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brexit centre of excellence

Brexit Briefing

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Brexit Preparations

Uncertainty continues to cause problems for businesses across the island of Ireland as the end of the year approaches. The issues businesses face are complex and far-reaching - from supply chains, employment and access to labour to certifications in markets, health and safety, insurance, tax, legal structures, duties and the additional administrative costs of doing business.

In a meeting with the House of Commons' Exiting the European Union Committee in October, Declan Billington, Chair of NI Food & Drink Association, highlighted that the viability of the dairy sector is being brought into question while NI sheep farmers are wondering whether to breed for the coming year because 40 percent of the sheep go south.

In the RoI, PKF-FPM clients in the agriculture sector anticipate WTO tariffs of up to 25% on ingredients brought in from UK with similar tariffs being imposed on the produce they sell to UK customers. Farmers are seeking alternative suppliers to mitigate this impact with some considering setting up in dual jurisdictions and/or forming strategic alliances.

Aside from the agribusiness sector, it is not so much the amount of customs duties to be reintroduced that will pose problems for businesses North and South as the disruption which will be caused by customs checking at the Border and the increased administration that this will bring.

PKF-FPM sees no hard evidence at the moment that businesses should prepare for anything other than the reintroduction of tariffs and quotas on imports and exports between the United Kingdom and the EU. This, in turn, means tariffs and quotas on imports and exports cross-border. Most of the goods exported or imported from and to Ireland pass though one of the major UK ports. So, businesses may face UK tariffs even if only accessing EU markets. A difficulty facing most owner-managed businesses is that they do not have the resources to hire customs agents.

In the last three months, we have seen a significant increase in businesses actively preparing contingency plans. Many of our clients are getting ready for a no deal outcome and availing of the InterTradeIreland voucher for €2,250 / £2,000 to obtain professional advice. Funding support for Brexit preparations is also available from Enterprise Ireland whose Brexit grant of €5k is 50% funded for EI clients. In addition, the Strategic Banking Corporation of Ireland has a Brexit Loan scheme for RoI businesses.

Clients who have prepared a Brexit Report find that this supports customer retention. It affords comfort by quantifying the potential impacts and demonstrates that plans are in place to mitigate them. Another positive is that companies engaging in the planning process are picking up new opportunities from businesses looking to onshore their supply chain.

In our experience, firms on both sides of the border are looking at two site locations through joint ventures or by acquiring sites where set up costs are not prohibitive.

Meanwhile, the EU continues to issue 'Preparedness Notices' describing the consequences of the withdrawal without a formal, ratified agreement. These notices cover many different business sectors. On VAT, the UK has said that in the event of a no-deal Brexit it will introduce the postponed method of accounting which will mean that VAT will not arise immediately on imports. Chartered Accountants Ireland has been asking the Irish Government to implement the same measure regardless of whether there is a deal or not, as VAT will be a new immediate cost for traders who import from the UK.

Guidance documents are also being published in the Brexit area of the UK Government website. Among the most recent are an HMRC partnership pack on preparing for a no-deal outcome with a promise of more detailed guidance to follow.

In advice for NI businesses, HMRC states, "We would recommend that, if you trade across the land border, you should also consider any advice issued by the Irish Government about preparations you need to make, in addition to the guidance set out by the UK government."

Elsewhere, guidance on customs has been published by Chartered Accountants Ireland in the booklet, "Taking the Lead – Chartered Accountants and Brexit" which provides easy-to-follow commentary on how the EU customs system works. Many traders in Ireland and the UK will be dealing with these customs for the first time, and for them, this information is critical.

At the time of writing, it remains uncertain when the proposed 'deal' between the EU and UK—which covers Britain's financial settlement with the EU, post-Brexit rights of EU citizens in the UK and British citizens on the continent, and a mechanism to prevent a hard border on the island of Ireland—will be finalised by the EU Council and whether Prime Minister Theresa May will be able to get it through the House of Commons. The sooner we know the outcome, the better we can prepare NI and RoI business for whatever new challenges and opportunities it may bring.

Proposed Withdrawal Agreement

The negotiators of the European Commission and the United Kingdom reached a deal in November on the terms of the Article 50 Withdrawal Agreement.

The Withdrawal Agreement covers all elements of the UK's withdrawal from the EU: citizens' rights, the financial settlement, a transition period, governance, Protocols on Ireland, Gibraltar and Cyprus, as well as a range of other separation issues.

The EU and the UK negotiators have agreed on how to avoid a hard border between Ireland and Northern Ireland. Both will use their best endeavours to have—by 1 July 2020—a future agreement concluded before the end of the transition period. Should this not be the case, the EU and the UK could jointly extend the transition period.

Alternatively, as of January 2021, the backstop solution for Ireland and Northern Ireland would apply, subject to a joint review mechanism.

That backstop solution means that a single EU-UK customs territory would be established, which would apply from the end of the transition period until such a time as a subsequent agreement became applicable. Northern Ireland would therefore remain part of the same customs territory as the rest of the UK. The single customs territory covers all goods with the exception of fishery and aquaculture products.

The Withdrawal Agreement was broadly welcomed by the IBEC/CBI NI Joint Business Council who said it allows for negotiations to begin on the much-needed comprehensive

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KEY DATES

25 November 2018
Potential European Council meeting to finalise the Withdrawal Agreement.

13-14 Dec 2018
European Council meeting. This may be the last opportunity for an Article 50 divorce deal to be signed off by Britain and the EU.

21 January 2019
Cut off date for a deal to be presented to Parliament.

Jan-Feb 2019
Date by which the House of Commons must approve any deal agreed with Brussels. A Withdrawal Bill setting out the terms of Brexit must then be put forward.

21-22 March 2019
European Council meeting.

Up to 29 March 2019
Timeframe within which any Brexit deal must be approved by the European Parliament.

29 March 2019
Brexit Day.

After 30 March 2019
Trade talks. Proposed transition period begins.

31 December 2020
Transition period ends unless extended.

31 December 2021
UK wants any "temporary customs arrangements" introduced as part of the backstop to end by this date however EU says there should not be a time limit on the backstop.

Proposed Withdrawal Agreement - Continued

UK/EU agreement on future relations which will hopefully ensure frictionless trade for firms both North-South and East-West and so protect the all-island economy.

For business on the island of Ireland the detailed provisions for a backstop in the draft Agreement can be viewed as a 'safety-net' insurance policy. The 'optimal solution' is for the UK and EU to achieve a Comprehensive Trade Agreement by December 2020, or as close to that date as possible, which will allow for frictionless trade and 'just-in-time' supply chains to continue operating in a post-Brexit environment. For business in Ireland and Northern Ireland and especially SMEs who share a land border it is particularly important this future trade agreement includes an ambitious deal on services.

Citizens' Rights

The European Commission has provided some examples of how people may be affected by the Withdrawal Agreement.

Case 1: Workers.

You are an EU citizen who arrived in the UK two years ago, and you work in a local hospital. You will be allowed to stay in the UK after the UK leaves the EU. EU free movement law will continue to apply until the end of the transition period. Afterwards, the Withdrawal Agreement provides that, if you are residing in the UK at the end the transition period, you will be able to stay in the UK under essentially the same substantive conditions required by EU free movement law: you will continue to have residence rights if you continue to work (or if you involuntarily stop working in accordance with Article 7(3) of the Free Movement Directive), become self-employed, or become a self-sufficient person (i.e. you have sufficient financial resources and sickness insurance). However, to this effect you will need to make an application to the UK authorities for a new UK residence status. Once you have accumulated five years of legal residence in the UK, you will be able to apply for your residence status in the UK to be upgraded to a permanent residence status that offers more rights and better protection.

Case 2: Frontier workers relying on professional qualifications.

You are a British physiotherapist living in Belgium and working as a physiotherapist in the Netherlands, where you had your British professional qualifications recognised before the end of the transition period. EU free movement law will continue to apply until the end of the transition period. If you are still in the same situation, the Withdrawal Agreement provides that you will be able to continue residing in Belgium and carrying out your professional activities in the Netherlands as a frontier worker or, as applicable, a frontier self-employed person. You will be able to continue relying on the decision taken by the Dutch authorities to recognise your professional qualifications for the purpose of carrying out your professional activities.

[Source: European Commission Fact Sheet Brexit Negotiations: What is in the Withdrawal Agreement. Brussels, 14 November 2018]

Brexit Loan Scheme

Brexit Briefing readers are reminded that, to mitigate the impact of Brexit on Irish businesses, under a Strategic Banking Corporation of Ireland initiative, loans of between €25,000 to €1.5m are available through AIB, Bank of Ireland and Ulster Bank for future working capital requirements or to fund innovation, change or adaptation of the businesses.

They cannot be used to refinance undertakings in financial difficulties or refinance of existing debt such as term loans, leases or hire purchases agreements and are subject to approval according to the banks' own credit policies and procedures. The maximum interest rate is 4% and loan terms range from 1-3 years.

For information on eligibility, terms and conditions see sbci.gov.ie or contact PKF-FPM's Brexit Centre of Excellence.

Need Brexit Advice?

InterTradeIreland offers 100% financial support up to £2,000/€2,250 towards professional advice in relation to Brexit matters. For details, contact PKF-FPM's Brexit Centre of Excellence.