

What precisely does 'Canada +++' mean?



*The Secretary of State for Exiting the European Union, David Davis, has described his plans for a future trading arrangement with the EU as 'Canada plus plus plus'. But what precisely does this expression mean, if anything, and what are the trade and political implications? **Andrew Blick** (KCL and the Federal Trust) explains.*

The process of UK departure from the EU has begun to take on an important defining characteristic. It involves the formulation within the UK, on a basis of domestic political imperatives, vaguely defined but ambitious aspirations that do not survive contact with external material realities. UK expectations that it would be able to begin discussing a future EU-UK Free Trade Agreement (FTA) from the outset of the Article 50 period were not met. Instead, sufficient progress from the point of view of the EU27 was required in three key areas – the financial settlement, citizens' rights and Northern Ireland – before considering of an FTA could begin. Not until 8 December this year were the two sets of negotiators able to issue an agreed statement on these terms. The Joint Report that they produced illustrates well this tendency for a gulf between UK expectations or objectives, and outcomes ultimately attained. These consequences of exiting the EU were not mentioned on the side of the 'leave' campaign bus in June 2016; nor by UK ministers who chose to treat the referendum result as absolutely requiring departure. But they are the most tangible products of the exit project to date.

The Article 50 process

In the reaching of this initial settlement, there have been concessions on both sides. The EU has perhaps been more flexible than it might otherwise have been because of a desire to avoid the collapse of the Theresa May premiership and the instability such a contingency would create. But there has clearly been far more movement by the UK, from its admittedly amorphous initial stance, than by the EU. As well as determining the overall choreography of the Article 50 process, the EU27 have secured a substantive agreement within the broad framework that they sought.

The UK has probably not helped its case by poor preparation. But even had the UK approach to departure been of maximum effectiveness, there are serious constraints upon what could be achieved. The EU is the largest trade bloc in the world. It makes up more of UK trade – both imports (53.9 per cent in 2016) and exports (43.1) – than any other market, by some way. For the UK to leave without any arrangement in place would be disruptive and damaging to the EU27, but far more so for the UK. Cabinet members, including 'leave' enthusiasts, seem to have recognised this point. The dubiousness of the claim that 'no deal is better than a bad deal' has been exposed. It is hard to conceive of an agreement worse than the absence of one. The 8 December text is a manifestation of a need for both sides to come to terms, but subject to the substantially greater bargaining position of the EU.

Given these realisations, when we consider the likely course that FTA negotiations will take, a good starting point, rather than the broad-brush optimism of the Secretary of State for Exiting the European Union, is the more precisely stated approach of the EU. It is the opening position of the EU that is likely to be closer to the final agreement, if there is one.

The European Council guidelines issued on 29 April, following the UK Article 50 notification of a month beforehand, noted that the UK government wanted to leave the Single Market, and seek 'an ambitious' FTA with the EU. The guidance recognised the need for a 'balanced, ambitious and wide-ranging' agreement. However, such a deal could not, for the UK, 'amount to participation in the Single Market or parts thereof, as this would undermine its [the Single Market's] integrity and proper functioning.' The FTA had to 'ensure a level playing field', especially in such areas as 'competition and state aid', prohibiting 'unfair competitive advantages' using such means as taxes and regulations. European Council guidelines issued on 15 December underscored these points. They recorded that the UK intended to leave both the Single Market and the Customs Union 'after the end of the transition period'. Taking this trajectory into account, the European Council would ensure that future 'trade and economic cooperation' would provide expression to 'a balance of rights and obligations, preserve a level playing field, avoid upsetting existing relations with other third countries, and...preserve the integrity and proper functioning of the Single Market.'

Government's hopes for a Canada-styled agreement

If the UK wishes to be able to diverge from the internal regulatory regime of the EU, and to pursue freedom in negotiating FTAs with countries and blocs other than the EU, there will be negative consequences for the extent of access to the Single Market that is on offer. The 'have our cake and eat it' option vaunted by 'leave' optimists – whereby the UK retains those aspects of EU membership it wishes to while jettisoning the others – is clearly excluded by the EU position papers. This stance on the part of the EU27 should not be surprising. The viability of the Single Market is dependent upon states participating within it being prevented from creating special advantages for themselves through such means as non-tariff barriers (including deviating regulations and restrictions on the free movement of people), or differential customs arrangements with third parties. As they have already, the EU27 will continue to display some flexibility over what can be agreed, but within limits. Aside from the need to protect the Single Market itself, the EU27 – as the wording of their documents suggest – will be wary of offering substantially more than was made available in other external deals. To do so is not good negotiating or diplomatic practice. One of the trading partners the EU will not wish to alienate through gifting excessively favourable terms to the UK is Canada. Yet it is the EU-Canada FTA which the UK – despite its frequent references to bespoke arrangements, not modelled on others – purportedly hopes to use as a baseline and then build extensively upon.

In fact, the reasons the Secretary of State for Exiting the European Union and others have latched upon the Canada deal seem primarily to be negative. The political imperatives that have driven the exit project all along continue to be decisive in the formulation of UK policy, such as it is, notwithstanding the serious compromises that have already proved necessary, as signified by the 8 December statement. That the UK is willing to make such a substantial (though under the circumstances, reasonable) payment; and to tolerate a significant ongoing role for the CJEU for at least eight years after exit, along with the pledges it has made regarding the status of Northern Ireland, represents a tacit public acknowledgement regarding the nature of the 'leave' agenda, the significance of which has not yet received the attention it merits. Though they will not present it in these terms, the Cabinet and governing party – and the wide range of opinion included within them – have for the time being coalesced around a position that departure from the EU is a potential source of great harm to the UK, the impact of which must be limited by reducing the extent of discontinuity (though some Conservatives harbour an enduring attraction to the notion of a clean break).

The EEA option and its discontents

Another course of action would be to seek participation from outside the EU in the European Economic Area (EEA). The non-EU EEA states are outside the Customs Union, and in this sense, the EEA model fits with the plans of the UK. But though the EEA might appear a means by which the UK could achieve one of its present objectives, it is less promising in other respects. Non-EU EEA member states, precisely because they are outside the Customs Union, experience the type of 'friction' in their trading relations with the EU that the UK wishes to minimise. Customs barriers remain in place.

It is true that non-EU EEA states take part in aspects of the Single Market, perhaps a desirable outcome for the UK in as far as it now accepts that the most abrupt of disengagements from the EU is unpalatable. Such an arrangement could also help the UK fulfil its commitment, made in the 8 December statement, not to create 'new regulatory barriers...between Northern Ireland and the rest of the United Kingdom', unless the Northern Ireland devolved institutions agree otherwise. But the Single Market rewards available to non-EEU EEA members come at costs including financial contributions and acceptance of the free movement of people (if one regards the latter as a cost rather than neutral in nature, or a benefit). At present, open acceptance of such concessions is politically difficult for the UK government. So too would be a recognition that the UK, like other non-EU EEA member states, would need to accept and abide by a substantial volume of existing and future EU law – while also no longer having a direct role in devising it (replaced by a weaker consultation process). Moreover, the CJEU, though it would not have the same jurisdiction in the UK as it does now, would of necessity be a permanent and substantial influence on the operation of the UK legal system, enforcing the very rules that the UK had given up its previous role in helping to create.

'Canada plus plus plus' is a variant on having cake and eating it

Advocates of preserving EEA membership, or something similar, argue that a clear point in its favour is that the EEA is an existing, functioning entity. It is this very quality that makes it less useful as a prospective option from the point of view of the UK government. A pre-existing arrangement is by definition not bespoke and therefore does not reflect the special treatment to which some feel the UK is entitled. Furthermore, as the discussion above shows, to refer to concrete possibilities is to invite critical scrutiny of a UK agenda riven by contradictions. In such circumstances it is far easier to use terms that have more meaning as slogans than as positive prescriptions. 'Canada plus plus plus' is in this sense a variant on having cake and eating it. The term implies that the UK will not be subject to the restraints associated with the EEA, but could obtain the benefits, and perhaps more still. Use of this phrase seeks to capitalise on claims about the extensive nature of the EU-Canada FTA (though the agreement has controversial aspects, pertaining in particular to the implications for public service provision).



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How far is the EU-Canada FTA a viable basis for an EU-UK FTA?

In 2016, 9.6 per cent of Canadian trade took place with the EU; and 2 per cent of EU trade with Canada. From the point of view of two parties who have a significant amount of trade with each other and are seeking to facilitate more, the FTA between them has clear merit. But the EU-UK position is completely different, not only quantitatively, but qualitatively. As noted above, the EU is the source for 53.9 per cent of UK imports, and the destination for 43.1 per cent of UK exports. Moreover, to refer to UK trade *with* the EU is – at present – misleading. It trades *within* the EU, of which it is a fully incorporated component. The EU-Canada FTA analogy is, in this sense, unhelpful. Like all the existing models under discussion other than continued EU membership, the FTA with Canada is a means by which the EU and another party can move forwards from a starting position of less harmonisation, towards more. The EU-Canada FTA was not designed with any intention of its being adapted to enable the UK to shift sideways, retaining some forms of integration but relinquishing others, an improbable path in any case.

Features of the EU-Canada deal that are helpful from the perspective of these respective parties – such as the ending of customs on industrial products – are at the very best partially equivalent to what the UK already possesses from inside the EU. Most of the FTA falls well short, to varying extents, of that which EU membership provides automatically. For instance, many tariffs on agricultural output are removed, but not all; and while the FTA to some extent proposes the opening up of the market for services, this provision is subject to limitations. Hence the need for references to Canada as a helpful example to add in 'plus plus plus'. The Secretary of State for Exiting the European Union, in using this phrase, remarked further that parts of the EU-Japan (awaiting approval) and EU-Republic of Korea FTAs could be appropriated, with firmer provision also made for services.

No amount of plusses will make a C equivalent to a B, let alone an A.

As anyone who has marked essays for a living knows, adding plusses to a grade can be a way of pleasing the student while keeping the assessment within a lower band. If EU membership might be seen as an A and continued EEA participation from outside the EU as a B; then the securing of an FTA is a C. No amount of plusses will make a C equivalent to a B, let alone an A.

'Brexit means Brexit' was a vacuous slogan. In current circumstance, on the other hand, the repetition of the statements 'exiting the Customs Union means exiting the Customs Union' and 'exiting the Single Market means exiting the Single Market' could be helpful. The idea that the UK might be able to bypass tariffs or deploy non-tariff barriers of its own devising *within* the EU *after it has left*, will meet immense resistance from the EU and its member states, and its trading partners, including those in the EEA, who do not possess similar benefits. As an EU member, the UK was granted a variety of opt outs – including from the Schengen Area, from other aspects of Freedom Security and Justice, from (in a limited sense) the Charter of Fundamental Rights, and most importantly of all, from the single currency. Whether this flexibility was to the benefit of the EU, or even the UK and its population, is debatable. But it was constrained by the need for continued observation of the key principles of the EU, including the four freedoms of movement for goods, services, people and capital. Concessions were made partly in the hope of reducing the risk that the UK might one day leave. In this sense they failed. In the negotiations it is carrying out now, the UK no longer has the leverage that the need to ensure its continued participation provided. The idea that, in a weakened condition, it can force the EU to compromise itself in ways it would not beforehand, is difficult to credit.

A full version of this post appeared on [The Federal Trust](#) and it represents the views of the author and not those of the LSE Brexit blog, nor the LSE.

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