

## Rejection of Theresa May's little Englander 'Brexit' is splendid news



[AMBROSE EVANS-PRITCHARD](#)

10 JUNE 2017 • 2:20PM

[30 Comments](#)



Gudvangen, Norway. The rejection of Theresa's version of Brexit opens the way to revive the Norwegian trade option

For liberal, free-market Brexiteers, the election shock is a gift from Mount Olympus. We are dancing cartwheels and quaffing our sparkling Kentish wines.

Theresa May's plummeting star is an entirely unexpected chance to refashion British withdrawal from the European Union along different lines. It re-opens the possibility of a 'Norwegian' solution or close variant, an option that she shut down prematurely without debate because it limits her ability to control inflows of EU workers.

Mrs May sees Brexit through the fatal prism of migration, borders, and criminal justice - the *déformation professionnelle* of the Home Office - strangely oblivious to

the immense economic risks of pursuing a narrow strategy to the detriment of all else.

Her vision is irksome to those of us who backed Brexit chiefly in order to restore the law-making prerogatives of Parliament, and to keep a safe distance from an EU that must evolve into a unitary political state if the euro is to survive. Such a destiny is self-evidently incompatible with British democracy and self-rule.

Mrs May is a Remainer who tries too hard to compensate. She has misunderstood the subtleties of Brexit, hijacked the Referendum for the better part of a year, twisted its contours, and seems unaware how her strategy is playing into a corrosive and false narrative taking hold in the world: that the British people are turning nasty and nationalist. So let us begin again.

Theresa May forms a minority government: her speech in full

02:58

The shrunken Tories will have to rely on the Ulster Unionists (DUP), who will not brook a hard economic border with the Republic of Ireland.

They will also have to listen more attentively to the Scottish Conservative leader Ruth Davidson and with her triumphant vanguard of Westminster MPs. She is pressing for the "largest amount of access" to the EU single market.

The balance of political power has changed. To the extent that this safeguards the unity of these Isles - the foremost priority - it is a blessing.



The Tories will have to listen harder to Scotland's triumphant Ruth Davidson. There is now greater hope for preserving the union

The election was not a rejection of Brexit, as Europe's press seems to suppose. Some 84pc of votes went to Brexit parties. But it was certainly a rejection of Mrs May's particular variant of Brexit. Call it 'hard' if you wish. I prefer to call it insular, pedantic, and illiberal.

The natural fit at this stage is the European Economic Area (EEA), the Norwegian option that was once held out as the Holy Grail by Brexiteers of gradualist

philosophy, but was subsequently rubbished by the tub-thumpers and Burka banners. The party of this ideology secured 1.8pc of the vote on Thursday, nota bene. It has no legitimate veto over anything.

The EEA would in principle allow Britain to preserve open trade with the EU single market and retain passporting rights for the City of London, the goose that lays the golden egg for a very vulnerable British economy.

“We should use the EEA as a vehicle to lengthen the transition time,” said Lord (David) Owen, one-time Labour foreign secretary and doyen of the [EEA camp](#).

“Theresa May’s massive mistake has been to allow talk of a hard Brexit to run and run, and to refuse to frame a deal in a way that makes sense for the Europeans. The logic of the EEA is irrefutable,” he said.

Lord Owen said the EU’s withdrawal clause, ‘Article 50’, is designed as a deterrent to stop any country leaving. It leads to a cliff-edge, facing Britain with a take-it or leave-it choice when the clock stops ticking. “This puts us in a dangerous position,” he said. The EEA is a way to overleap this Article 50 trap.

Meredith Crowley, a trade expert at Cambridge University, says the great worry is that tariff barriers into the EU will jump to 12pc or 15pc overnight on UK exports of cars, engines, auto parts, and a range of machinery, setting off an exodus of foreign investment. “Joining the EEA would shut that threat down,” she said.

Critics argue that the Norwegian route is tantamount to remaining in the EU, but on worse terms, with no vote over policy: “While they pay, they don’t have a say,” said David Cameron before the Referendum.

This is a canard. EEA states are exempt from the EU’s farming and fisheries policies, as well as from foreign affairs, defence, and justice. They are free from great swathes of EU dominion established by the Amsterdam, Nice, and Lisbon Treaties.

Above all, EEA states are not subject to the European Court’s (ECJ) limitless writ over almost all areas of law through elastic invocation of the EU Charter of Fundamental Rights. The ECJ would no longer be able to [exploit the Charter](#) - in breach of Britain’s opt-out under Protocol 30 - whenever it feels like it. We would no longer be under an EU supreme court asserting effective sovereignty. These are not small matters. They are elemental.

Yes, the Norwegian option is a compromise. We would continue paying into the EU budget. This would do much to defuse the escalating showdown over the €100bn bill for EU reparations, poisonous because of the way it is presented. The transfers would become an access fee instead. Norway’s net payments in 2014 were £106 a head. Let us not die in a ditch over such trivia.

Britain would have to tolerate relatively open flows of migrant workers. But contrary to widespread belief, the EEA does not entail full acceptance of the EU’s “four freedoms” - movement of goods, services, capital, and people. Nor does it give the European Court full sway on these issues.

The arrangement allows “a lesser degree” of free movement than within the EU. The language covers the issue of residence, an entirely different matter from the rights of EU citizenship created by the Maastricht Treaty. The EEA permits the sort of

emergency brake on migrant flows that was denied to Mr Cameron in his last-ditch talks with the EU before the Referendum.

The point in any case is that the EEA would be a temporary way-station for ten years or so, giving us time to negotiate 80 trade deals with the US, China, Japan, India, Mercosur, and others without a gun held to our head.

Britain is a contracting party to the EEA. The agreement is binding on all members, and entails rights under the Vienna Convention on the Law of Treaties. Yes, we would need the goodwill of the EEA-trio of Norway, Iceland, and Liechtenstein, and the EU itself.

It is possible that some in the EU are now so intent on punishing Britain - or carving up post-Brexit spoils - that they would stop us pursuing this course. But that would be a hostile act. It would certainly clarify the issue. We would then know exactly what the real agenda was in Brussels. It is better to know this sooner rather than later.

There is no such thing as a soft Brexit. Wise statecraft can nevertheless work through this thicket. The EEA option is the best political solution on offer given the new circumstances. It is a graceful way out of the impasse for all parties, not least for a divided EU with a looming budget crunch and a mountain of other problems to deal with.

Tory ultras might balk at a settlement so far short of total liberation. I balk myself whenever I have to listen to the insolence of Jean-Claude Juncker. Yet Tory ultras did not win a mandate in this election for their hair-raising adventure into uncharted waters.

The vote changed the dynamics of Brexit. Compromise is now ineluctable. Jeremy Corbyn and his army of the young may have done this nation a favour.

## At a glance | What is Article 127?

---

- Article 127 is the exit mechanism of the European Economic Area (EEA) agreement
  - The European Economic Area (EEA) includes EU countries and also Iceland, Liechtenstein and Norway. It allows them to be part of the EU's single market
  - The single market is a trade agreement that allows different countries within the EU to trade across borders as easily as they can within their own country, with no extra tariffs or negotiations
  - Lawyers from British Influence, a pro-EU think tank, argue that Article 50 does not provide for leaving the EEA. They argue that while Article 50 provides a mechanism for leaving the EU, the Government could be acting unlawfully unless it triggers the separate Article 127 in order for the UK to leave the EEA. They maintain that triggering Article 127 is ultimately Parliament's decision
  - British Influence has called for a formal judicial review of the Government's position - a legal action that could end up in the European Court of Justice.
-

"Rather than coming up with new legal wheezes to try and frustrate the will of the people, these lawyers should be working with us to make a success of Brexit." - *Conservative MP Dominic Raab*





