

The fantasy of a “frictionless” trade agreement

Mrs May and Mr Davis’ oft repeated aspiration for ‘frictionless’ trade with the European Union (EU) via a free trade agreement (FTA) and mutual recognition of standards will in reality consign the United Kingdom to being a permanent EU vassal state. Brexit will be in name only, with “stay, pay, obey without a say” being the outcome of their mishandling the Brexit negotiations. The transition agreement, which turns the UK into an EU vassal state thanks to completely caving in to unreasonable demands by the EU, is a forerunner of even worse things to come. The transition deal (partially agreed, although a long way from being ratified) is vastly inferior to the deal which they could have obtained, but rejected out of hand as far back as Mrs May’s Lancaster House speech 17th January 2017. We could have retained our membership of the Single Market (and wider European Economic Area, EEA) through re-joining, even temporarily, The European Free Trade Association, EFTA. This alternative, also known as the ‘Norway Option’, could have delivered practically ‘frictionless’ trade and a soft border on the isle of Ireland.

At the heart of Mrs May and Mr Davis’ highly risky, far-fetched and delusional approach to Brexit is a failure to understand the nature of the EU, the European Economic Area (EEA), EFTA’s working relationship with the EEA including the EEA Agreement, mutual recognition of standards and how world trade works. They make the most basic mistakes and repeat factually incorrect or incomplete statements to support their contradictory desire to leave the Single Market while retaining the same level of market access through an FTA. They appear unwilling to take cognisance of readily available

facts that completely disprove their fatuous mantras.

The details of what will happen after the UK leaves the EU (and the EEA) are there for anyone to see on the EU's dedicated website – especially in the increasing number of "Notices to Stakeholder"s under Brexit preparedness) It makes somewhat chilling reading. There is nothing equivalent on the Department for (not) Exiting the European Union's website. Presumably either they haven't done this vital work or have chosen not to share it – a truth too awful to tell?

Upon leaving the EU and the EEA we would become a 'third' country. We would then be subject to different requirements by the EU in order, at best, to manage the risks (to consumers and others) of doing business with us (or any other 'third country' outside the Single Market or EEA) and, at worst, to erect protectionist trade barriers in favour of domestic EU enterprises. From the EU's perspective, they will not grant concessions to 'third' country suppliers outside their control which are not enjoyed by EU domestic suppliers, especially when these could increase risks or create an 'unfair' competitive advantage. The EU also has to treat the UK the same as any other 'third' country in order to comply with World Trade Organisation (WTO) agreed requirements or principles.

The EU is developing the Single Market by harmonising standards, regulations, and enforcement or surveillance within a top down centralised legalistic and bureaucratic framework under their supervision and control. It is also a long-established declared ambition that 'third' countries (outside the EU, or wider European Economic Area, EEA) would adopt or follow at least some EU-style measures. The EU's approach (to products) 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 .

For the EU, mutual recognition of standards (which differ from theirs) has limited application, since it is not their preferred choice where harmonised standards (in their widest context) exist. In any case, there is the practical complexity and increased cost of demonstrating equivalence and compatibility, which can be far from straightforward and unacceptable to consumers and users. To take a simple illustration, traffic lights using green on top for 'stop' and red underneath for 'go' certainly provides equivalent functionality but are far from compatible and acceptable. Also test values from subtly different tests may mean a product is (theoretically) less safe rendering it unacceptable or requiring expensive (or impractical) re-design, which in turn may invalidate other test results and/or existing certification/approvals. (See also the Fallacy of Easy Mutual Recognition of Standards).

The EFTA/EEA option is not perfect, but is far more favourable to the UK's interests than the transitional deal on offer or indeed, to what will eventually emerge as Mrs May's FTA and 'deep and special relationship'. Norway participates in the EEA through membership of EFTA. Actually it only implements EU legislation necessary for functioning of the EEA, which at most constitutes around 25% of the total EU *acquis* or system of laws. More than 90% of these EEA related laws reportedly originate in global bodies, meaning the UK would need to implement them anyway for global trade, unless we leave the World Trade Organisation (WTO), *et al.* Also the EFTA route to EEA membership gives members outside the EU a say in EU legislation affecting the EEA, is largely free (although 'voluntarily' Norway does contribute to regional development funds) and is outside the jurisdiction of the European Court of Justice (ECJ). What is more, EFTA members make their own trade agreements with other countries.

Contrary to statements by M. Barnier and Mrs May about the four indivisible freedoms, EFTA/EEA membership contains the

facility to control immigration. Two members of EFTA have unilaterally invoked Article 112 (the Safeguard Measures) of the EEA Agreement to restrict free movement – Liechtenstein for people and Iceland for capital. The UK could do so too if we retain membership of the EEA by re-joining EFTA. Ironically, Articles 112 and 113 of the EEA agreement, which Mrs May rejects, are reproduced closely by the EU in their draft Withdrawal Agreement, Article 13 (Protocols NI), allowing the EU unilaterally to restrict freedom of movement (including immigration into the EU from the UK).

Continuing membership of the EEA solves the problem of maintaining a soft border in Ireland between the Irish Republic and Northern Ireland, thus avoiding a hard border between Northern Ireland and the rest of the UK (something Mrs May has ruled out, for the moment). It also gives us full control of fishing in our Exclusive Economic Zone. The EEA agreement (for EFTA members) can be adapted to suit their interests. Thus the UK (within EFTA) could get a bespoke version. So we could 'imitate, adapt and improve' on the existing EEA agreement to suit our needs rather than follow an insular and amateurish effort to 're-invent the FTA wheel in a few months' that isn't going anywhere.

From the beginning, the EU negotiators completely dominated the Brexit negotiations. It was inevitable then that negotiating concessions (or cave-ins) would be made by weak, dithering and clueless Mrs May and Mr Davis to strong, decisive and professional M. Barnier and his team. Comparing the EU's draft Withdrawal Agreement with the text agreed by the UK shows just how much the increasingly uncompromising EU is getting its way. Worse still, the EU is getting away with demands that are over and above those necessary for trade, with more already in the pipeline (such as fishing, defence, defence procurement, locking UK into EU budgets etc.). If you thought the Transitional Deal was bad, wait until you see the final withdrawal agreement and the FTA.