

Brexit: Food Industry Implications

The potential impact of a Brexit for the food and beverage sector is huge, be it on trade, inward investment, labour and employment or policy and regulation. Brexit is not just a concern for UK food producers but also for any food manufacturer (EU and non-EU) serving the UK market. Even though the EU Treaty foresees a two-year negotiation period on the terms of an exit, it is expected that such negotiations, unprecedented in their nature, will not be easy and may take much longer. This will obviously prolong a period of uncertainty for food business operators. With one week to go until the referendum on June 23, here is a reminder of some of the key issues of concern:

What kind of trading relationship would the UK have with the EU post-Brexit?

With more than 50% of food currently being imported into the UK, there is no definitive blueprint as to what new trading relationships would look like in a post-Brexit world between the UK and the EU, as well as between the UK and non-EU countries.

- Will there be a negotiation for an EEA like arrangement with the EU, where essentially nothing really changes apart from the fact that the UK would no longer have a say in the shaping of legislation? This would appear an unlikely option for the UK Government.
- Or will it be a bilateral agreement, similar to the agreement the EU has with Switzerland, where there are no border controls and no tariffs?
- Or will the UK be considered like any other non-EU third country and thus be subject to tariffs that the EU applies to all other WTO members (30% tariff on sugars and confectionary, 20% on tobacco and beverages, 10% on fruit and vegetables 10%, etc.).

What will be the impact of a Brexit on my supply chain?

Supply chains could indeed be affected if tariffs are imposed between the UK and the other EU Member States. Currently, products move freely across the border between the UK and the other EU Member States and no tariffs apply. Following a Brexit however, the food and drink sector could face significant EU tariffs and potential supply chain disruptions. Could some food supplies potentially also be sourced more cheaply from outside the EU by virtue of the UK no longer being subject to the Union's common agricultural policy?

Will there be a new customs border?

Food manufacturing, like agriculture and foodservice, employs vast numbers of (sometimes) unskilled workers, many coming from the EU. Will my contracts need to be revisited?

What will happen in the event of a crisis (food scare or terrorist attack) in the UK?

Will it be as relatively easy to work with EU and national regulators and agencies as currently is the case? How should relocation of distribution be organized in the event of a crisis that has an impact pan-European and beyond?

What about EU food legislation?

Will the UK continue to apply EU food legislation, which has been adopted, harmonized and is directly applicable throughout the EU, or will it now start introducing its own or new rules?

Risk of relocation of businesses?

Brexit could lead major food companies to reconsider locating in the UK. They could choose to relocate to elsewhere in the EU and or downgrade their operations in the UK and upgrade them elsewhere.

As yet, there are obviously no straightforward answers to these questions. Indeed, should Brexit become a fact, we would be in uncharted grounds and the food and drink industry would have an interest in continued monitoring and close examination of developments in months (and likely years!) to come.

Hogan Lovells has the cross-sector team that can support you as part of this process. We would partner with you in understanding the potential legal and practical ramifications of Brexit for your specific business by providing feedback, input and strategic advice along the way.

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