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### Potential consequences of a hard Brexit for dairy trade

The United Kingdom is scheduled to take its leave from the European Union at midnight on 29 March 2019. With the rejection of the withdrawal agreement by the UK Parliament and the repeated statements by the EU saying that the withdrawal agreement is its best and final offer, an orderly Brexit on 29 March now seems increasingly unlikely. This leaves two main options on the table: a disorderly withdrawal (hard Brexit) on 29 March or a prolongation of the 2-year negotiating period as foreseen in article 50 of the Treaty on the European Union. The latter option would require a unanimous decision by the European Council.

In case the negotiation period is prolonged, the UK will remain a full member of the EU during that time. This poses a problem in light of the upcoming European elections scheduled for 23-26 May 2019 and an extension beyond the elections or the first plenary session of the new Parliament seems unlikely. A prolongation only makes sense if it increases the chances of an orderly withdrawal. In theory, it could also lead to Brexit being reversed, possibly through a second referendum.

In the event that the withdrawal agreement will still be approved (with some minor changes or additional reassurances provided by the EU regarding the provisional nature of the backstop), there will be no changes in trade conditions during a transitional period which would run from 29 March 2019 (or later in case of a prolongation under art.50) until 31 December 2020 (with a possibility for this to be extended until 2022). This transitional period, the existence of which is dependent on there being a withdrawal agreement in place, would provide certainty and order while the EU and UK negotiate an agreement on their future relationship. This 'soft' Brexit is obviously the preferred outcome of traders and businesses in both the EU and the UK.

Assuming there is neither prolongation of the negotiations under art.50, nor adoption of the withdrawal agreement, the UK will exit the EU on 29 March without any deal. The following is a short summary of the main dairy trade consequences of a no deal 'hard Brexit'. Extensive material on "Brexit preparedness" has already been published by the EU Commission and the UK authorities. You will find links to the most relevant publications at the end of this document and in some of the paragraphs.

In the event of a hard Brexit, we will face a cliff-edge scenario whereby from one day to the next, the rules of trade and movement between the EU and the UK will have changed entirely.

## 1. Tariffs

Should there be a hard Brexit, one of the likely outcomes is that full tariffs will be applied to both exports from the EU into the UK and exports from the UK into the EU. With respect to the tariff schedule of the UK post Brexit, they have unilaterally taken the decision to copy and paste the EU's external tariffs (i.e. the MFN tariffs applied to imports from third countries). Moreover they have not changed the bound duty level for any tariff lines from that of the EU.

The UK would however be free to adjust its external tariff at any time. This means that the UK would have the option of unilaterally reducing or waiving tariffs for products coming in from the EU and this option does not seem unlikely when it comes to dairy and other food products where the UK is far from self-sufficient. If the UK reduces or eliminates its tariffs on dairy products, it will have to do so for products from all WTO member countries. Geographical proximity aside, the EU would lose its preferential position on the UK market whereas UK producers would be faced with increasing competition, while losing access to the EU market.

The EU has indeed already indicated that in the event of a hard Brexit, the full MFN duties will apply to imports from the UK – i.e. there will no special treatment for UK goods. This is logical as the EU would not want to open the door to dairy imports from WTO countries simply because the UK is leaving.

In the broadest terms, the tariffs applicable to a range of imported dairy products are as follows:

Tariff line	Product category	Applicable tariff
0401	Milk and cream	Between €12,90/100 kg and €183,70/100 kg, depending on individual 8 digit code
0402	Milk powders	Between €34,70/100 kg and €183,70/100 kg, depending on individual 8 digit code SMP: €118,8/100kg ; WMP: €130,4/100kg
0403	Cultured milk products	Between €20,50/100 kg net and 8.3% + €168,80/100 kg, depending on individual 8 digit code
0404	Whey	Between €7,00/100 kg and €167,2/100 kg, depending on individual 8 digit code
0405	Butter, spreads, butteroil	Between €189,60/100 kg and €231,30/100 kg, depending on individual 8 digit code
0406	Cheese	Between €140,90/100 kg and €221,20/100 kg, depending on individual 8 digit code

For most product lines, including all the main dairy products and ingredients such as cheese, butter, SMP and WMP, the applicable tariffs would render trade prohibitively expensive. In percentage terms, most tariffs are between 40% and 80%.

As far as the preferential concessions under WTO are concerned, the dairy import quotas will be split between the EU and UK according to use rates over the last 3 years. For dairy, the importance of this exercise is somewhat limited as none of the WTO import quotas have been filled in recent years. Details on the methodology can be found [here](#). The EU/UK approach is at present being challenged by WTO members exporting agricultural products to the EU under these quotas. The final outcome remains therefore uncertain.



### 2. Customs

A hard Brexit will mean that trade between the EU and the UK will be subject to the same customs procedures which apply to trade between the EU and a third country. Customs checks and requisite clearance documents would be needed, implying potential long delays at border posts.

A full overview of the documentation and steps which would be required (from the perspective of an importer based in the UK) can be found on the [website of HM Revenue and Customs](#). The European Commission has also published 'preparedness' document covering customs and licences, amongst a range of other areas - these can be accessed [here](#).

### 3. Food law

For those exporting products to the UK, the UK has indicated that it will consider EU products as being equivalent during an interim period, i.e. probably at least in the first months after Brexit. In the longer term this may change. For imports of products of animal origin, the importer will have to notify in advance the UK Food Standards Agency, but this will be an electronic pre-notification and should not result in delays on the border. The UK will also implement a replacement for the EU TRACES systems (whereby imports of high risk food and feed are tracked).

Conversely, the EU has offered no such assurance for UK exporters. It is therefore advisable that UK exporters explore the possibility of having their plants listed as an approved third country establishment by the EU (even if it is not certain whether this process will be completed in time for 'Brexit day'). In order for UK establishments to be approved for export to the UK, the UK will first have to be approved as a country. This seems absurd since currently the UK as part of the EU is in full compliance with EU rules on food safety.

In addition to establishment approval, veterinary certificates will be required in order to export products of animal origin from the UK to the EU so as to certify animal health conditions and compliance with EU food safety legislation. UK exports will also be subject to mandatory checks (documentary, identity and sometimes physical) at border inspection posts.

In addition, [UK manufacturers will no longer be able to use the 'EC' health mark on their packaging](#).

In the longer run, we may see divergence on food legislation, be it on safety, standards or labelling, which may create further barriers to trade in dairy products.

More details can be found in the [EU preparedness notice on food law](#).

### 4. Free trade agreements

The EU is the sole successor to its existing trade agreements, meaning all FTAs will cease to apply in relation to the UK after Brexit. In the event of there being no withdrawal agreement, the UK government aims to have provisions in place with third countries to ensure that there will be bilateral deals as close to Brexit day as possible. These provisions would supposedly replicate in so far as possible the conditions carved out in existing agreements between the EU and third countries, while



ensuring that the necessary technical changes are in place to allow the agreements to operate on a bilateral basis. Each FTA partner of the EU can however decide not to sign any bilateral deal with the UK. Even if the withdrawal agreement is adopted, any FTA partner could decide to no longer apply tariff preferences to UK products. Companies in the EU27 using UK ingredients in their exports are advised to take this into account.

### 5. Circulation of goods placed on the market before Brexit day

The withdrawal agreement contains provisions aiming to ensure that goods placed on the market before the end of the transitional period may continue to be sold (and in the case of non-animal products to circulate freely between the EU27 and the UK) after the end of the transitional period (in case no definitive trade arrangement is yet in place) until they reach the end user. In a hard Brexit scenario, no transitional regime whatsoever is foreseen. It is therefore possible that products from the UK would be considered as non-compliant from day 1, even if they were already physically present in another Member State before Brexit.

### 6. List of useful documents – ‘no deal Brexit’ (preparedness)

[European Commission communication: Implementing the Commission’s contingency action plan](#) (19 December 2018)

European Commission Article 50 taskforce: [full list of Brexit preparedness notices](#)

UK Government: Department for exiting the European Union: [publications](#)

Guidance document: [UK Government’s preparations for a ‘no deal’ scenario](#) (latest version – 21 December 2018)

[Partnership pack](#) – preparing for changes at the UK border (latest version 21 December)

[How to prepare if the UK leaves the EU with no deal](#) – covers a wide range of different policy areas

### 7. Other Brexit documents of interest

[EU and UK proposal: devision of WTO import TRQs](#) (6 December 2018)

[Annex to proposal: devision of WTO import TRQs](#)

[Draft Council political declaration on the framework for a future relationship with the UK](#) (22 November 2018)

[Text of withdrawal agreement](#) (14 November 2018)

[UK Government white paper on the future relationship](#) (July 2018)