



## **BREXIT**

# **Legal & Economic Consequences**

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# Overview

- Legal Consequences
  - General
  - Employment Law
  - Intellectual Property
  - Consumer Law
  - Data Protection
  - Commercial Agreements
- Economic Consequences

# Legal Consequences

- General

- *Executive* able to press the exit button under Article 50 of the Lisbon Treaty?
- Two years to negotiate exit with the EU (subject to qualified majority voting) highly unlikely
- *Legislative* repeal or replacement of the European Communities Act (1972)
- Future model of relationship?
  - Norway (EFTA & EEA)
  - Switzerland (EFTA & Bilateral Agreements)
  - Canada (free trade agreement about to conclude (10 years))
  - Rest of the World (trade tariffs and comply with EU standards)

# Legal Consequences

- General
  - Continued free movement of goods, services, capital and labour?
  - Unraveling existing EU legal principles unlikely
  - Time consuming to re-negotiate and ensure compatibility
  - In any event, must comply with EU law in order to continue to trade in Europe
  - Consumer Protection, Financial Services and Product Liability unlikely to change
  - If the UK don't adopt new EU laws, it will threaten the ability to *continue* to sell goods and services in the European market
  - The UK will need to re-negotiate separate trade agreements with countries outside of the EU block (time consuming and without the bargaining power of a large block)

# Legal Consequences

- Employment Law
  - Many discrimination laws come from the EU
  - TUPE & Collective Consultation
  - Working Time Regulations (Paid Holiday)
  - Possible to unravel?
  - Swiss and Norwegians both have to comply with EU employment law

# Legal Consequences

- Immigration Law
  - Free movement of workers from members of the EEA (30 countries)
  - 2.4 million EU citizens in the UK
  - EEA model? Must accept free movement of workers
    - Unlikely that this will be acceptable for Brexit supporters
  - Bilateral arrangements with each member states?
    - Impractical to negotiate 30 separate agreements
  - Apply immigration laws to all EEA countries?
    - UK relies heavily on EU citizens for low skilled work who would not meet visa threshold requirements for non-Europeans

# Legal Consequences

- Intellectual Property
  - Trade marks and registered designs currently applied for through the EU (covering the whole EU)
  - Business will have to make two *separate* applications (if UK outside of the EU framework)
  - Patent law not harmonized so unlikely to be impacted
    - Supplementary Protection Certificate (an *extension* to a patented right)
  - Copyright laws are not harmonized so unlikely to be impacted?
    - Current plans to harmonize in the future (which could put the UK out of step?)

# Legal Consequences

- Consumer Law
  - Harmonized approach across the EU
  - Consumer Contract Regulations (2013)
    - Right to return goods bought online within 14 days
  - Consumer Rights Act (2015)
    - New rights relating to digital content and UK consumers
  - EU currently consulting on the digital market
    - UK risks being out-of-step if it does not adopt to maintain an level playing field
  - EU Trading Standards and Product Liability will likely continue



# Legal Consequences

- Data Protection
  - EU about to rewrite general data protection law
  - UK will probably have to agree to have similar legislation
  - Lighter touch to privacy may benefit businesses but may not be possible

# Legal Consequences

- Commercial Agreements
  - New agreements with EU based counterparties?
    - Shorter term or additional termination rights to long term agreements?
    - *Material adverse change* clauses if terms of leaving EU make contract no longer viable?
    - Will English law and the English courts be the most sensible choice of law and jurisdiction with counterparties in EU states?
  - Long term contracts to sell throughout the EU?
  - Renegotiation of these contracts, if the subject matter of the transaction is no longer legally or commercially viable post Brexit?

# Economic Consequences

- Indian businesses need to look at *Europe* as potentially two *separate* markets with additional costs
- Any *tariffs* on the existing free movement of goods, services and capital will impact choice of location of business
- Any *restrictions* on the free movement of labour will impact choice of location of business
- Devaluation of the GBP will impact businesses that have USD denominated costs
- Devaluation of the GBP will benefit businesses that have USD denominated revenues
- Devaluation of the GBP should benefit UK exports (though gains depend on maintaining free movement of goods and services within the EU)
- Will the EU prevent the listing of EUR denominated corporate debt on the London market and will that business move to Frankfurt?

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