

How Brexit can succeed both
politically and economically

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A VERY BRITISH BREXIT

HOW THE 2017 ELECTION
SMOOTHES THE BREXIT PATH



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OVERVIEW

It is our contention in this paper that, paradoxically, the 2017 general election result provides the political context in which the Brexit process can be delivered more smoothly than if the Conservatives had won a clear majority.

Crucially, there is now widespread recognition that a transition period is inevitable, and widespread support for it. And there is growing acceptance that some degree of practical compromise over the Brexit process is now a political imperative.

The authors propose a three-stage pathway to a pragmatic Brexit, with transitional arrangements under which Britain would leave the EU in March 2019, but remain anchored in the European Economic Area (EEA), and the Customs Union for a transitional period (Section 2).

A permanent solution with a comprehensive free trade deal with the EU and trade deals with other countries would happen in the final stage allowing sufficient time for such complex negotiation.

The transitional arrangements would be time limited and subject to a 'sunset clause' to allay the fears of some leavers that they might become permanent.

It is also our contention that whilst the Brexit debate has led to the emergence of a number of toxic issues - dividing lines that have split us as a country, and around which compromise is often seen as impossible - the 3-stage plan set out in this paper offers a route to try and detoxify these dividing lines (Section 3).

With the new political context post the general election, we believe a pragmatic British Brexit is now not only in the national interest, but it is also in the self-interest of the main political parties - and the various factions within them (Section 4).

The authors believe such a process is deliverable both politically and practically, and that it could command widespread cross-party support, as well as the active support of the business community.

Stage 1: Exit the European Union
(March 2019)

Remain in the EEA (through rejoining EFTA or a bilateral arrangement)

Agree deal with EU to remain temporarily in customs union.

Bilateral agreements with EU on continued cooperation in other areas outside EEA framework - eg Europol

Access to EU programs such as Erasmus and Horizon 2020.

Stage 2: Advance discussions on potential trade deals with third countries.
(March 2019 for maximum 5 years)

Negotiate EU/UK comprehensive Free Trade Agreement

Negotiate a permanent solution to the Irish border question

Assess and implement electronic border controls and upgrade HMRC IT systems

Stage 3: Permanent new arrangements

Comprehensive free trade deal with EU and new trade deals with third countries

Leave Customs Union

Permanent bilateral agreements with EU on continued cooperation in areas such as Europol

Implementation of permanent solution to Irish border question.

We believe our approach reflects Britain's long-standing post-war preference for European cooperation based on economic interests and pragmatic gradualism rather than ideologically driven grand political schemes. Such an approach could start to help bridge the divisions that have arisen since the referendum vote.

The paper has 4 sections:

Section 1 sets out how we believe the new political context after the 2017 election means a smooth deal is now more possible.

In Section 2 we set out in detail a three-stage approach to a smooth, pragmatic, British Brexit.

Section 3 outlines how the proposed approach addresses the toxic dividing lines in the Brexit debate: the need to respect the Leave vote, maintaining citizens' rights, controlling freedom of movement, ending the supremacy of the European Court of Justice, settling the divorce bill, and the issue of being 'subject to rules but having no say over them.'

The final section analyses the politics of the three-stage scheme.

1. THE POST-ELECTION CONTEXT

The election result has fundamentally changed the landscape on which the Brexit negotiations will be conducted. The Conservative party spectacularly failed to get a mandate for Theresa May's version of a 'hard' Brexit. Labour's position on the nature and shape of Brexit – though not its support for the referendum result itself - has remained nuanced and ambiguous. The Liberal Democrats suffered a shrinking share of the vote suggesting that voters were not sufficiently attracted by their platform for a referendum on any deal that was on offer. UKIP imploded – for reasons we can all speculate on.

In Scotland, pro-single market Scottish Nationalists lost votes. But they lost them to the pro-single market Scottish Conservatives, ambiguous Labour and pro-EU Liberal Democrats - not to hard Brexiteers. Elsewhere, the DUP, likely to become the government's supporting crutch, gained seats. The nature of the Brexit the DUP will support will be coloured by the fact that the majority of Northern Irish voters voted Remain, their absolute opposition to both any form of hard border in Ireland or between Northern Ireland and the rest of the UK, and to any special status for Northern Ireland within the UK.

Of course, votes were not cast exclusively on the Brexit question. No election is won or lost on any single issue or any single manifesto promise. Nevertheless, parties insist they have a mandate for all their manifesto commitments even if most of them are never even mentioned during a campaign. And if Mrs May and the Conservatives had won the overwhelming majority expected, they would doubtless have interpreted it as a mandate for their version of Brexit. It would be cynical in the extreme were the party now to argue that the opposite result carries no weight.

Meantime, the clock continues its relentless ticking on the two-year window between the triggering of Article 50 and exit.

THE POLITICAL ENVIRONMENT FAVOURS A PRAGMATIC APPROACH

So where does that leave the politics of Brexit? What could be an approach that would represent a set of compromises that would find broad support? What could be the shape of a British Brexit – one that commands broad support and acts in the best interests of all the people of a United Kingdom.

A BREXIT FOR
EVERYONE WITH NO
BACKSLIDING ON
THE REFERENDUM
RESULT

The authors of this paper believe that the election backdrop provides the political context in which a pragmatic Brexit can now emerge. One that respects the result of the referendum last year - we do not believe that any backsliding from that is good for our democracy.

But also, a Brexit that works for both those who voted Leave as well as those who voted Remain. A British Brexit in the best of senses – one that respects our national tradition of pragmatic compromise, and, indeed, respect for those who lost the referendum but still constitute nearly half of those who voted.

This paper attempts to set out an approach that could be acceptable to the majority of the population - Leavers as well as Remainers.

Of course, there will be those at both extremes who resist this. Some believe that anything but a total break with Europe will allow the EU's tentacles to continue their insidious ingress. At the other end, some still wish to reverse the outcome of the referendum.

We reject both extremes. We believe there is a practical and effective policy solution for the majority. Many who voted Remain have come to accept the referendum result. Many who voted Leave

do not believe we should cut all ties with Europe or embark on a process that causes significant economic damage.

Whichever way we all voted, we all tend to have more in common with each other than with the extremes on our own sides

The authors of this paper include both Leave and Remain supporters. We have tried to find an approach we would all be comfortable with and that we believe could reasonably be steered through the current political landscape.

A pragmatic British Brexit would not only try to find a position that commands support both among a majority of Leave supporters and among a majority of Remain supporters. It would also try to satisfy all the component nations of the United Kingdom, and command support across much of the party-political spectrum.

2. A PRAGMATIC BRITISH BREXIT

At the center of our approach is the fact that a transition period is inevitable – something that is now widely accepted. We would argue that it was always inevitable given the slow speed with which the EU machinery works. Now, given the election result and its inevitable slowing down of the British response, we believe there is absolutely no alternative. No transition period will likely mean a no-deal cliff edge – with unknown consequences for jobs, living standards, trade, the public finances and public services. All with inevitably negative political consequences.

In our view, a transition phase starting in March 2019 should be designed to achieve the following objectives:

- Easily and immediately comply with the only instruction given by the British people in the referendum - exiting the EU (all else is simply interpretation)
- Allow time to negotiate a further evolution of the relationship between Britain and the EU - through negotiating a Comprehensive Free Trade Agreement.
- Enable the UK to exit the customs union when Britain’s real level of success at formulating trade deals with non-EU countries is clearer.
- Avoid a damaging cliff-edge with its economic and political consequences.

The transition phase should start in March 2019 when we leave the EU – and run for a maximum of 5 years, before our permanent new relationship with the EU and its member states takes effect.

THE EUROPEAN ECONOMIC AREA AS A TEMPORARY ANCHOR

We believe that Britain should use the European Economic Area (EEA) as a temporary anchor during the transition period.

We would in March 2019 be leaving an explicit political union for an explicit economic area. We believe this would be a practical solution palatable

<p>Stage 1: (March 2019)</p>	<p>Exit the European Union</p> <p>Remain in the EEA (through rejoining EFTA or a bilateral arrangement)</p> <p>Agree deal with EU to remain temporarily in customs union</p> <p>Bilateral agreements with EU on continued cooperation in other areas outside EEA framework – eg Europol</p> <p>Access to EU programs such as Erasmus and Horizon 2020.</p>
<p>Stage 2: (March 2019 for maximum 5 years)</p>	<p>Advance discussions on potential trade deals with third countries.</p> <p>Negotiate EU/UK comprehensive Free Trade Agreement</p> <p>Negotiate a permanent solution to the Irish border question</p> <p>Assess and implement electronic border controls and upgrade HMRC IT systems</p>
<p>Stage 3:</p>	<p>Permanent new arrangements</p> <p>Comprehensive free trade deal with EU and new trade deals with third countries</p> <p>Leave Customs Union</p> <p>Permanent bilateral agreements with EU on continued cooperation in areas such as Europol</p> <p>Implementation of permanent solution to Irish border question.</p>

both to the majority of Leavers and the majority of Remainers – whilst Britain and the EU negotiate a longer-term solution. It is the only ‘off the shelf’ option that is feasibly deliverable in the short window that remains before we leave the EU.

There has been much talk of bespoke arrangements – of Britain negotiating a special deal that meets its requirements – in the coming months. In our view this is simply impossible – as given the time available is so short, there is simply not enough political drive for such an arrangement amongst the EU27.

WHAT THE EEA ANCHOR WILL ACHIEVE

THE EEA PROVIDES IMMEDIATE ECONOMIC STABILITY

Many of us, including many Leavers, would like to maintain a strong economic relationship with the EU – our main trading partner. The EEA temporary anchor would give Britain access to

the single market on virtually identical terms as now. It would provide the predictability and stability that the British public and the business community crave as Britain and the EU transition to a new permanent arrangement.

EEA membership also covers continued participation in the so-called flanking policies – such as transport, competition and state aids, and environment. Again, this would avoid the cliff edges that many fear – for example in air travel.

It also allows participation in some EU programs, such as those in research and education. That should provide comfort for those running and working in universities, who are worried about their own cliff edge in research funding.

At the same time the EEA carries far less of the Super State, supranational baggage which Leavers find so difficult to stomach. EEA membership would end our involvement in many areas of EU policy making.

Britain would be outside the Common Agricultural Policy and the Common Fisheries policy.

Furthermore, EEA membership excludes foreign and security policy, justice and home affairs, direct and indirect taxation, and economic and monetary union

– areas over which successive British governments of different colors have had problems.

Crucially for Leavers it means no more European Court of Justice control over our legal system. In the European Economic Area, it's the European Free Trade Area's court that polices single market trade disputes – a very different animal without the same direct principle of applicability into British law.

The EEA also provides clarity for EU citizens in Britain and British citizens residing in the EU – their rights would be retained.

And for new EU immigration, Britain would be allowed the use of an emergency brake on immigration. This is what David Cameron tried but was unable to achieve in his EU negotiations.

This may not be everything that Britain would like to achieve in the longer term. However, as a short term interim measure it provides a measure of control while maintaining access to the single market until permanent arrangements can be put in place.

The EEA is not a customs union and membership does not require membership of the EU Customs Union. We would however advise that Britain remains in the Customs Union for the transitional period. This would allow time to advance trade discussions with third countries and for HRMC to upgrade its systems to deal with what some estimate to be seven times as many transactions after exit from the Customs Union. But the destination is clear.

The most likely mechanism for Britain to join the EEA would be through membership of the European Free Trade Association (EFTA). EFTA structures are explicitly inter-governmental with no supranational structures and no ‘federal’ ambitions.

However, there is also the possibility that our EEA membership could happen by default on leaving the EU – or through a bilateral deal with the EU – though there is no explicit precedent for this.

REFLECTING BRITISH ATTITUDES TO EUROPE

Britain played a leading role in founding EFTA in the post war period. It was in fact Britain's plan A – Prime Minister Harold Macmillan's first choice alternative to the EEC, back when Whitehall and our politicians

were trying to define our country's identity in relationship to Europe's new desire for unity. It reflected Britain's view of the European project as a Common Market rather than a project of political integration.

Britain has always prioritized economic success over grand, ideologically-driven political visions. It is therefore unsurprising that the mood has turned so rapidly towards prioritizing jobs and the economy over all else in Brexit negotiations.

A PRAGMATIC APPROACH FOR THE EU

If the EEA is a temporary berth Britain could coalesce around, it potentially does the same for our European neighbours. A number of EU member states have made it clear in informal briefings that they believe this to be the most credible and sensible short-term transition arrangement – give the time available.

It would also provide significant relief for EU businesses that have a significant trade with Britain and which are becoming somewhat more restive as the time available for successful negotiation gets shorter.

3. TACKLING THE 'TOXIC' DIVIDING LINES

The Brexit debate has led to the emergence of a number of toxic issues - dividing lines that have split us as a country, and around which compromise is often seen as impossible. We believe the 3-stage plan set out in this paper offers a route to try and detoxify these dividing lines.

THE NEED TO RESPECT THE LEAVE VOTE

Compliance with the results of the referendum would be achieved. In Stage 1 – we would leave the EU.

But it would be a smooth exit into the EEA. As the EEA framework is in place and Britain is in full compliance with all the rules, the transition would be far easier than any of the other options. The ability to achieve anything significantly more complex within the available time frame is extremely unlikely.

For the so-called 'hard Brexiteers' – those who are the most worried the referendum vote will not be respected - this approach should also be attractive.

OVER-REACH
COULD RESULT
IN A BREXIT
ABANDONED

The risk of attempting anything more complex in Stage 1 is that negotiations could go wrong, causing voters to turn against the very idea of Brexit. A 'sunset clause' of a maximum transition period should also reassure them that the temporary will not become permanent.

ENDING THE SUPREMACY OF THE EUROPEAN COURT OF JUSTICE (ECJ)

Disputes relating to the EEA are not subject to ECJ jurisdiction but rather to the court of the European Free Trade Association – a very different kind of institution. There is no principle of direct applicability, no primacy over domestic law, and no possibility to impose a penalty payment.

Indeed, the EFTA court can be seen more in the mould of traditional international courts. And those are difficult to avoid in the modern world of international trade. Even under the 'no deal' scenario where trade would fall under World Trade Organisation (WTO)

rules, Britain would still be subject to international oversight by the relevant WTO authorities.

MAINTAINING THE RIGHTS OF BRITISH AND EU CITIZENS

These would remain almost entirely unchanged until Stage 3 of the process. No special arrangements would need to be negotiated within the Article 50 time-window.

CONTROL OVER FREEDOM OF MOVEMENT

On the issue of freedom of movement, the EEA provides clarity for those who have already come to Britain, or Brits who have already moved to Spain or wherever - they would have their rights accepted

However, within the EEA texts, provisions are in place to allow the application of arrangements such as the emergency brake – very much along the lines of what David Cameron tried to negotiate as part of his thwarted pre-referendum renegotiation.

Articles 112 and 113 of the EEA agreement allow the use of an emergency brake on immigration - albeit on a temporary basis. 'Temporary' however has not been clearly defined and there are no precedents to go on.

The authors believe that migration has been and remains a potent force for good. And it has now become widely accepted that some degree of immigration is essential for Britain to deliver public services and for many businesses to continue to function. The EEA treaty helps deliver that while, we believe, also contains adequate provisions in place to address the legitimate concerns amongst many of our fellow citizens about the impact of immigration in areas such as housing, health and education provision, and to provide comfort that control of our borders is back in British control. Not everything some would want, but surely worth trying – to maintain access to the single market – at least for a period.

It is also worth noting two other points that would work in Britain's favour should it be in its practical interests to impose restrictions in the short term.

First, for those EU countries that are member of the Schengen Agreement, suspension is also allowed only on a temporary basis. The refugee and terrorist crises have led some countries to suspend the Schengen rules and introduce border checks. They have not yet been challenged by Brussels on the 'temporary' provision.

Another precedent currently playing out comes from Switzerland where a referendum narrowly supported the establishment of an upper limit to immigration from the EU. The EU will not accept such a quota system while Switzerland maintains access to the Single Market and the search for a compromise agreement is on. Should such a compromise be found, this could also provide support and context for the UK situation

It is perfectly possible that the emergency brake could be allowed to operate for the whole of our Stage 2 transition period.

Finally, having control of immigration on paper is not much use if the government is not able to implement such controls effectively.

For example, the UK already has the right to repatriate EU citizens who do not find employment after a period. But there are no effective systems in place to track and implement these provisions. Mats Persson, a former adviser to Number 10, was [quoted](#) as saying: "It's unlikely that the government manages to get a system in place for March 2019 that can administer work permits, identification at and behind the border, access to welfare and all the other issues needed for a new regime to work."

THE FINANCIAL SETTLEMENT

During the transition phase, the UK would need to make payments effectively to the EU budget – although the actual mechanisms are different for EFTA countries/ EEA members. Most payments are made through grants to EU member states with lower

per capita incomes.

We believe this is an acceptable price for market access. The principle of payment for access has now been widely accepted – including by the government. It is an economic bargain not a political one. There would still be direct payments into the EU budget for participation for particular EU programs.

It must be noted that EEA membership may mean the end of the British rebate and could mean higher annual payments during the transition period.

'SUBJECT TO RULES BUT NO SAY OVER THEM'

Those who argue for remaining in the EU maintain that any half-way house would subject the UK to EU legislation while having no influence on how that legislation is framed. That is a powerful case.

However, one can take some solace that there are, in effect, mechanisms of influence even during our proposed transition period. When preparing legislation in areas covered by the EEA Agreement, the European Commission works with and considers the advice of EEA / EFTA experts through EU/EEA joint committees.

Britain would also have staff in the EFTA Surveillance Authority, and at the EFTA Court, and can place national experts in the European Commission.

Not the same clearly as full EU membership, but a potential route to meaningful influence in the post Brexit world.

There is also the ability under Article 102(4) of the EEA treaty to refuse to implement EU legislation. It has been infrequently used – but it is there as a safeguard.

4. THE POLITICS OF A PRAGMATIC BRITISH BREXIT

With the new political context following the General Election, we believe a pragmatic British Brexit is now not only in the national interest of the country, but it is also in the self-interest of the main political parties – and the various factions within them.

THE CONSERVATIVE PARTY

For the centre ground of the Conservative party, it shows they are listening. It allows continued participation in the single market, and the time thereafter to negotiate a comprehensive free trade agreement with the EU, as well as third country trade deals.

It allows the Conservative party in Parliament to garner support from across the political spectrum to deliver majority support for their Brexit plans.

A BOTCHED BREXIT COULD DAMAGE THE TORY BRAND FOR YEARS

It avoids the party potentially being responsible for cliff-edge chaos, and the consequent damage to their reputation as the party of economic competence. A botched Brexit over-reach that harms the UK economy might damage the fundamentals of the Conservative party brand for years to come.

For ‘hard’ Leavers amongst Conservative MP’s, the risks from a no-deal, costly Brexit have increased – and could even risk turning the population against Brexit.

THE LABOUR PARTY

For Labour, tempting though it might be to focus on pushing the government into highly visible failure over the Brexit negotiation, this would be a clear case of putting party before country – and on the most important issue to face Britain in decades.

Labour, of course, has its evangelical EU supporters and its own ‘hard’ Leavers – but, on Europe, the middle ground in the Labour party is one of respecting the referendum vote, but doing so in a way that protects jobs, livelihoods and Labour values. Our plan does that.

THE SCOTTISH NATIONAL PARTY

For the SNP, the suggested approach reflects their vocal support to stay in single market – albeit on a temporary basis. Indeed, EEA membership is the preferred option of the Scottish government, and would most likely avoid a second independence referendum – at least for the transition phase.

THE DEMOCRATIC UNIONIST PARTY

For the DUP, the proposed approach should be politically attractive for a Brexit party in a predominantly Remain constituency. It delivers on their stated position of leaving the Single Market and Customs Union but does so smoothly and ensures enough time is available to ensure that the Irish/British border issues have been thoroughly worked through.

THE LIBERAL DEMOCRATS

For the Liberal Democrats, their pro-EU, second referendum message largely fell on deaf ears in the election. Reversing the Brexit process was shown to be very much a minority interest. This program is a middle ground solution which arguably represents the most attractive approach for them.

THE OPPONENTS – AN UNHOLY ALLIANCE?

Arguably, the only people such a plan would not appeal to are those at either extreme of the debate – the ‘hard’ Leavers and the ‘hard’ Remainers.

It is possible that these could form an unholy alliance against the kind of pragmatic approach that we propose. Hard Leavers would hope to force the pace to a clean break with the EU – whatever the economic cost. Hard Remainers would hope that forcing the pace in this way would have exactly the opposite outcome – make the dangers of Brexit abundantly clear in the hope that people will turn against it.