

OWNING THE FUTURE

the **LEFT'S RELATIONSHIP**



with **EUROPE**

With contributions from:

**YANIS VAROUFAKIS • ALEX SOBEL MP • RICHARD CORBETT MEP
CATHERINE WEST MP • MANUEL CORTES**

A pamphlet by

OPENLABOUR



July 2018

No part of this publication may be reproduced, distributed, or transmitted for commercial purposes without the prior written permission of the Open Labour Committee. This excludes the use of quotations for critical reviews and other non-commercial purposes. For more information and permission requests, write to admin@openlabour.org.

With special thanks to UNISON



Contents

Forward by Alex Sobel MP (page 3)

Part One: Withdrawal Agreement and risks (page 6)

- The risks in transition and the future framework (page 7)
- The protections needed in a new EU UK Agreement (page 8)
- The options test in creating a new EU UK Agreement (page 14)

Part Two: Options on the table (page 15)

Five options for a future EU UK Trade Agreement

- Staying in the EU (page 16)
- The Customs Union/A Customs Union (page 17)
- Norway – an EEA option and/or Single Market option (page 21)
- Free trade deals (page 29)
- No deal (page 33)

Part Three:

- Conclusions for the Left (page 35)

Contributions from

Yanis Varoufakis, Economist, Academic and Politician (page 28)

Richard Corbett MEP (page 40)

Catherine West MP (page 11)

Manuel Cortes, General Secretary TSSA (page 17)

Edited by Allison Roche (UNISON Policy Officer) and Emma Burnell (Freelance writer)

INTERNATIONAL SOCIALISM NOT SOCIALISM IN ONE COUNTRY

FOREWORD BY ALEX SOBEL MP

Socialism is internationalist. As socialists, we ought to be taking down borders between workers; not putting new ones up. Labour deserves, at a minimum, the same rights and freedoms as capital if we are to be masters of the system, not its servants.

The political aim of the Left has always been to improve labour, social and environmental conditions. At present, the goal of the UK Left should be to place ourselves ahead of the standards set by the EU. This means that we view EU regulations as a base not as a ceiling. The principle of a rule governed European Single Market should only ever worry the regressive Right, never the progressive Left.

If we detach ourselves from the EU and advocate an isolationist socialism - then when production leaves the UK, the neo-liberal response will always be to cut our wages, to cut our rights, to cut our safety protections and to cut our environmental regulations.

What will we have left to fight them? To rephrase Frank Owen, the hero of the Ragged Trousered Philanthropists:

...will the good kind capitalists save our hard-won rights if we tax all foreign-made goods?

Why is this Pamphlet Important?

In this pamphlet we outline the future options for a new EU-UK relationship:

- I. Staying in the EU
- II. The Customs Union / A Customs Union
- III. Norway – an EEA option and/or a new Single Market option
- IV. A Free trade deal
- V. No deal

We have set out how each option creates or limits opportunities to build a prosperous future for the UK and Europe.

Some options can be combined and we explain how this would bring more benefits and/or risks to the Left's vision of the EU.

There's no such thing as a trade deal without any protectionism or regulations

“The Common Market—Europe’s newest ‘constitutional regime’—represents a new phase in the development of bourgeois society in Europe. To vote in favour of that regime ‘in a revolutionary sense alone’ does not imply surrender to or alliance with the left’s enemies. It means exactly the opposite. It signifies recognizing and meeting them as enemies, for what they are, upon the terrain of reality and the future. It implies a stronger and more direct opposition to them, because an opposition unfettered by the archaic delusions of Europe’s anciens regimes”.

Tom Nairn, The Left Against Europe 1972?”

Whatever our new relationship with Europe, we need to be clear that tariffs and protections will both have a role to play. This will apply to any future EU deal and any new trading deals with non-EU countries.

LSE analysis compared EU trade barriers with those of key proposed future partners (Australia, Canada and the US) and demonstrated that “the EU is already one of the most open economies in the world.”ⁱ They found:

- The EU has the second lowest manufacturing tariffs after Japan.
- The EU and US are on a par with primary tariffs (agriculture).
- The US imposes more restrictive rules for product markets than Germany or the UK.
- The US is much more protectionist in services than Germany and the Netherlands.
- Only in professional services does the US offer comparable market access to the very open Australia and Netherlands.

The LSE report concludes:

“Looking beyond trade to regulations for services and product markets, important EU member states are less protectionist than other overseas markets. That doesn’t mean that the UK won’t be able to improve its trade relations with new partners, once the country starts negotiating its own trade agreements. But getting better access than what these countries offer to the European Union would require a herculean effort by the UK and a sudden outbreak of enthusiasm for free trade among these countries.”ⁱⁱ

The data shows that it would be difficult for the UK to replace EU trade with the US trade. In reality, a new trading relationship would be unlikely to liberate us from the protectionist policies practiced by nations like Australia, Canada and the US. The only option would be for the UK to ‘free itself’ through a radical unilateral liberalisation.

Unilateral liberalisation is a dangerous flight from reality by hard Brexiteers. Labour must argue against it. The truth is that unilateral free trade (tied in with WTO rules) is not economically superior to EU membership and would harm both workers and consumers in the UK.

Fight Back Not Fall Back

The left in Europe is in crisis. Members of the Party of European Socialists (PES) are in retreat with very few sister parties in Government and general membership falling. Only one member of the PES has had a significant revival in membership and growth in representation in their lower house - the British Labour Party. The energy and anti-austerity politics of the Corbyn-led Labour Party has much to offer our sister parties in Europe. Now is not the time to retreat into the UK but to lead a fightback of the European left. When the left is strong in national parliaments across Europe, the EU then enacts social legislation that gives us stronger labour, social and environmental standards.

The left in Europe needs new energy and ideas and Labour can lead them in this. We can own the future if we get our relationship with Europe right.

PART ONE

Risks in the Withdrawal Agreement

The Withdrawal Agreement (WA)ⁱⁱⁱ that the UK Parliament, the EU Parliament and the EU Council will agree is expected in late autumn 2018. It will contain the terms of the Withdrawal, Transition Period and define the Future Framework of the UK-EU Agreement.

Two years on from the European Union referendum, the Government has still not made it clear what they want in the WA. All that we know is what they don't want – their non-negotiable redlines. Negotiations on the future framework are beginning while, at the same time, the first part of the WA has stalled over Northern Ireland and the 'backstop'. The prospect of 'No Deal' is drawing closer and closer with less than nine months to go before we're due to leave the EU. The deal won't meet the timetable agreed and the UK Parliament won't be able to pass the Withdrawal and Implementation Bill needed in time to implement the WA in the UK.

Parliament, civil servants, the general public, business, EU citizens in the UK and devolved administrations only have a sketchy view of the Government's proposed future relations with the EU. A view that is built on a fragile Cabinet consensus and haunted by the likelihood that several members of the Government will not survive the negotiations with Europe.

This is a government riddled with indecision, infighting, and uncertainty. If the Government fails to reach a deal with the EU, or if the deal they reach is deemed not acceptable, MPs must be empowered to act.

There is a real risk that the UK crashes out of the EU with no deal because the timetable can't be met. The Commons must be given a decisive say as to what should happen if Parliament rejects a deal agreed between the Government and the EU27, or if there is no deal due to the inability of the Government to back a deal that the EU will accept.

Risks in the Transitional Period and UK – EU Future Framework

The Transitional Agreement will be included in the Withdrawal Agreement (WA). The end of the transition period or ‘implementation period’ is now two and a half years away, December 2020. In January 2021, the new UK-EU relationship will be in place.

In the transition period, it’s currently agreed that the UK’s arrangements with the EU will remain the same. The time is to be used to prepare for the new relationship in 2021.

So far, the UK hasn’t yet agreed its opening position for negotiations on the future framework, which will have to be agreed by the EU and go into the WA by autumn 2018. We are waiting for a Brexit White Paper in July. Until we see the proposals, and they are accepted by the UK Parliament, EU Parliament and the EU Council, nobody can begin preparations as it’s not clear what we are preparing for.

A second risk is that while we may have a Future Framework to work from by March 2019, we still will not know what the final ‘negotiated outcome’ will look like, as the detailed talks, building on the Future Framework, will take place during the actual implementation or transitional period itself.

During the transition/implementation period, how will finance, business, the civil service, the judiciary, government agencies, public authorities and the devolved assemblies plan for different versions of the future relationship?

Finally, it is worth noting that the new EU-UK Agreement will likely be a “mixed” arrangement. As such, the parties to it would not only be the EU and the UK but also all 27 EU Member States. The agreement will thus require the approval of the 27+1 national parliaments (and, possibly, regional assemblies in some EU Member States). The mixed character of the agreement would complicate its application and its ratification requirements, which could also delay its entry into law.

The best transitional arrangement with the EU is to keep the current rules of Single Market and Customs Union membership for as long as is necessary whilst we agree a final new EU-UK arrangement with the European Union and then provide additional transition time so that the UK can make all the necessary preparations.

Avoiding risks in the Withdrawal Agreement

- Parliament must have a meaningful vote on the details of the Withdrawal Agreement.
- Parliament must take back control and direct the Government in negotiations if there is a no deal.
- The Transition Period must be extendable to enable preparations for the final UK – EU deal.

What protections do we need in the Withdrawal Agreement?

1. The continuing role of the European Court of Justice (ECJ) in Brexit disputes

Both the Withdrawal Agreement and the framework for a future EU-UK Agreement will undoubtedly lead to disputes between the EU and UK. Significant divergences remain over the process to resolve future disputes arising, particularly during the transitional period where EU law will continue to apply to the UK.

The EU has said a joint EU-UK committee will be established to oversee and implement the withdrawal agreement. This will have broad authority, but ultimately the ECJ will still be the ultimate decider on matters relating to the withdrawal treaty. The UK is opposed to continued ECJ jurisdiction beyond the end of transition, so this will be a point of dispute in negotiating the final treaty.

While the UK government has conceded a role for the ECJ on existing citizens' rights (for eight years), it wants to leave the court's jurisdiction in all other areas.

The Withdrawal Agreement and the EU-UK future agreement should state that during the transition period the UK must remain under the ECJ jurisdiction. This will ensure that the government's ability to weaken UK workers' rights or lower standards and regulation during the transitional period is curtailed.

Any future alternative dispute mechanism must be democratic and accountable to the UK and be appropriate to the type of final EU/UK agreement. The government cannot

be allowed to use the rhetoric of ‘take back control’ as an excuse to try and wriggle out of high standards and regularity obligations that do not protect public services and would inevitably put the UK in a ‘global race to the bottom’ or risk the UK becoming an off-shore tax haven.

2. EU Citizens Rights

The Government has agreed that EU citizens living in the UK will have full *acquis* rights – including family reunification rights – after we leave the EU on 29th March 2019.

The Government has also stated that during the transition period, EU citizens will be able to continue to visit, live and work in the UK as they do now and the UK will offer them a “status quo” transitional period until December 2020, including free movement and citizens’ rights for those who settle in the UK during that period. Additionally, the deadline for a residence document application will be December 2022 at the earliest – two years after transition.

The Withdrawal Agreement must not include any Tory government attempts to introduce a new confusing two-tier system for EU Citizens, limiting transitional and post Brexit EU workers their ECJ rights and Freedom of Movement. Complicated restrictions on the migration of EU citizens will be disastrous for the UK National Health Service, social care, and other services and sectors dependent on their labour.

3. Employment Rights and future role of the ECJ

The Government has said that it will not weaken any workers’ rights. Whilst during the transition period all rules and regulations will remain as they stand, after the transition period, working people in the UK could lose out. The transitional rights and protections must be extended and secured in the future EU-UK agreement.

The EU Withdrawal Bill leaves employment, equality and human rights vulnerable. These rights can be revised and weakened by any future government straight after Brexit, as the Bill authorises a range executive powers to be used by Ministers to circumvent parliamentary scrutiny and accountability.

There is also a genuine risk that the rights of UK workers will not keep equivalence with workers’ rights in EU – including equality and employment law – delivered through future EU standards or decisions of the ECJ. The EU would like the ECJ to receive referrals of new court cases involving the UK after Brexit day, but it appears the Government is holding on to its position that the ECJ will only be referred to when UK courts feel it is necessary.

In the EU Withdrawal Bill, the Government wanted a general halt on bringing legal action on the grounds of failure to comply with the general principles of EU law but

settled for allowing claims to be brought in specified circumstances for three years from exit day.

In both the Withdrawal Agreement and the future EU- UK Agreement it is vital we get three key guarantees:

- Protection of existing EU-UK employment rights.
- A commitment that UK employment law will keep pace with improvements in EU social and employment policy.
- Ensuring that UK courts have regard to both existing and new ECJ decisions once the UK leaves the EU.

4. Equal Level playing field with alignment of rights, regulations and standards

Leaving the EU does not mean severing our ties with Europe. In any new deal we will need to decide how far we should continue to align our existing rights, regulations and standards with Europe.

The future framework needs to include a 'regression clause' with the new UK-EU deal so that existing regulations and standards cannot be removed or weakened. This clause, and a mechanism to upgrade these rights in line with EU improvements, would put the UK on a level playing field with the EU. It would secure economic growth with high living standards, decent public services and would give us now, and in the future, protection for workers' rights, health and safety and environmental protections, equalities and human rights.

5. Preventing a hard Irish border

Brexit poses major challenges for Northern Ireland (NI). It threatens to hinder access to EU markets, especially cross-border trade with the rest of Ireland. It will significantly disrupt highly integrated cross-border markets and supply and production-chains. There is a great risk of damaging the peace brokered by the 1998 Good Friday Agreement (GFA). The all-Ireland dimension of GFA is rooted in the UK sharing a common set of EU rules with the Republic. By impeding the movement of workers, and people more generally, across the border, questions about the future of the Common Travel Area as well as cooperation on policing and criminal justice matters will inevitably surface.

Peace in Northern Ireland must be at the heart of any deal

Catherine West MP

Peace in Northern Ireland is one of principal concerns for all parties negotiating the United Kingdom's withdrawal from the European Union.

Due to its unique history, Northern Ireland ought to be at the heart of the negotiations. Its 300-mile land border with the Republic of Ireland, and its - at times - splintered political structures, its economy and the lasting terrorist threat continue to cause concern.

Many now worry that Northern Ireland's economic and political fabric could tear as the UK tumbles toward a Hard Brexit. In part, that is because joint EU membership helps to underpin the Good Friday Agreement. The Irish Government ceded Articles Two and Three of their Constitution, which claims jurisdiction over the whole island of Ireland, when they entered the GFA. They relied on the assertion of collective European identity to reassure republicans in Northern Ireland that the island would come closer together.

Moreover, the EU has played a large role in boosting Northern Ireland's economy through structural funds. Northern Ireland, compared to the rest of the UK, benefits disproportionately from the Common Agricultural Policy. If, as many expect, London's fiscal transfers do not match the lost EU funds, their economy could be hit hard. Leaving the EU also puts Northern Ireland at risk of losing funding for peace and reconciliation programmes.

Meanwhile, Ireland, the EU and the UK Government have all repeatedly made clear their opposition to a hard border, which locals and campaigners say could risk the peace process and also hit cross-border trade and the economy.

However, currently the UK Government has ruled out being in the Customs Union with the EU. This means, as all sides begin to acknowledge, in the absence of regulatory alignment, there will be a hard border on the island of Ireland.

This has led to MPs of all political parties to call for remaining in the Customs Union, or at minimum committing to regulatory alignment, and this wish is echoed by many including Irish Foreign Affairs Minister Simon Coveney, Ireland's EU Commissioner Phil Hogan and Michel Barnier.

The EU 'backstop' for Ireland

An agreement on the Irish border must be reached between Westminster, Dublin, the EU and the political parties of Stormont. In the event of not finding an agreement, a 'backstop' has been agreed.

The agreed 'backstop' states that:

“In the absence of agreed solutions, the United Kingdom will maintain full alignment with those rules of the Internal Market and the Customs Union which, now or in the future, support North-South cooperation, the all-island economy and the protection of the 1998 Agreement”

The legal text supporting the backstop that must go in the Withdrawal Agreement has not been agreed. Both the UK and EU proposals are supposed to be temporary (but not time limited) and to act as an insurance policy until the two sides strike a long-term trade deal that maintains an invisible border.

1. The EU issued its own legal text to give effect to the backstop in February. The EU proposes that should no solution be found then a common regulatory area comprising the EU and Northern Ireland will be established and Northern Ireland will remain in the EU Customs area. This has been rejected by the UK as it is seen to threaten the constitutional integrity of the UK by moving the EU border to the Irish Sea. It would mean that mainland Britain and NI would have different post-Brexit regimes.
2. The UK issued its own text in June to replace the EU plans that keep only Northern Ireland in the European Customs Union and parts of the Single Market. The UK proposes the entire country, not just Northern Ireland, will remain part of the Customs Union territory of the EU even after the Transition period ending in 2020. This has been rejected by the EU because the backstop cannot apply to the whole of the UK as the Four Freedoms of the Single Market are indivisible.

It's looking unlikely that a solution to the Irish border will be found soon – we are looking again to October or December, threatening the timeline for an orderly Brexit and edging toward a 'No Deal' scenario.

The EU has stepped up its warning to the UK government saying that its proposal to remain temporarily aligned to the EU customs regime beyond 2020 won't prevent the re-emergence of checks along the 310-mile Irish border because it "does not cover regulatory controls, leading to a hard border". It has concluded, "an approach on regulatory standards" will "also need to be addressed."

The EU backstop has also been criticised for reducing Single Market access for Northern Ireland to goods, including agriculture and energy.

The UK backstop proposal is even more limited as it only explicitly deals with customs processes and does not engage with issues such as regulatory alignment, agriculture, fisheries and environment that the EU backstop covers.

The Government has agreed "an approach on regulatory standards ... will also need to be addressed". This is because, if there is no regulatory alignment between the two sides of the border, there must be, for example, regulatory checks on sanitary and phytosanitary rules of the various agricultural products that will be crossing to ensure the integrity of the Single Market. However, there remains no indication as to when to expect the UK proposals on regulatory alignment.

The legal text in the Withdrawal Agreement and future EU-UK Agreement on protecting the Good Friday Agreement and avoiding a hard border must be clear and no sunset clauses should be introduced. We cannot allow the hard Brexiteers to roll back any part of the GFA peace agreement for Ireland now or in the future.

There is a current trend at the heart of Theresa May's Brexit approach towards centralising power and averting scrutiny. This includes the way devolved administrations have been treated. The way that this government is using their powers to Exit the UK has challenged the trust comfort zone of some devolved regions.

Wider devolution agreements must respect the current UK settlement and consensus must be found and applied to all areas that require joint agreement under the Common Framework.

The options test in creating a new EU-UK Agreement

To achieve a new EU-UK Agreement that puts workers' rights and jobs first, we need to ensure that the following key rights, standards and beneficial trade harmonisation measures are included in the new agreement:

- A new UK-EU deal that protects jobs by preserving tariff-free, barrier-free, frictionless trade with the rest of Europe.
- Democratic and fair dispute settlement procedures between the EU and UK.
- Retention of current employment rights and guarantees of future EU alignment.
- Trade union social partnership rights and an end to EU neo-liberal bias.
- Decent jobs, living and housing standards rights.
- Access to quality public services and social security rights.
- Right to nationalise and use state aid.
- Equality and human rights.
- Fair migration and Freedom of Movement rights.
- No hard border between Ireland and Northern Ireland, Gibraltar and Spain.
- Environmental, sustainable development and climate change standards.
- Consumer, Constitutional and Civil rights.
- UK fair Devolution rights.

A clear commitment to UK Rights must be in any future UK-EU Agreement

These rights must form the basis of the new agreement with Europe and lay the grounds for a level playing field, whatever type of Brexit option we opt for.

Without these rights, we will not be able to provide decent jobs or invest in quality public services, stop the race to the bottom in global trade deals and curtail further liberalisation of our services.

PART TWO

Options on the table

This rest of this pamphlet aims to look at the five options for a new EU UK Agreement:

- I. Staying in the EU**
- II. The Customs Union / A Customs Union**
- III. Norway – an EEA option and/or a new Single Market option**
- IV. A free trade deal**
- V. No deal**

Option One: Stay in the EU

An Essay by Manuel Cortes, General Secretary TSSA

Staying in the EU would allow the UK to continue to have full access to the Customs Union and Single Market. It would allow for the Four Freedoms - Freedom of Goods, Capital, Services and most importantly Freedom of Labour Movement.

There is a wide recognition on the Left that the EU has lost its social focus and tends to side with business over labour. In recent years we have witnessed the emergence of a neo-liberal institutional order and ethos with the EU institutions. With the imposition of austerity budgets following the 2009 crash, the EU protected banks, capital and global finance but hurt ordinary workers.

The Labour Party, unions and organisations such as Another Europe is Possible, who all campaigned for remain in the EU referendum, largely agreed with this criticism. However, they argued that UK workers and the economy would be better off in the EU and the more pressing need is to focus on building a new Socialist Europe.

Since the mid-1970s, EU employment law has played an important role in protecting working people in the UK from exploitation and in combating discrimination. Unlike in many other western EU member states, where domestic social policy and collective bargaining frameworks provide a higher level of protection which exceeds the EU minimum standards, EU social policy has played a central role in raising employment standards in the UK.

In fact, employment rights derived from the EU have protected workers in the UK from governments exploring the adoption of a US style system of employment relations. This would be based on flexible working practices, a hire-and-fire culture and the absence of statutory employment rights.

As well as improving standards in EU Member States, EU employment law has reduced the risk of 'social dumping'. In the absence of existing safeguards, it is likely

there would have been a ‘race to the bottom’, with countries seeking to compete based on lower pay and conditions and reduced employment protection.

The EU, in its negotiations, has been considering areas where the UK could seek to depart from EU standards to gain benefits^{iv}. While the Prime Minister has repeatedly claimed workers’ rights will be protected and even enhanced after Brexit, the UK Foreign Minister, Boris Johnson, spoke of a regulatory framework freed from the EU to suit the particular needs of the UK and for the UK to take advantage of Brexit through regulatory divergence for economic gain.

There are also plenty of examples of other stakeholders increasing the pressure upon the Government to shred workers protections. In 2017, Employers’ groups and lawyers also called for weaker employment standards once we leave the EU. The Daily Telegraph is running a campaign to “Cut EU red tape” as part of the negotiations and has called on the Conservative Party to promise a “bonfire of EU red tape”. John Longworth, Chair of Leave Means Leave^v, published an article claiming that the EU Working Time Regulations have made UK companies less competitive in world markets as well as taking issue with the Agency Workers Directive.

The unpublished impact assessment of the British government (only recently made available to Members of Parliament in a reading room) also concludes that “leaving the EU could provide the UK with an opportunity to regulate differently across social, environmental, energy, consumer and product standards”.

Remaining in the EU is the best way to protect workers’ rights, give UK workers back freedom of movement and avoid the risks of regulatory divergence that will only benefit those who seek to de-regulate the UK to the benefits of private interests.

End

Option two: The Customs Union/ A Customs Union

The Customs Union is an agreement between EU Member States that facilitates free trade by ensuring they all charge the same import duties to countries outside the union.

The EU also has other customs union agreements - which vary in scope - with Turkey, Andorra and San Marino. So, you do not have to be a member of the EU's Single Market to be in a Customs Union with the EU. You can negotiate a Customs Union Agreement.

Member States also agree not to impose tariffs on goods travelling between countries in the union. The agreement reduces administrative and financial barriers to trade such as customs checks and charges.

The Single Market differs from a Customs Union as it is a broader agreement that encompasses the Free Movement of Goods, Services, Capital and People. It is different from a Free Trade Agreement, which means no tariffs, taxes or quotas are charged on goods and services moving within a certain area but allow its participants to negotiate their own external trading relationships.

The EU's Customs Union is the largest in the world by economic output, which gives it considerable negotiating power.

What would leaving the Customs Union mean?

Michel Barnier, Speech to the European Commission, 1st March 2018

"Does the UK want to have complete freedom to decide its trade policy, or does it want to continue to benefit from a comprehensive Customs Union?"

The UK Government wishes to regain its autonomy in terms of negotiating international agreements. It has indicated its intention to leave the Customs Union.

This choice has consequences.

Being outside of the Customs Union always involves customs procedures and checks, for example to ensure compliance with preferential rules of origin. Now, as I said, it is always possible to choose a more ambitious model and stay in a customs union with the European Union. But this would imply a balance of rights and obligations. You can always go up and down the stairs.

In a customs union, the UK would apply the same external tariffs as the EU.

This would involve fewer border controls between the UK and the EU than outside of a customs union.

For example, we would not have to check the rules of origin between us.

But it should be well understood that – even in a customs union – a country which is outside of the Single Market always faces border checks to ensure compliance with European standards. This is the case for instance with Turkey.

As President Donald Tusk clearly said this morning, only the combination of the internal market and the customs union makes frictionless trade possible.”^{vi}

Not being in **the** or **a** Customs Union with the EU is likely to increase tariffs leading to rising prices. If the UK did not negotiate a more favourable trade deal with the EU, it would have to trade on standard tariffs under World Trade Organisation rules.

An analysis by The Independent found that the cost to Britain’s exporters, in extra tariffs alone, would be at least £4.5bn per year. This estimate does not include the difficult-to-measure costs of non-tariff barriers, such as the enforcement of different market standards and regulations. The extra costs on companies could force them to relocate UK operations to within the EU after Brexit, potentially leading to job cuts.^{vii}

Consider the integrated manufacturing processes across Europe that involve parts crossing the Channel 30 times to make a Vauxhall Astra. Under WTO rules, the EU’s external tariff on cars is 10% and there are 213 Tariffs which also apply to car components, ranging from 2.5–4.5%. This would add over £2,000 to the cost of cars, making car manufacturing in the UK uncompetitive. In addition, customs dockets would need to be issued and tracked, making movements slower and render ‘Just in Time’ manufacturing at UK Car Plants almost impossible.

The same principle could be applied to dozens of leading UK industries including aviation, chemicals and pharmaceuticals.

Norway’s membership of the European Economic Area (EEA) gives them access to the Single Market, but they are not in the EU’s Customs Union. In practice, this means that while most goods that originate in Norway can still be traded tariff-free to the rest of the European Single Market, products coming through Norway into the Single Market are subject to further checks.

The way the UK economy operates, and our position in the global trading system, means that leaving the Customs Union - even with EEA membership - would mean that a lot of UK goods would be subject to customs checks and our position as a reseller into the EU would be significantly impaired.

Staying out of the Customs Union, as well as the Single Market, makes it much more difficult to create a frictionless border and prevent the creation of a hard border in Ireland. Around a quarter of Northern Ireland's exports go south, while the Republic sends just 2 per cent of its goods north. So, exiting the Customs Union would impact the Northern Irish economy disproportionately hard.

An EU -Turkey Association Agreement option

There is the option of a bi-lateral customs treaty between the UK and EU like the one the EU has with Turkey. The Turkish relationship was established by the Ankara Agreement. Goods may travel between the two entities without any customs restrictions. The Customs Union does not cover essential economic areas such as agriculture (to which bilateral trade concessions apply), services or public procurement. The agreement also requires Turkey to align its trade policy with that of the EU. This is due to Turkey wishing (historically, at least) to become full members of the EU rather than exit like the UK. So, although Turkey establishes a precedent on a bi-lateral deal, a Turkish style deal does not provide a model for the UK given our direction of travel.

There are and have been a wide range of so called Association Agreements between the EU and countries such as Morocco, Algeria, Tunisia, Poland, Czech Republic and Bulgaria, and Chile as well as with Central America. There is no archetypal model of an associated agreement. So, for the purposes of the new EU UK Agreement test, the best models to look at are:

- An EU-Turkey Association Agreement where the UK opts to remain in the Customs Union without access to the Single Market;
- The EEA and the EU-Turkey Association Agreement which guarantees compatibility with existing treaties and their coexistence with the Court of Justice of the European Union (CJEU).

The main difference between the mechanisms of dispute settlement between these two agreements, and those that have been examined in the no deal option and bespoke free trade option (WTO, Singapore, Canada and Ukraine), is that their provisions possess direct effect and can be invoked before the courts by individuals.

The fundamental difference between the EEA and the EU-Turkey Association Agreement is that the EFTA Court acts to solve litigations that occur within the EEA. This constitutes a guarantee comparable to that of the CJEU, both as concerns the access of citizens and compliance with its decisions. The EU-Turkey Association

Agreement has no tribunal with a similar jurisdiction - only the Association Council. Nevertheless, the CJEU has recognised that certain decisions adopted by the Association Council produce direct effect and can be invoked before the courts within the EU.

This type of deal, without EEA membership or a new Single Market agreement, would ensure tariff-free trade for goods covered by a new Customs Union, but it would mean applying the EU's common external tariff for trade to those goods imported from other countries. Following the Turkey model would eliminate most checks and controls for industrial goods but would still mean businesses had to comply with varied border documentation, which does not lead to a seamless and frictionless border. Accepting the EU's common external tariff would also constrain the UK's ability to strike new trade deals and require the UK to comply with substantial numbers of EU product regulations^{viii}.

So, do we need to sacrifice the UK's freedom to negotiate trade deals alone? The EU has the best trade deal standards in the world, so remaining in the Customs Union would enable the UK to participate in those trade deals and keep high UK standards.

But what about EU *acquis* rights such as equality, human rights, employment rights and environmental standards? Customs Union membership on its own does not bestow these rights to UK citizens, whereas Single Market membership with a bespoke Customs Union deal will allow for continued alignment with EU higher standards

If the UK is to leave the EU then it needs to negotiate a Customs Union deal with the EU which leaves it free to export without any restrictions - meaning UK standards and regulations must align with the EU.

The simplest way to achieve this is to negotiate being part of the European Single Market but with a further bespoke, bi-lateral agreement on customs. This would ensure that goods entering the UK meet EU standards, which in turn guarantees levels of both consumer and environmental protection. It is not clear whether the EU would allow the UK to make bi-lateral free trade deals in this type of deal.

This means EU standards become the baseline for the UK. The UK should not become a dumping ground for poorer quality goods than those that enter the EU. This should be one of the central goals of any future Labour-led negotiation.

Option three: Norway – an EEA option and/or a new Single Market option

EU member states are automatically members of the Single Market and Customs Union. Membership of the Single Market is open to members of the European Free Trade Association (EFTA) via their membership of the European Economic Area (EEA).

Norway, Liechtenstein and Iceland are members via their membership of the EEA. Switzerland, a non-EU country, also enjoys access to the Single Market via a tangled set of bilateral treaties with the EU.

The purpose of the EU Single Market is to remove or reduce barriers to the Free Movement of Goods, Services, Capital and People across Europe. The Single Market accounts for 25% of global GDP and represents Britain's biggest trading partner. 45% of UK exports are to the EU while 50% imports come from the EU.

Single Market membership is about harmonisation of employment protections, health and safety laws, service sector regulations, coordinating efforts against global warming and much more. Nations that are members of the single market agree to a common set of standards and recognise a shared set of institutions, including the European Court of Justice.

Members of the Single Market are bound by the accumulated legislation, legal acts, and court decisions which constitute the body of European Union law.

If the UK wants an agreement that includes access to the Single Market, but leaves the EU and Customs Union, then it would need to join EFTA and the EEA dispute mechanism. EFTA would be the new jurisdiction. Alternatively, it could negotiate a new arrangement with the Single Market and Customs Union without being a member of the EEA or being in the EU.

Norway option: Staying in the EU Single Market and leaving the Customs Union

- Full SM access for Goods, Services, Freedom of Movement and Finance.
- Norway is not part of the Customs Union and so it sets its own tariffs on goods imported from outside the Single Market. Norwegian goods however are imported tariff free.

- Norwegian exporters must show that their goods qualify as having originated in Norway (rules of origin) so there is only a partial seamless and frictionless border.
- Norway accepts EU acquis and regulations without having a say on what those rules might look like in the future – a rule taker.
- Partial/indirect ECJ jurisdiction as the European Free Trade Association Court (EFTA) adopts and implements ECJ judgements.
- EFTA/EEA input into EU laws being incorporated into the EEA agreements.
- Free to pursue its own independent trade policy, though in practice Norway, along with EFTA, often negotiate as a bloc.

Swiss option: Multiple bilateral deals for some access of the Single Market

- Switzerland has 120 negotiated bespoke bilateral agreements with the EU.
- Includes tariff-free trade and limited access to the EU Single Market for services.
- The Swiss accept Free Movement of People and the EU's regulations in relation to the parts of the Single Market they can access.

- The Swiss can pursue an independent trade policy but they mainly negotiate together with other EFTA countries.

Criticisms of the Norway (and Swiss) option:

- These countries are both richer and smaller than the UK. The UK economy is vastly more complex than that of Switzerland or Norway.
- Both Norway and Switzerland are part of the Schengen Area which the UK is not and there is no UK political will to be currently part of this.
- The Norway/EEA model also has limits - UK would pay in but would not be able to influence new rules.
- The UK would be the SM, but not part of the Customs Unions (CU) and so to prevent a hard border with Ireland and frictionless trade it would need to also join the Customs Union.
- Norway has to administer 'country of origin' regulations on its goods moving onto the EU as it is not in the customs union.
- The Swiss bilateral treaties model takes a long time to be negotiated and due to their complexity have to be changed and updated constantly.
- The EU is not likely to want to replicate this Swiss complex bilateral structure with the UK.
- The EU is not likely to want the UK to join EFTA, which is stable with clear unchallenged operable rules, because the UK may try and change EFTAs existing agreements with the EU to suit the UK Brexit agenda

A 'Shared Market' agreement by IPPR

IPPR have proposed an alternative new EU-UK agreement model^{ix} where the UK has a Single Market approach similar to the EFTA and EEA model but staying out of the EU and EFTA.

In the longer term, they propose a new model of alignment that is described as a 'shared market' between the UK and the EU. The 'shared market' would aim for continued alignment between the UK and the EU across most of the Single Market but would recognise and accommodate the potential for regulatory divergence over time.

This model would have the following features:

- The agreement would stipulate continued regulatory alignment in all aspects of the single market, except for the Free Movement of People where there would be an agreement on 'quasi-alignment' – i.e. an agreement that upholds the key principle of Free Movement of People while allowing new controls on immigration
- Enforcement and dispute resolution would be carried out through a 'two pillar' mechanism modelled on the EEA agreement. A new UK Surveillance Authority and UK Court of Justice, including representatives from the UK and the EU, would monitor and adjudicate over the agreement. To ensure homogeneity, the UK Court of Justice would follow the Court of Justice of the European Union's (CJEU) interpretation of Single Market rules.
- The agreement would allow for the possibility of divergence between the UK and the EU, either with respect to existing or future Single Market legislation. If divergence occurred, a 'declaration of incompatibility' would be issued, which would initially give either side an opportunity to realign, and, if they did not, would result in the suspension of areas of the agreement.
- The UK and the EU would also agree a joint customs union to cover all goods. This would limit friction in trade in goods between the UK and the EU. In return, the UK would continue to align itself to the EU's trade policy.
- As part of the agreement, the UK would make a continued financial contribution to Europe and the EU, recognising the benefits that it would receive from these investments. This would include solidarity contributions, programme contributions and security contributions.
- This proposal would prioritise trade with by far our largest market, rather than seeking new trade deals further afield. It would also recognise that the EU has more - and better quality - trade deals (more than 50) than comparator countries to the UK such as Australia or Canada (each with around 15). A dispute resolution mechanism would both end the direct jurisdiction of the CJEU in the UK and protect the CJEU's own autonomy.

Labour Party's Internal Market proposal for the new UK-EU agreement

Labour proposes that an “internal market” agreement would deliver a new and close relationship with the EU. It would not require membership of the Single Market but would maintain many of its advantages.

To get the best of a customs deal, and preserve EU acquis rights for UK workers, the Labour Party's current position is that we negotiate a deal that gets us as close to the Customs Union and Single Market as possible but where the free movement principle would “have to be negotiated”.

Labour will strike a new “Single Market deal” to protect the benefits of EU membership after Brexit that could involve keeping UK borders fully open to free EU migration. Keir Starmer, the Shadow Secretary of State for Exiting the EU, has stated^x:

“Full access to the internal market means the benefits of the internal market, which has always been the Labour party position. Obviously that comes with obligations, and that's why we've said it has to be underpinned by shared institutions and shared regulations.”

The UK is better off being in the Single Market, and negotiating a bespoke Customs Union that allows the UK to trade freely with other countries.

A VIEW FROM ELSEWHERE: THE CASE FOR A NORWAY PLUS BREXIT

Yanis Varoufakis

I am a declared Corbynista, and someone who could never be considered a lapdog for the EU. But I dedicated every sinew I possessed at the time to campaigning against Brexit. Here, I present to you the case for what I call 'Norway Plus' from a left-wing perspective, portrayed as an opportunity to do that which we progressives have been failing to do in the last year and a half.

Let's face it, we are reeling from a massive defeat in June 2016. We are deflated. A lot of what I have heard is correct, but nevertheless, defensive. It is as if I am hearing again the arguments which should have been heard loudly before the referendum. Let's not keep fighting yesterday's war.

The possibility under this government - or any Tory government - of a decent, mutually advantageous agreement between the United Kingdom and the European Union is vanishingly small, if not absolutely zero.

What we must first save is Freedom of Movement. Speaking from my perspective, I do not believe that you can be a Marxist, an internationalist, and believe that the solution to the problems of the working class is electrified fences and new borders coming up between European countries.

To those who say this is hypocritical Eurocentrism (because you are still not allowing people from Pakistan and South Africa to come in) my argument is, well, where borders have come down (even if they have come down for neoliberal reasons for reasons that fit the agenda of big business) we should maintain the absence of those borders. We do not put them up. And we try to extend Freedom of Movement beyond the European Union to Pakistan, to South Africa. Ideally, we want a world in which there are no borders, and one in which our identity, our culture, our democracy and our sovereignty are not defined through the capacity to exclude people from our territory. The second thing we need to preserve is our supply chains. These are the economic arguments, and I am an Economist. I can wax lyrical about the disaster that will befall both sides of the English Channel if we move into a Canada or South Korea-like agreement.

The only way forward, whether in Britain or Greece or Portugal, is by dealing directly with the four crises that are destroying our communities and making people feel that they are not in control of their lives or of their countries.

What are those crises?

In the UK, it begins with private debt. It is the elephant in the room, rising inexorably and spearheading the next wave that will push the majority of households into depression: the fact that you have so many British families today that need to use credit in order to put food on the table.

Secondly, public debt, which is being used as an excuse for 'austerity'.

Thirdly, the worst spate of under-investment in the history of post-war Europe, whether it is in Britain, Greece or indeed Germany (did you know that Germany has the lowest level of investment since 1951 while at the same time having its highest level of savings?).

And fourthly, the increase in poverty which is the natural corollary of the other three.

So – why Norway and Norway plus? Well, we need to respect the Brexit outcome. The Norway model does this because Britain steps out of the European Union. The referendum chose Brexit, but it was a binary process which did not specify what kind of Brexit. We are told that the vast majority of voters did not want Freedom of Movement. But, all that is required is that 1.8% of the Leave voters are either indifferent about Freedom of Movement or in favour of Freedom of Movement, and there is no mandate for Freedom of Movement.

In the Communist Manifesto, Marx says

"The communists are being blamed or accused of wanting to take nationality, ethnicity, national pride away from the majority".

And he says,

"Well, workers have no country. You cannot take away from them that which they do not have."

There is a very good, left-wing, Marxist argument in favour of the transnationality that the Single Market and indeed the European Union is putting forward. Remember that Marx was in favour of Zollverein – the German customs union of 1834. Why? Because he thought that it would speed up the Capitalist process, and that without this development, you would not have the technologies essential for socialism.

It is a gross error to believe that what Britain does is independent of developments within the European Union. So, what we must preserve is Britain's presence in European politics, in the progressive movements in Europe that are necessary in order to make the European Union sustainable, democratic and a realm of shared prosperity.

When I say Norway Plus – what is the Plus?

People, including some of my comrades in this country and in this party, say to me that the problem with the Norway solution and the difficulty the Labour Party has in supporting it, is because it turns Britain into an EU rules-taker.

This of course is correct. This is the price you have to pay for being inside a transnational market. But it doesn't have to be that way. Britain does not have to be an EU rule-taker if it strikes a Norway-style agreement.

Nothing stops Britain, in a Norway-style agreement, from setting for itself and for any company working within the United Kingdom, higher regulatory standards for the City of London, higher environmental standards, higher minimum wages and higher standards for defending wage labour.

So instead of thinking of the EU Single Market rules as ceilings: think of them as floors! And think of Labour as the party that will campaign out there for improving the environmental, labour and financial regulation standards of the EU.

This gives the narrative of Norway Plus a magnificent oomph! It allows us all to move in this country from a defensive stance to an inspirational one. Norway Plus as a way of getting our country back, as a way of making Labour the hegemonic power in the United Kingdom, as a way of defending our environmental and labour standards, and of putting the financial genie back into the bottle where it belongs.

So, let us stay together and work towards a Norway Plus progressive Brexit that changes Britain and changes the EU. And then for a second referendum in 2025, not to annul the verdict of the British people as expressed in the first referendum, but to bring us back all together - a progressive Britain in a democratised EU.

Option four: A free trade deal option

The EU has a variety of free trade agreements with several states that go beyond traditional Free Trade Agreements. These include agreements with:

- Ukraine - Deep and Comprehensive Trade Agreement (DCFTA) with an arbitration panel dispute mechanism and ECJ arbitration over an interpretation of a provision of EU law.
- Moldova - Deep and Comprehensive Trade Agreement (DCFTA) likewise.
- Canada - Comprehensive Economic and Trade Agreement (CETA) with a joint committee for arbitration and use of private investment courts for international investor disputes and WTO dispute mechanisms.
- Singapore - Free Trade Agreement (FTA) likewise.

Their common characteristics are:

- Their scope is broader than merely trade.
- They cover areas such as investment, services, freedom of establishment.
- From the citizens' perspective, the trade agreement provisions have no direct effect over individuals and cannot be invoked under domestic jurisdiction.
- The enforcement of this kind of agreement is indirect and passes only through the state (whether a state who is party to the agreement or an EU member state).
- Both parties to the agreement are represented in a joint committee or arbitration panel, with powers of implementation, application, enforcement and dispute settlement.
- ECJ arbitration over an interpretation of a provision of EU law (Ukraine and Moldova) private investment court systems or WTO dispute mechanisms (Canada and Singapore) can be used for international investor disputes.

Types of Models^{xi}:

Ukraine option: Deep and Comprehensive Trade Area

Ukraine's association agreement with the EU provides for nearly-full access to the Single Market through a special arrangement designed as a potential first step towards full EU membership. This provides Ukraine with an unprecedented market access for Goods and Services, particularly Financial Services. Ukraine must abide by the EU's regulations and acquis, but there is no Free Movement of People. This arrangement also covers issues going beyond trade, such as security cooperation.

Canada option: A Comprehensive Economic and Trade Agreement

The EU's new agreement with Canada allows tariff-free trade with the Single Market for industrial goods and some agricultural produce, but very limited access for services. Canada does not have to comply with the EU's regulations, but there is mutual recognition where each side accepts the other's regulations for market access to some services. It can lead its own trade policy but that means customs controls and compliance with the "rules of origin" checks.

What happens to trade in services in a Free trade deal?

In the Lords EU Committee Report^{xii} on trade in services it states:

"The UK is the second largest exporter of services in the world. The majority of these services are non-financial, encompassing a broad range of sectors such as ICT (information and communications technology), telecoms, broadcasting, fashion design, aviation, tourism, education, and professional services such as accountancy and law. These non-financial services are critical to the UK's economy, fuelling growth, creating employment and supporting goods exports. At a value of £161.8 billion in 2015, they accounted for 32% of all the UK's exports and generated a £33 billion surplus for the UK's trade balance.

While it is true that the Single Market in services is less integrated than that of goods, it would be a mistake to conclude that it is unimportant. In fact, the Single Market remains the most integrated regime for services trade in the world. It was therefore unsurprising that witnesses told us they favoured remaining in the Single Market when we launched our inquiry in October 2016. This view was overtaken by the Prime Minister's announcement on 17 January 2017 that the UK would leave the Single Market and seek a new trading partnership with the EU based on a "bold and ambitious" free trade agreement (FTA).

In light of this announcement, this report analyses those aspects of Single Market membership that witnesses favoured retaining, in order to outline what a UK-EU FTA

would need to include to represent a 'good' deal for the UK's services industry. The report focuses on the UK's largest exports to the EU in non-financial services: professional business services; digital services; creative services; air services; and tourism, education and health-related travel services. We further examine the implications for each sector if no agreement with the EU was reached and trade took place under World Trade Organization (WTO) rules.

We conclude that, in negotiating a UK-EU FTA, the Government should seek to secure market access in specific respects. Reciprocal arrangements will also be important. For example:

- For professional business services, a FTA should include significant provisions surrounding the mutual recognition of professional qualifications and regulatory structures. It should also include rights of establishment for all types of UK service providers, particularly legal services, in the EU and vice versa.
- For all service providers, but particularly for providers of digital services, the UK should aim to secure an adequacy decision from the Commission, which recognises that the UK has adequate data protection standards, in order to maintain the free flow of data.
- In relation to telecommunications, to ensure UK consumers do not suffer increased prices, a UK-EU FTA should include provisions extending the abolition of roaming charges in the UK beyond 2019.
- For creative services, broadcasting licences from Ofcom should continue to be recognised in the EU. Strong protections should also be afforded to intellectual property rights, such as registered and unregistered designs.
- To continue to offer the routes they fly today, UK airlines should be able to fly to any point within the EU and provide intra-EU services either through membership of the European Common Aviation Area (ECAA), or by means of a comprehensive UK-EU air services agreement.

Negotiations on a FTA and the UK's withdrawal from the EU should recognise the link that exists between trading services and the cross-border movement of persons. The continued movement of workers and service providers in both directions is seen by the UK's booming services sectors as necessary to support growth. Without provisions in a FTA, trade in tourism, education and health-related travel services between the UK and the EU will also be restricted."

Option five: A 'No Deal' option

If there is no new EU-UK Agreement, then after the transition withdrawal on 31st December 2020, the UK would automatically fall under the WTO regime. In relation to access to the Single Market, the UK would be in the same position as other WTO members, excluding those states with preferential FTAs with the EU.

This will be a bad position for the UK, as it would increase the costs of exports to the EU for UK firms and reduce access to the EU market for service providers.

Even if a future relationship agreement with the EU were then negotiated and completed within five years. It might take as many as ten more years before up to two thirds of British external trade could be covered by preferential agreements. Thus, from the UK point of view, a WTO-type relationship is not an advantageous model for a future relationship agreement.

The WTO is often accused of bias towards free trade benefiting rich countries and global corporations at the expense of labour rights, social provisions and environmental standards. The WTO is also seen as non-transparent with very little say for developing countries and with very little overall scrutiny of decision making.

The lack of transparency presents a democratic deficit problem. It allows trade negotiators to argue at the WTO for the deregulation of rights and standards under the guise of trade 'harmonisation'. Countries obliged by WTO regulations are expected to implement these lower standards which can go against a country's own democratic mandate for higher standards.

The WTO dispute settlement mechanism is mainly there to uphold those disputes between states which also have impacts on large global corporations. It firstly relies on consultation between the state parties to resolve a dispute. If that fails then the 'Dispute Settlement Body' (DSB) has the authority to establish a panel to consider the merits of the particular dispute. The ruling of the DSB, unless it is rejected by a majority of WTO members, is final. It is only possible to appeal the report on a point of law.

World Trade Organization^{xiii} (WTO) option by default: Leaving the Single Market and Customs Union without a deal.

The UK would revert to trading with the bloc of 27-member states on WTO terms, meaning that both the EU and UK would apply tariffs to trade between them. With no agreement on regulatory equivalence between the EU and UK, there would be no preferential access to the EU market for services. There would also be no flanking

bilateral agreements to ease the flow of trade – an unparalleled situation given that no major country trades with the EU on WTO terms alone.

In summary, this would entail:

- The immediate imposition of tariffs across a range of sectors.
- British farmers could face 30-40% charges for exporting to the EU effectively making many exports unworkable.
- Higher tariffs on things like automotive parts, where a five per cent charge would apply.
- Immediate loss of “passporting rights” to banks and other financial organisations at a potential cost of up to £9 billion a year^{xiv}.
- At best, the Treasury’s modelling expects unemployment to rise by 820,000 in two years, Sterling to fall by 15 per cent, and inflation to rise by 2.7 per cent.
- Data protection and security cooperation agreements would lapse, potentially making it difficult for businesses and allowing criminals to slip through the net.
- Under a ‘No Deal’ scenario, uncertainty around Freedom of Movement rights would deepen for EU citizens in the UK and British in Europe.
- All rights and regulations would no long be protected by the EU and would be subject to the whim of Tory governments.

The government must not be allowed to recklessly gamble with the possibility of a ‘No Deal’.

A House of Lords European Committee Report, *Brexit: Deal or No Deal*^{xv}, makes no bones about how dreadful a ‘No Deal’ scenario would be for the UK.

PART 3:

Conclusions and Recommendations

In the previous sections we looked at what is needed for the UK to prosper during the transition and outlined the different post-transition options available to the UK. We said that we could test options against what the Left would want from a future UK-EU agreement:

- A new UK-EU deal that protects jobs by preserving tariff-free, barrier-free, frictionless trade with the rest of Europe.
- Democratic and fair dispute settlement procedures between the EU and UK.
- Retention of current employment rights and guarantees of future EU alignment.
- Trade union social partnership rights and an end to EU neo-liberal bias.
- Decent jobs, living and housing standards rights.
- Access to quality public services and social security rights.
- Right to nationalise and use state aid.
- Equality and Human rights.
- Fair migration and Freedom of Movement rights.
- No hard border between Ireland and Northern Ireland, Gibraltar and Spain.
- Environmental, sustainable development and climate change standards.
- Consumer, Constitutional and Civil rights.
- UK fair Devolution rights.

From this research, we believe that for the UK economy to achieve secure and stable growth, providing jobs and guarantee workers' rights the following conclusions need to be considered:

- Free trade and 'No Deal' are the worse options for workers and businesses. The Left should reject these outright and campaign for the Government to do so too.
- Workers' rights and jobs are best protected in all sectors by a combination of a Customs Union and membership of the Single Market or EEA without necessarily being in the EU.
- The UK must remain under the jurisdiction of the ECJ during the transition phase and in any future agreement that enables full or part alignment with the Single Market or to EFTA through the EEA.
- Any future disputes mechanism must be democratically accountable to the UK.
- EU citizens in the UK should maintain their full EU acquis rights not just during the transition period but also in their lifetime.
- There must be no hard border on the island of Ireland and the GFA must be protected.
- Wider devolution issues for other devolved nations need to be fully addressed.

Why a free trade deal would be bad for UK workers and the economy

Both the Trades Union Congress and European Trade Union Confederation reject a free trade approach for any future EU-UK Agreement. The ETUC is particularly concerned about the UK Government's intention to seek a free trade agreement with the EU, instead of full or part membership of the Single Market.

While free trade agreements negotiated by the EU tend to include a trade and sustainable development chapter, their labour clauses usually only require the respect of International Labour Organization conventions. The ETUC does not believe these standards to be high enough to prevent the UK from undermining the rights of working people in Britain to obtain an unfair competitive advantage through deregulation.

To protect the level playing field and prevent a race to the bottom, any EU-UK free trade agreement must instead cover the whole of the EU acquis: it must demand that the UK protects existing rights via a non-regression clause and keeps pace with new ones via automatic transposition as required in EEA.

Only this would protect the rights at work of people in Britain, prevent undermining the rights at work of people across Europe, and - crucially for the safeguarding of the Good Friday Agreement - guarantee regulatory alignment between rights at work in Ireland and Northern Ireland.

Failing that, any agreement must contain an undertaking that the UK will approximate its laws to those of the EU as required by the Deep and Comprehensive Free Trade Area agreement with Ukraine, with the difference that this commitment should be binding and subject to enforcement. Moreover, trade and sustainable development chapters are not binding - breaches of these do not lead to sanctions. As a minimum, an EU-UK FTA must include a mechanism to suspend the agreement - e.g. reduce market access - if labour commitments are breached. It must also foresee compensation and remedial action.

An EU-UK free trade agreement would mostly liberalise trade in goods. Given the existing level of intra-EU trade in services, it is likely that an agreement only covering goods, and with limited coverage of services, would be detrimental to both the EU and the UK.

Furthermore, a “negative list” approach to liberalising trade in services between the UK and the EU, even coupled with a ‘right to regulate’ clause, (as it is the case in all current EU FTAs) would not adequately protect the contracting parties’ public services from the risk of liberalisation. There would still be a ‘chilling effect’ on national governments, given the risk of private operators already running public services on one side seeking market access on the other.

Existing trade agreements typically include a state-to-state dispute settlement mechanism, but increasingly also investor-state arbitration (ISDS, ICS and more recently a Multilateral Investment Court – MIC - is being explored). None of these systems would safeguard the right of individual workers and their unions to seek redress, including by being able to rely directly on their rights protected in treaties in domestic courts. Arbitration implies an emphasis on reaching an agreement, which could be a political rather than judicial determination that compensates the worker.

Also, the appointment of the arbitration panel becomes a political decision (something an MIC seeks to remedy). The ETUC states that the terms of any future partnership agreement:

- Must have legal effect both in the UK and in the EU. Domestic legislation should be enacted to this effect so that individuals (including EU citizens), businesses and other legal persons can rely directly on any rights created by the future partnership agreement, including rights provided for by the EU social acquis, in

domestic

courts.

- Provide for either the possibility for individuals or businesses to request that cases can be referred to the CJEU for the interpretation of EU-derived rights or for the creation of a duty that courts are to abide by CJEU case law.
- Provide for the imposition of sanctions for breach of the future partnership agreement or of rights provided by the future partnership agreement, including effective remedies for individuals, business and other legal persons whose rights have been breached.

Both the TUC and ETUC support remaining in the Customs Union and EFTA/EEA or negotiating a new Single Market membership agreement.

It is extremely unlikely that in going it alone, the UK – being heavily dependent on service sector exports – is going to maintain or enhance its European market share. This isn't just bad news for city bankers, but for two-thirds of financial services employees who live outside of London and are employed in mid-level accountancy, compliance and insurance roles. Exiting the single market will do nothing for the well-being of the UK service sector.

79% of UK GDP is generated by the service sector which, in turn, employs 80% of all workers. From a Single Market perspective, the service sector can be divided into two categories: regulated and unregulated. Regulated services cover industries like insurance, engineering, architecture, aviation and basic utilities. These industries are subject to complex licensing, supervision and enforcement standards.

There are roughly 40 European agencies that exist to regulate these industries and sanction their Europe-wide clearance to operate. Exiting the Single Market would jettison us from the oversight of these institutions.

The complexity of the negotiations is demonstrated by the fact that some key elements of the new UK-EU deal have still not been fully explained yet

- Access to the 40 agencies including the European Medicines Agency.
- Euratom (nuclear safety and nuclear energy waste).
- Police co-operation, Security and Defence.
- Public Procurement regulations.
- Mutual recognition of professional qualifications.
- Trade deals as a third party (EU and Non EU).
- EU Internal Energy Market and interconnection access.
- EU Climate Change International obligations.
- Financial services in London and banking passporting rights.
- Protections of EU special status food/wine (e.g. cheddar cheese, Cornish pasties).
- Checking standards of goods in transit (e.g. adulterated cheese, mislabelled meat).

Unregulated services cover businesses like research, consultancy and the creative sector. The enforcement of standards for these businesses is largely left to a decentralised network of public bodies and courts across Europe. So, their regulatory framework would change little. The greatest risk they face is the inconvenience of restrictions to free-movement.

For the regulated service sector, the consequences of leaving the single market are significantly more daunting. The UK currently runs a sizable trade surplus in services with the EU. Service providers (especially financial services – accountancy, banking, insurance etc.) are nervous that Theresa May's determination to set UK-specific standards and regulations cannot be squared with the desire of other EU nations to trade under already established rules.

Having to work with different regulators creates costs through duplications of effort, inconsistencies and ultimately barriers to business. Crucially, the rest of the EU is keen to ensure that UK does not carve out a competitive niche by undercutting European standards.

There is resistance from the EU27 to allow financial services in an EU FTA deal. Banks in Britain can currently trade across the bloc's single market under European "passporting" rules, but this is expected to end after Brexit. Rules of equivalence may be allowed but this will be for partial access only.

The UK government is proposing a mutual recognition system so financial service firms will retain access to the EU on the condition that each side preserve regulatory standards in line with the best international standards. But EU officials say that is not workable.

Finally, the Left's concerns about restrictions of state aid rules and EU regulations that expose public services to market competition also need to be addressed. The UK must be allowed to keep its public services public, as currently under EU public procurement regulations and find innovative ways to renationalise transport and utility sectors if mandated democratically.

LAST WORDS

Richard Corbett MEP

When we look at the issue of Brexit in its full complexity, we can see that the magnitude of the consequences and the ineptitude of our government means that this issue must be debated openly and honestly across the Left, especially if we are to own the future UK's relationship with Europe.

Going ahead with Brexit involves Britain making some unpalatable choices: do we also leave the Customs Union and distance ourselves from the Single Market, which would compound the damage to our economy, or do we stay in the Customs Union and align with Single Market rules, in which case we will be following rules without having a say on them. The Conservative government, when it is not in-fighting, has tried to avoid this choice, advocating a 'have our cake and eat it' policy, which is now coming apart at the seams. Instead, it is taking us towards a damaging costly Brexit which Labour will oppose.

We are right to vigorously oppose the government on this central issue of our time.

-
- ⁱ <http://blogs.lse.ac.uk/euoppblog/2017/08/14/the-eu-isnt-protectionist-its-one-of-the-most-open-economies-in-the-world/>
- ⁱⁱ Ibid
- ⁱⁱⁱ https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement.pdf
- ^{iv} https://ec.europa.eu/commission/sites/beta-political/files/level_playing_field.pdf
- ^v <http://www.leavemeansleave.eu/>
- ^{vi} http://europa.eu/rapid/press-release_SPEECH-18-1462_en.htm
- ^{vii} <http://www.independent.co.uk/news/uk/politics/customs-union-what-is-eu-brexite-single-market-alternatives-labour-corbyn-speech-a8228696.html>
- ^{viii} <https://www.instituteforgovernment.org.uk/explainers/options-uk-trading-relationship-eu>
- ^{ix} <https://www.ippr.org/news-and-media/press-releases/ippr-proposes-creation-of-shared-market-between-the-uk-and-eu>
- ^x <https://www.politicshome.com/news/uk/political-parties/labour-party/jeremy-corbyn/news/95737/keir-starmer-puts-free-movement>
- ^{xi} <https://www.instituteforgovernment.org.uk/explainers/options-uk-trading-relationship-eu>
- ^{xii} <https://publications.parliament.uk/pa/ld201617/ldselect/ldcom/135/13503.htm>
- ^{xiii} <https://www.instituteforgovernment.org.uk/explainers/options-uk-trading-relationship-eu>
- ^{xiv} <http://www.independent.co.uk/news/uk/politics/brexit-talks-collapse-negotiations-eu-uk-theresa-may-david-davis-no-deal-wto-a7955471.html>
- ^{xv} <https://publications.parliament.uk/pa/ld201719/ldselect/ldcom/46/46.pdf>

'So instead of thinking of the EU single market rules as the ceilings: think of them as the floors! And think of Labour as the party that will campaign out there for improving the environmental standards, labour standards and financial regulation standards of Brussels and Frankfurt.'

Yanis Varoufakis, 29th January 2018, House of Commons

OPENLABOUR