



## THE UK'S NEGOTIATING OBJECTIVES FOR EXITING THE EU

The UK Prime Minister, Theresa May, gave a long-awaited speech setting out 12 objectives for the UK's upcoming negotiation to leave the European Union. With her 31 March deadline for triggering Article 50 approaching, have we learned anything new?

Everything that she said in her speech, which we now know stands in the place of any UK government white paper on the subject, can be inferred from previous statements. She explicitly said that the UK would seek to negotiate a "comprehensive, bold and ambitious" Free Trade Agreement with the EU, and that the UK would not seek to remain a party to the EU's Customs Union. She has not said that before, so to that extent we have greater clarity than before, but there was no further detail on the substance of what the UK wants to achieve.

On Customs Union, Theresa May said that she does not want Britain to be part of the EU Common Commercial Policy or to be bound by the Common External Tariff. This has been one of the most difficult issues for the government. On the one hand, keeping access to the EU Customs Union would mean zero tariffs and no customs controls between the UK and the EU. That would be a clear benefit given the flow of trade and the inter-connectedness of supply chains between the UK and the EU. On the other hand, it would severely restrict the UK's ability to negotiate trade agreements with other countries and the UK would simply have to apply the EU's Common External Tariff.

It is clear from Theresa May's speech that she has decided that giving up control of

one of the central elements of trade policy is too high a price to pay for tariff and customs control-free access to the EU market. She said that the UK could enter into a completely new customs agreement, become an associate member of the EU Customs Union in some way, or remain a signatory to some elements of it. That last option seems problematic, as under Article 24 of the General Agreement on Tariffs and Trade (GATT) a Customs Union has to eliminate "substantially all" duties and other restrictive regulations.

On EU market access, Theresa May said the UK will not seek to remain a part of the single market. The closest example to that model is Norway, which is a member of the European Economic Area and European Free Trade Area (EEA/EFTA). She said that the UK would seek to agree a comprehensive and ambitious FTA allowing the "freest possible trade in goods and services." There was no detail as to what that might entail except that the FTA "may take in elements of current single market arrangements in certain areas – on the export of cars and lorries for example, or the freedom to provide financial services across national borders."

On immigration and the rights of EU nationals in Britain and vice versa, Theresa May said that the UK will have control of the number of people coming to Britain from the EU. This was a critical

objective of the government. She fell short of unilaterally guaranteeing the status of non-UK nationals already living and working in the UK, stating instead that she hoped that a reciprocal deal would be possible.

On timing and process, Theresa May said that she wants "an agreement about [the UK's] future partnership by the time the two-year Article 20 process has concluded." This is at odds with the EU's position, which is that the Withdrawal Agreement negotiation should be concluded before substantive negotiations on the future agreement take place. That point will be subject to negotiation, but regardless of whether the process is sequential or done in parallel, agreement of a comprehensive FTA in two years would be a very much at the shorter end of the possible time scale. The North American Free Trade Agreement (NAFTA) took about two years to negotiate, but it had fewer parties and was less complex than an UK-EU agreement would likely be. A better comparison is the negotiation of the EU-Canada Comprehensive Economic and Trade Agreement (CETA) agreement, which took seven years. It is difficult to say how long the UK-EU negotiation will ultimately take, but two years is an extremely ambitious time frame.

In relation to transition and implementation of the new agreement,

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Theresa May said that she would envisage a “phased process of implementation” with different phases for different sectors possibly taking different amounts of time. This is broadly in line with how EU accession agreements come into force. She added that the UK parliament would have a vote on any new deal before it came into force.

Finally, Theresa May said “no deal for Britain is better than a bad deal.”

The speech is final confirmation that the UK government has rejected the EEA/ EFTA option, the highly integrated bilateral Swiss model and the Turkish option of being a party to the EU's Customs Union. It has left open the possibility of trading with the EU on

World Trade Organisation Terms and will embark on a process to strike a deal which has its closest analogue in the EU-Canada trade agreement.

Whilst Theresa May said that the UK will seek to achieve the highest possible level of market access within the framework of an FTA, in order for the UK to achieve access comparable to what it has as a member of the EU, it would have to strike a deal that is more ambitious, novel and comprehensive than any FTA that has been agreed to date.

It is now up to businesses to identify what this process and endgame could mean for their business and begin making preparations for the consequences.

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