

Why might the transition period need to be extended?

Simon Usherwood

As part of the Article 50 package, the EU and UK intend to have a transition period following the UK's withdrawal. This would run to the end of December 2020, but why might it need to be extended?

Reason	Cause	Likelihood
UK domestic political delays	Theresa May could be replaced as Conservative party leader post-March 2019, leading to delay for replacement and possible early General Election	Medium to High
EU political delays	Removal of existential threat to EU with UK's withdrawal might cause increasing differences of opinion on shape of future relationship	Low to Medium
Future Relationship talks not completed	New EU-UK relationship will cover many new areas, so negotiators may find usual timelines for third-state agreements don't work	Medium to High
Ratification issues	Future relationship needs unanimous EU approval, so much scope for CETA-style delays	Medium to High

Can the transition period be extended?

Simon Usherwood

As part of the Article 50 package, the EU and UK intend to have a transition period following the UK's withdrawal. This would run to the end of December 2020, but could/should it be extended?

	No	Yes
Legally	<ul style="list-style-type: none"> • Art.50 TEU has no provision for transition at all, so cannot rely on this • Art.207 TFEU (& others) govern EU relations with third states, so extension would have to not infringe this • Art.XXIV GATT exemption intended for run-in of new trading arrangements, not run-out 	<ul style="list-style-type: none"> • Nothing clear • Absence of specific language on transition might allow case to be made for extension on basis of non-infringing Art.8 TEU ('special relationship with neighbouring countries')
Politically	<p>EU:</p> <ul style="list-style-type: none"> • Desire to close off Brexit, to handle other priorities • Potential complications to budget arrangements from 2021 <p>UK:</p> <ul style="list-style-type: none"> • Weakens claim to be pursuing effective Brexit 	<ul style="list-style-type: none"> • All sides want negotiated new relationship. Transition avoids a cliff-edge in March 2019, so no sense to just move it to December 2020 • Extension is simpler than agreeing a new relationship within the time-frame

Darker box shading indicates higher weight of this outcome

How could the transition period be extended?

Simon Usherwood

As part of the Article 50 package, the EU and UK intend to have a transition period following the UK's withdrawal. This would run to the end of December 2020, but how could it be extended?

	Art.50 extension	New Association Agreement	Treaty Protocol
What's involved	<ul style="list-style-type: none"> EU & UK declare intention to extend transition on current basis 	<ul style="list-style-type: none"> Use Art.207 or 212 TFEU to reproduce transition arrangements Needs EU unanimity & EP approval 	<ul style="list-style-type: none"> Before March 2019, member states sign & ratify treaty protocol to allow Art.50 transition extension
Benefits	<ul style="list-style-type: none"> Procedurally simple and fast Avoids any change in legal basis 	<ul style="list-style-type: none"> Reliable legal basis 	<ul style="list-style-type: none"> Very strong legal basis
Problems	<ul style="list-style-type: none"> Well open to legal challenge 	<ul style="list-style-type: none"> Procedurally heavy, with scope for ratification problems Would complicate progress on longer-term future relationship text 	<ul style="list-style-type: none"> Procedurally very hard, especially with limited time for ratification Looks like overkill
Likelihood of happening	<ul style="list-style-type: none"> Medium to high 	<ul style="list-style-type: none"> Low 	<ul style="list-style-type: none"> Very low