

Brexit from a WTO/GATS Perspective: Towards an Easy Divorce?

Regulating for Globalization

17/09/2018

Rudolf Adlung (Independent trade policy analyst)

Please refer to this post as: Rudolf Adlung, 'Brexit from a WTO/GATS Perspective: Towards an Easy Divorce?', Regulating for Globalization, 17/09/2018,

<http://regulatingforglobalization.com/2018/09/17/brexit-wtogats-perspective-towards-easy-divorce/>

Please find below the journal abstract of "Brexit from a WTO/GATS Perspective: Towards an Easy Divorce?" by Rudolf Adlung, published in *Journal of World Trade*, Issue 5, Volume 52, 2018 edited by Edwin Vermulst.

Virtually all studies dealing with the WTO-related aspects of Brexit, the United Kingdom's (UK's) envisaged separation from the European Union, tend to focus on the ramifications for merchandise trade. Services trade rarely enters the picture, reflecting an apparently prevailing view that the reallocation of the existing pre-Brexit obligations requires little more than some drafting changes. This article begs to disagree, arguing that there are a variety of complex legal issues involved. These are related, inter alia, to the conceptual broadening of the General Agreement on Trade in Services (GATS) beyond conventional cross-border trade to three more types of transaction and its extension, in addition to the treatment of products (services), to that of producers (service suppliers). The competitive conditions of foreign producers that are established within a Member's territory are thus covered by the Agreement. With this in view, the article points out scenarios under which these producers are adversely affected by the termination of the UK's single-market status and the ensuing (re-)introduction of restrictions on market access and national treatment under GATS Articles XVI and XVII and/or the (re-)appearance of regulatory impediments in bilateral trade. In turn, this might provide a basis for the home countries to seek compensation. The article also identifies GATS-scheduled limitations that, because of the Most-favoured-Nation principle, cannot be maintained in trade among independent WTO Members. Depending on their nature, the resulting adjustments might lead to compensation claims as well.