

10 Myths about Brexit

1

The notice was served under Article 50 of the Lisbon Treaty

No, the correct reference is Article 50 of the Treaty on European Union.



2

The UK will leave in exactly two years

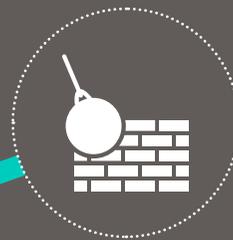
In fact, Article 50 provides three options: two years from the serving of the Article 50 notice; whatever is in any EU/UK agreement; or any other period agreed by the EU (acting unanimously) and the UK.



3

It will all be done easily within two years

A successful deal could be done in two years but precedent and politics say otherwise.



4

The UK is such a big economy that the EU will have to do business with them

The UK is the world's 5th biggest economy but Germany, France and Italy are the 4th, 6th and 8th biggest economies and the EU is the world's largest trading bloc.



5

If there is no deal then the UK will be cut off

Trade and interaction will continue even in the absence of a deal. Moreover, existing EU laws could accommodate co-operation.



10

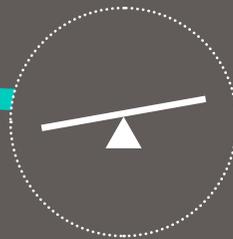
This is all politics and the law won't matter

EU law and national constitutional law are already important and will continue to matter.

9

Scotland and London were fully in support of Remain

The Brexit vote was sizable enough in both: 38% in Scotland and 40% in London.



8

There is no turning back

Article 50 refers only to a State's intention to leave. It is conditional on an agreement and may well be reversible.



7

The European Commission will no longer have any influence over the UK

The Commission would still have influence in areas such as competition.



6

The UK will be able to set its own standards

The EU is the UK's biggest export market so if it seeks to ignore the rules then it will have to find new markets that are further away.



10 Myths about Brexit

Dr Vincent Power of A&L Goodbody wrote an article in *The Times* debunking ten myths about Brexit:

1. Article 50 of the Lisbon Treaty

The popular line is that the notice was served under Article 50 of the Lisbon Treaty. Actually, it wasn't. That treaty has only seven articles. The proper reference is Article 50 of the Treaty on European Union. The confusion is caused by the fact that the article was inserted into the Treaty on European Union by the Lisbon Treaty.

2. The UK will leave in exactly two years

Article 50 does not stipulate that the UK will definitely leave two years after the notice. The article allows for three scenarios. The first would be an exit at a date specified in any agreement – this could be two years from last Wednesday but there's no guarantee. The second is a date set by the remaining states acting unanimously and in agreement with the UK, which would allow for a situation in which no deal has yet been done and extra time is needed. The third scenario would see the two-year rule enforced if all else fails and there no deal is reached.

3. It will all be done easily within two years

A deal could be done in two years but precedent and politics say otherwise. It took the UK 12 years and two attempts to join a much simpler European Communities in 1973. It could take longer than two years to negotiate a smooth departure. The

only reason why the two-year deadline is referenced is that this is the time period mentioned in Article 50. Curiously, Brexiteers who criticised the EU for being bureaucratic and inefficient now feel confident that the EU can achieve this unprecedented task in two years. Remainers, meanwhile, seem to have lost hope in the EU.

4. The UK is such a big economy that EU will have to do business with them

The UK may be the fifth biggest economy in the world and that will confer negotiating power on it but on the other side of the table is Germany, which is the fourth biggest, France, the sixth, and Italy, the eighth. Moreover, the EU is the world's largest trading bloc. So how much power the UK has is not so clear.

5. If there is no deal then the UK will be cut off

Trade and interaction will continue even in the absence of a deal. It might just involve more red tape and be slower. There will still be relationships. Article 8(1) of the existing Treaty on European Union provides that the EU "shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations

based on cooperation". In that context, the EU "may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation." This could be the basis of special agreements.

6. The UK will be able to set its own standards

This is only partly correct. Goods and services may not be imported into the EU that fail to meet the bloc's standards. The UK could certainly ignore these but not if it wants to export to the EU – the UK exports many times more by value to the EU than to the US. The EU is the UK's biggest export market so if it seeks to ignore the rules then it will have to find new markets that are further away.

7. The European Commission will no longer have any influence over the UK

This is incorrect. The commission would still have influence in areas such as competition in the event of a merger, for example. The commission may block such a deal if it significantly impeded effective competition in the EU, even if it involves companies incorporated outside the EU. In the past, it has blocked deals involving US companies and it would be no different for UK companies post-Brexit.

8. There is no turning back

While there is some doubt about it, the overwhelming consensus is that, if the UK were to change its mind, it would be possible to withdraw the Article 50 notice. Article 50 refers only to a state's intention to leave and is imprecise on timing. It is conditional on an agreement. One would expect that the EU would welcome the change of heart and set aside any legal niceties.

9. Scotland and London were fully in support of Remain

The majority in both Scotland and London voted Remain but the Brexit vote was sizable enough in both: 38 per cent in Scotland and 40 per cent in London.

10. This is all politics and the law won't matter

EU law and national constitutional law are already important and will continue to matter. The challenges in the UK have been largely driven by national constitutional law. There might be a need for an Irish referendum before any Brexit deal is ratified by Ireland. Ultimately, the European Court of Justice could be the final decision-maker.