U.S. CHAMBER OF COMMERCE

The Future of UK-EU Relations: Priorities of the U.S. Business Community

The 'special relationship' between the United States and the United Kingdom is built on deep and abiding economic, foreign policy and security ties that have been cultivated over centuries. The durability of this alliance derives from our shared commitment to rule of law, democratic norms, and free enterprise, and American companies have looked to the UK as a safe and certain market in an increasingly uncertain world.

The British people opted for change when they voted on June 23 for the United Kingdom to negotiate an exit from the European Union. Whether this break with the status quo benefits the UK in the long run will depend chiefly on the choices Prime Minister Theresa May and her cabinet will make in the months ahead.

These negotiations will have a broader impact on the EU-27 as well. Britain will remain one of the EU's largest trade partners even after it has formally exited, and these ties necessarily will be impacted by the outcome of the upcoming negotiations. Taking an unnecessarily combative approach to these negotiations would have major negative consequences for the broader European economy. Both the UK and EU should enter these talks with a clear eye toward ensuring a mutually beneficial trading relationship once the UK exits the EU.

Though the United States has no direct role as London resets its relationship with Brussels, the American business community has a significant stake in the outcome. U.S. firms' investments in Britain are worth nearly $590 billion, employing roughly 1.2 million Britons directly and millions more indirectly. Many of those investments were made to reach both British and other European consumers. U.S. subsidiaries in the rest of Europe are equally interested in seeing minimal disruption to their supply chains and business ties across the Channel.

As such, the U.S. business community has the right and the responsibility to share its perspective on the UK-EU negotiations. The long-term implications of the outcome of these talks for U.S. investments in Britain—with significant impacts on U.S. firms' British employees and British taxes—will be substantial. Drawing on decades of experience doing business in the UK, the concerns of these U.S.-headquartered companies should be taken into account in the debates that lie ahead.

The U.S. business community has identified seven priorities for the UK-EU negotiations.

1. **Market Access: The UK should retain unfettered access to the European market in goods and services**.

   The UK's ability to buy and sell products and services freely across the European Union has helped make it one of the world's leading economies. Full access to the European market in goods benefits consumers and facilitates the UK's position in global supply chains. While the EU's services markets are not as fully integrated, Britain's place as home to many of the world's most competitive services companies makes continuation of access to EU services markets imperative.

   If the UK were not to retain its current level of access, the risks of new market access barriers and divergent regulatory regimes would increase the cost of doing business both in the UK and when exporting to EU member states. Ultimately, these costs are likely to be borne by British workers and consumers. Already some U.S. businesses have indicated that, without continued seamless free market access to Europe, investment and hiring decisions likely would favor other locations.

   Some observers have mistakenly stated that the EU's relatively low external tariff makes these concerns less relevant. This is nonsense. In the real world of business, margins for tradeable goods are razor thin, and even a so-called "nuisance" tariff of 3% can make or break a sale. To give but one example, the automotive sector, which forms a critical part of the UK's manufacturing sector, would be devastated if UK-based auto assembly plants faced the EU's 10% common external tariff for automobiles.

   Effective market access in services—which make up approximately 80% of the British economy—will be even more critical to the UK's sustained competitiveness. Introducing new barriers to trade in services would also prove problematic for U.S. investors who provide services from the UK market into Europe and beyond.

2. **Labor Movement: The British government should be mindful of the "skills gap" that currently saps the competitiveness of industry and craft policies on the movement of labor accordingly**.

In today's highly competitive global economy, British firms and British affiliates of U.S. companies are often hard pressed to find the skilled labor they need. This "skills gap" in Britain, the United States, and other economies has been well documented and is one of the top challenges facing business. High-skilled manufacturing and professional and business services are among the sectors most affected.

As such, the ease with which professionals have been able to move across the EU has been a competitive advantage for European companies. Britain has been among the biggest beneficiaries of such flexibilities.

We believe the UK must continue to allow the movement of labor without overly restrictive barriers. In addition to ensuring that businesses in the UK will be able to employ EU nationals without undue bureaucratic burdens in the future, reassurances should be extended to the approximately three million EU nationals today in the UK, representing about 6.6 per cent of the workforce. Doing so will also benefit the approximately 1.2 million UK citizens resident in the EU.

3. **Financial Services: Firms should retain the right to provide services from the UK to customers across Europe, and to continue to trade in Euro-denominated derivatives.**

U.S. financial services firms have enjoyed the right to use their UK operations to provide services across Europe. This "passporting" arrangement will be at issue in the upcoming EU-UK negotiations. Should the UK lose this right, American companies will be forced to shoulder significant additional costs as they seek to maintain their rights to do business effectively across the European continent.

While Europe has several financial centers, London is the pre-eminent hub for capital markets in the region and beyond. As such, access to London's capital markets will continue to be vital for member state economies. As negotiations get underway, it is important that the priorities of growth, financial stability, and resilience are shared by all parties.

4. **Regulation: The UK and EU should arrange for Britain to continue to participate in certain common regulatory arrangements where appropriate.**

As the UK exits the European Union, the issue of regulatory compatibility looms large. U.S. investors have identified several areas where questions regarding regulatory equivalence and conformity assessment will come into play. Following are some priorities:

- Britain should continue to be a full member and participant in the highly successful U.S.-EU Open Skies Agreement and continue to have full access to the EU's integrated aviation market.
- The UK should remain active in the REACH chemical compliance network.
- Britain should continue to participate fully in the London-based European Medicines Agency, shaping and benefitting from its rules as a member.
- The UK should avoid creating novel product safety and environmental standards at odds with those in the EU or the United States, particularly in the energy sector, as these would add to compliance costs.
- Britain should continue to take a lead role in shaping plans for a Unitary Patent Court, as well as consider incorporation of current EU IP incentives into UK law.

These are only a few of the hundreds of regulatory policy decisions at issue, underlining both the complexity of coming EU-UK negotiations, and the considerable uncertainty that businesses face. Close consultation with the private sector will be especially important here.

5. **Data: The UK and EU should implement consistent data protection legislation to ensure the free movement of data between the UK and Europe.**

U.S. businesses established in the UK need an environment which permits the free flow of data between the UK and the EU. Inability to access and process EU-wide data would make the UK a much less attractive place to invest.

After the UK exits the EU, it is critical that privacy regulations provide for the continued seamless ability to transfer data from the UK to the European continent and beyond. Privacy and the ability to move data do not need to be—and in fact should not be—competing objectives. Instead, both can be achieved and are necessary for the UK to be competitive in the today's highly-integrated digital economy.

The EU's General Data Protection Regulation (GDPR) will come into force in May 2018. Under routine circumstances, the UK would be required to incorporate it into domestic law. Because the state of the UK-EU negotiations at that time is unknown, questions about whether the UK will proceed with the GDPR implementation are legitimate.

While recognizing and considering the arguments for and against wholesale adoption of the GDPR, the UK could should seek to retain as much of the same data protection regulation as possible in order to maintain free and open transfers of personal and commercial data and to avoid unnecessary bureaucracy. The creation of new, inconsistent UK data protection laws could create unnecessary regulatory barriers and increase compliance costs, without improvements in safeguarding privacy or security.

6. **Tax Policy: The UK should implement transparent and predictable corporate tax policies that will continue to foster foreign investment**.

It is important that the UK maintain a tax structure that will solidify its reputation as an investment-friendly nation. The UK should seek a mutually-acceptable arrangement with the EU-27 that addresses tax collection and Britain's ability to enter into legal contracts with specific companies outlining their tax obligations—free from interference from Brussels.

Similarly, the UK should seek to maintain the existing, effective cooperation regarding Value-Added Tax regimes. Currently, cross-border VAT rates in Europe are calculated and declared in the same fashion as domestic VAT, meaning there are no delays at the border when goods cross the Channel. In this way, tax policy is directly linked with important market access issues.

7. **Transition Measures**

Underlying the preceding priorities is the strong need to minimize uncertainty in Britain's business environment. It is in the interest of both the UK and the EU to secure a new relationship that is mutually beneficial—both ensuring the tariff-free flow of goods and services and keeping regulations relatively streamlined.

To foster greater certainty, any final UK-EU deal should include a reasonable transition period for implementation of both market access and regulatory provisions. It is vitally important for consumers and businesses alike that Britain not be immediately cut off from Europe upon conclusion of the Article 50 process.

Likewise, transitional arrangements should be concluded to enable the UK to continue to enjoy the terms of existing EU free trade agreements with third countries until London concludes its own bilateral treaties with those countries. Ultimately, existing EU FTA's should be amended to allow UK content to be included under rules of origin requirements to account for the UK's integral role in the European supply chain. This will remain important for U.S. investors far beyond the date of Britain's ultimate exit from the EU.

Conclusion

The U.S. business community looks forward to actively engaging with the UK government, European Union institutions, and other Member State governments to avoid disruption of beneficial trade and investment relationships and promote future engagement between the United States and its closest partners and allies.