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# BREXIT UPDATE

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**The Information Centre**  
An t-Ionad Fiosrachaidh

Written by **Iain Thom**  
SPICe Research, The Scottish Parliament



The Scottish Parliament  
Parlaimint na h-Alba

## Contents

<b>CONTEXT</b>	<b>1</b>
<b>WESTMINSTER VOTE TO EXTEND ARTICLE 50</b>	<b>1</b>
<b>SPEAKER'S STATEMENT ON REPEAT VOTES</b>	<b>3</b>
<b>PM'S REQUEST FOR AN ARTICLE 50 EXTENSION</b>	<b>4</b>
<b>EUROPEAN COUNCIL – 21 MARCH</b>	<b>7</b>
<b>NO-DEAL PREPARATIONS</b>	<b>9</b>
No-deal legislation adopted by Council of the EU	9
Urgent question at Westminster	9
<b>FIRST MINISTER'S LETTER TO THE PM</b>	<b>10</b>

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## CONTEXT

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On 25 November 2018, EU leaders endorsed the [Withdrawal Agreement \(setting out legal arrangements for the UK's departure from the EU\) and a Political Declaration \(on the UK-EU future relationship\)](#) negotiated between the UK and the EU. Ratification of the Withdrawal Agreement and Political Declaration requires:

- approval by the UK Parliament
- approval by the European Parliament
- implementing legislation in the UK

Following the House of Commons rejection of the Withdrawal Agreement and Political Declaration on the 15 January 2019, the Prime Minister has sought to re-negotiate aspects of the deal with the EU. The outcome of these negotiations – referred to as the Strasbourg agreement – was a set of documents that sit alongside the Withdrawal Agreement and Political Declaration. A second vote under the “meaningful vote” procedure was conducted on the 12 March when the House of Commons rejected the Withdrawal Agreement and Political Declaration for a second time.

This SPICe Brexit Update #83 describes the UK’s request to extend Article 50, the outcome of the European Council on 21 March and recent no deal preparations.

## WESTMINSTER VOTE TO EXTEND ARTICLE 50

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Following the House of Commons’:

- rejection of the Withdrawal Agreement and Political Declaration under the “meaningful vote” procedures for a second time (on 12 March), and
- the Common’s support for a motion that “rejects the United Kingdom leaving the European Union without a Withdrawal Agreement and a Framework for the Future Relationship” (on 13 March)

the UK Government brought a vote on extending Article 50.

The [motion tabled by the Prime Minister for debate on 14 March](#) sought agreement to the UK Government seeking an extension to Article 50. It further detailed two scenarios:

- in the case that House of Commons **approved** a deal under the meaningful vote procedures by 20 March 2019, the motion agreed that the period of the extension sought would be until 30 June 2019 for the purpose of passing the necessary EU exit legislation (i.e. a short extension)
- in the that House of Commons had **not approved** a deal under the meaningful vote procedures by 20 March 2019, the motion notes that “it is highly likely that the European Council at its meeting the following day would require a clear purpose for any extension, not least to determine its length, and that any

extension beyond 30 June 2019 would require the United Kingdom to hold European Parliament elections in May 2019.”

On 14 March, the UK Government also published a guidance note on the [Parameters of extending Article 50](#). This note refers to conditions the EU expect in relation to any extension of Article 50:

“ A statement issued on behalf of the President of the European Council on 12 March recorded that “*the EU27 will expect a credible justification for a possible extension and its duration*”. Other EU leaders, including Mark Rutte and Emmanuel Macron, as well as Michel Barnier and numerous Members of the European Parliament (MEPs), have also set out this requirement.

The [debate](#) was opened by the Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office, David Lidington and closed by the Secretary of State for Exiting the European Union, Stephen Barclay.

Twelve [amendments were tabled](#) and the Speaker selected five amendments for debate:

Amendment (h) in the name of Dr Sarah Wollaston, on extending Article 50 for the purposes of a public vote	Defeated (Ayes: 85 Noes: 334)
Manuscript amendment to amendment (i) in the name of Lucy Powell	Defeated (Ayes: 311 Noes: 314)
Amendment (i) in the name of Hilary Benn, to allow time in the House of Commons on 20 March for a cross-party business motion in relation to Brexit to “enable the House of Commons to find a way forward that can command majority support”	Defeated (Ayes: 312 Noes: 314)
Amendment (e) in the name of Jeremy Corbyn, on extending Article 50 and providing parliamentary time to “to find a majority for a different approach” to exiting the EU.	Defeated (Ayes: 302 Noes: 318)
Amendment (j) in the name of Chris Bryant, on disallowing future votes asking the House to approve the Withdrawal Agreement and framework for the future partnership	Not moved
Prime Minister’s motion	Approved without division

In his closing speech the Secretary of State for Exiting the European Union, Stephen Barclay addressed future parliamentary procedures:

- ” We will make our statement under section 13(4) of the withdrawal Act tomorrow, setting out how the Government propose to proceed in relation to negotiations. There will be the option of an amendable motion no later than Monday 25 March.

The [written statement referred to by Stephen Barclay](#) was made on 15 March. It confirmed that:

- ” In accordance with the motion the House approved on Thursday 14 March 2019 the Government will now seek to agree an extension with the EU. The European Council has to approve any extension by unanimity, meaning it would require all the leaders of the other 27 EU member states to agree the UK’s request.

... It is expected that the EU will use the March European Council on 21 and 22 March 2019 to consider and reach a decision on a request from the UK to extend the article 50 period.

As soon as possible following agreement at the EU level we will bring forward the necessary legislation to amend the definition of exit day in domestic legislation.

## SPEAKER’S STATEMENT ON REPEAT VOTES

On 18 March, the House of Commons Speaker, John Bercow made a [statement on the possibility on a third meaningful vote](#). The Speaker concluded:

- ” It has been strongly rumoured, although I have not received confirmation of this, that a third, and even possibly a fourth, meaningful vote motion will be attempted. Hence this statement, which is designed to signal what would be orderly and what would not. This is my conclusion: if the Government wish to bring forward a new proposition that is neither the same nor substantially the same as that disposed of by the House on 12 March, that would be entirely in order. What the Government cannot legitimately do is to resubmit to the House the same proposition or substantially the same proposition as that of last week, which was rejected by 149 votes. This ruling should not be regarded as my last word on the subject; it is simply meant to indicate the test which the Government must meet in order for me to rule that a third meaningful vote can legitimately be held in this parliamentary Session.

This was followed by questions on the statement from MPs.

## PM'S REQUEST FOR AN ARTICLE 50 EXTENSION

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The Prime Minister wrote to President of the European Council, Donald Tusk on 20 March.

The substance of [this letter](#) was a request by the UK to the European Council for an extension of the Article 50 timescale - from 29 March to 30 June.

This is a departure from the scenarios envisioned in the motion approved by the House of Commons on 14 March. This motion indicated that the UK government would seek a short extension to 30 June only if the Withdrawal Agreement had been approved by the House of Commons. The Prime Minister wrote:

I had intended to bring the vote back to the House of Commons this week. The Speaker of the House of Commons said on Monday that in order for a further meaningful vote to be brought back to the House of Commons, the agreement would have to be “*fundamentally different—not different in terms of wording, but different in terms of substance*”. Some Members of Parliament have interpreted that this means a further change to the deal. This position has made it impossible in practice to call a further vote in advance of the European Council. However, it remains my intention to bring the deal back to the House.

In advance of that vote, I would be grateful if the European Council could therefore approve the supplementary documents that President Juncker and I agreed in Strasbourg, putting the Government in a position to bring these agreements to the House and confirming the changes to the Government’s proposition to Parliament. I also intend to bring forward further domestic proposals that confirm my previous commitments to protect our internal market,

given the concerns expressed about the backstop. On this basis, and in the light of the outcome of the European Council, I intend to put forward a motion as soon as possible under section 13 of the Withdrawal Act 2018 and make the argument for the orderly withdrawal and strong future partnership the UK economy, its citizens’ security and the continent’s future, demands.

If the motion is passed, I am confident that Parliament will proceed to ratify the deal constructively. But this will clearly not be completed before 29 March 2019. In our legal system, the Government will need to take a Bill through both Houses of Parliament to enact our commitments under the Withdrawal Agreement into domestic law. While we will consult with the Opposition in the usual way to plan the passage of the Bill as quickly and smoothly as possible, the timetable for this is inevitably uncertain at this stage. I am therefore writing to inform the European Council that the UK is seeking an extension to the Article 50 period under Article 50(3) of the Treaty on European Union, including as applied by Article 106a of the Euratom Treaty, until 30 June 2019.

I would be grateful for the opportunity to set out this position to our colleagues on Thursday.

The Prime Minister also gave a [press statement](#) in Downing Street:

“ Nearly three years have passed since the public voted to leave the European Union. It was the biggest democratic exercise in our country’s history. I came to office on a promise to deliver on that verdict.

In March 2017, I triggered the Article 50 process for the UK to exit the EU – and Parliament supported it overwhelmingly. Two years on, MPs have been unable to agree on a way to implement the UK’s withdrawal. As a result, we will now not leave on time with a deal on 29 March.

This delay is a matter of great personal regret for me. And of this I am absolutely sure: you the public have had enough. You are tired of the infighting. You are tired of the political games and the arcane procedural rows. Tired of MPs talking about nothing else but Brexit when you have real concerns about our children’s schools, our National Health Service, and knife crime. You want this stage of the Brexit process to be over and done with. I agree. I am on your side. It is now time for MPs to decide.

So today I have written to Donald Tusk, the President of the European Council, to request a short extension of Article 50 up to the 30 June to give MPs the time to make a final choice.

Do they want to leave the EU with a deal which delivers on the result of the referendum – that takes back control of our money, borders and laws while protecting jobs and our national security? Do they want to leave without a deal? Or do they not want to leave at all, causing potentially irreparable damage to public trust – not just in this generation of politicians, but to our entire democratic process? It is high time we made a decision.

So far, Parliament has done everything possible to avoid making a choice. Motion after motion and amendment after amendment have been tabled without Parliament ever deciding what it wants. All MPs have been willing to say is what they do not want.

I passionately hope MPs will find a way to back the deal I have negotiated with the EU. A deal that delivers on the result of the referendum and is the very best deal negotiable. I will continue to work night and day to secure the support of my colleagues, the DUP and others for this deal. But I am not prepared to delay Brexit any further than 30 June.

Some argue that I am making the wrong choice, and I should ask for a longer extension to the end of the year or beyond, to give more time for politicians to argue over the way forward. That would mean asking you to vote in European Elections, nearly three years after our country decided to leave. What kind of message would that send? And just how bitter and divisive would that election campaign be at a time when the country desperately needs bringing back together?

Some have suggested holding a second referendum. I don’t believe that is what you want – and it is not what I want. We asked you the question already and you

gave us your answer. Now you want us to get on with it. And that is what I am determined to do.

President of the European Council, Donald Tusk responded on the same day:

🗨️ Today I received a letter from Prime Minister May, in which she addresses the European Council with two requests: to approve the so-called Strasbourg agreement between the UK and the European Commission, and to extend the Article 50 period until 30 June 2019. Just now I had a phone call with Prime Minister May about these proposals.

In the light of the consultations that I have conducted over the past days, I believe that a short extension will be possible, **but it will be conditional on a positive vote on the Withdrawal Agreement in the House of Commons.** The question remains open as to the duration of such an extension. Prime Minister May's proposal, of 30 June, which has its merits, creates a series of questions of a legal and political nature. Leaders will discuss this tomorrow. When it comes to the approval of the Strasbourg agreement, I believe that this is possible, and in my view it does not create risks. Especially if it were to help the ratification process in the United Kingdom.

At this time I do not foresee an extraordinary European Council. If the leaders approve my recommendations, and if there is a positive vote in the House of Commons next week, we can finalise and formalise the decision on the extension in a written procedure. However, if there is such a need, I will not hesitate to invite the members of the European Council for a meeting to Brussels next week.

Even if the hope for a final success may seem frail, even illusory, and although Brexit fatigue is increasingly visible and justified, we cannot give up seeking – until the very last moment – a positive solution, of course without opening up the Withdrawal Agreement. We have reacted with patience and goodwill to numerous turns of events, and I am confident that, also now, we will not lack the same patience and goodwill, at this most critical point in this process. Thank you.

Emphasis added. These statements were mirrored in Donald Tusk's [invitation letter](#) to EU leaders attending the European Council the following day.

## EUROPEAN COUNCIL – 21 MARCH

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The European Council (of EU political leaders) met on 21 March. The Prime Minister attended the start of meeting, but decisions were made in the European Council (Art. 50) configuration – i.e. the EU27 countries.

The European Council's [conclusions](#) were:

### European Council (Art. 50) conclusions, 21 March 2019

1. The European Council takes note of the letter of Prime Minister Theresa May of 20 March 2019.
2. In response, the European Council approves the Instrument relating to the Withdrawal Agreement and the Joint Statement supplementing the Political Declaration agreed between the European Commission and the government of the United Kingdom in Strasbourg on 11 March 2019.
3. The European Council agrees to an extension until 22 May 2019, provided the Withdrawal Agreement is approved by the House of Commons next week. If the Withdrawal Agreement is not approved by the House of Commons next week, the European Council agrees to an extension until 12 April 2019 and expects the United Kingdom to indicate a way forward before this date for consideration by the European Council.
4. The European Council reiterates that there can be no opening of the Withdrawal Agreement that was agreed between the Union and the United Kingdom in November 2018. Any unilateral commitment, statement or other act should be compatible with the letter and the spirit of the Withdrawal Agreement.
5. The European Council calls for work to be continued on preparedness and contingency at all levels for the consequences of the United Kingdom's withdrawal, taking into account all possible outcomes.
6. The European Council will remain seized of the matter.

Following the late-night conclusion of the EU 27's discussions, President of the European Council, Donald Tusk made [a statement explaining some of the rationale](#) for the decision on the dates of extension:

“ ...As regards the extension, our decisions envisage two scenarios:

In the first scenario, that is, if the Withdrawal Agreement is passed by the House of Commons next week, the European Council agrees to an extension until the 22nd of May.

In the second scenario, that is, if the Withdrawal Agreement is not approved by the House of Commons next week, the European Council agrees to an extension until the 12th of April, while expecting the United Kingdom to indicate a way forward. What this means in practice is that, until that date, all options will remain open, and the cliff-edge date will be delayed.

The UK Government will still have a choice of a deal, no-deal, a long extension or revoking Article 50. The 12th of April is a key date in terms of the UK deciding whether to hold European Parliament elections. If it has not decided to do so by then, the option of a long extension will automatically become impossible.

The Prime Minister also [gave a statement](#):

“ Firstly I welcome the Council’s approval of the legally-binding assurances in relation to the Northern Ireland backstop which I negotiated with President Juncker last week. This should give extra assurance to Parliament that, in the unlikely event the backstop is ever used, it will only be temporary; and that the UK and the EU will begin work immediately to replace the backstop with alternative arrangements by the end of December 2020.

...What the decision today underlines is the importance of the House of Commons passing a Brexit deal next week so that we can bring an end to the uncertainty and leave in a smooth and orderly manner.

...I know MPs on all sides of the debate have passionate views, and I respect those different positions. Last night I expressed my frustration. I know that MPs are frustrated too. They have difficult jobs to do. I hope we can all agree, we are now at the moment of decision. I will make every effort to ensure that we are able to leave with a deal and move our country forward.

The First Minister tweeted her reaction ahead of the official conclusions:



**Nicola Sturgeon** ✓  
@NicolaSturgeon

Following

So it seems the EU will give UK an extra two weeks to avoid a no deal Brexit. Imperative now that Parliament takes control away from PM and uses that time to agree a way forward - preferably asking for a longer extension to put the issue back to voters.

**Alberto Nardelli** ✓ @AlbertoNardelli

A senior EU official tells me that on the basis of what has been decided, "in agreement with PM May":

- either WA approved by UK MPs next week, then orderly Brexit on 22 May...

Show this thread

2:50 PM - 21 Mar 2019

## NO-DEAL PREPARATIONS

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### No-deal legislation adopted by Council of the EU

On 19 March, The Council of the EU adopted a series of legislative acts as part of preparations for a "no-deal" Brexit. The [legislation adopted](#) covers:

- social security coordination
- Erasmus+ and PEACE programmes
- fisheries
- transport
- materials, equipment and technology which can be used for both civilian and military purposes

The EU states:

“ The aim of these acts is to limit the most severe damage caused by a disorderly Brexit in specific sectors where it would create a major disruption for citizens and businesses. They come on top of other measures, such as on citizens' rights, adopted by member states as part of their preparations for a "no-deal" scenario.

These measures are temporary in nature, limited in scope and adopted unilaterally by the EU. They are in no way intended to replicate the full benefits of EU membership or the terms of any transition period, as provided for in the withdrawal agreement. In some areas, they are conditional upon the UK's reciprocal action.

### Urgent question at Westminster

On 20 March, in response to an urgent question on no-deal Brexit preparations, the Parliamentary Under-Secretary of State for Exiting the European Union, Chris Heaton-Harris stated:

“ We have published 450 pieces of no-deal communications since October 2018... We have contacted 150,000 businesses that trade with the EU to help them to get ready for no-deal customs procedures. We have held meetings, briefings and events with stakeholders across the economy, including around 300 engagements in the past month alone. We have responded to stakeholder feedback to make sure that communications are clear by updating approximately 1,300 pieces of gov.uk content based on their input.

More than 11,000 people are working on EU exit policy and programmes across the Government. We have launched a public information campaign, which includes information on gov.uk, to help citizens and businesses to prepare for leaving the European Union. TV adverts started today and radio, press and outdoor poster advertising are ongoing. Furthermore, the Treasury has provided £4.2 billion for EU exit preparations, including preparations for a no-deal scenario,

and £480 million has been allocated to the Home Office to ensure that it is fully prepared.

Getting ready for this scenario depends on action not only from the Government, but from a range of third parties, including businesses, individual citizens and the European Union itself. Despite Government mitigation, the impact of a no-deal scenario is expected to be significant in a number of areas.

Updates to UK Government no-deal guidance documents published on the [UK Government's website](#).

## FIRST MINISTER'S LETTER TO THE PM

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On 18 March the First Minister, Nicola Sturgeon wrote to the Prime Minister. This [letter highlighted three concerns](#) related to:

- the involvement of devolved governments in talks on the future trade relationship between the UK and EU
- devolved powers in the event that the Protocol on Northern Ireland is required
- funding

Iain Thom  
SPICe Research

### About this publication

This regular paper produced by SPICe sets out developments in the UK's negotiations to leave the European Union, the process for which formally begun following the Prime Minister's triggering of Article 50 on 29 March 2017.

The updates provide information on the UK Government's approach to leaving the EU including the domestic legislation necessary to ensure a smooth transition in terms of the UK statute book, along with details of the positions of the Scottish Government and the other Devolved Administrations. The updates also provide information on developments within the EU with regard to the UK's departure. Finally, the updates will provide information on the key issues likely to be at play during the negotiations and in developing the UK's future relationship with the European Union.

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