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After the UK's EU referendum: redefining relations between the "two Europes"

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Abstract: Following the referendum on its EU membership, the UK has brusquely leapt into the unknown. The vote in favour of leaving the EU will probably entail protracted negotiations over the terms of the separation and of the UK's future relations with the European Union. In this context, a rationalisation and clarification of various levels of integration is needed, in particular regarding the relations between the "two Europes", i.e. the euro zone and the single market.

The positions expressed after the referendum result provide some indication on the future terms of negotiation. On the one hand in the UK, a major part of the political class (including within the Conservative Party) and the economic-financial sector want to continue enjoying the benefits of the internal market. On the other hand, the European in EU27 composition indicated that access to the single market would necessarily mean accepting each of the four freedoms. This raises two issues for the supporters of "Leave" in the UK: first, accepting the freedom movement of people is seen as problematic given the importance placed on immigration in the campaign; second,, the acceptance of the rules of the internal market without taking part in the decision-making process would further reduce British democratic control over European decisions, thereby eroding the sovereignty that they wished to recover. Some observers deduce from this that the UK will finally reconsider the referendum result. Others believe that the next British government might relinquish full access to the internal market in order to honour the campaign promises made by the "Leave" camp as far as immigration and sovereignty are concerned.

It is however possible, and even probable, that the next British government will explore all of the options that could allow it to find a solution to what appears to be an impossibility theorem. Most of the Member States will also be interested, for various reasons, both economic and politico-strategic, to keep the UK involved as closely as possible with the European Union.

Although the options of the European Economic Area (EEA) and the Swiss model do not appear to offer a solution for the British dilemma as matters stand right now, the UK could explore the opportunity to revise the EEA rules so that the non-EU members of the latter have a right to vote (like Norway, for example) on policies in which they participate, notably those involving the single market. In this scenario the UK would continue to participate in the internal market and apply the corresponding rules. It would have to contribute to the EU's budget, but only for certain policies. Finally freedom of movement would continue to apply but the EEA Agreement provides safeguard mechanisms that can be activated unilaterally.

This type of scenario, although hypothetical of course, might eventually lead to the realignment of the Economic and Monetary Union (EMU) with the European Union, whilst the EEA would offer an institutional framework for the single market. From this standpoint the integration of the euro zone would not be obliged to create ad hoc structures. This type of arrangement might also offer an alternative to candidate countries, which could opt to enter the EEA rather than the EU. A modification of the EEA Agreement would therefore allow to settle several difficulties facing the EU at present, whilst providing welcome clarification for citizens, as well as economic and financial actors alike.

1. This text takes up and develops thoughts set out in « The Future of Europe », European Issue, n°393, Robert Schuman Foundation, May 2016 - <http://www.robert-schuman.eu/en/doc/questions-d-europe/qe-393-en.pdf>

The points of view expressed are strictly those of the authors.

INTRODUCTION

On 23rd June 2016 a majority of British citizens chose for their country to leave the European Union. Following this decision, one thing is certain: Brexit is bad for the Union. Beyond the economic, political and strategic amputation that this represents for the EU, the programmed exit of the UK is symbolic of disunion, in a context in which the Union and its States absolutely need unity and cohesion if they are to rise to the multiple crises that are now affecting it. It potentially changes the future of European integration since it creates a precedent of political "dis-integration"² in an unprecedented regional experiment and will be used by eurosceptics in some Member States: in the Netherlands for example some tabloids are already suggesting the organisation of a referendum over EU membership and the neologism "Frexit", in reference to Brexit has made its entry into French public debate. In addition to this the Brexit will definitely change the balance of power within the EU notably vis-à-vis Germany and France.

Moreover with the referendum outcome the UK has brusquely leapt into the unknown. The vote in favour of leaving the EU will probably entail protracted negotiations over the terms of the separation and of the UK's future relations with the European Union³. In this situation the governments of Europe are now caught between two contradictory priorities: avoiding making the UK an offer of an alternative to EU membership too quickly, to prevent the feeling that it is easy to leave thereby creating a precedent: and at the same time they have to find a solution and settlement for both political and economic reasons, to overcome uncertainty and long negotiations that will evidently result from this decision. Looking forwards, the time has however come to rethink the European architecture because the Brexit, just like the consecutive crises before it, make it vital to rationalise and clarify the different levels of integration in Europe.

1. THE LIMITS OF THE EXISTING MODELS. IS THERE A SOLUTION?

Basically the Brexit will lead to rethinking the manner in which the "two Europes", i.e. the euro zone and the single market, will work together.

We know what the various existing models are⁴: the "Norwegian" model, in which the UK would join the European Economic Area (EEA); the "Swiss" option with the negotiation of bilateral agreements between the UK and the European Union; the negotiation of a free-trade agreement or an association agreement; the negotiation of a customs union with the EU (Turkish model). But none of these various options is deemed totally satisfactory by the British government⁵ since the UK would certainly continue to take part in the internal market but would lose the greater share of its ability to influence the rules, as it would no longer be taking part in the vote for their approval.

Debate has to be started with the UK and in other European States regarding the shape of the new relationship between the UK and the EU. It is significant that there was no agreement amongst those who supported the "Leave" campaign over this, and a major part of the British political class want to protect the UK's access to the internal market. However it is not impossible that Parliament (or the British themselves if the question of the exit terms from the Union were to be submitted to a democratic vote during a referendum or early elections) would be against an exit from the EU that involved a total break from the internal market.

Although the options of the European Economic Area (EEA) and the Swiss model do not seem possible for the UK as matters stand right now, the UK could explore the opportunity to revise the EEA rules so that the non-EU members of the latter (like Norway, for example) have a right to vote regarding policies in which they participate, notably those involving the single market.⁶ This would provide answers to a certain number of questions and enable a deepening of the euro zone as well as a realignment of the two main levels of integration i.e. participation in the single market and participation in Economic and Monetary Union (EMU).

2. Cf. Douglas Webber, 'How likely is it that the European Union will disintegrate? A critical analysis of competing theoretical perspectives', *European Journal of International Relations*, 20(2), 2014, pp. 341-365; Douglas Webber, *European Disintegration? The European Union in Crisis* (Basingstoke: Palgrave Macmillan, forthcoming 2017).

3. Treaty on the European Union, art. 50.

4. Jean-Claude Piris, "Brexit or Britin : is it really colder on the outside?", *European Issue*, n°355, Robert Schuman Foundation, October 2015 <http://www.robert-schuman.eu/fr/doc/questions-d-europe/qe-355-bis-fr.pdf>

5. Alternatives to membership: possible models for the United Kingdom outside the European Union, HM Government, March 2016 - <https://www.gov.uk/government/publications/alternatives-to-membership-possible-models-for-the-united-kingdom-outside-the-european-union>

6. Thierry Chopin and Jean-François Jamet, "David Cameron's European Dilemma", *Project Syndicate*, 18 January 2013 ; and also T. Chopin "Two Europes", in *Europe in search of a new Settlement. EU-UK Relations and the Politics of Integration*, Policy Network, London, 2013.

2. REFORMING THE EUROPEAN ECONOMIC AREA AND REALIGNING THE EURO ZONE WITH THE EUROPEAN UNION

Beyond discourse about a multi-tiered Europe the present situation is unsatisfactory to all of the States involved. The EEA States which do not belong to the EU have to apply the rules of the internal market, but they do not take part in voting (even though they can give an opinion). Conversely, the UK preferred, until the referendum, to be in the EU to take part in the different decisions affecting the internal market but it complained that this meant taking part in policies (and their financing) such as the common agricultural policy. Separately, Member States that have an obligation to join the euro zone have indicated that they want to have their say in the decision making process and the implementation of the EMU rules in the knowledge that they might one day apply to them also. Finally the 19 euro zone members would like to be able to use the European institutions for the functioning of EMU but would prefer to avoid the intrusion in its functioning of States that do not participate or intend to join.

In the interest of clarification one possibility would comprise the realignment of the institutions with the various levels of integration and with the political choices of the European States. To do this the possible solution would be to turn the EEA into the relevant institutional framework for the management of the internal market and to realign the European Union with the EMU and countries that are destined to join it.

The EEA Agreement signed on 2nd May 1992 enabled the enlargement of the EU's single market to the Member States of the European Free Trade Association (EFTA), except for Switzerland, which did not ratify the agreement. It brings together therefore the Member States of the Union as well as Norway, Iceland and Liechtenstein. Although they do not belong to the EU, these States enjoy the advantages of the free movement of goods, people, services and capital. In exchange they have to apply the corresponding rules (the community *acquis*) except those which affect tax, agriculture and fisheries policies, as well as the trade policy in regard of third countries. They are also able to take part in certain EU programmes (as is already the case in the area of research, education and

cohesion) as long as they contribute to their financing pro rata to their GDP.

The British referendum provided the chance for debate in the UK over the opportunity for the country to leave the EU, whilst remaining in the EEA, thereby achieving a status similar to that of Norway. However critics of this idea have stressed that the UK would lose a major part of its capacity to influence the rules of the internal market and that it would no longer take part in the approval of these.

The inability of the EEA States to take part in the vote over the internal market rules is incidentally a problem from a democratic point of view. This could be remedied by amending part 7 of the EEA Agreement that is devoted to institutional measures. The Council of the EEA⁷ would therefore become the competent Council (instead of the Council of the European Union) in the co-decision making process regarding legislative proposals (directives and regulations) governing the internal market. Participation in co-decision might also be extended to the Union's programmes in which the non-EU EEA States have chosen to participate (for example in R&D). Similarly it might be possible for the mixed EEA parliamentary committee to be transformed to include all Union parliamentarians and "European Members of Parliament" appointed by the non-EU EEA States⁸. This parliamentary committee would meet in Brussels and have the competence to take part in co-decision in the same way as the EEA Council.

3. A SOLUTION WITH MANY ADVANTAGES

This arrangement might destabilise the rest of the EU, since this kind of status might tempt other Member States. On the other hand, the time has come to open up debate over what the Member States of the EU really want: which ones would be tempted by the British example? Which ones want to maintain the present status quo? Which ones want to continue the economic integration of the euro zone and provide it with a political dimension including in regalian areas?

From this standpoint changes like this would help clarify the choice for States of Europe.

Firstly, for the States which want to take advantage of the internal market above all, without taking part in all of the other aspects of integration. It is highly likely that the UK would be

7. The EEA Council comprises for the time being the members of the EU Council, members of the governments of the EEA states who are not EU members as well as representatives of the European Commission. To adopt a similar structure to that of the Council of the EU, only Member States ministers sitting in the EEA Council would be necessary.

8. Given the British distrust of the European Parliament, British MEPs taking part in the mixed EEA parliamentary committee might come from (and be appointed by) the British Parliament.

tempted to join the EEA. This kind of arrangement would be advantageous to the UK in that it would offer it a compromise, thereby avoiding a brutal break from the EU and also provide a solution to the Scottish and Northern Irish questions. The UK would continue to participate in the internal market and apply the corresponding rules, which it would continue to help define. Of course it would have to contribute to the EU budget but only in certain policy areas (the UK would no longer take part for example in the common agricultural policy). Finally the freedom of movement would continue to apply but the EEA Agreement provides safeguard mechanisms that can be activated unilaterally⁹.

Then the use of the EU's institutions will be facilitated for the other Member States in terms of the management of the EMU, without them having to resort to legal contortionism. It would then become clear that all EU Member States (except for Denmark, which is exempted but which has pegged its currency to the euro by guaranteeing a tight fluctuation band of the Danish Crown vis-à-vis the single currency) can join the EMU (as it was planned for in the treaties¹⁰). It would also be clear that they would all have to participate in the EMU's economic governance rules, in terms of supervision (macroeconomic, banking and fiscal) and also in the future establishment of common fiscal tools. The European Union might also move forward more easily along the path to political union without necessarily having to create ad hoc structures for the euro zone.

Finally for candidate countries this situation would offer an alternative solution to full participation in the EU, thereby guaranteeing that the political choice to join the EU is fully

embraced. It could indeed choose then between EEA or EU membership, thereby clarifying the terms of their own choice.

This type of scenario might ultimately lead to the realignment of the EMU with the European Union, whilst the EEA would offer an institutional framework for the single market. From this standpoint it would not be as necessary to create ad hoc structures for the integration of the euro zone. It might also offer an alternative to the candidate States which would choose to enter the EEA rather than the EU. This scenario is of course hypothetical, but it suggests that fundamentally the Brexit could lead to redesigning the way the "two Europes" i.e. the euro zone and the single market, might function together. By modifying the EEA agreement it would be possible to solve several of the problems faced by the EU as present, whilst providing welcome clarification for citizens as well as economic and financial actors. Debate over the choice between "two Europes" within national public opinion would then be facilitated.

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9. Article 112 of the EEA Agreement.

10. 26 Member States are committed to adopting the single currency when they fulfil the necessary requirements in virtue of article 3.4 of the treaty - only two States, Denmark and the UK are exempted but these are two exceptions and not the rule

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