



Leaving the EU - The process and preparations

FEBRUARY 2020

The UK left the EU at 11pm GMT on 31 January 2020 into a transition period in accordance with the Withdrawal Agreement settled with the EU in October 2019. That transition period (called the "implementation period" in the UK's European Union (Withdrawal Agreement) Act 2020) is due to end on 31 December 2020 and the UK Government has ruled out extending that period. It remains to be seen whether the UK can agree its future relationship with the EU in time for new arrangements to come into force at the beginning of 2021, whether there will effectively be no deal at that point, whether there will be some sort of halfway house, such as a "goods only" deal or whether there will be a further temporary arrangement while negotiations are completed.

Behind that succinct statement of the legal position lies:

- Impasse in the UK House of Commons over the [Withdrawal Agreement](#) and the non-binding [Political Declaration](#) on the future relationship as originally negotiated leading to an extension of the UK's membership of the EU to 31 October 2019 and the resignation of Theresa May as leader of the Conservative Party and then as Prime Minister;
- The change of Prime Minister in summer 2019, when Boris Johnson took over these roles, with the Conservative Party continuing to govern without a majority in the UK Parliament;
- The UK Government's agreement with the EU of a revised form of Withdrawal Agreement and Political Declaration, with an "Ireland only" replacement for the backstop and a non-binding commitment to a free trade agreement between the EU and the UK, which would not require the UK to adhere to EU rules, except in Northern Ireland and which would leave the UK free to make trade deals with third countries on different terms than those agreed by the EU;
- A great deal of political and legal activity which resulted in:
 - extension of the leaving date to 31 January 2020,

The section is part of our [Brexit Legal Guide](#).

Deal/transition period

Now it has been approved by the UK and EU Parliaments, the [Withdrawal Agreement](#) applies to arrangements for the UK's withdrawal from the EU with effect from 11pm GMT on 31 January 2020 - when the UK ceased to be an EU Member State.

The UK is now in a transition period following its exit from EU until the end of 2020. UK legislation calls this the "implementation period".

During transition, EU law continues to apply in and to the UK and the UK continues to trade with the EU as part of the Single Market.

The non-binding [Political Declaration](#) on the future relationship between the UK and the EU accompanies the Withdrawal Agreement - there will now be an intense period of negotiations seeking to finalise the future relationship between the UK and the EU so that it can

- a move towards the Brexit wing of the Conservative Party with the expulsion of a number of leading members regarded as in favour of remain, and
- deadlock in the UK Parliament regarding approval of the revised Withdrawal Agreement.
- Breaking of the deadlock by agreement on a general election, held on 12 December 2019, in which the Conservative Party was returned to government with a majority of 80 in the UK House of Commons;
- Passage of the [UK European Union \(Withdrawal Agreement\) Act 2020](#) and approval of the Withdrawal Agreement by the European Parliament and Council;
- The UK leaving the EU at 11pm GMT on Friday 31 January 2020.

Against this background, businesses had to implement strategies to cope with the continuing uncertainty about when and on what terms the UK might leave the EU. Although it is now clear that trading terms with the EU are largely unchanged until the end of the transition period at end 2020, the short time left to negotiate a complex trade deal and the potentially different ambitions of the UK and the EU for the contents of that deal mean that business will continue to be exposed to uncertainty as to the position at the beginning of 2021 (please see: the [View from Brussels](#) of 19 December 2019). Broadly speaking, there are the following possible options for January 2020:

- Comprehensive trade agreement between the UK and the EU as contemplated in the Political Declaration - this seems unlikely without an extension of the transition period;
- Less comprehensive trade agreement probably centred on removal of tariffs and quotas related to some or all goods and with little or nothing for services - while more likely to be achieved in the time-frame, this would place service businesses in much the same position as a no-deal Brexit, save where the UK and the EU use parallel unilateral action, such as equivalence decisions in the field of financial services, to ameliorate the position;
- Failure of the negotiations and the UK/EU relationship reverting fully to WTO terms - this is effectively the same as a no-deal Brexit and again, does not preclude unilateral action;
- A recognition that longer is needed to negotiate a sensible trading relationship and either extension of transition, or entry into a short term interim trade arrangement, possibly of similar effect.

In any event, except possibly in the last of these options, the UK loses the advantage of EU trade deals with third parties, except to the extent it has agreed a "roll-over" with the countries concerned or a new trading arrangement on different terms. The UK will be free to implement its own trade deals and to set its own tariffs for WTO countries. Progress on this is likely to be patchy and may be prolonged, except for countries happy to agree a "roll-over" of the terms on which they trade with the EU to apply to trade with the UK.

It is conceivable that a separate deal may be done on aviation (which is outside the WTO) and it appears that some agreement must be reached on energy because of the UK's geographical position.

The UK leaves the EU

In the Lisbon revision of the EU Treaties in 2007, a new clause, Article 50 of the [Treaty on European Union \("TEU"\)](#), was introduced providing a mechanism for an EU Member State to leave the EU.

In June 2016, the UK electorate in a referendum voted to leave the EU. The UK Government had indicated it would act on the referendum result and, after a change of Prime Minister, embarked on this course. After various legal challenges and the passage of the [EU \(Notification of Withdrawal\) Act 2017](#), the process was able to begin.

On 29 March 2017, the then UK Prime Minister, Theresa May, gave notice under Article 50 of the TEU of the UK's intention to leave the EU, thereby formally starting the Brexit process. This should have resulted in the UK leaving the EU by 30 March 2019 but political deadlock in the UK, where the Conservative Party had lost its majority in the House of Commons, prevented the approval of a Withdrawal Agreement in the form negotiated by Theresa May, or in the form renegotiated by her successor, Boris Johnson.

To avoid a no-deal Brexit, the UK's membership of the EU was extended, first to 31 October 2019 and then, in a fraught political atmosphere, to 31 January 2020. Following the UK General Election on 12 December 2019, it was clear that the Conservative Government had achieved a large majority and was in a commanding position to obtain Parliamentary approval for the revised Withdrawal Agreement.

The [European Union \(Withdrawal Agreement\) Act 2020](#) approving the implementation of the Withdrawal Agreement in the UK became law on 23 January 2020.

come into force in legally binding form at the beginning of 2021.

See accompanying section: [Withdrawal Agreement Q&A](#).

At the end of transition – will there be elements of no deal?

At the end of the transition period, if the new trading relationship is not in place, there could be a no-deal situation in which the UK and EU revert to trading with each other on basic WTO terms. It is more likely that this will be modified by the introduction of agreed elements of the future relationship or some other temporary set of rules, even though the UK Government has ruled out extending the transition period.

The short negotiating timetable means that, while important provisions relating to tariffs and quotas on goods may be ready for implementation in early 2021, service industries are likely to experience what is effectively a no-deal Brexit in any event and be left to trade on the terms of the WTO GATS agreement, while goods may escape the application of WTO tariffs in trade with the EU under the terms of a new future relationship.

In any event, the UK will cease to benefit from the free trade agreements the EU has negotiated with third countries, except to the extent that any third country has agreed with the UK to "roll-over" the current trade terms as between the UK and that country, as a number have done already. The UK will set its own WTO tariff rates.

There will be no clarity on what will happen until towards the end of 2020 and the adage "plan for the worst, hope for the best" continues to apply and no-deal guidance therefore remains appropriate.

The body of EU law in force at the end of 2020 will be imported into UK law (with necessary amendments) for the start of 2021 under the [European Union \(Withdrawal\) Act 2018](#) and UK

On the EU side, the Withdrawal Agreement required approval of the European Parliament by a simple majority vote and approval of the Council by qualified majority vote (20 of the 27 Member States representing at least 65% of their combined population). These approvals were given on 30 January 2020.

As a result, the Withdrawal Agreement has been formally adopted under TEU Article 50 and will form part of EU law under Article 216(2) of the TFEU, in the same way as any other international agreement to which the EU is a party.

Finally, at 11pm Greenwich mean time on 31 January 2020 the UK ceased to be a Member State of the EU and entered the transition period provided for in the Withdrawal Agreement (called the "implementation period" in UK legislation). The UK also ceased to be a member of the European Economic Area ("**EEA**") and of the European Atomic Energy Community ("**Euratom**").

The transition period

The transition period is due to end on 31 December 2020.

The immediate effect of the UK leaving the EU is that it ceases to have any representation on EU bodies, notably the Parliament, the Council, the Commission and the CJEU. During the transition period, however, the UK continues to apply EU law and is to be treated as if it were an EU Member State when the continuing EU Member States are applying EU law. There is a similar situation regarding the three additional EEA states, Norway, Iceland and Liechtenstein. Business and individuals may, therefore, not be very conscious of differences until the end of transition.

The transitional arrangement for the treatment of the UK as if it were still an EU Member State cannot bind third countries and it is possible some of those countries with free trade agreements with the EU will seek to take advantage of the situation to charge tariffs on UK origin goods, while the UK is bound to respect the terms of EU trade arrangements as regards imports from those countries. Several of these countries have, however, agreed with the UK to "roll-over" the terms of trade they have agreed with the EU, so that they will apply to their trade with the UK.

References to the geographic area of the EU or the EEA in statutes and contracts were affected as soon as the UK left the EU on 31 January 2020 and may, depending on context and interpretation, not extend to the territory of the UK.

Long-term aspects of the Withdrawal Agreement

The Withdrawal Agreement settles various matters for the longer term, including the rights of UK citizens resident in an EU Member State and of EU citizens resident in the UK. Similar arrangements apply between the UK and the EEA States, as well as with Switzerland.

The arrangements for Northern Ireland, which will see it continue to apply much EU law, are one of the major and most hotly disputed issues dealt with by the Withdrawal Agreement. While the border between Northern Ireland and the Republic of Ireland will remain open, there will be checks and in some cases customs duty to pay in relation to goods entering Northern Ireland from Great Britain.

Issues of finance, dispute resolution and the treatment of certain consequences of separation, including property and other issues related to Euratom, are also settled in the Withdrawal Agreement on a long-term basis.

Finally, the Withdrawal Agreement covers transitional arrangements when EU law ceases to apply in the UK, such as how to deal with pending cases before the Court of Justice of the European Union ("**CJEU**") and administrative cases before the European Commission.

More details on these arrangements and on the non-binding Political Declaration on the future relationship between the UK and the EU are to be found in the accompanying section: The [Withdrawal Agreement Q&A](#) and the accompanying section: [Trade: The new relationships](#) also deals with the Northern Ireland relationship.

The future relationship

Now that the UK has left the EU, the focus turns to its future relationship with the EU.

While the Withdrawal Agreement settles some aspects of the relationship, the long-term trading relationship is only the subject of the non-binding Political Declaration.

This envisages "an ambitious, wide-ranging and balanced economic partnership" with:

- an absence of tariffs, fees, charges and quantitative restrictions across all sectors,
- ambitious and far-reaching provisions to avoid technical barriers to trade,
- liberalisation "well beyond WTO" in services,
- cooperation of United Kingdom authorities with Union agencies,

legislation made to implement EU law will be retained, with suitable amendments – this will be called "retained EU law": see accompanying section: [The UK's new legal order post-Brexit: A new class of UK law](#). Some of these amending laws are already in place (but subject to further changes according to what is agreed for the future relationship).

However, the approval of the Withdrawal Agreement means that:

- the rights of UK citizens living and working in an EU Member State and of EU citizens living and working in the UK will be settled,
- there will be a basis for avoiding a border between Northern Ireland and the Republic of Ireland, involving some degree of checks and controls on goods crossing the Irish sea between Great Britain and Northern Ireland,
- Many other transitional issues, such as the treatment of pending cases before the CJEU, will be dealt with in an agreed way at the end of transition.

Article 50 of the Treaty on European Union

- "Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.
- A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

- the end of freedom of movement of workers, and
- visa-free travel and temporary entry for business.

Additional areas to be covered include data protection and co-operation on security matters and criminal justice.

As the UK Government is determined not to extend the transition period beyond the end of 2020, the big question is whether a trade deal can be done in the remaining 11 months to a point where it could be implemented at the beginning of 2021 and what such a deal could cover. The risk of the UK ending transition without a new trade deal with the EU and reverting to trade on WTO terms remains a real risk, although this is not what either the UK or the EU wants.

The possibility of either an extension of the transition period to the end of 2021, or even 2022, or of some other temporary arrangement closer to the transition position than to the future relationship remains but is far from certain.

The new relationship will be negotiated on the basis of Articles 207, 217 and 218 of the [Treaty on the Functioning of the European Union](#) ("TFEU") in the same way as a free trade agreement with any other country outside the EU. It will require approval of the Council by qualified majority and the consent of the European Parliament. If such an agreement is a "mixed" agreement dealing with matters that are in the shared or sole competence of the individual Member States, it will also require the approval of all the continuing Member States of the EU in accordance with their individual processes for treaty approval. This may sometimes require additional approvals, such as in Belgium - the approval of its regions.

In the UK, any new trade treaty with the EU will go through the normal process for ratification and implementation of a treaty, which includes both the royal prerogative act of ratification and the treaty being laid before Parliament by order in Council and being subject to a negative resolution process (in which Parliament can reject but cannot change the treaty).

Depending on its terms, additional legislation may be required to implement the agreement.

In addition, even with transition, the UK has to implement other important changes, such as the establishment of an independently operating customs system and direct trade relations with many other countries, as well as adapting its immigration laws to a situation where, ultimately, most EU citizens no longer have an automatic right to live and work in the UK.

UK Government's negotiating aims and those of the EU

The UK Government wants a new trading relationship with the EU which allows it the same sort of policy freedoms as are enjoyed by other major economies with free trade agreements with the EU, such as Canada and Japan.

The EU wants to tie down the UK to level playing field commitments in areas such as state aid, competition law, workers' rights and other "level playing-field" issues by reference to the standards embedded in EU law. The Conservative Party, in the run-up to the December 2019 election, indicated that on state aid, it was looking to adopt a more flexible and speedy approach, while remaining consistent with WTO standards and maintaining an independent agency to deal with compliance issues. This aspect alone will make the negotiations difficult, as will the arrangements to resolve disputes about compliance with any agreed standards.

The time available also makes dealing with more than the basic provisions relating to trade in goods seem a tall order. As regards services, it should be noted that WTO rules would allow a separate agreement on aviation and that both parties may use unilateral "equivalence" decisions to enable trade between the UK and the EU.

In any event, as noted above, some aspects of the agreement for the new trading relationship may require ratification by each of the 27 Member States of the EU before they can come into force. Any provisional application of the new trading terms would exclude these aspects until full ratification was obtained.

The distance between the parties' negotiating positions should become clearer as the mandates for formal negotiations are settled. The issues raised will be examined in detail in the accompanying section: [Trade: The new relationships](#).

No-deal contingency planning

If there is no extension of the transition period and there is no new trading relationship with the EU in place on 31 December 2020, on 1 January 2021 the UK will lose all the benefits of EU law for itself and its citizens and businesses (save as covered by the Withdrawal Agreement) or converted into UK law as "retained EU law". This, so far as trading terms are concerned and in many other aspects, would be as abrupt a change as if the UK had left the EU in January 2020 with no deal at all. No-deal contingency planning remains relevant in case that situation arises.

- The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.
- For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it. A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.
- If a State which has withdrawn from the Union asks to re-join, its request shall be subject to the procedure referred to in Article 49."

Although the [CJEU ruled](#) that an EU Member State is free to unilaterally revoke its notice of intention to withdraw from the European Union under Article 50 at any time before it leaves the EU, the UK lost this option when it left the EU on 31 January 2020. If it wishes to rejoin the EU at any time in the future, it will need to apply to do so just like any other non-member country. The process in Article 49 of the EU Treaty would require an accession agreement to be negotiated and ratified by all the EU Member States at the time.

The exact nature of a no-deal Brexit is much discussed. The most fundamental aspect is that there would be no special relations between the EU and the UK regarding trade, except for the provisions regarding Northern Ireland in the Withdrawal Agreement and some of the separation provisions dealing with processes of trade.

In that event, the UK's right to trade with the EU in both goods and services would be governed solely by the WTO rules, as both the EU and the UK are members. This would place the UK in a similar position to that of the USA currently but in a less sophisticated relationship to the EU than that achieved by Canada. Under this scenario, it is not so much the unfavourable nature of the WTO terms that would be problematic, but the disruption to existing trade flows and investments in the event of such sudden change in the conditions of trade. Delays and higher costs in imports and exports and the need to have new registrations, approvals and licences to sell goods into the EU or the UK will be the main concern. Service businesses would move to a much less favourable regime than that of the EU/EEA Single Market for services and, in a number of cases, UK based businesses will only be able to carry on existing business by establishing larger branches or subsidiaries in the EU. Service businesses have faced this prospect for some time and certain service sectors, particularly financial services, are well prepared. Losses to the UK economy from this situation will become apparent over 2021 and so long as any no-deal situation continues.

In the run up to the two extensions of the UK's membership of the EU, both the UK and the EU made contingency plans through temporary waivers and derogations in the event of no deal. For instance, for financial services, the UK Government legislated for a Temporary Permissions Regime ("TPR") that would allow EEA firms currently passporting into the UK to continue operating in the UK for up to three years after exit, while they apply for full authorisation from UK regulators. In the field of human medicines, the UK was planning to continue to recognise batch testing, Qualified Person ("QP") certification and release of human medicines that has been carried out in the EU. Measures of this sort may need to be used in the event that there is no (or indeed a limited) new trading relationship after 31 December 2020 and some of these measures are likely to be updated in case they are needed in 2021. Specialist sections of the [Legal Guide](#) address the voluminous UK measures in more detail and also describe some of the more limited measures that the EU took in contemplation of a no-deal exit and which it might need to consider again.

The European Union (Withdrawal Agreement) Act 2020 contemplates that much of the legislation that started out life as no-deal preparedness legislation will come into force at the end of the transition period, as it is or amended to meet the situation. In any event, some of this legislation will be needed to address aspects of EU law which are outside the scope of the new relationship.

The EU has issued some guidance in the form of preparedness notices from Commission departments on how Brexit will change law and policy. These notices set out the relevant EU entity's view of which rights would be lost and call on business and individuals to adjust their behaviour accordingly. Only a few EU measures (eg, in the field of aviation) granted temporary derogations or allowed recognition of UK authorisations on a temporary basis. The EU Commission had its own Brexit no-deal [Contingency Action Plan](#) which makes some small, largely temporary, adjustments to smooth some of the worst effects of a no-deal Brexit. Again, it is possible that these plans will need to be revived. These are also addressed in specialist sections of the [Legal Guide](#).

In view of the continued uncertainty, most businesses will have conducted a **Brexit Assurance Process** to ensure that the main risks that affect them have been identified and, to the extent possible, that appropriate and timely steps are being taken to respond to them. Many firms that have identified no-deal risks to current operations will have taken steps to mitigate risks, bearing in mind the lead times necessary to build "cliff-edge" risk resilience. They will need to keep these plans in mind as we move towards the end of the transition period. Priority areas will include service continuity, market access rights, supply chain disruption, contractual amendments and termination rights, workforce and business travel, and protection of IP rights. While there will be some general and sector-wide issues to address, it will be the particular characteristics of each firm's business that will be key to managing Brexit changes. For further planning guidance on no-deal planning, see accompanying section: [Delivering Brexit: Putting plans into practice](#).

The Withdrawal Act - retained EU Law

The UK also had to make constitutional changes, the principal one of which is the repeal of the [European Communities Act 1972](#) ("ECA 1972") - the law which gives EU law effect as part of English law and provides for UK law to be adapted to ensure compliance with EU Directives harmonising or providing minimum legal standards throughout the EU, as well as for the authority of the CJEU in

European Economic Area (EEA)

The EEA applies to the territory of the EU and of most of the states party to the European Free Trade Agreement ("EFTA") (Norway, Iceland, Liechtenstein). The UK, as a Member State of the European Economic Community (as the European Union was then called), was itself a "contracting party" to the EEA Agreement and it had been suggested that, unless the UK gave a formal notice to leave the EEA (which it has not done), it would remain in the EEA. However, all the countries concerned have accepted that the correct analysis is that, once the UK has left the EU, it will no longer be considered to be within the territory of the EU and will therefore cease to be a Member State of the EEA, without any separate notice having been given by the UK.

The UK has signed a separate agreement with the EEA States, Norway, Iceland and Liechtenstein, dealing with transitional issues and affording citizens of those countries living in the UK the same rights in the UK as resident EU citizens. This agreement is known as the [EEA EFTA Separation Agreement](#). There is also a separate agreement with Switzerland, (an EFTA country which has its own bilateral arrangements with the EU), known as the [Swiss Citizens' Rights Agreement](#): this takes the same approach. These agreements are implemented in the UK by the [European Union \(Withdrawal Agreement\) Act 2020](#).

relation to EU law. This repeal is subject to savings so that EU law continues to apply in the UK during the transition period.

Simple repeal of the ECA 1972 would, however, leave a huge gap in the UK legal system. EU law has become so embedded into the law of UK jurisdictions that legislation is needed to ensure that those parts of EU law applicable in the UK are continued after the end of transition, subject to essential adjustment, as part of UK law.

This is dealt with by provisions in the [European Union \(Withdrawal\) Act 2018 \("Withdrawal Act"\)](#) as amended, which will come into effect at the end of the transition period. These provisions retain the laws in the UK that implement EU law and also adopt directly effective EU laws (primarily EU regulations) as UK law. This corpus of law is described as "retained EU law". Further detail on the operation of the Withdrawal Act and legislation under it is given in the accompanying section: [The UK's new legal order post-Brexit: A new class of UK law](#).

The UK has been successful in passing a great deal of secondary legislation under the Withdrawal Act 2018. This will adapt retained EU law to operate effectively in the UK after it has ceased to be a member of the EU. This legislation, for example, removes references to EU bodies and identifies suitable UK regulators to take over from EU regulators. It also removes provisions which treat EU countries or businesses more favourably than third countries and their businesses where this treatment is based solely on EU Treaty requirements. This body of law, with any further amendments that are necessary, will come into force at the end of transition.

Retained EU law only applies in the UK

The UK cannot, by retaining EU law, actually achieve that the EU and its continuing Member States will treat the UK as if it were still a Member State or otherwise make provision for the UK's own regulation (even if part of retained EU law) to be given the same status as that of EU Member States in terms of recognition. It is fair to say that the retention in the UK of EU Regulations (and laws implementing EU Directives in similar terms to those of EU Member States) through retained EU law will make it more likely that such recognition can be obtained to apply after the end of transition, either in a future EU/UK trade treaty or a series of individual arrangements with the EU and its Member States but this will depend on the EU and its continuing Member States.

Other Brexit legislation

The UK Government has announced its intention to make a number of new statutes to replace areas of EU law where it considers that the UK needs its own code of law or where it intends to adopt rules which will diverge from EU law. The list of legislation is set out in the accompanying section: [The UK's new legal order post-Brexit: A new class of UK law](#). Some of this legislation has been stalled by the UK Parliamentary stalemate, with the result that the UK has left the EU at the end of January 2020 without a considerable amount of legislation which will need to be applied from January 2021 yet being in place.

Other preparations

The UK has created a Department for International Trade and has appointed many additional civil servants to deal with the development of trade policy and to negotiate with counterparts around the world. It has agreed the "roll-over" of EU trade agreements with a number of countries to apply as between the UK and the relevant other country but several countries, including Japan and Canada, will not do this immediately.

The Department for Exiting the EU has been co-ordinating practical arrangements for the Brexit process.

In addition, HMRC, the body that deals with taxation, has been expanded substantially to deal with the new customs regime, while every government department, but especially those with extensive new legislative requirements or regulatory responsibilities, has had to devote considerable, and in some cases, additional resource to the preparations for the new legal regime. These costs will be at their highest while the UK is still paying into the EU budget, that is until December 2020.

Further changes as to how the work on Brexit is handled within Government are expected to be made by the UK Government in spring 2020.

One of the key areas of focus is on potential high-tech long term solutions for the operation of borders between the UK and the EU. These are important to prevent holdups of goods in transit and also to address issues relating to maintenance of an open Irish border. A number of independent groups have been working on how these technical solutions might be incorporated into the arrangements between the EU and the UK - for example, the work which the [Alternative Arrangements Commission](#) has been carrying out.

The EU preparations for Brexit

EU law in itself does not require much adjustment to deal with the departure of a Member State, even one as significant as the United Kingdom.

The main body of EU law applies within the EU Member States and, in many cases, in the EEA States. It will continue to do so and it will simply be the case that references to the EU, the EEA and Member States will no longer include the UK, at latest at the end of transition. The main substantive changes for the EU are constitutional in that they affect the operation of the European Parliament and judges to the CJEU. The EU Budget from 2020 will cease to reflect the substantial contributions from the UK as a Member State: however, the terms of the Withdrawal Agreement result in the UK contributing and drawing from the EU budget as if it were a Member State up to the end of the present budget period, the end of 2020. If the transition period is extended, new terms for contribution to the EU budget in the new budget cycle would have to be agreed. As the UK has been the second largest net contributor to the EU budget after Germany, the loss of its contributions is one of the most unwelcome aspects of the UK leaving the EU for other net contributing Member States, whose contributions will increase substantially. As we have mentioned above, the EU has issued a series of papers reminding business of the effects of the UK leaving. The most significant effect is for businesses relying on licences or approvals issued by UK authorities to operate within the EU or evidence that their goods meet EU standards. These will cease to be recognised within the continuing EU and businesses in many cases will need to obtain new licences or approvals from authorities in a continuing Member State. The effects may be significant for business and are discussed in more detail elsewhere in this [Legal Guide](#).

However, UK businesses operating in the EU, like third country businesses currently, will not lose their rights to challenge the EU authorities before EU courts, eg if the European Commission refuses to allow them to merge with another business operating in the EU or imposes a fine for breach of competition law rules in relation to their business operations in the continuing EU (or between the EU and the UK before Brexit), they will continue to have rights of appeal to the CJEU.

“The General Election in December 2019 removed some of the seemingly unending uncertainty regarding Brexit, which has weighed heavily on businesses and individuals. The very tight timetable to get in place a new trading relationship to be operational on 1 January 2021, however, means that there is still a no-deal risk of reversion to WTO terms when transition ends. We can all only continue to plan for the worst and hope for better.”

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