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# New Fault lines in Europe. The political consequences of Brexit<sup>1</sup>

## THE HISTORIC CONTEXT OF BREXIT

If one reviews European history over the period since the Reformation five hundred years ago, the role that England has sought to play in Europe has been that of holding the balance between contending powers. It used its naval strength, and the overseas colonies its naval strength allowed it to hold, to exercise that balancing European role.

At no time in the last 500 years, did the UK seem to disengage from, or turn its back upon, continental Europe. Indeed England felt it so much a part of continental Europe that Henry VIII actually contemplated being a candidate for Holy Roman Emperor.

Rather England sought to be sufficiently involved in Europe to exercise its balancing role effectively, but without being so intimately enmeshed in continental issues, that it lost its freedom of action. England's extension of its power to Ireland and Scotland were contributions to its goal of defence against, and influence over, continental Europe.

That same motivation lay behind the decisions the UK took to go to war in August 1914 and September 1939... that of maintaining a balance in Europe

The position that the UK held in the EU on 22 June 2016, the day before the Referendum, could be said to have been a perfect expression of that traditional English approach. The UK was having its European cake, and eating it at the same time.

The UK was a full voting member of the EU, but was exempted from aspects of EU policies that it might have found too entangling, like the euro, the Schengen passport free zone, Justice and Home Affairs cooperation and, for a time, the Social Chapter of the EU Treaties.

But as a full voting member, the UK could still influence the direction of the EU, and, if necessary, slow down developments it did not like, such as a major role for the EU in defence, where the UK preferred the job to be done by NATO.

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<sup>1</sup>Grattan lecture in the Irish Embassy in London at 7.45pm on Monday 12 June

The UK's budget contribution had been modified through a rebate, and agricultural policy had been modified in a direction sought by the UK.

The UK, it could be said, had the best of both worlds the day before the Referendum.

It was sufficiently IN, to exercise influence on the EU, but sufficiently OUT of it, to maintain the sort of freedom of action that befitted its historic role.

#### WHY IRELAND SEES THE EU DIFFERENTLY

Ireland's position is very different from that of the UK.

It has different, but not incompatible, priorities. They explain why Ireland is determined to remain in a strengthened European Union.

Like most of the smaller and medium sized powers in Europe, Ireland does not have the military or economic strength to exercise the sort of freedom of action that a bigger power, like the UK, France or Germany, could exercise. Whereas bigger countries might find European rules to be, at times, a slightly inconvenient restraint, a smaller country finds these common rules a source of protection, security, and freedom.

For a smaller country, the common rules guarantee it against unfair competition by an overweening bigger neighbour. They make the markets in which it competes predictable, open, and free of arbitrary behaviour. The common rules that the EU makes, and enforces, enable a country like Ireland to compete on equal terms for international investment, something that would not be the case if bigger countries were unconstrained by a rule based system.

Even in fields in which it might not be directly involved, like defence, a smaller country, like Ireland, benefits from the fact that bigger countries cooperate, through common organisations, like NATO and the EU, to preserve and defend a peaceful, and secure, space in its vicinity. Without peace in Western Europe in the preceding fifty years, there would have been no Celtic Tiger in the 1990s!

Now that the people of the UK have decided, in a Referendum, to quit the European Union, much is changed.

#### THE UK IS GOING BEYOND THE REFERENDUM MANDATE

The UK government has decided to go further than the requirements of the referendum decision of 23 June 2016, and to leave the Customs Union, and the European Economic Area as well, and to reject any jurisdiction of the European Court of Justice, adds to the difficulties.

It changes the context in which common threats must be faced, by both the UK and Ireland. Brexit may be an exclusively British initiative, for which Britain is wholly responsible, but its effects will be felt by others.

This is most topically illustrated by the question of information sharing on terrorism between the 28 EU states, including the UK.

This sharing is done under the Schengen Information System, which the UK can access as an EU member, and where disputes about what can be shared can be adjudicated objectively under the aegis of the European Court of Justice.

As a non EU member, the UK will have to negotiate a special deal to get access to this information. Access may not be automatic, particularly if the UK continues to reject ECJ jurisdiction on disputes about what may, and may not, be shared, and how.

I should say at this stage that, now that the UK General Election has failed to endorse the Prime Minister's vision of a hard Brexit, the parties who will be forming or supporting a new government here have the opportunity to reopen some of the questions like the Customs Union and acceptance of ECJ jurisdiction in certain areas. I hope that these are thoroughly looked at again, in an open minded way in the inter party negotiations and the options properly debated. That debate did not take place in the General Election campaign at all.

THE EU ALLOWS THE MAKING OF COMMON RULES....IT ALSO ALLOWS THEM TO BE AMENDED, INTERPRETED AND ENFORCED, IN A CONSISTENT AND EFFICIENT WAY

The example of EU cooperation against terrorism, that I have just cited, illustrates the fact that EU has provided the UK, and its fellow EU member states, with a common system for making,

amending,

enforcing and

interpreting

common rules on matters as diverse as food safety, aviation, intellectual property protection, and consumer protection in the purchase of financial products.

The fact that the rules are now common to all, means that food can be sold, airline competition facilitated, patents respected and savings protected across the whole 28 countries of the EU.

The fact that the rules can be amended in a single legislative process for all members saves a lot of time.

So does the fact that they will, if necessary, be enforced effectively and uniformly across Europe, under the supervision of the European Commission.

The fact that these common rules will be interpreted, in a uniform way across the whole of Europe, under the aegis of the ECJ, also avoids all sorts of confusion, haggling and duplication.

Without the EU, none of this would be the case.

It is really important for a business that seeks to sell goods across Europe to know that the standards the goods must comply with will be the same everywhere and that these rules will be enforced and interpreted in a consistent way in every EU country.

As a non member of the EU, to open EU markets to its exports, the UK will now have to negotiate a new deal on each topic, then agree a separate procedure for future amendments to that deal, and agree procedures for enforcing and interpreting the deal.

This is what the Swiss, with their 120 different Treaties with EU, enjoy. A lot of work!

It is possible to envisage, with a huge one off effort of political will on both sides, the completion and ratification of an initial Trade and Services agreement between the UK and the EU sometime in the next five years.

An equally daunting task will come afterwards, when one has to update, interpret, and ensure adequate enforcement of, the initial EU/UK agreement. The opportunities for gamesmanship by commercial and political interests, for opportunistic blocking minorities, and for sheer bloody mindedness are easy to imagine.

Everything will be up for grabs each time. Bureaucracies will have never ending occasions to justify their separate existence.

But that is the path the UK has chosen.

## BREXIT NEGOTIATIONS WILL DIVERT TIME AND TALENT FROM MORE IMPORTANT MATTERS

It will, I regret to say, involve the diversion of top level official talent, in 28 capital cities, away from anticipating the challenges of future, and instead towards reopening agreements made over the past 44 years.

Our most talented civil servants will be taken up with digging up the past, rather building the future. It is a tragedy.

The Brexit process will not be like a member leaving a club of which he or she no longer wishes to be a member, which is an easy enough process, once the bar bill has been settled.

It will be much more like a divorce between a couple, who have lived together for years, have several small dependent children, a mortgage, and a small business they had been running together. Not only will past bills have to be settled, but future liabilities will have to be anticipated, decisions made about the running of the business, and rights and responsibilities in respect of the children, agreed.

It would be naive to think that the divorce between the UK, and the other EU countries, including Ireland, will not leave scars. I hope that is all they will be, scars, that will gradually become less visible.

The financial terms of Brexit will be important, as they are in any divorce. They will encompass the future as well as the past. One should remember that Switzerland and Norway contribute to funds to help poorer EU countries to whose markets they have access through arrangements with the EU. It is unlikely to be different for the UK, but if we are to have a constructive negotiation on financial contributions, we also need to have a constructive discussion of the terms of UK access to the EU market.

As the initiator of Brexit, the UK has the primary responsibility to make all this work for both sides.

Negotiators on both sides should remember the wise words of an Assistant US Secretary of State in 1945;

“Nations which are enemies in the marketplace, cannot long remain friends at the council table”.

Bitterness in trade negotiation can poison other forms of cooperation. The initiators of Brexit in this country may not have given much thought to that, but those who will negotiate it now, have a duty to think about it.

## IRELAND’S IMPORTANT ROLE

Everyone must work to ensure that no open wounds remain at the end of the negotiation. I am sure that, as a full, loyal and active member of the EU, Ireland will work tirelessly to minimize misunderstandings, to interpret UK concerns for our EU colleagues, and vice versa.

As the only English speaking member of the EU, I expect Ireland will at times also have a role in interpreting the United States for our European Union colleagues too .

The best way of avoiding leaving open wounds when the negotiation is finished, is through timely anticipation of the things that could go wrong.

I hope that some of the things I say this evening will help in that regard.

## FISHERIES

Starting closest to home, we will have to reach agreements on the highly emotional and symbolic issue of fisheries. Fish do not respect territorial waters. While fishing boats can, in theory, be restricted to territorial waters, fish cannot. Overfishing in one jurisdiction affects the livelihood of fishermen in another. Conservation is vital. Who will adjudicate on this, ten years from now? Will there be quotas? Who will allocate them? In the absence of agreement, one can easily envisage clashes, even physical clashes, in seas around us.

## NORTHERN IRELAND

Also close to home, there is the issue of Northern Ireland. Originally, when the UK and Ireland joined the EU in 1973, Northern Ireland was the subject of a de jure, if not de facto, territorial dispute between the two countries. As a result of the improved relationship between the two countries that flowed from their common membership of The EU, and as a result of a great deal of creative thought and mutual concession, that issue has been resolved.

Now Brexit has intervened.

The two big parties in Northern Ireland have taken opposite sides on Brexit.

They have revived the fruitless disputes about territorial sovereignty.

Both these parties seems to be more comfortable agitating about their irreconcilable demands on territorial sovereignty, than engaging in the day to day drudgery of Ministerial responsibility in a power sharing Administration, in a time of limited budgets. It is time for Ministers in Stormont to go back to work.

In the past, Prime Ministers and retired statespersons could fly in to Belfast, to provide cover for a new compromise between the parties that allowed them to get back to work.

As Brexit will absorb so much of everyone's time in coming years, the scope for this sort of high profile counselling will be less. Reality therapy may be needed.

The scale of border controls in Ireland, and at ports on either side of the Irish Sea, and of the English Channel, will depend on the eventual trade deal between the UK and EU, if there is one, and on how it is interpreted over time.

The checking of compliance with rules of the origin, labelling and safety of goods will cause delays.

Even if there is a special arrangement for Northern Ireland, these matters will have to be checked at some border, or in some port, somewhere. Such checks are a necessary requirement for the free circulation of the goods in question in EU Single Market. I have no doubt that this is well understood here in Britain, given that Britain, under the leadership of the late Lady Thatcher, did so much to create the EU Single Market. Now that the UK is leaving, I can assure you that Ireland will be doing everything it can to preserve, extend and enhance that remarkable achievement ...the Single Market

The genius of the combination, of common EU membership of the UK and Ireland, with the Good Friday Agreement, reduced the sense of separation between both parts of Ireland, and between each part of Ireland, and the island of Britain.

That made the two communities in Northern Ireland more willing to live with constitutional and institutional arrangements, that both of them might otherwise have regarded as less than ideal.

That benign combination, of the Good Friday Agreement and joint membership of the EU, will now be brought to an end. The dependence for its survival of a UK government on one of the two parties in Northern Ireland will not make it easy for the same government to adjudicate between the parties, as is part of their responsibility under the Good Friday Agreement.

#### WHY HAVING A COMMON COURT, AND CONSISTENT INTERPRETATION, CAN HELP

As I mentioned already, Brexit has the potential to complicate cooperation between 28 or more European countries in the struggle against terrorism.

Cooperation is much easier between countries who adhere to common standards, uniformly interpreted under the aegis of a common European Courts system. Information can more easily be shared, new terror threats identified, and common responses agreed, in a common European system than would be possible, if all we have between the UK and the EU, are a series of ad hoc bilateral agreements.

Without commonly agreed protections, cooperation will become more difficult, because one will no longer have the same assurance about how the receiving country will treat the people, or the information, that one gives over.

#### THE DEFENCE OF EUROPE

As far as military security is concerned, the problem is less acute, because the UK will remain a member of NATO.

But, as with police cooperation, things will not stand still.

It is likely that greater use will be made of Article 42 of the EU Treaty which allows for a common security and defence policy, with operational capacity, to be developed. The UK used to be able to slow down use of these EU powers, and did so because it wanted any action to be under the aegis of NATO. After Brexit that will no longer be the case.

Mutual solidarity will be reduced. Outside the EU, the UK will no longer be able to benefit from the legal obligation, imposed on all EU states, by Article 222 of the EU Treaty, of giving help where an EU state is

“ the object of a terrorist attack or the victim of a natural or manmade disaster”.

Outside the EU, the UK will not be taking part in meetings of the European Council which , under Article 222 must “regularly assess threats”, whether from within and outside the EU.

It is impossible to predict the difference the absence of the UK will make, but I am sure that regular meetings with EU colleagues, even when there is no urgent threat to be tackled, greatly facilitate speedy action when a threat does arise. UK Ministers will have less informal, casual, or routine contact with their European counterparts. Meetings will have to be set up specially.

From an Irish point of view, a lack of ongoing contact between the UK and EU could have negative consequences. A threat to the UK interests is very often a threat to Irish interests too. For example, Ireland has the same electricity grid as the UK, and our air space and territorial waters are contiguous, as is our territory on land. A threat to one of us is potentially a threat to both.

Other fora for joint work between the UK and EU states will need to be used more fully. The British Irish intergovernmental Council will have to meet much more often.

## PROTECTING KEY SHARED INFRASTRUCTURE FROM ATTACK

Under Article 3 of the NATO Treaty, NATO members are working on “Resilience”, namely the protection of the critical infrastructure of member states. This would include the electricity grid, the commercial and health communications network, and air traffic control. It will also involve anticipating future threats, based on the acceptance that greater interdependence across borders makes modern societies more vulnerable.

Ireland is not a member of NATO.

Now that the UK is leaving the EU , Ireland , which is a member of the NATO Partnership for Peace, may, however , have an interest in cooperating with all its European neighbours, including the UK, in this work on the Resilience of shared networks. This would be for the protection of our own Irish people.

Ireland will also find that it is in its own interest to ensure that the EU, using Article 222 of the EU Treaty, actively helps member states that encounter threats.

Given the increasingly self oriented attitude of the present US Administration, it will be in nobody’s interest to allow Defence policy become a fault line between post Brexit Britain, and the European Union.

Working together on these matters is not a bargaining chip for negotiation, it is in the existential interest for both parties.

So too, and for similar reasons, is the continued close cooperation between the EU and the UK on climate change.

## BREXIT NEGOTIATORS NEED TO REMEMBER HOW MUCH WE HAVE IN COMMON

So when the Brexit negotiations become fraught, as they undoubtedly will, UK and EU negotiators need to remind themselves that we have more in common than divides us, and that we each live, close beside one another, in a continent whose global weight is much less than it was 100 years ago.

In 1900, we, Europeans, made up 25% of the world population, now we are barely 7% .

At the other end of the Eurasian land mass, China will double the size of its economy in the present decade. It adds to its GDP by an equivalent of the entire GDP of Turkey....every year.

China has ambitious plans for its global role, and China has the executive coherence necessary to realize those goals. It is thinking in ambitious geographic terms .It is promoting global connectivity through its “One Belt, One Road” concept.

The UK’s access to that Road, across the Eurasian land mass, runs entirely through the EU.

The access of Ireland to that Road runs mainly through the UK!

I will now turn to the internal dynamics of the EU itself, as I expect they will evolve in coming years.

## NEXT STEPS FOR THE EU, NOW THAT THE UK IS LEAVING

The European Commission has produced a White Paper which sets out five, rather stylised , scenarios.

These scenarios are

- (1) Continuing on as we are
- (2) Doing nothing but maintaining the Single Market
- (3) Allowing countries that want to go ahead with more intense integration, to do so within the EU legal order, and with the possibility for others to join later
- (4) Doing less more efficiently
- (5) Doing much more together.

Given that it is difficult for 27 countries to agree on new tasks (It was much easier when there were only 9 or even 15 members), I think the first option, continuing on as we are, will be the easiest to follow. This is especially the case if the EU remains unwilling to amend its Treaties

The last option, doing much more together, does not have public support at the moment, but that could change suddenly, if some external shock made it easier to overcome the normal resistance and inertia. Among the activities envisaged, under the doing much more together option, are a single European anti Terror agency and a single coast guard. These are not farfetched ideas, and indeed may be inevitable if passport free travel across member state boundaries is to continue.

The option of doing nothing, but maintain the Single Market. is not very helpful in my view. In truth, it is almost impossible to agree where the Single Market ends, and other policies begin. The Commission argued that this "Single Market Only" option would make it more difficult to conclude more or deeper international trade agreements, because differences in standards would persist within the EU.

The option of "doing less more efficiently" is not very different. It would involve pursuing Single Market integration vigorously, but going slow on regional policy, and on social and public health policies that do not relate directly to the Single market. This option may appeal to net contributor countries, like Germany and perhaps Ireland, but would not appeal in Central and Eastern Europe. It may appeal to outsiders like the UK, Norway and Switzerland as it might reduce the fee they would pay for access to the Single market. But it would be strenuously resisted by many poorer EU states.

The idea of allowing some countries to "go ahead without the others" is one that has been around for a long time, and is actually provided for in Title IV of the EU Treaty governing what is known as "Enhanced Cooperation".

While this provision has not been much used, it could be said that the euro, and the Schengen border control free zone, are already forms of enhanced cooperation.

I do not see Enhanced Cooperation as an ideal way forward for the future, because it dilutes the democratic unity of the EU, and this is already put under enough strain by the division between Euro and "not yet Euro" members. The Commission saw this scenario as allowing some countries to go further ahead on defence cooperation while other members might hang back.

#### MORE COMMITMENT WILL BRING MORE INFLUENCE

It has, however, to be recognised that influence of a member state in the EU, will be commensurate with its commitment and solidarity to and with other EU members.

A country that only wants to take part in policies from which it will gain, while going slow on things that might involve costs for it, will have less influence in the EU, and might not receive solidarity when it needs it, but it is hard to quantify this.

Putting it another way, an EU which encourages some countries to go ahead while others hang back could quickly divide between "policy maker" countries, and "policy taker" countries. This is why Ireland has traditionally resisted a "two tier" Europe.

#### BUT WHAT DOES EU PUBLIC OPINION WANT?

Public opinion also needs to be taken into account, in working out the priorities of the new EU without the UK, and public opinion on what should be EU priorities varies widely between countries.

When citizens in the 28 member states were asked in April 2016, just before the UK Referendum, what they wanted the EU to prioritise, they came up with quite different answers in different countries.

When it came to fighting against Terrorism, 80% of Greeks wanted the EU to do more, and 69% of Italians did, as against only 33% of the Dutch and 44% of Danes. At that time, 66% of UK citizens wanted the EU to do more against terrorism, but then decided to leave anyway.

After France, 55% of UK citizens in April 2016 perceived their country as being under a high threat of a terrorist attack, as against only 11% of Irish people, 9% of Latvians and 8% of Estonians.

This was not the only contrast.

69% of Swedes and Spaniards wanted the EU to do more about the Environment, but only 28% of Estonians did .

Understandably, at the height of the Syrian asylum seeker crisis, EU action on Protecting External Borders was a priority for 73% of Greeks, but only 43% of Irish people and 35% of Swedes and Latvians wanted the EU to prioritise that.

The dividing lines on whether the EU should do more on Security and Defence were quite revealing.

Overall and on average, 44% of EU citizens felt the EU should be doing more about Security and Defence.

But, to my surprise given their proximity to Russia, only 30% of Latvians and Estonians, and 25% of Danes, did so.

In contrast, 60% of Greeks and 56% of Italians felt the EU should do more on Security and Defence. 56% of French citizens felt the EU should do more, but only 41% of Germans, which suggests that , a year ago anyway, there was not an overwhelming public demand for an EU defence policy.

But that was before the election of Donald Trump, and his disturbing omissions on European Security during his recent visit to Europe.

## ENERGY SECURITY

Finally, given the low oil prices at the time, it is perhaps not surprising that so few European felt the EU should be doing more on Energy supply issues. Yet a Single Energy market was identified as a priority issue by the European Commission even in their “Continuing as we are” scenario I mentioned earlier.

In 2016, only 36% of EU citizens felt the EU was not doing enough on the issue of Energy supply. The greatest support for more EU action on Energy supply was in Greece and Spain ( both 54%). But in the Czech Republic, only 18% felt the EU should do more on Energy Supply questions.

Given that Ireland is so completely dependent on, what will soon become a non EU country, for access to the international electricity grid, it interesting to note that support for a common EU policy on Energy Supply was below the EU average in Ireland, at a mere 33%.

I expect that that will change and that Ireland will seek assurances on continuity of supply in any Brexit Agreement, and will want the support of its 26 EU partners in that.

## THE OUTCOME OF THE UK GENERAL ELECTION

The recent UK General Election result did not endorse Mrs May’s very specific plans for a hard Brexit. The loss of support for the outgoing government in London, and in university towns, underlines this.

It now looks as if the next government will be a coalition of some kind between the Conservative Party and the Democratic Unionist Party (DUP).

Agriculture will be the subject to watch in any DUP/Conservative deal.

How will the incomes of farmers in Northern Ireland be protected and how will freedom of access for Northern Irish food products to the EU market south of the border be preserved?

Given the commercial interest many Democratic Unionist supporters have in trade across the border in Ireland, the Conservative Party may have to drop its insistence on leaving the EU Customs Union, to avoid the necessity of extensive and time consuming checking of goods crossing the border.

As a Unionist Party, the DUP will favour UK wide solutions rather than a special deal for Northern Ireland alone, and this may help ease the impact of Brexit on East/West trade between Ireland and Britain as well. That would be welcome.

If it were to decide to stay in the Customs Union, the UK could of course, not do trade deals of its own.

But I believe there was little evidence the deals UK could do, outside the Customs Union, would compensate it for the deals it would lose by leaving the EU,

- 295 trade deals, and
- 202 deals on regulatory cooperation.

I hope the people of the UK will now have the sort of honest detailed, sector by sector, debate on what Brexit might mean, a debate that they so markedly failed to have during the General Election campaign.