
A BETTER DEAL AND A BETTER FUTURE

An alternative written ministerial statement under the terms
of EUWA 2018 S13(4) 15 January 2019

Exiting the EU: the Government's
policy for EU withdrawal following
the vote of the House of Commons
on 15 January 2019

Foreword by Steve Baker MP

In the event the House of Commons rejects the Government's EU Withdrawal Agreement and framework for the future relationship, the Government is required under section 13 of the European Union (Withdrawal) Act 2018 to table a written ministerial statement setting out how the Government proposes to proceed.

The Government should lay this statement to fulfil the democratic and legal mandate to leave the European Union. The statement makes provision to leave with an agreement of the character the EU offered in March 2018 and subsequently repeated. It sets out measures to leave the EU on World Trade Organisation terms if an agreement on withdrawal and the future framework cannot be reached.

This statement draws on the Prime Minister's Lancaster House speech, around which the Conservative Party united, and the offer made to the UK by the European Council. It draws heavily on previously published work listed in the references at the end of this document.

This document could not have been prepared without the contributions of colleagues. I am particularly grateful to Sir Bernard Jenkin MP, Sir William Cash MP, Lord Lilley, Marcus Fysh MP and Shanker Singham for helpful comments. Errors and omissions remain my own.

A handwritten signature in black ink, reading "Steve Baker", with a horizontal line underneath.

Steve Baker MP

Deputy Chairman
European Research Group
15 January 2018

On 15 January 2019, the House of Commons rejected the motion to approve the Government's proposed Withdrawal Agreement and the framework for the future relationship negotiated with the EU.

Section 13(4) of the European Union (Withdrawal) Act 2018 requires that a Minister of the Crown must, within the period of 21 days of that date, make a statement setting out how Her Majesty's Government proposes to proceed in relation to negotiations for the United Kingdom's withdrawal from the EU under Article 50(2) of the Treaty on European Union (TEU).

The Government is making this statement in fulfilment of that obligation.

General

In June 2016, the British people voted to leave the European Union (EU) in a vote expressly authorized by Parliament under the European Union Referendum Act 2015. A clear majority of UK voters chose to leave the EU and to shape a brighter future for our country. They voted to embrace the world. Their decision was accepted by the House of Commons and endorsed in the manifestos of both main parties.

The UK will therefore be governed through laws passed at Westminster in line with the democratic wishes of our electorate in general elections. The UK courts and the Supreme Court will exercise their own jurisdiction over UK law. The constitutional entity of the UK is reaffirmed as such, being Great Britain and Northern Ireland.

On 16 March 2017, the UK Parliament passed the European Union (Notification of Withdrawal) Act. The Act gave the Prime Minister power to notify the European Council of the UK's intention to withdraw from the European Union under TEU Article 50.

The Prime Minister gave notice on 29 March 2017. Under the terms of TEU Article 50, the UK will therefore leave the EU on 29 March 2019, with or without an agreement in place.

On 26 June 2018, the UK Parliament passed the European Union (Withdrawal) Act. The Act repeals the European Communities Act 1972 on the day the United Kingdom leaves the European Union, 29 March 2019.

The Act ends the supremacy of EU law in UK law, converts EU law as it stands at the moment of exit into domestic law, and preserves UK laws made to implement EU obligations during the period of our membership.

There is no democratic case for stopping or delaying the process of leaving the EU. It is a democratic and legal imperative that the Government and Parliament implement the decisions already taken. Any delay risks corroding trust in democratic politics and voters' trust in politicians even further.

The Government negotiated a Withdrawal Agreement with the European Union. On 15 January 2019, the House of Commons rejected that agreement.

The Government has every confidence the United Kingdom will emerge from this period of change stronger, fairer, more united and more outward looking than ever before. We shall be a secure, prosperous and tolerant country – the best friend and neighbour to our European partners, but an independent country that reaches beyond the borders of Europe.

This statement sets out how the UK will leave the EU as one nation, free and self-governing, to be a great global trading nation that is respected around the world and strong, confident and united at home.

Leaving the EU on 29 March while seeking a better deal

It is the policy of the Government to leave the EU on 29 March 2019, in accordance with democratic mandates and UK law. The constitutional and economic integrity of the United Kingdom will be maintained.

It is the evident preference of Parliament and the nation that the UK should leave the European Union with agreements in place.

The Government will therefore work on two strands to deliver arrangements capable of securing the support of Parliament and the nation:

1. The UK will table legal text to revise the agreements reached to meet the criticisms made by Parliament and to deliver a relationship with the EU for the whole UK on the same basis as the offer made by the European Council on 7 March 2018, which included an advanced free trade agreement (FTA).
2. The Government will continue to prepare the UK to leave the EU on World Trade Organisation (WTO) terms on 29 March 2019 in the event such agreements cannot be reached in the available time.

Proposed revision to the Withdrawal Agreement

The Government will immediately table legal text to amend the Withdrawal Agreement to replace the backstop with a permanent solution capable of delivering an invisible and compliant border in Ireland under either WTO rules or an FTA,

using administrative procedures and current technology. No new infrastructure or checks at the border will be required, in accordance with the commitments given by the EU and by the government of the Republic of Ireland.

The replacement Irish border protocol will be based on an interim FTA in goods and agri-food, with a chapter on Customs and Trade Facilitation, and Irish Border Facilitations. In due course, it would become part of the comprehensive FTA which the UK and EU will seek to negotiate, with some additional provisions for regulatory cooperation and stand-alone dispute settlement mechanisms. Any non-regression clauses will be converted to disciplines on both sides in the areas of labour, environment, competition and state aid equivalent to provisions in best-in-class FTAs.

Our amendments will additionally remove from the Withdrawal Agreement all those elements which are associated with the future relationship, such as geographical indicators and language on a single customs territory between the UK and EU.

We will continue to maintain our offer on the rights of EU citizens living in the UK.

Our agreed financial settlement will remain available, subject to linking payments to progress towards a future FTA.

We will continue to seek an Implementation Period on the present proposed terms, except that the period shall not be extendable beyond 31 December 2020, without prejudice to the independence of the UK under the future relationship.

Proposed revision to the framework for the future relationship

The UK will in future have the status of an independent third country, enjoying mutually-beneficial, close cooperative and equal partnership with our neighbours.

The framework will be amended to match the offer made by the EU Council on 7 March 2018 to deliver a *Free Trade Plus* agreement as follows:

- The Government will seek to continue our common fight against terrorism and international crime, cooperating as an independent country.
- The Government will seek to participate in EU programmes in the fields of research and innovation, education and culture.
- The Government will seek in our mutual interests to resolve with the EU potential issues, including but not limited to flights, data exchange, border facilitations to ensure the smooth flow of roll-on-roll-off ferries and trains, recognition of driving licences, pet passports and similar matters.
- The Government will propose an advanced FTA covering all sectors, with zero tariffs on goods, no quantitative restrictions, including services and full cumulation under rules of origin.

The UK will leave the Common Fisheries Policy and negotiate reciprocal access to EU and UK waters for EU and UK fishing fleets in the same way as other non-EU countries as an independent coastal state.

Leaving the EU on WTO terms

The UK recognises that the EU and the EU27 may be unwilling or unable to negotiate for the whole UK the relationship offered by the EU in March 2018. While we do not seek this outcome, no responsible government can leave the country unprepared for this contingency.

The Government welcomes the work the EU is completing in preparation for this eventuality, set out in the EU Communication of 19 December 2018, Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: Implementing the Commission's Contingency Action Plan. This proposes mutual guarantees for the rights of citizens, and the continuation of air services, road haulage and other matters for a temporary period of nine months. The Government will seek to build on these welcome and sensible measures.

In the absence of a Withdrawal Agreement, the Government will not consider the UK to be liable for the estimated £39 billion payable to the EU under that Agreement, according to the doctrine that nothing is agreed until everything is agreed. This decision reflects the terms of Article 50, which make clear that the EU Treaties cease to apply to the exiting state after the expiry of the two year period. The decision also reflects the advice of the House of Lords European Union Committee Brexit and the EU budget, published on 4 March 2017, which concluded that in such circumstances, the UK would be subject to no enforceable obligation to make any financial contribution at all.

However, the Government believes the UK should voluntarily submit the question of any financial liability to the EU after exit to an appropriate international arbitration mechanism for determination.

The Government will apply a substantial part of the estimated £39 billion saved from cancellation of the Withdrawal Agreement on measures, including tax cuts, to mitigate the effects of leaving the EU on WTO terms, to compensate businesses and sectors for exceptional costs of adaptation, and on measures to increase business investment, training and research and development, and economic growth.

An additional £39 billion spent in the UK economy and not transferred to the EU over the next two years is expected to boost economic growth, alongside the immediate improvement in the UK balance of payments. The prospects for economic growth will also be enhanced by a shortening the period of uncertainty for business and

investors, which would have otherwise have been extended for at least another two years during the Implementation Period.

While tabling the legal text of a set of agreements in our mutual interests, the UK will complete preparations to leave the EU and to assume a trading relationship on WTO terms.

In the UK, the Government will accelerate work to mitigate the consequences of exiting without the Withdrawal Agreement in place, including taking unilateral and reciprocal measures, and reaching stand-alone agreements in our mutual interests where that proves possible.

The UK will, under our own domestic law, unilaterally guarantee EU citizens' rights to continue to live and work in the UK broadly as they do today. EU citizens will enjoy national treatment and indefinite leave to remain, without additional rights in excess of UK citizens.

The UK will work to agree with the EU an interim FTA in goods with zero tariffs, no quantitative restrictions and full cumulation under rules of origin to provide for at least a two-year General Agreement on Tariffs and Trade (GATT) XXIV compliant standstill arrangement, pending the negotiation of a comprehensive advanced FTA.

In default of such an agreement, the UK will take such measures on agri-food tariffs and quotas as are necessary to avoid inflation in the UK, including on agri-food products. This will include a) unilateral applied tariff reductions on a WTO Most Favoured Nation (MFN) basis or b) applying *erga omnes* Tariff Rate Quotas (TRQs) for agricultural products and c) opening FTA agreements with agricultural exporters such as Canada, Australia and New Zealand (TRQ or otherwise) in contemplation of fuller agreements in due course.

The Government does not intend to harm EU agricultural exports into the UK market, but in the absence of an interim FTA to avoid tariffs, this would be the unavoidable consequence of our need to ensure that we do not suffer food price inflation on exit from the EU. It would be a necessary step along the road to an agreement with the EU that satisfies this House as well as our other trading partners and the needs of our consumers.

The UK will continue to uphold high standards.

The Government will seek to build mutual confidence and trust between the UK and the EU after exiting the EU, by offering bilateral cooperation in areas of mutual interest in a spirit of goodwill and cooperation. The Government will continue to maintain a positive approach towards concluding a comprehensive FTA with the EU as quickly as possible.

The UK's future trade strategy

Political, trade and regulatory independence for the UK is not an ideological position: independence will bring new opportunities for our economy. It will not preclude a comprehensive FTA with the EU in due course. It will bring material growth, allow the UK to conclude other FTAs, and strengthen the UK in EU negotiations.

The UK will take a four-pillared approach to pursuing a competitive and thriving UK economy, to create a coherent independent trade and regulatory policy, as follows:

a. Unilateral

The UK will make unilateral reforms to domestic and trade policy. Many EU regulations impede growth; the UK needs the freedom to do better. This will include:

- Improving the way regulations are made better to support competitive markets: in particular to ensure a pro-competitive environment in digital, financial services, and other areas that are crucial to the UK's economic success, but where continued adherence to EU norms would hold us back,
- In other areas including agricultural policy, considering eliminating tariffs and quotas as they are applied for a period on all products the UK does not produce, to encourage FTAs with trade partners who wish such a policy to persist; implementing methods to rebalance prices of imports of products the UK does produce whose costs are reduced by market distortions in other countries; in agriculture making appropriate provision for WTO compliant support to producers for marketing and environmental stewardship,
- In fisheries policy, restoring sovereignty over UK waters, improving conservation of fish stocks and sustainably addressing barriers to entry for increasing UK owned and operated fishing capacity.

In defence and security, the UK will cooperate with EU allies, but not in the direction envisaged in the White Paper or Political Declaration of participation in PESCO or EU Defence regulation.

b. Bilateral

The Government will seek to replicate the EU's agreements with third countries to cover the UK bilaterally, and focus on major trading partners with whom the EU does not yet have agreements.

We will conclude bilateral agreements with other states concurrently while negotiating a UK-EU *Free Trade Plus* agreement.

We will table legal text including best-in-class chapters covering: zero tariffs in goods and agriculture; customs and trade facilitation and our Irish border protocol;

government procurement; regulatory coherence, including specific sectoral annexes such as for pharmaceuticals; competition policy and state aids; an open services chapter with maximum liberalisation; no restrictions in all four modes of service supply in market access or national treatment; mutual recognition of occupation licensing; specific sectoral annexes in key areas including telecoms, data and financial services; investment; dispute settlement.

FTAs with the US, India, China, and other partners:

Simultaneous discussions will include partners for more difficult FTAs in the longer term. While wishing to advance all these agreements, priority will be placed on a US-UK FTA.

Bilateral deals with countries where an EU FTA should be rolled over:

Negotiations will be accelerated to roll over existing agreements and agree a new FTA with EFTA. Agreement has already been reached in detail with Switzerland and in principle with South Africa.

Alternative model of bilateral relationships for developing countries:

The Government will take an historic opportunity to conclude Economic Partnership Agreements that do not hinder growth, unlike the EU's Generalised System of Preferences model. Better models will only be possible once the UK has taken control of its tariff and regulatory policy.

c. Plurilateral

The Government will seek to advance UK membership of major multinational trading arrangements, including the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP). The UK will immediately indicate its desire to be one of the first new accession countries of the CPTPP.

Tariff and regulatory control will be needed to accede to CPTPP. Nothing in our agreement with the EU will prejudice our independent trade and regulatory policy.

d. Multilateral

The Government will use the UK's WTO membership to reinforce the other pillars of our strategy and to promote wealth creation for the UK economy and the world. The Government will promote active UK membership of recognised WTO groups as soon as possible, and seek to establish new ones, showing the UK is a committed liberaliser of trade, committed to open domestic settings, for instance:

- The UK will seek to join the Cairns Group of agricultural exporters.
- The UK will launch the 'Manchester Group of Services Exporters', named for the city's role in the historic free trade movement, to support advancement of the Trade in Services Agreement (TiSA)

- The UK will join the e-commerce plurilateral initiative and take a leadership role in services liberalisation.

If the EU unreasonably refuses to recognise on day one of our withdrawal the equivalence of UK regulations which are identical to the EU's, and discrimination can be shown, the UK will take action in the WTO for violation of the WTO's Agreements on Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary Measures (SPS).

Conclusion

This statement has set out the UK Government's two-strand strategy for EU withdrawal following the vote of the House of Commons on 15 January 2019.

The Government will offer to negotiate with the EU based on legal text to deliver a relationship of the character the EU offered in March 2018, for the whole UK. The Government will simultaneously prepare for any period of transitional trading on WTO terms with the EU, and to deliver the UK's independent global trading strategy.

As the UK leaves the EU, neither the EU nor its member states are entitled to seek to break apart the UK, nor to retain the power to direct how Parliament legislates or regulates the UK economy. The Government's approach is therefore to adopt an independent trade and regulatory policy, including in our relationship with the EU, in respect of the whole of the UK. This will enable strong trade with both the EU and the world, as well as strengthening the precious Union of the United Kingdom of Great Britain and Northern Ireland, without threatening the Belfast Agreement or the Peace Process.

The Government will accelerate the development of the UK economy so that we will continue to generate high levels of skilled employment, in which people, families and businesses are able to succeed based on the merits of their ideas and their hard work. An economic system based on fair and open competition and social responsibility will maximise participation in wealth creation and lead to more money in everyone's pockets and more money for essential public services.

We look forward to an ever-brighter future for the people of the UK, in an enduring cooperative relationship with our European friends and the world.

References

The Border between Northern Ireland and the Republic of Ireland
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