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BREXIT VOTE LIKELY TO REQUIRE

NEW TRADE RELATIONSHIP MEXICO - UK

Introduction

The United Kingdom decided to leave the European Union. Mexico has a trade treaty with the European Union. A UK departure would cause the trade relationship between Mexico and the UK to no longer be governed by the treaty. A trade agreement may need to be negotiated between Mexico and the UK. Upon Brexit, in the absence of such agreement, the trade relationship between Mexico and the UK would be governed by World Trade Organization rules.

Departure from EU

The UK has to notify its departure from the EU and carry out negotiations for (i) its departure, (ii) a new arrangement with the EU, and (iii) possible trade agreements with other countries, such as Mexico.

It is not clear what WTO obligations the UK delegation will have to reconfigure once it stands alone. The UK may need to update the terms of its WTO membership where commitments applied to the EU as a whole. This may require to update schedules with 161 WTO members.

Leaving the EU will mean the EU would have to be updated to accommodate the splintered trade block. A new agreement on trade and wider cooperation would require approval by each of the 27 member states plus the EU. A member state can block the agreement.

Interlocking time-frames would be significant. The process for a new agreement with the EU (excluding the UK) would require in sum, a mandate from the European Council to negotiate, the preparation of an agreement by the EU with the departing state and the approval of the new agreement by the European Council acting by a qualified majority, after obtaining the consent of the European Parliament (Article 50 of the Treaty on European Union).

The complexity of negotiations to access the Single Market after the UK leaves the EU may require longer than the two year deadline. An extension requires the agreement of the 27 remaining states.

The UK has other options outside the EU. It could re-join the European Economic Area (EEA) which gives European countries not part of the EU a way to become members of the Single Market. EEA members must implement EU rules on employment, consumer

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protection, environmental and competition policy. The EEA would not provide for free movement of people or free trade in services between the UK and the EU. Alternatively, the UK could follow the Switzerland bilateral treaty approach, which covers insurance, air traffic, pensions and fraud prevention and picks up European Free Trade Association provisions (EFTA) which provide for free trade within the EU in all non-agricultural goods. In theory, the UK may propose to join NAFTA, although it is uncertain whether leaving the EU may enable the UK to negotiate better trade agreements than it can as part of the EU.

The UK enjoys preferential treatment in accord with Mexico as an EU member. A departure from the EU also means that Mexico and the UK would have to enter into a trade agreement, should they wish to do so.

Possible Trade Agreement with Mexico

Mexico is a party to the WTO and NAFTA. As mentioned before, upon Brexit, the trade relationship with between Mexico and the UK would be governed by the WTO. Under WTO rules, each member must grant MFN market access to all members. The only exceptions are: countries can choose to enter into free trade agreements such as the EU or NAFTA and can give preferential access to developing countries.

Mexico is likely to be interested in a trade agreement with the UK. While the relationship with the UK is important for Mexico, the relationship with the EU is more important for Mexico. Consequently, Mexico may prefer to see a UK–EU new arrangement negotiated before entering into a treaty with the UK.

If Mexico is looking to trade post Brexit both with the EU and with the UK, it will be necessary to ensure that both legal regimes are complied with.

Considering the complexity of negotiations and time-frame for the overall process involved in connection with the EU departure, Mexico and the UK may want to consider entering into an interim agreement that would govern specific aspects of their trade relationship post Brexit and until the time comes ripe for a negotiation of a trade agreement between Mexico and the UK.

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We will keep you posted regarding developments on this matter.

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