



**Brexit &
Future EU**
An Ibec campaign

Brexit Tracker

November 2019

New deal on hold as UK goes to the polls

We have reached yet another defining moment in the Brexit process. A new EU-UK deal on a revised Brexit Withdrawal Agreement has been agreed, along with extension until the end of January to facilitate ratification. However, Westminster approval is far from certain and we now await the result of a UK general election on Thursday 12 December to see where to next.

A solid Conservative majority will ratify the new Withdrawal Agreement, but a Labour majority, a Labour-led coalition or a hung Parliament would push us toward another referendum. A 'no deal' exit remains the legal default, if there is no deal or no new extension by January, but with the Conservatives now committed to a deal the likelihood of this outcome has diminished dramatically.

This Tracker looks at the provisions of the current, recently renegotiated Withdrawal Agreement that UK Prime Minister Boris Johnson is seeking to get over the line. If ratified, it will provide the basis for an orderly UK exit, avoid a profoundly disruptive no-deal cliff and move us to the next phase of talks on a future EU-UK relationship.

The revised Agreement has a lot to commend it, not least relative to the catastrophic implications of a 'no-deal'. It includes far-reaching and vital provisions to avoid a hard border on the island of Ireland, protects the Common Travel Area, provides a 'status quo' transition period and breaks the current impasse.

However, Brexit was always an exercise in damage limitation. The new deal goes some distance toward mitigating the potential risks to the all-island economy and supply chains, but we will inevitably end up in a worse place than where we are now.

The renegotiated deal means that Northern Ireland will be subject to preferential, but potentially complex, new customs arrangements. At the same time, the Political Declaration on the future relationship is far less ambitious than Theresa May's previous deal, with much greater scope for EU-UK divergence into the future. This could have significantly negative economic implications for Ireland in due course.

We have also been left with short, overly ambitious timelines to agree a future trade deal, which do not reflect business realities. As a result, Brexit will remain at the top of the agenda in 2020.

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Area	Issue	Update
The financial settlement	Can the EU and UK agree on UK financial obligation when it leaves?	Bill settled: An agreement reached on UK financial liabilities.
Citizens' rights	How will EU free movement be affected?	Rights protected, even during transition: The new Withdrawal Agreement protects citizen's rights until the end of the transition period, at which time free movement will end and a new immigration regime will be introduced in the UK. Those currently living in the UK and EU27, and those who arrive to work, live and study up to the end of a transition period, will retain their rights in the country in which they reside after Brexit. However, after the transition, EU-UK free movement would end. Visas are unlikely to be needed for short-term visits, and there may be special arrangements for research, study and exchanges. For long-term stays, the UK and EU are likely to reintroduce visa requirements. Irish citizens would, however, benefit from the Common Travel Area if agreed bilaterally (<i>see below</i>).
Common Travel Area (CTA)	Will Irish and UK citizens continue to enjoy reciprocal free movement rights?	Major plus for Irish business and workers: The Ireland-UK CTA means Irish and UK citizens do not rely on joint EU membership to benefit from free movement, access to public and social services, or other privileges across the two jurisdictions. Under the revised Withdrawal Agreement, this would continue post-Brexit.
Transition period	How long before a new EU-UK relationship kicks in?	Status quo possible until end of 2022: The Withdrawal Agreement includes a 'status quo' transition period until the end of December 2020. This can then be extended by one or two years, if requested by 1 July 2020. While the current UK Conservative government is adamant it will not seek an extension, it would seem near impossible to agree a new EU-UK free trade agreement within a year. Extension beyond 2022 will be extremely difficult and unlikely as negotiations will be outside the Article 50 process. The prospect of new rolling deadlines creates more uncertainty for businesses.
Goods on the market when the UK leaves	What is the legal status of goods on the market when Brexit happens?	Any product that an economic operator can prove had entered the marketplace, in the EU or the UK, before the end of the transition period can continue to circulate when the transition period has finished.
Energy on island of Ireland	Will Brexit upset the all-island electricity market?	The renegotiated Withdrawal Agreement provides for North-South energy cooperation into the future and the maintenance of the Single Electricity Market on the island of Ireland.

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Special provisions for Northern Ireland	How will the Republic of Ireland – Northern Ireland border be managed?	<p>EU – Northern Ireland alignment to avoid a hard border: Managing the post-Brexit economic relationship between Ireland and Northern Ireland demands unique solutions to avoid the need for a physical border and associated checks. The current Withdrawal Agreement replaces the ‘backstop’, with new provisions that will similarly avoid such checks and keep Northern Ireland aligned with the EU on a wide range of trade-related regulations; for example, EU State Aid rules will apply in Northern Ireland. However, the Agreement does not commit to aligning Northern Ireland and the rest of the UK into the future; it only seeks to avoid new checks and controls to the extent possible.</p> <p>As such, the revised deal does not deliver the same economic benefits for Irish business as the previous all-UK ‘backstop’ proposal, which held out the prospect of close north-south and east-west trade and regulatory alignment.</p> <p>The new arrangements for Northern Ireland are complex, and while it will enjoy preferential access to both EU and British markets, the nature of this relationship will be greatly influenced by the future EU-UK deal. While the ‘backstop’ was an insurance policy, the current Protocol is envisaged as a permanent solution, albeit with the ongoing consent of the Northern Ireland Assembly.</p> <p>After the transition period, Northern Ireland will legally remain in the UK customs territory but will apply the Union Customs Code. This means that all goods entering Northern Ireland must comply with EU rules. Goods moving from the UK to Northern Ireland will have EU duties charged if there is a risk of the product entering the EU or undergoing processing in Northern Ireland. This could potentially cover very large swathes of NI imports. The details of the arrangements will be defined by an EU-UK Joint Committee before the end of the transition period.</p> <p>There will be no quantitative restrictions between the Republic of Ireland and Northern Ireland. Certain pieces of EU legislation will continue to apply to Northern Ireland; this legislation is listed as an Annex to the Withdrawal Agreement. The UK and the EU commit to avoiding controls at Northern Ireland ports and airports to the extent possible. The UK authorities will be responsible for implementation of rules on VAT and excise in Northern Ireland. A list of goods included as an Annex will be subject to EU rules on VAT and excise.</p> <p>The Northern Ireland arrangements are subject to ongoing political approval or ‘consent’ by the NI Assembly and the implementation will be overseen by an EU-UK Joint Committee. If this consent is withdrawn there is no clarity as to what will happen next, a two year cooling-off period kick in and an EU-UK joint committee is set up tasked with ensuring the terms of the Good Friday Agreement are protected.</p>

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The Future EU-UK Relationship	What will the future EU-UK relationship look like?	<p>Scope for major divergence: The Political Declaration on the future EU-UK relationship, which is aligned with the current Withdrawal Agreement, has been changed. The declaration points towards a less aligned EU-UK into the future, relative to Theresa May's previous text.</p> <p>The earlier text had presented the all-UK 'backstop', and the customs and regulatory alignment that went with it, as the minimum starting point for a future trade deal. This is no longer the case and a standard free trade agreement is now clearly the destination. There is an aspiration to eliminate all tariffs and charges on trade between the EU and the UK in the future. Both sides commit to liberalising services trade beyond existing and limited WTO commitments.</p> <p>In any deal, the EU will want UK guarantees that it will not undercut its standards in the areas of state aid, competition, social, employment, environment, climate and tax – the so-called 'level playing field' commitment. If these are not forthcoming, market access will be limited accordingly. While the text of Theresa May's previous declaration included such firm commitments, the text is now more aspirational.</p> <p>The text of the Political Declaration is not legally binding and future political developments will inevitably shape any deal, but it currently points to far looser alignment than is currently the case. This brings with it potentially significant trade and regulatory economic barriers. It also means Northern Ireland's unique economic relationship with Ireland and Britain, as set out in the Withdrawal Agreement, has the potential to evolve in various different ways. This will inevitably have significant political implications within Northern Ireland and beyond.</p>

If you have any comments or questions please get in touch:

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