5 TRANSFORMING THE UK'S RELATIONSHIP WITH THE EU: THE LEGAL FRAMEWORK[1]

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How to transform our relationship with the EU

Transforming the UK's relationship with the EU can come about, at least in theory, in two ways. Either the terms of our existing membership could be changed, while we still remain a member state; or we can cease to be a member state of the EU but relate to it under an external treaty.

Our relationship with the EU is governed by law, economics and, of course, by politics. As I am a lawyer, my contribution seeks to explain the practical consequences of treaty law and practice on the process of undertaking a transformation of our relationship with the EU, and on the practicalities from a legal and treaty point of view of some different possible models of re-negotiated relationships. It is only by understanding what can realistically be done – and how it can be done – as a matter of EU law and under the European and international treaty framework that it is possible to choose and work towards the best political and economic solutions.

Before returning to the content and strategy of renegotiation from within EU membership, I shall look first and in detail at the mechanism for UK withdrawal from the EU and how it would work out if it were implemented.

1 This contribution is based on Howe (2014).

How UK withdrawal from the EU would work

There is a great deal of ignorance, misunderstanding, misinformation and, indeed, in some quarters, outright hysteria about this subject. But it is not possible to have any form of rational discussion about the costs and benefits of EU membership without having a clear idea about how the UK would operate outside the EU, both vis-à-vis the world at large and vis-à-vis the EU. In order to appreciate the likely scenarios, it is necessary to understand the mechanics of the process by which the UK would get from A to B.

The withdrawal process under Article 50 TEU

First, the actual exit of the UK from the EU is straightforward in legal terms. The Lisbon Treaty provides a clear and unconditional right for any member state to withdraw from the EU.

Under Article 50[2] of the TEU (which was inserted by the Treaty of Lisbon), the State concerned notifies the European Council of its intention to withdraw. Negotiations then take place on an agreement covering the arrangements for withdrawal. It is envisaged that the agreement will cover transitional arrangements and the future relationship of the withdrawing State with the EU. That relationship might, for example, consist of a free-trade association agreement.

But Article 50 is clear that, even if such an agreement is not reached, the State will cease to be bound by the treaties, and in consequence its EU membership will cease, two years[3] after the date of notification. Thus *it is not possible for the other EU members to block withdrawal or to delay it for longer than the two-year period.*

2 For the treaty text see http://eur-lex.europa.eu/collection/eu-law/treaties.html (accessed 14 September 2015).

3 Unless extended by *mutual* consent.

Although Article 50 contemplates that the two-year period will be used to negotiate an agreement on transitional and continuing arrangements, it does not mandate what form such an agreement will take. There is no guarantee that the terms offered will be palatable or even acceptable to the UK. Therefore, *if the UK takes this course, it should be prepared to contemplate a scenario in which it leaves the EU and there is no agreement in place*. In fact, the UK has a strong hand to negotiate a mutually beneficial free-trading relationship, but in order to achieve that objective it would be necessary for it to be prepared to walk away with no agreement if necessary.

In this scenario, the absence of an agreement on the *transitional* (as opposed to continuing) arrangements would be messy but would not be a vast problem. The transitional arrangements would to a large extent be dealt with under domestic law, principally by amendments to the European Communities Act 1972.

Of more significance would be the absence of an agreement covering our future trading relationship with the remaining EU. This would mean that trade between us and other EU members would revert to the multilateral WTO framework. In particular, tariffs on trade in goods would be reintroduced.[4]

The other 'freedoms' of the EU single market would also cease to apply, namely free movement of services, capital and persons. In theory, the UK would be free to require the large EU migrant worker population here to return home, and EU states could require British citizens to leave, although it seems unlikely that either side would want to take the drastic step of expelling established residents.

Because the negotiation and conclusion of an agreement with the EU would be time consuming and the outcome of negotiations

4 I have heard it suggested in some quarters either that the UK would retain its membership of the European Economic Area (EEA) after EU exit or that it would revert to the European Free Trade Area (EFTA) membership it enjoyed before joining the EEC in 1973. Both of these are misconceptions without any legal foundation.

might be uncertain up to the last minute of the two-year period under Article 50, in practice it would be necessary for the UK to be getting on with other aspects of the withdrawal process on a unilateral basis, and to be setting up alternative international and regional treaty arrangements that do not involve the EU or require its consent.

Amending UK domestic law in preparation for withdrawal

After over 40 years of membership, there is a vast existing body of laws within the UK that either directly stem from the EU, or were passed because of EU obligations, or at least are affected by the EU.

First, there are directly applicable EU laws – EU regulations and parts of the EU treaties – that form part of the internal law of the UK, via the gateway of Section 2(1) of the European Communities Act 1972. These would all automatically lapse and cease to be part of the law as from the date of withdrawal. However, in many instances it would not be acceptable to leave a vacuum in the law, and it would be necessary to have a new domestic law in place to cover the subject matter.[5]

Second, there are many Acts of Parliament that implement EU directives or other obligations. These would need to be repealed, kept in force or amended, on a case-by-case basis – it would not be possible to deal with them all with a single global rule.

Third, numerous UK regulations have been made under Section 2(2) of the European Communities Act 1972 in order to implement directives. Many of these regulations amend Acts of Parliament under the sweeping 'Henry VIII' powers[6] of Section 2(2).

5 For example, it would not be acceptable to have a vacuum in the law on the licensing of medicines if the UK ceases to be covered by Regulation (EC) No 726/2004 on the authorisation and supervision of medicinal products by the European Medicines Agency.

6 This is a power that gives ministers the right to repeal or amend Acts of Parliament. It is named a 'Henry VIII' power after the Statute of Proclamations 1539, which gave that King power to legislate by proclamation without recourse to Parliament.

These could not just be allowed to lapse automatically on exit. It would be necessary to go through them and decide to revoke, keep or amend them, case by case.

Reviewing these three categories of EU laws and deciding what if anything to put in their place would be a major exercise and would have to be carried out rapidly. The best solution would be simply to press into service the existing regulation-making power under Section 2(2) of the 1972 Act. This could be done by extending it to authorise existing Acts and regulations that implement EU obligations to be repealed in an orderly way, and replaced or amended as appropriate to reflect the new external trade environment of the UK.

Thus, these sweeping 'Henry VIII' powers, which have been used so effectively to implement the incoming tide of EU law, would be used rapidly to unravel EU law. The advantage of using this existing well-oiled machinery would be that there is an existing system for making these regulations by the appropriate government department, or by the devolved legislatures where the regulations fall within devolved areas of law.[7]

There are further changes to UK law that would be essential or at least desirable. The Section 2(2) power should also be extended to allow EU laws to be disapplied within the UK in advance of exit if this proves necessary: for example, if there were an attempt to impose damaging or discriminatory measures during the two-year transition period, or where it is advantageous to dismantle EU regulations before actual exit.

It would be important to clarify the legal position on exit. The ECJ or EU institutions might argue that they should still have power after exit to take decisions or adjudicate on matters that happened before exit, for example, by giving judgement after exit on ECJ cases that are still pending at the date of exit. Article 50,

7 It would also be necessary to review areas of competence returned by the EU on exit and decide whether those areas of competence should be exercised by Westminster or outside England by the devolved legislatures.

unlike some other treaty withdrawal clauses,[8] does not provide for any continuing right of the ECJ or other institutions to adjudicate on matters that happened before withdrawal. It would be wholly unacceptable if this were to occur, so the 1972 Act should be amended to ensure that acts of the EU institutions taking place after withdrawal are accorded no legal recognition in the UK.

Since there might well be disagreement over the UK's final years' membership subscription (the budget contribution and 'own resources' payments), it would also be prudent to repeal with immediate effect Section 2(3) of the 1972 Act, which provides for the payment of these sums by officials without the authority of Parliament.

The task of amending UK domestic law in preparation for exit is substantial but achievable, given the two-year period for the necessary work to be carried out. It should also be viewed positively in terms of what can be achieved.

In the process of review of UK law, priority should be given to reforming or sweeping away EU-based laws that interfere with the competitiveness and efficiency of the UK economy. Obvious candidates for scrapping are the Working Time and Agency Workers' Directives, and sex equality workplace laws should be reformed to reverse some of the stranger ECJ rulings.

Reforming financial services regulation would also be a priority, in view of the recent torrent of EU regulatory actions, many of which are felt to be ill-conceived or damaging. Environmental laws should be extensively reformed to eliminate obligations imposed by EU directives that involve high costs with little environmental benefit.

Freed from harmonising directives, significant reforms could be made to intellectual property laws to extend exemptions, to

8 For example, Article 58(2) of the European Convention on Human Rights provides that the Convention continues to apply to withdrawing states in relation to acts taking place before withdrawal.

restrict scope and terms of protection that confer no economic benefits, and to simplify areas of the law that are unnecessarily complex[9] thanks to EU interventions. The EU's insistence that rights owners should be allowed to prevent 'parallel imports' of their own goods from outside the EU could be ended with enormous economic benefits.[10]

Once freed from the CAP, as a net food-importing nation, the UK could dismantle the protectionist barriers that keep food prices in the UK higher than world market prices. The UK would regain control over fishing rights off its coast up to international limits, and would need to replace the Common Fisheries Policy (CFP) with a sensible conservation-based national fisheries policy.

The UK would regain control of migration from other EU states. EU citizens who are settled and productively working here should not be put in fear of being sent home, nor would we wish to damage our economy by excluding highly paid or highly skilled workers, such as French bankers in the City. But the inflow of low-skilled workers could be restricted in the same way as it is from non-member states, and much firmer measures could be taken against benefit or health tourists. The UK would certainly want to take more robust measures than are now permitted by EU law to exclude or remove persons engaged in criminal activities.

International agreements

The UK's external relations now involve many matters in which we have arrangements with other EU members, or arrangements

9 For example, the law of designs where EU interventions now mean that there are no less than five different legal rights that apply to the design of goods.

10 Case C-415/99 *Levi Strauss & Co versus Tesco Stores*, where the ECJ ruled that Tesco infringed Levi Strauss's trade mark in the UK by buying genuine Levi Strauss jeans in North America and importing them. The effect of such restrictions is that multinational companies can milk the UK consumer for higher prices than they sell identical goods for in other markets.

with non-EU countries, which are conducted partly or wholly through the EU. For example, in tariff matters, agreements are concluded under the EU's common commercial policy between the EU itself and non-member states. In these cases, upon exit the UK would cease to be part of such agreements and would need to renegotiate any replacement arrangement with the counterparty states concerned.

Many other treaties, however, fall within areas of 'mixed competence' and are concluded both by the member states and by the EU. The most important examples of this category are the WTO Agreements.[11] Under such treaties, the EU and the member states are responsible vis-à-vis non-member states for matters within their respective competences. But if the EU competence disappears on exit, the UK will automatically take on the treaty rights and obligations across the board. The basic categories of agreements are the following.

- International agreements, where the UK's status is unaffected by EU exit, e.g. UN membership and Security Council membership under the UN Charter. We would simply continue as members, but freed of obligations to act in 'solidarity' with EU member states under the Common Foreign and Security Policy.
- Mixed competence agreements, where both the UK and the EU are parties. Under such agreements, the EU is responsible to third states for matters falling within its competence, and the UK is responsible vis-à-vis third states for matters outside EU competence. Such agreements will continue on exit, and the UK's competence will simply expand when EU competence disappears. The most important agreements in this category are the WTO Agreements, including GATT.

11 The ECJ ruled on the status of the WTO Agreements in Opinion 3/94 *Re: the Uruguay Round Trade Agreements*.

- International agreements with third states, where only the EU is party, or where member states are also parties *but in their capacity as such*. This category includes not only agreements with third states under the EU Common Foreign and Security Policy, but also numerous trade and association agreements, including the EEA Agreement. The UK would cease to be a party to these agreements on EU exit, so it would need to review them and consider whether to enter into replacement arrangements.

The general review of the UK's external relations would identify many instances where, after EU exit, international arrangements would automatically slot into place to replace existing EU arrangements. For example, the UK would cease to be part of the European Arrest Warrant system, but the European Convention on Extradition (a Council of Europe Convention covering both EU and other states) would then automatically govern extradition arrangements between the UK and the EU states, who are all members of the Convention.

In the field of intellectual property, the UK would remain a member of the European system for centralised examination and granting of patents, since this comes under the European Patent Convention, which is not an EU treaty. Nor does the UK need to be a member of the EU for British-based rights holders to exercise rights within the EU, since non-discriminatory protection must be given under TRIPs[12] and other international agreements.

Even where there is no automatic replacement, there are many existing international or European regional[13] conventions that

12 The Agreement on Trade-Related Aspects of Intellectual Property, one of the WTO Agreements.

13 Particularly the numerous conventions on many subject matters which are open to signature by members of the Council of Europe. Exit from the EU would not affect the UK's membership of the Council of Europe which is a wider body with currently 47 member states.

cover similar subject matter to EU arrangements. For example, the Lugano Convention on the mutual recognition and enforcement of judgements in civil and commercial matters is open to non-EU states. It has similar rules to the Brussels Regulation, which applies as between EU members.

In many instances, arrangements that are presently conducted through the EU could be replaced by satisfactory non-EU international arrangements, in which case there is no merit in involving the EU further. The UK needs to sort out its wider international relationships first, before negotiating with the EU. But, where special arrangements with the EU would be of significant benefit, these should be added to the agenda of the negotiations with the EU.

International trade relations

Before turning to the question of trade relations with the EU after exit, it is worth considering trade relations with the wider world. The majority of the UK's exports are now to non-EU countries, and these exports are rising at a faster rate, so the EU's share of our exports is continuously falling.

The UK was a founder member of the European Free Trade Association (EFTA) until it joined the EEC in 1973. The free-trade relationship between the UK and the EFTA states was preserved, and indeed extended to the rest of the EEC, under agreements between those states and the EEC. The UK's membership of EFTA ceased in 1973, but there seems no reason why the current EFTA states (Switzerland, Norway, Iceland and Liechtenstein) should not welcome the UK back to EFTA in order to preserve the UK's existing free-trade relations with them.

By joining EFTA, the UK would not only secure the continuation of free-trade arrangements between itself and the four EFTA states, but would also be able to join in with EFTA's free-trade arrangements with third countries. There has been much

misleading recent propaganda to the effect that it is necessary to be a member of a big trade bloc such as the EU in order to negotiate free-trade arrangements with other countries. This is the reverse of the truth. EFTA has been notably more successful than the EU in negotiating free-trade agreements largely because (unlike the EU) it is not hampered by unreasonable protectionist demands from some of its members.[14] By this means, there is every reason to believe that the UK could secure rapid access to a wider range of free-trade arrangements with third countries than is possible for it as an EU member.

Post-exit trade relations with the EU

A key objective of the UK would be to secure continued access for exports to the EU market without tariffs on goods and without increased non-tariff barriers on goods and services. Any such arrangement would, of course, be mutual and so provide corresponding benefits for the EU.

The UK's exports of goods to the rest of the EU in 2012 were £147.7 billion; however, the EU's goods exports to the UK for the same period were £226.5 billion.[15] Although the balance of trade in services is not quite so dramatically one-sided, EU exporters would benefit markedly more than UK exporters from continued free trade arrangements. On any rational appraisal of the strength of its bargaining position, the UK should be able to use its position as the EU's major buyer of export goods to negotiate both continued free trade in goods and continued unhindered access to important service sectors, most notably financial services.

14 Such as the French desire to shield its film industry from international competition, or unreasonable protectionist demands and fears rather hysterically articulated within the European Parliament, which are holding up the TTIP agreement between the EU and US.

15 Source: Office for National Statistics *Pink Book*.

The financial services aspect of such negotiations would be very important. Under our existing EU membership, we suffer from the problem that unwelcome directives and regulations can be imposed on the City under QMV by a majority of member states, who may be either indifferent to or actually hostile toward the interests of the City. For example, the euro zone states acting together can drive through measures against the UK's opposition. The government is currently seeking to address this issue as part of its renegotiation exercise by way of seeking an interpretative agreement aimed at strengthening the position of non-euro-zone states. How successful this renegotiation exercise will prove in this regard will need careful evaluation of the terms agreed.

The starting point of an external negotiation with the EU would be that the City would escape from this kind of regulatory interference from the EU or euro zone with regard to UK-based transactions and the export of financial services around the world. However, it clearly would be beneficial to negotiate mutual access of financial services between the EU and UK on a basis that respects the UK's regulatory independence. Any attempt to make access to the EU market dependent upon mirroring EU regulatory regimes should be firmly rejected. Given the huge disparity in exports of goods noted above, the UK is in a strong position to negotiate good terms for access for its financial services into the EU market as a condition for allowing continued tariff-free access for the EU's exports of goods into the UK market.

Possible models for trade relations with the EU after exit

The above represent basic or core terms that it is likely the UK would seek to negotiate after exit, and which, on the face of it, the EU would have every incentive to agree to in its own interests. However, virtually the whole of the continent of Europe as well as other states outside it are in free-trade relations with the EU. There are many free-trading agreements between the EU and

other countries, which vary in their structures, although most extend to services as well as goods.

Those that have been most mooted as possible models for a UK/EU post-membership agreement are Norway and Switzerland. In fact, these agreements are radically different from each other.

The EEA members, Norway, Iceland and Liechtenstein, are within the single market for the purposes of the 'four freedoms'.[16] In addition, they are required to apply the regulatory aspects of the single market internally as a condition of continued access to the single market and effectively to follow the interpretation given to EU measures by the ECJ. For this purpose, 'single market' measures include EU health and safety, labour law and equality measures, for example, the Working Time Directive.

Switzerland is a member of the EFTA (as are the EEA states), and it has a large number of bilateral agreements with the EU. In addition to providing for the 'four freedoms' (the freedom of movement of goods, services, capital and labour) of the single market, many of these bilateral agreements facilitate access by Swiss goods and services to the EU single market, as well as (obviously) permitting access in the opposite direction. Many of these agreements effectively flank intra-EU measures. However, the key difference between Switzerland and the EEA states is that Switzerland has an effective choice over whether it is in its interests to sign up to particular arrangements rather than have them imposed on it across the board.

Norway's relationship with the EU under the EEA is not a good model for the UK. This is because the EEA states are effectively obliged to implement the burdensome regulatory requirements of the EU single market but have no vote on framing them. This means not merely existing legislation but future legislation would be passed by legislative process in which the UK would have no

16 Except for agricultural goods and fisheries.

vote at all, but just a consultation right. To leave the EU to escape from its regulatory strictures, from social and employment laws, and from the ECJ's case law, and then to sign up to this sort of arrangement that would keep us subject to all those constraints, but with even less say in them, would be irrational.

By contrast, the Swiss relationship involves the application of the general rules of the EU single market on free movement of goods, services and capital, together with numerous individually negotiated bilateral agreements on subjects including mutual recognition of standards in goods and services and home country certification. Switzerland is landlocked by the EU and conducts a very high proportion of its trade with the EU.

The more Atlantic and global stance of the UK suggests that we would not need to negotiate an arrangement with the EU as detailed and intense as the Swiss one. Indeed, there would be every reason not to do so, and to avoid the commitment that the Swiss have assumed to free movement of persons. Nonetheless, the Swiss/EU agreements[17] provide a detailed checklist of matters for potential agreement with the EU.

Customs union or free-trade agreement?

One key question is whether the UK should seek to negotiate a *free-trade* agreement with the EU, or continued membership of the *customs union*.[18] This seemingly technical question is of great importance.

In a customs union, no formalities need be applied when goods cross internal borders in the union. In a free-trade area, goods are checked at the internal borders, and only goods that *originate within* the free-trade area are entitled to proceed tariff free.

17 Listed (in English) at http://www.europa.admin.ch/themen/00500/index.html?lang=en (accessed 21 September 2015).

18 Turkey is a member of the EU customs union even though it is not an EU member.

However, members of a customs union have no freedom to set their own external tariffs and cannot negotiate separate free-trade agreements with countries outside the customs union. In practice if not in theory, a customs union normally entails a requirement to share the revenue derived from external tariffs,[19] and this would be highly disadvantageous to the UK because of its international trade pattern.

After exit, the UK's freedom to negotiate free-trade arrangements with other countries independently of the EU would be of great importance, as would its ability to decide upon its own external tariffs.[20] These considerations bolster the argument against remaining generally in the EU customs union, but we should consider maintaining a customs union covering certain highly integrated industrial sectors[21] to assist the continued free flow of goods (in both directions, to the UK and EU's mutual benefit) without 'rules of origin' formalities.

The UK should hold its nerve when negotiating these arrangements – which are of clear benefit to the EU – and should not be willing to pay an additional price by making concessions elsewhere, or by allowing a mutually beneficial free-trading agreement to be subject to conditions about additional matters or linkages to agreements on other subjects. While it would be disadvantageous (for both parties) if such arrangements cannot be negotiated, this should be kept in context. If no agreement is reached, the total tariffs payable on UK exports, assuming the EU's average weighted external tariff came into force against UK

19 This is because goods will enter and bear tariffs in the ports of one country and will then circulate and be consumed in other countries within the union.

20 Some commentators have argued convincingly that adhering to the EU's external tariffs imposes a major cost on the UK because the tariffs are borne by consumers in the UK; but the tariffs mainly protect industries in sectors where the UK no longer has much industry of its own: see, for example, Minford et al. (2005).

21 Such as the car industry.

exports, would be around £6 billion.[22] While trade within the EU may be more heavily weighted to goods that would bear higher tariffs than its external trade, this gives an order-of-magnitude feel. The total amount is *almost certainly less than the UK's current gross contribution to the EU budget*.

The UK could use its savings from the EU budget, and its revenue from levying tariffs on the much larger imports into the UK from the EU, to reduce taxes on its exporting industries, thus mitigating any damaging effects from the imposition of tariffs on exports into the UK. But it should not come to that. With firmness and determination, mutual self-interest should lead to concluding a satisfactory agreement with the EU.

Renegotiation from within

The basic problem of renegotiating our relationship with the EU from the inside is that the starting point is the vast mass of treaty obligations and EU legislation to which we are subject – the *acquis*. As outlined above, it will all go if we exit the EU, and we can seek to negotiate back only those core elements that are of positive benefit. By contrast, renegotiation from within involves raising a list of specific issues and trying the change the *acquis* on each one. Each and every specific issue that is raised is likely to give rise to its own difficulties, both in securing agreement to it and in implementing any resulting change in a durable and effective form.

To take but one example, a reform of EU employment law to reduce the costs of the present EU laws to the British economy would need an amendment to the EU treaties in order to be permanent and effective. It is hard to see why those member states who support the EU engaging in this area of legislation would

22 4 per cent – figure for 2010 (latest available). Source: World Bank, Most Favoured Nation Tariff Rate.

agree to the EU losing its competence in this field. So, the treaty amendment would need to be in the form of a special opt-out protocol relating to the UK, such as the Maastricht social chapter opt-out, but widened in order to prevent circumvention by the use of other treaty articles to impose measures on the UK (as was done with the Working Time Directive).

Such a treaty amendment would need to be agreed unanimously by the governments of all member states. Even if agreed by all governments, it would then need to be 'ratified' or 'approved'[23] by all member states in accordance with their respective constitutional requirements.

The problem with this approach is that there is a strong view in some member states that these types of social and employment laws are an integral part of the European single market. France, notably, believes (across the political spectrum) that it is necessary to protect its high-cost social welfare model by making sure that employers in other member states bear the same high costs as French employers. However irrational such an approach is in an open global economy, where European businesses have to compete with businesses in other parts of the world who are not subject to such burdens, it is a deeply held view, and it would be extremely difficult to persuade France or other similarly minded countries to agree to a treaty change.

The alternative but much less satisfactory and permanent approach would be to try to implement a relaxation of employment laws affecting the UK via amendments to the laws themselves, rather than by treaty change. Theoretically this might be slightly easier than a treaty change, because the amendments could be repealed or amended by QMV rather than unanimity. However, the approval of the European Parliament would be needed to pass the repealing or amending measures, and that approval

23 Depending on whether the treaty amendment takes place under the 'ordinary' or 'simplified' procedure in Article 48 of the TEU.

could well not be forthcoming even if sufficient agreement could be reached at a governmental level.

It can be seen that this one renegotiation issue alone raises formidable difficulties. Each and every other specific issue is likely to raise problems of comparable difficulty, if different in kind. Increased restrictions on the free movement of workers are likely to encounter serious opposition from the East European member states. Special measures to protect the UK's financial services from the effects of caballing by the euro-zone states will raise serious difficulties of their own.

The longer the list of specific demands, the longer the list of difficulties that will have to be faced, and the larger the coalition of member states that could be built up in opposition to agreeing with the UK's demands. Even if (hypothetically) all EU governments could somehow be persuaded to accommodate a list of UK demands, the processes of national ratification or approval of the necessary treaty amendments would be likely to take years and could well be derailed by opposition in one or more countries.

The second possible approach to renegotiation is to start at the other end. Instead of attempting to seek specific changes to the vast existing framework (the so-called *acquis*), this approach starts from looking at where we would stand if we were to exercise our right to withdraw under Article 50 of the Lisbon Treaty, and then asking what specific arrangements between the UK and other EU members would be in the mutual interests of the UK and those other members. While still retaining its formal status as a member state, the UK's rights and obligations would be reduced to a limited core under an opt-out protocol, similar in principle to but much wider in scope than the existing protocols, which exclude the UK and certain other countries from aspects of the EU treaties. This is the zero-plus approach to renegotiation.

Renegotiation is a once-in-a-generation opportunity to make changes in our relationship that *solve* the severe tensions over self-government and other matters, which have arisen within the UK and between the UK and other EU states. It is a chance to put the future on a sounder and more harmonious footing. We should not waste this opportunity. We should negotiate for a sheep rather than a lamb.

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