

Reboot

The rocky road back to the EU

Or “If I were you I wouldn’t start from here.”
19th February 2021



There has been discussion of two supposed technical routes back to the EU.

We could join EFTA or the EEA, couldn’t we?

You’ll find basic relevant facts about EFTA (European Free Trade Association) and EEA (European Economic Area) here:-

<https://www.efta.int>

<https://www.efta.int/eea>

EFTA is a Free Trade Association that operates in parallel with the European Union. It is not a Customs Union, nor are its existing members party to the EU Customs Union; each has its own customs arrangements with the EU. EFTA has its own governance arrangements, including a Court whose jurisdiction all members agree to abide by.

The European Economic Area (EEA) is an agreement with the EU by which three of the four members of EFTA participate in the EU Single Market. The fourth member, Switzerland, has its own separate set of bilateral agreements with the EU which allow it to participate in some areas of the EU’s internal Market.

https://en.wikipedia.org/wiki/European_Economic_Area

By participating in the European Single Market EFTA members agree to accept the ‘four freedoms’ of the single market, including freedom of movement. http://eu3doms.eu/wp-content/uploads/2017/03/03_free_movement_of_goods_capital.pdf

EFTA/EEA members are consulted by the EU on Single Market regulations. But they have no direct say in the regulations the EU sets. <https://eealaw.efta.int>

EFTA/EEA members do not participate in the Common Agricultural Policy (CAP) or the Common Fisheries Policy (CFP)

The UK was a founding member of EFTA, along with several other countries, which eventually left EFTA and joined the EU. Membership of both EFTA and the EEA would allow the UK to gain access to the Single Market should it choose to do so. To do this it would have to accept the jurisdiction of the EFTA Court, the EU's 'four freedoms' and agreement with the EU's regulation of the Single Market. Membership of EFTA/EEA would make the UK a "Rule taker, not a rule maker."

<https://www.efta.int/eea/policy-areas/goods/customs-trade-facilitation/customs-matters>

The UK would also need its own Customs arrangement with the EU (which would be substantially different to the post-Brexit agreement)

<https://www.europeanmovement.ie/all-eu-need-to-know-efta-and-the-eea-agreement/>

During the Brexit process, there was discussion of possible UK membership of EFTA/EEA within the UK and in EFTA. Opinions in EFTA were divided; the UK would be the largest economy in EFTA, which would give it considerable weight. EFTA depends on a cooperative relationship with the EU. It is therefore easy to see that UK membership might be problematic for EFTA given its current poor relations with the EU and the fact that it would be the most economically powerful member of EFTA. The nearest we have to a formal EFTA view on UK membership is agreement that it would be considered, with the proviso that membership of EFTA would be a long-term arrangement and not a steppingstone back to the EU. The fact is that while departing from the EU, considering membership of EFTA/EEA was a logical possibility that kept access to the single market, while escaping CAP and CFP. It was promoted by some moderate voices in the Tory Party. But it was rejected by the Brexit hardliners, because it required limits on 'sovereignty' and acceptance of freedom of movement.

While there would be nothing theoretically to prevent the UK joining EFTA/EEA and later submitting an application to the EU, it seems very unlikely that EFTA members would see this as worth their while. Membership of EFTA and the EEA is therefore unlikely to provide a route back to the EU.

What about Article 49 of the European Treaty?

Article 49 sets out the basic requirements for a State wishing to join the EU. Any state wishing to join the EU has to meet the requirements and make an application. <https://ukandeu.ac.uk/explainers/how-new-member-states-join-the-eu-all-you-need-to-know/>

Members of the EU Commission suggested during the Brexit process that it would be possible for the UK to submit an application to rejoin the EU under Article 49, in due course, if it wishes to do so. Briefly, the membership process then involves approval by the Member States, and a period of Association, during which economic and legal adjustments are made to bring the candidate country into alignment with the EU.

No EU Member State has ever left and then rejoined the EU. The process which includes Article 49 is the same process that any candidate member of the EU would go through. The process relies on the agreement of the Member States and allows for whatever period they deem necessary for the candidate member to come into alignment with the EU, not only the economic and trade aspects, but the whole EU 'acquis' (The body of EU law). Clearly the greater the divergence between the candidate and EU norms at the outset, the longer the period of the Association Agreement.

It is not possible to speculate sensibly, at the moment, on what requirements the EU might set for a UK application to rejoin. Those judgements would be made when the UK applied and would depend on the political and economic situation in both the UK and the EU. If the UK were to consider submitting an application, it would need to be confident beforehand that the EU would give it serious consideration, to avoid a humiliating rebuff. But if agreement could be achieved, the Article 49 route would be a direct route back into the EU. The UK would again become a 'rule maker', along with the other Member States, sharing 'pooled' sovereignty.

So we're between a rock and a hard place – for the moment at least?

Many people talk about the possibility of rejoining the EU without appreciating the simple fundamental fact that the UK would be applying to join a club of which it is not a member. Control of the process of rejoining belongs to the members, not to the candidate. Sentiment will play no part.

Some people seem to think the EU will have us back because we are British. Those people are just as guilty of British exceptionalism as the Brexit supporters who claimed the EU needed us more than we needed them. The EU is moving on from Brexit and has many more pressing challenges to address than its troubled neighbour.

The same applies to an application to join EFTA/EEA. The more antagonistic the British are to the EU the less attractive we become to EFTA members.

If the aim in the future is to rejoin the EU, then a direct application is the obvious route to follow. Despite all the Brexiters say, divergence from EU standards will take time, and even when it has taken place, can always be reversed.



Reboot

Reboot is a roadmap to reclaim democracy—a rallying point for progressives to campaign for a new government capable of fixing Britain. We have outlined TEN changes to reform our country. This is a draft agenda for the next Govt to deliver a citizens democracy. We are a membership organization and not a political party. Join us.

Who Are We?

Reboot* began when two old friends, Liz Crosbie and Lyn Dade, got fed up with moaning on Twitter and decided to try and Intervene with a positive agenda for change. The idea was to plant a banner in the ground around which progressives could gather. A place where together we can imagine what a better Britain fit for the 21st century could look like.

We know many people who feel the same about our politics and our institutions but need a place to start to build a coherent alternative. We don't have all the answers - far from it - but we know many others that do.

There are thousands of dedicated activists with expertise in all areas of our chosen agenda – the TEN - from constitutional geeks to legal advocates wanting to deliver the rule of law and justice. The world is not short of policy ideas, just political will.

Be the change you want to see in the world and join us.