fresh start

project

MANIFESTO FOR CHANGE

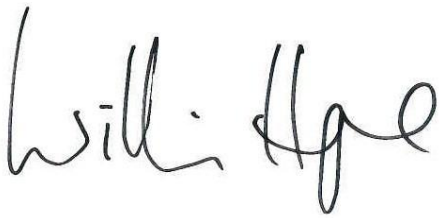
A new vision for the UK in Europe

Foreword from the Rt Hon William Hague MP, Secretary of State for Foreign and Commonwealth Affairs.

I congratulate all my Colleagues, their staff and others who helped put together Fresh Start's Manifesto for Change. It is a well-researched and well-considered document full of powerful ideas for Britain's future in Europe and, indeed, for Europe's future.

Many of the proposals are already Government policy, some could well become future Government or Conservative Party policy and some may require further thought.

Europe is changing so fresh thinking is doubly welcome. It will be essential reading for all of us when we come to write the Conservative Party's next general election manifesto. I warmly congratulate everyone involved.



THE FRESH START PROJECT

MANIFESTO FOR CHANGE

A new vision for the UK in Europe

January 2013

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1. Introduction

The status quo in the European Union is no longer an option. The Eurozone is facing up to the inevitable consequences of the financial crisis, and is moving towards fiscal and banking union. This is not a path that the British people will go down, and together with other non-Euro members of the EU, we must articulate and negotiate a new and different relationship for ourselves whilst remaining a full member of the EU.

Our ambition is to build on the success of the single market. We want to ensure the EU institutions protect and deepen the single market. We also want to protect British sovereignty, ensuring that the British Parliament can decide what is best for Britain. We do not share the vision of 'ever closer union' as set out in the EU treaties.

The UK has to tread a fine line between fighting for the best interests of Britain, while at the same time supporting our fellow Member States who wish to pursue further and deeper fiscal and political integration. This manifesto sets out the new relationship for Britain within the EU that we want our Government to achieve. Our success in the negotiation will mean a new and sustainable position for the UK within the EU.

We seek five significant revisions to the EU treaties:

- An emergency brake for any Member State regarding future EU legislation that affects financial services.
- The EU should repatriate competence in the area of social and employment law to Member States. Several EU members are already finding their attempts at structural reform are hampered by inflexible EU bureaucracy, and we should work with them to negotiate change. Failing that, we should seek an opt-out for the UK from existing EU social and employment law, and an emergency brake for any Member State regarding future EU legislation that affects this area.
- An opt-out for the UK from all existing EU policing and criminal justice measures not already covered by the Lisbon Treaty block opt-out.
- A new legal safeguard for the single market to ensure that there is no discrimination against non-Eurozone member interests.
- The abolition of the Strasbourg seat of the European Parliament, the Economic and Social Committee, and the Committee of the Regions.

We also seek a number of other reforms that can be achieved within the current treaty framework, either by the UK on its own (such as improving scrutiny in the UK Parliament, removing 'gold-plating', invoking the block opt-out for some policing and criminal justice measures) or following negotiation with other Member States (such as reforms in the EU Budget, in CAP and CFP, and repatriating regional policy).

In this regard, we note that the Council has the power to request the repeal or amendment of mixed competence legislation, particularly to ensure respect for the principles of subsidiarity and proportionality. This power is clearly referred to in Declaration 18 to the Lisbon Treaty and contained in Article 241 of the Treaty on the Functioning of the EU (TFEU). We urge the Government to take advantage of it.

Where EU legislation threatens to cause significant harm in the context of UK practice, for example where patient safety in the NHS is put at risk, and appropriate reforms cannot be negotiated at the European level, the UK should consider unilaterally suspending the relevant obligations until a long-term solution can be negotiated.

This manifesto proposes reforms in each of the following areas: Trade; Regional Development Policy; Common Agricultural Policy; Common Fisheries Policy; the EU Budget and Institutions; Social and Employment Law; Financial Services; Energy; Policing and Criminal Justice; Immigration; and Defence.

If all proposals were implemented, the UK would make significant savings to its contribution to the EU budget. We would also secure control over important policy areas such as Criminal Justice, Employment, Financial Services, and Energy. Equally importantly, we want our Government to require the EU to go further in terms of trade liberalisation, both within and outside the EU.

This Manifesto for Change is not about 'cherry picking'; its goal is rather to articulate the necessary reforms that would lead to a more sustainable relationship for the UK in the EU.

Returning powers to Member States is not an impossible task. The 2001 Laeken Declaration by the European Council, which set up the Convention on the Future of Europe stated that the EU may "…adjust the division of competences….This can lead to restoring tasks to the member states." And the UK does have allies, with the Dutch Prime Minister Mark Rutte, saying on 29 November 2012 "What we want to do is have a debate at the level of the 27 [member states] whether Europe is not involved in too many areas which could be done at the national level."

Proposals for deeper fiscal and economic integration within the Eurozone will require changes to the EU treaties, presenting opportunities for the UK to also negotiate for treaty change. The recent agreement to introduce 'double majority voting' within the European Banking Authority was a ground breaking decision that clearly points to a new realism for all EU members. This is an historic opportunity, both to articulate a vision for the UK in the EU, and to negotiate the treaty changes needed to make it reality.

Whenever – and however – the British people are given the opportunity to decide the nature of the UK's future relationship with the EU, the Fresh Start Project believes that we should be focusing our efforts on a robust but achievable renegotiation of our terms of membership.

2. Trade

The recommendations in this chapter would involve treaty change to introduce a new legal safeguard for the single market. Other recommendations would involve negotiation within the current structures.

- The EU is the world's largest economy and trading bloc, and accounts for some 40% of the UK's total exports of goods and services.
- We must maintain and expand the benefits of the single market. Non-tariff and technical barriers remain which limit EU growth. The UK should seek to secure a new legal safeguard for the single market and to push for genuine liberalisation of the single market in services.
- The UK should encourage the completion of more free trade agreements currently being negotiated by the EU, including with Canada, the USA, India and Mercosur.

2.1. Background

The EU is the world's largest economy and trading bloc. It accounts for 29% of global economic output, 15% of global trade in goods and 24% of overall global trade. The EU accounts for some 40% of the UK's total exports of goods and services, making it the most important market for UK business.

The crisis in the Eurozone has contributed to a downturn in UK exports to the EU. Although UK exports outside the EU have increased, they have not increased sufficiently to offset the decline in UK exports to the EU. There is a risk that UK businesses competing in growth markets outside the EU are undermined by over-regulation from the EU.

External trade policy is an exclusive competence of the EU; under the Lisbon Treaty the European Parliament enjoys powers of co-decision over trade policy with the Council. The EU has negotiated a number of Free Trade Agreements (FTAs) with countries and regions across the world and negotiations are ongoing in other countries and regions.

The benefits of the single market to the UK are more apparent in the trade of goods than of services. Services account for 71% of EU GDP, but only 3.2% of this is from intra-EU trade. The Department for Business, Innovation & Skills, has estimated that the completion of the single market in services could increase EU GDP by 14% over ten years.

The UK is the second most favoured global destination for foreign direct investment (FDI), and the first choice among global corporations for the location of their European HQs. This record is connected to the UK's access to the single market.

The benefits of the single market, to UK exports and to FDI, are generally accepted to be the reason Britain entered the EU and the main reason for our remaining a member. If the UK decided that, overall, the benefits to EU membership were outweighed by the costs; there are three alternative models of trading with the EU that have been considered, but found wanting:

- Joining the European Economic Area (as for Norway)
- Negotiating a series of FTAs (as for Switzerland)

- Negotiating a new Customs Union (as for Turkey)

Norway, Switzerland and Turkey have preferential trading arrangements with EU Member States but are subject to bureaucratic rules of origin (though only in agricultural products in the case of Turkey). Most importantly, their trade with the EU relies on accepting or complying with many EU regulations over which they do not have a vote. This would be a disastrous position for the UK in terms of services trade. The customs union to which Turkey belongs is restricted to trade in goods and does not include services.

2.2. Proposals

We must maintain and expand the benefits of the single market. The European Parliament tends to have a more protectionist outlook than the European Commission and such a tendency must be resisted. We need to lobby for genuine liberalisation of the single market in services.

The UK should also seek a new legal safeguard for the single market. This would ensure that EU institutions and Eurozone members cannot discriminate against non-Eurozone member interests. This would require a change to existing EU treaties.

We should encourage the completion of more FTAs by the EU, including among others, with Canada, the USA, India and Mercosur. While this is the preferred route, if the EU proves unambitious or unsuccessful in these negotiations, it may be necessary for the UK to explore a means of negotiating more ambitious FTAs for trade in services with other economies in the future.

The UK has deep and historic ties to many countries and regions of the world, including to the Commonwealth. We should deploy British commercial diplomacy and UK Trade & Investment to capitalise on these links and support the growth of British trade with growing markets outside the EU. In addition, large diaspora populations living in the UK, and their links to their countries of origin, should be used to harness trading relations with those countries.

Government support for improving trade within and outside of the EU should extend beyond services provided by UKTI and the Foreign Office to the strengthening of business representation abroad as exemplified by the German Chambers of Commerce. There are effective British Chambers of Commerce abroad but the quality of representation is patchy. Government should work alongside Chambers to strengthen their capacity to promote UK exports.

3. Regional Development Funds

The recommendations in this chapter would not involve treaty change. They would involve negotiation within the current structures, and the current long-term budget negotiations provide a once-in-seven-year opportunity to negotiate these changes.

- Almost 30% of the total EU budget is spent on regional development, to which the UK has made a net contribution of around £21 billion over 2007-2013.
- The UK should regain control over its regional policy by negotiating to limit awarding EU funds to Member States with GDP per head of less than 90% of the EU average. This would benefit 23 out of 27 Member States, and enable regional spending to be focussed only on the poorer Member States.
- UK regional policy should then be implemented via a 'fifth pillar' of the regional growth fund and a new infrastructure investment fund.

3.1. Background

Since the late 1980s the EU has run its own regional policy, through the EU budget, that extends across all Member States. This policy is implemented through 'Structural Funds' comprising the European Regional Development Fund (ERDF) and the European Social Fund (ESF).

Almost 30% of the total EU budget was allocated to spending on the Structural Funds over the period 2007-2013. This amounts to a sum of €280 billion and reflects a 43% increase as compared to the previous budgetary framework (the 2000-2006 budget allocation for the Structural Funds was €195 billion).

It is estimated that the UK will be making a net contribution to the Structural Funds (and to a much smaller EU 'Cohesion Fund' that only gives money to the poorer Member States) of around £21 billion over 2007-2013. This is the UK's contribution after the money it receives from the Structural Funds is taken into account.

The Structural Funds have serious flaws. These include:

- Allocation of support is based on EU regions that are too large – thus missing pockets of relative poverty and high unemployment.
- Planning of spending is often based on EU regions that do not fit local economic and political realities.
- They have a top-down structure; all spending plans require the approval of the European Commission and should comply with EU guidelines. This can frustrate local innovation.
- The EU will only provide some of the money for Structural Fund projects, with the remainder having to be found in the Member State in question. This can divert money from better-tailored national and local projects so as to unlock cash from the EU.
- There are no rigorous performance criteria linking disbursement of funds to clear results. Indeed, think-tank Open Europe found no conclusive evidence that the Structural Funds have had a positive overall impact on growth, jobs and / or regional convergence in the EU.

- There are excessively bureaucratic rules on how the funds must be administered. The EU management of these funds is focused on compliance not outcomes, with a resulting spend on bureaucracy rather than innovative interventions.
- For wealthier Member States, the Structural Funds recycle large amounts of money, via Brussels, not only within the same country, but often within the same regions. This is an ineffective and costly means of supporting those regions which underperform at a national level.

Negotiations among Member States and the EU institutions are now taking place over the shape and size of the Structural Funds for the period 2014-2020 and new legislation on the funds will be required.

3.2. Proposals

The Government should limit the award of funds to Member States with GDP per head of less than 90% of the EU average. This change should be a priority in ongoing and future EU budget negotiations since it would result in 23 of the 27 Member States making a net saving or receiving more. If such a change had been implemented between 2007 and 2013, the UK would have regained control of £13bn of spending, allowing the UK to maintain existing levels of spending and providing a £4.2bn net saving the Government could have chosen to retain or reinvest in the UK.

The UK should also push for spending from the Structural Funds in the poorer Member States to be much better targeted on results, and commensurate with the ability of the recipients to manage and absorb the funding.

The ongoing negotiations over the EU's Multiannual Financial Framework offer an opportunity to negotiate this change. If this opportunity is missed, the UK should make repatriation of regional policy a priority in the next budget round.

For the UK, as a Member State which has the capacity to fund its own regional policy, the only reliable way of repatriating the Structural Funds would be to negotiate a secure settlement for those areas which are net beneficiaries of the funds within the UK. Between 2007 and 2013, only two regions in the UK (Cornwall, and West Wales and the Valleys) were net recipients. Many other regions of the UK received significant funds over this period, but they contributed far more to the EU Structural Funds via general taxation.

The UK should continue to support these regions via a 'fifth pillar' of the regional growth fund and a new infrastructure investment fund. In fact, if regional policy were repatriated, the savings from reduced administrative costs could be used to enhance the funds that were spent in these regions. The European Commission estimates that 3-4% of total funds are spent on administration.

Such an approach would ensure that the UK would have control over spending within its less competitive regions ensuring an improved targeting of funds to projects and infrastructure bids which will make a real difference to the regional disparity in economic performance which currently scars the UK. A strong focus on performance and outcomes could replace an

overly burdensome EU ‘compliance’ approach which places far too great an emphasis on administration of the funds rather than results.

Repatriation of regional policy will be difficult politically as some EU countries currently receive a large benefit from structural funds. However, a healthy majority of Member States would benefit from such an approach and with clever negotiation, it should be possible to attract strong political support.

4. Common Agricultural Policy

The recommendations in this chapter would not involve treaty change. They would involve negotiation within the current structures, and the current long-term budget negotiations provide a once-in-seven-year opportunity to negotiate these changes.

- The Common Agricultural Policy (CAP) accounts for around 40% of the EU budget, and the UK makes a net contribution of around £1 billion per year. EU farmers are also protected by tariffs, which distort trade, raise food prices in the UK, and harm farmers in the developing world.
- In the long-term, the UK should strive to return agricultural policy to Member States, but the political situation makes this almost impossible to achieve in the near future.
- The direct payments to farmers in Pillar 1 of the CAP should be phased out, and there should be a parallel reduction in red tape and regulation in order to ensure a globally competitive farming sector.
- Pillar 2 payments for environmental stewardship should be increased with new tradable environmental payments introduced to allow productive land to be more intensively farmed and marginal land to be more focussed on environmental stewardship.

4.1. Background

The CAP accounts for around 40% of the EU budget and costs around £45 billion per year. Despite reforms which have begun to move the CAP towards a more market facing approach, it remains a hugely bureaucratic and expensive policy, and one to which the UK makes a net contribution of around £1 billion per year.

Apart from the budgetary costs to HM Treasury, UK farming is also penalised by the CAP as the policy is not commonly implemented across the EU. UK farmers receive less money in both Pillar 1 and Pillar 2 than their counterparts in most other EU countries. The cost of administering the CAP is also burdensome for the authorities and farmers. Market management support systems also tend to increase the price of food for consumers. EU tariffs on agricultural imports from outside the EU also often add substantially to the cost of food for EU consumers. The OECD estimated that in 2008, EU tariffs added approximately €25bn of costs to consumers across the EU.

The European Commission has proposed a reformed CAP after 2013. This includes 30% "greening" of direct payments (where they are dependent on fulfilment of certain environmental actions) and new schemes for young and small farmers. It also proposes to cap payments to large farms and to have more equal distribution of payments to Member States in Pillar 1. However, it does not propose a reduction in the overall CAP budget.

The CAP has evolved over time, but the Commission's proposals do not address the key challenge for the future of farming which is how to feed a growing and more affluent global

population. Estimates suggest that the world will need to produce 70% more food in the next forty years to meet global population growth.

In the long-term, the UK should strive to return agricultural policy to Member States, and ultimately create a liberalised global market in agricultural products without significant subsidies. Member States could then implement measures to ensure the long-term viability of farms. However, political constraints, in particular the vested interests of farmers in the EU make this highly unlikely to achieve in the near term.

The UK should focus efforts on reforming the CAP, and as there is scope for substantial renegotiation approximately every seven years, this presents an opportunity for reform.

4.2. Proposals

4.2.1. Competitive Farming

The Government should be ambitious in seeking to reduce the CAP budget. Pillar 1 accounts for 80% of the CAP and these direct payments must be phased out. This must be done uniformly across all 27 Member States to prevent market distortion and unfair distribution of taxpayers' money.

Cutting the amount of direct payments (principally the Single Farm Payment which accounts for 70% of Pillar 1) is vital if we are to have a market facing CAP that encourages innovation and allows our farming sector to compete in a global market where price volatility and increasing costs of production make reform all the more pressing.

However, as direct subsidies are reduced for those commercially successful farms there must also be a parallel reduction in red tape and regulation. There is a huge cost of regulation from the Department for Environment, Food and Rural Affairs (Defra) with over half of these regulations and some 80% of the resulting cost to businesses coming from the EU.

The agricultural sector in New Zealand can keep the cost of production low and compete in a global export market with the lowest level of government support to agriculture in the OECD at only 1% of farm income. This is only possible with light-touch regulation.

In order for the UK to increase the competitiveness of its farming sector the Government must cut barriers to growth. The independent Task Force on Farming Regulation, chaired by Richard Macdonald, and commissioned by the Government has made several recommendations to slash red tape, many of which are now being implemented. However, the Government must go further. In the seven months following the publication of the Task Force's report Defra revoked 39 statutory instruments but introduced a further 41.

There must also be an examination of the way EU regulations are transposed in this country to prevent so-called "gold-plating" of legislation that puts UK farmers and businesses at a competitive disadvantage to the rest of Europe. Defra engagement with EU institutions

should be greater, earlier, and in partnership with industry to shape better regulation. Greater Parliamentary scrutiny of EU regulation would help address this problem and the House of Commons should take forward the independent Task Force on Farming Regulation proposal that Delegated Legislation Committees consider substantive and amendable motions on statutory instruments, including those implementing EU laws.

4.2.2. Environmental Stewardship

The CAP needs to be an agri-environmental land management policy – not a social policy. The purpose must always be to provide food security and protect the environment. Reform of the CAP must recognise all the stewardship schemes that deliver excellent environmental results.

The European Commission is attempting to use one conservation policy across 27 countries, making it unfit for the needs of individual nations and landscapes. It also does not take into account that the UK's systems of conservation are more advanced when compared to other EU Member States.

Therefore, Pillar 2 should focus primarily on agri-environment schemes with the possibility of tradable environmental payments, which farmers could pass onto other farmers if they did not wish to carry out the environmental measures. Farmers in the uplands provide public good and are invaluable stewards of the natural landscape, protecting ecosystems and habitats for wildlife. They are also an important part of the rural community. It is for these reasons that livestock must continue to be kept on marginal hill land.

However, because of the adverse conditions in which they farm, many would struggle to receive a financial return if the Single Farm Payment was reduced, and would be unable to compete with farms on more commercially viable land. It is therefore vital that as direct Pillar 1 subsidies are phased out, Pillar 2 payments for environmental stewardship are increased for upland farms. There should also be scope for farmers with grade 1 agricultural land and without conservation land to pass their environmental payments onto upland farmers. The overall CAP budget would still be significantly reduced.

4.2.3. International Trade

The UK must be proactive in forging alliances with other EU Member States and put pressure on the EU to accelerate proposals to reduce tariffs on agricultural goods as part of the Doha Round. Pressure must also be brought to bear on the EU to conclude bilateral Free Trade Agreements with non-EU countries including for agricultural goods.

The Government should also seek to increase UK trade with countries outside the EU, through bilateral channels. The Government should build on its recent successes in China and Russia unashamedly promoting British food and drink products in emerging markets.

5. Common Fisheries Policy

The recommendations in this chapter would not involve treaty change. They would involve negotiation within the current structures.

- The EU's Common Fisheries Policy (CFP) is a highly centralised way of managing fisheries resources and is hindering coastal economies, marine conservation and food security.
- The Government deserves credit for its tough stance on fish discards and decentralisation, and should continue to pursue substantive reforms to introduce catch quotas, rather than landing quotas.
- The UK should press the Commission to bring forward proposals to register the owners of fishing quotas.
- The UK should also negotiate to regain control of our territorial waters (the 6 to 12 mile limit), and to complete the process of regionalising control of fisheries.

5.1. Background

The EU's CFP is a highly centralised way of managing fisheries resources in Europe. In fact, all the key decisions are taken by national fisheries ministers in Brussels, based on proposals from the European Commission. It has fundamentally failed as a fisheries management policy and instead hinders coastal economies, marine conservation and food security.

CFP reform takes place every ten years. The European Commission put forward its latest proposals in July 2011, and aims to have the reformed CFP in place in 2013. The on-going negotiations therefore present the UK with a unique window of opportunity to push for comprehensive reform.

The CFP has so far failed to ensure the sustainability of fisheries in Europe. On the contrary, the existing system of fixed fishing quotas, which is based on the quantity of fish that is landed, not on how much fish is actually caught, has encouraged the practice of 'discards' – unwanted fish being caught and then thrown overboard, dead or alive.

According to the European Commission, it is estimated that in European fisheries 1.7 million tonnes of fish are discarded every year, a staggering 23% of total catches. In 2010, UK vessels discarded an estimated 51,697 tonnes of fish.

EU fishing rules also force the UK to grant foreign vessels access to part of its territorial waters, putting small fishermen – and therefore smaller coastal communities – at a particular disadvantage.

5.2. Proposals

5.2.1. Discards

The Department for Environment, Food and Rural Affairs (Defra) needs to remain ambitious on the sensitive issue of discards, or else face the risk of the current negotiations ending up with nothing meaningful being achieved.

The Commission's plans for CFP reform are a step in the right direction and the Minister responsible for Fisheries, Richard Benyon MP, deserves credit for his tough stance on fish discards. However, there are several areas in which the UK should either push for greater clarity in the Commission's proposal and others where more fundamental reform should be pursued that go well beyond the current proposal.

The UK must shift from the current system of 'landing quotas' to a new system of 'catch quotas' – under which fishermen would be obliged to count all the fish that they catch against their quotas, not just the fish they land. Evidence from pilots in the UK and in other Member States, such as Denmark, suggests that 'catch quotas' can be an effective way to reduce discards.

5.2.2. Territorial Waters

The Government must also set its sights on regaining control of our territorial waters (the 6 to 12 mile limit), allowing the UK to reserve greater access to these waters for the small-scale fleet. In order to achieve this while respecting the UK's EU commitments, the UK should seek an EU agreement to denounce the 1964 European Fisheries Convention.

We also need to support our smaller in-shore fishing fleets by helping them with more 'fishing rights'. As part of this the Government would continue to recognise those countries that have had historical access to our seas prior to the inception of CFP. Countries like Belgium, France, the Netherlands and Germany have been fishing in our waters historically for many years.

5.2.3. Regionalisation

The Commission's proposal for 'regionalisation' of the CFP currently only deals with devolution of powers to individual Member States, but fails to lay down a formal mechanism for regional groupings of Member States to work together. As it stands, the proposal creates legal uncertainty and could ultimately lead to the Commission gaining more powers.

The UK should push for genuine regionalisation of the CFP. Under this scenario, the Commission would still propose a number of long-term 'framework' objectives to be agreed by the Council, while day-to-day management would be handled by regional groupings of Member States surrounding a specific sea basin. For example, the Commission would propose long-term targets for fish mortality over a period of ten years, within which regional groupings of Member States would work on the detail of fisheries management at the sea

basin or national level. Disputes within a regional grouping of Member States would be settled by co-decision between the Council and the European Parliament on the basis of a Commission proposal.

5.2.4. Final Points

It is vital that the UK speaks with a single voice in Brussels. Greater coordination between central government and the devolved administrations could certainly increase the UK's negotiating strength on CFP reform.

More broadly the UK must support measures to promote less popular fish through changing Government Buying Standards and by increasing the public's awareness of the benefits of eating fish. The "Fish Fight" Campaign has shown that there is widespread public support for reform of the CFP and that less popular fish can be promoted through a concerted campaign.

A total ban on the discarding of fish and greater management of our 6 to 12 mile limits in the short term will help to correct many of the inequalities and mismanagement of the CFP. The UK should also push for the Commission to bring forward proposals for the registration of landing quotas. In the long term, the Government must look towards a totally new fishing policy run by Member States and in that way Britain could have much more control of fishing in our own waters.

6. Budget and Institutions

The recommendations in this chapter would involve treaty change in order to abolish the Strasbourg seat of the European Parliament, the Committee of the Regions, and the Economic and Social Committee. The current long-term budget negotiations provide a once-in-seven-year opportunity to negotiate other changes to the budget.

- We should continue to take the lead in securing a new EU budget that improves effectiveness at no extra cost to any European taxpayer. The UK rebate is justified and should be defended.
- Reform of the EU institutions is politically and symbolically important and would serve to demonstrate the EU's awareness of its Member States' hardships.
- We should substantially cut administrative costs in the European Commission, European Parliament and abolish a number of EU quangos, which in some cases would require treaty change.
- The UK should press for a new Freedom of Information Act for all European institutions.

6.1. Background

The EU is in the process of negotiating the next Multiannual Financial Framework (MFF), a budget ceiling covering 2014-20. The Commission's proposal totals €1trn in commitments that, including "off-budget" items, represents a 5% real terms increase on the payments of the current MFF. The UK Government's position is to argue for at best a cut, and at worst a real terms freeze, although the House of Commons voted for a cut in a non-binding motion.

The MFF is in clear need of significant overhaul to reduce its overall scale, to eliminate the gap between commitments and payments, and to allow more flexibility so that funds can be reallocated to meet need. In MFF negotiations, the UK should focus on three key areas. Reforms to the CAP and the Structural Funds, which are the two largest areas of EU spending, are discussed elsewhere in this manifesto. The third area for focus is reform of the EU institutions. Symbolically and politically, the EU institutions represent the empire building of the federalist agenda. Agreement on reform should be possible because Member States themselves will not lose out.

It is in every European taxpayer's interest for the EU to spend their money more carefully and effectively. Finding institutional savings would demonstrate the EU's awareness of its Member States' hardships, which as yet it has patently failed to do.

6.2. Proposals

6.2.1. 2014-20 MFF

The UK should be ambitious in its negotiating position. Given our alliances, particularly with other net contributors, the UK should continue to take the lead in securing a deal that

ensures reform and improves effectiveness. The fixed 2% increase per year remains the fall-back and termination of the MFF (meaning the Commission would propose a budget to be passed by the Council via qualified majority voting, without a ceiling) would be a highly risky move for Brussels.

The UK net contribution to the budget was €9 billion in 2012, even after the rebate, making us one of the largest net contributors. Rather than accepting criticism of the current size of the rebate, we should remind Member States that the previous Government had already ceded a significant reduction in the rebate in exchange for promise of CAP reform. Our Government has pledged to protect the rebate. Handing away part of the rebate, like Tony Blair, achieved nothing in the past and we can have no confidence that it will in the future.

6.2.2. European Commission

Institutional reform should start with the Commission. The EU's ambitions for centralisation have resulted in significant increases in administrative spending, despite the austerity it has demanded of many Member States. Administrative costs should be cut by 15%, saving €867 million per annum. That may require the Commission to increase its proposed staff cut of just 0.5% after Croatia's accession to 10%.

Other efficiency savings should include a reduction in the tiers of management, salaries, allowances, and changing the pension age and terms. The cost of pensions for Commission staff is forecast to double to £2 billion by 2045, and it should be noted that all civil servants in the top two grades earn more than our Prime Minister. We therefore welcome the Prime Minister's stance at the budget summit in November 2012. He is right to press for a 10% cut in the overall pay bill, and for reforms to automatic promotion, special tax treatment, and pension rights for Brussels staff.

By participating in its own cuts and efficiency programmes, the Commission will show empathy with all European citizens, reflecting the spending cuts which government departments across the Member States are being forced to make. The 27 Commissioners should lead by example and reform their own pay and pension arrangements.

6.2.3. European Parliament

The UK Government should continue its opposition to the three-city functioning of the European Parliament. Not only would the abolition of the Strasbourg seat save at least €180 million per annum, it would also be a symbol of the ability of the EU to reform itself. The European Parliament itself has voted to stop the "Strasbourg circus".

Treaty change is required for this measure. The UK should build consensus among Member States, many of whom have been vocal in their condemnation of the Strasbourg seat, and whose MEPs themselves voted against its continued functioning. The Secretariat of the

European Parliament, with over 4000 officials, is based in Luxembourg. This Secretariat should relocate entirely to Brussels.

Other institutional reforms the UK should press for include removing excessive travel allowances and services, a review of all other allowances and privileges including the special taxation rate, mandatory production of receipts for all expenses and the abolition of funding to political parties and foundations. Projects that should be scrapped immediately include the House of European History, which is forecast to cost over €150 million to set up.

6.2.4. Quangos and other bodies

EU spending on quangos has jumped by 33.2% since 2010. Many agencies duplicate work, and reinforce the federal agenda rather than the subsidiarity principle. Moreover, they have a strong incentive to spend money to justify their own existence, often directly on self-promotion.

The UK should press for the abolition of the European Economic and Social Committee (EESC) and the Committee of the Regions. The EESC was created in 1957 as a proto-parliament but now acts as "a bridge between Europe and organised civil society". It is an advisory body, dominated in large part by unions, and serves little purpose. Its budget is €130 million.

The Committee of the Regions includes councillors, members of the Scottish Parliament, Welsh Assembly and Northern Ireland Assembly. Putting European directives into effect through local government does not require a separate body, and should be delivered through Member State government processes. Abolishing the Committee of the Regions would save €85 million per annum.

Abolition of these bodies will require treaty change. A significant reduction in the budget to leave only a token amount could be accomplished through negotiations on the MFF and would accomplish the same thing. Failing that, a fundamental review of activities and a budget reduction of 50% is required to focus activity.

The UK should also press for savings to be made by abolishing the two human rights agencies (saving €28 million), the four workplace and employment agencies (saving €73 million), the food safety agency (saving €78 million), and the numerous self-propagandising educational and cultural bodies (saving at least €47 million).

6.2.5. Transparency

The UK should press for a new Freedom of Information Act for all European institutions. All spending over €500 should be published, including any expenses. The Court of Auditors should be given appropriate resources and powers to ensure that the EU achieves a level of accountability suitable for a first world organisation. The UK should work with other Member States to introduce a mechanism to prevent an increase in any budget that has not been signed off by the Court of Auditors.

6.2.6. A slimmer, leaner, transparent EU

The UK must articulate its vision for the future of the EU and its budget and institutions: a slimmer, leaner, transparent EU, spending its citizens' money more effectively, sharing the hardships its Member States will endure throughout this MFF period and putting all spending in the spotlight.

7. Social and Employment Law

The recommendations in this chapter would involve treaty change, in particular for the UK to opt out of Articles 19 and 145-161 TFEU, and to introduce an emergency brake in this field.

- EU-driven social and employment law has imposed an ever-increasing regulatory burden on British businesses and employers. Over two-thirds of the annual cost comes from the Working Time Directive and the Temporary Agency Workers Directive.
- Our primary objective is to return competence over social and employment law from the EU to Member States. This would require treaty change.
- Failing that, the UK should seek to build an alliance of like-minded European partners to call for a substantial lessening of the regulatory burden by repealing legislation and a re-evaluation of the EU's powers in this area.
- Failing that, the UK should seek to negotiate a complete opt-out of all existing EU social and employment legislation, and to introduce an emergency brake to cover future legislation in this field.
- Ultimately, we must make complete repatriation of social and employment law a priority and give Parliament the power to vote on which regulations to keep in place, which to change, and which to remove.

7.1. Background

Especially since the last Government's decision to adopt the EU's "Social Chapter", surrendering the UK's opt-out, EU-driven social and employment law has imposed an ever-increasing burden on British businesses and employers. There is a myriad of different regulations, but over two-thirds of the annual cost arising from EU law in this area comes from the Working Time Directive (WTD) - calculated at over £2.6 billion a year - and the Temporary Agency Workers Directive (TAWD) - calculated at nearly £2 billion a year. Research by the think tank Open Europe has suggested that a halving of this type of regulation by the EU could boost the UK's GDP by £4.3 billion and create 60,000 new jobs.

As well as the financial impact, these directives have imposed a rigid framework upon the UK's otherwise flexible labour model, in an attempt to harmonise our working practices with those of other EU countries – a "one size fits all" approach is simply not practical and does not recognise the different circumstances in each nation. Indeed, this has caused particular damage in the National Health Service, where the WTD has severely impacted on patient safety and the training of junior doctors, as well as imposing unnecessary costs. Too often, regulations are imposed to deal with the poor standards in one country but end up imposing unnecessary bureaucracy on countries like the UK with already tough regulations.

The Conservative Party manifesto at the 2010 General Election promised to "work to bring back key powers over...social and employment legislation to the UK", and the Coalition Agreement committed the Government to "work to limit the application of the Working Time Directive in the UK". Action so far has been too slow, and the economic situation across the continent creates an urgent need and opportunity to bring control over this vital area back to the UK.

7.2. Proposals

We should immediately review the UK's current application of EU social and employment law, particularly with regard to the WTD and the TAWD, and remove any gold-plating, to ensure that any unnecessary regulatory burden is eliminated. This should be part of the Government's review of the balance of competencies.

The UK should also undertake a best practice review of its implementation of EU social and employment law before applying any further EU regulation in this area. It is important to look at how other countries implement EU laws (indeed, if they implement them at all) and consider the best ways to do so in the UK.

All EU nations should be looking for ways to increase productivity, reduce unemployment, and promote growth. The Government should ensure that the UK is at the forefront of such a move, building alliances with like-minded European partners to call for a substantial lessening of the regulatory burden imposed by the EU and a re-evaluation the EU's powers in this area.

The UK must make the case that national control over social and employment law is vital because of specific national factors such as the NHS and the different labour models in place across the EU. We should work with the EU institutions to repeal the WTD. Just as not all EU countries are members of the Eurozone or the Schengen area, we do not need the same labour market rules across the EU. We should accept the differing circumstances in EU countries, and enable flexibility for Member States as part of a Europe-wide pro-competition, pro-growth strategy.

Particularly given the economic climate in Europe, and the recommendations from the Troika to liberalise labour markets in Greece for example, the UK should work towards removing social and employment law as an EU competence.

Ultimately, we must make complete repatriation of social and employment law a priority, and should not settle for anything less. Clearly, any repatriation would require treaty change and this would likely be part of a much larger drive to bring powers back to the UK from the EU.

The UK should negotiate a complete opt-out from all existing EU social and employment legislation, and the EU treaty articles dedicated to producing such legislation (Articles 19 and 145-161 TFEU).

We should also negotiate a new emergency brake to cover future legislation arising out of policy areas in the EU treaties which affect national social and employment law. This would allow any Member State that considers a proposal that affects social and employment law to be a threat to subsidiarity or to an important national interest to refer that proposal to the European Council where unanimity, and hence a national veto, would apply.

National parliaments are best placed to decide on the appropriate social, employment, and health and safety regulations for each Member State, and we are confident the UK Government will retain appropriate domestic legislation in the UK.

If negotiation to repatriate these powers failed, we should consider the unilateral disapplication of EU social and employment law in Britain through an Act of Parliament. This is an extreme option and could well result in fines or suspension of obligations from other EU nations, though it is worth bearing in mind that no fine has ever been levied on the UK Government for non-compliance with EU directives. However, this would not be a petulant act, but rather a signal that this is a red line issue for the UK – hopefully, this would send a signal to the EU that, for the sake of pan-European growth, a better approach is needed, and appropriate diplomacy beforehand would establish support from other sympathetic and economically productive nations.

8. Financial Services

The recommendations in this chapter would involve treaty change, in particular to introduce an emergency brake for financial services regulation, and to introduce a new legal safeguard for the single market.

- A healthy financial services industry is critical to the UK economy and participation in the EU single market affords the UK significant trade benefits. UK financial services are a great European asset and financial institutions from elsewhere in the EU have a significant stake in its success.
- However, increased EU regulation is threatening to constrict our financial services industry in some areas, and the drive towards one size fits all "maximum harmonisation" legislation also risks exposing the UK to lower regulatory standards in other areas.
- There is also a real risk that Eurozone countries will begin to act as a bloc and outvote the UK on key financial issues. The UK has recently achieved a 'double majority' mechanism at the European Banking Authority, to avoid the Eurozone-17 writing the rules for all 27.
- We should build on this precedent, and negotiate a wider safeguard against proposals which are discriminatory or undermine the single market.

8.1. Background

The financial services industry is a critical sector of the UK economy, accounting for 10% of our GDP - just as the automotive industry is critical to Germany, agriculture is to France, and fishing is to Spain. Our financial services contribute substantially to the EU; they represent 61% of the EU's net exports in financial services and 36% of the financial wholesale market.

Participation in the single market affords the UK significant trade benefits throughout the EU, such as better connected business networks and mutually approved standards. Yet increased EU regulation is threatening to constrict the activity of our financial services industry - a staggering 49 regulations, many aimed at restricting financial services activity, have been proposed since 2008. And with impending banking union, there is a real risk that Eurozone countries will begin to act as a bloc; outvoting the UK on key financial issues.

The UK is a gateway through which non-EU business arrives in the single market, keen to utilise the UK's established financial services expertise. To continue to take advantage of this business, and to expand into the world's developing economies, we must ensure the EU does not impede our financial services industry through increased regulation. Global confidence in UK financial services must remain strong.

8.2. Proposals

We must maintain and expand the benefits offered by the single market, safeguarding what we already have, and developing further opportunities within and outside the EU. The Fresh Start Project proposes various measures to achieve this aim.

Domestic politicians should do more in the early stages of EU legislation, through greater scrutiny by Select Committees (particularly the Treasury Select Committee). MPs should debate potentially damaging EU proposals in the House of Commons so as to mandate our Ministers to help them to negotiate a more positive outcome with EU legislation. MPs should meet regularly with MEPs in order to keep our Parliament better informed, improve co-ordination of UK strategy, and ensure the position of Westminster is accurately represented in all financial services discussions. We should also prioritise the placement of UK nationals with financial services expertise into influential positions in the EU, for example though graduate schemes and secondments.

The UK and other Eurozone 'outs' have already managed to establish a very important precedent by securing a 'double majority' mechanism, which will prevent Eurozone caucusing, in the European Banking Authority. The risk that the European Court of Justice (ECJ) may prioritise the Euro over the single market remains however. The ECB has already demanded that UK-based clearing houses establish themselves inside the eurozone to be allowed to clear transactions in euros, something the UK has challenged at the European Court of Justice. If the ECJ was to rule against the UK in this case, it would sound a death knell to the success of UK financial services and fundamentally undermine the integrity of the single market.

The UK should seek a new legal safeguard for the single market. This would ensure that EU institutions and Eurozone members cannot discriminate against non-Eurozone member interests. This would require a change to existing EU treaties.

As financial services are a strategically important sector for the UK, we should assert the 'Luxembourg Compromise' in current negotiations. This stated that the Council of the EU would endeavour to find a solution acceptable to all Member States, if very important interests of one Member State were at stake. It has been used by France to protect its agricultural sector, though never formally adopted by the European Commission or ECJ, and is not protected by EU Treaties.

The UK should subsequently negotiate an emergency brake on EU financial regulations. Where proposals are judged by any Member State to have a disproportionate impact, be discriminatory, or undermine the single market, that country should be able to refer them to the European Council, where unanimity would apply. This might be combined with a provision that automatically allowed a certain number of other Member States to proceed with the proposal amongst themselves, if they wished.

Just as importantly, the UK should secure agreement to expand opportunities for financial services within the EU and outside it. The UK should continue to push for genuine liberalisation of the single market, especially in services. We should also seek a binding commitment from the European Commission to secure free trade agreements for financial services in the vast developing markets that offer the brightest prospects for financial exports.

9. Energy

The recommendations in this chapter would not involve treaty change. They may, however, require the UK to suspend its obligations under the 2009 Renewables Directive, the Large Combustion Plant Directive, and the Industrial Emissions Directive if they could not be satisfactorily renegotiated within the current structures.

- Much of the UK's existing generating capacity requires replacing over the next decade as nuclear power stations near the end of their operating lives, and EU directives force closure of older coal-fired power stations.
- UK energy policy should be conducted in the context of the withdrawal of most of the largest carbon emitting countries from the Kyoto accords and the overriding emphasis of competitor economies on cheap, reliable energy.
- The EU policy framework for climate change favours decarbonisation over adaptation and renewables over all other energy sources. The UK should renegotiate, or, if unsuccessful, unilaterally suspend its obligations under the 2009 Renewables Directive in order to determine the most suitable mix of technologies for energy security, cost effectiveness and environmental protection.
- The timescale for closures under the Large Combustion Plant and Industrial Emissions Directive should be extended if they cause an unacceptable impact on fuel poverty or energy resilience.

9.1. Background

Current UK energy policy has three overriding objectives: to provide cost effective energy and power to consumers and industry; to decarbonise our economy with a particular target of a reduction in emissions of 80% from the 1990 level by 2050; and to achieve security of energy supply.

This policy should be conducted in the context of the withdrawal of most of the largest carbon emitting countries from the Kyoto accords and the overriding emphasis of competitor economies on cheap, reliable energy, including coal in the case of China, India and Germany and fracked gas in the case of the USA.

The Climate Change Act 2008 target of an 80% cut in carbon emissions by 2030 is an exceptionally tough target to meet. It implies significant changes in the way that energy is generated and used. Not only will electricity need to replace fossil fuels as the principal source for transport, power and heating, but the electricity itself will need to be generated from lower carbon sources than at present. No other EU country has set itself such tough de-carbonisation targets.

It is clear from the table below that, of the larger economies, Poland, Germany, Ireland and the Netherlands all considerably trail the EU average in terms of carbon intensity per capita. For Poland and Germany this under-performance is likely to increase as they both move from low carbon sources to an even heavier dependence on electricity generated by coal.

	Renewables (percentage of total energy - 2010)	Tonnes of carbon per capita (2011)	Tonnes of carbon per unit of GDP
EU(27)	0.12	9.2	392
Belgium	0.05	11.1	370
Ireland	0.06	12.8	350
Germany	0.11	11.2	376
UK	0.03	8.8	293
France	0.13	7.6	275
Netherlands	0.04	11.8	351
Poland	0.09	10.7	1275

The EU has developed a policy framework which is orientated towards maximising the potential investment in renewables – not in reducing carbon. The consequence has been a number of directives (most particularly the 2009 Renewables Directive) which mandate renewable targets whilst being silent on the need to cut carbon.

In the UK, a subsidy regime has been developed which emphasises wind, solar and biomass, whilst little progress has been made in other areas. This is beginning to work its way through into higher prices for consumers and businesses (in 2012 18% of industry electricity charges are due to “green” taxes), and will lead to more fuel poverty and less competitive industry than would have been the case had we been freer to reduce carbon in other ways.

The UK starts from a very low base in renewables - just 1.5% of its energy came from renewables in 2005 - and is expected to increase that percentage ten times over, yet Germany’s commitment only requires it to triple its renewables production. This discrepancy puts our manufacturing industry at a competitive disadvantage.

Much of the UK’s existing generating capacity requires replacing over the next decade. Many of our nuclear power stations will have to be taken offline over the next decade as they reach the end of their operating lives. In addition, the Large Combustion Plant Directive (2001) will require the UK to close and replace a number of older coal-fired power stations. Replacing nuclear power stations will require around 7 Gigawatts of capacity and replacing coal-fired power stations will require 12GW to be replaced in the next 10 years.

To put this into context, this would require our 4000 existing onshore turbines to be increased fourfold. The Industrial Emissions Directive 2011, which came into force last year, will make this problem even worse, requiring even more plants to be closed. It has been estimated that capital spending in the order of £150 billion will be needed to replace our ageing infrastructure.

9.2. Proposals

The UK should follow two key policy principles:

1. If the UK is to meet its decarbonisation targets, it needs to have the flexibility to decide how to do this, rather than being instructed on how to proceed by EU directives which cover 27 countries, all with very different energy mixes. In particular, it should be free to determine what mix of technologies is best to allow it to meet the objectives set out at the beginning of this paper.
2. We should insist that our EU partners are aware of, and are making similar progress towards, their carbon reduction obligations to ensure that the UK is not put at a competitive disadvantage. In particular, we should robustly defend our national interest vis a vis the high coal burning, high emission countries such as Germany, Poland, Ireland and the Netherlands.

These translate into the following proposals:

1. The European Commission is actively considering developing renewables targets for the period after 2020 when the current directive expires. We should not join this effort unless the primary focus is carbon reduction – not renewables roll-out.

2. The UK should renegotiate, or, if unsuccessful, suspend its obligations under the 2009 Renewables Directive, and not sign up to further commitments with respect to renewable energy targets. Our own roadmap (which would replace it) should maximise the cost efficacy of the reduction measures taken.

3. We should review the timescale of the Large Combustion Plant and Industrial Emissions Directives with particular reference to the requirement to close down our large coal burning stations. To the extent we believe that premature closure is causing an unacceptable impact on fuel poverty or energy network resilience, we should extend their lives. We should make it clear to our EU partners that the large scale construction of unabated coal stations while we switch ours off is not a fair or an acceptable position.

4. We should force a full scale revision of the Emissions Trading System. The current system is penalising the UK for relative success in reducing carbon, by providing cheaper permits for other countries “to work the system” due to the consequent reduction in permit costs.

In all of the above proposals the Government should seek support from other Member States and push for renegotiation of the Directives through the Council’s powers to request the repeal or amendment of mixed competence legislation. These powers are clearly set out in Declaration 18 to the Lisbon Treaty.

10. Policing and Criminal Justice

Some of the recommendations in this chapter would involve EU treaty change, while others could be achieved without altering the EU treaties.

- The UK should exercise its 'block opt out' from 131 EU policing and criminal justice (PCJ) laws, as provided for by the Lisbon Treaty.
- Rather than opting back in to any of these EU laws, which would be irreversible and subject the UK to full European Court of Justice (ECJ) jurisdiction, the UK should pursue operational co-operation with EU partners via other means, such as international agreements, memoranda of understanding and voluntary co-operation on a case-by-case basis.
- The UK should seek EU treaty change to allow it to opt out of those EU PCJ laws that it has opted in to since the Lisbon Treaty entered force. These EU laws are not covered by the UK's 'block opt-out'.

10.1. Background

The Lisbon Treaty, which entered force in December 2009, radically increased EU control over policing and criminal justice (PCJ). EU laws in this area are now typically decided by qualified majority voting rather than unanimity. EU PCJ laws adopted since the Lisbon Treaty took effect also come under the full jurisdiction of the European Court of Justice (ECJ). This means that the European Commission can bring cases against the UK relating to its implementation of EU measures, and that the ECJ rather than the UK Supreme Court will have the last word on UK law in an increasing number of areas of the UK criminal justice system.

Under the Lisbon Treaty, the UK can exercise a 'block opt out' from 131 *pre-Lisbon* EU PCJ laws, by the end of May 2014. The UK can subsequently seek to opt back into these measures selectively, on a case-by-case basis. However, this remains a matter for negotiation with the EU, and any decision to opt back in would be irreversible and result in the Commission and ECJ assuming full jurisdiction over such measures for the first time.

In addition, the UK has already opted into 22 *post-Lisbon* EU laws in this area, including 8 amending or replacement measures that take pre-Lisbon laws out of the block opt out, ceding overarching control to the Commission and ECJ.

These measures are widely regarded as stepping stones towards a pan-European criminal code, decided by qualified majority voting, overseen by the Commission and enforced by the ECJ and a European Public Prosecutor. In September 2012, Jose Manuel Barroso, the President of the European Commission, re-affirmed: "... our intention to establish a European Public Prosecutor's Office, as foreseen by the Treaties. We will come up with a proposal soon."

10.2. Proposals

Britain should retain national democratic accountability over such a vital area of policy and law-making, and preserve the distinctive common law tradition so important in the UK justice system. International law enforcement co-operation with EU partners is vital. However, the

UK does not need to sacrifice democratic control over policy-making via supranational legislation and enforcement to achieve effective practical co-operation.

10.2.1. Exercise the block opt-out

The UK should exercise the Lisbon Treaty block opt-out, to prevent a major transfer of democratic authority from Britain to the European Commission and the ECJ, and avoid becoming bound irreversibly by a large number of EU laws in a sensitive policy area, the majority of which are of negligible law enforcement value to Britain.

These EU laws include mass data-sharing under the 'Prüm' regime, which extends beyond criminals to ordinary citizens, risks a disproportionate burden on the UK, lacks safeguards to protect personal information, and which is systematically vulnerable to error.

These laws also include EU measures designed to harmonise standards of criminal law, from the prohibition of drugs to the balance between hate crimes and free speech, which are predominantly irrelevant to cross-border operational co-operation and should be left to elected and accountable UK law-makers to decide and the UK Supreme Court to interpret.

10.2.2. Rather than opting back in to EU laws covered by the block opt-out, pursue arrangements for operational co-operation that do not cede democratic control

Instead of opting back in to EU laws under the block opt-out, the UK should pursue a re-negotiated model of PCJ co-operation with EU partners based on more flexible arrangements, where this adds law enforcement value, including treaty arrangements not subject to ECJ interpretation, memoranda of understanding and ad hoc co-operation. The UK should also build on existing alternative arrangements such as its co-operation with EU borders agency Frontex.

This approach should include the following:

- Offer to continue practical co-operation on criminal records checks.
- Offer to continue co-operation with Eurojust, the EU's body for co-operation and co-ordination amongst EU prosecutors, when it comes to cross-border matters, while avoiding the Commission's plans for a new EU law giving Eurojust the power to initiate criminal investigations in the UK.
- Offer to continue operational co-operation with Europol.
- Offer ongoing support to joint investigation teams on a case-by-case basis, subject to principles enumerated in a memorandum of understanding and under the ultimate judicial authority of the UK Supreme Court as regards operations in the UK.
- Negotiate international treaty arrangements on extradition to and from other EU countries, including basic safeguards that shield innocent citizens from spurious or flawed fast-track extradition to countries with poor criminal justice records, and which retain the UK Supreme Court as the ultimate judicial arbiter of the extradition of British nationals.
- Offer to continue and build on existing information co-operation under the Schengen arrangements for the purposes of border controls and security co-operation, without becoming bound by Schengen EU laws.

- Offer to continue administrative co-operation, which requires no legal basis, such as exchanges of liaison magistrates, the EU Directory on counter-terrorism specialists, and training at the European Police College, either on an ad hoc voluntary basis or under a memorandum of understanding.

10.2.3. Extend flexible co-operation to PCJ areas not covered by the block opt-out

The UK should negotiate EU treaty change to opt out of the EU PCJ laws that the UK has opted in to since the Lisbon Treaty entered force, and which ensures the UK can conclude international treaties, if needed, with EU partners to pursue more flexible co-operation in these areas.

Such new EU treaty provisions would allow the UK to opt out of the European Investigation Order, a measure which will empower authorities in other Member States to direct UK police to conduct investigations, under ECJ jurisdiction.

The UK should offer operational co-operation under more flexible arrangements where it assists UK law enforcement, including passenger name record checks for the prevention or investigation of serious crime and terrorist offences.

Opting out of existing EU PCJ laws is likely to involve the repeal of implementing UK legislation by Parliament, and will add to the workload of Government to come up with workable alternatives. This is a price worth paying to retain democratic control over PCJ issues in the UK.

11. Immigration

The recommendations in this chapter would not involve treaty change. They would involve negotiation within the current structures.

- The free movement of people across the EU has brought many benefits, but is also adding to the strain on the UKs infrastructure and public services.
- The UK should introduce transitional controls on immigration for new Member States, and should seek reforms to gain more control over the type and amount of benefits paid to EU nationals who are currently in the UK but not working.
- The UK should seek further reforms to prevent known criminals from entering the UK and to return convicted criminals to their Member State of origin.

11.1. Background

The free movement of people across the EU has brought many benefits for business and trade. British nationals have been able to live and work throughout Europe with few restrictions and talented Europeans have been able to come to Britain, set up businesses and add value to British firms. However, as the EU has expanded, the almost unrestricted access that over 500 million Europeans have to live and work in the UK is adding to the strains on Britain's infrastructure and public services. With the UK population set to reach 75 million by the mid-2030s and immigration accounting for two-thirds of this population increase, action needs to be taken to reform Europe's free movement rules as part of wider efforts to reduce net migration.

The UK is also not unique in seeking to curb immigration. Angela Merkel has warned of the impact of immigration and the associated failure of multiculturalism while recently elected French President Francois Hollande has called for limits to economic migration. Although Member States are able to reduce non-EU migration, under existing Treaty arrangements restrictions to the free movement between Member States of EU nationals can only be made on grounds of public security, public policy and public health. The principle of free movement can only be reformed substantially through Treaty change. The majority of Member States, the European Commission and European Parliament would be unlikely to support any changes to this principle. Nevertheless, there are ways that the Government can adapt existing rules to reduce immigration from Europe, test the limits of the existing arrangements and press for reforms to EU directives to secure favourable changes.

11.2. Proposals

11.2.1. Changing the right to reside requirements and access to social security

Out of the 2.3 million European nationals living in the UK, 551,000 are unemployed or economically inactive and 146,000 have never worked. The number who are economically inactive has risen by 23% since 2008 and those who have never worked are up by 30%. This is despite the disproportionately larger number of European nationals of working age living in the UK compared to the population as a whole. Existing free movement rules give them

access to benefits and the social assistance system, the right to reside in the UK and automatic permanent residence after five years.

The European Commission has been pushing for more powers to effectively override national controls over eligibility to social security and open up our benefits system for even more foreigners to enjoy. Recently the European Commission has challenged the UK over its rules which prevent some EU nationals from claiming child benefit and Jobseeker's Allowance. Free movement laws initially designed to help employers recruit and Europeans to work are now being left open to abuse by European nationals wanting to enjoy better benefits and public services in the UK.

The Government should continue with the efforts started by the previous Employment Minister Chris Grayling to build an alliance of Member States opposed to the Commission's meddling in domestic social security rules. Austria, Cyprus, Denmark, Finland, Germany, Ireland, Malta, the Netherlands, Portugal, Slovakia, Slovenia and Sweden are reportedly supportive of these efforts. The Government should seek to galvanise enough support within the European Council to make a request under Article 241 of TFEU for the Commission to reconsider its approach to social assistance and the right to reside to give Member States greater flexibility to set their own rules on eligibility.

As part of the Government's review of the balance of competencies, full consideration should be given to seeking amendments to the Free Movement Directive (FMD), and in particular Article 7, which would enable Member States to exercise greater discretion to prevent European nationals who are economically inactive from being entitled to receive prolonged periods of social assistance.

Under existing rules, European nationals living in the UK are able to secure permanent residence automatically after 5 years, with some becoming eligible sooner. This means there are 1.6 million European nationals living in the UK who have permanent residence or who are eligible for permanent residence by virtue of the fact they have lived in the UK for 5 years. Out of that number, 900,000 have lived in the UK for 10 or more years.

Reforms should be sought to the FMD to raise the threshold for automatic eligibility for permanent residence from 5 years to 10 years.

11.2.2. Restricting immigration from new EU Member States and transitional controls

Under the last Labour Government, a failure to introduce transitional controls when eight new countries from Eastern Europe joined the EU in 2004 led to a significant influx of migrants from Eastern Europe. In 2003 there were 556,000 Europeans employed in the UK from the 14 other EU Member States and the 12 countries set to join in 2004 and 2007. By September 2011, almost 1.3 million Europeans were employed in the UK, with the numbers from the accession countries rising from 50,000 to 728,000. Transitional immigration restrictions were applied to Bulgarian and Romanian nationals, but they will expire at the end of 2013 opening up Britain to 29 million more people. The Government's Migration Advisory Committee has already warned that: "Lifting restrictions would almost certainly have a positive impact on migration inflows to the UK from those countries." Britain should not be left unprepared for new waves of European immigration in the future.

The Government has made a commitment to apply "transitional controls as a matter of course for all new EU Member States." This policy is welcome. However, transitional controls are time limited and once that period has expired large populations from less economically developed and less wealthy countries could still come to Britain. This effectively means that mass influxes of immigrants are postponed rather than controlled.

For future accessions of new Member States to the EU, the UK Government should secure the right in Accession Treaty agreements to renew or revise transitional controls in respect of immigration beyond the initial control period. This would enable the UK to control inward migration from new Member States in a more flexible manner and, if appropriate, extend restrictions. Britain can unilaterally veto the Accession Treaty if this objective is not met.

11.2.3. European National Offenders

Looking after the safety and security of the population is a priority for any Government, and to make our streets safer we should remove foreign national offenders from the UK. Although more than one-third of the foreign prisoner population in this country are from European countries, some 4,000 offenders, only around one-fifth (1,100) of foreign nationals deported from Britain are sent back to other European countries. The EU Prisoner Transfer Agreement has been introduced to enable countries to return EU nationals to the Member State of their nationality but question marks remain over how effective it will be.

The UK Government should exercise its powers under Article 27 of the FMD to prevent dangerous and persistent criminals from entering the UK. If this approach is challenged through the ECJ, then the Government should seek to revise the FMD accordingly.

The UK Government should also take action to deport a higher number of European national offenders than will be achieved through the EU Prisoner Transfer Agreement. A clear removals policy should be established to empower the Government to deport EU nationals based on the seriousness of convictions received and/or length of custodial sentence handed down, including those with permanent residence.

11.3.4. Asylum Seekers

Britain should always provide a safe haven to those in genuine need. Despite being an island nation, Britain has dealt with an annual average of over 23,000 asylum claims in the last five years that figures are available. Many asylum seekers, genuine and bogus, will travel through other EU Member States where they could seek asylum before arriving in the UK. But only 9.1% of the total number claiming asylum in the UK were considered for removal to a safe third country and just 5.4% were transferred from the UK to another Member State.

The Government should promptly return any asylum seeker who has come to the UK after entering another EU Member State, as it is able to do through the Dublin Regulation. This will reduce the numbers of asylum seekers in the UK. In the event that the first country they entered in the EU is unknown, the UK should have the right to return the asylum seeker in question to the last known EU Member State where that asylum seeker was present. Such a

policy would require the UK to press for amendments to be made to the existing Common European Asylum System and the Dublin Regulation.

12. Defence

The recommendations in this chapter would not involve EU treaty change.

- NATO remains the cornerstone of Britain's defence strategy and nothing should be done to undermine it.
- As all aspects of Common Security and Defence Policy (CSDP) are decided by unanimity, the UK should use its veto to block any measure that does not meet its objectives. CSDP must not be allowed to become a vehicle to challenge NATO, nor to create a European Operational HQ, nor to create a "European Army".
- Some EU operations have added value, and the UK should retain its membership of the European Defence Agency so long as it continues to deliver real, practical, capability.

12.1. Background

Nothing should be done to undermine NATO. It has been, and remains, the cornerstone of the defence of Britain and the continent of Europe, uniquely binding the USA into the efforts to maintain European security.

The Common Security and Defence Policy (CSDP), remains an inter-governmental element of EU cooperation. As a consequence, the UK has the power of veto, a power which the current Government has exercised in rejecting any increase in the budget of the European Defence Agency (EDA).

The basis upon which military activity operates in respect of CSDP is where NATO is unable, or unwilling, to take action. Under the CSDP, the EU has developed what it calls the "comprehensive approach" which seeks to capitalise upon the interest of a number of EU countries in undertaking opportunities such as capacity building in which NATO does not have such a keen interest.

A number of EU operations have added value, in particular Operation Atalanta where the EU operation has been commanded from Northwood, alongside NATO Operation Ocean Shield, to deal with piracy off the coast of Somalia. The EU has focussed specifically upon the protection of aid convoys. The Operation has demonstrated that the use of NATO assets (in this case, Northwood) obviates the need to replicate NATO facilities by building an EU Operational Head Quarters (OHQ). The EU mission to train Somali soldiers in Uganda has also added some value in undertaking a mission in which NATO had little or no interest.

However, Operation Althea, to provide security in Bosnia, has exposed the fundamental weakness of European defence by demonstrating the persistent incapacity to deliver a consistently adequate force.

12.2. Proposals

It had been the intention of the incoming Conservative Government to withdraw Britain from the EDA, but the early signature of the Anglo French Defence Accord made that politically unattractive. Accordingly, we gave the EDA notice that we would review our membership in two years' time (namely, Autumn 2012) and our decision whether or not to continue

membership would depend upon the capacity of the EDA to deliver serious capability. Whilst withdrawal from the EDA might win some immediate plaudits, it could well turn out to be a gesture which would disadvantage the UK.

It is important to recognise that much of the ministerial discussion at EU defence ministers' level is conducted within the framework of discussion about the EDA. Accordingly, if Britain were to withdraw from membership of the EDA, we would be excluding ourselves from a significant part of the EU defence agenda. Since we have a veto, we do not need to accept any recommendations presented within the EDA forum which fail to meet our objectives.

The EDA has in fact delivered some tangible benefits, particularly in the field of training helicopter pilots for operations in Afghanistan by crews from nations which would not otherwise commit. The Maritime Surveillance Programme has also delivered tangible benefit in co-ordinating surveillance of the sea routes around northern Europe and the Mediterranean.

CSDP must not be allowed to become a vehicle to challenge NATO, nor to create a European OHQ, nor to create a "European Army". We should continue to argue that the EU should provide capability which NATO cannot, or will not, as well as providing some of the softer military activities. Since we do not have to horse-trade under majority arrangements, we can wield significant influence and we should therefore continue to promote our vision of CSDP as well as retaining our membership of the EDA so long as it continues to deliver real, practical, capability.

The Fresh Start Project would like to thank those who have contributed so much to this manifesto, in particular:

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For further information, please see www.eufreshstart.org

fresh start project

Chapter 1

Trade

The summary

- Successive UK Governments have had to weigh up the costs and benefits to the UK of membership of the EU. Costs are typically seen as contribution to the EU budget (largely to fund the Common Agricultural Policy and Structural Funds), the cost to business of regulation, and the loss of sovereignty over a range of policy areas. The benefits are typically described as free access to the EU market for trade, free movement of people, and increased geopolitical influence. Successive governments have failed to explain whether the benefits outweigh the costs.
- The EU remains the world's largest customs union and the most important market for UK business. Roughly half of the UK's total exports of goods and services go to the EU, and just over half of total stock of Foreign Direct Investment in the UK is from EU businesses. However, estimates put the 'Rotterdam-Antwerp effect'—where UK goods bound for non-EU markets are transhipped through Rotterdam or Antwerp, and hence recorded as exports to the EU—as high as 10% of UK goods exports.
- Current trends indicate that growth in the EU is slowing, exacerbated by the continuing eurozone crisis. Long-standing structural weaknesses in European economies are being brutally exposed by the financial crisis. Many new business opportunities will no longer be within the EU, but rather will be found in the major emerging economies which are increasingly driving global economic growth. There is a risk that UK businesses are hampered in competing in these markets by overregulation at the EU level.
- Significant opportunities for growth in trade with the EU remain, particularly in the services sector. Services account for 71% of EU GDP, but only 3.2% of this is from intra-EU trade. The UK government continues to push for the completion of the Single Market, especially in services; however, substantial obstacles remain.
- Financial Services is a critical industry for the UK. It accounted for an estimated 11.2% share of tax receipts in 2009-10, and provided a trade surplus of £31.5 billion in 2010. Pre-financial crisis, EU regulation had a largely liberalising effect across Europe, but post-crisis, the trend had been in the other direction. The EU is considering or developing 49 new regulatory proposals that could affect the industry a great many of which are aimed at constricting rather than enabling the industry. That is why the Prime Minister used the veto in December.
- The EU continues to push for further liberalisation with trading partners around the world. External trade policy is an exclusive competence of the EU under the umbrella of its Common Commercial Policy (CCP). As such all external trade negotiations are undertaken on behalf of the UK and all other Member States by the European Commission.
- Currently, the EU is pursuing a number of bilateral FTAs with countries and regions across the world, including, among others, Canada, Singapore, India, and Mercosur and has recently concluded deals with South Korea, Columbia and Peru as well as the Central American Region.
- The UK must balance the potential benefits of increased 'clout' in negotiating as part of the EU against the cost of having deals that are not specifically tailored to UK interests.
- At some time, a tipping point may be reached when the UK judges that the costs of EU membership outweigh the benefits. If this were the case, the UK could withdraw from the EU by invoking Article 50 of the Treaty on European Union. The UK would then negotiate a withdrawal agreement and framework agreement for the UK's future relationship with the EU. If this were not concluded within two years, or an extension agreed, the EU treaties would cease to apply, and the UK would trade with the EU on most favoured nation (MFN) terms of the World Trade Organisation (WTO).
- Analysis indicates that under MFN terms, around half of manufactured exports to the EU would face an average tariff of over 5%, with some sectors particularly hard hit. UK car exports to the EU would face tariffs of 10%. This would have a significant effect on UK business, and make the

UK a less attractive location for FDI. The UK would also lose its influence on framing EU regulation, and it is unlikely to be an option that any UK government would seek.

- A number of alternative models have been considered:
    - The EEA or "Norwegian Option" —The UK would be outside the customs union, and hence subject to complex and costly rules of origin. The UK would still be subject to most EU regulation, but with little ability to shape them. Access to the single market for goods and services would be maintained, and the UK would not be subject to CAP, CFP, or regional policy, and is likely to have a significantly reduced budget contribution.
    - A Free Trade Agreement or "Swiss Option"—Outside the customs union and subject to rules of origin, but not formally subject to EU social or product regulation. In practice, all product regulation is likely to be replicated in order to export to the EU. Not subject to CAP, CFP, or regional policy, and likely to have a significantly reduced budget contribution. Free trade subject to negotiated agreement.
    - Part of the Customs Union or "Turkish Option"—Member of the customs union, so with free access to trade for goods— services and agricultural products are not covered. Required to negotiate free trade agreements with any country that the EU opens trade negotiations with. Outside the EU Treaties and Institutions, so not subject to CAP, CFP, or regional policy, and not likely to make a significant budget contribution. Not subject to social regulation, but subject to all product regulation.
- All of these options appear to come with major drawbacks, and they are not likely to be acceptable, either to the UK or to the rest of the EU.

The options for change

- Work within the current system to minimise the costs of membership and maximise the benefits. Ideas on how to improve the CAP, CFP, Regional Policy and Social Policy have been covered in other chapters of this Green Paper.
- Continue to press the EU to negotiate free-trade agreements between the EU and the rest of the world.
- Continue to develop bilateral relationships to help UK businesses prosper in non-EU markets.
- Negotiate the completion of the single market, particularly in services to increase opportunities for trade for UK businesses.
- The UK government could seek a unilateral brake on EU financial services regulation through a legally binding protocol attached to the Treaties. This would assert the special circumstances that are the UK's stake in financial services, requiring the Commission to reconsider proposals that impact disproportionately on the UK, and would give the UK a right of appeal for any proposal before it had been agreed by the Council and European Parliament. This would give the UK a veto, because unanimity applies at the European Council level.
- The UK could negotiate changes to the treaties to allow member-states to pursue their own bilateral deals on investment.
- If the EU bureaucracy and regulation prevents the UK from developing global reach and makes the intra-EU trade no longer attractive, each of the alternative models described above would constitute withdrawing from our existing EU treaty obligations.

The introduction

Successive UK governments have had to weigh up the costs and benefits to the UK of membership of the EU. Costs are typically seen as contribution to the EU budget (largely to fund the Common Agricultural Policy and Structural Funds), the cost to business of regulation, and the loss of sovereignty over a range of policy areas. The benefits are typically described as free access to the EU market for trade, free movement of people, and increased geopolitical influence. Successive governments have failed to explain whether or not the benefits outweigh the costs.

The detail

External trade policy is an exclusive competence of the European Union (EU) under the umbrella of its Common Commercial Policy (CCP). Article 207 of the Lisbon Treaty (TFEU) stipulates that it includes trade in services and goods, intellectual property and foreign direct investment (FDI). Under the CCP, all EU Member States must apply the same external tariff with trading partners. The European Commission's Directorate General for Trade (DG Trade) is responsible for negotiating trade agreements on behalf of all Member States.

As a result of the ratification of the Lisbon Treaty, the European Parliament must now give its consent to all trade deals negotiated by the Commission - in this respect it enjoys what are known as powers of "co-decision" with the European Council, the body made up of EU Member State representatives. However, the Parliament is not responsible for giving the Commission pre-authorisation to begin negotiations with partners; rather this is the responsibility of the Council of Ministers acting on a mandate proposed by the Commission. Nevertheless, this arrangement effectively gives the European Parliament a veto over any trade package negotiated by the Commission and as a result, it is important that it take the Parliament's concerns into consideration during the negotiating process.

Therefore, the UK has to conduct its trade policy almost entirely through the mechanisms of the EU, leaving very little room for manoeuvre on its own. However, as will be mentioned later, the UK can use its considerable bilateral ties and resources to promote UK companies abroad and to facilitate imports as well as inward investment towards the UK. The EU is the world's largest economy and trading bloc. It accounts for almost 29% of global output, 15% of global trade in goods and 24% of overall global trade. Consequently, the EU is a major player in world trade talks, and partner countries are generally speaking keen to gain access to one of the most attractive markets in the world. In this regard, the Commission, on behalf of the Member States, seeks to leverage said access to the EU market in return for concessions from trading partners. Its size and importance gives it considerable clout when negotiating deals on behalf of Member States.

Trends

Europe remains the world's largest customs union and in addition, is the most important market for UK business. With Europe making up roughly half of the UK's total exports of goods and services and seven of the UK's ten main export markets, as well accounting for just over half of total stock of FDI, Europe's importance will remain crucial for the foreseeable future.

The single market has been an important driver of growth and UK businesses have benefitted from wider and deeper relations with other EU Member States. In fact, the UK has been one of the drivers of the single market, realising that it will benefit from increased liberalisation.

About 25% of the UK's trade is with other developed countries world-wide, with the US, Canada, Australia, Japan, EFTA and New Zealand. Although these markets are relatively low growth areas, they will remain important, indeed it is estimated that over the last ten years the UK's trade with the latter has increased by around 50%.

However, current trends indicate that growth in the EU is slowing, exacerbated by the continuing Eurozone crisis. Long-standing structural weaknesses in European economies are being brutally exposed by the financial crisis. Many new opportunities will no longer be within the EU, but rather will be found in the major emerging economies which are increasingly driving global economic growth.

If the UK is to make the most of its trading relations, two key objectives must therefore be achieved. Firstly, the UK must work towards further liberalising the Single Market and the reform of the wider European economy to increase competiveness and growth. Secondly, the UK must work to ensure that the EU negotiates deals that give UK firms access to global emerging markets. Should meeting these two objectives become problematic through the current EU trading framework, other options must be considered.

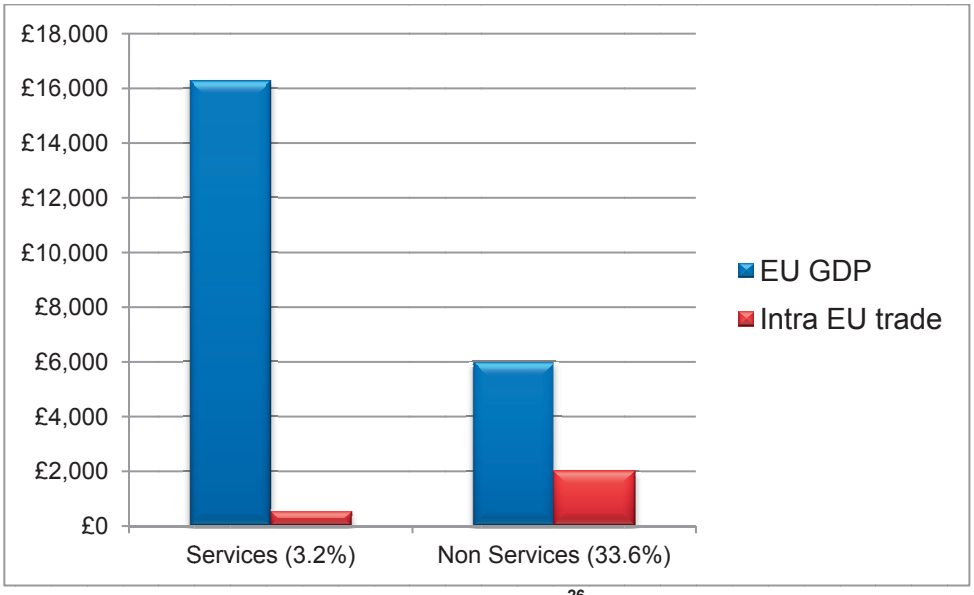
Liberalisation within the Single Market

The EU single market has long been championed by the UK, which it sees as central to ensuring the continued success of UK business. Having come into force in 1992 via the Single European Act (1986), it was designed to eliminate the remaining barriers to trade under the umbrella of the Customs Union.

The European Commission's 2002 ten year review of the Single Market estimated that EU GDP would have been 1.8% lower a decade after the treaty's signing than without the implementation of the single market. In addition, a 2007 report argued that the Single Market's development had led to a 2.2% increase in EU GDP in 2006 and the creation of 2.75m additional jobs. Furthermore, the single market acts to boost trade between Member States and in the case of the UK, the Department for Business, Innovation and Skills (BIS) has estimated that increased trade in Europe since the early 1980s could be responsible for a 6% increase in British per capita income.

Despite this, and with substantial obstacles still remaining, trade in goods in the current Single Market has made much more progress than trade in services, a sector of enormous importance to the UK. Should the UK be able to make a significant push towards liberalisation of the single market, the benefits could be considerable. BIS has estimated that it could result in raising EU GDP by 14% over ten years.

Unrealised potential: intra-EU trade as a share of services and non-services EU GDP (€ bn)



Source: *Eurostat*[26]

Nevertheless, considerable obstacles remain. While EU Member States have removed many of the major obstacles that affect commerce, they have been far less forthcoming when it comes to removing non-tariff barriers (NTBs) and technical barriers to trade (TBTs), frequently in the form of domestic regulation, in addition to linguistic and political obstacles. For example, the 2006 Services Directive, a piece of legislation designed to liberalise cross-border service provision in the EU, represented a significant watering-down of the Commission's original proposals, including the removal of guidelines designed to allow service providers to work in other Member States according to the rules of their country of origin, as well as rules allowing governments to impose restrictions broadly justified in the name of consumer protection, the environment and public health. In addition, the difficulties faced by the EU in liberalising services sectors constrains the EU's ability to take a lead on global services liberalisation, a competitive and fast growing sector.

The UK also finds itself in a challenging position concerning financial services. The UK currently accounts for 36% of the EU's wholesale finance industry and 61% of EU exports in financial services. While London has traditionally been seen as a gateway to the EU Single Market, new waves of legislation following the financial crisis have seen the UK losing influence, a fact compounded by the voting system in the European institutions which fails to adequately take into account the relative size of the industry in the UK, and results in Britain's financial services sector being under-represented.

Other major trade-related arguments in favour of EU membership concern investment and enlargement. Regarding investment, the Single Market has contributed to growth of inward FDI (the car industry being well known example) to the UK and outward FDI by the UK to other EU countries, mainly as a result of increasing returns on investments. The deepening of the Single Market would increase this trend by further improving these trade flows in relation to services.

[26] *Eurostat*, trade integration, http://epp.eurostat.ec.europa.eu/statistics_explained/index.php?title=File:Trade_integration,_EU-27_(1)_(%25_of_GDP).PNG&filetimestamp=20090430100045 http://epp.eurostat.ec.europa.eu/tgm/web/table/description.jsp.

One EU policy area where the UK has led from the front and been very successful is on enlargement. In face of opposition from countries more hostile to expansion, the UK has succeeded in convincing other Member States of the need to welcome Eastern European countries to the "club". This has had the added advantage of increasing the size of the market open to firms, however, previous decisions concerning immigration have caused problems in some Member States, particularly the UK. This should not prevent the UK from continuing to support enlargement as it will allow for increased market access to new Member States, however, with widespread "enlargement fatigue" across the EU this may prove difficult in the short-term.

Liberalisation with major trading powers and emerging economies

Firstly, it should be recognised that the size of the EU market makes it an extremely powerful player globally concerning trade not only at a multilateral level at the WTO, but also in bilateral relations with other countries. Third countries want access to its market and in return the EU can demand considerable concessions. The EU can therefore act as a proxy to ensure that the UK gains access to markets around the world with a degree of success and penetration far exceeding what smaller, less powerful players would be able to.

In this regard, a trade off between benefitting from the EU's clout despite its constraints and having a policy tailored specifically to suit the UK is the delicate balancing act that drives the actions of the UK Government in Brussels. This point is especially important given that the other major global players, both current and future, such as the USA, China and India are considerably larger than the UK and it remains an open question whether large trading partners would be interested in negotiations with the UK and willing to make worthwhile concessions in the framework of a trade deal.

Currently, the EU is pursuing a number of bilateral FTAs with countries and regions across the world, including, among others, Canada, Singapore, India, and Mercosur and has recently concluded deals with South Korea, Columbia and Peru as well as the Central American Region. This strategy must be encouraged as much as possible by the UK with a view to ensuring that an agenda of ongoing liberalisation is maintained.

In spite of this, there are difficulties that the UK experiences as a result of the Commission negotiating on behalf of all 27 EU Member States. Whether or not the UK is able to overcome these difficulties will be crucial in deciding whether or not continued EU membership is in its national interest. For example, the EU, like many others, grants high levels of protection for its agricultural sector and while a serious reform of the measures distorting trade has been undertaken, much remains to be done. The average Most Favoured Nation (MFN) tariff is 15% and in some areas such as dairy and fruit/vegetables, tariffs can be as high as 156% (such as is the case with dairy products). One example of where agriculture has been a stumbling block preventing market access in areas such as services is with Mercosur. At the Doha Round, the EU made a considerable concession in significantly reducing agricultural tariffs, however, other trading blocs and countries were more reluctant to match these allowances.

One interesting point that should also be considered is that if the business of one specific Member State is targeted by a trading partner, that is considered to be an attack on all Member States. For example, should Argentina decide that it would, in contravention of WTO rules, put in place barriers to the trade of UK companies, the EU considers this (through its exclusive competence) as an attack on all EU countries. Furthermore, the future of trade will be increasingly focussed on Non-Tariff Barriers to Trade including Technical Barriers to Trade. The EU, as a large player will be more able to have a strong influence on world standards that will be adopted in the future, allowing for a competitive advantage for EU firms.

Given that the trade policy is an exclusive competence of the EU, it would appear at first examination that the UK Government's bilateral room for manoeuvre is limited. Admittedly, access to markets will be governed by a framework of EU relations, however, the UK can do much unilaterally to ensure that its firms receive favourable treatment and are allowed to penetrate markets successfully. This is particularly relevant where the EU does not have preferential access to a third country's market.

Although the multilateral trading system is likely to remain the fundamental basis of world trade, bilateral relations between sovereign countries will continue to be of importance. It is fundamental to the future success of the UK that we cultivate long-standing relations and cultivate new ones in parallel to the EU's efforts. In this regard, the UK is especially well placed, with historical ties to a number of current players as well as potential partners whose significance will increase in the years to come.

The UK Government can be of assistance to UK firms in a number of ways.
Firstly, the UK must ensure that the country remains an attractive place for trade and investment, as well as doing all it can to assist UK firms operating in markets abroad. UK Trade and Investment should continue to work at offering advice and guidance to businesses of all types on trading internationally, as well as investing in foreign markets.
In addition, British commercial diplomacy could be improved and exporters should receive enhanced guidance and advice, capitalising on close bilateral ties to help them gain access to growth markets. In particular, this advice should be aimed at SMEs and should be aimed both where market presence is already strong, and in fast growing emerging markets that will provide the best future opportunities. In addition large diaspora populations living in the UK and their links with their countries of origin could be used to harness trading relations with partners around the world.

The case study: access to public procurement markets

Proposal for a Regulation of the European Parliament and the European Council on the access of third country goods and services to the Union's internal market in public procurement and procedures supporting negotiations on access of Union goods and services to the public procurement markets of third countries.

What it is?

On the 23rd of March 2012, the European Commission adopted a proposal for a Regulation in the EU's international procurement policy area. The stated aim of the proposal was to "improve conditions under which EU businesses can compete for public contracts in third countries." The Commission's justification for the proposal was that EU suppliers currently face restrictive procurement practices in many of the EU's main trading partner countries. In addition, the proposal aimed to confirm "the legal status of bidders, goods and services from countries that have an international agreement with the EU in the area of public procurement" while clarifying "the rules applicable to bidders, goods and services not covered by those agreements."

Commission's Justification

Certainly, the EU maintains a very open policy compared to other trading partners, but with China only opening a fraction of its potentially enormous market to foreign bidders. Moreover, the financial crisis has led to many countries enacting protectionist measures to favour domestic businesses. In total, the Commission has estimated that over half of the

world's market is closed, a share that is currently growing. Going by the logic that, given the rising importance of emerging economies and the absence of a level playing field, the Commission argues that the EU must act now to gain leverage in international negotiations with trading partners in order to redress the imbalance and gain substantial market access commitments for the benefit of EU business.

The battle in Council

The battle developing over the proposal encapsulates the current tensions within the EU over trade policy. The principle of reciprocity has long been championed by France, with Nicolas Sarkozy making it a central tenet of his unsuccessful re-election campaign. Tension exists between countries which wish to see mercantile reciprocity (led by, but not exclusively comprising the “club med”) and those, led by the UK and Germany, who see this as a damaging policy long-term.

Some policy makers have observed that smaller EU member states lack the administrative capacity to properly analyse the Commission's proposals and their potential effects, and will be more easily swayed by the immediate appeal of protectionist logic.

With its trade deficit at record levels in 2011, and without significant improvement in sight, France's fall back on protectionist policies is likely to be a continuing trend, further exacerbated by the election of Francois Hollande, the Socialist candidate. The UK must seek to work with other like minded countries to head off a creeping threat from a regulation that would not be in its interests should it come into force. Current developments are encouraging, however, future events cannot be foreseen with any certainty.

The battle in the European Parliament

Under the Lisbon Treaty the European Parliament enjoys powers of co-decision over trade policy. The European Parliament has been vocal in its calls for "reciprocity" in public procurement policy with emerging economies. On the 23rd of May 2012 it adopted in a resolution on trade relations with China containing a paragraph calling for reciprocity with all emerging economies. Furthermore, MEPs have consistently been urging the Commission to come forward with this instrument. This is clearly not in the UK's interests as to a large extent, as a more global trading nation than most, it relies on third country market access. This could be put into question should the EU's partners retaliate against what they see as a protectionist ploy from a supposed champion of open global markets. However, these arguments are unlikely to resonate with the majority of MEPs, whose sentiments tend to be more protectionist than liberal.

Significance

The instrument draws upon the classic EU split when it comes to trade. The southern, more protectionist countries are lined up against the more liberal nations of the north. To a large degree, the result could prove indicative of future developments in EU trade policy. Should the more protectionist bloc triumph, it might augur poorly for the liberal Member States, however, should the liberal states of the north succeed in rejecting, watering down or freezing the proposal, it might indicate that the balance within the EU is more positive for the UK. Watch this space.

Other Models of Association with the EU

At some time, a tipping point may be reached when the UK judges that the costs of EU membership outweigh the benefits. If this were the case, the UK could withdraw from the EU by invoking Article 50 of the Treaty on European Union, and negotiate a new arrangement. Article 50(1) TEU states: “Any Member State may decide to withdraw from the Union [that is, the European Union] in accordance with its own constitutional requirements.”

If a Member State does decide to withdraw, Article 50 TEU obliges that country to inform the European Council of its decision. The European Council, acting by consensus though without the withdrawing state’s representative, agrees guidelines for a withdrawal agreement between the withdrawing country and the EU.

Article 50 TEU says that this withdrawal agreement shall set out “the arrangements for its [the withdrawing country’s] withdrawal, taking account of the framework for its future relationship with the Union.”

On a recommendation from the European Commission, the Council will select an EU negotiator to negotiate with the withdrawing country. When the negotiations between the EU and the withdrawing nation have come to a settlement, the Council of the EU can conclude the withdrawal agreement on behalf of the EU by QMV, after obtaining the consent of the European Parliament. The withdrawing country concludes the withdrawal agreement in accordance with its own legal procedures.

All the while, the withdrawing state is excluded from the Council’s decision-making.
It is possible that the withdrawal agreement could provide for the withdrawing country to continue participating in certain EU policies. Article 50 TEU clearly requires the “framework” for the withdrawing country’s future relationship with the EU to be decided at the same time as the withdrawal agreement, as this agreement must take that framework into account. In practice, the broad framework of this future relationship would probably have to be agreed by all, or the great majority of, EU Member States.

Article 50 TEU provides that the EU treaties as they stand cease to apply to the withdrawing country when the withdrawal agreement enters force. If an agreement hasn’t been concluded, the EU treaties cease to apply two years after the withdrawing nation told the European Council it was leaving the EU (though the European Council, acting unanimously and in agreement with the withdrawing country, can extend this period, for instance if negotiations remain ongoing).

If no agreement is reached, the withdrawing country would default to trading on Most Favoured Nation terms with the EU under the framework of the WTO.

As this is likely to be highly disruptive to the UK, and hence not acceptable to UK business, it is likely that the UK would need to have an agreement, at least in principle, outlined with the EU for the future relationship before invoking Article 50.

A number of options have been proposed as an alternative to the UK’s full membership of the EU. The principle ones are outlined below.

The EEA or "Norwegian Option."

What is it?

Norway is currently a member of the European Free Trade Area (EFTA) and, through a Free Trade Agreement (FTA) with the EU, the European Economic Area (EEA). However, it is not a member of the EU and therefore not a member of the customs union. The EEA is an accord between three EFTA members and the EU (the Swiss opting to stay out). This path would allow for the UK to enjoy tariff free access to the European market while simultaneously allowing for the UK to largely decide upon its external trade policy with other global partners independently.

Furthermore, the EEA allows for an extension of four fundamental pillars of the EU single market, the movement of people, capital, goods and services, however, these would remain subject to many regulations being decided by the EU, covering, among others, social security for migrants, in addition to related legislation covering employment. For example, EEA states are obliged to adopt provisions such as the controversial EU Working Time Directive.

While there can be consultation over certain measures, this option would therefore require the UK to continue to follow measures over which it would by and large have no voting influence in the decision making procedure. Currently, input from Norway and other EEA members takes the shape of limited participation by appointed experts in Commission and European Council committees, however, rather like the current consultation procedure within the European institutions, there is no real legally binding mechanism that allows for their interests to be taken into account.

Moreover, these formal arrangements do not provide a role for EEA members to deal with the growing influence of the European Parliament, an institution which has seen its role and authority grow in recent years, and whose powers may well increase in years to come both as a result of formal transfers and, more crucially, as a result of its institutional ability to exercise those competences with increased effectiveness.

In theory, the CAP and CFP, criminal justice and asylum policy, Schengen, foreign policy and defence and external trade are all excluded from the EEA Agreement. However, this has not precluded EEA countries from striking certain sectoral deals with the EU.

By way of example, Norway cooperates with the EU beyond the EEA framework in the following ways:

Schengen

Norway is a signatory of the Schengen Agreement and as a result, has adopted many of the rules and laws regarding police cooperation.

Justice and Home Affairs

Norway has agreed to a series of provisions, including joining a number of EU agencies.

Defence

Norway is a member of the European Defence Agency, an agency which oversees cooperation both in defence procurement and EU military operations, such as the currently ongoing one in relation to Somali Piracy.

Norway therefore enjoys close relations with the EU across a number of fields.

Benefits

Access to the single market would be maintained, however exports would be subject to Rules of Origin. Rules of origin apply to specify the conditions under which a good becomes eligible for zero tariffs within the free trade area and that there is no backdoor. ROO can be relatively simple for products wholly produced and assembled in one country. However, when a product involves complex supply chains, determining origin can be a very complex, sometimes subjective, and time-consuming process.

The UK's net contribution to the EU budget would be reduced as it would no longer be obliged to fund the CAP, the CFP as well as the EU's regional policy. However, it should be noted that EEA states still provide support to the EU's less affluent member states through the EEA fund, and the UK would most likely be required to contribute sums commensurate with the size of its economy. However, the specific amounts are difficult to estimate.

The UK would enjoy control over non-EU trade policy. EFTA states have developed a large network of bilateral deals, 24 FTAs with 33 countries and are in the process of negotiations with others. Certainly, the UK would be keen to seek FTAs with other countries around the globe.

Procedurally, it could be foreseen, owing to the small size of EFTA, that deals could be concluded more quickly than they might be within the EU. This would allow for advantageous situations where UK firms could enjoy new market access ahead of European competitors (EFTA's deal with South Korea came into force on 1 September 2006, whereas the EU's only did so on the 1st July 2011), provided of course that they were to secure similar levels of access as they would otherwise have been able to negotiate as part of the EU bloc.

A brief examination of the EFTA partnership reveals highly divergent interests. Switzerland and Norway, the two main members, frequently clash over key tenets of trade policy with third countries, both as a result of their geographic peculiarities, individual political and economic interests. For example, Norway wishes to see the inclusion of binding human rights clauses into trade agreements whereas Switzerland remains less concerned. Switzerland's key interests in services and pharmaceuticals are not shared with Norway. One might counter this argument by pointing to an ability to tailor deals more specifically to EFTA countries, which enjoy less competing interests than the EU counts among its member states.

Costs

In light of the UK's large trade volumes with other EU Member States, it is vital that the UK retain influence of the rules by which the game is played, as well as the body responsible for refereeing those rules. Both these exigencies would become problematic if the UK were to join the EEA.

Norway, as an EEA member, is required to abide by EU regulations relating to the Single Market, regulations covering product standards, in addition to EU social and employment laws. However, the UK would retain no voting rights in the EU decision-making process. This lack of influence would be felt in all three institutions as the UK would no longer send a Commissioner to serve in the European Commission, would no longer send ministers to the European Council and no longer send MEPs to the European Parliament as there is no directly elected representation for non-EU countries.

As a consequence, a scenario could be foreseen in which the UK loses its ability to shape laws covering financial as well as employment and social regulation to its advantage. These laws are of less importance to Norway owing to its small financial services industry and high social costs, which are greater than those imposed by the EU.

Moreover, the UK would of course be obliged to adapt to a new set of technical rules (which owing to the unique composition of Norwegian exports do not apply to the same extent as would be the case for the UK) under the EEA agreement that would be tedious, costly and disruptive to trade.

The prospect of loss of unfettered free movement of goods would probably be unacceptable to a number of important and largely foreign-owned UK manufacturing sectors such as vehicles, chemicals and processed foods. And it would certainly be unpopular with most continental exporters to the UK.

Conclusions

Firstly, it is not clear whether or not the EEA states would accept a new member as large as the UK. The UK's accession would fundamentally alter the composition of the association and the legal requirements necessitated by such a change would be complex and require difficult negotiation.

The Norwegian Government has itself drawn up a report which states, "In the United Kingdom the EEA Agreement has also attracted a certain degree of attention at times... However, the EEA has not been subjected to a systematic analysis, and it is unclear whether it is seen as a realistic alternative."

An in-depth analysis on what such a move would mean for the UK has yet to be modelled.

A Free Trade Agreement or "Swiss Option"

What is it?

The UK would seek to conclude a new bilateral treaty with the EU in the form of a Free Trade Agreement (FTA). It would not be a member of the EEA, indeed this option would be a step further away from the "Norwegian option", similar to Switzerland's current relationship with the EU.

It is worth noting from the outset that the Switzerland-EU FTA is a particularly idiosyncratic model, driven by the particularities of the Swiss economy and Switzerland's relationship with EU Member States. Therefore, when considering this option it is not clear what shape or form a potential UK-EU FTA would take, as the Swiss model is so unique, and consequently, it is instructive mainly in form, rather than in content.

Current EU-Switzerland relations consist of three elements: the original 1972 Free Trade Agreement, and pacts subsequently updated in 1999 and 2004 known as "Bilaterals I" and "Bilaterals II". The package allows Swiss companies' tariff and duty free access to the EU's Single Market in the areas covered.

The deals cover a variety of areas, including the free movement of persons, access to the EU procurement market, certain technical barriers to trade including NTBs, customs facilitation, as well as mutual certification which allows for the testing and admission of Swiss products to the EU under the supervision of a single regulatory authority.

In addition, some Swiss agricultural products enjoy tariff reductions and Swiss researchers are granted access to some EU research programmes. Switzerland also partakes in the Schengen agreement and cooperates across a range of justice and home affairs issues, including immigration and policing. Crucially, negotiations covering services liberalisation were suspended following nine months of negotiations.

Benefits

One reason frequently adduced in favour of the Swiss model concerns its democratic legitimacy and accountability. Swiss politics is defined by its direct link with Swiss citizens, with frequent referenda across a number of issues, with EU trade being no exception. The "Bilaterals I" and "Bilaterals II" packages were both put to voters, albeit in different forms, with the former achieving the approval of 67.2% of Swiss voters while the Schengen component of the latter attained 54.6%.

Similarly to Norway and other EFTA countries, Switzerland is also exempt from EU policies such as the CAP, CFP (not so important in this case) as well as regional policy. However, Switzerland does contribute to regional development in the newest Member States of the EU on a voluntary basis. Moreover, Switzerland does not, unlike EEA members, have to implement EU internal market legislation relating to social and employment law, including the Working Time Directive and the Agency Workers Directive, however, Switzerland does implement some EU equivalent legislation in the framework of its bilateral deals with the EU. Importantly, and unlike the EEA, Switzerland's accords with the EU do not involve explicit transfers of legal or decision making powers to Brussels or any supranational authority.

Therefore, on paper, the Swiss retain the ability to refuse implementation of provisions which would trigger new negotiations between the two sides.

Costs

Firstly, Switzerland enjoys very little influence and no formal say in the EU decision making process. Unlike EEA members, the Swiss have no observer rights or participation status, they must use various formal and informal outside channels to influence and debate legislation within the EU institutions.

Additionally, many of the extant agreements are based on either equivalent EU legislation or on simple adoption of existing EU law, such as is the case with product standards and access to procurement markets, as well as the rules governing the Schengen Agreement. These are laws which were introduced following EU debate in EU legislative forums, to which the Swiss are not party.

A major bureaucratic challenge is also presented by the administrative arrangements covering bilateral agreements. The mechanisms employed to oversee the accords foresee amendments only in case of mutual agreement and are not subject to a principle of automaticity. In practice this means that, particularly in areas of equivalence such as technical barriers to trade, the standards require constant updates under unanimity for Switzerland to enjoy access to the Single Market. This situation is further complicated by a lack of a court or surveillance authority enforcement and dispute settlement mechanisms.

This absence of dynamic and flexible relations creates additional inconveniences. For example, if the EU adopts new legislation in areas where the two parties do not enjoy a bilateral agreement, Swiss firms can find themselves having to deal with market access issues as a result of new barriers to trade. The REACH Regulation had a significant impact on the Swiss pharmaceutical industry which conducts a large part of its trade with the EU market.

The requirements of REACH, which stipulates that manufacturers register certain information relating to their products with the European Chemicals Agency, has resulted in significant and complex certification issues. Having considered the parallel creation of an agency in Switzerland, the Swiss authorities have concluded that this would lead to extensive duplication. As a result, Switzerland is now exploring the possibility of a new agreement with the EU in this sector.

One area of particular relevance for UK concerns Switzerland's service sectors, especially financial services, and this should be considered at length. Negotiations for a bilateral deal on services floundered in 2003. EU legislation does not apply to Switzerland as it is not part of the EEA and although there is an agreement covering financial services, it is not greatly used as most large Swiss providers have set up subsidiaries in the EU. However, the smaller Swiss firms that are not able to establish subsidiaries are significantly impacted. So the status quo, by which movement on services is covered by the existing agreements, only allows for selective coverage under a range of different instruments for companies based in Switzerland. For example, Switzerland has the right to provide services for a period not exceeding 90 working days per calendar year. This represents a significant missed opportunity for Swiss firms; indeed, some studies indicate that if the Swiss were to implement the EU's Services Directive, the gains achieved would be significant.

Since the financial crisis, the EU has been in the process of significantly reforming the regulatory framework for financial services. This includes provisions to force financial institutions "on shore" resulting in Swiss banks having to weigh up by means of new cost-benefit analyses whether or not the cross-border side of their business is still viable and should be maintained. In this regard, the Swiss authorities noted in 2009 (before most EU legislation had been drafted or is now due to be implemented) that "the existing barriers to market access place Switzerland at an economic disadvantage."

The Swiss Federal Council has also noted that, "Switzerland loses out in terms of jobs, value creation and tax receipts. This also makes it difficult to obtain economies of scale and thus a more cost-effective handing of financial services." The large costs of opening EU-based subsidiaries effectively leads to a situation where many SMEs cannot afford access to the EU market. This situation is not likely to improve in the face of the new drive towards a new regulatory regime in the EU.

Switzerland's authorities are not helpless in the face of this reality, however. The Swiss government is actively exploring a number of options to improve the current situation:

1. Mutual recognition of equivalence and regulation to ensure that Switzerland's regulatory framework meets EU requirements. In this regard, a formal process has already been agreed between the European Commission and Switzerland with the objective of the EU recognising equivalence on Swiss law, which will seek to mirror the Solvency II Directive.
2. Voluntary alignment of Swiss national law to EU law as such has already taken place with the MiFID Directive whereby Swiss banks have adopted its requirements. However, this applies only in so far as the EU is willing to recognise Swiss provisions as equivalent to their EU variant.
3. A new financial services agreement with the EU, building on progress made before talks broke down in 2003. This must be done to take account of barriers existing at an EU level and within EU Member States.

With regard to direct financial contributions to the EU, although Switzerland does not contribute to the EU budget in the manner of Member States, and is exempt from the CAP and regional policy, it contributes financially in other ways. These indirect contributions

result from both Swiss acceptance of a need to ensure good relations with EU Member States and the direct demands of the EU with regards to transport infrastructure.

Switzerland contributes by means of a "Memorandum of Understanding" to support the EU's cohesion policy objective following the last round of enlargement. Currently, Switzerland contributes CHF1.3bn a year to develop new EU Member States and the Swiss authorities spent €15bn on the Alps Transit project or transalpine railway network (NEAT), a project of little direct benefit to Switzerland other than to satisfy EU demands for access through its territory.

Conclusions

One important consideration which must be borne in mind is the uncertain future faced by EU-Swiss trade relations. Since 2008, Switzerland-EU bilateral deals have come under increasing pressure from Brussels. Both the Council and the Commission are keen to generate a paradigm, with a more comprehensive arrangement under consideration. The European Council has explicitly called for a more comprehensive approach, including stepping up enforcement and dispute settlement mechanisms to provide for increased compatibility of Swiss and EU law, and importantly, for decisions to be made by the European Court of Justice (ECJ).

The Council concluded that, "while the present system of bilateral agreements has worked well in the past, the challenge of the coming years will be to go beyond this complex system, which is creating legal uncertainty, has become unwieldy to manage and has clearly reached its limits." Furthermore, the Swiss government has itself committed to, "looking at the possibility of dynamically adjusting the agreements to comply with new EU legislation, how to ensure the coherent application and consistent interpretation of future agreement and the development of an effective dispute procedure."

Nevertheless, the Integration Office of Switzerland has declared that, "Any solution must respect the sovereignty of both parties and the efficient operation of their institutions." The future is far from clear, and what shape future EU-Switzerland relations will take remains to be seen, allowing an element of uncertainty and demonstrating the implicit tensions within trading relations. What is clear is that the current system is seen as unsustainable by EU Member States.

The Turkish Option, member of the customs union outside the EU Treaties and Institutions

What is it?

As is the case with the use of the "Swiss example", it is useful to bear in mind that the Turkey-EU customs union, while setting a useful precedent, is the product of a unique set of geo-political circumstances which were and are themselves designed in the context of a supranational transition towards full EU membership. Despite the current difficulties in the relations between Turkey and the EU, the Turkish government remains fully committed to Turkey's entry into the EU .

If the UK were to remain within the customs union, it would continue to enjoy the free circulation of goods

Benefits

As both the "Norwegian option" and the "Swiss option", a relationship with the EU modelled on Turkey's would mean the UK would not contribute to the CAP, CFP or regional policy.

However, it could be foreseen that the UK would be obliged to provide funding in one way or another as we have seen with the EEA states and the Swiss. Furthermore, Turkey does not subsidise the EU budget; in fact, it is a major recipient of EU pre-accession funding.

Moreover, the UK would not be obliged to implement EU labour and social laws, leaving it more room for manoeuvre and flexibility when deciding its domestic legislation. It would also gain the ability to negotiate on behalf of its domestic services sector with third countries independent of the EU, however, the UK's access to the EU's services market would be governed by a new agreement, possibly along the lines of the agreements that Switzerland currently shares with the EU. This would entail the market access problems that have already been outlined in the analysis of the "Swiss option".

This option, of remaining in the customs union, would have the benefit of enjoying the free movement of goods, without hindrance. In addition, the UK could also cooperate with the EU through its own seat at the WTO in Geneva. As already pointed out, this new arrangement would not necessarily preclude the UK from striking deals with other trade partners in the field of services that would go further on services liberalisation than the EU's.

It could be argued that neither GATT Article XXIV nor the GATS Article V contain specific provisions that would prevent the UK from imposing, on average, lower barriers to third market imports, than existed previously on an individual country basis.

Costs

An examination of Turkey's customs union agreement with the EU quickly illustrates one of the main problems that Turkey faces. The agreement foresees that Turkey must adopt the EU Acquis' provisions on technical barriers to trade in addition to product regulations, rules on competition and state aid. In the customs union the EU would have the power to adopt Acts through a decision making process in which the UK would have no formal political power.

This is not such an issue for Turkey, which as a candidate country, is required to adopt the EU Acquis prior to accession; however, the UK would not be negotiating to join the EU, rather it would be going in the opposite direction. This peculiarity would create significant problems for the UK given that the EU's uniform product regulations would apply to goods in the Great Britain's domestic market, regardless of whether or not they were to be exported to the EU.

Coupled with this, the UK would to a large extent be losing its ability to influence future possible internal liberalisation of the single market. The Single Market would not have taken the shape it has today it not been championed by Baroness Thatcher and it is hard to imagine that the EU would become more liberal if the main proponent of free trade both within and without the bloc were to leave.

It could be foreseen that a consequence of the weakening of the free trade lobby within the EU could lead to a situation whereby any deal struck with the EU on services (for such a deal would be necessary) would entail less market access than that currently enjoyed by the UK as part of the EU. Furthermore, the difficulties encountered by Switzerland in negotiating a deal in services demonstrate the potential obstacles faced by the UK.

There would also be limited room for manoeuvre in negotiating external trade agreements on trade in goods. Article 16 of the Turkey-EU custom union agreement requires that Turkey align its own commercial policy with that of the EU so that a common external tariff on goods can be maintained. If the UK were to be a member of the customs union, it would be required to do likewise.

However, in order to align its commercial policy, the UK would be obliged to conclude FTAs with any third country with which the EU has signed one with and on the same terms. This would create critical difficulties, as not only would the UK be left out of negotiations, but the EU could sign FTAs without any real consultation with the UK. This could lead to a situation whereby the UK might in some instances be forced to sign deals with countries from which it might not gain significant concessions.

It remains an open question as to whether third countries would be willing to negotiate deals with the UK, or at least would negotiate at a snail's pace. A preferential deal with the EU means that third countries can export indirectly without tariffs, via the EU, whilst needing only to grant access to EU, and not Turkish goods. The EU now includes a "Turkish Clause" in its bilateral trade deals, which asks trading partners to negotiate a similar agreement with Turkey. Despite this, Turkey remains dependant on EU enforcement of this article.

Another problem is that the EU's FTA negotiations result in trade-offs between issues of importance to third countries and the EU Member States, priorities which may differ to those of Turkey or which are not even covered by its customs union agreement with the EU. This includes an emphasis on high-end goods and agreements on services and intellectual property. However, as one report has noted (See 54) this leads to an asymmetrical and unsustainable relationship that can only be maintained over the longer term if concrete progress is made towards Turkey's full membership of the EU.

Conclusions

This model's attractiveness depends entirely on how the UK could influence the EU, and how appealing its market would be to third countries. The Turkish relationship is largely based on its candidacy status. The UK could seek to negotiate an agreement with the EU, based on a customs union with free movement of goods and rights of access to the EU for UK services businesses. Other sections could be negotiated to cover intellectual property, investment, public procurement and competition. While maintaining access to the market and remaining within the customs unions, the UK would see its trade policy largely directed by the EU, an obligation that would considerably limit its sovereignty regarding trade policy.

WTO Option

What is it?

The UK could leave the EU and fall back upon the current multilateral trading system in place, that of the WTO. Most favoured nation tariffs would apply to UK exports while the UK would use the WTO framework to establish its own trading regime with trading partners.

This break with the EU would have to be done in the context of Article 50 TFEU; this would give the UK the right to withdraw unilaterally if a mutually agreed basis for it doing so could not be negotiated within two years of the UK’s original notification to the European Council of its intention.

Benefits

This option would return full sovereignty and the UK would be free to negotiate trade deals with willing partners, it would maintain the right to negotiate these deals specifically within WTO rules to best suit specific trading interests.

Moreover, the UK would no longer be obliged to take part in the CAP, CFP or the EU's structural and cohesion funds and would not contribute to the EU budget.

Costs

If this action were to be taken then the UK would no longer be party to FTAs negotiated by the EU on its behalf. In the absence of preferential trade agreements with the EU and other countries the UK would have to pay MFN rates on all exchanges until new regimes could be put in place, a process that could take many years, and could cause permanent damage to the UK economy.

This would be extremely damaging and destabilising for UK business, which would be forced to adapt to a radically different trading regime, unless the UK can assign some of the existing EU arrangements to a bilateral agreement.

Manufactured exports could be particularly badly hit, and exports to the EU could face the same tariffs as countries like the USA, China and Japan which all have no preferential regime in place with the EU. According to one expert, "World Trade Organization (WTO) statistics give the weighted average of such tariffs as 2.7%, which may sound low. But over half such imports enter the EU duty-free. That suggests that around half the UK's manufactured exports to the EU would face an average tariff of over 5%, a decisive handicap in many price sensitive markets. UK car exports to the EU would be particularly hard hit as the EU tariff on "completely built units" is 10%.[27]" Of course, the UK Government could make efforts to mitigate the damage.

The potential loss of competitiveness of UK business could result in pressure on the Government to introduce protectionist measures to ensure the short term survival of UK companies. Foreign firms might see the UK as a less attractive location for their outward investment as the UK would no longer remain within the world's largest market. In addition, the UK would lose its influence within the Single Market, allowing for continental rivals to negotiate the rules of the EU in their favour, giving preferential treatment to domestic producers.

The Options for change

The colour-coding used below for possible UK action follows the categorisation for all the Fresh Start Project's Green Paper chapters. Green are those measures that can be achieved within the current EU legal framework; Amber are those measures that require negotiated EU treaty change; Red are those steps that the UK could take unilaterally that would involve breaking its treaty obligations.

A number of options exist for the UK to minimise the costs of membership of the EU. Specific ideas on how to improve the CAP, CFP, Regional Policy and Social Policy have been covered in other chapters of this Green Paper.

Further, the UK has a number of options to maximise the benefits of full EU membership.

It can continue to press for the EU to negotiate free-trade agreements with countries and trading blocs throughout the rest of the world. The EU is currently pursuing a number of bilateral FTAs with Canada, Singapore, India, and Mercosur. The UK could push for the EU to add more resource to its efforts to expand free trade through bilateral deals, and through

[27] Vacuity of UKIP's flagship policy, Ronald Stewart-Brown, Conservative Home, April 11, 2010.

the WTO.

The UK also has a number of options to enhance the ability of UK businesses to compete in the wider world. The government can continue to develop bilateral relationships to help UK businesses prosper in non-EU markets. In many respects, the UK is well placed to access these markets through historical ties, and through the Commonwealth.

The UK could continue to negotiate the completion of the single market, particularly in services to increase opportunities for trade for UK businesses.

The UK could place greater emphasis on trying to secure an economic portfolio, such as the Trade Directorate, in the next European Commission.

The UK government could seek a unilateral brake on EU financial services regulation through a legally binding protocol attached to the Treaties. This would assert the special circumstances that are the UK's stake in financial services, requiring the Commission to reconsider proposals that impact disproportionately on the UK, and would give the UK a right of appeal for any proposal before it had been agreed by the Council and European Parliament. This would give the UK a veto, because unanimity applies at the European Council level.

The UK could negotiate changes to the treaties to allow member-states to pursue their own bilateral deals on investment.

If the EU bureaucracy and regulation prevents the UK from developing global reach and makes the intra-EU trade no longer attractive, each of the alternative models described above would constitute withdrawing from our existing EU treaty obligations.