

Mrs May's flimsy free trade agreement with the EU

If and when Mrs May, Mr Davis and the Department for (not) Exiting the European Union eventually finalise a Free Trade Agreement (FTA) with the European Union (EU), it could potentially render the UK somewhat powerless against EU hegemony. It will most certainly not be "taking back control" in any meaningful sense of the term, instead it will give the EU *carte blanche* to 'turn the screws' on the UK any time it wishes. This potentially painful situation arises as a consequence of how the Single Market, the EU and our own Government, including the Civil Service, functions.

As first stated in her Lancaster House speech 17th January 2017, Mrs May recklessly decided to leave the Single Market (and the wider European Economic Area, EEA) when the UK notionally leaves the EU on 29th March 2019. As a result, under current plans, we will become either a temporary or permanent Vassal State of the EU. In place of membership of the Single Market, she is proposing an ambitious Free Trade Agreement (FTA) which, she hopes, will offer a continuation of existing stable 'frictionless' trade with other Member States of the EU and avoid trade 'falling off a cliff'. In the real world, trade deals with the EU are usually complex and slow to negotiate, taking several years. However, Mrs May and Mr Davis still believe it can be negotiated and finalised in a matter of months. At first, they hoped to have everything signed, sealed and delivered before next March when we leave the EU. Now they are aiming for 31st December 2020, 21 months later, following what the EU calls the "transition period" although misleadingly referred to by Mrs May *et al* the 'Implementation Period'.

By any standards, the negotiating timescale for the FTA is

very short and likely to be further shortened due to delays in fully agreeing the necessary terms within the Withdrawal Agreement for the Transition Period. Given Mrs May's desperation for a deal, the ticking clock is a recipe for concessions being made on the UK side. Unless closely monitored and exposed, the many mistakes and concessions she is likely to make may well only show up later when both parties start implementing the complex and wide-ranging FTA. Shortcuts and inadequate assessment of the details and their consequential implications are likely to be the order of the day.

The British negotiating side is further hampered through a general lack of motivation and expertise in intra-governmental negotiations in Government, Parliament and the Civil Service. After kowtowing to the EU and its executive (the European Commission) for 43 years, our government has lost much of the acumen necessary to govern a sovereign country competently and responsibly. In any case the responsibility ('competence') for negotiating FTAs rests with the EU.

Once competence built up over many years is outsourced to the EU, it is rapidly lost and extremely difficult to reacquire in a short period. The Civil Service, reduced to little more than a rubber-stamping organisation for EU directives could prefer to remain under EU leadership as it makes for a quieter decision-free and responsibility-free life. This would explain their willingness to acquiesce to EU demands. This seems to be the case with defence and defence procurement where the plan appears to be for increasingly close integration with the EU.

The EU negotiators, on top of their subjects, are running rings around our negotiators, who are repeatedly caving in to their demands and agenda. The EU's negotiators are demonstrating a level of competence that is far superior to that of Mrs May, Mr Davis and Department for (not) Leaving the European Union. Their dedicated website and Notice to

Stakeholders (under *Brexit preparedness*) are not replicated on this side of the Channel. A major consequence has been that the EU has effectively been in the lead all the time, dictating the terms for the negotiations and setting demands far outside what they are reasonably entitled to. For example, Article 50 negotiations were originally intended to cover financial arrangements for a Member State leaving the EU, nothing more. Now, however, the EU wants to control UK fishing during the Transition Period through a continuation of the Common Fisheries Policy and still to manage our fishing afterwards – at least, what little is left of it – by treating it as a common resource. The EU's position is becoming more uncompromising slipping in further demands outside those strictly necessary for trade.

Another major weakness on the UK's side is a lack of understanding of how the EU and the Single Market (or wider EEA) function. The aspirations of 'frictionless' trade through an FTA and a soft border on the island of Ireland cannot be achieved by anything so far suggested by the UK side, as the EU has repeatedly pointed out. Leaving the Single Market (or wider EEA) on 31st December 2020 (when the Transition Period is meant to end) makes the UK into a 'third' country, nominally outside EU control, and subject to the same treatment as any other 'third' country trading with the Single Market (or wider EEA). It is membership of the Single Market **AND NOT THE CUSTOMS UNION** which delivers customs cooperation between Member States across a range of products and frictionless internal trade.

The EU's approach to most products within the Single Market is outlined in principle in *COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT Enhancing the Implementation of the New Approach Directives* and in more detail in the EU's Guide to the implementation of directives based on the New Approach and the Global Approach and encapsulated in EU law in *REGULATION (EC) No 765/2008 OF THE*

EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9th July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93.

The EU's guide, in describing the processes involved and their overall approach, also provides an indication of where future problems could occur and how out of touch with reality Mrs May and Mr Davis are. At any time the EU can legally 'turn the screws' on us when it comes to trade. Mutual Recognition of Standards or an FTA will not make much – if any – difference, simply because the EU's negotiators will make sure they don't. They don't have much alternative since to cave-in to UK demands would go against their direction of travel which was determined many years ago. Such a cave-in would set a precedent that could be exploited by other 'third' countries.

There is no guarantee that we will get to a Free Trade Agreement. The Transition Deal and Withdrawal Agreement are still far from finalised and, as the EU have stated many times, 'nothing is agreed until everything is agreed'. However sacrificing UK fishing, defence and agreeing to continue to adopt existing and future EU laws *et al* in the hope of one day achieving a free trade utopia is delusional and incompetent. Hopefully reality will dawn – in particular, the horrific electoral consequences for the Conservative Party of such an abject surrender – in time to change tack. It is not too late for Mrs May to cut off negotiations and pursue a faster, safer and simpler approach to leaving the EU – for example EFTA/EEA explained in some detail in Brexit Reset. Is it too much to hope that our latter-day Chamberlain may net metamorphose into a Churchill or the second Iron Lady which we so desperately need? "No! No! No!" is the only language which the EU understands. They need to hear it loud and clear from Mrs May or she will soon be hearing it from disgruntled voters.