



CHANGES TO THE WITHDRAWAL AGREEMENT MADE AS A RESULT OF CHANGES MADE TO THE POLITICAL DECLARATION

A GUIDE

The PD and WA work together to deliver a result

The PD and WA work together to deliver a result which *was* the Customs Union for goods, and an FTA for services. They are as they are to accommodate the previous government's demand for "frictionless trade".

The new government's goal is "as frictionless trade as possible". The PD and WA have therefore been amended to accord with the government's new position which is that the end state for the UK and EU is a comprehensive FTA in both goods and services, allowing the UK capacity to diverge regulations, but with as much regulatory cooperation and deemed equivalence as possible.

The Importance of the PD and WA setting up an FTA negotiation

The idea of the PD and WA is to set up the negotiation of an FTA; If both sides are agreed on this, then the single customs territory language in the current Withdrawal Agreement is unnecessary. It also fully allows the execution of UK independent trade and regulatory policy, including a fast-tracked FTA with the US, CPTPP accession and deals with Australia and New Zealand, key planks of the UK's independent trade policy. Hence, the PD has been amended so the FTA negotiations do not build on the provisions of the backstop, but rather involve negotiations between two customs territories.

How will the UK protect itself in the Transition Period?

The major risk associated with the transition period is of the EU passing (possibly deliberately) damaging legislation without the UK having a voice. There are concerns in the area of financial services and even some goods regulation where the EU may seek to lock the UK into practices which will limit its range of movement in international trade negotiations and in terms of its own domestic regulatory improvements. In order to prevent this, we have spelled out the need for a commitment to Good Regulatory Practice during the transition period, with the possibility of dispute settlement, modelled on the GRP chapter attached (from the 'UK – EU Free Trade Agreement' - <https://competere.co.uk/uk-eu-fta>). We discuss this in greater detail in the Political Declaration but include a provision in the WA that requires the EU to consult the UK in the event that it promulgates regulation that could damage the UK. We also allow the UK to have the right to be consulted on any regulatory changes in the EU that would implicate the UK. The provisions of GRP in the PD are drawn from internationally recognised standards as follows:



- a. The key elements of Good Regulatory Practice are that there would be an obligation on the EU to regulate in ways that are the least damaging to trade and market competition with the UK consistent with a clearly stated, legitimate public policy goal, in order for the UK to be bound by the dynamic alignment provisions.
- b. These provisions are drawn from existing WTO obligations and OECD disciplines (such as the OECD Competition Assessment toolkit).
- c. These provisions would be subject to dispute resolution so the UK could litigate the issue of whether they were damaging to the UK interest or not.
- d. They are not controversial and are implemented by other developed countries.
- e. As long as the UK can rely on these provisions and rely on dispute settlement in the event that the EU violates these obligations, this should mitigate any TP risk.

Will the UK have the ability to negotiate its own WTO Modification?

Under our plan, the UK will be completely free to negotiate its WTO modification as it chooses while being transparent with the EU. There is language in the WA on the process for the UK's WTO modification. This is important as the UK will need to negotiate with TRQ partners separately from the EU, holding open the possibility of gradual liberalisation to ensure a reasonable approach to UK offers from TRQ partners.

Geographical Indications

What GIs the UK will protect is a matter for the UK and EU to negotiate in a free trade agreement. We ensure that the UK will have full flexibility and freedom to negotiate these as part of a comprehensive FTA after the transition period. The UK can seek protection of GIs that are important to it, while the EU will seek protection for its GIs.

Level Playing Field ("LPF") Obligations

Our objective is that the backstop is never triggered, and hence the LPF obligations in the backstop are not relevant. However, it is legitimate for the EU to suggest that some form of discipline should apply to the UK in the event of a tariff free, quota free gold standard FTA such as the one proposed. Hence, we provide in the PD the specificity of what LPF obligations would look like in an FTA. These are the kinds of provisions in the area of labour, environment, competition and state aids which would could be in an advanced FTA.