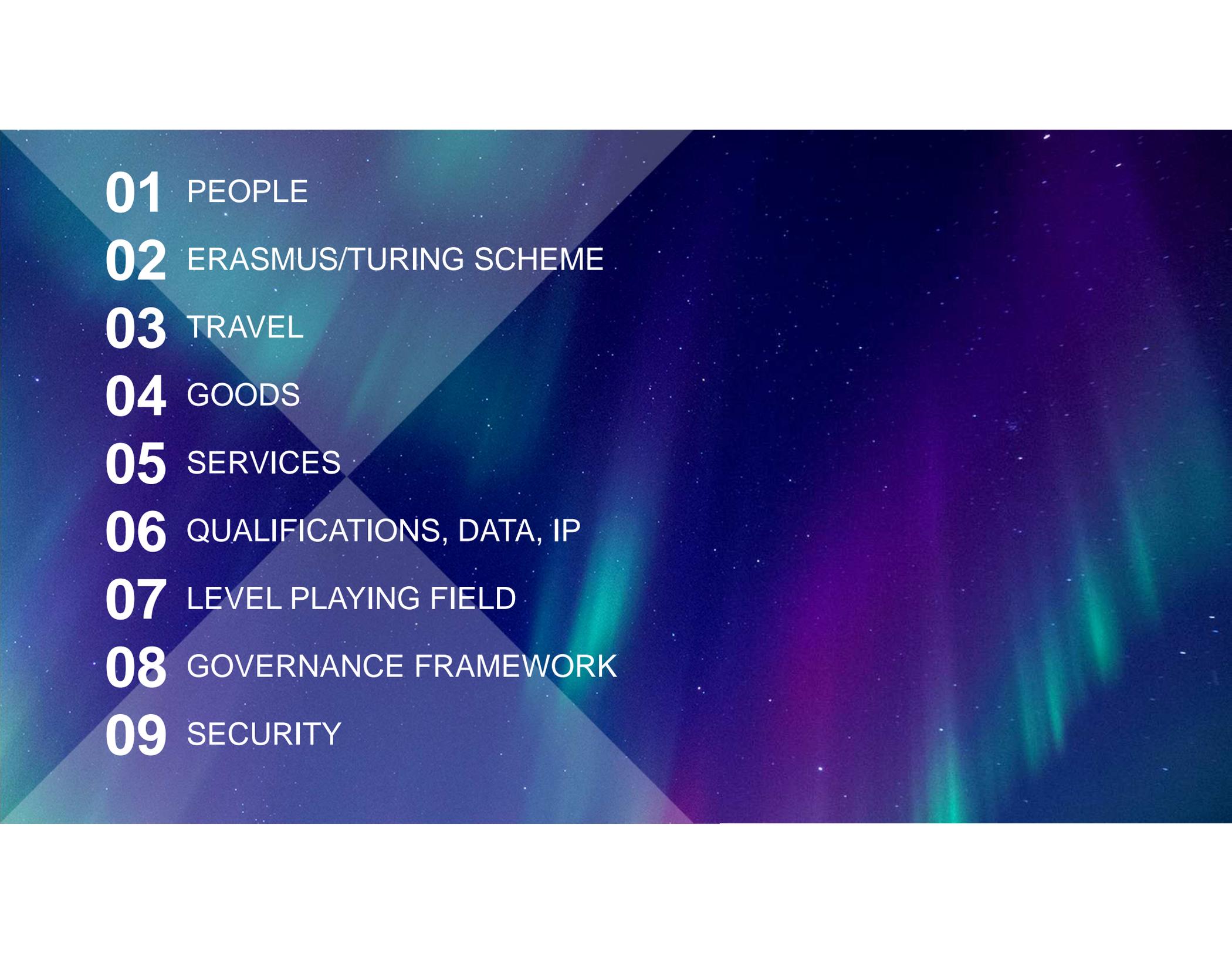


# Brexit – What's the deal?

PAUL SAMRAH, Partner  
Webinar: Thursday 14 January 2021



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- The background is a dark, starry space scene with a large, semi-transparent 'X' shape overlaid. The 'X' is formed by two diagonal bands of a lighter, teal-blue color. The text is white and positioned on the left side of the image, following the path of the 'X' from top-left to bottom-right.
- 01** PEOPLE
  - 02** ERASMUS/TURING SCHEME
  - 03** TRAVEL
  - 04** GOODS
  - 05** SERVICES
  - 06** QUALIFICATIONS, DATA, IP
  - 07** LEVEL PLAYING FIELD
  - 08** GOVERNANCE FRAMEWORK
  - 09** SECURITY

## THE AGREEMENT

- UK – EU Trade and Cooperation Agreement (TCA)

*“Recognising the need for an ambitious, wide-ranging and balanced economic partnership to ensure an open and secure market for businesses...and their goods & services through addressing unjustified barriers to trade”*

## Joint Partnership Council

- Representatives EU27/UK, Co-chaired • Discussions Binding •
- Committees
  - Goods
  - Customs & RoO
  - Sanitary
  - Technical barriers to trade
  - Services, Investment and Digital Trade
  - Etc
- Working Groups

## EU CITIZENS & THEIR FAMILIES

- By 31 December 2020 – 5 years living in UK?
  - then free to live in UK and can apply for Permanent residence/British citizenship.
- By 31 December 2020 < 5 years living in UK?
  - can stay until 5 years are up, then apply for settled status.
- Family members in UK pre 31 December 2020?
  - can apply after 5 years.

## EU Settlement Scheme

- Must apply for either 'settled' or 'pre-settled' status **by 30 June 2021.**

## Points Based Immigration System (PBS)

- Expanded Tier 2 (General)
  - Open to all jobs at RQF3 and above (broadly A Level and above roles)
  - Review of the Shortage Occupation List;
- Tier 2 ICT skills thresholds to remain at RQF6;
- Minimum salary threshold £20,480 per annum.

## Practical steps to take

- Audit workforce
- Encourage employees to apply early on (it's free!);  
[www.gov.uk/settled-status-eu-citizens-families](https://www.gov.uk/settled-status-eu-citizens-families)
- Check that all affected employees have obtained settled/pre-settled status by 30 June.
- Diarise expiry dates for pre-settled status;

## Practical steps to take (continued)

- Ensure Contracts of Employment refer to conditionality on having right to work;
- Diarise regular right-to-work checks;
- Consider talent pipeline
- Licensed sponsor?

## Returning from EU to live in UK

- Immigration Bill
- Britons living in EU coming 'home'
- 2nd (EU) home owners – *beware!*

## Students - Erasmus Scheme

- EU programme (helps students study in other countries)
- UK no longer participating
- N.I. students will continue to participate in Erasmus
- Turing Scheme in its place (wef September)
- UK/EU students will need to address new immigration regs (country dependent)

# Travel

- > 6 months validity on your passport;
- No automatic right for UK citizens to live/work in EU;
- **Permitted** business activities – visa free for < 90 days in 180.
- Visa required > 90 day stays in any 180 day period;
- New UK Global Health Insurance Card;
- EU ID cards no longer valid as travel docs from October 2021;
- International Driving Licence;
- Green card needed;
- Pets certificate from vet (10 days before travel);
- International mobile roaming – not addressed?

## Duty Free Shopping



- Limits: 18 litres still wine



42 litres beer



- No more Tax free sales of electronics/clothing

## GOODS : Exporting to the EU and Importing to the UK

- As part of the ***pre 31 December 2020*** EU28, tariff free trade – no customs declarations, no meeting Rules of Origin (RoO);
- EORI No : GB & for NI (XI);
- Now Full RoO;
- Refer to full rules in TCA to understand the full obligations;
- You can export/import without making use of the TCA
  - Such goods will be subject to the importing Party's non-preferential tariff.
- Watch NI – CDs needed, tariff exemptions on 98% (?) goods.

## Rules of Origin – TARIFFS ☹️

- Responsibility of the Exporter.
- Determine what good is being traded.
- Product Specific RoO (PSRs)
  - Harmonized System (HS) code
- Once classified, establish its 'economic nationality' – value £/€ and where value added.
- Last substantial transformation through either:
  - Change of tariff classification (eg car parts into a car);
  - Sufficient value-added (typically around 50% + value to be added to claim origin);
  - Specific processing (ie clothing manufactured from yarn)
- Bilateral Cumulation – count EU components towards UK content ✓
- 'Subsequent verification' – further checks/controls with payment of 'security'.

## Rules of Origin (continued...)

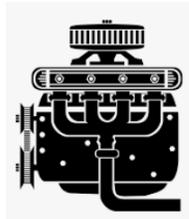
- Diagonal cumulation
- Originating status secured? Then carried at full value into further product/process.
- Rebalancing tariffs? – *Oh dear!!*

## Examples of Cumulation of Originating Materials

1) HS Code: 2002.90  
Product: Chopped tomatoes  
Rule: Production in which all the materials used are Wholly Obtained



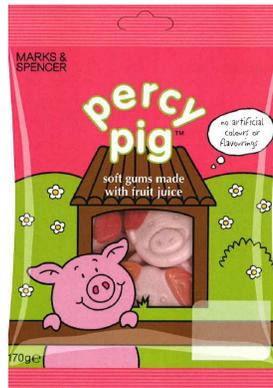
2) HS Code: 8408  
Product: Diesel engine  
Rule: 50% Max NOM (Non-originating materials)



3) HS Code: 9403  
Product: Wooden desk  
Rule: 50% Max NOM



# Percy Pig



- Origin.
- Ingredients/Components within product.
- Paperwork (Health & Safety), labelling.



## Tariff Example

- Assess CIF value (cost, insurance & freight)

Goods	€ 3,000
Insurance	€ 200
Freight	<u>€ 800</u>
	€ 4,000

[Use HMRC average Exchange rate (monthly) – December 2020 0.89442 = £1]

=	£ 3,577.48
Tariff 5% say	<u>178.87</u>
	3,756.35
VAT (20%)	<u>751.27</u>
	<u>£4,507.62</u>

- Total Duty and VAT £930.14

# Freight & Road Haulage

## FREIGHT & ROAD HAULAGE

- Lorries can cross multiple countries.
- Limited to one pick-up/drop-off while in EU.
- British drivers working for EU company will need EU certificate.

## CUSTOMS PAPERWORK

- Extra bureaucracy, delays at borders.
- Trusted Trader Scheme – AEO Certification ✓✓✓
- Goods checked twice (UK & EU)?

### *This year....*

- For UK/EU or EU/UK Trade, until 31 December 2021, businesses don't need *suppliers' declarations* at the time when goods are exported - **BUT** businesses may be asked to retrospectively provide.
- For EU to UK trade, businesses have until 30 June to submit a full Customs Declaration (inc. declaring Proof of Origin).

## Conformity, Sanitary/Phytosanitary (SPS) checks

- No mutual recognition of conformity assessment processes.
- CE marking.
- SPS checks – these are quarantine/biosecurity checks. No mechanism for recognising equivalence for SPS measures!

## Basic document requirements

Country of Origin & origin certificate if applicable

Commodity Codes

(Commercial) Invoice showing net weight & packages

Special Licences if required

Parties (Buyer/Seller) & EORI nrs

Incoterms (Terms of Sale)

## Goods – International Commercial Terms (Incoterms ©)

- Seller should use one of the Incoterms 2020 rules (from the 11 suggested) in ALL international contracts.
- REVIEW!
- Commercial contracts will almost certainly need to change.

# Customs Grant Scheme

[www.customsintermediarygrant.co.uk](http://www.customsintermediarygrant.co.uk)

For Customs brokers, freight forwarders, traders who do their own declarations.

- Grant towards salary costs of new/redeployed staff (£12,000pp).
- £3,000 towards recruitment costs.
- Grant for IT (customs related).
- Closes 30.06.2021.

## Withholding Taxes

- Pre 31/12/20, there was automatic exemption from withholding taxes EU27 → UK;
- Affects dividends, interest and royalties;
- Check the double tax agreements for each State.
- Situation may change going forward with EU27 states introducing new legislation.

# VAT

- EU a '3rd country' for the purposes of UK VAT;
- Import VAT due – payable via quarterly returns (postponed accounting);
- Intrastat – only required to report arrivals.
- MOSS

## Financial Services

- Biggest trade surplus of any UK industry.
- Key point – Equivalence (i.e shares/derivative trading) No decision!
- Still to be concluded.
- Passporting rights ceased pending agreement.

## Legal Services

- Member states can impose total bans on UK lawyers advising on their own law.
- In some member states, UK lawyers will be able to fly in, provide advice, and fly out again without work permits.

## TV SERVICES

- UK service providers must relocate part of their business to an EU27, in order to offer pan EU broadcasts.

## Qualifications

- No automatic mutual recognition of professional qualifications.
- Doctors, nurses, architects, accountants etc.
- Bodies can make recommendations to the Joint Partnership Council (decides on a profession-by-profession basis).

# Data

- Temporary solution to keep data flowing ✓
- Transition period 4-6 months.
- Adequacy decision on data transfers awaited.
- Protection of personal data and privacy are key.
- GDPR ✓✓✓
- [www.ico.org.uk](http://www.ico.org.uk)

# Intellectual Property

- IP rights protected
  - “UK/EU will protect the IP rights of each other’s nationals no less favourably than their own”.

## State Aid and the “level playing field”

- Common principles agreed.
- ECJ not the arbiter (independent competition agency will oversee/interpret the common principles).
- Subsidy control regime permitted.
- European companies to seek redress in UK Courts.
- Remedies available.
- Reviewed in 2024.

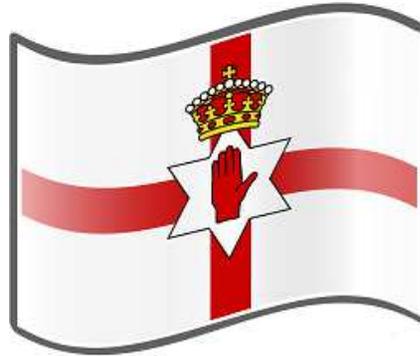
## Dispute Resolution

- If UK moves away more radically from EU rules in the future.
- Dispute mechanism triggered, if negative impact on the other side.

## European Court of Justice (ECJ) Au Revoir?

Yes, but....

- Northern Ireland



## Security

- UK loses automatic and immediate access to a number of EU databases.
  - Criminal records, fingerprints, wanted persons.
- No longer in real-time access.
- Much stricter conditions.

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