

## Brexit revisited

### **The European Partnership Agreement**

The process of leaving the EU (Brexit) has already proved to be politically traumatic and remains highly contentious. And while, in the immediate aftermath of the 2016 referendum, there were several potential options, the interplay over the last two years has closed down some of those and rendered others politically unrealistic in the shorter term.

At the same time, the proposal on the table (the draft withdrawal agreement) is far from being universally accepted, while the draft political declaration offers no long-term solution to the seemingly intractable problem of the Irish land border.

Therefore, it is time to look again at the situation and craft a new solution which takes account of current political realities while providing flexibility for future developments as the EU and the UK settle into a new relationship.

At the heart of our suggested settlement is a model based on the most successful and enduring association agreement between the EU and other European countries, the EEA Agreement, covering the Efta states of Norway, Iceland and Liechtenstein.

In its current iteration, as applied to a post-Brexit UK, this has been known as the "Norway Option" or, with more precision, the "Efta/EEA Option". This involved the UK re-joining the European Free Trade Agreement and then, via this membership, re-joining the EEA. The particular advantage of this route is that it enables the UK to participate in the institutional architecture of the Agreement, without having to invent new structures.

However, for diverse reasons – some political and some practical – it is less appropriate for the UK to seek re-entry to Efta. And while participation in the EEA is still attractive, administration of the Agreement, without the UK being in the EU or Efta, is highly problematical.

It has been proposed elsewhere that the UK might re-join (or continue in) the EEA and with the EU develop its own specific and independent institutional structures in order to ensure the functioning of the Agreement. This, though, is a somewhat unattractive route, as it requires much duplication of effort, with continued scope for confusion and inefficiency.

As an alternative, we would suggest lifting the institutional architecture from its current Efta "home" and employing another treaty organisation to take over the functions currently undertaken by Efta. For administrative purposes, this EEA body might be hosted by the

United Nations Economic Commission Europe (UNECE) or the Council of Europe, to give it distance from the EU.

Changes to the administrative hosting might also present the opportunity for some amendments and fine-tuning to the EEA Agreement. Crucially, it might also allow the introduction of co-decision on new EEA measures – as foreseen by Jacques Delors in the original European Economic Space concept. This would address many of the concerns about the democratic deficit of the EEA agreement and the "rule-taker" status of current EFTA state members.

There would also be a more formal recognition of the need for co-operation and co-ordination with the EU at political and administrative levels. The amended treaty would make formal provision for the framework research programme (Horizon 2020), the Single European Sky and the European Space Programme, certain police and criminal justice measures, joint customs operations, third country sanitary and phytosanitary controls, anti-dumping measures, and maritime surveillance. The structures of EU agencies might be modified to permit sharing of management functions with all EPA members, on an equal basis.

To bring it up to date and in recognition of the revisions, a new title might be appropriate. Our suggestion is the European Partnership Agreement (EPA), reflecting the core dynamic of the organisation. The area described by the territories of its signatories might be known as the European Partnership Area.

Crucially, the existing safeguard measures should be retained intact, as they apply to EFTA states and any new, non-EU members, enabling if desired, such states to modify treaty provisions as appropriate, within the current framework. This might include modification to Freedom of Movement provisions, if meeting the requirements as currently set out, with a further mechanism for translating longer-term changes into treaty amendments.

Inevitably, the implementation of a new EEA structure would take time, as would the negotiation of any specific changes required to accommodate the UK's special needs. Thus, it is not realistic to expect completion within the framework of current Article 50 process, even if an extension was agreed.

To ensure the best possible passage of this new scheme, it is proposed that the current Withdrawal Agreement be adopted in its entirety, but for one addendum to the effect that, on the UK's entry to the fully functioning EPA (which would be applicable to the entire UK, including Northern Ireland), the "backstop" would cease to apply.

As to the Political Declaration, we would seek a revised content to set as the main objective, the negotiation and speedy implementation of the EPA, with formal talks set during the transition period. We would propose that the end of the period is set to coincide with the completion and implementation of the EPA, and the UK's membership of that body.

ends. 1 April 2019 (v.2)