

Post-Brexit: Companies on both sides of the Channel must prepare for uncertain times ahead

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Aside from the political, social, cultural and economic dimensions that have been debated extensively over the past months, the vote of the British people to leave the EU will have legal implications that cannot be fully grasped yet in their full scope. Nonetheless, companies on both sides of the channel must already prepare today. While one can only hope that both the EU and the UK side will be guided by reasonable judgment in their negotiations, which would mean that the status quo could largely be maintained (albeit in a new legal form), it is totally unclear who will be leading the negotiations with the EU and other member states on the UK side and with what goal. It is also not yet predictable at what point in time the negotiations will be completed. The fact that the EU also needs to take into account the effects on other member states who might be flirting with the idea of leaving the Union adds further complexity.

The details of the new legal framework will largely depend on what solutions will be found in the months to come. BLOMSTEIN will monitor these developments closely, analyse their implications on our practice areas and regularly publish updates on the current situation.

- Concerning international trade, the UK will become a third country after leaving the EU. First of all, this means that exports from and into the EU will be subject to formal customs law requirements. Secondly, customs will need to be paid for a number of goods – extending to imports both into the EU and into the UK. Thirdly, in addition to the negotiations with the EU, the UK will need to engage in negotiations of bilateral trade agreements with a number of countries. Altogether, this will make trading with the UK more complicated and more costly. It is possible that simplifications such as a free trade agreement will eventually be agreed on.
- With regard to antitrust law, separate merger control filings under national UK rules will be required for pan-European mergers, as for any other non-EU countries. Similarly, there will be no more „one stop shop“ mechanism for leniency applications. Whether this will result in material changes depends largely on the future solution for the EU-UK relationship: If the UK were to join the European Free Trade Area (EFTA) and the European Economic Area, competition rules corresponding closely to those of the EU will continue to apply.
- In terms of state aid law, leaving the EU could bring about more flexibility for the British government to support national companies financially. However, if the UK finds a solution similar to the Swiss or the Norwegian model, it is more likely that the UK will be bound by EU state aid rules even post-Brexit.

If you have any questions on the legal implications of Brexit please feel free to contact us.