

Unpicking ‘no deal is better than a bad deal’: not just meaningless, but unhelpful

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*In the last of a series of posts on the Government’s ‘no deal is better than a bad deal’ stance, **Michael Johnson** points to the advantages of a preferential deal with the EU. The ‘no deal’ mantra is meaningless, and serves only to obscure both the practical imperatives and the real possibilities of Brexit negotiations.*



It isn’t just trade....

The consequences of a failure to reach any agreed deal at the point of Brexit, or subsequently for the long term, would go much wider than the purely trade impacts, and are currently and literally incalculable. Failure could leave unresolved matters such as the UK’s contractual financial liabilities on withdrawal from the EU, the basis for future collaboration on joint projects, and conceivably even matters such as policing and law enforcement, data protection standards and the all-important issue of reciprocal citizens’ rights. Apart from the issue of tariffs, respective UK and EU27 levels of support for agriculture (which can severely distort trade) could become serious issues of dispute as would access to fisheries resources and markets as the UK reasserted national rights over territorial waters. Undoubtedly both sides will work urgently to avoid such a situation, which could otherwise give rise to years of acrimonious and costly disputes.



Theresa May at the EU Council in December 2016. Photo: [Number 10](#) crown copyright via a [CC-BY-NC-ND 2.0 licence](#)

Possible preferential post-Brexit deals

The UK Government repeatedly stresses its aim of negotiating with the EU27 the “best possible deal” for both sides. Various commentators and political and economic interest groups have put forward their own ideas and

priorities for a “soft Brexit” and future preferential relations, but there is no common view as to what this would mean and the Government has given no explanation. Current ideas include:

- Membership with Iceland, Norway and Liechtenstein of the European Economic Area. This entails tariff-free trade in goods and participation in EU standards for services, but also compliance with all EU regulation without participation in the setting of standards, contributions to the EU budget, and free movement of persons;
- Some form of comprehensive bilateral free trade agreement (FTA) for the UK alone, with tariff-free trade as its key provision; or
- A partial FTA covering key economic (particularly manufacturing) sectors, but not all;
- Continued “access to the Single Market”, undefined but apparently involving continuing participation in at least some EU regulatory systems;
- “Frictionless border trade”, apparently based on trade facilitation measures and technology designed to mitigate the impacts of bilateral UK/EU27 trade of the “no deal” situation.

None of these options has been spelt out or considered in any detail. Leaving aside for a moment the issue of whether any of them would be negotiable, as explained in previous posts logic and common sense dictate that *any* UK/EU27 deal which reduces or mitigates the adverse trade, financial and political impacts of the “no deal” scenario *must* be preferable to “no deal”.

Conclusion

There is therefore no logical prospect that a failure to reach any detailed bilateral agreement with the EU on Brexit terms and future UK/EU27 relations could be economically preferable to reaching some sort of agreement. The Government implicitly recognises this when it repeatedly stresses the importance of achieving tariff-free and frictionless bilateral trade. Its concept of what might constitute a “bad” agreement in this context appears therefore to rest not on objective assessment of economic advantage, but solely on how far an agreement met stated “red line” political priorities such as restricting the free movement of labour, avoiding the need for contributions to the EU budget, and “freeing” the UK from the jurisdiction of the EU Court and the EU’s common commercial policy.

It has been recognised in principle that any future special deal between the parties would need to include (as free trade agreements normally do) a mechanism for the adjudication and settlement of disputes, that is over and above the normal rights which the parties have in appropriate circumstances to invoke the dispute settlement procedures of the WTO. On the EU side the Union would be most likely to insist that such procedures were regulated and conducted according to the procedures of the Court of Justice of the EU, which would be a stumbling block for the UK.

In short, any special agreement that could be negotiated must to some extent involve cooperation with EU27 standards and administrative and regulatory procedures. On present form it would probably be denounced in the Government’s own terms as “bad”, because it could not bring about the clean and total break from the EU which many supporters of Brexit desire. **The red lines which the Government has laid down for itself, if adhered to, appear bound to scupper its own aim of negotiating the best possible deal for both sides.**

These posts have concentrated mainly on the trade and economic aspects of “no deal”, but it needs to be repeated that the implicit acceptance that the UK might leave the EU without an established basis for future relations and cooperation carries grave risks for UK/EU27 collaboration in areas such as science and technology, research and development, environmental policy, justice and security, international development and human rights, to all of which the UK Government attaches importance; and in particular for the close and special partnership with the EU27 which Theresa May stressed so heavily in her speech at Lancaster House in January 2017.

On the basis of all relevant analyses, the mantra that “no deal is better than a bad deal” is meaningless and serves only to obscure both the practical imperatives and the real possibilities of Brexit negotiations.

This is the last of three posts looking at Theresa May’s assertion that “no deal is better than a bad deal”. It represents the views of the author and not those of the Brexit blog, nor the LSE.

Michael Johnson is a former trade negotiator for the UK government and advises on international trade policy.

| [Unpicking the “No deal is better than a bad deal” mantra: what would a ‘bad deal’ look like?](#)

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