



BREXIT DAY: WHAT NEXT?

A briefing from FleishmanHillard's
global Public Affairs team

31 January 2020

OVERVIEW

AT 11PM ON 31 JANUARY 2020 (MIDNIGHT IN BRUSSELS) THE UK FORMALLY LEAVES THE EUROPEAN UNION.

“Brexit Day” brings to an end three and a half years of diplomatic wrangling and political strife over the Withdrawal Agreement and fires the starting gun on UK-EU negotiations on their future economic relationship.

For the next 11 months the UK will enter an a transition period (though the UK Government prefers the term “implementation period”). During this time the UK will be formally outside the EU, but remain within and subject to the rules of the Single Market and Customs Union.

The UK will also seek to negotiate bilateral trade deals with third countries, including the United States.

In this briefing, FleishmanHillard’s Public Affairs consultants from across our network come together to consider what comes next and how businesses can position themselves during a period where trade will inevitably come to the fore.





WHAT DOES THE TRANSITION PERIOD MEAN?

THIS WILL BE ANOTHER PERIOD OF SIGNIFICANT UNCERTAINTY FOR BUSINESS.

While day-to-day operations won't be impacted immediately by the transition arrangements, businesses will need to start preparing for a future EU-UK relationship, the shape of which will not be clear until very late in the day.

SO WHAT CHANGES?

After 47 years, the UK is no longer a member of the EU.

The Article 50 process is over and is now non-reversible.

From 1 February 2020, the UK will no longer have a presence in the EU's political institutions.

Boris Johnson will no longer attend meetings of the EU Council. Britain loses its right to nominate a Commissioner (though Johnson already chose not to do so last year). British Ministers will no longer be included in discussions of the Council of the European Union. The UK's 73 MEPs have lost their jobs.

Consequently, Britain has lost its say over new EU legislation and its representation within the EU's important technical agencies.

The role of UKRep, Britain's diplomatic presence in

Brussels, will change significantly. British officials in it will lose access to EU premises and information.

From 1 February 2020, UK nationals will no longer be EU citizens.

But the Withdrawal Agreement guarantees continued rights for UK citizens already in Europe and EU citizens already living and working in the UK.

Bigger changes will come after the transition period and both UK citizens living in the EU 27 and EU citizens living in the UK will be subject to national immigration processes.

EU citizens currently living in the UK should register for the UK's settled status scheme, which allows them to stay in with existing rights after the transition period. The deadline for registration is June 2021.

AND WHAT DOESN'T?

For the next 11 months the UK will remain a fully integrated part of the Single Market and continue to apply and be bound by all EU laws.

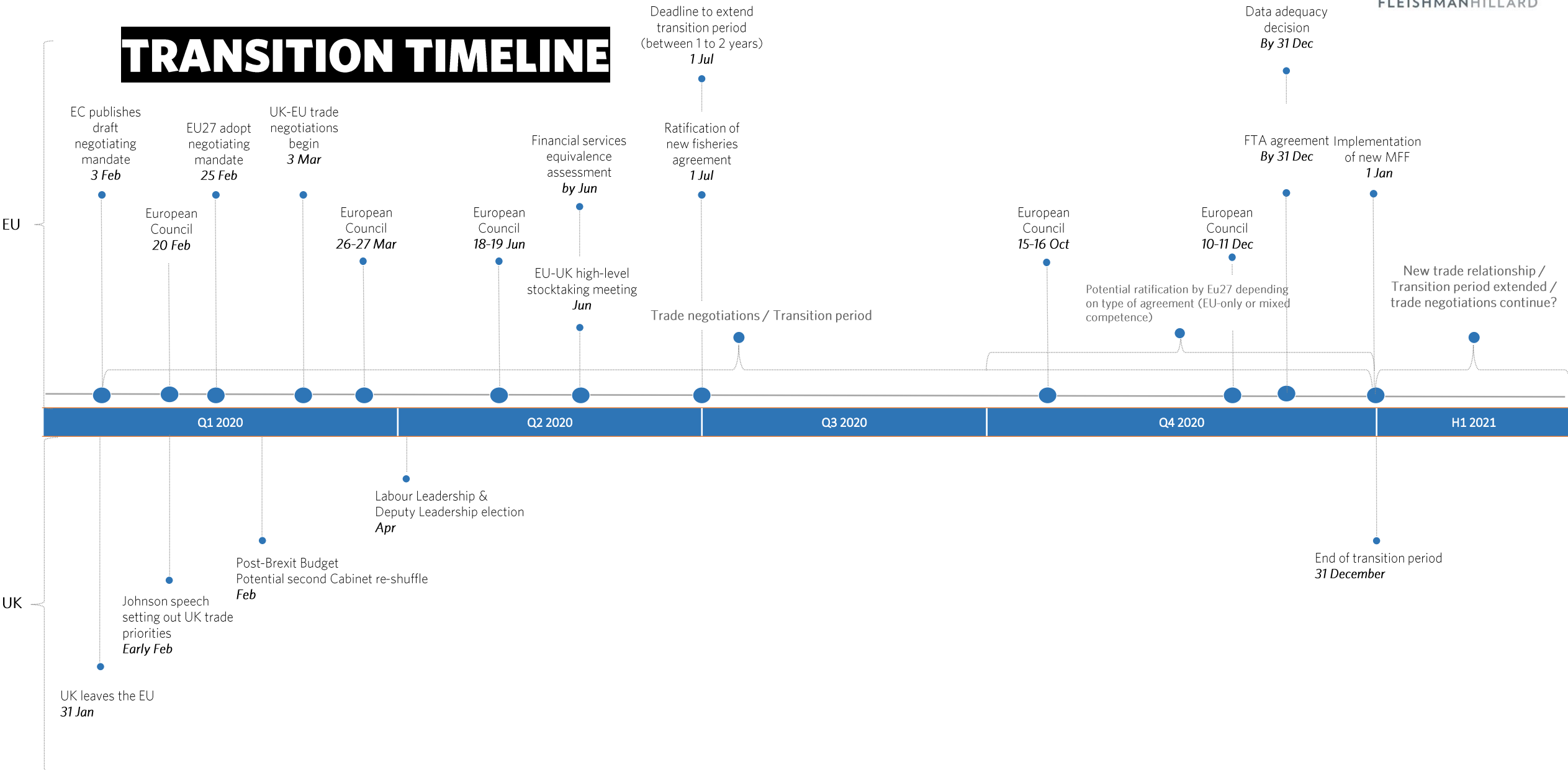
The UK will continue contribute to the EU budget.

British and EU citizens will continue to benefit from free movement.

British (EU) passports remain valid for travel (though new ones will be blue) and Britons can still use the same queues at airports.



TRANSITION TIMELINE





WHAT NEXT? THE VIEW FROM LONDON



Tim Snowball
Head of Public Affairs
FleishmanHillard Fishburn

Boris Johnson's election victory changed everything. But uncertainty for business remains.

On 12 December 2019, Brexit went from parliamentary standoff to executive-led inevitability. Johnson has a clear mandate to "Get Brexit Done", and for a short moment, there has been a semblance of clarity about Britain's future. Today brings that moment to an end.

From a British point of view, the path forward is no longer a domestic dispute. The Prime Minister has won the right to define the route ahead, or at least the position the UK takes in its negotiations with the EU.

In theory, the election result and strong personal mandate he has, should give Boris an opportunity to take a more flexible approach. He is, after all, no longer held hostage by backbenchers, or restrained politically to any real degree.

But since the Election, the signals from Number 10 are that the Prime Minister intends to take a more, rather than less, aggressive stance in the phase 2 negotiations.

Some of this is simply designed to strengthen the British negotiating hand. This includes the decision to firmly commit to a hard timetable of just 11 months, restoring the threat of a no deal crash out.

But by setting out an increasing list of red lines, Johnson is also making it increasingly difficult to U-turn later.

Johnson's team are now making clear that the Prime Minister will continue to put politics first, preserving "sovereignty", in terms of regulatory and legal independence, even at the cost of tariffs or border checks. Costs largely to be borne by business, initially.

From this we can deduce that the UK now seeks a narrower form of "Canada style" free trade agreement. A far "harder" Brexit than May ever envisaged.

At the outset it seems likely that any deal on the 11-month timetable will only cover goods, with other side-deals in areas of mutual interest. This will be of immediate concern not only to the UK service sector, but also to all businesses reliant on cross border legal arrangements, data flows etc.

The stage has been set for some major diplomatic fights, which, without care, could lead to no deal or a far more protracted process than that the UK desires.

U.S. trade deal

Meanwhile, the UK Government remains focused on securing a trade deal with the United States, something viewed by many Conservatives as the Holy Grail of a post-Brexit future. This parallel negotiation will further constrain the EU negotiations, with the United States likely to demand access in areas, like agriculture, which will force further divergence from the EU. The realities of this negotiation may be a rude awakening for the UK, a country with both less negotiating power and experience.

WHAT NEXT? THE VIEW FROM BRUSSELS



Donald Ricketts
Senior Partner
FleishmanHillard Brussels

"A GEOPOLITICAL AND GEOECONOMIC RIVALRY IS ABOUT TO START" PASCAL LAMY

The significance of UK's departure from the EU should not be underestimated.

For Brussels the very underpinning of peace and prosperity in Europe for the last decades is being put into play. Failure in Brexit Phase 2.0 is not an option.

Yet the stakes are stacked equally as high for the UK government. The promised fruits of Brexit must be delivered, and delivered fast.

So while diplomatic language will couch the public narrative on both sides with calls for a deep and ambitious UK-EU relationship, the harsh reality for business and citizens will be the start of 11 new months of uncertainty.

Finding the new equilibrium in the UK-EU relationship is unlikely to be a smooth or rapid process. Negotiations this year will determine on what basis a rolling set of negotiations will continue for years to come.

Both sides are entering an unprecedented post-divorce negotiation across a complex web of trade in goods, agri-foods and services, security and defence, transport, energy fish and data.

Painful strategic choices and unpalatable compromises will be needed from both sides. Many of which will create path dependency for future choices. This will be complicated further by the compressed timeframe within which talks will take place.

Does leaving open the possibility of divergence inevitably lead to divergence? Does divergence in one sector necessarily lead to counter measures being taken across all sectors? And once divergence has occurred is there a path back to alignment?

The voice of business will be crucial, but must recognize that this is a process where raw politics will weigh alongside pure economics.

As a case in point, the political consequences from the potential height and breadth of a future Irish Sea border within the UK may end up being as crucial as the economic consequences in shaping what is deemed an acceptable level of friction in the future UK-EU trading relationship.

The ultimate risks of a no-deal Brexit cliff-edge on 31 December 2020 remain real.

Deal or no deal, a full-blown UK-EU political crisis in the second half of 2020 looks a near certainty, and the outcome will determine Europe's economic and political balance for years to come.

WHAT NEXT? THE VIEW FROM BERLIN



Henrick Hagemann
Head of Public Affairs
FleishmanHillard Germany

While the departure of the United Kingdom at the end of this month poses a historical challenge for the entire European Union, Germany is losing its most important trade partner and one of its key strategic allies inside the bloc.

Losing an ally

Some of the most significant EU achievements of the past 30 years - the establishment of the Common Market, the realisation of comprehensive trade and competition policies, and the enlargement to Eastern Europe - stemmed from a strong London-Berlin axis.

These achievements also provide the cornerstone for Germany's position as an economic powerhouse. So losing Britain as a sparring partner and close political ally will be hard felt.

Robust on European unity

From day one of the Brexit process, Berlin has insisted on a common, multilateral position towards the UK. This was not only to strengthen the EU's bargaining power but also reinforce the institutions of the European Union.

Britain cannot expect that a CDU-led German government (likely to continue after the next General Election) will change course.

There will be no room for bilateral deals with Germany in the next decade.

This notion also applies - please note - to the European Court of Justice as the highest authority when it comes to established rules for solving matters of trade, cartel, competition and other disputes (my personal advice for everyone in Whitehall is to print out the CETA agreement and carry it always with you).

Room for manoeuvre?

There are however potential areas where the current (and likely future) German government might show willingness to compromise to protect German interests:

Firstly, Germany recognises that London is the only true global city in Europe. The status of London's financial sector will remain unmatched even if rivals on the continent such as Paris and Frankfurt lure some institutions away from the City. Key figures in Germany, government or business, are aware of this reality and will work hard to prevent a cut-off from this key marketplace, urgently needed by Germany's export economy.

Second, in matters of security - especially given Germany's obsession with pacifism - there is no way that the Europeans can work without their second nuclear power. Not to mention the data prowess of the UK secret services in the fight against global terrorism.

The European Union will hardly be able to avoid forging close ties with the UK over the coming years. That is also and primarily in the interest of Germany, who we can expect to be a key driver towards this end.

WHAT NEXT? THE VIEW FROM WASHINGTON



Mike Schmidt
Head of Public Affairs
FleishmanHillard Washington, D.C.

What do Washington and U.S. executives think about Brexit? There's little evidence there is much thought about it at all.

President Trump, never shy, made clear a long time ago he believed the UK should leave the EU. Members of Congress and corporate leaders were exceedingly quiet publicly during the years-long Brexit stalemate, concerned more about the next round of White House tariffs, a China-U.S. trade war and negotiations on a new North American Free Trade Agreement, the U.S.-Mexico-Canada Agreement. Since the UK election on December 12 and the Brexit breakthrough, the American political class has been consumed by impeachment, Iran and the 2020 race for the White House.

Somewhat surprisingly, given all this and the fact that Trump has a partial agreement with China and finalized the USMCA on January 29 – more than enough for him to tout his deal-making during the upcoming presidential election – a UK-U.S. trade agreement is a real possibility this year. Trump is keen to make his next deal. There has a nice ring to it. An agreement with the UK is more likely than one with the EU, a favorite Trump foil.

“Britain and the United States will now be free to strike a massive new trade deal after Brexit,” Trump said after the UK election last month. “This deal has the potential to be far bigger and more lucrative than any deal that could be made with the E.U.”

The UK is the U.S.’s seventh largest trading partner and fourth largest export market. The U.S. exports roughly \$125 billion in goods and services annually to the U.K. By comparison, the U.S. ships roughly \$300 billion per year to Mexico and another \$300 billion to Europe.

Despite Trump’s friendly relationship with Boris Johnson, a deal is not assured.

Talks can now begin, but there are two main sticking points already: whether the UK will relax its food safety standards to allow imports of American chicken washed with chlorinated water and if U.S. pharmaceutical companies will be able to compete for contracts with Britain’s National Health System.

The other main challenge is the political clock. Trump doesn’t need the deal for his re-election bid and the Prime Minister won’t be keen to cut a quick deal that appears to be bending to Trump. The two leaders and their governments can strike a deal but the window for one to get done this year is already closing.

COMMUNICATING BUSINESS PRIORITIES DURING TRADE TALKS



Nick DeLuca
Senior Counsel
FleishmanHillard Fishburn

"THE WORLD IS RUN BY THE PEOPLE WHO TURN UP."

"Trade". In 2020 this is a word we are going to hear often.

Even in the obtuse world of politics, "trade" is a public policy area that sends fear (or loathing) rippling through the veins of even the most seasoned government relations practitioners.

To most, "trade", trade policy and trade negotiations are complex, legalistic and exhausting concepts. Unlike more traditional legislation or regulation, the rules of engagement seem arcane, prohibitive, even incomprehensible.

And while globalization and the institutionalization of trade rules and practices - in the form of the WTO - has brought a greater sense to businesses of the importance of the formal processes of trade (negotiations, agreements, disputes) it has not simplified them or made them easier for companies to manage.

As the UK prepares to begin its departure from the

European Union, it also gears up - looking both East and West - to begin trade negotiations as the United Kingdom for the first time in 50 years.

All businesses who sell goods and services abroad, as well as those that buy them into the country, should now be planning how to engage in the talks that will start with Brussels, Washington and eventually beyond.

Now is not the time to passively assume the Government will "take care" of you, your business and its interests. It probably won't.

So, here are a few quick tips, and some dos and don'ts to keep in mind:

- Know what you want and what you need.
- Know what you are afraid of.
- Know who your friends are - in Government, in other businesses, the media.
- And know your enemies.
- Know the detail. (Trade talks are complex. Dedicate a person. Hire experts.)
- Recognize that your lawyers, public affairs, communication and business leaders will need to work together.
- Work with all sides of the talks. Be seen as constructive. Offer solutions. Share intel. Be seen as a valued asset in the room.
- Prepare for the long haul. Talks can last 5, 10 years or more.
- But act. Get in the game. And do so early. That's now!



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