



ERG: Brexit in the news July / August 2017

1. The Home Office Minister's Rudd and Lewis have contradicted itself on free movement during the transition¹

Brandon Lewis stated that Freedom of Movement would end on Brexit but was contradicted by Amber Rudd who seemed to point towards a registration scheme only in a transition period, although it is not clear.

The Home Office has commissioned the Migration Advisory Committee to look at the impact of EU migration. The letter (potentially agreed by cabinet) is [here](#).

It sets out a phased transition, the post Brexit “transition” section is:

*“As part of a smooth and orderly transition as we leave the EU, the second phase of our immigration proposals is based on a **temporary implementation period to ensure there is no cliff-edge on the UK’s departure for employers or individuals**. This includes the ‘grace period’ during which those EU citizens who arrived before the specified date will have time to obtain their documentation from the Home Office. During this period there will also be a straightforward system for the registration and documentation of new arrivals (as well as for those who arrived after the specified date but before exit, if appropriate). **A registration system that enables EU citizens to demonstrate their right to live and work in the UK** is the basic requirement to be able to operate any system of immigration control.”*

This letter may have been interpreted by Hammond to infer Cabinet agreement to the continuance of free-movement in a “transition”. Liam Fox latter agreed that is not what he had agreed.²

2. Phillip Hammond on EEA / Transitional arrangements on BBCR4 Today

¹ The Guardian July 27: <https://www.theguardian.com/politics/2017/jul/27/freedom-of-movement-ends-with-brexit-says-immigration-minister-brandon-lewis>

² The Guardian 30 July 2017: <https://www.theguardian.com/politics/2017/jul/30/liam-fox-denies-cabinet-deal-on-transitional-eu-free-movement>

Phillip Hammond created a controversy in an interview on BBC Radio 4's Today programme on 28 June. You can hear the key part [here](#)^{3,4}

"There will be a process between the date we leave the European Union and the date on which the new treaty-based arrangements between the UK and the European Union which we hope and expect to negotiate come into force"

"I can't tell you a precise period of time because we haven't had that discussion yet. It will be driven by technical considerations, how long it will take us to put the necessary arrangements in place. **People have talked about a year, two years, maybe three years.**

"I think there is a broad consensus that this process has to be **completed by the scheduled time of the next general election, which is in June 2022**, so a period of at the most three years in order to put these new arrangements in place and move us on a steady path without cliff edges from where we are today to the new long-term relationship with the European Union."

"The important point is that we are able to get started on that process and during a transition period when we would hope to have continued access to the European market it may be that during that period we don't bring those new agreements into force. But it will take us time anyway to negotiate them."

"We've been clear that **it will be some time before we are able to introduce full migration controls between the UK and the European Union**. That's not a matter of opinion, that's a matter of fact. During the transition period that will follow our departure from the European Union, European citizens will still be able to come here but they will have to register."

He started the interview stating the UK would leave the Customs Union and Single Market then went on to say:

- There would be a transition of between one and three years post Brexit.
- The transition may be the EEA or something similar.
- Free movement would continue during the transition.

Some BBC tweets of the reported key points:

- Nick Robinson: "So, we leave EU (Single Mkt, Customs Un & FoM) in '19 but might not feel different for up to 3 years"
- BBC Norman Smith: "'It may be" that UK is unable to strike trade deals with other countries during transitional period – Chancellor"
- BBC Today: "Broad acceptance" in cabinet that there will have to be a transitional period – Chancellor"

³ 28 July 2017: <https://www.theguardian.com/politics/2017/jul/28/philip-hammond-confirms-uk-will-seek-brex-it-transitional-deal>

⁴ <https://twitter.com/BBCr4today/status/890834279122513920>

- BBC Today "We will have a transition period dictated by the technical necessities of implementing new systems," says Philip Hammond 23 replies
- BBC Today: Transitional period to Brexit must be completed by next election in 2022 says Chancellor"
- BBC Today: "European nationals will still be able to come into the UK, they will have to register with authorities - they can get jobs - Philip Hammond"
- BBC Today: "Philip Hammond says it will be some time before "we can introduce full migration controls between the UK and EU""

Number 10 later argued that "the UK will not seek an "off-the-shelf" model for a post-Brexit transitional period"⁵

3. ECJ Jurisdiction

In addition to the Chancellor's comments on the EEA two other issues on ECJ jurisdiction have come up:

- 8 August: Lord Neuberger: "If [the government] doesn't express clearly what the judges should do about decisions of the ECJ after Brexit, or indeed any other topic after Brexit, then the judges will simply have to do their best,"⁶
- 9 August: Koen Lenaerts, the Belgian president of the European Court of Justice proposed that the UK could use the European Free Trade Association (Efta) court.⁷

4. EU Budget

The Sunday Telegraph led with the headline "UK ready to pay £36bn Brexit bill, but only if EU talks trade" citing "UK officials". This was later denied as speculation.⁸

5. European Arrest Warrant

House of Lords report on the "European Arrest Warrant"⁹

David Davis was reported to argue for UK judges having to veto the extradition of UK citizens under the European Arrest Warrant after Brexit.

"A Government spokeswoman said: "The Prime Minister has been clear that we will take back control of our laws and bring an end to the jurisdiction of the European

⁵ The Guardian 30 July 2017: <https://www.theguardian.com/politics/2017/jul/31/no-10-rejects-off-the-shelf-transitional-deal-for-brexit>

⁶ The Guardian 8 August 2017: <https://www.theguardian.com/politics/2017/aug/08/judge-calls-for-clarity-on-status-of-ecj-rulings-in-uk-after-brexit>

⁷ The Times, 9 August: <https://www.thetimes.co.uk/article/european-court-of-justice-president-koen-lenaerts-offers-european-free-trade-association-as-solution-to-brexit-conundrum-dnwf83zwxw>

⁸ Telegraph 6 August: <http://www.telegraph.co.uk/news/2017/08/05/uk-ready-pay-40bn-brexit-bill-eu-talks-trade/>

⁹ Parliament 27 July 2017: <https://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-home-affairs-subcommittee/news-parliament-2017/arrest-warrant-report-published/>

Court of Justice in the United Kingdom. As part of the negotiations with the EU we will discuss with the EU and its member states how best to continue co-operation on security, law enforcement and criminal justice.”¹⁰

6. James Chapman (ex Dexeu spad) in a Twitter outburst has called Brexit supporters, “jihadists”, Brexit a “catastrophe” and is arguing for a new Party “The Democrats” to stop it!

7. Michael Gove & Fish & Osborne

Michael Gove has “told leaders of Denmark’s fisheries industry that vessels from the country would be able to operate in British waters after Brexit.”¹¹ In addition Michael Gove is now apparently on holiday with George Osborne! ¹²

8. New UK negotiating positions out next week

It is reported that the UK will bring out new position papers on Customs and Northern Ireland in next weeks.

“Position papers have been prepared on a range of issues from digital economy and data protection, to Northern Ireland, customs agreement and goods and services arrangements once Britain quits the European Union.”¹³

Research Papers:

- **Charlie Elphicke MP has a short 5 part Brexit series on Conservative Home¹⁴**
- **Martin Howe QU has a draft paper on “transition/implementation” (emailed to you) and one on ECJ (emailed)**
- **Gunnar Beck on ECJ and EU citizens after Brexit¹⁵**

¹⁰ Sky News; <http://news.sky.com/story/british-judges-could-overrule-eu-extradition-requests-10979349>

¹¹ FT; <https://www.ft.com/content/93cc47d6-7857-11e7-a3e8-60495fe6ca71>

¹² The Guardian 10 August 2017; <https://www.theguardian.com/politics/2017/aug/10/epic-night-out-gove-osborne-visit-opera-german-holiday>

¹³ Sky News 9 August 2017: <http://news.sky.com/story/theresa-may-to-harden-up-brexite-negotiating-position-10979289>

¹⁴ <https://www.conservativehome.com/platform/2017/08/charlie-elphicke-4-ready-on-day-one-for-lower-fairer-simpler-taxes-to-boost-jobs-the-economy-and-drive-a-renaissance-of-the-regions.html>

¹⁵ Prof Gunnar Beck <http://judicialpowerproject.org.uk/wp-content/uploads/2017/06/Beck-2017-EU-citizens%E2%80%99-rights-after-Brexit.pdf>