In June 2016 a thin majority of United Kingdom (UK) voters expressed that the UK should leave the European Union (EU). The Brexit vote was non-binding and the effect of this is now being worked through.

**THE EUROPEAN UNION: A QUICK SUMMARY**

The EU is a treaty-based organization of 28 European member states which comprises the largest single market area in the world. Nineteen member states have also taken a further step towards economic integration by adopting a single currency, the euro.

The EU was developed in the aftermath of the Second World War, deploying economic integration to deliver political and cultural change, rendering another destructive war in Western Europe not only unthinkable, but impossible. It all started with a 1951 treaty between France, West Germany, the Netherlands, Belgium, Luxembourg and Italy to integrate their coal and steel industries, the raw materials of early 20th century warfare. Over time, this project developed and now embraces 28 member states and the treaties have been expanded to provide for much broader EU competencies.

Much EU-derived law also applies to the wider European Economic Area (EEA).

One early proponent of European structural integration was the half-American British statesman, Sir Winston Churchill. In his famous speech at the University of Zürich in 1946 he challenged us to “build a kind of United States of Europe” “to make all Europe ... free and ... happy,” describing it as “a structure under which it can dwell in peace, in safety and in freedom.” The principal architects of realizing the vision shared by many dreamers and thinkers in Europe in the 1950s were two French nationals, the economist Jean Monnet and the foreign minister Robert Schuman.

The free market upon which the EU is founded comprises a customs union with common import/export arrangements from outside of it and a contractual requirement on each member state to allow those in other member states the four fundamental freedoms of movement of goods, services, capital and persons.

In summary, nothing within the single market must prevent a business established in one member state from establishing operations in another, raising capital from a third and selling to a fourth, drawing employees drawn from each of them. However, the process of harmonization of laws across the member states to realize this remains slow, complex and bureaucratic.

**THE REACTION IN THE UK**

The immediate response in the UK was political chaos and an implosion of effective government and opposition. However, after the earthquake, a quieter period lies ahead to start to understand what has taken place, what has stood firm and what needs to be done to rebuild relationships within a re-constructed European settlement.

How the situation will play out is a matter of politics more than law. The EU treaties set out a mechanism (known as Article 50 of the Lisbon Treaty) whereby any member state can indicate its intention to leave and, following that, there must be a negotiation of exit arrangements and the terms of a future relationship. It is for the British government to invoke this article and, until that is done and exit arrangements are finalized, the UK remains a full member of the EU with all concomitant rights and obligations. Significantly, the UK will have to continue to implement in full all EU law with no ability to cherry pick.

There remains considerable speculation about exactly how and when formal exit negotiations will commence, but Theresa May, the new British Prime Minister, has already said that she does not expect to serve notice to commence formal exit negotiations until 2017. Once that happens, detailed and tense negotiations will follow and, in parallel, others will be swiftly contemplating a new reality with proposals such as the introduction to Congress of the United Kingdom Trade Continuity Act just one week after the UK’s leave vote.

**THE REFERENDUM COULD BE TREATED AS LITTLE OTHER THAN AN OPINION POLL**

The referendum result itself has no legal effect. It is only advisory in nature. The UK continues to be a member of the EU and...
will remain so until the end of exit negotiations. The vote has no legal effect, but it clearly influences the actions of politicians.

The UK remains bound by the EU Treaties and subject to the jurisdiction of the Court of Justice of the European Union. The European Communities Act 1972, which gives domestic legal effect to the UK's membership of the EU, including giving EU law precedence over UK law in the UK courts, remains in force.

**CONTINUED ACCESS TO THE SINGLE MARKET**

The fundamental issue which will determine the ultimate direction of travel will be the issue of access to the European single market. Many commentators in Britain have suggested that being out of the EU will allow the UK new flexibility. However, other member states and economic theorists have been very clear that any access to the single markets can only be on the basis of continued adherence to the four fundamental freedoms upon which it has been built. The logic remains undeniable: a single market can only operate if all enjoy the same rights, obligations and access.

**PERCEPTIONS IN RELATION TO MIGRATION**

Recent trends in population movement have presented themselves differently in the UK than to many other parts of the EU. The UK has experienced an increase of population resulting from net inflows of people wanting to come to the UK to live and work, both from the EU and elsewhere. Certain other EU countries are dealing with the opposite of this demographic shift with falling populations as many of the brightest and best leave.

Issues of migration became the focus of much of the Brexit debate. Many U.S. commentators believe the U.S. border with Mexico to be "soft"; in the same way, there is a view that the borders of Europe are too porous. It must be appreciated that – unlike most of its European friends and allies, the UK is an island nation. The UK's only land border is with Ireland. That border has almost always been open and the introduction of border controls with Ireland would likely prove to be both difficult and contentious.

Much of continental Europe is part of the Schengen zone (being a treaty arrangement comprising many EU member states, plus Norway, Iceland and Switzerland) which allows unrestricted free movement of all persons across borders once within the zone. For other nationals, a Schengen visa issued by any Schengen state allows access to all. Add instability beyond the borders of the EU and there has developed a perception that too many people can enter the UK and that responsibility for this lies with the EU.

The reality is rather different. The UK has secure borders, a very effective border force and control over both its physical borders and points of entry. The vast majority of people coming to the UK arrive from the U.S., India and China as a result of decisions of the UK Home Office, nothing to do with the EU. The UK has more job vacancies than persons claiming unemployment benefit but there remains a group within UK society which claims that it is not working and this has fed a perception that population increase is a cause of many of the challenges currently faced by UK society.

Yes, Europe is now at a crossroads. Before any sweeping change takes effect, politicians need to ensure that they are all looking at the same map with a common destination in mind.

**TELFA IN EUROPE**

Whilst the politicians of Europe seek to navigate their way through uncertain and, indeed, uncharted waters, the law firms within the Trans European Law Firms Alliance (TELFA) and USLAW NETWORK remain equipped, eager and prepared to serve your business into all parts of Europe. Diversity has long been, and will always remain, a key characteristic of a European continent where a lot is squeezed into a small area. Wherever the politics leads us, Europe will remain the largest single market in the world and a place where international clients cannot fail to be.

A new political, contractual and trading reality will unfold over the coming months and years and the TELFA lawyers already possess all of the skills necessary to support your engagement with this trading area. This diverse set of skills and experience include firms across most EU member states and beyond, both within and beyond the eurozone, Norway and Switzerland (each of which has negotiated arrangements with the EU), Turkey, China and Australia.

Your TELFA partner firms share a common vision, but maintain individual identity and are therefore able to draw upon the best that each has to offer, focusing on quality and client service.

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Edward also wishes to express his thanks to Hugh Kane of Kane Tuohy, USLAW’s partner firm in Ireland and a member of TELFA, in the preparation of this article.