

## **UPDATE ON BREXIT AND TREATY EXIT**

As noted in the text, the Vienna Convention provides that states may withdraw from treaties “in conformity with the provisions of the treaty.” VCLT, art. 54. Recently, questions of treaty withdrawal and termination have attracted increasing attention.

### **Brexit**

On June 23, 2016, United Kingdom voters participated in a referendum over whether the UK should leave or remain in the European Union. With over 30 million votes cast, the “leave” position prevailed by 51.9% to 48.1%.

For many years, EU law was silent regarding the question of whether member states could withdraw from the EU. The Lisbon Treaty, which entered into force on December 1 2009, provides that any EU member state “may decide to withdraw from the Union in accordance with its own constitutional requirements.” Lisbon Treaty, Art. 50(1). The Treaty further provides that should a member state decide to withdraw, it must formally notify the European Council. This notification, in turn, triggers a process of negotiations over the terms of the withdrawal and the future relations between the Union and the exiting state. If no agreement is reached, EU membership terminates two years after the notification of withdrawal (unless an extension is negotiated).

On March 29, 2017, the UK formally notified the EU of its intention to leave the Union, triggering the two year time-period for negotiations. Brexit talks officially started on June 19, 2017. UK and EU negotiating teams are scheduled to meet for face-to-face negotiations for one week each month. EU law remains fully in force for the UK until it ceases to be an EU member.

Brexit negotiations will address a number of complex issues, including the rights of EU citizens who reside or work in the UK, the rights of UK citizens who reside or work in the EU, including rights to old-age pensions, health care, and social security. Another controversial issue relates to the settlement of all financial commitments between the UK and the EU. The European Commission has issued draft [negotiating directives](#) for the article 50 negotiations, available [here](#), and the UK House of Lords has issued a report on a financial settlement associated with Brexit, which is available [here](#).

Brexit raises a number of other international law issues. For example, the EU is party to a large number of international agreements. What is the fate of these agreements, and in particular will their provisions continue to apply to the UK once it is not an EU member? As this question suggests, Brexit has implications for a large number of international actors. Brexit also has implications for the internal law of the UK, as addressed in the update to Chapter 5.

### **The United States**

As a presidential candidate, Donald Trump called the North American Free Trade Agreement (NAFTA) “the worst trade deal” ever signed by the United States. He promised that, if elected, he would withdraw the United States from the NAFTA. NAFTA Article 2205 provides that “[a] Party may withdraw from this Agreement six months after it provides written notice of withdrawal to the other Parties. If a Party withdraws, the Agreement shall remain in force for the remaining Parties.”

In April 2017, after taking office, President Trump stated that he “was really ready and psyched to terminate NAFTA,” but at the time that an executive order on withdraw was being prepared, he had

phone conversations with Mexico's President and Canada's Prime Minister which prompted him to call for renegotiation of the trade agreement. In May 2017, the Administration formally notified Congress of its intent to initiate NAFTA renegotiations, and in July 2017 the Administration released its [negotiating objectives](#). These negotiations began in August 2017 and it is expected that seven rounds of negotiations will take place by December 2017.

The President's threat to withdraw from NAFTA has sparked debate over whether the President has unilateral authority to terminate U.S. participation in this treaty; the issue is further discussed in the update to Chapter 5.

On June 1, 2017, President Trump announced that "the United States will withdraw from the Paris climate accord." This development is discussed in greater detail in updates to Chapter 5 and Chapter 11.

In February 2016, the United States and 11 other states signed the Trans-Pacific Partnership (TPP), a trade agreement covering some 40% of the global economy. In January 2017, the United States notified each TPP signatory that "the United States does not intend to become a party to the Trans-Pacific Partnership Agreement." At the time, the United States had not ratified the treaty, and it had not entered into force. In May 2017, the trade ministers of the 11 other TPP states announced that they would try to revive the pact.