



Department for  
International Trade

# Provisional application and bridging mechanisms

## Information note

In under two years, HM Government has signed or agreed in principle trade agreements with 58 countries. Total UK trade with these countries was worth £198 billion in 2019.

All trade continuity agreements are laid in Parliament to undergo a 21-day scrutiny period under the Constitutional Reform and Governance Act 2010 (CRaG). Recently, we have laid agreements with Canada, North Macedonia, Egypt, Norway & Iceland, Singapore and Kenya under CRaG. Any trade continuity agreement we sign will be laid in Parliament at the soonest possible opportunity.

We aim for all agreements to be fully ratified and enter into force as soon as possible, but where this is not possible for 1 January 2021, we will either provisionally apply or implement through a bridging mechanism to allow continuity agreements to come into effect. This technical note intends to provide further detail on these two methods.

## Provisional application

1. Where a continuity agreement is unable to complete the CRaG scrutiny process before the end of the year, where possible HMG will aim to bring it into effect via provisional application. Provisional application enables countries to apply treaty commitments on a provisional basis prior to entry into force, while they complete their necessary domestic procedures and relevant international treaty formalities for entry into force.
2. The process for provisional application varies from agreement to agreement but is usually set out in the final provisions of the agreement itself, typically in an article addressing the entry into force of the treaty. The factors that influence its availability or use include third countries' constitutional arrangements, which may impact their ability to provisionally apply international agreements in whole or in part. Additional information on the use of provisional application is also contained within the Explanatory Memoranda which accompany treaties.

3. Provisional application is a method well established in international treaty practice to bring agreements into effect ahead of entry into force. It is recognised by Article 25 of the Vienna Convention on the Law of Treaties (VCLT) and many of the EU's existing FTAs provide for provisional application and were – or are being – provisionally applied prior to formal entry into force. The EU-Canada Comprehensive Economic and Trade Agreement (CETA) is currently being provisionally applied in part and there are also many UK precedents in relation to both bilateral and multilateral agreements.
4. Provisional application will not affect Parliament's ability to scrutinise trade continuity agreements. All signed agreements, without exception, will be laid in Parliament to fully meet the provisions of CRaG.

## **Bridging mechanisms**

5. Where we or our treaty partners are unable to fully ratify or provisionally apply an agreement, we will seek to give effect to the preferences under the signed UK agreements (or, if necessary, under the existing EU agreements) through alternative bridging mechanisms. These non-binding mechanisms include Memoranda of Understanding or Exchange of Diplomatic Notes which will ensure continuity of trade.
6. These methods will bridge any gap between signature of an agreement and entry into force or entry into effect, thereby delivering our objective of continuity. This approach has been developed to help avoid any cliff-edge created in existing UK trade relationships explicitly by ratification timelines or an inability to provisionally apply the concluded agreements.
7. Bridging mechanisms have been used by countries to enter into arrangements with each other across a range of areas of international relations, including in matters of international trade. A bridging mechanism is not legally binding but creates a strong political commitment, in our context, to continue the effects of the trading arrangements for the time needed to fully ratify (or provisionally apply).
8. The period that a bridging mechanism would need to last for will vary by country, but we envisage only rare circumstances where this could be longer than six months. Any bridging mechanism will include a sunset clause to ensure that the UK and partner countries seek to complete domestic procedures as quickly as possible.
9. The UK considers bridging mechanisms to be a means of applying the preferences in a WTO-compliant free trade agreement with its partners on a temporary basis under Article XXIV GATT and Article V of GATS. We will notify the WTO about our trading arrangements where they are given effect through a bridging mechanism.

10. Similarly to provisional application, bridging mechanisms will not affect the Parliament's ability to fully scrutinise continuity agreements under the CRaG process. We will lay all signed agreements, without exception, in Parliament to fully meet the provisions of CRaG.
11. We remain committed to submitting all signed continuity agreements for Parliamentary scrutiny under CRaG at the soonest possible opportunity. We believe that CRaG is an established and proportionate mechanism for the scrutiny of treaties.

We will also continue to publish Parliamentary Reports alongside all signed continuity agreements, setting out any significant differences with the predecessor EU agreements.