The Norwegian Way

A case study for Britain's future relationship with the EU

Jonathan Lindsell

February 2015
Civitas: Institute for the Study of Civil Society

Jonathan Lindsell joined Civitas in 2013 as EU research fellow after reading history at Trinity College, Oxford. His other reports include *Softening the Blow: Who gains from the EU and how they can survive Brexit*. He has written for Vagenda, *The Independent*, Conservative Home, the Index on Censorship and Open Democracy.

CIVITAS
55 Tufton Street, London SW1P 3QL
T: 020 7799 6677
E: info@civitas.org.uk

Civitas: Institute for the Study of Civil Society is an independent think tank which seeks to facilitate informed public debate. We search for solutions to social and economic problems unconstrained by the short-term priorities of political parties or conventional wisdom. As an educational charity, we also offer supplementary schooling to help children reach their full potential and we provide teaching materials and speakers for schools.

Civitas is a registered charity (no. 1085494) and a company limited by guarantee, registered in England and Wales (no. 04023541).

Acknowledgments

Many thanks to the colleagues, referees and respondents whose comments pointed my research in new directions and contributed to areas that would otherwise be lacking. Any errors remain, of course, my own.

Contents

Executive Summary

In the debate over Britain leaving the European Union, and how prosperous and powerful the country could be after independence, commentators on both sides often pick the example of Norway, a flourishing country with world-beating living standards and a healthy economy. Norway has a half-in, half-out relationship that gives it free trade with Europe but keeps it out of the EU's political institutions.

David Cameron dismissed the Norwegian alternative with the blunt assertion that Norway 'has no say at all in setting [trade] rules'.[1] The prime minister's fear that Norway lacks influence would be grounds for dismissal if it stood up to scrutiny. But does it? This paper seeks to examine the situation in detail, using government reports and communication with some of Norway's leading stakeholders and companies.

Norway is not a member of the European Union but it is part of the European Economic Area (EEA), which was set up in 1994 and comprises also Iceland, Liechtenstein as well as the 28 EU countries. As part of the EEA, those three non-EU states have mutual free trade with the single market, significant influence over EU rules, the flexibility to do deals with the rest of the world, and more constitutional protection than EU member states enjoy. Although not a picture-perfect model for Britain to follow, a thorough look at Norway shows that many aspects of the EEA arrangement are much better than is usually surmised. This paper does not argue in favour of Britain's exit from the EU (Brexit) or any single way of achieving it, but aims to show that for voters keen to leave the EU, the Norwegian model should not be written off.

- Norway has a strong track record of influencing EU legislation, contrary to Cameron's concerns. It is not the passive recipient of 'fax democracy', forced to follow all EU laws to the letter. It is involved in EU legislation through the early drafting stages and contributes to the final outcome. Britain, were it to be in Norway's position, would almost certainly have more influence still, as a larger economy with a closer history to the EU.

- The EEA agreement contains a veto, a last resort for blocking EU rules from applying to the non-EU countries in the EEA. This is frequently ignored as using it might mean a mutual loss of market access for specific products or services. However it is a strong threat for an EEA member to use, and is actually weighted more towards Norway since, if all negotiation fails, the agreement only allows EU retaliation on that specific product or service, not the entire agreement (as is the case with Switzerland or other EU trade partners). Less drastically, Norway can avoid harm from EU rules under the EEA agreement's many provisions: it is able to fight its case for exemptions or adaptations.

- Norway is theoretically allowed to suspend the free movement of labour in emergencies. This provision of the EEA agreement has not been tested. Instead, Norway's policies of integration aim to deal more effectively with the social and economic pressures of migration. The provision can be used to address serious economic, societal or environmental difficulties that arise from free movement.

- Many flagship Norwegian seafood products have preferential or tariff-free access to EU markets. Norway chooses to reject the Common Fisheries Policy and Common Agricultural Policy, so seafood and agricultural products from Norway do not benefit from completely free trade. Nevertheless, the EEA agreement covers these products. Friendly biennial tariff talks with the EU mean such products are taxed less than those of other countries.

- Norway remains active in many of the EU's cooperative activities such as scientific projects, health and food safety, and police training. Because these are outside the EEA agreement Norway cannot be forced to take part, but participates according to the country's best interests.

- Norway pays considerably less into the EU budget than Britain or other member states. Adopting a similar EEA position could save the country more than £1 billion each year. The money pays for EEA running costs, and the social and economic development of some EU states.

- Small states in free trading situations like Norway have successfully hammered out beneficial trade deals with large economies like China. Global trade rules mean such deals actually incentivise European multinationals to base more of their production in non-EU states.

The EEA countries outside the EU – Norway, Iceland and Liechtenstein – should welcome a British application to join, since they would then wield the threat of suspending UK free trade as well as their own commerce over a veto matter. It is unclear whether the EU would support such an application, but the EEA arrangement would be the exit option with the least disruption for the EU, so if the British people had clearly voted to leave, Brussels should seriously consider cooperating.

If UK voters are keen to disengage from the EU more than the EEA agreement allows, Britain could still use the Norwegian model as a jumping-off point and adapt further. Indeed, Britain leaving the EU but participating in the EEA would almost certainly expand the EEA's importance. This would provide an opportunity for Britain to aim for 'observer status' at even more EU meetings and institutions, increasing its influence beyond that which Norway already enjoys.

Introduction

Norway is not in the EU. Its five million people can trade freely with the EU, move to or invest in European countries, and provide untaxed services for other Europeans. Norwegians rejected full membership in two referendums, in 1972 and 1994, but as close and friendly European neighbours they work much closer with the EU than the average country. Norway forms part of a single market deal that came into force in 1994 as a 'halfway house' for states expected to join the EU imminently, creating the European Economic Area (EEA) with Iceland, Liechtenstein and the EU states.[2] The non-EU states also have free trade with Switzerland through membership of the much older and less structured European Free Trade Area (EFTA). EFTA co-ordinates the responses and provides some of the administration for the non-EU countries, so Norway's situation is commonly referred to as 'EFTA-EEA'.[3] This arrangement means Norway does not participate in the common agricultural or common fisheries policies, the customs union, common foreign and security policy, EU justice and home affairs, or monetary union. Consequently it does not pay the full membership rate to Brussels. This all means Norway and Switzerland are not part of the EU's common external tariff so can set their own tariffs and quotas when trading with the rest of the world.

However, Norway's situation is usually ignored or dismissed in debates about Britain's future. In his historic Bloomberg speech announcing Conservative plans for an EU referendum, David Cameron briefly touched on Norway: '[W]hile Norway is part of the single market - and pays for the principle - it has no say at all in setting its rules: it just has to implement its directives.'[4] Similarly the position championed by Boris Johnson in a paper by his chief economy advisor, Gerard Lyons, simply says of Norway: 'This is not an option for the UK.' The dismissal is short, but repeats the complaint that extra paperwork required of EFTA-EEA exporters is 'not appropriate for an open economy like the UK'.[5] As recently as November 2014 Peter Wilding, director of the pro-EU group British Influence, asserted that a Norwegian situation 'will sound to all reasonable British voters as a lose lose [and to say otherwise] would be a con.' He, like Cameron, claimed: 'Norway has single market access but pays a quota into the EU budget, adopts all relevant EU legislation (but with no input in formulating it) and accepts EU immigration.'[6]

This is a view most Britons familiar with the Brexit debate share. Famously, former Norwegian prime minister Jens Stoltenberg (2000-01, 2005-13) labelled the Norway-EU relationship ‘fax democracy’. His quip is treated as received wisdom in the British eurosceptic conversation, whereas it should be seen as part of a wider strategy from an intelligent operator. Stoltenberg’s Labour Party is keen for Norway to embrace full EU membership, so it is very much in the narrative to focus on the EFTA-EEA arrangement’s perceived shortcomings. Svein Roald Hansen is chairman of the European Movement in Norway, another champion of joining. He explains ‘Because we're not part of the decision-making process, we can't take care of Norway's interests in a good way… We're left to lobbying other countries to make our views have influence.’[7]

That’s all we hear when we consider the Norwegian model as an alternative to full EU membership - the opinions of a few EU supporters. There are other sticking points, too: that Norway (or EFTA) is too small a market to win good trade deals and compete against the world and that its trading relationship with the EU requires too much paperwork and would be unacceptably expensive to British businesses.[8] It is argued that Norway has to operate all of the ‘four freedoms’[9] in the same manner as the EU so joining the EFTA-EEA would do little to address many eurosceptics’ foremost demon, high immigration. Some also say that there are areas in which EU cooperation is desirable, but Norway is locked out or side-lined.

It could be argued too that Norway is not a fair comparison to the UK, either because of its oil wealth or its relative economic and population size. Neither of these factors were heavily weighted when Norway joined the EEA – it was negotiated along with the two small states which have no huge energy reserves, Iceland and Liechtenstein, along with Austria, Sweden and Finland which together represented a much larger economy.

This study will examine the detailed operation of the EFTA-EEA system through publications by Norway’s government, politicians and commentators. It will also refer to previous Civitas publication *Softening the Blow*[10] (2014) which examined what UK exit should look like to satisfy pro-EU businesses.

This paper holds that the Norwegian EFTA-EEA arrangement, while not ideal, is far more effective in addressing such businesses’ Brexit concerns than it has previously been given credit for, and concurrently is less guilty of the flaws with which the prime minister damns it.

The majority of Norwegian government and business literature is positive or balanced about the EEA agreement – it is hard to find anything clearly negative. The most recent reports for their parliament say 'the agreements with the EU have on the whole safeguarded Norwegian interests and values' and that the EEA agreement 'has provided a stable and relatively predictable framework for almost all aspects of Norway's economic relations with the EU', which is most of Norway's trade. The government-commissioned report, 'Outside and Inside', notes that there have been 'relatively few conflicts… many of them resolved in a way that has made it possible to continue to pursue Norwegian policy aims'. Of Norway's main parties, only the Christian Democrat Party and the Liberal Party actually prefer the EEA agreement as their ideal choice, where others support EU membership or a looser relationship – however 'all the parties can in practice live with this form of association…a compromise between democratic considerations...and considerations of other values an interests'.[11] The Norwegian public, unlike Britain's, are not belittled for defending the idea of their state being outside the EU.

Savings

Norway does pay for membership through several channels, the main ones being the Norway Grants to developing central and eastern European member states, the EEA Grants, and EEA-EFTA payments to EU operational costs. The House of Commons Library compared Norwegian and British payments in 2011 and found that Norwegians paid £106 per capita (net), whilst British taxpayers paid £243 (gross) or £128 (net – so discounting EU Common Agricultural Policy (CAP) spending, structural funds and so on in Britain).[12]

Assuming Britain, once outside the EU, spent the exact same amount as the EU did on agriculture and depressed regions, and paid for access to the EEA on exactly Norway's terms, this would amount to a net saving of £22 per person per year, or £1.68 billion across the country. Compared with the gross figure, Britain would save £7.27 billion or £115 per person, but bear in mind that any agriculture, structural support or other spending in the UK that used to be run by the EU would count against this saving. As discussed in *Softening the Blow*, 'mirror funds' covering lost EU subsidies would be important to ensure UK businesses competed with the rest of Europe on a level playing field.[13] Indeed, Norway has higher farming subsidies than the EU, higher than the OECD average,[14] although Britain does not need to go so far.

Is this just fantasy?

In 2006, former Icelandic prime minister Davíð Oddsson expressed doubt that Britain would ever be allowed to join the EFTA-EEA. Oddsson argued: '[The EU] would try their best to make sure it would not work, because if a country left, and it did work, it would be a humiliating example for them.'[15] (This was based on a comment from then-chancellor of Germany, Gerhardt Schröder, who is of course long gone along with Oddsson himself.) This reasoning may have been true at the time, but the logic would apply to any exit path Britain might pursue. Given Norway's current strong position as Europe's oil and gas reserve (below) it seems very unlikely the EU would actually end the EFTA-EEA system if Britain joined, as Oddsson speculated. Certainly, some European politicians will always say that exit would be an economic disaster for Britain and that we would never get a 'good deal', but this is largely posturing. If the British public voted clearly in favour of leaving the EU, Brussels would quickly realise that exit was unavoidable and set about negotiating the best possible relationship.

Norway's current leader Erna Solberg argued that 'the EEA is a not a good example for the UK'.[16] We must remember that Solberg is in favour of Norway joining the EU, so the UK disengaging from Brussels and making a (greater) success of EFTA would damage her cause. In any case, she was not stating that Norway would block Britain joining, but arguing that Britain would not be comfortable in the Norwegian position, an argument this paper examines.

On the other hand, and more recently, Bjarni Benediktsson, Iceland's finance and economic affairs minister and Independence Party leader, indicated Britain could 'reap a lot of benefits' in the EFTA-EEA but stopped short of advocating exit.[17] He did not raise any diplomatic impediments to achieving this and suggested Britain was effectively on the way towards an Icelandic situation already.

There is, then, doubt that the current EFTA states would accept Britain as a member. It is not a foregone conclusion by any means – British diplomats would need to court Norway, Iceland and Liechtenstein and may have to consider concessions or compromises. It is difficult to tell at this early stage whether they would be successful, since no British government has made overtures to join, so the EFTA states' positions are not laid out.

It could also depend on which parties in those states are in power – Britain led by the Conservatives and/or Ukip would have more in common with the Norwegian Progress Party and Høyre than a Red-Green alliance. That said, the Labour Party's new leader is Jonas Gahr Støre, who as foreign minister under Jens Stoltenberg threatened to use Norway's EEA 'veto' for the first time (below). The current Icelandic prime minister, Sigmundur Davíð Gunnlaugsson, may well be sympathetic to Britain disengaging from the EU, since he himself ended Iceland's EU accession process.[18] British involvement in Icelandic banks may prove a useful bargaining chip (below).

Whatever the case, British accession to EFTA is a distinct possibility and one that appears substantially simpler, swifter, and more likely to be comfortably achievable, than any other 'Brexit' options under public discussion. This does not mean it is the best exit option – this paper simply argues that the EFTA-EEA option is viable, and that many of the criticisms levelled against it are oversimplistic or misled.

Clout on the world stage - a small fish in a big pond?

Norway tends to follow the EU's lead in global trade progress rather than pursuing deals alone, so does not provide a good example of a country's capacity to conduct its own trade relations from the EFTA-EEA. The EU's supporters argue that, alone, Britain would not have the clout to be noticed at the highest levels, or would be forced into terrible deals by greater powers. They contend that Britain's interests are best met as part of the larger EU, even though Britain's specific wishes get diluted among 27 other clamouring voices. Norway often chooses other priorities – for example it has not negotiated a trade deal with China primarily because the Norwegian Nobel Committee, which is appointed by the Storting (parliament), gave the Nobel Peace Prize to Chinese human rights activist and democratic reformer Liu Xiaobo in 2010, which caused early discussions to stall.[19]

Switzerland, however, has been assertive in its international dealings. Michael Burrage investigated these in his Civitas paper, *Where's the Insider Advantage?* Switzerland is not in an identical EU situation to Norway, since it is not an EEA signatory.[20] Instead, after rejecting EEA membership in 1992, Switzerland negotiated eight comprehensive bilateral treaties with the EU, which cover the four freedoms and various side issues. As far as the outside world is concerned, Switzerland and Norway are functionally similar: both are outside the EU's Customs Union (meaning they can set their own tariff levels and conduct trade negotiations independently), both are EFTA states, and also both have free market access to the EU. They have similar populations (Switzerland 8m, Norway 5.1m in 2013) and economies (Switzerland $385bn, Norway $282bn PPP GDP in 2013[21]). Certainly, Switzerland is more of a heavyweight than Norway by a little, but still provides a good ballpark comparison against a theoretical EFTA Britain (population 64.1m, $2,390bn PPP GDP in 2013[22]).

Burrage compares Switzerland's free trade agreement (FTA) track record with that of the EU and notes multiple instances of Switzerland signing FTAs before Europe, or deeper FTAs than Europe, or FTAs Europe does not even have: Switzerland has free trade deals with China, Hong Kong, Canada, Japan and Singapore.[23] Burrage constructs the table below, (Figure 1), showing that Switzerland is missing out on access to $758.624bn of markets (mostly Algeria, Syria, Guatemala, Costa Rica) but Europe misses access to $19,541.7bn of markets.

Fig. 1 FTAs in force in the EU in 2012 but not in Switzerland & vice versa by market size

CIVITAS

EU only	GDP(PPP)$b	CH only	GDP(PPP)$b
Syria	122	Singapore*	328.3
Algeria	327.7	Japan	4487
Costa Rica	62	Canada*	1484
Panama	63	Ukraine*	338
Honduras	33	China*	12471
El Salvador	45	Hong Kong*	372
Guatemala	77	Botswana*	34
Nicaragua	24.39	Lesotho*	4.0
Andorra	3.163	Swaziland*	6.5
San Marino	1.371	Namibia*	16.9
Total	$758.624b	Total	$19541.7b

* indicates the agreement included services
Source: http://data.worldbank.org/indicator/ accessed via http://en.wikipedia.org/wiki/List_of_countries_by_GDP_(PPP)

Readers may be sceptical about this comparison – the EU's supporters dismiss such compelling evidence by saying Switzerland is always the lesser partner in big trade deals, implying that they lose out. The Centre for European Reform (CER) cites a study of Switzerland's biggest recent deal, the FTA with China, as evidence of Switzerland's situation being unenviable.[24] They say this Switzerland-China FTA 'is not truly a free trade agreement' and imply that after leaving the EU, Britain would lack the leverage to deliver real trade advantages.

For the sake of balance the Wenfei Law 'Practical Guide to the New Free Trade Agreement' will be a key source. The study shows that the FTA took two and a half years to negotiate, was finally signed on 6 July 2013, and came into force at the end of June 2014, removing tariffs on 99.7 per cent of Chinese goods and 96.5 per cent of Swiss goods.[25] Furthermore (and here was the crux of CER's point) Wenfei Law notes that for Swiss exports:

> Whereas duties on some products are eliminated from day one, duties on the majority of products will be reduced step-by-step on a yearly basis mostly within 5 or 10, at times within 12 or 15 years. While some of those tariff rates are gradually reduced to zero, others are only partially reduced. For example, wrist watches with automatic winding and a precious metal case are gradually reduced from a base rate of 11 per cent to a preferential rate of 4.4 per cent over 10 years.[26]

In the meantime, Swiss tariffs on Chinese goods are mostly reduced to zero, and mostly on the day the agreement comes into force. It is easy to see why CER think this is an unfair deal: Switzerland isn't getting anything like the market access, in tariff terms, that China gets.

This is an overly simplistic analysis, though. Swiss products will get preferential access to over one billion consumers. A 6.6 per cent advantage over other watch manufacturers (including European) is not to be sniffed at. Moreover, Switzerland benefits from removing its own tariffs as Swiss consumers will have freer access to Chinese goods: more choice and fairer competition. They won't be forced to buy Chinese goods, so sectors that China comes to dominate (if any) will be at Swiss consumers' behest. The study estimates that Swiss trade with China will grow 10.5 per cent by volume for the first four years of the agreement (and that is before many of Chinese tariffs have been fully reduced!) and Swiss foreign direct investment (FDI) in China will grow 18 per cent per annum.[27] Swiss industries experiencing a delayed tariff drop or gradual tariff relaxation are still likely to benefit from the agreement short term as the promise of those preferential tariffs will still increase market confidence, investor enthusiasm and influence company expansion plans.

The FTA contains a clause stating: 'Parties will review the scope of the tariff reductions two years after entry into force of the agreement in a Joint Committee and continue to conduct biennial reviews thereafter.'[28] CER's authors see this as a weakness, arguing China might 'change the terms of the deal'.[29] That is true, but it is equally possible if not more likely that the biennial reviews would either go further and deeper (as Swiss-EU bilateral deals have and as growing goodwill arising from better trade suggests) or resolve questions arising from the initial deal, which the Wenfei Law study notes is ambiguous in places. 'The Swiss view is that the mechanism will effectively enable an ongoing adaptation of the FTA should new circumstances arise in the future. For example, the Swiss government may request fair treatment if, at some stage, the European Union and China conclude a free trade agreement with significantly more favourable terms,' Wenfei Law writes.[30] This is hardly cause for CER's pessimism.

The Burrage paper notes that Swiss negotiators seem more successful than those of Europe at winning concessions in services as well as goods, services being a British export strength and therefore a key concern. Wenfei Law's paper notes that the Sino-Swiss FTA does not go as far as 'many potential Swiss investors' would like, but does provide advantages over other international providers such as insurance brokers.[31] Furthermore, 'the FTA brings about certain benefits' for the securities sector, which will be able to own 49 per cent of joint ventures in China where the general rule is only one-third foreign ownership. They will be permitted 'to gradually engage in securities brokerage, proprietary trading and asset management'. Swiss service suppliers will be allowed to provide services to Chinese Qualified Institutional Investors (QDII), including 'securities trading, portfolio management, and custody for overseas assets – a privilege not granted under the GATS framework.'[32] There is also a specific benefit for skilled Swiss workers: 'The most conspicuous difference to [normal] relates to contractual service suppliers, such as installers and maintainers, architects and engineers, who are to be granted a stay permit of up to six months or one year according to the FTA structure.'[33]

As with trade in goods, this does not appear to be a miraculous deal for Switzerland. Nevertheless, it gives a number of their important service industries an edge in a rising superpower – a communist, protectionist country that Europe and America have barely made mood music towards. An FTA freely entered into is better than none at all.

The details of the deal include more technical commitments, again falling short of what one might expect from two historically capitalist trading nations, but impressive for a deal with China. These include recognition of intellectual property rights, acoustic marks, corresponding courts' decisions, and protections of source marks (the geographic indicators with which Switzerland is acquainted thanks to Brussels).[34] Interestingly, while the FTA builds on an earlier bilateral investment treaty and commits the partners to 'promoting mutual cross-border investment and technology flows',[35] it stops short of committing to an investor-state dispute settlement mechanism like that proposed for the Transatlantic Trade and Investment Partnership (TTIP, the USA-EU trade deal), which has drawn fierce protests from both sides of the Atlantic.[36] (At the same time, UK products conforming to EU single market rules would benefit from TTIP's removal of non tariff barriers.)

As mentioned in the introduction, some EU commentators such as the Trade Policy Research Centre (TPRC) criticise the Norwegian and Swiss situation because it relies on 'rules of origin' principles. This means that goods being exported from Country A to Country B under a preferential trade treaty must have certificates of origin to prove the goods are genuinely those of Country A, rather than those of a third country being channelled through Country A to avoid tariffs or rules. TPRC fear that the burden of paperwork, calculations and rules compliance will be as large as the burden of tariffs so would prejudice UK sales to the EU after exit.[37]

This fear seems to be unfounded. In all the Norwegian government and business literature reviewed for this report, rules or certificates of origin were never raised as a problem with the EFTA-EEA agreement. Indeed, they were barely mentioned, and certainly do not represent so great an obstacle as protectionist tariffs. Indeed, all preferential trade agreements (trade agreements that have better terms than World Trade Organisation basic rules) rely on 'preferential rules of origin', including the North Atlantic Free Trade Area (NAFTA – Canada, Mexico, USA) and EU FTAs with places like South Korea. Indeed, British businesses sell to Norway and Switzerland using rules of origin – or, in everyday speech, 'customs papers'. Trade within the EU is one of the few exceptions because it is a full customs union, so functionally no different to selling goods from Hartlepool to Harrogate.

In fact, the legal report on the Sino-Swiss trade pact shows there are substantial benefits to rules of origin specifications as they incentivise businesses to base more of their supply chain in the actual country covered by the deal. This will be explained: 'For a product to benefit from the reduced tariff rates according to the FTA, it must meet the rules of origin as set out in the agreement, i.e. it must originate from either Switzerland or China.'[38]

Where a product 'originates' is a little complicated, and is measured by one of two yardsticks: *Wholly obtained* in Switzerland or China (raw minerals, agricultural products, fish, goods wholly made in one country); *Substantial transformation* in Switzerland or China (if transformation pushes non-originating components' value below a certain percentage threshold;[39] transformation changes tariff classification;[40] product undergoes specific manufacturing process defined in the FTA.)[41]

These may seem a complicated set of specifications, but it should not be to the manufacturers of specific goods themselves – they will be able to establish whether their product will meet standards of origin swiftly, already knowing their own supply chains. It would also be a one-off calculation, inasmuch as a car manufacturer won't need to individually check the originating status of each unit produced. Certificates of origin are either issued by authorised bodies in the exporting state, or accepted by the importing party's customs authorities with a declaration of origin on the exporter's invoice. For Swiss exporters, the Swiss Customs Administration will be the usual point of contact. This is all essentially normal for international trade under preferential conditions – Britons selling to Croatia had to do this before Croatia joined the single market, for example.[42]

The 'substantial transformation' requirements above may actually convince large multinationals to base much more of their business within Switzerland itself, rather than other high-technology high skilled European countries (Germany, France, north Italy). This is because 'multinational companies operating in the European Union [can make an] intelligent modification of the supply chain, for example, by establishing manufacturing facilities in Switzerland or China or optimizing supply sources in order to meet the rules of origin on substantial transformation, [which] could lead to significant duty savings.'[43]

Essentially, a European multinational with parts of its production chain in Switzerland and parts in the EU, wanting to sell more finished products to China, would want the Swiss preferential tariff rather than the normal Chinese external tariff which applies to the EU. The export only counts as 'Swiss' and gets the preferential tariff rate if its main 'substantial transformation' is in Switzerland itself (above), so it is in the multinational's interests to make sure the final assembly plant, or the plant that makes the most valuable component, or both, are in Switzerland. This would not prejudice sales to the rest of the EU, since Switzerland (or Norway, or an EFTA-EEA Britain) trades freely with the EU.

This benefit could easily apply to the many multinationals that have factories or component manufacturers in the UK and on the Continent, if the UK achieves free trade agreements with countries with which the EU has no preferential relations. It may even attract new business for further afield.

What emerges from a detailed look at even the example of the Sino-Swiss deal is that small countries can do extremely well. The fact that this deal is somewhat lopsided and limited does not prove that it is a bad deal for Switzerland or that in negotiating it the Swiss haven't achieved a very impressive deal. If the former was the case, the Swiss surely would not have signed. The FTA certainly lets the Swiss trade with China on much better terms than the EU, and quite possibly better than the EU can ever get, since so many member states have sectors they'd wish to exempt, and EU capabilities would be more threatening to Chinese sectors, meaning less could be conceded on either side. An independent Britain would have considerably more clout than Switzerland when facing China across the table.

There's a strong possibility that trading under rules of origin principles also benefits the British economy in another way. Small businesses that only produce and sell locally (for example a semi-professional carpenter, a hairdresser, a village shop making chutneys) would probably not have to comply with EU rules in the same way that a large exporter does. At the moment, single market rules designed to ensure fair standards across EU borders also limit very small businesses. EU reform campaign group Business for Britain argues almost 95 per cent of UK businesses do not actually export to the EU so should not come under so many EU laws.[44] A Norwegian option would go some way to freeing non-exporting businesses: this means that for some businesses, the average burden of paperwork and box ticking will actually be less. This is because currently the EU requires even very small businesses to complete risk assessments, environmental impact forms, chemical safety checks, and so on.

The Confederation of British Industry (CBI) is normally seen as a pro-EU body, and produced a paper in 2013 arguing that the Norwegian and Swiss options were not appropriate for Britain. However, this paper did accept that '[s]ometimes EFTA is able to get an agreement as good or better than the EU because of the peculiarities of their economies… sometimes they get better deals because their economies are not seen as a threat to the third country's industry'.[45]

To check all this, I corresponded with Nils Kristian Nersten, manager of trade policy and government affairs at Orkla ASA, via email. Orkla ASA is one of Norway's 10 largest companies and focuses on branded consumer goods, although is also involved in the aluminium and financial investment sectors.

First I asked how Orkla coped with rules of origin:

> NN: The rules are complicated, but we manage (we have to). Our main raw materials have EEA origin. Thus, our finished products also get preferential treatment.
> JL: Is it a fair payoff in exchange for the free movement of goods?
> NN: Yes, the EEA agreement is very important for our market access.
> JL: Are there any non-tariff barriers?
> NN: In general no, but we have experienced some NTBs [non-tariff barriers] related to food regulations. For some companies (both in Norway and EU), different customs areas may be perceived as a mental barrier for trade.
>
> JL: How effectively can you lobby the EU institutions, and how effectively does the Norwegian government lobby on your behalf (for example on REACH or product standards)?
> NN: Orkla, as a company, have possibilities for effective lobbying, both by ourselves and through different trade organisations. Regarding Norwegian authorities' lobbying, our experience is that they [are] too passive on work-group level (early stages). Very often they act too late. For us, this is very much related to food regulations.
> JL: Do you feel disadvantaged compared to a similar company within the EU?
> NN: No, it is worth mentioning that Orkla is not a Norwegian company only, but have several subsidiaries inside the EU.

The point here is that big business is now so multinational that the kinds of heavyweight employers about whom the government worries, and who might effectively lobby the government when it looks at Brexit strategies, are some of those best able to adapt to whatever situation an independent Britain ends up in.

> JL: Do you find the Norwegian government 'gold plates' legislation decided in Brussels?
> NN: Most of the EEA relevant legislation is unproblematic for Norway, but there are some examples on 'gold plates' legislation. On the other hand, we also experience that Norwegian authorities implement EEA legislation too late, but this has improved lately.
> JL: How effectively do you think the Norwegian government influences other international bodies such as the World Trade Organisation, United Nations, International Labour Organisation, *Codex Alimentarius*? How far does this make up for lack of EU representation?

> NN: We experience that Norway may have a stronger voice in different international bodies as a country outside the EU.

This is, of course, crucial to the section on Norwegian influence ('Faux Democracy' below). If a major Norwegian company doesn't feel disadvantaged in comparison to similar EU companies in terms of lobbying the EU, and finds that Norway has a stronger voice in international organisations than EU states, this points towards the possibility of greater influence outside. Again, without wishing to denigrate Norway, Westminster is unlikely to punch lower than Oslo thanks to historical prestige, a large army, UN Security Council membership and so on.

> JL: Are you happy with access to EU R&D (research and development) funding and Norway's participation in EU science projects?
> NN: Yes.
> JL: Do you think Britain could join EFTA? If not, why?
> NN: Today, EFTA is a small player compared to the EU. If Britain joined EFTA, EFTA would be a more equal partner to the EU. However, we have no opinion whether Britain should join or not.
>
> JL: Are there any other important things you would say about the EFTA-EEA arrangement from a business perspective?
> NN: Because of the EEA agreement, Norway is very much integrated in the single market (free movement of goods, services, capital and people). This is very important for us, as a business player.[46]

In terms of the voice of business in the EFTA-EEA relationship, these comments are clear. Orkla has access to the single market, is happy with R&D funding, and can live with rules of origin. Of course Orkla would like Norway to intervene in bad rules earlier, and implement rules they like faster – this is exactly the kind of criticism Britain sees from business representatives like the CBI.

Cooperation in desirable EU initiatives

Many pro-Europeans fear that, in leaving the European Union, Britain would disengage too much and leave cooperation mechanisms that actually benefit the country, and that we should be members regardless of the supranational framework. For example, in *Softening the Blow*[47] a representative of the fishing industry highlights the need for different countries' maritime authorities to work together since shoals do not respect international water boundaries. Likewise, various manufacturers emphasise the importance of the EU for research and development and for general scientific progress. The pro-EU deputy prime minister Nick Clegg, in his televised debate with Ukip leader Nigel Farage, also focused on criminal, anti-terrorist and judicial cooperation as highly desirable. Other pro-EU arguments contend that environmental goals cannot be pursued unilaterally.

In fact, the flexible nature of the EEA agreement allows Norway to participate in numerous specific EU bodies that are not mandated by the EEA agreement itself, many of which Iceland and Liechtenstein stay apart from. Not all of these would be appropriate for Britain, but their breadth at least shows the flexibility of the model for allowing more participation (and the next chapter will explore wiggle-room to avoid unwanted EU intrusion.) Firstly, Norway is a member of the Schengen Area, meaning you can move passport-free between Norway and its Scandinavian neighbours. Britain opted out of Schengen, but it's worth noting that Norway is invited to contribute to the governance of the Schengen scheme**.**

Other non-EEA bodies that Norway has opted into include:

- Europol, a criminal intelligence agency in the Hague
- Monitoring of Drugs and Drug Addiction
- The Dublin Agreements (asylum seeker treatment)
- Mutual Assistance in Criminal Matters
- Association with Eurojust, the EU body for judicial cooperation
- The European Arrest Warrant, a controversial fast-track mechanism for extraditing wanted suspects to stand trial
- Cepol, the EU's police training coordination (based in Hampshire)
- The Lugano Convention on jurisdiction and the recognition and enforcement of foreign states' civil and commercial judgements

- A parallel association agreement to the Prüm Decision on criminal DNA and fingerprint data sharing[48]
- The European Union Satellite Centre
- The Framework Agreement on crisis management operations
- The EU battle groups participation
- The European Defence Agency
- Additional research and education cooperation (beyond EEA requirements)
- Additional fisheries and agriculture agreements (beyond EEA requirements)
- Additional financial mechanisms (beyond EEA requirements)[49]
- The 'Open Skies' air transport agreement between EU and US[50]
- EU Health Security Committee
- The European Centre for Disease Prevention and Control
- The European Food Safety Authority[51]

In addition, Norway is a participant in the EU's Seventh Framework Programme for Research and Technological Development (FP-7), the EU's main research and development umbrella. The country is also committed to the next science initiative, Horizon2020. FP-7 accounts for almost 70 per cent of Norway's total programme contributions and is by far the largest programme it participates in, which it does 'on an equal footing with the EU member states'. Norway also has observer status on 'most of the committees that administer the [science and research] programmes and other advisory bodies' and Norwegian representatives are informally invited to ministerial meetings.[52] Given that British business regards participation in EU research and development programs as very important, it will be reassuring to British businesses that Norway participates so comfortably.

Norway is in a privileged position to access theses associations in areas outside the four freedoms because the EEA agreement includes a framework for extra political associations.[53]

This list is not exhaustive. What it shows is that Norway can indeed cherry-pick EU agencies to suit its interests. The EU would not deny teamwork with what is already a close partner, if that partner was willing. It is even less likely to deny Britain, as Britain is a well-established member and even houses the headquarters of many of the agencies above. EU supporters like Clegg appear to be wrong, or extremely pessimistic, in arguing that leaving the EU would denude Britain of her criminal, terrorist and environmental defence associations.

Beyond this, Norway is an active member of the Council of Europe, an institution that is not part of the EU but operates closely with it, especially in operating the European Court of Human Rights in Strasbourg, to which the EU subscribes. Nato, the North Atlantic Treaty Organisation, is another crucial agreement for most European states. A recent Chatham House report emphasised how important Nato remains for European defence, and noted that Nato is now at a tipping point where some reform may be crucial.[54] Norway is not only an enthusiastic member, but its outgoing prime minister Jens Stoltenberg has been appointed the new Nato secretary general. He adopted the post in October 2014.

This all shows that Norway can be an active participant in the international, European and EU bodies that it chooses to join, regardless of its actual EU membership.

Excluded but not forgotten

Most fishing and agricultural goods were excluded from the original EEA Agreement of 1994, as much at the EFTA states' behest as the EU's (Norway has a distinctive method of farm subsidy, and would not want the EU in direct control of its vital fishing industry). However, just because these areas were excluded from the single market in 1992 does not mean progress on liberalisation has stalled since. Indeed, the agreement includes a clause exhorting signatories to work to cut tariffs: 'According to the EEA Agreement Article 19, Norway and the EU are… committed to gradually liberalize their trade in agricultural products.'[55] In 2011 the EU sold Norway 3.3 billion euros of agricultural goods, while Norway sold 453 million the other way. The EU's website notes that 'Norway is the EU's largest supplier of fish' and exported 3.8bn euros' worth in 2012 despite (or perhaps because of) being outside the Common Fisheries Policy. The EU imports over half of the fish it consumes.[56] Norway and the EU do cooperate over fisheries, based on a 1981 bilateral framework agreement which includes technical measures, annual quota agreements on North Sea joint stocks, and on stocks outside the North Sea. The European Commission (EC) website describes this as 'the single most important agreement the Community has with a third party both in terms of exchange of fish possibilities and in terms of joint management measures'.[57]

As much as 61 per cent of Norway's seafood exports were sold to the EU in 1999, 65 per cent if the newly acceded countries are counted.[58] Sales to many eastern European states may have expanded recently due to the EU's standoff with Russia over Ukraine. EEA Protocol Nine did exempt some white fish products from tariffs and reduce others, but '[i]mportant Norwegian export products such as herring, mackerel, salmon, prawns, scallops and Norway lobster are not covered by the tariff reductions in the agreement, and are thus subject to high tariff rates when exported to the EU.' This isn't the whole story though – on some products the tariffs are engineered in such a way as to discourage Norway exporting processed products, so instead they sell unprocessed fish to Denmark (at a lower tariffs) and Denmark benefits from the value added of processing the goods to final product market.[59]

In the past few years the EU and Norway agreed to drop some fish and agricultural tariffs anyway, as foreseen in the EEA Agreement's Article 19 biennial review clause, and it's often Norway that has 'resisted EU efforts for ambitious liberalisation', not the other way round.[60] Here then, we see Norway successfully protecting its interests. The EU exempted cod, saithe (pollock), haddock and halibut from duty altogether.[61] Other tariff lines are extremely detailed so it is impossible to say 'the tax on fish is X per cent' or even 'the tax on salmon is Y per cent'. However, it is clear that some tariffs on Norwegian exports are extremely low. For example, while the EU's general tariff on an average country's sales of Atlantic Salmon, that is whole or in pieces but not minced, is 5.5 per cent, Norway gets a preferential rate of 0 per cent for all of 2014.[62] Similarly, with a kind of raw frozen herring fillets, Norway's tariff from Europe is 3 per cent as compared to the world's 15 per cent.[63] Herring in airtight containers faces no tariff if exported from Norway, but 20 per cent if sold to Europe from a third country, again by an agreement lasting all of 2014.[64]

Other kinds of herring, mackerel, caviar and caviar substitutes, frozen or cooked lobster, and smoked salmon are more examples of products wherein Norway (or Norway and Iceland) have preferential trade access. This demonstrates that it is overly simplistic to summarise Norway's situation as one of plight, locked out of the EU's market for Norway's principal goods. Just as Norway can meaningfully participate in the EU initiatives that suit the country, so it can and does negotiate for its most important sectors to improve conditions of trade. Those critical of the current EFTA-EEA situation argue that tariffs are no longer an important consideration in fish sales because factors like ‘purchasing power, consumer preferences, pricing policies at the wholesale and retail’ all outweigh them, while the removal of all EU tariffs on Norwegian exports would save 1.5 billion Norwegian kroner (or about £144 million at the time of writing).[65]

Faux democracy?

To speak meaningfully about Norway's level of influence in the EFTA-EEA, we could ask how much influence Norway would have if it were a full EU member. By population, Norway is somewhere between Finland and Croatia. Each has seven votes in the EU Council of Ministers and seven votes in the European Council, comprising heads of government. Seven out of 345 isn't much to write home about – just over 2 per cent. The proportion may be even smaller if Norway actually joined, since depending on the entry mechanism, it could be seven in 352. In the European Parliament, Norway would have 11-13 MEPs, or about 1.6 per cent.The obvious caveat here is that Norway would wield a veto in the policy areas not covered by qualified majority voting. The importance of the veto should not be overstated –David Cameron used the British veto in December 2011 with virtually no effect. The other member states simply agreed to an arrangement without Britain in it. If this trick can be pulled on the third largest member, it could be played on Norway if it were a member.

Fig. 2 Finnish or Croatian voting weight in the EU Council of Ministers

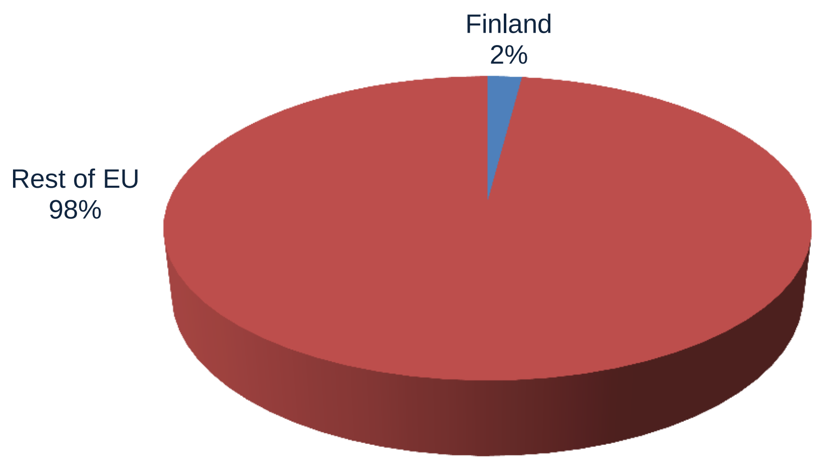
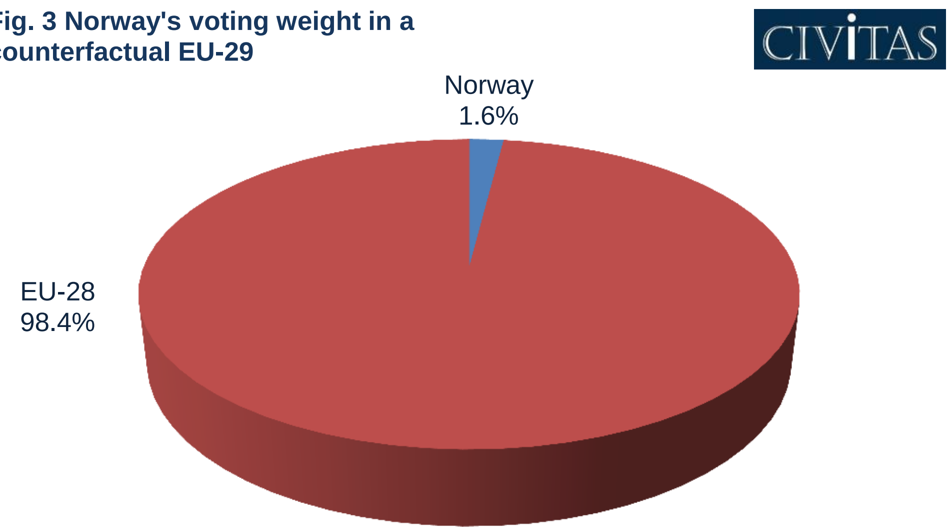


Fig. 3 Norway's voting weight in a counterfactual EU-29

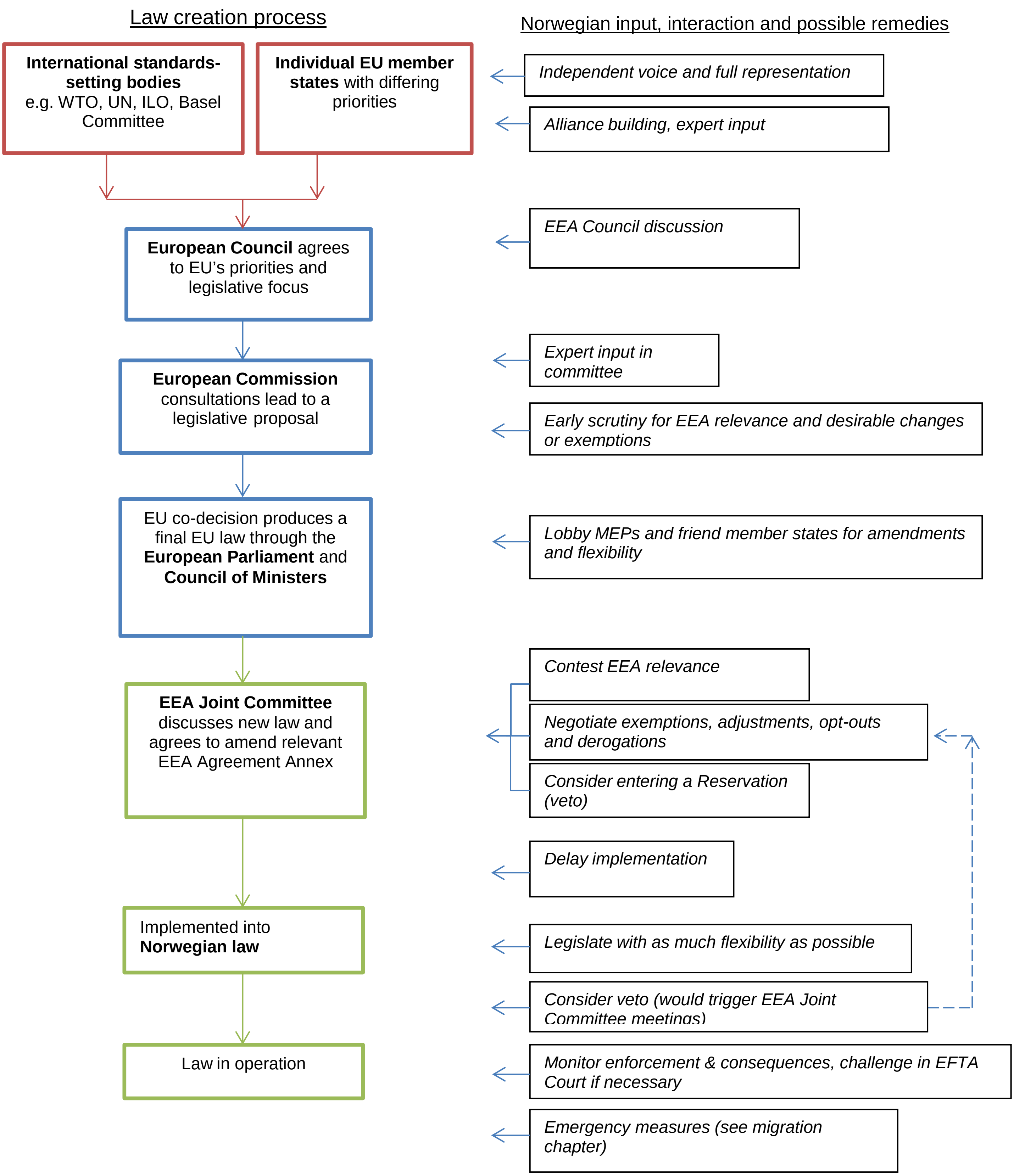


This section will show that Norway actually has a greater say over what goes on in Norway as an EFTA-EEA state than it would in the situation above. Remember, of course, that the tiny voting power above represents what the current situation inside the EU would be. This would be eroded even more by accessions that Brussels is pushing for, including Turkey, Ukraine, Albania, Kosovo and Serbia. And Norway would be paying billions more for the privilege.

The sections below explain different Norwegian tactics for influence, as demonstrated in Fig. 4 below. In 'Working upstream' we see how Norway's independent voice in international bodies such as the World Trade Organisation (WTO) gives it much greater influence in global standards than a single EU state has, and that these standards are often handed to the EU to actually legislate. "Many of the EU initiatives do not stem from the EU itself, but are the result of international and/or regional commitments that countries have undertaken.'[66] Norway also tries to get involved with the EU legislation process as quickly as possible, so its position and expertise are clear in the formative phases of the process.

The 'Wiggle Room' section looks at the formal and non-institutional ways Norway can implement EU rules in the best way. These include delaying implementation for as long as possible, implementing in the most amenable possible terms, appealing to the proportionality principle, negotiating for opt-outs and derogations, implementing with adaptations, and resisting EU rules through the EFTA Court.

Fig. 4 Norwegian influence over EEA law creation



Finally the 'Veto' section examines the EEA agreements' Article 102 provision for an EFTA member entering a 'reservation' as a last resort to avoid EU laws, and what the consequences might be. The threat of this reservation appears to be powerful, especially in conjunction with the other tactics above, and EU retaliatory sanctions may lack any real deterrence. Moreover, Norway has in its oil and gas (as Britain would have with North Sea oil), extremely potent leverage if needs be, ensuring a mutually assured destruction situation that dissuades the EU from heavily punishing a defiant EFTA-EEA member. The veto would be an even more effective tool for blocking undue EU intrusion if Britain were an EFTA-EEA state.

Working upstream

There are a number of bodies in which all EU member states, even those as important as Germany and Britain, are collectively represented by the European Union. These include the WTO's highest decision-making body, the Ministerial Conference, as well as lesser committees and the General Council.[67] This means that in many cases the European Commission forces all 28 members into a kind of fuggy consensus, with compromises made by most players and an indistinct final message. Norway, on the other hand, can speak purely for itself, sometimes 'in cases of conflict with the EU where Norway has been successful.'[68] This means non-EU countries have the opportunity to contribute to important global rules before they come to the EU's legislative process to set out exactly how they should be codified in EU law. I asked Nils Nersten of Orkla about this as a potential strength making up for the lack of EU representation in terms of global weight. He said: 'We experience that Norway may have a stronger voice in different international bodies as a country outside the EU.'[69] This has long been an argument advanced by the Bruges Group and the EU Referendum blog led by Dr Richard North, a British eurosceptic.

Many of these international organisations agree the basic thrust and direction of a regulation change across the globe, which bodies such as the EU later take on to put into detail (and individual member states then inherit as legislation they must enact). This means that Norway has a voice disproportionately stronger than any EU member state at this point upstream in the lengthy process of product regulation, a strength that may be augmented by Norway's apparently energetic contribution of expertise to rule-making important to their interests. Of course, Norway is not hampered in any way representing itself in forums wherein EU member states self-represent. Indeed, this can allow Norway to ally with Nordic or North European partners more effectively, whereas anecdotally, EU-Nordic states simply have to beg Norwegian diplomats to fight their corner in the WTO. One source notes that Norway 'has used its control outside the EU to present views on behalf of the interests of a minority within the EU who have been prevented from promoting the proposals themselves.'[70]

This section relies partially on examples of upstream contribution to rules creation found in a white paper presented by the Norwegian Ministry of Foreign Affairs to the Storting. I was initially sceptical about its provenance since it seemed overly optimistic in its evaluation of Norway's global and EU influence, so might not be a fair assessment. However, parts of the paper do demonstrate a great degree of frustration with specific aspects of Norway's lot, which makes the paper overall more convincing. After all, if the authors seriously wanted less influence (perhaps to justify EU entry down the line), they would have provided very few areas of contention. The approach the authors took shows they do have real aims to get more from Europe:

> Market access for Norwegian seafood in the EU is not satisfactory and over time a complex system of over 50 bilateral tariff quotas has developed, while at the same time the EU has retained customs duties on important fish species. The EU has introduced restrictions on the import of Norwegian fish on several occasions.[71]

This is not a report that is blithely accepting or naïve of the status quo. Nevertheless, it does make an effort to highlight Norway's upstream successes. Anne Tvinnereim, state secretary at the Local Government and Regional Development Ministry and from the Centre Party (in coalition 2009-13), told Dr North that 'it is true that we are not there when [the EU states] vote but we do get to influence the position… [at an international level so] most of the politics is done long before [a new law] gets to the voting stage.'[72]

Another source is the 'Alternativrapporten', a report by Norwegian critics of the current EEA arrangement from the Nei til EU (No to the EU) group released in 2012.[73] The paper argues that Norway has been too compliant, that the agreement is imbalanced, and that Norway's civil service and legal system could do more to protect sovereignty. Partly this suggests that Britain (if its government was as eurosceptic as an Out referendum vote would require) might be more effective in resisting EU rules through the EEA mechanisms, than the historically pro-EU

Norwegian governments. This 'Alternative Report' talks through Norway's various options vis-à-vis Europe. They include reforming the EEA ('a leaner EEA'); staying in the current EEA framework but 'exploiting the flexibility'; leaving the EEA and setting up multilateral trade agreements through the WTO; joining the EU; leaving the EU and copying Swiss bilateral trade and cooperation with the EU; and setting up a Europe-wide EFTA agreement.

All of these present challenges and opportunities, and of course it is difficult to be sure how successful the more ambitious multinational options could be. The authors set out Norway's many bargaining tools, which are certainly impressive, but may still not be enough to lead an entire continent to a disruptive change, especially if the EU is preoccupied with fiscal consolidation and TTIP.[74] The paper does not conclude in favour of any one option but in a section entitled 'exploit the flexibility' it does show that there are a number of powers and strategies the Norwegian government could pursue to amplify its power, without needing to create a new treaty with 31 states (the current 28 EU members as well as Switzerland, Liechtenstein and Iceland) or even amend the current one.

The 'Alternativrapporten' highlights with dismay the many areas which have fallen under the EU's influence, which the Storting had been assured were fully protected when they first considered the EEA agreement in the early 1990s. While past mission creep shouldn't be too great an issue to Britain looking to adopt the Norwegian model as it is now, it is certainly important to bear in mind that a more robust defence of the EFTA-EEA status quo would be needed in the future to prevent the EU's power creeping yet further, in much the same manner as 'ever closer union'.

Free range diplomats

A strength of the Norwegian position is the government's ability to influence global standards in its favour, independently of EU policy direction and indeed often before the matter comes to the EU's attention. This is shown in Norway's involvement in a 2009 EU directive on the geological storage of carbon dioxide (CO_2) known as CCS Directive 2009/31/EC. This was 'largely based on rules that had been established in 2007 under multilateral agreements on the marine environment' in which Norway 'played a leading role in discussions', as it had since 2002 based on experience in carbon storage from the North Sea's Sleipner natural gas field. The field, named after Odin's eight-legged steed, is run by Statoil and since 1996 has operated as the world's first offshore Carbon Capture and Storage (CCS) plant. Norwegian authorities such as the Climate and Pollution Agency also contributed expert input to the 2007 Convention for the Protection of the marine Environment of the North-East Atlantic (OSPAR convention), led working groups, and put forward proposals.

Norwegian representatives were also 'actively involved' in preparing the Special Report on Carbon Dioxide Capture and Storage for the Intergovernmental Panel on Climate Change (IPCC), published in 2005. Together, the OSPAR convention and IPCC paper set the agenda for the EU's 2009 directive, which includes several of the same principles. Norway also participated in the EU negotiations themselves, so was 'at an early stage invited to take part in the working group… to draw up the legislation.' In alliance with Britain and the Netherlands, Norway's agenda succeeded.[75] The OECD described Norway as a 'spearhead' and 'leader' in climate and maritime discussions, backing up American politician Al Gore who said 'other countries look at Norway as a moral leader in climate policy' and Greenpeace's chief negotiator: 'It is better having a clear voice… than being drowned in the EU's internal disputes'.[76]

Of course, it is not necessary to support the green agenda or to agree with Norway's specific contributions to see the importance of this episode. The lesson is that by working both upstream and throughout the process, Norway clearly had a good deal of influence at every turn.

Because it isn't a member state, Norway has 'more latitude on issues where the EU's freedom of action may be limited by internal processes' which can help keeping up 'momentum for negotiations'. Norway played this role 'in Durban on a new commitment period under the Kyoto Protocol' and used its extra 'latitude to advocate views that many EU countries may agree with, but that they cannot always promote actively' because the EU is deadlocked coming to a common position, for example on the Middle East peace process, the Western Balkans, and Myanmar. 'In these areas, Norway is a partner the EU listens to… a more flexible actor than the EU.' In addition, Norway has privileged positions in the High North and the Arctic Council – indeed it is Norway helping the European Commission in Artic Council, where Norway is championing its right to permanent observer status.

It can also exploit its independence in the World Bank, the Council of Europe, parts of the UN and the European Bank for Reconstruction and Development.[77]

Thanks to its very European but non-EU position, Norway can 'act as a bridge-builder' between multiple blocs on the international stage, 'help create coalitions and secure broader international support for key initiatives'. A specific example of this dynamism was in the EU's police mission to Afghanistan (2007-2012). Because Norway 'provided a larger contingent…than many member states' it was given the 'right to participate in decision-making during the mission'.[78] Norway often works with the other Nordic countries (Sweden, Denmark and Finland) on foreign policy matters, a relationship formalised by the inter-parliamentary Nordic Council. Informally, Norway works with the EU's High Representative for Foreign Affairs to advance other security and foreign interests.[79]

Other regulations the Norwegians played a crucial part in influencing were the Regulation on Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), and the Waste Electrical & Electronic Equipment directive (WEEE), the rules for dealing with waste electrical and electronic equipment. For REACH, Norway was involved 'both at preparatory and adoption' (phases) and continued to work 'in the implementation phase as the scope of the regulation is continually being expanded to encompass new substances'. For the WEEE rules, Norway used its waste management experience, 'high profile in this area' and 'proactive approach throughout the entire process' to 'exert an influence on the development of EU legislation' including meetings with senior EU members and submitting written evidence. The end result was a waste management directive closer to what Norway had already.[80] A similar story can be seen in integrated marine management, an area in which Norway was a pioneer and which eventually became an EU directive, one that did not even apply to Norway (below).

The 'Alternativrapporten' notes that 'Norway can as a member of the EEA still speak with an independent voice in international forums, where the EU increasingly speaks with one voice,' so can 'present its views and specific proposals that either the EU does not want to promote because of internal disagreements… or because they simply disagree with them.'[81]

The rules on food

From Norway's perspective the clearest illustration of upstream influence is the Codex Alimentarius Commission (hereafter 'Codex'). It was established in 1963 by the World Health Organisation and the United Nations Food and Agriculture Organisation (FAO), to act as a global forum for international food standards. When its members meet they form a commission which 'develops harmonised international food standards, guidelines and codes of practice to protect the health of the consumers and ensure fair practices in the food trade'. It is seen as one of the 'three sisters' of global standards setting, along with the FAO's International Plant Protection Convention (IPPC) and the World Organization for Animal Health (OIE).[82]

When there are trade disputes between two WTO countries on matters such as dumping or illegitimate non-tariff barriers, the aggrieved party usually takes the case to a WTO tribunal. In turn, the WTO refers to whichever standard-setting body applies to the relevant product. If the product conforms with the international standards to which both parties and the WTO have agreed, no offence is taking place and the trade should be allowed to continue unimpeded. The rules are also often referred to in bilateral or multilateral trade deals. Therefore international standards bodies, and the rules they set, are hugely important in facilitating free trade, and enabling global trade in general. In the EU context they are additionally important because in a great many cases, the EU simply implements recognised international bodies' conclusions at a European level.

Norway supplies most of the EU's fish, selling €3.8 billion worth in 2012. There are also bilateral tariff quotas and tariff-free quotas for selling specific agricultural goods like cheese, meats, fruit, vegetables and flowers to Europe.[83] Aside from oil and gas, Norway's main exports are different kinds of seafood and agricultural products. Food standards are therefore of great importance to Norway, and Norway could be caught out if its largest export market really decided on all kinds of food and processing regulations without consulting them. Instead, Norway is a vibrant member of Codex, meaning that it can influence the creation of rules that will affect the country long before they come to the EU's attention or become transcribed into the EEA agreement's annexes.

Codex is a fairly large body with coordinating committees with the FAO and WHO for each continent, commodity committees (for example the ‘Committee on Spices and Culinary Herbs’ or ‘Committee on Fats and Oils’) and general subject committees (for example on ‘Methods of Analysis and Sampling’ or ‘Food Labelling’).[84] These all operate under the Codex Alimentarius Commission and Executive Council. There are currently 185 countries which are Codex members, with the EU tacked on as a member organization. There are an additional 225 observers – mostly intergovernmental organisations and non-governmental organisations. Both Britain and Norway have been members since its foundation in 1963.[85]

When Codex bodies meet, it is clearly in a country or bloc’s interest to get their own national standards levels accepted at the world level. If successful, that country will be able to export worldwide much easier without having to change its practices. One would expect the same kinds of horse-trading here as in other negotiations, but in fact Codex and other technical bodies rely much more on scientific analyses. Indeed, Codex’s website has a prominent section explaining the evidential basis for its rulings.[86]

Bjorn Knudtsen, the Norwegian chairman of the fish and fisheries product committee section of Codex, affirmed that scientific expertise takes precedence in discussions. The committees’ work is long and complex, but the committees do not force ideas through in the same manner as the EU does with majority voting. Knudtsen told Richard North that ‘at any stage a member state can veto a provision’ although regulations are ‘approved usually by consensus’. He explained that the UK actually has a loud voice on the seafood committee because British delegates have the right procedural skills, know how to work within the structure, and are essentially ‘very good diplomats’.[87]

Norway chairs the Codex fisheries committee – Norway’s diplomats are keenly aware of the sectors of global governance most important to their exports, and engage with them proactively. The UK, however, is represented by the EU in a great many international bodies or their committees. In Codex itself, whichever EU member state holds the rotating presidency bears responsibility for negotiating new rules on behalf of the union, working with the European Commission.[88] The commission has full power (‘competence’) in representing the EU in matters where the EU has already fully ‘harmonised’ its regulations.[89] Owen Paterson, former environment secretary, related an anecdote in which he attended a New Zealand meeting of the Office International des Epizooties (OIE), part of Codex's sister organisation, the International Plant Protection Convention (IPPC). The New Zealand delegation was pushing for a crucial initiative on sheep, and was desperate for Canadian and American support. Paterson asked why the British weren't being asked to help and was 'stung' when he was told the 'UK's position was entirely represented by the EU'.[90]

So for Codex, Britain (and other countries with the right interests and expertise) can be influential in the specific subcommittees stage. At the top table, however, the EU takes over for the UK and 27 other countries, which could well compromise the representation of UK interests. Norway, on the other hand, continues to represent itself at the highest Codex levels. At Codex, then, Britain outside the EU would enjoy roughly the same level of influence as it currently does – slightly more, in fact.

We can see that Norway uses its involvement in Codex to influence global standards before they come to the EU, before they become part of the EEA agreement. This is not just true of Codex: almost all areas of products and services are affected by different global treaties or agreements, usually under the WTO's aegis. They include UNECE, the UN's Economic Commission for Europe; the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS); the Organisation for Economic Cooperation and Development (OECD); the International Labour Organisation (ILO); and many others.

The WTO treaties mean the EU will continue to move towards implementing such global standards. In 1995 WTO members agreed to the Treaty on Technical Barriers to Trade (TBT), which impels signatories to respect those standardising bodies that comply with WTO good practice.[91] For example, a 2013 European Commission amendment on the amount of histamine allowed in fisheries products, Commission Regulation No.1019/2013, mentions the need for the change is due to a new Codex decision on maximum recommended histamine levels.[92]

This move towards worldwide harmony is corroborated in the EU's 'regulatory fitness and performance programme' (REFIT), an initiative between the EU's institutions to reduce complicated and expensive rules and replace them with light 'smart regulation', launched under former EC president Jose Manuel Barroso. A simple way to do this is to bring EU rules in line with international rules, so that a manufacturer does not need to jump through two sets of hoops to sell to Europe and the rest of the world. For example, one REFIT proposal on animal health, plant health, plant reproductive materials and official controls offers 'new possibilities for reducing red tape e.g. eliminating double notification of diseases to the EU and international organisations'.[93] In many areas, gradual harmonisation directed from outside the EU is already the case. Just in standards for seed sampling and testing, the EU is involved in a wide array of international acronyms: ISTA, the OECD, UPOV, UNECE ITPGRFA and the IPPC.[94]

There are many examples of Norway controlling the terms of EU rules by exerting pressure upstream, at the international level. Richard North highlights the Maritime Labour Convention (2006), part of the International Labour Organisation that controls employment and work conditions, minimum safety standards and the like.[95] The Marine Labour Convention applies to virtually all shipping that goes on in the waters or ports of its signatories, and includes rules for on-board living conditions in vessels. It is essentially a seafarers' bill of rights, with terms of employment, medical cover, safety, and on-board living conditions. This is an important issue, not just for labour standards, but because the absence of such a rules regime would allow some shipping employers to undercut others by offering very low standards (cramped, damp quarters for example) and saving money. Having an international standard would create a level playing field as well as protecting crews. Norway, the EU and Britain are all part of the ILO.

Since Norway's main industries – fishing, oil rigs and shipping – all involve seafarers and employment, this convention is obviously important. It's no surprise, then, that Norway was the first European state to ratify the agreement in 2009, beaten worldwide only by Panama, the Bahamas, the Marshall Islands and Liberia. From the ILO's press release noting Norway's prompt ratification we learn that the country 'played a leadership role throughout more than five years of preparation leading to the adoption of the Convention in 2006', plus Norwegians 'also played a key role in developing the international guidelines for flag State inspections and port State control officers carrying out inspections under the Maritime Labour Convention', adopted in 2008. ILO director-general Juan Somavia praised Norway's contribution for leading Europe into 'fair globalisation'.[96] The rest of the EU has now caught up and since 2013 the marine 'superconvention' has been in force with over 45 countries signing, over 70 per cent of the world fleet (by tonnage). By August 2014 signatories covered 64 countries and 80 per cent world tonnage.[97]

Another area where Norway has flexed its muscles ahead of the game is in the Basel Convention, a 1992 agreement to prevent toxic waste being dumped in developing countries.[98] Norway was and is an active participant, from the 1980s debates over the measure through to its current enforcement. The EU only joined years after Norway had already ratified the agreement, so was compliant with the rules long before the EU transposed the Basel Convention into EU law.[99]

Norway is able to punch its weight or better in global forums thanks to the expertise and dedication of its citizens. Standards Norway, the largest of Norway's standardisation bodies covering all areas except electrotechnical and telecommunications, employs only 75 people and receives less than £3 million government funding (28 million Norwegian kroner), yet manages to establish draft standards on national, European and international levels. Standards Norway's website notes the contribution of 2,000 'voluntary experts' of whom 900 'participate in the international committees and working groups'. They estimate this voluntary input to be worth up to 150 million kroner (£14 million) per year.[100]

Nordic soft power

While difficult to quantify, Norway also exerts a degree of soft power distinct from its formal interactions with the EU bodies to which it's invited. The commission is the normal contact point according to the EEA agreement, but of course Norway can 'deal directly with various member states' and especially whichever member holds the rotating presidency of the Council of Ministers, which decides the agenda and priorities for six months. Because of the disjointed to and fro of EEA law-making, Norway knows it must 'promote its own interests in the EU capitals and vis-à-vis the Community bodies.'[101]

In many respects the Norway Grants and EEA Grants facilitate this – the largest part of the EEA membership fee Norway pays has a symbolic value. Products and events paid for by the grants carry Norwegian and/or EEA branding so are clearly distinct from run-of-the-mill EU spending. The grant money goes to the 14 newest EU members: the largest recipients are Poland, Romania, Hungary, the Czech Republic and Bulgaria.[102] The grants can prioritise matters in which Norway is a world-leader, so effort goes into environmental protection, renewable energy, education, civil society institutions and academia. Norway's own grants further elevate its specialist areas such as carbon capture and storage (see above) and human & social development, with the explicit goal of strengthening ties with the central and eastern European countries. In diplomatic impact, this may be more effective for demonstrating Norway's commitment to European solidarity and fellowship than Britain's (larger) contribution, which is swallowed into the general EU pot.

The importance of the grants swings both ways. Over the last few years Hungary's governing party, Fidesz, has made moves that raised questions about accountable government, respect for democracy and the rule of law. Under Viktor Orbán the party is notably irredentist, threatening the borders of Romania and Slovenia, and has passed a constitution that undermines judicial independence, free speech, reproductive rights and press freedom. After repeated admonitions from the European Commission, Orbán found an easy scapegoat – the EEA and Norwegian Grants, a small proportion of which were paying for non-governmental organisations (NGOs), a smaller proportion of which were critical of the government. The Hungarian government attempted to move the administration of the grants to an unaccountable quango: Norway scored a PR victory in announcing the suspension of grants worth over €110 million payments in March 2014.[103]

Wiggle room

When the EU is developing and amending its proposals, it is true that Norway does not have a voice or representation on every committee or working group. It has plenty of input though. All government ministries work with EEA matters, along with many subordinate agencies and all municipalities.[104] The research paper 'Outside and Inside' includes a photo of senior Norwegian and EU politicians in one of their many meetings. The caption reads 'Lobby Nation: Many Norwegian ministers visit the EU and the European Commission. In the autumn of 2008, several members of the current Norwegian government visited Brussels.'[105] The photo shows Norwegian prime minister Jens Stoltenberg with EC president Barroso plus the Norwegian ministers for petroleum and energy, environment and international development, transport and communications, and foreign affairs. The EU commissioner for external relations and European neighbourhood policy, Benita Ferrero-Waldner, is also present. This certainly doesn't look like Norway being ignored or sidelined. Indeed, as a foreign affairs ministry document says: '[EFTA states] may take part in the EU's preparatory work on developing new legislation that is relevant to the EEA… When the Commission begins the process of assessing and, if necessary, drafting new legislation in a field covered by the EEA Agreement, it is to obtain the views of experts from the EFTA states in the same way as it consults with experts from the EU member states.' Likewise, when the commission adopts new rules, 'Under the EEA Agreement, EFTA experts are assured of the broadest possible participation at this stage of the proceedings', after drafting authority has been granted by the European Council.[106]

In non-EEA areas, Norway can still have a voice. 'EFTA states also participate fully in the committees that assist the Commission in administering or developing framework programmes and specific programmes, mainly in the field of research and technological development', contingent on making a financial contribution to cover the state's part in the project. Again, we see the cherry-picking benefits of the Norwegian approach – if British voters overwhelmingly rejected participating in, say, the European Space Programme, Britain would not have to be part of it and wouldn't have to pay for it. In the early 2000s Norway took part in over 200 EU committees, which the Foreign Ministry thought was important 'to exert influence through direct participation at a time when national points of view are usually still flexible and before positions have become firmly established.'[107] This is a crucial phase, as '[it's] usually more effective to seek to persuade EU bodies to adjust proposed EU legislation before it is adopted than to negotiate adaptations'. The Storting report notes that due to the Lisbon treaty's 'co-decision' principle, the European Parliament and the Council of Ministers have 'an increasing tendency to make amendments to the Commission proposals', so Norway should split its lobbying to these rather than concentrate only on the Commission itself. This is in addition to working with and through friendly member states.[108]

The Storting report emphasised that the best phase to exert influence within the EU process is 'during the preparation of Commission proposals and during preliminary discussions in the Council of the EU (the Council) and the European Parliament' since actual representation wanes thereafter. Early involvement lets Norway 'carry out a preliminary assessment of EEA relevance' (so it can also prepare a case of it not being EEA-relevant as early as possible) and because 'by being actively involved at an early stage we can develop insight that will help us to clarify and make use of the options that are available as we implement and apply the legislation'.[109] However the 'Alternativrapporten' argues that in 'a number of areas Norway could have done more to exploit [the EEA's flexibility]', including in 'other international forums in which Norway has full initiative and voting rights' (see Chapter 2).[110]

Appealing to the EU's proportionality principle is one ground for EEA wiggling. This principle, laid out in the Treaty on European Union (TEU), rules that 'the involvement of the [EU] institutions must be limited to what is necessary to achieve the objectives of the Treaties',[111] meaning the EU should intervene as little as possible provided the treaties' requirements are met. The Storting's paper notes that this 'provides some flexibility … [as] restrictions on the exercise of one of the four freedoms can be justified on the grounds of public interest if the public interest cannot be safeguarded as effectively using less restrictive measures'.[112] Areas where Norway's preferred national regulatory measures have been defended on this basis include environmental concerns, regional and social policy, public order, public security and health. It is difficult to say how far this principle can be pushed, especially in Britain where it is seldom used to justify government action. Other Civitas publications have suggested that the UK's rolling stock manufacturers, shipbuilders and steel nuclear parts industries could be safeguarded on the basis of regional and social imperatives, justifying more state aid or targeted procurement than EU competition laws would otherwise allow.[113] This may be a policy area on which Britain is more willing to challenge new directives if it was in a semi-detached EFTA-EEA relationship.

An early indication of how successfully Norway lobbies the EU during the policy formation process is the ease with which Norway ratifies laws that are finally passed to it. 'In the period 1992–2011, the Storting voted on a total of 287 such EU matters, 265 of which were unanimously agreed to, and most of the remaining 22 were agreed to by a broad majority.'[114] If the EU acts that Norway had to incorporate were problematic, someone in the 169-seat Norwegian parliament would have voiced discomfort more than 7.7 per cent of the time.

This is of course an area in which British and Norwegian voters may differ in terms of emphasis. The Storting paper points out that in policy areas like the environment, the EU only uses minimum standards directives but assures readers that 'it is possible to set more stringent national requirements'.[115] A government that took Britain out of the EU may be aiming for the minimum possible environment standards, too. However, at the moment the British government thinks much the same as the Norwegian one – Britain has been at the forefront pushing for more EU-level green rules, targets and actions, and has led by example with carbon reduction and renewables targets higher than EU law requires.

When the EU has passed a potentially damaging law, the first option for avoiding or ameliorating it is what is known as an EEA relevance assessment, in which the EEA Joint Committee decides whether the EU rule should apply to the EFTA-EEA states. This is based on the original agreement's scope, so an act is relevant if it 'falls within the substantive and geographical scope of the EEA Agreement, as defined in the main Agreement and its protocols and annexes.' The Storting's report notes that 'the criteria set out in the Agreement are not precise, and assessments are therefore to a certain extent discretionary'. At this point many acts can simply be ignored. For example, two EU propositions on energy supply, Council Directives 2004/67/EC and 2006/67/EC, were easily evaded. If an act is deemed relevant then 'the next step is to clarify whether it can be incorporated into the EEA Agreement as it is or whether it requires adaptations…on the basis of expert input and political and institutional considerations'. For the many EU acts which are only partly EEA relevant, the Joint Committee's decision will adapt the text so only those parts are incorporated into the EEA agreement.[116]

The 'Alternativrapporten' argues much more could and can be done with the relevance test: 'directives that violate the clear assumptions that existed at the signing of the EEA agreement' should be contested.[117] If the UK were to join EFTA-EEA the 'clear assumptions' might be different as they would reflect the current status quo, not the 1992 debate, but this rule of thumb would still be useful for policymakers. If relevance is not contested in these areas, even with rules that are themselves acceptable, the report argues 'the screw gets tightened further' – the EEA expands into more unanticipated areas.[118] In a paragraph reminiscent of Juvenal's suspicion of his lover's infidelity, the report notes that it 'becomes a political issue to make sure to monitor the monitors [and] ensure the legal enforcement of the provisions of the agreement.' A solution in the UK, if it were in the Norwegian situation, could be to adopt a parliamentary convention of noting that every time an EEA law is passed with serious dissent, a clause should be inserted explicitly noting that EEA relevance for that directive does not imply automatic EEA relevance of future related directives.

Another example of the scope for wiggle room is the Marine Strategy Framework Directive (2008/56/EC) which aimed to improve the environmental health of the seas. Norway decided to resist this directive since it had already independently created an 'integrated marine environmental policy based on the ecosystem approach', an approach to which the EU's directive aspired. Indeed, 'the Norwegian model [had] been an important source of inspiration in developing the Directive' and Norway 'played a pioneering role' developing integrated marine management approaches, so it hardly seemed necessary to apply the rule to Norway – 'in practice, Norway fulfils the Directive's requirements'.[119] However, the EU's proposal had a scope which included all marine waters within a nation's jurisdiction, including the 'exclusive economic zone'[120] and the continental shelf, which is far beyond the mandate of the EEA agreement. The Norwegians successfully resisted the directive on these grounds, which meant future EU changes to marine rules (which may have been less well thought-out) will not be applied. To show willing on a policy area in which, after all, it is a world-leader, Norway then committed to 'to further strengthen the already close cooperation' with Brussels on marine management.

So through the EEA structure, Norway was able to avoid implementing an EU directive. It then continued to influence the continent on the policy area it had just escaped, achieved by cooperation, not coercion.[121]

The European Commission's review on the EEA betrays some frustration: '…the grey zone between what is internal market legislation *stricto sensu* and what would fall under other policies is growing'. They suspect errors arise as 'the EU adopts more and more packages of legislation with many dimensions, rather than individual acts, which strictly correspond to the internal market concept as understood in 1994'.[122] The fact that the EFTA side has such a say in defining what is EEA relevant 'provides a notable advantage to EEA-EFTA countries over the EU with regards the scope and pace of the incorporation process… a *de facto* delaying power, with limited recourse for the EU.'[123]

The Storting report on the EEA relationship actually indicates that there is wiggle room that Norway fails to take full advantage of:

> 'Almost all new EU legislation is incorporated into the EEA Agreement unchanged. This being said, the Agreement does allow for the parties to agree on substantive adaptations.'[124]

The same section notes that Norway is likely to be more proactive in seeking adaptations in the future due to the EU's changing regulatory methods, so it will be 'more relevant to negotiate adaptations in the form of substantive delimitations and institutional adjustments when incorporating legislation into the EEA Agreement'. There is also the option 'to make a joint *or unilateral* declaration when incorporating legislation…to clarify or delimit the parties' understanding of the legislation in question.'[125]

The European Commission expressed frustration with the adaptation tactic, noting that 33 per cent of all legal acts and almost 40 per cent of services directives have required adaptation: 'The request for adaptations, particularly… institutional adaptations in terms of rights of participation in committees and agencies and the allocation of competences… constitutes a significant source of delay in the incorporation process.'[126] Because getting agreement within the EU from 27 (now 28) members is so much more difficult than the former 15, the Commission notes that the additional burden of Norwegian requests is 'more challenging… increasingly difficult to address (and some would say unacceptable), in view of the finely balanced compromise reached during the EU decision-making process.' The document did not name names for those finding it 'unacceptable' and the process has not been changed since the paper was written in 2012. In terms of Norway's adaptations requests stalling unwanted rules, the paper noted that at the time of writing 16 EEA-EFTA rules were still pending 'due to the non-fulfilment of the constitutional requirements by Norway; some of them since January 2007.'[127]

The Norwegian government can be pragmatic in achieving its aims by hook or crook: 'Even if Norway does not gain acceptance for an adaptation when incorporating an act into the EEA Agreement, it may in a number of cases nevertheless be possible to implement the legislation in a way that also safeguards Norwegian interests.[128] This is virtually the opposite attitude to that which many see in Whitehall, where the civil service is accused of 'gold plating' EU laws with additionally onerous home-grown stipulations, and of enforcing EU rules by the strictest available interpretation. Norway often strives to implement those laws it has to in the least detrimental manner, as the examples below demonstrate – the 'Alternativrapporten' authors note that the EU's increased use of 'wide framework directives' means there is 'considerably greater latitude in [their] implementation.'[129]

Although some evaluate Norway as implementing the necessary EU laws (or at least those beneficial to it) faster than various member states,[130] the EC highlights various delays, for example the hygiene package which took five years to be applied. The EC paper notes that Norwegian academics feel that delays (which are often about a year and more in exceptional circumstances) are a useful political tool, a 'safety valve' for controversial EU measures. There is a clear frustration that these delays mean the internal market is not homogenous and EFTA states may have a 'competitive advantage' which is a 'problem of great concern… [which] should be solved as a matter of urgency'. The working paper aimed to encourage simultaneous EEA implementation of new directives through forceful dialogue, because the EEA-EFTA structure has no stronger means of speeding up an EFTA state.[131]

One 'Alternativrapporten' suggestion for a 'leaner EEA' is the introduction of a cooling off period for new EEA legislation, so Norway can see how a law operates in practice before it is transposed to Norwegian law.[132] Although it would require a renegotiation of the EEA agreement through Article 118 to establish such a clause formally, a more eurosceptic government could effectively explore the idea through deliberately sluggish implementation. The Nei Til EU authors judge the Norwegian government for implementing EEA rules too quickly and loyally, meaning the relationship is imbalanced rather than 'mutual' as the agreement is worded.[133]

More powerful than adaptations, Norway may plead that although a law is EEA relevant, it should be derogated. Successful derogations include the Television without Frontiers Directive, the Community Co-Insurance Directive, legislation on pesticides and chemicals 'so that Norway could maintain a high level of protection.' However, Norwegian influence showed its quality at this point: 'Norway's technical input during the development of EU chemicals legislation helped to bring the level of protection provided under EU legislation closer to that provided under Norwegian legislation, so that there was no longer any need for derogations.' While threatening or negotiating a derogation is a useful solution to unwanted regulations, the ability to convince the whole EU to play your tune is better still. [134]

Other areas in which Norway won derogations include parts of Directive 2004/54/EC on tunnel safety.[135] In 2011 Norway had obtained derogations 55 legal acts in total compared to 349 in Iceland and 1,056 in Liechtenstein, the smaller states able to wiggle further presumably because many EU laws simply would not affect them so did not need legislating, or because they resisted more vocally.[136] Other exemptions include the gas market directive, hygiene package and equality directive.[137]

There is an additional enforcement caveat noted in the Storting white paper:

> In cases where the European Commission, EU agencies or supervisory bodies have the power to make decisions that are binding on authorities, companies or individuals in the EU, the EEA EFTA states must decide whether and how corresponding powers are to be exercised in the EFTA pillar.[138]

This means that the EFTA states can decide which part of the EFTA machinery should exercise executive competence over that new law, potentially meaning enforcement on the EFTA side could be more 'soft touch' or sympathetic to subsidiarity. The 'Alternativrapporten' argues that 'the ESA [EFTA Surveillance Authority] does not have the expertise to say which legislative amendments Norway must make, but only to consider what they believe cannot be accepted within the EEA.' The report's authors argue that more cases should be taken to the EFTA Court – 'the experience of the reversion case (see the waterfall discussion in 'Examples') shows that just taking the case to court was the key to finding solutions other than what originally had been imagined possible'. They later note that, according to EEA Article Six, Norway is not strictly bound by post-1992 EU case law. They reference EEA lawyer Jon Øyvind Eide Midthjell, who emphasises that the ESA does not have the authority to limit a parliament's control, only to point out when there has been a breach of contract and bring the matter before the EFTA Court if it is not corrected – the government decides how to correct it. This all implies that the ESA has less de facto power than the European Commission.

Despite all of these delay tactics, the Norwegian Foreign Affairs Ministry website notes:

> …the EU has refrained from employing trade policy measures against Norwegian undertakings in the form of anti-dumping measures or other EC legal instruments that may otherwise be applied to non-member states.[139]

There is a suggestion that Norway actually over-complies with the EU in some areas despite there being no effective coercion – the 'Alternativrapporten' suggests there is debate over whether the ESA is 'more Catholic than the Pope… [more] rigorous in its monitoring of Norway… than the commission is with EU member states'. Similarly the Foreign Affairs Ministry notes: '[E]ven though taxes are a field that is not covered by the EEA Agreement, cooperation in the EEA will be subjected to heavy pressure if the EU and Norway develop different systems of taxes to protect the environment that give one of the parties a substantial competitive edge.' To avoid EU pressure for a fundamental renegotiation of the EEA Agreement, and to improve environmental coordination, Norway refrains from a tax structure that would give a sector 'significant competitive advantages' and aims for 'the closest possible dialogue and coordination with the EU'.[140] Britain, after voting out of the EU in a referendum, may be more confident in pushing this boundary to industry's advantage. Alternatively, agreeing not to challenge the EU too much on tax competition could be a significant bargaining chip for influencing important EU rules.

There are numerous examples of Norway successfully exerting pressure to avoid damaging EU legislation.

Examples

In 2008 the EU attempted the full harmonisation of EU consumer law. The Storting white paper said: 'The original proposal would have weakened consumer protection in Norway in several ways,'[141] so was an example of the EU's one-size-fits-all policy actually being counterproductive. Early on, even before the Commission presented its proposal the Norwegian government started lobbying 'to achieve a directive setting out minimum standards, and to ensure that overall consumer protection in Norway was not weakened.' Norway issued policy guidelines and established a coordination group for the civil service, and kept up contacts with consumers and business representatives. It mustered 'documents supporting Norway's arguments' and also submitted an official comment along with the other EFTA states. 'The senior political staff of the relevant ministries played an active part in (this) process' and aligned their efforts with the equivalent staff in the EU Nordic states. Norway seconded an expert in consumer rights to the commission.

When the proposal came out in 2010 Norway held a consultation process and signalled that 'the Consumer Rights Directive as adopted is significantly better than the original proposal.' From this the Storting report concludes 'a broad-based national process at an early stage involving relevant stakeholders, combined with clear standpoints, is crucial if Norway is to exert an influence on a legislative process', particularly because it shaped the basic opinions of 'stakeholders in the EU who had not yet established clear positions.' The national organisation of Norway's effort kept everyone 'informed about progress within the EU' so allowed the submission of 'specific suggestions and not just general comments to the European Parliament.' This was aided by establishing 'contacts with the support staff of relevant members of the European Parliament and the secretariat of the parliamentary committee.' From Norway's point of view their long-term efforts to improve the consumer rights package 'enhanced Norway's credibility and our access to relevant actors in the EU system.'[142]

The EU commentator Richard North's *Flexcit* blueprint for EU exit, which takes much inspiration from Norway but does not see the EFTA-EEA arrangement as Britain's final destination, mentions EU proposals for oil exploration regulation as an instance of the EEA Joint Parliamentary Committee's ability to argue EU rules 'not EEA relevant' putting Norway in a better position than Britain. In fact, the EU did then assert that the rules, charmingly named the 'Proposal on safety of offshore oil and gas prospection, exploration and production activities', would apply to Norway. *Flexcit* shows that Oil & Gas UK found the proposal poorly written and dangerous, which is presumably why Norway first tried to opt out.[143]

Together with the UK, the Netherlands and Denmark, Norway lobbied hard and what eventually passed as Directive 2013/30/EU was amended strongly such that those North Sea states (which make up 90 per cent of the EEA's oil extraction) could essentially ignore it. In the words of a legal commentator, rather than letting the EU invent a whole new and punishing regime for safety on offshore sites, the final law 'allows (a state) to enhance its existing regime, rather than reinvent the wheel' to the satisfaction of the four big oil states.[144]

Another example of wiggle room is the Norwegian defence of the state lottery and monopoly over gambling for money, controlled by the Norwegian government-owned lottery company Norsk Tipping. Led by the British-based gaming company Ladbrokes, the EU gaming machine industry argued that Norway's extension of the state system to prohibit gaming machines run by private operators contravened the EEA agreement. Bookmakers also claimed that the Norwegian monopolies, combined with the fact only Norwegian charitable organisations could offer certain money games, was a violation of the EEA Agreement. The Norwegian state won both cases outright – state control of gambling is part of the social model. This influenced a similar trial which saw Portugal taken to the European Court of Justice, which made 'clear that national authorities have a good deal of latitude to make use of state monopoly schemes in the gaming industry.'[145] The oil rig and gambling examples again show Norway is far from a passive recipient of Brussels interference, but has a part in shaping or rejecting EU law.

Norway has a system whereby the ownership of waterfalls returns to the state from any public undertaking after a certain period of time (known as reversion) which was claimed to infringe the EEA agreement. Norway argued the reversion system was vital to its nature management and hydropower resources management, pointing out that the EEA Agreement has a clause agreeing not to prejudice a nation's 'system of property ownership'.

After the EEA agreement was concluded, Norway did change system of reversion so Norwegian private undertakings and private undertakings from other EEA states were treated equally, but not equal to public undertakings. In 2007 the EFTA Court found this constituted 'an indirectly discriminatory restriction' and the ruling noted that 'restrictions could only be justified as part of a complete and consistent system of public ownership'. This ruling pointed to a solution for Norway to retain its aim, strong public ownership and reversion, while complying with EEA law. Later in 2007 the Government adopted a provisional ordinance 'to ensure that Norway's hydropower resources are under public ownership and that they are managed for the common good'. They achieved this by altering private rights to waterfalls and power plants. Now private undertakings cannot be granted licences to acquire them, but instead can own up to one third of the capital and votes in public undertakings (which have the full rights). Essentially the EFTA ruling just made Norway strengthen the system that was being complained about, and were able to retain its key characteristics while obeying EU competition law.[146] In a discussion of ways the EU overreached the premises of the original agreement, the 'Alternativrapporten' notes the case of waterfalls as a 'broken assumption' but concludes that 'the basic principle of public ownership… is continued'.[147]

Norway allows donations to charity to be tax deductible up to a ceiling of 12,000 Norwegian kroner (about £1, 150). After a similar case in Germany, in 2009 the EFTA Surveillance Authority issued an opinion that the Norwegian system was illegal under EEA law as it applied only to organisations with headquarters situated in Norway, so discriminated against other EEA member companies. Norway simply changed the tax rules 'so that all organisations within the EEA that meet certain requirements are now treated alike'.[148] This retains the Norwegian incentive to give charitably, and may even attract small businesses on the Danish, Finnish and Swedish borders.

The Nei Til EU group's 'Alternativrapporten' raises the issue of Norway's state alcohol monopoly as an example of EU interference going too far.[149] The 'vinmonopolet' rules, in which the state had an exclusive monopoly on alcohol fell, but only slightly. The government still has exclusive rights as a retailer to sell alcohol stronger than 4.75 per cent and (anecdotally) remains very powerful in limiting alcoholism and abusive alcohol selling. In 2008 it had an 81.5 per cent approval rating among customers.[150] Finland, Sweden and Iceland also operate state alcohol monopolies successfully, so it is difficult to argue that the EU entirely undid the model tradition. The EEA split the vinmonopolet up in 1996 so a new body, Arcus, handled the wholesale import, storage, transport and production of wine and liquor. The Norwegian government sold a controlling share of Arcus to a private company of its own volition in 2001.

National insurance contributions are differentiated across Norway through a system of zones to aid economic growth in the more rural and inhospitable areas. This was the case before the EEA agreement was signed, so when it came into force Norway submitted the system to the EFTA Surveillance Authority for approval. The Surveillance Authority ruled that the system constituted illegal state aid, prompting a long legal battle across various courts. With the support of Liechtenstein and Iceland, Norway won the right to continue the system after some amendments, and considered the right to 'invoke an exemption clause in the Surveillance and Court agreement and continue parts of the scheme, i.e. the zero rate in Finnmark and Troms'. Instead, Norway gathered the support of Sweden and Finland to adjust the definition guidelines for state aid, so that in 2005 the new regional aid guide 'allowed for aid to be provided to regions with low population density to prevent outward migration' which meant 'Norway was able to reinstate the system of regionally differentiated employer's contributions.' Although a long and complicated fight, and not to the satisfaction of all Norwegian parties, this again shows that through sustained lobbying and soft power, Norway was able to get its way and even change the rules for the whole EU.[151]

Norway can also fight its corner through the courts, and if successful, influence community law. This can happen in two ways, firstly by defending its position in cases wherein EFTA Surveillance Authority claims it has infringed EEA law, and secondly in cases wherein the EFTA Court or European Court Justice makes statements on how EEA law should be interpreted as preliminary rulings or advisory opinions.[152] The Storting report seems to find this satisfactory – 'submissions made by Norway to the European Court of Justice are considered on an equal footing with submissions made by member states'. Norway can in theory be as influential as even a large EU state, since '[i]t is the quality of the submission and the strength of the arguments that determine whether the views put forward gain acceptance.' Apparently there are 'several examples where it is apparent that the Court has based its decision directly on arguments put forward by Norway, including in cases where Norway's views have differed from those of other actors'.[153] The paper emphasises the need for Norway to continue energetic action in this area – if in a similar situation Britain could perhaps establish a body shared between the Foreign Office and department of Justice whose responsibility it would be to review the legal strength of EEA law.

A final example of Norway getting its way with the EU is simply by resorting to World Trade Organisation arbitration. In a way, this is appealing to the rules Norway's diplomatic independence helped to shape upstream (explained above). In January 2004, Scottish and Irish salmon farmers complained to the European Commission that Norway was engaging in dumping, selling products to the EU below market value thanks to subsidy or state aid. The Commission reacted by imposing anti-dumping measures on Norwegian salmon. These were originally imposed for five years and specified 'a minimum import price of EUR 2.80 per kilogram for whole fish and other minimum import prices for salmon fillets, etc'.[154] Norway took the Commission to the WTO, which found in November 2006 that the EU action has insufficient evidence and was overzealous, causing the EU to end the measures. The Norwegian government summarises the case with triumph:

> Norway brought the matter before the WTO with two objectives in mind: to have the existing anti-dumping measure withdrawn, and to obtain clarification of various points that would make it more difficult for the EU to impose such measures against Norwegian salmon in the future. The Panel's report provides a sound basis for achieving both of these objectives.[155]

The Storting paper seemed confident for Norway's continued influence in the future. It noted that the eurozone crisis had prompted Brussels to create a host of new supervisory authorities and banking rules, but asserts that '[i]t does not appear appropriate to develop corresponding powers relating to the financial sector in the EFTA institutions', a position of which many in the City of London would be very envious. 'As long as Norway is unable to participate fully in the work of the EU's new financial supervisory authorities, the extent to which Norwegian legal entities can be made subject to the decisions of these authorities is clearly limited,' notes the Storting paper[156] – an assertion that seems quite robust since it was written three years after the crisis first struck, so moves to include EFTA-EEA in finance rules would already have been underway if they were ever to be put in motion.[157]

A legal paper that mainly focuses on the Norwegian veto (discussed below), points out other potential wiggle tactics that have seldom or never been used. The parties have 'relatively wide latitude to negotiate a creative solution' to a disagreement, for example Article 97 which 'appears to grant… the ability to allow a state to adopt national legislation that differs from the demands the EEA Agreement places on each state'. The article reads, 'This Agreement does not prejudge the right for each Contracting Party to amend, without prejudice to the principle of non-discrimination and after having informed the other Contracting Parties, its internal legislation in the areas covered by this Agreement: if the EEA Joint Committee concludes that the legislation as amended does not affect the good functioning of this agreement…' Since the article has never been used, a legal reviewer notes that 'there is no precedent to delineate the boundaries for national divergences from EU law that the Joint EEA Committee may accept.'[158] This seems like one penultimate recourse that might be used before an EFTA state is forced to trigger its veto.

Veto

If all methods for predetermination, wiggling, derogating and delaying fail, the EEA agreement does actually have provisions for a veto, innocently called the Article 102 'reservation'. The actual utility of the reservation is a subject of some discussion, summarised below.

Most Norwegian and European Commission documents are at pains to make clear that even considering exercising the veto is an act of desperation, a last resort. The EEA agreement contains numerous options for dialogue, compromise, and all the kinds of wiggle-room noted above. These have in all but a few cases averted an EFTA state actually triggering the Article 102 mechanism. A report from the Ministry of Foreign Affairs to the Storting in 2001 explains this approach:

> …[A]ny problems remaining to be resolved in consultations in the EEA bodies concern isolated parts of new Community acts. In the day-to-day practical cooperation, it may in… seem more favourable for EEA cooperation to devise special adaptations for a state that has problems than not to make a decision at all because it is blocked by the state in question. If no solution is arrived at in the EEA Joint Committee, the matter is of course submitted to the EEA Council, i.e. the European Commission and representatives of the participating states at ministerial level.[159]

Only when this exercise of mutual bending-over-backwards has been completed, when an impasse remains 'despite protracted attempts to find a solution', then an EFTA state might exercise its right of veto. Anna Bersagel, writing an academic legal review of Norway's planned use of the veto for Stanford and Vienna Law Schools, noted a growing willingness of Norwegian MPs to suggest and debate the use of the reservation, particularly evident in discussion of the EU's planned Data Retention Directive. Previously it had been ignored or seen as an unthinkable option.[160] After Norway's most recent flirtation with the veto (explored below), Storting members will probably be more confident and consider activating Article 102 procedures, since this action drew no negative consequences.

Article 102 is formally triggered either:

> i) if an EFTA-EEA member notifies the EU that it will not be adopting a new piece of legislation; or
> ii) if 'one party is of the opinion that a disproportionately long time is being taken to incorporate the (new) act into the EEA Agreement.'[161]

As noted above, Norway has occasionally taken as long as five years to incorporate new acts, yet the second trigger for Article 102 has never seriously been raised against Norway from the Brussels side. Prior to 2010 the reservation had been activated only twice, once in 2002 against Liechtenstein over slow implementation of the EU's Second Money Laundering Directive, and once in 2007 by Iceland and Liechtenstein for the same reason, over the free movement of persons. In both cases the EU's threat was enough to prompt 'further dialogue' and both acts were incorporated into the EEA Agreement.[162]

The Storting white paper suggests a theoretical third trigger, which goes back to the EEA relevance assessment. 'The EEA Agreement contains no provisions for dispute settlement in the event of disagreement,' the paper notes, so if no political agreement can be reached and the EU still insists a new act is relevant to EEA law, an Article 102 procedure might be initiated, essentially treating the EFTA sides' refusal to recognise EEA relevance as a veto. The Norwegian government also points out that in their view, the EFTA side voluntarily accepting an EU act outside the agreement (outside the four freedoms) implies 'no obligation to incorporate subsequent legislation' into an annex. This is important since it could act as a check on acquis communautaire creep.[163]

The ultimate deterrent against using the veto is that the EU will suspend free trade in the relevant EEA agreement annex. However Article 102 has many steps before this point, and in reality the suspension of free trade has never occurred. The 'Alternativrapporten' notes that 'the right to veto does not exist within the EU and is replaced with majority decisions… [meaning Norway has] the right to opt out of new EU legislation that EU countries do not have.' The report shows that the 'right of reservation was a political and constitutional necessity' in the EEA agreement, not a mistake or an afterthought. Gro Harlem Brundtland, who was prime minister when Norway debated the EEA agreement in 1992, is quoted as stating that 'we will be ready to use the right the agreement gives us, to oppose the proposal from becoming a common EEA rule, if we find it necessary.' Norway can refuse EU laws 'without putting the EEA agreement on the line'.[164]

After the reservation is triggered, the EEA Joint Committee initially has six months to try to find a renegotiated solution, in which all parties must 'make every effort to reach agreement… [and] examine all possibilities'. If that dialogue fails then the EEA agreement says '[the] EEA Joint Committee shall examine all further possibilities to maintain the good functioning of this Agreement and take any decision necessary to this effect, including the possibility to take notice of the equivalence of legislation.' This is a potentially powerful instance of last-minute resistance, in that a desperate EU might simply agree that current EFTA laws are similar enough to the new EU act to be mutually recognised.[165]

If this also fails, then 'the affected part of the EEA Agreement will be provisionally suspended… Such a suspension shall take effect six months after the end of the period referred to in paragraph 4' (i.e. the second six months), and it only applies to the 'directly affected part of the Annex to the Agreement'. This is the free trade suspension, but as the Norwegian Foreign Ministry noted: 'Exactly what constitutes the "affected part" of an annex is a matter for consideration by the EEA Joint Committee'.[166] It is not elaborated on in the agreement, so the report concludes that the scope of the suspension would have to be a political agreement within the Joint Committee, which could inevitably drag on for a very long time. Presumably the suspension of the EEA norm would mean Norway-EU relations regress to the terms of the bilateral trade agreement of 1973, or failing that, to basic WTO rules.

Even thereafter, '[t]he EEA Joint Committee shall pursue its efforts to agree on a mutually acceptable solution in order for the suspension to be terminated as soon as possible.'[167] This of course leaves the door open for the EU side to accept the veto and reinstate free trade, either because the additional trade boundaries hurt the EU more than the EFTA states, or because the EFTA sides' arguments over the superiority/acceptability of their rules convince the commission. The article does not 'allow for counter reactions on the part of the EU' in other areas.[168] Bersagel also notes that, if all EFTA and EU states agree, the EEA Joint Committee could simply 'waive nullification' and carry on as normal.[169] This is entirely possible, since the 'Outside and Inside' report notes that the EU following through on Article 102 in areas such as the Schengen Agreement 'could lead to the entire agreement collapsing'.[170] Similarly the 'Alternativrapporten' notes that 'if larger parts of the annexes are removed [than the rules being vetoed] this could be a measure that put the [EEA] agreement's purpose of uniformity in greater danger than the temporary suspension of an individual directive.'[171]

It's important to note that the nullification applies to all EEA-EFTA members, not just the state wielding the veto. This makes it even less likely that the EU would be too eager to be punitive, since they'd be punishing states that were essentially innocent, and so losing a percentage of their trade and goodwill too. In this sense, the larger the EEA-EFTA the better, as it gives the bloc greater negotiating power when using the threat of the veto to win concessions or opt-outs. If Britain joined the bloc and Norway wanted to exercise another reservation on a minor matter, the EU would hardly suspend substantial chunks of the single market for Norway *and* Britain, Iceland and Liechtenstein, just on a point of principle to keep the single market cohesive.

There is debate over precisely what free trade would be suspended. The most recent Storting white paper argues: 'In Norway's view, this means that only the part of the relevant Annex that is directly affected can be suspended'. So the suspension could be limited to a single product or product type.[172] On the other hand the draft review of the EEA agreement written by the commission argues that 'the EU side should, evidently, ensure that the part of the Annex to be ultimately suspended would impact negatively on the partner's interests, rather than merely suspend parts of the Agreement that the contravening partner wishes to ignore.'[173] This highlights a major problem with the veto from the EU perspective – depending on the interpretation of the agreement, it may well be that the veto-wielding country only loses market access on the product group it wanted to protect anyway. This allows EFTA-EEA states to prioritise, for example, a cherished set of their own regulations over free trade when push comes to shove. To look at one of the wiggle room examples above, had the Ladbrokes' case been pushed all the way to a veto, then Norway might have lost out on the free movement of money games companies and services, and the EU lost out on the same thing – which would be achieving Norway's aims and leave Ladbrokes in the same situation it had initially complained about.

During a similar suspension on a physical product, the only changes would be to tariffs and the non-harmony of the specific EU rule under reservation. This means that trade could continue, free of quotas and other non-tariff barriers, so trade of that product would become 'American' (under the same conditions with which an EU state and America trades) for both parties. For Norway the situation is even better in some product areas since, following a 1973 Norway-EU Free Trade Agreement and 1977 industrial agreement, many products would still be tariff-free regardless of the EEA's partial suspension.[174]

Bersagel's own analysis identifies three possible interpretations of 'affected part' for the suspension of the single market. The most unlikely option is the entire affected annex, which (depending on the dispute) might entirely suspend free movement of persons, financial services, or of vast swathes of products such as energy or electronic communication, audiovisual services and information society.[175] These are so wide that an abrupt termination of single market privileges across the EEA is virtually unthinkable, as Bersagel notes: '…undesirable to all parties...the untangling from all relevant regulations… would prove extremely cumbersome'. Brussels would be carving off a large part of its own nose in order to spite the joint EU-Norwegian face if it were to interpret Article 102 in this manner.

In her examination of the veto over the Third Postal Directive, Bersagel describes the other veto interpretations as affecting either 'only the subpart on postal services' or 'only to the specific regulations on postal services affected by directive—for example, to letters that weigh less than 50 grams.'[176] The latter interpretation seems to be supported by the view of Trond A Eriksen, writing from the University of Oslo.[177] As previously noted, either of these interpretations would seem to work heavily in favour of the vetoing party, since they would only end up excluded from the specific act(s) they wanted to avoid anyway.

Bersagel also summarises a debate over the timing of the trade suspension:

> Some scholars argue that the suspension does not operate until the parties agree on its scope; while another scholar contends that the ambiguity leaves the EU with the power to decide the scope of the affected part, while depriving the EFTA states of any recourse to an appeal. In practice, the ambiguity in the definition of the 'affected part' suggests political, rather than legal, considerations will determine how broadly the suspension applies.[178]

This might indicate that Norway is actually in a better position to renegotiate the free movement of persons than Switzerland. If Switzerland does impose quotas on EU migrants, Brussels can retaliate however it wants to – suspending banking, increasing taxes on watches and pharmaceuticals for example. Norway is theoretically protected: the free movement of labour is Annex V in the EEA agreement. In the unlikely event that Norway contravened this and triggered an Article 102 procedure, the EU would only be able to retaliate by limiting Norwegian migration and suspending Schengen, since that is the 'affected part'. This could put Norway (or an EFTA-UK) in a position similar to Turkey in this respect, with some single market access but no mutual free movement of workers. Realistically, though, Brussels may well take an infringement of the free movement principle as an affront so great that they suspended the entire EEA agreement and pressured the EFTA states to form a new treaty.

The Third Postal Directive

If the veto is the nuclear option, this sequence of events around the Third Postal Directive in Norway was the EEA agreement's Cuban Missile Crisis.

The Third Postal Directive (2008/06/EC) is an odd case. Norway had already implemented the first and second directives, but on 23 May 2011 Foreign Minister Jonas Gahr Støre of Jens Stoltenberg's Labour-led government formally announced that he would use the right of reservation to avoid the third.

This was because the latest iteration of postal rules pushed competition and privatisation into letters less than 50 grams which had previously been protected - this threatened the Norwegian system. Indeed, it may have been a major factor behind the British government's Royal Mail sell off. In Norway there were fears that the directive would drive down wages for postal workers, who had just borne the brunt of large layoffs already. Posten Norge, the Norwegian postal service, had a record of serving Norway's extreme rural areas to the North and in the mountains six days per week, which required a large subsidy from more populous areas. There was concern that profit-driven competition would cut off remote Norwegians. The directive became a major sore during a period of high euroscepticism in Norway, when only 15.3 per cent of the population supported further integration.[179]

The EU was very sluggish on the matter as it tried to resolve the dispute through dialogue, but in 2013 announced the possibility of sanctions. Although one Danish MEP, Bendt Bendtsen of the European People's Party group and Danish Conservative Party , wanted to increase taxes on Norwegian seafood products or even 'kick Norway out of the EEA',[180] the EEA agreement would only have allowed a suspension of free trade in a small part of the annex concerned, as explained above. Bersagel described the situation as being 'something of a trial balloon designed to test the boundaries of possible resistance to the EU' and a tricky situation from Brussels' perspective, since indulging Norway in the short-term might just 'encourage Norway's growing EU opposition forces to push the envelope'.[181]

The small crisis did cause the commission to look again at the EEA situation. Investigating the relationship, the European Commission found a further 427 acts that had not been put into Norwegian law for so long that their 'compliance date' had expired.[182] The issue was complicated by Norway having unilaterally increased import tariffs on some food products (not covered by the agreement) including cheese and meat, plus hydrangeas. This was perfectly within Norway's rights, but soured EU relations.

The EU had not levelled sanctions, or even ostensibly met to debate doing so, when in October 2013 Jens Stoltenberg's Labour Party lost the general election to Erna Solberg's Conservative-led coalition. Solberg is as pro-EU as Stoltenberg, if not more, but Høyre do not prioritise the issue and does strongly support a pro-Market position.[183] Instead Høyre criticised Labour for implementing the EEA agreement too slowly, and announced Norway would implement the additional postal rules on 19 November.[184] This effectively burst the trial balloon pre-emptively, meaning we cannot really know whether Brussels or Oslo would have blinked first, or how a compromise could eventually have been forged. North Europe's need for Norwegian (and Scottish) oil and gas could be a crucial factor in hypothetical negotiations over resolving a veto. Europe currently imports Norwegian gas 'in ever increasing volumes' meaning 'Norway has a long-term link to the markets and the way they function.' This could be seen as the ultimate deterrent to an escalating trade war, since as we've seen with the Ukrainian/Russian standoff, 'developing alternative [energy] markets is a lengthy, uncertain process which is also dependent on pipelines and other infrastructure'.[185]

There are tangible lessons from the postal directive episode, however. The directive was first adopted in February 2008, to be in full effect by 2010. The EU's inaction, its inability to respond strongly to the Article 102 submission, meant that for over three years Norway had brazenly refused to implement a major EU directive with no negative consequences. It may have been able to continue doing so with no or minimal sanctions.

Although written before the postal directive episode was resolved, the Storting's paper acknowledges the central importance of the veto:

> The possibility of entering a reservation is an integral part of the EEA Agreement. It is a necessary mechanism for those cases where there are important strategic interests that warrant its use.[186]

Real democracy

Looking at the detail of the EEA agreement and how it operates, the idea of 'fax democracy' appears thin. No, Norway cannot dictate its will to Brussels, but then no other state can either, not even Germany or France. There are many ways an EFTA-EEA country can influence EU policy or avoid its consequences. Options such as the veto are more powerful tools than an EU member state has in certain situations. The suggestions in the 'Alternativrapporten' 'include many options Britain might investigate if it joined EFTA-EEA. More could be achieved if Norway made more use of the right of reservation, was more active in the early phases of legislation, had more targeted national policies, and was committed to flexibility and transparency – with clearer parliamentary and court participation in and scrutiny of the evolution of EU policy.

As mentioned above, North Sea fossil fuels are a final consideration for high level negotiations. Günther Oettinger, the EU commissioner for energy, mentioned that Norway had a fundamental role in EU energy supplies, which were threatened over tensions with Russia over Ukraine.[187] Written before the Ukrainian crisis began, the 'Alternative Report' likewise notes that 'it appears unlikely that EU [sic] would reject free trade with Norway, which provides the EU countries with such large amounts of oil, petrol and other intermediate goods for their own businesses [and is] a significant contributor to the EU's cooperation programme'.[188]

Of course, an EEA-EFTA government could always unilaterally choose to enact elements of, or improvements on, EU laws directly after vetoing them through the normal domestic democratic process. This could be seen as an 'opt back in' after a veto is used, or another way to ensure a 'cooling off period' to view how a law works in the EU before adopting it. It would also be a strategy for passing desirable laws but keeping them outside the oversight of the EEA institutions.

If all the measures in this section fail, the EEA agreement contains a clause for a member to leave in one year. By retaining this right to democratically disengage from the agreement, an EFTA state ensures it ultimately retains sovereignty.

Integrated free movement

Norway obeys the free movement of persons principle under the EEA agreement. Because it has some of the best hospitals, highest working wages and most generous social security standards in the world, Norwegians fear what some call 'social dumping' as much as Britons.[189] Like Britain, these fears are complex and include concern that migrants will come to Norway simply to live off the state; fears that migrants will displace native workers in the workplace; and fears that migrants will not integrate and in so doing dilute Norwegian culture.[190] Like Britain, these fears should not be written off as simple bigotry, nor left unaddressed.

Just because Norway does not limit EU migration does not necessarily mean it cannot. One of Liechtenstein's exemptions allows it to limit migration and settling under Protocol 15, meaning migrants must submit 'to prior authorization entry, residence and employment'. The protocol notes that these 'quantitative limitations for new residents, seasonal workers and frontier workers (day migrants)… will be gradually reduced' but in fact they are re-agreed every few months. This is because the EEA has agreed to '[take] into account the specific geographic situation of Liechtenstein', ie its relatively small size and the possibility of overcrowding.[191] As of 2013 Liechtenstein's population was roughly 37,000, of which 12,000 were migrants and another 7,000 crossed the border from Austria or Switzerland to work each day.

It is very unlikely, but at least a legal possibly, that from within EFTA-EEA Britain would be able to secure a similar exception. However, the EEA agreement itself does seem to offer the possibility of migrant controls. Article 28 of the agreement explains that the free movement of workers is 'subject to limitations justified on grounds of public policy, public security and public health'. Similarly Article 33 notes that the chapter 'shall not prejudice… provisions laid down by law, regulation or administrative action providing for special treatment of foreign nationals on grounds of public policy, public security or public health'. Article 37, which deals with the free movement of services, reaffirms that this freedom should be 'without prejudice to the provisions of Chapter 2' (to which Articles 28 and 33 belong). Moreover, the free movement of labour chapter specifies only 'workers', the 'self-employed' and 'their dependents', meaning there may be scope for a government to justify limiting jobless EEA migrants further than the acquis communautaire allows.

I am unaware of any attempt by an EEA-EFTA state to limit migration on the basis of these articles. They seem to offer virtually unfettered ability to limit the free movement of workers since ‘public policy’ could be used as a justification. The agreement hedges against this suggestion in the declaratory opening clauses: [signatories are] ‘DETERMINED to provide for the fullest possible realization of the free movement of goods, persons, services and capital within the whole European Economic Area, as well as for strengthened and broadened cooperation in flanking and horizontal policies.’[192]

Iceland, another EFTA-EEA member, has however tested the boundaries of the EEA on another of the four fundamental freedoms – the free movement of capital. In 2008 before the financial crisis, Iceland’s three largest banks held assets of $85 billion, about eight times the size of the country’s GDP. Landsbanki, Kaupthing and Glitnir all collapsed and, rather than declaring them bankrupt, the Icelandic government took them ‘into a process of winding up’. To stop depositors, Icelandic and foreign, withdrawing all their funds and heavily damaging the króna, the government imposed strict capital controls on individuals and businesses.[193] At the time of writing there are still assets worth half of Iceland’s GDP which would revert to foreign creditors when controls are lifted – as the new government under Prime Minister Sigmundur Gunnlaugsson is attempting to achieve without causing another crash.

These capital controls did allow Iceland to halt capital flight and defend their financial system, since the króna couldn’t be exchanged for foreign currency. Since then Iceland’s economy restructured and has been growing at more than 2 per cent each year, with vocal support from the International Monetary Fund.[194] However the use of capital controls appears to be directly contrary to normal single market rules.

When the controls were imposed in 2008 Iceland announced them as a temporary emergency measure. Although MEPs have questioned Iceland’s use of restrictions,[195] they have been allowed to continue. This is because Iceland was exercising its rights under EEA Article 43 which states a member could take ‘protective measures’ to avoid (2) ‘disturbances in the functioning of the capital market in any (member state)' and (4) if an EEA state is in 'difficulties, as regards its balance of payments… disequilibrium [or] jeopardize the functioning [of the EEA Agreement]'.[196] On this basis the EFTA Court gave an advisory opinion in *E-3/11 Pálmi Sigmarsson v the Central Bank of Iceland* that: 'Iceland should enjoy a wide margin of discretion, both to determine whether the conditions are fulfilled and the choice of measures taken' and it found 'currency controls complied with the EEA Agreement and…Iceland's restrictive measures would fall under Article 43(2) and (4)'.[197]

Similar restrictions are mentioned in Articles 112 and 113: 'If serious economic, societal or environmental difficulties of a sectorial or regional nature liable to persist are arising, a Contracting Party may unilaterally take appropriate measures… restricted with regard to their scope and duration to what is strictly necessary in order to remedy the situation… with regard for all Contracting Parties.' To do this, an EEA member must notify the EEA Joint Committee and strive to agree a 'commonly acceptable solution'. The emergency measures are not supposed to take place until a month has elapsed after Joint Committee notification, but in 'exceptional circumstances requiring immediate action' the appealing party can 'apply forthwith', which Iceland clearly interpreted as 'act immediately'.

Article 113 measures are supposed to be reviewed every three months 'with a view to their abolition', and Article 114 contains provisions for any 'imbalance between the rights and obligations under this Agreement', stating that 'any other Contracting Party may… take proportionate rebalancing measures as are strictly necessary' that will 'least disturb the functioning of the EEA'. In effect, this should be read as a provision for the rest of the EEA to retaliate if one member uses emergency powers without adequate justification or without making them as painless as possible.[198]

This demonstrates another area of wiggle room that Britain may need to fall back on as an EEA-EFTA state in a future crisis. The Iceland case implies that the EFTA Court takes the wording of the EEA agreement seriously and that suspensions of the fundamental freedoms are permissible, for long durations, in the appropriate conditions. It would be a very confident politician, or a particular crisis flashpoint, to assert that EU migration was just cause for similar measures, but may be possible. Under Article 114 it might lead to an escalation of mutual migration controls, i.e. restrictions on Britons entering Europe. Present migrants, British and European, would not be affected since they would be protected by the Vienna Conventions' rules on executed rights (as would be the case with all proposed migration controls).

However, if British politicians unite to support the what we might call the Norway option (or a variation on it) as the Out model in an EU referendum, and placed great emphasis on the possible migration limits above, it would be less likely that the three EFTA states would allow Britain to join EFTA in the first place. Such action might endanger the EEA agreement, and would contradict Norway and Iceland's current position – although Norwegian parties such as Progress might be sympathetic to moderate restrictions.

While Britain debates ending the free movement principle, cracks down on welfare eligibility and establishes a 'hostile environment' to dissuade migrants,[199] Norway has recently adopted a different approach to alleviating the three concerns above according to the Storting report. Simply put, the government attempts to make sure migrants live like Norwegians. If perfected this would mean migrants were not living off the state (because most natives work), were not displacing native workers (because the migrants wouldn't undercut them on labour costs or conditions) and were not undermining the culture (because migrants had learned the language and were an active part of the community). There are suggestions that such a policy could even improve overall working conditions and pay, although in practice the results of Norway's policy do not appear as successful as hoped.

In a recent Civitas publication Professor Robert Rowthorn noted that currently EU migration probably has neutral or slightly positive fiscal impact.[200] However he made clear that if migration does deliver fiscal benefits, then those benefits must at least be used to cover the extra strain on the country's resources so the national infrastructure does not gradually become overburdened and result in breakdowns or higher costs. This should be a priority if high migration levels are to continue – it should be clear to natives that overall, migration is not undermining national institutions like the NHS.

David Cameron appears to have taken this message on board. In his long-awaited speech on EU migration, Cameron promised:

> We will continue with our welfare and education reforms making sure that it always pays to work, training more British workers right across the country, but especially

> in local areas that are heavily reliant on migrant labour and supporting those communities with a new fund to help meet the additional demands on local services.[201]

At the time of writing there has been no additional detail revealed about the Conservative plans for such a fund, but in principle it could be an important change. It would be complicated for Whitehall to establish which local authorities have especially high EU migrant burdens on services, and how to apportion money appropriately, but the option should certainly be explored.

Professor Rowthorn's solutions to migrant pressures were twofold:

> The high rate of immigration from eastern and southern Europe will only decline significantly when either (1) these countries draw much closer to the UK in terms of wage rates and job opportunities or else (2) restrictions are placed on the flow of labour from these countries. David Cameron has ruled out the latter option

Arguably EU structural and social funds, modernisation and repositioning in the absence of communism are all contributing to the former goal, but this will certainly be a long-term effort. The latter goal is difficult politically, even for Norway and Switzerland (as discussed below). However, for ameliorating the negative effects of migration, Norway is exploring a third way.

Before the Norwegian and Swiss approaches are examined, it is worth noting the question of immigration within the wider context of British euroscepticism. On 28 November 2014 David Cameron set out a list of immigration reforms he hoped to achieve in his planned renegotiation of the EU's terms. He made it clear that the primary intention was for his changes, which included a four-year qualification period before migrants could draw from a host country's welfare system; limits on EU migrants staying in a host country without a job or means of support; powers to deport criminal migrants; and extra money for communities experiencing high migration, to all apply across the Union. It seems he intends to renegotiate the actual Free Movement principle, probably using Article 48 of the Lisbon Treaty.[202]

What is salient here is that, if Cameron achieves this renegotiation, it will apply to EFTA-EEA too, as per the mechanisms above – unless the EFTA-EEA states resist it, which is unlikely. In effect, then, renegotiating the EU free movement terms will have little effect on the desirability (or lack) of the Norway option. Questions of sovereignty and the freedom to negotiate individual trade deals will remain the primary differentiator between the Norwegian and EU member state situations. Britain could have its cake and eat it.

The Swiss standoff

Britain could try to be like the Swiss, who have single market access similar to Norway through a series of bilateral agreements but no single treaty or enforcement framework governing them. One of their single market obligations is the free movement of labour, but Switzerland recently voted to put quotas on EEA migrants after a countrywide referendum, against the Swiss government's wishes.

For a small country of eight million, Switzerland has experienced high net immigration, peaking in 2013 at 66,200 EEA migrants.[203] Approximately 20 per cent of its short-term population are non-Swiss. This is partially because Switzerland is surrounded by EU states, and because its economy was not as heavily hit by the recession and eurozone crisis as neighbouring France and Italy. In 2013 the ultra-conservative Swiss People's Party (SVP) led a campaign for a referendum on migration levels – in Switzerland a referendum is scheduled if 100,000 citizens sign a petition supporting one.

This referendum was held on 9 February 2014, and the Swiss people voted to put quotas on EU migration by a tight 50.3 per cent majority. Switzerland's major industries – banking and pharmaceuticals –had campaigned against the motion on the basis that they needed to employ skilled foreigners to the benefit of the country. The second reason was much bigger and much less discussed: that the Swiss-EU relationship contains a guillotine clause meaning that if Switzerland breaks one part of a bilateral treaty, the entire structure will (in theory) be cut off in retaliation.[204]

Relations with the EU had already been strained before the immigration referendum due to Swiss refusal to change certain banking secrecy rules which were allowing German and Italian citizens to avoid paying taxes at home. The pro-quota vote therefore raised tensions considerably. 'Switzerland has to know that cherry picking in relations with the EU can't be a lasting strategy,' declared German foreign minister Frank-Walter Steinmeier, echoing fellow German Martin Schultz, then president of the European Parliament. Didier Reyners, the Belgian foreign minister, announced: 'We can't work a la carte. They have to accept the entirety of the European accords.'

There were no immediate dire consequences, but the Swiss government unwillingly obeyed its duty to try to renegotiate the free movement principle with the EU, rather than imposing quotas unilaterally, which the constitution says it must do by February 2017. However the EU, embodied by the British high representative Baroness Ashton, rebuffed Swiss renegotiation hopes, stating that ambitions to alter free movement were 'irreconcilable' with the 2002 treaty. Due to the referendum vote the Swiss government was unable to sign a recognition of Croatia's EU accession and free movement rights, so in part a migration limit has already begun. The EU warned that treaties currently under discussion with Switzerland might be endangered – the REACH package on chemical safety, an electricity sharing agreement and initiatives for education, research and technology (Horizon2020 and Erasmus+).

The EU will not budge. This has given the Swiss president, Didier Burkhalter, a scare such that he intends to hold a second referendum, making clear to the Swiss people that if they really want to limit migration, they will have to accept that free movement of capital, services and goods might face the guillotine.[205] The second referendum and its consequences will be observed across Europe with great interest, nowhere more so than Britain. If the question is, 'At what cost could we limit EU migration?', Switzerland may provide an approximation of the answer, unless Swiss voters yield to the threat of economic uncertainty and retreat from their anti-migrant position.[206]

Norway has had no such referendum but its approach to EEA free movement still differs substantially from that of Britain.

Undermining 'social dumping'

The new Norwegian approach to immigration is to try to mitigate the potential damaging elements of immigration, especially so-called social dumping. Dumping is essentially the idea that companies in Norway will hire workers from less wealthy economies who are used to lower pay and labour standards, allowing the Norwegian companies to operate with lower production costs and undermine Norwegian-employing businesses, damaging the cherished Nordic social model.

There is evidence of this effect in some Norwegian labour sectors (discussed below). It's rather like the mirror equivalent of offshoring industries, and arguably more damaging.

Sections of Norwegian media display worries similar to those held by many British eurosceptic voters – migrants taking jobs, living off the welfare state, overburdening services and failing to fit in. Indeed, these fears are arguably more justified in that Norway accepts proportionally far more asylum seekers.[207] Still, migration from the EU makes up a large part of Norway's foreign population: 'Since the enlargement of the EU… in 2004, Norway has been one of the countries in the EU/EEA that has received most labour migrants from Eastern Europe per capita, and in 2009, 87 per cent of all labour migration to Norway was from the EU.'[208]

In fitting with the social model, effort is made to integrate resident migrants into the regular workforce:

> It is essential to ensure that the Norwegian model of labour relations is maintained. This involves continuing the tripartite cooperation between employers, trade unions and the state, and retaining the ability to enforce Norwegian rules on pay and working conditions effectively.[209]
>
> It is particularly important to safeguard pay and working conditions for [migrant] workers who are involved in business establishment and the provision of services across national borders, and to protect collective rights, including the right to strike.[210]

The Norwegian government notes that it attracts so many EEA migrants due to a combination of 'strong demand for labour' and 'high wage levels', and much like the British Office for Budget Responsibility, comments that 'labour immigrants have contributed greatly to growth in production and employment, not least in rural districts, and thus have also played a role in safeguarding the Norwegian welfare system.'[211] However, they admit that it is 'challenging to ensure decent work and combat social dumping', a problem evident in the years after A8 accession, which led to linked action plans.[212] These were to be 'far-reaching measures, such as employer joint and several liability under the system of general application of wage agreements' which would bolster 'efforts to improve conditions in certain branches, such as the cleaning industry, that had unresolved problems relating to unscrupulous practices long before 2004'.[213] This latter comment is especially interesting – the pressure of migrants working in unacceptable conditions actually contributed impetus to drive up overall national standards for dignified work and transparent practice.

Measures taken to integrate migrant workers include:

– ID cards in the building and construction industry[214]
– The right of access to information for employee representatives
– The duty to provide information on regulations concerning general application of wage agreements and to ensure compliance with them.
– Service centres for foreign workers in Oslo, Stavanger and Kirkenes
– Requirements to observe Norwegian standards for working conditions in municipal contracts (and tenders)[215]
– Joint and several liability for employers under wage agreements that have been made generally applicable
– Regional safety representatives in the hotel, restaurant and cleaning industry
– An authorisation scheme for cleaning companies and ID cards for the cleaning industry[216]
– Strongly encouraging workers to learn Norwegian
– Ensuring at least one migrant is interviewed for new public service positions[217]
– Increased powers for the Labour Inspection Authority and Petroleum Safety Authority
– Increased budgetary support for these two inspection bodies
– Improved data and analysis of actual social dumping trends, and cooperation with social partners like the Employment Policy Council to discuss these.
– Ensuring more orderly conditions in connection with the hiring and hiring out of employees, including improving the system for applying collective agreements to combat unscrupulous contractors, for example the supervisory authorities having a 'greater focus on the problem of employees being defined as self-employed contractors in order to avoid Norwegian wages and working conditions'
– Specific measures for coastal shipping and agriculture 'through targeted supervisory activities and information campaigns'[218]

It is not yet clear how effective the more recent measures have been. Norway's Trade Unions Confederation (LO) is pushing the new Conservative-led Solberg government to go further, suggesting a nationwide 'strategic initiative' to combat law-breaking, limit the length of contract chains, and ensure unscrupulous employers cannot simply declare bankruptcy to avoid fines, then start up again under a different name. The leader of the Confederation of Norwegian Enterprises (NHO) also met Soldberg to ask for the measures such as those specific to the cleaning industry (approval schemes and ID cards) to be extended to other industries.[219]

Legislating in this fashion would not necessarily conform to British business' ideal labour market conditions but the conceptual unity behind the measures may prove useful to Britain. Indeed, the Cameron government has applied similar principles, albeit on a very small scale, by pledging to do more to enforce minimum wage rules among migrant employers and quadrupling fines for infringements.[220] Ed Miliband made similar commitments during 2014. However, the extra funding earmarked for such enforcement was just £1 million.[221] Further action in this area could certainly be part of a Labour, One Nation Conservative or Liberal Democrat vision for an independent Britain – especially for those like Boris Johnson, the Mayor of London, who argue that the migrants already in the country are valuable and should be included in future plans and brought fully into the economy.[222]

This might be a first step to limit the kinds of migration to which the public seems hostile, without having to negotiate an end to the EU's 'fundamental' free movement principle or the potentially troublesome issues such as border controls at the Irish border and Atlantic ports.[223] However, the policy remains novel – it is not seamless in Norway. Migration is still a major issue for the political parties, especially Progress, and for several labour unions. They fear in particular that EU laws on 'posting workers' under the free movement of services could undermine the Norwegian model because non-Norwegians sent to work there by employment agencies often have short contracts and fail to integrate or participate in the tripartite union structure. The 'Alternativrapporten' describes this as a 'most serious threat to the Norwegian social model… [it] violates labour rights and the institutions that the labour rights have been built and developed on during almost a century.'[224]

The other side of the equation is Norway's approach to welfare rights. The benefits system is 'designed to make it more attractive to work than to collect benefits… the recorded export of benefits amounts to only a small proportion of the total expenditure channelled through the Norwegian Labour and Welfare Administration.'[225] The Norwegian social model emphasises the obligation to work in return for the privileges the state provides: the health service is not entirely free, and benefits claimants are expected to take jobs offered to them, even those below their skill set or far from their homes.[226] Unemployment insurance only covers those who 'lost their job involuntarily' and had already been earning 1.5 times the basic Norwegian social insurance amount (about €16,500, £13,200) during the past calendar year, or the equivalent in their EEA country of origin 'provided they can document earnings from their home country corresponding to the Norwegian eligibility requirements'.[227]

The Norwegian approach might possibly work better than current Coalition policies at addressing the roots of voters' concerns, assuming free movement remains. In theory, job competition between migrants and natives would be fairer. More migrants in employment with native salary levels should mean a greater fiscal boon from migration, because less would be paid out in social spending and more taxes paid in. Language and labour provisions could also help the British system get closer to the ideal set out by development economist Paul Collier in *Exodus*, in which he explains that immigration causes social and economic problems if integration does not occur fast enough and creates language barriers and segregated diaspora communities.[228]

Similarly, Rowthorn, discussing the Office for Budget Responsibility's projections suggesting that high migration would help the UK's GDP and effort to bring down the deficit, notes that '[w]hat happens to the employment rates and productivity of immigrants will depend on where they come from and how successfully they are integrated into the UK labour market.'[229] Increased emphasis on nationwide labour standards could also have the effect of disincentivising UK firms from hiring foreign labour, since they would be paying similar prices and providing similar conditions to migrants as to natives.

In a speech on 15 December 2014, Labour Leader Ed Miliband seemed to accept this logic as he pledged to be more active in facing migrant exploitation, if elected:

> We are serving notice on employers who bring workers here under duress or on false terms and pay them significantly lower wages, with worse terms and conditions.
>
> This new criminal offence will provide protection to everyone. It will help ensure that, when immigrants work here, they do not face exploitation themselves and rogue employers are stopped from undercutting the terms and conditions of everyone else.[230]

It is beyond the scope of this paper to ascertain whether such a set of policies leads to fewer migrants overall, but there are signs that EU migrants in Norway are better integrated than in Britain. The Norwegian system is not perfect though, and certainly conservative parties there are debating alterations to migration policy (discussed below).

The OECD notes that in Norway 'immigrants are a central target group of labour market policy in general' and that 'strong labour migration from Eastern Europe has contributed to the increase in the employment rate for the migrant population as a whole, the outcomes of more longstanding migrant groups have improved as well.'[231] Norway is not over the top in terms of in-work welfare, 'Social Assistance' (roughly the equivalent of Working Tax Credit or Housing Benefit): '…few immigrants are currently participating in wage-subsidy programmes, in spite of the fact that this has been shown to be a particularly effective tool for the labour market insertion of immigrants, both in Norway and in other OECD countries.'[232]

The paper gives details for Norway's migrant policies:

> The Norwegian labour market seems to place much emphasis on full mastery of the Norwegian language and indeed, Norway invests significant amounts in providing language training…
>
> Much emphasis has been put in recent years on a better integration of immigrants into the large public sector in Norway. These have included the obligation to interview at least one person of immigrant background for new positions… There is some evidence that these and other efforts in the public sector at all levels have paid off.[233]

Norway is able to do more for non-EU migrants, since it is not obliged to treat them the same way as it treats its own people. Humanitarian migrants and their families have a two-year introduction programme if they lack basic qualifications, and are dispersed across the country based on negotiations between the state and municipalities, helping to avoid a diaspora community clustering in one place. Since 2005 many migrants have had ‘the right and obligation’ to 250 hours of language training and 50 hours of ‘social studies’ for those who don’t speak Norwegian, although the language training can be up to 3,000 hours for those in need.[234] Although copying this policy would not impact EU migration in Britain directly, it might help integrate non-EU migrants which might contribute to addressing overall tensions and cement an employer expectation of English language ability.

Language help is also available to Europeans. The municipalities which provide lessons generally do not charge new arrivals and are reimbursed by special per capita grants from the central government, paid over five years. Municipalities with low migrant levels have ‘additional funding for the set-up of the language-training infrastructure’, pre-empting some of the stresses we’ve seen in the British system. Moreover the localities, which have discretion to tailor their own programmes, have local incentives for good integration: ‘[M]unicipalities receive 5 300 NOK (589 Euros) for each immigrant who has passed a written or oral language examination.’[235] The Ministry of Labour and Social Inclusion (AID) has a Directorate for Integration, established in 2006 ‘to signal the growing attention paid to the issue of integration.’[236] However, it’s important to note that relatively few eastern Europeans have been accessing such services, perhaps because they are ‘posted’ to different locations so frequently that they do not settle and locate the services, perhaps because they are unaware.

The ability to speak Norwegian isn’t the only focus. Migrant ‘wages are negotiated between the respective organisations of employers and employees’ as per the Norwegian norm, and studies show that between 39 per cent and 50 per cent of migrants were union members in 2004-2006.[237] There is also a Contact Committee for the Immigration Population and the Authorities (KIM) which consists of ‘representatives from immigrant organisations, political parties, relevant governmental agencies and ministries’, most of which are locally organised. This structured approach to political participation could help migrants contribute to and interact with local government and understand themselves as stakeholders in a society, rather than passing visitors.[238]

These efforts have not worked flawlessly. A study by Dunja Kazaz into central and eastern European workers in the Norwegian construction sector found ‘systematic attrition of low-wage native workers from activities with growth in immigrant employment’, meaning there is downwards wage pressure from new migrants.[239] The study does not come up with a headline figure, instead looking into the detail of different immigrant cohorts and construction subsectors, but largely corroborates the findings of Bratsberg and Raaum, indicating that ‘a 10 per cent increase in immigration is associated with a 0.6 per cent reduction in wages’ and that a ’10 per cent increase in immigrant employment reduces prices of construction services by 0.4-1.1 per cent’.[240] This is a meaningful finding since a high proportion of A8 migrants in Norway work in construction, for example up to 85 per cent of Polish men.[241] This means that migration was having an impact on lower-skilled Norwegians’ wages despite the measures above, as recently as 2011. Kazaz notes her study is constrained to a ‘narrow scope’ and does not account for the concurrent increase in demand arising from a migrant population – ‘before immigrants find jobs, they purchase goods and services and thus demand is raised before supply’.[242] Kazaz does not break the data down to show the impact of post-2004 integration policies, but notes that in general non-Nordic newcomers ‘earn substantially less [than natives] at arrival, but during the 10-15 years of residence and work experience in Norway the gap is reduced’.[243]

Migrant earnings are also more sensitive to recessions and shocks, indicating the importance of friend and family networks to provide job opportunities in the economy.[244] Similarly Bratsberg et al show post-2004 male EEA migrants’ employment rate similar to natives’, and female EEA employment rates ‘rapidly catch up’ to parity.[245] EEA workers’ real wages too have converged a little towards the native average since 2004, although remain far below the Norwegian norm, while social insurance and disability programme transfers remain consistently lower than natives’ or earlier migrants’.[246]

In Britain one frequently hears anecdotes of highly qualified migrants such as computer engineers, architects or lawyers who, through lack of language ability or recognition of professional qualification, hold mundane jobs such as cleaning or taxi driving. Norway makes efforts to meet same problem: ‘Almost two-thirds of the highly-qualified foreign-born are also in a job that can be classified as highly-skilled.’ The government runs a free system for checking and recognising foreign qualifications, which takes 6-8 weeks. Although it’s clear that a native education is still an advantage, this conversion rate is bested only by Switzerland.[247] This means that highly qualified migrants are less likely to displace lower-qualified natives competing for low-skill jobs, and so contributes to a convergence between native and migrant employment patterns, which indicates successful integration – the earnings of OECD migrants are comparable to natives. The Friberg paper argues Norway is not doing enough in this respect, pointing instead to 'Iceland's ability to incorporate new migrants [which] may well be more related to applying systems of approving foreign educational credentials, and providing language training, in order to enable migrant workers to escape their position at the bottom and move up the wage ladder.'[248]

The British Chartered Institute for Personnel and Development (CIPD) found that eastern European workers in the UK were often working lower skilled jobs than their qualifications equipped them for: '…nearly 61 per cent of EU8 migrants in low-skilled or lower-middle-skilled jobs are graduates'. This was for diverse reasons that included recruitment agency policy, non-recognition of qualifications, language constrains, and the fact employers have low incentives to promote high-qualified highly productive workers from low status (and low pay) positions. Moreover, the transition to Britain can cause a loss of confidence in higher abilities. This has negative consequences for integration since both high and low skilled migrants will be competing with low skill Britons for similar positions.[249] The study additionally suggests migrants are not employed as substitutes for UK workers, nor do they discourage training activity of natives – they are mainly hired in roles that Britons are either unprepared for or do not find attractive.[250]

This corresponds with a study from the Migration Advisory Committee which examines exploitation, minimum wage and labour standards enforcement in the UK. It confirms that 'migrant workers in low-skilled jobs may be overqualified for their current position'[251] and examines instances of recruitment agencies and gangmasters misleading European migrants, in some cases treating them 'like slaves'. It highlights how migrants 'may be unaware of their rights and/or have insufficient English language skills to seek effective redress'[252] and identified numerous issues with labour law enforcement. From 2007-2013 only nine employers were prosecuted for noncompliance with national minimum wage legislation and there is 'little incentive to obey the law'.[253] It appears that in many cases migrants simply are not being treated to the same conditions as British workers, as free movement laws require. According to ICM-British Future polling in

2014, 82 per cent agree that ‘the government must enforce the minimum wage so we have a level playing field and employers can’t squeeze out British workers by employing immigrants on the cheap’.[254]

Migrant self-employment is often considered problematic because self-employed contractors have less job security than employees, and generally do on have assurances on holidays, sick pay and so on, meaning they are in a weaker position to negotiate contracts so can end up working in worse conditions or more cheaply than native employees. Some argue that current Coalition policies on benefits have a similar effect in driving down salaried migrant negotiating power – Charles Cadywould of Demos think tank writes that restrictions on Jobseekers’ Allowance for new EEA migrants ‘further entrench a two-track system, where migrants will have a greater incentive to accept an employer’s terms, lowering the market price for labour’ and contributing to potential enmity between native and migrant workers.[255]

2007-8 Share of self-employment (percentage)

	Foreign	OECD Migrants	Non-OECD migrants	Natives
Norway	7.4	9.5	5.7	7.2
Britain	13.9	11.9	15.2	12.3

The OECD study notes that this ‘very low incidence’ of foreign self-employment suggests it is not a common resort in Norway, even for the ‘most disfavoured group [African migrants]’ or the ‘marginalised’.[256] A higher proportion of skilled and unskilled migrants go into salaried work than in Britain, meaning in theory that fewer can undercut native standards in terms of pay, quality, safety and so on. Figures for self-employment are more positive since Norway’s integration directorate runs free evening courses on entrepreneurship (‘non-marginalised self-employment’) for 2-4 weeks with a three-month follow-up period, so that many of the self-employed could actually be boosting the Norwegian economy.[257] This probably helps to account for migrants being overrepresented in those starting new businesses in Norway. Moreover, there are ‘tentative signs that [new efforts to help migrants into the public sector] has paid off.[258]

Looking specifically at Poles, the OECD notes that they are not covered by the 250 hour language scheme, but can still take advantage of some training from the labour market course or if registered as unemployed. The paper advocates stronger integration efforts in conclusion, and the consideration of more free or subsidised language training for Europeans. In the UK, Coalition policy is the opposite: funding for English for Speakers of Other languages (‘ESOL’) is being withdrawn.[259]

Poles have been the subject of a study that demonstrate the limitations of the Norwegian approach. In a detailed paper presented to the Nordic Council of Ministers in 2013, academics compared the integration of Polish workers in Copenhagen, Oslo and Reykjavik since 2004. They found that Poles in Oslo were clustered around specific industries like construction and cleaning because they did not have the language skills to work in the full diverse range of Norwegian jobs, the ‘ordinary labour market’. The author, Jon Horgen Friberg, does not reject the premise of Norway’s policy however. He argues that much more should be done by employers and politicians to include the workers in the weakest position, ‘especially when it comes to language skills.’[260]

The paper highlights the fact that subcontracted workers in Oslo are especially vulnerable to salary dumping, while those with the least secure positions are most exposed to poor conditions. Nevertheless, the ‘new measures, introduced through two consecutive government action plans against social dumping, have had some success in establishing a relatively high wage floor among new migrants, meaning Poles coming to Norway typically earn more than those in Iceland and Denmark.[261] Friberg particularly highlights the importance of joint and several liability (‘chain liability’ in the paper) as a ‘landmark’ since it means ‘all contracting entities in the chain of subcontractors are “jointly and severally” liable to employees further down in the chain who do not receive generally applicable wages from their employers.’ Other signs that integration policy might work are that wages are better for those who stay longer, or work for a firm with trade union representation.[262]

Of course the Nordic system is not so good as to be beyond improvement, or there would never have been a need for all the innovative measures in the late 2000s.

There is exploitation, there are illegal practices, employment agencies and temporary work agencies do send temporary workers hither and thither without collective wage agreements,[263] hence the need for the extension of 'joint and several liability' and universal minimums. Before 2004, Norway, Iceland and Denmark all appear to have been worse prepared than Britain for a sudden influx of workers from less economically advanced countries since, to varying degrees, their higher wage and work standards depended on longstanding collective sectoral agreements based on union membership, a static workforce, widespread high education, and native language mastery. The Nordic countries had very weak employment agency and temporary work agency industries before the EU's expansion, so they were not covered by classic Nordic model collective agreements.[264]

The Friberg study explains how Norway reorganised from a voluntary arrangement structure to an 'ad hoc universalism' system, with 'legal extensions of collective agreements, new statutory regulations regarding employer responsibilities and increased control and enforcement by the state', which the authors deem 'highly warranted'.[265] It is interesting to see how much Norway has adapted to a system of universalised rights in the shipping and construction industries, whereas British labour laws have not ostensibly changed in reaction to the A8 countries' EU accession.

The Norwegian approach is that one's social rights should be strongly balanced by obligations, as voiced jointly by the four conservative parties:

> Everyone shall have the same rights and obligations in Norway, regardless of ethnic background…Placing demands on immigrants is to show them respect.[266]

The strongest anti-migration message in Norway comes from the Progress Party, a historically populist libertarian grouping. It began talking more about limiting immigration in the 1990s and became a major electoral force, gaining more seats in local and general elections and emerging as the second largest party in the Storting in 1997, 2005 and 2009. They lost vote share in the 2013 election, down to 16.3 per cent, but joined government.

Although the party's anti-immigration stance is primarily concerned with non-EU migrants such as those from North Africa, criminals, and refugees who fail to assimilate, Progress is certainly critical of the EEA status quo and emphasises examining the EEA agreement for more means of limiting migration. In February 2014 their migration spokesman, Mazyar Keshvari, argued that Lithuanians and Poles took advantage of the Norwegian welfare state and that Norway should have a referendum on immigration, as Switzerland just had.[267]

Progress did not get their way, however. Under the moderating influence of leader Siv Jensen they are in government for the first time, finally palatable to the centre-right Conservatives (Høyre) and the centrist Liberals and Christian Democratic Party. These more centrist parties have restrained Progress' immigration policies, with first Vidar Helgesen (H), EEA minister, then justice minister Anders Anundsen (PP) ruling out any such referendum.[268]

If the idea of pursuing a more Norwegian approach to migrant integration in an EFTA-Britain seems far-fetched, consider recent polling by British Future and ICM which investigated Britons' attitudes to migrants. The poll covered 2,111 British adults aged 18 and over across Great Britain, focussing mainly on ideas about migrant students.[269] They found that 59 per cent of the public did not think the government should reduce international student numbers, 'even if that limits the government's ability to cut immigration' overall. This is despite the fact that in 2012-13 there were 425,000 foreign students, 125,000 of whom came from the rest of the European Economic Area. 66 per cent of Conservative voters, 64 per cent of Labour voters and 85 per cent of Liberal Democrat voters thought the same, that student numbers should not be reduced, partially because international students are seen as bringing money into local economies and helping fund British universities. These are the sorts of migrants whom British businesses in *Softening the Blow* highlighted as important to continued economic growth.

The data that pertain most to this chapter are that 75 per cent of British Future's respondents thought 'international students should be allowed to stay and work in Britain after graduating' and that only 22 per cent thought international students 'should count as migrants'.[270] The implication here is that international students who have been through Britain's universities, taught in English and interacted day-to-day with British students and academics, keen to work in the same conditions as British graduates, were sufficiently integrated and so not considered a problem. The Norwegian model, at its broadest, seeks to achieve the same level of assimilation for migrants other than students.

Patrick Diamond, former head of policy to Tony Blair and current politics fellow at Oxford University, similarly argues that 'citizenship education' and greater emphasis on a 'shared language' are important for immigrant assimilation, suggesting that recent governments have not done enough so have created a disconnect between native voters' aspirations and politicians' messages 'legitimising ideas of immigration as a constant threat'.[271] Other UK commentators such as David Goodhart, chair of Demos think tank's advisory group, advocate language lessons provided free at the point of use, paid for by a loan scheme similar to current student loans, paid back once integrated migrants are reaping the employment benefits.[272]

At a basic level, this may be why many voters sympathise with Nigel Farage's uneasiness around Romanian migrants but are happier with his having a German wife. It is why people in Britain seldom talk about French, Canadian or American workers in London as 'migrants', though their numbers are as much a part of the Conservatives' immigration reduction target as Bulgarians or Poles. It is why Douglas Carswell, in his speech upon joining Ukip, noted: 'We should welcome those that want to come here to contribute. We need those with skills and drive. There's hardly a hospital, GP surgery or supermarket in the country that could run without that skill and drive. Real leadership would make this clear.'[273] Carswell became Ukip's first elected MP on 10th October.

The EEA agreement does include provisions for limiting European migration in extreme or emergency situations, which could be seen as an improvement on the EU situation for those who want to cut net immigration to the UK. The EFTA-EEA arrangement may also be a more advantageous situation from which to negotiate additional controls. In the meantime, if the UK is to adopt Norway's whole approach to the EU, policymakers could explore ideas for improving assimilation to the benefit of both migrants and natives.

Conclusion: Eyes on the ground

European countries in the process of acceding to the EU sit in the Council of Ministers with 'observer status' but no votes, as do the council president and commission president (the outgoing Herman van Rompuy and José Manuel Barroso respectively). This arrangement points to a solution for Britain's worries about leaving the EU and having no voice at the table when major changes are being discussed. With observer status, Britain would have all the influence Norway currently enjoys, and an important extra medium through which to communicate the country's wishes and try to build coalitions of voting members. The prospect of Britain additionally influencing legislation through the EEA structures above, delaying, requesting exemptions or threatening the veto would make this observer seat a powerful position, not a formality.

The EU could benefit from British expertise and advice as it does now, as well as continue mutually beneficial trade relations. At the same time, Britain would be empowered to conduct independent trade negotiations and open up new markets – perhaps establishing precedents for Europe to follow. This is not a pipe dream. Even the CBI, usually supportive of Britain's EU membership, in a paper arguing that the Norwegian and Swiss options would be bad for the Britain, agrees that if Britain wanted to join EFTA, 'an application [is] likely to be met with positive reactions from the EFTA member states in general.'[274] Along with Britain the EFTA-EEA states would have a much louder voice, but would still be free to pursue their own foreign policies and internal affairs.

Britain would need to expand the Foreign Office greatly to make up for the loss of EU diplomats acting on behalf of the union, as I explored I *Softening the Blow*. The UK would lose the right to send staff to some EU institutions, but many of these staff would be ideally placed to work for EFTA or the growing FCO. The CBI argues that Norwegian civil servants are not engaged or well-versed in EEA/EU issues and upcoming legislation because they are not required to regularly brief ministers about it, so do not see it as career-advancing.[275] This should not be a problem for Britain – not only would civil servants who already have EU experience be available, but most of Whitehall would be far more engaged with the EU debate, having worked during the process of an EU referendum and the negotiation of an exit. Learning from Norway's experience of catching new regulations at the earliest possible moment, they should increase EFTA's ability to scrutinise and ameliorate Brussels plans.

The Norwegian approach to the European Union offers a genuine alternative to consider. This is not to say that overall the Norwegian option is superior to EU membership or any other international arrangement, but that the strongest criticisms levelled against Norway are wide of the mark. The Norwegian option retains all the trade advantages of EU membership while offering avenues for increased prosperity through trading around the world. It could function as an off the shelf, hiatus-free stepping stone to more ambitious, but more trickily negotiated, EU relationships such as Roger Bootle's favoured free trade agreement option.[276] It would meet the Brexit requirements explored in *Softening the Blow* – free trade with the EU, succinct negotiations, serious economic clout, access to skilled labour, regulatory flexibility. It would allow Britain to continue to work with the EU in co-operative bodies to fight terror, crime and disease. It shows a strategy for fixing the difficulties of large scale immigration. Clearest of all, it offers an array of methods for Britain to contribute to legislation that might affect the country, avoid rules that should not, and exercise full sovereignty through the veto if matters come to a head.

References

[1] David Cameron, 'EU speech at Bloomberg', delivered 23.01.2013, available at: https://www.gov.uk/government/speeches/eu-speech-at-bloomberg

[2] I.e. technically 'the EEA' is the market between all the EU states plus Iceland, Liechtenstein and Norway. Many publications refer by way of shorthand to Norway, Iceland and Liechtenstein as being '(in) the EEA' or as 'EEA members' to differentiate themselves from full EU member states.

[3] To trade with the EU as Norway does, Britain would probably need to join EFTA too – meaning additional free trade with Switzerland. This is not entirely clear.

[4] David Cameron, 'EU speech at Bloomberg', delivered 23.01.2013, available at: https://www.gov.uk/government/speeches/eu-speech-at-bloomberg

[5] Gerard Lyons, 'The Europe Report: A Win Win Situation', Greater London Authority, (London, August 2014). The extra paperwork is known as 'rules of origin' documentation, and is discussed later. The paper's preferred blueprint for an independent UK does seem to rely on rules of origin itself, however, since it envisages a free trade agreement (FTA) rather than being part of an EU customs union and common external tariff, as Turkey is at the moment, p.103

Whole paper available at:

http://www.london.gov.uk/sites/default/files/europe_report_2014_08.pdf

[6] 'The Norway option is the lose-lose option for Britain', Paola Buonadonna, British Influence Press Release, 24.11.2014, available at:

http://www.britishinfluence.org/press_release_the_norway_option_is_the_lose_lose_option

[7] Ivar Ekman, 'In Norway, EU pros and cons (the cons still win)', *New York Times,* 27.10.2005, available at: http://www.nytimes.com/2005/10/26/world/europe/26iht-norway.html?_r=0

[8] For example Ronald Stewart-Brown of the Trade Policy Research Centre, speech on 6 May 2014 to the 1922 Committee's Subcommittee on Foreign Affairs, Defence and International Development, available at: http://tprc.org.uk/pages/posts/speech-to-the-1922-committees-subcommittee-on-foreign-affairs-defence-and-international-development-06.05.14-69.php

[9] The four freedoms are the EU's basic principles. Under the Treaty of Rome (1957), goods, services, capital and people are supposed to be able to move freely across the Union's internal borders.

[10] *Softening the Blow – Who gains from the EU and how they can survive Brexit*, Jonathan Lindsell, (Civitas, London, 2014), accessible at:

http://www.civitas.org.uk/pdf/SofteningTheBlow.pdf

[11] 'Outside and Inside', EEA Review Committee, NOU 2012:2, Chapter 1, 'Norway's agreements with the European Union', pp.7-8, available at: http://www.regjeringen.no/upload/UD/Vedlegg/eu/nou2012_2_chapter01.pdf

[12] House of Commons Library Standard Note SN/EP/6730, 'The economic impact of the EU on the UK', Daniel Harari and Gavin Thompson, (London, 2013), pp. 25-27 available at: http://www.parliament.uk/briefing-papers/sn06730.pdf

Technically the Norway Grants are not part of the 'membership fee', but a voluntary solidarity payment, as shown below with the case of Hungary. However it would likely cause a serious incident or review of the EEA if the grants were suspended in their entirety.

[13] *Softening the Blow*, Jonathan Lindsell, pp. 17-19, 38, 105

[14] 'Agricultural Policies in OECD Countries – Monitoring and Evaluation', OECD, 2009, p.9, available at: http://www.oecd.org/tad/agricultural-policies/43239979.pdf In terms of producer support as a percentage of gross farm receipts, Norway is actually the most subsidised OECD country, p.11

[15] 'What you can pick up in Iceland', *Spectator*, David Rennie, 13/09/2006, available at: http://www.spectator.co.uk/features/25131/what-you-can-pick-up-in-iceland/

[16] 'Norway's EU deal 'not right for UK' ', Anna Leer, 18/04/2013, *BBC,* available at: http://www.bbc.co.uk/news/world-europe-22188028

[17] 'Iceland sees 'Brexit' benefits for UK', Matt Clinch, *CNBC,* 23/090/2014, available at: http://www.cnbc.com/id/102023819#

[18] 'Iceland walks out on EU membership talks' 23/08/2013, *EurActive*, available at: http://www.euractiv.com/enlargement/iceland-quits-eu-talks-news-529923

[19] 'Norway sees Liu Xiaobo's Nobel Prize hurt salmon exports to China', Richard Milne, *Financial Times,* 15.08.2013, available at: http://www.ft.com/cms/s/0/ab456776-05b0-11e3-8ed5-00144feab7de.html#axzz3KGr09w4h

[20] Michael Burrage, Where's the Insider Advantage? Civitas (London, 2014)

[21] International Monetary Fund, World Economic Outlook Database 2013, available at: http://www.imf.org/external/pubs/ft/weo/2014/02/weodata/index.aspx

[22] International Monetary Fund, World Economic Outlook Database 2013

[23] Michael Burrage, *Where's the Insider Advantage?* Civitas (London, 2014) p.56, available at: http://www.civitas.org.uk/pdf/insideradvantage.pdf

[24] *The Economic Consequences of Leaving the EU,* Centre for European Reform, John Springford, Simon Tilford, Philip Whyte, June 2014, p.34, available at: http://www.cer.org.uk/sites/default/files/publications/attachments/pdf/2014/report_smc_final_report_june2014-9013.pdf

[25] Wenfei Attorneys-at-Law Ltd, 'A practical guide to the new free-trade agreement between Switzerland and China', (December, 2013), p.1

[26] Wenfei Attorneys-at-Law Ltd, 'A practical guide to the new free-trade agreement between Switzerland and China', (December, 2013), p.4

[27] Wenfei, 'A practical guide to the new free-trade agreement between Switzerland and China', p.13

[28] Wenfei, 'A practical guide to the new free-trade agreement between Switzerland and China', p.5

[29] *The Economic Consequences of Leaving the EU,* Centre for European Reform, pp.34-35

[30] Wenfei, 'A practical guide to the new free-trade agreement between Switzerland and China', p.5

[31] Wenfei, 'A practical guide to the new free-trade agreement between Switzerland and China', pp.6-7

[32] GATS is the general agreement on trade in services, an important WTO agreement.

[33] Wenfei, 'A practical guide to the new free-trade agreement between Switzerland and China', pp.8-9

[34] Wenfei, 'A practical guide to the new free-trade agreement between Switzerland and China', pp.10-12

[35] Wenfei, 'A practical guide to the new free-trade agreement between Switzerland and China', p.14

[36] Civitas blog 'Big Tobacco's £11bn UK attack could send EU-US trade deal up in flames', available at: http://civitas.org.uk/newblog/2014/08/big-tobaccos-11bn-uk-attack-could-send-eu-us-deal-up-in-flames/;
British blogger 'Another Angry Voice', available at:
http://anotherangryvoice.blogspot.co.uk/2014/05/ukip-ttip-eu-trade-deal-2014.html ,
columnist George Monbiot in the *Guardian,* available at:
http://www.theguardian.com/commentisfree/2013/dec/02/transatlantic-free-trade-deal-regulation-by-lawyers-eu-us

[37] 'Rules of origin in free trade agreements', Ronald Stewart-Brown & Felix Bungay, Trade Policy Research Centre Research Paper, March 2012, available at:
http://tprc.org.uk/pages/posts/rules-of-origin-in-free-trade-agreements-10.php

[38] Wenfei, 'A practical guide to the new free-trade agreement between Switzerland and China', p.2

[39] The threshold is 40 per cent for watches, for example.

[40] The example given on Wenfei, p.3 is, using the Harmonized Commodity Description and Coding System (HS), turning 'roast iron pyrites' (HS 2601.20) into 'high speed steel wires' (HS 7229.90). Changes can be in chapter, heading or subheading.

[41] For example, if a product undergoes 'electrolytic, thermal or chemical separation or fusion of precious metals' or 'alloying of precious metals…with each other or with base metals'.

[42] Wenfei, 'A practical guide to the new free-trade agreement between Switzerland and China', p.15
See for example https://www.fedex.com/GTM?cntry_code=gb . You can see on FedEx's Global Trades page that exporters are expected to fill out Certificates of Origin for shipments to NAFTA countries (if they too are NAFTA members).
[43] Wenfei, 'A practical guide to the new free-trade agreement between Switzerland and China', p.16
[44] Business for Britain propose a renegotiation option in which firms that do not export to EU-27 do not have to follow certain single market regulations. Those that do would have to have certification, and they proposed Rules of Origin as a model.
'Setting out the British Option: Liberating 95 per cent of businesses from red tape', Matthew Elliott and Oliver Lewis, Business for Britain (London, 2014), available at: http://forbritain.org/140113-the-british-option.pdf
[45] 'Doing things by halves', Confederation of British Industry, (London, 2013), p.5, available at: http://www.cbi.org.uk/media/2133649/doing_things_by_halves_-_lessons_from_switzerland_and_norway_cbi_report_july_2013.pdf
[46] Email correspondence with Nils Kristian Nersten, Orkla ASA, 02/07/2014
[47] *Softening the Blow – Who gains from the EU and how they can survive Brexit*, Jonathan Lindsell, (Civitas, London, 2014), available at: http://www.civitas.org.uk/pdf/SofteningTheBlow.pdf
[48] Meld Storting. 5 (2012-2013) Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, Recommendations of the Ministry of Foreign Affairs of 12 October 2012), p.30, translation available at: http://www.eu-orway.org/Global/SiteFolders/webeu/MeldSt5_UD_ENG.PDF
[49] 'Outside and Inside', NOU 2012:2 Chapter 3, Norway's involvement in European Integration, p.3
Unofficial translation available at: http://www.regjeringen.no/upload/UD/Vedlegg/eu/nou2012_2_chapter03.pdf
[50] 'Outside and Inside', NOU 2012:2, Chapter 1, Norway's agreements with the European Union, Jan 2012, p.11
[51] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.40
[52] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p. 44
[53] 'Outside and Inside', Chapter 3, Norway's involvement in European Integration, pp.3,9
[54] 'NATO – Charting the way forward', Xenia Wickett and Kathleen J. McInnis, Chatham House, (London, June 2014), available at:

http://www.chathamhouse.org/sites/files/chathamhouse/field/field_document/20140721NATOSummary.pdf

[55] European External Action Service website, 'EU and Norway Trade Relations', available at: http://eeas.europa.eu/delegations/norway/eu_norway/trade_relation/index_en.htm

[56] European External Action Service website, 'EU and Norway Trade Relations', available at: http://eeas.europa.eu/delegations/norway/eu_norway/trade_relation/index_en.htm

Of course this does mean Norwegian exports must conform to EU fisheries regulations, as with any exports to a third country outside a customs union. There is a brief 'Agriculture and Fisheries' chapter in the EEA Agreement, Articles 17-20, pp.10-11

[57] European External Action Service website, 'EU and Norway Trade Relations'

[58] Norwegian Ministry of Foreign Affairs Website, 'Norway and Europe at the Dawn of a New Century (part I – translation)', Part 6 - The EEA and Norway's room for manoeuvre, Report No.12 to the Storting (2000-2001)

[59] Norwegian Ministry of Foreign Affairs Website, 'Norway and Europe at the Dawn of a New Century (part I – translation)', Part 6 - The EEA and Norway's room for manoeuvre, Report No.12 to the Storting (2000-2001)

[60] European Commission, Commission Staff Working document, 'A review of the functioning of the European Economic Area', SWD (2012) 425, Brussels, 12 December 2012, pp.11-12

[61] European External Action Service website, 'EU and Norway Trade Relations', available at: http://eeas.europa.eu/delegations/norway/eu_norway/trade_relation/index_en.htm

[62] 'Fish, whole or in pieces, but not minced…Salmon…1604 11 00 30…Atlantic salmon (*Salmo salar*)', European Commission website, Taxation and Customs, TARIC database, 1604 11 00 30, available at:
http://ec.europa.eu/taxation_customs/dds2/taric/measures.jsp?Lang=en&SimDate=20140620&Area=NO&Taric=1604110030&LangDescr=en

[63] 'Fillets, raw, merely coated with batter or breadcrumbs, whether or not pre-fried in oil, frozen; Of the species *Clupea harengus*', European Commission website, Taxation and Customs, TARIC database,
1604 12 10 10, available at:
http://ec.europa.eu/taxation_customs/dds2/taric/measures.jsp?Lang=en&SimDate=20140620&Area=NO&Taric=1604121010&LangDescr=en#CD590

[64] European Commission website, Taxation and Customs, TARIC database, 1604 12 99 20, available at:
http://ec.europa.eu/taxation_customs/dds2/taric/measures.jsp?Lang=en&SimDate=20140620&Area=NO&Taric=1604129920&LangDescr=en#CD590

[65] 'Alternativrapporten': The Alternative EEA Report', Sigbjørn Gjelsvik *et al*., *Nei til EU* group, (Oslo,2012) pp.99-100.

The Alternative Report argues that Russia, India and China have all increased their fish imports despite 15-30 per cent tariffs, yet Swiss imports declined despite no tariff existing. They argue there's 'no correlation' between customs and fish exports, partially since it's usually the customers who pay the difference, not the exporter (who gets the same profit regardless of destination).

[66] 'Alternativrapporten', p.96

[67] This includes the 'G4' group of the EU, USA, Brazil and India which often meets at the same time as formal WTO negotiations, and the old 'Quad' of the EU, USA, Japan and Canada. See the EU trade website, Europa, available at: http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150988.pdf

[68] 'Alternativrapporten', pp.55, 86, 101

The paper notes that action in 'international forums' can strengthen Norway's position in disputes with the EU or Surveillance Authority. In 'tug of war battles' an individual voice in the UN Convention on Labour Rights (ILO), the ECHR, the Council of Europe, the European Committee for Standardization (CEN), the food standards body *Codex Alimentarius,* the banking and finance control agreements of the Basel Commission, the European Committee for Electro-Technical Standardization (CENELEC) and the European Telecommunications Standards Institute (ETSI) or the UN Economic Commission for Europe (UNECE) is arguably very important. It demonstrates significant influence in the 1998 OSPAR convention and 1992 Paris Convention, both on the marine environment.

[69] Nils Nersten, *Op. Cit.*

[70] 'Alternativrapporten', p.55

[71] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.48

[72] Flexcit, The definitive EU exit plan for Britain, Dr Richard North with input from the Bruges Group and the assistance of readers of the EU Referendum blog, (10 October 2014- work in progress), pp.88-89, available at: http://www.eureferendum.com/flexcit.aspx

The whole interview can be found on the EU Referendum blog here: http://eureferendum.com/blogview.aspx?blogno=84212

Tvinnerieim sets out her position and concludes it would be 'fantastic' for Britain to join EFTA, for both Britain and Norway.

[73] "No to the EU is the Norwegian No Movement; an antiracist and pan political organization which strives for Norwegian sovereignty and independence from the European Union.

No to the EU (Nei til EU) is a member-based, nationwide organization with 27,000 members (2012), regional offices in each of the 19 Norwegian counties, and a staff of 21 employees. The organization No to the EU is a non-governmental organization. Simultaneously the organization functions as an arena, a resource centre and as a coordinator for all organizations and political parties opposing Norwegian EU-membership. No to the EU is also an information centre for the public, with organized discussions and debates. No to the EU is a well-known participant on the Norwegian political debate."

It was founded by the Norwegian Union of Municipal and General Employees, The Electrician and IT workers union. See their website (which has an English language function): http://www.neitileu.no/articles_in_foreign_languages/nei_til_eu_no_to_the_eu

[74] The authors note that 'The EU will probably initially flatly reject the Norwegian attempt to agree on a reduction of the EEA agreement', then go on to explain how they would leverage change, p131 Having Britain as an EFTA ally could possibly add to an EEA renegotiation's potential, but currently one of the attractions of the 'EEA Option' is that it is simple, an 'off the shelf' choice for British eurosceptics. Commentators such as Robert Oulds and Richard North argue that, with Britain clearly out of the EU, the EEA stepping stone could then be used as a platform to push for Europe-wide progress.

[75] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.11

[76] 'Alternativrapporten', p.91

[77] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, pp.31-32

Interestingly, Norway is also using its place on the Artic Council to retaliate against China's refusal to discuss a trade deal following the Nobel Prize problems (above). China wants permanent observer status on the Council to investigate undersea resources and faster shipping lanes, but Norway has a veto. 'Norway and China: Cold shoulder', *The Economist,* 18/2/12, available at: http://www.economist.com/node/21547832

[78] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.33

[79] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.30

[80] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.43

[81] 'Alternativrapporten', p.55

[82] Together they are referenced in another body, the WTO's Committee on Sanitary and Phytosanitary Measures (the "SPS Committee"), which meets thrice yearly in Geneva, a central column of the WTO and of world trade in general. See the WTO website: http://www.wto.org/english/tratop_e/sps_e/sps_agreement_cbt_e/c4s1p1_e.htm

[83] European External Action Service website, 'EU and Norway Trade Relations', available at: http://eeas.europa.eu/delegations/norway/eu_norway/trade_relation/index_en.htm

[84] Codex Alimentarius web page for Committees and Task Forces, available at: http://www.codexalimentarius.org/committees-and-task-forces/en/

[85] Codex Alimentarius web page for Members and Observers, available at: http://www.codexalimentarius.org/members-observers/en/

[86] Codex Alimentarius web page, ‘The Scientific Basis for Codex’, available at: http://www.codexalimentarius.org/scientific-basis-for-codex/en/

[87] ‘EU regulation: Codex is the top table – Part I‘, Richard North, *EU Referendum* blog, 25/06/2013, available at: http://www.eureferendum.com/blogview.aspx?blogno=84061

[88] ‘In such cases, the Presidency and the Commission put forward the common position. Member States may also speak in order to support and/or develop the Community position and to react to contributions.’

See:

http://europa.eu/legislation_summaries/food_safety/international_dimension_enlargement/f84006_en.htm

Italy currently holds the presidency. Next year will be Latvia until June 2015, then Luxembourg until December 2015. Britain next holds the presidency in the second half of 2017, and last held it in 2005.

See more at: http://www.consilium.europa.eu/council/what-is-the-presidency?lang=en

[89] ‘[T]he European Community has exclusive competence for matters on which the rules have already been harmonised, either fully or to a large extent, at Community level. In such cases, the Commission speaks and votes in the name of the Community, although Member States have the right to speak in favour of the Community position and to react to contributions from other countries’ – Europa website, available at: http://europa.eu/legislation_summaries/food_safety/international_dimension_enlargement/f84006_en.htm

[90] Rt Hon Owen Paterson MP, ‘"AN OPTIMISTIC VISION OF A POST-EU UNITED KINGDOM’, speech for Business for Britain, 24 November 2014, London, transcript available at: http://www.uk2020.org.uk/wp-content/uploads/2014/10/Owen-Paterson-Europe-Speech-24-November-2014-Online.pdf , pp.13-14

[91] Especially Article 4., ‘Agreement on Technical Barriers to Trade’, available on the WTO website at: http://www.wto.org/english/docs_e/legal_e/17-tbt_e.htm

[92] Commission Regulation No 1019/2013, amending Annex I to Regulation (EC) No 2073/2005 as regards histamine in fishery products, see p.1, para.2, available at: http://www.fsai.ie/uploadedFiles/Reg1019_2013.pdf

[93] Regulatory Fitness and Performance (REFIT): Results and Next Steps, European Commission (Brussels, 2013), p.6, available at: http://ec.europa.eu/commission_2010-2014/president/news/archives/2013/10/pdf/20131002-refit_en.pdf

[94] Commission Staff Working Document, Impact Assessment, ‘Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL On the production and

making available on the market of plant reproductive material (plant reproductive material law)', (Brussels, 2013) p.13, my bold:

'…**it needs to be underlined that rules and standards have been established in a wider international context than the EU** (see also Annex IV). The EU is an active member in these international fora and EU rules have had considerable influence on the elaboration of international rules and standards. Internationally accepted standards for seed sampling and testing are developed by the International Seed Testing Association (**ISTA**) and applied in the EU by seed analysis laboratories. EU protocols for the technical examination of varieties are based on test guidelines elaborated by **UPOV** experts (*Union Internationale pour le Protection des Obtentions Végétales*); EU is member of UPOV since July 2005. Varietal identity and purity standards for the certification of PRM lots in view of their marketing are based on **OECD** ([Organisation for Economic Cooperation and Development]EU has a status of participant) seed rules and forest reproductive material control, which are also open to non OECD countries, or on **UNECE** standards for seed potatoes. The plant health legislation is framed in the wider context of the International Plant Protection Convention (IPPC). In general, the EU standards are in line with OECD standards, but not fully coherent with UNECE [United Nations Economic Commission for Europe] standards on seed potatoes. The UNECE standard is an evolving framework, while the EU Directive has not changed since its adoption. Regarding plant genetic resources, the EU is a contracting party to the International Treaty for Plant Genetic Resources for Food and Agriculture (**ITPGRFA**) since 2004'.

[95] 'EU Politics: Persson's Lies', Richard North, EU Referendum blog, 08/01/2013, available at: http://www.eureferendum.com/blogview.aspx?blogno=83485

International Labour Organisation page for the Maritime Labour Convention, available at: http://www.ilo.org/global/standards/maritime-labour-convention/lang--ja/index.htm

[96] ILO press release, 'Norway ratifies ILO Maritime Labour Convention', 10.02.2009, available at: http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_101671/lang--en/index.htm

[97] ILO website article, 'Exponential movement to achieve widespread ratification and effective implementation: The 1st anniversary of Maritime Labour Convention', 20.08.2014, available at: http://www.ilo.org/global/standards/maritime-labour-convention/WCMS_300814/lang--en/index.htm

[98] Full title 'The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal', see: http://www.basel.int/TheConvention/Overview/tabid/1271/Default.aspx

[99] Council Decision 93/98/EEC; amended to Council Decision 97/640/EC after the Basel Convention was amended, then again to Regulation (EC) No 1013/2006, available at: http://europa.eu/legislation_summaries/environment/waste_management/l11022_en.htm

[100] https://www.standard.no/en/toppvalg/about-us/standards-norway/#.VGNPA_mDlcZ

[101] Ministry of Foreign Affairs website, available at: https://www.regjeringen.no/en/find-document/dep/UD/reports-to-the-storting/20002001/report_no-12_to_the_storting_2000-2001/7/id193725/

[102] EEA Grants website, 'Norway Grants - Who we are', available at: http://eeagrants.org/Who-we-are/Norway-Grants

[103] EEA Grants website, 'Suspension of EEA and Norway Grants to Hungary', 9.5.2014, available at: http://eeagrants.org/News/2014/Suspension-of-EEA-and-Norway-Grants-to-Hungary

[104] 'Outside and Inside', NOU 2012:2, Chapter 1, Jan 2012
Norway's agreements with the European Union, p.6

[105] 'Outside and Inside', NOU 2012:2, Chapter 1, Jan 2012
Norway's agreements with the European Union, p.14

[106] Norwegian Ministry of Foreign Affairs Website, 'Norway and Europe at the Dawn of a New Century (part I – translation)', Part 6 - The EEA and Norway's room for manoeuvre, Report No.12 to the Storting (2000-2001)

[107] *Idem*

[108] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.11

[109] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.9

[110] 'Alternativrapporten', p.18

[111] Europa website, 'Glossary – proportionality', available at: http://europa.eu/legislation_summaries/glossary/proportionality_en.htm

[112] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.21

[113] 'Picking Winners: How UK industrial policy ensured the success of the aerospace and automobile industries', Kaveh Pourvand, Civitas, (London, October 2013), and 'Economic Rebalancing and the Limits of Laissez-Faire (extended version)', Kaveh Pourvand, (London, April 2013) available at: http://www.civitas.org.uk/economy/index.php

[114] 'Outside and Inside', NOU 2012:2, Chapter 1, Jan 2012
Norway's agreements with the European Union, p.8

[115] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.21

[116] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.12

[117] 'Alternativrapporten', p.59

[118] 'Alternativrapporten', pp.60, 64

[119] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.14

[120] The Exclusive Economic Zone is the area within a state's direct control that stretches 200km from their land, or equidistant between them and another state's.

[121] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, pp.14, 43

[122] European Commission, Commission Staff Working document, *A review of the functioning of the European Economic Area*, SWD (2012) 425, Brussels, 12 December 2012, p.4

[123] European Commission, Commission Staff Working document, *A review of the functioning of the European Economic Area*, SWD (2012) 425, Brussels, 12 December 2012, pp.7-8

[124] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.16

The Alternativrapporten also discusses the possibility of national adjustments, p. 61

[125] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.16

[126] European Commission, Commission Staff Working document, *A review of the functioning of the European Economic Area*, p.8

[127] Commission Staff Working document, *A review of the functioning of the European Economic Area*, p.9

[128] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.16

[129] 'Alternativrapporten', p. 61

[130] Annie Bersagel, *Norway's Planned Reservation of the Third European Postal Directive and the Future of the European Economic Agreement*, Stanford-Vienna European Union Law Working Paper No. 5, 2012, available at: http://www.law.stanford.edu/sites/default/files/child-page/205024/doc/slspublic/bersagel_eulawwp5.pdf, p.12: 'Norway implements EU law at a rate that outpaces many EU members.'

[131] Commission Staff Working document, *A review of the functioning of the European Economic Area*, p.9. The paper suggests that Iceland and Liechtenstein may fail to implement directives fast enough simply through lack of bureaucratic manpower.

[132] 'Alternativrapporten', p.19

[133] 'Alternativrapporten', p. 54

[134] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.17

[135] The full title is 'DIRECTIVE 2004/54/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on minimum safety requirements for tunnels in the trans-European road network'. It can be found here:

https://www.bmvit.gv.at/verkehr/strasse/tunnel/downloads/EURL_200454EGvom762004en.pdf

[136] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.17

[137] 'Alternativrapporten', p. 60

[138] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, section 2.3.3, available at: https://www.regjeringen.no/en/dokumenter/meld.-st.-5-2012-2013/id704518/?docId=STM201220130005000ENGEPIS&q=&navchap=1&ch=2

[139] Norwegian Ministry of Foreign Affairs Website, 'Norway and Europe at the Dawn of a New Century (part I – translation)', Part 6 - The EEA and Norway's room for manoeuvre, Report No.12 to the Storting (2000-2001)

[140] *Idem*

[141] Report to the Storting (White Paper), The EEA Agreement and Norway's other agreements with the EU, Norwegian Ministry of Foreign Affairs, p.10

[142] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.10
The new Norwegian government signalled its intention to become more involved in European issues by creating a new ministerial post, Minister for EU and EEA Affairs in 2013. The first appointee, Vidar Helgesen, is no backbencher or veteran enjoying a sinecure, but PM Erna Solberg's Chief of Staff. See: http://www.regjeringen.no/en/dep/ud/whats-new/Speeches-and-articles/vh_taler/2013/statement_eea.html?id=749504
The British government would have to be much more dynamically involved at all stages of the EU's processes, communicate properly internally, and "play the game" with other states. The October 2014 EU budgetary surcharge of £1.7bn is a good example of Britain failing to do this – between the Treasury and the Office for National Statistics, some officials must have known that a large bill was coming but no efforts were made to minimise or block it. When the charge was announced by Jose Manuel Barroso, David Cameron appeared genuinely surprised.
See my Civitas blog analysis: 'Downing Street could have stopped the £1.7bn EU surcharge', October 2014, available at: http://civitas.org.uk/newblog/2014/10/downing-street-could-have-stopped-the-1-7bn-eu-surcharge/

[143] *Flexcit*, Richard North, p.93

[144] 'Offshore oil and gas safety directive now in force', Rhona McFarlane, 2/10/2013, available at: http://www.inhouselawyer.co.uk/index.php/scotland-home/10323-offshore-oil-and-gas-safety-directive-now-in-force
Final directive available here on the EU Law website, available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:178:0066:0106:EN:PDF

[145] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.19
[146] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.20
[147] 'Alternativrapporten', p.38
[148] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, pp.21-22
[149] 'Alternativrapporten', p. 38
[150] Darings Næringsliv, 'Disse hater og elsker vi', Ingrid Elisabeth Moe, 07.05.2008, available at: http://www.dn.no/privat/privatokonomi/2008/05/07/disse-hater-og-elsker-vi
[151] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.47
[152] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.22
[153] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.24
[154] Norwegian mission to the EU website, 'EU repeals anti-dumping measures against Norwegian salmon', 08.06.2009, available at: http://www.eu-norway.org/news/repeals_anti_dumping/#.VEkVUfk7tcZ
Additional detail on the WTO website, 'DISPUTE DS337
European Communities — Anti-Dumping Measure on Farmed Salmon from Norway', available at: http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds337_e.htm and the EU trade website, 'WT/DS 337 - Anti-Dumping Measure on Farmed Salmon from Norway', available at: http://trade.ec.europa.eu/wtodispute/show.cfm?id=350&code=2
[155] Norwegian Ministry of Foreign Affairs, 'WTO Panel rules in favour of Norway in salmon case', 16.11.2007, available at: http://www.regjeringen.no/en/dep/ud/selected-topics/trade-policy/wto/wto_salmon/salmonreport.html?id=490213
[156] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.37
[157] We do know that Britain, the Netherlands and Iceland are in an ongoing dispute over the Icelandic state's responsibility to non-Icelandic depositors' money, but this relates to other rules Iceland agreed to abide by before the financial crisis. 'Icesave: Icelandic government wins compensation ruling', BBC News website, 28.01.2013, available at: http://www.bbc.co.uk/news/business-21231535
[158] Bersagel, *Norway's Planned Reservation,* p.14
[159] Norwegian Ministry of Foreign Affairs Website, 'Norway and Europe at the Dawn of a New Century (part I – translation)', Part 6 - The EEA and Norway's room for manoeuvre, Report No.12 to the Storting (2000-2001)

Also Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.24, 'parties are to make every effort to reach agreement.'

[160] Annie Bersagel, *Norway's Planned Reservation,* p.10, available at: http://www.law.stanford.edu/sites/default/files/child-page/205024/doc/slspublic/bersagel_eulawwp5.pdf

[161] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.24

[162] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, pp.24-25

[163] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.15

[164] 'Alternativrapporten', pp.55-6, 65

The Brundtland quotation comes from the Parliamentary Minutes of Debate, EEA 15, 10/16/1992, p.216.

[165] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.25

[166] Norwegian Ministry of Foreign Affairs Website, 'Norway and Europe at the Dawn of a New Century (part I – translation)', Part 6 - The EEA and Norway's room for manoeuvre, Report No.12 to the Storting (2000-2001)

[167] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.25

[168] 'Alternativrapporten', p.57

[169] Bersagel, *Norway's Planned Reservation,* p.8

[170] 'Outside and Inside', NOU 2012:2 Chapter 3, Norway's involvement in European Integration, p.9

[171] 'Alternativrapporten', p.57

[172] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.25

[173] Commission Staff Working document, *A review of the functioning of the European Economic Area*, p.10

[174] 'Alternativrapporten', pp.19, 58, 77

[175] EFTA website, Annexes to the EEA Agreement, available at: http://www.efta.int/legal-texts/eea/annexes-to-the-agreement

[176] Bersagel, *Norway's Planned Reservation,* pp.15-16

[177] Eriksen interprets the suspension of free trade as not being a 'criminal sanction' but a result of previously harmonised rules ceasing to be harmonised, so the suspension must be 'limited to those directly affected directives'. Translation in the 'Alternativrapporten', p.57

[178] Bersagel, *Norway's Planned Reservation,* p.8

[179] Bersagel, *Norway's Planned Reservation,* p.11-12

[180] 'EU threatens to punish Norway for breaching EEA agreement', EurActive, 30.01.2013, available at: http://www.euractiv.com/consumers/eu-threatens-punish-selfish-norw-news-517431 Bendtsen was trade minister for seven years under the Rasmussen government.

[181] Bersagel, *Norway's Planned Reservation*, p. 19

[182] 'EU threatens to punish Norway for breaching EEA agreement', EurActive, 30.01.2013, available at: http://www.euractiv.com/consumers/eu-threatens-punish-selfish-norw-news-517431

[183] 'Address to the Storting on important EU and EEA matters', 21.11.2013, Vidar Helgesen, Norwegian Foreign Affairs website, available at: http://www.regjeringen.no/en/dep/ud/whats-new/Speeches-and-articles/vh_taler/2013/address-to-the-storting-on-important-eu-.html?id=746074

[184] Vidar Helgesen addrsesing the EEA Council, Norwegian Foreign Affairs website, available at: http://www.regjeringen.no/nb/dep/ud/aktuelt/taler_artikler/vh_taler/2013/innlegg_eos.html?id=749504

[185] Norwegian Ministry of Foreign Affairs Website, 'Norway and Europe at the Dawn of a New Century (part I – translation)', Part 6 - The EEA and Norway's room for manoeuvre, Report No.12 to the Storting (2000-2001)

[186] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p. 25

[187] 'Norway has fundamental role in helping EU energy security: Oettinger', *Reuters*, Julia Fioretti and Barbara Lewis ,25.09.2014, available at: http://uk.reuters.com/article/2014/09/25/us-eu-energy-norway-idUKKCN0HK0SP20140925

[188] 'Alternativrapporten', p.23. This is also discussed on pp.58, 99

[189] 'Norway business organisation puts social dumping in focus', 02/05/2014, by Sarah Bostock and Michael Sandelson, *The Foreigner,* available at: http://theforeigner.no/pages/news/norway-business-organisation-puts-social-dumping-in-focus/

[190] These fears are articulated especially by the Progress Party, who were elected as minority coalition partners in 2013. See for example Reuters, 'Conservative leader Solberg sweeps into power in Norwegian election', Balazs Koranyi and Gwladys Fouchet 09/09/2013, available at: http://www.reuters.com/article/2013/09/09/us-norway-election-idUSBRE9880Y820130909
or 'Breivik and the Norwegian immigration debate', Bjoern Stærk, 23 July 2012, *Open Democracy,* available at: https://www.opendemocracy.net/bj%C3%B8rn-st%C3%A6rk/breivik-and-norwegian-immigration-debate

[191] EU law website, 'Agreement on the European Economic Area - Protocol 15 on transitional periods on the free movement of persons (Switzerland and Liechtenstein)', available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:21994A0103(16)
[192] EEA Agreement, pp.13-15
[193] 'When capital controls are lifted, pain will follow for Iceland', *Icelandmag,* 11.07.2014, available at: http://icelandmag.com/article/when-capital-controls-are-lifted-pain-will-follow-iceland ;
'Iceland Brings In Experts to Help Lift Capital Controls', *Wall Street Journal,* Charles Duxbury, 10.07.2014, available at: http://online.wsj.com/articles/iceland-brings-in-experts-to-help-lift-capital-controls-1404979518
[194] 'The darker side of Iceland's showcase recovery', Gillian Tett, *Financial Times,* 17.07.2014, available at: http://www.ft.com/cms/s/0/34ab12fc-0d9b-11e4-815f-00144feabdc0.html#axzz3FXr56Qy1
'Iceland Seen Threatened by Capital Flight From Its Own Citizens', Omar R. Valdimarsson , *Bloomberg,* 20.02.2014, available at:
http://www.bloomberg.com/news/2014-02-28/iceland-seen-threatened-by-capital-flight-from-its-own-citizens.html
[195] Parliamentary Questions, 19.02.2014, E-001903-14, Question for written answer to the Commission by Morten Løkkegaard (ALDE), available at:
http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2014-001903+0+DOC+XML+V0//EN&language=fr
[196] EEA Agreement, Article 43
[197] Berglind Harðardóttir, *Iceland's Currency Controls and the EEA Agreement,* Lund University Faculty of Law, Spring 2014,, pp.1, 33, available at:
http://qr.jur.lu.se/Quickplace/jaem01/Main.nsf/0/7EB6ABE67A1C9EADC1257CE60038DD5A/$file/Berglind%20Hardardottir.pdf
[198] EEA Agreement, p.37
N.B. It remains unclear whether David Cameron considered an 'emergency brake' on EEA migration in late 2014 under these same powers. In any case, his hands would have been tied further due to the EU Treaties, to which EFTA-EEA states are not bound.
[199] 'Immigration bill: Theresa May defends plans to create 'hostile environment', Alan Travis, *Guardian,* 10.10.2013, available at:
http://www.theguardian.com/politics/2013/oct/10/immigration-bill-theresa-may-hostile-environment
[200] Robert Rowthorne, 'Large-scale Immigration: Its economic and demographic consequences for the UK', (Civitas, London, 2014), p.44, available at
http://www.civitas.org.uk/pdf/LargescaleImmigration

[201] 'David Cameron's EU speech: full text', *BBC*, 28/11/2014, available at: http://www.bbc.co.uk/news/uk-politics-30250299

[202] 'David Cameron's EU speech: full text', *BBC*, 28/11/2014, available at: http://www.bbc.co.uk/news/uk-politics-30250299

[203] 'EU immigration into Switzerland hit record high before voter backlash' , *Reuters,* 09.07.2014, available at: http://uk.reuters.com/article/2014/07/09/uk-swiss-immigration-idUKKBN0FE0TR20140709

[204] For comparison, when polled by ComRes in October 2014 on 'All citizens of other European Union countries should have the right to live and work in the United Kingdom', 36 per cent agreed, 46 per cent disagreed and 19 per cent didn't know. The policymaking waters were muddied as 52 per cent in the same poll agreed that 'British people should be free to live and work anywhere in the EU', with 26 per cent disagreeing and 22 per cent 'Don't Know'. Available at: http://www.comres.co.uk/poll/1293/sunday-mirror-independent-on-sunday-poll.htm

[205] 'Will the Swiss roll over? How their EU dilemma could affect Britain', *Civitas* blog, 2014, available at: http://civitas.org.uk/newblog/2014/08/will-the-swiss-roll-over-how-their-eu-dilemma-could-affect-britain/

[206] This would only require a swing of 0.15 per cent of the voting population, so is very possible.

[207] CNN World Interactive Asylum Seekers comparison, based on OECD data, available at: http://edition.cnn.com/interactive/2010/10/world/interactive.asylum.seekers/

Indeed, at one point Norway started accepting asylum seekers it could have legally sent back to Greece – 'Asylum seekers 'abused' in Greece', 11.06.2008, *BBC website,* available at: http://news.bbc.co.uk/1/hi/world/europe/7445665.stm

[208] 'Outside and Inside', NOU 2012:2, Chapter 1, Jan 2012, Norway's agreements with the European Union, p.7

[209] Report to the Storting (White Paper), *The EEA Agreement and Norway's other agreements with the EU*, Norwegian Ministry of Foreign Affairs, p.38

[210] *Ibid,* p.40

[211] *Ibid,* p.39, discussion of the Office for Budget Responsibility predictions available at: http://niesr.ac.uk/blog/migration-and-public-finances-long-run-obrs-fiscal-sustainability-report#.VEjXQfk7tcY

[212] *Ibid,* p.39

[213] *Ibid,* p.39

[214] This means building clients are responsible for ensuring subcontractors make sure employees have wages and labour conditions complying with standing collective agreements.

[215] International Labour Organisation Convention 94, which actually has its roots in British law, available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_099699.pdf

[216] *Ibid,* p.39

[217] So if they have the minimum qualifications and experience required. 47 per cent of Norwegian jobs are in either the state sector (11.4 per cent), municipal sector (22 per cent) or fully/partially state-owned enterprises, see:
'Jobs for Immigrants – Labour Market Integration in Norway', Thomas Liebig, Organisation for Economic Cooperation and Development, (Paris, 2009), p.46

[218] 'The Government's action plan against social dumping', [English] Norwegian Government Archive, Ministry of Labour and Social Inclusion, 03.06.2008, available at: http://www.regjeringen.no/en/archive/Stoltenbergs-2nd-Government/Ministry-of-Labour-and-Social-Inclusion/tema-og-redaksjonelt-innhold/redaksjonelle-artikler/2006/the-governments-action-plan-against-soci.html?id=437987

[219] 'Norway business organisation puts social dumping in focus', 02/05/2014, by Sarah Bostock and Michael Sandelson, *The Foreigner,* available at: http://theforeigner.no/pages/news/norway-business-organisation-puts-social-dumping-in-focus/

[220] 'Free Movement within Europe needs to be less free', David Cameron, 26.11.2013, *Financial Times*, available at: http://www.ft.com/cms/s/0/add36222-56be-11e3-ab12-00144feabdc0.html#axzz3B6njLsqA

[221] UK Department for Business (@BIS.gov) tweet, 11:54 AM - 5 Aug 2014, available at: https://twitter.com/bisgovuk/status/496610169640726530

[222] 'Boris Johnson: Give illegal immigrants amnesty to stay in Britain', Matt Chorley, *Mail Online*, 02.07.2013, available at: http://www.dailymail.co.uk/news/article-2353451/Boris-Johnson-Give-illegal-immigrants-amnesty-stay-Britain.html

[223] To have full control over the UK's borders, Britain would need to erect a formal border between the Republic of Ireland and Northern Ireland, since otherwise EU migrants could come to RoI under free movement rules, then into Britain thanks to the Common Travel Area. Erecting such a border would be politically sensitive and may even exacerbate security concerns.

[224] 'Alternativrapporten', p.91

[225] *Ibid,* p.40

[226] EU law website, 'Your social security rights in Norway', p.24, available at: http://ec.europa.eu/employment_social/empl_portal/SSRinEU/Your%20social%20security%20rights%20in%20Norway_en.pdf

[227] Bratsberg, Bernt., Raaum, Oddbjørn,. Røed,. Knut, 'Immigrants, Labor Market Performance, and Social Insurance', Institute for the Study of Labour, Discussion Paper No. 8292 (IZA, June, 2014, Bonn), p.8

[228] *Exodus: How Migration Is Changing Our World*, Paul Collier, Oxford University Press, (Oxford, 2013); 'Immigration and multiculturalism in the 21st century', speech at the London School of Economics, 04/11/2013

[229] Rowthorn, *Large Scale Immigration,* pp.36-37

Likewise on p.64 Rowthorn notes, of the OBR projection's accuracy, 'a lot depends on where the immigrants come from and on how well they and their children integrate into the UK labour market.'

[230] 'Ed Miliband: Labour taking immigration issue seriously', BBC, 15/12/2014, available at: http://www.bbc.co.uk/news/uk-30474521

[231] 'Jobs for Immigrants', Thomas Liebig, OECD, pp.9-10

[232] 'Jobs for Immigrants', Thomas Liebig, OECD, p.10

[233] 'Jobs for Immigrants', Thomas Liebig, OECD, p.10

[234] 'Jobs for Immigrants', Thomas Liebig, OECD, pp.10, 26

[235] 'Jobs for Immigrants', Thomas Liebig, OECD, pp.24, 28

[236] 'Jobs for Immigrants', Thomas Liebig, OECD, p.25

[237] 'Jobs for Immigrants', Thomas Liebig, OECD, p.28

[238] 'Jobs for Immigrants', Thomas Liebig, OECD, p.35

[239] 'The Effect of Labor Migration on Native Wages, An Empirical Analysis of the Norwegian Construction Sector', Dunja Kazaz, University of Oslo, Economics Department (January 2013),p p.58-9

[240] 'The Effect of Labor Migration on Native Wages, An Empirical Analysis of the Norwegian Construction Sector', Dunja Kazaz, University of Oslo, Economics Department (January 2013), pp.29

[241] 'Labour migrants from Central and Eastern Europe in the Nordic countries: Patterns of migration, working conditions and recruitment practices', Jon Horgen Friberg and Line Eldring (eds.), *TemaNord* 2013:570, Report to the Nordic Council of Ministers 2013, p.125

[242] The Effect of Labor Migration on Native Wages, An Empirical Analysis of the Norwegian Construction Sector', Dunja Kazaz, University of Oslo, Economics Department (January 2013), p.18

[243] The Effect of Labor Migration on Native Wages, An Empirical Analysis of the Norwegian Construction Sector', Dunja Kazaz, University of Oslo, Economics Department (January 2013), p.18

[244] 'Jobs for Immigrants', Thomas Liebig, OECD, pp. 37-8. All the EU's members are also in the OECD asides Cyprus, Latvia, Lithuania and Malta. Romania, Bulgaria and Croatia didn't have EU free movement when the study was written (Croatia wasn't even an EU member).

[245] Bratsberg, Bernt., Raaum, Oddbjørn,. Røed,. Knut, 'Immigrants, Labor Market Performance, and Social Insurance', Institute for the Study of Labour, Discussion Paper No. 8292 (IZA, June, 2014, Bonn), pp.9-10

[246] Bratsberg et al, 'Immigrants, Labor Market Performance, and Social Insurance' (IZA, June, 2014, Bonn), pp.11-13

[247] 'Jobs for Immigrants', Thomas Liebig, OECD, pp.32-34

[248] 'Labour migrants from Central and Eastern Europe in the Nordic countries: Patterns of migration, working conditions and recruitment practices', Jon Horgen Friberg and Line Eldring (eds.), *TemaNord* 2013:570, Report to the Nordic Council of Ministers 2013, p.136

[249] 'The Real Policy Issue Is Not Over-Use of Migrants But Under-Use of Their Skills', Heather Rolfe, 30.09.14, available at : http://www.huffingtonpost.co.uk/heather-rolfe/uk-immigration_b_5903046.html?utm_hp_ref=uk

[250] 'The growth of EU labour: assessing the impact on the UK labour market', Chartered Institute for Personnel and Development, 2014, pp.30-31, available at: http://www.cipd.co.uk/publicpolicy/policy-reports/growth-eu-labour.aspx

[251] Migration Advisory Committee, 'Migrants in low-skilled work: The growth of EU and non-EU labour in low-skilled jobs and its impact on the UK', Summary Report, (London, July 2014), p.17

[252] MAC, 'Migrants in low-skilled work', pp.19-20

[253] MAC, 'Migrants in low-skilled work', pp.17-28

[254] Sunder Katwala, 'How to talk about immigration', British Future (London, 2014), p.106, accessed at: www.britishfuture.org/wp-content/uploads/2014/11/How-To-Talk-About-Immigration-FINAL.pdf

[255] Charles Cadywould, 'Cameron's Migrant Benefit Move Is Even Worse Than You Think', *Left Foot Forward*, 2014, available at: http://leftfootforward.org/2014/07/camerons-migrant-benefit-move-is-even-worse-than-you-think/

[256] 'Jobs for Immigrants', Thomas Liebig, OECD, p.41

The OECD paper suggests that self-employment in OECD countries is usually high as a resort to escape 'marginalisation in the labour market' (Clark and Drinkwater 2000; Blume et al. 2003).

[257] 'Jobs for Immigrants', Thomas Liebig, OECD, p.41

[258] 'Jobs for Immigrants', Thomas Liebig, OECD, p.48

[259] 'Jobs for Immigrants', Thomas Liebig, OECD, p.52, 68-9

'Anger over English lesson funding cuts', *The Guardian,* Jessica Shepherd, 14/4/2011, available at: http://www.theguardian.com/education/2011/apr/14/english-lessons-funding-immigrants Also: http://www.redpepper.org.uk/mind-your-language/

[260] "Every Polish worker's dream is a steady job in Norway", Gunhild Wallin, *Nordic Labour Jounral,* 11/02/2014, available at: http://www.nordiclabourjournal.org/i-fokus/workplace-accidents/article.2014-02-10.8397518173

[261] 'Labour migrants from Central and Eastern Europe in the Nordic countries: Patterns of migration, working conditions and recruitment practices', Jon Horgen Friberg and Line Eldring (eds.), *TemaNord* 2013:570, Report to the Nordic Council of Ministers 2013, p.127

[262] 'Labour migrants from Central and Eastern Europe in the Nordic countries: Patterns of migration, working conditions and recruitment practices', Jon Horgen Friberg and Line Eldring (eds.), *TemaNord* 2013:570, Report to the Nordic Council of Ministers 2013, p.126

[263] Friberg finds in the construction industry 'tax-evasion, illegally low wages and regular breaches of working environment laws… 15–20 per cent of the temporary staffing market' mostly found in the smaller temporary agencies. 'Labour migrants from Central and Eastern Europe in the Nordic countries', Friberg. 2013, p.126

[264] 'Labour migrants from Central and Eastern Europe in the Nordic countries: Patterns of migration, working conditions and recruitment practices', Jon Horgen Friberg and Line Eldring (eds.), *TemaNord* 2013:570, Report to the Nordic Council of Ministers 2013, p.228

[265] 'Labour migrants from Central and Eastern Europe in the Nordic countries: Patterns of migration, working conditions and recruitment practices', Jon Horgen Friberg and Line Eldring (eds.), *TemaNord* 2013:570, Report to the Nordic Council of Ministers 2013, p.135

[266] 'Norway's new immigration and asylum policies', *The Foreigner*, Michael Sandelson, March 2014, available at: http://theforeigner.no/pages/news/norways-new-immigration-and-asylum-policies/

The parties are the Conservatives (H – currently leading the government), Progress (FrP – junior government party), the Christian Democrats (KrF), and Liberals (V). The Centre Party, currently out of power, is also critical of EEA immigration.

[267] 'Norway to follow in Switzerland's footsteps with immigration vote?', Russia Today, 11/02/2014, available at: http://rt.com/news/norway-immigration-quotas-referendum-548/

[268] 'Norway rules out referendum on immigration', EU Business, 12/02/2014, available at: http://www.eubusiness.com/news-eu/norway-switzerland.tsc

[269] Sunder Katwala, 'How to talk about immigration', British Future, p.30

[270] Sunder Katwala, 'How to talk about immigration', British Future, p. 6

[271] 'Politicians who genuinely seek to build trust between communities and in the political system will get nowhere by casting immigration as a threat', Patrick Diamond and Nabeelah Jaffer, LSE Blogs, 2014, available at: http://blogs.lse.ac.uk/politicsandpolicy/immigration-populism-politics/

[272] David Goodhart and Sunder Katwala, 'The British Dream: a review and the author's response', *Open Democracy*, 2013, available at:

https://www.opendemocracy.net/ourkingdom/sunder-katwala-david-goodhart/british-dream-review-and-authors-response

[273] 'Douglas Carswell, Ukip's optimistic moderniser', British Future blog, 09.10.2014, available at: http://www.britishfuture.org/articles/douglas-carswell-ukip/

Carswell noted, 'It is no coincidence that two of the countries with the best immigration systems I can think of – Switzerland and Australia – are both outside the EU.' If there is no change to the Swiss situation then, Matts Persson of Open Europe calculates, Britain following the Swiss system would mean roughly 350,000 *more* EU migrants per year. 'If EU migration is the problem, Switzerland and Norway are not the answer', Matts Persson, *Telegraph*, 27.10.2014, available at: http://www.telegraph.co.uk/news/uknews/immigration/11190269/If-EU-migration-is-the-problem-Switzerland-and-Norway-are-not-the-answer.html

[274] CBI, 'Doing Things By Halves', p.5, available at: http://www.cbi.org.uk/media/2133649/doing_things_by_halves_-_lessons_from_switzerland_and_norway_cbi_report_july_2013.pdf -

[275] CBI, 'Doing Things By Halves', p.8

[276] Bootle, Roger, *The Trouble with Europe,* (London, 2014), pp.158-161