

UK Government Outlines Brexit Strategy in Official White Paper

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Firm General and Europe

Today, the UK Government [published](#) its strategy in a White Paper regarding the UK's withdrawal from the EU ("Brexit"). The UK Government is clear that it "will make no attempt to remain in the EU by the backdoor" nor will there be a second referendum on UK membership of the EU.

The White Paper was published in response to "appetite" among Members of Parliament for the UK Government's Brexit strategy. Publication of the White Paper comes one day after the House of Commons (the lower chamber of the Houses of Parliament) voted in favor by 498 votes to 114 of draft legislation empowering the Prime Minister to begin the Brexit process by triggering Article 50 of the Treaty on European Union (the "Article 50 Bill"). The [UK Supreme Court recently held](#) that the process of withdrawal must be authorized by legislation (specifically, an Act of Parliament) that will be debated and voted on by both Houses of Parliament—the House of Commons and the House of Lords.

Background

A white paper is a policy document produced by the UK Government that sets out the Government's proposals for future legislation on a given issue. The white paper provides a basis for further consultation and discussion with interested or affected groups and allows final changes to be made before a Bill (i.e., draft legislation) is formally presented to or adopted by the Houses of Parliament. The Brexit White Paper reflects the Prime Minister's 12 objectives outlined in her speech, delivered on January 17, 2017, unveiling the UK Government's initial Brexit plan.

The Brexit White Paper unveils more details as to the UK Government's plan for Brexit. The below are some of the most significant aspects of the White Paper for businesses. Many issues are only covered in broad terms, however. The White Paper is not a detailed roadmap for the coming Article 50 negotiations.

Future Trading Relationship with the EU—UK Leaving the Single Market and Customs Union

- The White Paper reiterates the Prime Minister's plan that the UK will pursue a future trading relationship with the EU outside of the EU Single Market—at the same time, the UK Government will prioritize "securing the freest and most frictionless trade possible in goods and services between the UK and the EU" that is neither membership of the Single Market nor is it a model already enjoyed by other countries.
- That agreement may take in elements of current Single Market arrangements in certain areas (e.g., car manufacturing and financial services) in order to minimize starting "from scratch"—"such an arrangement would be on a fully reciprocal basis and in [the UK and EU's] mutual interests."
- The White Paper also confirms the UK Government's intention to pursue "tariff-free trade with Europe and cross-border trade there to be as frictionless as possible" but

with the UK not being part of the Common Commercial Policy or the Common External Tariff. Instead, the UK will pursue a new and bespoke customs agreement with the EU—although that agreement could maintain “some elements” of the existing EU customs rules.

- There will be a new means to settle trade disputes with the EU on Brexit. What procedure will be followed remains unclear but the UK Government is reviewing existing models.
- The White Paper stands by the Prime Minister’s statement that “no deal for the UK is better than a bad deal for the UK.”

Future Trade Deals

- The UK is unable to sign new trade deals with other countries while it remains a member of the EU but the UK Government has confirmed that it is “preparing the groundwork” and a number of countries. These countries include Australia, New Zealand, and India. The new U.S. Administration has indicated that it is interested in an early trade agreement with the UK.
- The UK Government is a founding member of the WTO and has been a member of the General Agreement on Tariffs and Trade since 1948. The UK Government is confident that its WTO membership will form the “bedrock” of future trade relationships. As part of leaving the EU, the UK will need to establish its own schedules covering trade in goods and services at the WTO. Work is already underway at a WTO-level on this. These schedules will likely be based on the EU schedules.

UK Regulatory Environment on Brexit—All EU Law to Apply in the UK on Brexit

- In May 2017, the UK Government will introduce draft legislation in the form of the “Great Repeal Bill” that will enshrine into UK law all EU law on the day of Brexit. The UK will thus have an “unprecedented... common regulatory framework with the EU Single Market” on day one of Brexit. Thereafter, the UK Government will review those laws derived from EU law and seek to either amend, repeal, or maintain those laws.
- The UK Government will publish another white paper on the “Great Repeal Bill” in the coming weeks.
- The jurisdiction of the Court of Justice of the European Union (“CJEU”) on UK courts will end on Brexit. The role of past and future CJEU jurisprudence on UK law is not yet clear.

Immigration

- The UK is “considering very carefully” the various options available to it from an immigration perspective. An official inquiry into the effects of Brexit on immigration has been launched with a focus on the concerns of small and medium-sized enterprises. Stakeholder input from industry is being welcomed.
- The UK Government intends on securing an agreement on the status of British migrants in EU Member Status and EU citizens in the UK “at the earliest opportunity” during the formal Brexit talks.
- The White Paper explains that the UK will create an immigration system that allows it to control numbers and encourage students and those with skills and expertise to come to the UK.

Collaboration with European Partners

- The UK Government will seek agreement to continue collaborating with European partners on major science, research, and technology initiatives. The recently announced UK Government “[Industrial Strategy](#)” will be the basis for proposals to capitalize on these initiatives.

Transition

- The White Paper advocates for a “phased process of implementation” on Brexit in which the UK, the EU, and EU Member States can prepare for the new UK-EU relationship. The UK Government will not look for some form of unlimited transitional status for the UK.

What Next?

- The Article 50 Bill has gone past the political “point of no return.” It is highly unusual for Bills, having received such a majority approval at a first vote to be rejected further down the line—that said, amendments are possible which may delay the UK Government’s timescale for triggering Article 50 by the end of March.
- The Article 50 Bill will be considered and debated further in the House of Commons next week, concluding with another vote on February 8, 2017. During this stage, amendments to the Bill will be considered and debated as will evidence from experts and interest groups from outside Parliament.
- If the Article 50 Bill passes the next stage it will be sent to the House of Lords (the upper chamber of the Houses of Parliament) to debate and vote on it.
- The UK Government hopes that the Article 50 Bill can be approved and finalized in line with the Government’s ambition of triggering Article 50 by the end of March.
- Leaders of all 28 EU Member States are meeting in Malta as part of a European Council summit. It is possible that Article 50 may be triggered prior to this.

Covington has formed a [Brexit Task Force](#) staffed by senior lawyers and advisors linking its offices in London, Brussels, and Washington to monitor events and to keep clients apprised of legal, regulatory, and policy developments.

If you have any questions concerning the material discussed in this client alert, please contact the following lawyers:

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