



Briefing
09/2016



Open Europe

Giving meaning to Brexit

by Andrew Tyrie MP

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The Prime Minister has told us that Brexit means Brexit but not what Brexit means. It is clear that no one knows yet. The Government needs to make up its mind what it wants. It also needs to explain, and in some detail, that not everything it wants will be achievable.

The UK would prefer to be able to pick and choose its rights and obligations: it would have access to the single market in both goods and particularly services, a high degree of influence over the rules governing it, but control over migration and an independent trade policy. And of course, it would pay nothing into the EU budget.

In practice, the Government is likely to conclude that it will need a negotiated settlement involving complex trade-offs between these various objectives. In reaching such a settlement, it is faced with the formidable challenge not only of minimising the economic consequences of the new relationship, but securing widespread public consent for it. It should be borne in mind that while there is a majority for Brexit, there is also probably a majority for the retention of a close and co-operative relationship with our EU neighbours, particularly in the economic sphere. Retaining it is in both the UK's and the EU's interest.

If it is to secure consent for the terms of Brexit, and to restore public trust in political discourse, so damaged by the referendum campaign, the Government must be frank, both about the trade-offs involved, and the fact that many of the promises made by the 'leave' side are manifestly unfulfillable.¹ Equally unfulfillable are the hopes of many Remainers, that the UK can carry on pretty much as now, and that a renegotiation can achieve continued membership through the 'back-door'.

In the forthcoming negotiations, the opportunity exists for meaningful economic and political gains, given the right approach; but early and possibly severe damage can be wrought by the wrong one. What follows is an attempt to outline some of the choices available to the Government to give meaning to Brexit, and the principles underpinning how it should proceed, much of it based on evidence collected and published by the Treasury Committee before, and some since, the referendum.²

¹ It may be true that some of the pre-referendum warnings of the Remainers were over the top. But they are irrelevant. We are leaving and, in reconciling the public to political reality, it is largely the claims of the Brexiteers that matter now.

² The Committee's Report, published before the referendum is available [here](#). Transcripts of evidence taken since the referendum can be found [here](#).

One proposal should probably be set aside from the start. This is that the Government should rely entirely on its rights as a member of WTO, thereby avoiding protracted and difficult negotiations with the EU.³ Pursuing this option would leave goods exporters facing, on average, a tariff of 5.3 per cent.⁴ But this average conceals much higher rates on a number of areas of importance for the UK, such as the 9.8 per cent tariff levied by the EU on imported motor vehicles.

Perhaps more important, many UK exporters would face the requirement not only to conform to EU standards, as they do currently, but to prove that conformity, in some cases by sending samples to the EU for independent testing. For pharmaceuticals and medical devices, another key area of interest for the UK, the conformity assessment requirements, and restrictions on marketing, could be particularly onerous.⁵ It is at this, and much greater, levels of detail, that the UK's economic interests will need to be defended and opportunities identified. Experts will certainly be needed. I hope that the nonsensical ridicule of them can be brought to an end.⁶ Whatever their value prior to the referendum, their contribution will be much needed after it.

The areas of interest for the UK in goods trade are typically those that require a more sophisticated and liberal trade relationship than provided for under WTO rules. And relying on these rules would not only increase costs for goods exporters, but put them at a competitive disadvantage. The EU has negotiated free trade deals with over 60 countries – including Canada and South Korea – to reduce tariffs below WTO levels or eliminate them entirely, and it has reached agreements with many others – including the United States, Japan and China – on conformity assessments and mutual recognition of standards.

Relying solely on WTO provisions would require UK goods exporters to adjust from a position of privileged access to EU markets to one that is substantially inferior to those currently enjoyed by many non-EU countries. This would risk a considerable dislocation of economic activity, at least in the short to medium-term. No doubt a very different and healthy trade pattern could emerge eventually from negotiations. But the period of adjustment could be long, and painful, too.

³ Others go still further and argue that the UK should ignore the Article 50 exit procedure, and simply repeal 1972 European Communities Act. In doing so, the UK would still be legally bound by its obligations in the EU treaties, but would be unilaterally choosing not to abide by them. As well as a reversion to trade under WTO rules, this course of action would have the added effect of damaging UK's international reputation as a country on which others can rely to meet its international obligations.

⁴ 2014 figure from WTO EU-28 Trade Profile

⁵ The European Commission's so-called Blue Guide contains guidance on the application of all aspects of the implementation of EU products rules, including conformity assessments.

⁶ See, for instance, Michael Gove on Sky News, 3 June 2016, "People in this country have had enough of experts". Hopefully such remarks were caused by a pre-referendum rush of blood to the head.

For services, the deficiencies of the WTO option are greater still. Reliance on WTO rules would substantially curtail the UK's ability to conduct cross-border trade, and the rights of UK firms to establish a physical presence in the rest of the EU, with the level of access varying between Member States. These barriers are significant and would be highly disruptive to the business of selling services into the EU, now and in the future. Many such businesses – including Vodafone, AXA, Centrica, EasyJet, Goldman Sachs, Lloyd's of London, the London Stock Exchange and Santander – warned of this disruption before the referendum.⁷ Incidentally, it strikes me as much more plausible that they chose to highlight the importance of “unrestricted access” to the single market because they were worried about the effects on their businesses, than that they felt obliged to do David Cameron a favour, as some alleged.⁸

The points that these CEOs made then are just as relevant now to the forthcoming negotiations. One of the reasons for the relative market stability following the vote to leave is the widely held view among most of these companies that their concerns will be taken seriously.

In short, reliance on WTO rules should be considered a back-stop, were negotiations to go disastrously awry. It doesn't appear to provide a desirable blueprint for the UK's economic relationship with the EU in the early years after Brexit.⁹ The evidence taken by the Committee on this point has been compelling.¹⁰

As well as receiving clear signals about what the Government shouldn't do, the Committee took some constructive evidence about what it should. For trade in goods, it can and should set its sights higher than David Davis's initial proposals of “continued tariff-free access” to EU markets.¹¹ Around the world, tariffs, particularly on manufactured goods, have fallen dramatically over recent decades. Modern trade liberalisation is largely about non-tariff measures – regulatory standards, product testing and customs procedures – and the EU, often led by the UK, has been comparatively successful in addressing these. Over the past forty years, the UK has become highly integrated into EU supply chains. These rely on rights, currently guaranteed by EU treaties, to ship goods

⁷ Letter to The Times, 23 February 2016

⁸ See, for instance, comments by Gisela Stuart to NewsWeek, 17 May 2016, “There are serious issues for the Prime Minister to answer. We now know he has been doing deals with businesses to exaggerate the risk of a vote by the UK to leave the EU”

⁹ In [stating](#) that “Norway has a much better deal than the UK, but Switzerland's is better than either”, Daniel Hannan appears to acknowledge that a relationship involving a high degree of continued economic integration with the EU, going well beyond the WTO framework, is necessary. Mr Hannan has also [acknowledged](#) that such a relationship may also entail a degree of continued free movement of labour: “[the UK's new relationship] means free movement of labour; it doesn't mean EU citizenship with all the acquired rights”.

¹⁰ See, for instance, [oral evidence](#) to the Treasury Committee from Hosuk Lee-Makiyama, Richard North and Shanker Singham, 13 July 2016

¹¹ David Davis (Conservative Home), Trade deals. Tax cuts. And taking time before triggering Article 50. A Brexit economic strategy for Britain. 14 July 2016

across borders without bureaucratic frictions or regulatory obstacles. It is very important to many firms that this continue.

Securing continued market access for services is perhaps the biggest priority for the negotiations. The UK has a £17.1 billion trade surplus with the EU in this sector.¹² But negotiations will not be straightforward. For financial services, which account for a third of the UK's services exports to the EU, the only 'off-the-shelf' arrangements to preserve the access currently enjoyed under the passporting regime would be through EEA membership. This would require the UK to conform to EU financial services regulation now and in the future, but with no formal say over its content or development.

A theoretical alternative to the current passporting regime afforded by EEA membership would be a hybrid. This would comprise the 'equivalence' provisions for non-EU countries that already exist in some EU financial services regulations, combined with specific market access provisions for UK financial firms.

These would need to be negotiated as part of an EU-UK trade agreement. The equivalence provisions do not require that non-EU countries have the same regulatory regime as the EU but rather that they have a regime that is equivalent in strength and outcome. The EU has reached such equivalence agreements with a number of non-EU countries in specific areas of financial services.¹³ But equivalence provisions in EU legislation for non-EU countries only do part of the heavy lifting. They exist in only some of the EU regulations covering financial services; banking services, for example, are not covered. Furthermore, the determination of equivalence is at the Commission's discretion. It could in principle be withdrawn, for example, if the EU regime changes. And the UK could be vulnerable to its misinterpretation or abuse.

It would, in principle, be possible to negotiate access to the EU market for those areas of financial services not covered by third country equivalent provisions or more generally. However, there is at present no example of EU trade agreements that have included market access for financial services of the nature and scope provided by the current passporting regime.

For all these reasons, neither EEA membership on the one hand, nor some patchwork combination of the existing EU third country equivalent provisions and trade agreements on the other, is likely to be a sustainable way of ensuring full market access.

¹² ONS Pink Book 2014

¹³ European Commission, [Equivalence Decisions taken as at 5th July 2016](#)

As the new Chief Executive of the Prudential Regulation Authority told the Treasury Committee, the particular risks posed by being home to the world's largest financial centre mean that if the UK is to be required to comply with EU rules, it will also need some influence over them.¹⁴ Without that influence, at best the UK's flagship industry will be damaged by EU regulation that – perfectly reasonably – prioritises the Eurozone's interests at the UK's expense. At worst, it could be the victim of a protectionist stitch-up.

On services, particularly financial services, the UK needs a deal that gives it both access and influence, possibly by building on the current approach used by the EEA,¹⁵ through the establishment of standing regulatory committees. Its size – preponderance in financial services – and pre-existing levels of integration with the EU, mean that it is much better equipped to obtain something than any other country to negotiate this.

Nonetheless, maintaining passporting arrangements, while preserving the control necessary to run the world's leading financial centre, will be one of the most challenging aspects of the negotiations. No doubt the hard grind of establishing what best protects UK interests is already underway. This issue needs to be right at the top of the in-trays of the Chancellor, the Governor of the Bank of England, and the UK's lead negotiators.

Set against the economic imperative to secure extensive access to the single market is the political imperative to achieve far-reaching change to the status quo in three areas: the status and scope of EU law, the extent of free movement, and trade policy with respect to non-EU countries.

In my view, it was a catastrophic misjudgement to go to the electorate with a referendum without having secured robust proposals to address the first two of these concerns. On the first, I proposed a mechanism to reverse the inexorable growth in the corpus of EU law, and its encroachment into areas of national competence, and did my best to interest Number 10 in this for a year prior to the referendum.¹⁶

¹⁴ Oral evidence from Sam Woods to the Treasury Committee, 19 July 2016 (Q21): If it transpired that there was some trade-off between access to the single market and our ability to have some influence over how we write our rules and how we do supervision, that trade-off should be weighed very carefully. Running a leading global financial centre and a massive banking system with a set of rules over which you have no influence is not something you would easily choose to do.

¹⁵ The EEA Agreement contains provisions for input from Norway, Iceland and Liechtenstein before new legislation is adopted through a process known as “decision-shaping”. Decision-shaping mechanisms include the participation of experts in European Commission committees, and the submission of comments and the adoption of resolutions responding to Commission initiatives. (See, for instance, EFTA Bulletin 1-2009, [Decision shaping in the European Economic Area](#))

¹⁶ Andrew Tyrie, Ending the ratchet – from ever closer union to a two way street, Centre for Policy Studies, September 2015

But my proposals – eventually published – elicited little interest from the Government machine, and therefore, predictably, little of substance was achieved in the UK’s pre-referendum negotiations.¹⁷ On the even more vexed question of immigration, the EU’s offer fell short of even the limited ambitions of the former Prime Minister. To both foreign and domestic opinion, the negotiations resembled window dressing. And to the uncommitted voter, the renegotiation closely approximated ‘more of the same’.

It was as surprising as it was disappointing that the Prime Minister did not ask his EU counterparts to try harder. The contrast with the negotiations over EEC budget contributions in the early 1980s – during which the Prime Minister returned on several occasions to tell the House of Commons the offer being made by her counterparties was inadequate – is instructive.¹⁸ No doubt this will be one for the former Prime Minister’s memoirs to explain and, in time, for a post-mortem by Parliamentary Select Committees to explore.

Dealing with concerns about the loss of influence, power and control over law making will require a dose of realism by UK politicians. This realism, which was conspicuously absent during the referendum campaign, must be applied both to the scope for scrapping EU rules after Brexit, and to the broader question of the role of supranational authorities in setting the rules for trade.

On the first question, some ‘leave’ campaigners appeared to treat all EU regulation as if it were all a tangle of unnecessary red tape that could be burned at the point of Brexit. Much EU law has sought to facilitate trade by establishing common standards and procedures: it has been permissive, rather than restrictive. Far from liberating businesses, amending or repealing many such rules would inhibit trade and put UK exporters at a commercial disadvantage to their EU competitors.

Brexit should enable beneficial alterations of the UK’s regulatory framework, such as the EU’s counterproductive ‘bonus cap’, and capital rules that disadvantage smaller challenger banks in favour of large incumbents (although even these may compromise single market access). There will also certainly be greater opportunities to influence standard-setting at an international level. But there will be no bonfire.

¹⁷ On this issue, Annex IV of the “[settlement](#)” negotiated by the Prime Minister made a little progress. It contained a declaration of the European Commission that the existing body of EU law would be reviewed (by the Commission itself) for compliance with the principles of subsidiarity and proportionality. But this fell well short of the minimum required. The Bank of England agreed. In [written evidence](#) to the Committee, the Bank noted that “to ensure its effectiveness, a subsidiarity mechanism should be a completely independent check on the legislative process and separate from the institutions involved in that process”.

¹⁸ HC Deb 21 March 1984 c1049-63; HC Deb 7 December 1983 c321-36; HC Deb 23 June 1983 c145-54

On the second question – the broad point of principle about who has the ultimate authority to uphold and adjudicate on the rules governing trade – the Government needs to make clear to a wider public that participation in any international agreement entails limits on a state's ability to act just as it pleases. In some cases it involves a degree of subordination to a supranational authority charged with ensuring that the rights and obligations of the agreement are habitually respected. The WTO itself has a dispute settlement process; investment and trade agreements have binding arbitration mechanisms to settle disputes between investors and governments; the EEA has its own parallel court and surveillance body, mirroring the functions of the ECJ and European Commission. A crucial decision for the Government is whether the UK is prepared to accept, and can negotiate, an arrangement that stops short of automatic incorporation of ECJ judgments but where the UK routinely accepts most of its decisions, or whether it wishes to do away with any form of international-style arbitration, at the cost of weaker – probably much weaker – enforcement of UK rights of access to others' markets. Neither would be easy to explain to the Commons or the country.

Addressing public concerns about free movement requires similar clarity and openness from Government about the options available and their likely consequences. There is a wide spectrum of potential measures that would restore a measure of control. These range from an emergency brake, under which the right of EU citizens to move freely to the UK may be qualified in certain circumstances, through to the removal of any favourable treatment for EU migrants, compared to those from outside the EU.

The Government needs to state clearly that stronger controls on free movement are likely to compromise the rights that UK nationals presently enjoy to live and work in the rest of the EU, and may also carry an economic and fiscal cost for the UK, controversial though saying this remains. A reasonable interpretation of the evidence would suggest that inward migration from the EU has provided a substantial fiscal dividend (around £20bn during 2001-11) with very little effect on wages or living standards.¹⁹

The EU, too, needs a reality check, both on the question of free movement of people, and the 'four freedoms' as a whole. These freedoms in goods, services, capital and people, are one of the EU's noblest objectives, and can bring substantial economic benefits. But work on them is far from complete. They

¹⁹ In a widely-cited analysis, [Dustmann and Frattini \(2014\)](#) find that, during the 2001-2011 period, recent migrants from the EU members admitted in 2004 had an estimated positive net fiscal impact of approximately +£4.9 billion (in other words. they paid £4.9 billion more in taxes than was spent on them in welfare and public services). Other recent EEA migrants a positive impact of +£15.3 billion, and recent non-EEA migrants of £5.2 billion. On wages, a December 2015 [paper](#) for the Bank of England by Professor Sir Stephen Nickell (among others) revised down previously-estimated wage impact of migration for low-skilled workers, from small to very small. It found a ten percentage point rise in the proportion of migrants working in a sector reduced wages by two percent.

may be inviolable and interdependent in word; in deed things are rather different.²⁰ Nowhere is this better exemplified than in the services sector, where – despite some progress – the triumph of national interests over single market doctrine has left the freedom to provide services within the EU heavily circumscribed.²¹ Far from being ‘completed’, the single market in services remains an aspiration. Nor is freedom of movement for people as complete as it appears. Challenges have been mounted to the rights of EU citizens to move and access the welfare systems of other Member States.²² Transitional provisions also allow Member States to restrict the free movement of workers from new EU Member States for up to 7 years.²³

In negotiating with the UK about the limits of free movement, and its implications for other parts of the single market, the EU will be facing up to fears from many quarters about the consequences of flows of people within and from outside its borders on a scale not envisaged when the Treaty of Rome was signed in 1957. The idea that ultimate UK control over migration can be restored without fatally compromising the UK’s trade relationship with the EU is not unreasonable. Purism by EU negotiators on this point would not only be inconsistent with reality; it would also clash with other Member States’ economic interests.

The third change required to the UK’s relations with the EU is the restoration of control over trade policy, that is, the ability to set tariffs and conclude free trade deals. In order to regain that freedom, the UK will have to leave the EU customs union, which commits its members to retaining the same tariff schedule. Doing so will come at a price: firms exporting to the EU from countries such as Norway and Switzerland – which have extensive access to the single market, but are able to pursue an independent external trade policy – must comply with rules of origin. These require exporters to demonstrate that their goods – or at least a certain proportion of their value – originate from the country from which they are shipped, and thereby qualify for tariff-free access. The EU’s rules of origin have the legitimate objective of ensuring that countries with preferential

²⁰ This view is supported in a recent paper for the Bruegel think-tank by Jean Pisani-Ferry, Norbert Röttgen, André Sapir, Paul Tucker and Guntram Wolff ([Europe after Brexit: a proposal for a continental partnership, 25 August 2016](#)): The four freedoms of the European single market are therefore closely economically connected, but not inalienable for deep economic integration. Free movement of workers can be separated from the rest, but some temporary labour mobility is needed.

²¹ A [recent report](#) by the European Court of Auditors found significant shortcomings in Member States’ compliance with the requirements of the Services Directive, the principal legal instrument to reduce legal and administrative barriers to services trade, even though it was supposed to have been fully implemented by 2009.

²² See, for instance, the Dano and Alimanovic judgments, in which the ECJ made clear that Member States may reject claims to social assistance by EU citizens who have no intention to work and cannot support themselves.

²³ The UK was one of only three member states (alongside Ireland and Sweden) not to impose any transitional period in respect of migrant workers from the eastern European countries that acceded to the EU in 2004.

access to the single market do not become conduits for tariff avoidance. But they are notoriously complex, and will add to the costs of doing business for many exporters. Open Europe has estimated these to be 1% to 1.2% GDP.²⁴

As it happens, my hunch is that some of the biggest long-term upside from leaving the EU could come with a more independent trade policy, if supported by a persistent effort to secure further trade liberalisation. But whether or not the economic benefits, arising from that trade policy, outweigh these costs is largely irrelevant. Control over trade policy was at the heart of the economic case for leaving the EU, and, to give Brexit the meaning that the Prime Minister appears to intend, it probably needs to be provided. The fact that Liam Fox, the new international trade secretary, recently felt the need to make public his views on the importance of withdrawing from the customs union indicates continued political tension on this point.²⁵ This is concerning. Until a commitment is made to leave the customs union, he will be unable to do his job, since it is pointless for other countries to engage in even the most informal discussions over trade deals if the UK may not, in the end, have the freedom to conclude them.

There is a fourth area on which public expectations have been raised and, in this case, sky high, largely thanks to the unwarranted prominence it received during the referendum campaign. This is that Brexit can deliver a fiscal windfall of £350 million per week (or £18 billion per year).²⁶ On this, the Government will find it impossible to deliver. It should begin to manage public expectations down now about the budgetary savings from Brexit. It needs to clarify that even a third of the Exchequer savings promised by leave campaigners may be unobtainable. Nor would the savings come soon. Even if the UK decided not to participate in any EU programmes with price tags, and decided not to replace support for farmers or regional funding with domestic programmes after 2020, it could be as late as 2023 before liability for commitments entered into during our time as a Member State had been fully discharged.

²⁴ Open Europe blog (Raoul Ruparel), Post Brexit, leaving the customs union is a no-brainer, 28 July 2016

²⁵ See, for instance, Financial Times, Fox presses May to pull out of EU customs union, 26 July 2016

²⁶ See, for instance, Vote Leave [website](#) and campaign literature (“Instead of sending £350 million per week to Brussels, we will spend it on our priorities like the NHS and schools”), and the Vote Leave battle bus (“We send the EU £350 million a week. Let’s fund our NHS instead.”) In [oral evidence](#) to the Treasury Committee on 20 April 2016, Dominic Cummings, Vote Leave’s campaign director, reiterated the claim: As an organisation we are saying that once we stop the £19.1 billion [annual] debit then we will have roughly £350 million per week to spend on our priorities, like the NHS” (Q1404). Indeed, he went further, saying that “the £350 million per week figure that we use is an underestimate of the savings that we will make from leaving the European Union, not an overestimate [...] at a guess I would say at least tens of billions more than the £350 million” (Q1398-9)

In any case, the UK may want to continue to participate in some EU programmes, including research co-operation and the Common Foreign and Security Policy where, as the member with perhaps the most effective military, diplomatic and international development administration, it has played a leading role. Similarly, on issues of security and counter-terrorism, the UK is likely to wish to retain those measures that secure better European co-operation, and to play a leading part in enhancing them.²⁷ Co-operation in all these areas will cost money. If it retains comprehensive access to the single market, the UK would come under considerable pressure – to which both Norway and Switzerland have succumbed – to pay for the benefits of EU enlargement, and the economic development of poorer member states.

So the UK needs a reality check on budget contributions. But so does the EU. Trade deals can and should be assessed on the economic benefits they bring to each party from increased market access. Just as it is not coherent to make access to goods and services markets conditional on wholly unfettered free movement, so it is not logical to make it conditional on cash transfers. The Government should be wary of a deal in which the UK appears to be paying for the privilege of obtaining access to the EU's markets. Norway may have had its arm twisted. But there is no reason to start negotiations by assuming the UK's arm is available for similar treatment.

The economic and political imperatives set out above constrain and condition the new relationship that the Government should be seeking with the EU. They point towards attempting to negotiate extensive access to the single market, some degree of influence over its rules, withdrawal from the customs union, and the restoration of control over free movement. These arrangements, and perhaps other aspects of the UK's relationship with the EU, are likely to be best entrenched by a Treaty.

No off-the-shelf option provides all this. The experiences of other countries may provide useful guidance, but the UK will want more market access than Canada, whose trade deal with the EU contains only limited provisions on services, and more control and influence than Norway, which is a passive recipient of single market regulation. The mutual political and economic interests in maintaining a close and constructive relationship should give cause for optimism that such a deal may be negotiable. Of course, in the end, it may prove not to be. But if it doesn't, it is likely that emotion and sentiment will have got in the way of mutual interest. The Government will need to be persistent and tenacious. All parties will need to shed an instinct to grandstand. The EU, in particular, needs

²⁷ In her speech during the referendum campaign, the Prime Minister (then Home Secretary) pointed out that, while Britain chose not to participate in “around a hundred unhelpful EU justice and home affairs measures”, it was important to participate in “the measures that make a positive difference in fighting crime and preventing terrorism.” She added: “I can tell you that, on matters of counter-terrorism and security, the rest of Europe instinctively looks to us.” (Rt Hon Theresa May MP, speech 25 April 2016). Mrs May has reiterated the importance of European co-operation in security matters since becoming Prime Minister.

to realise that attempting to use these negotiations as some kind of exemplary punishment on a miscreant would not only make a deal with the UK more difficult, with attendant higher economic costs all round, it could also backfire disastrously, triggering the opposite effects to those intended.²⁸

Since the vote to leave, much attention has been focussed on when to invoke Article 50, triggering formal discussions over EU withdrawal. Before making up its mind, the Government first needs to decide for which exit door to aim. Then, and only then, should it form a judgement about when to invoke Article 50.

If the Government were to forsake all negotiations with the EU and rely on its rights as a WTO member, then all logic points to triggering Article 50 immediately. But as has been suggested, this would come at a considerable cost, particularly in the short to medium term. The Government should therefore pursue a negotiated settlement. It needs to assure Parliament and the public of its firm intention to make a notification under Article 50. Having done so, the Government's leverage is far greater before it presses the trigger than afterwards.²⁹ In particular, it should not press the trigger until it has obtained a good deal of clarity from its negotiating partners that they are in a position to agree reasonable terms. This certainly requires waiting until next year, as the Prime Minister has already clarified. It could possibly require waiting until after the French elections in May, and perhaps even the German elections in September.³⁰ Far from eliminating uncertainty, triggering Article 50 before this point might guarantee two years of it.

A settled relationship with the EU will not be found within the two year period required by Article 50. Transitional arrangements will therefore be necessary to prevent a reversion to WTO rules, and a sudden loss of market access for UK exporters, two years and a day after Article 50 is triggered. Advocates of a quick exit play down the consequences of falling back on to WTO rules when they argue that the market access rights lost on withdrawal could be gradually re-established through a trade agreement with the EU.³¹

²⁸ Eurosceptic parties in many EU countries, including France, Italy and Poland, made large gains in the 2014 European Parliament elections. Marine Le Pen, the leader of France's National Front, described the vote to leave as "the beginning of the end of the European Union"

²⁹ Sir Jon Cunliffe noted in [evidence](#) to the Committee the importance of waiting until "one knew what one wanted" before triggering Article 50. He also said that "one would really want to see what people on the other side wanted".

³⁰ Theresa May, leadership bid statement, 30 June 2016 ("There should be no decision to invoke Article 50 until the British negotiating strategy is agreed and clear - which means Article 50 should not be invoked before the end of the year")

³¹ See, for instance, Gerard Lyons in The Telegraph: "outside the EU, we can trade freely under WTO rules and reduce import tariffs [...] from that base, in time, we could conduct trade deals in our best interests, focused on services, with fast growing markets as well as with the EU" (30 August 2016). The new Department for International Trade speculated about this possibility in a press release: "If the UK does exit the European Single Market, it will be governed by World Trade Organization (WTO) rules until any new trade deals are negotiated." (12 August 2016) Within a few hours, however, this had been deleted!

This neglects the scale of the ‘cliff edge’ between the access exporters presently enjoy, and the access they would obtain under WTO rules, and its likely accompaniment, the permanent loss of some trade wherever it has been disrupted. Both the UK and the EU stand to lose from such an approach to the negotiations. All sides should have an interest in wanting to avoid it. Jean-Claude Juncker seems not yet to have appreciated this point.³² Transitional arrangements are needed that minimise the cliff edge for exporters, and move the UK and EU to a clearly defined future relationship over a longer period.³³

The account given here does not attempt to provide a comprehensive analysis of the very far-reaching implications of Brexit for government policy. In particular, it has excluded a discussion of agriculture and fisheries policy, in which consumer gains are available – particularly for some of the poorest in our society – by increasing trade in global markets.³⁴ It has not discussed the consequences of Brexit for Anglo-Scottish or Anglo-Irish relations, which could be profound. Nor does it contain more than a cursory reference to Brexit’s wider implications for political and diplomatic relations with the US and other parts of the world; nor of the merits of retaining some form of participation in the EU’s Common Foreign and Security Policy. Some of these issues may be at least as big as any addressed in this paper.

The last couple, in particular, deserve more attention. The political benefits of the EU – for the stability of the Continent, and for the Continent’s contribution to the ascendancy of Western values and influence in the global society of states – have been persistently underestimated by many in the UK, not least in Westminster and Whitehall.³⁵

³² Following the referendum result, Mr Juncker [said](#) to Germany’s ARD television station that there would not be an “amicable divorce”, and that Article 50 should be triggered immediately: “it doesn’t make any sense to wait until October to try to negotiate the terms of their departure” (25 June 2016). By contrast, Donald Tusk has [noted](#) that “a process of orderly exit” is in “everyone’s interests” (28 June 2016). Angela Merkel has [said](#) that “we all have an interest in this matter being carefully prepared, positions being clearly defined and delineated. I think it is absolutely necessary to prepare for that” (20 July 2016).

³³ Some commentators have argued for temporary EEA membership as a ‘stepping stone’ to a looser relationship with the EU. This reflects the need to consider the cliff edge point, however difficult it might be to negotiate such an arrangement. See, for instance, Dr Richard North, [Flexcit – a plan for leaving the European Union](#); Professor Richard Whitman, [The EEA: a safe harbour in the Brexit storm](#); Adam Smith Institute, [The case for the \(interim\) EEA option](#)

³⁴ Prices faced by EU consumers are on average 6% higher than prevailing world prices. In a number of important products, the figure is substantially greater (e.g. beef and veal prices are 31% higher). (OECD.stat Agricultural Support Estimates, Consumer nominal protection coefficient, 2015 figure).

³⁵ This may be a reflection of our not sharing the common cathartic experiences of military defeat, dictatorship and occupation, which – vigorously encouraged by the Americans – shaped European institutions at their inception. The corollary of this is that the UK has always felt the consequences of its late entry to the EU, even though we have been members for three quarters of its life. Nor have some in the UK fully appreciated the searing effect of Soviet domination on Europe’s eastern half, and its resonance for those countries’ commitment to the EU.

Some of the most committed Brexiteers, seem to hope that the UK's departure might trigger the collapse of the EU. Perhaps it might, albeit indirectly: among other things, Brexit greatly increases the dependence of the EU's credibility on the survival and recovery of the Eurozone. And the Eurozone's survival – at least in its current form – certainly cannot be taken for granted.³⁶ The members of the latter have now acquired a preponderance in the EU, economically and institutionally, against which the UK was probably the last bulwark. Furthermore, so long as one of the biggest countries such as Britain was a member of the EU but not of the Eurozone, the EU and some of its core projects, such as the single market, had an independence and credibility that could outlive the Euro. That may no longer be the case. It is one of several reasons why reform of the EU-27's institutions, and not just of the Eurozone, remains as highly desirable had the UK remained a Member, as it would have done post-Brexit.

Constructive reform – strengthening intergovernmental co-operation, thereby addressing better the twenty-first century democratic demands of the electorates to which those governments are accountable – could have considerable benefits for the EU and European stability. Collapse, however, could well be a disaster for the whole continent, the UK included.

All political, economic and diplomatic history tells us that the UK has a considerable and enduring interest in the stability of the Continent. Even if global power and economic activity continue their shift towards Asia and the Pacific, maintaining European peace and stability through effective cooperation will remain central to the UK's foreign policy.

The fact that the EU has been seeking to cloak itself in the trappings of a state – alien to British traditions and from which Brexit can now provide particularly robust protection – should not deter the government from negotiating a fresh but close relationship from outside. Stability, institution building, and respect for international rules, go together. All our foreign policy, and our international economic relations, have been directed – and have been for generations – towards maximising the scope for international cooperation within a framework of law, and respect for that law, buttressed by institutions in whose design and development the UK has played a major part. The UK should continue with this policy. For all its manifest shortcomings, the EU is the most sophisticated system of cooperation and integration, supported by the rule of law, between a large number of nation states – freely entered into – ever attempted.

The domestic political climate in which these negotiations will be conducted is scarcely favourable. A pernicious legacy of the referendum is that it added to a deep distrust in politics. Politicians cannot afford to allow this to get any worse.

³⁶ Andrew Tyrie MP, *The IMF and the Eurozone: Some Observations* (Centre for Policy Studies, 2012)

By saying that Brexit means just that, the Prime Minister rightly made clear her intentions to respect the electorate's decision. But if lasting trust is to be restored, and consent to the UK's new relationship with the EU secured, the Government must cast aside the damaging claim and counter-claim of the referendum period, and in particular the false prospectus of the 'leave' campaign, set out what it realistically intends to achieve, and why it is in both the UK's and the EU's interests to reach agreement. British policy will be best served by an early, full and detailed explanation of the UK's negotiating position, set out to Parliament and the public. Parliament should have an opportunity to express a view on it prior to the commencement of formal negotiations and the triggering of Article 50. The approval of Parliament, and the accompanying public discussion of it, will serve not just to strengthen the UK's negotiating position;³⁷ it can contribute something to restoring the credibility of politics and politicians.

³⁷ [Writing](#) in The Telegraph on 29 August, William Hague appeared to lean towards this position.

Bibliography

David Davis (Conservative Home), [Trade deals. Tax cuts. And taking time before triggering Article 50. A Brexit economic strategy for Britain.](#) 14 July 2016

EFTA Secretariat, EFTA Bulletin 1-2009, [Decision shaping in the European Economic Area](#), March 2009

European Court of Auditors, [Special report No 5/2016: Has the Commission ensured effective implementation of the Services Directive](#), 14 March 2016

Daniel Hannan (Centre for Policy Studies), [Britain and the EU – a solution](#), 12 December 2014

Stephen Nickell and Jumana Saleheen, Bank of England, Staff Working Paper No. 574, [The impact of immigration on occupational wages: evidence from Britain](#), 18 December 2015

Richard North, [Flexcit – a plan for leaving the European Union](#), v.08, 13 July 2016

Open Europe, [Brexit guide: what next?](#) Report 04/2016, 13 April 2016

Jean Pisani-Ferry et al, [Europe after Brexit: a proposal for a continental partnership](#), 29 August 2016

Treasury Committee, Oral evidence on the UK's future economic relationship with the EU

Treasury Committee, [Oral evidence](#) and [Report](#) on the costs and benefits of the UK's EU membership

Richard Whitman, [The EEA: a safe harbour in the Brexit storm](#), 27 June 2016