

UK Prime Minister Outlines Objectives for Exiting the EU

Skadden

01/20/17



Contacts

James Anderson

44.20.7519.7060

james.anderson@skadden.com

Michal Berkner

44.20.7519.7074

michal.berkner@skadden.com

Hilary Foulkes

44.20.7519.7044

hilary.foulkes@skadden.com

Scott Hopkins

44.20.7519.7187

scott.hopkins@skadden.com

David Kavanagh

44.20.7519.7288

david.kavanagh@skadden.com

Elizabeth Robertson

44.20.7519.7115

elizabeth.robertson@skadden.com

Pranav Trivedi

44.20.7519.7026

pranav.trivedi@skadden.com

On January 17, 2017, UK Prime Minister Theresa May delivered a speech in London outlining the government's objectives for exiting the European Union (EU). She set out a "Plan for Britain", including 12 priorities for the negotiations and her vision for Britain after it leaves the EU, supported by the underlying principle of building a stronger, fairer and more global Britain — in Prime Minister May's words, "a great, global trading nation that is respected around the world and strong, confident and united at home".

The UK's 12 Negotiating Priorities

1. Provide certainty whenever possible
2. Regain control of the UK's laws
3. Strengthen the Union of the four nations of the UK
4. Maintain a passport-free common travel area with Ireland
5. Control immigration
6. Guarantee EU nationals' rights in Britain and British nationals' rights in Europe
7. Protect and enhance workers' rights
8. Pursue a new free trade agreement with the EU
9. Seek new trade agreements with other countries
10. Be a world leader in science and innovation
11. Co-operate in the fight against crime and terrorism
12. Ensure a phased, orderly Brexit with no "cliff edge"

This memorandum is provided by Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This memorandum is considered advertising under applicable state laws.

40 Bank Street, Canary Wharf
London, E14 5DS, UK
44.20.7519.7000

Four Times Square
New York, NY 10036
212.735.3000

A Message to the EU

Prime Minister May responded to fears that Brexit might result in a greater unravelling of the EU by reassuring "friends and allies in Europe" that it remains in the UK's national interest that the EU should succeed. Stressing that her intention was to maintain a "best friends" relationship with the UK's European neighbours after withdrawal from the EU, she warned that heeding voices calling for a punitive deal that punished the UK would be "an act of calamitous self-harm" to the remaining EU member states. She would be willing to walk away without a future trade deal on the basis that "no deal for Britain is better than a bad deal for Britain".

UK Prime Minister Outlines Objectives for Exiting the EU

The UK's Future Trading Relationships With the EU and the Rest of the World

The prime minister confirmed that the UK will not seek a partial or associate membership of the EU, nor a relationship based on existing models, but rather “a new, positive and constructive partnership between Britain and the EU”. In setting out the government’s vision of “a truly global Britain”, the prime minister explicitly acknowledged that the government’s objectives (to control the UK’s immigration policy, to withdraw from the jurisdiction of the European Court of Justice and to be unfettered when striking its own free trade agreements (FTAs) with countries outside the EU) rule out continued membership of the EU single market, which requires free movement of goods, workers and capital, and the freedom of establishment to provide services. The UK government instead will seek “the greatest possible access [to the single market] through a new, comprehensive, bold and ambitious free trade agreement”. Prime Minister May did suggest that a new FTA might include elements of the single market arrangements in certain areas, such as financial services, where it would be counter-productive to “start again from scratch”. In support of this vision, she referred to the development of a “new Modern Industrial Strategy” and “investing in [the UK’s] economic infrastructure”, intended to ensure that every nation and area of the UK thrives.

Turning to its global relationships, the prime minister said it is time for the UK to “rediscover its role as a great, global, trading nation”, and be “a magnet for international talent and a home to the pioneers and innovators who will shape the world”. In citing President-elect Trump’s statement that the UK is not “at the back of the queue” for a trade deal with the US, but rather front of the line, and by noting that other countries (including China and Brazil) already have expressed an interest in agreeing new trade agreements with the UK, Prime Minister May appeared confident in the UK’s ability to strike new FTAs with countries outside Europe.

What About the Customs Union?

The Customs Union is the EU’s common trading area, which ensures tariff-free trade in goods among members of the union and the imposition of standardised tariffs on goods originating outside the area upon entry into the EU (the Common External Tariff). Prime Minister May acknowledged that full membership of the Customs Union would prevent the UK from negotiating its own FTAs with third countries on its own terms. Adherence to the two central aspects of the Customs Union after the UK leaves the EU was therefore explicitly ruled out. Instead, the government will prioritise tariff-free trade with European countries, but will remain open to the precise form of the new customs arrangement to be put in place. Prime Minister May suggested that the UK

might become an associate member of the Customs Union, or retain some of its elements. This leaves open the possibility of negotiating sectoral customs arrangements for certain key business areas, where the imposition of tariffs on trade with Europe could be particularly damaging.

Workers and Immigration

While emphasising that the government wishes to continue attracting the best talent to the UK, Prime Minister May confirmed that the government will control the number of EU immigrants coming to the UK, thereby rejecting the fundamental EU concept of the free movement of people. The prime minister did not, however, provide any clarity on the particular type of immigration system that the government would seek to introduce post-Brexit. The prime minister also said that fairness demands that the rights of EU nationals in Britain, and British nationals in Europe, are guaranteed as soon as possible.

On a domestic note, the prime minister explained that when transposing the body of European law onto the UK’s own statute books, the government not only will protect the rights currently afforded to workers under EU legislation, but enhance those rights so that legal protection for workers keeps pace with the ever-evolving labour market. She also alluded to her plans to enhance employee representation by saying that “workers voices will be heard by the boards of publicly-listed companies for the first time”.

Ireland and the Union

The prime minister committed to maintain the existing passport-free common travel area between the UK and the Republic of Ireland and to avoid a return to a “hard border” between Northern Ireland and the Republic. Prime Minister May also explained that preserving the Union of England, Wales, Scotland and Northern Ireland is of central importance to the government, which already has determined that the devolved administrations should be fully engaged in the withdrawal process.

Continued Collaboration With the EU

The prime minister acknowledged that the UK will seek to continue cooperating with the EU-27, particularly in relation to matters of crime, terrorism and foreign affairs; there is no desire to “turn back the clock to the days when Europe was less peaceful”. She expressed her hope that the UK’s future relationship with the EU will include practical arrangements to facilitate cross-border law enforcement and the sharing of intelligence.



UK Prime Minister Outlines Objectives for Exiting the EU

Avoiding a 'Cliff Edge'

To provide an orderly transition and enhanced certainty, the prime minister expressed a desire to reach an agreement on the UK's future relationship with the EU by the time the two-year time period (triggered when the UK serves formal notice of withdrawal under Article 50 of the EU Treaty) has concluded. As a first step, existing EU law will be transposed into domestic law, a process that should be completed at the time the UK formally exits the EU (effectively preserving the status quo). The government will seek to minimise the risk of an unlimited transitional period by working towards a finite phased process of implementation, which she suggested may be tailored by sector, with the aim of allowing businesses an opportunity to plan and prepare for the new arrangements.

Parliament to Vote on Final Deal

The government will put the final deal reached by the UK and the EU to a vote in the House of Commons and the House of Lords, although it was not specified whether this meant the trade deal (which may be ambitious to have finalised by then) or the terms of the exit (which may be more realistic). Equally, she did not indicate whether Parliament would have any say in the UK deciding to break off negotiations with the EU. In response to a question from the audience following the speech regarding what would happen if either house were to reject the deal, Prime Minister May reiterated her confidence that Parliament would respect the views of the public and noted that it had voted for the government to "get on with Brexit".

Although many questions remain unanswered (including the ramifications if Parliament rejects the terms of the final deal), and it is impossible to predict the course the negotiations will take over the coming months and years, many have welcomed the additional clarity stemming from this important speech.

The official transcript of the speech can be accessed [here](#).