

Brexit-What will it mean for Wales to leave the EU?

Event Report



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Eversheds, Cardiff



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It's been almost four months since the referendum that saw the UK vote to leave the European Union. Yet, despite some initial suggestions from the UK Government at the angles for negotiation they intend to pursue, there is little clarity over what both the terms and implications of Brexit will be for the UK and for Wales.

On October 10th the IWA, in partnership with Eversheds, hosted a discussion asking 'What will it mean for Wales to leave the EU?' in an effort to dig into the likely implications. Chaired by ITV Cymru Wales' Catrin Haf Jones, the evening began with a keynote speech from Ros Kellaway, Head of Competition, EU and Regulatory at Eversheds looking at the impending negotiations.



Despite Theresa May's reluctance to give 'a running commentary ahead of negotiations' Kellaway argued that May has said enough to hint at the key issues which will be up for discussion as a result of Brexit. Sian opened by outlining the initial process of how we actually get out of the EU. The referendum result doesn't in itself trigger the leaving process, she explained, adding that the Member State must trigger Article 50 themselves in order to leave according to their constitutional requirements. There is current debate over whether the UK Government can make the decision, or whether an Act of Parliament will be needed. Kellaway suggested that despite a number of actions currently heading through the courts, a 'royal prerogative' would likely suffice and Parliament would not need to pass legislation to trigger Article 50.

Kellaway then discussed what exactly happens when Article 50 is triggered, explaining that the terms of the negotiation remained quite limited. Trade, it appears, will in fact not be part of the negotiations despite the extent of current trade between the EU. Article 50 only states that "we are to be negotiating and concluding an agreement setting out the withdrawal arrangements and taking account of the framework for a future relationship together" said Kellaway. The EU Commissioner for Trade has previously stated that there won't be any free trade agreement until the UK has left the EU and Kellaway suggested that the furthest the initial negotiations may go is to put some interim trade agreements in place, but this remains uncertain.

The withdrawal agreement only has to be agreed by a qualified number of Member States and a simple majority of Members of the European Parliament. A trade agreement needs unanimous consent and ratification by the Member States of the European Union, possibly explaining why there have been so few trade agreements undertaken by the EU in its lifetime.

Prime Minister Theresa May's speech at the Conservative Party Conference gave a rough insight into what the UK Government will be asking for when it comes to both Article 50 and trade negotiations. Kellaway said it would appear the UK Government is going to be looking for a bespoke free trade deal covering trade and goods and services with the ability for the UK to negotiate its own free trade deals, meaning an exit from the Customs Union.

Other elements of the negotiations between the UK and the EU following the triggering of Article 50 include;

- The ability for British companies to trade freely with and operate within the single market with the ability for European countries to do this in the UK,
- The ability for the UK to decide for itself how it controls immigration,
- Protection of the rights of UK citizens living in the EU,
- No jurisdiction for EU courts in the UK.

Kellaway stated that the model for the UK post Brexit will likely not be the models adopted by either Norway or Switzerland, although some of the principles of the Swiss model could be used in part for some key products traded between the UK and EU.

With free trade agreements unable to be negotiated before Article 50 is triggered, the day we leave the EU could see the UK left with no tariff barriers between the UK and the rest of the Union. The answer often given to this, suggested Kellaway, is that we will still be a member of the World Trade Organisation. However, although the UK is a member of the WTO any tariffs currently agreed have been negotiated with the UK's membership of the EU as its basis, therefore there are no immediately available set of tariffs for the UK.

The Conservative Party Conference saw David Davis, Secretary of State for Exiting the European Union, announce the intention to pass a Great Repeal Act to repeal the European Communities Act 1972 and save all existing EU Law as domestic law. "It's going to be consultation only" is how Kellaway described the Welsh Government's role in negotiations, yet there are questions over what happens to EU Laws that apply to Wales. "That will be up to Wales to decide what to keep, how to keep it, whether to repeal it and whether to amend it" suggested Kellaway.

With the context laid out for the evening, Catrin Haf Jones introduced the rest of the panel:

- Dr Jo Hunt, senior fellow at The UK in a Changing Europe and Reader in EU Law at the Cardiff School of Law and Politics.
- Gerald Holtham, CEO of Cadwyn Capital and Visiting Professor of Regional Economy at Cardiff Metropolitan University
- Neil Hamilton, Assembly Member for Mid and West Wales and Leader of UKIP in the National Assembly for Wales.



The Chair began by asking the panel for their priorities for the forthcoming Brexit negotiations. Gerald Holtham highlighted the role of the European Coal and Steel Community in the 1950s and suggested that an agreement to harmonise a particular industry might be useful, in effect ‘mini single market agreements’. The higher education sector and auto industry sectors are ‘critical’ for Wales. The auto industry in the UK in particular trades almost solely within the EU. In that case argued Holtham, “Why won’t these big companies just relocate to somewhere within the EU?”

Neil Hamilton argued that Holtham’s vision was far too pessimistic. “EU trade amounts to about 5% of our GDP....95% of our GDP does not come from EU trade”, he said, “Trade is not going to just stop...unlike Donald Trump we shan’t be building a wall down the channel”. Hamilton called for a post-Brexit model that was similar to that agreed between the EU and South Korea, with a free trade agreement on the basis of tariff-free access to the market with no political add-ons.

Dr Jo Hunt raised the Welsh dimension in these discussions, outlining the difference between Wales and the rest of the UK. “We are net importers of EU products in the UK, but Wales is in a slightly different position where we are actually net exporters of goods into the EU...In terms of setting the negotiations, there needs to be space for that specificity for each part of the UK to be recognised”, she argued. Dr Hunt said this multi-level approach to negotiations will need to take place within the UK if we are to ensure Wales doesn’t lose out. Referring to the signs already emanating from Westminster, Hunt felt that initially there were positive overtones, but there has been a certain hardening of the UK Government’s position on involving the devolved nations of late. There needs to be talks taking place now, argued Hunt, who suggested that leaving such negotiations within the UK to later would be too late.

Exploring the potential impact of the Great Repeal Act Ros Kellaway highlighted the lack of clarity in current plans over how this would affect Wales. Neil Hamilton referred to agriculture as a devolved matter and added his concern that no work had

been done on how arrangements would work post Brexit at either a UK or Wales level.

'Red tape' was highlighted as a reason many Leave campaigners thought that the UK would be better off outside the EU, however Catrin Haf Jones questioned, will there now be more red tape and regulation as a result of being outside the EU? Dr Jo Hunt raised this as a concern due to the end of free tariffs and the potential for border checks to be introduced on our products. Holtham cited the case of Japanese VCRs all having to be checked at a single depot in France, yet Hamilton disagreed that this was a likely outcome of Brexit. "The whole point is after we leave the EU the whole corpus of legislation is then available for reconsideration...it isn't going to be easy for us, but it certainly isn't going to be easy for them".

Opening to questions from the audience a point was raised about Theresa May's pledge that structural funds will be honoured as long as deals are signed before the autumn statement.

Holtham painted a stark economic picture for Wales; "The problem for us is that we're going to have 29 seats in a parliament of 600 with very few marginal seats so you know, who cares? We have no leverage and I think we're just going to have to face the fact that it is ourselves alone. We've just got to get out of this ourselves because there are just not that many freebies coming down the M4". A further set of structural funds may have been unlikely from 2021 anyway, but Wales won't be funded on that level again, said Holtham. He pointed out that while EU money is only about 2% of the Welsh Government's total budget, it accounts for about 20% of the capital budget, "so you can whistle for that". He called for the Welsh Government to improve its prioritisation of capital projects as a result of this. "We're talking about peanuts in global financial terms" said Neil Hamilton, who called for money for Wales to be guaranteed until at least the end of the Brexit agreement. Hamilton disagreed with Holtham on the UK Government's approach to Wales, "the idea that this horrible government in London are going to cut off our knees at Offa's Dyke... funding may not continue at that level, it may be more, who knows?". Yet, Kellaway was clear when it came to the likely funding allocations to Wales. "Well I would not be betting on obtaining money for those things that have not been finalised before the Autumn Statement...That's been stated quite clearly. There will be less money available".

Another question from the crowd concerned the potential differences in the way powers repatriated to Wales will work compared with Scotland given the different devolution dispensations. Dr Hunt said constitutionally if the new Wales Act has been implemented we will have moved to a reserved powers model of devolution, albeit one with less powers. The Conservative AM David Melding had recently raised concerns that powers being repatriated to the UK wouldn't come to Wales even if they were within devolved areas, and Catrin asked Dr Hunt whether this would be an issue. Jo Hunt explained that the EU and UK currently work with shared competence, in other words they share the power in certain areas. In a handful of case there is no shared competence and in these cases powers will be coming back to the UK and some of these powers will be in devolved areas within Welsh competence. "However, it's simply not clear whether that's the way it's going to work with the Great Repeal Bill. There may be pressures for recentralisation in some areas". She also raised concerns about the funding that might come along with any new powers,

asking “The other thing is if you get the devolved responsibility are you going to get the money to go with the responsibility?”. “We can see how this is going” added Gerald Holtham, “just look at local authorities over the last ten years. They’ve been left with all the responsibilities and had all the money taken away. I think it’s going to be much easier to give Wales responsibility than it is to give Wales any money”.



Revisiting the idea of trade, Ros Kellaway posed a question to Neil Hamilton on food and agricultural products asking why tariffs after leaving the EU wouldn't be an issue for the UK. “I understand us to import most of our food and to import most of it from other parts of the EU...why is this not going to be a significant issue on the day that we leave?” she queried. Hamilton admitted there may be problems with ‘transition’, however leaving the EU would mean we could decide for ourselves on what tariffs we want to set. He cited the Common Agricultural Policy (CAP) as “being one of the worst aspects of the European Union”. Kellaway countered naming the National Farmers Union as a major Remain campaigner “who feared the loss of food production in this country” as a result of leaving the EU. She continued, “To me there is an overriding issue; engineering products, clothing tariffs...these products affect us everyday. What on earth is going to happen to us on the rates of these products when we leave the Customs Union?”.

Moving from law to economics, an audience member questioned Neil Hamilton on his figures. Professor Brian Morgan of Cardiff Metropolitan University suggested around 15% of our trade was with the EU. “When you're talking about a figure of that size, it seems to me that negotiating a good Brexit is absolutely fundamental”, he asked. Hamilton responded “Why would you assume that even on a worst case scenario that we're going to lose that amount of trade...The currency movements alone are going to outweigh these kinds of figures and do so on a weekly basis”. Gerald Holtham retorted that the kinds of companies that trade outside the EU and have a UK supply chain will benefit from the fluctuations in the pound but “those are the good stories”. “...Of course it'll come out in the wash” Holtham continued, “the world won't end, and in twenty years time perhaps it'll all be alright, but the way it works out alright is that the pound goes down, it makes everybody poorer and a lot of

people get put out of work as a result and then they're all poorer and in the end we get so bloody poor that we're so cheap that people move back in and make stuff here”.

The evening ended with this staunch divide on the implications of Brexit for Wales yet a slightly clearer picture of what form leaving the EU will take. It will now be up to policy makers in Wales to grapple with the potential effects of leaving the EU and face up to both the challenges and the opportunities that Brexit will pose for Wales.