

February 28, 2019

# Brexit Developments

*Miriam González Durántez; Jeffrey M Bronheim*

Despite the intense activity of the British Parliament and British politicians on Brexit this week, it is hard to know where things stand: is a 'no deal' Brexit closer or more remote? Is the possibility of a second Brexit referendum a real one? The events of the last few days may fundamentally change the course of the Brexit discussions, but the ultimate result is still very much in doubt.

Prime Minister Theresa May has pursued the same strategy since the start: force Parliament to choose only between the agreement she negotiated with the EU or a 'no-deal' Brexit. Her Conservative Party is split at least three ways between those in favor of her agreement, those hoping for a more favorable agreement, and those opposed to Brexit in any form. The Labour Party is similarly split, with most opposed to Brexit, and some in favor of Brexit while remaining in the EU Customs Union – but all are opposed to the Prime Minister.

The leader of the Labour Party, Jeremy Corbyn, is now calling for a second Brexit referendum arguing that since Parliament is unable to agree, and the people directly voted for Brexit, the people should decide if the agreement with the EU is in fact the Brexit they want today. Corbyn's is a very significant yet unexpected move. Having lost some members of his party to a new independent political group only last week, most commentators had predicted that Corbyn would retrench to an anti-second referendum position (consistent with his personal pro-Brexit under a Customs Union position). Instead, now that Parliament has voted against a Labour Customs Union proposal, Corbyn has officially confirmed his support for a second referendum.

While various Members of Parliament and even cabinet members have issued threats against the Prime Minister to prevent her letting things run towards a 'no deal' cliff, there has been no successful binding arrangement to prevent the 'no deal' Brexit. The Prime Minister has made a political commitment to go back to Parliament if the negotiated deal with the EU is not ratified before the end of March. However, unless the 'no deal' scenario is legally ruled out, companies can take little comfort from this political commitment from the Prime Minister.

The Prime Minister has opened up the possibility of a limited extension of the negotiating deadline beyond March 29th, but she has not requested a specific alternative date. The Prime Minister's fate seems inextricably linked to the negotiations: while she believes her mandate is to deliver Brexit no matter what, she has been warned by many in her party that she will remain in office only until she delivers Brexit.

Faced with the possibility of a delay to Brexit (which might allow anti-Brexit forces to assert control), Brexiteers are now making more sympathetic noises towards the agreement with the EU negotiated by Ms. May. The key question for them is: can they hope to impose a more extreme Brexit by accepting her

---

agreement now and then conducting tough negotiations with the EU on the detailed terms of the future relationship between the EU and the U.K.? Or would they get a radical Brexit only by fighting for it in a new referendum?

While this frantic repositioning of the U.K. political forces takes place, the EU stance has not changed. EU leaders still favor the agreement they negotiated with Ms. May over the last two years. They have signaled they are ready to give the U.K. more time to approve the negotiated agreement if asked to do so, but only if it is clear that the additional time will lead to an agreement on some alternative terms. Moreover, they continue thinking the solution that was negotiated with Ms. May for the Northern Irish border is the only possible solution for that border within the red lines that had been set by Ms. May herself: no viable alternative proposal has been put forward by the U.K.

It is worth noting that the attention of EU leaders is rapidly moving elsewhere: there is a threat of an increase in votes for nationalist and populist parties in the European elections in May. Nationalists and populists are currently polling at 24-26%, dangerously close to the 30% share of the vote that would give them a blocking minority in the European Parliament. Most EU leaders would like the Brexit negotiations resolved well before the European elections take place. Some may even be tempted to think that a 'no deal' Brexit and the resulting economic and political damage to the U.K. might not be a bad warning signal to electorates in other countries into just how costly turning against the EU can be.

Cohen & Gresser (UK) LLP is a Limited Liability Partnership registered in England and Wales with registered number OC421038 and is authorised and regulated by the Solicitors Regulation Authority. "Cohen & Gresser" and "C&G" are the trading names of Cohen & Gresser (UK) LLP. We use the word "partner" to refer to a member of the LLP, or an employee or consultant who is a lawyer with equivalent standing and qualifications. The registered office is 2-4 King Street, London, SW1Y 6QP. A list of the members of the LLP is available for inspection at the registered office, together with a list of those non-members who are designated as partners.



## The Authors:



Miriam González Durántez  
Of Counsel

+44 (0) 20 8037 2354

[mgonzalez@cohengresser.com](mailto:mgonzalez@cohengresser.com)



Jeffrey M Bronheim  
Partner

+44 (0) 20 8037 2320

[jbronheim@cohengresser.com](mailto:jbronheim@cohengresser.com)

---

## About Cohen & Gresser:

Cohen & Gresser is an international law firm with offices in New York, Seoul, Paris, Washington, D.C., and London. Founded in 2002, the firm has been recognized in a wide range of publications, including *Chambers* and *Legal 500*. We serve our clients in a number of practice areas, including Corporate, Employment, Intellectual Property & Technology, Litigation & Arbitration, Privacy & Data Security, Real Estate, Tax, and White Collar Defense & Regulation.

New York | Seoul | Paris | Washington DC | London

[www.cohengresser.com](http://www.cohengresser.com)

[info@cohengresser.com](mailto:info@cohengresser.com)

+44 (0) 20 8037 2330

Attorney Advertising

