



The future relationship between the United Kingdom and the European Union

Briefing Note – HM Government’s White Paper on Brexit

19 July 2018

Introduction

On 12 July 2018, the Government published a white paper entitled: [‘The future relationship between the United Kingdom and the European Union’](#). This document, agreed by the Cabinet represents the culmination of the Government’s work on Brexit, and has been presented to the European Union’s negotiation team as the UK’s preferred model for the continuing relationship.

Analysis

The white paper represents the Government’s opening offer to the European Union in the ongoing negotiations. Given the commitment to a ‘common rulebook’, it was not well received across Parliament. Both brexiteers and more moderate MPs have raised concerns that this proposal would see the UK as a ‘rule-taker’ without any input on said rules. Furthermore, many have raised concerns that the commitment to retain these standards will curtail the UK’s ability to sign independent trade deals with other countries.

This commitment has been seen as a major concession in terms of the PM’s red lines. Many MPs have raised concerns that the PM hasn’t left herself any space to make further concessions during the negotiations, without compromising on commitments she has made to Parliament. The proposal has led to a number of Conservative MPs resigning from Government including Brexit Secretary David Davis MP, and Foreign Secretary Boris Johnson MP.

Whilst the PM’s position seemed unstable immediately following the publication of the white paper and the resignation of colleagues, she remains in place. However, in the last week before Parliament rose for Summer Recess, she saw a number of amendments made to the Government’s Brexit legislation which undermine policy decisions stated in the white paper. It is yet to be seen what affect these amendments will have on the final agreement negotiated between the EU and the UK.

European Reaction

The European Commission’s Chief Negotiator, Michel Barnier, released a number of statements following the publication of the white paper which struck a conciliatory tone. However, he did not shy away from highlighting the EU’s concerns with the PM’s model.

In a statement following the General Affairs Council on 20 July 2018, Barnier welcomed several elements within the white paper that opened the way for ‘a constructive discussion’. Mainly, that the UK matched the EU’s desire for an ambitious Free Trade Agreement, was prepared to commit to a level playing field, and recognised the European Court of Justice as the only arbiter of EU law. He noted positively that 80 per cent of the text of the withdrawal agreement is ‘in green’, or agreed, and that his objective would be to finalise this document before the October European Council meeting.

On the customs arrangement suggested by the white paper, Barnier highlighted three questions that the Commission would be working through with the UK’s negotiation team; whether the proposed



customs regime would be compatible with the integrity of the Single Market, whether it would be workable, and whether it is in the economic interest of the EU. On the first point, he stated:

‘The United Kingdom has said that it is ready to align to EU standards for goods - but only for those standards that are checked at the border. The United Kingdom, therefore, would not align itself to our agri-food standards, for example, on GMOs or pesticides, because these are not checked at the border. This was confirmed to us this week in the negotiations. But how, then, can we protect European consumers? On what basis could we accept free movement of goods?’

In a statement following his meeting with Brexit Secretary Dominic Raab MP on 26 July 2018, Barnier went further:

‘The EU cannot – and will not – delegate the application of its customs policy and rules, VAT and excise duty collection to a non-member, who would not be subject to the EU’s governance structures. Any customs arrangements or customs union – and I have always said that the EU is open to a customs union – must respect this principle. In any case, a customs union, which would help to reduce friction at the border, would come with our Common Commercial Policy for goods.’

These questions are intertwined with the issues of the Irish Border and the backstop. Whilst both parties have guaranteed the absence of a hard border, without agreement on the future customs arrangement, the EU believes that the agreed backstop requires Northern Ireland to remain within the customs union, effectively creating a border in the Irish Sea. The UK believes that the agreed backstop must mean that the whole of the UK will remain within the customs union. How much of this is negotiation bluster is yet to be seen.

Answers to these questions are unlikely to become apparent before the European Council on 18 October 2018. The PM will attend an informal meeting of Heads of State in mid-September and may try to push fellow leaders to make supportive statements but the EU will likely try to dissuade this. The EU and UK negotiating teams will meet again in mid-August, to which the UK team has committed to bringing concrete proposals about how to address the EU’s customs concerns.

Policy detail provided within the white paper

The remainder of this document collates the key passages from the white paper, condensed down and organised by key themes. Emphasis has been added to key points.

On a Free Trade Area and Common Rulebook

‘The UK proposes the establishment of a free trade area for goods, including agri-food. This would avoid friction at the border, protect jobs and livelihoods, and ensure that the UK and the EU meet their commitments to Northern Ireland and Ireland through the overall future relationship. **The UK and the EU would maintain a common rulebook for goods including agri-food, with the UK making an upfront choice to commit by treaty to ongoing harmonisation with EU rules on goods, covering only those necessary to provide for frictionless trade at the border...**’

‘The UK’s proposal for a free trade area includes:



- a. the phased introduction of a new Facilitated Customs Arrangement that would remove the need for customs checks and controls between the UK and the EU as if in a combined customs territory, while enabling the UK to control tariffs for its own trade with the rest of the world and ensure businesses pay the right tariff;
- b. the elimination of tariffs, quotas and routine requirements for rules of origin for goods traded between the UK and the EU;**
- c. a common rulebook for manufactured goods, alongside UK participation in EU agencies that facilitate goods being placed on the EU market;**
- d. a common rulebook for agriculture, food and fisheries products, encompassing rules that must be checked at the border, alongside equivalence for certain other rules, such as wider food policy; and
- e. robust domestic market surveillance and cooperation between the UK and the EU to ensure the rules are upheld in both markets...'

'In the context of a common rulebook, **the UK believes that manufacturers should only need to undergo one series of tests in either market, in order to place products in both markets.** This would be supported by arrangements covering all relevant compliance activity, supplemented by continued UK participation in agencies for highly regulated sectors including for medicines, chemicals and aerospace. This would be underpinned by strong reciprocal commitments to open and fair trade and a robust institutional framework...'

'In areas where the UK commits to a common rulebook, where the UK makes an upfront choice to commit to ongoing harmonisation with the relevant EU rules and requirements, it will be important for the UK to be able to share its views with the EU as those EU rules are developed. **While the UK would not have a vote on relevant rule changes, its experts should be consulted on the same basis as Member States in line with the existing arrangements the EU has with third countries.** As part of that process, the UK Government could also seek the opinion of the relevant domestic UK legislatures.'

On Standards and Chemicals

'The UK has long advocated a convergence of rules and standards for goods, whether as a member of the EU or on the global stage. **The adoption of a common rulebook means that the British Standards Institution (BSI) would retain its ability to apply the "single standard model" – so that where a voluntary European standard is used to support EU rules, the BSI could not put forward any competing national standards.** This would ensure consistency between UK and EU standards wherever this type of standard is adopted, with input from businesses, by the European Standards Organisations (ESOs). It would ensure consumers do not face multiple standards for the same products. It would also enable the UK to continue playing a leading role in the ESOs, and with the EU on a global stage, for example in the International Organization on Standardization (ISO), to ensure that there is greater convergence at the international level.'

'In some manufactured goods sectors where more complex products have the potential to pose a higher risk to consumers, patients or environmental safety, a greater level of regulatory control is applied. The European Medicines Agency (EMA), the European Chemicals Agency (ECHA) and the European Aviation Safety Agency (EASA) facilitate part of these regulatory frameworks. In line with the UK's objective of ensuring that products only go through one approval mechanism to access both markets, the UK is seeking participation in these EU agencies, as an active participant, albeit



without voting rights, which would involve making an appropriate financial contribution. The UK would want to secure access to relevant IT systems, ensuring the timely transfer of data between UK and EU authorities. In addition, it would seek... for ECHA, ensuring UK businesses could continue to register chemical substances directly, rather than working through an EU-based representative.'

On Competition and State Aid

'The UK's proposals include:

- a. committing to a common rulebook on state aid, to be enforced and supervised in the UK by the Competition and Markets Authority (CMA);
- b. maintaining current antitrust prohibitions and the merger control system with rigorous UK enforcement of competition law alongside strong cooperation with EU authorities;
- c. committing to high regulatory environmental standards through a non-regression requirement;
- d. maintaining high standards on climate change, noting the UK's world leading ambitions;
- e. committing to high levels of social and employment protections through a non-regression requirement for domestic labour standards; and f. committing to high levels of consumer protection.'

Movement of People

'The UK's proposal builds on the principles of international trade and the precedents of existing EU trade agreements, and reflects its unique starting point. It would include:

- a. general provisions that minimise the introduction of discriminatory and non-discriminatory barriers to establishment, investment and the cross-border provision of services, with barriers only permitted where that is agreed upfront;
- b. a system for the mutual recognition of professional qualifications, enabling professionals to provide services across the UK and EU;
- c. additional, mutually beneficial arrangements for professional and business services.

'UK firms and global investors rely on the ability to move and attract talent to support global operations, and to send people to provide services across Europe. Indeed, mobility is a key element of economic, cultural and scientific cooperation, ensuring professional service providers can reach clients, advanced manufacturers can deploy key personnel to the right place, and scientists can collaborate on world-leading projects.'

'The UK would seek reciprocal arrangements that would allow UK nationals to visit the EU without a visa for short-term business reasons and equivalent arrangements for EU citizens coming to the UK. This would permit only paid work in limited and clearly defined circumstances, **in line with the current business visa policy.**'



‘As is the case with non-EU countries with whom the UK has a trading agreement, the UK also wants to agree reciprocal provisions on **intra-corporate transferees** that allow UK and EU-based companies to train staff, move them between offices and plants and to deploy expertise where it is needed, based on existing arrangements with non-EU countries. The UK will also discuss how to facilitate temporary mobility of scientists and researchers, self-employed professionals, employees providing services, as well as investors.’

On next steps

‘On the basis of the proposal set out in this White Paper, the UK’s negotiating team will now engage with the EU’s at pace, in order to conclude the Article 50 negotiations this autumn. This means finalising both the Withdrawal Agreement and the framework for the future relationship (the ‘Future Framework’).’

‘Once the UK and the EU have reached agreement on the Withdrawal Agreement and the Future Framework, under the terms of the European Union (Withdrawal) Act 2018, there will be a debate in both Houses of the UK Parliament. If the House of Commons supports a resolution to approve the Withdrawal Agreement and the Future Framework, the Government will bring forward the Withdrawal Agreement and Implementation Bill to give the Withdrawal Agreement legal effect in the UK. In the EU, the European Parliament must give its consent to the conclusion of the Withdrawal Agreement. **The UK and the EU have a shared ambition to agree both documents by October in order to give sufficient time for their respective Parliaments to give their approval before the UK leaves the EU on 29 March 2019.**’

‘Recognising that the EU is only able legally to conclude agreements giving effect to the future relationship once the UK has left the EU in March 2019, the Withdrawal Agreement should include an explicit commitment by both parties to finalise these legal agreements as soon as possible in accordance with the parameters set out in the Future Framework, in order to achieve a smooth transition out of the implementation period and into the future relationship.’