



nabim Brexit Overview - 28 August 2019

This note provides an update on Brexit related matters. It can be used internally or in briefing other interested parties - customers or suppliers.

Decisions about post-Brexit trading relations with the EU and the rest of the world could have an enormous impact on flour millers and their ability to remain competitive and in business. **nabim** has, therefore, taken a role in ensuring in collating and sharing the views of UK flour millers so that their needs are considered in negotiations.

Below is a summary of aims, objectives and current status. A printable PDF copy of this summary can be [downloaded here](#). If you require any further information, please contact [Alex Waugh](#).

Objectives:

nabim is seeking to ensure:

- 1.** that millers continue to have access to the range of wheat that they need to make the flours that customers require, on terms as close as possible to those that exist today. That means maintaining access to wheat from the EU and third countries without duties, and continuing to encourage the production of suitable wheat in the UK; and
- 2.** that UK based millers can continue to supply their customers in the European Union without the payment of duties and with a minimum (ideally nil) of additional paperwork and inspections. In the jargon, as frictionless as possible.

Supplying Customers

Bearing in mind that the EU tariff on flour imports is €172 per tonne, maintaining a secure supply of flour to EU customers will depend on the UK either remaining within a customs union with the EU, with common tariffs; or the establishment of a preferential trade agreement that allows tariff free trade in flour. **nabim** has been working hard on both scenarios and briefed widely on the importance of avoiding tariffs for trade in flour and bakery goods, especially in relation to Ireland.

The EU and UK reached agreement in December 2017 on a transition agreement, with draft legal text largely signed off in March 2018. This was translated into an agreement finally signed off by the UK government and the EU member states in November 2018. However, to come into effect it has to be ratified by both the UK and European Parliaments, an outcome which is very much in doubt.

The Negotiated Deal

The deal reached between the UK and EU negotiators would do three things if were ratified:

- unlock a transition period after Brexit day (most likely 31st October 2019) when the UK will no longer be a member of the EU, and will forfeit rights of representation in the Council and the European Parliament, but will in almost all respects be treated as if it were a member. This period will last until the end of 2020, although it can be extended by up to 2 years.
- It sets out some aspirations for a future relationship between the UK and the EU. These foresee a comprehensive free trade agreement with no tariffs on goods in either direction, but neither side is committed to anything specific.
- However, it also contains a backstop position, which would apply at the end of the transition period unless it were superseded by an agreement with which both sides are happy. The backstop is designed to prevent the re-emergence of a hard border in Ireland and would mean that all of the UK was within a customs union for goods (except fish), ie no tariffs; and regulations applied in Northern Ireland would mean that no checks were required in North-South trade on the island of Ireland. There would also be no checks required on trade between NI and mainland GB, although some would most likely be required on trade between GB and NI, and also between GB and the Republic of Ireland.

These backstop provisions have proved most politically controversial and led to the deal being rejected on three occasions in the UK Parliament. Some people don't like the idea of the UK being tied to a customs union with the EU, and others don't like the special status accorded to Northern Ireland seeing it as either a division in the UK or an exception that favours one part of the UK over others. The idea that an end to the backstop has to be mutually agreed is also considered controversial. On the EU side, it has been argued that backstop arrangements effectively give the UK access to the EU market with nothing in return and no guarantee of regulatory convergence. The new UK administration under PM Boris Johnson has made it a key (re)negotiating objective that the backstop is replaced with alternative arrangements that allow the UK to pursue an independent trade policy, avoid the creation of border infrastructure, and not separate Northern Ireland from the remainder of the UK. Failure to achieve this will, the UK government says, lead to the UK leaving the EU on 31 October without an agreement.

The Ratification Process

Both the European and UK Parliaments have to sign off an agreement before it can be passed into law. The exit agreement (including the backstop arrangement) is a legal treaty, whereas the statement about the future relationship is not. If the exit treaty is not ratified by 31st October, unless there has been an agreed extension of the timetable or the UK has rescinded its notice of withdrawal, the UK will leave the EU without an exit deal – the famed “no deal” scenario. This puts both sides under increasingly acute time pressure.

Throughout 2019, there has not been a majority in favour of the negotiated agreement in the UK Parliament, with many voices calling for changes and defeats for the Government on three separate occasions between January and April. Hence the desire of the new UK administration to make changes to the agreement so that it can gain Parliamentary approval. However, the EU Council has so far stuck to its position that “significant” amendment (for example to the backstop

arrangement) is not possible without reopening the entire negotiation, which it says that it will not do (and in any case the UK Government also seems unwilling to further extend its membership of the EU). Time pressure is therefore increasingly acute, and the risk of “no deal” is rising as a result.

Furthermore, whilst there may be a majority against a “no deal” Brexit in the UK Parliament, unless something else is agreed, that is the default outcome. Therefore, Parliament has to agree on an alternative for that to be progressed, which it has so far failed to do. The new UK administration seems inclined to limit the potential for Parliamentary debate around this issue, in order to remain in control of events.

It is expected that in the coming weeks there will be a series of debates in Parliament. Possible outcomes include: acceptance of a (re)negotiated agreement; or lack of agreement on any course of action, which may result in an extension of EU membership and possibly a second referendum, or departure without a deal. It is also possible that at any stage there could be a vote of no-confidence in the government, leading to a general election.

In summary, provided that an agreement can be confirmed, tariff free trade with the EU should be maintained at least until the end of 2020, and most likely well beyond that date. However, this agreement is looking increasingly difficult to achieve by 31st October, increasing the risk of the UK leaving without an agreement

In the longer term, both sides say they want to achieve a preferential trade agreement, without tariffs on goods. These agreements are always accompanied by rules which define what constitutes goods from the countries concerned - so called Rules of Origin. These are needed to make sure that, for example, goods from China are not freely imported into the UK and then re-exported to the EU, avoiding EU tariffs. **nabim** has been leading efforts in the UK food sector to establish what the UK's negotiating position should be. Our objective is that when a trade agreement is reached, the Rules of Origin should allow millers to continue to use wheat from third countries in their grists (blend of wheats used to make a flour) when flour or bakery goods are exported to the EU. We produced an initial report that was well received by UK government and others available at <http://www.nabim.org.uk/rules-of-origin-report-2018>. This has been followed up with a detailed draft protocol, in legal language, which lays out for government ways of implementing the ideas in the report. Although intended for use in EU negotiations, this work will also be helpful to UK discussions with other potential trade partners.

Our activity in this area is designed to ensure that if there is a trade agreement, it actually delivers tariff free trade for the range of products millers and their customers export to the EU.

The withdrawal agreement also contains text about what might be considered "goods on the market" which can continue to trade freely once the agreement comes to an end. This will also be relevant in the event that everything falls apart and the UK leaves the EU in October 2019 without an agreement. Working with the Brexit Arable Group (a mechanism for discussion with government convened by **nabim**) we are working through scenarios which will help members in contingency planning. In brief, goods will be considered to be "on the market", and

therefore available for trade within the UK and EU under existing rules, if (a) they have been produced and (b) there is a contract for sale already in place at the relevant cut-off date. If there is no deal, it is likely that goods will have physically to be in the destination jurisdiction to be considered “on the market.” For this reason, and because of potential logistical problems, businesses have had to stockpile products as a buffer to manage disruption.

Managing the impact of a “no deal” Brexit

Exports

Should discussions break down completely, meaning that tariffs are introduced on trade between the UK and the EU, use of the inward and outward processing relief (IPR and OPR) systems, which exist in the EU and the UK will replicate, could help to substantially mitigate the impact of tariffs. Basically, this would allow wheat to be exported from the EU and re-imported in the form of flour at a reduced tariff. The exact level of tariff will depend on the relative value of the wheat and flour traded. This mechanism is far from ideal, but could be used to reduce tariffs on flour to a level similar to the cost of freight from mainland Europe to the island of Ireland. The inward processing relief system can be used by, for example, Irish pizza manufacturers who can import flour from the UK tariff free provided it is then exported in the form of pizza back to the UK. **nabim** is working with customs specialists to provide advice to members on the use of these schemes

Imports

The UK government announced in March 2019 a package of tariffs to apply in the event of a “no deal” departure from the EU. For grains, flour and bread the tariffs were all set at zero, meaning that millers will continue to have access to wheat duty free (as they do now). This should allow for consistency in supplies to the domestic market. However, in order to take advantage of the outward processing relief scheme highlighted above, grain will have either originate from the EU or have been customs cleared there before entering the UK for processing.

The new administration might change these proposed tariff provisions, but as yet has given no indication that it intends to do so. It should be noted however that setting these tariffs to zero is seen as a temporary measure, to be reviewed in the light of experience.

What Happens Next?

nabim will continue to pursue the objectives set out above. There have been many twists and turns at a political level, and the risk of a “no deal” Brexit has risen steadily since the beginning of 2019. Businesses should therefore be considering urgently the need to implement contingency plans for this eventuality.

Members with a close interest are encouraged to participate in our regular Brexit calls, please contact [Joe Brennan](#) if you would like to know more about, or to be involved in these. Summary notes from previous calls can be accessed by **nabim** members in the '[nabim Brexit Teleconference](#)' page (you must be logged in as a member to access this page).