

# BREXIT SECTOR VIEWPOINT: MANUFACTURING AND INDUSTRIALS

08 May 2017 | London  
Legal Briefings

---

The full, long term implications of Brexit for the UK economy are not yet clear. By the end of March 2019, the UK will have uncoupled from the EU's legal framework and a replacement, transitional or otherwise, will be in place. All companies will have to navigate this transition but for manufacturing and industrial businesses both within and outside the UK, Brexit brings a number of particular challenges and opportunities. Some of these will be more immediate, others will impact longer term strategy and planning.

## **THE CHALLENGES AND OPPORTUNITIES**

### **Tariffs and trade**

Whilst tariffs on industrial goods are generally more moderate than, say, agricultural products, the imposition of tariffs which are not currently relevant as between the UK and the EU and other countries will be a significant consideration in analysing the impact of Brexit on destination markets for industrial products. This is not only a challenge in terms of destination markets for industrial goods and for imports but also for the often complex supply chains through which components are sourced either within or outside the EU. Many of the UK's key trading partners outside the EU do not have free trade agreements with the EU so the impact of Brexit on trade with those countries may not be significantly affected. However, that will not be the case for trade between the UK and continuing EU members, unless the UK Government negotiates some continuation of the status quo.

### **Opportunities beyond the EU**

The apparent willingness of some countries (such as Australia) to negotiate standalone free trade deals with the UK may well bring opportunities for UK manufacturers to access additional markets, which the EU has so far not unlocked. If the Trans-Pacific Partnership survives without the USA's participation, it would offer an opportunity for a much bigger deal, possibly with the bloc as a whole. But this will take time.

## **Currency fluctuations**

Sterling's fall in value relative to major currencies since the Brexit vote has delivered some competitive pricing benefits to UK manufacturers compared with overseas counterparts but where the complexities of the supply chain involve sourcing products outside the UK, the increase in component prices (in sterling terms) brings additional cost. Fluctuations in the value of sterling generally will not help with stability for long term planning.

## **Human resource**

Manufacturing companies which rely on the availability of a skilled workforce will clearly suffer if immigration controls (on EU or other citizens) restrict businesses' ability to secure the necessary skills to maintain and develop their operations, particularly those for which R&D is a competitive differentiator. Equally, businesses reliant on the availability of sufficient lower skilled workers will be impacted by any move which directly or indirectly limits the movement of workers.

## **Contracts**

Contracts with territorial limits will need examination for references to the EU and may need appropriate adjustment to work effectively after Brexit. In other cases an economic assessment of the effect of Brexit may suggest that renegotiation or termination should be considered.

## **Standardisation and eco-policies**

Many standardisation rules and the bodies that administer them are the product of EU law. While the rules, including provisions designed to promote environmental welfare, will remain in the EU and may initially apply in the UK, industry will wish to consider whether they would be better served if the UK maintained close alignment with EU rules or diverged for home and third country markets.

## **Intellectual property**

Businesses using European Trademarks and Design Rights in the UK will need to take steps to obtain national rights and may need to adjust their approach to intellectual property rights in other ways. Notwithstanding that the UK has now confirmed it is proceeding with preparations to ratify the Unified Patent Court Agreement, businesses in the UK are still likely to require separate national patents to fully protect themselves.

## **Tax**

The UK may be excluded from the EU VAT network with changes to how businesses have to pay and account for this tax on trade in both directions between the EU and the UK.

## **Industrial strategy**

The UK Government will, except to the extent otherwise agreed with the EU, have greater scope for industrial strategy as a result of the strict EU State aid rules falling away. However, WTO rules designed to limit discriminatory subsidies will still apply.

## **PREPARE FOR THE UNKNOWN**

The UK faces many unknowns that rest on future UK Government decisions and negotiations with the EU and other trading partners. Despite the uncertainty, businesses can prepare for life after Brexit.

## **Strategic planning**

Companies in the manufacturing and industrial sector can analyse the potential consequence of Brexit on their business, by asking for example:

- How will supply chains and sales be affected by tariff changes?
- How will the uncertainty over the UK's future relations with the EU impact their longer term planning? Decisions such as where to locate new plant or new production lines, and where to otherwise invest and expand, might take longer to implement.
- What are the tax (especially VAT) and duty implications of Britain leaving the EU?
- How can we ensure mobility and retention of staff that are key to management of our businesses and the right availability of skilled and semi-skilled labour?

The cost of doing the wrong thing now may make many executives nervous about doing anything, but in some cases decisions will need to be made on imperfect information.

By assessing and quantifying these challenges, businesses can define and prioritise mitigation strategies. They can lobby government and industry bodies with arguments that might influence or shape future policy. In addition, they can monitor developments as the political landscape continues to shift and be prepared to modify their operational models in response to evolving certainties.

---

## RELATED VIDEO



## KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



**STEPHEN WILKINSON**  
MANAGING PARTNER,  
CORPORATE,  
LONDON  
+44 20 7466 2038  
Stephen.Wilkinson@hsf.com



**LODE VAN DEN HENDE**  
PARTNER, BRUSSELS  
  
+32 (0)2 518 1831  
Lode.VanDenHende@hsf.com



**DOROTHY LIVINGSTON**  
CONSULTANT,  
LONDON  
+44 20 7466 2061  
Dorothy.Livingston@hsf.com



**STEPHEN DOBBS**  
PARTNER, SYDNEY  
  
+61 2 9225 5511  
Stephen.Dobbs@hsf.com

---

## LEGAL NOTICE

The contents of this publication are for reference purposes only and may not be current as at the date of accessing this publication. They do not constitute legal advice and should not be relied upon as such. Specific legal advice about your specific circumstances should always be sought separately before taking any action based on this publication.

© Herbert Smith Freehills 2022

---

**SUBSCRIBE TO STAY UP-TO-DATE WITH INSIGHTS, LEGAL UPDATES, EVENTS, AND MORE**

Close