

# NEGOTIATING BREXIT

*DELEGATE BACKGROUND GUIDE*



# *Staff*

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# ***A Letter From Your Director...***

**Dear delegates,**

Welcome to UTMUN 2017! My name is Andrew Zhao and I am the Director of the European Union and the UK 2017: Negotiating Terms for a Brexit. Alongside my Vice-Director Dawood Younis, and Moderator Venessa Secktakof, I want to welcome you to what will definitely be a weekend of productive debate!

First, a little bit about who we are: I am a first year Social Sciences student, originally from Calgary. I joined my high school MUN team in grade 11, and it was the best choice I ever made. I am currently also an Assistant Director at National High School Model UN (NHSMUN) in New York, and the Security Council Coordinator at the Seminar on the United Nations and International Affairs (SUNIA), North America's longest-running Model UN summer program. Venessa began MUN in high school where she attended SSUNS, HMUN, and UTMUN. In university, she continued her passion for MUN while serving in staff and secretariat roles for SSICsim, UTMUN, and NAMUN. She has also competed on the traveling team, UNSOC, for the past three years attending RyeMUN, QMUNi, and McMUN and serves as the current UNSOC president. Dawood was obsessed with MUN the first time he attended to a conference, at Cornell. When he realized how much he loved it, he decided to establish a MUN club at his school and has never looked back since. He ended his high school MUN experience by hosting his own conference and when he moved on to U of T he continued his adventures, not only with UTMUN but with NAMUN and UNSOC as well. He is currently the Director for Partnerships and Funding at UNSOC.

This specialized committee will be an amalgamation of top negotiators from both the European Union, and the government of the United Kingdom (UK). In this committee, Article 50 of the Treaty of Lisbon has been triggered by the British Parliament and the two-year negotiation window has opened. It is up to you to negotiate a mutually beneficial deal that will minimize the economic fallout from Brexit.

A note of caution: the situation surrounding the Brexit negotiations is constantly fluctuating. It would be wise to follow the events by setting up weekly Google Alerts for Brexit-related news, or other similar arrangements.

As well, I strongly encourage you to take your position paper seriously. There is no better way to familiarize yourself with the complexity that is the EU than by writing an excellent and thorough position paper.

The entire dais is looking forward to a weekend of high-level debate on this complex and multifaceted issue. I wish you all the best of luck!

Best Regards,

**Andrew Zhao**  
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# NEGOTIATING BREXIT

Photo: European Parliament, Flickr

## ***Introduction***

The European Union traces its roots to a post-WWII need for European solidarity, following two world wars which were caused by deep rifts within Europe. The European Union as we know it today grew out of the European Coal and Steel Community (ECSC), founded in 1952. The ECSC was conceived in the 1951 Treaty of Paris, signed by Belgium, France, West Germany, Italy, the Netherlands and Luxembourg—it signaled the early emergence of supranationalism in Europe. The 1957 Treaty of Rome established the European Economic Community (EEC) and a customs union, while the European Atomic Energy Community (Euratom) was formed separately. All three communities (ECSC, EEC, and Euratom) were merged in 1967 and became the European Communities. Throughout the later 20th century, the modern institutions of the EU began to take shape, and membership expanded to more European nations. The 1985 Schengen Agreement created the Schengen Area, essentially creating open borders within the European Communities and other participating European states. Today people can travel across borders in the Schengen Area without passport checks. In 1986, the Single European Act was signed, which revised the Treaty of Rome and established the single market as a goal of the European Communities. The 1992 Maastricht Treaty formally established the European Union, and in 2002, the euro was established as the common currency for the Eurozone.

The United Kingdom joined the European Communities in 1973, but has a special relationship with the EU. It has not adopted the euro as its currency and is therefore not a member of the Eurozone—it has retained its own currency, the pound sterling. The UK also sometimes finds itself at odds with the rest of the EU, expressing dissatisfaction with the structure and excessive bureaucracy. Such sentiment has led to Britons feeling the



least European out of all EU citizens, and given rise to political movements such as the UK Independence Party (UKIP), who spearheaded the Vote Leave campaign. Of course, on June 23, 2016, the UK voted 52% to 48% to leave the European Union.

A word of caution: the European Union is a highly complex bureaucratic union that involves many institutions, often with similar names (e.g. the European Council is not the same as the Council of the European Union). While it is important to not confuse terms, this situation is understandably confusing, and for your benefit, a glossary has been included at the back of this background guide. As well, the membership of countries to certain European agreements and unions is similarly confusing, and an Euler diagram of relevant countries can be found in the Appendix.

## **Topic 1: The Discussion of Trade, Negotiating a New Trade Deal with the EU**



### **BACKGROUND**

One of the fundamental founding principles of the European Union has been the establishment and maintenance of a European single market. Article 3 of the Treaty of Rome—the founding document of the European Economic Community (EEC)—called for:

*the elimination, as between Member States, of customs duties and of quantitative restrictions on the import and export of goods, ... the establishment of a common customs tariff and of a common commercial policy towards third countries, ... [and] the abolition, as between Member States, of obstacles to freedom of movement for persons, services and capital.<sup>1</sup>*

This notion is embodied in the modern European Union (EU) by the European Economic Area (EEA), an area that allows for "(a) the free movement of goods; (b) the free movement of persons; (c) the free movement of services; (d) the free movement of capital" within the Single Market.<sup>2</sup> These "four freedoms" are fundamental to EU membership and get at the

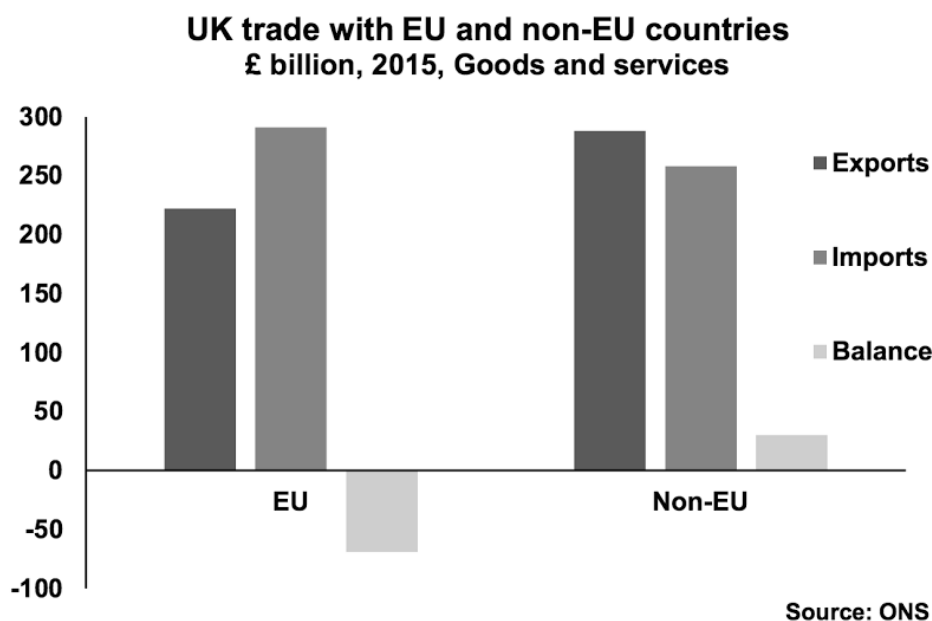
<sup>1</sup> Treaty Establishing the European Economic Community (Rome: 1967), 4, <http://www.gleichstellung.uni-freiburg.de/dokumente/treaty-of-rome>.

<sup>2</sup> Agreement on the European Economic Area (Porto: 1992), 7, <http://www.efta.int/sites/default/files/documents/legal-texts/eea/the-eea-agreement/Main%20Text%20of%20the%20Agreement/EEAagreement.pdf>.

core of what the European Union is trying to achieve: a unified, liberal Europe

By virtue of being an EU Member State, the UK was bound to follow such principles. Prior to Brexit, this took the form of the EEA and the EU Customs Union, the latter of which ensured “no tariffs on goods moving between [Member States] and a common tariff applied to goods entering from outside the EU.”<sup>3</sup> However, in order to access the single market, Member States like the UK had to give up their ability to negotiate bilateral trade deals with other nations—this authority was handed over to the European Trade Commissioner and other EU organs.<sup>4</sup> The former negotiates agreements on behalf of the entire EU through a Common Commercial Policy, and the European Council and European Parliament approve them.<sup>5</sup>

Pre-Brexit, British trade consisted largely of trade within the EU under the aforementioned mandated freedoms. In 2015, trade with other EU countries made up “44% of UK goods and services exports (£222 billion) and 53% of UK imports (£291 billion).”<sup>6</sup> As seen below, the UK imports more goods and services from the EU than it exports, creating a trade deficit of £69 billion in 2015 (compared with a trade surplus of £30 billion with non-EU countries). Overall, the share of UK exports flowing to the EU has been falling, from 55% in 2002 to 44% in 2015.<sup>7</sup>



Now that the United Kingdom is committing to triggering Article 50 and exiting the European Union, it will no longer be party to any of the trappings and agreements that Member States are bound to. Instead, the UK will be treated as just another non-EU country, with which an EU-UK trade agreement must be negotiated. Since EU countries are the UK’s largest trading partners by such a huge margin, there is virtually universal consensus among economists and world leaders that Brexit will hurt the British and European economies. The

3 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, ed. Vaughne Miller (London: House of Commons Library), 23.

4 Ibid.

5 Ibid.

6 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 23.

7 Ibid., 25.

question remains: to what extent?

## POSSIBLE SCENARIOS

The goal of the British government in negotiating a trade deal post-Brexit is to retain access to the European Single Market, which would help weather the worst effects of a Brexit. However, maintaining access to the single market will prove difficult and problematic in many respects. The British government wishes to maintain autonomy in many areas (e.g. immigration, trade policy), as one of the key motivators of the Vote Leave campaign was the notion of “taking our country back” (i.e. back from being controlled by European Union bureaucrats). Therefore, access to the single market will need to be balanced with other UK priorities, such as “free movement of people, contributions to the EU budget, the extent to which the UK needs to adopt EU rules and the extent of UK influence over those rules.”<sup>8</sup> These issues will be touched on briefly here as they relate to trade, but will be covered more in-depth in their following respective topics.

“Freedom of movement of persons,” which is enshrined prominently in EU treaties, was a specifically hot-button issue for Leave—this freedom allows EU citizens to live, work, and visit in any Member State, without a visa. The UK would ideally retain access the single market without being subject to freedom of movement, and Prime Minister Theresa May has repeatedly stated the high-priority nature of this issue for her government. As she said in her opening speech to the Conservative Party conference, “Let me be clear: we are not leaving the European Union only to give up control of immigration again,” adding that those who were willing to sacrifice anything to gain access to the internal market were looking at Brexit the “wrong way.”<sup>9</sup>

However, many EU leaders have stated that access to the European Single Market without allowing for freedom of movement—or any one of the freedoms, for that matter—is a pipe dream, and incompatible with the existing EU system. European Council President Donald Tusk has stated that “there will be no single market ‘a la carte,’” i.e., there will be no picking and choosing of freedoms if you are to participate in the single market.<sup>10</sup> In the view of the European Union, the four freedoms are inherent in the concept of a single market, and restricting any of these freedoms threatens free trade and the very concept of that single market. This bone of contention presents a major obstacle in reaching an agreement that minimizes economic damage.

Other issues, besides allowing for the four EU freedoms, include paying dues to the EU, and the extent to which the UK will be subject to EU regulations post-Brexit. These issues are relevant because current non-Member States in the European Economic Area (Switzerland, Iceland, Norway, and Liechtenstein) pay some form of remuneration to the EU in return for inclusion in the single market, and enforce some EU regulations as well.

Current scenarios fall somewhere between two extremes: what have been coined a “hard Brexit” and a “soft Brexit”. In terms of trade, a hard Brexit would pull the UK out of all existing EU agreements and mechanisms, including the European Single Market and the

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8 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 26.

9 Alexandra Sims, “What Is the Difference between Hard and Soft Brexit? Everything You Need to Know,” The Independent, October 3, 2016, <http://www.independent.co.uk/news/uk/politics/brexit-hard-soft-what-is-the-difference-uk-eu-single-market-freedom-movement-theresa-may-a7342591.html>.

10 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 26.

Customs Union.<sup>11</sup> This approach is advocated by hardline leaders of the Leave campaign, who argue that a hard Brexit would give the UK the most autonomy and control over its own affairs. The UK would not be subject to freedom of movement or any EU regulations (except businesses wishing to export to the EU, who have to follow certain EU regulations).<sup>12</sup> Advocates of this approach also argue that a hard Brexit would not be disastrous for trade, as trade with EU countries would therefore fall back on World Trade Organization (WTO) rules. However, this could prove a misleading assurance, as the UK's current WTO quotas, tariffs, and subsidy rules "are fixed by its EU membership."<sup>13</sup> It is unclear if the UK would simply inherit its prior rules as a EU member and change them afterwards, or if the process is more arduous—the WTO procedure here is unclear. As reported by the *The Economist*, "Post-Brexit [Britain] needs terms of its own, and they have to be negotiated and approved by all 163 other WTO members."<sup>14</sup> As noted in a House of Commons briefing, "Roberto Azevedo, the Director-General of the WTO, warned that the UK would face 'tortuous negotiations' over the terms of its WTO membership. He said 'pretty much all of the UK's trade [with the world] would somehow have to be negotiated.'"<sup>15</sup> Most economic analyses conclude that falling back on WTO rules would also prove the most mutually harmful to both European and British economies.<sup>16</sup>

A soft Brexit would entail abiding by EU regulations to some degree, paying some EU dues, and respecting the four freedoms in return for "unfettered access to the European Single Market."<sup>17</sup> However, the UK would lose its privileges as a Member State, losing representatives in the European Parliament, on the European Commission, etc.<sup>18</sup> It would therefore have no say in the legislation process of the EU—on laws that may apply to the UK itself. This soft Brexit could be achieved by joining the European Economic Area, which effectively brings some non-EU states (Switzerland, Iceland, Norway, and Liechtenstein at the moment) into the single market. A good example of this case is Norway, which many see as a possible model for future UK-EU relations. Norway is part of the European Single Market through the EEA, and participates in selected EU programs. In return, it pays dues for both the EEA and whichever programs it chooses to participate in. It also applies approximately 21% of all existing EU regulations, but has no vote or representation in EU institutions. However, Prime Minister Theresa May has stated that the UK's future relationship with the EU will not necessarily be based on existing models.<sup>19</sup> Regardless, similar issues would have to be negotiated by the UK.

A middle ground between a hard and soft Brexit may be a free trade agreement (FTA) between the European Union and the UK. This presents a more moderate option, as it would likely represent "less access to the Single Market but also fewer obligations in terms of accepting free movement of people and making a contribution to the EU budget."<sup>20</sup> Any exports to the EU would still have to comply with relevant regulations, but leaving the customs union would allow the UK to set its own external tariffs and in that sense, "take their

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11 Alexandra Sims, "What Is the Difference between Hard and Soft Brexit? Everything You Need to Know."

12 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 26.

13 "Brexit and Trade: Not so Simple," *The Economist*, September 17, 2016, <http://www.economist.com/news/britain/21707251-britain-will-not-find-it-easy-strike-comprehensive-trade-deals-quickly-not-so-simple>.

14 Ibid.

15 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 27.

16 Ibid., 25.

17 Alexandra Sims, "What Is the Difference between Hard and Soft Brexit? Everything You Need to Know."

18 Ibid.

19 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 26.

20 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 28.

country back."<sup>21</sup> A potential barrier to this approach is that any FTA requires the consent of all EU Member States (and some parliaments as well). Opposition to a new EU-UK FTA could be motivated by national political and economic interests for Member States. As well, Prime Minister Theresa May has been warned that leaving the customs union could see GDP fall 4.5% by 2030.<sup>22</sup>

With all that being said, the British position is still unclear at the moment, as recent reports about developments within Whitehall paint a picture of a fractured, scrambling government. A recent leaked Deloitte memo revealed that "Britain has no overall strategy for leaving the European Union and splits in Prime Minister Theresa May's cabinet could delay a clear negotiating position for six months."<sup>23</sup> The memo alleged that May was more concerned with the political survival of her party rather than the economic ramifications of Brexit.<sup>24</sup> Members of May's cabinet have also been criticized for being oblivious to the mechanisms of a Brexit. Dutch Finance Minister and Eurogroup President Jeroen Dijsselbloem recently accused British Foreign Secretary of "offering to the British people options that are really not available."<sup>25</sup> This was after Johnson commented that the UK would likely leave the customs union, but remain in the internal market. Dijsselbloem responded, "... to say we could be inside the internal market but be outside the customs union, this is impossible, it just doesn't exist. The opposite does exist. We have a customs union with Turkey but Turkey is not part of the internal market ... he's saying things that are intellectually impossible."<sup>26</sup>

Despite competing interests within May's government and the EU itself, both sides will have to negotiate an agreement that is mutually beneficial economically. As Dijsselbloem commented, Brexit is a "lose-lose situation."<sup>27</sup> What remains is maintaining a balancing act and striking a deal that minimizes damage.



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21 Ibid.

22 Anushka Asthana, Rowena Mason and Owen Bowcott, "Theresa May given stark warning about leaving customs union," *The Guardian*, October 18, 2016, <https://www.theguardian.com/politics/2016/nov/16/boris-johnsons-brex-it-vision-intellectually-impossible-eu-minister>.

23 Guy Falcounbridge, "Disputed Memo Says Britain Has No Brexit Plan," *Reuters*, November 15, 2016, <http://www.reuters.com/article/us-britain-eu-idUSKBN13A00E>.

24 Ibid.

25 Rowena Mason and Patrick Wintour, "Boris Johnson's Brexit Vision 'intellectually Impossible' – EU Minister," *The Guardian*, November 16, 2016, <https://www.theguardian.com/politics/2016/nov/16/boris-johnsons-brex-it-vision-intellectually-impossible-eu-minister>.

26 Ibid.

27 Rowena Mason and Patrick Wintour, "Boris Johnson's Brexit Vision 'intellectually Impossible' – EU Minister."



## **Topic 2: Immigration And The Freedom Of Movement: What Terms For Migration Will Be Agreed Under New Trade Conditions?**



Photo: Daniel A. Byers, Flickr

### **BACKGROUND**

As mentioned previously, the freedom of movement of persons is one of the four core freedoms of the EU, central to their vision of European solidarity. All Member States are subject to these freedoms, including the UK until it formally leaves the EU. As a House of Commons policy briefing explains:

*The right to move and reside freely in another Member State is one of the rights granted by EU citizenship (as per Article 21 of TFEU). Anyone who has nationality of an EU Member State is also an 'EU citizen', and as such, has 'free movement' rights across the EU. The 'free movement of people' principle entitles citizens of EU Member States and their families to reside and work anywhere in the EU. This right also applies to citizens of non-EU EEA States (Iceland, Norway and Liechtenstein) and Switzerland.<sup>28</sup>*

The briefing also notes that "free movement is supported by a broader set of rights, such as protection against discrimination on the grounds of nationality for employment, and provisions to co-ordinate social security so that people do not lose entitlements when they exercise their free movement rights."<sup>29</sup> In essence, the EU currently mandates certain rights and freedoms which promotes EU citizen's ability to live, work, and travel wherever they choose within the European Union.

The negotiations surrounding immigration will focus on the extent to which the UK retains control of its borders and its own immigration policy, and the status of EU citizens currently enjoying freedom of movement abroad post-Brexit (i.e., the status of non-British EU citizens in the UK, and UK citizens in other EU states).

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28 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 103.

29 Ibid., 104.

## POSSIBLE SCENARIOS

Immigration is a key negotiating point that also presents a great deal of uncertainty. As noted by the House of Commons policy briefing:

*... it is very unclear what kind of future relationship the UK might have with the EU and EEA/Swiss states after leaving the EU. A key question, when considering the impact of leaving the EU on immigration policy and the immigration rights of British and EU/EEA citizens, is to what extent the UK might remain bound by EU free movement of people laws post-Brexit. There is unlikely to be any clarity about this until the withdrawal negotiations are underway.<sup>30</sup>*

Again, the range of possibilities in terms of immigration ranges from one extreme to another. A "hard Brexit" would relieve the UK of any freedom of movement obligations and return control of immigration back to the government. The government would likely institute a points system to regulate the incoming flow of immigrants. This would come as a welcome change for champions of the Leave campaign, who focused heavily on the belief that freedom of movement allowed poor European migrants to flood into the United Kingdom and allegedly take British jobs.

A "soft Brexit" would involve a situation close to the Swiss or Norwegian arrangement. This could also be termed the "EEA option" as it essentially entails joining the European Economic Area, which allows for "(a) the free movement of goods; (b) the free movement of persons; (c) the free movement of services; (d) the free movement of capital."<sup>31</sup> This would be the closest option to pre-Brexit rules.

There is some precedent for flexibility here: Liechtenstein has a "Sectoral Adaptations" agreement with the EU on top of its membership in the EEA, allowing it to apply a quota for EEA residents living in Liechtenstein.<sup>32</sup> Granted, this is due to Liechtenstein's specific geographic constraints as one of the world's smallest countries, but it builds on many preceding cases where EU agreements have been adapted for certain countries in special cases. Another more moderate arrangement would be the "EEA minus" option, in which some restrictions on freedom of movement are exchanged for some limitations on single market access.<sup>33</sup> However, vocal Brexiters may be hard-pressed to swallow any immigration-related authority being handed over to the EU, even in exchange for single market access.

The elephant in the room is of course, refugees and how the European asylum system will function post-Brexit. However, prior to that discussion, a key detail should be noted: freedom of movement throughout the EU under relevant treaties should be differentiated from the Schengen Agreement, which established the Schengen Area (see Appendix). The Schengen Area is an area of almost all EU member states, along with EEA/EFTA states, where there are no border controls. This means that one can cross over from Belgium to France without stopping at customs, or showing anyone a passport. Britain is not part of the Schengen Area—it used its opt-out and justified this on its unique geography as an island, apparently therefore qualifying as a special case. This does not exempt the UK from EU freedoms of movement, but it does mean that some border controls exist upon entering the UK. This debunks the fear that refugees from the Mediterranean could suddenly flood into

30 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 103.

31 Agreement on the European Economic Area, 7.

32 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 106.

33 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 106.

the UK—only EU citizens can travel freely in and out of the UK.

The only way refugees could enter the UK is by landing there to seek asylum, or by gaining EU citizenship and then exercising their freedom of movement rights. Regarding the European asylum system, the House of Commons policy briefing notes that:

*On a practical level, EU law on asylum is interwoven into the UK's asylum system. ... The EU has been developing a Common European Asylum System (CEAS) since the 1990s. The UK opted into the six pieces of legislation adopted during CEAS' first phase (2000–2005). There were four directives specifying minimum standards for processing asylum claims and the treatment of asylum seekers, and two sets of regulations establishing the 'Dublin system' for determining which Member State is responsible for processing an asylum claim.<sup>34</sup>*

Despite more recent UK opt-outs of EU asylum initiatives, it is possible that the UK could leave the EU but remain a member of the Dublin system (or Dublin Regulation). This system has recently gained notoriety during the migrant crisis, as it hands the responsibility of processing asylum applications to the country of landing— asylum applicants must stay in that country (often in less than ideal conditions) until their application is processed. As a result, the current migrant crisis has placed disproportionate burden on Greece and Italy, Mediterranean countries at the edges of the EU. Germany has stepped in and used the "sovereignty clause" of the Dublin Regulation to voluntarily assume responsibility for some asylum seekers, but this has not been enough. However, the system was conceived with good intentions, as the House of Commons briefing paper explains:

*The Dublin system was intended to prevent the phenomena of 'asylum shopping' (asylum seekers lodging multiple claims in several EU Member States) and 'refugees in orbit' (no state taking responsibility for an asylum claim). The EURODAC fingerprint database enables Member States to check whether an asylum seeker has previously claimed asylum in another Member State. The Dublin III Regulation identifies a hierarchy of criteria for determining which Member State is responsible for the asylum claim and sets out the process for handling requests to transfer responsibility between Member States. Put simply, this hierarchy prioritises family reunion considerations, followed by which Member State issued a visa to the applicant or was the first state entered by the applicant (in the case of irregular arrivals). In practice, most transfer requests are based on the irregular entry criterion. This has led to criticisms that the current Dublin arrangements place an unfair burden of responsibility on a few states at the EU's external borders.<sup>35</sup>*

So if the Dublin system has been proven so flawed, why should the UK remain party to it? Historically, successive UK governments have supported and opted-in to Dublin regulations. Between 2003 and 2015 the system has helped remove 12 000 people from the UK to other EU Member States, which has saved the government money by limiting abuse of the UK asylum system.<sup>36</sup> The government has generally recognized that working with

34 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 111–112.

35 United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 112.

36 Ibid., 112–113.

other Member States in this regard is beneficial to British national interests. As of May 2016, new reforms for the Dublin system and CEAS were introduced, but the government did not indicate a preference for opting in or out prior to the referendum.<sup>37</sup>

Logistically, the United Kingdom will also have to deal with the Common Travel Area. Would the border between the Republic of Ireland (a member of the EU) and Northern Ireland (part of the sovereign UK) be secured? What about travel between the Island of Ireland and the rest of the UK?

Another major question lies in citizenship for British citizens residing in EU countries, or EU citizens residing in the UK. Currently, a "right of permanent residence" is granted to EU citizens who live in another EU state for over five years. These permanent residents' citizenship and residence rights would therefore have to be negotiated. The most extreme (and possibly impractical) solution would be to remove these people to their country of citizenship as soon as Brexit takes effect. However, this would prove not only a logistical challenge, but unfair and economically damaging. Various EU states depend on various groups for labour, many of them internal EU migrants. Such a violent and sudden shift of human capital would likely upset both the British and European economies. Another arrangement would entail an arranged stay for permanent residents, and perhaps a deadline for returning to their country of citizenship. Or perhaps, a path to citizenship could be opened for expats, with a special process available to people imminently impacted by Brexit.

But for those who have migrated more recently and have not resided in a country long enough to gain right of permanent residence, will there be a separate procedure? What about family members who have been born in another EU country than their parents' citizenship? And what of healthcare and welfare benefits after Brexit is formalized? Such questions will have to be resolved in negotiations.

### ***Topic 3: Payments Towards The Eu: Will The Uk Continue Paying Its Dues?***

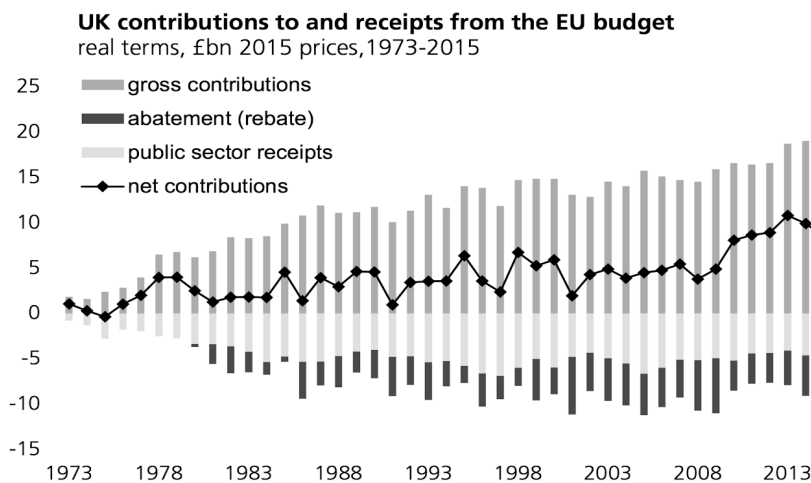


Photo: European Central Bank, Flickr



## BACKGROUND

In 2015, the United Kingdom made a net contribution of approximately £8.5 billion to the European Union, which represents approximately 1% of total public expenditure and 0.5% of GDP.<sup>38</sup> The UK contribution to the EU budget was one of the most contentious issues for the Vote Leave campaign. Vote Remain (and many media outlets) criticized Vote Leave for misrepresenting the scale of UK budgetary contributions, by only using the gross figures and not accounting for budget rebates and EU subsidies. Still, Vote Leave maintained that leaving the European Union could save billions of pounds which could help fund the National Health Service (NHS), Britain's public healthcare system. However, when UKIP leader Nigel Farage was asked after the referendum if he could guarantee the money would be used for the NHS, he responded "No I can't, I would never have made that claim. That was one of the mistakes made by the Leave campaign."<sup>39</sup>



## POSSIBLE SCENARIOS

Despite all of the uncertainty and speculation around Brexit negotiations, the budget is the most quantifiable aspect of the negotiation process. Future UK contributions to the EU depend on the other substantial topics presented in this guide. It will depend on the extent to which the UK accesses the single market (e.g., EEA, or possible negotiated FTA), participates in EU programs, etc. As previously mentioned, non-Member States like Norway still pay EU dues as a result of the EEA and voluntary participation in selected programs.

A hard Brexit would essentially free the UK from paying dues to EU. A negotiated FTA after the fact could change that, but that probably would not. If Britons go with a soft Brexit, the appropriate dues will have to be paid for participation in the EEA, as well as any programs the UK judges to be beneficial and chooses to participate in. However, recent reports have revealed the government is assuring large transnationals that they will be shielding certain sectors from the worst effects of Brexit, and possibly affording them some kind of access to the single market.<sup>40</sup> Combined with speculation that the UK could continue paying dues during the Brexit transition while negotiating an FTA, this adds an element of uncertainty to

<sup>38</sup> United Kingdom, House of Commons, Brexit: Impact across Policy Areas, 112.

<sup>39</sup> Kate McCann and Tom Morgan, "Nigel Farage: £350 Million Pledge to Fund the NHS Was 'a Mistake'," The Telegraph, June 24, 2016. <http://www.telegraph.co.uk/news/2016/06/24/nigel-farage-350-million-pledge-to-fund-the-nhs-was-a-mistake/>.

<sup>40</sup> George Parker, Martin Arnold, and Alex Barker, "UK Looks at Paying Billions into EU Budget after Brexit," Financial Times, October 16, 2016. <https://www.ft.com/content/a8ec5e90-938c-11e6-a1dc-bdf38d484582>.



the situation.<sup>41</sup>

## **Topic 4: What Role Will Britain's Financial Sector Have In A Post-Brexit Europe?**



Photo: David Buckley, Flickr

### **BACKGROUND**

London is without doubt the financial hub of the Europe. As the Wall Street Journal's Simon Nixon notes:

*... the U.K. is home to 78% of European foreign-exchange trading, 74% of interest-rate derivatives trading, 85% of hedge fund assets under management and 35% of all EU wholesale financial services ... The U.K. in 2014 had a £72 billion (\$95 billion) trade surplus with the rest of the world in financial services, of which £18.5 billion was with the EU. There are 489 foreign banks registered in London, of which 183 are from the EU.<sup>42</sup>*

As the June referendum results rolled in and it became increasingly clear that the UK had voted to leave the European Union, financial markets responded negatively and the value of the pound dropped drastically. The worries of the financial sector primarily concern a possible end to cross-border banking out of London. Within the EEA (and in the context of the European Single Market), this is essentially known as "passporting." According to the Bank of England, passporting is the process by which "a firm authorised in a European Economic Area (EEA) state is entitled to carry on permitted activities in any other EEA state by either exercising the right of establishment (of a branch and/or agents) or providing cross-border services."<sup>43</sup> In layman's terms, any bank authorized to establish and operate in the UK by the relevant British authorities is also authorized to do so in all other EEA states, and vice versa. Although many other factors make London an attractive location for headquartering financial institutions, passporting is one of the most advantageous. If a foreign bank is looking to establish an HQ in Europe, they could be authorized in London and offer their services to the

<sup>41</sup> Ibid.

<sup>42</sup> Simon Nixon, "The U.K.'s Big Brexit Test: Holding On to London's Financial Crown," Wall Street Journal, July 17, 2016. <http://www.wsj.com/articles/the-u-k-s-big-brexit-test-holding-on-to-londons-financial-crown-1468776973>.

<sup>43</sup> "Passporting," Bank of England Prudential Regulation Authority, accessed November 20, 2016. <http://www.bankofengland.co.uk/pr/Pages/authorisations/passporting/default.aspx>.

entire single market.

With Britain possibly leaving the single market (or at least having its access restricted), passporting may come to an end for financial institutions located in London. For bankers who fear that they may lose the ability to operate freely across borders, the best case scenario is an agreement that resembles the status quo pre-Brexit. However, the Financial Times has quoted one senior EU diplomat as saying, "Even before the Brexit vote, the role of the City of London was precarious. [The EU] had an issue with the euro's financial centre being outside the Eurozone. Now that it is outside the EU, it is game over [for passporting]." While heading the Eurogroup of finance ministers, Jeroen Dijsselbloem warned that Brexit could force banks to move their jobs out of the UK as cross-border banking became more difficult.<sup>44</sup>

## POSSIBLE SCENARIOS

For financial institutions based in London, the margin for error is very slim, and it is likely the outcome will be unfavourable. The only acceptable agreement is a Norwegian-style relationship—a soft Brexit which keeps the UK in the EEA and remains as close to the status quo as possible. This would allow passporting to continue and likely maintain most of the current features of EU banking in the UK.

A hard Brexit (leaving the EU completely, not joining the EEA or EFTA afterwards) would deeply affect London's standing as the financial hub of Europe—to what extent, no one knows. Cities such as Paris or Frankfurt may fight to be the new optimal location for European banks to headquarter themselves, and for foreign banks looking to establish European subsidiaries. However, there exists some reason for optimism. If the UK is to become a "third country" vis-à-vis the European Union and negotiate completely new trade agreements, it may gain some access to the single market via "equivalence" provisions.<sup>45</sup> As explained by Penny Ann Sanders from Gowling WLG:

*In recent years EU legislation has increasingly incorporated "third country regimes", which allow non-EU firms market access to the EU, usually on condition that they are authorised in a state which has a regulatory regime equivalent to that in the EU and which provides an effective reciprocal mechanism offering access to EU firms.*

*These mechanisms could provide an important basis for mitigating the impact of Brexit on continued cross-border business by UK and EU firms. The UK could ensure (at least at the outset following exit) that, at least from a legal perspective, its regulatory regime is equivalent to the regime in the EU by maintaining its existing regulatory regime and implementing new EU laws. Conversely, the UK could offer reciprocal access to EU firms.<sup>46</sup>*

However, as Sanders notes, there is still a degree of uncertainty here. Equivalence provisions will rely on how equivalent UK regulation really is to EU regulation—essentially, to what extent the UK will accept EU rules.<sup>47</sup> Again, the idea of being governed by the EU repulses

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44 "City Firms May Lose 'prized' EU Access, Say Eurozone Leaders." BBC News. June 25, 2016. <http://www.bbc.com/news/business-36628595>.

45 Penny Ann Sanders, "Brexit - Regulatory Perspective of Impact on Financial Services Institutions," Gowling WLG, June 22, 2016. <https://gowlingwlg.com/en/global/insights-resources/brexit-regulatory-perspective-of-impact-on-financial-services-institutions>.

46 Penny Ann Sanders, "Brexit - Regulatory Perspective of Impact on Financial Services Institutions."

47 Ibid.

many hardline Brexit advocates, who believe that EU regulation violates British parliamentary sovereignty.

A middle ground may be the Swiss model: this would entail joining the European Free Trade Association (EFTA), but not the EEA. The UK would have partial single market access, and likely many specific agreements with the EU for specific issues. Currently, Switzerland has accepted freedom of movement, but does not have passporting; its reputation as a financial centre has survived regardless.

While negotiations move forward at a sluggish pace, firms are unlikely to wait around for a result. It is likely that many will begin phasing their headquarters out of the UK unless things begin to look up, or they receive individual assurances from the British government.

## ***Character List***

Note: not everyone on either the UK or EU delegations agrees with each other—in some cases, the opposite is true. Make sure to research your character's individual background and beliefs, while keeping the larger goals of your delegation in mind!

### **EUROPEAN UNION:**

1. Michel Barnier  
Chief Negotiator of the Article 50 Task Force, appointed by the European Commission
2. Didier Seeuws  
Head of the GSC Special Task Force on the UK, appointed by the European Council
3. Guy Verhofstadt  
Chief Negotiator, appointed by the the European Parliament
4. Stephanie Riso  
Principal Adviser to Michel Barnier
5. Cecilia Malmström  
EU Trade Commissioner
6. Jean-Claude Juncker  
President of the European Commission
7. Donald Tusk  
President of the European Council
8. Martin Schulz  
President of the European Parliament
9. Sabine Weyand  
Deputy Negotiator, appointed by the European Commission
10. Martin Selmayr  
Chief of Staff to the President of the European Commission
11. Frans Timmermans  
Vice-President of the European Commission
12. Alexander Italianer  
Secretary-General of the European Commission

## **UNITED KINGDOM:**

13. Theresa May  
Prime Minister
14. Boris Johnson  
UK Foreign Secretary
15. David Davis  
UK Secretary of State for Exiting the European Union
16. Liam Fox  
UK Secretary of State for International Trade
17. Amber Rudd  
Home Secretary
18. Philip Hammond  
Chancellor of the Exchequer
19. David Mundell  
Secretary of State for Scotland
20. Greg Clark  
Secretary of State for Business, Energy & Industrial Strategy
21. Priti Patel  
Secretary of State for International Development
22. Chris Grayling  
Secretary of State for Transport
23. Angela Leadsom  
Secretary of State for Environment, Food & Rural Affairs
24. Damian Green  
Secretary of State for Work & Pensions
25. James Brokenshire  
Secretary of State for Northern Ireland
26. Alun Cairns  
Secretary of State for Wales
27. Patrick McLoughlin  
Conservative Party Chairman

# Questions to Consider

## Trade

1. To what extent will the UK access the single market, and what kind of bargaining chips will be given up in return?
2. To what extent will the UK continue abiding by EU laws and regulations?

## Immigration

1. To what extent will freedom of movement be respected moving forward?
2. To what extent will the UK continue to participate in the European asylum system?
3. Will the border arrangements between Ireland and the UK change?

## Budget contributions

1. How much will the UK continue contributing to the EU budget?
2. To what extent will the UK continue to participate in voluntary EU programs and pay its respective dues?

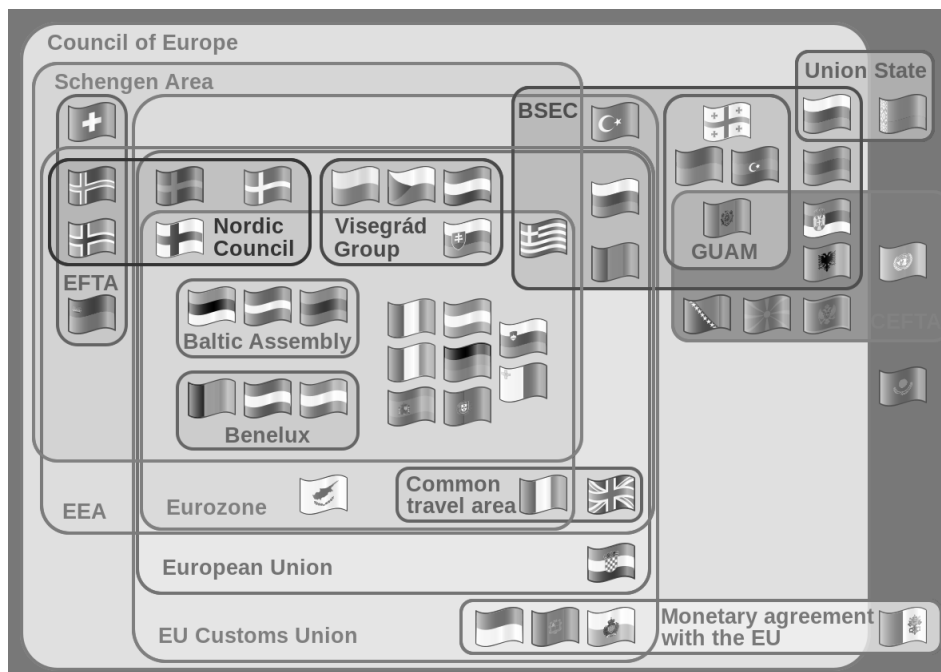
## Financial services

1. To what extent will London-based financial services be hindered by the terms of Brexit?

## Other

1. Will the UK follow a model for Brexit? If so, which one?
2. How will growing regional divides within the UK play into negotiations? Will a hard Brexit lead to Scottish independence or Irish reunification?

## Appendix



EU Membership  
and Associated  
Members States





Map of the Eurozone

Dark Grey: Countries Using the Eurozone

Light Grey: Other EU member states



Map of the Schengen Area

Dark Grey: Schengen Area

Light Grey: Countries with Open Borders or  
EU Member states that are obliged to join  
the area



Map of the European Economic Area

Dark Grey: European Union (without Croatia)

Light Grey: Iceland, Norway, and  
Liechtenstein

Members of EU that are not part of the  
European Economic Area



Map of the European Free Trade Association

Dark Grey: EU

Light Grey: European Free Trade Association



Map of the European Single Market

Dark Grey: EU

Light Grey: Non-EU states that participate with exceptions



Map of the European Union Customs Union

Dark Grey: EU

Light Grey: Non-EU states which participate in the customs union, or are in bilateral customs unions with the EU

## Brexit models

The impact of Brexit depends on the relationship with the EU that follows. Five distinct models are set out below. What is most beneficial politically, in terms of policy independence, is also the most damaging economically. This is the Brexit paradox. The most likely models are the Swiss or the FTA-based approaches.

<b>Norwegian-style EEA agreement</b>	The UK joins the European Economic Area and maintains full access to the single market, but must adopt EU standards and regulations with little influence over these. The UK still makes a substantial contribution to the EU budget and is unable to impose immigration restrictions. <b>Verdict: does not address UK political problems with the EU</b>
<b>Turkish-style customs union</b>	Internal tariff barriers are avoided, with the UK adopting many EU product market regulations, but sector coverage of the customs union is incomplete. The UK is required to implement EU external tariffs, without influence or guaranteed access to third markets. <b>Verdict: a bad compromise for the UK</b>
<b>FTA-based approach</b>	The UK is free to agree FTAs independently and the UK's relationship with the EU is itself governed by an FTA. Tariff barriers are unlikely, but as with all FTAs the UK will need to trade off depth - which means agreeing common standards and regulation - with independence. <b>Verdict: possible, but it all depends on the deal</b>
<b>Swiss-style bilateral accords</b>	The UK and the EU agree a set of bilateral accords which govern UK access to the single market in specific sectors. Concern in Brussels about cherry picking may limit the sectors. The UK becomes a follower of regulation in the sectors covered, but negotiates FTAs separately. <b>Verdict: possible, but may not be attractive to the EU</b>
<b>MFN-based approach</b>	No need to agree common standards and regulation, but at the expense of facing the EU's common external tariff, which damages UK trade with the EU in goods as well as services. Non-tariff barriers may emerge over time to damage trade in services in particular. <b>Verdict: inconsistent with the UK's liberal approach to trade</b>

### Implications of different Brexit models

Colours indicate attractiveness from a UK policy perspective

	E E A	C U S	F T A	B I L	M F N
Nearly no tariff barriers on trade in goods	✓	✓	✓	✓	✗
Dynamic agreement	✓	✓	✗	✓	✗
Rules of origin requirements avoided	✓	✓	✗	✗	✗
Single set of regulations for exporting firms	✓	✗	✗	✓	✗
Full single market access retained	✓	✗	✗	✗	✗
Passporting of banks from the UK possible	✓	✗	✗	✗	✗
Influence over EU regulations retained	?	✗	✗	✗	✗
Able to adopt own approach to regulation	✗	?	?	?	✓
Freedom to pursue trade deals independently	✗	✗	✓	✓	✓
No contribution to the EU budget	✗	✓	✓	✗	✓
Freedom to impose immigration controls	✗	✓	✓	?	✓

## EU Terms Glossary

**Article 50** – The article of the Treaty of Lisbon which stipulates the rules for leaving the European Union. Member States who notify the Union of their intention to leave have a two-year window to negotiate terms. If no agreement is reached, all mutual EU agreements will cease to apply following two years.

**Common Travel Area** – An area of open borders between the UK (including Northern Ireland), Ireland, the Isle of Man, and the Channel Islands.

**Council of Ministers** – see “Council of the European Union”.

**Council of the European Union** – Consists of 10 different configurations of 28 ministers (one for each Member State). The configuration depends on the topic at hand (e.g. agriculture, or finance).

**European Commission** – Executive body of the European Union, made up of 28 commissioners. The commission itself also contains 23 000 civil servants working for it.

**European Council** – Comprised of the 28 heads of state of EU Member States.

**European Economic Area (EEA)** – The area in the EEA Agreement which allows for the freedom of movement. Includes EU Member States and EFTA states, excluding Switzerland.

**European Free Trade Association (EFTA)** – A free trade area comprised of Iceland, Norway, Liechtenstein, and Switzerland. All four members participate in the single market.

**European Parliament** – Directly elected legislative body of the EU, containing 751 MEPs.

**European Single Market** – A single market consisting of EU states and non-EU states, promoting freedom of movement and free trade.

**European Union Customs Union** – A trading bloc of EU and non-EU states that establishes a common tariff and negotiates trade deals as a bloc.

**Eurozone** – An area of states which use the euro as their currency.

**Internal market** – see “European Single Market”.

**Schengen Area** – An area of open borders throughout states party to the Schengen Agreement.

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