

Brexit basics

What 2017 holds for Brexit

KPMG International

Every day brings new dimensions to Brexit, not least from the political changes in the EU — like the French elections, Italian referendum, Austrian election, resignation of the President of the EU Parliament etc. The UK may have indicated that it will rescind its membership of some EU institutions, but there is a lot still to be determined on the terms of the UK's departure and its future relationship with the EU. With all this noise, it can be hard to follow the debate. **So what does 2017 hold for Brexit?** Let's take a look at the timeline and processes ahead.

What needs to be negotiated?

The referendum may have been phrased as a simple 'yes' or 'no', but Brexit will not be a two-sided negotiating process with a straightforward 'leave the EU' mandate. There are five key components to the task facing the UK.

Withdrawal

Article 50 provides for an agreement that *sets out the arrangements for the UK's withdrawal, taking account of the framework for its future relationship with the EU*. The 'divorce' will cover immediate issues — such as the rights of nationals, judicial cooperation, and the so-called 'exit bill' — while the parameters of the UK/EU trading relationship will fall into the framework for the future agreement. Why does that matter? In one word — voting. The 'divorce' will be determined by an enhanced qualified majority vote in the Council of the EU and EU Parliament. Voting over any future arrangement between the EU and the UK will be dependent on the policy areas covered. A comprehensive agreement encompassing 'shared' competences — such as that sought by the UK — will likely require ratification by national and regional Parliaments of EU member states — which may result in blockades and delays.

EU-UK relationship

UK regulation

Not only does EU regulation need to be enacted into domestic UK law (to prevent gaps and allow the UK to 'localize' it), but some of the 'competences' being returned to the UK will be returned to the devolved governments of England, Northern Ireland, Scotland and Wales — and with it, the possibility of regulatory divergence and barriers to business across the UK.

World Trade Organization

The UK is a member of the WTO in its own right, but the rules (schedules) are currently set by the EU. The UK will be required to negotiate its own terms of market access for goods and services (such as the split in tariff rate quotas) and subsidy limits with the EU, to be agreed to by all 164 members.

UK — rest of the world

The UK will likely lose access to the FTAs concluded or being negotiated by the EU — with around 47 percent of exports to third (non-EU) countries in a potentially less advantageous arrangement. But the UK will have the freedom to negotiate new deals — although formal conclusion will have to wait until its exit (and likely after WTO terms are agreed).

The UK has indicated that it will rescind its membership of the EU Single Market and customs union, but seek a comprehensive Free Trade Agreement and customs arrangement with a transitional period. But the UK could be facing the ‘cliff edge’ of WTO rules at the 2 year point if a deal is not reached (or an extension agreed).

Like all things Brexit, sequencing of negotiations will not be simple — ‘substantial progress’ on the divorce must be achieved before discussions on the future framework can commence, the parameters of which must be set before a transitional period can be agreed.

Looking outside the EU, all of this will likely need to be agreed before WTO terms can be set, as these could be defined by the (final or transitional) customs arrangement sought.

WTO terms will govern the UK’s relationship with the rest of the world post-Brexit, so it is important to set these as soon as possible — and in doing so set the bar for FTAs negotiated with third countries. It is unlikely that any third country discussions can get very far without knowing the details behind the UK/EU trade deal and the UK’s WTO schedule.

And, of course, no third country arrangements (WTO or FTA) can only be officially concluded until the UK formally exits the EU.

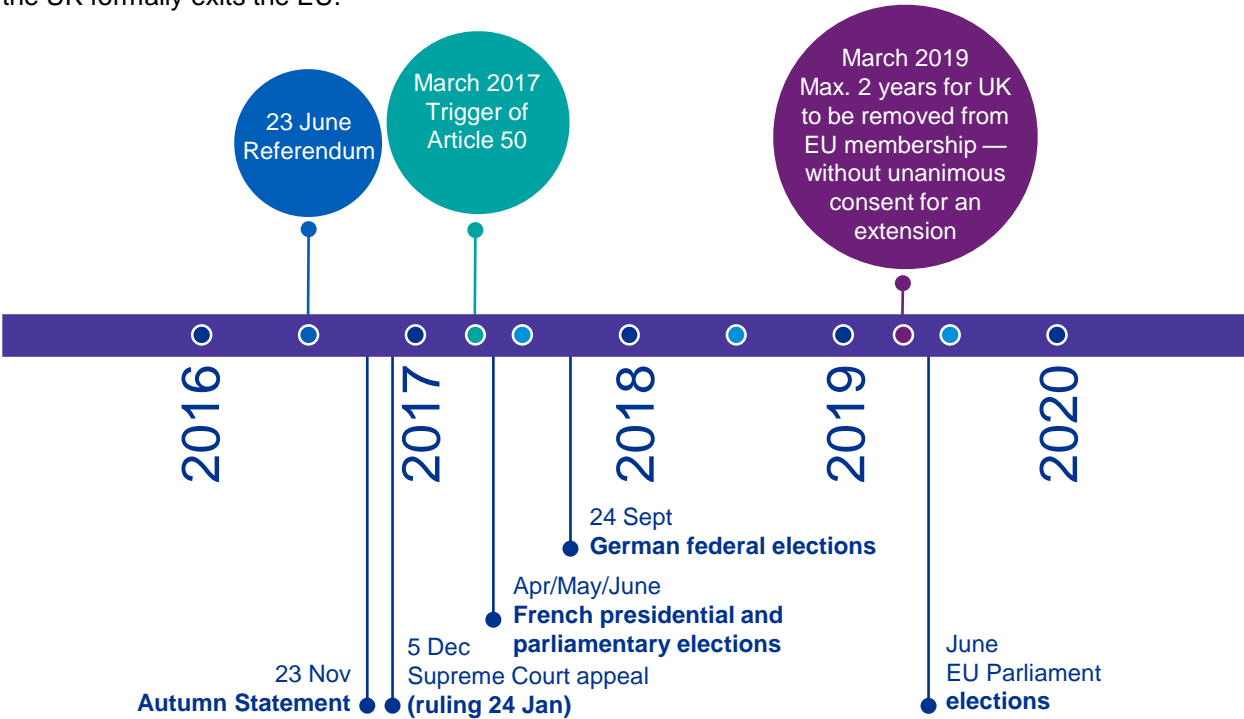
When will Brexit happen?

The UK Prime Minister triggered Article 50 in March 2019. The UK has a maximum 2 year timeframe to agree the terms of the withdrawal (‘divorce’) — and ideally the future arrangement for the UK/EU relationship.

But in practice it isn’t really 2 years — the ‘exit’ deal will need to be agreed by the Council of the EU and the EU Parliament, while any future arrangement and transitional deal will likely require unanimity and national ratification by the remaining EU member states. The respective deals would need to be determined in around 18 months to allow enough time to nut out the legalese.

Also important to remember is that clarity is not certainty. The UK is in a less predictable position post its general election, where the Conservative Party lost its majority in the House of Commons. The UK Parliament has been promised a vote, meaning that while the possibility of concessions and a ‘soft’ Brexit may have increased, the (unplanned) cliff edge of ‘no deal’ also looms if the UK Government can’t get sufficient support for its proposal.

Both sides may also agree on a transitional arrangement, to allow both UK and EU business to adjust to the ‘new normal’.



Source: KPMG’s Global Brexit Centre of Excellence

What else should you be following...

Brexit negotiations are taking place while the EU is distracted by the rise of the populist agenda in a number of national elections (Netherlands, France and Germany, with potential for Italy to follow suit), but also could be distracted at the other end — with election of the EU Parliament due to take place in June 2019.

The recent ruling on the EUSFTA (Singapore-EU FTA) confirmed that agreements covering non-direct foreign investment and dispute settlement between investors and states must be ratified by the 38 national and regional parliaments — a potential hurdle that Canada recently stumbled over — but broadened the policy areas over which the EU Commission has sole jurisdiction to negotiate. Will the UK seek a less comprehensive deal to avoid a unanimous vote?

“Top Risks for 2017

#3 — A Weaker Merkel

Strong leadership from Angela Merkel has proven indispensable for Europe’s ability to manage crisis in recent years. Europe will face more challenges in 2017— from France’s elections, Greece’s finances, Brexit negotiations, and delicate relations with both Russia and Turkey. Unfortunately, though Merkel is likely to win reelection as Germany’s chancellor in 2017, she’ll emerge as a weakened figure. This will leave Europe with no strong leadership at all — at a time when strong leaders are badly needed.”



What should you be thinking about now?

When there are so many moving parts, it is hard to know if you are keeping on top of things. Here’s our recommended ‘Survival Guide’ for the next 12–18 months:

- **Decide upfront and clearly whether you want to be an influencer or a taker of outcomes:**
At every stage, you have the opportunity to have your voice heard in Westminster and/or Brussels — either on your own or through a business association or industry body. But engagement involves time, effort, cost and risk and you might decide that it’s not worth it — but let that be an active choice with eyes wide open.
- **If you aren’t already a scenario planner, become one:**
Optionality will be your greatest strength in this environment, but you can’t have that unless you have imagined and planned for multiple outcomes. This does not need to be fancy — it just needs informed thought and credible challenge, both internally and externally.
- **Commit to a source of news, intelligence and analysis, and stick to it:**
You need to stay on top of developments, but it can be hard when so much is being said by so many different people. Pick a single, or at most two sources of news, intelligence and analysis and stick with them. It is better to pick the right source than to try and cover your bases from multiple sources, which can be paralyzing.
- **Think along the lines of known-knowns, known-unknowns and unknown-unknowns:**
It is a simple but helpful way to know what you can reasonably plan on the basis of. It would not be unreasonable to have a planning assumption that your migrant labor force declines by say, 25 percent. Or that the movement of goods will face border formalities, including tariffs, product/standard checks and rules of origin. Use these relative certainties to plan, and channel your remaining energy to tracking the known-unknowns and building resilience for the unknown-unknowns.
- **Never let a good crisis go to waste:**
Sure, the next 12–18 months will be turbulent but at the end of it, a new reality will be upon us and most businesses will come out the other side. Whether you come out stronger or weaker partially depends on what else you use this disruptive event to do. This may just be a convenient wrapper to do what’s necessary and overdue; reorganizing the business, changing the operating model, investing in new markets, or simply raising the collective consciousness of the organization on geopolitical issues, of which Brexit is only one.

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