

Brexit: A Status Report

Edited by Dáithí Ó Ceallaigh

January 2017



The Institute of International and European Affairs

Tel: (353) 1-874 6756.

Fax: (353) 1- 878 6880.

E-mail: reception@iiea.com.

Web: www.iiea.com

8 North Great Georges Street,

Dublin 1,

Ireland

© Institute of International and European Affairs 2016.

Graphic design, layout, typography by Aisling Sinclair.

As an independent forum, the Institute of International and European Affairs does not express any opinions of its own. The words and opinions expressed in this document are the sole responsibility of the author. The Institute of International and European Affairs grants permission for the reproduction of quotations from this text provided such quotations do not exceed 400 words in length, that they provide the reader with a fair context, and that due acknowledgment of the source is made.

Edited by:

Dáithí Ó'Ceallaigh

Chapters contributed by:

Brendan Halligan

Dáithí Ó'Ceallaigh

Tom Arnold

Catherine Day

John Palmer

Paul Gillespie

Tony Brown

Dan O'Brien

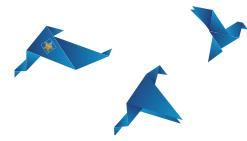
John McGrane

Terry Neill

Andrew Gilmore

IIEA Brussels

In addition to the authors, the IIEA is grateful to the members of its UK expert group, whose insights and expertise informed this report.



Contents

Introduction	3
<hr/>	
Section 1: Context and developments to date	
Chapter 1. The Context	5
Chapter 2. The Story So Far	7
<hr/>	
Section 2: The European Union – Brexit Preparations and Article 50	
Chapter 3. The EU Institutions - Brexit Preparations	15
Chapter 4. Article 50 and The Withdrawal Process	19
<hr/>	
Section 3. The UK	
Chapter 5. Issues facing the UK	23
Chapter 6. The Challenges Facing the UK's Brexit Strategy	27
<hr/>	
Section 4. Ireland	
Chapter 7. Issues for Ireland	30
Chapter 8. Economic effects of Brexit for Ireland	33
Chapter 9. Ireland – Organisational Structures	36
<hr/>	
Section 5. Business	
Chapter 10. The Irish Business View	40
Chapter 11. Brexit and Irish Business: Preparing the ground	42
<hr/>	
Conclusion	45

Introduction



Dáithí Ó'Ceallaigh

We live in uncertain, perhaps even threatening times. The shape of the future EU-UK relationship is far from clear. The EU itself is facing huge internal challenges. Further afield the future of US relations with South America, China, Russia as well as with the EU and NATO is unknown and unpredictable.

The purpose of this Status Report is to provide the members of the IIEA and others with reliable information on the coming negotiations between the UK and the EU. It is intended to be a reference guide to what is known at this point about the process of the negotiation. It is not intended to be an opinion piece and hopefully it is written in a reachable style.

The Report consists of 11 chapters divided into five sections; the first contains chapters setting the overall context, written by Brendan Halligan, and outlining developments since the British referendum by Anthony Brown; section 2 looks at the preparations for the negotiation being made in the EU with chapters by the IIEA Brussels on the institutional response and by Catherine Day on Article 50 and the Withdrawal Process; section 3 discusses the issues facing the UK by Paul Gillespie and the challenges facing the UK's Brexit strategy by John Palmer; section 4 concentrates on the implications for Ireland written by Andrew Gilmore and Dan O'Brien while Section 5 deals with the issues for business with chapters by John McGrane and Terry Neill. The conclusions were contributed by Tom Arnold. Each of the authors are considered expert in their field and all were supported by the IIEA research team. I should like to thank all who contributed and helped with the production on this Report.

Brexit is without doubt one of the greatest challenges facing Ireland since the foundation of the state. For over 40 years Ireland has benefited from membership of the EU both in terms of access to markets and transfer of resources while enjoying a much better and more even relationship with the U.K.

The impact on Ireland will be greater than that on any other EU Member State with serious and deep economic, political and social implications. Brexit represents an asymmetric shock for Ireland, and the country will be disproportionately affected compared to other Member States. Ireland is the only EU member state to share a land border with the UK and it remains the most deeply integrated with the UK in terms of trade, supply chains, migration and language.

In short, Ireland is the EU country most exposed to the risks of Brexit. The UK's decision presents the country with very difficult decisions on issues fundamental to the interests of its citizens such as trade, agriculture, law enforcement, industrial support, energy, etc.

The division on Brexit between the two ruling parties in Northern Ireland has caused difficulties for the operation of the fragile institutions in Northern Ireland. This combined with the negative effect of Brexit on relations between the governments in London and Dublin will make the complex relationships underpinning the Belfast Agreement more difficult to manage in the future.

While these chapters are naturally more concerned with the risks attached to Brexit there will be opportunities as well as threats facing the country. While being alert to those risks Ireland also needs to mitigate the damage and seek out and maximise any opportunity which might arise.

What seems clear is that we are in a period of transition. What emerges at the end of this process is uncertain but likely to be

very different from our current situation. Ireland has shown that it can develop and change; in contrast with the poverty of the early years Ireland is now a vibrant small state with great capacity for innovation. The determination and talent which brought about those successful changes remains and will help the country to adjust to the new realities whatever they may be.

Section 1

Context and developments to date



Chapter 1. The Context

Brendan Halligan

Brexit confronts Ireland with an agenda more complex than that faced by any other EU Member State. Both history and geography have ordained it so. So too have developments over the past half century, a period in which Ireland and Britain created a mutually beneficial partnership based on economic interdependence and political cooperation.

That partnership will be affected by British withdrawal from Europe and will position it within an entirely new context, the shape of which is as yet unknown but whose contours are already clear enough despite huge uncertainty about Britain's future relationship with Europe and, perforce, with Ireland. The economic and political implications of Brexit are straightforward. The economy will suffer and peace on the island will be endangered.

A New Anglo-Irish Relationship

The economic effect clearly depends on the new relationship to be thrashed out between Europe and Britain but in the worst case scenario, whereby free trade is replaced by customs barriers, the shock would be severe. The political effects would be no less so if the free movement of peoples between the Republic and Northern Ireland were to be impeded by border controls. On the basis of what the British government has indicated as its primary objective in "taking back control" of its affairs it can be assumed that the re-imposition of border controls is inevitable. That would reverse the whole thrust of Anglo-Irish relations since a bi-lateral free trade area was agreed over half a century ago and since both countries embarked on their common stewardship of Northern Ireland some years later. Common membership of the European Union facilitated political and economic interdependence and, while a normal consequence of the European integration process, these effects have been particularly benign in the case of Ireland.

Asymmetric Shock

Those benefits have been placed in jeopardy by Brexit and could be seriously eroded if the pronouncements of the British Prime Minister are to be taken literally. No country in the European Union stands to lose as much as Ireland from what is called a "hard Brexit", a euphemism for border controls on the free movement of goods, services and people. The Irish economy is six times more dependent on the British market than the European average. The rate of dependency is even greater for indigenous business, which mainly consists of Small and Medium Sized Enterprises exporting into competitive British markets, usually on the basis of high volumes and low margins. Consequently, Brexit will have a disproportionate effect on the Irish economy in terms of unemployment and lost revenues. It can best be described as an asymmetric shock, to borrow from the terminology of economic analysis.

The scale of that shock will obviously depend on a range of factors, including movements in the euro/sterling exchange rate and the reaction of Irish businesses, but it will be far greater than in any other Member State. The fact that so many of the SMEs in the firing line are labour intensive is the main reason for that assertion.

Northern Ireland

The political implications are no less troubling. The transformation of Northern Ireland from a region plagued by incessant violence into one characterised by peaceful co-existence has been made possible not only by Ireland's and Britain's joint membership of the European Union but also by the very existence of the Union itself, providing as it does the institutional framework for building new common structures and providing credible guarantees that civil rights will be respected and enforced. The Good Friday Agreement, for example, is predicated on common Irish and British membership of the EU and of the European Court of Human Rights. The withdrawal of Britain from the Union and from the Court will thus upset the equilibrium that has been created between the two governments and, more significantly, between the two communities in the North. Under the most malign scenario any change in the status and security of one community could lead to pressure for a change in the constitutional status of Northern Ireland with the potential for a backlash should either community deem itself to be politically disadvantaged by developments.

The impact of Brexit on the Northern communities goes beyond the political in that the end of the CAP will adversely affect the rural economy while the removal of EU support for community programmes will disproportionately affect disadvantaged areas and voluntary organisations. This would simply add to the negative knock-on effects of Brexit, complicate the agenda for both governments and create an entirely new context which neither would welcome.

Summary

In summary, the strategic agenda facing Ireland has never been so complex, with the exception of war-time. The two overriding objectives for the Irish government are to maintain unfettered access to the British market and an open border with Northern Ireland. Solutions will not readily be found if Britain ranks border controls as its number one priority and if the EU 27 insist on maintaining the four freedoms upon which the Single Market is based. The Irish agenda turns out to be a unique mixture of politics and economics coming at a time when the economic recovery from the financial crisis is still being consolidated.

In broad terms this is the context for assessing the overall effects of Brexit on Ireland and will serve as an introduction to the chapters that follow.

Section 1

Context and developments to date



Chapter 2: The Story So far

Tony Brown

This chapter covers developments since the referendum on EU membership in the UK, in Ireland and the EU.

June

United Kingdom

The Referendum Result

On **23 June 2016**, the UK voted by 51.9% to 48.1% to leave the European Union.

With a high turnout of 72.2%, 17.4 million UK citizens voted for the UK Leave the European Union. 16.1 million voted to Remain.

Voters in **Scotland** supported Remain by 62%-38%; **Northern Ireland** supported Remain by 56% to 44%. **Wales** voted 52% -48% for Leave. **London** voted 60%-40% for Remain. **All other English regions** opted for Leave by majorities between 52% and 59%.

United Kingdom

The Morning After: Immediate Reactions

On **24 June** David Cameron tendered his resignation as UK Prime Minister, saying that it would be for a new Prime Minister to start the process of leaving the EU. Mr. Cameron stayed in place as Prime Minister until his successor was chosen.

Ireland

The Irish Government stated its disappointment, and immediately published its [Brexit Contingency Framework](#), setting out details of a strategic approach, co-ordinated by the Department of the Taoiseach and addressing up to thirty priority areas including UK-EU negotiations, British-Irish Relations, Northern Ireland and North-South Border Impacts.

Europe

In an immediate response to the referendum result, the Presidents of the three EU Institutions stated that they expected the UK Government to give effect to the decision of the British people as soon as possible, arguing that any delay would unnecessarily prolong uncertainty.

Europe

European Council appoints Didier Seeuws as head of Brexit Taskforce

On 26 June 2016 the European Council President, Donald Tusk, nominated the Belgian diplomat, Didier Seeuws, as the head of the Council's Brexit taskforce. Mr. Seeuws was formerly chief of staff to Herman van Rompuy as European Council President.

Europe

June European Council

The European Council met on **28-29 June**. On 28 June it heard a statement by the outgoing Prime Minister David Cameron, who gave his assessment that immigration was the decisive factor in the Leave vote.

July

United Kingdom

Ireland

The following day, the European Council met without the British Prime Minister for an initial discussion on the fallout from Brexit and the implications for the future of the Union itself. They recognised that there was dissatisfaction with the current state of affairs and a need to do better and stated that they were starting a political reflection to give an impulse to further reforms and to the development of the EU with 27 Member States.

Extraordinary summit of the British-Irish Council

First Minister of Wales, Carwyn Jones AM, hosted an extraordinary Summit meeting of the British-Irish Council in Cardiff on **2 July 2016**. The meeting discussed the outcome of the UK's referendum on membership of the EU. The meeting was attended by Heads of Administration and Ministers from all eight of the Council's Member Administrations: the Irish and UK Governments; the devolved administrations of the Northern Ireland Executive and the Scottish Government; and the Governments of the Isle of Man, Guernsey and Jersey.

United Kingdom

On **7 July** Home Secretary Theresa May was elected unopposed as Conservative Party Leader becoming the UK's second female Prime Minister. Three leading figures in the Leave campaign were appointed to key ministries: Boris Johnson as Foreign Secretary; David Davis as Secretary of State for Exiting the European Union; and Liam Fox as Secretary of State for International Trade.

Ireland

On **26 July**, the Taoiseach became the first EU leader to meet with Theresa May. The two leaders discussed bilateral issues in the context of the UK's EU withdrawal. This was the first of a series of meetings between Enda Kenny and European leaders, including visits to Paris and Berlin.

Europe

Michel Barnier named as head of European Commission Article 50 Taskforce

Also on **27 July**, the European Commission President, Jean-Claude Juncker, nominated Michel Barnier, as Chief Negotiator and head of a Task Force for the negotiations, commencing 1 October 2016.

August

Ireland

Government Appointments and Reorganisations

On 5 August, the Irish Government appointed John Callinan as Second Secretary General to lead a new integrated division within the Department of the Taoiseach to support the Taoiseach in his work on EU, Northern Ireland, British-Irish and International affairs.

A further series of actions included the strengthening of the EU policy role of the Department of Foreign Affairs and Trade, under Second Secretary General Rory Montgomery, as well as the strengthening of other key Departments, agencies and overseas missions, including in Berlin, Paris and London.

Northern Ireland

Exchange of views between the Northern Irish Executive and Theresa May

On 10 August, the Northern Irish First Minister, Arlene Foster, and Deputy First Minister, Martin McGuinness wrote to Prime Minister May setting out a range of Northern Irish requirements, including retention of an open border with Ireland and some form of free movement of labour with the rest of the EU. They further underlined the importance of engagement between the governments of the UK and Ireland.

The Prime Minister later replied (on 14 October) stating that she was committed to full engagement with the Northern Ireland Executive on the UK's exit from the EU and recognised that "the future of the border with Ireland is of the highest priority for Northern Ireland and indeed is an important priority for the UK as a whole."

Appointment of Scottish Brexit Minister and new Standing Council on Europe

Scotland's First Minister, Nicola Sturgeon, appointed a Brexit Minister, Michael Russell MSP, "to maximise Scotland's influence in UK negotiations with the EU." A draft bill giving Scotland the ability to reconsider the question of independence before the UK leaves the EU has been published for consultation.

The Standing Council on Europe, made up of 18 legal, economic and diplomatic specialists, was also established to advise ministers on the best way to secure Scottish interests and objectives during negotiations. Professor Anton Muscatelli, Vice Chancellor of the University of Glasgow will be chairman of the group. IIEA Board member, Frances Ruane, is a member of the Council.

Ventetone Summit

The leaders of Germany, France and Italy met on the Italian island of Ventotene on **21 August 2016**, to discuss the urgent problems confronting the EU and to point the way to solutions in advance of a scheduled Bratislava summit of the 27. The leaders declared they would not allow Britain's departure from the EU to push the group into reverse.

Following Ventetone, Chancellor Merkel commenced a tour of EU capitals to forge a common position on the future of the EU after the UK's exit, meeting 15 leaders within a week and trying to bridge the gaps between the various groups among the EU member states.

Conference of Irish Ambassadors

A conference of Irish ambassadors and senior diplomats, assembled at Dublin Castle on **29 August 2016** by the Minister for Foreign Affairs, Charlie Flanagan, addressed the need to mobilise and co-ordinate the response to Brexit, described by the Minister as "the most important set of multilateral and bilateral negotiations in a generation."

European Parliament names Guy Verhofstadt as the European Parliament's Brexit negotiator

On **9 September**, the European Parliament named the former Belgian Prime Minister, Guy Verhofstadt, as the Parliament's 'point man' for the negotiations, working closely with the Constitutional Affairs Committee. The European Parliament will define its position on Brexit through a resolution in spring 2017.

Ulster Unionist Party publishes its position on Brexit

The Ulster Unionist Party (UUP) published its official position paper on Brexit, '[A Vision for Northern Ireland Outside the EU](#)' on **12 September**. The paper makes the case for a positive vision for Northern Ireland post-Brexit, and for the border to be seen as the UK's 'gateway' to the EU.

Welsh Priorities for the negotiations

On **16 September**, Welsh First Minister Carwyn Jones set out the priorities for Wales in the upcoming negotiations, focusing on the vital issue of continued full and unfettered access to the single market.

An EU Advisory Group, chaired by the Cabinet Secretary for Finance and Local Government, Mark Drakeford, will provide advice to the Welsh Government on the challenges and opportunities arising from the UK's withdrawal from the EU.

Europe

Bratislava Summit of 27

The leaders of the European Union 27 met in Bratislava on **16 September**, “to have a sober and brutally honest assessment of the [post-referendum] situation”

The summit addressed the root causes of the political problems of the Union, recognising the insecurity felt by many Europeans and their fears about migration, terrorism and the economic and social future. To move on with common solutions as the EU of 27, the summit adopted ‘The Bratislava Declaration’ and it agreed [‘The Bratislava Roadmap.’](#)

The Roadmap is to be advanced at meetings of the European Council and at a Europe of 27 summit in Malta in February with the March 2017 celebration of the 60th anniversary of the Rome Treaty rounding off the process and setting out orientations for the Union’s future.

Ireland

Oireachtas Committee hearings

In **September**, the Oireachtas Joint Committee on European Affairs commenced a series of hearings on the position of the EU Member States on the withdrawal of the UK from the EU.

The Committee, and the Joint Committee on the Implementation of the Good Friday Agreement, also began taking submissions from Ministers and from political representatives from Northern Ireland, as well as from EU Commissioner Phil Hogan.

October

Europe

Michel Barnier commences new Brexit role

On **1 October 2016**, Mr. Barnier started his new role as head of the European Commission’s Article 50 Taskforce.

Mr. Barnier engaged in a programme of visits to EU capitals – which started in Berlin, Paris, Warsaw and Dublin – to explain and discuss his approach to the coming negotiations. He also began to brief the appropriate European Parliament committees.

United Kingdom

Theresa May addresses the Conservative Party Conference, October 2016

On **2 October**, Theresa May addressed the Conservative Party Conference for the first time as party leader. The Prime Minister’s address at the Conference contained the key policy statement that “We will invoke Article Fifty no later than the end of March next year [...] It is not up to the House of Commons to invoke Article Fifty. It is up to the Government to trigger Article Fifty and the Government alone.” While there would be consultation with the devolved administrations in Scotland, Wales and Northern Ireland, the Government would carry out the negotiations.

The Prime Minister further indicated that the Government would introduce legislation – in the form of a Great Repeal Bill - to repeal the 1972 European Communities Act and to convert existing EU law into British law. The UK parliament would then be free to amend, repeal and improve any law.

United Kingdom

Ireland

Annual Meeting of the Irish Secretaries General with UK Permanent Secretaries

The annual meeting of the Irish Secretaries General with UK Permanent Secretaries took place on **5-6**

October 2016 in London. The Taoiseach reported to the Dáil, saying the meeting was “a valuable vehicle for discussion and exploration of the implications of Brexit.”

United Kingdom

House of Commons debate on Parliamentary Scrutiny of the UK's EU Withdrawal

A Commons debate on Parliamentary Scrutiny on **12 October** saw the Government clarify its position on the role of Parliament in the exit negotiation process. A Labour Party Motion calling for “a full and transparent debate on the Government’s plan for leaving the EU” was accepted by the Government subject to an amendment stating that the process should be undertaken in a way which “does not undermine the negotiating position of the Government.” The agreed Resolution did not commit the Government to a formal vote on the negotiating position.

Department of Finance Brexit Exposure Analysis

On **14 October 2016**, the Irish Department of Finance published [‘UK EU Exit - An Exposure Analysis of Sectors of the Irish Economy’](#) which examines the trade exposure of sectors of the Irish economy in the light of the UK decision to exit the EU.

United Kingdom

European Union Exit and Trade Committee

On **14 October**, the Prime Minister established the Cabinet European Union Exit and Trade Committee to oversee the process of EU negotiation. The Committee has thirteen full Ministerial members and three members who will attend ‘as required’ – namely, the Secretaries of State for Scotland, Wales and Northern Ireland.

Northern Ireland

NI Assembly debate and motion on EU Special Status for Northern Ireland

The Northern Ireland Assembly held a debate, on **17 October 2016**, on the SDLP Proposal on ‘EU Special Status for Northern Ireland.’ A Motion calling for formal negotiation of legal recognition of the unique status of Northern Ireland was defeated by 47 to 46.

United Kingdom

Ireland

Irish contributions to House of Lords Committee on the European Union

On **18 October**, the House of Lords Committee on the European Union carried out an inquiry into the impact of Brexit on the relationship between the UK and Ireland, visiting Belfast and Dublin and hearing evidence from, among others, the Irish Ambassador, Dan Mulhall and former Taoisigh Bertie Ahern and John Bruton.

Europe

October European Council

Prime Minister May attended her first European Council meeting on **20-21 October**. She spoke briefly at dinner about the UK Government’s intention to invoke Article 50 by the end of March 2017. The Council Conclusions contain no reference to her remarks but the European Council President, Donald Tusk, confirmed them to reporters, adding that “there will be no negotiations until Article 50 is triggered by the UK so we didn’t discuss Brexit tonight.”

United Kingdom

Ireland

Joint Ministerial Committee

The Prime Minister, on **24 October 2016**, convened a meeting of the Joint Ministerial Committee - a body bringing together the UK Government, Scottish Government, Welsh Government and Northern Ireland Assembly. The meeting, the first for more than two years, addressed the question of the UK’s

Brexit negotiations and set up a Joint Ministerial Committee (EU Negotiations), to be chaired by the Secretary of State for Exiting the European Union, David Davis, and which met for the first time on 9 November.

November

Ireland

All-Island Civic Dialogue

An all-island Civic Dialogue on Brexit was established by the Government, with the initial meeting hosted by the Taoiseach and the Minister for Foreign Affairs and Trade on **2 November** in Dublin. The IIEA Director General, Tom Arnold, chaired the dialogue. Invitations were extended to a broad range of civic society groups, trade unions, business groups and non-governmental organisations as well as representatives of the main political parties on the island. The Democratic Unionist Party and the Ulster Unionist Party declined the invitation to participate in the dialogue.

United Kingdom

High Court Judgement on Article 50

On **3 November 2016** the High Court in London ruled that the Government does not have the power under the Crown's prerogative to invoke Article 50 of the Treaty on European Union and thus that parliamentary approval is required. The Government, through Secretary of State Davis indicated disappointment, arguing that "The country voted to leave the European Union in a referendum approved by Acts of Parliament. The Government is determined to respect the result of the referendum."

The judgement was appealed by the Government to the Supreme Court. The Supreme Court has confirmed that Scotland's senior law officer, the Lord Advocate, and the Counsel General for Wales will be permitted to address the Court.

Should the High Court Judgement be confirmed by the Supreme Court the Government will have to proceed by way of legislation which introduces an element of uncertainty into the Prime Minister's timetable for initiating exit negotiations.

In a separate development, after the Belfast High Court had dismissed claims that the royal prerogative cannot be used to trigger Article 50, senior judges have referred the case to the Supreme Court in London. The Northern Ireland Attorney General has also referred a similar case brought by a cross-party group of politicians (Alliance, SDLP, Sinn Fein, Greens).

United Kingdom

Ireland

First meeting of Joint Ministerial Committee (EU Negotiations)

The Joint Ministerial Committee (EU Negotiations) met for the first time on **9 November 2016** under the chairmanship of Secretary of State Davis. The meeting discussed Article 50 and related sectoral issues and agreed to develop a work programme connected to, and involved with, the process of negotiations. The Committee will meet monthly to share evidence and take forward analysis.

Ireland

Northern Ireland

North-South Ministerial Meeting

A meeting of the North-South Ministerial Council, a body established under the Good Friday Agreement, took place on **18 November 2016** in Armagh. The agenda focused on the issues surrounding Brexit, including the land border, peace funds, treaties and free movement of people and goods. The meeting was hosted by the Northern Ireland First and Deputy First Ministers and was attended by the Taoiseach, the Tanaiste and the Minister for Foreign Affairs. The Council agreed to establish a new high-level official working group to co-ordinate views on Brexit and to consider what common positions existed between the two administrations. First Minister Arlene Foster welcomed the emergence of 'a triangular arrangement' involving Belfast, London and Dublin.

Scottish First Minister Sturgeon addresses Seanad Éireann

First Minister Sturgeon addressed Seanad Éireann on **29 November 2016**, setting out the principles guiding the Scottish Government in dealing with the consequences of the UK referendum. She argued that “the UK as a whole should now seek continued membership of the European single market and the European customs union.”

SDLP publishes questions on Brexit for the Northern Ireland Executive

On **21 November 2016**, the SDLP published 150 questions about Brexit to be answered by the Northern Ireland Executive, covering issues including the single market, agriculture, justice and the university sector.

British-Irish Council

A further meeting of the British-Irish Council took place in Cardiff on **25 November 2016**, at which Ministers reflected on developments since their previous encounter and updated the Council on their activities, particularly with reference to relations between Member Administrations.

Michel Barnier holds first press briefing on Brexit, notes Northern Irish issues

The head of the European Commission Brexit Taskforce held his first press briefing in Brussels on **6 December**. Mr. Barnier reiterated the message that it is still too early to speak about the details of Brexit but set out three key messages: that Brexit talks would be a short negotiation lasting less than 18 months; that maintaining unity among the remaining 27 EU Member States was an overriding priority; and that the final deal would have to be worse than EU membership, since “third countries can never have the same rights and benefits since they are not subject to the same obligations.” The tight timescale arises from the need, at the outset, to arrive at a European Council negotiating position following the UK triggering letter and, later, from the practicalities of ratification.

On the topic of Ireland, Mr. Barnier recalled that as Commissioner for Regional Policy, he had responsibility for the EU Peace Programme for Northern Ireland, and that he was personally extremely aware of the importance of the external border issue and the need for dialogue to continue in the region.

House of Commons Resolution on Article 50

On **7 December** the House of Commons, by 448 votes to 75, adopted a Resolution calling for the government to reveal its plan for Brexit before triggering Article 50 and accepting the government’s deadline of the end of March 2017 for initiating the exit process.

The original text, introduced by the Labour Party’s EU Spokesman Keir Starmer, had attracted the support of a significant number of Conservative backbenchers and the Prime Minister decided to accept the Resolution with an amendment on the March deadline. The full text of the resolution can be found in annex 1 of this report.

Sinn Fein calls for Northern Ireland to have designated special status within the EU after Brexit

On **8 December**, Sinn Fein published a policy paper entitled [‘The Case for the North to Achieve Special Designated Status Within the EU’](#). The paper makes the case for Northern Ireland to remain within

the European Union after Brexit, noting the centrality of the EU to the Good Friday agreement and to the continuing political and economic development of the region.

United Kingdom

Ireland

House of Lords Launches its report on UK-Irish relations after Brexit

The House of Lords Committee on the European Union launched its [report on UK-Irish Relations](#) in the context of Brexit. The report, one of six launched by the Committee, argues that closer UK-Irish relations and stability in Northern Ireland are too important to become “collateral damage” of the Brexit decision. The Committee urged the UK Government to be sensitive to the implications of its actions for the people and communities of Ireland, North and South.

Europe

December European Council

The European Council met on **14-15 December 2016**. The summit again included an informal meeting of EU leaders without the UK. The 27 [issued a statement](#) clarifying aspects of the negotiating process under Article 50, as well as the roles of the European Institutions in the negotiations. Notably, the statement reiterated that access to the Single Market will require acceptance of all four fundamental freedoms: goods, capital, services and people.

United Kingdom

Resignation of Ambassador Ivan Rogers, Permanent Representative of the United Kingdom to the European Union

On **3 January**, Ambassador Ivan Rogers resigned from his position as the Permanent Representative of the United Kingdom to the European Union. In his [resignation letter](#), Ambassador Rogers expressed pessimism on the UK Government’s prospects in the negotiations, noting that “serious multilateral negotiating experience is in short supply in Whitehall, and that is not the case in the Commission or in the Council.”

Northern Ireland

Martin McGuinness Resigns as Deputy First Minister of the Northern Ireland Executive

On **9 January**, Sinn Féin’s Martin McGuinness resigned from the role of Deputy First Minister of the Northern Ireland Executive, due to a dispute over the spiralling costs of a subsidised green energy initiative. The scheme was introduced while First Minister Arlene Foster was Minister for Enterprise, Trade and Investment and Sinn Féin had called for Ms. Foster to stand aside as First Minister while the initiative was investigated. Mr. McGuinness’ resignation, and the prospect of new elections, will serve to add to the deep uncertainty in the region as the UK’s withdrawal negotiations approach.

United Kingdom

Theresa May outlines the objectives and principles for the UK’s withdrawal

On **17 January**, Prime Minister Theresa May delivered a speech outlining the principles and objectives that would guide the UK’s EU withdrawal. The Prime Minister’s speech drew together much of what was already known or assumed about the UK’s likely negotiating stance, but provided important confirmation on a number of key points, including that the UK would not seek to be a member of the Single Market; that it could not be a full member of the Customs Union; and that it would seek to guarantee the rights of EU citizens presently residing in the UK and UK citizens in the EU. Importantly for Ireland, Ms. May acknowledged the importance of the Common Travel Area and committed to find a way to maintain the agreement after the UK’s withdrawal.

Section 2

The European Union – Brexit Preparations and Article 50



Chapter 3. The EU Institutions - Brexit Preparations

IIEA Brussels

European Commission

On 27 July, President Juncker appointed Michel Barnier as Chief Negotiator leading the Commission Taskforce in the preparation and conduct of the Brexit negotiations with the UK (the 'Article 50 Taskforce'). The Taskforce has recruited much of its core staff, and will be headquartered in the Berlaymont under strict security conditions (in addition to the usual swipe cards, separate fingerprint-activated access to offices for example).

While the former Commissioner will take the political lead, his Deputy, Sabine Weyand, is expected to do much of the heavy lifting. Ms Weyand (German) has left a position in DG TRADE and was previously the Commission's representative in Coreper 1. She is considered highly competent and is well known to the Irish team who led the 2013 Presidency.

To date, two Irish persons have been appointed to the Taskforce: Tadhg O'Briain, who originally came from the NI civil service as a national expert, joined DG ENER and was most recently with the Secretariat General and Daniel Ferrie, who transferred from the Spokespersons' Service.

Although the Commission is officially completely silent on Brexit negotiations until such time as the UK triggers Article 50, all Commission Directors General have been asked to nominate a single person who will act as the DG's contact point on Brexit and each DG has been asked to carry out a preliminary 'screening exercise' of their portfolio area, covering

- Ongoing and planned activities/initiatives/negotiations with a UK dimension that might impact on Article 50 negotiations with the UK;
- Key issues in the policy area that have to be sorted out in the Art. 50 withdrawal agreement;
- Key points for future EU-UK relations in the policy area.

Submissions were to be delivered by 28 October and DGs were explicitly instructed not to communicate with their Cabinet about the exercise (an instruction observed to varying degrees). Cabinets have also been instructed not to meet or communicate with any British officials in what could be construed as negotiations/lobbying prior to the triggering of Article 50 by the UK Government. All Brexit-related communications and events must be channelled through the Taskforce.

In keeping with the 'no negotiations before Article 50' approach, President Juncker has remained silent on the UK High Court's ruling on the necessity for parliamentary approval and his subsequent telephone conversation with PM Teresa May.

European Parliament

The consent - by simple majority - of the European Parliament (EP) is the penultimate step prior to a final decision by the

European Council on the withdrawal of the UK. The EP has made it very clear from the plenary debates on the subject in June, July and September that while in formal terms, its involvement comes close to the end of the exit procedure, it wishes to be involved and see its influence operating throughout all stages of the negotiations.

On 8 September, the Conference of Presidents of the EP (the leadership body comprising the EP President and political group chairs) appointed Guy Verhofstadt (former Belgian Prime Minister and current leader of the Liberal group in the Parliament) as the EP representative for Brexit negotiations. Mr Verhofstadt will coordinate Parliament's approach to the negotiations and has already issued a warning that the EP could reject a deal if it feels that its views have not been adequately taken into account throughout the two-year negotiating period.

The lead EP committee which will be responsible for preparing Parliament's report and vote on the matter is the Committee on Constitutional Affairs (chair Danuta Hübner, EPP, Poland).

In a letter dated 12 October 2016, President Martin Schulz wrote to all 20 committee chairs in the European Parliament, requesting them to spend the coming months on 'fact-finding work' which can feed into preparations for negotiations in their respective areas of competence. Committees have notably been asked to focus on the following broad questions:

- What is the possible impact on legislative files currently under discussion of impending UK departure?
- What is the likely impact on these legislative files if they are not concluded pre-Brexit and therefore only concluded post-Brexit?
- Are there policies or EU legislation in force likely to feature as part of the EU-UK withdrawal agreement, and if so in what way?
- Are there policies or EU legislation in force likely to feature as part of the future EU-UK relationship agreement, and if so in what way?

Drawing on the outcome of this work, a general resolution setting out the EP's starting position in the negotiations is expected to be adopted in the second quarter of 2017.

Finally, it may be noted that, unlike the provisions set out in Article 50 re the Council and the European Council,

Box 1. European Commission Article 50 Task Force as of December 2016

	Michel Barnier, Chief Negotiator
	Sabine Weyand, Deputy Chief Negotiator
	Stéphanie Riso, Principal adviser
	Marco Abate
	Francois Arbault
	Tristan Aureau
	Balázs Bence Tóth
	Tadhgh O'Briain
	Eugenia Dumitriu-Segnana
	Georg Emil Riekeles
	Justyna Lasik
	Isabelle Misrachi
	Ward Mohlmann
	Nina Obermaier
	Nicola Pesaresi
	Stefaan de Rynck
	Marie Simonsen
	Daniel Ferrie (Press Officer)

there is no provision for UK MEPs to be excluded from debates or votes in the EP on issues relating to UK withdrawal - or indeed any legislative dossier.

Council of the European Union/European Council

The Secretary General of the Council of the European Union, Jeppe Tranholm-Mikkelsen, appointed a special Task Force on the UK on 24 June. Didier Seewus, the then Director of Energy and Telecoms in the Council Secretariat was appointed to lead the team. Seeuus, a Belgian career diplomat, was the former Head of Cabinet and Chief of Staff for President emeritus Herman Van Rompuy, prior to which he was the Belgian COREPER 1 Ambassador.

The Secretary General communicated to staff that this special Task Force was created in order to avoid the work on the exit of the UK interfering too much with the normal work of the Council.

Although the Council is officially silent on Brexit negotiations until such time as the UK triggers Article 50, internally consultations with all Directorates General have commenced in order to assess the implications of Brexit on the work of the Council. Extracting the UK from all legislation of the EU is at the forefront of consideration by DGs, who are examining:

- The impact on (and fall out from) an impending UK departure on Council decisions
- The impact on cooperation and association agreements with third states
- The impact on legislative files currently under discussion
- Revision of Council decisions, by amendment or need for new decisions
- The time scale for revision of all aforementioned, which could run to years.

Regular meetings continue at the level of Director General/Secretary General with Mr. Seeuus.

Since the UK referendum, a number of informal meetings of the 27 Heads of State or government have taken place to discuss the political and practical implications of Brexit including on 29 June in Brussels, on 16 September in Bratislava, and on 15 December 2016. A further meeting of the 27 will take place in early 2017 in Valletta.

In their joint statement following the June meeting, the 27 leaders announced: 'We [...] deeply regret the outcome of the referendum in the UK but we respect the will expressed by a majority of the British people. Until the UK leaves the EU, EU law continues to apply to and within the UK, both when it comes to rights and obligations.'

Speaking at a press conference after the June meeting, president Tusk underlined that there would be no negotiations of any kind until the UK formally notifies its intention to withdraw. Subsequently, in a speech given on Thursday 13 October 2016 at the European Policy Centre conference, President Tusk indicated that: 'it is hard Brexit or no Brexit'.

Other Member States

For the moment, a clear unity of approach on the basic principle of 'no negotiations until Article 50 is triggered' has prevailed among the EU27 Member States. Equally, there appears to be wide consensus on the indivisibility of the four freedoms of the single market and the fact that 'cherry-picking' is not an option. Malta's Prime Minister Joseph Muscat was quoted in an October interview in Politico as saying 'any deal has to be a fair deal, but an inferior deal', while German Foreign Minister Wolfgang Schäuble told the Financial Times in November that 'there is no a la carte menu. There is only the whole menu or none'.

Nonetheless, once negotiations begin, Member States will bring a variety of different domestic priorities and concerns to the table, and informal groupings may emerge. A number of potential issues or fault lines can be identified, for example:

- Between Member States with significant trading interests with the UK (eg Germany or Belgium) versus those (such as Austria, Croatia or Slovenia) who will be less directly impacted by any changes in the EU-UK trade dynamic.
- The withdrawal of the UK, a net contributor to the EU budget, may sharpen divisions between net EU contributors and beneficiaries. In principle, decisions on the EU's multiannual budget for the post 2020 period should be decided in late 2018/early 2019, ie in parallel with Brexit negotiations.
- Freedom of movement and the rights of their nationals currently working in the UK will be a critical issue for countries who have significant numbers of citizens working in the UK, particularly for Ireland, but also for such as the Visegrad 4 (Poland, Hungary, Czech Republic and Slovakia) or Romania.
- Defence - maintaining the UK's role in NATO will be a major concern for Member States on the EU's eastern frontiers such as Poland and the Baltic States.

Adding extra elements of complexity to the mix, a number of elections will take place at national level in the EU27 in 2017, with the potential to impact upon the negotiations in general and the specific positioning of individual Member States. These include general elections in the Netherlands, Germany and the Czech Republic (in March, September and October respectively), the presidential elections in France in April/May and the subsequent likelihood of an election in Austria in or before 2018. With Eurosceptic parties polling well in many of these countries, notably France and the Netherlands, it has been suggested that their governments may take a hard line on Brexit in order to discourage other countries from following the UK example, ie to avoid the 'domino' effect. French President Hollande, for example, has clearly said that there has to be a 'cost' of withdrawal.

Section 2

The European Union – Brexit Preparations and Article 50



Chapter 4: Article 50 and The Withdrawal Process

Catherine Day

The explicit right of a Member State to leave the EU has only existed formally since the Treaty of Lisbon entered into force on 1 December 2009. Article 50 is a procedural article. It sets out the process to be followed once a Member State has notified the European Council of its intention to withdraw – there is no requirement to explain why the decision has been taken. The text of the article is short and leaves it to the European Council to set out the guidelines to be followed in the negotiation of withdrawal. The final decision to be taken by qualified majority (defined in 238(3)(b) of the TFEU) requires the consent of the European Parliament.

One or two negotiations?

Article 50 sets out how the withdrawal of a Member State is to be managed and as such has been likened to the legal arrangements made in divorce proceedings. However, after this particular divorce, the two parties are very unlikely to go their separate ways without any future contact. Theresa May indicated on 17 January 2017 that she would seek a free trade agreement with the EU after Brexit, though the shape and extent of that relationship remains a matter for negotiation.

Article 50 makes a general reference to “taking account of the framework for its future relationship with the Union”. This is because the “future relationship” can only be formalised (and be enforceable) once the outgoing Member State has become a “third country”.

In practice the EU is likely to carry out two parallel negotiations – one under article 50 setting out the terms of separation and the other providing for the rules that will govern the future relationship. The degree to which the departing Member State wishes to remain close to the EU or to take its distance needs to be reflected in the withdrawal agreement. Two examples illustrate how the two processes are intertwined and why clarity will be needed on many aspects of the future relationship before the article 50 agreement can be finalised:

- The UK is currently a full member of the EU customs union. If it decides to withdraw from it the terms and transitional arrangements will have to be set out in the article 50 agreement. If the UK were to decide to remain in the customs union the article 50 agreement would need to set out provisions for this continuity which would then be taken over in the future arrangement between the EU and the UK.
- The UK is currently the third largest contributor to the EU’s budget. The article 50 agreement will need to set out transitional arrangements for liabilities that will continue into the future and for ending multiannual commitments to fund projects etc. Third countries such as Switzerland, Norway and others participate today in the EU’s internal market and in its research and other programmes. They pay substantial amounts to the EU for the privilege of enjoying some of the benefits of membership. Theresa May has said that the UK will hope to continue collaborations with the EU on programmes such as science and innovation, and there may be other mutually beneficial areas where cooperation could

continue. Negotiating how much the UK will pay to participate as a third country in EU programmes will no doubt be difficult but will be a vital component of both agreements.

Some key issues for the negotiations

In addition to issues such as future membership of the customs union and sorting out the future financial relationship there are other issues which will require clarity. For example:

- The issue of enforcement will be a political hot potato. The UK is opposed to the supremacy of the European Court of Justice (ECJ) but there will be a need for an independent final arbiter to oversee failures to respect the terms of the future EU-UK relationship. Given the current UK position a continuing role for the ECJ is perhaps unlikely so some form of alternative internationally binding body will need to be created.
- The issue of border controls on movement of people will also require clarity. It seems likely that a special arrangement between the UK and Ireland will be acceptable to the other Member States. This will need to be set out in a bilateral international agreement and will certainly have cost implications for Ireland and the UK. It will presumably need to spell out the rights and controls that will apply to other EU citizens. Apart from Ireland, the UK will also need to negotiate future border arrangements relating to other neighbouring Member States - the Calais experience shows that this will not be easy.
- Trade in goods and services are classic chapters of all EU agreements with third countries. Given the current degree of integration of the UK in the EU the negotiations for new arrangements are likely to be long and contentious as all Member States will present their own wish lists and red lines. The particular case of financial services, where the UK currently enjoys full passporting across the EU, has already been flagged as a particularly thorny issue.

Who will negotiate?

Article 50 is not explicit on who will conduct the actual negotiations once the European Council has set out its guidelines. At its meeting on 15 December 2016 the European Council agreed on procedural arrangements for the negotiations. The Commission will be the Union negotiator and will have a representative of the rotating Presidency and of the European Council President in its team. It will report very regularly to Coreper and to any special accompanying groups that Member States may create. It will be important for the General Affairs Council and Coreper to keep an overview of the process, as part of their role in preparing European Council meetings.

As negotiations deepen sectoral Councils and committees are likely to want to put their stamp on emerging arrangements – but the European Council will have to arbitrate between sectoral and broader issues as well as between the competing interests of different Member States. The Commission will also keep the European Parliament very well briefed on every step of the negotiations, bearing in mind the need for its consent to the final agreement.

Box 2. The Negotiating Process: Procedural arrangements

(Issued by the Informal Meeting of the European Council 15 Dec 2016)

- Step 1.** The European Council (minus the UK) will adopt guidelines for the negotiations with the UK under Article 50 TEU.
- Step 2.** The European Commission will make a recommendation on the conduct of the negotiations.
- Step 3.** The General Affairs Council (Foreign Ministers minus the UK Foreign Secretary) will authorise the opening of the negotiations following the recommendation from the Commission.

Step 4. It will adopt negotiating directives on substance and on its relationship with the Union negotiator.

Step 5. The General Affairs Council will invite the European Commission to act as the Union negotiator (which has already nominated Michael Barnier as the chief negotiator. The negotiating team will include the Rotating Presidency of the Council of Ministers and the Presidency of the European Council).

Step 6. A dedicated working party with a permanent chair will be set up to assist the General Affairs Council and the Committee of Permanent Representatives (Coreper).

Step 7. The Union negotiator will keep the European Parliament informed on the progress of the negotiations and the EP President will address the European Council at the beginning of its meetings as per normal practice.

How long will it take?

Article 50 provides for the process to take two years – unless there is unanimous agreement to extend the time period. Most commentators seem to feel that any extension would be unlikely.

The first question is when will the UK trigger the start of the two year period? The British Prime Minister has indicated March 2017 as her preferred date but the recent ruling by the High Court and the UK government's decision to appeal it have cast some doubt on the timing. The situation will only become clear after the ruling of the UK Supreme Court, expected in early 2017.

Once the UK has triggered the process there will be no time to lose. In practise the two year period amounts to around 15-18 months of real negotiating time. This is because it will take time to get the negotiation guidelines agreed by the European Council (around three months at best) and it will take time at the end of the process to obtain the consent of the European Parliament (another three months at best). Any delays will eat further into negotiating time.

The final agreement will be concluded by the Council, as constituted by the remaining Member States. It will be an EU-only agreement, so the Member States will not be parties to it, and will not need to obtain ratification by their national parliaments.

Will the Treaties have to be amended?

The departure of the UK will mean that parts of the Treaties are no longer factually correct and it is clear that some adjustment will be required. For example, the number of MEPs, the territorial scope of the EU etc will need to be adjusted. It is not yet clear how the remaining Member States intend to deal with this situation but there is little appetite for further Treaty change in the near future.

Will there be bilateral negotiations?

There are signs that some in the UK would like to “pre-negotiate” with other Member States. The EU Institutions have made it clear that they will not negotiate before article 50 has been triggered. So far other Member States have also followed this line, perhaps realising that it is not in their interest to be picked off in bilateral talks. No doubt there will be temptations to do some bilateral deals towards the end of the negotiations – but since only the final European Council and European Parliament approved agreement will be legally valid the scope for bilateral deals will be limited in the end. However, there will be a lot of diplomatic activity throughout the negotiating period and to the extent that this brings transparency and increased

understanding of strongly held positions it can be helpful.

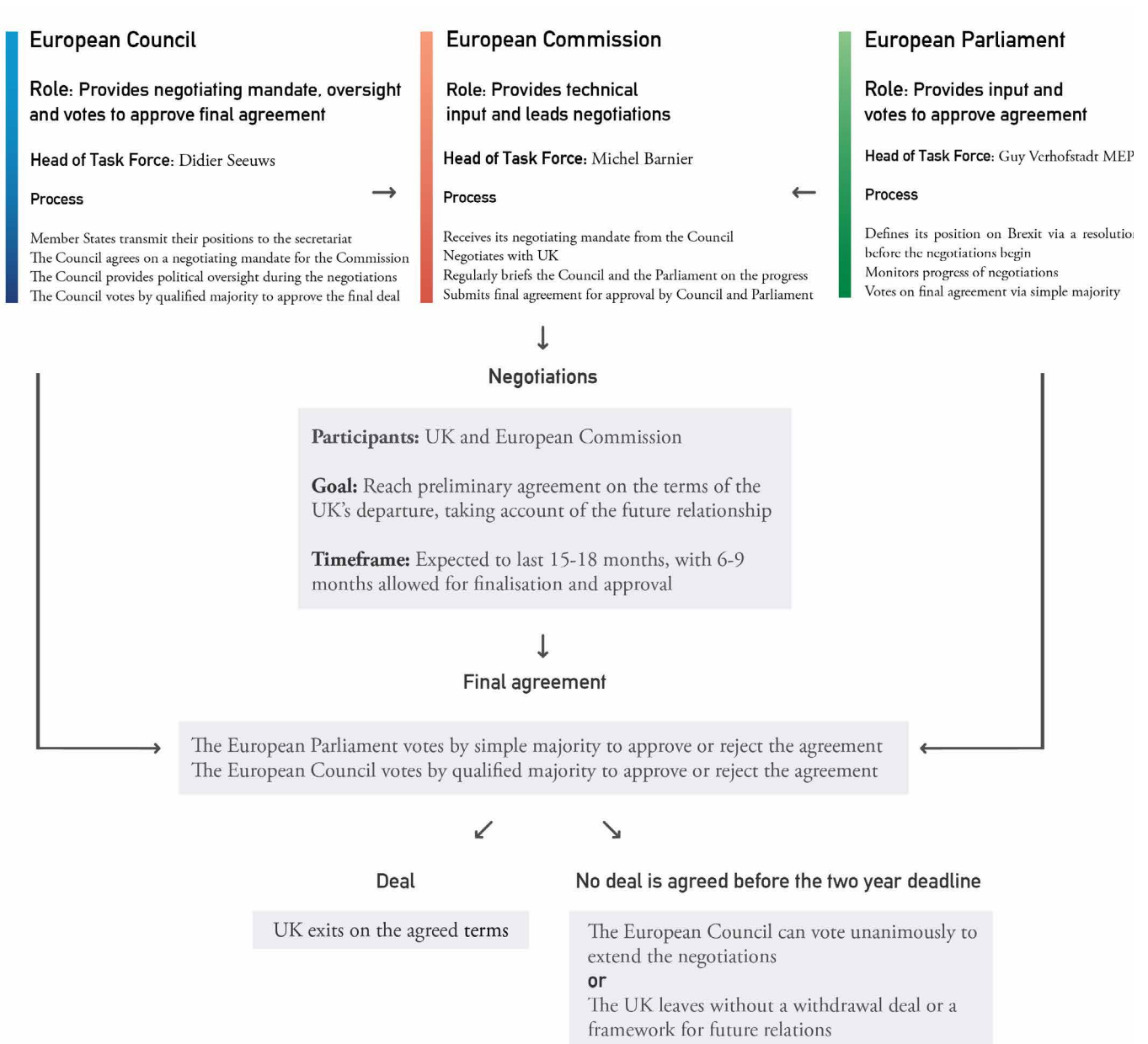
What kind of future agreement?

While article 50 sets out a clear timetable for departure there is no similar period for negotiating a new agreement and this process is likely to be very lengthy.

Until the UK presents the specifics of its desired model for the future relationship with the EU, there is little point in speculating. The EU has a range of agreements, from free trade to association, that can serve as a model. The future arrangement with the UK is likely to be sui generis even if it draws on existing models.

The intertwined nature of the article 50 agreement and the future relationship means that transitional arrangements will have to figure in the article 50 agreement – something which Ms May confirmed in her speech of 17 January, when she spoke of phasing in elements of the withdrawal agreement. It will probably take several years after Brexit to conclude a new agreement – which will then be subject to the usual (and lengthy) ratification in all national parliaments.

The Article 50 negotiations – Roles of the EU Institutions



Section 3

The UK



Chapter 5. Issues facing the UK

Paul Gillespie

Brexit is a major strategic shock to the British political system, externally in its relations with European neighbours and the rest of the world, internally concerning the future cohesion of the United Kingdom itself. Scotland's decisive vote to stay in the EU compared to England's majority in favour of leaving underline how important the EU has become in providing the glue to hold the UK itself together.

This chapter concentrates first on the UK's future trade relations with the EU, examining the six possible options available to Theresa May's Government. It goes on to examine the models available for the UK to manage border controls, including the use of new technologies and rights of residence. The chapter concludes with a look at the issues thrown up for the British government as it seeks to manage the UK's own future cohesion as a state while trying to cater for the different preferences on relations with the EU obtaining in England, Scotland, Northern Ireland and Wales.

Trade Relationships

The era of intensified globalisation from the 1980s has seen trade barriers steadily dismantled between the most developed economies and then between them and those in the second and third worlds of economic development. As a result tariffs have come down all round and trade volumes have intensified. But trade relations are determined not only by tariffs but by agreements to recognise different regulatory and environmental standards, increasingly covering services as well as goods. Quota arrangements about the quantities of trade also have to be negotiated.

In the effort to deal with this increasing complexity between national economies, and with sharply growing volumes of supply-chain manufacturing which cut right across such territorial boundaries, regional trade negotiations have taken centre ground. These bring together groups of geographically contiguous states to deal collectively with trade issues into customs unions which combine free trade between them with common external tariffs. They proliferated from the 1990s as the General Agreement on Tariffs and Trade was succeeded by the World Trade Organisation. They have not supplanted individual country deals, notably those reached by the most powerful trade partner, the United States which has global hegemonic status, or China's unique demographic and economic reach. But they impose powerful constraints on states such as the UK seeking a fresh start after withdrawing from the European Union.

This historical and institutional setting is necessary to understand the complex issues facing the UK as it negotiates first withdrawal from the EU and then a new trading relationship.

Trade relationship options for the UK

Six options have been distinguished for its future outside the EU. Their definition and respective conditionalities reflect the extent to which they maintain access to the economic space created by European integration even as the UK withdraws from it politically.

Box 3. Possible future relationships for the UK

1. Continued UK access to the EU's Single Market
2. An association agreement with the EU
3. A Swiss-style agreement, involving multiple bilateral deals with the EU
4. Continued UK membership of the EU Customs Union
5. Leaving both the Single Market and the Customs Union
6. A bespoke deal for the UK

1. The first option, continued membership of the Single Market, has been discounted by Theresa May as of 17 January, but is included here for reference and comparison.. It was developed from the previous common market in the years following passage of the Single European act in 1987. Building on the four freedoms established in the 1957 Treaty of Rome – of goods, services, capital and labour – it gradually extended them to a vast new range of economic spheres and sectors. The negotiations were often led and significantly influenced by British politicians and civil servants.

There is precedent for countries outside the EU to participate in the Single Market, but only if they contribute to its budget and accept the juridical role of the European Court of Justice in resolving legal disputes. Members of the **European Economic Area** like Norway, Iceland and Lichtenstein do this, but their agreement does not cover the EU's Common Agricultural Policy or Common Fisheries Policy.

2. The second option, an **association agreement** designed for the UK, now also seems unworkable, as the existing precedents would require the UK to accept the free movement of labour. Since the desire to control migration was such a large reason to vote for withdrawal from the EU this seems too much of a constraint for many of its leaders and voters, though not for much of its business class.
3. A third option would see the UK follow **Switzerland's** example and negotiate access to the EU Single Market through multiple bilateral agreements on trade and economics. This would still require accepting some degree of free movement of workers, which the Swiss rejected in a 2014 referendum and are having to renegotiate with great difficulty. Serious doubts remain about the viability of the Swiss option.
4. A fourth option overcomes the migration constraint by giving the UK access not to the Single Market but to the EU's **customs union**. Theresa May has said that she would like to find some means of maintaining 'frictionless' trade with the EU, and floated the idea of associate membership of the Customs Union. Full membership will be impossible, however, as it involves accepting a common external tariff, EU customs regulations and a common commercial policy. The latter meaning that trade policy is an exclusive EU competence, and that the European Commission negotiates deals on behalf of all the Member States. This condition would severely limit the UK's ability to pursue an independent trade policy.
5. To have full control over both migration and customs and trade policy, it would be necessary to adopt the fifth option, which would mean leaving both the Single Market and customs union entirely, with no associate status, necessitating customs posts at external borders with the EU including Ireland. This option appeals to the radical free traders among the Brexiteers, who foresee a brave new world of individual trade agreements unconstrained by EU rules and subject only to those of the **World Trade Organisation**.
6. The shortcomings of each and all these five options for a large and powerful state like the UK drives many of its leaders to favour a sixth option, a **bespoke deal** with the EU, encompassing a free trade agreement. It would operate through a series of sectoral agreements covering goods, services and capital and exclude free movement of persons, agriculture and fisheries. But troublingly for its advocates it would require judicial mechanisms of surveillance and dispute resolution,

and probably budget contributions, similar to EEA rules which might not be acceptable to the more convinced Brexiteers in the UK.

Many in Europe fear that this last option could create existential challenges for the EU. If the UK receives favourable *à la carte* terms allowing access to the Single Market without the obligations of membership others would perhaps seek similar deals. The EU is already beset by multiple crises over migration, security and the euro, as well as Brexit. These issues together create a growing fear of disintegration. That logic of collective and national interests saying “membership matters” increasingly dictates a hard line from the EU27 as well as from the Brussels institutions in these negotiations.

Border Controls

The issue of border controls feeds directly into this hardening perspective on Brexit as seen from European centres. The border regime models available to the negotiators on both sides are fewer in number than the six options potentially available for a new UK-EU trading relationship. That reflects the starker political choices they face on the costs and benefits of EU membership and the growing importance of border controls for state security and managing migration. Depending on whether the UK seeks a soft, hard or differentiated version of exit, three corresponding border regimes are possible.

A *soft border* regime would allow flows of people and goods to proceed between the UK and the EU based on the UK’s continuing membership of the Single Market and the customs union. If combined with a continuing Common Travel Area between Ireland and the UK this would see relatively little change on the Irish border. Elsewhere in the EU citizens of the UK would still face passport controls but have relatively free movement of people and goods based on an EEA-type agreement tailored to the UK’s scale.

A *hard border* regime would arise if the UK exits both the Single Market and the customs union. The EU would then be obliged to impose controls on goods and people crossing its borders from the UK, including customs checks. Some of the deleterious effects of such controls could be offset by new technologies used to monitor border flows. But these are best considered under the heading of a differentiated model of British exit.

A *differentiated* or *hybrid* border regime would reflect a bespoke agreement along the lines of option six in the trade relationships outlined in the first part of this chapter/section. Its Irish version would presumably reflect the special relationship between Ireland and the UK, further refined by taking account of Northern Irish and Scottish preferences for a closer relationship with the EU than most English people want. Such a differentiated outcome would reflect the variable geometry built into actually existing European integration. It would in turn require a relationship of trust between UK and EU negotiators based on a coherent ask by the British when they invoke Article 50 and open political communication of British priorities.

Such a border regime would draw strongly on the innovations which information technology and surveillance techniques have brought to border management throughout Europe in recent years. There is a firm trend towards deterritorialised point of contact controls by employers, landlords and universities. Identity control regimes are gradually emerging from these changes, which could also be applied at borders or by using pre-entry methods like visas, data bases, passenger name records, biometrics and finger-printing.

The UK’s Future Cohesion

Whether the UK can itself survive Brexit is a central emergent issue for the British government and its EU interlocutors. The Brexit majority is an English one, driven in good part by a resurgent English nationalism as well as by resentments over immigration, inequalities and globalisation. Scottish and Northern Irish attitudes to the EU differ and seek expression in special arrangements, differentiated from the overall UK ones.

The Scottish government says Brexit changes the circumstances of its status in the UK sufficiently to justify holding another referendum on independence. It is cautious on this question, however, mindful of collapsing oil revenues and of the hard border with England that would arise from a decision to keep Scotland in the EU.

Along with Northern Ireland and Wales the Scots seek a much stronger joint ministerial council within the UK constitution to manage the Brexit issue and ensure advance consultation; but they are frustrated by being allocated in effect a mere consultative

role. They each need to anticipate the fact that Brexit will return competences for agriculture, fisheries, energy, environment, research and social policy variously to the devolved governments. In principle that would allow them deal directly with Brussels on these issues. Whether that is realistic given London's oversight is a huge issue, not to mention whether Brussels could entertain such a scenario given that the UK is the member-state that is leaving.

From Northern Ireland's point of view it may be easier to secure an operational deal by stressing its uniqueness arising from a peace process out of a violent conflict that echoes the EU's own narrative as a peace project, rather than seeking commonalities with Scotland.

Section 3

The UK



Chapter 6: The Challenges Facing the UK's Brexit Strategy

John Palmer

Given the momentous significance of the British decision to exit the European Union, it is striking how little firm information about what it might mean is in the public domain. Theresa May's speech on 17 January confirmed some educated assumptions, but also underlined the deep uncertainty in other areas. We now know that the Prime Minister, Theresa May, intends for the UK to leave the Single Market, and likely the Customs Union. We also know that she still wishes for the UK to submit an Article 50 application before the end of March 2017 opening negotiations on the terms of British exit from the EU. This in turn will trigger a clock which marks a two year maximum period to complete any negotiations and facilitate the break between the UK and the EU.

However, the EU's chief Brexit negotiator, Michel Barnier, has made clear that in practice the negotiators will have at most 18 months in which to finalise an agreement. This is because six months has to be set aside for securing the agreement not only of the British Parliament but the governments and Parliaments of the other 27 Member States and the European Parliament.

Until Mrs May agreed a last minute concession to the Labour opposition in Westminster, it was not even certain that Parliament would not try to block the triggering of Article 50, because of the deep anxieties of not only the Labour Party but also many Remain minded Tory MPs, Liberal Democrats, Scots and Welsh nationalists and the SDLP in Northern Ireland. It was to avoid this that Mrs May has delivered her speech on 17 January, sketching the broad framework of her goals and objectives for the negotiations.

However, the UK Supreme Court is likely to inject a further serious complication for the government in January should it rule in a court case that a positive approval of Parliament for triggering Article 50 is a constitutional necessity. As a result, the government may have to divulge much more detail about its precise Brexit negotiating objectives than the cabinet wants.

Mrs. May has said that the Government will seek some manner of transitional accord, which might leave some critical aspects of UK involvement in the EU to be resolved over subsequent years, but the shape and logistics of this remain unknown and deeply uncertain. Nonetheless, this may be necessary if the UK seeks a complex deal effectively allowing some degree of future participation in the Single Market for at least some priority industrial and financial sectors. In addition, the government still cannot even confirm what manner of relationship the UK will have with the Customs Union, beyond the Prime Minister's somewhat vague comments about 'associate membership' on 17 January.

Mrs May's 17 January speech may have temporarily assuaged the fears of many hard line Tory Euro-sceptics, who would have been appalled if London agreed to continue paying into the EU budget, accepts being partially subject to European Court of Justice ruling in matters which might affect British interests in the Single Market, or above all, diluted national border controls. But it remains to be seen whether she can follow through on her promises in the negotiations proper, and UKIP is meanwhile poised to strike if the Tory party vacillates.

That said, the UK Brexit minister, David Davis, has conceded that the UK might have to "consider" continuing contributions

to the budget in the forthcoming negotiations. But across the cabinet, whatever their other barely disguised differences on tactics, ministers so far are refusing any concessions on reinstating national control of the UK's borders.

There is one glaring lacuna in the UK government's hard line on restoration of border controls – the border which runs across the north of Ireland. Ministers have already in effect ruled out any restoration of the old border controls which were superseded by the travel free zone in the Good Friday Agreement, which brought peace to the island of Ireland.

So how does London propose to control possible movement of EU citizens first to the Republic, then across the border and onto mainland Britain? There is talk of "high tech" solutions (possibly some kind of ID system for EU citizens in the UK). Or might it mean – at least in the interim – some kind of border controls within the UK itself for travellers coming from Northern Ireland (along the lines of temporary passport controls between the north and mainland Britain during the Second World War.)

This issue – among many others – may loom even larger if the Supreme Court rules that any submission of Article 50 requires not only the approval of the Westminster Parliament but the assent of the devolved administrations in Scotland, Wales and Northern Ireland. In such circumstances, the Scottish government might seek London's approval to negotiate a special, more intimate relationship of its own with the EU, in return for not blocking activation of Article 50.

Plenty of other potential political land-mines lie in Mrs May's path. Her government is coming under increased pressure to leave in place as much as possible of the UK's higher educational and scientific integration with the EU. Meanwhile questions are growing about the potential cost of promised government compensation to key industries for any loss of competitive advantage as a result of leaving the EU. This was hinted at in an agreement between the government and Nissan which apparently addressed the question of compensation for current uncertainties over Britain's future access to the single market.

The biggest question lurking behind everything else is what happens if Parliament rejects the agreement which emerges from the Article 50 process. Rejection of an agreement would not in itself amount to overthrowing the outcome of the Brexit referendum last June. Mrs May's precarious majority might be threatened by a coalition of opposition pro-Remain parties and hard line Euro-sceptic Tory MPs who object to concessions the UK may be forced to make.

Would the government then have to withdraw Article 50 (as it has the right to do within the two year grace period) in order to hold a new referendum, or call a general election or simply abandon the agreement and seek some internal adjustments to existing EU policies while remaining a member? Or could such a deadlock when the deadline passes force the government to open (probably protracted) negotiations to re-join the World Trade Organisation? This would involve many more years of uncertainty while the UK tries to negotiate comprehensive free trade agreements with WTO countries, an outcome which many experts fear would be disastrous for the British economy.

Box. 4

Prime Minister May appeared before the House of Commons Liaison Committee just before Christmas 2016. She answered questions for an hour on Brexit. The main points to emerge were as follows.

- 1. Triggering Article 50:** The withdrawal process will be initiated by triggering Article 50 before the end of March. (This could be delayed by the forthcoming Supreme Court decision expected by the end of the month).
- 2. Two parallel Negotiations:** There will be two parallel sets of negotiations, one on the UK withdrawal under the EU Article 50 of the Treaty on European Union (TEU) and the second on the new UK/EU relationship under Article 218 of the Treaty on the Functioning of the European Union. She strongly emphasised that there will be two sets of negotiations. (The EU negotiators see it differently and currently believe the negotiations will be sequential).

3. **Two years to negotiate:** Article 50 TEU sets a time limit of two years to complete the withdrawal negotiations. She expects them to be completed, along with the negotiations on the new relationship, by the end of March 2019. She emphasised this a number of times saying that she didn't intend to seek an extension of the two year period. Many in Brussels consider that this is too optimistic.

4. **The Great Repeal Act to be Introduced:** All relevant EU law will be transposed into UK law by a Great Repeal Act to be introduced into Parliament in the next session. It will come into force the moment the UK leaves the EU. At that point the European Court of Justice will cease to have jurisdiction in the the UK.

5. **Transitional Period Essential:** She expects there will be a transitional period for various aspects of the withdrawal process and the phasing in of the new UK-EU relationship. She emphasised this was only common sense and said any such arrangements would be to facilitate adjustment to the post Brexit regime. She declined to give examples but kept repeating that "transition" simply meant "adjustment" and that there was no hidden agenda to extend the UK's membership of the EU. (This is a complex issue and probably one of the major points of dissension with the recently resigned Ambassador to the EU, Sir Ivan Rogers).

Section 4

Ireland



Chapter: 7 Issues for Ireland

Andrew Gilmore

Brexit is a matter of significant concern for the Irish Government. The UK's withdrawal will have ramifications for all of the remaining 27 Member States, but the shock will be distributed asymmetrically, and Ireland is arguably the most exposed, economically, socially and politically, to the risks of Brexit.

Of course, it should be stated at the outset that Brexit will also present opportunities for Ireland – whether it be in the form of new foreign direct investment or new and closer political and economic alliances with other Member States in Europe. These opportunities, with careful planning and management, could be leveraged to offset some of the potential damage of Brexit.

The first step in this process, however, will be in identifying and mitigating political and economic risks arising for Ireland from the UK's withdrawal.

Theresa May's comments on 17 January, contained a positive note for Ireland, in the form of her commitment to maintain the Common Travel Area between the UK and Ireland, but this is offset by her determination to leave the Single Market and her ambiguous comments on the UK's future relationship with the Customs Union. Brexit presents obvious risks for Ireland, extending to areas too numerous to mention in this short chapter, impacting on migration, employment and welfare, economics and trade, peace and security, and the future of Ireland-EU relations. A small selection of the priority issues are discussed below.

Preserving the status quo in Northern Ireland

A substantial focus for the Irish Government strategy will be preserving this critical aspect of bi-lateral and all-island relations.

Though much progress has been made, the region remains fragile, both economically and politically. This political fragility was well-demonstrated by the recent resignation of the Deputy First Minister of the Northern Ireland Assembly, Martin McGuinness, while the economic development challenges faced by Northern Ireland are perhaps the most serious of all the UK regions.

Brexit has already proven divisive among the Northern political parties, and is likely to further exacerbate the region's problems if it is not treated with the appropriate sensitivity to the North's unique circumstances. The EU may be wary of allowing the UK too many exceptions in the negotiations, but it must be stated that the Peace Process in Northern Ireland is a European success story – a story of significant importance not only to a departing Member State, but also to Ireland, a remaining and committed member of the EU27.

A first step will be reaching a common consensus between Dublin, Belfast and London on the desired outcomes for Northern Ireland, but a number of areas can be readily identified in which special arrangements will be required for the North, including, but not limited to:

- Preserving the benefits of the Common Travel Area

- Preserving the unimpeded movement of people on the island of Ireland
- Preventing or minimising the visibility of customs controls on the border
- Securing the future of the all-island energy market
- Securing continued funding for the development of border regions
- Ensuring the continued stability of the Northern Ireland settlement

It is possible that some of these issues, including preserving many of the benefits of the common travel area and the all-island energy market could be resolved on a trilateral basis between the Irish and UK Governments and the Northern Irish Executive. In this context, Theresa May's commitment to try to maintain the Common Travel Area will be seen as a positive and constructive development. But the border issues may present practical difficulties. Brexit inevitably creates a situation in which the border with Northern Ireland becomes an external border of the EU with a non-associated state – and these borders are enforced without exception.

How to square this with the need to avoid intrusive controls on movement of people and goods on the island remains to be resolved.

The EU's history presents several interesting examples which might be deployed for Northern Ireland, such as the relatively soft customs controls between Norway (non-EU) and Sweden (EU), and previous accommodations made by the EU for other politically or geographically troublesome UK territories such as Gibraltar. However, there are no direct precedents for Northern Ireland and reaching a solution appropriate to the region's unique situation will require both creativity and goodwill.

Mitigating damage to our €1.2bn weekly trade relationship

As detailed in the subsequent chapter by Dan O'Brien, Ireland's economic links with the UK, though declining in relative importance, remain vital to the country's prosperity. The trading relationship – estimated at over €60 billion per year – is a particularly important facet of the Irish strategic interest.

While the format of the UK's departure cannot yet be determined, Prime Minister May's public statements, and the Leave campaign's focus on 'taking back control' of trade and immigration policy, seem to prohibit full UK membership of either the customs union or the Single Market. This raises profound questions over the future of cross-border trade between the two countries.

If the UK were to find itself outside the customs union, and unable to negotiate the 'associate member' status that Ms May has alluded to, Irish businesses would see significant barriers to trade emerge. Tariffs on cross-border trade on many goods, particularly agricultural produce, would be virtually inevitable. Irish businesses trading with the UK would have to submit customs declarations, pay Value Added Tax on their products as they cross a border, and accept delays while waiting for goods to clear inspections. The OECD has estimated that the typical delays and costs associated with goods crossing borders can increase the transaction costs of trade by up to 24% of the value of traded goods.

The Irish Government will doubtless make their concerns for Irish industry known, in particular for the vitally important agrifood industry, but mitigating the damage and buttressing the country against the negative impacts of Brexit will be essential. Internal preparations are already underway, including:

- Supporting market diversification for Irish businesses reliant on the UK
- Intensification of support for Irish businesses with operations in the UK market, including advising on improving competitiveness of Irish exports, reducing supply chain costs, access to funding, and managing exchange rate variability

- Programmes to protect jobs in vulnerable sectors, such as the agri-food industry, and regions, such as those close to the border with Northern Ireland, will also be essential.

Securing Ireland's future in the EU

To date, much attention has focused on the danger Brexit presents for Ireland-UK relations, and it is worth putting these relations in the historical context.

For the half century following Irish independence, Ireland was little more than an adjunct of the British economy. The Irish economy was grossly under-developed and largely reliant on agriculture. In addition, the country was poor, with income levels around 33% below the EEC average. Ireland was almost entirely dependent on the UK, with two thirds of our exports crossing the Irish Sea to Britain. It was by any measure a deeply one-sided relationship.

Today, the UK remains a vital partner for Ireland, and our closeness and common interest has often been a defining characteristic of our EU membership. But the story has changed, and four decades of European summits, discussions, negotiations and agreements have contributed to a transformational shift in Ireland's international relations. The country has cultivated strong relations with the other 26 Member States, which in political and economic terms are now as important to Ireland as the relationship with our nearest neighbour.

In this sense, Brexit presents Ireland with a political quandary. An accommodating withdrawal deal for the UK serves Irish interests in the short-term, but may work counter to the strategic interests of the EU as a whole and, more pressingly, to the tactical interests of Member States seeking to discourage Eurosceptic movements at home.

Ireland's future alliances could well be forged in these negotiations, and a strategic approach, positioning Irish interests as part of the common interest of the EU, may allow for priority issues to be addressed, while future-proofing Ireland's standing and influence in the European Union.

In spite of the challenges, however, the loss of the UK will also be a gauge of Ireland's progress since its EU accession and, as European Commissioner Phil Hogan [recently wrote](#), an opportunity to seize the next phase in Ireland's development and maturity as a sovereign state.

Section 4

Ireland



Chapter 8: Economic effects of Brexit for Ireland

Dan O'Brien

Ireland's trade, tourism and investment with Britain and Northern Ireland remain extensive and vital for prosperity. Even though economic links with the UK have become relatively less important over decades, they remain enormous in absolute terms. Brexit, which is likely to result in the creation of at least some new barriers to commercial interaction, will be negative for the Irish economy in multiple ways.

Some of the effects have already been felt. Even before the June 23rd referendum Irish exporters were being impacted by a weaker British pound, which had the effect of making Irish goods and services more expensive in the UK. That effect has been more marked since the vote, after which Sterling fell further. Over the medium to long term, the nature of the trading relationship agreed between the EU and the UK will determine the extent of new barriers to commercial interaction. Among the few upsides of Brexit for the Irish economy is the relocation of some firms in the UK – both British and foreign – to Ireland in order to maintain full EU single market access.

Exchange rate

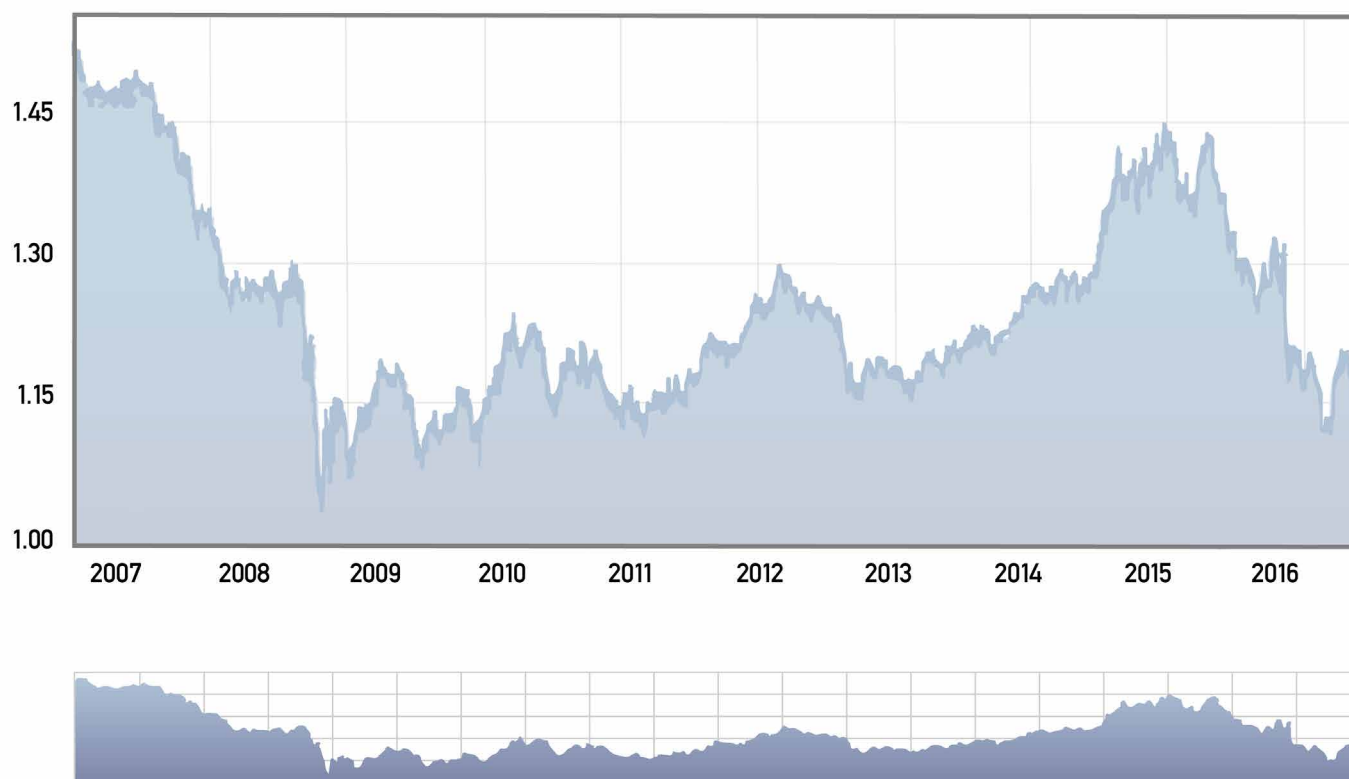
The business models of Irish exporters, and in particular indigenous Irish exporters, are highly sensitive to the Euro-Sterling exchange rate. An adverse movement can wipe out their profits and threaten their businesses, as has happened to some companies in 2016 when sterling fell to levels rarely recorded previously. This contributed to a 5.5% fall in the value of merchandise goods exports to the UK in the nine months of 2016 (data on services exports to the UK are not yet available, but as they were valued at almost twice goods exports in 2015 the effect will be closely watched). Inbound tourism data for the first nine months of 2015 do not show any discernible impact on UK visitor numbers or spend. Unless sterling appreciates strongly, the impact on the tourism sector is likely to be felt in 2017.

The current weakness of sterling is best illustrated by recent history. After the euro was launched in 1999 its value in sterling terms remained broadly stable for eight years, hovering in a relatively narrow band around €1.50:£1. The outbreak of the financial crisis in 2007 led to a very sharp depreciation of the British pound – it came close to parity at the height of the crisis in late 2008. This compounded the impact of the downturn on Ireland: between 2007 and 2009 the value of goods exports to the UK fell by 20% while services exports declined by 13%. Over the following seven years sterling gradually strengthened vis-a-vis the euro, frequently rising above €1.40:£1 in 2015. Since November of that year, however, the British currency has weakened sharply. On the eve of the June 23 referendum it had depreciated by more than 10% on seven months earlier. In the immediate aftermath of the referendum it fell by a further 10%. At its post referendum low point in October it had fallen by another 5% to stand just above €1.10:£1.

GBP to EUR Chart

21 January 2007 00:00 UTC - 17 Jan 2017 11:29 UTC GBP/EUR close:1.13852 low:1.02271 high:1.52582

Source: www.xe.com



Given the size of the UK's deficit on the current account of its balance of payments – among the most important indicators of a currency's under/over valuation – sterling is unlikely to strengthen significantly. That deficit, as of the second quarter of 2016, stood at 5.9% of GDP, the second highest on record and the highest among the large industrialised nations. This suggests that sterling is likely to remain at its current, relatively low valuation vis a vis the euro. It could weaken further and parity is a realistic scenario in 2017.

Longer term trade issues

As a small country, rules-based arrangements with neighbours and partner countries are a vital national interest for Ireland. For more than four decades the European Union has provided such an arrangement with Ireland's closest neighbours and trading partners. Great uncertainty now surrounds the trading relationship between Ireland and Britain.

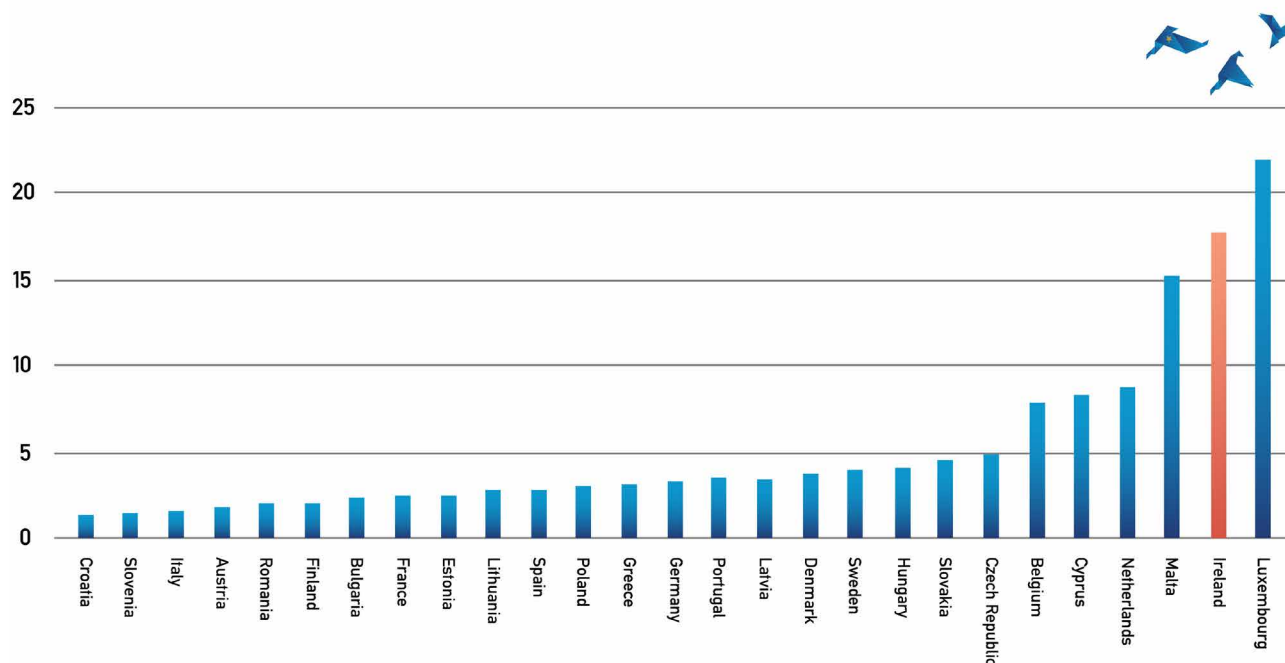
Brexit risks reducing Ireland-UK bilateral trade over the longer term given the near universal agreement among economists that barriers to commerce have a trade-destroying effect. Although the future trading arrangements between the EU and the UK remain highly uncertain at the current juncture, Britain's departure from the EU will likely mean new barriers to cross-border commerce between the EU and the UK. If Britain leaves the single market when it leaves the EU, these new barriers will be considerable and will be added to further if there is no deal on access to the EU Customs Union.

The effects of barriers to commerce will impact much more on Ireland than on the other remaining 27 EU member countries. In 2014 the value of Irish goods and services exports to the UK amounted to 17pc of the economy's GDP, second highest among the EU-27 after Luxembourg. For most other EU countries exports to the UK are in low single digits.

Value of EU countries' exports of goods and services to the UK

Measured as a percentage of their GDP in 2014

Source: Eurostat, ONS



Investment

Brexit will cause companies to change their investment decisions. This is likely to result in both Irish jobs moving to the UK and British jobs moving to Ireland. Among the most traditional motivations for foreign direct investment is to jump over trade barriers that exist between countries. Rather than exporting from, for example, the US to Europe and paying tariffs, many American companies over the decades have set up subsidiaries on this side of the Atlantic. This has allowed them to service European markets while avoiding costly tariffs. The higher the new barriers to trade between Britain and Ireland are after Brexit, the more likely it is that companies based in Ireland, which service the UK market, will have reason to relocate at least part of their operations into the UK. Such barrier jumping is likely to lead to job losses in Ireland.

However, jumping trade barriers works both ways. While Ireland stands to lose some jobs, it also stands to gain jobs from Britain as a result of Brexit. This is the only significant upside for Ireland from the UK departing the EU. There are two broad potential sources of jobs. First, British companies which service the EU market. Second, foreign companies in Britain which service the same market (as Britain has the second highest stock foreign direct investment in the world, and much of that investment is EU-focused, there are considerable opportunities). Both types of companies are likely to look to Ireland as an EU location into which investment and jobs can be moved to secure single market access.

In conclusion, despite the opportunity to attract jobs from Britain, the other foreseeable changes flowing from Brexit are negative for the Irish economy and employment. The net costs could be large and felt over the long term.

Section 4

Ireland



Chapter 9. Government Response and Organisational Structures

Andrew Gilmore

As detailed in the subsequent chapters, Ireland is the Member State most exposed to the negative impacts of Brexit. In response to these risks, the Irish Government has developed a Brexit Contingency Framework, published immediately after the UK's EU referendum, which sets out details of a strategic, interdepartmental approach to the issue, to map and manage the key issues, risks and opportunities that will be most important to Ireland in the Brexit negotiations. Up to thirty priority areas have been identified, including UK-EU negotiations (withdrawal and future relations), economics and trade, British-Irish Relations, Northern Ireland and implications for the border.

The complexity of the UK disengaging from a shared policy framework developed over 40 years of EU membership cannot be understated. The scope of the risks faced by Ireland in these negotiations has necessitated a redistribution of resources and some Departmental restructuring and reorganising. The key aspects of this are detailed in this chapter.

Structures

The Irish Government has mobilised existing resources and structures, and put in place a number of new ones, to address the issue of Brexit. These structures are designed to ensure a whole-of-Government response to Brexit.

The internal organisational structure includes:

- The new Cabinet Committee on Brexit
- An integrated unit in Department of the Taoiseach dealing with UK, EU and international affairs. The Department is also tasked with coordinating the Government's response to Brexit.
- A new EU Affairs division in the Department of Foreign Affairs and Trade
- A scaled up interdepartmental committee on Brexit, chaired by Department of the Taoiseach, tasked with analysing bilateral and national interests affected by the UK's withdrawal from the EU
- New management sub-committees in every Government Department dealing with the implications of Brexit for each department
- Departmental working groups analysing the implications of Brexit for specific policy areas
- A consultative group of stakeholders chaired by Department of the Taoiseach comprising key business representative groups, ICTU and NGOs; and a new series of All-Island 'Civic Dialogues' inviting views

on the island's post-Brexit future from key stakeholders North and South.

Bilateral and multilateral structures will also be utilised to manage relations with the British Government, Northern Ireland and EU Member States, including through:

- Dialogue at official level in the existing UK Permanent Secretaries & Irish Secretaries General group and its North-South equivalent
- Renewed emphasis on the North-South Ministerial Council and the British-Irish Council to manage East-West and North-South policy issues
- Strengthening of Irish missions and agencies in key member states, including Germany and France

The key structures are described in more detail below.

Cabinet Committee on Brexit

As part of its response to the UK's EU referendum, the Government established in Autumn 2016 its Cabinet Committee on Brexit, tasked with **oversight** of the Government response to Brexit, including both the economic impact and the negotiations at EU level and with the administrations in London and Belfast.

The Committee met four times before Christmas 2016, and will continue in its oversight throughout the withdrawal negotiations (and perhaps beyond).

Department of the Taoiseach

The Department of the Taoiseach is tasked with **coordination** of a whole-of-government response to Brexit.

In August 2016, the Government appointed John Callinan to the position of Second Secretary General in the Department, where he leads a new integrated division with responsibility for supporting the Taoiseach in his work on EU, Northern Ireland, British-Irish and International affairs.

The Department deals with a wide range of topics, including the UK, Northern Ireland, the US and the rest of the world, providing it with a top-down perspective on Ireland's global and European positioning, making it best-placed to take on the coordination role.

Department of the Taoiseach also chairs the interdepartmental committee on Brexit, composed of assistant secretaries from all Government departments, which is engaged with the identification of key strategic, operational and policy issues arising from the UK's withdrawal.

Box 5. Members of the Cabinet Committee on Brexit

Taoiseach (chair)
Tánaiste and Minister for Justice and Equality
Minister for Finance
Minister for Social Protection
Minister for Foreign Affairs and Trade
Minister for Public Expenditure and Reform
Minister for Agriculture, Food and the Marine
Minister for Communications, Climate Action and Environment
Minister for Transport, Tourism and Sport
Minister for Jobs, Enterprise and Innovation
Minister of State for European Affairs, Data Protection and the EU Single Digital Market
Minister of State for Financial Services, eGovernment and Public Procurement.

In the months ahead, Department of the Taoiseach will direct and manage EU negotiations on the UK's withdrawal and its future relationship with the EU, including via active engagement at Council meetings, COREPER and Sherpa discussions. The Department is expected to take the lead on liaisons with EU institutions as negotiations proceed, to ensure Ireland's particular interests are understood at EU level.

Department of Foreign Affairs and Trade

The Department of Foreign Affairs and Trade will play an important role in the preparations for the Article 50 negotiations, and will have a significant **organisational** and **informational** role during the entirety of the UK's withdrawal process.

Through the Permanent Representation of Ireland to the European Union, in Brussels, the Department will continue its engagement with the Committee of Permanent Representatives (COREPER), the European Council's main preparatory body. The Department of Foreign Affairs will also be responsible for liaising with other Member State governments, both at EU level and bilaterally.

A new European Union Division, including a dedicated UK-EU unit, has been established in the Department, and is headed by Rory Montgomery, Second Secretary General. The Division has assumed overall responsibility for EU internal policy and enlargement policy co-ordination, as well as for coordinating bilateral relations with EU and EEA member states, the candidate states and Switzerland.

Bilateral relations with the UK will remain within the purview of the Ireland, UK and Americas Division, where there is particular emphasis being placed on the North-South and East-West relationships, amid concerns over the damage a 'hard Brexit' could do to bilateral relations.

Meanwhile, the Policy Unit, the Department's in-house thinktank, will continue work on the implications for Ireland of the UK's withdrawal.

Plans are also underway to strengthen the Department's structures, with new postings to the IUKA Division, Trade Division, Legal Division, to the Permanent Representation to the EU, and to the Embassies in London, Berlin and Paris.

Irish missions abroad, and particularly in EU Member States, will play a key role in providing up to date information throughout the negotiations.

Other Government Departments

While much of the broader organisation and coordination is in the hands of the Taoiseach's Department and the Department of Foreign Affairs and Trade, other Government Departments are also deeply involved in the process. The Department of Finance, for example, chairs a cross-governmental group examining the impact of Brexit on financial services.

Furthermore, each department is represented by an assistant secretary on the interdepartmental committee on Brexit, Chaired by Department of the Taoiseach, and has established management sub-committees on Brexit, as well as working groups on specific topics. The Department of Justice, for example, has established working groups on the Common Travel Area, border issues, and other Justice and Home Affairs issues.

Outreach to Member States

Management of bilateral relations and outreach to other Member States will be a key part of the Government's strategy throughout the course of the UK's withdrawal, both as a matter of coordination and as a means of highlighting Irish concerns and protecting interests in the negotiations.

UK-Ireland bilateral relations, as well as Northern Ireland, are central to the Irish interest, and this is reflected by the increasing emphasis being placed on existing structures, including the annual meeting of the UK Permanent Secretaries & Irish Secretaries General and its North-South equivalent; the North-South Ministerial Council, which will be a vital forum for managing relations on the island of Ireland in the years ahead; and the British-Irish Council to manage East-West and North-South policy issues.

At the multilateral level, work is underway in strengthening Irish missions and agencies abroad, and new postings have been created in London, Berlin and Paris. The Irish diplomatic network is tasked with communication and outreach to ensure that there is no ambiguity in relation to Ireland's status and ongoing commitment as a Member of the EU.

Section 5

Business



Chapter 10. The Irish Business View

John McGrane

From a business perspective, positive UK sentiment in the immediate aftermath of the EU Referendum masks danger ahead. Despite an ostensible surge in exports, the UK's considerable dependency on imports means that even a Sterling collapse by nearly 20% still couldn't avoid a widening of the UK's trade gap. The immediate concern, therefore, is the imminent passing-on to UK consumers of euro-driven price increases that UK businesses are now beginning to suffer following a temporary delay due to short term hedging and stock-holding.

With no new compensating trade deals imminent for the UK, those concerned for UK trade now fear a real danger of "Cliff Risk" with no provision for the fate of Britain's global trading rights as early as two years after triggering Article 50. The UK, of course, remains a sizeable indigenous market and will see additional public (and some private) investment but the likelihood is that even UK-owned businesses, while not leaving Britain, will incrementally invest much more abroad such that, over time and through a slow attrition, the relative value of the UK market in global terms will be reduced.

Meanwhile, Ireland has already experienced the immediate economic consequences of the UK's Referendum. In our most exposed export sectors - food exports and tourism - the sterling devaluation has seriously strained margins, relationships and, for some, even viability.

No business sector in Ireland is immune to the effects of the UK's decision to leave the EU and while the issues for some - such as energy and fishing - may take longer to clarify, every sector now needs to protect itself against its downside risk and consider how to ensure it benefits from such upside opportunity as it may have. If, or more likely, when, UK consumers start to consume less (as import prices increase) and as private sector investment projects remain deferred and EU-funded research slows, a fall in overall UK demand will reduce jobs not only in the UK but in Ireland too.

The many practical difficulties for future UK business activity - with consequences for established links to Irish trade - are also clear, with no formula yet emerging to ensure the UK can access the diverse migrant skills it needs across agriculture and food processing, in the City, in manufacturing, in research and in hospitality, let alone move its goods, services, capital and people freely across the EU.

Some offset for Ireland arises in import substitution but this hurts indigenous suppliers, compounding the immediate downside risks for Irish employment. Encouraging and supporting Irish exporters to respond by developing alternative markets elsewhere in the EU and beyond is rational but it will take considerable time and learning to meaningfully reduce exposure to our nearest and most easily accessed market. In the short term, doing business with more (rather than less) UK customers may help offset reduced margins through increased volumes.

Business reacts much faster to change than politics can. Even businesses not immediately affected by Sterling's fall are facing the greatest enemy of investment and job creation: uncertainty. Unable to wait for resolution of the vast array of new uncertainties as to the form of the UK's exit terms, market access and trading costs, many businesses (in both the UK and Ireland) are

already activating contingency plans. Some employers in Ireland are looking to establish an operating base within the UK to avoid potential tariff and non-tariff barriers and to replace euro costs with sterling aligned with sterling sales income. Some employers in the UK are looking to establish a base assuredly inside the EU, sooner rather than later, with Ireland competing alongside fellow member states to win these opportunities. Other customers in the UK may be amenable to being invoiced in euro if they have other euro incomes from their own exports but, overall, Irish exporters need to be more competitive than ever, including non-price factors.

The definite losses faced by Ireland within certain sectors mean that Ireland must ensure it gains advantage wherever it can from the changed environment, primarily by attracting both global FDI and UK businesses threatened by withdrawal from the EU, UK-based EU agencies and stranded UK research programmes. The extent and urgency of the need and opportunity will mean that the IDA's work in attracting new employers into Ireland will benefit from wider cross-community stakeholder assistance.

Most important will be the need to ensure Ireland is rapidly positioned both in Dublin and the provinces to take on the potential volume of inbound investment with adequate capacity of key resources - access and traffic, school places, university funding, offices, housing, skills, water, broadband and regulatory will and appetite. Ireland's own cost-competitiveness and assuring its political stability will be key determining factors for potential inward investment. Navigating the ongoing international currents around corporation tax, an Ireland that is well-led could emerge stronger as a base for business investment and employment that is midpoint between uncertainties in both the US and the EU. Notwithstanding our emerging advantage as the English-speaking, euro-denominated gateway to the EU, achieving this will pose the greatest national diplomatic and public administration challenge since the Whitaker era but it could prove even more positively transformational.

Business will therefore need to play a key role alongside other national interests in constructive and practical support of the government's participation in the EU's negotiations on the terms of the UK exit from the EU.

Section 5

Business



Chapter 11: Brexit and Irish Business: Preparing the ground

Terry Neill

Summary

Brexit – the process and its consequences – poses a significant challenge and potential opportunity for many Irish businesses. Those that emerge successfully, will apply the sound principles of strategy, planning and management which have made the businesses successful in the first place. In the short term, Brexit may pose a level of uncertainty seldom before experienced.

This note re-inforces the message that those that flourish through Brexit make a high priority of keeping their people informed and engaged. They will seek good sources of information – regularly updated – and ‘communicate relentlessly’. They will create options, plan with scenarios – and make Brexit a priority endeavour of the management team.

This chapter provides a suggested checklist of issues to consider and address.

Proactive leadership of your organisation and your people. Communicate relentlessly

Business leaders will be properly concerned about the implications of Brexit for their business. The many uncertainties – economic and political - will drive stress and concern. It is vital that people throughout the organisation retain confidence in leadership. Good leaders will strive to maintain morale. They will acknowledge the complexities and challenges, but will create a sense ‘of someone being in charge’ who will look after everyone’s interests. This requires regular, open, credible communications throughout the organisation; consistently seeking to re-balance overly pessimistic media or other sources with appropriate realism. Where appropriate, leaders will bring trades unions or worker leaders formally into the process of planning and communicating around Brexit.

Build knowledgeable and trustworthy networks

Seek and engage with knowledgeable sources and use them to keep assumptions up to date.

Other (good) businesses will share common challenges of Brexit. Seek or create informal networks for regular exchanges of ideas, concerns and communications approaches. Occasionally mobilise those networks to inform and influence government and media about issues which are best understood by the business world

Create options

The person or organisation without options is trapped. Times of risk and uncertainty are also times of opportunity. Some competitors will become ‘caught in the headlights’. New markets may become more attractive as exchange rates, regulations and tariffs fluctuate. Spend an hour or two every week with the teams at every level drawing out ideas to build an inventory of (in the first instance raw) options.

Get organised. Clarify accountabilities. Create scenarios. Regular, well informed, updating of assumptions

Most businesses fail through poor planning, disorganisation and incompetence. They are particularly challenged in times of change and uncertainty. Winning organisations are well led and resilient. Structures and accountabilities are clear. Good information is accessed and shared. Decisions are based on sound information and careful thought; and then communicated and executed decisively. Timely execution and delivery is a habit. Good communications build and maintain confidence and reputation outside and inside the business.

Possible Planning Scenarios

“Hard Brexit”

“Soft Brexit”

“An agreed transitional phase for UK”

“Chaos” (Implies nothing is agreed 2 years after triggering Article 50 – and uncertainty remains about what politics and economics should inform decisions. It has been suggested in Europe that the timeframe to a proposed settlement is 14 months, to leave time for getting agreement and legislation across the 27. This perhaps makes “chaos” more likely)

“Ireland considers a future outside the EU” (Like businesses, Ireland should think through all its options – however unpalatable they might seem today)

Box. Checklist for your business

- a. Have you created, and shared with the management team, a short paper summarising the main areas where Brexit could affect the business
- b. Have you agreed with the board the general plans, risk management, responsibilities and (if appropriate) budget for planning and managing through the consequences of Brexit.
- c. Have you assigned clear responsibilities and accountabilities for planning and managing the key business issues through the Brexit negotiation process. Are responsibilities also reflected in a risk management plan.
- d. Have you identified the key sources of information – formal and informal – which you will access and use through the process. Has someone been assigned responsibility for regular reports and summaries as Brexit negotiation progresses
- e. Have you developed an internal communication plan for keeping everyone in the organisation appropriately informed about the evolution of Brexit and its potential impacts – good and bad – on the business
- f. Have you created a strategy for ensuring, as far as possible, that the reputation of the business will be enhanced as a consequence of the competence and skill with which it manages itself through the Brexit process.
- g. Have you given substance to the various planning scenarios by documenting how each would affect the business were it to come to pass.

- h.** Outside the European context of Brexit, have you considered and documented how economic, fiscal and political changes in the United States and elsewhere will play into our planning context.
- i.** Have you documented the current key assumptions which will underpin any scenario plans – along with formal processes and accountabilities for updating them.
- j.** Have you planned, and agreed with the management team, the sources of information which will be exploited routinely through the Brexit process. Has a budget been set and approved.

Conclusion

Tom Arnold



Brexit represents for Ireland the most significant political and economic challenge of this generation. Charting and implementing a response to this challenge will be central to Irish policymaking in the coming years.

The IIEA aims to contribute to an Irish response. We will produce analysis of policy options and possibilities and will provide a forum for Irish political, business and civil society leaders and policymakers to engage with their counterparts from the UK and the EU.

This Status Report is part of our contribution to this policy analysis. To use a cinematic analogy, the report is a ‘snapshot’ of the situation as of mid-January 2017 and a ‘trailer’ of what we believe will be the main elements of the Brexit drama, the details of which will unfold over the coming months and years.

The ‘snapshot’ is factual and practical. It lists the main political events and milestones since the UK referendum vote on 23 June 2017. It also details the different organisational structures established, within Ireland, the UK and the EU, to respond to the uniquely challenging circumstances of Brexit.

The ‘trailer’ part of the Status Report identifies the emerging issues central to the process of the negotiation, for Ireland, the UK and the EU. The starting point for the negotiation will be defined by the British government’s Article 50 application by end-March 2017 and the EU’s response to it. Prime Minister May outlined in her speech on 17 January that the UK will not be part of the Single Market or Customs Union and will seek during the negotiation a Free Trade Agreement between the UK and the EU in their place.

Our analysis suggests that, from an Irish perspective, there will be three interconnected themes central to the Brexit negotiation and outcome:

- The Irish government’s capacity to influence the EU-27 negotiating position while maintaining productive links with the UK government and administration
- Finding a solution to the specific challenges posed by Northern Ireland
- Developing policy aimed at securing Irish economic competitiveness post-Brexit

The Irish government has clearly committed to remaining at the heart of EU-27 and will aim to play an important role in influencing the EU-27 negotiating position with the UK. Prime Minister May has indicated she will seek a ‘bespoke position’ for the UK as an outcome of the negotiations. Accepting that this indeed will be the most likely outcome, the ‘devil will be in the detail’.

The Irish government should seek an outcome which will protect and enhance Ireland’s short and long term political and economic interests. Defining what these interests are, and advocating for them, in the context of an evolving EU27 policy agenda, will be central to Irish policy development in the coming years. Such work will go hand in hand with the development of new alliances with individual countries and with groups of countries within the EU27.

During the EU-UK Brexit negotiations, it is in Ireland's interests to retain a productive relationship with the British government and administration. This should assist in certain aspects of the wider negotiation and in specific aspects in relation to Northern Ireland. The Irish government will also need to take account of the changing constitutional dynamics within the UK resulting from Brexit, as outlined in Chapter 5 and 6, and develop a range of relationships and policies in response to these changes.

In regard to Northern Ireland, Brexit, particularly a hard Brexit in which the UK exits from the customs union and single market, will present major difficulties for Northern Ireland and for North/South relationships within the island of Ireland. The logic of a hard Brexit is a return to tariffs and trade barriers within the island of Ireland. That same logic could undermine the long-established operation of the Common Travel Area (CTA) between Ireland and the UK.

The positives in the situation are the clear political positions of the UK and Irish governments, backed up by statements from the EU, that there is no desire to return to a hard border within the island of Ireland; there is a commitment to preserve the CTA; and a determination to preserve and develop the progress made under the Irish Peace Process in which the EU was a key player and facilitator.

The challenge will be to reconcile these clear political objectives with the practical policies to deliver them. The likely absence of a functioning Executive in Northern Ireland during the first half of 2017 will compound this challenge for the Irish and British governments.

The third major theme arising from Brexit relates to policies to secure economic competitiveness in the new situation. While it is difficult to be definitive about the long term evolution of exchange rates, Chapter 9 points to the risk of a relatively low valuation of sterling vis-à-vis the euro in the medium term future. Chapter 9 also points out the possibility of trade barriers between the EU and UK, which would impact much more on Ireland than on other EU-26 countries.

Both the currency factor and the trade barriers would negatively impact on the competitiveness of the Irish economy. Public policy must therefore focus on enhancing cost and quality competitiveness and on accelerating the move towards further diversifying Irish export markets. This shift in public policy must be complemented by changes at industrial sectoral and company level, as outlined in Chapters 10 and 11.

In summary, Brexit represents a major challenge which imposes judgements and choices about how to advance Ireland's long term strategic national interests. These interests must be broadly defined to include political, economic, social and cultural dimensions.

Some six decades ago in the late 1950s, Ireland made a radical policy shift away from a protectionist inwards looking development policy towards a broader and deeper engagement with the wider world. This shift led logically and inexorably towards membership of the European Economic Community (EEC) in 1973, the creation of an enabling environment for foreign direct investment and changes in many other aspects of Irish society.

There is a substantial political and public consensus that Ireland's engagement with the developing European Union over the past four decades has brought major benefits in terms of national self confidence, greater political influence at European and international level, economic progress, and social and cultural diversity.

The British decision to exit the EU marks a crossroads for Ireland. The Irish government had made a clear choice that Ireland should continue as a fully committed member of EU27. In making that choice, Irish politicians and policymakers must look to developing a clear vision of the future policy direction of EU-27, while building new alliances to support the achievement of that vision. Some of the choices to be made about the future direction of the EU will be uncomfortable, requiring difficult decisions and compromises, but will need to be seen against the background of Ireland's commitment to the values of a European project which it has a role in shaping and from which it will continue to derive benefit.

But as pointed out in chapter 1, history and geography dictate that economic interdependence and political cooperation between Ireland and the UK is a reality. This reality must be acknowledged in a EU/UK settlement post Brexit and in the ongoing bilateral relationship between the Irish and British peoples. It will find particular expression in attempting to reach a settlement, in a post-Brexit world, for the benefit of the people of Northern Ireland, against the background of a possibly

changing UK constitutional order.

As stated above, the Brexit reality represents the major challenge for this generation of Irish politicians, policymakers, business and wider society. How that response is managed will shape the development possibilities and welfare of all the people on the island of Ireland. It is a challenge which must be met with optimism and a determination to succeed.



iiea.com
Sharing Ideas
Shaping Policy

The Institute of International and European Affairs,

8 North Great Georges Street, Dublin 1, Ireland

T: +353-1-8746756 F: +353-1-8786880

E: reception@iiea.com W: www.iiea.com