



Brexit

The Turkish Model



It has been suggested that entering a 'Customs Union' similar to Turkey's might be a compromise between having access to the single market, without having to accept the full set of 'freedoms' that EU / EEA membership would bring. In this article we explore whether the Turkish example might be used as a guiding model for the future UK/EU relationship.

The EU has three Customs Unions, which include two microstates, Andorra and San Marino, and Turkey. For the purposes of meaningful comparison, we focus on the EU's relationship with Turkey.

Background

The foundations of Turkey's relationship with the EU date back to the Agreement Creating An Association Between The Republic of Turkey and the European Economic Community, (the Ankara Agreement) signed in 1963. This agreement was intended as a key step in Turkey's progress towards membership of the then European Economic Community (EEC), after it had applied for associate membership in 1959.

The agreement specified the steps to be taken in order to establish a 'Customs Union' between Turkey and the EEC. This Customs Union was finally concluded between the now EU and Turkey in 1995.

Working with the European Union: Scope of the Customs Union

The scope of the Customs Union covers trade in manufactured products (essentially all industrial goods) and also processed agricultural goods (e.g. confectionery, sweet drinks, beer) between Turkey and the EU.

In broad terms, the Customs Union has led to the abolition of customs checks and tariffs on the products covered by the Customs Union when they are traded between the EU and Turkey. In addition, trade between the EU and Turkey in raw agricultural products and steel products is regulated by separate preferential agreements. The benefits of this to Turkey have been considerable, with the World Bank reporting that without the Customs Union, Turkish exports to the EU would have been around 7.2% lower, and EU exports to Turkey around 4.2% lower.

There are, however, notable exceptions to the Customs Union, in particular services, which include the freedom of establishment and the freedom to provide or receive services in any EU country, and vice-versa.

Application of EU laws and regulations

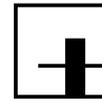
In exchange for this partial access to the single market, Turkey is required to align its rules and standards to those of the EU in areas in which it is able to freely trade. This means, in practice, that Turkey must ensure that its rules regarding industrial standards and product design, competition law, environment and state aid must be equivalent to EU standards. It does not, however, have any say in the legislative process behind these rules, having no role in EU decision making.

The Customs Union also impacts on Turkey's ability to negotiate free trade agreements (FTAs) with countries outside of the EU. As part of the agreement, Turkey and the EU must provide for common external tariffs. In practice, this means that Turkey must accept the EU's external tariffs, without having any influence on setting their rate. Therefore, when the EU agrees an FTA with a non-EU country, this gives that country access to Turkey's market on the same terms as its access to the EU, without Turkey automatically gaining access to theirs. Instead, Turkey is required to negotiate a separate trade deal, starting on the back foot with tariff rates already established.

These limitations have led to considerable criticisms of the existing form of the Customs Union. The terms were agreed according to the economic situation at the time, but the global economy has since shifted dramatically without corresponding changes to the terms of the Customs Union. In particular commentators have noted that to make the arrangement more equitable, there needs to be a change to:

1. The scope of the Customs Union, to cover both services and agriculture in particular.
2. The way FTAs are negotiated and agreed, to ensure Turkey has a say on terms that may have a significant impact on its economy.

This has led to an agreement between the parties to review the terms of the existing Customs Union, and



how to best ensure it is fit for purpose. A consultation on this topic took place in spring of 2016 and further talks are due to be held in late 2016. The position for the foreseeable future, however, remains unchanged.

Other Arrangements with the EU

Other than through the Customs Union, Turkey's formal relationship with the EU is relatively limited, despite being an Associate Member. It has no role in EU decision-making and does not contribute to the EU budget.

However, it does have a number of informal ties with the EU:

- In respect of movement of people, although Turkey is not part of the Schengen zone, nor does it benefit from the 'free movement' principles of EU and EEA countries, the possibility for the EU to agree for Visa free travel arrangements is currently under discussion.
- In respect of EU policing and criminal justice, although Turkey does not fully participate in schemes such as Europol, it has signed up to liaison agreements, giving it the benefit of a network of liaison offices and access to European expertise. In addition, Turkey may second personnel to EU military and civilian missions if it so chooses (although it will have no influence in decision making within these bodies).
- As a current candidate for EU membership, Turkey also receives some EU funding to assist it in its path to membership.

Does the Turkish experience provide any signposting for the UK?

If the UK were to sign-up to a similar 'Customs Union', this would achieve some of the goals sought by Brexit supporters and campaigners. These would include retaining partial access the single market, whilst gaining additional controls in relation to the four freedoms of movement.

However, there are numerous drawbacks and difficulties that would make such an option unattractive. These drawbacks have also been recognised in the report presented by the Secretary of State under section 7 of the EU Referendum Act 2015 on *Alternatives to membership: possible models for the United Kingdom outside the European Union*.

1. The existing Customs Union structures only give partial access to the Single Market, namely manufactured goods and some agricultural products. Although, there is scope to agree different products, there would be no

guarantees that an extended scope would be accepted. For the UK, with an economy dominated by the services sector, a block on full access to the single market for services could have a significant impact. In any case, even if the terms could be agreed to reflect the UK's existing economy, this will not stop future value chains evolving, and this could lead to any Customs Union agreement becoming outdated. Turkey's experience has demonstrated that it is not an easy process to bring these up to date, and if the UK followed the Turkish lead, it may find itself restricted under the agreements.

2. The issue of sovereignty would still be entirely unresolved. The UK would still be obliged to follow and adhere to EU laws, rules and regulations, but with absolutely no say on how these are designed. This would undermine the argument put forward by proponents of Brexit that a vote to leave was a vote to 'take back control': the reality may prove to be quite the opposite if such a model is adopted.
3. In addition, as outlined above, the Customs Union model requires the parties to apply common external tariffs and this would make it particularly difficult for the UK to negotiate FTA's with third countries without having regard to the terms already negotiated by those parties with the EU. In the case of Turkey, it has no say in what these are and must therefore accept the terms agreed by the EU in its FTAs. Although it may be the case that the UK could include the right to be involved in negotiations as part of the Customs Union agreement, this model would still put a significant limitation on the freedom to create independent trade deals. This could also have significant implications for the UK if, for example, it were obliged to accept any terms ultimately agreed by the EU with the US in the Transatlantic Trade and Investment Partnership (TTIP) negotiations.
4. The Turkey - EU Customs Union was designed and agreed to, in the context of greater cooperation between the two entities, with the goal of Turkey becoming a full member in time. This is exactly the opposite of what the UK has voted for. It is therefore hard to see how such an agreement could currently be forged.

In essence, for the reasons set out above, it is difficult to see how such a customs union model would be appropriate for the UK. As negotiators in Brussels and beyond will have to come to an agreement acceptable to all parties involved, it may be that a Customs Union provides a position of compromise.