

# The Brexit Negotiations: A Stocktake



The **UK** in a  
**Changing Europe**

# Foreword

The fourth round of Brexit negotiations have ended and we await the meeting between Boris Johnson and Ursula von der Leyen at which they will discuss the state of play in the Brexit talks. This seemed like a propitious moment for us at the UK in a Changing Europe to produce our own ‘stocktake’ of where the process has got to and what might happen going forward and with what consequences.

We have not attempted to provide an exhaustive account of what has happened in the negotiations to date. There are plenty of crucial issues – ranging from internal security and the tangled question of UK access to EU databases, to UK participation in research programmes, to aviation and nuclear cooperation – that we have not touched on. Rather, our intention has been simply to explain where we have got to and what the options are going forward.

As ever, we have drawn on the expertise of a number of colleagues to produce this report. I’d like to express my thanks to Catherine Barnard, Meredith Crowley, Sarah Hall, Jill Rutter and Jonathan Portes, all of whom have contributed to this analysis.

I hope you find what follows informative and useful.

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Printed June 2020



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## Key points

- After four completed rounds, the official level negotiations are stuck in an entirely predictable way: the two sides remain a long way apart on state aid and other level playing field issues (including social and environmental law), fisheries and even whether to have one agreement or several.
- Despite the lack of progress, and despite the disruption of Covid-19, the UK government is sticking to its line that it will not use the provision in the Withdrawal Agreement to request an extension of up to 2 years by the end of June, although the EU continues to indicate it is open to such an extension.
- Time is very short to conclude a deal – both negotiators have set an autumn deadline to allow time for ratification and implementation.
- Without an extension, it is hard to see how the sort of comprehensive deal which both sides said they wanted can be agreed.
- Trying to extend after the expiry of the June deadline will be complicated legally and there is no guarantee it can happen.
- Even with an extension, the gap between the two sides cannot be bridged without significant movement by one or both.
- The political ramifications of a no trade deal outcome would be severe and would strain relations between the two sides, making collaboration across the board significantly more difficult.
- There has finally been some progress on meeting the UK's commitments to have the arrangements agreed under the Northern Ireland protocol up and running by the end of the year. However, there remains a lot to be clarified and business will struggle to be ready.
- There are real concerns about business readiness for the new trade regime with the EU (deal or no deal) and for the operation of the Northern Ireland protocol. Business preparation has been hampered by the impact of Covid-19.
- The economic impact of leaving the EU at the end of the year with no deal in place, to trade with the EU on WTO terms (what the government now calls an Australia-style deal), would be serious – and hit businesses who will just have seen the furlough scheme end and will still be in a precarious position as they recover (hopefully) from the worst impacts of the pandemic.
- It is hard to see how a new immigration system will be up and running by the end of the year. Should it not be, this will have significant practical and reputational effects.

## The state of the negotiations

### *Where we are, and the future timetable*

As the fourth round of Brexit negotiations drew to a close last Friday (5 June), Michel Barnier could not have been clearer or more obviously unhappy. ‘There has been no significant progress,’ he stated, before going on to accuse the British Government of backsliding on commitments made when negotiating the Political Declaration last year.

The next move will be at the political rather than technical level. So far, we have seen negotiations at technical level without any involvement of UK politicians - the UK negotiations have been led by a special adviser. The withdrawal agreement made provision for a high-level conference to take stock of progress in June. It now looks likely that the meeting between Boris Johnson, Commission President Ursula von der Leyen and potentially also Council President Charles Michel will take place towards the end of June, before the next round of negotiations at the end of June/early July. Those talks have the potential to open up some more political space for negotiations – just as the prime minister’s meeting with Leo Varadkar last year paved the way to the revised Northern Ireland protocol.

In his press conference, Barnier also introduced a new deadline for the talks: 31 October to allow enough time for ratification processes which can be complex in the EU. His British counterpart, David Frost, had a week earlier told Parliament that he was targeting end-September, in order to give businesses time to prepare for the new trading arrangements.

EU ratification can be complicated (on the UK side there are few issues, particularly with a parliamentary majority of 80). Where an agreement contains provisions that touch on member state responsibilities (known as mixed agreements) individual member states have to ratify the agreement according to their national ratification procedures. . The EU-Canada agreement was adopted as a mixed agreement, as was the EU-Ukraine Association Agreement. These national ratification processes have proved difficult in the past.

If we take that deadline seriously, it means there are less than five months to conclude the negotiations which started in early March. Not much progress has been made to date.

### *Predictable stumbling blocks*

It was entirely predictable that the big stumbling blocks to an agreement would be level playing field provisions, fisheries and governance. The UK has insisted that any deal respects its regulatory autonomy and, on fishing, its status as an independent coastal state. It therefore rejects anything that fetters its future decisions.

On the level the playing field, although UK ministers claim that the EU offered a Canada style deal from the start and only added these demands later, this is not true. The EU's initial guidelines on the future relationship in March 2018 made clear that the EU would insist that the UK could not undercut it on environmental and social protection or on state aid.

A compromise may be possible on environmental and social standards. The Conservative manifesto said that on these the UK wanted the right to diverge upwards. Michael Gove, the Chancellor of the Duchy of Lancaster, has suggested that the UK could accept non-regression clauses – a commitment not to reduce the levels of protection when the UK exits transition at the end of the year – on environmental and social issues. The EU was prepared to concede this as part of the negotiation around the UK-EU customs territory in Theresa May's backstop, and that is what they are proposing in their negotiating mandate. It would also be in line with what is set out in the Political Declaration on the future relationship, agreed last October, but goes beyond the much weaker provisions, based on the EU's trade deal with Canada, that the UK has included in the draft agreement it published in May.

It is harder to see how the two sides could reach agreement on state aid, where the EU is proposing that EU law continues to apply in the UK through so called 'dynamic alignment.' This goes beyond the text in the political declaration which merely committed both sides to agreeing "a robust and comprehensive framework for competition and state aid control that prevents undue distortion of trade and competition," including satisfactory arrangements for domestic enforcement and dispute resolution. The UK is proposing consultation where parties have concerns about each other's policies but rules out subjecting these to dispute resolution. That does not necessarily leave the EU defenceless: state aid is an area where the EU should ultimately be able to protect itself through traditional trade defence mechanisms. Moreover, the UK has already committed to observe EU state aid rules in relation "to anything that affects trade between Northern Ireland and the Union" (a provision which could potentially be interpreted widely by the EU).

On fishing, the EU hardened its stance in its final negotiating mandate and is looking to preserve the status quo – a position that Michel Barnier described as "maximalist" in his press conference on 15 May. However, in subsequent discussions with fishing ministers from the 8 most affected member states, he was refused any leeway to move. The UK will not concede anything like the status quo, and without an agreement the EU will lose all influence over how the UK manages fisheries access. Although that would be welcomed by many in the UK fishing industry, others would suffer badly from the loss of tariff-free access to the EU market. The EU is keen for an early agreement and has reiterated that there will be no trade agreement without an agreement on fish. This is one of the issues where the UK has substantial leverage, but ultimately it is easier to see an agreement being done in the context of a wider agreement – one that perhaps recognises the UK's status as an independent coastal state but gives EU fishers a degree of future reassurance about levels of access (albeit with some reduction from current levels).

The other issue on which the two sides are far apart is governance. The EU is looking for a comprehensive association agreement and has published a draft treaty covering all aspects of the future relationship, with a single overarching governance process. The UK wants a freestanding trade agreement and then a number of separate agreements, all with their own governance arrangements.

The EU has two reasons for wanting a single agreement – first (and positively) it believes that this will provide a framework within which the relationship between the UK and the EU can evolve over time, adding other areas of cooperation as and when it wishes. Second, this would allow the EU (and if it wanted to, the UK) the option of cross-sectoral retaliation – if one side breaches one part of the agreement, the other can take punitive action in another.

The UK has argued that its approach is simply to follow precedent and has complained that the EU should be willing to concede to the UK what it has been prepared to offer other countries. The EU has pointed out it is not bound by precedent. Moreover it argues that the UK has gone beyond precedent and is attempting to cherry pick elements of the single market.

There are indeed a number of areas – such as on services and road transport – where the UK is seeking arrangements which do not appear in any other trade agreement. It is also seeking trade facilitation provisions, such as on equivalence and authorised economic operator regimes, that go beyond existing EU precedents. These certainly make sense, given the interconnectedness of the UK and EU economies and the need to manage cross-channel trade, but these demands go far beyond what the EU has agreed with other partners and give rise to EU concerns regarding UK undercutting. The UK is also seeking to continue mutual recognition of professional qualifications – very important for many UK services businesses like law and accountancy firms - and to remove barriers to short-term business visits. Finally, the UK also proposes to supersede the agreement on continued recognition of geographical indications in the Withdrawal Agreement, a particularly important issue for many producers in Scotland, as highlighted in the UK's [negotiating objectives](#) with the US. The UK [currently has](#) 88 protected food names, including Scotch whisky, and Scottish farmed and wild salmon. But it has not published a new text, although David Frost indicated that London wanted to guarantee future EU recognition of UK GIs, which is not guaranteed in the WA.

On financial services, the UK's draft agreement follows the EU's trade agreement with Canada (CETA) and seeks to allow the cross-border supply of financial services. Currently, using passporting arrangements, it is [estimated](#) that 67% of UK financial services (not including insurance) supplied to the EU are delivered cross border from a UK base. The provisions in CETA do not match current passporting arrangements, but rely on equivalence decisions and this is the approach developed in the UK's draft agreement. These provisions enable financial firms outside the EU to conduct business within the single market and/or with EU counterparts without being subject to EU regulation on top of their home country regulation, provided the

EU determines that the legal and regulatory system of the third country is deemed 'equivalent'. However, it is usually interpreted as relating to only limited types of financial services and equivalence does not provide the same breadth of market access across the same number of services as passporting. Equivalence also provides much less certainty than single market access because the EU can revoke its decision to grant equivalence with 30 days' notice. Given this uncertainty, some businesses have already begun to execute plans to get around the end of passporting by establishing or growing their bases in EU member states.

UK ministers have recently suggested that they might be prepared to give up on their ambition of a "zero tariff, zero quota" deal in order to open the way to a trade deal without level playing field provisions. Other EU trade deals leave a few residual tariffs in place. The EU has made clear that negotiating tariffs line by line is much more time-consuming exercise than a zero/zero deal, as it would have to weigh the competing interests of member states. It would also need a new mandate. Moreover, the EU does not accept that this would entirely remove their level playing field demands, not least as tariffs on most industrial goods are already quite low.

As things stand, it is hard to see how a deal will be agreed by the end of 2020. But this is not mainly about time pressure; the fundamental driver is incompatible preference. On a variety of issues the positions of the two sides were and remain significantly different. This raises the question as to the need for more time.



## Extending transition

Time, however, may still be an issue. The original transition period would have provided 21 months to negotiate and ratify a new relationship if the UK had left as originally planned on 31 March 2019. However, the negotiations did not start until March 2020. The time remaining is therefore much shorter than the EU has ever had to conclude a trade negotiation. And, due to Covid-19, negotiations are having to take place via video conference rather than face-to-face.

Some claim that an extension might help by providing the two sides sufficient time to conclude negotiations. But for the reasons set out above, it is far from clear that a deal could be agreed even if transition were extended to provide more time for the negotiators.

Others claim that only by refusing to extend transition can the UK exert real pressure on the EU to make the concessions necessary to secure a deal. But the gaps between the two sides mean that there would have to be so much movement that this is unlikely, not least with little time or possibility of doing the sort of behind-the-scenes political diplomacy that would lay the ground for such a deal. The danger is that the government believes its own rhetoric that the EU shifted in October 2019, when in fact the UK did little more than move back to the EU's preferred Northern Ireland only Protocol, which Theresa May had rejected as prime minister.

Should the Government decide that it needs an extension, the timing of this decision takes on crucial importance.

### *Before July*

The UK has said it will not make use of the provision in Article 132 of the Withdrawal Agreement to extend transition. This says: "Notwithstanding Article 126, the Joint Committee may, before 1 July 2020, adopt a single decision extending the transition period for up to 1 or 2 years."

From the point of view of the EU, this is an easy option. However, it poses more [problems for the UK](#). Boris Johnson's manifesto commitment that he would not ask for an extension was enshrined in the EU (Withdrawal Agreement) 2020 Act, which states that a "Minister of the Crown may not agree in the Joint Committee to an extension of the implementation period." If there were to be an extension, this provision would need to be repealed. It is possible that a Minister may amend this Act by negative resolution. That would allow this prohibition to be removed and the date of the end of the transition (currently 31 December 2020 at 11.00 pm) to be changed without the need for a new bill. Some, however, argue that these changes need to be done by Act of Parliament. With a majority of 80, of course, this could be done relatively easily, even in the face of opposition from the government's backbenches. Some opposition parties, the Scottish and Welsh governments, and the Northern Ireland Assembly have all made clear that they think the UK government should request an extension, in the light of the Covid-19 crisis. The Labour party has not called for an extension but has said it will hold the government to its pledge that it can conclude a deal in the time available.

Ultimately, then, the roadblock to an extension is not legislative but political, and comes from within the government's own ranks. While [some polling](#) provides support for the claim that voters backed a delay to ending transition, it equally points to the widely different views held by Remain and Leave voters. While the former largely favoured delay, more Leave voters were opposed to than favoured an extension. Given that nearly three quarters of leave voters backed the Conservatives in December 2019, more Tory voters oppose an extension than support it. More recent [analysis](#) has suggested that while more voters are in favour of an extension than oppose it, Leave voters remain opposed, albeit that explicit reference to delays caused by the coronavirus outbreak tempers this opposition somewhat.

### *After July*

Even if the government does not seek an extension before the 1 July deadline, it is possible that the two sides may agree on the need for one later –perhaps to finalise the detail of negotiations or to allow time for ratification. Were the government to seek such an extension, a number of possible legal routes have been suggested.

First, trying to use Article 50, the legal basis for the Withdrawal Agreement. Under international law, it has been argued that extending the transition period would constitute an amendment to an existing agreement, so Article 50 could still be used as a legal basis. However, many EU lawyers argue that, after Brexit day, Article 50 no longer applies to the UK. Others note that international law applies only to states, and that the EU is not a state.

Second, as a variation to the above, EU member states and the UK could enter into an international agreement outside EU law to agree an extension. However, this seems difficult legally because an extension would extend EU law and so the EU would need a legal basis to act,. There are a number of other legal bases in the Treaty such as Articles 207 and 217, but again these might well need unanimous agreement of the Council and if the agreement touches areas of member state competence then it would be a mixed agreement requiring national and regional ratification. The Court of Justice may also be required to give its opinion. All of this takes time.

Third, the UK might be able to reach an agreement with the EU by 31 December 2020 that envisages a fairly lengthy implementation period to disapply existing EU law and to enter into the new arrangements over a number of years to come. However, this would need a legal basis in the Treaty and would likely be a mixed agreement, which would again require national and regional ratification – this would have to be done by early Autumn 2020.

Fourth, it has been suggested that a decision of the Joint Committee, established under the Withdrawal Agreement, might be used to agree a new extension. However, while the committee can amend the Withdrawal Agreement itself, the powers do not include amending Articles 126 (the expiry date of the transition period) or Article 132 (the provision allowing extension of the transition).

Finally, Article 352 TFEU, which is the EU's residual legal basis to 'attain one of the objectives of the Treaty', has been suggested as a potential option. However, these objectives do not include withdrawing from the EU, and this provision can be used only where no provision in the Treaty provides for action to attain the objective (and Article 50 does that). Further, Declarations 41 and 42 make clear that Article 352 cannot be used to widen the scope of Union powers.

All of this points to a need for a decision to be taken on extension by 30 June 2020. Clearly, one should not underestimate the ingenuity of EU lawyers or their ability to come up with some imaginative solution if need be - particularly if governments are demanding this. However it remains the case that it is far from certain a legal basis for post 30 June extension could be found.

## Leaving transition with no trade agreement in place

Given the distraction of Covid-19 and the preferences of both sides, a no trade deal outcome seems as likely as it ever has. There appear, as argued above, very limited possibilities to extend the transition arrangements without going through the formal procedure set out in the Withdrawal Agreement.

It is quite possible that, should talks break up in the autumn without an agreement, there will follow a period of mutual recrimination as the UK and member states point the finger of blame for the economic fallout of no deal at the other side. This would make an immediate resumption of the negotiations, as well as agreement on measures to potentially mitigate the impacts of no deal, extremely difficult.

However, given the range of issues over which the UK and the EU collaborate and have a shared interest, it seems likely that talks would have to resume at some point. Although Australia is currently in negotiations with the EU over a comprehensive free trade agreement, it does already have some flanking deals in place to ease trade flows. The UK is likely to want to try to secure some of those, as well as deals in areas such as aviation and perhaps road haulage and veterinary arrangements to make the Irish Sea border less onerous. However, the atmosphere for these agreements would not be good if the talks broke down, and in the short term it would be more likely that both sides would resort to unilateral measures which do not require negotiation, such as those the Commission [proposed](#) previously for no deal preparations. These sorts of measures may ease some of the short-term problems – but they are unilateral and in the gift of the EU and do not provide business with long-run certainty.

It should also be pointed out that the political implications of a no deal outcome threaten to be every bit as significant as its economic fallout. Should the negotiations collapse, the outcome will doubtless be a period of mutual recrimination. And there will be obvious flashpoints where things could easily spiral out of control. To take one example, the British Government has (finally) admitted that, even with a deal, there will need to be some checks in Northern Ireland, albeit that it has made it clear that it intends to limit these as far as possible. With no deal at all, however, given the fundamentally different relationship with the EU that Northern Ireland and Great Britain would have when it comes to goods, those checks will be more intrusive and the border more obvious. Will this be manageable?

And all this in the context of a world in which many in the west are reconsidering their relationship with China, while Donald Trump continues to generate doubts about the future of the transatlantic bond. Cross-Channel tensions would hardly help either side craft a sensible and collaborative strategy to address such international uncertainties.

### *UK preparedness*

We have had no recent assessment of UK readiness for life in a no deal scenario. A lot of staff inside government working on Brexit preparation were diverted onto Covid-19 work and business bandwidth has been eaten up by coping with the consequences of the virus. In the run-up to October 2019, when the government told businesses to prepare for a no deal exit, the National Audit Office assessed that many had not taken that seriously. The government stood down its no deal contingency work earlier in the year but had said that it would start those preparations in earnest again if it assessed in June that the talks with the EU were likely to fail.

The UK will have been helped by last year's no deal planning. But the government then proposed a system that depended on a lot of unilateral mitigations – for example, prioritising flow over revenue at the border and continuing to recognise EU authorisations. Michael Gove has now made clear that if the UK ends transition with no agreement in place, the government proposes that the border operates with a full set of checks. Businesses therefore do have some idea of the preparations they will need to make. Indeed, the sort of deal that the Johnson government envisages means that many of the same preparations are necessary for a deal as for no deal – as Michael Gove told parliament, “Canada and Australia” (code for deal or no deal) are similar but not identical. Nevertheless, both for GB-EU trade and trade between GB and NI, the government needs to give further urgent, clear guidance on what they need to do.

The release of the UK's global tariff schedule – which will be applied to imports from WTO members after 1 January 2021 – reinforces concerns that, in the event of no trade agreement between the UK and EU, some sectors of the economy with intense trade linkages with Europe will be subject to moderately high tariffs. Car and transportation equipment will be the industrial sector most adversely affected if the UK and the EU are unable to negotiate a free trade agreement. Tariffs on approximately a fifth of automotive sector product lines remain at 10% ad valorem or higher. Food and agricultural products will also face a big change in their terms of trade. A large number of tariff lines remain at the level of the EU's World Trade Organisation tariff, i.e. high and restrictive. In the event of no trade agreement with the EU, this could have serious implications for food prices in the UK. Approximately 68% of tariff lines for animals, meat, and animal products are unchanged or only involve a nominal ‘currency conversion’ change. The same applies for approximately 44% of tariff lines for fruits, vegetables, and grains and approximately 66% of tariff lines for foodstuffs. Many tariff lines are subject to ‘simplification’, but these involve only small changes in duty rates.

The impact on the UK's large services sector will be less visible but no less tangible. The UK will need to reach bilateral agreements to recognise qualifications. Short-term business trips for UK passport holders will become much more complicated. Some sectors have already taken steps to allow business continuity in the face of no deal. There is evidence that over 320 financial services firms have moved parts of their business to different European centres (this could

include staff, assets or both). However, this is likely to be an underestimate, as firms have not sought to make such plans public for competition reasons. It is also important to note that moving staff in particular is likely to be a lagging indicator because a business will only do so when a new relocation destination has been decided. Because of this, moves out of the UK are likely to be gradual. Some have already happened, but more are likely to materialise once there is greater clarity about what the post-transition arrangements look like.

## Economic consequences

### *Trade impacts*

The economic consequences of various Brexit scenarios have been extensively analysed. Our modelling [suggests](#) that the long-term economic impact of a move to trading on World Trade Organisation terms might reduce UK GDP by up to 9 percent over a decade, compared to EU membership. The government's own analysis, published in 2018, reaches similar conclusions. A free trade deal along the lines proposed by the government ('Canada-style') would mitigate that loss, though this would still be up to 6 percent of GDP.

These analyses, however, look at the long-term impacts – they do not shed any light on whether the impact would change significantly as a result of extending the transition period or not, nor on the interaction between changes to trade arrangements at the end of 2020 and the Covid-19 crisis, which is a crucial consideration in current circumstances.

There are arguments in both directions here, as we have previously [observed](#). There are two possible arguments for not extending the transition:

- a) Both Covid-19 and Brexit represent substantial structural shocks to the UK economy, to which it will have to adjust. Some adjustment costs may overlap – if so, it makes sense to get them all out of the way at once
- b) If trade, travel, immigration, and tourism are already reduced, and perhaps still subject to some health-related restrictions, perhaps some extra friction will not impose much in terms of additional costs. David Davis, former Brexit Minister, has [argued](#) the pandemic “means that cross-border traffic will be depressed and customs will be more than able to handle the traffic”.

The counterarguments are the following:

- a) the recovery phase following the pandemic is precisely the wrong time at which to make major changes to our largest trading relationship. Businesses, both UK and foreign, will be seeking to re-establish themselves in international markets and to rebuild their supply chains. If this phase is combined with the sudden imposition of new trade barriers – as well as a rapid drop in the immigration of workers and students that has helped power the UK's growth in recent years – then the UK may find itself semi-permanently excluded from markets and supply chains.
- b) The nature of the adjustments required to Covid-19 may interact with the imposition of trade and regulatory barriers with the EU in such a way as to magnify the impact of both (for example, if global supply chains – and in particular trade with China – become less attractive or sustainable).

- c) The “overload” argument: business will not have the spare capacity (financial, management time, etc) to absorb a further major shock (the end of the transition period) immediately after the Covid-19 crisis.

It is not possible at present to assess these different impacts so as to construct a quantitative analysis of the interactions. Our view is that, on balance, the pandemic probably does make the economic risks of exiting transition in January 2021 without a trade deal larger, but the uncertainties are extremely large.

### *Immigration*

After the end of the transition period, the UK will cease to be part of the EU’s free movement area, and will introduce the new points-based system for migration from the EU (as well as the EEA and Switzerland). This will result in large changes to the UK immigration system, particularly for those seeking to move here from elsewhere in the EU. Note, crucially, that this will be the case whether or not there is a UK-EU agreement covering trade and other issues. Neither side has proposed significant immigration-related measures for such a deal, so these changes will be required regardless of the success or otherwise of the negotiations.

The implications of the new system have been extensively analysed [elsewhere](#). They are likely to lead to a significant reduction in migration from the EU, partly offset by a rise in skilled migration from outside the EU. The overall economic impact may be broadly neutral, although there will be significant sector-specific issues.

However, in this context, the relevant point is the timetable. Introducing a far-reaching reform to the immigration system in less than a year would have been [challenging](#) under normal circumstances. Ideally, employers would have a reasonably clear idea of the rules, processes and procedures by early autumn, when considering employment offers to migrants starting work in 2021. This is vanishingly unlikely. The Home Office is currently preoccupied with its response to the Covid-19 crisis, including (as regards borders, immigration and visas) with a number of urgent issues such as how to implement the proposed quarantine system for those arriving in the UK without undue disruption and the extension of visas for migrants currently resident. All this while a large number of staff are working at home, and against the background of other, ongoing immigration-related pressures such as the implementation of the EU Settlement Scheme and the aftermath of the Windrush scandal.

At best, therefore, there will be very limited capacity within the Home Office to explain the operation of the new system to employers, potential migrants and other sponsors before it is introduced in January 2021, with consequent confusion and disruption. At worst, there is a significant chance that the new system will simply not be ready or functional, at least for some categories of immigrants. Note that there is no obvious way out or fix here. Ending the transition



period means a new immigration system is required, since the current one for EU/EEA citizens (based on EU free movement law) will no longer exist.

The risks here are not just short-term disruption as the new system beds in, but the reputational risk for the UK. For the rest of the world, changes to immigration will be the single largest and most visible change resulting from Brexit. The [opportunity](#) here, as some proponents of Brexit have long argued, is that it will allow the UK to present itself as 'Global Britain', with an open, outward-oriented system encouraging skilled migration from the entire world. But if the introduction of the new system is perceived to be bungled and chaotic, it could have precisely the opposite impact.

## Northern Ireland

The big difference between leaving the EU with no trade deal in December 2020, as opposed to in March or October 2019 is that there is agreement between the UK and the EU in the legally binding Withdrawal Agreement on the regime for the trade in goods between Northern Ireland and the EU. The UK is legally obliged to be ready for the new system by the end of the year, which means introducing a customs and regulatory border between GB and NI to ensure that goods entering Northern Ireland can circulate freely in the island of Ireland (with no customs or regulatory border) without compromising the EU's Single market or Customs Union. The implementation of the Protocol is being discussed in the Joint Committee where the UK co-chair is Michael Gove, the Chancellor of the Duchy of Lancaster.

Some progress is being made. The UK published a paper in May setting out how it intends to implement the Protocol. But some areas remain contentious, not least the UK's proposals on how to ensure "unfettered access" for NI suppliers into the GB market, and how it proposes to handle tariffs on goods entering NI from GB. These need to be agreed in the Joint Committee – but the EU has said that they regard the publication of the paper as a useful step "unlocking" progress. However there is little technical detail; Northern Ireland business responded to the paper with [a list of more than 60 unresolved questions](#). But perhaps even more worrying than the technical issues – important as they are – are the political risks associated with implementing the Protocol. This will require goodwill and flexibility on both sides, even in the event of the failure of the wider UK-EU negotiations on the future relationship, and the inevitable tension and acrimony that this is likely to generate

## Conclusion

June was always going to be a critical month in the Brexit negotiations – and was recognised as such in the agreement the UK reached with the EU in October 2019. The negotiators already look set to fail to reach agreement on fisheries access that both sides aimed to deliver by the end of the month. It is arguable that this is too early a stage in the negotiations to see substantial movement on either side.

But as Michel Barnier has said before, the clock is ticking. We are at the mid-point between the start of the negotiations at the beginning of March and the autumn target that both negotiators think is necessary for ratification and preparation. The government appears set on ploughing on in the face of opposition from Scotland, Wales and Northern Ireland and a chorus of warnings from business organisations, which raises the potential political price of persisting with no extension and failing to get a deal.

The government still says it wants such a deal and both sides clearly intend to go on negotiating through the summer – hopefully face to face rather than via multi-screen video conferencing. But at the moment, both sides are locked into incompatible positions. It will take political impetus to change things. The next staging post will be the meeting later this month between the prime minister and the president of the European Commission. Many on the UK side appear to think that, ultimately, member state pressure will lead to a softening of the EU's position, despite all evidence to the contrary. The problem for the UK is that while Brexit is probably still in second place on the UK government's radar, it has fallen even further down the in-tray of EU leaders, who do not understand why the UK insists on proceeding while they are all preoccupied with dealing with the fall-out from the pandemic.

At the moment the prospects for a deal within the timescale do not look bright.



The UK in a Changing Europe promotes rigorous, high-quality and independent research into the complex and ever changing relationship between the UK and the EU. It is funded by the Economic and Social Research Council and based at King's College London.

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