



Paris, 20 February 2020

POLITICAL OPINION

On the mandate to negotiate a new European Union - United Kingdom partnership

The European Affairs Committee of the French Senate,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 217 and 218 thereof,

Having regard to the Senate Information Report *Places financières : quelle stratégie française face au Brexit?* (no. 574, 2016-2017) - 7 June 2017 - by Mr. Albéric de MONTGOLFIER on behalf of the Finance Committee,

Having regard to the Senate Information Report *Quelles liaisons maritimes entre l'Union européenne et l'Irlande après le Brexit?* (no. 171, 2018-2019) - 30 November 2018 - by Pascal ALLIZARD, Didier MARIE and Jean-François RAPIN on behalf of the European Affairs Committee,

Having regard to the Senate Information Report *Brexit : tous perdants* (no. 49, 2019-2020) - 10 October 2019 - by Jean BIZET and Christian CAMBON on behalf of the Monitoring Group working on the withdrawal of the United Kingdom and the re-founding of the European Union

Having regard to the agreement of 17 October 2019 on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (2019/C 384 I/01),

Having regard to the political declaration of 17 October 2019 setting out the framework for the future relationship between the EU and the United Kingdom (2019/ C 384 I/02),

Having regard to the European Parliament resolution of 15 January 2020 on implementing and monitoring the provisions on citizens' rights in the Withdrawal Agreement,

Having regard to the guiding principles for transparency in the negotiations on the future relationship with the United Kingdom, as endorsed by Coreper (Article 50) on 22 January 2020 (XT 21010/20),

Having regard to Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community,

Having regard to the Commission Recommendation of 3 February 2020 for a Council decision authorising the opening of negotiations for a new partnership with the United Kingdom of Great Britain and Northern Ireland, COM(2020) 35 final,

Having regard to the European Parliament resolution of 12 February 2020 on the proposed mandate for negotiations for a new partnership with the United Kingdom of Great Britain and Northern Ireland (P9_TA-PROV(2020)0033),

Whereas the United Kingdom's withdrawal from the European Union has been effective since 1 February 2020, pursuant to the Withdrawal Agreement concluded on 17 October 2019 and ratified by both Parties;

Whereas the Member States of the European Union and the United Kingdom are indissolubly linked by a common geography, history and values;

Whereas the Withdrawal Agreement grants specific guarantees to citizens of the European Union residing in the United Kingdom and British citizens established in the territory of the European Union prior to this date concerning their continued establishment in their country of residence and the maintaining of their rights in such country;

Whereas this Withdrawal Agreement includes a revised protocol for Northern Ireland, such as to maintain the absence of a physical border on the island of Ireland and therefore preserve the peace and stability that have prevailed there since the Good Friday peace agreements (1998);

Whereas the establishment of as close a relationship as possible with the United Kingdom is desirable in order to limit the negative impacts of its withdrawal from the European Union, in accordance with the principles set forth in the political declaration of 17 October 2019;

Whereas this political declaration provides a framework for the development of an ambitious, broad, deep and flexible partnership in trade and economic cooperation grounded in a full and balanced free trade agreement, law enforcement and criminal justice services, foreign policy, security and defence policy, and in broader areas of cooperation, where other areas of cooperation may be added if the parties deem this to be in their mutual interest;

Whereas a partnership, even a very ambitious one in light of the high level of integration between the economies of the United Kingdom and the European Union and their common history, presupposes a balance between rights and obligations, and cannot in any case be equivalent to the status of a Member State of the European Union;

Whereas it is necessary to preserve the integrity of the single market and customs union, the free movement of goods, services, capital and persons, as well as the legal order of the European Union and the role of the Court of Justice of the European Union;

Whereas the international context is marked by a crisis of multilateralism and increased instability, by the rise of the “continent states,” the spread of terrorism and organized crime, and the development of new hybrid and cyber threats;

Whereas the role of the United Kingdom is of vital importance in the European security architecture, as is its contribution to the European defence industrial and technological base;

Whereas this context requires a close cooperation between the European Union and the United Kingdom in the foreign policy, security and defence domains;

- *On economic partnership*

Shares the objective of establishing a free-trade area guaranteeing the absence of tariffs, fees, taxes of equivalent effect or quantitative restrictions in all sectors, as well as broader sectoral cooperation where this is in the interest of the Union;

Emphasises that achieving this objective implies compliance with conditions of fair competition, given the very strong engagement of British economic operators in European value chains and the geographic proximity that renders the European Union a natural outlet for British products and services;

Considers that these conditions of fair competition imply the maintaining of high common standards in matters of State aid, competition and public enterprises, as well as in matters of social and environmental standards, and those relating to the fight against climate change, as well as in regard to relevant tax matters;

Emphasises that the close integration of the United Kingdom into world trade flows necessarily implies that any free-trade agreement must guarantee compliance with the standards and regulations applicable to products traded within the single market of the European Union, whether such products originate in the United Kingdom or transit through the United Kingdom;

Calls for particular vigilance with regard to agricultural products intended for consumers in the Union, whether they originate in or transit through the United Kingdom, so as to ensure compliance with standards and regulations in force in the Union concerning health, plant health, environmental, social and animal welfare;

Considers that the agreement should prohibit any anti-competitive practices likely to impact trade between the European Union and the United Kingdom, and that if such practices are found, the European Union must be able to take prompt and effective interim measures, in particular pending the establishment of agreements with the parties engaging in such practices concerning the corrective measures they must take;

Emphasises the need to increase the staffing and resources of customs and veterinary authorities in order to preserve the conformity of goods with the rules of the single market;

Notes that the highly ambitious nature of the partnership envisaged with the United Kingdom and the need to preserve the integrity of the single market presuppose a great degree of regulatory convergence between the United Kingdom and the European Union over time, and therefore dynamic harmonization of standards and rules;

- *On fisheries*

Restates its principled opposition to any possible approach that might lead to a specific outcome for the fisheries issue in the form of a sectoral "Brexit,"

the first victims of which would inevitably be Union fishermen, who are concerned that the United Kingdom may prevent them from accessing its waters in the future, or take advantage of an asymmetrical situation;

Asserts that an agreement on fisheries is a *sine qua non* condition for the conclusion of an ambitious, broad and balanced economic partnership;

Supports the expressed desire to preserve the economic ties of interdependence established between the United Kingdom and the European Union in regard to fisheries since 1st January 1973, which presuppose, in the interest of all parties, that the greatest possible reciprocal access be maintained on the one hand to the waters, and on the other to the markets of both parties;

Emphasises, with regard to the future management of fishery resources, its concern that a responsible approach should be maintained, based simultaneously on regular scientific assessments, catch limits expressed in terms of Maximum Sustainable Yield (MSY), and for the need to create effective mechanisms for the control and settlement of disputes between the United Kingdom and the European Union;

Reaffirms its attachment to the keystone of the Fisheries Policy, based on the principle of "relative stability," consisting in the establishment of a stable calculation key shared among Member States, based upon which annual quotas can be allocated to the different species;

Calls, in general, for the two parties to favour a pragmatic approach and a spirit of compromise, so as to defuse the very high potential of the fisheries issue to generate conflicts in the future relationship between the European Union and the United Kingdom, which presupposes, in particular, the adoption of long-term fishing quotas subject to modification by mutual agreement between the two parties;

- *On relations in matters of financial services*

Supports the expressed desire to preserve financial stability, market integrity, the protection of investors and consumers and fair competition, whilst respecting the regulatory and decision-making autonomy of the parties;

Emphasises that the loss of the "European financial passport" will be inevitable once the United Kingdom has left the European Union; observes that as the City of London is now the leading European financial centre it will thus follow that the ability of the British financial industry to operate in Europe will henceforth be based on the granting of equivalences, and that the European Union will need to support a rebalancing of the European financial landscape to the benefit of the continent;

Recalls the pivotal importance of establishing within the European Union substantial systemic infrastructure engaged in activities denominated in euros so as to preserve financial stability;

Advocates an overhaul of the existing equivalence regimes to strengthen the supervision of the conditions under which equivalence can be granted by requiring the solicitation of a technical opinion from the European supervisory authorities and the national authorities concerned, by requiring a condition of reciprocity and setting up a mechanism for the regular monitoring of the exercise of the equivalence granted;

Reaffirms its dedication to ensuring perfect control of the risks of regulatory divergence and more generally calls for the strengthening of the governance and powers of the European Securities and Markets Authority in order to prevent the establishment of letterbox entities in the European Union;

Considers that the United Kingdom and the European Union must continue to share common objectives in efforts to combat tax evasion and contribute to those efforts together;

- *On intellectual property*

Emphasises the importance, for innovation within the Union, of ensuring a high level of protection and respect for intellectual property rights; emphasises that the Withdrawal Agreement guarantees the continued protection of existing rights at EU level, which makes it possible to not require new filings or registrations for such rights; asserts its hope that the new partnership will confirm and guarantee this for future protected geographical indications, and supports the establishment of a mechanism for cooperation and information exchange on these issues;

- *On consumer protection*

Emphasises the European Union's commitment to the protection of personal data and the need to maintain a high level of protection in this regard, and emphasises that any alignment decision in such regard must be subject to initial examination and careful monitoring to ensure that said protections are not weakened;

Emphasises the need to guarantee a high level of protection for European consumers, including in regard to electronic commerce, and calls for the development of the latter between the European Union and the United Kingdom in a secure and open environment, providing strict protection of personal data, transparency in supply offerings, in particular with regard to

classification criteria, and ensuring that consumers are properly informed about the products and services offered to them and about what their rights are;

- *On climate change and environmental issues*

Notes that the partnership envisaged should permit the assurance of a high degree of environmental protection, at least equivalent to the standards in force at the end of the transition period;

Considers that it is important for the parties to reaffirm their commitments to the fight against climate change within the framework of their partnership;

Calls for vigilance to prevent environmental dumping in these times when the European Union is seeking to establish a green deal for Europe; emphasises in particular the need for the United Kingdom to maintain a carbon pricing system with the same efficiency and scope as that in force in the Union at the end of the transition period; indicates its approval of the possibility of any possible future British system participating in the EU emissions trading scheme, provided that the integrity of the latter is preserved;

- *On transport issues*

Shares the desire to ensure fair competition between European Union and United Kingdom air carriers, but calls for a clarification of the position to be taken by holding companies appearing likely to control an air carrier outside the European Union and one or more air carriers that are considered to be part of the Union;

With regard to paragraph 59 of the political declaration of 17 October 2019, which mentions "*close cooperation between EASA and the United Kingdom's Civil Aviation Authority*" with a view to ensuring aviation security, indicates its position that the exchange of information concerning air incidents should be one of the objectives of negotiations;

Emphasises the importance of the Dublin - Liverpool - Dover - Calais ("land bridge") link, which combines the maritime transport of heavy goods vehicles, the overland traffic thereof within Great Britain, and finally the railway line running through the Channel Tunnel; considers that this link must be the subject of particular vigilance in the context of future negotiations;

Emphasises the importance attached to preserving the performance level of the European port system and of French sea and inland ports in the context of future trade negotiations between the United Kingdom and the European Union;

Draws attention to the need to preserve the attractiveness of European port centres and to the risk that the adoption of particularly attractive tax and social rules in the United Kingdom would pose to the port sector, in particular via freeports;

- *On internal security and judicial cooperation*

Emphasises that the European Union and United Kingdom share common values and a commitment to fundamental rights, illustrated in particular by the adhesion of the Member States and the United Kingdom to the European Convention on Human Rights; emphasises that the European Union and the United Kingdom face common threats of a cross-border nature, particularly including terrorism and organized crime; points out that the United Kingdom, as a third party country, is not part of the Schengen area, shall not enjoy any privileged access to the information systems of the European Union and is not included among the European agencies working in the area of freedom, security and justice;

Considers therefore that it is essential to establish cooperation between the European Union and the United Kingdom so as to respond to these threats and thus ensure the security of their citizens, while respecting the autonomy of the European Union and the sovereignty of the United Kingdom; approves the provisions of the negotiating mandate in this area of cooperation relating to the exchange of data, operational cooperation between law enforcement and judicial authorities in criminal matters, and the fight against money laundering and the financing of terrorism;

Considers that the new partnership should guarantee a high level of protection and cooperation in this area; requests that negotiators give particular consideration to data protection standards and controls, including Passenger Name Record (PNR) data, the UK's relations with Europol and Eurojust, and the extradition and mutual legal assistance procedures that will replace the European arrest warrant;

Calls for the closest possible cooperation, while respecting the autonomy of the European Union and the sovereignty of the United Kingdom, in the areas of cybersecurity and the fight against cybercrime and irregular migration; indicates its interest in ensuring that civil protection for natural and man-made disasters will also be the subject of close cooperation;

- *On partnership in matters of foreign policy, security, and defence policy*

Approves the draft negotiating directives submitted to the Council inasmuch as they seek to establish the closest possible partnership with the United Kingdom whilst respecting the autonomy and sovereignty of the two parties;

In view of promoting international peace and security, considers in particular that it is essential to continue working together with the United Kingdom in multilateral forums, in particular the United Nations (UN) and the North Atlantic Treaty Organization (NATO), where the Member States of the European Union and the United Kingdom uphold the same values and where their interests converge;

Calls for the establishment of a permanent framework for consultation, coordination and dialogue between the European Union and the United Kingdom on foreign policy, security policy, and defence policy matters, for example in the framework of a European Security Council to be defined in the future that would make it possible to associate the United Kingdom, if it so wishes, with decisions made independently by the Member States of the European Union, in particular with regard to sanctions and crisis management;

Calls for the establishment of a permanent mechanism for the reciprocal exchange of information and intelligence with the United Kingdom, which is essential for the fight against terrorism and organized criminal networks;

Holds that it is essential to enable the United Kingdom to participate in the civil and military missions and operations of the common security and defence policy (CSDP), either on a case-by-case basis or under a specific framework agreement, such as is already the case for many States which are not members of the European Union;

Indicates its interest in the promotion of solid, close and privileged cooperation with the United Kingdom in the capabilities domain and the technological domain, in order to contribute to the objective of European strategic autonomy by pursuing the joint development of the European defence industrial and technological base, and by promoting the interoperability of forces, in particular via:

- an administrative arrangement with the European Defence Agency (EDA);
- the possibility of the United Kingdom participating in permanent structured cooperation (PESCO);

- the definition of specific regulations to govern the United Kingdom's participation in actions financed by the European Defence Fund (EDF), whose 2021-2027 budget must be maintained at the level initially proposed by the Commission, on pain of political, economic and strategic misinterpretation;
- *On the governance of the future partnership and the dispute settlement mechanism*

Emphasises the essential role of the independent bodies that will be necessary to ensure the oversight, monitoring and control of the obligations incumbent on the United Kingdom, and which must be provided with appropriate resources;

Notes the need to establish a governance structure to cover the entire partnership, permitting consistent dialogue amongst the partners and setting up coherent and effective procedures for managing the partnership agreement;

Emphasises the importance, for the long-term solidity of the agreement, of providing for an effective, credible, rapid and dissuasive dispute settlement mechanism, as well as effective resources for its application; welcomes the elements of the negotiating mandate that take steps in this direction, but wishes to ensure that the possibilities for a suspension of obligations within the framework of the partnership as provided under paragraph 156 of the appendix to the recommendation for a negotiating mandate will provide an appropriate response to the two cases mentioned in Article 178 paragraph 2 of the Withdrawal Agreement, and that such suspension may thus occur not only when a given party's non-compliance with a decision issued by the arbitration panel persists for more than six months, but also when the non-compliant party has failed to pay the flat fee or penalty imposed on it one month after the arbitration panel's decision;

Considers it imperative to preserve the full autonomy of the Union's decision-making process, to affirm the exclusive jurisdiction of the Court of Justice of the European Union to interpret Union law, and to ensure the binding nature of the decisions of the latter with regard to the special arbitration panel responsible for settling any possible disputes relating to the agreement's implementation that may be brought before it by the governance body or one of the parties, when the governance body has failed to reach a mutually satisfactory resolution within a specified time;

Observes that the negotiating mandate proposed by the Commission makes provision for the possible activation of temporary safeguard measures by one of the parties in case of serious economic, social or environmental difficulties; considers it necessary to provide for the possible application of safeguard measures for sensitive products if the products concerned are to be imported into the Union in such high quantities - whether in absolute terms or relative to Union production - and under such conditions as to cause or potentially cause serious prejudice to Union producers manufacturing similar or directly competing products;

- *On the monitoring of the provisions of the Withdrawal Agreement concerning the rights of citizens*

Recommends extreme vigilance regarding the implementation of the provisions of the Withdrawal Agreement concerning the rights of citizens, both during and upon completion of the transition period;

Encourages, in particular, the United Kingdom and the Member States of the European Union to secure the situation of citizens of the other State Party established in their territory through an appropriate communication policy, to issue documents confirming the maintaining of their rights, and to effectively account for exceptional situations;

- *On Northern Ireland*

Also recommends vigilance to ensure strict application of the Revised Protocol on Northern Ireland, which was the subject of an agreement made between the Parties in October 2019, implying in particular, as of the end of the transition period, entry controls on the island of Ireland for products likely to enter the European market;

- *On the conduct of negotiations*

Expresses its full support for the European negotiator, Mr Michel Barnier, and the Commission team assisting him in the negotiations for a new partnership with the United Kingdom, which must be conducted within an exceptionally demanding time frame;

Encourages the 27 Member States to remain united in these negotiations so as to preserve the economic and strategic interests of the European Union, including the outermost regions (OMR) and the overseas countries and territories (OCTs), and to permit the establishment of an agreement within the deadlines provided;

Also recommends, for the same reasons, that the comprehensive nature of the negotiations should be maintained, with no aspect being considered separate from the others, since they are all indissolubly linked;

Urges the Commission and the Member States to prepare for the possibility of a no-deal or minimal-deal exit, and prepare for the potential negative effects thereof;

Emphasises the need for national parliaments to stay closely and consistently informed of the progress of the negotiations in a timely fashion for their entire duration.