

What Michel Barnier's October 2018 timeline means for the Brexit negotiations

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*Michel Barnier, who has been appointed as the European Commission's Chief Negotiator in the Brexit negotiations, indicated on 6 December that should the UK trigger Article 50 in March 2017, then an exit agreement could be reached by October the following year. **Thomas Cole** writes that Barnier's statement gives a clear signal that the EU would like to conclude Brexit as quickly as possible, and that the UK will have to move quickly if it wants to secure favourable exit terms.*



At his first press conference in his capacity as Chief Negotiator for the European Commission in the Brexit negotiations, Michel Barnier suggested on Tuesday 6 December that the negotiations, if activated by the UK government by the end of March 2017, would have to be concluded by October 2018. This would then allow sufficient time to allow for full ratification by the EU's member states, the European Parliament and the UK Parliament within the two-year time frame prescribed under article 50. Although the October 2018 deadline is merely advisory and falls within the two-year period, it clearly indicates what procedures and processes need to take place once an agreement is reached.

This announcement is a clear message that the European Commission is aiming to wrap up the talks quickly and does not want Brexit negotiations to go on any longer than two years. Nevertheless, by indicating that October 2018 is the desired end date, due to elections in the Netherlands, France and Germany (and eventually possibly even Italy), it is unlikely for the important decisions to be agreed to until after the formation of the next German Government, which could come as late as December 2017. In other words, if the October 2018 deadline is to be respected, the hardest and most crucial phase of the negotiations will not actually get going until January 2018, potentially almost a year after the UK government has given notification of its willingness to start exit talks.

It is unlikely that Michel Barnier and his team would not have already met with the negotiating team from the Council secretariat, representing the EU's member states in advance of his announcement. And, it is also probable that Barnier had received a green light from the EU's member states prior to announcing the October 2018 deadline.

What this means in concrete terms is that the Commission and the EU27 will look to adhere to the two-year limit. If negotiations are not going the way in which the UK government would like them to go then it will be for the UK government to speed up the process and try to achieve the best deal it possibly can. The two-year period prescribed in article 50 can be extended if agreed to unanimously by the EU's member state governments, but Barnier's announcement suggests that (at this stage in any case) this is not on the cards. What Barnier is also suggesting is that from his point of view, the UK better move quickly or risk being in a situation after two years in which it has no agreement and will be leaving the EU with no exit terms agreed at all. Such a scenario seems unlikely, however, and would not correspond to general EU practice of trying to negotiate a deal, even when it is only reached at the last possible moment.

What can be deduced from Barnier's comments is that in a game of "blink" the Commission very much expects the UK to move first. Such an expectation is not unreasonable, where the UK will be the smaller party in the negotiations, with more to lose at the outset than the EU27. Events (especially the aforementioned elections) could of course dictate that the two-year time frame slips, although with European Parliamentary elections taking place in May 2019, neither side would want to countenance the possibility of the negotiations dragging on and playing out whilst these elections take place. This is especially the case given that the European Parliament will need to ratify the final deal agreed between the Commission, EU member states and the UK.

It is at this stage still unclear what the UK government's Brexit strategy and aims are and whether there is a desire to stay within any EU structures such as the internal market and pursue an agreement similar to the EEA model (or indeed to try to stay in the EEA having left the EU). Comments made by the UK Secretary of State for Brexit, David Davis, last week and backed up by the UK Chancellor, Philip Hammond, suggest that this might be one such aim. This would also explain why at his press conference, Barnier hinted that the UK might look to pursue a relationship similar to those which Iceland, Liechtenstein and Norway currently enjoy with the EU (which is the EEA agreement). If this were the case, and given the proximity of EEA membership to full EU membership, then the two-year period for negotiations would likely be enough time to reach an agreement relatively quickly which could be agreed to even before the October 2018 deadline.

The negotiations have of course not started yet and until the UK government makes clear what its aims actually are then it will remain unclear how complicated the negotiations will become in practice. However, Barnier's announcement suggests that the EU is looking to get Brexit done sooner rather than later and the ball is now very much in the court of the UK government to make the next move.

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