

# The Morning After: Waking up to Brexit and Its Impact on Your Business

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On the morning of June 24, 2016, we woke up to a headline that had been much discussed, but still added a jolt to many people's morning coffee: Britain to Leave the European Union.

The first response, almost inevitably, was fear and confusion. Global markets dropped precipitously (as did the Pound Sterling and the Euro) until the Bank of England spoke up to reassure investors, and even then the exchanges appeared jittery. Nevertheless, after bolting from bed in the first shocking instant, we propose a calmer moment to reflect on the new reality. Over breakfast (English breakfast tea with that, perhaps?), we may carefully examine how Brexit will impact global business.

To begin, we have taken that moment to analyze the implications of the UK's separation from the European Union in the realm of sanctions, export controls, and foreign investment in the United States. We address those implications in the four questions below.

## 1. Is the Sky Falling?

Fortunately, we can field this one as easily as clearing up the breakfast dishes. The answer is a clear "No."

Despite an initial panic over an extraordinary political change, the actual exit process, including any renegotiation of UK trade agreements, will be slow. The applicable EU treaty for exit provides a two-year window for the parties to renegotiate terms for Britain to remain in EU. Yep, that's right. Despite the blaring headlines, there remain at least another two years in which nothing may change and, if a deal is negotiated, Britain may still remain in the European Union. For that reason, we believe there is no need for a hasty or reflexive reaction to the news, despite the blaring headlines. Nevertheless, it would be prudent to use the time of renegotiation both to take advantage of business opportunities in the current period of legal status quo and to prepare for the changes that will follow.

## 2. How Will U.S. and EU Sanctions Change after Brexit?

Brexit will likely have no direct impact on U.S. sanctions regimes. However, larger political considerations may be on the horizon this morning as we envision EU decisions without the British influence.

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The UK was often the staunchest ally of the United States and often pressed the EU to align with the United States on sanctions. For instance, many of the EU member states only tepidly supported the sanctions against Russia's oil industry that the EU imposed in response to Russia's invasion of Ukraine. Those sanctions hurt EU member states' economies and caused fuel prices to rise in a number of countries. Political calculations for those countries in the case of Russia sanctions, or similar future situations, may change without the UK influencing decisions in Brussels. Remaining EU member states may not be as willing to impose sanctions in line with U.S. and UK objectives if those sanctions would injure the member states along with the sanctions target.

As a result of these changes, companies operating in the United States and the EU may find themselves facing more diverse (and even conflicting) regulations in cases where U.S. and EU sanctions may not be aligned in the future.

### **3. How Will U.S.-UK Trade be Impacted by Britain's Exit?**

Over the course of the day, our curiosity and concern about the future will turn to the realm of trade. The UK and United States have bilateral trade agreements as well as trade agreements in which the UK participates through the EU. The bilateral trade agreements will likely remain in place. However, if the UK's obligations under EU treaties are dissolved with a British exit, the UK may need to renegotiate trade deals it held through the EU with the United States.

The United States is the main overseas investment market for the UK as well as the main single destination for UK exports. Those factors suggest that the UK will want to maintain good trade relations with the United States. However, the UK may lose some leverage in future negotiations where it does not represent part of the massive EU market. Though the United States and Britain have long been close allies, British bargaining power with the United States will certainly be weakened when the UK comes to the table to talk trade on its own.

### **4. Will Export Control Regulations be Impacted by the Brexit?**

Most U.S. export controls already treat the UK as a separate destination from EU countries (as they treat EU countries as separate from one another). That is, shipment of a U.S.-origin product from the UK to Germany is currently considered a reexport and will still be considered a reexport Britain leaves the EU.

Nevertheless, domestic UK regulation of product standards may soon begin to diverge from those of the EU. The decoupling of UK and EU standards regulations may affect supply chain planning. For example, a U.S. company selling into the UK and the EU may have to adjust its sourcing, design, or manufacturing in order to meet the different standards for its products applicable in the different markets.

### **5. So What Do We Do?**

Take advantage of legal certainty. The regulations, product standards, sanctions, and trade agreements that were applicable last night are still applicable this morning. It is, for now, business as usual. Where companies have advantages under current trade agreements or regulatory frameworks, they should plan to make the most of those advantages in the near term.

Keep an eye on the changes. The negotiations following the Brexit vote may not be public, but the

results of those negotiations will be. Companies doing business in the UK or the EU, and their counsel, should remain tuned in to the proposed and agreed changes. When companies are aware of regulatory shifts that will affect their business model at the earliest possible moment, they give themselves the most time to plan and prepare to reduce any negative impact and to best position themselves to take advantages of opportunities such shifts may provide.

Don't believe the hype. Before the Brexit vote, rhetoric on both sides veered a little shamefully extreme. Facts became lost in spin and one could reasonably have mistaken a "remain" or a "leave" result for an apocalypse. While we hope that the discussion calms down in the wake of the vote, we encourage companies to seek reliable and reasoned analysis from experts before making substantial business changes in response to the British exit.

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