scienceINDUSTRIES
SWITZERLAND

Working Paper

Brexit – Challenges and Opportunities for scienceindustries

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Summary

The United Kingdom of Great Britain and Northern Ireland is the 3rd most important export partner for scienceindustries member companies. The continuation of the current economic cooperation between Switzerland and the UK, which is based on the bilateral Agreements with the EU, should be ensured in a comprehensive manner by the establishment of a new network of provisions. The aim is to maintain the status quo during the transition period.

1. Objective of the working paper

The UK's decision on 23. June 2016 to leave the EU has created uncertainties in UK as well as in Switzerland. They will persist as long as new contractual relations between UK and its most important trade partners are being established.

The objective of this working paper is to illustrate, from the perspective of our member companies, the challenges and opportunities related to the establishment of a new legal framework between UK and the rest of the world regarding the market access, the regulatory cooperation, the protection of investments and the protection of intellectual property.

2. Starting position

In respect of exports, the United Kingdom is the 3rd most important trade partner for the member companies of scienceindustries.

In 2016 exports from Chemistry Pharma and Biotech reached an amount of 48% of the total Swiss exports to the UK. Imports contributed around 33% to the total Swiss imports from the UK. Most important product groups exported were pharmaceutical products, vitamins and diagnostics (87.3%), followed by organic raw materials and basic chemicals (4.1%), pesticides (2.3%) and ethereal oils, flavours and fragrances (2.2%). Most important products imported were pharmaceutical products, vitamins and diagnostics (61.4%), organic raw materials and basic chemicals (19.6%), pesticides (7.0%) and cosmetics and perfumes (3.3%).

The total trade volume of the Swiss chemical, pharmaceutical and biotechnological industry with the UK resulted in a value of 8.3 Mia. CHF. The UK belongs therefore to the top trade partners (Exports: 3rd; Imports: 6th).

Swiss direct investments in the chemical pharmaceutical and biotechnological sector in the UK reached an amount of 12.5 Mia. CHF (= 7.4% of total Swiss FDI) in 2015. The UK's direct investments in Switzerland in the same sector reached 9.5 Mia CHF (= 13.5 % of FDI in Switzerland).

More than 100 bilateral Agreements with the EU which have been concluded since 1972, such as the Free Trade Agreement, the bilateral Agreements I and II, guaranteed the privileged access to the EU market, the investment protection and the regulatory cooperation.

Brexit challenges the comprehensive legal network and risks to deteriorate the economic ties between the UK and Switzerland (market access, technical barriers to trade, movement of goods and persons) if no transitional solution could be found to ensure continuity.

3. Challenges and opportunities

3.1 Customs duties

The privileged access to the UK market is currently based on a framework of Agreements established between Switzerland and the EU. It consists of the General System of Preferences (GSP), of the Free Trade Agreement (1972), bilateral Agreements and the „Trade in Pharmaceutical Products"(WTO Pharma Agreement). A possible consequence of the abolition of this framework is the implementation of customs duties for exports to and imports from the UK. Such measures will increase costs.

In order to maintain or even improve the market access free trade negotiations between Switzerland and the UK have to be started urgently. In addition, the UK should reendorse the „Trade in Pharmaceutical Products"/WTO Pharma Agreement in due time.

An improved Market Access could be reached by the implementation of the expectations expressed in the scienceindustries Position Paper «FTA – scienceindustries objectives».

Because the GSP schemes offered by Norway and Switzerland and Turkey are similar to EC GSP, a certain linkage between them is possible. Beneficiary countries have, since 2001, been permitted to cumulate origin with goods falling within Chapters 25 to 97 of the Harmonized System originating in Norway and Switzerland.

The integration of the UK in the GSP Agreement should be achieved. This will enable developing and least-developed countries to use raw and starting materials from members of the Agreement in order to keep the preferential origin and therefore benefit from the preferential treatment in the UK, the EU, Switzerland and Norway as well as in Turkey.

3.2 Trade Facilitation/Customs Procedures

Transactions and their costs at the border such as customs formalities, waiting times and in transparent legislations, delay and make the market access more expensive. On the other hand facilitation of customs procedures and accelerated customs clearance reduce the costs and time for the importer and the consignee.

The Agreement on customs facilitation and security resulted in a preferential treatment of Swiss companies compared to third parties when goods crossed the border to the UK.

The Common Transit Procedure (CTP) is a simple and cost-efficient way to transport uncleared goods through several countries. For this purpose, a guarantee must be provided in the country in which the transit procedure originates. The guarantee is then released upon completion of the procedure.

The CTP is currently employed in the EU, in Turkey, in the former Yugoslav Republic of Macedonia and in the Republic of Serbia with respect to road, rail and air traffic. The procedure (also known as NCTS - New Computerised Transit System) is carried out electronically.

Due to the importance of the UK as trade partner, it is essential, that the preferential treatment in the cross-border flow of goods of Swiss companies is retained.

3.3 Regulatory Cooperation

The 1999 Agreement on dismantling technical barriers to trade (also called MRA – Mutual Recognition Agreement) calls for the mutual recognition by Switzerland and the European Union (EU) of conformity tests for industrial products.

Conformity tests determine whether a product meets current standards and is therefore suitable for introduction on the market. The MRA ensures that the necessary certification and admission processes to allow products onto the market only need to be carried out once. In addition it eliminates redundancies in the registration and market authorization processes by mutual recognition of GMP-inspections. The most relevant product categories for the chemical and pharmaceutical industry covered by the Agreement are medicinal products, pharmaceuticals (including GMP and GLP), biocides, construction materials and explosives. It guarantees Swiss chemical and pharmaceutical producers the same conditions for access to the European single market, i.e. to the UK, as their competitors in the EU.

In addition, international regulations, such as Globally Harmonised System GHS (UN Purple Book) and the Transportation of Dangerous Goods (UN Orange Book), which have been implemented in the EU as well as in the UK have to be pursued by UK in a continued manner.

Regarding EU specific regulations, on the other hand, there seems to be a possibility to cooperate with other non-EU-member states in order to intervene in the EU to improve the regulatory framework and related processes (i.e. REACH and Biocide regulation).

The chemical and pharmaceutical industry advocates to strive for an alignment of the UK and Swiss chemical legislation, the introduction of mutual recognition mechanisms for conformity assessments and the harmonisation of market authorisation specifications for chemical and pharmaceutical products.

The regulatory relations between Switzerland and the UK have to be shaped in such a way that redundancies in the registration process and in the marketing authorisation for new products are avoided.

3.4 Free Movement of Persons

In order to maintain the competitiveness, the international recruitment of highly skilled experts in research, production and marketing is essential for our member companies.

The free movement of persons which was agreed in the bilateral Agreements I with the EU has to be continued with the UK.

3.5 Investment Protection

The OECD rules on investments and the common understanding of the general international law are a solid base for the protection of investments. Therefore, Switzerland has not negotiated an Agreement on investment protection with the EU.

scienceindustries assesses that the legal certainty of the protection of investments will be still guaranteed after the UK has left the EU.

3.6 Intellectual Property Rights (IPR)

The protection of Intellectual Property Rights (patents, regulatory data protection, trademarks, confidential business data, copyrights, designation of origin (AOC)) has the highest priority for our innovative member companies.

scienceindustries welcomes the planned simplification (Unitary Patent) in the patent registration in the EU. Due to the Brexit decision the ratification of the Agreement on a Unified Patent Court by UK is still pending - resulting in a delayed implementation of planned simplifications.

scienceindustries would welcome an early solution with the EU and the UK in case of the Unitary Patent discussions.

An appropriate protection of Intellectual Property Rights could be reached by the implementation of the expectations expressed in the scienceindustries Position Paper «FTA – scienceindustries objectives».