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The EU and Norway: a complex relationship

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The EEA Agreement was signed in 1992, and entered into force in 1994. Until now, EEA EFTA countries have been able to enjoy the benefits of the European Single Market whilst remaining outside of Brussels' ever-closer-union agenda.

The EEA Agreement does not cover the EU common agricultural and fisheries policies, the customs union, the common trade policy, the common foreign and security policy, justice and home affairs or the monetary union. However, Iceland, Liechtenstein and Norway have to comply with the body of EU law relevant to the four freedoms along with that pertinent to flanking policies, such as social policy, environment, consumer protection and competition.

Most importantly, the Customs Border between the EU and its neighbouring countries tends to function as both a bridge and as a barrier. Looking at the Norwegian-Swedish Customs Border, different kinds of duties, VAT rules, customs procedures and national technical rules are considered by businesses the greatest barrier to trade.

Introduction

On 29 March, the British Prime Minister Theresa May officially handed over to the EU Council President, Donald Tusk, the historic letter triggering Article 50 of the Treaty of Lisbon. This has marked the formal beginning of the UK's EU withdrawal negotiations. If, by the end of the two years' talks window, no agreement is reached or ratified, then EU treaties will cease to apply to the UK.

Leaving the EU without any agreement would mean for the UK to default to World Trade Organisation (WTO) rules. Among other things, a WTO arrangement would include establishing a customs border with the Republic of Ireland. At the same time, the UK's goods and services would also face the EU's common external tariffs (European Commission, 2017a).

It is for this reason that, despite the UK Government Brexit White Paper (UKGov, 2017), the idea of a future Norway-style deal is currently gaining interest. Such an agreement would imply the UK to firstly re-join the Economic Free Trade Association (EFTA), an association of which it was a founding member from 1960 to 1973, and then to re-enter or remain in the European Economic Area (EEA), a club currently formed by all EU Member States plus Iceland, Liechtenstein and Norway.

Norway is the EU 5th most important import partner and the 7th export market. EU Member States capture 74.3% of Norway total trade. (European Commission, 2017b). Currently, Norway is the second largest supplier of EU imports of crude oil and natural gas (Eurostat, 2016).

Norway: Complying with several EU rules whilst forging its own trade agreements

Norway has been part of the European Economic Area since the entry into force of the so-called EEA agreement in 1994. This international deal has enabled the country to participate fully in the European Single Market and to develop strong economic links with EU Member States without being a member of the EU (EFTA, 2017).

As a member of the EEA, Norway fully applies the *acquis communautaire* of the Union. In other words, Norway has to comply with the body of EU law relevant to the four freedoms along with that pertinent to flanking policies (i.e: transport, competition, social policy, consumer protection, environment, statistics and company law) (European Commission, 2017b). However, the EEA Agreement does not cover EU policies such as the Common Agricultural policy (CAP) and the Common Fisheries Policy (CFP); the customs union; the common trade policy; the common foreign and security policy; justice and home affairs; direct and indirect taxation; or economic and monetary union (EFTA, 2017). EEA countries are part of the Schengen Area (although they do not have to be: this is a political choice) and they deal with the European Court of Justice through the EFTA Court (Baudenbacher, 2015).

Interestingly, as an EFTA member, Norway can freely conclude bilateral or multilateral trade agreements under the so-called EFTA framework (EPRS, 2016). This means that Norway can negotiate FTAs with respective third countries, either on its own or via EFTA, without being part of the EU common commercial policy. This special arrangement has enabled the country to retain very close ties with its EU neighbours and to profit from global opportunities (Norwegian Ministry of Foreign Affairs, 2015). In fact, as of today, Norway has FTA deals with 16 countries and is currently negotiating several others, with countries such as Algeria, Colombia, Peru, Thailand, the Gulf Cooperation Council and China (Government Norway, 2009; EPRS, 2016).

The Swedish-Norwegian customs border

Since 1 January 2013 Norway has been applying new ad valorem duties on imports of certain types of cheese, sheep and beef meat, resulting in sharp increases to respectively 277%, 429%, and 344%. This move was preceded by a new 72% import duty on Hortensia flowers in September 2012 (European Parliament, 2013).

Even though Norway and Sweden are both members of the Schengen Area, the EEA Agreement does not imply any limitation of Swedish customs' authorities to carry out controls in connection with border crossing for exports to or imports from Norway (National Board of Trade Sweden, 2017). The same applies to the Norwegian customs authorities. These controls are due to rules of origin.

On top of this, the Norwegian government's recent increase of some ad valorem duties on specific imported products have caused complains on the Swedish side of the customs border (Financial Times, 2016). In particular, Swedish businesses have argued that trading with Norway is currently very difficult, when compared to Denmark and Finland. This is mainly due to different kinds of duties, customs procedures, national technical rules, barriers to e-commerce and VAT rules (National Board of Trade Sweden, 2013).

As research from Nordregio (2015) emphasise, the border between the EU and its neighbouring countries tends to function as both a bridge and as a barrier. In some ways, the customs border encourages cross-border-connections; in other ways, it obstructs them. A good example of current trading difficulties between Norway and Sweden comes from e-commerce. Over the last few decades the internet has created new opportunities for international trade. However, due to customs barriers, many Norwegian and Swedish companies, particularly those in the retail sector, have suggested that tariffs and duties represent the greatest barrier to cross-border e-commerce (National Board of Trade Sweden, 2012). These problems do not exist within the European Union, which is a free-trade area. However, due to country-of-origin checks complications, the price of products sold by Norwegian and Swedish e-traders has increased, reducing firms' competitiveness (National Board of Trade Sweden, 2012).

The managing of the EEA Agreement

405 EU acts were incorporated into the EEA Agreement in 2016. The acts cover a wide range of topics, from lower roaming tariffs to public procurement rules; from aviation security to rules that improve consumer trust in cross-border and online trade within the EEA (EFTA, 2016).

In order to manage the complex relationship between EEA EFTA States and the EU, a set of joint bodies was created. This was complemented by the establishment of a two-pillar system to ensure the homogeneity of the EEA in practice, with the EU institutions in one pillar and dedicated EFTA bodies created for the EEA constituting a second pillar (Frommelt, 2016).

As of early 2015 more than 10,000 legal acts have been incorporated into the EEA Agreement. Moreover, the creation of the EFTA Surveillance Authority (ESA) and the EFTA Court have been key at ensuring the scrutiny, implementation and application of EEA law in the EEA EFTA States (EFTA bulletin, 2015). Yet, due to the increasing influence of Brussels, the willingness to strengthen Euro-Area mechanisms and the deepening of the internal market, the importance of EEA EFTA participation in expert groups assisting the Commission has decreased in recent years (EFTA bulletin, 2015).

Formally, Norway is freer than EU Member States and it has, to some extent, been able to choose in which policy areas it does and does not want to participate in EU policies. However, over the years, Norway has adopted roughly 75% of EU legislation compared to those Member States that participate in every single policy issue (Government Norway, 2012). Nonetheless, it is important to mention that this figure has been heavily disputed. Furthermore, in order to have direct access to the Single Market, Norway has also agreed to provide funding to reduce social and economic disparities in the EEA. For the current funding period (2014-2020), Iceland, Liechtenstein and Norway have agreed to allocate a total of €2.8 billion to the EEA Grants (EEA Grants, 2017).

Conclusion

Compared to EU membership, the EEA Agreement has given Norway the flexibility to fully enjoy the benefits of the European Single market whilst remaining outside of Brussels' ever-closer-union agenda. Among other things, Norway can freely negotiate FTAs with third countries and EU rules do not cover important economic areas, such as agriculture, fishing, taxation and security.

Nevertheless, two of the most significant negative aspects of the current EU-EEA relationship are associated to the decreasing influence of EEA EFTA countries in shaping Brussels' decision making process and the EU-EEA Customs Border. Looking at the Norwegian-Swedish Customs Border, different kinds of duties, VAT rules, customs procedures and national technical rules are considered by businesses the greatest barrier to trade.

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