



The Article 50 TEU Procedure

On 23 June 2016, the UK citizens voted to leave the EU with a majority of 51.9%. The formal exit procedure in accordance with Article 50(2) TEU was subsequently initiated by the UK Government on 29 March 2017.

Following the 23 June 2016 referendum, the UK Government officially notified the EU of the **UK's intention to leave the EU on 29 March 2017**, in accordance with Article 50(2) EU Treaty. This formal notification triggered a **two-year period** in which the UK and the EU's other 27 Member States could negotiate and conclude a Withdrawal Agreement, including the main terms of the future relationship between the UK and the EU. In the absence of a negotiated Withdrawal Agreement, the UK will leave the EU by operation of law on 29 March 2019 at midnight, making for a "**hard Brexit**". This two-year period can unanimously be **extended** by the 27 remaining Member States upon request of the UK, but the UK Government has indicated that it does not intend to make use of this extension request. Negotiations on the content of these documents started on 19 June 2017.

On 12 July 2018, the UK Government presented a white paper outlining its negotiation proposals, referred to as the "**Chequers proposal**".

On 14 November 2018, following approval by the UK Cabinet, the UK Government and the EU Negotiating Team presented **agreed drafts** for the **Withdrawal Agreement** and for the **outline of a Political Declaration** on the future relationship between the UK and the EU.

The 14 November 2018 Documents and Further Steps

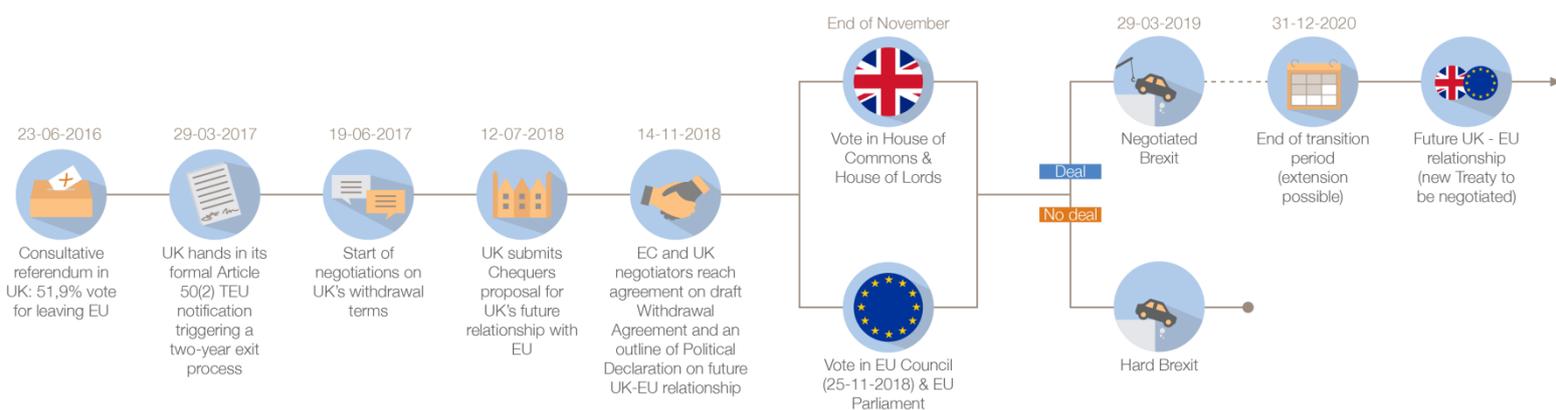
Article 50 TEU provides for negotiations on a Withdrawal Agreement, including the main terms of the future relationship between the UK and the EU.

The draft **Withdrawal Agreement** provides that the UK will leave the EU and regulates how this will take place. It covers different areas, including citizens' rights, free movement of goods, a financial settlement, a governance structure and issues relating to Ireland, Cyprus and Gibraltar.

The main terms of the future relationship between the UK and the EU, on the other hand, are contained in a draft outline of a **Political Declaration**.

The European Council – consisting of the 27 remaining Heads of State or Government – must endorse both documents with a qualified majority. To this end, a special meeting is due to be held on 25 November 2018. After the endorsement, the Withdrawal Agreement (including the Political Declaration) needs to be ratified by the European Council with the consent of the European Parliament.

In the UK, the House of Commons and the House of Lords must also approve these documents, which is expected to be a challenge.



The Transition Period

The draft Withdrawal Agreement provides for a transition period that will start on 30 March 2019 and that will initially end on 31 December 2020. It can be extended if that is necessary in order to finalise the future UK-EU Agreement.

During the transition period, the UK will no longer be an EU Member State, as it will have left the EU on 29 March 2019, but, unless otherwise provided in the Withdrawal Agreement, **EU law will still be applicable to and in the UK**, so as to produce the same legal effect as it does prior to Brexit. This includes the EU Treaty, the TFEU and all EU Regulations, Directives and Decisions.

The UK, however, will no longer be able to participate in EU decision-making during that period. In exceptional circumstances, representatives from the UK may, upon invitation, attend meetings of certain committees, but without voting rights.

During the transition period, the UK will be free to negotiate, sign and ratify **international agreements** that are to be entered into in its own capacity, such as bilateral trade agreements, provided these agreements do not come into force or apply until after the end of the transition period.

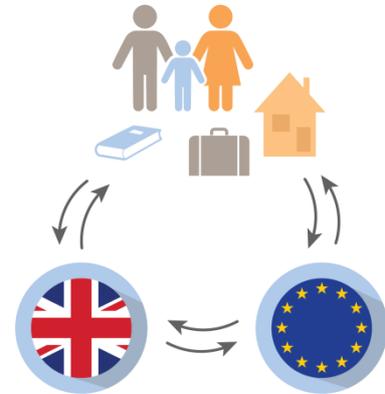
The **EU Court of Justice** will keep jurisdiction over disputes between the UK and the EU for four years after the end of the transition period.

EU Citizenship

What are the consequences of Brexit for EU27 citizens in the UK and UK citizens in the EU27?

The 14 November draft Withdrawal Agreement

The draft Withdrawal Agreement guarantees **lifelong residence rights** for all EU27 citizens residing in the UK and UK citizens residing in the EU27 at the end of the transition period, based on choices made before that period. Additionally, the right of their **family members** (spouses/registered partners, parents, grandparents, children, grandchildren and persons in a durable relationships) to join them in the future is protected for the rest of their lives. This means that EU27 and UK citizens can continue to live, work and study in the other parties' territory, under the same - or better - conditions as currently under EU law.



The **substantive conditions** for residence rights will remain exactly the same as under current EU law. Physical presence in the host state at the end of the transition period is not required, in accordance with accepted temporary absences under EU law. Citizens who have not yet acquired permanent residence are fully protected by the agreement, and citizens arriving during the transition period enjoy the same protection as those arriving prior to Brexit.

Persons covered by the agreement keep the same **workers' rights** as those they currently enjoy under EU law, with equal treatment protection.

Reliance on prior recognition of **professional qualification** is ensured, while new applications for recognition during the transition period will be assessed under EU rules applicable at the time of application.

The right to **healthcare, pensions and other social security** benefits will be maintained for UK and EU27 citizens in cross-border situations.

The 14 November draft Political Declaration

The parties intend to explore post-Transition Period arrangements on temporary entry and stay of UK/EU natural persons for **business purposes**, as well as other mobility aspects such as visa-free travelling for **short term visits**.

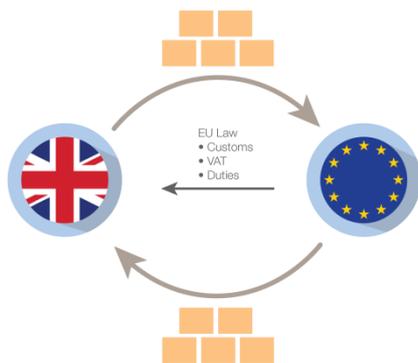
The Four Freedoms

The EU has always insisted on the inseparability of the four fundamental freedoms. How is this reflected in the draft Withdrawal Agreement and Political Declaration?

The 14 November draft Withdrawal Agreement

Special attention is given in the draft Withdrawal Agreement to the **free movement of goods**. Any goods that fall within the scope of the free movement of goods as set out in the

TFEU and that were placed on the market in the UK or the EU before the end of the transition period may continue to freely circulate in and in between these two markets until they reach their end-users. The parties may therefore not impose any additional requirements for these products. This also entails the creation of a **simple customs territory**.



After the transition period, the EU rules will continue to apply for cross-border transactions that started before the transition period with regard to customs, VAT and excise purposes and the UK will continue to be part of the single customs territory, pending the entry into force of the future UK-EU Agreement. If the UK does not follow the commitments relating to the single customs territory, the EU can invoke Article 6 of Annex 2 to the Withdrawal Agreement and reintroduce tariffs on goods imported from the UK, while continuing to consider Northern Ireland as part of the single customs territory.

The protection afforded to existing EU **intellectual property rights** (EU trade marks and designs) on the territory of the UK will be maintained: such rights need to be protected by the UK after Brexit as if they were UK national intellectual property rights.

The 14 November draft Political Declaration

The parties intend to create an economic partnership with arrangements resembling the current provisions on the single customs territory and on the **free movement of goods**, without UK participation in decision-making.

They also intend to agree on provisions relating to **services and investments**, on the basis of reciprocity and host country control. When it comes to **financial services**, cross-border service provision will take place on the basis of equivalence assessments, meaning that UK financial service providers will be free to provide services in the EU if the UK supervision and regulatory rules are deemed by the EU to be equivalent, and vice versa. These equivalence assessments should be completed before the end of the Transition Period.

The draft Declaration also contains a **level playing field-provision** designed to avoid a regulatory race to the bottom in terms of state aid, competition, social and employment standards, environmental standards, climate change, and tax matters.

The Exit Fee

The draft Withdrawal Agreement provides that the UK shall meet all financial commitments undertaken while being a Member State.

The 14 November draft Withdrawal Agreement

The draft Withdrawal Agreement provides for a **single financial settlement** covering the EU budget, the withdrawal from all EU bodies and institutions and the UK's participation in specific EU funds and facilities during the transition period.

It is intended that the UK will meet financial commitments in relation to the EU's budget



undertaken while being a Member State. This entails obligations under the Multiannual Financial Framework 2014-2020. The UK's share in these commitments is to be calculated through a fair methodology in view of its withdrawal. Core principles are that the

UK's withdrawal shall not result in the UK or any Member State paying more or receiving less than it would have done absent Brexit.

The **exact sum of the settlement is to be determined upon the withdrawal** and has therefore not yet been determined. The UK's share in the 2019 and 2020 budget shall be calculated as if there had not been a Brexit.

The UK shall participate in the implementation of the EU programmes and activities in 2019 and 2020 as committed under the Multiannual Financial Framework.

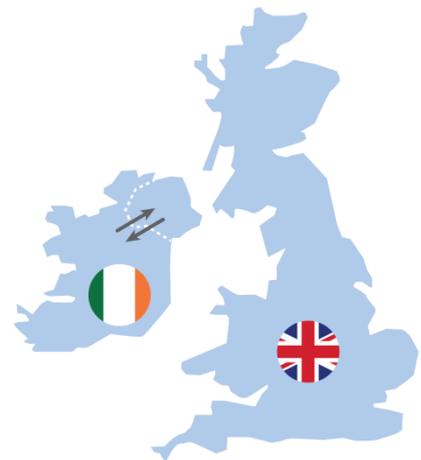
Should the transition period be too short, the Joint Committee may extend the period. This would, however, require a UK contribution to the EU budget.

Northern Ireland

The draft Withdrawal Agreement contains a separate Protocol on Northern Ireland.

The 14 November draft Withdrawal Agreement

As a consequence of Brexit, the UK will leave the internal market and the customs union. In order to avoid having to introduce a **hard border** between Ireland and Northern Ireland, which would be against the Good Friday Agreement, or a **customs border** between Northern Ireland and Great Britain, which would split the UK, the draft Withdrawal Agreement provides that the entire UK remains part of the single customs territory and the free movement of goods area. This arrangement is to remain in place even if the Withdrawal Agreement is not extended, until the new UK-EU agreement enters into force. This is referred to as the "**backstop solution**". This single customs territory entails that the entire UK territory remains part of the same customs territory as the remainder of the EU, without any tariffs, quotas or checks on the rule of origin. Additionally, the EU's **Customs Code** remains applicable to Northern Ireland to avoid Northern Irish business facing restrictions when releasing products into free circulation on the EU's Internal Market. Northern Ireland is to remain aligned with EU legislation on goods, sanitary rules for veterinary controls, rules on agricultural production/marketing, VAT and excise in respect of goods, and state aid rules.



The 14 November draft Political Declaration

To ensure Northern Ireland's ability to release products into free circulation within the EU (free movement of goods), the UK and the EU intend to replace the backstop solution by provision in the future UK/EU-Agreement, in order to guarantee the absence of a hard border between Northern Ireland and Ireland.

Ongoing Partnership in the Fields of Justice and Home Affairs and of Foreign and Security Policy

The draft Withdrawal Agreement provides that during the Transition Period, the TEU and TFEU provisions and the various Directives, Regulations and Framework Decisions in the area of Justice and Home Affairs and of Security and Foreign Policy will continue to apply to the UK. The draft Political Declaration contains provisions on the cooperation between the UK and the EU after the end of the Transition Period.

The 14 November draft Political Declaration

The parties intend to continue to cooperate to secure the safety of the UK and EU citizens. There will be comprehensive, balanced and reciprocal **law enforcement and judicial cooperation in criminal matters** to prevent, investigate and possibly prosecute criminal offences, including money laundering and terrorist financing. The parties will examine the extension to the UK of the **EU arrest and extradition warrant**.

When it comes to **security and foreign policy**, the parties intend to explore continued forms of cooperation, for example in third countries or organizations such as the United Nations. More specific, cooperation will also be ensured to tackle problems in sensitive topics such as sanctions, cyber security, counter-terrorism, illegal migration, natural or manmade disasters and health.