



**Maynooth
University**
National University
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Future participation in the single market: Prospects for Northern Ireland, Scotland and Wales

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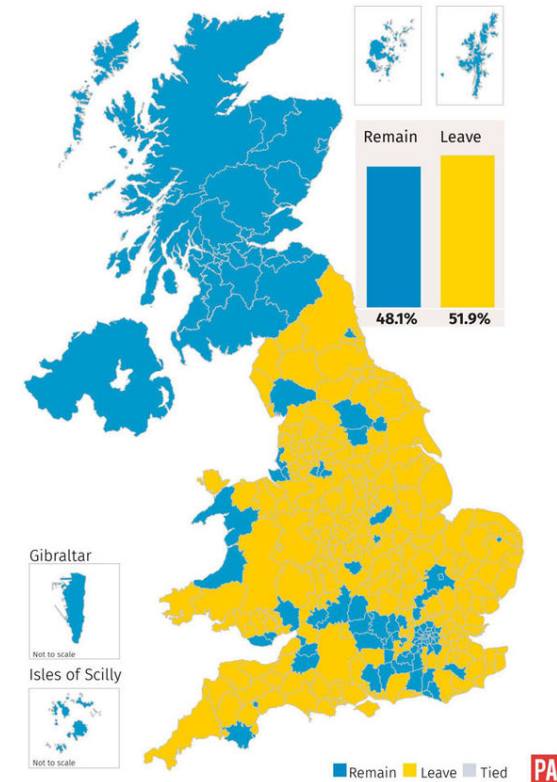


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Overview

1. Where we were in 2016
2. Where we are now: fragmented relationships with the single market
3. What options for Scotland/Wales under the status quo?
4. What options for Scotland (Wales) in case of independence?

Where we were in 2016-2018

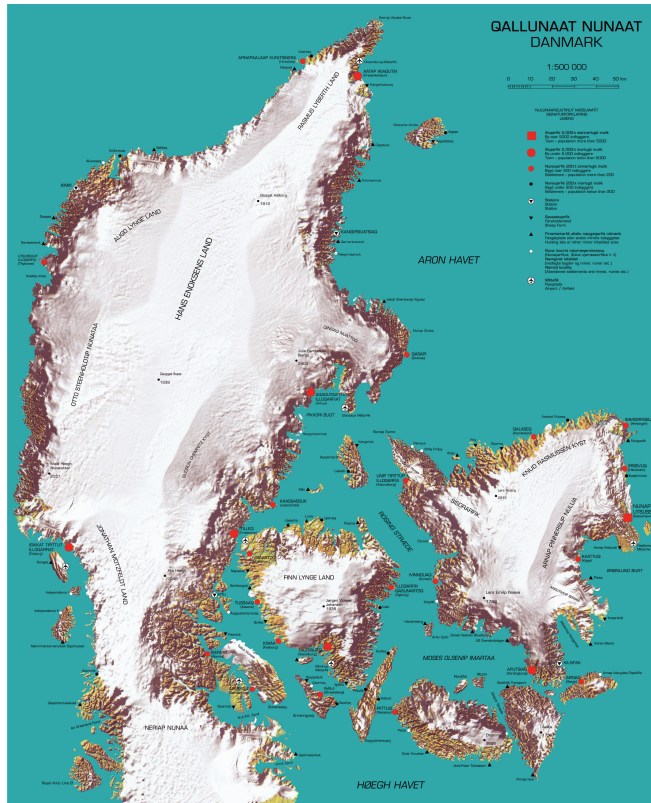


- Calls for a 'special deal' for Scotland
- Scottish Government paper "Scotland's place in Europe"
- No such calls in Wales (though Welsh Labour government was in favour of a 'soft Brexit')
- NI was a bit of a late-starter, but calls for special treatment came as well



Where we were in 2016

Reverse Greenland?



OR

Reverse Svalbard?



Where we are in 2020/21

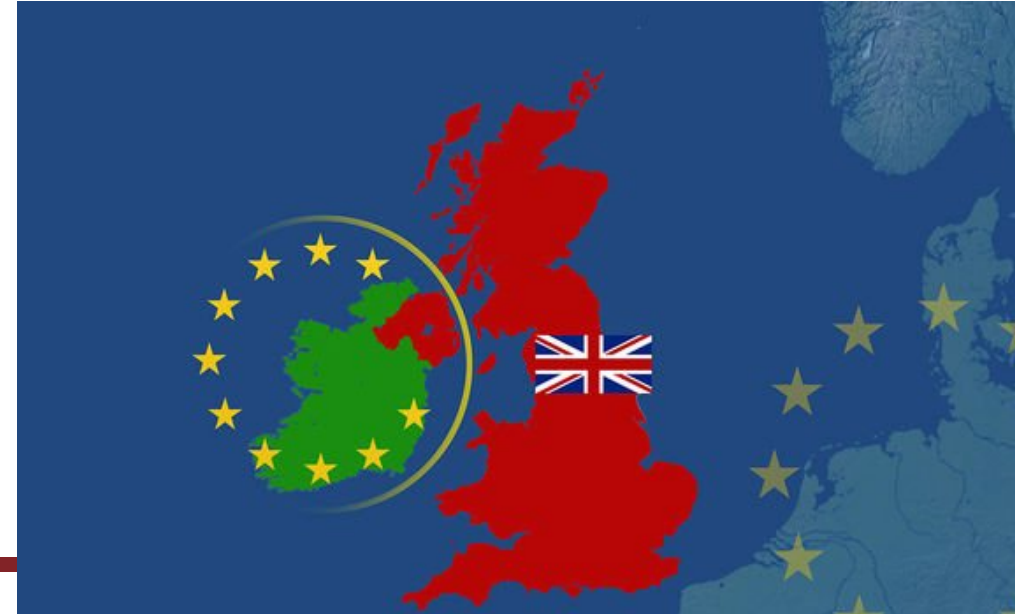
Fragmented relationships with the single market

- **Wales, Scotland, and England:** Future Relationship Agreement (or no deal)
 - but special arrangements for Irish nationals in the UK/UK nationals in Ireland (Common Travel Area)
- **Northern Ireland:** Withdrawal Agreement (Protocol on Ireland/NI) + Future Relationship Agreement (or no deal)
 - and special arrangements for Irish nationals in the UK/UK nationals in Ireland (Common Travel Area)

Where we are in 2020/21

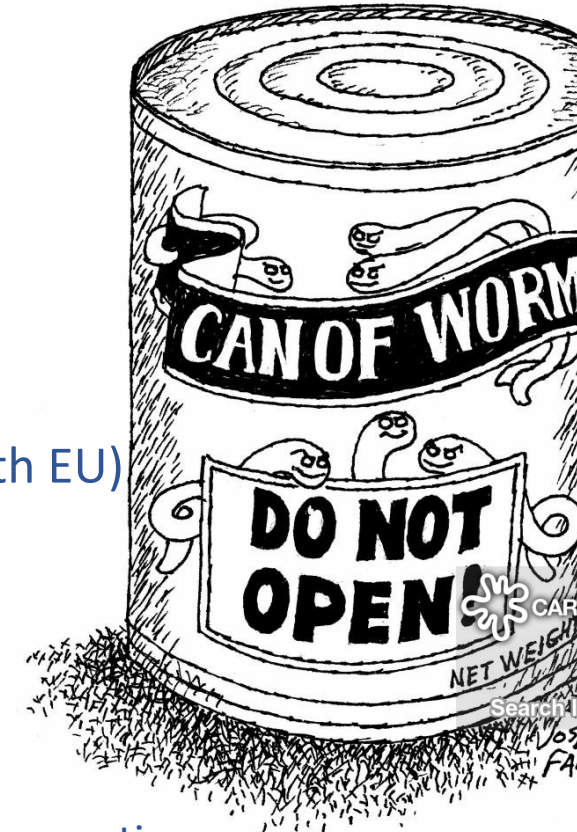
Northern Ireland's 'special relationship' with the single market:

- de facto membership of NI in the EU's customs union
 - customs tariffs (determined by EU-UK future relationship) apply for goods going from GB to NI (unless goods are not 'at risk' of being brought into the EU)
 - goods from NI-GB: no customs tariffs or other barriers (Art 6 Protocol)
- free movement of goods applies to NI
 - goods produced in NI must comply with EU regulations (annexed to the Protocol)
 - goods originating in the EU can circulate freely in NI (Art 34 TFEU applies)
 - unclear whether Art 34 applies to goods from NI
- restrictions on state-aid measures in NI (Art 10)
- **Services:** Only provision for single electricity market
- **Persons:** nothing



What options for Scotland/Wales: status quo

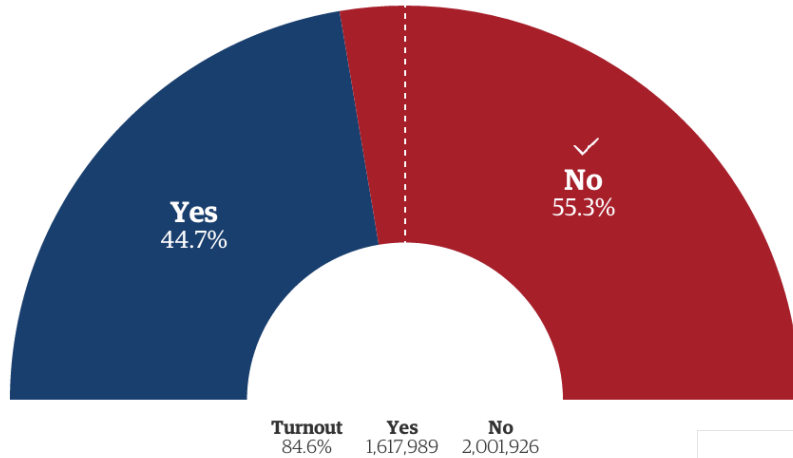
- special deals à la ‘reverse Greenland/Svalbard’?
 - politically not feasible; legally highly complex
- extension of the NI deal to Scotland/Wales?
 - politically: would EU agree?
 - NI is different (peace process; key concern for another MS)
 - legally:
 - **further difference** is land border with England (and no land border with EU)
 - would thus result in Scotland/Wales de facto in the EU customs union
 - English border = customs border
 - would result in Scotland/Wales in single market for goods
 - English border = regulatory border
 - Need for checks would arise
 - difference to NI of course: no security concerns, but still a big change in perception



What options in case of independence?

Scotland 2014:

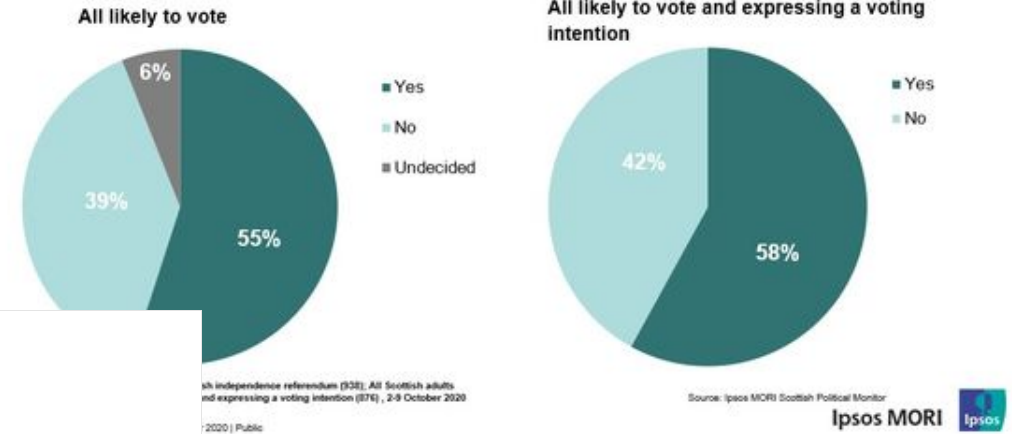
Final result with 32 of 32 councils declared



Scotland 2020:

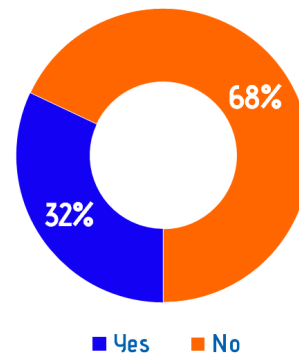
Support for independence at highest recorded level

If a referendum were held tomorrow about Scotland's constitutional future, how would you vote in response to the following question:
Should Scotland be an independent country?



UK (Wales) Independence referendum

YouGov poll for Yes Cymru · 29 July - 7 August 2020 · 1,044 respondents



What options in case of independence?

Link between Scottish independence and EU membership:

- Scottish vote to remain in the EU in 2016 seen by Scottish Government as a 'material change of circumstances':

This material change of circumstance is based on:

- the prospect of Scotland leaving the EU against its will, and
 - what EU exit has revealed about Scotland's position within the UK.
- On 31 January 2020, First Minister Nicola Sturgeon said:

Today we are asking our friends in Europe to leave a light on for Scotland so we can find our way home.



What options in case of independence?

Option 1: full EU membership

- Article 49 TEU – Copenhagen criteria
 - geographic ✓
 - political ✓
 - economic ✓
- adoption of the EU acquis – potential issues
 - Schengen
 - Economic and Monetary Union



What options in case of independence?

Option 1: full EU membership

- the Anglo-Scottish border is likely to become an issue
- NB: 'hardness' of the border depends on EU-UK relations

What happens at an EU external border?

- **checks on persons** (if Scotland in Schengen)
 - if Scotland permitted to remain in CTA: not an issue
- **checks on goods**
 - Scotland would (have to) be in the customs union:
 - customs checks
 - Scotland would (have to) be in the single market
 - regulatory checks
- Broader question of access to the UK internal market



What options in case of independence?

Option 2: EEA membership

- either as a first step or as final destination
- Anglo-Scottish border would be 'softer':
 - Person checks:
Schengen not part of the EEA deal (though all EEA states in Schengen)
 - separate association agreements with EU; e.g. Liechtenstein only joined in 2011
 - Goods checks:
 - no customs union under EEA
 - would allow Scotland to have special free trade arrangements with rUK
 - limited customs checks might still become necessary, depending on overall EU-UK relations and ROO
 - regulatory checks would remain, however (single market)
 - yet these could be fairly soft-touch (and conducted away from the border)

The European Economic Area



Thank you for listening