January 2019

NO-DEAL BREXIT

Impact on the UK of trading under the WTO rules

Introduction

In the event of a no-deal Brexit, then the UK will revert to trading on the World Trade Organisation (WTO) rules until new arrangements have been implemented. Under these rules, there are significant differences from the UK's current position as a member of the single market and customs union in relation to goods and many service sectors.

The WTO consists of the:

- **General Agreement on Tariffs and Trade ("GATT")** - general agreement for trade in goods;
- **General Agreement on Trade in Services ("GATS")** - agreement that governs trade in services; and
- Others - Trade-Related Aspects of Intellectual Property Rights, The Government Procurement Agreement and a number of WTO documents relating to dispute settlement, including the Dispute Settlement Understanding.

Key principles of the WTO include the:

- **Most Favoured Nation** (MFN) principle, which prohibits discrimination between "like" goods and services and the relevant suppliers between WTO members, subject to certain exceptions such as a free trade agreement (FTA) been in place; and
- **National treatment principle**, which means that foreign goods and services should be treated the same way as domestic.

What do WTO rules mean for goods?

If no deal is agreed between the UK and EU, then MFN tariff rates (import on taxes of goods) will apply to trade between the UK and the EU, as well as any other country with which the EU has a FTA in place. This will take affect from 23h on the 29 March 2019.

Every WTO member has its own WTO schedules, a list of MFN tariff rates and quota that it applies to other countries equally. These are annexed to the GATT.

The UK is already a full member of the WTO in its own right, so will not have to re-join after Brexit, however it will need to agree a new list of schedules for tariffs on goods. The UK has submitted documents to the WTO, stating it wants to make some technical changes to its existing commitments as an EU member but otherwise leave them unchanged.

Goods exported to the EU from the UK

The MFN tariffs for the EU are set out in the EU's Common Customs Tariff (CCT) and will apply to goods imported into the EU from the UK. The EU may change these rates between now and exit day, but as an indication see the average 2018 tariffs below.

Average EU tariff by product type	
Dairy products	38.1%
Sugars and confectionary	23%
Beverages and tobacco	19.1%
Animal products	10%
Cereals	16%
Fish	11.4%
Clothing	11.5%
Fruit, vegetables and plants	11.5%
Textiles	6.6%

Oilseeds, fats and oils	5.4%
Coffee, tea	6%
Chemicals	4.5%
Transport equipment	4.1%
Leather	4.2%
Other agricultural products	4.7%
Electrical machinery	2.4%
Other manufacturers	2.4%
Petrol	3.1%
Minerals and metals	1.9%
Non-electrical machinery	1.7%
Wood, paper etc.	0.9%
Cotton	0%

WTO Tariff World Tariff Profile 2018, 22 January 2019

Trading on EU MFN tariff rates will have a significant impact on UK businesses in many sectors.

The EU is the UK's biggest trading partner, accounting for 44% of all exports in 2017[1]. A move to EU MFN tariff rates would have a particular impact on exports of **food, chemicals, agriculture and clothing to the EU**, potentially leading to higher prices for EU customers. Demand for British products may decline, where EU customers are able to purchase cheaper alternatives sourced from within the EU. In the longer term, this may see UK businesses reassess their key export markets.

But WTO rules don't always mean tariffs

Not all UK exporters will be faced with new tariffs under WTO rules. Some goods and services will remain tariff free, and so will not differ from that which is already in place. Examples include:

- **Packaged software** (i.e. DVDs with software to be installed on a local drive) and computer hardware will generally be classed as a product, which is covered by the 1996 WTO Information Technology Agreement. This Agreement, ensures these high technology products are **tariff-free**; and
- **Software hosted and used online** (i.e. cloud-based or software-as-a-service) is classed as a service rather than a product as it doesn't involve the provision of a physical good. Under the General Agreement on Trade in Service, international sale of services between WTO members is **tariff-free** (see below for more information on services).

Custom procedures will apply under WTO rules

Businesses exporting to the EU, will be required to follow the customs procedures in the same way they do for non-EU countries. In the short term, this could mean that British products face additional border checks when entering the EU, which could be disruptive for EU businesses that rely on receiving raw materials and parts sourced from the UK.

[1] *House of Commons Library Briefing Paper, 11 January 2019*

Goods imported to the UK from the EU

Importers of goods into the UK will be required to pay customs duty at a rate set by the UK government. The MFN rates will be determined and published on GOV.UK before exit day, though initially they are unlikely to differ from the EU MFN tariffs.

Custom procedures will apply under WTO rules

Businesses importing to the UK will require an import declaration and a custom check. Any delays resulting from these additional procedures may have knock-on effects for UK producers and customers. For example, importers of fresh produce could face delays in getting products on to supermarket shelves, leading to shortages for consumers and a corresponding rise in prices. UK producers who rely on raw materials and parts arriving in the UK may need to revise production schedules, which could again ultimately lead to shortages of finished products and higher prices for UK consumers.

HMRC has provided guidance for businesses importing from, or exporting to, the EU in the event of a no-deal brexit.

Other implications for goods

Tariff rate quotas will be a problem

Tariff quotas add an additional dimension. The EU's WTO tariff schedule provides that, for goods where a tariff quota applies, imports up to a certain level carry one tariff, while imports above that level carry a higher tariff. To make matters more complicated, the EU's quota levels are based on the UK being in the EU. Some of the **most important TRQs** relate to **butter, cheese, poultry and sheep meat for UK importers.**

Negotiations in the WTO are ongoing, however the European Commission has submitted a proposal to modify Council Regulation (EC) No 32/2000 which implements the EU's tariff quotas bound in the GATT. In doing so, the Commission is preparing for a no-deal Brexit scenario.

Supply chains will be affected

Under WTO rules (and also if the UK enters into an FTA with the EU), there will be implications for companies that use the UK as their base for importing goods from third countries onto one or more of the EU Member States. As a customs union, the EU does not impose additional tariffs when products are subsequently exported from the UK to another EU Member State. Companies using the UK as a base for importing goods from third countries will need to consider restructuring their supply chains and/or inward processing relief and customs warehousing.

Non-tariff barriers will apply

There is no agreed definition of what constitutes a non-trade barrier, however various forms may present as an obstacle for access to the open market for the UK, particularly those on product standards and rules of origin.

Although unlikely, the EU will have the right to insist on checks at borders as there will no longer be mutual recognition of product standards and regulations.

What do WTO rules mean for services?

About 80% of the UK economy comes from providing services, so trade in services is particularly important. UK firms' market access to the EU (and other countries with which the EU has FTA) will be determined by the GATS. Under GATS, the exact nature of market access will differ for each service sector, mode of supply and in each EU Member State. For many UK sectors, services will differ significantly from that under the single market.

Financial Services will encounter loss of passporting rights

Financial Services differs under GATS but there are some similarities in the broad nature of commitments offered. EU Member States have very limited commitments to cross-border trade in a small number of sub-sectors, such as transfer of financial information, insurance for air and maritime transport, reinsurance provision and financial data processing. Trade in Financial Services would mean the loss of passporting rights under GATS.

EU Member States have comprehensive commitments covering nearly all financial services so commercial presence in EU member states will also be greatly affected.

Management consulting won't radically change

Management consulting will not radically change under WTO rules, as there are no limitations applied by the vast majority of EU members States in relation to cross-border supply of management consulting and related services.

What about developing countries?

Powers in the Taxation (Cross-border Trade) Act 2018 enable the UK to put in place a UK unilateral trade preference scheme for developing countries after Brexit. Initially, it is intended that this will provide the same level of access as provided by the current EU trade preference scheme. This will maintain tariff free access for the least developed countries and also continue to offer generous tariff reductions to around 25 other developing countries.

What about Northern Irish businesses importing and exporting to Ireland?

The UK government has consistently placed upholding the Belfast Agreement and its successors at the heart of their approach to Brexit. However, the most important WTO principle is that you do not discriminate, so if the UK government refused to check goods crossing the Irish border, then it also could not check goods arriving into UK ports from other countries such as China.

In the event of a no-deal Brexit, then the UK government will need to engage with the Irish government on arrangements for land border trade.

The Irish government has indicated they would need to discuss arrangements with the European Commission and EU member states.

Any client trading across the land border should consider whether they need advice from the Irish government about preparations they may need to make.

Who to contact

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