty Savings by Member State, Sector and Partner Country'](#). *European Commission*, pp. 1-17. This report uses data collected by EU Delegations from relevant authorities in countries with which the EU has bilateral reciprocal Association Agreement in place. The relatively low preference utilisation rate for exports to Kosovo may highlight a poor knowledge of trade operators regarding the preferential access to Kosovo's market, which can partly be explained by the still-recent entry into force of the trade agreement in 2016.

<sup>8</sup> OECD, 2018. [Trade in Value Added \(TiVA\): Origin of value added in gross exports, December 2018](#). Experimental statistics.

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 this agreement, in this case we would expect these impacts to be relatively small overall but could be noticeable on specific product lines.

### **Longer term impact if the UK-Kosovo Agreement is not entered into force**

35. In the long run, the UK would forgo the longer-term benefits that the UK-Kosovo Agreement would have brought to the UK. This could result in long-term UK GDP being marginally lower than it otherwise would have been if a deal is not reached. Given the small share of UK trade under this agreement, we would expect the impact on GDP to be relatively small.

## **Explanation of this Agreement, including Significant Differences between the UK-Kosovo Agreement and the EU-Kosovo Agreement**

36. The UK-Kosovo Agreement follows the short form approach explained above in paragraphs 8 to 11. Beyond the general *mutatis mutandis* changes explained above, this section describes global changes made to continuity free trade agreements following the short form approach and goes on to provide a detailed discussion of the UK-Kosovo Agreement.

### **Nature of the EU-Kosovo Agreement and the UK-Kosovo Agreement**

37. Technical transition of the EU-Kosovo Agreement with few changes means that the substance of the new UK-Kosovo Agreement is broadly the same. This includes on those issues of particular importance such as human rights, democracy and good governance.

## General Provisions

### Removal and replacement of references to the EU

38. Where necessary, references to the “European Union”, “the European Community”, the “EU” “EU Party”, and “Member States” are replaced by the UK. Similarly, references to EU institutions have been replaced with appropriate references to the equivalent institutions in the UK. All other references to “European Union”, “the European Community”, the “EU”, “EU Party” and “Member States” and similar are read, *mutatis mutandis*, as references to the UK but are not explicitly changed.

### Territorial Application

39. In the existing EU-Kosovo Agreement, the Territorial Application article defines the Agreement’s territorial application to the EU by referencing the territorial application of the Treaty on the European Union, Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community. Except as set out in paragraph 42 below, the UK-Kosovo Agreement retains these provisions and includes an additional article, Article 6, which clarifies that the Agreement applies to the UK and the territories for whose international relations the UK is responsible, to the extent that and under the conditions which the EU-Kosovo Agreement applied immediately before they ceased to apply to the UK. Article 6 expressly excludes application of the Agreement to the Sovereign Base Areas of Akrotiri and Dhekelia in the Republic of Cyprus. In respect of the UK, the territories to which the UK-Kosovo Agreement will apply are:
- a) The Crown Dependencies (the Isle of Man, the Bailiwick of Jersey, the Bailiwick of Guernsey), to which, broadly, provisions related to tariffs and trade in goods apply; and
  - b) Gibraltar, to which, broadly, provisions not relating to trade in goods or customs apply.
40. The European Atomic Energy Community (EURATOM) is a party to the EU-Kosovo Agreement and Article 141 of the EU-Kosovo Agreement provides that the Agreement applies to the territories to which the Treaty establishing EURATOM applies, under the conditions laid down in that Treaty. The EURATOM Treaty applies to all Overseas Territories for whose international relations the UK is responsible, excluding the Sovereign Base Areas of the UK in Cyprus. The Government understands that EURATOM is specified because provisions relating to civil nuclear trade and co-operation (which make up only a small part of the Agreement) fall within EURATOM competence. It was not intended that this should extend the application of the EU-Kosovo Agreement to territories to which the Agreement would not otherwise apply. The Government has therefore amended the territorial scope of the EU-Kosovo Agreement to remove reference to territories to which the EURATOM Treaty applies, having consulted with relevant territories to ensure they would not be affected. We do not expect this change to have an impact.

### Continuation of Time Periods

43. Provisions of the EU-Kosovo Agreement that require an action within a certain time period which has not yet ended under that Agreement become part of the UK-Kosovo Agreement reflecting only the remaining time in which the action must occur. Where time periods in such provisions in the UK-Kosovo Agreement have ended, any right or obligation continues to



apply between the UK and Kosovo and the time period is not incorporated into the UK-Kosovo Agreement.

44. This is all provided for by Article 7 of the UK-Kosovo Agreement which also provides an exception for time periods which relate to a procedure or other administrative matter, such as a review, committee procedure or notification. These periods are not affected and therefore 'start again' when the UK-Kosovo Agreement enters into force.
45. Article 9 of the EU-Kosovo Agreement provides for the Agreement to be progressively implemented over a period of ten years. This provision is incorporated into the UK-Kosovo Agreement. By virtue of the provisions described above, the Agreement will be progressively implemented, starting at the same point as was reached under the EU-Kosovo Agreement, for the time remaining under the EU-Kosovo Agreement. This will be subject to review by the Partnership, Trade and Co-operation Council.

## **Institutions and Committees**

46. Most of the institutional provisions and bodies provided for in the EU-Kosovo Agreement have been incorporated and adopted *mutatis mutandis* with some modifications to remain operable in a bilateral UK-Kosovo context. For example, Article 126 of the EU-Kosovo Agreement, incorporated into the UK-Kosovo Agreement, states that the Stabilisation and Association Council (referred to as the Partnership, Trade and Cooperation Council in the UK-Kosovo Agreement) shall meet at an appropriate level and at regular intervals, and call extraordinary meetings as circumstances require.
47. The primary bodies responsible for overseeing the operation and implementation of the UK-Kosovo Agreement are the Partnership, Trade and Cooperation Council (the "Council"), which may delegate any of its powers to the Partnership, Trade and Cooperation Committee (the "Committee"). The Council and Committee will be comprised of representatives of the UK and Kosovo.
48. Article 9 of the UK-Kosovo Agreement tasks the newly established Council with ensuring that the Agreement operates properly from entry into force. It further stipulates that the Council and the Committee established under the UK-Kosovo Agreement are deemed to have adopted the decisions of the Stabilisation and Association Council and Stabilisation and Association Committee established under the EU-Kosovo Agreement, to the extent those decisions relate to the UK and Kosovo, *mutatis mutandis*. This approach provides for continuity of effect as it ensures that the decisions in force when the EU-Kosovo Agreement ceases to apply to the UK continue to apply under the UK-Kosovo Agreement.

## **Amendment Clauses**

49. Amendment clauses set out the process that must be followed if the parties agree to amend the provisions of the agreement after it enters into force. Though parties to an agreement are generally free to amend it as they deem necessary, amendment clauses serve to make the process clearer and more transparent.
50. Amendment provisions vary from agreement to agreement. In respecting the principle of continuity, the UK has aimed to keep them as similar as possible to those in the existing EU agreement. However, in some cases, it has been necessary to make changes.

51. Article 11 of the UK-Kosovo Agreement is an amendment article, which outlines the process to be followed if Parties agree to amend the provisions of the Agreement after it enters into force. Article 11 provides that the Parties may agree, in writing, to amend the text of the Agreement. Such amendments will enter into force on the date of the later of the Parties' notifications that they have completed their internal procedures, or on such other date as the Parties agree. In the UK, amendments to the Agreement that are expressly subject to a formal exchange of notes to confirm completion of internal procedures would engage the process of parliamentary scrutiny set out in the Constitutional Reform and Governance Act 2010 (CRaG).
52. The Council (see paragraphs 47-48) may also decide that the Annexes and Protocols to the Agreement should be amended. The Parties may then adopt the Council's decision subject to their applicable legal requirements and procedures. It is in the UK's interests for the Council to have this function, both to ensure continuity of effect of the EU-Kosovo Agreement as far as possible and to streamline the process of making changes to the UK-Kosovo Agreement if required.

## **Political Clauses**

53. Articles 5 and 13 of the EU-Kosovo Agreement are commitments by Kosovo relating to the normalisation of Kosovo's relationship with Serbia. Article 5 also allows for all or part of the Agreement to be suspended if Kosovo does not comply with commitments relating to the normalisation of its relationship with Serbia. These commitments reflect the ongoing EU-facilitated engagement process.
54. The UK-Kosovo Agreement retains these commitments in a single article (amended article 5), making it clear that normalisation of relations between Kosovo and Serbia is key to the bilateral relationship between the UK and Kosovo, and that the UK will continue to support the EU-facilitated engagement process as may be appropriate. The conditionality set out in Article 5 (and the final paragraph of Article 140) of the EU-Kosovo Agreement is not incorporated into the UK-Kosovo Agreement in order to equalise the treatment of normalisation in the UK's relationship with both Kosovo and Serbia. The EU's Agreement with Serbia (which the UK and Serbia have not yet replicated on a bilateral continuity basis) contains no clauses relating to normalisation of relations with Kosovo since it was concluded before the EU-facilitated Kosovo-Serbia Dialogue began.

## **Regional and Financial Cooperation**

55. Articles 16-19 of the EU-Kosovo Agreement provide that the EU may support Kosovo in promoting regional co-operation and oblige Kosovo to undertake specific actions linked to their accession to the EU. This includes implementation of the Central European Free Trade Agreement and co-operation with countries which have signed a Stabilisation and Association Agreement with the EU, are concerned in the Stabilisation and Association process (the EU's policy towards the Western Balkans established with the aim of eventual EU membership) or otherwise candidates for EU accession. Because these obligations are linked to EU accession, they are not incorporated into the UK-Kosovo Agreement. The UK will continue to support Kosovo's accession to the EU and working with partners to support regional stabilisation will remain a key part of the UK-Kosovo bilateral relationship. Article 16 is therefore modified to confirm that the UK may continue to support such regional co-operation where that is appropriate to the UK-Kosovo bilateral relationship.
56. Articles 121-125 of the EU-Kosovo Agreement provide that Kosovo may receive financial assistance from the EU conditional on Kosovo's progress towards meeting the obligations set out in the Agreement and criteria linked to Kosovo's accession to the EU. Because

these obligations are linked to EU accession, they are not incorporated into the UK-Kosovo Agreement. Instead, and in line with the UK's continued support for Kosovo's accession to the EU and the UK's commitment to work with partners, as appropriate, to support regional stabilisation, Article 121 is modified to confirm that the UK may provide financial assistance and continue to cooperate with initiatives set out in Article 122-125 of the EU-Kosovo Agreement.

## Entry into Force

57. 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 EU-Kosovo Agreement ceases to apply to the UK, the UK-Kosovo Agreement is able to enter into force as swiftly as possible thereafter.
58. For the UK-Kosovo Agreement to enter into force, it must first be ratified by both the UK and Kosovo. In UK domestic law, before an agreement subject to ratification may be formally ratified, it must be laid before Parliament for scrutiny under the Constitutional Reform and Governance Act 2010 (CRaG Act). Article 12 of the UK-Kosovo Agreement provides that the Agreement shall enter into force on the later of:
  - a. the date on which the EU Kosovo Agreement ceases to apply to the UK; and
  - b. the date of the later of the Parties' notification that they have completed their internal procedures

## Trade Remedies and Dispute Settlement

59. 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. Most WTO members have a trade remedies regime. The UK will operate its own regime once outside the EU.
60. The economic benefits of a Partnership, Trade and Cooperation 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. A 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 under the agreement in question.
61. The UK-Kosovo Agreement replicates the effects of the trade remedies and dispute settlement provisions in the EU-Kosovo Agreement *mutatis mutandis*.
62. One of the impacts of transitioning the dispute settlement provisions in the EU-Kosovo Agreement 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.

## Approximation

63. Approximation is the process by which EU partners must align their national laws, rules and procedures in order to give effect to the entire body of EU law contained in the *acquis communautaire*.

64. Unless their removal affects market access, articles mandating or promoting the gradual approximation of legislation between the EU and Kosovo have been removed. Maintaining these commitments would require our partners to approximate to both the UK and the EU's legislation, which would create an inappropriate commitment in a UK specific bilateral context. We do not expect this change to have an impact.

# Annexes and Protocols

## Goods

65. Goods chapters in trade agreements set out the treatment and the level of access to the domestic market granted to goods of the respective parties. Such provisions include setting tariff levels and quotas on various products, establishing agricultural safeguards and determining the rules of origin for goods to qualify for preferential treatment. Commitments on tariffs for both the UK and Kosovo have, other than in those cases detailed below, been transitioned without changes. This means that tariff preferences applied by the UK for products from Kosovo will remain the same as those applied by the EU on the date the UK ceases to be bound by the EU-Kosovo Agreement, and, likewise, Kosovo will continue to apply the same preferences to products from the UK that it is applying to products from the EU.
66. The only exceptions to tariff commitments being transitioned without modifications relate to the resizing of tariff-rate quotas, and the incorporation of preferences that are granted under a temporary WTO waiver, to take account of the fact the UK will no longer be a member of the EU (see below).
67. Tariff-rate quota modifications can be found in Article 8 of the UK-Kosovo Agreement (applying to Article 28(3), Annex IV and Annex I to Protocol 2 of the EU-Kosovo Agreement) and are detailed further below.
68. Unilateral preferences granted by the EU to the Western Balkan countries under a WTO waiver have been incorporated into the UK-Kosovo Agreement in order to maintain the status quo. The current preferences, consisting of a single wine TRQ and the suspension of specific duties on products falling under chapters 7 and 8 of the Harmonized System, have been replicated as Annex IIA of the UK-Kosovo Agreement with changes to adapt it to the UK-Kosovo relationship. As with all other imports under the UK-Kosovo Agreement, imports covered under the waiver shall have to comply with the Rules of Origin provisions laid out in Protocol III of the UK-Kosovo Agreement. Some adjustments have been necessary to maintain continuity, such as creating a five-year application period from entry into force of the UK-Kosovo Agreement, with the option for the preferences to be extended at the discretion of the UK. Further detail on their incorporation is below.

## Tariff Rate Quotas (TRQs)

### Justification for policy change

69. Tariff-rate quotas (TRQs) allow a certain quantity of a product to enter the market at a zero or reduced tariff rate. Imports above the quota are subject to a higher tariff rate – usually the MFN rate. The EU has agreed TRQs, both for imports to the EU and to partner countries, in some of its trade and association agreements. In order for products to be able to continue to benefit from the use of TRQs bilaterally in trade between the UK and Kosovo, these quotas need to be present in the new UK- Kosovo Agreement.
70. TRQs administered by the UK and by Kosovo have been re-sized to reflect the fact that the UK is a smaller import and export market than the EU28. Solutions were agreed with

Kosovo to set quotas to a sufficient level that will allow for continuity of historical trade flows, in most circumstances, for importers and exporters from both sides.

71. Where possible, TRQs have been re-sized based on three years' worth of customs usage data, which detail actual usage of the TRQs by importers. The data includes information on the quantity and date of individual shipments of goods. This is customs data held by HMRC which records the volume and date of entry of shipments that come into the UK claiming TRQ preferences. Where there are not three years' worth of usage customs data available, historical trade flow data have been used as a proxy instead.
72. The quotas given in this agreement were calculated based on a mixture of customs and trade flow data.
73. In order to address future market access opportunities for the UK and Kosovo businesses, it was also agreed that a minimum level of access should be provided for all quotas, based on a proxy measure relevant to UK trade. Doing so allows future market access opportunities for the UK and Kosovan businesses using a fair and evidence-based methodology.
74. The WTO waiver (incorporated in the UK-Kosovo Agreement, as mentioned above) contains a single TRQ for wine. This single quota is shared amongst all Western Balkan countries, allowing them to access the quota on a first-come first-served basis. To maintain continuity, the UK has incorporated this quota into the UK-Kosovo agreement by resizing it on the same basis as explained above, and then dividing it equally between the Western Balkan countries.

## Impacts

75. Without transitioning the TRQs from the EU-Kosovo Agreement into the UK-Kosovo Agreement, and without any other mitigating actions, goods imported from Kosovo that are currently covered by TRQs in the EU-Kosovo Agreement could face MFN tariffs, or GSP tariffs where relevant. This could make these imports more expensive. The nature of this impact will depend on a number of factors, including existing trading patterns and the behaviour and responsiveness of domestic consumers and businesses to the change in tariff. In the case of Kosovo, all quotas were inward TRQs from Kosovo with no outward TRQs from the UK. Historically, and according to trade data, Kosovo's usage of TRQs to export to the UK was low to zero. As such, we would expect the impact on UK producers and consumers resulting from this approach to resizing TRQs to be limited.

## Inward TRQs

76. **Table 2: List of TRQs applied by the UK for imports from Kosovo and new quota volumes (tonnes, unless otherwise specified)**

Order number	Product description	New UK-specific quota volume
09.1506	Trout	2
09.1508	Carp	3
09.1570	Wine of fresh grapes	5,448**
09.1572	Quality sparkling wines	1,362**

09.1530	Wine of fresh grapes*	681**
09.4200	Baby beef	65

\* Both of the previous wine quotas (order numbers 09.1570 and 09.1572) must be exhausted before this quota can be accessed.

\*\* Hectolitres

## Rules of Origin

77. In trade and association agreements, Rules of Origin (“RoOs”) are used to determine the economic nationality of a good. In order to qualify for preferential tariff rates, a good has to “originate” in one of the parties to the agreement. The trade pillar in an association agreement 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”.
78. There are two categories relevant to determining whether goods “originate” in the exporting country for the purposes of an association agreement:
- a. **Wholly obtained** – These are goods that are wholly obtained or produced entirely in a single country. Examples include (i) mineral products extracted from the soil and (ii) live animals born and raised there.
  - 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 particular 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.
79. As a member of the EU, all UK content is currently considered as “originating” in the EU and UK exports are designated as “EU origin”. This means that originating materials from, and processing in, the UK and the rest of the EU-27 Member States can be used interchangeably in the UK’s bilateral trade with existing EU trade and association agreement partners. This will no longer be the case when existing EU trade and association agreements stop applying to the UK.
80. 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 Kosovo.

81. To address these implications and to provide maximum continuity for business, it has been agreed in the UK-Kosovo Agreement that EU materials can be recognised (i.e. cumulated) in UK and Kosovo exports to one another. Furthermore, EU processing can be recognised (i.e. cumulated) in UK exports to Kosovo. The possibilities to cumulate with other third countries, as per the EU-Kosovo Agreement, are replicated in the UK-Kosovo Agreement on the same terms. The cumulation arrangements are set out in detail in Title II (Definition of the concept of 'originating products') of the Rules of Origin Protocol and are subject to satisfying certain conditions specified in the agreement.
82. Kosovo and the UK (as part of the EU) are currently contracting parties to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (the PEM Convention) and apply the PEM Convention between them. The PEM Convention is a multilateral agreement that harmonises preferential rules of origin across the Euro-Med area and provides for cumulation between contracting parties to that Convention. The UK's future relationship with the PEM Convention is yet to be determined, so the UK-Kosovo Agreement reflects the provisions of the PEM Convention in a bilateral context with modifications.
83. The text of the Rules of Origin Protocol can be found in the Protocol III of the UK-Kosovo Agreement.

## **Impact**

84. If cumulation of EU content for the UK and Kosovo were not permitted under the UK-Kosovo Agreement, some UK and Kosovan based exporters might find themselves unable to access preferences as they are currently able to under the EU-Kosovo Agreement.
85. UK exporters to Kosovo 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 to existing terms. The impact would, of course, vary across sectors.
86. The UK-Kosovo Agreement provides only for trade between the UK and Kosovo and does not provide for either Party's direct trade with the EU, including, for example, where UK and Kosovo country-based exporters use content from each other in exports to the EU.

## **Customs**

87. The UK-Kosovo Agreement incorporates the customs provisions of the EU-Kosovo Agreement, *mutatis mutandis*. However, minor changes were made to Article 14 of Protocol IV, which relates to the relationship between the EU-Kosovo Agreement and any bilateral agreements between the Republic of Kosovo and an EU member state.

## **Sanitary and Phytosanitary (SPS)**

88. Sanitary and Phytosanitary (SPS) articles in trade agreements concern the application of food safety and animal and plant health regulations. SPS provisions in trade agreements allow countries to set standards and regulations that allow for the protection of human, animal or plant life and health. SPS provisions in association agreements can increase transparency in trading by allowing the recognition of equivalent measures in relation to animal health, and import requirements, including health certification.



89. The SPS provisions of the EU-Kosovo Agreement are set out in Article 102, and relate only to cooperation, not trade facilitation. Minor, non-substantive changes have been made to this article. These changes remove references in the EU-Kosovo Agreement to the EU acquis, and the requirement to approximate Kosovo's legislation to EU laws. This will have no impact on the operation of the agreement.

## Intellectual Property and Geographical Indications

90. Our existing obligations on intellectual property (IP) found in international and trade agreements remain in place. The UK will remain a member of the World Intellectual Property Organization (WIPO), and remain fully compliant with those WIPO treaties to which we are already a party. The UK will also remain fully compliant with the World Trade Organization's agreement on the trade related aspects of intellectual property rights (TRIPS).
91. The IP chapter includes issues such as approximation, EU regulation and time bound commitments as noted above.
92. Article 78.1 of the EU-Kosovo Agreement requires the EU and Kosovo to grant each other's companies and nationals or citizens as relevant, in respect of the recognition and protection of intellectual property, treatment that is no less favourable than that granted by them to any other third country under bilateral agreements. While this article may make sense in an EU accession context, it is not appropriate to transition this as we exit the EU, as it would affect our independent trade policy with other third country bilateral agreements. Therefore, this provision has been deleted from the UK-Kosovo Agreement.
93. We do not expect this change to have an immediate impact on trade flows. It could have an impact in future if the UK makes changes to its Intellectual Property regime that apply only to parties in a Free Trade Agreement. The direction of impact would depend on the nature of the changes.
94. The UK-Kosovo Agreement retains the protections provided in the EU-Kosovo Agreement when the UK ceases to be bound by that agreement for UK and Kosovo geographical indications (GIs). The retained protections include those that extend to the territory of both Northern Ireland and the Republic of Ireland, known as 'transborder GIs' for *Irish Whisky/Irish Whiskey/Uisce Beatha Eireannach, Irish Poteen/Irish Poitín and Irish Cream*. All other GIs, traditional expressions and protected designations which relate to EU Member States that are not the UK are not incorporated into the UK-Kosovo Agreement. This is because the UK-Kosovo Agreement is in effect a bilateral agreement, and therefore can only protect GIs of States that are party to the agreement. This has no effect on existing GI protections relating to EU Member States in Kosovo, which will remain protected under the EU-Kosovo Agreement. We do not expect these changes to IP provisions to have an impact on bilateral trade flows between the UK and Kosovo as they are simply technical changes designed to ensure continuity of effect.

## Sustainability

95. The UK has long supported the promotion of our values globally and this will continue as we leave the EU. We want to ensure economic growth, development and labour and environmental protection go hand-in-hand. The Trade and Sustainable Development provisions in EU association agreements have played an important role in this to date and, except in relation to approximation, they have been replicated in their entirety in Articles 115 and 116 of the new UK-Kosovo Agreement. We do not expect the changes made (removal of approximation provisions) to have an impact.

## Government Procurement

96. Government procurement commitments in trade agreements provide enforceable rules and standards for a transparent and non-discriminatory framework on government procurement. They also liberalise specific procurement markets between the parties and provide enforceable market access commitments.
97. The UK-Kosovo Agreement has retained the commitments on public procurement that relate to the UK and Kosovo. In line with the EU-Kosovo Agreement, the UK-Kosovo Agreement requires the parties to open their respective public procurement markets to each other by incorporating the relevant government procurement provisions into the UK-Kosovo Agreement, *mutatis mutandis*.
98. The UK-Kosovo Agreement includes modifications of Article 79 of the EU-Kosovo Agreement to ensure its proper operation in a bilateral context. We do not expect these modifications to have an impact.

## Technical Barriers to Trade

99. Technical Barriers to Trade (TBT) articles in trade and association agreements cover aspects relating to regulations, standards and conformity assessment for goods. TBT provisions in association agreements play an important role in reducing non-tariff barriers for businesses, for example through increasing the transparency of a trading partner's regulatory requirements. Changes to these provisions have been limited to non-substantive technical changes.
100. This agreement originally contained provisions for Kosovo to approximate their legislation to that of the EU acquis. We have followed the general approach detailed earlier in this report and removed this provision from the UK-Kosovo Agreement, as it would not be appropriate to replicate such a provision in a bilateral context.
101. The approximation clauses do not impact market access in relation to TBT, as the commitments to approximation in the original EU-Kosovo country agreement remain.

## Competition and State Aid

102. Chapters or articles in trade agreements relating to competition and state aid help to ensure a level playing field exists for both Parties.
103. The EU-Kosovo Agreement originally contained provisions for Kosovo to approximate its domestic legislation to that of the EU acquis. We have removed those provisions from the UK-Kosovo Agreement, as it would not be appropriate to replicate such a provision in a UK specific bilateral context. The removal of approximation clauses does not have an impact on the UK as they applied to Kosovo only.
104. Article 75(2) of the original EU-Kosovo Agreement also provided that certain practices in conflict with the Agreement shall be assessed on the basis of criteria arising from the application of EU rules. It would not be appropriate to replicate such provisions in a bilateral context. Article 75(2) has therefore been amended so that practices shall be assessed based on each party's domestic laws and regulations, for competition matters in their jurisdiction. The amendment of this provision is not anticipated to impact on British

businesses as they will continue to be subject to UK domestic law which will not conflict with the provisions of the Agreement.

105. Other minor non-substantive technical changes have been carried out in the areas of competition and state aid to ensure that the effect of the provisions are replicated without altering the substance. The UK-Kosovo Association Agreement will not have any effect on the financial support the Government provides to our agricultural and fishing industries. We do not expect these changes to have an impact.

## **Services**

106. Services provisions in trade and association agreements set out the treatment and the level of access to the domestic market granted to that trade partner's service suppliers and services. Commitments build upon the level of access and the treatment granted to all WTO members, whilst protecting governments' right to regulate the domestic markets.
107. Amongst the existing EU agreements with third countries, the content of the services chapters and depth of the commitments undertaken vary considerably. The variety of these services provisions have in some cases necessitated a bespoke approach to deliver continuity in services commitments between the UK and the third country. Some agreements have not required amendment whilst others have required technical alteration to their text to deliver continuity of effect. Where such technical changes have been necessary the effects of the original commitments have been replicated as far as possible.
108. The services provisions of the EU-Kosovo Agreement are contained in Title V (Establishment, Supply of Services and Capital), and Title VI (Approximation of Kosovo's Law to the EU Acquis, Law Enforcement, and Competition Rules).

## **Transport - Air service**

109. The Common Aviation Area liberalises air transport by extending the single market in the field of aviation to various third countries. It is based on various international agreements between the EU and third countries, including the European Common Aviation Area (ECAA) Agreement. Third country parties to these agreements are required to implement the relevant EU acquis in the aviation sector. When the UK leaves the EU, it will no longer be party to the ECAA and related agreements and will instead revert to traditional bilateral air services arrangements with partner countries. In line with the Government's wider approach to international agreements affected by our departure from the EU, these new bilateral arrangements will seek to replicate the effects of existing EU agreements as far as is possible on a bilateral basis. It is expected that any economic impact of this change would be limited. UK carriers will continue to benefit from a network of Air Services Agreements.
110. In Title V (Establishment, Supply of Services and Capital), the EU-Kosovo Agreement contains references to the ECAA, which have been adapted in the bilateral UK-Kosovo Agreement to reference bilateral air services agreements.

## **Transport Community**

111. The Transport Community liberalises land transport by extending EU transport market rules, principles and policies to Western Balkan parties through a legally binding

framework. Third country parties to these agreements are required to implement the relevant EU acquis in the transport sector. When the UK leaves the EU, it will no longer be party to the Transport Community and related agreements and will instead revert to traditional land transport services arrangements with partner countries. In line with the Government's wider approach to international agreements affected by our departure from the EU, these new bilateral arrangements will seek to replicate the effects of existing EU agreements as far as is possible on a bilateral basis.

112. In Title V (Establishment, Supply of Services and Capital), the EU-Kosovo Agreement contains references to the Transport Community, which have been adapted in the bilateral UK-Kosovo Agreement to reference bilateral land transport services agreements. We do not expect these changes to have an economic impact on trade flows.

## **SAC Recommendations**

113. A reference to Kosovo operating 'within the scope of EU transport policy' that appears in Title V (Establishment, Supply of Services and Capital) of the EU-Kosovo Agreement has not been incorporated into the UK-Kosovo Agreement. This is because this reference is specific to the EU and would be inappropriate in a bilateral context. We do not expect these changes to have an economic impact on trade flows.

## **Suspension of the Operation of Title V**

114. It is inappropriate to retain references to approximation and adaptation of legislation to 'the EU acquis' in the bilateral UK-Kosovo Agreement, so these have been removed. However, provisions on freedom of establishment, as well as the supply of services and capital have had to be modified slightly to replicate the effect of the original EU agreement. These modifications include safeguards against a possible future divergence of the parties' regulatory systems in relation to these issues.

115. These safeguards provide that if a Party considers that the necessary level of alignment of their legislation is no longer reached, it may request consultations on the matter. If the matter is not resolved within 45 days of the consultation request date, a Party may suspend the operation of Title V (Establishment, Supply of Services and Capital) provisions, within 90 days of notifying the other Party.

116. Provisions are made to mitigate discrimination against the services and service suppliers of each Party in the event of a Party suspending the operations of Title V as outlined in the previous paragraph.

## **Employment and Mobility of Workers for Public Contracts**

117. In Title VI (Approximation of Kosovo's Law to the EU Acquis, Law Enforcement, and Competition Rules), the EU-Kosovo Agreement contains reference to the EU acquis with respect to the employment and movement of workers linked to the fulfilment of public contracts. The UK is not bound by the main EU directive relating to equal treatment rights in this respect (Directive 2011/98/EU). In order to replicate the effect of the original EU agreement as far as possible, reference to these provisions has not been incorporated into the UK-Kosovo Agreement. We do not expect these changes to have an economic impact on trade flows.



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