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BREXIT UPDATE

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The Scottish Parliament
Pàrlamaid na h-Alba

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Photo by [Luke Stackpoole](#) on [Unsplash](#)

INTRODUCTION

This SPICe Brexit Update #84 describes the outcome of votes in the House of Commons following the European Council's agreement to extend Article 50.

EUROPEAN COUNCIL EXTENDS ARTICLE 50

On 21 March 2019, the European Council agreed to a short extension of Article 50. This meant that the UK did not leave the EU on 29 March.

The Council's conclusions set two possible exit dates, depending on whether the House of Commons approved the Withdrawal Agreement before 29 March:

1. Approved - Article 50 would be extended to 22 May, to provide time to pass the necessary implementing legislation and complete ratification.
2. Not approved - Article 50 would be extended to 12 April, with an expectation that the UK indicates to the European Council a "way forward" before this date.

This change required the unanimous agreement of the EU27 member states. The UK Government agreed to the conclusions and they have legal force.

While not forming part of the formal conclusions, President of the European Council, Donald Tusk [said](#):

” 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.

See [SPICe Brexit Update #83](#) for full details.

PM'S STATEMENT ON EXTENSION

On 25 March, following the European Council's decision to extend Article 50, the [Prime Minister \(PM\) gave a statement](#) to the House of Commons.

The PM said she regretted the need to extend Article 50 and cited the lack of no deal preparations in Northern Ireland as the reason:

“ I wanted to deliver Brexit on 29 March—but I am conscious of my duties as Prime Minister to all parts of our United Kingdom and of the damage to that Union that leaving without a deal could do when one part of it is without devolved government and unable, therefore, to prepare properly.

UK Government's request to the European Council was for an extension to 30 June, however different dates were agreed to. The PM said:

“ extending article 50 [has] always required the unanimous agreement of the other 27 member states... it was never guaranteed that the EU would agree to an extension—or the terms on which we requested it—and it did not.

On the domestic legal process of changing exit day, the PM said:

“ The Council's conclusions were subsequently turned into a legal decision, with which the UK agreed and which came into force last Friday. So although the Government have today laid a statutory instrument, which will be debated later this week, to reflect that decision in our own domestic legislation, the date for our departure from the EU has now changed in international law. Were the House not to pass the statutory instrument, it would cause legal confusion and damaging uncertainty, but it would not have any effect on the date of our exit.

This statutory instrument was subsequently [approved by the House of Commons on 27 March](#).

The PM ended by saying that if the House of Commons does not agree a deal before 29 March, and does not want to leave with no deal on 12 April, then:

“ we will have to seek a longer extension. This would entail the UK having to hold European elections, and it would mean that we will not have been able to guarantee Brexit.

WESTMINSTER'S DECISION TO HOLD "INDICATIVE VOTES"

The House of Commons rejected the Withdrawal Agreement and Political Declaration for a second time on 12 March. Following the requirements of the European Union (Withdrawal) Act 2018, the UK Government:

1. [lodged a statement](#) (on 15 March) setting out how the government proposed to proceed on Article 50 negotiations, and

2. brought a [motion in neutral-terms for debate](#) (on 25 March)

The motion for debate on 25 March was amendable.

Debate on the motion centred on an amendment in the name of Sir Oliver Letwin. This amendment aimed to suspend the Parliament’s standing orders which give government business precedence in the House of Commons. The aim of this “Letwin amendment” was to provide parliamentary time for a series of “indicative votes”.

The UK Government opposed the Letwin amendment. The PM [said](#):

“ The amendment... seeks to provide for that process [of finding a majority on a way forward] by taking control of the Order Paper. I continue to believe that doing so would set an unwelcome precedent, which would overturn the balance between our democratic institutions, so the Government will oppose the amendment this evening.

But also continued to offer, an alternative. The Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office, David Lidington said:

“ If the amendment... is not passed tonight, we will set aside time for a first day of debate later this week, and after that day’s debate has been concluded, we will consider and consult on what further time, if any, might be needed.

In the event, the Letwin amendment was supported by the House of Commons.

The [motions lodged](#) and selected for debate, and the [outcomes of the votes](#), were:

Amendment (d) in the name of Jeremy Corbyn, calling on the Government to provide parliamentary time for so-called “indicative votes”.	Not moved.
Amendment (a) in the name of Sir Oliver Letwin, which suspended the government’s control of the business of the house on 27 March for motions from an MP in relation to Brexit - so-called “indicative votes”.	Approved (Ayes: 329 Noes: 302)
Amendment (f) in the name of Margaret Beckett, requiring another vote in the House of Commons before leaving the EU without a deal.	Defeated (Ayes: 311 Noes: 314)
Motion as amended	Approved (Ayes: 327 Noes: 300)

FIRST ROUND OF INDICATIVE VOTES

On 27 March, the House of Commons held a [series of “indicative votes”](#) to try to reach a consensus amongst MPs about the direction the Brexit negotiations should take.

These votes were conducted under:

1. the provisions of the Letwin amendment of 25 March (described above), which suspended the government’s control of the business of the house on 27 March.
2. the [business motion in the name of Oliver Letwin](#), which was agreed on 27 March (Ayes: 331 Noes: 287)

The [eight motions](#) selected by the Speaker for “decision by recorded vote” and [results of the votes](#) were:

Motion (B), in the name of John Baron—no deal.	Defeated (Ayes: 160 Noes: 400)
Motion (D), in the name of Mr Nicholas Boles—common market 2.0	Defeated (Ayes: 188 Noes: 283)
Motion (H), in the name of Mr George Eustice—EFTA and EEA	Defeated (Ayes: 65 Noes: 377)
Motion (J), in the name of Mr Kenneth Clarke—customs union	Defeated (Ayes: 264 Noes: 272)
Motion (K), in the name of the Leader of the Opposition—Labour’s alternative plan	Defeated (Ayes: 237 Noes: 307)
Motion (L), in the name of Joanna Cherry—revocation to avoid no deal	Defeated (Ayes: 184 Noes: 293)
Motion (M), in the name of Dame Margaret Beckett—confirmatory public vote	Defeated (Ayes: 268 Noes: 295)
Motion (O), in the name of Mr Marcus Fysh—contingent preferential arrangements	Defeated (Ayes: 139 Noes: 422)

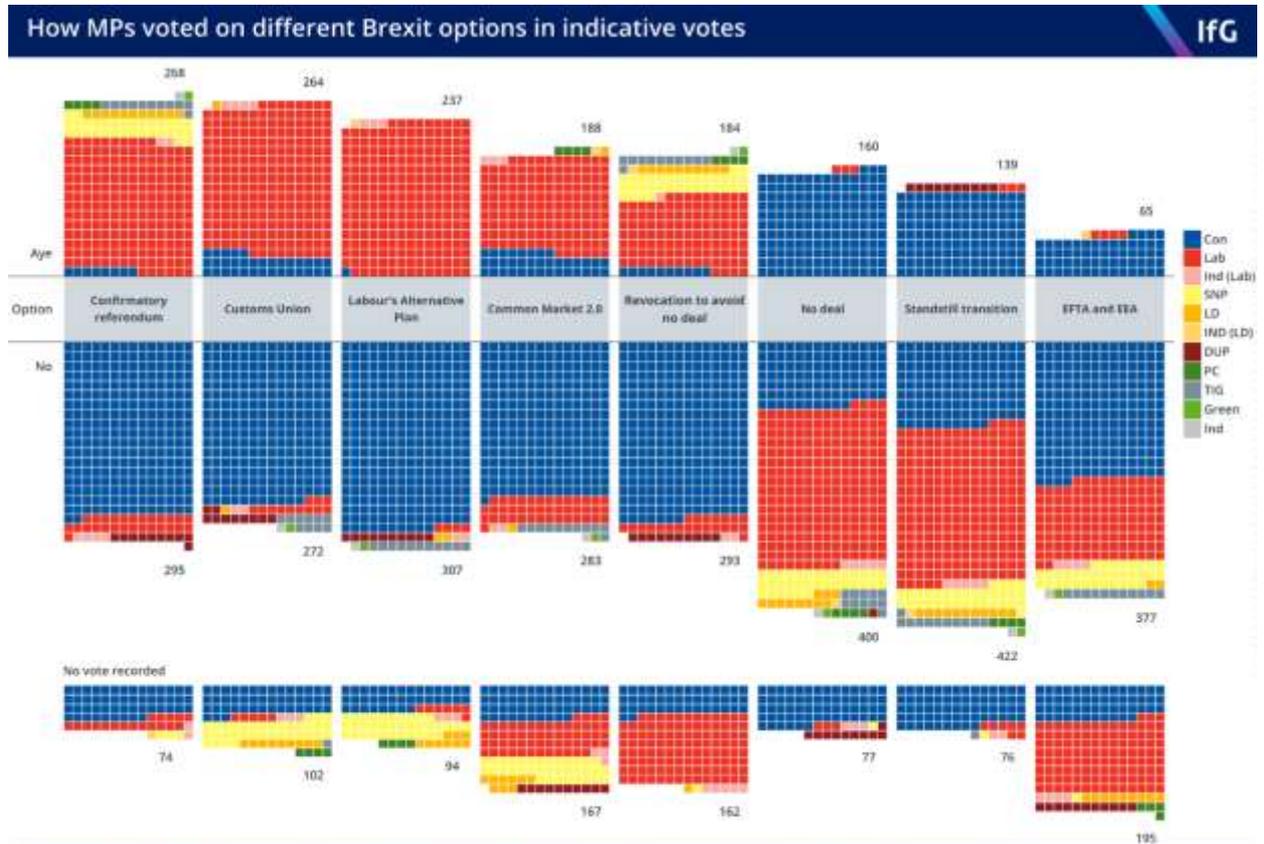
The UK Government did not table any motions.

During the debate the Secretary of State for Exiting the European Union, Stephen Barclay said:

- “ the motions before the House represent a range of suboptimal solutions that either do not deliver on the referendum result or do so in a way that would not deliver the benefits of the Prime Minister’s deal. That is why the deal remains the

best method to deliver on the biggest vote in our history in a way that protects business and citizens' rights.

As indicated, none of the motions gained a majority. Maddy Thimont Jack discussed the result on the Institute for Government blog [The winners, losers and ones to watch from the Brexit indicative votes](#) and published the following infographic on votes:



Source: Institute for Government analysis of Commons Divisions from Parliament Data (explore.data.parliament.uk/).



The [business motion](#) agreed on 27 March also carved out 1 April for a second round of “indicative votes”.

Oliver Letwin [stated](#), that his business motion:

“ does indeed book a slot for Monday. The reason why is that I think there is quite a high chance that at the end of today’s votes, despite the best endeavours of the promoters of each of the motions that fall to be debated and voted on, they may not receive majority backing. ...we all recognise the fact that the first time round, it is very likely that there would not be a natural majority for one proposition or another and that we should therefore regard this as a process and not as a single point in time.

THIRD REJECTION OF THE WITHDRAWAL AGREEMENT

Throughout the parliamentary process, the UK Government's position has been to gain the UK Parliament's approval for the Withdrawal Agreement in order to ratify it.

On 29 March, the date the UK was to leave the EU as a result of triggering Article 50, the UK Government [brought a third vote on the Withdrawal Agreement](#) (but not the Political Declaration) to the House of Commons. The timing of the debate and form of the motion was because:

- The European Council had agreed to extend Article 50 to 22 May if the House of Commons approved the Withdrawal Agreement by 11pm on 29 March. This extension was not contingent on approval for the Political Declaration.
- The [Speaker ruled](#) that, to be in order, any motion to approve the Withdrawal Agreement and Political Declaration had to be substantially different from previous motions. In other words, the principle of the House determining a motion definitively once and for all in each Session had to be upheld.

The UK Government's motion read:

That this House notes the European Council Decision of 22 March 2019 taken in agreement with the United Kingdom extending the period under Article 50(3) of the Treaty on European Union, which provides for an extension to the Article 50 period to 22 May 2019 only if the House of Commons approves the Withdrawal Agreement by 29 March 2019; notes that if the House does not do so by that date the Article 50 period will only as a matter of law be extended to 12 April 2019 and that any extension beyond 22 May 2019 would require the UK to bring forward the necessary Day of Poll Order to hold elections to the European Parliament; notes that Article 184 of the Withdrawal Agreement refers to the Political Declaration between the UK and EU agreed on 25 November 2018, but that the EU has stated it remains open to negotiating changes to the Political Declaration; notes that the House is currently undertaking deliberations to identify whether there is a design for the future relationship that commands its support; notes that even should changes be sought to the Political Declaration, leaving the European Union with a deal still requires the Withdrawal Agreement; declares that it wishes to leave the EU with an agreement as soon as possible and does not wish to have a longer extension; therefore approves the Withdrawal Agreement, the Joint Instrument and the Unilateral Declaration laid before the House on 11 March 2019 so that the UK can leave the EU on 22 May 2019; notes that this approval does not by itself meet the requirements of section 13(1)(b) of the European Union (Withdrawal) Act 2018; and resolves that it is content to proceed to the next steps of this process, including fulfilling section 13 of this Act.

No amendments were selected by the Speaker.

The Prime Minister closed [the debate](#) and alluded to a statement she was [widely reported](#) to have made, that she would resign before the second phase of the Brexit negotiations if the House of Commons supported the Withdrawal Agreement.

 I have said that I am prepared to leave this job earlier than I intended to secure the right outcome for our country.

The motion was defeated (Ayes: 286 Noes: 344). This means that the day the UK will leave the EU is currently **12 April 2019**.

Following the vote, the European Commission issued the following [statement](#):

“ A “no-deal” scenario on 12 April is now a likely scenario. The EU has been preparing for this since December 2017 and is now fully prepared for a “no-deal” scenario at midnight on 12 April. The EU will remain united. The benefits of the Withdrawal Agreement, including a transition period, will in no circumstances be replicated in a “no-deal” scenario. Sectoral mini-deals are not an option.

And a European Council meeting was [called for 10 April 2019](#).



SECOND ROUND OF INDICATIVE VOTES

On 1 April, the House of Commons conducted a [second round](#) of “indicative votes”

The procedure for this was agreed in a [business motion](#) (Ayes: 322 Noes: 277). This business motion also carved out 3 April as a further day when the standing orders giving government control of business would be suspended.

The four motions selected by the Speaker for “decision by recorded vote” and [results of the votes](#) were:

Motion (C), in the name of Kenneth Clarke—customs union	Defeated (Ayes: 273 Noes: 276)
Motion (D), in the name of Mr Nick Boles—common market 2.0	Defeated (Ayes: 261 Noes: 282)
Motion (E), in the name of Mr Peter Kyle—confirmatory public vote	Defeated (Ayes: 280 Noes: 292)
Motion (G) in the name of Joanna Cherry—parliamentary supremacy	Defeated (Ayes: 191 Noes: 292)

The UK Government did not table any motions.

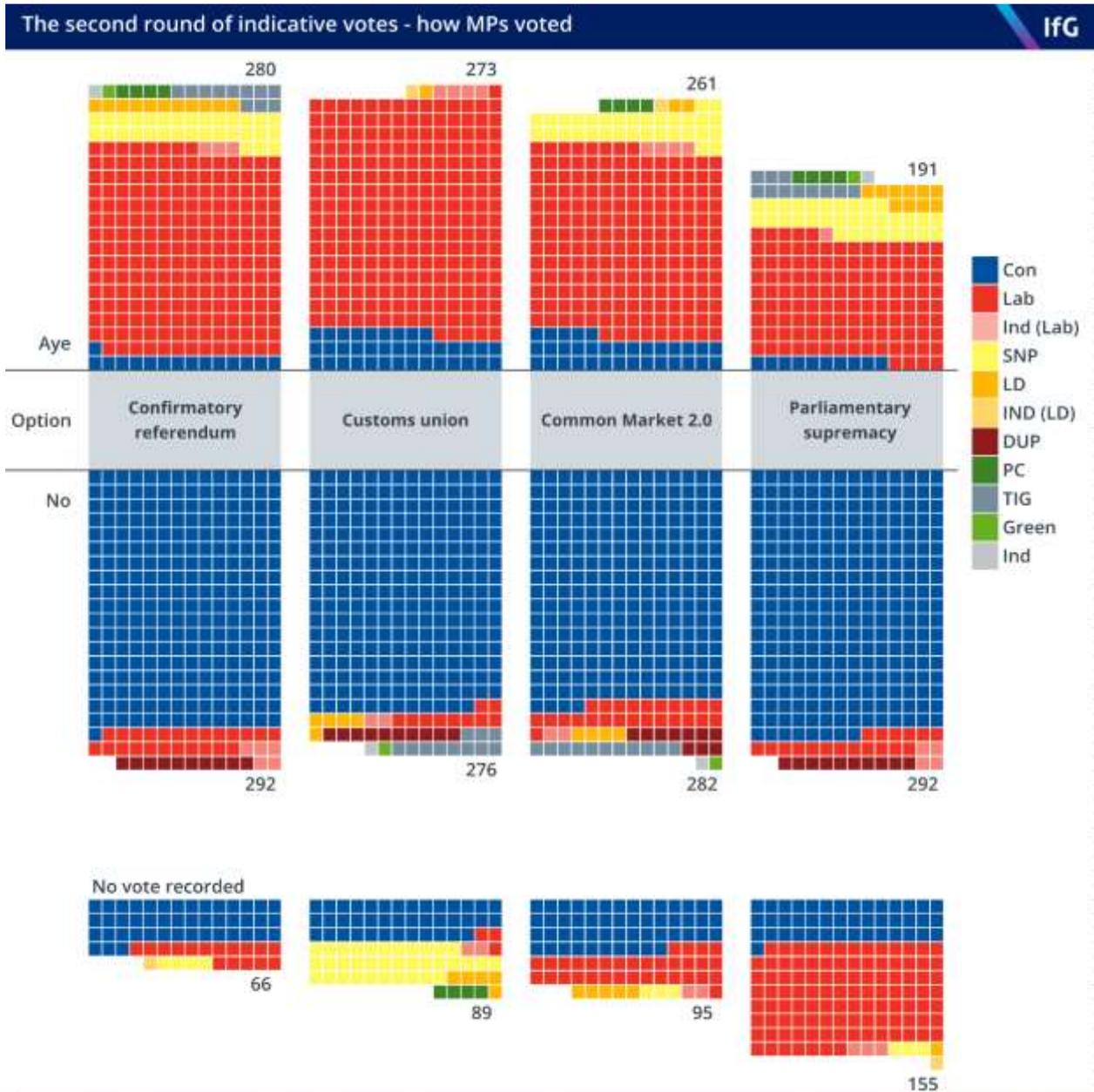
As indicated, none of the motions gained a majority.

Maddy Thimont Jack discussed the result on the Institute for Government blog [Parliament once again rejected all Brexit options](#) saying:

“ A large reason behind the failure of any option to secure majority is because MPs are still refusing to compromise. As the Institute for Government has previously

argued, MPs were going to have to move if the indicative votes process had any chance of producing an alternative to the Prime Minister’s deal.

This appears to be an issue in particular amongst remain-supporting MPs. Some of the options on the table are compatible – it would be perfectly possible, for example, to put a deal which includes a customs union, or which sets out Common Market 2.0, to a confirmatory referendum – but, so far, some MPs remain entrenched in supporting their preference, and their preference only.



Source: Institute for Government analysis of Commons Divisions from Parliament Data (explore.data.parliament.uk/)
 Note: The text of motions D (Common Market 2.0) and G (Parliamentary supremacy) varied between the two rounds of voting

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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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