



**Mr Michel Barnier**  
Chief Negotiator Task Force 50  
European Commission  
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BE- 1032 Brussels  
BELGIUM

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Dear Chief Negotiator,

Once again, Brexit day is a few weeks away and no-deal has not been taken off the table. The European business community is increasingly concerned about the potential disruptions a no-deal scenario would cause for citizens and business. We urge negotiators to continue working to avoid this outcome. While business has taken costly steps to prepare for a no deal in March and now again for October, many companies, and especially SMEs, are unable to incur such significant economic costs when there is such uncertainty.

We appreciate the contingency measures the EU has put in place to mitigate the damage of a no-deal Brexit. We understand that these measures cannot and should not replicate the benefits of EU membership or the terms of an orderly withdrawal. Still, we believe there are shortcomings in a number of horizontal areas that should be addressed in case the UK leaves the EU without a deal:

The **free flow of personal data** is essential to the trade and investment partnership between the EU27 and the UK in all sectors of the economy. The UK has assured stakeholders that it will continue to abide by EU data protection standards after Brexit. Nonetheless, EU business would need to put approved safeguards in place to continue transfers of personal data to the UK in case of a no-deal scenario. While the restructuring of existing contracts causes unnecessary costs, smaller companies may also have insufficient administrative and legal capacities for such an exercise, if they are aware of the changes at all. Therefore, the Commission and European data protection authorities should step up their efforts to raise awareness among and provide guidance to businesses and particularly SMEs. Moreover, we urge the EU and UK to quickly work towards a robust mutual adequacy decision on personal data transfers. Until this decision is in force, a standstill non-enforcement arrangement to avoid any disruption to the flow of personal data should be agreed. The European Commission could take a leadership role in the political signals it sends to Member States' Data Protection Authorities as it did during the period when Safe Harbour was struck down in 2015.

All EU **customs** rules will apply to trade with the UK as of Brexit day. This means that the complexity of the procedures, traders need to comply with will increase suddenly and substantially. Preparing for such an event without absolute certainty on when it will take place is almost impossible and particularly SMEs, many of which do not have any experience in trading outside the Single Market, will be affected by the disruptions this will cause along the entire supply chain. For instance, in current supply chain solutions, thousands of shipments carried via road and air will be picked up prior to 1 November 2019 but will not be presented at the external borders of the UK and EU for import/export until after Brexit day. Since these shipments will lack the required documentation for



import/export, significant disruption can be expected unless a contingency plan is implemented to facilitate the movement of these goods across the border. Although goods reaching the EU external border will require full customs documentation and processing after Brexit, operators will not be able to initiate formal customs procedures when the goods are picked up since EU customs IT systems will still consider the UK an EU Member State. This will result in a catch-22 situation in which operators are not able to lodge the necessary declarations at pick up, but will be required to present such documentation on arrival at the border. A contingency solution to address this issue is essential to ease trade flows and avoid potentially chaotic border delays in a no-deal Brexit. Business needs clarity on when customs systems will begin to treat the UK as a third country in a no deal scenario as well as the ability to comply with regulations. One solution could be to facilitate the submission of compliant declarations and issuance of transit authorisations.


Governments must also continue to raise awareness amongst their business communities on the changes that will occur in this area and help them prepare and build the necessary capacity. As the effectiveness of no deal measures will depend on Member States, the Commission should monitor Member State action in this area and coordinate where necessary. After a no-deal Brexit, authorities in the EU and the UK should be pragmatic and act in good faith when customs-related errors and unwanted infringements occur. Moreover, the EU and the UK should continue to share trade and customs-related data to ease the burden on business.

In case of no-deal, EU27 workers temporarily providing a service in the UK will suddenly no longer be covered by the EU **Posting of Workers Directive**. They therefore risk having to leave the country they work in on 31 October or to become subject to double contributions with negative consequences for them and for their company. Solutions are needed to ensure that posted workers can continue working until the end of their posting period or the end of their service contract and be exempted from social security contributions in the host country during this time. More generally, the European Commission should continue to urge pragmatism on UK nationals falling under EU27 Member State national immigration rules and vice versa.

Additional measures in these areas would avoid unnecessary costs for business and mitigate disruptions that could result in serious knock on effects across all sectors of the economy.

Thank you in advance for your attention and we remain open to discuss the issue further.

Yours sincerely,

  
Pierre Gattaz  
President

  
Markus J. Beyrer  
Director General