

EU Exit and Services: Implications for Northern Ireland

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EU Exit and Services : Implications for Northern Ireland

An ExplainTrade Workshop for Invest NI



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Key Message:

What would a US firm have to do?

Course Overview

- Refresher - What are Trade Agreements, Really?
- Common Services Trade Barriers:
 - Market Access
 - Recognition
 - Establishment
 - Scrutiny
 - Visas
 - Data Flows and Storage
- Services in Trade Agreements
- Q&A

What are trade agreements?

1. Restrictions on how governments can interfere with imports

That's it.

The Core Questions

How will this agreement:

1. Practically change the playing field for UK businesses?
(And for foreign businesses selling into the UK)
2. Impact UK consumers?
3. Restrict the power of UK legislators?
4. Restrict the authority of UK regulators and implementing agencies?

Trade Policy Golden Rules

1. What's in a trade agreement is the **bare minimum**.
2. Just because **it is written**, does not mean **it is so**.

Services Trade Barriers: Principles

1. What is the rule?
2. Can you theoretically meet the rule?
3. What's required to prove you meet it?
 - i. Are there additional hoops to jump through?

Common Services Barriers

Market Access

Is this service still legal and acceptable if delivered by:



**Delivered Remotely
(Mode 1)**



**Customer Travels
(Mode 2)**



**Commercial Presence
(Mode 3)**



**Temporary Presence
(Mode 4)**

Examples:

1. How much Cabotage can be performed by foreign firms (Mode 1)?
2. If you get a pilot's licence abroad, will it be valid (Mode 2)?
3. Can a foreign owned firm operate a major utility (Mode 3)?
4. Can your builder fly in a foreign crew (Mode 4)?

Recognition

Are your qualifications still accepted?



**Professional
Qualifications**



Licenses



Certificates

Examples:

1. Not just professional qualifications
 - i. Machinery licences and component certifications
 - ii. Accreditations
 - iii. Safety / Policy Checks (e.g. Working with Children)

Questions to think about:

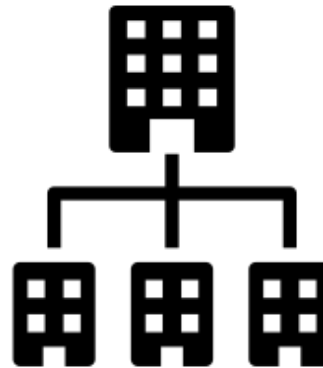
1. Will it be **accepted** (obviously)?
2. What happens when existing certifications **expire**?
3. If I need to **recertify**, how should I do it?
4. What are the **insurance** and **liability** implications?

Establishment:

Can I own a business that offers services?



Branch Office



Subsidiary



Partnership

Questions to think about:

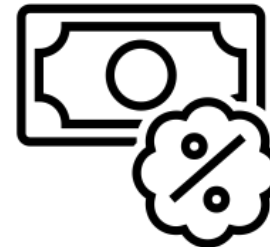
1. Is my corporate **structure adequate** to continue offering services to EU citizens?
2. Can I **adjust** my corporate structure?
 - i. **What** would I need to do?
 - ii. Could these requirements **change** in the future?
3. Will local competitors enjoy an **advantage**?

Scrutiny:

Will my business have to provide more information?



Audits



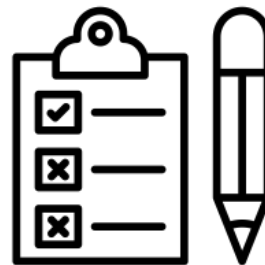
Tax and VAT

Visas:

Can my staff travel overseas for work?



Access



Conditions



Consistency

Questions to think about:

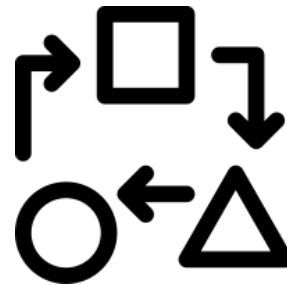
1. **Eligibility** of your EU staff in the UK to keep working?
2. Can you continue **sending staff** to the EU to perform work?
3. **How many** EU Member States your staff travel to?

Data:

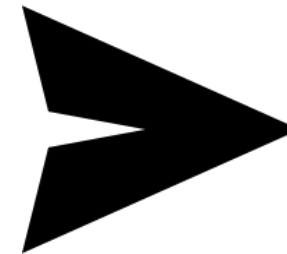
How will GDPR impact my business?



Store



Process



Transmit

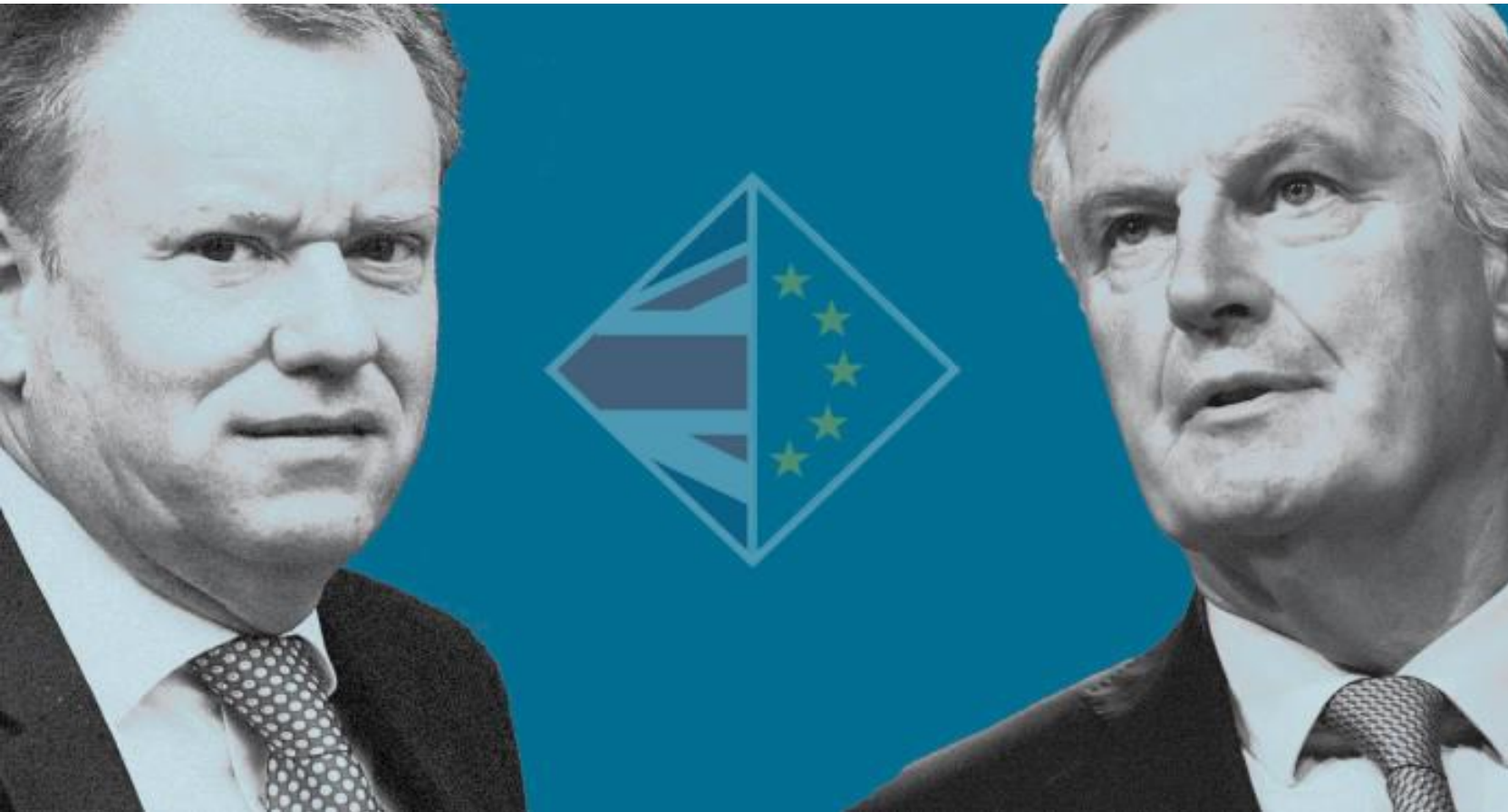
If UK gets an adequacy ruling:

1. You can continue handling EU citizen data as you do now;
 - i. Provided you are currently GDPR compliant of course

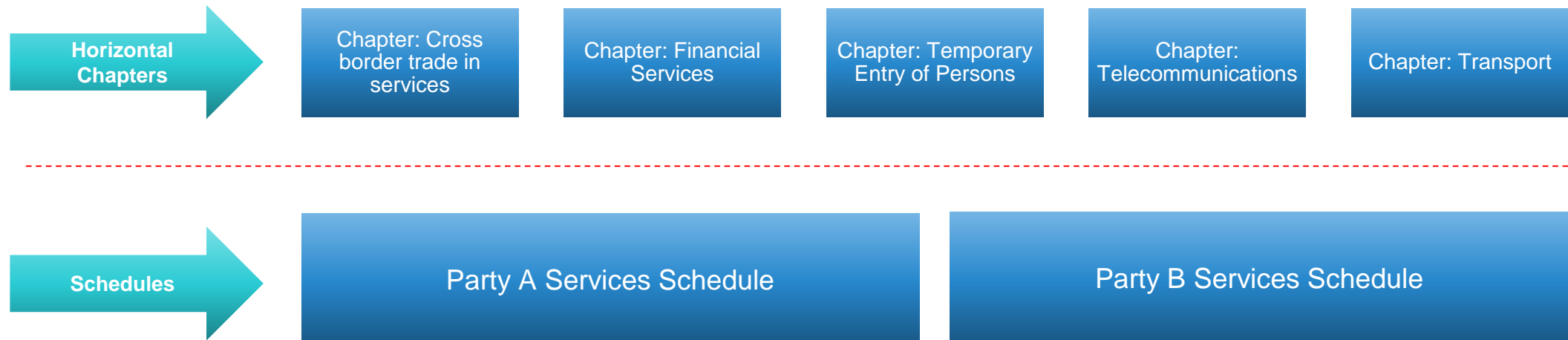
If UK doesn't:

1. If you handle the data of, or store information on, EU citizens you may need to:
 - i. Establish a **representative** in one or more EU countries as a GDPR focal point;
 - ii. Re-write your contracts to include **Standard Contracting Clauses** effectively replicating the GDPR regime.

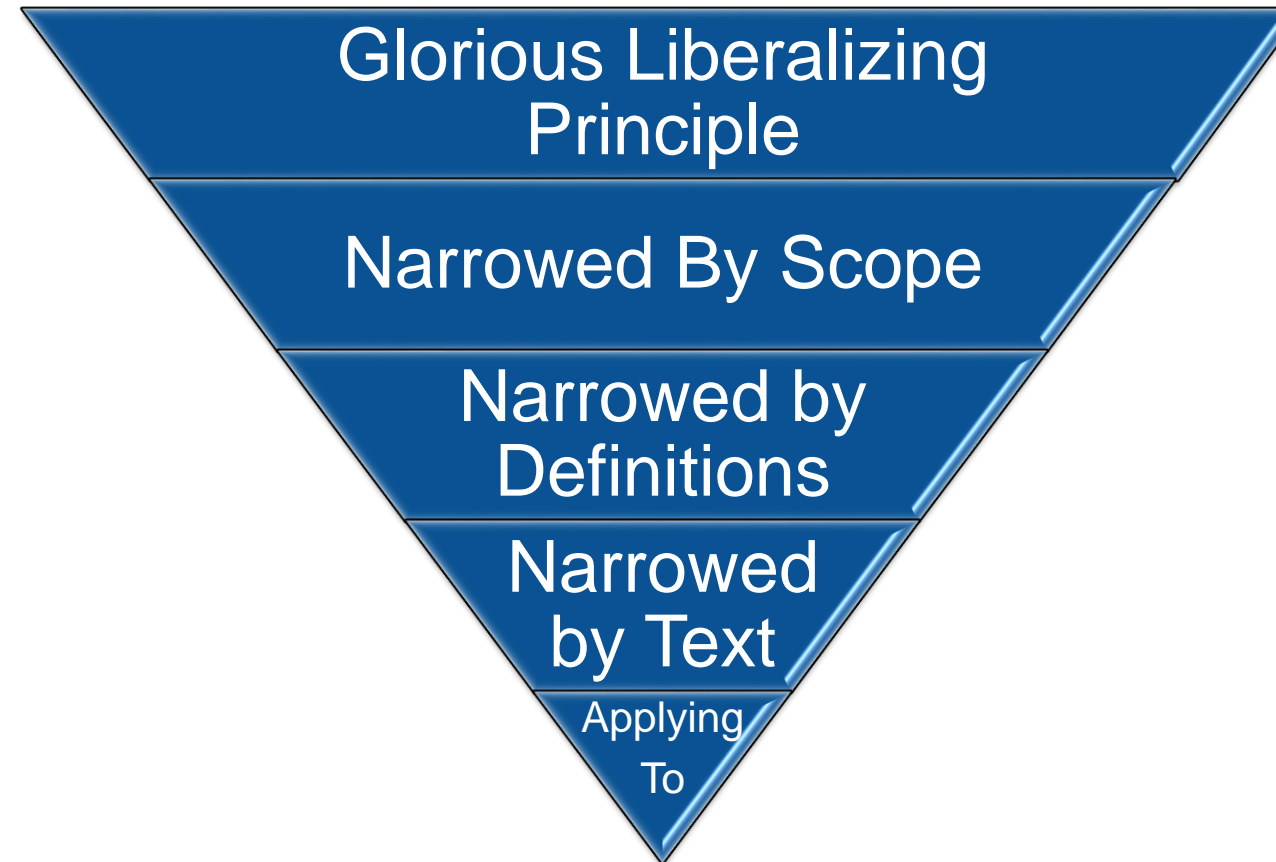
Services in Trade Agreements



Trade Agreements - Services

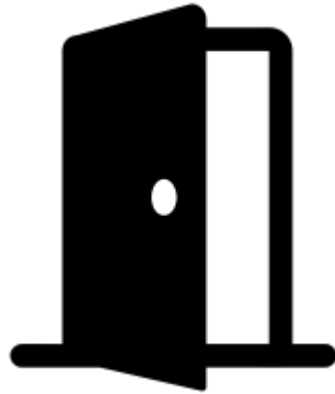


Services: General Approach



Basically Existing Regime Plus Some Stuff on Investment

Service Regulation Types



Market Access

Are you allowed to
sell this service to my
citizens?



National Treatment

Do I treat your firm
the same way I do
your local
competitors?



Recognition

Do I accept your
qualification as
sufficient to practice
in my country?

Services Modes: Reminder



**Delivered Remotely
(Mode 1)**



**Customer Travels
(Mode 2)**



**Commercial Presence
(Mode 3)**



**Temporary Presence
(Mode 4)**

Worked Example: Legal Services

	Mode 1 (Remote)	Mode 2 (Customer Travels)	Mode 3 (Commercial Presence)	Mode 4 (Temporary Entry)
Market Access:				
National Treatment:				
Recognition:				

Typical FTA

	Mode 1 (Remote)	Mode 2 (Customer Travels)	Mode 3 (Commercial Presence)	Mode 4 (Temporary Entry)
Market Access:	Lock In Existing Openness	Already Liberalized or Unregulated	Some Liberalization	Nothing
National Treatment:	Minor Improvements	Already Liberalized or Unregulated	Some Liberalization	Nothing
Recognition:	Creates a Process / Reaffirms Existing Theoretical Commitment to Recognition	Already Liberalized or Unregulated	Already Liberalized or Unregulated	Creates a Process / Reaffirms Existing Theoretical Commitment to Recognition

Key things to watch in UK-EU FTA

1. Definition of 'short-term visitor'
 - i. UK wants far more liberal definition than EU
2. Local Presence Requirements
3. Market access in key sectors:
 - i. Legal
 - ii. Professional Services
 - iii. Transportation & Logistics
4. Side Agreements
 - i. GDPR
 - ii. Regulatory Equivalence and Cooperation
 - iii. Recognition or Frameworks Therefore

Q&A



Thank You
