Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

2018/0427(NLE) - 05/12/2018 - Preparatory document

PURPOSE: to approve 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.

PROPOSED ACT: Council decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: on 29 March 2017, the United Kingdom notified the European Council of its intention to withdraw from the European Union and the European Atomic Energy Community in accordance with Article 50 of the Treaty on European Union. On 22 May 2017, the Council authorised the Commission to open negotiations with the United Kingdom with a view to concluding an agreement laying down the arrangements for its withdrawal, taking into account the framework of its future relations with the Union.

The agreement was negotiated in the light of the European Council's guidelines and in accordance with the Council's negotiating directives and with the European Parliament's resolutions of 5 April 2017, 3 October 2017, 13 December 2017 and 14 March 2018. On 14 November 2018, negotiators for the European Commission and the United Kingdom reached agreement on the full withdrawal agreement and on the broad lines of the political declaration on future relations between the EU and the United Kingdom.

An agreement on future relations between the Union and the United Kingdom can only be concluded after the United Kingdom has become a third country. However, Article 50 of the Treaty on European Union requires that the framework for future relations with the Union be taken into account in the agreement setting out the arrangements for withdrawal.

The withdrawal agreement sets out the terms and conditions for the United Kingdom's withdrawal from the EU. It ensures that the withdrawal shall be carried out in an orderly manner, and provides legal certainty once the Treaties and Union law have ceased to apply in the United Kingdom.

The withdrawal agreement is necessary to mitigate any negative effects on the European economy and the Union budget, protect the rights of the European citizens living and working in the United Kingdom, as well as safeguard the goal of peace and reconciliation in the island of Ireland.

CONTENT: the Commission proposes that the Council decide to approve, on behalf of the European Union and the European Atomic Energy Community, 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.

The Commission's draft text proposal for the withdrawal agreement consists of 185 articles structured in six parts, three protocols and nine annexes. The areas concerned are as follows:

Part 1: Common Provisions

The agreement sets out the clauses necessary to ensure the correct understanding, operation and interpretation of the withdrawal agreement. The provisions of the withdrawal agreement were clearly to have the same legal effects in the United Kingdom as in the EU and its Member States. The agreement expressly provides for this obligation, which means that both parties must ensure, in their respective legal systems, primacy and direct effect, as well as a consistent interpretation with the case law of the Court of Justice of the European Union (ECJ) prior to the end of the transitional period.

Part 2: Citizens' Rights

The agreement lays down provisions to safeguard the status and rights derived from Union law of EU and UK citizens, and their families, affected by the United Kingdom withdrawal. The basic conditions for residence are and will remain the same as those currently provided for under EU law on free movement. Persons covered by the withdrawal agreement will have the right to take up paid employment or engage in economic activity as self-employed workers. They will also retain all the rights they enjoy as workers under Union law. The withdrawal agreement will also protect the rights of employed or self-employed frontier workers in the countries where they work.

As regards the rules on the coordination of social security systems, persons benefiting from the part of the withdrawal agreement devoted to citizens' rights will retain their rights to health care, a pension and other social security benefits.

Part 3: Separation Provisions

These provisions are intended to ensure a smooth termination of the current arrangements and to ensure an orderly withdrawal (for example, to allow goods placed on the market before the end of the transitional period to reach their destination, to protect existing intellectual property rights, to put an end to ongoing police and judicial cooperation in criminal matters, to regulate the use of data and information exchanged before the end of the transitional period).

Part 4 - Transition Period

The withdrawal agreement provides for a transition period until the end of 2020. During this period, the full acquis of the Union will continue to apply to the United Kingdom as if it were a Member State. The United Kingdom will thus continue to be part of the EU's customs union and single market (with the four freedoms) and to participate in the Union's policies. From the date of withdrawal (i.e. including during the transitional period), the United Kingdom will no longer be represented in the Union's institutions and will no longer participate in the Union's decision-making process.

During the transition period, the United Kingdom will have to comply with the EU's trade policy and will continue to be bound by the Union's exclusive competence, in particular with regard to the common trade policy. It will not be able to conclude new agreements on its own in areas of exclusive Union competence, unless it is authorised to do so by the Union.

The withdrawal agreement provides for the possibility of extending the transition period. This possibility may only be used once, the decision to this effect having to be taken before 1 July 2020.

Part 5: Financial Provisions

Under the withdrawal agreement, the United Kingdom will honour its share of the financing of all obligations incurred during its membership of the Union relating to the EU budget (and in particular the multiannual financial framework 2014-2020, including payments made after the end of the transitional period linked to the closure of programmes).

Part 6: Institutional Provisions

The agreement sets out rules for the consistent interpretation and application of the agreement and establishes a Joint Committee as well as a dispute settlement mechanism. The withdrawal agreement also provides for:

- *a protocol on Ireland/Northern Ireland* including the provisions necessary for the so-called “backstop” solution for avoiding a hard border between Ireland and Northern Ireland. This will apply unless and until it is superseded, in whole or in part, by any subsequent agreement. The Protocol creates a single EU-UK customs territory. It also provides for a range of measures to ensure a level playing field between the EU and the United Kingdom. In this protocol, the United Kingdom undertakes not to reduce the rights set out in the Good Friday Agreement (Belfast Agreement) of 1998, and to protect North-South cooperation;

- *a Protocol on Sovereign Base Areas in Cyprus*, to protect the interests of Cypriots living and working in the Sovereign Base Areas after the withdrawal of the United Kingdom from the Union;

- *a Protocol on Gibraltar*, which provides for close cooperation between Spain and the United Kingdom on Gibraltar, as regards the implementation of the provisions of the withdrawal agreement relating to citizens' rights, and which concerns administrative cooperation between the competent authorities in a number of policy areas.

BUDGETARY IMPLICATIONS: the only budgetary impact of the withdrawal agreement (EUR 288 million per year over 4 years) stems from the establishment of the Joint Committee which will supervise and facilitate the implementation and application of the withdrawal agreement.