



BREXIT: THE UK GIVES ITS ARTICLE 50 WITHDRAWAL NOTICE

The die is cast. The Rubicon has been crossed. Whatever your favoured expression, whether drawing on the Roman origins of the EU or otherwise, the delivery by the UK on 29 March 2017 of notice under article 50 of the Treaty on European Union means that the UK will in all probability leave the EU on the earlier of entry into force of a withdrawal agreement between the UK and the EU or, failing that, on 29 March 2019.

The nine months since the UK's Brexit referendum of 23 June 2016 has seen much activity, including a decision by the Supreme Court that Parliamentary authority was required before the Government could officially inform the EU of the UK's intention to leave the EU, followed by Parliament's conferral of that authority in the European Union (Notification of Withdrawal) Act 2017. On 29 March 2017, the Government used the power bestowed upon it to give formal notice to the European Council under article 50 of the TEU of the UK's decision to withdraw from the EU.

The UK's article 50 notice starts the legal process that will, barring unforeseen developments, bring an end to the UK's membership of the EU some 46 years after the UK joined and some 58 years after the UK first applied for membership. More particularly, the notice starts the clock on a two year countdown. Within that two years, the EU and the UK must negotiate a withdrawal agreement. The UK will leave the EU when that agreement comes into force or, failing that, on 29 March 2019 (though the two year period can be extended if the UK and all EU member states agree to do so). Alongside negotiations on the withdrawal agreement, the UK is also seeking to agree the future trade and other relations between the UK and the EU before departure or, if (as many consider to be likely) that is not possible, to secure appropriate transitional arrangements.

We outlined some of the issues that the UK and the EU must address in the negotiations in our short briefing entitled *Brexit: Legislation passed allowing the UK to give notice under article 50*. The six page letter from the UK Prime Minister to the President of the European Council, Donald Tusk, dated 29 March 2017 sheds a bit more light on the UK's intentions, stressing that:

- The UK wants a "deep and special partnership" (a phrase used no less than seven times in the letter) with the EU "as your closest friend and neighbour".
- The Prime Minister proposes a "bold and ambitious Free Trade Agreement between the United Kingdom and the European Union. This should be of greater scope and ambition than any such agreement before it so that it covers sectors crucial to our linked economies, such as financial services and network industries." She recognises that it will be a challenge to reach agreement within two years but says that she is sure that it can be done.

KEY ISSUES

- The UK has commenced the formal process to leave the EU
- As a working assumption, late March 2019 looks the likely time for the UK's departure from the EU
- The UK wants a "deep and special partnership" with the EU
- There should be a bold and ambitious free trade agreement

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- The letter emphasises the need for "economic and security cooperation" between the UK and the EU, expressly linking the two and repeatedly referring to the security threats faced by Europe. The Prime Minister observes that if no agreement is reached, the EU and UK would trade on WTO terms, adding in the next sentence that "in security terms a failure to reach agreement would mean that our cooperation in the fight against crime and terrorism would be weakened."
- The Prime Minister calls for negotiations on withdrawal and on the future relationship between the EU and the UK to take place in parallel, a point she makes three times.
- The departure process should be "fair and orderly... with as little disruption as possible on each side". She adds that both the EU and the UK would "benefit from implementation periods to adjust in a smooth and orderly way to the new arrangements", ie there should be transitional arrangements.
- The letter says that the EU and the UK "should aim to strike an early agreement" on the rights of EU citizens currently living in the UK and of UK citizens living in the EU.
- With regard to the UK's bill for leaving the EU, the Prime Minister says that the UK and the EU "will need to discuss how we determine a fair settlement of the UK's rights and obligations... in accordance with the law and in the spirit of the United Kingdom's continuing partnership with the EU".
- The Prime Minister emphasises the continuing shared values of the UK and the EU, and that the UK is "leaving the European Union, but we are not leaving Europe". She says that at a time when "there are signs that protectionist instincts are on the rise in many parts of the world, Europe has a responsibility to stand up for free trade in the interest of all our citizens."
- The letter also has an eye to the audience within the UK, observing that "we will negotiate as one United Kingdom, taking due account of the specific interests of every nation and region of the UK as we do so." It adds that leaving the EU could lead to a significant increase in the decision-making power of each of the devolved administrations within the UK.

The real negotiations between the UK and the EU start now – the many things said and written in the last nine months have been no more than shadow-boxing. The content of the Prime Minister's letter is unlikely to cause any surprise in Brussels or in other capitals, but it does seek to set a tone for the future. Whether it is successful will depend upon the response.

CONTACTS

Simon James, Partner
 Chris Bates, Partner
 Kate Gibbons, Partner
 Jessica Gladstone, Partner
 Simon Gleeson, Partner
 Dan Neidle, Partner
 Mark Poulton, Partner
 Phillip Souta, Head of UK Public Policy
 Malcolm Sweeting, Senior Partner

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Clifford Chance, 10 Upper Bank Street,
 London, E14 5JJ

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