

The UK and the World Trade Organization (WTO): What Happens After Brexit?

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On 29 March 2017, the UK will formally trigger the Article 50 process to begin the negotiations for Brexit. If there is a ‘hard Brexit’ in 2019, the UK would trade with the EU – along with most of the rest of the world – on the basis of the rules of the World Trade Organization (WTO). What will the UK need to do to regularize its WTO status and to trade within this framework? Some key considerations are discussed below.

At present, the UK operates collectively with other EU member states in the WTO. Once the UK completes its formal withdrawal from the EU it will regain its independent seat from which to implement its own trade policy, with all the legal rights and obligations this entails.

WTO Membership

The UK will not have to apply to join the WTO since it is already a longstanding member in its own right, but it must meet two conditions of membership. It has already met the first condition, which is to ratify the WTO Agreement. The second condition is that the UK must have its own Most-Favoured-Nation (MFN) schedules of market access commitments for goods and services. These are the maximum level of import restrictions (tariffs for goods and specific commitments for services) that the UK can apply.

The UK currently shares MFN market access schedules with the rest of the EU. It will need to establish its own, stand-alone, MFN schedules and have them approved by all other WTO Members. These schedules matter since they are the basis on which the UK as an EU Member trades with many of its main partners today.

Negotiating stand-alone UK market access schedules

Dr Liam Fox, the UK Secretary of State for International Trade, has said that, as far as possible, the UK will keep its schedules unchanged from those of the EU. While many WTO Members will accept that, some may seek additional market access compensation on the grounds that the value of the trade concessions they granted to a larger EU has been impaired by the rupture within the bloc. They might ask the UK to make compensatory adjustments by lowering its import restrictions. This will become a matter for negotiation.

It is also possible that developing countries might seek compensation from the UK for the loss of access to the UK market that they currently receive through EU preferences, such as the Generalised System of

Preferences. This is more of a political than a legal issue, and the UK might decide autonomously to maintain the current preferences for developing countries or to negotiate new ones.

A more likely complication in establishing the UK's stand-alone schedules could arise from agricultural products, where the UK cannot simply replicate the EU schedule. The EU's market access schedule for agricultural products includes over 100 quantitative restrictions in the form of tariff rate quotas (TRQs) on imports of various meat and dairy products, cereals, and fruits and vegetables. A limited quota of imports of each product is allowed in at a lower rate; imports above that limit face a higher (usually much higher) tariff. The quotas for these TRQs are set at an EU-level. Some of the EU TRQs are significant for the UK, since a large share of in-quota imports of certain products are destined for the UK market (such as butter from New Zealand).

The UK will have to negotiate first with the EU to decide what share of each TRQ it will take with it after Brexit, and then propose its stand-alone TRQs to other WTO Members when seeking approval for the new UK good schedule. It may take a long time before each WTO Member is satisfied with the result and is prepared to join a consensus to certify the UK's schedule. However, pending that outcome, the UK will be able to continue trading on its uncertified schedules. The EU itself traded unchallenged on uncertified schedules for many years while it sought approval for changes to its MFN schedules following enlargement from EU-15.

Agricultural TRQs could also become a complication in UK-EU trade after Brexit if efforts to negotiate a new free trade agreement fail and bilateral trade has to fall back on WTO rules. UK access to EU TRQs (and vice versa) will have to be negotiated.

Government Procurement

Government procurement is a huge global market (10-15% of GDP, worth €2 trillion in the EU alone), and is covered by the plurilateral WTO Government Procurement Agreement (GPA). WTO Members must individually negotiate their membership in the GPA in order to gain preferential access to each other's government procurement markets. The UK participates in the GPA by virtue of its EU membership. It will need to negotiate stand-alone membership after Brexit.

Trade remedies

The European Commission currently handles all anti-dumping, anti-subsidy and safeguard investigations. Several UK industries may seek continued import protection through such measures after Brexit. The UK will set up its own national investigating authority for trade remedies. It will need to ensure that it is operational immediately after Brexit.

One issue that could arise upon Brexit is whether the UK will be able to adopt as its own those EU trade remedy measures already in place. Countries targeted by those measures might demand that the UK carry out its own independent investigations to meet WTO requirements, such as demonstrating injury to the domestic industry.

Conclusions

While the launch of the Article 50 process means that a period of considerable uncertainty lies ahead, for the UK the WTO system will be a source of stability. WTO rules provide the basis for key trading relationships around the world, including between the EU and the United States. The WTO framework will cover most although not all aspects of UK trade (e.g., air transport is largely outside of the WTO). The UK will also need to build on WTO rules to establish additional market access through free trade agreements in the years and decades ahead.

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