



Mobility Across Borders: Preparing for a Post-Brexit Regime

An Interactive Workshop to Help Your Company Prepare

22 March 2018

Strictly private & confidential

MAYER • BROWN

Agenda and Speakers

- Brexit – Current Status
- Reciprocal Citizens’ Rights After Withdrawal
- Preserving Citizens’ Rights
- The Future: 2021 and Beyond
- Viewpoints from The Rest of Europe
- Predictions and Risk Ranking
- Actions Employers Should Take Now
- Pan-Atlantic Spotlight: Trump Administration



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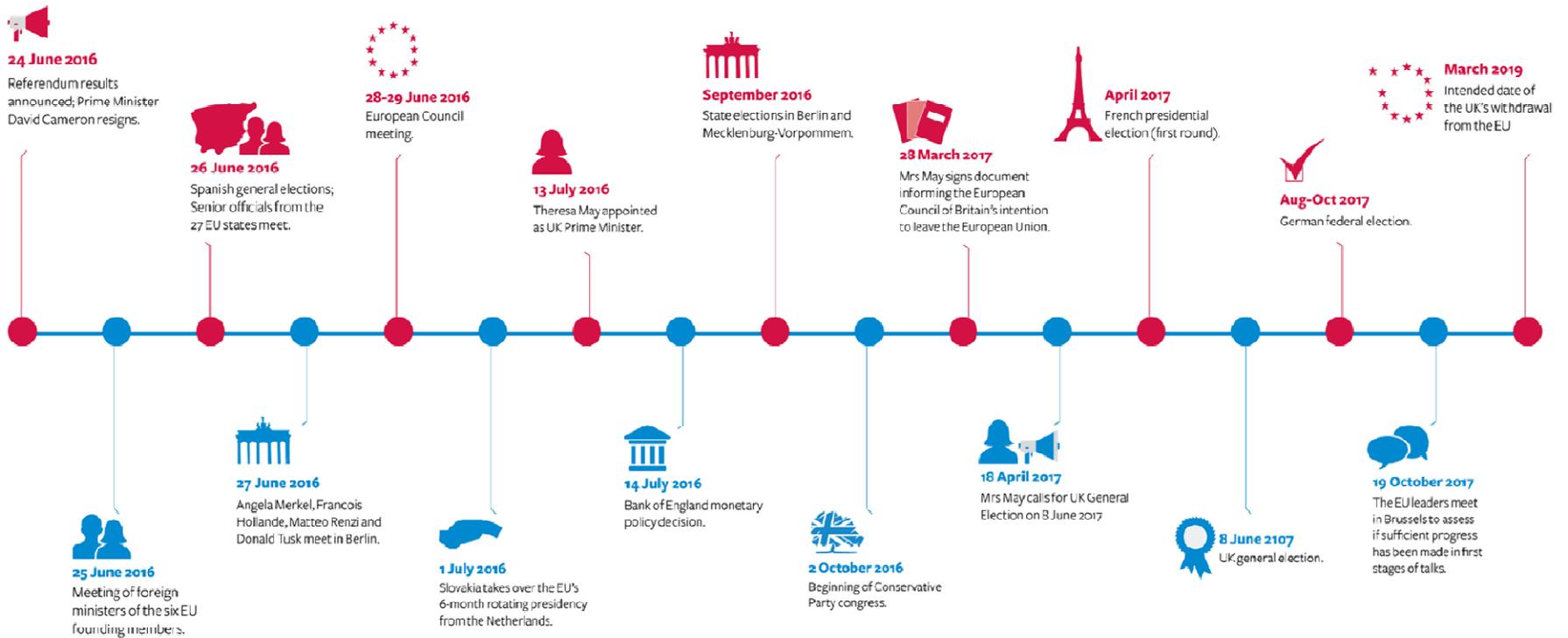
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The Brexit Timeline

The specified date of 29 March 2019

Brexit Timeline



Brexit Timeline



December 2017
Phase 1 of negotiations conclude.



March 2018
European Union (Withdrawal) Bill progressing through the House of Lords.



22-23 March 2018
European Council Meeting.



March 2019
Intended date of the UK's withdrawal from the EU



2 March 2018
Mrs May gives Mansion House speech on the UK's future economic partnership with the EU.



19 March 2018
UK and EU agree terms for Brexit transition period (ending on 31 December 2020).



October 2018
Target for agreeing final form of the Withdrawal Agreement.



Reciprocal Citizens' Rights After Withdrawal

A transition period to preserve the status
quo - a bit longer

London Case Study

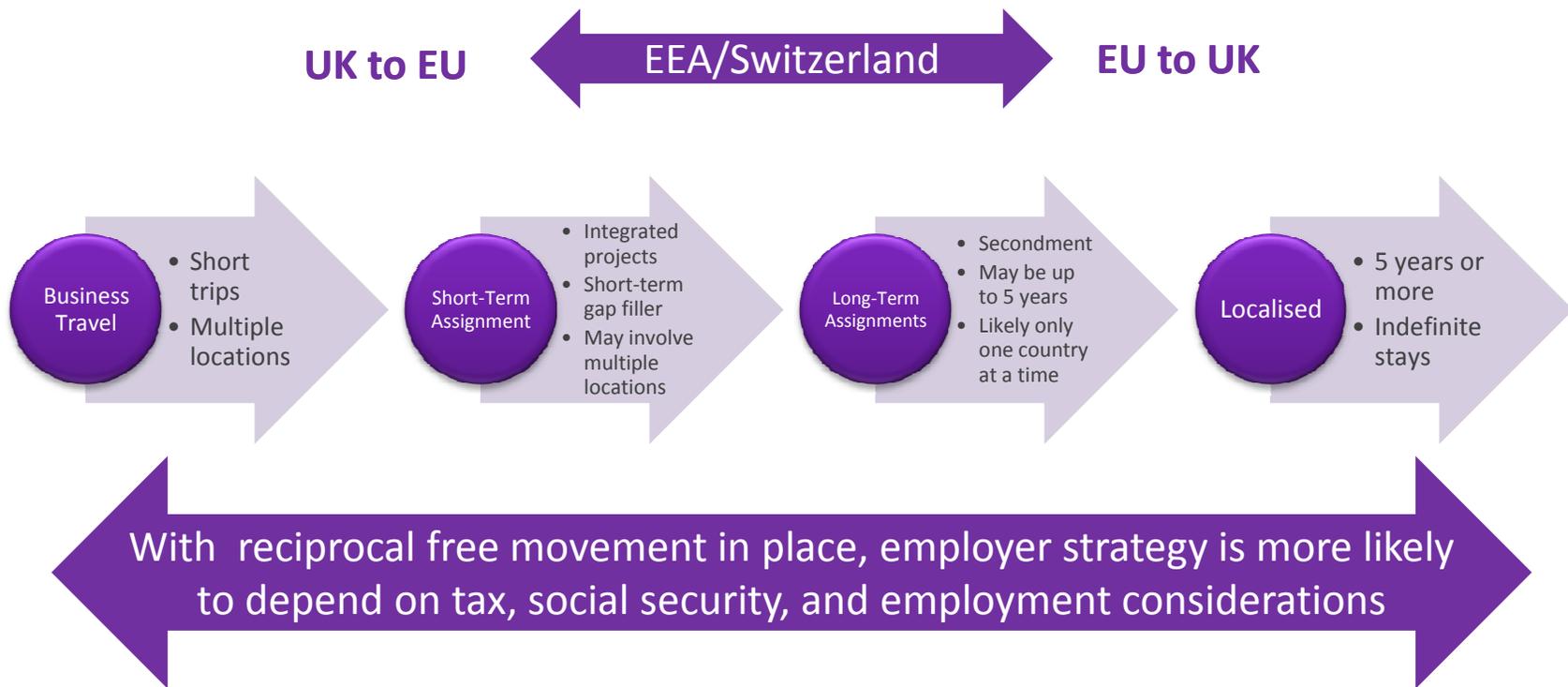
Mobility in Action

Immigration contribution to London

- Economic output:
 - Non-EU nationals: £17 billion
 - EU nationals: £26 billion
- Tax contribution:
 - Non-EU nationals - £6 billion
 - EU nationals - £7 billion
- Workforce reliance:
 - Non-EU nationals 10% of workforce
 - EU nationals 15% of workforce
 - London 25% foreign workers
 - North West 7% foreign workers
 - Scotland 6% foreign workers
- London sectoral reliance
 - Financial Services 24% foreign workers
 - Construction 36% foreign workers
- London Chamber of Commerce Recommendations:
 - London Work Visa – ILR
 - London Skills Shortage List
 - Capital Work Permits System

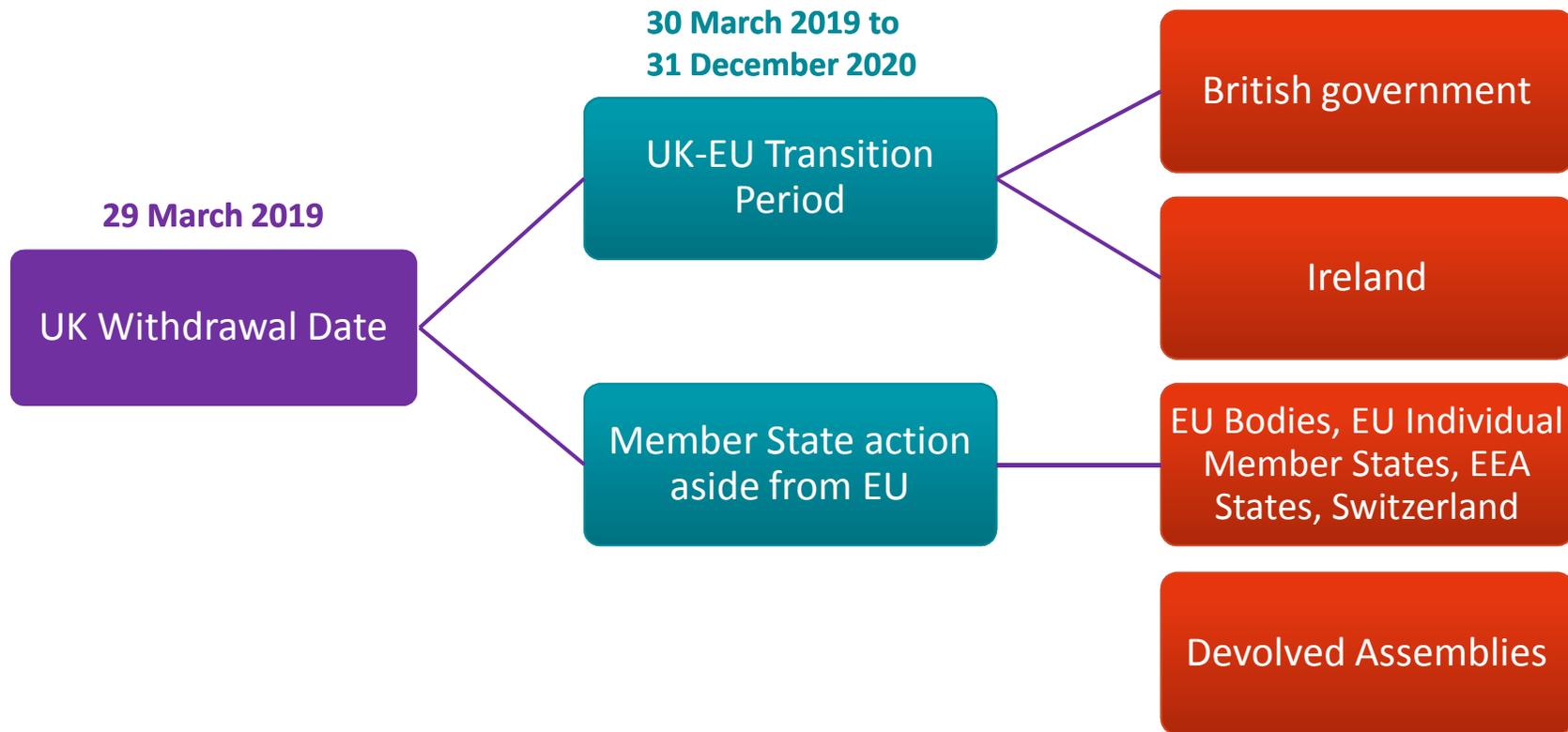
EU Mobile Workers Today

Business Reliance on Free Movement



The Impact of Brexit

Decision Points





Preserving Citizens' Rights

Through implementation and transition

Policy Document 28 February 2018

Reciprocal Citizens' Rights Preserved Through Implementation Period

- EU citizens who arrive in UK, through the close of the implementation period (length undefined)
 1. Purpose: to give people, businesses and public services in the UK and across the EU the time to put in place new arrangements
 2. Expectations “should” be different post 29 March 2019
 3. EU citizens will be able to move to UK on same basis as they do today during transition period, and vice versa
 4. Registration system for those staying beyond three months
 5. Without prejudice to CTA, i.e. Irish nationals exempt from registration
 6. UK government to put in place new immigration framework by the close of the implementation period

Policy Document 28 February 2018 cont.

Reciprocal Citizens' Rights Preserved Through Implementation Period

8. UK will offer EU Citizens who arrive, are resident and have registered, during the implementation period:
 - Eligibility to apply for ILR after 5 years continuous and lawful residence
 - Temporary status in UK beyond transition period
 - Opportunity to secure temporary status during transition period with a 3 month window thereafter
 - Ability to be joined by family members after transition period on a par with British Citizens
 - Opportunity for EU frontier workers to obtain permission to continue after the period ends
 - Rights enforceable in UK legal system
9. In the February 2018 Policy Document, UK has requested **reciprocity of treatment** from EU “Member States”

March 2018 Breaking News

Draft Withdrawal Agreement

- European Council, following agreement between the UK government and the Brexit negotiators of the Council, published the Draft Withdrawal Agreement
- The Draft Agreement incorporates a specific timeline for transition/implementation, until 31 December 2020
- Accordingly, free movement rights will apply:
 - Until 29 March 2019, under existing EU governing laws
 - From 30 March 2019 until 31 December 2020, through new UK and EU rules that will apply the same citizens' rights provisions

The background of the slide is a composite image. The top half shows a dark, star-filled space. The middle section is a dark purple gradient where the text is located. The bottom half shows a view of Earth from space, with the planet's surface and a bright, glowing horizon line. The text is white and positioned on the left side of the purple gradient.

The Future: 2021 and Beyond

What's at stake for employers



“ We are clear that as we leave the EU, free movement of people will come to an end and we will control the number of people who come to live in our country.

But UK citizens will still want to work and study in EU countries – just as EU citizens will want to do the same here, helping to shape and drive growth, innovation and enterprise. Indeed, businesses across the EU and the UK must be able to attract and employ the people they need. And we are open to discussing how to facilitate these valuable links.”

Theresa May – Mansion House Speech
2 March 2018

Key Inflection Points - 2018



- Migration Advisory Committee Report – September 2018
- Immigration White Paper – delayed to Autumn 2018
- Immigration Bill 2018 – Autumn 2018
- Impact Assessment:
 - House of Commons - Home Affairs Committee
 - Home Office delivery of Brexit: immigration
 - Report February 2018
 - Issues:
 - Capacity
 - Resources
 - Border Control
 - Enforcement

On the Horizon: Post-Brexit Immigration Framework

- Policy Background: “Taking Back Control”
- Options:
 - Points Based System
 - Work Permits – Shortage Occupation
 - Resident Labour Market Test
 - Sectoral or Regional Schemes
 - EU Preferential Arrangements
 - Free Trade Agreement

On the Horizon: Post-Implementation Period 2021+

- United Kingdom becomes “Third Country”
- Unless Norway or Switzerland (EFTA) arrangements agreed
- Immigration laws a matter of national sovereignty
- Employers navigate 27 different systems
- Possibility for harmonised UK preferential scheme
- Will depend on reciprocity
- How does this square with UK taking back control of borders?



Viewpoints from the Rest of Europe

Influential member state postures

Where Do Other Key EU Member States Stand?

- The special case of Ireland
 - Common Travel Area and Ireland Act 1949
 - Preserving the Belfast Agreement and cross border peace
 - Protocol in Draft Withdrawal Agreement
 - Position Paper June 2017
 - Theresa May

“Our departure from the EU causes very particular challenges for Northern Ireland, and for Ireland. We joined the EU together 45 years ago. It is not surprising that our decision to leave has caused anxiety and a desire for concrete solutions.

We have been clear all along that we don’t want to go back to a hard border in Ireland. We have ruled out any physical infrastructure at the border, or any related checks and controls.

Just as it would be unacceptable to go back to a hard border between Northern Ireland and Ireland, it would be unacceptable to break up the United Kingdom’s own common market by creating a customs and regulatory border down the Irish sea.”

Common Themes Throughout Europe



- Increase in UK nationals applying/enquiring for EU passports based on residency, marriage, ancestry
- Increase in tighter border controls and spot checks – not directly related to Brexit
- Addition of significant numbers of new border patrol staff – including getting ready for Brexit
- Empathy with UK nationals residing in the EU, whilst resentment towards the government for hard line stance
- UK companies transferring some of their operations to welcoming EU countries (Ireland, France, Germany, Spain, Netherlands)
- 1.3 million UK nationals in the EU compared to 3.2 million EU nationals in the UK



Ireland

- Brexit is expected to have zero impact in terms of Irish/UK immigration in each other's respective countries. No issue for Irish nationals and UK nationals residing in each other's countries due to the existence of the Common Travel Area.
 - the right to enter and reside in each others' state without being subject to a requirement to obtain permission
 - the right to work without being subject to a requirement to obtain permission
 - the right to access education, social welfare entitlements and benefits
 - the right to access health services and social housing
 - the right to vote in local and parliamentary elections

“*British citizens under the Common Travel Area are protected after the UK leaves the EU. There will also be full protection and maintenance of the current arrangements for journeys between Ireland and the UK.*”

—British Foreign Office



Germany

- Have you seen an increase in UK nationals leaving/arriving?

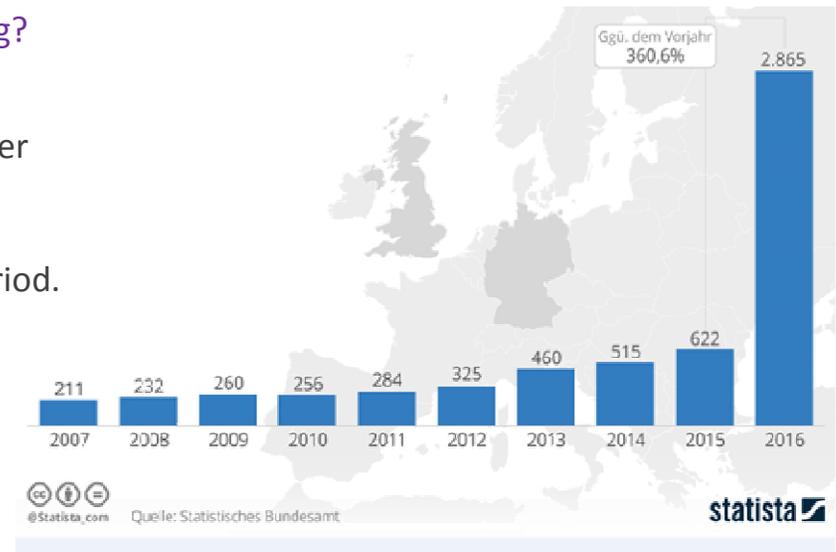
A. Confirmed figures are not yet available for 2017. However, it is interesting to note that the total number of UK nationals in Germany has risen slightly from 105,000 in 2015 to 107,000 in 2016. However, naturalization has increased by 360% in the same period.

- What impact, if any, do you see now on your country's workforce?

A. No significant changes to date.

- Has your country communicated any advice/guidance to your country's nationals currently in the UK (possibly through Consular alerts/publications)?

A. There is a FAQ on the webpage of the German Missions in the UK, <https://uk.diplo.de/uk-de/02/faq-informationen-brexit/610518>





Norway



- Do you have a sense of how many UK nationals reside in your country for work?
 - A. Norway had 7,866 UK nationals working in Norway in 2017.
- Have you seen an increase in UK nationals leaving/arriving?
 - A. The number of UK nationals working in Norway has been quite stable, with around 7,000-8,500 people between 2008-2017. There has been a slight decrease from 2015 and until 2017 from 8,090 to 7,866 people.
- What impact, if any, do you see now on your country's workforce?
 - A. The number of UK nationals working in Norway is quite low compared to the total of immigrants working in the country (410,547). We do not see any particular impact by UK nationals on Norway's work force in general.
- What impact do you anticipate after the 29 March 2019 Brexit deadline for free entry into the UK?
 - A. Norway will be directly affected by Brexit, because the UK's membership in the EU currently provides the framework for much of Norway's cooperation with the UK.

“ It will be important for Norway to ensure that Norwegian workers, students and other Norwegian citizens are able to live, work, study and spend time in the UK after the UK leaves the EU and the EEA, and that British citizens will have the same rights in Norway. It will also be important to ensure that there are good transitional arrangements for Norwegians who are already living, working, or studying in the UK until a new agreement is in place. ”



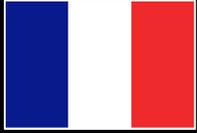
Netherlands

- Do you have a sense of how many UK nationals reside in your country for work?
 - A. The latest official count was 43,000 from January 2015.
- Have you seen an increase in UK nationals leaving/arriving?
 - A. No, but there is an increase of UK nationals applying for EU passports in the Netherlands.
- What impact, if any, do you see now on your country's workforce?
 - A. Significant because of the impact on trade. The food processing industry would take the hardest hit. The UK is the third most important trade partner (after Germany and Belgium). Further, there are multiple secondary effects. If trade decreases, this will have a negative impact on the job market.



Switzerland

- Do you have a sense of how many UK nationals reside in your country for work?
 - A. There are approximately 41,000 British citizens living in Switzerland.
- What impact do you anticipate after the 29 March 2019 Brexit deadline for free entry into the UK?
 - A. UK nationals might be considered as “third- country nationals” with the consequence that they will need work visas or entry visas in order to be able to work and immigrate Switzerland.
- Have you noticed heightened enforcement at the border generally?
 - A. Spot checks on the border have become more intense, however this is due to threats of terrorism.



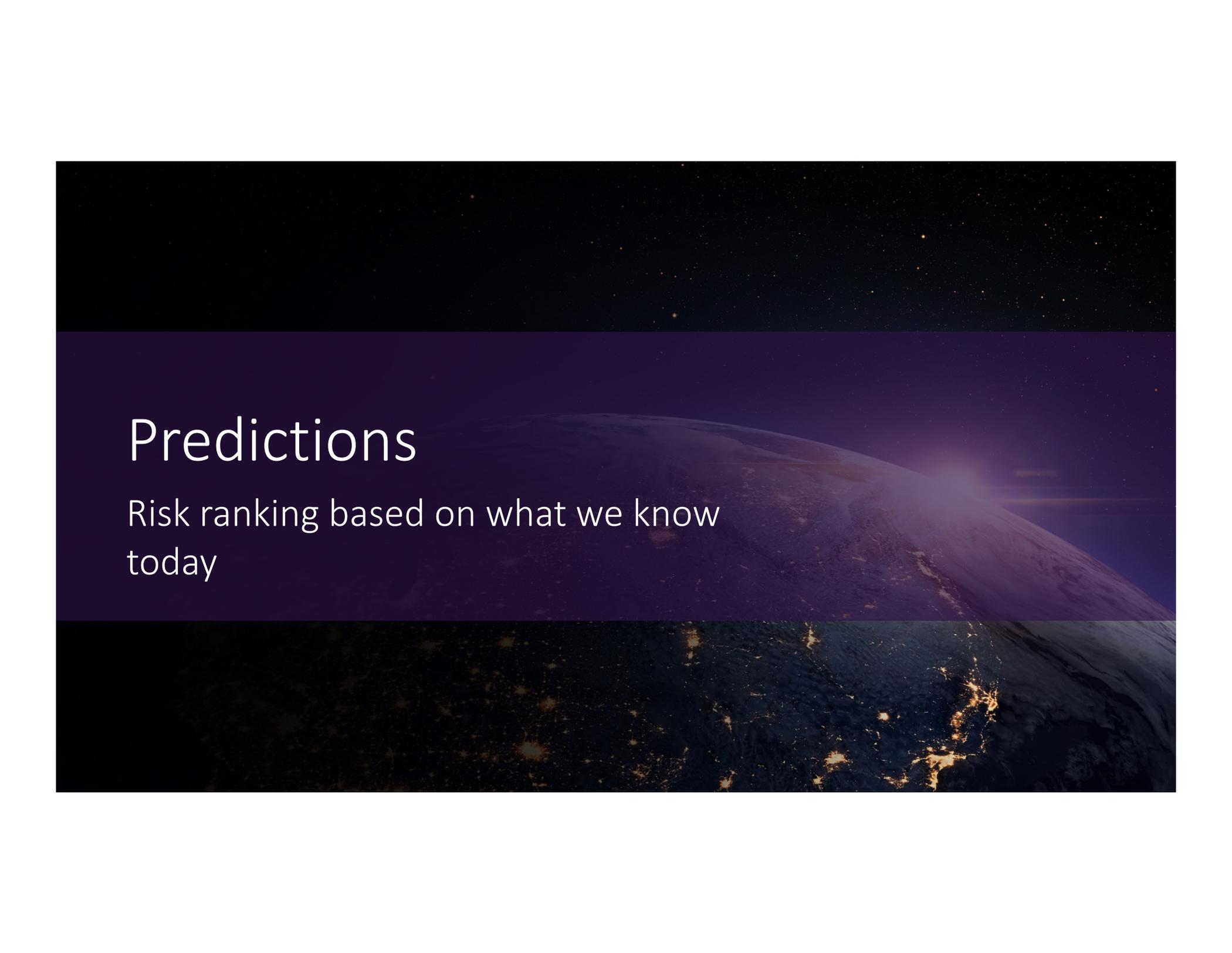
France

- Do you have a sense of how many UK nationals reside in your country for work?
 - A. The estimates go from 200,000 to 400,000. There is no official count. About the same number of French are said to be in the UK.
- Have you seen an increase in UK nationals leaving/arriving?
 - A. We are constantly being solicited by UK nationals, who want to acquire French residency or nationality. We are also frequently solicited by multi-national corporate groups, who wish to move their headquarters out of London, and are looking at the European options. Paris is trying to be attractive to such companies, although we have tough competition from Amsterdam and Frankfurt.
- What impact, if any, do you see now on your country's workforce?
 - A. UK has been a popular destination for low and mid-skilled workers from Eastern European member states. These workers will be looking for alternative destinations, and France will be just one of them.
- Are you seeing heightened enforcement at the border generally?
 - A. Yes, due to security issues and to avoid illegal entry by third country nationals. There is also discussion in the press as to how "hard borders" with the UK change after Brexit. Currently we have "juxtaposed" borders. The French border police is at the UK exit point (St. Pancras station) and the UK border police is at the French exit point (Gare du Nord station). It may be that the borders will go back to the entry points.



Italy

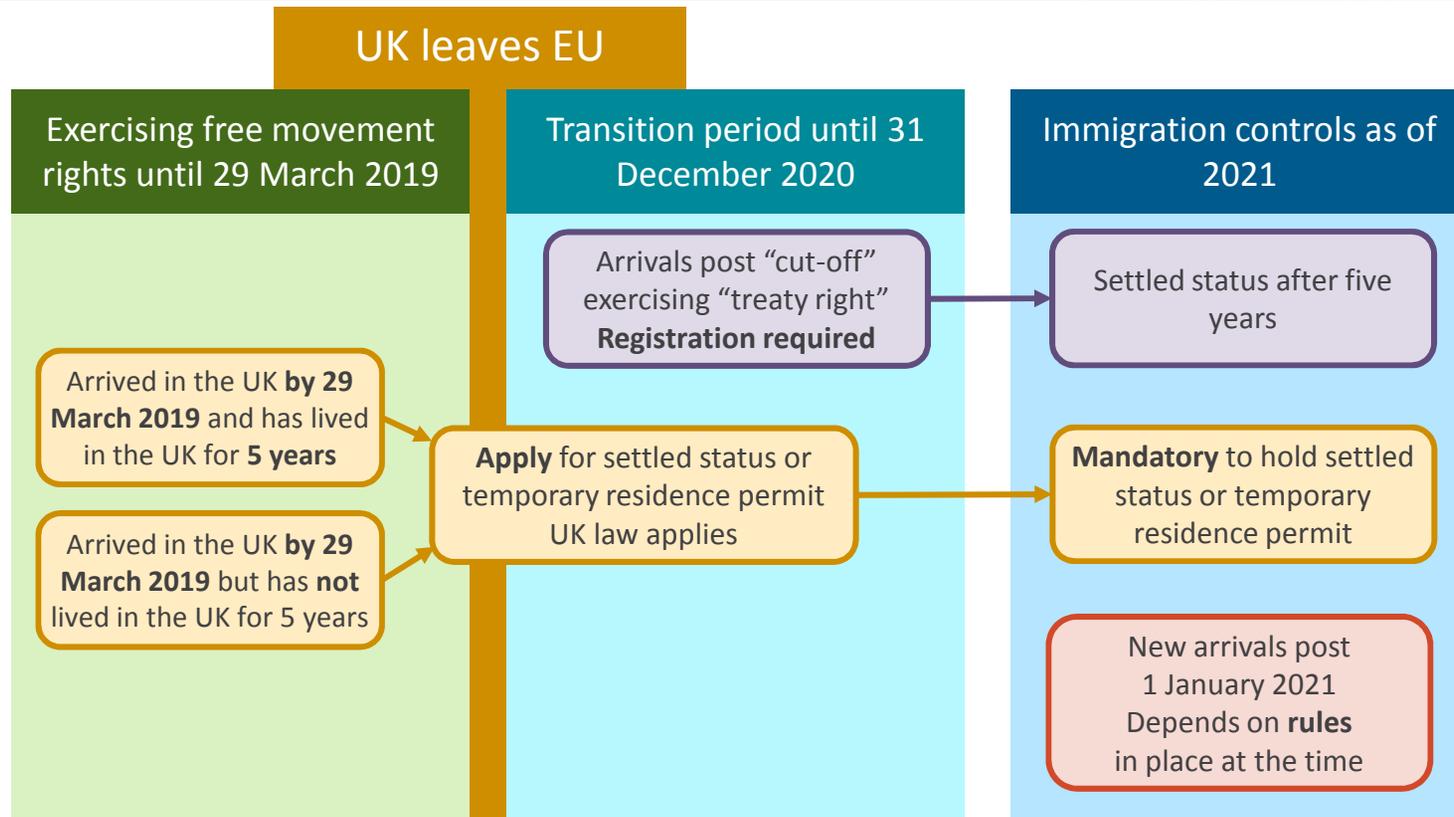
- Do you have a sense of how many UK nationals reside in your country for work?
 - A. Officially registered approximately 300,000, but there are many who did not register at the municipality.
- Have you seen an increase in UK nationals leaving/arriving?
 - A. No increase noted.
- What is the climate towards the UK and their nationals?
 - A. The climate towards individuals has not changed, it has always been positive. It is though negative towards the government due to the news about a hard approach to negotiation.
- What impact, if any, do you see now on your country's workforce?
 - A. This can be substantial, as there are many Italians who live in London and many young Italians would travel to London looking for work and learning the language. They will need to look for different destinations, Germany is increasingly popular, as well as other northern countries whose economy is doing better than southern Europe (Spain and France, for example).



Predictions

Risk ranking based on what we know
today

The Three Stages of Brexit



Brexit Risk Ranking

Low Risk Mobility prior to 29 March 2019	Moderate Risk Mobility until 31 December 2020	High Risk Post-transition 2021+ New European Order
<ul style="list-style-type: none"> • EU nationals working in the UK for at least 5 years • EU nationals entering the UK in exercise of a Treaty Right prior to cut-off date • UK nationals working in the EU for at least 5 years • UK nationals entering EU in exercise of Treaty Right prior to cut-off date • Family members of above 	<ul style="list-style-type: none"> • EU nationals travelling overseas on assignment prior to cut-off date • Registration imperative • EU nationals entering the UK during implementation period • UK nationals entering EU during implementation period • Family members of above 	<ul style="list-style-type: none"> • EU nationals entering the UK • UK nationals entering the EU • Family members of the above • Settled EU nationals leaving the UK for 5 years or more



Actions Employers Should Take Now

Benchmarking best practices

Brexit Planning, Brexit Preparedness

1. Understand the business needs and mobility patterns
 - Who's who – British, EU, Irish
 - Who has options – e.g., dual nationals
2. Assess who is doing what, and what registration each category will need
 - Ongoing business travel across UK and EU
 - Posting of workers in the EU
 - Short-term versus long-term assignments
 - Localisation of foreign workers
3. Prepare for registration Q3 2018
4. Establish communications, training, and controls



Britain's withdrawal from the European Union ("Brexit") slated for 29 March 2019

Brexit Planning, Global Preparedness



Establish a reliable process for immigration sponsorship decision-making

Identify standards for each nomination case, including who is authorised to nominate and who decides “close calls”

Keep an audit trail

Be ready for government audits and whistleblower complaints, which are on the rise

Centralise tracking and monitoring

Identify inflection points where major decisions need to be made – e.g. localisation or repatriation

Maintain the integrity of right to work records

Audit right to work documents, use findings to improve process, and strengthen compliance record

Engage in active trendspotting

Establish regular (e.g. monthly, quarterly) sessions with your external provider to review global trends that may impact your workforce and staffing needs

Brexit Planning, Crisis Response

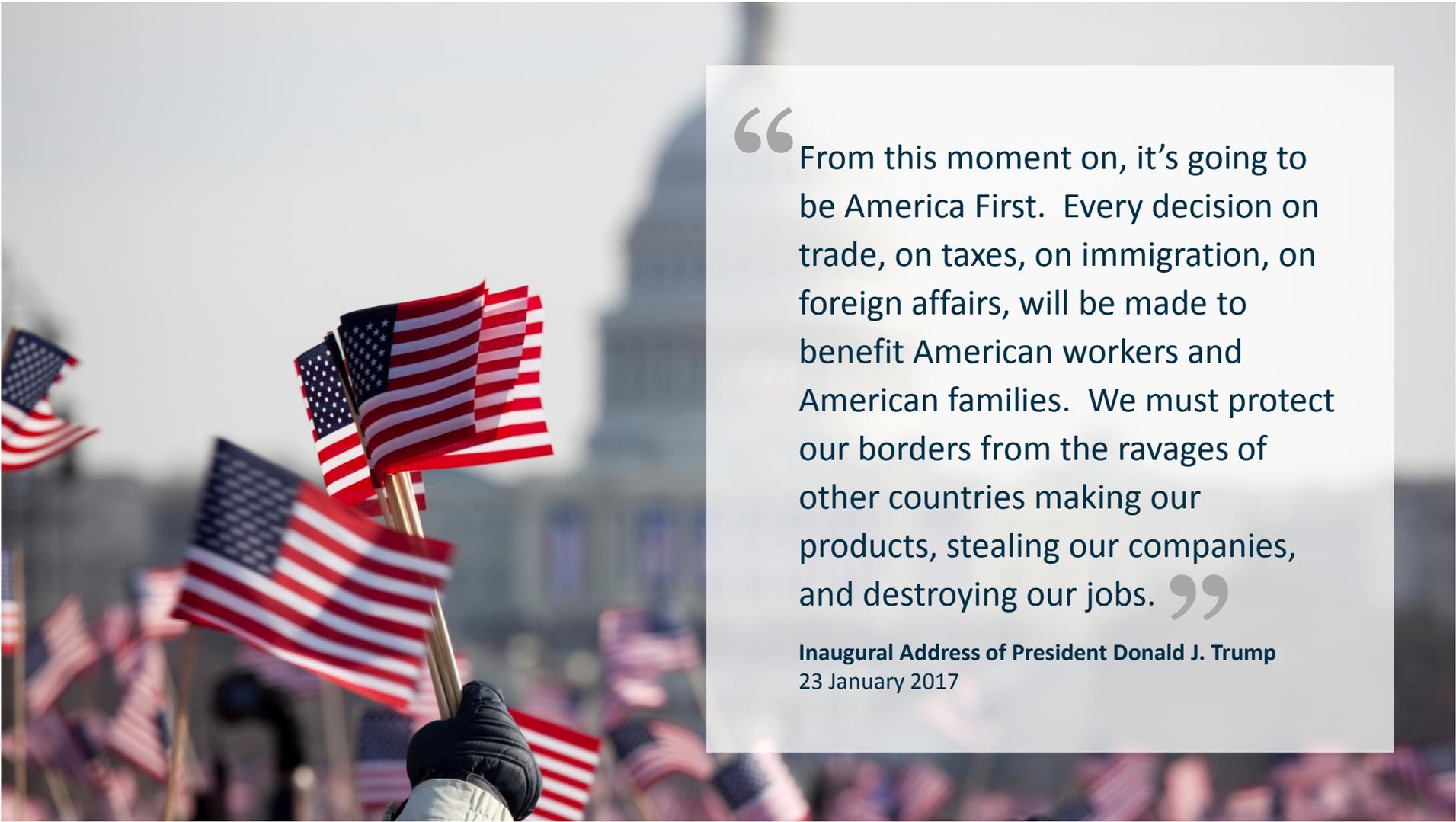
Set up an e-hotline in case of border admissions flare-ups

Controls are likely to change at ports, and your executives and staff may need your help immediately



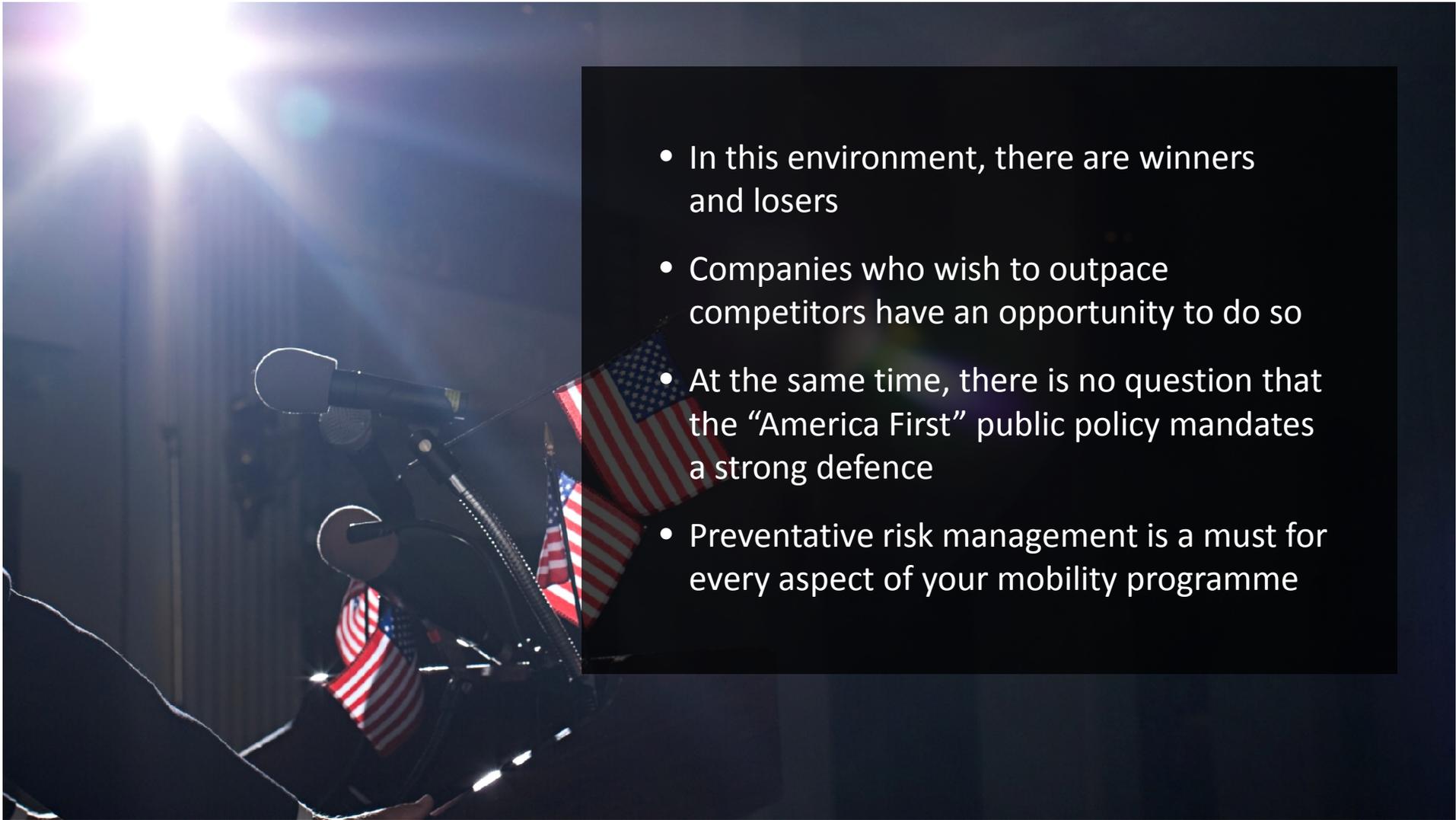
Pan-Atlantic Spotlight: Trump Administration

“America First” changes in immigration
policy

A photograph showing a large crowd of people at an inauguration event. In the foreground, a person's hand wearing a black glove holds a small American flag on a wooden stick. The background is filled with many other American flags being held by the crowd. The scene is outdoors, and the lighting suggests it is daytime. The image is slightly blurred in the background, focusing on the flag in the foreground.

“From this moment on, it’s going to be America First. Every decision on trade, on taxes, on immigration, on foreign affairs, will be made to benefit American workers and American families. We must protect our borders from the ravages of other countries making our products, stealing our companies, and destroying our jobs.”

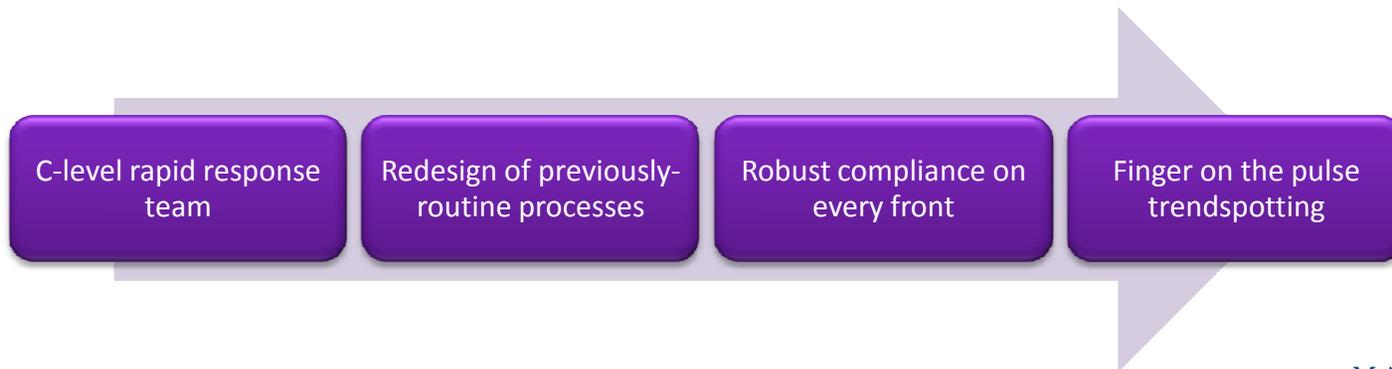
Inaugural Address of President Donald J. Trump
23 January 2017



- In this environment, there are winners and losers
- Companies who wish to outpace competitors have an opportunity to do so
- At the same time, there is no question that the “America First” public policy mandates a strong defence
- Preventative risk management is a must for every aspect of your mobility programme

A Well-Planned Defence Is Essential

- Whilst the travel ban and DACA dominate the headlines, the administration's most dangerous actions can stem from day-to-day actions:
 - Reversal of previous policies by interpreting existing rules in new ways
 - Application of more rigorous standards without any prior notice
 - Announcements of rulemaking which immediately infect adjudications
- Employers who succeed in this environment will have a well-planned defence



A Well-Played Offence Yields a Competitive Edge

- A shrewd employer will recognise that a well-played offence can advance its programme ahead of its competitors:
 - Mobilising innovation in structured, repeatable ways can fuel ongoing, repeatable success
 - Branding the Company a trusted employer gains the advantage over your competitors, who may be direct IT providers or staffing companies
 - Your American legacy can play well in this climate

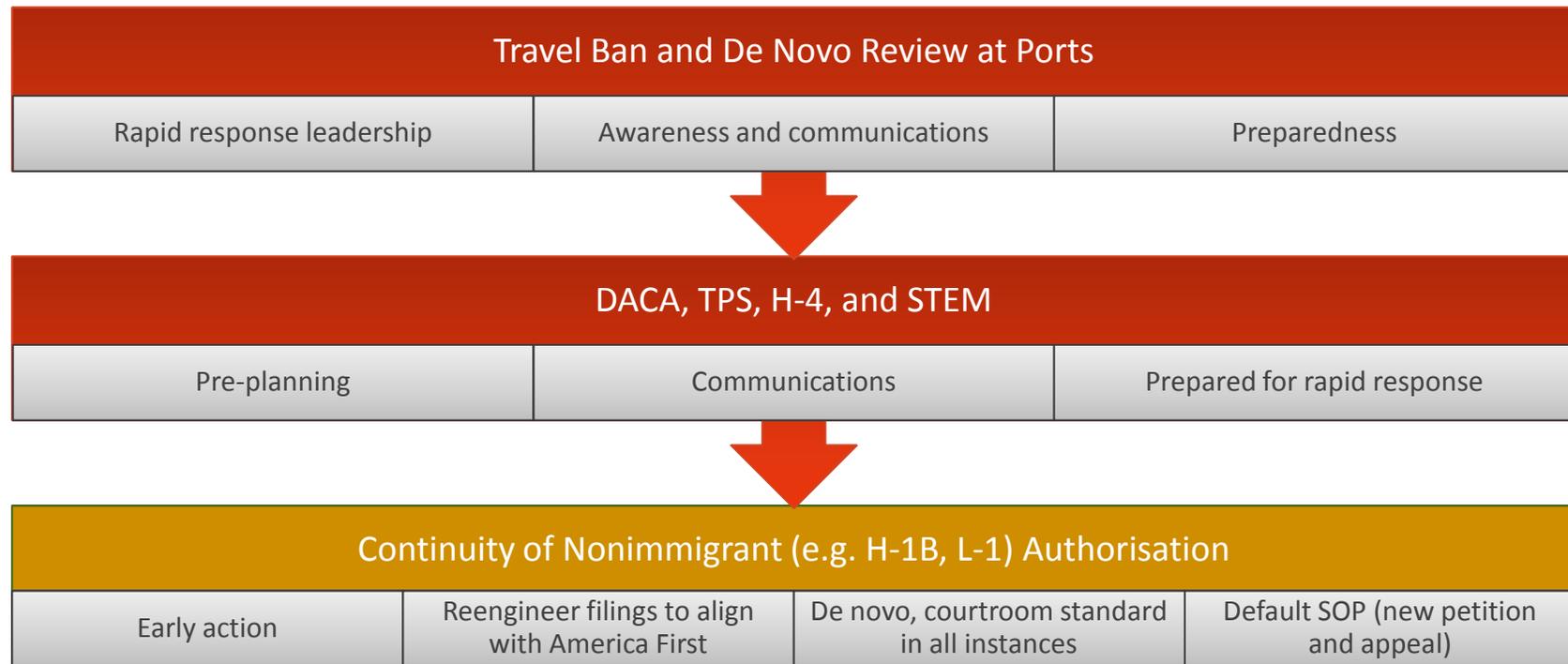
Structured, repeatable
innovation

Branding the Company
as a trusted employer

Leveraging your
American legacy

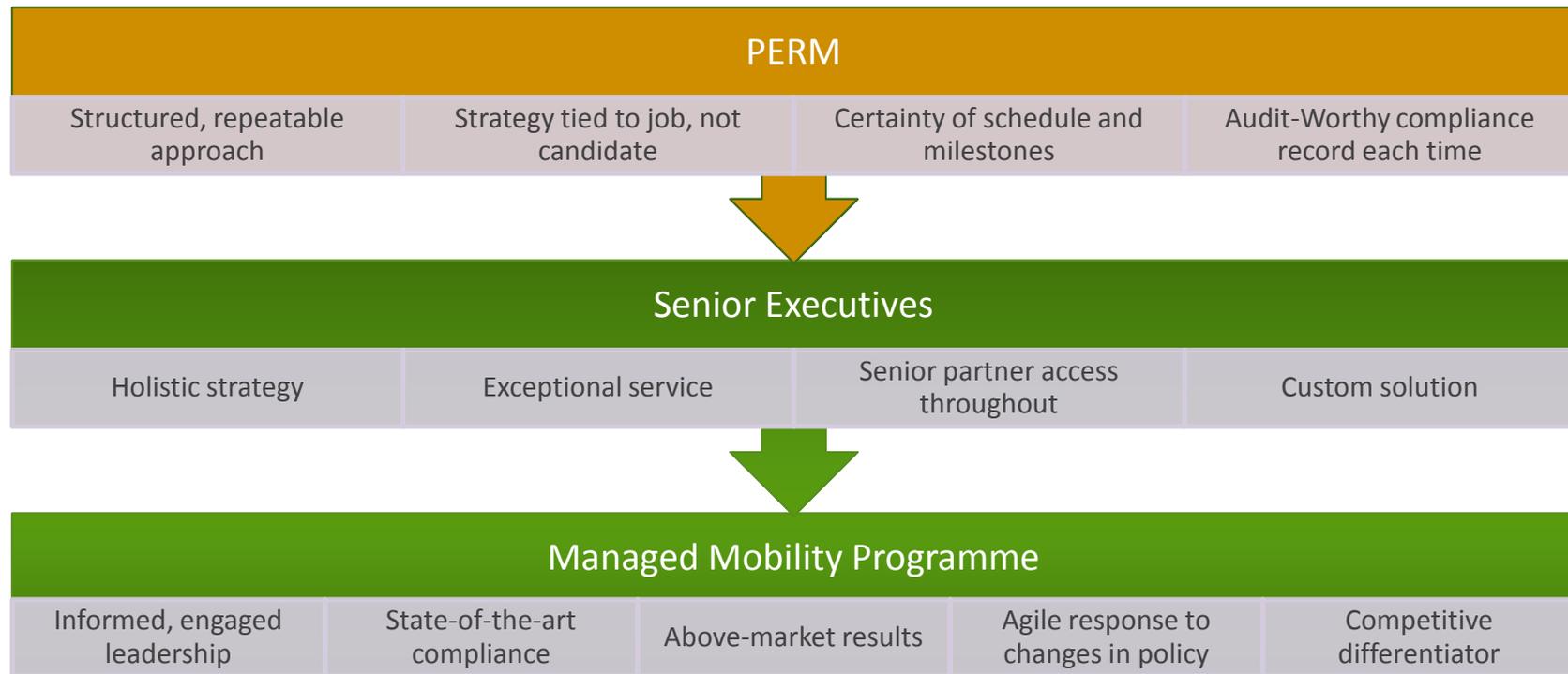
Mobility Programme in Action

Multi-Faceted Solutions



Mobility Programme in Action

Multi-Faceted Solutions





And a Well-Played Offence

Protecting your brand and advancing your
business

A photograph of the White House in Washington, D.C., illuminated at night. The building is lit up with warm yellow lights, and the sky is a deep purple and blue. The image is used as a background for a text overlay.

“ In order to create higher wages and employment rates for workers in the United States, and to protect their economic interests, it shall be the policy of the executive branch to rigorously enforce and administer the laws governing entry into the United States of workers from abroad... ”

Presidential Executive Order on Buy American and Hire American (E.O. 13788)
18 Apr 2017

Crisis Response



Leadership Guidance Through Volatile Political Environment 24/7:

- ✓ In real time, frontline guidance to the Chief Legal Officer and the C-Suite on communications to the Company's mobile workforce regarding the impact of the Trump administration's 3 different travel bans
- ✓ Preparing for the "Hire American" Executive Orders impacting business immigration led businesses to review, and in some cases, redesign compliance programmes and visa approaches for executives and critical personnel



Major Policy Change Required New H-1B Approaches:

- ✓ On 8 March 2017, US Citizenship and Immigration Services announced suspension of premium processing of H-1B petitions
- ✓ On 31 March 2017, USCIS reversed longstanding policy to restrict H-1B approval for entry-level computer programmers: degrees not directly relevant to the specialty (or for which multiple degrees are accepted) or low wages (e.g., level one) at risk
- ✓ On the week of 3 April 2017, multiple immigration agencies issued anti-fraud and abuse statements, with an express objective that this administration will ferret out abuses previously allowed

Crisis Prevention



Corporate Compliance Internal Reviews Expanded to Immigration Area:

- ✓ Companies across the nation assessed whether to adjust enterprise-wide protocols to mitigate corporate exposure on a go-forward basis, including limiting H-1B cap filings, accelerating PERM/green card consideration, and more actively preparing for site audits (H-1B, L-1) as well as I-9 enforcement



Proactive Management of Worksite Moves:

- ✓ Worksite moves were closely vetted to ensure compliance with *Matter of Simeio*
- ✓ M&A diligence more aggressively reviewed, including whether acquiring or resulting company would accept liabilities for H-1B and/or I-9



Vendor Management Compliance:

- ✓ In responding to “extreme vetting” queries from Fraud Detection Units of the Departments of Homeland Security and State, companies educated their Vendor Resource Management and contracts teams on compliance by vendors with visa protocols

Exceptional Service Needs



Senior Executives and Critical Personnel:

- ✓ Personal communications essential to assist employees in all travel contexts
- ✓ Advance parole rules enforced in new ways, including denial of travel authorisation if the individual leaves the country before approval of the AP document
- ✓ Multinational executives and managers faced unprecedented queues to get through the I-140 approval, limiting their portability to other positions even within the Company
- ✓ Newly-mandated adjustment of status “green card” interviews as of the Autumn of 2017, require active preparation and support of candidates and their accompanying family



Enterprise-Wide Approvals All the More Important to Ease Employee Mobility:

- ✓ Maintaining up to date Blanket L approval important to avoid consular challenges

With Continual Announcements of Change Adding to Uncertainty:

- ✓ Termination of DACA and TPS and expected rule to eliminate H-4 work authorisation for spouses of candidates for green cards with approved I-140s, have all created anxiety
- ✓ Potential impact of Trump administration anti-“chain migration” concerns employee population and families, even those not directly affected by proposed changes
- ✓ Arrest/detention similarly adds to fear environment
- ✓ Merit-based immigration reform on the horizon add to uncertainty

The image is a composite of three horizontal sections. The top section is a dark, star-filled sky. The middle section is a dark purple gradient with the text 'Concluding Thoughts' in white. The bottom section shows the Earth's horizon with city lights glowing at night.

Concluding Thoughts

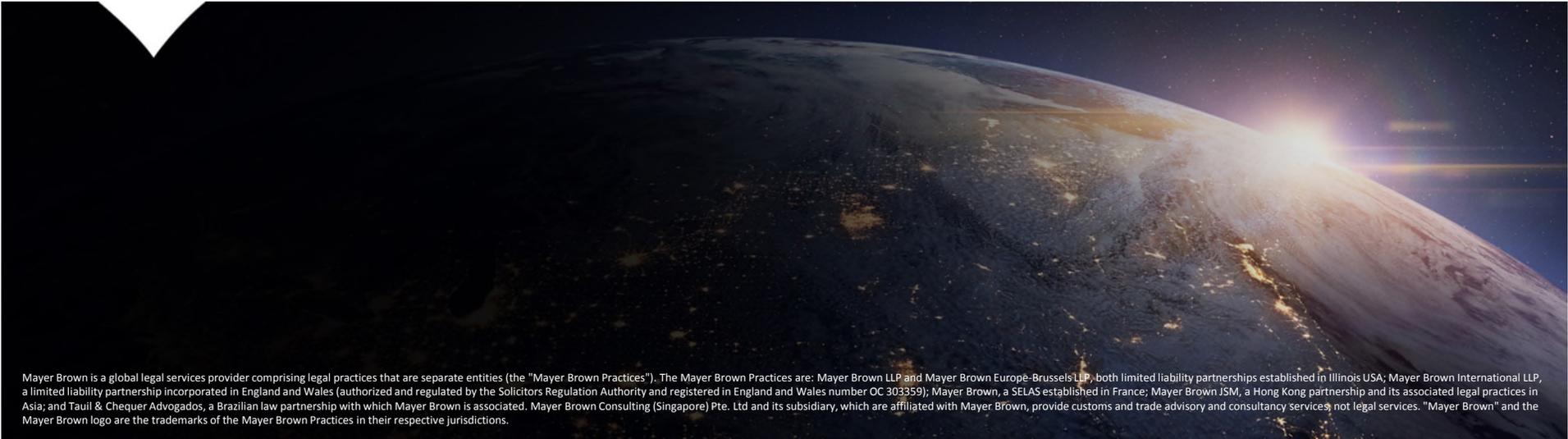
Organisational Functions Brexit May Impact



A Step Change in Service: Mayer Brown's Global People Solution™



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