

BREXIT AND ITS POSSIBLE IMPACT ON THE UNITED KINGDOM

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Abstract

This paper deals with Brexit (the UK's leaving the EU) and its possible impact on the United Kingdom's politics, economy and the future relationship with the European Union. For the majority of businesses in Great Britain the possibility the UK might leave the European Union is a major source of concern. Both the break with the EU and the uncertainty associated with it would be bad for business and damaging to the UK economy as well as the compactness of country due to the independence efforts of its nations. A great deal has now been written on the economic and political consequences for the UK of Brexit. Some of this is impartial; much of it is partisan. Very little has been written on the consequences for the rest of the UK's nations. While the biggest impact of Brexit would be on the United Kingdom, there can be little doubt that there will also be a significant impact on the rest of the European Union.

Keywords: referendum, Brexit, the United Kingdom, economy, impact

1 Introduction

For the first time in a generation there is a serious prospect of a member state leaving the European Union. In Great Britain, the Conservative government, led by Prime Minister David Cameron, held an in-out referendum on 23 June 2016. This was preceded by a renegotiation of the terms of EU membership and a lengthy referendum campaign. The result of referendum was a surprise to some, but it did not change a fact that the UK has started up the process of leaving the EU.

If the UK leaves the EU the impact would depend on the new relationship between the UK and the EU. There are several models for the UK. The impact of Brexit through the trade and investment channels would be most severe in the UK, but the rest of the EU would also feel the impact through several other channels. There is little prospect of London being dislodged as Europe's leading international financial center. Brexit would impact on the position of both the UK and the EU (especially the political dynamic between large states in an EU without the UK) in the world. The ending the UK's membership of the EU will have direct consequences for each of its four nations, which voted differently on whether to leave or remain. In particular, Brexit will challenge the existing arrangements for the devolution of political power to Scotland, Wales and Northern Ireland.

2 The United Kingdom's EU Referendum

In January 2013, David Cameron, the incumbent UK Prime Minister, promised a poll would be held if the Conservatives were returned to power at the next general election in 2015 and voters would be asked to choose between renegotiated membership and exiting the European Union. PM Cameron said the referendum would be a decision on the UK's "destiny" and, if he secured a new relationship he was happy with, he would campaign "heart and soul" to stay within the EU. He argued that "disillusionment" with the EU had been at an all-time high and simply asking the British people to carry on accepting a European settlement over which they had had little choice was likely to accelerate calls for the UK to leave. However, he also believed Britain's national interest was best served in a flexible, adaptable and open European Union and that such a European Union was best with Britain in it.

German and French political leaders countered by warning that the UK could not pick and choose its membership terms while simultaneously advocating Britain should continue its membership. Some public polls in France and Germany favored a British exit. The United States warned against a British exit from the European Union, arguing that it would reduce the British "voice" in the EU as well as not being in the national interest of the United States. In response to David Cameron's January 2013 speech on the EU, several countries submitted their views on the proposal and as to UK-EU relations. The U.S. Obama administration expressed its belief that the United Kingdom is stronger in the European Union, and that the EU is stronger for having Britain as a member. French President François Hollande, speaking at the European Parliament, said there could be no à la carte option for European Union membership. Australian Foreign Minister, Bob Carr, said Australia recognized the UK's strength and resilience and looked forward to seeing it continued as a leading economy and effective power [1]. Strong effective membership of the EU contributed to this.

In May 2013, the Conservative Party published a draft EU Referendum Bill and outlined their plans for renegotiation and then an In-Out vote if returned to office in 2015. The draft Bill stated that the referendum must be held no later than 31 December 2017.

After the success of the Conservatives in the United Kingdom general election, which took place on 7 May 2015, PM Cameron kept his word about the EU referendum. The United Kingdom voted in a referendum on 23 June 2016 to leave the European Union. It was a result which would have dramatic implications for the future of the global economy, international relations and the European continent. Immediately after the results of referendum (51.9% of Britons voted for Leave and 48.1 voted for Remain) the UK Prime Minister, David Cameron, gave notice of his intention to resign [2].

After Cameron's resignation, the new Prime Minister, Theresa May, did not want to trigger the Article 50 of the Treaty on European Union [3] process before the end of 2016 due to the need of a debate as to whether the UK Parliament needed to approve the triggering of Article 50. The Article 50 provides for a Member State to leave the EU, either on the basis of a negotiated withdrawal agreement or without one. The withdrawal agreement will probably contain transitional arrangements and it, or a separate agreement, will provide for the UK's future relations with the EU. There is no precedent for such an agreement, but it will probably come at the end of complex and lengthy negotiations. These will not start until Article 50 is triggered by formal notification that the UK intends to leave the EU. At last, the latest date to trigger the Article 50 was determined by PM Theresa May on 31 March 2017. However Britain's Supreme Court has ruled that the UK government must hold a vote in parliament before beginning the process of leaving the European Union [4]. The decision is a complication for Prime Minister Theresa May to trigger the legal mechanism that begins the process of leaving the EU by the end of March. Doing so would open the door for EU negotiations, which are likely to last two years.

The withdrawal agreement is likely to cover many individual rights. But if there are areas not covered by a withdrawal agreement, or if the UK leaves without an agreement, the question is whether British citizens and businesses in Europe would – and European citizens and businesses in the UK – be able to rely on any 'acquired rights', either under EU law or general international law. The EU Treaties say nothing about rights acquired during the currency of the EU Treaties automatically continuing after a Member State leaves the EU. There is no explicit 'survival clause' protecting acquired rights or covering the survival of claims based on EU law [5].

General international law principles of certainty, stability, and non-retrospectivity and mutual interest suggest some kind of continuing protection for individuals when the UK leaves the EU. The 1969 Vienna Convention on the Law of Treaties [6] probably protects only the rights acquired under a treaty by states, not by individuals; and customary international law might protect some individual rights acquired under a treaty, but the scope of these rights is not clear and might not extend to rights of residence, for example.

There are few alternatives for the UK to EU membership. The UK might seek to join the European Free Trade Association (EFTA), remain in the European Economic Area (EEA) and therefore continue to have access to the single market. But this would mean allowing the free movement of people and contributing to the EU Budget. Or the UK could decide to go it alone and negotiate bilateral agreements with the EU along the lines of the Swiss model. The UK might decide to confirm and enhance its historic ties with other English-speaking nations in the 'Anglosphere'. The Government has already been talking informally with the USA and Australia about future trade relations [7].

3 UK's Steps before Triggering Article 50 of the Lisbon Treaty

Theresa May has nailed her colors to the mast by stating that 'Brexit means Brexit', but what this will mean in practice is far from certain. It will encompass a combination of extracting the UK from the rights and obligations of EU membership, establishing a new relationship with our erstwhile partners, and seeking new trading arrangements with the rest of the world. In addition, tricky decisions will need to be made when it comes to adapting domestic policies over which the EU currently exercises a strong influence.

The first stage is for the UK to invoke Article 50 of the Treaty on European Union, setting in motion the separation from the EU. The UK Government decided to pull the trigger on 31 March 2017. The Treaty prescribes a two-year deadline for concluding the negotiation. At the end of those two years, the default position is that the EU Treaties and all the rights and obligations that flow from them cease to apply to the UK and its citizens. Despite provisions for the rest of the EU to prolong the negotiations by unanimous agreement, most commentators consider it unlikely that they would be willing to do so.

The intention to withdraw has to be addressed to the European Council, comprising the leaders of all EU Member States, which then has to agree guidelines for the rest of the EU to follow during the process. The detailed negotiations are expected to be conducted by the European Commission and the secretariat of the Council (both of which have already designated lead negotiators), with the involvement of the European Parliament. Once a withdrawal settlement is agreed, it has to be concluded on behalf of the Union by the Council, acting by a qualified majority (that is, 55% of Member States must vote in favor and the proposal must be supported by Member States representing at least 65% of the total EU population), after obtaining the consent

of the European Parliament (Article 50). In plain English, either a sufficiently large minority of the rest of the EU Member States or a majority of members of the European Parliament who vote can block a deal.

The withdrawal negotiations will have to cover a wide range of policy areas, given the reach of the EU into areas as diverse as judicial co-operation, scientific research and local economic development. Will multi-annual infrastructure projects part-financed by the EU's Structural Funds be allowed to continue, or will their sponsors have to choose between raising funding from alternative sources or being curtailed? What should happen to existing projects bringing together partners from UK and other EU universities, and funded from the European Research Council, bearing in mind that UK involvement is enabled by UK payments into the EU budget? A big question concerns what happens both to citizens of other EU countries living and working in the UK, and to UK citizens in other EU countries. Vague promises have been made, but they will need to be turned into firm commitments, including about what they mean for access to health care and other social policies [8].

And of course there remains profound uncertainty about the kind of relationship the UK will ultimately enjoy with the EU. There is currently much debate about the respective costs and benefits of what are commonly referred to as 'soft' and 'hard' Brexit. These are defined primarily in terms of the UK's relationship with the EU Single Market. A 'soft Brexit' is commonly taken to mean continued Single Market membership, including free movement of not only goods but also services, capital and labor, as the non-EU states Norway, Iceland and Liechtenstein have. The hardest 'hard Brexit' is usually understood to mean the UK having no preferential relationship with the Single Market and relying only on World Trade Organization (WTO) rules. This implies not merely non membership of the Single Market (meaning the potential for non-tariff barriers to be adopted, hindering trade), but also the imposition of tariffs on at least some trade in goods between the UK and the EU. Theresa May declared to choose 'hard' Brexit, although, it is still unclear and there will be several other meetings and negotiations in the following days for sure.

4 Possible Brexit Effect on the UK

The June 2016 referendum result in favor of ending the UK's membership of the EU will have direct consequences for each of its four nations, which voted differently on whether to leave or remain. In particular, Brexit will challenge the existing arrangements for the devolution of political power to Scotland, Wales and Northern Ireland. The UK government faces a challenge of two unions. As it seeks to extricate itself from its union with 27 other European states, it also faces an inter-governmental challenge within the union of the constituent parts of the UK.

In the years since it joined the European Economic Community in 1973, the UK has embarked on a project to devolve political power to Scotland, Wales and Northern Ireland. This has reordered legislative and policy competences away from the UK's parliament and government, and granted powers and responsibilities to the devolved governments and legislatures. In this process, many competences were devolved in part because they are predominantly legislated and enforced at the EU level. It is not clear what will happen when these competences are repatriated from the EU and to what extent they will be given directly to the devolved administrations.

In the negotiations over its exit from the EU, the UK government will have to contend with the demands for a role from the governments of Scotland, Wales and Northern Ireland. Each administration has different interests and concerns that they wish to be accommodated within the UK's negotiating position. And, most notably in the case of Scotland, the future relationship between the UK and the EU that they seek is difficult to reconcile with the current position of the UK government.

Furthermore, as devolution has progressed the line between domestic and foreign policy has become blurred in a wide range of areas including energy, the environment, agriculture and trade. This expanded agenda for the UK's overall external relations has been pursued with and through the EU. As it embarks on 'renationalizing' these issues, the UK government will have to reconcile the fact that devolution has granted many policy powers to Scotland, Wales and Northern Ireland. Reconciling the process of Brexit with devolution will also create a spillover challenge for the UK's foreign policy. Prior to the referendum, the devolved administrations had already sought to establish, to differing degrees, their own profiles in external affairs. The outcome of the referendum has given these efforts renewed impetus. This could mean that the UK will show a more multifaceted profile to the EU, its member states and third countries after Brexit [9].

As pointed out above, devolution was designed and implemented during the UK's membership of the EU. Europe also provides a discursive framework for nationality demands to express themselves in a transnational context and for the elaboration of post-sovereign visions of self-determination that do not involve a complete rupture with the UK. Brexit will therefore remove an important external support system for the UK constitution.

The least constitutionally disruptive means by which the divergent policy interests of the devolved nations could be accommodated within the current state structure would be for Scotland, Northern Ireland and Wales to take advantage of the repatriation of competences, along with existing powers, and to shadow EU, rather than UK policies in some fields. They might align with European environmental policies and participate in future initiatives within a revived social pillar using non-legislative mechanisms. Agricultural policy might be more

difficult, given the reliance on UK funding and the need to maintain a single UK market without advantaging farmers in one part of the UK.

A step on from this is the possibility that Scotland and Northern Ireland might remain part of the EU, at least for some purposes, while remaining within the UK. All sides are agreed that closing the Irish border would be a serious mistake and that some accommodation will have to be made. This could take the form of keeping the historic common travel area and some cross-border institutions. It is difficult, however, to envisage Northern Ireland being within the Single Market and the rest of the UK being outside it without controls on trade in goods and services between Northern Ireland and Great Britain. In Scotland, there has been talk of a 'reverse Greenland' under which EU law would not apply in England and Wales (as it does not in Greenland) but would apply in Scotland and Northern Ireland. However, the Greenland analogy is hard to make, since Greenland is a sparsely populated island remote from Denmark, not the core of the state containing 80 per cent of the population. Nor is it possible to see how Scotland and Northern Ireland could exercise full Member State competences, including in reserved areas (which extend to foreign and security policy). Even if this were technically possible, it would be politically unacceptable both to the UK and the EU. There would also be all the internal market and border issues discussed above.

The most radical option, permitting those nations which voted for remain to do so, whilst the rest of the UK leaves, is secession from the UK. Scotland would become independent, and perhaps either continue as a successor state to the UK, or more likely join as a new member. Northern Ireland could retain membership through unification with the Republic. Scotland's First Minister has floated the option of a second independence referendum but this faces huge difficulties. The idea of independence-in-Europe which the Scottish National Party (SNP) has pursued for some thirty years is based on the logic that with both Scotland and the UK in the EU, trade and border issues between the two would be unproblematic. But with Scotland in and the UK out of the EU, there would be a hard border between the two. Polls do not suggest that Scottish voters would be ready to abandon the UK market in order to remain within the European one. If the UK were to negotiate access to the Single Market, however, that would make Scottish independence more viable. However, in any case, the Scottish government seeks new independence referendum, which should take place between late 2018 and early 2019, before Brexit negotiations are completed [10]. Irish unification would keep open the border between the two parts of Ireland, but leave a hard border with the UK, which would not be acceptable to unionist opinion. In any case, there is little prospect of a referendum on reunification succeeding.

There is no clear resolution to any of these issues but Brexit will have a big impact on devolution. It may lead to a recentralization as the UK reconstitutes itself as a sovereign polity; or to further decentralization with the devolution of EU competences. In either case, the process will be difficult and controversial.

5 Conclusion

The impact of Brexit on British businesses, the UK economy and wider British interests would be severe and felt across multiple channels. Both the path and the endpoint, in terms of the new relationship between the UK and the rest of the EU, would be uncertain, compounding the costs to the UK.

Brexit would have a wider political impact on the EU, both by disrupting internal political dynamics and because of the risk of political contagion if the 'proof of concept' of leaving the EU encourages disintegrative forces in other member states. Europe would also lose esteem and influence around the world. Member states would be affected in different ways and to different extents. This will most likely influence ways in which states are willing to engage and accommodate the UK during the pre-referendum negotiation. All member states would, however, feel the impact of Brexit, both politically and economically.

Brexit will also have significant political and institutional implications for the external affairs of the devolved administrations of Scotland, Wales and Northern Ireland. This is a consequence of the devolution of power that has taken place within the UK since it joined the EU. One characteristic of the post-Brexit devolved UK will be that its constituent governments may seek to enhance their respective capacity to pursue issues and distinctive interests in Brussels and beyond. Consequently the landscape of the UK's external and internal affairs looks set to be more variegated and complicated after it exits the EU.

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