



**DIRECTORATE GENERAL FOR INTERNAL
POLICIES**

POLICY DEPARTMENT
CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS 

***CONSTITUTIONAL
AFFAIRS***

**BREXIT BESPOKE
AGREEMENT**

IMPLICATIONS FOR THE EU

SUMMARY

- Description of objectives
- Part I – THE OPTIONS
- Part II – THE IMPACTS
- Basics
 - Brexit must be seen as a complete change of EU Neighbourhood Policy environment.
 - What happens in 5, 10 years ?
 - Need for a long term strategy, not only immediate benefits.

THE OBJECTIVES

- Bespoke agreement
- Model 1 – EU/Ukraine
- Model 2 – EU/Canada
- Impact on the EU
 - EU Institutions
 - EU policies
 - EU external agreements

PART I – THE OPTIONS

EU/Ukraine vs. EU/Canada

- Legal basis
- Goods
- Services
- Free movement of people

Goods – mutual acceptance of conformity assessments [EU/Cn]

- Electrical and electronic equipment, including electrical installations and appliances, and related components
- Radio and telecommunications terminal equipment
- Electromagnetic compatibility (EMC)
- Toys
- Construction products
- Machinery, including parts, components, including safety components, interchangeable equipment, and assemblies of machines
- Measuring instruments
- Hot-water boilers, including related appliances
- Equipment, machines, apparatus, devices, control components, protection systems, safety devices, controlling devices and regulating devices, and related instrumentation and prevention and detection systems for use in potentially explosive atmospheres (ATEX equipment)
- Equipment for use outdoors as it relates to noise emission in the environment
- Recreational craft, including their components

Goods – Agricultural products

[EU/Ukr]

PART 2

Measures applicable to animal products

1. Main product categories of animal products for human consumption
 1. Fresh meat of domestic ungulates, poultry and lagomorphs, farm and wild game, including offal
 2. Minced meat, meat preparations, mechanically separated meat (MSM), meat products
 3. Live bivalve molluscs
 4. Fishery products
 5. Raw milk, colostrum, dairy products and colostrum-based products
 6. Eggs and eggs products
 7. Frogs' legs and snails
 8. Rendered animal fats and greaves
 9. Treated stomachs, bladders and intestines
 10. Gelatine, raw material for the production of gelatine for human consumption
 11. Collagen
 12. Honey and apicultural products

Financial services – illustration

[EU/Cn]

13. For **RO**, Article 13.7.1 applies to the cross-border supply of financial services, as defined in subparagraph (a) of the definition of cross-border supply of financial services in Article 13.1, with respect to:

- a. acceptance of deposits;
- b. lending of all types;
- c. guarantees and commitments;
- d. money broking;
- e. the provision and transfer of financial information, and financial data processing and related software, as described in sub-subparagraph (xi) of the definition of banking and other financial services (excluding insurance) in Article 13.1; and
- f. advisory, and other auxiliary financial services relating to banking and other financial services, as described in sub-subparagraph (xii) of the definition of banking and other financial services (excluding insurance) in Article 13.1, but not intermediation as described in that sub-subparagraph.

Financial services – illustration

[EU/Ukr]

Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast) (hereinafter referred to as "Directive 2006/49/EC")

Timetable: The Directive's provisions shall be implemented according to the following timetable

Expected progress in adoption of EU regulation for investment firms	Applicable provisions of Directive 2006/49/EC	Expected deadline to implement by Ukraine
Initial capital	Chapter 2	4 years
Trading book definition	Chapter 3	4 years
Own funds	Chapter 4	4 years
Provisions against risk in accordance with Basel I: — Capital requirements for credit risk — Capital requirements for position risk, settlement and counterparty risk, FX and commodity risk.	Chapter 5 section 1	4 years
Remaining provision of the Directive.		6 years

Beauty services - illustration

Sector or sub-sector	Description of reservations
b) Hairdressing services (CPC 97021)	For Mode 1: EU: Unbound For Mode 2 None.
c) Cosmetic treatment, manicuring and pedicure services (CPC 97022)	For Mode 1: EU: Unbound For Mode 2 None
d) Other beauty treatment services n.e.c (CPC 97029)	For Mode 1: EU: Unbound For Mode 2 None

PART I – THE OPTIONS

EU/Ukraine vs. EU/Canada

- **Market disciplines**
- **Flanking policies**
- **Investment**

PART I – THE OPTIONS

EU/Ukraine vs. EU/Canada

- Equivalence vs. Approximation
- Institutions
- Settlement of disputes

PART I – THE OPTIONS

Lesson 1.

- Both models are not enough to deal with Northern Ireland border, but EU/Ukraine will be better, and is easily extendable.
- Both models would be more restrictive than present regime for EU people in UK and UK people in EU.

PART I – THE OPTIONS

Lesson 2.

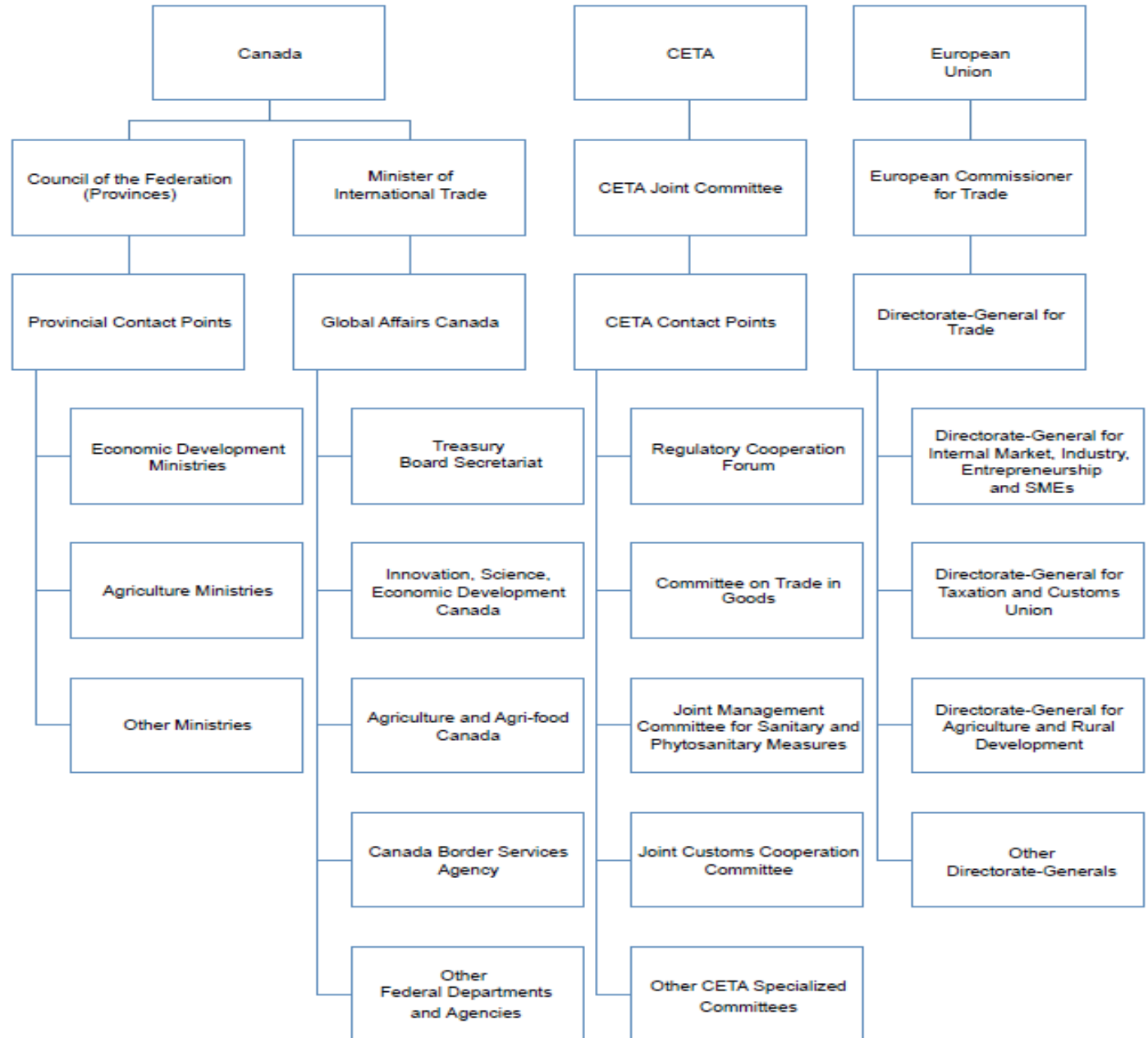
- Cherry picking happens all the time. What is not allowed is disrupting the balance between benefits and constraints, access and commitments.

PART I – THE OPTIONS

Lesson 3.

- Both agreements are very long, rely on complex institutional framework, require ratification at EU/national levels.
- EU/Ukraine model offers better access to both parties, imposes more constraints (to one), is largely submitted to ECJ for trade.

Figure 1: Required Institutional Structure to Implement CETA Effectively



Source :
Leblond,
CIGI, 2016

PART I – THE OPTIONS

Lesson 4.

EU/Ukraine alone allows deep cooperation.

Surprisingly, it is in some aspects more constraining than the EEA / EFTA model (as far as single market is concerned).

PART II – THE IMPACTS ON THE EU

Lesson 5.

Both options will be a challenge for the single market management (especially EU/Ukraine)

- Equivalence vs. Approximation must be managed.

PART II – THE IMPACTS ON THE EU

Lesson 6.

This will be compounded by the coexistence of many other different regimes (CETA, Switzerland, EEA, Turkey... and Asian or South American countries).

The EU multiplies enormous trade agreements everywhere. This is a huge change for the single market. There will be substantial + institutional impact.

PART II – THE IMPACTS ON THE EU

Lesson 7.

The Neighbourhood Policy will never be the same after Brexit. It needs a redesign. There is a growing risk of ad hoc deals both over surveillance of single market and judicial control.

The EU implements the spaghetti bowl of preferential trade agreements. They could have a strong legal impact.

PART II – THE IMPACTS ON THE EU

Lesson 8.

The institutions' workload will still be increased by the absence of direct effect of the Brexit bespoke agreement. They will not create rights for individuals and enterprises. Additionally, conflicts will thus have to be dealt with in the political framework, not the judicial one. (reverse evolution of WTO).

PART II – THE IMPACTS ON THE EU

Lesson 9.

The new generation of EU trade agreements is very heavy, substantially and institutionally. When all of them will be functioning at full speed, a need for simplification will grow. Simpler processes would be useful for recognition of equivalence or alignment. Annexes should be used to bring more flexibility. Enterprises' rights should be increased.

PART II – THE IMPACTS ON THE EU

Lesson 10.

Brexit has many strategic stakes for the EU, besides economic benefits

- general trade strategy
- defence
- internal security
- good functioning of Article 50
- organisation of a multi-tier Europe

CONCLUSION

To conclude, contrary to what is said sometimes (“this is the UK responsibility”, “the damage will be much greater for the UK”...), the EU also has a fundamental interest in a successful negotiation. After the US, the UK will remain the biggest strategic ally of the EU. And it will remain by far the biggest economy of the neighbourhood. Let’s think more about the future.

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