Chapter 17

The Outer Circle: Models of Association for Non-Members (EEA, Switzerland, UK, Turkey)

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Abstract

This chapter explores the various alternatives to direct involvement in the European Union international framework, particularly concerning the European Economic Area (hereinafter: EEA). The principle of homogeneity, which underpins the EEA's functioning, is critically analysed in terms of its implications for non-EU countries seeking integration with EU markets while maintaining sovereignty. The relationship between the EU and Turkey is examined, with a focus on the complex dynamics of Turkey's customs union and its aspirations for full EU membership. Additionally, the chapter investigates the deep and comprehensive free trade areas between the EU and countries such as Moldova, Georgia, and Ukraine, analysing how these agreements serve as tools for economic and political integration without full EU membership. Lastly, the post-Brexit relationship between the EU and the UK is discussed, highlighting the intricacies of trade agreements, regulatory alignment, and the ongoing political and economic negotiations that define this new phase of European cooperation. By examining these multifaceted relationships, the chapter aims to provide insights into the evolving dynamics of European integration and the alternatives to EU membership for countries and regions within its sphere of influence.

Keywords: European Union, European Economic Area, Deep and Comprehensive Free Trade Area, Turkey, Brexit

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1. Introduction

This section will address the issue of alternative forms of cooperation with the EU short of membership, focusing on arrangements that may be perceived as alternatives to EU accession. The following issues will be analysed: The EEA, a deepened and comprehensive free trade zone created with Moldova, Ukraine and Georgia, and the examples of Turkey and UK.

The chapter will focus primarily on legal issues (e.g. the interpretation of law and principle of homogeneity in EEA from the perspective of equality) as well as political issues. Different models of cooperation with third countries will be compared. The key consideration will be equality on the one hand and a common interest in further or wider integration on the other. Do either of these forms represent a worthy alternative to membership of the European Union, or do their disadvantages outweigh their benefits, making EU membership the clearly preferable option? Particular attention will be given to the UK, which left the EU after almost 50 years of membership, and Turkey, which has been waiting for the EU membership for more than a half a century.

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2. European Economic Area: Equality in Law, but Not in Interpretation and Law-Making

The European Economic Area Agreement represents a particular form of cooperation between the European Union and countries that are not part of the EU, which shows that collaboration between the EU and these countries can be structured in different forms. Considering that Norway, Iceland and Lichtenstein[1] are not state members of the EU, the function of this association agreement[2] is to bring these countries into line with the EU, its homogeneous mechanism, associated dynamism,[3] and institutional structure. In this way, these states are included in the EU's internal market.

From the EU perspective, the EEA is a means of projecting EU norms and values onto neighbouring states. However, from the perspective of the European Free Trade Association States, this agreement shows common values, shared aspirations and concrete ideas on how to manage cross-border relations with close neighbours.[4]

1 The European Free Trade Association (EFTA) consists of four countries: Iceland, Lichtenstein, Norway, and Switzerland. We can say that the EEA is an agreement between EFTA countries and the EU, although Switzerland is not part of the EEA.

2 European Union and Norway, Iceland and Lichtenstein, the European Economic Area Agreement, Porto, 1 January 1994.

3 Sejersted, 1997, p. 68.

4 Hillion, 2011, p. 501.

EFTA States do not have a role in process of making decisions in the EU, but they can provide input during the preparatory phase when the Commission prepares proposals for new legislation to be adopted in the EEA.

The EEA guarantees four freedoms – the free movement of goods, persons, services, and capital.[5] It also includes non-discrimination and equal competition rules throughout the EEA.[6] Art. 1, para. 2(f) of the EEA provides that this association shall entail closer cooperation in other fields such as research and development, environment, education, and social policy between the EU and three EFTA countries.[7]

Products of EEA origin can enter the internal market freely, in line with the principle of free movement of goods. Pursuant to Art. 10 of the EEA, customs duties and quantitative restrictions on trade in these products are forbidden within the EEA.[8]

Art. 28 of the EEA ensures that freedom of movement eliminates any discrimination based on nationality between workers of EU Member States and EFTA States regarding employment, remuneration, and other working conditions.[9] The right to reside in another EEA State also applies to students, pensioners, and persons not in paid employment.

Under the EEA, the freedom of establishment and the right to provide services under the same conditions throughout the EEA apply to both individuals and companies.[10]

The free movement of capital allows EEA residents and companies to invest across borders without discrimination on the grounds of nationality, place of residence or place of establishment. Citizens and companies can transfer money between EEA countries and there is a possibility for them to open bank accounts to invest in shares and funds and to borrow money in other EEA countries.[11]

Some areas – such as the EU's economic and monetary union or common commercial policy, development policy, customs union, common agricultural and fisheries policy, justice and home affairs, and common foreign and security policies – are not covered by the EEA.[12]

Cooperation with the EU in the areas of justice and home affairs is facilitated through the Schengen Association Agreement and other agreements. Norway also participates in the EU's foreign and security policy.[13]

5 The European Economic Area Agreement, Art. 1, para. 2(a) to (d).
6 Ibid., Art. 4.
7 Ibid., Art. 1, para. 2(f).
8 Ibid., Art. 10.
9 Ibid., Art. 28.
10 Ibid., Art. 36.
11 Ibid., Art. 40.
12 Jonsdottir, 2013, p. 5.
13 Wivel et al., 2015, p. 208.

2.1. Institutions and Bodies According to the EEA

As these three EFTA States are not members of the EU, they cannot accept direct decisions from the European Commission or the Court of Justice of the EU. Separate institutions have therefore been set up to mirror these EU institutions. This is known as the two-pillar structure. In this context, joint bodies such as the EEA Council and the EEA Joint Committee have been established to implement the EEA.

The EEA Council, composed of members of the EU Council and Commission and one member of the government of each of the EFTA States, is the highest political body in the EEA.[14] Providing political impetus for the implementation and development of the Agreement is the responsibility of the EEA Council.[15] The EEA Council is responsible for policy discussions and consultations within the framework of developing new EEA provisions.[16] In addition, Art. 129 states of the EEA that an application by a new EU Member State or an EFTA State to become a Member State to Agreement should be addressed to the EEA Council.[17] Although the EEA is a so-called mixed agreement, the EEA Council is only common EEA institution where the EFTA States interact with EU representatives.[18]

Art. 92 of the EEA provides that the EEA Joint Committee shall ensure the effective implementation and operation of the EEA, which is the legal basis for the establishment of this Committee.[19] Representatives of the EFTA countries belong to the EEA Joint Committee.[20] In addition, Art. 98 of the EEA empowers the EEA Joint Committee to adopt decisions on amendments to the Annexes and Protocols to the EEA.[21] One of its most important tasks is also to incorporate new EU legislation into the EEA and to apply the rules of the internal market to the EFTA States. However, it also plays an essential role in safeguarding one of the most important principles of the EEA, namely the principle of homogeneity in the interpretation and application of the Agreement.[22] In addition, the EEA Joint Committee has other responsibilities that are quite unique, in particular the quasi-legislative competence to incorporate new provisions in the Agreement[23] and to maintain a homogeneous interpretation of the Agreement.[24]

The EFTA Surveillance Authority (hereinafter: ESA) has responsibilities similar to those of the European Commission, i.e. the monitoring role. The purpose of this institution is to ensure that the EFTA States comply with their responsibilities provided in the EEA

14 The European Economic Area Agreement, Art. 90.
15 Ibid., Art. 89.
16 Norberg et al., 1993, p. 120.
17 The European Economic Area Agreement, Art. 128.
18 Fenger et al., 2005, p. 89.
19 The European Economic Area Agreement, Art. 92.
20 Ibid., Art. 93.
21 Ibid., Art. 98.
22 Haukeland Fredriksen, 2015, p. 100.
23 The European Economic Area Agreement, Art. 98.
24 Ibid., Art. 105.

and that undertakings in these countries comply with the common competition rules. In addition, the ESA has the power to investigate possible violations of EEA rules. The Commission and the Authority are constantly in contact and co-operate with one another.[25] Moreover, under Art. 5 of the EEA, the EFTA States have established a Surveillance Authority and a Court of Justice, the ESA has the following responsibilities:

> (a) take decisions and other measures in cases provided for in this Agreement and in the EEA;
> (b) formulate recommendations, deliver opinions, and issue notices or guidelines on matters dealt with in the EEA, if that Agreement or the present Agreement expressly so provides or if the EFTA Surveillance Authority considers it necessary;
> (c) carry out cooperation, exchange of information, and consultations with the Commission of the EU as provided for in this Agreement and the EEA;
> (d) carry out the functions which, through the application of Protocol 1 to the EEA, follow from the acts referred to in the Annexes to that Agreement, as specified in Protocol 1 to the present Agreement.[26]

The EFTA Court is the counterpart of the Court of Justice of the EU in matters concerning EEA States. It handles infringement cases brought by the ESA against an EEA State and cases involving disputes between two or more EEA States.[27] Reflecting the number of EFTA States party to the EEA, the EFTA Court consists of three judges.[28]

Although formally independent, the ESA and EFTA Court's competences are defined by the homogeneity principle of the EEA. The EEA regulates that the ESA and the Commission should collaborate, exchange information and discuss with each other to guarantee consistent monitoring across the EEA.[29] As a general rule, Art. 6 EEA provides for the application of the interpretation of substantially identical rules of the European Community Treaty and the EEA referring corresponding jurisprudence of the CJEU.[30] Similarly, the EFTA States decided to give 'due account' to the principles set out in some judgments of the CJEU, including those given after the date of signature of the EEA.[31] Art. 34 of the EEA gives the possibility to the EFTA Court to issue 'advisory opinions on the interpretation of the EEA to courts in EFTA

25 Arnesen et al., 2018, p. 984.

26 EFTA States, Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice, 31 January 1994, Art. 5.

27 The European Economic Area Agreement, Art. 108.

28 Hillion, 2011, p. 502.

29 The European Economic Area Agreement, Art. 109.

30 Brandtner, 1992, p. 322.

31 EFTA States, Art. 3, para. 2.

States requesting them'.[32] Taking this into account, the EFTA Court has shown itself to be 'playing the homogeneity game' and has been instrumental in the introduction of main principles of EU law into the EEA legal order.[33]

2.2. Principle of Homogeneity

Homogeneity, which implies that all economic actors within the EEA are subject to the same rules and compete under the same conditions, is a central principle of the EEA. The EEA will be continuously updated and amended so that EEA/EFTA legislation remains consistent with EU single market legislation maintaining homogeneity.

According to Art. 1(I) and the preamble, the objective of the EEA, represents the creation of a dynamic and homogeneous EEA. The basic idea was to extend the single market to the EFTA countries.[34] This objective was based on two key elements – the rules of the EEA need to be consistent with the provisions of the internal market, and there must be legal mechanisms in order to ensure that these provisions were interpreted in the same way.[35] The most important of these mechanisms are found in Art. 6 of the EEA, which, in essence, require that EEA rules be interpreted according to the jurisprudence of the CJEU.

In accordance with the Art. 6 of the EEA, the most important criterion for a uniform interpretation is that the relevant EEA and now EU rules must be 'identical in substance'.[36] Some authors argue that this concept extends the scope of homogeneous interpretation: 'identical in substance does not mean identical in wording'.[37] It is also true that it is possible to envisage a homogeneous interpretation of provisions which, as these commentators note, are identical in terms of their wording, except for those elements which have not been transposed because they are relevant only to internal Community procedures.[38] However, the notion of 'identical in substance' also means that an identical wording is not a sufficient reason for an uniform interpretation. It is therefore a qualification of the scope of uniform interpretation.

Art. 6 EEA is clearly understood to mean that EEA rules should be constructed in the line with EC provisions, the wording of which has been reproduced in the EEA, and that mere technical or linguistic differences in the wording are not sufficient to bring a provision outside the scope of Art. 6 of the EEA.[39]

Moreover, absolute obligation to interpret and apply EEA provisions in accordance with the rules of the CJEU does not exist, even if a provision falls within the

32 Petter Graver, 2002, p. 73.
33 Bronckers, 2007, p. 605.
34 Case-452/01, *Margarethe Ospelt*, Judgment of 23 September 2003, para. 29.
35 Case-9/97, *Erla María Sveinbjörnsdóttir v. Iceland*, Judgment of 10 December 1998, para. 52.
36 The European Economic Area Agreement, Art. 6.
37 Skouris, 2014, p. 5.
38 Norberg et al., 1993, p. 190.
39 Fenger et al., 2005, p. 68.

scope of Art. 6 EEA. The introductory phrase of Art. 6 EEA and the introductory phrase of recital 15 of the preamble to the EEA make it clear that Art. 6 EEA is without prejudice to the development of future case law and does not affect the independence of the courts concerned.

International treaties must be interpreted not only according to their text, but also according to their purpose and context. Moreover, as the CJEU stated in Opinion 1/91, the fact that provisions of the EEA and corresponding Community provisions have the same wording does not necessarily mean that their interpretation is the same.[40] The CJEU therefore concluded that homogeneity could not be ensured by having identical wording in the Community legislation and in the corresponding provisions of the EEA.[41]

The presumption of a uniform interpretation applies to a large extent to the main part of the EEA, including the rules on free movement of goods, competition and State aid. A uniform interpretation of these provisions has become established case-law, irrespective of whether the objectives and context of these provisions were exactly the same as their counterparts in the EU Treaty. The EFTA Court jurisprudence, to which the CJEU eventually warmed, has superseded the reservations in Opinion 1/91.[42]

National authorities are thus obliged to provide a homogeneous interpretation of EEA law according to Art. 6 of the EEA. Although the wording of this provision is addressed to the EFTA Court, the underlying objective of homogeneity also requires national courts to consider CJEU rulings handed down after the EEA became effective. It is therefore not a question, if national courts must have regard to this principle, but rather how they are to do it.

2.3. Application of the Principle of Homogeneity

The national courts are inevitably the most important guardians of the principle of homogeneity. They can, however, seek opinions from the EFTA Court on the application of EEA law. These opinions are advisory, which means that they are not binding the national courts.[43] However, national courts continue to be bound by the principle of loyal collaboration of Art. 3 of the EEA from the point of view of the EFTA Court.[44] In fact, EEA law tends to be interpreted unilaterally by the CJEU.[45]

The EFTA Court usually has an advantage over national courts to be a guarantor of homogenous interpretation. However, it is not impossible to imagine that the EFTA Court and the CJEU end up ruling against each other. However, it is likely that there will be cases where there is an CJEU judgment which the EFTA Court has not

40 Opinion of the Court of 14 December 1991, Opinion 1/91, para. 14.
41 Ibid., para. 22.
42 Case-452/01, *Margarethe Ospelt.*
43 Case E-18/11, *Irish banks,* Judgment of 28 September 2012, para. 57.
44 Ibid., para. 58.
45 Skouris, 2014, p. 5.

taken into consideration, or where the EFTA Court has taken into account the CJEU judgment but has come to a different conclusion.

The EFTA Court rules on cases concerning the EFTA States and the CJEU does the same with regard to the Member States of the EU. They work together to secure that EEA law gets interpreted in a homogenous manner. This is to be supported by the exchange of information on each other's judgments, as stated in Art. 106 of the EEA.[46] Such a system, although not yet operational, requires that each court takes into account and, where appropriate, relies on the judgments of the other.

In accordance with Art. 105 of the EEA,[47] all judgments of the EU courts and the EFTA Court shall be notified to the EEA Joint Committee. This is to enable EFTA States to monitor the jurisprudence of these courts and to act in such a way as to maintain a uniform interpretation of the EEA. Nevertheless, Art. 105 EEA does not prescribe how to obtain a homogenous interpretation of the EEA. In fact, Art. 105 of the EEA only provides a forum in which the Contracting Parties can discuss the different case law. Moreover, Art. 105(3) of the EEA explicitly foresees the possibility that these efforts fail and provides for the application of the provisions on the settlement of disputes in the event of such failure.[48]

Although on the face of it the principle of homogeneity would seem to require the EFTA States to implement EU law in the EEA collectively and reactively, the above analysis shows that the principle of homogeneity is in fact counterbalanced by the equally significant principle of autonomous decision-making.

While the EEA is based on the fact that the EFTA States should strive for a uniform EEA and facilitates the achievement of this objective by allowing the EFTA States to take part in the EU decision-making process, it expressly provides that the EFTA States may agree to different degrees of homogeneity in the EEA.

Consequently, the principle of homogeneity should not be seen as an absolute principle. Rather, it is a political guideline that sets an objective that can be achieved to varying degrees. It is for the EFTA States to assess, on a case-by-case basis, the degree of homogeneity they consider necessary and sufficient for the good functioning of the EEA.

Provisions of EEA law, when they are identical in substance to corresponding EU law provisions, must be interpreted and applied in line with the rulings of the CJEU. Consequently, the decisions of the CJEU are decisive for national courts and the EFTA Court when interpreting EEA law. This also applies in cases where the EFTA Court has given a contradictory ruling. In order to assess whether the provisions are indeed identical in substance, their wording, context and objectives must be taken into account. Provisions with identical wording are assumed to be interpreted in the same way, though this assumption can be challenged by considering their context and objectives. On the other hand, the principle of homogeneity does not require

46 The European Economic Area Agreement, Art. 106.

47 Ibid., Art. 105.

48 Ibid., Art. 105, para. 3.

EEA law to be interpreted in line with EU rules that do not have a counterpart in the EEA.

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3. Turkey

As regards its importance to the EU, Turkey ranks alongside Russia in the neighbourhood and follows the United States and China in the global arena. The historical ties between the two sides, dating back to the Ottoman period, underpin Turkey's importance to Europe. Turkey has always been an integral part of European history, whether through trade, diplomacy, war, art or cuisine. Over the centuries, their relationship has been one of cooperation and rapprochement, as exemplified by the extensive exchanges between the Ottomans and European powers and city-states in the fifteenth through to the seventeenth centuries, in the fields of economy, culture, art, and society. At the same time, until the 'European balance of power' in the eighteenth century, conflict and competition were rampant, especially in the Ottoman-Habsburg wars. However, there was also an honorary code of conduct between the warring parties in times of war, as a sign of mutual recognition and legitimation.[49] By the middle of the nineteenth century, the Ottoman Empire had been accepted into the concert of Europe[50] and was rapidly becoming a participant in the emerging rudimentary international law.[51] However, Turkey's relationship with the European integration project has been close, contentious, and tortuous from the very beginning.[52] In spite of its intensity and duration, the final outcome of the relationship is still not known.

Turkey entered into an association agreement with the European Community on 12 September 1963, known as the Ankara Treaty,[53] becoming an associate member of the EC. In 1970, the association was further extended through the Additional Protocol,[54] which set the goal of establishing a customs union between Turkey and the EC by 1995. Turkey submitted its application for full membership of the EC on 14

49 Deringil, 2007, p. 710.

50 The Concert of Europe was a general agreement between the great powers of 19th-century Europe to maintain the European balance of power, political boundaries, and spheres of influence. The beginnings of the Concert of Europe, known as the Congress System or the Vienna System after the Congress of Vienna (1814–1815), was dominated by the five great powers of Europe: Austria, France, Prussia, Russia, and the United Kingdom.

51 Hale, 2002, p. 35.

52 LaGro and Jorgensen, 2007, p. 47.

53 Agreement establishing an Association between the European Economic Community and Turkey, Ankara, 12 September 1963, Official Journal of the European Communities, No. L 361/29.

54 Additional Protocol and Financial Protocol, annexed to the Agreement establishing an Association between the European Economic Community and Turkey, 23 November 1970, Brussels, Official Journal of the European Communities, No. L 361/59.

April 1987. However, in 1989, the EC issued an opinion stating that although Turkey was eligible for membership, it was not yet the right time to begin accession negotiations. The EC proposed the implementation of the Association Agreement and the realisation of a customs union as provided for in the Treaty of Ankara of 1963 and the Additional Protocol of 1970, instead of full membership.

At its summit in Luxembourg on 12 December 1997, the European Council decided to begin accession negotiations with all candidate countries except Turkey. It was concluded that while Turkey met the eligibility criteria for membership, its chances of joining the EU in the near future were very limited. The EU-Turkey Association Council affirmed that Turkey will have same standards and criteria as other applicants (Poland, Hungary, the Czech Republic, Slovenia and Estonia) regarding accession process on April 1997. As mentioned, Turkey was not included in the decisions made at the December 1997 Luxembourg summit or in the EU's Agenda 2000 enlargement plans. Despite submitting its application for full membership in 1987, Turkey was excluded from the process due to the EU's concerns over human rights violations, Turkey's military presence in Cyprus, and the ongoing tensions between Turkey and Greece. Then, the European Council offered a Pre-Accession Strategy, which the Turkish government rejected, leading to the relationship between Turkey and the EU being in crisis.

The relationship between Turkey and the EU is more complicated than those with other European countries seeking to join. It is complicated by questions about Turkey's European identity. As this issue can never be addressed directly, the EU's refusal is based on political considerations, namely Turkey's failure to respect the principles of democracy, law and human rights. Obviously, Turkey's political system is an obstacle to EU membership, giving the EU an excuse to reject it. The EU's position is that Turkey cannot join because it does not meet the democratic requirements of membership. Moreover, there is also the opinion that the reason why Turkey cannot be part of the EU is the opposition between European and Turkish identities.[55] Nevertheless, Turkey remains an important partner for the EU, regardless of whether it joins or not, given its economic size, as the sixth largest economy in Europe, and its geographical location.[56]

A turning point occurred in December 1999 in Helsinki, when the European Council officially recognised Turkey's long-awaited candidacy. However, unlike the other countries involved in the enlargement process at the time – such as the Central and Eastern European countries, Cyprus, and Malta – Turkey's candidacy did not lead to the opening of accession negotiations. This decision was due to the fact that Turkey needed to fulfil the Copenhagen political criteria for membership and make progress on issues related to Cyprus and its relations with Greece before negotiations could begin.[57] The Commission was tasked with monitoring Turkey's progress on

55 Muftuler-Bac, 1998, p. 242.
56 Cemal Karakaş, 2013, p. 1060.
57 Oniş, 2000, p. 470.

domestic issues and preparing the Accession Partnership for Turkey, which outlined recommended areas for reform. Additionally, the EU increased and reallocated its financial assistance to Turkey, focusing the aid more directly on supporting reforms within the country.

Turkey's rapid reform progress, particularly since late 2001 – often described as a 'silent revolution' – played a significant role in advancing its EU accession process. This progress influenced the European Council's decision in December 2004 to determine whether and when to open accession negotiations with Turkey. The Justice and Development Party (hereinafter: AKP), which came to power in November 2002, established clear targets and timelines in its reform program. As a result of Turkey's strides in implementing reforms, the European Council concluded in December 2004 that Turkey had 'sufficiently' met the political criteria, paving the way for the opening of accession negotiations in October 2005.[58]

Paradoxically, despite the opening of accession negotiations in 2005, Turkey's EU accession process stalled. The negotiations progressed slowly in the initial years and came to a complete halt between 2010 and 2013. By mid-2014, only 14 of the 35 negotiation chapters had been opened, and just one chapter (on science and research) had been provisionally closed. A series of vetoes by the European Council, France, and the Republic of Cyprus led to the freezing of most of the negotiation chapters and the provisional closure of all others.[59]

Although the accession process was formally launched decades after Turkey's treaty commitment to the European integration project, the process was paused for almost the last two decades.[60] For all candidate countries prior to Turkey, the ultimate goal of the accession process has always been full membership. In the case of Turkey, however, the road to membership has been littered with obstacles that have made reaching the final destination uncertain at best.

3.1. Customs Union Agreement

A Customs Union Agreement (hereinafter: CUA) between Turkey and the EU was signed on 6 March 1995 and entered into force on 1 January 1996, creating a customs free zone between them.[61] The Customs Union serves as evidence that Turkey is capable of meeting the economic conditions outlined in the Copenhagen criteria for EU membership. It demonstrates that the Turkish economy can handle the competitive challenges posed by free trade in goods, as well as the trade, competition, and intellectual property components of the EU.

CUA required Turkey to eliminate all customs duties, quantitative restrictions, charges equivalent to customs duties, and measures similar to quantitative

58 Oniş, 2010, p. 10.
59 Muftuler-Baç, 2017, p. 421.
60 Arisan and Eralp, 2012, p. 57.
61 Togan, 2012, p. 1.

restrictions on trade in industrial goods with the EU starting from 1 January 1996. Additionally, Turkey was obligated to adopt the EC Common Customs Tariff (hereinafter: CCT) on imports from third countries by the same date, along with all preferential agreements with third countries. As a result of these obligations, from 1 January 1996, all industrial products – except for European Coal and Steel Community (hereinafter: ECSC) products – aligned with EC standards could circulate freely between Turkey and the EU. Regarding ECSC products, Turkey signed a Free Trade Agreement (hereinafter: FTA) with the EU in July 1996, and customs duties on ECSC products between the parties were removed starting in 1999.[62]

With regard to Turkish goods' access to the EU, it should be noted that the EU eliminated nominal duties for imported industrial goods from Turkey in September 1971. But then they did make some exceptions. The EC reserved the right to levy customs duties on the import of certain oil products in excess of a fixed quota and to apply a progressive reduction of customs duties on the import of certain textile products. Trade in products within the ECSC province was protected by the EC through the application of non-tariff barriers, particularly anti-dumping measures.

The main effect of a Customs Union is to increase trade flows among Member States, often at the cost of trade with non-Member States. This expansion is typically analysed in terms of trade creation and trade diversion. When trade diversion outweighs trade creation, the customs union can lead to a reduction in overall welfare. In Turkey's case, since the CCT is lower than the tariff that existed before the Customs Union, it allowed Turkey to adopt a more liberal trade regime. As a result, there was less potential for a change of supplier, and the result has been the reversal of the potential for trade diversion. Consumers benefited from lower prices, and tariff revenues collected on imports from non-member countries offset the effect of increased competition from non-member countries on domestic producers.

3.1.1. Customs Reform

CUA obliges Turkey to adopt EU customs provisions concerning: (a) origin of goods, (b) customs value of goods, (c) introduction of goods into the territory of the CU, (d) customs declarations, (e) release for free circulation, (f) suspensive arrangements and customs procedures with economic impact, (g) movement of goods, (h) customs debt, and (i) right of appeal.

CUA Member States must secure that the appropriate implementation and enforcement capacities are in place. This includes links to the relevant EU computerised customs systems. Customs services needed to ensure adequate capacity to implement and enforce specific provisions in related areas of the acquis, such as external trade.

An example of this is Turkey's signing of a loan agreement with the World Bank in 1995 to implement a series of institutional reforms aimed at strengthening public

62 Togan, 2012.

financial management within the government. Additionally, Turkey entered into a technical assistance agreement with the IMF. The agreement provides for international consultants to work with the Turkish Customs Service in Turkey on a long-term basis. The Turkish Customs Modernisation Project was aimed at speeding up the release of goods, efficiently collecting duties and related fees, streamlining the clearance process, and simplifying procedures. At the same time, it sought to enhance customs control and produce timely, reliable statistical data.[63]

As a result, the project focused on revising customs legislation to align with the requirements of the CUA and international customs standards set by organisations like the World Customs Organisation (hereinafter: WCO). It also emphasised the development and implementation of computer systems, as well as the reorganisation of the customs administration to strike a balance between customs control and trade facilitation, in line with other international agreements and conventions to which Turkey was a party.[64]

3.1.2. Competition

For a long time, Turkey lacked specific competition legislation, resulting in the absence of competition policy enforcement. In the 1980s, to foster competition, Turkey removed quantitative restrictions on foreign trade and significantly reduced both nominal and effective protection and subsidies. However, these measures alone were not sufficient to ensure that markets continued to function effectively.

The CUA provides for the adoption by Turkey of the EU competition rules, including measures in the field of state aid, within a period of two years. Turkey had to bring its competition legislation into line with the EC legislation and ensure its effective application. In December 1994, Turkey introduced its competition policy through the 'Law on the Protection of Competition'. The Competition Authority, which operates with administrative and financial autonomy, is tasked with ensuring the creation and development of markets for goods and services within a free and healthy competitive environment, for supervising the implementation of the Competition Law and for carrying out the tasks provided for by the Law.[65]

The EU-Turkey customs union, established in 1995, has been an important tool for Turkey's integration into the EU and world markets and has provided effective instruments for reforming the Turkish economy. Furthermore, it represents Turkey's credible commitment to a liberal foreign trade regime for manufactured goods and its participation in the EU internal market for these goods. As a result, Turkish producers of industrial goods now face import competition and operate within one of the largest free trade areas for industrial goods globally. They are shielded from external competition by tariffs to the same extent as EU producers and are therefore

63 Togan, 2010, p. 12.
64 Oktem, 2004, p. 214.
65 Togan, 2012, p. 11.

required to compete with duty-free imports of manufactured goods from global, pan-European companies.

It can be said that the political will exists in Turkey to achieve economic integration with the EU as it strives to become a full member. As a result, Turkey has adopted the EU's customs regulations, its approach to tariff elimination and harmonisation, competition policy, and trade policy regulations. Additionally, Turkey has opened its markets to EU industrial imports and aligned itself with all of the EU's preferential agreements with third countries. Moreover, public opposition to the integration process in Turkey has been almost non-existent.

For other countries, the prospect of joining the EU is remote, but they might nevertheless want integration with the EU as a means of achieving relatively high but sustainable economic growth. In this instance, the country could try to sign free trade agreements with the EU but only adopt those EU policies that can be described as growth-enhancing.

4. Deep and Comprehensive Free Trade Areas

The Deep and Comprehensive Free Trade Area (hereinafter: DCFTA) between the EU and Georgia, Moldova, and Ukraine has been provisionally in force since 2014. It serves as the economic and trade foundation of the EU's Association Agreements with these countries. The aim of the DCFTA is to strengthen the political relationship and enhance economic cooperation between the EU and its associated countries at a deeper level. To achieve this objective, the DCFTA outlines a broad and gradual alignment with EU legislation in areas related to trade, as well as progressive mutual market opening. With these particular elements, it goes beyond the 'new generation' of Free Trade Agreements (hereinafter: FTAs) and represents 'a unique type of trade agreement'.[66]

At the beginning 2016, only four DCFTAs were finalised, namely with Armenia, Georgia, Moldova, and Ukraine. These have been provisionally applied since 2014 but entered into force in 2016. A major point of contention with Russia, which opposed them, were the DCFTAs with the Eastern Partnership countries. As regards Ukraine, there was an unsuccessful attempt to persuade the country to join the Eurasian Economic Union.[67] As regards Armenia, however, the government's decision to join the EU was the result of Russian pressure, with the result that the DCFTA negotiated in 2013 never entered into force.

66 Koeth, 2014, p. 25.

67 Eurasian Economic Union consists of five member states: Russia, Belarus, Kazakhstan, Kyrgyzstan, and Armenia.

Political, rather than economic, reasons are the main motivation for both sides to sign DCFTAs.[68] These countries have repeatedly underlined their aspirations to become members of the EU.[69] They see DCFTAs not as the final destination, but as the first stage towards becoming a full member, whilst leaving Russian orbit.[70] For the EU, which is unable to offer these countries the prospect of membership, the DCFTA at least offers the partner countries the another possibility of a privileging relationship through a contractual relationship with some substance (e.g. mutual rights and obligations), as opposed to the previous more declaratory agreements, which seem rather inadequate in the present geostrategic context.[71]

Although the Association Agreements or DCFTAs did not provide for EU membership 'the prospect of increasing exports to the EU and access to single market has been a strong incentive for structural reforms in neighbouring economies with EU membership aspirations'.[72] Meanwhile, the implementation of the DCFTA, in addition to providing access to the large EU market, can be expected to induce profound changes in the environment of the beneficiary countries, increasing the competitiveness and efficiency of their economies.[73] As a result, DCFTAs introduced a significant innovation in trade policy towards Eastern neighbours, promoting regulatory alignment and convergence in numerous trade-related areas. This has led to substantial policy changes across many economic sectors in these countries, including Georgia.[74]

Pursuing deeper trade agreements allows for alternative approaches to enhancing market integration, meaning that partner countries do not necessarily need to fully align with the EU's Internal Market to access the EU market for goods and services or for companies to invest and operate within EU countries. DCFTAs stand out from other preferential trade agreements in that they require significant alignment with EU norms and legislation, yet provide partner countries with little or no influence over the rules.[75] Even if partner countries are not candidates for EU accession, it is assumed that the elements of the EU's internal market are suitable for them. For countries without the prospect of EU membership, the key issue is whether DCFTAs help address the specific constraints to growth in each partner country – which will vary from one country to another – and do so in a way that minimises the cost-benefit ratio.[76]

DCFTAs establish binding, specific rules and aim to align policies in the covered areas with those of the EU. One particularly important area for growth addressed by

68 Muravska and Berlin, 2016, p. 25.
69 Fromage, 2024, p. 334.
70 Van der Loo, 2014, p. 15.
71 Koeth, 2014, p. 26.
72 Panagiota Manoli, 2013, p. 63.
73 Adarov and Havlik, 2016, p. 16.
74 Eteria, 2012, p. 165.
75 Hoekman, 2011, p. 96.
76 Messerlin, 2011, p. 19.

DCFTAs is trade and investment in services. Examples of policy commitments in existing DCFTAs with the above countries are as follows: (a) elimination of import duties on agricultural and industrial products; (b) customs and trade facilitation provisions, including content and administration of customs laws and regulations reflecting EU standards; (c) investor national treatment; (d) commitment to the application of EU product standards and norms for food, animal products and industrial goods and the establishment of effective enforcement mechanisms to ensure compliance; (e) requirements for the protection of intellectual property rights and the application of the EU's internal rules in this area; (f) agreement on the progressive adoption of all EU laws and procedures to open public procurement markets to EU competition; and (g) measures for the opening of access to services markets.[77]

All the DCFTAs contain clauses on sectors excluded from liberalisation and have the same provisions on national law, postal and courier services, financial services, telecommunications, and services that will increase transparency. This ensured better access to the EU services market once standards have been harmonised.[78]

From both the EU and partner countries' perspectives, it is crucial to identify forms of international cooperation that provide a clear focus. When EU accession is uncertain, concentrating on enhancing economic governance through the adoption of international standards may be more effective than focusing solely on EU law and practices. Trade agreements can have a significant impact on reduction of policy uncertainty and building credibility for reform, but it is not clear whether a DCFTAs will be more credible than preferential trade agreements based on adoption of international standards and good regulatory practice. Regardless of the form of the preferential trade agreement, it should be kept in mind that the benefits of reform would be better when applied to all trading partners. In this respect, it may be easier to extend to other countries more 'generic' trade agreements and cooperation based on international best practices and standards.[79]

The EU–Turkey Customs Union and the EU's DCFTAs both promote economic integration by removing tariffs on goods and requiring alignment with some EU standards. However, DCFTAs go much further by covering services, public procurement, and broader legal and regulatory reforms. While neither arrangement grants participation in EU decision-making, DCFTA countries have deeper political ties and participate in more EU programs. Overall, both frameworks connect non-EU countries to the EU market, but DCFTAs represent a more comprehensive and politically integrated approach.

77 Hoekman, 2016, pp. 6–7.

78 Boldea and Sigmirean, 2020, p. 312.

79 Dreyer, 2012, p. 90.

4.1. The Deep and Comprehensive Free Trade Area With Georgia

The EU-Georgia DCFTA with its detailed texts and extensive annexes, was an integral part of the Association Agreement, which was signed in June 2014. As already mentioned, the DCFTA was provisionally applied in September 2014 and entered into force in July 2016.[80] Conditionality to ensure regulatory convergence and approximation of legislation in some areas was the EU's approach to starting negotiations with Georgia on a DCFTA. Acknowledging the political significance of strong ties with the EU, Georgia has developed and begun implementing strategies and action plans across all relevant areas (e.g., competition policy). Moreover, in Georgia's case, there was no transition period for trade liberalisation since both parties eliminated import duties on almost all products by 1 September 2014.[81]

The EU-Georgia DCFTA offers Georgia a framework for enhanced trade and economic growth by removing tariffs and quotas and extensively aligning trade-related laws and regulations with those of the EU. This has facilitated Georgia's gradual integration into the EU.

It is important to note that before signing the Association Agreement, Georgia benefited from a preferential trade regime with the EU under the Generalised System of Preferences, a program promoting sustainable development and good governance, which Georgia was granted in 2005. This scheme had 7,200 products and provided Georgian exports with nearly tariff-free access to the EU market. Following the signing of the Association Agreement, there was a transition period from this system to the DCFTA, which lasted until 31 December 2016.[82]

It is important to emphasise that the EU-Georgia agreement is founded on a deep and comprehensive free trade arrangement, along with an extensive program for aligning Georgian legislation with that of the EU.[83] In particular, in a number of economic sectors, Georgia should have achieved regulatory integration and legal approximation. In addition, Georgia should have taken all the necessary measures to ensure that developments in EU law were reflected in its national legislation.[84]

On the basis of some trade analyses, the EU-Georgia DCFTA has not had a significant impact on Georgia's trade performance. Clearly, the benefits of the DCFTA, in particular the increase in Georgian exports to the EU, depended on the degree of alignment with the EU, and Georgia should continue reforms in all trade-related sectors. Therefore, it is a key requirement for boosting exports to the EU, as the benefits of the free trade area are more likely to materialise in the medium term, following further alignment of Georgian legislation.[85]

80 Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, 2014.

81 Emerson and Kovziridze, 2018, p. 36.

82 Eteria, 2020, p. 201.

83 Kawecka-Wyrzykowska, 2015, p. 78.

84 European Commission, 2017, p. 3.

85 Eteria, 2019, p. 7.

The EU-Georgia Association Agreement is seen as the best tool for the promotion of exports, the attraction of foreign direct investment and the promotion of Georgia's economic development. Nevertheless, some trade analyses indicate that, despite certain positive results, the impact of the DCFTA on Georgia's trade performance remains limited. It is clear that the positive results of the DCFTA depend directly on the level of legal approximation and regulatory convergence, which is not an easy process given the rapid approximation of Georgian legislation to that of the EU. However, Georgia must transform its economy through well-designed and sequenced reforms to ensure the timely establishment of an EU-compatible legislative and regulatory framework, which is a crucial condition for the successful implementation of the DCFTA.

4.2. The Deep and Comprehensive Free Trade Area With Moldova

The DCFTA between the Republic of Moldova and the EU, which entered into force on 1 September 2014, has been instrumental in strengthening economic relations between the Republic of Moldova and the EU. Following the successive extensions of the trading arrangements Moldova had with the EU since 2008 (from the Generalised System of Preferences to the Autonomous Trade Preferences), it has reached a new level of economic collaboration: the creation of the DCFTA. The DCFTA involves the reciprocal removal of barriers to bilateral trade.[86] However, trade with the EU needed to be liberalised slowly, so that Moldovan companies can adapt to the new economic situation.[87]

Notably, the DCFTAs with Georgia and Moldavia had a modest impact on the development of trade with the EU, whereas the DCFTA with Ukraine did not affect trade flows with the EU in a statistically significant way. Compared to Georgia, Moldova's DCFTA is less beneficial for the country. Since 2014, Georgia's trade with the EU has increased by approximately 18% as a result of the agreements, which is double the growth seen in Moldova's trade with the EU (a 9% increase). As mentioned earlier, the Georgian DCFTA has had a positive impact on trade creation, while in Moldova, it has led to a negative impact on trade with other countries, creating a trade diversion effect. In Ukraine, however, the DCFTA appears to be an unproductive tool for welfare gains, as indicated by the negative and statistically insignificant coefficients for trade creation and trade diversion variables.[88]

While there are similarities in terms of structure, provisions, and degree of trade liberalisation, there are also differences in terms of degree of market opening and pace of transition in all three DCFTAs. In terms of border trade barriers, the DCFTAs

86 Savga, 2018, p. 59.
87 Luecke et al., 2011, p. 13.
88 Tskhomelidze, 2022, p. 973.

eliminate import and export tariffs and establish tariff-free quotas and entry price regimes for some products.[89]

In terms of differences, the DCFTAs with Moldova and Georgia require both parties to remove all tariffs on goods except for those listed in the Association Agreements, regarding the scope. In the case of Ukraine, the scope of the preferential exclusions is much broader and only specific goods that will benefit from reduced or eliminated tariffs are specified in the agreement. Moreover, since Georgia and Moldova export much less to the EU than Ukraine, it was easier for the EU to negotiate tariff liberalisation provisions with them.[90] The DCFTA between the EU and Georgia introduced asymmetric trade liberalisation without a transitional period. In contrast, Ukraine and Moldova adopted a more gradual, albeit still asymmetric, approach to trade liberalisation. The asymmetry means that the EU removed import tariffs more quickly than the partner countries, immediately after the DCFTAs came into effect for most goods. Moldova and Ukraine, on the other hand, are opting for gradual liberalisation, with transition periods of 3 to 10 years for selected product categories, giving their domestic producers the opportunity to expand exports to the EU before being exposed to greater competition on the domestic market.[91]

As regards public procurement, the provisions in DCFTA with Moldova and Ukraine are generally very similar, with two major differences. The agreement with Moldova contains a clause on minimum rules for public procurement, while the agreement with Ukraine does not. Furthermore, since competition from European Union suppliers could have a negative impact on Ukrainian industry, the provisions for Ukraine excluded the defence sector. Regarding competition, anti-competitive practices such as cartels, abuses of dominant position and mergers aimed at eliminating competition are forbidden. Ukraine and Moldova had to align their competition laws and adopt practices that were consistent with those of the EU.[92]

4.3. The Deep and Comprehensive Free Trade Area with Ukraine

The EU-Ukraine DCFTA is characterised by an impressive level of internal market integration and regulatory approximation sought by Ukraine. In parallel, The EU has financed several assistance programs in Ukraine aimed at supporting DCFTA-related reforms. The ambitious scope of the DCFTA makes the EU-Ukraine 'deep' trade agenda a powerful instrument for facilitating internal reforms in Ukraine, complemented by the EU's sectoral approach to supporting its implementation.[93]

The Association Agreement between the EU and Ukraine is an extremely ambitious international agreement, which provides for in-depth political dialogue

89 Van der Loo, 2017, p. 2.
90 Van der Loo, 2016, pp. 243–244.
91 Cai, 2022, p. 4.
92 Boldea and Sigmirean, 2020, p. 312.
93 Rabinovych, 2022, p. 2.

between the parties, cooperation and converging foreign policies, and 'deep' trade and regulatory convergence. The Association Agreement deals with ambitious political obligations and has 'enhanced the adaptability of the national constitutional order to the European integration project and European common values'.[94]

Creating the preconditions for further development of economic and trade relations between the EU and Ukraine is the first stated objective of the DCFTA; to be done in such a way that they contribute to the gradual integration of Ukraine into the internal market.[95] The DCFTA undeniably offers an ambitious 'integration without membership' framework that lays the foundation for further developing economic and trade relations between the EU and Ukraine. This is supported by the fact that the DCFTA includes provisions to liberalise trade in goods and services between them and progressively grant access to each other's public procurement markets. It also envisions extensive legislative alignment in areas such as non-tariff barriers, competition, public procurement, and trade and sustainable development, allowing businesses in both countries to fully benefit from the DCFTA.[96]

Pursuant to Art. 1(d) of the EU-Ukraine Association Agreement, the DCFTA has two interrelated policy objectives: first, to create the conditions for closer economic and trade relations, facilitating Ukraine's gradual integration into the EU's internal market; and second, to support Ukraine in its efforts to complete the transition to a functioning market economy, including through the progressive alignment of its legislation.[97] A number of features of the EU-Ukraine DCFTA helped to achieve the above objectives.[98] These are primarily detailed substantive standards in the 'deep' areas, such as competition, public procurement, and sustainable development. Second, the DCFTA includes two types of conditionality: common values and market access conditionality. The first, common values conditionality links the benefits of trade liberalisation to Ukraine's commitment to upholding fundamental values. This kind of conditionality can be found in a wide range of EU trade agreements. However, the DCFTA uses the so-called 'market access conditionality' to make the EU's market opening to Ukraine conditional on Ukraine implementing its commitments to approximate legislation. In addition, the implementation of the DCFTA will be ensured through the operation of the monitoring, consultation and dispute settlement mechanism.[99]

It can be said that the EU-Ukraine DCFTA is characterised by moderate effectiveness, with major concerns related to corruption, the rule of law, and oligarchic influence. Trade liberalisation between the EU and Ukraine has resulted in a significant increase in the EU's share of both Ukraine's exports and imports.

94 Petrov, 2018, p. 99.

95 Petrov et al., 2015, p. 13.

96 Olekseyuk and Balistreri, 2018, p. 510.

97 Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part, Official Journal of the European Union, 2014, Art. 1(d).

98 Ibid., Part IV, Chapter 13.

99 Ibid., Arts. 475–477.

However, Ukraine continues to face negative economic externalities due to the abrupt shift from Russian to Western markets. Additionally, challenges in trade include the low level of Ukrainian service exports to the EU and limited investment cooperation between the EU and Ukraine.

5. United Kingdom

The United Kingdom (hereinafter: the UK) was one of the two most efficient and ambitious EU Member States in the fields of foreign and defence policy.[100] Furthermore, within the EU, the UK was one of the 'big three' – together with France and Germany – in terms of population and economy.[101] With almost half of UK exports, the EU is also an attractive destination for UK services. However, the EU is much less important as a source of services for the UK, with only a third of services imports coming from the EU.[102] In addition, the United Kingdom was the fourth largest financial supporter of the EU budget.[103]

Following the results of the June 2016 referendum, significant attention was focused on the future economic relations between the UK and the EU, as well as the prospects for the UK's trade relations with third countries after leaving the EU.[104] None of the proposed models for future trade relations between the UK and the EU (such as EEA membership or a bilateral agreement) included a defined foreign and security policy relationship.[105] Furthermore, Art. 50 of the Treaty on the European Union, which outlines the process for a Member State's withdrawal from the EU, does not provide a clear framework for defining the future foreign, security, and defence policy relations between the EU and the departing country.[106]

The UK officially left the European Union at 11pm on 31 December 2020, following a series of negotiations with the EU, known as Brexit. This has been seen as part of a wider chain of events that has tarnished the image of the EU abroad for over ten years.[107] For the UK, Brexit signifies a shift from being an EU member to becoming an independent country, engaging with other nations globally.[108]

100 Tim and Williams, 2016, p. 548.
101 Whitman, 2016, p. 3.
102 Mulabdic et al., 2017, p. 9.
103 Martill and Sus, 2018, p. 848.
104 Jia, 2022, p. 40.
105 Lehmann and Zetzsche, 2016, p. 2.
106 The Treaty on the European Union, 26 October 2012, Official Journal of the European Union, C 326/13, Art. 50.
107 Chaban et al., 2020, pp. 3–4.
108 Fan and Liu, 2017, p. 116.

For the UK, this means leaving the EU's single market and customs union, with EU law no longer applying to the UK.[109]

Ursula von der Leyen, President of the European Commission, stated:

> It was worth fighting for this deal because we now have a fair and balanced agreement with the UK, which will protect our European interests, ensure fair competition, and provide much needed predictability for our fishing communities. Finally, we can leave Brexit behind us and look to the future. Europe is now moving on.[110]

Broadly speaking, there are three main reasons for Brexit. The Brexit referendum result was surprising, but also understandable. The UK has consistently upheld a sense of British exceptionalism, viewing itself not as part of the EU, but as an independent country in relation to it.[111] Membership in the EU brought numerous benefits to the UK, including free trade within the EU. However, it also led to certain challenges and pressures for the country.

As a result of the EU's labour mobility policy, a significant number of EU citizens have moved to the UK for work. For these EU citizens, Britain has to cover social welfare. There is no doubt that this fact has increased the cost to the UK. In last years, people in the UK have become dissatisfied with the EU's policy on labour mobility due to high unemployment and a wide gap between rich and poor. Moreover, the EU's handling of economic and refugee problems is not popular. As a result, people in EU countries were also dissatisfied with the way the EU dealt with these issues.[112]

Secondly, the establishment of the EU does not imply that the concept of European citizenship is embraced by all Member States, particularly in the UK. The British generally have a low sense of European citizenship, influenced by the unique geography of Britain as an island and its distinct cultural and imperial history, which differs significantly from that of continental Europe. This is why people in the UK generally expected to recover their sovereignty and recreate the glory of the empire.[113] Low-income groups often do not have an opportunity to be employed in other EU country or to be engaged in cross-border trade because they do not have passports and live in the UK perennially. This implies that they have not benefited much from being part of the EU. However, they generally support Brexit because people from EU countries have taken away the few job opportunities they have.[114]

Third, from a political standpoint, it was Cameron, the Conservative party's leader, who first suggested Brexit. As part of his campaign for votes, Cameron promised an immediate Brexit referendum if elected. However, he was not in favour

109 Walker, 2021, p. 84.
110 Writer, 2020.
111 Gifford, 2010, p. 323.
112 Ling, 2016, p. 131.
113 Jie, 2016, p. 77.
114 Jingkun, 2019, p. 81.

of Britain leaving the EU.[115] Instead, he was hoping that the result of the Brexit referendum would help to get a better position in the EU, meaning greater benefits. Indeed, his actions coincidentally gave a voice to those in Britain dissatisfied with the EU. As a consequence, Britain eventually left the EU and began a series of prolonged negotiations with the EU.[116]

Following Brexit, the UK no longer had the status of a Member State of the EU. Nevertheless, it has acquired more independence and freedom by no longer being tied to the EU at the political, diplomatic, economic, and trade levels. The UK then seized the opportunity to focus more on countries outside the EU, while maintaining, as much as possible, various forms of cooperation and exchange with the EU.[117] The UK considered that greater economic and political interaction with emerging economies can help its economy prosper. That is why, after Brexit, the UK pursued a new kind of foreign policy. Britain sought to reclaim its sovereignty and present itself as a more confident, globalised, and outward-looking nation on the world stage, free from the intervention of the EU.[118]

As a member of the EU, the UK expected to gain from the EU's free trade market and reciprocal preferential policies.[119] But it also feared that EU integration would undermine British national identity and British economic and diplomatic independence.[120] The UK has therefore been a problem in the EU, with many special exceptions in EU affairs. For example, the UK did not participate in the Schengen cooperation and still controls citizens and goods entering the UK from Schengen countries. It did not want to join the euro area and also rejected the 1989 Charter of Fundamental Social Rights of Workers in the EC.[121]

5.1. Consequences of Brexit

The EU-UK Trade and Cooperation Agreement (hereinafter: the TCA) was signed on 30 December 2020 and entered into force on 1 May 2021.[122] TCA covers preferential arrangements in different areas, such as trade in goods and services, intellectual property, public procurement, investment, data protection, etc. It is supported by provisions to ensure equal conditions of competition and the observance of fundamental rights. The TCA provides a solid basis for maintaining long-standing friendship and

115 Zhongping, 2016, p. 62.
116 Shuzhen and Runnan, 2019, p. 125.
117 Biao, 2018, pp. 63–64.
118 Huaipu, 2020, p. 59.
119 Xingmin, 2018, p. 38.
120 Yan and Jian, 2016, p. 168.
121 Zhanpeng, 2016, p. 40.
122 Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, signed on 30 December, Official Journal of the European Union, L 149/10.

cooperation. It represents a new EU cooperation form, which could also serve as a potential model for relations with non-member states such as Turkey.[123]

The EU-UK TCA comprises an FTA with collaboration on the economy, society, the environment and fisheries, partnership on the security of citizens, and comprehensive governance framework. Some areas are not included in the TCA because the UK did not wish to negotiate, such as external security and defence cooperation or foreign policy. As a result, there is no mechanism for developing and coordinating responses to foreign policy issues, such as the imposition of sanctions on third countries. However, there are some sectors that are unilateral EU decisions and are not negotiable, like financial.

As the TCA consists of three pillars, the EU–UK Free Trade Agreement is described first, seen as a new economic and social partnership between the EU and the UK. It establishes zero tariffs and zero quotas for all products that satisfy the relevant rules of origin. Moreover, a new joint management framework for fish stocks in EU and UK waters has been established. It allows for the growth of British fishing, while safeguarding the activity and existence of European fishing communities and conserving natural resources. In the transport sector, the agreement ensures continued and sustainable connectivity in air, road, rail, and maritime transport, although market access does not fully match the level provided by the single market. It includes provisions to ensure that passenger rights, workers' rights, and transport safety are upheld, while ensuring that competition between EU and UK operators occurs on a level playing field. On energy, the agreement guarantees open and fair competition, including on offshore safety standards and renewable energy production, and provides a new model for trade and interconnectivity. Finally, the agreement allows the UK to continue to participate in some key EU programs from 2021 to 2027 (subject to the UK contributing financially to the EU budget), such as Horizon Europe.

Secondly, the TCA provides an innovative framework on criminal and judicial cooperation. It recognises that, particularly in the fight against and prosecution of cross-border crime and terrorism, there is a need for close cooperation between national police and judicial authorities. This created new operational possibilities, recognising that as a non-Schengen member of the EU, the UK will not have the same facilities as previously.

Third, to provide maximum legal certainty for businesses, consumers, and citizens, a dedicated chapter on governance outlines how the TCA will be monitored. A Joint Partnership Council has been set up to ensure the correct interpretation of the Convention and to discuss any problems that may arise. The rights of businesses, consumers and individuals should be respected through binding enforcement and dispute settlement mechanisms. This ensures that companies in the EU and the UK compete on a level playing field, with neither party able to use its regulatory autonomy to grant unfair subsidies or distort competition. In case of a breach of the

123 Whitman, 2016, p. 49.

agreement, both parties may implement cross-sectoral retaliatory measures. This cross-cutting retaliatory measure applies to all areas of the Economic Partnership.

The Withdrawal Agreement – and in particular, the Protocol on Ireland and Northern Ireland – was implemented on 1 January 2021 thanks to intensive discussions between the EU and the UK in the Joint Committee and the various technical committees. The Withdrawal Agreement remains valid and protects, inter alia, the rights of EU and UK citizens, the financial interests of the EU and, most importantly, peace and stability on the island of Ireland. The EU is committed to ensuring that this Agreement is implemented in full and in a timely manner.[124]

Action was needed at both EU and the UK level to implement the Withdrawal Agreement. Agreements are only useful if they are applied effectively.[125] Implementing the Withdrawal Agreement involves the adoption of legal acts by the EU, its Member States, and the UK, as well as implementing by adopting policies and measures related to the withdrawal of the UK. It also involves the responsibility for monitoring implementation by both parties and ensuring compliance. From 1 January 2021, a number of areas were particularly work intensive, in particular: (a) the continuation of the work of the Joint Committee for the monitoring of the implementation of the withdrawal agreement, including representatives from the EU and the UK; (b) implementation of the Ireland/Northern Ireland Protocol, which entails unprecedented arrangements in some areas, notably customs, veterinary, and phytosanitary measures; (c) implementation of the citizens' rights provisions, which will also be subject to monitoring by the European Commission; and (d) implementation of the financial settlement, ensuring that the UK and the EU meet all financial commitments made while the UK has been in the EU.[126]

6. Conclusion

Economic integration in the EU remains the deepest and most efficient with rules governing almost all relevant economic areas. There have been alternatives in the field of free trade through the history. However, none of these forms have reached the level of integration as the one in the EU. EFTA states are included in its internal market, with the EEA and its homogeneity mechanism.

There are states focused on the EU membership, which are reforming their legislation in order to achieve this goal. In that process, they have been involved in certain free trade arrangements with the EU, showing that economic integration is needed. The UK has chosen a reverse process, leaving the EU, apparently deciding

124 Fabbrini, 2020, pp. 12–14.
125 Peers, 2020, pp. 4–5.
126 Hayward, 2021, p. 205.

that its future will be more perspective outside this organisation. However, it signed an FTA with the EU showing that certain economic arrangements with it are inevitable. As we saw, the EU engages in different forms of cooperation with non-member countries, each balancing market access with political autonomy in distinct ways. The EEA provides full access to the EU single market in exchange for adopting large parts of EU law, but EEA countries have no voting rights in EU institutions, creating a democratic deficit that undermines equality. In the EU–Turkey Customs Union, Turkey aligns with EU trade rules and external tariffs for industrial goods but lacks any say in EU trade policy, making the relationship highly asymmetric. The DCFTAs with countries like Ukraine and Moldova offer deep trade and regulatory integration alongside political cooperation, yet the heavy reform obligations without participation in EU decision-making reflect a power imbalance. In contrast, the EU–UK TCA is based on sovereign equality, avoiding institutional subordination, but at the cost of reduced market access – illustrating how equality and integration are often in tension across these models.

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