

The Final Brexit Question

The known Plan A to remain or the unknown Plan B to leave

Michael Emerson

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Abstract

The terms for the UK to remain in the EU are now known, amounting to the status quo as amended by the agreement reached at the European Council on 18-19 February 2016, in response to Prime Minister David Cameron's four requests (Plan A). The terms for leaving, however, are completely unknown, beyond vague talk about liberating the UK from regulation by Brussels. There is no known Plan B developed either by the British government or the secessionists. The choice to be offered in the referendum, now scheduled to take place on 23 June 2016, between the known Plan A and an unknown Plan B is an alarmingly hazardous matter for democratic deliberation. This paper therefore attempts to sketch three alternative Plan Bs, and to evaluate their qualities in relation to the Plan A. Two relatively simple plans (B.1 and B.2) have the virtue of clarity, and have some supporters, but are implausible for either economic or political reasons. This leads to consideration of a deeper Plan B.3, in which the UK would enter into complex negotiations with both the EU and the rest of the world to try and obtain the best possible outcome with secession. But this is found to be much more problematic than secessionists suggest and less advantageous than Plan A on economic grounds. In addition, by seceding, the UK has nothing to gain and a lot to lose in its status as a foreign policy actor in world affairs. Finally, there is the serious risk that secession by the UK from the EU could lead to disintegration of the UK itself through the secession of Scotland.

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Michael Emerson*

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Executive Summary

Now that the results of Prime Minister David Cameron's negotiations with the EU have become known following the European Council on 18-19 February 2016, and the date for the UK's referendum to remain or leave has been set for 23 June 2016, it is time to clarify the consequences of this seemingly simple choice, in or out.

The 'remain' choice (Plan A) is fully known, consisting of the status quo, as marginally improved under Cameron's four points. These improvements could only be marginal because basically the UK is 'in' what it likes (the single market and a full role in foreign policy and political affairs), and already 'out' of what it does not like (the euro, Schengen), and has special deals on other important matters (the budget and justice and police cooperation). Also the government's own research revealed abundant evidence that the sharing of competences between the EU and its member states was mostly 'about right', and the case for repatriation of EU competences back to the member states failed to gain traction.

Plan B, or the terms of secession, is in the immortal words of Sherlock Holmes "the dog that did not bark". The 'leave' choice is unknown territory, since it has not been specified by the secessionists beyond vague statements like regaining freedom from Brussels and being able to engage in freer trade with the world at large. Since the posing of a choice between a 'known' and an 'unknown' is a big hazard for democratic deliberation, this study does some homework that the secessionists have been unable or not wanted to do. Three Plan Bs are defined, which span a range of views.

Plan B.1 corresponds to one popular sentiment to get out simply and fast, with a clean break on Day 1. This would mean scrapping all EU law, including all its international agreements, and thus create initially a huge legal void that would be unthinkable catastrophic for the economy, such that no British government would conceivably do this. Consequently, there can be no quick clean break.

Plan B.2 consists of quitting politically while staying within the single market and/or the customs union, and thus minimising economic disruption. This could be workable, since the mechanisms already exist and have been tested with some other non-EU countries. The problem here, however, is that it would mean still taking on a lot of EU policy without having a say in its making, i.e. a loss of sovereignty compared to Plan A ('no say, still pay', as some have dubbed it).

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Plan B.3 therefore sees the UK trying to negotiate the best possible deals with the EU and its international trading partners. This however becomes a very messy prospect, with years and years of negotiation lying ahead in a climate of uncertainty over the outcome. The UK's preferred deal with the EU would aim at maximum freedom of action including an end to the free movement of people, but at the same time retaining maximum continued access to the EU market for goods and services. Negotiations with the EU towards this end, however, would be very problematic, encountering predictable objections to this 'cherry-picking' approach. As a result the UK economy would risk losing both its two 'crown jewels' – namely the preeminent position of the City in financial markets and the UK's rank as the preferred location for foreign investment aimed at the EU market. Moreover, the idea of the UK replacing the EU's international free trade deals with something better and faster is an illusion, since major trading powers will continue to view the EU as their priority, as our analysis shows in some detail.

The overall conclusion is that all three Plan Bs fail to come up with something preferable to Plan A, as a matter of cold calculation of concrete costs and benefits.

To this should be added the certainty that under all the Plan Bs the UK would lose status in international affairs in the eyes of the rest of the world. It would also inflict huge damage on the entire European project that has for half a century delivered peace and prosperity to the continent, a seemingly miraculous achievement after the preceding half-century of the worst hell that the modern 'civilised' world ever saw.

Last but certainly not least, Brexit could also destroy the UK itself, leading quite possibly to Scottish secession, alongside risks also of unsettling the peaceful status quo of Northern Ireland in relation to the Republic.

1. The known Plan A to remain

The status quo for the UK in the EU has been described in detail in the first edition of this book (and is repeated in Part II of this second edition).¹ The comprehensive survey of the workings of the EU's present competences that are relevant to the UK (i.e. mainly the single market, while excluding the euro and Schengen policies), produced abundant evidence from independent sources showing that the sharing of powers between the EU and its member states was mostly 'about right'.

Cameron's negotiations for a better deal with the EU crystallised around his requests under four headings. This resulted in a unanimously agreed Decision made at the European Council on 18-19 February 2016 covering all points.²

The Decision first recalls the existing set of special arrangements from which the UK benefits:

- opt-out from the euro
- opt-out from the Schengen area
- opt-out from most provisions in the field of police cooperation and judicial cooperation over criminal matters, with the possibility to opt-in selectively at any time

¹ And as summarised in Michael Emerson (ed.) (2016), *Britain's Future in Europe: The known Plan A to remain or the unknown Plan B to leave*, CEPS-RLI Paperback, 2nd edition (forthcoming), CEPS, Brussels.

² For the complete text of the Decision, see www.consilium.europa.eu/en/meetings/european-council/2016/02/18-19/

- exemption from the Court of Justice ruling on the application of the Charter of Fundamental Rights

It might have added the special budget rebate from which the UK and some other member states benefit.

As a result of these special arrangements, the UK is already out of those EU activities that it does not like, while remaining in those that it does like, namely the single market and general political deliberations. This amounts at the strategic level to what has been called ‘having the best of both worlds’, in and out at the same time.

Against this background, the agenda for plausible renegotiation was extremely limited. Various Eurosceptics have argued for a repatriation of various EU competences, but as just remarked the UK government’s own review showed no objective justification for this. Others would like to opt out of the free movement of people, but this is clearly a red line that the rest of the EU would not accept, with insistence that the four freedoms for goods, services, capital and people are a whole, and cannot be subject to picking and choosing.

Cameron’s four sets of requests were thus seeking, and in the end largely secured, a set of additional assurances (outlined in the box below): i) the City would not be subject to discrimination by the eurozone; ii) the agenda of internal and external economic competitiveness would be boosted; iii) the UK would not risk being dragged into some future European federal superstate and iv) the UK could take steps to deter perceived ‘benefit tourism’ by EU migrants.³

Box 1. Measures decided by the European Council on Cameron’s four points

1. Position of non-eurozone member states

- Discrimination between euro and non-euro economic actors prohibited
- Eurozone measures to respect the internal market of EU as a whole
- Banking union open to non-euro member states as an option

2. Competitiveness

- Better regulation, lowering of administrative burdens
- Repeal of unnecessary legislation, with an annual review mechanism
- Ambitious trade policy towards the US, Japan, Latin America and Asia-Pacific

3. Sovereignty

- Ever-closer union of peoples not a legal basis for extending EU competences
- All member states do not have to aim at a common destination, with recognition that the UK does not want further political integration
- Role of national parliaments enhanced with a new ‘red card’ mechanism (55% of vote trigger)

4. Social benefits and free movement of workers

- Safeguard mechanism, restricting non-contributory in-work benefits for four years
- Member states control over benefits for non-active EU migrants
- Indexation of exported child benefits
- Measures against abuses, such as marriages of convenience

³ For a detailed legal analysis, see, see Stefani Weiss and Steven Blockmans, “The EU deal to avoid Brexit: Take it or leave”, CEPS Special Report No. 131, CEPS, Brussels, February 2016.

The Decision detailing these measures is legally binding under international law and will be backed up by a combination of legislation that the Commission undertakes to submit, and Treaty amendments that are pledged to be introduced on the next occasion when treaty revisions are made. These provisions will only be initiated after the UK has notified the EU that it remains a member state.

A broader interpretation of the decisions may be as follows.

On the position of non-eurozone member states, the UK's concern has been to protect the City against financial market legislation that could be decided by the eurozone majority in the Council, and which might have a discriminatory bias against the City. Assurances on this point are detailed, and will be reflected in future treaty amendments. Negotiations on the detail were difficult because of the legitimate concern of the eurozone to avoid installing procedures that would restrict the capacity of the eurozone to respond rapidly to crisis situations.

On competitiveness, the UK's objectives are of fundamental importance and are shared by the EU institutions and other member states. The Commission is already at work trying to cut regulatory 'red tape', and this British crisis here serves the useful purpose of enhancing the priority attached to the painstaking and detailed work in pursuit of 'better regulation'. Similarly the British interest in extending the EU's set of liberalising trade agreements with major third countries, including the US and Japan, is given a boost.

As regards the 'ever-closer union' phrase in the preamble to the treaties, the Decision is a reassurance to those in the UK who have feared that this is a mechanism for moving continuously towards some kind of federal destination for the EU. The Decision confirms what is the considered view of most Europeans in any case, namely that this wording is no legal basis for constitutional change. As an act of reassurance to certain segments of political opinion in the UK, it has its importance. However for the rest of the EU these provisions have the far more worrying prospect of opening up a Pandora's Box of claims for special arrangements by any other member state.

As regards the role of national parliaments, the debate has centred on what is informally called a 'red card', namely procedures for a sufficient majority of national parliaments to block legislation that they consider unjustified on grounds of the subsidiarity principle. The key issue here was to find a solution that might indeed enhance the role of national parliaments, without on the other hand making the legislative process even more complicated and potentially unworkable. The result is that 55% of national parliaments, weighted by their votes for this purpose, will be able to get a contested draft law tabled afresh at the Council, which will then discontinue the legislative process unless adequate amendments to the draft are introduced. It remains to be seen whether national parliaments will use this provision more actively than the existing 'yellow' and 'orange' card mechanisms on which it builds.

Finally, on the most difficult issue of social benefits for intra-EU migrants, agreement was reached on a complex set of safeguard measures. The challenge was to find measures that would provide reassurances against so-called 'benefit tourism' without calling into question the principle of free movement of people and non-discrimination by nationality. The core measure decided upon is a new "alert and safeguard mechanism" that can be triggered when there is an inflow of workers for other member states "of an exceptional magnitude over an extended period of time", and which put "excessive pressure on the proper functioning of public services". A member state that considers that it has such a problem can notify the EU institutions accordingly, and the Council may on proposal of the Commission authorise restrictions on non-contributory benefits for newly arriving EU workers. These restrictions

may last up to four years for individuals, while the authorisation for the regime itself can last for seven years. In addition the level of exported child benefits (i.e. where the child resides in the home country of the migrant worker) may be indexed on 'conditions' (e.g. cost of living) in the home country. Further legislation will be proposed by the Commission to crack down on marriages of convenience and other forms of abuse of social benefit systems. Finally, as regards EU migrants not seeking work, the Decision confirms the possibility for member states to control the right to residence as a function of sufficiency of the financial resources of the immigrant, and thereby their access to social benefits.

Conclusion. Overall, the February 18-19th Decision of the European Council makes only a marginal change to the UK's relationship with the EU, which could only be the case since the UK has so many important special arrangements already. It also serves to some degree to boost various economic reform efforts of the EU. It provides political reassurances to various segments of British political and public opinion who have unwarranted fears that the 'ever-closer union' means that the EU is on automatic pilot towards becoming a federal superstate. However re-assuring for the UK, it is by the same token worrying for the rest of the EU as setting a precedent for any other member state to claim its own special arrangements.

2. The unknown Plan B to leave

All that is known is the procedure to be followed. Article 50 of the Lisbon Treaty (TEU) reads:

1. Any Member State may decide to withdraw from the Union with its own constitutional requirements.
2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. ...
3. The Treaties shall cease to apply to the state in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to the contrary.

The Plan B for secession would have to specify operationally and realistically what the UK government would try to do, starting immediately after a referendum vote to leave. The secessionists have not wanted or been able to do this. They have not done their homework or 'due diligence' over their own proposal. Here we do it for them.

In the first edition of this book, six options were already identified on the economic side: i) a simplistic big-bang exit, ii) the Norwegian model to remain in the single market, iii) the Turkish model to remain in the customs union, iv) the Swiss model which is a messier version of Norway, v) a simple WTO trade model, and vi) a global free trade model. Other authors see a similar landscape.⁴

⁴ See, for example, Jean-Claude Piris, "If the UK votes to leave: The seven alternatives to EU membership", CER Policy Brief, Centre for European Reform, London, 12 January 2016 (www.cer.org.uk/publications/archive/policy-brief/2016/if-uk-votes-leave-seven-alternatives-eu-membership).

The conclusion from this large variety of economic options might be that ‘anything could happen’, which is theoretically true but unhelpful. Nevertheless, the options can be narrowed down by focusing on three main alternatives, with a view to assessing whether any of them are superior to Plan A.

The big uncertainties are all on the economic side. Politically, institutionally and legally, the prospect is clear. The UK leaves all the institutions of the EU, and all EU laws, regulations and policy positions cease to apply, unless there would be explicit steps to retain elements of EU law, which returns us then to the major economic options.

Among the objections to this deal, the argument of Chris Grayling MP may be noted, since he was the first cabinet minister to have spoken out in favour of secession. The crux of his argument is:

And so we have reached what I believe is a crucial crossroads for the United Kingdom. The crisis in the Eurozone and the migration challenge have led to calls for still more integration and a move towards much greater political union. It is a path that the UK will not and should not follow.⁵

It is true that the eurozone needs further measures to make it more robust, and that there is a call for strengthening the external borders of the Schengen area to cope with the combination of refugees and economic migrants flooding into Europe. However, since the UK is in neither the eurozone nor the Schengen area, it is a *non sequitur* to say that this means political union for the whole of the EU. On the contrary, any measures in the direction of political union for the whole of the EU would have to be agreed by unanimity, i.e. with British assent.

2.1 Plan B.1 – A clean break, ‘big bang’ Brexit

On Day 1 of withdrawal, the UK is freed of all EU laws and regulations, or in the language of the Treaty of Lisbon (TEU, Article 50), “[T]he Treaties shall cease to apply”. This would mean deleting from the UK statute book around 5,000 regulations, directives and decisions relating to the internal market for goods, services, capital and people and around 1,100 international treaties between the EU and third countries, including all the EU’s preferential trade agreements. (The EU’s extensive legislation in the realm of justice and home affairs, the Schengen area and the eurozone would not be affected, since they already do not apply to the UK).

However, the practical realities would be even more complicated with respect to around 1,400 internal market directives, which are implemented by national legislation, and therefore would not be automatically repealed since they are of British jurisdiction. The radical ‘clean break’ would then in theory require an omnibus UK law repealing all domestic legislation that has been adopted in order to implement EU directives.

In the external trade domain, all the EU’s current preferential and free trade agreements would cease to apply to the UK. The default solution would be that the UK would move to WTO-based trade relations with all such third countries. The UK might continue with the EU’s external trade tariff regime bound in the WTO as its MFN (most-favoured nation) rates for the time being without the EU’s existing free trade agreements, but this would be a big backward step for the economy compared to the status quo. Alternatively, to be more radically liberal,

⁵ “Chris Grayling calls EU ‘disastrous’ for Britain in clearest signal yet he plans to back Leave campaign”, *Daily Telegraph*, 16 January 2016.

there is the simple scheme recently proposed to the House of Commons Select Committee on 3 November 2015 by Professor Patrick Minford that the UK should simply scrap all tariff protection unilaterally for the whole of the world without seeking any quid pro quo, and thus do it very fast. Various secessionists speak vaguely of the ‘Singapore model’, but none are saying clearly that the UK should completely open its goods and services markets without negotiating reciprocal advantages. If they did, the idea would be crushed in public debate.

Overall, this Plan B.1 would result in a colossal legal void that would be an unthinkable disaster for the modern economy, creating an anarchic emptying of the rule of law and huge legal uncertainty for business internally and externally. The seceding British government would have to move on to consider other options, as under Plans B.2 or B.3 set out below.

Conclusion: The point of setting out this scenario is to show that a simple clean break on Day 1 is inconceivable. It is still relevant to go through this, however, because so much public debate is conducted in simple emotional terms such as “Let’s just quit the EU and regain our freedom once and for all”, without any thought to how this might work in practice. But the idea of a clean break, or a ‘big bang’ Brexit, is a total illusion.

2.2 Plan B.2 – Remaining in the EU’s single market and customs union

The idea here is that the UK would seek to retain what it most values from its EU membership, namely its single internal market and customs union, and so also minimise uncertainty and disruption for the economy. The formula for doing so exists. It can be otherwise defined as joining Norway in the European Economic Area (EEA), while also remaining in the EU’s customs union as is the case with Turkey. The EEA involves all the four freedoms – goods, services, capital and people.

This regime would minimise the unknown, and have the important qualities of legal clarity, certainty and continuity for business. The technical and legal mechanisms are well established, and they work. They are enforced where necessary by the courts. They are also subject to continuing processes of amendment and updating, and these changes are automatically taken on board today by Norway⁶ and Turkey. The system is thus also dynamic, avoiding obsolescence.

The advantages of remaining fully and credibly in the single market are well known. Of course it means retaining a huge amount of EU legislation, both technical standards for goods, and regulatory norms for many service sectors and economic networks (for transport, energy, etc.). This avoids the extra costs of entering European markets if the UK developed different national standards and regulations for its home market. Divergent technical standards have very substantial costs, the size of which are often found (when translated into tariff-equivalents) to be much greater than the tariffs themselves, for example on the order of 20%. There are occasional references to the ‘Norway model’ in some speeches or documents of secessionists. Some of these references, however, also make the wholly mistaken assumption that this could mean remaining in the internal market without having to follow EU rules.

⁶ More precisely, the EEA partner states such as Norway have the general obligation to keep up with changes to EU legislation, but where the partner state does not want to do so there is the possibility under Art. 102.5, which allows for the suspension of the ‘affected’ part of the EEA Agreement. But this clause has never been activated, since even when there are tensions over taking on new EU legislation, the choice has always been made to be compliant.

One can discuss alternative sub-strategies, such as whether the UK might opt for either the EEA or the customs union. To join both is actually not possible, since to join the EEA the acceding country has also to join EFTA and all of its 25 free trade agreements with third countries, which would be inconsistent with the EU's customs union. These are very thin free trade agreements, cutting tariffs but doing little else beyond recalling WTO rules for non-tariff barriers, government procurement, etc.

The advantage of the customs union is that there are no customs controls and no need to prove that the 'origin' of the products exported within the customs union. This seeming technicality is of major importance for the products of manufacturing industry with complex supply chains, where the value added may accumulate across several countries. The 'rules of origin' are complicated matters, but roughly speaking there has to be around 40% value added in the exporting country for it to profit from preferential free trade arrangements. The corporate and governmental bureaucracy of proving 'origin' is costly, however, and is estimated to amount to the equivalent of a 5% tariff, to which should be added another 3-4% for border control costs. Quitting the customs union would mean the opposite of what advocates of secession want, by increasing the regulatory bureaucracy, not lessening it. For this reason, the scenario of combining both the single market and customs union has a serious economic logic, but this can only be done with full EU membership.

But there is a major disadvantage of being in the EU's customs union without full membership. The UK would have to apply the EU's preferential tariffs, but third countries have no obligation to reciprocate, as Turkey has learned to its discomfort. In its new trade agreements the EU requests its partners to include a 'Turkey clause', requesting them to negotiate a consistent free trade agreement with Turkey. The UK would thus in any case have to negotiate its free trade deals with these countries, which would take years, with no certainty over the results. The customs union option in the hypothesis of secession can therefore be discarded, although it is an important part of the advantages of full EU membership.

Conclusion. There could be a clearly defined Plan B.2 to stay in the single market as a member of the EEA, which would largely avoid the risks of uncertainty and could rely on legal and economic policy mechanisms that are tested and work. However, it would leave the UK having still to implement a huge amount of EU policy and law without a say in its making, while also having to make a significant contribution to the EU budget (hence the 'no say, still pay' dictum). It would also mean continued free movement of people. Overall this would defeat the presumed political purpose of secession, and for this reason it is not clearly advocated by the 'leave' camp. However, when the UK government would come to reflect on its options in the event of a referendum decision to leave, and in particular after examining the complicated problems with Plan B.3, it might conclude that Plan B.2 was the better of the Plan B options after all.

2.3 Plan B.3 – Negotiating with the EU and the world at large

Plans B.1 and B.2 are clear and simple propositions. But since they are either illusory (B.1) or unattractive politically for the secessionists (B.2), the spotlight has to be turned onto more complex scenarios, in which the UK would seek to get the best possible free trade deal with the EU outside the internal market and customs union, and also the best possible set of free trade deals with third countries.

Indeed the texts of the secessionist organisations point in this direction:

- “We negotiate a new UK-EU deal based on free trade and friendly cooperation” (www.vote.leave).
- “Leaving the EU would give the UK the freedom to make its own global trade deals” (www.leave.eu).

These two propositions have to be examined in some detail, since they turn out to be anything but simple. It should be explored in two parts, first negotiating with the EU, and then with the rest of the world.

Plan B.3.1 Negotiating with the EU

Secessionists tend to argue that since the EU has a trade surplus with the UK, it would be keen to conclude a friendly free-trade deal. This is an illusory and misleading simplification, which grossly fails to understand the likely EU response.

First, the UK would have inflicted serious institutional and reputational damage on the EU, and the atmosphere surrounding negotiations would be cold, with little desire to help solve the UK’s problems quickly.

Secondly, the EU would be anxious not to give the impression that secession from the EU would be an easy and costless proposition for any other member state that might be tempted to follow suit.

Third, the EU would certainly first respond to a request by the UK to negotiate the terms of secession by asking that the UK sets out its intentions and requests in full, notably with regard to all existing EU internal market legislation. It would not agree to embark on a re-run of the ‘old’ so-called Swiss model, i.e. to open a sequence of negotiations of sector-specific packages of deals, taking the easiest ones first (on which more below).

Fourth, and most concretely, the EU would see an opportunity to gain advantage in commercial competition over the two ‘crown jewels’ of the UK economy, namely the preeminent role of the City of London in financial markets and the UK’s success so far in attracting more foreign direct investment (FDI) from the world at large than any other EU member state. Both of these two UK ‘crown jewels’ would be at risk. The UK could no longer have any say in EU financial market regulation, unlike under Plan A. And if the UK’s place in relation to the single market were uncertain or less than under the EEA, the competition over FDI would be tilted in favour of the EU against the UK. Since the UK economy is only 15% of the EU total, foot-loose international investors aiming at the major EU market would progressively switch away from the UK. The EU could be expected to play a tough game in negotiations with the EU over a possible free trade agreement, in which a long period of uncertainty over the outcome would help the rest of the EU gain market share from the UK over both its two ‘crown jewels’.

What more precisely would the UK actually want to try and get for its new deal with the EU? At the level of strategic choices, it could be expected to want to remain largely in the free movement of goods, services and capital, but to scrap the free movement of people. At a further level of detail, it would want to scrap individual pieces of EU internal market legislation that it found irritating, while otherwise remain in compliance with EU market rules. The method of selecting what irritants to be repealed could be called a ‘subtraction’ method, i.e. to touch as little as possible in order to minimise disruption and uncertainty for business.

What would be the EU's likely response? First it would say that the four freedoms – for goods, services, capital and the movement of people – come together as a holistic package in the single internal market. If one of the four, notably the free movement of people, were withdrawn, there would be consequences for goods and services. If the UK engaged in a 'subtraction' approach, the EU would reciprocate with its own 'subtractions' from the initial condition of full internal market access.

Can this hypothetical deal for tariff-free trade without full access to the internal market and mutual 'subtractions' be described more concretely? Of course the precise negotiated outcome cannot be anticipated, but from observing the workings of the EU and its external relations there is still much plausible guidance available. This means going into some detail. Fundamentally, however, the EU has shown a strong disinclination in its dealings with Switzerland to negotiate any selective inclusion in the single market (see further below).

A general point is that the UK, in declining to join the EEA, would presumably refuse to follow automatically new EU market legislation. If in various sectors the UK's regime would increasingly fall out of compliance with EU law, what then would the general response of the EU be? It might well request the insertion into a UK-EU agreement of an important phrase found in the EEA Agreement in Article 102.5, which stipulates how disputes over non-compliance should be met. The key language here is that after all attempts to find solutions have failed the "affected part" of the agreement may be "provisionally suspended". To take a hypothetical concrete example, if the UK failed to keep up with changes to EU public procurement law, the EU could suspend market access in this sector. And if the UK fell behind new regulations in more and more sectors, its market access would be progressively restricted.

At this point it may be useful to dispose of the so-called Swiss model, which some secessionist say they like. The Swiss have since 1992 negotiated progressively a series of sector-specific agreements with the EU in a seemingly more flexible and selective approach. However as explained in Box 2, the Swiss model has actually broken down since the country voted in a referendum to abandon the free movement of people, with various other linked agreements now suspended. Switzerland now wishes to negotiate some solution from this unsatisfactory state of affairs, but the EU has put this on hold precisely because of parallels with the British problem. So now the Swiss are having to wait for the British model to emerge, without knowing what it will turn out to be.

Already, however, an EU Council Decision on the negotiating mandate for a new agreement with Switzerland gives an advance warning of what the UK might well face. This mandate clearly aims at something with comprehensive content for all four freedoms and much internal market law, close to the EEA model but with fuller reliance on the European Court of Justice for enforcement (i.e. with less sovereign powers than the EEA countries that have their own court.⁷ If Switzerland persists in wanting to exclude the free movement of people it seems quite likely that either a new agreement will simply not be forthcoming, or its market access will be limited to a simple and thin free trade agreement, with limited commitments notably for services where Switzerland (like the UK), had comparative advantages and strong economic interests (on which see further below in more detail).

⁷ See "Council Decision authorizing the opening of negotiations on an agreement between the European Union and the Swiss Confederation on an institutional framework governing bilateral relations", 6 May 2014.

Box 2. A warning on the Swiss model

After Switzerland voted in a referendum against joining the EEA in 1992, it proceeded to negotiate a long list of sector-specific agreements, assembling as much as possible of the EEA package. This became known in EU circles as ‘cherry-picking’, i.e. choosing what it liked and avoiding what it did not like. The EU has since adopted a hard line in favour of a holistic approach, i.e. balancing advantages and disadvantages, and explicitly opposing ‘cherry-picking’. Then in 2014 Switzerland voted again in a referendum to abandon the free movement of labour.

Since the EU had insisted on legal linkages between various sector-specific agreements, the referendum result, if implemented, will trigger the suspension of other agreements of value to Switzerland, including the Erasmus programme for education and the Horizon 2020 programme for scientific research (both of which happen to be of the greatest interest for the UK). The story is not yet complete, with Switzerland trying to find damage-limitation solutions. In the meantime, however, the EU has drawn the conclusion that the Swiss model was systemically defective, has broken down and will not be repeated. The EU’s formal position is that “an ambitious and comprehensive restructuring of the existing system of sectoral agreements would be beneficial to both the EU and Switzerland”.⁸

Scrapping the free movement of people. This restriction is high on the agenda of the secessionists and would presumably entail quantitative limits on immigration from the EU. At a minimum, EU citizens wishing to take up employment in the UK would be required to obtain work permits (like the UK currently applies to US, Japanese and Australian citizens). These involve long, uncertain and bureaucratic procedures, which would render the UK labour market less flexible and poorer in skills. The EU would surely reciprocate, requiring work permits for UK citizens. The total number of intra-EU migrants affected is believed to be around 2 million UK citizens on the continent for both labour market participants and the non-active, with as many ‘other’ EU citizens in the UK, thus rough parity.

As a result the UK economy would no longer be able to freely hire people from the EU. These constraints are of importance across a wide range of professional skills, from building workers and farm labourers who are in short supply, through to high tech and creative skills. Cosmopolitan London thrives on access to the talents of the European labour market, and would see its dynamism dampened by a work permit system.

Secession would also mean that the EU’s current social security arrangements for non-active migrants would cease for UK citizens on the continent. This would place UK retirees and students living on the continent at a serious disadvantage. As regards the older generation, there is now a substantial number of retired British people who have opted to live in the sunny Mediterranean. Retirees are of course highly dependent on health care services, and within the EU there are legally secure mechanisms for cooperation between national health services, which eliminate risks of non-coverage, or discriminatory lack of access to free health care. These provisions would cease to apply in the event of secession. The UK could seek to negotiate re-installation of these arrangements, but the outcome cannot be anticipated, and it

⁸ Council of the European Union, Council conclusions on a homogeneous extended single market and EU relations with Non-EU Western European Countries, Press Release, 16 December 2014.

might depend on how restrictive the UK's immigration policies towards the EU would become.

A further theoretical policy move to put a brake on immigration would be for the UK to require visas for EU citizens, as the UK and the EU currently require for Turks or Russians, and which, if activated, would surely be reciprocated by the EU. This would be so unpopular with UK citizens accustomed to holidays on the continent that it can presumably be disregarded.

However a much more likely possible collateral impact could be an end to the 2003 Le Touquet bilateral treaty between the UK and France, which has provided for UK border controls to be implemented on French soil at Calais and Dunkirk, and has prevented the migrants in the 'jungle' of Calais from crossing the Channel. This treaty has manifestly benefitted the UK more than France. Various politicians in France advocate that it be scrapped, which either the UK or France can do at any time (with an implementation delay). As the Prime Minister himself has noted, this could result in the emergence of migrant 'jungles' in Kent. There would be no automaticity to suspension of this agreement, but secession will gravely damage the climate of political goodwill on which it was founded, and the existing political pressures within France to scrap Le Touquet would surely further build up. If this happened, the result would be that the UK's attempt to curb immigration from the continent would in this respect turn out to be counter-productive.

How far would the EU go in response to the UK's withdrawal from the free movement of labour? That would depend on what other steps the UK might choose to take to withdraw from other parts of EU internal market law. This question is considered in the next section on goods and services. For the moment, let us consider just the possible impact on other people-related programmes of the EU, notably educational and scientific research networks.

For university students and teachers, a huge exchange and mobility system (Erasmus) has been built up over recent decades, under which it has become the norm for most students to take at least a year away from home to study in a university of another European country. The Erasmus programme is also open to third countries, but on a far more-restricted scale. The university sector in the UK deplores the prospect of secession, as also does the related scientific research community, which would have less access to EU funding. Under the EU's major Horizon 2020 research programme, the UK wins more grants than any other member state except Germany. Non-EU member states are able to associate with Horizon 2020, but Switzerland now finds its access to both Erasmus and Horizon 2020 under the prospect of suspension as a result of its referendum to quit the free movement of people. Overall therefore, the UK's leading role in European higher education and scientific research would risk being significantly damaged.

Free movement of goods and services. The EU has a standard list of chapters that applies both to its internal market legislation and to trade agreements with third countries, as listed in Box 3. This provides a check list for the seceding UK government to consider where it wanted to be in relation to existing EU legislation.

The seceding UK would be in the special situation of being initially wholly compliant with EU rules, except to the extent that the UK government wanted to repeal them by 'subtraction'. It could leave in place UK laws that are implementing EU directives, and it could copy and paste the substance of EU regulations such as food safety rules into new UK laws to the extent it wanted to do so. The UK government would therefore have to comb through the entire mass of EU market legislation to make up its mind on what to keep and what to reject.

What can be said of the UK's likely preferences? At a general level it would want to retain as far as possible a seamless access to EU's internal market, while still jettisoning elements of EU law that it considered excessively burdensome. At a more technical level, it could be informed by the exhaustive findings set out in its own Balance of Competence Review exercise.⁹ The broad evidence obtained from independent sources was that most EU regulations and standards were fit for purpose, and that it would not make sense for the UK to devise its own set of technical regulations and policies. There was a scattering of individual regulations that were considered cumbersome. But it is also to be noted that the current European Commission has from its start in 2014 upgraded the task of weeding out such cases, or reforming them. Concretely the Commission now has its First Vice-President explicitly charged with this duty and the UK has been quite successful in building up the case for reforms along these lines.

Box 3. Main chapters in the EU's typical trade and cooperation agreements

Tariffs
 Customs procedures
 Rules of origin
 Trade remedies (anti-dumping, etc.)
 Food and plant regulations
 Technical standards for industrial products
 Services, general rules of establishment
 Financial services
 Transport services (road, rail, air and maritime)
 Telecommunications and digital services
 Energy supplies and networks
 Competition policy
 Public procurement
 Intellectual property rights
 Environment
 Climate change
 Health and safety for consumers and workers
 Labour market regulations
 Education
 Scientific research

The UK would certainly want to keep to zero *tariffs*. The EU would probably agree in due course, but not fast and only after the whole set of trade-related issues listed above in Box 3 was negotiated. The EU would insist on tough *rules of origin* and trade remedies, notably *anti-dumping rules*, neither of which apply within the EU. The rules of origin are, as already noted, bureaucratically burdensome and costly to implement, and the EU would insist on the UK accepting the same rules as for other neighbouring countries under the System of Pan Euro-

⁹ And as summarised in Michael Emerson (ed.) (2016), *Britain's Future in Europe: The known Plan A to remain, or the unknown Plan B to leave*, CEPS-RLI Paperback, 2nd edition (forthcoming).

Mediterranean Cumulation,¹⁰ to avoid it becoming an ‘off-shore aircraft carrier’ for foreign investors to access the EU market. In addition anti-dumping rules have a large degree of discretion in determining ‘damage’, and the EU would be keen to show that it was going to be tough in this respect, in order to pull more of the market for footloose direct investment away from the UK to itself.

The UK would largely stick to the plethora of *technical standards and regulations for foods and industrial products*. To retain the whole body of European standards has the great advantage that no questions or complicated checks and procedures are necessary for exports to the EU. The UK might want to opt out of this or that regulation for food products, but it would have to take great care not to ruin its overall market access for products in which there are complex food chain linkages and traceability requirements. Chris Grayling MP, as noted earlier, the first cabinet minister to advocate secession, welcomes the UK’s inclusion in the ‘Common Market’, in order “to avoid umpteen different varieties of lawnmowers ...”¹¹. The lawnmower may be taken as a metaphor for the thousands of technical safety and health standards for products and regulatory standards for services. Wherever the UK chose to install its own different technical regulations there would be consequential loss of automatic market acceptance in the EU market certainly for the products in question. But the damage could be far wider, since the UK would have departed from the simple state of affairs in which everything the UK produces is automatically accepted in the EU market. In the new situation in which the UK had subtracted from even a minority of EU technical standards, there would be confusing questions for business of what was now out or still in. The clarity of full internal market access would have been broken.

Next on the UK’s wish list would be continued access to a huge set of service sectors and network industries: *services in general, financial services, transport services (road, rail, air, maritime), telecommunications and digital services, energy supplies and networks*. These are understood by the British government to be a set of economic interests of the highest importance, where seamless connections with the EU market would be the objective. So here the UK would want to get as close as possible back to the EEA conditions of complete market access, with a consequential need to follow existing and all new EU legislation. However, partial attempts at selective clawing back into the EEA would probably not be viewed favourably by the EU. On the contrary, the EU would point out that in the service sector in particular, in its agreements with third countries, the member states maintain a hugely long list of reservations restricting market access. These same reservations would be tabled at the UK-EU negotiations, with the remark “either you want to be entirely in the EEA or not; if not here is the third country regime”. One concrete illustration is in the road haulage market, where EU member states operate quota systems for the number of foreign trucks that can operate in the EU.

The case of *financial markets* calls for special attention, given the importance Cameron gave under his four points to try and guarantee that the City’s interests would not be hit by discriminatory legislation by the eurozone member states. Some commentators from the ‘leave’ camp are dismissive of the importance of these agreements made for Plan A. However

¹⁰ For explanation of this complex system involving no less than 42 countries, see http://ec.europa.eu/taxation_customs/common/archive/news/2006/article_783_en.htm

¹¹ “Chris Grayling calls EU ‘disastrous’ for Britain in clearest signal yet he plans to back Leave campaign”, *Daily Telegraph*, 16 January 2016.

the dangers for the City would be crystal clear. The eurozone member states and European Central Bank would say with increasing force that the financial centre for the euro had to be physically in the eurozone itself. Frankfurt, Paris, Dublin, Amsterdam and other financial markets would be very keen to exploit all opportunities to gain market share at the expense of London. The agreement made by Cameron under Plan A would be void, and the UK would have no protection against legislation favouring its own financial markets at the expense of the City.

Also of strategic importance are the telecommunications, digital and energy sectors, where the EU has ambitious plans under the headings of 'digital union' and 'energy union'. The UK has been a leading advocate of both, but without EU membership it would be marginalised in these processes.

The *digital sector* is currently at the centre of hugely important technological and market developments, with many open questions as to how the overarching European regulatory environment is to be defined, what conditions are established for e-commerce and how business taxes are reformed to tackle the issues posed by the global digital giants (e.g. Google, Amazon), etc. The EU is a key player in these matters. Would the UK wish to be on the side lines outside the EU, versus being an influential policy shaper on the inside?

As regards *energy*, the UK is now becoming increasingly dependent on gas and electricity imports. The EU is itself hard at work to improve the integration of energy networks through infrastructural investments and regulatory mechanisms. It is currently working on proposals for security and solidarity mechanisms in the event of major energy supply disruptions, ranging from geo-political supply cuts by Russia through to electricity black-outs due to capacity shortage. Outside the EU, the UK would be opting out of the development of such mechanisms, possibly exposing itself to more risks.

For a further set of key market regulatory policies, namely *competition policy, intellectual property rights, and public procurement*, the UK would want to stay as close as possible to EU practice, with which it has no real problems. On the contrary, its main concern has been for other EU member states to take these rules as seriously as it does. The UK's continued access to the EU's public procurement, however, is likely to be reduced to WTO levels, which are much weaker than in the EU. This would be an example where the EU would say to the UK: "You want to quit the EEA, the free movement of labour and various specific market rules, but you cannot expect the EU to agree to your wish to have full access to public procurement market."

Finally there are some chapters where the UK would want to repeal individual laws without contesting the main objectives. This could be the case for aspects of *labour market regulations and environmental policy*. As for the labour market the UK could easily repeal EU laws, but it should be noted that most of the substance is virtually the same as the many conventions of the International Labour Organisation (ILO), so little would be changed. There are two well-known EU directives concerning working time and agency workers that would be the main targets for repeal. The main point here, however, is that EU law has not prevented the UK from having one of the most flexible labour markets of all advanced economies. As for environmental policy, there are various detailed EU laws that are contested on grounds of not adequately respecting the subsidiarity principle, but this is precisely one of the main targets of the current Commission initiative to cut 'red tape'.

Conclusion. The UK's likely preference in the case of secession would be to depart from the EU's internal market law only to a limited extent by 'subtraction' or exception, rather than

wholesale. It would want to quit the free movement of people, and various details of labour market and environmental policies, and other individual regulations deemed to be unnecessary irritants. However, the UK would want to retain consistency with core trade and market policies. On the other hand, the likely response from the EU side could be very costly for the UK compared to the status quo in the EU. The eurozone would be expected to take steps to shift the euro's financial centre away from London. Trading rules and practices such as anti-dumping rules could be managed by the EU with a view to gaining market share of foreign direct investment targeting the EU market at the expense of the UK.

For the UK's vital economic interests in broad service sectors, including the digital sector and energy, there would also be bad news. The introduction of work permits for EU immigrants would surely be reciprocated for British citizens wishing to work and live on the continent. Collateral damage could come through France withdrawing from the Le Touquet treaty, leaving the UK border defenceless against the Calais 'jungle' refugees. And after long negotiations, the UK might get a tariff-free deal with the EU, but it would be a large step backwards compared to the status quo in the EU under Plan A, or hypothetically in the EEA as under Plan B.2, and in the meantime much damage could have been inflicted on UK interests.

Plan B.3.2 Negotiating with the rest of the world

The secessionists say that the UK should regain its freedom to make its own free trade agreements with the rest of the world. These speeches are ill-informed to the point of being disinformation, since they fail to recognise that the EU already has, or is negotiating, preferential trade agreements with virtually the whole of the world, with few important exceptions that the UK would be unlikely to pursue alone (see Box 4).

Since all the EU's existing preferential and free trade agreements would cease for the UK on Day 1 of secession, the seceding government would have to decide what to do. The UK is a member of the WTO alongside the EU, and would remain a member of the WTO after secession. The *default position* would be that the UK's trading relationships with WTO member states of the rest of the world would keep to its present WTO levels of bound MFN tariffs (i.e. the EU common external tariff). The UK would be free to renegotiate its WTO bound MFN tariffs to different levels if it wanted to do so, but this is unlikely. If it chose to lower these rates, it would get nothing in exchange. The rest of the world would be under no obligation to reduce their WTO-MFN tariff schedules just because the UK had done so. If it wanted to raise its tariff levels other WTO member states would be able to demand compensation.

This default position would be contrary to the wishes of the UK to be an open trading nation with free trade agreements with as much of the world as possible. However to negotiate a new set of deals with most of the rest of the world would be a highly complex affair taking years and years to complete. Three categories of cases would need to be carefully addressed:

- What to do following the cancellation for the UK of all the EU's existing preferential or free trade agreements?
- How to proceed with those countries where the EU is currently negotiating free trade deals?
- Whether to make agreements where the EU is not currently negotiating free trade deals, namely Russia and China?

*Box 4. EU preferential or free trade agreements***Europe**EFTA/EEA/Switzerland - *in force*Turkey - *in force*Balkans - *SAs in force*Ukraine, Moldova, Georgia DCFTAs - *concluded, provisionally in force*

i.e. all except Russia and Eurasian Union

North Africa, Middle EastEuro-Med FTAs - *in force*; Morocco, Tunisia, Jordan, Egypt - *being upgraded*Gulf Cooperation Council - *suspended***Africa**African, Caribbean and Pacific 79 countries - *in force*Southern Africa - *EPA concluded*Central Africa - *EPA ongoing*East and Southern Africa - *EPA ongoing*West Africa - *EPA concluded*East African Community - *EPA concluded***Americas**Canada - *concluded*US - *ongoing*Mexico, Chile - *in force*Central America - *in force*Caribbean - *EPA in force*Andean - Colombia, Peru, Ecuador *in force/concluded*Mercosur (Brazil, Argentina, Venezuela, Paraguay, Uruguay) - *ongoing***Asia, Pacific**Korea - *in force*; Japan - *ongoing*; India - *ongoing*China - investment agreement *ongoing*Vietnam - *concluded*; Singapore - *concluded*Thailand - *preliminaries*; Malaysia - *possible resumption*Australia - *beginning*; New Zealand - *beginning*Pacific - Papua New Guinea, Fiji - *EPA ongoing*

Notes: DCFTA = Deep and Comprehensive Free Trade Area, EPA = Economic Partnership Agreement and SAA = Stabilisation and Association Agreement.

The UK alongside the EU's existing agreements. The first impact of secession would be that all the EU's 1,100 international treaties and agreements would cease to apply to the UK, thus creating initially a huge legal void for the UK's international relations. These would include all the EU's existing trade and economic cooperation agreements. How would the UK try to fill this void as best and fast as possible?

A first category consists of the EU's agreements with its closest neighbours: the countries of the EEA (Norway, Iceland and Liechtenstein) and EFTA, which includes the three EEA states and Switzerland. The UK could make a free trade agreement with EFTA without joining the EEA. It could alternatively seek to accede to EFTA, but this would entail acceding also to EFTA's existing stock of 25 free trade agreements with 35 countries. These latter, however, are mostly very thin in content beyond scrapping tariffs, and would prevent the UK from making its own trade agreements.

A second category are the Stabilisation and Association Agreements (SAAs) made with the non-EU member states of the Balkans, and the new Deep and Comprehensive Free Trade Areas (DCFTAs) with Ukraine, Georgia and Moldova, all of which see a large number of commitments by these countries to adopt EU market laws progressively, approaching in due course what the EEA countries do. These SAA agreements would therefore not be a sound model for the seceding UK's relations with these countries. Something much more limited would be needed.

A third category of agreements is with developing countries, including simple free trade agreements (FTAs) with several Mediterranean countries, and Economic Partnership Agreements (EPAs) with African, Caribbean and Pacific (ACP) countries. These agreements typically involve faster tariff liberalisation on the EU side than for the partners, together with development aid packages. Some of the existing Mediterranean FTAs are currently under renegotiation for an upgrade into the DCFTA category, such as for Morocco and Tunisia. The ACP group consists of 79 developing countries that are signatories of the Cotonou Agreement, of which 48 countries are from sub-Saharan Africa, 16 from the Caribbean and 15 from the Pacific. The Cotonou Agreement is now being complemented by separate regional Economic Partnership Agreements, which allow for greater differentiation between regional groups of states from Central, Western, Eastern and Southern Africa, the Caribbean and Pacific. The UK would presumably want to engage also in free trade and development relations with these countries. But it would need first to see how the EU's DCFTA negotiations worked out with the Mediterranean countries in question, and also how the several regional EPAs were concluded.

A fourth category consists of the EU's trade and cooperation agreements with more advanced countries outside Europe, including long-standing agreements with Mexico, and various Central American and Andean countries, and newer and deeper agreements with South Korea and Canada. The latter two go way deeper than just physical borders into matters of non-tariff barriers and compatibility or mutual recognition of regulatory standards for service sectors and economic networks. The common feature of these cases is their long and comprehensive list of market rules that they cover, which on the EU side is of course based on EU external and internal market law. As to what the seceding UK might do, it would first have to decide what part of EU market law it wanted to retain, and what it would repeal. As the previous section has noted, this will not be a simple or easy process. At a minimum, the UK would want to secure comparable market access for goods and services in these cases as the EU has already established for itself. The idea of the UK, with so much less leverage, getting better deals would be an illusion. On the contrary, the issue would be over the length of the delay in making new bilateral agreements with these countries and the extent to which it was possible to secure comparable results, piggy-backing on what the EU has achieved.

Conclusion. These existing agreements are rich and complex in content. The seceding UK would want to fill the huge resulting void for its international relations. To make fast progress

it would be necessary either to clone as far as possible the EU's agreements, or go for something much thinner in substance, which would hardly be an improvement in relation to the status quo.

The EU's ongoing negotiations. This involves many cases of the highest interest, including negotiation of comprehensive trade and economic agreements with the US, Japan, India, Australia and New Zealand. The practical question is whether these countries would be interested to make quicker and more favourable deals with the UK than with the EU? Would they put the UK on a faster track?

The secessionists argue that the EU is a slow negotiator and that the UK could go faster. This argument is implausible for several reasons.

The US has already given its official answer. The ongoing TTIP negotiations with the EU have priority, and the US would not want to open negotiations bilaterally with the UK. The US Special Trade Representative, Michael Froman, has stated this in public. He has enough problems with getting any trade deal through Congress, and the TTIP involves complex regulatory questions in relation to the EU's single market law alongside those of the US. A seceding UK would, for reasons already detailed above, be in an uncertain position in relation to EU single market law for some time.

On Japan, it is again most unlikely that this country would want to reveal its bottom line bargaining position, for example over services and technical barriers to trade, in bilateral negotiations with the UK that might undercut its negotiating position with the much bigger EU.

As regards India, these negotiations have stalled because India has for years been notoriously protectionist over services. The UK is highly interested in services, but again India would not want to make concessions first to the UK that would prejudice its negotiations with the EU.

The UK has always wanted to have free trade with its Commonwealth partners. Beyond the cases of Canada, India and African and Caribbean developing countries already discussed, Australia and New Zealand are the interesting instances that remain. For both of these two countries, the political decisions were taken in 2015 by the EU to start negotiations for 'comprehensive and high-quality' agreements. The UK might offer more liberal arrangements for agriculture, but as in other cases reviewed above, Australia and New Zealand would be eyeing agreements with the EU as their first priority.

The EU has ongoing negotiations with Brazil through the Mercosur customs union group, important therefore for including one of the supposedly dynamic BRICSs. These negotiations have not progressed, partly because the group contains countries with wildly anti-liberal policies such as Argentina and Venezuela, and partly because Brazil itself is in deep economic trouble. The UK alone would be even more powerless than the EU to turn this situation around in favour of an enlightened free trade deal.

Conclusion. The overall message from this very important set of ongoing negotiations between the EU and key foreign trade partners is that the seceding UK would on the whole not be in a position to get faster and better results, and would rank lower in these countries' priorities.

Where the EU is not negotiating (Russia and China). There is an idea in circulation for a free trade area between the EU and Putin's pet project, the Eurasian Union (Russia, Belarus, Kazakhstan, Armenia and Kyrgyzstan). This idea might progress under certain conditions. First, under WTO law, participants in such free trade agreements have to be WTO member

states, which is not yet the case for Belarus, and without which it would be illegal. Secondly, Russia would have to be seriously interested in free trade, for which there is no evidence. On the contrary, Russia is increasingly protectionist, constantly renegeing on various WTO commitments. Third, the political context would have to become more favourable over Ukraine, resulting in an end to the Western sanctions (EU, US, all G7). For the UK to go ahead before the EU or the US would mean the UK breaking ranks with the Western alliance, whereas its position up until now has been solidly taking a tough line with Russia. Putin might like the idea of a quick agreement with just the UK, but that would just be to gain geo-political advantage through dividing and weakening the Europe. The UK would then become his *de facto* collaborator. Would the seceding British government want to do this? Probably not.

The idea of free trade with China would of course be of huge importance. But would the UK want to go ahead alone, without cover from the EU? The present priority on the EU side is to make a limited investment agreement with China. This could become a forerunner to a free trade agreement, but so far the EU has not agreed any mandate for the Commission to begin free trade negotiations. The UK currently seeks to be China's best partner in Europe. However the current crisis in the steel industry offers a reality check here. In early February 2016, the UK Business Secretary Sajid Javid sent a letter, co-signed with his French, German, Polish and Belgian counterparts, to the European Commission calling for the EU "to use every means available and take strong action" in response to alleged steel dumping by China and Russia, which have been accused of exporting steel at below-market prices. The UK would not want to be alone in the room with China on such matters.

Moreover, if the seceding UK sought to make an early free trade agreement with China, there would be some predictable reactions from the EU, fearing that UK would become China's 'off-shore aircraft carrier' to attack the EU market (the metaphor already circulates). The EU would at least redouble its preparedness to use rules of origin, anti-dumping and other standard safeguard measures to limit the Chinese market penetration. Quite likely, the EU might choose to go slow over a free trade agreement with the UK, if the UK initiated negotiations with China, to see first what the outcome would be.

It is not likely, therefore, that the UK would move ahead of the EU in making free trade deals with either (for different reasons) Russia or China.

Conclusion. The overall conclusion for Plan B.3 is that it would involve a huge exercise in multiple parallel negotiations for which the UK government has at present no adequate team of experienced trade negotiators. There would be long delays in getting results in many cases, and the idea that the UK could overall get better deals faster than the EU is a fantasy. If the UK did secede, Plan B.2 would be greatly preferable to either Plans B.1 or B.3. However, all three look very unfavourable compared to Plan A on economic grounds, to which may be added the political and foreign policy considerations, discussed in the following section.

2.4 *The UK's status in world affairs*

Common to all the Plan Bs for secession would be an impact on the UK's status as foreign policy actor in international relations. Would the UK gain or lose from being outside the EU? This question is often debated but mostly in rather fuzzy terms, but it can be discussed more concretely.

The UK is currently free to pursue whatever foreign policy it wants, either contributing to EU actions, or acting on its own. Since it can veto any EU policy move that it does not like, in

general terms the UK has nothing to gain by secession. Where the EU takes an initiative by common agreement, it serves as a 'multiplier' for UK interests.

Development aid policy is important to the UK, and here the rules of the EU are clear. While the EU has its own aid mechanisms and policies, these in no way constrain what the UK's development policies or actions should be.

More concretely one can consider a few of the most important foreign policy issues of the present time, and how the UK's interests would be affected in or out.

Case 1. Russia and East Europe. As noted above, the UK is a clear supporter of the mainstream EU policy of sanctioning Russia and helping a Europe-oriented Ukraine. The UK is one of the most robust supporters of this policy. In the event of secession, the EU's position would tend to weaken, contrary to the UK's perceived interests.

Case 2. Migration and refugee crisis. Thanks to its geography and related opt-out from Schengen, the UK escapes the current refugee tsunami and any mandatory relocation by the EU. This situation would in no way be improved by secession, but it could worsen in the event that France opted to end the Le Touquet agreement (as explained above).

Case 3. Jihadist terrorism. The UK is with other core EU member states in the frontline fight against ISIS. Here the sharing of intelligence over our 'foreign fighters' and terrorist threats is helped by the UK's selective opt-in rights under EU justice and home affairs. Secession would mean losing these rights. There might be ad hoc cooperation, but secession would certainly not help. The EU has not interfered with the UK's independent decisions on military actions in Iraq and Syria.

Case 4. UK in the UN Security Council. The UK's role in the UN Security Council is not constrained by the EU, although its influence there is enhanced as one of the two European permanent members with veto rights. In the event of secession, the UK's standing in this regard would be diminished relative to that of France, which alone would be speaking for Europe.

Case 5. The US and other traditional friends of the UK. All of the UK's traditional friends and allies, including the US and the Commonwealth, have already spoken out against the UK's secession. As for the US, President Obama has argued against secession explicitly, because the UK is valued as an influential member state of the EU. By contrast, the only significant politician who has not joined in this large consensus view is Vladimir Putin, for the obvious reason that he would welcome a weakened EU as an opportunity for enhancing Russia's own geo-political objectives in Europe.

Case 6. China policy. The UK seeks currently to have a prominent role in cooperating with China, but this is not impeded by the EU. However in the event of secession, China would probably view the UK as a less interesting cooperation partner, since it would no longer have leverage on EU policy towards China. In fact on 22 February 2016 the Chinese foreign ministry issued a statement virtually identical to that of President Obama in preferring the UK's continued membership of a strong EU.

Conclusion. Overall UK foreign policy has nothing to gain but a lot to lose by secession. The US regards UK secession as an act that would undermine the strength of the Atlantic alliance, and the rest of the EU would regard it as damaging their collective interests. The advocates of secession deny how far this would translate into a loss of friends and influence in Europe and the world, and even invent illusions of enhanced status.

A final point of the utmost gravity can be made quite simply. If England voted in the referendum to leave the EU, while Scotland voted to remain, the stage would be set for an end to the United Kingdom. Opinion polls and political statements by the Scottish first minister suggest this scenario is quite possible. In this hypothesis the independent Scotland could be expected to seek to open accession negotiations with the EU while negotiating secession from the UK, and while at the same time as the UK was negotiating its own secession from the EU, which is an amazingly chaotic prospect. The EU however might well not agree to open negotiations with Scotland, inter alia because Spain would be fearing contagion in relation to Catalonia. In addition there are serious worries in Ireland that the peaceful status quo there could be destabilised, with the re-introduction of border controls between north and south. For many British citizens, these alarming prospects may outweigh the more complicated technical considerations of economic policy set out above, but they still reinforce the overall conclusion that there is no Plan B that would be superior to Plan A.



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- Provide a regular flow of authoritative publications offering policy analysis and recommendations

Assets

- Multidisciplinary, multinational & multicultural research team of knowledgeable analysts
- Participation in several research networks, comprising other highly reputable research institutes from throughout Europe, to complement and consolidate CEPS' research expertise and to extend its outreach
- An extensive membership base of some 132 Corporate Members and 118 Institutional Members, which provide expertise and practical experience and act as a sounding board for the feasibility of CEPS policy proposals

Programme Structure

In-house Research Programmes

Economic and Finance
Regulation
Rights
Europe in the World
Energy and Climate Change
Institutions

Independent Research Institutes managed by CEPS

European Capital Markets Institute (ECMI)
European Credit Research Institute (ECRI)
Energy Climate House (ECH)

Research Networks organised by CEPS

European Climate Platform (ECP)
European Network of Economic Policy Research Institutes (ENEPRI)
European Policy Institutes Network (EPIN)