

SNAPSHOT

The latest updates from the team at FTI Consulting
Giving you insight to what is on the Brexit agenda

BREXIT UPDATE

8 March 2019

The team in London reports on the UK Government's intention to bring forward a second parliamentary vote (*known as 'MV2' in Whitehall circles*) on Tuesday 12 March, which asks the House of Commons to approve the latest Brexit deal. Whilst this has been confirmed by the Leader of the House, it is likely to be subject to successful negotiations with Brussels on the key issue of the Northern Irish backstop protocol.

- Negotiations are facing an impasse, with the EU seemingly rejecting initial proposals from the UK to alter the terms of the backstop. Further negotiations are ongoing but the prospects for a substantially altered deal seem limited at this stage – indeed, a planned visit by Geoffrey Cox and Stephen Barclay to Brussels today (8 March) has been cancelled.

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- The UK Parliament remains largely hostile to the existing deal, with many Conservative MPs still promising to reject it, as well as the Government's supply and confidence partner, the DUP (Democratic Unionist Party of Northern Ireland). Unless significant changes can be made to the backstop, it appears likely that Parliament will, once again, vote down the Withdrawal Agreement.
- Events next week are still uncertain, despite Government commitments to hold votes on no deal and extending Article 50 in the event the Withdrawal Agreement is rejected. There is a possibility of a third 'meaningful vote' if the deal is rejected by a relatively narrow margin, following potential emergency talks with the EU next week.

Negotiations

UK negotiators, lead by the Brexit Secretary Stephen Barclay and Attorney General Sir Geoffrey Cox, have been in Brussels this week discussing the UK's proposals for revisions to the Northern Irish backstop protocol. The UK has asked for changes in two key areas. The first being a clarification of the role of the arbitration panel that is already defined in the Withdrawal Agreement. The UK has asked the EU to adjust the remit of the panel to include a power to determine whether or not either side had acted "in good faith" to establish a new trading relationship or so-called 'alternative arrangements' that would negate the need for the backstop to come into force. Effectively, this would enable the UK to independently challenge the implementation of the backstop if negotiations had not progressed towards a new relationship deal by the end of the transition period. Secondly, Sir Geoffrey has also proposed a change to the scope of the backstop, which has been named a "mini-backstop" by certain commentators – in effect he has asked for it to be scaled back to only those measures and regulations that directly apply to processes necessary at the Northern Ireland-Republic of Ireland border.

According to several Brussels sources, both ideas were not immediately acceptable to Mr Barnier, who reportedly told EU Commissioners that he had requested "fresh drafting" of the proposals. Sir Geoffrey, reporting to the House of Commons on 7 March, said that there had been "*careful discussions*" with the EU on the proposals but that talks would continue during the week and likely over the weekend to try to break the impasse.

Parliament

In order for MV2 to happen on Tuesday 12 March, the Government must lay a motion and allow time for amendments to be tabled by the evening on Monday 11 March. On the same day, the Attorney General is likely to set out a revised legal opinion on the backstop following any changes he secures from Brussels. If he is able to alter his opinion that the backstop would exist “in perpetuity unless and until” a new relationship is agreed, this would be significant as it may convince the DUP and pro-Brexit Conservative MPs to vote for the deal.

Timetable

If we assume the Government manage to successfully agree a revised deal with the EU, the likely course of events next week are as follows:

- *Monday 11 March (Afternoon): Revised deal published; PM statement to Parliament*
- *Monday (Evening): Government motion laid and amendments tabled by MPs*
- *Tuesday 12 March (Afternoon): Amendments selected by the Speaker; debate in the Commons*
- *Tuesday (Evening): Votes on amendments followed by MV2; immediate PM statement*
- *Wednesday 13 March: If deal is rejected, motion concerning ‘no deal’ is made*
- *Thursday 14 March: If MPs reject ‘no deal’, motion concerning extending Article 50 is made*

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