



Foreign, Commonwealth  
& Development Office

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

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

May 2021



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

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

Presented to Parliament

by the Secretary of State for Foreign, Commonwealth and Development Affairs

by Command of Her Majesty

May 2021



© Crown copyright 2021

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3)

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.uk/official-documents](https://www.gov.uk/official-documents).

Any enquiries regarding this publication should be sent to us at [enquiries@trade.gov.uk](mailto:enquiries@trade.gov.uk)

ISBN 978-1-5286-2556-2

CCS0521509000      05/21

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the APS Group on behalf of the Controller of Her Majesty's Stationery Office

# Contents

<b>Introduction</b>	<b>6</b>
Legal approach	6
Resources	7
<b>Economic Background</b>	<b>8</b>
Trade between the UK and Serbia	8
Economic impact of the EU-Serbia Agreement	10
Potential loss to UK if the UK-Serbia Agreement continues not to be entered into effect	10
Immediate impact if the UK-Serbia Agreement continues not to be entered into effect	10
<b>Explanation of this Agreement, including Significant Differences between the UK-Serbia Agreement and the EU-Serbia Agreement</b>	<b>13</b>
Nature of the EU-Serbia Agreement and the UK-Serbia Agreement	13
<b>General Provisions</b>	<b>14</b>
Removal and replacement of references to the EU	14
Territorial Application	14
Continuation of Time Periods	15
Institutions and Committees	15
Amendment Provisions	15
Entry into Force	16
Trade Remedies	17
Approximation	17
<b>Annexes and Protocols</b>	<b>18</b>
Goods	18
Tariff Rate Quotas	18
Rules of origin	22
Customs	23
Intellectual Property, including Geographical Indications	23
Government Procurement	24
Technical Barriers to Trade	25
Sanitary and Phytosanitary (SPS)	25
Competition, State Aid and State-Owned Enterprises	25
Services	26
Suspension of the Operation of certain Title V Provisions	28
Human Rights	28

## Introduction

1. This report explains the Government's approach to delivering continuity in the trade relationship of the United Kingdom of Great Britain and Northern Ireland (the "UK") with the Republic of Serbia ("Serbia") now that the UK has left the European Union ("EU").
2. With the UK's exit from 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. The Partnership, Trade and Cooperation Agreement between the UK and Serbia is intended to take effect as soon as possible. The Stabilisation and Association Agreement between the EU and Serbia ceased to apply to the UK at the end of the transition period. The new agreement 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 Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Serbia (the "UK-Serbia Agreement" or "the Agreement"); and
  - b. the Stabilisation and Association Agreement between the European Communities and their Member States of the one part, and the Republic of Serbia, of the other part (the "EU-Serbia 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-Serbia Agreement, in turn explaining any significant differences between the UK-Serbia Agreement and the corresponding provisions of the EU-Serbia 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 Serbia with the UK ceasing to be bound by the EU-Serbia Agreement and entering into the UK-Serbia Agreement. Any wider economic impacts resulting from the UK's exit from the EU or the nature of the future relationship between the UK and the EU 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 Serbia have agreed that using a short form approach was the most pragmatic and sensible in the circumstances. The approach is similar to that used in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (the "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 are:

- a. The format will send a clear message to businesses, consumers and investors in both the UK and Serbia that the aim is simply to secure continuity of existing trading arrangements, with the only changes being the ones clearly specified on the face of the Agreement; and
  - b. The approach provides a clear legal text, making rights and obligations unambiguous where they have, by necessity, changed.
9. The UK-Serbia Agreement reproduces the effects of the EU-Serbia Agreement as closely as possible, including the establishment of institutional arrangements between the UK and Serbia based on existing structures (such as the “Partnership, Trade and Cooperation Council”, which is called the “Stabilisation and Association Council” in the EU-Serbia Agreement) that allow for the ongoing management and updating of the Agreement.
  10. Many of the general changes to the EU-Serbia Agreement (such as replacing “EU” with “UK”) are applied by reading the incorporated text of the EU-Serbia Agreement *mutatis mutandis*, that is, with the technical changes necessary to apply the EU-Serbia Agreement as if it had been concluded between the UK and Serbia in the first instance. This has avoided the need to reproduce every page of the EU-Serbia Agreement 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 Serbia jointly agreed that *mutatis mutandis* would not deliver adequate certainty over rights and obligations, detailed amendments have been included in the Annexes to the UK-Serbia Agreement.

## Resources

12. This report is intended to aid businesses, consumers and parliamentarians in understanding any significant differences made to the UK’s trade relationship, or political, economic or social cooperation with Serbia by the UK-Serbia Agreement, the reasons for any changes, and their impact.
13. Should you wish to view the EU-Serbia 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-Serbia Agreement for the purpose of administering the UK-Serbia Agreement, can be found on the [EUR-Lex website](#).
15. Should you wish to view the full text of the UK-Serbia 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 Serbia.

### Trade between the UK and Serbia

17. Serbia is the UK's 89<sup>th</sup> largest trading partner<sup>1</sup>, accounting for less than 0.1% of total UK trade. Total trade in goods and services between the UK and Serbia was £682 million in 2019.<sup>2</sup>

18. In 2019, Serbia was the UK's 93<sup>rd</sup> largest export partner with exports of £282 million, and the UK's 82<sup>nd</sup> largest import partner, with imports of £400 million.

**Table 1: Trade between the UK and Serbia, 2019 (£ million)**

Trade between countries	Trade in goods	Trade in services	Total trade
UK exports to Serbia	169	113	282
UK imports from Serbia	281	119	400
Total trade	450	232	682

Source: ONS (2019), UK total trade: all countries, non-seasonally adjusted (accessed 18<sup>th</sup> March 2021)

19. Using data from HMRC for trade in goods only, Table 2 shows in 2019, the top UK goods exported to Serbia were machinery and mechanical appliances (HS84, £36m), electrical machinery and equipment (HS85, £18m) and plastics and articles thereof (HS39, £14m), together representing 42% of the total value of UK goods exported to Serbia. The UK's top goods imported from Serbia were rubber and articles thereof (HS40, £71m), electrical machinery and equipment (HS85, £62m) and machinery and mechanical appliances (HS84, £33m), together representing 60% of the total value of goods imported from Serbia.

**Table 2: Top 5 UK goods exports and imports from Serbia in 2019 (HS2<sup>3</sup>, £ million)**

Top 5 UK goods exports to Serbia	Value	Top 5 UK goods imports from Serbia	Value
Machinery and mechanical appliances	36	Rubber and articles thereof	71
Electrical machinery and equipment	18	Electrical machinery and equipment	62

<sup>1</sup> EU member states are treated as individual trading partners with the UK.

<sup>2</sup> Source: ONS, (2019). UK total trade: all countries, non-seasonally adjusted (accessed 18th March 2021).

<sup>3</sup> The Harmonized System (HS) is an international nomenclature for the classification of products. It allows participating countries to classify traded goods on a common basis for customs purposes.

<b>Top 5 UK goods exports to Serbia</b>	<b>Value</b>	<b>Top 5 UK goods imports from Serbia</b>	<b>Value</b>
Plastics and articles thereof	14	Machinery and mechanical appliances	33
Optical, photographic, cinematographic and medical equipment	14	Edible fruit and nuts	22
Pharmaceutical products	9	Furniture; bedding, mattresses, cushions	13

Source: [HMRC trade statistics by commodity code](#) (accessed 24th March 2021). 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.

20. In 2019, travel services were the largest UK service by value exported to Serbia, valued at £39 million. Travel services were also the most imported service sector, valued at £54 million.

**Table 3<sup>4</sup>: Top 5 UK services exports and top 2 service imports from Serbia in 2019 (HS2, £ million)**

<b>Top 5 UK services exports to Serbia</b>	<b>Value</b>	<b>Top 2 UK services imports from Serbia</b>	<b>Value</b>
Travel	39	Travel	54
Intellectual property	27	Government	10
Telecommunications, computer, and information services	18	-	
Government	15	-	
Construction	2	-	

Source: ONS, (2019). UK trade in services: service type by partner country, non-seasonally adjusted (Accessed 19<sup>th</sup> March 2021)

21. Services data is always reported on a 'change of ownership' (Balance of Payments) basis. 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.

22. The number of businesses registered as trading with Serbia is not available.

---

<sup>4</sup> Data for certain sectors have been omitted by the ONS as the data is disclosive, but the values are included in the overall totals. Services data is always reported on a 'change of ownership' (Balance of Payments) basis.



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

23. The EU-Serbia Agreement was signed in 2008. It fully entered into force in 2013, but the trade-related part of the EU-Serbia Agreement formally entered into force in 2010 through an Interim Agreement, with Serbia voluntarily implementing it in 2009. In 2014 the agreement was amended, the amended text entered into force in 2015.
24. A 2018 European Commission report looking at implementation of EU free trade agreements included information on the EU-Serbia Agreement.<sup>5</sup> It highlighted that total trade in goods between the EU and Serbia increased by 67% between 2008 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-Serbia Agreement continues not to be entered into effect**

25. A continued inability to bring the UK-Serbia Agreement into effect would result in UK businesses continuing to lose the preferential access negotiated in the EU-Serbia Agreement. This includes the imposition of many tariffs, returning to World Trade Organization (“WTO”) Most-Favoured-Nation (MFN) treatment for imports and UK exports subject to Serbia’s national legislation. The benefits derived from trading under the preferences provided by the EU-Serbia Agreement, such as increases in trade flows, may then be reversed over time.
26. It is unlikely that the entire effect of the EU-Serbia Agreement would disappear. Tariffs have reverted 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-term. For example, the UK might still benefit from any regulatory arrangements agreed between Serbia and the EU, under the EU-Serbia Agreement. Business connections formed because of the EU-Serbia Agreement might also endure.
27. The size of the impact of continuing not to bring into force or apply the UK-Serbia Agreement would depend on the responsiveness of trade flows to increased costs brought about by the loss of provisions within the agreement.<sup>6</sup>

## **Immediate impact if the UK-Serbia Agreement continues not to be entered into effect**

### **Impact of tariffs under current MFN rates<sup>7</sup>**

28. Much international goods trade takes place in products for which MFN rates are already zero. However, trade and association agreements provide additional opportunities by reducing tariffs in products where this is not the case. As the UK-Serbia Agreement has not yet entered into effect, tariffs between the two countries have reverted to higher MFN tariff rates for all trade. This has led to an increase in duties on some UK exports to and imports from Serbia.
29. To estimate the impact of losing tariff preferences, assumptions have to be made as data which could provide a definitive answer is not yet available. It is assumed that while the EU-Serbia Agreement was in force for the UK, all trade between the UK and Serbia occurred at the

---

<sup>5</sup> European Commission. (2018). ['Individual reports and info sheets on Implementation of EU Free Trade Agreements'](#), pp.186.

<sup>6</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>7</sup> Tariff schedules used in this impact assessment are the applied tariff rates, not bound tariff rates.

negotiated preferential tariff rate and that patterns of trade prevailing while this Agreement was in effect remained unchanged following reversion to MFN terms. Under these assumptions, reverting to the UK and Serbia's current MFN tariff rates could result in an annual increase in total duties of around £22 million. This would consist of annual duties on UK exports to Serbia at £12 million, with duties on UK imports increasing by £10 million, compared to preferential rates.<sup>8</sup>

30. However, these estimates assume that all tariff preferences offered under the EU-Serbia Agreement were fully utilised by importers and exporters while the agreement was in force. This is unlikely to be true. Estimates from the European Commission<sup>9</sup> suggest that 93% of the UK's eligible goods imports from Serbia in 2019 and 78% of Serbia's eligible goods imports from the UK were imported utilising the preferences under the EU-Serbia Agreement. This means that the actual increase in duties could be lower than the estimates above.
31. The total duty which could 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.
32. The indicative estimates show that the largest implied increases in UK import duties could be in rubber and articles thereof (HS40, £2.8 million) and edible fruit and nuts (HS08, £2.8 million). On the exports side, the largest implied increases in duties applied would be on vehicles other than railway or tramway stock (HS87, £2.7 million) and machinery and mechanical appliances (£1.3 million).<sup>10</sup>
33. 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 the Government of Serbia. 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**

34. Additional duties could be absorbed by either UK or Serbian 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.
35. Businesses that rely on imports as part of their supply chains may be affected if import prices rise, including UK exporters that rely on Serbian inputs to export goods to the rest of the world. In 2016 (latest data), around 15.4% of the value added in UK's gross exports reflected imports

---

<sup>8</sup> DIT calculations using tariff data from ITC Market Access Map ([MacMaps](#)) and trade data from TradeMaps (accessed September 2020) for exports calculations. DIT calculations using tariff data from the European Commission and Eurostat trade data (accessed October 2020) for imports. Implied additional duties are calculated using the difference in MFN and preferential tariff rates (simple average tariffs at CN8 level) and the value of trade for each product at CN8 level (2019). For exports, the preferential tariffs that would apply as of entry into force are compared with the MFN tariffs that would apply in the absence of a deal. Different approaches and data sources for this analysis are likely to yield different results. Calculations on duties applied to UK exports also assume trade is not eligible for duty relief under inward/outward processing rules, nor under specific plurilateral agreements such as those covering civil aviation and pharmaceuticals, nor WTO or preferential quotas. Calculations on import duties take into account inward/outward processing rules and trade which is eligible for relief under specific plurilateral agreements but not WTO or preferential quotas.

<sup>9</sup> Preferential utilisation rates calculated by European Commission DG Trade (updated 20<sup>th</sup> September 2020)

<sup>10</sup> DIT calculations, as above, from ITC Market Access Map and TradeMaps.

from abroad, though the data does not provide how much of this added value comprises imports from Serbia.<sup>11</sup> Given the small share of UK trade under this Agreement, in this case we would expect these impacts to be relatively small, but could be noticeable for some specific companies.

## **Consumers**

36. 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 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-Serbia Agreement continues not to be entered into effect**

37. In the long run, the UK would forgo the longer-term benefits that the UK-Serbia Agreement would have brought to UK. This could result in the long-term UK Gross Domestic Product (“GDP”) marginally decreasing if the Agreement is not brought into effect. Given the small share of UK trade under this Agreement, it is expected that the impact on UK GDP would be relatively small.

---

<sup>11</sup> OECD, 2018. [Trade in Value Added \(TiVA\): Origin of value added in gross exports, December 2018](#). Experimental statistics.

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

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

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

39. The technical transition of the EU-Serbia Agreement with few changes means that the substance of the UK-Serbia Agreement is broadly the same. This includes on those issues of particular importance such as human rights, democratic principles, international law principles and the rule of law.

## General Provisions

### Removal and replacement of references to the EU

40. Where necessary, references to the “European Union”, “the European Community”, the “EU”, and “Member States” are expressly 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”, and “Member States” and similar are to be read, *mutatis mutandis*, as references to the UK even where they have been not been expressly changed.

### Territorial Application

41. Territorial application provisions set out the territories to which the agreement in question applies, and how it applies to them. Article 135 of the EU-Serbia Agreement defines its territorial application by reference to the territorial application of the Treaties establishing the European Community and the European Atomic Energy Community.

42. The UK-Serbia Agreement has deleted Article 135 in Annex I, and has replaced it with Article 6. This new article clarifies that the Agreement applies to Serbia, on the one hand, and on the other hand to the UK and the territories listed in Article 6 to the extent that and under the conditions which the EU-Serbia Agreement applied immediately before it ceased to apply to the UK.

43. Therefore, the Agreement will apply to Gibraltar and the Crown Dependencies (the Isle of Man, the Bailiwick of Jersey, the Bailiwick of Guernsey) from the date of written notification by the UK to Serbia of the application of the Agreement to those territories. The territories, other than the UK itself, to which the UK-Serbia Agreement applies are separated into the following categories based upon the application of EU law at the end of the transition period:

- 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

44. The European Atomic Energy Community (“EURATOM”) is a party to the EU-Serbia Agreement and Article 135 of the Agreement provides that it applies to the territories in 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 UK’s Sovereign Base Areas of Akrotiri and Dhekelia in the Republic of Cyprus. The Government understands that EURATOM is specified in the EU-Serbia Agreement 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-Serbia Agreement to territories to which the Agreement would not otherwise apply.

45. The UK and Serbia have therefore agreed to amend the territorial scope of the UK-Serbia Agreement to remove reference to EURATOM. We do not expect this change to have an impact. The UK and Serbia have also updated the remaining EU treaty references in the EU-Serbia Agreement, as incorporated into the UK-Serbia Agreement.

## Continuation of Time Periods

46. Provisions of the EU-Serbia Agreement that require an action within a certain time period which has not yet ended under the EU-Serbia Agreement become part of the UK-Serbia Agreement reflecting only the remaining time in which the action must occur. Where time periods in such provisions of the EU-Serbia Agreement have ended, any ongoing right or obligation continues to apply between the UK and Serbia and the time period is not incorporated into the UK-Serbia Agreement.
47. These outcomes are provided for by Article 7 of the UK-Serbia 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-Serbia Agreement enters into force.
48. Article 8 of the EU-Serbia Agreement provides for the EU-Serbia Agreement to be progressively implemented over a period of six years. This provision has not been incorporated into the UK-Serbia Agreement. Instead, the Partnership, Trade and Cooperation Council established under Article 119 in the UK-Serbia Agreement shall regularly review the implementation of the Agreement.

## Institutions and Committees

49. The EU-Serbia Agreement provides for a Stabilisation and Association Council, a Stabilisation and Association Committee, and a Stabilisation and Association Parliamentary Committee, as well as a number of sub-committees and bodies. The UK-Serbia Agreement has simplified the structure of these (as explained in paragraphs 50 and 51 below) to ensure the Agreement is more easily operable in a bilateral context.
50. The primary body responsible for overseeing the operation and implementation of the UK-Serbia Agreement is the Partnership, Trade and Cooperation Council (the "Council"), which will take over the duties and powers of both the Stabilisation and Association Council and the Stabilisation and Association Committee. The Council may also set up sub-committees. The Council will be comprised of representatives of the UK and Serbia and meetings will be co-chaired.
51. The Stabilisation and Association Parliamentary Committee under the EU-Serbia Agreement has been deleted, but the UK-Serbia Agreement makes clear at amended Article 125 that nothing in the Agreement shall restrict cooperation between the Parliaments of the UK and Serbia, and provides that the Parties may establish a Parliamentary Committee, should the Parties choose to do so.
52. Article 9 of the UK-Serbia Agreement confirms that the Council, established under Article 119, is responsible for ensuring that the Agreement operates properly. It further provides that, unless the Parties otherwise agree, the Council is deemed to have adopted the decisions of the Stabilisation and Association Council or Stabilisation and Association Committee established under the EU-Serbia Agreement before the EU-Serbia Agreement ceased to apply to the UK, to the extent those decisions relate to the UK and Serbia, *mutatis-mutandis*. This approach provides for continuity of effect as it ensures that the decisions in force when the EU-Serbia Agreement ceased to apply to the UK will continue to apply under the UK-Serbia Agreement.

## Amendment Provisions

53. Amendment provisions set out the process that must be followed if the parties agree to amend the Agreement after it enters into force. Though parties to an agreement are generally free to amend it as they deem necessary, amendment provisions serve to make the process clearer and more transparent.

54. Article 11 of the UK-Serbia Agreement is an amendment provision, which outlines the process to be followed if the Parties agree to amend the provisions of the Agreement after it enters into effect. 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 first day of the first month following the date of the later of the Parties' notifications confirming that they have completed their internal procedures, or on such other date as the Parties agree. In the UK, amendments made to the UK-Serbia Agreement that are, pursuant to Article 11(1), expressly subject to a formal deposit or delivery of notifications to confirm completion of internal procedures would engage the process of parliamentary scrutiny set out in the Constitutional Reform and Governance Act 2010 ("CRaG Act").
55. The Council (see paragraphs 50 and 51) may also decide that the Annexes and Protocols to the Agreement should be amended. The Parties shall 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-Serbia Agreement as far as possible and to streamline the process of making changes to the UK-Serbia Agreement if required. In the UK context, amendments made by the Council which are not subject to delivery or deposit of notification of completion of internal procedures, or a similar ratification procedure, would not engage the process of parliamentary scrutiny set out in the CRaG Act.
56. The inclusion of an amendment provision in the UK-Serbia Agreement does not commit the UK to making any changes to the Agreement once it enters into effect. It simply sets out a process which may be used if needed. Therefore, the inclusion of an amendment provision is not expected to have an impact on the operability of the Agreement in a bilateral context.

## **Entry into Force**

57. Entry into force provisions specify the date from which the provisions of an agreement will bind the parties. Existing entry into force provisions have been replaced with new provisions to ensure that, the UK-Serbia Agreement is able to enter into force as swiftly as possible.
58. For the UK-Serbia Agreement to enter into force, both Parties must notify the other in writing of the completion of their domestic legal procedures required by its law for entry into force. In UK domestic law, before an agreement subject to ratification (as that term is defined in UK domestic law) may be brought into force, it must be laid before Parliament for scrutiny under the Constitutional Reform and Governance Act 2010 ("the CRaG Act").
59. Article 12 of the UK-Serbia Agreement provides that the Agreement shall enter into force on the date of the later of the Parties' notification that they have completed their internal procedures.
60. Provisional application is a mechanism which allows an agreement to be applied prior to its entry into force. This means that the agreement can be provisionally applied pending completion of the scrutiny procedures required by the domestic law of the respective negotiating states. A number of the existing EU agreements provide for provisional application and were provisionally applied by the UK as an EU Member State.
61. Pending completion of domestic scrutiny processes, provisional application may be necessary to ensure continuity of the UK-Serbia trade, political, economic and social cooperation relationship. Article 12(4) of the UK-Serbia Agreement provides that the UK and Serbia may agree to provisionally apply the Agreement, by an exchange of notifications signifying the completion of ratification or such other domestic procedures as are required for provisional application. Such provisional application shall take effect on the date of the later of the negotiating States' notification that they have completed their internal procedures for provisional application.

62. Article 12 further provides that either negotiating State may terminate the provisional application of the UK-Serbia Agreement by giving written notification to the other negotiating State. Such termination shall take effect one month following the date of notification. Provisional application will, by operation of law, automatically terminate once the UK-Serbia Agreement enters into force.
63. Where the UK-Serbia Agreement is, or certain provisions of it are, provisionally applied, the term “entry into force” in the UK-Serbia Agreement is deemed to refer to the date that such provisional application takes effect. Notifications of the UK pursuant to Article 12 are to be submitted to Serbia’s Ministry of Foreign Affairs (or its successor). Notifications of Serbia pursuant to Article 12 are to be submitted to the UK’s Foreign, and Commonwealth and Development Office (or its successor).

## **Trade Remedies**

64. Trade remedies provide a safety net for domestic industry against injury caused by unfair trading practices, such as dumped and subsidised imports, or against injury caused by unexpected surges of imports. Most WTO members have a trade remedies system. Following the end of the Transition Period, the UK operates its own system.
65. The UK-Serbia Agreement replicates the effects of the trade remedies provisions in the EU-Serbia Agreement *mutatis mutandis*.

## **Dispute Settlement**

66. The economic benefits of trade and association agreements 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 under the agreement in question.
67. The UK-Serbia Agreement largely replicates the effects of the dispute settlement provisions in the EU-Serbia Agreement *mutatis mutandis*. Some changes have been made to the provisions on interpretation (to eliminate references to EU law) and arbitrator qualifications, consistent with UK policy. Further, the UK-Serbia Agreement excludes a provision on intellectual, industrial and commercial property rights from the scope of dispute settlement.
68. One of the impacts of transitioning the dispute settlement provisions in the EU-Serbia 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**

69. Provisions regarding legal approximation are used by the EU in trade and association agreements to bring, or to aim to bring, third country legislation closer to that of the EU in areas covered by the agreement in question.
70. Unless their removal affects market access, articles mandating or promoting the gradual approximation of legislation between the EU and Serbia 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. This change is not expected to have an impact on the operation of the agreement.



# Annexes and Protocols

## Goods

71. 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 Serbia have, other than in those cases detailed below, been transitioned without changes. This means that, under the UK-Serbia Agreement, tariff preferences applied by the UK for products from Serbia will remain the same as those applied by the EU on the date the UK ceased to be bound by the EU-Serbia Agreement, and, likewise, Serbia will continue to apply the same tariff preferences to products from the UK that it is currently applying to products from the EU.
72. 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 that the UK is no longer a member of the EU (see below).
73. Tariff-rate quota modifications can be found in Article 8 of the UK-Serbia Agreement (applying to Article 26(3), 26(4), 29(3), 29(4) and 30(3), and Annex IIIe, Annex IV, Annex III to Protocol 1 and Annex I to Protocol 2 of the of the EU-Serbia Agreement) and are detailed further below.
74. Unilateral preferences, additional to or more favourable than those available under the EU-Serbia Agreement were provided to Serbia under a WTO waiver granted to the EU. These preferences have been incorporated into the UK-Serbia Agreement as annexes to the agreement to ensure continuity of effect of current preferences. These preferences, consisting of a single wine TRQ and the suspension of specific duties on products falling under chapters 7 and 8 of the Harmonised System, have been replicated in Annex II of the UK-Serbia Agreement (which will become Annex IIA of the Incorporated Agreement) with changes to adapt it to the UK-Serbia relationship. As with all other imports under the UK-Serbia Agreement, imports covered under these preferences shall have to comply with the Rules of Origin provisions laid out in Annex III of the UK-Serbia Agreement. Some adjustments have been necessary to maintain continuity, such as creating and limiting the period during which the additional preferences apply to five years from entry into force of the UK-Serbia Agreement, with the option for the preferences to be extended at the discretion of the UK. Further detail on the incorporation of these unilateral preferences into the UK-Serbia Agreement is set out below. Given this maintains existing market access arrangements, it is not expected to have a significant impact on trade flows.

## Tariff Rate Quotas

### Justification for policy change

75. 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 Serbia, these quotas need to be present in the new UK-Serbia Agreement.
76. TRQs administered by the UK and by Serbia 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 Serbia to set

tariff quotas at a sufficient level to allow for continuity of historical trade flows, in most circumstances, for importers and exporters from both countries.

77. 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 customs data is held by HMRC which records the volume and date of entry of shipments of goods that come into the UK claiming TRQ preferences. Where three years' worth of customs data is not available, historical trade flow data has been used as a proxy.
78. The TRQs provided in the UK-Serbia Agreement were calculated based on a mixture of customs and trade flow data.
79. In order to address future market access opportunities for the UK and Serbia 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 Serbian businesses using a fair and evidence-based methodology. Where TRQ volumes in the EU-Serbia Agreement have increased since the historical reference period, a proportional uplift has been applied to historic data to account for this.
80. The WTO waiver (incorporated in the UK-Serbia 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-Serbia agreement by resizing it on the same basis as explained above, and then dividing the resized quota equally between the Western Balkan countries.

## **Impacts**

81. Without transitioning the TRQs from the EU-Serbia Agreement into the UK-Serbia Agreement, and without any other mitigating actions, goods imported from Serbia that are currently covered by TRQs in the EU-Serbia Agreement will continue to face re-impositioned MFN tariffs. 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. Historically, and according to trade data, Serbia's usage of TRQs to export to the UK was low. Overall, we would expect the impact on UK producers and consumers resulting from this approach to resizing TRQs to be limited.

## Inward TRQs

**Table 4: List of Tariff Rate Quotas administered by the United Kingdom for products originating in Serbia<sup>12</sup>**

<b>EU Order Number</b>	<b>UK Order Number</b>	<b>Product Category<sup>13</sup></b>	<b>New UK quota volume (tonnes unless otherwise specified)</b>	<b>Applicable duty rate (% of MFN)</b>
091526	051526	Quality sparkling wine	7,491 hl	0%
091527	051527	Other wine of fresh grapes	1,675 hl	0%
091530 <sup>14</sup>	051534	Wine of fresh grapes	681 (hl) <sup>14</sup>	0%
091545	051545	Trout	2	0%
091546	051546	Carp	12	0%
091592	051592	Prepared or preserved fish; caviar and caviar substitutes	2	0%
094198	054198	Baby beef	1,185	20% of AVE and 20% of specific
094326	054326	Sugar products	24,652	0%

<sup>14</sup> This quota can only be accessed once the other wine quotas set out in this table have been exhausted.

<sup>12</sup> As provided for in the EU-Serbia Agreement and implemented by Commission Regulation (EU) No 1238/2014, Council Regulation (EC) No 1202/2013, Commission Regulation (EU) No 2015/781, and Commission Regulation (EC) No 1255/2010.

<sup>13</sup> Full product descriptions can be found in implementing legislation.

<sup>14</sup> EU order number for wine TRQ shared across Western Balkans countries. The TRQ has now been apportioned and new order numbers allocated to individual countries.

## Outward TRQs

**Table 5: List of Tariff Rate Quotas administered by Serbia for products originating in the United Kingdom, as per the UK-Serbia agreement text.<sup>15</sup>**

Product Category	New UK quota volume (tonnes unless otherwise specified)	Applicable duty (% of MFN)
Live swine	27	0%
Edible meat offal	27	0%
Carp	3	10%
Milk and cream	10	5%
Buttermilk, curdled milk and cream, yoghurt	26	0%
Cheese and curd	7	0%
Potatoes, fresh or chilled	22	0%
Frozen vegetables	3	0%
Wheat and meslin	41	0%
Maize (corn)	37	0%
Sunflower-seed, safflower or cotton-seed oil	8	5%
Other prepared or preserved meat	20	0%
Cane or beet sugar	10	20%
Fruit and vegetable juices	3	0%
Quality sparkling wine	3,405 hl	0%
Wine of fresh grapes		
Undenatured ethyl alcohol	161	0%
Tobacco	10	0%
Cigars, cheroots, cigarillos and cigarettes	3 218	10% 15%

*Where ex CN codes are indicated, the preferential scheme is to be determined by application of the CN code and corresponding description taken together.*

<sup>15</sup> As provided for in the EU-Serbia Agreement, as amended by Decision No 1/2014 of the EU-Serbia Stabilisation and Association Council of 17 December 2014 L and the 2014 Protocol on the accession of Croatia to the EU.

## Rules of origin

82. 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 must “originate” in one of the parties to the agreement. Trade and association 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”.
83. There are two main categories relevant to determining whether goods “originate” in the exporting country for the purposes of a trade or association agreement:
- a. **Wholly obtained** – These goods 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 goods 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.
84. During the transition period, all UK content was considered as “originating” in the EU and UK exports were designated as “EU origin”. This means that originating materials from, and processing in, the UK and the rest of the EU could be used interchangeably in bilateral trade with EU free trade agreement partners. This is no longer the case since EU free trade agreements have stopped applying to the UK at the end of the transition period.
85. The designation of UK exports has shifted from “EU” originating to “UK” originating, and EU content is (unless specific provision is made in the new UK continuity trade agreements) no longer counted towards meeting the origin requirements for preferential treatment for either party. This change may have implications for goods traded between the UK, EU and Serbia.
86. To address these implications and to provide maximum continuity for business, the UK-Serbia Agreement provides that EU materials can be recognised (i.e. cumulated) in UK and Serbian exports to one another. Furthermore, EU processing can be recognised (i.e. cumulated) in UK exports to Serbia. The possibilities to cumulate with other countries, as per the EU-Serbia Agreement, are replicated in the UK-Serbia Agreement on the same terms. The cumulation arrangements are set out in detail in Articles 3 and 4 of Title II (Definition of the Concept of ‘Originating Products’) of the RoOs Protocol and are subject to satisfying certain conditions specified in the Agreement.
87. Serbia and the UK were both contracting parties to the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (the “PEM Convention”) until the end of the transition period. The PEM Convention is a multilateral agreement that harmonises preferential RoOs across the Euro-Mediterranean Free Trade Area and provides for cumulation between contracting parties to the PEM Convention. The UK undertook a wide range of stakeholder

engagement and analysis in support of negotiations with the EU, including on the merits of existing trade structures. However, the UK concluded that it was not in our interest to seek accession to the PEM convention as part of the UK-EU negotiations. While the UK is not a PEM signatory, the UK-Serbia Agreement reflects the provisions of the PEM Convention in a bilateral context with modifications.

88. The text of the RoOs Protocol can be found in Annex III of the UK-Serbia Agreement.

## Impact

89. If cumulation of EU content for the UK and Serbia was not permitted under the UK-Serbia Agreement, some UK and Serbian based exporters could find themselves unable to qualify for the preferential treatment provided by the EU-Serbia Agreement.

90. UK exporters to Serbia who rely on EU inputs might have to revert to paying MFN tariffs if they continued using EU content, or they might have to review and reassess their supply and value chains as a result of this change. The impact would, of course, vary across sectors.

91. The UK-Serbia Agreement provides only for trade between the UK and Serbia and does not provide for either the UK or Serbia's direct trade with the EU, including, for example, where UK and Serbia based exporters use content from each other in exports to the EU. The imposition of higher MFN tariffs on such exports may have a minor negative impact on trade flows.

## Customs

92. The UK-Serbia Agreement incorporates the customs provisions of the EU-Serbia Agreement, *mutatis mutandis*. However, minor changes were made to Protocol 6. These changes are not expected to have a significant impact on trade flows.

- a. In Article 10(2), by removing the reference to legal provisions applying to the EU institutions.
- b. In Article 13(1), by removing reference to the competent services of the Commission of the European Communities.
- c. In Article 14(1), which relates to the respective competencies of the European Community and the Member States, was not incorporated into the Agreement as this provision is no longer relevant in the bilateral context.
- d. Article 14(2) by substituting text to note the precedence of the incorporated Protocol 6 over any incompatible provisions of any bilateral agreement on mutual assistance concluded between the UK and Serbia prior to the date the Agreement is signed.

## Intellectual Property, including Geographical Indications

93. The UK's existing Intellectual Property ("IP") obligations found in international and trade agreements will 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 the UK is 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).

94. Paragraphs 1 and 2 of Annex VII of the EU-Serbia agreement list several international IP treaties. Paragraph 1 lists treaties to which Serbia are committed to accede under Article 75(4) of the EU-Serbia Agreement, and the parties also confirm the importance of certain other treaties listed in paragraph 2. The UK-Serbia Agreement incorporates these provisions with only technical amendments.

95. Article 75(2) of the EU-Serbia Agreement which provides a most favoured nation obligation with respect to the recognition and protection of certain IP rights, has not been incorporated into the UK-Serbia agreement.
96. Article 75(3) of the EU-Serbia Agreement, has not been incorporated into the UK-Serbia agreement. The provision requires Serbia to align its rules with the rules applicable within the EU.
97. The UK-Serbia Agreement retains the protections provided in Article 33 and Protocol 2, Annex II of the EU-Serbia Agreement relating to geographical indications (GIs). The retained protections include those that extend to the 'transborder GIs' for Irish Whisky/Irish Whiskey/Uisce Beath Eireannach and Irish Cream which are produced in the territory of both Northern Ireland and the Republic of Ireland. References included in the EU-Serbia Agreement to geographical indications identifying products originating in the European Union (except for transborder GIs) have been deleted to reflect that this agreement applies between the UK and Serbia.
98. Protocol 2 Annex II, Appendix 1, Part B, Section (A) has been amended to remove references to GIs relating to wines produced in the Republic of Kosovo.
99. The above changes to IP provisions are not expected to affect bilateral trade flows between the UK and Serbia.
100. The UK-Serbia agreement retains the Joint Declaration on Article 75 which covers the protection of intellectual, industrial and commercial property. The final paragraph of the Joint Declaration relates to paragraph 75(3) of the EU-Serbia agreement, paragraph 75(3) is not incorporated into the UK-Serbia agreement.

## Government Procurement

101. Government procurement commitments in trade and stabilisation and association 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.
102. The UK-Serbia Agreement retains the public procurement commitments in the EU-Serbia Agreement that relate to the UK and Serbia. In line with the EU-Serbia Agreement, the UK-Serbia Agreement requires the parties to open their respective public procurement markets to each other through the incorporation of relevant government procurement provisions from the EU-Serbia Agreement into the UK-Serbia Agreement, *mutatis mutandis*.
103. The UK-Serbia Agreement includes modifications of Article 76 of the EU-Serbia Agreement to ensure its proper operation in a bilateral context. These modifications are not expected to have a significant impact on trade flows.
104. In line with the exemption of clinical healthcare procurement in the UK-EU Trade and Cooperation Agreement, one of the modifications to Article 76 in the UK-Serbia Agreement is the addition of the following exemption in Article 76(7):

*This Chapter does not apply to the procurement of publicly funded clinical healthcare services. Clinical healthcare services include the following services:*

1. *Human health services (CPC 931);*
2. *Administrative healthcare services (CPC 91122); and*
3. *Supply services of nursing personnel and supply services of medical personnel (CPC 87206 and CPC 87209)*

*'CPC' means the Central Products Classification as set out in the Statistical Office of the United Nations, Statistical Papers, Series M, No 77, CPC prov, 1991.*

## **Technical Barriers to Trade**

105. Technical Barriers to Trade ("TBT") provisions in trade and stabilisation and association agreements cover aspects relating to regulations, standards, and conformity assessment for goods. TBT provisions 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.
106. Article 77 in the EU-Serbia Agreement contains provisions which require Serbia to approximate their legislation to that of the EU acquis. The same general approach detailed earlier has been followed with respect to the TBT provisions. Accordingly, any TBT approximation requirements are not incorporated into the UK-Serbia Agreement as it would not be appropriate to replicate such obligations in a bilateral context. This is not expected to have significant economic impacts.

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

107. SPS provisions in trade agreements concern the application of food safety and animal and plant health regulations. These provisions allow countries to set standards and regulations that allow for the protection of human, animal or plant life and health. FTAs may contain SPS provisions which, for example, increase transparency in the application of SPS measures, or allow the recognition of equivalent measures in relation to animal health, and set import requirements, including health certifications.
108. Article 97 in the EU-Serbia Agreement requires Parties to cooperate with the aim of achieving Serbian modernisation and approximation of Community rules and standards. Any SPS approximation requirements are not incorporated into the UK-Serbia Agreement as it would not be appropriate to replicate such obligations in a bilateral context. This is not expected to have significant economic impacts.

## **Competition, State Aid and State-Owned Enterprises**

109. Chapters or provisions in free trade agreements relating to competition, state aid and state-owned enterprises help to ensure that open and fair competition exists for both parties.
110. The EU-Serbia Agreement contains provisions requiring Serbia to approximate its domestic legislation to that of the EU acquis. Such provisions have not been incorporated into the UK-Serbia Agreement, as it would not be appropriate to replicate them in an agreement with the UK. The removal of these approximation clauses is not anticipated to have an impact on the UK as these provisions applied to Serbia only.
111. Specific references in the EU-Serbia Agreement to EU competition and state aid rules have also not been incorporated into the UK-Serbia Agreement. In particular, Article 73(2) and Article 73(9)(b) of the EU-Serbia Agreement have not been incorporated into the Agreement as these provisions provide that certain practices in conflict with the EU-Serbia Agreement shall be assessed on the basis of criteria arising from the application of EU state aid rules. Other references to EU law have also been removed as it would not be appropriate to replicate such provisions in a bilateral context. These amendments are 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.
112. Other minor non-substantive technical changes have been made to the competition and state aid provisions to ensure that the effect of these provisions are replicated without altering their substance. These changes will not have any effect on the financial support the Government provides to our agricultural and fishing industries and are not expected to have a significant impact on trade flows.



## Services

113. Services provisions in trade agreements, and EU stabilisation 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 their domestic markets.
114. 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 commitments undertaken in the EU agreement have been replicated as far as possible. For instance, where the underlying EU agreement referred to "date of entry into force of this Agreement", the UK-Serbia Agreement will refer to the date of entry into force of the EU-Serbia Agreement instead (Articles 60(1) and (2)).
115. The services provisions of the EU-Serbia Agreement are set out in Title V (Movement of Workers, Establishment, Supply of Services, Movement of Capital), and in Article 76(6) of Title VI (Approximation of Laws, Law Enforcement and Competition Rules). Only technical changes to these provisions are outlined below. These changes are not expected to have a significant impact on trade flows.

## Movement of workers

116. Article 50(1) of the EU-Serbia Agreement refers to preserving or improving upon existing bilateral agreements allowing access to employment for Serbian workers. As there are no existing bilateral arrangements between the UK and Serbia which fall within the meaning of the provision, this Article has not been incorporated into the UK-Serbia Agreement.
117. Article 51 of the EU-Serbia Agreement contains references to rules laid down for the coordination of a social security system for workers with Serbian nationality and legally employed in the territory of a Member State.
118. In the UK-Serbia Agreement, the reference to 'Member States' has been replaced by 'United Kingdom and the various Member States of the European Union', as the current policy is to allow workers to accumulate periods of employment in both the UK and different EU Member States for the purposes of social security.
119. This will require that the UK have data sharing agreements in place with other Member States, which will provide for the protection of the data required. The Partnership, Trade and Cooperation Council established under Article 119 of the Agreement will be responsible for determining whether such agreements are appropriate and subsequently apply Article 51. These changes are not expected to have a significant impact on trade flows.

## Establishment

120. Article 53 of the EU-Serbia Agreement sets out Serbia's commitments with respect to the establishment and operation of UK companies and branches in Serbia. References to 4-year implementation periods in this Article (paragraphs 4 and 5(c), respectively) have been deleted, as these time periods have already passed since the entry into force of the EU-Serbia Agreement in 2013. The UK-Serbia Agreement also amends Serbia's most favoured nation and national treatment commitments with respect to the operation of UK companies as contained in Article 53(1)(b) to provide that these commitments are to be applied in

accordance with Serbia's domestic laws and regulations. These changes are not expected to have a significant impact on trade flows.

## **Transport Services – Maritime**

121. The reference to 'European' obligations in Article 61(2) has been removed in the UK-Serbia Agreement. The UK is no longer subject to EU obligations relating to safety, security, and environmental standards. Therefore, this specific reference is not required. Additionally, we have opted for deleting this reference as the application of the *mutatis mutandis* principle could mislead the interpreter to think that Serbia is to harmonise its laws with UK laws, which would be inappropriate in a bilateral context. The UK-Serbia Agreement maintains the commitments by both Parties to respect international obligations in the field of safety, security, and environmental standards, as set out by the International Maritime Organization.

## **Transport - Air Services**

122. 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. Following the end of the transition period, the UK is no longer a party to the ECAA and related agreements and has instead reverted 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.

123. In Title V (Movement of Workers, Establishment, Supply of Services, Movement of Capital), the EU-Serbia Agreement contains references to the ECAA Agreement, which have been adapted in the bilateral UK-Serbia Agreement to reference any existing or future air services or aviation agreements between the UK and Serbia (sub-paragraph 6(g) of Annex I).

## **Transport - Road Transport**

124. A paragraph has been added into Article 61(1) which clarifies that where there is potential conflict between this agreement and the UK-Serbia Agreement on International Road Transport 2019, or any future bilateral agreement between the UK and Serbia on International Road Transport, the latter will prevail. This paragraph applies in particular to provisions in Protocol 4 on land transport.

125. Protocol 4 on land transport promotes coordination and cooperation between the two parties on land transport and infrastructure. Between the EU, Serbia and other Western Balkan parties, this cooperation was underpinned by a Memorandum of Understanding for developing a core transport system for south-east Europe. This Memorandum of Understanding formed the basis of the Transport Community, established by the Treaty establishing the Transport Community, done on 12 July 2017, and which entered into force on 1 May 2019. 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.

126. Following the end of the transition period, the UK is no longer a party to the Transport Community and related agreements and has instead reverted to traditional land transport services arrangements with partner countries. In line with the Government's wider approach to international agreements affected by the UK's departure from the EU, these new bilateral

arrangements seek to replicate the effects of existing EU agreements as far as is possible on a bilateral basis. On that basis, Articles 4 to 6 and Articles 8 to 10 of Protocol 4 have not been incorporated into the UK-Serbia Agreement. Similarly, references in Article 11(1) of Protocol 4, which commit Serbia to adapt existing bilateral agreements with EU Member States on road transport to reflect Protocol 4 have been removed, as they would be inappropriate in a bilateral UK-Serbia context. Throughout Protocol 4, references to harmonisation of Serbia's legislation with the EU acquis have been removed or adapted, as they are not appropriate in the context of the UK's bilateral relationship with Serbia. These changes are not expected to have a significant impact on trade flows.

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

127. Retaining references to approximation and adaptation of Serbia's legislation to the EU acquis is inappropriate under the UK-Serbia Agreement and so these have been removed. The Agreement does not commit Serbia to approximate its legislation to that of the UK. Nevertheless, at entry into effect, the operation of limited aspects of the UK-Serbia Agreement, will be on the basis of existing alignment between the UK and Serbia in the sectors relevant to trade in services (in respect of movement of workers, establishment, and supply of services). Included in the new article, Article 71A, are safeguards to accommodate for possible future divergences of the Parties' regulatory systems in relation to these matters covered by certain Title V provisions.
128. 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 the provisions referred to in Article 71A(1) no sooner than 90 days after the date of delivery of notification to the other Party.
129. Article 71A(5) was drafted to mitigate the risk that the Party suspending the provisions referred to in Article 71A offers the services or service suppliers of the other Party treatment no less favourable than that accorded to like services and service suppliers of any third country. These changes are not expected to have a significant impact on trade flows.

## **Human Rights**

130. The provisions of the EU-Serbia Agreement concerning human rights are incorporated into the UK-Serbia Agreement, *mutatis mutandis* with minor modifications. Accordingly, the UK-Serbia Agreement provides that respect for democratic principles, human rights and the rule of law as well as market principles constitutes an essential element of the Agreement, as does agreeing to cooperate and to contribute to countering the proliferation of weapons of mass destruction and their means of delivery. In the event of a breach of the UK-Serbia Agreement by one of the Parties, appropriate measures may be taken in accordance with international law. Incorporating these provisions is not expected to have a significant impact on trade flows.

**CCS0521509000**  
**978-1-5286-2556-2**