



Library Note

Leaving the European Union: Future UK-EU Relationship

On 1 December 2016, the House of Lords is scheduled to debate the “best options for the United Kingdom’s future relationship with the European Union following the referendum vote to leave”.

The Prime Minister, Theresa May, has confirmed that the Government intend to pursue a bespoke agreement between the UK and EU during the forthcoming negotiation on the UK’s withdrawal from the bloc. The Prime Minister has also stated that the Government will not be providing a “running commentary” on the negotiation, despite calls from other parties for more details on the Government’s negotiating strategy. However, the Secretary of State for Exiting the European Union, David Davis, has set out the Government’s four “overarching strategic objectives” for the UK’s negotiations to leave the European Union and for the future relationship between the UK and the EU:

- Bringing back control of our laws to Parliament.
- Bringing back control of decisions over immigration to the UK.
- Maintaining the strong security cooperation we have with the EU.
- Establishing the freest possible market in goods and services with the EU and the rest of the world.

This briefing explores each of these four objectives. It identifies a number of possible options available to the Government in trying to meet them and sets out some of the issues that may arise in each area. Issues covered in the first section on law making include the role of Parliament in invoking Article 50 of the Treaty on European Union (TEU) and in repealing and reviewing domestic legislation before and after the UK’s withdrawal, the jurisdiction of the Court of Justice of the European Union following the UK’s exit, and the possible effect of the withdrawal on the devolved administrations. The second section on immigration considers whether the UK may maintain free movement of people in any future agreement with the EU and examines the potential impact of the UK’s withdrawal on both UK citizens in the EU and EU citizens in the UK. The third section on security cooperation discusses whether current security arrangements between the UK and the EU, including the Common Foreign and Security Policy, Common Security and Defence Policy and police and security cooperation, will remain following the UK’s exit. The fourth section on trade considers the UK’s future trade relationship with the EU and the rest of the world after withdrawal, including issues relating to the uncertainty raised by the forthcoming negotiation and the possible implications for different sectors of any change in the level of access to the single market following the UK’s withdrawal from the EU.

In light of the high degree of uncertainty surrounding the UK’s forthcoming negotiations to leave the EU and discussions around the future relationship between the UK and the EU, this briefing should not be interpreted as a comprehensive survey, but rather a starting point which identifies pertinent issues relevant to the subject.

Table of Contents

- I. Law Making..... 1
 - 1.1 Current Situation 1
 - 1.2 Issues 1
- 2. Immigration 7
 - 2.1 Current Situation 7
 - 2.2 Issues 8
- 3. Security Cooperation 13
 - 3.1 Current Situation 13
 - 3.2 Issues 15
- 4. Trade 21
 - 4.1 Current Situation 21
 - 4.2 Issues 23
- 5. Further Reading..... 28
- Appendix: Possible Options for the Future Trade Relationship Between the UK and the EU....29

1. Law Making

1.1 Current Situation

As the House of Commons European Scrutiny Committee has observed, the UK is a ‘dualist’ state.¹ As such, a treaty ratified by the Government does not alter UK law “unless and until it is incorporated into national law by legislation”. The Committee has noted that this is a constitutional requirement: until incorporating legislation is enacted, the national courts have no power to enforce treaty rights and obligations either on behalf of the Government or a private individual.²

As per this ‘dualist’ approach, the European Communities Act 1972 (ECA) is the legislation passed by the UK Parliament which gives legal authority for EU law to have effect as national law in the UK.³ The ECA defines the legal relationship between the two otherwise separate spheres of law, and without it EU law could not become part of national law.⁴

The ECA gives EU law supremacy over UK national law.⁵ It requires UK courts to refer judgment to the European Court of Justice (ECJ) in cases where the interpretation of EU law is in doubt. The Institute for Government has noted that “all primary legislation enacted by the UK Parliament after the [ECA] came into force on 1 January 1973 has effect subject to the requirements of EU law. This means that the courts are obliged to strike down legislation which is inconsistent with EU law”.⁶

The ECA remains in force, though the Government has stated that it intends to repeal it with a ‘Great Repeal Bill’ to be introduced in the 2017–18 session.⁷ This Bill is expected to provide for repeal of the ECA to take effect from the date of the UK’s exit from the EU.

1.2 Issues

Invoking Article 50

The Government has stated that it will pursue withdrawal from the EU “in the way agreed in law by the UK and other member states, which means following the process set out in Article 50 of the Treaty on European Union [TEU]”.⁸ Section 1 of Article 50 states that “any member state may decide to withdraw from the Union in accordance with its own

¹ House of Commons European Scrutiny Committee, [The EU Bill and Parliamentary Sovereignty](#), 7 December 2010, HC 633-I of session 2010–11, p 5. In a ‘monist’ state, such as France, a treaty obligation becomes directly applicable in domestic law simply by virtue of the act of ratification.

² House of Commons European Scrutiny Committee, [The EU Bill and Parliamentary Sovereignty](#), 7 December 2010, HC 633-I of session 2010–11, p 5.

³ Institute for Government, [Brexitee Brief: The 1972 European Communities Act](#), accessed 18 November 2016.

⁴ House of Commons European Scrutiny Committee, [The EU Bill and Parliamentary Sovereignty](#), 7 December 2010, HC 633-I of session 2010–11, p 5.

⁵ Institute for Government, [Brexitee Brief: The 1972 European Communities Act](#), accessed 18 November 2016.

⁶ *ibid.*

⁷ Department for Exiting the European Union, [Government Announces End of European Communities Act](#), 2 October 2016.

⁸ [HL Hansard, 7 November 2016, col 929](#). For further information on Article 50 see: House of Lords Constitution Committee, [The Invoking of Article 50](#), 13 September 2016, HL Paper 44 of session 2016–17.

constitutional requirements”.⁹ However, there is disagreement as to what the UK’s “constitutional requirements” are in this regard and the issue is currently before the courts.¹⁰

On 3 November 2016, the High Court of Justice ruled that the “Secretary of State does not have power under the Crown’s prerogative to give notice pursuant to Article 50 of the [TEU] for the United Kingdom to withdraw from the European Union”.¹¹ Lord Bridges of Headley, Parliamentary Under Secretary of State at the Department for Exiting the European Union, has stated that the “logical conclusion to draw from the High Court judgment is that legislation would be necessary” to invoke Article 50, although the Government was appealing and “hope that the Supreme Court will rule differently”.¹²

Permission for the Government to appeal the High Court judgment was granted by the Supreme Court on 8 November 2016, when it was also confirmed that “all eleven Justices will sit on the panel considering this appeal, which will be chaired by Lord Neuberger, President of the Supreme Court”.¹³ The case has been listed for 5 to 8 December 2016 and the Supreme Court has stated that it expects that a decision “will follow in the New Year”.¹⁴

Following the High Court judgment, the Government stated that it still intended to invoke Article 50 by the end of March.¹⁵

Repealing and Reviewing Domestic Legislation

The European Communities Act 1972 (ECA) remains in force, though the Government has stated that it intends to repeal the Act with a ‘Great Repeal Bill’ which will “end ECJ jurisdiction in the UK”.¹⁶

⁹ EUR-Lex, [Consolidated Version of the Treaty on European Union: Title VI—Final Provisions—Article 50](#), accessed 21 November 2016.

¹⁰ For information on these arguments see: House of Lords Library, [Leaving the EU: Parliament’s Role in the Process](#), 4 July 2016. The issue before the Court was whether “as a matter of UK constitutional law, the Government is entitled to give notice of a decision to leave the European Union under Article 50 by exercise of the Crown’s prerogative powers and without reference to Parliament” (High Court of Justice, [R \(Miller\) v Secretary of State for Exiting the European Union: Summary of the Judgment of the Divisional Court](#), 3 November 2016, p 1).

¹¹ [R \(Miller\) v Secretary of State for Exiting the European Union](#) [2016] EWHC 2768 (Admin).

¹² [HL Hansard, 7 November 2016, col 934](#). For a summary of responses to the High Court judgment see: House of Lords Library, [High Court Judgment on Article 50: Responses](#), 9 November 2016.

¹³ Supreme Court, [‘Article 50 \(‘Brexit’\) Case’](#), 8 November 2016.

¹⁴ Supreme Court, [‘Access to the Supreme Court Building: Article 50 \(‘Brexit’\) Case, 5–8 December 2016’](#), 16 November 2016. On 18 November 2016, the Supreme Court confirmed that permission to intervene in the case had been granted to the following parties: the Lord Advocate, Scottish Government; the Counsel General for Wales, Welsh Government; the ‘Expat Interveners’, George Birnie and Others; and the Independent Workers Union of Great Britain. In addition, the Attorney General for Northern Ireland has made a reference to the Court regarding devolution issues (Supreme Court, [R \(on the application of Miller and Dos Santos\) v Secretary of State for Exiting the European Union, 5–8 December 2016](#), 18 November 2016). For a discussion of the “difficult and delicate issues about the constitutional relationship between Government and Parliament” arising from the case see: Supreme Court, [The Supreme Court: Guardian of the Constitution? Sultan Azlan Shah Lecture 2016, Kuala Lumpur, by Lady Hale, Deputy President of the Supreme Court](#), 9 November 2016.

¹⁵ [HL Hansard, 7 November 2016, col 931](#).

¹⁶ Department for Exiting the European Union, [‘Government Announces End of European Communities Act’](#), 2 October 2016; and [HL Hansard, 7 November 2016, col 931](#).

The Prime Minister, Theresa May, provided details of the intentions behind the ‘Great Repeal Bill’ during her speech to the Conservative Party conference delivered on 2 October 2016:

This historic Bill—which will be included in the next Queen’s Speech—will mean that the 1972 Act, the legislation that gives direct effect to all EU law in Britain, will no longer apply from the date upon which we formally leave the European Union. And its effect will be clear. Our laws will be made not in Brussels but in Westminster. The judges interpreting those laws will sit not in Luxembourg but in courts in this country. The authority of EU law in Britain will end.

As we repeal the European Communities Act, we will convert the ‘acquis’ [acquis communautaire]—that is, the body of existing EU law—into British law. When the Great Repeal Bill is given royal assent, Parliament will be free—subject to international agreements and treaties with other countries and the EU on matters such as trade—to amend, repeal and improve any law it chooses. But by converting the acquis into British law, we will give businesses and workers maximum certainty as we leave the European Union. The same rules and laws will apply to them after Brexit as they did before. Any changes in the law will have to be subject to full scrutiny and proper parliamentary debate.¹⁷

The House of Lords European Union Committee has commented on a number of issues which, it said, arise from the Government’s undertaking to introduce a ‘Great Repeal Bill’. In its *Brexit: Parliamentary Scrutiny* report published on 20 October 2016, the Committee contended that directly consequential amendments to primary legislation will have to come into effect simultaneously, “including to the Acts enshrining EU law within the devolved settlements”.¹⁸

The Committee also commented on the Prime Minister’s undertaking that the ‘Great Repeal Bill’ would convert the acquis—the existing body of EU law—into UK law at the same time as repealing the ECA. The Committee assumed that there would be a saving provision, “to ensure that the many thousands of pieces of subordinate legislation made under the 1972 Act are retained, pending further review”, and gave its view that all of this subordinate legislation would need to be updated to make reference to the appropriate domestic institutions.¹⁹ The Committee concluded that it welcomed the Government’s aim of “maintaining the body of existing EU law in force, pending review”, but noted that “giving effect to this aim may be more complex than the Government has yet acknowledged”.²⁰

The Committee further commented on the Prime Minister’s referral in her conference speech to the review of the acquis that would follow withdrawal, after it had been transposed into UK law. The Committee noted evidence given by the Secretary of State for Exiting the European Union, David Davis, that the Government was, in his words, “trying to avoid” a Bill with wide-ranging ‘Henry VIII clauses’. The inclusion of such clauses, the Committee added, would have the effect of curtailing parliamentary scrutiny. It also noted that “many commentators have highlighted the complexity of the task of reviewing more than 40 years of EU law”, citing the former Treasury Solicitor Sir Paul Jenkins’ characterisation of the process as the “largest legal,

¹⁷ Conservative Party, ‘[Prime Minister: Britain after Brexit—A Vision of a Global Britain](#)’, 2 October 2016.

¹⁸ House of Lords European Union Committee, *Brexit: Parliamentary Scrutiny*, 20 October 2016, HL Paper 50 of session 2016–17, p 24. The House debated the Committee’s report on 22 November 2016: [HL Hansard, 22 November 2016, cols 1851–905](#).

¹⁹ House of Lords European Union Committee, *Brexit: Parliamentary Scrutiny*, 20 October 2016, HL Paper 50 of session 2016–17, p 24.

²⁰ *ibid*, p 25.

legislative and bureaucratic project in British history except for a world war”.²¹ The Committee concluded that the Government “has yet to set out its strategy for conducting a full review of EU law post-withdrawal”. Given the likely scale of the task, the Committee concluded:

While we welcome the Prime Minister’s commitment to full parliamentary scrutiny, we note that the legislation resulting from the review will have a profound impact upon Parliament, potentially dominating the domestic legislative agenda for an extended period. We therefore recommend that the Government publish an outline strategy for the post-withdrawal review of EU law as soon as possible, in order to inform consideration by the two Houses of how to deliver an appropriate and manageable level of parliamentary scrutiny.²²

It is currently unclear whether domestic law will continue to be updated in line with any changes made by the EU following the transposition of EU law into UK law.²³

Jurisdiction of the Court of Justice of the European Union

It is unclear whether UK courts will continue to rely on the jurisprudence of the Court of Justice of the European Union when interpreting EU law after it has been transposed into UK law.²⁴

The House of Lords European Union Committee commented on this issue in its report *Brexit: Parliamentary Scrutiny*, published on 20 October 2016. In the report, the Committee stated that the Prime Minister’s commitment to convert the *acquis* into domestic law “will raise still more complex issues, when it comes to giving effect in domestic law both to obligations currently arising from directly applicable EU law, and to judgments of the Court of Justice of the European Union interpreting that law”.²⁵

A report by the UK in a Changing Europe Initiative, an Economic and Social Research Council-funded non-partisan research centre, for the Political Studies Association, has also commented on this issue. The report stated that the ‘Great Repeal Bill’ would:

[...] have to say something about the fate of decisions of the European Court of Justice (ECJ) in Luxembourg. Given the arguments about ‘control’ that dominated the referendum campaign, there will be strong opposition to the ECJ continuing to have a long term role of direct influence on UK jurisprudence. However, given the extent of the task of unpicking existing EU-influenced law, the UK courts are likely to continue to have regard to the rulings of the ECJ, as its decisions have influenced many areas of English case law. So for an interim period interpretation of EU law will play some role in English jurisprudence.²⁶

²¹ House of Lords European Union Committee, [Brexit: Parliamentary Scrutiny](#), 20 October 2016, HL Paper 50 of session 2016–17, p 25.

²² *ibid*, pp 25–6.

²³ House of Commons Library, [Brexit: Some Legal, Constitutional and Financial Unknowns](#), 9 November 2016, p 7. The House of Commons Library has published an extensive briefing on the subject: [Legislating for Brexit: The Great Repeal Bill](#), 21 November 2016.

²⁴ House of Commons Library, [Brexit: Some Legal, Constitutional and Financial Unknowns](#), 9 November 2016, p 7.

²⁵ House of Lords European Union Committee, [Brexit: Parliamentary Scrutiny](#), 20 October 2016, HL Paper 50 of session 2016–17, p 24.

²⁶ UK in a Changing Europe Initiative, [Brexit and Beyond: How the United Kingdom Might Leave the European Union](#), November 2016, p 13.

The report posited that any new deal between the UK and the EU would require a position on the extent to which the UK continued to apply the EU's rules and regulations, including all primary and secondary legal instruments and case law of the Court of Justice.²⁷

The report outlined four basic options that the UK and EU could take with respect to “any given block of *acquis* during their negotiations”. These were set out as follows:

- **Full and On-Going Legal Compliance**
As a member state, the UK is obliged to implement and enforce EU legislation and decisions. Outside the EU, it might be decided that it continues to do this, committing within the final agreement on the new relationship to continue implementing certain areas of the EU's work. This would imply that Parliament would continue to transpose relevant EU legislation into domestic law, and that British courts would continue to ensure that UK citizens could rely on relevant provisions in any cases they might bring [...]
- **Effective, but Non-Legal Compliance**
Rather than making a full commitment to ongoing implementation, the UK could instead make an informal statement to the effect that it chooses freely to adapt its legislation in line with the changing EU system. Again this would require Parliament to make the necessary legal changes, but courts would only be bound by domestic law, rather than any international instrument [...]
- **Parallel Compliance**
Several areas of EU activity do, in effect, insert another layer of governance between the national and international. In fields such as public health, the EU is little more than a conduit for World Health Organisation (WHO) decisions, for example. While the UK might be leaving the former, it is not planning to leave the latter, so any commitment to WHO rules would, in effect, mean compliance with EU rules, since these are the same [...]
- **Explicit Non-Compliance**
Finally, the UK might decide to take itself out of a set of the *acquis* and introduce its own rules and regulations. As a sovereign state, it would be well within its rights so to do, assuming it met its other international obligations, and there is no a priori need for the UK to accept any particular area of the *acquis* once it leaves.²⁸

Richard Gordon QC has written on the legal status of EU law following the UK's withdrawal from the EU and the common law implications of withdrawal.²⁹ In an article published in the October 2016 issue of *Butterworth's Journal of International Banking and Financial Law*, Mr Gordon made the following key points:

Post-Brexit, there will no longer be a CJEU [Court of Justice of the European Union] to defer to or whose rulings continue to bind domestic courts.

²⁷ UK in a Changing Europe Initiative, [Brexit and Beyond: How the United Kingdom Might Leave the European Union](#), November 2016, p 14.

²⁸ *ibid*, pp 14–15.

²⁹ Richard Gordon QC, [‘The UK Courts After Brexit’](#), *Butterworth's Journal of International Banking and Financial Law*, October 2016, pp 511–13.

- Unless Parliament were to prescribe for a doctrine of direct effect/applicability in relation to the ‘EU law’ that it preserved after Brexit a court would have to imply such a doctrine into its canons of interpretation alongside all the other general principles of EU law that render it distinct from domestic law.
- The only way in which true EU law might be given effect to by the courts despite ostensibly contrary domestic law provision is if future domestic rulings were to hold that the common law itself had developed since our accession to the EU.³⁰

The House of Lords European Union Committee also touched on this issue. The Committee noted that the domestic courts would “face the challenge of interpreting subordinate legislation that originally implemented EU directives, once those directives have ceased to apply in the UK”.³¹

On 21 November 2016, it was reported that Koen Lenaerts, President of the Court of Justice of the European Union, had stated that there were “many, many ways” the UK’s departure from the EU could end up before the European Court of Justice, although he declined to comment on the specifics at this stage.³²

Devolved Administrations

The UK in a Changing Europe Initiative also identified an issue regarding law making and devolution in the context of the UK’s withdrawal from the European Union:

There is a particularly acute devolution dimension to the return of legal powers to the UK from the EU. If nothing else is done, a range of competences currently shared between the devolved legislatures and the EU will revert to the former, unless Westminster legislates to take them back to itself. These include agriculture, some of fisheries, environment and higher education and research. Any effort to bring them back to Westminster would meet strong political objections. If they are left to the devolved administrations, there would be a need for coordination mechanisms within the UK and provisions to maintain the single UK market.³³

The Initiative also stated that the UK’s withdrawal from the EU “may lead to a recentralisation as the UK reconstitutes itself as a sovereign polity”, or to “further decentralisation with the devolution of EU competencies”. In either case, the authors asserted that the “process will be difficult and controversial”.³⁴

Former Prime Minister Gordon Brown has called for a constitutional convention to “consider the repatriation of powers from Brussels not to Whitehall or Westminster but to the regions

³⁰ Richard Gordon QC, ‘[The UK Courts After Brexit](#)’, *Butterworths Journal of International Banking and Financial Law*, October 2016, p 511. For further information see: Richard Gordon QC and Rowena Moffatt, [Brexit: The Immediate Legal Consequences](#), May 2016.

³¹ House of Lords European Union Committee, [Brexit: Parliamentary Scrutiny](#), 20 October 2016, HL Paper 50 of session 2016–17, p 24.

³² Duncan Robinson and Alex Barker, “Many Ways’ Brexit May Go to EU Courts, Top ECJ Judge Says’, *Financial Times*, 21 November 2016.

³³ UK in a Changing Europe Initiative, [Brexit and Beyond: How the United Kingdom Might Leave the European Union](#), November 2016, p 13.

³⁴ *ibid*, p 22.

and nations of the United Kingdom”.³⁵ Mr Brown added: “Specifically, we should devolve powers over regional policy, agriculture, fisheries and social funds to the Scottish Parliament, the Welsh and Northern Irish Assemblies, the new City Mayors and local authorities”. A constitutional convention was proposed as an idea following the outcome of the Scottish referendum on independence in 2014. The House of Lords Library briefing *Constitutional Conventions: Possible Options in the New Parliament* discusses possible forms a constitutional convention can take.³⁶

2. Immigration

2.1 Current Situation

The Treaty of Maastricht first introduced the prospect that EU citizenship could be enjoyed automatically by every national of a member state. In 2007, the Lisbon Treaty confirmed the right of free movement in EU member states under its general provisions on Freedom, Security and Justice. Presently, provisions governing the free movement of people are laid down in Directive 2004/38/EC concerning the right of EU citizens to move and reside freely in member states. This includes: spouses or registered partners; direct descendants under the age of 21 or dependants of the spouse or registered partners; dependent direct relatives in the ascending line; and those of the spouse or registered partner.³⁷

Currently, rights and obligations vary depending on the length of stay. For stays under three months, EU citizens are required to possess a valid passport or identification document. For stays over three months, EU citizens and their family (if unemployed) must have sufficient resources and sickness insurance to ensure that they are not “a burden” on the state. For EU citizens seeking permanent residency in another member state, they must have a five-year period of uninterrupted legal residence, on the provision that an expulsion decision has not been enforced against them.³⁸

According to the latest net migration statistics for the year ending March 2016, net migration to the UK was 327,000. Of that figure, 268,000 EU citizens immigrated to the UK, whilst 89,000 emigrated from the UK, resulting in an EU net migration total of 179,000.³⁹ In contrast, the latest statistics reveal that 282,000 non-EU citizens immigrated to the UK, whilst 92,000 non-EU citizens emigrated, resulting in a non-EU net migration total of 190,000.⁴⁰ In addition, the international passenger survey projects that approximately 469,000 British citizens have immigrated to the EU countries in the period 2005–14.⁴¹

³⁵ Office of Gordon and Sarah Brown, [‘Gordon Brown Proposes UK People’s Constitutional Convention’](#), 3 November 2016.

³⁶ House of Lords Library, [‘Constitutional Conventions: Possible Options in the New Parliament’](#), 20 March 2015.

³⁷ European Parliament, [‘Free Movement of Persons’](#), accessed 18 November 2016.

³⁸ *ibid.*

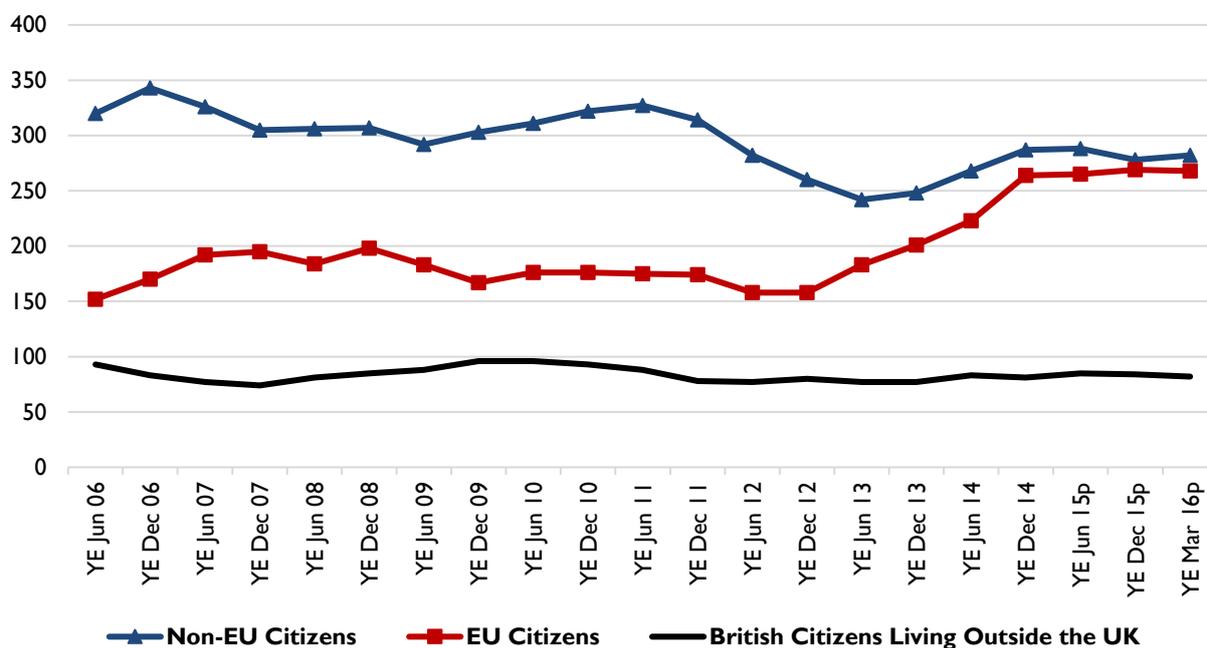
³⁹ Office for National Statistics, [‘Migration Statistics Quarterly Report: August 2016’](#), 25 August 2016.

⁴⁰ *ibid.*

⁴¹ Office for National Statistics, [‘Long-Term International Migration. Inflow of EU Citizens to the UK and Outflow of British Citizens to the EU: 2005 to 2014’](#), 26 May 2016. It should be noted that migration statistics are based on international passenger survey data and as a result are contested by some, with other sources giving different estimates of EU nations in the UK.

Figure I below sets out immigration to the UK by citizenship between 2006 to the year ending March 2016.

Figure I: Immigration to the UK by Citizenship (Thousands)



Source: Office for National Statistics, [‘Migration Statistics Quarterly Report: August 2016’](#), 25 August 2016

Further, the organisation Full Fact report that there were approximately 1.2 million UK-born residents in the EU in 2015. It also notes that there were approximately 3 million EU-born residents in the UK in 2014.⁴²

2.2 Issues

The result of the referendum on the UK’s membership has a number of potential implications, particularly on immigration to and from the UK. This includes whether the UK will maintain free movement of people in any future agreement with the EU. Other possible implications are dependent on the model that the UK adopts on leaving the EU. This section will examine the potential impact of the UK leaving the EU on UK citizens in the EU and EU citizens in the UK.

At present, the UK remains an EU member state and therefore continues to exercise the free movement of people, although this is set to be one of the key issues for the Government to resolve during negotiations for the UK’s withdrawal of the EU. On 11 July 2016, a Cabinet Office press release outlined the Government’s initial position on people that have already moved, stating:

When we do leave the EU, we fully expect that the legal status of EU nationals living in the UK, and that of UK nationals in EU member states, will be properly protected. The Government recognises and values the important contribution made by EU and other non-UK citizens who work, study and live in the UK.⁴³

⁴² Full Fact, [‘Brits Abroad: How Many People from the UK Live In Other EU Countries?’](#), updated 29 March 2016.

⁴³ Cabinet Office, [‘Statement: The Status of EU Nationals in the UK’](#), 11 July 2016.

In relation to the ongoing free movement of people, the then Prime Minister, David Cameron, addressed the issue following the decision to vote to leave the UK. In a statement, he said:

I would also reassure Brits living in European countries, and European citizens living here, that there will be no immediate changes in your circumstances. There will be no initial change in the way our people can travel, in the way our goods can move or the way our services can be sold.⁴⁴

On 12 October 2016, the Secretary of State for Exiting the European Union, David Davis, told the House of Commons that the decision to leave the EU meant the Government would:

Decide on our borders, our laws and the taxpayer's money. It means getting the best deal for Britain: one that is unique to Britain and not an off-the-shelf solution. This must mean controls on the numbers of people who come to Britain from Europe [...] We can create an immigration system that allows us to control numbers and encourage the brightest and best to come to this country.⁴⁵

Norwegian Model

Prior to the referendum, the Government published a report outlining alternative models to EU membership.⁴⁶ This includes the Norway model, which has membership of the European Economic Area (EEA) and has chosen to be part of the Schengen Area. As a result, the country remains outside the EU but accepts the free movement of people.⁴⁷ This means that Norway applies policies agreed between Schengen countries on visas and external border control, with Norway and other member states in the Schengen area having no internal passport controls between them.⁴⁸

The Leader of the Opposition, Jeremy Corbyn, has previously indicated that he would like to see the UK adopting a similar model to that of Norway. In a speech at Bloomberg in September 2016, Mr Corbyn stated that his party were:

Looking very closely at the Norwegian model [...] not using their model, it's learning the lessons from Norway. Maybe we can learn a lot from Norway.⁴⁹

Mark Stanford, a Teaching Fellow at King's College London, has argued that the Norway model was the UK's "best hope for maintaining a United Kingdom", with continued free movement of people ensuring that the Common Travel Area (CTA) could continue to exist without border checkpoints.⁵⁰ The CTA is an open borders travel zone between Ireland and the United Kingdom—including the Channel Islands and the Isle of Man—and has been in operation since the 1920s.⁵¹ Mr Stanford also warned that now that the UK has voted to leave the EU, the

⁴⁴ Prime Minister's Office, '[EU Referendum Outcome: PM Statement](#)', 24 June 2016.

⁴⁵ [HC Hansard, 5 September 2016, cols 38–40](#).

⁴⁶ HM Government, '[Alternatives to Membership: Possible Models for the United Kingdom Outside the European Union](#)', March 2016.

⁴⁷ *ibid.*

⁴⁸ For more information see: House of Lords Library, '[Schengen Agreement: A Short History](#)', 7 March 2016.

⁴⁹ Bloomberg Markets, '[UK Labour's Corbyn Looks to Norway for Lessons on Brexit](#)', 15 September 2016.

⁵⁰ Mark Stanford, '[After Brexit, Only One Thing Can Keep Britain Together: The Norway Model](#)', *Telegraph*, 27 June 2016.

⁵¹ For more information see: House of Lords Library, '[Leaving the European Union: The UK and Ireland](#)', 17 November 2016.

Government had the “chance to articulate a new vision for Britain’s role in the world”, however, “the EEA must be central to this vision”.⁵²

Bilateral Agreements: Swiss Model

Another model that the UK could potentially adopt is the Swiss model, which has a relationship with the EU based on a series of bilateral agreements. Unlike Norway, the Swiss electorate voted against EEA membership, resulting in the country having no access to the single market. However, Switzerland does have similar arrangements to Norway on border control and chose to join the Schengen Area in 2008. Despite the agreement between Switzerland and the EU, the UK Government noted in March 2016 that both parties are “currently in dispute over the terms of their relationship”, in particular, over the issue of migration.⁵³ This is due to the Swiss electorate voting for the introduction of quotas on immigration in a nationwide referendum in 2014, something the EU contended was “a breach of the EU-Switzerland bilateral agreements, which contain a requirement for free movement of people”.⁵⁴ As a result of the perceived breach, the EU reduced Switzerland’s access to EU educational programmes and research funding, and should it introduce migration quotas, could remove Switzerland’s access to the EU single market.

Writing before the referendum, Dr Sabine Jenni, an Associate Researcher at the Swiss Federal Institute of Technology in Zurich, said the Swiss model was “not a solution the UK can adopt off the shelf if it votes to leave the EU”.⁵⁵ She contended that as a result of ad-hoc negotiations that shaped the Swiss model, it took Switzerland six years to negotiate the first package of sectoral agreements after the Swiss electorate had rejected the agreement on the EEA in 1992. Dr Jenni also stated that were the UK to adopt the Swiss model, it would need to accept EU package deals as part of the European integration process.⁵⁶

EEA Minus Model

Another potential model is the EEA minus option, discussed by Jonathan Portes, an Associate Fellow at the National Institute of Economic and Social Research. The concept of the EEA minus model is that the UK joins the EEA, whilst retaining some control over immigration. Under the model, there would be limits to the number of EEA nationals who could legally work in the UK. However, according to Mr Portes, the model would be difficult to implement. He has said that it was “likely that EEA nationals who have already exercised free movement rights will retain those in perpetuity”, meaning that there were “(conservatively) at least 1.5 million EEA nationals not currently resident in the UK who already have some connection with the UK labour market and who could therefore in future migrate to the UK without being subject to any quota”.⁵⁷

⁵² Mark Stanford, ‘[After Brexit, Only One Thing Can Keep Britain Together: The Norway Model](#)’, *Telegraph*, 27 June 2016.

⁵³ HM Government, [Alternatives to Membership: Possible Models for the United Kingdom Outside the European Union](#), March 2016.

⁵⁴ *ibid.*

⁵⁵ Dr Sabine Jenni, ‘[Is the Swiss Model a Brexit Solution?](#)’, UK in a Changing Europe, 23 March 2016.

⁵⁶ *ibid.*

⁵⁷ Jonathan Portes, ‘The ‘EEA Minus’ Option: Amending Not Ending Free Movement’, National Institute of Economic and Social Research, 3 July 2016.

Prospects for a Bespoke Model

The Prime Minister, Theresa May, has dismissed the notion of following similar models to that of Norway and Switzerland. On 2 October 2016, she told delegates at the Conservative Party conference that:

The process we are about to begin is not about negotiating all of our sovereignty away again. It is not going to be about any of those matters over which the country has just voted to regain control. It is not, therefore, a negotiation to establish a relationship anything like the one we have had for the last forty years or more. So it is not going to be a “Norway model”. It’s not going to be a “Switzerland model”. It is going to be an agreement between an independent, sovereign United Kingdom and the European Union.⁵⁸

Mrs May also said that she knew some people had asked “about the ‘trade-off’ between controlling immigration and trading with Europe”. In response, she stated: “we will do what independent, sovereign countries do. We will decide for ourselves how we control immigration. And we will be free to pass our own laws”.⁵⁹

However, German Chancellor, Angela Merkel, has previously stated that the EU would not divide its four freedoms in order to allow Britain to possibly restrict immigration and retain access to the single market. In a speech to the German employers’ association, the Bundesvereinigung der Deutschen Arbeitgeberverbände (BDA), Mrs Merkel said:

Were we to make an exception for the free movement of people with Britain, this would mean we would endanger principles of the whole internal market in the European Union, because everyone else will then want these exceptions.⁶⁰

On 17 October 2016, Spain’s Minister of Foreign Affairs and Cooperation, Jose Manuel Garcia-Margallo, told EU foreign ministers at a meeting in Luxembourg that he thought the UK’s withdrawal agreement with the EU would most likely resemble the one between the EU and Canada, known as the Comprehensive Economic and Trade Agreement. He stated:

Forget the Norwegian model, forget the Swiss model because of the condition for the freedom of movement of people, and forget a Turkish-style customs union [...] If the British insist on having the option to restrain the free movement of European workers to the United Kingdom, the only solution is the Canadian one.⁶¹

On 25 October 2016, the Chancellor of the Exchequer, Philip Hammond, answered an oral question in the House of Commons regarding financial services based in the UK and their requirement to access the single market and employ EU workers. He suggested that highly-skilled financial workers may not be subject to any future EU migration controls, stating:

I have certainly sought to reassure financial services businesses that we will put their needs at the heart of our negotiation with the European Union. We understand their need for market access. We also understand their need to be able to engage the right

⁵⁸ Conservative Party, [‘Prime Minister: Britain after Brexit: A Vision of a Global Britain’](#), 2 October 2016.

⁵⁹ *ibid.*

⁶⁰ Jon Henley, [‘Is Angela Merkel Willing to Compromise on Free Movement?’](#), *Guardian*, 15 November 2016.

⁶¹ Alexandra Sims, [‘Brexit Deal Will Most Closely Resemble CETA Agreement with Canada, Spain Says’](#), *Independent*, 17 October 2016.

skilled people [...] I see no likelihood of our using powers to control migration into the UK to prevent companies from bringing highly skilled, highly paid workers here.⁶²

Potential Impact on UK Citizens in the EU and EU Citizens in the UK

On 10 October 2016, David Davis, Secretary of State for Exiting the European Union, made a statement to the House of Commons regarding the next steps for leaving the EU. In response to a question regarding the potential impact on UK citizens in the EU and EU citizens in the UK, Mr Davis stated that:

In terms of European migrants here [in the UK], the intention of the Government is to do everything possible to underwrite and guarantee their position, at the same time as we underwrite the similar position of British migrants abroad. That is what we intend to do.⁶³

Later that day, Mr Davis' view was echoed by the Prime Minister who said that she expected to guarantee the rights of EU citizens already living in the UK. Following a meeting in Copenhagen with the Danish Prime Minister, Lars-Lokke Rasmussen, Mrs May told the press that:

I expect to be able to guarantee the legal rights of EU nationals already in the UK so long as the British nationals living in Europe receive—in the countries who are member states of the EU—the same treatment.⁶⁴

However, Sionaidh Douglas-Scott, Professor of Law at Queen Mary University of London, has said that if the UK's future relationship with the EU was not based on an EEA model, there would be "real concern about the acquired rights of EU citizens in the UK".⁶⁵ She argued that she was "not sure" that there would "be a sufficient majority in Parliament to legislate and protect the rights of all EU citizens who were lawfully present in the UK on June 23".⁶⁶

Prior to the referendum, the Migration Observatory reported that by early 2015, approximately 39 percent of citizens of EEA countries who had been living in the UK had remained in the country for ten years or more, with a further 32 percent having lived in the UK for five to nine years. As a result, a majority had been in the UK for long enough to qualify for permanent residency. However, it noted that "there remains some uncertainty" regarding how "the status of EU citizens who have been living in the UK for less than five years would be determined".⁶⁷ The Migration Observatory also stated that these questions could be clarified as part of the agreement between the UK and EU.

⁶² [HC Hansard, 25 October 2016, cols 132–4.](#)

⁶³ [HC Hansard, 10 October 2016, cols 40–69.](#)

⁶⁴ Stephen Addison, '[May says Expects to Guarantee Rights of EU Citizens in UK after Brexit](#)', Reuters, 10 October 2016.

⁶⁵ Agnes Frimston, '[Sionaidh Douglas-Scott, European Law Expert](#)', *The World Today*, August 2016.

⁶⁶ *ibid.*

⁶⁷ Migration Observatory, '[What Would UK Immigration Policy Look Like After Brexit?](#)', 9 June 2016.

3. Security Cooperation

3.1 Current Situation

Common Foreign and Security Policy

On 7 February 1992, the Maastricht Treaty was signed and established a European Union comprising three pillars: the European Communities; Common Foreign and Security Policy (CFSP); and police and judicial cooperation in criminal matters.⁶⁸ The CFSP would provide a basis for the first time for both intergovernmental cooperation and common action among the European Union's member states "on a range of foreign and security policy issues".⁶⁹ According to Article 21 of the Treaty on European Union, the objectives of the EU's foreign and security policy include safeguarding the common values, fundamental interests and independence of the Union, preserving peace and strengthening international security, in accordance with the principles of the United Nations Charter as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter.⁷⁰

Although the Lisbon Treaty, which came into effect in 2009, abolished the EU's pillar structure, Title V of the Treaty on European Union sets out the provisions on a Common Foreign and Security Policy.⁷¹ The Lisbon Treaty also strengthened the CFSP with the creation of both the EU High Representative for Foreign Affairs and Security Policy and the European External Action Service (EEAS).

An individual is appointed to the role of EU High Representative for Foreign Affairs and Security Policy through a qualified majority vote by heads of state and government in the European Council. In addition to becoming the Vice President of the European Commission, the role of the EU High Representative for Foreign Affairs and Security Policy is wide-ranging and includes overseeing foreign and security policy on behalf of the EU, representing the EU at international meetings, such as the United Nations, and heading the EEAS.⁷² The EEAS is the EU's diplomatic service and aims to "make sure the voice of the European Union and its people are heard in the world".⁷³ This involves running 139 EU delegations and offices around the world, with their main role to "represent the EU in the country where they are based and to promote the values and interests of the EU".⁷⁴

Another aspect of the CFSP is the Common Security and Defence Policy (CSDP). In general, under both the CFSP and CSDP, decision-making is made by unanimity in the European Council, which comprises of member states' government ministers.

Common Security and Defence Policy

The CSDP is part of the EU's CFSP, covering its military operations and civilian missions. Framed by the Treaty on European Union, the CSDP provides the EU with the policy framework for a number of permanent political and military structures and for operations

⁶⁸ EUR-Lex, '[Treaty of Maastricht on European Union](#)', accessed 18 November 2016.

⁶⁹ HM Government, '[Review of the Balance of Competences between the United Kingdom and the European Union: Foreign Policy](#)', 22 July 2013, p 5.

⁷⁰ Official Journal of the European Union, '[Information and Notices](#)', 7 June 2016.

⁷¹ House of Lords Library, '[Leaving the European Union: Foreign and Security Policy Cooperation](#)', 13 October 2016.

⁷² European Union External Action Service, '[High Representative/Vice President](#)', accessed 18 November 2016.

⁷³ European Union External Action Service, '[What We Do](#)', accessed 18 November 2016.

⁷⁴ *ibid.*

abroad. This includes the “capacity to draw on member states’ civilian and military assets” for peacekeeping, conflict prevention and strengthening international security.⁷⁵ In relation to operations and missions under CSDP, Article 43(1) of the Treaty on European Union states that the Union may use civilian and military means for joint disarmament operations, humanitarian and rescue tasks and peacekeeping tasks, amongst other tasks.⁷⁶

As of May 2016, the EU has six military operations/missions and eleven civilian missions taking place across Africa, Asia and Europe, as part of its CSDP. This includes missions in Afghanistan, Central African Republic and Ukraine.⁷⁷ As of June 2016, the UK had approximately 120 service personnel deployed on five EU missions, principally on Operation SOPHIA, where HMS Enterprise is employed in the Mediterranean.⁷⁸

Police and Security Cooperation

In addition to both the Common Foreign and Security Policy and the Common Security and Defence Policy, the UK and EU also cooperate on justice and home affairs, particularly in relation to cross-border crimes and terrorism. To do so, the EU provides member states with a number of tools to exchange information and streamline extradition arrangements. In its background note on the *UK’s Cooperation with the EU on Justice and Home Affairs, and on Foreign Policy and Security Issues*, published prior to the referendum, the Government noted that it cooperated with the EU on a number of measures:

- The **European Arrest Warrant (EAW)**: a legal framework that “facilitates the extradition of individuals between EU Member states”, who are facing prosecution for a crime they are accused of committing, or to serve a prison sentence for an existing conviction.⁷⁹ According to government figures, prior to 2004, an average of 60 individuals a year were extradited from the UK. In contrast, since 2004, the UK has extradited over 7,000 individuals accused or convicted of a criminal offence to other member states. The Government also reported that over the same period, the EAW had been used to extradite over 1,000 individuals to the UK to face justice.⁸⁰
- **Europol**: an EU agency that supports law enforcement. Europol aids UK law enforcement authorities by supporting their investigations, processing data and accessing law enforcement intelligence from the other 27 Member states. The Government reported that as of January 2016, the Europol Information System—which pools information on criminals and terrorists from across the EU—contained data on 86,629 suspected or convicted criminals from across the EU. They also noted that the UK uses Europol “almost more than any other country”, whilst UK law enforcement’s use of the agency has “increased over

⁷⁵ HM Government, [Review of the Balance of Competencies between the United Kingdom and the European Union: Foreign Policy](#), 22 July 2013, p 20.

⁷⁶ EUR-Lex, [‘Consolidated Version of the Treaty on European Union’](#), accessed 18 November 2016.

⁷⁷ European Union External Action Service, [‘Military and Civilian Missions and Operations’](#), 3 May 2016.

⁷⁸ House of Commons, [‘Written Question: Armed Forces: Deployment’](#), 6 June 2016, 38800.

⁷⁹ HM Government, [The UK’s Cooperation with the EU on Justice and Home Affairs, and on Foreign Policy and Security Issues](#), 9 May 2016, p 2.

⁸⁰ *ibid*, p 3.

time”, exchanging 26 percent more messages on Europol’s Secure Information Exchange Network Application in 2015 than in 2014.⁸¹

- Another information system that the UK uses in combatting cross-border crime is **Passenger Name Records (PNR)**. The PNR system contains information collated by the carrier as part of a travel booking process and details for whom and how the booking was made, contact details and travel itinerary. In April 2016, the EU adopted legislation on flights to and from Europe, which the Government argued will help all member states identify “terrorist patterns of travel to and from conflict zones”, such as Syria.⁸²
- **Prüm**: a mechanism that allows members states to search DNA and fingerprint profiles against other member states’ DNA and fingerprint databases on a “hit/no hit basis”.⁸³ In December 2015, Parliament voted to re-join Prüm’s legal framework on the recommendation of the Government, in relation to both fingerprint and DNA exchange, in addition to vehicle registration data. Before the recommendation, the Government conducted a pilot, exchanging DNA profiles with four other member states. This resulted in the UK obtaining 118 matches from approximately 2,500 DNA profiles, covering offences such as burglary and sexual assault.
- Since April 2015, the UK has also connected to the **Second Generation Schengen Information System (SIS II)**, which is a database providing ‘real-time’ alerts about individuals and objects of interest to EU law enforcement agencies. It contains information on 35,000 people wanted on an EAW, as well as alerts on suspected foreign fighters and missing people. Between 1 April 2015 and 31 March 2016, the Government note that 6,400 foreign alerts received hits in the UK, whilst over 6,600 alerts issued by law enforcement officials in the UK received hits in Europe.⁸⁴

3.2 Issues

Following the outcome of the UK referendum, there has been increased speculation as to the implications that leaving the EU could have on the UK’s security relationship with the EU. For some this includes an impact on the UK’s ability in future to use a number of EU security tools. In contrast, others have suggested that there will be little impact on the future workings of the UK and EU on security and as in the case of European Arrest Warrant, the UK would attempt to negotiate a deal which involved keeping many of the existing aforementioned EU security measures. There are also possibilities that the UK leaving the EU will impact the EU’s relationship with NATO and could lead to the potential establishment of a joint military force in the EU. This section examines some of these perspectives.

⁸¹ HM Government, [The UK’s Cooperation with the EU on Justice and Home Affairs, and on Foreign Policy and Security Issues](#), 9 May 2016, p 4.

⁸² *ibid*, p 5.

⁸³ *ibid*.

⁸⁴ *ibid*, p 6.

Future of the CFSP and CSDP

On July 2016, the Secretary of State for Defence, Sir Michael Fallon, told the House of Commons Defence Committee that there was “no reason” why the UK voting to leaving the EU:

[...] should inhibit our cooperation bilaterally with our key allies in Europe—the northern group, the EU members that are members of the Joint Expeditionary Force, or the key alliances with France and Germany. There is no reason why it should inhibit future cooperation with missions that are in our direct interest.⁸⁵

This view was echoed by the Foreign Secretary, Boris Johnson, who told delegates at the Conservative Party conference that the Government would “remain committed to all kinds of European cooperation—at an intergovernmental level”, for example, sanctions against Russia for the situation in Ukraine or sending the navy to help deal with the migrant crisis in the Mediterranean Sea.⁸⁶ However, in evidence to the Defence Committee, Sir Michael Fallon stated that he was not going to “speculate now on whether we [the UK] are going to join particular CSDP missions”.⁸⁷

As a result, some commentators have raised the prospect of the UK adopting similar models to those of Norway and Switzerland, who are not members of the EU but cooperate with the EU on security. Under the Norway model, as a result of the country’s decision not to join the EU, it does not decide EU international and security policy. However, it can align its position with that of EU member states and as a result, can participate in sanctions against countries outside of the EU, such as Iran and Russia. In March 2016, the Government noted that Norway has participated voluntarily in more than 90 percent of EU sanctions, in addition to sending military personnel on EU defence missions.⁸⁸

Similar to Norway, Switzerland has no influence in determining EU international and security policy. It has also aligned itself with positions taken by the EU, including sanctions and has sent personnel to EU civilian and military missions.⁸⁹ According to the think tank the Centre for European Reform (CER), as a non-member, the UK would still have the opportunity to second personnel to EU CSDP missions, as many other non-member states such as Norway and Switzerland do.⁹⁰ In order to do so, the UK would need to sign a framework participation agreement with the EU, which would still ensure that the EU retained decision-making autonomy. This, the CER stated, would reduce the UK’s ability to influence missions at the planning stage.⁹¹ Ian Bond, Director of Foreign Policy and Defence at the CER, has observed that “as countries like Norway or Canada could testify, even third countries with very similar values and perspectives to those of EU members have to work very hard to have any impact on EU policy”.⁹² In this scenario, the Foreign Secretary would no longer attend meetings at the Foreign Affairs Council after the UK withdrew from the EU. Hylke Dijkstra, Professor of

⁸⁵ House of Commons Defence Committee, [Oral Evidence: Warsaw, NATO Summit and Chilcot Report](#), 19 July 2016, HC 579 of session 2016–17, Q 23.

⁸⁶ Conservative Party, [‘Johnson: How British Values Help to Make the World Richer and Safer’](#), 2 October 2016.

⁸⁷ House of Commons Defence Committee, [Oral Evidence: Warsaw, NATO Summit and Chilcot Report](#), 19 July 2016, HC 579 of session 2016–17, Q 22.

⁸⁸ HM Government, [Alternatives to Membership: Possible Models for the United Kingdom Outside the European Union](#), 2 March 2016, p 18.

⁸⁹ *ibid*, p 27.

⁹⁰ Centre for European Reform, [Europe After Brexit: Unleashed or Undone?](#), April 2016.

⁹¹ *ibid*.

⁹² Ian Bond, [‘Brexit and Foreign Policy: Divorce?’](#), Centre for European Reform, 18 July 2016.

Political Science at Maastricht University, noted that “it would be strange if the UK, as a major diplomatic actor, were meekly to align itself post hoc with EU positions that had been debated and agreed in its absence”.⁹³ As a result, Dr Dijkstra called on the EU to discuss the “opening up” of the EU Foreign Affairs Council so that non-member states would have the opportunity to discuss foreign policy with representatives of the EU.⁹⁴

Establishment of a Common EU Military Force

A number of commentators have suggested that the UK’s departure from the EU could raise the possibility of the EU creating a common military force and permanent operational headquarters. In 2015, the European Commission President, Jean-Claude Juncker, called for the creation of a European army, in order to “help us [the EU] design a common foreign and security policy”.⁹⁵ He also stated that such an army would “enable Europeans to react credibly to any threat to peace in a country abutting on a member state of the EU”.⁹⁶

However, the Government has continued to oppose the idea, with Sir Michael Fallon previously stating that the UK would continue to veto plans for an EU army as long as it was in the EU because the UK believed it would undermine NATO.⁹⁷ On 16 September 2016, EU heads of state, with the exception of the UK, held a summit in Bratislava to discuss the EU’s future, particularly in terms of foreign policy and security. In a joint declaration, they agreed that in order to “strengthen EU cooperation on external security and defence”, they would use the European Council meeting in December to “decide on a concrete implementation plan on security and defence”.⁹⁸ According to press who were covering the summit, this included French and German heads of state drawing up a timetable to create a common military force.⁹⁹

The UK’s stance has led to some commentators believing that the UK’s departure from the EU may mean that there is less opposition from within the EU towards the establishment of a joint military force. According to the think tank the Centre for European Policy Studies once the UK leaves, “there is also likely to be less opposition to the establishment of permanent structured cooperation, or to the setting-up of EU military headquarters”.¹⁰⁰ Professor Anand Menon, has observed that, without the UK, the EU “might find ways to work better” in responding to security crises. He contended that without the UK, “one could imagine the remaining members establishing the operational headquarters that they have long lobbied for and which Britain has systematically blocked”.¹⁰¹

Future Relationship between the EU and NATO

In July 2016, Sir Michael Fallon told the House of Commons Defence Committee that:

On our own position now, cooperation with the European Union will remain important to our shared security interests. Those interests have not changed, and we also have a

⁹³ Hylke Dijkstra, ‘[UK and EU Foreign Policy Cooperation after Brexit](#)’, RUSI Newsbrief, 5 September 2016.

⁹⁴ *ibid.*

⁹⁵ Andrew Sparrow, ‘[Jean-Claude Juncker Calls for EU Army](#)’, *Guardian*, 8 March 2015.

⁹⁶ European Parliament, ‘[European Defence Cooperation: State of Play and Thoughts on an EU Army](#)’, March 2015.

⁹⁷ Tom Peck, ‘[Britain will Veto EU Army, says Defence Secretary](#)’, *Independent*, 17 September 2016.

⁹⁸ European Council, ‘[The Bratislava Declaration and Roadmap](#)’, 16 September 2016.

⁹⁹ Deborah Haynes and Bruno Waterfield, ‘Britain to Block EU Army’, *Times*, 17 September 2016.

¹⁰⁰ Centre for European Policy Studies, ‘[The Implications of Brexit for the EU’s Common Security and Defence Policy](#)’, 26 July 2016.

¹⁰¹ Professor Anand Menon, ‘[Britain’s Military Standing Would Not Suffer After Brexit](#)’, UK in a Changing Europe Initiative, 25 April 2016.

continuing interest—perhaps even more of an interest—in a closer relationship between NATO and the European Union, which is reflected in the communiqué. It has been a long-standing British preoccupation that these two organisations should work better together, should avoid duplicating each other wherever possible and should complement each other’s strengths.¹⁰²

Sir Michael also told the Committee that “there are a number of interlocking missions in Europe” between the EU and NATO, highlighting the fight to prevent the smuggling of people across the Mediterranean Sea as an example.¹⁰³

Writing in *Foreign Affairs*, Frank J Cillufo and Sharon L Cardash warned that once the UK leaves the EU, “the potential for divergence between the two entities [EU and NATO] could be magnified”, with the UK having “long-served as a touchstone for the United States in its dealing with Europe”.¹⁰⁴ They also noted that both entities “would be well served to think carefully through some of the critical strategic and tactical questions that will have to be addressed”, with Europe’s “fracturing” previously leading to Russia “testing the continental and transatlantic alliance by bringing difficult and potentially divisive issues to the fore”.¹⁰⁵

In addition, concerns within the US have been raised regarding EU member states’ spending on NATO. Alongside the US, only four other members of both NATO and the EU (the UK, Estonia, Greece and Poland) meet the minimum contribution threshold of 2 percent of GDP.¹⁰⁶ Following a meeting with Theresa May in Downing Street, Jens Stoltenberg, Secretary General of NATO, stated that more EU countries needed to follow the UK’s example by spending at least 2 percent of their GDP on defence. In addition, he said that this was “important for the transatlantic bond, for fair burden-sharing between Europe and the United States”.¹⁰⁷

Writing in *International Affairs*, Tom Oliver and Michael John Williams have argued that “long-running US unease at low levels of European defence spending” had “reached a point where US willingness to commit to Europe’s security has been thrown into doubt”, subsequently, “this has raised concerns about the viability of NATO”.¹⁰⁸ In addition, US President-elect Donald Trump has previously described NATO as obsolete, with questions remaining as to its future.¹⁰⁹ Jed Babbin, who previously served as Deputy Under Secretary of Defence in George H W Bush’s administration, warned that President-elect Trump “may not get the chance [to abandon NATO] because the EU may beat him to it”, with their plans to establish a joint military force and permanent headquarters.¹¹⁰

¹⁰² House of Commons Defence Committee, [Oral Evidence: Warsaw NATO Summit and Chilcot Report](#), 19 July 2016, HC 579 of session 2016–17, Q17.

¹⁰³ *ibid.*

¹⁰⁴ Frank J Cillufo and Sharon L Cardash, [‘NATO after Brexit’](#), *Foreign Affairs*, 4 July 2016.

¹⁰⁵ *ibid.*

¹⁰⁶ NATO, [Defence Expenditures of NATO Countries \(2009–2016\)](#), 4 July 2016.

¹⁰⁷ Patrick Wintour, [‘NATO Chief Tells EU: Spend More to Secure Trump’s Support’](#), *Guardian*, 23 November 2016.

¹⁰⁸ Tim Oliver and Michael John Williams, ‘Special Relationships in Flux: Brexit and the Future of the US-EU and US-UK Relationships’, *International Affairs*, April 2016.

¹⁰⁹ Demetri Sevastopulo, ‘Trump Brands NATO ‘Obsolete’ Ahead of Tough Wisconsin Primary’, *Financial Times*, 3 April 2016.

¹¹⁰ Jed Babbin, [‘Will EU Exit NATO after Brexit?’](#), *Washington Times*, 3 July 2016.

However, former US Ambassador to the United Nations, John Bolton, contended that the UK outside the EU, alongside a Trump-led US, “can restore NATO and the West”.¹¹¹ Writing in the *Telegraph*, Mr Bolton argued that a UK independent from the EU could “now be more effective with NATO’s central and eastern European members by not having to temper its security posture to suit Berlin and Paris”.¹¹²

Future of Police and Security Cooperation between the UK and EU

Some commentators have argued that after leaving the EU, the UK could be impaired in tackling cross-border crimes. In contrast, others contend that despite the UK’s exit, British law enforcement agencies will still be able to utilise some security tools and continue cooperating with external agencies.

Prior to the referendum, the Government, under David Cameron, noted that should the UK leave the EU, it “would not have the same access to these tools outside the EU as we do now”.¹¹³ Benoit Gomis, an Associate Fellow at Chatham House, warned that leaving the EU would “impair Britain’s ability to tackle terrorism and organised crime”.¹¹⁴ He stated that international security required a coordinated response, and that leaving the EU would mean that a number of new bilateral agreements with the EU’s institutions and its member states would need to be “negotiated and implemented at a time when relevant authorities are already under heavy strain”.¹¹⁵ Rob Wainwright, the Director of Europol, thought that it would be a “serious miscalculation” for the UK to leave the EU and withdraw from security cooperation with other member states.¹¹⁶ He noted that through membership of Europol, there was a “far stronger capability to fight crime” and that police “see the benefits every day” of working with Europol, for example, by being able to access intelligence databases.¹¹⁷ Mr Wainwright’s view was supported by Sir John Sawers, former Chief of the UK’s Secret Intelligence Service (MI6), who called on the UK to remain in the EU. Writing in the *Telegraph* before the referendum, Sir John argued that:

We must defend ourselves against terrorists. Terror networks operate across borders, and so must we if we are to stop them. The EU provides a valuable legal framework for sharing information and data—crucial tools in the modern era.¹¹⁸

This view was dismissed by another former MI6 Chief, Sir Richard Dearlove, who contended that leaving the EU would not damage UK security. Writing for *Prospect*, Sir Richard stated that “whether one is an enthusiastic European or not, the truth about Brexit from a national security perspective is that the cost to Britain would be low”.¹¹⁹ He also argued that “the

¹¹¹ John Bolton, ‘[Together a Trump-led US and Brexit Britain Can Restore NATO and the West](#)’, *Telegraph*, 28 September 2016

¹¹² *ibid.*

¹¹³ HM Government, [The UK’s Cooperation with the EU on Justice and Home Affairs, and on Foreign Policy and Security Issues](#), May 2016.

¹¹⁴ Benoit Gomis, ‘[Brexit Would Impair Britain’s Ability to Tackle Terrorism and Organized Crime](#)’, Chatham House, 16 May 2016.

¹¹⁵ *ibid.*

¹¹⁶ Rowena Mason, ‘[Europol Chief: Brexit Would be a Mistake for UK Security](#)’, *Guardian*, 24 March 2016.

¹¹⁷ *ibid.*

¹¹⁸ Sir John Sawers, ‘[I am a Former MI6 Chief and a Lifelong Patriot. Here’s Why I’m Voting Remain](#)’, *Telegraph*, 16 June 2016.

¹¹⁹ Sir Richard Dearlove, ‘[Brexit Would Not Damage UK Security](#)’, *Prospect*, 23 March 2016.

crucial practical business of counter-terrorism and counter-espionage is conducted, even in Europe, through bilateral and very occasionally trilateral relationships”.¹²⁰

In September 2016, the Secretary of State for Exiting the European Union, David Davis, told the House of Commons that the Government was assessing “the whole justice and home affairs stream”, with the UK looking to “preserve the relationship with the European Union on security matters as best we can”. He also told the House that the Government was looking to maintain a number of measures, including the European Arrest Warrant.¹²¹ Furthermore, in response to being asked a number of parliamentary questions by Diana Johnson (Labour MP for Hull North) about the Government’s plans to maintain a number of EU intelligence sharing tools, such as Europol, Brandon Lewis, Minister of State for Policing at the Home Office, responded that:

We are leaving the EU but cooperation on security with our European and global allies will be maintained. We will do what is necessary to keep our people safe—our aim will be to continue cooperation where it is in the national interest to protect the public. We are about to begin these negotiations and it would be wrong to set out unilateral positions in advance.¹²²

In her speech to delegates at the Conservative Party conference in October 2016, the Home Secretary, Amber Rudd, stated that following the terror attack in Nice in July 2016, “the one clear lesson from this is that international cooperation and intelligence sharing must continue, and continue to improve”.¹²³

Giving evidence to the House of Lords European Union Committee in regards to the future of UK-EU security cooperation once the UK withdraws from the EU, David Jones, Minister of State at the Department for Exiting the European Union, stated that the UK “will be entering into new bilateral agreements” or “at least we will hope to”.¹²⁴ He alluded to the US’ relationship with the EU on security, with the US having a “high degree of cooperation with the EU”, despite not submitting to the jurisdiction of the European Court of Justice.

Giving evidence to the Committee, Alison Saunders, the Director of Public Prosecutions at the Crown Prosecution Service, stated that future security cooperation and access to specific information databases could be done on either an EU-wide or bilateral agreement. However, she did contend that it would be “easier to negotiate with a body and to have an agreement that covers all 27 [member states] rather than 27 bilateral agreements”.¹²⁵

On 14 November 2016, the Home Office announced that it would be remaining a full member of Europol until the UK’s formal exit from the EU.¹²⁶ According to Brandon Lewis, Minister for Policing at the Home Office:

The UK is leaving the EU but the reality of cross-border crime remains [...] Europol provides a valuable service to the UK and opting in would enable us to maintain our

¹²⁰ Sir Richard Dearlove, ‘[Brexit Would Not Damage UK Security](#)’, *Prospect*, 23 March 2016.

¹²¹ [HC Hansard, 5 September 2016, cols 38–40](#).

¹²² House of Commons, ‘[Written Question: Europol](#)’, 5 September 2016, 45269.

¹²³ Conservative Party, ‘[Rudd: Speech to Conservative Party Conference 2016](#)’, 4 October 2016.

¹²⁴ House of Lords European Union Committee, ‘[Oral Evidence: Brexit: Future UK-EU Security and Policing Co-operation](#)’, 12 October 2016, Q 42.

¹²⁵ *ibid*, Q 66.

¹²⁶ Home Office, ‘[Parliament Notified of Europol Opt-in Intention](#)’, 14 November 2016.

current access to that agency, until we leave the EU, helping keep the people of Britain safe. We now await the outcome of the scrutiny process.¹²⁷

The decision by the Home Office will now be subject to parliamentary scrutiny. Once an assessment has been made, the European Commission will be notified of the Government's decision.

4. Trade

4.1 Current Situation

The UK, as a member of the EU, is currently within the European single market.¹²⁸ The 'four freedoms' of the single market are facilitating the free movement of goods, persons, services and capital amongst member states. The UK is also a member of the EU customs union, which establishes a single external customs tariff for the EU and the abolition of duties between member states.¹²⁹ The UK is party, by virtue of its membership of the EU, to the trade agreements which the EU has signed with non-EU countries.¹³⁰

Under the Treaty of Lisbon, while the UK remains a member state within the customs union, the EU has exclusive competence regarding what is referred to as the 'common commercial policy'.¹³¹ This means that, until it has left the EU, the UK is unable to sign trade deals with countries outside the EU which might include elements such as setting trade tariffs. However, the Government has said that it has begun preliminary, explorative talks with other countries ahead of triggering Article 50 which will signal the start of formal negotiations for the UK's departure from the EU.¹³²

¹²⁷ Home Office, '[Parliament Notified of Europol Opt-in Intention](#)', 14 November 2016.

¹²⁸ HM Government, '[Review of the Balance of Competences between the United Kingdom and the European Union: The Single Market](#)', July 2013, p 13.

¹²⁹ *ibid.*

¹³⁰ The EU Commission has outlined the three main types of agreement: Customs Unions (which eliminate customs duties in bilateral trade and establish a joint customs tariff for foreign importers); Association Agreements, Stabilisation Agreements, (Deep and Comprehensive) Free Trade Agreements and Economic Partnership Agreements (which remove or reduce customs tariffs in bilateral trade); and Partnership and Cooperation Agreements (which provide a general framework for bilateral economic relations and leave customs tariffs as they are) (European Commission, '[Trade: Agreements](#)', 3 November 2016). For a visual representation of the current status of EU trade with the rest of the world see: European Commission, '[The State of EU Trade](#)', November 2016. The Government publication '[Alternatives to Membership: Possible Models for the United Kingdom Outside the European Union](#)' (March 2016, p 45) lists the EU's free trade agreement markets as follows: Mexico, Chile, Peru, Morocco, Algeria, Tunisia, Egypt, Jordan, Israel, Occupied Palestinian Territory, Lebanon, Syria, FYR Macedonia, Albania, Serbia, Montenegro, Bosnia and Herzegovina, Switzerland, Korea, Antigua, Barbuda, Belize, Bahamas, Barbados, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, Colombia, Honduras, Nicaragua, Panama, Guatemala, Papua New Guinea, South Africa, Madagascar, Mauritius, Seychelles, Zimbabwe, Costa Rica, El Salvador, Fiji, Cameroon, Georgia, Moldova, Ukraine, EU Customs Union (Andorra, Monaco, San Marino, Turkey), EEA (Norway, Iceland, Liechtenstein).

¹³¹ HM Government, '[Review of the Balance of Competences between the United Kingdom and the European Union: Trade and Investment](#)', February 2014, pp 10 and 26.

¹³² Prime Minister's Office, Department for Exiting the European Union and Department for International Trade, '[PM: UK Should Become the Global Leader in Free Trade](#)', 4 September 2016.

Statistics

In 2015, the UK exported goods and services worth £508.8 billion, and imported a total of £547.4 billion.¹³³ The UK had a trade deficit of £38.7 billion.

Total trade can be broken down into goods and services. In 2015, the UK had a total trade deficit in goods and a trade surplus in services. UK exports of goods totalled £283.3 billion and imports of goods totalled £409.7 billion, leaving a deficit of trade in goods of £126.4 billion.¹³⁴ In contrast, UK exports of services totalled £225.5 billion and imports of services totalled £137.7 billion, giving a surplus of £87.8 billion. These figures are set out in the table below:

UK Trade, 2015: Goods and Services

	Exports (£ billion)	Imports (£ billion)	Balance (£ billion)
Goods	283.3	409.7	-126.4
Services	225.5	137.7	+87.8
Total	508.8	547.4	-38.7

Source: Office for National Statistics, [Statistical Bulletin: Balance of Payments—April to June 2016](#), 30 September 2016, Table B. Figures have been rounded and may not sum.

The European Union is the UK's largest trading partner.¹³⁵ In 2015, 44 percent of the UK's goods and services were exported to the EU, while 53 percent of the UK's imports came from the EU. In the same year, UK exports to the EU were valued at £222.9 billion and UK imports from the EU totalled £290.9 billion, leaving a trade deficit of £68 billion.¹³⁶

In 2015, the UK had a trade surplus in goods and services of £29.3 billion with non-EU countries. The UK exported goods and services to non-EU countries valued at £285.9 billion, while its imports were worth £256.6 billion.

The table below sets out the most recent statistics on trade between the UK and EU and non-EU countries:

UK Trade with EU and Non-EU Countries, 2015: Goods and Services

	Exports (£ billion)	Imports (£ billion)	Balance (£ billion)
EU	222.9	290.9	-68.0
Non-EU	285.9	256.6	+29.3
Total	508.8	547.4	-38.7

Source: Office for National Statistics, [Statistical Bulletin: Balance of Payments—April to June 2016](#), 30 September 2016, Tables B and C. Figures have been rounded and may not sum.

¹³³ Office for National Statistics, [Statistical Bulletin: Balance of Payments—April to June 2016](#), 30 September 2016, Table B. This data updates that provided in House of Lords Library, [UK-Commonwealth Trade](#), 5 August 2016.

¹³⁴ Office for National Statistics, [Statistical Bulletin: Balance of Payments—April to June 2016](#), 30 September 2016, Table B.

¹³⁵ Office for National Statistics, ['UK Perspectives 2016: Trade with the EU and Beyond'](#), 25 May 2016.

¹³⁶ Office for National Statistics, [Statistical Bulletin: Balance of Payments—April to June 2016](#), 30 September 2016, Table C.

4.2 Issues

Outlook for the Economy

According to the Office for National Statistics (ONS) Chief Economist Nick Vaughan, in the short term the referendum result for the UK to leave the EU appears to have left the UK economy “largely undisrupted”.¹³⁷ His recent assessment continued:

Growth has continued at roughly the same rate seen for the past few years with our large and relatively robust services sector still significantly outperforming the rest of the economy.

On the downside, the costs of raw materials have clearly started to rise due to the weakened pound but there is little sign yet of this feeding through to consumer prices.

Of course this is only the first chapter of a long story. As well as continuing to survey many thousands of households and businesses, ONS is developing innovative data sources that will help to provide an even more timely and comprehensive picture of the post-referendum economy.¹³⁸

A recent ONS statistical bulletin has further commented on the fall in the value of sterling since the referendum.¹³⁹ It noted that the value of the pound fell sharply against a basket of currencies at the end of June and into July 2016, with the “sterling Exchange Rate Index (ERI) 6.6 percent lower compared with the average level in June 2016, and 15.0 percent lower compared with July 2015”. The bulletin noted that the exchange rate “showed some signs of stabilising” in August and September 2016, with “sterling falling at a slower rate (1.3 percent) in August 2016, and experienced a slight appreciation of 0.4 percent in September 2016”. The ONS stated that the outcome of this recent depreciation was that, overall, there was “slightly more upward pressure on export and import prices for products traded with non-EU economies”.¹⁴⁰

The Institute for Fiscal Studies (IFS) has stated that the UK’s vote to leave the EU “will increase uncertainty in the short run”.¹⁴¹ The report *Winter is Coming: The Outlook for the Public Finances in the 2016 Autumn Statement* summarised its analysis of how the economic situation has changed since the March Budget as follows:

The Bank of England and the vast majority of independent forecasters expect lower growth and higher household inflation now than they did before the referendum. By the end of the Bank forecast, in 2019 Q2, national income is 2.1 percent lower, while their forecast implies weak growth continuing beyond this. The average of independent forecasters for output in 2020 has fallen by 2.8 percent. These are in line with pre-referendum predictions.¹⁴²

¹³⁷ Office for National Statistics, [‘Article: Economic Review—November 2016’](#), 3 November 2016.

¹³⁸ *ibid.*

¹³⁹ Office for National Statistics, [‘Statistical Bulletin: UK Trade—September 2016’](#), 9 November 2016. For further information on the strength of the pound sterling see: House of Lords Library, [‘Strength of the Pound Sterling: Economy and Investment’](#), 10 November 2016.

¹⁴⁰ Office for National Statistics, [‘Statistical Bulletin: UK Trade—September 2016’](#), 9 November 2016.

¹⁴¹ Institute for Fiscal Studies, [‘Winter is Coming: The Outlook for the Public Finances in the 2016 Autumn Statement’](#), 8 November 2016, p 14.

¹⁴² *ibid.*, pp 1–2.

The IFS noted that Bank of England forecast cited was “subject to higher uncertainty than normal”, and that there was “wide disagreement between independent forecasters on the path of the economy”.¹⁴³ They stress that this “underlies substantial uncertainties over economic performance in the coming years”.

On 23 November, the Office for Budget Responsibility (OBR) stated that there was a “more subdued outlook for economic growth as the UK negotiates a new relationship with the European Union”.¹⁴⁴ As part of its assessment of the public finances ahead of the Autumn Statement, the OBR forecast that the economy would grow more slowly than it forecast in March and revised up the budget deficit by £12.7 billion this year, “thanks primarily to weakness in income tax receipts that largely pre-dates the referendum”. However, some Conservative MPs were critical of the OBR forecasts. John Redwood (Conservative MP for Wokingham), for example, stated that he thought the OBR was “probably still quite wrong about 2017”, with its forecast “too low” and its borrowing forecast “far too high”.¹⁴⁵ In addition, Jacob Rees-Mogg (Conservative MP for North East Somerset) criticised the OBR forecast for being “particularly gloomy on the prospects for financial services”.¹⁴⁶

As indicated by both the ONS and IFS, there is a high degree of uncertainty regarding the future trade relationship between the UK and the EU, with the future trade picture dependent upon the outcome of forthcoming negotiations. In addition, there is also a high degree of uncertainty regarding the future trade relationship between the UK and non-EU countries, which will depend on both the outcome of negotiations between the UK and the EU and the outcome of formal trade negotiations between the UK and non-EU countries once the UK has withdrawn from the EU. The House of Commons Library has noted that economic theory and academic literature show a link between the openness of an economy to foreign trade and investment and its long term growth rates.¹⁴⁷ The future shape of the UK’s trading relationships will therefore be a major factor in determining the effect of the UK’s departure from the EU on the economy.¹⁴⁸

Future Trade Relationship with the EU and the Rest of the World

The UK’s trading arrangements after departing from the EU will be shaped by the form of the final agreement reached with the EU, the World Trade Organisation (WTO), and other international trading partners. These are currently the subject of complex and interrelated negotiations which have yet to formally begin and there is a high degree of uncertainty as to the final shape these agreements may take. Lord Bridges of Headley, the Parliamentary Under Secretary of State at the Department for Exiting the European Union, has described the status of the UK’s trade agreements, including free trade agreements following withdrawal, as being part of a multi-dimension negotiation.¹⁴⁹ He said that this was intertwined with negotiation with

¹⁴³ Institute for Fiscal Studies, [Winter is Coming: The Outlook for the Public Finances in the 2016 Autumn Statement](#), 8 November 2016, p 2.

¹⁴⁴ Office for Budget Responsibility, [Overview of the November 2016 Economic and Fiscal Outlook](#), 23 November 2016.

¹⁴⁵ [HC Hansard, 23 November 2016, col 921](#).

¹⁴⁶ [HC Hansard, 23 November 2016, col 932](#).

¹⁴⁷ House of Commons Library, [Brexit: Some Legal, Constitutional and Financial Unknowns](#), 9 November 2016, p 9.

¹⁴⁸ The following publication includes a detailed consideration of the short-term and long-term effects of the UK’s withdrawal from the EU: House of Commons Treasury Committee, [The Economic and Financial Costs and Benefits of the UK’s EU Membership](#), 27 May 2016, HC 122 of session 2016–17.

¹⁴⁹ House of Lords European Union Internal Market Sub-Committee and External Affairs Sub-Committee, [Uncorrected Oral Evidence: Brexit—Future Trade between the UK and the EU—13 October 2016](#), 18 October 2016, Q 40.

the EU as part of the Article 50 process, the process for the repeal of the European Communities Act 1972, and settling arrangements for the future status of the UK as an independent member of the WTO.¹⁵⁰

It has been widely reported that there are a number of possible options for the future trade relationship between the UK and the EU, ranging from joining the European Economy Area (EEA) to trading under WTO terms.¹⁵¹ These options are set out in a table produced by the UK in a Changing Europe Initiative included in the Appendix. However, the Prime Minister, Theresa May, gave an indication of the Government's approach to negotiating the UK's trade relationship with the EU after withdrawal in her speech to the Conservative Party conference in October 2016, which also touched upon the Government's other negotiation objectives:

[...] we will seek the best deal possible as we negotiate a new agreement with the European Union. I want that deal to reflect the kind of mature, cooperative relationship that close friends and allies enjoy. I want it to include cooperation on law enforcement and counter-terrorism work. I want it to involve free trade, in goods and services. I want it to give British companies the maximum freedom to trade with and operate in the single market—and let European businesses do the same here. But let me be clear. We are not leaving the European Union only to give up control of immigration again. And we are not leaving only to return to the jurisdiction of the European Court of Justice.

As ever with international talks, it will be a negotiation, it will require some give and take, and while there will always be pressure to give a running commentary on the state of the talks, it will not be in our best interests as a country to do that. But make no mistake: this is going to be a deal that works for Britain.¹⁵²

The *Financial Times* reported that this speech was the “clearest sign yet” of a “clean break from Europe's single market”.¹⁵³ The think tank Open Europe stated that the Prime Minister's speech suggested that, “rather than seeking to remain members of the single market with a few tweaks”, the Government's objective was “likely to be to negotiate a bilateral and as comprehensive a free trade agreement with the EU as possible, although the Government is still yet to make this explicit”.¹⁵⁴ This analysis matches the House of Commons Foreign Affairs Committee's position that negotiating a bespoke free trade agreement would be a “likely path to follow” if the UK voted to leave the EU.¹⁵⁵ The Government has since confirmed that it intends to take a “bespoke approach” to future trade relations with the EU.¹⁵⁶

¹⁵⁰ House of Lords European Union Internal Market Sub-Committee and External Affairs Sub-Committee, [Uncorrected Oral Evidence: Brexit—Future Trade between the UK and the EU—13 October 2016](#), 18 October 2016, Q 40.

¹⁵¹ These options are set out in detail in the following publication: HM Government, [Alternatives to Membership: Possible Models for the United Kingdom Outside the European Union](#), March 2016, pp 13–39. See also: House of Commons Library, [Brexit: Some Legal and Constitutional Issues and Alternatives to EU Membership](#), 28 July 2016, pp 26–37; and [Brexit: Trade Aspects](#), 8 September 2016, pp 12–20.

¹⁵² Conservative Party, [Prime Minister: Britain after Brexit—A Vision of a Global Britain](#), 2 October 2016.

¹⁵³ Kate Allen, George Parker and Alex Barker, ‘Theresa May Sets Brexit Course Away from EU Single Market’, *Financial Times*, 2 October 2016.

¹⁵⁴ Stephen Booth, [‘We’re Getting a Little Clearer on What Brexit Means But There’s Much We Still Don’t or Cannot Know’](#), Open Europe Blog, 15 October 2016.

¹⁵⁵ House of Commons Foreign Affairs Committee, [Implications of the Referendum on EU Membership for the UK's Role in the World](#), 26 April 2016, HC 545 of session 2015–16, p 3.

¹⁵⁶ [HL Hansard, 15 November 2016, col 1290](#).

The complex nature of the forthcoming negotiation and the high level of uncertainty regarding its outcome and timing is highlighted by comments made by EU office holders in the light of the Government's stated objectives. The President of the European Council, Donald Tusk, has stated the EU would not compromise with the UK on the rules for the free movement of people while allowing the UK to retain its current level of access to the single market.¹⁵⁷ The European Commission's chief negotiator for the forthcoming negotiation, Michel Barnier, has reaffirmed the EU's position that there will be "no negotiation without notification" of the invocation of Article 50 by the UK.¹⁵⁸ The European Parliament's chief negotiator, Guy Verhofstadt, has called for the conclusion of the UK's negotiation with the rest of the bloc before the next elections to the European Parliament, scheduled for 2019.¹⁵⁹

The Government's pursuit of a bespoke agreement raises a number of issues for various sectors of the economy, with it currently being unclear whether the UK will want, or be able to, retain the current level of access to the single market for goods and services following withdrawal from the EU. The nature of the future relationship between the UK and EU therefore has significant implications for all sectors. It has been noted that the financial services sector is of especial importance to the UK economy.¹⁶⁰ The degree of connection between the UK financial services sector and other economies in the EU is substantial, so any changes to the current level of access for the sector, for example should there be changes to 'passporting rights' or equivalence rules, could have a major effect.¹⁶¹ The nature of the trade agreement to be reached between the UK and EU will have significant implications for other sectors, including the automotive sector. Given the high number of permutations of the outcome of the negotiations on the future UK-EU trade relationship, the effect of the eventual deal on various sectors of the UK economy is currently unknown.

The Secretary of State for Exiting the European Union, David Davis, has stated that it was the Government's ambition for the UK to become a "beacon for free trade across the world" after leaving the EU.¹⁶² The Secretary of State for International Trade, Dr Liam Fox, repeated this ambition during a speech on the subject of free trade delivered at Manchester Town Hall on 29 September 2016.¹⁶³ In this speech, he stated that trade would be at the "heart of the Government's agenda" and that his department would be "working across Whitehall with the Treasury, the Foreign and Commonwealth Office, the Department for International Development and the new Department for Exiting the EU to ensure the UK not only leaves [the EU] smoothly but is at the forefront of global trade when we do".¹⁶⁴

The UK will make arrangements relating to its membership of the WTO either in parallel or following its exit from the EU. Prior to the EU referendum, the Director-General of the WTO, Roberto Azevêdo, stated that the UK would remain a WTO member on leaving the EU but would need to re-establish the defined terms in the WTO for its trade in goods and services.¹⁶⁵

¹⁵⁷ BBC News, "['Hard Brexit' or 'No Brexit' for Britain—Tusk](#)", 13 October 2016.

¹⁵⁸ Michel Barnier, "[Personal Twitter Account](#)", 21 November 2016.

¹⁵⁹ BBC News, "[David Davis Says EU Brexit Negotiator Meeting 'a Good Start'](#)", 22 November 2016.

¹⁶⁰ House of Commons Library, "[Brexit and Financial Services](#)", 1 November 2016, p 3.

¹⁶¹ *ibid.*, pp 13–16.

¹⁶² [HC Hansard, 5 September 2016, col 38.](#)

¹⁶³ Department for International Trade, "[Liam Fox's Free Trade Speech](#)", 29 September 2016.

¹⁶⁴ *ibid.* Further information on the international trade options following the UK's departure from the UK can be found in the following briefings: House of Commons Library, "[Brexit: Some Legal and Constitutional Issues and Alternatives to EU Membership](#)", 28 July 2016; House of Lords Library, "[UK-Commonwealth Trade](#)", 5 August 2016; and House of Lords Library, "[Leaving the European Union: Global Free Trade](#)", 20 October 2016.

¹⁶⁵ World Trade Organisation, "[Azevêdo Addresses World Trade Symposium in London on the State of Global Trade](#)", 7 June 2016.

At present the UK is bound by the EU's schedule of commitments which is negotiated as a block in the WTO.¹⁶⁶ Outside the EU, the UK would need to have its own schedule of commitments, setting out its terms of trade as a member of the WTO.

¹⁶⁶ Alan Beattie, 'Brexit and the WTO Option: Key Questions About a Looming Challenge', *Financial Times*, 11 July 2016.

5. Further Reading

House of Lords Library Briefings

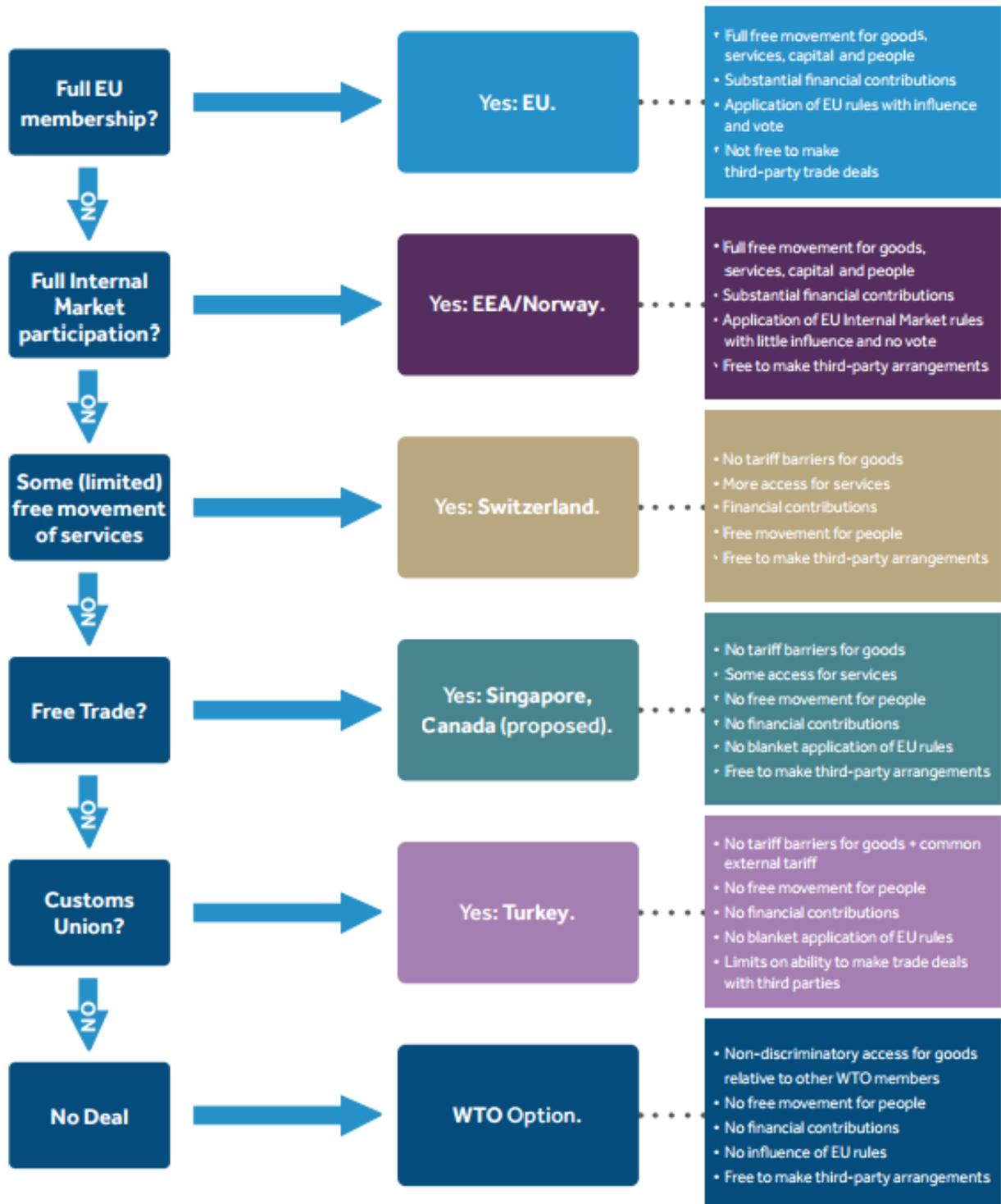
- [Leaving the European Union: NHS and Social Care Workforce](#), 18 November 2016
- [Leaving the European Union: The UK and Ireland](#), 17 November 2016
- [Strength of the Pound Sterling: Economy and Investment](#), 10 November 2016
- [High Court Judgment on Article 50: Responses](#), 9 November 2016
- [Leaving the European Union: Funding for Universities and Scientific Research](#), 27 October 2016
- [Leaving the European Union: Global Free Trade](#), 20 October 2016
- [Leaving the European Union: Foreign and Security Policy Cooperation](#), 13 October 2016
- [Leaving the European Union: Environment and Climate Change](#), 13 October 2016
- [UK-Commonwealth Trade](#), 5 August 2016
- [Leaving the European Union: Parliament's Role in the Process](#), 4 July 2016

House of Commons Library Briefings

- [Legislating for Brexit: the Great Repeal Bill](#), 21 November 2016
- [Brexit and the EU Court](#), 14 November 2016
- [Brexit: Some Legal, Constitutional and Financial Unknowns](#), 9 November 2016
- [Brexit and Financial Services](#), 1 November 2016
- [Defence and Security After Brexit: A Reading List](#), 19 October 2016
- [Brexit: Trade Aspects](#), 8 September 2016
- [Brexit: Impact Across Policy Areas](#), 26 August 2016
- [Brexit and UK Immigration and Asylum Policy: A Reading List](#), 2 August 2016
- [Brexit: Some Legal and Constitutional Issues and Alternatives to EU Membership](#), 28 July 2016
- [The UK's Points-based System for Immigration](#), 18 July 2016

Further briefings can be accessed via '[Brexit: The Next Steps for the UK's Withdrawal from the EU](#)' on the research briefings page of the UK Parliament website.

Appendix: Possible Options for the Future Trade Relationship Between the UK and the EU



Source: UK in a Changing Europe, [Brexid and Beyond: How the United Kingdom Might Leave the European Union](#), November 2016, p 25

House of Lords Library Notes are compiled for the benefit of Members of the House of Lords and their personal staff, to provide impartial, politically balanced briefing on subjects likely to be of interest to Members of the Lords. Authors are available to discuss the contents of the Notes with the Members and their staff but cannot advise members of the general public.

Any comments on Library Notes should be sent to the Head of Research Services, House of Lords Library, London SW1A 0PW or emailed to purvism@parliament.uk.