



Global Trade News Alert Belgium

UK releases position paper on future relationship with the EU

Introduction

The UK government released a White Paper on 12 July 2018, setting out its proposal for a 'principled and practical Brexit'. The White Paper covers the UK view on the future relationship with the EU, in particular:

1. The economic partnership
2. The security partnership
3. Cross-cutting and other cooperation
4. Institutional arrangements

The UK sees the economic and security partnerships as the core of the future relationship. According to the UK Prime Minister, in her introduction to the White Paper, the proposed approach respects both the UK's and EU's principles.

Both parties have set themselves a timeline to agree on the terms of the Withdrawal Agreement and the form of the future partnership by autumn 2018, in order to avoid the UK leaving the EU on 29 March 2019 with no transitional arrangements in place nor an agreed upon future partnership.

Economic partnership

Once the UK leaves the EU, it will not receive the benefits of the EU's Single Market nor the four freedoms (free movement of goods, services, capital and people). In the recently published White Paper, the UK government proposes establishing a free trade area for goods between the UK and

EU. This proposal much resembles the current situation for goods with zero tariffs, common rules of origin and the UK adopting the EU rulebook for goods, ensuring that product standards and other relevant requirements continue to be respected in the UK even after it has left the EU.

The UK would be able to conduct an independent trade policy by operating a separate tariff regime for goods destined for the UK market, which could be negotiated with other countries.

Regarding the trade of services and digital trade, the UK government has put forward a proposal where there is less future alignment between the two markets, and as a consequence less access under the future economic partnership.

The proposal for a UK-EU free trade area includes:

- a) The phased introduction of a new Facilitated Customs Arrangement (FCA) that would remove the need for customs checks and controls whilst enabling the UK to control tariffs for its own trade with third countries
- b) The elimination of any tariffs, quota or routine requirements between the UK and the EU
- c) A common rulebook for manufactured goods with participation of the UK in EU agencies that facilitate goods being placed on the EU market
- d) A common rulebook for agriculture, food and fisheries products
- e) Robust domestic market surveillance and cooperation between the UK and the EU

The free trade area for goods would start from a common rulebook that would be legislated and adopted by the UK Parliament. In a UK-EU treaty, the UK would commit to ongoing harmonisation with EU rules on goods *necessary* to provide frictionless trade at the border. The common rulebook would include the Union Customs Code and rules related to safety and security, and the UK *"would apply and interpret those rules consistently with the EU"*. In the event of a dispute developing between the UK and EU on the application of these rules, the UK has put forward a proposal for a state-to-state mechanism to deal with such an eventuality, stating clearly that the UK would no longer be bound by the Court of Justice of the European Union.

Considering 'just-in-time' manufacturer operating models, the common rulebook would allow for only having to undergo regulatory compliance tests in either the UK or the EU, automatically recognised by the other. The UK has proposed to continue its involvement in EU agencies including budgetary contributions (on chemical, medical, aerospace).

Under the proposed FCA, the UK would apply the EU tariffs and regulatory requirements for goods intended for the EU, whilst applying its own trade regime intended for consumption in the UK. For goods arriving at the UK border but destined for the EU market, the UK would levy the EU tariffs or provide remittance in certain cases.

- When the EU destination is demonstrated robustly by a trusted trader, the UK would levy the EU tariff
- If the EU destination is not demonstrated robustly by the trusted trader, the UK would levy the highest of tariffs and provide remittance if the UK tariff was applied and the goods ended up in the EU

The application of this scheme would require an agreement between the UK and EU on the establishment of a new trusted trader scheme.

UK-EU trade would allegedly not require any customs processes (i.e. import/export declarations, routine requirements for rules of origin). In order to preserve existing global supply chains, arrangements with current (and future) FTA partners facilitating UK-EU diagonal accumulation of origin would be sought.

As part of the measures put forward by the White Paper, the UK has said that it is seeking to be at the cutting edge of global trade facilitation at the border, proposing a range of unilateral and bilateral policies (AEO mutual recognition, acceding to the Common Transit Convention, simplifications, speeding up authorisations processes, and ensuring that existing simplifications are made easier to access).

For VAT and Excise purposes, the UK proposes the application of common cross-border processes and procedures, as well as administrative cooperation and information exchange to underpin risk-based enforcement.

The UK will leave the EU Digital Single Market, proposing a new 'digital relationship' to allow both territories to capitalise on the growth of technology globally. It would cover digital trade and e-commerce, telecommunications and digital infrastructure, digital technology, and broadcasting. The relationship would be underpinned by an agreement to secure and maintain the cross-border flow of data. The UK believes the EU's adequacy framework sets the basis for this agreement, but also proposes a transparent framework to facilitate dialogue on minimising risk to data flows and protection, and have close regulatory cooperation between UK-EU Data Protection Authorities.

What does this mean from an EU perspective?

The EU reaction thus far has been muted with Michel Barnier, the EU's chief Brexit negotiator, saying that the EU is analysing the White Paper in light of the European leaders' guidelines and will assess whether the UK positions are "workable and realistic".

The approach put forward by the UK, while unprecedented in scope, does draw on existing EU agreements with third countries, although never on such a large scale.

Contrary to goods entering its own territory, the UK does not propose that the EU applies the UK's tariffs and trade policy at its border for goods intended for the UK. Instead, the UK proposes 'a tariff revenue formula'. Implementing an asymmetric system such as this, which depends on the place

of entry for goods entering the UK-EU territory, means that new administrative burdens could possibly arise.

To ensure the feasibility of the proposed mechanism for goods, EU authorities would have to:

- Recognise customs controls carried out by UK authorities as being sufficient for goods entering the EU Single Market
- Consent with a new trusted trader scheme, next to the existing AEO and the proposed CTP schemes
- Recognise manufacturers' tests conducted in the UK and allow for UK participation in EU agencies that provide authorisations in highly regulated sectors (EU Medicines Agency, EU Aviation Safety Agency, EU Chemicals Agency)
- Agree with the UK on harmonised processes and procedures for VAT and excise purposes

The question arises as to the extent outsourcing customs, safety and security controls to a third country for goods entering the customs territory of the Union is allowed under the current Union legislation.

Other chapters

Included in the White Paper, the UK also set out its view on a Security Partnership, Cross-cutting Cooperation, and Institutional Arrangements.

Together with the proposed Economic Partnership, a new Security Partnership would form a core component of the future EU-UK relationship. Other areas considered important to include in the Framework for the Future Relationship include: data protection; exchange of classified information; cooperation on science and innovation; and fishing opportunities.

How can Deloitte help?

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2. Technology tools to help companies assess the impact of Brexit, and ensure continuing supply chain efficiency after Brexit.

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