

Negotiations on the UK's withdrawal from the EU

Monitoring Report

2 June 2020



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1. Introduction

This report provides a headline summary and analysis of the latest developments in the UK-EU negotiations, at the UK level and in Wales since 19 March.

Summary of developments

The fourth round of negotiations on the **UK-EU future relationship** is due to take place in the week commencing 1 June. It will be followed later in the month by a high level summit in which the UK and EU will review progress and decide on a way forward. Following the third round, both parties acknowledged that little progress had been made, particularly on key areas of divergence such as competition (level playing field) and fisheries. Both parties have since exchanged letters and made statements reaffirming their respective positions. Meanwhile, the first meetings to oversee the implementation of the Withdrawal Agreement have taken place.

At UK level, the Government held its first round of trade negotiations with the US and published its outline approach to trade negotiations with Japan. Brexit legislation continued to progress through Parliament. The Joint Ministerial Committee (European Negotiations) met in late May for the first time since January. The impact on the coronavirus pandemic was felt on preparations for the end of the transition period, including delays to applications to the EU settlement scheme and suspension of stakeholder engagement with the common frameworks programme.

In Wales, the Minister for European Transition said that ministerial engagement in the UK-EU negotiations 'became even more inadequate' and continued to call for more involvement for the devolved governments. The Welsh Government warned of the impact of the coronavirus pandemic on preparedness for the end of the transition period and called for an extension. The Minister for International Relations updated the Senedd on her engagement with the UK Government on international trade negotiations. Senedd committees scrutinised Welsh Government Legislative Consent Memorandums on UK Brexit legislation.

2. Developments in the UK-EU negotiations

The **fourth round** of UK-EU future relationship negotiations will take place in the week of 1 June. A high level meeting, attended by the Prime Minister, will be held later in June, in which both Parties will review progress and decide on a way forward. This meeting was agreed in **the Political Declaration**. At the time of publication, no date had been set for the meeting. However, **UK Chief Negotiator David Frost** expects it to be in the final week of June, following **the EU Council meeting of 19 June**. During evidence to the House of Lords **EU Select Committee**, David Frost advised that all involved are working on the assumption that there will be further negotiating rounds after the high level meeting with the possibility of an additional round in June and another in July.

Both sides agreed that little progress had been made during the third round of negotiations held between 11 and 15 May, including on key areas of divergence. These have been identified as competition (referred to as the level playing field – LPF), fisheries, governance and cooperation on judicial matters.

Calls to extend the transition period continue (most recently from **EU road haulage companies**). On 26 May, EU Chief Negotiator **Michel Barnier confirmed** that the EU remains open on the matter in response to a letter from **six UK opposition political parties**. During evidence to the **Future Relationship with the European Union Committee** on 27 May, the Chancellor of the Duchy of Lancaster Michael Gove confirmed that an extension would not be sought, nor would an additional 'implementation phase' be considered. The following day, during evidence to the **House of Lords EU Select Committee**, he confirmed that there are no circumstances in which the UK Government would seek or agree to an extension.

The negotiations have also been impacted by the coronavirus pandemic. More information on this can be found in the **latest blog post** by Senedd Research.

Key points: EU

The EU is seeking a single agreement with the UK that would cover most aspects of the UK-EU future relationship. It published its **draft legal text** on 18 March, which refers to the future relationship as a 'partnership.' The text is structured in six parts, such as economic partnership (Part 2) and security partnership (Part 3). The EU has made its offer contingent on the UK's agreement to different elements of its proposals. For example, the economic partnership is dependent on an

agreement on fisheries. Similarly, the security partnership is contingent on the UK's continued adherence to the European Convention on Human Rights (ECHR) and on the UK maintaining an adequate level of data adequacy.

European Parliament publishes recommendations

On 6 April, the European Parliament also published its **draft report of recommendations** for the negotiations, which presents the conclusions of the Committee on Foreign Affairs and the Committee on International Trade. The recommendations restate the importance of parliamentary scrutiny of matters raised by the UK's withdrawal, including the implementation of the Withdrawal Agreement. The European Parliament is expected to adopt its final report on 17 June.

David McAlister MEP, chair of the European Parliament's UK future relationship coordination group, **gave evidence** to the Scottish Parliament's Culture, Tourism, Europe and External Affairs Committee on 26 May, where he set out the Parliament's initial response to the UK Government's draft negotiation texts.

Meeting of EEA states

On 25 May, European Economic Area (EEA) states, comprising the EU27, Liechtenstein, Norway and Iceland, issued a **joint statement** following their **regular meeting**, which made reference to the UK's withdrawal from the EU and **the EEA Agreement**. The statement encourages the EU and EEA EFTA states to continue their close dialogue on issues arising from the UK's withdrawal from the EU and the EEA.

Key points: UK

The UK is seeking a number of separate agreements with the EU, based on a central comprehensive free trade agreement. The UK Government published the following **draft agreements** on 19 May:

- UK-EU Comprehensive Free Trade Agreement (CFTA)
- Fisheries Framework Agreement
- Air Transport Agreement
- Civil Aviation Safety Agreement
- Energy Agreement
- Social Security Coordination Agreement

Civil Nuclear Cooperation

Agreement on Law Enforcement and Judicial Cooperation in Criminal Matters

Agreement on the transfer of unaccompanied asylum-seeking children

Agreement on the readmission of people residing without authorisation

The UK's position was set out in a **statement by Chief Negotiator David Frost** following the third round of negotiations on 15 May

Chief Negotiators' exchange of letters

Following the third round of negotiations, letters were exchanged between Chief Negotiators, **David Frost** and **Michel Barnier**, in which both set out their respective positions. In response to David Frost's letter, Michel Barnier stated that an exchange of letters 'cannot be a substitute for serious engagements and detailed negotiations.'

Implementation of the Withdrawal Agreement

The UK-EU Joint Committee on the implementation of the Withdrawal Agreement met via teleconference for the first time on 30 March. The **UK Government** and **European Commission** each published statements after the meeting in which it was decided to launch the work of the six Specialised Committees. On 15 April, **chief negotiators David Frost and Michel Barnier agreed** that the 'proper and timely' implementation of the Withdrawal Agreement was a 'key priority for both sides'.

The first meetings of the **six Specialised Committees** (on Citizens' Rights; Other Separation Provisions; Ireland/Northern Ireland; Gibraltar; Sovereign Base Areas in Cyprus and Financial Provisions) are summarised below.

Specialised Committee meetings

Ireland-Northern Ireland Protocol

The Specialised Committee on the Protocol on Ireland and Northern Ireland met for the first time on 30 April. The **UK** and **EU** issued statements after the meeting.

On the same day, the EU Commission published a **technical note on the implementation of the Ireland-Northern Ireland Protocol**, calling on the UK to provide more detail on its implementation measures, to enter into technical

implementation discussions with the Commission and to take action as a matter of urgency in the following areas: the rights of individuals, customs and the movement of goods, VAT, the single electricity market and state aid. The note also calls on the UK Government to 'urgently engage' with the business community in Northern Ireland to enable preparation for the new arrangements.

The UK published a command paper on the Ireland and Northern Ireland Protocol on 20 May. This sets out how the UK will implement the Protocol, focusing on customs and trading arrangements. It outlines a four-point plan that will aim to ensure:

1. Unfettered access for Northern Ireland's businesses to the rest of the UK (and particularly that trade should take place as it does now);
2. No tariffs on internal UK trade;
3. No new customs infrastructure in Northern Ireland;
4. Northern Ireland benefits from UK trade deals.

Financial Provisions

The **first meeting of Specialised Committee on Financial Provisions** took place on 19 May. Both parties exchanged updates on their implementation of Part V of the Withdrawal Agreement and reaffirmed their commitment to their legal obligations. They agreed to continue informal work on information requirements and to work collaboratively on technical matters.

Citizens' rights

The **first meeting of the Specialised Committee on Citizens' Rights** took place on 20 May. The parties exchanged updates on the implementation of the citizens' rights provisions in the Withdrawal Agreement and reaffirmed their shared objective of ensuring their timely and correct implementation to provide certainty to citizens. The co-chairs agreed that the Committee will meet regularly to follow the progress of implementation.

The meeting followed a dispute that has arisen between the UK and EU over citizens' rights. On 14 May, the EU Commission **launched infringement proceedings** against the UK for its failure to comply with EU law on the free movement of EU citizens and their family members. The UK has four months to respond. On the same day, the UK Government raised concerns on behalf

of UK citizens living in EU Member states in a **letter to the Commission**. The concerns relate to inconsistencies amongst the EU27 in the communication of key information, the application process, and support for vulnerable citizens. During evidence to the **House of Lords EU Select Committee** on 28 May, Chancellor of the Duchy of Lancaster Michael Gove suggested that there would be an opportunity to follow up at the next Joint Committee meeting in June.

Separately, the UK Government has said that it is taking longer than normal to process applications to the **EU settlement scheme** because of the coronavirus pandemic. The **Home Office has set out support available to applicants** in a blog post. The deadline for applications remains 30 June 2021.

Gibraltar

The **first meeting of the Specialised Committee on Gibraltar** took place on 27 May. Those attending the meeting of the Specialised Committee examined the level of fulfilment of obligations with regards to Gibraltar and agreed to meet again towards the end of the year to follow the progress of implementing the Protocol.

The Withdrawal Agreement contains a Protocol on Gibraltar. Gibraltar is excluded from the future relationship negotiations and is expected to be covered in a separate UK-EU agreement (itself subject to the specific consent of Spain).

3. Developments in the UK

International negotiations

UK-US negotiations

The first round of the negotiations for a UK-US free trade agreement began on 5 May, following a video conference call between UK Secretary of State for International Trade, Liz Truss MP and US Trade Representative, Robert Lighthizer. Talks were led on the UK side by Oliver Griffiths, and overseen by Crawford Falconer, the Department for International Trade's Chief Trade Negotiation Adviser.

The **UK Government published a statement** on the outcome of the first round of negotiations on 18 May. The statement described the round as 'positive and constructive' and further stated that:

A number of areas showed particular progress, including where both teams identified positive alignment between respective negotiating positions. They identified a mutually high ambition for services, investment and digital trade, among other areas.

Both sides also set out a mutual commitment to creating new opportunities for businesses on both sides of the Atlantic and to delivering benefits for workers, consumers and farmers. This includes the confirmation that both sides will quickly pursue a standalone Small and Medium Enterprises (SME) Chapter and will continue the UK-US SME Dialogue.

The next round will take place between 15 and 22 June, but virtual meetings will continue to take place between both teams of negotiators in the meantime.

The **Times reported on 3 May** that the UK Government aims to use the negotiations with the US to obtain greater leverage and secure better terms with the EU in the Brexit negotiations which are held in parallel.

Other international negotiations

On 13 May, the UK Government published its **negotiating objectives** for a free trade agreement with Japan. The objectives state that talks are expected to begin soon. The published objectives include a high-level outline of the UK's negotiating objectives, the UK Government's response to the public consultation on a UK-Japan free trade agreement, and an initial assessment of the potential long-term impacts of an agreement. The first rounds of talks are expected to begin soon,

using video conferencing until it is considered safe to travel.

The UK Government has also announced that it will soon publish its negotiating objectives for a free trade agreement with Australia and New Zealand, with the aim of having 80 per cent of total UK external trade with countries covered by free trade agreements by 2022.

UK legislation

Agriculture Bill

The **Agriculture Bill** completed its remaining stages in the House of Commons on 13 May 2020. It will now be considered by the House of Lords.

The **House of Commons accepted three Government amendments** (20-22), at the request of the Welsh Government. These were to make changes to the powers for Welsh ministers to modify legislation on rural development in Schedule 5.

The House of Commons rejected three amendments on division. **New clause 2** would have required UK ministers to confirm any agricultural or food product imported under a new international agreement would be produced or processed according to standards equivalent to or exceeding relevant domestic standards, **Amendment 39** would have removed the power for the Secretary of State to require a devolved authority to provide information to the UK Government for the purposes of securing compliance with the WTO agreement on agriculture. **New clause 7** would have required the UK Government to prepare a coronavirus emergency food plan.

The Senedd's **Climate Change, Environment and Rural Affairs Committee** and **Legislation, Justice and Constitution Committee** have both now reported on the Welsh Government's **Legislative Consent Memorandum**. To find out more about what the Bill means for Wales, you can read this **briefing from Senedd Research**.

Fisheries Bill

The **Fisheries Bill** completed its House of Lords committee stages on 11 March without amendment. **Report stage** is yet to be scheduled. The Bill aims to establish a UK-wide fisheries framework outside of the EU's Common Fisheries Policy (CFP). The Welsh Government sets out its support for the UK Bill in its **Legislative Consent Memorandum**, laid on 12 February.

The Senedd's Climate Change, Environment and Rural Affairs Committee **reported on the Bill** on 21 May. The Committee recommends the Senedd provide its consent to the Bill, subject to it being satisfied by the response of the Minister for Environment, Energy and Rural Affairs to each of its recommendations. The Senedd's Legislation, Justice and Constitution Committee **also reported on the Bill** in May and made a number of recommendations. To find out more about what the Bill means for Wales, you can read this **blog post from Senedd Research**.

Environment Bill

The Environment Bill, introduced on 31 January, reached **committee stage** in the House of Commons on 19 March. The Bill aims to establish a framework for environmental governance and principles outside the EU and contains provisions for Wales on matters such as waste, resource efficiency, water and air quality. The Welsh Government laid a **Legislative Consent Memorandum** on 26 February, in which it concluded that the UK Bill is an appropriate 'vehicle to take forward initiatives' in the areas covered by the Bill.

The Senedd's **Climate Change, Environment and Rural Affairs Committee** and the **Legislation, Justice and Constitution Committee** have a reporting deadline on the Memorandum of 2 July.

Trade Bill

The **Trade Bill** provides powers to UK Ministers, and in some cases Welsh Ministers, that are required as the UK develops its new trade policy now it has left the European Union. The Welsh Government laid its **Legislative Consent Memorandum** on the Bill on 2 April and the Bill passed its second reading in the House of Commons on 20 May.

Private International Law (Implementation of Agreements) Bill 2019-21

This **Bill performs two functions**. Firstly, it enables the UK Government to continue its implementation of three specific private international law (PIL) agreements (Clause 1). Secondly, it creates a new delegated power to implement future PIL agreements into domestic law by using secondary legislation (Clause 2). The UK Government published **several documents** alongside the Bill, which remains unamended.

Immigration and Social Security Co-ordination (EU Withdrawal) Bill

The **Immigration Bill** is to repeal retained EU law on freedom of movement. It grants powers to the Secretary of State to make changes in consequence to this and powers to the Secretary of State, Scottish Ministers and the Northern Ireland Executive to modify retained EU law on social security coordination. It also provides for the status of Irish nationals to be protected. The Bill passed its second reading in the House of Commons on 18 May. It does not require Senedd consent.

Medicines and Medical Devices Bill

The **Medicines and Medical Devices Bill** is to provide powers to UK authorities to change retained EU law on human medicines and medical devices, veterinary medicines and clinical trials after the transition period ends. The date for committee stage is yet to be announced. The Bill does not require Senedd consent.

Extradition (Provisional Arrest) Bill

The **Extradition (Provisional Arrest) Bill** is to enable the police to arrest a person from specified countries without a warrant from a UK judge. Police can currently arrest people from EU countries without a UK warrant through the European Arrest Warrant. The UK Government is **not seeking access to the European Arrest Warrant** after the transition period. The **Home Office has said** that a statutory instrument under the Act could be made to extend the power to arrest a person without a warrant from a UK judge to some or all EU member states. The Bill does not require Senedd consent. It had its report stage in the House of Commons on 23 March.

Other legislation

The UK Government still plans to introduce financial services legislation and to legislate to 'guarantee **unfettered access** for Northern Ireland's businesses to the whole of the UK internal market' by the end of the transition period. A large volume of secondary legislation is also expected.

Preparedness

In **evidence to the House of Lords European Union Committee** on 28 May, the Chancellor of the Duchy of Lancaster Michael Gove and UK chief negotiator David Frost said:

[A]t some point, prioritising readiness for the end of the year will loom larger than the negotiating process. We're not at that point at the moment, but as a matter of logic, that will come.

The *Times* reported on 17 May that the UK Government's XO committee for no deal preparations would now meet regularly to plan for no agreement with the EU being reached.

The Scottish Government's Constitution Secretary **Michael Russell has stated** that 'given that a no-deal or something almost as bad is the most likely outcome' to the negotiations on the future relationship between the UK and the EU, the Scottish Government will 'start to revisit [its] no-deal Brexit preparations'.

Intergovernmental relations

The Joint Ministerial Committee (European Negotiations) met remotely on 21 May, for the first time since January. The **JMC (EN) discussed** UK-EU negotiations, preparedness, and the Intergovernmental Relations Review.

In a statement before the meeting, the **Minister for European Transition said** he would call for:

- structured, collective and detailed discussions between the UK and devolved governments on the negotiations;
- an extension to the transition period; and
- the review of intergovernmental relations to continue.

The Minister for European Transition said that he had also spoken weekly with UK Government Paymaster General, Penny Mordaunt MP, but these meetings had not been accompanied by written papers.

During an evidence session of the **House of Commons Future Relationship with the EU Committee** on 27 May, Joanna Cherry MP advised that, at the JMC(EN), the Scottish Government representative Michael Russell had proposed that 'proper consultation' with the devolved nations should involve a ministerial quadrilateral ahead of the next round of negotiations. The proposal was reportedly supported by the other devolved administrations. The Chancellor of the Duchy of Lancaster, Michael Gove, described the proposal as 'constructive' and confirmed that it is his aim to hold such a meeting following discussions with 'other government colleagues.' However, he also stated that the meeting would take place at an 'appropriate point,' and not necessarily before the negotiating round commencing on 1 June, as requested.

Consultation of House of Commons Committees

The House of Commons European Scrutiny Committee consulted Commons departmental select committees on their views on UK-EU negotiations. This followed the Committee's **report on the EU's negotiation mandate** on 17 March. It published the **outcome of this consultation** with committees on 6 May.

4. Developments in Wales

EU future relationship negotiations

The **Minister for European Transition** made a statement on the negotiations on 7 May. He reiterated the Welsh Government's call for an extension to the transition period and said that:

... despite the promises of improved engagement as the future relationship negotiations got underway, Ministerial engagement became even more inadequate. The UK Government has failed despite their formal commitment in the terms of reference of the Joint Ministerial Committee (EU Negotiations) to seek agreement with the Devolved Governments on the negotiations to provide us with meaningful opportunities to influence.

International negotiations

The **Minister for International Relations and Welsh Language** updated the Senedd on international negotiations on 6 May. She stated that:

I can confirm that the second ministerial forum on trade has recently been held, and I remain in close contact with the relevant Ministers across the United Kingdom. Now, the UK Government seems determined to agree a deal with the EU by the end of the year, despite these new circumstances, so negotiations with the United States on a trade deal have now commenced, and work on preparing for negotiations with Japan and other priority countries continues apace.

Legislation

The **Minister for European Transition** updated the Senedd on legislation required for the end of the transition period in his written statement on 7 May, saying that there was likely to be 'a significant programme of SIs' required by the end of the transition period. He said that:

We have asked the UK Government to share a credible plan for how all the necessary legislation can be passed by the end of December, but no such plan has been shared.

The Welsh Government has now laid **Legislative Consent Memorandums** on the Agriculture, Fisheries, Trade and Environment Bills (see above).

Preparedness

On 7 May, the **Minister for European Transition** said:

Covid-19 has already affected the current capacity of both the UK Government and the Welsh Government to prepare for the end of transition. More fundamentally, the scale of the immediate crisis has hugely reduced the capacity of people, businesses and other organisations to consider, let alone take action to prepare for, the end of transition. The risks of this will multiply if significant changes to trade and supply chains hit already fragile businesses which are not prepared and still suffering from the impact of the pandemic – with potentially serious implications across Wales.

The **House of Commons Welsh Affairs Committee** published a report on freeports and Wales on 8 May. It recommended that the UK Government should set out its assessment of the economic potential of freeports in more detail, including how it intends to use freeports to help 'level up' the nations and regions of the UK. The Committee also recommended that the UK Government should not 'allow the complexities created by the devolution settlement to disadvantage the bids submitted by Welsh ports' and the Welsh Government should 'work constructively with the Welsh ports'.

Common frameworks

The **Minister for European Transition** updated the Senedd on the common frameworks programme in a written statement on 7 May.

Officials from all four administrations have been working together to consider how to deliver the most important framework areas. However, even achieving this by the end of this year will be difficult.

The UK Government published its **seventh statutory report** on the EU (Withdrawal) Act and common frameworks, covering the period up to 25 March 2020. The report said that several frameworks were approaching provisional confirmation by UK and devolved ministers at the Joint Ministerial Committee (European Negotiations). It also stated that the UK and devolved governments were 're-evaluating delivery plans and timelines to take account of the COVID-19 outbreak and its impact.'

Shared Prosperity Fund

The Welsh Government extended the deadline for its consultation on the **framework for regional investment in Wales** to 5 June.