

VDA on the Future Relation with the United Kingdom

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[VDA Position on Rules of Origin for the prospective FTA between the EU and the UK:
\(https://www.vda.de/de/services/Publikationen/Publikation.~1640~.html\)](https://www.vda.de/de/services/Publikationen/Publikation.~1640~.html)

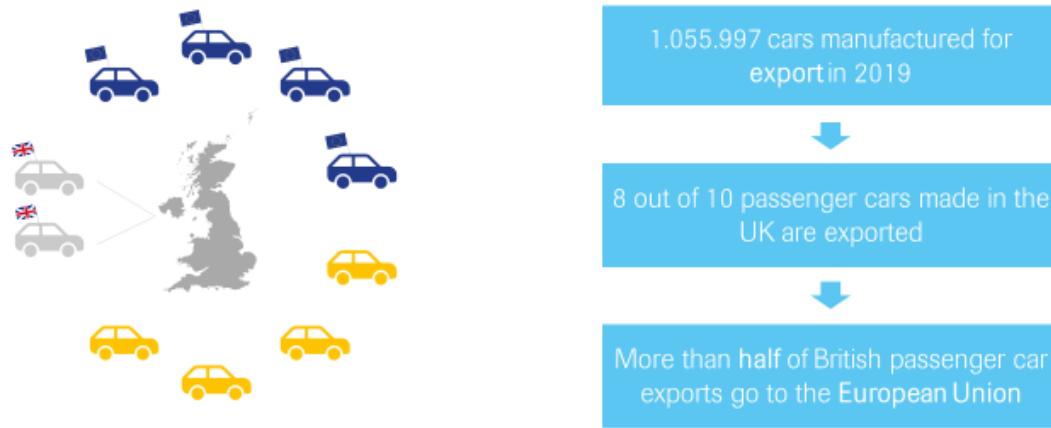
[VDA position on RoO for battery cells.
\(https://www.vda.de/en/services/Publications/lithium-ion-cells-and-rules-of-origin-in-the-eu's-free-trade-agreements.html\)](https://www.vda.de/en/services/Publications/lithium-ion-cells-and-rules-of-origin-in-the-eu's-free-trade-agreements.html)

The UK-German automotive industry partnership:

- The United Kingdom is a very important partner for the German Automotive industry.
- What is more, the German automotive industry has around 100 production plants in in the UK, and most of them are facilities of German supply companies.
- The UK is the second-largest passenger car market in Europe – after Germany – with approx. 2.3 million new car registrations in 2019.
- Passenger car production in the UK decreased in the last 3 years to 1,3 Million produced passenger cars in the UK, and 81% of these vehicles were exported (2019).
- 55% of the cars exported from the UK went to EU countries. This means that companies manufacturing in the UK depend crucially on exports to the European continent.

Passenger Car Exports from the United Kingdom

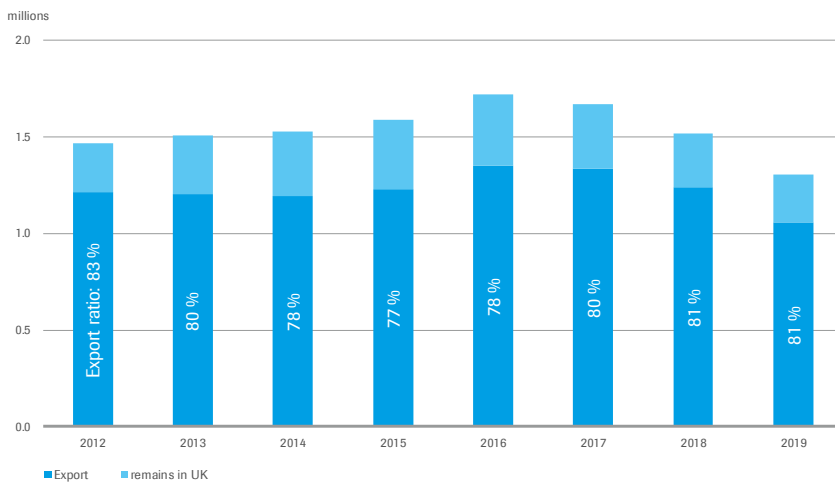
More than half of British passenger car exports go to the European Union



Source: SMMT

- Imports also make up a very large share of the British car market. 2019: 89% of cars manufactured outside UK. The UK automotive sector imported a trade worth of 57 billion pounds in 2018.
- In terms of volume the UK was the largest export market for the German carmakers in 2019.
- Around 593,000 new vehicles were exported from Germany to the UK in 2019, which was 17% of all exported cars.
- Furthermore, the German automotive industry runs around 100 production plants in the UK, and most of them are facilities of German supply companies.
- UK factories are well connected with factories in the EU27, sometimes parts cross the channel several times before the vehicle is completed. Suppliers in the UK depend heavily on the EU market.

Passenger Car Production in the United Kingdom



More than 1.3 million cars produced in 2019

Passenger car production decreased in the last 3 years

Export ratio in 2019: 81 %

1. General remarks on the future UK-EU relationship

In the view of the German automotive industry, everything must be done to maintain the free movement of goods, of services, the freedom of capital and the freedom of movement for workers between the UK and the EU member states in the future. The negotiations should achieve an outcome that ensures the continued competitiveness and prosperity of both the EU and UK.

A comprehensive and deep Free Trade Agreement (FTA) is the politically preferred option among policymakers. While being better than no deal at all, the FTA will not be sufficient to guarantee frictionless trade.

As EU27 and the UK decided to negotiate an FTA, EU FTAs with South Korea, Singapore, and Canada could model as starting point. However, for the automotive sector these FTAs cannot be a blueprint, especially regarding rules of origin and regulatory cooperation.

An EU27-UK FTA should go well beyond the Level of ambition of existing FTAs of the EU. Such an FTA should, inter alia:

- (a) encompass all sectors of the economy,
- (b) should have no tariffs and quantitative barriers (no exceptions),
- (c) contain simple rules of origin (incl. cumulation),
- (d) feature clear and restrictive rules on subsidies,
- (e) foster regulatory cooperation between the EU27 and the UK to prevent new non-tariff barriers,
- (f) cover services and investment as well as trade-plus issues such as competition, government procurement, and protection of intellectual property rights, and
- (g) create a structure for monitoring and dispute settlement.

The continued lack of clarity about the future EU-UK relationship creates significant uncertainty for the automotive sector in general and for foreign investors in particular. Uncertainty has a very negative impact on the industry.

Leaving the European Union causes additional costs not only for the automotive industry but costs for all stakeholders in the EU and UK – independently of the outcome of the new setup of the UK-EU relationship.

This paper identifies and explains the topics VDA members are facing in the wake of negotiations. The goal is to support a reasonable and sustainable result and to reach a solid, dependable basis for future planning and investment. The goal of all negotiations should be a “comprehensive partnership” of the EU 27 with the UK.

VDA wants to actively contribute to the impending discussions on the future relationship between the UK and the EU. VDA also urges the negotiating parties to maintain an open and robust dialogue with the private sector throughout the process.

2. Reach certainty for the automotive industry

The current political situation is still creating very high levels of **uncertainty** regarding the UK's access to the European Single Market for goods, services, capital and people, and vice versa. This uncertainty is a direct result of the current lack of political clarity regarding the details of the future UK-EU relationship.

The competitiveness of the EU automotive industry should not be reduced by the decision of the UK to leave the EU. Furthermore, the UK is an important export destination and production site for the German automotive industry. At the same time, Germany and the other EU 27 states are important markets for the UK-based manufacturers and suppliers. For example, in 2019 the UK exported automotive parts, components and engine parts worth €1.3 billion to Germany.

The specific case of the UK will require a new basis for the future economic and political relationship with the EU. In order to maintain the competitiveness of automotive production sites within the EU and in the UK as well, the final deal between the UK and the EU will need to ascertain complete mutual market access. The "comprehensive partnership" should guarantee the continuation of the "four freedoms" (of movement for people, goods, services and capital).

Partners of existing free trade agreements of the EU will react to the UK's exit. The UK is no longer a party to the existing FTAs. The EU market will be smaller than before, and partners may ask for renegotiations. This causes further uncertainty for the industry.

Today EU and UNECE regulatory cooperation and harmonisation guarantee regulatory certainty and overall competitiveness. The secession of the UK from the EU legal and regulatory ambit casts uncertainty on the applicability of established rules in the UK market. Any changes in the UK's relationship with the Single Market need to recognise the costs of differences in the regulatory framework and the advantages of legal and regulatory continuity - especially for the UK.

On further horizontal, automotive and industry-related issues and regulations - such as the UK's future system of trade defence instruments, taxation, state aid, labour legislation or capital market regulation - VDA supports a future UK approach with respect to the needed level playing field - dedicated to competitiveness, economic wealth and fair employment.

For future trade VDA advocates a simple model without tariffs or any additional administrative burden in the EU. (see section 3).

3. Free movement of goods

In the worst-case scenario, where due to a missing future agreement the UK is treated as a third country, UK goods will no longer benefit from preferential access to the Single Market and vice versa.

VDA's preferred outcome would have been a model like a UK-EU customs union in order to maintain beneficial trading and production conditions and to minimise additional costs to companies manufacturing and trading in the UK and EU. The new UK-EU relationship should therefore ensure the continued absence of regulatory and tariff barriers with the Single Market.

Best solution for business

VDA favours a new relationship that provides for tariff-free trade in goods and that does not impose any additional administrative burden on the industry. Just a reminder: Only a model like a customs union would have guaranteed the free movement of goods without requirements of rules of origin and value addition.

Any Free Trade Agreement between the EU and the UK will lead to greater complexity and a higher burden on both industry and authorities. The tariff-free flow of goods under an FTA is only guaranteed if all conditions of the FTA are fulfilled. A central element is the fulfilment of **rules of origin**, for

example local content requirements. This requires the implementation of additional processes, adds complexity to trade in goods between both parties and thus leads to higher costs.

Any additional administrative requirements and limitations on local content will therefore also directly or indirectly increase the costs for exporting vehicles from EU plants to the UK-market and vice versa, which may impact consumer choice, future sales volumes and competitiveness.

Rules of Origin

The EU and the UK should agree to an FTA that provides for completely tariff-free trade in automotive goods (passenger cars, commercial vehicles, motorcycles, engines as well as parts and components) between the signatory states with entry into force of the agreement.

In this context, the rules of origin (RoO) play the most important role. Complicated RoO that are associated with excessive bureaucracy and which cannot be satisfied must be avoided. Equal importance must be given to the implementation time frame of new RoO which for the automotive industry requires more than six months. Anchoring simple and practicable RoO in the agreement is thus key to greatly enhance its use rate.

In this context we would like to highlight three relevant provisions, with further provisions advocated for in the [VDA Position on Rules of Origin for the prospective FTA between the EU and the UK](https://www.vda.de/de/services/Publikationen/Publikation.~1640~.html): (<https://www.vda.de/de/services/Publikationen/Publikation.~1640~.html>)

- 1) The preferential origin of vehicles (HS 8701 to 8707) should be determined on the basis of a defined maximum level of non-originating material (NOM). In order to take account of the ever-increasing globalization of international trade in goods, we consider the following percentage, which must be observed in order to achieve preferential origin: 50% NOM based on the ex-works (EXW) price.
- 2) We suggest to generally base the rules of origin for parts and components of the FTA between the EU and the UK on the revised rules of origin of the upcoming pan-Euro-Mediterranean Convention in order to minimize the administrative burden with regard to the adaption of processes and IT systems. Some amendments in a small number of cases would apply.
- 3) Special consideration must be given to specific RoO for **battery cells**. An exception to the above-mentioned rules of origin should be considered for trade in vehicles using low-emission technologies (see also next paragraph).

Rules of Origin for battery cells with focus on Lithium-ion cells

Politically there is a strong demand for battery driven mobility. However, the battery manufacturing capacity in the EU is extremely limited. The raw materials required for manufacturing the cells and the primary materials are currently and in the foreseeable future not available in sufficient quantity or quality in the EU.

This means that even if cells are produced in the EU, all the required production materials would have to be imported from countries outside of the EU. In addition, using the cells within the EU to manufacture high-voltage batteries cannot generate sufficient EU value to define a high-voltage battery as originating in the EU.

At present, the EU value added is only as high as 20% maximum. If more production steps were to be localized in the EU (starting with the manufacture of electrodes and going all the way to high-voltage batteries), the maximum possible EU value-creation would be 30%.

- **Introduce a change of tariff classification clause for HS-tariff item 8507 90, as soon as electrodes are produced with coating of foils in the EU**

Considering the preferential status of the intermediate products and possible developments in the field of electrode production in the EU, a change of tariff classification for HS-tariff item 8507 90 should be introduced in order that an electrode can acquire the status of originating in the EU as soon as electrodes are produced with coating of foils in the EU.

- **Alternative value-creation rule**

As electrode production with foil coating is currently not carried out in the EU, and the creation of sufficient production capacities will take several years, we are in favor of a revised value-creation rule for lithium-ion accumulators of HS-tariff item 8507 60. In order to continue qualifying as originating in the EU, the maximum permissible proportion of primary materials not originating in the EU should be set at 70%.

However, in order to take possible future developments in battery research into account, HS-sub-heading 8507 60 should not be considered exclusively but also HS-sub-heading 8507 80, HS-sub-heading 8507 50 and HS-sub-heading 8507 90. This allows for more flexibility with regard to the various parts for the different batteries and offers potential for the use of pro rata supplier's declarations in the future.

In order to effectively address the uncertainties associated with this forecast, the proportion of value-creation to be achieved should be reexamined either during the general evaluation of FTAs or at the earliest after ten years.

For further details see [VDA position on RoO for battery cells](https://www.vda.de/en/services/Publications/lithium-ion-cells-and-rules-of-origin-in-the-eu's-free-trade-agreements.html).

(<https://www.vda.de/en/services/Publications/lithium-ion-cells-and-rules-of-origin-in-the-eu's-free-trade-agreements.html>)

Alignment of customs legislation

For the future trade relationship between the EU and the UK it is essential that the customs legislation of both parties is continuously and sustainably harmonised to the greatest possible extent. This means that both customs regulations (the European Union Customs Code as well as the new British Customs Code) have to be aligned in order to keep the administrative customs burdens low and to further enable very important customs processes between the EU and the UK (for example inward and outward processing). Both customs authorities should start a continuous coordination process.

Simplified customs clearance within UK-EU trade

Implementing a simplified import/export procedure for goods of free circulation will enable the exchange of goods between the EU and the UK with minimised administrative efforts for economic operators and customs authorities. By using a self-assessment scheme economic operators will further be able to exchange their goods without any interruption to the flow of goods. Furthermore, goods will be available for economic operators at all times (for example just-in-time supplies for manufacturing or service parts) without waiting for release response of the customs authorities.

[VDA has proposed a simplified customs clearance model under self-assessment](#) already in 2018. It would guarantee industry wide frictionless trade of goods without additional administrative burden for companies as well as for Customs and Tax Authorities in the EU and the UK irrespective of the negotiation results of the future EU-UK trade relationship. As a result, goods would be available to industry parties at any time, as before the Brexit, without disruption of the flow of goods. Specifically, supplies of production material for manufacturing plants in the EU and the UK could be operated without interruption.

In addition to this, the simplified customs clearance could also help to implement the necessary control measures by the authorities already in advance of cross-border trade.

Key messages of the VDA proposal:

- VDA's proposal aims to ensure that the necessary procedures at the border are carried out in a most practical way.
- VDA's proposal largely maintains the status quo ante, is simple, cross-industry and in line with existing regulations of EU customs law.
- The content of the proposal has received much positive feedback. It serves as a basis for discussion; individual aspects will be discussed further (e.g. interaction with sales tax).
- We are aware that the proposal most likely cannot be implemented in time due to the short time available if the transition period should end by 31.12.2020. However, it is important to emphasize once again the necessity of a practicable handling on the basis of self-assessment for reasons of cost, time and capacity. The expected delays at the border could thus be significantly reduced. The VDA proposal can serve as a basis for corresponding considerations at EU level.

Key points in terms of content

- Principle of self-assessment: Import and export customs declarations are carried out as part of self-assessment.
 - o Prerequisite: The importer must be authorised to carry out self-assessment, in which the amount of import duty to be paid is determined by the importer himself and then paid to the customs authorities.
 - o Authorisation procedure:
 - Authorisation is granted under a Single Authorisation (i.e. not individually for each import)
 - Condition: Only companies that are certified as Authorised Economic Operators (AEO) in accordance with the Union Customs Code can participate in the procedure.
 - AEO has a special status: It is considered to be particularly reliable and trustworthy and therefore can benefit from special privileges in the context of customs clearance.
 - Risk assessments are carried out by the customs authorities as part of the authorisation procedure.
- As a result, customs controls at the borders are no longer necessary upon presentation of the relevant authorisation documents.
- The export and import declaration data is recorded in the companies' merchandise management systems and/or customs systems and transmitted to the customs authorities on a monthly basis.

Advantages

- Simplified procedures for customs clearance under a self-assessment system guarantee the smooth movement of goods across industries without additional administrative burden for both companies and the customs and tax authorities in the EU27 and UK, regardless of the outcome of the negotiations.
- Goods can thus be made available to economic operators at any time - without interrupting the flow of goods - and, in particular, deliveries of production materials for production sites in the EU and UK can be carried out unhindered.
- The principle of self-assessment is already required in view of the foreseeable capacity bottlenecks in the customs administration.
- Susceptibility to abuse is prevented by the need for prior authorisation to participate in the self-assessment by the customs authorities on the basis of a risk assessment of the economic operator.

An implementation of the proposals would be feasible by a specific customs agreement between the EU and the UK. Already today, existing regulation in the Union Customs law does not preclude this simplified customs clearance model.

4. Regulatory continuity in the automotive sector

Separating the UK legal and regulatory system from that of the EU, whilst ensuring maximum continuity thereof post-Brexit, needs to recognise the various industry needs including, but not limited to, regulatory continuity, regulatory alignment with other key issues, appropriate lead time, technical feasibility and technology neutrality. In particular the following issues need to be resolved:

- Safety standards and type approval
- CO₂ and environmental legislation
- Emissions
- End of Life (ELV)
- EU chemical regulations (REACH, CLP, POP, biocidal product regulation)
- Data protection
- IP protection regulation
- Competition Law – car distribution

To cover these and other regulatory issues an **automotive annex** to the future trade agreement would be a proven instrument to ensure the interests of the automotive industries in the UK and in the EU27.

German OEMs manufacture vehicles and automotive products based on European or UNECE standards and regulations (safety standards, homologation and type approval, CO₂ and emissions standards, ELV recycling quota). A mechanism should be implemented to accept and implement EU automotive regulations in the UK. Similarly, and irrespective of the outcome of the UK-EU negotiations the UK should avoid UK-specific regulations that deviate from European/UNECE equivalents. In detail:

- **Safety standards and type approval**

Vehicles that comply with UNECE or EU product-related regulatory standards, such as homologation/type approval standards and procedures and safety standards, must seamlessly retain the right to UK homologation after the UK's secession from the EU. Any UK-specific variations of UNECE/EU standards that would require UK-specific model variants or would otherwise hinder free trade of automobiles, parts and components between the UK and other markets should be avoided.

This is in the interest of manufacturers and suppliers based in EU 27 but equally for the industry based in the UK, as exports to the EU play an important role.

Similarly, vehicle variants that have been accredited in the EU should receive type approval in the UK without further bureaucratic burden and vice versa. Type Approvals granted by the British Vehicle Certification Agency (VCA)* should be valid within the EU.

(*VCA is an Executive Agency of the United Kingdom Department for Transport and the United Kingdom's national approval authority for new road vehicles, agricultural tractors and off-road vehicles.)

Crucially, the UK should stay within the UN 1958/98 system and refrain from UK-specific standards and labels.

The UK should continue to implement and contribute to the International Whole Vehicle Type Approval process.

The UK should continue to play an active part in the regulatory agenda setting at UN level, as well as continue direct relationships with international key players. The UK should sustain its expertise and global standing in technical policy areas and ensure the UK continues to engage with the EU.

- **General Standards**

The „British Standards Institute (BSI)“ will remain a member of the European Standardization Body CEN/CENELEC until end of 2020 or, if possible until end of 2021. BSI provided an official request to CEN/CENELEC accordingly. Depending from the result about the economic negotiations in 2021, a decision will be taken about a future membership of BSI in CEN/CENELEC. Members of CEN/CENELEC are obliged to overtake all published European Standards as National Standards

- **CO₂**

The new UK-EU relationship should establish a mechanism that applies credits and penalties to the UK fleet in the EU fleet calculation. Any ongoing regulation in the area of CO₂ emissions and ULEV mandates should be aligned in regulatory burden, technological neutrality and target stringency with those of the EU or other issues so as to prevent the need for UK-specific vehicle model variants. We support that the UK will adopt the EU 2021 legislation (95g) and that the UK fleet will be monitored together with that of the EU (same construction as Norway-Iceland). We also support that the UK will adopt the EU legislation for 2025/2030 instead of a UK-specific CO₂ regulation.

- **Emissions**

The UK should apply EU emissions legislation and RDE (as Norway does), without exception.

- **End of Life (ELV)**

The UK should also stay within the End of Life Vehicle (ELV) directive, including the transposition of Annex 2, and the UK should also implement all related directives without delay (e.g. Landfill directive, directive for Waste Electric and Electronic Equipment – WEEE, Battery directive).

- **EU chemical regulations (REACH, CLP, POP, biocidal product regulation)**

The UK should continue to use the harmonised classification and labelling of chemicals (CLP), avoid stronger or different restriction or rules for substances in order to ensure free trade of cars, common rules on the use and declaration of chemicals within car production and sales. The UK should stay in the directives or adopt them accordingly.

- **Data protection**

It is crucial that the UK transposes into national law the EU General Data Protection Regulation and thus an equivalent status as a safe third country through an adequacy decision by the EU. However, if the UK abolishes this regulation (like many other EU-acts, which will be UK-law just for the immediate future) by further legislation it has to be considered a third country and European automotive companies have to handle the UK similar to other non-EU/non-EEA states, for example by safeguarding data transfers with the so-called EU Model Clauses. In this case future Digitalisation projects may be unnecessarily complicated by variation in data protection processes.

- **IP protection regulation**

It is also desirable that the future IP protection regulation in the UK does not counteract or interfere with existing EU-IP protection. As patents are nationally registered, a smooth transition is to be expected, but the UK needs to take note of the fact that European trademarks and European designs may not be automatically protected in the UK anymore after Brexit. We support that the UK and the EU will mutually grant protection for the rights concerned for the respective territory without interruption. The renewal fees for the new UK trademarks and designs have to be paid in addition to the renewal fees for the European trademarks and designs – VDA supports a reasonable pricing policy for these UK-specific registration fees.

- **Competition Law – car distribution**

Based on the Block Exemption Regulation (BER) the automotive sector is allowed to set up a selective distribution network. The manufacturer has the right to select a limited number of network partners for the sales of new vehicles and genuine parts and the service of new vehicles based on

qualitative and quantitative criteria. VDA supports that any new UK law will be similar to the EU legislation (as, for example, known from the legislation in Switzerland through the Swiss Competition Commission WEKO).

5. Retention of access to the EU skills market and employment opportunities

Access to the global skills market is a decisive factor to the success of the UK's automotive industry. A high percentage of automotive associates in the UK are non-UK European citizens. This percentage varies from site to site and can affect certain operations to a much greater extent. Current non-UK employees must retain legal certainty that they can continue their employment in the UK. Long-term competitiveness requires a suitably skilled and experienced workforce. International talent pools are immensely important in filling business-critical vacancies.

VDA suggests that any UK employment environment post-Brexit should therefore include the following characteristics:

- Complete access of current non-UK workers and employees legally resident in the UK to the UK job market needs to be ensured.
- Any post-Brexit situation should guarantee unfettered access to the skills and talent market in the EU and internationally via the free and unbureaucratic mobility of labour.
- Associates employed in the UK need free and unbureaucratic access to subsidiary or company-related sites in the EU and other countries for business trips, training and secondments. The new UK-EU relationship thus needs to ensure lenient residential rights for UK citizens in EU and third countries.
- On the other hand, the full access of current UK workers and employees legally resident in the EU to the EU job market needs to be ensured.

6. Financial services and insurances after Brexit

The financial services companies of EU manufacturers – the “Captives” – play a critical role in the business model of their respective manufacturer parents and are therefore a vital component of the European automotive sector.

Primarily, the Captives, enabled by the high degree of integration that they have with their manufacturer parents, provide wholesale finance so that dealers across the continent are able to stock vehicle inventories. In addition, the Captives are the link between the vehicle manufacturers and the consumers. They offer favourable retail financing and leasing conditions for consumers when they buy or lease a car. In Europe, approximately two out of three cars are either financed or leased.

The Captives have set up their business operations based on the EU Single Market and the use of passporting and mutual recognition arrangements in order to provide EU customers with the greatest choice in financial services. As a result, any change to the existing legal framework for financial services will disrupt the Captives' ability to continue to service the automotive sector and is therefore likely to cause significant harm to the car manufacturers, to dealers and to retail customers.

Apart from financing and leasing, the offer of insurance services to the customers are also part of the business of the captives. Consumers are interested in a process of “one stop shopping” at the dealership, which can also offer car insurance. However, insurance services also require a European passport like the banking business. Thus, car insurance within the UK and across borders will expect additional regulatory burdens.

7. Research and development

The European automotive industry invests €44.7 billion in R&D annually, representing about 5% of its total turnover. At the moment, the UK takes part in European research programmes, such as Horizon 2020. The UK's participation facilitates cross-border R&D cooperation for the automotive sector, which is of key importance to innovation in this digital age. Given the magnitude of these investments, any changes to the current situation will have a detrimental impact.

8. Feature clear and restrictive rules on subsidies

Clear and restrictive rules on subsidies must be implemented in the new treaty.

9. Create a structure for monitoring and dispute settlement

Regardless of the level of regulatory alignment between the EU and the UK, the agreement of a comprehensive automotive annex will be helpful in ensuring long-term alignment of the EU and the UK for regulation in certain technical areas.

A structure for monitoring and dispute settlement should also be implemented in the new agreement.

10. Again: Avoiding the “cliff edge”

VDA strongly argues for a conclusion of the new sustainable and comprehensive UK-EU agreement which regulates the future relationship. However, should this aim not be achievable within the extremely short negotiation (and implementation) period of 11 months until end 2020, VDA favours the **prolongation of the transitional arrangement** to bridge the gap instead of concluding a timely but unsatisfactory future agreement.

The aim to reach a sustainable and comprehensive arrangement needs to be of the utmost importance. Quality has to prevail over time pressure.

In any case the situation of “cliff edge” needs to be prevented under all circumstances in order to avoid uncertainty for all stakeholders and potential disruption of UK-EU relations.

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