



ENERGY AND NATURAL RESOURCES

Brexit: What will it mean for Ireland's energy market?

by **Philip Daly**

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18th October 2016 | by Philip Daly

It is estimated Ireland imported in excess of €6 billion worth of energy products through the UK in 2014. In the wake of the leave vote, what is the upshot for the Irish energy market?

General Legal Principles

Article 50 of the European Union (EU) Treaty provides that States leaving the EU have two years to negotiate a “withdrawal agreement”. It is effectively a form of separation agreement.

We do not know what relationship the UK will have with the EU. Will it be an EFTA country, such as Norway, which still benefits from the EU single market? But other European countries may not be eager for the UK to avail of the benefits of the single market when it is such a large player and has chosen not to contribute to the European project in a meaningful way. There might even be resistance from the EU to grant the UK such status as a means of dissuading other Member States from considering departure from the EU.

Current EU Legislation: Will it still apply in the UK?

The UK will no longer be bound by EU regulations and directives unless adopted by its own legislature by means of statutory instruments or otherwise. The directives and legislation that have already been implemented into UK law will however remain in force unless amended or repealed.

The current Single Electricity Market system that applies to the entire island of Ireland (i.e. including Northern Ireland) will likewise still be binding in that it has been adopted by both Westminster and Dublin through national legislation. Although how Brexit will affect the renegotiation of the Single Electricity Market, which is currently ongoing, is unclear.

Being outside the EU legal tent could have some economic advantages for the UK. For example, it could promote its nuclear industry with certain pricing concessions free of the constraints of EU state aid rules.

Security of Supply

Following the 2009 gas crisis, EU regulations now provide for disaster relief across Europe and the sharing of resources between Member States in an energy crisis. The UK will no longer be bound by such agreements. And since the UK is the jurisdiction through which most of Ireland's oil and gas passes, Ireland could find itself in a position where in an emergency situation the tap from the UK is closed off. This risk would probably only materialise in a major disaster, given that only 5% of all energy imported into the UK is exported on to Ireland.

This risk does not all flow in one direction. If Ireland did not receive gas from the UK, which is used to generate much of our electricity, Northern Ireland might suffer as it is fast becoming a net importer of electricity generated in Ireland. This could give Ireland some leverage in terms of negotiations in relation to limited resources.

Tariffs

If the EU was to impose energy tariffs on the UK for energy sold to it from the EU, these tariffs might well be passed on to Ireland with adverse economic effects to the Irish economy. Commentators believe that Ireland would probably be able to seek to get a rebate from the EU on these tariffs.

Climate Change Policy

The UK will no longer be bound by EU Climate change policy on Brexit. The UK could impose a higher carbon price on electricity which could be passed on to consumers in Ireland. Alternatively, to be competitive, the UK could propose a carbon price below the current EU level which would mean that they could export energy at a cheaper rate than EU Member States.

The UK's own Climate Change Act means that the UK is bound domestically to cut emissions in at least a similar trajectory to the EU's 2020 and 2030 targets. Though it is not clear whether the UK would wish to continue to utilise an emissions trading system linked to the EU or to establish its own. Also the UK could reduce its renewables obligations without being bound by EU commitments on how to do so. It could also move away from expensive offshore projects and invest in measures to reduce emissions, such as building standards, which may be a more attractive way of achieving the UK's energy targets.

Conclusion

These are some of the issues that market commentators have raised so far in relation to the implications of Brexit on the UK and Ireland's energy market.

Linking Ireland directly to the mainland EU energy market through an interconnector to France is already part of a long term EU strategy designed to make the EU market more interconnected. In order to realise a security of supply from outside of the UK post Brexit, Ireland should push for this to occur sooner than later.

If you would like further information, please contact Philip Daly, Partner and Head of Energy and Natural Resources at pdaly@lkshields.ie.

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