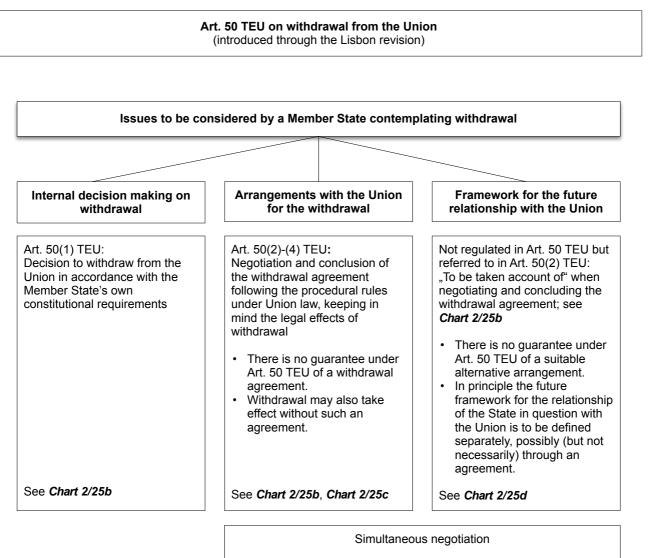
# The Development of European Integration

## Additional Chart: Withdrawal from the Union

Chart 2 | 25a

#### **Topic:**

A Member State may decide to withdraw from the European Union.



In particular from the perspective of the withdrawing Member State, ideally the withdrawal agreement and the framework for the future relationship with the Union are negotiated together.

Note:

Following the advisory referendum on EU membership of 23 June 2016, the UK is expected to become the first ever Member State to withdraw; see *Chart 2/25b*.

Chart 2 | 25b

# The Development of European Integration

## Additional Chart: Withdrawal procedure

#### Topic:

Article 50 TEU defines the withdrawal procedure.

#### Art. 50 TEU: withdrawal procedure

#### National decision to withdraw, Art. 50(1) TEU

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

E.g. UK as of 2016:

- Advisory referendum vote of 23 June 2016: 48,1% Remain to 51,9% Leave ("Brexit").
- It was disputed whether the decision to withdraw, and the right to trigger the EU procedure, is for the UK Government alone
  or for the UK Parliament and the devolved assemblies of Scotland, Wales and Northern Ireland. This was decided by the UK
  Supreme Court in *Miller et al.* (2017): "Where implementation of a referendum result requires a change in the law [...], and
  statute has not provided for that change, the change must be made [...] through [UK] Parliamentary legislation."
- March 2017: European Union (Notification of Withdrawal) Act 2017.

Member State wishing to withdraw notifies the

European Council of its intentions.

E.g. UK on 29 March 2017

#### Withdrawal procedure on the level of the EU, Art. 50(2)-(4) TEU

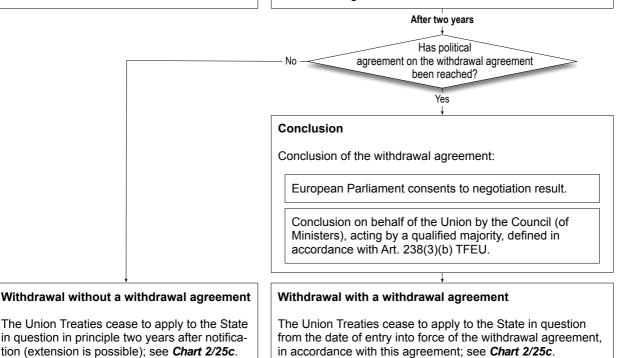
#### Notification

Negotiation

•

Negotiation of the withdrawal agreement in accordance with Art. 218(3) TFEU:

- Arrangements for withdrawal,
- Taking account of the framework for the future relationship withdrawing State Union; see *Chart 2/25d*.



# The Development of European Integration

## Additional Chart: Effects of withdrawal

Chart 2 | 25c

#### Topic:

The withdrawal of a Member State from the European Union has far-reaching legal effects.

#### Far-reaching legal effects of a withdrawal from the European Union

#### Legal starting point, Art. 50(3)TEU

"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."

Notes:

- This implies amendments to Art. 52 TEU (list of Member States) and Art. 355 TFEU (territorial scope of the Treaties).
- The State in question might still be mentioned in the preambles of the TEU and/or the TFEU, which refer to the Member States that signed the original Treaties. A footnote might state the withdrawal.

#### Consequences of no longer being a Member State: examples

#### With respect to the Union's means and specific objectives, Art. 3(2)-(5) TEU

#### Area of freedom, security and justice

E.g.: if it participated in these sub-fields, the State in question is no longer part of the Schengen and Dublin systems.

#### Internal market

The State in question no longer belongs to the Union's internal market.

#### Economic and Monetary Union

E.g.: if it had adopted the euro, the State in question can no longer be a member of the Eurozone.

# Relations with the wider world

E.g.: treaties concluded by the Union will no longer apply to the State in question. The State can/must conclude its own treaties.

### With respect to EU citizenship, Arts. 20 and 21 TFEU

The citizens of the State in question are no longer Union citizens, nor do they enjoy the rights based on that status (e.g. free movement, in particular for those who are not economically active, equal treatment in relation to social assistance, political participation).



#### Possibilities to address such issues on the level of the EU

See Chart 2/25d

# The Development of European Integration

## Additional Chart: Addressing issues raised by the withdrawal

Chart 2 | 25d

#### Topic:

To some extent, the legal effects of a withdrawal from the European Union may be mitigated through the withdrawal agreement and/or an alternative arrangement for the future relations between the State in question and the Union.

#### Possibilities to address the legal effects of a withdrawal from the Union

Through the withdrawal agreement	Through an alternative arrangement for post- membership relations	Through rejoining the Union	
May address certain effects through	Various possibilities in theory, notably:		
e.g.: • Transitional rules;	<ul> <li>EFTA and EEA membership (,Norway model');</li> <li>Customs union (,Turkey model');</li> </ul>	Mentioned in Art. 50(5) TEU,	
<ul> <li>The protection of acquired rights, e.g. of citizens having exercised Union rights before the withdrawal of</li> </ul>	<ul> <li>Sectoral agreements (,Switzerland model');</li> <li>Free trade and investment agreement of the modern type (,Canada model');</li> </ul>	though politically perhaps unlikely:	
the State in question (maintenance of residence rights etc.).	No special arrangement, WTO law only (,Hong Kong model').	"If a State which has withdrawn from the Union	
Note: Protection of acquired rights is not guaranteed through Art. 50 TEU, different from e.g. Art. 23 of the EU- Swiss Agreement on the free movement of persons.	<ul> <li>E.g. the UK Government:</li> <li>"Alternatives to Membership: possible models for the United Kingdom outside the European Union" (May 2016);</li> <li>"The United Kingdom's exit from and new partnership with the European Union" (February 2017).</li> </ul>	asks to rejoin, its request shall be subject to the procedure referred to in Article 49."	

Potential **challenges**, if based on EU market access rules (see EU Council conclusions on a homogeneous extended single market, 2014)

Substance	Institutional framework
Will an agreement providing for partial market access be possible?	What will be the rules on updating and interpreting the agreement as well as on international supervision and dispute settlement?
E.g. UK: internal market minus full free	Compare Switzerland: current negotiations

Compare Switzerland: current negotiations on these issues

#### Notes:

There may also be arrangements outside the EU, including e.g.:

movement of persons?

- · National rules on the immigration into the State in question;
- Conclusion of treaties with other states (though in the case of EU Member States only insofar as the EU does not enjoy an exclusive competence in the field in question; see *Chart 4/2, Chart 4/7*).