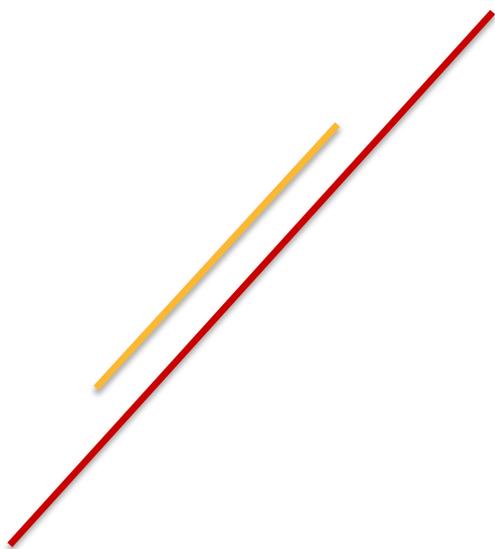


***MITIGATING THE IMPACT OF THE  
UNITED KINGDOM'S WITHDRAWAL  
FROM THE EUROPEAN UNION***



***SPANISH BUSINESS  
PERSPECTIVE ON THE FUTURE  
POST-BREXIT RELATIONSHIP***



*June 2018*

## Introduction

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On **March 29<sup>th</sup>, 2017**, nine months after the supporters of the United Kingdom's withdrawal from the European Union (Brexit) won the referendum, the British Government officially **announced to the EU its intention to leave it**. It was the first time something like this happened in more than 60 years of European integration. Nonetheless, the **EU responded with extraordinary unity and rapidity** to face the emergence of the great concerns that it entailed.

Only a month later, on April 29<sup>th</sup>, 2017, the European Council, already in its composition of the EU-27, adopted the guidelines to negotiate the withdrawal by unanimity. On May 22<sup>nd</sup>, the Council translated them into a negotiating mandate, from which the **indivisibility** of the four **freedoms** of the **European internal market** (free circulation of people, goods, services and capital) stands out and, therefore, leaving out the possibility of the so-called "cherry-picking"; together with the safeguard of the autonomy and legal order of the EU.

On June 19<sup>th</sup>, 2017 negotiations between the European Union and the United Kingdom began, taking as a starting point the realization of Brexit and as a goal the limitation of its negative effects, trying to ensure a process as orderly as possible. The crucial issue is to determine the terms that will regulate, on the one hand, the withdrawal and the transition period, and, on the other hand, the future relationship.

**After a year of discussions**, there has been **considerable progress**. First, on March 19<sup>th</sup>, 2018, a provisional agreement was reached on certain parts of the draft Withdrawal Agreement, **including a transition period of 21 months** counting from the day after the demise (March 30<sup>th</sup>, 2019) until December 31<sup>st</sup>, 2020. Secondly, **the beginning of the negotiations on the framework for the future EU27-UK relationship**, based on the guidelines adopted by the European Council on March 23<sup>rd</sup>.

Since the above **developments** are **not consolidated**, there is a real **risk** that the **UK will leave** the European Union **without an agreement**. Everything depends on reaching an agreement on time on pending issues, including the most sensitive ones, such as the border dividing the island of Ireland which will become the only land border between the United Kingdom and the EU.

Consequently, it is essential that not only **business organizations and companies** are **prepared** for an eventual **abrupt disengagement** of the United Kingdom, but that **public authorities** do everything necessary to **support them** by facilitating their adaptation, especially SMEs.

At the same time, the British Government has to clarify its positions as soon as possible to finalize the text of the mentioned Withdrawal Agreement and to advance in the definition of the framework for the future relationship. In regard to legal certainty and predictability, it is essential that the withdrawal negotiations conclude within the established timeframe (October 2018) and that its content complies with the aforementioned negotiating directives.

Considering the significant exposure of the Spanish economy to the United Kingdom (see the statistical annex), the following section **presents** some **basic aspects that CEOE considers essential to reduce disruption caused by Brexit** to the extent possible in the short, medium and long term.

# 1. Key aspects to limit the impact of the United Kingdom's withdrawal from the European Union

## 1.1. Concluding the Withdrawal agreement accurately and on time

It is the **previous** and **essential step** to:

- ✓ **Safeguard citizens' rights** and ensure that, among other issues, **goods** traded before Brexit can continue to circulate in both markets; concluded **contracts** preserve the stipulated conditions; and **intellectual property** rights and **rules of origin** are respected.
- ✓ Ensure a smooth border between Northern Ireland and the Republic of Ireland, since it will be the only land border with the European Union, without undermining the **integrity of the European internal market**. To that effect, the UK shall remain, at least, in the Customs Union.
- ✓ **Ensure the application of the status-quo transitional period** from March 30<sup>th</sup>, 2019 to December 31<sup>st</sup>, 2020. The United Kingdom will continue to be part of the Customs Union and the internal market. The European Union legislation will be applied preserving the jurisdiction of the Court of Justice of the EU.
- ✓ **Agree on the terms of the framework for the future relationship**, in order to negotiate a wide-ranging association agreement with the United Kingdom during the transition period, which shall enter into force at the end of it.
- ✓ Ensure that the United Kingdom remains within the **Free Trade and Association Agreements** concluded by the European Union with non-member countries during the transition period.

If on March 29<sup>th</sup>, 2019 at 00:00h, the **Withdrawal Agreement is not ratified and into force**, a **scenario of "regulatory chaos"** could emerge and bilateral relations would be strongly affected:

- **Trade relations** would be **governed by the World Trade Organization (WTO) rules**, with the consequent implementation of tariff and non-tariff barriers that would affect many sectors, including the chemical, pharmaceutical, and the automotive or the agri-food sector.  
For example, the EU applies tariffs that, depending on the product, can be significantly high for those importers from developed countries with whom there is no trade agreement. Although the implementation of new tariffs by the United Kingdom, which is part of the WTO on an individual basis, is not a simple or quick process, it is a risk to be taken into account.
- **Trade in goods** would be **subject to customs inspections**, which would require new investments in infrastructure and administrative procedures. Other costs derived, for instance, from the duplication of controls, will also have to be considered. The **functioning of supply chains**, including logistics and assembly, and, ultimately, the supply of goods, would be **at stake**.
- The **provision of services** would be, at best, **subject to the existence of bilateral agreements** between countries. Access to human capital, as well as financial services, business services, engineering or infrastructure management, would be harmed.
- The United Kingdom would be outside the Single European Sky and air traffic could be interrupted, including flights of British companies within another Member State. Airport services would also be affected.
- The **continuity of long-term commercial and insurance contracts** could be **compromised**, as well as the rights of the policyholders/consumers concerned.

It must be taken into account that this **chaotic scenario could occur from January 1<sup>st</sup>, 2021, if the European Union and the United Kingdom do not agree on the Association Agreement** during the transitional period, which lasts only 21 months and the average negotiation time of these trade agreements is about 7 years.

Therefore, it is essential that **Spanish companies**, and the **organizations representing them**, are **prepared to face the risks** that an **abrupt departure** of the United Kingdom could entail. It would be recommended to adopt measures, based on **four key actions**:

- **Analysis of the company's level of exposure** regarding its relationships with the United Kingdom.
- **Internal organization** for the assessment of the situation of the company and its sector regarding the European and international economy, depending on the case.
- **Impact assessment and approval of suitable strategies**, including contingency plans if necessary.
- **Implementation of the strategies**, foreseeing their adaptation according to the Brexit negotiations, their final result and the evolution of the long-term EU-UK relations.

**Not only the business sector must be prepared** for any possibility, **Public Administrations at the appropriate levels must also be ready**, for which CEOE offers its **collaboration**:

- Performing a diagnosis of the increase in needs that the Customs Administration will have in terms of human and material resources, based on the analysis of existing trade flows with the United Kingdom,
- Anticipating responses to the expected increase in administrative burdens, and
- Arranging necessary internal coordination mechanisms between Public Administrations to ensure a continued and effective support to companies, especially SME.

In this context, it is necessary the **involvement and participation of companies and business organizations throughout the negotiation process** so that the final agreement, including the framework for the future relationship, is the least possible onerous.

## 1.2. Reaching a post-Brexit Agreement as broad as possible.

Any agreement reached with the **United Kingdom** must be based on a **balance of rights and obligations**, being aware that, firstly, the UK cannot have the same rights and benefits as a Member State. Secondly, any attempt to fragment the European internal market is unacceptable.

Although the United Kingdom was the fifth export market for Spain in 2017, with sales worth almost 19.000 million euros, the European Union was the destination of 65% of Spanish exports, worth more than 180.000 million euros. The same happened with imports, which rose to 11.443 million euros in the case of the United Kingdom and reached almost 164.000 million euros for the EU.

If the British Government insists on leaving the Customs Union and the internal market, **frictions** concerning the relationship with the European Union **will increase**, the impact of which shall have to be reduce to a minimum. Meanwhile, the **EU must preserve the integrity of the internal market** by ensuring the indivisibility of its four freedoms and provide for **solid guarantees of fair competition** with the United Kingdom.

The **Association Agreement** must be concluded in good time **prior to the end of the transitional period** so that it can enter into force on January 1<sup>st</sup>, 2021; provided that the mentioned Withdrawal Agreement has been previously completed. Otherwise, it would be necessary to extend this transition period. Delivering **stability and legal predictability** is absolutely crucial.

The **integrated nature of the supply chains** between Spain and the United Kingdom, the **close socio-economic links**, as well as the existence of a **common regulatory framework**, make it essential to achieve a **broad and ambitious agreement** that, in addition to trade, contains provisions on basic issues, such as fisheries, connectivity or security and defense.

The following elements should be at least present:

### ✓ **Level playing field through a fair competition framework**

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Considering the current high level economic interrelation, the future EU-UK relations must be laid down in a framework of level playing field that ensures **free and fair competition**.

The objective is to **prevent any anti-competitive practice** from the United Kingdom consisting of a reduction of protection standards in terms of competition, state aid, or social, environmental and fiscal regulations. It is essential that the Association Agreement includes **disput resolution mechanisms** under the **principle of "non-reduction of standards"**.

For example, in the fiscal area it is indispensable to foresee solutions to prevent double taxation. Similarly, the conditions of those public contracts/concessions awarded by the British public authorities before the date of withdrawal must be maintained. Likewise, regarding environmental and climate change policies, the United Kingdom must comply with the existing regulations; otherwise, the European Union should review its objectives.

In order to limit the levels of dispute, such conflict settlement mechanisms should be accompanied by a clear commitment of the British standardization body (British Standards Institution - BSI) to recognize and adopt European and international standards. Standards are key tools to facilitate trade and the EU is a world leader in setting them for various areas.

**Guaranteeing the validity of a fair competition framework**, which confers stability and predictability, is also very important to encourage bilateral investments. The United Kingdom is the first destination of Spanish foreign investment in terms of stock.

### ✓ **Customs cooperation by simplified procedures and without tariffs**

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**Leaving** the Customs Union and the internal market **without an agreement** or a transition would mean that **EU-UK relations** would be subject to **WTO rules**. In addition, the principle of mutual recognition and the presumption of conformity of products would cease to apply in the United Kingdom.

Public authorities would have to **implement more customs controls and procedures**, resulting in higher costs not only for them, mainly in terms of infrastructures; but for companies too, primarily due to the development of new internal and external procedures concerning logistics and supply chains, and the provision of contingencies to adapt to the new situation. This will be even more challenging for small and medium enterprises.

With the purpose of limiting these impacts as much as possible, Spanish and European **public authorities**, as well as British authorities, must **plan specific actions, including accompanying measures for companies**, specifically for **SME**. The competitiveness of many Spanish economic sectors, such as the automotive and car components, the chemical or the food sector, depends on the proper functioning of supply chains. Any **delay in the movement of goods, as well as in the supply and production/assembly chains must be avoided**.

The **objective** is that the EU and the United Kingdom reach a "**zero tariffs**" **agreement**, establishing **permanent customs cooperation mechanisms** that, in turn, envisage the simplification of customs procedures.

### ✓ **Alignment and cooperation in the regulatory field**

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Ensuring regulatory alignment is **essential** for, on the one hand, **preserving legal certainty** and, on the other hand, **safeguarding the supply chains** between both **parts**.

Product compliance with a very significant number of standards must be first verified before they are sold in the European internal market.

These standards include rules of origin, data protection, intellectual property; as well as security regulations - such as REACH for the chemical and pharmaceutical sectors -, sanitary and phytosanitary regulations - for the agri-food sector; and vehicle approval certificates.

Therefore, the Association Agreement between the EU and the United Kingdom **should comprise specific instruments** to ensure legislative compatibility and judicial and extrajudicial cooperation on the basis of the EU law. The objective is to **avoid duplicities and extra costs** for companies.

With this purpose, the **United Kingdom should incorporate into its legal system all European regulations** that are **necessary** to maintain smooth trade relationships, as well as preserve a high level of regulatory convergence.

### ✓ **Financial services**

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Although the United Kingdom will become a third country with full regulatory autonomy, the starting point would allow the UK to maintain a high level of regulatory convergence with the EU, so that an **ambitious financial services agreement** can be reached, as it is desirable. The objective is to minimize the impact of Brexit in terms of **financial stability**.

Given the existing mutual interest to design a framework for constructive relations, it is necessary that the agreement, on the one hand, avoids **significant market disruption** and, on the other, allows financial institutions for reciprocal free access through the setting-up of subsidiaries or the establishment of branches.

More specifically, the agreement **must not generate new unnecessary obstacles**, such as higher capital requirements. The EU recognition of the instruments issued by the United Kingdom should be facilitated. Mechanisms for regulatory cooperation and supervision should also be foreseen to, among other issues, ensure adequate consumer protection of financial services, including insurance.

If this is the case, the expected convergence of the British and EU framework will be promoted, as already mentioned, avoiding competition aimed at deregulation.

## ✓ Free flow of data

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The **free flow of personal data** between the European Union and the United Kingdom is an **essential** element for the proper performance of certain activities, such as insurance.

These activities will also be affected by Brexit regarding the protection of personal data, because, under the current General Data Protection Regulation, the United Kingdom will be considered a third country.

Therefore, in order to maintain the flow of personal data between the EU and the United Kingdom after the transition period, **an adequacy decision issued by the European Commission would be necessary to determine the equivalence of British and European regulations.**

## ✓ Movement of people and workers

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The global Association Agreement between the European Union and the United Kingdom must contain a **specific chapter that favors the movement of people and workers** of any level of training, always based on the agreement reached on citizens' rights on March 19<sup>th</sup>.

**Professional qualifications** must be **recognized**, in addition to facilitate **workers access** to both labor markets **through simple procedures**, avoiding any increase in red tape.

This means the **United Kingdom should endorse the principles of full reciprocity and non-discrimination**. Likewise, they should apply the provisions of the corresponding European Directives that allow, on the one hand, the flow of workers within the same company or business group and, on the other hand, the entry of skilled immigrants from third countries (Blue Card).

## ✓ Socioeconomic cooperation in key areas

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In order to avoid any significant disruption and taking into account that the United Kingdom is the **largest issuer of tourists for Spain**, it is **essential to guarantee citizens' rights to access public services** (including health services through the European Health Insurance Card), and to ensure an **equivalent level of consumer protection** and, most importantly, a specific agreement on aviation.

In relation to **air transport**, traffic rights between the United Kingdom and the Member States should be as similar as possible to those in force. It has to be pointed out that nearly 100% of British tourists choose the plane as a means of transport.

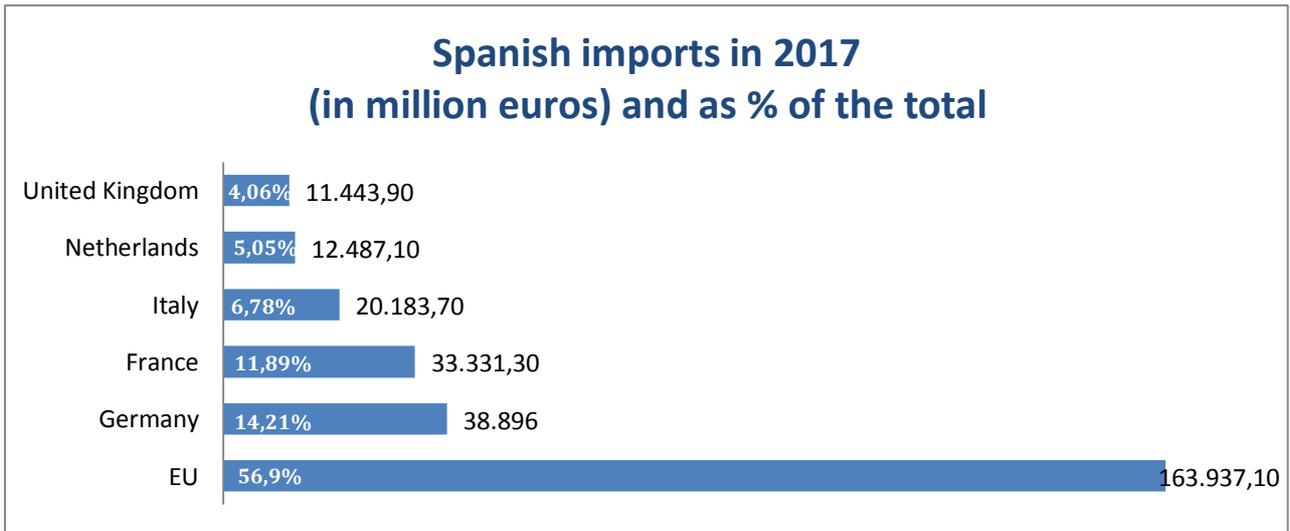
Furthermore, it is crucial to, firstly, ensure that the European rules on ownership and control do not harm the current level of connectivity and, secondly, avoid the congestion of airport facilities during the transition period due to the implementation of more passport and customs controls.

As regards **road haulage**, with more than 4 billion Ton.Km, the United Kingdom is the third European country to which exports of goods by road are directed. It is key that, apart from the above considerations on customs cooperation and the maintenance of supply chains, the UK maintains a high level of regulatory convergence with the EU (access to the market and profession, driving and rest periods, for instance).

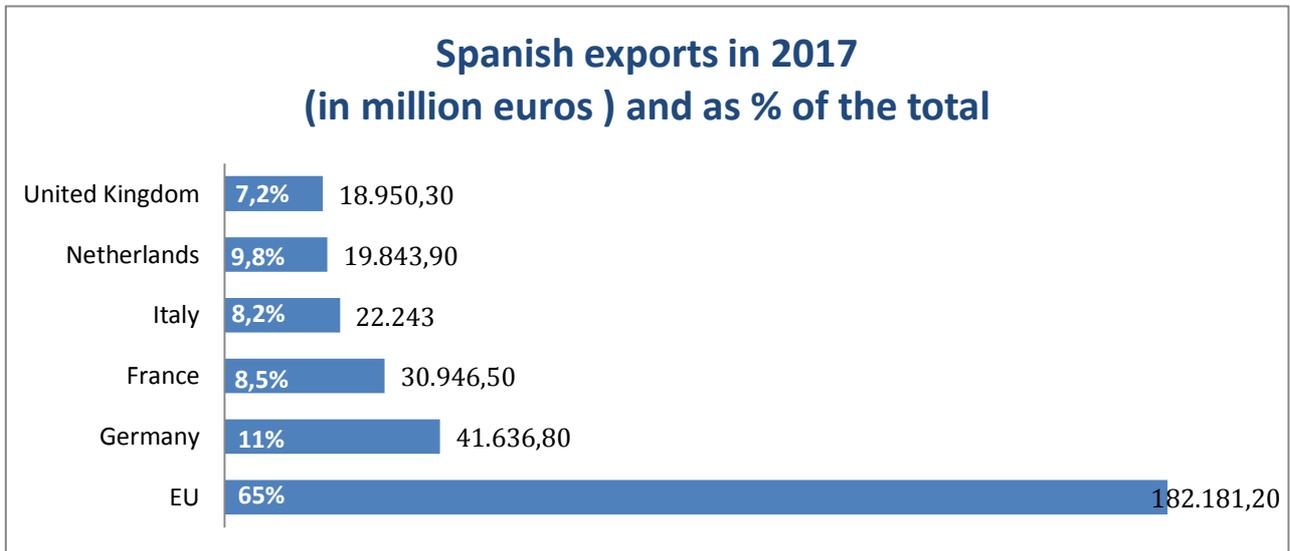
Regarding European programs, mainly in **R+D+I and education and culture**, the involvement of the United Kingdom shall be possible, provided that it is foreseen in the legislative instruments regulating them and provided that are equal to those applied to third countries.

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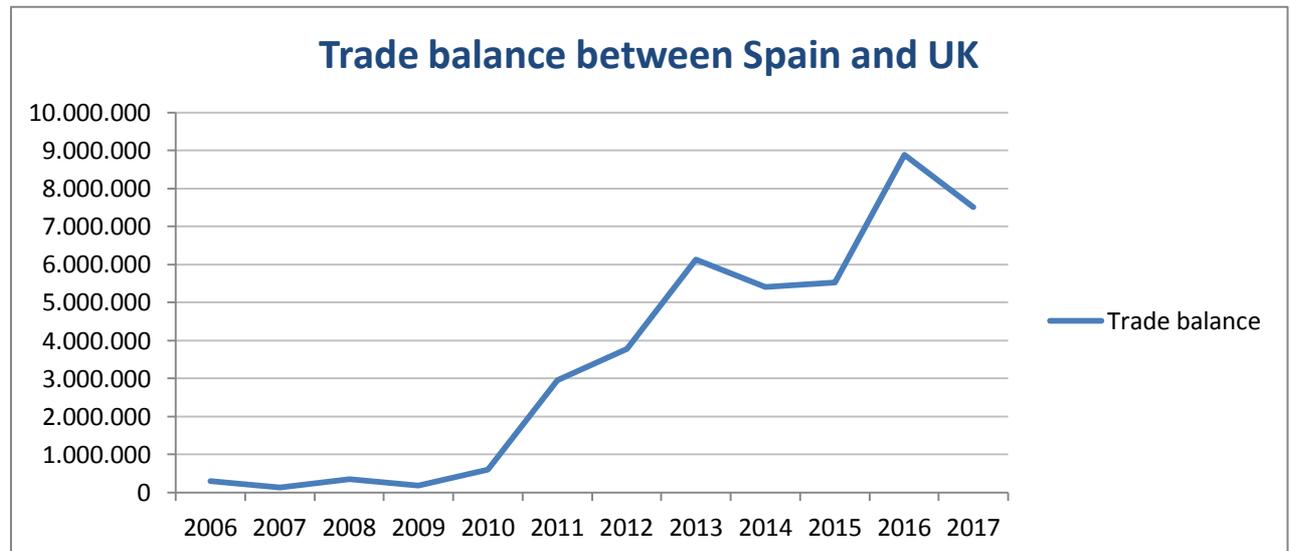
## ANNEX: SPAIN – UK RELATIONS IN FIGURES



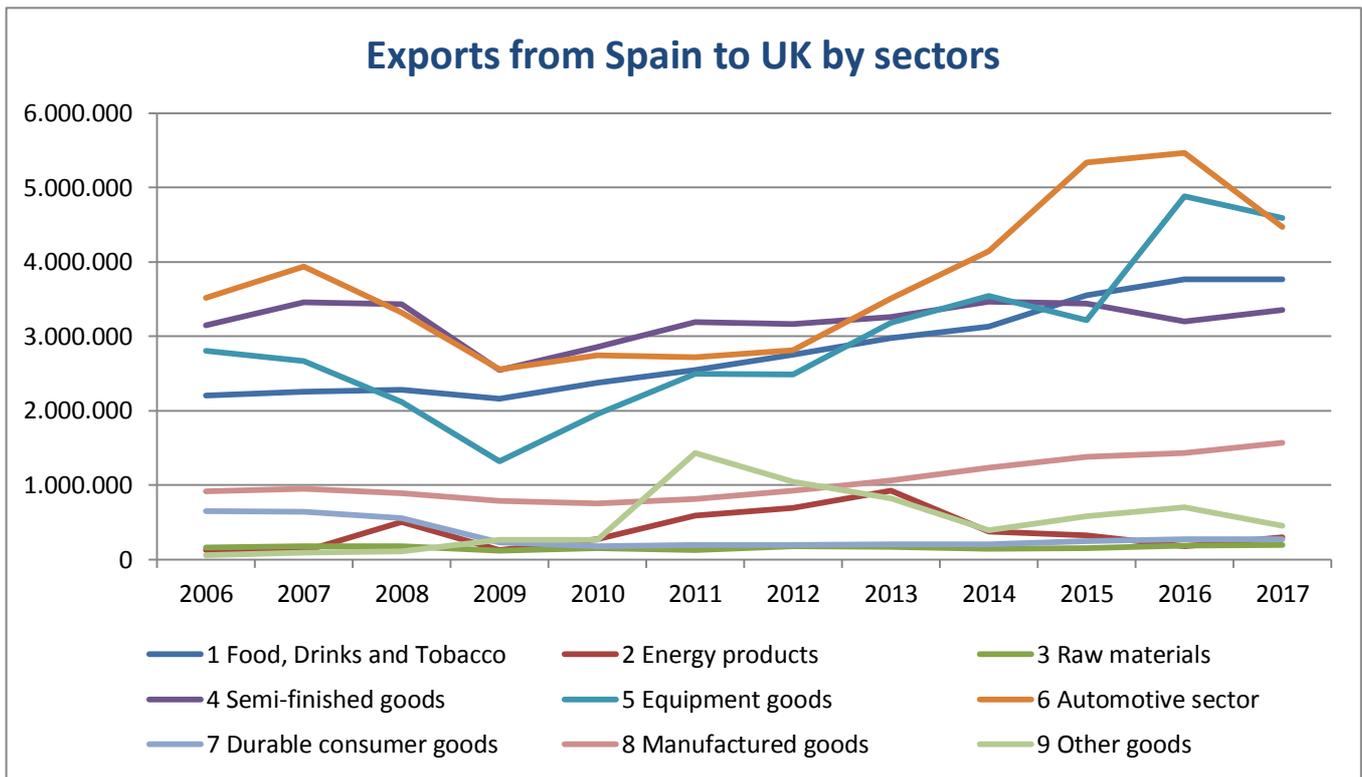
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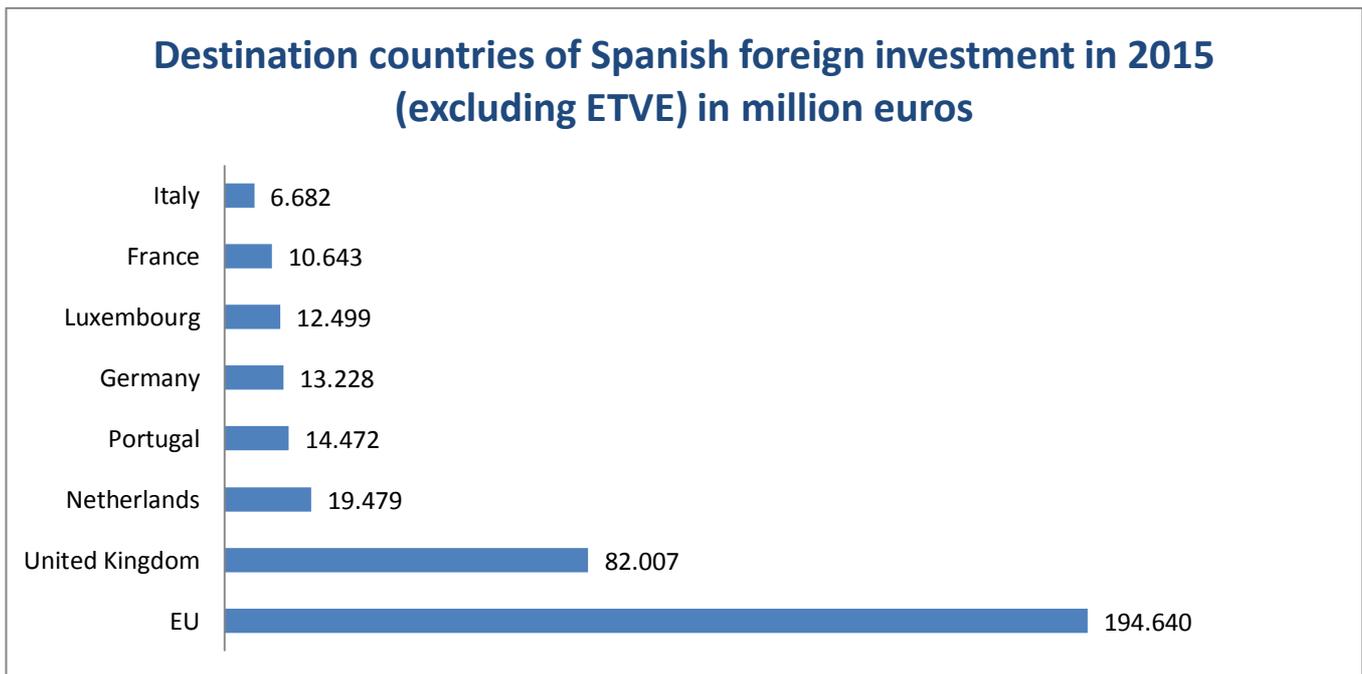
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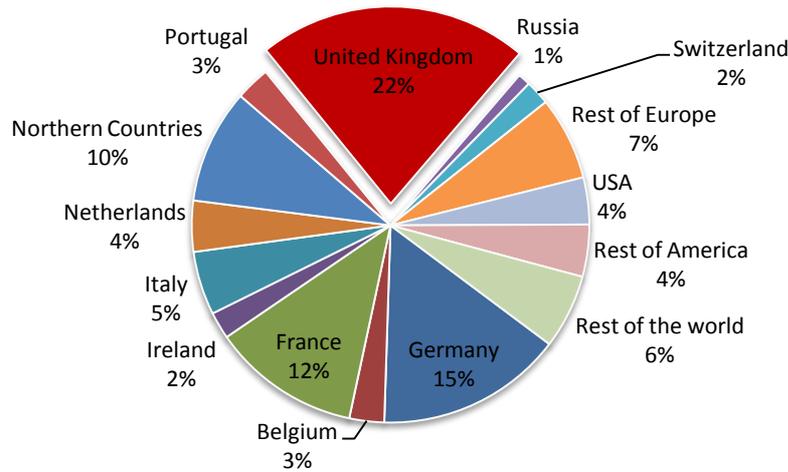


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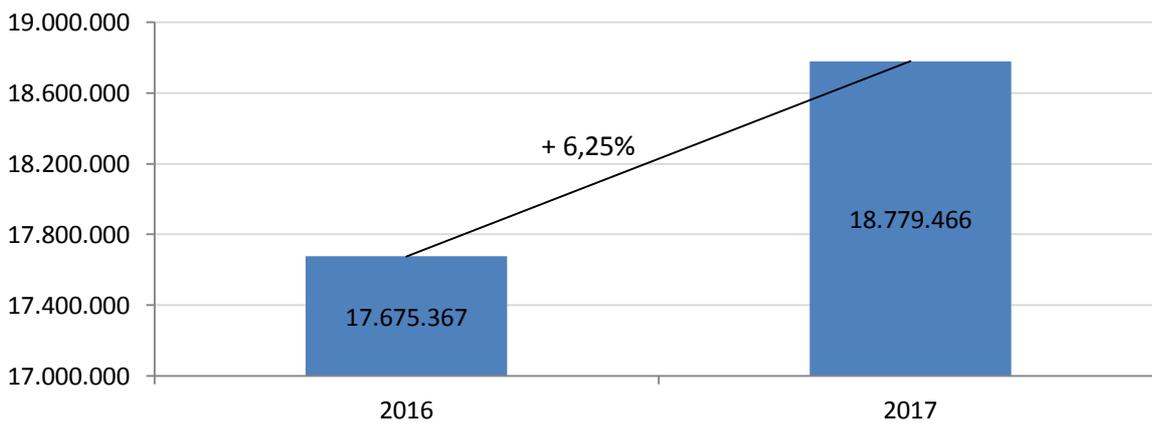
Source: Ministry of Economy, Industry and Competitiveness of Spain

### Number of tourists in Spain according to their country of residence in March 2018



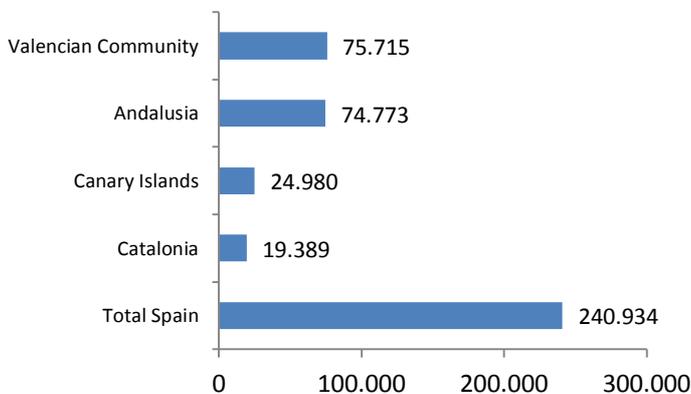
Source: Spanish Statistics National Institute

### Evolution of the number of British tourists in Spain

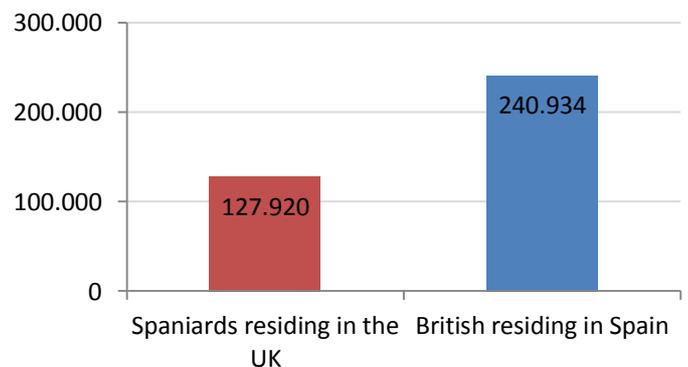


Source: Spanish Statistics National Institute

### British residing in Spain on January 1st, 2018



### Spaniards residing in the UK and British residing in Spain on January 1st, 2018



Source: Spanish Statistics National Institute