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THE CURRENT: Brexit Day is here. What happens next?

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PITA: Friday, January 31 is Brexit Day. It's been a long time coming, and now, for good or for ill, the United Kingdom will be out of the European Union.

Here to tell us what happens when the clock strikes midnight is Amanda Sloat, Robert Bosch senior fellow in the Center on the United States and Europe here at Brookings. Amanda, thanks for being back.

SLOAT: Thanks for having me.

PITA: From now until December 31, the U.K. is in something of an interregnum, functioning under the terms of the Withdrawal Agreement until the end of the year, at which point they'll hope to have completed a trade deal with the EU. Before we get to that part, how did Brexit finally cross the finish line?

SLOAT: When you and I last spoke at the end of December, we had just completed an election in the U.K. where Boris Johnson was elected with a sizable majority, which improved on the situation that his predecessor, Theresa May, had, where she eventually lost her majority and they were unable to get anything through. So, when Parliament came back into session in January, after the holidays, the House of Commons voted on the Brexit deal and backed it with a sizable majority, 330-231. Their legislative process is similar to the United States – it then moved to the upper house, the House of Lords. They introduced five amendments to the legislation. It went back to the Commons and they stripped out all five of those amendments. And given the fact that the Lords recognized that this was implementing a referendum, that the government had a majority there, they acquiesced and adopted the amended version of the British legislation.

This week we've seen the Europeans ratify the legislation on their side, and on January 29, the European Parliament voted on the Brexit deal. So with that, we now have parliamentary ratification on the British side and the European side, which completes all the necessary legal obstacles to Brexit taking effect.

PITA: What does Brexit mean for EU citizens who are living, working, studying in the UK, and likewise for any British citizens living, working, studying in the EU? How will this affect their life while we're in this transition period?

SLOAT: So the biggest change after Brexit takes place on January 31st is that the British government will no longer be participating in EU decisionmaking institutions. So, British members of the European Parliament have been packing up their offices this week, and British ministers will no longer participate in European Council of Ministers meetings or other decisionmaking components. That said, all of the rights of EU membership and all of the obligations of EU membership will continue to apply during this transition period. So, for citizens, they will not notice any difference over the next year. They'll still be able to live, travel, and work wherever they are. The Withdrawal Agreement includes provisions to deal with the large number of U.K. citizens in the EU and with EU citizens that are living in the UK. The mechanisms vary somewhat, but essentially, if they have been living there for a certain period of time, they're able to apply for what's known as "settled status," which allows them to continue living there. But over the next year, the British government is going to have to pass new immigration legislation which will govern how it handles these immigration questions in the future, and most likely French, German, other EU nationals wanting to move to the U.K. would need to get work permits for a job the same way I would as an American moving to the UK.

PITA: Part of Johnson's Withdrawal Agreement that differed from May's version of the Brexit deal was the way it treated Northern Ireland and Northern Ireland's trade relationship with the Republic of Ireland. Is the U.K. fully prepared to set into place the inspections and everything that's needed for trade to happen in the Irish Sea that's going to be part of the Withdrawal?

SLOAT: The short answer is no, and partly because the British government is denying that there are going to be checks happening in the Irish Sea. So, you're right that one of the big changes that Boris Johnson negotiated to Teresa May's deal was to remove the very unpopular backstop for Northern Ireland and replace it with a protocol. That protocol says that Northern Ireland will follow EU rules on agriculture and manufactured goods as well as enforce EU customs rules at its ports. So in order to avoid infrastructure on the land border between Ireland and Northern Ireland, it said that there would be checks on goods moving between Northern Ireland and Great Britain, essentially in the Irish Sea. This week, on the eve of Brexit, Johnson claimed emphatically that there would be unfettered access for Northern Ireland businesses to Great Britain as well as Great Britain to Northern Ireland. Now, Michel Barnier, who's the EU's Brexit negotiator countered this very strongly in a speech that he delivered in Belfast, warning that the protocol makes frictionless trade impossible, and said that checks are indispensable. So this clearly is going to be an issue of contention going into the implementation phase of Brexit.

PITA: We've spoken before about how unlikely it is that the U.K. will be able to complete a full trade and immigration and everything else sort of deal with the EU by the December 31 deadline. And PM Johnson has said in the past that he won't – or at least very strongly does not want to – ask for any kind of extension. How likely is it that he'll be able to stick to that? And what happens if he doesn't and they don't have a trade deal at the end of the year?

SLOAT: So not only does Johnson say he doesn't want to ask for an extension, but he actually wrote into the Brexit legislation a provision barring the government from asking for an extension, which means if he wants to ask for one, Parliament is going to have to amend the Brexit bill to undo this ban on asking for an extension. So, you're right that priority number 1 for the U.K. is to use this transition period to negotiate some sort of economic arrangement with the EU for its future relationship. The U.K. is very focused on having zero quotas and zero tariffs. In response, the EU has said you need to then

have zero dumping, and we need to maintain a level playing field on a large number of standards on things like tax and environment and social issues.

It's going to be very difficult for the two sides to reach a comprehensive agreement within 11 months. For starters, the negotiations aren't even likely to start until March, because the British government needs to put forward its negotiating objectives. It has around 30 days after Brexit to do that. And EU member states aren't expected to agree on their mandate until February 25. So we're already looking at March for things to start. Depending on the nature of the deal, all of the 27 EU member states will need to ratify it, and in some cases, their sub-national parliaments may need to ratify it. So again, if you count back from December, that's going to be very difficult to get done.

So there's three possible scenarios that we're looking at. One is that the sides reach a limited agreement that's focused on goods and they set some of the other issues aside until later. Second, Johnson needs to get over his current aversion to asking for an extension and before the July 1 deadline for doing so, needs to go to the EU and ask for more time. Part of the reason he doesn't want to do that is that as long as there's a transition period, the U.K. remains bound by EU rules that it does not have a say in setting. And third, if there is no extension and there is no limited agreement, then the U.K. could crash out of the EU on December 31 and return to WTO trading rules, so we would be looking at the hard cliff-edge Brexit that everyone was so concerned about at the end of 2019.

PITA: U.S. and U.K. trade is also something of a priority, particularly on the U.S. side, with the Trump administration facing re-election in November, and they'd love to have another trade deal accomplished to tout. Are they also going to be entering talks this year, or is trying to do two trade deals at the same time just too much?

SLOAT: You would think it would be too much, and I think in reality it will probably prove to be too much, but the U.K. government is saying that it wants to try and negotiate deals with the United States and the European Union, and within the next three years they want to try and do Australia, New Zealand, and Japan. The British chancellor said in Davos in January that Europe was the priority, which I think only makes sense, given the limited time frame that we discussed and the fact that the EU is the UK's largest trading partner. That said, U.S. Trade Secretary Steve Mnuchin said he was disappointed that the U.S. was placed on the back burner and had thought that the U.S. was going to go first.

You're right that the Trump administration is looking for another quick win in an election year on trade, and at the same time Boris Johnson wants to demonstrate to the public that Brexit was worthwhile and is going to result in these beneficial trade agreements for the country. The challenge is that the U.K. needs to make a fundamental decision about how it wants to align itself in regulatory terms, because some of the things that the U.S. will be asking for, especially on agriculture and environmental standards will be in conflict with EU provisions on those issues, so the U.K. is going to have to decide which system it wants to be more closely aligned with.

PITA: Aside from England, the other three countries that make up the United Kingdom were not favor of Brexit, and all three of the devolved assemblies in Wales, Scotland, and Northern Ireland rejected the final Withdrawal Agreement. Do they have any formal role as talks proceed with the EU? How is this difference within the United Kingdom going to play out as things go forward?

SLOAT: So, notably in the June 2016 referendum, Scotland overwhelmingly, Northern Ireland, and also London voted against Brexit, and you're right that in recent weeks, the devolved assemblies in Scotland, Northern Ireland and Wales – and I should add for listeners that since our last podcast, the Northern Ireland assembly has been stood up, which is a very welcome agreement, as it neared the three-year anniversary of no government there – all three of them looked at the Withdrawal Agreement and they rejected it for various reasons. The House of Lords, when they reviewed the government's legislation, noted the Sewell Convention, which is a nonbinding convention, but has generally held, that the British Parliament will not normally legislate on issues that are devolved to these three assemblies without their consent if it affects areas that concern them. The government has decided to go ahead with Brexit anyway. It has chosen to ignore their views on this legislation, which I think is not necessarily going to have an immediate impact, but it does highlight some of the constitutional challenges that the U.K. is going to face going forward.

Now, for a number of these legislatures, particularly Scotland, when they were set up, a number of policy issues were given to them in their responsibility, and that was because they were already largely covered by the EU. So, things like agriculture and fishing. Now that Brexit it is happening, the EU is no longer going to be responsible for agriculture and fishing, and that's coming back to the U.K. Scotland is saying, we want to maintain responsibility for these issues, you gave them to us when the Parliament was set up. The U.K. is saying, we're not going to do that, because we can't have different agriculture and fishing provisions in different parts of the country. So there's going to be tensions around these issues, and these devolved legislatures are going to want to have a say in the trade agreements that the U.K. is negotiating with the EU and the U.S. because they're going to be directly affected in areas where they have legislative competence.

PITA: As we go through this year, what are some of the next big dates, big deadlines, or big markers we should be keeping an eye out for?

SLOAT: The biggest things to watch for are going to be how these trade talks between the EU and the U.K. progress. So, at the end of February, we should have negotiating mandates set up by both the Brits and the EU, and those talks should commence in early March. The next big date to look for will be the end of June, as we near this July 1 deadline by which the U.K. would have to ask for an extension. The EU has been very clear that if this is not resolved by the first of July, it is impossible to get an extension after that date. And then the next deadline will be December 31, which is the date under which the U.K. is currently set to leave all of the EU rules and obligations entirely. So, that's likely to be the next cliff edge if there has not been an extension, with potentially very dire consequences if there's not some kind of deal in place.

PITA: All right. Amanda, thanks for being here again.

SLOAT: Thank you.