

Negotiations on the UK's withdrawal from the EU: Monitoring Report

Research Briefing

11 October 2018



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Introduction

This report provides an update on developments relating to the Article 50 Negotiations on the UK's withdrawal from the EU since 17 September 2018.

This paper provides:

- A summary of the latest developments in the negotiations and the related UK legislation;
- An analysis of the key issues of interest to the External Affairs and Additional Legislation Committee (the Committee); and
- A summary of the Welsh Government's response to the latest developments.

Summary of developments

- On 18 September, Michel Barnier issued a **statement** following the General Affairs Council outlining the EU's position with regard to the Irish backstop.
- Also on 18 September, Donald Tusk published an **invitation letter** and **background brief** prior to the **Salzburg Summit** held on 19-20 September.
- That same day, the Migration Advisory Committee published its **report** including recommendations on future migration approaches in the UK. The Bevan Foundation published a **document** on what the MAC report could mean for Wales on 24 September.
- On 20 September, the Bevan foundation published a **think piece** exploring how Wales' universities should respond to a post-Brexit Wales.
- Also on 20 September, Donald Tusk issued a **statement** outlining the outputs of the Salzburg Summit.
- On 21 September, Theresa May made a **speech** outside Downing Street, responding to Donald Tusk. Tusk replied with a **statement** describing the Chequers plan as 'a step in the right direction'.
- Having previously said that it is for the EU to make a counter proposal, on 24 September a **Downing Street spokesperson said** that 'the government would also bring forward further proposals on the Northern Ireland backstop'.
- Also on 24 September, the third and final collection of **no-deal guidance notices** were published by the UK Government.
- On 25 September, Home Secretary Sajid Javid gave a **speech in Madrid** on the future security relationship between the UK and the EU.

- The House of Commons and the House of Lords have been in recess between 13 September and 9 October. The Labour Party conference was held between 23 and 26 September. The Conservative Party conference was held between 30 September and 3 October.
- During a visit to Krakow on 6 October, **Donald Tusk** expressed hope of reaching a deal.
- Arlene Foster, the DUP leader, **held a meeting** with Michel Barnier on 9 October to discuss the red lines with regard to trade.
- On 9 October, Dominic Raab made a **Ministerial Statement** providing an update on the UK's preparations for exiting the EU.
- On 10 October Michel Barnier also **gave an update on the negotiations**.

Latest developments

Withdrawal Agreement negotiations

The most salient development during this reporting period was the **Informal Summit of EU Leaders at Salzburg** on 19-20 September. On 18 September, an **invitation letter** was published by Donald Tusk setting out his aims for the meeting. Alongside the letter, a **background brief** was published outlining the agenda, which included discussing internal security, migration and Brexit.

Prior to the Summit, on 18 September, Michel Barnier released **a press statement highlighting** that the EU was 'ready to improve' its proposals on the Irish border backstop. He highlighted that the EU was clarifying what goods passing through the border would need to be checked at the border. He also noted that the EU thought that 'most checks can take place away from the border'.

Salzburg was widely seen, in the UK at least, as an opportunity for the UK Prime Minister to convince her fellow heads of state as to the benefits of her Chequers plan. However, following the summit the President of the European Council, Donald Tusk, made some remarks **outlining the outcome** of the Brexit discussions, and reconfirmed that:

[...] there will be no Withdrawal Agreement without a solid, operational and legally binding Irish backstop. [...] while there are positive elements in the Chequers proposal, the suggested framework for economic cooperation will not work. Not least because it risks undermining the Single Market.

He also noted that unless there was 'maximum progress and results' in the negotiations by the October European Council, the EU may not call the widely expected extraordinary summit to agree the final deal in November.

Theresa May **responded in a statement** on 21 September. In that statement the Prime Minister said:

At this late stage in the negotiations, it is not acceptable to simply reject the other side's proposals without a detailed explanation and counter proposals.

Theresa May also said that the UK expected to be treated with respect in the negotiations, stating that 'a good relationship at the end of this process depends on it'.

Tusk responded the same day confirming that creating the 'best possible relations between the EU and the UK in the future' was important to the EU and that it 'will treat the Chequers plan as a step in the right direction'. But he also restated the EU position that:

[...] issues, such as the Irish question, or the rules of economic cooperation, the UK's proposals will need to be reworked and further negotiated

On 24 September, in a statement following a meeting with Guy Verhofstadt, the **UK Government reported** that it would 'bring forward further proposals on the Northern Ireland backstop'.

On October 9, Dominic Raab **made a ministerial statement** in which he restated the UK Government's support of its own Chequers white paper, describing it as 'the best way of ensuring there is continued frictionless trade in goods' and avoiding a hard border in Ireland. He called on the EU to 'match the ambition and pragmatism that we have shown' and noted his belief that deal can be reached this Autumn.

His counterpart, **Michel Barnier provided his own update** on October 10. In it he set out the EU's current position on the Northern Ireland/Ireland border issue. He noted that if the UK leaves the EU Customs Union and the Single market, then 'there must be checks on goods travelling between the EU and the UK'. But he also noted the EU's intention to 'carry out these checks in the least intrusive way possible'.

To ensure this the EU proposes to use its **existing customs transit procedures** for customs and VAT and using '**market surveillance authorities**' to conduct regulatory checks. Through these methods, the EU believes it can 'avoid doing checks at a physical border point'.

Michel Barnier sets out how these procedures might work in practice in his speech. He also clarified that under the EU proposals Northern Ireland would not get any benefits that any other third party country would not get, excluding the Single Electricity Market and the Common Travel Area between the UK and Ireland. He further noted that any deal on a 'future relation in itself might mitigate the necessary checks, or even make some unnecessary'.

Brexit will be discussed at the next **EU Council summit, scheduled for 17-18 October**. If progress is made, the extraordinary summit would take place on 17-18 November.

Future relationship

On 18 September the Migration Advisory Committee (MAC) published its report on the **impact of migration from European Economic Area** (EEA) on the UK. In general it found that:

[...] we do think that EEA migration has had impacts, many of them seem to be small in magnitude when set against other changes. The fall in the value of the Pound after the referendum vote to leave the EU probably raised prices by 1.7 per cent - this is almost certainly a larger impact than the effect on wages and employment opportunities of residents from all the EEA migration since 2004.

Based on its research it provide recommendations to the UK Government when it comes to deciding its future migration policy. Its high level recommendation, in relation to migration for the purposes of work, is:

If the UK is in a position where it is deciding the main features of its immigration policy our recommendation is that there should be a less restrictive regime for higher-skilled workers than for lower-skilled workers in a system where there is no preference for EEA over non-EEA workers... For lower-skilled workers, we do not see the need for a work-related scheme with the possible exception of a seasonal agricultural workers scheme.

The Bevan Foundation published an article that explored what the findings of the MAC report **could mean for Wales**. In summary, it warns that low skilled migrants constitute important segments of the workforce in sectors such as; food manufacturing (25.6% of total workforce); accommodation and hospitality (5.4%); and non-professional admin & support service activities (3.9%). As such restrictions on the movement of such workers 'could lead to a drop in the workforce for such jobs in future'.

Theresa May **announced her intention** of creating a skilled-based system favouring high skilled workers in a statement made on 2 October.

In a tweet on 3 Oct, **Guy Verhofstadt announced**:

On Brexit, we will never accept discrimination based on skills and nationality. We will never accept an extension on article 50.

On 25 September, Home Secretary Sajid Javid delivered a **speech** in Madrid setting out the importance of the ongoing EU-UK cooperation on security matters. He affirmed that despite the impact of Brexit:

[...] we can make these changes and others without undermining the day-to-day operational co-operation which plays such an important role in keeping European citizens safe.

Political Party Conferences

During the **Labour Party conference** on 25 September, Keir Starmer MP said that his party's stance was to 'remain in a customs union with the EU and within the Single Market' during the transitional period. In rejecting the Government's statement that no-deal is a viable option, the Shadow Brexit Secretary said that 'remaining in a form of customs union with the EU is a possible end destination for Labour'. Keir Starmer went on to say that 'nobody is ruling out remain as an option' if Labour were to hold a second referendum.

The following day Jeremy Corbyn **pressed for** a General Election rather than a second referendum, telling the Prime Minister 'if you can't negotiate that deal then you need to make way for a party that can'. These standpoints, however, are of course hypothetical. Should there be a vote on a Withdrawal Agreement, Corbyn stated that 'Labour will vote against the Chequers plan or whatever is left of it and oppose leaving the EU with no deal'.

In the Conservative Party conference on 3 October, Theresa May avoided mentioning the Chequers plan. She **stated that Britain isn't afraid of leaving** with no-deal 'if we have to', but said that 'no one wants a good deal more than me'. She stated that she was reluctant to rule out no-deal as that would weaken the UK's negotiating position. Two days earlier, Dominic Raab in his speech **told the EU** to 'get real', and Jeremy Hunt, as widely reported, **likened the EU** to the Soviet Union. Mr Hunt's comments was met with condemnation by EU chiefs.

UK legislation

On 13 September the **Taxation (Cross-border Trade) Act 2018** received Royal Assent. The Act enables the UK Government to create a functioning customs, VAT and excise regime for the UK post Brexit. It did not require the consent of the devolved legislatures.

On 8 October the Assembly's Constitutional and Legislative Affairs Committee published its report on the **Scrutiny of regulations made under the Trade Bill**. The **Trade Bill** makes provision about the implementation of the Agreement on Government Procurement (GPA) and international trade agreements, establishing the Trade Remedies Authority and conferring functions on it, and the collection and disclosure of information relating to trade. Amendments to the Bill relating to devolution provisions were made and agreed to without division during the House of Commons Report Stage. Committee Stage of the Trade Bill in the House of Lords is yet to be announced,

On 10 October Members of the UK Parliament considered the **Agriculture Bill** at **Second Reading**. The Bill aims to provide the legal framework for leaving the Common Agricultural Policy (CAP) and establishing new systems for agricultural and land management support across the UK. While the Bill aims to set the framework for the future policy in England it also contains provisions that extend to the whole of the UK and to different parts of the UK. Schedule 3 applies specifically to Wales and sets out powers for Welsh Ministers to continue making payments to farmers and land managers after Brexit, to make changes to current schemes and to implement replacement schemes. The provisions have been included at the request of the Welsh Government and requires legislative consent from the Assembly. These powers are intended to be time-limited until the Welsh Government brings forward its own Agriculture Bill, which is expected before the end of this Assembly.

Key areas of interest to the External Affairs Committee

Preparedness

In the Prime Minister's **statement** following the Salzburg Summit, she said that the Government is continuing to work on preparing for no deal. On 24 September, the third batch of **technical notices** was published. Among the 24 notices were guidance on **flights to and from the UK, vehicle insurance**, protection of **geographical indications (GIs)**, European **Territorial Cooperation funding**, **buying and selling timber**, importing **animals and animal products** and **regulating chemicals** if no deal is made.

The House of Lords Health and Social Care Committee has launched its **Impact of a no deal Brexit on health and social care inquiry**, which is accepting written submissions until 15 October. Amongst other things, it will take evidence on

What the impact of a no-deal Brexit* is likely to be on the sector of the health and social care system (whether that be patients, suppliers to the health and social care system, providers of NHS or social care services, NHS or social care staff, or others).

Wales and the World

The Economy, Infrastructure and Skills Committee **published its report on Selling Wales to the World**. The inquiry focused on trade and investment, tourism and education (i.e. overseas students and alumni networks). Some of its 14 recommendations will be of interest given the Committee's Inquiry into **Wales' future relation with Europe and the World**. The relevant recommendations include that the Welsh Government should:

- give serious consideration to creating a specific cabinet post to combine responsibilities for international trade and Brexit implementation; and
- be more proactive in using the existing network of Foreign and Commonwealth and Department for International Trade offices and connections across the world.

Shared Prosperity Fund

On 24 September the Assembly's Finance Committee published its **report into the replacement of EU funding streams** after Brexit. The Committee highlighted that securing suitable replacement funding is vital for Wales.

In an **interview by BBC Wales on 30 September**, the Prime Minister, Theresa May, was asked about the level of funding and devolution of the UK-wide Shared Prosperity Fund that Wales could expect after Brexit. In relation to whether Wales would receive as much funding as it currently does through EU Structural Funds, she said:

The point of the shared prosperity fund is that we will be looking at issues of disparities between the nations of the UK – disparities within nations and regions and deciding expenditure of money so that we are ensuring that money is being spent as effectively as possible to deliver for people.

The Prime Minister was also asked about the level of control of the UK-wide Shared Prosperity Fund that the Welsh Government would have. She highlighted that a lot of discussion is taking place about how the fund will be structured, commenting:

I fully recognise the role that the Welsh Government has played and the role that the Welsh Government has played in decisions for Wales. But obviously as we look at the shared prosperity fund across the whole of the UK we want to ensure that we get the right structure and the right processes involved in that so that the money that is being spent is being spent as effectively as possible because it's about delivering for people on the ground.

The Research Service published an article **analysing the report and the wider issues** around EU funding on 25 September.

Geographical Indications (GI)

The UK's involvement with the EU's protected food names scheme is one of the few outstanding issues in the negotiations on the Withdrawal Agreement. On 2 October the Research Service published an article on how this **might impact on Welsh protected food names**, such as Anglesey sea salt, Welsh Lamb and Caerphilly cheese, after Brexit. The article explores the views of various stakeholders and provides more background on the current scheme.

The UK Government published a no deal **technical notice on protected food products** as part of its third batch of notices. This noted that the UK will establish its own scheme which will “broadly mirror” the EU scheme and the UK would no longer be required to recognise EU Geographical Indications (GI) status. However it expects that:

[...] all current UK GIs will continue to be protected by the EU's GI schemes after Brexit.

Further and Higher Education in Wales post Brexit

The Children Young People and Education Committee **took oral evidence** from the Cabinet Secretary for Education, Kirsty Williams and the Minister for Lifelong Learning, Eluned Morgan on 20 September, as part of its **Inquiry on the Impact of Brexit on Higher Education (HE) and Further Education (FE)**. The Welsh Government's **written evidence** as part of the Inquiry outlines its approach to Brexit in relation to those sectors.

The Bevan Foundation also published its ‘think piece’, commissioned by Universities Wales, on **how should Wales' universities respond to a post-Brexit Wales**. The piece identifies four roles for Universities post Brexit:

- economic anchors, contributing to the development of Wales' economic regions through their employer and purchasing powers;
- beacons of expertise, contributing their expert knowledge to help solve the many ‘wicked issues’ in Wales and beyond;
- centres of flexible learning, providing good quality training and education to the current and future workforce; and
- equalisers, supporting social mobility by enabling and encouraging participation by people from all backgrounds.

A change to the National Assembly's Standing Orders

On 3 October 2018 AMs approved a motion to amend Standing Orders. The motion was presented because the UK exiting the EU requires changes to Assembly procedure in order to implement provisions of the **European Union (Withdrawal) Act 2018** (“the 2018 Act”) and the new types of subordinate legislation it introduces. The Research Service **published an article** on the background and detail of the changes on 2 October.

Welsh Government response

On 29 September, marking 6 months until exit day, the First Minister stated that the Prime Minister 'must stop misleading the public with false Brexit claims'. He argued that:

[...] the only choice the UK has is between the Chequer's deal or 'no deal' is completely false – and peddling this myth is damaging to democracy.

Brexit Preparations

In terms of general preparations the Cabinet Secretary for Finance, Mark Drakeford AM reported, in **Plenary on 18 September**, that the Welsh Government has:

[...] made allocations from the £50 million EU transition fund, the launch of the Brexit business portal is imminent, we have sent supplementary advice on the technical notices to organisations, and we are in dialogue with the UK Government and partners in Wales on potential civil contingencies implications.

He went on to say that the next meeting of the European Advisory Group would be held on Thursday 20 September, but the minutes for that meeting were **yet to be published** at the time of writing.

Following this, the Cabinet Secretary for Energy, Planning and Rural Affairs Lesley Griffiths **launched** an app to support Welsh food and drink businesses post-Brexit on 24 September. While the **Business Wales Brexit Portal** mentioned by Mark Drakeford was launched by the Cabinet Secretary for Economy and Transport, Ken Skates, on September 25.

The Welsh Government explains the two objectives of the Brexit Portal are:

First, to provide up-to-date information and advice on a range of relevant business topics (including trading internationally and workforce planning) as we enter the six-month period leading up to the UK's departure from the EU.

Second, to provide a diagnostic tool which will enhance our existing support to businesses, raising awareness of appropriate preparedness actions and additional sources of support. This will provide a health check for those businesses already prepared or identifying key actions for those that may need more support.

- The Brexit Portal can be accessed **here**.

EU Transition Fund allocations

On 24 September, the First Minister **stated that** over half of the £50 million **EU Transition Fund** has now been committed. New allocations from the fund during this reporting period include:

- **£6 million** for Airbus and the automotive sector; and
- £3.2 million for the fisheries, environment and food industry.