

Overview: The business view of the Government's Brexit White Paper

On 12th July 2018, the Government released a 98 page White Paper setting out its most detailed negotiating position to date. In many areas, the White Paper seeks to answer the questions and address the issues that companies have been raising with Government since the EU referendum, and it correctly identifies the right challenges. However, businesses will be no clearer on the Government's negotiating position in a number of very important services sectors and on some crucial issues. The following document outlines the key details of the White Paper for business.

On goods, the White Paper shows the Government has been listening to business but there are some gaps missing on important issues

Proposals on goods trade are exactly what businesses have been asking for...

The White Paper proposes a "common rulebook" for goods and agri-food, one which encompasses all rules "necessary to provide for frictionless trade at the border" in order to achieve a free trade area for goods. This would include consistency between UK and EU standards and a commitment that manufacturers should only need to undergo one series of tests in the UK and EU in order to place goods on sale in both markets. The UK intends this to cover all compliance activity necessary, including conformity assessments, accreditation of conformity assessment bodies, manufacturing and quality assurance processes and the role of nominated individuals.

These proposals match exactly what CBI members have been asking for. The diversity of products on the market is only set to expand, and the complexity of and need for cross-border supply chains only set to increase. Though the UK has a large economy, for many businesses it is not a large enough market to make specific products for, particularly when compared to the rest of the EU. So convergence such as that proposed by the UK Government is essential for frictionless trade in goods in almost every sector.

The CBI will be actively backing these proposals, and helping UK politicians understand the importance of achieving them for businesses. This is a serious and realistic proposition and – most importantly – the CBI will be engaging with EU negotiators to encourage them to engage with this policy, which would deliver for businesses on both sides of the border.

...but continued convergence on goods rules will only be sustainable if coupled with means of influence

The White Paper proposes a range of mechanisms through which the UK will continue dialogue with the EU in the future partnership. Primarily, it builds on the Prime Minister's Mansion House speech to outline that the UK will continue to participate EU agencies that provide authorisations for goods in highly regulated sectors: European Medicines Agency, European Aviation Safety Agency and European Chemicals Agencies. It also recognises the need for a broader and new set of institutional arrangements which will govern the future cooperation between the UK and the EU.

British business will welcome the importance placed on defining the right mechanisms and flexible architecture that will govern the future partnership between the EU and UK. Furthermore, ongoing dialogue with the EU and its institutions, through mechanisms such as the consultation over legislative proposals or Parliament to Parliament

discussions, will enable the UK to retain influence over the rules that will be implemented. Continued influence on the rules will be vital for UK business. As the CBI set out in [The Room Where It Happens](#), continued participation in some agencies will be crucial. However, there are several agencies that were not mentioned as priorities, including the European Food Safety Agency.

Though the ability to shape the rules outside of the EU is limited, it is not impossible. Norway's relationship sets a precedent for influencing them as a third country with an association agreement: Norway has full membership of the EU agencies on food safety, broadcasting, the environment, the coast guard and aviation as well as observer membership of the agency on chemicals, medicines and many of the financial services EU agencies. Additionally, Norway has the ability to participate in European Commission regulation and programme committees, where the EU is obliged to consider input from EEA EFTA experts on an equal footing to those from EU member states. It can also submit written comments to EU legislative and other policy initiatives and place national experts in key policy units of the European Commission, such as on the Article 29 Working Party that sets data policy.

The CBI will continue to engage with the government and EU institutions to ensure that the voice of British business is heard at home and in Brussels. It will be crucial that the business community is systematically consulted and considered in these future institutional arrangements.

New proposals on customs meet some of firms' concerns, but business now needs to be closely engaged to understand how the arrangement would work in practice...

The White Paper builds on previous publications to provide a further level of detail on how the Government intends to deliver a new customs arrangement from outside a customs union with the EU, through a "Facilitated Customs Arrangement." This aims to ensure that goods can move in free circulation between the UK and the EU, without the need for tariffs, quotas and routine requirements for rules of origin for goods traded between the UK and the EU. This would be achieved by the UK applying the EU's tariffs and trade policy for goods entering the UK whose final destination is within the EU27. Changes for business would occur primarily in how non-EU trade operates, with a range of ways to ensure the right tariff is paid – at the border wherever possible.

The Government has made real efforts to meet business concerns about a track-and-trace model for goods, about the need to operate a repayment mechanism which could have serious cashflow implications, about the need to track goods all the way through the supply chain and the need to share commercially sensitive information. And critically, the proposal acknowledges that this system will take time to deliver for both companies and government and will be phased in over time. Sufficient time to adapt is one business' most important asks for any new customs arrangement.

Firms will now need to take time to understand how these proposals could work in process, and the Government should ensure a period of serious consultation commences immediately. More details are needed to assuage fears about the burdens businesses would face from changes to customs declarations and the requirements for seeking trusted trader accreditation, for example. Unless and until firms' concerns about frictionless trade, no hardening of the border in Ireland and burdens on business are met, the CBI believes the best option is a customs union between the UK and the EU.

...and the Government's plan for post-Brexit goods trade will not be complete until it incorporates VAT

The White Paper clarifies the UK Government's intention to leave the EU Single VAT area and will maintain sovereign discretion to set its own VAT rates, and proposes the application of "common cross-border processes and procedures for VAT and excise" to facilitate frictionless trade in goods. However, it offers very little detail beyond that.

Business are very concerned by the lack of clarity on the UK's proposals. Once the UK leaves the EU Single VAT area, future cross-border trade in goods with the EU will be classed as imports. The removal of existing EU VAT acquisition rules will create new reporting obligations, new documentation requirements to evidence the movement of goods, as well as potential cash flow impacts in line with the requirement to account for and then recover import VAT. The current EU VAT directive also provides a variety of initiatives to relieve administrative burdens for certain cross-border transactions (e.g. temporary movement of goods). The loss of these reliefs would lead to additional VAT registration requirements for UK businesses across the EU driving increased compliance costs, potential cashflow issues, as well as the possible relocation or rerouting of supply chains.

The CBI is calling on the Government to urgently provide more detail on proposed VAT arrangements. CBI members interested in working actively on the subject of VAT can contact their account manager for information on the CBI's Indirect Taxes Working Group.

The Government has delivering 3 of the CBI's 5 key asks for services – but also left some concerns for crucial sectors

The Government indicates a desire for a most distant relationship with the EU on services, and this has led to some confusion about its intentions...

The White Paper seeks a new economic and regulatory arrangement with the EU, based on each side retaining autonomy over decision making. The White Paper accepts this would mean the UK's ability to provide services would face greater restrictions in the EU and vice versa.

There are 5 steps the Government needs to take to protect services trade:

- Removing the cliff edge for trade in services
- Ensuring access to talent and the mobility of people on both sides of the channel
- Securing an adequacy decision for the UK's data regime to maintain the free flow of data between the UK and the EU
- Negotiating ambitious mutual market access for services businesses
- Investing in regulatory cooperation between the UK and the EU, and the UK and the rest of the world

The Government has made real progress on the first three of these steps, but the White Paper does not shed light on the UK Government's approach to other potential regulatory barriers to trade in sectors such as broadcasting, creative industries and professional and business services. The White Paper also fails to explain what the different treatment of goods and services will mean for UK-EU trade given the integration of goods and services in the economy. For example, an engine manufacturer will continue to provide maintenance and repair services on vehicles and aeroplane engines throughout their life cycle.

Although the White Paper has signalled the UK Government's commitment to minimise barriers in the services sector, the CBI will continue to encourage the Government to provide more detail on how it intends to maintain access for UK based services businesses to the EU. Communication with concerned sectors must start immediately.

... but the proposed mutual recognition of qualifications would ease difficulties for individuals providing important services

The White Paper seeks a system for the mutual recognition of professional qualifications and agrees with the position set out in the European Council's March 2018 Guidelines that these are vital.

The freedom for workers to perform their profession across the EU has been key in supporting trade between the UK and EU. Doctors, healthcare professionals and architects currently benefit from automatic recognition across the EU. In practice, this means an architect who studied and qualified in France can work on a project in Madrid and establish their own architectural practice in Birmingham. Qualifications for lawyers, auditors, insurance intermediaries, commercial agents and other professionals go through a general process for mutual recognition. For example, lawyers qualified in the UK can shuttle back and forth on the Eurostar providing advice to clients in Brussels on both English corporate and finance law and EU competition law.

The CBI will continue to support the Government to ensure businesses can access the talent they need, and that this process for mutual recognition of qualifications is a dynamic one so that the professional qualifications continue to be mutually recognised over time.

Proposals for a mobility framework would support business growth but falls short of recognising migration as a negotiation issue

The White Paper lays out a 'framework for mobility' that goes beyond provisions under the WTO. The UK wants to reach a reciprocal deal with the EU that allows staff to continue to easily travel between UK-European offices and move to provide services. It also wants a deal that allows citizens to travel freely, without a visa, for tourism and temporary business activity. Continued mobility for students is also highlighted. The document sets out a vision for streamlined border arrangements that allow smooth travel for all citizens between the UK and EU. The White Paper makes clear free movement is enduring and doesn't cover the possibility of migration arrangements being on the negotiating table with Brussels.

Having a comprehensive agreement on mobility of people is a key part of a good trade deal covering services. It is welcome the UK Government has recognised this. But businesses will be disappointed that the White Paper fails to make the wider link between migration arrangements and trade. **This could be an important element of securing a deep relationship with the Single Market and therefore a comprehensive deal on trade.**

The CBI will be publishing a policy paper covering both mobility and post-Brexit migration arrangements in the coming weeks. This will make clear the evidence from business that states that access to people and skills from the EU is equally important to businesses as our future trade and customs relationship. Firms fully recognise that free movement of people will not continue as it has before. As such, the policy paper will set out options to develop a new open and controlled post-Brexit immigration system - one that both meets businesses needs and restores public confidence.

Businesses across the economy will be looking closely at the proposals on essential cross-cutting issues

The Government's continued commitment to securing the free flow of data is very welcome...

The White Paper states the government's ambition to maintain the free flow of data that is crucial to the economic and security partnership between the UK and EU. This partnership will be based around the UK securing an adequacy agreement which is assessed and granted by the EU Commission. Importantly, the White Paper states the UK is ready to "begin preliminary discussions" on adequacy in order to try and secure an agreement before the end of the transition phase.

The UK will also be negotiating for "ongoing cooperation" between Data Protection Authorities which practically means the government is looking for the ICO to participate on the European Data Protection Board as a means to influence future EU data policies. Additionally, the government is negotiating for the UK to participate in the 'One Stop Shop' regulatory principle which would enable the ICO to be the main point of contact for enforcing the rights of citizens and businesses with regards to data protection.

In an increasingly interconnected world, data is integral to the relationship between businesses, consumers, products and services. The flow of data increasingly underpins global economic integration and international trade. In fact, data flows now generate more economic value than global goods trade. **The UK government is therefore right to seek the free flow of data as a priority in the Brexit negotiations.** The Government must also look to ensure that data transfers are covered through any transitional arrangement to avoid a disruptive cliff-edge.

...But businesses will read the Government's proposals on labour standards very carefully

The White Paper sees Government propose a non-regression agreement between the UK and the EU on labour standards. Exactly how this agreement works will matter to businesses as a number of options are left on the table. Clarity is needed about the status of future EU case law on Directives that the UK commits to maintain, and about whether the UK commits to maintaining the outcomes or processes of existing Directives. The White Paper does not explicitly rule out becoming a rule-taker on social policy, but that this is not Government's preferred approach can be inferred from the way the non-regression proposal is presented.

CBI members have been clear that there is no desire for a bonfire of employment rights after Brexit and that businesses could not accept a scenario where future UK employment laws are made without UK influence.

While the future relationship is still being negotiated in this area, CBI will continue to work with Government and European stakeholders to ensure that any EU employment laws drafted that would take effect before Brexit are as well suited to the UK labour market as possible. The Paper also sets out UK government's commitment to its obligations arising from the International Labour Organisation. The CBI is the only business group representing UK businesses at the ILO. [Click here to read about our advocacy work at the 2019 International Labour Conference.](#)

Sector by Sector: What does the Brexit White Paper mean for business?

Agri-food: Agri-food businesses will be very pleased that frictionless trade in their products has been included as a priority

The White Paper proposes to establish a new free trade area and maintain a common rulebook for goods, including for the agri-food sector. There is extensive trade of food and drink between the UK and the EU, and the sector relies on highly complex supply chains. Equivalence with the EU will be highly reassuring to the sector. This common rulebook will encompass those rules that must be checked at the border, such as food safety standards. Continued regulatory cooperation to ensure consumer confidence in the high standards of food safety regulations will ensure that trading can be conducted much as it is today, and that the high levels of protection enjoyed by both food operators and consumers will not be affected.

However, while this is the case, the common rulebook will not incorporate wider food policy rules, such as labelling requirements. Unilateral divergence on labelling could negatively impact the competitiveness of food manufacturers on both sides of the Channel, that would face increased costs in producing two sets of packaging for two separate jurisdictions.

Aviation: The Government has the right objectives for aviation businesses, but need to see progress on third country arrangements urgently

The White Paper states that the UK is seeking an "Air Transport Agreement" which would "permit UK and EU carriers to operate air services to, from and within the territory of both the UK and the EU on an equal basis". It says this could be achieved through "an approach to ownership and control that avoids introducing additional barriers for businesses". In addition to this, the UK is seeking participation in EASA as a third country and close cooperation on air traffic management and aviation security.

These objectives are the right ones. Businesses will welcome the intention to maintain current levels of market access between UK and EU markets and continued influence within EASA. This will maintain a level playing on aviation safety standards and preserve the right to fly intra-European routes and domestically within EU member states. However, the White Paper does not provide information regarding the UK's aviation links with other countries currently secured through the EU. Further detail will be required on how this will be maintained. The CBI will continue to encourage Government to provide further detail on how it intends to this objective along with ensuring that access for current levels of market access are maintained.

Broadcasting: Firms in this thriving sector will be disappointed not to see the prioritisation of access to EU markets for UK channels

The White Paper states the "country of origin" principle for broadcasters, in which a company based in one Member State can be licensed by a national regulator and broadcast in any other Member State, will no longer apply to the UK. It also confirms works originating in the UK will continue to benefit from EU rules that require broadcasters in the EU to ensure that majority of the content they show is European. If the UK does not negotiate a reciprocal agreement on the "country of origin" principal, broadcasters will be forced to move jobs and investment from the UK to the EU to continue supplying their services to European viewers, as companies will be forced to get a license for the UK and EU separately, with all the costs and implications involved. However, ensuring UK film and TV shows still qualify as 'European Works' will help support UK TV exports to the EU.

Although the White Paper outlines the UK is seeking "the best possible arrangements" for the broadcasting sector, more details are urgently needed on how this can be achieved, especially given the "country of origin" principle will no longer apply. The CBI will continue to encourage the Government to provide more detail on how it intends to maintain access for UK based broadcasting businesses to the EU.

Construction: While trade in construction products has been addressed, future access to people is a top priority for firms

The White Paper sets out a vision for how the UK and EU can continue to benefit from frictionless, tariff-free trade for manufactured goods, recognising the complexity of long-established supply chains across the continent. Achieving this vision will be especially vital for the construction sector reliant on significant import volumes of the materials and products that underpin virtually every construction project in the UK.

But with approximately 9% of the UK's construction sector workforce comprised of EU nationals, there remains a lack of clarity on the ability for firms to access EU national workers once the UK leaves the EU. The commitment to

supporting business in moving people between states is welcome, and new arrangements must avoid placing new administrative and costly burdens on businesses – particularly smaller firms. These are issues central to the government's ability to deliver its ambitious housing and infrastructure plans as part of the modern Industrial Strategy, so it's vital that the upcoming negotiations get them right.

Creative Industries: The UK's leading creative firms are still waiting on more detail from Government on its plans for the sector

The White Paper champions the value of the creative industries to the UK, which will reassure firms that the sector is very much on government's mind as it takes forward industry concerns. The White Paper emphasises the role of intellectual property protections for innovation and creativity and praises the high-quality service offered by UK rights-granting bodies – and the UK courts system – in making the UK one of the best places in the world to enforce IP rights. The document also discusses the UK's ratification of the Unified Patent Court Agreement as part of government's intention to explore staying in the Court and unitary patent system after the UK leaves the EU.

Yet other issues raised by sector members – convergence with community design regulations and rules on cross-border portability of online content services – are absent from the White Paper and will be an area where firms will seek future reassurances from government. Divergence from EU intellectual property and copyright rules would have an impact on the protections these firms enjoy, so business will look for further detail on the White Paper's commitment to provide a confident and secure basis from which the creative industries can operate.

Defence: Many of the concerns of the UK's defence industry have been addressed, but there is a gap on information regarding future procurement processes

The White Paper is right to set out ambitions for the on-going collaboration between UK and European defence companies, reflecting the complexity of this industry's truly pan-European supply chains. The ambition to make meaningful UK participation in the EU Galileo satellite programme as a "core component" of the proposed security partnership will also be welcomed by industry. Industry concerns around regulatory alignment – and in particular UK alignment / participation with the European Aviation Safety Agency (EASA) and Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) are captured by the White Paper's proposals around a 'common rule book' for manufactured goods. This proposal would allow for the on-going 'equivalence' of current compliance activities, supplemented by deeper participation in regulatory bodies where necessary.

With regard to EASA, the White Paper proposed the UK follow the Swiss model of third country membership; for REACH, the White Paper proposes the UK maintains its direct participation in the European Chemicals Agency (ECHA). These would, it appears, result in the desired convergence of regulations.

Energy: The UK Government has rightly identified the right concerns for energy businesses, but needs to move beyond options for the sector into decisions

The White Paper confirms the UK's commitment to facilitating the continuation of the Single Electricity Market (SEM) between Northern Ireland and Ireland 'in any scenario', which is of utmost importance to business. The government also states it wants to seek a broad energy cooperation with the EU, and recognises the importance of interconnectors in facilitating trade in electricity and gas. Regarding the Internal Energy Market (IEM) and the EU Emissions Trading System (EU ETS), the White Paper sets out that the government wishes to explore with the EU the options for the future relationship, including the option of participating in both. Business has been clear that barrier-free access and appropriate regulatory convergence with the IEM will be important to ensure that the UK and the EU can continue to trade energy effectively.

On the EU ETS, greater clarity is needed on the framework within which business will be operating. While it is positive to see the UK's willingness for continued participation in ENTSO-E and ENTSO-G, the Agency for the Cooperation of Energy Regulators (ACER) is not referenced. The UK's ongoing influence and participation in these key EU agencies and bodies will be crucial to maintain regulatory alignment in the long-run and ensure the energy sector continue to flourish.

On nuclear, the UK will seek a close association with Euratom. Failure to preserve continuity in these arrangements on nuclear would result in significant damage to the UK civil nuclear industry, therefore it is important that the benefits of this community are maintained.

Financial Services: With a shift away from the previously established approach on financial services, firms will be engaging closely with Government to understand plans

The White Paper confirms that passporting arrangements – in which financial institutions authorised in one Member State can provide services across borders in the EU without additional local regulatory authorisations – will cease to apply to the UK. Instead, the UK Government is seeking a new economic and regulatory arrangements for financial services that preserve the mutual benefits of integrated markets and protect financial stability, while preserving autonomy on both sides. This will be based on an expansion of the existing equivalence framework, but preserving elements of the existing relationship, including regulatory and supervisory cooperation, as well as the establishment of joint UK-EU institutional dialogues and mediated solutions. The White Paper also proposes the reciprocal recognition of equivalence under all existing third country regimes as a backstop solution that would apply at the end of the implementation period.

This change marks a shift away from the “mutual recognition” approach set out by the Chancellor in his speech in March 2018. The White Paper rightly acknowledges the shortcomings of the existing third country equivalence regimes for financial services. A deal that is based on the existing regime would lead to the unnecessary fragmentation of markets, leading to an increased costs for UK and EU customers and corporates, while limiting the UK’s ability to retain regulatory autonomy. It is also not clear what a backstop solution would be for financial services not currently covered by existing third country regimes.

The new economic and regulatory arrangements proposed in the White Paper has the right intentions to preserve financial stability and autonomy on both sides, but significant enhancements to the existing third country regime are needed before it may be deemed fit for purpose in facilitating the depth of cross-border financial services activity that currently takes place between the UK and the EU. The CBI will continue to work with the Government to address these concerns to reach a constructive outcome for the sector.

Haulage: Small steps forwards on a number of asks from the haulage industry have been made, but more on key issues – including customs – is needed

The White Paper acknowledges the importance of road transport connections between UK and the EU in supporting supply chains. It states that the UK wants to explore options for reciprocal access for road hauliers, passenger transport operators and private motoring. It confirms that the UK is taking legislation through Parliament to ensure that a permitting system can operate if required. The UK will also ensure there is no requirement in any scenario for new permits for transport services between Northern Ireland and Ireland.

While the White Paper recognises the importance of road transport connections between the UK and EU for consumers and businesses it doesn’t differentiate on the requirement for haulage. This requires mutual recognition of haulage licensing as well as vehicle standards. There is also no mention more broadly of UK and EU rules on basic vehicle requirements such as on emissions and road worthiness testing. These need to be urgent priorities for the UK Government.

Higher Education: There are a number of reasons for the higher education sector to be pleased, but still more to do on the concerns of businesses, researchers and students

The White Paper states that the UK intends to facilitate mobility for students and young people and enable them to continue to benefit from world leading universities and the cultural experiences the UK and the EU have to offer, such as through the Erasmus+ programme. This is welcome news for the higher education sector who have long been clear regarding the benefits of participating in these programmes. For example, EU students bring approximately £3.7billion annually to the country, enhance the quality, diversity and reputation of UK universities, and help lay the foundation for future overseas business, research, as well as social and cultural links.

Despite this, more needs to be done to ensure that the UK remains an attractive destination for overseas students. An immediate priority for the higher education sector would be to clarify the future status of EU students and to ensure the UK has an effective system to allow international students to transition from a Tier 4 to Tier 2 visa.

Life Sciences: The Government has highlighted the way forwards, and the EU needs to start engaging to make it a reality

The White Paper outlines future UK participation in the European Medicines Agency (EMA), accepting the rules of the EMA and contributing to its costs under new arrangements that recognise the UK will not be a Member State. Furthermore, it states that the UK will be seeking to ensure that all current routes to the market for human and animal medicine remain available, with UK regulators able to conduct technical work, including acting as a “leading authority” for the assessment of medicines and participating in the safety monitoring and incoming clinical trials framework. The need for a bespoke provision for the release of individual batches by a qualified person based in the UK or EU and the role of the qualified person for pharmacovigilance is also welcomingly acknowledged.

These efforts are welcome and recognise the views of businesses creating vital medicines. They now need to be made a reality. This is a key area where the EU needs to substantively engage with UK negotiators to forge a way forwards that works for both sides.

Professional Services: Many firms will be pleased to see proposals on mobility and qualifications, but the lack of information on key issues is a concern

The White Paper states that the UK Government seeks to minimise the introduction of barriers to establishment, investment and the cross-border provision of services, ensuring broad coverage across sectors. It also seeks a system for the mutual recognition of professional qualifications as covered in the EU Mutual Recognition of Qualifications (MRPQ) Directive. The UK Government's proposal for reciprocal visa-free travel for short-term business reasons will continue to support "fly-in fly-out" services, which will be limited to paid work in limited circumstances.

The White Paper states that it would seek to minimise the barriers to cross-border services trade such as establishment rights, but it does not shed light on the UK Government's approach to other potential regulatory barriers to trade in professional and business services, such as whether it would seek the mutual recognition of professional bodies and standards of conduct, and for regulatory frameworks and standards (such as for audits, financial reporting standards etc.). It is also not clear how the UK's proposed arrangements for market access would also differ from current arrangements.

The CBI will encourage the government to provide more detail on how market access arrangements may be expected to change for professional and business services firms, and what the Government's approach is on other regulatory barriers, such as the recognition of professional bodies and standards of conduct, regulatory frameworks and standards. The CBI will also seek more detail on the UK's proposals for the future immigration system as will be set out in the Government's white paper on migration, which will have implications for the ability of professional services firms to maintain access to the best talent globally

For more information, please do get in contact with the CBI team at EUNegotiations@cbi.org.uk
Or visit <http://www.cbi.org.uk/business-issues/brexit-and-eu-negotiations/>