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Issue 6: EU-UK future relationship negotiations

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Following the UK's departure from the EU, the negotiations to determine the future relationship began on 2 March 2020. Over the course of the negotiations, SPICe will publish briefings outlining the key events, speeches and documents published. This sixth briefing describes the 'state of play' of the negotiations ahead of key dates in June.



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Executive Summary

This is the sixth in a series of SPICe briefings covering the negotiations on the future relationship between the EU and the UK.

This briefing:

- Looks ahead to the third round of negotiations and other key dates.
- Reports on Michael Gove's evidence to two parliamentary committees on the status of the negotiations.
- Covers the first meeting of the specialised committee on implementation of the Ireland/Northern Ireland Protocol.
- Reports on the beginning of the UK-US trade negotiations.

Negotiations

The third round of negotiations are due to take place this week.

What happened in Round 2

The second round of negotiations took place during the week of 20 April.

Following the conclusion of the round, both the UK government and the European Commission published statements providing updates from their perspectives. Both sides presented downbeat assessments on the status of the negotiations with divisions on level field provisions and fisheries highlighted by both the UK and the EU. A summary of negotiating round 2 is provided in [Issue 5 of the EU-UK future relationship update](#) and the UK Government issued a [written statement to the UK Parliament on 28 April](#).

A further area of division related to governance of the future relationship. [Speaking to the House of Lords European Union Committee](#) on 6 May, Michael Gove set out the different views:

“ The EU is very keen to have an association agreement-style approach, similar to that which it has with accession countries, such as Ukraine. We argued that it would be best to have a series of discrete agreements: a free trade agreement; a separate approach on fisheries; a separate approach on security, and so on. I think that both Michel Barnier and David Frost would say those negotiations started cordially and ended with good will but that there were one or two tough moments along the way.”

State of play

The third round of negotiations begin today and are due to last all week. As a result of the COVID-19 pandemic, the negotiations will be conducted by videoconference.

The published [agenda for the week](#) shows talks will focus on a wide range of sectors with the detailed discussions due to take place from Tuesday to Thursday bookended by opening and closing plenary sessions on Monday and Friday. As with the previous rounds, the talks are broken down into policy areas with discussions taking place simultaneously. Talks this week will centre on the following areas:

- Trade in goods - Tuesday to Thursday
- Fisheries - Tuesday to Thursday
- Trade in services and investment - Tuesday to Thursday
- Level playing field - Tuesday to Thursday
- Transport - Tuesday to Wednesday
- Law enforcement cooperation - Wednesday afternoon to Thursday
- Energy - Wednesday afternoon to Thursday

- Participation in Union programmes - Wednesday afternoon and Thursday morning

Ahead of negotiating round 3, the UK government's chief negotiator, David Frost [tweeted](#) that the UK government has now provided a full set of draft agreements which set out in legal form the approach explained in the UK government policy document, [Our approach to the Future Relationship with the EU](#). David Frost [confirmed](#) that draft agreements covering the following areas have now been shared with the EU:

- A complete draft Free Trade Agreement.
- Air transport.
- Air safety.
- Civil nuclear cooperation.
- Energy cooperation.
- Law enforcement.
- Unaccompanied asylum-seeking children.
- Readmissions.
- Social Security.
- A Fisheries Framework Agreement.

The UK's draft agreements have yet to be published though Michael Gove [told the Committee on the Future Relationship with the European Union](#) that the UK government planned to publish its draft texts in the coming weeks.

Ahead of negotiating round 3, the EU's Chief negotiator, Michel Barnier met with representatives of EU27 governments. Following the discussions, he [tweeted](#):

“ The EU remains calm and united in our positions. Progress on all issues in parallel is required in order to build a new, ambitious partnership with the UK.”

Following the meeting, the Irish Tánaiste and Deputy Prime Minister [tweeted](#):

“ Good talk with @MichelBarnier today on prep for EU/UK negotiations. EU will insist on parallel progress on LPF, governance & fishing in order to progress a trade deal. NI protocol implementation also important to build trust. [#Brexit](#) - as ever time is short, a lot to do...”

Other key dates

One further round of negotiations have been scheduled for the week commencing 1 June. Following this fourth round of the negotiations, there will be a High Level Summit between the EU and the UK to consider the progress made in the negotiations.

Given the two parties wish to achieve a deal before the transition period ends in December 2020, time is short and the clock is ticking. As the range of areas being covered in the

latest round of negotiations show, if a new agreement is to be as deep and comprehensive as both sides have indicated they wish, then meaningful progress will need to be made soon if the target of agreement by the end of the year is to be achieved.

Whilst it is possible to extend the transition period, any decision to extend it needs to be agreed by 1 July 2020. The [UK government has indicated](#) it will not seek an extension to the transition period.

Joint Committee

The Withdrawal Agreement established a joint UK-EU committee to be responsible for the implementation and application of the Agreement. This Joint Committee is co-chaired by Michael Gove (for the UK) and Maroš Šefčovič (for the EU) and [further details on its role and powers are available in Issue 3](#). UK government and European Commission [readouts from the Joint Committee's first meeting on 30 March](#) are compared in Issue 4.

Michael Gove MP provided further information during his [appearance before the Committee on the Future Relationship with the European Union on 27 April](#). Michael Gove said:

“ The nature of the Joint Committee is that its proceedings are confidential, but I can share with you and with others the fact that we met by teleconference for just shy of an hour. We discussed the operation of the withdrawal agreement. We discussed the setting up of the six specialised committees, one of which covers the Northern Ireland Protocol. We discussed the next meeting and the requirement to meet probably at some point in June. We also discussed the treatment of EU citizens in the UK and UK citizens in the EU. I was, in particular, keen to stress that, while some EU nations have done everything that we could require when it comes to safeguarding the rights of UK citizens, not all had at that stage. ”

“ I was very grateful to the Vice-President of the Commission, Maroš Šefčovič, for the very constructive, open and friendly way in which our conversations took place. There were representatives on our side from the Northern Ireland Executive, as well as Ministers and civil servants of the UK Government, and on the EU side there were representatives from some of their member states, including the Republic of Ireland.”

Implementing the Ireland/Northern Ireland Protocol

Implementing the Protocol on Ireland/Northern Ireland is likely to be the most challenging and contentious part of the Joint Committee's responsibilities. To support the Joint Committee in this work there is a Specialised Committee on the Protocol on Ireland / Northern Ireland. This specialised committee's first meeting took place on 30 April.

There are six specialised committees covering different parts of the Withdrawal Agreement. In general terms, specialised committees are to be co-chaired by officials and will consider detailed matters and make recommendations to the Joint Committee.

The UK government [statement following the Ireland/Northern Ireland specialised committee's meeting](#) read:

“ The first meeting of the Ireland/Northern Ireland Specialised Committee was held today via video conference, co-chaired by officials from the UK Government and European Commission. This Committee was tasked by the first meeting of the Withdrawal Agreement Joint Committee held on 30 March, to start work on implementing the Northern Ireland Protocol.”

“ A representative from the Northern Ireland Executive also attended as part of the UK delegation in line with the commitment made in the New Decade, New Approach deal. ”

“ The UK and the EU exchanged updates on the implementation of the Protocol and discussed the preparatory work for future decisions to be taken by the Joint Committee.”

“ The UK was clear that our approach at all times will be focused on protecting the Belfast/Good Friday Agreement and gains of the peace process, and on preserving Northern Ireland’s place in the UK.”

“ UK officials reaffirmed our commitment to complying with our legal obligations under the Protocol, just as we expect the EU to comply with theirs.”

“ The two sides agreed to convene the Joint Consultative Working Group established under the Protocol which will be a further forum for discussion in relation to the Protocol.”

The European Commission also [issued a statement](#) which emphasised the timetable and said that "exchanges in the Specialised Committee now urgently need to be followed up by tangible measures":

“ Today, the European Union and the United Kingdom held their first Specialised Committee meeting on the implementation and application of the Protocol on Ireland / Northern Ireland, by means of videoconference.”

“ The discussion took place in a constructive atmosphere. The parties took stock of the implementation efforts on both sides. They also had a first exchange on the decisions the Joint Committee is tasked with taking before the end of the transition period, and which the Specialised Committee has been asked to prepare.”

“ The proper and timely implementation of the Withdrawal Agreement remains a key priority for the EU, in particular for maintaining peace and stability on the island of Ireland in the context of the Good Friday (Belfast) Agreement, while ensuring the integrity of the Single Market. A new partnership can only be built on the faithful and effective implementation of the Withdrawal Agreement.”

“ The Protocol on Ireland / Northern Ireland applies from 1 January 2021 and clearly sets out the legal obligations of both parties.”

“ As time is short, the Commission underlines the importance of the UK setting out its plans with regard to all implementation measures prescribed by the Protocol on Ireland / Northern Ireland and providing a detailed timetable. The exchanges in the Specialised Committee now urgently need to be followed up by tangible measures. The Commission remains ready to work with the UK to ensure the Protocol can be applied in full from 1 January 2021.”

“ The Specialised Committee on the Protocol on Ireland / Northern Ireland is one of the six Specialised Committees established under Article 165 of the Withdrawal Agreement and its role is to facilitate the implementation and application of this Protocol and make recommendations to the Joint Committee as regards the functioning of this Protocol.”

A detailed [article by RTÉ Europe Editor Tony Connelly on what needs done to implement the Ireland/Northern Ireland and the current state of play](#) was published on 10 May.

This article covers:

- the row over a Belfast office for the European Commission
- the details of work needed to implement the Protocol
- areas where law in Northern Irish may need to be aligned with EU law and governance of these issues
- UK policy of customs and other checks, including what needs there are for infrastructure.

The article describes a memo from the European Commission's Task Force to member states on the Commission's view of the work that needs to be done:

“ The UK will have to apply the European Union’s customs rulebook at Northern ports and airports. ”

“ There will need to be facilities in place to ensure all food products entering the North across the Irish Sea conform to EU food standards.”

“ There will be a dual VAT system. When it comes to goods and excise, EU VAT rules will apply, but when it comes to services, UK VAT rules will apply.”

“ If Northern fishermen catch fish in UK waters and land them in Kilkeel, County Down, then the tariff regime for those fish will have to be worked out, since Northern Ireland will de facto be in the EU’s customs area.”

“ The EU expects IT systems and databases in place for customs, VAT and excise so that the North can plug into the EU system. ”

“ Work on this needs to be underway by 1 June, says the Commission, while preparing customs infrastructure and so-called sanitary and phytosanitary (SPS) control posts needs to start "immediately" if everything is to be ready by 1 January, 2021. ”

“ A further workload is required when it comes to the rights issue.”

“ Under Article 2 of the Protocol, if there are any protections of civil and individual rights in the Good Friday Agreement (GFA) that are enhanced or underpinned by EU law, then the UK has agreed that none of those rights can be diminished.”

UK Parliamentary scrutiny

Future Relationship Committee meeting

On 27 April, the Committee on the Future Relationship with the European Union [questioned Michael Gove MP, Chancellor of the Duchy of Lancaster](#) on the future relationship negotiations. This session provided a substantive update on the UK Government's position following the second round of negotiations.

On the progress of negotiations, Michael Gove said:

“ Limited progress was made in the talks, but we believe that it is still entirely possible to conclude negotiations on the timetable that has been outlined.”

As covered in the [key dates section](#), a stocktake of the negotiations is planned in June. When asked "if insufficient progress is made by June whether the UK will walk away from the talks?", Michael Gove said:

“ I would not want to anticipate what would happen, but I think it is the case that both the UK and the EU will want to ensure that talks progress.”

On the effect of the COVID-19 pandemic on the negotiations, Michael Gove said:

“ The COVID crisis in some respects should concentrate the minds of EU negotiators, enforcing the vital importance of coming to a conclusion.”

Later in the session the Minister indicated that 47 civil servants from the UK government's transition task force and Taskforce Europe have currently been redeployed to COVID-19 work.

In response to a question on extending the transition period, Michael Gove set out further reasons for the UK government's position not to seek an extension:

“ If we were to extend, it would involve us paying more money into the European Union at a time when that money could be spent on our National Health Service. It would involve us accepting not just the existing EU acquis but potentially new EU laws over which we would have no say, which could potentially constrain this country. Those EU laws would be shaped in the interests of the EU 27, rather than the UK as well. Also, if we were to accept an extension, we would find that the incentive to come to an agreement, which currently exists on all sides, would dissipate and we would find that, once again, like with any missed deadline, the new deadline would stretch for quite some time. Again, with a deadline having once been extended, the principle that one side or the other might wish to extend it further and further and further would exist as well.”

It should be noted on this point that under the Withdrawal Agreement, it is only possible to extend the transition period once, and for up to one or two years. As such, it would not be possible under the Withdrawal Agreement to seek continuous extensions to seek to prolong the negotiations.

On legal texts, Michael Gove indicated that he intended to publish the UK's legal texts in a "matter of weeks".

Michael Gove indicated that, at the time of the meeting, the UK government has tabled all the legal texts it intends to apart from fisheries. [The fisheries text has now been tabled](#). Michael Gove provided further information on how all the texts may be published:

“ We would like to publish everything together, if at all possible, and that is certainly our intention and hope. ”

“ ...we want to [publish] as quickly and safely as possible. We wanted to wait until after this round of negotiations, but I will come back to the Committee, either appearing in person or writing to you, in advance of our publication of those to lay out our thinking about timing and manner.”

When asked why the Joint Ministerial Committee (EU Negotiations) "has not met for three months?", Michael Gove responded:

“ My colleague, the Paymaster General, Penny Mordaunt, is in touch this week with representatives from the Scottish, Welsh and Northern Ireland Governments in order to discuss our approach towards negotiations. It is one of her responsibilities to update each of the devolved Administrations, and I hope to have a JMC(EN) very shortly, in the next week or two, in order to make sure that the collaboration and cooperation, which has been such a feature of the cross-United Kingdom response to this crisis, is maintained for our negotiations.”

In response to a question on the UK government's preparations for the end of the transition period without a deal, Michael Gove said:

“ We will keep the situation under review. Operation Yellowhammer yielded a huge amount of thoughtful product that allowed us to assess, as I mentioned, the resilience of UK supply chains, our reliance on the short straits, the strength and resilience of NHS supplies and so on. We do not have any plans to stand up Operation Yellowhammer again, because we are confident that we will secure agreement, but it is the case that the work that was done then has been of value in making us realise how resilient the UK is in certain areas and where work is required to be done in other areas so that we can cope with a variety of challenges. ”

European Union Committee meeting

On 5 May, the House of Lords European Union Select Committee [held a scrutiny session with Michael Gove MP](#) on the progress of the future relationship negotiations.

During the [evidence session](#), much of the evidence focussed on the implementation of the Withdrawal Agreement. In relation to the future relationship negotiations Michael Gove's evidence included the following points:

- That negotiations on a new deal can be concluded by the end of the year.
- If transition were to be extended there would be a cost in terms of a contribution to the EU budget. Given a new Multi-annual Financial Framework (MFF) will be decided by the EU 27, the UK cannot know precisely what level of contribution might be required where the UK to agree to another year or two of transition.

- The UK government will seek to ensure information is provided to the UK parliament on the progress of the future relationship negotiations including through the provision of evidence from key officials.
- The UK government continues to rebuff the EU's attempts to get the UK to sign up to level playing field arrangements.
- An indication that the free trade agreement the UK might secure with the EU may not be a zero tariff and zero quota deal and that there may be some tariffs as a result of the UK's refusal to sign up to the EU's level playing field demands.
- The UK government view that there should not be a bespoke arrangement but a series of off-the-peg arrangements with the free trade agreement based on the one that Canada has with the EU and a fisheries agreement that is very similar to the arrangement that Norway or Iceland has with the EU.
- When the UK leaves the transition period, the EU cannot have the same access to UK waters as it has under the common fisheries policy. The fisheries relationship with the EU will instead be based on annual negotiations.
- Negotiations on future security cooperation are continuing with the sticking point focussed on exchange of information between the EU and the UK.
- If there is no equivalence agreement on financial services, whilst it would be suboptimal for the UK, Mr Gove suggested the EU would face the greater financial cost.

European Scrutiny Committee report

On 6 May, the European Scrutiny Committee [published a report](#) following its consideration of the EU negotiating mandate and its consultation with 24 of the UK Parliament's Select Committees.

The Committee's press statement summarises the report's recommendations as:

“ The European Scrutiny Committee (ESC) today calls on the Government to:”

- Schedule a debate and vote in Parliament on the EU’s mandate for negotiating a future relationship with the UK”
- Address the issues identified in the European Scrutiny Committee’s Report as matters of vital national interest to the UK”
- Facilitate essential parliamentary scrutiny throughout the negotiating process”
- Provide regular progress reports on the negotiations, and feedback received from stakeholder consultation”

UK-US trade negotiations begin

On 5 May, trade negotiations between the UK and the United States began. According to the [UK government's news release](#), the negotiations were launched by videoconference call between International Trade Secretary Liz Truss and the US Trade Representative Robert Lighthizer.

The first round of negotiations are likely to last about 2 weeks. For the UK, the talks will be led by Oliver Griffiths, with all UK trade negotiations being overseen by Crawford Falconer, DIT's Chief Trade Negotiation Adviser.

The UK government's approach to the negotiations is based on the [UK government's negotiating objectives](#).

The outcome of the negotiations between the UK and the EU are likely to impact the outcome of the negotiations between the UK and the United States as any commitment's made by the UK in the EU deal, particularly around regulatory alignment will impact on the UK government's ability to make similar commitments in its deal with the United States.

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