

Brexit: Getting it done

Andrew Duff



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THE END OF MAY

Historians will be generally unkind to Theresa May. Indeed, they have already begun to be so. In his lengthy, well-informed account of May's premiership, Anthony Seldon writes: "Her Brexit declarations were a slate of amateur contradictions".¹ Poorly advised, not only did she not know what she meant in insisting that "Brexit means Brexit" and "no deal is better than a bad deal", but she had no idea whether her bid for a bespoke arrangement with the European Union (EU) was remotely possible.

"The many difficulties she faced when she became PM cannot be an excuse for the unforced errors she made through ignorance, intransigence and ineptitude."²

May's dithering was fatal. She was an unconvincing advocate of the Withdrawal Agreement and Political Declaration she had secured from the EU in November 2018. Her first attempt (15 January 2019) to win the approval of the House of Commons for the package deal was lost by a staggering 230 votes. A belated effort to win over the Labour party to her deal was welcomed in Brussels but made no headway in London.³ The EU reluctantly but hopelessly agreed for the second time to extend the Article 50 process, until 31 October.⁴ But on 24 July Boris Johnson supplanted Theresa May as prime minister.

Johnson had waged war against May and her deal for two years. As a character he seems less virtuous than May, but his leadership is more persuasive. On Brexit, especially, Johnson is purposeful. His mission to "Get Brexit Done" came as a relief to EU negotiators whose patience with the querulous May had worn thin.⁵ The European Council concluded a revised deal on 17 October.⁶ On 22 October, Johnson even managed to win the second reading of the Withdrawal Agreement Bill by 30 votes, although he

lost (by 14) the necessary accompanying resolution on timetabling procedure.

The European Council accepted the need to extend Article 50 yet again, until 31 January 2020, while the UK went back to the polls.⁷ At the general election on 12 December the Conservatives won an overall majority of 80 and a majority of 162 over the Labour party, which was reduced to its lowest number of MPs since 1935. The Liberal Democrats gained votes but lost one seat and their leader, Jo Swinson. The Democratic Unionist Party (DUP) lost two seats and their leader at Westminster, Nigel Dodds.

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In Brussels the UK election result was taken as confirming the outcome of the 2016 referendum. Accordingly, a revised version of the Withdrawal Agreement Bill won its second reading on 20 December with a majority of 124. The remaining stages of the Bill will be completed in order for the European Parliament to vote its consent to the deal on 29 January.⁸ The Council will then conclude the agreement on behalf of the Union in time for Britain's final departure on 31st, a full seven, destructive years after David Cameron's fatal speech (talking of unforced errors) in that Bloomberg basement.⁹

THE NEW DEAL ON IRELAND

In accepting the revised Withdrawal Agreement and Political Declaration, the Union is able to claim that it upholds its original Brexit guidelines. Boris Johnson has decided to revert to an earlier proposal of February 2018, promoted by Michel Barnier, whereby only Northern Ireland and not the UK will remain part of the EU customs territory.

The Irish Protocol is no longer an insurance policy to be used as a backstop but will be fully operative from the end of the transition period. Mercifully, the spotlight is taken off the unicorn hunt for 'max fac' technological solutions to border controls which so obsessed the arch-Brexiters (but not Johnson). The new Protocol will apply whether or not the UK concludes a free trade agreement (FTA) with the EU. As part of the British customs union, Northern Ireland will therefore be liable

to benefit from any free trade agreements that London can hack with the outside world.

The EU Customs Code will apply to all goods entering Northern Ireland, so there will be no need for 'hard border' customs controls on the island of Ireland. Northern Ireland will remain subject to EU single market rules concerning manufactured goods, SPS rules, agri-foods, VAT, excise, the single electricity market and state aid rules. Northern Irish business will have "unfettered access" to the market in Great Britain (subject to summary exit declarations as prescribed by the EU Customs Code).

Only goods entering Northern Ireland from Great Britain (or elsewhere) en route to Ireland will be subject to EU customs duties. The Joint Committee established as the lynchpin of the governance arrangements under the

Withdrawal Agreement will oversee the management of this filtering process and will establish criteria to identify goods “at risk of moving into the EU”.¹⁰ Where EU duties are higher than those of the UK, the British authorities may reimburse Northern Ireland business. Her Majesty’s Revenue & Customs (HMRC) will continue to be responsible for applying the EU’s VAT rules for goods in Northern Ireland.

In any event, the sectarian DUP has lost its presumptive power of veto over the future of the province.

The UK will be responsible to the EU for carrying out the necessary regulatory checks on goods sent to

Northern Ireland, but these inspections will happen at designated places away from the North-South border. This arrangement imposes tougher checks across the Irish Sea – the notion that so distressed the DUP (and Theresa May). Boris Johnson promises that these mainly regulatory controls will be light-touch, but they will have to be credible as far as the European Commission is concerned. The European Court of Justice will continue to oversee the application of EU law in Northern Ireland.

Faithful to the spirit of the 1998 Belfast Good Friday Agreement, these special arrangements for Northern Ireland are to be made subject to the consent of the Stormont Assembly, by a simple majority, four years after the end of the transition period. A consent by simple majority will be subject to a further vote in four years’ time. If, however, there is cross-community consent according to a qualified majority, the next test will come in eight years.¹¹ In any event, the sectarian DUP has lost its presumptive power of veto over the future of the province.

THE NEW DEAL ON THE FUTURE RELATIONSHIP

The Irish Protocol apart, the 2019 Withdrawal Agreement remains the same as its 2018 predecessor. No change is made to May’s deal on citizens’ rights or the financial settlement. As the EU always promised, however, it has had no difficulty in adjusting the Political Declaration to reflect the stance of the new government on the matter of the future relationship.

Boris Johnson seeks to make much of his renegotiation of the Political Declaration.

The Political Declaration is part and parcel of the statutory process of secession as laid down in Article 50(2) TEU. It is incorrect, as many have done, to simply dismiss the document as non-binding. The Declaration is referred to in the Withdrawal Agreement treaty and is liable to be used in any court that is asked to interpret that Agreement. The purpose of the Political Declaration is political, first, to steer the 27 EU member states in one direction in advance of the actual negotiation of the future relationship (which can only start after the UK has formally left the Union), and, second, to commit the UK government to that same course.

Boris Johnson seeks to make much of his renegotiation of the Political Declaration. He has removed references to the single customs territory and the consequent need for the UK “to consider aligning with Union rules

in relevant areas”.¹² Although the new document still commits both parties to developing “an ambitious, broad, deep and flexible partnership” across trade, the economy, and political and security cooperation, it adds that at the core of the partnership will be “a comprehensive and balanced Free Trade Agreement”.¹³ May’s “trading relationship on goods that is as close as possible” becomes Johnson’s “ambitious trading relationship”.¹⁴

Nevertheless, the significance of the changes need not be exaggerated.¹⁵ The 2019 version of the Political Declaration retains this aide-memoire to the legacy of EU membership:

“The period of the UK’s membership of the Union has resulted in a high level of integration between the Union’s and the UK’s economies, and an interwoven past and future of the Union’s and the UK’s people and priorities. The future relationship will inevitably need to take account of this unique context. While it cannot amount to the rights or obligations of membership, the Parties are agreed that the future relationship should be approached with high ambition with regard to its scope and depth, and recognise that this might evolve over time.”¹⁶

Although arch-Brexiteers have missed the point, Boris Johnson seems to know perfectly well that even a minimal FTA means meeting the EU’s fundamental requirements of fair trade and competition to prevent undercutting the Union’s internal market. So the EU dislikes the UK’s downplaying of the concept of regulatory alignment but it is pleasantly surprised that Johnson has maintained

intact his predecessor's political commitment to the level playing field. Paragraph 77 is key:

“Given the Union and the United Kingdom’s geographic proximity and economic interdependence, the future relationship must ensure open and fair competition, encompassing robust commitments to ensure a level playing field. The precise nature of commitments should be commensurate with the scope and depth of the future relationship and the economic connectedness of the Parties. These commitments should prevent distortions of trade and unfair competitive advantages. To that end, the Parties should uphold the common high standards applicable in the Union and the United Kingdom at the end of the transition period in the areas of state aid, competition, social and employment standards, environment, climate change, and relevant tax matters. The Parties should in particular maintain a robust and comprehensive framework for competition and state aid control that prevents undue distortion of trade and competition; commit to the principles of

good governance in the area of taxation and to the curbing of harmful tax practices; and maintain environmental, social and employment standards at the current high levels provided by the existing common standards. In so doing, they should rely on appropriate and relevant Union and international standards, and include appropriate mechanisms to ensure effective implementation domestically, enforcement and dispute settlement. The future relationship should also promote adherence to and effective implementation of relevant internationally agreed principles and rules in these domains, including the Paris Agreement.”

The Johnson government in 2019 confirms the bulk of the commitments made by the May government in 2018. The UK is still committed in the Political Declaration to negotiating a new customs arrangement, as well as additional agreements to preserve cross-Channel connectivity, nuclear safety and common fisheries. No material change is made to the section on trade in services, immigration or cooperation in foreign policy, security and defence.

MORE OR LESS GOVERNANCE

The revised Political Declaration shortens the section on governance. In particular, the reference to the joint governance arrangements of the transition period as being the basis of what might follow is removed. The new government wants to adopt the classical dispute settlement procedures of an FTA under international law involving a “flexible mediation mechanism”.¹⁷

The EU is concerned to keep post-Brexit Britain within a single coherent legal system that will facilitate the monitoring, and if necessary correction, of whatever level playing field arrangements are made. Nobody wants the UK to end up with a litigious muddle of bilateral agreements, like another Switzerland. The better template is offered by the Ukraine Association Agreement of 2014, whereby the EU demands robust joint governance arrangements as its price for allowing greater market access. For the UK this joint governance is clearly established under the Withdrawal Agreement for the transition period, with a longer extension to uphold the citizens’ rights machinery. The EU will try to persuade the UK to stand firm behind similar joint governance for the longer term.

It matters, therefore, that the transition period proves to be a successful experiment and serves to boost confidence in the concept of joint governance. During the transition period, the UK stands to enjoy parity of esteem with the EU institutions in an elaborate apparatus of multi-level joint ministerial, official, expert and parliamentary meetings. Boris Johnson will already be looking forward to a major summit meeting to be

held in June with the Presidents of the Commission and European Council. It is unlikely that he will want to forego such privileged status under the terms of any final agreement.

In fact, although truncated, the new Political Declaration does not contradict the joint governance apparatus agreed by Theresa May. Away from trade in goods, in areas such as cooperation in security and British participation in EU sectoral programmes, such as R&D, the aegis of EU law will continue to run under the authority of the Court of Justice.¹⁸ The UK’s appetite to participate in the work of the EU agencies will only become evident during the transition period as the negotiations on the future association unroll. But it is not in the Union’s interest to exclude the British from participation, even with observer status, if the agencies contribute (as they should) to the smooth running of the level playing field.

It is encouraging, therefore, that the Johnson version of the Political Declaration still commits both parties to establishing “a Joint Committee responsible for managing and supervising the implementation and operation of the future relationship, facilitating the resolution of disputes, ... and making recommendations concerning its evolution”.¹⁹ And the parties once again “note that the overarching institutional framework could take the form of an Association Agreement”.²⁰

THE NEGOTIATING MANDATES

Much remains yet to be revealed about the UK's final negotiating stance. During the general election campaign, Johnson's rhetoric was gung-ho. Fresh from his electoral victory, however, the prime minister has toned down the rhetoric – and even wants us to stop using the term 'Brexit'.

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What is clear is that Boris Johnson has lowered the level of ambition in terms of future alignment by rejecting the notion of the single customs territory for the whole of the UK. Nonetheless, he will accept the EU's level playing field conditions in order to secure its initial FTA, and he does not appear to be excluding the possibility of future agreements based on dynamic regulatory alignment in specific fields, notably in services.

As far as the EU is concerned, if it can secure a British trade agreement based on no tariffs, no tariff quotas and no dumping, further development of the partnership would be welcome. After the bruising experience of secession, however, rebuilding mutual trust is at a premium, and the sooner an FTA can be put in place the better for both parties. That is the main task in 2020.

TIMETABLING

The EU is right to proceed on the assumption that Boris Johnson means what he says about not wanting to extend the transition period beyond the end of 2020. Bizarrely, he is even legislating to prevent such an extension.²³ In theory, according to Article 132 of the Withdrawal Agreement, the Joint Committee can decide, before 1 July, to extend the transition period by one or two years. In practice, such an extension would cause intense frustration not only to the two parties to the negotiation but also to business and international stakeholders who need urgent clarity as to the nature of the final trade relationship. Extending the transition to 2021 or 2022 would further complicate the already complicated internal EU row over its new budgetary cycle. And it would for Johnson be a major embarrassment.

On 13 December 2019, the European Council instructed the Commission and Council to prepare a draft comprehensive mandate for the negotiation of the future relationship in line with the Political Declaration and the previously agreed guidelines. It also reappointed Michel Barnier as the Union's chief negotiator. To signal the end of the secession process and the beginning of a negotiation with a third country, Barnier's task force unit TF50 was rapidly (and carefully) renamed UKTF.

Following a series of Commission seminars for the Council during January, the draft mandate will be published soon after 1 February in the hope that it can be signed off by the General Affairs Council on 25 February. No emergency meeting of the European Council is foreseen. The mandate will cover all aspects of the future relationship on the understanding that the 27 member states will commit themselves individually, collectively and finally to settling the British business.²¹

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The Political Declaration stipulates that, immediately after 31 January, the two parties will agree on the structure, format and schedule of the negotiating rounds, including parallel work.²²

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What is more likely, therefore, is a studied phasing of the negotiations. Top priority will be an FTA based on no tariffs, no tariff quotas and no dumping. As we have noted, the Union's principal interest lies in defending the level playing field of the internal market. Starting from the situation where the UK is fully aligned with all aspects of the EU acquis, it will not be difficult to install in the FTA standard non-regression clauses on environmental protection, labour standards and state aid. The EU is particularly concerned to ensure that the Irish Protocol arrangements will be fully operable on time by the end of the year, and a nil tariff FTA with the UK would seem to be a prerequisite for such facilitation.

In addition, the FTA will need to be accompanied by possibly five side agreements to continue current

arrangements in the sphere of internal security.²⁴ Other items, such as aviation and financial services, will need more months to negotiate and can be covered *pro tem* by contingency measures. Further aspects of a deeper relationship – such as foreign, security and defence policy – are deserving of more reflection.

The Political Declaration stipulates that certain urgent matters will be concluded in the course of 2020. These are an agreement on data protection, equivalence assessments for financial services (by June), and fisheries (in time for 2021). Boldly, it is the “clear intent” of both parties to conclude the arrangements summarised in the Declaration by the end of 2020.²⁵ The June summit meeting will assess progress.²⁶

EXCLUSIVE COMPETENCE

An important consideration on the EU side is to ensure that the FTA and fisheries agreement will be treated by its member states and by the European Parliament as a matter of the Union's exclusive competence.²⁷ This will expedite the conclusion of the agreement and negate the need for ratification by all national and regional parliaments of the 27 states.

Common commercial policy and fisheries are quintessentially exclusive Union competence, and recent case law of the Court of Justice on the modern raft of bilateral trade agreements has rather strengthened the autonomy of the Commission by delimiting the scope of

mixed competence.²⁸ It is clear that questions of taxation, non-direct foreign investment and investor dispute settlement are mixed competence best left to a later stage of a final association agreement. But an exclusive competence FTA with the UK can easily accommodate not only trade in goods but also services, including transport, mutual recognition for service providers, public procurement, sustainable development, foreign direct investment (FDI), intellectual property rights (IPR), competition policy and data exchange. Sensibly, the initial FTA could also contain a review clause to allow for its later upgrading – including a review of the customs union option.²⁹

FISHERIES

And then there is fish – or as the Political Declaration calls it ‘fishing opportunities’. Again, no change is made in the revised version. Having noted that the UK will have become again an independent coastal state, it is agreed that “within the context of the overall economic partnership the Parties should establish a new fisheries agreement on, inter alia, access to waters and quota shares”.³⁰ Ideally, an agreement for 2021 has to be in place by the summer of 2020 to allow fishing fleets to adjust to the new situation.

It is no secret that British fishermen were amongst the most vocal Brexiteers. Massive delusions were peddled in the referendum campaign about sovereign waters and the Britishness of fish – delusions which wholly missed the point about the need for reciprocal market access and the need for common European action to preserve stocks. An unpopular deal will be done with the French, the Danes and the Spanish, as it is every year, but this time Whitehall and Edinburgh and not Brussels will have to take the rap. The government must hope that the wider

public will not be paying much attention to the detail of a post-Brexit rumpus on fish.

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BE PREPARED

The UK government must take many steps, in a hurry, to ensure that the post-Brexit arrangements are up and running in twelve months' time. The new Parliament at Westminster faces a heavy legislative load of up to nine Brexit bills, including agriculture, data, employment, environment, extradition and immigration. The devolved parliaments also have work to do in their respective spheres.

Not least among the challenges is to create in the UK a robust regulatory framework to take over the work of surveillance and supervision previously undertaken by the European Commission.

Not least among the challenges is to create in the UK a robust regulatory framework to take over the work of surveillance and supervision previously undertaken by the European Commission. The Withdrawal Agreement Bill will create the Independent Monitoring Authority

for Citizens' Rights (IMA).³¹ The new Office for Environmental Protection (OfEP) will be created under a separate environment bill.³² Another autonomous regulator is being planned for workers' rights. These bodies will not be Quangos, subject to ministerial direction, but empowered as a last resort to take ministers to court. The powers of some existing UK bodies, such as the Food Standards Agency and the Financial Conduct Authority, need to be upgraded to shoulder new duties guaranteeing the non-regression clauses of the level playing field and, as and when necessary, to monitor Britain's regulatory alignment with the EU acquis.

The UK has a job to appoint capable people to these authorities without stripping Whitehall of talent. Already questions are asked about the capability of HMRC to manage its new workload at Britain's many ports of entry and exit. Not all the heavy administrative burden caused by Brexit falls on the UK: the French and Belgian authorities at Calais and Zeebrugge have a large task ahead in having to check to the satisfaction of the Commission what comes into the EU from England.

At the same time, the UK government will have to name its representatives on the Joint Committee structure at ministerial and official level, as well as appoint members of the arbitral tribunal. Brussels hopes that the latter will be British judges schooled deeply in EU law (they exist).

PARLIAMENTARY SCRUTINY

The UK Parliament will have to run to catch up with the rapid-fire decisions of the executive in delivering Brexit. Opposition MPs will doubtless complain about the hard or limited nature of the FTA – and they may well come to regret that they failed in the last Parliament to deliver the softer version of Brexit on offer from May's minority government.

The UK Parliament would be wise immediately to initiate the setting up of a joint committee with the European Parliament, of perhaps 15 members on each side.

Nevertheless, intelligent detailed parliamentary criticism of the raft of necessary secondary legislation may certainly render some improvements, and the

prime minister's large majority gives him leeway to make concessions and change tack if he wishes to do so. Leniency on EU citizens struggling with the bureaucratic procedures to remain resident in the UK and guarantees of impartiality in the appointment of the IMA will help to satisfy the European Parliament that the deal must now be done.

Parliamentary scrutiny at Westminster of the progress of the negotiations and of the performance of British ministers and officials in the Joint Committee will be of the essence. The Joint Committee of the transition period will be a powerful body, and its powers are likely to be further enhanced as and when it morphs into the new executive of a final association agreement.³³ So a new approach by the Commons to its previously lacklustre scrutiny of EU affairs is badly needed – possibly in conjunction with the better informed but politically neutered House of Lords.³⁴

The Political Declaration supports the “establishment of a dialogue between the European Parliament and the Parliament of the United Kingdom, where they see fit, in order for the legislatures to share views and expertise on issues related to the future relationship”.³⁵ The UK

Parliament would be wise immediately to initiate the setting up of a joint committee with the European Parliament, of perhaps 15 members on each side. Parliamentarians should treat their participation in this joint committee as a matter of high importance. They

should also encourage civil society dialogue to aid their parliamentary scrutiny. MEPs will be no less interested in the conduct by Michel Barnier and his team of the British negotiations, and are in a good position to insist on transparency.

CAN IT BE DONE?

Many very well informed critics think it is impossible to conclude a comprehensive trade agreement by the end of 2020. Leading the sceptical field is Ivan Rogers, who thinks the worst of Brexit is yet to come.³⁶ Mutjaba Rahman of the Eurasia Group believes the risk of a cliff edge 'no deal' exit next December is rising. Wolfgang Münchau is hesitant. My colleague Fabian Zuleeg is pessimistic. Doomsters and gloomsters populate my twitter feed.

One may hope, however, for all our sakes, that 2020 will see a change of gear in Britain from ideology to pragmatism – that very quality for which British European policy used to be justly famed.

Amid all the speculation, much will depend on the degree to which the prime minister is really intent on diverging from EU norms. Presumably divergence is the whole point of Brexit. But Johnson's own insistence on the very tight timetable gives the EU great leverage in the negotiations, and the Union will resist divergence where it can.

Negotiators on both sides might make mistakes. EU unity might fracture when trade and fish are up for grabs. The

imposition of tariffs may, in the end, be unavoidable. Dominic Cummings, the prime minister's chief adviser, may really be the unremitting ideologue he is portrayed to be. Johnson himself may fall victim to braggadocio. The talks indeed may not succeed.

One may hope, however, for all our sakes, that 2020 will see a change of gear in Britain from ideology to pragmatism – that very quality for which British European policy used to be justly famed. The Withdrawal Agreement and Political Declaration, prepared for Johnson by his predecessor, are not negligible achievements in themselves and could be the pragmatic basis of a decent and durable association agreement that settles Europe's British problem for some years to come.

Conversely, leaving the EU badly will damage the UK badly. The argument for close economic ties with Britain's largest trading partner is irrefutable. The softer the Brexit, the better it will be for those poorer northern towns which voted Tory at the election. The prime minister also knows that a hard Brexit will only reinforce separatist tendencies in Scotland, Wales and Northern Ireland.

It would be a mistake to underestimate Boris Johnson. He can well survive as prime minister until the next general election in 2024 and beyond. He looks set to outlast most if not all the current members of the European Council. His chairmanship of the COP26 conference in Glasgow in November will put him centre point on the world stage. At home, Labour is in a terrible mess. The government faces no significant political challenges at least until after the Scottish parliament elections in 2021.

NO FIREWORKS

Nobody should underestimate the historic importance of Brexit. Whatever happens, the secession of the United Kingdom leaves the European Union smaller, weaker and poorer. The EU needs to move steadily forward in a federal direction to counter the risk of further disintegration. The UK has been concussed by the populist drama of Brexit, and is itself facing a period of constitutional uncertainty.

Neither party will recover from malaise and concussion if the relationship between the two becomes embittered

and argumentative, as it was in the 1960s before the UK joined. Both sides will have to work together if the Union's estimable goal of good neighbourliness is to be achieved.³⁷ Deeper reflection is called for on how Britain's privileged partnership is going to evolve in the common interest.³⁸

The quality of the UK's contribution to the upcoming Conference on the Future of Europe, if it is invited to participate, may be an early indicator of future trends. There are some important lessons for the EU to learn

from the failure of British membership. Creative strategic thinking about how the post-Brexit Union can promote differentiated integration across the wider Europe would be of value to the whole neighbourhood, as well as to the Atlantic alliance.

Deeper reflection is called for on how Britain's privileged partnership is going to evolve in the common interest.

Midnight on 31 January will be a poignant moment. In Brussels, at least, there will be no fireworks.

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- ¹ Anthony Seldon, *May At 10*, 2019, p. xvi.
- ² *Ibid*, p. xxi.
- ³ For a fly-on-the-wall account of how it looked from Brussels, see Lode Desmet and Edward Stourton, *Blind Man's Brexit: How the EU took control of Brexit*, 2019.
- ⁴ See *Brexit: Time regained*, European Policy Centre, 11 July 2019.
- ⁵ See *Brexit: How was it for you?*, European Policy Centre, 17 September 2019.
- ⁶ [OJ C 384](#) 1, 12 November 2019. The new deal was based on proposals made by Boris Johnson to Jean-Claude Juncker on 2 October. The deal was brokered at the meeting in Thornton Hough on the Wirral between Johnson and the Irish Taoiseach Leo Varadkar on 10 October.
- ⁷ [European Council Decision of 28 October 2019](#).
- ⁸ Parliament votes by simple majority; the Council decides by at least 20 of the 27 states.
- ⁹ Cameron [announced](#) his decision to call an In/Out referendum on 23 January 2013.
- ¹⁰ The Irish government is to have a privileged place on the specialised sub-committee of the Joint Committee dealing with the Irish trade complication.
- ¹¹ The UK government makes a [unilateral declaration](#) about the binding nature of these arrangements under Article 18 of the Irish Protocol.
- ¹² Para. 25 of the 2018 version.
- ¹³ Para. 3.
- ¹⁴ Para. 20 of the 2018 version and para. 19 of the 2019 version, respectively.
- ¹⁵ See the UK government's '[Explainer](#)' of the revised deal of 18 October 2019.
- ¹⁶ Para. 5.
- ¹⁷ Para. 129.
- ¹⁸ Compare paras 132-135 of the 2018 Political Declaration to paras 129-132 of the 2019 version.
- ¹⁹ Para. 126.
- ²⁰ Para. 120.
- ²¹ Article 218 TFEU.
- ²² Para. 138.
- ²³ Clause 33 of the Withdrawal Agreement Bill.
- ²⁴ Namely, Prüm, PNR, Europol, Eurojust and extradition.
- ²⁵ Para. 135.
- ²⁶ Para. 141.
- ²⁷ Article 3 TFEU.
- ²⁸ Opinion 2/15 of 16 May 2017 on the Singapore FTA.
- ²⁹ See Raoul Ruparel, *Getting the UK ready for the next phase of the Brexit negotiations*, Institute for Government, December 2019.
- ³⁰ Para. 73.
- ³¹ Clause 15, schedule 2.
- ³² See the critical [briefing](#) by Greener UK on the Environment Bill introduced in October 2019.
- ³³ For the powers of the Joint Committee under transition, see Article 164 of the Withdrawal Agreement.
- ³⁴ See Chapter 3 of the [House of Commons Liaison Committee Report on the effectiveness and influence of the select committee system](#), HC 1860, September 2019.
- ³⁵ Para. 125.
- ³⁶ "[Ivan Rogers on Brexit: The worst is yet to come](#)", *Prospect Magazine*, 25 November 2019.
- ³⁷ Article 8 TEU.
- ³⁸ See, for example, EU3D Insights: [Europe after Brexit](#), November 2019.

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