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BREXIT: ANALYSING THE NEGOTIATION STANCES OF BRITAIN AND THE EUROPEAN UNION

Abstract

The paper attempts to analyse the prospects of the post-Brexit trade negotiation process. The key factors influencing the negotiation strategies of both the parties, namely the European Union (EU) and the United Kingdom (UK) are discussed in the paper. It also compares the negotiation stances of both the parties and tries to recommend the best possible options for them. The article mainly highlights that both parties' initial interest-based positions in negotiation could lead to a 'no deal' situation that would not be favourable for either the EU or the UK. The paper argues that giving up the positional bargaining and considering multiple phase negotiations on political, socio-economic and trade issues would link mutual interests. This approach would lead both the EU and the UK to go for a meaningful deal that would minimise the negative effects of Brexit.

1. Introduction

In a referendum, held on 23 June 2016, the majority of British people voted in favour of Brexit which refers to Britain's exit from the European Union (EU). In the aftermath of this poll, on 29 March 2017, in Brussels,¹ permanent representative of Britain to the EU, Tim Barrow, presented a letter to Donald Tusk, President of the EU Council. Filed as Article 50 of the EU's Lisbon Treaty,² this letter formally stated the United Kingdom's (UK) intention to leave the EU.

A nine-month long preparation was required for the Brexit process and both parties, the EU and the UK, will have two years to settle the pending issues and withdrawal terms before Brexit comes into being by the late-March of 2019.³

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¹"Brexit: Britain Files Article 50 Letter to Formally Leave European Union", *Australian Broadcasting Corporation (ABC)*, 29 March 2017, available at <http://www.abc.net.au/news/2017-03-29/britain-files-article-50-letter-to-formally-begin-brexit/8398998>, accessed on 30 March 2017.

² Article 50, a component of Lisbon Treaty, preserves the right of any EU member to break away from this organisation.

³ R. Ruparel, "The Mechanics of Leaving the EU – Explaining Article 50", *Open Europe*, 22 February 2015, available at <http://openeurope.org.uk/today/blog/the-mechanics-of-leaving-the-eu-explaining-article-50/>, accessed on 30 March 2017.

The two-year time period provides a breathing space for both the parties to initiate negotiations on these issues. However, finalising Brexit would be a complex affair due to four reasons. First, the process would require scrutinising many treaties and agreements on different subjects involving Britain. Second, Brexit would be the first of its kind for the EU or for that matter for any regional arrangements. Third, the process needs some intertwined issues to be resolved either jointly or separately by the two parties. For example, how would the UK laws be separated from the EU legislation or how would the new trade terms in the post-Brexit era govern trade between the UK and the EU. Furthermore, trade deals with the EU, following Brexit, are likely to be a difficult part of the negotiation as separate approval from different EU nations will be required.⁴

Against this backdrop, the purpose of the paper is to analyse the post-Brexit negotiation process, the key factors and their roles in determining the negotiation strategies of both parties. This paper also presents comparative scenarios of both parties' negotiation stances, and recommends the best possible options for them. The paper is organised in the following way. First, it provides a review of brief history of the EU. Then, the next couple of sections discuss negotiation interests of both the EU and the UK, respectively. In this process, it identifies key factors underlying the post-Brexit trade negotiation, and how these factors could affect the negotiation strategies for both the parties. The paper then presents a comparative analysis of the different negotiation outcomes for the EU and the UK resulting from these different strategies. The paper concludes by recommending the best possible strategies for both the parties.

2. A Brief History of the European Union

In 1946, Winston Churchill, the former Prime Minister of the UK, first proposed the idea of a unified Europe.⁵ However, it was the Schuman Declaration on 09 May 1950 that paved the way towards an integrated Europe.⁶ Based on the idea of Franco-German reconciliation treaty, the declaration resulted in an agreement between Germany and France on control of coal and steel production.⁷ A series of events led to the creation of the EU which in course of time became a successful regional bloc. Although the UK's accession to the European integration arrangement was not smooth, it was later able to join the EU as one of its important members.

⁴ See, K. Kalamur, "Brexit: So What Now? A Frequently Asked Questions", *The Atlantic*, 29 March 2017, available at <https://www.theatlantic.com/news/archive/2017/03/brexit-faq/521175/>, accessed on 09 April 2017.

⁵ "Peace through economics: A short history of the EU", *The Hindu*, 23 June 2016, (online version), available at www.thehindu.com/news/international/history-of-eu/article14399228.ece, accessed on 30 March 2017.

⁶ See, "Robert Schuman: The architect of the European integration project", *European Commission*, available at https://europa.eu/european-union/sites/europaeu/files/robert_schuman_en.pdf, accessed on 30 March 2017.

⁷ "Peace through economics: A short history of the EU", *op. cit.*

Britain's recent decision to leave the EU is, however expected to bring about many changes in the economic and political arena in Europe. The UK's departure has been dictated by its economic concerns, which, ironically, influenced it to become a member of the EU.⁸ Keeping it in context, the current review of historical background will identify the extent to which economic and trade issues shape and drive the regional economic integration process within the EU. It begins by examining the literature on the implications of trade, with a focus on issues of particular relevance to the EU and the UK. In the next part, the review assesses the UK's economic gain from the EU, and the factors leading the country to leave this European bloc. It then examines the costs and benefits of leaving the EU and how these pros and cons could shape Britain's negotiating options and strategies.

2.1 *The Journey of European Integration through the Years*

The European Communities (EC) established its common market in 1958 which subsequently lifted tariff protection on trade amongst the EC members and institutionalised the free movement of labour and capital.⁹ This common market under the Common Agricultural Policy (CAP) provided substantial agricultural subsidies, thereby protecting the EC's agricultural sector from external competition.¹⁰

To open up trade in industrial products among some West European countries, the EC ratified the European Free Trade Area (EFTA), a free trade area (FTA), in 1968.¹¹ The EFTA members entered into bilateral FTA agreement with the EC six years later in 1974.¹² In 1986, the Single Market Act of the EC pledged to remove all kinds of obstacles to ensure free movement of commodities, services, labour and capital by 1992.¹³ Known as EC92, this programme paved the way to a more integrated European product, service and financial market.¹⁴ The EFTA nations embraced the EC92 through the 1992 European Economic Area (EEA) agreement.¹⁵ The EU stepped towards deeper integration in 2002 with monetary union came into force.¹⁶ Currently, the EU has been regarded as an example of a successful regional economic bloc.

⁸ N. Campos and F. Coricelli, "Why did Britain Join the EU? A New Insight from Economic History", *VOX CEPR's Policy Portal*, available at www.voxeu.org/article/britain-s-eu-membership-new-insight-economic-history, accessed on 03 April 2017.

⁹ R. E. Baldwin and A. J. Venables, "Regional Economic Integration", available at http://graduateinstitute.ch/files/live/sites/iheid/files/sites/ctei/shared/CTEI/Baldwin/Publications/Chapters/Trade%20Theory/Baldwin_Venables_Handbook.pdf, accessed on 05 April 2017.

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² Jacques Pelkmans and Philipp Böhler, "The EEA Review and Liechtenstein's Integration Strategy", Centre for European Policy Studies (CEPS) Brussels, available at https://www.ceps.eu/system/files/EEA%20Review_Liechtenstein%20Final.pdf, accessed on 05 April 2017.

¹³ *Ibid.*

¹⁴ R. E. Baldwin and A. J. Venables, *op. cit.*

¹⁵ Jacques Pelkmans and Philipp Böhler, *op. cit.*

¹⁶ *Ibid.*

A large number of theoretical and empirical studies examine the question of how regional integration under the EU affects the member countries. A body of literature demonstrates that there was a resurgence of regionalism after the World War II, and the EU is one of the most successful among them.¹⁷ Majority of the literature identify that the EU by and large directly affects a large share of the world trade due to its connectivity with other regions, and there is a likelihood that this share will continue to surge. For instance, Europe and North America, jointly account for about two-thirds of global trade, have liberalised their regional trade in a greater degree than they have opened up trade with other nations of the world. As a result, in these two areas alone 40 per cent of the world trade is now taking place under the umbrella of regional integration arrangements (RIAs). Some other studies on RIAs have also argued for this kind of arrangements' proliferation as they tend to generate welfare gain for the member countries.¹⁸ Particularly, involvement with the EU yielded positive impacts on trade, welfare and overall economic growth.¹⁹

2.2 Britain and the EU

In 1957, with the signing of the Rome Treaty, the six European countries started initiation of greater integration among the European nations and in the process they established the EC in 1967.²⁰ At the early years of the EC, the general sentiment in Britain was against joining this bloc because of the prevailing perception that a deeper integration with Europe will cost British sovereignty.²¹ The tide changed in 1961 with growing economic stagnation in the UK. The then British Prime Minister Harold Macmillan proposed the idea to join the EC.²² However, in 1963, the then French President Charles de Gaulle vetoed the British membership as he doubted Britain's commitment and sincerity in its involvement with the EC.²³ As an alternative, Britain tried only to join as an FTA member of the EC. Later, the UK tried to form a commonwealth trade bloc, but both the initiatives did not materialise.²⁴ In 1969, De Gaulle's resignation from the office paved the way for Britain to achieve the membership of the EC. At that time, Britain's domestic sentiment also changed in favour of the EC membership because it was experiencing a rapidly declining GDP.²⁵ In 1973, under the leadership of Prime Minister Edward Heath, Britain became a member of the EC.²⁶

¹⁷ P. Giordano and R. Devlin, "Regional Integration", in José Antonio Ocampo and Jaime Ros (ed.), *The Oxford Handbook of Latin American Economics*, 2012, available at www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199571048.001.0001/oxfordhb-9780199571048-e-14, accessed on 07 June 2017.

¹⁸ P. Giordano and R. Devlin, "Regional Integration", *op. cit.*

¹⁹ "Long Term Economic Implications of Brexit", A Report to Scottish Parliament, Glasgow: University of Strathclyde, Business School, 2016.

²⁰ "Robert Schuman: The architect of the European integration project", *op. cit.*

²¹ N. Campos and F. Coricelli, *op. cit.*

²² *Ibid.*

²³ *Ibid.*

²⁴ Jacques Pelkmans and Philipp Böhler, "The EEA Review and Liechtenstein's Integration Strategy", *op. cit.*

²⁵ N. Campos and F. Coricelli, *op. cit.*

²⁶ *Ibid.*

The majority of available academic estimates show that Britain's membership in the EU has yielded a net economic dividend to the UK.²⁷ Studies suggested that the economic benefit the UK gained over the years from the EU is equivalent to roughly 4 to 5 per cent of its GDP. However, most of the analysis did not capture important angles, such as the effect of the EU single market on productivity and competitiveness.²⁸ It consequently raised question over the findings related to the EU-generated benefits. Particularly, studies have suggested that the factors, which are ignored, have positive impacts on benefit.²⁹

On the other hand, studies have shown that Brexit would generate more loss for the British economy compared to the EU.³⁰ In one study, the authors estimated the economic effects of Brexit on the living standards of the British people. Deploying a general equilibrium trade model, they estimated the potential welfare change caused by Brexit.³¹ Their study revealed a net welfare loss for the UK ranging from 1.13 per cent to 3.09 per cent.³² Taking into account the dynamic impacts, this loss might rise by two-folds.³³

This background would help understand the role that economic factors can play in formulating the negotiation stances of the both parties at Brexit. From the review, it is observed that there exist knowledge gaps in several interesting aspects of RIAs. First, previous works focus on how RIAs benefitted the member nations and factors leading to join such arrangements. Hence, there is a dearth of studies dealing with disintegration process or disintegration negotiation strategies. Second, studies on Brexit have mainly thrown light on economic effects and these works have been developed on the basis of one premise that the UK in post-Brexit era would not play by the existing trade rules of the EU. However, negotiations might result in different option, a middle ground, which would benefit both the UK and the EU.

3. The EU's Negotiation Interests in Brexit

The UK's exit from the EU single market would likely to bring about structural and administrative changes which in turn might affect the functionality of this

²⁷ See, for example, P. Boulanger and G. Philippidis, "The End of a Romance? A Note on the Quantitative Impacts of a 'Brexit' from the EU", *Journal of Agricultural Economics*, Vol. 66, No. 3, 2015, pp. 832-842; S. Dhingra, G. Ottaviano, T. Sampson and J. V. Reenen, "The Consequences of Brexit for UK Trade and Living Standards", *Centre for Economic Performance*, London School of Economics (LSE), 2016; and "Long Term Economic Implications of Brexit", *op. cit.*

²⁸ S. Dhingra et al., *op. cit.*

²⁹ *Ibid.*

³⁰ See, L. Martina and E. Morgenroth, "The Product and Sector Level Impact of a Hard Brexit across the EU", The Economic and Social Research Institute (ESRI), WP No. 550, 2016; and "Long Term Economic Implications of Brexit", *op. cit.*

³¹ S. Dhingra et al., *op. cit.*

³² *Ibid.*

³³ *Ibid.*

regional bloc's integrated system. Besides, annual output of the EU would be affected adversely. Several studies have reported a reduction in the EU's GDP by 2.5 per cent to 6 per cent.³⁴ This rather disappointing scenario has created a sense of uncertainty which already strained investment decisions and might dampen the overall business environment in the EU.³⁵

Against such backdrop, the main interest of the EU in the coming Brexit negotiation is to ensure stability and integrity of its single market that functions on the basis of free movement of goods, services, capital and labour. Besides, it would be of best interest for the EU to reduce uncertainty *vis-à-vis* European value chain and intra-EU trade flow.³⁶ These points have been highlighted by the EU Council President Donald Tusk in his proposal of the EU's priorities for the upcoming negotiations.³⁷ The priorities also include the protection of rights of the EU citizens in Britain. The other priorities are legal issues for the EU commerce in the UK, addressing any potential border rift between two Irelands, and retaining Britain's financial commitments to the EU.

In this context, the main goal would be to protect relevant socio-economic and political interests. The EU needs to protect the rights of more than 3 million EU migrants currently residing in the UK. This migrant affair poses several concerns for Brussels.³⁸ For instance, failure of ensuring migrants' proper status within the UK in the post-Brexit era would result in a massive influx of population within the EU, which could in turn strain the EU's social welfare system. Apart from that, a meaningful understanding with the UK is essential for broader security and stability of Europe. Specifically, issues relating to Northern Ireland would be critical in future EU-UK relations.³⁹ For Northern Ireland, which have chosen to remain in the EU, this regional bloc needs to formulate a functional framework with the UK to preserve the interests of the former nation. This relationship has also extended implication in the post-Brexit regime. The unsettling outcome of these political issues may instigate other territorial disputes in the region, such as the question of Gibraltar between Spain and the UK.⁴⁰

In addition, the understanding of economic interest underlining the negotiation process is crucial for both parties' trade off within the Brexit process. Before the UK joined the EC in 1973, its trade was roughly 33 per cent with that region.⁴¹ While

³⁴ *Ibid.*

³⁵ "Assessing the Impact of Brexit: Political Uncertainty vs Market Efficiency", *Rich*, July 2016, available at www.rich.co.ke/rcfrbs/docs/Brexit%20paper%20-%20HW%20reading.pdf, accessed on 30 March 2017.

³⁶ See, A. D. Green, "Brexit by Timetable: The Evolution of the EU's Position", *Financial Times*, April 2017, available at www.ft.com/content/e8f67ffb-0092-3833-a792-bd00e049b454, accessed on 30 April 2017; and S. Dhingra *et al.*, *op. cit.*

³⁷ A. D. Green, *Ibid.*

³⁸ D. Frum, "Why Britain Left", *The Atlantic*, available at www.theatlantic.com/international/archive/2016/06/brexit-eu/488597/, accessed on 02 April 2017.

³⁹ A. D. Green, *op. cit.*

⁴⁰ "Assessing the Impact of Brexit: Political Uncertainty vs. Market Efficiency", *op. cit.*

⁴¹ Chris Giles, "What has the EU done for the UK?", *Financial Times*, March 2017, available at <https://www.ft.com/content/202a60c0-cfd8-11e5-831d-09f7778e7377>, accessed on 30 April 2017.

27 other EU nations, in 2014, became market for 45 per cent of the UK exports and a source of 53 per cent of the UK imports.⁴² On the other hand, the EU exports were 13 per cent of the UK's GDP.⁴³ Currently, many EU members are enjoying surpluses in merchandise trade with the UK.⁴⁴ Thus, from the trade perspective, several member countries have expectations to the EU that it will defend their current trade interests through negotiation process. In this regard, it is crucial for this regional bloc to secure the current level of surpluses in merchandise trade.

Besides, sector-wise interests are also important in Brexit trade negotiations. In this regard, the EU has specific interest in retaining its domestic producers' market share in sensitive sectors, such as automobile manufacturing and servicing, following Brexit transition. Specifically, in the post-Brexit period, the EU has the potential to retain substantial market share of service sector, which would enable the EU to further its competitiveness in global service export, and would go a long way in creating a good number of white-collar jobs.⁴⁵

4. Britain's Negotiation Interests in Brexit

Brexit, the outcome of the UK's 2016 referendum, reflects Euroscepticism — the desire to curb the control of the EU. However, still a large number of people, 34 per cent of the UK voters participated in the referendum, opined for retaining the EU membership.⁴⁶ Keeping this mixed opinion in context, a consolidation of Britain's national interest is called for to fix the negotiation interest of the nation in the negotiation phase.

The influx of migrants to Britain is one of the factors that cause growing Euroscepticism in the UK. The UK population, between 1990 and 2015, increased by 8 million, despite the nation has a low native birth rate that is below the replacement level.⁴⁷ In 2015 alone, 630,000 foreign nationals immigrated to the UK.⁴⁸ This inflow of migration has been driven by twin factors: British association with the EU and the nation's successful economic policy. Since 2010, Britain has generated more jobs than the rest of the EU nations combined.⁴⁹ In this context, supporters of Brexit were able to mobilise people under the perception that the natives are not benefitted by

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ A. Petroff and I. Kottasova, "Brexit Triggered: 5 Huge Obstacles to an Amicable Divorce", *CNN Money*, 29 March 2017, available at www.money.cnn.com/2017/03/29/news/economy/brexit-article-50-uk-eu-deal-obstacles/, accessed on 16 April 2017.

⁴⁵ White collar jobs refer to high paid work.

⁴⁶ "EU Referendum Result", *The Electoral Commission*, available at www.electoralcommission.org.uk/find-information-by-subject/elections-and-referendums/past-elections-and-referendums/eu-referendum/electorate-and-count-information, accessed on 30 March 2017.

⁴⁷ D. Frum, *op. cit.*

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

British population growth. They pointed out that migration makes education, health care and housing more inaccessible to the native, especially with the inflow of rich migrants.⁵⁰ As this anti-migration rhetoric was crucial in the referendum outcome, the ruling party in the UK, who also controls the chief negotiating body, has substantial interests in formulating a tight immigration policy in the post-Brexit regime.

Over emphasising the migration policy could, however, be detrimental to other national interests of the UK which may create obstacle in establishing credible structures for future UK-EU regulatory cooperation. If the negotiation fails to develop a cohesive regulatory framework, it would incur heavy economic loss for the UK.⁵¹ For instance, the absence of a proper regulatory framework could isolate the UK's business concerns and stimulate the EU to opt for post-Brexit regulations and standards favouring EU companies. The EU, then consequently in the post-Brexit period, could well turn out to be an important and attractive centre for global investors, while the UK might be lagging behind in this regard.⁵²

Trade and finance are the two other issues of interest in the negotiation process for the UK. In 2016, other European nations were destination of 44 per cent of total British exports of goods and services. However, the elimination of tariff-free status following Brexit could threaten this British export market in the EU.⁵³ The UK also has some specific interests in some sectors. For example, automobile sector could be a case in point. Currently, British car industry imports roughly 60 per cent spare parts from the EU, and this region also accounts for 56 per cent of the British automobile export to the EU.⁵⁴ Without a favourable agreement with the EU after Brexit, the UK's auto industry would lose a significant degree of competitiveness in this sector, and thus, might incur potential loss of Foreign Direct Investment (FDI) in the long run.

Similarly, in the service sector, the UK has substantial interests. The financial and related service sector contributes 12 per cent to the UK's GDP.⁵⁵ Currently, it runs surpluses in service trade with the EU. The UK also controls 24 per cent of the current EU service sector, which includes 26 per cent of total EU banking; 22 per cent of EU insurance; and 41 per cent of EU asset management.⁵⁶ Besides, London is a prime centre for trade in interest rate derivatives denominated by Euro.⁵⁷ Thus, Brexit

⁵⁰ *Ibid.*

⁵¹ "European Union: Preparing for the UK's Brexit Negotiation", *The World Today*, Chatham House: The Royal Institute of International Affairs, available at www.chathamhouse.org/publications/twt/preparing-uks-brexit-negotiation, accessed on 06 April 2017.

⁵² "European Union: Preparing for the UK's Brexit Negotiation", *op. cit.*

⁵³ D. Pittis, "Britain Counts the Cost of Brexit as Negotiations with Europe Begin", *CBC News*, 18 June 2017, available at www.cbc.ca/news/business/brexit-eu-negotiations-cost-1.4163846, accessed on 30 March 2017.

⁵⁴ A. Petroff and I. Kottasova, *op. cit.*

⁵⁵ *Ibid.*

⁵⁶ D. Mabbett, "Waiting for the New Era of Trade Negotiations to Begin", *The Political Quarterly*, Vol. 87, No. 4, 2016, pp. 473-475.

⁵⁷ A. Petroff and I. Kottasova, *op. cit.*

without any agreement on trade relation would lead to increase in trade cost, both in terms of imposing tariff and non-tariff barriers.⁵⁸ Specifically, non-tariff barriers would include a wide range of measures that raise the costs of doing trade. Besides, alteration of current trade relations would also hurt welfare of society by raising prices for traded goods and reducing access to high quality goods.⁵⁹ It will also shrink the scope of future export options and job creation across the EU's integrated economy. Overall, the UK has an interest in maintaining the pre-Brexit trade status with the EU, while at the same time it should address issues, such as immigration and regulatory frameworks.

5. A Comparative Analysis of Negotiating Positions of the EU and the UK

The initial position of each party engaged in negotiation is driven by their interests. In this section, the paper identifies both the parties' position in the current Brexit negotiation process based on the interests identified in the previous sections of the paper. This section first analyses the negotiation stances, on the basis of respective interests of both the EU and the UK. Then it discusses the possible rational options that these two parties could explore to maximise the outcome from the negotiation process.

5.1 Negotiation Stance of the EU

As the EU has several interests, ranging from political to economic, it is clear that this regional body needs to prioritise its interests in the negotiation. It would decide the ultimate position of the EU because different prioritisation would lead to different stances, such as, if the EU focuses its negotiation objectives on the pre-Brexit status quo through maintaining same economic status with the UK. Logically, it should seek to keep the business environment as similar as possible to pre-Brexit levels.⁶⁰ Thus, to protect this interest through the negotiation, the EU will require taking the position of a 'soft Brexit'.

However, to retain stability within the EU member countries in terms of ensuring certainty about the 43 years old several entwined institutions, the EU needs to focus on position based on unity with the other members of the union.⁶¹ This approach has two-way implications for the Brexit negotiation. First, it will give the EU the leverage to take the lead in the negotiation process by listing the issues in the negotiation agenda. Second, this issue fixation will help control the negotiation process and facilitate effective preparation and planning in accordance with phases. However, the order will eventually narrow the first phase, addressing issues only

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ S. Dhingra, *et al.*, *op. cit.*

⁶¹ A. D. Green, *op. cit.*

related to Britain's withdrawal. As the European Council President Donald Tusk says, "Once and only once we have achieved sufficient progress on the withdrawal, can we discuss the framework for our future relationship. Starting parallel talks on all issues at the same time, as suggested by some in the UK, will not happen."⁶² This stance, in contrary to earlier economic priority keeps trade relations within the Brexit process in the queue.

On the other hand, if the EU phases out the disintegrating process in context of time length, the EU's best interest would then be to minimise loss from this process. Subsequently, its main goal would be to protect socio-economic and political interests that may arise from the withdrawal of the UK. This would help keeping focus on ensuring the rights of EU citizens living in Britain, UK's financial commitments to the EU, and the legal matters for EU businesses in Britain.

From the above-mentioned priority-based negotiation stances, it is evident that the EU has logical ground to formulate its negotiation position on the premise that the UK should find itself in a less favourable situation compared to any other EU member states due to its decision to leave the regional integration process.⁶³ Furthermore, the EU wants the withdrawal to occur in a systematic orderly manner so that it can link the phases.⁶⁴ In the first phase, it wants to deal with the issue of disintegration, given the conditions of the Lisbon Treaty. In this phase, the EU has leverage over the UK because the cost of no deal would be "very hard" on the UK.⁶⁵ Thus, the EU seeks to use this leverage to dominate and influence the phase one outcome according to its desire. It then wants to carry this leverage into the next phase, which would be the phase for trade negotiation, by linking the phase one desired outcome as a pre-requisite for opening up the second-phase trade negotiation process.

From this analysis, one can assume that the EU will be in an advantageous position because it knows better about its needs, negotiating strengths and ways to fulfil the needs.⁶⁶ This will lead the EU in the negotiation process to adopt positional bargaining. Under this positional bargaining, the EU foresees the ultimate outcome from the negotiation would be damaging for both parties. Thus, it sees the negotiation process as a damage control option and its objective in the negotiation is to bear as small a proportion of the damage as possible. Hence, it could focus on either "hard Brexit" or "no deal"; and would go for to achieve a high stake in "hard Brexit" — protecting the interests of the EU 27, and thereby retaining integrity of the bloc by ensuring free movement of goods, capital, service and labour.

⁶² A. D. Green, *op. cit.*

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*; and D. Malhotra, "A Definitive Guide to the Brexit Negotiations", *Harvard Business Review*, 2016, available at <https://hbr.org/2016/08/a-definitive-guide-to-the-brexit-negotiations>, accessed on 07 April 2017.

⁶⁶ A. D. Green, *op. cit.*

5.2 *Negotiation Stance of the UK*

On the contrary, the UK will enter the negotiation process with some constraints.⁶⁷ For instance, it will not be completely free to choose options with the best cost-benefit relation. The institutional relationship with the EU has to be negotiated. Thus, the negotiating stance of the EU might restrain the UK while choosing the preferred option. Hence, the reality is that the UK's bargaining position is weak; in other words it has few cards of value.⁶⁸ Furthermore, the UK would mostly depend on a response strategy to follow the lead of the EU. The UK also faces time constraint because Article 50 gives two-year time before defaulting on World Trade Organization (WTO) rules and bilateral agreements.⁶⁹ This default position is perhaps the worst possible outcome for the UK. Thus, it badly needs to strike a deal with the EU partners.

To strike a possible deal with the EU, trade is the most important area of interest for the UK. Hence, bargaining chips are needed to be identified by the UK. Economic concerns and migration issue could serve the region best to form critical bargaining chips on the negotiation table. The economy of the UK, for example, is linked with the EU through trade of goods and services.⁷⁰ Any trade disruption in the post-Brexit period could result in substantial collateral damage. This leverage though might not be proved sufficient, enables the UK to hold off its own in the negotiation.⁷¹ The issue of migration can also play an important role in the UK's negotiation stance.⁷² As mentioned before, the restrictive view of the UK government on this affair is based on the anti-migration perception of the major portion of British people.⁷³ However, UK's advantage in Brexit negotiation lies in the restraints on people's free movement as the EU has substantial interest in this point.

Administering the negotiation through good preparation and a well-managed negotiation process, on the part of the UK is critical for favourable negotiation outcome.⁷⁴ It could address the unfavourable conditions for couple of reasons. First, given the weaker position and having to follow the EU's lead, the UK cannot afford to deviate further on the negotiation table. Second, only through efficient management of the negotiation process, will the UK be able to reduce the gap in its negotiation position with the EU. For the UK, expert negotiators will deliver the expected results.

⁶⁷ S. Dhingra, G. Ottaviano and T. Sampson, "A Hitch-hiker's Guide to Post-Brexit Trade Negotiations: Options and Principles", *Oxford Review of Economic Policy*, Vol. 33, No. S1, 2017, pp. 22–30; and I. Bremmer, "What a UK Exit from the EU could Mean", *Time*, available at www.time.com/4236991/what-a-u-k-exit-from-the-e-u-could-mean/, accessed on 01 April 2017.

⁶⁸ D. Mabbett, *op. cit.*

⁶⁹ Australian Broadcasting Corporation, *op. cit.*

⁷⁰ S. Dhingra *et al.*, *op. cit.*

⁷¹ D. Mabbett, *op. cit.*

⁷² D. Malhotra, *op. cit.*

⁷³ "Assessing the Impact of Brexit: Political Uncertainty vs Market Efficiency", *op. cit.*

⁷⁴ S. Dhingra *et al.*, *op. cit.*

But the country currently is in need of people possessing such negotiation skill and, thus, it requires investing in this area to develop such capacity.⁷⁵ These will lead the UK to formulate effective positions with different EU members to exploit the scope of two-level games in the negotiation process. Given this context, one needs to take into account that there are dissimilarities among the EU nation data on trade balance with the UK. Notably, a number of most influential countries in the EU (such as Germany) are the ones that are most dependent on trade with the UK.⁷⁶ Managing these relations is critical to the outcome of Brexit negotiation *vis-à-vis* the UK.⁷⁷

The UK should bring more issues to the table and needs to make links with other non-economic issues so that the negotiation domain becomes large enough for them to spread the trade-offs between unfavourable and desirable outcomes. The UK needs to be creative in linking the non-economic issues in order to impact the EU economic relations. For instance, if an agreement is to be reached, both parties will have to give way. In this regard, the UK may agree to provide working permit to the EU citizen according to specific terms and conditions in exchange of getting access to the EU single market. Furthermore, to restore sanity in the proceeding, the UK might stress on the fact that a bad deal would strain its security cooperation. Nobody gains if important political players like the EU and the UK diverge on security affairs. As such EU is not in a position to handle this subject lightly.⁷⁸ The EU also fails to gain anything if the UK feels hard done on the negotiation table as it would easily deteriorate the latter's ties with the former in the post-Brexit period. One cannot rule out such a possibility after the British people's expression of isolationist attitude in the last referendum.⁷⁹ Thus, with limited bargaining chip, the UK needs to use its cards judiciously and should focus on reaching some kind of deal with the EU rather than no deal at all.

5.3 *Logical Stances for both Parties*

From the analysis, it is evident that the EU has a stronger position compared to the UK because it has positional strength within the terms of negotiation under the article 50 of Lisbon Treaty. Especially, it enables the EU to conduct the negotiation process in phases which helps it to initially narrow the focus on the UK's withdrawal only. On the other hand, only to negotiate the terms of withdrawal in the first phase puts a great deal of pressure on the UK. It also narrows the scope of the UK without any desirable positions. At this stage, the UK needs to modify its negotiation objectives from a broader point of view rather than focusing only on the first phase of negotiation. It is in need to strike a meaningful deal in this phase, which in turn, would lead to opening up a more balanced negotiation position for the coming trade negotiation phase.

⁷⁵ *Ibid.*

⁷⁶ I. Bremmer, *op. cit.*

⁷⁷ D. Malhotra, *op. cit.*

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*

One thing is quite evident within the current negotiation process: a ‘no deal’ would jeopardise both the parties. The EU based its stance on the assumption that eventually the UK’s withdrawal would hurt its unity as well as political and economic processes. The EU wants to set an example that leaving this bloc is a costly affair. Given the size of the economy, the EU finds its position relatively better than the UK when it comes to absorbing potential damage and shock. However, in context of the prevailing recession within the EU, the regional bloc should revise its rigid view on Brexit and minimise the damage. It should prioritise the achievable objectives within the UK’s withdrawal negotiation. This prioritisation is important because it would help the EU minimise damage while allowing the EU to carry its leverage to the next phase of trade negotiation. In the trade negotiation phase, both parties have substantial interest and scope to value-creating options.

This possibility should incorporate in both parties’ decision-making process because it would then facilitate each party to play their hand according to integrative objective. Only then it would be possible to find mutually inclusive outcomes. In this regard, the EU should use its leverage to direct the UK to strike a meaningful deal which would be the only way to minimise the damage caused from the latter’s withdrawal. Similarly, the UK should be prepared to make an initially hard deal rather than no deal because this is the only way it can push its economic terms for the next phase of trade deal. Both parties should play their cards on the basis of long-term goals. They should look forward to several phases of negotiation rather than the current process as the final and only one. If the parties view the current phase as the scope for extending and setting agendas for the next phases, only then can they be able to shift away from their rigid reservation values. These current values reflect a high probability of ‘no deal’. Both parties need to understand that the goal is not to “win” but to achieve their objectives. If that is the case, then both of them should focus on striking a deal: a deal that would ultimately minimise mutual damage.

6. Conclusion

Every negotiation process is an opportunity for participating parties to find an acceptable solution to a complicated conflict of interests. It mostly depends on the subject matter of a negotiation, nature of relationship between concerned parties, situation’s importance and complexity of the issues involved in negotiation.⁸⁰ Similarly, the outcome of Brexit negotiations will depend on “how each side plays the hand it has been dealt”.⁸¹ From the analysis, the article finds that both the parties’ current interest-based positions are conflicting — one party’s desired outcome is undesirable for the other. These opposing positions are currently causing the parties to adopt rigid positions. Such positions might yield nothing from the negotiation.

⁸⁰ J. Long, “Effective Negotiation: Strategies and Preparation”, available at <http://www.acc.com/legalresources/quickcounsel/ensp.cfm>, accessed on 08 April 2017.

⁸¹ D. Malhotra, *op. cit.*

Under this approach, the parties treat the negotiation as a zero-sum game in which only one party can 'win' the negotiation. This approach will definitely lead to a 'no deal' agreement with Brexit. However, the analysis identified that such outcome would not be beneficial for any party. In this regard, a better outcome is to strike a deal, which would lead to a continuation of the negotiation process on several other issues. As the entire Brexit negotiation is a complex process of dismantling a 43-year relationship between the two parties, the process should involve several meaningful negotiation steps. The negotiating parties should consider this necessity and adopt a compromising style in their negotiation which involves meeting halfway; feeling empathy for the needs and constraints of the other side. This approach can only lead current Brexit negotiations to a fair result striking a deal, which would open up the scope and allow several important phases of negotiation to continue in the days to come.