

## Surviving Brexit: twelve lessons from Norway

*Nick Sitter and Ulf Sverdrup*

One year after the referendum, after losing its majority in the general election, the UK government is revising what Foreign Secretary Boris Johnson famously labelled the ‘Cake-and-Eat-It’ approach to Brexit. In this context, it might be worth asking if there is anything the UK can learn from Norway’s quarter of a century experience as a ‘quasi-member’ of the European Union.

The first lesson is that no lessons apply. Tolstoy wrote that all happy families are alike, but each unhappy family is unhappy in its own way. Much the same can be said about European countries that opt out of the EU. Each has its own reason, and its own challenges. But with the exception of Greenland, all experience builds on states that have negotiated closer relations with the EU – not a departure. And back in 1982 it took Greenland three years to negotiate a deal with the far simpler pre-Single Market EEC. Having said that, Norway’s experience might still suggest some valuable lessons.

The second lesson is that there is life outside the EU, and it can be quite good. But, non-membership should not be confused with non-integration and non-cooperation with the EU: Norway, Iceland and Liechtenstein are members of the Single Market through the European Economic Area; Switzerland take part by way of some 100 or so interlinked bilateral deals.

If there is political will in the UK, access to the Single Market is feasible.

Lesson three is a warning: The fact that both the UK and the EU are interested in free trade does not mean that this will be easy to achieve. Norway’s approach to participation in European integration without EU membership shows that it is easier to agree on policy than on politics and institutions. A stable and well-functioning relationship between the EU and the UK needs to be based on trust. In political life, trust is first and foremost guaranteed through institutions. The EU and its member states (including the UK) have always insisted that market access should be based on common rules, and that there must be some form of monitoring and dispute settlement mechanisms. It is inconceivable that the EU will accept agreements that dilute the role of the Commission in terms of oversight and the Court in terms of adjudication. The EEA system initially envisaged a joint court, but ended up with a regime that gives the EU institutions jurisdiction over joint cases.

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For Norway and Switzerland, institutional issues have caused delays and frictions. This is not surprising, as it goes right at the heart of the trade-off between market access, on the one hand, and national autonomy and self-determination, on the other. The UK should prepare itself for this delicate balancing act, and it should know where to look, as only the EEA-model, or some modifications thereof, meets the EU requirements. The Swiss model is by many seen as an ‘accident’, not to be replicated.

The fourth lesson is therefore about the importance of implementation and adjudication. The EFTA Court and Surveillance Authority have jurisdiction in cases that only involve the EFTA states. Both institutions were purpose built for the EEA regime.

The fifth lesson is about the fact that negotiating with the EU is not a one-off event, but a series of negotiations. Any sensible Brexit agreement will have to involve a mechanism for ensuring that rules and standards are regularly updated. If not, the agreement will be outdated as soon as it enters force. The EEA agreement started in 1994 with around 1800 legal acts. 8000 new acts have since been added. In addition, as the EU expands into new fields, there will be a need for additional agreements between the EU and UK. Norway and Switzerland had just a few agreements in the 1990s, both have now close to hundred agreements with the EU. A sustainable Brexit agreement therefore has to solve the problem of dynamic development, and the parties must prepare for repeated, if not continuous, negotiations, not a one-off. Long term success will therefore depend on the ability to create a spirit of trust and sustainable cooperation, not on whether one of the parties ‘win’ in the first round.

The sixth lesson concerns the importance of formal sovereignty. Even if policy issues such as agriculture and fisheries were important in the 1972 and 1994 referendums, national sovereignty was the heart of the matter in Norway. The EEA deal allowed Norway to maintain formal sovereignty, even if it delegated actual sovereignty, hooked itself up to a steady flow of EU rules, and found practical arrangements about the application of EEA law in Norway and the role of the EFTA Court and the EU Court of Justice in adjudicating this. In spite of the democratic deficit, most would agree that Norway is still a good and healthy democracy. The Norwegian model is integration without representation, and for many voters, keeping formal sovereignty seems to matter more than delegating actual sovereignty.

The seventh lesson is about political leadership. Put simply, the prime minister must acknowledge ownership of the problems and the solutions. A succession of Norwegian prime ministers and coalition partners have defended the EEA staunchly, whether they saw it as the best or second-best solution. From day one, the assumption was that a deal would be worth defending. No PM ever suggested that ‘no deal’ was ‘better than a bad deal’.

Indeed, political leadership on EU issues means taking the long-term view, eschewing short-term party politics, and broadening support for a deal.

The compromise must have cross-party support,

at least from the mainstream parties, as well as from business and labour organizations. In Norway, the EEA was the best solution for the divided Labour Party and the soft Eurosceptic Christian People’s Party. It was a second-best option for the pro-EU Conservatives, as well as the divided (populist) Progress Party and the Liberals. Opposition to the EEA from the hard Eurosceptic (agrarian) Centre Party and Socialist Left was therefore largely inconsequential. In fact, these parties have been in government, respecting the platform, and even promoting closer cooperation with the EU.

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For the UK the eighth lesson is therefore that this is not just about the final vote in the Commons; it is about the domestic process. Involving the opposition in formal negotiations could help ensure that the deal survives a future change of government.

The ninth lesson came slower to Norway. The EU is remarkably united when dealing with third countries, in particular when it comes to financial issues. After Sweden and Finland joined the EU in 1995, Norwegians learnt that having a fellow Scandinavian chairing the Council was no guarantee of favourable treatment. For a UK government tempted to explore opportunities to divide and rule in the EU, the warning signs are legion.

Tenth, the need for a non-EU state to establish clear priorities and to pick its fights cannot be overstated. A non-member can have an impact in a policy area if it prioritizes, and explains its domestic constraints. But going for the ‘select all’ option on the conflict menu is not wise. Norway has managed to keep fisheries, agriculture as well as oil and gas out of the EEA. The UK government is well advised to decide – and to signal clearly and openly – what its real red lines are.

In the light of recent reports about civil service confusion over the different departments’ roles in Brexit, the eleventh lesson from Norway is about the need for expertise and coordination across departments both during negotiations and after a deal is in place. As an outsider, the UK will need a lot of expertise on EU affairs, in order to influence effectively and adapt swiftly. At least as much as an EU member. Already five years after the EEA deal took effect, the Norwegians found that the EU expertise built up during negotiations had begun to fade. Consequently, a new effort was made to strengthen Europe competence and to enhance the foreign office’s role in cross-departmental coordination.

The final lesson concerns life outside the EU. Non-members are in effect relegated

to the role of a lobbyist – albeit sometimes very important lobbyists. This is a new role, in which expertise, policy competence and the wisdom to gather information, advocate solutions, and intervene at the right time counts for more than formal power. As a lobbyist on the outside, the UK will compete with many governments, organizations and firms. Norway’s experience shows that outsiders can have influence on the EU system, particularly in policy sectors where it is a ‘super power’ – such as oil and gas, but most often such influence depends on successfully aligning with the interests of key member states, and arguing in line with what is best for Europe and the EU, not on the need for special exceptions.

Indeed, Norway’s experience with non-membership of the EU shows that it is perfectly possible for non-members to work closely with the EU in new policy areas – at a price. Norway is more closely integrated into Schengen than Denmark and the UK. It joins in on EU research and higher education policy initiatives. It works with the EU on foreign operations and sanctions. Pragmatic participation in a range of new EU initiatives is part and parcel of Norway’s relationship with the EU, well beyond the EEA deal. The trick is to frame this as pragmatic cooperation in low politics, not the high politics of sovereignty.

Pragmatic compromises might often be good and stable, but they are neither simple nor elegant. When searching for solutions, it is often not about maximising one’s own interests, but rather about finding solutions that are acceptable.

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*This text<sup>1</sup> was also published at the Transcrisis LSE blog, July 5, 2017.*

*The brief is a part of the project 'Europe in transition – Small states and Europe in an age of global shifts (EUNOR).'<sup>2</sup>*

1 <http://www.transcrisis.eu/surviving-brexit-twelve-lessons-from-norway/>

2 <http://www.nupi.no/en/About-NUPI/Projects-centres-and-programmes/Europe-in-transition-Small-states-and-Europe-in-an-age-of-global-shifts>



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