IN THE MATTER OF

THE UNITED KINGDOM REFERENDUM OF 23 JUNE 2016

AND

UNITED KINGDOM MEMBERSHIP OF THE EUROPEAN UNION

OPINION

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1. I am instructed by the Blavatnik School of Government at the University of Oxford.

2. As instructed, this Opinion only addresses one aspect of the formal, legal relationship between the United Kingdom referendum on the country's membership of the European Union and the initial subsequent step necessary to begin to give effect to the democratic outcome of that referendum.

3. The position under Article 50 of the Treaty of European Union is that it is for a member state that wishes to withdraw from the Union to give notice of its intention to do so.

4. The referendum established clearly that majority of the electorate wish the United Kingdom to leave the European Union. The outcome of the referendum is of great democratic and political significance but, in giving effect to this outcome, it is important to note that it has no formal, legal status in relation to Article 50. The Referendum Act 2015 concerns the mechanics of a referendum and does not displace the ordinary position in United Kingdom law, namely that international acts such as entering, revoking or amending the terms of an international agreement are matters to be determined by the elected government. It follows that the referendum result is not sufficient to amount, in law, to notice under Article 50.

5. The giving of notice under Article 50 is a matter for the United Kingdom government, and can only be done by an unequivocal formal act of notification to the Council of Ministers.

6. For the sake of completeness, I would also draw attention to the constitutional convention, known as the Ponsonby Rule, that government proposals for international acts (such as major Treaty change, significant use of military force etc) are brought before Parliament and debated before any formal executive action is undertaken.

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SIR PAUL JENKINS KCB QC (Hon)
(Head of UK Government Legal Service 2006-2014)

Matrix Chambers
26 June 2016

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