



**Why an advanced Free Trade Deal  
- Super Canada –  
is superior to the Chequers proposal**

**A guide to Chequers and free trade by the European  
Research Group**

**Conservative Party Conference October 2018**

**Occasional Paper**



## **Executive Summary**

The Prime Minister has said there is no alternative to her “Chequers deal”. However, Chequers commands little support in the UK Parliament and has been dismissed by the EU’s negotiators as “*unworkable*”.

Chequers presents a complex, untested, model that would leave the UK subject to a ‘common rule book’ and the European Court curtailing our ability to have an independent UK trade policy – Brexit in Name Only (BRINO). Fortunately there is a simple tried and tested alternative based on the precedent of the EU/Canada free trade agreement.

A UK EU trade agreement based on and improving on the Canada model - Super Canada - would meet all the requirements of those who supported Brexit. Control over our own laws, borders and money. It would also provide for free trade, zero tariffs, services trade and cooperation on regulation.

We should be bold. While some see Brexit as a damage limitation exercise and wish to recreate from the outside the very EU structures the British people voted to leave, we should instead maximise the opportunities of Brexit.

A trade agreement with the EU – Super Canada – that leaves us free to pursue a global trade policy with old friends and new alike would do just that.

## **The road to Chequers**

The democratic mandate for Brexit is overwhelming. The 2015 election was won by a party promising a referendum. Parliament passed the Referendum Act and the 2016 referendum was won by the Leave campaign by a majority of over one million votes. The Leave campaign, as with the Remain campaign and the Government, made clear that a vote to leave was a vote to leave the Single Market.<sup>1</sup>

Following the referendum, Parliament voted overwhelmingly to endorse leaving the EU under Article 50. On 17<sup>th</sup> January 2017 the Prime Minister, in her Lancaster House speech, set out how the UK would leave the Single Market, regaining control of its laws, borders and money. In the subsequent 2017 election the Conservative and Labour parties supported leaving the EU and its Single Market.

The Prime Minister's Chequers deal was agreed by the Cabinet on 6<sup>th</sup> July 2018. The proposal had been drafted in Downing Street, by the Number 10 Europe Unit, over the summer, without the full knowledge of the Department for Exiting the EU (DExEU), which had been

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<sup>1</sup>For instance: David Cameron 13th June 2016 (Remain) & Michael Gove 8th May 2016 (Leave).

working on its own version of a White Paper and draft free trade agreement.<sup>2</sup>

At Chequers the Number 10 White Paper, drafted by senior civil servants, was substituted for DExEU's alternative White Paper, which was not presented. There was no discussion by the Cabinet of the relative merits of the two approaches. The Cabinet, which had only been given the 104 page White Paper shortly prior to the meeting, was presented with it as a *fait accompli*.

It was reported Number 10 briefed that any Cabinet Minister who disagreed was not "*indispensable*" and if they resigned taxis were on standby to take them away.

The Chequers proposal provoked the resignation of the Foreign Secretary Boris Johnson MP, the Secretary of State for DExEU, David Davis MP, along with his Parliamentary Under Secretary of State, Steve Baker MP and a number of Party vice-chairmen and Parliamentary Private Secretaries (PPSs) from across the Government.

It has recently been reported that many members of the Cabinet are privately unhappy with the Chequers proposal and would back a Canada type free trade agreement.<sup>3</sup>

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<sup>2</sup> See Alternative Brexit White paper: ConservativeHome July 2018: <https://www.conservativehome.com/tag/alternative-brexit-white-paper/page/2>

<sup>3</sup> Telegraph, 24<sup>th</sup> September: <https://www.telegraph.co.uk/politics/2018/09/23/majority-cabinet-now-supports-move-towards-canada-style-brexit/>

## **Where we are today**

The UK is currently negotiating a Withdrawal Agreement from the EU under Article 50. This will include a number of items:

1. Reciprocal rights for UK and EU citizens currently living in the UK and EU,
2. A financial settlement of potentially c.£39bn,
3. A transitional (implementation) period up to December 2020,
4. A 'future framework' for cooperation with the EU that should take force in December 2020.

The financial settlement and the transitional period are effectively dependent on gaining a favourable trade agreement in the 'future framework'. This would be finalised and implemented after we leave on 29<sup>th</sup> March 2019.

If there is no agreement we would trade on World Trade Organisation trade terms from 29<sup>th</sup> March 2019, there would be no c.£39bn payment and no transitional period.

The Withdrawal Agreement will be subject to a vote in Parliament. While Chequers has few friends, a Super Canada model could command a majority of MPs.

## What is wrong with Chequers

It became immediately clear that the Cabinet's Chequers deal was little more than an exercise in trying to recreate the UK's EU membership from outside, involving de facto membership of the Single Market, obeying EU rules and the European Court. This was a major departure from the commitments made in the referendum campaign, the Prime Minister's Lancaster House speech, the Conservative Party's 2017 manifesto and the work subsequently undertaken in DExEU.<sup>4</sup>

Perhaps the most significant problem with Chequers is its commitment to follow a '**common rule book**' - in practice the EU rule book interpreted by the **European Court**. This would mean the UK would be locked into current laws and would have to adopt future rules over which it had no influence.

Chequers includes a complex attempt to effectively recreate the EU's Customs Union – the so called 'Facilitated Customs Arrangement' – that would leave

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<sup>4</sup> The Chequers' White Paper, 12<sup>th</sup> July:  
<https://www.gov.uk/government/publications/the-future-relationship-between-the-united-kingdom-and-the-european-union>

the UK **applying EU taxes** on an unreciprocated basis as well as tracking goods within the UK on the EU's behalf.

Chequers also includes "*non-regression*" provisions, locking the UK into **EU environment and social policy** from which we could not demur.

Other provisions of the agreement seemed an invitation to the EU to ask for **further concessions**. On the EU budget the Government promised to end only "*vast contributions*" to the EU budget, promises a "*framework for mobility*" to replace free movement and negotiations on access to fishing waters.

If the UK is to be locked into current and future EU regulations it will be unable to regulate its own domestic economy, adapt its regulations to UK conditions or influence the regulation of future products and industries. These decisions would all be taken by the EU without our influence. Under Chequers we would thus become 'rule takers.'

While the Chequers agreement crossed many of the Government's previous red lines on EU laws, money and borders the complexity of recreating large parts of the EU from without did not go unnoticed in the EU.



European leaders rejected Chequers at the Salzburg European Council on 19<sup>th</sup> September 2018.

At Salzburg the European Council President, Donald Tusk, said the “*economic framework* [in Chequers] *will not work*”.<sup>5</sup> Similarly, the EU’s chief negotiator, Michel Barnier, has said he is “*Strongly opposed*”.<sup>6</sup>

While the details of Chequers pose many democratic, and practical problems for the UK they also pose a problem for the UK’s potential trading partners, limiting the UK’s ability to forge new trade agreements.

If all UK trade agreements with non EU states have to be subject to the EU’s current and future rules the UK would lack the flexibility to conclude comprehensive new agreements.<sup>7</sup>

The USA, one of the first states to express an interest in concluding a UK trade agreement is one of a growing number of states to express dismay. The US ambassador Woody Johnson stated that a UK/USA trade agreement was now “*totally up in the air*” following Chequers.<sup>8</sup>

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<sup>5</sup> BBC, 20<sup>th</sup> September 2018: <https://www.bbc.co.uk/news/uk-politics-45586010>

<sup>6</sup> BBC, 2<sup>nd</sup> September 2018: <https://www.bbc.co.uk/news/uk-politics-45389610>

<sup>7</sup> For more information please see IEA, PlanA+ September 2018

<sup>8</sup> Times, 10<sup>th</sup> July 2018

Similarly, the current Australian PM Scott Morrison refused to back Chequers as Australian Treasurer.<sup>9</sup>

**Key failings of Chequers:**

- **It is highly complex and untested.**
- **It would force the UK to retain EU laws and adopt new EU laws with no say.**
- **It would place the UK under the remit of the European Court**
- **It would deny the UK an independent trade policy curtailing the UK's role in global markets and the benefits of Brexit.**
- **It would be permanent**

## **Why a free Trade Agreement is better for Britain**

When compared to Chequers, an advanced Free Trade Agreement (FTA) based on the EU Canada agreement – Super Canada - has many advantages.

This was based on a tried and tested model used by the EU and other states to give each other preferential reciprocal access to their markets. The Canadian/EU agreement was signed in 2016.

Under a Super Canada deal we would **retain zero import taxes** (tariffs) on imports and exports to/from

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<sup>9</sup> Express, 3<sup>rd</sup> August 2018

the EU so UK businesses have access to the single market. We would pay **no contribution to the EU budget**.

We would **regain control of our laws**, regulating our own economy democratically according to our needs. We would not be subject to the European Court.

We would regain **control of our borders**, UK officials would control the UK border and tariffs and the UK will set a UK immigration policy. There would be no reason to concede access to the UK labour market or fishing grounds in return for trade.

A Super Canada deal would also be **compatible with new UK trade agreements** such as with the USA, Australia and new emerging economies.

A deal of this kind would allow the UK government to add chapters – for instance on political, security and foreign policy cooperation – on a reciprocal basis.

Importantly, the European Union has said it will support a Canada type agreement:

Donald Tusk said in March 2018: *“I propose that we aim for a trade agreement covering all sectors with zero tariffs on goods. Like other free trade agreements, it should address services...”*<sup>10</sup>

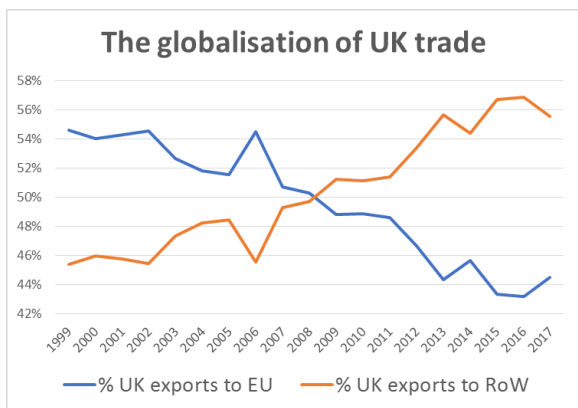
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<sup>10</sup> Statement 7<sup>th</sup> March 2018:  
<http://www.consilium.europa.eu/en/press/press->

Michel Barnier said in April 2018: “our intention is to reach an ambitious and wide-ranging free trade agreement with: Zero tariffs and no quantitative restrictions on goods; Customs cooperation to facilitate goods crossing the border...”<sup>11</sup>

## Trading as Global Britain

While the EU collectively remains the UK’s largest export market, its relative importance has declined in recent years as UK exports to non EU states have increased.



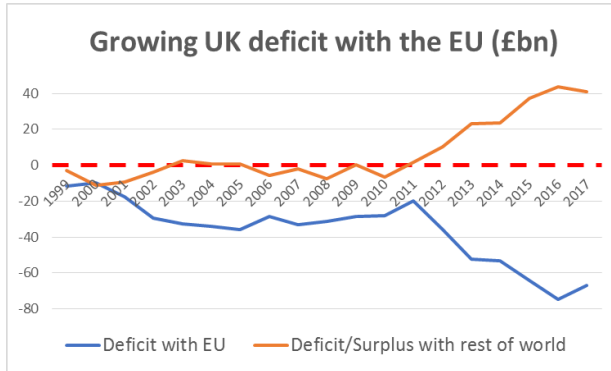
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[releases/2018/03/07/statement-by-president-donald-tusk-on-the-draft-guidelines-on-the-framework-for-the-future-relationship-with-the-uk/](https://releases/2018/03/07/statement-by-president-donald-tusk-on-the-draft-guidelines-on-the-framework-for-the-future-relationship-with-the-uk/)

<sup>11</sup> Speech, 23<sup>rd</sup> April 2018: [http://europa.eu/rapid/press-release\\_SPEECH-18-3511\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-18-3511_en.htm)

<sup>12</sup> ONS Pink Book 2018 Trade in Goods and Services

UK success in diversifying its exports coincides with a large and growing deficit with the EU.



While a Super Canada deal would allow the UK to forge new agreements with non EU states, where we have been successful in exporting, the Chequers agreement would tie us into the EU's trading system that is increasingly the cause of the UK's trade deficit.

The UK is a founder member of the World Trade Organisation and as the worlds' 5<sup>th</sup> largest economy and a G7 state would be well placed to be a champion of global free trade and regulation, increasing UK influence and countering calls for protectionism.

The UK has great potential to forge new agreements with the USA (the UK's largest individual export market), Australia, India, Brazil and Malaysia, to name but a few.

The alternative to Super Canada is to remain a part of a regional EU economy, over which we would have no influence and increasing deficits.

#### **Why Super Canada over Chequers?**

- **Its deliverable. The EU has existing Canada type agreements with a number of advanced states.**
- **It provides Zero tariff access and services agreements compatible with the UK retaining control of its laws, borders and money.**
- **Chequers would hinder the UK entering into other Global trade agreements - Super Canada would not.**
- **Chequers would lock the UK into the market it has a large and growing deficit with.**

### **The Great Red Herring: How the Northern Irish border can be solved under Super Canada**

The UK, in the December joint report with the European Commission, agreed to a 'backstop' in the event that there was a withdrawal agreement but no trade agreement. This would lead to Northern Ireland following EU rules in some limited areas subject to several agreed provisos:

- The Northern Irish Assembly would have a veto over any alignment with the EU.
- There would be no border down the Irish Sea – Northern Ireland would be an equal part of the UK.

Northern Ireland and the need to prevent a ‘hard border’ has so far posed a major sticking point in the negotiations.

The ‘backstop’ has become a political problem. While the border is best solved in the context of a free trade agreement than in isolation, the EU has re-interpreted and added to what was agreed in December, demanding Northern Ireland remains in the EU’s Customs Union and is treated separately from the rest of the UK. This new demand clearly unacceptable to the UK.

The solution, as set out in September 2018 in a detailed report by the European Research Group, is a border where formalities are conducted away from the border by alternative means such as:<sup>13</sup>

- Using Trusted Trader schemes and Authorised Economic Operators to allow frequent traders to comply with border technicalities away from the border.

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<sup>13</sup> 12 September 2018: <https://brexitcentral.com/european-research-group-publishes-guide-keeping-irish-border-invisible-post-brexit/>

- Using best practice from around the world including the Norway/Sweden EU border, Swiss border and USA/Canada border.
- Minimum thresholds that would exempt small firms.

Jon Thompson, HMRC's Chief Executive has said *“there will be no need for new infrastructure at the Irish border post Brexit”*.<sup>14</sup> Likewise the Head of the Irish Revenue, Nial Cody, is *“practically 100% certain” that there will be no need for new customs facilities along the border.*<sup>15</sup>

Theresa May, the Irish Prime Minister Leo Varadkar and European Commission President, Jean Claude Juncker, have all committed not to build any new border.

- **Nobody is proposing to build a ‘hard’ Northern Irish border.**
- **There are technical and administrative solutions and best practice from around the world that obviates the need for new border infrastructure.**
- **Rather than use Northern Ireland as an excuse to extend a backstop to the whole UK. We should recognise there are solutions.**

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<sup>14</sup> To DExEU Committee 23<sup>rd</sup> May 2018

<sup>15</sup> To Irish Parliament 25<sup>th</sup> May 2017



## The way ahead

While Chequers is not an agreement that could ever command support in the UK or EU, the last two years of negotiations have demonstrated there is the basis for a future partnership, based on a Super Canada Trade Agreement.

This agreement, while focused on trade, should cover other areas of vital importance to our continent. The President of the European Council, Donald Tusk, has set out cooperation on security, defence and foreign affairs, research and innovation and aviation as areas for potential agreement. We wish to remain good neighbours and friends.

Similarly, as good neighbours, and because it is right, we wish to honour our commitments to EU citizens that have made the UK their home unconditionally and trust that the EU will reciprocate for UK citizens in the EU.

We have agreed in principle to a c.£39bn settlement linked to a 21 month implementation period. However, payment should only be made in return for progress towards a Super Canada deal.

We have a large annual trade deficit of £40bn with the EU. Access to our market is a valuable prize for EU states as theirs is to us.<sup>16</sup>

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<sup>16</sup> ONS Pink Book 2018

Lastly, we wish to see an agreement to ensure that Ireland and the Northern Irish border are unaffected. It is in the Republic of Ireland and the UK's interests to see an agreement allowing as frictionless trade as possible but no British Government could ever agree a 'backstop' that has the potential to compromise Northern Ireland's position in the UK, now or in the future. A legal 'backstop' even if mitigated by a political agreement is not something any UK Government could agree. It would be ironic if an unacceptable 'backstop' demand on the pretext of reducing Northern Irish border friction was to lead to no agreement at all.

The EU has shown willingness to negotiate a trade agreement that would suit all our purposes. Much of the drafting of such an agreement has already been completed by DExEU, but was put on the backburner after Chequers. We still have time to revive this, building on existing precedents and best practice. While no deal is better than a bad deal, we should aim for the best deal for Britain.

## **Conclusion**

We should respect the referendum result and take back control of our laws, borders and money. We should use our new independence to forge a new, global independent trade policy, focused on UK interests.

Chequers is unpopular, untried and unloved. It would make the UK a rule taker destined to follow EU laws over which we would have no influence and still be subject to the European Court. The EU rejected Chequers at Salzburg. The proposals are unpopular in Parliament and unlikely to gain a majority.

Rather than continuing to flog a dead horse we should embrace the superior alternative - the Super Canada model built on existing precedent, using tried and tested terms of trade.

The United Kingdom has historically been a free trading nation. We should draw on this tradition to create a truly global Britain as we exit the EU.

## Brexit: A Check List

<b>Super Canada</b> ✓	<b>Chequers</b> ✗
UK free to make its own laws.	UK a rule taker. EU will set UK laws with no say. A “Common Rule Book” where the UK complies with existing/new EU laws
UK free to make global trade agreements.	UK ability to trade subject to and limited by EU laws.
Rules subject to arbitration.	Rules subject to the European Court.
UK free to set its own immigration policy.	Subject to negotiation.
UK controls its own border.	EU would control some UK import taxes and oversee customs.
A trade only deal. UK sets its own rules in Parliament.	“Non-regression” Commitments to follow EU rules on the environment, state aid and social policy.
Deliverable – EU have proposed such a deal.	Undeliverable – both in the UK and EU.
Simple, tried and tested.	Complex, untried, untested and unloved.
UK free to set its own import taxes.	Danger the UK will end up stuck in a Customs Union.
Solves British/Irish border via technical and administrative means.	British / Irish border remains a sticking point.