

# Linklaters

## What might Brexit look like?

Potential exit models and their trade-offs



All of the existing alternatives to EU membership that the UK could follow come with difficult trade-offs which may not be acceptable for the UK. The diagram below considers the key aspects of the existing models. It is conceivable that the relationship between the UK and the EU may follow an entirely different path and be a mix of the models that exist now.

		Control and sovereignty		Access to single market			Other rights and obligations	
		Own trade policy and Free Trade Agreements (FTAs)	Influence on EU law	Customs union	Tariff-free trade in goods	Free access to single market in services	Free movement of people	Contribution to EU budget
EU membership		A						
Norway			B		C			
Bilateral agreements	Switzerland							
	Canada							
	Turkey							
WTO membership					D	E		

### Notes:

- A. Trade policy is conducted at the EU level, member states do not conclude own FTAs.
- B. Decision-shaping, but with no vote on EU law.
- C. All except agriculture and fisheries.
- D. Except where the EU has bound tariffs at zero per cent in WTO commitments.
- E. Except where the EU has made commitments under General Agreement on Trade and Services.

	Full
	Partial/voluntary/special arrangement
	None

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## The exit models:

1. **Norway is a member of the European Economic Area (EEA)**, which gives it an almost entirely unrestricted access to the single market (all goods apart from fisheries and agriculture, and all services including passporting rights in financial services). At the same time, Norway contributes to the EU budget at a level comparable to a similar sized EU member state and has an obligation to transpose around 75% of EU law, with limited non-binding influence on EU law. Policy areas excluded from the EEA Agreement are customs union, agriculture and fisheries, common trade policy, direct and indirect taxation, the euro, common foreign and security policy, and justice and home affairs.
2. **Switzerland has partial access to the single market and its relationship with the EU is regulated by roughly 100 bilateral trade agreements.** Switzerland does not contribute to the EU budget and instead pays directly into selected EU programmes like Erasmus, an international student exchange programme. It does not have an “automatic” obligation to transpose EU law, but needs to comply with EU law for the bilateral agreements to be upheld. The access to the single market is partial in goods and limited in services: Switzerland does not have passporting rights and key sectors like financial services are out of the agreements.
3. **Canada is a country with the most comprehensive single Free Trade Agreement (FTA) with the EU, pending ratification in EU member states.** In the case of FTAs, the access to the single market depends on what is negotiated, and negotiation can be lengthy. The EU-Canada FTA phases out all tariffs on industrial and most agricultural goods entering the EU and removes discriminatory measures such as quotas and subsidies for industrial goods. The EU will also open its market in selected services sectors, though without the provisions allowing for passporting.
4. **Turkey is a part of the EU Customs Union** and has access to the single market for goods, but not for services. Turkey applies EU competition and state aid rules, as well as parts of EU commercial policy. Turkey’s external tariffs must be aligned with EU tariffs, which limits the trade deals that Turkey can agree.
5. **The World Trade Organization (WTO)** will be the basis for the EU-UK relationship following exit, if no other agreement is concluded. The obligations of other models (free movement, budgetary contributions or implementing EU rules into national legislation) do not apply. The model means reverting to tariffs. Absent a UK-EU trade agreement, the EU will impose tariffs on goods and services coming from the UK, and the UK will need to set their own tariffs to the Rest of the World, including the EU.

## Trade-offs of the exit models:

- > **Access to the single market is a benefit that comes with obligations.** Whilst the parameters for a negotiated settlement are hard to predict in such uncharted territory, it seems politically unlikely that the remaining 27 EU member states would agree to anything packaged as a continuation of access to the single market unless there were also a substantial continuation of the free movement of people principle, budgetary contributions and adherence to EU standards and rules.
- > **There is no precedent for single market access without free movement of people.** Full access to the single market in goods, services and capital always requires accepting free movement of people, and the EU is quite vehement on that point. Additionally, in order to maintain the rights of UK citizens living, working and travelling in the EU, the UK may well need to accept reciprocal arrangements for EU citizens in the UK.
- > **Access to the single market requires implementing EU rules.** From the outside, the UK will no longer have a vote on those rules.
- > **However, when in the EEA, there is room for decision-shaping.** The Norway model is the closest to EU membership. As a non-EU EEA state, Norway provides input to the European Commission’s expert groups from the very early stages of the preparation of legislative proposals, participates in committees set up to manage EU programmes, and sits in the comitology working groups drafting the implementing measures for EU legislation. EEA states also have observer status in EU regulatory agencies and in the future in the three EU Supervisory Authorities: ESMA, EBA and EIOPA. However, Norway does not have voting rights in any of these bodies.
- > **When outside the EU, the UK can negotiate its own trade agreements.** Most importantly, the UK will be free to negotiate agreements with countries with which the EU has not yet concluded or is not running trade negotiations that could be of importance for the UK. At the same time, however, the UK will lose the benefits of the existing trade agreements of the EU. The EU has more than 30 trade agreements covering more than 50 markets and is negotiating several new agreements. The UK will need to negotiate its own agreements with those relevant countries.

As the EU exit process advances, we anticipate you will have a number of questions or concerns. Linklaters have been analysing the potential legal and business implications arising from the vote to leave for many months and are well placed to assist you in understanding these issues. If you would like to discuss any areas of concern, please get in touch with your usual Linklaters contact or any of the contacts listed [here](#).



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