

BREXIT BRIEF

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Introduction

The Brief seeks to provide up-to-date information on the progress and content of the UK-EU negotiations, and bring together relevant statements and policy positions from key players in Ireland, the UK and the EU.

The Brief is part of a wider communications programme covering the work of the IIEA's UK Project Group – including commentaries, speeches, texts and event reports – which are highlighted on the Institute's website. (www.iiea.com)

Section One: State of Play

European Council Video Summit, 19 June 2020

On 20 June 2020 a video conference took place at the level of the European Council.

The main topic of discussion was the Multiannual Financial Framework (MFF) and the Recovery Fund. It was the first occasion to discuss at the level of the leaders the proposals put on the table by the Commission. It was an occasion to consult the Member States and to find clarity on the interpretation of the proposals. President Charles Michel indicated that the discussion laid the foundation for real negotiations with the Member States, starting with a physical summit around the middle of July in Brussels.

Following the conference President Michel told a press conference that the leaders had been given a briefing on the High Level Meeting with Prime Minister Boris Johnson, about Brexit.

As you know, during this meeting, we repeated the mandate that we have decided at the European level. We repeated that we are committed in order to reach an agreement, but not at any cost. We consider, for example, the questions like the level playing field, like governance, like the protocol regarding Ireland and Northern Ireland are very essential topics in our opinion. And we took note that for the United Kingdom, they don't have the intention to ask for an extension of the transition period.

It means that we need to intensify the negotiations. We trust Michel Barnier and we will have the occasion to come back at the level of the European Council later on this important topic.

Programme for Government

The Programme for Government, agreed on 16 June 2020 by Fianna Fáil, Fine Gael and the Green Party, contains the following section on Brexit:

The UK has left the EU and the transition period maintaining the status quo will end by default on 31 December. Brexit presents the possibility of an additional economic shock at the end of this year. The implementation of the Protocol on Ireland and Northern Ireland is a key priority. We will engage closely with the EU-UK Joint Committee and the Specialised Committee, to ensure the bedding down of the new arrangements.

We will work to ensure that Ireland keeps its position at the centre of negotiations by: maintaining constant and high-level contact with the EU Taskforce; maintaining EU solidarity through regular engagement with Member States on Brexit and major issues of concern for Ireland, while taking stock of other EU Members' concerns; maintaining the good working relationship with the British Government; maintaining and developing the political consensus on Brexit in the Dáil and the Seanad; supporting the closest possible relationship between the EU and the UK in the strategic interests of Ireland, north and south, and British-Irish relations. We will defend the interests of Irish

agriculture, fisheries, export businesses and the wider economy.

[...]

The Government will work to ensure that Ireland is Brexit ready for all possible outcomes. In the absence of a trade deal, Brexit may be a significant further strain on businesses already struggling with the challenges brought by COVID-19. We will work with all sectors, to ensure they are prepared for all possible outcomes. The Government will prioritise supports for vulnerable sectors, in the context of no trade deal; continue to ensure that systems at Dublin and Rosslare Ports and at Dublin Airport are Brexit-ready and adapted to take account of COVID-19; work to ensure that the essential UK landbridge remains a viable and efficient route to market for Irish goods; and, constantly engage with stakeholders.

In the Chapter 'At the Heart of Europe and Global Citizenship' the parties state:

We are committed to an Ireland that is at the heart of the European home we helped to build. During the lifetime of this Government we will mark 50 years of Irish membership of the EU. Membership of the EU has been transformative for Ireland and its people, and we are committed to the EU, believing that Ireland's interests are best served by active and engaged membership.

High Level Meeting 15 June 2020

On 15 June 2020, a High Level Meeting was held by video link between Prime Minister Boris Johnson and the Presidents of the

European Council (Charles Michel), European Commission (Ursula von der Leyen) and European Parliament (David Sassoli) to take stock of progress with the aim of agreeing actions to move forward in negotiations on the future relationship.

Following the meeting, a statement was released outlining the acceptance from the EU of the UK's determination not to request any extension to the transition period, and formally announcing that the transition period will end on 31 December 2020, in line with the provisions of the Withdrawal Agreement.

The EU and UK leaders welcomed the constructive nature of the discussions on the future relationship thus far, which they said had facilitated both sides in clarifying and better understanding each other's positions. They noted that four rounds had been completed and texts exchanged despite the challenges presented by the COVID-19 pandemic. The Parties agreed that new momentum was required going forward. The statement said that they "supported the plans agreed by the Chief Negotiators to intensify the talks in July with a view to concluding and ratifying a deal before the end of 2020." The statement concluded:

The Parties underlined their intention to work hard to deliver a relationship, which would work in the interests of the citizens of the Union and of the United Kingdom. They also confirmed their commitment to the full and timely implementation of the Withdrawal Agreement.

Following the meeting, the President of the European Council, Charles Michel, tweeted:

I just debriefed Ireland's Taoiseach Leo Varadkar on the EU-UK High Level

Conference with Boris Johnson. European Council members will never accept an agreement that goes against interests of the Union. I will inform EU 27 leaders during the next European Council on June 19.

EU-UK Agreement on Intensification of Negotiations

With the formal rejection of an extension of the transition period the EU and UK have reached an agreement on intensification of negotiations with a view to reaching a deal before the end of 2020. Negotiating Rounds will take place in July, August and, if necessary, into September. The Chief Negotiators from both sides and their backup teams will stand by to meet in a more restricted format to deal with specific, more difficult, issues and ensure momentum. Subject to any constraints required by relevant national health provisions, the various meetings will be held physically, in Brussels and London, though a combination of physical and videoconference meetings could be foreseen as circumstances dictate.

An initial calendar has been agreed, for July and August, subject to modification, and to possible extension into September, as necessary:

- Restricted Round: a meeting of the Chief Negotiators and specialised sessions; week of 29 June to 3 July (Brussels);
- Meetings of the Chief Negotiators with their teams and specialised sessions; week of 6 July (London);
- Meetings of the Chief Negotiators with their teams and specialised sessions; week of 13 July (Brussels);

- Round 5: week of 20 July (London);
- Meetings of the Chief Negotiators with their teams and specialised sessions; week of 27 July (London);
- Round 6: week of 17 August (Brussels).

Michel Barnier addresses EESC Plenary, 10 June 2020

The EU Chief Negotiator, Michel Barnier, spoke to the plenary session of the European Economic and Social Committee on 10 June 2020. Dealing with the outcome of the first four Rounds of EU-UK negotiations he made a number of key points:

We cannot accept the UK's attempts to cherry-pick parts of our Single Market benefits. During its 47 years of membership, the UK built up a strong position in the EU market in a number of strategic areas: financial services, business and legal services, and also as a regulation and certification hub and a major entry point in the EU Single Market. In great part, this was made possible by the fact that the UK was an EU Member State, within the Single Market. As it prepares to leave the Single Market and the Customs Union, we must ask ourselves whether it is really in the EU interest for the UK to retain such a prominent position.

Do we really want to consolidate the UK's position as a certification hub for the EU, knowing that it already controls some 15%-20% of the EU certification market? Do we really want to take a risk with rules of origin that would allow the UK to become a manufacturing hub for the

EU, by allowing it to assemble materials and goods sourced all over the world, and export them to the Single Market as British goods: tariff- and quota-free? Do we really want the UK to remain a centre for commercial litigation for the EU, when we could attract these services here?

Michel Barnier insisted that the EU position has been well known by all parties as it was set out in the 2017 European Council guidelines. The negotiation mandate has been carefully elaborated on the basis of protecting EU interests and achievements, in particular the Single Market. His negotiators have sought to limit the economic damage inflicted on EU businesses and consumers by Brexit. And, he argued, the mandate is sufficiently flexible to find compromises with the UK. He concluded:

During the past negotiation rounds, the UK must have taken note of the EU's willingness to search for compromises. What we now need to make progress are clear and concrete signals that the UK, too, is open to work on an agreement. There is no need to change or adjust the EU mandate. We can find the necessary compromises, on the condition that the UK changes its approach and accepts a proper balance of rights, benefits, obligations and legally binding constraints, based on the respect of the agreed Political Declaration of last October. That declaration is the only valid starting point for the negotiations.

Joint Committee on Implementation of Withdrawal Agreement

The second meeting of the Joint Committee on the Implementation and Application of

the Withdrawal Agreement took place, on a virtual basis, on 12 June 2020. The EU team was led by Commission Vice President, Maroš Šefčovič and the UK team by the Chancellor of the Duchy of Lancaster and Cabinet Office Minister, Michael Gove.

Following the meeting, Vice President Šefčovič issued a detailed Press Statement:

I have to underline that the meeting took place in a very good atmosphere and I am glad that at the end of our discussion we also arrived at some positive results, which I believe would pave the way forward for the proper implementation of the Withdrawal Agreement.

The full and timely implementation of the Withdrawal Agreement is an essential basis for building confidence and mutual trust between the EU and the UK. As Michel Barnier has repeatedly underlined, that is why the negotiations on our future relationship are also contingent on the faithful implementation of the Withdrawal Agreement – as set out in the EU's negotiation mandate.

However, with some six months to go before the end of the transition period, we still have lots of work to do. This is true for all work-streams, but in particular with regard to the Protocol on Ireland/Northern Ireland. The window of opportunity to put in place the operational measures needed to ensure that the Protocol can function as intended on 1 January 2021 is rapidly closing.

Vice President Šefčovič welcomed the UK Government Paper setting out its approach to meeting its obligations under the Protocol. This was as an important step, reflecting the commitment of the UK authorities, but the paper did not provide sufficient operational details. It was necessary to move from aspiration to operation – and fast.

As of 1 January 2021, the UK will have to meet all the requirements of the Protocol, rigorously and effectively. That includes putting in place all the necessary checks and controls for goods entering Northern Ireland from Great Britain. That includes applying EU rules on customs and sanitary and phytosanitary protection. And that also includes – according to Article 12 of the Protocol – enabling the EU to effectively exercise its right to be present during any activities of the UK authorities related to, amongst other things, the implementation and application of the customs provisions of the Protocol. The UK should facilitate such a presence and provide EU representatives with the information requested.

Vice President Šefčovič concluded that only a sound and effective implementation of all these legal obligations can “ensure continued peace and stability between all communities on the island of Ireland; uphold the Good Friday (Belfast) Agreement in all its dimensions; while also preserving the EU Single Market.”

Vice President Šefčovič then stated that:

Michael Gove confirmed to me that the UK will not consider an extension of the transition period. From our side, I have

taken note of the position of the UK on this issue and have stated – as President von der Leyen has already done – that the EU remains open to such an extension. In this context, with Chancellor Gove we both agreed on accelerating the implementation of the Withdrawal Agreement and to accelerate our work. We also agreed that the Joint Committee should meet again in early September. We also concluded that the Specialised Committees, including the one on the Protocol on Ireland and Northern Ireland, will meet in the coming weeks.

On the evening of 12 June 2020, Michael Gove tweeted: “I just chaired a constructive EU Joint Committee with Maroš Šefčovič. I formally confirmed the UK will not extend the transition period and the moment for extension has now passed. On 1 January 2021 we will take back control and regain our political and economic independence.”

Statement on Fourth Round of EU-UK Negotiations, House of Commons, 9 June 2020.

On 9 June 2020, the Paymaster General, Penny Mordaunt, Michael Gove’s Junior Minister, made a Statement in the House of Commons on the Fourth Round of EU-UK negotiations:

Negotiators from the UK and the EU held full and constructive discussions last week via video conference led by David Frost, the UK’s chief negotiator. The talks covered trade in goods and services, fisheries, law enforcement, criminal justice and other issues, in which both sides engaged constructively. There was, however, no movement on the most difficult areas where differences of principle are at their most acute, notably

fisheries, governance arrangements and the so-called level playing field.

We have now reached an important moment for these talks. To make progress, we need to accelerate and intensify our work, and the Government are working closely with the EU to achieve that. It is our priority to conclude this negotiation in good time to enable our citizens and businesses to have certainty about the trading terms that will follow at the end of this year and, if necessary, to allow any ratification of agreements reached. We have always been clear that such a deal must of course accommodate the reality of the UK’s well-established position on the so-called level playing field, on fisheries and on the other difficult issues, and fully recognise the UK as a sovereign equal.

We will be able to update the committee about the positive progress the UK is making on implementing our obligations, not least on citizens’ rights and the Northern Ireland protocol, but we will also emphasise that we will not be extending the transition period, and will push the EU on implementing its obligations under the terms of the agreement. The Government remain committed to our negotiations with the EU and the implementation of the Withdrawal Agreement and will continue to keep the House updated on developments.

Phasing-in of Border Checks

The UK Government has indicated that full border controls on goods entering the country will not apply until July 2021. It has been stated that a “pragmatic and flexible approach” is needed due to the implications of the coronavirus crisis and to help businesses to adjust to

the changes that were inevitable following Brexit. A temporary light-touch regime will be introduced at ports such as Dover for incoming EU goods. The EU Commission, on the other hand, has made it clear that full customs and regulatory checks will be enforced immediately after Brexit "to fully protect the integrity of the single market and customs union as well as its financial interest."

Section Two: The Evolving Debate

Government Statement on Brexit to Dáil Éireann, 11 June 2020.

On 11 June 2020, Minister of State Helen McEntee made a Statement to Dáil Éireann on Brexit developments:

It is no secret that progress in the future partnership negotiations has been disappointing. The fourth round, which finished last Friday, did not yield any significant progress. The EU's approach to the talks is based on our published mandate and that mandate is underpinned by the political declaration agreed by the EU and the UK last October. The political declaration sets out the shared ambitions of the UK and the EU for a comprehensive future partnership agreement [...] It is disappointing to see that the UK distanced itself from the declaration in areas such as fisheries and on level playing-field commitments on state aid, competition, social and employment standards, environment, climate change and relevant tax matters. Furthermore, the UK is unwilling even to discuss areas set out in the political declaration like foreign policy or development co-operation.

The UK is saying that it is only seeking what the EU has given to other partners and therefore cannot accept the EU's approach on issues like level playing field, governance and fisheries. However, taken together, the UK's asks go considerably beyond precedent. In a number of areas, they amount to maintaining some of the rights of the Single Market but without the obligations membership brings. It is in the interests of both sides that our future partnership is comprehensive with strong commitments to prevent distortions of trade and unfair competitive advantages.

The Minister turned to the specific question of the Northern Ireland Protocol, ensuring that there will be no hard border on the island, that the gains of the Good Friday Agreement will be protected and the integrity of the Single Market and Ireland's place in it safeguarded. The Joint Committee and the Specialised Committees under the Withdrawal Agreement had met on one occasion each and the Joint Committee was scheduled to meet again on 12 June.

She made reference to the publication, on 20 May, of the UK approach to implementing the protocol:

The paper has some positive elements to it and I welcome the clear recognition of the need for checks on agri-foods entering Northern Ireland and for the new border control post infrastructure. However, the paper is vague on other issues such as customs, tariffs and VAT. What we need now is for the UK to provide the technical detail necessary to make the protocol fully operational by the end of the transition period at the end of the year. Progress on implementation will provide certainty not just to citizens but also to business.

It is now time to take stock of the overall negotiations. It is very clear from recent contacts with my EU counterparts that the EU remains united in our support for the Chief Negotiator, Michel Barnier. I believe that the two sides can reach an agreement, however it is still important for us to prepare for the changes that January will inevitably bring.

European Parliament Resolution. 18 June 2020

On 18 June 2020 the European Parliament adopted – by 572 votes to 34, with 91 abstentions – a report on the EU-UK Negotiations. The report regrets that, after four rounds of talks, substantial differences between the parties still remain, with little time left to reach agreement on the future EU-UK relationship, and acknowledges the negotiating parties' call to intensify talks in July.

The report argues that a comprehensive agreement is in the interest of both parties. Having the UK side cherry-picking certain policies while pushing for access to the Single Market after Brexit is "unacceptable" for the EU. The report also reiterates full and unwavering support for the EU Chief Negotiator Michel Barnier in his talks with the British negotiators, based on the political mandate given to him by EU Member States and Parliament. It calls on the UK to respect the commitments in the Political Declaration, ratified by both the EU and the UK.

The report emphasises that strict implementation of the Protocol on Ireland and Northern Ireland and the faithful implementation of the Withdrawal Agreement remain preconditions to ensure the trust needed to conclude a deal on the future relationship.

The Parliament, in this report, insists that consent to any future trade agreement with the UK is conditional on the UK Government agreeing to a level playing field in the area of, among others, environmental protection, labour standards, and State aid, and on the conclusion of a satisfactory agreement on fisheries. This is necessary due to the UK's geographical proximity, its longstanding interconnectedness and the high level of existing alignment and interdependence with EU rules.

Following the Parliament vote, David McAllister MEP, Chair of the Parliament Committee on Foreign Affairs and the UK Coordination Group (UKCG), commented that "With its timely resolution adopted today, the European Parliament is expressing its readiness to conclude an ambitious and fair agreement, without compromising our principles and our objectives".

President Macron in London, 18 June 2020

Prime Minister Boris Johnson welcomed President Emmanuel Macron in London on 18 June 2020 on the occasion of the 80th anniversary of General de Gaulle's historic 'Appel' to French men and women. A press release from 10 Downing Street stated that "On UK-EU negotiations, the Prime Minister welcomed the agreement to intensify talks in July and underlined that the UK does not believe it makes sense for there to be prolonged negotiations into the autumn."

Alternative to Erasmus?

The British government is working on developing a global student exchange programme as an alternative to the established EU Erasmus+ scheme. The Universities Minister, Michelle Donelan, said that it was

'prudent' to prepare such an alternative. The intention was to devise a scheme which would give the UK 'an opportunity to be more international' by extending its scope beyond universities in Europe. It has been argued that remaining within the EU programme does not fit with the 'Global Britain' concept.

Section Three: Background Material and Further Reading

Background Material

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