Introduction

Brexit Brief is published by the IIEA's UK Project Group and covers developments in the UK’s withdrawal from the European Union. 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 EU.

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

Section One: State of Play

Phase Two of EU-UK Negotiations

With the decision of the European Council that sufficient progress had been made in the first phase of exit negotiations to move on to phase two, initial guidelines were agreed for drafting the formal Withdrawal Agreement, based on the conclusions of the Joint Report of the EU and UK negotiators.

The second phase will deal with the drafting and ratification of the Withdrawal Agreement, the negotiation of Transitional Arrangements and reaching an overall understanding on the framework for the future relationship of the Union and the United Kingdom.

The European Council, on 15 December 2017, called on the Union Negotiator, Michel Barnier, and the UK authorities to complete work on all withdrawal issues and begin drafting the Withdrawal Agreement, which will include details of transitional arrangements, following the European Council’s agreement “to negotiate a transition period covering the whole of the EU acquis, while the United Kingdom, as a third country, will no longer participate in or nominate or elect members of the EU institutions, nor participate in the decision-making of the Union bodies, offices and agencies.” The UK will be a third country as of 30 March 2019.

The Council text makes an important reference to Ireland: “During the second phase of the negotiations, in view of the specific nature of issues related to the island of Ireland, the work on detailed arrangements required to give effect to the principles and commitments set out in the Joint Report should continue in a distinct strand, some of which would be translated in the Withdrawal Agreement, others in the framework for the future relationship.”

On the transitional arrangements, the Council stated that these must be clearly defined and precisely limited in time, that there will be a level playing field based on the same rules applying throughout the Single Market and that “all existing Union regulatory, budgetary, supervisory, judiciary and enforcement instruments and structures will also apply, including the competence of the Court of Justice of the European Union.” The UK will continue to participate in the Customs Union and the Single Market (with all four freedoms) during the transition. Appropriate negotiating directives on the transition arrangements are to be adopted by the end of January 2018.
The Commission has recommended that the transition period should not last beyond 31 December 2020, when the UK’s current EU budget commitments expire. This time limit is regarded as ‘not even slightly long enough’ by leading figures in UK business who argue for a longer period during which the UK would still have unfettered access to the Single Market and to EU labour, in particular for SMEs which often rely on EU workers to fill many skilled roles. There is also concern about the impact of uncertainty on corporate investment decisions. The implications of an extended transition – or implementation – period are under active discussion in Brussels, where many national representatives express concern that complex trade negotiations after Brexit are unlikely to be completed and ratified before the end of the proposed period.

A paper from the European Parliament Research Service refers to the search for a common understanding on the framework for future relations. This would take the form of a political declaration accompanying the withdrawal deal, since a full agreement can only be concluded once the UK becomes a third country. The European Council will take decisions on key elements of this process in March 2018. “Preserving the integrity and proper functioning of the Single Market and avoiding disrupting relations with existing third-country partners will be key for the EU. While internal preparatory discussions are continuing within the EU, the UK still needs to clarify what type of trade deal it seeks.”

The European Parliament, whose consent is required for the conclusion of any withdrawal deal, has adopted a number of resolutions on the negotiations. The Resolution of 13 December 2017 called for the commitments in the Joint Report to be fully respected and translated into legal terms and set out five outstanding issues to be addressed further, covering citizens’ rights and ensuring that commitments made with respect to Northern Ireland/Ireland are fully enforceable.

Withdawal Bill

The European Union (Withdrawal) Bill – referred to as the Repeal Bill – is making its way through the UK Parliament. In connection with this process the Department for Exiting the European Union has published a series of information factsheets outlining the elements of this massive Bill. The Bill will convert existing direct EU law, including regulations and decisions, into UK law as it applies in the UK at the date of exit.

The General Factsheet states that “The Bill ensures that, so far as possible, the same rules and laws will apply on the day after exit as on the day before. This will provide the maximum possible certainty and continuity to businesses, workers and consumers across the UK – so that they can have confidence that they will not be subject to unexpected changes on the day we leave the EU.” The Factsheets cover the following issues: converting and preserving law; the correcting power; power to implement the withdrawal agreement; devolution; Charter of Fundamental Rights; workers’ rights; environmental protections; consumer protections; treaty rights; impact assessment; equality analysis; European Convention on Human Rights; equalities legislation and EU exit; employment and EU exit; the Employment Rights (Amendment)(EU Exit) Regulations 2018.

Section Two: The Evolving Debate

Taoiseach Varadkar at the European Parliament

The Taoiseach, Leo Varadkar, addressed a plenary session of the European Parliament in Strasbourg on 17 January 2018 as the first EU Head of State or Government to debate with MEPs on the Future of Europe in a planned series.

He reminded his listeners that “it is hard to imagine the Good Friday Agreement being made without our shared membership of the European Union and the Single Market” but that “we are now having to contemplate our future without the foundation that underpinned it. That is why the Irish Government has been so determined to protect the Good Friday Agreement, in all its parts, and in all that flows from it. It is why we have insisted that there can be no return to a hard border on our island.”

Referring to the ongoing EU-UK negotiation process, the Taoiseach expressed thanks for the support received from the outset, and said that there could be “no backsliding” on what had been already agreed in principle. He made clear that these commitments should “be in the legal text of the Withdrawal Agreement and firmly embedded in the UK’s future relationship with the EU, whatever shape that ultimately takes.”

In welcoming the Taoiseach, the Commission President, Jean-Claude Juncker, noted the role of the Good Friday Agreement in stabilising relations on the island of Ireland and said that the EU would aim to continue its support for the peace process in its proposal for a new EU budget in May 2018.
President Tusk at the European Parliament

On 16 January 2018, the President of the European Council, Donald Tusk, reported to the European Parliament on the December 2017 European Council meetings. The Council had adopted a first set of guidelines for the next phase of talks with the UK, having decided that sufficient progress had been achieved on the first phase.

His concluding words attracted much political and media interest:

As regards our future relations, what we need today is more clarity on the UK's vision. Once we have that, the leaders will meet and decide on the way the EU sees its future relationship with the UK as a third country. It also means a new set of guidelines. The hardest work is still ahead of us, and time is limited. We must maintain the unity of the EU27 in every scenario, and personally I have no doubt that we will. If the UK government sticks to its decision to leave, Brexit will become a reality – with all its negative consequences – in March next year. Unless there is a change of heart among our British friends. Wasn't it David Davis himself who said: 'If a democracy cannot change its mind, it ceases to be a democracy.' We, here on the continent, haven't had a change of heart. Our hearts are still open to you.

Germany

Germany’s centre-left party has agreed to coalition talks with Angela Merkel’s conservatives after four months of deadlock. The Social Democratic Party (SPD) voted on Sunday, 21 January 2018 to enter into talks with Chancellor Merkel’s Christian Democratic Union (CDU). At the special party congress in Bonn, delegates voted by 372 to 270 to approve a preliminary coalition deal with the CDU. The Party Leader, Martin Schulz commented: “We are relieved, the result shows that we had to fight for this majority.”

All-night talks on Friday 12 January 2018 saw the emergence of a 28-page blueprint for formal coalition negotiations which could end the long period of political uncertainty and avoid the possibility of a return to the electorate in a further election.

In his Financial Times analysis, Wolfgang Munchau, described this text as “truly radical” as it “lays out the biggest push by Germany towards continental integration since the Maastricht Treaty a quarter of a century ago.” There is confirmation of a general willingness to engage with President Emmanuel Macron on a programme of Eurozone reform but, further, an expression of readiness to expand the EU budget, with a larger German contribution to fund economic stabilisation, social convergence and structural reform. The European Stability Mechanism would become part of the overall, enlarged, EU budget, providing investment funding along lines advocated by the Commission President, Jean-Claude Juncker. The agreement also contemplates an enhanced role for the European Parliament in democratising the Eurozone which represents a divergence from the view in the Elysee, which favours the creation of a separate Eurozone Parliament.

The challenge of obtaining the support of the SPD membership for the agreed document was demonstrated by the immediate response of the party’s left wing, with evidence that a significant number of the SPD’s 430,000 strong membership are not convinced of the merit in backing a third Grand Coalition, pointing to the negative response of voters to the party’s participation in the 2013-2017 administration. They fear that a further period of governing with the conservatives would seriously weaken the party and some called for a renegotiation of some aspects of the document. However, defeat for the proposed deal would have collapsed the coalition deal, raising the most serious questions about the country’s immediate political direction, and doubts about the political futures of both Martin Schulz and Angela Merkel.

Emmanuel Macron on ‘bespoke’ deal for the UK

During a visit to the UK for talks with Prime Minister Theresa May on defence cooperation, the French President has spoken of key aspects of the EU-UK negotiations – the future of financial services and the concept of a ‘bespoke’ deal.

On access for the British financial services industry to the single market, he said it would have to obey all of the EU’s rules. “I want to make sure that the Single Market is preserved, because that is very much the heart of the EU. The choice is on the British side […] but there can be no differentiated access for the financial services […] it means that you need to contribute to the budget and acknowledge European jurisdiction.”

Addressing the idea of a ‘bespoke’ deal for the UK, the President argued that, while Britain could not have full access to the Single Market – including financial services access – unless it applied the full range of EU rules, there might be a halfway-house compromise, something between full access and a trade agreement. But any

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deal would have to maintain the integrity of the Single Market. “You can’t buy, by definition, full access to the Single Market if you don’t tick the box.”

Ireland and Brexit

A significant recent development in the Irish Brexit debate was the strong conciliatory gesture offered by the DUP Leader, Arlene Foster. While speaking at an economics seminar in Killarney, she defended her party’s support for Brexit but said that she fully understood the concerns of the Irish Government and people: “I appreciate that nowhere will be more impacted by the United Kingdom’s exit from the European Union than Ireland.” The Taoiseach responded that the comments were welcome “as Brexit is an ongoing challenge for the whole of Ireland.”

An Irish Times editorial commented on the lack of clarity on how the UK plans to reach trade deals outside the EU, while simultaneously meeting its commitment to avoid a hard border between the UK and Ireland: “All this lies ahead as we delve into phase two of the talks. The Government won some important commitments during Phase One, but making them stick could be an even greater challenge.”

London Mayor on Brexit Impact

The Mayor of London, Sadiq Khan, entered the Brexit debate in a Guardian article in which he argued that “time is fast running out for the UK government to secure a good deal from the Brexit negotiations that protects jobs, growth and living standard for future generations.” He revealed the results of an independent study by Cambridge Econometrics which concluded that “the harder the Brexit outcome we end up with, the worse the potential impact on jobs, growth and living standards could be.” The study’s conclusion on London was that a no-deal Brexit would involve fewer jobs and a loss of economic output. “That would mean fewer opportunities for the next generation and poorer living standards than would otherwise be the case – a huge human cost to pay.”

The Mayor called on the UK Government to commission and then publish –in full –their analysis of every single option available for Britain to avoid a ‘cliff-edge’ scenario: “that means their analysis should look at what we should do if we are unable to secure a good deal from the negotiations, if the negotiations collapse, or if a final deal fails to be ratified by either the British Parliament, European Parliament or a number of EU member states.”

UK Labour Party

An opinion poll for the Observer has put pressure on the leadership of the UK Labour Party to shift its policy on Brexit, indicating that a substantial majority of existing and potential Labour voters want Jeremy Corbyn to back permanent membership of the EU’s Single Market and Customs Union. The survey found that four times as many Labour supporters favour that option as oppose it. The survey by Opinium also finds that more than twice as many in this group want Corbyn to support a second referendum on the eventual Brexit deal as reject it.

The survey found that among all potential Labour voters at the next election, 56% want the party to back permanent membership of the Single Market and Customs Union, while just 13% think it should remain opposed. Among younger voters: 63% of all “young professionals” who are potential Labour backers were in favour, compared with 10% who were opposed. Of “young blue collar workers” who might back Labour, 61% were in favour of the change against just 4% who were opposed. Significantly, even among Labour voters who backed Leave, 37% said they want Corbyn to support permanent Single Market and Customs Union membership compared with just 26% who did not.

Norway enters Brexit debate

The Norwegian government is reported to have made repeated representations to the Commission over concerns that the eventual ‘offer’ to the UK may prove too generous and trigger demands for a renegotiation of Norway’s arrangement with the EU. Norway makes large financial contributions to the EU and accepts free movement of people in order to have access to the Single Market but without any input to Brussels decision-making. A senior Norwegian official was quoted as saying: “We are following this very closely to make sure that we are not giving the UK a much more favourable deal.”

CBI and Customs Union

Carolyn Fairbairn, Director General of the Confederation of British Industry, is warning the Government that time is running out on Brexit and urges the Prime Minister to put replicating the Customs Union at the top of the trade agenda. She argues that the time has come for revisiting some of the red lines. “With the Customs Union, there have been doors that have been left open along the way. Let’s take them because the business case, the common sense pragmatic case, for a Customs Union with the EU – negotiated effectively – is very strong. Let’s start with
what we have. The EU has built up with the UK forty years of shared standards and regulations that have been very good for business […] let’s start with that position and move forward.”

Section Three

Past events

Timeline 2016 - 2017

23rd June 2016 The UK votes to leave the EU

24th June 2016 David Cameron signals his intention to resign as UK Prime Minister

26th June 2016 European Council appoints Didier Seeuws as head of Brexit Taskforce

13th July 2016 Theresa May becomes the new Prime Minister of the UK

9th September 2016 European Parliament names Guy Verhofstadt as the European Parliament’s Brexit negotiator

16th September 2016 Bratislava Summit of 27

1st October 2016 Michel Barnier starts role as Head of EU Commission Brexit Task Force

6th December 2016 Michel Barnier holds first press briefing on Brexit, notes Northern Irish issues

17th January 2017 Theresa May outlines the objectives and principles for the UK’s withdrawal

24th January 2017 UK Supreme Court Ruling on Article 50

2nd March 2017 Northern Ireland Assembly elections. No new executive formed.

9th-10th March 2017 Re-election of Donald Tusk as European Council President

13th March 2017 UK Houses of Parliament pass the Article 50 Bill without amendment

25th March 2017 60th Anniversary of the Treaty of Rome

29th March 2017 UK invokes Article 50

5th April 2017 European Parliament adopts resolution on the UK’s withdrawal from the EU

19th April 2017 Theresa May calls for snap General Election on 8th June 2017

29th April 2017 European Council adopts its guidelines for the Brexit negotiations

7th May 2017 Emmanuel Macron defeats Marine Le Pen to become President of France

22nd May 2017 The General Affairs Council of the EU authorises the opening of negotiations with the UK

29th May 2017 European Commission releases draft position papers on Article 50

8th June 2017 UK General Election results in a hung Parliament. Minority Conservative government formed with support from the DUP
European Council Summit

Estonian Presidency of the Council of the EU begins

17th-20th July 2017

Round two of UK-EU negotiations

28th - 31st August 2017

Round three of UK-EU negotiations

25th-28th September 2017

Round four of EU-UK negotiations

1st-4th October 2017

Conservative Party Conference

9th-12th October 2017

Round five of EU-UK negotiations

15th October 2017

Austrian Parliamentary Elections. Sebastian Kurz’s ÖVP wins the largest share of vote

19th-20th October 2017

European Council Summit

9th-10th November 2017

Round Six of EU-UK Negotiations

19th November 2017

Coalition negotiations in Germany collapse

8th December 2017

EU and UK make ‘sufficient progress’ on Phase One issues

14th-15th December 2017

European Council authorises opening of Phase Two

1st January 2018

Bulgarian Presidency of the Council of the EU begins

22nd-23rd March 2018

Timeframe for preliminary agreement on transitional arrangements

28th-29th June 2018

Expected timeframe for talks on Future Relationship to begin (TBC)

1st July 2018

Austrian Presidency of the Council of the EU begins

October 2018

European Council Summit

December 2018

European Council Summit

1st January 2019

Romanian Presidency of the Council of the EU begins

29th March 2019

Deadline for UK withdrawal

May 2019

European Parliament Elections
Section Four: Background Material and Further Reading

Background Material


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Further Reading

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