

Why prospects for an EU-UK FTA are worse than most people think

*Private sector economist **Harry Western** wrote the following article over a month ago for Briefings for Britain. In our opinion, it remains the single most insightful article published to date on the forthcoming negotiations between the EU and UK on a free trade agreement, explaining why the EU is unlikely to agree to a deal that the UK could find acceptable. Indeed, recent pronouncements from the EU and its draft negotiating directives are already proving Western right. We recommend that everyone read this important and insightful article on the dangers ahead.*

With the EU Withdrawal Agreement having passed the UK House of Commons, the stage is now set for trade negotiations between the UK and the EU to finally begin. But the relatively optimistic mood in the UK about this may be misplaced – in our view an acceptable trade deal may be very hard to achieve.

A glance at the opening positions of the two sides reveals a wide gulf. The UK is looking for a trade deal based on zero tariffs on goods, together with chapters on services, but with no regulatory alignment with the EU, no ECJ oversight and certainly no free movement of people. The UK is prepared, in this first instance, to strike a ‘thin’ trade deal just based on goods trade and add other elements later on, in order to stick to the end-2020 deadline to end the ‘transition period’ (note a goods-only deal has the advantage of only requiring a majority vote in the EU to be ratified).

The EU, by contrast, is demanding that even a ‘thin’ goods-only deal be accompanied by whole panoply of other elements.

It has suggested such a deal would require dynamic regulatory alignment (i.e. the UK copying all EU rules automatically, with no say) to create a 'level playing field' (LPF), ECJ oversight, free movement of people and links to security, data sharing and other areas. It is also demanding the UK continue to allow EU boats to plunder UK fisheries as a precondition.

Now we shouldn't be surprised if two sides in a negotiation start with maximalist positions and then find a 'landing zone' somewhere in the middle. And it's certainly possible to see where such a 'landing zone' might be. It might for example include:

- A deal on fisheries that allows some continued access by EU boats but at a lower level (and perhaps declining over time) and on better terms than now for the UK
- Redefining level playing field requirements in an imaginative way:
 1. The UK accepting non-regression clauses on labour and environmental rules in line with international standards – similar to the clauses in the EU's deals with Japan and Canada
 2. The UK agreeing to use the PEM (Pan-Euro Mediterranean) rules of origin system
 3. The UK remaining part of the CEN/CENELEC European standards bodies. Note neither 2. nor 3. involve the UK becoming a pure 'rule taker' as it would have an input into decision making in both bodies – and CEN/CENELEC standards are in any case voluntary
- The UK staying in the EASA pan-European air

travel body, perhaps on modified terms (this probably would involve some rule-taking albeit in a narrow area)

- For selected sectors, the UK may consider putting in place a domestic regulatory structure that largely mirrors that of the EU, at least initially e.g. the REACH framework for chemicals (as Korea has done).
- The UK might consider joining EFTA (not the EEA) as an associate member

Carefully presented, a deal with such elements could prove amenable to both sides, preserving as much of the existing trading relationship as possible subject to separate legal and regulatory orders. And the political declaration (PD) to the withdrawal agreement seems to point in this direction.

But this is only true if economic rationality is the prime consideration. Unfortunately, from the EU side, it isn't. The EU's main aim is rather to assert the maximum degree of economic and political control over the UK. It has already got a lot of what it initially wanted – on money, citizens' rights, geographical indications protections for agricultural goods and Ireland. A free trade deal is not an essential addition for the EU, especially if it yields the UK lots of new economic freedoms.

As a result, the EU is likely to follow much the same approach as it did in the first round of negotiations on the withdrawal agreement, attempting to delay, delay and dilute Brexit:

- We can expect a series of extreme preconditions to be laid out before real trade talks begin, with a 'deal' on fishing being the first of these.
- The EU will try to get the UK to agree an Association Agreement-style model which links trade with all kinds of other

elements, ideally from the EU perspective drawn up so that disputes on any one area collapse everything.

- The EU will rely on intense business lobbying and dubious economic modelling by friendly bodies to try to scare the UK into concessions on the length of the transition period, timetabling of negotiations, and their content.
- The EU will be hoping friendly elements of the UK civil service also pitch in. Expect more unhelpful interventions from the UK Treasury (still unrepentant and unchastised with respect to its misleading studies in 2016-18).
- Northern Ireland will again be used as a leverage item. Expect the EU and elements in Whitehall to push for an extension of the transition period to iron out the many complexities created by the withdrawal agreement's NI protocol.
- The EU will try to insert elements into any trade deal that make UK trade deals with other partners as difficult as possible, largely in the regulatory sphere.
- By piling on the complexity and preconditions, the EU will hope to force an extension of the 'transition period' during which the UK is a vassal state.
- Alternatively, the EU may attempt to push for a 'deal' which in reality is just a disguised extension of the transition and where the UK would have minimal economic freedoms – this is a major risk which Brexit supporters need to be very alive to.

If the UK government wants the EU to engage seriously and

agree the kind of limited trade deal it now says it wants, which maximises UK economic freedoms, it is going to have to be prepared to scrap very hard.

Firstly, the UK will have to make it 100% clear to the EU that a thin trade deal linked to onerous LPF conditions is not of any interest to it and it would prefer to leave on WTO terms than accept one. With the EU's average WTO tariff on UK goods only around 3%, the UK would almost certainly be better off leaving on WTO terms and flexing its regulatory independence.

Second, the UK should, in parallel with talks with the EU, aggressively pursue a series of other deals. Such deals might include:

- Trade deals with the US, Australia, New Zealand and Japan. Ideally these deals should pre-empt regulatory alignment with the EU e.g. in areas such as SPS (plant and animal health) and should be structured so as to inflict maximum damage on EU sectors which have large trade surpluses with the UK like agriculture and cars.
- Pre-legislating for desirable regulatory changes to come into force at the start of 2021, e.g. in financial services.
- A deal with Switzerland (which would go a long way to negating the EU's recent bullying of the Swiss via withdrawing recognition of financial service regulatory equivalence) and perhaps other global financial centres on financial services
- Enhanced security cooperation with 'Five Eyes' partners

The UK should also move quickly to outline a new fisheries policy which will rule out the EU's current extreme demands and make it clear that the scope for negotiations on fisheries

will be very limited, based largely on recognising some pre-1973 rights for EU vessels plus some transitional arrangements. Ideally, such a policy would move completely away from the failed EU quota system. Fishing is a small sector but a totemic one and playing hardball here is crucial to set the tone for the rest of the negotiations.

Naming a negotiating team for trade talks may also help concentrate minds on the EU side. Such a team should be composed of seasoned trade negotiators like Crawford Falconer plus hard-nosed business representatives and senior Brexit-supporting political figures – it emphatically should not feature civil servants in leading roles.

There have been some promising signals on the above in recent days, including statements from the UK government that it intends trade talks to go forward in parallel with other partners as well as the EU. But we remain unconvinced – as the EU will also be – that the government has the strength of will to take the very tough actions needed to force the EU into a serious negotiation on trade. Some very clear and concrete moves are needed in the coming weeks – bluffing won't work.

'Harry Western' is the pen name of an independent economist working in the private sector, who needs to remain anonymous for professional reasons. CIB is acquainted with him in real life and can vouch for his credentials.