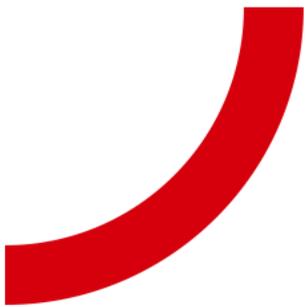




# Where Next with Brexit?



Prof David Phinnemore (@DPhinnemore)  
19 June 2019

# European Council Decision

11 April 2019

**9. On 10 April 2019, the European Council agreed to a further extension to allow for the ratification of the Withdrawal Agreement by both Parties. Such an extension should last as long as necessary and, in any event, no longer than 31 October 2019.** The European Council also recalled that, under Article 50(3) TEU, the Withdrawal Agreement may enter into force on an earlier date, should the Parties complete their respective ratification procedures before 31 October 2019. Consequently, the withdrawal should take place on the first day of the month following the completion of the ratification procedures or on 1 November 2019, whichever is the earliest.

# European Council Decision

11 April 2019

12. This extension excludes any re-opening of the Withdrawal Agreement. Any unilateral commitment, statement or other act by the United Kingdom should be compatible with the letter and the spirit of the Withdrawal Agreement, and must not hamper its implementation. Such an extension cannot be used to start negotiations on the future relationship.

13. The European Council will review progress at its meeting in June 2019.

# Where are with Brexit?

- *Withdrawal Agreement* (25 November 2018)
- *Political declaration setting out the framework for the future UK-EU relationship* (25 November 2018)
- *Instrument relating to the Withdrawal Agreement* (11 March 2019)
- *Joint Statement supplementing the Political Declaration* (11 March 2019)
- *Unilateral Declaration* (11 March 2019)

# What Next?

<b>Renegotiate Withdrawal Agreement</b>	<b>Renegotiate Political Declaration</b>
<b>Second referendum</b>	<b>Extend Article 50</b>
<b>Revoke Article 50 notification</b>	<b>No Deal</b>

# If No Deal is to be avoided ...

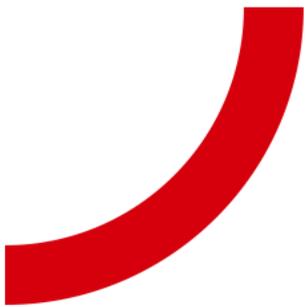
1. UK Parliament: Meaningful Vote on Withdrawal Agreement
2. UK+EU: sign Withdrawal Agreement
3. European Parliament: consent
4. Council: Decision on Withdrawal Agreement
5. UK Parliament: adopt EU Withdrawal Bill

20-21 June	European Council
22 July (w/b)	Conservative Party leadership result
24 July*	Commons rises for summer recess
2 September*	Commons returns from summer recess
13 September	Commons rises for conference recess
16 September	General Affairs Council
16 September	EP Plenary (to 19 September)
29 September	Conservative Party conference (to 2 October)
9 October*	Commons returns from conference recess
10 October	EP Plenary (to 10 October)
15 October	General Affairs Council
17-18 October	European Council
21 October	EP Plenary (to 24 September)
31 October	UK leaves the EU



# Brexit Clinic 19 June 2019

– tentative socio-legal  
perspectives in times of  
uncertainty



Prof. Dagmar Schiek (@dschiek)

# LEGAL PERSPECTIVES ON “BREXIT” – TWO DIMENSIONS

- Constitutional perspectives (national, UK and Irish)
  - Consider how national law can / should respond to “Brexit” if it happens
  - From Northern Ireland perspective, include the question of what Ireland and the UK can do together
- Conceptual limitations abound
  - But still necessary
- EU perspectives (law & policy)
  - EU as Community of Law
  - Comprehends EU legal position, which is prerequisite to understanding its political position
  - May include EU’s being embedded in WTO
    - ★ Current WTO weaknesses...
  - analyses room for manoeuvre of the EU, the UK and also Northern Ireland
  - Interested in EU future

# Unmanaged Brexit

- Citizenship rights
- Status of Northern Ireland
- Perspectives for future agreement

# Citizenship Rights

- Whether those who are in the UK as EU citizens or the EU as UK citizens may stay, and continue to enjoy equal treatment depends on national policy
- Within the limits of international law (“acquired rights”) – mainly for residence
- For UK citizens in EU (except Ireland and Denmark): protection by TCN acquis
- EU has issued contingency measures on social security coordination

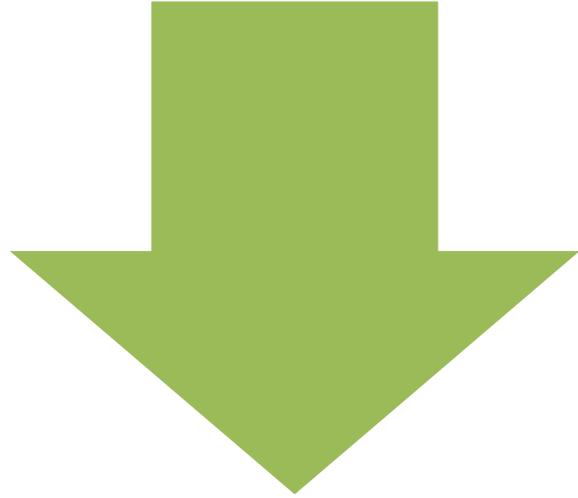
# TCN Acquis (equal treatment)

- EU legislation on non-EU workers
  - Directive 2003/109 (long term residents)
    - “near equal treatment” – but only in relation to access to labour market
  - Dir 2014/36 (seasonal workers)
    - more near equal treatment – also in relation to employer
  - Dir 2014/66 (intra corporate transfers)
    - Articles 5 (4), 18: posted worker treatment
    - Article 5 (4) (b): remuneration not lower than of nationals of MS where work is carried out

# Status of Northern Ireland

- Will be a “third country” (non-EU country)
- EU needs to protect its Internal Market
- Commitments in Withdrawal Agreement (Protocol Ireland/Northern Ireland) become demands for UK, contingency for future relationship

# Up to 31 October: the CJEU Wightman path

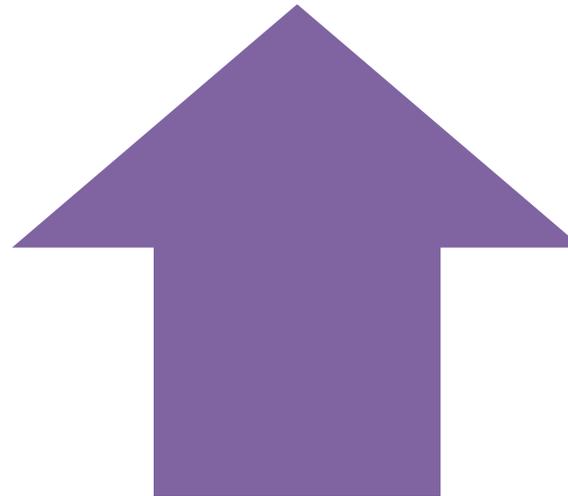


## Character of the Union

- Ever closer
- Constitutional structure
- Network of rights and obligations (mutuality),
- EU citizenship as fundamental status

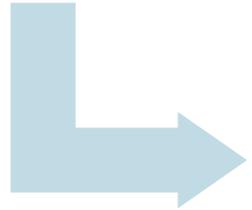
## Withdrawal option

- Based on liberty and democracy (MS sovereignty)
- To safeguard basis of EU legal order (ever closer, fundamental status)
- → **Unequivocal & unconditional**



# Future Perspectives

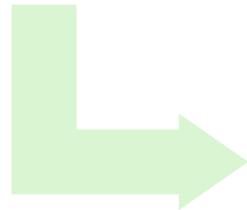
EEA



- Or equivalent

Article 218  
TFEU!!!

“Swiss  
model”



- Just overhauled

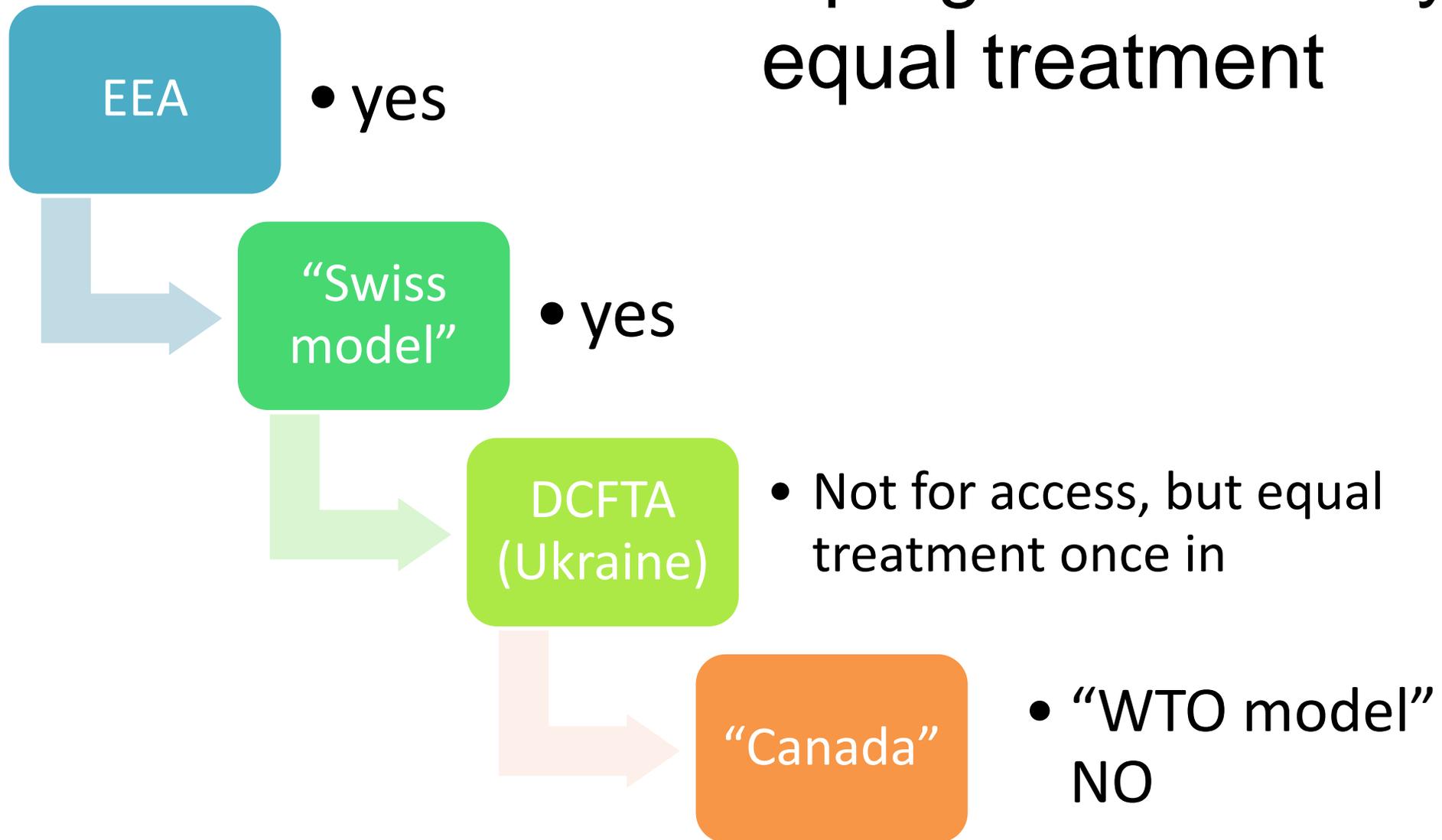
DCFTA  
(Ukraine)

- See Art 8 TEU



“Canada”

# Citizenship rights – mobility and equal treatment



# Status of Northern Ireland – future perspectives

- Reverse “backstop” to NI only?
  - Not too bad
  - Retains limitations, of course
- Autonomy
- Change of status (GFA procedure)
  - Not strictly an EU perspective
  - But: EU commitment to maintain EU membership!



# Agriculture & the Environment – prepared for Brexit or stuck in the mud?

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- 
- ✓ Steps undertaken since February (last clinic);
  - ✓ Continuing/new holes in environmental governance
  - ✓ Agriculture: stalled or chugging along?

# Since February 2019?

- February – prepping for March 2019 exit:
  - Civil servants – significantly low number;
  - Rate of progress very high, but too rushed;
  - Unlikely to meet deadlines re EU Withdrawal Act/SIs;
- Now?
  - Bulk done...
  - Repairing the repairs...
  - Some significant changes (will be) brought about *without proper scrutiny*.

# A holey mess for the environment

- Governance gaps outlined (Commission, Court of Justice, reporting, principles, networks...) still remain & accentuated:
  - SIs delete references or replace with internal bodies;
  - Environment Bill:
    - principles, OEP, improvement plans (and more unseen, e.g. re targets);
    - weak, narrow and slow;
    - temporary substitute committee/panel for OEP if needed;
  - Varying approaches in NI (despite no Exec), Scotland and Wales:
    - different levels of detail and ambition, but again not finalised...
  - Extend Bill to NI? Or?
  - Impact of PM contest?

# Agricultural – new policies? Financing?

- Impact of hard Brexit – potential to be devastating for farming in NI (and elsewhere in UK & to an extent in ROI);
- Any Brexit → outside of CAP;
- Ag Bill and devolved policies – relevant in CAP, essential beyond CAP...
  - Direct Payments 
  - Focus on the environment and making more efficient;
  - Effective?
  - Control by Westminster over devolved matters??
  - Progress....?

# Overall?

- Patch job mainly done...
- Environment:
  - Needs wider overhaul - major governance gaps;
  - Proposals developing, but slow and English/UK approach is weak and narrow;
  - Welsh approach – learning potential?
  - NI???
- Agriculture:
  - Law, but what of policy and funding? Replacement of CAP?
  - Agriculture Bill – slowed and potentially (temporarily) stalled?
  - Devolved policies –influence on UK Bill also...
  - NI???