

21 January 2020

UKTF (2020) 12 – Commission to EU 27

Subject: Internal EU27 preparatory discussions on the future relationship: "Architecture and legal nature of the partnership"

Origin: European Commission, Task Force for Relations with the United Kingdom

Remarks: These slides are for presentational and information purposes only and were presented to the Council Working Party (Article 50) on 21 January 2020. The contents are without prejudice to discussions on the future relationship.

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Internal preparatory discussions on
future relationship

Architecture and legal nature of the partnership

AD HOC WORKING PARTY ON ARTICLE 50 (*Seminar mode*)

21/01/2020

General introduction

If UK withdraws with agreement on 31 January 2020:

Transition period of 11 months for:

- 1. adoption of negotiating directives;**
- 2. conduct of negotiations;**
- 3. signature/conclusion and entry into force of future agreement by 1 January 2021**

=> *Complex and politically sensitive negotiations*

=> *Change of regulatory regime as of 1 January 2021*

Purpose of the seminar series

- Respect established EU principles and objectives:

- 1. European Council (Art. 50) guidelines on the framework for the future EU-UK relationship, 23 March 2018;**
- 2. Revised Political Declaration agreed with the UK government on 17 October 2019, setting out the framework for the future relationship between the EU and the UK.**

- Preparing the negotiating directives

- Take into account Member States' views

- Commission will present the recommendation after UK withdrawal

→ no surprises

→ allow for swift adoption

Architecture and legal nature – General approach

- **European Council Conclusions of 13 December 2019 (§2)**
“invites the Commission to submit [...] a draft *comprehensive* mandate”
- **European Council Guidelines of 23 March 2018 (§15 on overall governance)**
“the governance of our future relationship [...] will have to address management and supervision, *dispute settlement and enforcement*, including *sanctions* and *cross-retaliation mechanisms*.”
- **Political Declaration (§ 118)**
“*the precise legal form of this future relationship will be determined as part of the formal negotiations.* [...]”

Architecture and legal nature - Introduction

- Architecture
- Legal nature: substantive legal basis
- Substance over form: need to remain flexible
- Definitive assessment can only be made at the end of the negotiations

Architecture

- Substance and form
- Multiplicity of agreements vs single agreement
- Comprehensive partnership

Architecture of partnership agreement

- Single comprehensive agreement with 3 main components:
 - General
 - Economic
 - Security
- Possibility of “supplementing agreements” embedded in the comprehensive agreement
 - at the same time
 - at a later stage

Legal nature of partnership agreement

- Substantive legal basis for signature and conclusion can only be determined at the end of the negotiations
- Scope and depth of partnership agreement

Conclusions

- Intention is to negotiate a new partnership in the form of a **single comprehensive partnership agreement**, with the possibility of supplementing agreements.
- Substantive legal basis for signature and conclusion can only be determined at the end of the negotiations