



Swiss–UK relations post Brexit

December 2020

The United Kingdom left the European Union on 31 January 2020. During a transition period, lasting until 31 December 2020, the UK remains part of the EU single market and customs union (without co-decision rights). EU third-country agreements, including bilateral agreements between Switzerland and the EU, also continue to apply to the UK during this period.

Once this transition period ends, bilateral agreements between Switzerland and the EU will no longer apply to the UK. As part of its Mind the Gap strategy, Switzerland concluded seven new bilateral agreements with the UK, thereby maintaining as far as possible the existing mutual rights and obligations between both countries following Brexit. The new bilateral agreements, which will come into force on 1 January 2021, concern trade, services, road and air transport, insurance and migration. An additional bilateral agreement on police cooperation will come into force in the second half of 2021. In a second step, cooperation between Switzerland and the UK is to be further expanded where it is in the interests of both countries (Mind the Gap+).

Chronology

- 01.01.2021 New Swiss–UK agreements apply
- 31.12.2020 End of the transition period
- 15.12.2020 Signing of the police cooperation agreement
- 14.12.2020 Signing of the services mobility agreement
- 31.01.2020 Formal withdrawal of the UK from the EU
- 25.02.2019 Signing of the citizens' rights agreement to address the expiry of the Agreement on the Free Movement of Persons
- 11.02.2019 Signing of the trade agreement
- 25.01.2019 Signing of the overland transport agreement and insurance agreement
- 17.12.2018 Signing of the air transport agreement
- 29.03.2017 UK initiated the withdrawal process from the EU under Article 50 of the Treaty on European Union (withdrawal date originally set for: 29.03.2019)
- 19.10.2016 Adoption of 'Mind the gap' strategy by the Federal Council
- 23.06.2016 UK's vote on withdrawal from the EU (leave: 51.9%)

Transition period and negotiations on future EU–UK relations

After the British electorate voted in favour of leaving the EU on 23 June 2016 (Brexit), the British government formally notified the EU of its withdrawal decision on 29 March 2017. Following long and difficult negotiations and several extensions of the withdrawal date, the British government and the EU reached an agreement in October 2019 on the terms of an orderly withdrawal by 31 January 2020 and on a political declaration setting out the parameters of future relations. The withdrawal agreement received parliamentary approval from both sides in January 2020, allowing the UK to formally withdraw from the EU at the end of January 2020. The agreement provided, in particular, for a

transition period until 31 December 2020 during which the UK remains part of the EU single market and customs union, but without co-decision rights. EU third-country agreements, such as the bilateral agreements between Switzerland and the EU, also continue to apply to the UK during this period. Following the UK's withdrawal, the EU and the UK began negotiations on their future relations.

Impact of Brexit on Switzerland

Relations between Switzerland and the UK are close and multifaceted. The UK was Switzerland's third-largest trading partner in 2019, with a trade volume of CHF 44.6 billion. The UK is the fifth-largest recipient of Swiss direct investments (CHF 78.3 billion at the end of 2018), as well as the

third-largest source of direct investments in Switzerland (CHF 65.9 billion). In the same year, there were more than 56,000 flights between Switzerland and the UK. Furthermore, around 37,000 Swiss citizens live in the UK, while 42,000 British citizens live in Switzerland.

Until now, relations between Switzerland and the UK have largely been based on the bilateral agreements between Switzerland and the EU. In order to safeguard as far as possible, and where appropriate to extend, the existing mutual rights and obligations with the UK in the wake of Brexit, the Federal Council adopted its Mind the Gap strategy early on, in October 2016. In April 2018, the Federal Council clarified this strategy by deciding that Swiss-EU bilateral agreements would continue to apply to the UK during the transition period, as provided for in the EU-UK withdrawal agreement. Following the establishment of the withdrawal agreement, the EU and Switzerland exchanged notes formally confirming that the bilateral agreements between Switzerland and the EU will continue to apply to Swiss-UK relations until 31 December 2020.

New Switzerland–UK agreements

An interdepartmental steering group led by the Directorate for European Affairs (DEA) coordinated the activities of the Mind the Gap strategy. A total of seven agreements were signed. These agreements preserve to a large extent Switzerland's current legal relationship with the UK. They will come into effect when the bilateral agreements between Switzerland and the EU no longer apply to the UK.

1. Air transport agreement

The Agreement on Air Transport (signed on 17 December 2018) ensures that existing air transport rules will continue to apply in full, allowing air carriers to retain their current traffic rights. The agreement will come into force on 1 January 2021.

2. Overland transport agreement

The Agreement on the International Carriage of Passengers and Goods by Road (signed on 25 January 2019) provides that carriers may continue to transport goods without requiring an authorisation and ensures the transportation of passengers and goods by road vehicles between the two countries. The agreement still prohibits cabotage, i.e. the transport of goods or passengers within the territory of the other state. The agreement will come into force on 1 January 2021.

3. Insurance agreement

The Agreement on Direct Insurance other than Life Insurance (signed on 25 January 2019) allows Swiss and UK companies providing direct insurance to establish and operate branches in the territory of the other country. This agreement thus transfers the terms of the 1989 agreement on insurance between Switzerland and the EU to relations between Switzerland and the UK. The agreement will come into force on 1 January 2021.

4. Trade agreement

The new trade agreement (signed on 11 February 2019) transfers several existing trade and economic agreements with the EU to the future relationship between Switzerland and the UK. This includes the 1972 Free Trade Agreement, the 1999 Agreement on Government Procurement, the 1999 Agreement on Mutual Recognition in relation to Conformity Assessment (MRA), the 1999 Agreement on Agriculture, the 2004 Agreement on Combating Fraud, and the 2009 Agreement on Customs Facilitation and Security.

The Trade Agreement will come into force on 1 January 2021. However, some of the aforementioned agreements, or parts thereof, are based on the harmonisation of regulations between Switzerland and the EU. For this reason, they cannot be applied to the relationship between Switzerland and the UK for the time being. They will only apply once the EU and the UK agree to equivalent terms based on harmonised standards. This applies to the customs agreement, certain sections of the agricultural agreement (e.g. the veterinary agreement), and most sections of the MRA agreement, excluding the chapters on motor vehicles, best laboratory practice, and best manufacturing practice for medicines (which make up over two-thirds of the two countries' trading volume).

5. Citizens' rights agreement

Switzerland and the UK signed a citizens' rights agreement on 25 February 2019 that protects the rights of Swiss citizens living in the UK – which they acquired under the Agreement on the Free Movement of Persons (AFMP) – such as residency rights, social security entitlements and the recognition of professional qualifications. Reciprocal conditions will apply to UK citizens in Switzerland. As the approval process is still ongoing in Switzerland, the citizens' rights agreement will provisionally enter into force on 1 January 2021. In relation to social

security, a decision of the Swiss-EU Joint Committee for the AFMP will supplement the agreement and extend the protection of rights to citizens of EU member states.

6. Agreement on mobility of service suppliers

The Services Mobility Agreement (signed on 14 December 2020) regulates the mutual access and temporary stay of Swiss and British service suppliers – natural persons, such as IT specialists and engineers – providing services in the other country. British service suppliers will receive access to the Swiss market for up to 90 days per calendar year, while Swiss service suppliers will have access to the UK market for up to 12 months in any 24 month period (via market access commitments in over 30 services sectors and other preferential treatment). The agreement also contains provisions on the mutual recognition of professional qualifications. The agreement is initially limited to two years, and the contracting parties may jointly decide to extend the duration. The agreement will apply provisionally from 1 January 2021.

7. Police cooperation agreement

Switzerland and the UK signed a police agreement on 15 December 2020 in order to strengthen bilateral police cooperation, particularly in the fight against crime and terrorism. The agreement is intended to strengthen the domestic security of both countries and further expand Switzerland's relationship with the UK (Mind the Gap+, see below). The agreement is due to come into force in the second half of 2021.

Further work

As part of its Mind the Gap strategy, Switzerland will continue to work with the UK to close any remaining gaps hindering the preservation of existing mutual rights and obligations between the two countries. In particular, there are legal gaps in areas subject to domestic political decisions in the UK and/or the future relationship between the UK and the EU. If the UK and the EU fail to reach an agreement to harmonise certain regulations, it will not be possible to completely close the legal gaps in some areas.

Work is also under way in other areas that will not require new agreements:

- **Data protection:** According to the Federal Data Protection and Information Commissioner

(FDPIC), the UK is currently on the list of states that provide an adequate level of data protection. After the UK withdraws from the EU, it should continue to provide a high level of protection of personal data. The EU is expected to reach a decision by the end of the 2020 regarding the adequacy of the UK's level of data protection. The FDPIC is closely following these developments. Should the UK's data protection rating changes, the FDPIC and its British counterpart, the Information Commissioner's Office, will set out a coordinated solution (in order to find alternative solutions, such as standardised contracts) and inform businesses at that time.

- **Lugano Convention:** Like all other international agreements of the EU, the Lugano Convention continued to apply to the UK during the transition period. The UK has applied to accede to the Lugano Convention as an independent contracting party. While Switzerland supports the UK's application, the express approval of all contracting parties is needed (Switzerland, the EU, Denmark, Iceland and Norway). If not all states agree to the UK's accession by the end of the year, the Lugano Convention will cease to be the legal basis for the relationship between Switzerland and the UK, at least temporarily. In this case, rules regarding jurisdiction and declarations of the enforceability of judgements between Switzerland and the UK would in principle once again be governed by national legislation.

Mind the Gap+

In addition to ensuring legal continuity, Switzerland's Mind the Gap strategy also provides for a possible **further development of relations** with the UK (Mind the Gap+). Discussions are currently ongoing regarding possible areas for enhanced cooperation where the two countries have common interests.

The Swiss-UK **trade agreement** already specifies that the two countries will hold exploratory talks following Brexit in order to replace, update or further develop the agreement. These talks are based on both countries' mutual interest in a long-term deepening of economic and trade relations.

In the area of **financial services**, Federal Councilor Ueli Maurer and the UK Chancellor of the Exchequer Rishi Sunak signed a joint statement on 30 June 2020, which sets out the joint intention

for an agreement between the two countries. This agreement is intended to facilitate cross-border market access for a wide range of financial services in the insurance, banking, asset management and capital market infrastructure sectors.

A non-binding joint declaration signed by Switzerland and the UK on 21 December 2020 affirms the two countries' intentions to strengthen their collaboration in the area of **migration**. UK citizens will lose their status as EU nationals as of 1 January 2021. Reciprocal **access to the labour market** for newcomers will therefore be regulated by each country's respective national legislation from this date forward. The relevant Swiss legislation consists of the provisions of the Foreign Nationals and Integration Act (FNIA) combined with the Federal Council's decision to create separate quotas for 3,500 employees from the UK for 2021. It is envisaged that new coordination rules will govern how Switzerland and the UK regulate **social security** from 1 January 2021; the new provisions are currently in negotiation. However, it is likely that the old bilateral agreement on social security from 1968 will temporarily apply during a short transitional period starting on 1 January 2021 until future regulations come into force.

Regarding the reciprocal **recognition of professional qualifications**, anyone who has not yet applied or who is currently in a training programme has until 31 December 2024 to apply to have their qualifications officially recognised. Applications will be reviewed according to the criteria of the AFMP. Here nothing will change in the short term for Swiss and British nationals.

Link to PDF

www.fdfa.admin.ch/europe/brexit_en

Further information

Directorate for European Affairs DEA
Phone +41 58 462 22 22, europa@eda.admin.ch
www.fdfa.admin.ch/europe_en

General enquiries:

FDFA Communication
Tel. +41 58 462 31 53
kommunikation@eda.admin.ch

Civil aviation:

Federal Office of Civil Aviation: Laurent Noël
Tel. +41 58 465 90 98
laurent.noel@bazl.admin.ch

Road traffic:

Federal Office of Transport: Media contact
Tel. +41 58 462 36 43
presse@bav.admin.ch

Insurance and financial services:

State Secretariat for International Finance: Communications
Tel. +41 58 462 46 16
info@sif.admin.ch

Trade in goods and services:

SECO: Media and Communication
Tel. +41 58 469 69 28
medien@seco.admin.ch

Citizens' rights and migration:

State Secretariat for Migration: Information and Communication
Tel. +41 58 465 78 44
medien@sem.admin.ch

Police cooperation:

Fedpol: Communication
Tel. +41 58 463 13 10
media@fedpol.admin.ch