

What is wrong with the Chequers Agreement

I have spent time discussing the detail behind the three page Chequers Statement that I found wanting last week. On the eve of the White Paper, which is the longer version of the Chequers Statement, let me share with you why it has to change.

The Statement is based on the false premise that there is a border problem between Northern Ireland and the Republic which needs special arrangements on customs and trade to get round. I will explain again another day why this is untrue. It offers the EU a "common rulebook" to govern trade in goods and agricultural products. It offers a guarantee of no dilution of standards in a wide range of other policy areas. It proposes collecting EU customs dues on goods circulating in the UK destined for the EU, but does not say the EU has to collect UK customs on goods circulating on the continent destined for the UK. It says there needs to be a "Mobility" Agreement which erodes UK control of our borders and migration.

The legal structure of the proposal is particularly worrying. The government wants to enter into a new Treaty or Treaties with the EU, creating a binding international law obligation over and above any UK Parliamentary say on these matters. The government says dispute resolution will be ultimately by an independent third party, but in practice decisions and policies of the European Court of Justice towards the common rulebook will be important and will be taken fully into account should the matter reach independent arbitration. Parliament will doubtless be told should we sign such a Treaty that in practice we have to follow its spirit as well as its letter.

The so called common rulebook is not a common rulebook. It is the EU's rulebook. That is why the ECJ will be important, as they define the rulebook along with the other institutions of the EU. The UK will have to accept all old and new laws that comprise the rulebook. It is true Parliament would have the right not to enact a new law, but there will be consequences with the EU allowed to impose trade penalties. It is also unclear how the Treaty obligation would sit with Parliamentary authority. I suspect Parliament would be told where it wanted to deviate from the EU rulebook both that there will be unpleasant consequences and that it breached the Treaty obligation.

The idea behind the dual customs system is that the UK can impose its own tariffs on goods for its market that are not necessarily the same as EU ones. This creates a complex set of arrangements, where the UK not only collects EU duties, but has to trace and follow any good coming into the UK to make sure it does move into the EU. A Free Trade deal would be a much better way of capturing benefits, with the preservation of tariff free UK/EU trade.

The Mobility framework has still to be defined, but it is likely the EU will push to recreate something like freedom of movement. I presume the UK government will resist this, but they would also need to be very precise and

limited with concessions to avoid losing the right to design and implement our own migration policy.