

Deal or no deal? The Article 50 process in context

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About the author

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'We are confident that the UK and the EU can reach a positive deal on our future partnership, as this would be to the mutual benefit of both the UK and the EU, and we will approach the negotiations in this spirit. However, the Government is clear that no deal for the UK is better than a bad deal for the UK.'

The United Kingdom's exit from, and new partnership with, the European Union White Paper, February 2017, Cm 9417, p.65.

Introduction

To the uninformed outside observer, the response of Theresa May to the result of the European Union (EU) referendum of 23 June 2016 might seem peculiar. She was, nominally at least, a supporter of the 'remain' campaign. Yet following the 'leave' result and the resignation of her predecessor as Conservative Party leader and Prime Minister, David Cameron, she has enthusiastically welcomed the idea of exiting the EU. Under her leadership, the government has not only adopted a clear stance of not seeking membership of the European Single Market¹ and of no longer being part of the Customs Union; it has even openly countenanced the possibility of departing the EU without any kind of deal for future trading relations with the EU being in place (see appendix A for key excerpts from the White Paper of February 2017).

The approach May has taken seems to lie in a calculation that

it was necessary, in the post-referendum environment, to adopt such a posture if she was to obtain and retain leadership of the Conservative Party. That this judgement has profound implications for the future of the UK and the wider world is beyond doubt; but it brings with it also a spectrum of uncertainty. This paper discusses how the present stance taken by May might play out during the coming negotiations under Article 50 of the Treaty on European Union (TEU); and what could follow.

For an advocate of 'remain' during the EU referendum campaign, a number of responses are logically defensible. One – that of defiance – might be to seek to challenge whether the vote does, in fact, create an irresistible mandate or obligation to bring about UK exit. A previous Federal Trust paper, *Taking Back Control? The EU referendum, Parliament and the 'May Doctrine'*, sets out some of the arguments that could be deployed in this regard. Another response – the damage limitation mode – might be to conclude that the referendum verdict ought to be followed, or is inescapable, but to seek to do so in a way that retains as many features of membership as possible, while formally no longer being part of the EU. Elements of this approach can be found, for instance, in the path advocated by the Welsh Government. Among various measures that might serve to lessen discontinuity, it has advocated that the highest priority for the UK should be 'full and unfettered access to the Single Market for goods, services and capital'.

This wording does not equate directly with continued full membership of the Single Market (and, indeed, for a state to be complete participant in the Single Market from outside the EU would be novel). But the Welsh Government stance is clearly different from that of the UK government. May has adopted the

¹ Though the government has stated that the arrangement it hopes to secure 'may take in elements of current Single Market arrangements in certain areas'. See: appendix A.

position that departure from the EU is something quite other than a disaster, and indeed is highly desirable. She has engaged in a sustained talking up of the possibilities for an abrupt separation from the EU. Removed from its political context, the implied posture of May and the many ministers in her government who, like her, were 'remain' supporters, is hard to understand. To hold that 'remain' was the desirable decision in the referendum, but subsequently that the 'leave' verdict offers such enticing opportunities that it should be embraced potentially to the point of the sharpest break in continuity with EU membership conceivable, is logically highly problematic.

In taking this approach, May seems to have judged that it was necessary to bend to pressures within the Conservative Party that have been in the ascendant for more than two decades, becoming increasingly radical in the process. A brand of populist nationalism has now triumphed within the Party and through it at present controls the fate of the country as a whole. Politicians are by definition political. They must take into account various limitations on their ability to attain the ideal. Yet, the UK government is not pursuing what might – from a 'remain' perspective – seem to be merely a sub-ideal goal. It is aiming – primarily for reasons of political convenience – at what is from the 'remain' point of view a range of objectives that extend to the worst possible. This approach is for May clearly inconsistent with her outward stance up to the point of 23 June 2016. In following it she finds herself at the end of a long chain of Conservative leaders, beginning with John Major in the 1990s, who have conceded ground to, rather than confronted, Euroscepticism in their party and beyond. Presumably, given her previous position as a 'remain' supporter, May saw an even greater need to be perceived as pursuing a form of departure that amounted to a firm break with prevailing arrangements.

As a policy approach, the May platform courts difficulties in the medium to long-term. These problems could apply both to the UK as a whole, and the politicians who currently lead it. Rejection of the Single Market – the unavoidable outcome of the ending of freedom of movement and of the jurisdiction of the European Court of Justice (ECJ) – is today framed by the Prime Minister in positive terms, particularly through reference to the Free Trade Agreement (FTA) that will be sought. Departure from the European Customs Union is glossed as the agreement of a new customs arrangement with the EU. The loss of access to the various FTAs that the EU has negotiated with third parties around the globe is presented as the chance for the UK to obtain its own set of FTAs. The government maintains that withdrawal from the EU and the particular way in which it intends to execute this course of action is compatible with, or even a means of better achieving, a range of other objectives. They include the promotion of global free trade, multilateral cooperation, the international rule of law, liberal democracy and global security. This paper considers the viability of such claims. It considers how far individual aspects of

the UK government programme are attainable, and the extent to which they can be reconciled with one another. It asks for how long the approach taken by May will be politically sustainable, and what might happen if and when it loses public credibility.

A deal?

Since UK membership of the Single Market and of the Customs Union is ruled out by the present Conservative government, a Free Trade Agreement (FTA) with the European Union is now firmly on the British official agenda. Though depicted as the best option for the UK, in reality it is the only type of possible deal – short of no deal at all – that remains following a process of elimination. But what does the FTA concept really mean in the context of the UK and the EU? An important conceptual point should be stressed. The term 'Free Trade Agreement' might generally create an impression of greater openness and the removal of barriers. It suggests the furtherance of a goal – 'free trade' – that has in recent decades received at least lip-service from much of the international community, posited in contrast to 'protectionism' (though, as we will see, attitudes and practices in this regard are potentially in transition).

But as it applies to the UK and the EU, an FTA would mean the reverse of these connotations. The UK is at present fully incorporated within a Single Market that represents a significantly greater degree of integration than any FTA could. An FTA will represent the raising not lowering of barriers, as the UK withdraws not only from the Single Market but also the European Customs Union. However it is portrayed, the only real debate will be about the nature and extent of the impediments to trade and commerce between the UK and the EU that are being introduced after the former leaves the latter.

In Eurosceptic narratives, an FTA has been depicted as more supportive of free trade on the claimed basis that it would release the UK from the burden of EU regulations while retaining tariff-free trade. This premise is misleading. The motivation for the establishment of a single European regulatory regime in the European Single Market was the desire to remove restraints on trade between member states other than those brought about by import duties: that is to say, to remove non-tariff barriers (NTBs) in addition to the already abolished tariff barriers. Free trade is by definition facilitated if commercial operations within a given territory are subject to the same set of commercial rules. In this sense, European social and economic regulations are supportive of free trade, since the alternative would be differing regimes, which individual member states would be tempted to utilise for protectionist purposes, safeguarding their domestic enterprises against competition from elsewhere within the EU. With such concerns in mind, elsewhere in the world FTAs have increasingly focused on the need to eliminate NTBs. As tariffs generally have lowered world wide, to achieve relative advantage FTAs

have had to engage regulatory harmonisation. This approach has also become a more prominent priority of the World Trade Organisation (WTO). Therefore, while an EU-UK FTA might involve a delinking of the UK and EU regulations – and indeed the UK government rhetoric might require such provision – to do so would be contrary to contemporary understandings of free trade, and would contradict current trends in FTAs.

Another sense in which an EU-UK FTA would represent a move away from free trade principles involves the wider trade policy that the UK seems intent upon pursuing. The Conservative government currently presents an agreement with the EU as one in a series of FTAs that it intends to negotiate with other international trading powers. If we are to accept this scenario at face value, it seems to imply a series of bilateral arrangements, each distinct from the other. Though the UK government also states that it will engage in multilateral processes, it is difficult to regard its FTA agenda as likely to be a contribution to global free trade, and far easier to perceive it as protectionist. What then might be the contents and scope of an FTA between the UK and EU? While we cannot predict precisely in advance, there is some value in using already-existing or under-development FTAs as a basis for projecting possibilities. Some observers have used previous deals involving the EU as a means of discerning the limits to an EU-UK FTA. They have noted, for instance, that FTAs which the EU has agreed to date have not provided access to the Single Market for services, including financial services, on the scale provided by EU membership. They have also noted the time-consuming difficulty of the negotiations that have historically preceded FTAs between the EU and other parts of the world.

In reality, Mrs. May's government is almost certainly encouraging expectations regarding what an FTA can realistically contain that are unrealistic. In particular, the UK government has stressed the idea of a bespoke post-departure arrangement, resting on some kind of combination of different features of existing deals between the EU and outside powers; and perhaps adding entirely new elements. While this idea has some validity, it is subject to objective constraints. To pursue an analogy, some cars come from a production line; others are built according to individual specifications. But all must be designed subject to the laws of physics. While the UK may not be limited wholly by previous models for trade deals, there are reasons why these generic frameworks came into existence, which include that certain arrangements might be difficult or impossible to combine with each other. Whatever is agreed, it is hard to suppose that the UK will be able to obtain outside the EU that which it could not when it renegotiated its position inside in 2016. Arrangements that required changes to the treaties comprising the EU would be particularly difficult to envisage.

Under an FTA the extent to which UK access to the Single Market is attained is likely to correlate with the degree to which the

UK is willing to conform to EU law. This realisation takes us back once more to the UK political context. The Conservative government has firmly bound itself to ending the jurisdiction of the ECJ within the UK. It has also made the promotion of parliamentary sovereignty part of its platform. An important rhetorical component of the Eurosceptic narrative has long been the idea that European integration was undesirable because of its implications for this constitutional doctrine. In its recent White Paper the British government accepted that during the period the UK has been within the EU and its precursors, Parliament has remained sovereign, that is the ultimate source of legal authority within the UK. But the government claimed that at times Parliament did not 'feel' sovereign.

This comment suggests that the primary purpose of leaving the EU is to respond to perceptions rather than to address objective reality. In pursuit of the goal of making Parliament 'feel' sovereign, the May government seems determined to ensure that the UK ceases directly to be subject to European law, and that law-making functions are fully repatriated from EU level to the Westminster Parliament (and potentially devolved legislatures). But what will be the outcome of this change in practice? As has already been noted, the elimination of NTBs is an increased focus for contemporary FTAs. The less provision an EU-UK FTA contains for the prevention of NTBs, the less meaningful it will be as a means of ensuring free trade between the two parties. For an FTA to be effective, there must be a means by which differences over the fulfillment of the agreement between the parties to it can be resolved. If the FTA is to be as comprehensive and deep as the UK government claims it intends it to be, sophisticated and robust institutions and procedures will be essential. Whether these mechanisms have direct force within the UK legal system or not, it will be necessary for both parties to the agreement, that is the EU and the UK, to abide by the decisions reached in arbitration, which may involve changing domestic law. If they do not, the FTA will be devalued.

It seems likely that the main thrust of the work of arbitration mechanisms will be to ensure, in the areas involved, that the UK remains in alignment with the EU. The UK, after all, is starting at a point of full incorporation into the EU legal order; and the EU will be by far the larger party to the agreement. Some advocates of 'leave' may view such an arrangement as amounting to the kind of 'damage limitation' models proposed by the Welsh Government and others who regret the result of the referendum and seek to minimise its impact. If arbitration mechanisms are made less intrusive in order to pacify those who object to what they perceive as the continued grip of European law and the ECJ, the UK may appear to retain a certain freedom of action. But equally, redress for perceived abuses on the part of the remaining EU will be difficult to obtain. Given the relative size of the EU and UK economies, such a position could well be

a greater problem for the UK than for the EU within the context of the FTA.

Or no deal?

There are a number of possible scenarios in which the UK might find itself – temporarily or on a more lasting basis – outside the EU without any agreement. When we assess the prospects for forthcoming negotiations, an important consideration is that Article 50 is not primarily concerned with the relationship between the departing member state and the EU post-exit. Rather it is focused on the terms of separation, that the Article states can take into account the ‘framework’ of the links that may follow. Yet in its pronouncements in advance of triggering Article 50, the UK government has concentrated on presenting its plans for the long-term arrangement.

The terms of Article 50 create the potential for those within the EU who wish to do so to prevent or at least significantly circumscribe consideration of the post-exit relationship. One interpretation of Article 50 some experts have advanced recently is that, while it might allow for a general discussion of a future arrangement, a distinct mandate under Article 218 of the Treaty on the Functioning of the European Union (TFEU) is required for its completion in full. Both sides of the negotiation will have an interest in an FTA of some kind. But the UK has been particularly keen to focus on this outcome rather than the exit terms. The latter may raise some politically unpalatable prospects for the UK, in particular the financial costs that may be imposed upon leaving. From the perspective of the other side of the negotiations, there is a more immediate interest in dealing with the separation deal, before progressing to an FTA.

Even if we operate on the assumption that there will be a shared desire of some kind to negotiate an FTA under Article 50, other problems may arise. First, there is the matter of practicality. That the UK would be starting from a position of integration into the EU might make the process slightly easier. Nonetheless, to achieve an FTA within the two-year time-frame set by Article 50 will surely be a challenging task. For comparative purposes, negotiation of the Comprehensive Economic and Trade Agreement between the EU and Canada began in 2007, but was only approved by the European Parliament in February 2017. A further complication is that FTA negotiations might rest partly on the post-EU status of the UK within the WTO, potentially creating a further issue to be resolved before the UK can transition directly from EU membership to a secure new arrangement. Moreover, the future viability of the WTO itself, as discussed below, could be in doubt, creating further difficulties for the UK in establishing a stable post-EU position for itself.

These complications might point to an interest – for the UK certainly, and perhaps from the EU point of view – in an extension

in the two-year deadline, something for which Article 50 allows if agreement is achieved with the European Council. But the domestic political dynamics that have shaped the UK approach from the outset would discourage the taking of this option, however sensible it might otherwise seem. The UK government will feel vulnerable to the charge from the media, from its own MPs and from UKIP that it is failing to deliver on the obligation created by the referendum with sufficient urgency and vigor.

If seeking an extension in the Article 50 time-limit is precluded, a further means of handling the problem of a lack of sufficient time to conclude an FTA would be to establish a set of transitional arrangements. The UK government has referred to the possibility of a ‘phased process of implementation’, though not in the context of a failure to meet the Article 50 deadline. A potential scenario is that the EU and UK have attained of a general heads of agreement within two years, leaving the details to be worked out later. This outcome, while more plausible than a complete FTA within the same schedule, is not guaranteed. But if it were, there would then be a need to establish interim arrangements after the end of the two years while the details are agreed. Such a transitional period would seem likely to involve the UK continuing to conform in some areas to EU legislation, possibly for a period of years; while at the same time losing the formal role it previously possessed in the determination of that same legislation. It is far from certain that this approach would be regarded any more favourably by those who exercise decisive influence over UK policy than an extension in the two-year period.

It is of course possible that negotiations will anyway collapse before the two-year limit. For instance, the likely terms of exit – including the UK paying a substantial sum running to tens of billions of pounds to dispose of obligations incurred as a member state – may be politically intolerable to the May government. The UK government, as noted above, has already warned that it regards departure without a deal as an option that it is willing to take (though May stresses that she regards it as unlikely she will need to do so). At some point, UK ministers may draw the conclusion that they should simply walk away from the EU, if they regard negotiations as likely to prove unsatisfactory.

There are, therefore, a variety of plausible ‘no deal’ outcomes. The commonly advanced scenario is that, in such circumstances, the UK will become subject to ‘WTO rules’. The way in which this option is presented might convey the impression that it is an already-defined, default option. The reality is more complicated. While the UK is a member of the WTO, it shares with the EU a common schedule of concessions, defining both its responsibilities and its entitlements in relation to imports and exports. How, precisely, they were divided up between the UK and the remaining EU would be a matter for negotiation, and any agreement arrived at would need to be approved by all members of the WTO. While it is difficult to predict how

this process might play out, it cannot be excluded that political complications would arise. The resolution of the WTO position could potentially be required early in the Article 50 process, since it might be a prerequisite for the negotiation of an EU-UK FTA. It will certainly become the preeminent concern should the prospect loom of UK exit from the EU without an FTA or transitional arrangements.

Clearly, the UK will continue to trade with the outside world in whatever post-EU circumstance might come about. Even if an agreement regarding WTO concessions cannot be reached in time, the UK would probably proceed on a basis of what it felt it could reasonably assert its schedules should be, though this outcome would not be ideal from the point of view of certainty and stability. WTO rules will protect the UK against discrimination; but equally will restrict its freedom of action. Having lost all the FTAs accessed as an EU member, the UK would have to commence negotiating its own FTAs. This process could prove lengthy. In the meantime, the UK could not (under WTO rules) introduce preferential tariffs for one favoured trading partner without applying them to all. Such a position would be one of weakness. Parties with which the UK was negotiating might be able to deploy the need of the UK to secure FTAs against it during the negotiating process.

The shifting framework

The discussion so far has involved a projection of possibilities within existing political frameworks within the UK and in the outside world. But we should avoid assuming a stable scenario. First, there is the EU context. Up to now, the remaining EU has maintained a relatively unified outward posture towards the UK. In particular, it has been firm in declining to commence preliminary talks, even informally, in advance of the UK triggering Article 50. But divisions between member states could appear in future. Events potentially triggering disagreements include the elections that are due both in France and Germany. They could be compounded if there were a renewal of financial problems in the Eurozone. Some on the Eurosceptic side of UK politics seem to hope for a weakened, destabilised EU. They may even see themselves as part of a European or even global movement that is overturning established elites, of which the EU is an egregious personification. They might hope that the UK prompts other countries to seek to leave the EU, possibly leading to its collapse. It is important not to exaggerate possibilities in this area. Indeed, it is possible that one could argue that the prospect of UK departure, combined with other developments, will lead to greater unity among the remaining member states. Yet were an undermining of the EU to manifest itself, would this outcome be helpful to the UK in pursuit of its present exit agenda? It would at the very least postpone the possibility of attaining an FTA,

and perhaps even mean there was no longer a coherent EU with which to negotiate. The UK would be a double loser in such circumstances.

A second unknown quantity is the United States presidency of Donald Trump. He has proposed various significant shifts in US external policy. They include downgrading the relationship with China and favouring improved links with Russia. Trump appears to be hostile to the underlying concept of European integration, an approach that represents a break with an American outlook that dates to the 1940s. In this context Trump has said he wants to prioritise an FTA with the UK, welcoming its proposed exit from the EU. He also appears more generally to favour a departure from internationalist free trade, and the adoption of a more isolationist, protectionist policy. In Trump rhetoric, unilateral international action and the violation of existing agreements and norms appear as a virtue. How seriously we should take Trump in his stated intentions, or in his political capacity to deliver on them even if he intends to, remains to be seen. The striking of a US-UK FTA would not in any case be a simple task. It would not possess the benefits of prior integration that might assist an EU-UK negotiation and the extent to which US objectives could be matched with those of the UK remains unclear. But nonetheless the Trump ascendancy has created further uncertainty about the future of the EU, about security in Europe, and about the global free trade consensus. It also suggests a shifting of geopolitical configurations, within which the UK would not necessarily be a winner.

Some might see in these developments opportunities that the UK on its current projected path is well-placed to exploit. They may hold that the UK is correct to decouple itself from a failing international order embodied by organisations such as the EU and the WTO. They may argue that, with a rise of protectionist nationalism underway, the UK enjoys a valuable 'first mover' advantage in adopting policies that fit with this new model. But others (whether supporters or opponents of UK departure from the EU) will be less comfortable with this prospectus. They may see problems in the UK being associated with international forces of populism, and even becoming informally aligned with an emergent Washington-Moscow axis; and in encouraging the undermining of the EU, the WTO and the rules it promotes, and basic principles of international law. Will the UK prosper in this possible emergent environment? If the WTO is no longer functional, the WTO-rules option that the UK government presents an insurance policy should negotiations with the EU fail, will no longer be available. Trump may not prove to be a reliable ally. His relationship with Vladimir Putin could ultimately prove less than harmonious, and the gains that the UK can expect from either are unclear. It is hard to regard increased Russian influence in Europe as likely to promote stated principles of the UK government. Rather than being a beneficiary of newly-forged diplomatic and

trade networks, the UK may simply isolate itself from its more natural allies among the EU member states. The manner in which it has left the EU – perhaps unilaterally, following a breakdown in exit talks under Article 50 – may create reputational problems for it in future international dealings. Is it desirable for the UK to acquire a reputation as junior grave-digger with Donald Trump of the international rule of law? Should we really be helping this scenario to come about in the hope of benefiting from it, possibly at the expense of our European neighbours? Or should we work in conjunction with our present EU allies to resist this outcome?

The third area of possible change involves the domestic political environment. Whatever view is taken on the appropriate response to current global uncertainties, they accentuate contradictions in the present rhetorical platform of the UK government. It has chosen to accept an overriding political imperative in embracing enthusiastically the ‘leave’ agenda, rejecting the Single Market and the Customs Union, and even openly countenancing exit without a deal. This posture is difficult to reconcile with the stated desire of the administration not to undermine the EU, and to promote international free trade and the global rule of law. As the earlier discussion in this paper suggests, the government stance on future relations between the UK and the EU seems unlikely to achieve other claimed objectives, neither enhancing the ability of the UK to trade globally nor avoiding abrupt discontinuity and business uncertainty. If these latter outcomes were genuinely sought by the UK government, even Conservative ministers might be tempted to consider halting or even reversing their plans for exit from the EU. Instead, members of the present UK government are definitively set against such a change of course; indeed they are currently at the forefront of domestic forces driving in the opposite direction.

Yet political contexts can change; policies can alter; and governments can be replaced. Parliament – or more precisely the House of Commons – remains able to assert itself more decisively if it chooses. Under UK constitutional arrangements, governments hold office subject to their possessing the confidence of the Commons. This relationship is probably the most important feature of our democratic system. If MPs are sufficiently uncomfortable with the direction in which ministers are taking the UK, and its relationship to global developments, they can install a different government, with a different policy.

To do so might entail a party-political realignment of historic scale, or at the very least simultaneous changes at senior level. At present the Labour Party, which has internal difficulties of its own, is failing to fulfil the role of an Opposition in this most critical of areas. Its current leadership, and many of its MPs, find resistance to present government postreferendum policy as politically difficult to contemplate. Similarly, many MPs within the governing Conservative Party, both ministers and backbenchers,

though they are uncomfortable with the current approach, feel precluded from openly expressing dissent. It is only smaller parties – most notably the Liberal Democrats and the Scottish National Party – that are more assertive or overt in their resistance. Some resistance has come from the House of Lords (see appendix B). But there are political limits to how far the unelected chamber may be willing to impose itself, especially without significant support from the Commons. So while the constitutional means to force a change of policy exist, the necessary party-political alignments and configurations are not currently in place. At popular level, those who do not wish to leave, or only desire exit to take place on a consensual basis, are not fully provided for by the system. Unfolding circumstances might cause concern among the elite to grow to a point where acquiescence in a supposedly irresistible referendum mandate is no longer considered viable. Perhaps most importantly of all, events could lead to a substantial shift in public opinion away from exit as the realities of this proposition unfold. Such factors could combine to produce an epochal recalibration of the British party political landscape on a scale matching the unparalleled gravity of the decisions that the UK will be facing over the coming years.

Appendix A

Excerpts from The United Kingdom's exit from, and new partnership with, the European Union White Paper (February 2017, Cm 9417)

The Government will then put the final deal that is agreed between the UK and the EU to a vote in both Houses of Parliament (p. 11)...

We will take control of our own affairs, as those who voted in their millions to leave the EU demanded we must, and bring an end to the jurisdiction in the UK of the Court of Justice of the European Union (CJEU) (p. 13)...

The sovereignty of Parliament is a fundamental principle of the UK constitution. Whilst Parliament has remained sovereign throughout our membership of the EU, it has not always felt like that (p. 13)...

We recognise that ensuring a fair and equitable implementation of our future relationship with the EU requires provision for dispute resolution (p. 14)...

We will design our immigration system to ensure that we are able to control the

numbers of people who come here from the EU. In future, therefore, the Free Movement Directive will no longer apply and the migration of EU nationals will be subject to UK law (p.26)...

We will not be seeking membership of the Single Market, but will pursue instead a new strategic partnership with the EU, including an ambitious and comprehensive Free Trade Agreement and a new customs agreement (p.35)...

We do not seek to adopt a model already enjoyed by other countries. The UK already has zero tariffs on goods and a common regulatory framework with the EU Single Market. This position is unprecedented in previous trade negotiations. Unlike other trade negotiations, this is not about bringing two divergent systems together. It is about finding the best way for the benefit of the common systems and frameworks, that currently enable UK and EU businesses to trade with and operate in each others' markets, to continue when we leave the EU through a new comprehensive, bold and ambitious free trade agreement (p.35)...

That agreement may take in elements of current Single Market arrangements in certain areas as it makes no sense to start again from scratch when the UK and the remaining Member States have adhered to the same rules for so many years (p.35)...

After we have left the EU, we want to ensure that we can take advantage of the opportunity to negotiate our own preferential trade agreements around the world. We will not be bound by the EU's Common External Tariff or participate in the Common Commercial Policy. But we do want to ensure that cross-border trade with the EU is as frictionless and seamless as possible. These are our guiding objectives for the future customs arrangements with the EU (p.46)...

By leaving the EU we will have the opportunity to strike free trade agreements with countries around the world. We will be champions of free trade driving forward liberalisation bilaterally, as well as in wider groupings, and we will continue to support the international rules based system (p.51)...

Our approach to trade policy will include a variety of levers including: bilateral FTAs and dialogues with third countries, participation in multilateral and plurilateral negotiations, market access and dispute resolution through the WTO, trade remedies, import and export controls, unilateral liberalisation, trade preferences and trade for development (p.54-5)...

Without the need to reflect the positions of the EU27, an independent trade policy gives us the opportunity to strike deals better suited to the UK and to make quicker progress with new partners, as well as those where EU negotiations have stalled (p.55)...

The UK is a founding member of the WTO and has been a member of the General Agreement on Tariffs and Trade since 1948. Our WTO membership will form the bedrock on which we build our future trade relationships (p.56)...

[W]e want to have reached an agreement about our future partnership [with the EU] by the time the two year Article 50 process has concluded. From that point onwards, we believe a phased process of implementation, in which the UK, the EU institutions and Member States prepare for the new arrangements that will exist between us, will be in our mutual interest (p.65)...

We are confident that the UK and the EU can reach a positive deal on our future partnership, as this would be to the mutual benefit of both the UK and the EU, and we will approach the negotiations in this spirit. However, the Government is clear that no deal for the UK is better than a bad deal for the UK (p.65)...

On 23 June 2016, the people of the UK voted to leave the EU. This Government will carry out their will. We are confident that the UK can have a successful and independent future outside the EU, which works for all the people of the UK, regardless of how they voted in the referendum (p.67)...

This Government will make no attempt to remain in the EU by the backdoor, nor will we hold a second referendum on membership (p.67)...

It remains overwhelmingly and compellingly in the UK's national interest that the EU should succeed. Our vote to leave the EU was no rejection of the values we share. The decision to leave the EU represents no desire to become more distant to our friends and neighbours in the EU. It was no attempt to do harm to the EU itself or to any of its remaining Member States. Rather, the vote was driven by a desire to restore our own parliamentary democracy, national self-determination and to become even more global and internationalist in action and in spirit. We certainly do not want to turn the clock back to the days when Europe was less peaceful, less secure and less able to trade freely. (p.67)...

So we will continue to be reliable partners, willing allies and close friends. We want to continue to trade with the EU as freely as possible, to cooperate to keep our countries and our citizens safe, to promote the values the UK and EU share – respect for human rights and dignity, democracy and the rule of law both within Europe and across the wider world, to support a strong European voice on the world stage, and to continue to encourage travel between the UK and the EU (p.67)...

(1) The Prime Minister may not conclude an agreement with the European Union under Article 50(2) of the Treaty on European Union, on the terms of the United Kingdom's withdrawal from the European Union, without the approval of both Houses of Parliament.

(2) Such approval shall be required before the European Parliament debates and votes on that agreement.

(3) The prior approval of both Houses of Parliament shall also be required in relation to an agreement on the future relationship of the United Kingdom with the European Union.

(4) The prior approval of both Houses of Parliament shall also be required in relation to any decision by the Prime Minister that the United Kingdom shall leave the European Union without an agreement as to the applicable terms."

Appendix B

Lords amendments to the

EUROPEAN UNION (NOTIFICATION OF WITHDRAWAL) BILL

Clause 1

1 Page 1, line 3, at end insert—

"() Within three months of exercising the power under subsection (1), Ministers of the Crown must bring forward proposals to ensure that citizens of another European Union or European Economic Area country and their family members, who are legally resident in the United Kingdom on the day on which this Act is passed, continue to be treated in the same way with regards to their EU derived-rights and, in the case of residency, their potential to acquire such rights in the future."

After Clause 1

2 Insert the following new Clause—

"Parliamentary approval for the outcome of negotiations with the European Union