

*On 25 November 2017 the Icelandic Ministry for Foreign Affairs published a report which explores the potential implications of the United Kingdom's departure from the European Economic Area for Iceland. The following contains a brief introduction and a summary of the report's key findings in English. The full report in Icelandic can be accessed [here](#).*



UTANRÍKISRÁÐUNEYTIÐ

## INTRODUCTION

The United Kingdom's withdrawal from the European Union (Brexit) will have a direct impact on all participants in the European Economic Area (EEA), including Iceland. The next years will be critical in terms of deciding the future direction of European integration. Europeans have reaped the benefits of trading freely with each other over the past decades and it is important to ensure that new barriers to trade do not arise as a result of Brexit. Rather, the shifting environment should be used as an opening to explore new ways of ensuring seamless trade flows. For its part, the Icelandic government is working hard to make sure Iceland's interests are safeguarded and that potential opportunities do not go undetected. To this end ministers and officials have had a number of productive high-level meetings with their counterparts in the UK while at the same time working closely with its EFTA partners and with the EU and its Member States. Iceland's aim is to ensure a robust future relationship with the UK while urging all parties concerned to work towards a sustainable solution which covers trade alongside other mutually beneficial areas of cooperation.

Iceland has concluded a number of agreements with the EU, of which the EEA Agreement is by far the most comprehensive. The EEA, which has been in force since 1994, allows Iceland to participate in the Single Market and provides a solid framework for relations with the EU. Upon exiting the EU, the UK will no longer be a party to this Agreement. The UK's future relationship with the EU has yet to be determined. Furthermore, an implementation period may bridge the gap between the UK's formal departure from the EU in March 2019 and until a future agreement is in place. It may be that areas falling under the EEA will be covered by such an implementation period and potentially also to some extent by the UK's future agreement with the EU. In this case, Iceland underlines the importance of allowing for the continued application of Single Market rules between the EEA EFTA States (Iceland, Liechtenstein and Norway) and the UK.

Iceland is attempting to be both proactive and innovative when it comes to future scenarios and is optimistic that a constructive outcome may be achieved. At the same time, the future is still uncertain and so contingency planning is necessary. The Icelandic government has therefore been mapping the potential implications of Brexit including a scenario in which EEA rules would cease to apply between Iceland and the UK. More specifically, the report outlines the legal framework in each of the areas covered by the EEA Agreement and assesses the potential impact of these rules no longer applying vis-à-vis the UK. The report will be used as a foundation to help determine Iceland's objectives in terms of its relationship with the UK post-Brexit.

## SUMMARY

The principal findings of the report are as follows (ordered by Annexes to the EEA Agreement):

### **Market Access**

Market access (i.e. the customs environment) for trade in goods between Iceland and the United Kingdom is currently based on the provisions of the EEA Agreement, Iceland's 1972 free trade agreement with the EU, and Iceland's agreement with the EU on agricultural trade. The EEA Agreement entails the full elimination of customs duties on industrial products. If no free trade agreements are made for industrial products, trade in these products would be conducted in accordance with the general customs tariff that the United Kingdom may set for itself, i.e. at so-called WTO-terms. The levels of customs duties on the import of marine products to the EU states, including the United Kingdom, vary depending on the type of product and how it has been processed. Unless changes are made, Iceland will, upon the United Kingdom's exit from the EU, lose its current market access for marine products in the UK. However, continued market access for Icelandic marine products in the UK could be ensured by making a favourable free trade agreement. Such an agreement might even create an opportunity for even easier access than is currently the case, by abolishing customs duties on products that customs duties are currently levied on by the EU. The United Kingdom is also an important market area for exports of Icelandic agricultural products. A 2007 agreement with the EU, as well as a new agreement from 2015 that is expected to come into effect in 2018, features, inter alia, considerable tariff quotas for mutton, skyr and butter. It is also preferable to ensure a favourable system of trade between Iceland and the United Kingdom for such products after the British exit from the EU.

### **Food Safety**

The EEA Agreement's provisions on food safety apply to the import and export of food products from Iceland, including exports to the United Kingdom. It is important to ensure that the British exit from the EU does not create new obstacles in the trade with food products between the two countries.

### **Technical Regulations and Standards**

The EEA Agreement's provisions on technical requirements and standards are based upon the general principle that products that are manufactured in one EEA State fulfil the technical requirements and standards that are in place in another EEA State. After the United Kingdom's exit from the EU, the provisions of the EEA Agreement would no longer apply to products manufactured in the UK and therefore it would neither be possible to assume that such products fulfil requirements in place in Iceland, nor vice versa. Therefore, it is important to ensure that the United Kingdom's exit from the EU will neither hinder the export of Icelandic products into the UK, nor the import to Iceland of products manufactured in the UK. For example, pharmaceuticals manufactured in the United Kingdom would, unless changes are made, have to have a marketing authorisation from another EEA State or from the European Medicines Agency before they could be cleared for export to Iceland.

**Energy**

The EEA Agreement's provisions on energy issues entail common rules on trade in energy between the EEA States. Currently, there is no direct trade in electrical power between Iceland and the United Kingdom or other European countries, but if plans for a submarine interconnector between Iceland and the United Kingdom were to be implemented it would be important to establish a similar legal framework if the two countries' electrical distribution systems were to be linked.

**Free Movement of Persons**

The EEA Agreement's provisions ensure the free movement of Icelandic citizens within the European Economic Area. Unless otherwise agreed, the rights of Icelandic citizens to seek employment in the UK without having to apply for work and residence permits will therefore be repealed, as will their rights to take their families with them. This also applies to the rights of students to reside in the United Kingdom for study without a permit. The comparable rights of British citizens in Iceland will likewise be abolished.

**Social Security**

The EEA Agreement's provisions on social security lay down rules related to access to social security, insurance coverage and also rights and obligations when travelling between EEA States for work, study or residence. These provisions of the EEA Agreement will, upon the United Kingdom's exit from the EU, no longer apply between Iceland and the United Kingdom unless a new agreement is made. This applies, inter alia, to the rights of Icelandic citizens to access to the British public health-care system in case of illness or accidents, and vice versa, and to the rights of Icelandic pensioners to receive pension benefits even if they reside in the United Kingdom. This also applies to the right to utilise an insurance period from the United Kingdom to fulfil conditions for insurance coverage in Iceland, as well as rules that exclude workers who are posted for temporary work in the United Kingdom and their employers from having to pay dues to the public insurance scheme there. The same applies to workers from the UK who are temporarily posted to Iceland.

**Recognition of Professional Qualifications**

Upon the United Kingdom's exit from the EU, the provisions of the EEA Agreement on the mutual recognition of professional qualifications, e.g. recognition of specialist medical training, would no longer apply. The same applies to other professions, such as nurses, midwives, pharmacists, veterinarians, dentists and architects. The rights of those Icelandic citizens who are already residing, have resided or are planning to reside in the United Kingdom after Brexit must be taken into consideration, especially with regard to rights to employment, residency, social security and mutual recognition of professional qualifications.

### **Financial Services**

Under the EEA Agreement's rules on financial services, financial firms which are authorised to operate in an EEA State, including the United Kingdom and Iceland, are able to supply services within the EEA (to found companies or branches or to supply services across borders through passporting). Access to the common market by financial firms from outside the EEA is in certain circumstances dependent on the ability to show that rules and controls in the third state in question comply with the requirements in European rules that apply to the activities (that they are "equivalent"). At present, the British rules covering financial services are based on EEA rules. This fact may pave the way for such decisions on equivalence where they are or will be found in EEA legislation, but there is no guarantee that this will continue to be the case. Should the United Kingdom separate itself completely from the EU Single Market, Icelandic companies in the financial sector can expect to have to apply for separate authorisation in the United Kingdom. If, at the same time, British financial firms are unable to rely on the European legislation's provisions on the equivalence of third states, and there are no agreements stating otherwise, it is likely that they will have to apply for authorisation within the EEA in order to be able to supply financial services there. At present, there are various cross-border financial activities taking place in both countries. Icelandic financial firms have announced that they are offering services in the United Kingdom, and vice versa. There is also significant activity by British firms within the Icelandic insurance sector. There is considerable interest involved in British firms being able to continue to offer such services in Iceland, and for Icelandic financial firms being able to continue to offer financial services in the United Kingdom, e.g. in securities trading and in the field of electronic fund transfer services. The growing importance of fintech firms must also be taken into consideration. Additionally, it is important for Icelandic firms and individuals to be able to continue to use financial services in the United Kingdom. For example, the pension funds' investment activities are often conducted through securities firms in the United Kingdom and trust activities in connection with the foreign securities holdings of pension funds are partially conducted by firms in the UK. Some interests may also be bound up in a unified European regulatory system in the field of financial controls, as well as the resolution procedures and winding-up proceedings of financial firms across borders.

### **Services and Right of Establishment**

The provisions of the EEA Agreement on the free movement of services and freedom of establishment aim at removing barriers preventing a service provider from establishing themselves in any EEA State or from providing services in those States. They furthermore prescribe the simplification of administrative methods and licensing terms in order for service providers to enjoy these rights. Numerous provisions in current Icelandic laws stipulate that in order to undertake a certain activity, the head or founder of the activity in question must be an EEA citizen. Similar reciprocal rights could be negotiated with the UK.

**Telecommunications and Postal Services**

The EEA Agreement's provisions on telecommunications and postal services entail, first and foremost, harmonisation of legislation in the local market in each EEA State and the United Kingdom's exit will generally not have much of an effect on telecommunications and postal services in Iceland. Under Icelandic legislation, all the member states of the World Trade Organization are permitted to operate telecommunication services in Iceland. However, roaming charges have been abolished within the EEA and the United Kingdom's exit might mean that British telecommunications operators would no longer be restricted by the maximum charges laid down by the EEA Agreement and at the same time telecommunications operators within the EEA would no longer be bound to supply British telecommunications operators with roaming services at those terms.

**Free Movement of Capital**

Rules on the free flow of capital between Iceland and the UK are based on the provisions of the EEA Agreement. Following the UK's exit from the EU, it will no longer be bound by EU rules on the matter unless otherwise agreed. It is not clear whether this fact will have any impact on the Icelandic financial market, and what that impact would be.

**Data Protection**

Rules on the transfer of personal data between Iceland and the United Kingdom are based on the provisions of the EEA Agreement and measures would have to be taken to ensure that the UK would continue to be considered a safe state with regard to the processing of personal data, in order to continue to ensure the free transfer of personal data between the two countries.

**Audiovisual Services**

With regard to audiovisual services, Brexit can create uncertainty concerning jurisdiction over television broadcasting from the UK, including the jurisdiction of the Icelandic Media Committee.

**Road Transport**

As regards the EEA's provisions on Road Transport, the United Kingdom's exit from the EU will mainly affect three issues, i.e. the recognition of driving permits and the registration and type approvals of vehicles and tachographs. The EEA Agreement lays down, inter alia, provisions on the mutual recognition of driving permits, which means that Icelanders living in other EEA States do not have to apply for local driving permits. The British exit may also affect whole vehicle type-approvals for vehicles manufactured in the United Kingdom. However, it should be remembered that under EEA rules it is possible to obtain approval of vehicles and equipment manufactured outside the European Economic Area. Additionally, if no changes are made, the mutual arrangement now in place within the European Economic Area regarding driver's cards used in tachographs would not apply with regard to the United Kingdom.

### **Maritime Transport**

The EEA Agreement's provisions on maritime transport allow the issuance of an international certificate to Icelandic seamen, allowing them to work aboard vessels registered in EEA States. The mutual recognition of those rights as regards the United Kingdom must be ensured.

### **Civil Aviation**

Air travel between Iceland and the UK is largely covered by the EEA Agreement. The absence of any hindrances to flight operations within the single market is a benefit to flight operators and there are currently three Icelandic flight carriers operating flights to and from the United Kingdom. Three British flight operators run services between Iceland and the UK. In addition, an Irish flight operator runs scheduled services between the two countries. There are about 20 scheduled departures to the UK per day during the busiest part of the winter. Foreign travellers arriving from the United Kingdom numbered 316 thousand in 2016, with a large part of that number arriving in the winter. Nearly all air cargo from Iceland to the United Kingdom is carried on scheduled flights, but there are also Icelandic charter operators doing business in the UK. The EEA Agreement's provisions on air travel not only cover air carrier operations, but also the harmonisation of rules on flight navigation, airworthiness, production, consumer protection, aviation security and the mutual recognition of permits and certificates. The uninterrupted continuation of those extensive flight services between the countries must be ensured.

### **Competition**

The EEA Agreement establishes a framework for cooperation between the Icelandic and British competition authorities, especially information sharing and assistance and cooperation in the handling of individual cases.

### **State Aid**

The EEA Agreement includes provisions that are intended to prevent the authorities of the EEA States from disrupting the competition within the European Economic Area by granting privileges to particular companies or branches of trade. However, the UK's exit would not affect the application of these rules in Iceland.

### **Procurement**

The EEA Agreement's provisions in this area establish a common market for public procurement in the European Economic Area. After its exit, the United Kingdom would have to negotiate its accession to the revised WTO Government Procurement Agreement.

**Intellectual Property**

The EEA Agreement includes provisions on intellectual property rights, including rules on registered rights, such as patents, trademarks, protected designs, brands, complimentary certificates for pharmaceutical products and plant protection and unregistered rights, such as copyright. In some cases, the EEA Agreement entails additional intellectual property rights protection beyond those given by international agreements in the field of intellectual property rights, and in other areas it facilitates the registration and active protection of such rights within the European Economic Area. It is important to ensure that the United Kingdom's exit does not adversely affect the protection of the intellectual property rights of Icelandic rights holders.

**Health and Safety at Work, Labour Law and Equal Treatment for Men and Women**

The EEA Agreement includes provisions on health and safety at work, labour law and equal treatment for men and women and these provisions entail certain minimum requirements in these areas which all the EEA States are required to comply with. The United Kingdom will no longer be bound by these minimum requirements after its exit.

**Consumer Protection**

The EEA Agreement includes provisions on consumer protection which ensure that consumers can rely on having the same legal rights in trade across borders within the EEA as they have in their own home countries. The United Kingdom's exit from the EU means that the provisions of the EEA Agreement on consumer protection will no longer apply in trade with the UK. Iceland and Icelandic consumers have done, and are doing, extensive trade with the United Kingdom, through internet shopping, while travelling and in products and therefore it is important to ensure continuing good cooperation with the British consumer protection authorities.

**Environment**

The main purpose of the EEA environmental legislation is to promote sustainable development and environmental protection and consequently this legal framework mainly impacts individual EEA State. However, when the United Kingdom exits the EU, it will be classified as a third state, and the rules on the transport of waste between EEA countries are considerably more flexible than those on its transport to third states. The United Kingdom's exit may also affect the greenhouse gas emissions trading system, since there will be fewer emission allowances on the market within the system. Additionally, the United Kingdom's exit may entail changes as regards the obligation to inform neighbouring states of any projects that have cross-border effects.

**Statistics**

The EEA Agreement includes provisions on the production of statistics, but the United Kingdom's exit will not affect the enforcement of these rules.



**Company Law**

The EEA Agreement's provisions cover, on the one hand, general rules on specific types of undertakings and, on the other, rules on the financial statements of such undertakings and on auditing. It is important to ensure that Icelandic citizens and undertakings can continue to establish and operate undertakings in the United Kingdom without any obstructions. It is also important to ensure that British citizens and undertakings can continue to establish and operate undertakings in Iceland.

**Education, Culture and Science**

The EEA Agreement makes it possible for Iceland to participate in the European Union's programmes in various arenas, e.g. education, culture and science. The United Kingdom has been one of Iceland's main partners in such programmes, especially as regards scientific collaboration. If the United Kingdom were to end its participation in the EU's programmes it would therefore be a considerable loss, in addition to which the UK's exit may affect the financial contributions to such schemes. On the other hand, it is possible that the United Kingdom will negotiate its continued participation in at least some EU programmes.