

European Council

Tilburg Model United Nations, 3rd-5th February, 2017

Victoria Smit & Lisa Mildt
European Council Presidency



Topic: Brexit Negotiations



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Dear delegates,

We are pleased to have you in our committee during the first weekend of February. Since the whole conference will be held under the slogan of 'The Future of Europe' the European Council will be part of this MUN conference in order to add a more closely attached European aspect. Furthermore, the Brexit has been an important issue and will most likely have some - however small it may be - impact on the world as a whole. Therefore, welcome to our committee.

The Future of Europe is especially relevant since you chose to take part in a non-UN organ but rather in the European Council. You will be representatives of one of the EU's institutions next to your own countries of course since you will be acting as heads of government or state. It will be in your responsibility to negotiate further actions of Britain leaving the UK without much guidance since this has never happened before in the (relatively short) history of the EU.

Since this may be the first MUN for some of you we can assure you this will be a memorable experience and we can only hope that all of you will enjoy the few days in our committee. Of course it is not all about the conference but a few social events are planned and hopefully all of you can participate to experience the whole 'spirit' of an MUN.

Should you have any questions about the committee, the rules, the topics or anything related please do not hesitate to contact us (preferably by e-mail).

We are both looking forward to exciting three days and hope you can come prepared and motivated to engage in a lively discussion about Europe's (especially the UK's) future.

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Introduction to the committee

In short

The European Council (not to confuse with the council of Europe) was founded in December 1974 following the Paris summit. Initially it was created as an informal forum for discussion for the heads of states. It transformed to become the organization that sets the European Union's political agenda by adopting conclusions and identifying specific issues of concern. It is also involved in the European semester process, a cycle of economic and fiscal coordination. The current president of the European Council is Donald Tusk, in position since 2014 after being the Prime Minister of Poland.

History

The European Council was founded following the Paris summit of 1974 and the first meeting was held in 1975 in Dublin. During this meeting, a variety of topics were discussed, draft resolutions were proposed and conclusions were written. In 1985, the European Council served as a forum where the political agreement to adopt the Single European Act, significant because it provided a legal basis for the European Council. It was in 1992 that the debates of the Council became public. From 1996 onwards the Council would meet four times a year (prior to this the requirement was to meet twice every year).

The treaty of Nice, a key document in reform of the EU institutions which was adopted in 2003, also impacted the Council. The meetings were now to take place in Brussels. Another major treaty, the treaty of Lisbon, entered into force in 2009, changed the rotating presidency to a permanent president (currently: Donald Tusk).



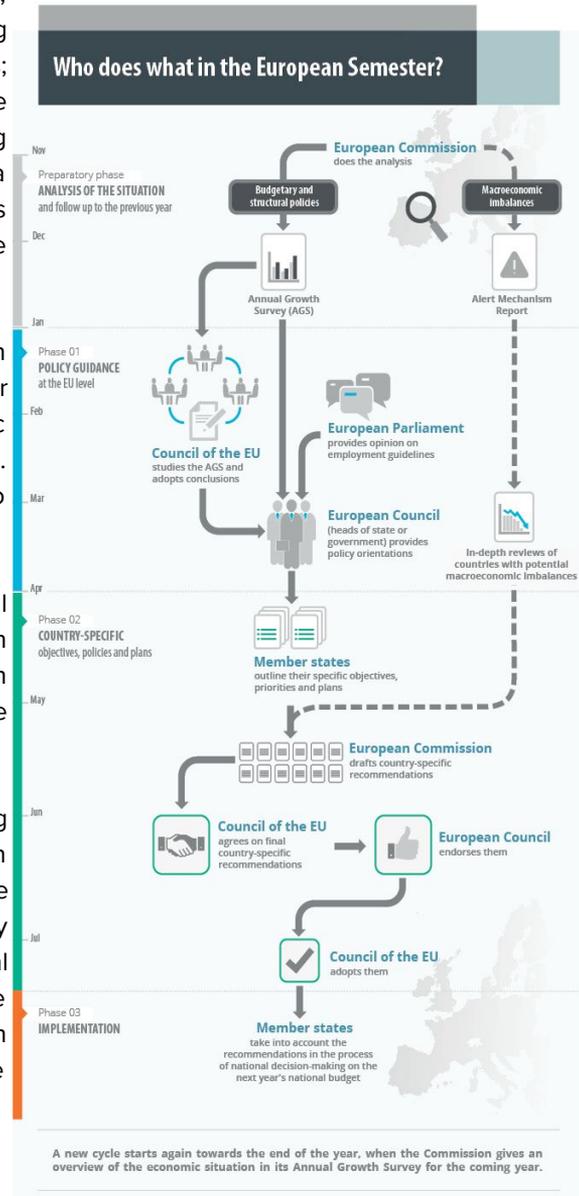
Functions

The Council sets the EU's agenda and priorities. In 2014, the Council decided to adopt a strategic agenda focussing on 5 points: jobs, growth and competitiveness; empowering and protecting citizens; energy and climate policies; freedom security and justice; the EU as a strong global actor. All these points are not addressed in a "vacuum" of the EU, many address strategic frameworks from the United Nations, such as the Sustainable Development Goals.

Another function is that of the Council within the European Semester. The Council provides policy orientations for each Member State. The overall goal is to align domestic economic and fiscal policy with that of the European Union. To explain the full scope of the process please refer to image 1.

Additionally, the Council still functions as an informal platform for countries - sometimes a third party. Although all conclusions are publicly available, the meetings with third parties lead to statements or declarations, and are not necessarily available.

Furthermore the Council is responsible for proposing candidates for the post of President of the European Commission, appointing the High Representative of the Union for Foreign Affairs and Security Policy, officially appoints the entire European Commission after approval of the Parliament, appoints all 6 members of the Executive Board of the European Central Bank. All these tasks can be read in the Treaty of the EU and the Treaty of the Functioning of the EU.



Decision Making Processes

Most decisions are taken by consensus. This means that voting is not required and decisions can only be made if all parties are not against the discussed matters. However, if outlined in other EU treaties, the Council may have to vote and depending on the treaty a qualified majority or unanimity may be required. It should be noted that the President of the council is not granted a vote.

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Brexit - What is all the noise about?

An introduction

Brexit stands for the UK leaving the European Union. After the referendum on 23 June 2016 the people voted for leaving the EU with a 52% to 48% with different results in the different areas of the UK. England and Wales being pro Brexit whether Northern Ireland and Scotland voted to stay in the EU with an overall turnout of about 70%. The former Prime Minister of the UK, David Cameron, stepped down after the results came out and Theresa May is now in charge. However, since the UK is part of the EU by Treaty it cannot simply resign from one day to the other but Article 50 of the Lisbon Treaty has to be invoked.

Article 50

1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.

2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.

3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.

4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it.

A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.

5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.

If Theresa May will trigger this Article, which she intends to do at the end of March 2017, negotiations between the UK and EU will start about how the split will take place, especially regarding trade and immigration. This is likely to take place even though the Supreme Court is currently in session about the importance of parliament's involvement in the decision making of triggering Article 50. Furthermore, a Great Repeal Bill will be enacted to end EU law supremacy in the UK. There is no precedent to this because Article 50 has never been used before. Approval to leave the EU can only be given by at least 20 countries with 65% of the EU's population (quick calculator how that could look like click [here](#), given reinforced qualified majority voting). Finally, all of this needs to be ratified by the European Parliament (Alex Hunt; Brian Wheeler, 2016).



Looking at Scotland and Northern Ireland, a referendum to leave the UK seems highly unlikely to happen this year. In Scotland it is kept as an option and a new referendum will most likely depend on the outcomes and ways of the negotiations (Jessica Elgot, 2017). In Northern Ireland, however, a so-called border referendum seems unlikely according to polls from August until December. Another survey from LucidTalk (market research company) shows that the majority of people want no Ireland border poll and 60% would vote to remain in the UK (Johnny Bell, 2016). However, there are different polls like the one from the Belfast Telegraph itself which is showing a different result (Bell; O'Connor, 2016).

Negotiations

As stated in the previous section, the United Kingdom will have to negotiate how it will leave the EU. The European Council will **not** discuss the terms of these negotiations, however, it can give directives and conclusions to decide the agenda for the negotiations. In the following section, some of these topics will be outlined and their significance in relation to the EU. This is not an exhaustive list, meaning that if the committee wishes to decide on another path it very well may.

Economy and Trade

The current situation is that Britain trades with Europe, it is estimated that half of the British goods are exported within the EU (Woodford, 2016). Currently the EU has agreements on trade, for which the legal basis was outlined in articles 206 and 207 on the TFEU (Europe.Eu, 2017). It states that the EU makes laws as it would do ordinarily: with the Council and the European Parliament. Currently the European Economic and Social Committee discusses policies and opinions on a wide array of topics, such as but not limited to: competition policy, small and medium enterprise policy and also intellectual property (EESC, 2016).

With Britain leaving the EU all these laws and regulations may no longer apply unless they following certain trade agreements. For trade agreements there are a few models that can be distinguished. There are always bilateral trade agreements, or treaties between countries. But there are other models that function as trade agreements, such as the “Norway model”: Norway gets access to the single european market at a price negotiated with the EU *and* having to following EU regulation *without having any say in the regulation* (Gayle, 2015). A third model is that of Switzerland, which follows a set of bilateral treaties with a very similar tradeoff (at a price and without a decision making power in the regulations)(Gayle, 2015).

Of course it needs to be said that trade agreements are not a prerequisite for trade, however, they do protect countries and companies from arbitrages and legal disputes (Giles, 2016). Even the World Trade Organization rules may not be enough to provide this protection for Britain. Equally important: the EU has tariffs for countries it does not have agreements with. So without agreements, half of British exports could become subject to tariffs thus hurting the economy. On another note: the EU has trade agreements with countries outside the EU (such as but not limited to Norway, Switzerland and Liechtenstein), which means that Britain will have to negotiate separately with these countries about their trade relations.



Migration Policy

With the current refugee crisis and public debate about migration, we can expect migration policy to be a part of the negotiations as well. There are a few different aspects of this topic that could be put on the agenda. Simply stating 'Migration Policy' is not enough.

First of all there are the questions of UK citizens in EU countries. Currently there are agreements under the umbrella of the EU. Similar to the trade models, both parties need to think about how they want to go about making agreements. Secondly there are the EU citizens in Britain. Most of these citizens (an estimated 70%) are in the UK for work - thus agreements could seriously impact the economic state of all parties (Wadsworth, 2016).

And there is the question of non-EU citizens in Britain coming from Europe. This question may be particularly interesting for the parties that are geographically closer to Britain, or for countries such as France with the Euro tunnel that allows for a direct connection.

Sustainability

The European Union has agreements on how it wants to contribute to a more sustainable world. Agreements on sustainability frequently use statistics (reducing emissions by x%). The agreements will not bind the UK any longer if it splits without committing to any of the EU standards. It is important to note that the UK will remain a party to any agreements it has made separate from the EU. Although sustainability - unlike trade and migration - does not connect Britain to the EU, one must think about trade agreement and the regulations related to sustainable trade and transportation.

Other agreements the EU has

The EU is not limited to trade and migration. It has many more agreements and not just with EU member states. It has third party agreements about development aid. Even though these topics may seem not connected for the agenda on the Brexit negotiations, Britain as a party to these agreements could be held accountable by the third parties involved.

And perhaps more importantly: the agenda may contain ideas on dispute settlement. Currently the EU has many courts and arbitrages to handle dispute settlements between individuals and states, companies and countries. When the UK exits the EU it is no longer protected by these courts. Thus it may be important to consider how the UK wants to go about dispute settlement with EU members. Not just for itself but also for the firms and companies.

Key Parties

In regular UN study guides, this section would be dedicated to "block positions" - countries with similar policies and attitudes towards the problem. In this study guide however we can only say that every country is a key party in the decision making process of the council.

The UK is a key party since it needs to decide how it can use the agenda to gain a favorable negotiation position - after all, it needs to negotiate with 26 parties.

All other parties may be key parties for some topics but not for others. It may be directly connected to the UK, thus making immigration policy a priority whereas others may depend on Britain, or Britain on them in terms of trade. Every country will need to determine for itself what is most urgent to put on the agenda.



Questions a conclusion must answer

As stated in the “About the Committee” section of this paper, the European Council does not write resolutions. Rather it uses conclusions. Examples can be found on [here](#). For a good set of conclusions the following questions must be answered.

- What must be on the agenda for the EU to discuss regarding brexit?
- How will these agenda items be discussed
- When will these agenda items be discussed
- How does this relate to the other EU bodies

Further readings

For a general overview:

<http://www.bbc.com/news/uk-politics-32810887>

Hard or soft Brexit:

<http://www.independent.co.uk/news/uk/politics/brexit-hard-soft-what-is-the-difference-uk-eu-single-market-freedom-movement-theresa-may-a7342591.html>

Overview of arguments from the debate before the referendum:

http://cdn.static-economist.com/sites/default/files/imagecache/original-size/20151024_WOC501_2.png

2nd Scottish Independence Referendum:

<https://www.theguardian.com/politics/2017/jan/09/sturgeon-rules-out-second-scottish-independence-referendum-this-year>

Northern Ireland Border Poll:

<http://www.bbc.com/news/uk-northern-ireland-37307783>

LucidTalk:

<http://www.belfasttelegraph.co.uk/news/northern-ireland/survey-majority-say-no-to-ireland-border-poll-and-yes-to-staying-in-uk-35086513.html>

Belfast telegraph:

<http://www.belfasttelegraph.co.uk/news/uk/over-50000-take-part-in-our-united-ireland-border-poll-heres-how-they-voted-34900542.html>



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Notes:

