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Legal Issues of Economic Disintegration: Government Procurement and BREXIT

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Please find below the abstract of “Legal Issues of Economic Disintegration: Government Procurement and BREXIT” by Kamala Dawar, published in *Legal Issues of Economic Integration*, issue 2, 2018 edited by Geraldo Vidigal

This article examines some of the European Union (EU) and World Trade Organization (WTO) legal issues that emerge for the United Kingdom’s (UK) public procurement law and policies following Brexit. It analyses the consequences and sequencing of international negotiations that must now take place since the UK triggered Article 50(2) of the Treaty on the European Union (TEU). Once the UK revokes the European Communities Act 1972, it will no longer be obligated to follow either the Treaty on the Functioning of the European Union (TFEU) or the EU Procurement Directives. Nor will the UK be subject to the commitments the EU has signed up to on behalf of the UK in the WTO Government Procurement Agreement (GPA) and in its Regional Trade Agreements (RTAs).

After examining the legal issues concerned with sequencing, the article moves on to assess the domestic, centrifugal forces that will also impact the UK’s public procurement law post-Brexit. Under the Devolution Settlement of 1998, the competence for public procurement was devolved down to the regions of Scotland, Northern Ireland, England and Wales. The article postulates that the legal issues of disintegration that have surfaced under Brexit could potentially fragment a coherent UK wide procurement policy, competition and value for money internally; as well as externally towards the WTO GPA, the EU and other regional procurement agreements.

The article puts forward a competition approach to address some of the potentially negative consequences of Brexit undermining value for money, transparency and integration in the UK’s lucrative markets for government procurement. It concludes with the limited hope that the legal and economic issues and challenges resulting from the UK’s referendum on membership of the EU will be a salutatory lesson for all other nations.

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