

POLICY PAPER

No 3

The Brexit Timetable

Key Questions and Challenges for the UK and Scotland

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June 2017

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Introduction

The Brexit talks are due to start on Monday 19 June. Under Article 50, an exit deal must be agreed and ratified before 30 March 2019, otherwise the UK will simply be deemed to have left the EU on this date. It was a very tight 21-month timetable, even before the general election made it look many times more difficult to keep to.

Talks must cover an exit deal, including transition arrangements, and the framework for a future UK-EU27 trade deal. All this must happen in parallel with the UK sorting out its own future policy and legal frameworks, including many questions that involve Scotland and the other devolved administrations. The UK government plans to tackle this through the Great Repeal Bill and other necessary bills (including on migration, tax, agriculture and more).

In this paper, we outline the timetable and key questions and problems for the UK and Scotland that are likely to arise at different points in the coming months. There is, of course, a clear risk that the talks could break down, perhaps irretrievably. Here we look at what is likely to happen, assuming the talks stay on track and a deal is done and ratified by March 2019. We do not here go into the additional problems posed of having an unstable minority government but this will clearly make both tracks – the talks in Brussels and the interrelated, necessary domestic legislative processes – many times more difficult. Brexit is not only a UK-EU27 deal – it requires a whole raft of laws and policies to go through Westminster and that is now many times more difficult. We do not either go into the question of how long the subsequent comprehensive trade and security deal will take to negotiate and ratify – though it will take several more years after 2019. Our focus here is on the exit and transition deal.

(1) The Main time table rendez-vous points

The EU27 and the European Commission have been clear that they want to start with a focus on the priority issues concerning an exit deal. Only with progress on these issues will they then start talks on the outline of a framework for a future EU27-UK trade deal. Article 50, though, is clear that the exit deal should be done in the context of the framework of a future trade deal, and this is being relied on by the UK government to argue talks on a trade deal should instead run in parallel with exit talks.

However this disagreement is resolved, the two sides do appear to agree that any transitional arrangements have to be discussed last since, without knowing the goals and outline of a future trade deal, it is impossible to set up a consistent and appropriate transition path (even if the UK government still asserts, improbably, that a full trade deal can be done by March 2019 – though it does allow that some implementation phase may be necessary).

If talks on the exit deal start from 19 June, and talks on a framework trade deal start in the autumn or by the end of 2017, then transition talks may not start for a year – perhaps in June 2018. If and when a full exit deal is agreed by autumn 2018 – or perhaps as late as December 2018 – this will then need ratifying at Westminster, by the European Parliament and by a super-qualified majority vote of the European Council (at

27 member states). On this timetable, the UK and EU27 would, just, be ready to dissolve their partnership by 30 March 2019.

In parallel to the negotiations, changes will need to be made at the domestic level. The Great Repeal Bill, and others bills, will be going through Westminster – and potentially also through Holyrood and the other devolved assemblies. These two paths are not unrelated – decisions on future UK laws, regulation and policies that will be taken in these various Brexit bills need to reflect the negotiation outcome and may also themselves impact on it – both in terms of transition and the future trade deal. This may create a complex, even tangled, interdependency between these two tracks.

(2) Negotiating the exit deal

The EU's guidelines for the talks, and its more detailed negotiating directives – and the European Parliament resolution on the talks – make clear that there must be sufficient progress on the priority exit issues before talks turn to a trade framework.¹

The top three issues for the EU27 are the rights of EU citizens in the UK, and UK citizens living elsewhere in the EU; Northern Ireland – not undermining the Good Friday Agreement and ensuring a soft border; and the UK's budget liabilities.

The European Commission, following up on its promise of transparency in the talks, has recently published two more detailed working documents on the rights of EU citizens and on budget issues which illustrate only too well how complex and detailed each of these issues is.²

EU citizens in the UK and UK citizens in the EU

The UK has said that it too wants to move quickly on the EU citizens question to provide reassurance. But it is a highly complex issue to resolve – ranging from whether all EU citizens in the UK, and UK citizens elsewhere in the EU, retain their rights as EU citizens for their whole lifetimes (including access to welfare and services) to how this agreement is overseen (with the Commission arguing for the European Court of Justice (ECJ) to oversee it). Progress will be difficult but the main elements of a deal on this vital and sensitive issue should be apparent by autumn 2017, if the talks are to stay on track.

David Davis, in his role as Brexit Secretary, has said the 'row of the summer' will be over whether these exit issues are all discussed before the trade framework is negotiated or in parallel. Whether the EU27 will offer some compromise on this – for instance to start such talks in early rather than late autumn is an open question. If the UK does at least start talks on budget and the Northern Ireland issues, then that may give the EU27 a chance to say sufficient progress has been made by October rather than December, if there is a spirit of compromise.

Squaring the budget deal

The budget talks will be some of the toughest of the exit negotiations, with the issue highly sensitive and politically salient on both sides. The Commission has proposed the two sides agree a methodology first – the data to use, the areas to cover – and only calculate an actual figure later. Some progress will need to have been made on this by autumn, if talks on a trade framework are to start – and if the exit deal is to have any

chance of being agreed by the end of 2018. The UK is looking at questions of its assets in the EU, or share of EU assets, an issue that the two sides are likely to disagree on fundamentally – except for the UK's capital contributions to the European Central Bank – since the EU27 appear to see assets as something to be retained by the EU.

The budget deal will though need revisiting later too, since there will be questions of budget payments from the UK if the transition deal, as part of the exit deal, involves the UK staying in EU programmes and agencies or even for a while in either the single market and/or the customs union. The UK is expected to want to stay, beyond the transition period, in some EU research and education programmes, amongst others. So there will also be issues there on future payments that can only be finalised once the transition approach and outline trade deal is agreed by autumn 2018. The budget deal may have to be dealt with at the start and the end of the exit talks.

Northern Ireland

Progress on ensuring there is a soft border between Northern Ireland and the Republic of Ireland – despite it becoming the external border of the EU27 with the UK – may look relatively straightforward in that there is political goodwill on both sides to find a solution. But the issues are difficult, both technically and politically.

Even if, as is likely, a future UK-EU27 trade deal involves tariff-free trade, there will be customs procedures and non-tariff barriers ranging from rules of origin covering third country exports (with the UK outside the EU's customs union) to regulatory differences and customs declarations of compatibility or equivalence with EU regulations. While the Common Travel Area may help to ensure people can still cross the border between Ireland and the UK without checks, issues around goods and agriculture look quite tricky to resolve.

The best that may be hoped for on this question is to outline some basic principles and some areas of technical agreement by autumn 2017. More work will then have to be done on this once the outline trade framework has been agreed, so the two sides may have to revert to this issue in summer or autumn 2018. It may also be a question that will in part be postponed until later – if UK-EU27 transition arrangements are compatible with a soft border between Ireland and Northern Ireland, then the challenge will be to ensure that the soft border remains once the comprehensive trade deal is done in the years after 2019.

(3) Outline of a framework for a future trade and security relationship

If progress has been made on the key exit issues in the first 3-6 months of talks, then the beginning of talks on a future comprehensive trade and security UK-EU27 deal can start. While the discussion of this has mostly focused on trade, it will at least have to cover (or cover in separate deals) security including foreign policy cooperation, anti-terrorism cooperation, other police and criminal justice cooperation.

Article 50 only talks of a 'framework' of a future deal, which leaves open the question of how much detail may go into such a framework. The broad consensus – though one not

yet shared by the UK government – is that such a framework will only be an outline compared to the time and depth that a future deal will involve. Apart from the time necessary to agree a full deal (perhaps 3 to 7 years plus two years for ratification), the EU has repeatedly emphasised that it cannot legally agree a trade deal with the UK until it has become a third country outside the EU.

The exit deal, according to Article 50, is to be agreed on the EU side by a super-majority vote in the European Council (72% of the 27 member states, representing 65% of the population) and by a simple majority vote in the European Parliament. What is less clear is whether the framework of a future trade deal is also included in this vote, or is rather treated as a declaration of intent issued by the European Council. What the EU27 will want to avoid is the outline trade framework being treated in the way a final full trade deal would be (i.e. requiring ratification across EU national and sub-national parliaments).

The EU27 have yet to show their hand on the question of a future trade deal – beyond emphasising that the UK cannot have full access to the EU's single market if it doesn't respect the four freedoms, including free movement of people. Importantly for the timetable, the EU27 will have to draw up and agree negotiating guidelines for that trade framework before they can start talks on the issue. So even if the UK walks away from the negotiating table over the summer in an effort to get the EU27 to begin trade talks, the EU27 would have to go through their own procedures before they were ready to start outline trade talks. Equally, the UK has been clear on some of its red lines – no free movement of people, no role for the European Court of Justice – but its detailed proposals for a future trade deal are also not yet known (though presumably do exist behind closed doors).

Agreeing tariff-free trade as a goal of the future trade relationship may be one of the easiest parts of the trade discussion, at least for goods. Agriculture could prove somewhat harder – both for tariffs and for non-tariff issues. Will the UK government know by 19 June (when it wants to start discussing trade as well as exit), or even by the autumn, what it wants its future agriculture policies to be?

Services will be a particularly tricky part of the discussions. Existing EU trade deals do not, in general, offer very much better access than is available under WTO rules. The EU has a regulatory equivalence agreement with the US on financial services, for example, something that took four years to be agreed and can be suspended unilaterally by the EU.

For both goods and services, the tough issues will be around regulatory questions. While the UK has said that, on exit, it will still have the same regulatory rules as the EU27, through the passage of the Great Repeal Bill, in fact regulation is likely to already diverge to some extent at that point. More importantly, any trade deal or outline will need to take account of future regulatory divergence – whether in chemicals, drugs, vehicles, engineering products, financial or health services, amongst many others. Coming to agreement on these non-tariff barriers – how businesses show regulatory compliance or equivalence, what sort of customs procedures around these issues will be required – will take time and will determine how many frictions are introduced into UK-EU27 trade (and so how much trade may fall compared to being in the EU).

The UK and EU27 will need to agree a dispute settlement mechanism for their future trade agreement and to cover disagreements over regulatory divergence in particular. This will be sensitive and difficult not least with the UK's red line that the ECJ should play no future role in the UK. The outline framework will have to establish at least the aims for such a future mechanism – and there will need to be an agreed mechanism for the transition period.

Since the UK wants to determine its own trade policy with respect to the rest of the world, it will be outside the EU's customs union. Like Norway, it will therefore have to make declarations on rules of origin for its products exported to the EU (and vice versa) – so that third countries like China or Brazil do not circumvent EU tariffs by coming in through the UK. Customs procedures will need to be agreed for this new situation and the UK will have to invest in the necessary infrastructure to deal with an increased volume of customs declarations and, potentially, with longer waits at or near the EU/UK border.

The UK will also need to strike separate deals with Norway and the other EFTA countries, since they are not part of the UK-EU27 trade deal (and would only be part of any transition arrangement if the UK were to transition, at least at the start, via the European Economic Area (EEA)).

Discussions on a trade framework will need to take into account the UK's future regulatory plans. Will the UK seek to replace some or all of the EU's 34 regulatory agencies or to stay associated in some cases with the EU agencies? Will some of these agencies be devolved – for instance for environment or fisheries? And when will the UK take these decisions? The UK has two main options here – one is to give the work of the EU agencies to its own government departments or it can set up quangos. Quangos are often set up by statute (and would require premises, staff and a budget).

It is clear from this very brief discussion that not all these issues can be tackled by the UK in the next one to two years. This could mean that the UK will stay in a number of EU agencies during its transition. But it also indicates why a comprehensive trade deal cannot be done in the window from June 2017 to June 2018 (allowing time for a 3-4 month negotiation on the transition arrangements). An outline framework may have to remain vague on many points, to be returned to in full trade talks once the UK's future regulatory and legal structures are clearer.

The UK will, at the same time, have to legislate for its future migration policy once it leaves the EU. Once it is outside the EU, the UK can set its own migration policy, separately from the EU, yet EU leaders have made clear that without free movement of people, any EU27-UK trade deal will give less access than now. This leaves open the question of whether a more open migration policy in the UK would result in a better trade deal than the harder migration policy, currently proposed by Theresa May (to bring net migration down to 100,000 or less). Timing once again comes in – when will the UK legislate for its new migration policy, and if this does indeed impact on trade talks, how might that slow down any agreement on a future framework for UK-EU27 trade?

The UK also has to consider how to replace a whole range of other international agreements that are currently dealt with by the EU. One part of this will be creating the

UK's own WTO schedules to replace its current part in EU ones (this has to be done even with an exit deal – it is not simply something needed for a 'WTO cliff' scenario).

A detailed study by the Financial Times has suggested there may be 759 international agreements and deals that the UK will need to replicate, abandon or renegotiate.³ Will the UK be able to deal with this by March 2019, and if not – and since it won't yet be a third country and so in a position to deal with most of them – will it be able to stay part of EU international treaties through some of the transition, while also aiming to start its own range of trade talks from April 2017? If the EU agrees, would the third countries that are party to these agreements need to agree as well?

If the exit talks are to stay on track, all these issues will need to be dealt with by either including them in the outline trade framework by June 2018, or by postponing them until the future post-2019, post-Brexit trade talks.

(4) Agreeing transition arrangements

A transition phase of a few years will be needed to ensure there is not a sharp disconnect – or indeed a 'WTO cliff' – between the UK's exit in March 2019 and the agreement of a future UK-EU27 comprehensive trade and security deal some years later.

It is crucial, for such a deal to be agreed, that it is part of the exit deal, voted on by the European Council in early 2019. If the transition deal was seen to be a separate deal then it would risk needing to be ratified across EU member state parliaments, which would not be possible within the two-year Brexit timetable.

The EU27 leaders and the European Parliament have been clear the transition deal should not be open-ended, with the European Parliament suggesting a three-year limit. It is hard to see how a fixed timetable can be squared with future trade talks being open-ended – perhaps taking 3 to 7 years plus ratification. It is possible a form of words will be found for this – a means to extend the transition without allowing it to continue indefinitely.

The transition arrangements are likely to have multiple stages. Putting in place necessary customs structures on both sides might, for instance, take one to two years, the UK establishing new regulatory agencies could take 1-5 years (depending on the area) while EU citizens' rights might last 100 years (if it covers the lifetime of all citizens affected).

Some of these issues will also need revisiting. There will, for example, be customs procedures for the transition and then amendments to those procedures whenever a final trade deal enters into force. Arrangements will differ across different regulatory areas depending whether the UK is leaving an EU agency, staying associated with an EU agency (permanently or just for the transition) and so forth.

Might the UK stay in the EEA and the customs union for its transition? It seems unlikely that this could happen – except perhaps for the first year or so. To stay in the EEA, the UK would need to continue with free movement of people. If it stayed in the customs union, the UK could not agree its own trade deals with other countries. So while it may

need something close to the EEA if goods and services trade is not to be disrupted, it looks like it will need to be a bespoke arrangement.

Even in the EEA, there will be regulatory issues – Norway for instance is in, or associated with, some but not all EU agencies. If the UK is outside the customs union, then it will need to apply rules of origin procedures to goods exports from 30 March 2019.

Will the UK government consult the devolved administrations over the transition arrangements? The Scottish government, given its policies so far on Brexit, would presumably favour a transition through full membership of the EEA. If instead there is a bespoke transition arrangement for the UK, some of which will touch on devolved areas, how will this be agreed – or will it simply be decided by the UK government in the EU Brexit talks?

If Scotland did hold a second independence referendum before March 2019, as Nicola Sturgeon has proposed, how would this then impact on transition if there was a ‘yes’ vote? Scotland would at that point be aiming to transition back into the EU while the rest of the UK was transitioning out. But there may not be time, at that point, to establish a separate transition for Scotland.

Overall, it is clear that establishing a transitional arrangement is vital but will not be easy – it needs to cover all aspects of the UK-EU27 relationship. Yet if the Article 50 timetable is to be kept to, the negotiations on a transitional deal will probably need to happen in a 4-5 month window from June 2018 (if an outline framework on trade is ready then) to October or November 2018.

One further issue that could derail the timetable for exit, transition and an outline framework for trade is the potential role of the European Court of Justice. If it is asked for an opinion on whether the withdrawal agreement (including the transitional deal) is compatible with the EU treaties, this could seriously distort the timetable. Such a request can be made by any member state, the European Parliament, the Council or the Commission (i.e. a large number of actors). If a request is made, it can take many months for the court to decide, which would probably make an extension of the two-year period necessary to avoid a cliff edge. This would have to be agreed unanimously by the EU27 and the UK, which may or may not be politically feasible at the time it occurs.

(5) UK domestic legislation and politics ahead of Brexit Day

The parallel timetable to the Brexit talks in terms of domestic preparations for 30 March 2019 exit is challenging both in itself, and in terms of its possible interdependencies with the UK-EU27 talks process.

The Great Repeal Bill

The Great Repeal bill will need to have completed its passage through Westminster and the devolved assemblies by June 2018 to allow time after that for secondary legislation, establishing regulatory structures and so forth. Equally, other bills – from migration to trade to tax – will also need to be through parliament including, where relevant, the devolved assemblies.

The white paper on the Great Repeal Bill seems to assume a fairly tight timetable. The white paper acknowledges that changes to EU law converted into UK law will be necessary to make those new UK laws function (e.g. to replace references to EU agencies with references to UK equivalents; or to eradicate references to 'EU law'). Indeed, the white paper admits that – based on a first trawl of the statute book – a significant proportion of EU law contains provisions that would not function properly if simply translated into UK law. Hence, the Great Repeal Bill will give delegated powers to the executive so that they can 'put in place the necessary corrections before the day we exit the EU' (emphasis added).

This is easier said than done. Firstly, there is a procedural dimension to this. The UK parliament plays a role in the making of secondary legislation, which the white paper recognises. Two procedures are currently available. An affirmative procedure where both Houses of Parliament must expressly approve a change; and a negative procedure (usually within 28 days), where either house can annul a proposed statutory instrument within a given time frame (usually 40 days). Of course, the Great Repeal Bill could introduce a wholly different model of parliamentary scrutiny (e.g. by giving greater powers to committees), but in any event changes will take time to be processed.

Secondly, there is the devolution dimension. Will these repatriated powers be given to the devolved governments where they concern devolved issues? This would be the default position under the devolution settlement, but the government indicated in its white paper that the Great Repeal Bill would provide 'an opportunity to determine the level best placed to take decisions on these issues.' If repatriated powers are given to the devolved legislatures and executives, then there may be delays if the devolved governments don't get their act together quickly enough in taking over these powers and translating EU laws into Scottish, Welsh or Northern Irish law.

Thirdly, there is a practical dimension. While some changes can easily be made before details of the exit deal, the transitional arrangement and the future relationship are known, others cannot (since for example a deal on agricultural trade may require certain constraints on the UK's – and Scotland's – future agriculture policies). In addition, the development of EU law will not stop with the passage of the Great Repeal Bill so that the latest changes taking place before 30 March 2019 will somehow need to be incorporated. Hence government departments will have to keep a close eye on developments and ensure that the necessary changes are made a) in a manner that correctly reflects the arrangement agreed with the EU; and b) in time for the procedure to be completed (e.g. if the negative procedure is adopted, this means that at least 40 days before Brexit everything will need to be done and dusted).

Legislative consent?

It should be expected that Holyrood and the other devolved legislatures would need to pass a legislative consent motion at least for the Great Repeal Bill. When would this happen – and what happens if Holyrood refuses consent?

In the 2013-2014 session of the Scottish parliament (which was the last one without an election or referendum interrupting the timetable), legislative consent motions took between 20 and 163 days to be passed (that is from introduction of a legislative consent memorandum by the Scottish government until the motion was passed by the Scottish

parliament). The average duration was 74 days. That is not particularly long, given that the motion goes to committee first and is then voted on. But of course the Great Repeal Bill is a very complex one and so this timetable is likely to be longer.

What if Holyrood, as is quite likely, votes down a legislative consent motion (or more than one) on the Great Repeal Bill (and other Brexit-related bills)? The Sewel convention will then come to the fore. Crucial here is that the convention only applies 'normally' – the Scotland Act (s. 28(8)) says: 'But it is recognised that the Parliament of the United Kingdom will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament'.

The UK Supreme Court also said in Miller that it is not judicially enforceable, so even if Westminster went ahead and passed the Great Repeal Bill without obtaining the consent of the Scottish parliament (and the other devolved legislatures), then the Great Repeal Bill would still become a fully valid Act of Parliament. What sort of political and constitutional crisis or debate would be seen in such a context is an open question, but Westminster legislating to overrule the views of the Scottish parliament on devolved matters related to Brexit will surely not be a small political problem.

Returning EU powers to Westminster or the devolved administrations?

As well as legal and procedural timetabling issues, there are already political disputes over whether all EU competences in agricultural, fisheries and environment should be returned to Scotland (as the Scottish government asserts) or whether (as the UK government has so far asserted) these powers revert to the UK which then decides (unilaterally or in agreement with the devolved administrations?) which of these will then be devolved.

As discussed in the earlier parts of this paper, the UK will also need to establish a range of new regulatory arrangements as it leaves (all or some of) the EU's agencies, and some of these arrangements will need to happen via the devolved assemblies and/or administrations.

How any political standoff will be resolved, and how long this will take, also needs to be factored into the timetable. If there is a continuing dispute on these devolved competences, will the UK government simply ignore this dispute, push new agriculture, fisheries and environmental policies through Westminster and then include those policy positions, where relevant, as the basis for its UK-EU27 talks?

The question of the role and powers of the devolved administrations in Brexit decisions is one that will recur across most of the Brexit areas. So far, consultation through the Joint Ministerial Committee has been seen as highly inadequate in Scotland – and indeed in Wales too (with the situation in Northern Ireland rendered even more complex by the absence of a government).

The UK government looks unlikely to devolve all EU-level agricultural, fisheries, environmental and other policies to Scotland. If it did, there would then need to be new pan-UK structures to agree common UK policies in these areas where entirely independent policies in the four parts of the UK would not make sense. This could take some time. This would also impact on trade policy (and so on Brexit trade talks). Trade is reserved but if agriculture, fish and environment were fully devolved then the

devolved administrations would need to be consulted on trade negotiations, if there was not to be a risk of direct inconsistency between trade deals at UK level and policy decisions and laws at devolved level.⁴

Even if only some of these powers are returned to the devolved administrations, the question comes up how quickly they can develop and apply new policies and laws in these areas and whether, and where, this might impact on the UK-EU27 talks on exit, transition or trade deals. For the Scottish government, with its declared aim of independence in the EU, there is also a question as to whether new policy choices in these areas aim to keep Scotland as close as possible to existing and future EU laws.

Will the UK be ready domestically?

Overall, there is a huge amount to be done domestically to ensure the UK is ready to exit the EU on 30 March 2019. For this to happen within the 21-month period from June 2017 will be challenging indeed – technically, legally and politically. The Great Repeal Bill, in particular, will need to be through by June 2018, including any legislative consent motions or other requirements from the devolved assemblies. Other bills – migration, tax, trade, customs and more – will also need to be passed and ready for implementation by March 2019. This timetable is challenging enough but some of the necessary decisions and choices – on new policies, on devolving EU policies, on regulatory agencies and so forth – may also impact on what sort of trade framework the UK government is pursuing.

It seems clear that an entirely consistent, logically-sequenced process is rather unlikely.

(6) Conclusion

If Brexit is to keep to its timetable, then the next 21 months are going to be extremely challenging. The EU27 and UK have to negotiate an exit deal including a set of transition arrangements, ratify that deal, and agree an outline of a UK-EU27 trade framework. Table 1 sets out a summary overview. Even if talks go relatively well, it will be extremely challenging to keep them on track within the 12-month timetable.

At the same time, the UK has to take existing EU laws into its own laws, develop its own regulatory structures and frameworks and develop a range of new policies and laws – from migration to trade to tax. Many of these decisions will impact on the UK's position in the Brexit talks. The two are interdependent, which adds to the complexity both of the talks and of the UK policy debate – and adds to timing challenges.

A political debate within the UK has already started over which EU powers will return to the devolved administrations. How this is resolved, how soon the devolved administrations and assemblies will be ready to develop and apply new policies, and what will happen if devolved assemblies refuse consent to the Great Repeal Bill (or other relevant bills or parts of bills) are all open questions.

The timetable is tight, with little scope for slippage. By this autumn, the key elements of an exit deal need to have been pinned down. By summer 2018, an outline UK-EU27 framework for a future trade deal needs to be agreed. Between June and November 2018, a complex set of transition arrangements need to be agreed. In parallel, the UK has to get the Great Repeal Bill through by summer 2018 and other Brexit bills too.

Six Challenges

There are many challenges – in summary, we highlight six:

- There are complex interdependencies between decisions taken in the UK-EU27 Brexit talks, on the one hand, and necessary domestic legislation, development of regulatory structures and devolution of powers on the other hand. Sequencing of new laws, policy decisions and Brexit agreements will be key. Brexit is unlikely – over the 21-month timetable – to be an entirely logically-sequenced and consistent process.
- The UK will not be able to develop all the required new post-Brexit regulatory structures and processes within 21 months. So these will need to continue to be developed during a transition phase – and decisions taken then on regulatory structures and policies will impact on the final trade agreement talks (that will occur during the transition).
- The exit deal (money, citizens, Northern Ireland) will need to be done provisionally by autumn 2017, the outline trade deal by June 2018, the transition arrangements by autumn 2018, then ratification. There is very little room for slippage but these highly complex processes will be difficult to keep to timetable even with goodwill on both sides (even less so if there are some acrimonious delays and standoffs).
- The UK and EU27 will have to revisit areas – such as the Northern Ireland border issues – rapidly once the outline trade framework is agreed. The UK (and devolved administrations) will also have to be ready to revise its new legislative frameworks (from the Great Repeal and other bills) firstly to reflect changes in EU law that are likely to happen after the bills have gone through but before 30 March 2019 and secondly to be consistent with the transition arrangements (only agreed by October – or at latest December – 2018).
- If the UK decides unilaterally on what EU areas of competence to return to the devolved administrations (in devolved areas) or ignores the devolved assemblies if they reject a legislative consent motion, there will be a serious political and constitutional crisis which may also impact on the Brexit timetable and on whether the UK will be ready to function outside the EU on 30 March 2019.
- The devolved administrations will have a large number of new policy areas, laws and regulatory structures to develop ahead of 30 March 2019, (how many depending on the transition arrangements). They will need to ensure they have the political and technical capacity to do this to the Brexit timetable.

If the timetable falls apart, then either the EU27 and UK agree to an extension of the talks (as allowed under Article 50) or the UK will simply leave without a deal in March 2019. The latter would create legal, political and economic uncertainty on an unparalleled scale – the phrase ‘the WTO cliff’ does not really do justice to such a

scenario. Talks start on 19 June; the great Brexit challenge – getting to the exit line by 30 March 2019 – will be on.

Table 1: Summary Timeline of Brexit Process

	Exit Deal	Future Relationship	Transition (as Part of Exit Deal)	Domestic Adjustments
Jun 2017	Talks commence			Introduce Great Repeal Bill and other bills (migration, agriculture, trade etc) into UK parliament.
Oct 2017	Deal on EU citizens; preliminary deal on Northern Ireland; framework for budget issues			
Dec 2017		Start talks about basic framework for trade and future relations including foreign policy and security		Obtain legislative consent from Scottish Parliament, Northern Ireland Assembly, National Assembly for Wales
Jun 2018		Basic outline will need to be agreed by now: key points: tariffs, but more importantly: regulatory equivalence and divergence, and supervisory mechanism	Start talks as soon as outline trade and security framework is known	Great Repeal Bill passed (based on estimate that it will take one year to go through both Houses).
Oct 2018			Deal might be done provided that no real change to status quo in terms of single market and other areas of cooperation; otherwise it might take until December	First revision of converted EU law by way of secondary legislation completed (assuming negative procedure is used and no objections in parliament)
Nov 2018	Revisit open questions, in particular on Northern Ireland (which depends on outcomes re transition and future relationship)			
Dec 2018	Start ratification process under Article 50 (i.e. Council plus European Parliament on EU side; UK parliament on UK side)		Start ratification process under Article 50 (or delay to January if transition deal still being finalised)	Start second round of revisions of converted EU law to reflect transitional arrangements and complete them before Brexit Day
Brexit Day				

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Updated slightly on 12 June 2017 to reflect the result of the UK's 2017 general election

¹ 'Directives for the negotiation of an agreement with the United Kingdom of Great Britain and Northern Ireland setting out the arrangements for its withdrawal from the European Union' (2017) Annex to the Recommendation for a Council Decision, Brussels, 3 May 2017 COM(2017) 218 final

² 'Essential Principles on Financial Settlement', 24 May 2017, Working Paper No. 2, European Commission and 'Essential Principles on Citizens' Rights', 24 May 2017, Working Paper No. 1, European Commission

³ 'After Brexit: the UK will need to renegotiate at least 759 treaties', Paul McClean, *Financial Times*, 30 May 2017

⁴ 'Brexit, Devolution and Agriculture: A Case Study in Complexity', David Bell, 30 March 2017, Scottish Centre on European Relations