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**Red  
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**Anything to Declare?  
Brexit and the Customs  
Union Model**

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## **Anything to Declare?**

### **Brexit and the Customs Union Model**

#### **Summary**

- A Customs Union (CU) is an imperfect solution for the UK post-Brexit, even if applied only partially.
- All but one of the existing EU CUs that have been made with third parties<sup>1</sup> are with territories smaller than parliamentary constituencies.
- The exception is Turkey, whose arrangements would not solve the key Brexit border issues relating to regulatory standards, and which has only been accepted thanks to an EU bung.
- The Commission itself considers the Turkish model both a transitional mechanism for entry into the EU, but also out of date given advances in Free Trade deals.
- No model provides any meaningful safeguard mechanism for representing the interests of the second state; most do not even include a notional one.
- Fulfilling the pledges both in the referendum and also in the “Road to Brexit” Speeches mean that HMG needs to pursue a UK-EU FTA, associated with a raft of agreements recognising standards conformity, accompanied by a mechanism that cuts in on a specific code where there is standards drift.
- Industrialists pushing for a partial customs union just covering just themselves are throwing away a strong negotiating card, while pushing those in other sectors under a bus.

#### **The Customs Union Approach**

A Customs Union (CU) is a mechanism that establishes tariff-free passage of certain goods between signatory countries. The extent of the coverage depends on the extent of the agreement, but by its very nature it does not tend to extend significantly beyond raw or manufactured goods into the Services sectors. In that regard it is both limited and dated.

It does extend a mutual external tariff wall (Common External Tariff, or CET) to goods entering from third parties. If there is a dominant partner, evolving terms relating to external deals may in effect be forced on the weaker party, which is meanwhile unable to develop its own Free Trade Agreements (FTAs) to help compensate.

It does not remove all Non Tariff Barriers (NTBs) between participants even in these areas, and can leave delays of many hours at border points. It therefore does not ensure that goods cross borders without potentially very significant hindrance. It is consequently *not* a panacea for businesses and does *not* address their main concerns.

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<sup>1</sup> By which we mean, excepting those Overseas Departments that are considered part of Metropolitan France.

There are, however, two further key problems associated with this model: implied political centralisation, and the inherent risk of protectionism. Both of these are critical considerations that are largely overlooked by business supporters of a CU. Both, as it turns out, also have potentially huge long term business costs.

To these, we may add further considerations, not least the practical detail that the EU collectively is a much bigger exporter into the UK than vice versa. The issue of gain and loss from introducing tariffs is a complex one involving trade offs, divergence, alternative markets, alternative sources, and relativity; but in extremely basic terms, with more trade facing the prospect of tariffs, the EU's manufacturers should be inclined not only to pursue a deal but also to lobby hard to get one. For some counterpart UK businesses instead to be lobbying heavily for a customs union might in turn be cynically viewed as big business manufacturers selling out everyone else (especially in Services) through self-interest. Worse, given the negotiating imbalance of interests in play over the industries covered, advocates of a CU are not even playing their own negotiating hand adroitly.

In a previous paper by the Red Cell, we took as our case study what options arose from the tariff regimes applied to six fruits.<sup>2</sup> What they reveal is a set of lessons that can be applied widely across tariff strategy, and what industrial strategies their presence and absence generates. This includes the possibility of deploying a highly targeted tariff policy, on a select group of key items identified as being of high political value to a swing lobby.

What is clear, however, is that the more sectors of the economy are captured in a regional customs union, the less scope there is to deploy those negotiating and economic strategies across the board, and the less prospect there is for achieving comprehensive free trade deals with third parties.

## Lessons from History

The political risk arising from being in a Customs Union can perhaps be most readily observed through case studies. History reminds us that the decision to enter a customs union is associated with long term political ambition, economic complication, and risk.

**The United States** on independence constituted 13 (swiftly, more) separate statelets linked through what began as a very weak federal government. Ironically, the first unifying structure was what had been a key driver of independence in the first place – the establishment in 1789 of a centralised (and distant) customs agency, whose job it was to interdict smugglers and to levy those unpopular but necessary duties on items such as tea.<sup>3</sup> It was introduced in order to generate revenue for the federal government, as well as to provide the prospect of a measure of protection from foreign imports at a time when the US merchant marine faced serious competition from British hulls. These latter were also subject to protectionist policies, since they were themselves covered by the Navigation Acts that so vexed John Adams during his stint as Ambassador to the Court of St James.

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<sup>2</sup> [http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/oranges\\_and\\_lemons.pdf](http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/oranges_and_lemons.pdf)

<sup>3</sup> The Revolution thus ended up creating a unified customs mechanism for all the colonies (now states) at the paradoxical cost of ensuring that all imports from the United Kingdom were now foreign goods subject to potential tariff and non-tariff barriers.

Federal policy was crafted to favour the industries of the North, and largely remained so for the next several decades. It would however generate a central and enduring complaint by the South, as it impacted upon their own exports as well as restricting import opportunities. As such, the mismatched effects of the Customs Union was ultimately one of the two key causes of the American Civil War.

German unification was advanced through the pursuit of the **Zollverein**, the German Customs Union. At the outset this was largely pushed by genuine free trade ideology, which is hardly surprising given the extent of the trade barriers that merchants had endured for centuries between and even within the plethora of states and microstates. Initially in the 1820s there were two competing German CUs; then in 1834 one core one. With the growth of Berlin's power in the second half of the century, affiliation became harder to resist. Austria had its own complex multinational system and in any event was politically pushed out; Prussian victory over Denmark brought in most of the Baltic in the 1860s.

It is highly symbolic that the two most outward looking ports, Hamburg and Bremen, strove to resist incorporation until as late as 1888. The reason for this become obvious when one considers how the system was run. While the original management mechanism operated on one-state one vote, Prussian victory over Austria led to decision-taking by majority voting in which Prussia had just short of a third of the votes and held the chair. This model was in turn shortly afterwards replaced by a nationally-based structure, as the country was formally united. Economic integration had preceded political unification, with the more internationally-orientated parts hanging on to their free trading independence until the power imbalance meant it was impossible not to yield and accede. For the free traders, worse was to come. Within 15 years, there was world war, blockade, and ersatz.

Alternatively, we might turn to the example of **Ireland**. The issue is more than simply the symbolism of the assault by the IRA on the Dublin Customs House in 1921, which was after all arguably just a large and symbolic public building in the middle of the city. Of more direct interest was the Anglo-Irish trade war that began in 1932. De Valera sought to repudiate certain debts, which was responded to with a significant UK tariff levied on Irish agricultural exports. The Irish Government reciprocated, including on coal. Though some measures were soon eased, the impact clearly favoured some domestic industries at the expense of others whose export markets were now undermined. The period of 'Economic Warfare' was damaging for the Irish economy, but also had the second order damaging effect of generating a political undercurrent in support of protectionism that took years to reverse. The example might be usefully reflected upon in Dublin today by those inclined towards pushing politically unreasonable demands and thus acting as drivers towards a minimalist Brexit settlement. But it is also a reminder that the fight for sovereignty has long been associated with control over tariffs.

Or we might consider the case of the **Eurasian Customs Union**. The Soviet economy was heavily integrated across regions and time zones, with the Asian periphery feeding the core with raw materials, and the industrialised European parts strongly interconnected. Independence shattered this model. Subsequently, the ECU has seen the Eurasian Economic Community bolted onto it, and has developed into the Eurasian Economic Space. The process has mirrored the precedent of how

the EEC-EC-EU has evolved, the difference here being that Russia has effectively assumed the role of Germany and France combined. Unsurprisingly, the offer made to Ukraine to join the Customs Union proved to be contentious and hotly debated, since membership of any CU was incompatible with the alternative route of signing a DCFTA with the EU. Kiev went for the EU route, and in so doing added petrol to its fiery relationship with Moscow.<sup>4</sup> Added on to Moscow's suspicion over Kiev's engagement with NATO, the decision to rebuff the Russian Customs Union in favour of pursuing an incompatible EU trade deal was a key trigger behind subsequent developments in Crimea and eastern Ukraine. Or to put it another way, being inside or outside a Customs Union is an issue that is still today so important it can be a factor in going to war.

Turning the clock back further, international trade during the days of the Soviet Union was hampered by the fact that it was a communist state. The height of the EEC's negotiations with it resulted in a flimsy agreement whose primary purpose was to legalise the presence of foreign capitalists in the country. By contrast, trade between communist states allowed a measure of interconnectivity between central planners. This is the context underpinning the Warsaw Pact's answer to Brussels, **COMECON**. COMECON was initially largely a credit union with an element that internationalised central planning, though still hampered by different set values for centrally-planned goods. Though the organisation evolved over the years, COMECON was at its core about managing quota and operating a barter system under a state monopoly. In this regard, COMECON might be said to have been an Absolutist Customs Union, where trade was pushed rather than pulled. Fundamentally of course, as a model for removing border barriers, it was driven by political imperative, economic alienism, but above all by the primacy of a single dominant partner (the Soviet Union).

These examples, and others we shall encounter later, remind us of the political baggage that can easily accompany integrated trade models. A customs union cannot be treated in isolation of the political model it accompanies; and the EU model is inherently and aspirationally politically integrationist.

#### Duties of the US Customs Officers ("collectors") under George Washington

*At such of the ports to which there shall be appointed a collector, naval officer and surveyor, it shall be the duty of the collector to receive all reports, manifests and documents made or exhibited to him by the master or commander of any ship or vessel, conformably to the regulations prescribed by this act, to make due entry and record in books to be kept for that purpose, all such manifests and the packages, marks and numbers contained therein; to receive the entry of all ships and vessels, and of all the goods, wares and merchandise imported in such ships or vessels, together with the original invoices thereof; to estimate the duties payable thereon, and to endorse the same on each entry; to receive all monies paid for duties, and to take all bonds for securing the payment of duties; to grant all permits for the unloading and delivery of goods, to employ proper persons as weighers, gaugers, measurers and inspectors at the several ports within his district, together with such persons as shall be necessary to serve in the boats which may be provided for securing the collection of the revenue to provide at the public expense, and with the*

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<sup>4</sup> The DCFTA, for example, includes clauses on Ukraine's defence industry, which supplied key components to Russia's military and missile systems.

*approbation of the principal officer of the treasury department, store-houses for the safe keeping of goods, together with such scales, weights and measures as shall be deemed necessary, and to perform all other duties which shall be assigned to him by law.*<sup>5</sup>

## Binary Options

There are two competing models operating on the continent of Europe, and they are mutually exclusive. The difference between the systems lies in either permitting by recognising and allowing, or than permitting by limiting and demanding. The latter excludes the former, and carries heavier costs.

Model One is embodied in the EFTA ideal – an arrangement distinct from the EEA mechanism pursued by three of the EFTA members, but of itself demonstrating the flexibility in that approach. Underwriting this, more open, model is the pursuit of the Free Trade Agreement. This is about agreeing levels of increased access based on trust, where the authorities of each party are considered competent by the other in ensuring that businesses are compliant with domestic rules that are considered sufficient, so goods are allowed to flow largely unhindered.

The contrasting model means identical laws have to be uniformly followed. Model Two, then, is the integrationist, one-size fits all model pursued by the EU, permitting trade based on conformity but at the expense of hampering trade with others. This latter model in turn comprises two elements: a Single **Regulatory Union** or “Single Market” (which in physical form comprises what unites the full membership list of the EEA); and a **Customs Union** that reduces or cuts internal barriers by replacing them with a large common one. These components can be distinct, but together form the basis of the EU model in trade terms. This approach is more burdensome where larger markets are involved, as it is inflexible. Bad decision-making is harder to correct and impossible to erode.

Because of its nature, the Customs Union itself is much more closely associated with a demand for regulatory alignment. This is not entirely a given, but the aspired reduction of border checks presumes that standards are met by the exporter; the default in the Commission tends to be that those standards are best met by being identical, rather than being treated as being ‘as good’ – an assumption underlined if the other country is already aligning itself to identical systems anyway. But because of this association, it is worth here briefly considering the wider aspects of this approach to trade.

A fundamental problem associated with both the Regulatory Union and the Customs Union is that they have a see saw effect – while generating mechanisms to facilitate trade between participants, it comes at the cost of introducing complexity for third parties, as well as a potential range of burdens where trade does not cross borders at all (which might well be a large majority of the economy).

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<sup>5</sup> Cited in *The First Officers of the United States Customs Service*, Michael Ingrisano, US Customs and Border Protection, 1987; and taken from Section 5 of the 1789 Act.

The flexible approach to trade works best when countries resolve to trade goods on the proviso they are compliant with the ethics rather than the excessive small print of minimum standards. The Commission has not got a good track record in this. But there have been pockets of thinking within the Commission supporting a greater shift towards this model, at least with regards to states that are never going to become candidate countries; adopting this model with Brexit correspondingly provides an opportunity to pursue this route.

The EU is not necessarily top of the regulatory food chain in this. Where minimum standards are called for, they can be agreed internationally by continental or global standards agencies; if a supplier conforms to a particular set of standards deemed to reach the required level, then the product is allowed into the market. We explore an example of this, on car safety glass, in a separate paper.<sup>6</sup> The automotive industry was also indeed an example specifically cited in the Prime Minister's recent Mansion House speech.<sup>7</sup>

Essentially, trade access based on equivalence (which is the model set out in 'basket two' of the 'three baskets' approach) is based on three key provisos – an understanding that the other side does not intend to pursue a 'race to the bottom' in standards as a matter of competitive advantage beyond what is reasonable and common sense; a level of trust arising from a compliance testing regime that the other party believes capable of safeguarding standards without trailers being inspected on the border; and also some measure of documentation that confirms that the material genuinely does come from the country in question rather than being a Trojan horse re-export.

Again, we cover the modalities underpinning that, including the management of cumulation (or adding value to goods by working on components supplied by different countries), in other papers. The key point here is that an FTA can deliver those safeguards if both sides trust the other. If an FTA can deliver it and a Customs Union cannot, the latter is irrelevant.

As has been repeated by David Davis in his recent speech in Vienna, the UK starts from a point of full compliance with existing EU standards. It is a lot easier to move into a Free Trade model through managing divergence than it is to seek to build up starting trust over delivering full convergence. Moreover, the UK has a reputation not merely of a high level of compliance with EU regulatory demands, but indeed of *over-compliance*, as our paper on EU red tape has shown.<sup>8</sup>

The real question is whether the European Commission wants to pursue a trade deal on these terms; or perhaps rather, if the EU Council will fail to step in. Such a model does not support the political aspirations that accompany the building of the EU. This has repeatedly been seen in Commission officials incessantly and very publicly sniping at the 'unwieldy' operations of the Swiss-EU arrangements. The arrangement is considered messy in Berlaymont because it is bilaterally run (meaning the Commission does not have a monopoly on power) and it largely escapes the remit of

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<sup>6</sup> [http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/life\\_of\\_laws.pdf](http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/life_of_laws.pdf)

<sup>7</sup> "Many of these regulatory standards are themselves underpinned by international standards set by non-EU bodies of which we will remain a member – such as the UN Economic Commission for Europe, which sets vehicle safety standards. Countries around the world, including Turkey, South Africa, South Korea, Japan and Russia, are party to the agreement"

<sup>8</sup> [http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/brexits\\_red\\_tape\\_challenge.pdf](http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/brexits_red_tape_challenge.pdf)

the Luxembourg Court (which is likely over time to hand it more). If the Commission is obdurate, there are plenty of signs of a number of national governments being more open to the idea. The fact that a trade deal is not written in a way that encourages its participants to politically unify should not, obviously, lead to it being imperfect. On the contrary, a mutual recognition agreement has immense potential to advance international trade and defeat protectionism in the EU.

The examples that David Davis cited in his 'Road to Brexit' Vienna speech are correspondingly key pointers on where the UK negotiators are aspiring to head. They included the following;

- Guidelines for emerging technology
- Safety in the workplace
- Flexible working hours
- Risk management in Financial Services
- Reduction of multinational tax avoidance
- Avoidance of state aid abuse
- Greenhouse gas emissions targets
- Environmental standards

The list is informative – it confirms reporting in Brussels that the Commission has concerns about coming to a deal in Financial Services owing to “Anglo-Saxon” practices. But it also includes areas that clearly have no actual relevance to trade negotiations, such as Social Chapter material. The examples have clearly been introduced to demonstrate that the UK has a track record in being trustworthy in not seeking to gain what some in the EU institutions might interpret as “unfair competitive advantage.” The Prime Minister’s subsequent speech also added the prospect of a trade panel that would review instances where the EU thought one was emerging over time.

Now, while this may be of concern to those seeking to make the UK globally competitive by removing the very real problem of unwarranted business burdens, this does underline that the UK is ideologically compliant with the EU in terms of what its legislation is setting out to do: products are super safe, ethically friendly, and consumer-orientated. To cite the Brexit Minister, “Eight out of ten of the most used and implemented standards worldwide, ranging from product quality to environmental management, originated in the UK.” Once that fact becomes accepted, it then becomes far easier for the UK and EU to set up a trade deal based not on regulatory mirroring, but based on trust. In other words, if the EU accepts that the UK is morally compliant, then it can accept that its goods do not have to be fully technically compliant. The systems can diverge, and the UK does not have to be in a ‘rules union’ or for that matter a customs union with the EU. The concept is aligned with another part of Davis’s speech, where he talks about “mutual respect”, since this approach requires both sides to operate in good faith.

Realistically, it is to be expected that gradual divergence will lead to challenges over particular areas. This is especially likely where the scientific evidence is limited or contentious, and where the balance may dip on one side towards protecting the consumer against potential threat, and on the other about generating opportunity for pursuing (for example) new industries or GM crops. The margin of difference in views may even be small, though it should be noted the EU has a developed track

record in deploying the Precautionary Principle to play it safe regardless of cost, and particularly in areas where it may be technologically lagging.

At some point trust on one particular area might be expected to break down. The key elements here will then be limiting any ban and trade dispute to that product; ensuring in advance a dispute resolution mechanism is in place (if it is not, then the WTO has one); also ensuring that the terms and limits for reciprocal countervailing action are also understood (again, the WTO allows for this); and as far as possible facilitating that the wider flow of trade is not interrupted and the general level of trust in standards monitoring and compliance is otherwise unaffected.

Theresa May has set out a concept of a “reliable deep and special partnership of values and interests” (to conflate several elements of her Florence Speech). The ‘Road to Brexit speeches collectively and unambiguously put the UK outside of the Regulatory Union and the Customs Union, but with minimum trade barriers, and allowing a raft of FTAs around the globe. These component elements dovetail. Consequently, **the only model that realistically presents itself is a UK-EU FTA accompanied by a raft of agreements recognising standards conformity, accompanied by a mechanism that cuts in on a specific code where standards drift.**<sup>9</sup> The Customs Union model is ruled out by this approach.

### The Example of the Americas

In another paper, the Red Cell has explored the range of trade treaties that have been set up in the Western Hemisphere.<sup>10</sup> This part of the world has been particularly hampered by trade barriers, while simultaneously not enjoying anywhere near the same level of success achieved through cooperation at the UN’s regional economic forum. In large part, this has been down to heavily protectionist politics and Leftist governments.

Nevertheless, economically progressive countries have cooperated in establishing trade groups outside the UN framework. What is striking about the considerable range of agreements is the model that countries have preferred to follow. Despite the considerable Technical Barriers to Trade (TBTs) to overcome, they have largely opted for FTAs. Only in a few cases have they gone for Customs Union, and in those cases largely because the participants are microstates with a shared colonial history, seeking to develop economies of scale in government. In a very small number of cases, the arrangement has been a Customs Union and a Regulatory Union like the EU model (indeed, aspiring to copy it): and here the aspiration of forming a political union has been paramount as a driving force rather than trade.

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<sup>9</sup> Happily, the EEA agreements include such a proviso so this is not reinventing the wheel. It is however worth revisiting how wide the effects of non-compliance should be applied: if it is across an entire trade sector, the value of having it is limited as it would encourage the Commission to view the UK as a simple law-taker, though this would actually likely end up accelerating wider divergence (to its own strategic detriment).

<sup>10</sup> [http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/new\\_world\\_order.pdf](http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/new_world_order.pdf)

We can draw a number of further observations. Considering the models and their participants, it becomes apparent that

- Advanced Anglo Saxon economies prefer straight trade deals;
- Protectionist countries prefer customs unions;
- Countries seeking 'Bolivarist' political union follow the EU model;
- There is a greater success at deep economic integration where there are cultural similarities;
- The baseline logic of customs unions is least ambiguous when it involves economies of similar scale and interests, in the context of a more developed and capitalised external regional competitor to be defended against;
- Microstates and small states have the greatest interest in using economic unions as part of a process of federalising;
- Policy uniformity generates exponentially increasing difficulties the wider across a continent it is applied;
- Free trade agreements are more flexible, productive, and enduring;
- The push to integrate in either customs terms or regulatory terms is exceptional rather than normative;
- That push is easier to accommodate in identical economies.

The principle lesson however is that the pursuit of a customs union is associated with ambitions for increased political coordination and integration. Even where such ambitions are limited, the decision-making processes associated with running a customs bloc subsequently lend themselves to subsequently bolting on integrationist agendas.

## Reviewing the EU's Customs Union Models

The EU has reached customs agreements with several governments. These have differences and are worth briefly considering separately. On review, almost all of them do not provide an operational model for anyone seeking to apply it to the United Kingdom simply on the basis of the scale and nature of the relevant economies; and the one that does (Turkey) contains a number of flaws that are largely offset only by paying Ankara billions in 'development aid'. This, of course, is not in prospect for the UK, a current net EU donor.

The following examples also notably constitute very much a minority of how the EU designs its trade agreements with third parties, as we covered separately in our paper reviewing the 42 models officially recognised and classified by the Commission.<sup>11</sup>

### (1) The Turkish Model

"Movement of goods within customs unions is not based on their originating status but on the fact that they comply with provisions on free circulation. However, some products do not fall within the scope of the customs union but remain subject to a preferential treatment based on origin"

European Commission summary

The Treasury's Brexit Analysis began its consideration of the Ankara model with a fundamental observation: "The Turkish model is founded on its status as an emerging market and its aspiration to join the EU."<sup>12</sup> From the outset, it is driven by different forces than those that concern the UK.

In summary, the deal means that Turkey has tariff and quota-free trade with the EU on most goods, though raw agricultural produce is excluded. Ostensibly, it eliminates the need for customs checks in industrial goods and processed agricultural products, though in reality, border queues demonstrate this is finite and often conceptual. Turkey has only partial access otherwise, and Services are not covered at all. An added complication is that the country is not automatically party to the EU's trade deals with the rest of the world, leaving it in a state of catch up where a deal has been made, on someone else's terms, and preventing it from negotiating in those fields itself before the EU has. As a witness to a House of Lords committee observed, the "EU decides the FTA partner, the scope and

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<sup>11</sup> <http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/42.pdf> - where some of these are in fact grouped. While we list 42 categories, that number of different models of trade deals reached by the EU should really be higher: however, that figure is based on the Commission's own nomenclature.

<sup>12</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/517415/treasury\\_analysis\\_economic\\_impact\\_of\\_eu\\_membership\\_web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517415/treasury_analysis_economic_impact_of_eu_membership_web.pdf), p91

timing of the negotiations based on its own priorities without necessarily taking into account its customs union with Turkey.”<sup>13</sup>

Turkey has no say over the EU’s external trade policy, but must abide by the relevant sections of the trade agreements the EU has agreed on its behalf. It consequently has to reduce its tariff rates to match those agreed by the EU with any third country, but the country in question does not need to reciprocate. In essence, Ankara is obliged to unilaterally reduce rates and then hope the other country concedes similar terms. To quote the Treasury again on how policies are made, “Turkey has no representation and no vote in deciding EU law, and has no influence on the further development of the Single Market through changes to its regulatory framework.”

This is particularly important in the context of the motivation for those pursuing a Customs Union model after Brexit. The CU deal without the Single Market to accompany it means the EU inspects Turkey’s goods, because it does not of itself recognise Turkey’s conformity assessments. A series of Mutual Recognition Agreements also needed to be subsequently put in place to minimise the requirement for further technical inspections. However, these agreements only applied in areas where the EU had harmonised its rules internally. In areas where Member States apply separate national rules, customs authorities also retain the right to inspect Turkish goods. Conversely, Turkey has itself applied checks on “woven fabrics and apparel” imported from the EU, even though they have already been in free circulation in the EU.

A CU is correspondingly not a Brexit panacea. Indeed, anti-dumping measures can still be pursued by either party, introducing those very customs duties the deal is intended to avoid. As the Lords committee mentioned above also heard, in 2014 the EU had actual or proposed anti-dumping duties on \$500 million of Turkish exports to the EU, and Turkey had actual or proposed anti-dumping duties on \$1billion of EU exports.

Another key element is that as a candidate country, Turkey is a recipient of EU funding. EU funding under the 2014-2020 accession programmes run to €4,453.9 million (this excludes the allocation for Cross-border Cooperation, in other words the buy-off for Turkish support in reducing migrant flows.) In effect, this acts as a subsidy, which has been useful in allaying concerns over the CU’s impact on the country’s textiles industry.

This dynamic is particularly relevant given the uncertainty over whether the UK, in participating in a Common External Tariff system in a newly formed CU, would be expected to hand over revenues to the central EU budget. Under the Turkish system, the Common Customs Tariff revenue is collected by each party at the initial port of entry and accrues as income to the party collecting that revenue. **We would suggest that it is, however, questionable given the nature of the UK’s global trade orientation that EU negotiators would allow this principle to be mirrored in any CU with the UK.**

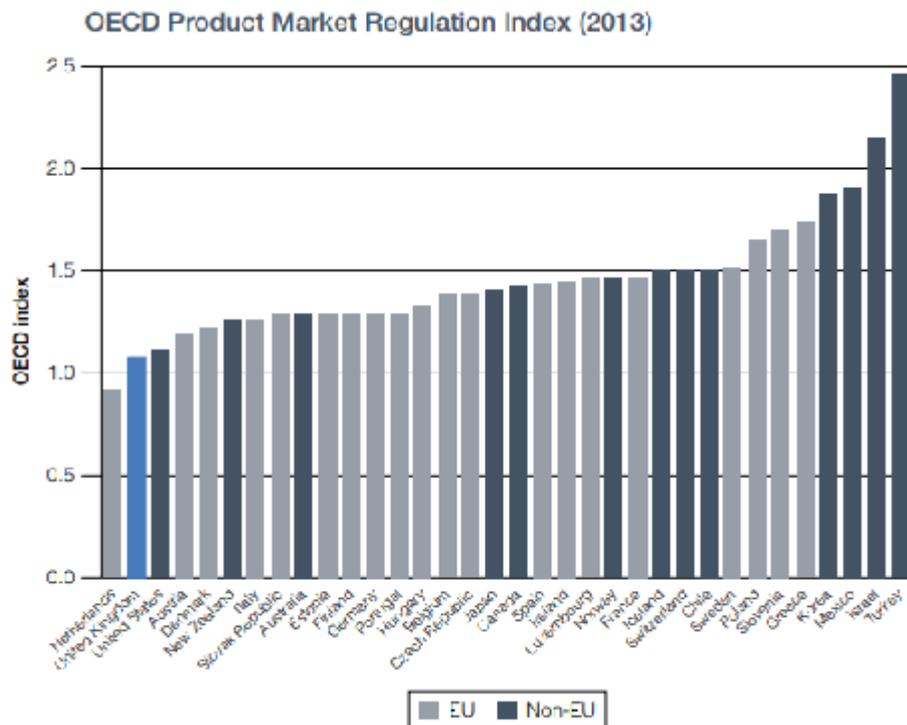
The Customs Union model has been built around specific Turkish circumstances, which are both political and economic. It is currently a frozen accession, and not a managed de-accession. Consequently, the EU has expectations that in the areas covered, Ankara will align its national

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<sup>13</sup> <https://publications.parliament.uk/pa/ld201617/ldselect/lddeucom/72/7207.htm>

legislation with a number of essential internal market rules, notably on industrial standards, as part of the general trend towards completely matching EU rules.

As the Treasury Brexit Analysis also pointed out, evidence from the OECD on product market regulation shows that the UK has the least restrictive regulatory regime in the G7 and is second only to the Netherlands across the OECD (see chart below).<sup>14</sup> Globally, the survey conducted by the World Economic Forum puts the UK ranked tenth out of 140 countries.



Conceptually it correspondingly makes much more sense for a high regulation economy to seek to align itself with the Brussels system. It makes much less sense for a low regulation one like the UK to do so.<sup>15</sup> That applies particularly to aligning with the Regulatory Union but also has a bearing on the Customs Union. For Turkey, on the right side of that chart, closer structural affiliation with EU systems makes more sense as core competitive burdens already exist. Alignment allows Ankara the potential to level burdens down rather than up, which is what confronts London and has long consumed its diplomatic efforts.

Strikingly, the Commission itself has this to say of the model as it stood in 2016, even with all its bolt-ons;

<sup>14</sup> Ibid, p59

<sup>15</sup> Once again, we have covered the theory underpinning this, and the variable impact of EU membership for different states, in another paper: [http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/the\\_national\\_interest.pdf](http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/the_national_interest.pdf)

*The existing EU-Turkey bilateral preferential trade framework (“BPTF”) is now 20 years old and has become outdated in view of the more ambitious free trade agreements (FTAs) that the EU has concluded or is negotiating with other key economic partners.<sup>16</sup>*

The Turkish model is a poor fit for the UK. What about the other CU precedents?

## (2) The Andorra Model (population: 77,000 - Guildford)

A core issue underpinning the following precedents is firstly they have all be designed for microstates. Setting them up did not generate perceptible issues that mirroring them for a G8 economy might. Secondly, each has a particular constitutional relationship with a vastly larger European state (in Andorra’s case, two) which means in effect the territory has been drawn in gravitationally by the affiliation of another state rather than predicated simply on its own individual circumstances.

The Andorra agreement was created in 1990 by which time the two neighbours of this landlocked state had both joined what would later be known as the EU. Exceptionally, sovereignty over the principality is also shared by both of those member states (to be precise, by the French president and by a Spanish bishop). For very practical reasons, with the territory straddling a main pass and a major road between the two countries, a customs union makes practical sense.

Animal products, vegetable products, preparations, drinks and tobacco (Chapters 1-24 of the international product coding) are exempted from customs where they have been produced locally. With other items, fixed duties are removed and variable duties alone re applied.<sup>17</sup> This makes for a limited Customs agreement. It does not entirely obviate customs checks, as the route has been long used for the likes of tobacco smuggling. It sits within the Eurozone, but outside of Schengen.

## (3) The San Marino Model (Population: 33,000 - Morecombe)

San Marino has a **Cooperation and Customs Union**, applied to all products except Coal and Steel. However, there is no preferential arrangement based on origin.<sup>18</sup>

Building upon the Customs element, the deal includes a number of other arrangements which if nothing else demonstrate that trade deals can be more encompassing than is currently admitted.

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<sup>16</sup> [http://ec.europa.eu/smart-regulation/impact/ia\\_carried\\_out/docs/ia\\_2016/turkey\\_anx6\\_en.pdf](http://ec.europa.eu/smart-regulation/impact/ia_carried_out/docs/ia_2016/turkey_anx6_en.pdf) – an extensive and ranging review encouraging a more comprehensive commentary than is deployable in this particular paper.

<sup>17</sup> See [https://ec.europa.eu/taxation\\_customs/business/calculation-customs-duties/rules-origin/customs-unions/andorra-customs-unions-and-preferential-arrangements-andorra\\_en](https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin/customs-unions/andorra-customs-unions-and-preferential-arrangements-andorra_en) (which sets out the much wider list of technical provisions).

<sup>18</sup> [https://ec.europa.eu/taxation\\_customs/business/calculation-customs-duties/rules-origin/customs-unions/san-marino-customs-unions-preferential-arrangements\\_en](https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin/customs-unions/san-marino-customs-unions-preferential-arrangements_en)

There is policy cooperation in industry, environment, tourism, culture and mass-media. Additionally, there are social clauses relating to countering discrimination based on nationality. Importantly, there is a Future Development Clause that allows for the scope of the agreement to be expanded by a process of gradual amendment.

The Republic is surrounded by Italy, an EU member. It consequently has no port, and also has no international airport (to be precise, the one coded as such by international organisations is not in the same country).

#### (4) The Monaco Model (Population: 38,000 – Newbury)

The principality has access to a port and consequently direct global connectivity. These, however, are commercially circumscribed by its political (and even feudal) subordination to France.

Monaco's foreign relations are run by France, a country with which it is in a customs union in its own right. Its VAT system mirrors that of France, and consequently the EU's. It is in the Eurozone. It is not in Schengen, but it is recognised as an official port of entry.<sup>19</sup> On top of these, a number of bilateral sectoral agreements have been bolted on. But essentially, Monaco's customs union status is down to French membership of the EU.

#### (5) The Guernsey Model (Population: 63,000)<sup>20</sup>

A number of states when they joined the EU included in a protocol special clauses relating to their Overseas Colonies and Territories. We can summarise those agreements with customs relevance as falling into two main categories;

- (a) OCTs that are not part of the EU Customs territory, but where special provisions are allowed to apply;
- (b) OCTs that are part of the customs territory, but are not part of the excise duty or VAT territory.

An example of the former is the paired case of Ceuta (population: 84,000) and Melilla (population: 86,000) – these are not considered to be in the customs union, but particular circumstances do still apply with regard to the EU. Products going in either direction are exempt from customs duties. Preferential rules of origin exist. Cumulation rules are simplified. EU FTAs meanwhile mostly include

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<sup>19</sup> <http://en.gouv.mc/Policy-Practice/Monaco-Worldwide/Monaco-and-the-European-Union>

<sup>20</sup> This model has been cited in some quarters as a viable prospect for the UK. Yet the size of the population is smaller than make up an English MP's seat who might be arguing for it. Jersey's population meanwhile is around 100,000, which is still smaller than the Isle of Wight parliamentary constituency, or under a seventh of the number of people employed in the financial sector in London (not covered by a CU).

the two territories in the package.<sup>21</sup> The deal made that covered Åland (population: 28,000) by contrast put it within the customs arrangements while allowing it certain tax freedoms.

Within the UK context, 'Protocol 3 Association terms' cover the Channel Islands plus the Isle of Man, which were similarly set out in a protocol when the UK joined the EEC. The Isle of Man is part of the EU customs union and the VAT agreement with the UK. The Channel Islands are not in the fiscal territory of the EU but are part of the customs territory. Alderney and Sark have an added variable in opting to apply as 'rule takers' over non-Protocol 3 listed law that they elect to simply implement. The principle involving Jersey and Guernsey has largely involved lobbying the UK first, to seek to modify the Whitehall negotiating position in Brussels. Clearly after Brexit, if a UK-EU customs union remains in place, no such limited mitigation will exist.

The deal additionally means no EU structural funds or funding for agriculture. A non-discrimination clause (as per San Marino) on nationality grounds also applies.

What has drawn attention has been how the Single Market also operates locally. Only one of the Four Freedoms applies, that relating to Goods. This is a rather exceptional exemption whose implications for the management of migration have endeared it to its supporters as a post-Brexit model, since they have suggested this would allow the UK to take back control over immigration policy – a critical pledge during the referendum. There is a key problem here, though. Any prospect of the UK retaining only a segment of the Four Freedoms has explicitly been ruled out as an option by the Commission.

The Channel Islands governments have also flagged up a number of problems with how this deal works in practice. Guernsey's administration, for instance, has raised issues relating to ambiguity and treaty mission creep,

*In the early years after Protocol 3 came into force, it was a relatively simple matter to identify what legislation was needed in Guernsey to implement EU Directives and to identify applicable EU Regulations falling within the scope of Protocol 3 because they tended to be made in a compartmentalised way according to subject matter. Nowadays, matters have become more complicated and a provision relating to say agriculture might be found in a Directive relating to development or climate change.<sup>22</sup>*

Correspondingly, there are **two key flaws with seeking to pursue the Guernsey model during Brexit talks. The first is that the Commission has ruled it out. The second is that the current safeguards that exist are only there because the UK has a seat at the EU table to speak up for Guernsey...**

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<sup>21</sup> [https://ec.europa.eu/taxation\\_customs/business/calculation-customs-duties/rules-origin/general-aspects-preferential-origin/arrangements-list/ceuta-melilla\\_en](https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin/general-aspects-preferential-origin/arrangements-list/ceuta-melilla_en)

<sup>22</sup> <http://www.guernseyroyalcourt.gg/article/1932/Relationship-with-EU>

## (6) The Vatican Model (Population: 800 – Wookey)

The papacy is a microstate which has an unsigned back-door Customs arrangement with the EU, with which it is in a formal currency union.

Like San Marino, it is completely surrounded by an EU Member (again, Italy). The customs rules are a carry-across of a 1930 agreement with Italy which exempts the Vatican from all duties and taxes. Other than the production of holy water and encyclics, however, exports are minuscule.<sup>23</sup> Items which do cross the border into Italy are duty-free and subject to a preferential arrangement.

Delving even further into the niche, EU arrangements covering the tiny sovereign territory of the Order of Malta are covered by an MoU. This ignores the practicalities of customs management (running such a system would probably mean employing more officials than occupy the two buildings they would be monitoring).<sup>24</sup>

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If we review this list so far, we find both variety and latitude in how Customs Unions are set up. However, with the exception of the Turkish model, which is intended as a parking space towards full EU membership, all the examples comprise small economies.

We can summarise the top level differences in a table published by the Commission, but with an added column on the right.

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<sup>23</sup> The Vatican publishes its own literature on its own territory:  
<http://www.libreriaeditricevaticana.va/content/libreriaeditricevaticana.html>

<sup>24</sup> [http://www.eeas.europa.eu/archives/delegations/rome/documents/eu\\_holy\\_see/mou\\_ec\\_om\\_signed.pdf](http://www.eeas.europa.eu/archives/delegations/rome/documents/eu_holy_see/mou_ec_om_signed.pdf)

**Commission Summary of Customs Models Beyond Turkey <sup>25</sup>**

Example	Customs rules apply	VAT rules apply	Excise rules apply	UK parallel in scale
Guadeloupe	Green	Red	Red	Red
French Guiana	Green	Red	Red	Red
Martinique	Green	Red	Red	Red
Réunion	Green	Red	Red	Red
Mayotte	Green	Red	Red	Red
Saint-Martin	Green	Red	Red	Red
Greece: Mount Athos	Green	Red	Red	Red
Ceuta	Red	Red	Red	Red
Melilla	Red	Red	Red	Red
Canary Islands	Green	Red	Red	Red
Channel Islands	Green	Red	Red	Red
Monaco	Green	Green	Green	Red
San Marino	Green	Red	Green	Red
Isle of Man	Green	Green	Green	Red
SBA <sup>26</sup>	Green	Green	Green	Red
Gibraltar	Red	Red	Red	Red
Andorra <sup>27</sup>	Red	Red	Red	Red
Vatican	Red	Red	Red	Red

This list has its limits. It does not explore additional complexity arising from specific provisions. It furthermore does not comparatively cover the full range of OCT and wider deals that go beyond customs terms. However, it does underline that none of these examples are designed to apply to an economy the size and indeed complexity of the UK.

At best, taking the case of the French Overseas Territories, there is only a measure of relevance in scale if simply applied with respect to Northern Ireland. Even these examples however fail to provide a parallel, because Paris is representing its territories within the EU institutions. Similar representation by the national capital would not be the case in any putative special CU arrangement for the Province after Brexit. Belfast would be on its own.

<sup>25</sup> [https://ec.europa.eu/taxation\\_customs/business/vat/eu-vat-rules-topic/territorial-status-eu-countries-certain-territories\\_en](https://ec.europa.eu/taxation_customs/business/vat/eu-vat-rules-topic/territorial-status-eu-countries-certain-territories_en) - the final column is our interpolation

<sup>26</sup> UK Sovereign Base Areas in Cyprus

<sup>27</sup> Excluding those elements noted earlier

There are in addition two further models, which could be replicated by the EU bending the rules in a way it has done before.

### (7) The Divergence Model

After independence, Algeria was allowed to retain its former level of trade access, with obstacles only being introduced where obvious divergence had occurred. After fifteen years and with notable differences having emerged, a new trade treaty was signed.

### (8) The Convergence Model

East Germany (the GDR) was subject to a territorial claim by West Germany (the FRG), set out in its constitution. The former was allowed privileged trade access in certain markets during a period of détente.

Both models are briefly explored in another Red Cell paper, along with the Cyprus example.<sup>28</sup> Both are useful studies for Brexit negotiators reviewing precedence, but go beyond a simple customs matter.

## Partial Customs Union

The Institute of Directors in February 2018 published a short paper proposing a hybrid Customs Union as a possible solution.<sup>29</sup> While the IoD is to be commended for its innovative approach, the solution raises as many questions as it addresses.

The IoD proposal would cover all industrial goods and some limited processed agricultural goods. The key industries intended to be covered are clearly manufacturing and processed foods, though the emphasis on supply chains suggests only about one fifth of manufacturing exports to the EU are the focus of attention. The remainder of UK-EU trade would be covered by an associated FTA, and the items covered by the latter would in turn be free to be included in FTA negotiations undertaken globally.

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<sup>28</sup> [http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/brexits\\_dreary\\_steeple.pdf](http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/brexits_dreary_steeple.pdf)

<sup>29</sup> <https://www.iod.com/Portals/0/PDFs/Campaigns%20and%20Reports/Europe%20and%20trade/IoD-Customising-Brexit.pdf?ver=2018-02-15-083137-800>

Therein lies the complicating element. A partial customs union cannot be delivered in isolation. Under WTO rules a sector-specific Customs Union only covering a part of the economy is simply not allowed (the key word is “substantial”). This inevitably raises the question whether, if such an otherwise-comprehensive deal is on offer, a CU bolt-on would be needed.

One can see the hand of certain big business lobbies in this, and it should perhaps be considered in that context rather than necessarily as an exercise in holistic appraisal of the wider economy.<sup>30</sup>

The IoD appears to support the concept overwhelmingly on the basis not of tariffs, which of course could be eliminated in any FTA, especially given the EU’s interest arising from its export levels; indeed, of the sectors likely to be covered by such a deal, only vehicles and component parts face any of significance. Rather, the key issue relates to concerns over Rules of Origin. It considers the alternative prospect of introducing certificates of origin as being damaging to investment, which is true only insofar as they are not mitigated by other mechanisms, and the criticism of the alternative costings appears highly speculative. Strikingly, the report puts little faith in cumulation agreements despite the EU having a remarkably extensive track record in generating them (even down to one for the Palestine Authority). That this is attributed partly down to them having to “rely on a great deal of EU goodwill” is itself hardly a ringing endorsement for the UK to allow the Commission to carry on negotiating even some of its trade deals. Nor does the idea that a partial customs union alleviates some of the Irish border issues carry much weight when one considers both the politics of where the customs border then shifts to, and also those elements that are not addressed (particularly over phytosanitary issues, and beef).

Those seeking to solve border controls will sadly find no more solutions in this approach than in the Turkish model, whose failings the IoD report recognises yet is perhaps excessively optimistic about seeing significantly redressed. Nor for that matter is Turkey necessarily an obvious comparison of choice for the UK when reflecting on “rules of origin shock”.

Even getting such an agreement signed off has its own problems. It is not clear in particular that the key EU agricultural players would be accommodating to any proffered partial customs deal that didn’t also cover their major farm lobbies, removing at a stroke many of the quick win gains for UK consumers.<sup>31</sup> The main issue however is that the report does not appear to supply a quantitative assessment of the comparative gains made over Rules of

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<sup>30</sup> We appreciate the authors’ self-limiting ordinance that “this paper seeks only to address this specific issue, while making clear it is only part of the overall puzzle.” However, the wider economic and political context (reflecting on what constitutes the national interest) has been lost in much of the subsequent media coverage and discussion, which has dropped a number of caveats associated with the original.

<sup>31</sup> [http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/oranges\\_and\\_lemons.pdf](http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/oranges_and_lemons.pdf)

Origin, acknowledge the risk to wider trade talks arising from negotiators cordoning off restricted areas, or assess the relative gains to be made by EU counterparts that might otherwise encourage them to be pursuing a favourable deal – not just in these areas but also as *quid pro quo* elsewhere.

Meanwhile a Customs Union would have little practical effect on TBTs, and attempts to bolt them on specifically as a CU adjunct rather than addressing them collectively could also fall foul of WTO principles. Joining such a Customs Union would still carry the inherent risk of unwanted regulatory burdens, not simply for those producers supplying the domestic market, but also through the risk of ink blot seepage by regulators (particularly MEPs) demanding any area where a real or perceived competitive advantage held by the UK over producers in other EU states should be ironed out. Removing the UK from all aspects of a Customs arrangement would be a significant mechanism for expectations management in this regard, but also an educator particularly in Whitehall, which has an established tradition of being nervous about exploring competitive innovation that might find opposition in Brussels. As a final insult to injury, including even a partial Customs Union would not only hamper the Secretary of State for International Trade from reaching comprehensive international trade deals by limited the number of cards in his hand; it also has a direct bearing on the prospect of the UK pursuing the quick win of joining the EFTA four and acceding to its signed international deals with third parties.

A hybrid approach is an innovative tack, but unfortunately sails us on to different shoals.

## The Referendum

It is also briefly worth recalling here what was said during the referendum itself. While some measure of latitude was deployed over the precise nature of the free trade arrangement being sought, what was clearly expressed was the UK would in the future be in a position to pursue FTAs globally. As Vote Leave set out during the campaign,

*Britain lacks the power to strike free trade deals with its trading partners outside Europe. Being in the EU means that Brussels has full control of our trade policy. We don't even have an independent voice in the World Trade Organization - Brussels negotiates everything on our behalf and does a bad job... If we Vote Leave, we can negotiate for ourselves.*<sup>32</sup>

The campaign website had a front-of-shop section dedicated to explaining what the policies, motives and objectives of the campaign were about.<sup>33</sup> These directly and indirectly ruled out membership of

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<sup>32</sup> [http://voteleavetakecontrol.org/briefing\\_trade.html](http://voteleavetakecontrol.org/briefing_trade.html)

<sup>33</sup> [https://web.archive.org/web/20160323021945/http://www.voteleavetakecontrol.org:80/briefing\\_newdeal](https://web.archive.org/web/20160323021945/http://www.voteleavetakecontrol.org:80/briefing_newdeal)

both a Customs Union and also the EEA (though it did reference the existence of the latter as proof that the EU was not a one-size-fits-all model). For instance, it declared,

***We will regain our seat on international bodies** where Brussels represents us, and use our greater international influence to push for greater international cooperation.*

Moreover,

***we will retake control of our trade policy.** We will leave the Common Commercial Policy that gives the Commission control of all UK trade agreements. After we retake control, we will negotiate new agreements with countries like India, which represent the future of global growth, much faster than the EU slowcoach wants to or is able to.*

The bold is in the original.

The model for dealing with TBTs was clearly global rather than institutional;

*The heart of what we all want is the continuation of tariff-free trade with minimal bureaucracy. Countries as far away as Australia have Mutual Recognition agreements with the EU that deal with complex customs (and other ‘non-tariff barrier’) issues. We will do the same.*

This commitment was quite unequivocal, and was repeated during the campaign. Critically, this referendum pledge simply cannot be achieved if the UK is in a customs union – or for that matter within the EEA. We shall leave further review of what falls out from the Vote Leave pledges to another paper.

The official Leave campaign’s opposition to a customs model was not unique. Notably, the Treasury itself made the same point from the other side of the debate, observing that this commitment was incompatible with membership of a Customs Union.<sup>34</sup> Significantly, HMT underlined how the Customs Union was an inescapable element of EU membership with one exception alone: the Turkish model, which the Remain side also separately panned. In any event, as far as the Treasury was concerned, “all the alternatives involve leaving the customs union.”

More recently the Commission itself has endorsed this interpretation. In its infamous ‘steps’ powerpoint slide contrasting the inferred apotheosis of EU membership at the top of the stairwell and ‘lesser’ options nearer the bottom, it marked the EEA option as not suitable as it breaches several UK red lines – that there should be no CJEU jurisdiction; no free movement; no substantial financial contribution; and there should be regulatory autonomy. On the Customs Union, it cited just one, but it was a key one: the need for the UK to run an independent trade policy.

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/517415/treasury\\_analysis\\_economic\\_impact\\_of\\_eu\\_membership\\_web.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/517415/treasury_analysis_economic_impact_of_eu_membership_web.pdf)

That being the case, there is an uncontroversial referendum mandate and indeed instruction that the UK should leave the Customs Union - and for that matter, and for the avoidance of doubt here, the Single Market.

## Conclusion

In another paper, we have reviewed the limits that arise from being in a customs union by reviewing how tariffs are unnecessarily paid for by UK consumers on six fruits where there is no direct or indirect interest in them paying.<sup>35</sup> Those six fruits are exemplary of the EU's customs arrangements writ large. The British consumer pays twice for the privilege of supporting continental farmers: once in subsidy, and again at the till through higher costs. Yet these are for produce that have to be imported anyway as they are not grown in the country.

Trying to work out what it means financially in end terms is ferociously difficult. It brings in all manner of variables from differing tariff rates, unilateral application, seasonal variation, supply disruption or glut, subsidy policy, and trade divergence for example. Applying a very basic model of like-for-like application of UK basket costs with those in New Zealand, a study by this author several years ago suggested that it added £5.3bn in costs to the consumer just considering food prices. Official but very ballpark figures float around this area. To this could be added another £317m owing to the increase in social security payments needed for higher food bills.<sup>36</sup> The CU model comes with a cost: higher food prices are just the most obvious.

Neither the Customs Union nor the Single Market are options: one might as well rejoin the EU, which is what their most vociferous advocates actually want. So the solution is instead to focus on minimising the issues arising from TBTs by focusing on trust, certification, and managed divergence. This is precisely what the Government's Second Basket strategy is about.

That means signing agreements over controls and procedures; authorised trader and operator schemes; customs security measures; mutual recognition of risk management processes; IT and database connectivity (such as TARIC), and mechanisms for advanced notification; processes for tectonic shifting in areas where there is recognised divergence over the customs code; agreeing areas where there is (even if only transitional) certification and licensing, with confirmation over the agreed agents and authorities, Responsible Persons, and authorised standing; valuation; Inward Processing Relief; Union Transit; and so on.

It is a big list and the above scratches the surface. Around one tenth of the Red Cell's Risk Register is comprised of elements that fall under Chapter 29 of the (de-) Accession headings, relating to the administration of the Customs Union. Realistically, technical obstacles will now emerge as a result of Brexit. The task of negotiators is to reduce the number and mitigate the scope of those that do. The

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<sup>35</sup> [http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/oranges\\_and\\_lemons.pdf](http://www.theredcell.co.uk/uploads/9/6/4/0/96409902/oranges_and_lemons.pdf)

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[https://d3n8a8pro7vhmx.cloudfront.net/taxpayersalliance/pages/320/attachments/original/1422354703/cap\\_\(1\).pdf?1422354703](https://d3n8a8pro7vhmx.cloudfront.net/taxpayersalliance/pages/320/attachments/original/1422354703/cap_(1).pdf?1422354703)

optimal route for both sides will be by the pursuit of managed divergence. On which point it is worth reminding ourselves that this which was ever the strategy expressed by Leavers. Meanwhile it falls to the remainder of Whitehall to pursue the opportunities that begin to emerge, within the UK market and globally.

The pursuit of a customs union right now is at best an example of economic Stockholm syndrome. At worst, it is a lie perpetrated on the British voter by a political minority deviously pursuing a surrogate – or a fall guy – for the Single Market option to be sneaked in by the back door.

## About the Author



Dr Lee Rotherham has been an adviser to John Major’s whipless rebels, Eurosceptic MEPs, three Shadow Foreign Secretaries, the Conservative delegate to the Convention on the Future of Europe, a delegate to the Council of Europe, and government ministers. He was Head of Opposition Research for the No Campaign in the AV Referendum, and Director of Special Projects at Vote Leave, the designated pro-withdrawal campaign during the 2016 referendum.

He has twice been a Conservative candidate in General Elections, in 2001 in St Helens South (the “butler campaign”), and in 2005 in Rotherham standing against the then-Europe Minister. Outside of Westminster he has worked in publishing, teaching, heritage, and in Defence.

He has been very extensively published in academia and across think tanks. His publications as author or co-author include *The EU in a Nutshell*; *Ten Years On - Britain Without the European Union*; *Change or Go*; *Plan B for Europe*; *Controversies from Brussels and Closer to Home*; *Manning the Pumps*; *Hard Bargains or Weak Compromises*; *The Hard Sell*; *Bloc Tory*; *Common Ground*; *A Spotter’s Guide to Sound Government Policies*; and the award-winning *Bumper Book of Government Waste* and *Brown’s Wasted Billions*. His historical works include *A Fate Worse Than Debt – A History of Britain’s National Debt from Boadicea to Cameron*; *The Sassenach’s Escape Manual*; and tour guides to Roman Britain, colonial North America, the Hundred Years War, and the Apocalypse.

Lee is a reservist in the British army, and has served on three overseas deployments

