

No Brexit deal in sight and UK election still highly likely

As MPs return to Westminster, it's clear that the UK prime minister faces an uphill battle to get a Brexit deal approved before the 19 October deadline set by lawmakers. Failure would oblige Boris Johnson to ask for another Article 50 extension and that means an election later in 2019 still looks highly likely



The British Prime Minister, Boris Johnson, returns to the UK from New York after parliament was recalled

Johnson faces an uphill struggle to get a deal

It's been another remarkable couple of days in Westminster. The Supreme Court ruled that the UK prime minister's decision to suspend Parliament a couple of weeks ago was unlawful. The House of Commons has now reconvened.

But despite the fanfare, the implications for Brexit are less obvious. Remember, the main consequence of the suspension was that it made it harder for MPs to legislate against an October 'no-deal' exit. But despite these obstacles, MPs still succeeded in approving a law designed to force the prime minister to ask for a further Article 50 extension, should he fail to get a deal approved by Parliament by 19 October.

This deadline leaves the prime minister with just over three weeks to find such a deal, and with an election potentially looming, there are incentives to get one. Securing approval for an agreement

would avoid the potential political embarrassment of having to ask for another Brexit delay. It might also help stem the tide of Conservative voters to the Brexit Party at the next election (assuming a deal, that enables the UK to leave the EU before voters go to the polls, is perceived as Brexit being "done").

UK's backstop proposals don't go far enough

But getting a deal over the line will undoubtedly be tough.

The UK government is seeking changes to the Irish backstop – the mechanism designed to avoid a hard border between Northern Ireland and the Republic of Ireland – but both sides remain poles apart. To recap, this backstop would keep Northern Ireland aligned to key single market rules, avoiding the need for goods to be checked against EU standards. The UK as a whole would also stay in a customs union – that helps avoid the paperwork and cost relating to tariffs and rules of origin.

So what is the government after instead? Well the UK has signalled that it would be prepared to allow Northern Ireland to maintain EU rules on certain agricultural exports. These farm and animal products tend to be among the most heavily scrutinised products at international borders.

The EU remains sceptical

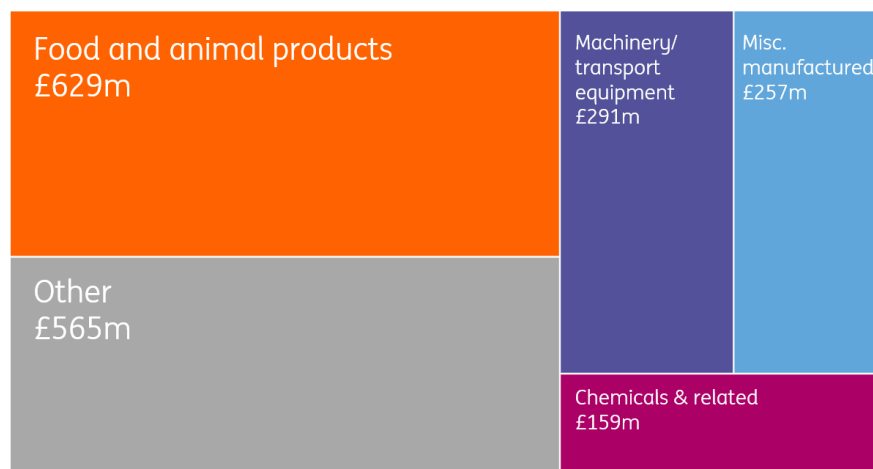
However food/animal products only make up around a third of Northern Irish exports to the Republic – there are large swathes of other goods that move across the border, and the UK is more reluctant to align with EU rules here. More importantly, the UK is deeply against allowing the UK, including Northern Ireland, to remain within the EU's customs regime – partly because this would make future non-EU trade deals less feasible.

Instead, the UK is proposing “alternative arrangements” – things like trusted-trade schemes and electronic pre-clearance for goods passing over the border – to keep trade moving.

However, the EU remains sceptical. A trusted-trader scheme - a certification system ensuring firms have adequate processes in place to comply with the rules - is only likely to be an effective solution if all exporters are, well, trusted. With differences in regulatory/customs regimes between the Republic of Ireland and Northern Ireland comes an increased incentive to smuggle.

Camera equipment and spot checks could help police this, although by definition this involves border infrastructure, something which many are wary could risk greater political tensions in the region. There is also the added logistical complexity that there are more than [200 crossing points](#) along the Irish border - including some roads that sweep multiple times across it.

Northern Ireland exports to Republic of Ireland by category (2016)



Source: ONS

If Johnson wants a deal, it might have to be ‘off-the-shelf’

In other words, it seems unlikely that there will be a big breakthrough in talks over the backstop.

So if the government is set on bringing a deal back in October, then it might have to be something that closely resembles an ‘off the shelf’ option. One possible route might be the so-called Northern Ireland-only backstop. This was the EU’s original proposal, and the key difference is that only Northern Ireland would stay in a customs union with the EU – not the UK as a whole as is the case in the current iteration of the backstop.

However, the UK government remains highly reluctant to permit any part of the UK to stay aligned with the EU on customs, even if it may ultimately accept a greater role for single market rules in Northern Ireland.

The numbers in Parliament still appear stacked against a deal

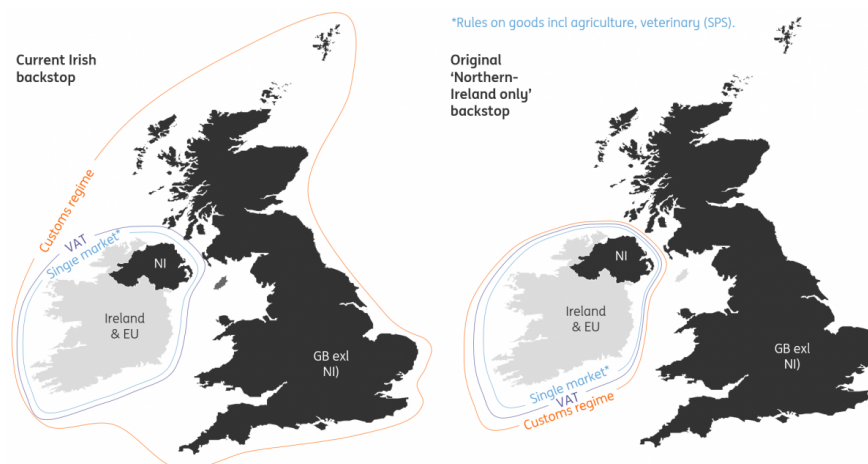
It’s also not clear that such a manoeuvre would help Johnson politically. The Northern Irish Democratic Unionist Party are [reportedly](#) more open to a compromise than a few months back. But a deal of this kind would still involve barriers between Northern Ireland and the rest of the UK – a key DUP red line.

There has also been plenty of discussion about potential Labour MPs coming out in favour of the prime minister’s deal – many [reportedly](#) regret not voting for Mrs May’s deal a few months back. This group – perhaps around 30 in number – represent Leave-supporting seats and are perhaps wary about Labour’s prospects in these areas at the next election.

But while they might be more open to a deal, it’s not clear they’d vote for any deal. The final iteration of Mrs May’s proposal more-or-less guaranteed a customs union with the EU, as well as certain provisions on workers’ rights. A return to the so-called NI-only backstop could see both

aspects fall away.

What is the Northern Ireland-only backstop?



Article 50 extension and election remain highly likely

The upshot is that the numbers in Parliament still appear stacked against a deal - making it unlikely that the prime minister will be able to get one before the 19 October deadline.

Beyond then, the prime minister would be obliged to seek an Article 50 extension from the EU. And while there have been suggestions that the prime minister could ignore this obligation, the Supreme Court's unanimous verdict this week serves a reminder that the courts would probably quickly step in.

Our base case, therefore, remains that the UK is headed for a general election - the question remains 'when' and 'how'.

Opposition leader Jeremy Corbyn has indicated that he won't trigger a vote of no confidence in the government this week - and is unlikely to do so until an Article 50 extension has been secured. Assuming that a delay is secured some time in mid-October though, then an election could feasibly take place in early/mid-December. We'd assume there would be a desire to get it out of the way before Christmas in any case.

Don't be fooled - 'no deal' could still happen

Given the law surrounding an Article 50 extension, the perceived risk of a 'no deal' occurring on 31 October has fallen. It's worth noting though that, while much less likely, it is still possible.

Don't forget that the EU will need to agree to another Article 50 extension, although it currently looks unlikely that Brussels would reject such a request.

The risk of 'no deal' could come to the fore again after an election

There is also an apparent [loophole](#) in the law surrounding an Article 50 request. If PM Johnson gets approval for a deal from MPs before 19 October, then the obligation to ask for another delay falls away. But approval isn't the same as ratification, and the House of Commons will need to rapidly pass various pieces of legislation before the UK leaves the EU.

If this process falls apart - or the government fails to table this legislation at all - then worries about a 'no deal' exit on 31 October could feasibly resurface.

That said, this currently seems like a pretty unlikely turn of events - and we may even see opposition MPs step in again now Parliament has resumed to make the legislation surrounding an Article 50 extension more water-tight.

One final point - the risk of 'no deal' could come to the fore again after an election. If the Conservatives were to win a majority, as some polls currently suggest, then the feeling is that a 'no deal' scenario would become much more likely. However, it's worth noting that the result of an election is incredibly tough to call at the moment, given the volatility of UK politics.

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