

German Bundestag

19th electoral term

Decision

The German Bundestag, at its 146th sitting, held on 13 February 2020, acting on the basis of Bundestag printed paper 19/17122, decided:

Mandate for the negotiation of future relations between the European Union and the United Kingdom after Brexit – For a fair, close partnership

here: Statement transmitted to the German Federal Government pursuant to Article 23(3) German Basic Law

I. The German Bundestag notes:

The United Kingdom's withdrawal from the European Union (EU) became a reality on 31 January 2020. This is a hitherto unprecedented and profound turning point in the history of European integration.

The Bundestag regrets this withdrawal, but welcomes the fact that it has taken place in a regulated fashion on the basis of the Withdrawal Agreement underpinned by Article 50 of the Treaty on the European Union (TEU).

The EU has demonstrated unity and unanimity, in part thanks to the manner in which the negotiations have been conducted by the Commission, its Chief Negotiator Michel Barnier and his team. The prompt, proactive provision of information by the Commission, and the dialogue with the Member States and their parliaments, the European Parliament, stakeholder groups and citizens laid the foundations for the close cohesion within the EU.

The negotiations about the future relations between the EU, which now consists of 27 Member States, and the United Kingdom, which has been a third country since 1 February 2020, are imminent, even if the agreed transition period is still continuing. The foundation for these negotiations is the joint Political Declaration of 17 October 2019. The Bundestag shares the goal that the EU should aspire to the closest possible partnership with the United Kingdom for the future, even if relations will fall short of EU membership in qualitative terms.

The forthcoming negotiations will not be any easier than the negotiations about the Withdrawal Agreement. Future relations with the United Kingdom will differ from other partnerships on account of its economic weight and simultaneous geographical proximity.

The United Kingdom's desire to set its own rules and standards is legitimate. At the same time, it is just as legitimate as it is necessary for the EU to protect its own interests. The cohesion of the Member States and the integrity of the internal market remain indispensable for the stability of the EU. The further the United

Kingdom wishes to diverge from current standards and agreements, the less close it will be possible for the future partnership to be.

It is still uncertain in what legal form these relations will be realised, and this will depend on the content and scope of future agreements. The foundation is provided by the Political Declaration, which addresses many policy areas and is centred around economic and security partnership. The transition period will only last until the end of 2020, unless it is extended. As things stand at present, the British government does not wish to avail itself of the option to extend the transition period for which provision is made in the Withdrawal Agreement. Particular responsibility will fall to Germany on account of its Council presidency in the second half of the year.

For reasons of time, preference is therefore to be given to solutions whose entry into force as of 1 January 2021 appears feasible, for example under an EU-only agreement that, on the EU side, would merely have to be ratified by the European Parliament and the Council of Ministers. In this respect, the division of competences laid down in the European Treaties is to be upheld. An EU-only agreement will therefore remain limited to areas for which competence unambiguously lies with the EU.

Other topics of priority, reciprocal interest that will be absolutely essential to smooth cooperation following the expiry of the transition period (in particular in the security sector) will also have to be regulated. Furthermore, an overall institutional framework, into which subsequent agreements can be integrated, should be put in place or elaborated straight away .

The subjects for negotiation provided for in the Political Declaration with a view to the regulation of future relations are numerous. The economic relations pillar includes the headings goods, services and investment, financial services, digital issues, capital movements and payments, intellectual property, public procurement, mobility, transport, energy and fishing. The second pillar, security partnership, is concerned, on the one hand, with law enforcement and judicial cooperation in criminal matters, including data exchange, operational cooperation, and anti-money laundering and counter-terrorist financing, and, on the other hand, with foreign policy, security and defence, including the elements consultation and cooperation, sanctions, operations and missions, defence capabilities development, intelligence exchanges, space and development cooperation.

Given the abundance of topics, the aim must be to agree as much as possible within a short time. This is why it is expedient that the negotiations will continue to be organised as they have been up until now. This means, firstly, that it will be the Task Force for Relations with the United Kingdom, headed by Michel Barnier, that conducts the negotiations with the United Kingdom. Secondly, the Bundestag welcomes the fact that there will be continuity as far as the arrangements for the European Council to oversee the negotiations are concerned. All the European Council's meetings will be prepared by the General Affairs Council and the Permanent Representatives Committee (Coreper). Coreper will be supported by a horizontal working party. In view of the breadth and depth of the themes to be dealt with, it is important that experts are involved in the negotiations.

Only a central institution will guarantee a holistic perspective with regard to the progress of the negotiations in the various fields. In Germany, the Federal Foreign office will once again assume a coordinating role, in doing which it will draw the ministries responsible for different areas of policy into the process and involve them closely, while maintaining its autonomy as the lead ministry, and ensure the Bundestag is informed by the Federal Government in accordance with statutory requirements.

The Bundestag presumes that the Federal Government will continue to provide it promptly with comprehensive information. In addition to this, as in the past, priorities and opinions that may be adopted by the Bundestag are to be integrated into the work carried out by the Federal Government. In this way, the Bundestag will do justice to its fundamental function of participating in EU affairs and its responsibility to promote European integration.

Fair competitive conditions, in other words a ‘level playing field’, will constitute the indispensable precondition for a close, trusting partnership with the United Kingdom. Apart from environmental, climate, social, labour and consumer protection standards, this level playing field will also extend to the areas of competition and antitrust law, state aid, tax policy and sustainable development. Political declarations of intent alone will not offer sufficient reassurance. Rather, there must be binding, enforceable treaty provisions, including options for dispute resolution, enforcement and sanctions, if distortions of competition are to be avoided.

Furthermore, the EU must carefully observe how central elements of the Withdrawal Agreement are implemented and/or how their implementation is prepared. Apart from a guarantee for the rights of EU citizens resident in the UK, this will include the implementation of the protocol on Ireland/Northern Ireland, in particular the complex arrangement under which Northern Ireland will, on the one hand, remain part of the United Kingdom’s customs territory but, on the other hand, apply the EU’s customs rules and continue to be bound to a considerable extent by the rules of the internal market. This must be verified by means of differentiated checks.

When it comes to questions relating to fishing, reciprocal access to each others’ waters is to be retained over the long term, and a binding, legally sound procedure for setting catch quotas to be agreed, under which there will be a permanent mechanism for consultation about the management of shared stocks. Close linkage with trade issues is vital.

Measures relating to third-country equivalence in the financial sector and decisions about adequacy in data protection are closely associated with economic topics, but are solely to be decided upon by the EU.

As soon as there is clarity about the new EU budget, the multiannual financial framework for 2021–2027, decisions will also have to be taken about the possibility of the United Kingdom taking part as a third country in EU programmes, such as the Horizon Europe research programme, Erasmus+ and the Creative Europe funding programme. The United Kingdom’s participation in such activities would be welcome in principle, provided the fundamental requirements for a third country to join these programmes were satisfied and the ‘level playing field’ remained upheld, in particular as far as state aid was concerned. Furthermore, appropriate financial inputs from the United Kingdom, the establishment of a balance between contributions and benefits, and steps to ensure there was an overarching framework for participation in individual EU programmes that were beneficial for the United Kingdom would be necessary.

It is also to be expected there will be changes with regard to freedom of movement. Residence rules are to be welcomed, provided they are based on reciprocity and non-discrimination. Access to the labour market for citizens of third countries is largely a matter for the Member States. In order not to endanger the unity of the EU, however, no bilateral agreements should be concluded between individual Member States and the United Kingdom on questions concerning people’s residence status in the future – in the individual Member States, on the one hand, and in the United Kingdom, on the other hand. The issue of the coordination of social

security provision is closely linked with questions that relate to freedom of movement. The EU and the United Kingdom have therefore pledged to examine how this is handled.

Furthermore, the role of the European Court of Justice as the supreme judicial institution in the EU must in no way be endangered by the newly forged relationship between the EU and the United Kingdom.

Care is to be taken during the negotiations that existing trade agreements with other third countries are not adversely affected.

The European Commission published its draft negotiating mandate on 3 February 2020. The Bundestag expressly welcomes this proposal.

II. The German Bundestag calls on the Federal Government to seek to ensure, in the course of the deliberations in the Council about the mandate for the negotiations on future relations, that

- trade relations with the United Kingdom will be organised as closely and smoothly as possible in future too, in which respect the guarantee of fair competitive conditions is to be anchored as their foundation;
- one-sided competitive advantages for the United Kingdom are avoided, existing standards are not lowered and, where necessary, it is made possible for dynamic adjustments to be undertaken;
- a governance structure is agreed that makes coherent solutions possible, is amenable to development, and creates sufficient instruments for the EU so that it is capable of responding appropriately to developments in its relationship with the United Kingdom, in particular in the whole domain of trade relations;
- the EU retains control over its internal market, as well as its autonomy in decision-making and the interpretation of EU law;
- cooperation on internal security can be continued as extensively as possible without gaps in security, adequate legal protection continues to be guaranteed, and steps are taken to ensure it is possible to track how EU databases are accessed and verify whether they are exclusively used in accordance with the relevant agreements;
- a very close partnership between the EU's institutions and Member States and the United Kingdom is aspired to in the area of foreign and defence policy, in which respect the EU's decision-making autonomy must remain upheld;
- equivalence decisions are taken provisionally and reviewed at regular intervals and/or the option for adjustments to be made is provided for when adequacy decisions are taken, so that it is possible to respond appropriately to future changes in the legal and regulatory framework;
- the EU and the United Kingdom engage in dialogue and exchange in order to identify opportunities for cooperation, the exchange of tried-and-trusted procedures and expertise, and joint action – including in areas such as culture, education, science and innovation;
- the EU's cohesion continues to be maintained, and the EU articulates its interests unanimously in its dealings with the United Kingdom.