BREXIT SECTOR VIEWPOINT
AFRICA OUTLOOK

As the UK calls time on its 44 year membership of the European Union (EU), repercussions are felt further afield. African countries which currently access the EU via the UK, such as Egypt, Kenya, Nigeria and South Africa, or have the UK as their main end market within the EU will be exposed when the UK ceases to be an EU Member State.

The impact will be different according to trade patterns: for example, Francophone countries that traditionally trade more with EU countries other than the UK will be less affected than those whose main EU trading partner is the UK.

However, there are signs that the UK is keen to preserve and promote trade with Africa. In June 2017, the UK published its trade policy in relation to developing countries and in July 2017, the Minister for Trade Policy, Lord Price, visited South Africa and Namibia and met with ministers from the Southern Africa Customs Union (SACU) and Mozambique to discuss maintaining the existing trading relationship. There have also been recent official visits to The Gambia and Ghana.

Meanwhile, the depreciation in value of the pound relative to major currencies since the Brexit vote, is negatively affecting value for companies in Africa with revenues and reserves in sterling and may lead to companies converting reserves into US Dollars.

"Some countries, such as Nigeria, benefit from the EU's General Scheme of Preferences (GSP), which reduce or eliminate tariffs, and the UK could extend these preferences unilaterally if it so wished"

RISKS AND OPPORTUNITIES OF BREXIT

Terms of trade

The UK's notice to leave the EU expires end March 2019, but the terms of leaving remain the subject of negotiation.

The UK Department for International Trade has committed to continuing the EU's "Everything but Arms" free trade concessions to countries which are classified as Least Developed Countries (LDCs) by the United Nations: these include 34 African Countries. Brexit will therefore be of greater significance to businesses based in key African countries that are not on this list, such as South Africa, Nigeria, and Ghana, although the UK Government has stated that it will "aim to maintain preferential access" for non-LDC developing countries. Some countries, such as Nigeria, benefit from the EU's General Scheme of Preferences (GSP), which reduce or eliminate tariffs, and the UK could extend these preferences unilaterally if it so wished. Others have Economic Partnership Agreements (EPAs) which include free trade (eg Ghana) while South Africa has an asymmetric free trade agreement with the EU through the EU-SADC EPA, comprising, for this purpose, Botswana, Lesotho, Namibia, Swaziland and Mozambique. The EU-SADC EPA provisionally entered into force on 10 October 2016 pending ratification by all EU members.

Businesses in non-LDC African countries for which trade with or through the UK is significant should be aware of the options:

- There may be transitional arrangements after 2019 which effectively allow African free trade agreements/ GSP terms to roll over as if the UK were still in the EU, and be replaced in due course with similar direct trading arrangements, meaning UK-African trade continues on current terms with no substantial shock.
- There may be a "hard Brexit" in which the UK is forced to move to WTO terms. Unless the UK and the relevant African country agree to continue on the terms of arrangements with the EU, pending agreement of new bilateral trade agreements, even if the UK unilaterally applies GSP terms to most of these countries, they may face higher tariffs on imports to the UK and may need to consider logistical arrangements to ensure that goods for which the end destination is the EU continue to benefit from their country's existing arrangements with the EU.

HERBERT SMITH FREEHILLS

BREXIT SECTOR VIEWPOINT
AFRICA OUTLOOK

Trade with the EU

Brexit is already affecting terms of trade between African countries and the EU. In July 2016 Tanzania withdrew from signing the East African Community (EAC) Economic Partnership Agreement (EPA) with the EU, in part because of uncertainty surrounding the EU's future after Brexit. The EPA would ensure EAC countries are able to export goods to the EU without incurring quotas or tariffs. Due to its non-LDC status, Kenya will be most significantly affected by the failure to complete the EPA.

Opportunities for UK Trade

African countries, particularly Commonwealth countries such as Nigeria, may see Brexit as an opportunity to negotiate favourable trade deals with the UK, rather than needing to agree deals that appeal to the whole EU.

Depending on the terms of Brexit, the UK and its businesses may increasingly be looking beyond EU countries for alternative trade partners. The UK Government has stated that, post-Brexit, "the UK will look to secure greater access to overseas markets for UK goods exports", potentially presenting opportunities for businesses exporting goods and services to Africa.

Development aid and investment

Within the EU, the UK is one of the louder voices and contributors on development aid and investment in Africa. With the UK removed from EU investment decisions, African countries might see this aid reduced or refocused, which could potentially damage the economies of current beneficiaries such as Tanzania.

The contrary position, however, is that the UK can set its own agenda and prioritise investment in countries like Nigeria, Kenya and Ethiopia, where it has the strongest links. The Department for International Development has announced the UK's intention to focus its future aid in ways that promote trade and investment by UK businesses in developing countries and this suggests that Brexit may improve, rather than threaten, the aid and investment provided by the UK to developing countries in Africa.

The longer-term risk, as implied by Foreign Secretary Boris Johnson, is that the UK turns its attention from Africa to South East Asia and the India Sub-Continent with consequent reduction of economic support.

ASKING THE QUESTIONS

In determining their post-Brexit framework, general counsel and the boards of companies trading into and out of Africa should ask:

- What business do we do now and where do we do it?
- Who are our customers and where are they located?
- How can we best reorganise our operations to meet the challenges?
- How do we ensure that reorganisation or relocation are implemented in time for the UK's withdrawal from the EU?

> "Brexit may improve, rather than threaten, the aid and investment provided by the UK to developing countries in Africa"

KEY CONTACTS

Peter Leon
Partner and Africa Co-Chair, Johannesburg
T +27 10 500 2620
peter.leon@hsf.com

Stephane Brabant
Partner and Africa Co-Chair, Paris
T +33 1 53 57 78 32
stephane.brabant@hsf.com

Rudolph du Plessis
Partner, Johannesburg
T +27 10 500 2623
rudolph.duplessis@hsf.com

Nina Bowyer
Partner, Paris
T +33 1 53 57 70 73
nina.bowyer@hsf.com

Martin Kavanagh
Partner, London
T +44 20 7466 2062
martin.kavanagh@hsf.com