

Post-Brexit freedoms and opportunities for the UK

Policy
Exchange 

Stephen Booth

Foreword by Rt Hon Sir David Lidington KCB CBE



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Foreword

Rt Hon Sir David Lidington KCB CBE
Minister of State for Europe, 2010-2016

It's more than a year since the Union Flag was hauled down from its mast outside the Berlaymont: two months since the transitional period ended. For better or worse, this country is now fully outside the European Union.

Whether you were an enthusiastic supporter of Leave or, like me, an unrepentant Remainer, our focus now has to be on identifying and then implementing policies that will, in the world as it now is, best enable our country to succeed.

This paper, which reflects work done across Policy Exchange's research teams, explores those choices, opportunities and risks that now face both this and future governments.

Readers will have a variety of opinions about the merits of this or that policy idea. That is as it should be: the paper is a map, not a manifesto.

For me, the notion that the UK should seek first-mover advantage in new sectors and technologies is immensely attractive. The UK has the potential to be world-leading in areas such as fintech, life sciences, AI and GM – and to move with more agility and creativity than the EU in the decade ahead. Indeed, I remember arguing more than once at the General Affairs Council that too cautious an application of the precautionary principle and a sluggish approach to innovation risked driving these new industries out of Europe altogether, to the advantage of North America and China.

Freer global trade in services, another opportunity highlighted in the paper, would also benefit our economy and should be a priority in future bilateral trade agreements. I would add that, given the heavyweight role that the European Union plays in setting world trade rules, and the long-standing support for trade liberalisation of Member States like the Netherlands and the Nordic and Baltic countries, a close future relationship between the UK and EU would boost our chances of securing serious global reform.

On climate policy, UK political leaders will need to weigh up the pros and cons of divergence versus alignment issue by issue. Moving ahead of the pack to phase out petrol and diesel fuelled vehicles or to introduce local electricity pricing could help us meet our climate targets sooner and push British industry to take early advantage of the growing global market for zero carbon goods and services. On the other hand, if UK and EU Carbon Border Adjustments had incompatible standards and designs, it would be hard to avoid imposing additional friction and costs on trade, including potentially between Great Britain and Northern Ireland.

Other proposals, like loosening planning safeguards currently provided

by the Habitats Directive, would make little difference to the relationship between London and Brussels, but be very controversial in domestic politics.

In the months and years ahead, UK leaders will have to confront many difficult judgements of this kind. Every one of the ideas identified by Policy Exchange in its paper will need rigorous, detailed analysis and discussion. Leavers and Remainers alike have an obligation to the country to haul themselves out of the trenches of the last five years and contribute to hard-headed, pragmatic debates about where our national interest lies.

Summary

This paper draws together analysis from the range of Policy Exchange's experts – in Law & Constitution, Trade & Economics, Immigration & Policing, Energy & Environment, Health & Social Care – of the new freedoms and opportunities open to the United Kingdom under the terms of the new relationship with the European Union.

The end of the transition period on 1 January 2021 marked the introduction of new legal and trading arrangements between the UK and the EU, which will now be governed by the terms of the UK-EU Trade and Cooperation Agreement (TCA) and, for certain issues in Northern Ireland, the Northern Ireland Protocol.

Withdrawal from EU arrangements enables the UK to pursue policies or amend legislation it was previously unable to within the terms of EU membership. Equally, there are actions (such as the early introduction of Covid-19 vaccination and liberalising non-EU migration) that the UK was theoretically able to pursue while an EU member, which the political or practical logic of EU membership worked against. It can now implement these policies with greater speed and agility, unencumbered by the EU's legal and political framework.

The new arrangements will continue to place some limits on UK action. In particular, under the terms of the Northern Ireland Protocol, Northern Ireland must remain in regulatory alignment with the EU single market for goods. This means certain checks are required on trade between Great Britain and Northern Ireland and that Northern Ireland will remain subject to the jurisprudence of the EU's Court of Justice where regulations are aligned.

Meanwhile, the level-playing field and dispute settlement arrangements in the TCA also place some practical and legal limitations on UK action. These provisions are innovative but they resemble arrangements increasingly used in other advanced trade agreements. Both sides have agreed not to lower their existing standards on employment and the environment or use subsidies to unfairly distort trade and investment. Both sides also have the right to take countermeasures, such as imposing tariffs, if they believe they are being damaged by future divergence in these fields. Crucially, any countermeasures are subject to independent arbitration, which means there would need to be solid grounds before any EU tariffs could be imposed in response to UK divergence.

The trade-off at the heart of any future UK-EU relationship has always been between UK sovereignty versus the degree of integration with EU markets and structures. Ultimately, the TCA reflects the UK's desire for

regulatory independence and the EU's political imperative that withdrawal must come at the price of reduced access to the single market. This will inevitably impose some new friction and costs on UK-EU trade.

This paper acknowledges these difficulties. However, its primary purpose is to outline the freedoms and opportunities open to the UK under the new arrangements and provides examples of how the UK could use them to its advantage.

Governance

- An **end to the supremacy of EU law** over British law (subject to qualifications in the Withdrawal Agreement and Northern Ireland Protocol).
- The ability to **amend or repeal retained EU law**.
- Greater **democratic accountability and ability to correct policy failures** more quickly – the EU can take years to amend or repeal legislation.
- Flexibility and first mover advantage to **act or regulate independently of the EU in the future, allowing the UK to experiment in dynamic and fast-moving sectors, such as the life sciences or fintech**, where it has a comparative advantage.
- **Autonomy for UK courts**, and the end to oversight by the European Court of Justice (ECJ).

Trade

- A fully independent trade policy, enabling the UK to **set its own tariffs and conclude its own trade deals**.
- The UK has already liberalised its tariffs relative to those of the EU, but there would be scope to go further after bilateral negotiations with the US, Australia, New Zealand and the CPTPP are concluded. This could include **removing tariffs on products the UK consumes but does not produce, such as certain food products and textiles**.
- The UK is likely to **prioritise liberalisation of trade in services to a greater extent than the EU** did on our behalf. The recent UK trade deal with Japan improved on the existing EU agreement by incorporating the most comprehensive and **cutting-edge digital provisions**.¹
- Using trade agreements and development policies to **forge closer relationships with our allies beyond the EU and among developing nations**, boosting relations with the high-growth regions of the globe, diversifying trade and **compensating for the relative decline in Europe's economic weight**.

Economics and regulation

- The UK's **contribution to the EU budget** has ended – the UK's net contribution was approximately £11bn a year.² These funds can now be spent on UK priorities.

1. Department for International Trade (2019), *Digital and Data Provisions in the UK-Japan CEPA*; https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/933990/uk-japan-cepa-digital-and-data-explainer.pdf

2. Office for National Statistics (30 September 2019), *The UK Contribution to the EU Budget*; <https://www.ons.gov.uk/economy/governmentpublicsectorandtaxes/publicsectorfinance/articles/theukcontributiontotheeu-budget/2017-10-31>

- **EU state aid law no longer applies to Great Britain.** A new UK regime could **make it easier for the government to pursue several of its key policy objectives**, particularly **boosting R&D spending in economically underperforming regions, incentivising development of green technologies, subsidising transport infrastructure, assisting SMEs or reforming public procurement**. Successfully designing such a regime is therefore a significant opportunity for the UK.
- Freedom to set rates and narrow or widen **VAT** base. For example, there is an environmental case for **zero VAT on electricity bills**, but maintaining the rate on gas and other fuels, in order **to help the transition to low-carbon forms of heating**, as well as to electric vehicles. The UK has already removed VAT on women's sanitary products from 1 January 2021, also known as the "tampon tax".³
- More flexibility on **financial regulation**, potentially including:
 - **Compensation** – the EU's cap on salary-to-bonus ratios is unique and an additional fixed cost compared to other jurisdictions. Diverging here would make the UK a relatively more attractive compared to the EU.
 - **Insurance capital requirements** – the EU's Solvency II regulations do not allow UK regulators sufficient flexibility and are not particularly well tailored to the features of the UK's insurance sector. Reform could unlock more long-term investment, such as in infrastructure.
 - **Dual regime to exempt domestic firms for rules designed for international firms** – the EU (CRD IV, CRR) elected to apply the same Basel capital rules to all banking and investment firms. The US, in contrast, has not. It applies the Basel rules only to its international banks. There is scope for a more flexible and proportionate approach post-Brexit.
- Other regulations, the UK might consider addressing include:
 - **Artists resale right** to safeguard the London art markets' competitiveness relative to other jurisdictions where the right does not apply, such as New York and Switzerland.
 - The **Habitats directive** to reduce delays and costs currently imposed on development projects. Reforms could reflect UK's unique environmental circumstances, rather than a one-size-fits-all EU model.
 - The **Port Services Regulation**, which was not designed with UK ports in mind and is opposed by domestic industry stakeholders, could be repealed.
 - See further sector-specific examples below.

3. HM Treasury (1 January 2021), *Tampon Tax abolished from today*; <https://www.gov.uk/government/news/tampon-tax-abolished-from-today>

Immigration, borders and security

- The **end of free movement** from January 1 has provided the political space for a **deregulation of skilled migration** (among other things abolishing the old cap for non-EU migration) and a closing of low skilled entry.
- The end of free movement and the skill shift in future immigration could have some quite profound demographic and economic consequences, including a possible increase to labour-saving and productivity-enhancing investment in sectors heavily reliant on low skill labour.
- **EU nationals will face immigration checks** of the kind that most non-EU arrivals have always faced.
- It is also likely that it **will now be somewhat easier to remove EU criminals accused of summary offences**, and rough sleepers and illegal workers, though immigration enforcement will need extra resources and clear legal authority.
- A new **“surrender agreement” will replace the European Arrest Warrant** with time restraints for responding to extradition requests. However, there are **greater safeguards** so that extradition can be refused if a person’s fundamental rights are at risk, extradition would be disproportionate, or they are likely to face long periods of pre-trial detention. The UK would now also be able set specific conditions for the extradition of UK nationals.

Health and social care

- The UK now has greater political flexibility and first mover advantage, demonstrated by the **uniquely early introduction of Covid-19 vaccination**, in contrast with the EU’s slow and “coordinated” response. The UK fast-tracked its vaccination approval while bound to EU rules, but without Brexit would have faced far greater political pressure to take part in the joint EU purchasing scheme.
- The UK can similarly **accelerate licencing and reimbursement of the most innovative treatments and incentivise the development of orphan medicines**.
- The UK can **reconsider how EU employment law and ECJ jurisprudence has impacted on the training of junior surgeons and doctors** working in acute specialisms, introducing an inflexibility in working patterns. The UK could **amend the Working Time Regulations** so that there is more flexibility for training – a change that the Royal College of Surgeons has called for.
- The UK has the most productive pharmaceutical manufacturing industry in Europe. The Government has made £20m available for a Medicines and Diagnostics Manufacturing Transformation Fund to encourage further companies to site facilities in the UK. More funds could be made available to encourage further companies to

establish domestic supply chains.

- Post-Brexit, there is a further opportunity to strengthen medicine supply resilience, by HMG enacting legislation which would make it possible to **invite new trading partners to become trusted supply partners** – with agreements to keep general medical supply lines open in the event of pandemics or other emergencies, in return for a commitment to avoid new trade restrictions.
- The UK can **accelerate, pre-empt and improve upon EU directives on health improvement interventions**, reconsidering alcohol and tobacco pricing and the regulatory regime.

Energy, agriculture, environment and animal welfare

- There is some ambiguity in what EU rules allowed regarding the ban of petrol/diesel vehicles and local electricity pricing. It is clear that outside the EU, the could **ban the sale of new petrol/diesel vehicles** and it could adopt an electricity market design based on **local electricity pricing**, following the example of Texas, Singapore, New Zealand and others.
- The UK Government now controls its own carbon pricing regime. This means it can look to **implement a carbon border adjustment mechanism**, ensuring that all carbon-intensive goods consumed in the UK face the same carbon price.
- New **Free Ports offer an important role for energy innovation**. There is potential for the ‘regulatory sandbox’ approach to include testing new energy systems, such as hybrid renewable projects or Small Modular Reactors (SMRs)
- The UK could form a coalition for a new diplomatic campaign in favour of **principles-based regulation on Green Finance**, using the Commonwealth, the G7 and COP26 as key forums.
- The UK’s fish stocks could be managed more sustainably, based on the latest scientific advice. This would help to **protect the long-term economic and environmental sustainability of the British fishing industry**.
- **Replacing the CAP provides a chance to modernise our farming** and reverse its long decline in relative productivity. The government should ensure ELMS includes ‘experimental’ provisions to **support experimental new technologies in farming and food production**, such as precision farming, alternative/lab-grown proteins, vertical farming and aquaponics.
- Allowing more **GE organisms** to be used in agriculture, which could **reduce the cost of food whilst reducing the environmental footprint of farming**.
- **Ending the live export of animals** for slaughter and fattening.

Background

The end of the transition period on 1 January 2021 marked the introduction of new legal and trading arrangements between the UK and the EU, which will now be governed by the terms of the UK-EU Trade and Cooperation Agreement (TCA) and, for certain issues in Northern Ireland, the Northern Ireland Protocol.

The new UK-EU arrangements will continue to place some legal and practical limitations on UK action and there will be some new impediments to UK-EU trade as a result of the UK's exit from the customs union and single market.

The Northern Ireland Protocol

Under the terms of the Northern Ireland Protocol, **Northern Ireland must remain in regulatory alignment with the EU single market for goods**. This means certain new checks, such as customs declarations⁴ and agri-food inspections, are required on trade between Great Britain and Northern Ireland and that Northern Ireland remains bound by EU disciplines on state aid where they apply to the movement of goods and wholesale electricity markets. **Northern Ireland will remain subject to the jurisprudence of the EU's Court of Justice where it is aligned to the EU framework**.

The UK has negotiated with the EU various easements, some of which are time-limited, designed to reduce the burden on Northern Irish traders of compliance with the Protocol. However, there has been some disruption due to the new arrangements, including to fresh produce reaching supermarkets and certain horticultural products, such as seed potatoes, soil and others, which are now banned from crossing from Great Britain to Northern Ireland.⁵ This disruption could get worse as various grace periods on checks expire in the coming months.

Political tensions have been exacerbated by the EU's decision to impose export controls on vaccines, due to a lack of supply within the EU. This caused controversy because the original regulation also contained a provision to invoke Article 16 of the Northern Ireland Protocol – a decision later described as an error and revoked within hours.⁶

The Government wrote to the European Commission on 2 February 2021 with proposals to improve the functioning of the Protocol, to be discussed in the UK-EU Joint Committee, the UK-EU body responsible for overseeing the Withdrawal Agreement and the Northern Ireland Protocol.⁷ The Government has not ruled out invoking Article 16 of the Protocol itself if problems cannot be addressed via negotiation with the EU. Given

4. HM Revenue & Customs (7 December 2020), *Guidance: Trading and Moving Goods In and Out of Northern Ireland*; <https://www.gov.uk/guidance/trading-and-moving-goods-in-and-out-of-northern-ireland-from-1-january-2021>

5. BBC (1 February 2021), *Brexit: How much disruption has there been so far?*; <https://www.bbc.co.uk/news/55831263>

6. Article 16 allows either the UK or the EU to unilaterally override or suspend the Protocol if its application leads to "serious economic, societal or environmental difficulties".

7. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/957996/2020_02_02_-_Letter_from_CDL_to_VP_Sefcovic.pdf

that Article 16 can be invoked as a result of a “diversion of trade”, it remains unclear how much disruption to Great Britain-Northern Ireland trade would be tolerated.

It should be noted that Northern Ireland is able to diverge from the EU in all the areas not subject to the Protocol. For example, the Protocol only covers goods not services. Meanwhile, if the functioning of the Protocol proves too problematic or unpopular, the ability to terminate the Protocol remains a democratic option after four years, due to the review and consent mechanism available to the Northern Ireland Assembly.

The level-playing field

The “level-playing field” provisions of the TCA are designed to broadly uphold the existing baseline and manage future divergence in certain fields (social and environmental protections, competition policy and subsidy policy). The UK and the EU have **agreed not to lower their existing standards** on employment and the environment or use subsidies to unfairly distort trade and investment. As such, any dispute would only concern the effects of any changes to legislation, rather than whether UK rules are exactly the same as the EU’s. This means that **the UK should have the capacity to amend existing rules as long as the effect is not trade distorting**.

Meanwhile, both sides also have **the right to take countermeasures, such as imposing tariffs, if they are being damaged by future divergence** in subsidy policy, labour and social policy, or climate and environment policy. However, **this does not prohibit future divergence, it merely sets out potential consequences if divergence results in distortion to trade and investment** that is damaging to the other party. Crucially, any countermeasures are subject to independent arbitration, which means **there would need to be solid justification for any EU tariffs in response to UK divergence**.

A comprehensive deal but new costs on UK-EU trade

The main economic benefit of the TCA is that it ensures there are no tariffs or quotas on goods traded between the UK and the EU, where they meet the relevant rules of origin. This is significant because it is **the first time that the EU has agreed a completely zero-tariff, zero-quota deal** with any other trading partner (for example, the EU retains a small number of tariffs on Canadian agricultural exports). The deal therefore provides important stability for the sectors most vulnerable to a no deal Brexit, such as agriculture, automotive, aerospace and chemicals.

The UK secured **other benefits for businesses** compared to a no deal scenario, such as:

- Provisions to reduce the non-tariff barriers for medical products, automotive, chemical products, organic products and wine.
- Access to bid for government procurement contracts, going beyond the obligations set out in the WTO Government Procurement Agreement.
- Hauliers can continue to operate between the UK and EU, and to transit through UK or EU territory.

However, **there are a number of areas where the UK's exit from the EU's customs union and single market will result in new frictions and costs on UK-EU trade:**

- The rules of origin requirements mean some products will struggle to qualify for tariff-free access.
- There is no agreement on the mutual recognition of conformity assessments by UK bodies, which means UK manufacturers will need to have their products assessed for compliance with an EU-body, and vice versa.
- The EU refused to a mutual recognition agreement on food standards, something it has agreed with New Zealand, which would reduce the frequency of checks on food imports.
- While services provisions have been included, they do not go much beyond existing EU practice, which means there will be new barriers. These include the end of the mutual recognition of professional qualifications, although there is a process to recognise them in the future.
- Financial services are largely outside the scope of the deal and a pending unilateral decision from the EU will determine whether to grant the UK “equivalence”, which would allow UK access to certain markets. If equivalence is granted, UK divergence in these areas would be limited by its desire to maintain the status, since the EU can also unilaterally revoke equivalence.
- A temporary arrangement has been put in place to allow personal data to continue being transferred from the EU to the UK. Meanwhile, the European Commission has proposed to issue the UK with “data adequacy” decisions – a unilateral process – which would provide a smooth and long-term basis for personal data transfers for commercial and law enforcement purposes. The draft decisions of the Commission, which need to be formally approved by representatives of EU member state governments, would be valid for a first period of four years when they could be renewed after a review.⁸ Maintaining data adequacy could constrain the UK's ability to diverge significantly from the EU framework, but adequacy does not require the UK to adopt exactly the same rules as the EU.

8. European Commission, *Data protection: European Commission launches process on personal data flows to UK*, 19 February 2021; https://ec.europa.eu/commission/presscorner/detail/en/ip_21_661

New freedoms and opportunities

1. Governance

Subject to the limitations set out above, the UK now has a great deal of new policy flexibility. The flow of new rules and regulations from the EU has come to an end. The UK can regulate independently of the EU in the future, allowing the UK to experiment in dynamic and fast-moving sectors where it has a comparative advantage, such as the life sciences or fintech.

Brexit should allow greater transparency and accountability around UK policymaking. EU policymaking operates under a broad and often cumbersome model of consensus – including complex intuitional compromises between the Council and the European Parliament – the UK system can be more responsive in adapting to global or technological change or to correct policy failures.

Meanwhile, retained EU law is no longer supreme in the UK. The UK should systematically assess the legacy of rules and regulation that it has inherited from the EU. The UK could set up working groups to consider opportunities for improving or modifying the law in a range of fields. Several broad principles should inform this assessment, including:

- the extent to which the original EU directive and evolution of EU case law is congruent and convenient for UK legal, business and employment institutions, traditions and practices;
- to what extent does it cohere with common law principles as opposed to a European Roman civil law tradition in terms of matters such as burdens of proof and proportionality;
- the extent that evolving ECJ legal jurisprudence such as the concept of indirect discrimination interacts with wider UK legislation in unexpected, awkward or unduly costly ways;
- examining long standing regulation to ensure that it is needed and is appropriately and effectively framed for contemporary circumstances;
- and to examine regulation to ensure that it has not evolved into a form of rules that raise costs and effectively protect incumbent producers from domestic and foreign competition and the contest and challenge of new market entrants.

This could be part of a clearing up exercise whereby the government commits to continuous rule of law improvement, making sure that retained EU law works effectively after our exit from the EU. One practical opportunity is to help restore the rule of law by overhauling otherwise uncertain or open-ended (retained) EU law, further domesticating it by way of primary and secondary legislation and removing the opportunities for UK courts to exercise an over-sized role in relation to policymaking.

2. Trade

The UK can use an independent trade policy, alongside traditional diplomacy and development policies, to forge closer relationships our allies beyond the EU and among developing nations, boosting relations with the high-growth regions of the globe, and compensating for the relative decline in Europe's economic weight.

A new tariff regime to benefit consumers and reflect UK economy

Outside the EU's customs union, the UK can conduct a fully independent trade policy, enabling the UK to set its own tariffs and conclude its own trade deals. The UK has already liberalised its tariffs relative to those of the EU, but there would be scope to go further after bilateral negotiations with the US, Australia, New Zealand and the CPTPP are concluded. This could include removing tariffs on products the UK consumes but does not produce, such as certain foods and textiles.

Trade agreements tailored to UK strengths

Services account for around 45% of total UK exports, making it the most specialised exporter of services in the world – the corresponding EU average share excluding the UK is only 26% (in the US it is 33%).⁹ The recent UK trade deal with Japan improved on the existing EU agreement by incorporating the most comprehensive and cutting-edge digital and data provisions, supporting a wide range of sectors including finance, tech, telecoms, professional services, and creative industries.¹⁰ The UK can now prioritise liberalisation of trade in services to a greater extent than the EU did on our behalf.

3. Economics and regulation

3.1 Subsidies/state aid

In November 2020 Alok Sharma, then Business Secretary, announced that after the end of the Brexit transition period the UK would follow the subsidy rules set out by the World Trade Organisation. On 3 February 2021, Business Secretary Kwasi Kwarteng announced a consultation on designing a new subsidy control regime for the UK.¹¹ The consultation set out that the Government's aim is a regime that:

9. UK Trade Policy Observatory (1 April 2019), *Hiding in Plain Sight – Why Services Exports Matter for the UK*; <https://blogs.sussex.ac.uk/uktpo/2019/04/01/hiding-in-plain-sight-why-services-exports-matter-for-the-uk/>

10. Department for International Trade (2019), *Digital and Data Provisions in the UK-Japan CEPA*; https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/933990/uk-japan-cepa-digital-and-data-explainer.pdf

11. Department for Business, Energy & Industrial Strategy (3 February 2021), *Subsidy control: designing a new approach for the UK*; <https://www.gov.uk/government/consultations/subsidy-control-designing-a-new-approach-for-the-uk>

“facilitates strategic interventions to support government priorities, including supporting the economy’s recovery from COVID-19; takes account of the economic needs of the UK’s individual nations and strengthens the economic bonds of our Union; protects the UK’s competitive and dynamic market economy; ensures that subsidies in the UK are given in line with our international commitments including those in the UK-EU Trade and Cooperation Agreement (TCA).”

The UK-EU TCA does not require the UK to continue to abide by EU state aid rules – an internationally unique framework of restrictions on public subsidies going much further than the WTO Agreement on Subsidies and Countervailing Measures (WTO ASCM) – something the EU initially insisted on. Instead, the UK is merely required to establish its own subsidy control regime, which must nevertheless abide by the principles outlined in the TCA.¹²

The principles are very broad, and it would be possible to establish a much more permissive, much less bureaucratic subsidy control regime which nevertheless fulfils the UK’s obligations under the Agreement.¹³ Such a regime could make it easier for the UK Government to pursue several of its key policy objectives, particularly boosting R&D spending in economically underperforming regions, incentivising development of green technologies, subsidising transport infrastructure, assisting SMEs or reforming public procurement. Successfully designing such a regime is therefore a significant opportunity for the UK.

3.1.1. Key issues and opportunities:

- **No requirement to notify regime authorities prior to subsidy deployment** – one of the most important points to make is that the TCA does not impose an obligation for the new regime to require a prior approval before a subsidy can be granted. In other words, the new regime could operate on the basis of assumed compliance, and only initialise enforcement mechanisms after a complaint from a third party. The UK could of course insert such a requirement into the new regime unilaterally, but there is no obligation on it to do so.

A regime which does not impose a lengthy approval process before a subsidy can be granted has the potential to make any economic policy based on subsidies much easier to operate.

- **No reference to established EU State Aid legal concepts will make judicial enforcement difficult** – it is notable that the TCA contains little to no reference to established legal concepts and definitions under the body of law governing the EU State Aid regime. For example, the phrase ‘State Aid’ itself does not appear anywhere in the Agreement, with ‘subsidy control’ used instead. Terms such as ‘material effect on trade and investment’, ‘ailing economic actor’ or ‘appropriate role for the independent

12. Dr Nicolaidis, P. (5 January 2021), *One Agreement, Two Parallel Systems: Subsidies in the Trade and Cooperation Agreement Between the EU and the UK*; <https://www.lexxion.eu/en/stateaidpost/one-agreement-two-parallel-systems-subsidies-in-the-trade-and-cooperation-agreement-between-the-eu-and-the-uk/>

13. Grinyer, P. (29 December 2020), *UK-EU Trade and Cooperation Agreement - The Impact on State Aid to Business*; <https://www.weightmans.com/insights/brexit/uk-eu-trade-and-cooperation-agreement-the-impact-on-state-aid-to-businesses/>

authority’ are similarly new, and existing EU law cannot be used to guide their interpretation.

The exact significance of a clean break with not just the ECJ but also potentially with the entirety of its state aid jurisprudence is uncertain at this stage. However, it could mean that, firstly, EU parties will be hesitant to launch a costly challenge given the uncertainty of outcome, and secondly, that in enforcing the agreement, UK courts will be guided primarily by UK statute implementing the new regime, meaning the UK Government also has significant scope to shape the nature of enforcement. **The UK is therefore in a good position to aggressively test the waters and not be afraid to push.**

- **Very few sector-specific provisions in the Agreement** – both the Agreement and in particular the accompanying Joint Declaration on Subsidy Control Policies outline some sector-specific guidance. For example, Article 3.4.14 (Energy and environment) makes it clear that subsidies in this space aim to secure a level of environmental protection that would not be achieved in the absence of the subsidy. Article 3.4.15 (Subsidies to air carriers for the operation of routes) makes it clear such subsidies are prohibited except where there is a public service obligation, or where a new regional airport is being established as part of regional development, or even where there are ‘benefits for society at large.’

There are also specific rules for banks, credit institutions and insurers, but they are similarly vague. Certainly, compared to the EU State Aid regime, the Agreement is very vague, open and its explicitly or implicit prohibitions relate to things the UK is unlikely to want to do.

Absence of sector-specific guidance further reinforces just how much freedom the UK Government has with designing a new regime.

3.1.2 What could be possible under a new regime?

There are several areas where the UK government might want to intervene more actively than its predecessors:

1. Intervention to support a loss-making enterprise whose demise would have a serious effect on employment or exports; the Port Talbot steelworks is an example. However, it must be noted that the subsidy would have to fulfil several requirements – most notably, it would have to be 1) finite and limited, 2) there would have to be a credible plan to make the enterprise profitable again linked to the subsidy, 3) it would have to be shown that the subsidy will actively further public interest objectives such as avoiding social hardship or remedying severe market failure.
2. Support for a science-based or high-technology firm (such as ARM), to maintain its independence and to encourage faster

growth. The Joint Declaration makes explicit reference to allowing subsidies for R&D activities with a view to driving growth and competitiveness, which includes subsidies for ancillary activities and assets such as ‘new production processes, relevant infrastructure, innovation clusters and digital hubs.’ Since such subsidies are well-established across the EU, the opportunity here might relate to swifter deployment associated with a new, leaner, less onerous regime which does not require prior approval and regulates *ex post*.

3. Investment in projects which are deemed to be of national importance (for example, giga-factories to supply batteries for electric cars) and which the private sector is unwilling or unable to finance.
4. Some changes to the structure of the taxation of venture capital and start-ups and the taxation of savings and investment that may involve an element of tax expenditure may be easier to make, without considering that they would trigger a state aid issue.

There may be greater scope in procurement, the establishment of social, and municipal enterprise as part of wider social, regional and regeneration policy, especially where the activity could not be plausibly considered as part of the UK economy’s internationally marketed output. There may also be greater opportunities for subsidy in general and as part of say nationalisation and social policy where there is no international trade element. This in practice may change the political, social and economic calculus of the future ownership and management of sectors such as rail, bus and coach services and mail.

3.2. VAT

The UK now has scope to widen or narrow the base of VAT. The UK has already removed VAT on women’s sanitary products, from 1 January 2021.¹⁴ Other changes could include exemptions for certain domestic supplies of energy. There is an environmental case for zero VAT on electricity bills, but maintaining the rate on gas and other fuels, in order to help the transition to low-carbon forms of heating, as well as to electric vehicles.

In principle, it could consider replacing VAT with a return to purchase tax or with a comprehensive goods and services tax on the Canadian or Australian model. In general, expenditure taxation is preferable to income, corporation and capital taxation and the VAT regime offers a broadly economically neutral tax that is efficient, and it would be best to leave it alone.

3.3. Financial services regulation

The ongoing talks between the UK and the EU with regards to the City’s future access to EU markets and clients (and vice versa) means that it is not yet clear what freedoms and opportunities arise out of the new

14. HM Treasury (1 January 2021), *Tampon Tax abolished from today*; <https://www.gov.uk/government/news/tampon-tax-abolished-from-today>

relationship. Further, if equivalence is granted – there is technically no reason other than politics why it should not, considering the UK has not had the opportunity to diverge yet – significant deviation from the present regime risks losing it.

However, considering this process is likely to be highly political, there are no hard and fast rules about it, and the UK now needs to be aggressively testing where the limits of its new relationship with the EU are. More importantly, the UK needs to have an eye to the fact that the EU is increasingly secondary in importance to the US and Asia, and it should consider looking to those jurisdictions when thinking about which regulatory systems to align with.

To that end, there are several areas which the Government may consider adjusting in the wake of Brexit:

- **Compensation** – the EU’s cap on salary-to-bonus ratios is unique and an additional fixed cost compared to other jurisdictions. Diverging here would make the UK a relatively more attractive compared to the EU.
- **FinTech** – a key strength of the UK compared to the EU is the disproportionately high number of high-growth FinTech firms. There are a number of reasons for this, but when considering the future design of regulatory systems, it will be important to ensure that FinTech voices are not drowned out by the larger players.
- **Insurance capital requirements** – the EU’s Solvency II regulations do not allow UK regulators sufficient flexibility and are not particularly well tailored to the features of the UK’s insurance sector. The Treasury Select Committee has noted that, “UK firms believe that Solvency II makes it harder for them to invest in longer-term illiquid assets, such as infrastructure and equity release mortgages. This is a concern as the disincentive could have negative economic consequences and act as a restraint on UK plc.”¹⁵ The UK should implement a principles-based approach to long-term risk and consider the competitive pressures UK firms face from non-EU insurers.
- **Dual regime to exempt domestic firms for rules designed for international firms** – The Institute of Chartered Accountants in England and Wales has noted that the EU elected to apply the same international Basel capital rules to all banking and investment firms. The US, in contrast, has not. It applies the Basel rules only to its international banks. BoE Governor Andrew Bailey, then of the FCA, noted the argument for flexibility had been put forward by the UK. “The argument is still there, and, in principle, it would be nice to think that post Brexit we could have the scope for greater flexibility and proportionality,” he said.¹⁶
- **Taxation** – Was not directly affected by EU membership, but, as the example of Ireland shows, corporate tax rate counts for a lot when firms weigh options for headquarters. Especially

15. House of Commons Treasury Select Committee (25 October 2017), *The Solvency II Directive and its impact on the UK Insurance Industry*; <https://publications.parliament.uk/pa/cm201719/cmselect/cmtreasy/324/32413.htm>

16. House of Lords EU Committee (27 January 2018), *Brexit: the future of financial regulation and supervision*; <https://publications.parliament.uk/pa/ld201719/ldselect/lddeu-com/66/6610.htm>

considering that the currently mooted reform of Capital Gains Tax could impact that carried interest tax-break which is important to the private equity industry, the UK could think about what tax changes could be implemented post Brexit to make the UK should more attractive.

3.4 Other examples of EU-derived regulation the UK might reform:

- **Artist resale right** – The Artist’s Resale Right (ARR) is derived from an EU directive and was implemented into UK law in 2006, which implementation was and continues to be controversial. Many art market professionals welcome the opportunity Brexit gives the government to revisit ARR through reform or abolition to improve the UK’s competitiveness as an art market. ARR is not levied in London’s main competing art centres in New York, Hong Kong and Switzerland, giving rise to concerns that the application of ARR in the UK leads to a competitive disadvantage and the displacement of sales to these competing centres.¹⁷
- **Environmental barriers to development** – The EU’s Habitats Directive, which protects over 1,000 animal species and over 200 habitat types across Europe, has imposed significant costs on building projects and the development of important infrastructure in the UK. The government’s 2017 housing White Paper notes that the obligation, under the directive, to safeguard great crested newts – a European Protected Species which is endangered in parts of Europe, but fairly common in England – has slowed down the construction of new houses in particular parts of the UK.¹⁸

The Government could review the application of the Habitats regulations to take a more bespoke approach appropriate to the UK’s circumstances, rather than a one-size-fits-all EU approach. This could balance the need to protect genuinely endangered species and vulnerable habitats in the UK, with reducing burdensome barriers to planning and development, including shortening the time taken to review the potential impact of development.

- **The Port Services Regulation** – The EU’s Port Services Regulation was devised in the context of large continental sea ports, such as Rotterdam, Antwerp and Hamburg, many of which are either state-owned or heavily subsidised. It aims to promote competition in the provision of services such as mooring and piloting, by making it easier for these services to be provided by outside companies. In contrast, UK ports are privately owned and already compete with each other. For this reason, the UK ports industry has consistently lobbied against the regulations and there is no clear need for additional regulations to encourage competition and outsourcing in the UK. The UK could repeal the regulations, as recommended in the Policy Exchange report, “A Global Maritime Power: Building

17. Barclay, P. & Mortimer, C. (18 December 2017), *Brexit: opportunity or threat for the Art industry?*; <https://www.macfarlanes.com/what-we-think/in-depth/2017/brexit-opportunity-or-threat-for-the-art-industry/>

18. Department for Communities and Local Government (February 2017), *Fixing our broken housing market*; https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/590464/Fixing_our_broken_housing_market_-_print_ready_version.pdf

a Better Future for Post-Brexit Britain”.¹⁹

- See further sector-specific examples in the sections below.

4. Immigration, borders, crime and security

4.1. A flexible immigration and border policy

The big change in the field of immigration and borders is the end of formal free movement from January 1, which has allowed for a deregulation of skilled migration (among other things abolishing the old cap for non-EU migration) and a closing of low skilled entry. The first would have been possible within the EU, the second not. However, the lack of control over free movement increased political pressure to tighten restrictions on non-EU migration.

The end of free movement and the skill shift in future immigration could have some quite profound demographic and economic consequences, including greater labour-saving investment in sectors heavily reliant on low skill labour, but also an impact on the numbers of EU citizens living in the UK.

In addition to, or partly as a consequence of, the end of free movement, there will be some changes and new opportunities both for greater control and for just doing things differently (such as leaving the Erasmus student exchange and setting up a new one, the Turing scheme).

With more complete control of the UK border, following the end of free movement, it might also be possible to liberalise some draconian and unpopular aspects of the current immigration system – such as the annual income requirement of £18,600 for a UK citizen to bring in a spouse – which is expected to be reviewed by the Migration Advisory Committee, which may now have an even bigger role in determining the UK’s immigration rules.

The most significant routine change at the border, which will not come into force until later this year, is that EU citizens will no longer be able to enter on national ID cards (which border officials complain are too easy to forge) and will face a proper immigration check of the kind that most non-EU arrivals have always faced²⁰, making sure they do not intend to work without a visa and have a return ticket, etc.

EU citizens will most likely still be able to use E-gates but only if they have a prior ETA (electronic travel authority) which requires information about income, job, purpose and length of stay, and so on. But EU states in the Schengen area are, in any case, introducing their own version of the US ESTA (a visa-lite) next year that UK citizens will be required to show, and the UK is likely to reciprocate with something similar.

This is a small bureaucratic change to current arrangements but is necessary to ensure EU citizens properly observe the end of free movement. The end of ID card use will also prevent one source of illegal immigration from outside the EU by people using forged EU ID cards. All of these changes will need resources and are still being worked through by border

19. Policy Exchange (2020), *A Global Maritime Power: Building a Better Future for Post-Brexit Britain*; <https://policyexchange.org.uk/wp-content/uploads/A-Global-Maritime-Power.pdf>

20. HM Government (31 December 2020), *Guidance: Visiting the UK as an EU, EEA or Swiss citizen*; <https://www.gov.uk/guidance/visiting-the-uk-as-an-eu-eea-or-swiss-citizen>

officials.

It is also likely that it will now be somewhat easier to remove EU criminals accused of summary offences, and rough sleepers and illegal workers, though Immigration Enforcement will need extra resources and clear legal authority. It will also now be possible to stop the entry of those who have secured marriages of convenience to EU nationals.

The EU's Dublin agreement under which asylum seekers could in theory be returned to the first safe EU country they arrived in may need to be negotiated bilaterally with all 27 Member States. Other countries such as the US have safe third country agreements with neighbours, such as Canada, to prevent asylum shopping so it should not in principle be a problem.

Much of the law surrounding refugees/asylum seekers and the problem of deporting failed asylum seekers or criminals will not change significantly because it is either based on the 1951 Geneva Convention on refugees or on our membership of the ECHR and indeed domestic human rights legislation. But the 1951 Convention does allow for the deportation of criminals and outside the EU there is the possibility of recasting some of the relevant rights legislation.

4.2. Cooperation on crime and security

The new UK-EU arrangements on crime, security and judicial cooperation deliver many of the previous operational capabilities and means of cooperation. Close collaboration between police and intelligence agencies with EU states will be enabled by full access to two of the most important EU managed databases: the Passenger Name Record Initiative (PNR), (which shares passenger airplane data) and PRUM, (an increasingly important DNA and fingerprint database). The UK will also have continued engagement with Europol and Eurojust, the ability to post liaison officers, attend operations meetings and take part in analytical projects and Europe Heads of Unit meetings.

However, access to the Schengen Information System (SIS II) and European Records Information System will cease to be automated and the UK will rely on bilateral exchange of information. The UK may wish to further encourage EU member states to make more use of the various Interpol serious crime and terrorism databases to share alerts.

With regard to extradition, a new "surrender agreement" will replace the European Arrest Warrant (EAW). The surrender agreement closely resembles EU agreements with Norway and Iceland. There are clear provisions set out for mutual legal assistance and time restraints for responding to requests. It also includes additional safeguards in comparison to the EAW, which make clear that a person's surrender can be refused if their fundamental rights are at risk, extradition would be disproportionate, or they are likely to face long periods of pre-trial detention.

The surrender agreement also enables states to refuse to surrender their own nationals, or only do so under certain conditions (some member states, Germany for example, have a constitutional bar on extraditing own

nationals). The agreement says that if a member state cannot extradite its own nationals it should bring alternative domestic proceedings. The UK could therefore either choose not to extradite its own nationals or do so “only under certain specified conditions.”

The dispute settlement mechanism covering crime and judicial cooperation relies on political consultation and there is no role for the ECJ. Either side can terminate the cooperation on crime and judicial cooperation at any time.

Unlike EU states, the UK will continue to have full access to the “Five Eyes” – the closest international intelligence sharing arrangement in the world – a platform that enables the routine sharing of highly classified intelligence relating to security threats and terrorism between the states of the US, UK, Canada, Australia and New Zealand. The UK can continue to further develop these capabilities, but this was not affected by EU membership.

5. Health and social care

5.1. Medicines and medical devices

Covid-19 vaccination programme – The early introduction of the UK’s Covid-19 vaccination programme illustrates the advantages of sometimes acting alone, rather than as a bloc. In contrast, the EU’s “coordinated” response has been slower to roll out. The decision to fast-track vaccines was taken while the UK was still bound by EU rules under the terms of the transition period, so it was not legally contingent on Brexit. Nevertheless, without Brexit, the UK would have undoubtedly faced greater political pressure to take part in the joint EU scheme – in which all 27 member states have taken part. This example illustrates the political, rather than strictly legal, constraints that EU membership can place on policymakers.

Accelerated licencing and reimbursement of the most innovative treatments – NICE and the MHRA have committed to a new Innovative Licencing and Access Pathway, and could move ahead of the EMA which has been slow to accept innovations in trial design.

- The UK could expand the resources and capabilities for the MHRA and NICE to undertake horizon scanning, so it can be prepared for the most innovative medicines and new forms of clinical trial data (such as umbrella or basket trials, or those that use real world data).

Rewarding innovation in orphan medicines – the current regime for allocating designations for rare disease medicines (orphan medicines) in the EU has been criticised for not encouraging innovation. In many instances, pharmaceutical companies retain their orphan designation but delay research into new treatments for diseases with high-levels of unmet need. Research has shown that at least one in seven manufacturers benefit from overcompensation.²¹ Whilst efforts to introduce reform

21. Drew, C. & Jadeja, N. (5 October 2020), *Incentivising Innovation in Life Sciences Requires a Mix of Solutions*; <https://www.pinsentmasons.com/out-law/analysis/incentivising-innovation-life-sciences-solutions>

are underway, there is disagreement among Member States on the right approach.

- The UK has first mover advantage and could stipulate for orphan drug designations to demonstrate that they are bringing something new to the table. This will help demonstrate that the MHRA is serious about prioritising access to new medicines. This could be attractive for companies, as even though they would be required to pay for scientific advice from the MHRA it would be a more flexible and quicker route working with one authority and one market, as opposed to needing approval from 27 Member States.

Boosting manufacturing jobs in the pharmaceutical sector – the UK has the most productive pharmaceutical manufacturing industry in Europe. Direct GVA per employee in the UK is 40% higher than Germany, 50% higher than Spain and twice the level achieved in France.²²

- The Government has made £20m available for a Medicines and Diagnostics Manufacturing Transformation Fund to encourage further companies to site facilities in the UK.²³ But the current level of match funding available would only cover 1-2 new facilities, and therefore there should be scope to expand these match-funding arrangements if the UK is to make the most of this growth sector.
- It would be unrealistic to seek to re-shore the manufacturing of all domestic medicines and therefore other measures to enhance supply chain resilience should be pursued in tandem. Post-Brexit, there is an opportunity for HMG to enact legislation which would make it possible to invite new trading partners to become trusted supply partners – with agreements to keep general medical supply lines open in the event of pandemics or other emergencies, in return for a commitment to avoid new trade restrictions. This approach has been advocated for in the United States but would be a novel approach in Europe.²⁴

5.2. EU-derived employment law

In 2014, an independent taskforce concluded the Working Time Directive had an adverse impact in the NHS on training for some surgeons and doctors working in acute specialisms, introducing an inflexibility in working patterns²⁵. In December 2016, the Royal College of Surgeons said that the judicial interpretation of the rules by the ECJ had caused particular problems, causing inflexibility in rotas. It noted that, “Our members have repeatedly called for the need to provide greater flexibility for training time while ensuring we never go back to a culture of excessive working hours that harm patient care.”²⁶

22. PwC (March 2017), *The Economic Contribution of the UK Life Sciences Industry*; https://www.abpi.org.uk/media/1371/the_economic_contribution_of_the_uk_life_sciences_industry.pdf

23. HM Government (29 November 2020), *Prime Minister announces £20m to grow medicines manufacturing in the UK*; <https://www.gov.uk/government/news/prime-minister-announces-20m-to-grow-medicines-manufacturing-in-the-uk>

24. CSIS (21 December 2020), *Covid-19 Demand Shock and Preparedness Response*; <https://www.csis.org/analysis/covid-19-demand-shock-and-preparedness-response>

25. NHS Confederation (15 May 2014), *Independent Taskforce Examines Impact of European Working Time Directive*; <https://www.nhs-confed.org/resources/2014/05/independent-taskforce-examines-impact-of-european-working-time-directive>

26. Royal College of Surgeons (December 2016), *Making the Best of Brexit for the NHS*; <https://www.rcseng.ac.uk/-/media/files/rcs/news-and-events/media-centre/brexit-policy-position-final-january-2017.pdf>

- Possible adjustments that could be made would be ensuring that the working time rules allow sufficient flexibility for medical training.

5.3. Public Health

The UK can accelerate, pre-empt and improve upon EU directives on health improvement interventions, where historically there has been substantial divergence in Member State viewpoints.

- The UK could explore enhanced food packaging and labelling policy; taking the opportunity to reconsider alcohol and tobacco pricing and regulatory regime; and embracing the freedom to determine air quality measures.

6. Energy, agriculture, environment and animal welfare

6.1. Accelerate decarbonisation

- **Developing plans for a Carbon Border Adjustment Mechanism (CBAM):** The UK Government now controls its own carbon pricing regime. This means it can look to implement a CBAM, ensuring that all carbon-intensive goods consumed in the UK face the same carbon price. This would protect the UK's domestic heavy industry from unfair international competition which uses higher-carbon production methods. Policy Exchange recently recommended that the UK and the EU work together to develop a common methodology for applying carbon border adjustments.²⁷
- **Creating its own electricity market design, rather than following the European Commission's preferred model:** The UK could adopt an electricity market design based on local electricity pricing, following the example of Texas, Singapore, New Zealand and others. Policy Exchange recently argued that local electricity pricing holds the key to a Net Zero energy system.²⁸ It may be possible for an EU member state to implement local electricity pricing. For example, Poland is thinking about it. However, this is untested. There is now no uncertainty about the acceptability at the EU level of moving to local pricing.
- **Banning the sale of new petrol and diesel cars:** Following Brexit, the UK could ban the sale of petrol and diesel vehicles from 2030, as well as introducing a California-style Zero Emission Vehicle (ZEV) mandate. EU member states can make petrol/diesel cars unattractive through taxes on petrol/diesel and subsidies for electric vehicles. However, a regulatory approach could be more cost effective. The Danish government wrote to other member states in October 2019 warning that EU type-approval legislation "might limit the ability of Member States to speed up the phase-out of petrol and diesel cars through the setting of target dates

27. Policy Exchange (July 2018), *The Future of Carbon Pricing*; <https://policyexchange.org.uk/wp-content/uploads/2018/07/The-Future-of-Carbon-Pricing.pdf>

28. Policy Exchange (December 2020), *Powering Net Zero: why local electricity pricing holds the key to a Net Zero energy system* <https://policyexchange.org.uk/publication/powering-net-zero/>

providing long term predictability for the automotive sector.”²⁹
This ambiguity no longer applies to the UK outside the EU.

6.2. Improve competition

- **Accelerating energy innovation through Free Ports** – the new Free Ports offer an important role for energy innovation. There is potential for the ‘regulatory sandbox’ approach to include testing new energy systems, such as hybrid renewable projects or Small Modular Reactors (SMRs).³⁰ This is made possible by the fact that the post-Brexit regulatory design of Free Ports can be more liberalised than the EU’s State Aid rules allow.
- **Introducing principles-based regulations** – the UK is now free to pursue and promote its own principles-based regulatory philosophy, which could be more dynamic than that of the EU. The UK shares this ‘common law’ approach with several countries, particularly the Commonwealth. Common law approaches are better placed to promote best practice corporate governance whilst allowing innovation. Green financial regulation would be a particular beneficiary. The UK could form a coalition for a new diplomatic campaign in favour of principles-based regulation, using CHOGM, the G7 and COP26 as key forums.
- **Reducing Value Added Tax (VAT) to make some products more affordable** – post-Brexit, the UK will have full control over its VAT policy, giving the Government the ability to lower VAT on products like solar panels to make them more affordable, reducing the costs of decarbonisation for the public.³¹

6.3. Manage national resources more sustainably

- **Gaining more control of British fish stocks** – as well as securing a greater share of fishing rights for UK fishers, the UK’s fish stocks can be managed more sustainably, based on the latest scientific advice. This would help to protect the long-term economic and environmental sustainability of the British fishing industry.
- **Liberalising regulations on Genetically Edited (GE) organisms** – Since leaving the EU, the UK is following the examples of countries like Australia, Japan, Argentina and Brazil by consulting on allowing more GE organisms to be used in agriculture, which could reduce the cost of food whilst reducing the environmental footprint of farming.

29. Danish Delegation to the EU Council (1 October 2019), *Transition to a fleet of zero-emission passenger cars – a necessity for a climate neutral EU by 2050 at the latest*; <https://data.consilium.europa.eu/doc/document/ST-12545-2019-REV-1/en/pdf>

30. Policy Exchange (30 November 2020), *Time to Shine: unleashing ‘hybrid’ projects will get more from solar and wind at lower cost*; <https://policyexchange.org.uk/time-to-shine/>

31. House of Commons Library (17 December 2019), *VAT on Solar Panels*; [https://commonslibrary.parliament.uk/research-briefings/cbp-8602/#:~:text=At%20present%20VAT%20is%20charged,\(S1%202019%2F958\).](https://commonslibrary.parliament.uk/research-briefings/cbp-8602/#:~:text=At%20present%20VAT%20is%20charged,(S1%202019%2F958).)

6.4. Improve outcomes for nature

- **Banning the export of live animals** – the Government is consulting on ending the live export of animals for slaughter and fattening.³² This policy could not previously be pursued due to the EU’s trading rules on the movement of animals.
- **Move away from the Common Agricultural Policy (CAP) so that public money pays for public goods** – the new ELM system replacing the CAP provides a chance to modernise our farming and reverse its long decline in relative productivity. The government should ensure ELMS includes ‘experimental’ provisions to support experimental new technologies in farming and food production, such as precision farming, alternative/lab-grown proteins, vertical farming and aquaponics. The aim should be to make our farms the most productive and innovative in the world.

32. HM Government (3 December 2020), *Government consults on Ending Live Animal Exports for Slaughter*; <https://www.gov.uk/government/news/government-consults-on-ending-live-animal-exports-for-slaughter#:~:text=Plans%20to%20ban%20the%20export,world%20leader%20on%20animal%20welfare.&text=tighter%20rules%20for%20transporting%20live%20animals%20by%20sea>



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