

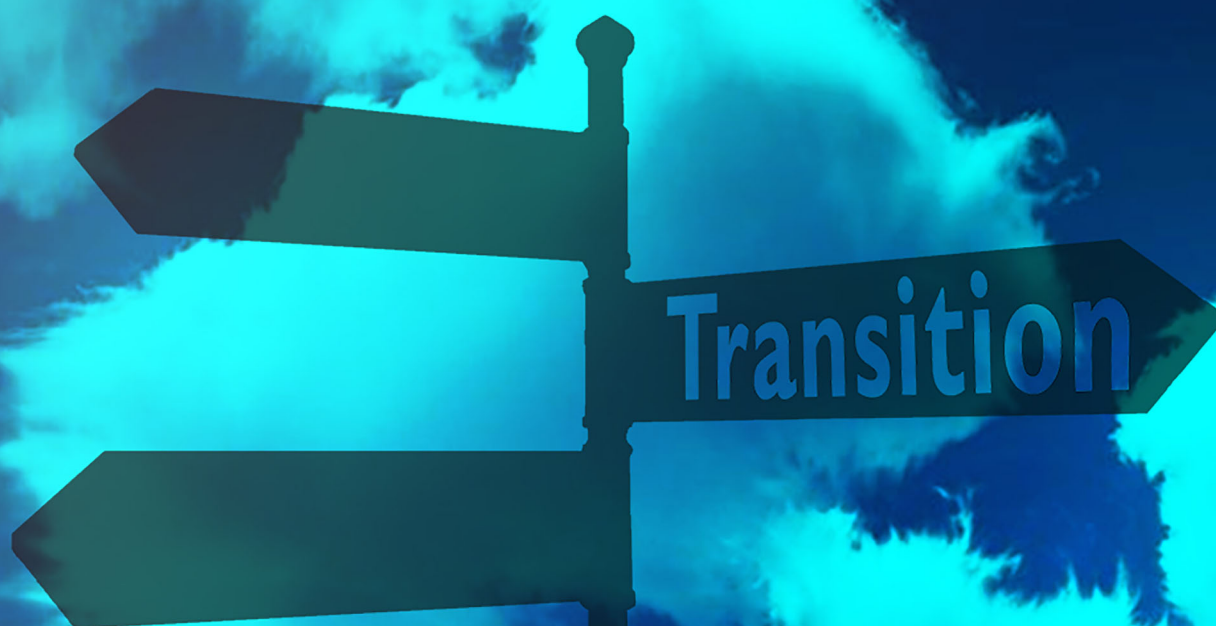
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BREXIT UPDATE

CULTURE, TOURISM, EUROPE & EXTERNAL RELATIONS COMMITTEE
#SPICeBrexitUpdate



UK Government seeking transition deal?

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About this paper

This regular paper produced by SPICe sets out developments in the UK's negotiations to leave the European Union, the process for which has now formally begun following the Prime Minister's triggering of Article 50 on 29 March.

The updates will provide information on the UK Government's approach to leaving the EU, along with details of the Scottish Government and the other Devolved Administrations positions. The updates will also provide information on developments within the EU with regard to the UK's departure. Finally the update will provide information on the key issues likely to be at play during the negotiations and in developing the UK's future relationship with the European Union.

As was clear during the referendum campaign and since the decision to leave the EU was taken, there is an abundance of information and analysis available, and this SPICe paper will try to cover the key issues by drawing on that information and analysis. This week's update focuses on the UK Government's view on a transitional deal, the commissioning of migration research and the EU27's negotiating position.

UK Government seeking transition deal?

In an [interview](#) with the Today programme on Radio 4 on 28 July, the Chancellor of the Exchequer Phillip Hammond confirmed that the UK Government were looking at some sort of transitional period when the UK leaves the EU ahead of the new relationship coming into force. According to the Chancellor, the transition was likely to begin on the day the UK leaves the EU and end before the 2022 general election:

"There will be a process between the date we leave the European Union and the date on which the new treaty-based arrangements... come into force,

I think there's a broad consensus that this process has to be completed by the scheduled time of the next general election, which is in June 2022."

The Chancellor also suggested that in the event of a transitional arrangement, he didn't think much would change on the day after Brexit compared to the day before. If this was the case it would suggest that the transitional arrangements might largely mirror the current arrangements the UK has as a member of the EU.

The Chancellor's interview was widely reported in the UK press, the [Guardian said](#) the Chancellor had confirmed multiple reports over the past week that the cabinet had agreed to seek a transitional period of about three years, ending before the next election, which is due in 2022. The Guardian added that the Chancellor had said there was broad consensus in the cabinet that such a period would be necessary to cushion the impact of leaving the EU.

Following the Chancellor's interview there has been speculation about whether the whole Cabinet were supportive of a transitional deal. An article on the BBC website questioned whether the [cabinet is fully on board?](#) The article by Iain Watson, BBC News Political Correspondent suggested that whilst the Cabinet has broadly agreed the need to avoid a cliff edge Brexit, there is still disagreement about a number of issues. These include whether the post Brexit arrangements should be transitional or a phased implementation towards a new relationship between the UK and the EU; whether the principles of free movement of EU citizens should end on Brexit day or whether they should continue for a further transitional period; whether there is a role for the European Court of Justice in both a transitional phase and in the new relationship and at what stage the UK will be able to enter into trade agreements with other countries.

Two days after the Chancellor's interview, it was [reported](#) that the International Trade Secretary Liam Fox had suggested that there is no cabinet-wide agreement for Philip Hammond's suggestion that free movement could continue for up to three years after Brexit. Liam Fox was reported as saying:

"If there have been discussions on that, I have not been party to them. I have not been involved in any discussion on that, nor have I signified my agreement to anything like that.

"We made it clear that control of our own borders was one of the elements we wanted in the referendum, and unregulated free movement would seem to me not to keep faith with that decision."

Most recently, on 31 July, the Prime Minister's spokesman said that free movement will end when the UK leaves the EU. According to the [BBC](#), the Prime Minister's spokesman said:

"It would be wrong to speculate on what these might look like or to suggest that freedom of movement will continue".

"Free movement will end in March 2019. We've published proposals on citizen's rights. Last week the home secretary set out a registration system for EU nationals arriving post March 2019."

The BBC also reported that the Prime Minister's spokesman also rejected the possibility of an off-the-shelf trade deal with the EU such as that enjoyed by Norway and other members of the European free trade association - which grants them access to the single market.

If the UK Government does wish to seek a transitional deal or some sort of phased implementation towards the new arrangements between the UK and the EU, the contents of any such deal will require the agreement of the EU27. The European Commission's Chief Negotiator, Michel Barnier has made it clear that any talks on transition and a future trade agreement can only take place once the basis of the leave agreement is in place and this week it was [reported](#) Barnier has suggesting that the negotiations are faltering and the UK government's hopes of opening talks on a future trade deal with the EU this autumn look increasingly likely to be dashed. Barnier suggested the lack of progress during the negotiations was as a result of a lack of clarity from the UK Government.

The view from Brussels

A recent article by Fabian Zuleeg, the Chief Executive of the European Policy Centre examined [the Brexit negotiations and the view from the other side of the channel](#). Fabian Zuleeg suggests that as the UK continues to debate the kind of Brexit to pursue, there is no consideration of the EU27 position, Zuleeg states:

"What is missing in these discussions is a real appreciation of the view from the other side of the channel. The assumption that the EU27 are willing to accept any deal to avoid Brexit is misguided. Not only are there red lines that they will not cross, but the clock is ticking as well. The time left to strike a deal is limited. It is for the UK to come up with workable solutions as otherwise the UK will end up with no deal at all. While this is also negative for the EU27, it is seen as the UK's choice and not something that needs to be avoided at all costs.

The reason that the EU27 are willing to accept this negative outcome is that greater goods are at stake: the unity of the EU27, the integrity of the Single Market and the future of European integration. While there is willingness to find a compromise with the UK, a country leaving the EU cannot be better off than a remaining member. Allowing cherry picking of benefits would act as a signal to others inside the EU that a Europe à la carte is obtainable, opening the Pandora's box of disintegration."

On the likelihood of a transitional deal, Fabian Zuleeg suggests it will only be possible if the UK is prepared to accept the EU's red lines, in particular on free movement and on a role for the ECJ (or some other safeguard mechanism) in enforcing the agreement.

Finally, Zuleeg concludes that to have any chance of successfully reaching agreement in the negotiations the UK will need to understand the EU position:

“To have any chance of a successful conclusion of the negotiations, the UK must now address the myths and misconceptions of the EU27’s position. There needs to be a recognition that there will be little give from the other side of the channel. Only if the UK is willing to make significant concessions, is a viable deal possible. Even a transition deal will require the UK to accept the EU27’s conditions. Some in the UK might argue that under those circumstances, no deal is better, even if it imposes economic and political costs. That is a choice. But having the cake and eating it too is not a choice the EU27 will allow.”

UK Government commissions migration research

On 27 July, the Home Secretary, Amber Rudd [wrote](#) to Professor Alan Manning the chair of the Migration Advisory Committee (MAC) commissioning the MAC to examine the role EU nationals play in the UK economy and society.

The UK Government has asked the MAC to examine two aspects of migration policy; these are set out in the UK Government’s Commission which is attached to the Home Secretary’s letter:

- the impacts on the United Kingdom labour market of the UK’s exit from the European Union including studying patterns of EU and EEA (European Economic Area) migration, considering regional distribution; skill levels; industry sectors and the role of the self-employed, part-time, agency, temporary and seasonal workers.
- how the UK’s future immigration system should be aligned with a modern industrial strategy

The MAC has been asked to report by September 2018 with the provision of interim reports throughout that period if necessary.

The Home Secretary’s letter also lays out the UK Government’s current policies in relation to migration in the run-up to and following Brexit. The Home Secretary wrote:

“We do not envisage moving to that future system in a single step when we leave the EU. It will be in the interests of migrants, employers and the UK authorities, to have a predictable, well understood process which moves gradually from the free movement regime to a new set of arrangements.

Our first priority is to safeguard the position of existing EU residents in the UK and UK nationals in the EU. So, the first phase of our immigration proposals was to publish our fair and serious offer on 26 June¹. This set out our proposals that qualifying EU citizens, arriving and resident before a specified date, would be able to

apply for ‘settled status’ in UK law once they have accumulated five years’ continuous residence – meaning that they would be free to reside in any capacity and exercise any lawful activity, and to access public funds and services. Those arriving and resident before the specified date but who had not yet accrued five years’ residence would be able to remain until they accumulate those five years’ residence. They would all have adequate time to apply for their documentation after our exit as there would be a ‘grace period’ of up to two years.

EU citizens arriving after the specified date but before exit (if the specified date we agree with the EU is prior to withdrawal) would be allowed to remain in the UK for at least the temporary ‘grace period’, and, may subsequently become eligible to settle permanently depending on their status and the rules in place at the time.

As part of a smooth and orderly transition as we leave the EU, the second phase of our immigration proposals is based on a temporary implementation period to ensure there is no cliff-edge on the UK’s departure for employers or individuals. This includes the ‘grace period’ during which those EU citizens who arrived before the specified date will have time to obtain their documentation from the Home Office. During this period there will also be a straightforward system for the registration and documentation of new arrivals (as well as for those who arrived after the specified date but before exit, if appropriate). A registration system that enables EU citizens to demonstrate their right to live and work in the UK is the basic requirement to be able to operate any system of immigration control.

After this implementation period, we will move to the third phase which will be our long-term arrangements covering the migration of EU citizens, designed according to economic and social needs at the time, and reflecting our future deep and special partnership with the EU.”

According to the [press release](#) accompanying the announcement, alongside the work commissioned from the MAC,

“there will be an extensive cross-government programme of engagement over the coming months with stakeholders from a number of sectors, including business, industry, trades unions and educational institutions.”

Brexit Minister visits Scotland

On 27 July, the Minister for Exiting the EU, Robin Walker began a two day tour across Scotland. According to the Department for Exiting the EU [press release](#):

“During the trip, the Minister travelled across the country, hearing from a wide range of Scottish industries, from farming and fishing to life sciences and energy.

He attended roundtables on financial services and oil and gas, and met with representatives from the Scottish Whisky Association and the Scottish Fishermen’s Federation. He also paid visits to the Easter Grangemuir Farm in Fife and ROVOP in Aberdeen.”

The Irish Border

The Irish Taoiseach, Leo Varadkar has [indicated](#) the Irish Government will not help design a border on the island of Ireland to suit Brexit. He added that the Irish Government did not want to see any sort of economic border after Brexit. According to the BBC, the Taoiseach said:

"It is the British and the Brexiteers who are leaving, so if anyone should be angry it's us quite frankly,"

"But we are not going to get angry."

"We are going to try and find solutions or at least minimise the damage to relations between Britain and Ireland, to the peace process and to trading links."

Further comments by the Taoiseach's reported in [The Times](#) newspaper (paywall) suggested that the Irish Government had begun a push to see the post-Brexit border between Ireland and the UK situated in the Irish Sea. This was denied by the Irish Foreign Minister, Simon Coveney

According to newspaper, Leo Varadkar had warned Theresa May that the UK Government's plan for the Irish border "was doomed and would jeopardise the peace process".

In response to the Irish Government's reported comments, Democratic Unionist MP Sir Jeffrey Donaldson speaking on [Radio 4's Today programme](#) called the idea of a sea border absurd and said he thought Dublin needs to be more innovative in the way it moves its market closer to the UK.

UK Trade deal with the United States

In the final week of July, the International Trade Secretary, Liam Fox visited Washington to begin discussions aimed at securing a UK free trade deal with the United States once the UK has left the EU.

The initial discussions focussed on the formation of a [US-UK Trade Working Group](#). The group which is made up of representatives from several US and UK government agencies and delegations from the UK and US, will focus on providing commercial continuity for US and UK businesses as the UK leaves the EU and exploring ways to strengthen trade and investment ties ahead of the exit. In addition:

"The Working Group will also begin to lay the groundwork for a potential, future free trade agreement once the UK has left the EU, and explore where we can collaborate to promote open markets around the world."

During his visit to the United States, Liam Fox's refusal to rule out allowing the sale of chlorine washed chickens in the UK as part of any trade deal (the Environment Secretary Michael Gove subsequently said there would be no lowering of UK food standards as a result of any US trade deal) led to [speculation](#) about what a UK-USA trade deal might look like.

In addition to concerns about chlorinated chicken, another area where it has been [suggested](#) that standards might be threatened is Scotch Whisky with the United States keen to alter the definition of whisky thereby reducing the quality of the product and potentially opening the market place up to new providers. In response to these concerns, the Scottish Government [announced](#) that Economy Secretary Keith Brown had written to the UK Government to call for protection of the Scotch whisky industry following Brexit. In his letter Keith Brown called for the current EU definition of whisky to be applied into UK Law after the UK leaves the EU. In the news release referencing the letter, Keith Brown is quoted as saying:

“Aside from being a key part of Scottish culture and identity, our whisky industry supports around 20,000 jobs.

“The US made clear in the Transatlantic Trade and Investment Partnership discussions that they would support a relaxation of the definition of whisky, which would open the market up to a number of products which do not currently meet that standard.

“Whisky is a product which is worth around £4 billion to Scotland in exports. It is vital that we continue to have robust legal protection of Scotch whisky, which is why I have sought clarification from the UK Government as to whether Scotch whisky featured in discussions during last week’s trade visit by the Secretary of State for International Trade. I am also demanding that the current EU regulations are guaranteed post-Brexit.

“After reports this week that the UK Government is contemplating trade deals that threaten the value and reputation of Scottish produce, once again we can see the confusion which is at the heart of the UK Government’s Brexit position.

“We need to be sure that any future deals work for Scotland and are not threatening the livelihoods of our farmers and producers. This is why all four UK Governments should have oversight of the negotiations to ensure, as far as possible, that the right outcomes for everyone are secured.”

In the [BBC report](#) on the story, a spokesman for the UK Government outlined the Government’s support for the whisky industry:

“Scotch is a UK export success story and we will support the industry so that it continues to thrive and prosper post-Brexit.

“The UK government has a strong relationship with the Scotch Whisky Association and is working closely with the industry as we aim to secure the best possible deal for the whole of the UK.”

The good news of Brexit

A leading leave supporting politician Daniel Hannan MEP has written an article for the New York Times in which he sets out [the good news on Brexit they are not telling you](#). Hannan's article focusses on the opportunities presented by the prospect of a free trade deal between the UK and the United States:

“Each country is the other’s biggest investor: About a million Americans work for British-owned companies, and a similar number of Britons work for American-owned companies. A liberal trade deal, based on mutual recognition of standards and qualifications, will bolster both economies.”

Hannan points out that further free trade deals are planned with China, Japan, India, and Australia and that these new trade deals should “supplement rather than replace Britain’s economic relationship with the remaining 27 European Union states”.

Hannan also argues that whilst there has been a focus on bad economic news with the blame for this attached to the decision to leave the EU, the economy is performing well:

“Unemployment fell again, as every month since the vote, to 1.49 million (from 1.67 million in June of last year); manufacturing orders are at their highest level since August 1988; retail sales, official figures show, are up 2.9 percent on this time last year.

Exports were up 10 percent year-on-year in May, helped by the long-overdue correction of the exchange rate.”

Finally, Hannan sets out his view of the European Union and what the UK's future relationship with the EU might look like:

“It’s odd. The people who are the most pro-union are generally the most convinced that the union will act in a self-harming way out of spite. I have a higher opinion of our European allies. But even if I didn’t, I’d still expect a deal. Adam Smith observed that “it is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest.” It is not from the benevolence of the European Union that we expect a free-trade agreement: Exchange makes everyone richer.

If you want a picture of Britain’s future relationship with the European Union, think of Canada’s with the United States. Canadians have a type of federation on their doorstep that they decline to join, but with which they enjoy the closest possible diplomatic, military and economic ties. Two years from now, in a similar vein, the European Union will have lost a bad tenant and gained a good neighbour.”

Iain McIver
SPICe Research

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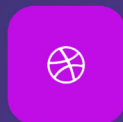
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