

THE BUSINESS VIEW ON THE DRAFT WITHDRAWAL AGREEMENT AND POLITICAL DECLARATION

On 25th November 2018, the European Council signed off the Withdrawal Agreement – a 585-page text that provides an overview of the terms on which the UK will leave the EU. The text details key issues such as citizens' rights, the financial settlement and the Northern Irish border, and is accompanied by a political declaration on the future relationship. Together, they achieve two essential economic benefits: avoiding a no deal cliff edge and opening a route to a good long-term trade deal.

This would create close to the economic status-quo until 2021

For business, the provision of a transition period offers some breathing room and greater certainty. If passed, the UK will remain in something close to an 'economic status quo', with the UK's customs rules and regulations remaining the same as the EU's.

During the transition period, **the UK will be able to pursue an independent trade policy** through signing and ratifying international agreements with non-EU countries. However, such agreements will only come into force once transition ends.

The EU has also said it will support the UK as it looks to ensure existing trade deals don't fall away during the transition period. However, that decision ultimately lies with those other countries.

Businesses will not want the transition period to be a permanent state as the UK's influence over EU rules will reduce during this period. The UK will not have MEPs, Commissioners or equivalent membership of EU agencies during transition. However, there will be a Joint Committee that will allow discussions about concerns between both sides as they arise. Additionally, there is a way for UK technical expertise to be sought on issues by invitation.

There are also detailed additional provisions, that deliver greater certainty for firms. For example, the Withdrawal Agreement states that goods placed on the market in the EU or the UK before the end of the transition period may continue to freely circulate in and between these two markets.

All of this means that UK business will be able to operate under the same terms that they do now until 2021. This period of approximate economic-status quo also comes with the option of extension, should that be necessary to give time for changes or further negotiation.

UK and EU citizens would be able to enjoy the same rights as today

The Withdrawal Agreement confirms that **both EU and UK nationals who are living in the UK and EU respectively at the end of the transition period, will continue to live, work and study as they currently do now.** This is a welcome step for business as it safeguards the rights for over 3 million EU citizens in the UK, and over 1 million UK nationals in EU countries, to stay to contribute to each other's economies and societies.

EU nationals in the UK will be able to apply for 'settled status', which will confirm their ability to stay indefinitely, and to apply for British citizenship if they meet the requirements. EU nationals will be eligible for settled status if they've lived in the UK for 5 years and spent at least 6 months of each year in the UK. If an EU national has lived in the UK less than 5 years they will be eligible for 'pre-settled status', giving them a right to stay for 5 years (so they are then eligible to switch to settled status). Those with pre-settled status will have the same rights to work in the UK, access public services like the NHS and public funds such as benefits and pensions.

The new process to apply for settled status will be online and streamlined in comparison to existing system. It will cost £65 for adults (over 16) and £32.50 children. EU nationals will be required to prove their identity, either by self-scanning their identity document on an Android device or sending it in the post, and proof of residence in the UK, by providing National Insurance number or sending documents (if an individual does not have enough tax and benefit records).

The scheme is expected to open in early 2019, with a deadline to being fully opened by the date of UK withdrawal, 30 March 2019. The deadline for EU nationals to apply is 30 June 2021, 6 months after the end of the transition period.

For UK citizens in the EU, the Withdrawal Agreement protects rights in the specific

Member State of residence, not the whole of the EU. It does not include so called 'onward Free Movement rights'. However, the rights on UK nationals currently working as 'frontier workers', i.e. working across EU borders on a daily basis, will be protected.

The CBI will release a guide to help HR Directors and teams support their EU staff. For more information, contact Tom.Barrett@cbi.org.uk.

A breakthrough on Northern Ireland and the Backstop is the result of compromise on both sides

The "backstop" has been the subject of intense debate, with both sides working **to ensure a border between Northern Ireland and the Republic of Ireland is never necessary.** The backstop is a legal plan that is intended to be a temporary insurance mechanism. It will kick in only if a future trade agreement with the EU is not agreed upon in time and the transition period is not extended.

If the backstop were ever to be used, **free movement of goods across the island of Ireland will be maintained.** There would be a **single EU-UK customs territory which would avoid the need for tariffs, quotas or checks on rules of origin between the EU and the UK.** The backstop attempts to avoid both North/South and East/West friction. Such a deal gives confidence for firms operating on an all-island basis.

Furthermore, a limited number of EU laws would still apply to the movement of goods. The Union's Custom Code, which covers all formalities before a good can be released for free circulation in the EU, would still apply to Northern Ireland. This would mitigate restrictions on accessing the EU's Single Market. Northern Ireland would also apply a limited amount of EU law, including regulatory requirements for the movement of goods.

Northern Ireland would be under different regulations in many areas to the rest of the UK. In practical terms, **this could translate into more checks at ports on trade between Northern Ireland and the rest of the UK.** While checks on industrial goods could mostly take place in the market or at traders' premises, those on agricultural products and livestock must happen at ports. The magnitude of disruption this would cause would depend on the extent of the checks at ports; it may be minimal given that livestock checks are already made between the UK and NI. The EU and the UK have agreed on a set of measures to ensure that there is a level playing field between them if the backstop were to come into play, ranging from rules on state aid, competition, taxation, environment and labour.

Practically, this would have no impact on business unless the UK and EU negotiators chose not to extend transition if the talks run over the 2020 deadline.

The Political Declaration is the first step towards a future – but there's a long way to go

The Political Declaration is the high-level plan that the EU and UK have agreed the future trade talks will be based on that has been published alongside the draft Withdrawal Agreement. It is not legally binding and is only eight pages long at present.

Business welcomes the declaration's recognition of the importance of services and commitment to an ambitious, comprehensive and balanced arrangements on trade in them as well as the mention of specific service sectors, however there was no mention of broadcasting. Also welcome were the specific provisions for rail, aviation, maritime and haulage as well as a green light to begin data adequacy agreement. However, **the levels of access currently proposed will not be equivalent to the current deal for services.**

There is also **a good, but mixed, picture for goods trade.** It was welcome to see a commitment to a free trade area combining a regulatory and customs relationship as well as zero tariffs across all goods sectors, but there was no mention of a common rulebook for goods or any details on how the customs relationship would work in practice. Importantly, it committed to exploring mechanisms for the UK will be able to influence the rules it will cooperate with the EU on, specifically in the agencies of the EMA, ECHA and EASA, but did not mention other important bodies.

Issues that business will welcome but need more detail on include the mobility framework, as well as the depth of involvement in science and innovation that the UK can expect, as well as on cooperation on key energy frameworks such as the Emissions Trading Scheme and EURATOM.

However, key issues that were not included in the declaration are the dates and details for future talks. It also did not commit to putting migration on the table of the future trade talks.

The Political Declaration is a start but is not comprehensive or detailed enough yet for business to use as a basis to begin to plan for. Ultimately, firms will not have further certainty until negotiations step away from the political and turn technical.

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