



# The end of the BREXIT nightmare...?

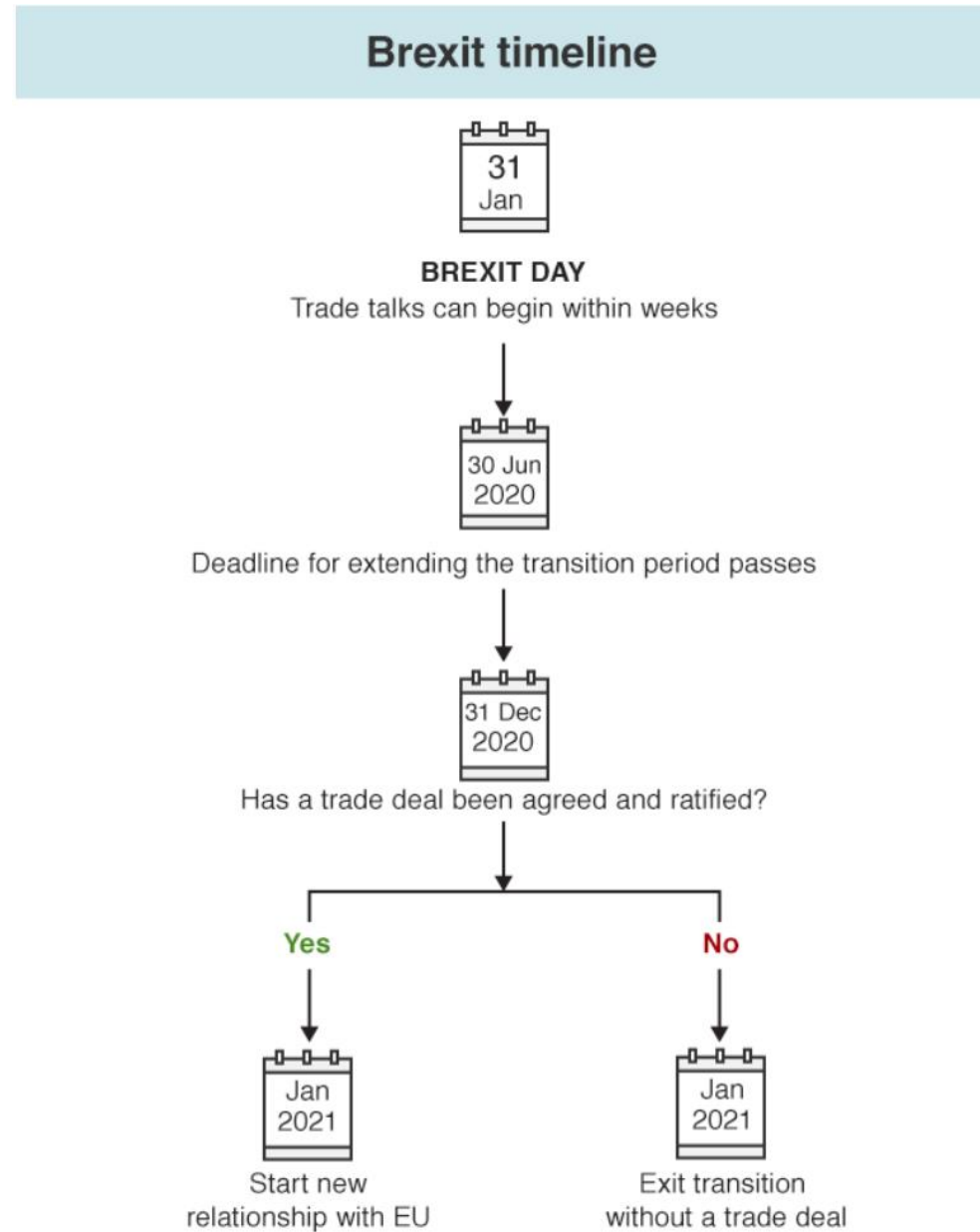
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- The Brexit date - the UK left the EU – on 31 January 2020.
- UK enters Transition Period
- Up to 30 June 2020 Transition Period can be extended if both parties agree
- It is possible for UK to leave EU at the end of the transition period without a deal



# Transition Period

- Negotiations
  - EU Negotiating draft 18 March
  - UK issues 13 documents "setting out our approach to our future relationship with the European Union" on
  - Exchange of letters between Frost and Barnier
- Deals with other countries
- Deal ratified in all EU countries

# No-Deal still possible ?

- Now we are talking about no Trade Deal, i.e. the future relationship
- The government believe a deal can be concluded by the end of Dec. 2020.
- The Prime Minister has a large majority and should be able to get a deal through Parliament.
- EU leaders are sceptical.
- The EU needs agreement from all members

# Data Protection in negotiations

- UK tried to discuss adequacy (Article 45 ), during deal negotiations but EU was not prepared to do this before the UK left
- Withdrawal agreement allows for this to take place during the transition period
- In the case of a Trade deal not being made, the UK becomes a “third country” at the end of the transition period and Article 46 becomes relevant

## Will the UK automatically be awarded adequacy status

- Countries with “adequacy” are not bound by appropriate safeguard requirements
- But...Commission needs to go through a formal assessment process as set out in Article 45 (2) of GDPR
- The Withdrawal Act incorporates GDPR into UK law and 2018 Data Protection Act will remain in place
- But as a third country UK could come under greater scrutiny. Some believe that there could be issues relating to e.g. Investigatory Powers Act 2016
- Adequacy will continue to be subject to review Article 45 (4)

## Article 45 - How is adequacy assessed

- Rule of law, respect for human rights...
- Effective independent supervisory authorities in third country...
- The international commitments of the third country....
- Regular reviews with the potential to reverse decision

## Potential issues

- Unless the UK enacts new legislation during the transition period it will still have the 2018 Data Protection Act which is the UK implementation of GDPR. Article 8 of ECHR Charter not specifically referenced
- The UK will be negotiating other Trade Agreements (and data protection agreements) simultaneously
- “The future relationship will not affect the Parties' autonomy over their respective personal data protection rules”
- Adequacy - UK Investigatory Powers Act 2016
- Adequacy - Onward transfer of information to security partners (US, Australia etc)
- Adequacy - Time available



Now outdated but would be applicable if there is no Trade Deal in place  
By 31st December 2020

## Information note on data transfers under the GDPR in the event of a no-deal Brexit

Adopted on 12 February 2019  
Updated on 4 October 2019

### Introduction

In the absence of an agreement between the EEA and the UK (no-deal Brexit), the UK will become a third country from 00.00 am CET on 1st November 2019. This means that the transfer of personal data to the UK has to be based on one of the following instruments<sup>1</sup> as of 1st November 2019:

- Standard or ad hoc Data Protection Clauses
- Binding Corporate Rules
- Codes of Conduct and Certification Mechanisms
- Derogations<sup>2</sup>

This note provides information to commercial and public organisations on these transfer instruments under the GDPR for the transfer of personal data to the UK in the event of a no-deal Brexit

The FDPR builds upon the guidance provided on this matter by supervisory authorities and by the [European Commission \(EC\)](#). EEA organisations may turn, if necessary, to the [national supervisory authorities](#) competent to oversee the related processing activities.