



## **THE UNITED KINGDOM'S DEPARTURE FROM THE EU: THE LATEST DEVELOPMENTS**

**22 SEPTEMBER 2016**

This regular paper produced by SPICe sets out developments in the UK's negotiations to leave the European Union which are expected to formally begin early in 2017.

Ahead of the UK Government's triggering of Article 50, the updates will provide information on the UK Government's approach to leaving the EU, along with details of the Scottish Government and the other Devolved Administrations positions. The updates will also provide information on developments within the EU with regard to the UK's departure. Finally the update will provide information on the key issues likely to be at play during the negotiations and in developing the UK's future relationship with the European Union.

As was clear during the referendum campaign and since the decision to leave the EU was taken, there is an abundance of information and analysis available, and this SPICe paper will try to cover the key issues by drawing on that information and analysis. This update outlines developments in the last two weeks.

### **Jean-Claude Juncker's State of the Union address**

On 14 September, the President of the European Commission delivered his annual "State of the Union" address to the European Parliament in Strasbourg. The speech was an opportunity for Jean-Claude Juncker to set out the Commission's priorities for 2017. In his [speech](#), the Commission President urged EU leaders not to let Brexit dominate the European political agenda, and offered what he called a "positive" vision for a union he said was in "crisis."

Specifically on the UK decision to leave the EU, Juncker said:

““We regret the Brexit decision, but the European Union's existence is not at risk.”

The Commission President suggested that the Commission would propose a new long term vision for the European Union which it would publish as a White Paper in March 2017, in time for the 60th anniversary of the Treaties of Rome. According to Juncker, the vision will:

“address how to strengthen and reform our Economic and Monetary Union. And we will also take into account the political and democratic challenges our Union of 27 will be facing in the future.”

The speech also tried to move European attention to the challenges of the next 12 months. Juncker said:

“Because I believe the next twelve months are decisive if we want to reunite our Union. If we want to overcome the tragic divisions between East and West which

have opened up in recent months. If we want to show that we can be fast and decisive on the things that really matter. If we want to show to the world that Europe is still a force capable of joint action.”

Juncker highlighted the Commission’s priorities over the coming year as being delivering a better Europe under the following headings:

- a Europe that protects;
- a Europe that preserves the European way of life;
- a Europe that empowers our citizens,
- a Europe that defends at home and abroad; and
- a Europe that takes responsibility

Politico provided a [summary](#) of the speech which it described as low key and delivered in subdued tones.

Following the State of the Union speech, the European Parliament [debated](#) the address with the Commission President.

### **Prime Minister’s meeting with the President of the European Council**

On 8 September, Donald Tusk met with UK Prime Minister Theresa May to discuss the UK’s departure from the EU. According to the [record of Donald Tusk’s “remarks”](#) he told the Prime Minister:

“My intention is to tell you about the agenda of the Bratislava meeting of 27 leaders next week. We decided to organise this informal meeting to discuss and to assess the political consequences of Brexit for the EU community. This doesn't mean that we are going to discuss our future relations with the UK in Bratislava. For this, and especially for the start of the negotiations, we need your formal notification, I mean Article 50. And this is the position shared by all 27 Member States.

To put it simply, the ball is now in your court. I am aware that it is not easy, but I still hope you will be ready to start the process as soon as possible. But I am convinced that at the end of the day our common strategy goal will be to establish the best possible relations between the UK and the European Union.”

### **The EU27 informal meeting in Bratislava**

On 16 September the 27 EU Member States informally met in Bratislava to discuss a common future for the EU.

The [Bratislava Declaration and Roadmap](#) addressed the decision of the United Kingdom to leave the EU and at the same time reiterated the commitment of the other 27 Member States to a common EU future. The Declaration stated:

“Although one country has decided to leave, the EU remains indispensable for the rest of us. In the aftermath of the wars and deep divisions on our continent, the EU secured peace, democracy and enabled our countries to prosper. Many countries and regions outside still only strive for such achievements. We are determined to make a success of the EU with 27 Member States, building on this joint history.

The EU is not perfect but it is the best instrument we have for addressing the new challenges we are facing. We need the EU not only to guarantee peace and

democracy but also the security of our people. We need the EU to serve better their needs and wishes to live, study, work, move and prosper freely across our continent and benefit from the rich European cultural heritage.”

The 27 Member States recognised that in the future it is vital that the EU communicates better with its citizens and that the EU offers “a vision of an attractive EU they can trust and support”.

A key outcome of the summit was agreement of the key priorities for the EU over the coming months. The agreed “roadmap” focussed on:

- Migration and external borders
- Internal and external security including the threat of terrorism and coordinated defence
- Economic development including providing better opportunities for Europe’s youth

Following the informal meeting Donald Tusk, the President of the European Council [spoke about the EU’s future](#), he said:

“Bratislava is the first summit during which we discussed the common EU future of 27 States, without the UK. It was a sad moment for Europe when the British people decided to leave, and so it required an honest diagnosis. Today we had a frank discussion about the root causes of the current political situation in Europe. The fact that millions of Europeans feel insecure is real. People are concerned about, what they see, as lack of control, and express fears over migration, terrorism and last but not least, about their economic and social future.

Our assessment is sober but not defeatist. While we all agree that the European Union is not perfect, we also agree that it is the best instrument we have. That is why we are determined to correct the past mistakes and move on with common solutions as the EU of 27. We will not continue business as usual. To move the EU forward we have discussed a Bratislava roadmap, which sets out the objectives for our work ahead of the Rome meeting in March next year, when we want to conclude this process.”

In a press conference following the meeting Donald Tusk told journalists that in his meeting with Theresa May on 8 September, the Prime Minister had indicated that it was [“quite likely”](#) the UK would trigger Article 50 in January or February 2017.

### **Visegrad Four threat to veto any Brexit deal**

Following the EU27 meeting, the BBC reported on the Slovakian Prime Minister Robert Fico’s interview with Reuters in which he said that the Visegrad Four countries (Hungary, Poland, Czech Republic and Slovakia) would veto any Brexit deal which limited the right of EU citizens to work in the UK. According to the BBC, [Fico said](#):

““V4 [Visegrad group] countries will be uncompromising,”

“Unless we feel a guarantee that these people are equal, we will veto any agreement between the EU and Britain.”

“I think Britain knows this is an issue for us where there's no room for compromise,”

## **David Davis' appearance before the House of Commons Foreign Affairs Committee**

On 13 September, the Secretary of State for Exiting the European Union gave evidence to the House of Commons Foreign Affairs Committee. Whilst the transcript of the evidence session is not yet available, the Secretary of State's appearance can be viewed on [Parliament TV](#).

During the Committee evidence session, the Secretary of State admitted the UK could have to revert to World Trade Organisation tariffs if it leaves the EU without having struck a trade deal with the bloc. Mr Davis told the Committee:

“If you're after a factual statement of what the outcome could be, I guess it's what is commonly known in the world at large as World Trade Organisation rules.

“That's, I guess, the conclusion of what the situation would be if we were outside the union with no deal. But I would not want anyone to think that that was in my view a very likely outcome.”

The cabinet minister said this was not a very likely outcome but still a possibility if the UK was not successful in talks with the EU.

David Davis also spoke about whether there was a requirement for Parliamentary approval for the UK leaving the EU. According to the [Independent](#), the Secretary of State admitted that the House of Lords could act to prevent a clean break from the EU:

“The Brexit Secretary accepted new legislation would be needed to ensure a clean break from the EU, repealing directives and cementing autonomy from the European Court.

He then demanded that opposition Peers who outnumber the Tories in the upper house fall into line and pass the needed laws, stating that the Government has the biggest mandate in British history to take the UK out of the EU...

...He said: “There has to be some legislation, there is no doubt about that. There are various stages, firstly there'll have to be some legislation to deal with the European Communities Act 1972 and all the consequential legislation that follows on from that.

“There may well have to be parliamentary ratification under the relevant 2010 legislation, the so-called 'crag' legislation, and that's the absolute minimum I can see.”

Asked whether that meant we could not leave the EU without Parliament's support he said: “We can leave, but what the legislation does is put in place directives and various other pieces of law which will still have effect if we didn't [remove it].

“Whilst we would have taken a treaty change to remove ourselves, we would in that circumstance still be reporting back to the European Court in some respects.”

## **House of Lords Constitution Committee Report**

On 13 September, the House of Lords Constitution Committee published a report, [The invoking of Article 50](#), in which it stated that Government should not trigger Article 50

without consulting Parliament. The Committee says it would be 'constitutionally inappropriate' and would set 'a disturbing precedent' for the Government to act on the referendum without explicit parliamentary approval. On the issue of the Parliament's role in the triggering of Article 50:

“The Committee says that the referendum result was clear, and that Parliament is responsible for ensuring the Government implements that result and takes forward Brexit negotiations in a way that achieves the best possible outcome for the UK as a whole. Parliament and the Government will need to work together with a mutual respect for each party's constitutional role—and that starts with the Parliamentary involvement and assent for the invoking of Article 50.

The report points out that although the EU referendum was, in legal terms, advisory, it was accompanied by a clear undertaking by the Government, based on a manifesto commitment, to implement the decision reached in the referendum. In the UK's representative democracy, it should be Parliament which takes the decision to act following the referendum.

The Committee therefore states that Parliament should:

play a central role in the decision to trigger Article 50

have a key role scrutinising both the Brexit negotiations and in approving the final deal between the UK and EU.”

Lord Lang of Monkton, Chairman of the Committee, said:

"Parliament should be asked to approve the decision to trigger Article 50—a decision which will start the formal process of the UK leaving the EU and set a deadline for the UK's exit.

"Parliament's assent could be sought by means of legislation or through resolutions tabled in both Houses of Parliament. An Act of Parliament would give greater legal certainty and could be used to enshrine the "constitutional requirements" required by Article 50, allowing for the setting of advantageous pre-conditions regarding the exit negotiations to be met before Article 50 could be triggered. A resolution could be simpler and quicker to secure but might not provide the same watertight legal authority. We consider that either would be a constitutionally acceptable means of securing parliamentary approval for the triggering of Article 50.”

### **Scottish Parliament European and External Relations Committee publishes first Brexit report**

On 12 September, the Scottish Parliament's European and External Relations Committee published its first report on [“The EU referendum result and its implications for Scotland: Initial Evidence”](#).

The Committee's key conclusion was that continued access to the single market was crucial for Scotland. According to the Committee:

“A key conclusion from the early evidence that we have heard relates to the importance of access to the single market (both for services and goods), and the lack of tariff and non-tariff barriers (such as licensing). We consider that these are

important priorities for the Scottish Government in its discussions with the UK Government on the UK's future relationship with the EU.”

The Committee also concluded it was important that EU nationals currently living, working and studying in Scotland should be able to stay in Scotland and in relation to EU funding the committee recognised “the importance of fully-funded replacements for the current EU-funded programmes in Scotland in agriculture, fisheries, regional development, and research and technological development funding”.

### **First Minister's appearance before the European and External Relations Committee**

On 14 September the First Minister, Nicola Sturgeon [appeared before the European and External Relations Committee](#) to update it on the EU referendum and the implications for Scotland.

On the issue of the Scottish Government's approach to the negotiations the First Minister told the Committee:

“In terms of how we will seek to use our influence, as I set out to the chamber last week, first we will seek to make common cause with those of like minds across the UK, to try to reach the least-worst outcome for the UK as a whole. In my very strong view, that means remaining in the single market. At the moment, there is a lot of conflation between membership of the single market and access to the single market, which are two very different things. Membership of the single market is important.

Secondly, we will seek to explore differential options for Scotland. Our standing council of experts is already working on a spectrum of options, about which I can talk in more detail later.”

On progress towards agreeing a UK wide approach to the negotiations the First Minister told the Committee:

“There have been extensive discussions, which are on-going, between Scottish Government officials and UK Government officials about what the process that will ensure that the Scottish Government and other devolved Administrations are meaningfully engaged will look like.

As I said, those discussions are on-going. They are not proceeding as quickly as I would like them to, but I hope that we will see some progress in the next few days. Mike Russell is going to London to meet David Davis tomorrow, and I hope that in October a multilateral meeting will take place, involving all the devolved Administrations. I will keep the committee fully updated as those discussions conclude...

... We want to be engaged in a way that gives us input into the decision making, rather than being treated as another consultee.

I know that that view is shared by the First Minister of Wales, who, when the British-Irish Council met in the summer, said that he thought that there was an argument for the Parliaments in different parts of the UK to have a say before article 50 is triggered. Although I cannot speak for the other devolved Administrations, I think that there is a common view that we are not going into the process just to be consulted; we want to be part of the decision making. That is what the discussions that we are



engaged in are trying to achieve. Those discussions have not concluded yet, but as soon as they do—or when there are material developments—I will ensure that the committee is fully advised of that.”

The First Minister was also asked about whether the UK Parliament should have a role in triggering Article 50. In her response she raised the issue that if the UK Parliament does become involved in triggering Article 50 then it may instigate the LCM process. She told the Committee:

“I am speculating now, but if there is a decision that Parliament has to pass legislation, it brings the issue of a LCM into sharp focus. As I understand it, the Northern Irish action is very much about the need or otherwise for an LCM in the Northern Irish context, and it is that argument that could give the Scottish Government an interest in the situation as it develops. If there is House of Commons legislation, my view is that that would require an LCM, so the views of the Scottish Parliament would become central to the process.

As I say, I am talking about a legal action. I hope that we get to a position where, notwithstanding any legal action, the Prime Minister’s commitment that the Scottish Government and the other devolved Administrations will have a meaningful role in the decision-making framework will mean that the legal action is more of a moot point. Nevertheless, these are really important issues that are just some of the many issues that are at play just now that make me think that, rather than becoming less complicated as we move on from the referendum result, the road ahead will become more complicated across a whole range of different areas.”

The First Minister was also asked about the Scottish Government’s negotiating priorities. In response the First Minister reiterated the five interests against which the Government would assess its options, these interests are, “our democratic interests, our economic interests, social protection, solidarity and influence”. On a specific position the First Minister told the Committee:

“I believe that the whole of the UK will be better served by remaining in the single market. If we can be part of a coalition of interests across the UK—let us call it a progressive alliance—in which we can make the case for continued single market membership, we will do that, but obviously, if that is not possible, we will have to explore different options up to and including the independence option.”

Finally, the First Minister also reiterated her view that the rights of EU citizens in Scotland should be protected when the UK leaves the EU. She told the Committee:

“It is essential to give people who have made their lives here and done us the honour of coming to live in and contribute to our country some certainty. We owe them that. Today, I call again on the UK Government and the Prime Minister to start providing that certainty.”

### **Scottish Parliament debate “Implications of the EU Referendum Result and UK Negotiating Position”**

Following the First Minister’s appearance before the European and External Relations Committee, the Parliament debated the [implications of the EU Referendum Result and UK Negotiating Position](#). A key theme throughout the debate was the need to retain Scotland’s place in the single market.

Following the debate, the amended motion that was agreed by Parliament by 87 votes to 34 was as follows:

“That the Parliament recognises the importance of EU membership to Scotland and welcomes the Prime Minister’s assurance that she will not trigger Article 50 of the Lisbon Treaty until there is an agreed UK approach and objectives for negotiations; agrees that Scotland’s interests are best served within the EU and that a key objective must be for Scotland and the UK to remain inside the EU Single Market; supports the Scottish Government participating fully in all negotiations between the UK Government and the EU in the run-up to, and during, the Article 50 process, while consulting and reporting back to the Parliament on its objectives and priorities, and supports an approach that protects Scotland’s democratic and economic interests, social protection, the principle of solidarity and the ability to influence decision-making within the EU.”

### **Scottish and UK Government Brexit Ministers meet**

On 15 September, the Scottish Government Minister for Michael Russell Minister for UK Negotiations on Scotland's Place in Europe and David Davis, the UK Minister responsible for Exiting the EU met in London.

Following the Scottish Parliament debate of the previous day, the Scottish Government issued a [press release](#) in which Michael Russell was quoted as saying:

“During our discussions about the future with the nations of these islands, we continue to stress the absolute necessity of Scotland’s voice being an integral and meaningful part of the negotiating process. We will also highlight the importance of respecting and living up to the modern idea of distributed democracy which the different national parliaments and assemblies of these islands embody.

“With that in mind, I will meet with the UK Government’s Secretary of State for Exiting the European Union, David Davis, in London tomorrow to stress the crucial role this Scottish Government has to play in this process and reiterate the importance of Scotland and the UK remaining part of the single market.

“I look forward to working with everyone who shares that view and who wants to ensure that – whatever the current challenges – Scotland, as a European nation, continues to flourish.”

According to the [BBC](#), following his meeting with David Davis, Michael Russell said he expects to announce a formal process for Scottish input soon. According to the news report:

“Mr Russell told BBC Scotland the meeting - the first between the men in their new jobs - was a "good start".

He said he hoped to win the argument on staying in the single market.

But he warned it was "inconceivable" the UK government could negotiate on Scotland's behalf on devolved issues.

In a joint statement, Mr Russell and Mr Davis said the talks had been positive, with an "open exchange of views".



It added: "While we clearly come from very different standpoints, we both recognise that a good working relationship is vital.

"We agree that Scotland, as well as Wales and Northern Ireland, should be fully involved in discussions about the UK's future relationship with Europe in line with the PM's commitment to a UK approach and objectives for the negotiation.

"Ministers will continue to be in close contact as part of a regular programme of engagement."

### **Welsh First Minister at Welsh Assembly External Affairs and Additional Legislation Committee**

The Welsh Assembly External Affairs and Additional Legislation Committee, which is leading on Brexit-related matters in the Assembly, held an evidence session with the First Minister of Wales on Monday 12 September to discuss the implications of Brexit to Wales. The First Minister Carwyn Jones AM gave an update on the Welsh Government response and activities since the EU Referendum, restating the [six priorities](#) he'd identified on 24 June, as well as the various discussions he'd had with the Prime Minister and the Secretary of State for Exiting the EU, the other Devolved Administrations, and in the British Irish Council hosted in Cardiff in July (with a second BIC to take place in Cardiff at the end of October). He noted that the new sub-Committee on Exiting the EU he had established in his Cabinet would meet monthly with its meeting taking place on 12 September. He also noted that a new External Advisory Group to be chaired by the Cabinet Secretary for Finance and Local Government, Mark Drakeford AM, would meet shortly – and that details of its membership will be published soon – there was some discussion as to how representative this would be and whether members of all parties would be invited to participate

The First Minister also reiterated his desire to see a UK negotiating position agreed on a four-nation approach involving the Devolved Administrations, and stated that one of the red lines of the Welsh Government would be tariff free access to the Single Market –he stated membership was not an option as this had been rejected in the EU Referendum vote, but that he was flexible on which alternative model was pursued provided it guaranteed access for 'as many sectors as possible' to the European market. He also underlined the need for clarity from the UK Government over what its position is on Brexit. Reform of the Barnett formula (one of the Welsh Government's priorities) also featured in discussion with the First Minister reiterating his call for a new mechanism to replace Barnett with a regular review mechanism built in. On EU funding he called for a guarantee for projects/funding commitments to 2023, in order to enable projects supported under the current programmes to be completed. For CAP and Structural Funds he rejected outright any attempt to apply Barnett formula as a basis for reallocating existing funding in these areas in a post-Brexit settlement for these areas.

The Assembly's External Affairs Committee will over the next 6-8 weeks be undertaking a series of thematic expert seminars looking at the implications of Brexit to Wales. The first of these, held on 19 September, focused on International Law and Trade, with three panels of academics: (i) international law – looking at the wider international law framework within which the UK operates, and what implications leaving the EU will have on this across different areas/sectors, with a particular focus on implications to Wales; (ii) agriculture and trade, focusing on the impact of leaving the EU on trade in agriculture and food within Wales (iii) trade more broadly, looking at the implications for Wales of leaving the EU, and

considering the merits of different post-Brexit models for trade and what these could mean to Wales.

On 26 September the Committee will visit Brussels for a series of meetings on Brexit with MEPs, officials and representatives from the EU Institutions and national/sub-national representations based in Brussels.

The day after the First Minister's appearance at Committee, he made a [statement on EU Transition to the Welsh Assembly plenary](#) and this was followed by questions/interventions. Many of the themes and issues raised in the External Affairs Committee featured in the discussion, with the Leader of the Opposition Leanne Wood AM (Plaid Cymru) in particular pressing the First Minister on what he wanted from the Single Market – membership or access – noting that the two are very different.

### **The UK Parliament's response to the decision to leave the European Union**

A number of Committees in both the House of Commons and House of Lords have established inquiries linked to the UK's decision to leave the European Union. These include:

[House of Commons European Scrutiny Committee Post Referendum Consultation](#)

[House of Commons Scotland Affairs Committee Scotland's Place in Europe](#)

[House of Commons Welsh Affairs Committee Implications for Wales of the EU Referendum Result](#)

[House of Commons Public Administration and Constitutional Affairs Committee Lessons Learned from the EU Referendum](#)

[House of Commons Environmental Audit Committee The Future of the Natural Environment after the EU Referendum](#)

[House of Commons Energy and Climate Change Committee Leaving the EU: Implications for UK Energy Policy](#)

[House of Lords European Union Committee Brexit: UK-Irish Relations](#)

[House of Lords European Union Committee Brexit: Parliamentary Scrutiny Inquiry](#)

[House of Lords EU External Affairs and EU Internal Market Sub-Committees Brexit: future trade between the UK and the EU inquiry](#)

The House of Lords European Scrutiny Committee published a [report](#) on 22 July 2016 stating that all aspects of the negotiations on the UK withdrawal from the EU, including trade negotiations, should be effectively scrutinised by Parliament.

The [sub-committees](#) of the House of Lords European Union Committee are also conducting a number of evidence sessions following the UK's decision to leave the EU including:

[Fisheries Policy after Brexit](#)

[Brexit implications for environment policy examined by committee](#)

[Brexit implications for energy and climate change policy](#)

[Brexit and Financial Services](#)

The House of Commons Library has also refreshed and published the research briefing [Brexit: impact across policy areas](#)

### **House of Commons Women and Equalities Committee**

On 14 September, the House of Commons Women and Equalities Committee took evidence on the Impact of Brexit on equality law and related measures in the UK and possible ways in which existing protections might be retained and enhanced under a new relationship with the EU. Whilst the transcript of the evidence session is not yet available, the Secretary of State's appearance can be viewed on [Parliament TV](#).

The Committee too evidence from Professor Catherine Barnard, Professor of European Law, University of Cambridge and Professor Aileen McColgan, Professor of Human Rights, Kings College London.

According to the [BBC report](#) of the evidence session equal pay laws could be put at risk as a result of Brexit:

"Aileen McColgan, told the Committee "it would depend on the government of the day".

She said on one level "nothing need change" after the UK left the EU, as most directives had been implemented into UK law.

"But on another level it means there would be no underpinning or demand for maintenance of the current provisions, so... it is very troubling as the whole thing could be knocked away", she told MPs.

Asked what group she was most concerned about, Prof McColgan said: "I think in this matter it's gender, women".

She added: "My particular concern would be about equal pay... because it's probably economically rational to pay women as little as you can get away and if you don't have strong legislative provisions to prevent that, that is one of the areas that could be very problematic."

The Committee was also told that the future impact on equalities law would in part depend on the nature of the UK's future relationship with the EU. According to Professor Barnard:

"If the UK opted for a Norway-style model, and remained a member of the European Economic Area, EU laws would continue to apply, Prof Barnard said.

"More difficult is if there is no model at all or a really hard Brexit," she added, as the UK would "lose EU law acting as this floor" and lobby groups were worried that a government may then "decide to lower the standards".

## **Martin Schulz to visit London**

The President of the European Parliament Martin Schulz has confirmed that he will visit London on 22 to 23 August. According to [Politico](#):

““The President will travel to London next week on Thursday and Friday [September 22-23],” Schulz’s spokesperson Giacomo Fassina told POLITICO. “We have meetings confirmed with PM May and Mayor [Sadiq] Kahn on Thursday and Mr [Jeremy] Corbyn on Friday.”

He added: “The idea behind President Schulz’s visit to London is to get a pulse from the British authorities on the state of affairs on Brexit and EU-U.K. relations at large. President Schulz will reiterate the principle of no negotiation without notification [that Britain has triggered the Article 50 divorce clause] ... He will of course, among other things, highlight the appointment of Verhofstadt as EP representative on Brexit matters.”

Whilst the European Parliament has no formal role in the exit negotiations themselves, the Parliament will have to approve the agreement on the conditions for the U.K.’s departure from the EU.

## **The UK’s future relationship with the EU**

Andrew Duff MEP writing for the [EurActiv blog](#) has examined how the UK’s future relationship with the European Union might be achieved:

“The new treaty between the UK and EU – let’s call it the Treaty of London for easy reference – will have two main purposes: the first is to protect, so far as is possible, the best of the political legacy from 45 years of British EU membership; the second will be to allow for the UK-EU relationship to evolve on a mutually agreed basis in order to meet changing circumstances as they arise, and to do so without requiring another vast and disruptive constitutional upheaval.

Both parties will be anxious to have their inevitably close interdependence recognised in terms of international law. It will be in Britain’s national interest to see that it is not perpetually isolated and excluded from having any influence in mainland European affairs. Equally the EU 27, in the drafting of the treaty, will seek to ensure that Great Britain is prevented from returning to its historical continental policy of divide and rule.

In its revised Global Strategy, adopted in June, the European Council singled out the USA as a ‘core partner’. Traditionally, the Americans have been much stronger supporters for European integration from outside the EU than the British have been from the inside. Yet the EU 27, without sour grapes, should accord the UK that same privileged partnership after Brexit.”

## **What should Brexit mean?**

In a blog for the London School of Economics, Sionaidh Douglas-Scott argues that [Britain voted merely to leave the EU. We can’t assume voters want a hard Brexit](#). Douglas-Scott argues that “in many ways, the EEA might be the best alternative to EU membership for the UK” but suggests that the Government’s concerns about freedom of movement might hinder possible EEA membership and lead the UK towards a so-called hard Brexit.

“But must Brexit mean ‘hard Brexit’? Must resistance to the continued free movement of persons within the EU dictate the terms of any deal the UK negotiates with the EU? I argue not – there are no legal or political reasons why Brexit negotiations must take any particular direction, let alone a hard one.”

In essence her argument is that the referendum was advisory and should not be used as a political device to force through far-reaching constitutional change. In addition, the referendum did not deliver a view on what the UK’s alternative relationship with the EU should be. Sionaidh Douglas-Scott suggests that:

“If the referendum result is merely advisory in law, and the vote to leave the EU does not provide a mandate for any specific future UK relationship with the EU, what follows from that? Where does that leave the UK government, and statements such as Theresa May’s proclamation that British people have sent a ‘very clear message’ on the need to reduce migration through their vote to leave the EU?”

As a result of this uncertainty, it is suggested that Parliament should have a role in determining not just the triggering of Article 50, but also what the UK’s future relationship with the EU should look like:

“This is why it is vital that parliament maintains a handle on the process. There is no reason, for example, why EEA membership should be off the table. Neither domestic law nor politics dictates this. However, there is a danger that those negotiating the Brexit withdrawal from the UK will dictate its terms and, once Article 50 is triggered, they will have a great deal of discretion under the prerogative to do so.”

### **Dominic Grieve on why he believes Single Market access is important**

The former Attorney General Dominic Grieve, writing for [Open Europe](#) addressed why he thinks Single Market access is so vital when the UK leaves the EU:

“Deep collaboration with Europe in fields such as defence and security, tackling climate change and scientific development is essential – as was recognised by the Leave campaign during the referendum.

And we agree that our defining challenge is to develop a 21st Century model of openness and dynamism. How to achieve this is a debate the whole country now needs to have. The Prime Minister is right to take her time to formulate Government policy.

For me personally, this means retaining the benefits of Single Market membership. This is not backdoor EU membership as it would be compatible with our being outside a host of ‘common’ EU policy areas, for example agriculture, fisheries and the customs union. It would be a market-based relationship which is by common consent the most optimal for our economy.

I fear that outside the Single Market our economy will not be as open and dynamic, as recent events are starting to show.

The Japanese Government made clear that without the common trading framework the Single Market brings trade barriers will be erected between Britain and the EU – which is and will remain our largest trading partner. Non-tariff barriers in the form of

regulatory divergence would be the most damaging to the future health of our exporting businesses and could deter inward investment.

The reliance on new non-EU trade deals itself raises many questions. We can no longer believe it will be possible to negotiate deals now which will be ready to sign on the moment of departure. As Australia and the United States have made clear, this will have to wait until we have an agreed new relationship with the EU – and the better our market access in Europe the deeper those new deals will be.

We will also have to undertake the extremely complex task of gaining unanimous consent for a new WTO tariff schedule, something about which we have heard little so far.

And this all takes a degree of in-house expertise which we know Whitehall does not yet possess.”

### **Voter attitudes behind the referendum**

In a [blog for the Centre on Constitutional Change](#), Professor John Curtice examines the background to the UK’s decision to leave the EU. According to Professor Curtice the UK’s dislike of the EU was deep rooted:

“Britain had, in truth, never really taken Europe to its heart during the course of the intervening 40 years. The EU’s own Eurobarometer surveys have repeatedly found that fewer than one in ten people in the UK feel more European than they do British, while at least three in five reject the notion that they are European at all. Equally, the British Social Attitudes survey has regularly found that, when invited to choose as many national identities as they wish, typically no more than 15 per cent include ‘European’ amongst their choices. The UK’s membership of the EU has been based on self-interest rather than affect, an outlook that helped explain why that membership has long been accompanied by many an ‘opt-out’, not least in respect of both the Eurozone and Schengen, and why the EU should have the right at all to ‘impose’ laws and regulations on the UK, was always being questioned.”

Professor Curtice examines the two key issues of the campaign, the economy and immigration:

“Many voters regarded the economic impact of leaving the EU negatively. According to YouGov’s final poll of the campaign, no less than 40 per cent reckoned that Britain would be worse off economically if it left the EU, a proportion that had grown somewhat as the campaign progressed. Just 23 per cent believed the country would be better off. But at the same time, many voters felt that immigration would fall if Britain left the EU. In that same final YouGov poll, as many as 53 per cent felt that immigration would drop if we left, while hardly anyone (3 per cent) reckoned it would increase. The two central issues of the campaign were seemingly pulling voters in opposite directions.

Indeed, those who were pessimistic about the economic consequences of leaving were almost unanimous in backing Remain. YouGov’s data imply that, once the undecided are left to one side, by the end of the campaign no less than 95 per cent of those worried about the negative economic effect of Brexit were backing Remain. The perception that immigration would increase was not quite as strong a recruiting sergeant for the Leave camp, but even so, 75 per cent of those who took that view



were inclined to vote for Leave. Doubtless, some of those who thought that immigration would go up if we stayed were not concerned about the prospect, but it also seems likely that some of those who voted Remain were doing so despite their doubts about the implications for immigration. Even so, because the perception that immigration would increase was more widespread than was pessimism about the economic consequences of leaving, in practice the two sets of perceptions were more or less equally powerful recruiting sergeants for the two campaigns.”

Professor Curtice also suggested the perceived threat to British identity was another factor in the decision to leave the EU. On the demographics of the referendum, research shows the younger population and also university graduates were more likely to vote to remain (and believed the UK would be worse off economically if it left the EU) whilst those over 65 and those who didn't attend university were more likely to vote to leave the EU (and to believe immigration would drop in the UK if it left).

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