

## The Article 50 Process

### Background

Since the Lisbon Treaty came into force in 2009, the EU has had a formal procedure for allowing a member state to leave the club. That procedure is laid out in the now famous Article 50 of that treaty.

### What is the current situation?

On March 29 2017, Theresa May wrote to Donald Tusk, Chair of the European Council, notifying him of Britain's decision to withdraw from the European Union, thereby triggering the Article 50 process. Under the text of Article 50, the EU treaties will cease to apply to the withdrawing state from the date the withdrawal agreement enters into force, or two years after the notification has been sent. As things stand, therefore, Britain will leave the European Union at 23h GMT on 29 March 2019.

The European Union has stipulated that the negotiations should proceed in three phases. First, the major 'Article 50' issues connected with leaving the EU should be addressed. The key issues here are the status and rights of EU citizens in the UK and UK citizens in the EU; the budgetary settlement to terminate British membership; and the status and nature of the intra-Irish border. At a meeting on 19-20 October 2017, the European Council will decide whether 'sufficient progress' has been made on these issues, in which case, it will authorise the start of negotiations over a transitional arrangement (phase two) and a trade deal between the UK and the EU (phase three).

### What has the British government indicated it wants?

The British government has been slow to spell out precisely what it wants to achieve from the Brexit process. In the months following the Article 50 notification, this was justified in terms of the need to preserve the confidentiality of the government's negotiating position. Prior to the general election of June 2017, the only clues were provided by the prime minister in speeches at the Conservative Party conference in October and Lancaster House in January 2017.

Since the general election, there have been open disagreements between members of the government over the optimal outcome of the negotiations. These have focussed on whether the UK should attempt to remain within the single market and customs union, and whether there should be some kind of transitional period to tide things over in the period between the end of the formal Article 50 process and the signing of a trade deal (which most experts believe will take much longer than the allotted time).

The British government is in the process of clarifying its position by releasing a series of position papers on issues including the Irish border, the customs union and trade in goods. Implicit in the release of these documents was a desire to cajole the European Union into discussing future trading relations before the October summit. For example, the release of the papers on the customs union and Ireland was intended to illustrate the fact that the situation in the latter cannot be resolved unless future trading relations are clarified.

Whilst the priority of the EU is to sort out the Article 50 issues, the priority of the British government is the trade deal. Details are starting to emerge that underline that the government wants to maintain close trade ties with the EU while leaving the single market and the customs union. The government has also maintained its insistence that the UK should no longer fall under the direct authority of the European Court of Justice. There seems to be growing acceptance in the government that a transitional deal will be necessary.

## What are the possible outcomes?

There are four possible outcomes from these talks. A 'smooth Brexit', would see Britain have both the Article 50 and the trade deal signed, sealed and delivered by March 2019. Under a 'transitional Brexit', the Article 50 deal would be agreed, along with transitional arrangements to bridge the gap to a full deal. A 'cliff-edge Brexit', is one in which an Article 50 deal is agreed, but trade discussions either break down or fail to make real progress. The UK would then become a 'third country', with no special relationship of any kind with the EU. WTO rules would apply to its trade with the EU. Finally - and the ultimate 'no deal scenario' – a 'chaotic Brexit' (see factsheet on no deal) means that the UK would leave the EU with no deal – divorce or trade – whatsoever. The UK would then cease to be a member state. But all the outstanding issues – the rights of citizens, the size of any exit bill and so on - remain unresolved. As in the case of a 'cliff-edge' Brexit, the UK would then become a third country with respect to the rest of the EU, with WTO rules applying to trade.

## What are the potential consequences of these outcomes?

The implications of each kind of outcome vary. The absence of an Article 50 deal might embroil the UK and EU in protracted legal action and could equally sour political relations between the two sides for a considerable period. The other possible outcomes involve the distinction between 'hard Brexit' (leaving the single market and the customs union) and 'soft Brexit' (staying within both). Simply put, the fundamental differences will concern volumes of trade between the UK and the EU – the greater the barriers to trade become, the lower trade can be expected to be. Economists estimate the cost of a hard Brexit to be a decrease of 40% in trade with the EU. Those in favour of Brexit argue that this can be compensated for by increasing trade with non-EU states.

## What is the potential timeline for this?

A breakdown in the talks could occur at any time. However, the most likely pinch points are either towards the end of this year, when the EU will decide if 'sufficient progress' has been made on Article 50, or towards the end of next year when both the UK Parliament and, subsequently, the European Parliament will have to approve whatever deal is reached. If talks progress relatively smoothly, the Article 50 deal must be signed before the end of March 2019, unless all 27 member states vote in favour of an extension. This has not been widely discussed as yet, but remains a possibility. Assuming a deal is struck by that time, there will still be a need for more time to negotiate a comprehensive trade deal. This could be achieved via an extension of the Article 50 process, but in this case the UK would remain a member state. Alternatively, the UK and EU could agree some kind of 'transitional arrangement', to tide relations over until a trade deal can be signed and ratified.

## Further reading

- Full text of Article 50: <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-European-union-and-comments/title-6-final-provisions/137-article-50.html>

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