

Brexit seized on by Scottish government to mount new power grab

By Steve James
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The options facing the British government in its efforts to leave the European Union (EU) were recently summed by Gideon Rachman in the *Financial Times* (“The chaotic route to train-crash Brexit,” December 19).

Speaking for sections of the financial elite, he complained that beyond a “soft” Brexit where Britain retains access to the European Single Market (ESM) and a “hard” Brexit where it does not, the most likely outcome was a “train crash Brexit” where “Britain simply crashes out of the EU—with chaotic consequences for trade and diplomatic relations.”

Rachman warned of the combined impact of a short timetable within which to unravel over 40 years of trade, legal and social entanglements, deepening impatience within the EU, costs estimated to be around €50 billion [\$US 52 billion] owed to the EU, along with the inevitable frenzied response in the British press. Taken together these threatened that “Brexit would happen after two years in the most abrupt and damaging fashion possible: with Britain’s membership of the EU simply lapsing.”

Confronted with this great unraveling, the Scottish government of First Minister Nicola Sturgeon’s Scottish National Party (SNP) has backed a 62-page paper outlining its preferred options.

From the standpoint of the dominant sections of business, financial and academic interests north of the border, the prospect of Brexit is a disaster, imperiling up to 80,000 jobs, and costing the economy up to £11 billion annually.

The document outlines proposals whereby Scotland, which voted 62 to 38 percent to remain within the EU, can retain some form of access to the ESM. Failing that, the SNP pitches in for powers repatriated from the EU to be immediately handed over to Edinburgh.

“Scotland’s Place in Europe” upholds that EU membership, “for all its imperfections,” provides “the

best possible future for the UK and would best protect Scotland’s interests.”

Acknowledging that this is beyond its writ, the SNP encourages the UK as a whole to remain both in the ESM—with its 31 member countries and 500 million consumers—through membership of the European Economic Area (EEA) and within the European Customs Union.

The paper’s authors, the Standing Council on Europe, set up by the Scottish government in the aftermath of the June 23 vote to leave the EU, argue that the referendum result does not “require any part of the UK to exit the European market.”

The UK could seek comparable arrangements to those currently agreed between the EU and Norway, Iceland and Liechtenstein, which have single-market access, but are not covered by the Common Agricultural Policy or the Common Fisheries Policy. The paper notes the ESM is much more than a free-trade area since it involves the “elimination of non-tariff or technical barriers to trade... that result from the vast array of national regulations and laws that govern the production, distribution, marketing and sale of goods.”

Loss of access to the ESM could, according to a National Institute of Economic and Social Research paper cited by the Scottish government, cost UK-based service industries up to 60 percent of their trade with EEA countries or 24 percent of their global total. Some 42 percent of Scottish international exports are currently directed towards the EU, while as many as 80 percent of Foreign Direct Investment schemes in Scotland cited access to the ESM as a factor in their investment decisions.

The large university sector would also be particularly impacted. One quarter of all research staff at Scottish universities are from the EU. Professional services are “dependent on the ability of services providers—such as

architects, lawyers, accountants, artists and academics—to move within the European Single Market and provide their service free from any discrimination on the basis of nationality.”

Domestic industry and services will also be hit. The paper noted that 32.8 percent of workers in distribution, hotels and restaurants were non-UK EU nationals. Some 19.6 percent of staff in public administration, education and health, 18.4 percent in banking and 15.7 percent in manufacturing were also non-UK EU nationals.

The paper admits, however, that “we are not confident” the UK government will seek to retain ESM membership because of its deepening hostility to “external arbitration” and the “free movement of people.”

In the event of the British Conservative government of Theresa May not retaining EEA or ESM membership, the paper proposes a number of “differentiated” options. The authors warn, “the UK has created an unprecedented situation” and “there are no set rules for what happens now” and notes that Northern Ireland, the City of London and Gibraltar are all seeking special arrangements, while unknown assurances have been handed over to car producer Nissan to retain its operations in Sunderland.

The Standing Council offers a “Norway” option as one solution, the thrust of which is to retain as much of ESM membership as possible without jeopardising Scotland’s relations with the rest of the UK. Currently, by far the greatest volume of Scottish trade in all sectors is with England. By encouraging the UK or Scotland to join the European Free Trade Area (EFTA) and at some later stage becoming party to the EEA Agreement, some measure of ESM access could be retained.

The authors note, however, that were Scotland to join EFTA while the rest of the UK stayed outside, it would raise “practical questions relating to free trade and movement within the UK,” i.e., some form or border controls. Additionally, were Scotland to have a significantly different arrangement with regard to the freedom of movement of “goods, services, capital and persons” to be more in line with the EEA, an entire Scottish-based apparatus of compliance and a regional visa system would have to be constructed.

Faced with the possibility of all these options being ignored by the British government, the SNP sets out what are effectively its terms for avoiding another referendum on Scottish independence. The SNP brought forward draft legislation for a new independence poll earlier in the year, but is nervous of actually calling another vote when polls suggest it would again lose, as in 2014 when 55 percent

voted against independence.

Instead, the nationalists are hoping to directly benefit from the Brexit debacle by laying claim to additional powers for the Scottish parliament. These fall within three areas.

- Areas currently subject to EU law that otherwise would be covered by the devolved government. These include agriculture, fisheries, education, health, justice and environmental protection.

- Control over repatriated EU laws on areas that are not currently its responsibility, such as employment law, health and safety legislation.

- New powers to “secure any differentiated relationship with Europe,” including “arrangements to enable Scottish law and regulatory regimes to be consistent with the requirements of the European Single Market.” This includes import and export control, immigration, competition law, company law, social security, energy regulation, financial regulation, transport along with the “ability to speak in international forums and to secure agreements with other countries.”

The Scottish proposals for ESM membership were immediately rejected by the British and Spanish governments, the latter dealing with the closely parallel Catalanian secession crisis. However, commentators noted that the timing of the papers’ release—the week before the Christmas break—suggested that the paper was, at this point, directed primarily towards building common ground with the SNP’s domestic rivals in the Scottish parliament, particularly the Labour Party and the Greens, in pursuit of policies that, even in their most muted form, sharply intensify an already unprecedented constitutional crisis.

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