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Prospective Models for Britain's Trade Policy after Withdrawal from the EU[2]

The scope of the paper is limited to several aspects of Britain's economic relationship with the European Union after the departure from this bloc. Apart from general matters like the EU budget and the EU legislation, special attention is paid to economic and regulatory conditions of the EU single market as these aspects have been sensitive throughout the history of the European integration resulting in shaping some of the presented models, based on national economy priorities of the EU partners including those from the EFTA. Taking into account crucial drawbacks of the Draft Withdrawal Agreement published on 14 November 2018, the author's view that it is unlikely to succeed, at least in the current wording, the paper provides solutions for the UK's post-Brexit trade policy should it leave the EU with no deal.

Key words: Brexit, United Kingdom, European Union, single market, economic integration, trade policy.

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INTRODUCTION

In 2017, both Houses of the UK Parliament confirmed the result of the EU membership referendum by voting for the European Union (Notification of Withdrawal) Bill. The Bill was passed by the European Parliament and given Royal Assent by Her Majesty The Queen on 16 March 2017 effectively becoming an Act of Parliament. On 29 March 2017 the UK Prime Minister Theresa May notified the European Council in accordance with Article 50(2) of the Treaty on European Union of Britain's intention to leave the EU. The process mentioned above was not smooth.

However, it was just the beginning of launching the Brexit mechanism. Later proceedings happened to be much more complex and resulted in the MPs resigning from such Cabinet Ministers positions as Secretary for Exiting the Europe-

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2 The article was submitted in November 2018.

an Union and Foreign Secretary. Nonetheless, the Prime Minister continued to ignore proposals of Members of Parliament and on 13 November 2018 the UK Government and the EU agreed on the text of the Withdrawal Agreement. New challenges arose because the PM signed up to poor conditions for the UK including the Irish backstop which became widely disputed over.

EARLIER FINDINGS

It was clear from the start of the Brexit process that if the United Kingdom adopts one of the alternatives to membership mentioned in the last section, then the government would be able to establish its own trade policy outlines. However, most principles are likely to remain the same as they are set within the EU common trade policy framework. Post-hard-Brexit conditions would not provide as much leverage in foreign trade as the UK currently experiences. This also relates to Britain's participation in the WTO dispute resolution system. Though some disputes are technical, other cases may take on political dimensions. Even if an FTA with the EU is reached, Britain alone would not be so powerful, compared to be a part of the EU united front as a member of the single market.

The European Union as a whole has also gained lots of experience in trade liberalization with external partners. There are three major types of agreements.

1. Customs Unions establishing a common external tariff and eliminating customs duties in bilateral trade flows;
2. Association Agreements, Stabilization Agreements, (Deep and Comprehensive) Free Trade Agreements or Economic Partnership Agreements reducing or eliminating customs tariffs in bilateral trade;
3. Partnership and Cooperation Agreements establishing just basic principles of liberalization of economic relations.

Apart from trade agreements in place, the EU has not yet applied several finalized agreements, namely those with Canada, East African Countries, Singapore, Vietnam and West Africa. Essentially, there is a list of ongoing negotiations with different countries or blocs across the globe, notably with the United States and Japan. Moreover, there are negotiations regarding an investment agreement with China and the Trade in Services Agreement (TiSA). Thus, the European Union is one of key players in the global network of current and prospective agreements.

According to some concepts, regionalism in trade is opposed to multilateral cooperation within the WTO system. Recently this discourse has shifted to Multilateralism—Plurilateralism approach [1, p. 142]. However, whatever flexibility is granted to the UK by 'hard' Brexit provisions in terms of concluding own agreements, it should be highlighted that negotiations are becoming mostly regional or bilateral, so it is the EU that provides leverage to Britain in trade disputes or striking trade deals. Given the circumstances, this is especially significant in trade in services due to regulatory barriers which exist even within the EU single market.

Surely, not trade in goods and services only will be affected should Britain leave the EU. Other matters regulated by the WTO e.g. trade-related aspects of intellectual property rights also depend on the Brexit deal because Britain takes advantage of the economic bloc's weight whilst striking new deals on numerous matters.

Pursuant to a 'hard' Brexit plan, current EU trade arrangements and ongoing negotiations may not be transferred to Britain by default. Actually, the UK would have to negotiate its departure from the EU as well as trade agreements with non-EU countries and blocs at the same time. A question arises whether it is possible at all bearing in mind the provisional two-year period according to the Treaty on European Union. As a consequence, it is likely that whilst discussing and voting on a motion regarding Brexit negotiations, Members of the European Parliament will adhere to their current views. Specifically, they might propose conditions that negotiations on time-limited transitional arrangements taking future relations plans into account cannot take place unless the progress towards the UK's withdrawal agreement has been made. Alternatively, a condition on a deal on future UK-EU relations might be required, e.g. that an agreement cannot be reached until Britain has withdrawn from the EU. MEPs have already highlighted they would insist that the UK should meet all financial obligations to the EU despite Britain's contribution to the EU project and institutions.

Besides, the European Union might also be affected by Brexit because the UK contributes to its attractiveness as a trade partner and FDI destination. Although European countries account for about half of world services exports, the share of Britain constitutes six per cent which is larger than individual shares of other EU countries. Furthermore, the UK is the world's second biggest services exporter after the United States [2, p. 70].

Despite some protectionist measures which gained momentum due to crises, the European Union has a progressive and open trade policy partly shaped by Britain. In 2014 the European Commission proposed a new trade and investment strategy called 'Trade for all: Towards a more responsible trade and investment policy' which highlighted effective and transparent trade. On 29 March 2017 the EU Commissioner for Trade Cecilia Malmström addressed European Economic and Social Committee with speech 'A progressive trade policy in a protectionist age' to discuss CETA, TTIP and other agreements negotiated.

In recent years, the European Union's key ambitions regarding foreign trade have been the Transatlantic Trade and Investment Partnership (EU—US) and the Economic Partnership (EU—Japan) while both have not been so prioritized in those countries' trade agendas. However, after D. Trump's decisions to abandon the Trans-Pacific Partnership and to launch 'trade wars', taken in 2017 and 2018 correspondingly, the situation appears to be changing. Besides, in March 2018 11 parties of the former TPP signed the revised version of the arrangement titled Comprehensive and Progressive Agreement for Trans-Pacific Partnership.

Britain's contribution to liberalization of international trade and European foreign economic affairs should not be underestimated. It has advocated the WTO Doha Development Agenda, called for acceleration of TTIP negotiations and proposed trade arrangements in addition to an investment agreement with China.

As for the EU-27 economy, its total GDP is expected to decline by about 15 per cent if Britain leaves the single market [3]. In terms of foreign trade, the share of the EU without Britain is likely to be at the level of around 14 per cent in the world's total while the share of Britain alone would reach about four per cent [Ibid].

It is still too early to say which trade policy instruments Britain will actively use in the future. But surely it will employ trade remedies at a larger scale than it does now. The European Commission currently handles trade remedies and several UK industries may seek import protection through such measures after Brexit. The UK will set up its own national investigating authority for trade remedies [4]. But it is important to remember that a huge number of domestic consumers and companies depend on imported intermediate goods from outside the EU and would be put at a disadvantage by such contingent trade protection measures.

CHALLENGES

Nature of the negotiated arrangement

Apart from 'default' most-favoured nation principle, the EU and UK have a lot of preferential trade arrangements concluded before Brexit negotiations. That means a trade-off about the access to the Single Market (mainly absence of tariff and non-tariff barriers to trade), and special regime for EU goods regulations, budgetary contributions, social and employment legislation, etc. is a reasonable way forward.

According to the 'Swiss model', the restrictions on trade would be mostly facilitated. The European Economic Area provides full, tariff-free access to the internal market, and Balassa's criteria for the 'common market' [5, pp. 2, 90] regional integration stage. Norway, Iceland and Liechtenstein enjoy the same advantage. However, there would be some inevitable restrictions on the UK's foreign trade under this scenario.

Rules of origin

The EU applies a common external tariff. This is a reason for rules that imported products can move with no restrictions within the EU if respective tariff has been paid. For instance, a vehicle entering Britain from Japan may be re-exported to other EU states with no barriers to trade. The situation is different if products are imported via the European Economic Area (the same Japanese vehicle re-exported to the Union from Iceland) or via other states with which the EU has special trade agreements as they do not apply the Union's external tariff.

The Union's Rules of Origin set out where a product was initially produced and whether tariffs should take place. It is obvious that the EU operates in the complicated GVCs and has concluded lots of preferential agreements so this might be a complex and long lasting procedure. Some aspects of this process, e.g. compliance regulations would not be favourable for British companies. It is believed that "the process of adapting to rules of origin-based duty-free trade under a new UK-EU free trade agreement would be tedious, costly and disruptive to trade" [6]. Nevertheless, rather often advantages covered by special preferential regimes are more significant than compliance costs. Consequently, in many cases companies choose to follow 'most favoured nation' tariffs despite criteria for origin.

As for the measures being taken to establish the origin of goods and their impact on prices within the trade arrangements between the European Free Trade Association and the European Economic Community, it was calculated by scholars just before the Maastricht Treaty came into force that border costs reach minimum three per cent of imported products' value [7, pp. 112-121].

Anti-dumping and other non-tariff barriers

Even in case of participation in the European Economic Area, British products would also be subject to potential anti-dumping procedures initiated by the Union. One of the most notable cases in this regard took place in 2005 when a duty of 16 per cent was introduced by the Union regarding salmon imported from Norway. Britain would have to follow the European Single Market rules and regulations even if a bilateral arrangement (Swiss model) is agreed upon.

Restrictions on services trade

Due to the Single Market, Iceland and other members of the European Economic Area may have similar rights in trade in services as the EU states do. Besides, as in a number of spheres they have no access to the mechanism establishing rules of this trade as those are discussed within the EU institutions. Britain has a rather developed services sector and its net balance of trade in services with the EU is huge so it would not be favourable for the UK to lose access to such a mechanism and consequently to liberalize trade.

Meanwhile, experts argue that this might be crucial for the British economy due to the EU currency union - of which the UK decided not to be a part –and financial services standards. According to the organization dealing with trade in financial services TheCityUK, "the provision of financial services in the UK by non-UK firms has become to a large degree dependent on the maintenance of [a] common EU legal framework and the UK's part in devising it and operating within it. The evolutionary character of this common legal framework means that the UK must be engaged at all levels of policy development." [8].

Britain has even once needed to appeal to the ECJ regarding the ECB's recommendations to locate clearance bodies for financial services denominated in the

Euro currency in countries of the Eurozone. The basis for the UK's legal argument has always been that the EU Single Market four freedoms are not to be disrupted for its Members. At the same time, Britain did not always get support regarding its financial sector from the majority of the EU states. For instance, special arrangements were not voted for at the meeting of the Council of the European Union in 2011.

However, in the 'No-deal' scenario, having left the European Economic Area, Britain would not be in a powerful position whilst concluding arrangements on trade in goods and services with the European Union. Even the Swiss model in spite of close economic ties of this country with the EU does not automatically imply the freedom of trade in services. Undoubtedly, such freedom should be agreed upon in order to follow trade liberalization trends instead of having obstacles to free trade.

Again, the UK's financial sector would need to be restructured in the way of setting up branches of banks and other financial organizations in the Union should they plan to take part in cross-border transactions.

Apart from the financial authorities in the EU countries there are also supranational institutions like the ECB which are responsible for introducing new standards for the financial sector. After the world economic crisis, they become more demanding in relation to the external financial services providers. This includes additional burden and bureaucracy, e.g. registration with the European Securities Markets Authority and the ban imposed on several types of operations. These innovations are scheduled to be implemented in 2019.

SOLUTIONS

On 14 November 2018, the Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (hereinafter — Withdrawal Agreement) was published [9]. Considering absence of solid support among Members of Parliament (even Conservative ones), the UK Government is *highly likely* to be defeated after the debates on the Withdrawal Agreement in the House of Commons scheduled for December 2018. No matter should the debates and vote take place on time or be deferred due to powerful parliamentary opposition to the Prime Minister's plans, this outcome should not be taken off the table.

In 2016, Boris Johnson MP coined a term 'Project Fear' in relation to debates before the UK referendum which was held on 23 June 2016. Later, whilst serving as Foreign Secretary, he alongside other 'Brexiteers' and experts endlessly used this term to highlight relatively low costs of the hard-Brexit model of leaving the EU, saying there are no solutions at all (see Fig. 1). According to Baker McKenzie, businesses based at both sides have started preparations for a no-deal scenario [10, p.2]

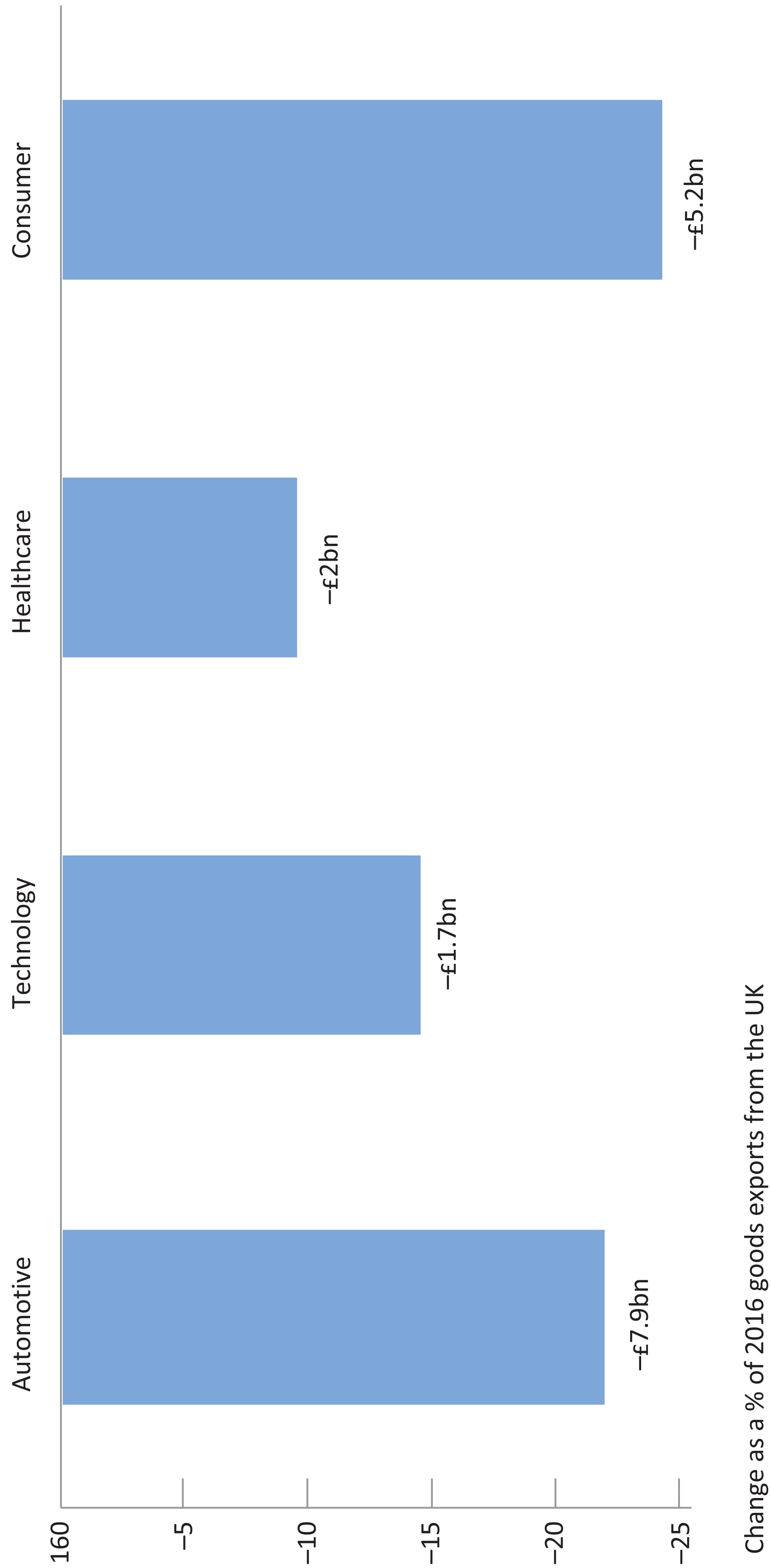

Fig. 1. Impact of a hard Brexit on the UK goods exports to the EU (as a per cent of 2016)

Source: [10, p.3].

Solution-wise, it is useful to refer to the WTO agreements in order to find out an implicit trade policy option that has never been publicly suggested by the UK government and the EU. A hidden solution preventing the UK from momentous quitting the EU Customs Union and/or Single Market. The General Agreement on Tariffs and Trade 1947 (later updated in 1994) includes an Article XXIV "Territorial Application — Frontier Traffic — Customs Unions and Free-trade Areas" which creates an opportunity for an interim agreement between the UK and the EU-27. The EU as a whole and the EU states are all the WTO Members hence the 'WTO Model'/'No-deal' can potentially be smoother than the UK Government, numerous politicians, experts and the society predict.

That is due to two sections of GATT Article XXIV cited below.

"4. The contracting parties recognize the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries parties to such agreements. They also recognize that the purpose of a customs union or of a free-trade area should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories" [11]. This is a rather general section just confirming basic GATT/WTO principles of predictable of growing access to markets. The next section specifies how this might be implemented in the Brexit case.

"5. Accordingly, the provisions of this Agreement shall not prevent, as between the territories of contracting parties, the formation of a customs union or of a free-trade area or the adoption of an interim agreement necessary for the formation of a customs union or of a free-trade area; *Provided* that:

(*a*) with respect to a customs union, or an interim agreement leading to a formation of a customs union, the duties and other regulations of commerce imposed at the institution of any such union or interim agreement in respect of trade with contracting parties not parties to such union or agreement shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union or the adoption of such interim agreement, as the case may be;

(*b*) with respect to a free-trade area, or an interim agreement leading to the formation of a free-trade area, the duties and other regulations of commerce maintained in each of the constituent territories and applicable at the formation of such free–trade area or the adoption of such interim agreement to the trade of contracting parties not included in such area or not parties to such agreement shall not be higher or more restrictive than the corresponding duties and other regulations of commerce existing in the same constituent territories prior to the formation of the free-trade area, or interim agreement as the case may be" [Ibid].

According to these, there is a special mechanism the UK and EU-27 might launch. Even having left the EU on 'No-deal' terms, the UK would temporarily be able to maintain tariffs and quotas at zero level in trade with the EU-27. Surely, the EU would benefit from such a regime. This is a mutually beneficial way forward in case of 'No-deal' scenario as otherwise tariffs on products from the EU would be rather high.

CONCLUSION

To sum up, an outline of several prospective scenarios for the EU-UK economic relations most commonly referred to is covered in the paper. However, notwithstanding the models and their essential characteristics presented within this study there is still a probability that a new unique interaction model might emerge.

At the same time, there is still nothing certain regarding Britain's departure from the European Union including a model it will adopt as an alternative to membership. This lengthy period might affect investors, financial markets, currencies, employment, trade balance, and lots of other issues. If it happens that the UK should ensure greater and fair competition, there is much at stake so adjustment measures are to be designed immediately.

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Возможные варианты торговой политики Великобритании после выхода из Европейского Союза[2]

Данная работа посвящена ряду аспектов экономического взаимодействия Соединенного Королевства с Европейским Союзом после запланированного на март 2019 г. выхода из данного объединения. Помимо общих пунктов повестки переговоров, в частности, бюджета и законодательства ЕС, особое внимание уделено экономико-правовым условиям, связанным с Единым внутренним рынком ЕС, поскольку данные вопросы всегда являлись «чувствительными» на протяжении истории европейской интеграции, что привело к формированию различных моделей взаимодействия

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ЕС с внешними странами, в т.ч. членами ЕАСТ, с учетом приоритетов их экономического развития. Учитывая значительные недостатки Проекта Соглашения о выходе Соединенного Королевства из Европейского Союза, опубликованного 14 ноября 2018 г., и авторскую точку зрения, что данное соглашение не будет одобрено Парламентом Великобритании, по крайней мере, в текущем виде, в работе формулируются предложения для торговой политики страны, в случае, если будет осуществлен выход «без сделки».

Ключевые слова: Брексит, Соединенное Королевство, Европейский Союз, единый внутренний рынок, экономическая интеграция, торговая политика.

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