


The Brexit Transition Period and the EU's Existing FTA Partners



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The Brexit negotiators agreed to have a transition period starting from the beginning of the UK's withdrawal from the Union to the end of 2020.¹ During this period the UK will mostly remain in the current EU system as if it were a member, with the exception of the Union's decision-making process. It was clear from the outset of the negotiations that the time left until the UK's departure from the Union, expected to be in March 2019, would be insufficient to conclude and put into effect a proper framework to govern the post-Brexit relationship between the EU and the UK.² Both parties wanted to avoid an abrupt change, and to reduce the uncertainty stemming from this negative prospect, because of the importance of their bilateral relationship. Although the UK wished for a transition period lasting for 2 years, it will end at the same time with the UK's contrib-

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¹ European Commission. 2018. Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community highlighting the progress made (coloured version) in the negotiation round with the UK of 16-19 March 2018.

² Renwick. 2017. "The Process of Brexit: What Comes Next?" Working Paper, UCL European Institute, p. 1.

ution to the Union's Multiannual Financial Framework, which is seen as more logical.³

One important implication that this agreement holds for the EU's existing FTA partners, including Korea, concerns the application of the existing agreement to the UK during the period. The Brexit negotiators have agreed that the Union's existing FTAs will be applied to the UK during this period. It is unclear, however, whether this will be accepted by the other parties to these FTAs who have no legal obligation to do so, according to experts.⁴

In the Korea-EU FTA, for instance, the European parties to the agreement are "the European Union or its Member States or the European Union and its Member States within their respective areas of competence as derived from the Treaty on European Union and the Treaty on the Functioning of the European Union".⁵ Since Brexit implies the UK's withdrawal from the two Treaties cited in this definition, it will no longer fit into the definition per se after Brexit. And some countries are reportedly considering conditioning the application of their FTAs with the EU to the UK during the transition period on concessions in their future deals with the UK.⁶

The UK accounts for more than 1%, or more than 10 billion USD per year, of Korea's exports, and is the country's third-largest non-Asian trade partner.⁷ The Korea-UK trade volume is in a rising trend since the Korea-EU FTA went into effect. Import from the UK also allowed Korea to diversify its crude oil sources, reducing the country's exposure to the volatility in major oil-exporting regions.

³ Rankin. *Brexit transition period should end on 31 December 2020, says EU*, *The Guardian*. (December 20, 2017)

⁴ See Fabry and De Toffol. 2018. "Transition: The Hitchhiker's Guide to the Brexit Galaxy," Policy Paper No. 218, Jacques Delors Institute, p. 19; Eeckhout and Patel. 2017. "Brexit Transitional Arrangements: Legal and Political Considerations," *Brexit Insights* November 2017, UCL, p. 8; and Grey. 2018. "Draft transition agreement: initial thoughts," <http://chrisgreybrexitblog.blogspot.kr/2018/03/draft-transition-agreement-initial.html> (accessed May 17, 2018).

⁵ Ministry of Foreign Affairs and Trade. 2010. Free Trade Agreement between the Republic of Korea, of the One Part, and the European Union and its Member States, of the Other Part, Article 1.2.

⁶ Burchard. *EU trade partners demand concessions for Brexit transition rollover*, *Politico*. (February 2, 2018)

⁷ Figures are for 2017. Source: KITA K-stat DB.

Given the importance of Korea's trade relations with the UK, the Korean government must promptly determine its stance on this issue. One possibility is to ask for concessions in its future FTA with the UK as a condition to continue applying the Korea-EU FTA to the UK during the transition period. Tempting as it may sound, a major drawback of this option is the short period of time left before Brexit. It could prove difficult to negotiate and reach a satisfactory agreement on such conditional acceptance prior to Brexit. In fact, some countries are reportedly not even considering such an option for this very reason.⁸

Another drawback of the conditional acceptance option is that the two countries have already been discussing their post-Brexit trade relations. They launched a bilateral trade working group in 2017 and have held 3 meetings already.⁹ Adding the above option to this working group's agenda is unlikely to be seen from the UK's side as facilitating the discussions for the future.

The Brexit transition period, if implemented, will relieve the anxiety stemming from the possibility of an abrupt change in the EU-UK relations. Its functioning, however, depends also on the EU's existing FTA partners who have no legal obligation to cooperate, as experts point out. This leaves another source of uncertainty in these partner countries' trade relations with the UK during the transition period, which their governments would like to resolve. Although the decision whether to continue applying the existing FTAs to the UK during the transition period is up to the partner countries, the EU and the UK can engage more actively in its making than merely notifying their agreement to the partners as planned in the draft agreement.¹⁰

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⁸ Bouchard. *op. cit.*

⁹ Nasralla and Chung. *Britain, South Korea in talks to protect crude oil trade, Reuters*. (April 23, 2018)

¹⁰ European Commission. *op. cit.*, Article 124.