

EU-UK (Un) Free Trade Agreement

Blog post by Partner Stephen Adams, 20 September 2016

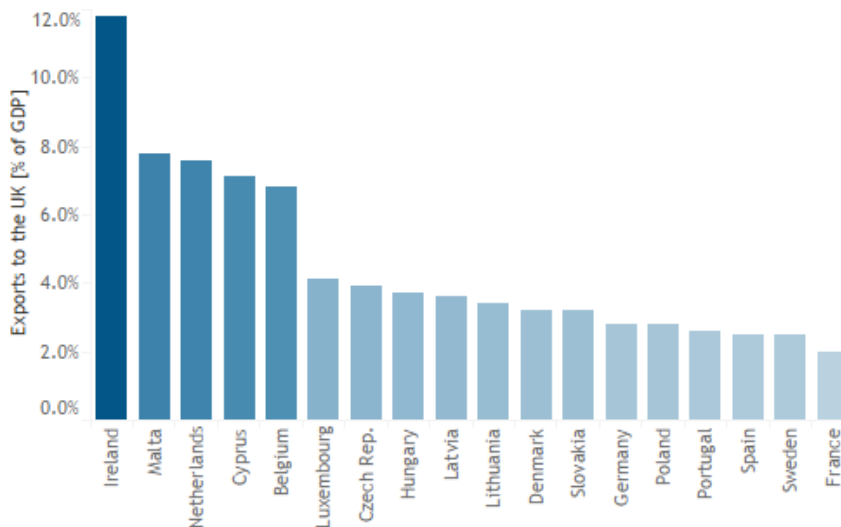
One of the consistent themes of the UK referendum campaign on EU membership was just how hard it would be to re-establish trading terms between the two sides if the UK was outside the EU. Opponents of exit warned that it could take many years for the EU and the UK to negotiate a 'Free Trade Agreement' (FTA). To be sure, the EU's own experience with such negotiations has rarely produced a final deal in less than five years, and Parliamentary ratification can extend this further.

More of the same last week. Belgian Prime Minister Charles Michel warned his legislature that if it had doubts over ratifying the EU-Canada FTA - 'CETA' - it would be bound for consistency's sake to block an EU-UK FTA. Former British Deputy Prime Minister and pro-European Nick Clegg also again warned that, based on past experience, it was likely to take many years for the EU and the UK to agree an FTA. In both cases, and indeed every time this sort of argument gets made, there is an assumption at work. This is the assumption that an EU-UK FTA would be just another EU FTA negotiation.

At one level, this is of course true. An EU-UK FTA would formally resemble any other trade negotiation, although probably an even more testy one than usual under the circumstances. But there would also be a very important difference. When EU and Canadian negotiators launched negotiations in 2004, they were dealing with a set of hypothetical questions. If Canada removed trade barrier X, EU exports would flow into market Y. What is Y worth in terms of reciprocal concessions?

Defensive interests mobilised to block foreign competition in their markets. Offensive interests supported the potential benefits of liberalisation in their sectors. Time passed. As in most EU negotiations, rounds of discussion were spaced out over weeks and months, and actually suspended for an extended period when Ottawa struggled to get Canadian provincial governments to play ball on access to public procurement markets.

An EU-UK FTA is not likely to be like this. It would not be a negotiation on hypothetical new market access, but on rolling back existing market access. Under this abstraction, are massive trade flows that are currently unhindered - about half of UK exports and around a tenth of EU27 exports. Many of these flows are exposed to new tariffs or other restrictions if the EU and the UK lapse into treating each other as if they were just another WTO member subject to 'MFN' tariffs and current GATS schedules. There will of course be interests on both sides who see upside in this. But there will be many more who do not, and they have a lot to lose (see chart below). In most FTAs, the loudest economic interests tend to be those shouting for protection. In this case, they are as likely to be urging against it.



EU27 states with exports to the UK >2% GDP
Source: Eurostat (2014)

This is where the logic of ‘just another FTA’ is faulty. The result of failure or delay in the EU-Canada or EU-Korea FTAs was the status quo. The EU-UK status quo in liberalised trade terms will essentially be lost the moment the UK triggers Article 50. The role of an EU-UK FTA will be to see how much of the liberalisation created by the single market is ultimately recast in a bilateral deal. Clearly it will be less, and potentially a lot less, especially in regulated and cross border services. But the commercial, economic and political question will be how much less?

Answering that question will not look like any past FTA negotiation. Nor is there any reason in principle why negotiations have to proceed at the relatively leisurely pace set by previous EU FTA negotiations - and given the imperatives on both sides, no reason to believe they will. If they are committed to avoiding a temporary re-imposition of tariffs or trade barriers, the two sides will be negotiating against the clock. Negotiators can camp in Brussels until a deal gets done if they have to.

Of course, there is a fair chance that politicians like Clegg and Michel will turn out to be right, especially if the two sides allow a ‘Hard Brexit’ that sees tariffs and other trade barriers re-imposed at the point of a UK exit and then subsequently negotiated away. But they will not be right because this will be just another deal. They will be right because the politics on both sides prevented both sides from treating it as what it will be. Which is, for want of a more elegant term, an Unfree Trade Agreement.