

How to negotiate Brexit

Now the UK has triggered Article 50 and is entering negotiations with the rest of the EU, it is worth taking a rough look at what the government should do in the negotiating process.

The Position in 1975

The NO Campaign in 1975 stated *“If we withdrew from the Market, we could and should remain members of the wider Free Trade area which now exists between the Common Market and the countries of the European Free Trade Association.”*

That position was supported by Enoch Powell and Tony Benn and the NO Campaign in 1975 simply because they recognised that this Free Trade area was a trading association without any political implications.

The EEA [European Economic Area], although considerably modified, is essentially the successor to *“the wider Free Trade area”*.

Clear Aim and Clear Plan

At present it is unclear whether the government has either a clear aim or a clear plan.

While it is true that the Prime Minister has ruled out the UK remaining in the ‘Single Market’, she has not specifically ruled out retaining EEA membership.

Of course, it would be best to stick with the EEA for at least some years in order to reduce the magnitude of the task of leaving the EU. More important, any losses in trade from leaving the EEA would be sudden and might affect large amounts of exports, especially goods. The bright picture of extra trade globally is just that – a bright picture which could take years to bring about. So there is a major temporal

dislocation which must be factored in to future calculations.

If the UK becomes a third country vis-à-vis the EU, there is likely to be a trade in goods exports drop off because of customs and regulatory complexity.

Whether the UK opts for an EEA solution or not, the details of the financial divorce, organising trade relations with other countries on succession to EU trade arrangements, setting up greatly expanded and separate UK customs for the UK, etc., would be necessary. It is just simpler to do this while UK/EU trade is relatively undisturbed.

How much would the 'hit' be?

It is worth looking at the quantities and types of goods exported by the UK to the EU. Excluding agriculture and fish, whose regulating régimes are specific, goods exports to the EU were about £140 billion per annum in the period 2012-14.

It would seem that about 30% of exports would be relatively unaffected (except possibly by tariffs):

- Basic materials
- Coal, gas, etc.
- Gold and precious stones
- Motor cars via dedicated export points
- Ships and aircraft
- Oil – crude and products

So the 'at risk' total is about £95 billion.

The 'hit' on this could be estimated quite speculatively at 10-20%, so a loss of trade in goods of £10-20 billion.

This 'lost trade' would not necessarily be the same as a financial loss.

Most exported goods contain raw materials and components so there is a 'netting off' process.

Trade statistics exaggerate the importance of trade in an economy, and globalised supply chains distort trade statistics even more because of double, triple and more percentage counting.

The actual financial loss to the UK might only be the 'profit margin' if the displaced labour and capital could find alternative employment or returned to their country of origin but it would be prudent to assume the net 'hit' would be in the £5-10 billion range.

More important would be the disturbance to the structure of the exporting firms and the labour market, with considerable shedding of labour – in manufacturing, a most unfavourable outcome.

Trading under WTO rules

It has been conclusively shown by eureferendum.com that few countries trade purely under WTO rules. There are numerous trade treaties (not free trade agreements) which govern the trade between the EU and third countries. These have often taken many years to establish.

The government has said it wishes to establish a Free Trade Agreement with the EU but many hard Brexiteers state that, if a favourable FTA cannot be agreed, the UK would fall back on the WTO rules, but this would be a massive disturbance to existing UK exports to the EU.

There are some quite weak safeguard clauses in the WTO rules. These were not incorporated in the WTO agreement in anticipation of such a massive and sudden change in trading relationships but, rather, refer to sectoral problems.

However, a scenario where UK goods exports to the EU fall drastically, while EU exports to the UK carry on as normal, is so disturbing and unsustainable that invocation of safeguard clauses might be necessary.

The final fallback position for the UK government in this scenario is trading with the EU under some emergency system such as an Exchange Equalisation Fund.

This, of course, would be a breach of WTO rules but would be the only alternative to financial disaster. It would, of course, be presented as a temporary measure.

As a matter of political realism, EU Treaty rules and WTO rules are servants to national governments who retain responsibility for the prosperity of their peoples.

Breaching of EU rules have been quite common:

- Breaches of the budget overspending rules of the EU Stability and Growth Pact by France, Germany and others.
- Breaches of the Maastricht Treaty on no bail-out clauses for EU member states.
- Breaches of the Dublin Convention on asylum seekers by Germany and others.

Additionally, many NATO-EU governments have breached NATO agreements on defence spending.

EU rules and treaties have been breached by EU member states and condoned by the EU because they believed, correctly or not, that the prosperity of their peoples required such breaches.

Breaches of the WTO rules fall under the same rubric. If adherence to WTO rules threatens financial stability and prosperity, they must be considered.

The 'money'

Whether the UK remains in the EEA or whether it does not, there will be a financial divorce on the UK leaving the EU.

The reason is that the EFTA EEA states have little financial relationship with the EU, making only a small contribution to

the workings of the EEA agreement. Additionally, but outside the EU financial structure, are the Norway and EEA grants.

The EFTA EEA states do not pay anything into the EU budget or have any responsibility for the *reste a liquider* amounts of EU programmes (except for the EU programmes they have voluntarily joined, such as university research).

More importantly, these states have no liability, contingent liability, guarantees or 'joint and several' guarantees to any financial activities of the EU or its institutions, such as the ECB [European Central Bank] or EIB [European Investment Bank], the EFSM [European Financial Stabilisation Mechanism], the EU Balance of Payments programmes etc. So, moving to EFTA/EEA status would still mean that a financial divorce of the UK from the EU would have to be negotiated. It should be noted that the potential losses of the ECB and the EIB, which includes an unfunded, irresponsible lending programme begun by Juncker, are absolutely enormous. One advantage for the UK is that the EU is hardly going to acknowledge these potential losses and include them in its demands.

Another background point before considering the financial divorce is defence costs.

At present the UK is increasing its defence and security presence and spending in Eastern Europe, whereas many NATO countries, as President Trump pointed out to Angela Merkel, do not adhere to NATO spending targets.

It is difficult to see how any financial package on the UK leaving the EU can be discussed when other EU-NATO countries are falling down on their obligations and have serious past shortfalls.

By now, the UK government should have to hand a schedule of what amounts are material to be considered by the UK and the EU on divorce:

- Defence spending
- Current budget
- *Reste a liquider* amounts

Additionally, the UK should be targeting its extrication from all liabilities, contingent liabilities and guarantees, as well as totalling its contributions to EU assets.

The European Parliament

The divorce terms have to be approved by the European Parliament, which can easily sabotage any agreement in the last few weeks of the two-year negotiating period with or without the encouragement of EU leaders.

It seems obvious, therefore, that at the very beginning the two parties must agree that if the European Parliament rejects an agreement between the EU Council and the UK, the two-year time limit on negotiations must be extended indefinitely. Otherwise the whole negotiation is at the mercy of an irresponsible actor.