

Brexit: A Negotiation Update

Testimony by
Dr. Thomas Wright
Director, Center for the U.S. and Europe, and Senior Fellow
The Brookings Institution

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Chairman Rohrabacher, Ranking Member Meeks, and distinguished Members; thank you for the opportunity to testify before your committee.

We are gathered here at a crucial moment in the history of post-war Europe. The United Kingdom's (UK) decision to exit the European Union (EU) is the most important and significant decision it has taken since the end of the Cold War. It raises fundamental questions about Europe's future. The United States has a vital interest in how these questions are resolved.

My testimony is in four parts:

- I. A status update on the Brexit negotiations
- II. The geopolitical effects of Brexit
- III. The Trump administration's approach to Brexit
- IV. US interests and policy recommendations

I: A Status Update on Brexit Negotiations

The UK government invoked Article 50 of the EU treaties on March 29, 2017. This set in motion a two-year negotiation on the terms of Britain's exit from the EU. Regardless of whether or not an agreement is reached, and barring an unexpected political sea change, Britain will formally exit on March 29, 2019.

The range of possible outcomes to the negotiations is bound by two political realities:

- The UK government has made it clear it intends to leave the EU Single Market and the Customs Union, which provides for the free movement of goods, people, services, and capital and a common tariffs to the rest of the world. This has become a political imperative, particularly for the Conservative Party.
- The EU has made it clear that if the UK leaves the Single Market and Customs Union, it will lose access to both. The UK cannot have a bespoke agreement whereby it cherry picks which regulations it will follow and the access it prefers. On this, the EU is unyielding.

The UK government had hoped that the fact that the EU 27 (the 27 countries that will remain in the EU after Britain leaves) has a trade surplus with the UK would cause them to make concessions in

the negotiation, but it has not. Instead of potential narrow economic gains, the EU has prioritized political issues such as the integrity of the Single Market and the unity of the 27 in much the same way that the UK has privileged political goals, such as controlling borders, over GDP growth.

The UK has emerged as the weaker party in the negotiations. It is significantly smaller than the EU 27 and it has more at stake. It was also not prepared for the enormous complexity of the challenge, meaning that it had no clear plan, nor the technical resources to meet that challenge. By contrast, the EU 27 is united around a single set of objectives.

The effect of the disparity has been noticeable. The UK government has made, and continues to make, significant concessions to the EU in pursuit of a deal. The negotiations are in two phases. Phase I requires agreement on three issues—the financial settlement for exiting, citizens' rights for EU-27 citizens in the UK and UK citizens in the EU-27, and preserving the peace in Northern Ireland. The UK government has acceded to the EU's demands on the first two. At the time of writing, agreement is also close on the matter of the Irish border, which has been delayed because of the opposition of the Democratic Unionist Party, which has a confidence and supply agreement with Theresa May's government, providing it with crucial support to maintain a governing majority in Parliament.

There is no reason to believe this dynamic will change in Phase II which deals with the future relationship and the transition period. The most likely outcome is a political declaration endorsing a Canada-style free trade agreement that would significantly reduce UK access to the EU market and an association agreement covering political and security affairs. A Canada-style free trade agreement will take several additional years to agree to and will require ratification in each member state, including by referendum in some cases. In the intervening period, the UK may be subject to a transition period, the details of which will be negotiated, whereby it has to abide by all, or nearly all, of the EU's rules without any formal influence.

Two other outcomes are possible by March 29 2019. There could be a breakdown of negotiations and exit without any deal. In my view, this would only occur if hardliners in the Conservative Party bring down Theresa May as Prime Minister because they are dissatisfied with the concessions she makes. The other outcome is that the UK government could change its position and either agree to stay in the Single Market and Customs Union or to reverse Brexit entirely. My assessment is that this is the least likely outcome and it would only occur after a change in government.

II: The Geopolitical Consequences of Brexit

Ultimately, the UK and the EU 27 are wealthy and capable countries that should be able to deal with the costs and challenges of Brexit. However, in the intervening period between now and then, Brexit is likely to have several deleterious effects on the European order.

Brexit is likely to damage the UK and the EU economically

The UK is terminating its access to the world's largest economic bloc and is proposing to embark on trade talks around the world at a time when protectionist sentiment is at a post-Cold War high. It is hard to imagine any scenario in which the UK has greater access to global markets than it does now. London will be diminished as a financial center because it will lose the ability to provide some financial services for the EU. Some advocates of Brexit argue that it can make up some of this lost ground with a program of deregulation but it is unlikely that this approach would secure sufficient domestic support or that it would be consistent with terms negotiated with the EU to maintain

market access. Indeed, the converse is also possible—leaving the EU would allow a future Labour government led by Jeremy Corbyn to increase regulations beyond what is allowed by the EU.

Brexit will also damage the EU. The EU enjoys a trade surplus with the UK. A hard Brexit will almost certainly hit EU exports, though some EU countries will be affected more than others. Individual European cities may pick up some investment from the relative decline of the City of London but none of them enjoy its inherent advantages. The result is likely to be that the EU cannot fully replace the City of London and is diminished as a financial power. Finally, the UK has pushed the EU in a market-friendly direction over the past four decades. Without the UK, the internal balance of power may shift in a protectionist direction and towards a more “social capitalism” model than has been the case with the UK at the table.

Brexit will change dynamics inside the EU

It is possible that without the UK the EU 27 will be free to pursue a new round of political and economic integration. This appears to be the view of France’s president Emmanuel Macron. However, it is also true that the UK was not the only obstacle to more integration. The EU 27 is deeply divided in what form future integration should take, particularly on Eurozone governance and migration. Moreover, with the departure of the UK, we are likely to see a greater structural tension between the Eurozone 19 and the rest of the EU 27. Greater integration will occur within the Eurozone, reducing the influence of non-Eurozone member states. As long as the UK was a member of the EU, it was difficult to sidestep. Without the weight of the UK, non-Eurozone member states may be further marginalized. The UK’s departure also shifts the balance of power within the EU and heightens concerns about the extent of German influence over the European project.

Brexit puts the Good Friday Agreement (GFA) at risk

Northern Ireland’s future has emerged as one of the most difficult issues in the Brexit negotiations. The EU 27 argues that there is no way for the UK to leave the Single Market and Customs Union without the imposition of a “hard border” between Northern Ireland and the Republic of Ireland. London insists it has no intention of imposing a hard border under any circumstances so the issue is much ado about nothing. However, given the terms of its leaving the EU and its presumed new role as a “third country” it could be compelled to even if it has no desire to do so. If the UK government simply kept the border open with no trade deal or a deal short of its current access to the Single Market, it would be in violation of the World Trade Organization’s Most Favored Nation clause and would be subject to legal action. The closer the issue is examined the more complicated it becomes. A recent study by the EU Commission and the UK government identified 142 areas of cross-border activities, from health care to agriculture, that would be detrimentally impacted by Brexit. The net effect of a hard Brexit could be the reimposition of a hard border, an end to most of the cross border cooperation provided for under the GFA, and the erosion of the hard won peace.

Brexit could hurt the Transatlantic Alliance

By weakening the UK and the EU, Brexit diminishes the transatlantic community at a time when it is facing major challenges from a revisionist Russia, a more assertive and mercantilist China, the unraveling of regional order in the Middle East, and the persistent threat of terrorism. Europe has been a key ally in maintaining the postwar international order but now it is likely to have much narrower and more nationalistic understandings of its interest. Individual states, including the UK, may be increasingly receptive to accommodating China. They may be less willing to send troops to

address common threats. And, there may be a weakening of formal cooperation on political and security affairs which currently takes place under the auspices of the EU.

III: The Trump Administration's Approach to Brexit

The Trump Administration has supported Brexit rhetorically but in practice it has done the UK few favors. Instead, the Trump Administration appears to be pursuing a predatory policy, designed to take immediate economic advantage of the dislocations and vulnerabilities created for the UK by the Brexit process.

In a major speech on US-UK relations on November 6 2017, the US Secretary of Commerce, Wilbur Ross, made it clear that if it wanted a Free Trade Agreement (FTA) with the US, the UK would have to choose between it and the EU. He said that the UK must accept US regulatory standards and diverge from those of the EU. US regulatory standards, particularly on agricultural products, are politically controversial in the UK. And, diverging from EU regulations will, by definition, weaken the trading relationship between the UK and the EU. But Secretary Ross's logic is clear: the UK is in a weak position and needs trade deals with third parties so the United States can take a maximalist position in negotiations.

This approach has also manifested itself in US actions at the World Trade Organization. In October 2017, the Trump Administration sided with Argentina, Brazil, and other countries to oppose a deal reached between the UK and the EU to divide agricultural import quotas between them. The Trump administration is demanding that the UK unilaterally open up its agricultural markets, providing the rest of the WTO with similar access to the EU, before any trade deals are negotiated and agreed.

The Trump Administration also proposed tariffs of 220% on Bombardier, a Canadian aerospace company that employs over 4000 people in Northern Ireland. The UK government has accused the Trump Administration of protectionism and, ironically, the EU has backed the UK position. Setting aside the rights and wrongs of this particular case, it is highly likely that after Brexit the Trump Administration will lean more heavily on the UK to bend to its will in trade disputes, using its greater size as leverage.

More generally, the Trump Administration has adopted a very passive approach to the negotiations. It sees it purely as an internal UK/EU issue. It has not identified any US equities, such as maintaining the Good Friday Agreement, preserving security cooperation between the UK and the EU 27, or ensuring there is a negotiated agreement between the parties. On the contrary, it has given the impression that Europe's problems may present the US with opportunities.

IV: U.S. Interests and Policy Recommendations

In my view, if Brexit is going to occur, the US has a vital interest in a Brexit that produces as strong and prosperous a UK as possible and as strong and prosperous an EU as possible, working closely with each other and with America. This should be the organizing principle of US policy toward Brexit. We should actively consider any steps that can facilitate this outcome and we should oppose any that undermine it.

I am in favor of closer economic ties between the US and the UK but, at this time, I do not believe Washington and London should pursue a bilateral FTA along the lines of that proposed by the Trump administration. There are very few tariffs between the US and the UK so any FTA would have to focus primarily on regulatory standards. The Trump administration's current policy seems to

be to use all of its leverage, including the threat of tariffs, to compel the UK to diverge from EU regulations and adopt ours. This has two problems.

The first problem is that such negotiations are unlikely to succeed and could alienate much of the UK population. For instance, the Trump administration's focus on agricultural standards in July talks with the UK caused a split in the UK cabinet and resulted in a statement by the Trade Secretary Liam Fox that the FTA would focus on services, not agriculture. However, harmonizing regulations on services, such as the financial industry or health, is likely to prove to be even more difficult and controversial. Meanwhile, the US maintains that the FTA must include UK agreement to accept US agricultural standards. The long-term health of the US-UK alliance is best-served by ensuring that any FTA enjoys enduring and broad based support in both countries. Otherwise, it will not be ratified and will only succeed in injecting distrust and disharmony into the relationship.

The second problem is that in the unlikely event that the negotiations do succeed on the terms set by Secretary Ross they will, by definition, reduce the UK's trade access to the EU. The more the UK diverges from EU regulatory standards, the less access they will have to the Single Market. The net effect of this would be to damage the economy of the UK and the EU, which would also damage US economic and strategic interests over the medium and long term.

America's long-term national interest is to facilitate as close an economic relationship as possible between the UK and the EU, to the extent desired by both parties. This, it should be noted, is also the official position of the UK government, which is seeking a comprehensive trade deal with the EU. If the UK government decides to diverge from EU regulations and reduce its access to the Single Market, it is free to do so of its own accord but it should not be pressured to do so by the Trump Administration. Forcing the UK to choose between the US and the EU undermines the prospect of a smooth and mutually beneficial Brexit. The UK is not an easy mark. It is America's closest ally and should be treated as such.

More generally, the US should make it clear to the UK and the EU that it favors a negotiated agreement. We can live with almost any deal acceptable to both parties but Brexit without a deal would not be in our interests. A UK exit without a deal could inflict significant damage on the UK and EU economies, and hence on the global economy. It would sow the seeds of discord in Europe and would inhibit cooperation on issues of vital interest to the US.

After an agreement is reached, the US should engage with the UK and explore ways of deepening economic ties between the two countries in a way that does not jeopardize the UK's core economic interest in maintaining a close trading relationship with the EU. If this takes the form of trade talks, it may make sense to pursue this on a trilateral basis, by revitalizing the Transatlantic Trade and Investment Partnership (TTIP) with the EU and expanding it to include the UK. As a side note, if there is a revitalization of a transatlantic trade deal along the lines of TTIP, it would not make sense for the UK to adapt to US regulatory standards, while these are being renegotiated by the US.

The US should also increase its diplomatic engagement with the EU after Britain leaves. The EU is a vital partner of the United States in using and deploying economic power, such as sanctions. NATO, by contrast, has no economic capability. The stability and success of the Eurozone is also closely linked to the stability of the global economy and is a key part of preventing a new financial crisis. And, the EU plays an important role in upholding democracy and human rights in Europe, including against Russian interference.

Finally, as we are approaching the 20th anniversary of the GFA, an agreement many Americans on both sides of the aisle helped to bring about and sustain, it is absolutely necessary for the US to remain engaged on preserving the peace in Northern Ireland. As a first step, the Trump Administration should immediately reinstate the position of Special Envoy for Northern Ireland. Prioritizing and preserving the GFA should also be an issue in relations with the UK and the EU.

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