The Canada option?

Why this model WON'T work for the UK after Brexit

EFTA 4 UK Briefing paper 06/11/2018

Brexit Timetable:

- **23 June 2016 - the UK votes to leave the European Union in a public referendum.**
- **29 March 2017 - Theresa May sends Article 50 letter to European Council President Donald Tusk to notify him of the UK's intention to leave the EU.[1]**
- **19 June 2017 – Negotiations formally begin in Brussels.[2]**
- **29 March 2019 - UK is provisionally scheduled to leave the European Union.[3]**

"…Sed fugit interea, fugit inreparabile tempus"

- **Virgil**

Executive Summary

- We believe the best option for the UK post-Brexit would be to adopt an 'off-the-shelf' model such as the EFTA/EEA relationship with the EU which is enjoyed by **Iceland**.

- Several prominent leave-supporting politicians are still advocating a 'SuperCanada' or 'Canada+++' deal based the existing EU-Canada CETA agreement.

- It is unlikely that the UK will be able to achieve such a deal; and even if one is reached, it would take several years to negotiate, ratify and be implemented. We leave the EU in March 2019.

- A Canada-type deal would not necessarily prevent a hard border on the island of Ireland.

- The Prime Minister has ruled out a CETA-type deal.

- A 'SuperCanada' deal could only work after a long list of criteria and conditions had been met – not any time in the immediate future. Example – the ratification of **TiSA**.[4]

- Until these criteria are met, further discussion of a Canada-type deal is not only a waste of time; but could be actively harmful to the UK's future well-being. This is because the discussion is taking up time and effort in the public and political sphere which would be better spent looking at more realistic alternatives.

Introduction

If the UK had never before had any kind of preferential trading arrangement with the EU, and we wanted to sign one with them, then the EU-Canada ‘**CETA**’ deal would provide an excellent template.

The CETA (Comprehensive Economic and Trade Agreement) is what is known as a *“new generation FTA”* (Free Trade Agreement) – as defined in this European Parliament briefing document:[5]

Briefing

European Parliament

New generation of EU free trade agreements

Responding to today's greater international economic complexity, the EU has moved from classical FTAs focused on tariff cuts and trade in goods to a new generation of FTAs. These aim to open up new markets and to initially include services, public procurement, investments, and regulatory cooperation. In addition, their aim is to foster sustainable development similar to the 17 Sustainable Development Goals (SDGs) agreed at United Nations level in 2015.

This new generation of FTAs goes far beyond simple bilateral tariff reduction, covering issues such as services and regulatory co-operation.

Due to its complexity, CETA took quite a long time to negotiate and ratify, which we will discuss in this report.

Timescale?

As reported by Sky News:

> **"CETA took seven years to agree, with five years of negotiation being followed by a two-year ratification process across European capitals and in Ottawa.**
>
> **The final approval of the trade deal was famously held up by one of Belgium's regional parliaments in Wallonia, before the country's federal government agreed to concessions."[6]**

Limitations and drawbacks of CETA

As advanced as CETA is, it has several flaws and factors which make it unsuitable for the UK.

> "The EU apparently favours a replica of the EU-Canada proposed deal—the CETA agreement—for the UK, and I can see why.
> If I were in its position, I would do the same thing. CETA covers most manufacturing, an area where, as has been said, we have a big trade deficit with the EU. It does not cover much in the way of services, such as audio-visual and, crucially, financial services, where the UK has a big balance of payments surplus, so a CETA deal would not be a good deal for the UK..."
>
> - **Lord Monks (Lab) (Hansard)**

A 2016 HM Government report by the Foreign and Commonwealth Office (**FCO**) into possible alternative forms of UK-EU relationship said of CETA:

> **"The agreement between the EU and Canada goes further than any existing EU trade deal.**
>
> **An advanced Free Trade Agreement, such as that negotiated between the EU and Canada, brings less access to the Single Market. The EU-Canada agreement does not give tariff-free access to all Canadian manufactured goods, does not cover a number of...**

[Cont]…key service sectors, such as audio-visual and the majority of air transport, and requires Canada to accept EU rules when exporting to the EU, as well as quotas on some agricultural exports.

The EU-Canada Trade Agreement provides reduced access to the Single Market for example in services and agriculture… A bespoke UK-EU trade agreement would be complex to negotiate. The EU-Canada agreement, for example, has taken seven years to negotiate and is still not in force."[7]

The FCO report continued:

"No existing bilateral trade agreement would deliver the same level of access that the UK currently enjoys to the EU Single Market. In particular, none provide equivalent access for services, which accounts for almost 80 per cent of the UK economy.

A UK-EU agreement could require the agreement of all 27 of the remaining EU Member States. The European Parliament would also need to give its approval. The Canada deal does not fully extend the level playing field to financial services.

This has taken seven years to negotiate from scoping and it is not yet in force.

Manufacturers in UK sectors such as cars, pharmaceuticals or chemicals could face problems accessing the Single Market as UK and EU product rules diverged over time, and exporters to the EU could be forced to comply with different standards, when now they only have to comply with a single standard.

The UK would lose the benefit of EU Free Trade Agreements with other parts of the world: renegotiating these would take years.

The UK would lose our voice and vote over EU rules."

Many of the points made in the FCO report were later echoed by Prime Minister **Theresa May** who said:[8]

> "As for a Canadian style free trade agreement, we should recognise that this is the most advanced free trade agreement the EU has yet concluded and a breakthrough in trade between Canada and the EU.
> But compared with what exists between Britain and the EU today, it would nevertheless represent such a restriction on our mutual market access that it would benefit neither of our economies.
> Not only that, it would start from the false premise that there is no pre-existing regulatory relationship between us. And precedent suggests that it could take years to negotiate."
>
> \- **Prime Minister Theresa May**

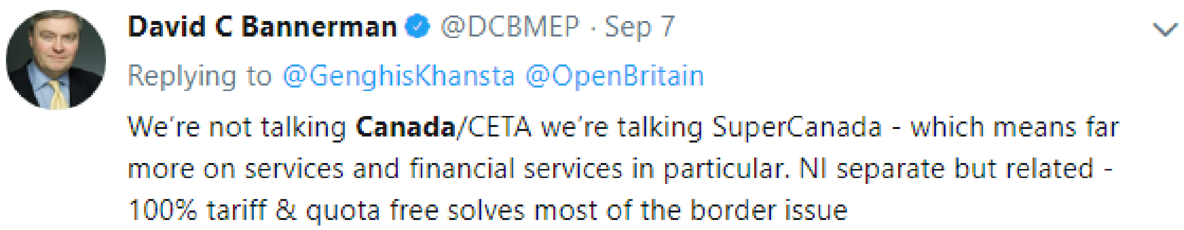
So, what are the main flaws?

Briefly then, the problems with a CETA style deal are:

- It would take too long to agree and implement (we are leaving EU in March next year, and the transition period is only until 31 December 2020.[9]
- No input into (or advance warning of) new EU/EEA rules which we would need to comply with when exporting to the EU/EEEA countries on our doorstep.
- CETA doesn't go far enough on services, which accounts for almost 80 per cent of the UK economy.
- A CETA deal isn't comprehensive enough in other areas, we would still need many additional deals on aviation, police co-operation, customs co-operation etc.
- A CETA deal would not be able to deliver an invisible border on the island of Ireland, meaning that the backstop would kick in – this would mean that NI would be separated from the rest of the UK, remaining in a form of the EU's Single Market and Customs Union.

Changing positions

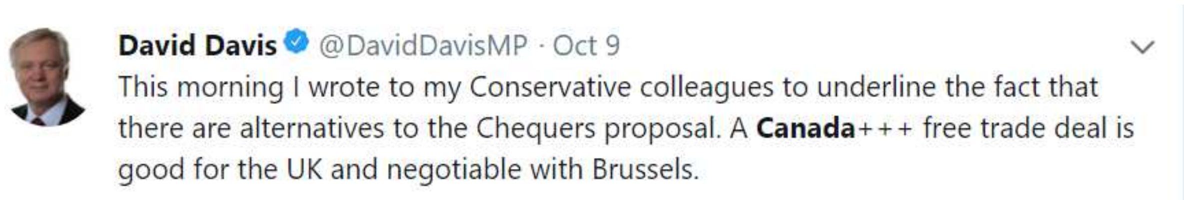
After the EU membership referendum, several prominent Leave supporters began to concede that a CETA-type deal was insufficient for the UK, so they began to propose something else – “SuperCanada” or “Canada+++”. See for example the below tweet by MEP David Bannerman:[10]


David C Bannerman @DCBMEP · Sep 7
Replying to @GenghisKhansta @OpenBritain
We're not talking **Canada**/CETA we're talking SuperCanada - which means far more on services and financial services in particular. NI separate but related - 100% tariff & quota free solves most of the border issue

Q: What is this Canada+++?

A: Pure Cakeism. Essentially it is a phantasy or mirage – a ‘Super-FTA’ that goes beyond CETA which would allow the UK greater Single Market access than Canada but without any of the responsibilities and duties of the EEA countries (who enjoy unparalleled access to the European single market in both goods and services).

Former Secretary of State for Exiting the European Union **David Davis** has said[11] that he wants “Canada plus, plus, plus” for the UK.[12]


David Davis @DavidDavisMP · Oct 9
This morning I wrote to my Conservative colleagues to underline the fact that there are alternatives to the Chequers proposal. A **Canada**+++ free trade deal is good for the UK and negotiable with Brussels.

David Davis interview:

As Mr Davis said in an interview on the **BBC Andrew Marr show** of 10th December 2017:

"AM: So if the basic deal, I'm being very crude about this, but is Canada plus the City, or something like that?

DD: Canada, plus, plus, plus is probably would be one way of putting it.

AM: Plus, plus, pluses are difficult, aren't they?

Because for instance the French want to steal as much of the City as they possibly can. So the fact that they can –

DD: I wouldn't use that word. That's your word.

AM: And what you want is Canada plus, plus, plus. David Davis. That's what you said.

DD: You're desperately trying to get a headline out of this.

AM: No, of course I am.

DD: What we want is a bespoke outcome.

We'll probably start with the best of Canada and the best of Japan and the best of South Korea and then add to that the bits missing which is the services.

AM: Okay, thank you very much indeed."[13]

Most Favoured Nation?

In some recent EU FTAs there are what are known as ‘Most Favoured Nation’ clauses.

As Professor of European Union Law **Catherine Barnard** has explained:

> **“To put it simply, an MFN clause is a non-discrimination requirement. It means that if you give a favour to one trading partner, you have to give it to all partners who benefit from an MFN clause.**
>
> **The EU’s FTAs also contain an MFN clause which means that the EU must provide equal treatment to those trading partners who benefit from an MFN clause under their FTAs with the EU. What the EU offers to the UK must, then, be offered to Canada, Korea, Singapore and other partners with whom the EU has negotiated an MFN clause.”**

As a result of these MFN clauses, it is possible that (even if the EU *wanted* to give us a deal better than CETA), that other trading partners could challenge this (wanting the same boons for themselves), leading to disruption for the EU.

Would they wish to risk this?

Having our cake and eating it?

The EU27 (the remaining states once the UK leaves) have to balance two major factors in deciding how good a deal to give to the UK.

On one level, the better the deal that they give the UK the better for their own economies (i.e. they will face fewer non-tariff barriers and costs when trading with the UK); however if they give the UK ‘too good’ a deal, other countries may question the wisdom of staying in the EU if they can follow the UK’s example and get a similar ‘sweetheart’ deal outside.

The EU and especially the Commission, is going to be loath to do anything that could threaten the integrity of the European Union and its Single Market.

So logically, even if a **SuperCanada** deal was desirable for the UK, possible and achievable in timescale the EU would be highly, highly unlikely (probability approaching zero) to give it to us.

Conclusions

As we stated earlier, even if a Canada+++ deal was desirable for the UK, possible and achievable in timescale the EU would be highly, highly unlikely (probability approaching zero) to give it to us.

Even in the unlikely event that they did, we would have no FTAs with any other countries anywhere in the globe and would have to work frantically to try to re-establish a trade deal portfolio.

The **EFTA/EEA** model on the other hand is practical and has the merit of being a *real* option that already exists and works in the real world.

We mentioned Iceland earlier. As part of the EFTA/EEA they take part in the EFTA trade deal portfolio but can negotiate their own deals. They were the first European country to strike a deal with China. We will describe the 'Icelandic option' in brief at the end of this document. Decide for yourself if it seems better like a good alternative – we certainly think so.

Despite its obvious and less immediately obvious flaws, the Canada model keeps returning to the Brexit debate every time it is believed to be dead.

In this respect, the idea has a Rasputin-like quality. But we hope to finally end the cycle with this report. We live in hope.

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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Postscript: The Icelandic option (EFTA/EEA)

- Iceland is not subject to the EU's Common Foreign and Security Policy (CFSP) and so unlike the UK[14], speaks for herself at the WTO[15] and at global forums.
- Iceland is not subject to the EU's Treaty that calls for **"an ever closer union among the peoples of Europe".**
- Iceland is not subject to EU Justice and Home Affairs policies. She is not subject to the EU's Economic and Monetary Union (EMU) policies. Her currency is the Icelandic Króna, not the Euro.
- She is exempt from the EU's common agricultural and fisheries policies (CFP and CAP).
- Iceland is not subject to the European Court of Justice (ECJ) but instead sends one third of all the judges to the separate **EFTA Court[16]**.
- Iceland is not subject to the EU's Common commercial policy or Customs Union and so can make her own trade deals. She doesn't have to adhere to the EU's Common Customs Tariff (CCT)/ Common External Tariff (CET).

Notably, Iceland was the first[17] European country to sign a free trade agreement with China – a nation of 1.379 billion people.

In addition, Iceland has signed a Trade and Investment Framework Agreement (TIFA) with the USA.[18]

- Via her membership of the European Free Trade Association (EFTA), Iceland has 27 FTAs covering 38 countries and territories outside the EU.[19]
- Via her participation in the EEA (European Economic Area) agreement, Iceland has free trade in goods and services with all members of the EU. In addition, her citizens can live, study and work in the 28 EU states.

While EFTA/EEA states like Iceland participate in a form of the EU's Freedom of Movement (FoM) we have previously outlined elsewhere[20] how the UK could manage migration better and still stay in the Single Market.

> **Example:** Article 28 EEA allows for tweaks and temporary measures to control migration from other EEA states **"justified on grounds of public policy, public security or public health".**

The Icelandic Minister for Foreign Affairs has repeatedly suggested[21] that the UK should follow their EFTA/EEA example.[22] We should.

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