

CASTALDI PARTNERS

1996



Post BREXIT: Trading with Italy

Steven Sprague

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Current Status

- The United Kingdom left the European Union on 31 January 2020.
- The exit was regulated by the Withdrawal Agreement which came into effect on 1 February 2020 and established the Transition Period.
- The Transition Period ended on 31 December 2020 and from 1 January 2021 the UK became a third party country to the EU.
- The Trade and Cooperation Agreement agreed on Christmas Eve 2020 is not a Free Trade Agreement

Trade and Cooperation Agreement

- Agreed 24 December 2020.
- Main points
 - Almost exclusively trade in goods
 - Very little on services
 - Removed threat of tariffs from majority of transactions
 - Left significant *non tariff barriers*
 - Obliges the parties to observe existing standards for environment, social criteria, employment and fiscal transparency
 - Limits State Aid
 - Created a system of checks and balances
 - Created an extended transition period of data
 - Review after five years

Trade with Italy

- 9th biggest trading partner for UK, especially for technology and engineering
- In 2010 £45 billion in trade
- In 2020 £35 billion (22.4% reduction)
 - £14.5 billion UK exports to Italy (60% goods)
 - Almost £1 billion from West Midlands
 - £20.2 billion Italian exports to UK (83% goods)
- In 2019 £19 billion direct foreign investment from UK to Italy and £6.8 billion from Italy to UK

Commercial Aspects

BORDERS

Tariffs

Largely removed by the TCA for the majority of goods

Rules of Origin

VAT /IVA

New rules regarding payment. Italian VAT generally 22%

Customs formalities

EORI

Administrative Costs

Time

Aspetti Commerciali

CIRCULATION OF GOODS

Country of Origin (CE/UKCA)

European Standards

Labelling

Conformity controls

Logistics

INCOTERMS

CIRCULATION OF PEOPLE

Citizens

Visas and Work Permits

Driving Licences

Recognition of Professional Qualifications

Visiting Italy: Movement of People

- From 31 12 2020 the free movement of people ended .
- UK citizens may visit Italy for short visits visa free, for certain purposes (including tourism, certain business reasons).
- Period of stay is maximum of 90 days in any 180 day period.
- Calculation of period for entire Schengen Area and includes all visits.

Visiting Italy

Visitors may not work or study in Italy without the necessary permits.

Permitted visits include:

Tourism

Business: temporary visits to: attend meetings and discussions; conferences; visit facilities or plant; making contacts; negotiations; company activity and skill sharing

Client meetings and market research

Installation, assembly and maintenance of plant, machinery and equipment sold to an Italian company

Maximum period of stay 90 days in 180.

Visiting Italy:

INTERCOMPANY TRANSFERS

- **Only for highly skilled employees and specialised employees/trainees**
- **Employer in UK and Italian company must be part of the same group**
- **6 months experience or 3 months length of service**
- **For executives 24 month permit renewable up to 5 years**
- **For others 3 year maximum**
- **For trainees 1 year maximum**
- **No right to stay in Italy after period.**

BLUE CARD

- **Local Hire**
- **Only for specialised or graduate employees**
- **Minimum 12 month contract**
- **Minimum €25,000 salary**
- **Timescales for permit 6-8 months**

Legal Aspects

Italian Law:

- Very little effect on Italian law
- Danger of divergence on European Law principles

Dispute Resolution:

- Choice of Law, and Dispute resolution not dealt with in the TCA
- EU rules and processes gone
- Notices and *Process Agent*

Company Law:

- EU Cross Border Merger Regulation 2007
- Take Over Directive
- Societas Europaea
- EEIG
- Legal personality
- EU International Accounting Standards

Legal Aspects:

EU Law:

- No direct change

BUT CHECK

- References to EU law in contracts
- References to EU territory in contracts
- Data Privacy

Legal Aspects:

Applicable Law:

EU

- EU law (and therefore Italian law) still recognises English and Welsh/Scottish law.

UK

- European Union (Withdrawal Act) 2018 recognises the principles of the EU Regulations (known as Rome I and II) so Italian law, if chosen would be applied

Legal Aspects: Dispute Resolution

Former Rules no Longer apply

Jurisdiction

- “Rome” Regulation n. 593/2008
- Lugano Convention 30 October 2007
- Hague Convention 30 June 2005

ADR

- Mediation
- Arbitration

Execution

UK

- Foreign Judgments Act 1933
- Common Law

Italy

- Civil Code

THANKYOU!



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Steven Sprague

Steven Sprague is Chair of the Brexit Committee of The British Chamber of Commerce for Italy, he is also Councillor.

Steven is a Solicitor of the Senior Courts of England and Wales (1985), Avvocato at he Milan Bar (2017) and an accredited Mediator (CEDR 2014).

Steven Sprague has a vast experience of assisting clients in relation top international investment, inter company agreements and relationships and cross border business in a range of sectors.

He began his career in a number of prestigious City of London law firms and has lived and worked in a number of countries, not only member states of the European Union, but also the Russian Federation and other members of the former CIS.

As a mediator, accredited in London, Steven Sprague mediates mostly international disputes.

Since 2010 his professional life centres around Milan and London and recently he has concentrated on Brexit related issues and especially with relation to its affect on trade between the UK and Italy. He advised large and small clients on examining and dealing with the effects of Brexit and how best top prepare for and deal with the challenges it presents.

Steven Sprague is a member of the Board and of rhea Executive Committee of ASLA – l'Associazione Italiana di Studi Legali Associati, which represents the leading national and international law firms in Italy.



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