



HM Government

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# Framework for the UK-EU partnership

## Open and fair competition

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## Open and fair competition

The UK's proposal on open and fair competition goes beyond FTA precedents:

The UK is proposing to make binding commitments to **ongoing harmonisation** with EU rules on state aid; and reciprocal **non-regression** commitments on environment and social and employment standards.

Given the UK's unique starting point of full regulatory alignment, these commitments offer both sides **significantly greater protections** from unfair competition than commitments in other EU FTAs.

These commitments are backed up by longstanding UK commitments to high standards, and rigorous and independent **domestic enforcement** by world-leading authorities.

These commitments are proposed as part of an **integrated package** of measures that together deliver the UK's ambition for the future economic partnership, ensuring that competition is fair, which is particularly important given the level of market access the UK is proposing.

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## State aid: context

The UK wants to ensure that its future economic partnership with the EU is underpinned by measures to ensure fair and open competition. A rigorous approach to state aid is a critical component of this:

The UK has long been a strong proponent of a **rigorous state aid system**, and has contributed actively to the development of EU state aid rules, including their modernisation.

The UK has a **strong track record** on state aid. The UK is one of the lowest providers of state subsidies: in 2016 the UK gave 0.36% of GDP, which was half the EU average of 0.71%.

The UK has consistently taken a **proportionate approach** to state aid, even during the financial crisis.

Both the UK and the EU have much to gain from maintaining proper disciplines on the use of subsidies, and ensuring their future agreement is based on fair and open competition.

## State aid: rules

The UK proposal goes beyond FTA precedents, recognising that this is needed to underpin the level of market access the UK is proposing.

### PRECEDENT: CETA

The EU-Canada Comprehensive Economic Trade Agreement (CETA) is the best precedent of an EU FTA in terms of market opening. The state aid commitments in CETA rely mainly on the provisions of the WTO Subsidies and Countervailing Measures Code for goods, with a voluntary extension to services.

### UK PROPOSAL

The UK's proposal is for the UK and EU to maintain a common rulebook on state aid, with the UK making an upfront choice to commit by treaty to **ongoing harmonisation** with the EU's state aid rules. This would be subject to the institutional framework that the UK has proposed for the future relationship.

It is the degree of market openness between the UK and the EU in the future – not the volume of trade – that drives the need for deep open and fair competition commitments.

## State aid: scope

The UK's **legislative framework for state aid** will mirror the EU's legal regime - the Withdrawal Act 2018 will preserve the state aid regime as it currently applies in the UK.

### RULES

The UK's legislative framework will have the same content as the EU's regime, and will mirror all relevant EU rules. This includes replicating the Treaty Articles 107-109 which, amongst other things, define state aid. It also includes all regulations underpinning the Treaty Articles e.g. the industrial and agricultural de minimis regulations, which set thresholds for state aid.

The UK will ensure that its guidance remains consistent with the EU's.

### EXEMPTIONS

The scope of the state aid regime will extend across the whole economy.

The UK legislative framework will permit the exemption of aid under certain circumstances from the need for prior notification, mirroring the EU's General Block Exemption Regulation. Similarly, the framework will have specific state aid rules for specific sectors, mirroring the Agricultural Block Exemption Regulation, and the Fisheries Block Exemption Regulation.

The UK will continue to comply with its WTO obligations. The EU's view at the WTO is that the vast majority of payments under the Common Agricultural Policy (CAP), including decoupled direct payments, are not market distorting.

## State aid: delivering a common rulebook

The UK's proposed commitment to a common rulebook on state aid goes beyond FTA precedents and would be subject to the following governance procedures.

### COMMON RULEBOOK

The UK would make an upfront choice to commit to a common rulebook with the EU on state aid. This would apply throughout the UK.

### ONGOING HARMONISATION

Where the EU proposes a new or amended state aid rule, subject to adaptations for the UK, the Joint Committee would need to agree that the agreement should be updated to reflect this.

### CONSISTENT INTERPRETATION

If changes to the agreement were agreed, they would need to be given effect in domestic law in the UK. This would require Parliamentary approval.

### DISPUTE RESOLUTION

To ensure that there is consistent interpretation of state aid rules, UK courts would pay due regard to the CJEU's case law, where relevant to the matter before the court.

There would be robust provision for dispute resolution, including recourse to independent arbitration panel. This would ensure there was fair, independent resolution, with the decision of the panel binding on the parties.



## State aid: domestic enforcement

By the end of the implementation period, the UK will enforce and supervise the common rulebook through an independent regulator, the Competition and Markets Authority (CMA).

### FULLY INDEPENDENT

The CMA has been appointed as the UK's state aid regulator, reflecting its understanding of markets and its independence from government.

### EX ANTE CONTROL

The CMA will be responsible for approving aid notifications in the same way that the Commission approves aid for Member States, by following a similar process to that in the procedural regulation.

### POWERS AND FUNCTIONS

The CMA will have a full suite of enforcement powers, similar to those of the Commission, including the power to open investigations and seek further information, with routes of appeal through the Competition Appeals Tribunal and the Courts.

### REGULATORY DIALOGUE

To underpin our future relationship, the UK wants to establish a robust regulatory dialogue between the CMA and DG COMP, so they can share best practice and discuss developments in case law. The UK and EU regulators have a long-standing relationship which they will build on.

# The UK is proposing commitments that go beyond standard FTA non-regression provisions

The UK is proposing non-regression commitments that go beyond standard FTA non-regression provisions, commensurate with the level of market access we are seeking.

## LEVEL OF STANDARDS

The UK will start with the same standards as the EU's, and in some cases higher standards. This means that the UK's proposals offer greater protections than standard provisions.

## ASSESSMENT

In the White Paper, the UK proposes that the UK and the EU commit to high regulatory environmental standards through a non-regression commitment, and high levels of social and employment protections through a non-regression requirement for domestic labour standards.

## GOVERNANCE

The UK proposes that the non-regression commitments would be subject to the institutional arrangements, including binding dispute resolution where appropriate, that were set out in its White Paper.

## DOMESTIC ENFORCEMENT

The UK has a tradition of robust domestic enforcement and is establishing new bodies to take on functions from the Commission, where that is necessary.

The UK's proposals on non-regression are different to standard FTA non-regression provisions, and go further in terms of governance, domestic enforcement, and because of our unique starting point, offer greater protections.

## Social and employment

The UK proposes reciprocal non-regression commitments on labour standards, in addition to maintaining international commitments.

### UK TRACK RECORD

We have given fathers and partners a statutory right to paternity leave and pay, and have enabled eligible parents to share leave and pay in the first year following birth or adoption.

The UK leads the way in health and safety. The rate of workplace fatal injury in the UK is consistently among the lowest in the EU.

### INTERNATIONAL COMMITMENTS

The UK proposes that the UK and the EU continue to uphold their commitments to international standards, including their obligations deriving from commitments to the International Labour Organisation conventions.

### ADDITIONAL COMMITMENTS

The UK proposes committing to high levels of social and employment protections through a non-regression commitment on domestic labour standards.

## Social and employment: domestic enforcement

Domestic enforcement ensures that workers receive the rights and protections to which they are entitled. The UK has a robust enforcement regime, which we are further strengthening.

### DOMESTIC ENFORCEMENT

All state enforcement is coordinated by a single director of labour market enforcement, who provides strategic direction and coordinates the work of the three enforcement bodies.

HMRC enforces the National Minimum Wage and National Living Wage. The Employment Agency Standards Inspectorate enforces regulations covering employment agencies. The Gangmasters and Labour Abuse Authority (GLAA) regulates and enforces against gangmasters to protect some of the most vulnerable workers in the UK.

### ACCESS TO JUSTICE

The UK has a strong independent judicial system for enforcing workers' rights, where workers can seek redress on an individual basis through employment tribunals and ultimately to the Supreme Court.

To prevent costly and lengthy legal processes, the UK also has a world-renowned system of free conciliation run by the Advisory, Conciliation and Arbitration Service (ACAS), which provides free advice to workers and employers, and enables them to understand their rights and responsibilities.



## Environment

The UK is proposing reciprocal non-regression commitments on environmental standards, in addition to a reciprocal commitment to ongoing environmental cooperation.

### UK TRACK RECORD

The UK Government has published a 25 year environment plan for England, setting out how it will improve the environment.

This includes the UK's ambitions to create richer habitats for wildlife and improve air and water quality. It also commits the government to meet the habitat creation targets set out in Biodiversity 2020.

### INTERNATIONAL COMMITMENTS

The UK is party to numerous Multilateral Environmental Agreements and will uphold its international obligations under these agreements in the future.

The UK is an international leader and set up the Commonwealth Clean Oceans Alliance earlier this year.

### ADDITIONAL COMMITMENTS

The UK proposes reciprocal commitments on the non-regression of environmental standards.

The UK also proposes a reciprocal commitment to ongoing environmental cooperation, including in international fora, to solve shared global environmental challenges.

## Environment: domestic enforcement

We will introduce an independent, statutory body to hold the government to account on its environmental protections and obligations in England, and have consulted on the body's remit.

### INDEPENDENT

The body will be independent of government, and accountable to Parliament.

### SCRUTINY AND ADVICE

The body will scrutinise and provide impartial advice and recommendations to the government on its implementation of environmental legislation, and environmental policy.

### BROAD REMIT

The body's remit will include national government directly, and, indirectly, arms-length bodies, local authorities and other public bodies responsible for implementing environmental legislation. The body will be able to receive and investigate complaints from members of the public on the government's delivery and application of environmental law.

### ENFORCEMENT FUNCTION

The body will investigate complaints and take proportionate enforcement action, including legal proceedings if needed for delivery of environmental law, in line with the role of the Commission.

## Climate change

The UK will continue to be a global leader in the fight against climate change, and maintain high standards.

### UK TRACK RECORD

The UK's world-first Climate Change Act 2008 set out a long-term, legally binding target for reducing greenhouse gas (GHG) emissions in domestic law.

Between 1990 and 2016, the UK saw the greatest reduction in total GHG emissions across G7 countries.

### INTERNATIONAL COMMITMENTS

The UK is party to international agreements on climate change, including the UN Framework Convention on Climate Change, and the Paris Agreement.

The UK continues to support global action through its £5.8bn contribution to the mobilising of climate finance for developing countries.

### COOPERATION

The UK has worked closely with the EU in influencing global climate change agreements, including the Paris Agreement.

The UK recognises the UK's and EU's shared interest in global action on climate change, and the mutual benefits of a broad agreement on climate change cooperation.

## Competition

The UK recognises that it will be important to continue to have powers to prevent anti-competitive behaviour that could undermine the ability of EU firms to trade within its market, and vice versa.

### UK TRACK RECORD

The **UK has voluntarily kept in step with the EU's competition regime**, with antitrust prohibitions (e.g. cartels) written into UK law, and a system of independent merger control. The UK also has powers to investigate potential market failure and prevent, remedy or mitigate any adverse effects on competition.

### ADDITIONAL COMMITMENTS

The UK will maintain **robust antitrust prohibitions**, and a system of **independent merger control**.

The UK would like to explore reciprocal commitments on transparency, procedural rights and safeguards.

### ENFORCEMENT COOPERATION

Building on precedents, the UK proposes establishing arrangements with the Commission and **Member States** to manage parallel antitrust and merger investigations, including coordinating work on cases and **sharing confidential information**.



## Competition: domestic enforcement

The UK has a highly-regarded competition and consumer authority, the Competition and Markets Authority, which ensures open and fair competition through robust enforcement.

### INDEPENDENT

Independent of the UK Government, with no political interference.

### STATUTORY DUTY

Duty to promote competition, within and outside the UK, for consumer benefit.

### HIGHLY REGARDED

Internationally regarded as one of the most effective global competition authorities.

### RESOURCES

The CMA's budget is comparable to that of DG Comp, and larger than any EU MS authority.

### POWERS

Powers exceed those held by other international authorities – e.g. market studies and investigations.

### CAPABILITY

Supported by other sector regulators which have the same competition powers, bolstering enforcement.

## Consumer protection

The UK believes strongly in consumer protection, and proposes to commit to maintain reciprocal high levels of consumer enforcement and an agreement on cooperation.

### UK TRACK RECORD

The UK has a strong track record in consumer protection, underpinned by statutory safeguards and enforcement mechanisms in protecting consumers when they buy goods and services.

### ADDITIONAL COMMITMENTS

The UK has gone beyond minimum requirements in a number of areas of consumer protection.

The UK is committed to maintaining high levels of consumer protection, and proposes the UK and EU commit to reciprocal cooperation on consumer enforcement in its future agreement.

### COOPERATION

To underpin this commitment, there should be provisions in the agreement, including allowing for the mutual exchange of information and evidence, and a framework to work collectively on areas of wider consumer detriment across the UK and the EU.

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## Conclusion

The UK's commitments are proposed as part of an **integrated package** of measures that together deliver the UK's ambition for the future economic partnership.

It is the **degree of market openness** between the UK and the EU in the future that drives the depth of the commitments the UK is proposing.

The UK's proposal on state aid goes **beyond the precedents** in standard FTAs.

The UK is proposing non-regression commitments on domestic labour and environmental standards that go beyond standard FTA non-regression provisions, commensurate with the **market access** we are seeking.

The UK will start with the same standards as the EU's, a unique position of full regulatory harmonisation, meaning this offers **greater protections** than standard FTA non-regression provisions.