



March 2017

## Brexit: The UK Formally Notifies EU of Brexit

*The UK gives formal notification of intention to leave the European Union*

Today, UK Prime Minister Theresa May sent a letter to the European Council, formally notifying it of the UK's intention to leave the EU.

The notification, made under Article 50 of the EU Treaty, triggers a two-year process of negotiation of the terms on which the UK will exit the EU. Unless there is unanimous agreement between the UK and the other 27 Member States to extend the timetable, the UK will exit the EU by 29 March 2019, with or without exit terms.

The Article 50 negotiations relate only to the terms of the UK's exit. Although these terms must take account of the framework for the UK's future relationship with the EU, this relationship may be the subject of separate negotiations, starting only after the UK exits the EU – unless Mrs May's request in her letter, to run both sets of negotiations in parallel, is met. In any event, commentators think negotiations for the new relationship could take five or more years to conclude and that the gap between exit and the start of the new relationship will likely be bridged by transitional arrangements.

*Timetable to exit*

The Article 50 process is untested, so the EU and the UK are breaking new ground. The European chief negotiator for Brexit, Michel Barnier, has called for the exit negotiations to be completed by October 2018, to give time for the agreement to be ratified by the EU and UK before the two-year deadline. Although this deadline may be extended, any extension will postpone the start of negotiations for the new EU/UK relationship and, in particular, prolong uncertainty for business, creating an incentive to adhere to a two-year timetable.

An indicative timetable is set out below.

- > **30-31 March:** The European Council's draft guidelines on the Brexit negotiations are expected to be issued to the European Commission within 48 hours of Mrs. May's notification. These will be crucial in determining the shape of negotiations. The Council will also have a draft exit agreement prepared within this timeframe.
- > **29 April 2017:** The EU will hold its first Brexit summit, which the UK will not attend, in which the European Commission will be given a mandate to negotiate the terms of Brexit.
- > **Early May 2017:** Mr Barnier will make recommendations to EU leaders on how talks should be structured to achieve the aim of completing negotiations by October 2018.
- > **Late May/early June 2017:** Negotiations are expected to begin, and may well be shaped by the outcomes of the French presidential elections and German parliamentary elections in April/May and September respectively.
- > **October 2018:** Negotiations should be completed or there should be unanimous agreement to extend the negotiation period. If an agreement is reached, a draft deal will be put to the EU. It requires the approval of at least 20 of the remaining 27 EU Member States with 65 percent of the population of the EU and must get the backing of MEPs.
- > **October 2018-March 2019:** The process of ratification by the 27 Member States and UK.
- > **29 March 2019:** UK exit.

#### *Exit talks*

In her letter, Mrs May puts forward the following key principles which she hopes will guide the exit talks between the UK and EU:

- > conductive and respectful engagement, in a spirit of sincere cooperation;
- > always putting citizens first, and thereby aiming to strike an early agreement about citizenship rights;
- > working towards securing a comprehensive agreement;
- > working together to minimise disruption and provide as much certainty as possible;
- > paying due attention to the UK's unique relationship with the Republic of Ireland and the importance of the peace process in Northern Ireland;
- > beginning technical talks on detailed policy areas as soon as possible, whilst prioritising the biggest challenges; and
- > continuing to work together to advance and protect the shared European values.

#### *UK preparations for exit*

Mrs May also outlines in her letter the process in the UK, which will be directed at ensuring continuity and certainty for UK citizens and anybody doing business in the UK. The UK government will issue a White Paper on 30 March 2017, for the purpose of consulting on new legislation that will both repeal the European Communities Act 1972, which gave effect to EU law in the UK, and, wherever practical, convert the body of existing EU law into UK law. There will be additional legislation to address specific issues relating to Brexit. Mrs May stresses that this legislation will not come into effect until Brexit and that in the meantime, the UK will continue to fulfill its responsibilities as a member of the EU.

#### *Future EU relationship*

The general view of commentators has been that negotiations relating to the new EU/UK relationship will not start until after the UK exits the EU. Mrs May addresses this in her letter, by saying that, to achieve a "deep and special partnership that takes into account both economic and security co-operation", the UK believes that it is necessary to

agree the terms of the new EU/UK relationship with those of the UK's withdrawal from the EU. She refers in particular to the risk that a failure to do so would weaken cooperation between the EU and UK in the fight against crime and terrorism.

Mrs May's twelve objectives for the new relationship are set out in an earlier White Paper, published in February 2017. Of particular relevance to firms trading in the UK and EU are the following objectives:

- > to enter into a free trade agreement with the EU that will provide access to, but not membership of, the EU Single Market, but that may include elements of existing Single Market arrangements;
- > to include a customs agreement in the post-Brexit arrangements that avoids the UK being part of the EU Common Commercial Policy and EU Common Customs Tariff but allows tariff-free and "frictionless" cross-border trade;
- > to enter into its own trade deals with non-EU countries and establish its own tariff schedules at the WTO;
- > to enhance existing EU-derived workers' rights;
- > to reach an agreement with the EU on the post-Brexit EU/UK partnership at the end of the two-year Article 50 Brexit negotiation period; and
- > to have a smooth, orderly Brexit, involving transitional arrangements over a limited time and a phased process of implementation of the new arrangements.

#### *Trade deals with non-EU countries*

Until the UK leaves the EU, it may not negotiate any bi-lateral trade agreements with non-EU Member States – this is the preserve of the European Commission. There can, however, still be some general discussion around trade, and this may shorten the normal duration of negotiations for trade deals, which for agreements between the EU and non-EU countries take approximately nine years, on average.

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