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# Brexopedia<sup>TM</sup>

**A glossary of key Brexit terms**



<b>Article 50</b>	<p>of the Treaty on European Union. Sets out the legal process for a Member State to leave the EU:</p> <ul style="list-style-type: none"><li>• Member State decides to withdraw from the EU in accordance with its own constitutional requirements;</li><li>• Member State notifies the <b>European Council</b> of its intention to withdraw from the EU;</li><li>• <b>European Council</b> provides “guidelines” to the <b>EU-27</b> to negotiate the Member State’s withdrawal;</li><li>• Member State and <b>EU-27</b> negotiate an agreement for the Member State’s withdrawal, taking account of the framework for the withdrawing Member State’s future relationship with the EU. The agreement must be approved by the <b>Council of the EU</b>, acting by a qualified majority (72% of, or 20 of 27, Member States representing 65% of the total EU population) and by the <b>European Parliament</b>, acting by a simple majority; and</li><li>• Withdrawing Member State ceases to be a member of the EU on the earlier of (i) the date specified in the agreement; and (ii) two years after the Article 50 notification (unless an extension is unanimously agreed by the <b>EU-27</b>).</li></ul>
<b>Canadian Model</b>	<p>One of the possible models for the UK’s post-exit relationship with the EU (see also <b>Norwegian Model</b>, <b>Swiss Model</b>, <b>Turkish Model</b> and <b>WTO Model</b>). The UK would enter into a comprehensive trade agreement with the EU, similar to the recently-negotiated (but not yet ratified) EU – Canada Comprehensive Economic and Trade Agreement (CETA). The scope of the UK’s access to the <b>Single Market</b> and the degree to which the UK would need to agree to be subject to particular EU requirements as a condition of such access (including, for example, ensuring <b>Free Movement of Persons</b>) would depend on the terms of the trade agreement. This type of agreement has, historically, taken a long time to negotiate. The UK would not be obliged to make a financial contribution to the EU.</p>
<b>Common Travel Area</b>	<p>A travel zone comprising the UK, Republic of Ireland, the Channel Islands and the Isle of Man, in which no or minimal border controls are imposed on nationals of the participating countries (and certain other persons) travelling across national borders of the participating countries. Combined with the <b>EU Customs Union</b>, this means that people and goods can generally travel freely across the borders between the UK and the Republic of Ireland and, in particular, the land border between Northern Ireland and the Republic of Ireland.</p> <p>Depending on the nature of the UK’s post-Brexit relationship with the EU, it is thought that changes may need to be made to the operation of the Common Travel Area (given that the Republic of Ireland would remain an EU Member State). In particular, if the UK were to leave the <b>EU Customs Union</b>, products crossing the land border between Northern Ireland and the Republic of Ireland would likely need to be subject to customs controls and this may lead to a practical need for people to be subjected to some form of border control.</p>

<b>Council of the EU</b>	An EU institution. Together with the <b>European Parliament</b> , it acts as the main legislative body of the EU, jointly approving and adopting EU laws and the EU budget proposed by the <b>European Commission</b> . It is the voice of EU Member State governments in the EU and comprises government ministers from each EU Member State. The Council meets in 10 different configurations, each corresponding to the policy area being discussed (and with each Member State sending the government minister responsible for that policy area). Previously known as the Council of Ministers. The Presidency of the Council of the EU rotates among the EU Member States every 6 months. Not to be confused with the <b>European Council</b> or the Council of Europe (an international organization of 47 member states (including all 28 EU Member States) that have signed up to the European Convention on Human Rights).
<b>Court of Justice of the EU</b>	An EU institution. It acts as the judicial arm of the EU, giving rulings on cases brought before it (including disputes between EU Member State governments and EU institutions) and ensuring that EU law is applied consistently in all EU Member States. It is divided into three bodies: the Court of Justice, the General Court and the (soon to be abolished) Civil Service Tribunal. Not to be confused with the European Court of Human Rights (which hears cases brought by persons who allege that a contracting state to the European Convention on Human Rights has breached one or more of the rights set out therein).
<b>Decision</b>	One of the three main types of EU legislation (see also <b>Directive</b> and <b>Regulation</b> ). A legal instrument which is directly applicable and binding upon the Member State or person to whom it is addressed.
<b>Directive</b>	One of the three main types of EU legislation (see also <b>Decision</b> and <b>Regulation</b> ). A legal instrument which requires Member States to achieve a particular result specified in the Directive, without specifying the means of achieving that result. A Directive is not directly applicable and must be implemented in national law by each Member State.
<b>EEA</b>	European Economic Area. An internal market comprising the 28 EU Member States and 3 EEA EFTA Member States (Iceland, Liechtenstein and Norway). Governed by the EEA Agreement, which provides for the inclusion of EU laws covering the <b>Four Freedoms</b> throughout the EEA. However, the EEA Agreement does not cover, and therefore the EEA EFTA Member States do not participate in, amongst other things, the EU Common Agriculture and Fisheries Policies, the <b>EU Customs Union</b> and the EU's Common Trade Policy. It has been proposed that, upon withdrawing from the EU, the UK could join the EEA – see <b>Norwegian Model</b> .
<b>EFTA</b>	European Free Trade Association. An intergovernmental organisation set up for the promotion of free trade between Iceland, Liechtenstein, Norway and Switzerland. Governed by the EFTA Convention. Switzerland is a member of EFTA but not the EEA and trades with the EU pursuant to a series of bilateral agreements. It has been proposed that the UK could, upon withdrawing from the EU, join EFTA – see <b>Swiss Model</b> . The UK was one of the countries that founded EFTA in 1960 and remained a member until it joined the EEC (the predecessor to the EU) in 1973.

<b>Equivalence</b>	<p>One of the financial services sector access models (see also <b>Passporting</b> and <b>Third Country</b>). Certain of the EU <b>Single Market</b> directives and regulations provide for firms based in third countries (which would include the UK post-Brexit) to access EEA markets following a determination by the <b>European Commission</b> that the third country has an equivalent financial regulatory and supervisory regime and subject in most cases to the third country granting reciprocal access to EEA firms, and meeting certain other conditions. These include the MiFID II Directive and the Markets in Financial Instruments Regulation (MiFID II) in relation to the conduct of investment services and activities and trading venues (including regulated markets, multilateral trading facilities and organised trading facilities) and the European Market Infrastructure Regulation (EMIR) in relation to the equivalence of third country Central Counterparties and Trade Repositories in respect of clearing and reporting requirements and risk-mitigation techniques for OTC derivative contracts not cleared by a Central Counterparty.</p> <p>However, the manner in which the equivalence mechanisms operate, and the nature and extent of the access that is provided, varies between regimes. The Alternative Investment Fund Managers Directive (AIFMD) requires third countries to satisfy certain conditions in order to benefit from the extension of the AIFMD passport and when issuing its opinion regarding such extension, ESMA is required to assess certain specific criteria but does not have to consider whether third countries have an equivalent regulatory and supervisory regime. In its advice of 18 July 2016, ESMA confirmed that its assessment is focused on the most relevant elements of the regulatory framework of each third country considered but that it would not be appropriate to require an equivalence between the regulatory framework of the third country and the AIFMD.</p> <p>In addition, certain key directives, including CRD IV and the Payment Services Directive do not provide for an equivalence mechanism.</p>
<b>EU</b>	<p>A political and economic union, which currently has 28 Member States: Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Republic of Ireland, Romania, Slovakia, Slovenia, Spain, Sweden and the UK. What is now the EU was previously known (between 1958 and 1993) as the European Economic Community (EEC) and changed its name to the EU to reflect its evolution from a purely economic union to a political union. In the <b>UK Referendum</b> held on 23 June 2016, the UK electorate voted to leave the EU.</p>
<b>EU-27</b>	<p>The EU Member States excluding the UK.</p>
<b>EU Customs Union</b>	<p>A customs union between the 28 EU Member States, Andorra, Monaco, San Marino, Turkey and the British territories of Akrotiri and Dhekelia, Guernsey, Isle of Man and Jersey. No customs are levied on goods travelling within the EU Customs Union and its members apply the Common Customs Tariff (which is common to all members, but differs based on import type and origin) to goods being imported from outside the EU Customs Union.</p>

<b>European Commission</b>	An EU institution. It acts as the executive arm of the EU, proposing EU legislation and the EU budget to be adopted by the <b>Council of the EU</b> and the <b>European Parliament</b> and implementing and enforcing (together with the <b>Court of Justice of the EU</b> ) EU laws. It is headed by a College of 28 Commissioners (one nominated by each Member State) appointed every 5 years. One Commissioner is appointed President of the European Commission; the other 27 each have responsibility for a different policy area (for example, competition).
<b>European Council</b>	An EU institution. Comprised of Heads of State or Government of each Member State together with the European Commission President and the High Representative for Foreign Affairs & Security Policy, which usually meet in quarterly summits. Establishes broad direction of EU policy making. Not to be confused with <b>Council of the EU</b> .
<b>European Parliament</b>	An EU institution. Together with the <b>Council of the EU</b> , it acts as the main legislative body of the EU, jointly approving and adopting EU laws and the EU budget proposed by the <b>European Commission</b> . Its members (known as Members of the European Parliament or MEPs) are directly elected by EU voters every 5 years, each MEP representing a different geographic region within an EU Member State. There are currently 751 MEPs, of which 73 represent regions within the UK.
<b>Four Freedoms</b>	The freedom of movement of goods, persons, services and capital throughout the <b>Single Market</b> .
<b>Free Movement of Persons</b>	<p>One of the fundamental <b>Four Freedoms</b>, enshrined in the Treaty on the Functioning of the European Union as supplemented by EU <b>Directives</b>, <b>Regulations</b> and the case law of the <b>Court of Justice of the EU</b>. Broadly, the rights entail:</p> <p><i>For all EU nationals:</i></p> <ul style="list-style-type: none"> <li>• the right to move and reside freely within the EU, subject in the case of residence beyond 3 months for non-jobseekers/workers (and certain of their family members), to meeting certain conditions which cease to apply after 5 years of uninterrupted legal residence;</li> <li>• the right to vote and to stand as candidates in elections;</li> <li>• the right to enjoy diplomatic and consular protection as other EU nationals; and</li> <li>• the right not to be discriminated against on grounds of nationality.</li> </ul> <p><i>For EU nationals who are jobseekers or workers:</i></p> <ul style="list-style-type: none"> <li>• the right to move freely within the EU as a jobseeker and the right to accept job offers made;</li> <li>• the right to work in any EU Member State and to live there for the purposes of undertaking that work;</li> <li>• the right to remain in an EU Member State after having been employed there;</li> </ul> <p><i>(continued overleaf)</i></p>

<b>Free Movement of Persons</b> <i>(cont'd)</i>	<ul style="list-style-type: none"> <li>• the right not to be discriminated against on grounds of nationality in respect of employment, remuneration and other conditions of work; and</li> <li>• the right of certain family members to reside in the same EU Member State as the worker.</li> </ul> <p>These rights are directly applicable to and enforceable by all EU nationals, but the rights of jobseekers and workers are subject to limitations on the grounds of public security, public policy or public health and do not apply to employment in the public sector. Transitional restrictions, which must be lifted by July 2020, apply to jobseekers and workers who are Croatian nationals. When commentators refer to persons “exercising treaty rights” they typically mean exercising some or all of these rights. The EEA Agreement extends these rights to Iceland, Liechtenstein and Norway and to the nationals of those states.</p>
<b>Norwegian Model</b>	<p>One of the possible models for the UK’s post-exit relationship with the EU (see also <b>Canadian Model</b>, <b>Swiss Model</b>, <b>Turkish Model</b> and <b>WTO Model</b>). As a member of both the <b>EEA</b> and <b>EFTA</b>, the UK would retain access to the <b>Single Market</b>, would continue to be subject to EU law in the areas covered by the EEA Agreement (including <b>Free Movement of Persons</b>), but would no longer being able to participate directly in the making of EU laws. The UK would continue to contribute (in a reduced but still significant amount) to the EU budget. The UK would not benefit from the EU’s external trade agreements, but would have the ability to negotiate its own external trade agreements.</p>
<b>Passporting</b>	<p>One of the financial services sector access models (see also <b>Equivalence</b> and <b>Third Country</b>). This refers to the ability of financial services firms authorized in one EEA Member State to provide certain regulated services across the EEA, either cross-border or through a branch in the Member State without requiring separate authorization. If the UK leaves the EU but joins the <b>EEA</b> (the <b>Norwegian Model</b>), UK financial services firms will retain passporting rights.</p> <p>Also refers to the ability of an issuer of securities to “passport” a prospectus approved in one EEA Member State into other EEA Member States in order to make a public offer of and/or list securities in that Member State without the prospectus needing to be approved in that Member State.</p>
<b>Regulation</b>	<p>One of the three main types of EU legislation (see also <b>Decision</b> and <b>Directive</b>). A legal instrument which is automatically directly applicable in all EU Member States without the EU Member States needing to implement the Regulation into national law.</p>
<b>Schengen Area</b>	<p>An area in which people can travel across national borders of participating countries without generally being subjected to border controls. Currently comprised of 26 countries, including 22 of the EU Member States and Norway, Iceland, Switzerland and Liechtenstein. The UK and the Republic of Ireland are not members of Schengen, but have their own <b>Common Travel Area</b>.</p>

<b>Single Market</b>	A single market comprising the 28 EU Member States that seeks to guarantee the <b>Four Freedoms</b> . Iceland, Liechtenstein and Norway, as members of the <b>EEA</b> , have access to the Single Market in the areas covered by the EEA Agreement. Also known as the Internal Market.
<b>Swiss Model</b>	One of the possible models for the UK's post-exit relationship with the EU (see also <b>Canadian Model</b> , <b>Norwegian Model</b> , <b>Turkish Model</b> and <b>WTO Model</b> ). The UK would join <b>EFTA</b> (but would not be a member of the <b>EEA</b> ). Like Switzerland, the UK would negotiate access to the <b>Single Market</b> (and be subject to EU requirements) in those areas in which it is willing and able to negotiate bilateral agreements with the EU. Consistent with Switzerland's agreement with the EU, it is likely that the UK would be required to permit the <b>Free Movement of Persons</b> as part of its access to the <b>Single Market</b> . The UK's contribution to the EU budget would fall significantly.
<b>Third Country</b>	One of the financial services sector access models (see also <b>Equivalence</b> and <b>Passporting</b> ). If post-Brexit, UK financial services firms lose their Passporting rights and the UK is not determined to be "equivalent", their access to EEA markets will substantially be determined by the national laws of each EEA Member State, which will determine whether cross-border services may be provided by UK financial services firms, and if so, to which categories of person.
<b>Turkish Model</b>	One of the possible models for the UK's post-exit relationship with the EU (see also <b>Canadian Model</b> , <b>Norwegian Model</b> , <b>Swiss Model</b> and <b>WTO Model</b> ). The UK would join the <b>EU Customs Union</b> and retain access to the <b>Single Market</b> , but only for goods (not services). UK goods would need to comply with EU product standards for exports to the EU and the UK would be required to apply the Common Customs Tariff to imports from countries outside the <b>EU Customs Union</b> . The UK would make no financial contribution to the EU.
<b>WTO</b>	World Trade Organisation. An intergovernmental organisation comprising 164 member countries, including the EU. The rules set by the WTO are binding on its members and establish an international trade framework, including the General Agreement on Tariffs and Trade (GATT), and the General Agreement on Trade in Services (GATS).
<b>WTO Model</b>	One of the possible models for the UK's post-exit relationship with the EU (see also <b>Canadian Model</b> , <b>Norwegian Model</b> , <b>Swiss Model</b> and <b>Turkish Model</b> ). It is the default model if the UK has been unable or unwilling to enter into a new agreement with the EU post-Brexit. The UK would lose access to the <b>Single Market</b> and UK trade with the EU would be subject to the same framework as other non-EU WTO members without a free trade agreement, including the EU Common Customs Tariff and non-tariff barriers. However, the UK would not be subject to EU law (but would need to comply with EU product standards for exports to the EU); would not need to permit the <b>Free Movement of Persons</b> and would not be required to contribute to the EU budget.



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