

CICERO/AMO POLITICAL ANALYSIS

BREXIT DEAL COMPLETED

The clock is no longer ticking – Christmas Eve 2020

OVERVIEW

- The Brexit Deal marks a legally orderly and diplomatically amicable end to the transition period on 31 December.
- Though we do not yet have a text, general details are known.
- The deal secures a tariff-free, quota-free trading relationship and is billed as the most comprehensive trade deal ever made.
- Despite this, non-tariff barriers for goods and especially services will significantly increase as an inevitable result of leaving of the UK leaving the Single Market and Customs Union. At this stage, it is not clear how border frictions will be managed as there does not appear to be a phase-in period.
- The shape of the deal reflects Boris Johnson's desire to have a more distant relationship with the EU than that envisaged by Theresa May. In that sense it is a relatively hard Brexit.
- Though there will be much commentary on who won and who lost, the sides had very different aims in mind. Predictably, both sides say the deal delivers their goals.
- Downing Street says the UK regains control of its trade policy, borders, regulations while ending the jurisdiction of the ECJ and secures sovereignty over its fishing waters.
- The EU says that it has secured fair and balanced competition with comprehensive level playing field protections as well as a stability for fishing communities through a 5.5 year transition and 'strong incentives' to secure future access.
- Importantly for the EU it draws a line under the issue. Ursula Von Der Leyen said: "Finally, we can leave Brexit behind us and look to the future. Europe is now moving on." Boris Johnson said it would give the UK a new platform for 2021 and would end a long-running chapter in British politics.
- However, we have yet to see the text in full. There are many as yet unanswered questions, such as the nature of dispute resolution between the parties and how security co-operation will work. Automatic access to EU law enforcement databases will end but both sides have pledged close cooperation in police and judicial matters.
- The deal does not cover financial services equivalence or data protection adequacy or food safety standards, all of which are subject to unilateral decision-making by the EU.
- However, the existence of a deal arguably improves the odds of positive developments here given the huge political influence over, for example, financial services equivalence determinations. It also facilitates new forums for regulatory discussion and co-operation.
- With the completion of this deal the UK and EU will enter a new relationship which will no doubt be marked by constant negotiation and re-negotiation.

THE DOCUMENTS (SO FAR)

- The full text has not yet been posted by the UK or EU.
- The UK government published an [explainer summary](#) which provides a thematic and sectoral treatment of the agreement.
- The European Commission briefing documents are available online [here](#). These are the most complete account of the deal we have, absent a text.
- EU-UK Trade and Cooperation Agreement A new relationship, with big changes – [here](#).
- EU-UK Trade and Cooperation Agreement: A new relationship, with big changes - Overview of consequences and benefits – [here](#).



Source: EU infographic

THE PRESS CONFERENCES

The UK and EU have hosted post-deal press conferences which set out responses to the deal.

PM's press conference

The PM said he had delivered a 'jumbo size Canada-style free trade deal' worth £660bn per year.

- From January 1, the UK will be outside the Customs Union and Single Market, and the ECJ's involvement in UK law will cease.
- The PM said the deal was a good outcome for the UK's fisheries and for overall control of its waters.
- He said this would close a chapter in British history. He described Brexit and the European question as having "bedevilled our politics for decades", while focussing on the Government's ongoing response to COVID-19 and the vaccine rollout.
- Answering a question on how the UK will make the most of the UK's freedom, he said the UK might "want to do things differently" in a variety of ways, including regulation of financial services. On the FS sector, the PM later said: "There's some good language on equivalence for financial services, perhaps not as much as some people would like, but it will allow the City of London to get on and prosper like never before".
- On ratification, a vote in Parliament will take place on December 30. The Lord Speaker has [confirmed](#) the House of Lords will sit on Wednesday 30th at 12 noon for the consideration of a Bill relating to the UK's future relationship with the European Union.

EU press conference

Commission President Von der Leyen said that a 'fair and balanced agreement' has been found with the UK. Further that the deal will protect EU interests, ensure fair competition, and provide predictability for European fishing communities. She said that this is the most comprehensive trade deal the EU has ever negotiated.

- **Fisheries:** Huge steps forward had been made and the deal ensured five and half years of predictability for fishing communities alongside strong tools to maintain predictability. She stressed that this shows what can be agreed from a position of strength.
- **Level playing field (LPF):** Strong incentives for both sides to stick to what they have signed up to and that effective tools can be used to react to unfair competition. The EU's position of strength here enabled the EU to include the measures it wanted.
- **Future relationship:** UK is a longstanding ally and will remain trusted partner. Particularly in areas of common global interest e.g. climate, energy, security, and transport the EU will stand 'shoulder to shoulder' with the UK.

She concluded by saying that it was now time to leave Brexit behind and urged Europe to move forward.

Michel Barnier, the EU's Chief Negotiator, outlined that the agreement does not reproduce the same rights as when the UK was a member of the EU. The agreement is built on four pillars:

- **FTA:** Ambitious, free and fair trade with no tariffs or quotas and a level playing field.
- **Economic and social partnership encompassing:** Aviation, road transport, energy, climate change, fisheries, research, innovation, nuclear safety and space.
- **Security agreement:** Close cooperation in 8 fields with two crucial preconditions (respect of both fundamental rights and personal data).
- **Governance:** Binding mechanism for enforcement of rules even including unilateral decisions and sanctions where necessary.

RATIFICATION

UK ratification

Parliament will be recalled on 30 December with Commons meeting in the morning and the Lords sitting in the afternoon. That means MPs and Peers will vote on approving a deal which they have had scant time to scrutinise. The deal is expected to be ratified through primary legislation.

Opposition to a deal?

The deal is likely to pass easily as Labour have [said](#) tonight that they will back it, despite describing it as 'thin'.

The size of Tory rebellion – if there is one – will be an interesting indicator of levels of content with the deal amongst Brexiteers. The ERG and hard-line Brexiteers have remained relatively quiet during the final stages of negotiations. Brexiteer lawyers are expected to look over the details of the deal in the coming days before passing their verdict. However, even Nigel Farage told Sky News that he would be inclined to vote for the deal in principle if he was an MP.

EU ratification

Because time is short, the EU will first provisionally apply the deal to avoid any no-deal disruption and then formally ratify by 28 February 2021. Member States have the legal prerogative to provisionally apply the trade deal. Additionally, informed commentary suggests that while the deal contains 'mixed competence' areas, it will be treated as an 'EU only' type trade agreement bypassing the need for national and regional parliament to ratify.

Provisional ratification

The Commission will distribute the legal text to Member States and the European Parliament (EP). The Commission will now prepare for the Council a 'Decision' on "signature", and a subsequent Decision on "conclusion" with a view to their adoption, allowing for provisional ratification. EU ambassadors will meet tomorrow, Christmas Day, to review the final text and will receive a briefing from Michel Barnier. Provisional ratification does not necessarily require a vote, Member States can unanimously agree in writing through the "written procedure" by sending a letter. Once this process is complete, the agreement can be formally signed.

Formal ratification

As a deal has been found and will be provisionally applied, the EP now has the time to scrutinize the text in January and February with a view to a formal yes or no vote ahead of the end of the provisional application period on 28 February 2021. The President of the EP, David Sassoli, while expressing his disappointment that the EP could not scrutinize the deal before the end of the year, welcomed the deal and committed to scrutinising the agreement in the new year.

The Council will also need to formally vote on and approve the deal once all language versions have been legally scrubbed.

FINAL WORD

Iain Anderson, Executive Chairman, Cicero/AMO

I appeared on the final edition of BBC Brexitcast in late January just before the UK formally left the EU and I made a prediction that we would be hearing a lot more about fish. 2020 has been dominated by much sadness and Brexit predictions have been a dangerous game over the last five years - but it proved to be right. In the endgame, how much fish the UK and the EU catch has been the totem for 'taking back control'.

Securing a trade deal appeared at times to be impossible as the sides seemed to be talking at crossed purposes. Blaring tabloid headlines about warships policing UK fishing rights and the spectre of thousands of lorry drivers parked in Kent over the festive period were not good omens as negotiations continued. But throughout UK ministers and EU politicians continued to tell me that a deal remained possible and that both sides really wanted one. Thankfully for business this has proved to be true.

There have been UK wins. There is not set to be dynamic alignment on state aid - a key priority for No10. The ECJ is removed from disputes between the sides - a core demand of Brexiteers. However, the subtext of the EU conference was that it is confident it will be able to hold the UK to account on a level playing field.

A major question for business is whether this deal on goods - which will be hailed as the single biggest trade deal the EU or the UK has ever done - will form the starting point for increased on services, which accounts for most of the UK economy. Financial services passporting, mutual recognition of professional qualifications and free flow of data all end as a result of the Brexit. Now there will be long process to try to secure some of that lost access through equivalence and other mechanisms. For example, the UK explainer says that the parties will codify the framework for financial regulatory cooperation in a Memorandum of Understanding, and a joint declaration has been agreed.

In any case, after decades long years of bitter debate and rancour Nigel Farage declared the 'war to be over' today. Pugilistic to the end. But maybe for once we can all turn the page and hope for a more balanced, less hubristic and more predictable political dialogue between the UK and the EU.

GET IN TOUCH...



John Rowland
Executive Director
John.Rowland@cicero-group.com
+44 (0)20 7297 5975