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THE IMPLICATIONS OF THE REFERENDUM FOR RELATIONS BETWEEN THE UNITED KINGDOM AND THE EUROPEAN UNION

In the June 23 referendum the British people voted in favour of the UK exiting the European Union. The decision marks the beginning of a complex transition, which will affect the dense web of interrelationships between the United Kingdom and the other EU member states.[1]

The EU treaties contain provisions designed to permit an orderly withdrawal. Article 50 of the Treaty on the European Union sets out the procedure to be followed in the event that a member state decides to withdraw. It is up to the British government to notify the European Council of the UK's intention to withdraw from the Union; negotiations can then get under way on the arrangements for the withdrawal.[2] The exit will take effect on the date of entry into force of the 'withdrawal agreement' or, failing that, two years after the notification of withdrawal (unless the European Council unanimously decides to extend this period). In any event, there will be no legal vacuum: until the procedure is complete, the UK will remain a full member of the EU with all the rights and obligations this implies.

The new economic and commercial relations between the United Kingdom and the European Union will be the subject of separate talks. What form post-Brexit trade relations between the two areas will take – an especially important question owing to the country's high degree of integration with the rest of Europe – is currently shrouded in uncertainty. Some analysts have mooted the possibility of negotiating similar agreements to those currently in force with other countries, such as (a) membership of the European Economic Area (EEA), as in the case of Norway, Iceland and Liechtenstein; (b) a bilateral agreement within the European Free Trade Association (EFTA), such as the one with Switzerland; and (c) an independent free trade agreement, such as those between the EU and Turkey, Mexico, South Korea and Canada.

These kinds of agreement, in the order in which they are listed above, involve a decreasing degree of integration in terms of access to the single market and the obligation to transpose EU laws. Moreover, the first two options would envisage contributions to the EU budget by HM Treasury, while this would not necessarily be the case under an independent free trade agreement. Without a new agreement, trade relations would be governed by WTO rules, with the application of the most favoured nation clause:[3] British exports to the Union would accordingly be subject to the EU's common external tariff and possible non-tariff barriers.

For the financial services sector, membership of the EEA would entail access to the single market for British firms through the exercise of passporting rights and the obligation to comply with European

[1] As an immediate consequence of the referendum result, the agreement concluded at the European Council of 18-19 February 2016 ceases to exist. This agreement would have bolstered the UK's special status in the EU. Its entry into force had in any event been suspended pending notification by the United Kingdom of its decision to remain a member of the European Union.

[2] The guidelines for the negotiation of the withdrawal agreement will have to be agreed on unanimously by the European Council (the UK will not take part in this decision). Based on these guidelines, the Commission will submit recommendations to the Council of the European Union (again, without the United Kingdom) which will formulate a decision on the opening of talks and the nomination of the EU's chief negotiator. The agreement with the United Kingdom will then have to be approved by the Council of the European Union with a qualified majority of 72 per cent of the remaining 27 member states, representing 65 per cent of the population; it must also approved by the European Parliament by simple majority.

[3] The most favoured nation clause prohibits any form of discrimination among trading partners in cases in which no bilateral agreement has been concluded: a State pledges to grant another country equally favourable treatment to that conceded to one or more States with which, equally, no trade agreement exists. In applying this clause (a) all the partners with which no trade agreements have been stipulated will be treated in the same way; and (b) more favourable conditions can only be granted through ad hoc agreements between States.

legislation (including, for banks, the Single Rulebook[4]) without the United Kingdom being able to contribute to its definition. If, instead, the United Kingdom were to conclude a bilateral agreement with the Union – and even more so if it failed to do so – the current system of passporting would no longer apply and limits on the activities of British financial institutions within the Union would probably be introduced.

In a joint declaration released shortly after the official announcement of the referendum result,[5] the Presidents of the European institutions stated that the EU stands ready to launch negotiations swiftly with the United Kingdom regarding the terms and conditions of its exit from the European Union; they hoped to have the UK as a close partner of EU in the future; and they emphasized how any agreement concluded with the United Kingdom as a third country will have to reflect the interests of both sides and be balanced in terms of rights and obligations. The internal political debate in the UK raised the possibility that the decision to withdraw could be notified within a few months. In an informal meeting held on 29 June, the heads of state or government of the 27 EU member states (excluding the United Kingdom) nonetheless called on the UK to act as quickly as possible, specifying that, until notification is given, no negotiations of any kind can take place.[6]

There is profound uncertainty over the potential negative impact of Brexit on economic activity in the United Kingdom, as signalled by the very different estimates that were made in the months leading up to the referendum by international organizations, government authorities and private commentators. In the short term, GDP could suffer as a result of the heightened uncertainty over the country's economic and financial prospects, greater market volatility, and expectations of a lesser degree of openness to trade and foreign investment. In the longer term, growth will be influenced to a large extent by what new economic and trade agreements are forged between the EU and the UK, by the UK's policies on immigration and by its ability to remain a competitive, efficient and innovative market.

[4] The Single Rulebook comprises the set of banking and financial regulations harmonized at European level.

[5] Statement by the EU leaders and the Netherlands Presidency on the outcome of the UK referendum, European Parliament President Martin Schulz, European Council President Donald Tusk, Dutch Prime Minister Mark Rutte in his capacity as President of the Council of the European Union, and European Commission President Jean-Claude Juncker, issued on 24 June 2016.

[6] Joint statement at the end of the informal meeting of the 27 Heads of State or Government, Brussels, 29 June 2016.