

# BREXIT: A Case in Point for a Single Market Treaty?

A perspective from within the process of European Economic Integration

Philippe Lionnet

---

Veröffentlichungen aus dem LL.M.-Studiengang Internationales Wirtschaftsrecht der Universität Zürich und des Europa Instituts an der Universität Zürich

2018 Band 108

Schulthess § 2018

# Table of contents

Abbreviations .....	13
Literature.....	15
Materialia.....	19
<b>I. Introduction and research interest.....</b>	<b>25</b>
<b>II. Institutional aspects of International Trade Regulation .....</b>	<b>29</b>
1. Different legal concepts of International Trade Regulation .....	30
a) The Single Market-approach .....	30
b) The preferential trade-approach .....	37
c) „Access” to the single market – the Swiss Bilaterals .....	42
2. Institutional aspects of <i>deep mutual recognition</i> .....	48
<b>III. A bridge between approaches: the EEA .....</b>	<b>51</b>
1. Negotiating the EEA .....	51
2. Which Court? CJEU Opinion 1/91 and 1/92.....	57
3. EEA decision-shaping.....	61
<b>IV. Perspectives for a „Single Market Treaty”.....</b>	<b>63</b>
1. The substantive content of the SMT, implications for institutional set-ups? .....	63
2. Substantive <i>Acquis</i> as a starting point.....	65
a) Approach to the institutional setup: „two-pillar” .....	65
aa) Homogeneous interpretation.....	65
bb) International supervision.....	68
cc) Dispute settlement .....	68
dd) Development of law.....	69
ee) Decision-shaping .....	69
ff) Decision-making .....	70
b) Approach to the institutional set-up: „one pillar”.....	71
cc) Decision-shaping .....	71
ff) Decision-making .....	71
3. The principle of <i>deep mutual recognition</i> as a starting point.....	74
a) Approach to the institutional setup: Deep Mutual Recognition Agreement .....	75
aa) Homogeneous interpretation.....	76
bb) International supervision.....	76
cc) Dispute settlement .....	77
dd) Development of law.....	77

ee) Decision-shaping .....	77
ff) Decision-making.....	78
b) Approach to the institutional set-up: Extended „third-country equivalence” .....	78
bb) International supervision.....	79
cc) Dispute settlement .....	80
dd) Development of law.....	80
<b>V. Conclusions .....</b>	<b>81</b>
<b>Annexes .....</b>	<b>85</b>
Annex 1: Opt-outs of the UK in the EU .....	85
Annex 2: Different institutional set-ups .....	87
Annex 3: Legal sources.....	90
Annex 4: Council Conclusions in EU relations with EFTA countries .....	93