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Brexit will only mean Brexit if we regain control of economic rules

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The litmus test of whether “Brexit means Brexit” is if the UK has regulatory sovereignty after leaving the EU. That became clear last week, as the UK Government agreed to “full alignment with those rules of the internal market and the customs union” if no solution was agreed to prevent a hard Irish border.

Theresa May has insisted that “full alignment” doesn’t mean being a supplicant EU rule-taker unable to differentiate our laws. Instead, she says it’s about achieving the same regulatory goals through different means. But that’s not how other Europeans see it. The Irish prime minister, Leo Varadkar, insists continued free trade requires EU-UK harmonisation on everything from the environment to food standards and labour laws.

Varadkar’s thinking is obviously an economic nonsense. Mutually agreed standards, or harmonisation that breaks down barriers, can deepen markets. But free trade does not necessitate sharing maximum working hours regulation or directives on collective redundancies. The EU itself has free trade agreements with third countries which say nothing of these kinds of regulations on processes.

As phase two of the talks begins then, and we seek our own free trade deal with the EU, domestic sovereignty of economic regulation must be a May red line. That means the UK must cease to be regulated – directly or indirectly – as a member of the single market, and instead be free to set domestic regulatory policy. There are three reasons why this is important.

First, because it would be completely unacceptable for the UK to be a rule-taker from Brussels. Having exited the EU, the UK would have no vote on new single market rules, and would be a hostage to potential damaging legislation. This would be particularly worrisome for the financial sector, where the Commission has long pushed for a highly disruptive financial transactions tax. But similar concerns arise elsewhere.

Take the regulation of ports. The EU’s recent Port Services Regulation is shaped by a desire to liberalise the continent’s public sector port authorities with new one-size-fits-all rules. But the UK’s ports are already overwhelmingly privately owned, efficient and self-regulating. Subjecting them to the EU’s new regulator, with the power to enforce alternative providers of services and to cap fees, will simply add inefficiencies and deter investment.

There are many other areas where the UK tends to be more liberal, and where centralised EU laws could be damaging and inappropriate.

Mooted EU harmonisation on labour, bankruptcy, tax and corporate laws can surely only be bad news for the UK, especially absent an ability to vote and shape it. That’s to say nothing of regulatory frameworks as new technologies arise, given the EU's tendency for lethargy and being overly cautious.

Second, and more importantly, harmonised regulation with the single market would preclude us from altering existing laws in a more pro-growth direction. The focus since the referendum has been on external trade. But arguably the biggest potential boost from not having to accept the *acquis communautaire* is provided to internal trade – where deregulation could lower costs and enhance GDP.

Now, at this point, sceptics usually invoke a caricature of deregulation and talk about diluting safety in a "race to the bottom". So let's take some specific examples.

Mark Carney, the Governor of the Bank of England, has highlighted how Brexit is an opportunity to roll back regulations which harm the City, including the bankers' bonus cap, elements of EU insurance regulation, and rules weighing heavily on challenger banks.

The UK Treasury likewise wrote in 2015 about how "European-level rules and agreements affect a range of policy areas, from energy to financial services" in the context of constraining productivity. It's widely acknowledged that the Common Agricultural Policy constrains innovation, while the EU's precautionary principle in farming regulation and GM crops lowers crop yields.

Previous work by Open Europe from 2013 showed that 24 of the 100 most economically costly EU laws at the time, including the Temporary Agency Workers Directive and the Energy Performance of Buildings Directive, had costs exceeding benefits. A further 33 had benefits that were intangible or not quantifiable.

Successive previous Tory manifestos pledged to seek repatriation of employment law too, presumably because they thought beneficial changes could be made.

Altering any of these regulations in isolation might not have a big impact, but the cumulative effect is likely to be large. Yet assessments of the economic impact of the UK leaving the EU tend to ignore all these possibilities.

Finally, regulatory sovereignty is a necessary condition for the UK to sign effective free trade agreements with other countries. The UK is primarily a service-based economy, and will be seeking deals to liberalise those sectors. That requires being able to negotiate mutual recognition of regulatory standards with other major economies. Yet if the UK is an EU rule-taker and does not control its own regulatory frameworks, not only would this increase uncertainty to third parties, but they would have little incentive to agree deals with the UK, opting to deal with the EU directly.

The conclusion is therefore clear. If the UK Government wants to avoid damaging legislation being imposed upon it, if it wants to enhance the growth potential of the economy, and if it wants (as it says) to sign lots of free trade deals with third countries, then it must regain control of domestic economic regulation. If the price the EU sets for maintenance of tariff-free trade is complete regulatory harmonisation, then no deal would be better than that bad deal.

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