

International Maritime Law Seminar

Some legal consequences of Hard Brexit for the maritime industry in Norway

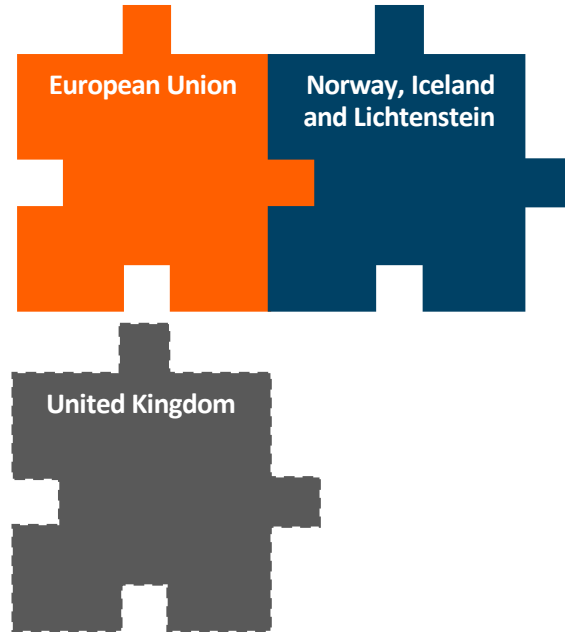
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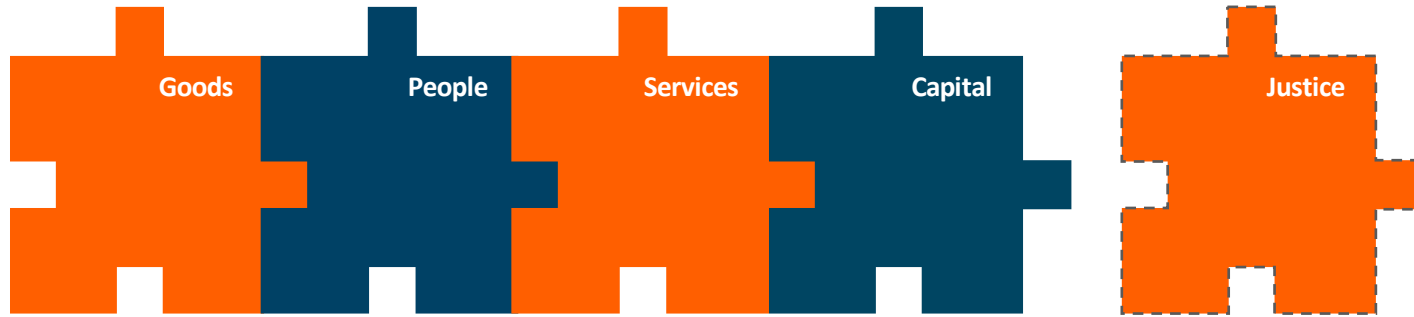
One word of caution – "importance" is a relative term



The European Economic Area (EEA) Agreement 1992



The EEA Agreement 1992 – the four freedoms



Hard Brexit – Norwegian companies

1

In **Norwegian companies**, the CEO and minimum 50% of the board of directors must be either (i) resident in Norway, or (ii) EEA nationals resident in an EEA state

2

UK residents will no longer qualify to the position as CEO and **UK nationals/residents** will no longer count as EEA nationals resident in an EEA state for the purposes of lawful board composition

3

A company not satisfying the residency requirements, will according to law be **compulsory dissolved**

Transitional rules applicable to **current** CEOs and directors in place

Hard Brexit – Norwegian vessels

1

Norwegian vessels must be owned minimum 60% of Norwegian or EEA nationals (on ultimate ownership level)

(Only "NOR", not "NIS")

2

UK nationals will not qualify to own Norwegian vessels, nor be counted in when calculating the 60% ownership requirement

3

A vessel no longer satisfying the ownership requirements shall be **deregistered**

Hard Brexit – Cabotage in Norway and the UK

1

Norwegian vessels operating in the UK and **UK vessels** operating in Norway no longer covered by Council Regulation (EEC) No. 3577 on maritime cabotage

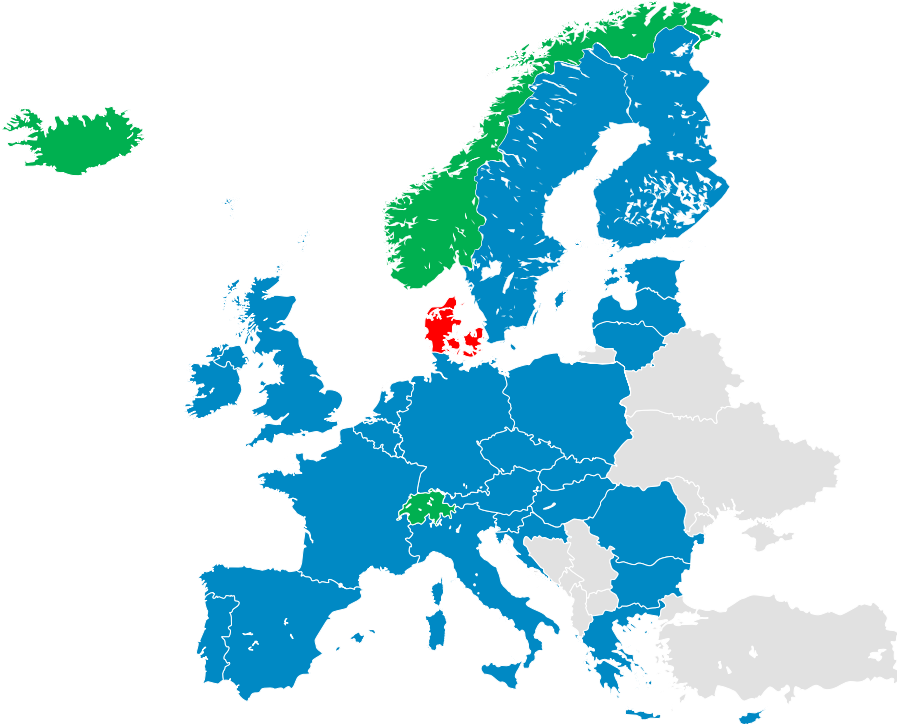
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Cabotage in Norway and the UK subject to domestic legislation

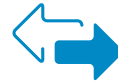
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Bilateral treaty from 1854 recognizing that vessels from Norway and the UK shall be entitled to undertake coastal trades in the other country

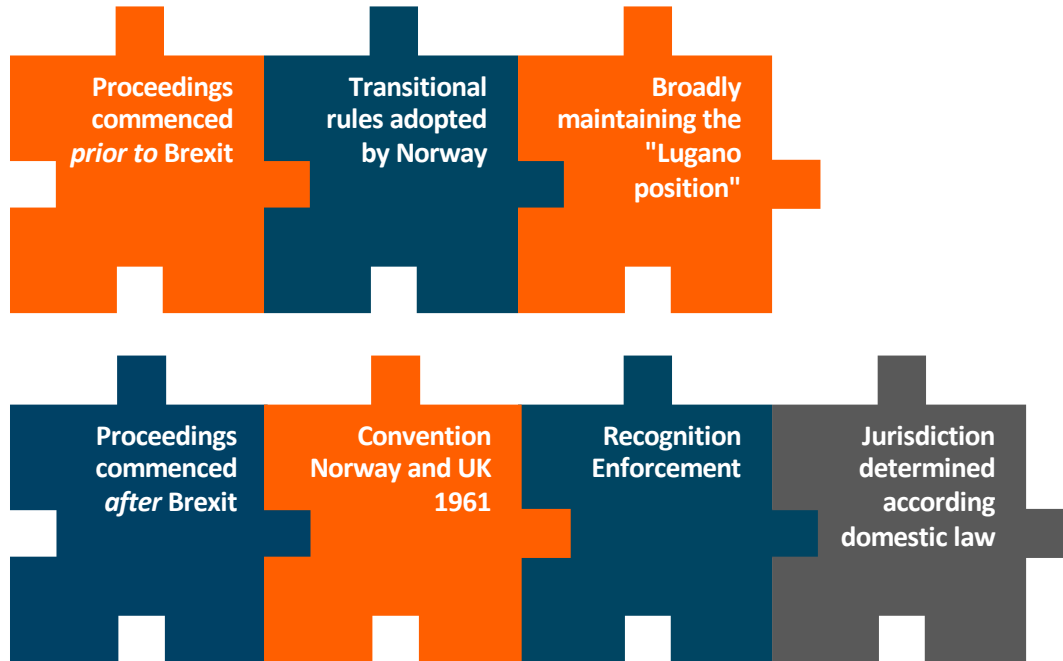
Recast Brussels Regulation 2012 and Lugano Convention 2007



Jurisdiction, recognition and enforcement pre Brexit



Jurisdiction, recognition and enforcement post Brexit



Jurisdiction re cargo claims

Norwegian Maritime
Code 1994 sec. 310
(1)



- **Jurisdiction clauses** limiting the claimant's right to commence proceedings where (i) the defendant's principal place of business is situated, (ii) the contract of carriage was concluded, (iii) the cargo was received for carriage or (iv) the agreed or actual place of delivery is situated, are **invalid**

Norwegian Maritime
Code sec. 310 (5)



- The provisions in paragraph sec. 310 (1) **do not apply** if neither the place of receipt nor the place of delivery is located in Norway, Denmark, Finland or Sweden, **or if the Lugano Convention 2007 provides otherwise**

Hard Brexit



- For carriage to and from Norway, Denmark, Finland and Sweden, a UK jurisdiction clause will in many cases be held **invalid**

Jurisdiction re direct action claims against insurers

Lugano Convention
2007 Art. 8 - 11



- Lugano Convention 2007 Art. 11 No. 2 extends the ordinary rules on jurisdiction in matters relating to insurance to **direct action claims**, "*where such direct actions are permitted*"

Hard Brexit



- Very limited scope for direct action proceedings against UK insurers in Norway, or to include UK insurers in proceedings against carriers in Norway



Thank you for your attention!



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