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EUROPEAN COUNCIL (28-29 JUNE 2018)

The European Council consists of the heads of state or government of the 28 EU member states, the European Council President (Donald Tusk) and the President of the European Commission (Jean-Claude Juncker) and it defines the EU's overall political direction and priorities.

The European Council on 28 June focused on migration. Leaders also discussed security and defence, as well as economic and financial affairs. On 29 June EU leaders addressed Brexit (in an EU 27 format) and the eurozone (Euro Summit format). All conclusions from the meeting are available from the meeting page.

The full conclusions addressing Brexit from the EU 27 (i.e. not including the UK, in line with the rules of Article 50) are copied below:

1. In light of the state of play presented by the Union negotiator, the European Council welcomes the further progress made on parts of the legal text of the Withdrawal Agreement. The European Council takes note, however, that other important aspects still need to be agreed, including the territorial application of the Withdrawal Agreement, notably as regards Gibraltar.

2. The European Council expresses its concern that no substantial progress has yet been achieved on agreeing a backstop solution for Ireland/Northern Ireland. It recalls the commitments undertaken by the UK in this respect in December 2017 and March 2018, and insists on the need for intensified efforts so that the Withdrawal Agreement, including its provisions on transition, can be concluded as soon as possible in order to come into effect on the date of withdrawal. It recalls that negotiations can only progress as long as all commitments undertaken so far are respected in full.

3. Work must also be accelerated with a view to preparing a political declaration on the framework for the future relationship. This requires further clarity as well as realistic and workable proposals from the UK as regards its position on the future relationship. The European Council reconfirms the principles set out in its guidelines and the position defined in March 2018. The European Council recalls that if the UK positions were to evolve, the Union will be prepared to reconsider its offer in accordance with the principles stated in the guidelines of 29 April and 15 December 2017 as well as of 23 March 2018.

4. The European Council renews its call upon Member States, Union institutions and all stakeholders to step up their work on preparedness at all levels and for all outcomes.

European Council President, Donald Tusk also made concluding remarks:

On Brexit. The EU27 has taken note of what has been achieved so far. However, there is a great deal of work ahead, and the most difficult tasks are still unresolved. If we want to reach a deal in October we need quick progress. This is the last call to lay the cards on the table.
On 2 July, the Prime Minister made a statement to the UK Parliament on the European Council:

Turning to Brexit, I updated my fellow leaders on the negotiations, and the 27 other member states welcomed the further progress that had been made on the withdrawal agreement. With the exception of the protocol relating to Northern Ireland, we now have agreement or are close to doing so. There remain some real differences between us and the European Commission on Northern Ireland. So, on the protocol on Northern Ireland, I want to be very clear. We have put forward proposals and will produce further proposals so that if a temporary backstop is needed, there will be no hard border between Northern Ireland and the Republic of Ireland. We are absolutely committed to the avoidance of such a border, and we are equally committed to the avoidance of a hard border between Northern Ireland and the rest of the United Kingdom. Northern Ireland is an integral part of our country and we will never accept the imposition of a border within our United Kingdom.

We all agreed that we must now urgently intensify and accelerate the pace of negotiations on our future relationship. I warned EU leaders that I do not think this Parliament will approve the withdrawal agreement in the autumn unless we have clarity about our future relationship alongside it. I will hold a meeting of the Cabinet at Chequers on Friday, and we will publish our White Paper on the future partnership with the EU next week. The EU and its member states will want to consider our proposals seriously. We both need to show flexibility to build the deep relationship after we have left that is in the interests of both our peoples. Our White Paper will set out detailed proposals for a sustainable and close future relationship between the UK and the EU—a partnership that means that the UK will leave the single market and customs union, but a partnership which supports our shared prosperity and security. It will mark an important step in delivering the decision of the British people.

The next European Council meeting is scheduled to take place on 18 October 2018.

HOLYROOD BREXIT ROUND-UP

Ministerial reshuffle

The Scottish Parliament approved a set of new ministerial appointments on 28 June. The Scottish Government’s minister responsible for issues relating to the UK’s exit from the European Union remains Michael Russell, but his position in the government has been elevated from Minister for UK Negotiations on Scotland’s Place in Europe (a post held since August 2016) to Cabinet Secretary for Government Business and Constitutional Relations.

The Cabinet Secretary is supported by a new ministerial appointment, Graeme Dey in the post of Minister for Parliamentary Business and Veterans.
Scottish Government report on security, judicial co-operation and law enforcement

On 14 June, the Scottish Government published a report outlining its position on security, law enforcement and criminal justice co-operation. The introduction to the report outlines its contents:

In the area of Justice, the Scottish Government is continuing to engage with key justice and legal bodies in Scotland to assess and plan for the full potential impact of Brexit. The Scottish Government's overarching aims are to ensure that the specific implications of Brexit for Scotland's independent justice system are taken into account in the negotiation process and that the benefits which Scotland derives from effective cross-border co-operation within the EU on justice and security matters are maintained.

The aim of this paper is to help people's understanding of how, in the case of security and criminal justice interests, continued participation in the EU Justice and Home Affairs (JHA) criminal cross border justice and security measures benefits Scotland. The paper offers a "sectoral" insight into how a range of JHA measures currently work, why it matters so much and what is likely to be different after the UK leaves the EU.

Scottish Government debate on “powers”

On 26 June, the Scottish Government lead a debate without motion on “Defending the Powers of the Scottish Parliament”.

Michael Gove at REC & ECCLR committees

On June 27, UK Secretary of State for Environment, Food and Rural Affairs, Michael Gove gave evidence to two Holyrood committees:

- Environment, Climate Change and Land Reform Committee’s questions addressed environmental protections, emissions trading, resources, fisheries, and environmental governance, powers and trade.
- Rural Economy and Connectivity Committee’s questions addressed fisheries, agriculture and forestry including trade, immigration and powers.

British-Irish Council

The British-Irish Council was established as part of the multi-party agreement reached in Belfast on 10 April 1998. On 22 June, the Government of Guernsey hosted the 30th British-Irish Council Summit. The summit communiqué is available here. Ahead of the summit the UK Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster, David Lidington MP, issued a statement calling for ongoing engagement and cooperation, while the First Ministers of Wales and Scotland jointly published a statement calling for the UK to negotiate staying inside the Single Market and Customs Union. Both statements are covered by ITV Cymru Wales.
**Immigration: EU Exit Settlement Scheme**

On 15 June, Scottish and Welsh Ministers wrote a joint letter to the Home Secretary, Sajid Javid MP, regarding the EU Exit Settlement Scheme. The full text of the letter is available here. On 21 June, the UK Government published a “statement of intent” setting out how EU citizens and families will be able to apply for settled status through the EU Exit Settlement Scheme with draft Immigration Rules to give legal effect to the scheme.

**SPICe briefings on fishing, citizen’s rights and migration**

SPICe recently published the following briefings relevant to Brexit:

- **Will fishing be discarded in the Brexit negotiations?** This briefing explores how the catching sector of the UK’s fishing industry may fare in Brexit negotiations on the future relationship between the UK and the EU (22 June).
- **Economic, social and cultural rights - some frequently asked questions.** This briefing provides responses to some frequently asked questions on economic, social and cultural rights (28 June).
- **Attracting and retaining migrants in post-Brexit Scotland.** This report explores whether introducing a social integration strategy for all migrants in Scotland could support the goal of attracting and retaining people here (28 June).

**Inquiry on common frameworks**

On 18 June, Finance and Constitution Committee published a [call for evidence](#) on common UK frameworks. The closing date for responses is 31 August 2018.

**WESTMINSTER BREXIT ROUND-UP**

**Selected highlights**

The European Union (Withdrawal) Act received Royal Assent on 26 June.

On 28 June, the Commons Exiting the European Union Committee published its [report](#) on the UK Parliament’s role in scrutinising and approving the Withdrawal Agreement and negotiations on a future relationship including conclusions addressing the role of devolved governments and parliaments (see para 107).

On 29 June, the House of Commons library published an [overview](#) of key Scotland-relevant issues relating to EU withdrawal.

On 2 July the Prime Minister made a [statement](#) to the UK Parliament to report on the latest European Council.

The UK Government’s latest white paper addressing the UK’s future relationship with the EU will be considered by the full Cabinet on 6 July.

**EU Exit-related legislation**

After over 272 hours of debate the European Union (Withdrawal) Act has completed its parliamentary process and has now received Royal Assent. The SPICe [Spotlight blog](#)
highlights the progress of both this Act (in terms of its relevance to the Scottish Parliament) and the UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill. Professor Mark Elliot’s 1,000 words series also summarises how the Act works and briefly considers some of the key constitutional issues that it raises:

“The Act also has important implications for the UK’s territorial constitution. The original version of the Bill put all retained EU law off-limits to devolved lawmakers, subject to the possibility of the UK Government’s gradually devolving authority to alter retained EU law. This was intended to ensure that important pan-UK arrangements — such as the UK’s internal single market — that are currently vouchsafed by EU law would not be compromised by Brexit. However, following allegations that this amounted to a ‘power-grab’ by the UK at the devolved institutions’ expense — because it would have diverted to London powers that would otherwise have flowed from the EU to the devolved capitals upon Brexit — the Bill was amended. The Act now prevents devolved institutions from amending retained EU law only in ways that are proscribed by regulations made by UK Ministers. Before such regulations are made, devolved legislatures must be consulted, but ultimately they cannot block UK Ministers from limiting their powers over retained EU law.”

The following legislation related to the UK’s exit from the EU has received Royal Assent:

1. The European Union (Withdrawal) Act received Royal Assent on 26 June.
2. The Nuclear Safeguards Act received Royal Assent on 26 June.

Timings for the report stage of the Trade Bill and “Customs” Bill are yet to be announced. Media reports suggest that the UK Government intends to bring these forward before the UK Parliament’s summer recess, although this may be subject to change.

The Trade Bill & Scottish legislative consent

The Trade Bill provides a legal framework for devolved administrations to implement the obligations arising from the trade agreements falling within the scope of the Bill and the EU Agreement on Government Procurement. At the time of writing, the Trade Bill still shadows the approach taken to devolution by the original European Union (Withdrawal) Bill as introduced, rather than the amended approach taken to devolution following discussions between the UK, Welsh and Scottish Governments. The Trade Bill does not address what role, if any, the devolved authorities might have in future treaty negotiations.

The Trade Bill - Legislative Consent Memorandum lodged by the Scottish Government on 20 December 2017 recommends the Scottish Parliament refuse consent to the Trade Bill in its current form. An updated version of the House of Commons Library briefing on the Trade Bill was published on 2 July. This briefing includes a discussion of devolution issues and explains the grounds on which the Scottish Government recommends that consent is refused.
On 14 June, Michael Russell MSP gave a speech to the Dublin City University Brexit Institute and indicated that the Scottish Government intends to publish a paper on future trade policy.

**Committee activity**

The following is a snapshot of Westminster’s committee activity on Brexit that may be of interest to members.

<table>
<thead>
<tr>
<th>Commons Select Committees</th>
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<tbody>
<tr>
<td><strong>Exiting the European Union Committee</strong></td>
<td>On 28 June, the committee published its report on <em>Parliamentary scrutiny and approval of the Withdrawal Agreement and negotiations on a future relationship</em>. The Chair also made a statement to the Commons. The report includes conclusions addressing the role of the devolved governments and parliaments in scrutiny and approval (para 107). On 3 July, the committee published its report on <em>data flows and data protection after Brexit</em>.</td>
</tr>
<tr>
<td><strong>Scottish Affairs Committee</strong></td>
<td>On 3 July, the committee heard from a range of experts and representatives on Scotland's trade priorities and options, and the role of geographical protections for Scottish trade.</td>
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<tr>
<td><strong>European Scrutiny Committee</strong></td>
<td>On 3 July, the committee took evidence on <em>EU trade and investment legislation</em> from the Minister of State for Trade Policy, George Hollingbery MP, and Chief Trade Negotiation Adviser Crawford Falconer. It previously heard from a panel of experts on the <em>Ireland/Northern Ireland border</em> on 27 June.</td>
</tr>
<tr>
<td><strong>Home Affairs Committee</strong></td>
<td>The committee took evidence on <em>EU policing and security cooperation</em> on 3 July and will hold an evidence session on post-Brexit migration policy on 10 July.</td>
</tr>
<tr>
<td><strong>International Trade Committee</strong></td>
<td>On 4 July, the committee will hear from a range of experts on the implications of arrangements for the Ireland/Northern Ireland border for wider UK trade policy.</td>
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Future publications over summer 2018

The Scottish Parliament is now in recess and is scheduled to return on 4 September. Over this period, we intent to publish updates at the end of July and end of August.

About this publication

This regular paper produced by SPICe sets out developments in the UK’s negotiations to leave the European Union, the process for which has now formally begun following the Prime Minister’s triggering of Article 50 on 29 March 2017.

The updates will provide information on the UK Government’s approach to leaving the EU including the domestic legislation necessary to ensure a smooth transition in terms of the UK statute book, along with details of the positions of the Scottish Government and the other Devolved Administrations. The updates will also provide information on developments within the EU with regard to the UK’s departure. Finally, the updates will provide information on the key issues likely to be at play during the negotiations and in developing the UK’s future relationship with the European Union.

As was clear both during the referendum campaign and since the decision to leave the EU was taken, there is an abundance of information and analysis available, and this SPICe paper will try to cover the key issues by drawing on that information and analysis.
CULTURE, TOURISM, EUROPE & EXTERNAL RELATIONS COMMITTEE

#SPICeBrexitUpdate

Scottish Parliament Information Centre (SPICe) Briefings are compiled for the benefit of the Members of the Parliament and their personal staff. Authors are available to discuss the contents of these papers with MSPs and their staff who should contact Iain McIver on extension 85294 or email iain.mciver@parliament.scot. Members of the public or external organisations may comment on this briefing by emailing us at SPICe@parliament.scot. However, researchers are unable to enter into personal discussion in relation to SPICe Briefing Papers. If you have any general questions about the work of the Parliament you can email the Parliament’s Public Information Service at sp.info@parliament.scot.

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