



Brexit

Assessment of the UK Joining the European Economic Area (EEA)

Introduction

One option which the UK Government will consider is the possibility of joining the EEA, which comprises Norway, Iceland and Liechtenstein. In fact, the remaining 27 Member States are likely to push the UK in such a direction. This briefing note assesses the key features of the EEA and speculates how the business environment will change should the EEA become the platform for a Brexit strategy.

What is the EEA?

Set up in 1994, the EEA unites the EU's Member States and the three EEA European Free Trade Area (EFTA) States in an Internal Market governed by rules set at EU level.

These rules aim to enable goods, services, capital and persons to move freely about the EEA in an open and competitive environment; a concept known as the four freedoms.

The EEA includes rules of origin of goods and simplified customs procedures. It also covers the mutual recognition or harmonisation of national technical standards and testing procedures. An important issue for Ireland's agri-food sector is that veterinary and phytosanitary matters are covered by the EEA Agreement. The EEA Agreement also contains harmonised provisions on intellectual property rights.

All products except certain fish and agricultural products may be traded free of tariffs within the EU/EEA. The EEA would also allow the UK to negotiate bilateral trade agreements with non-EU countries; a Leave priority.

Importantly for Ireland and Northern Ireland, EEA and EU nationals have the right to enter the territory of any Member States in order to work or look for work. Students, pensioners and non-

working persons also have the right to move and reside in another EU/EEA State. Professional qualifications are accepted and recognised. The UK could rely on Article 112 of the EEA Agreement which allows EEA members to take unilateral action to restrict freedom of movement in the event of 'serious economic, societal or environmental difficulties'; this would be a 'red line' issue.

The EEA Agreement also provides for equal conditions for businesses across the entire Internal Market through the application of the EU's strict competition and State aid rules. Thus if the UK opted for the EEA model it could not introduce new incentives or tax breaks without securing approval from the European Commission's Directorate General for Competition.

The current suite of EU Procurement Directives would continue to apply in the UK.

EEA members cannot avail of the EU financial services passport arrangements. Member States (including the UK) have resisted pressure from EEA members to grant them this commercial advantage. Therefore there is a high risk that the UK's financial services will lose their EU passport privileges within two years.

Areas for Cooperation

EEA partner countries collaborate in EU programmes covering research and development (Horizon 2020), information services, training, energy, employment, enterprise and entrepreneurship on condition that they pay a net contribution for access. Thus the UK would have the option as an EEA member to incorporate EU legislation on social and employment, consumer protection, environment, health and safety and company law, or not to as the case may be.

Out of Scope

The EEA does not cover the following areas:

- CAP
- Fisheries
- Customs Union
- Common Trade Policy
- EMU
- Economic Surveillance
- Structural Funds
- Energy Regulation
- Climate Change
- Energy

- Common Foreign and Security Policy
- Justice and Home Affairs
- Taxation

In the event of the UK opting for an EEA solution all the EU Treaty provisions and legislation in these areas would no longer apply.

Legislation and Influence

The EEA is based on the EU Treaties and on the relevant EU secondary legislation affecting the four freedoms; some 8,700 legal acts in total. EEA members are given the possibility of influencing the shape of EU proposals and to participate in some 200 expert groups of the European Commission but not in the Council of Ministers. However, in reality, the UK would have little influence on the final decisions taken by the Council of Ministers and the European Parliament. The EFTA Surveillance Authority would be responsible for ensuring that the UK complied with their much revised obligations. The UK would also be subject to the EFTA Court, which corresponds to the European Court of Justice.

UK Payments

One of the key issues to be negotiated will be the UK's contribution to the EU budget should it decide to join the EEA. The opening position will be that the UK's contribution should correspond to the relative size of its GDP compared to the GDP of the other EEA members. Therefore it is instructive to look at Norway's net contributions. Norway's annual contribution is some €388m. In addition, as Norway participates in a number of EU programmes, including Horizon 2020, it also pays €447m per annum for access to these programmes. Norway also pays €25m as a condition to its participation in the EU's programme on territorial cooperation (INTERREG). If the UK joined the EEA but decided not to join any EU programmes the annual budget contribution could be as low as €100m; another Leave priority.

How Could the UK join the EEA?

The EEA Agreement is an international treaty so the UK just needs to become a participating member. As an EU Member State the UK is already a contracting party to the EEA. Particular issues for the UK could be addressed in a series of Protocols. For example, a Protocol could set out issues that are of specific relevance to UK-Irish trade. In addition, the new EEA arrangements could also include transitional arrangements where an immediate opting out of the EU *acquis* would cause major problems or distortions to trade. This scenario assumes the current EEA members would

accept the UK. It is likely that the EEA option would be supported by the European Parliament and other Member States as it is based on proven EU institutional architecture.

Preliminary Conclusions

The UK and the EU will work to strike a deal once the Article 50 notification to withdraw is submitted.

The UK joining the EEA is possibly the best viable solution for Ireland as we would continue to have free trade, the free movement of people and a high degree of regulatory certainty and safeguards to ensure free and fair competition. Furthermore the EEA option takes much of the risk out of leaving for Irish business not least because negotiations could conclude much sooner compared to a UK 'Stand Alone' bespoke model.

The current wave of uncertainty would dissipate if the UK Government indicated as soon as possible that they intended to pursue the EEA option as a preferred Brexit solution.

Businesses should assess how their operations would be affected if the EEA option becomes the UK's 'soft' Brexit solution and the risks and opportunities associated with this new political and economic environment.

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