

Article 50 Treaty on European Union: The linchpin of EU-UK relations

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On 23 June 2016, the UK voted to leave the European Union (EU) in a referendum. However, beyond this headline decision, there is no clarity about how (or indeed, whether) this will happen. Here we set out the various scenarios and issues, as well as the key actors, in the process, which will be governed by Art. 50 Treaty on European Union:

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.
 2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.
 3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.
 4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.
- A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.
5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.

Scenarios

Art. 50 Notification in 2016

The UK government notifies the EU of its intention to leave in autumn 2016, following Tory leadership election and formation of new Cabinet.

Pros:

- Relatively prompt process, after summer preparations, keeping all sides within clear process
- Honours referendum result
- Gives UK mandate to negotiate

Cons:

- Less time to prepare on either side
- Risk of poor deal if speed is priority
- No space for new Prime Minister to pursue other policy priorities

Indefinite non-Notification

The UK government does not notify the EU, and tries to continue negotiations.

Pros:

- Avoids 2-yr time limit of Art.50
- Threat of notification might result in more concessions by EU27
- Gives more time to UK to pull together full alternative plan

Cons:

- EU27 has refused to hold informal negotiations outside Art.50 and will demand clarity
- Makes good-faith negotiations much harder
- Hard to justify to UK public

Attempts to reverse Referendum

Current government changes mind about leaving, seeks either 2nd referendum or Parliamentary block.

Pros:

- Reflects changing opinions, post 23 June
- Avoids a Brexit unwanted by EU27
- If 2nd referendum, underpinned by popular mandate

Cons:

- Likely to deepen public scepticism of government/Establishment, esp. if Parliamentary block, or no 2nd referendum
- Considerable loss of political capital for new PM

Long-run Reversal

Art.50 negotiations runs until next General Election; pro-membership party/ies win majority; possibly hold second referendum and win.

Pros:

- Much clearer public mandate for new government
- Avoids a Brexit unwanted by EU27
- Potential basis for new long-term UK-EU relationship

Cons:

- Very long process: hiatus for all parties
- Art.50 unclear about aborting exit process
- Unlikely scenario, given current political situation

Key Issues

Free Movement of Workers/Immigration

A central issue in the referendum, there is a clear tension between people-as-workers and people-as-immigrants.

UK:

- Strong public discontent with 'uncontrolled immigration'
- Economic incentives to keep free movement

EU:

- Single Market access requires all 4 Freedoms (people, goods, services, capital)
- Possible domestic contagion if special UK deal is agreed

Art.50/post-membership deal

Art.50 only deals with exit agreement, not the relationship afterwards. Open whether parallel or sequential negotiations on these.

UK:

- Desire to minimise transition period and degree of uncertainty
- Institutional capacity to manage multiple negotiations

EU:

- Capacity to re-use existing models of third-party relationships
- Need to consider precedents set, should other states use Art.50

Financial services

A central part of UK economic activity and a persistent bone of contention with EU27.

UK:

- Strong pressure from City to maintain full Single Market access
- Brexit might allow for further deregulation

EU:

- Opportunity to get financial services to relocate to EU27
- Brexit removes important brake to financial regulation

Preferential Trade Agreements

Common critique of EU in referendum: failure to conclude trade agreements with most dynamic parts of world economy.

UK:

- Opportunity to conclude bilateral agreements more quickly and on terms closer to UK interests
- Pathway to maintain global role

EU:

- Single Market access incompatible with UK concluding own agreements elsewhere, due to Common External Tariff
- Would UK agreements help or prejudice EU efforts?

Key Actors

UK Government

Will represent the UK in any negotiations, via central unit/ministry.

Strengths:

- Assuming Parliamentary majority, relatively coherent actor
- Backed by popular mandate to exit EU

Weaknesses:

- Lack of clear plan/strategy for Brexit
- Small Commons majority

German Government

Key member state in shaping EU27 response.

Strengths:

- Highly influential in Council negotiations
- Generally supportive of constructive outcome to Art.50

Weaknesses:

- Shadow of Oct.2017 federal elections
- Domestic pressure to contain *Alternative fuer Deutschland (AfD)* on migration and EU issues

European Council President

Central clearing point for EU27 coordination.

Strengths:

- Clear overview of wider picture for EU
- Regular contact with Heads of State/Government, so can unblock process if needed

Weaknesses:

- Lacks coercive power, so reliant on charismatic capacity
- Has to balance Art.50 negotiations with other policy priorities: Eurozone, refugees, Russia, etc.

European Parliament

Approval needed for any Art.50 agreement.

Strengths:

- Standing popular mandate
- Art.50 role requires it be involved in process

Weaknesses:

- Lacks consensus on best approach to Art.50: tensions between federalists, pragmatists and Eurosceptic elements
- Limited capacity to provide any oversight of negotiations