

Blog on future trade options

Part 1

By Christian Turner

On 15th August, the British Government unveiled their anticipated paper on a future relationship with the European Union regarding the Customs Union. This served as the first detailed step along the path of Britain's future trade relationship with the world. It also gave a hint towards what we can expect regarding the issue of the Irish border and an indication once again that the UK hopes to reduce the direct influence of Brussels. The 'future trading paper' set down a marker that Britain would not remain a part of the Customs Union, but rather seek to establish a new customs agreement with the bloc. The paper was followed up by Prime Minister Theresa May's speech in Florence, Italy on 22nd September. The overriding principle from both the paper and her address was what we heard often since June 23rd 2016, that the Government's primary aim is to have as much access as possible to European markets whilst gaining the ability to strike future trade deals with countries across the world.

The Florence speech once again establishes a discussion on what trade models Britain can realistically copy post-Brexit. As ever, the media pundits seem unsure what the UK is truly after, with coverage recently suggesting that the Government was looking towards the EEA/Norway model (Politico), although the Government's position paper suggests that model is no longer realistic. Other options include Switzerland's version (EFTA), Turkey's Customs Union, the Canadian Free Trade Agreement and finally World Trade Status. In Florence, Theresa May was particularly critical of the FTA deal with Canada, saying that despite it being *'the most advanced free trade agreement the EU has yet concluded... it would nevertheless represent such a restriction on our mutual market access that it would benefit neither of our economies.'*

Feature	(3.1) Single Market			(3.2) Customs Union (Turkey)	(3.3) FTA (Canada)	(3.4) WTO MFN status
	Full EU membership	EFTA (EEA)	EFTA (Switzerland)			
Duty Free Access to Single Market for Goods	Yes	Yes	Yes	Yes	Yes	No
Duty Free Access to Single Market for Services	Yes	Yes	Some	No	Some	No
Free movement of capital	Some	Some	Some	No	No	No
Free movement of people	Yes	Yes	Some	No	No	No
Acceptance of Single Market Rules	Yes	Yes	Some	No	No	No
Input to Single Market Rulemaking	Yes	No	No	No	No	No
Bound by EJC Decisions	Yes	Yes	Some	No	No	No
Bound by EU Common Commercial (Trade) Policy	Yes	No	No	Yes	No	No
Bound by EU Common Agricultural Policy	Yes	No	No	No	No	No
Contribution to the EU Budget	Yes	Yes	Yes	No	No	No
Participation in EU regulatory agencies	Yes	Yes	Yes	Some	Some	No
Member of the EU VAT area	Yes	Yes	Yes	No	No	No

(CEFEUS Report on SMEs and Rural Economy, July 2017, pg.16)

As per the recent CEFEUS report, *'Kent and Medway, Making a Success of Brexit: A sectorial analysis of SMEs and the Rural Economy'*, the softest Brexit is seen as 'economy-first', largely due to the fact it would mean minimal disruption and maximum access to the Single Market. This is seen as crucial for areas such as the City of London, which relies on passporting rights to sell financial service, to the Rural Economy, whose delicate produce could otherwise rot if subjected to long customs procedures. In turn, the hardest Brexit is seen as 'sovereignty-first', where Britain would regain all powers it has released to the EU over the last few decades. However, this risks economic turmoil, at least in the short-term, as the UK loses access to the Single Market, and requires time to strike new trade deals with the rest of the world, which Britain cannot do until it formally leaves the Bloc.

This has been a contentious issue for many years in Britain, with media and politicians alike unhappy of laws enforced onto the UK by foreign judges in foreign countries. Theresa May promised to end the jurisdiction of the ECJ in her Lancaster House speech, stating a desire to 'take back control of British law' (The Guardian, August 2017). On 23rd August 2017, the Government released its position paper, where it committed to ending the 'direct' jurisdiction of the ECJ, although appeared to leave a door open by stating that *'The UK will engage constructively to negotiate an approach to enforcement and dispute resolution, which meets the key objectives of both the UK and the EU in underpinning the effective operation of a new, deep and special partnership.'*

Solutions mentioned include a committee devised of representatives of both sides of the relationship, as per the Switzerland model, or the creation of an independent legal body. One

realistic option mentioned came on Monday 21st August, where Carl Baudenbacher, President of the Court of European Free Trade Association (EFTA), said that if the UK joined EFTA, it could align itself to the judiciary body that would independently decide on issues between the UK and the EU (The Times).

Overall, the most likely option continues to be something which falls between EFTA and Canada's FTA. As the table above illustrates, they bring vastly different aspects to a variety of features of the EU, such as access to the Single Market (EFTA includes far more 'opt-ins' for a variety of sectors). The issue of the role of the ECJ is a prominent problem, and Theresa May must decide whether it is practical to insist to end its jurisdiction if it greatly hampers the future trade relationship between the continent and the UK. Unfortunately for her, her unstable position as leader of the Conservative Party may prevent her from doing so.

EFTA is seen as a middle-ground option, where some deals can be struck and did allow controls on immigration, although this was altered earlier this year in the case of Switzerland. It has its own court which could settle disputes, a necessity in the Single Market, but an alternative legal body to the European Court of Justice, which allows Mrs May to keep her word. Ultimately, the British Government finds itself at a Roulette Table in a high-stakes Casino. It can play the safer option (Single Market) which provides lower returns but presents less risks to the economy, or it can go all out on a specific number (WTO/trade deals/UFT), which would be very disruptive but could be far more lucrative in the long-term. However, we must bare in mind that for all the fascination for pundits, academics and students alike, the final Brexit deal will affect greatly affect people all over Britain, Europe and potentially, the world.

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