

# Parliament voted! What's next for Brexit?

**23 January 2019**

Ros Kellaway

*Global Head of Competition, EU and Trade*



“

*If the deal is not voted on at this vote that's coming up, then actually we're going to be in unchartered territory. I don't think anybody can say exactly what will happen in terms of the reaction we'll see in Parliament*

**Rt Hon Theresa May MP, 6 January 2019**

”

## How did MP's vote?

**Majority against deal: 230**

<b>Ayes</b>	<b>Noes</b>
202	432

# How did we get here?



<b>23 June 2016</b>	EU membership referendum
<b>29 March 2017</b>	Government triggered Article 50 TEU
<b>14 November 2018</b>	UK cabinet meeting to approve the deal and EU meeting with Member State ambassadors to approve the deal
<b>25 November 2018</b>	Special European Council meeting – draft Withdrawal Agreement and Political Declaration approved
<b>13-14 December 2018</b>	European Council meeting
<b>15 January 2019</b>	UK MPs “meaningful” vote on the deal
<b>21 January 2019</b>	If deal rejected, UK Government will report to UK MPs on plan B
<b>29 January 2019</b>	MPs can put own resolutions forward for Norway Plus, Second Referendum etc
<b>29 March 2019</b>	UK leaves the EU unless extension agreed
<b>30 March 2019</b>	If approved, transitional arrangement commences and negotiations for future trade deal begin
<b>31 December 2020</b>	If approved, transitional arrangement ends unless extended
<b>1 January 2021</b>	New trade deal in place?

# What was in the withdrawal agreement?

- UK pays €39 billion
- Trade negotiations on basis of the Political Declaration
- UK remains in Single Market and Customs Union, but subject to EU regulatory structures and Court of Justice jurisprudence during transitional period to December 2020 (extendable by up to two years)
- No representation in EU institutions, agencies and bodies
- Irish “backstop” applies if trade deal not concluded by the end of the transitional period

# How do you solve a problem like the backstop?



- UK will be in a customs territory with the rest of the EU with alignment on competition, state aid environment and employment regulation
- Northern Ireland will remain in a customs union and single market with the EU and comply with EU regulation
- Backstop is not time-limited

# What are the concerns surrounding the deal?

Irish backstop – no unilateral exit

Remaining in/leaving the Customs Union

Continued indirect CJEU jurisdiction and EU's continued ability to impose rules on UK

UK's ability to enter into free trade agreements

Paying €39bn but no guarantee of a trade deal

Deal does not mirror what the UK voted for...BUT UK was only asked whether to leave or remain in the EU

# Composition of House of Commons

Party	Seats
Conservative	317
Labour	256
Scottish National Party	35
Liberal Democrat	11
Democratic Unionist Party	10
Independent	8
Sinn Féin	7
Others	5
Speaker of the House	No vote
<b>Total</b>	<b>649</b>

- No working Government majority
- Conservative Party formed a **minority** Government with Democratic Unionist Party (“DUP”)



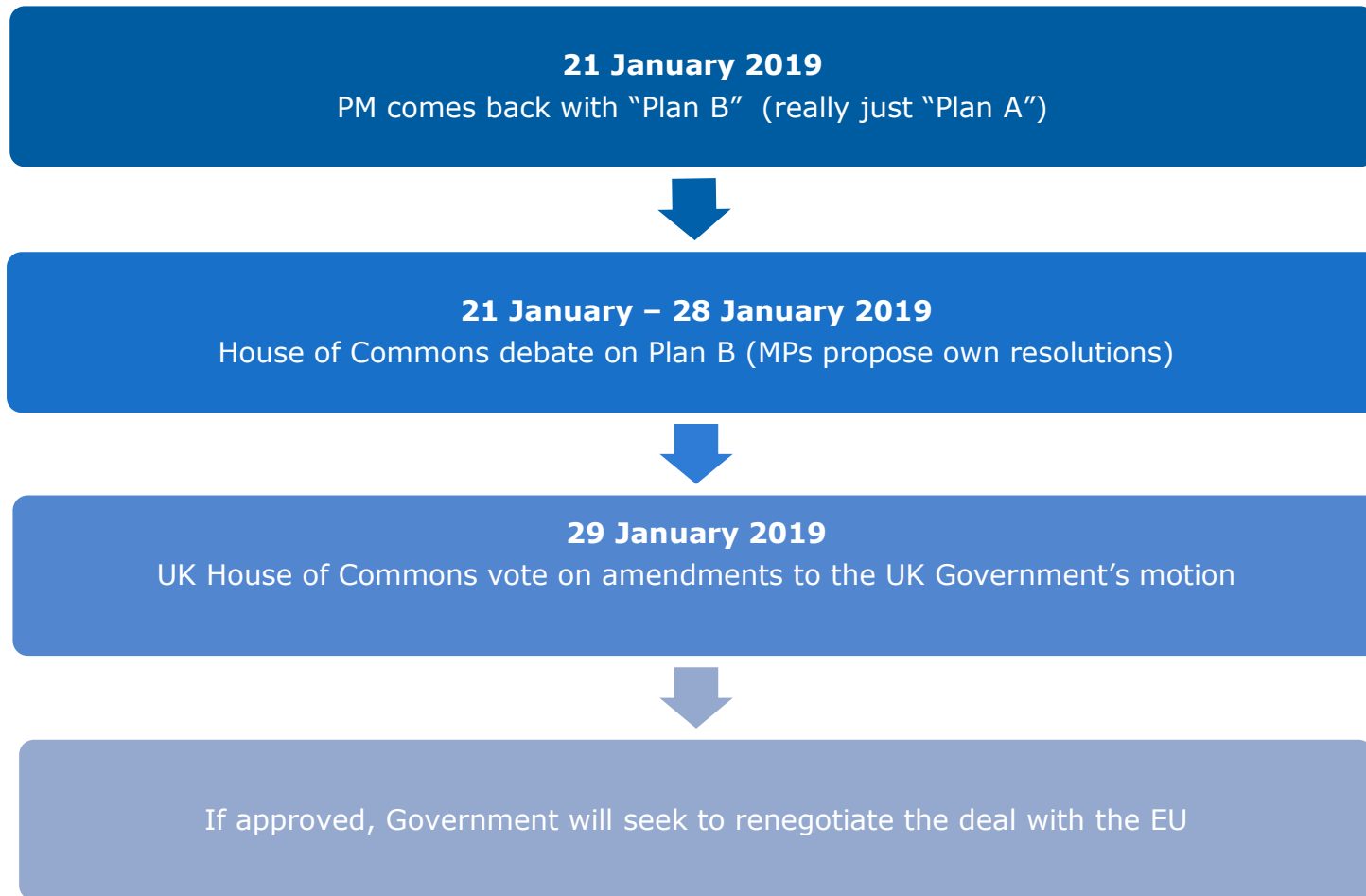


*But tonight's vote tells us nothing about what [Parliament] does support. Nothing about how – or even if – it intends to honour the decision the British people took in a referendum Parliament decided to hold*

**Rt Hon Theresa May MP, 15 January 2019**



# What will happen now?



## EU's position

*"The Withdrawal Agreement is a fair compromise and the best possible deal"*

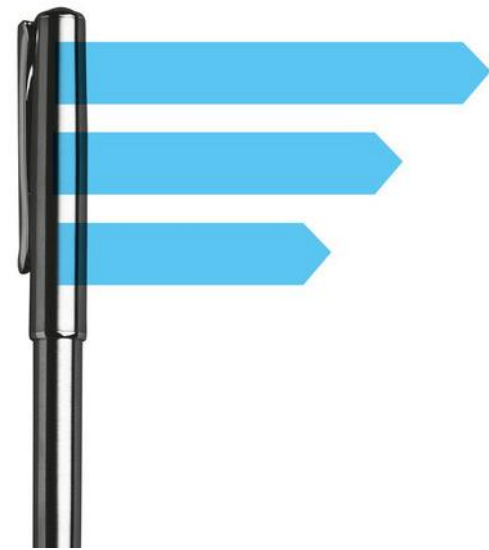
European Commission President Jean-Claude Juncker



- Government must clearly set out its next steps on Brexit within the coming days
- Scope for renegotiation if UK changes its red lines
- Scope for extension of Article 50 notice(?)

# Possible scenarios

- UK leaves without a deal – current position
- UK Government has another stab at the Withdrawal Agreement
- UK MPs amend new motion to provide for:
  - Second referendum
  - “Norway for Now”/Norway Plus
  - Canada Plus – maybe based on Political Declaration
  - Revoke Article 50 Notice



# Default Position: Leave Without a Deal

- No majority in UK House of Commons to leave without a deal but this is default position
- Consequences?
  - No transition period
  - UK becomes a third country – EUWA takes effect
  - Customs checks and tariffs on goods crossing UK-EU
  - UK's financial settlement to EU will be significantly less than €39bn
  - UK contingency plans take effect including EU Settlement Scheme for EU nationals in UK

## Second EU Referendum

*"...if a democracy cannot change its mind, it ceases to be a democracy"* (RT Hon David Davis MP) (2012)

**New Act of Parliament**

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graph TD; A[New Act of Parliament] --> B[Referendum Campaign]; B --> C[Could take 6 months];
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**Referendum Campaign**

**Could take 6 months**

# Norway for Now

- New Act of Parliament
- UK would have to take steps under the relevant treaties to regularise its membership under its new status



# Canada Plus – Maybe Based on Political Declaration



- Tariff-free and quota-free trade in goods
- Little on services but Political Declaration envisages mutual recognition of professional qualifications
- No budgetary contributions but Political Declaration envisages some contribution
- Doesn't solve the Irish backstop



# Concluding Remarks

- Real uncertainty for businesses
- Likely extension of Article 50 notice – query for how long?
- Businesses should ***implement*** their hard Brexit contingency plans

# Questions?



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