

# Half-time oranges in a slow start to the year



Ewan Pearson

The year is half completed and a deadline for an extension to the Transition Period looms.

It may have been a madly hectic and massively changing six months for most of us - and the world economy - due to the Coronavirus Pandemic, but it's been a slow half year for one set of the UK's negotiation discussions...

What!? Yes this is nothing to do with Covid-19 and all to do with the much-forgotten 'Transition Period' after Brexit, 11 months in which the UK is no longer a member of the EU but continues to be subject to EU rules and remains a member of the single market and customs union, along with the security arrangements. Freedom of movement remains (in theory, but not at all now we have Covid-19) and citizens' rights are unaffected. There is no more Nigel Farage and the other UK MEPs in the European Parliament, no UK commissioner and UK ministers no longer attend meetings of the European Council.

Let's recap:  
Brexit = divorce bill,  
Transition Period = time to get a new deal done,  
and Trade Deal = the new bipartite relationship between the UK and the EU.



*Boris Johnson signing the Brexit withdrawal agreement.<sup>4</sup>*

A quick quiz: I suspect you know who the EU's chief negotiator is, but who is the UK's current chief negotiator? Yup, like me, most of you won't know who it is, and we can be partially forgiven as there have been quite a few... See bottom of article for the answer.

After three extensions, the UK formally left the EU on 31<sup>st</sup> January 2020. Theresa May's Withdrawal Agreement (WA) agreed 21 months for this

transition, but after the Brexit delays, we now have the last 11 months of this year for negotiations between the UK govt and the EU to settle the terms of a new trade deal, inter alia all the other trade deals we now have to do, and in particular the USA. Or no deal at all, possibly with anyone new...

As of 16<sup>th</sup> June the UK had agreed 20<sup>1</sup> deals, with a further 16<sup>1</sup> under discussion, of which only Canada is a fellow non-EU G8 country, the others being Japan, Russia and USA. The UK says its 'priority is to launch negotiations with the EU, the US, Australia, New Zealand and Japan'.

The UK and Japan have agreed to negotiate a new bilateral deal using the existing EU agreement as a base (but these talks have been paused since 13 May for a public consultation), and we have signed Mutual Recognition Agreements with Australia, New

Zealand and USA<sup>2</sup>.

In my view, the Brexit negotiations were 'won' by the EU. One aspect of that win is that the EU said it will not negotiate details of new arrangements with the UK until it ceased

to be an EU member. I am sure it would have been possible to do so, after all - to use the most common metaphor used in those talks - a post-divorce deal is sorted out before the final divorce, not afterwards. *'You want half the assets and to see the kids every two weeks? I'm not discussing that until you've signed!'* But no, instead the EU chose to inflict the delay in the start of trade talks on the UK.

Advice *squeezed* straight from the experts



# Half-time oranges in a slow start to the year. Cont...

New arrangements with the EU are due to start on 1<sup>st</sup> Jan 2021, and 'officially' if the UK wants to extend the Transition Period (of up to two years under the WA), it needs to have asked for that by 1<sup>st</sup> July 2020, only a few days after we publish this article. 'Officially' the UK does not want to extend, and has even encoded this in law, and reinforced this in a press release from the Withdrawal Agreement Joint Committee (WAJC) as recently as 12 June. Yet, both sides are taking the discussions 'real slow'.

Negotiation Tactics - aka the development of Relative Power - are being used extensively here. For those in the know, the Power Tactics being used are pretty standard ones. Here is a quick review of the main ones:

1. *Use the big guns occasionally:* Boris Johnson met (in clockwise order) Ursula von der Leyen, David Sassoli, Michel Barnier and Charles



Boris Johnson speaks with Ursula von der Leyen, David Sassoli, Michel Barnier and Charles

- Michel online for 'high level' talks on 15 June, and even before they met they said they'd accelerate things, with 5 new rounds of talks starting on 29 June. They agreed to get on with it.
2. *Best alternative to a negotiated agreement (BATNA):* The threat to walk away. In this case it means a 'No Trade Deal' end to 2020 and the UK moving to WTO (World Trade Organisation) rules, although N.Ireland has a separate outcome under the Northern Ireland Protocol. After that the UK can continue negotiating. Also comparisons with other deals and bad treatment/breach of spirit used by UK.
3. *Competition to the deal:* used by both sides here e.g. by the UK use of USA as if it were some kind of alternative, and the EU using its

other trade deals.

4. *Timing:* Combined with BATNA, the UK have told the EU there will be 'no extension'. This is getting minds to focus on working faster towards a deal, and is considered a genuine position.
5. *Authority:* the latest Conservative manifesto aimed for a relatively loose free trade agreement, giving Boris and his team strength to say they can't soften their position.
6. *Posturing Language:* using words like 'officially' (which surely means we will do something else unofficial), 'partial deal', 'very difficult', 'repeatedly ruled out', no/some 'scope for compromise' (aka concede), 'level playing field' and 'fairness' (using ethics as a tactic), which leads me to.....

7. *Morality:* keeping or breaching promises already made, a tactic used by each side. The UK called the EU on this in May with the accusation that it was keeping to the spirit of the agreement

and treating the UK worse than any other trade deal counterparty.

8. *Meeting Locations:* we're not just meeting in Brussels this time, but online then in each city.
9. *Proximity and uniqueness* used by EU e.g. fish, Financial Services/banking.
10. *Precedent:* the UK says 'you've already agreed this and that with us and in other trade deals with the EU
11. *Internal conflict* - the separate factions of the Conservative Party now seem to be arguing again over whether the UK should be an EU-partner (aka protectionism) or a free agent.
12. *Time:* by each on the other, and by the UK on itself, with some asking for an extension because they say they can't cope with the post-EU future and deal with the damage

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- our Q&A Methodology.

from Covid-19. The 'slow clock' is our concept for how the pace starts slowly. There is always a load of faffing about until the 11<sup>th</sup> hour minute, and we're in the middle of that now - several rounds of talks have made next to no progress in recent weeks. One concept that we share in our negotiation coaching is that of *accelerating time value*, typically from a slow start. A day now does not seem to be worth or cost much, but in mid-December 2020 it will seem to have passed very quickly and much will be expected of each day.

13. *Trading concessions to do the deal:* the haggling has started: fish for finance; strong or weak border checks; the location of those borders and checks in England or N.Ireland; and protecting the Good Friday Agreement (which both sides say they are keen to do).

We can all learn a lot from watching others negotiate, whether they do it well or badly. This will be one to

watch closely from here on, and we can all apply the learnings to our own work with suitable translations.

If I have one thing to suggest we watch it will be the degree to which either side deviates from what it says is non-negotiable, and in particular the *emotional* effect this has on both sides.

By Ewan Pearson

*PS: Answer: The UK's current chief negotiator is David Frost (and for the EU it's still good ol' Michel Barnier).*

### Sources:

1. <https://www.gov.uk/guidance/uk-trade-agreements-with-non-eu-countries>
2. A mutual recognition agreement (MRA) is one in which countries recognise the results of one another's conformity assessments.
3. <https://www.instituteforgovernment.org.uk/explainers/brexit-transition-period>
4. <https://www.bbc.co.uk/news/uk-politics-51244126>
5. <https://www.irishtimes.com/news/world/europe/eu-prepares-to-knuckle-down-for-summer-of-brexit-talks-1.4279826>

## GPB is trading normally and successfully online

We would not normally spend column inches here telling you about us, but the unique situation merits a word or two here. We started coaching online - with our client Hewlett Packard providing the 'tech' - in 2000, running VCs or "Virtual Classrooms". That's also the year we published our first of these "Speak Up" Journals. The VC idea was ahead of its time, but Zoom, Teams and Google Meetings are all remarkably similar to this and so very familiar to us.

Since the lockdown, our staff have been working well and safely from home, and the transition to that was very smooth. A few early client events were cancelled, but we've now replaced those with plenty of 1-1 two-hour coaching sessions and we have also been working with client teams on key presentations such as AGMs, and fund-raising for our Private Equity and Infrastructure clients. Clients are enquiring more and more about blended and post lockdown coaching, and our online group workshops.

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