



Brexit: Impact, Risks and Opportunities for European Development Policy

Summary

In her “farewell letter” to EU-Council President Tusk, UK Prime Minister (PM) May stated that the UK “wants to make sure that Europe is capable of projecting its values and leading in the world.” What exactly this means for British engagement in European external relations and development cooperation (DC), is still unclear. Furthermore, the Brexit White Paper presented by the British government in February has failed to establish clarity regarding substantial issues. Merely three weeks after handing over the notification of the British withdrawal from the Union to the European Council on 29 March and officially triggering the negotiations under Article 50 TEU, PM May called for a general election in Britain to be held on June 8. This paper discusses possible consequences of Brexit for UK and EU cooperation with developing countries. A central recommendation is to protect development policy as far as possible from the trade-offs of the negotiation gamble and place common goals and values beyond dispute.

In more detail, EU development policy faces the following challenges: short-term problems regarding existing legal obligations, looming budget shortfalls and the securing of business continuity as well as the longer-term realignment of EU development policy following the departure of the United Kingdom (UK). There is also the problem of the UK’s succession in international treaties and mixed agreements in which both the EU and the member states are partners, such as trade agreements and memberships of international organisations, global development financing and representation in multilateral forums or negotiations.

Against the background of what is known about the positions of both sides, this paper addresses three subject areas:

1. Brexit diminishes the influence and shaping power of both sides, the UK and the EU. Issues of security, migration and, above all, trade dominate the debate on post-Brexit external policies. The form and conditions for further involvement of the UK in EU development policy have yet to be defined. Overall, EU-UK cooperation will become less structured, less predictable and more strongly subjugated to national interest. The weakening of Europe’s stature, its DC capacity and economic power might result in a series of negative effects for international cooperation and multilateral processes.
2. The development agenda plays a subordinate role in the Brexit negotiations as well as in British politics, and risks being instrumentalised as a bargaining chip. The political forces that gained the upper hand in the UK with the Brexit referendum give rise to fears that a shift in political culture and a reduction in the significance of DC in British politics could come to pass. The general elections on 8 June will most likely further strengthen the government’s Brexit-mandate and positions.
3. The effects of Brexit will also be felt on trade with developing countries, presenting these with uncertainties as well as specific challenges and problems. However, the situation presents the occasion to improve existing trade and partnership agreements. Brexit should be viewed as an opportunity and inspiration for reforms to enhance the coherence of EU trade and development cooperation as well as other policy areas. More effective cooperation at EU level could partially compensate for the loss of the UK.

The withdrawal process

With the course of negotiations uncertain, from June 2017 the EU will need to deal with the withdrawal of its second largest economy and the third largest member state in terms of population. It has by now become clear that the UK is aiming at a “hard” Brexit, thereby leaving the single market and the customs union.

According to Article 50 of the Lisbon Treaty (TEU), an agreement should be signed within two years from triggering of the exit clause, i.e. by April 2019. If the negotiating period is not extended, there will be less than two years available, just about 18 months as the divorce agreement needs to be ratified by the European Parliament and the parliaments of the 27 EU states. The time to avoid a disorderly break-up without a contract could be even shorter given that substantial talks will only start after the UK elections. It is unlikely that all points can be settled comprehensively and in a manner satisfactory to both sides in this time. And, as is standard practice with major negotiations, nothing is agreed until everything is agreed. Conflicts are bound to arise: whilst the UK wishes to already begin parallel trade talks with third countries, Brussels regards this as taboo so long as the UK legally holds membership status. In view of these divergences and the intricacies of the matter, it is hard to predict how long it will take before an EU-UK trade agreement is in place – as the core of the future EU-UK relations.

Although it will be difficult to escape the jurisdiction of the European Court of Justice completely, the UK government wants to avoid being trapped in EU law, and any further entanglement in EU regulations and institutions. However, London stresses its desire to continue cooperation with European partners on issues regarding foreign and security policy as well as countering terrorism. The fact that foreign policy as well as trade are, particularly in the case of the EU as soft-power, closely associated with development policy and multilateral cooperation is well-known. Whether and to what extent security issues and more recently also migration policy should be linked to sustainable development is the subject of controversial debate. Evidently, the EU and the UK will have to continue to cooperate in these matters after

Brexit. From a pragmatic viewpoint, the UK and the EU therefore are well-advised not to treat the development cooperation chapter as merely winding up a legacy, but instead to build a solid basis for constructive collaboration during the forthcoming negotiations.

The launch of the official Brexit negotiations coincides with a series of key political decisions; just after the presidential elections in France, the EU will start talks on the new Multi-annual Financial Framework 2021-2027, including the re-organisation of DC instruments. Parallel to this, exploratory talks have also begun on the future of EU relations with the countries of the African Caribbean and Pacific group (ACP) following the end of the Cotonou Agreement in 2020 and the legal implications for the economic partnership agreements (EPAs) (Keijzer & Bartels, 2017). Brexit is already casting a long shadow over these processes. In addition to Europe’s dwindling influence in the world, the weakening of the EU’s market power, its foreign policy, humanitarian and military capacity and ultimately its negotiating weight are also being felt negatively. Europe’s security would hardly be furthered by linking the exchange of intelligence, security information and police data to the access to the single market.

Development policy – a footnote to the Brexit dossier?

The UK has traditionally been a pioneer in the field of official development aid (ODA) and in 2013 was the first G7 member to achieve the 0.7% goal (share of ODA in GNP) and secure this by law. On 21 April PM May defended this commitment against the pressure from right-wing ministers. Whether or not this changes in the light of the current political climate remains to be seen. Given the contentious issues of citizens’ rights of foreign residents, legal and financial liabilities as well as transitional provisions and a longer-term framework for the future EU-UK relations, notably an agreement on trade in goods and services, it is to be feared that development policy will be treated as a mere negotiating pawn. Altogether, DC does not figure high on the British political agenda. The economic development strategy presented by the Department for International Development (DfID) in January 2017 appears to be an attempt to justify the continued existence of the ministry after Brexit. The strategy proposes a new approach to fighting poverty with a stronger weighting for the promotion of private sector growth and employment in developing countries. Following a statutory amendment in the House of Commons, DfID is set to invest some 7.5 billion euros in African and South-East Asian companies via CDC Group, its development financing instrument (DFI).

With a total annual ODA budget of 8 billion pounds (9.4 billion euros), the UK is responsible for ca. 15% of European DC funding. The contribution to the European Development Fund (EDF) in particular stands at a high level, with 4.48 billion euros for the funding period 2014-2020. At 14.7% of the total amount of the 11th EDF, it is higher than the contribution of the UK to the overall budget of the EU, at 11.7% (2013). The total amount of EU-DC payments from

DC funding (% of GNP)	EU member states
< 0.15%	Czech Republic; Greece; Hungary; Poland; Slovakia;
0.15% > 0.5%	Austria; Belgium; Ireland; Italy; Finland; Portugal; Slovenia; Spain
0.5% > 0.7%	Netherlands
=/ > 0.7%	Denmark; Germany; Luxemburg; Sweden; UK

Source: OECD Development Assistance Committee, 2016. Only takes account of EU countries that are OECD-DAC members (excluding Bulgaria, Croatia, Cyprus, Estonia, Latvia, Lithuania, Malta and Romania).

London amounts to around 1.5 billion euros per year. Although DfID gave a positive assessment to European DC in its November 2016 Multilateral Development Review, the government is looking for options to move some of these funds to other channels in the scope of multilateral co-operation programmes, such as the World Bank, the UN system, GAVI, Global Fund or the Commonwealth Secretariat. A number of debates in the UK indicate that the country intends to further intensify cooperation with the Commonwealth nations in the future. In her Lancaster House speech, May emphasised the significance of the historic and economic links with these countries. 42 of the 53 Commonwealth states are also part of the ACP partnership, representing the majority of this group. The existing Cotonou Agreement with the ACP countries ends in 2020 and the future of this cooperation format is unclear. It is currently unlikely that the UK will participate in a new EU-ACP partnership, which serves to further weaken the position of the EU in the negotiation of a new agreement.

Statements by government officials, e.g. UK Development Minister Priti Patel – who is very critical of EU DC and even called for the abolition of DfID prior to taking office – indicate that post-Brexit DC and UK foreign policy as a whole will be subjected to greater trade, investment and security interests. The opening of markets and liberalisation are seen as the best path to economic development. However, there is still dispute as to whether full trade liberalisation, propagated by leading Conservative politicians such as Trade Minister Liam Fox, is the right recipe for all developing countries. It is suspected that other hidden agendas could play a role in this radically liberal approach. For example, Mark Langan reveals the interests of the agricultural industry and finance with regard to this point: these two economically and politically highly influential players use the National Alliance for Food Security and Nutrition (NAFSN) to facilitate conditions for private foreign investors and their property rights. Researchers, NGOs and the press openly refer to the strategies applied to represent the financial interests of investors in some African states as ‘land-grabbing’ (Langan, 2016).

Just how easy it is for DC to become collateral damage in the Brexit tussle is evident in the case of a further example: according to media reports, the UK government could follow the advice of the pro-Brexit association of “Lawyers for Britain” association and threaten to demand repayment of the British share of the capital of the European Investment Bank (EIB), 10.2 billion euros. This would naturally have an effect on the EIB’s external operations – with direct consequences for current programmes, project financing and the EU trust funds.

UK development funding has already incurred a direct loss due to the fall in Sterling since the Brexit vote in June 2016, affecting the purchasing power of British development funds in third countries. In the medium term, there is the question whether and how the UK could continue to contribute financially to the EU DC after the end of the

current funding period in 2020. At present, the likelihood of this happening is not great, as Downing Street is resolutely striving to uncouple and disentangle British and European financial interests. As a consequence of the increasing budgetary pressure on the UK treasury, it is possible that London will offset its contribution to EU DC against the purported exit bill of 60 billion euros.

Consequences for trade with developing countries

In the scope of the World Trade Organization (WTO), of which the UK would be a simple member following withdrawal, there are clear regulations binding upon the country in its dealings with other trading partners. Favoured trading conditions afforded to one partner must also be granted to all others. The divorce agreement to be negotiated between the EU and UK could also further limit the leeway available to London when offering trade preferences – with uncertain consequences for developing countries. In addition, such WTO renegotiations are highly complex and involve a large number of other actors. The requirement for unanimity of all 164 WTO members could also result in other positions and claims being put on the table, which would entail a long-drawn-out process.

It is therefore important for the UK to gain the support of the LDCs and work towards achieving a consensus. Following withdrawal, agreements under community law will lose their validity for the UK. For treaties only signed by the EU, it will be sufficient to notify third parties that from Brexit-day onwards there will be 27 instead of 28 states to which this treaty is applicable. So, while the LDCs will continue to enjoy preferential access to the European market, this will have to be regulated for the British market, with competition for the “best deals” and the risk of a new era of reciprocal trade concessions cannot be ruled out. The departure from the customs union inherent in the expected hard Brexit also affects legal certainty in trade with other developing countries and requires the UK to sign new bilateral agreements with third countries after withdrawal. The necessary negotiation of such agreements and their implementation would themselves represent a major administrative burden for the partner countries. One factor of uncertainty is therefore whether the UK will at least temporarily adopt the EU framework or look to achieve its own – which would create non-tariff trade barriers for developing countries (Hulse, 2016). Attempts at regional integration, for instance in West Africa, might also be affected by this and the priority given to Commonwealth states.

There is also the fact that British imports from developing countries are relatively low, at around 39 billion euros a year, compared to total imports to the UK, at around 641 billion euros. There is a real danger here that development interests could lose out against those of companies and consumers (and certainly negotiating a free trade agreement with the US or other powerful economies will be afforded considerably more attention and resources).

Opportunities include the possibility that the UK could introduce a new, generous preference scheme for all LDCs (or a newly-defined, expanded LDC group), possibly more balanced than the “everything but arms” approach of the EU and therefore one that EU DC could learn from. The swift drafting of adequate rules of origin for products from developing countries and the complex terms regarding value chains are particularly significant here.

A similar question concerns the UK’s approach to product standards, particularly phytosanitary standards. If a new framework is established, third countries could face the difficulty of having to adjust to two different sets of rules for exporting to Europe, representing a significant additional hurdle for these states, having already invested heavily in taking EU regulations into account. In the medium term the UK is to continue applying the EU laws in a “Great Repeal Bill” until separate British regulations can be drawn up. In subsequent legislative processes for independent UK regulations, particularly those resulting in the specification of new product standards, or the definition of new rules of origin particular care should be taken to the circumstances of the partner countries to avoid a situation where additional obstacles lead to collapsing exports, disruptions to value chains or permanent damage to trade relations.

New regulations will also be required for EPAs. In addition to the question of validity and applicability of the agreements, the unilateral withdrawal of a EU member state also gives rise to very specific problems, particularly as regards the import of agricultural produce: for example, how should the scheduled concessions in the form of import quotas be treated where the withdrawal of the UK means that the approximately 15% of goods destined for that country are

no longer “in demand”. These product-specific quotas will have to be renegotiated for all countries and each of the concessions. The question of whether the remaining EU 27 simply assume the concession certificates of the common trade policy of the ‘former’ EU 28 on a one-to-one basis or call for partition with the UK is also significant with regard to imports from Commonwealth states: major exports for these include tea and cut flowers (Kenya) and the textile sector (Bangladesh). Belize, Mauritius, Fiji, Gambia and Sri Lanka are also all strongly dependent on the British market.

Bottom-line: make a virtue of necessity

London has repeatedly expressed its desire for a clean break, declaring that it no longer wishes to enter into new obligations within the EU context. At the same time, both sides frequently reiterate their dedication to common values, which was also emphasised in the British withdrawal letter. Discussions during Brexit should therefore focus on the common goals and values of DC. To avoid uncertainty and minimise damage to developing countries, all sides would best be served if the forthcoming negotiations on the settlement of affairs regarding EU DC could proceed at a good pace and if the disputed issues could be discussed with openness and transparency, taking account of continuity, predictability and dependability for third-party states, as well as observing the “do no harm” principle. The damage caused by a disordered ‘dirty Brexit’ in this field would be difficult to repair. On the other hand, the forthcoming changes can also be utilised for reform of European development policy, the improvement of cross-sectoral policy coordination and to increase ODA spending from the remaining member states.

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