

Brexit: State of play

Posted 06.07.2017

On 29 March 2017, the United Kingdom ("UK") formally notified the European Council of its intention to leave the European Union ("EU") in accordance with Article 50 of the Treaty on European Union ("TEU") following the results of the UK referendum held on 23 June 2016.

This notification is a necessary first step triggering the negotiation procedure described in Article 50 TEU. It follows from Article 50 TEU that the UK withdrawal will take effect, and EU Treaties will cease to apply to the UK, at the latest two years after this notification, unless this period is extended by unanimous decision of the 27 remaining Member States and the UK.

At a European Council summit on 29 April, the 27 remaining Member States adopted Guidelines, which define a two-phased approach for the Brexit negotiations and set out the overall EU positions and principles. During a first negotiation phase, arrangements for an orderly withdrawal will be agreed on. They cover technical issues, such as post-withdrawal rights of EU and UK citizens living in the UK and the EU respectively, a financial settlement, the future situation in Ireland, the status of the EU and the UK's joint international commitments in international organisations and conventions, the location of the seats of EU agencies and facilities currently located in the UK, and the sort of pending administrative and judicial procedures before EU bodies upon the date of withdrawal. According to the Guidelines, an overall understanding on the framework for the future relationship between the EU and the UK should be identified during a second phase of the negotiations as soon as the European Council decides that sufficient progress has been made in the first phase.

In essence, this second phase should cover the start of the negotiations on a comprehensive free trade agreement, covering all aspects of the future economic relationship between the UK and the EU 27-bloc, including the provision of services. To the extent necessary, the negotiations may also seek to determine transitional arrangements on the continued application of the EU regulatory framework to the UK during an interim period.

On 22 May 2017, the Council of the European Union, meeting in EU27 format, adopted a Decision authorising the opening of Brexit negotiations with the UK and nominating the European Commission as the EU negotiator. It also adopted negotiating Directives, which reflect the two-phased approach set out by the European Council and which are a mandate for the Commission for the first phase of the negotiations.

On 19 June 2017, Michel Barnier, the EU Chief Negotiator, and David Davis, UK Secretary of State for Exiting the European Union, launched the first round of Brexit negotiations in Brussels.

For any further information please contact us or visit our website at **www.elvingerhoss.lu**.

The information contained herein is not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific legal advice concerning particular situations.

We undertake no responsibility to notify any change in law or practice after the date of this newsletter

ELVINGER HOSS PRUSSEN

Société anonyme, Registered with the Luxembourg Bar, RCS Luxembourg B 209469, VAT LU28861577