

# Beating the Brexit deadlock: squaring free trade with immigration controls

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Is the United Kingdom trapped between a rock and a hard place in the current Brexit negotiations?

Many commentators believe that fears about high levels of immigration played a significant part in the Leave campaign's victory in last year's referendum on EU membership. Prime Minister Theresa May has made it clear that "taking back control" of immigration is non-negotiable. Accordingly, ending free movement of persons is one of the "red lines" she will apparently refuse to cross in negotiations.

The government and UK businesses also want the United Kingdom to have maximum access to the single market, but the European Union has stated that single market membership is conditional on allowing free movement of persons. The European Union is adamant that the 'four freedoms' – freedom of goods, services, capital and persons – cannot be separated. There appears to be no pick-and-mix option for the United Kingdom.

This clearly points to an impasse. Making May's dilemma even thornier is the fact that the United Kingdom needs high levels of immigration in many sectors – such as agriculture, construction, retail and hospitality – due to an insufficient number of UK workers who are prepared to accept those jobs at their current rates. Raising salaries might attract more UK workers, but this would make goods and services more expensive and exports less competitive.

Is there a viable way forward? There are a number of [possible compromises](#), whether temporary or permanent, that could allow the United Kingdom to continue to participate in the single market while retaining at least some control over migration.<sup>(1)</sup> These are:

- free movement within existing rules, but with additional administrative hurdles;
- restriction of free movement to workers who have a job offer in the United Kingdom;
- free movement based on the existing model of the European Economic Area (EEA) agreement, which would potentially enable the United Kingdom to take "safeguard measures" on the basis of "serious economic, societal or environmental difficulties of a sectoral or regional nature" (Liechtenstein provides a precedent for triggering such measures);
- restricting the EU nationals to whom free movement applies. One possibility might be a two-tier system, whereby highly skilled EU migrants would be free of restriction but lower-skilled migrants would require permission to enter the United Kingdom. Another model might be bilateral arrangements, whereby the United Kingdom could introduce different rules for migrants from different EU countries;
- restricting the jobs to which free movement applies, either on a geographical basis (by introducing regional visas) or by adopting a sectoral approach; and
- an agreed quota for EU migrants to the United Kingdom.

A separate question is how far any of these possible solutions would be politically achievable.

The existing EEA agreement and the potential safeguard measures it contains would provide the most appropriate template for the United Kingdom and the European Union to reach a transitional agreement before the United Kingdom's Article 50 notice expires (ie, the third option in the list outlined above). This has sometimes been referred to as the 'Norway model'. A transitional

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arrangement of this kind would have various advantages:

- The government could justifiably present this as Brexit. The United Kingdom would no longer be a member of the European Union and would no longer be subject to the jurisdiction of the European Court of Justice, even if transitional arrangements might potentially entail the United Kingdom remaining within the EEA on a temporary basis.
- The United Kingdom would be taking back control of its borders, to some extent at least, because it could seek to activate safeguard measures similar to those under the EEA agreement sectorally or regionally.
- For those in favour of a 'soft' Brexit, the government could present the deal as maintaining, at least for some years, participation in the single market and membership of the Customs Union. This is assuming that agreement could be reached with the European Union on the latter (Norway and the other non-EU EEA members are outside the Customs Union).
- On the other side of the negotiating table, the European Union could present this to other member states as not treating the United Kingdom as a special case or setting a precedent for breaking the link between participation in the single market and acceptance of the principle of free movement.

While the Norway model would not represent an attractive long-term arrangement for the United Kingdom, it provides a template for a viable and achievable route to a temporary solution that is potentially of major benefit to all parties.

In the longer term, the United Kingdom could seek to negotiate more specific arrangements on EU migration as part of a more complex, bespoke trading agreement with the European Union. Estimates say that this process would take between five and 10 years, during which period there may be significant changes in the political landscape that affect the options available to the United Kingdom.

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## **Endnotes**

(1) For a detailed report please see [here](#).

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