Caught up in a war — the WTO and Brexit

What does leaving the EU ‘on WTO terms’ mean? A presentation on some of the implications

For some it’s “no deal” — a Brexit with nothing agreed between the UK and EU. Others prefer to hide that by calling it “leaving the EU on WTO terms”. What does that mean?

These are slides from a presentation given at Chatham House, London on March 11, 2019, looking at some of the implications. The presentation is also available as video on the Chatham House website here.
Caught up in a war — the WTO and Brexit

This is not the first time the WTO has been at war. I was at the Ministerial Conference in Seattle in 1999 when there were large anti-WTO demonstrations, and a minority rioted. I still have the t-shirt. But Brexit is different. The WTO has become a weapon in a battle between two warring sides.
Does visiting the WTO in Geneva prove you know or are telling the truth about the WTO? No. Not at all. Some of the combatants are happy to make false claims about the WTO in a misguided attempt to support their arguments. They just damage their own credibility.

Trust me ...

... I met some folks at the WTO’
Some combatants exaggerate the implications of a “no deal” exit on WTO terms. One side advocates embracing the WTO, ignoring the damage that “no deal” can cause. Because the WTO is now a weapon, the other side claims “countries do trade deals to escape [the] WTO”. That’s also false for two reasons. One is that WTO members cannot escape the WTO, so long as they are members, nor do they want to, as we shall see. The other is that they “do trade deals” to improve on some WTO terms, not to escape them. This is often called WTO-plus.
What is the WTO?
Like the parable of the blind men identifying the different parts of the elephant that they touch, people tend to focus on different functions. The ignored function is the second leg, implementation. This is boring and routine and never hits the headlines but it is vital for keeping $20 trillion per year of world trade in goods and services flowing smoothly. So even if the first and third legs are in trouble, the elephant is not dying (yet). It can continue to function, even if it’s limping a bit. More on the WTO elephant, here.
All WTO members have two sets of rights and obligations. One set is in the rules, in the 500-page book of WTO agreements. Another set is in what is now around 30,000 pages (20,000 back in 1994) of commitments countries have made individually on ceilings on tariffs and minimum tariff quotas on thousands of products, limits on agricultural subsidies, and how much each of them is opening its services markets. These commitments are officially called goods and services “schedules”.
$20 trillion goods, services traded annually unremarked

To repeat: the rules and commitments, and the WTO’s work on implementation, which is essential after agreements have been signed, keep $20 trillion per year of world trade in goods and services flowing smoothly, without ever hitting the headlines.
This has created a multilateral trading system based on rules, operating with a handful of important principles. They include transparency, stability and predictability in trade and trade policies, through shared information ("notification"), monitoring and peer review in the WTO. In the Brexit debate, non-discrimination is dominant, particularly “most-favoured-nation” treatment, which means not discriminating between your trading partners. Less publicised but equally important is “national treatment” which means equal treatment between your own citizens and companies, and those of other countries. WTO rules include a lot of exceptions on both.
The focus here is on most-favoured-nation (MFN) treatment — not discriminating between your trading partners. It’s so important that for trade in goods, it’s been the first article of the General Agreement on Tariffs and Trade (GATT), ever since the treaty first took effect in 1948. (GATT was run by an ad hoc organisation of the same name until it was replaced by the properly ratified organisation, the WTO, in 1995. GATT remains the WTO’s umbrella treaty on goods, joined with the WTO’s creation by agreements on services and intellectual property.)
No deal and ‘WTO terms’
The US and China do well outside the EU, trading with it on WTO terms, so why can’t the UK? First, countries like the US and China have trade agreements with their neighbours, trading with them on terms that are better than WTO terms. Second, if the UK had never been in the EU, it would be in a steady state of trading with it on WTO terms and would probably do well. The problem is that it is removing it from its steady state as an EU member. The economy will have to change direction, breaking its present momentum, like turning a super-tanker around. “No deal” means that change is abrupt, with jolts and shocks. Why?
The EU currently accounts for about half of UK trade. Suddenly applying “WTO terms” means new trade barriers between the UK and EU. The UK’s own barriers affect UK imports; EU barriers confront UK exports. Those trade barriers include tariffs on goods, standards and regulations on goods, and restricted access to services markets.

Tariffs are the easiest to analyse because they are just numbers, but for much of trade they are not the most important barriers. Even with tariffs, some of the arguments look only at broad brush numbers such as averages. But averages (like estimates of GDP) hide variations.
Average EU/UK tariffs (outside the EU as the UK will be with no deal) are about 10% for agriculture. Even for dairy products the average is 15%. But some dairy products have tariffs of almost 200% (described as “peak” tariffs for that group).

The figures on the left come from the more detailed table on the right, which is part of the tariff profile for the EU, available directly here (or if that link changes, available from the WTO page for the EU).

In principle, when trading on WTO terms the UK and EU will charge the same tariffs on each other’s goods. But if there’s no UK-EU deal, the UK has said it will unilaterally scrap or lower its MFN tariffs, ie, the tariffs it charges on imports from all countries except under free trade agreements or preferences for developing countries.

Under WTO rules, countries can open their markets more than their WTO commitments (for example by reducing tariffs), but cannot breach their commitments (eg, raise tariffs above the pledged ceilings) without renegotiating.

The EU has said it will not lower its tariffs so under “no deal”, UK exports would face the MFN tariffs the EU currently charges the rest of the world (except under preferences)

To look at what UK agricultural exports to the EU would face, there are other sources that give a clearer picture.
These are figures from the Agriculture and Horticulture Development Board (AHDB)’s publication, *The WTO and its implications for UK Agriculture*. The actual tariffs are complex, often with two components. To know what that means as a simple percentage, we need to know the price, since one component is in euros per 100 kg. AHDB’s calculations are on the right. They show these categories of meat will face tariffs that are so high exports to the EU may not be possible at all, particularly if the UK cannot access the quotas for low-duty or duty-free imports. Some 30,000 tonnes of sheepmeat exports to the EU will be blocked, for example.
These are AHDB’s calculations for tariffs on dairy products, another important area of UK-EU trade, including between Ireland and Northern Ireland. Again the tariffs are pretty steep. Within the Single Market, they are traded duty-free and quota-free. And they are only tariffs. Agricultural products also face food safety and animal and plant health controls.
One of the exceptions to the non-discrimination rule of GATT Article 1 is GATT Article 24. This allows countries to set up free trade agreements or customs unions, where they trade duty-free with each other, without having to do the same with the rest of the world. GATT Article 24 also sets out conditions that have to be met. So if anyone says “We want to use GATT Article 24”, they are saying “We want a free trade agreement in goods or a customs union, that complies with WTO rules.” But then we get this …
Where did that come from? How on earth did we get from “We want a free trade agreement in goods or a customs union, that complies with WTO rules” to this nonsense about emergencies? A distorted interpretation of GATT Article 24 is pushed by some hardline leavers as if it were something to use in an emergency, “if the deal fails”. This is false.
To apply GATT Article 24 there has to be a deal. The Single Market, or the Withdrawal Agreement and backstop, or a Norway-type, Switzerland-type, Canada-type agreement, or a single sheet of paper — whichever kind of deal is struck with the EU, it must comply with GATT Article 24. So the solution doesn’t lie with GATT Article 24. The solution has to be found in an agreement with the EU. “No deal” means there is no agreement with the EU and therefore GATT Article 24 doesn’t apply.
Richard Tice tweeted (in the third slide above), that the WTO said an Article 24 agreement between the UK and EU could be handled in days. That’s true after the two reach agreement — it’s reaching agreement that takes time.

After the UK and EU reach agreement, the WTO would then perform its part of the work quickly, not as a special favour to the UK and EU, but because that’s it’s job.

UK-EU STRIKE A DEAL

They notify
WTO checks, circulates the form
Info goes on a database
WTO members do Q&A

[If ‘interim’ need evidence that doable in 10 years]
The procedure in the WTO is about monitoring how countries comply with GATT Article 24 (and Article 5 of the General Agreement on Trade in Services, GATS). This is handled in the Regional Trade Agreements Committee, which like almost all WTO committees, comprises all WTO members. It comes under that second leg (implementation and monitoring) of the WTO elephant.

This is how it works.

Once they have reached agreement, the UK and EU fill in a one-page form, notifying other countries through the WTO that they have an agreement under GATT Article 24 (or GATS Article 5 or both, depending on the content of the agreement). The form only contains brief information on the agreement and nowadays with a link to the agreement’s text online.

The WTO Secretariat checks the notification form. The EU has submitted dozens of these before, so we can expect the form to have been filled in and formatted correctly. Checking it could take about 10 minutes, but there are internal systems that official documents go through — including translation into the two other official languages — before they are issued on paper and online. The information also goes into a database of regional trade agreements.

Next, the Secretariat organises a meeting of the committee (ie, of the WTO membership). Members submit questions in writing or orally and the UK and EU answer. And that’s it. That’s what happens to all free trade agreements.

One special type of GATT Article 24 agreement requires more. These are “interim” agreements leading to full agreements within about 10 years. When some Brexeters refer to GATT Article 24 as a solution to “no deal”, they show that they mean “interim” agreements by also mentioning a 10-year deadline.

Their arguments also misinterpret what GATT Article 24 says. They suggest all the UK and EU need to do is to notify the WTO their intention to complete a free trade agreement within 10 years. But GATT Article 24 requires more than that. An interim agreement is a deal, so it requires details. GATT Article 24 also says the UK and EU would have to provide evidence to the rest of the WTO that a final agreement can be agreed within a timetable, which the UK and EU would also have to submit. None of that can be agreed with the EU overnight, if at all.

This resonates with events in early April 2019 when the British government asked for a further extension of the “Article 50” period for negotiating withdrawal from the EU. Some EU members complained that the UK had not included a plan to show why the extension was needed and what it would be used for, as they had previously requested. In exactly the same way, GATT Article 24 would require the UK and EU to provide their plan and a timetable.

More on GATT Article 24, here.
WTO rules underpin all trade relations between WTO members

In other words:

1. WTO rules always apply to all trading relationships between WTO members. They may agree to improve upon WTO terms through preferential trade, but that also has to comply with WTO rules
2. The economic (and social) impact of leaving the EU means changing the direction and breaking the momentum of the British economy. “No deal” means this is abrupt. It cannot be compared with what the UK’s situation might be if it had never been in the EU.

3. WTO rules are complex. Few people have the time to check them. So misinformation, such as on GATT Article 24, is easy to spread. It sounds technical so it must be correct, right? Wrong.