

SPEAK UP

Trading post-haste

Tony Williams, principal, Jomati Consultants, takes a long, hard look at apparent progress with Brexit – and it isn't yet a pretty picture



Now the EU has confirmed that sufficient progress has been made on its three key issues to advance to negotiating terms of any transitional arrangement and the longer-term trade arrangements between the UK and the EU, the hard work begins.

As was made clear in our recent report, A retreat from globalisation? The potential risks and rewards for the legal sector, the negotiation of trade deals with countries of economic significance is a long and tortuous affair. A myriad of detailed issues impacting every business and industrial sector need to be considered and negotiated. Various industry lobbyists will be hyperactive, and each EU country will have its own red lines. It has been suggested that we should adopt the Canadian/EU free-trade agreement with extra bells and whistles. But this took over six years to negotiate and is not yet in force. In addition, like so many trade agreements, it does not cover most services. The service sector dominates the UK economy.

Although trade agreements may be difficult to negotiate, the concept of tariff-free trade is relatively simple. What's more complex is achieving a level of alignment – which is essential in terms of product standards if genuinely frictionless movement of goods is to be achieved. This impacts every aspect of the trade in physical goods. Unless we have an alignment of product standards and/or a level of recognition of each other's regulatory and testing bodies, free trade is meaningless. Without such a concept of

equivalence, goods will face border checks and certification requirements that will add to administrative costs and slow down the movement of goods.

Fortunately, after 45 years of EU membership, we start with an aligned position. If we wish to diverge this may impose extra barriers to trade with the EU. However, any failure to change may make achieving trade deals with third countries more problematic. For example, as part of our negotiations of a US free trade agreement we will be urged to admit chlorinated chicken and genetically modified crops. But, if the US door opens, this may close our door to the EU.

In services the issue is more complex. Lawyers have benefited from reasonably unfettered rights to establish and operate in other EU countries. Will that continue, or will firms need to restructure their EU operations? At the moment so much is unclear.

Regrettably, our politicians dealing with Brexit appear to have the attention span of gnats. We have not negotiated our own trade deals for over 45 years. There is much to do and so little time in which to do it.

Lawyers need to help their clients to analyse the impact of potential trade and services deals and to ensure that their analysis is shared with, and understood by, politicians and civil servants. The UK may have much to gain from a wide range of trade and services agreements. Whether our politicians can deliver workable solutions in time remains to be seen. ▴

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