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## FAQs on the triggering of Article 50

28<sup>th</sup> March 2017

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### Introduction

This L&RS *Note* has been drafted in the context of the [announcement](#) that the UK Government intends to trigger Article 50 of the Treaty on European Union (TEU) on Wednesday 29<sup>th</sup> March 2017. In doing so, it will formally start the process by which the UK will leave the EU.

This unprecedented step follows the June 2016 UK referendum on the country's exit from the European Union ('Brexit'). The result of the in-out referendum was 51.9% in support of an exit and 48.1% to remain. Turnout was 72.2%.

This L&RS *Note* discusses the triggering of Article 50 under the following headings:

- What is Article 50?
- What happens next?
- What will be negotiated?
- What are the negotiating priorities of Ireland, the UK and the EU?
- Who are the key negotiating figures in the EU institutions?
- Related L&RS publications and resources.
- Suggested further reading.

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## What is Article 50?

For the UK to leave the EU, it has to invoke Article 50 of the TEU. This sets out the legal basis for a Member State to withdraw from the EU.

Article 50 is a short procedural article which outlines the process for leaving the EU, including the roles of the EU institutions and the withdrawing Member State in that process. It specifies that it is the [European Council](#) (without the participation of the withdrawing state) which sets out the guidelines to be followed in the negotiations. The Council concludes the withdrawal agreement by [qualified majority](#), after obtaining the [consent](#) of the European Parliament.

The EU and the UK have two years to come to a withdrawal agreement from the start of the Article 50 negotiations, unless both the UK and the European Council (by [unanimity](#)) agree to an extension. After two years, membership ends automatically irrespective of whether an agreement has been reached or not (Article 50(3) TEU).

The explicit right of a Member State to leave the EU has only existed since 2009, when the Treaty of Lisbon came into force. There is no precedent in EU history of a Member State withdrawing.

### **Text box 1: Article 50 – Treaty on European Union (TEU)**

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

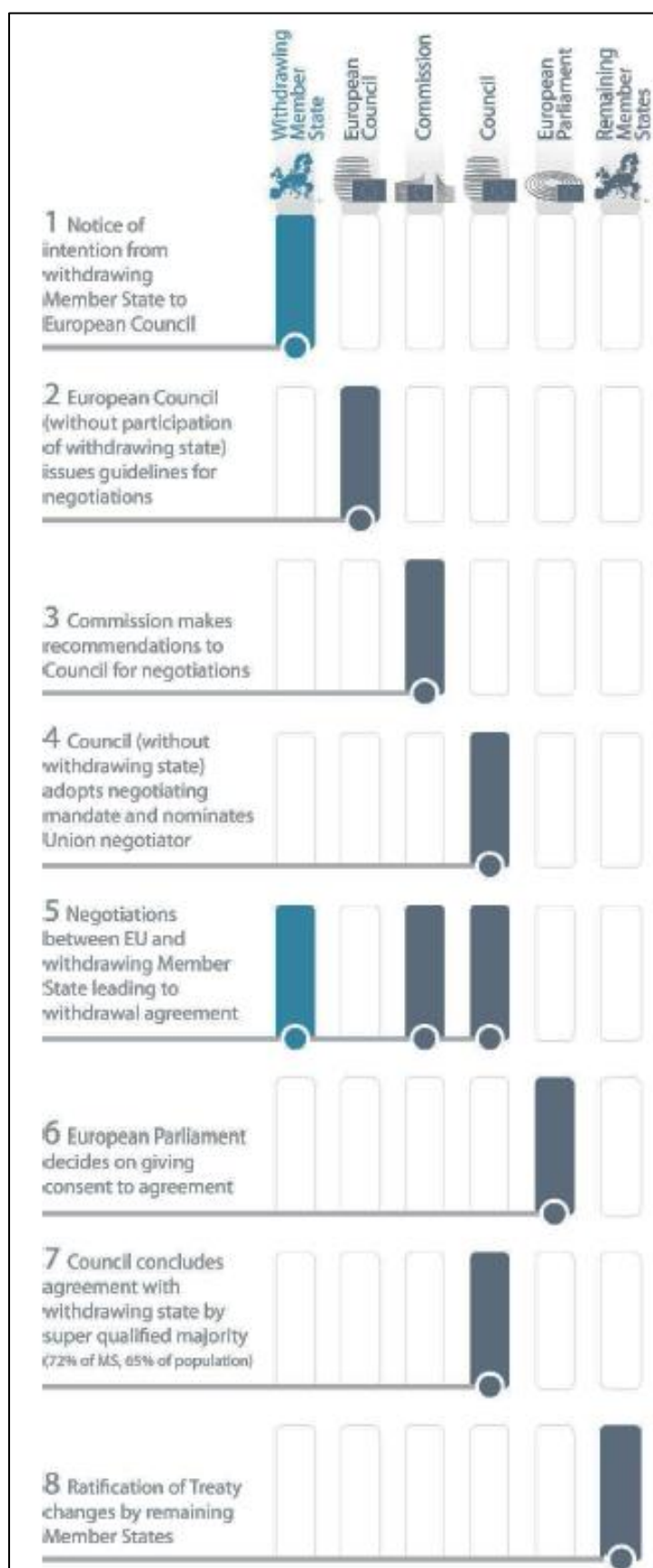
## What happens next?

The 27 leaders of the remaining Member States [agreed on the following procedure for upcoming Brexit talks](#) at their informal meeting in December 2016:

1. UK triggers Article 50 by notifying the European Council of its intention to leave.
2. The **EU 27 leaders adopt 'guidelines'**, including principles and general positions, for negotiations. They will update these guidelines in the course of the negotiations, as necessary.
3. Following a recommendation by the [European] Commission, the General Affairs Council [GAC] authorises the opening of negotiations.
4. The Council adopts negotiating directives on substance and on the detailed institutional arrangements. These may be amended and supplemented throughout the negotiations.
5. The Council will appoint the [European] **Commission as the Union negotiator** who will negotiate on behalf of the 27. The Commission nominated Michel Barnier as chief negotiator. It will **report back to leaders and to the Council** throughout the negotiation and will also keep the European Parliament "closely and regularly informed".
6. The Council and its preparatory bodies will ensure that negotiations are conducted in line with guidelines provided by the EU 27. It will provide guidance to the Commission.

Donald Tusk (President of the European Council) recently [stated](#) that he intends to react to the triggering of Article 50 by issuing draft negotiation guidelines for the 27 Member States to consider within 48 hours of notification by the UK. The European Council will then [meet on 29 April](#) to agree the guidelines for negotiation.

**Figure 1: Steps involved in process of UK withdrawal from the EU**



Source: European Parliament Research Service (2016) [UK withdrawal from the EU – Next steps](#)

## What will be negotiated?

Article 50 does not specify how far-reaching any withdrawal agreement should be. Rather, it appears to leave this to negotiators to determine. According to the [House of Commons Library](#), it is "*not clear from Article 50 TEU whether all the arrangements for the withdrawing State's future relationship with the EU will be included in the withdrawal agreement, or require the negotiation of a separate agreement with the EU. Article 50(2) TEU refers only to negotiating and concluding arrangements for withdrawal, 'taking account of the framework for [the exiting State's] future relationship with the Union'.*"

The [Institute for Government](#), a UK think tank, states that there are two key sets of negotiations the UK must complete as part of its exit from the European Union:

- negotiating the withdrawal agreement; and
- negotiating the future UK–EU relationship

The Institute of International and European Affairs (IIEA) [Brexit Status Report](#) also discusses the format of the negotiations, stating that "*in practice the EU is likely to carry out two parallel negotiations – one under article 50 setting out the terms of separation and the other providing for the rules that will govern the future relationship. The degree to which the departing Member State wishes to remain close to the EU or to take its distance needs to be reflected in the withdrawal agreement*".

An Irish Government [information note](#) on Article 50 provides the following information on what will be negotiated, including the prospect of transitional arrangements:

### There are two deals that are set to be negotiated

#### The Exit Deal

The first set of negotiations will be for the UK to exit from the EU. These negotiations are called 'the Article 50' negotiations, sometimes referred to as 'the Exit' or 'the Divorce'.

The EU has stated that the first items to be negotiated in this deal are:

1. Outstanding financial commitments that the UK may have from exiting the EU
2. Rights of EU citizens in the UK and UK citizens in the EU
3. Border matters, notably Northern Ireland.

#### Possible transitional arrangements?

The need for some kind of transitional arrangements between the two sets of negotiations has been raised. The agreement of such arrangements will be the subject of negotiations.

#### The Future Relationship Deal

Fundamentally, this negotiation will deal with the future relationship between the EU and the UK. It will cover a wide range of areas including possible tariffs on goods entering or exiting the EU into the UK, regulatory standards dispute settlement mechanisms and other sectoral areas such as Fisheries, Energy and Transport.

It has not been yet agreed when these negotiations will start. Much will depend on progress in the first phase of the Article 50 negotiations.

It has [been noted](#) that “*some commentators believe the withdrawal negotiations and agreement will focus on the mechanics of withdrawal and the transition period, before a separate agreement on the withdrawing State’s future relationship with the EU comes into force*”.

The European Commissioner for Trade, Cecilia Malmström, [has said](#) that formal negotiations on the UK’s future relationship with the EU can only begin once the withdrawal process is complete. In a recent [op-ed](#) for the Financial Times, Michel Barnier stressed the importance of putting things in the right order to maximise the chances of reaching an agreement, which he explains “*means agreeing on the orderly withdrawal of the UK before negotiating any future trade deal*”.

## What are the negotiating priorities of Ireland, the UK and the EU?

### Ireland

The information booklet, [Brexit: Ireland's Priorities](#), outlines the Irish Government's main priorities and concerns ahead of the Brexit negotiations, which are:

1. Northern Ireland & the Peace Process
2. Economy & Trade
3. The Common Travel Area
4. Future of the European Union

### UK

The UK published a [White Paper](#) setting out its plan for Brexit negotiations in February 2017. The White Paper mirrors the 12 principles set out by the UK Prime Minister to guide EU exit negotiations in her [speech at Lancaster House](#) on 17th January:

1. Providing certainty and clarity;
2. Taking control of our own laws;
3. Strengthening the Union;
4. Protecting our strong historic ties with Ireland and maintaining the Common Travel Area;

5. Controlling immigration;
6. Securing rights for EU nationals in the UK and UK nationals in the EU;
7. Protecting workers' rights;
8. Ensuring free trade with European markets;
9. Securing new trade agreements with other countries;
10. Ensuring the United Kingdom remains the best place for science and innovation;
11. Cooperating in the fight against crime and terrorism; and
12. Delivering a smooth, orderly exit from the EU.

## EU

The EU's chief Brexit negotiator, Michel Barnier, recently gave a [speech](#) in Brussels on the upcoming negotiations. In his speech to the Committee of the Regions, he stated that *"our priority is to reach an agreement on the orderly withdrawal of the United Kingdom, and to prepare the way for a new partnership"*. Mr Barnier also outlined three necessary conditions for reaching an agreement with the UK:

1. Unity of the remaining 27 EU Member States;
2. Removing the uncertainty created by the UK's decision to leave the EU; and
3. Doing things in the right order.

He also suggested that transitional arrangements may be necessary. In highlighting the case of Ireland, Mr Barnier explained that he would be *"particularly attentive, in these negotiations, to the consequences of the UK's decision to leave the Customs Union, and to anything that may, in one way or another, weaken dialogue and peace"*. In his [Financial Times article](#), Mr Barnier wrote *"many European citizens will have to deal with the consequences of living alongside the new external borders of the EU. We will not stand for anything that weakens dialogue and peace in Northern Ireland"*.

## Who are the key negotiating figures in the EU institutions?

**Michel Barnier**: Chief Negotiator – European Commission [Task Force for the Preparation and Conduct of the Negotiations with the United Kingdom under Article 50 TEU](#) since 1<sup>st</sup> October 2016. There are two Irish nationals on the Task Force (see organisational chart for the Task Force [here](#)).

**Didier Seeuws**: On 26<sup>th</sup> June 2016 the European Council President, Donald Tusk, nominated the Belgian diplomat, Didier Seeuws, as the head of the Council's Brexit taskforce. Mr Seeuws was formerly chief of staff to Herman van Rompuy (former President of the European Council).

**Guy Verhofstadt**: On 9<sup>th</sup> September, the European Parliament named the former Belgian Prime Minister, Guy Verhofstadt, as the Parliament's '[point man](#)' for the negotiations. Once Article 50 has been triggered by the UK authorities and the European Council has adopted the negotiation guidelines, Mr Verhofstadt will also work closely with the Chair of the Constitutional Affairs committee, Danuta Hübner (EPP, PL), and other committees wherever necessary to shape the EP's negotiating position.

## Related L&RS publications and resources

- [In Focus page](#) on Brexit
- [Research Matters](#) article on *Brexit – Why it matters for Ireland* (see pages 64-68)
- Background briefing papers jointly prepared by the Research and Information Service (RaISe) of the Northern Ireland Assembly and by the L&RS for the North/South Inter-Parliamentary Association:
  - [Impact of Brexit on Cross-Border Activity](#)
  - [Agri-food and Brexit](#)
- L&RS posts:
  - [Brexit – Supreme Court Ruling on Triggering of Article 50 of the Lisbon Treaty](#) (24/01/2017)
  - [Theresa May clarifies the UK's objectives ahead of Brexit negotiations](#) (18/01/2017)



- [Brexit – Ireland and the UK in Numbers, CSO Release](#) (07/12/2017)
- [The Medium to Long Term Potential Macroeconomic Impact of Brexit on Ireland](#) (07/11/2016)
- [Agriculture Prices in Ireland and the Potential Impact of Brexit on the Agri-Food Sector](#) (24/10/2017)
- [Brexit results](#) (24/06/2016)
- L&RS [Subject Resource Portal](#) on *International & EU relations*

## Suggested further reading

Irish Government [information note](#) on the next steps for Article 50 and Brexit [webpage](#).

The [European Parliamentary Research Service](#) have set out a useful step-by-step [guide](#) to the UK's withdrawal from the EU (summarised in Figure 1 above), together with a longer [briefing](#) on the Article 50 process.

Institute for Government, [Article 50 will be triggered Wednesday 29 March. Then what?](#) (21/03/2017)

House of Commons Library, [Brexit: how does the Article 50 process work?](#) (Briefing Paper Number 7551, 16 January 2017)

IIEA Brexit [page](#) and [microsite](#)

Cicero (2016) [Brexit Negotiations – The View from the EU](#) which identifies a set of key economic, political and social variables in selected Member States that will shape their negotiating positions.