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### ***UK-EU Free Trade Deal Must Be Foreshadowed in Transition Deal*** **Under WTO rules interim agreement must lead to comprehensive FTA.** **PM's Florence speech means more than it says.**

**Publication:** Immediate

**Link to PDF:** [Negotiating Brexit: The Legal Basis for EU & Global Trade](#)

The prime minister offered in her Florence speech to pay the UK's fair share to the EU in a gesture designed to kick start UK-EU trade talks. She wants to negotiate an EU-UK Free Trade deal. She also wants free trade ('market access') to continue during the transition period.

That means, however - and Theresa May did not spell it out - that any interim agreement must depend on a full EU-UK FTA being signed ultimately. Any attempt by the EU to insist that the interim agreement need not lead to a full FTA would not actually be WTO compliant.

That's the view of Professor David Collins, a leading international trade lawyer.

In his Politeia analysis he explains what the UK's aims and constraints for the possible transition arrangement must be:

- An FTA should in principle be agreed before considering an interim agreement.
- The transition period should be limited 18 months.
- It should not include the aspects of EU membership to which voters have objected.

**An indefinite transition agreement is ruled out under WTO law. The rules envisage that an interim agreement should lead to a full FTA.** Collins explains:

WTO rules require that interim agreements are created with a view to a full FTA being signed ultimately. So an attempt by the EU to insist that the interim agreement need not lead to a full FTA would not actually be WTO compliant.

Professor Collins also sets out the steps the UK government should now be taking to secure trade deals with the rest of the world:

**Comprehensive FTA with the EU** Negotiate a comprehensive FTA with the EU replicating as closely as possible the tariff-free access for goods, services and investment under the Single Market while avoiding ECJ jurisdiction and free movement of persons, as Canada achieved in CETA, but with even greater access given the UK's strong negotiating position and already deep regulatory integration with the EU.

**Mutual Recognition Agreement – Financial Services** If the above is not forthcoming, seek a Mutual Recognition Agreement for Financial Services based on common regulatory outcomes.

**Negotiation with US and Commonwealth** Prepare for expiry of Art 50 period and negotiate FTAs with strategic economic partners, starting with the countries of the Commonwealth and the United States where there is already evidence of some willingness.

**Trade Leadership in the World** Actively pursue trade negotiations under the WTO, TiSA, and other regional initiatives with a view to setting the agenda as a leader in global trade. It should be noted that Canada appears to be willing to give the UK the same deal that the EU received under CETA, an encouraging sign.

Clarifying the timing, Collins says that FTAs with the rest of the world can be legally negotiated **now**. The UK is free to negotiate up to and including signing a deal, but it cannot come into force until the UK has formally left the EU:

‘Negotiating and signing a free trade agreement as long as it does not go into force before ... March 2019 ... is in theory legal. There is nothing in the EU Treaties that actually prohibits [this]’.

**For a fuller discussion of these points see the author's new edition for Politeia [Negotiating Brexit: The Legal Basis for EU & Global Trade](#)**, which sets out the next steps for the UK Government for the interim arrangement and for negotiating UK-EU FTA and trade deals with the rest of the world.

**David Collins** is Professor of International Economic Law at City, University of London and a WTO specialist. He previously practised commercial litigation in Toronto and was a prosecutor for the Attorney General in Ontario. His previous publications include *An Introduction to International Investment Law* (Cambridge, 2016) and *The World Trade Organization Beginner's Guide* (London, 2015).

[Negotiating Brexit: The Legal Basis for EU & Global Trade](#) is published by Politeia, 14a Eccleston Street, London, SW1W 9LT.

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