Renegotiate the EEA post Brexit

A new post-Brexit trade arrangement between the UK and the EU will be complex to negotiate, and likely to be made more complex by rejection trauma. From the point of view of long term economic growth, stable financial markets and cross border peaceful cooperation, there does not appear to be good news. Position papers like the Japanese give strong hints on what is needed, but also emphasize that the UK needs automatic access to the single market more than the EU needs access to UK markets. Even if the overall size of the European economy might shrink if London suffers, the transfer of even only some crumbs of its current business would mean additional local jobs in Amsterdam, Frankfurt or Paris, trumping any benefits of keeping the London financial markets alive.

So, how to turn it around, and make the shortsighted Brexit vote (costing UK voters jobs, subsidies and workers protection) and a lack of decisive political action from UK and EU legislators to avoid this course of action, into something that would benefit Europe as a whole?

One route that has not yet received sufficient attention is a renegotiated EEA (European Economic Area, consisting of the EU member states plus three non-EU member states). So far, the 'Norway-option' or EEA has only been mentioned as a halfway house, where the UK could seek temporary refuge under the current provisions of the EEA Treaty (if the EEA member states would be willing to allow this). Such refuge would allow continued access to the EU single market, as well as possibly to a range of existing trade agreements with third countries. However, like for the current non-EU EEA countries, there is a rather high price to pay for single market access via this route. The current EEA Treaty of 1993 (between the EU member states plus Norway, Liechtenstein and Iceland) allows access to the EU for the three in exchange for abiding fully by EU single market legislation and paying into the EU budget, on both of which they have no say at all. In essence they are being taxed without being represented (in exchange for single market access). For instance new banking requirements have to be accepted by the three countries in exactly the way they are agreed by the EU member states. This was kind of ok at the time, when for instance EU banking legislation was still relatively low key and required implementation by local legislators into local law, but more intrusive EU regulations and directives have de facto increased the transfer of Norwegian, Icelandic and Liechtenstein' sovereignty to the EU. The Swiss were key drivers behind the negotiations for the 1993 EEA Treaty, but before it entered into force they opted out in a referendum. Swiss banks and stock exchanges, and other businesses for which there are no specific arrangements to access the EU suffer as a result. Norway, Liechtenstein and Iceland have gained access for their banks, but they suffer from having no vote in the council, no vote in parliament and no vote at EBA and ESMA.

The economic and political interests of the UK on the one hand and Switzerland, Norway, Iceland and Liechtenstein may thus well be aligned for a new treaty that keeps the EEA benefits, but adds a bit of balance to the sovereignty transfer. That is, if the UK can indeed convince Norway, Liechtenstein and Iceland that it can act decisively, and in their common interest instead of only its own (of which Iceland may need some convincing). They might do so, if a revamped EEA deal could bring back some of their sovereignty on single market issues, and there is not only a fair voting arrangement with the EU member states, but also amongst the non-EU member states of the revamped EEA. Arrangements on voting on new legislation could for example be based on the Eurozone ins and outs voting arrangements at EBA, though it would thus need to be drafted to ensure that the 'outs' are not dominated by any single non-EU EEA member state. Adding the economic and financial services heft of the UK and Switzerland onto the existing access to the single market of the non-EU EEA states, might sway the EU member states to add such a provision to the EEA Treaty.

 For the UK becoming part of a wider single market EEA renegotiation instead of being stuck in a bilateral post-Brexit negotiation would solve several EU/UK problems in one go. Gifts such as continued single market access, a say in financial services legislation and a more 'sovereign' vote on single market initiatives can more easily be granted to the joint non-EU EEA states than only to the UK. It would allow a path for the Swiss to opt in (solving their own internal referendum troubles on free movement of EU citizens), and perhaps even some of the other EU candidates that might be more acceptable to

EU-voters as single market EEA candidates than as EU candidates. Last but not least it would allow the single market to remain intact and reduce negative fallout on joint external interests such as security and defence.

It would still require some hard choices on customs, taxes, security, the EFTA trade agreements and especially on passport free travel and migration. For instance the likely limitation cross border long term migration rights only to people in jobs or after retirement from a local job is a common electoral issue for both the Swiss and the British (following referenda in both countries). To gain or regain access to the single market with such a painful sacrifice for the EU member states, would require equally hurtful sacrifices of the Swiss and UK negotiators.

Which price for instance the UK wants to offer up first to Norway, Iceland and Liechtenstein, and then to the EU member states would be up to it to consider. Any offer would need to be of the level of the level of sacrifice in internal UK politics as e.g. exchanging the pound for the euro. Schengen accession and doing its share on burden sharing in finance or refugees would be a good starting point, as it would ease existing troubles with e.g. France on the Calais encampment. A prudential regime for wholesale markets, desirable from a macro-prudential point of view, could be another offer, building on the AIFMD regime for wholesale investment funds. Regardless of the exact result of mutually beneficial EEA renegotiations, this route would provide the UK with the opportunity to show again why it used to be the most influential and effective EU member state alongside France and Italy, before this influence was sacrificed on the altar of national short term electoral considerations. Changing the subject from post Brexit trade agreements to renegotiating the EEA would also provide EU negotiators with cover for granting favours to the UK, allow Switzerland a better entrance to the single market, and right an existing wrong in the EU/EEA of taxation without representation for Norway, Iceland and Liechtenstein.