techUK data centre programme

COVID-19: Brexit EU Trade Agreement

Interim update on negotiations

15 May 2020

Purpose and scope of this document:
This is an interim update for data centre operators. Content will change. Please see our Brexit pages for more information and updates: https://www.techuk.org/focus/programmes/brexit

The story so far..

- Before COVID-19 bi-weekly negotiations were planned up to the June deadline. These haves been replaced by three rounds of virtual negotiations, starting 27th April, 11 May and then 1st June respectively.
- Talks are currently reaching the limits of what is possible within the mandate of each side. Good progress has been made on a basket of issues called, "trade in services and investment and other issues". This includes policy areas such as on movement of people to deliver business services, on digital trade, non-discrimination and the interoperability of regulations for the delivery of services.
- The UK side has been particularly vocal about the progress made in the services basket and for reference the UK negotiating position sets out four aims for this chapter (1) no limits on market access, (2) reciprocal non-discriminatory national treatment, (3) limitation of mode 3 (the requirement for a national presence) and, (4) the application of the most favoured nation principal so the agreement can be updated over time to reflect any new EU FTAs which go beyond the provisions agreed in this negotiation. Please note it doesn't mean they have achieved this, but gives you an indication of what they see as success.
- Less progress has been made on the goods side where there are some fundamental disagreements. The UK wants a typical FTA, similar to Japan and Canada. However, because of its proximity and size the EU says the UK cannot have this, and to receive the same level as access of Japan and Canada the UK must agree a deeper and more bespoke partnership.
- It seems that limited progress can be made here until the UK upgrades its position or the EU makes concessions. We have heard from both sides that progress here has stalled.

Looking ahead: key dates

- The current negotiating period ended on Friday 15th May, and the last one ends on 5th June. These are usually followed by a press conference and press statements that catalyse queries.
- In and around the week commencing 15th June, we expect both sides to come together for a high-level conference to review progress before making a decision about the rest of the negotiations.
- This high-level conference was agreed in the original Brexit withdrawal agreement and political declaration and we would expect this to take place before the EU Council on 18th June, and around a week after the end of negotiations on 5 June.
- This suggests that the period from 12-17 June will be very turbulent and a number of critical decisions will be made with important implications for members.
- 1st July is the deadline for an extension. At the moment the government is not calling for an extension to the transition period so by 2nd July we will know one way or the other.

Outstanding issues

- Issues for the tech sector mainly concern data and a data adequacy agreement which is differentiated from trade. Adequacy is being run on a separate track from the main FTA negotiations.
- Having spoken with both the UK and EU sides the adequacy assessment is progressing well. However, like all parts of the this process it could be derailed by politics.
- In terms of exports of goods and mutual recognition and agreement in areas like labelling. techUK is working with the UK Government to clear up confusion in this area.
- If there is no extension we risk moving towards a no trade deal outcome at the end of the year.

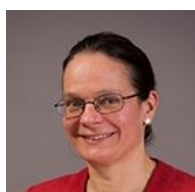How does this no deal differ from the no deal under discussion last year?

- This is a trade deal so it affects our trading relationships but not everything. Agreements could be reached on other non-trade elements for example adequacy or continued UK involvement in EU programmes such as ERASMUS and Horizon Europe. Membership of these is not affected by the FTA negotiations failing.
- There is confusion about advice. Running up to the last no deal the government issued many technical notices, but these have been substantially withdrawn or updated.
- Some things have already been agreed. Most obviously the Northern Ireland protocol which was agreed between the UK and the EU in the Withdrawal Agreement. The two sides must implement this irrespective of whether there is an FTA or not.

Useful Links

- Our Brexit pages: https://www.techuk.org/focus/programmes/brexit
- Data Adequacy explainer: https://www.techuk.org/insights/news/item/16766-data-adequacy-and-the-future-relationship-an-explainer
- No Deal FAQs: https://www.techuk.org/insights/opinions/item/16295-faqs-about-no-deal
- Publications: https://www.techuk.org/focus/programmes/brexit/publications
- Data centres and Brexit: https://www.techuk.org/insights/reports/item/9554-silver-linings-the-implications-of-brexit-for-the-uk-data-centre-sector (October 2016)
- Silver linings update: https://www.techuk.org/images/silver_linings_update_v3.pdf
- Data Centres: https://www.techuk.org/focus/programmes/data-centres

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