



Brexit Tracker

December 2017

The deal on phase one of negotiations is a very significant and important breakthrough. In the New Year talks will begin on a transition deal and, after that, the future relationship. However, UK hopes for a final deal by March 2019 are unrealistic. We should have a high-level approach and a framework by then, but not the detail. Uncertainty is here to stay.

UK commitments on Ireland, the border and the all island economy are very positive and far-reaching. The agreement of all sides to the continuation of the Irish-UK Common Travel Area is a major achievement that will benefit businesses and workers. Other areas are not so clear cut. It is difficult, if not impossible, to square the UK commitment to avoiding a hard border on the island of Ireland, with leaving the Customs Union and Single Market, while also ensuring Northern Ireland does not diverge from Britain. Yet that is the clear commitment that the UK has provided, including accepting a default to “regulatory alignment” with the EU if no solution is agreed.

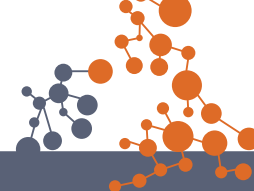
What does this mean for business? The progress to phase two certainly reduces the possibility of “no-deal”. While references to “regulatory alignment” perhaps point to a future EU-UK deal on the softer end of the spectrum, even if all the current talk is of a Canada-style free trade agreement. However, the contradictions in the UK’s political objectives and the commitment to no hard border call into question the capacity of a minority UK government to actually deliver. Breaking established commitments would likely collapse trade talks, while eroding UK “red lines” on the Customs Union, Single Market and ECJ jurisdiction risks further destabilising Theresa May’s government. Politicians will have to find a way through. The fact that Irish issues will remain a distinct strand of talks into the second phase is a major achievement and will keep minds focused.

An early agreement on a much-needed transition phase could provide the UK with the time and political space it needs to reconcile its stated negotiating objectives, phase one commitments, and what is actually realistically achievable.

| Area | Issue | Update |
|---------------------------------|--|--|
| The financial settlement | The UK is expected to settle outstanding financial commitments it has made to the EU on departure. | UK agree to pay: The EU and UK have reached a deal. The final figure is not yet confirmed, but the methodology to arrive at it has. Estimates on the final cost range from €40 to €60 billion. Some in the UK government say payment is contingent on a trade deal, but the EU views it as an obligation that must be discharged regardless. The UK has expressed an interest in continuing in some EU programmes as a non-member post 2020. |
| Citizens’ rights | The legal rights of EU citizens in the UK and UK citizens in the EU post-Brexit need to be agreed. | Rights will be protected: A general agreement has been reached that ensures EU citizens in the UK, and UK citizens living in the EU, retain their rights to live, work and study after Brexit, along with associated benefits. The right to reunify families and the rights of children yet to be born are also protected, although some details still need to be negotiated. The EU expects free movement, and the acquisition of associated rights, to continue during any transition period. |

● No progress ● Limited progress ● Good progress

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| Area | Issue | Update | |
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| 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 UK departure. It 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. | |
| 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? | Can the UK deliver? The UK has 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 itself 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 to avoid a hard border. With no easy solutions to the problem, this fallback commitment could prove to be a major constraint on the ambitions of hard Brexiteers. A unilateral commitment to avoiding east-west divergence between Northern Ireland and Britain only serves to further bind the hands of UK negotiators. All of this is good news for Irish businesses wanting to avoid a disruptive divorce, but the UK government must deliver on these commitments. | |
| Transition period | Business will need a transition period to prepare and adjust to a new EU-UK relationship. | The next hurdle: Both the EU and UK acknowledge the need for a transition period. The UK has accepted that this period must essentially mirror existing EU membership arrangements, with all the associated obligations. The UK wants to get transition signed off early in 2018 to allay business fears. While the EU also want a transition deal, the conditions of such a deal may require further UK concessions. | |
| Regulatory divergence | Regulatory divergence could become a significant barrier to EU-UK trade post-Brexit. | Ireland deal and UK business needs at play: Negotiations have not yet begun. The UK however plans to put EU regulations into UK law as a starting point; so any change is likely to be incremental. UK business is increasingly vocal on the need to stay fully aligned to EU regulatory standards to facilitate market access. UK commitments on the Irish border (<i>see above</i>) which reference potential regulatory alignment post-Brexit may significantly limit UK options. | |
| Tariffs and customs | Will Brexit lead to new tariff and customs barriers? | Talks yet to begin: Tariff free trade is in the interests of both parties and remains the most likely outcome, but plenty of scope for disagreement remains. Even with no tariffs, a UK outside the Customs Union and Single Market would necessitate customs and regulatory checks between jurisdictions. UK commitments to avoid a hard border on the island of Ireland may limit UK options and are likely to have a bearing on the final outcome. | |
| 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. | |

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If you have any comments or questions please get in touch:

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