

COMMON MARKET 2.0

Re-setting the UK - Europe Relationship for the 21st Century

Lucy Powell MP and Robert Halfon MP

On behalf of the cross-party Norway Plus Group

About the 'Norway Plus' group

The Norway Plus Group is an informal group of MPs who are committed to overcoming narrow tribal party-political divides, in the national interest.

We don't have a formal committee structure, and nor do we have any official designation or legal status. Each weekly meeting is chaired by Nick Boles MP and Stephen Kinnock MP.

We are simply united by two core beliefs: first that MPs must act to ensure that the UK does not crash out of the European Union (EU) without a deal, and second that the **Common Market 2.0** proposals which are set out in this document represent the only form of Brexit that respects the referendum result whilst protecting the jobs and livelihoods of our constituents.

Lucy Powell MP and Robert Halfon MP have co-authored this pamphlet on behalf of the Norway Plus Group.

The Norway Plus Group wishes to thank George Peretz QC, Anneli Howard and Adrian Yalland for the legal expertise, advice and guidance that they have provided.

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Foreword

The UK is a great country with a deep and proud history. Yet, one thing most will probably agree on, we aren't exactly covering ourselves in glory right now. In fact much of the public feel quite alarmed at the seeming mess we have got ourselves into with Brexit. Many are fed up to the back teeth of hearing about all the endless "Groundhog Day" twists and turns. All the while it's getting worse, not better, as we head towards the exit door without any agreement over a deliverable plan.

What's more, as things stand, it's clear that there isn't a parliamentary majority for any of the three main options being discussed: the Prime Minister's deal, a no deal or a second referendum.

As MPs at the centre of all this, we feel the same. However, the House of Commons has the power and the opportunity to do something about it. Increasingly, MPs from all parties are reaching the conclusion that we need to put aside tribal, political differences and accept that every option carries risks and no one outcome is anyone's ideal.

Today we are coming together to argue for a Brexit deal that delivers the result of the 2016 referendum and protects the economic interests of working people in Manchester, in Harlow and right across the UK. Our plan is based on the principles of "Norway Plus" and establishes that after the transition, in December 2020, the UK should join a new **Common Market** for the twenty-first century. Let's call it Common Market 2.0.

Politically, the Common Market 2.0 would:

- Offer Theresa May a last chance of a deal that can command a cross-party majority and win the support of business leaders and trade unions;

- Meet Labour's six tests, and deliver on Jeremy Corbyn's call for a customs union and a strong Single Market deal.
- According to the EU's chief negotiator Michel Barnier, offer genuinely frictionless trade with the EU as it is based on a set of institutions and procedures that already exist.

Substantively, we also believe our plan meets the key issues expressed in the referendum itself and the key stumbling blocks that have emerged since, as well as getting us as close as possible to "the exact same benefits" offered during the referendum.

Our proposal takes as its starting point the common refrain that we both heard from voters in our constituencies during the referendum campaign: "We voted for a Common Market, not all this political stuff." In the 1970s and 1980s, the British people broadly supported our membership of the European Economic Community (EEC) because it delivered clear economic benefits to British businesses and workers. It was only as the "ever closer political union" took hold, that people began to turn against it. Common Market 2.0 offers us a way to recreate that simple economic relationship, which is free of all the political paraphernalia of the modern EU.

As members of Common Market 2.0, the UK would still have to accept the free movement of workers from other European countries, but we would have new powers to restrict European migration in certain circumstances if our government deems it necessary, because the European Economic Area (EEA) agreement gives members the right to unilaterally suspend the freedom of movement if it can show that it is having "serious economic, societal or environmental difficulties". In addition, we believe the government should implement stricter enforcement of existing requirements for European migrants to find work within

three months or otherwise demonstrate that they can support themselves without claiming benefits. Successive governments have failed to enforce these rules properly and have let down the working class communities we represent as a result.

In Common Market 2.0, most EU rules would not apply to us at all as we would be outside the common agriculture, fisheries, justice and home affairs policies. UK representatives would sit on the policy-shaping committees that draw up proposals for new Single Market legislation and we would be able to resist pressure to implement new rules that we don't like. EU law would no longer have either "direct effect" or "direct applicability" in the UK. We would leave the jurisdiction of the European Court of Justice (ECJ) and join the European Free Trade Association (EFTA) court whose decisions are non-binding. UK courts would once again be supreme. Parliament would be fully sovereign.

Although we would still need to make a financial contribution for access to the Common Market 2.0, the annual amount would equate to not much more than half the amount we currently pay.

Finally, as members of both the Single Market and a new customs arrangement mirroring the current customs union, there would be no reason for the Irish backstop ever to be activated after the end of the transition. The union of Great Britain and Northern Ireland, which is precious to both of us, would remain intact and the foundations of peace in Northern Ireland as set out in the Good Friday Agreement preserved in perpetuity.

In summary, the Common Market 2.0 would:

1. **Safeguard jobs** by offering real frictionless trade through full access to the Single Market and a new customs union, and

by creating certainty with a long-term relationship.

2. **Guarantee workers' rights** and protections for the long-term as part of Common Market membership
3. **Provide new controls over Free Movement** in certain circumstances when our government deems it necessary
4. **Allow more money for public services** as our contributions to the Common Market 2.0 would be significantly lower than to the EU, in fact about half.
5. **Take the UK out of the (ever closer) political union**, the Common Fisheries Policy, Common Agricultural Policy and the ECJ
6. **Take back control of budgetary contributions from the EU** and remove the VAT element.
7. **Eliminate the need for the Irish backstop to be activated** because we would move seamlessly from the transition period into Common Market 2.0

This pamphlet, drafted by wider cross-party grouping with expert legal advice, sets out, for the first time, the significant benefits of a new Common Market 2.0 proposal for the UK when it leaves the EU. We believe this offers a genuine opportunity to not only command a majority in Parliament but to bring together the country around the UK leaving the EU but creating a new, powerful Common Market partnership with it for the long-term. Delivering Brexit in a way that protects the economic interest of the working people we represent will require all of us to compromise. We both believe that leaving the EU and joining a Common Market 2.0 is a compromise that MPs of all parties, and all shades of opinion, should be able to support.

1. Leading the way in a 21st century Common Market

Respecting the referendum result without wrecking the economy: why we need Common Market 2.0

In 1973 the UK joined the EEC – otherwise known as the Common Market – a decision that was subsequently supported by a public vote in 1975. Yet in 2016, 17.4 million people voted to leave the EEC's successor – the EU. So, what changed between 1975 and 2016?

The answer is clear: the British people's support for the UK's relationship with the EU eroded, post-Maastricht. The EEC's Common Market was popular amongst the British public, but the project of political integration advanced by the Maastricht Treaty in 1992 caused our paths to diverge. Between 1992 and 1995 UK public support for strengthening our country's relationship with Europe dropped from 38% to 14% and never recovered. Support to leave the EU or weaken the relationship rocketed to over 50%. The events that followed – Tony Blair's 2004 decision that the UK should accept free movement of people from the so-called accession eight (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia) without a transition period, then later the Eurozone and refugee crises – only served to heighten concern about the UK's place in the European project.¹

The 2016 referendum was a call for the UK to leave the EU and its project of ever-deeper political integration. But the 52%/48% result is also a call to maintain a strong, close and productive economic relationship with those 500 million consumers on our doorstep. In short, the referendum result is an instruction to move house whilst remaining in the same neighbourhood.

The 52% to 48% margin of victory does not represent a mandate to remain in the EU and carry on with business as usual. But neither is it a call for a hard Canada-style Brexit, nor for leaving without a deal. We must leave the EU, but that does not mean we cannot negotiate a continued relationship with the EU – based on the principles of the Common Market 2.0 – that will secure a close economic and trading relationship.

The democratic will of the 52% must not be ignored, and the EU referendum should therefore be seen as a reset moment for the UK's relationship with the EU.

A newly formed UK-EU Common Market for the 21st century would reflect the strong economic ties between the UK and Europe that enjoyed broad democratic support throughout the 1970s and 1980s, respecting the public desire for striking the right balance between political sovereignty and economic integration. It would recast our country's relationship with the EU in a way that would better reflect our history, geography and politics.

The cross-party group 'Norway Plus' is therefore advocating that the UK leaves the EU and its political institutions in order to develop "Common Market 2.0" – a Brexit that respects the referendum result, protects the jobs and livelihoods of our constituents, and begins to reunite our deeply divided country.

¹ Matthew Goodwin, Brexit Britain: The Causes and Consequences of the Leave Vote, http://www.matthewgoodwin.org/uploads/6/4/0/2/64026337/leave_vote_lecture.pdf

The path to Common Market 2.0

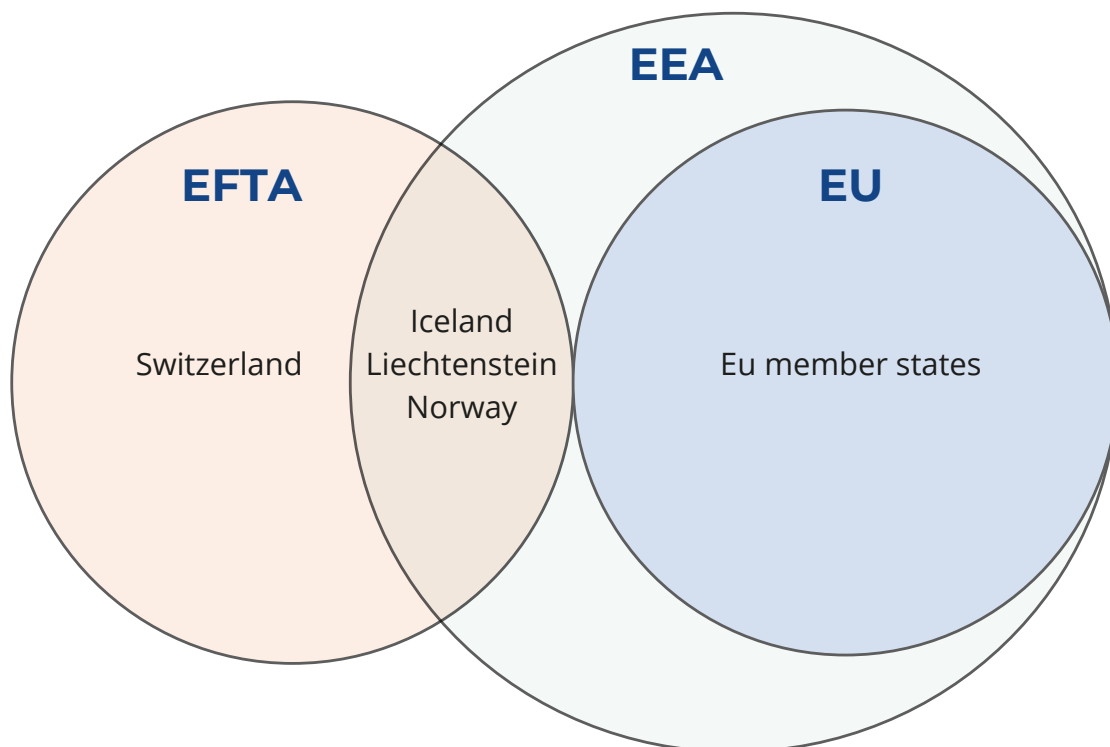
Under the plan, the UK would leave the EU on 29 March 2019. We would leave under the current terms of the Withdrawal Agreement, but with a significantly reworked Political Declaration. A more detailed and specific Political Declaration would outline the future relationship between the UK and the EU after the transition period. We would also seek to agree a side letter with the EU agreeing that all efforts would be made to deliver the future relationship before the end of the transition period – therefore, removing the need for the backstop ever to be activated.

The Political Declaration would commit both sides to negotiating a future relationship whereby – at the end of the transition period

ending in December 2020 – the UK would join the EEA via the EFTA pillar, sitting alongside the “EEA3” of Norway, Iceland, and Lichtenstein.

EFTA is an intergovernmental organisation that promotes free trade and economic integration without political or monetary union. It was founded in 1960. The UK was a founder member until it joined the EEC in 1973.

The EEA Single Market is the extension of the EU’s Internal Market to cover the EEA3 (Switzerland has its own bilateral deal with the EU). Each EEA3 members pays into the EU but only for the institutions and services that the country accesses.



This form of Brexit would give the UK full membership of the Single Market, which the UK helped create, and which underpins so many British businesses' trading success. But we would leave the EU's political institutions, the jurisdiction of the ECJ, the common agricultural and fisheries policies and the EU's drive towards "ever closer union". We would also increase our power to control freedom of movement.

EFTA countries are not in the customs union and are therefore able to negotiate their own trade deals. This should be the long-term aim of the UK. But to ensure a frictionless Irish border – and therefore remove the need to activate the Irish backstop as outlined in the Withdrawal Agreement – the UK would also need a derogation from the EFTA agreement in order to secure a customs arrangement, either permanent or temporary.

This new relationship would put the UK in a strong position to prosper and project our values around the world. As Nick Boles and Stephen Kinnock have recently written, "this is a plan that has been hiding in plain sight since June 2016."

A leading role in Europe, outside the EU

Brexit is not just a reset moment for the UK, but also for Europe. By leaving the EU and joining the EEA via the EFTA pillar the UK would kick-start the re-imagining of the European project that is so urgently and desperately required.

European leaders recognise the limitations of the EU's one-size-fits-all, top-down approach to integration. President Macron in particular has spoken openly in support of a "Europe of several circles", that better reflects the different

histories, cultures and political temperaments of its component parts.²

The UK would have a central role to play in leading a group of like-minded European countries that sit outside the political institutions of the EU but enjoy full participation in the Single Market. Membership of this outer ring of EFTA countries would bring significant benefits to the UK, as outlined throughout this pamphlet.

UK membership would also bring substantial benefits to EFTA, increasing its size ten-fold to over 70 million people. EFTA's institutions would be strengthened as would EFTA's influence in debates with the EU.

Leading and strengthening an outer ring of EFTA countries would mean an exciting new future for the UK, EFTA and the EU.

The EU and EFTA countries support our proposals

The EU has consistently made clear that an EEA-based Brexit, combined with a form of customs union (in order to solve the Irish border issue), is one of three options for the UK-EU future relationship. Meanwhile, the governments of Norway and Iceland have also been positive about the UK joining EFTA.

The EU

The EU's chief negotiator Michel Barnier has been clear that there are three models for the UK-EU future relationship: a Canada-style free trade agreement (which will inflict significant harm on our economy because it doesn't include most services, and which would put our union at risk because it would only be for Great Britain), World Trade Organisation rules (which would be even worse), or our EFTA Common Market model.

² FT, 04 September 2018 <https://www.ft.com/content/b9bc8caa-b026-11e8-99ca-68cf89602132>

In May 2018, Michel Barnier said:

*"The only frictionless model for the future with the UK would be Norway plus, Norway being part of the Single Market plus a customs union."*³

From the outset Barnier made it clear that an EEA-based Brexit would have been welcome from the EU side and that it had only not been explored because of the red lines that Theresa May had set out in her Lancaster House speech.⁴

To deliver Brexit based on Common Market 2.0 the UK will sign up to the current Withdrawal Agreement but renegotiate a substantially more specific and detailed Political Declaration. This Political Declaration would outline the future relationship between the UK and the EU based on the UK's membership of EFTA and EEA. At the end of the transition, the UK would then join the EFTA. On its accession to EFTA, the UK would move into the EFTA pillar of the EEA. At the same time, the UK would join a customs union with the EU, which will mirror the current customs union ensuring no need to activate the Irish backstop.

An EEA-based Brexit and the treaty-based EEA Agreement forms a ready-made basis for the most orderly Brexit possible, and is the only acceptable, achievable agreement that can be agreed before the 29 March 2019.

EFTA countries

The Norwegian Prime Minister Erna Solberg has made it clear that Norway will welcome us into EFTA. She has said that Norway will help Britain "find solutions" if we want to join (28 November 2018).

"If that is what they really want, we will find solutions in the future."

*"To find a good agreement is important for all European countries and I hope that we will see an orderly deal that doesn't disrupt economic affairs in Europe."*⁵

The only notable Norwegian politicians to claim that Norway would reject our membership are campaigners for Norway to leave EFTA and join the EU.

The Icelandic Foreign Minister Guðlaugur Þór Þórðarson told BBC's Newsnight:

*"We would be very positive towards the idea of the UK joining EFTA or the EEA."*⁶

³ Express, 22 May 2018, <https://www.express.co.uk/news/uk/963597/Brexit-news-Michel-Barnier-Northern-Ireland-border-Norway-plus-solution-EU-UK>
⁴ Reuters, 19 December 2017, <https://uk.reuters.com/article/uk-britain-eu-options/stairway-to-brexit-barnier-maps-out-uks-canadian-path-idUKKBN1ED23R>

⁵ MSN (28 November 2018) <https://www.msn.com/nb-no/nyheter/verden/solberg-sier-britene-er-velkomne-i-efta/ar-BBQcDyS>

⁶ Newsnight (27 November 2018) <https://twitter.com/bbcnewsnight/status/1067551073269772288?lang=en>

2. Common Market 2.0: more control with continued economic access

As this table shows, by leaving the EU and joining the EEA via the EFTA pillar, the UK would remove itself from a significant number of EU commitments and increase national sovereignty across a range of areas.

	UK as EU Member	UK in CM2.0
Single Market Access	Yes	Yes
Financial Services Access	Yes	Yes
Tariff free trade with EU27	Yes	Yes
Freedom of movement	Yes	Yes, but with qualified right to suspend
Savings on EU payments	No	~50% per head
Voice on Global standards bodies	No	Yes
EU Rules	Apply	Only 28% apply
Right to refuse new rules	No	Yes
CAP and CFP	Apply	Exempt
Common Foreign & Defence Policy	Mix of Unanimity & 12% QMV	Exempt
Justice & Home Affairs Policy	Selected Opt-in's / 12% QMV	Exempt
European Court of Justice	Subordinate	Exempt
Charter of Fundamental Rights	Applies	Exempt
EU Science/Education Programs	Participate	Exempt unless we choose to participate

Common Market 2.0 offers new powers to control immigration

Under Common Market 2.0 we would participate fully in the Single Market, which entails freedom of movement. We would however be in an improved position in two significant respects (in large parts delivering what David Cameron attempted but failed to secure in his renegotiation with the EU in 2016).

Under Common Market 2.0, the UK:

- Would have a qualified but unilateral right to suspend any of the “Four Freedoms”;
- We would have the right to impose restrictions on freedom of movement in the event of serious economic or social difficulties
- Would be released from the EU’s “non-discriminatory” restrictions meaning new powers to better manage migrant workers.

First, we would have the power under Article 112 of the EEA Agreement to take “Safeguarding Measures”. This ‘safeguarding clause’ allows an EEA EFTA state to unilaterally take ‘appropriate measures’ in the event of ‘serious economic, societal or environmental difficulties of a sectoral or regional nature liable to persist’. This means that if immigration reached extreme levels, we would have the power to impose restrictions.

If used, this safeguard clause would not have to be the blunt instrument that some fear. For example, if ‘difficulties’ arose of a ‘regional nature’ it might be possible to restrict free movement in a particular region while keeping things as they are in other less affected areas. This means that if Scotland wanted to continue freedom of movement on current terms it

would be able to whilst parts of England under particularly heavy strain could implement safeguard measures. Practically, this might involve giving priority to UK nationals in job centres in certain regions or by reducing the entitlement to social security payments that new migrants could receive in certain areas of the country.

Article 113 of the EEA Agreement allows for such a renegotiation between the UK and the other EEA countries, in order to establish a long-term solution. The invoking party must call a conference and seek to resolve the underlying issues which led to the measure. This is done via the offices of the Joint Committee. If the negotiation breaks down, Article 114 permits the other EEA states to take proportionate counter-measures but only those “strictly necessary to remedy the imbalance.”

It is important to note that such a safeguard power might only be used in extreme circumstances, but is nonetheless an important power that the UK would benefit from.

Second, we would be able to exploit opportunities in existing rules. Freedom of movement, contrary to popular belief, is not an absolute right. After three months EEA nationals in other EEA countries need to be in work or have sufficient means to support themselves. If they do not, their right to reside may be revoked. Some EU countries already follow existing rules more strictly. For example, Belgium applies the existing rules after a six-month period and other countries such as Spain and Germany have imposed restrictions consistent with this principle.

Of course, we can also do more to apply the Single Market rules that the UK is already party to. Examples of the policies that other

⁷ EEA Agreement, 1994, <http://www.efta.int/media/documents/legal-texts/eea/the-eea-agreement/Main%20Text%20of%20the%20Agreement/EEA%20Agreement.pdf>

countries inside the Single Market have adopted include restricting public sector jobs⁷ to nationals only and requiring migrants planning to stay longer than a few months to register upon entry⁸ with the relevant local authority.⁹ As former Home Secretaries Alan Johnson and Charles Clarke have advocated, we could prevent recruitment agencies advertising abroad and, in high unemployment sectors, new jobs could first be offered to local unemployed people. A national identity system would establish secure digital identities for everyone, and make it easier to identify illegal migration. We could also reform the posted workers directive¹⁰ to ensure that companies bringing in workers from abroad pay at the local rate. Finally, we should establish a well-resourced and focused migration impact fund to help local communities manage the impact of rapid population change.¹¹ A total of £35 million was available through the fund for each of the financial years 2009-10 and 2010-11¹².

Common Market 2.0 would enhance our national sovereignty

Under the Common Market 2.0 proposal, the UK would have:

- A voice in the consultation process of the proposed new EEA law
- A vote on the EEA Joint Committee where unanimity is required
- A domestic right of refusal to implement new EEA law into its own domestic law

Common Market 2.0 would restore policy-making power in a wide variety of areas, end direct effect and direct applicability of European Law, ensure British influence in the shaping of Single Market regulations and end

the jurisdiction of the ECJ. Contrary to how the EEA is often misrepresented, the UK would have a voice, vote and right of refusal over proposed new EEA law.

One treaty – two independent jurisdictions

The EEA Agreement is not 'EU' law, it is its own stand-alone body of international law which covers two separate and independent jurisdictions (rather like law covering the whole of the UK covers the separate jurisdictions of the UK). This means as a continuing signatory state to the EEA Agreement, the law would actually be "our" law, because it would belong equally to all the contracting parties irrespective of whether they are EU or EFTA member states.

ECJ Jurisdiction ends

Under Common Market 2.0 we would still leave the oversight of the ECJ but would come under the jurisdiction of the EFTA court. The EFTA Court is a separate and independent court covering a separate and independent jurisdiction. And contrary to what many believe, except for decisions pre-dating the EEA Agreement in 1994, the EFTA court is not obliged to "follow" the decisions of the ECJ. This again is similar to how the English courts are not obliged to follow the decisions of the Scottish courts.

Although highly authoritative; EFTA rulings are not legally binding on the EEA EFTA states and cannot be imposed. The UK would have one-in-four of the judges on the EFTA court (and would likely hear every case) in contrast to one-in-28 on the ECJ. Unlike ECJ rulings, the EEA EFTA court respects national sovereignty and the legal supremacy of the EEA EFTA states.

Voice, Vote and a right of refusal

Firstly, outside the EU and under Common

⁸ European Union, September 2018, https://europa.eu/youreurope/citizens/residence/documents-formalities/registering-residence/index_en.htm

⁹ Labourlist, 25 July 2017, <https://labourlist.org/2017/07/staying-in-the-single-market-doesnt-mean-accepting-complete-freedom-of-movement/>

¹⁰ European Union, January 2019, <https://ec.europa.eu/social/main.jsp?catId=471>

¹¹ The Guardian, 20 November 2018, <https://www.theguardian.com/commentisfree/2018/nov/20/peoples-vote-eu-immigration-controls-brexit>

¹² The new Controlling Migration Fund for England – House of Commons Library, <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7673>

Market 2.0 we would restore policy-making power in vast areas including agriculture, fisheries, foreign and security affairs, justice and home affairs and taxation. This would mean for example that we would leave the Common Fisheries and Agricultural Policies.

A genuine voice

Secondly, we will have considerable influence over the initial shape of new EEA legislative proposals because the EU is obliged to consult all EEA EFTA states on any new legislation. EEA EFTA state experts participate in the Commission's preparatory work and have representatives on policy-shaping committees as well as having observer status in the EU's various institutions. Furthermore, the UK would regain its seat at global bodies such as the WTO. This means we will actively be able to shape global standards that are the basis for many EU and EEA laws.

A genuine vote

Thirdly, if an EEA EFTA state is not satisfied with a proposed Single Market law they can contest the relevance of new EEA law to the functioning of the Single Market and seek to secure changes, adaptations or derogations. This occurs through the EEA Joint Committee where representatives from the EU and EEA3 meet to "decide" on whether to ratify the proposed new EEA law. New EEA law is only incorporated into the EEA Agreement with the unanimous agreement of the EU and the EEA EFTA states (unlike in the EU Council where voting is on the basis of a qualified majority) which means that the UK would have genuine influence over new EEA law. This process yields results. For example, Norway obtained derogations from 55 legal acts and Iceland from 349 acts up until June 2011.

A genuine right of refusal

Finally, we would no longer be committed to 'ever closer union' and the imposition of EU law into UK law through 'direct effect', and

'direct applicability' would end. Indeed, because of this, the UK Parliament would actually be required to incorporate EEA law into British law meaning genuine democratic oversight of the proposed new EEA law is achieved by the EFTA states' own Parliaments. Crucially these new EEA laws will only take effect if they are incorporated into UK law by Parliament precisely because the ability of the EU to impose law on the UK ends at Brexit and the EEA Agreement "ringfences" the national sovereignty of non-EU signatory states. This means the EFTA states maintain (and have used) a domestic right of refusal. For example, Norway took five years to implement the EU 'hygiene package' of regulations and nine years to implement the 'Third Energy Package'. Iceland is yet to do so. For example, Norway's refusal to implement the 'Third Postal Service' in 2011. This is an extreme measure and rarely used because the purpose of the EEA legislative process is to achieve legislation by consent and not imposition and generally speaking, it does so. But it also means the UK would gain a 'right of reservation' over any new EEA laws it currently lacks as a member state of the EU. Under Article 102 of the EEA Agreement the EU may take reasonable countermeasures including suspending that particular part of the EEA, but an EFTA country can still refuse to implement a piece of EEA law because its sovereign right to do so is "ringfenced" by the EEA Agreement

UK payments would reduce significantly

It is widely stated that the UK would pay around 64% of our current contribution to EU budgets under an EEA/EFTA-based Brexit (based on the fact that Norway pays £140 per capita per annum vs. the UK's current £220 post-rebate). Yet this is misleading. Norway makes annual contributions of €450m to cover the cost of Norwegian participation in joint

programmes, schemes and agencies, and pays a €50m membership fee to EFTA. But it also makes €390m in voluntary grants via EEA Grants Scheme. What is most notable about this EEA Grants Scheme – other than it being a voluntary “goodwill” scheme – is that it is calculated on the basis of the Norway’s per capita GDP. If the UK decided to follow a similar scheme, Norway’s per capita GDP is about \$76,000 per year whereas the UK current GDP is \$39,000 per capita, meaning the UK would pay close to half of that figure.

It is therefore reasonable to expect that the UK could negotiate a figure that is considerably lower than 64% (and maybe as low as 50%), bringing our annual contributions well south of £5bn per annum.

A negotiated customs arrangement would mean the Irish backstop would not need to be activated

The biggest concern for all MPs regarding Theresa May’s Withdrawal Agreement is the Irish border backstop proposal, due to the fact that the UK cannot exit the arrangement – should it be required – unilaterally. This is an unprecedented surrender of sovereignty.

EFTA countries are not in the EU customs union (customs remain a domestic issue for the EFTA states) and are therefore able to negotiate their own trade deals. This should be the long-term aim of the UK.

But to ensure a frictionless Irish border – and therefore remove the need for the Irish backstop – the UK would also need a derogation from the EFTA agreement in order to secure a customs arrangement.

Leading QC George Peretz makes clear that:

“There is no reason in principle why the UK could not combine a hybrid “Norway” solution (membership of the EEA through EFTA) with a customs union with the EU. The customs union means that the UK would continue to benefit from the EU’s 50 or so free trade agreements. It would be necessary to negotiate a derogation from the obligations arising under Article 56(3) of the EFTA Convention (i.e. the requirement that a new EFTA member to apply to join EFTA/third country trade agreements). But given the wording on 56(1) there is no reason why that should be problematic from the point of view of the EFTA States who would have to agree that.”

Leading Brexit campaigners supported an EFTA-based Brexit ahead of the referendum campaign

Support for Common Market 2.0, under its various banners, has come from across the House of Commons and across the Brexit divide. Conservatives and Labour politicians are working together in the Norway Plus group, and 76 Labour backbenchers defied the whip in June 2018 to back an EEA-based Brexit in what was the largest rebellion in the history of the Parliamentary Labour Party.

And a number of prominent Leave campaigners – including Daniel Hannan, Nigel Farage and Owen Paterson MP – all consistently advocated staying in the Single Market during the campaign.¹³

Daniel Hannan MEP said:

“Norway and Switzerland, all of these countries have completely free trade with the EU, and by the way, I can’t help noticing they’re doing pretty well.”

¹³ People’s Vote (Youtube: 17 Nov 2016) <https://www.youtube.com/watch?v=0xGt3QmRSZY>

"Absolutely nobody is threatening our place in the Single Market."

Nigel Farage MEP said:

"I hear people say 'Wouldn't it be terrible if we were like Norway and Switzerland? Really? They are rich, they're happy and they're self-governing countries.'"

"Norway, Iceland and Switzerland do pretty well."

"Norway's have no ties in terms of their foreign policy, with their fishing industry... They are opted out and exempted from all of the things that make the British mad."

Owen Paterson MP said:

"Only a madman would actually leave the market."

3. A prosperous future for the UK

Trade

Common Market 2.0 would secure the prosperity of the UK through continued membership of the Single Market and a continued customs union arrangement with the EU. This option is the only one that can maintain frictionless trade with our largest trading partner. Any other option, at least until technological solutions can be found, involves an increase in trade barriers and would likely harm our economy, putting jobs at risk.

Continued membership of the Single Market ensures tariff-free access to the EU and the other EEA EFTA states. The government's proposal by comparison only includes an aspiration for tariff-free access. This option would guarantee it as a treaty right under the EEA Agreement.

Membership of the Single Market would, along with some form of continued customs arrangement and no tariffs, ensure that there are no additional border checks. This is vital given the volume of UK trade with the EU. For example, 2.6 million freight trucks passed through Dover in 2016. Any additional paperwork such as Rules of Origin Declarations will be costly for firms and any additional checks could lead to disruptive and costly delays. Additional costs could put jobs at risk.

It is essential we maintain full participation in the Single Market in order to protect Services, which make up about 80% of the UK economy. Common Market 2.0 delivers on this. Any

additional barriers will raise costs and put jobs at risk. For example, the UK's highly successful Financial Services industry relies on its financial passports which ensures that they can operate across Europe from the UK. The current Political Declaration is unlikely to maintain current trading terms in services as it points towards leaving the Single Market, which would risk businesses moving to other parts of Europe.

Finally, once we have agreed new frictionless customs arrangements with the EU, we will be able to explore the potential for greater flexibility in VAT rules and rates.

Workers' rights

A No-deal Brexit and the current Prime Minister's deal put British workers' rights at serious risk. The commitments within the Prime Minister's deal to protect employment law are unenforceable and weak, and are excluded from the legal measures that bind the rest of the agreement.¹⁴ Those arguing for a No-deal Brexit have spoken openly of the desire to see wholesale deregulation, which would include watering down labour standards.

Common Market 2.0 leaves us open to maintaining the current rights and protections we enjoy, as per the high EU labour standards currently in place. It is these rights, such as the working time directive, rights on annual leave, equal pay, maternity and parental leave, anti-discrimination and even health safety laws, that British workers rely on to live a good

¹⁴ The Guardian, 26 November 2018 <https://www.theguardian.com/commentisfree/2018/nov/26/theresa-may-brexit-deal-rights-at-work-eu-protectionspdf>

quality of life. Remaining a member of the EEA would allow for the implementation of EU employment-related regulations into UK law, ensuring British people could still benefit from these protections.

Common Market 2.0 allows us to leave the EU as the British people have directed, but maintain essential employment protection ordinary working Britons rely on.

Citizenship Rights

There is no concept of “citizenship” in the EEA Agreement and the EU Charter does not apply. The EEA Agreement is an economic treaty, and not political one. However, Annex V obliges EFTA state contracting parties to respect the Citizenship Directive rights of EU citizens, and also to extend equivalent rights to their own subjects and other EFTA state citizens even though they are not themselves citizens of the EU. While this would not equate to the continuation of EU citizenship, which will end at Brexit, it should be of considerable comfort to UK citizens anxious about losing key citizenship rights such as free movement, residence and healthcare.

Standards and regulations

Those backing a No deal Brexit have spoken openly about their desire to remove the UK from European standards and regulations. This means chlorinated chicken from the USA, and unsafe appliances and toys from elsewhere.

Common Market 2.0 is the only plan that can ensure frictionless access to European markets, maintaining the standards that British consumers expect. It will keep identical or equivalent regulations meaning no additional costs to business and no additional paperwork. This is vital for the around 2.6million freight trucks passing through Dover.

This plan would also mean that the UK would regain its seat at global bodies such as the WTO. This means we will actively be able to shape global standards that are the basis for many EU and EEA laws.

Common Market 2.0 would give the UK more control, deciding what is best for the UK.

Participating in EU agencies

The EEA3 States participate in the agencies below through decisions of the EEA Joint Committee. In addition, bilateral agreements with the EU ensure the participation of individual EEA3 States in several other EU agencies. The EEA3 participate in numerous agencies and programmes, including REACH (Chemicals), EMA (medicines and pharmaceuticals, environment, food safety, pensions, securities and markets, network and information security, railway, maritime and aviation safety). The EEA3 also have the option of joining programmes like Erasmus, Horizon 20/20, Copernicus (environment), European satellite navigation systems (Galileo), Connecting Europe Facility (CEF) dealing with telecoms and broadband.

This means, the UK would have the option of remaining in the agencies and programmes that we want to. This would include areas that the Prime Minister’s current deal fails to secure continued engagement in – Galileo being the most obvious example.

Environmental

Current members of the EEA have agreed their ‘determination to preserve, protect and improve the quality of the environment and to ensure the prudent and rational utilisation of natural resources on the basis of the principle of sustainable development’.

In practice, this means all EFTA EEA states commit to agreements on water, air, chemicals and waste, and the equivalent environmental protections as EU membership¹⁵.

Industry and procurement

The EEA states come under the same state aid rules as EU members. These state aid rules prevent governments giving any business an unfair advantage that would distort trade. Such rules do not prevent governments from nationalising already privatised industries or prevent the state from setting up government backed alternatives to privatized industries. There are no policies in any of the major parties manifestos from the last election that current state aid rules would in any way curtail.¹⁶

As Norway has shown, it is possible under existing rules of the EEA for the state to play a greater role in the delivery of services. For example, the Norwegian government operates its domestic railways (and the Austrian Federal government operate the one railway line in Lichtenstein). The Norges Statsbaner AS, the Norwegian State Railway company, the government owned operator of the railways, was established in 1996, after Norway entered into the EEA Agreement (when a larger railway company was split into separate state-owned operation, administration and inspectorate bodies).

In the EEA, state aid is monitored by the EFTA Surveillance Authority, meaning determinations are made by EEA members through a separate, parallel structure to that which monitors state aid in the EU. The EFTA working group on state aid meets when required to determine the specifics of how it will be interpreted within the EEA, and is the means by which discussions on state aid between the EEA and the EU are conducted.

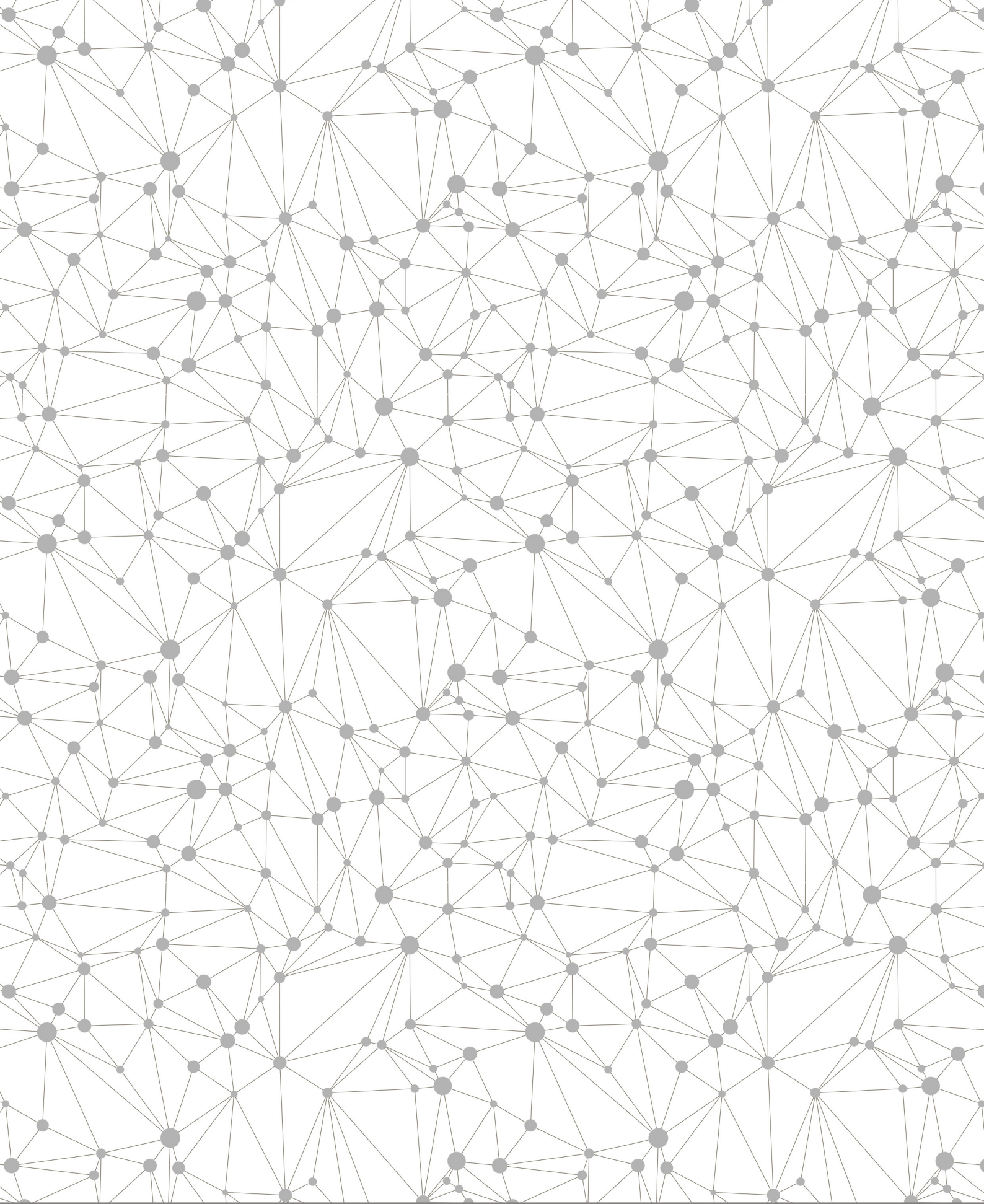
Digital

British business, not least our vital services industries, rely on the free flow of data across national borders. Data flows freely within the EEA and EU, and both the EEA and EU grant 'adequacy' agreements with third countries to allow the international transfer of personal data to countries outside of these areas. As a member of the EEA, the UK would be covered by the existing data agreements and there would be no need for a separate agreement, meaning frictionless data flows, benefiting British business.¹⁷

¹⁵ EFTA, January 2019, <http://www.efta.int/eea/policy-areas/flanking-horizontal-policies/environment>

¹⁶ Andy Tarrant, Fabian Society: <https://fabians.org.uk/negotiating-the-red-lines>

¹⁷ EFTA, January 2019, <http://www.efta.int/EEA/Data-Protection-505036>



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