

January 2020

Brexit

The European Union (Withdrawal Agreement) Bill 2019-2020 (WAB) has been approved by MPs and will now pass to the House of Lords for scrutiny.

If this is passed into law, which is highly likely, the UK will follow all EU's rules and regulations during the transition period, including:

- EU law and policies and all the EU institutional, supervision and enforcement mechanisms (including full CJEU jurisdiction) continue to apply to and in the UK,
- the UK remains in the EU Customs Union and the Single Market with all four freedoms,
- the UK remains bound by obligations stemming from all EU international agreements. This means that third countries keep the same level of access to the UK market. Unless authorised to do so by the EU, the UK will not be able to apply new agreements in areas of EU exclusive competence.

One key amendment to the bill has been to prohibit any extension to the transition period – currently set to end at the end of 2020 – even if a free trade deal is not ready in time.

Next Steps

This means that from now until the end of 2020 there will be a lot of negotiation between the UK and EU on the new Free Trade Agreement and FSPA will be working closely with our members to inform the UK Government, with whom we have strong links, what is required in the FTA to support our sporting industry.

The UK government are going to be pressing to finalise FTA by the end of the transition period. Current EU timescales would make this extremely difficult, however, FSPA has been informed these timescales will be reviewed by EU/UK given the circumstances. The EU's public position is still that it will be 'impossible' to reach a comprehensive trade deal in this time and decisions will need to be made regarding priorities.

FSPA has been told that all businesses must be prepared for exit - that negotiations will be fast paced and businesses, industries and associations must be prepared to respond quickly to issues raised and questions the UK government will have.

If no trade deal is reached, trade terms will be replaced by the WTO's trade rules. Export and import tariffs will be directly affected and goods would be subject to customs control and tariffs. The position if a trade deal is reached will depend entirely upon the terms of that deal.

FESI's Position

FESI have said that they will be more than happy to closely work with FSPA to ensure that the concerns of the sporting goods industry are taken into consideration by both negotiating teams.

Brexit Implications: ODR Platform

Issue

The ODR platform (an online dispute resolution tool maintained by the EU commission that allows customers to make a complaint against a business) will no longer be available to UK consumers.

Advice

Check if your terms of sale/website refer to the ODR platform. If UK traders currently include references to the ODR platform in their terms of sale/on their website, then those references will need to be removed.

Textile strategy and policy hub + Circularity of textile sector

The Sustainable Apparel Coalition (SAC) in collaboration with the Federation of the European Sporting Goods Industry (FESI) and Global Fashion Agenda (GFA) launched the Policy Hub at the end of 2019.

The Policy Hub, through SAC, FESI and GFA represents over 300 brands, retailers, manufacturers and other stakeholders and has published two position papers that outline the key principles that policymakers must focus on in order for the sector to transition to a circular economy and how the Policy Hub is playing an active role in helping to shape targets.

The positions papers are titled 'Building blocks for a sustainable circular economy for textiles and footwear' and 'A common framework for extended producer responsibility (EPR) in the apparel and footwear industry.'

Read more and access the position papers on the Policy Hub's website: <https://www.policyhub.org/>

Consumer Law

A broad-ranging new EU directive on the better enforcement and modernisation of EU consumer protection rules, is expected to take effect in the middle of 2022. It will make substantial changes to existing EU laws concerning consumer rights, including changes to established unfair commercial practices, selling price information, unfair standard contract terms and penalties.

As the UK will have exited the EU by this time, it will be up to the UK Government as to whether or not they will choose to implement the EU directive (or similar provisions). If they do not do this, traders that sell solely in the UK would not be subject to the reforms.

UK businesses that sell in the EU, however, will be subject to the new EU regime, through the domestic legislation and penalties and enforcement framework established in each member state where they sell.

Read more here: <https://www.shoosmiths.co.uk/insights/articles/shoosmiths-b2c-new-deal-for-consumers>

Cambodia:

The EBA (Everything But Arms) is a preferential trade deal that allows Cambodia to export goods other than weapons to the EU tariff and duty-free. The agreement is in jeopardy because the EU is accusing the Cambodian government of violating human rights in a preliminary report sent to the authorities of Cambodia in November 2019. In accordance with the rules contained in the regulation on the EU's Generalised Scheme of Preferences (GSP), Cambodia responded to this preliminary report on the 12th December 2019. The Commission will now finalise the report and take a decision in February 2020 on whether or not to temporarily withdraw Cambodia's tariff preferences.

FESI, wrote on the 15th January to Commissioner Phil Hogan, in charge of the EU Trade policy, to express deep concerns about the adverse consequences of a possible withdrawal of the Everything But Arms (EBA) tariff preferences could have on Cambodia.

The garment and footwear industry currently accounts for approximately 75% of Cambodia's merchandise exports and employing an estimated 1 million workers (who are predominantly women). The EU is the largest destination market. Whilst sharing the concerns of the European Commission, particularly around labour rights, FESI have noted that they believe a withdrawal of EBA benefits could worsen the situation.

In their letter, they emphasise that *'Sporting goods companies are in fact frontrunners when it comes to responsible management of their supply chains, having also a long-standing experience of being involved with and in global multi-stakeholder platforms such as ILO and OECD'* and ask that the preferences are maintained for the garment and footwear sector.

Ones to Watch:

IOC Rule 50: The IOC has released draft guidance on Rule 50 of the Olympic Charter concerning the prohibition on demonstrations or political, religious or racial propaganda. <https://www.olympic.org/-/media/Document%20Library/OlympicOrg/News/2020/01/Rule-50-Guidelines-Tokyo-2020.pdf>

SCIP Database: From January 2021, companies supplying products containing 'substances of very high concern' from a list of hazardous materials to the EU market will have to submit information on these products to the European Chemicals Agency. <https://echa.europa.eu/scip-database>

ePrivacy: Ahead of a major stocktaking exercise in 2020 on the application of the GDPR since it came into force in May of last year, FESI regards this as 'an opportune time to reset the ePrivacy discussions and ensure certainty and consistency for both industry and consumers' and has urged Member States to ask the European Commission to reconsider its proposal for an ePrivacy Regulation. They fully support the worthy objectives of the proposal, but consider that only a fresh new attempt will serve the Regulation's purpose in line with the principles of better regulation. We stand ready to support the Commission and the co-legislators in these efforts. <https://fesi-sport.org/time-to-rethink-eprivacy-fesi-co-signs-joint-industry-letter-to-reset-the-eprivacy-discussions/>

If you have any questions in relation to EU and UK Lobbying & Legislation, please contact Jane Montgomery – jane@sportsandplay.com