GSK Update

25 April 2017

MORE BREXIT: EXIT PROCEDURE STARTED, REPEAL ACT PROPOSED, TOUGH NEGOTIATIONS AND A SNAP ELECTION AHEAD

Executive Summary

> The exit letter triggering the formal Brexit procedure under article 50 of the EU Treaty was sent on 29 March 2017.

> One day later, the British Government published a White Paper and proposed the "Great Repeal Bill 2017" which shall repeal the European Communities Act 1972 and the same time implement the entire body of EU law into UK law, in order to avoid legal unsecurity.

> Official Brexit negotiations will start in June 2017, but both sides have already positioned themselves, the UK in a rather de-escalating way and the EU by making clear that it will not negotiate about a free trade agreement between UK and EU before the negotiations about the UK´s exit conditions do not show at least sufficient success.

> In the light of this as well as of the plethora of subjects to be negotiated about the timeline of two years (in fact 19 months) looks more than challenging and no agreement (i.e. a "hard Brexit") is not an unrealistic possibility.

> British PM Theresa May is currently trying to put herself into a better bargaining position by getting a clear mandate from the British voters; she has announced a snap election on 8 June 2017.

> It is definitely worth to have a closer look at all these developments, and this is what is attempted by this new GSK Update.

1. Brexit: The last four weeks

The end of March and the beginning of April 2017 brought a number of further Brexit-related developments which deserve to be analysed further and deeper:

– On 29 March 2017, Prime Minister ("**PM**") Theresa May signed the letter (the "**Exit Letter**") to the European Council's president, Donald Tusk, declaring the United Kingdom's intention to leave the European Union ("**EU**"). This handwritten Exit Letter triggered the two-year Brexit procedure under article 50 of the Treaty on European Union ("**TEU**") under which a new relationship between the exiting United Kingdom ("**UK**") and the remaining EU needs to be found. The next day, 30 March, this Exit Letter was delivered in person by the UK's ambassador to the EU, Sir Tim Barrow, to Donald Tusk in the early afternoon in Brussels.

– On the same day, 30 March 2017, Her Majesty's ("**HM**") Government published a so-called White Paper entitled "Legislating for the United Kingdom's withdrawal from the European Union", proposing the "Great Repeal Bill 2017" which shall not only repeal the European Communities Act 1972 ("**ECA**") but also, *inter alia*, preserve the whole body of EU law (the "***acquis communautaire***") applying to the UK on the Brexit day at the end of March 2019 and not already domestically implemented, and convert it into domestic UK law, in order to avoid legal unsecurity.

– As a result of the above-mentioned Exit Letter, both sides (the UK, on the one hand, and vari-

ous EU leaders, on the other hand) have now positioned themselves in preparation of the Brexit negotiations. And it is worth to have a closer look at both (i) the tactical issue whether these negotiations should be phased negotiations (one subject after other), as the EU proposes, or parallel talks (exit conditions and future relationship at the same time), as the UK wishes, and (ii) the enormous amount of substantive issues to be resolved.

– In contrast to previous statements by her and thus surprisingly, on 18 April 2017 PM Theresa May called a general election for 8 June 2017, about the time when the face-to-face Brexit talks with the EU will start. Obviously, she is hoping that the results of this snap election will strengthen her negotiation position.

Therefore, there is more, there is a lot more to come during the next months before the Brexit will actually occur. Hopefully, a fundamental reform of the EU will be significant part of this lot to come.

2. Exit procedure started

Ever since the Brexit referendum on 23 June 2016, those in the UK supporting the Brexit have desperately waited for the "day of no return" when the exiting procedure under article 50 of the TEU is officially started. As previously announced by PM Theresa May, that day was 29 March 2017. In the aftermath of the Judgement of the UK Supreme Court of 24 January 2017, an act of Parliament had become necessary in order to authorise HM Government to start the withdrawal procedure under article 50 of the TEU, and as a result Parliament passed this act (see our GSK Update – Latest from the Brexit front – dated 20 February 2017) which on 16 March 2017 became law by "royal assent" from the Queen, the European Union (Notification of Withdrawal) Act 2017 - just in time.

Given that the Exit Letter triggering the article 50 of the TEU procedure can be a rather formless letter (and thus could have been relatively short), the Exit Letter of 29 March 2017 is a surprisingly lengthy and complex document containing diplomatic code, wishful thinking and, according to some analysts, a threat.

In the Exit Letter the PM starts by stating the UK's intention to restore its self-determination and she continues by saying: "We are leaving the European Union, but we are not leaving Europe – and we want to remain committed partners and allies to our friends across the continent". Several times it is stated that HM Government finds it important to agree the terms of the future partnership between UK and EU alongside those of the withdrawal from the EU. On the one hand, this is surprising as article 50 of the TEU, setting forth the procedure for exiting the EU, explicitly mentions that the withdrawal agreement shall also govern the future relationship between exiting member state and the remaining EU. On the other hand, however, some EU representatives had and have made comments that can be interpreted in a way that a preferably phased approach in negotiating the said withdrawal agreement could mean that, if no agreement on the UK's exit conditions can be achieved, there can also be no agreement on the future relationship between UK and EU. The latter would not be a helpful approach as it would neither be in line with the intent of article 50 of the TEU nor would it be advantageous for the EU to block an (economically and politically advantageous) agreement on the most important future issues only because there was no agreement on the UK's exit conditions.

The most important future issues are, according to the Exit Letter, "economic and security cooperation"; however, if no agreement can be reached on these issues, the UK would have to trade with the EU on World Trade Organisation ("**WTO**") terms and in security terms the "cooperation in the fight against crime and terrorism would be weakened". Some commentators in the press have interpreted this as a threat by the UK. And that may well be true, a kind of diplomatic threat. However, it might on the contrary be true that this is an important part of the positioning for the forthcoming negotiations. Actually, without stating that the UK would also be prepared for a "hard Brexit" (i.e. for a failure of the Brexit withdrawal negotiations), it would be in an even worse negotiation position.

The Exit Letter continues with seven proposed principles for the forthcoming negotiations:

– One "should engage with one another constructively and respectfully, in a spirit of sincere cooperation" and the Exit Letter continues: "the United Kingdom does not seek membership of the single market" as the UK understands and respects the EU position that the

four fundamental freedoms of the single market are indivisible and there cannot be a "cherry picking".

- The citizens, including the remaining EU nationals in the UK and UK citizens in the remaining EU countries, should always be put first and an early agreement about their rights should be reached.

- A comprehensive agreement shall be reached and, thus, "a fair settlement of the UK's rights and obligations as a departing member state" is required. Some commentators in the press have interpreted this sentence as a concession by the UK that the Government knows that there will be an "exit bill" (and some EU representatives have estimated this exit bill to be in the area of EUR 60 bn).

- Disruption should be minimised and "as much certainty as possible" should be reached. In particular, businesses in both the UK and the EU would benefit from implementation periods to adjust in a smooth and orderly way to new arrangements.

- Attention should be paid to the "UK's unique relationship with the Republic of Ireland and the importance of the peace process in Northern Ireland". Therefore, a "hard border" between Northern Ireland and the Irish Republic should be avoided and the "Common Travel Area" between UK and Ireland maintained.

- As soon as possible, "technical talks on detailed policy areas" should begin. In this context, "a bold and ambitious Free Trade Agreement between" UK and EU is proposed.

- In the future, UK and EU "should continue to work together to advance and protect our shared European values". The Exit Letter continues: "…the world needs the liberal, democratic values of Europe."

At its end the Exit Letter recognises that it will be "a challenge to reach such a comprehensive agreement within the two-year period set out for withdrawal discussions in the Treaty". However, of course, Theresa May also states "I am sure it can be agreed in the time period set out by the Treaty". The latter contradicts the majority view in the press where it is believed that, even if a withdrawal agreement is reached within the two-year period under the TEU, there will be further years (and grandfathering rules) needed for its implementation, particularly in regard of a future Free Trade Agreement between UK and EU.

3. Tough negotiations ahead

Immediately before and after the sending of the Exit Letter to Brussels both sides already started to position themselves for the forthcoming negotiations:

3.1 First positions

3.1.1 UK

Many interpreted the Exit Letter in a way suggesting that Theresa May wanted security cooperation to be a bargaining chip, some found its language aggressive and some even considered it to contain a threat (see item 2 above). Therefore, on 31 March 2017, UK foreign secretary Boris Johnson stressed the point that the UK's commitment to the defence and security of Europe were "unconditional", and Brexit secretary David Davis explained that it would be entirely wrong to interpret the Exit Letter as a threat. In other words, the British side is currently trying to de-escalate – after the PM in the Exit Letter and in her talks has clarified that for her no deal with the EU would be better than a bad deal, a position by means of which she probably attempts to ensure that the UK will be able to negotiate somehow at arms' length with the EU.

3.1.2 European Council

On the other side, also on 31 Mach 2017, European Council president Donald Tusk published the draft "EU guidelines" for the negotiations ahead, a document with 26 points which he described as "main elements and principles" and which the EU will treat "as fundamental and will firmly stand by them". These points are divided into two types of issues, those relating to the exit of the UK from the EU, and these belong in his view to the "first phase of our negotiations", on the one hand, and those about the "framework of our future relationship" which will only be discussed once sufficient progress on the withdrawal issues has been made, on the other hand. And he then explicitly states: "Starting parallel talks on all issues at the same time, as suggested by some in the UK, will not happen". In the press conference in which he presented the draft EU guidelines, Donald Tusk mentioned the

four most important elements of his withdrawal related proposal:

- "We need to think of people first", i.e. the status and situation of those from the remaining EU in the UK and of those from the UK in the remaining EU Member States needs to be settled and for that "reciprocal, enforceable and non-discriminatory guarantees" are needed. In substance, this is not very different from what Theresa May had said in the Exit Letter on this point (see item 2 above).

- A "legal vacuum" for EU companies stemming from the fact that after Brexit the EU laws will no longer apply must be prevented. In this respect the forthcoming UK Great Repeal Act 2017 will be a remarkable first step by the UK (see item 4 below).

- The most difficult issue will probably be the third one: The EU wants to make sure "that the UK honours all financial commitments and liabilities it has taken as a Member State", as the EU will honour its. From an EU perspective, this is likely to mean an "exit bill" of around EUR 60 bn for the UK. The UK is jeopardising this calculation and the facts on which it is based (for example, a duty to compensate the EU for its pension payments to those former EU civil servants who came from the UK). Both sides have legal studies in favour of their positions.

- Flexible and creative solutions in order to avoid a hard border between the Republic of Ireland (EU) and Northern Ireland (still part of the UK) and to support the peace process in Northern Ireland. This is very much in line with Theresa May's Exit Letter, too (see item 2 above).

In regard of the future relationship between UK and EU, Donald Tusk remained rather vague: "…we obviously share the UK's desire to establish a close partnership between us. Strong ties, reaching beyond the economy and including security cooperation, remain in our common interest." He finished his press conference remarks by saying that the remaining EU "does not and will not pursue a punitive approach. Brexit in itself is already punitive enough". Possibly, this would have been more convincing if point 22 of his draft EU guidelines had not stated that no withdrawal agreement "may apply to the territory of Gibraltar without the agreement between the Kingdom of Spain and the United Kingdom" (a statement that created an outcry in the UK, including a former cabinet minister suggesting that HM fleet would be ready to defend Gibraltar, just as it did in regard of the Falklands). Therefore, when Donald Tusk compared the Brexit with a "divorce" he might have been more right than he thought himself. Pedagogically, it might be advisable that the negotiators on both sides watch the US movie "The War of the Roses" with Michael Douglas and Kathleen Turner before they start their negotiations.

3.1.3 European Parliament

Also the European Parliament has prepared itself quite thoroughly for the negotiations ahead. In March 2017, the European Parliamentary Research Service ("**EPRS**") had published an in-depth analysis entitled "UK withdrawal from the European Union – Legal and procedural issues". And on 5 April 2017 the European Parliament adopted with an overwhelming majority (516 votes in favour, 133 against and 50 abstentions) a resolution officially laying down the European Parliament's "Key principles and conditions for its approval of the UK's withdrawal agreement", as such approval is part of the article 50 of the TEU procedure. Thereunder, the Parliament has taken a tough negotiation stand, *inter alia*, suggesting that the association agreement with Ukraine could serve as a role model for an UK/EU trade deal, explicitly limiting the possibility for grandfatherings to three years after the Brexit, and opposing a "special deal" for the City of London.

3.1.4 EU chief negotiators

The most remarkeable comment in this context came from the European Parliament's chief negotiator in the Brexit negotiations, the former Belgian prime minister Guy Verhofstadt: "I am also sure that, one day or another, there will a young man or woman who will try again, who will lead Britain into the European family once again…. A young generation that will see Brexit for what it really is – a catfight in the Conservative party that got out of hand, a loss of time, a waste of enery, stupidity." He also said: "Let's not forget, Britain entered the union as the 'sick man of Europe' and thanks to the single market came out of the other side." Speaking about the European Parliament's vote, he added: "It is fairly clear what the message is: we ask to be very

firm towards the UK authorities because we cannot accept that the status outside the union is more favourable than membership of the EU."

The EU's chief negotiator, former French minister for foreign affairs Michel Barnier, said that the European Parliament has set the tone for the talks with the UK, demanded "a single financial settlement, as a result of UK commitments to the EU…", and responded to former UKIP leader Nigel Farage's claim the EU would behave like the mafia and would make "impossible demands" by stating that in fact "… all we are doing is setting the accounts, no more, no less".

3.2 Major subjects

Not so much related to the withdrawal process of the UK rather than to the agreement, if any, on the future relationship between UK and EU are those substantive subjects of negotiations which deal with the matters that really matter to the business world on both sides, *inter alia*:

- **Free trade agreement/customs agreement**: On the one hand, in the Exit Letter the UK has already accepted that the four fundamental freedoms of the EU "Single Market" (relating to goods, persons, services and capital) are indivisible and, thus, that there cannot be a "cherry picking". As a result, the UK does not seek membership in the said Single Market. On the other hand, there are free trade agreements with a large number of countries around the globe and there is a special customs agreement with Turkey (although the latter is due to Turkey's status as an aspirant EU member). However, in the light of article 8 para. 1 of the TEU, providing that the EU "shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of Union and characterised by close and peaceful relations based on cooperation", it does not look impossible to reach agreement in these areas. And this might particularly be fostered by the fact that the EU exports significantly more to the UK than the UK to the EU, which might incentivise the EU side to seek a compromise, as the EU would profit more from it than the UK.

- **Financial services**: The indivisibility of the four fundamental freedoms and the resulting acceptance by the UK that there cannot be any "cherry picking" and thus no membership in the Single Market in the future means in regard of financial services that the EU passport systems (regarding licensing of banks, investment services providers, fund managers, insurance companies and many more or regarding certain products such as investment funds or securities prospectuses, etc.) will no longer be available to UK financial market players. Such EU passport systems allow companies authorised/licensed in one EU/EEA country to do either cross-border business into other EU/EEA countries or to open EU branches in such other EU/EEA countries without the need for further authorisation/licensing in these other EU/EEA countries. In absence of such EU passporting possibilities, UK companies (particularly including UK subsidiaries of large financial institutions from the US or from Asia, etc.) will have to use entities within the remaining EU or the EEA in order to be able to continue with the use of EU passports or, if not, would have to obtain authorisations/licenses in all target EU/EEA countries (a burdensome and costly alternative).

  Therefore, the UK will try to achieve a continuation of the EU passport possibilities (as this would of course also be advantageous for EU/EEA companies doing cross-border business into or via a branch in the UK). However, quite clearly this would be exactly the kind of "cherry picking" the EU desperately tries to avoid.

  As a compromise, many on the UK side currently stress the point that a solution could be the "principle of reciprocity" under which in various pieces of EU legislation (e.g., MiFID2/MiFIR or CSDR, etc.) the advantages of an EU law regime are available to market players from other countries, provided their respective regulatory regime is "equivalent" to the EU law regime. Apart from the fact that such reciprocity/equivalence rules are set forth in specific pieces of EU legislation and in specific contexts different to the above-mentioned passporting rules, it also needs to be realised that such an approach would inevitably lead to discussions over what should be considered "equivalent". Another problem in this context

would be the necessity to maintain such equivalence, i.e. the UK would have to continue to have regulatory rules (perhaps not identical but at least similar, i.e. more or less equivalent) to those of the EU, including future changes in such EU rules. Furthermore, a "reciprocity" solution cannot be available wherever in the future the UK will want to deviate from EU rules in order to enhance its own competitive position vis-à-vis the EU.

For example, if the UK promised to maintain certain existing EU law regimes (e.g., the Settlement Finality Directive rules or the Financial Collateral Directives rules, etc.), respective UK legislation would have to follow all future changes in the respective EU law regime and would, thus, have no room to possibly enhance it.

– In particular, **EUR clearing**: Currently, there is a public debate on whether or not, following the Brexit (or even before), EUR clearing should be moved to the Eurozone or at least to the EU and, thus, away from London. Today, London is the world's biggest EUR clearing centre, for example clearing three quarters of all EUR derivatives transactions with an average daily value of USD 573 bn. (see Barker/Brunsden, EU prepares rule changes to target City's euro clearing, Financial Times, 15 December 2016).

  On the one hand, London-based market players (including the exchanges and clearing houses operator ICE) stress the point that "forced repatriation" of EUR clearing would deprive European banks of access to liquid trading and market facilities, create more "fragmentation" in the markets and increase costs for banks and customers considerably. It is also worth to mention in this context that, in order to support the remaining of EUR clearing in London, UK lobby group "Financial Service Negotiation Forum" has proposed that the ECB should consider sharing supervision of clearinghouses with the UK. On the other hand, French president Hollande has already clearly called for EUR clearing to be relocated to the Eurozone, and the EU Commission seems to consider the legal changes necessary for such a re-location. On 6 February 2017, ECB president Draghi made a statement that for the ECB the questions of whether EUR clearing can remain in London very much depends on whether or not the UK accepts the continued authority of the European Court of Justice (which indirectly means that the UK would still have to be part of the EU's Single Market – not a very likely scenario). This whole subject is and will remain to be an exciting EU law issue – with possibly dramatic consequences for many securities and derivatives markets players.

European Court on EUR clearing

The question where EUR clearing should be done is not a new one, it had already been the subject of an EU court decision relating to a case between HM Government and the European Central Bank ("**ECB**"), which the UK had won: On 4 March 2015, the General Court of the European Union ("**GCEU**") had annulled the "Eurosystem Oversight Policy Framework" published on 5 July 2011 by the ECB in so far as it set a requirement for central counterparties ("**CCPs**") involved in the clearing of securities (i.e. securities settlement systems and central counterparty clearing houses) to be located within the Eurozone (GCEU, 4th Chamber, Judgement of 4 March 2015, case T-496/11, United Kingdom vs. ECB, ECLI : EU : T : 2015 : 133). Thereby, the GCEU had ended a fierce four year battle between the UK Government and the ECB, holding that the ECB lacks the competence necessary to regulate securities clearing systems. The ECB's competence were limited to payment systems (under article 127 para. 2 of the Treaty on the Functioning of the EU ("**TFEU**")), but that (acting on the basis of article 129 para. 3 of the TFEU) it could request the EU legislative to amend article 22 of the ECB's Statute, by adding of an explicit reference to securities clearing systems. The latter might now well be done soon.

– **Other services**: Needless to say that similar issues as in the financial services sector (see above) also appear in regard of the free movement of other services, namely the reciprocal recognition of qualifications or the freedom to provide professional services on a cross-border level. And similar concerns arise in this context as well, such as for example the fear of permitting "cherry picking". All of this is

also true in regard of the liberal professions (such as law firms or auditing companies, etc.), other business services, catering, construction, education, hotels, medical services, sports, technology, tourism, and, and, and.

- **Company law**: Matters of European forms of enterprises, European Companies (*Societas Europaea* – "**SE**") and European Economic Interest Grouping ("**EEIG**"), will need to be resolved. Other areas of company law to be negotiated about are public takeover rules, cross-border mergers, shareholders rights, capital, reporting/disclosure (including large shareholdings and beneficial ownership of shares) and accounting standards. Moreover, over the last decades the various European domestic corporate sectors became more and more interwoven, in particular because enterprises in one EU country can today well use corporate forms from other EU countries (including the UK) and in the Brexit negotiations it will now have to be stipulated how and to what degree this can continue in regard of UK firms using corporate forms from other EU/EEA countries and of EU/EEA firms using UK corporate forms. Not an easy task.

- **Taxation**: Some other important subjects of the Brexit negotiations will relate to taxation. This includes, of course, very much several value added tax ("**VAT**") issues. Especially the UK's future application of the EU Parent Subsidiary Directive and of the Interest and Royalties Directive will have to be discussed. Furthermore, double taxation issues (especially in order to avoid opportunities for artificial tax avoidance structures) will be another important area.

- **Other areas**: There is in fact a myriad of further areas that require negotiation, including (but by no means limited to) agriculture and fisheries, arrest warrants, competition and state aid, consumer protection, data protection, defence and intelligence, employee protection, energy sector, environmental protection, EU regional aid, family law, immigration controls and customs, international aid, occupational and personal pensions, public health and safety, public procurement, science, security and transportation issues. Furthermore, legal issues such as the mutual acceptance of choices of law and of the applicable jurisdiction as well as of judgements and insolvency measures (the latter particularly including those new ones for banks) require to be dealt with.

3.3 Timetable

And for all of this there will be not much time: a maximum of two years but, on the one hand, in fact the face-to-face negotiations will not start before June 2017 and, on the other hand, at the end there will be time needed for the ratification process.

Therefore, it is reasonable to expect a maximum negotiation time of 19 months. However, whether at the end there will be a withdrawal agreement or not, most of those experienced in negotiating international trade agreements expect that respective negotiations will not be finished by then and can be expected to take five to seven years. Therefore, it might also be that there will be two agreements, a withdrawal agreement and a free trade agreement. And at the moment it is unclear whether either one or both or none will be in place at the end of March 2019.

Brexit timetable

2017	
29/03/2017	Article 50 of the TEU procedure triggered by Brexit Letter
30/03/2017	Great Repeal Bill proposed
31/03/2017	President of European Council Donald Tusk published negotiations guidelines
29/04/2017	EU Summit, remaining EU members will adopt negotiation guidelines proposed by Tusk
Spring	Great Repeal Bill announced at the opening of UK Parliament
Late May/ early June	Start of formal face-to-face talks
Late 2017	Great Repeal Bill goes through stages of UK parliamentary process
Late Dec 2017	EU chief negotiator Michel Barnier expects initial discussions to conclude
2018	
All 2018	Negotiations continue (probably)
Early 2018	Great Repeal Bill likely to receive royal assent / come into force
Mid 2018	UK Parliament may need to pass further laws to cover any gaps in legislation
30/09/2018	Brexit negotiator Michel Barnier wants to wrap up Brexit terms
2019	
Late 2018 - early 2019	Both Houses of Parliament in the UK and European Council as well as European Parliament will have a vote on any deal
March 2019	Two year negotiating window closes. The UK will leave the EU, with or without an agreement

4. GREAT REPEAL BILL 2017

The purpose of the Great Repeal Bill 2017 proposed by HM Government on 30 March 2017 is to provide business, the public sector, and everybody in the UK with as much certainty as possible. In the UK Government's view, for the Brexit to become effective the ECA (as the domestic UK law basis on which EU law has effect as domestic law in the UK) has to be repealed. As an effect of such a repeal, all EU legislation currently in force in the UK by virtue of the ECA would no longer have effect. This could lead to major gaps in the law as well as to unforeseen consequences, and thus to a significant degree of uncertainty.

Therefore, it is now proposed that, together with the repeal of the ECA, the entire *acquis communautaire* shall be converted into UK law. PM Theresa May has explained this in the White Book by saying: "The same rules and laws will apply on the day after exit as on the day before. It will then be for democratically elected representatives in the UK to decide on any changes to that law, after scrutiny and proper debate." Furthermore, the Great Repeal Bill 2017 will also empower the UK Government to make some "secondary legislation" enabling corrections to be made to the laws that would otherwise no longer operate appropriately after Brexit.

The implementation of EU law into UK law relates to the EU Treaties (i.e. TEU, TFEU, protocols, annexe and declarations, and Euratom), but not to the Charter of Fundamental Rights (but the UK will remain committed to the European Convention on Human Rights), to approximately 12,000 EU regulations in place and to approximately 8,000 EU directives implemented as "secondary legislation" under the ECA. More difficult issues will arise in relation to EU decisions by Council, Commission or other EU bodies. Pre-Brexit EU case law shall be regarded as equivalent to decisions by the UK Supreme Court, i.e. shall work as precedents binding UK courts.

Currently, there is some legal discussion in the UK over the distinction between legitimate "secondary legislation" by the Government needed for a more mechanical conversion of EU law into UK law, on the one hand, and the implementation of new policies in areas that previously were dealt with under EU law, for which primary legislation by Parliament would be required, on the other hand.

For the draft Great Repeal Bill 2017's further timing, please see the timetable under item 3.3 above.

5. NEW GENERAL ELECTION

On 18 April 2017, PM Theresa May has announced that there will be a general election in the UK on 8 June 2017. On the one hand, such a second major poll less then a year after the EU referendum is not only popular (perhaps a first indication that voter participation in the June election will not be overwhelmingly impressive), some criticize the PM as a U-turner as she had previously always rejected such a snap election and some opposition politicans especially condemn May for simultaneously announcing to opt out of as TV debates. On the other hand, a majority seems to think that she was right to perform such a U-turn, that her timing is really good (as she will now not have to start the Brexit negotiations as an unelected PM) and that the Conservative Party is likely to win the new general election (currently it is estimated that they will win by a 21-point lead). On 19 April 2017, Parliament´s House of Commons approved the PM´s election plan with an overwhelming majority (522 votes in favour and 13 against). In Scotland and Northern Ireland, Conservative Party and Democratic Unionist Party politicans have already urged votes to see this as a chance for a "vote for the union", whereas opposition politicans see it as an pooortunity for votes to oppose Brexit and reject the Governments policy. Exiting times!

6. CONCLUSIONS?

The Brexit negotiations will influence, if not shape, the future of both UK and EU, and probably not only in the way they expect now. Therefore, both sides should not mess them up.

The UK would be well advised, after decades in which it falsely reduced the EU to only its Single Market, to understand that the Single Market is actually the goody given by the EU to those who participate in its great European political and peace project (as a compensation for giving up some sovereignty). Therefore, it is likely that the EU side will privilege strategic interests (such as protecting the Union against more cherry-picking demands from others as well as against any other dangers of weakening the EU) over economics and, thus, all the UK rhetoric about the continuing joint economic interests might turn out to be not as helpful as expected.

Whereas the EU would be equally well advised to never forget that precisely the latter might not only be UK rhetoric but the fierce truth. Without an appropriate withdrawal agreement and in particular without an appropriate trade agreement governing the future economic cooperation between UK and EU, both sides will lose more than they would currently admit.

It was perhaps a good sign that in her Exit Letter PM Theresa May has indicated that the UK understands that there will be an "exit bill" to be paid by the EU (see item 2 above). And it was perhaps an equally good sign that EU Council president Donald Tusk in his draft guidelines for the negotiations did not state that negotiations about the framework of the future relationship between both sides can only start after agreement on the UK's exit conditions but said that such discussions will only start once sufficient progress on the withdrawal issues has been made (see item 3.1.2 above).

However, the different interests and positions might not be the only obstacle to success. Another great problem will be the enormous amount of issues to be discussed and solved (see item 3.2 above).

Different positions and massive amount of work to be done will make it extremely challenging, if not impossible, to reach all required results within the deadline set forth in the TEU, but perhaps a withdrawal agreement can be reached in time together with a basic agreement on the future conclusion of a trade agreement (see item 3.3 above). But all of this is currently crystal ball reading.

Therefore, the only thing that is currently safe to say is that this will not have the last GSK Update on Brexit. There is a lot more to come during the next two years. We'll keep you posted.

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