



Brexit at a Pivotal Moment

November 28, 2018

UK Parliament to Vote on Withdrawal Agreement

Four months away from the United Kingdom's (UK's) expected withdrawal from the European Union (EU), discord and uncertainty remain central themes in the analysis of "Brexit." The efforts of UK and EU negotiators to reconcile a complex set of competing interests and preferences [have produced](#) a 585-page draft withdrawal agreement and a 26-page political declaration on the future UK-EU relationship. EU leaders signed off on the deal in late November 2018, leaving a vote by the European Parliament as the final step for approval by the EU before the March 29, 2019, withdrawal date. In the UK, however, pronounced divisions remain about how Brexit should look. The withdrawal agreement faces a crucial test when the UK Parliament votes on whether to approve it, a vote expected to occur on December 11, 2018.

A Tough Sell

Securing passage in the UK's Parliament is expected to be challenging for UK Prime Minister Theresa May. The draft agreement contains elements strongly disliked by each of the main British political factions. A transition period and the so-called Northern Ireland *backstop* are particular points of contention. During a proposed transition period lasting through 2020, which might be extended through 2022, the UK would be bound to follow all rules governing the [EU single market](#) while the two sides negotiate their future relationship. The backstop provision would keep the UK in the [EU customs union](#) beyond the transition period unless and until the two sides agree on alternate arrangements. The backstop was made necessary by the lack of an apparent solution to the [Irish border question](#), with both sides intent on avoiding a "hard border" (with customs checks and physical border infrastructure) between Northern Ireland and the Republic of Ireland to preserve the peace process and extensive cross-border economic relations.

Supporters of a "hard Brexit" fear the transition period and backstop could lead to the UK ending up a "vassal state" of the EU, bound indefinitely to EU rules in a wide range of areas (both sides would have to jointly agree to end the backstop). The UK would gain sovereign control over immigration policy but, as a member of the EU customs union, would be unable to conduct an independent national trade policy and conclude its own trade agreements, negating one of the main arguments made in favor of Brexit. It also

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would have to accept EU economic regulations and rules in areas such as the environment and labor market.

Skeptics of Brexit also criticize the deal as not only relegating the UK to a “rule taker” without a say in EU decisionmaking but also failing to provide certainty about future trading conditions. Advocates of “soft Brexit,” including much of the UK business community, maintain that permanent membership in the EU single market would be the least damaging outcome in economic terms and that an assurance of permanent customs union membership would mitigate Brexit-related uncertainties. Some in Parliament may vote against the deal in the hopes that its defeat would lead to an early general election or a second referendum on EU membership.

Meanwhile, Northern Ireland’s Democratic Unionist Party (DUP), whose backing is critical to Prime Minister May’s Conservative Party in Parliament, maintains strong objections to a provision in the backstop that would preserve deeper regulatory alignment between [Northern Ireland and the EU](#) to avoid a hard border. The DUP and others argue that treating Northern Ireland differently from the rest of the UK is unacceptable and threatens the UK’s constitutional integrity.

Prime Minister May maintains that the backstop will never come into effect because subsequent negotiations on the future relationship with the EU will make it unnecessary. The declaration on the future relationship with the EU outlines ambitions for deep cooperation and a UK-EU free trade area alongside the development of an independent UK trade policy. [Many critics](#) are not reassured by the text, however, viewing it as vague and noncommittal. The document envisions that a variety of “facilitative arrangements and technologies” could be used to overcome the impasse over customs checks at the Irish border.

This Deal or No Deal?

With potential opposition to the deal from a significant minority of Conservative Party members of Parliament (MPs), the DUP, and most of the Labour Party and other opposition parties, the initial [arithmetic](#) for passing the withdrawal agreement in Parliament appears unfavorable. If Parliament rejects the deal, a range of [possible scenarios](#) come into play, including Brexit without a negotiated withdrawal agreement (“no-deal Brexit”), a new attempt to negotiate a better deal, a leadership challenge to May and/or an early general election in the UK, and a second referendum. Several of these scenarios would suggest a need to extend the two-year window for the withdrawal process.

The threat of a no-deal Brexit may convince some MPs to vote in favor of the package despite their misgivings. Hard-line supporters of Brexit assert that a no-deal scenario could be managed through side deals on critical issues such as citizens’ rights and civil aviation. Many others, however, view a no-deal Brexit and a disorderly exit from the EU as a recipe for deep legal uncertainty and potentially severe economic disruption, and they urge Parliament to avoid such a scenario.

Issues for Congress

Given that both the [UK](#) and the EU are important U.S. partners on a range of global political and economic issues, many Members of Congress have a broad interest in Brexit. Administration officials and some Members have expressed support for a prospective [U.S.-UK free trade agreement](#) and may wish to consider how the outcome of the withdrawal negotiations affects the prospects for such an agreement. Brexit-related developments also have implications for transatlantic cooperation on foreign policy and security issues, including sanctions, counterterrorism, and defense cooperation. In addition, Members of Congress may have an interest in how Brexit might affect the [peace process in Northern Ireland](#).

Author Information

Derek E. Mix
Analyst in European Affairs

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