

Policy Brief

Pacific Exports into the UK: Research Study on the New Post-Brexit Procedural Rules

After more than four decades of membership to the European Union (EU) and its customs union, the United Kingdom (UK) exited the EU on 31 December 2020 and formalised Brexit. On 1 January 2021, the UK reverted to being an independent trade and customs territory, with its own trade policy and operational customs measures and procedures, among others. The new UK trade and regulatory landscape could potentially create new opportunities or pose some challenges for its trade partners outside the EU. It is therefore necessary to assess how the UK's new trade regulatory measures, specifically customs documentary and compliance rules and procedures, and tariffs, affect Pacific exports to the UK.

The methodology devised for this study drew on secondary data and information gathered from online repository resources, including the UK government, the World Trade Organization (WTO), International Trade Centre (ITC), the World Bank, the International Monetary Fund (IMF), the Commonwealth Secretariat and others at the time of writing. As part of the methodology, consultations were also held with key stakeholders and regional contact points, including the apex regional Pacific Islands Private Sector Organization (PIPSO).

Understanding Pacific-UK trade flows

The UK and the Pacific States agree that their respective customs legislation, provisions and procedures shall draw upon the international instruments and standards applicable in the field of customs and trade, including the substantive elements of the revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures, the WCO Framework of Standards to Secure and Facilitate Global Trade, the WCO data model and the International

Convention on the Harmonized Commodity Description and Coding System. (Paragraph 1 of Article 28 of the UK-Pacific EPA states that).

The Organisation of African, Caribbean and Pacific (OACP) states considers the UK to be a strategic export market for specific sectors including sugar and bananas (Mohammad and Vickers 2016). For example, 74 per cent of Tuvalu's exports to the EU were destined for the UK, while the UK buys 48 per cent of Vanuatu's and 46 per cent of Samoa's exports. In the absence of comprehensive free trade area (FTA) agreements with the UK, the costs associated with changes to market access terms

conditions could be particularly challenging for exporters from least developed countries (LDCs) and developing countries, particularly those in the Pacific region.

The customs procedures under the UK–Pacific EPA commit to apply customs procedures that ensure the lowest possible costs of complying with customs regulations and procedures by the parties' exporters and importers doing business with each other. The UK has largely replicated the EU rules of origin that it applied before Brexit. However, UK EPAs contain provisions that allow for parties to cumulate materials in the EU27, although the EU is not party to the UK EPAs. The UK argued that this was to avoid disruptions of pre-existing business value chains that had been cumulating in the three regions before Brexit. The UK also calls this 'continuity' of trade relationships. However, those arguments are not upheld in the UK–EU Trade Cooperation Agreement, which does not provide for cumulating in any African, Caribbean and Pacific (ACP) state by UK and EU businesses. This leaves Pacific (and other ACP) states businesses shut out and potentially disrupts ACP businesses that supply materials to both the UK and EU. Obviously, the strong value chains between the UK and EU businesses are critical to the sustainability of the UK's trade deals with non-EU countries, hence, inclusion of the EU in UK EPAs. Similarly, Pacific EPA states' strong trade partners (Australia and New Zealand) should potentially be in the cumulation square in the UK–Pacific EPAs in the new era of trade relationships with the UK. This is a missed opportunity, as it would have greatly assisted the small Pacific EPA states to cumulate and export more under the UK–Pacific EPA than without their key trade partners.

All products exported from the Pacific EPA and non-EPA states need to comply with UK procedural and documentary requirements. As the UK has largely rebranded the same procedural and documentary requirements it applied while it was a part of the EU, there are no significant changes in the information, certifications and data requirements needed to comply with market entry conditions into the UK. However, UK businesses (both those that use or do not use Pacific exports imported into the UK as materials for onward transformation into products exported to the EU) now need to comply with the EU documentary and border compliance requirements, including in sanitary and phytosanitary (SPS) and technical standards, which they did not have to before Brexit.

UK–Pacific Economic Partnership Agreement (EPA) and trade facilitation

Compared with global trading countries, Pacific states have a gap (more than 50%) to close if they are to attain competitive levels of trade facilitation. Additional and improved facilities, infrastructure and equipment would help the situation. For example, Fiji and Papua New Guinea (PNG) could significantly improve 'efficiency of customs trade clearance processes' and the state of their trade facilitation by stepping up implementation of the WTO Trade Facilitation Agreement (TFA) in outstanding areas. This could be done via further digitalisation of customs and trade clearance procedures and processes, through implementation of national electronic single window systems (ESWS). These could then be interconnected at the regional level to build a regional ESWS for improved customs co-ordination and co-operation, which are also promoted as best practices in trade facilitation. There is ample evidence showing that countries that implement ESWS have seen significant improvements in revenue collection efficiency and amounts, while also drastically reducing the costs of doing business and doing trade (OECD 2001; Claypole 2013; UNCTAD and Economic Commission for Europe undated; Raikuna et al. 2013 and 2014). Vanuatu is the only small Pacific state that currently implements an ESWS, following a feasibility study by Raikuna et al. in 2014.

The new post-Brexit rules and customs regulations

Pacific EPA state exporters must comply with UK customs procedures; however, in most of these procedures, it is their UK business counterpart, the UK importer, who plays a much bigger role. However, the UK importer must have co-operation and information from exporters outside the UK to complete their import declarations.

Key findings and observations from the available information show that:

- a. Action by Pacific exporters in complying with UK customs procedures can take the form of supplying information and documentation to the UK importer or to HMRC (if required) to facilitate clearance of export products. An inexhaustive list of documents involved include: the Pacific exporter's economic operators registration identification (EORI) number from

their home customs authority, the supply contract and international commercial terms (Incoterms) the bill of lading, bill of exchange, proof of origin, export licences and certificates, where they are required, movement certificate EUR.1, and an invoice declaration, among others.

- b. UK customs procedures and forms for documenting required information follow best practice, guided by international conventions of which the UK is a leading proponent. Furthermore, while there are updates to the procedures and forms, the majority were last published or updated well before Brexit and remain in use as at the time of the present study.
- c. The UK closely adheres to the requirements of the WTO TFA, by publicly publishing online useful information on trade facilitation measures.

Key procedural changes

The key procedural changes to exporting to the UK for the Pacific region mostly concern preferential market access terms and conditions under the agreement. The agreement's preferential market access terms (for example, tariffs and quotas, non-tariff measures) and conditions (for example, rules of origin) have been updated to reflect the UK's new position as having an independent trade policy and customs territory.

The Pacific–EU–UK triangular supply chain

Pacific EPA export products to the UK that need to undergo value addition in the EU, but are not covered by Annex IX to Protocol II, will be negatively affected by the cumulation provisions. This is because they will be subject to more demanding criteria under Article 2(2)(a) and 2(2)(b) 'General requirements', as set out in detail in Article 5 ('wholly obtaining') and Article 6 ('substantial transformation').

Economic and developmental impacts of post-Brexit rules and regulations

The rules of origin under the UK–Pacific EPA provide for cumulation of materials from parties to the agreement, as well as other ACP states or in the other Pacific states, subject to meeting the

specified conditions. Cumulation in other Pacific states is clearly beneficial to the region, particularly for least developed countries (LDCs) and developing countries, as it boosts regional demand for their exports and, through that channel, boosts export revenues that could support economic growth and development. Currently, Fiji and PNG are net exporters to the other Pacific states; however, their EPA-induced income growth could translate into increased demand for imports from other small Pacific states. This assertion should be moderated by the fact that such positive impacts usually take time to take root and permeate through domestic and regional economies.

Cumulation in the EU provided for in the rules of origin under the UK–Pacific EPA creates an interesting dimension worth noting. Following Brexit, the UK is no longer legally bound to include the EU in its trade deals, but the EU is expressly included in the cumulation provisions. Meanwhile, the Pacific EPA states are not availed of an equivalent opportunity to cumulate in their strongest trade partners – which would be, for example, Australia and New Zealand for Fiji and PNG. This is a missed opportunity to promote major economic growth and development for the Pacific EPA states.

Impact of COVID-19 on Pacific trade competitiveness

The COVID-19 pandemic has had devastating global impacts on human health, trade and economic activities. Total trade for each month in 2020 in Fiji and Samoa (except February in Samoa, which was largely before COVID-19 was declared a pandemic) slumped below the respective months in 2019. Even with limited data for 2020, sharp declines in total trade are also discernible for Papua New Guinea and Solomon Islands.

Businesses in the small Pacific states, especially those that have not had the opportunity to transfer their activities and transactions (for example, tourism) to digital platforms and other digital technologies, have had to make difficult decisions regarding laying off staff, suspending investments and even closure. Governments have had to divert fiscal resources from development programmes to anchoring their public health systems, buying essential health provisions, including protective and medical equipment, social income transfer support, and so forth.

Impact of Brexit on Pacific trade competitiveness

Brexit can affect the trade competitiveness of Pacific EPA states' exports in several ways. These include: (a) raising (lowering) landed unit prices in the UK of Pacific EPA states' exports vis-à-vis the EU during Brexit, other things remaining the same; (b) the UK's trade policy stance eroding Pacific exports' preference margins in the UK, as the UK enters into more and deeper FTAs with new trade partners that did not have FTAs with the EU; or (c) the UK unilaterally opening up its domestic market to third parties, by lowering tariffs and raising non-tariff measures (for example, quotas, as in the case of the autonomous tariff rate quota (ATQ) on sugar), among others. Post-Brexit landed export unit prices are a function of cost-raising market access conditions and barriers (due to tariffs, burdensome non-tariff measures and non-tariff barriers, new UK customs procedures and processes for documentary and border compliance, among others) faced by Pacific EPA exports in the UK vis-à-vis the EU (see previous sections and below), unfavourable UK exchange rates since Brexit, the cost of transferring from EU law-based supply contracts to UK laws (a one-time action for some commodities), among others.¹

Effects of documentary and border compliance

Exporters have to adapt their documentation, compliance systems and processes, including obtaining transit trade clearances at their own cost, both in terms of time completing the documentation and compliance formalities. Available evidence shows that exporters in Fiji, PNG, Solomon Islands and other small Pacific states face some of the longest and highest documentation and compliance times and costs. The trade costs associated with their weak documentary and border compliance regimes undermine the trade competitiveness of small Pacific states vis-à-vis competitors in the UK and other markets. In some cases (for example, merchandise transiting through the EU), Pacific EPA states now need to fill out and comply with UK customs, in addition to complying with EU customs union transit regulations; this was not necessary when the UK was part of the EU customs union. Extra/new UK documentation and border compliance requirements will translate into additional time and costs, though by some limited margins considering that the UK has largely adopted similar customs procedures and

forms as those used in the EU customs union. These costs could be even smaller if trade clearance in the UK involved fewer processes than in the EU.

Effect of exchange rate movement

Ever since the 'Brexit referendum promise' was made in the manifesto of the winners of the May 2015 UK general election and the June 2016 referendum, the UK's currency, the pound sterling (£), has steadily lost its value against the euro, Fiji Islands dollar (F\$) and the PNG kina (K). A fall in the value of the UK pound sterling relative to the currencies of trade partners makes UK exports relatively cheaper, and UK imports (other countries' exports) relatively more expensive, other things remaining the same. The strong correlation (but not causation) between Brexit and the loss of value of the pound sterling suggests a possible loss of trade competitiveness for Pacific exporters.

Effect of UKGT, preference erosion and Quotas

The implicit tariff liberalisation in the UK Global Tariff (UKGT) hurts export preference-receiving small Pacific states, as they suddenly find themselves having to compete directly with the exports of competitors in the UK market. The competitors previously (before Brexit) faced non-zero or higher tariffs on competing goods, which in effect gave duty-free/quota-free (DF-QF) Pacific exports a competitive edge over rivals. Pacific EPA states' trade competitiveness is also affected by the UK's autonomous tariff quota (ATQ) for raw cane sugar, which is open to all countries.

Most-impacted regions and sectors within the Pacific

Pacific exports will be affected by changes in the UK procedural rules and market access terms and conditions, depending on whether the Pacific exporting country has signed an EPA with the UK, its country development status, among others. Kiribati, Solomon Islands, Tuvalu and Vanuatu are beneficiaries of the UK Generalised Scheme of Preferences (GSP) for LDCs. This means that all their export goods to the UK remain unaffected by Brexit, as they continue to receive the same 'Everything But Arms' (EBA)-like tariff treatment as was the case when the UK was part of the EU. At the time of writing, all goods exported from the three Pacific non-EPA states, namely, Cook Islands, Micronesia and Niue, were eligible for the UK

GSPGF (General Framework).² As noted earlier, the UK GSP GF offers zero or lower-duty rates for some products than the UKGT. Three Pacific states, Nauru, Samoa and Tonga, are not listed as eligible for any of the three UK GSP frameworks. Therefore, all goods exported by these Pacific states are subject to the higher 'most-favoured nation' (MFN) UKGT rates. This makes them worse off when exporting to the UK under Brexit than they were before Brexit.

The UK also introduced an ATQ on sugar, which increases competition with globally competitive (low-cost) sugar producers and exporters such as Brazil, Australia and India, to mention a few strong competitors. The ATQ undermines the sugar preference margins for Fiji and other Pacific EPA sugar exporters to the UK. It is worth noting that just as UK-originating exports to the EU now face EU non-tariff measures (NTMs), any Pacific originating or materials cumulated by the UK from the Pacific will also be subject to EU NTMs (which they did not face before Brexit, when they were channelled through the UK).

Impact on subregional agreements like PACER Plus

The UK–Pacific EPA is unlikely to create seismic stresses on regional trade agreements such as PACER Plus. This is because Fiji and PNG, the largest economic powerhouses among the small Pacific states, are not party to the agreement, which undermines achievement of any major Pacific trade and economic integration and development. In essence, their absence undermines the importance of PACER Plus and foreign direct investment in the region. Due to their economic size, Fiji and PNG are the two most attractive markets for investments, excluding investments for Australia and New Zealand.

Addressing emerging bottlenecks and challenges affecting Pacific exports to the UK

There is a wide range of possible bottlenecks, including tariffs and non-tariff barriers, that could affect Pacific export volumes to the UK. Specifically, the UK's trade policy stance, as expressed in its Global Tariff vis-à-vis the EU's Common External Tariff (CET), plus the use of certain non-tariff measures pertaining to sanitary and phytosanitary (SPS) concerns, technical standards, specifications

and conformity assessments, among others, could potentially undermine effective market access for Pacific exports. The following section identifies both emerging bottlenecks and potential solutions.

Bottlenecks associated with tariffs

The UKGT, especially where there are tariff peaks and tariff escalation against higher value-added semi-finished and final goods that compete against UK-produced goods, represents a bottleneck for exports from non-LDC and non-developing ACP states with no trade agreements with the UK. The tariff simplifications above effectively amount to tariff liberalisation, which erodes preference margins enjoyed by export products of UK–Pacific EPA states. Preference margins are an important source of 'income transfer' for some of the poor ACP states, even when the levels of utilisation are considered (Milner, Morrissey and Zgovu 2010).

Solution:

- As the UK grants preferential access to ACP sugar that competes with homegrown (UK) beet sugar, a similar allowance should also be made for products from ACP states that show promise (stemming from increased competitiveness) for export diversification and growth, and thereby support poverty reduction and growth in GSP recipient countries. Similarly, the UK's three-tier GSP needs reconsideration. Improvements in the non-trade issues of human rights and governance, upon which access to the Enhanced Framework is conditioned, can and should be addressed through avenues other than trade, which generates incomes for poverty reduction among smallholder farming communities involved in the production of GSP-dependent exports.

Bottlenecks due to non-tariff measures (NTM)

The UK is likely to maintain the same NTM regime because of human, animal, environmental and standards considerations. The costs involved in complying with NTMs invariably inflate trade costs, which undermines trade competitiveness. When this effect exceeds critical margins, it disincentivises and curtails importation and exportation, even where preferential tariff treatment is granted under the trade agreements.

Solution:

- Both PNG and Fiji have received some Aid for Trade from the EU under EPAs to develop their SPS and standards regimes. Other similar support has been received from Australia, New Zealand and other development partners. However, there is still need for more support to develop NTM compliance capacities in these and other small Pacific states.

Bottlenecks due to weak trade facilitation in small Pacific states

Weak trade facilitation regimes create avoidable costs of doing trade which, in the case of the small Pacific states, compounds the already high trade costs caused by their high freight and logistics costs. For example, despite the well-known and appreciated trade cost savings (and significant improvements/increase in customs revenue collection, among others) it brings, Vanuatu (Raikuna et al. 2014) is the only country among small Pacific states that has implemented an electronic single window system (ESWS).³ Another illustration of outstanding issues in modernising trade facilitation is that, as at 1 October 2020, the majority of small Pacific states as listed below were not contracting parties to the WCO Harmonized System Convention, although they apply it with varying levels of competence. This often causes commodity classification problems for traders: Cook Islands, Kiribati, Marshall Islands, Federated States of Micronesia (FSM), Niue, Palau, Samoa, Solomon Islands, Tonga and Tuvalu.⁴

Solution:

- Efficient trade facilitation and logistics for export and import, via further digitalisation of customs and trade clearance procedures and processes through implementation of national electronic single window systems (ESWS). Targeted support to improve trade facilitation in UK–Pacific EPA states would bridge resource gaps and help the latter to achieve lower costs of doing trade, raise trade competitiveness and increase Pacific exports to the UK.

Role of private sector institutions in supporting exporters with new UK customs procedures

Private sector organisations, such as the Pacific Islands Private Sector Organization (PIPSO), can facilitate the implementation of the UK–Pacific EPA customs procedures and related aspects in the following ways:

1. By undertaking awareness and sensitisation on the UK–Pacific EPA, including on trade opportunities and benefits to the economies, market access conditions and liberalisation schedules, and customs procedures, among others.
2. Through targeted technical capacity building on the operation and application of post-Brexit UK customs procedures, including rules of origin.
3. By promoting the adoption of more digitalisation to improve businesses and traders' efficiency. PIPSO should develop and operate its own trade portal, for easy access to information and data covering important aspects (including customs procedures) under various trade agreements involving Pacific states.
4. By supporting the growth of business-to-business relations between Pacific exporters and UK exporters, to share experiences dealing with Brexit customs procedures.
5. By advocating for full, or at least advanced, implementation of trade cost-reducing and trade supply chain security-enhancing international conventions and agreements in trade facilitation.
6. By collecting and sharing data and information on Pacific EPA states' trade patterns and experiences with trade facilitation (including customs procedures and processes) between the parties.
7. By strategising the support, including setting out the scope and scale of the capacity-building effort, among others.

Conclusion

The study has assessed how the UK's new post-Brexit trade regulatory measures are affecting Pacific exports to the UK. To do so, the study examined the provisions of the UK–Pacific Economic Partnership Agreement (EPA), which govern the new market access conditions for exports from UK–Pacific EPA states, as well as the UK Global Tariff (UKGT) and non-discriminatory UK customs rules and procedures that all UK imports must comply with to gain entry to the UK, as notified to the World Trade Organization (WTO).

The challenge with UK customs procedures appears to be the information-search costs that Pacific exporters are incurring to find complete sets of information, documentation and forms, among others, as while these are published online by the UK, they are not organised in one document file or 'tool' that exporters can readily access. The study has shown that it is the weak state of trade facilitation, including weak customs efficiency, in the Pacific EPA states that has been and remains a key obstacle to the growth and development of their exports. This is an area that needs support to improve. The private sector is a key player in the realisation of the benefits from trade agreements. Further discussions with PIPSO are needed to strategise support, including setting out the scope and scale of capacity building.

The study on which this paper is based has attempted to analyse products from the Pacific transiting through the UK and then to the EU market, and vice-versa (transshipment and/or bulk breaking only), and Pacific products that are value-added in the EU market and then exported to the UK, and vice-versa. However, such data are not readily and publicly available. As a result, these issues were not covered in the study. The study recommends that a customised business survey should be undertaken involving exporting businesses in the Pacific EPA states, to gather and analyse these data and inform Pacific states accordingly on the implications of Brexit for the originating status of the products involved.

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Endnotes

- 1 See World Customs Organization (2020), 'List of 212 countries, territories and customs and economic unions applying the Harmonized System', available at: http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/nomenclature/overview/hs-contracting-parties/list-of-countries/countries_applying_hs.pdf?db=web (accessed 10 March 2021).
- 2 See GOV.UK (undated), 'Trading with developing nations', available at: <https://www.gov.uk/government/publications/trading-with-developing-nations> (accessed 8 March 2021).
- 3 UN/CEFACT Recommendation 33: '*Single Window is a facility that allows parties involved in trade and transport to lodge standardized information and documents with a single-entry point to fulfil all import, export, and transit-related regulatory requirements. If information is electronic, individual data elements should only be submitted once. It may provide facilities for payment of relevant duties, taxes and fees. In practical terms, it aims to expedite and simplify information flows between trade and government and to bring meaningful gains to all parties involved in cross-border trade.*' See UN Economic Commission for Europe (UNECE) (undated), 'Trade Facilitation Recommendations', available at: https://unece.org/trade/uncefact/tf_recommendations
- 4 See World Customs Organization (2020), 'List of 212 countries, territories and customs and economic unions applying the Harmonized System', available at: http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/nomenclature/overview/hs-contracting-parties/list-of-countries/countries_applying_hs.pdf?db=web (accessed 10 March 2021).



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