

BREXIT: The Case for EFTA



<http://efta4uk.eu>

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EXECUTIVE SUMMARY

The UK should rejoin the European Free Trade Association (EFTA) which the UK helped to create in the 1960's.

This would allow the UK to secure its economic future after Brexit, maintain close links with our European neighbours and key partners and maintain our prominent role on the world stage.



Introduction

On the 23rd of June 2016, the public voted in a referendum to leave the European Union. Whether that decision was the correct one or not is outside the scope of this report.

The *form* of relationship the British public wanted with the EU was not on the ballot paper however.

We believe that a compromise could be found that would satisfy both 'leavers' and 'remainers'. It would also make the transition from being a member state of the EU to a non-EU country quicker, smoother and a lot less complicated.

- The first step would be for the UK to apply to rejoin EFTA (The European Free Trade Association) which the UK helped to create.
- The second step, during the article 50 process would be to negotiate a new relationship with the EU – either by retaining access to the European Economic Area (EEA / EØS) and so having a relationship like Norway or Iceland or by signing bilateral deals like the Swiss have.
- The final step would be to contact the countries the UK presently enjoys preferential trade agreements with (via EU-third party trade agreements) and request that they sign agreements to maintain present arrangements with the UK after Brexit. These agreements could be akin to **memorandums of understanding (MoUs)** which would act as 'bridging' documents until new UK-third country FTAs could be signed.

At-a-glance summary:

Benefits of EFTA for **Remain** supporters:

- Maintain close, friendly links with the rest of Europe
- Tariff-free market access (after negotiation)
- Minimise other trade barriers with the EU
- Easy movement of students and workers
- ‘Replicated’ access to the Single Market
- Close co-operation on science and education programmes
- Competences/powers brought back from Brussels could be devolved to the Scottish Parliament, Welsh Assembly and Northern Ireland assembly.

Benefits of EFTA for **Leave** supporters:

- UK regains control of its territorial fishing waters
- No longer part of EU Customs Union; UK can sign own trade deals and seek access to EFTA FTA portfolio
- British citizens get their old-style passports back – no longer ‘EU citizens’
- Reduced contributions – financial saving can be put towards NHS or schools
- Much less interference from European Courts
- EFTA countries (especially Liechtenstein) have negotiated stricter rules and opt-outs around freedom of movement than EU member states. Similar measures could restrict EU migration into the UK
- Regain from the EU our ‘top seats’ at the World Trade Organisation and other International bodies such as UNECE to maintain influence on the world stage.

Background

EFTA was established on the 3rd of May 1960 by the United Kingdom, Denmark, Norway, Portugal, Sweden, Switzerland and Austria, to promote closer economic cooperation and free trade in Europe.¹

EFTA's 'Architect' was the President of the British Board of Trade **Reginald Maudling**.

In 1973 however, the United Kingdom left EFTA to join the European Economic Community (EEC), which at the time was seen to be a more promising organisation.

Renewing our membership of EFTA means we would be essentially signing a free trade deal with four countries at once; - the current EFTA members Norway, Iceland, Switzerland and Liechtenstein.

As Ms Allie Renison, Head of Europe and Trade Policy at the Institute of Directors wrote in their recent report

'Navigating Brexit: Priorities for business, options for government':

"We urge the government to consider the merits of rejoining Efta...there are some significant benefits to being part of Efta with respect to governing trade ties with Norway, Iceland and Switzerland, who make up six per cent of the UK's trade. The UK will need to negotiate new trade arrangements with them in any event to maintain our existing preferential access afforded to us through the EU's various Efta agreements. Efta also has a number of technical cooperation agreements with the EU in the area of customs and trade facilitation"²

How the EU and EFTA differ

EFTA is different from the EU (European Union) in many ways. It doesn't promote itself to the same extent that the Brussels bloc does, and it rarely gets involved in the internal affairs of its member states. It just gets on with the job of promoting trade and negotiating free trade deals for its members.

Because it only focusses on essential work it is remarkably efficient. The EFTA secretariat is lean; only employing 100 people spread between Geneva, Brussels and Luxembourg – while the European Commission by comparison employs 32966 people.

Because EFTA does not try to duplicate the work of member state governments, it is also incredibly cheap to run. While the UK contributes Billions of pounds to the EU budget each year, the entire EFTA budget for 2016 was only 21 677 000 CHF (Swiss Francs).

Reapplying

Theoretically at least, it should be relatively simple to rejoin EFTA. The UK was a founder member after all, and still features in official texts. It is our belief that if the UK formally re-applied, our request would be accepted.

In order to rejoin, the UK would have to accede to the EFTA convention (also known as the Vaduz convention).³

The convention sets out the application procedure here:

“ARTICLE 56 - Accession and association

1. Any State may accede to this Convention, provided that the Council decides to approve its accession, on such terms and conditions as may be set out in that decision.

The instrument of accession shall be deposited with the Depositary, which shall notify all other Member States. This Convention shall enter into force in relation to an acceding State on the date indicated in that decision.”

The convention also states that:

“56(3)

Any State acceding to this Convention shall apply to become a party to the free trade agreements between the Member States on the one hand and third states, unions of states or international organisations on the other.”

If the UK were to be accepted back into EFTA, we would have to apply to take part in EFTA’s extensive free trade portfolio of 27 free trade agreements (covering 38 countries).⁴

What would facilitate this process is that several of the EFTA-third country FTAs have built-in accession systems.

Take for example the **EFTA-Hong Kong** agreement, which states:

“ARTICLE 11.6 - Accession

1. Any State becoming a Member of the European Free Trade Association may accede to this Agreement, provided that the Joint Committee approves its accession on terms and conditions to be agreed upon by the Parties. The instrument of accession shall be deposited with the Depositary.

2. In relation to an acceding State, this Agreement shall enter into force on the first day of the third month following the deposit of its instrument of accession, or the approval of the terms of accession by the existing Parties, whichever is later.”⁵

Further Benefits of joining EFTA

- The EU and EFTA have agreed a **Common Transit Convention**⁶ in the movement of goods which would undoubtedly make things easier for UK firms after Brexit.
- Unlike the EU, EFTA has a unique 'two-track' trade deal system. EFTA's negotiators work to negotiate trade deals for the bloc as a whole, while allowing member states to negotiate their own bespoke trade deals. An example of this is that all of EFTA has a trade deal with Hong Kong, but EFTA member Switzerland has a separate trade deal with China.
- EFTA has many experienced trade experts and negotiators on the payroll, while the UK hasn't had to negotiate its own trade deals for decades and is now currently scrambling to recruit sufficient personnel. Britain could become part of the EFTA trade network and still sign her own separate deals when we have re-established the necessary negotiating teams; a win-win situation for the UK.

In addition, if we left the EU and returned to EFTA we would be free from the:

EU Common Agriculture and Fisheries Policies;

EU Customs Union;

EU Common Trade Policy;

EU Common Foreign and Security Policy;

EU Justice and Home Affairs

EU Monetary Union (EMU).

If we transfer from the EU to EFTA, we can still have a good working relationship with Brussels, however.

Parliamentarians from the EFTA states have regular meetings with MEPs and officials from the EU, and EFTA has offices in Brussels.

EFTA countries participate in many mutually beneficial European programmes such as:

- Reciprocal Healthcare systems⁷
- Education programmes⁸
- Science and research programmes⁹
- Co-operation with EUROPOL¹⁰

A final point regarding trade deals

If the UK does rejoin EFTA, it will be applying to take part in its existing trade portfolio - 27 free trade agreements (covering 38 countries). We believe that most of the states that EFTA has signed FTAs with would agree to our participation, and we could find that many of the countries we have preferential trade relationships via the EU would also wish to carry on 'business as usual'. This would make the UK in EFTA a world-leading Free Trade nexus.



Frequently asked Questions:

Q: If the UK re-joins the EFTA, will it need to join the EEA (Single Market)?

A: No. The UK is currently a member of the EEA. All EU members are in the EEA but not all EFTA members are in the EEA.

Q: If the UK re-joins the EFTA, will it need to abide by freedom of movement with EU states?

A: Joining EFTA only means that the UK would have free movement with the EFTA states, Norway, Iceland, Switzerland and Liechtenstein.

(Technically this state of free movement with the UK already exists, but since the EFTA countries have similar or better average incomes than the UK, we have not seen any mass migration into the UK from these countries.) While the current EFTA states have free movement with the EU (with some caveats and restrictions) that is because they have voluntarily signed up to free movement – in the case of Norway when they signed up to the EEA agreement, in the case of Switzerland it was when they signed a bilateral agreement on free movement.

Q: If the UK re-joins the EFTA, will it need to pay money to the EU budget?

A: No. EFTA membership does not mean that we would need to pay money to the EU. Current EFTA countries do make payments; but these are to voluntarily take part in mutually-beneficial Europe-wide programs relating to reciprocal healthcare, science and education and aviation to name a few. The EEA signatory countries do however make contributions to some continental charitable programmes (The EEA and Norway grants) which is in effect, those countries diverting part of their

foreign aid to neighbouring countries in order to maintain good relations.

This video explains the arrangement in more detail:

<https://youtu.be/bY4B9iYcVjo>

Q: If the UK re-joins the EFTA, will it need to obey EU rules and regulations?

A: Only when exporting goods to EU countries, and providing services to EU residents and companies (depending on final agreement).

Q: If the UK re-joins the EFTA, will it be subject to the European Court of Justice (ECJ) rulings?

A: EFTA countries are not subject to the ECJ as a result of their EFTA membership.

The EFTA/EEA countries are subject to two bodies when dealing with trade with the EU – the EFTA Surveillance Authority and the EFTA Court.

The EFTA Surveillance Authority is led by a 'College' with members appointed by the participating EFTA States. Its role is to oversee the EEA agreement and report disputes and breaches of the EEA agreement to the EFTA court.

The **EFTA Court** is made up of judges from the EFTA states. It arbitrates on issues passed to it by the EFTA surveillance authority.



According to the President of the EFTA court **Professor Carl Baudenbacher:**

“Our setup [the EFTA court] is more sovereignty friendly than the EU’s. There is no written obligation on any court of last resort to make a reference to us, and our rulings in these reference cases are strictly speaking advisory. There is no direct effect and no primacy of EEA law, and if you do not implement an infringement judgment there is no possibility to impose a penalty payment. That shows greater flexibility.”

Q: If the UK re-joins the EFTA, does it automatically get free trade access to the EU market?

A: No. EFTA has no FTA with the European Union and members currently have to make their own separate arrangements with the EU.

Q: Could the UK rejoin EFTA and then just sign a FTA (Free Trade Agreement) with the EU?

A: That’s a possibility, yes. Switzerland’s relationship with the EU is not via the EEA (European Economic Area) but as the European Commission website states: **“The cornerstone of EU-Swiss relations is the Free Trade Agreement of 1972”**.¹¹

Q: How long would such a FTA deal take to reach?

A: That is difficult to answer. While EU free trade agreements are notoriously long to conclude, this has not always been the case. The earlier incarnation of the EU, the European Economic Community (EEC) concluded basic FTAs with Austria, Iceland, Portugal, Sweden and Switzerland in the 1970s in **seven months**. The EEC began negotiations with Norway on a similar FTA in February 1973, which came into force on the first of July 1973 – just six months from start to finish.

Critics will likely say that this earlier generation of trade deals were far simpler and as a result easier to conclude – which is true. However the UK is already synchronised with EEA rules and regulations which should reduce overall negotiation time.

Q: Why would the EU agree to such a deal?

A: It is in the interest of the EU to reach a fair and sensible deal with the departing UK. In addition, the EU would be strongly encouraged to conclude an agreement with the UK under Article 8 of the Lisbon treaty, which states that:

“The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.”¹²

Q: Even if we got a Free Trade Agreement with the EU that meant we have zero tariffs on trade in goods, what about ‘Technical barriers to trade’ and other Non-Tariff Barriers?

A: Firstly, after decades of EEC/EC/EU membership, the UK’s rules, standards and regulations are identical.

On the day of Brexit we will be entirely compliant with EU rules and the morning after Brexit, we will still be equivalent. Secondly, future EU-UK trade would be subject to international agreements like the WTO **Technical Barriers to Trade (TBT) Agreement**, General Agreement on Trade in Services (GATS), WTO **Agreement on Rules of Origin** and WTO **Trade Facilitation Agreement**.

These agreements mean that as long as our goods comply with international standards the EU will find it highly difficult to block them, and the EU is obliged to co-operate with the UK on removing other barriers to trade.

Our future bespoke **'British model'** could therefore take many forms:



Britain could for example re-join EFTA and then trade with the EU primarily on WTO (World Trade Organisation) rules: **'EFTA/WTO'** (although our relationship would be improved by additional agreements the EU has already signed with EFTA such as the **Convention concerning the simplification of formalities in trade in goods**¹³⁾)

Instead; we could re-join EFTA and then attempt to negotiate an Association Agreement (AA) with the EU: **'EFTA/AA'**

- or re-join EFTA and then attempt to negotiate a Free Trade Agreement (FTA) with the EU: **'EFTA/FTA'**
- or re-join EFTA and then attempt to renegotiate the EEA agreement to make it more equitable: **'EFTA/EEA'**

Where is the catch?

Some commentators say that the EFTA countries have got a bad deal. To a degree, that's true – but the 'bad deal' they refer to is EEA membership, not EFTA membership.

It is the separate EEA Agreement that obliges them to abide by EU rules, it is the EEA agreement that mandates the free movement of people and financial obligations, not EFTA membership.

The EEA agreement was originally conceived as a more equitable agreement – but the final signed agreement was (and still is) lopsided, concentrating too much power in the hands of the EU institutions.

While EFTA countries can influence, lobby and help shape the rules and regulations that the EEA countries (including all EU countries) must obey, they have no formal votes at the end of the law-making process.

While EEA membership guarantees Single Market access, it still confers too many obligations and restrictions to satisfy the most ardent 'Brexiters'. To avoid damaging political rows then, the UK should not seek to remain in the EEA – certainly not in the long term unless it could be renegotiated.

As **Dr Nat O'Connor** (Lecturer in Public Policy and Public Management at Ulster University) wrote recently:

“It is currently unfair and undemocratic that Norway, Switzerland, Iceland and Lichtenstein do not have a formal seat at the table for EU policymaking that affects them.

The EU gets away with it because it is large (population 508 million, combined GDP 16.8 trillion USD PPP) and the four EFTA members are small (population 12.7 million, combined GDP 893 billion USD PPP). In other words, the EU population

is 40 times larger and the EU's economic output is 18.8 times larger.

[Cont] “But when the UK is taken out of the EU and moved across to EFTA, the numbers change significantly. The EU (-UK) will have a population of 444 million and GDP of 14.1 trillion USD PPP, and EFTA (+UK) would have a population of 76.8 million and combined GDP of 3.6 trillion USD PPP. It's a big difference.

In this new context, the EU population would be less than six (5.8) times larger and the EU's economic output would be less than four (3.9) times larger. The difference between the two sides would be far less asymmetric than the current EU-EFTA relationship.”

Greater Influence

If we retained EEA membership through EFTA, the UK would have a say, but not a final vote on Single Market rules and regulations.

However, we would regain our seat and vote on the WTO (World Trade Organisation), the NATO Parliamentary Assembly, The Council of Europe and other international and regional bodies which would mitigate this loss of influence.

Indeed, since we would no longer be bound by EU 'common position' rules our diplomats would be free to speak and vote in the best interests of the UK.

Conclusions

Re-joining EFTA is clearly the best next step for the UK. It has no discernible downsides, only advantages. The membership fee is trivial compared to EU membership contributions and we could help revitalise the trading bloc for the 21st century – so it would be mutually beneficial.

The more complex question is what type of agreement we should then sign with the EU. It is clear that for all its relative merits, the EEA agreement is flawed and not really suitable for the UK.

Whether we retained EEA membership as part of an interim agreement or not is an even more complex issue.

But for now, the government should be writing its reapplication letter to our friends in EFTA. The Brexit process is highly complex but the question of whether we should rejoin EFTA or not is an easy one to answer.

In closing then, no 'model' will satisfy all sections of the British public. But this approach would satisfy a large proportion of the British public and go a long way towards healing divisions.

EFTA 4 UK is in no way affiliated with EFTA itself, we are a grassroots organisation made up of concerned British citizens.

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 - ¹⁰ <https://www.europol.europa.eu/partners-agreements/operational-agreements>
 - ¹¹ http://ec.europa.eu/trade/policy/countries-and-regions/countries/switzerland/index_en.htm
 - ¹² <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-european-union-and-comments/title-1-common-provisions/6-article-8.html>
 - ¹³ <http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=522>