

Global Britain Briefing Note

No 61

7th January 2011

The EU *has* to negotiate Free Trade Agreements with Third-Parties – and it does

The Lisbon Treaty obliges the EU to negotiate Free Trade Agreements (“FTAs”) with a member-state that wishes to withdraw, as well as with states that are not EU members. The EU will soon have FTAs with 80 per cent of all non-EU countries.

A. The European Union’s Constitutional Obligation to Negotiate with a Member-State wishing to withdraw voluntarily from the Union, and to negotiate Free Trade Agreements with the departing Member-State

The EU’s constitution is the Treaty of Lisbon¹ signed in Lisbon on 13th December 2007. For the first time in the EU’s history, this treaty/constitution spells out member-states’ freedom to withdraw from the Union².

The operative treaty clause is **Article 50**, *Treaty on European Union*³, which says:-

“Any Member-State may decide to withdraw from the Union in accordance with its own constitutional requirements.....the Union shall negotiate and conclude an agreement with that State.....taking account of the framework for its future relationship with the Union.....”

The Union’s constitutional obligation to negotiate free trade agreements with states that are not members of the Union is spelt out in two other Articles of the *Treaty on European Union*:-

Article 3 [5] says:- *In its relations with the wider world, the Union shall contribute tofree and fair trade.....*

Article 8 [1] says:- *The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness.....characterised by close and peaceful relations based on co-operation.* [No bolding in original text.]

[Note, in these two extracts, the word “shall”. “Shall” *obliges* the Union to “contribute to free and fair trade” and to “develop a special relationship etc”; “may” would not.]

Article 8 [2] says:- *For the purposes of [the preceding paragraph] the Union may conclude specific agreements with the countries concerned...*

In Article 8 [2], the word “may” indicates that free trade could exist between the EU and other countries in the absence of “*specific [EU] agreements*”, the parties relying (for example) on the provisions of World Trade Organisation treaties.

B. The EU will soon have free trade agreements with 80 per cent of all the non-EU countries in the world

At present⁴ the EU has free trade agreements⁵ with 63 countries outside the EU.

The EU is also negotiating free trade agreements⁵ with another 63 non-EU countries. It is considering opening negotiations with a further 12 non-EU countries.

If all these negotiations succeed, the EU will have free trade agreements with **138 non-EU countries**.

There are approximately 200 countries/states⁶ in the world. Of those 200, twenty-seven are EU members. So the **total number of non-EU member-countries in the world is 173**.

If EU negotiations under way and being contemplated succeed, the EU will have free trade agreements with 138 of the world’s 173 non-EU members: **a proportion of 80 per cent**.

Notes

1. *The Treaty of Lisbon in Perspective*, ISBN 978-0-9558262-0-7, British Management Data Foundation, Feb 2008 www.bmdf.co.uk www.eurotreaties.com
2. *A member-state’s freedom to withdraw from the Union has always existed and has been re-affirmed by successive British governments, whose position – rightly – is that the Westminster parliament is sovereign.*
3. *A sub-section of the Treaty of Lisbon.*
4. *October 2010*
5. http://ec.europa.eu/trade/issues/bilateral/index_en.htm
6. *The United Nations has 192 member-countries; the World Bank lists 213 independent territories: average 202.*

Global Britain

Lord Stoddart of Swindon
(Independent Labour)

Lord Pearson of Rannoch
(United Kingdom Independence Party)

Lord Willoughby de Broke
(United Kingdom Independence Party)

Lord Harris of High Cross (1924- 2006)
(Cross-Bencher)

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