

29th May 2020

**BREXIT Update**

Following the May round of UK-EU FTA negotiations there were some considerable negative signs, including a letter published by chief UK negotiator David Frost which was highly critical of the EU’s general approach.

The main criticism by the UK Government is that the EU seeks to provide for a fully comprehensive agreement covering most areas of interaction between the UK and EU and will cover trade in Goods, Services, travel, security, fishing etc whereas the UK now seeks a standalone trade agreement with supplementary agreements on other issues. While this may appear a minor difference in format, it relates to a crucial consideration for the EU, who (a) do not want to replicate the enormously complex relationship they have with Switzerland with ~150 separate agreements all needing review at different times and under different governance structures and (b) do not wish to agree substantial trading concessions if these are not linked to strong cooperation and suitable governance in other areas of the relationship. The EU can also point to the Political Declaration agreed along with the Withdrawal Agreement as providing for that kind of comprehensive relationship.

The UK negotiators highlight that their proposed provisions generally match up to clauses agreed in other EU FTAs with Canada, Japan, Mexico etc. The EU counters that each of those FTAs balanced different interests of the parties so selecting the favourite items from each does not produce that balance.

The other highly difficult area (aside from Fisheries, of course) are the level playing field requirements from the EU to avoid the UK in the future adopting more relaxed regulations for environmental standards, labour law and particularly state aid. The UK points out that such requirements are not typical for FTAs, including EU FTAs, although there are similar provisions in some. For the EU, the risk of perceived unfair competition from trading partners at some geographical distance and relatively low trading volumes is minor when balanced against other interests. Also, the EU Commission has considerable support from both member states and EU industry in continuing to insist on the level playing field requirements; this is partly because there is already great concern over the threat presented by unfair competition from state-owned and state-aided enterprises from China. EU industry is pressing for tougher action by the EU against this type of unfair competition so does not want to open the door to it from their nearest trading partner.

On the positive side, for manufacturers of technical products it is really only an FTA for industrial goods that is of key interest and in principle this would still be achievable, even in the highly constrained timescale provided. It is also beneficial that the recently published draft Legal text that the UK is proposing has greater detail on crucial aspects such as Customs processes than had been expected. It does however still leave large areas currently blank on vital areas of Rules of Origin. It also contains a very much lighter Article on Regulatory Cooperation than we had expected, making this entirely voluntary and providing almost no structure for the review of proposed EU and UK regulation that would be necessary to avoid manufacturers quickly becoming unable to trade standard products between the UK and EU (and possibly between Great Britain and Northern Ireland). EURIS has written to the BEIS Secretary of State to request much more detail to be provided on this and proposing draft structures to facilitate the process and help to maintain manufacturers having one standard and one test that would enable the product to be traded in both UK and EU.

This is made more difficult as the EU continues to oppose a Mutual Recognition Agreement on Conformity Assessment, which both UK and EU industry would view as essential. Again the question of linkage may be important here, as if there is regulatory divergence and the application of different technical standards, the mutual recognition will be of minimal benefit. We continue to press for this recognition alongside strong regulatory cooperation.

We await the outcome of the June round of negotiations with special anticipation and the deadline to agree any extension to the Transition Period is 1st July 2020 and the UK Government had stated clearly that it will not seek or accept any extension, although the EU Commission is open to it. The UK Government has also stated that if there is not substantial progress on key areas in negotiations by the end of June, they will switch their main effort from FTA negotiation to No-Deal preparation. If no extension is agreed and there are no breakthroughs in negotiation, it is still possible that political pressures will lead to some type of agreement as we get towards Autumn but clearly manufacturers must be prepared for a strong possibility of a No-Deal outcome.

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