



Brexit Tracker

July 2018

The pace and dynamic behind Brexit negotiations continue to cause deep concern for Irish business. While a final legal agreement on the UK withdrawal is due by October, in the context of political unpredictability in the UK and a pessimistic mood in Brussels, a deal remains elusive.

While it is impossible to be categorical on the timing of negotiations, the risk of a ‘no deal’ outcome is increasing and it may be desirable for parties to revisit the negotiation deadlines and seek ways to extend. The short term objective in any extension would be to avoid a default to WTO rules.

There is some positive news. The departure of David Davis and Boris Johnson has finally allowed the UK government to present an agreed negotiating position. The new UK white paper is welcome, not least because it clearly recognises the value of comprehensive future EU-UK alignment across many areas.

The UK approach points towards a less disruptive Brexit, but complex challenges remain. The most immediate is the Northern Ireland ‘backstop’. The December political agreement must be translated into an agreed legal text soon if we are to make progress. Separately, UK proposals to align on goods but not services into the future will be met with scepticism in Brussels. Agreement will be difficult.

For our part, business needs a final deal that covers both goods and services, and keeps the EU and UK as closely aligned as possible into the future. An outcome that delivers this is not yet in sight, but the UK paper and the more unified approach of the UK cabinet is a step in the right direction.

The following tracker aims to provide you with a state of play on main issues for business raised by Brexit.

Area	Issue	Update
The financial settlement	The UK is expected to settle outstanding financial commitments it has made to the EU on departure.	Brexit bill settled: The terms of the UK financial settlement have now been agreed. The UK will also contribute to, and participate in, the EU’s budgetary process until the end of the agreed transition period in December 2020. ●
Citizens’ rights	The legal rights of EU citizens in the UK and UK citizens in the EU post-Brexit need to be signed off.	Rights protected, even during transition: An agreement has been reached that ensures EU citizens in the UK, and UK citizens living in the EU, will retain their rights to live, work and study after Brexit, along with associated benefits. The rights of EU citizens to live, work and settle indefinitely in the UK will also continue during the agreed transition period. UK citizens moving to an EU member state during transition will enjoy similar rights. ●
Common Travel Area	Irish citizens enjoy more rights in the UK than other EU workers. Will these current rights be protected post-Brexit?	Major plus for business and workers: The EU and UK have agreed that the Irish-UK Common Travel Area will continue post-Brexit. Irish citizens will continue to enjoy all the rights and benefits they currently enjoy in the UK into the future, and vice versa. In contrast, the rights of other EU citizens in the UK are likely to be curtailed post-Brexit, unless they arrive before the end of the transition period. The deal will make it easy for Irish companies to transfer Irish staff to UK operations and for Irish and UK workers to move back and forth as they wish. The agreement does not impact the free movement of EU workers into Ireland. ●



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Transition period	Business will need a transition period to prepare and adjust to a new EU-UK relationship.	Breathing room for business: A transition period up to December 2020 has been agreed at a political level. This will guarantee businesses an extended period of full EU-UK alignment. It reduces the risk of a 'no deal' outcome and provides negotiators with more time to reach a final deal that keeps future divergence to an absolute minimum. The UK was desperate to get this element across the line, and eventually agreed that free movement and the right of settlement would continue throughout the period. The deal is very welcome, but business planning is tricky if not impossible without clarity on a final deal. Ultimately, more transition flexibility and longer timelines may be required. The transition arrangement is contingent upon a legally binding withdrawal agreement, which is due to be signed off by October. This is not guaranteed. (<i>See also Citizens' rights section</i>).	
The Irish border and the all island economy	All accept that managing the relationship between Ireland and Northern Ireland warrants unique solutions to avoid the need for a physical border. But what are they?	Political, but no legal agreement: In December, the UK made a range of commitments to avoid a hard border on the island of Ireland and to protect the all island economy. If the matter can't be sorted in the context of a new EU-UK trade deal, the UK has committed to identifying specific additional solutions. If these can't be agreed, the UK will maintain "regulatory alignment" with the EU Single Market and Customs Union in those areas needed to avoid a hard border. This 'backstop option' will be put into a binding legal commitment in the formal withdrawal agreement, envisaged to be signed off by October. Major differences have emerged on how to give the backstop legal effect. The UK has proposed continued alignment on relevant areas on a UK wide basis, the EU want an island of Ireland solution.	
Regulatory divergence	Regulatory divergence could become a significant barrier to EU-UK trade post-Brexit.	Big decisions for the UK: The UK will put EU regulations into domestic law when the UK leaves, so any divergence is likely to be incremental. But big political choices need to be made and the legal governance will become an immediate problem. The UK Government has proposed maintaining close alignment across a wide range of policy areas post-Brexit. However, the EU will not allow the UK to simply pick off the elements of the Single Market that suit and ignore other parts. The new UK white paper proposes close alignment with the EU on goods, but less on services into the future. To the EU this is cherry picking. Economic logic points towards close future regulatory alignment, but politics could easily get in the way.	
Tariffs and customs	Will Brexit lead to new tariff and customs barriers?	New UK proposals: Talks have yet to begin, but both sides have indicated that they want a deal that involves no tariff barriers. New UK proposals on customs suggest new arrangements that would see the UK continue to align with EU rules on goods. Questions remains as to the practical and political viability of the proposals, but it points toward a future relationship with minimal trade and customs barriers for goods, albeit worse than the status quo. The European Commission and member states are considering the UK proposals.	
Transit	To reach EU markets and beyond, many Irish goods go through the UK. Any new barriers would increase costs and add time.	Problem identified: The EU and UK have agreed to continue the distinct strand of the talks relating to Ireland into phase two. Within this strand, transit of goods to and from Ireland via the UK, will be given specific attention. This will need workable solutions in order to minimise disruption.	
Energy	UK withdrawal from the EU's Internal Energy Market (IEM) would leave Ireland physically disconnected from the wider IEM and undermine the functioning of Ireland's Single Electricity Market (SEM).	Grounds for optimism: Negotiations have not yet begun. However, the UK has expressed the importance of the continued facilitation of the SEM and the need to prioritise discussions on North-South cooperation including energy. UK commitments to protecting the all island economy hopefully point to limited future disruption.	

● No progress ● Limited progress ● Good progress

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