The CPD Fest 2020

Brexit - What's Coming and How to Prepare for It

Presenter:

Cormac Lucey – Finance Lecturer & Economics Columnist

Core Technical Online CPD for Irish Accountants
Tax, Audit, Financial Reporting, Insolvency, Company Law, Regulation, Management Accounting & Business Skills

OmniPro Education & Training
Main Street, Ferns, Enniscorthy, Co. Wexford
053 910 0000
www.omnipro.ie   info@omnipro.ie

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Table of Contents:


Brexit
What's coming and how to prepare for it
Cormac Lucey
November / December 2020

1


Brexit
The UK left the EU on 31 January 2020 under the terms of the Withdrawal Agreement and we are now in a transitional period until **31 December 2020.** During this time, the UK remains part of the EU Single Market and Customs Union so **EU rules and regulations continue to apply**. Whatever the shape of the future trading relationship with the UK post transition, trading conditions with the UK will change and businesses need to prepare for that change.

2


Brexit
Deal, No Deal or Delay? What's likely to happen?
Deal – What are the likely contours of an agreed Brexit? What are the implications for Irish business?
No Deal - What would a No Deal arrangement mean in practice?
How should Irish business best react?

3

Deal, No Deal or Delay?

4

Deal, No Deal or Delay?

- The withdrawal agreement of 2019 meant that the transition period started in 2020. It will finish at the end of the year. The UK government has stated its intention to seek a free-trade arrangement for the long term. This is a more distant relationship than previously argued for by the UK side. The upshot is that the trading relationship will diverge to a greater extent, making negotiations difficult.
- Points of contention include:
  - 1.Level playing field (state aid)
  - 2.Fisheries
  - 3.Dispute resolution and the ECJ role in the new relationship
- Extending the transition period has been formally rejected by the UK government. Risk of hard Brexit has increased given transition period was not extended.
- Hard Brexit estimates suggest the economic hit to Ireland would between 2-6% over the short term.
- The Department of Finance assumes that a Brexit deal will not be agreed in its Budget 2021 planning.

5

Deal, No Deal or Delay?

- The withdrawal agreement is a legally binding international treaty.
- Northern Ireland will remain within the UK Customs Union but will abide by EU Customs Union rules – dual membership for NI.
- No hard border on the island of Ireland: the customs border will be in the Irish sea. Goods crossing from Republic of Ireland to Northern Ireland will not require checks, but goods that are continuing on to the UK mainland will.
- Complex arrangements will be necessary to differentiate between goods going to NI and those travelling through NI to UK or vice versa. Customs checks at ports, VAT and tariff rebates and alignment of regulations will be needed.
- All of this is backed by a layered consent mechanism, which allows Stormont to opt-out under simple majority at certain times.
- The withdrawal agreement could undermined by the UK's own Internal Markets Bill. The European Union recently launched legal action against the UK's Bill on the grounds that it undercuts London's earlier legal commitments.

6

Deal, No Deal or Delay?

Hard Brexit pros and cons

Cons

Short term

- Major trade disruption from tariffs, customs checks and documentation (red tape)
- Regions suffer severe recession in agriculture and UK-focused manufacturing; tourism might dip
- Confidence shock to business and households
- Liquidity may dry up in property market
- Fiscal impacts are likely given need to support regions

Long term

- Lower consumer spending thanks to higher inflation when tariffs dominate the FX benefit
- Political economy cost (loss of ally in the EU)

Pros

Short term

- Cheaper domestic food prices

Long term

- Fiscal help from Europe is likely; selective temporary waiving of State Aid rules?
- FDI influx from UK, as multinationals avoid turmoil; UK's reputation might be tarnished
  - Financial services (passporting lost by UK)
  - Other multinationals - especially IT and business services
- Commercial property occupancy could rise; there may also be an influx of well paid workers
- Gradual partial trade recovery
  - Irish companies focused on Britain may steal EU market share from British competitors
  - Import substitution (especially in food)

7

Deal, No Deal or Delay?

Hard Brexit impact estimates all show similar story – return to WTO rules would be negative for Ireland

Forecast vs. no Brexit baseline	Short term (2 years)	Medium term (5 years)	Long term (10-15 years)
Department of Finance (ESRI)	-2.4%	-3.3%	-5.0%
Copenhagen Economics	-2.0 to 2.5%	-4.5%	-7.0% (of which -4.9pp is due to regulatory divergence)
Central Bank of Ireland	-4.0%	-	-6.0%
Bank of England "disruptive" (implied)	-5.0%	-6.2%	-6.2%
Bank of England "disorderly" (implied)	-6.3%	-8.2%	-8.2%
UK Treasury range (implied)	-	-	-5.0 to 7.2%

8

Deal, No Deal or Delay?

Irish/UK trade linkages will suffer following Brexit

- The UK is the second largest single-country export destination for Ireland's goods and the largest for its services
- At the same time, Ireland imports c. 20% of its goods from the UK.
- Ireland's trade with the UK is labour intensive
- The UK might only account for 10% of Ireland's total exports, but Ireland is more dependent than that because those UK-reliant sectors are labour intensive

SMEs account for approx. half of Irish exports to the UK. They are likely to be more adversely affected than larger companies by the introduction of tariffs and barriers to trade.

9

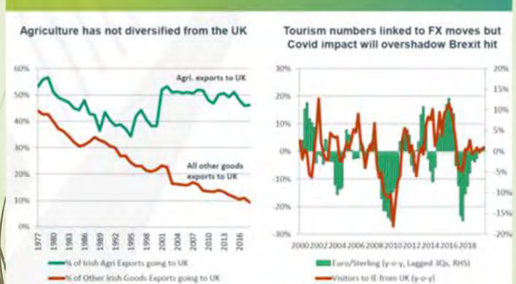
Deal, No Deal or Delay?

% of total	Goods (2019)		Services (2018)		Total (2018)	
	Exp.	Imp.	Exp.	Imp.	Exp.	Imp.
US	30.8	15.5	11.6	25.4	18.0	23.1
UK*	10.3	22.5	15.7	9.6	13.8	13.6
NI	1.4	1.9	n/a	n/a	n/a	n/a
EU-27	37.1	36.7	29.4	26.8	33.5	30.3
China	5.9	5.8	2.6	1.5	3.1	3.0
Other	15.9	19.4	43.3	38.3	30.7	31.1

10

Deal, No Deal or Delay?

Agri-food and tourism most at risk from trade barriers



11

Deal, No Deal or Delay?

Many financial institutions have announced that they will expand or set up in Dublin

FDI: Ireland benefitting already

- Ireland could be a beneficiary from displaced FDI. The chief areas of interest are
  - Financial services
  - Business services
  - IT/ new media.
- Dublin is primarily competing with Frankfurt, Paris, Luxembourg and Amsterdam for financial services.
- Ireland's FDI opportunity will depend on the outcome of post-exit trade negotiations. The UK (City of London) is almost certain to lose its EU passporting rights on exit, so there may be more opportunities in time.

Companies that have indicated jobs have or will be moved to Ireland

Barclays, Morgan Stanley, Citi, J.P.Morgan, Goldman Sachs, TD, Bank of America Merrill Lynch, Legg Mason, S&P Global Ratings, Barings

12

Deal, No Deal or Delay?

"How likely is a Brexit deal? Top experts calculate probability of trade agreement" – the (London) Independent, October 20th

- Mujtaba Rahman, managing director of Europe at the Eurasia Group: "I still think a deal is probable, mainly because of difficult domestic politics that will propel Boris Johnson towards a deal – the pandemic, the questions of competence that have been levelled by the Labour opposition and the momentum behind Scottish independence. At Downing Street, there's no strong, intrinsic belief in the positive value of a trade deal. But political problems mean they have a strong incentive to get one." **Chances of deal: 6/10**

13

Deal, No Deal or Delay?

"How likely is a Brexit deal? Top experts calculate probability of trade agreement" – the (London) Independent, October 20th

- Naomi Smith, chief executive of Best for Britain: "Unfortunately, the time to agree a wide-ranging set of arrangements – the sort of deal that Boris Johnson promised – has slipped away and there is now precious little time in which to negotiate. A lightweight deal is still possible, right until the 11th hour. And, while that will still result in additional costs and barriers to UK-EU trade, it will be far less damaging than the head-in-the-sand madness of a no-deal result. A botched exit from Europe will pile costs and misery on top of the costs and misery from the pandemic, and threaten the Union as well. Johnson desperately needs a deal if he is not to be remembered as the prime minister who broke the UK, and then broke up the UK." **Chances of a deal: 5/10**

14

Deal, No Deal or Delay?

"How likely is a Brexit deal? Top experts calculate probability of trade agreement" – the (London) Independent, October 20th

- Georgina Wright, senior Brexit researcher at the Institute for Government: "The problem is that 31 December is soon, but not quite soon enough. Both sides are still looking at each other, sizing each other up and unwilling to move first. But it looks like talks will continue, though I suspect there won't be any real movement until November. But even if there is a trade deal, that won't be the end of UK-EU talks: Brexit is the gift that keeps on giving." **Chances of a deal: 7/10**

15

Deal, No Deal or Delay?

"How likely is a Brexit deal? Top experts calculate probability of trade agreement" – the (London) Independent, October 20th

- Steve Peers, professor of EU law and world trade law at University of Essex: "The EU wants the UK at least to commit to uphold current EU standards on those areas, but the UK prefers the weaker version of a level playing field, which the EU agreed with Canada and Japan. The EU side will also still expect the UK to remove the controversial parts of the internal market bill. So a final deal would need movement from one or both sides on fisheries, dispute settlement and a level playing field – which does not look imminent right now." **Chances of a deal: 4/10**

16

Deal, No Deal or Delay?

"How likely is a Brexit deal? Top experts calculate probability of trade agreement" – the (London) Independent, October 20th

- Professor Anand Menon, director of UK in a Changing Europe: "I think there's a lot of brinkmanship going on, but both sides have a strong preference for getting a deal over not getting a deal. My hunch is that when push comes to shove both sides will be willing to make the concessions needed to get it over the line. "If there isn't a deal this year, the UK has to go back to the negotiating table for a free trade agreement at some point. How and when that happens would depend on the level of pain a no-deal outcome could inflict next year." **Chances of a deal: "More likely than not."**

17

Deal, No Deal or Delay?

"Has Dominic Cummings' exit made a Brexit deal more likely?" – Politico Europe, November 16th

- Charlie Cooper & Emilio Casalicchio: "We do know the Vote Leave camp like to cultivate a reputation for toughness; for doing things commentators say they shouldn't do; for unpredictable and explosive interventions. If those instincts are indeed dialled down a bit now that Cummings and Cain are gone, it can probably be chalked up as **a good thing for those who want to see a deal done**."

18

Deal, No Deal or Delay?

- Betting odds (Smarkets) suggest a 25-30% likelihood of the transition period being extended

19

Deal, No Deal or Delay?

- Betting odds (Smarkets) suggest a 75-80% likelihood of a trade deal being concluded

20

Deal, No Deal or Delay?

- IIEA, "Brexit – state of play", September 2020
- IIEA – "Brexit brief", November 2020

21

Deal

- At best, it will minimise disruption to trade and avoid a border on Ireland or between Ireland and Great Britain.
- It will not over services.

22

Deal

A framework for future relations: Key issues

- The future trading relationship. Options include:
  1. A comprehensive free trade agreement
  2. A more limited sectoral free trade agreement
- Reciprocal obligations of the UK, including in regulatory terms, in order to achieve access to EU markets
- Requirements, if any, in terms of financial contributions to the EU budget
- Cooperation on policing, justice and counterterrorism
- Arrangements for information sharing and data protection
- New dispute resolution and arbitration mechanisms will be necessary if the UK is outside the jurisdiction of the European courts

23

Deal

Negotiating issue	UK negotiating position	EU negotiating position
Rights of citizens	Wants rights of UK citizens in EU to be secured. May be willing to reciprocate but may have concerns over issues such as acquired rights for EU citizens.	Wants rights for EU citizens in UK to be secured. Willing to reciprocate.
The UK's liabilities (the 'divorce bill')	No formal position put forward, but a substantial exit bill will prove politically difficult	Will seek financial settlement to cover all the UK's legal and budgetary commitments and liabilities, including contingent liabilities.
Preserving the Good Friday agreement	Stated priority	Stated priority
Minimising damage to Ireland-UK relations	Stated priority Common Travel Area and border issues are acknowledged	Stated priority Suggests that existing 'bilateral arrangements' (eg the Common Travel Area) between the UK and Ireland can be maintained, if they are compatible with EU law Suggests that "flexible and creative solutions" will be required to address the Irish issues

24

Deal

Negotiating Issue	UK negotiating position	EU negotiating position
Future free trade agreement	Wants an ambitious free trade deal Accepts that it cannot cherry-pick EU membership benefits Will not seek Single Market access	Broadly concurs that this is in EU interests. Notes that this cannot be agreed until the UK has left the EU Future relationship must be subject to appropriate enforcement rules. Insists on the need for a 'level playing field, particularly with respect to competition and State-aid
Security cooperation	Stated position is a desire to continue security cooperation with the EU	Willing to consider establishing a partnership in the fight against terrorism, international crime, security and defence.
Minimising disruption	Hope to avoid 'cliff-edge' for business and citizens Hopes for early resolution to the talks	Concurs and hopes to provide early clarity on terms of exit Achieving this is contingent upon settlement of UK's rights and obligations arising from its EU membership
Gibraltar and Spain	No stated position in the Article 50 letter	No future agreement between the EU and the United Kingdom, after the UK leaves the EU, may apply to the territory of Gibraltar without agreement between the Kingdom of Spain and the United Kingdom.

25

Deal

- IIEA "Guide to Brexit"

26

No Deal

What happens if no agreement is reached?

- The EU and the UK would operate World Trade Organisation (WTO) rules.
- For contracting member states, these are the default rules of trade which apply when no formal trade agreement exists.
- In essence, each WTO member must have a set of tariffs that it applies (in a non-discriminatory manner) to all other countries in the world.
- For political reasons, the UK government refers to this scenario as an Australian-style arrangement.

27

No Deal

Boris Johnson, September 7th

- "There needs to be an agreement with our European friends by the time of the European Council on **15 October** … If we can't agree by then, then I do not see that there will be a free trade agreement between us, and we should both accept that and move on. We will then have a **trading arrangement with the EU like Australia's**."

28

No Deal

Under the UK's WTO Tariff Schedule, it would impose tariffs on only 40% of the UK's imports from MFN countries.

UK-EU Relationship	% of Tariff Free Products
EU Membership	100%
Free Trade Agreement	60-100%
Partial FTA	60-100%
WTO UK GT schedule	60%
WTO EU MFN schedule (Assumed in modelling)	52%

29

No Deal

For Ireland, agri-food exports particularly hit by tariffs

Product	% of IE-UK goods exports	Comment on tariff imposed under UK schedule
Pharmaceutical products	16.9%	Almost all pharma products are tariff free
Machinery and mechanical appliances	8.1%	A lot of this category remains duty free.
Meat and edible offal	7.7%	High customs duties are imposed on Meat (6-16% + £34-£2313 per 100kg)
Dairy produce, birds eggs, natural honey, edible products	5.6%	High customs duties are imposed on Dairy (6-16%+£14-185 per 100kg)
Electrical machinery and equipment	4.8%	A lot of this category remains duty free.
Organic chemicals	4.3%	Tariffs on Active Pharmaceutical Ingredients (6%)
Plastics and articles thereof	3.8%	Tariff rates increase but are lower than the current EU MFN rates.
Cereals, flour, starch or milk, pastry cooks products	3.7%	Bread and bakery face a small tariff (8%)
Meat & fish	3.5%	High tariff (6-25%+£34-2313 per 100kg)
Optical, medical or surgical instruments	2.9%	Most medical devices remain tariff free

30

No Deal

IIEA "Myths and realities of WTO option"

31

How should Irish business react?

1. Plan for both Deal and No Deal contingencies.
2. Make administrative and logistical arrangements for both contingencies.
3. Consider need for build-up of contingency stockpiles in advance of cut-off date

32

How should Irish business react? Supply chain

How can I reduce the impact of Brexit on my supply chain?

- Ask yourself, do you buy directly from a UK business or do you source your goods or services from the UK, or do you indirectly source products from a wholesaler or distributor? If so, you need to understand the risks of Brexit for your business and you can do this now by checking where your materials, stock, ingredients or any other types of goods are actually coming from or going to.

Supply chain: What can I do now?

- You should contact your UK suppliers, service providers and logistics companies, or your wholesalers and distributors, to seek assurances about the continuity of goods and services you rely on for trade.
- You should also check if your non-UK suppliers use the UK as a landbridge as there may be delays and cost implications after the transition period, such as supply, customs, tariffs and related impacts on working capital.
- If you have any doubts about continuity in your supply chain you need to consider the possibility of sourcing your goods or services in Ireland or elsewhere in the EU.

33

How should Irish business react? Supply chain

Supply chain: What government supports are available to me?

- The **31 Local Enterprise Offices** (LEOs) across the country run a Brexit Mentor Programme to support business owners and managers. This programme can help you to identify key Brexit exposures and develop robust strategies to address issues and maximise potential opportunities.
- InterTradeIreland (ITI) offers **up to €2,250 to help you engage professional advice to get Brexit ready** and a Brexit Advisory Service to help businesses with practical advice, support and information on Brexit related issues.
- Enterprise Ireland ran a series of **Brexit Advisory Clinics** across the country offering information and practical support to companies. Key elements of these clinics have been made available online to help businesses prepare for Brexit.
- The **Brexit Loan Scheme** is open for eligible businesses with up to 499 employees to innovate, change or adapt in response to Brexit-related challenges. Loan amounts range from €25,000 up to €1.5m, for terms of up to three years and a maximum interest rate of 4%. Loans up to €500,000 unsecured. This may be useful for businesses who have Brexit impacts on their cashflow (conditions apply).

34

How should Irish business react? Customs

- If you trade with the UK, you will have to comply with EU customs obligations after the transition period. Customs declarations will be required to move goods from Ireland to the UK and vice versa. Both “import” and “export” declarations will be required.
- In practice, much of the customs requirements can be handled by an agent or operator moving your goods. You will however be responsible for providing your appointed agent with accurate information. Incomplete or inaccurate information will lead to delays which could cost you money.

35

How should Irish business react? Customs

Customs: What can I do now?

- Obtain an EORI number: If you are a trader who imports or exports goods into or out of the European Union (EU) or trades with the UK post transition period, you will need a unique EORI (Economic Operators' Registration and Identification) number. Register with Revenue for an EORI number to continue trading with the UK after the transition period. This number is valid throughout the EU. You can register for an EORI number through the Revenue website using your Revenue Online Service (ROS) account.
- If your business moves goods through the UK, or sources supplies or components from mainland Europe via the UK landbridge, you should consider availing of the ‘Transit’ procedure to lessen customs delays and costs. Transit is a customs procedure that allows goods to be moved across international borders under customs control. A guarantee is required to secure all charges on the goods. For more information visit Revenue’s page on Transit.

36

How should Irish business react? Customs

Customs: What can I do now?

- You must have security in place to cover potential or existing customs debt for certain customs procedures or facilities. This security must be in the form of a customs guarantee. A comprehensive guarantee allows you to combine all your current customs bonds and guarantees. You will need an authorisation from Revenue to use a comprehensive guarantee. For more information visit Revenue's page on Comprehensive Guarantees.
- If you intend to customs clear and import goods in your own name into the UK, or trade online into the UK, you will need to register for a UK EORI number with HMRC (the UK's Revenue and Customs) and it is likely that you will also be required to VAT register in the UK.
- Consider whether you want to complete customs declarations yourself or use a third party such a customs agent or operator to do so on your behalf. Business should engage with agents/brokers and agree a "pricing schedule" for filing declarations.

37

How should Irish business react? Customs

Customs: What government supports are available?

- The new **€20 million Customs Clearing Capacity Building Scheme** 'Ready for Customs', administered by Enterprise Ireland, will help SMEs involved in exporting and importing with the UK and further afield to put in place the staff, software and IT systems to be ready for new customs arrangements from 1 January 2021.
- For more detail on key customs concepts, documentation and processes you can access a **40-minute online customs insights course** developed by Enterprise Ireland.
- The **Local Enterprise Offices customs workshops** provide businesses with a better understanding of the potential impacts, formalities and procedures when trading with the UK post transition period.
- The **Skillnet Ireland Clear Customs training offers free virtual training** to Customs intermediaries and to businesses who frequently trade with or through the UK.

38

How should Irish business react? Tariffs & duties

- After the transition period, Customs Duty will apply to the import of many goods from the UK into Ireland. Unlike VAT which is recoverable by many businesses **Customs Duty is not recoverable** and will represent an additional cost of import.
- The **rate of Duty arising on goods** depends on the classification of the particular goods. All goods should have an assigned classification code. There are specific rules which apply for valuing the import of goods for Customs purposes.
- **Rules of Origin** are the rules by which customs and other authorities determine the source of an imported product.
- **In the event of a No-Deal Brexit, standard rate VAT (currently 23% for ROI) will apply to the import of many goods from the UK to Ireland.**
- In order to mitigate the potential cash-flow burden, the Minister for Finance proposes to introduce a legislative change to introduce a system of **postponed accounting** whereby importers will not pay import VAT at the point of entry but will instead account for import VAT through their bi monthly VAT return.

39

How should Irish business react? Tariffs & duties

Tariffs/Duty: What can I do now?

- Classify the goods that you import or export, and their origin, for customs purposes. Revenue offers more information on classification.
- Consider the implications of VAT and Excise Duties on your imports, and Rules of Origin on your exports.
- Consider applying to Revenue for a VAT and Duty deferment account. This will allow you to defer the payment of VAT and Duty to the 15th day of the month following the month of import of the goods. The lead in time to obtain Revenue approval for a deferment account can be at least two months. However, Government will introduce a system of postponed accounting for all traders for a period after the transition period so businesses will not have to pay VAT at the point of import of their goods coming from the UK.

40

How should Irish business react? Tariffs & duties

Tariffs/Duty: What can I do now?

- Contact your local Chamber of Commerce who have an extensive set of resources to support businesses trading internationally. They develop and maintain Incoterms® rules which are an internationally recognised standard and are used worldwide in international and domestic contracts for the sale of goods. In addition, they provide a range of training courses in International Trade as well as the 2018 ICC Guide to Export Import. For further information see Chambers Ireland.
- Explore the extent to which available customs reliefs such as inward processing relief, Customs warehousing or procedures such as transit could apply to you.

41

How should Irish business react? Tariffs & duties

Tariffs/Duty: What can I do now?

- Review contracts with suppliers and customers and especially Incoterms. Incoterms or trade terms inform parties what to do with respect to the carriage of goods from buyer to seller, and who is responsible for export and import clearance and payment of VAT and Duties. They also explain the division of costs and risks between the parties.
- Assess what changes may be required to your ERP (Enterprise Resource Planning) or finance systems to cater for a changed VAT and Customs Duty accounting regime after the transition period.

42

How should Irish business react? Certification, regulation & licencing

I import/produce products, components, devices, etc. which require certificates, licenses or authorisations. How will Brexit affect my business?

- Certificates, licenses and authorisations are required for trade in the EU for many types of goods such as medical devices and construction products, and for services for instance in the transport sector. If you rely on certificates, licences or authorisations issued by UK authorities or bodies, these may no longer be valid in the EU post transition period.
- A vast range of certification and licensing for the EU market has to date been conducted by authorities and bodies in the UK. After the transition period, UK bodies may no longer have the authority to issue certificates or licences within the EU.

43

How should Irish business react? Certification, regulation & licencing

Certification, Regulation and Licensing: What can I do now?

- To avoid disruption and delays, you will need to take the necessary steps to ensure you are compliant with EU rules, that is, to transfer to an EU27-authorised body or authority or obtain new certificates, licences or authorisations issued by a designated EU27 body or authority.
- **All businesses:**
- You need to check whether your current certifications, licences or authorisations will be valid post transition period.
- If you rely on UK Notified Bodies for conformity assessment certificates, these certificates will no longer be valid after the transition period. You must source an alternative Notified Body in the EU. This may involve transferring certificates to another member state or obtaining new ones altogether. You can check the EU Commission NANDO website for a list of designated EU Notified Bodies.
- The National Standards Authority of Ireland (NSAI) has prepared useful factsheets that you can consult for further information.

44

How should Irish business react? Certification, regulation & licencing

Certification, Regulation and Licensing: What can I do now?

- **Businesses sourcing products from the UK:**
- If your company sources products from the UK after the transition period, you will no longer be considered a distributor but instead be classified as an importer. In certain instances, this carries additional responsibilities. These may include checking whether your manufacturers have carried out the appropriate assessments, documentation and legal obligations.
- **Businesses importing chemicals:**
- If you plan on importing chemicals from the UK after the transition period, you will need to ensure that the import of these products comply with EU regulations. The Health and Safety Authority (HSA) operates a Chemicals Helpdesk which can assist businesses with questions associated with the import of chemical products.

45

How should Irish business react? FX

- Since the Brexit vote, the value of Sterling has depreciated approximately 13% against the Euro and is expected to remain volatile as political and economic uncertainties continue. Currency exposures for businesses stem not only from the transaction exposure of translating Sterling sales at a weaker rate, but also from reduced competitiveness against now cheaper local UK alternatives.
- Estimate potential currency exposure by identifying the extent by which any Sterling denominated revenues are not offset by Sterling costs. In particular, **it is important to test the impact of 10-15% currency changes on your costs of inputs, sales prices and profitability**.
- In order to protect your business from financial shocks you could consider hedging; talk to your bank about hedging options. For more information on managing currency exposure, visit Enterprise Ireland's guidance and tools for managing currency exposure.

46

How should Irish business react? Working capital

What can I do now?

- Ensure your business has sufficient liquidity in place, including debt and revolving credit facilities to withstand potential shocks. "Revolving credit" is a credit line for a fixed sum that is automatically renewed once the whole sum (or an agreed portion) has been repaid.
- If you haven't already done so, consider applying for a working capital loan under the Brexit Loan Scheme. Once you have a sanction in place from one of the participating banks, it will be available for draw down as soon as you need it and remains valid for a period of months.
- If you are a Microenterprise (employing less than 10 people and with turnover of less than €2 million p.a.) you can access loans of up to €25,000 from Microfinance Ireland. You can apply through the Local Enterprise Offices, or directly through Microfinance Ireland.

47

How should Irish business react? Working capital

What can I do now?

- Review covenant calculations and headroom to pre-empt breaches as a result of earnings and foreign exchange weakness and engage with lenders. A "covenant" is a clause in a corporate bond agreement in which the issuer makes certain promises designed to protect the bondholder. These could involve commitments on debt-equity levels, dividend payments, cashflow, etc. Sometimes called protective covenant or restrictive covenant.
- Review all relevant cashflow forecasts, consider currency assumptions and whether updating is required.

48

How should Irish business react? Data protection

Can you give me some examples of where my business could be transferring Personal Data to the UK (including Northern Ireland)?

Some common examples of ways in which you could be transferring Personal Data to a UK (including Northern Ireland) based business would include:

- Where you are using a UK (including Northern Ireland) based marketing business to send marketing communications to your customer database or where you are using mailing lists to communicate with UK (including Northern Ireland) based clients.
- Where you are transferring your employee data to an out-sourced service provider located in the UK (including Northern-Ireland) for your ICT, payroll, pension or HR administration services. You should also check whether your occupational health provider is based in the UK (including Northern Ireland).
- Where you are transferring your employee, customer or supplier data to a UK (including Northern Ireland) based business for translation/transcribing Services.
- Where you are using data or cloud storage or website hosting facilities which are located in the UK (including Northern Ireland) that involve the storage of Personal Data (e.g. where you need to log in using a first-name, last-name format).
- Where you are using a UK (including Northern Ireland) based business to analyse visitors to your website.

49

How should Irish business react? Data protection

Transfers of Personal Data from Ireland to the UK (including Northern Ireland) in the Event of a No-Deal Brexit

- Brexit will have an impact on the Data Protection obligations of Irish businesses and organisations which transfer Personal Data to the UK (including Northern Ireland). In the event of no agreement on the future relationship between the EU and UK, the UK will become a "third country" for the purposes of the General Data Protection Regulation (the "GDPR") and transfers of Personal Data to the UK (including Northern Ireland) will be subject to the rules on International Transfers to Third Countries.
- If your business involves the transfer of Personal Data to or from the UK (including Northern Ireland), you will need to ensure that sufficient safeguards are in place so that you can continue to transfer this data after the transition period.

50

How should Irish business react? Data protection

What can I do now?

- All businesses are advised to **review their existing processes and contracts** to assess whether they involve Personal Data transfers to the UK (including Northern Ireland).
- Businesses should in cases where they are transferring Personal Data to the UK (including Northern Ireland) consider the options available under the GDPR to enable them to continue to lawfully transfer these data to the UK (including Northern Ireland) in a post transition environment.

Options that can be considered may include:

- Amending contracts and inserting the model Standard Contractual Clauses (SCCs) - (Article 46 - GDPR). Information on the "model" clauses and a sample set of SCCs (Controller to Processor) can be found on the Data Protection Commission website at: dataprotection.ie/en/media/123.
- Applying for Binding Corporate Rules ("BCRs") to be adopted for Group transfers (Article 47 - GDPR).
- Considering whether any of the derogations provided for under Article 49 of the GDPR apply. It is important to remember that these derogations can only be used in limited circumstance as set out in Article 49(1) and are usually not suitable for "repetitive" or "regular" transfers of Personal Data.
- Updating Privacy Notices and other data protection documents and website content that set out how your business "transfers" Personal Data (i.e. the "where" and "why" in the data chain).

51

How should Irish business react?

- Government Brexit readiness checklist
- Government web page "getting Brexit ready" https://enterprise.gov.ie/en/What-We-Do/EU-Internal-Market/Brexit/Getting-Brexit-Ready/ includes detailed sectoral guidance for:
  - Retail
  - Construction
  - Manufacturing
  - Services

52

Brexit

- Deal, No Deal or Delay? What's likely to happen?
- Deal – What are the likely contours of an agreed Brexit? What are the implications for Irish business?
- No Deal - What would a No Deal arrangement mean in practice?
- How should Irish business best react?

53

Introduction

The latest round of EU-UK negotiations took place in London, between Tuesday, 8 September and Thursday, 10 September 2020, and while the two sides noted 'useful exchanges', there was limited progress noted on the most difficult issues for the talks. Ultimately, the negotiations themselves were heavily overshadowed by the introduction of the UK Government's Internal Market Bill on Wednesday, 9 September 2020.

The Bill seemingly contravenes provisions in the Protocol on Ireland / Northern Ireland relating to trade in goods and the agreed rules on State aid. Indeed, and quite remarkably, the Secretary of State for Northern Ireland, Brandon Lewis, admitted in the House of Commons on Tuesday, 8 September, that the Bill would breach the UK's international agreements "in a specific and limited way". The Bill itself states that its provisions in relation to Northern Ireland will: "have effect notwithstanding inconsistency or incompatibility with international or other domestic law."

Inevitably, this was a sobering backdrop to negotiations which were already commencing on a pessimistic note, after little progress had been made in the accelerated schedule of talks which took place during the summer period.

This State of Play note will examine the contents of the Bill and detail the implications for relevant sections of the Protocol. It will examine its implications for UK internal cohesion, and for the UK's prospects of striking deals with third countries. Finally, it will examine what avenues the EU might pursue, should the UK renege on its obligations under the Protocol.

The Internal Market Bill

Concerns about the Internal Market Bill had previously been raised by devolved administrations when the White Paper was published in July 2020. The Bill aims to ensure that the integrity of the UK internal market is maintained after EU competencies in a range of policy areas cease to apply to the UK. Devolved administrations argue that they should have the ability to set regulatory standards in areas that fall under devolved competencies, but this Bill would allow Westminster to retain control over an array of policy areas in an effort to ensure a cohesive internal market.

The UK Internal Market Bill introduces principles of mutual recognition and non-discrimination to eliminate potential barriers to trade between the constituent parts of the UK. It guards against barriers to trade which might arise if devolved competencies legislated, for example, for different regulatory standards in goods which could be sold in their country.

The Bill would introduce mutual recognition provisions which would ensure that any goods sold in one part of the UK could also be sold on the same basis in another. The Bill also contains non-discrimination provisions which ensure that regulations made by an administration in one part of the UK does not discriminate against goods imported from another.

The Bill has been firmly rejected by the Scottish and Welsh administrations, who see the Bill as an attempt by Westminster to retain powers which, in their view, should rightfully be devolved. This has ramifications for the UK's internal cohesion; both the Scottish and Welsh Assemblies have said they will not support the Bill. According to the so-called 'Sewel Convention', Bills which relate to devolved powers should receive the consent of the devolved administrations. This is a political rather than a legal convention, as determined in a Supreme Court ruling in December 2017, meaning that devolved powers cannot look to the courts to uphold it. The Sewel Convention was subsequently breached twice: when the UK Government was legislating for the EU Withdrawal Act in 2018; and when passing the European Union Withdrawal Agreement Bill in January 2020.

These breaches, the first since the inception of the Sewel Convention, caused significant concern among devolved powers and raised questions as to the internal cohesion of the UK at a pivotal time in its history. The SNP, for example, enjoys healthy support in Scotland. A recent YouGov poll found that it would receive 57% of the constituency vote in an election, which would win it 74 seats - a strong majority in the House. The poll also found a high approval rate for Nicola Sturgeon and low approval for Boris Johnson. More significantly still, when removing those who said they did not know how they voted, those who said they would vote "yes" to a vote on Scottish independence stand at 53% - the largest lead in the history of YouGov polling on the topic.[1]

The most controversial aspects of the Bill internationally, however, are the sections which contravene the Protocol on Ireland/Northern Ireland, which was written into international law and ratified in the Withdrawal Agreement Treaty in December 2019.

The Protocol

The Protocol was designed to ensure there would be no hard border on the island of Ireland. In order to do this, despite being in the UK customs territory, the Protocol outlined that the UK would also apply the EU Customs Code in Northern Ireland, meaning relevant customs processes and checks on goods moving between Great Britain and Northern Ireland. The UK Trade Policy Observatory suggests that up to 75% of Northern Ireland imports could be subject to EU tariffs on arrival.[2] It also stated that Northern Ireland would continue to be bound by the rules of the Single Market in goods regulation, including areas such as: product requirements and safety; animal and plant health and welfare; food safety and standards for animal products; and farming standards. It also required Northern Ireland to align with EU State aid rules and rules on VAT on goods.

1 https://yougov.co.uk/topics/politics/articles-reports/2020/08/12/scottish-independence-yes-leads-53-47

2 https://blogs.sussex.ac.uk/uktpo/files/2019/12/full-final-draft.pdf

From early on, Prime Minister Boris Johnson insisted that there would be no checks on trade in goods between Great Britain and Northern Ireland, raising questions as to how the UK planned to implement the Protocol. The EU, however, has repeatedly stated that the proper implementation of the Protocol is a prerequisite to reaching agreement on the future relationship. In May 2020, the Government admitted that there would be checks on certain types of goods, as well as additional processes for traders. This Bill, however, would seem to contradict this. This section will outline the ways in which the new Bill may override provisions in the Protocol.

Movement of Goods

Article 5(2) of the Protocol states that all goods moving from Great Britain to Northern Ireland will be considered to be ‘at risk’ of moving into the Single Market unless certain criteria are fulfilled. These criteria, according to the Protocol, are to be established by the Joint Committee during the transition period. Significantly, if there is no agreement in the Joint Committee, all goods will be considered to be at risk and thus subject to tariffs.

The new Bill commits to law the UK Government’s promise that Northern Ireland business will have unfettered access to the market in Great Britain. Given that the Bill specifically makes provision for the Secretary of State to make decisions which may otherwise be disallowed “under international and domestic law” in relation to the Protocol, it may mean that, should the Joint Committee not agree on criteria for ‘at risk’ goods before the end of the transition period, the Secretary of State for Northern Ireland may do so - in direct contravention of the Protocol

Exit Declarations

The Bill contains specific provisions which would override the provisions in the Protocol for exit declarations on goods moving from Northern Ireland to Great Britain. Under the Protocol, exports from Northern Ireland to Great Britain will need to be compliant with EU customs procedures, including completing exit summary declarations. Provisions in the Internal Market Bill state that the UK Government need not enforce or follow these provisions in the Protocol and that instead these decisions may be made by a Minister of the Crown.

State Aid

In the Protocol, any State intervention or subsidies by the UK Government which could affect trade between Northern Ireland and the EU must be referred to the Commission for approval, to ensure that it is compliant with EU State aid rules. If the Commission believed the subsidy or intervention to be in breach of State aid rules and threaten the integrity of its Single Market, this would then be subject to challenge by the European Commission in the CJEU.

The Bill, if passed, creates specific legal entitlements for a Secretary of State to “interpret, disapply or modify” the provisions in the Protocol for the application of EU State aid rules in Northern Ireland. This may mean that the UK Government passes laws disallowing State aid rules in Northern Ireland to be interpreted in accordance with the case law of the CJEU or in accordance with any legislative act of the EU. It also says that no authority other than the Secretary of State will be able to notify the Commission of any relevant government subsidies, as required by the Protocol.

These provisions could entail a direct breach of international law, as the UK is unilaterally legislating to allow future Bills to be passed disregarding specific legal provisions it signed in an international treaty. This has caused consternation both within the EU, where frustration has been expressed with the UK’s actions, particularly in light of the ongoing negotiations, and also in the House of Congress in the USA, where Speaker Nancy Pelosi has warned the UK that Congress would not pass a free trade deal with the UK if the UK reneged on its commitments in the Protocol, jeopardising the Good Friday Agreement. It also raises questions as to how the UK would be perceived internationally as a trustworthy partner.

Next Steps for the Internal Market Bill

The first reading of the Bill in the House of Commons took place on Wednesday, 9 September. Unsurprisingly, given the significant Government majority in the House of Commons, the Bill subsequently passed its Second Reading, which took place on Monday, 14 September by 77 votes. Two Conservative MPs voted against, and 30 abstained.

Attention now turns to the amendments which will be tabled and debated during the Committee stages on Tuesday 15, Wednesday 16, Monday 21 and Tuesday 22 September 2020. At this stage, MPs will be able to participate in debate, submit amendments and vote on the contents of the Bill.

A variety of amendments have been tabled which aim to limit the Government's ability in the Bill to undermine their commitments in the Protocol, but the amendment which has received the most attention, is one tabled by backbench Tory MP and Chair of the Justice Committee Bob Neill. This amendment does not make significant changes to the substance of the Bill, but would make it mandatory for Government Ministers to receive Parliamentary approval in the House of Commons before unilaterally acting to breach the provisions of the Protocol. This would limit the Government's actions to subvert the Protocol, by placing this power into the hands of MPs, rather than in a Minister of the Crown, but would not ultimately render the controversial aspects of the Bill void. It is thought that this amendment has the potential to garner sufficient support from Conservative backbenchers to pass.

After amendments are voted on and adopted, the Bill will then be sent to the House of Lords, likely by the end of September, which follows a similar procedure. The House of Lords may amend the Bill further, before it is sent back to the House of Commons for its approval. There can be a period of exchange between both Houses until a final text with all amendments is acceptable to both. At this stage, the Bill receives Royal Assent and becomes an Act of Parliament.

Under the Parliament Acts, the House of Lords can delay the Bill for up to a year, but are restricted under the same Act from fully vetoing the Bill if it has been passed by the House of Commons. If the House of Lords does reject the Bill, the House of Commons could ultimately reintroduce and pass the Bill in the following Session. If it is passed by the House of Commons but rejected by the House of Lords twice, it can ultimately pass and receive Royal Assent and become an Act of Parliament.

There is a parliamentary convention, which the Government may attempt to invoke, which says that the House of Lords should not vote down a Bill which the Government of the day committed to in its election manifesto. This convention, known as the Salisbury Convention, is not a legal obligation of the House of Lords, however. It may also be argued that this Bill is not specifically covered by the Salisbury Convention.

It is possible the House of Lords could delay the passage of the Bill until after the end of the transition period, which according to the Parliament Acts, they may delay for up to 1 year. This would mean that at the end of the transition period, there would be no UK domestic legislation mandating UK Ministers to break international law.

Options for the EU

There appear to be two avenues open to the EU to take action against the UK in the event of a breach of the UK's agreements.

Following the introduction of the Bill, the European Commission circulated legal advice to Member States on the action it might take. The advice indicated that by even proposing the Bill, the UK Government is in breach of the good faith element of the treaty, meaning the Commission could take a case against the UK to the CJEU after the Bill is passed, but also before the Bill is adopted. Although this is unlikely to happen before the end of the year, infringement procedures for actions which took place before the end of the transition period can be brought to the CJEU for up to four years afterwards.

If the Commission is successful in this case, the CJEU could rule that the UK must adhere to its international obligations in the penalty, and if it fails to comply, impose a penalty payment on the UK.

The second avenue open to the EU is the dispute settlement mechanism under the Withdrawal Agreement. If agreement is not reached, the dispute will go before an independent arbitration panel, which could also impose financial sanctions on the UK if it is found to be in breach of its obligations.

If the UK refuses to comply with all of the above, the EU would be entitled to suspend its own obligations arising from the Withdrawal Agreement.

However, the first step the EU took upon the introduction of the Bill was to call an emergency meeting of the Joint Committee. The Chairs of the Joint Committee, European Commission Vice President Maroš Šefčovič and the U.K.'s Cabinet Minister Michael Gove met on the afternoon of Thursday, 10 September to discuss the EU's concerns. At this meeting, Vice President Šefčovič outlined that the EU does not accept the UK's argument that the Bill is designed to protect the Good Friday Agreement and gave the EU view that it in fact does the opposite. He called upon the UK to withdraw the offending measures from the Protocol immediately and issued a reminder that the Withdrawal Agreement contains mechanisms and legal remedies to address violations of its obligations, which he said the EU would "not be shy in using."

Ultimately, if passed into law in its current form, the Internal Market Bill means that the UK will not properly implement the Protocol. If this happens, it will have serious implications for the border on the island of Ireland, as the integrity of the Single Market will be threatened by the flow of goods across the border.

Conclusion

The UK Government decision to legislate to allow it to potentially breach its international agreements was an extraordinary step. Even if the Bill is blocked in the House of Lords, or amended during its passage to mitigate some of the breaches it would currently facilitate, the admission by a Government Minister in the House of Commons that the UK is prepared to breach international law in a recently signed treaty, must send a strong message to potential international partners. The EU, already experiencing fatigue and frustration with the UK's red lines in the negotiations, will be unwilling to enter into another agreement with the UK if they have failed to act in good faith in respect of the one signed not ten months previously.

It has been suggested by some that in introducing the Bill, the UK is engaging in a form of brinkmanship in the negotiations. This would be supported by the argument that the UK is anxious about the provisions in the Protocol which effectively allowed, for example, for limited application of EU State aid rules within the UK. The UK is concerned that this would be open to liberal interpretation by the EU meaning that the EU would continue to exercise broad authority as regards State aid, possibly across the rest of the UK in the event of no-deal. Consequently, it is possible that the UK considers this section of the Protocol will have undermined its position in the negotiations, given its refusal to come to an agreement on State aid and the level playing field.

However, the fact that the UK has chosen this path bodes ill for reaching agreement in a negotiation in which both time and goodwill are in short supply.

The Institute of International and European Affairs (IIEA) is Ireland's leading international affairs think tank. Founded in 1991, its mission is to foster and shape political, policy and public discourse in order to broaden awareness of international and European issues in Ireland and contribute to more informed strategic decisions by political, business and civil society leaders.

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The IIEA acknowledges the support of the Europe for Citizens Programme of the European Union

IIEA
iiea.com
Sharing Ideas
Shaping Policy

The Institute of International and European Affairs,

8 North Great Georges Street, Dublin 1, Ireland

T: +353-1-8746756 F: +353-1-8786880

E: reception@iiea.com W: www. iiea.com

BREXIT BRIEF

Brexit Brief Issue 97

4 November 2020

IIEA
Sharing Ideas
Shaping Policy

Tony Brown

Introduction

The Brief seeks to provide up-to-date information on the progress and content of the UK-EU negotiations, and bring together relevant statements and policy positions from key players in Ireland, the UK and the EU.

The Brief is part of a wider communications programme covering the work of the IIEA's UK Project Group – including commentaries, speeches, texts and event reports – which are highlighted on the Institute's website. (www.iiea.com)

Section One: State of Play

Negotiations Continue in London and Brussels

Following the stand-off between the UK Government and the EU Commission in the light of the Conclusions of the European Council meeting of 15-16 October, the Chief Negotiators remained in virtual contact. A Statement by Michel Barnier in the European Parliament on 21 October was designed to deal with specific UK concerns and produced an immediate response from No 10 Downing street which stated that the UK Chief Negotiator, Lord Frost, had discussed the implications of the statement with Mr Barnier and that, "on the basis of that conversation we are ready to welcome the EU team to London to resume negotiations later this week. We have jointly agreed a set of principles for handling this intensified phase of talks."

Talks recommenced on 23 October. They have continued in London and Brussels since then and are continuing into November. A remarkable degree of silence has been observed with no 'leaks' and little 'informed' commentary. It has become clear that the talks have moved to a stage in which officials on each 'table' are engaging in joint drafting of legal texts. Until now the EU and UK sides have been "informally drafting and refining their own texts, running them past their opposite numbers, getting their reactions, comparing notes and then redrafting their own texts (or not) accordingly." This process has been positive in the less contentious areas with largely agreed texts while more effort is needed in some key areas.

Speaking after a meeting with the Canadian Prime Minister, Justin Trudeau, Commission President Ursula von der Leyen, commented that "We are making good progress but there are two critical issues: level playing field and fisheries where we like to see more progress. We are in very close contact on an hourly basis because the negotiations now have been intensified [...] there are 11 other fields or files that have to be negotiated."

A *Bloomberg* bulletin on 28 October said that hopes existed that a deal could be reached by early November, on the basis that work had commenced on a common text in some key areas. There was some evidence of a "shift in mood and gears". But voices in EU circles continue to insist that "nothing is agreed until everything is agreed." And it continues to be the case that the timetable for an agreement is determined by the need to achieve ratification of any deal by the European Parliament. Failure to reach agreement by mid-November would necessitate a crucial EU-UK political summit on whether to continue talks or terminate them.

As the formal talks continue, attention must be given to the on-going parliamentary debate on the controversial elements of the UK Internal Market Bill which face defeat in the House of Lords and remain the subject of legal challenge by the EU Commission. Progress has been made on implementation of the Ireland/Northern Ireland Protocol but technical issues, such a 'country of origin' determination of goods involving components from both sides of the island, continue to complicate discussions. The outcome of the US Presidential Election too will be watched with great interest and some concern.

Negotiating 'Tables'

The negotiation process involves engagement between EU and UK officials working at so-called 'tables'. The Agenda for Round 9 of formal negotiations included time-slots for talks at the following thirteen tables: Level Playing Field for Open and Fair Competition; Horizontal Arrangements and Governance; Fisheries; Trade in Goods; Trade in Services and Investment; Law Enforcement and Judicial Cooperation; Energy (Civil Nuclear Cooperation); Energy (Other); Thematic Cooperation; Participation in Union Programmes; Mobility and Social Security Coordination; Transport (Road); Transport (Aviation).

UK Government Statement, 21 October 2029

On 21 October 2020, the UK Government issued a Statement on further UK-EU negotiations:

> *"We have studied carefully the statement by Michel Barnier to the European Parliament this morning. As the EU's Chief Negotiator his words are authoritative.*
>
> *The Prime Minister and Michael Gove have both made clear in recent days that a fundamental change in approach was needed from the EU from that shown in recent weeks. They made clear that the EU had to be serious about talking intensively, on all issues, and bringing the negotiation to a conclusion. They were also clear that the EU had to accept once again that it was dealing with an independent and sovereign country and that any agreement would need to be consistent with that status.*

We welcome the fact that Mr Barnier acknowledged both points this morning, and additionally that movement would be needed from both sides in the talks if agreement was to be reached. As he made clear, "any future agreement will be made in respect of the decision-making autonomy of the European Union and with respect for British sovereignty."

Lord Frost discussed the implications of this statement and the state of play with Mr Barnier earlier today. On the basis of that conversation we are ready to welcome the EU team to London to resume negotiations later this week. We have jointly agreed a set of principles for handling this intensified phase of talks.

As to the substance, we note that Mr Barnier set out the principles that the EU has brought to this negotiation, and that he also acknowledged the UK's established red lines. It is clear that significant gaps remain between our positions in the most difficult areas, but we are ready, with the EU, to see if itis possible to bridge them in intensive talks. For our part, we remain clear that the best and most established means of regulating the relationship between two sovereign and autonomous parties is one based on a free trade agreement.

As both sides have made clear, it takes two to reach an agreement. It is entirely possible that negotiations will not succeed. If so, the UK will end the transition period on Australia terms and will prosper in doing so. It is essential now that UK businesses, hauliers, and travellers prepare actively for the end of the transition period, since change is coming, whether an agreement is reached or not."

Organising Principles for Further Negotiations with the EU, 21 October 2020

The UK Government accompanied its statement on reopening negotiations with a paper setting out a set of ten principles for further negotiations which had been agreed by the Chief Negotiators of the United Kingdom (Lord David Frost) and the Europeam Commission (Michel Barnier). The ten principles are set out below:

1. The parties have agreed to intensify negotiations. Talks will take place across all negotiating tables concurrently. Negotiations will take place daily including weekends, unless both sides agree otherwise.

2. This next and final phase of the negotiations will in principle be on the basis of each side's legal texts while a common approach is found, unless lead negotiators in an individual work stream agree that a different approach is more appropriate.

3. Lead negotiators in each of the work streams should move as quickly as possible to a read through of both texts, with a view to identification of areas of convergence, which could be expressed either in a two/three-column table or consolidated texts depending on which tool lead negotiators deem most appropriate.

4. A small joint secretariat will be established to hold a master consolidated text. This will be staffed by officials and *lawyers from both parties. The joint secretariat will establish a methodology for managing the legal texts, in consultation with the lead negotiators of each work stream.*

5. This textual process should be accompanied by discussions in the work streams on the outstanding more political issues, including the most difficult ones such as LPF, governance, fisheries, energy and goods/services provisions.

6. As has been the case in recent weeks, the Chief Negotiators and / or Deputy Chief Negotiators from both parties should meet in a restricted format, according to need. This group should have regard to the overall progress of the negotiations, consider issues escalated from the work streams from the negotiation tables, give direction to work stream leads, and deal with the most sensitive political issues in the talks. This group should meet every day.

7. It is understood that, regardless of progress in individual work streams, nothing is agreed in these negotiations until a final overall agreement is reached.

8. The initial phase of the negotiations will take place in London from 22 October until 25 October.

9. Thereafter the negotiations should take place in person in London and Brussels, or via teleconference, or a mix of the two, as agreed by both parties.

10. In managing the locations and logistics of this phase of the negotiation, both parties will give due regard to the evolving Covid-19 situation, the practicalities of travel, and, in particular, the different levels of risk in both London and Brussels. They will prioritise their duty of care to the individuals in negotiating teams on both sides and make appropriate decisions on the basis of evidence as the final stages of the negotiation move forwards.

Michel Barnier Speech to the European Parliament, 21 October 2020

On 21 October 2020, the EU Chief Negotiator, Michel Barnier, reported to the European Parliament on the EU-UK negotiations following the outcome of the European Council meeting on 15-16 October. He noted that the European Council reaffirmed to the UK that the European Union wants an agreement; one that is to the mutual benefit of each party, and which that respects the autonomy and sovereignty of each party and that reflects a balanced compromise.

Mr Barnier also reiterated some of the EU's red-lines in the negotiations, in particular respect for the EU's decision-making autonomy, the integrity of the internal market and the preservation of the EU's long-term economic and political interests:

> *These principles were set out by the Union from the moment when the United Kingdom made its sovereign choice to leave the EU more than four years ago. And these principles are of course compatible with respect for British sovereignty, which is a legitimate concern of Boris Johnson's government.*
>
> *What is at stake today in these negotiations is not the sovereignty of one side or the other. We have made*

it clear since the Political Declaration that any future agreement will respect the decision-making autonomy of the European Union and the sovereignty of the United Kingdom. What is at stake is the smooth organisation of our future relations after the divorce, which is now an established fact. We will seek the compromises that are needed from both sides to reach an agreement up to the last possible day. Our door will always remain open.

Taoiseach Reports to Dail, 20 October 2020

On 20 October 2020, the Taoiseach, Micheal Martin, reported to Dail Eireann on the European Council meeting on 15-16 October, during which he gave an account of Mr Barnier's update to EU leaders:

The European Union's chief negotiator, Michel Barnier, shared his assessment of where matters stand, outlining where progress has been made during the talks and where more progress is needed. He gave a comprehensive, succinct analysis of the circumstances pertaining to Brexit and outlined his overall desire, ultimately, to see an agreement between Britain and Europe. He instanced peace in Ireland as one of his strong motivations in respect of the need for a constructive and sustainable future relationship between the United Kingdom and Europe and a good free trade agreement, noting that geopolitical circumstances in the world, as we move into the future, demand such an agreement.

The Taoiseach also noted that the key remaining issues in the negotiations include the level playing field, governance and fisheries, and he said that he was joined by a number of other leaders in "insisting on the importance of a fair and balanced outcome in respect of fisheries for our fishing enterprises and coastal communities". He furthermore stated that there was agreement among the Council that fair competition is essential for the protection of the Single Market and for jobs and industry throughout Europe, and that any new agreement will need a robust, speedy and effective governance mechanism to resolve any disputes that may arise in the future. He concluded by noting the importance of trust in the negotiations – something which has been in shorter supply in recent times:

Trust is an essential part of any negotiation, and there is no doubt that trust has been damaged by the UK Government's tabling of its Internal Market Bill, elements of which contravene the commitments the UK entered into as part of the withdrawal agreement. The European Council recalled that the withdrawal agreement and its protocols must be implemented in a full and timely way, a point I made strongly in my intervention. Given that not much time remains if agreement is to be secured, the European Council also called on member states, the Union's institutions and all stakeholders to step up their work on preparedness and readiness for all outcomes, including no deal.

Our desired outcome is a constructive and effective partnership with the United Kingdom and we will continue to work in unity and solidarity towards that goal.

Meeting of EU-UK Joint Committee, 19 October 2020.

The UK-EU Joint Committee on the implementation and application of the Withdrawal Agreement met in London for the fourth time on 19 October 2020 under its joint Chairs, Chancellor of the Duchy of Lancaster Michael Gove .and Commission Vice-President Maros Sefcovic. The two sides subsequently issued statements on the discussions.

The European commission noted the following:

> *Vice-President Šefčovič underlined the need to concentrate all efforts on both sides on bridging existing implementation gaps and delivering results so that the Withdrawal Agreement is fully operational as of 1 January 2021. This requires moving beyond a business-as-usual approach.*
>
> *Vice-President Šefčovič welcomed the clear political steer and commitment given today by Michael Gove, Chancellor of the Duchy of Lancaster and co-chair of the Joint Committee, so that the EU and the UK can reach mutually agreed solutions on all outstanding issues on the table, in particular with regard to the Protocol on Ireland and Northern Ireland.*
>
> *With regard to the implementation of the Protocol on Ireland and Northern Ireland, Vice-President Šefčovič reiterated the importance of its full and timely implementation to maintain peace and stability on the island of Ireland by protecting the Good Friday (Belfast) Agreement and ensure the integrity of the EU Single Market*
>
> *Today's meeting demonstrated the political will to move at pace on both sides. This is necessary as, despite some progress, much work remains to be done by the UK, in particular with regard to the implementation of the Protocol on Ireland and Northern Ireland in its entirety from 1 January 2021 onwards. The EU reiterated that it is ready to work with the UK to find solutions at full speed and within the framework of the Withdrawal Agreement and EU law.*

The UK, for its part, had this to say:

> *The UK reiterated its commitment to upholding obligations under the Withdrawal Agreement and protecting the Belfast (Good Friday) Agreement in all respects. The UK further emphasised commitment to EU citizens in the UK and UK nationals in the EU, ensuring they have their rights under the Withdrawal Agreement protected.*
>
> *The UK reiterated its commitment to implementing the Protocol in full so the people of Northern Ireland can be given the fundamental legal assurances they need, and will not face the damaging prospect of the unmitigated defaults of the Protocol under any circumstances. The UK took the opportunity provided by this meeting to underline its commitment to continued constructive engagement with the EU through Joint Committee processes.*

Section Two: The Evolving Debate

Internal Market Bill in House of Lords

The House of Lords, on 20 October 2020, inflicted a heavy defeat on the Johnson Government. Peers – by 395 to 169, a majority of 226 – backed an Amendment to the Internal Market Bill which would allow ministers to override parts of the Brexit Withdrawal Agreement. The Amendment, moved by the former Chief Justice, Lord Judge, read: "As an amendment to the motion that the bill be now read a second time, at end to insert "but that this House regrets that Part 5 of the bill contains provisions which, if enacted, would undermine the rule of law and damage the reputation of the United Kingdom."

In a speech which gained much media attention the Archbishop of Canterbury, Justin Welby, supported the Judge Amendment: "What we are called to do above all in this country, deeply embedded in our Christian culture and history, is to act justly and honestly. We cannot do so if we openly speak of breaking a treaty under international law, reached properly, on which peace in part of the UK relies. Our reputation as a nation will suffer great harm if law-breaking is pursued—greater harm than this Bill seeks to prevent. In the Church of England, we are all too clearly aware of the shame that comes with failing morally. Let us not make the same mistake at national level."

The House of Lords has debated the Bill in great detail at Committee Stage. The six clauses which are seen to breach the Withdrawal Agreement and which have attracted opposition across the House will be the subject of votes on 9 November and seem certain to be removed from the text by large margins. The Government will then face a crucial decision on deploying its strong majority in the House of Commons to reinstate the clauses as the EU-UK trade talks reach their sensitive final stages. The EU has already commenced legal proceedings against the UK for a breach of the 'good faith' provisions of the Agreement. Reinstatement may also risk a dispute with the US if Mr Biden, who has criticised the Bill as undermining the commitment to an open border on the island of Ireland, is elected.

Anglican Bishops Letter, 19 October 2020

On 19 October 2020 the leaders of the Anglican church in the United Kingdom -

The Archbishop of Armagh; the Archbishop of Canterbury; the Primus of the Scottish Episcopal Church; the Archbishop of Wales; the Archbishop of York- published a letter on the Internal Market Bill before the House of Lords:

> *As the Anglican primates of the four nations of the United Kingdom and Ireland, we wish to highlight the grave responsibility of peers in the House of Lords today as they debate the UK internal market bill. We are taking the rare step of writing together because the decisions implemented in this bill will profoundly affect the future of our countries and the relationships between them.*
>
> *The Scottish Parliament and Welsh Senedd have made clear that the bill's weakening of both the principles and the effect of devolved policymaking is of constitutional significance. The bill is, of course, not just concerned with domestic law. It currently asks the country's highest law making body to equip a government minister to break international law. This*

has enormous moral, as well as political and legal, consequences. We believe this would create a disastrous precedent. It is particularly disturbing for all of us who feel a sense of duty and responsibility to the Good Friday (Belfast) Agreement — that international treaty on which peace and stability within and between the UK and Ireland depends.

The UK negotiated the Northern Ireland Protocol with the EU to "protect the 1998 Agreement in all its dimensions". One year on, in this bill, the UK government is not only preparing to break the protocol, but also to breach a fundamental tenet of the agreement: namely by limiting the incorporation of the European Convention on Human Rights in Northern Ireland law. If carefully negotiated terms are not honoured and laws can be "legally" broken, on what foundations does our democracy stand? We urge lawmakers to consider this bill in the light of values and principles we would wish to characterise relationships across these islands long after the transition period.

Oireachtas and Lords EU Committees meet by Zoom

On 21 October 2020, the Oireachtas EU Affairs Committee held a zoom meeting with the House of Lords European Union Committee.

For the House of Lords Committee, its Chair, Lord Kinnoul, commented "After last week's European Council, the Prime Minister said that the UK 'should get ready for January 1 with arrangements that are more like Australia's based on simple principles of global free trade'. The committee, however, has consistently held that it is greatly in the interests of all concerned that a mutually advantageous free trade agreement is concluded. Therefore our hope is that both the UK and the EU will be willing to make the necessary compromises to ensure that negotiations reach a successful conclusion."

Lord Kerr added: "As has been stated at the outset, the problem is that there are some members of the Conservative Party who would find any concession on sovereignty grounds offensive, even a level-playing field solution here the involvement of the EU is limited to agreement now on principles and the ability to use a disputes settlement procedure.

The Prime Minister must decide between doing what British business undoubtedly wants him to do and doing what a group within his party wants him to do.

For the Oireachtas Committee, the Chair, Joe McHugh TD, thanked Lord Kinnoull and his colleagues for the discussion, and had the following to say about the importance of continued dialogue:

This engagement has been helpful. We are going through a public divorce. I am not aware of any divorces that went smoothly, whether private or public. This has been a public divorce over the past several years. Key to the future is that relationship. I am reminded of a taxi driver in Armagh during a difficult period of the peace process more than 20 years ago who said that whatever one does, one must keep talking. Engagements like this and continued conversations are important whether it is through the British-Irish Council, the British-Irish Parliamentary Assembly or future mechanisms. If bigger and more creative thinking is needed, this committee would certainly be open to that.

Business Interests

UK business interests reacted negatively to a 'call' on 20 October with Prime Minister Boris Johnson and Cabinet Office Minister Michael Gove about the end of the Brexit transition period. The Prime Minister told 250 business leaders that 1 January 2021 should be a moment of change and dynamism for the UK "providing businesses with fantastic opportunities". Business leaders insisted that the event failed to equip them with the information required to prepare for likely challenges in areas such as the new IT system for pre-declaring goods exports, rules covering VAT and movement of data. The CBI argued that business was "finding it really difficult to prepare because they don't know what for."

Michael Gove made a commitment to continue working closely with business to ensure that all businesses can make appropriate preparations for inevitable changes regardless of the outcome of on-going negotiations.

The Irish Government has launched an online "Brexit readiness tool" to help business make preparations for the UK departure from the EU. The Enterprise Ireland Brexit readiness Checker provides businesses with guidance on the steps to be taken with fewer that ten weeks to go before the end of the transition period on 1 January 2021. The checker covers questions arising on preparations in areas such as customs procedures, finance and currency management, movement of people, data regulations and strategic sourcing.

Section Three: Background Material and Further Reading

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The IIEA acknowledges the support of the Europe for Citizens Programme of the European Union

iiea.com
Sharing Ideas
Shaping Policy

The Institute of International and European Affairs,

8 North Great Georges Street, Dublin 1, Ireland

T: +353-1-8746756 F: +353-1-8786880

E: reception@iiea.com W: www. iiea.com

A Guide to Brexit

Andrew Gilmore

IIEA
iiea.com
Sharing Ideas
Shaping Policy

The Institute of International and European Affairs
Tel: (353) 1-874 6756.
Fax: (353) 1- 878 6880.
E-mail: reception@iiea.com.
Web: www.iiea.com

8 North Great Georges Street,
Dublin 1,
Ireland

IIEA

Graphic design, layout, typography by Aisling Sinclair

A Guide to Brexit

Institute of International and European Affairs, Dublin

By Andrew Gilmore

On 29 March 2017, the United Kingdom notified the European Council of its intention to withdraw from the European Union. By 29 April, the EU had agreed on its negotiating position, and the withdrawal talks will begin in earnest after the UK general election on 8 June.

While the broad parameters of the negotiating positions are now known, much remains to be clarified about the negotiations and indeed the process of withdrawal. It is the first time in the Union's history that a Member State has withdrawn, and Brexit is in many ways a leap into the unknown for all parties.

The aim of this brief is to provide an accessible overview of what is known to date about the UK's withdrawal from the European Union. The first sections provides an overview of the process, including timelines and key players. Section 2 provides some information on UK, EU and Irish priorities, including a side-by-side comparison of the early negotiating points, and a brief analysis of the potential sticking points. The final section provides an overview of the positions and relative exposure to Brexit of the other Member States.

Process and Players

Article 50 of the Treaty on European Union describes the process by which a Member State can withdraw from the European Union. The Article was inserted into the Treaty of Lisbon in 2009 – there was never previously a formal withdrawal clause provided for in the Treaties.

The Article dictates that:

- Any Member State can withdraw of its own volition
- It may start the process by simply notifying the European Council
- The Union will negotiate with the UK on behalf of the Member States, using a negotiating process defined in the treaties.
- The agreement should take account of the framework for the future relationship between the parties
- The withdrawal deal must be approved by the European Council, voting by qualified majority, and the European Parliament, voting by simple majority.
- The deadline for withdrawal is two years after the notification, with the possibility of extension by unanimous consent of the European Council

Article 50 Full text

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3)[5] of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council [of the European Union], acting by a qualified majority, after obtaining the consent of the European Parliament.

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.

   A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.

What roles will each of the European Commission, European Council and European Parliament play in the negotiations?

The roles of the Institutions have been interpreted as follows:

The European Commission will negotiate on behalf of the European Union, according to a mandate provided to it by the European Council. The Commission can request an updated mandate from the Council during the negotiations. Its negotiating team will be led by **Michel Barnier**, a former European Commissioner for Regional Policy and later for the Internal Market.

The European Council will provide the negotiating mandate, and is tasked with providing political oversight during the negotiations. The Council can modify the mandate during the negotiations, if it feels it appropriate. It will also vote by qualified majority to approve or reject the final deal. **Didier Seeuws**, a Belgian diplomat, will lead the Council's Brexit taskforce.

The European Parliament will adopt its own position on the negotiations. The Parliament will be kept informed of progress and closely monitor developments. Ultimately, it will vote by simple majority to accept or reject the deal. The Parliament's point person for Brexit is MEP and Former Belgian Prime Minister, **Guy Verhofstadt.**

Didier Seeuws, European Council Special Taskforce Chief Negotiator

A Belgian diplomat and former advisor and later Chief of Staff to previous Council President Herman Van Rompuy (2011-2014). Didier Seeuws has been a diplomat since 1989, having worked in Washington on economic and trade affairs, as well as in the Belgian Permanent Representation to the EU, where he was Deputy Permanent Representative. Prior to his current role, he served as Director of Transport, Telecommunications and Energy in the General Secretariat of the Council of the European Union.

Michel Barnier, European Commission Chief Negotiator

Michel Barnier is the European Commission's lead negotiator on Brexit, and will lead the direct negotiations with the UK. He has been a minister in several governments in France, as Minister of Environment (1993-1995), for European affairs (1995-1997) and for Foreign affairs (2004-2005). From 1999 to 2004, he was European Commissioner responsible for Regional Policy and Institutional Reform. In June 2009, he was appointed European Commissioner for Internal market and Services

Guy Verhofstadt, European Parliament Chief Negotiator

A deeply pro-European politician, and the current Leader of the centrist ALDE group of Liberal MEPs, Verhofstadt has been involved in politics since the early 70s. In 1978 he was elected to the Belgian Parliament and served three times as Belgian Prime Minister (1999-2008). He has been an MEP since 2009. Though he will not be directly involved in the negotiations, he will be key to securing the European Parliament's approval for the final agreement.

The Article 50 negotiations – Roles of the EU Institutions

European Council

Role: Provides negotiating mandate, oversight and votes to approve final agreement

Head of Task Force: Didier Seeuws

Process

Member States transmit their positions to the Secretariat

The Council agrees on a negotiating mandate for the Commission

The Council provides political oversight during the negotiations and can modify the mandate at any time

The Council votes by qualified majority to approve the final deal

European Commission

Role: Provides technical input and leads negotiations

Head of Task Force: Michel Barnier

Process

Receives its negotiating mandate from the Council

Negotiates with UK

Regularly briefs the Council and the Parliament on the progress

Submits final agreement for approval by Council and Parliament

European Parliament

Role: Provides input and votes to approve agreement

Head of Task Force: Guy Verhofstadt MEP

Process

Defines its position on Brexit via a resolution before the negotiations begin

Monitors progress of negotiations

Votes on final agreement by simple majority

Negotiations

Participants: UK and European Commission
Goal: Reach agreement on the terms of the UK's departure, taking account of the future relationship
Timeframe: Expected to last 15-18 months, with 3-6 months allowed for finalisation and approval

Final agreement

The European Parliament votes by simple majority to approve or reject the agreement
The European Council votes by qualified majority to approve or reject the agreement

Deal

UK exits on the agreed terms

No deal is agreed before the two year deadline

The European Council can vote unanimously to extend the negotiations
or
The UK leaves without a withdrawal deal or a framework for future relations

The Negotiations in Practice: Phases, Timelines and Issues

According to the European Commission, the UK's withdrawal negotiation will consist of **three key phases**: Withdrawal; future relationship; and transitional arrangements. While the UK would prefer for all three phases to begin in parallel, the European Union has made it clear that it will only consider opening a new phase, once sufficient progress has been made on the previous.

The three phases, and some key issues for each, are described in this next section.

Phase 1. Withdrawal

The first phase is the withdrawal, which will set the terms of the UK departure. This will cover immediate issues in the UK's departure from the EU. Some issues to be addressed are highlighted in the Box below.

The withdrawal agreement: Key negotiating issues

(Priority issues for this first phase are in bold)

- **Addressing the UK's long-term financial commitments to the EU (often referred to as the 'Brexit bill')**
- **Reciprocal rights for British and EU citizens**
- **Addressing the unique needs of UK territories, such as Northern Ireland, which will require particular arrangements in the final agreement**
- Transfer of regulatory competence from EU bodies to the UK
- The future of British civil servants currently employed in EU agencies
- Allocation of unspent EU funds due to be received by the UK
- Cross-border security and immigration arrangements
- Arrangements to deal with existing cases before the European Court of Justice involving the UK, and future cases involving the UK arising from its time as a member of the European Union
- Enforcement mechanisms to hold both parties to the final agreement
- Possible transitional arrangements for the withdrawal

The above is just a small sample of issues for this phase. In reality, there will be numerous technical and legal disentanglements to consider in this phase. There may also be some disagreement between the parties as to the precise content of this phase.

“In reality, there will be numerous technical and legal disentanglements to consider in this phase”

For example, the EU is of the view that the closure and re-distribution of EU agencies currently based in the UK, such as the European Banking Authority, is a necessity, and is not a matter for the negotiations. However, there are indications that the UK feels this should also be an element of the withdrawal negotiations.

Phase Two: Framework for the future relationship

The second phase is the framework for the **future relationship**. This phase can only begin once the EU determines that sufficient progress has been made on Phase 1.[1]

This phase will sketch out the nature of relations between the UK and EU in future, with particular emphasis on the trading relationship. The European Commission may request an updated negotiating mandate from the Council to cover this phase.

1 'Sufficient progress' is of course somewhat ambiguous. What metric will be used to judge this progress is presently unknown, but in such a complicated negotiation it is likely that a degree of ambiguity, and flexibility, will be useful for the negotiators.

The future relationship will need to cover a range of highly complex areas, and will focus particularly on defining the UK's trading relationship with the EU. Possible issues for the future relationship are included in the box below.

A framework for future relations: Key issues

- The future trading relationship. Options include:
    1. A comprehensive free trade agreement
    2. A more limited sectoral free trade agreement
- Reciprocal obligations of the UK, including in regulatory terms, in order to achieve access to EU markets
- Requirements, if any, in terms of financial contributions to the EU budget
- Cooperation on policing, justice and counterterrorism
- Arrangements for information sharing and data protection
- New dispute resolution and arbitration mechanisms will be necessary if the UK is outside the jurisdiction of the European courts

The exact format of the UK's future relationship with the EU cannot be predicted, and recent EU trade agreements with third countries are instructive only to a point. For example, agreements with Canada and Singapore offered extensive access to the EU market in goods, without any free movement requirements, but provide quite limited access to the EU market in services. Such a deal would likely not suit the UK, and the City of London in particular. Ultimately, all trade deals are of the 'bespoke' variety, and the UK and EU will have to reach a unique and mutually satisfactory agreement.

“ Ultimately, all trade deals are of the 'bespoke' variety, and the UK and EU will have to reach a unique and mutually satisfactory agreement. ”

Phase Three: Transition

Since the future relationship may take some years to finalise, this means that a transitional relationship between the UK and EU may be required. The transitional relationship would form a stopgap between EU membership and the future relationship. It would be designed to mitigate economic damage from the divorce, define regulatory frameworks for continued cooperation, and provide a legal basis for trade to continue between the two.

Transition: issues to resolve

- The nature of the customs and trade relationship between the parties
- Regulatory compatibility between the EU & UK
- Interim arrangements, if necessary, to address the particular needs of UK territories such as Northern Ireland
- Interim arrangements for aviation and other important cross-border activities
- Interim arrangements for UK-EU cooperation on security and policing
- Interim relationships with the many EU agencies which play a role in UK domestic law

> The transitional relationship would form a stopgap between EU membership and the future relationship

The EU has indicated it would be open to a time-limited extension of the UK's EU membership as a transitional arrangement, but it is unknown whether the UK would be willing to accept this.

How long will it take?

Withdrawal

A possible timetable for the withdrawal negotiations, as well as some key dates between March 2017 and March 2019, can be found on the following page.

Article 50 allows for a withdrawal negotiation of **two years**, which can be extended only by unanimous agreement in the European Council. However, the actual time for negotiations is more limited, as it will still be necessary for the European Council, voting by qualified majority,[2] and European Parliament, voting by simple majority.

Technically, the UK's withdrawal agreement does not require ratification by the Member States, but some changes to the Treaties arising from the withdrawal might. Some changes are inevitable, such as articles describing the territorial scope of the Union, or articles or protocols specifically making reference to the UK. However it may not be necessary for this to happen prior to the UK's withdrawal deadline.

In all, the EU and UK may have as little as 15-18 months to agree the withdrawal, a framework for future relations and to put transitional arrangements in place.

The Future Relationship

Trade negotiations are complex affairs, and the UK is unlikely to be near a final deal by the time of the withdrawal deadline on 29 March 2019

As a result of its four-decade membership of the European Union, the UK's regulatory system is already highly compatible with the EU's, and the parties share many common interests and goals. This could favour a swifter conclusion to an agreement, but it is still unlikely that such a deal could be in place before 2022, at the earliest.

> it is very likely that the UK's new trade deal with the EU will have to be ratified by all 27 Member State Parliaments, as well as regional Parliaments

In addition, arising from a 2016 judgement on by the European Court of Justice, as well as a separate ruling on the EU-Singapore trade deal in May 2017, it is very likely that the UK's new trade deal with the EU will have to be ratified by all 27 Member State Parliaments, as well as regional Parliaments, where constitutionally necessary.

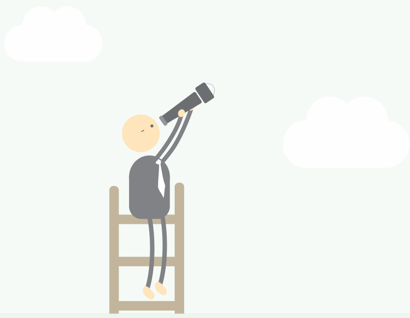
This process was less than straightforward in the case of the EU's free trade agreement with Canada (CETA), when the Parliament of Wallonia, a region of Belgium, voted against the deal and temporarily blocked ratification by the European Union.

2 A qualified majority implies 55% of member states vote in favour, representing at least 65% of the total EU population.

The Negotiations – A Timeline

Article 50 notification and response

Preliminary phase



29 March 2017
UK invokes Article 50

5 April 2017
European Parliament adopts its position on the UK's withdrawal

29 April 2017
European Council adopts its negotiating guidelines

22 May 2017
The General Affairs Council of the European Union authorises the opening of negotiations

8 June 2017
UK General Election

Withdrawal

Phase 1

Negotiations will begin after the UK Government is formed in June. Priority issues in this phase will include:

- Reciprocal rights for UK and EU citizens
- Agree on methodology for calculating the UK's liabilities
- Northern Ireland and the Good Friday Agreement

22-23 June 2017
European Council Summit

1 July 2017
Estonian Presidency of the Council of the EU begins

24 September 2017
European Council Summit

19-20 October 2017
European Council Summit

14-15 December 2017
European Council Summit

Future relations

Phase 2

If sufficient progress is made in Phase 1, discussions will begin on a framework for the future relationship

Withdrawal negotiations would continue in parallel with this phase

The European Commission may seek updated negotiating guidelines for this phase

1 January 2018
Bulgarian Presidency of the Council of the EU begins

22-23 March 2018
European Council Summit

28-29 June 2018
European Council Summit

Transition

Phase 3

Assuming progress on Phase 1 and Phase 2, the UK and European Commission will negotiate time-limited transitional arrangements.

These arrangements would cover the period between the UK's exit and the beginning of the new relationship.

Negotiations on the future relationship may continue in parallel

1 July 2018
Austrian Presidency of the Council of the EU begins

September 2018
European Council Summit

October 2018
European Council Summit

Approval phase

Assuming the other phases are completed in a timely fashion, the last months will be set aside for finalisation and approval of the deal by the European Council and the European Parliament

December 2018
European Council Summit

1 January 2019
Romanian Presidency of the Council of the EU begins

March 2019
European Council Summit

29 March 2019
The UK leaves the EU

The UK and EU positions: Where the negotiators stand

In its letter to the European Council on 29 March, the UK laid out the broad parameters of its negotiating stance. The European Council responded by issuing its own guidelines, which were approved on 29 April.

A side-by-side comparison of the key negotiating positions is below, followed by a brief analysis of the potential sticking points.

Negotiating Issue	UK negotiating position	EU negotiating position
Rights of citizens	Wants rights of UK citizens in EU to be secured. May be willing to reciprocate but may have concerns over issues such as acquired rights for EU citizens.	Wants rights for EU citizens in UK to be secured. Willing to reciprocate.
The UK's liabilities **(the 'divorce bill')**	No formal position put forward, but a substantial exit bill will prove politically difficult	Will seek financial settlement to cover all the UK's legal and budgetary commitments and liabilities, including contingent liabilities.
Preserving the Good Friday agreement	Stated priority	Stated priority
Minimising damage to Ireland-UK relations	Stated priority Common Travel Area and border issues are acknowledged	Stated priority Suggests that existing 'bilateral arrangements' (eg the Common Travel Area) between the UK and Ireland can be maintained, if they are compatible with EU law Suggests that "flexible and creative solutions" will be required to address the Irish issues
Negotiations on the Future relationship	Wishes for this to begin as early as possible, perhaps in parallel with the withdrawal negotiations.	Talks on Future Relationship can only happen once sufficient progress has been made on the terms of withdrawal, including the question of the UK's liabilities
Transitional Arrangements	Acknowledges the need for transitional arrangements between EU membership and the future relationship No stated preference as to the format of these arrangements	Believes transitional arrangements will be necessary to avoid disruption Must be time-limited and subject to appropriate enforcement rules Open to a time-limited prolongation of UK's EU membership

Negotiating Issue	UK negotiating position	EU negotiating position
Future free trade agreement	Wants an ambitious free trade deal Accepts that it cannot cherry-pick EU membership benefits Will not seek Single Market access	Broadly concurs that this is in EU interests. Notes that this cannot be agreed until the UK has left the EU Future relationship must be subject to appropriate enforcement rules. Insists on the need for a 'level playing field, particularly with respect to competition and State-aid
Security cooperation	Stated position is a desire to continue security cooperation with the EU	Willing to consider establishing a partnership in the fight against terrorism, international crime, security and defence.
Minimising disruption	Hope to avoid 'cliff-edge' for business and citizens Hopes for early resolution to the talks	Concurs and hopes to provide early clarity on terms of exit Achieving this is contingent upon settlement of UK's rights and obligations arising from its EU membership
Gibraltar and Spain	No stated position in the Article 50 letter	No future agreement between the EU and the United Kingdom, after the UK leaves the EU, may apply to the territory of Gibraltar without agreement between the Kingdom of Spain and the United Kingdom.

The previous are merely the broad stances of the parties, and they are likely to evolve as the negotiations proceed, but it is possible to draw some initial conclusions:

- There is a great deal of **common ground** in these two positions, in particular on the Irish issues (dealt with in the next section). However, **the differences are also significant**. In addition, these broad negotiating points belie the complexity of the upcoming talks – each 'basket' contains dozens or hundreds of sub-issues, some of which will create differences of opinion, and all of which will have to be resolved in an exceedingly short timeframe.

- The most contentious point will be the question of the **UK's liabilities**, estimated usually at between €40 billion and €60 billion. **Establishing the methodology** for calculating this figure will be key to Phase One of the negotiations. The UK has not yet expressed a formal negotiating position on this point, but if it is to uphold its contractual commitments there is likely to be a significant one-time settlement associated with Brexit. Meanwhile, the EU position is that the methodology, at least, must be agreed early and could be a precondition for opening of talks on the future relationship.

- The question of the **sequencing of the negotiations** may cause problems. The UK would prefer a swift resolution to the question of the framework for the future relationship, and is of the view that the existing regulatory closeness between the EU and UK should facilitate this. The EU is more cautious, and will not entertain a beginning of those talks until sufficient progress has been made on the withdrawal issues – including the UK's liabilities. The two positions are not irreconcilable, but much will depend on the tone of the early phases of the negotiations.

- In either case, **transitional arrangements** will be necessary to serve as a bridge between EU membership and the future relationship, in order to avoid a 'cliff edge' of uncertainty for business and citizens alike. The allowance in the negotiating guidelines for a transition phase structured around a prolongation of the EU acquis is noteworthy, and would be the ideal outcome if the UK domestic situation were to allow for it.

- The **Gibraltar** issue has the potential to be disruptive, but this should not be overstated. The European Council guidelines make no mention of sovereignty issues, and in reality Gibraltar is a major source of economic activity for the adjacent cities and regions in southern Spain. For example, Gibraltar is estimated to be the source of up to 24% of the GDP of the nearby city of La Línea de la Concepción, and the number of Spanish citizens seeking employment in the territory has been increasing in recent years. It is not unexpected that the Spanish side would wish to have input into the region's future relationship with the neighbouring regions of Spain.

- **Enforcement and dispute resolution** is a theme running throughout the EU's position on the withdrawal, transition and future relationship. How to square this with the UK's desire to be outside the jurisdiction of the European Court of Justice is presently unclear.

- There is also the question of **transparency** in the negotiations. The EU has committed to a transparent process, in which the Member States and European Parliament will be kept regularly informed of progress. This is unlikely to serve the UK's political interests, as it will inevitably result in a running media commentary on the Government's successes or failures in the talks.

The Irish position

Due to its deep economic, political and social links with the UK, Ireland is arguably the Member State most heavily exposed to the risks of Brexit. While it shares the broader European concerns, Ireland also has a number of unique ones. This has been broadly recognised by all parties, and the Irish issues feature prominently in the European and UK positions, including:

- Northern Ireland, with particular emphasis on the peace process
- Protecting the Common Travel Area
- Mitigating damage to the trade relationship with the UK
- Securing Ireland's place in the EU-27

Where do we stand on these issues?

Northern Ireland

Protecting the status quo in the North is a priority – and equally so is ensuring that issues related to Northern Ireland are handled in the negotiations with due sensitivity for the region's unique circumstances.

Supportive statements in this respect by the EU, the UK and the European Parliament are encouraging. So too is the presence of Chief Negotiator, Michel Barnier, a former Commissioner for Regional Policy who is quite familiar with the Northern Irish issues.

The Irish side has already secured a commitment from the EU to allow for

Statement approved by the European Council on the reunification of Ireland

The European Council acknowledges that the Good Friday Agreement expressly provides for an agreed mechanism whereby a united Ireland may be brought about through peaceful and democratic means. In this regard, the European Council acknowledges that, in accordance with international law, the entire territory of such a united Ireland would thus be part of the European Union.

Northern Ireland to immediately rejoin the EU, as part of the territory of Ireland, in the event that Irish reunification occurs. This text is expected to be adopted at the European Council summit of 22-23 June 2017, and will ensure that this key provision of the Good Friday Agreement will be provided for in the European context.

The parties have also identified a number of key policy areas and sectors which will have special requirements in the negotiations, including (but not limited to):

- the status of the Northern Irish border
- the future of EU support for the peace process
- the future of regional funding to the border areas
- issues surrounding joint citizenship in Northern Ireland and EU citizens' rights in Northern Ireland
- the all-island energy market

The European Council has invited 'flexible and creative solutions' for the island of Ireland, with particular regard to the border issues, and a number have previously been proposed by the IIEA, European Policy Centre (EPC) and others. These options include Northern Ireland remaining in either the Customs Union, or the European Economic Area, either permanently or on a transitional basis. However, there would be many technical and legal hurdles to overcome in achieving each of these solutions, and the timeframes are challenging. It is quite possible, then, that rather than seeking a single, holistic solution to these issues, the Northern Ireland negotiating points will be dealt with on an issue-by-issue basis as part of the broader negotiations.

The Common Travel Area

The European Council's negotiating guidelines note the possibility of upholding bilateral arrangements between the UK and Ireland that are compatible with EU law. This can be read as a direct reference to the Common Travel Area.

The European Council's guidelines confirm the Irish Government's view that the CTA is largely a bilateral issue. It may also relegate concerns over the continuation of the CTA from the existential, to the practical. Nonetheless, Brexit may force some changes to how the CTA operates and/or precipitate a written bilateral agreement on the CTA between the UK and Ireland.

> "Brexit may force some changes to how the CTA operates and/or precipitate a written bilateral agreement on the CTA between the UK and Ireland"

Of course there is also a European dimension to be accounted for, as alluded to in the Council's caveat regarding compatibility with EU law. The border will, after all, become an external border of the European Union, and the EU's rules on free movement will likely apply only on one side of that border.

The Common Travel Area

- The Common Travel Area (CTA) is an agreement between Ireland andthe United Kingdom allowing for free movement of people between the two states. It predates reland and the UK's EU membership, but has never existed half-in and half-out of the EU.
- It covers the whole of the United Kingdom and the Republic of Ireland, including the Channel Islands and the Isle of Man.
- Unusually, the CTA is not specifically provided for in any single piece of legislation, although it is referenced in many bilateral agreements, and at EU level
- In the EU context, the CTA is protected by Protocol 20 of the Treaty, which exempts the UK and Ireland from the Schengen agreement

Securing the CTA's continuation therefore will require the consent of the EU, and will hinge upon the bilateral arrangements being compatible with Ireland's EU obligations. Keeping the border open for people will also require that the UK not impose visa restrictions on EU citizens, but instead choose to control inward migration using domestic rules on employment and welfare.

Finally, from the European perspective, there will be the question of Ireland and the UK's joint opt-out of the Schengen zone to consider. The UK's departure renders a large part of this text obsolete, and it may be necessary to amend or replace it in due course.

Mitigating damage to the trade relationship with the UK

Theresa May's Lancaster House speech made clear that the UK may ultimately leave both the Single Market and the Customs Union. This raises profound questions over the future of bilateral trade between the two countries, and means that damage to the UK-Ireland trading relationship, estimated at over €1.2 billion per week, will be unavoidable.

The most optimistic scenario would be a transitional prolongation of the UK's EU membership, as suggested by the European Council, followed by a comprehensive free trade agreement at some point in the future. In this situation, the immediate impact of Brexit would be negated, and cross-border industry would have added time to adapt. However, this may be difficult to achieve, considering the UK's domestic political constraints with respect to autonomous trade policy, free movement of citizens, and the jurisdiction of the European Court of Justice.

This aspect of the negotiation will be largely out of Irish hands. On the one hand, the UK cannot be perceived to have given ground on the key principles that drove the Brexit movement. On the other, the European Union cannot allow the UK to cherry-pick aspects of EU membership, such as Single Market or Customs Union access, without accepting the same terms as every other participant.

In this scenario, Ireland would be caught in the middle: tariffs and/or non-tariff barriers to trade would be inevitable, and would bring with them the potential to damage or eliminate many cross-border SMEs with low-margin business models.

The European Council's call for creative and flexible solutions to the Ireland–UK issues are positive, but at this early stage it is impossible to predict to what extent the damage to the trading relationship can be mitigated.

“ Ireland is likely to be strongly in favour of some form of transitional deal to mitigate damage to the cross-border economy, and would welcome a swift resolution to the matter of the future trading relationship ”

Thus, Ireland is likely to be strongly in favour of some form of transitional deal to mitigate damage to the cross-border economy, and would welcome a swift resolution to the matter of the future trading relationship, but EU support for badly hit sectors may be needed in the short to medium term.

Ireland and the EU27

The UK remains a vital partner for Ireland, and our closeness and common interest has often been a characteristic of our EU membership. But the story has changed, and four decades of European summits, discussions, negotiations and agreements have contributed to a transformational shift in Ireland's international relations.

Through the EU, Ireland has cultivated strong relations with the other 26 Member States, which in political and economic terms are now at least as important as the relationship with our nearest neighbour.

Brexit will inevitably cause some political, regulatory and economic divergence between the UK and Ireland, and it will be necessary to further cultivate its relations with Member States, as well as diversifying its trade profile to compensate for any losses in UK-Ireland trade. The building and managing of new alliances in the European context will be a critical factor in securing Ireland's future in the EU27, and the withdrawal negotiations ahead will be an opportunity to strengthen these partnerships.

Conclusion: Nothing is agreed until everything is agreed

The positions that have emerged from the UK and European Council have many similarities in content, but one commonality in particular stands out: the focus on the island of Ireland.

The European Council's negotiating guidelines commit to helping to uphold the Good Friday Agreement, and note the need for creative and flexible solutions to the Ireland-UK issues. The UK Government made similar remarks in its Article 50 letter.

This is in large part thanks to the efforts of the Irish Government, which has engaged in an extensive outreach programme to Member States, including the UK, and to the EU institutions, all of whom have recognised and acknowledged the concerns.

> **"Creative solutions will surely be required for issues such as customs controls and the protection of the trading relationship with the UK"**

Creative solutions will surely be required for issues such as customs controls and the protection of the trading relationship with the UK. What shape this might take is unknown, and depends a great deal upon the nature of the UK's withdrawal, transition and future relationship agreements with the EU.

But there remains a great deal of ground to cover between now and the conclusion of the negotiations. The principle that 'nothing is agreed until everything is agreed' applies in these talks, and means that many of the Irish concerns can and will only be addressed as part of a successful withdrawal agreement.

Positions of the Member States

This section provides an overview of the positions of the other 26 Member States on Brexit. It notes any pertinent domestic concerns, including upcoming elections or domestic Euroscepticism or populism, as well as the relative trade exposure[1] of the Member State. Note that the relative trade exposure figures cannot be seen as a comprehensive account of a Member State's economic links to the UK. For example, it does not account for FDI links or tourism. Where possible, these additional factors are noted in the accompanying text.

Statistics for UK citizens resident in the EU27 and vice versa vary greatly depending on the source, and those presented here should be seen as indicative only. The figures for EU27 citizens usually resident in the UK are drawn from the UK Office of National Statistics (ONS) 2015 annual population report, and describe EU27 citizens who hold only the nationality of their home country. As such, the figures reported here may be lower than in other sources. Due to a number of disparities between data collection methods in different Member States, the figures for UK citizens in the EU27 presented here describe UK-born citizens who are usually resident in the Member State. They are drawn from the Eurostat database.

1 Relative trade exposure figures are drawn from the ESRI's November 2016 report The Product and Sector Level Impact of a Hard Brexit across the EU, by Martina Lawless and Edgar Morgenroth

Austria

Position

With elections looming, Austria may seek to avoid emboldening populist parties at home. Finance Minister Hans Joery Schelling has said that the UK cannot engage in "cherry-picking" with regard to EU membership benefits.

Domestic Eurosceptic or populist concerns: Moderate

The far-right Freedom Party of Austria (Freiheitliche Partei Österreichs) is a growing force in Austria. Its presidential candidate, Norbert Hofer, performed strongly in the 2016 Presidential elections, ultimately losing to former Greens leader Alexander van Der Bellen.

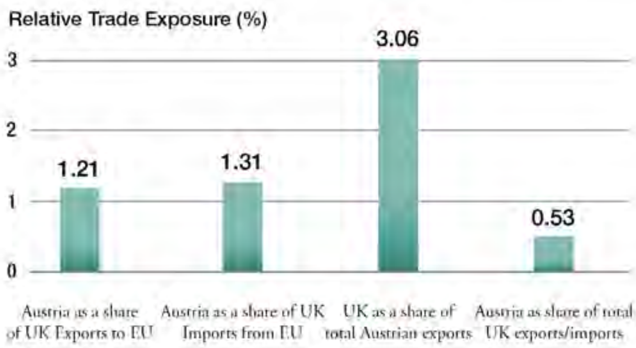
At present, it appears the majority of Austrians are still committed to European integration.

13,000 Austrians in UK

11,000 British in Austria

Upcoming Elections

Yes Legislative elections on 15 October 2017.



Belgium

Position

Belgium will be resistant to any deal which compromises the EU's core principles or affords competitive advantage to the UK. Belgian PM Charles Michel has stated that to do so would allow other EU countries to think they can pick and choose benefits of EU membership. Its position as a European import/export hub could make it vulnerable to seismic changes in the trading relationship.

Domestic Eurosceptic or populist concerns: Minor

The Vlaams Belang, with 11 of 240 seats in parliament, is a far-right Flemish party that sees Brexit as a necessary "revolution" for the EU and hopes it will lead to the disintegration of the political Union.

Public opinion is favourable towards EU membership.

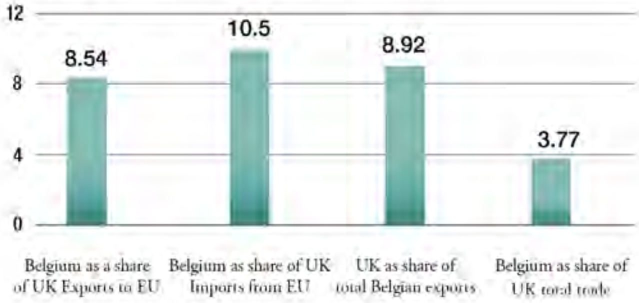
24,000 Belgians in UK

27,000 British in Belgium

Upcoming Elections

No

Relative Trade Exposure (%)



Bulgaria

Position

A priority for Bulgaria will be the fate of its citizens working in the UK. Deputy Prime Minister Tomislav Donchev has said that Bulgaria would join Poland and the Czech Republic in insisting that the U.K. adheres to rules on free movement of labour in return for access to the single market in goods and services.

Domestic Eurosceptic or populist concerns: Minor

Bulgaria has two nationalist, anti-immigration parties, the Patriotic Front (18 of 240 seats in parliament) and ATAKA (11 seats), the latter having an openly anti-EU stance.

ATAKA hopes for a dissolution of the EU and promotes a Bulgarian exit from the EU. However, ATAKA was polling only 2% in 2016.

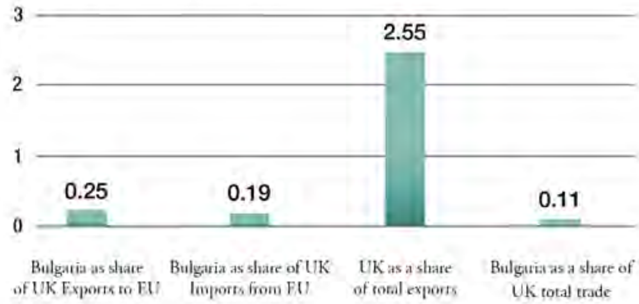
62,000 Bulgarians in UK

5,000 British in Bulgaria

Upcoming Elections

No

Relative Trade Exposure (%)



Croatia

Position

Croatia's concerns relate largely to the stability and prosperity of its own neighbourhood. It fears that, for a combination of reasons, the EU enlargement process may lose momentum in the wake of Brexit. It is likely to position itself in the mainstream of EU thinking in the negotiations.

Domestic Eurosceptic or populist concerns: Minor

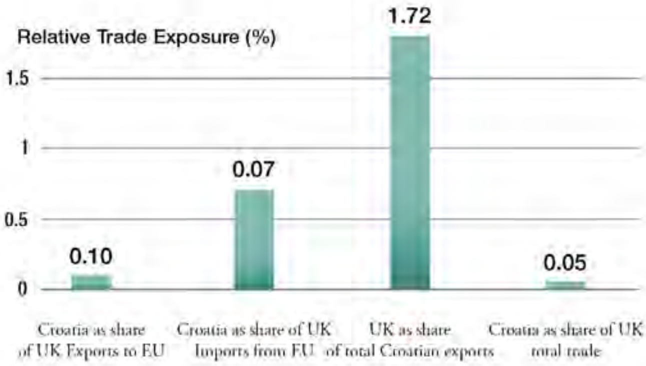
The anti-EU, pro-Russian party Human Shield, had a voter support of just over 7% in May 2016, and holds 1 of 151 seats in parliament. It views the EU as limiting the sovereignty of Member States, hopes Brexit will have a disintegrative effect on the Union, and advocates a Croatian exit from the EU.

6,000 Croatians in UK

600 British in Croatia

Upcoming Elections

No



Republic of Cyprus

Position

Due to close financial ties, and the island's high dependence on British tourism and expats, Cyprus is one of the more exposed Member States. It will hope for a relatively painless withdrawal, and a swift conclusion to the present currency volatility. It is also likely that Cyprus will prioritise reciprocal rights of citizens.

Domestic Eurosceptic or populist concerns: Minor

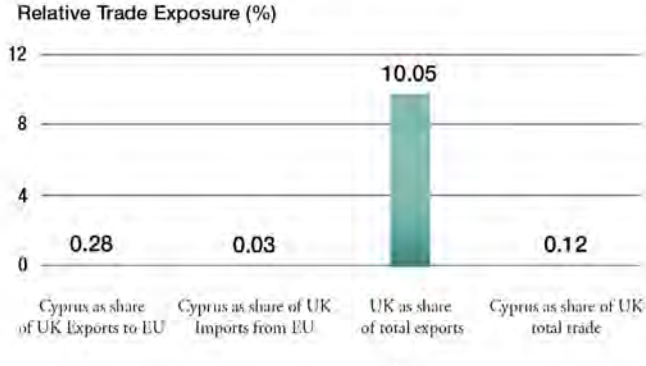
One of two main political parties in Cyprus, the socialist Progressive Party of Working People (AKEL), is seen as "marginally" Eurosceptic. It opposed Cypriot membership of the EU and the handling of the 2013 financial crisis. It holds 16 of 53 seats in parliament.

12,000 Cypriots in UK

41,000 British in Cyprus

Upcoming Elections

No



Czech Republic

Position

The Czech government will prioritise the rights of Czech workers in the UK. The government will hope to discourage Eurosceptic and disintegrative forces. As a net beneficiary of EU structural funds, the Czech government will be keen to minimise any major changes to its contributions, and aeek to ensure the UK is held to its financial commitments to the EU.

Domestic Eurosceptic or populist concerns: Moderate

At present two largely Eurosceptic parties hold seats in Parliament that support, or have supported in the past, a Czech referendum on EU membership. KSČM is a successor to the Czech Communist party and holds 33 of 200 seats in parliament. Dawn - National Coalition holds 7 seats. The latter is anti-Islam and anti-migrant and opposes centralisation of political power in Europe.

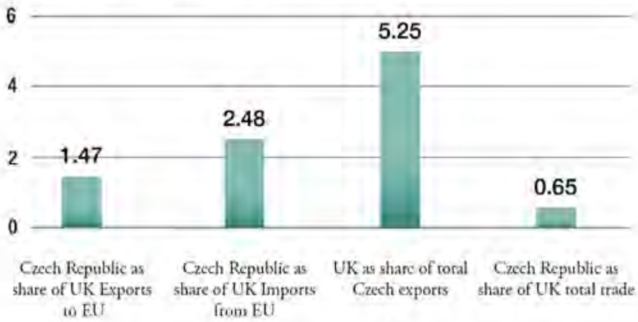
42,000 Czechs in UK

5,000 British in the Czech Republic

Upcoming Elections

No

Relative Trade Exposure (%)



Denmark

Position

Danish positions on EU issues can be somewhat complex, but it is likely that the country will seek to discourage populist forces at home and abroad. The Danes have also suggested that the EU should not allow the UK to stop paying toward European Union projects that began while it was a member. However, the UK is also the fourth largest market for Danish exports and this may factor in to the Danish thinking.

Domestic Eurosceptic or populist concerns: High

The right wing Danish People's Party (DPP) is the second largest party in Denmark with 31 of 179 seats. It also secured 27% of the vote in the 2014 European Parliament elections. It was supportive of the UK referendum and wishes to renegotiate Denmark's own position in the EU.

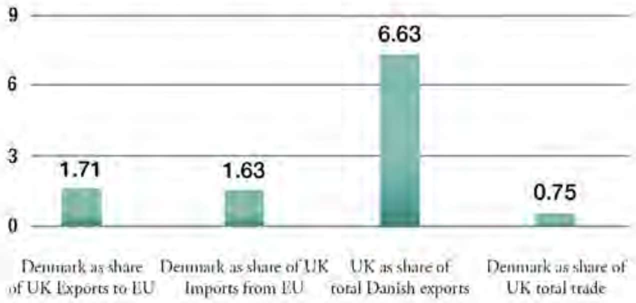
22,000 Danes in UK

19,000 British in Denmark

Upcoming Elections

No

Relative Trade Exposure (%)



Estonia

Position

Because of its concerns over Russian influence in its neighbourhood, Estonia's top priority will be to maintain security ties with Britain post-Brexit. It has also stated its concerns over the EU budget post-Brexit. Estonia will hold the presidency of the Council of the EU in the second half of 2017 and will be in an influential position for the early stages of the negotiations.

Domestic Eurosceptic or populist concerns: Minor

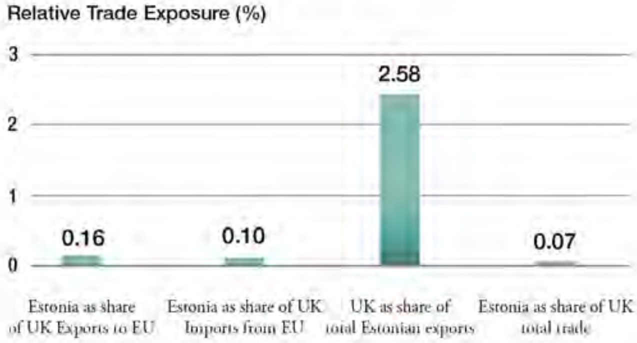
The Conservative People's Party of Estonia (CCP) is the third most popular party in the country, with 7 of 101 seats in parliament. The CPP believes in radical reform of the EU and that Europe must become more intergovernmental in order to survive. The party wishes to see a debate on Estonia's future membership of the EU.

18,000 Estonians in UK

500 British in Estonia

Upcoming Elections

No



Finland

Position

Finland is rather less exposed than many Member States, and is likely to prioritise an agreement that will not compromise the EU's core principles, or encourage disintegrative forces across Europe.

Domestic Eurosceptic or populist concerns: Minor

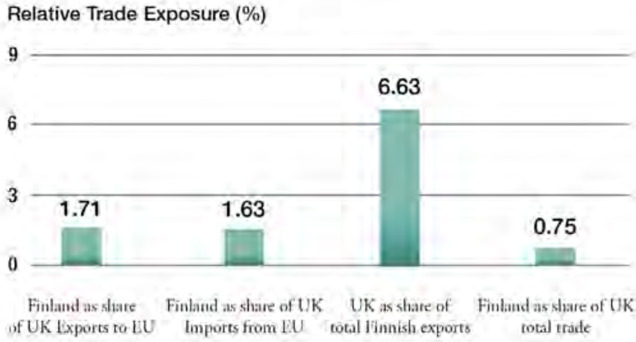
The Finns Party is a coalition partner which espouses a mix of conservative values and left-leaning economic policies. The party previously supported Eurosceptic policies but this has diminished since entering government in 2015. They have dropped the idea of having a referendum on Finnish membership of the EU due to a lack of popular support.

7,000 Finns in UK

7,000 British in Finland

Upcoming Elections

No



France

Position

Due to a combination of factors, including growing support at home for anti-EU forces, France has until now tended towards a harder line on the UK's withdrawal negotiations. New French President, Emmanuel Macron, is firmly pro-European. However, with his far-right opponent Marine le Pen defeated, it may be possible to adopt a softer stance towards the UK. Nonetheless, the country will not accept a deal that provides competitive advantages to the UK, or allows it to cherry-pick the benefits of EU membership. France may also see some advantages in Brexit for its financial services sector.

Domestic Eurosceptic or populist concerns: Moderate

Marine le Pen's Front National has performed strongly in France in recent times, and Ms. Le Pen reached the final round of the French Presidential Elections, which were held on Sunday, 7 May 2017. The party is of the far-right nationalist persuasion, and has strong financial links to Russian organisations, from which it has secured millions of euro of campaign funding. Though Ms. Le Pen was defeated by 69% to 31%, she and her party remain a force in French politics.

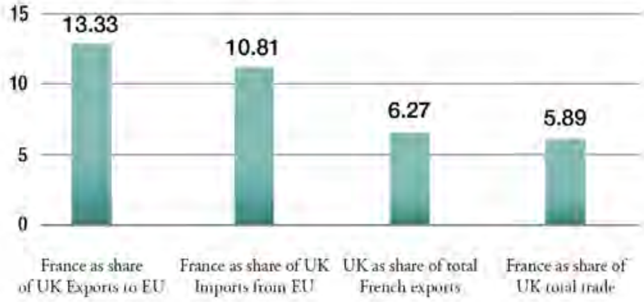
121,000 French in UK

185,000 British in France

Upcoming Elections

Yes Legislative elections on 11 and 18 June.

Relative Trade Exposure (%)



Germany

Position

As one of the UK's largest trading partners, Germany is quite exposed to Brexit. It is likely that the German side will be pragmatic, and will not seek a punitive deal, but there will be no concessions on any core EU principles. Germany is likely to prioritise the future of the EU as a whole over its immediate commercial links with Britain, though these two options may not necessarily be mutually exclusive.

Domestic Eurosceptic or populist concerns: Moderate

The Alternative für Deutschland (AfD), is Germany's most significant Eurosceptic party. When founded in 2013, the right-wing party campaigned against the euro and bailouts. The party currently holds seats in 10 of 16 State parliaments. Its split in 2015 saw the AfD swing further right, with an anti-immigration and anti-Islam platform. It is widely believed that the AfD will obtain seats in the Bundestag at the September 2017 elections.

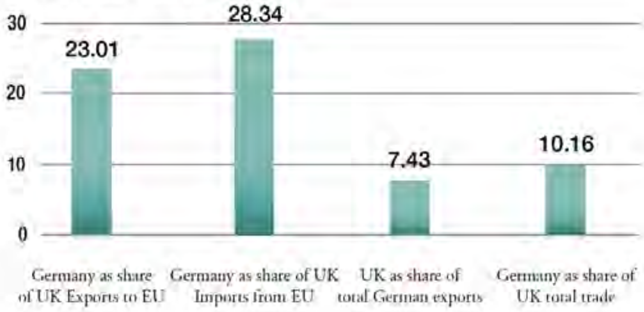
103,000 Germans in UK

103,000 British in Germany

Upcoming Elections

Yes Parliamentary elections will be held in September 2017.

Relative Trade Exposure (%)



Greece

Position

The Greek economy is not heavily reliant on trade with the UK, but its finances remain in a profoundly precarious state. The sustainability of the present Left-Right coalition will be linked to the country's economic performance in the coming months. Seismic shifts in the EU's political or economic balance could exacerbate the country's problems. Its main priorities will be reciprocal rights for citizens, protecting its tourism industry and continued economic co-operation between the UK and the EU.

Domestic Eurosceptic or populist concerns: Moderate

Syriza, the alliance of small left-wing parties that swept to power with the Independent Greeks party in January 2015, has tempered its anti-austerity stance and has committed to the Greek bailout terms. Golden Dawn, a Eurosceptic neo-Nazi party, is the third largest in Greece, polling at around 7%. Since the crisis, public opinion in Greece has been largely unfavourable towards the EU and the euro.

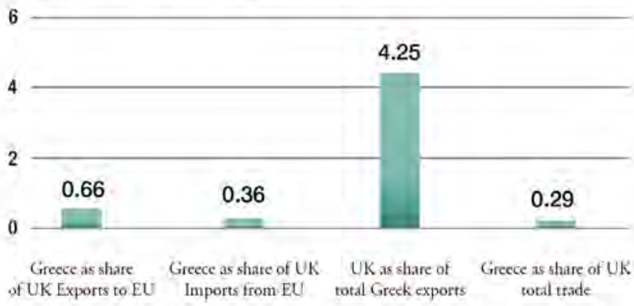
45,000 Greeks in UK

18,000 British in Greece

Upcoming Elections

No None scheduled until 2019, but the political climate is volatile.

Relative Trade Exposure (%)



Hungary

Position

Hungary has stated that it would block any future trade accord that compromised on the principle of free movement of workers. Hungary will also prioritise reciprocal rights of citizens in order to protect Hungarian workers already in the UK. Hungary is one of the largest recipients of EU funds and will be alert to changes to the budget arising from the UK's withdrawal.

Domestic Eurosceptic or populist concerns: Moderate

Jobbik (Movement for a Better Hungary) is a radical nationalist party which styles itself as a protector of Hungarian values. Christian party, which opposes globalisation. It was known for its strong anti-EU stance, which has been tempered somewhat. The party now calls for a renegotiation of membership and a referendum on the terms. Public opinion in Hungary remains favourable towards the EU.

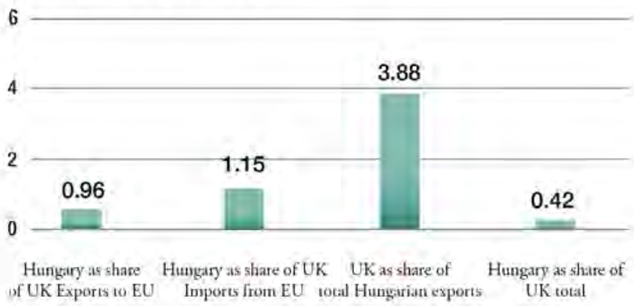
73,000 Hungarians in UK

7,000 British in Hungary

Upcoming Elections

Yes Parliamentary elections to be held in or before Spring 2018.

Relative Trade Exposure (%)



Italy

Position

In light of the strong trade links, Italy will wish for the EU to maintain good economic and political relations with the UK, and has warned against other Member States allowing national interests to colour the negotiations. Mario Giro, Italy's deputy foreign minister, has warned the EU against entering an "economic cold war" over Brexit. However, this support is not without limits, and Italy will wish to preserve the integrity of the EU's basic principles and to avoid encouraging disintegrative forces.

Domestic Eurosceptic or populist concerns: Moderate

Both the populist Five Star Movement (109 seats out of 630 in the lower house and 54 of 315 senators) and the regionalist Lega Nord (18 seats in each of the two houses) party blame the EU for Italy's political and economic difficulties. Both parties support removing Italy from the Eurozone, although neither advocates an exit from the EU. Early elections could result in large electoral gains for the M5S in particular.

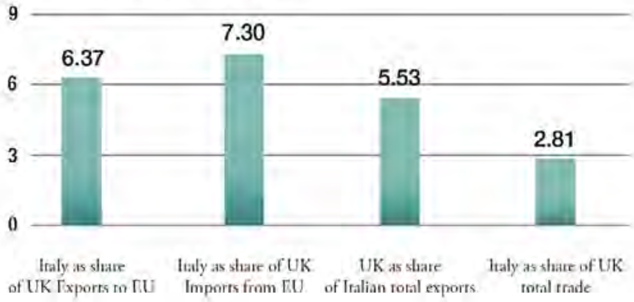
139,000 Italians in UK

65,000 British in Italy

Upcoming Elections

Yes Must be held in or before Spring 2018, and could be held as early as June 2017.

Relative Trade Exposure (%)



Latvia

Position

Latvia will prioritise the rights of Latvian nationals resident in the UK, and will to be supportive of the the common EU position in the negotiations. The Latvian government have insisted that the EU project must be protected and that any new arrangements with the UK must be based on mutual interest.

Domestic Eurosceptic or populist concerns: Minor

No significant Eurosceptic forces but the government faces challenges from the nationalist National Alliance (17 of 100 seats in parliament) and the ethnic-Russian Social Democratic Party 'Harmony' (24 seats). The National Alliance was strongly opposed to Brexit largely because it would endanger the position of Latvians resident in the UK.

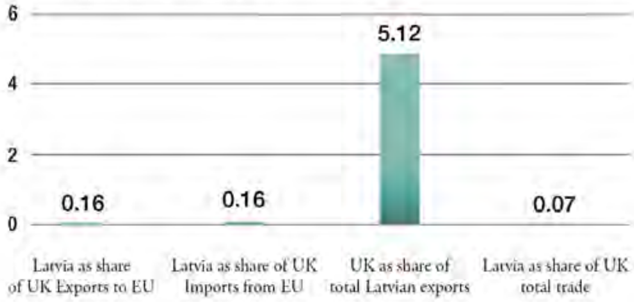
86,000 Latvians in UK

1,000 British in Latvia

Upcoming Elections

Yes Must be held in or before Spring 2018, and could be held as early as June 2017.

Relative Trade Exposure (%)



Lithuania

Position

Like its neighbour, Latvia, Lithuania is likely to prioritise the rights of the significant Lithuanian population in the UK in the upcoming negotiations. Lithuania is also unlikely to be in favour of any deal that would impinge on the EU's fundamental freedoms.

Domestic Eurosceptic or populist concerns: Minor

Lithuania's Order and Justice Party (11 of 141 seats in parliament) have a Eurosceptic element in their programme, but they see the potential disintegration of the EU as a negative consequence of Brexit. They also have a popularity rating of less than 7%.

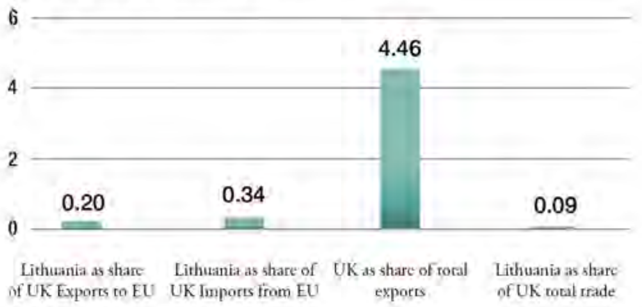
146,000 Lithuanians in UK

3,000 British in Lithuania

Upcoming Elections

No

Relative Trade Exposure (%)



Luxembourg

Position

As a hub for financial services, Luxembourg will likely seek to ensure the UK is not afforded a competitive advantage by any new arrangements with the EU. Foreign Minister Asselborn has said "It would be unacceptable if, at the end of these negotiations, we got off worse than the UK." Not reflected in the trade statistics are the significant FDI stocks that each country holds in the other, though the effects of Brexit on this are hard to predict. Luxembourg could be a major beneficiary from the relocation of London-based euro-clearing houses, if these are compelled to move to an EU country after Brexit.

Domestic Eurosceptic or populist concerns: No

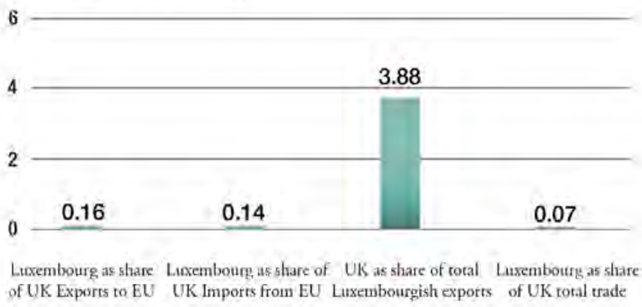
1,000 Luxembourgish in UK

7,000 British in Luxembourg

Upcoming Elections

No

Relative Trade Exposure (%)



Malta

Position

Malta is somewhat more exposed to Brexit than its size and geographical isolation would imply. Exports to the UK make up just under 8% of GDP, and the UK is the single largest source of tourism for the island. Nonetheless, Prime Minister Joseph Muscat has underlined that any deal with the UK has to be a "fair deal, but an inferior deal", underlining that "even the most pro-UK" Member States will insist the UK lose EU privileges if it stops participating in the single market. The country hopes to benefit from the relocation of financial services firms after Brexit.

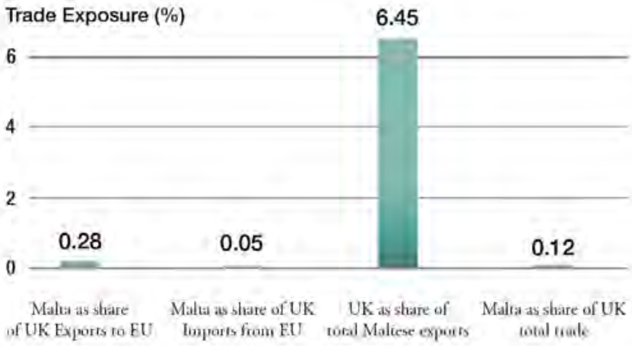
Domestic Eurosceptic or populist concerns: No

8,000 Maltese in UK

12,000 British in Malta

Upcoming Elections

Yes To be held on 3 June 2017



Netherlands

Position

The Netherlands ranks alongside Ireland as the most exposed to the negative effects of Brexit. According to the CPB Netherlands Bureau for Economic Policy Analysis, "the Dutch economy is more connected to the economy of the United Kingdom (UK) via trade than to that of the European Union (EU) as a whole". Rotterdam is a major destination for UK exports – often as a hub for exports to the rest of Europe and the world. In addition, Dutch firms hold nearly €200 billion of direct investment stock in the UK. The Netherlands is therefore in the difficult position of wanting favourable trade relations with the UK while also wishing to avoid encouraging the strong Eurosceptic current in the Netherlands.

Domestic Eurosceptic or populist concerns: Moderate

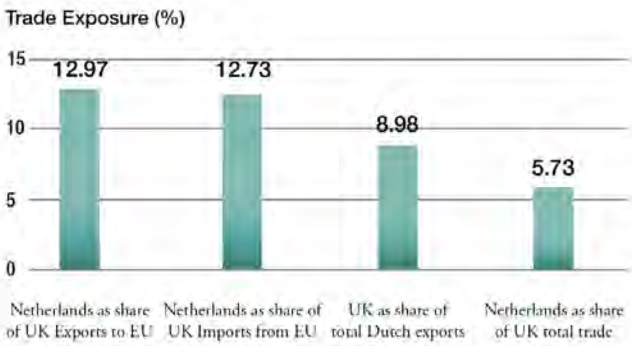
Geert Wilders' Party for Freedom (PPV) holds 20 of 150 seats in the Dutch parliament. The party holds anti-EU and anti-Eurozone positions. It supports Brexit, hoping it will facilitate a similar exit for the Netherlands from the EU and ultimately lead to a disintegration of the EU as a whole. The party performed worse than expected in the 2017 elections, but remains the second largest party in the Netherlands.

53,000 Dutch in UK

50,000 British in the Netherlands

Upcoming Elections

No



Poland

Position

As a first priority, Poland will wish to protect the interests of the enormous Polish population already resident in the UK. Remittances from Polish emigrés in the UK are worth over €1 billion per year to the Polish economy. Trade links are substantial, and Poland runs a trade surplus with the UK of 1.2% of GDP. Poland is also a net recipient of EU funding, and will likely wish to see the UK honour its financial commitments to the EU.

Domestic Eurosceptic or populist concerns: Minor

The governing party, the Law and Justice Party (PiS), is against further EU integration. The party has been increasingly truculent in the European context, and strongly opposed the re-election of Donald Tusk to the Presidency of the European Council. The party favours increased intergovernmentalism and opposes Polish membership of the Eurozone. Public opinion continues to be largely favourable towards the EU.

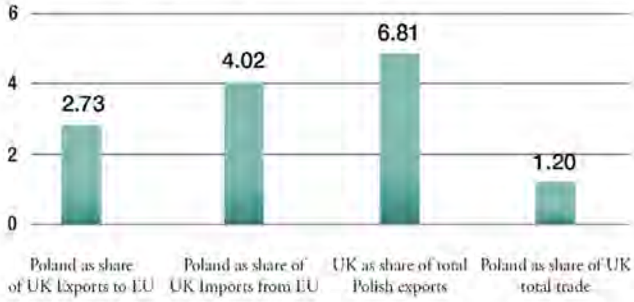
803,000 Poles in UK

35,000 British in Poland

Upcoming Elections

No

Relative Trade Exposure (%)



Portugal

Position

Portugal and Britain have been allies for more than 600 years, and the two share deep political, social and economic links. The UK is one of Portugal's top trading partners, accounting for around 6.72% of exports. Investment links are relatively minor but still important to the Portuguese side. Portugal is a net beneficiary of EU funding, and will be wary of changes to the EU's budget. Finally, the rights of citizens and protecting the tourism industry will be very important: a significant number of Portuguese are resident in the UK, and Portugal receives around 2 million British visitors per year.

Domestic Eurosceptic or populist concerns: Minor

Like many Mediterranean countries, Portugal has a number of left-wing Eurosceptic parties. The largest of these, Left Bloc, is the third largest party in Portugal and currently a junior coalition partner. The party is influential, and in 2016 suggested that Portugal should hold a referendum on membership if sanctioned by the EU for missing its budgetary targets. On balance, public trust of the EU is still high, with 48% holding a positive view and just 16% negative.

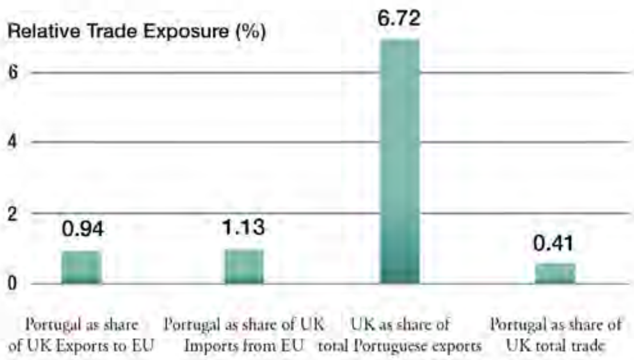
132,000 Portuguese in UK

18,000 British in Portugal

Upcoming Elections

No

Relative Trade Exposure (%)



Romania

Position

In overall terms, Romania is one of the least exposed to Brexit, but there is a significant number of Romanians resident in the UK. A priority in forthcoming negotiations will be protecting the rights of these citizens. Romania would likely prefer an outcome in which free movement between the EU and UK were to continue. Proportionally, Romania is one of the largest net recipients of EU funding, and will be alert to changes to the EU's budget.

Domestic Eurosceptic or populist concerns: No

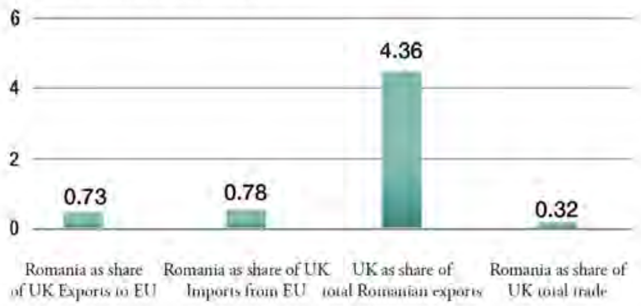
205,000 Romanians in UK

3,000 British in Romania

Upcoming Elections

No

Relative Trade Exposure (%)



Slovak Republic

Position

Slovakia sends a significant portion of its exports to the UK (5.54%) and has a sizeable population resident in the UK. The country will wish to guarantee the rights of these citizens and would be unlikely to allow for any concessions on the EU's core principles.

Domestic Eurosceptic or populist concerns: Minor

The governing parties, SMER-SD and Freedom and Solidarity, are both critical of the EU and concerned about EU policies in a number of areas. However, the Slovakian Government does not wish to see a disintegration of the EU and Prime Minister Fico has called for an end to "damaging" referenda in Member States. Public opinion of the EU remains somewhat favourable, with 34% having a positive view and 20% negative.

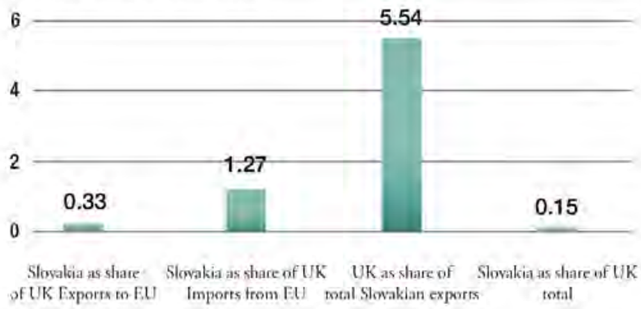
82,000 Slovakians in UK

5,000 British in Slovakia

Upcoming Elections

No

Relative Trade Exposure (%)



Slovenia

Position

Slovenia is arguably the country with the least to lose in the Brexit negotiations. Its trade exposure is limited – exports to the UK were worth just €540 million in 2015 – and investment links are equally so. Very few Slovenians reside in the UK. There may be indirect effects for the Slovenian economy, especially if its other EU trading partners suffer. Slovenia is likely to prioritise the future of the EU in the negotiations, over links with the UK.

Domestic Eurosceptic or populist concerns: No

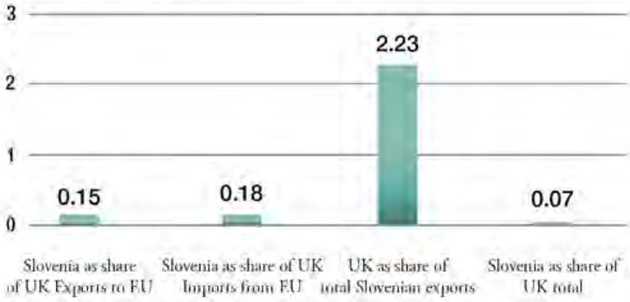
1,000 Slovenians in UK

500 British in Slovenia

Upcoming Elections

Yes By July 2018.

Relative Trade Exposure



Spain

Position

The UK and Spain have significant mutual trading interests, and investment links are substantial. To name just two examples, Spanish-owned banking group, Santander, is one of the largest financial institutions operating in the UK; meanwhile International Airlines Group, formed from a merger between Iberia and British Airways is the 6th largest airline company in the world. 12 million UK citizens visit Spain every year, and upwards of 300,000 Britons are long term resident reside in Spain. Spain also has a number of unique concerns in the negotiations. It may have an effective veto over the future relationship with the UK if the economic relationship with Gibraltar is not satisfactorily resolved, and the issue of Catalonian independence could make it obstructive to the notion of special deals with devolved regions within the UK (though it would not block an independent Scotland from re-joining the EU). Spain's difficult economic situation will make it alert to the possibility of major shocks to the European economy.

Domestic Eurosceptic or populist concerns: Moderate

With the economy still recovering, and youth unemployment still above 40%, Spanish public opinion towards the EU has been largely unfavourable since the crisis. Podemos, a left-wing coalition that arose from the movement against austerity in 2011, has opposed Brexit but is also highly critical of the European Union and austerity.

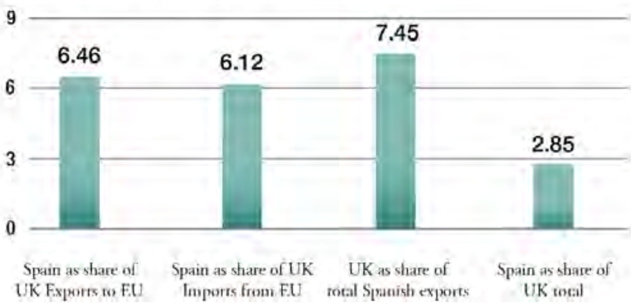
106,000 Spaniards in UK

309,000 British in Spain

Upcoming Elections

No

Relative Trade Exposure (%)



Sweden

Position

Sweden would like to see a close relationship between the EU and the UK given Sweden's close trade and cultural ties to the UK. The Swedish side has said that the issue of rights of EU citizens in the UK and British people settled elsewhere in Europe was "one of the very most important issues" that must be solved swiftly in the negotiations.

Domestic Eurosceptic or populist concerns: Minor

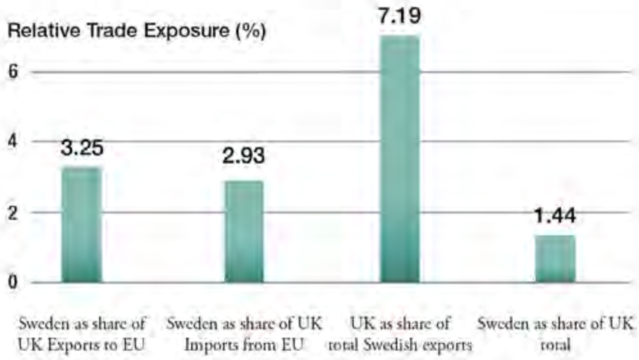
The Sweden Democrats hold 49 of 349 seats in the Swedish parliament. The party has been characterised as anti-immigration and far-right, and is critical of the EU. The party sees Brexit as a means to encourage a similar debate in Sweden on EU membership.

32,000 Swedes in UK

25,000 British in Sweden

Upcoming Elections

No



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iiea.com
Sharing Ideas
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The Institute of International and European Affairs,

8 North Great Georges Street, Dublin 1, Ireland

T: +353-1-8746756 F: +353-1-8786880

E: reception@iiea.com W: www. iiea.com

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Brexit: Myths and Realities Regarding the 'WTO Option'

By Michael Daly

EXECUTIVE SUMMARY

In the debate over the UK's withdrawal from the EU, the 'World Trade Organisation option', or 'WTO rules', are much discussed, but little understood.

Contrary to views expressed by some commentators at the time of the UK's EU referendum in June 2016, Brexit will not result in the loss of the UK's status as a Member of the World Trade Organisation. The UK is a Member of the WTO in its own right and does not need to accede again.

However, regardless of the outcome of the Brexit negotiations, the UK will have to renegotiate the terms of its WTO membership. In the event that it cannot secure agreement on its withdrawal and future trading relationship with the EU, the UK will fall back exclusively on WTO rules as far as its international trade is concerned. It would also be obliged to renegotiate most of the EU's existing free trade agreements (FTAs) with third countries – and this would by no means be a simple task.

In this paper for the Institute of International and European Affairs, Michael Daly, a former Chief in the WTO's Trade Policies Review Division, explains the processes that the UK must follow to disentangle itself from the EU and to establish its own schedules of commitments at the WTO, and the implications for the UK of trading solely on the basis of WTO rules.

Key Points

- In the WTO rules scenario, in 15 years' time, the UK's GDP would be as much as 9.3 per cent lower than if it had remained in the EU, according to the UK Government's own estimates.
- Having already failed in an attempt to "replicate" the EU's existing WTO commitments, the UK Government has been forced to enter into what will likely be lengthy negotiations with other WTO Members on its basic terms of trade after Brexit, especially in the case of agricultural products.
- As a result, the UK's ability to have a certified set of WTO commitments could be delayed for years. Though it could continue to trade on its proposed "uncertified" schedules, this could result in WTO disputes and will make FTA negotiations more difficult.
- With regard to Northern Ireland, it is unlikely that an open border could be maintained indefinitely in the event of the UK trading solely on the basis of WTO rules, as it presents risks to both the UK and the EU.
- In a hard-Brexit scenario, the UK will immediately lose access to all of the EU's FTAs covering more than 70 countries. With a much smaller market and less access to the much bigger EU market, the UK would have considerably less bargaining power in its FTA negotiations post-Brexit.

The author is currently a member of the IMF's roster of fiscal experts and a consultant with the Asian Development Bank. He was formerly a Chief in the WTO's Trade Policies Review Division.

1. INTRODUCTION

Contrary to views expressed by some commentators at the time of the referendum in June 2016, the UK's withdrawal (Brexit) from the European Union (EU) will not result in the loss of its status as a Member of the World Trade Organization (WTO).[1] The UK is, in fact, a Member in its own right and does not need to accede (again) to the WTO. However, regardless of the outcome of current negotiations concerning its withdrawal from the EU, the UK does have to renegotiate its terms of WTO membership. In the event of no withdrawal agreement with the EU, the UK will fall back exclusively on WTO rules as far as its international trade is concerned. In this worst-case, no-deal scenario, in 15 years' time, the UK's GDP would be as much as 9.3 per cent lower than if it had remained in the EU, according to the UK Government.[2]

Once Brexit is completed, as full Members of the WTO, both the UK and the EU must continue to abide by the WTO's general obligations and rules, especially non-discrimination, which involves most-favoured-nation (MFN) and national treatment (NT).[3] Moreover, both Members must respect specific commitments involving goods, services, and government procurement contained in their *Schedules* of concessions. These *Schedules* are found in the General Agreement on Tariffs and Trade (GATT), General Agreement on Trade in Services (GATS), and the Government Procurement Agreement (GPA). The Schedules contain binding commitments made by individual WTO Members. These commitments, which are integral parts of the three agreements, allow specific foreign products or service-providers to enter their markets.

At present, the UK is bound by the schedules of the EU and its Member States (and may remain bound by those schedules until it adopts its own schedule). However, if the UK does wish to extricate itself from the EU's schedules, it must establish its own. The resulting post-Brexit shape of the schedules of both the UK and EU will depend, among other things, on their intended transitional and particularly long-term trade relationship after Brexit, whether that involves a customs union (which would obviate the need for a border between Northern Ireland and the Republic of Ireland), a free trade agreement (FTA), or something else. The latter could include the UK leaving the EU without any such agreement, despite the claim by the International Trade Secretary that a bespoke trade deal between Britain and the EU should be "one of the easiest in human history" to reach.[4] Thus, the UK could be among the very few countries dependent solely upon WTO rules for regulating its international trade relations until it can conclude new FTAs.

In the event of the UK and EU remaining together in a customs union (as envisaged initially in the Withdrawal Agreement), there is the possibility of limited changes to existing EU and UK scheduled commitments. They can either maintain a single schedule for the new EU-UK customs union or create formally distinct, but substantially identical, schedules. However, in the event of an EU-UK FTA or no FTA at all, whereas the EU needs to revise its schedules, the UK has to adopt its own new schedules. In this case, other Members are inclined to get much more involved in the process.

1. Indeed, during the referendum campaign, the Director General of the WTO stated that "the likely complexity of" negotiations to establish the terms of the UK's membership of the WTO "made them akin to the tortuous 'accession' negotiations countries go through to join the WTO". While that may be an exaggeration, some aspects of the UK's renegotiations of its terms of WTO membership have certainly proved to be uncomfortable.

2. See https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/760484/28_November_EU_Exit_-_Long-term_economic_analysis__1_.pdf

3. In the case of goods, the MFN principle stipulates that Members should not discriminate between trading partners' goods. NT requires that imported goods be treated the same as or no less favourably than "like" or "directly competitive or substitutable" goods produced domestically.

4. See https://www.reuters.com/article/us-britain-eu-trade/britains-fox-says-uk-eu-trade-deal-easiest-in-human-history-sterling-falls-idUSKBN1A50QC?il=0

In a joint letter to other WTO Members, the EU and UK stated their intention to maintain the existing levels of market access available to other WTO Members.[5] Accordingly, while the EU's scheduled binding commitments for goods, services, and public procurement would remain applicable to its territory, its existing quantitative commitments, especially those involving tariff rate quotas (TRQs)[6] and also domestic agricultural support, would require certain adjustments to reflect the UK's withdrawal from the EU. For its part, the UK indicated its intention to have its own separate schedules of binding commitments for goods and services, to take effect immediately upon leaving the EU on 29 March 2019. This would involve "replicating" as far as possible its obligations under the EU's current WTO commitments.

The next section describes the process that the UK (and the EU) must follow at the WTO in order to disentangle itself from the EU and to establish its own schedules. Section 3 summarises the current state of play in this regard. Section 4 considers WTO rules pertaining to the vexed issue of the "backstop". Some potential obstacles to the UK's negotiation of FTAs are reviewed in Section 5. Section 6 contains a few concluding remarks.

2. RECTIFICATION, MODIFICATION, AND CERTIFICATION OF SCHEDULES

"Replication" is not a matter of the UK simply and quickly copying-and-pasting (unilaterally) the EU's current trade commitments into its own schedule. The International Trade Secretary admitted as much – another indication that renegotiation of the UK's post-Brexit trade relationships was proving much harder than some Leavers expected. He conceded that several WTO Members had "expressed reservations" and, as a consequence, the UK faced the prospect of lengthy negotiations.[7] This is not surprising given the process required by the WTO.

The new schedules of the UK and EU will depend on the outcome of the process of "rectification" or "modification" and eventually "certification" of both their schedules. "Rectifications" involve changes of a purely technical character that do not alter the scope or the substance of the existing commitments. By contrast, "modifications" entail new commitments or improvements to existing ones, with WTO Members being allowed to modify or withdraw concessions from their schedules through negotiation and agreement with other WTO Members. With regard to the multilateral GATT and GATS, certification requires the consensus of all 164 Members of the WTO. In the case of the plurilateral GPA, certification requires the consensus of all 47 of its Members (28 of which are currently EU Member States).

In order to introduce changes in the formal text of the schedules, WTO Members are required to follow specific procedures for the modification and rectification. This involves the following steps:

- **Submission –** the Member submits a draft with the proposed rectification or modification;
- **Circulation –** the WTO Secretariat circulates the draft to all Members;
- **Review –** Members have three months in the case of the GATT and 45 days in the case of the GATS from the date of circulation to review the draft; and
- **Certification –** the Director General certifies the change provided there are no objections.

As regards proposed Goods Schedules, Members may object if they believe their rights have been adversely affected. As the EU's current Services Schedule is largely country-specific, it can be relatively straightforward to adopt new Schedules if other Members are not affected. However, an objection from a single trading partner means that the WTO cannot certify the proposed change until the problem is resolved. WTO Members may prefer to know the UK's WTO schedules as well as its ties with the EU before negotiating FTAs with the UK.

3. STATE OF PLAY OF THE UK'S SCHEDULE NEGOTIATIONS

GATT Goods Schedules

For goods in general, the schedule contains binding commitments on tariffs. For agriculture, it contains not only tariffs, but also TRQs, export subsidies and some types of domestic support.

On 24 July 2018, WTO Members received a draft of the UK's own Goods Schedule setting out its market access commitments once it leaves the EU, which currently has exclusive competence for goods as far as its Member States are concerned. However, some 20 WTO Members (including Argentina, Brazil, Canada, New Zealand, Thailand, United States, and Uruguay[8]) raised concerns about the proposed schedules of both the UK and the EU

5. See https://www.gov.uk/government/news/uk-and-eu-set-out-proposals-to-wto-members-for-trade-post-brexit
6. TRQs allow a specified quantity to enter the market at a reduced (or zero) tariff. Once the limit has been reached, the tariff reverts to the bound MFN rates that can exceed 100 per cent. Thus, they are very valuable for exporters of agricultural products. Quotas can be specific to one exporting country, a group of countries, or they can be open to all suppliers.
7. See https://www.bloomberg.com/news/articles/2018-10-25/u-k-suffers-brexit-trade-setback-over-copy-and-paste-wto-terms
8. See https://iegpolicy.agribusinessintelligence.informa.com/-/media/agri-article-media/ieg-policy/2017/10/uk-eu-wto-letter.pdf?la=en&hash=0FEFFE942594C160253D6815049A819C09FE2C6E

on the grounds that they would not be consistent with the principle of leaving other WTO Members no worse off. While acknowledging the difficulty of the Brexit process, Members nonetheless called for a mutually acceptable solution that is as close as possible to WTO rules so that the process does not result in substantial reductions in market access commitments, especially with regard to TRQs. Apparently, there were also concerns about the UK's large farm subsidy claim.[9]

In the case of TRQs, covering some 125 tariff lines, the EU and the UK had agreed to maintain their tariffs at current levels and split their quotas according to historical trade flows. This plan, which was described as a "technical rectification", reportedly encountered stiff opposition by several WTO Members.[10] A country which currently exports most of its sales of a given product to the UK, for example, would not be inclined to accept the larger part of the relevant TRQ being assigned to the EU27, or vice-versa. Accordingly, Argentina, Australia, Brazil, New Zealand, the US, and other countries, are apparently seeking to increase the quotas in order to compensate them for any loss of market access caused by Brexit. In addition, Members objected to the fact that the UK proposal did not identify how the EU would be treated in the UK's market access commitments. Furthermore, they expressed concern over the fact that the UK was copying an "uncertified" EU-28 schedule, which may contain errors. In the view of these Members, these are matters of general and systemic concern, and Brexit should not result in a loss of market access that was established through previously negotiated outcomes.

As a consequence, the International Trade Secretary announced that his plan to quickly "replicate" the UK's WTO commitments had failed, forcing the Government to enter into what will likely be lengthy negotiations with other Members on its basic terms of trade after Brexit.[11] The UK will now pursue a "modification" of its WTO commitments. This involves full renegotiation with WTO Members of commitments regarding key agriculture products and offering compensation, where necessary (via what is called a GATT Article 28 procedure). However, this can be an arduous and lengthy process, possibly compounded by the fact that "serious multilateral negotiating experience is in short supply in Whitehall", according to the UK's former Ambassador to the EU.[12] Thus, the UK's ability to have a certified set of WTO commitments could be delayed for years. While the UK can continue to trade in the meantime on the basis of its proposed "uncertified" schedule, this could result in disputes at the WTO. Moreover, negotiation of new FTAs is bound to be more difficult.

GATT Services Schedules

A Member's Services Schedule contains binding commitments on how much access foreign service-providers are allowed in specific sectors and specifies the types of services for which individual Members are not applying the "MFN" principle. Services schedules are complex, involving market access to 160 sub-sectors and four modes of supply.[13] However, some entries in the EU's schedule apply only to individual Member States. Insofar as this is the case for the UK, replication of these commitments in its draft schedule might be expected to be reasonably straightforward.

The UK's draft schedule outlining its WTO commitments for services once the UK leaves the EU was circulated to WTO Members on 3 December 2018. As in the case of its initial draft Goods Schedule, the UK considers this notification to be a rectification of its concessions and commitments under the WTO, on the grounds that the schedule replicates, as far as possible, the UK's WTO concessions and commitments as an EU Member. The UK would continue to trade on current EU terms while the separate EU withdrawal negotiating process between the UK and the EU is ongoing.

In a document circulated to other WTO members on 16 January 2019, Chinese Taipei reportedly raised objections, arguing that the proposed text made more than purely technical changes.[14] Once again, this means that the WTO cannot certify the UK's proposed services schedule until the problem is resolved. Chinese Taipei cited eight sections where it had objections, mainly clauses that were no longer relevant or necessary. But in financial services and aircraft leasing and rental, Chinese Taipei considers that the new schedule would leave it with less market access than it had previously. In the case of financial services, for example, it identified several areas where the EU schedule included a requirement for establishment in the EU. In its view, "The United Kingdom changed 'EU' to 'UK' for these entries in its draft schedule. This would appear to reduce market access, as it reduces the geographical scope of establishment."

9. Furthermore, several Members expressed concern over the methodology and accuracy of the import data that had been provided by the EU to justify its proposal to modify its current WTO commitments owing to Brexit.
10. See https://www.theguardian.com/politics/2018/apr/25/resistance-to-joint-proposal-to-wto-leaves-uk-and-eu-divided-us-australi-reject-brexit-trade-plans
11. See https://www.bloomberg.com/news/articles/2018-10-25/u-k-suffers-brexit-trade-setback-over-copy-and-paste-wto-terms
12. See https://www.theguardian.com/politics/2017/jan/03/uk-ambassador-to-eu-quits-amid-brexit-row
13. The four modes of supply are: (1) the cross-border movement of services; (2) movement of consumers to the country of importation, (3) establishment of a "commercial presence" in the importing country (by, for example, setting up a branch or subsidiary company); and (4) the temporary cross-border movement of natural persons. It is estimated that mode 1 accounts for roughly 30 per cent of total world trade in services, mode 2 for 10 per cent, mode 3; for 56 per cent, and mode 4 for 5 per cent.
14. See https://uk.reuters.com/article/uk-britain-eu-wto-taiwan/taiwan-objects-to-britains-post-brexit-wto-services-trade-arrangement-idUKKCN1PA2TP

If Chinese Taipei and potentially other WTO members request adjustments of EU and UK schedules to compensate for any reduction in market access, the UK and EU may need to do so by opening up trade in these or other areas. Such liberalisation would apply to all WTO Members in accordance with the MFN principle.

The GPA Schedules

The GPA covers 47 WTO Member governments, including 28 of the EU's current Member States, which have opened their procurement activities to international competition. The GPA aims to ensure open, fair and transparent conditions of competition in parties' government procurement markets, based on the principles of reciprocity and to the extent agreed by Members. The GPA has two elements — general rules and obligations, and schedules of each participant's entities, whose procurements of listed goods, services and construction services are subject to the agreement if they exceed the threshold levels indicated in the schedules.

At a meeting of the WTO's Committee on Government Procurement on 27 November 2018, parties to the GPA approved in principle the UK's final market access offer to take part in the GPA, in its own right, following its departure from the EU. Parties to the Agreement are now deliberating on the language of a decision to be put for formal acceptance at a later stage.

4. "BACKSTOP" AND WTO RULES

The "backstop" is arguably the most contentious element of the Brexit negotiations. Variously described as an insurance policy or safety net, the backstop is intended to ensure that there will not be a hard border between Northern Ireland and the Republic of Ireland, even if no formal deal can be reached between the EU and UK on trade and security arrangements. It would mean that, if there were no workable agreement on such arrangements, Northern Ireland would remain aligned with those areas of the EU Single Market needed to ensure continued North-South cooperation, thereby guaranteeing a frictionless border with the Republic, while the rest of the UK would establish a basic customs union with the EU.[15] This is obviously a complex solution that is unlikely to be operational by 29 March 2019. Nonetheless, both the UK and EU signed up to the basic idea in December 2017 as part of the initial Brexit deal. Not surprisingly, there have been disagreements ever since over how it would work in practice.

If Northern Ireland is to maintain the status envisaged in the withdrawal agreement, then the only way to avoid a major rupture in the UK is for the UK to stay in some form of permanent customs union with the EU. If the UK were to leave the Customs Union, the backstop would not be necessary, provided a means could be found to obviate the need for physical border checks between Northern Ireland and the Republic. However, a House of Commons committee concluded in its report on the matter that "We have had no visibility of any technical solutions, anywhere in the world, beyond the aspirational, that would remove the need for physical infrastructure at the border".[16] The UK has sought to make the backstop time limited, but the EU argues that this is impossible because the guarantees it offers are necessary as long as no alternative solution is found.

In the event that there is no withdrawal agreement between the UK and EU, the UK government insists that it does not intend to bring in any new checks on goods crossing the border. The Irish government has been insistent that it would not impose border checks either. If there is no withdrawal agreement, then the UK will be trading with the EU and the rest of the world on WTO terms. That would mean levying tariffs on some goods, particularly food and agricultural products, and much higher non-tariff barriers to trade compared to the EU's Single Market. If the UK were to refuse to check goods crossing the Irish border and continue to adhere to the WTO's basic MFN principle, it could not check imported goods reaching UK ports from anywhere else.

But if the UK were to argue that Ireland was a special case and thus continue to check goods at other ports, the WTO itself cannot take action against the UK for a possible violation of WTO rules. Instead, as the WTO is a member-driven organisation, one of its Members would have to initiate a dispute so that a panel could then be convened and eventually make a ruling.

However, the UK might possibly invoke the GATT's "national security exception" (Article XXI),[17] which the US has recently resorted to in order to increase tariffs against several countries, largely without any justification. By contrast, the UK could perhaps justifiably use the same exception to waive tariffs (and non-tariff measures) on grounds of national security. Under such circumstances, it is unlikely

15. See https://www.politico.eu/article/irish-brexit-backstop-is-about-more-than-just-the-border/
16. See https://www.irishtimes.com/news/world/uk/brexit-soft-border-with-north-is-not-possible-uk-report-finds-1.3428736
In its examination of the matter, the EU Committee of the House of Lords concluded that there is "little prospect that the technology required entirely to resolve the Irish border issue could become operational under the timetable for Brexit currently envisaged" (https://www.parliament.uk/documents/lords-committees/eu-select/UK%20Irish%20relations/Conclusions-of-EU-Committee%E2%80%93Brexit-UK-Irish-relations-follow-up.pdf).
17. See https://www.irishtimes.com/opinion/trump-s-tariff-tactics-could-make-no-deal-brexit-work-for-ireland-1.3711188

that any WTO Member would initiate a dispute, given the importance of maintaining security in Northern Ireland and the Republic. It would be up to the EU to do the same, and if it does not, it would need to explain this to the Republic of Ireland. Even if the WTO is on side, it remains to be seen whether the EU and its Member States would tolerate indefinitely a situation where this particular border is an open backdoor to the single market. Indeed, an EU official reportedly said recently that "In a no-deal scenario, Ireland would have to choose between setting up a physical border with Northern Ireland and de facto leaving the Single Market."[18]

5. FREE TRADE AGREEMENTS[19] AND WTO RULES

Despite assertions by both the Brexit Secretary and the International Trade Secretary to the contrary,[20] the UK's Department for International Trade reportedly briefed 30 business groups in February 2019 on its failure to replicate most of the EU's trade deals with other countries around the world by the time the UK withdraws from the EU on 29 March 2019. This is not surprising, given that other WTO Members may prefer to know the UK's WTO schedules as well as its ties with the EU before negotiating FTAs. If the UK remains in some form of customs union with the EU, there is little, if any, scope for negotiating comprehensive FTAs, because goods would be excluded from such agreements with third countries. If, however, the UK leaves the EU's Customs Union, FTAs with the EU and other WTO Members are clearly an option, provided the Irish question can be resolved.

Once it does become a Member of the WTO with its own schedules, the UK will be obliged to abide by the WTO's rules regarding FTAs, which are inherently discriminatory and therefore constitute departures from the MFN principle. According to WTO rules, discriminatory FTAs should encompass "substantially all trade" (GATT Art. XXIV) and "substantial sectoral coverage" (GATS Art. V), the aim being to ensure that FTAs create more trade than they divert.[21] Therefore, WTO rules would preclude single-sector FTAs. Thus, the UK would not be able to negotiate FTAs with the EU (or other WTO Members) for sectors such as electronics, motor vehicles, and textiles. These sectors are characterized by long pan-European value chains and several production stages, which magnify "effective" tariff rates in the event that the UK does not remain in a customs union with the EU.

With regard to the EU's some 40 FTAs covering more than 70 countries, including the one concluded recently with Japan, as an EU Member, the UK was automatically a participant in these agreements. But if the UK leaves the EU without a deal on 29 March 2019, it would lose these trade deals immediately. The UK government had hoped to replicate these FTAs "as far as possible" and have them ready to enter into force in the event of a no-deal Brexit so as to ensure "continuity and stability". Not surprisingly, given the government's lack of capacity to negotiate FTAs at the moment,[22] the UK has hitherto failed to replicate all but four of the EU's trade deals with other countries. The few exceptions involve those with Switzerland, the Faroe Islands, Eastern and Southern Africa, and Chile, all of which were concluded early in 2019. Hence, none have involved the UK's main trading partners. With a much smaller market and less access to the much bigger EU market, the UK would obviously have considerably less bargaining power in its FTA negotiations post-Brexit.

Among the other reasons why replication of the EU's existing FTAs with third countries has been slow is that it is not necessarily a simple matter, due to the rules of origin (RoO) contained in these agreements.[23] These rules are a non-tariff barrier involving transformation tests (often requiring a local value added threshold be met) in order to determine eligibility for tariff and other preferences under FTAs.[24] The rules are intended to prevent exporters in countries other than FTA partners availing themselves of the preferences negotiated in the agreement.

18. See https://www.reuters.com/article/us-britain-eu-ireland-border/ireland-under-pressure-over-border-plans-for-no-deal-brexit-idUSKCN1Q31WB
19. FTAs rarely reduce barriers to trade between the partner countries sufficiently to justify this title as they are typically full of exclusions and restrictions to 'free trade'.
20. "So be under no doubt: we can do deals with our trading partners, and we can do them quickly. I would expect the new Prime Minister on September 9th to immediately trigger a large round of global trade deals with all our most favoured trade partners. I would expect that the negotiation phase of most of them to be concluded within between 12 and 24 months." (http://www.daviddavismp.com/david-davis-writes-for-conservative-home-about-the-economic-strategy-for-brexit) The International Trade Secretary confidently declared in 2017 that all 40 current EU deals would be replaced with specific UK versions 'one second' after Brexit happens (https://www.dailymail.co.uk/news/article-6606217/Liam-Foxs-trade-department-failed-replicate-40-EUs-trade-deals-time-exit-day.html).
21. In the event of "no-deal", some prominent "Leavers" have argued that Article XXIV would allow the UK and EU to continue to trade freely with each other on the basis of an "interim agreement". The UK and EU could simply notify the WTO that they are in the process of negotiating an FTA, to be concluded within 10 years. This has been referred to as the "Malthouse Compromise", which is thought to be a "WTO-compliant standstill" regarding trade between the EU and UK. However, such agreements are rarely used at the WTO, and never in connection with major FTAs, for several good reasons (see https://uktradeforum.net/2019/01/26/why-claims-about-a-wto-article-24-interim-agreement-are-a-red-herring/). In the case of an "interim agreement", the parties have to notify a plan and schedule, which will then be examined by WTO Members, who can ask the parties to make changes to the plan or schedule. This is obviously much more onerous than regular RTAs, which are simply notified to the WTO. This is why the vast majority of RTAs have not been notified as "interim agreements" even though they are implemented over a transition period (i.e. they are actually "interim agreements"). The 10 year period in the "Malthouse Compromise" refers incorrectly to the period within which negotiations are to be concluded. In fact, the Understanding on Article XXIV refers to 10 years as the period within which the agreement has to be implemented. This has nothing to do with negotiations. Besides, an "interim agreement" is obviously not a "no-deal" situation as both the UK and EU would have to agree to it. Moreover, an "interim agreement" presumes that the eventual destination is also agreed by the UK and EU, which is clearly not the case.
22. See https://www.politico.eu/article/brexit-trade-negotiations-liam-fox-britain-does-not-have-capacity-to-strike-deals-now/
23. See https://publications.parliament.uk/pa/cm201719/cmselect/cmbeis/379/37908.htm
24. Goods partly manufactured in a partner country (using inputs from non-partner countries) are only eligible for preferential tariff treatment if the local manufacturing has sufficiently transformed the non-partner inputs. The RoO in the FTA sets out the criteria for what constitutes sufficient transformation.

Their complexity and restrictiveness considerably increase production costs and create additional administrative costs of compliance, in some instances at the border, thereby considerably eroding the FTA's purported trade creating effects.[25]

Typically, an EU FTA will require 60 per cent of the content of a product to be sourced locally in order for it to satisfy the terms of the agreement. Were this provision to be simply rolled over in a UK-South Korea deal, for example, vehicles manufactured in the UK would not contain sufficient local content to qualify because, at present, their UK content for RoO purposes typically amounts to no more than 20–25 per cent of the vehicle. Consequently, the UK would not benefit from the tariff-free access that FTAs allow, unless the terms of existing agreements are modified. Therefore, the UK will need to renegotiate every existing EU FTA and reach agreement on a new threshold for RoO, or agree that, for the purposes of the agreement, EU content can count as UK content and vice versa. The other option is for the UK to develop its own supply chains rapidly, reducing reliance on imported components and delivering a high enough proportion of domestic content to take advantage of new trade deals. This is a formidable challenge, especially for the automotive sector. Indeed, several carmakers have warned that such a situation would be catastrophic for the UK's auto industry.

The lack of progress on a future bilateral FTA with Japan — a goal set out by the UK's Prime Minister during a visit to Japan in August 2017 — exemplifies the UK's broader struggle to roll over existing EU trade deals, let alone secure anything better. According to officials involved in the talks, the UK and Japan have made little progress on a new FTA in the past 18 months, with tariffs set to revert to WTO levels at the end of March unless the UK ratifies a Brexit deal.[26] Although Japan has agreed to extend existing trade terms for the duration of the UK's planned transition period with the EU, this will not apply if the UK fails to strike a deal with the EU. It is now too late for the Japanese Diet to ratify any agreement before Brexit is scheduled to take place on 29 March 2019. There is also a wide gap in expectations regarding the type of FTA that would apply either in the case of no-deal Brexit, or at the end of the UK's planned transition period, which is due to end in December 2020. Besides, Japan is undoubtedly confident that it can secure better terms from the UK than it did in negotiations with the much larger EU. It is therefore unwilling to replicate its existing agreement with the EU in either a bilateral FTA or in negotiations for the UK to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTTP) – a regional FTA involving eleven Pacific nations, including Japan and Australia. "The new agreement is not just a copy-and-paste of the existing treaty," said one Japanese official briefed on the talks. "The tariffs, rules and quotas need to be negotiated separately."[27]

In the case of the US, notwithstanding President Trump's initial promise of a "quick, massive bilateral trade deal", the reality is likely to be quite different.[28] Subsequently, the US Ambassador to the UK warned that this offer would not be possible if the UK remained in the EU's Customs Union. Besides, FTA negotiations normally take several years, during which, judging from its negotiations with other countries, the US can be expected to use its much stronger bargaining power to demand trade concessions that the UK would find very difficult to accept. In particular, the powerful US farm lobby would want the UK to relax its health and sanitary standards so as to allow importation of, among other things, "chlorinated chicken", which a prominent Leaver, the Secretary of State for Environment, Food and Rural Affairs, has promised will never happen.[29] Moreover, US healthcare providers would undoubtedly want more access to the UK market, prompting anxiety about the National Health Service.[30] Without these kinds of trade concessions, however, the UK could once again find it impossible to negotiate an FTA, especially given its much weaker bargaining power.

Nor can Australia (or, for that matter, Canada or New Zealand) be expected to do the UK any favours. Indeed, as mentioned earlier in connection with the UK's efforts to establish its own schedules for goods at the WTO, Australia has been particularly tough in demanding increased quotas for agricultural goods. This is a useful, if chilling, reminder that trade negotiations are an unsentimental business. If a country detects desperation or legal vulnerability, it will exploit the situation to secure additional market

25. A study of 149 countries estimated that RoO reduced the trade creation effects of FTAs by around two-thirds. The study also found that the costs of meeting RoO are equivalent to almost one-half of the available tariff preferences. They disentangle this overall cost into the transformation (higher input cost sourcing) effect (about 60 per cent) and the administrative cost of compliance (about 40 per cent). See http://citeseerx.ist.psu.edu/viewdoc/summary?doi=10.1.1.515.3657
26. See https://www.irishtimes.com/business/economy/no-deal-brexit-risks-rise-as-uk-japan-trade-talks-hit-buffers-1.3787043
27. See https://www.ft.com/content/5ce60af2-2b90-11e9-a5ab-ff8ef2b976c7
28. See "Brexiters' delusions on trade die hard", *Financial Times*, 14 January 2019 https://www.ft.com/content/d543bdd4-17de-11e9-b93e-f4351a53f1c3
29. The US can be expected to demand, among other things, "comprehensive market access for US agricultural goods in the UK by reducing or eliminating tariffs" and removing "unwarranted barriers" involving sanitary and phytosanitary" standards (https://ustr.gov/sites/default/files/Summary_of_U.S.-UK_Negotiating_Objectives.pdf).
30. The US is also likely to demand full market access for US pharmaceuticals and medical devices. Among the other demands that could be highly problematic for the UK are those concerning currency and "non-market economies", such as China. The US wishes to "ensure that the UK avoids manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage". Currency matters have traditionally been excluded from trade negotiations, but the Trump administration has injected them into negotiations, including those with China and Japan. Another provision involves the creation of "a mechanism to ensure transparency and take appropriate action if the UK negotiates a free trade agreement with a non-market country." This suggests that the US could cancel its FTA with the UK if it does not like the terms of any such agreement that the UK might negotiate with China. (See https://ustr.gov/sites/default/files/Summary_of_U.S.-UK_Negotiating_Objectives.pdf)

access for its own exporters. Moreover, Australia's trade minister reportedly poured cold water on proposals from the UK to swiftly join the CPTPP regional bloc post-Brexit as "the UK is not within the Pacific".[31] On the other hand, he did indicate that Australia is ready to "fast-track" some form of bilateral deal with the UK. However, Australia's recent FTAs with Japan and Korea, respectively, took roughly seven and five years to negotiate. This suggests that even a "fast-track" FTA with the UK would probably be several years away. Besides, any FTA with Australia would, in large part, depend on what kind of trade relationship the UK agrees with the EU in the longer term.

India would very likely make specific demands especially with respect to trade in services. As a major exporter of services, India attaches great importance to the liberalisation of the cross-border movement of natural persons (GATS mode 4). This would involve, in particular, easing visa restrictions to work (or study) in the UK. Such liberalization would probably not be welcomed by the many people who voted to leave the EU because they wished to reduce immigration.

Some Leavers do not recognise these difficulties. Apparently, they believe that by freeing itself from dependence on the slow-growing EU, the UK can instead attach itself to the most dynamic economies elsewhere in the world. However, the EU has already successfully concluded FTAs with Japan, Canada and South Korea, and done so from a position of strength because it can offer an internal market comparable in size to that of the US or China.

This belief by Leavers also defies the "gravity model" of international trade.[32] According to this model (or equation), trade between any economies is roughly proportional to the product of their GDPs and inversely related to the distance between them. The EU economy is roughly the same size as that of US and located very close to the UK, which explains why the UK has traditionally traded heavily with Europe. It also suggests that FTAs with distant countries are unlikely to compensate the UK for reduced access to the EU market post-Brexit. This belief also ignores the findings of an internal study by the UK Government, which concluded that even if the UK were to succeed in negotiating FTAs with all the key trading partners it has identified, they will not counterbalance the loss of trade as a result of leaving the EU. Whereas leaving the EU and initially falling back exclusively on WTO rules would reduce growth by 9.3 per cent over 15 years, an FTA with the US, for example, would boost growth by a mere 0.2 per cent. This is exactly what the "gravity model" of trade predicts.

6. CONCLUSIONS

Some 20 months ago, the former cabinet secretary and head of the UK civil service remarked that

"... we need to start being honest about the complexity of the challenge. We keep being told by our politicians that Brexit can be delivered easily. This isn't correct. Believe me, we are embarking on a massive venture. There is no way all these changes will happen smoothly and absolutely no chance that all the details will be hammered out in 20 months."[33]

These comments could not have been more prescient. By contrast, vacuous remarks such as "Brexit means Brexit" or "Leave means Leave" amply illustrate how out of touch with reality some politicians have actually been.

While disentangling the UK from the EU schedules and establishing its own terms of WTO membership is arguably one of the simplest aspects of Brexit, even this has turned out to be far more complex than UK ministers ever imagined. Furthermore, a deep and special post-Brexit partnership (involving frictionless trade) with the EU, especially across the border between Northern Ireland and the Republic, seriously curtails the UK's freedom to negotiate FTAs with third countries in the near future. Not surprisingly, therefore, the UK will have failed even to replicate most of the EU's trade deals with other countries around the world by the time of its scheduled withdrawal from the EU on 29 March 2019.

31. See https://www.irishtimes.com/business/economy/australia-to-fast-track-uk-trade-pact-in-event-of-no-deal-brexit-1.3797105
32. See https://krugman.blogs.nytimes.com/2015/09/01/gravity/
33. See https://www.theguardian.com/commentisfree/2017/jul/15/gus-o-donnell-politicians-face-reality-brexit-rough-ride

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The IIEA acknowledges the support of the Europe for Citizens Programme of the European Union

Sharing Ideas
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The Institute of International and European Affairs,

8 North Great Georges Street, Dublin 1, Ireland

T: +353-1-8746756 F: +353-1-8786880

E: reception@iiea.com W: www. iiea.com

An Roinn Fiontar,
Trádála agus Fostaíochta
Department of Enterprise,
Trade and Employment

GETTING IRELAND BREXIT READY

Brexit Readiness Checklist

Customs

- ☐ Register with [Revenue] for your EORI number in order to trade with the UK after 1st January 2021
- ☐ Find out what is needed to complete customs formalities and decide if they will be completed in-house or through a customs agent/broker
- ☐ Consider if you will be responsible for completing customs formalities in the UK and how this will be organised
- ☐ Check out customs authorisations and simplifications operated by Revenue that could be useful in completing customs formalities, such as the system of deferred payment on import duties
- ☐ Consider the cashflow implications of import duties, VAT and excise on goods imported from the UK (excluding Northern Ireland)

Other Controls

- ☐ Identify sanitary and phytosanitary (SPS) controls needed for live animals, plants and products of animal and plant origin (including wood and wood products)
- ☐ Register with the Department of Agriculture, Food & the Marine as an importer or exporter of live animals, plants and products of animal and plant origin
- ☐ Contact the Environmental Health Service of the HSE for food of plant origin where applicable
- ☐ Ensure that you and your UK suppliers use the international standard ISPM 15 standard wood pallets for imports and exports of goods

Product Compliance

- ☐ Ensure you are compliant with import/export regulatory requirements, especially if you are importing/distributing goods from the UK post Brexit
- ☐ Ensure imported goods are correctly labelled and marked under EU Law
- ☐ If you use a UK notified body for conformity assessment you will need to transfer to an EU notified body. A list of EU notified bodies is available on the EU Commission's NANDO database

An Roinn Fiontar,
Trádála agus Fostaíochta
Department of Enterprise,
Trade and Employment

GETTING
IRELAND
BREXIT
READY

Supply Chain

- ☐ Map your supply chain for goods going to, from or through the UK including the route to final destination
- ☐ Examine supply chain costs and possible implications e.g. tariffs, customs formalities and transport logistics
- ☐ Seek assurances from your suppliers/distributors to ensure continuity of supply or consider alternatives e.g. changing supplier in another market
- ☐ Review contracts terms with your UK suppliers and customers
- ☐ Find out the origin of product components as some goods that come from the UK may not originate in the UK and may have an impact on duties or tariffs payable on the final product
- ☐ Acquaint yourself with the relevant documentation to demonstrate the originating status of your goods

Financial Management

- ☐ Do you know your breakeven €/£ exchange rate for conducting business with the UK and take the necessary steps to reduce your exposure, e.g. currency hedging?
- ☐ Avail of Government financial supports to help manage your cashflow e.g. by availing of the Brexit Loan Scheme and the Future Growth Loan Scheme
- ☐ Check out the range of enterprise and financial supports available to businesses to meet Brexit related challenges under Government Support and Advice on this leaflet

Also...

- ☐ Ensure that adequate protections are in place so that you can continue to transfer personal data if your business involves the transfer of personal data to or from the UK
- ☐ Take the necessary steps to ensure continued protection of intellectual property rights in the UK
- ☐ Apply for licences/authorisations in the EU-27 if your business has relied on these from UK authorities, or transfer such licences/authorisations issued by the UK to an EU-27-authority
- ☐ If you have a trade representative body engage with that body for additional information

Government Support and Advice

Rialtas na hÉireann
Government of Ireland

Government Advice and Guidance

- Enterprise Ireland's Brexit Readiness Checker
- Enterprise Ireland's Currency Impact Calculator
- Enterprise Ireland's Customs Insight Online Course
- Local Enterprise Offices' Brexit Mentor Programme
- InterTradeIreland's Brexit Advisory Service
- InterTradeIreland's Tariff Checker
- InterTradeIreland's Brexit Digital Content
- Competition and Consumer Protection Commission Guidance
- Skillnet Ireland's Clear Customs Training

Financial Supports

- Brexit Loan Scheme
- Future Growth Loan Scheme
- InterTradeIreland's Start to Plan Voucher
- Enterprise Ireland's Be Prepared Grant
- Enterprise Ireland's Market Discovery Fund
- Enterprise Ireland's Act On Initiative
- Enterprise Ireland's Ready for Customs

Preparing for new Customs Arrangements

In addition to the advice about changes in customs arrangements which is offered through Enterprise Ireland, the Local Enterprise Offices, InterTradeIreland, Skillnet Ireland and Bord Bia, information relating to Customs formalities is available at: www.revenue.ie/brexit

Preparing for changes in Legislation and Standards

The Health and Safety Authority (HSA) provides support and advice to Irish companies regarding the legislative obligations for goods and products such as chemicals machinery, pressure equipment, transportable pressure equipment, lifts and safety components, PPE, equipment for use in explosive atmospheres, and on accreditation and the use of notified bodies. The National Standards Authority of Ireland (NSAI) provides advice on how best to ensure businesses are certified to appropriate standards to access markets.

Enterprise Ireland
www.enterprise-ireland.com
brexitunit@enterprise-ireland.com
01 727 2727

Local Enterprise Offices
www.localenterprise.ie

InterTradeIreland
www.intertradeireland.com
brexit@intertradeireland.com
048 3083 4100 (028 from NI)

IDA Ireland
www.idaireland.com
brexit@ida.ie
01 603 4000

Strategic Banking Corporation of Ireland
www.sbci.gov.ie
info@sbci.gov.ie
01 238 4000

Microfinance Ireland
www.microfinanceireland.ie
info@microfinanceireland.ie
01 260 1007

Skillnet Ireland
www.skillnetireland.ie
info@skillnetireland.ie
01 207 9630

Revenue
www.revenue.ie/brexit
brexitqueries@revenue.ie
01 738 3685

Department of Agriculture, Food and the Marine
www.agriculture.gov.ie
brexitcall@agriculture.gov.ie
076 106 4443

Department of Enterprise, Trade and Employment
www.enterprise.gov.ie
info@enterprise.gov.ie
01 631 2121

Bord Bia
www.bordbia.ie
brexit@bordbia.ie

Fáilte Ireland
www.failteireland.ie
info@failteireland.ie
01 884 7101

Údarás na Gaeltachta
www.udaras.ie
eolas@udaras.ie
091 503 100

Health and Safety Authority
www.hsa.ie
wcu@hsa.ie
1890 289 389

National Standards Authority of Ireland
www.nsai.ie
BrexitUnit@nsai.ie
01 807 3800

Competition and Consumer Protection Commission
www.ccpc.ie
01 402 5555

Health Service Executive
www.hse.ie
hselive@hse.ie
041 685 0300

Food Safety Authority of Ireland
www.fsai.ie
brexit@fsai.ie
01 817 1300

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