



## Brexit talks are about how disruptive the UK's final break will be

No option removes the existential threats to the UK stirred by its EU departure.

The allegations went like this. The now-defunct UK arm of the US political consultancy Cambridge Analytica employed a Russian-born computer whizz to make an app-based survey. The app was placed on Facebook. When 300,000 people used the app, data was secretly gathered on 87 million, mainly US, users. The political consultancy bought more data and boasted of models and analysis that could “change audience behaviour”. [1] The Russian meddled in some way. Lo and behold, 1.8 million more UK voters opted to leave rather than stay in the EU in the 2016 referendum (to give a 52%-48% split), in defiance of the business, cultural, financial, political and technocratic elite.

That Cambridge Analytica, Facebook and Russia manipulated the UK's industrial class and hijacked the referendum became a “dinner party topic” in the UK and inspired a TV drama and a Netflix documentary. [2] The Information Commissioner's Office launched a probe. Over three years and armed with search warrants, the body that enforces data-protection laws in the UK examined 42 laptops and computers, 31 servers, 700,000 gigabytes of data, more than 300,000 documents, other material in paper form and still more data on cloud-storage devices.

And it found nothing. Cambridge Analytica and its UK arm were “not involved in the EU referendum campaign” beyond some initial enquiries, the commissioner's office said. Their models were based on “off the shelf” analytical tools; that is to say, ho hum. Nor did evidence emerge the Russians interfered. The commissioner's office, however, did impose the maximum penalty of 500,000 pounds on Facebook for the data breach and fined three other groups, including Leave.EU and Vote Leave, lesser amounts for breaches. [3]

That's one Brexit controversy resolved. But others need addressing even though the UK left the bloc on January 31, an action that ended the first phase of the post-vote saga. That

period was essentially a rerun of the referendum. Abetted by the EU, ‘Remainers’ sought to nullify the 2016 result while pushing for a ‘soft’ or token Brexit – where the UK effectively stayed under EU control within the common market. ‘Leavers’ pushed for a ‘hard’ Brexit, where the UK recouped its sovereignty and faced conditional access to the common market. They feigned calm about a ‘no-deal’ Brexit, a world of border controls, customs inspections, quotas and tariffs as the UK suddenly sat outside the common market (as countries such as Australia do), thus a likely economic blow epitomised by truck queues, shortages and rising prices.

The triumph of Prime Minister Boris Johnson's Conservative party in the 2019 elections torpedoed the Remainer campaign. The UK left the EU and moved to the second part of the post-vote saga. That comprises an 11-month ‘transition’ phase during which the UK stays a member of the EU common market while Brussels and London settle on their future relationship. The options are a hard or no-deal Brexit.

Most of the details are agreed on how to manage EU-UK security and US\$570 billion in trade but three disputes prevent an agreement. One is over fishing rights. The UK eyes restoring a distinct aquatic zone while the EU seeks to maintain a quota system across connecting waters. The second quarrel is over state aid to companies. The third is on how to resolve disputes. Other disputes of note that could flare include the UK territory of Gibraltar, data protection and the status of the City of London.

These issues are almost distractions compared with the problem of Ireland, an EU member. No one has solved how Northern Ireland adheres to UK laws while staying within the EU customs union to ensure a frictionless border and political calm across Ireland. London's latest proposal, the Internal Markets Bill, violates the Northern Ireland Protocol attached to the Withdrawal Agreement of 2019 that demands an invisible border across Ireland. The conundrum for London is that a seamless EU-UK border across Ireland splits the UK as an economic entity because Brussels won't countenance an ex-member staying in the common market. It's possible the impasse over which laws and legal system apply to Northern Ireland could lead to border barriers and political violence that could push the province to reunite with the south.

The EU has warned it will take legal action against the UK if the Internal Markets Bill becomes law. The threat is mixed up with the ambit claims, bluffs, brinkmanship, broken deadlines, fruitless



summits, theatrics and ultimatums between Brussels and London that are reviving a more-pressing existential threat to the UK. The Brexit saga is fuelling support for Scotland to depart the UK to rejoin the EU.

The year-end deadline could soon force decisions and a messy divorce is possible, though more out of miscalculation than desire. Some last-minute fudge that all hail as satisfactory and final is likely. But whatever the shape of any deal, Brexit will be an economic and political shock that will reverberate through the UK for years and could even break it.

Some caveats. Brexit is a secondary issue since the novel coronavirus escaped from China. Given the economic damage of the pandemic, a no-deal Brexit holds fewer concerns for many than before. Hard Brexit covers a range of outcomes that include a soft-enough exit that disappoints Leavers. Would Scotland really flee the UK and trigger the mayhem involved? Would Ireland unite after a century of partition? These were possibilities before the Brexit vote and could take years to occur.

Even so, the Irish problem appears unsolvable and Brexit has marked UK politics for the foreseeable future by making identity politics around Remainers versus Leavers the country's biggest political tear. The latter manifests in issues from immigration and inequality to the environment and, ominously, in pushing component nations to leave a UK troubled by however visible or invisible is the border across Ireland.

## ANOTHER CHANCE TO LEAVE

'Europe of the regions' is the ideal that the EU is a gathering not of countries, but of local areas such as Flanders in Belgium and the Basque region on the French-Spanish border. The vision inspired the creation in 1994 of the European Committee for the Regions. To give voice to sub-national territories, the committee has 329 members staffing more than 200 diplomatic-like offices in Brussels.[4]

But the efforts of these people are largely token now. The ideal of a localised Europe essentially ended when Catalonia in 2017 sought EU membership to help break out of Spain. While Madrid could veto such a move, Barcelona's quest for independence stirred alarm that Europe could balkanise if the continent's numerous independence-seeking regions could exploit the construct of the EU as a series of treaties rather than being a federation to fulfil their ambitions.[5] (Treaties involve agreement among politicians whereas a federation implies constitutional structures that need voter support to change.)

Due to Brexit, however, Scotland could revive the hopes of regionalists across Europe that the EU is a path to independence. The 'Take back control' slogan that helped the Johnson-led Leavers clinch the Brexit referendum has been taken up in Scotland, which voted 62% to stay in the EU in 2016.

An Ipsos MORI poll for STV in October found that Brexit has stirred Scottish nationalism to the extent that a record 58% of Scots want to quit the UK and rejoin the EU, an increase from the 2014 referendum on independence when only 45% voted to leave the union.[6] The Ipsos poll found that 57% of Scots think Brexit is a convincing argument for leaving the UK, which Scotland joined in 1707 when its parliament dissolved itself by voting for the Kingdom of Scotland to join with the Kingdom of England to form Great Britain.

Brexit is boosting Scottish nationalism in three ways. One is that Brexit is seen as a free-market Tory-led campaign that will undermine the welfare state the Scots favour. To Scots,

the shifting of powers from Brussels to London is skewing in Westminster's favour the devolution of powers from the centre to the regions – where the 'devolution' policy of recent decades was designed to sate the independence stirrings in the nations that comprise the UK. The third reason behind the rise in Scottish nationalism is more sinister. Devolution is a sharing of responsibilities that gives rise to those timeless political tactics of claiming credit for successes and shifting the blame for failures. The Scottish National Party led by Nicola Sturgeon that dominates Scotland's parliament (that was reconvened in 1999) has successfully blamed Westminster for Scotland's covid-19 affliction and sub-par response.

Sturgeon, looking to Scottish elections next May to gain an outright majority that will be interpreted as a mandate for SNP's core policy of independence, in October revived plans for a second referendum on Scotland's place in the union. Any economic damage from an abrupt, especially a no-deal, Brexit would add to the political case for another chance to shatter the UK.

And then there is Northern Ireland. Westminster's intelligence and security committee in October warned a visible border across Ireland "would increase the risk of political violence in border areas" because dissident republicans seeking to reunite Ireland are still formidable.

Yet no border means Northern Ireland would remain part of the EU's customs union and that could fuel a breakup of the UK in another way. Northern Ireland would need to negotiate an internal border to interact with the rest of the UK. That hassle might lead to a view the province would be better served by reunifying with the south, and thus rejoin the EU that 56% of Northern Irish voted to stay with in 2016. Under the Good Friday agreement of 1998 that calmed three decades of violence in the province, London must call a referendum if polls show a majority of Northern Irish voters would vote for unification with the Republic of Ireland.[7] In Northern Ireland, Catholic numbers are nearing those of Protestants due to higher birth rates and enough Protestants might one day be prepared to join a more secular south to reclaim EU membership. Such is the pressure on Johnson as he negotiates over fishing rights, state aid and a resolution mechanism.

## MISTRUST

The 'Cod Wars' is the name for the clashes between Iceland and the UK over fishing rights off Icelandic waters that stemmed from Reykjavik's decision to annul a 1901 UK-Danish fishing-rights agreement after Iceland gained independence from Denmark in 1944. In the First Cod War from 1958 to 1961, Iceland declared a 12-mile (22-kilometre) exclusive zone and the navies of Iceland the UK confronted each other. Boats collided, shots were fired, and Iceland threatened to quit NATO. In the Second Cod War of 1972 to 1973, Reykjavik proclaimed a 50-mile exclusive zone. Iceland gunboats used 'cutters' to wreck UK and German nets, one shelled a UK trawler and vessels collided causing one electrocution. The Third Cod War of 1975 to 1976 began when Iceland announced a 200-mile exclusive zone. The ramming tally reached 55, nets were slashed and shots fired. Reykjavik cut diplomatic ties with London and toyed again with quitting NATO. Tensions subsided only when London caved into Icelandic demands and British fleets abandoned long-distance trawling.[8]

In between the second and third cod wars, UK fishing received an even bigger blow and one closer to home. In 1973, London gave up sovereignty over UK waters to join the forerunner of the EU. Many UK fishing communities felt betrayed and are now keen



to escape the Common Fisheries Policy quota system that means other countries capture more than half the fish caught in former UK waters. Britain's fishing industry is worth only 0.1% of UK GDP but the reclaiming of marine sovereignty and the fact that seaside communities in decline symbolise the underclass that voted for Brexit give the industry outsized political importance.[9] Complications include that about 75% of the UK's fishing exports head to Europe and that fishing communities in EU neighbours, especially France, have hefty domestic political weight too.

The issue of state aid is just as difficult to resolve because it reverses standard trade agreements. In the usual talks on trade, two parties seek mutually beneficial outcomes by reducing barriers and costs to trade. With Brexit talks, however, it's about settling on rules that sabotage free trade. The UK's motivation is to gain tax and regulatory competitive advantages over the bloc. The EU's goal is the opposite – it must show that an ex-member is worse off.

At a more esoteric level, the problem is mistrust, which was highlighted when the EU and some within Johnson's party (including his predecessor Theresa May) accused Johnson of breaching pledges on Ireland. Johnson said in August there would be only be a UK internal customs border in the Irish Sea "over my dead body".[10] The mistrust leads to the problem of how to enforce any agreement.

In Johnson's jargon, a hard Brexit would be a 'Canada'-style free-trade agreement with the EU. A no-deal Brexit would be an 'Australian'-style arrangement where the UK largely operated under WTO rules, which would mean tariffs and quotas on key industries.

But even viewed like so, the minutiae of the EU's latest 'Canada'-style offer to the UK is complex and falls short of Canada's arrangement. The EU has a goods surplus with the UK but a services deficit, which is why the bloc's proposal is for scant tariffs on goods but impediments to services that could hurt the City of London's efforts to maintain supremacy status in Europe. Canada under its arrangement can certify its exports comply with EU rules but the offer from Brussels denies the UK this right. The same goes for 'cumulation of origin' goods – a term to cover exports to the EU that comprise goods imported from third countries (such as UK cars that rely on Japanese components). The biggest difference of course is that Canada's agreement has no Northern Ireland protocol that subjects a Canadian province to foreign laws enforced by a foreign legal system.[11]

Such complexities are why a no-deal Brexit remains a possible outcome of the vote of 2016 when enough UK voters, for some reason not linked to Cambridge Analytica, Facebook or Russia, defied the elite.

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[1] See Bloomberg Quick Take. 'How the Facebook-Cambridge Analytica saga unfolded.' 21 March 2018. [bloomberg.com/news/articles/2018-03-21/understanding-the-facebook-cambridge-analytica-story-quicktake?sref=ORbm2mF5](https://www.bloomberg.com/news/articles/2018-03-21/understanding-the-facebook-cambridge-analytica-story-quicktake?sref=ORbm2mF5)

[2] Information Commissioner's Office. 'Blog: Elizabeth Denham on the conclusion of the ICO's investigation into the use of personal data in political campaigning.' 6 October 2020. [ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/10/blog-the-conclusion-of-the-ico-s-investigation-into-the-use-of-personal-data-in-political-campaigning/](https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/10/blog-the-conclusion-of-the-ico-s-investigation-into-the-use-of-personal-data-in-political-campaigning/)

[3] Information Commissioner's Office. Letter to the chair of the Digital, Culture and Media and Sport Select Committee, House of Commons. 'Re: ICO investigation into use of personal information and political influence.' 2 October 2020. [ico.org.uk/media/action-weve-taken/2618383/20201002\\_ico-o-ed-l-rti-0181\\_to-julian-knight-mp.pdf](https://ico.org.uk/media/action-weve-taken/2618383/20201002_ico-o-ed-l-rti-0181_to-julian-knight-mp.pdf)

[4] European Committee for the Regions. [cor.europa.eu/en/members/Pages/National-delegations.aspx](https://cor.europa.eu/en/members/Pages/National-delegations.aspx)

[5] See EU Observer. 'Catalonia shows that 'Europe of the Regions' is dead.' 24 January 2018. [euobserver.com/news/140666](https://euobserver.com/news/140666)

[6] STV. 'Poll: Support for independence hits historic record high of 58%.' 14 October 2020. [news.stv.tv/politics/poll-support-for-independence-hits-historic-high-of-58?top](https://www.stv.tv/politics/poll-support-for-independence-hits-historic-high-of-58?top)

[7] See: POLITICO. 'Ireland's political dividend.' 20 June 2018. [politico.eu/article/unit-ed-ireland-after-brexit-reunification-vote/](https://www.politico.eu/article/unit-ed-ireland-after-brexit-reunification-vote/)

[8] See UK government national archives. Cabinet papers. 'The cod wars'. [nationalarchives.gov.uk/cabinetpapers/themes/cod-wars.htm](https://nationalarchives.gov.uk/cabinetpapers/themes/cod-wars.htm). See Wikipedia. 'Cod wars.' [en.wikipedia.org/wiki/Cod\\_Wars#First\\_Cod\\_War](https://en.wikipedia.org/wiki/Cod_Wars#First_Cod_War)

[9] See The House of Lords report. Select committee on regenerating seaside towns and communities. Report of session 2017-19. 'The future of seaside towns.' 4 April 2019. [publications.parliament.uk/pa/ld201719/ldselect/ldseaside/320/320.pdf](https://publications.parliament.uk/pa/ld201719/ldselect/ldseaside/320/320.pdf)

[10] Bloomberg News. 'Boris Johnson says Irish Sea border 'over my dead body'.' 14 August 2020. [bloomberg.com/news/articles/2020-08-13/johnson-says-irish-sea-border-over-my-dead-body-as-checks-loom?sref=ORbm2mF5](https://www.bloomberg.com/news/articles/2020-08-13/johnson-says-irish-sea-border-over-my-dead-body-as-checks-loom?sref=ORbm2mF5)

[11] Martin Howe QC. 'Why Boris should reject this Brexit deal.' 20 October 2020. The Spectator. [spectator.com.au/2020/10/why-boris-should-reject-this-brexit-deal/](https://www.spectator.com.au/2020/10/why-boris-should-reject-this-brexit-deal/)

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