Twitter Thread by Anton Spisak



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These are the questions, big and small, that I will be asking about the shape and quality of a Brexit deal when the text is out:

(A long thread)

On manufactured goods:

1. Does the agreement provide zero-tariff and zero-quota access on all goods?

Where to find the answer: Chapter on Tariffs

2. Under what circumstances might tariffs be imposed in the future?

Where to find the answer: Chapters on Trade Remedies, on Subsidies, and Trade and Labour, and Trade and Environment

3. Is there “mutual recognition of conformity assessment”? If so, what products does it cover?

Chapter on Technical Barriers to Trade (TBT) and relevant annexes

4. What are the agreed “rules of origin” requirements?

Chapter on Rules of Origin

On agricultural goods:

5. Is there an agreed framework for recognising “equivalence” of sanitary measures?

Chapter on Sanitary and Phytosanitary Measures (SPS)

On fisheries:

6. Is there reciprocal access to each other’s waters provided for by the agreement? How durable is this access?

Chapter/Agreement on Fisheries

7. What are the fishing quota shares? How frequently will they be re-negotiated? What method is used for determining them?

How long is the transition period before the new quota shares apply?

Chapter on Fisheries

8. What happens if there's disagreement over fisheries? Is there recourse to arbitration? Can the potential sanctions apply beyond fisheries?

Chapter on Fisheries

On customs:

9. What customs simplifications have been agreed? Any mutual recognition of trusted trader schemes?

Chapter on Customs and Trade Facilitation

10. Is there mutual recognition of professional qualifications? What professions does it cover?

Chapter on Services and Investment + annexes

11. What are the rules on the temporary movement of business professionals?

Chapter on Services and Investment + annexes

On financial services:

12. Will the EU approve the UK’s equivalence for financial services alongside the FTA?

Not provided in the text - possibly in the political statement

13. Is there any regulatory and supervisory cooperation for financial services? Are there any “equivalence-plus” provisions for financial services in the deal (eg structured withdrawal of equivalence, etc)?

Chapter on Services and Investment/Financial Services

On data:

14. Is there a commitment by the EU to grant the UK be a “data adequacy” decision by the end of the year?

Not provided in the text - possibly in the political statement

On road transport:

15. What are the "cabotage rights" for road hauliers? Are there any new restrictions?

Chapter on Road Transport

On aviation:

16. Is there a comprehensive aviation agreement with reciprocal traffic rights? Is there any cooperation on aviation safety?

Chapter/Agreement on Transport/Aviation Cooperation

On level playing field: Subsidies

17. What are the “common principles” governing subsidies between the UK and the EU? How binding are they? Do they use the language of Art 107 of the Treaty on the Functioning of the EU?

Chapter on Subsidies

18. How will the subsidy rules be enforced – through
dispute resolution or a domestic regulator? If the latter, what are the powers of the domestic body? Does the regulator require new domestic legislation?

Chapter on Subsidies

19. What are the consequences of breaking the subsidy rules agreed in the treaty? Are they any "unilateral remedies" that can be taken by either side without going through arbitration?

Chapter on Subsidies

20. What does the FTA commitment on state aid mean for the state-aid commitments made under the Northern Ireland Protocol? Does it affect the infamous Article 10?

Chapter on Subsidies

Level playing field: Environment, labour and climate

21. Do both sides commit to a “non-regression clause”
on environment, labour and climate? Is there a "trade test" associated with non-regression?

22. Is the non-regression clause binding? (Is there recourse to dispute settlement (i.e. binding arbitration))?

Chapters on Trade and Environment, Labour and SD

23. Is there a “ratchet clause” related to environment, labour and climate regulations? How does it work? Is it binding?

Is there a mechanism for judging divergence and imposing tariffs in the event of competitive threat?

Chapters on Trade and Environment, Labour and SD

On security cooperation:

24. Will the UK have continued access to the critical EU security databases (e.g. PNR, ECRIS, SIS2, PRUM)?

Chapter/Agreement on Law Enforcement and Judicial Cooperation

25. Is there going to be a new extradition agreement between the UK and the EU?

Chapter/Agreement on Law Enforcement and Judicial Cooperation

26. Is there a link between security cooperation and the UK’s obligations with respect to the European Convention on Human Rights?

Chapter/Agreement on Law Enforcement and Judicial Cooperation

On social security coordination:

27. Are there any bilateral arrangements for coordinating social-security benefits? How extensive are they?

Chapter/Agreement on Social Security Coordination

On participation in EU research and innovation programmes:

28. Is the UK going to be able to participate in future EU research and innovation programmes? If so, what are the strings attached (£)?

Chapter/Declaration on Participation in EU Programmes

On dispute resolution:

29. Is there a “horizontal” dispute-settlement mechanism
covering the whole relationship, or a trade-specific dispute-settlement process only?

Chapters on Institutional Provisions and Dispute Settlement

29. Is there any role for the European Court of Justice (ECJ) within the dispute settlement process?

Chapters on Institutional Provisions and Dispute Settlement

30. What are the remedies in the event of a breach? Is there a possibility for cross-retaliation across the agreement? Are there any exemptions?

Chapters on Institutional Provisions and Dispute Settlement

31. Is there a review clause? Is there a defined time period after which it is triggered?

Chapter on General Provisions

32. What are the "essential elements" defined in the treaty? Is there a possibility to take unilateral remedies if there is a breach of those elements?

Chapter on General Provisions/Basis for Cooperation

33. Is there a formal link between the Future Relationship treaty and the Withdrawal Agreement? In particular, is ongoing compliance with the WA defined as one of the "essential elements" of the treaty?

Chapter on General Provisions/Basis for Cooperation

A lot of technical detail to get through.

But, if we strip it all back to the first principles, these are the three big questions about the overall shape of a deal:

1. What is the overall balance of rights and obligations
within the deal?

All treaties involve certain obligations. The key question is what are the rights that those obligations provide in return, and what is the overall balance of rights and obligations within the deal.

2. What is the gap between the agreed commitments
and their implementation?

Is there a phase-in/adaptation period for parts of the deal to help business?

3. What does the deal mean for Northern Ireland?

How do the new arrangements affect future trade friction between GB and NI?

There will be many many other questions to ask and, for expert analysis, you should follow the real pros here:

For trade parts of the deal: @DavidHenigUK @SamuelMarcLowe @AnnaJerzewska

For LPF: @Lorand_Bartels @GeorgePeretzQC @jamesrwebber @AlexanderPHRose

For security cooperation: @JulianBKing

For NI implications: @hayward_katy @DPhinnemore

For governance and dispute resolution: @StevePeers @hhesterm

The full list of questions, with a bit of context for each of them, can be found in my briefing note here. Happy Brexmas...

https://t.co/5LMhKOQPSB