

## What the Prime Minister's speech means <sup>[1]</sup>



In a speech at Lancaster House in London on 17 January, Prime Minister Theresa May set out the Plan for Britain, including the 12 priorities that the Government will use to negotiate Brexit. Here we look at what the Prime Minister's speech is likely to mean in practice.

What the Prime Minister said	What this means
<p><i>As we repeal the <a href="#">European Communities Act</a> <sup>[2]</sup>, we will convert the 'acquis' – the body of existing EU law – into British law [...] it will be for the British Parliament to decide on any changes to that law after full scrutiny and proper Parliamentary debate.</i></p>	<p>The UK will start post-Brexit life with the same regulatory landscape it had as a member of the EU (though in practice there will be some changes where EU bodies are named in legislation). "Full scrutiny" doesn't tell us a huge amount. The big question is whether the government will make greater use of "statutory instruments" to make these changes, which receive less scrutiny than bills. May does not rule this out.</p>
<p><i>...the Government will put the final deal that is agreed between the UK and the EU to a vote in both Houses of Parliament</i></p>	<p>This appears to give Parliament the power to veto a final deal. But if Parliament rejects the deal that is negotiated, odds are that the two-year negotiating window will pass and the Treaty of the EU will simply cease to apply to the UK overnight. That is an unpalatable prospect, meaning MPs would vote for quite a lot of potential deals even if they didn't like them. Read <a href="#">more on Parliament's options</a> <sup>[3]</sup> from Dr Hannah White.</p>
<p><i>...we will take back control of our laws and bring an end to the jurisdiction of the European Court of Justice in Britain</i></p>	<p>Leaving the jurisdiction of the European Court of Justice (ECJ) is one of the Prime Minister's red lines. Her speech implies that this necessitates leaving the Single Market, although European Economic Area (EEA) countries are governed by the European Free Trade Association Court, not the ECJ.</p> <p>What is still unclear is whether the previous decisions of the ECJ will continue to constitute precedents for the UK courts.</p>
<p><i>Part of that will mean working very carefully to</i></p>	<p>There are areas such as agriculture and environmental protection, which are devolved on paper, but where the overarching European framework means policy is consistent across the UK and real devolved autonomy is minimal. When that European framework is removed, the default legal position is that these policy areas will be fully devolved, creating the potential for regulatory divergence across the UK. This might make it harder to trade across the UK, for instance, by setting different levels of subsidy for farmers.</p>

<p><i>ensure that - as powers are repatriated from Brussels back to Britain - the right powers are returned to Westminster, and the right powers are passed to the devolved administrations of Scotland, Wales and Northern Ireland.</i></p> <p><i>As we do so, our guiding principle must be to ensure that - as we leave the European Union - no new barriers to living and doing business within our own Union are created.</i></p> <p><i>That means maintaining the necessary common standards and frameworks for our own domestic market... no decisions currently taken by the devolved administrations will be removed from them.</i></p>	<p>Theresa May's "guiding principle" is to stop this happening. The precise implications of this are uncertain, but it could mean that Westminster sets minimum standards across the UK or that the UK and devolved governments work together to agree on a common policy framework.</p> <p>Her promise that "no decisions currently taken by the devolved administrations will be removed" is carefully worded. An area like agriculture is currently devolved, but the administrations do not currently take decisions on it (because that happens in Brussels). May therefore leaves open the possibility that Westminster will acquire the power to take decisions in policy areas like agriculture that are in principle devolved at present. This would require amendments to the devolution legislation and, almost certainly, the consent of the devolved bodies under the <u>Sewel Convention</u> [4].</p> <p>This could open a potential battleground between the UK Government and the devolved administrations. But the UK Government may take the view that this is essential for proper functioning of the "UK Single Market".</p>
<p><i>...we will work to deliver a practical solution that allows the maintenance of the Common Travel Area with the Republic [of Ireland], while protecting the integrity of the United Kingdom's immigration system. Nobody wants to return to the borders of the past, so we will make it a priority to deliver a practical solution as soon as we can.</i></p>	<p>This is one of the hardest issues for the Government for two reasons: the movement of people and the movement of goods. The first could be tackled through a new migration system, but the movement of goods is much harder if the UK <u>leaves the Customs Union</u> [5] and Ireland stays within it.</p> <p>Both the Irish and UK Governments are determined to resolve the issue (but other member states will have views too) but no one has yet identified a practical solution.</p>
<p><i>We will get control of the number of people coming to Britain from the EU.</i></p>	<p>This ends free movement of labour from the EU to the UK. May also suggests the cap will not be thrashed out in a compromise with the EU as part of the Brexit deal (in which case there would be joint, negotiated control). Instead, the UK will retain the ability to change the number year by year.</p> <p>What she doesn't indicate is whether EU nationals will still have preferential access to the UK over nationals from other countries, or <u>what system she will use to exercise this control</u> [6]</p>
<p><i>We do not seek membership of the Single Market. Instead we seek the greatest possible access to it through a new, comprehensive, bold and ambitious free trade agreement.</i></p>	<p>The UK will not pursue membership of the Single Market through the EEA. Instead, she it pursue a free trade agreement with the EU.</p>
	<p>For an area like financial services, a free trade agreement might not bestow a "useful" amount of market access. Her comments could be interpreted as a bid to retain passporting for financial services on the basis that we already apply the EU regulatory framework. How we would</p>

<p><i>That agreement may take in elements of current single market arrangements in certain areas – on the export of cars and lorries for example, or the freedom to provide financial services across national borders – as it makes no sense to start again from scratch when Britain and the remaining member states have adhered to the same rules for so many years.</i></p>	<p>continue to mirror that EU regulation once we have left is unclear.</p> <p>Similarly the supply chain for UK car manufacturing involves regularly passing parts across borders, meaning that a free trade agreement that created a lot of paperwork at the border could inhibit trade.</p> <p>On both of these areas, May’s statement that she plans to keep “elements of current Single Market arrangements” implies she would like to square these circles. What is less clear is whether the Government yet has any feasible (let alone negotiable) propositions on how that might be done.</p> <p>Also not clear is what flexibility the UK (and devolved) Governments would have to amend regulations going forward – and whether we would have to match any new EU regulatory requirements.</p>
<p><i>...because we will no longer be members of the Single Market, we will not be required to contribute huge sums to the EU budget. There may be some specific European programmes in which we might want to participate. If so, and this will be for us to decide, it is reasonable that we should make an appropriate contribution. But the principle is clear: the days of Britain making vast contributions to the European Union every year will end.</i></p>	<p>The UK will pay less into the EU budget than our current net contribution, but May is prepared to consider some form of ongoing contribution. This might, for example, enable UK researchers to continue to benefit from EU Horizon 2020 funding for scientific research.</p>
<p><i>That means I do not want Britain to be part of the Common Commercial Policy and I do not want us to be bound by the Common External Tariff. These are the elements of the Customs Union that prevent us from striking our own comprehensive trade agreements with other countries. But I do want us to have a customs agreement with the EU.</i></p> <p><i>Whether that means we must reach a completely new customs agreement, become an associate member of the Customs Union in some way, or remain a signatory to some elements of it, I hold no preconceived position. I have an open mind on how we do it. It is not the means that matter, but the ends.</i></p>	<p>Theresa May is giving notice that the UK plans to leave the Customs Union. This will allow us to conduct trade agreements with non-EU countries.</p> <p>But she recognises that by leaving the Customs Union she risks creating paperwork at the border – creating a “non-tariff barrier” that might disrupt trade.</p> <p>The Prime Minister wants to avoid that outcome, but this is another area where she doesn’t appear to know how – or, as it says in the speech, she has “no preconceived position”.</p>
<p><i>I do not mean that we will seek some form of unlimited transitional status, in which we find ourselves stuck forever in some kind of permanent political purgatory. That would not be good for Britain, but nor do I believe it would be good for the EU. Instead, I want us to have reached an agreement about our future partnership by the time the two-year Article 50 process has concluded. From that point onwards, we believe a phased process of implementation, in which both Britain and the EU institutions and member states prepare for the new arrangements that will exist between us, will be in our mutual self-interest.</i></p>	<p>The Prime Minister wants to agree both the UK’s exit from the EU and its new relationship inside the two-year negotiating window. That is ambitious.</p> <p>Theresa May wants that new relationship to have an “implementation phase” – a timetable over which the UK can gradually move from its current EU arrangements to the new relationship. That is different from a separate transitional deal.</p>

## Further information

In a speech at Lancaster House in London on 17 January, Prime Minister Theresa May set out the Plan for Britain, including the 12 priorities that the Government will use to negotiate Brexit. In a speech at Lancaster House in London on 17 January, Prime Minister Theresa May set out the Plan for Britain, including the 12 priorities that the Government will use to negotiate Brexit.

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- [1] <https://www.instituteforgovernment.org.uk/explainers/what-prime-ministers-speech-means>
- [2] <https://www.instituteforgovernment.org.uk/brexit/brexit-brief-1972-european-communities-act>
- [3] <https://www.instituteforgovernment.org.uk/blog/parliament-can-be-more-brexit-rubber-stamp>
- [4] <https://www.instituteforgovernment.org.uk/blog/presumed-consent-role-scotland-wales-and-northern-ireland-brexit-process>
- [5] <https://www.instituteforgovernment.org.uk/blog/leaving-eu-customs-union-what-involved>
- [6] <https://www.instituteforgovernment.org.uk/brexit/brexit-brief-key-questions-uk-immigration>