

European and External Affairs Committee

Alternatives to European Union Membership for the United Kingdom

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1. The United Kingdom has the right, under the Lisbon Treaty, to leave the European Union, as explained in Sionaidh Douglas-Scott's paper for the Committee. Yet it remains unclear what the consequences of a vote to leave would be, given the uncertainty about the alternatives. Few of the protagonists in the debate favour isolation or protectionism and there is broad support for free trade. There are differences among supporters of 'leave' as to whether, and what form of, transnational institutions should be retained. Neither the main 'leave' campaigns nor the UK Government has yet outlined alternatives to membership. This may play to the advantage of the 'remain' campaign, which will be able to play on the risks and uncertainties about leaving. This was a critical factor in the Scottish independence referendum. There are several alternatives to UK membership of the European Union but choosing among them would depend on what one dislikes about the EU and what the reasons for leaving are.
2. The European Union is, at its most basic, a free trade area, with no tariffs on goods. Yet it is more than this. It is a single market, in which there is free movement of goods, but also of services, capital and labour. Product standards are harmonized or subject to mutual recognition, under which if a product is recognized in one state it can be marketed in all the others. There is a common external tariff and the EU negotiates international trade agreements on behalf of all its members. The EU has also expanded its competences into other areas such as environmental and labour market policy, which expand on and support the single market; these are called 'flanking policies'. Competition policy, enforced by the European Commission and the European Court of Justice, sustains market conditions.
3. The EU has also extended its competences into security cooperation, justice and home affairs, research and territorial cohesion. There are programmes for cooperation in social policy matters, providing a 'social dimension' alongside the market vision of Europe. Some countries have adopted the Euro, which entails the loss of control over monetary and exchange rate policy. All except the UK and Ireland are committed to the Schengen area of free travel.
4. The EU is also a political union, with common institutions, whose laws are binding within member states, thus constraining national sovereignty. Members have to accept the *acquis communautaire*, the existing body of law and policies, although the UK secured some opt-outs from new policies.
5. Opponents of membership object to different aspects of this, and their objectives include:
 - a. Restoring sovereignty to the United Kingdom, giving it freedom to make its own laws;

- b. Economic advantage, in eliminating EU financial contributions and freeing the UK from what is seen as a declining economic bloc;
 - c. Avoiding European regulation in matters where the UK might prefer a different approach. This particularly affects the 'social dimension' of Europe, notably in and employment and labour market regulation;
 - d. Limiting immigration and, in particular, eliminating the free movement of labour.
6. Alternatives to EU membership are of two types, each of which offers different possibilities for achieving these aims:
- a. The first entails the end of any privileged partnership with the EU and the insertion of the UK as an independent actor in the global trading order (going it alone);
 - b. The second seeks to retain the present trading arrangement based on the European single market but without the political framework, infringements on national sovereignty or the non-trading aspects of the EU.

Going it Alone

7. Some advocates of EU withdrawal call for the end of a privileged relationship with Europe. They point to the rise of new economic powers and the shift of economic gravity away from Europe
8. One version of this thesis argues that the World Trade Organization (WTO) provides sufficient rules for world trade, preventing unfair competition or protection. The UK could work to strengthen global free trade by expanding and deepening the WTO, in accordance with its free trade traditions.
9. This would restore national sovereignty and free the UK from EU regulations.
10. The WTO option would entail the end of completely free trade with the EU and the imposition of tariff and non-tariff barriers. While EU tariffs overall are rather low, in some sectors such as motor vehicles they are quite high, which is why some non-European manufacturers have invested in EU states, including the UK. There would also be no free trade in services; so financial services providers might opt to set up subsidiaries in EU countries (or even move entirely) in order to remain in the single market. The UK would also face non-tariff barriers, such as European product standards.
11. WTO rules are negotiated in regular rounds, which tend to be dominated by the big trading powers, of which the EU is one. It is not clear that, on its own, the UK would have weight in these negotiations and so be able to press its free-trading priorities.
12. There has been a tendency in recent years, given the difficulties in progressing WTO rounds after the breakdown of the Doha round in 2008, towards regional trading blocks such as the EU, the North Atlantic Free Trade Agreements (NAFTA) and Mercosur (in South America).
13. Another version of going it alone involves negotiating bilateral free trade agreements with other countries. Again, the UK would be in a weaker position to negotiate agreements and it is likely that third countries would prefer just to extend their agreements with the EU to the United Kingdom.

A Free Trade Agreement with the EU

14. The UK could sign a free trade agreement with the EU allowing free access to European markets. Such an agreement exists with Turkey. It includes the customs union and free trade in goods. It excludes free trade in agriculture and services (a particular concern for the UK) and does not provide for free movement of labour. There are no common institutions or policies and under a free trade agreement the UK would be free to make its own laws in most fields. A free trade agreement would not remove non-tariff barriers to trade, such as product standards and public procurement rules. EU countries would have a strong incentive to sign a free trade agreement with the UK, as it is an important export market, but would not want the UK to undermine their competitiveness. So it is likely that they would insist on the social and environmental regulations that currently exist. Indeed they might insist on something like the EEA arrangement. Turkey is not necessarily a relevant case to compare as it is a candidate for EU membership and is slowly adopting the *acquis communautaire*.
15. A free trade agreement would not provide the full provisions of the single market, which is something to which successive UK governments have been committed. Yet it is not possible to adopt the single market provisions selectively, where it suits a non-member state; this would amount to free-riding. Rather, entering it entails duties and paying the price. This suggests a closer association with Europe. There are two practical examples of this: the European Economic Area (EEA) and the Swiss model.

The EEA or Norwegian Option

16. The European Economic Area (EEA), based on the European Free Trade Area (EFTA). EFTA was founded by the UK in 1960 as an alternative to the European Economic Community (EEC, now the EU) and included countries not willing to join the EEC. Within two years, the UK itself had decided to join the EEC and was eventually followed by all EFTA states except Norway, Iceland, Switzerland and Lichtenstein. The EEA was set up in 1994, with Norway, Iceland, Lichtenstein and the EU. The EEA is a free trade area but it does include much of the single market provision. It excludes external relations, agriculture, fisheries, transport, budget contributions, regional policy and monetary policy.
17. Norway is the principal country concerned with EFTA, hence the 'Norwegian option'. Norway's agreement with the EEA does not allow for EU law to be directly applicable, in contrast to the situation in EU member states. This formal sovereignty is, however, constrained in practice.
18. EEA countries on accession have to accept the whole body of relevant EU law, accounting for much of the *acquis communautaire*. Technically, they are not obliged to accept future EU laws but the scope for opting out is limited and they then risk exclusion from the whole relevant field. So opt-out is regarded as highly exceptional. There is provision for consultation with EEA before EU laws are adopted, there is some participation in working groups and there is an EEA Joint Committee. Non-EU states, however have no vote on the adoption of EU laws, which are the basis for agreement. An EFTA Surveillance Authority polices EEA rules and the arrangement is updated annually to take account of new EU laws. There is an EFTA Court but it tends to follow the decisions of the European Court of Justice (ECJ) and national courts follow in turn. EU regulatory agencies interpret the rules and apply them across the EEA, which has caused problems and delays in EEA countries, for example in relation to financial services. The EFTA Council does, however, have to formally adopt the laws, which can take additional time.

19. It is estimated that some three quarters of EU regulations are applicable to Norway. EEA countries must accept EU rules on the free movement of labour.
20. Norway has also chosen to join the Schengen free travel area, which allowed it to keep its free travel area with the other Nordic countries. It also participates in European foreign and security policy and the Dublin agreements on police and asylum, again without a say in the making of policy. As part of its association with the EU it pays for EU policies, and contributes to programmes for social and economic cohesion across the EU.
21. Norway also has a set of bilateral agreements with the EU.
22. It is not clear that the UK would be allowed to join EFTA and thereby get into the EEA. In negotiations with the EU, EFTA has to speak with a single voice. At present, Norway is the dominant member, since it is so much larger than the other two. The UK, however, would be many times larger than the other three together and could overwhelm them. UK membership of EFTA/ EEA could also cause problems for the EU, as the UK would be a more significant player. It could also set a precedent for other EU member states seeking a looser relationship without all the obligation of membership. Membership of EEA would require the agreement of all EEA member states, including the remaining 27 EU members.

The Swiss Option

23. Switzerland decided, by referendum, not to join the EEA but has a bilateral relationship allowing it access to EU markets. Two sets of bilateral agreements were negotiated, in 2000 and 2004; altogether there are some 120 bilateral treaties. Further agreements have not followed as the EU is very reluctant to extend the arrangement, which it sees as cumbersome and time-consuming, and has declared its preference for over-arching arrangements like the EEA.
24. The agreements include free trade in goods but not services (which the EU refused) or agriculture and are less extensive than the EEA on 'flanking policies' such as social provisions, environmental and consumer and employment matters. There are no requirements for a financial contribution to cohesion.
25. The Swiss arrangement lacks the common structures of EEA and consultation on the development of EU policies is less intense. There are joint committees but their functions are more limited than in the case of the EEA. The agreements apply only to existing EU policies so that, unlike Norway, Switzerland is not bound to future EU decisions. The various Swiss agreements are linked so that, if one side reneges on one agreement, the other side can suspend others (the 'guillotine' provision). Switzerland, unlike Norway, does not have to transpose EU laws but does have to have its own legislation to the same effect. The easiest way to do this has often proved to be to transpose EU law anyway. Switzerland is not formally bound by decisions of the European Court of Justice and there is uncertainty about the application of case law. In practice, the Joint Committee with the EU incorporates ECJ rulings.
26. Like Norway, Switzerland has to accept free movement of labour. This in turn obliges it to adopt policies on labour regulation such as the Working Time Directive.
27. A referendum in 2014 narrowly decided to restrict free movement, which triggered a crisis in Switzerland's relationship with the EU as the latter refused its request to change the law. The immediate effect was Switzerland's suspension from the EU

research programme (Horizon 2020). Switzerland was later partially re-admitted but the issue remains unresolved.

28. The influence of the EU over Norway and Switzerland is perhaps even stronger than the formal arrangements suggest, as there is a big incentive to voluntary adoption of single market measures in order to compete effectively in Europe.

Balancing the Options

29. There have been attempts to quantify the economic loss or gain of the various options. Concern has been expressed that any outcome that leaves the UK out of the single European market would harm trade and investment. Others have argued that, freed from a preferential relationship with Europe, the UK could more successfully compete in global markets. It is very difficult to quantify the costs over the long term. Much would depend on the precise terms of any new arrangement and the decisions that governments, given their degrees of autonomy, would take. Some have argued that, free of the EU, the UK could pursue a market-based strategy of competition founded on low taxes and less regulation, but that is essentially a political choice.

30. The Norway/ EEA and Swiss options would partially restore UK sovereignty but would leave it subject to European decisions over which it has no say. It would not be subject to the common agriculture or fisheries policies but would be obliged to accept free movement of labour. The EEA would provide for free trade in services, which is a priority for the UK, while the Swiss option would not.

31. The Go it Alone options would restore more of UK sovereignty but it would lose access to the single European market and would have to negotiate international trade agreements on its own.

32. None of the options would leave the UK as a completely free actor, since it will always be subject to international trading rules of one sort or another.