

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL, THE COUNCIL, THE EUROPEAN CENTRAL BANK, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE, THE COMMITTEE OF THE REGIONS AND THE EUROPEAN INVESTMENT BANK

Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019

The United Kingdom's decision to leave the Union creates uncertainties that have the potential to cause disruption.

European Council (Article 50), 29 April 2017¹

The European Council calls upon the Commission, the High Representative of the Union for Foreign Affairs and Security Policy and the Member States to continue the work on preparedness at all levels for the consequences of the UK withdrawal, taking into account all possible outcomes.

European Council (Article 50), 29 March 2018²

The European Council renews its call upon Member States, Union institutions and all stakeholders to step up their work on preparedness at all levels and for all outcomes.

European Council (Article 50), 29 June 2018³

Summary:

The withdrawal of the United Kingdom from the European Union has repercussions for citizens, businesses and administrations in both the United Kingdom and the European Union. These repercussions range from new controls at the EU's (new) outer border, to the validity of UK-issued licences, certificates and authorisations all the way to new conditions for data transfers.

The European Union is working hard to reach an agreement on an orderly withdrawal, and looks forward to discussing a framework for the future relationship with the United Kingdom.

However, there is no certainty that an agreement will be reached. And even if an agreement is reached, the United Kingdom's relationship with the European Union will no longer be one of a Member State and thus, will be in a fundamentally different situation.

Therefore, everybody concerned needs to be prepared for the withdrawal of the United Kingdom from the European Union on 30 March 2019. This Communication is to be seen in the light of the call of the EU27 Leaders to intensify preparedness at all levels and encourages all stakeholders that may be affected by the United Kingdom's withdrawal to take the necessary preparedness actions and to take them now.

¹ <http://www.consilium.europa.eu/media/21763/29-euco-art50-guidelinesen.pdf>.

² <http://www.consilium.europa.eu/media/33458/23-euco-art50-guidelines.pdf>.

³ <https://www.consilium.europa.eu/media/35966/29-euco-art50-conclusions-en.pdf>.

1. The context

The United Kingdom has decided to leave the European Union

On 30 March 2019⁴, the United Kingdom will leave the European Union and become a third country.

Irrespective of the scenario envisaged, this will cause significant disruption for European citizens, businesses and administrations. The European Council has repeatedly underlined the need for preparedness action and on 29 June 2018 made a renewed call on Member States, Union institutions and all stakeholders to step up their work on preparedness at all levels and for all outcomes⁵. This Communication describes the ongoing preparedness work, outlines the preparedness actions taken so far and points to the various challenges ahead.

The negotiation of a withdrawal agreement is ongoing

The European Union and the United Kingdom are currently negotiating a withdrawal agreement. Progress on the legal text achieved at negotiators' level was reported on 19 March 2018⁶. This progress includes detailed arrangements for a transition period to run until 31 December 2020 (see below). Further progress was reported in a joint statement of the EU and the UK negotiators on 19 June 2018⁷. While progress has been made, important issues remain open, including the continued protection, in the United Kingdom, of the 'stock' of geographical indications protected in the United Kingdom while it was a Member State and the standards of the protection of personal data transmitted to the United Kingdom while it was a Member State. Also the issues related to ongoing police and judicial cooperation in criminal matters remain open. In addition, issues surrounding the governance of the Withdrawal Agreement, including the role of the Court of Justice of the European Union, are still unresolved. Finally, no progress has been made in agreeing on a 'backstop' to avoid a hard border on the island of Ireland, independently of the outcome of the negotiations of the future relationship.

In parallel to the draft Withdrawal Agreement, the European Union and the United Kingdom have started to discuss the content of a political declaration which would set out an overall understanding on the framework for a future relationship between the European Union and the United Kingdom.

It is currently planned that the Withdrawal Agreement would be agreed by the European Union and the United Kingdom in October 2018, accompanied by the political declaration on their future relationship. This would provide just sufficient time for the conclusion process in the European Union (Council with the consent of the European Parliament) and ratification in the United Kingdom.

⁴ The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement establishes another date or, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, unanimously decides that the Treaties cease to apply at a later date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00 (CET). At this moment in time the Commission has received no indication that the United Kingdom may request a prolongation of its EU membership.

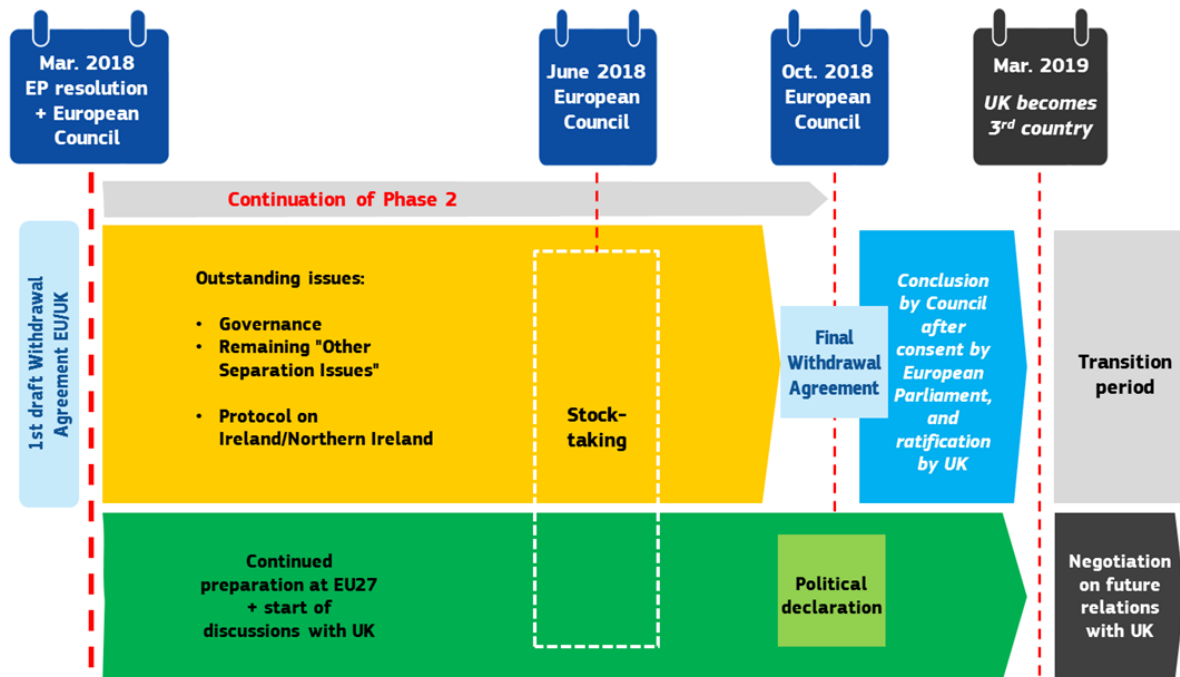
⁵ <http://www.consilium.europa.eu/en/press/press-releases/2018/06/29/20180629-euco-conclusions-art-50/>.

⁶ https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-united-kingdom-great-britain-and-northern-ireland-european-union-and-european-atomic-energy-community-0_en.

⁷ https://ec.europa.eu/commission/sites/beta-political/files/joint_statement.pdf

The conclusion and ratification of a withdrawal agreement is a demanding process

Brexit – Next steps



There might be a transition period...

If the draft Withdrawal Agreement is agreed by the European Union and the United Kingdom, it would provide for a transition period between the withdrawal date (i.e. 30 March 2019) and 31 December 2020. During the transition period, the Union rules (the so-called Union *acquis* including international agreements⁸), as they continue to evolve, would in general apply to and in the United Kingdom, although the United Kingdom would no longer participate in the governance or decision making of the EU institutions, bodies or agencies. A transition period would thus give another 21 months to prepare for the day when EU law would cease to apply to and in the United Kingdom.

...but we need to prepare for all scenarios...

Stakeholders and national and EU administrations need to prepare for two possible main scenarios:

- If the Withdrawal Agreement is ratified before 30 March 2019, so that it can enter into force on that date, EU law will cease to apply to and in the United Kingdom on **1 January 2021**, i.e. after a transition period of 21 months, the terms of which are set out in the Withdrawal Agreement.
- In the **absence of an agreement** on a withdrawal agreement, or if the Withdrawal Agreement is **not ratified** in time by both parties, there will be no transition period and EU law will cease to apply to and in the United Kingdom as of **30 March 2019** (also referred to as the 'no deal' or 'cliff-edge' scenario).

⁸ During the transition period, the United Kingdom would remain bound by the obligations stemming from international agreements to which the EU is a party. The EU will notify the other parties to these agreements that during the transition period, the United Kingdom is to be treated as a Member State for the purposes of these agreements.

In addition, even if the Withdrawal Agreement is ratified and a future relationship agreement is successfully concluded during the transition period, this relationship would not be that of a Member State of the Union. The European Council has consistently recalled that a third country cannot have the same rights and enjoy the same benefits as a Member State. Therefore, preparing for the United Kingdom being a third country is of paramount importance, even in the least disruptive scenario.

...and each scenario has different consequences

Main consequences of scenario 1: withdrawal on 30 March 2019 under the Withdrawal Agreement, including a transition period until 31 December 2020

- The United Kingdom will be a third country.
- Continuation of the application of EU law in and to the United Kingdom: In general, EU law would continue to apply during the transition period.
- Exit from the institutional set-up: The United Kingdom would from 30 March 2019 no longer participate in EU decision-making, EU institutions, governance of EU bodies and agencies.
- Management of the transition period: The role of EU institutions in the supervision and enforcement of EU law in the United Kingdom would continue.
- Negotiation of the future relationship: The European Union should negotiate with the United Kingdom an agreement on the future relationship which should ideally be in place (agreed, signed and ratified) at the end of the transition period and apply as from 1 January 2021.

Main consequences of scenario 2: withdrawal on 30 March 2019 without a withdrawal agreement

- The United Kingdom will be a third country and Union law ceases to apply to and in the United Kingdom⁹.
- Citizens: There would be no specific arrangement in place for EU citizens in the United Kingdom, or for UK citizens in the European Union.
- Border issues: The European Union must apply its regulation and tariffs at borders with the United Kingdom as a third country, including checks and controls for customs, sanitary and phytosanitary standards and verification of compliance with EU norms. Transport between the United Kingdom and the European Union would be severely impacted. Customs, sanitary and phytosanitary controls at borders could cause significant delays, e.g. in road transport, and difficulties for ports.
- Trade and regulatory issues: The United Kingdom becomes a third country whose relations with the European Union would be governed by general international public law, including rules of the World Trade Organisation. In particular, in heavily regulated sectors, this would represent a significant drawback compared to the current level of market integration.
- Negotiations with the United Kingdom: Depending on the circumstances leading to the withdrawal without an agreement, the EU may wish to enter into negotiations with the United Kingdom as a third country.
- EU funding: UK entities would cease to be eligible as Union entities for the purpose of receiving EU grants and participating in EU procurement procedures. Unless otherwise provided for by the legal provisions in force, candidates or tenderers from the United Kingdom could be rejected.

⁹ As a consequence, the special regime which regulates the Association of Overseas Countries and Territories (OCTs) in Part Four of the Treaty on the Functioning of the European Union will also no longer apply to British OCTs.

2. The difference between preparedness and contingency

Untangling a relationship built over more than forty years will inevitably result in significant changes in the interactions with the United Kingdom at all levels, including economically and legally. Preparedness cannot prevent the occurrence of these changes, which are a consequence of the United Kingdom's decision, but aims at mitigating their impact. While the European Union negotiates an orderly withdrawal with the United Kingdom, it aims to defend the interest of a Union of 27 Member States, and its citizens, businesses and Member States should also take action to prepare. **Preparation must therefore be stepped up immediately at all levels and taking into account all possible outcomes.**

Citizens, businesses and Member States will be affected to different degrees, and the extent of the disruption will depend on many factors, including on whether a withdrawal agreement comes into force, and on the future relationship between the European Union and the United Kingdom.

Preparedness means envisaging all possible scenarios and assessing all relevant related risks, planning a response and reacting to potential outcomes. All possible and necessary steps must be taken to ensure that a response is planned and that risks can be mitigated to the extent possible by stakeholders and public authorities in the Union. Everyone must therefore prepare for the changes that the departure of United Kingdom will inevitably bring.

When defining the actions that will have to be taken, the Commission distinguishes between two different kinds of measures: preparedness measures and contingency planning.

a) Preparedness measures

Preparedness measures are measures that will have to be taken as a consequence of the withdrawal of the United Kingdom, regardless of whether there will be a withdrawal agreement with the United Kingdom or not.

For example, for economic operators who currently operate on the basis of authorisations and certificates issued by United Kingdom authorities and bodies, preparedness measures could include applying for authorisations and certificates in an EU27 Member State to ensure continuous access to the EU market. Member States may wish to consider measures to mitigate the additional administrative burden that would follow from new border control measures and an increase in requests from economic operators for EU27 licences or certificates.

At EU level, examples of preparedness measures are the relocation of the London-based decentralised agencies and the reattribution of tasks from United Kingdom authorities to EU27 authorities. These are necessary regardless of any agreement with the United Kingdom, given that it is not possible to entrust a third country with such Union tasks or the hosting of Union bodies.

b) Contingency planning

While EU law stays the same, the uncertainty of the negotiation process requires mapping of all scenarios.

Contingency planning consists of envisaging the measures that would be necessary to mitigate the effects of a withdrawal of the United Kingdom from the Union without a withdrawal agreement, and hence without a transition period, which would inevitably arise around the date of withdrawal (30 March 2019).

Contingency measures would in principle be temporary until the necessary long-term adjustments are in place. Contingency measures cannot achieve the same results as an orderly withdrawal negotiated through a withdrawal agreement, nor would they be able to recreate the current situation where the United Kingdom is a Member State.

Contingency planning for the worst possible outcome is not a sign of mistrust in the negotiations. The Commission is devoting very significant resources and committing great efforts to achieve an agreement. This remains our goal. However, the outcome of negotiations cannot be predicted.

Contingency measures would not necessarily involve legislative actions at EU level and could fall within the responsibility of Member States, depending on the area of competence. In the area of customs, for instance, there would be no need in principle to amend the Union Customs Code as it already includes rules on third countries; contingency measures for implementation at national level might be necessary to cope with the risk of long lines of vehicles waiting for customs procedures to be fulfilled. Within the legal framework of the Union Customs Code, contingency measures should be developed and implemented in a coordinated way.

3. Who should prepare?

Preparedness for the withdrawal of the United Kingdom is not limited to the European Union institutions. It is a joint effort at EU, national, regional and local levels, as well as by economic operators. In order to be prepared for the withdrawal and to mitigate the worst impacts of a potential cliff-edge scenario, all actors need to take their responsibilities.

Preparedness is primarily for private actors, business operators and professionals.

Although the withdrawal of the United Kingdom may appear to be playing out at a high and rather abstract level between the United Kingdom and the European Union, its consequences will be very real for citizens, professionals and business operators. The Member States economies are closely inter-connected thanks to the Single Market, with integrated supply chains across borders and extensive cross-border provision of services. The withdrawal may therefore have a significant impact on such economic operators.

It is important that businesses of all sizes, including small and medium-sized enterprises (SMEs), prepare and that they take action now. **Private actors, business operators and professionals need to take responsibility for their individual situation, assess the potential impacts of a cliff-edge scenario on their business model, make the necessary economic decisions and take and conclude all required administrative steps before 30 March 2019.** The citizens who will be affected by the withdrawal of the United Kingdom, as well as the public administrations that serve them, should also prepare for 30 March 2019.

Potential questions should be addressed to the competent authorities. Industry associations – both at EU level and at national/regional level – have a crucial role to play in relaying preparedness information to their members – in particular to small and medium-sized companies. Embassies, consulates and population services have a similar role to play in informing citizens.

In this respect, it is recalled that the EU regulatory framework that applies to third countries is in place already and should be known to stakeholders. This regulatory framework remains unchanged on the withdrawal date. The Commission has published notices (see below and annex) to recall the rules that will apply when the United Kingdom becomes a third country.

While public authorities can provide support and guidance to clarify as much as possible the legal regime that will govern relations between the European Union and the United Kingdom and make the necessary changes to the legal framework to ensure that it continues to function smoothly in an European Union of 27 Member States, the legal framework cannot be adapted to fit each individual and specific commercial concern.

Many companies are relocating to EU27 or expanding their business in EU27. Other companies have warned about the impact that a disorderly Brexit will have on their activities or business models.

In some cases, companies are concerned for example by the need to exchange a UK authorisation for one issued by an EU27 authority or body. Individual professionals may have to exchange a UK certificate for one issued in an EU27 Member State or to request the recognition of their UK professional qualifications in an EU27 Member State. As a consequence they have been encouraged, via stakeholder notices (see below), to take the necessary action as quickly as possible.

The European Union, national and regional authorities and trade organisations have published supporting information and designed tools to assist individuals and businesses but further efforts are needed, focussing in particular on small and medium enterprises.

From intra-EU sales to trade with the United Kingdom as a third country: preparing for new procedures

International traders are aware of what trade with third countries outside the European Union means, in terms of customs declarations, sanitary and phytosanitary (SPS) controls etc. They are also aware of the necessary requirements for bringing products from third countries into the Union Single Market, for example in terms of import formalities as well as compliance with the applicable Union legislation and conformity assessment procedures. But many companies have no experience with trade with third countries, as they only trade within the Single Market without borders. Reaching out to those companies is therefore particularly acute, while the challenge that the withdrawal of the United Kingdom from the European Union represents is for them the highest: they will need to engage in procedures they are not used to but which are mandatory for trade with third countries¹⁰.

Information on trading with third countries is available on the website of the Commission¹¹. In addition, national governments, for instance in Austria, Ireland and the Netherlands, have set up dedicated webpages to help companies assess the impact and/or new procedures that will follow the withdrawal of the United Kingdom from the EU (see below).

¹⁰ Sanitary and phytosanitary issues were discussed with EU industry associations at a meeting of the Advisory Forum on the Food Chain and Animal and Plant Health on 1 June 2018.

¹¹ <http://madb.europa.eu/madb/servicesForSME.htm> which will be updated concerning the United Kingdom in due course, depending on the outcome of the negotiations.

Member States, national and regional authorities have an important role to play...

While the United Kingdom becoming a third country will have significant implications for the European Union as a whole, the impact of Brexit on individual Member States will strongly vary depending on their vicinity to and the closeness of their economic ties with the United Kingdom, for example regarding shared infrastructure or the control of movement of goods and people.

Member States share the competence to legislate with the European Union in many policy areas, and their national and regional authorities are in charge of implementing and enforcing the Union *acquis*. Adaptations to national rules and guidance for stakeholders will be needed, as well as significant investments in personnel and infrastructures (e.g. for customs, sanitary and phytosanitary controls at the borders, competent authorities in charge of specific procedures etc.). Regional authorities, especially those with legislative powers, but also local authorities should be involved in the preparations.

Preparedness details and practicalities are discussed by experts of EU27 Member States during technical expert seminars organised by the Commission. These informal seminars provide a platform for the Commission to provide explanations on, for example, the content of notices and enable Member States to raise issues of concern, address questions and share best practices. They are instrumental in finding European solutions to the issues identified.

In addition to discussions at the EU level, several Member States have performed a comprehensive screening of the domestic needs for legislative changes and other adaptations of their legal instruments. Several have developed tools to support their economic operators to prepare for the withdrawal of the United Kingdom.

On the Irish website 'prepareforbrexit.com' SMEs can assess their exposure to Brexit and find information on related events and support. Ireland also offers funding to small and medium-sized enterprises of up to 5000 EUR for Brexit preparedness related expenses (i.e. preparing plans, attending events, building new contacts if there is a need for alternative suppliers, etc.).

The Dutch authorities have created the web-based '*Brexit impact scanner*' which can be used by SMEs to assess their exposure to potential problems related to the withdrawal of the United Kingdom.

...together with the EU institutions, the European Commission and the EU agencies

The EU pools Member States' sovereignty, creating a consistent framework for Member States and stakeholders to operate in. However, although the European Union has the exclusive competence to legislate in some areas (e.g. customs, trade, fisheries), and shared competence with Member States in others (e.g. internal market, transport, energy, security), its powers to put in place preparedness and contingency measures are in many cases limited to raising awareness and facilitating discussions and preparedness actions by concerned parties.

The Commission has identified several work strands where actions lie within its own remit.

a) Legislative changes and other instruments

The first work strand consists of a comprehensive **screening of the Union *acquis*** to identify the measures, which have to be taken to address the situation in the various sectors and policy areas in order to ensure that the EU rules continue to function smoothly in a Union of 27 after the United Kingdom's departure.

In the first phase, the Commission focused on the necessary legislative changes to be adopted by the European Parliament and the Council and identified eight measures where adaptations will be necessary irrespectively of the outcome of the withdrawal negotiations¹². Given the timetable, it is necessary that progress on these legislative proposals is rapid and that their adoption takes place in good time before 30 March next year.

It is important to underline that it is not legally necessary to amend or delete all references to the United Kingdom or its institutions and actors in existing EU legislation. These references will simply become obsolete and redundant after withdrawal. Relevant modifications can be made when the legal acts concerned are reviewed and updated in the future for other reasons.

Furthermore, the Commission may take additional necessary action by using the empowerments it has received from the European Parliament and the Council in basic legislative instruments to adopt implementing or delegated acts. This area is currently subject to an ongoing in-depth scrutiny by the Commission.

Examples of legislative changes needed as a result of the United Kingdom's withdrawal

- Proposal on the apportionment between the United Kingdom and the EU27 of tariff rate quotas included in the World Trade Organisation schedule of the Union. This proposal is accompanied by a recommendation for a negotiating mandate from the Council to pursue negotiations with other WTO members (a mandate was adopted by the Council on 26 June 2018). The apportionment is a necessary adaptation to ensure legal certainty and the continuous smooth operation of imports under the tariff rate quotas to both the Union of 27 and the United Kingdom.¹³
- Proposal for a Regulation complementing EU type approval legislation in the area of motor vehicles, etc. This will allow holders of UK type approvals to apply for new type approvals with EU27 type-approval authorities for the same types on the basis of the documentation and test reports presented in the context of the earlier UK type approvals.¹⁴
- On energy efficiency, the conversion of the Union's 2030 target (expressed in percent) into absolute values will need to be adapted to take account of the United Kingdom's withdrawal.
- Amendment of the existing Regulation that lists both the countries whose nationals are required to be in possession of a visa when crossing the external borders of the Member States and the countries whose nationals are exempt from a visa requirement for stays of no more than three months. The United Kingdom will have to be placed on one or the other list¹⁵.
- Proposal to amend the Regulation on the Connecting Europe Facility to adjust the alignment of the North Sea-Mediterranean corridor and design a new maritime route to link Ireland with the continental part of the corridor.
- Proposal to amend the Regulation on common rules and standards for ship inspection and survey organisations to ensure that the task of participating in the regular assessment of two recognised organisations is transferred from the United Kingdom to the EU27.

¹² https://ec.europa.eu/info/files/brexit-legislative-preparedness-proposals_en

¹³ COM(2018)321 final

¹⁴ COM(2018)397 final

¹⁵ This decision will be taken by the Council depending on the outcome of negotiations.

The Commission invites the European Parliament and the Council to give these proposals related to the United Kingdom's withdrawal priority treatment

b) Preparedness notices prepared by the Commission services

In areas in which Member States or stakeholders need to take action, the Commission started raising awareness end of 2017 through the publication of a large number of **technical notices** that set out the legal and practical implications of the withdrawal of the United Kingdom from the EU. The notices have been prepared by the Commission services, where relevant in collaboration with the competent EU agency. They are all published on the Europa website¹⁶ and thus publicly available.

The notices set out what the situation in the sector concerned will be after the withdrawal. They are based exclusively on the factual and legal situation that would prevail after the withdrawal in the absence of any withdrawal agreement and do not contain any interpretation about the outcome of the negotiations or its impact on the rules in a specific sector. Should the legal situation change further to the conclusion of a withdrawal agreement with the United Kingdom or due to a change of the legislation concerned, the notices will be adapted or be withdrawn if they are no longer relevant.

To date, the Commission has published 68 such notices, covering for example the areas of health and food safety, transport, financial stability and financial services, environment, internal market, customs, civil justice, company law and professional qualifications. In several areas the notices are accompanied by Questions and Answers published on the website of individual Commission Directorates-General and services, or EU agencies.

c) The relocation process for EU agencies and bodies

Institutional matters and budgetary issues are other important areas where the Commission is screening the needs and in some cases has already taken the necessary steps. An example is the relocation of the two **London-based agencies**: the European Medicines Agency and the European Banking Authority, which will move to, and operate out of respectively, Amsterdam and Paris, as of 30 March 2019.

There are other similar files where **relocation or reassignment of tasks** is needed as a consequence of the withdrawal of the United Kingdom from the EU, such as the relocation of the Galileo Security Monitoring Centre or the reassignment of the tasks of the United Kingdom-based EU Reference Laboratories for certain animal diseases and food safety to laboratories in the EU-27 Member States. The relocation and reattribution work will have to be finalised by 30 March 2019, given that, as mentioned, even with a transitional arrangement, it will not be possible to entrust a third country with such Union tasks or the hosting of Union bodies after the withdrawal date.

¹⁶ https://ec.europa.eu/info/brexit/brexit-preparedness_en

d) Other work strands

The Commission is also working on other work strands, including a very practical aspect of internal preparedness, namely the disconnection and adaptation of **databases and IT systems** and other platforms for communication and information exchange to which the United Kingdom should no longer have access.

Furthermore, the Commission is analysing the needs as regards the **external preparedness**, i.a. the consequences of the withdrawal for international agreements to which the EU (whether on its own, together with EU Member States or through EU Member States) is a party and which are in place in a vast number of policy areas covered by Union law. The EU intends to notify its international partners of the withdrawal of the United Kingdom once it has sufficient certainty about the outcome of the ongoing negotiations on the United Kingdom's withdrawal.

Finally, the Commission Representation in the United Kingdom will close and a **Delegation of the European Union** in the United Kingdom will be opened on 30 March 2019.

4. Conclusion

Preparing for the withdrawal of the United Kingdom from the European Union, in whatever scenario it may take place, is a matter for everyone. The withdrawal will change the relationship and will have significant effects for the citizens and businesses of the EU of 27 Member States, some of which cannot be remedied.

It is therefore important to take the necessary action in time and that everyone – citizens, businesses, Member States and EU institutions – take the necessary steps to be ready and to minimise the negative impact that the withdrawal will have.

The Commission invites the European Parliament and the Council to give priority treatment to the legislative proposals that are related to the withdrawal so that the acts can be in force by the withdrawal date.

The Commission will continue and increase its preparedness work as a matter of the highest priority. It stands ready to adapt to the developments in the negotiations in order to best serve the 27 Member States, its citizens and businesses. It will review the situation after the European Council (Article 50) in October 2018.

SECTORIAL ILLUSTRATIONS OF PREPAREDNESS CHALLENGES AND ACTIONS



TRANSPORT, INCLUDING AVIATION – Brexit preparedness

Depending on the mode of transport (air, road, rail, maritime, inland waterway), the EU sets rules for the safety, security, and access to the EU market. These rules usually create distinctions between EU operators and third country operators and provide access to those who comply with EU requirements.

EU transport businesses should carefully assess whether the change of status of the United Kingdom from a Member State to a third country impacts their operations, and should take the necessary preparedness measures.

The Commission has published **10 notices** relevant for the area of transport (air transport, aviation safety, aviation and maritime security, road transport, rail transport, seafarer qualifications, maritime transport, consumer protection and passenger rights, inland waterways, industrial products), which set out in clear terms the implications of the United Kingdom's withdrawal from the EU's legal and regulatory framework, e.g. in the area of aviation safety, in the absence of any particular arrangement, thus providing stakeholders with the requisite clarity on the baseline situation to which they were advised to adapt.

The Commission will adopt in the foreseeable future **two proposals** to amend existing Regulations where the changes would be necessary under any scenario. Amending the Regulation concerning the recognition at the Union level of organisations entrusted with duties in relation to the inspection and survey of ships will increase legal certainty, secure business continuity for the affected ship owners and preserve competitiveness of EU-27 Member States' flags. The proposal to amend the Regulation establishing the Connecting Europe Facility aims at rectifying the situation following the United Kingdom's withdrawal, when the transport infrastructure of the latter will no longer be situated in the Union to ensure continued connectivity of the EU network.



CUSTOMS – Brexit preparedness

When the United Kingdom becomes a third country, and in the absence of an agreement providing otherwise, the customs administrations in the EU, i.e., national customs authorities, will have to enforce EU rules for both exports to and imports from the United Kingdom. This means that the formalities that currently apply to trade with non-EU countries will apply, including the submission of customs declarations for goods shipments and the related controls to ensure compliance. Duties and taxes (notably VAT and excises) will have to be accounted for. This is in contrast with the current situation where no such formalities or charges apply at the borders for trade between the United Kingdom and the rest of the EU.

Customs formalities have implications in terms of additional documentation and data requirements for businesses, processing and controls for customs, and infrastructure requirements for both, including IT and physical infrastructure to allow appropriate risk based controls.

All stakeholders concerned should prepare for a situation where shipments of goods from and to the United Kingdom are subject to customs procedures and controls.

National administrations have started preparing for this new situation, in particular by planning new recruitments.

On its side, the Commission has looked carefully at the current legal framework and its application. It has also focused its efforts on alerting Member States to the EU law obligations in relation to trade with third countries, in parallel with its activity of publishing notices to stakeholders. Technical seminars to raise awareness and to identify issues have been run with EU27 Member States, and discussions have taken place with trade interests, notably through the Commission's Trade Contact Group.

EU customs authorities depend greatly on sophisticated and joined up IT systems. The Commission has started a process to ensure that the appropriate changes can be made both at EU level and in Member States to reflect the change in the status of the United Kingdom.

Finally, the Commission is facilitating the accession of the United Kingdom to the Common Transit Convention. This would be an important trade facilitation measure which would allow goods to move quite freely under customs supervision across different jurisdictions and which is particularly relevant in the case of goods going from one part of the EU to another via the United Kingdom.



FINANCIAL SERVICES – Brexit preparedness

Over the years, the United Kingdom in general and the City of London in particular has become an important financial services centre, also thanks to the Single Market. Many operators, including from third countries, have established themselves in the United Kingdom and operate in the rest of the Single Market based on the passporting rights enshrined in the EU financial services legislation.

These passporting rights will cease to exist after withdrawal. This means that the provision of financial services from the United Kingdom to EU27 will be regulated by the third country regimes in EU law and in the national legal frameworks of the respective Member State of the EU customers. There will be no Single Market access. Operators in all financial services sectors need to prepare for this scenario if they wish to ensure that there is no disruption in their current business model and that they are in a position to continue serving of their clients. In relation to contracts, at this juncture, there does not appear to be an issue of a general nature linked to contract continuity as in principle, even after withdrawal, the performance of existing obligations can continue. However every type of contract needs to be looked at separately.

The Commission has published eight **notices** in this area. The European Supervisory Authorities have provided extensive additional guidance to national competent authorities and to market participants through a series of Opinions. The Commission has also proposed modifications to some of the current supervisory arrangements to cater for potential financial stability implications following the withdrawal of the United Kingdom. The co-legislators are encouraged to adopt these proposals¹⁷ as rapidly as possible.

Given the potential implications for financial stability, a technical working group, co-chaired by the Bank of England and the European Central Bank, has been set up and is meeting regularly with a focus on risk management in the period around 30 March 2019 in the area of financial services. Additional authorities are participating in analysis on an issue-specific basis. The group will report on its work to the Commission and the responsible authority in the United Kingdom.

¹⁷ COM(2017) 331 final and COM(2017) 536 final.



FOOD SAFETY – Brexit preparedness

When the United Kingdom becomes a third country, and in the absence of an agreement providing otherwise, the strict EU rules in relation to sanitary and phytosanitary (SPS) conditions and controls on animals, plants and their products, will apply to the United Kingdom as any other third country.

For imports of animals, plants and their products from the United Kingdom into the European Union, the following rules will apply:

- Trade can take place once the sanitary and phytosanitary (SPS) conditions for the relevant agri-food products and the corresponding certification and control requirements are established.
- Physical infrastructures will have to be put in place to allow all movements of live animals and animal products (including food of animal origin), and certain plants and plant products, to go through Border Inspection Posts (BIPs) at seaports, at airports or at land, as required by EU rules. The capacity of existing posts may need to be increased while new posts will also be necessary.

10 notices have been published to raise awareness of business operators. Similarly, a technical expert seminar with EU27 Member States and meetings with stakeholders were organised.



PHARMACEUTICALS – Brexit preparedness

EU pharmaceutical law requires the marketing authorisation holder for a medicine to be established in the EU. Moreover, medicines manufactured in a third country undergo specific controls upon importation.

Marketing authorisation holders and actors in the supply chain have to prepare for this situation, in particular by ensuring that the necessary testing facilities are available in the EU.

Commission services, in close cooperation with the European Medicines Agency issued a notice and several additional questions and answers documents to provide guidance. In addition, a technical expert seminar with EU27 Member States and meetings with stakeholders were organised. Finally, the European Medicines Agency has carried out a survey of critical medicinal products as part of its broader preparedness planning.



PERSONAL DATA – Brexit preparedness

Currently, personal data can flow freely between the Member States of the EU, when the GDPR (General Data Protection Regulation 2016/679) is respected. Once EU law ceases to apply to the United Kingdom, the transfer of personal data from the EU to the United Kingdom will still be possible, but it will be subject to specific conditions set in EU law.

Companies and Member States' authorities that are currently transmitting personal data to the United Kingdom should therefore be aware that this will become a "transfer" of personal data to a third country, and explore if it could be permitted under relevant provisions of EU legislation. If the United Kingdom's level of personal data protection is essentially equivalent to that of the EU, the Commission would adopt an adequacy decision which allows for transfer of personal data to the United Kingdom without restrictions. However, this decision could only be taken once the United Kingdom becomes a third country. Companies should therefore assess whether, in the absence of an adequacy decision, measures are necessary to ensure that these transfers remain possible. The Member States Data Protection Authorities should assist companies in this endeavour.



PROFESSIONAL QUALIFICATIONS – Brexit preparedness

EU law provides for a facilitated recognition of professional qualifications obtained by EU citizens in other EU Member States.

Citizens holding a professional qualification obtained in the United Kingdom should consider whether it is advisable to obtain the recognition of a professional qualification in the EU27 while the United Kingdom is still a Member State.

The Commission published a **notice** on EU rules on regulated professions and the recognition of professional qualifications. It advises in particular EU nationals with UK professional qualifications obtained prior to Brexit to consult relevant national authorities on the need to obtain recognition ahead of 30 March 2019.

Annex: 'Brexit preparedness notices' published by Commission services per topic
(as per 18 July 2018)¹⁸

| | Topic |
|---|--|
| GOODS | |
| 1 | Industrial products |
| 2 | Pharmaceuticals (human/veterinary) |
| 3 | Plant protection products |
| 4 | Biocides |
| 5 | Automotive vehicles |
| 6 | Agricultural and forestry vehicles, two- or three-wheeled vehicles and quadricycles, non-road mobile machinery |
| 7 | Industrial chemicals (REACH) (<i>published by ECHA</i>) |
| 8 | Ecolabel |
| 9 | Waste (other than shipment licenses) |
| FOOD, FEED, LIVE ANIMALS, PLANTS | |
| 10 | Food and organic production |
| 11 | Animal feed |
| 12 | GMOs |
| 13 | Natural mineral waters |
| 14 | Plant reproductive material |
| 15 | Animal breeding/zootecnics |
| 16 | Animal health |
| 17 | Plant health |
| CUSTOMS AND INDIRECT TAXATION | |
| 18 | Rules of origin |
| 19 | Customs and VAT |
| 20 | Import/export licences |
| 21 | Specimen of endangered species (CITES) (import and export) |
| 22 | Timber import |
| 23 | Customs enforcement of intellectual property rights |
| FINANCIAL SERVICES | |
| 24 | Statutory audit |
| 25 | Credit rating agencies |
| 26 | Asset management |
| 27 | Post-trade services |
| 28 | Investment services |
| 29 | Banking and payment services |
| 30 | (Re)insurance |
| 31 | Occupational retirement institutions |
| COMPANY LAW, CONSUMER PROTECTION, DATA PROTECTION, CIVIL JUSTICE | |
| 32 | Personal data protection |
| 33 | Company law |
| 34 | Private international law |
| 35 | Consumer protection and passenger rights |
| INTELLECTUAL PROPERTY | |
| 36 | Trademarks and community designs |
| 37 | Plant varieties |

¹⁸ https://ec.europa.eu/info/brexit/brexit-preparedness_en

| | |
|------------------------------------|---|
| 38 | Copyright |
| 39 | Supplementary protection certificate |
| PROFESSIONAL QUALIFICATIONS | |
| 40 | Professional qualifications |
| 41 | Qualifications of slaughterhouse staff |
| 42 | Qualifications of animal transporters |
| 43 | Qualifications of seafarers |
| TRANSPORT | |
| 44 | Air transport (access) |
| 45 | Aviation safety |
| 46 | Aviation and maritime security |
| 47 | Road transport |
| 48 | Maritime transport (access and safety) |
| 49 | Rail transport |
| 50 | Inland waterway transport |
| DIGITAL AND INFORMATION | |
| 51 | .eu top level domain names |
| 52 | E-commerce (information society services) |
| 53 | Telecommunication |
| 54 | Audio-visual media services |
| 55 | eIDAS/trust services |
| 56 | Network security |
| 57 | Geoblocking |
| ENERGY | |
| 58 | Euratom-related matters |
| 59 | Electricity and gas market |
| 60 | Guarantees of origin |
| OTHER | |
| 61 | Substances of human origin |
| 62 | Public procurement |
| 63 | EU Eco-Management and Audit Scheme (EMAS) |
| 64 | Ship recycling |
| 65 | European Citizens' Initiative |
| 66 | Fishery's <i>acquis</i> |
| 67 | European Works Councils |
| 68 | Industrial security (EUCI) |