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Debate: The Swiss model—a viable role model for a post-Brexit settlement?

Michael Ambühl, Martin Gutmann and Daniela S. Scherer

In a January 2017 interview, the then German finance minister, Wolfgang Schäuble, suggested that ‘Britons should take as an example how cleverly Switzerland has linked national sovereignty and close co-operation with the European Union’ (Bräuer and Müller, 2017). Since the Brexit vote in the summer of 2016, commentators and politicians have scrambled to define potential models for a future UK–EU relationship. Along with the Canadian and Norwegian models, the Swiss model has been a popular contender. However, in her speech in Florence at the end of September 2017, the UK’s prime minister, Theresa May, denounced the first two models, insisting that a more creative (third) option was needed. Could this option be inspired by the Swiss? We think so.

Objections to applying the Swiss model to the Brexit negotiation usually take one of two forms: Switzerland’s socio-political realities are too different from those of the UK and the Swiss model does not include financial market access. Acknowledging the unique context of the Swiss–EU agreements, we identify a number of relevant aspects for a potential post-Brexit agreement in this article. In doing so, we consider feasibility (could certain aspects of the Swiss model be applied to a post-Brexit settlement?) and desirability (would such an application be politically digestible in the UK and the EU?).

Are the UK and Switzerland really that different?

On the surface, the UK and Switzerland appear to have little in common. The UK is an island nation with a large population and a history of global involvement. Switzerland, though punching above its weight in economic terms, is a small, landlocked country with a history of engaging mainly with its immediate neighbours. Despite their distinctly different geographic and historical realities, Switzerland

and the UK share two somewhat irreconcilable characteristics. Both countries have a long history of promoting and practicing liberal economic policies. At the same time, both have a ‘sovereignty reflex’: a political climate that is instinctively on guard against encroachments on national control. From these two characteristics flow two practical realities that are markedly present in both countries:

- Both embody a willingness, indeed a need, to maintain a co-operative relationship with the EU and other international actors, in particular where economic issues are concerned.
- Controlling the movements of people is a priority among significant portions of the population and political class (demonstrated by the Brexit vote and the Swiss 2014 Constitutional Article on Immigration).

Switzerland’s emphasis on liberal economic policies and its sovereignty reflex shaped the construction of its relationship with the EU, which is in fact a complex network of agreements. These were not adopted as a single package, but were negotiated in blocks since the 1970s in parallel with the EU’s evolution towards closer integration. While membership of the European Community was not politically feasible in the early post-war period, Switzerland maintained a watchful eye on European developments and deliberately built close economic ties. Three attempts at negotiating an association agreement failed, largely due to external factors, including Charles de Gaulle’s suspicion of special treatment, lest the UK profit. Once the UK was accepted, Switzerland’s path was open and a free trade agreement was adopted in 1973. Subsequent agreements—‘Bilateral I’ composed of seven linked sectoral agreements (negotiated 1993–1998) and ‘Bilateral II’ composed of nine unlinked agreements (negotiated 2000–2004)—form the basis of the Swiss model. All in all, the Swiss model can be considered bespoke and flexible. It offers a tailor-made (but not full) access to the single market without participation in the customs union, and legal certainty.

Agreement is not impossible

What, then, is politically doable and desirable in a post-Brexit settlement? From an outsider’s perspective, one would expect an amicable solution with strong co-operation between the UK and Europe across the economy, security and research to be in the interest of both sides,

as well as for individual citizens. However, such a solution is certainly difficult to achieve; Switzerland's experience with the EU offers some glimpses into the possibilities and difficulties. In negotiating with Switzerland, the EU repeatedly insisted on:

- No cherry-picking or free-riding.
- No discrimination against EU citizens.
- Financial contributions (for example to the cohesion fund).
- Full access to the single market only with acceptance of all four EU freedoms (free movement of goods, services, capital and labour).

However, the recent past shows that, despite following a very principles-based approach, the EU can be flexible in the practical implementation of its own principles—especially when EU interests stand to benefit. An example of this is the issue of motor vehicle tolls—Germany has recently introduced a toll that is *de facto* discriminatory due to a tax refund available only to Germans, whereas Switzerland has been explicitly prohibited from doing so in the past.

It is unlikely that the UK would accept a model that imposes all EU regulations without a British say. Therefore, as the UK prime minister clarified in her Florence speech, the Norwegian model, i.e. being member of the European Economic Area (EEA), seems not to be politically acceptable, while a free trade agreement as in the Canadian model would be too restrictive in terms of market access (FCO, 2017). During renegotiations of the UK's EU membership (February 2016), and the vote on Brexit (June 2016), it became clear that it would be important for the UK to have a certain level of control over the regulation of migration.

Safeguard clause is key

The EU needs to ensure that a non-member cannot get a better deal than a member. In addition, the EU might be reluctant to agree to a model that combines the advantages of both the Norwegian and the Canadian models, such as the Swiss one. However, despite this reluctance, the Swiss model is in place and therefore represents a precedent.

The Swiss experience suggests that a solution is achievable if both sides avoid binary (all-or-nothing) approaches concerning the four freedoms or the requirement for a full voice. Another good practice is to compromise early to show good faith on points that are, in

any case, mandatory, such as payments to the EU. With regard to a future UK–EU partnership, it might be conceivable that an agreement on economic co-operation will be based on the four freedoms with a safeguard clause for exceptional situations. For example, in the case of excessive migration, special regulations could temporarily come into force (see Ambühl and Scherer, 2017). Besides the existing financial dues, a solidarity contribution to the EU budget seems sensible, as does a continued co-operation on security questions. Since a non-member state cannot have the decision-making rights of a member, a decision-shaping mechanism could be established. An independent arbitration court, for example, could decide on the proportionality of rebalancing measures, in cases of non-adoption of the EU laws and other disturbances in the balance between rights and obligations.

In summary, Switzerland and the UK share important principles in their tradition of liberal economics and a sovereignty reflex. The differences between the countries—size, economic weight and global outreach—serve merely to strengthen the UK's negotiating position vis-à-vis the EU. In combination with the unprecedented circumstances that accompany the UK leaving the EU, a bespoke agreement seems to be the only solution. Even if an agreement between the UK and the EU cannot be a carbon copy of the Swiss, the latter is still relevant for two reasons. First, the tailor-made character of the agreement and, second, its modular and sectoral structure. Concerning the content of the Swiss agreement, partial access to the single market without participation in the customs union allows for economic co-operation and preservation of national sovereignty. So we believe that the Swiss model could inspire a post-Brexit agreement.

Apart from a potential role model for the Brexit case, Switzerland's ongoing negotiations with the EU have an interdependent relationship with the UK–EU negotiations. The EU could use the Swiss negotiations as a precedent for the ones with the UK in order to show its reluctance to make concessions. Or the Swiss could wait until the UK deal is settled, hoping the more important partner could reach a better deal than the Swiss alone. In the first case, the Swiss should include some variant of a most favoured nation clause. In the second case, Berne should co-operate closely with London. In any case, just as in 1973, at the entrance of the UK into the Brussels institutions, some 50 years later, the UK exit could again be decisive for Switzerland.

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Call for papers: PMM theme on Fraud and financial crime in the public sector

Guest Editors: Alan Doig, Newcastle Business School, Northumbria University, and Michael Levi, School of Social Sciences, Cardiff University

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Journal: Fenwick, J. (2015), The problem of sub-national governance in England. *Public Money & Management*, 35, 1, p. 7.

Book: Parker, D. (2009), *The Official History of Privatization* (Routledge).

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