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The EEA is not the Way:

Why Britain should refrain from membership
of the European Economic Area and similar
arrangements after Brexit

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Introduction

Following the 2016 referendum on whether the United Kingdom should remain in the European Union or leave the bloc, which resulted in the majority of the British electorate supporting the latter, there have been suggestions from politicians and others that the country should nevertheless continue to be part of the Single Market and even the EU customs union as well. This is despite the fact that if there was one thing which both sides in the referendum campaign agreed on it was that Brexit would mean leaving both. Furthermore, those advocating leaving the EU put great emphasis on Britain reclaiming its freedom to negotiate independent free trade agreements with other countries which is quite obviously incompatible with being in a customs union.

Those who want Britain to continue to be part of the Single Market often point to the EEA Agreement as a viable scenario to follow, either permanently or as a temporary transition mechanism. This allows three European Free Trade Association (EFTA) members - Norway, Iceland and Liechtenstein - to participate in the Single Market without being in the EU. While being in the EEA through EFTA, often dubbed the Norway solution, has just like most other things both its advantages and disadvantages and is a lesser evil than being in the EU (especially when it comes to sovereignty, democracy and free trade), its disadvantages are both very serious and have furthermore become increasingly harmful over the years.

Some of those disadvantages have already been highlighted in the debate on Britain's departure from the EU, such as the so-called freedom of movement and having to unilaterally adopt a large number of EU laws, while others have not. The latter includes the fact that continued participation in the Single Market through the EEA Agreement would arguably make it harder, and perhaps even impossible, for Britain to conclude a free trade agreement with for example the United States as will be explained in this paper. But even in the absence of a free trade agreement, being in the EEA makes it more difficult and more expensive for companies and individuals to trade with the US as EU regulations and standards are very often entirely incompatible with American ones.

There are a number of other issues that strongly suggest that Britain should refrain from considering the EEA or similar arrangements as an option once the country will formally leave the EU. This applies both to its pursuit as a permanent arrangement or a temporary transition one, as will also be argued in this paper. There is a reason why the EEA Agreement faces growing scepticism and opposition in both Norway and Iceland.

However, Britain might nevertheless consider rejoining EFTA, which the country founded in 1960 but left in 1973 to join the EU's predecessor, the European Economic Community (EEC), and which is despite a certain tendency to assume otherwise an entirely different beast from the EEA. While not necessary for Britain after Brexit, it could nevertheless bring certain benefits.

This paper is not meant to be a complete summary of the disadvantages of the EEA Agreement but rather to address certain key issues that have been raised in the debate, as well as a few others which have not been as prominent but deserve to be. My hope is that this paper will be useful when it comes to explaining why Britain should refrain from membership of the EEA and any similar arrangements after leaving the EU, and once again become a free and independent country.

Designed as a waiting room for EU accession

When the EEA Agreement was signed a quarter of a century ago, the world of trade was in many ways a very different place. The Cold War had just ended and the World Trade Organisation (WTO) had not yet been established. The only alternatives to the EEA Agreement were free trade agreements solely covering trade in goods. The second generation comprehensive free trade deals, which have now become the norm, simply did not exist. As a result the EEA Agreement is in many ways a product of the past; and while nothing suggests the EFTA/EEA countries cannot remain members of it as long as they accept what that entails, they would probably not have been willing to sign up to this kind of a deal today. There is a reason no countries are pursuing such agreements any longer.

The EEA Agreement was signed in May 1992 and came into effect in the beginning of January 1994. Originally it was thought of by senior politicians involved, such as then EU Commission President Jacques Delors, as a sort of a waiting room^{1 2} for EFTA countries that might eventually join the EU such as Austria which had already applied to join the bloc in 1989. The EU, however, was at the time focusing on deepening the bloc rather than widening it, and was therefore not interested in taking in more members until the Single Market had been completed. The EU also feared that plans for greater political integration, such as towards a common foreign and security policy, could be threatened by the admission of the neutral countries Finland, Austria and Sweden.³⁴

The three countries finally joined the EU in 1995 after first having been briefly part of the EEA through EFTA. However, Norway, which had also delivered an EU application, rejected joining the bloc through a referendum after having earlier rejected membership of the European Economic Community, the EU's predecessor, in 1972. Later the EU wanted membership of the EEA Agreement through EFTA to be used as a mechanism to prepare countries in Eastern Europe for joining the EU, which was opposed by both the EFTA side⁵ and Eastern European countries seeking EU membership such as Hungary and Poland.⁶ While not offering any promise of EU membership, the EEA therefore nevertheless preceded the EU's pre-accession programme later designed for EU candidate countries which requires them to align themselves to the EU before formal accession takes place.

Today a total of 31 countries are part of the EEA - the 28 EU members and three of the four current EFTA members; Norway, Iceland and Liechtenstein. The fourth EFTA member, Switzerland, rejected becoming part of the EEA in a referendum in December 1992 and instead has since negotiated a number of bilateral agreements with the EU, making it possible for the country to participate in the Single Market. The cornerstone of the so-called Swiss Solution is Switzerland's free trade agreement

¹ "The European Economic Area (EEA) and the enlargement of the European Union", [Europarl.europa.eu](http://www.europarl.europa.eu/enlargement/briefings/32a2_en.htm). http://www.europarl.europa.eu/enlargement/briefings/32a2_en.htm

² Lodge, Juliet: "The EU: From Civilian Power to Speaking with a Common Voice - The Transition to a CFSP", *The Transatlantic Relationship*. (1996) Jarrod Wiener (ed.). Page 87.

³ Phinnemore, David: *Association: Stepping-Stone or Alternative to EU Membership*. (1999). Pages 65-67.

⁴ Dedman, Martin: *The Origins & Development of the European Union 1945-2008: A History of European Integration*. (2009). Page 117.

⁵ "Lítill áhugi á aðild A-Evrópuríkja", Mbl.is 14 December 1994. <http://www.mbl.is/greinasafn/grein/168654/>

⁶ Dedman, Martin: *The Origins & Development of the European Union 1945-2008: A History of European Integration*. (2009). Page 119.

with the EU's predecessor through EFTA from 1972. While the free trade agreement is only about trade in goods, the additional agreements cover various other important issues.

The EEA Agreement makes it possible for the three EFTA/EEA countries Norway, Iceland and Liechtenstein to participate in the EU's Single Market. In order to do so the three countries have committed themselves to unilaterally adopt EU legislation concerning the Single Market, while the Swiss Solution requires Switzerland to align its relevant legislation with that of the EU. The EFTA side is in other words not on equal terms with the EU on either occasion. This is fundamentally different from traditional free trade arrangements, where the participating countries generally agree to either mutually align their legislation where required in order to facilitate trade between them or to mutually recognise relevant standards and regulations for the same purpose.

EFTA/EEA countries can technically refuse to adopt individual EU laws, both within the EEA Joint Committee, where officials from the EFTA/EEA countries and the EU meet to decide how to adopt Single Market legislation into the EEA Agreement, and also through their national parliaments. This has been referred to as a veto. Yet this option is fundamentally different from a traditional right to reject a decision or a proposal in international bodies such as in the United Nations Security Council, or in those relatively few (and gradually fewer) areas where unanimity is still required when it comes to EU decisions made by elected representatives from the member states.

While using a traditional veto only affects the decision or proposal in question and does not have any other serious institutional consequences than simply blocking that particular issue, refusal by an EFTA/EEA country to adopt EU laws, whether within the EEA Joint Committee or through an EFTA/EEA national parliament, would mean according to article 102 of the EEA Agreement that the entire annex, under which the legislation in question falls, would be suspended in the absence of an agreement on how to implement the rules.⁷⁸ Moreover, refusal by an EFTA/EEA national parliament to implement EU laws adopted in the EEA Joint Committee could make the individual country liable for damages to firms and individuals should the decision harm their interests in any way.

Consequently, while it is not entirely fair to say that the EFTA/EEA countries have no say when it comes to EU legislation they have to adopt through the EEA Agreement (as for example Britain's former Prime Minister David Cameron did in the run up to the 2016 Brexit referendum, since they do have some ways to get their views across during the EU legislative process and can influence to a certain extent in what way the rules are being adopted), they nevertheless in fact have no other option than to adopt and implement the legislation. Refusing to do so could quite simply put the entire EEA Agreement in jeopardy. This is why for example acts based on EU legislation usually go through the Icelandic parliament without much debate and even no debate at all.

While the number of EU laws which have been adopted into the EEA Agreement over the years is not very high compared to the total "acquis communautaire" it has nevertheless been growing rather fast in recent years. A study by the EFTA Secretariat in Brussels in 2005, at the request of the Icelandic Foreign Ministry, revealed that from 1994 (when the EEA Agreement came into effect) until

⁷ "The EEA Agreement", Efta.int. <http://www.efta.int/Legal-Text/EEA-Agreement-1327>

⁸ Jónsdóttir, Jóhanna. "EES felur ekki í sér hefðbundið neitunarvald". Mbl.is 13 January 2009. <http://www.mbl.is/greinasafn/grein/1264145/>

2004, 6.5% of EU regulations, directives and decisions had been adopted into the agreement.⁹ A similar study was carried out in 2015 by the Foreign Ministry concluding that from 2005 until 2014 the proportion of EU laws adopted into the EEA Agreement had risen to 16% over that period.¹⁰

Most of the EU laws adopted into the EEA Agreement have been implemented in Iceland while some of them, which have no relevance in the country such as concerning railroads which are not operated there, have not. The number in Norway has been even higher according to Norwegian studies in recent years, at least 20%. This number is probably higher today. This may be attributable both to more EU laws having been adopted into the EEA Agreement because they are relevant in Norway, as well as a certain tendency within the significantly pro-EU Norwegian political class and civil service to tangle the country in all sorts of EU projects and laws. This is often carried out under the pretence it has to be done in order to meet EEA obligations.

This uneven position is also in fact the reality when it comes to the European Court of Justice (ECJ), the EU's highest court in the matter of EU law, and the EFTA Court, which oversees the EEA membership of the three EFTA/EEA countries. When the EEA Agreement was being negotiated Brussels wanted the EFTA/EEA countries to accept direct authority from the ECJ and the European Commission. As the three EFTA countries were not willing to cede power to institutions of which they were not members, a two-pillar system was designed. This brought about the parallel institutions, the EFTA Court and the EFTA Surveillance Authority (ESA), which have similar surveillance powers when it comes to the EFTA/EEA countries as the two EU institutions do in the case of EU members.

The ECJ designed as the senior EEA court

While the ECJ and the EFTA Court are formally institutionally independent, the EFTA Court must nevertheless take notice both of rulings which have been delivered by the ECJ after the signing of the EEA Agreement in 1992, as well as of ECJ case law before that time, in order to maintain the homogeneity of the EEA. Similarly, the ESA is expected to consult with the European Commission on the surveillance carried out by the two institutions, which is also done in order to maintain homogeneity within the EEA. However, while the ECJ occasionally also takes notice of EFTA Court case law, unlike in the case of its EFTA counterpart this engagement is optional as the ECJ has absolutely no legal obligation to do so.

Therefore, apart from a formal institutional independence, the reality that the EFTA Court has a legal obligation to take notice of ECJ rulings but not the other way around is a clear testimony that the two courts are not standing on equal ground under the EEA Agreement, and instead much rather resembles the relationship between a higher and a lower judicial level.

While admitting that "the EFTA Court is supposed to follow relevant ECJ case law, whereas the ECJ is free to follow EFTA Court case law"¹¹ EFTA Court President Dr Carl Baudenbacher has nevertheless

⁹ "Svar utanríkisráðherra við fyrirspurn Sigurðar Kára Kristjánssonar um innleiðingu EES-gerða", Althingi.is <http://www.althingi.is/altext/131/s/1373.html>

¹⁰ "Svar utanríkisráðherra við fyrirspurn frá Guðlaugi Þór Þórðarsyni um innleiðingu EES-gerða", Althingi.is. <http://www.althingi.is/altext/145/s/0274.html>

¹¹ "How the EFTA Court works – and why it is an option for post-Brexit Britain", Lse.ac.uk. <http://blogs.lse.ac.uk/brexit/2017/08/25/how-the-efta-court-works-and-why-it-is-an-option-for-post-brexit-britain/>

insisted his court is not in an inferior position to the ECJ despite what the EEA Agreement says. He claims that the practice has developed somewhat differently from the law on the books since the EEA Agreements came into effect, and is today based largely on judicial dialogue. However, what the agreement actually says simply cannot be ignored as Baudenbacher is in fact suggesting.

The EEA Agreement is what Britain would primarily be signing up to if the British Government decided to tread down the path of an EEA membership through EFTA after leaving the EU. This applies equally whether pursued as a temporary transition period or a permanent arrangement. The EEA Agreement is quite clear when it comes to this unequal nature of the EFTA Court and the ECJ, which is rooted in the fact that the EFTA Court was in fact only established initially parallel to the ECJ, in order to make it possible, mainly on paper, for the EFTA/EEA countries to sign up to the EEA Agreement a quarter of a century ago instead of accepting direct authority from the EU institution.

Discussing the matter in an article published on the website of the London School of Economics, Baudenbacher says he has often been asked what would happen in the case of a conflict between the EFTA Court and the ECJ. He then goes on to explain that according to article 105 of the EEA Agreement the EEA Joint Committee "shall keep under constant review the development of the case law"¹² of the EFTA Court and the ECJ in order to preserve the EEA homogeneity, and that failure to agree to a solution could lead to one of the contracting parties, for example the EU, to either taking a safeguard measure according to articles 112 and 113 based on article 111 or declaring the provisional suspension of the relevant part of the EEA Agreement according to article 102.

The EFTA Court president says that ever since the EFTA Court was established these provisions have never been applied and claims it is "unthinkable that a political body such as the EEA Joint Committee would interfere with the judgment of a court of law."¹³ Baudenbacher refers to protocol 48 to the EEA Agreement, which says that decisions taken by the EEA Joint Committee under articles 105 and 111 may not affect the case law of the ECJ.¹⁴ He insists that the same must therefore apply to the EFTA Court but the protocol, however, only refers to the ECJ. This is fully in line with what has been referred to earlier in this paper on the unequal position of the two courts, where the EFTA Court has a legal obligation to take notice of the rulings of the ECJ but not vice versa.

The EEA Joint Committee has the responsibility to find a solution, for example in the case of a possible conflict between the EFTA Court and the ECJ, in accordance with the EEA Agreement. The roles of the two courts are very clearly defined in the agreement. The entire EEA system is simply designed with the ECJ as a senior judicial body to the EFTA Court. This can also be seen in article 111 of the EEA Agreement, which says that the contracting parties can in the event of a dispute agree to request the ECJ "to give a ruling on the interpretation of the relevant rules."¹⁵ This means that the ECJ also has a role as a court of arbitration. Despite the fact that the EEA Agreement has been reviewed several times over the years, for example in the event of enlargement of the EU and therefore the EEA as well, the roles of the two courts have remained the same.

¹² "The EEA Agreement", Efta.int. <http://www.efta.int/Legal-Text/EEA-Agreement-1327>

¹³ "How the EFTA Court works – and why it is an option for post-Brexit Britain", Lse.ac.uk.

<http://blogs.lse.ac.uk/brexit/2017/08/25/how-the-efta-court-works-and-why-it-is-an-option-for-post-brexit-britain/>

¹⁴ "Protocol 48 concerning articles 105 and 111", Efta.int. <http://www.efta.int/sites/default/files/documents/legal-texts/eea/the-eea-agreement/Protocols%20to%20the%20Agreement/protocol48.pdf>

¹⁵ "The EEA Agreement", Efta.int. <http://www.efta.int/Legal-Text/EEA-Agreement-1327>

The only occasions where the EFTA Court has a somewhat similar role is when domestic courts in the EFTA/EEA countries decide to request an advisory opinion from the court over the interpretation of EU rules. In other words, while the EFTA Court is therefore in a superior position to EFTA/EEA domestic courts when it comes to the interpretation of EU laws adopted into the EEA Agreement, the ECJ is quite obviously in a similar position to the EFTA Court. Baudenbacher says it is "unlikely that the EU will take safeguarding measures or declare the provisional suspension of parts of the EEA Agreement because of a judicial conflict; such a step could put the existence of the agreement at risk."¹⁶ Unlikely or not, this is a real option the EU could unilaterally resort to under these circumstances.

Rather interestingly, Baudenbacher refers to the so-called Icesave Case¹⁷, which saw the EFTA Court rule in favour of Iceland in a dispute with the governments of Britain and the Netherlands on deposit guarantees following the collapse of the Icelandic bank Landsbanki Íslands, and its online branch Icesave which was operating in the two countries, as an evidence that the EU respects judicial decisions taken by the EFTA Court. However, when the EFTA Court delivered its decision on 28 January 2013, the ECJ had not ruled on any such matter. If it had, the EFTA Court evidently would not have been able to ignore the ECJ ruling regardless of its nature. In other words, there was no conflict between the two courts when the Icesave ruling was delivered and therefore no cause for the EU to take any action. The Icesave case is therefore not relevant in this context.

The inferior position of the EFTA Court to the ECJ was recently pointed out by ECJ President Koen Lenaerts in an interview with the Dutch media where he stressed that the EFTA Court (and thus any similar body that could be created) could not diverge from ECJ rulings, adding: "On paper, they are two independent courts. In practice, the weight of the EU court has more impact."¹⁸ This was then further stressed by Jean-Claude Piris, former Director-General of the Council of the European Union's Legal Service, in an article in the *Financial Times* in November where he wrote: "In case of divergence with the EU court on internal market law, the EU court would prevail."¹⁹ Their comments on this are fully in line with what is actually written in the EEA Agreement, not least as we have seen when it comes to article 105 as well as protocol 48.²⁰

Lenaerts furthermore proposed that the UK should use the EFTA Court as a 'sovereignty compromise' after leaving the EU, either permanently or as a temporary transition. Both Piris and Michel Barnier, the EU's chief negotiator in the Brexit talks, have moreover spoken in favour of Britain rejoining the EEA through EFTA. Their enthusiasm is of course understandable since EEA membership, or any similar arrangements, would see Britain continue to be both subject to EU legislation and to EU institutions - primarily the ECJ but also the European Commission of which Barnier has been twice a member. Not to mention the fact that Britain would then also be in a process which was in fact

¹⁶ "How the EFTA Court works – and why it is an option for post-Brexit Britain", Lse.ac.uk.

<http://blogs.lse.ac.uk/brexit/2017/08/25/how-the-efta-court-works-and-why-it-is-an-option-for-post-brexit-britain/>

¹⁷ JUDGMENT OF THE COURT 28 January 2013. Eftacourt.int.

http://www.eftacourt.int/uploads/tx_nvscases/16_11_Judgment_EN.pdf

¹⁸ "European Court of Justice president Koen Lenaerts offers European Free Trade Association as solution to Brexit conundrum", *The Times*.co.uk 9 August 2017. <https://www.thetimes.co.uk/edition/news/european-court-of-justice-president-koen-lenaerts-offers-european-free-trade-association-as-solution-to-brexit-conundrum-dnwf83zwx>

¹⁹ "Britain is deluding itself over single market access", *Ft.com* 16 November 2017. <https://www.ft.com/content/7a3d13ee-cabf-11e7-8536-d321d0d897a3>

²⁰ "The EEA Agreement", Efta.int. <http://www.efta.int/Legal-Text/EEA-Agreement-1327>

constructed for countries preparing to become members of the EU but not the other way around,^{21 22} and could as such possibly serve in the future as a means to get the country back into the EU.

While EFTA Court President Baudenbacher also wants the UK to accept the jurisdiction of the EFTA Court²³ after leaving the EU, in his case it is possibly for a different reason. British accession would without much doubt reinforce the EFTA Court as an institution and the EEA Agreement itself (seen from the EFTA side). However, by accepting the jurisdiction of the EFTA Court in one way or another, Britain would in fact be accepting continued jurisdiction of the ECJ. Any dialogue between the two courts doesn't change the fact that it is clear in the EEA Agreement that of those two the ECJ is considered the senior court.

When it comes to the EFTA Court it should also be kept in mind that its rulings are binding and, contrary to some suggestions, not just advisory. The court has three main functions. Firstly, the EFTA Court deals with infringement actions brought by the ESA against an EFTA/EEA country regarding the implementation, application or interpretation of an EU rule adopted into the EEA Agreement. Secondly, the court handles the settlement of disputes between two or more EFTA/EEA countries regarding the EEA Agreement. And third, it hears appeals against decisions made by the ESA, and gives advisory opinions when requested by domestic EFTA/EEA courts on the interpretation of EU rules.²⁴ Should advisory opinions from the EFTA Court not be followed, it would most likely result in an infringement action taken by ESA against the relevant country.²⁵

Despite the two pillar system designed during the EEA negotiations, where separate EFTA institutions were established parallel to the ECJ and the European Commission, the EU has not abandoned having the EFTA/EEA countries accepting direct authority from its institutions. On the contrary, there has been growing pressure over the years from Brussels on the EFTA/EEA countries to do so. This has most recently happened over the European System of Financial Supervision (ESFS), where the EU has once again put forward such demand. The EFTA/EEA countries again stressed they could not accept this and therefore it was decided that this would happen through ESA. The case includes the ability to intervene directly in the running of financial firms without a green light from domestic institutions.

However, as Dr. Björg Thorarensen, Iceland's leading constitutional law expert, has pointed out the decisions regarding the financial surveillance of firms and individuals in the EFTA/EEA countries will not be initiated, prepared or made by ESA but by the EU surveillance institutions. Those EU decisions will in fact only be carried out by ESA on behalf of Brussels. This both includes transfer of executive powers and to a certain degree of judicial powers (according to Thorarensen) as the financial surveillance is being overseen by the EFTA Court. Thorarensen has also stressed that this is not incidental, as initially the transfer of authority according to the EEA Agreement was restricted to issuing fines for violation of competition laws but has since stretched to more unrelated areas.²⁶

²¹ Ross, George. *The European Union and its crisis: Through the eyes of the Brussels elite*. (2011). Pages 48-49.

²² Phinnemore, David. *Association: Stepping-Stone or Alternative to EU Membership*. (1999). Page 67.

²³ "Efta court chief visits UK to push merits of 'Norway model'", *Theguardian.com* 3 September 2017.

<https://www.theguardian.com/world/2017/sep/03/efta-court-president-suggests-uk-should-join-efta-to-end-brexite-crisis>

²⁴ "EFTA Court", *Efta.int*. <http://www.efta.int/eea/eea-institutions/efta-court>

²⁵ "Talar um ráðgefandi álit", *Mbl.is* 8 March 2012. <http://www.mbl.is/greinasafn/grein/1413789/>

²⁶ "Verður ekki lengra komist", *Mbl.is* 21 September 2016.

http://www.mbl.is/frettir/innlent/2016/09/21/verdur_ekki_lengra_komist/

Leaving the EU means leaving the EEA

From the point of view of sovereignty one of the worst things about the EEA Agreement is indeed that it behaves like the EU itself in the areas covered by the agreement when it comes to pushing for more and more political, social and economic integration. Furthermore, as Thorarensen and others have pointed out, the areas in question are constantly expanding to involve more and more issues in a similar fashion as happens within the EU itself. This is likewise the case with the Schengen Agreement, which the four EFTA countries have also signed up to, and other agreements with the EU that demand transfer of sovereignty. The fundamental reason for this is the very nature of the EU. That is the constant drive towards more and more centralisation and erosion of national sovereignty.

This was also pointed out by Skúli Magnússon, associate law professor at the University of Iceland, last year where he said it was to be expected that the EEA Agreement would demand further transfer of power from the EFTA/EEA countries to European institutions. "We are faced with a development within the EU where special institutions are increasingly being given new roles and more authority. This development will potentially continue," he said in a media interview over relations with the ESFS. Since the EFTA/EEA countries had implemented EU legislation regarding financial services in order to preserve the homogeneity of the EEA, he said the financial surveillance would also have to be implemented. "So it's a challenging question how far this can possibly go."²⁷

This has by contrast not happened in EFTA, which is simply a free trade cooperation and has remained that way since it was founded in 1960 - at Britain's initiative - as a free trade alternative to the EEC. Despite a certain level of misunderstanding, deliberate or not, EFTA and the EEA are two very different beasts. While the main purpose of EFTA is to maintain a free trade area between its members and negotiate free trade agreements with countries worldwide, the EEA Agreement (although quite voluminous) is in fact only one of the trade agreements EFTA countries have concluded. While countries that join EFTA are expected to sign up to all free trade deals the club has concluded jointly, as stated in article 56 of the EFTA Convention,²⁸ only three of EFTA's four members are part of the EEA Agreement.

Furthermore, as is stated in article 128 of the EEA Agreement, any country that becomes a member of the EU must join the EEA while any new EFTA member, as well as Switzerland as a current EFTA member, may apply to become part of it. Or as it says in the article:

"Any European State becoming a member of the Community shall, and the Swiss Confederation or any European State becoming a member of EFTA may, apply to become a party to this Agreement."²⁹

In other words, as far as EFTA countries are concerned membership of the EEA is optional, while it's an obligation when it comes to countries that either join the EU or are already part of the bloc. This also means, as is stated quite clearly in other parts of the EEA Agreement, that no country can

²⁷ "Frekari kröfur um framsal valds", Mbl.is 22 September 2016.

http://www.mbl.is/frettir/innlent/2016/09/22/frekari_krofur_um_frams_valds/

²⁸ "The EFTA Convention", EFTA.int. <http://www.efta.int/legal-texts/efta-convention>

²⁹ "The EEA Agreement", Efta.int. <http://www.efta.int/Legal-Text/EEA-Agreement-1327>

become part of the EEA unless through membership of either EFTA or the EU. This is for instance very clear in article 126 of the EEA Agreement which says:

"The Agreement shall apply to the territories to which the Treaty establishing the European Economic Community is applied and under the conditions laid down in that Treaty, and to the territories of Iceland the Principality of Liechtenstein and the Kingdom of Norway."³⁰

This article of the EEA Agreement is in fact referred to on the website of EFTA, understandably under 'frequently asked questions', in answering whether it is possible to become party to the EEA Agreement without first becoming a member of either EFTA or the EU:

"Article 126 of the Agreement on the EEA makes it clear that the EEA Agreement only applies to the territories of the EU, in addition to Iceland, Liechtenstein and Norway. Under the present wording of the EEA Agreement, it is therefore impossible to be a party to the EEA Agreement without being a member of either the EU or EFTA."³¹

What is also pointed out on the EFTA website is that the EEA Council takes the political decisions when it comes to amending the EEA Agreement, which includes enlargement of the EEA and requires consensus between the EU on one hand and the three EFTA/EEA countries on the other. In turn this means that in order to change the arrangements, each of the EFTA/EEA countries would have to accept that third countries could become part of the EEA by bypassing their own organisation. In other words, unanimity is needed to make the EEA Agreement no longer exclusive to EFTA and EU members.

The reality is that when Britain will leave the EU, the Treaty of Rome which today has developed into the Lisbon Treaty will no longer apply to the country. This means the same goes for the EEA Agreement. While this is quite clear, there have nevertheless been suggestions from people who want Britain to remain in the EEA after Brexit (usually because they want to remain in the EU itself and are trying to salvage what they can of the country's EU membership) that article 127 would have to be triggered specifically in order to withdraw from the agreement. What the article says is the following:

"Each Contracting Party may withdraw from this Agreement provided it gives at least twelve months' notice in writing to the other Contracting Parties. Immediately after the notification of the intended withdrawal, the other Contracting Parties shall convene a diplomatic conference in order to envisage the necessary modifications to bring to the Agreement."³²

What has also been pointed out is that the EEA Agreement repeatedly speaks of "contracting parties", as can be found in article 127. This has been used to suggest that Britain is a member of the EEA Agreement independent of its membership of the EU. For the sake of the argument, and putting aside the straightforward wording in article 126, let us look at this more closely.

³⁰ "The EEA Agreement", Efta.int. <http://www.efta.int/Legal-Text/EEA-Agreement-1327>

³¹ "Frequently asked questions on EFTA and the EEA", Efta.int. <http://www.efta.int/faq>

³² "The EEA Agreement", Efta.int. <http://www.efta.int/Legal-Text/EEA-Agreement-1327>

The term "contracting parties" is defined in article 2 of the EEA Agreement. The article defines them, from the EU side, either as the EU (formerly the European Community) and its member states together or the EU or its member states: "the term 'Contracting Parties' means, concerning the Community and the EC Member States, the Community and the EC Member States, or the Community, or the EC Member States."³³ This means that the EU member states are members of the EEA Agreement through their membership of the EU. They simply cannot for quite obvious reasons be only members of the part of the agreement that refers to them as a contracting party and not the part referring to the EU. Which means, in addition to article 126, that if countries leave the EU, as Britain has decided to do, they also withdraw from the EEA Agreement.

This interpretation has been confirmed by EFTA Court President Carl Baudenbacher. In a lecture delivered in King's College London on 13 October 2016, he was quite clear on this point:

"A State can only be an EEA Contracting Party either *qua* EU membership or *qua* EFTA membership. That follows from the two pillar structure of the EEA Agreement. You are either in the EU pillar or in the EFTA pillar, but you cannot be floating around freely. To those who think that the UK would retain EEA membership when it leaves the EU, I raise the question on which court would the British judge sit?"³⁴

This has also been confirmed by people such as the EU's former legal chief Jean-Claude Piris, who for example wrote in an article in the E!Sharp magazine in September 2017 that Britain would "automatically cease to be an EEA member when leaving the EU."³⁵ Consequently Britain would first have to leave the EU and then join EFTA (which would take time) and then rejoin the EEA, which could not happen until after Brexit and would require the ratification of all the EU members plus the three EFTA/EEA countries. Experience showed this would also take time. In the meantime "the rules of WTO would have to be applied to trade between the UK and the EU."³⁶ This is in line with what the Norwegian government has said, that is that Britain would first have to formally leave the EU before the country could apply to rejoin first EFTA and then the EEA following that.

However, quite apart the technical reality that leaving the EU means leaving the EEA as well, both the Remain and Leave campaigns in the run up to Britain's 2016 EU referendum said as much. It was stated by prominent figures ranging from David Cameron³⁷ and George Osborne, then Chancellor of the Exchequer, to then Secretary of State for Justice Michael Gove and former London Mayor Boris Johnson.^{38 39}

³³ "The EEA Agreement", Efta.int. <http://www.efta.int/Legal-Text/EEA-Agreement-1327>

³⁴ Baudenbacher, Carl. "After Brexit: Is the EEA an option for the United Kingdom?" Lecture delivered at the Centre for European Law, King's College, London, 13 October 2016.

³⁵ Piris, Jean-Claude, "Why the UK will not become an EEA member after Brexit", Esharp.eu September 2017. <https://esharp.eu/debates/the-uk-and-europe/why-the-uk-will-not-become-an-eea-member-after-brexit>

³⁶ Piris, Jean-Claude, "Why the UK will not become an EEA member after Brexit", Esharp.eu September 2017. <https://esharp.eu/debates/the-uk-and-europe/why-the-uk-will-not-become-an-eea-member-after-brexit>

³⁷ "I'll pull UK out of the single market after Brexit", Politico.eu 12 June 2016. <https://www.politico.eu/article/david-cameron-bbc-andrew-marr-ill-pull-uk-out-of-the-single-market-after-brexit-eu-referendum-vote-june-23-consequences-news/>

³⁸ "Leaving Single Market v2 (Reminder to MPs, Peers, Metro Elites)", Youtube.com. <https://www.youtube.com/watch?v=aUI5A1Gd5D0>

³⁹ "Michael Gove says leaving EU would mean quitting single market", Ft.com 8 May 2016. <https://www.ft.com/content/0c5c74bc-151e-11e6-b197-a4af20d5575e>

The EEA means free movement of people

Being in the EEA, whether it's through membership of EFTA or the EU, means being subject to the so-called four freedoms; the free movement of capital, service, goods and people. The free movement of people is what has led to a significant debate in Britain for years as this has undermined the country's ability to control who enters it and who doesn't. During the referendum campaign, those in favour of leaving the EU put great emphasis on getting that authority back. Should Britain decide to continue being a part of the EEA after leaving the EU, the country would also continue to be subject to the principle of free movement of people.

Despite this there have been some claims that the UK would be able to halt free movement of people to the country through the EEA Agreement. Those suggesting this have pointed to article 112, which says individual contracting parties can under certain circumstances unilaterally take certain measures to remedy a serious situation. The article says:

"If serious economic, societal or environmental difficulties of a sectorial or regional nature liable to persist are arising, a Contracting Party may unilaterally take appropriate measures under the conditions and procedures laid down in Article 113. Such safeguard measures shall be restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation. Priority shall be given to such measures as will least disturb the functioning of this Agreement."⁴⁰

What article 113 then says is that the contracting party in question must notify other contracting parties of the EEA Agreement without delay and provide all relevant information. "The Contracting Parties shall immediately enter into consultations in the EEA Joint Committee with a view to finding a commonly acceptable solution," the article adds, and then goes on to say:

"The safeguard measures taken shall be the subject of consultations in the EEA Joint Committee every three months from the date of their adoption with a view to their abolition before the date of expiry envisaged, or to the limitation of their scope of application. Each Contracting Party may at any time request the EEA Joint Committee to review such measures."⁴¹

The meaning of these articles is very clear. As article 112 states, it only applies in circumstances where countries are faced with serious and persisting difficulties, in other words what amount to emergency situations. The measures taken must be restricted both in scope and duration to what is strictly necessary to rectify the situation and to what will least disturb the functioning of the EEA Agreement, in this case the free movement of people. Such measures are not intended to last permanently but on the contrary for as short time as possible. As article 113 then goes on to explain, such measures are the subject of strict conditions and monitoring.

For obvious reasons article 112 would not offer the British government control of who comes to the country from within the EEA and who doesn't. This would in fact not change anything from Britain's current situation within the EU. After all the article applies to both the EFTA/EEA countries and the

⁴⁰ "The EEA Agreement", Efta.int. <http://www.efta.int/Legal-Text/EEA-Agreement-1327>

⁴¹ "The EEA Agreement", Efta.int. <http://www.efta.int/Legal-Text/EEA-Agreement-1327>

EU member states. This would therefore most certainly not fulfil what the British people were voting for in the 2016 Brexit referendum when it comes to taking back control of Britain's borders. To this day Britain has not yet faced a situation where article 112 could have been applied when it comes to free movement of people and even if it would it would have a very limited effect.

Those highlighting the use of article 112 have referred to Liechtenstein, which is allowed to impose quotas on the number of people coming to the principality despite being in the EEA. The justification there, however, is primarily the fact that Liechtenstein has a total number of residents of little more than 37,000 people and an area of only 62 square miles. That is fewer people than both the Faroe Islands and Andorra, and similar to Monaco and San Marino. Iceland in comparison, which has the second smallest population in the EEA after Liechtenstein, is nine times more populous with over 338,000 people. On top of that Liechtenstein has a very high level of non-national residents, much higher than Britain. Or as it says in the decision of the EEA Council on 10 March 1995:

"The EEA Council recognizes that Liechtenstein has a very small inhabitable area of rural character with an unusually high percentage of non-national residents and employees. Moreover, it acknowledges the vital interest of Liechtenstein to maintain its own national identity."⁴²

The decision furthermore says the EEA Council agrees that account should be taken of Liechtenstein's specific situation which might justify the taking of safeguard measures by the country as provided in article 112 of the EEA Agreement. This is identified as:

"an extraordinary increase in the number of nationals from the EC Member States or the other EFTA States, or in the total number of jobs in the economy, both in comparison with the number of the resident population."⁴³

However, even if Britain, with its more than 65 million people, would be considered eligible to enjoy the same arrangement as Liechtenstein has when it comes to free movement of people after rejoining the EEA through rejoining EFTA (despite the fact it absolutely doesn't), the other EFTA/EEA countries, Norway, Iceland and Switzerland, would already have been much more qualified to since they all have many times smaller populations. The same would also apply to many EU members who are, as discussed before, also subject to the EEA Agreement in fundamentally the same way as the EFTA/EEA countries. This clearly has not happened. So regardless of how this matter is looked at, the outcome is always the same: Article 112 would not guarantee the interests of the UK, since it does not fulfil the conditions for triggering restrictions over the principle of free movement of people.

Those suggesting article 112 would be useful in this context have also referred to the fact that after Iceland was hit by economic crisis in the autumn of 2008, the Icelandic government introduced capital controls which meant that free movement of capital was disconnected. However, while Iceland certainly did introduce capital controls while remaining in the EEA it wasn't done with reference to article 112 but article 43. This was stated by the EFTA Court in December 2011 (case E-

⁴² "DECISION OF THE EEA COUNCIL No 1/95 of 10 March 1995 on the entry into force of the Agreement on the European Economic Area for the Principality of Liechtenstein", Efta.int. <http://www.efta.int/sites/default/files/documents/legal-texts/eea/other-legal-documents/adopted-decisions-of-the-EEA-council/eea-council-no1-95-1995-03-10-liechtenstein.pdf>

⁴³ "DECISION OF THE EEA COUNCIL No 1/95 of 10 March 1995 on the entry into force of the Agreement on the European Economic Area for the Principality of Liechtenstein", Efta.int. <http://www.efta.int/sites/default/files/documents/legal-texts/eea/other-legal-documents/adopted-decisions-of-the-EEA-council/eea-council-no1-95-1995-03-10-liechtenstein.pdf>

3/11) when the court confirmed that the measures introduced by Iceland did not breach the EEA Agreement.⁴⁴ What article 43 says, and was relevant to the country's situation, is the following:

"If movements of capital lead to disturbances in the functioning of the capital market in any EC Member State or EFTA State, the Contracting Party concerned may take protective measures in the field of capital movements. [...]Where an EC Member State or an EFTA State is in difficulties, or is seriously threatened with difficulties, as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardize the functioning of this Agreement, the Contracting Party concerned may take protective measures."⁴⁵

The same underlying principle applies here as in article 112: the article is in fact only applicable in case of actual emergency. What it took for Iceland to trigger article 43 was the collapse of its three largest banks which plunged the country into economic chaos. Applying the article must furthermore "cause the least possible disturbance in the functioning of this Agreement and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen," as is further emphasised in article 45. Moreover, triggering article 43 is also subject to close monitoring. But what is, however, the core issue here is the fact that the article only applies to free movement of capital. The example is thus a false one.

The EEA makes free trade more difficult

When it comes to external trade, the EEA Agreement does not prevent the EFTA/EEA countries from signing free trade agreements, since they are not part of the EU's customs union and its common commercial policy. However, being in the EEA has nevertheless made trade with other countries more difficult and costly over the years, mainly those which have a different set of standards from that of the EU. This has been especially the case with the United States.

The TTIP trade talks between the EU and the US, which were formally launched in 2013 and are currently halted, were mainly concerned with indirect trade barriers rather than direct ones like tariffs. Tariffs have generally been on the way down in the world following the foundation of the World Trade Organisation in 1995.

The main task during the TTIP talks was to harmonise EU and US rules and standards, primarily those EU rules which fall under the Single Market. It is possible that free trade talks between the US and EFTA or an individual EFTA/EEA country would require the same. However, since the EFTA/EEA countries are not able to alter the EU rules they adopt through the EEA Agreement, as those rules in question are not made by them, they are not in a position to include those rules in possible free trade talks with the US. This means the US government would have to be willing to accept that only American products fully in line with EU rules and standards could be imported to the EFTA/EEA

⁴⁴"JUDGMENT OF THE COURT 14 December 2011", Eftacourt.int.
http://www.eftacourt.int/uploads/tx_nvcases/3_11_Judgment_EN.pdf

⁴⁵"The EEA Agreement", Efta.int. <http://www.efta.int/Legal-Text/EEA-Agreement-1327>

countries because of the interrelationship between the issues of standards and the question of 'Trojan Horse' re-exporting within the Single Market – a major concern for the Commission.

The US Government is understandably extremely unlikely to be prepared to unilaterally accept EU rules and standards, especially as Washington has not yet been able to negotiate a free trade deal with Brussels (which unlike the EFTA/EEA countries can make changes to EU legislation to pave the way for such an agreement). But even if the EU and the US were able to successfully conclude the TTIP talks at some point in the future - and this must be considered very unlikely given their lack of progress since they were launched in 2013 (former EU trade commissioner Karel De Gucht said for example to the Dutch media in February 2017 that the talks had been paralyzed since their launch⁴⁶) - that wide-ranging agreement would naturally take little if any notice at all of specific EFTA/EEA interests.

The EFTA/EEA countries are as a consequence of their EEA membership not able to negotiate free trade agreements based on straightforward mutual recognition. This is mainly down to the EU putting emphasis on regulatory harmonisation. What Brussels also does is use rules and standards as a means to protect EU production from outside competition. After all, the EU is fundamentally an old fashioned customs union: a model whose primary function is consequently the very opposite of free trade. To be fair the EU is certainly not alone in doing this. However, after the foundation of the WTO there has been a tendency to resort to indirect trade barriers instead of direct tariffs, and it is here that diplomatic focus really should be turning but regulatory restraints increasingly get in the way.

Membership of the EEA, the adoption of EU rules and standards, and the limitation that has arisen when it comes to trade with other countries, has resulted in Iceland becoming too reliant on the trade with the bloc which is risky both economically and politically. Economically, because it means economic difficulties in the EU will have more serious effect on Icelandic interests; and politically, because growing economic dependency means an imbalance that can be used against the Icelandic people for political gains. This is something the EU has already tried in the so-called 'mackerel dispute' and which is also what Brussels is trying to do now in the ongoing talks regarding the future relations between the EU and Britain after Brexit.

"What is mainly making import from the US difficult is the EU red tape. The barriers that that brings and the regulations which we must follow, it's almost impossible to follow them. The cost is tremendous," said the Icelandic retailer Jón Gerald Sullenberger, then CEO of the Icelandic retailer Kostur, at a meeting organised by the American-Icelandic Chamber of Commerce in January 2014.⁴⁷ His company imported most of its goods from the US. Due to the EEA Agreement, the merchandise must for example be relabelled to meet EU rules and often it's simply not possible to import American goods when they don't meet those requirements. This reinforces the impression that the main purpose of the EU rules in question is often simply to protect EU production from external competition.

Representatives of various other retailers and wholesalers in Iceland have told a similar story as well as representatives of other companies doing business with the US. The wholesaler Innnes used to

⁴⁶ "'Zou TTIP er onder Hillary Clinton wel snel komen? Forget it'", Financieele Dagblad 15 February 2017. <https://fd.nl/economie-politiek/1187776/zou-ttip-er-onder-hillary-clinton-wel-snel-komen-forget-it>

⁴⁷ "Hyggst sækja bætur til MAST", Mbl.is 14 January 2014.

http://www.mbl.is/frettir/innlent/2014/01/14/hyggst_saekja_baetur_til_mast/

import most of its goods from the US, but that percentage was only around 12% in 2014 and is probably even lower today. The reasons are more or less the same as in the case of Kostur. Lovísa Jenný Sigurðardóttir, marketing manager for Innnes, said at an American-Icelandic Chamber of Commerce meeting in January 2014 that the company's imports from the US had been decreasing fast over the years and that that pattern was expected to continue. She said Innnes for example had had to stop importing American biscuits as it became too costly to do so. The company had also had to pay for expensive consultation due to labelling requirements in EU regulations, adopted in Iceland through the EEA Agreement, which were very different compared to US rules.

Taking an example, Sigurðardóttir mentioned the difference between the EU and US lists of additives in food products. Some food products were banned in Iceland under EU rules because of certain additives which were nevertheless allowed in other products. She said it took a lot of work to find out whether there were any additives which were banned by Brussels in imported products, as well as having to open every box and label every product according to EU rules. Consequently the level of complexity was very high. American food producers, Sigurðardóttir added, seemed to take very little notice of EU labelling regulations and the cost of following them was very high.⁴⁸ This is a situation which is of course well known in EU countries themselves which also need to follow EU rules.

Last spring, the American wholesale retailer Costco opened a branch in Iceland. Originally the idea was to run the operation in Iceland from Canada but when the company had thoroughly studied the Icelandic market and realised the nature of the EEA Agreement the alternative decision was made to run the branch instead from Britain.⁴⁹ As a result, a large part of what is sold in Costco Iceland are reportedly European products while there are relatively few American and Canadian ones. This means less diverse groceries on the shelves for the consumer and probably also higher prices. Britain has of course already experienced this as an EU member, which is one of the reasons why British governments have repeatedly called for a free trade deal with the US over the years.

The US Trade Secretary, Wilbur Ross, actually referred to this in a recent visit to London where he issued a veiled warning to Britain that talks with the US on a proposed free trade agreement could go off the rails if the British government aligned too closely with Brussels in designing Britain's post-Brexit relationship with the EU.⁵⁰ Brussels responded to that by saying the EU would reject any future free trade agreement with Britain if EU legislation would be slashed after Britain had left the bloc.⁵¹ This is of course an extraordinary claim as well as an outrageous one, that means Brussels wants to continue dictating British laws even after Britain will no longer be a part of the EU.

This issue is of course in addition to the effect that excessive EU red tape has had both on companies and individuals in the EFTA/EEA countries (and more so in EU member states as they are part of much more than the Single Market). Firms which are solely producing for the domestic market, or aiming to export to markets outside the EU, must nevertheless follow costly EU rules which make

⁴⁸ "Tollar og reglur ESB í veginum", Mbl.is 14 January 2014.

http://www.mbl.is/vidskipti/frettir/2014/01/14/tollar_og_reglur_esb_i_veginum/

⁴⁹ "Reglur um merkingar stoppuðu Costco", Mbl.is 24 January 2015.

http://www.mbl.is/vidskipti/frettir/2015/01/24/reglur_um_merkingar_stoppudu_costco/

⁵⁰ "Don't let the EU dictate Brexit if you want a speedy US trade deal, Trump adviser warns UK", Telegraph.co.uk 6 November 2017. <http://www.telegraph.co.uk/business/2017/11/06/dont-let-eu-dictate-brexit-us-warns-britain/>

⁵¹ "Europe will reject UK trade deal if Britain cuts EU red tape after Brexit, warns Michel Barnier", Telegraph.co.uk 20 November 2017. <http://www.telegraph.co.uk/news/2017/11/20/europe-will-reject-uk-trade-deal-britain-cuts-eu-red-tape-brexit/>

trade with other markets more difficult than it should be. The piles of pedantic EU legislation go beyond simple trade and affect the lives of ordinary people, such as regulating how powerful vacuum cleaners may be or how much water can be flushed in a toilet.⁵²

What is important for countries is having access to multiple markets around the world instead of keeping most of the eggs in one basket. While the EU will continue to be an important market in the years to come, it will steadily become less so compared with what others are doing. Even EU Commission President Jean-Claude Juncker has admitted this fact.⁵³ In a speech he delivered in Madrid in October 2015, he said that the EU's relative share of global gross domestic product was shrinking and that in few years the bloc would only represent 15% of the world's GDP. Today, he acknowledged, 80% of the growth was already originating in non-EU countries.⁵⁴

Norwegians prefer a free trade deal to the EEA

The EEA Agreement has always been controversial in the EFTA/EEA countries, and in recent years opposition to the agreement has been on the rise in both Norway and Iceland. This has been the case among politicians as well as ordinary people. Despite often being dubbed the 'Norway solution', the EEA Agreement doesn't enjoy the support of the majority of the Norwegian people according to repeated opinion polls - unless the other option is EU membership. However, given the alternative of a comprehensive free trade agreement more Norwegians would prefer that. The majority of Norwegians would furthermore want to have a referendum on whether or not to remain in the EEA.

An opinion poll produced for the Norwegian national broadcaster NRK and published on 7 September 2017 has 40% in favour of replacing the EEA Agreement with a new trade agreement with the EU and 35% opposing.⁵⁵ Another poll published earlier this year by the polling company Sentio for the organisation *Nei til EU*, which opposes Norwegian EU membership, had less than a quarter saying they wanted to hold onto the EEA Agreement or 23% while 35% preferred a comprehensive free trade agreement. The rest was undecided. Measuring only those for or against, 60% preferred a free trade deal instead of the EEA Agreement. Meanwhile 70% of those for or against said they wanted a referendum on Norway's EEA membership.⁵⁶

There was another opinion poll published in May, this time for Norway's largest newspaper *Verdens Gang*, which had 42% in favour of renegotiating or scrapping the EEA Agreement altogether while 35% wanted to keep the agreement.⁵⁷ For years, more Norwegians have favoured replacing the EEA

⁵² "Should you buy a powerful Hoover before Eurocrats ban them?" Telegraph.co.uk 31 August 2017. <http://www.telegraph.co.uk/money/consumer-affairs/should-buy-powerful-hoover-eurocrats-ban/>

⁵³ "Europe's glory days at an end, warns Juncker", Telegraph.co.uk 22 October 2015. <http://www.telegraph.co.uk/news/worldnews/europe/eu/11949038/Europes-glory-days-at-an-end-warns-Juncker.html>

⁵⁴ "Pour une Europe plus cohérente et plus solidaire", Europa.eu 21 October 2015. http://europa.eu/rapid/press-release_SPEECH-15-5889_en.htm

⁵⁵ "Frykter for grønne investeringer ved EØS-exit", Nrk.no 7 September 2017. <https://www.nrk.no/norge/frykter-for-gronne-investeringer-ved-eos-exit-1.13674028>

⁵⁶ "Stor støtte til folkeavstemning om EØS", Nationen.no 1 May 2017. <http://www.nationen.no/eu/stor-stotte-til-folkeavstemning-om-eos/>

⁵⁷ "Ny måling: Fire av ti vil vrake eller reforhandle EØS-avtalen", Vg.no 9 May 2017.

<http://www.vg.no/nyheter/innenriks/ny-maaling-fire-av-ti-vil-vrake-eller-reforhandle-eos-avtalen/a/23992893/>

Agreement with a free trade agreement than those who have opposed that.^{58 59} What is particularly striking has been the shift amongst the political class. While the majority of Norwegian lawmakers elected in the general elections on 11 September 2017 are not in favour of a referendum on Norway's EEA membership or replacing the EEA Agreement with a free trade agreement, the number of those who do has been increasing. Meanwhile more Norwegian MPs oppose EU membership than are in favour.⁶⁰

Earlier this year the conservative-liberal Progress Party (Fremskrittspartiet), which has been part of Norway's coalition government along with the Conservative Party (Høyre), adopted a new policy at its national congress calling for the EEA Agreement to be renegotiated after having previously been in favour of it as it is. The Progress Party said the agreement needed to be reformed to better suit the interests of Norway.⁶¹ The Centre Party (Senterpartiet) campaigned for leaving the EEA in the run up to the general elections and significantly increased its votes which is largely contributed to that policy. The Socialist Left Party (Sosialistisk Venstreparti) also favours replacing the EEA Agreement with a free trade deal. Meanwhile the vast majority of Norwegians have opposed EU membership in every opinion poll which has been published in Norway since early 2005 or for more than 12 years.

Those in favour of EU membership in Norway and Iceland see the EEA Agreement as a way to get the two countries into the EU, if not through the front door then by the back door. After all, the original purpose of the agreement was to prepare EFTA countries for EU membership. Supporters of EU membership in Iceland have said very frankly that Iceland has been in an alignment process to the EU ever since the EEA Agreement came into effect, which is in fact true in the area the agreement covers. They have at the same time also considered the EEA Agreement as an obstacle, as it was initially never supposed to become a permanent arrangement. They believe that with the EEA Agreement out of the way, more of their countrymen would favour EU membership.

The Prime Minister of Norway and leader of the Conservative Party, Erna Solberg - herself an ardent supporter of EU membership - urged the British people not to go down the same path as her home country before the 2016 EU referendum, claiming it meant paying without having any say.⁶² The purpose of those comments was of course to influence British voters to reject leaving the EU. While her comments, which were echoed by Britain's then Prime Minister David Cameron,⁶³ were not entirely fair (prompting me to write an article in a British newspaper to put forward certain corrections) they are quite interesting now when people (such as Cameron⁶⁴) who wanted Britain to remain in the EU are promoting the Norway solution for Britain. Before the referendum Cameron

⁵⁸ "Flertallet vil bytte ut EØS", Dagbladet.no 9 November 2012. <http://www.dagsavisen.no/innenriks/flertallet-vil-bytte-ut-eos-1.469600>

⁵⁹ "Vilja fríverslunarsamning í stað EES", Mbl.is 10 November 2011. http://www.mbl.is/frettir/erlent/2011/11/10/vilja_friverslunarsamning_i_stad_ees/

⁶⁰ "Flertallet på stortinget er imot EU-medlemskap", Nettavisen.no 27 September. <http://www.nettavisen.no/politikk/flertallet-pa-stortinget-er-imot-eu-medlemskap/3423375747.html>

⁶¹ "Dette bør du få med deg fra Frps landsmøte", Nrk.no 7 May 2017. <https://www.nrk.no/norge/dette-bor-du-fa-med-deg-fra-frps-landsmote-1.13505336>

⁶² "Britain Should Not Leave EU' Norway's PM Erna Solberg Warns", Huffingtonpost.co.uk 15 January 2014. http://www.huffingtonpost.co.uk/2014/01/15/norway-uk-europe_n_4601081.html

⁶³ "David Cameron to dismiss UK adopting 'Norway option' over EU", Theguardian.com 25 October 2015. <https://www.theguardian.com/politics/2015/oct/25/david-cameron-to-rule-out-second-eu-referendum-vote>

⁶⁴ "David Cameron 'pushing for Norway-style deal' after Brexit", Thetimes.co.uk 7 July 2017. <https://www.thetimes.co.uk/article/cameron-pushing-for-norway-style-deal-post-brexit-bb3c2c833>

actually went as far as to claim it impossible to copy what he referred to as the Norwegian model, as it would mean freedom of movement and accepting rules made in Brussels.⁶⁵

What is also interesting is that unlike people in Britain like Cameron, Solberg has continued to suggest after the 2016 EU referendum that the British people should not go down the same path as Norway when it comes to relations with the EU, correctly pointing out that in doing so Britain would have to accept certain obligations that the country has objected to in its dealings with Brussels.⁶⁶ This has, however, led to accusations from Norwegian politicians, who favour replacing Norway's EEA membership with a comprehensive free trade agreement, against Solberg for contradicting herself for heavily criticising the Norway solution when it comes to Britain leaving the EU but at the same time refusing to support moving away from the EEA Agreement in the case of Norway.⁶⁷

The EEA Agreement is after all an arrangement that few if any in the EFTA/EEA are genuinely content with. Those who reject EU membership either consider the membership of the EEA Agreement as a necessary evil or want to scrap it, while those in favour of joining the EU see the agreement as a milestone on the way towards EU membership. They are not happy to remain part of the EEA through EFTA, but defend that position fiercely against suggestions that the EEA Agreement should be scrapped for a free trade agreement. They simply do not want to give up ground and move further away from joining the EU. There have even been suggestions that Brussels is not too content with the EEA Agreement either. A few years ago Iceland's then-Foreign Minister, Össur Skarphéðinsson, for example said in a parliament debate: "To speak bluntly, I sometimes feel the EU is bored to the death of the EEA Agreement. It is bored to the death of the Swiss bilateral agreements."⁶⁸ This speaks volumes of the monolithic mentality existing in Brussels institutions.

The argument, that with the EEA Agreement out of the way there would be significantly more support for EU membership in Norway and Iceland, has, however, become gradually less relevant as the development of the EU towards more and more integration and centralisation has made joining the bloc increasingly less appealing. This in turn has led to a growing debate about the EEA Agreement in both countries. This has been especially so in Norway where *Nei til EU*, the organisation against EU membership, and at least two of the country's political parties are now calling for the EEA Agreement to be scrapped and replaced with a modern comprehensive free trade agreement.

The then-Prime Minister of Iceland, Sigmundur Davíð Gunnlaugsson, said in a domestic media interview in December 2013 that there was every reason to reconsider Iceland's membership of the EEA Agreement in light of the fact that the agreement was constantly expanding and furthermore putting growing pressure on the country's sovereignty. "What makes this all complicated is that the

⁶⁵ "I'll pull UK out of the single market after Brexit", Politico.eu 12 June 2016. <https://www.politico.eu/article/david-cameron-bbc-andrew-marr-ill-pull-uk-out-of-the-single-market-after-brexit-eu-referendum-vote-june-23-consequences-news/>

⁶⁶ "Norway PM casts doubt on temporary British EFTA membership", Reuters.com 14 August 2017. <https://www.reuters.com/article/us-britain-eu-norway/norway-pm-casts-doubt-on-temporary-british-efta-membership-idUSKCN1AU1FE>

⁶⁷ "Norway may block UK return to European Free Trade Association", Theguardian.com 9 August 2016. <https://www.theguardian.com/world/2016/aug/09/norway-may-block-uk-return-to-european-free-trade-association>

⁶⁸ „ESB hundleitt á EES-samningnum“, Mbl.is 14 March 2013. http://www.mbl.is/frettir/innlent/2013/02/14/esb_hundleitt_a_ees_samningnum/

nature of the EEA Agreement is that it grows and grows and grows and gets more and more complicated meaning that it's more and more difficult to figure this out," he added.⁶⁹

While there have been no opinion polls produced on Iceland's EEA membership for decades every opinion poll which has been published since August 2009, regardless of who has produced it or for whom, has had a solid majority against joining the EU or for more than eight years. Nevertheless at least one poll has been produced in recent years suggesting opposition to what the EEA Agreement entails. According to the poll, produced by MMR for the Icelandic think tank Andríki and published in February 2014, 69% of Icelanders oppose amending the Icelandic constitution to allow transfer of sovereignty to international institutions while only 14% support that.⁷⁰ Legal experts believe Iceland's continued membership of the EEA calls for this change to the constitution as the EEA Agreement like EU membership constantly demands more transfer of powers to supranational institutions.⁷¹ However, no other international cooperation which Iceland participates in requires the same, except for perhaps the Schengen cooperation due to EU demands.

Last year Iceland's centrist Progressive Party (Framsóknarflokkurinn), at the time leading the country's government, adopted a policy saying that it was time to measure the success of the membership of the EEA Agreement as well as the Schengen Area and consider alternatives. Meanwhile the party stressed that Icelanders "should continue to seek cooperation with European nations, inside and outside the EU, on grounds of free and fair agreements and cooperation based on equality and mutual benefits" and emphasised its previous policy of opposing EU membership.⁷²

Icelandic lawmakers have regularly expressed their frustration over the years of having to implement a large amount of EU legislation every year, which usually happens without much parliamentary debate or scrutiny. This has primarily been because, despite having formally the right to refuse to implement individual pieces of EU legislation if they believe it may harm Icelandic interests, they don't really consider it an option as doing so is not without consequences. The implementation of EU laws through the Icelandic parliament is therefore in fact considered more of a formality.

This reality was echoed by Brynjar Níelsson, MP for the conservative Independence Party (Sjálfstæðisflokkurinn) and former chairman of the Icelandic parliament's Constitutional and Supervisory Committee, in an interview with a local radio station in February 2014 where he said that he thought few of his colleagues if any knew what they were accepting when voting in favour of bills implementing EU laws adopted through the EEA Agreement. He furthermore said he sometimes felt that all he did in his work as a parliamentarian was accepting such EU legislation.

"There are all kinds of things in this agreement which I have never understood why we need to follow their legislation on and which I can't see has anything to do with this Single Market. This is just something which has happened and you somehow just sit with this in your arms and have absolutely no idea what to do," Níelsson, who is an attorney by profession, furthermore said adding that this

⁶⁹ "Pólitíkin - Stokkað upp í ríkisstjórninni fljótlega", *Vísir.is* 20 December 2013. <http://www.visir.is/section/MEDIA99&fileid=CLP23314>

⁷⁰ "Á móti framsali valda", *Mbl.is* 21 February 2014. http://www.mbl.is/frettir/innlent/2014/02/21/moti_framsali_valda/

⁷¹ "Verður ekki lengra komist", *Mbl.is* 21 September 2016.

http://www.mbl.is/frettir/innlent/2016/09/21/verdur_ekki_lengra_komist/

⁷² "Vill endurskoða EES og Schengen", *Mbl.is* 11 October 2016. http://www.mbl.is/frettir/kosning/2016/10/11/vill_endurskoda_ees_og_schengen/

was simply a legislation that he and other lawmakers were supposed to pass. The entry ticket for the Single Market was getting very expensive, he said, referring to costly EU laws.

Níelsson was joined in the interview with Svandís Svavarsdóttir, MP for the Left Green Movement (Vinstrihreyfingin - grænt framboð) and Iceland's current Minister of Health, who agreed with him that Iceland's membership of the EEA Agreement was posing many problems. The EEA Agreement, she said, was a "huge package" and if people had known in the beginning how the agreement would clash with Iceland's constitution, referring to the articles declaring Iceland's sovereignty, as it had done they would have realised that it was going to put too much pressure on the country's fundamental laws.⁷³

The reality is that the EFTA/EEA countries are in a similar situation with the EEA Agreement as Britain has been for decades within the EU. Just like large numbers of British voters, who backed remaining in the EEC in 1975, thought they were simply joining a common market, many people in Norway and Iceland, including senior politicians at the time, simply did not foresee exactly how the EEA Agreement would develop in the future. They thought their countries were merely signing up to a comprehensive trade agreement. However, once a country has joined something like the EEA or the EU, and furthermore been part of it for many years where various interests have become accustomed to that reality, it's an effort to get out and make that right again.

What would EFTA/EEA mean for Britain?

The UK Government has repeatedly said that Britain will not be part of the EU's Single Market or its customs union after the country has left the bloc, which is expected to happen on 29 March 2019. Provided the Government will stick to that stance, that means continued membership of the EEA post Brexit (which would mean leaving the EEA and then becoming part of it again after rejoining EFTA) is out of the question. However, it is still a possibility that the ongoing negotiations on the future relationship between Britain and the EU after Brexit will have some elements similar to the EEA Agreement which could be just as harmful in the areas covered as the agreement itself.

Prime Minister Theresa May confirmed once again in her Florence speech at the end of September 2017 that Britain would not adopt the same relationship the EFTA/EEA countries have with the EU.⁷⁴ However, she also said her Government would pursue a temporary transition period of up to two years which would keep relations with the EU pretty much as they currently are. In turn, the Secretary of State for Exiting the European Union, David Davis, said in the wake of May's speech that Britain would not be under the jurisdiction of the ECJ during that transition period. What shape this proposed transition period will take, if it comes to that, thus remains to be seen.

Meanwhile the Labour Party's position on leaving both the Single Market and the customs union is highly uncertain, with rather mixed messages from the party on that issue. The Labour Party has,

⁷³ "Bítið - Brynjar Níelsson og Svandís Svavarsdóttir ræddu pólitíkina", Vísir.is 3 February 2014. <http://www.visir.is/section/MEDIA98&fileid=CLP24220>

⁷⁴ "PM's Florence speech: a new era of cooperation and partnership between the UK and the EU", Gov.uk 22 September 2017. <https://www.gov.uk/government/speeches/pms-florence-speech-a-new-era-of-cooperation-and-partnership-between-the-uk-and-the-eu>

however, spoken positively about a transition period along the lines of the EEA Agreement. Some of the party's leaders have even suggested that such arrangement could possibly become permanent. There have also been news reports of some Conservative MPs willing to side with Labour MPs in trying to keep Britain within the Single Market and possibly even the customs union.

What it would first of all mean for Britain to be a part of the EEA after leaving the EU is that the country would carry on being a subject to the EU integration process within the area covered by the EEA Agreement. The Single Market has been constantly expanding to new areas and will without doubt continue to do so. The accession of the United Kingdom, already EU-compliant, may even accelerate this unwelcome trend. The gains from that route are small. While it is certainly true that after leaving the EU Britain will again be independently represented in international bodies, which decide many world standards such as the World Trade Organisation which Brussels then must adopt, the biggest part of the EU legislation that the EFTA/EEA countries must implement is the gold-plated version produced by the EU itself.

What this would also mean is that the UK Britain would, instead of being in the EU, become a part of an arrangement that was designed to prepare countries for EU membership. This would mean the country would gradually become more re-entangled in EU bureaucracy and subject to the authority of EU institutions in the area covered by the EEA Agreement, mainly the European Commission and the ECJ. This indeed is probably the main explanation why people such as Michel Barnier and leading supporters of Britain remaining in the EU have spoken positively about that option. By comparison, remaining in the EU customs union in one way or another would keep Britain under even more authority from Brussels, and for quite obvious reasons make it not only difficult but entirely impossible to negotiate free trade agreements with other countries around the world.

Keeping Britain within the EEA during a transition period after 29 March 2019, something which Brexit secretary David Davis has dismissed as "the worst of possible worlds"⁷⁵, would in fact mean that the country would not leave the EU at that point. After all, in order to be in the EEA a country must either be a member of the EU or EFTA. The members of EFTA were not ready to allow their club being used merely as a mechanism to prepare countries to join the EU back in the 90s, and are thus highly unlikely to be willing to have it used in reverse.

However, even if the EFTA countries were ready to accept that their club would be used in this way, Britain would first have to formally leave the EEA and then join EFTA and all its free trade agreements according to the EFTA Convention. This would lead to special negotiations with the EFTA countries parallel with the ongoing talks with the EU, confirmation processes through the EFTA countries' parliaments, and after that negotiations on joining the EEA from the other side. This whole process could quite possibly take months and perhaps even a much longer time, and success cannot be guaranteed.

The primary risk that comes with a temporary transition period is that it will not be just temporary and will instead be repeatedly extended until it becomes a permanent arrangement. Or as the late Milton Friedman put it, "Nothing is so permanent as a temporary government programme." Consequently there would have to be a sunset clause constructed in a way that will make absolutely

⁷⁵ "Transition deal keeping UK in EEA is worst of all worlds, says David Davis", Theguardian.com 7 September 2017. <https://www.theguardian.com/politics/2017/sep/07/transitional-deal-that-keeps-uk-in-eea-is-worst-of-possible-worlds-says-davis>

certain this will not happen. What is also very important is to make sure if a transition period will become a reality that it will be a phased-out arrangement; in other words that the transition time is used from day one to progressively adjust Britain to its future outside the EU.

What the objective should be in the ongoing negotiations when it comes to a transition period, since that is what the British government is aiming for, is therefore an arrangement where Britain would shadow the necessary EU rules dealing with the Single Market from the outside for no more than a couple of years to facilitate trade between the two parties. This *ad hoc* arrangement quite obviously could be mutually very beneficial. It would allow the British government to start making changes to legislation across the board in order to tailor them to British interests while scrapping those rules that Britain can do without. The eventual goal should be that companies and individuals in Britain should only have to follow EU rules and standards when exporting goods or services to countries belonging to the bloc. But it would need to be an approach engaging with interested parties, undertaken with true ambition, and pushed with a sense of true urgency.

There have been some suggestions that Britain should accept the jurisdiction of the EFTA Court as an arbitrator over aspects of future relations with the EU. The uneven relationship between the EFTA Court and the ECJ has already been thoroughly discussed earlier in this paper. As a subject to the EFTA Court in one way or another, Britain would be at least indirectly under the authority of the ECJ. Using the EFTA Court as an arbitrating court would furthermore mean accepting authority from a court of which Britain would not be a member. This would mean that possible future disputes between Britain and the EU on how to enforce a Brexit agreement would be settled by judges from Norway, Iceland and Liechtenstein. It is naturally rather difficult to imagine that Britain would be willing to accept this kind of an arrangement, though it should be said that the principle is far from unheard of in diplomatic history.

There have also been suggestions, for example from President Emmanuel Macron of France, that Britain could have a place in a reformed EU should the country abandon Brexit. However, the reforms being suggested constitute what has been referred to as a "multi-speed" EU where member states participate in the integration process within the bloc at their own pace. In other words the idea is that the countries will all eventually end in the same place, just at a different speed. Macron's ideas of reforms include a eurozone finance minister, special eurozone parliament and budget, a "joint intervention force" as well as a common defence budget.⁷⁶ Similar ideas have repeatedly been aired by senior EU figures, not least the EU Commission President Jean-Claude Juncker.⁷⁷

What Britain might well profitably consider, however, is membership of EFTA. While joining EFTA - or rather rejoining the organisation, as Britain was one of the founding countries back in 1960 - would not be necessary to secure British interests, doing so could nevertheless have certain advantages. It is worth stressing it here that EFTA and the EEA are two very different things. Joining EFTA could possibly save time when it comes to negotiating free trade deals as it would mean access to the organisation's dozens of already concluded free trade agreements with countries all over the world.

⁷⁶ "Emmanuel Macron says Britain could return to 'reformed, simplified' EU", Telegraph.co.uk 26 September 2017. <http://www.telegraph.co.uk/news/2017/09/26/emmanuel-macron-says-britain-will-have-place-inreformed-simplified/>

⁷⁷ President Jean-Claude Juncker's State of the Union Address 2017", Europe.eu 13 September 2017. http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm

As stated in the EFTA Convention, new members must sign the organisation's existing joint free trade agreements.

While rejoining the EEA through EFTA would require not only the consent of the four EFTA members but also the EU, rejoining EFTA would for obvious reasons not need Brussels' approval as EFTA is an entirely different organisation. Both Iceland and Switzerland have responded positively to the idea that Britain should again become an EFTA member, while Norway has been more cautious both when it comes to EFTA and the EEA.^{78 79} The Norwegian government has mainly been concerned with its leading role within EFTA if a larger country such as Britain would join the organisation. However, the Norwegian government has softened its stance since its initial response after the EU referendum.⁸⁰

Through a renewed EFTA membership, Britain would not only get access to dozens of already made free trade agreements, which could then be further aligned to British interests through renegotiation, but also access to expertise and experience when it comes to negotiating free trade agreements. If Britain decided to join EFTA this would not interfere with the ongoing negotiations with the EU on a bespoke free trade deal, whether or not those talks will prove successful or not, as the EFTA countries do not have joint trade relations with the EU. This is why, as stated in the EEA Agreement, it is optional and not obligatory for new EFTA members to become part of the EEA.

Conclusion

There are only two ways for countries to be members of the EEA; either through membership of EFTA or the EU. Being member of the EEA Agreement as a third country is simply not possible. It is clear from the EEA Agreement and as people such as EFTA Court president Carl Baundenbacher and former EU legal chief Jean-Claude Piris have pointed out, that leaving the EU means leaving the EEA. Even if that weren't so, then being merely in the EEA would not be functional as large parts of it are linked to either EFTA or the EU.

However, in order to join the EEA through EFTA, the UK would have to first leave the EU formally, before being able to apply for membership of EFTA, and then join the EEA. This would require ratification by the EFTA countries and the remaining EU members, which could take quite some time. In the meantime Britain would have to use WTO rules while trading with the EU. Those who promote the EEA Agreement as a way to keep Britain from falling off a "cliff edge", which they say will happen if the country has to use WTO rules after leaving the EU, are therefore arguing a case which will in fact lead to that scenario.

Furthermore Britain would not be able to remain part of the EEA as a temporary transition after formally leaving the EU as this would require the country to remain in the EU as well. The EEA

⁷⁸"Iceland opens door for UK to join EFTA", Telegraph.co.uk 15 July 2017.

<http://www.telegraph.co.uk/business/2017/07/15/iceland-opens-door-uk-join-efta/>

⁷⁹"Swiss president says open to discussions on Britain joining EFTA", Reuters.com 21 November 2016.

<https://www.reuters.com/article/us-switzerland-britain-efta/swiss-president-says-open-to-discussions-on-britain-joining-efta-idUSKBN13G1SZ>

⁸⁰"Norway's PM softens stance on Britain joining EFTA", Reuters.com 18 August 2016. <https://uk.reuters.com/article/us-britain-eu-efta/norways-pm-softens-stance-on-britain-joining-efta-idUKKCN10T1E0>

Agreement was initially designed as a sort of a mechanism to prepare countries for joining the EU, but not the other way around. Should Britain rejoin the EEA through EFTA after leaving the EU it would mean participating in an arrangement which is still considered by those in favour of EU membership as a mechanism to get countries into the EU. The permanent political risks are obvious.

Rejoining the EEA from outside the EU would mean Britain would continue to be subject to free movement of people from the EU and have to unilaterally adopt a large number of EU laws. Furthermore Britain would in fact be under the jurisdiction of the ECJ through the EFTA Court. Regardless of any judicial dialogue between the two courts (which is not based on any reference to the EEA Agreement) it is quite clear according to various articles of the EEA Agreement that the ECJ is considered to be the senior court when it comes to the execution of the agreement.

Moreover the UK would continue to be a subject to the EU integration process in the areas which the EEA Agreement covers, which is constantly expanding to include more and more issues. The EEA Agreement is not a static deal, but one which could much rather be compared to an open cheque. Meanwhile the EEA Agreement is making it increasingly difficult to trade with other countries such as the US where different standards are being used. An agreement that had the declared aim of making trade with the EU easier is in other words making trade with others more difficult. This is something that does not happen in the case of regular comprehensive free trade agreements.

Rather obviously, it would therefore not be possible to fulfil the results of the 2016 EU referendum by continued membership of the EEA. Even the Norwegian people would prefer a comprehensive free trade agreement rather than the so-called 'Norway solution'. The issue is increasingly debated both in Norway and Iceland, where there are few if any who are genuinely content with the EEA Agreement. Should Britain rejoin the EEA through EFTA after leaving the EU, it would probably lead to continued disputes in the country on its relations with the EU, just as in those two EFTA/EEA countries.

While it is of course understandable that there might be a certain demand in Britain, not the least among politicians, for what might perhaps seem to be an easy way out of the EU, what is more important is to ensure that Brexit will be carried out in a way that will not create more problems in the future, and which will surely deliver what the majority of the British electorate voted for in the 2016 EU referendum. The EEA is most certainly not the way to address that.

About the author



Hjörtur J. Guðmundsson has studied Iceland's relations with the European Union for almost two decades of which the EEA Agreement is an important part. He has also studied international free trade for a number of years. He has written extensively on these subjects over the years, both for foreign but mainly domestic publications and websites as well as giving presentations both in Iceland and abroad.

Currently he works as a journalist and on various research projects but previous to that he was active in the conservative Independence Party (Sjálfstæðisflokkurinn) and among other things sat on the foreign affairs committees of both the party itself and its youth branch.

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