



BRUEGEL'S
“CONTINENTAL PARTNERSHIP”
ASSESSING A POLITICAL PROPOSITION FOR BRITAIN'S
FUTURE RELATIONS WITH THE EU

FORAUS, BERNE, 23 NOVEMBER 2016

Cenni Najy, *foraus* senior policy fellow (Europe).
Researcher University of Geneva, Global Studies Institute

Timeline



- 1) Reminder about the actual situation of the UK
- 2) What is proposed in the Bruegel paper?
- 3) The original and positive elements
- 4) The questionable elements
- 5) Conclusions
- 6) Discussion

About me



- Cenni Najy, Senior Policy fellow Europe. PhD candidate / Researcher, University of Geneva (Global Studies Institute).

1) Reminder about the actual situation of the UK: Procedure to leave the EU



- Withdrawal *per se* requires a real treaty framework, regulating the time frame and details of the exit (art. 50 TEU).
- A notice period applies in Art. 50(3) TEU. This provision says that **the EU Treaties cease to be valid in the departing country on the day of entry into force of the withdrawal treaty or, in the absence of such treaty, two years from the date of notification of the intention to leave.**

1) Procedure to leave the EU



- The two-year period is short to complete negotiations on a withdrawal agreement and can be extended. **However, the deadline is there “to keep both sides disciplined” during the talks (Lazowski, 2013).**
- Taking into account the existing levels of interdependence between the EU member states, it would be in the interest of all to provide an efficient negotiation framework for withdrawal and future relations.

1) Procedure to leave the EU



- Unless decided otherwise, any withdrawal treaty will be concluded as a **mixed agreement**, making the ratification procedure much longer and more complex as it will involve numerous member states.
- A departing country will be treated as a third country during the whole negotiation process (starting on autumn?).

1) Procedure to leave the EU: content the withdrawal agreement



- Deleting all provisions and protocols annexed to the treaties touching upon the departing country.
- Cutting-off date for the participation of a leaving country in the work of all EU institutions, all agencies, organs and advisory bodies.
- This would have to take place in two phases. Stage one should cover the period of withdrawal negotiations. Stage two the ratification of a withdrawal agreement.

1) Procedure to leave the EU: a lot of difficulties ahead !



- A departing country would also leave the EU Common Commercial Policy.
- Hundreds of international agreements (including free trade agreements with 50+ countries) would cease to apply to the UK!
- UK's trade policy would have to be restarted almost from scratch. London would have to develop its own customs tariff regime, trade protection mechanisms and negotiate new agreements with other countries.
- These agreements will not automatically be reinstated on a bilateral basis (Lazowski, 2013).

2) What is proposed in the Bruegel paper?



- Once withdrawn or during the withdrawal procedure, the UK will have to decide about its future integration.
- There are many scenarios that can be classified in terms of integration intensity:
- The most ambitious would involve the UK concluding Swiss-type agreements or (even more ambitious) joining the European Economic Area (EEA).
- The most unambitious would involve the UK falling back to WTO-type relations with the rest of Europe.
- **Bruegel's paper offers a new integration route for the UK.**

2) What is proposed in the Bruegel paper?



- “Europe after Brexit: A proposal for a continental partnership” (Bruegel, external publications, 29 August 2016).

■ Authors:

JEAN PISANI-FERRY, NORBERT RÖTTGEN, ANDRÉ SAPIR,
PAUL TUCKER AND GUNTRAM B. WOLFF

- Quoted many times in academic world and by the media

2) What is proposed in the Bruegel paper?



- **The authors want to avoid UK isolation. For both economic and political reasons.**
- **But the authors reject Swiss-type bilateralism:**
“The EU needs to avoid reaching a series of ad hoc agreements with partner countries that are not based on clear principles.”
- **They are more interested by a multilateral scheme close to the one currently in place in the EEA (EFTA pillar).**
- **However, they see UK accession to the EEA as out of reach considering Britain’s own internal political constraints.**

2) What is proposed in the Bruegel paper?



- Since no existing integration model would work, a new one has to be created for the UK (and possibly other third states).
- Main idea: create a looser and more “(high-)political” EEA (although the argument is not presented so).
- “Continental Partnership” = multilateral scheme.
- Would mainly extend the main areas of the internal market to the UK.

2) What is proposed in the Bruegel paper? Material scope



- However there would be significant differences with the way the EEA works (scope + institutions).

Cooperation scope:

- Participation in a series of **selected** common policies consistent with access to the Internal Market, including EU Trade policy.
- Contribution to the EU budget.
- Cooperation on foreign policy and defence matters.

2) What is proposed in the Bruegel paper? Material scope



- Free movement: the main issue
- The whole internal market areas would be included, **except free movement**. Only “a regime of some controlled labour mobility”.
- Main argument: the internal market can be extended to third parties with only 3 out of the 4 freedoms.
- **Free movement should not be an inherent element of the IM.**

2) What is proposed in the Bruegel paper? Material scope



- To the authors: the four freedoms of the IM are economically connected, **but not inalienable** for deep economic integration.
- Only a scaled-down freedom of movement is needed („temporary labour mobility“):
- „Firms that operate in foreign countries need to be able to transfer workers abroad, at least for temporary periods, in order to produce efficiently,,

2) What is proposed in the Bruegel paper? Material scope



- From a functional point of view, the IM does not need to rest on all 4 freedoms to work. Rather:

„The definition of a deeply integrated market consists of :
(i) the absence of tariffs; (ii) a single set of rules or minimum standards; (iii) enforcement of those rules and standards under shared, supra-national jurisdiction;
(iv) a single competition policy and state-aid control;
(v) the contribution to shared public goods (EU budget)“

2) What is proposed in the Bruegel paper? Institutions



- Institutions: the UK should not become a “rule-taker” within CP.
- The CP should work on essentially intergovernmental features.
- **No institutions with supranational character**, „except where common enforcement mechanisms were needed to protect the homogeneity of the single market“.

2) What is proposed in the Bruegel paper? Institutions



Institutions:

- The UK should not become a “rule-taker” within CP. The CP should work on intergov’tal features.
- But on principle: adoption of the relevant acquis by the non EU members of the CP.
- The EU should preserve its internal decision autonomy.
- **No institutions with supranational character**, „except where common enforcement mechanisms were needed to protect the homogeneity of the IM“.

2) What is proposed in the Bruegel paper? Institutions



- Decision-making procedure: “CP members that are not part of the EU have a say in common matters.”
- Where the EU possess intergov’tal decision-making procedures, the CP should not create problems.
- Where it’s supranational = problem.
- CP Council (including EU and non EU members), offering more than decision-shaping rights but less than decision-making.

2) What is proposed in the Bruegel paper? Institutions



- In the relevant areas, the CP Council would deliberate the legislative proposals before they are formally passed in the council of the European Union and the European Parliament.
- In this Council, a non-member would be allowed to propose amendments to relevant legislation. They would have “a say” during the decision-making procedure.
- But not a formal vote.

2) What is proposed in the Bruegel paper? Institutions



- „If the EU and its partners disagree within the CP council, the final say would formally remain with the EU. The non-EU CP members would then still have to implement the single market legislation in their national legislation or face restrictions on participation in the single market“.
- Mechanism close to the one in place in the EEA.

2) What is proposed in the Bruegel paper? Institutions



- CP members would have to accept the enforcement measures and jurisprudence related to the relevant acquis of the IM. Otherwise the integrity and coherence of the single market would erode.
- Judicial mechanism: Extended ECJ court composition would be responsible for matters related to non-EU CP countries.
- Surveillance: European Commission?

3) The original and positive elements



- Proposes a rather „soft“ Brexit.
- Takes into account the deep and „unavoidable“ interdependences between the UK and the EU (more broadly Continental Europe).
- Takes into account the geopolitical settings:
„In an increasingly volatile world, neither the EU nor the UK have an interest in a divorce that diminishes their influence“.

3) The original and positive elements



- Proposes a (seemingly) balanced settlement between perceived benefits and costs of both the UK and the EU.
 - Proposes the constitution of a new organization that may accommodate other countries such as Ukraine and Turkey.
- = New European order, based on a revised and looser concentric integration scheme.

4) The questionable elements



- This paper is sometimes contradictory:

„Certainly Britain cannot be rewarded and it will not be allowed to pick and choose at will policies that it wants to participate in or abstain from“

- But providing an integration system without free movement - one of the most contentious element of EU integration - is de facto a pick and choose regime.

4) The questionable elements



- **Overoptimism of the authors** on different aspects of what the EU can offer to one or many third states (1).
- „Under our proposal there is already a political ‘price’ to be paid by the UK, as CP membership entails significantly less political influence compared to EU membership“.
- For the EU, the maintaining of all 4 freedoms are vital, including to third states possessing a large access to the IM.

4) The questionable elements



- **Overoptimism of the authors** on different aspects of what the EU can offer to one or many third states (2)
- EU Policy coherence with EEA/EFTA states + Switzerland.
- They implement free movement.
- EEA = EFTA states accepted strict institutional rules (surveillance, judicial mechanism, no piecemeal in the adoption of the acquis related to the IM, no individual opting-out mechanism etc)
- Switzerland: the EU wants an institutional agreement providing for many elements in place in the EEA regime.

4) The questionable elements



- **Overoptimism of the authors** on the economic/trade importance of the UK (and therefore the need for „special“ solutions).

How important would UK trade be to the EU (comparison with Switzerland, early 1990s).

	EU[12] trade with CH	EU[27] trade with UK
Exports of goods based on trade value	10.5	14.8
Imports of goods based on trade value	8.1	12.6

World Trade Organization, International Trade statistics 2001, Geneva, 2001: <http://bit.ly/20Tk59l>; European Commission, “Statistics”, DG trade Export Helpdesk, 16 April 2016 : <http://bit.ly/1gJTvGF>.

4) The questionable elements



- **Overoptimism of the authors** on different aspects of what the UK can offer.
- „We could see an interest of non-EU CP countries participating in EU trade policy through the CP council, **thereby choosing to give up their ability to negotiate individually new free trade agreements**“.
- One of the main aim of the current UK government is to regain its treaty making power related to international trade.

4) The questionable elements



- **Ambiguity of the authors**
- What would the scaled-down free movement proposed by the authors look like in practice?
 - Safeguard mechanism ? Rather unclear („a quota-system of some kind“)
 - National treatment ? Unclear
 - Family reunion ? Unclear
 - Social benefits ? Unclear
 - Would it also include students, pensioners? Unclear

5) Conclusions



- The CP does not fulfill all the main preferences of the UK's eurosceptics:
 - A) No more free movement. YES (partially)
 - B) More sovereignty and democratic accountability. No (risk of silent EU-ization process going on).
 - C) No more financial transfers to Brussels. No.

David Davies' draft
Mandate of negotiations
« Brexit: what would it
look like? »
– London, 4 February
2016

Key Negotiation Aims

Issue	Norway	Switzerland	Turkey	Aim of Negotiations	Probable Outcome of Negotiations
Membership of EFTA	Yes	Yes	No	Yes	Yes
Membership of EEA	Yes	No	No	No	No
Membership of EUCU	No	No	Yes	No	No
Free movement of goods	Yes	Yes	Yes	Yes	Yes
Free movement of agricultural goods	No	No	No	Yes	Limited
Free movement of services	Yes	Yes	No	Yes	Partial
Free movement of people	Yes	Yes	No	No	No
Free movement of capital	Yes	Yes	No	Yes	Yes
Contributes to EU budget	Yes	Yes	No	No	Limited
Significant portions of EU law applied	Yes	Yes	Partial	No	Exports
Can negotiate own external trade agreements independently of EU	Yes	Yes	No	Yes	Yes

	Dépenses (millions CHF par année)			
	2010 ⁶³	2011 ⁶⁴	2012 ⁶⁵	2013 ⁶⁵
<i>a) accords en vigueur</i>				
Recherche	327,00	370,50	414,70	458,40
Eurostat	8,30	7,30	7,30	7,30
Agence Environnement	2,00	2,00	2,00	2,00
Observatoire du trafic alpin	0,08	0,08	0,08	0,08
MEDIA	9,10	9,20	9,40	9,60
EASA	2,00	2,00	2,00	2,00
Schengen ⁶⁶	24,30	20,11	24,60	31,22
Total a)	372,78	411,19	460,08	510,60
<i>b) accords signés mais non encore en vigueur</i>				
Jeunesse et éducation	3,50	23,10	24,20	25,40
Total a) et b)	376,28	434,29	484,28	536,00
<i>c) Contribution de la Suisse à la réduction des disparités</i>				
Contribution aux UE-10 ⁶⁷	140,90	149,90	150,00	150,00
Contribution à la Bulgarie/ Roumanie	2,00	10,00	22,40	32,40

See « Rapport du Conseil fédéral sur l'évaluation de la politique européenne de la Suisse » du 17 septembre 2010, pp.6670.

5) Conclusions



- The CP does not fulfill all the main preferences of the EU:

A) All third states accessing the IM should adopt the *acquis* (past and future) based on certain rules guaranteeing legal homogeneity (surveillance and judicial mechanism).

B) The IM is based on 4 freedoms that cannot be divided (official discourse).

Bibliography

Jacqueline Breidlid and Cenni Najy, “Plan B after Brexit. What Britain can Expect Negotiating a Swiss-Type Arrangement with the EU”, *Policy Brief June 2016, foraus*.

Sabine Jenni, “Europeanization of Swiss Law-Making. Empirics and Rhetorics are drifting Apart”, *Swiss political science review*, 20(2), 208-215, 2014.

Sabine Jenni, “Is the Swiss Model a Brexit Solution ?”, *The UK in a Changing Europe*, 23 March 2016.

Adam Lazowski, “How to withdraw from the European Union? Confronting hard reality”, *CEPS Commentary*, Centre for European Policy Studies, Brussels, 2013.

Pascal Sciarini, Cédric Dupont and Omar Serrano, “Which Future for Switzerland's Bilateral Strategy towards the European Union? A Qualitative Comparative Analysis of Agenda- Setting”, *Working Paper 2010-26*, Geneva, IHEID, 2010.

6) Discussion

