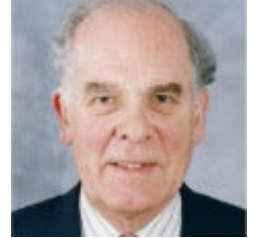


Unpicking the ‘no deal is better than a bad deal’ mantra: what does ‘no deal’ look like?

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*“No deal is better than a bad deal,” says Theresa May. But what is actually meant by “no deal”? In the second of three posts about the ramifications of the Government’s position, **Michael Johnson** looks at what it would mean for trade.*



As regards future UK/EU27 trade relations, the common assumption is that if no form of preferential agreement (such as tariff-free trade, “frictionless” procedures at the border and continued access to EU regulatory systems within the Single Market) can be agreed either by the end of the Article 50 period or by negotiations in the longer term, what would come about would effectively be the much-discussed (but ill-defined) “hard Brexit”. The consequences of this as regards *trade in goods* would be:

- The UK would find itself outside the EU’s Common Customs Territory (CCT) and the associated common schedule of tariffs, which it is currently inside. UK exporters would have to trade into EU27 countries over tariffs where they applied.
- The UK is already, like all the EU member states, an individual member of the World Trade Organisation (WTO) (it is by agreed convention, based on the EU customs union, that the Union negotiates within the WTO as a single bloc). On leaving the EU, the UK will be required by the WTO to submit its own individual schedules of tariffs on goods for agreement with all other WTO members. Assuming that the UK chose to apply tariffs to imports, whether by continuing the CCT rates which it currently applies as an EU member state (as the Government indicated in December 2016) or at some other levels determined according to perceived UK priorities, EU27 exporters would trade into the UK over those tariffs.



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- The general level of tariffs on industrial goods applied by major developed economies is low – on average, around 3 percent of value. However while many goods, in particular components and raw materials, are tariff-free or carry only low rates, including in the CCT, other items such as vehicles and textiles are subject to significant tariff rates e.g. of 10 percent or more, which would have an impact on UK/EU27 trade. **Tariffs or equivalent charges under the CCT on some categories of agriculture and food products are much higher than those on industrial goods and would severely affect UK agricultural exports to the EU27, as well as – depending on what tariff rates the UK itself decided to apply to such items – the cost of UK imports**, with an immediate impact on consumer prices.
- A **particular problem arises in the case of EU-wide value chains**, where manufacturing processes, for example for vehicles, are coordinated between plants in different countries and components may cross national borders several times at different stages of manufacture. After Brexit components moving between the UK and EU27 in this way could in principle be subject to tariff charges each time they crossed the border, and even if the rates of charge were low they could add up to a significant cumulative cost. There are well-established procedures in international trade for relief from or “drawback” of duty chargeable in such cases, but these require the onerous collection, formulation and submission to Customs of detailed financial data in order to determine eligibility.
- In any case important new procedural obligations would affect both UK and EU27 traders. Consignments of dutiable goods in both directions would be subject to Customs inspection in order to determine the correct tariff classification for the purpose of assessment for duty. While various internationally-agreed arrangements exist to expedite this process by means of electronic data submission, “one-stop shops” or “single windows” (combining in one place the different checks to which goods may be subject), the grant of privileged “trusted trader” status and/or post-hoc checking, traders in both directions would still have to submit data and undergo procedures that are not currently required in intra-EU trade. **Delays would be bound to occur in the checking and assessment particularly of complex and mixed consignments.**
- Equally, consignments of **agricultural and food products would become subject to plant and animal health checks which are not currently required** because UK and EU27 producers and traders are subject to the same regulations and monitoring procedures. Even if the UK chose following Brexit to maintain the same standards of regulation as the EU, and to adapt future UK law to match developments in EU regulations, new checks would be required on both sides to verify compliance.
- An important tool in the hands of governments, according to terms and standards laid down by the WTO, is so-called “*trade defence instruments*”. These are inquiries which a government may conduct into allegations of “dumping” of imported products (sales at lower prices than in the exporter’s home market) or into alleged unfair subsidisation of imported products by the exporter’s home government. If it is found that dumping or subsidisation has taken place and has caused or threatens injury to a domestic industry, remedial duties may be charged on the imports concerned. Equally, in cases of a surge of imports which damages or threatens to damage a domestic industry, special duties or import restrictions may be imposed. In the EU these powers are exercised, and where appropriate measures applied, at the Union level. After Brexit, such measures taken by the EU would not apply to the UK. **Flows of imported goods found to have been damaging to industries in the EU27 and subject to defence measures could be diverted into the UK** unless the UK conducted its own investigations and applied its own parallel measures to imports of the goods concerned.

There would still be a risk of serious trade and industrial distortion unless comprehensive arrangements for UK/EU27 coordination of trade defence instruments was put in place.

The UK Government has made clear its intention to *leave not just the EU customs union, but also the much wider Single Market*, which lays down EU-wide standards and regulatory systems across the full range of service activities and professional qualifications. It is the UK's intention, to be embodied in the so-called Great Repeal Bill, to enact 60 years of EU legislation into domestic UK law in order (a) to avoid leaving important areas of legal vacuum at the point of Brexit, and (b) so that individual laws and regulations originally deriving from EU legislation can be reviewed, confirmed, amended or repealed at leisure. This is a sensible, and probably the only practicable, course but the process will be complex and there will in any case be important consequences for suppliers of *services*:

- Once the UK is outside the Single Market, regulatory authorities in the EU27 will no longer be able to assume UK regulatory compliance with EU standards. UK service suppliers seeking to trade in, or into, the EU27 could be subject to new checking and authorisation procedures which could become more burdensome over time as EU and UK regulatory procedures developed and possibly diverged.
- The WTO will also require the UK, in accordance with the WTO General Agreement on Trade in Services (GATS), to submit schedules of commitments guaranteeing market access and equal treatment in the UK market for foreign-based service suppliers. Here too the Government has indicated that it will as far as possible adhere to the commitments on services access to the UK market which it has already undertaken as an EU member state; and UK service providers operating in or into the EU27 will anyway continue to benefit from the EU's GATS commitments on services. However once it is outside the Single Market, the UK will no longer be able to influence the development of services regulation within the EU. Nor will it benefit automatically from advances in internal regulation in the EU, which could in the medium to longer term adversely affect the prospects for UK services in the EU27. As has already been extensively discussed, this changed situation could impact particularly heavily on financial services undertakings operating in the UK, and in which some major players are already making contingency plans to move at least a proportion of their operations out of Britain.

Because the UK would be outside the Single Market, UK/EU27 trade would no longer be governed by internal EU law and procedures, including provisions for *redress in the case of disputes*. It would be conducted and monitored (as in the case of EU trade with other non-member countries) according to the procedures of the WTO. These:

- Include comprehensive requirements regarding non-discrimination against goods imported from other WTO members;
- Forbid treating products of one trading partner better than similar products of another (except in cases where formal preferential trade agreements are in force); and
- Provide a means of requiring compliance with commitments under GATS on market access for service suppliers.

However whereas at present unfair trading practices within the EU are dealt with effectively through enforcement action by the European Commission, or by legal proceedings, in future the only channel of redress in the case of trade disputes between the UK and the EU27 would be the dispute settlement procedures of the WTO which typically take 9 months (much longer if an adjudication is appealed), and whose only enforcement measures are sanctions which a complainant country may be authorised to impose, but only as a last resort.

It is impossible to draw firm conclusions as to the likely impact, respectively on the UK and on EU27 trade and economies, of this changed situation under a "hard Brexit" or "no deal". The imposition of new procedures where none currently exist always involves new costs and potential delays, whatever arrangements exist to mitigate these.

The impact would reflect not just the costs of tariff and procedural changes and their effects on bilateral trade flows, but also respective economic growth rates and prospects, changes in the £/€ parity, and the fact that UK traders post-Brexit would have to compete in the EU head-to-head with other major countries whose exports to the EU are subject to the CCT and conducted on WTO terms, such as the USA, China and Japan.

This is the second 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.

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