

# Luxembourg newflash

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## Shaping the future EU/UK relationship - a view from Luxembourg

Yesterday, the United Kingdom voted by referendum to leave the European Union. The turmoil resulting from this historical news will most likely lead to uncertainty for the years to come.

Luxembourg, as a founding member of the EU, will closely contribute to the upcoming discussions on the future of the UK/EU relationship and we, at Arendt, have looked at the various options that could shape the future of this key relationship.

### Standstill period leading to withdrawal

The UK will not leave the EU overnight! A period, most likely not to exceed two years from the date the UK formally notifies its intention to leave, will kick-in to negotiate the withdrawal. During this standstill period, the UK will continue to apply EU law and respect its obligations under EU law in exactly the same way as it does so at present. It is only after its withdrawal that the UK will be entitled to repeal EU legislation applicable in the UK.

### The EU/UK relationship after withdrawal: different options

In each of the scenarios described below, the trade arrangements between the UK and the EU would be reciprocal, thereby enabling economic operators in the UK and the EU to have the same degree of access to each other's markets.

#### • Remain in the EEA like Norway?

The UK could agree to remain part of the European Economic Area. This would provide British citizens and businesses access to the internal market but would leave the UK with the need to implement all internal market rules and cooperate with the EU in various other areas, including research & development, education and social policy. However and importantly, the UK could not take part in the negotiations of future internal market rules.

#### • Ad hoc bilateral agreements like Switzerland?

The UK could agree bilateral agreements with the EU in order to have limited access to the single market in specifically defined areas. The UK would not automatically have to implement EU legislation but only the legislation specifically required under the agreements negotiated, on a case-by-case basis, in order to give UK goods or services the right to access the EU market.

#### • Customs union like Turkey?

The UK could agree a customs union for the trade in goods. Under the EU-Turkey deal, no internal tariffs are applied to trade in goods (as opposed to services) and there are common external tariffs for trade with non-EEA countries. Such an agreement would mean that the UK would most likely not have to apply the majority of EU legislation but the EU would probably require that the UK adopts any relevant EU rules. In addition, the UK would need to accept the EU's trade agreements with non-EU countries. The UK would need to adhere to these EU internal market rules and external trade agreements without being able to influence the nature of the EU rules and countries.

#### • Free trade agreement like Canada?

The UK and the EU could seek to negotiate an extensive free trade agreement, similarly to the recently agreed EU/Canadian agreement and what is currently being negotiated between the EU and the US. The Canadian deal (which took over seven years to negotiate) allows tariff-free trade in goods and provides for the removal of certain non-tariff barriers in relation to both goods and services. Under such a model, the UK would retain control however over tariff arrangements with other (non-EU) countries.

#### • WTO agreement like New Zealand?

If the UK were unable to negotiate a free trade agreement with the EU, it could do business with the bloc on the basis of the world's international trade rules. Application of the WTO rules between the UK and the EU would lead to the application of caps on tariffs applicable to goods traded between the UK and the EU and limits on certain non-tariff barriers in relation to goods and services.

### Influence of UK's current membership of the EU

The above-mentioned agreements are only templates for a future relationship between the EU and the UK. The fact that the UK is already a member of the EU should facilitate reaching a future deal with the EU and may also mean that the UK could reach an agreement which goes beyond the types of agreement discussed above, containing special features (including phasing or grandfathering provisions for a defined period).

The nature of the relationship between the UK and EU will most likely have an impact on what current EU legislation the UK chooses to repeal and what future EU legislation the UK will be forced to implement, despite not being a member of the EU.

In preparation and reaction to this unprecedented situation, Arendt has been considering the consequences these changes may have on your business. In this respect, should you have any queries on the legal implications of Brexit, please do not hesitate to contact us.