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Legal Update

The UK Global Tariff – What Will Really Change for Non-EU Exporters?

In the absence of an agreement between the European Union ("EU") and the United Kingdom ("UK") as regards to their future trade relationship, trade between both sides of the Channel will become subject to significant friction, through the reintroduction of customs formalities and—in most cases—import tariffs. On the other hand, companies located outside the EU which export to the UK may perceive Brexit as an opportunity, enhancing market access through lower tariffs.

In March 2019, the UK announced a temporary tariff regime in case of a no-deal Brexit according to which 87% of total imports to the UK by value would have been eligible for tariff-free access for a period of up to 12 months.[1] However, this contingency plan appears to have been dropped after the conclusion of the agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, which provides for a transition period until January 1, 2021. During that transition period, EU law, including EU customs laws and the EU's Common Customs Tariff ("CCT"), continues to apply to the UK.

On May 19, 2020, the UK announced its new tariff regime, the UK Global Tariff ("UKGT"), which will replace the CCT as from January 1, 2021.[2] The UKGT sets forth the level of tariffs that will apply to imports that enter the UK customs territory on a "most favored nation" basis. In practical terms, these tariffs will apply to all imports, unless they can benefit from:

- Preferential access under rolled-over free trade agreements (e.g., with Iceland and Norway, Israel, South Korea, the Southern Africa Customs Union and Mozambique trade bloc or Switzerland);
- Unilateral preferences granted by the UK (e.g., the Generalized Scheme of Preferences); or
- Tariff suspensions adopted by the UK (e.g., tariffs and VAT were made subject to relief measures because of COVID-19).

1. Overview of the changes proposed by the UKGT

In the press release accompanying the UKGT,[3] the Department for International Trade emphasized the UK government's willingness to streamline and simplify close to 6,000 tariff lines by:

- **Scrapping unnecessary tariff variations.** This concerns primarily the so-called "Meursing table," according to which the EU imposes specific duties, on top of an *ad* *valorem* duty, for certain processed food products based on their agricultural content. For instance, this applies to certain dairy spreads, toasted breads, chocolates, waffles, pizzas, etc.

This also concerns the so-called "Entry Price" system, whereby variable specific or *ad valorem* duty rates will apply to certain fruits and vegetables, based on the price at which they enter the EU. For instance, this applies to tomatoes, cucumbers, grape juice and grape must.

For these products, the UKGT only provides for *ad valorem* duties.

- **Rounding down tariffs, in most cases to the nearest 2.5%, 5% or 10% band.** While mostly minor, these tariff reductions can be relatively important. For instance, for cigarettes containing tobacco (tariff line 2402 20 90), the *ad valorem* duty is reduced by 7.6% (from 57.6% to 50%).
- **Liberalizing "nuisance tariffs," i.e., those below 2%.** On this basis, tariffs have, for instance, been liberalized for certain pistachios, cement products, wood products, wools, pig irons, knives, fishing vessels, motor boats, pencils, etc.
- **Removing tariffs on a number of goods to benefit UK supply chains and UK consumers and/or to promote a sustainable economy.** Tariffs have thus been removed on cocoa powder; truffles; certain yeast; chemicals such as methanol, zinc oxide or menthol; silicon; stranded wire of copper; fireworks; dishwashers; freezers; helicopters; LED lamps; thermostats; vacuum flasks; etc.

Conversely, tariffs are maintained where necessary to protect UK industries (e.g., agriculture, automotive and fishing sectors) or encourage imports from the world's poorest countries that benefit from unilateral preferences granted by the UK (e.g., vanilla, plantains, bedlinen, etc.).

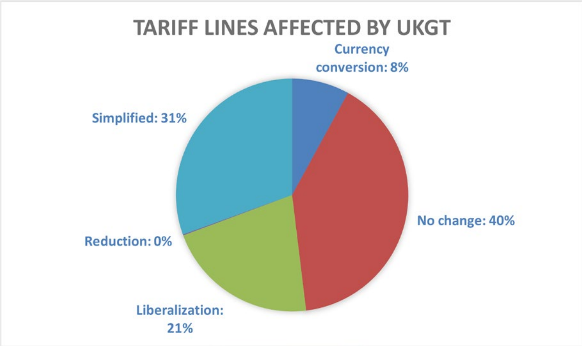
The UK government has also published a matrix comparing the UKGT to the CCT on a tariff line basis.[4] This matrix considers five types of changes:

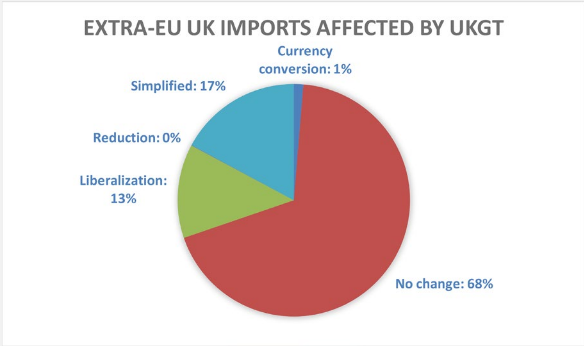
- **"No change,"** when the UKGT simply replicates the CCT.
- **"Liberalization,"** when tariffs are scrapped entirely.
- **"Simplified,"** which corresponds to either small reductions, without liberalization, including rounding down of tariffs or simplification of the duty calculation methodology (e.g., duties with agricultural components, duties based on entry price and certain combination of fixed and variable duties, which all have been replaced by *ad valorem* duties). This also covers tariff-rate quotas, for which the duties have been rounded down and the periods for use of these quotas have been slightly amended.
- **"Currency conversions,"** which concerns fixed duties, possibly combined with variable duties (in which case, the variable duty has been rounded down as well).
- **"Reduced,"** which corresponds to reductions that are more important than a simple rounding down but without a full liberalization.

2. Overall, the UKGT will not revolutionize trade between the UK and non-EU countries.

The UK announces that 6,000 tariff lines are amended in the UKGT, as compared to the CCT. What does this mean in concrete terms for non-EU exporters?[5]

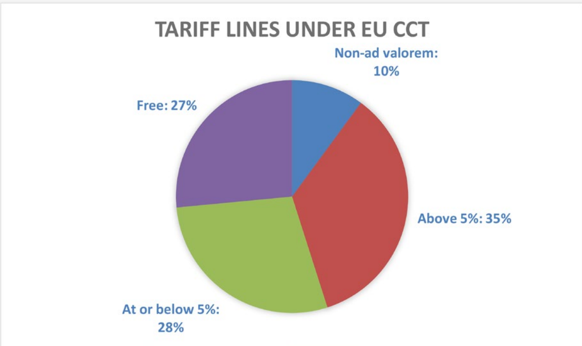
The UKGT liberalizes more than 50% of the tariff lines either through simplification, reduction or liberalization. However, tariff lines that remain unchanged or that are simply subject to currency conversions accounted for close to 70% of non-EU imports into the UK in 2019:

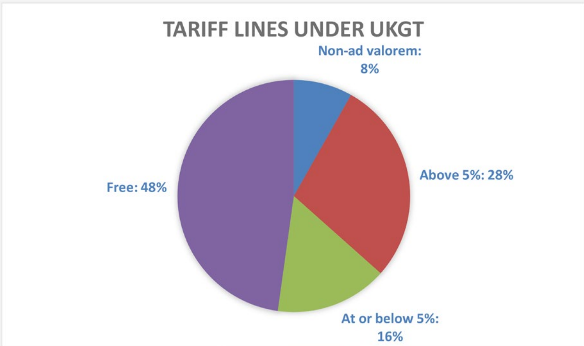




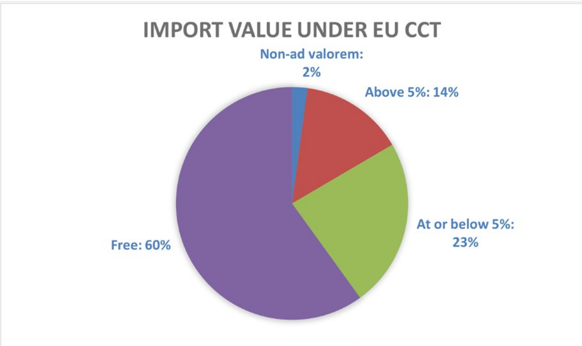
One may consider that a complete or partial liberalization of close to 30% of non-EU imports into the UK should, in principle, be capable of bringing about significant market opportunities. A closer analysis of the tariff lines actually liberalized reveals that any benefit would be—except for certain sectors—moderate.

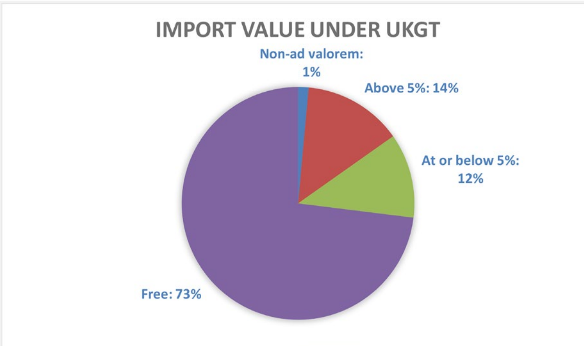
Admittedly, under the current CCT, only 27% of the tariff lines provide for duty-free access to the UK market. This number would jump to almost 50% under the UKGT:





Moreover, in terms of import value, the tariff lines providing for duty-free access to the UK market currently represent 60% of non-EU imports into the UK. This number would stand at 73% under the UKGT:





Nonetheless, the above graphs reveal that imports falling within tariff lines subject to the most restrictive barriers, i.e., non-*ad valorem* and above 5% tariffs, would remain stable under either the CCT or the UKGT. Liberalization, therefore, mostly concerns the limited tariffs that are at or below 5%.

Whether or not tariff liberalization will be beneficial for non-EU exporters will therefore heavily depend on their sector of activity, for which either tariffs may be further liberalized or a 5% tariff reduction may significantly improve competitiveness.

3. The UKGT will not affect all sectors of activity in the same way.

Certain sectors should expect a complete status quo, as all tariff lines remain unchanged or only subject to currency conversions. This concerns:

- Vegetable plaiting materials; vegetable products not elsewhere specified or included (Chapter 14).
- Ores, slag and ash (Chapter 26).
- Pharmaceutical products (Chapter 30).
- Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard; paper and paperboard and articles thereof (Section X).
- Tin and articles thereof (Chapter 80).
- Works of art, collectors' pieces and antiques (Section XXI).

Similarly, there should be no major change for a number of sectors where, despite simplifications, the tariff structure remains largely the same. For instance:

- Live animals and animal products (Section I).
- Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes (Section IV).
- Textiles and textile articles (Section XI).
- Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewelry; coins (Section XIV).
- Vehicles other than railway or tramway rolling stock and parts and accessories thereof (Chapter 87).
- Toys, games and sports requisites; parts and accessories thereof (Chapter 95).

Certain sectors will be subject to only moderate liberalization; i.e., a large number of tariff lines are liberalized, but those correspond mostly to tariffs at or below 5%, whereas tariffs above 5% are maintained. For instance:

- Glass and glassware (Chapter 70).
- Zinc and articles thereof (Chapter 79).
- Railway or tramway locomotives, rolling stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electromechanical) traffic signaling equipment of all kinds (chapter 86).

By contrast, for certain sectors, tariffs will be heavily liberalized under the UKGT, whereas products were subject to tariffs above 5% under the CCT. For instance:

- Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations (Chapter 36).
- Raw hides and skins (other than fur skins and leather) (Chapter 41).
- Copper and articles thereof (Chapter 74).

Finally, for certain sectors, the situation will be more nuanced. For instance:

- Vegetable products (Section II): for products such as cereals (Chapter 10), 23% of tariff lines representing 53% of non-EU imports into the UK will become tariff free, whereas products such as edible fruit and nuts and peel of citrus fruit or melons (Chapter 8) will remain subject to high tariffs.
- Aircraft, spacecraft, and parts thereof (Chapter 88): 70% of tariff lines are liberalized covering 100% of UK imports but mostly for tariffs at or below 5%. However, liberalization will also concern the 1% of non-EU imports into the UK, which were subject to tariffs above 5%.

The above lists are, of course, not exhaustive. For further details, see our table "Chapter-by-Chapter Overview of the Impact of the UKGT on Non-EU Imports." [6]

4. While the UKGT will not equal a revolution, companies should review, anticipate and prepare for it.

The UKGT provides less opportunity for market access as compared to the UK tariff contingency plan presented in March 2019. That being said, the UKGT is still capable of bringing about a significant liberalization of tariffs for non-EU imports into the UK, in particular for certain sectors.

Whether and to what extent the UKGT can improve the competitiveness of a non-EU exporter will also be affected by other factors—in the first place, competition from countries with which the UK has rolled over free trade agreements and, in case a deal is concluded, competition from the EU.

To the extent the UKGT would be maintained in a no-deal scenario with the EU, non-EU exporters should start reviewing it and anticipate and prepare for its implementation so as to be ready to grasp any possible benefit as from January 1, 2021.

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Endnotes

[1] UK Government's website, *Temporary tariff regime for no deal Brexit published,* March 13, 2019, available at: https://www.gov.uk/government/news/temporary-tariff-regime-for-no-deal-brexit-published.

[2] Mayer Brown, UK announces new "global tariff" for 2021, May 20, 2020, available at: https://www.mayerbrown.com/en/perspectives-events/publications/2020/05/uk-announces-new-global-tariff-for-2021.

[3] UK Government's website, *UK Global Tariff backs UK businesses and consumers,* May 19, 2020, available at: https://www.gov.uk/government/news/uk-global-tariff-backs-uk-businesses-and-consumers.

[4] UK government's website, *Check UK trade tariffs from 1 January 2021*, available at: https://www.gov.uk/check-tariffs-1-january-2021.

[5] In order to estimate the potential impact of the UKGT on non-EU imports, we consider the tariff lines and value of non-EU imports into the UK affected by the proposed changes.

The figures on imports correspond to the value of all imports into the UK from outside the EU in 2019, as obtained from Eurostat. These figures include also imports from countries which benefit from free trade agreement or unilateral preferences, as well as imports that benefitted from tariff suspensions, i.e., imports that were not subject to the tariffs set forth in the CCT and would not be subject to the tariffs set forth in the UKGT.

The comparisons made are therefore theoretical, but should still be considered as a useful and adequate proxy to estimate the potential impact of the UKGT on non-EU imports.

[6] https://www.mayerbrown.com/-/media/files/perspectives-events/publications/2020/05/annex--overview-impact-ukgt-noneu-imports--edits-mb-brussels.pdf