Brexit: Legal and Economic Consequences

The British Exit, or "Brexit" is a political aim of many different groups, individuals and political parties in the United Kingdom, concerning the withdrawal of the United Kingdom from the European Union. The referendum question of whether or not the UK should remain a member of the European Union or leave the European Union will be posed to British citizens living in UK on June 23rd, 2016, at which point, the UK will decide whether or not to effect secession from the EU. For the United Kingdom, Brexit represents a compromise between reduced market access to the EU in exchange for less restraints from the regulatory, legal and fiscal obligations which are associated with EU membership.

Ever since the UK has joined the EU in 1973, membership has always been a debatable topic in the UK. Many British citizens believe that the EU places unnecessary restraints on individuals and businesses, and that the EU is gaining too much control over citizens' daily lives. This is not the first time that the UK has decided to hold a referendum concerning this issue, in fact, in the 1975 referendum, 67.2% of UK citizens voted to remain in the EU. Should the UK pull out from the EU on June 23rd, they would be free from EU legislative and regulatory restraints and would be completely autonomous.

Supporters of Brexit argue that too much power is being removed from the UK Parliament. Specifically, there are too many rules for businesses. In addition, the UK should have full control of its borders and should be able to curtail the number of people entering the UK to work. Moreover, supporters of Brexit also argue that Brexit would bring about an increase of job as companies would be free from EU regulations, benefiting mostly small to medium sized companies who do not trade with the EU.

Proponents of the Brexit argue that other EU countries would still have high incentives to continue trading with the UK, and that the UK would still be able to negotiate trade agreements with the EU based on one of the following models:

- 1) Norwegian model – If Britain were to leave the EU, they could join the European Economic Area, which would allow the UK to have access to the EU single market, with the exception of some financial services. This would free the UK from the majority of the EU regulations.
- 2) Swiss model – Britain could negotiate trade treaties on a sector by sector basis.
- 3) Turkish model – Britain could enter into a customs union with the EU, allowing access to the free market in manufactured goods. However, they would not have access to financial services.
- 4) Alternatively, the UK could attempt to negotiate a comprehensive Free Trade Agreement with the EU, allowing for better access to financial services, and more say over how rules, regulations, and standards are implemented.
- 5) Lastly, the UK could rely on only its membership with the World Trade Organization as a basis for trade.

In other words, the UK would be able to establish bilateral trade agreements similar to the USA, China and India, which already export to the UK with ease.

Opponents of Brexit argue that Britain's status in the world would be significantly damaged by leaving the UK and that it would be very difficult to negotiate a favorable relationship with the EU. The UK would still have to meet production standards which would be detrimental to the competitiveness of British business. In contrast to the above argument, Britain might have to agree to allow the free movement of EU migrants as a condition of being allowed access to the free market. Arguably the most crucial, would be the unattractiveness of the UK as a place for foreign investment.

Currently, the UK is one of the most influential member states in the EU. A British exit would affect all other EU states, some more severely than others. Brexit would change the relationship between the UK and other key national players such as Germany and France.

Countries such as the Netherlands, which has strong financial and investment ties with the UK will also feel the ramifications of Brexit. It is possible that the UK could be ignored by Washington, and be left behind in regards to important transnational issues such as the environment, security and trade. The UK would be free to set its own policies, but they would have less leverage on a political scale and become a lower priority as a trading partner. The UK would lose much of its international influence.

Opponents argue that Brexit would have devastating consequences for the economy in the UK. In the event that the UK decides to leave the EU, many multinational companies may relocate their headquarters from the UK to other points of EU market entry. The UK is currently the largest receiver of foreign direct investment in the EU and half of all European headquarters of non-EU firms are based in the UK. In fact, EU membership for the UK has raised FDI by about 28%. Other companies may cease to do business completely in the UK due to added costs. Corporate investment transactions would become costlier as transaction and administrative costs would increase. The greatest impact will result from changes to market conditions and currency exchange rates. FDI might fall for the following reasons:

- 1) Being in the EU makes the UK an attractive export platform for multinationals as they do not bear potentially large costs from tariff and non-tariff barriers when exporting to the rest of the EU
- 2) Multinationals have complex supply chains and many co-ordination costs between their headquarters and local branches – these would be more difficult to manage if the UK left the EU (for example, parts would be subject to different regulations and costs – tougher migration controls)
- 3) Uncertainty over the shape of the future trade arrangements between the UK and EU would lessen FDI

In addition, the UK could potentially suffer from lower trade due to increased trade costs in three ways:

- 1) Higher tariff barriers between the UK and the EU
- 2) Higher non-tariff barriers to trade (arising from different regulations, border controls, etc.) between the UK and the EU

- 3) The UK would not be able to participate in future steps that the EU takes towards further reducing trade barriers

Other financial consequences include a lower GDP, tight restraints on fiscal policy, weaker growth, and the potential downgrading of credit rating. In the best case scenario, GDP growth would be at 1.6% by 2030, however, in the worst case scenario, the UK could see a reduction in GDP by 6.3-9.5%. The fall of the sterling would not be favorable to overseas companies exporting to the UK. This would potentially also allow for companies to acquire UK firms cheaply.

Should Britain decide to leave the EU, legislation and regulations in the UK would also have to change. According to some sources, this may produce the need for legal services in the short run, but will decline in the long run. Legal uncertainty and complexity are almost certain in the period immediately following Brexit – the UK government would need to take legislative action to prevent legislative or regulatory vacuums from arising at the time of exit. Changes in legislation would perhaps either remove areas of work from a lawyers' range of activities, or create work for lawyers who need to explain the legal changes to businesses and other clients. It is estimated that the legal sector would lose between £225m and £1.7bn of yearly output by 2030 if the UK separated.

Currently, the EU allows food to be traded between member states without customs duties or impediments from national regulations (for example, concerning labelling and packaging requirements, bans on specific products, and price controls). However, should Brexit occur, it would have to enter into bilateral agreements on a case by case basis. The UK would not be able to challenge EU regulations at the European Court of Justice. It is unknown whether or not, or to the extent to which, transitional or grandfathering provisions might continue to protect existing arrangements with the EU, creating additional complications for companies. Companies may find the regulations of working under a UK regime and an EU regime too onerous, so they may relocate their business elsewhere in the EU. The European Commission would lose its legal jurisdiction in the UK – cross border cases would need separate investigations.

Brexit would also affect competition and intellectual property law. For example, companies may not want to invest in the UK because their patents might not be protected by the European Patent Convention, therefore adding additional business and administrative costs in the UK. Patents would have to be registered in the UK as a separate jurisdiction which would pricey. In addition, the UK currently does not have their own competition law legislation or a national competition body. For mergers & acquisitions, additional burdens of cost, time and administration will likely fall on merging parties and proposals for mergers would now need to be submitted to UK authorities.

Following Brexit, should the UK want to do business with the EU, it would still have to comply with the EU regulations, however, the UK would be in a position that would not allow it to negotiate, influence or challenge these regulations. Many of the current EU laws provide certainty, consistency and efficiency in cross-jurisdictional contracts, which the UK might not want to relinquish. British citizens currently benefit from EU employment laws and social protections. There is also a risk over time that a UK regime and an EU regime would become incompatible.

Considering the polls so far, it seems as if the British public is fairly evenly split towards whether Britain should remain or exit.