

Brexit: The UK's White Paper – What Does it Mean?

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On 12 July 2018 the UK government published a white paper outlining its vision for the UK's future relationship with the European Union (EU) after the UK's exit from the EU on 29 March 2019. The white paper is predicated on the UK's exit from the Single Market and the Customs Union and outlines the government's desire to establish a new "deep and comprehensive" economic partnership with the EU, as well as establishing an independent trade policy in its dealings with other partners.

The 98-page white paper sets out in more detail the government's vision for how that partnership will be structured and how it will operate. In summary, it covers the following principal areas of cooperation:

- an economic partnership based on free trade in goods (including agri-foods) between the UK and EU – this will protect and support existing supply chain relationships and cross-border businesses by implementing steps that deliver 'frictionless' borders through the preservation of common rules, standards, approvals and authorisations;
- security cooperation that enables continued coordination on important foreign policy, defence and development issues, and the maintenance of existing operational capabilities, as well as ensuring continued UK participation in key law enforcement agencies;
- continued and future socio-economic cooperation in sectors such as transport (air, road, maritime, and rail), energy, and nuclear, for which cross-border activities and integration are crucial;
- the creation of a joint institutional framework, including a governing body and joint committees, that will enforce the agreement and govern disputes arising from the relationship between the parties.

For individuals, the white paper proposes an end to freedom of movement, but offers the prospect of mobility agreements that will enable visa-free travel for tourism and temporary business activity. The

UK will also focus on arrangements for intra-corporate transfers of staff, as well as facilitating the temporary mobility of scientists, researchers, and investors.

A theme repeated throughout the white paper is the importance of retaining the UK's flexibility to be innovative in regulating key strategic services markets. The UK government is, however, committed to minimising barriers to cross-border provision of services and proposes a system for the mutual recognition of professional qualifications.

For the financial services markets that benefit from passporting arrangements within the Single Market, it is acknowledged that current levels of access will not be maintained post-Brexit. The degree of interconnectedness between the UK and EU markets, and the importance of those markets to financial stability, mean that a bespoke arrangement is required to maintain the current economic benefits of cross-border service provision, whilst enabling both the UK and the EU to legislate in their own interests. The white paper suggests a bilateral framework of treaty-based commitments that ensure transparency and stability through techniques such as regulatory dialogue, promote supervisory cooperation, and preserve autonomy of decision making. This should include reciprocal recognition of equivalence under all existing third country regimes.

Although the UK will no longer be part of the EU's Digital Single Market, the proposals envisage an ambitious policy on digital trade with the EU and globally, related to industries including e-commerce, telecommunications, digital infrastructure, technology, and broadcasting. The white paper envisages arrangements that ensure the continued free flow of personal data between the UK and EU so as not to impede the cross-border data flows that underpin the digital economy.

The white paper confirms the UK government's commitment to maintaining open and fair markets, and it suggests that the UK regulatory authorities would continue to enforce UK competition law whilst cooperating with EU authorities, as well as continuing to control anti-competitive subsidies through the creation of a UK-centric state aid regime. Similarly, there is a commitment to maintain the current high standards relating to environmental regulation, climate change, consumer protection, and social and employment protections.

The white paper also proposes cooperative accords in other areas where the UK and EU have shared objectives and interests, such as in science and innovation, culture and education, overseas development, defence research, and capability development and space.

The white paper clearly states that the UK will no longer be subject to the EU courts post-Brexit. Where, however, we maintain a common rulebook, then UK courts would have regard to EU decisions (and vice versa) to ensure consistency of interpretation.

These proposals represent an 'offer' to the EU and will be the subject of negotiation between the UK and EU's Brexit teams in the coming months. They will also be subject to considerable domestic scrutiny from across the political spectrum. Undoubtedly, individual member states will also have their own opinions on the proposals that may impact the EU's negotiating stance.

This is an important milestone in the process of establishing the framework for how the UK, and its businesses and individuals, will interact with the EU (and vice versa) post-Brexit. For businesses seeking to manage the risks associated with this process, the white paper does not offer any greater degree of certainty, but it does contribute to our understanding of the current direction of travel from the UK government's perspective. With only eight months to go until the exit deadline, and with the UK and EU's stated aim of concluding the negotiations for the withdrawal agreement and this future

framework by October 2018, there remains a substantial amount to be discussed within a tight timeframe. Those arrangements will then be subject to review and approval by both the UK and EU Parliaments in advance of 29 March 2019.

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