

Becalmed yet drifting apart?



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After all the euphoria of the Brexit vote, we have currently entered a more sober period where the complexities of devising a comprehensive leave strategy are keeping members of HM Government fully on their toes.

We have been forwarded a communication from Maria Caulfield, the newly-elected Conservative MP for Lewes in East Sussex, who is on the House of Commons Brexit Select Committee. This was her summary of progress at the end of October:-

The Prime Minister has been clear that the country voted to leave the European Union, and it is the duty of the Government to make sure that this happens. The Prime Minister has also said that Article 50 will be triggered no later than the end of March 2017.

Nobody should believe that the negotiation process will be brief or straightforward. It is going to require significant expertise and a consistent approach.

The Prime Minister will lead our negotiations for leaving the EU. This will be supported on a day-to-day basis by the Department for Exiting the European Union. The Department will specifically be responsible for:

- the policy work to support the UK's negotiations to leave the European Union and to establish the future relationship between the EU and the UK;*
- working closely with the UK's Devolved Administrations, Parliament, and a wide range of other interested parties on what the approach to those negotiations should be;*

- conducting the negotiations in support of the Prime Minister including supporting bilateral discussions on EU exit with other European countries;
- leading and co-ordinating cross-government work to seize the opportunities and ensure a smooth process of exit on the best possible terms.

TIMEFRAME OF NEGOTIATIONS FOR LEAVING THE EU

The Prime Minister has said that Article 50 will be invoked by the end of March next year. By this point, Britain will begin its formal negotiations to leave the European Union. I believe that this will provide certainty for us as a country and will also provide certainty for other European countries on when this begins.

NEGOTIATIONS

I understand that this process will not be brief or straightforward. As I am sure you can appreciate the Government cannot provide a running commentary on every twist and turn of the negotiations but there will be numerous opportunities to debate this in Parliament, as there have been already. As a member of the new Exiting the EU select committee I will be scrutinising the negotiations at every stage and I am very keen to hear from constituents about the issues that concern them the most. I have already met with many constituents on this and will continue to do so but below are some answers to the most frequently asked questions.

GENERAL 'RED LINES' AND DEMANDS IN EU NEGOTIATIONS

The Government wants to give British companies the maximum freedom to trade with and operate in the single market and let European businesses do the same here. As the Government is about to begin these negotiations it would be wrong to set out further unilateral positions in advance. At every step of these negotiations the Government will work to ensure the best possible outcome for the British people.

APPLICATION OF EU LAW TO THE UK

I am glad that in the next parliamentary session, the Government will bring forward legislation to repeal the European Communities Act 1972 on the day that Britain leaves the EU. This 'Great Repeal Bill' will end the authority of EU law and return power to the UK. The existing body of EU law will be converted into domestic law, wherever practical and Parliament will be free to amend, repeal and improve any law it chooses. As I am sure you can appreciate, the UK will have to continue to meet its legal obligations until it leaves the EU.

The European Communities Act 1972 also requires UK courts to follow rulings of the European Court of Justice. Some EU law, such as Regulations, can apply without the need for specific domestic implementing legislation. Other EU law, such as Directives need to be implemented in UK laws through domestic legislation. The European Communities Act provides the legal powers necessary for this to happen.

THE MODEL BRITAIN WILL FOLLOW

I want to be clear that the position we build outside the EU will be unique to Britain. My colleagues in Government are not looking for an 'off the shelf' deal such as a 'hard' or 'soft' Brexit or a Norwegian or Swiss model. It will be an agreement between an independent sovereign United Kingdom and the European Union. I want that relationship to reflect the mature, cooperative relationship that close friends and allies enjoy.

STATUS OF BRITISH CITIZENS CURRENTLY LIVING IN THE EU

The Prime Minister has been clear that she wants to protect the status of EU nationals already living here, and the only circumstances in which that wouldn't be possible is if British citizens' rights in European member states were not protected in return.

THE FUTURE RIGHTS OF UK CITIZENS CURRENTLY LIVING IN EU

COUNTRIES (E.G RIGHTS TO HEALTHCARE, PENSIONS)

At every step of these negotiations the Government has assured me that it will work to ensure the best possible outcome for the British people. As we begin these negotiations, it would be wrong to set out unilateral positions in advance.

THE UK'S ROLE IN REGULAR EU AFFAIRS

Britain will be leaving the EU in due course, but it will continue to play a full and active role inside the EU until it leaves. The UK has relinquished the rotating Presidency of the Council, currently scheduled for the second half of 2017, as we will be prioritising the negotiations to leave the European Union.

So far so good, but a lot more detail is needed. Since Maria Caulfield sent this e-mail, there has been the court case which resulted in a defeat for the Government, We can but hope that the appeal will reverse the decision. Rupert Matthews raised some interesting points about an earlier EU-related court action whereby the judge ruled that the Government was free to use prerogative powers to agree any treaty it liked (in this case, the Maastricht Treaty), unless Parliament had specifically restricted its powers beforehand. Unfortunately, doubts have been raised as to whether the Supreme Court will be even-handed and consistent. The Lord Chief Justice belongs to the European Law Institute and this has caused serious concern for many, especially after the rumpus which followed the first court ruling where, rightly or wrongly, the judges were accused of bias and being "enemies of the people".

Following the judgement, Mrs May insisted that her Brexit timetable remained on track and that Article 50 would be triggered by March 2017 at the latest. Yesterday's announcement that plans to reform the House of Lords are being shelved can perhaps be viewed as a veiled threat to the Upper Chamber not to try to derail or slow down the process. Whatever, we can but hope that Mrs May does publish some more details of the Government's exit strategy pretty soon. Much is clearly going on behind the scenes but there is a huge amount of ground to cover before Article 50 can be triggered, thanks

both to Mr Cameron's refusal to allow the Civil Service study possible Brexit options during the referendum campaign and the lack of unity on the Leave side about how best to achieve our goal. However, the absence of any announcement has resulted in far too much space being given to the most mischievous and destructive type of remoraner and resulting in a perception of the government being becalmed.

Mrs May and her colleagues know that they cannot afford to fail, especially after the forthright tone of her speech on 2nd October, saying quite unequivocally, "Britain is going to leave the European Union". At grassroots level, the Conservative party is overwhelmingly pro-Brexit. A botched job or indeed delay upon delay to Brexit would open the door to unparalleled political uncertainty, whereas a successful negotiation of independence would leave the Tories very well placed for a thumping majority at the 2020 General Election – a prospect with strong appeal for a party which has always had a huge thirst for power. Mrs May, we can be sure, is straining every nerve to ensure that the considerable goodwill following her "coronation" is not dissipated. Her fine words, in other words, will hopefully be followed by some substantive plans before too long.

Meanwhile, events are conspiring to produce a sense of that the EU is becalmed too. The decade 2011-20 looks likely to be the first in which the EU has made no tangible political advance. It is now nearly seven years since the Lisbon Treaty came into force and while the Five Presidents' Report – a framework for a new treaty – hasn't been consigned to oblivion, the challenges any new treaty on closer union would face are immense, even without the UK around to drag its heels. In this decade, one small country, Croatia, has joined, but this has been more than offset by the UK's Brexit vote. The last time a country withdrew from the European Project was 1985 when Greenland left. However, the same decade saw both the Single European Act and the accession of Greece, Spain and Portugal.

As if to underline the degree to which the EU project is becalmed, tiny Moldova recently elected a pro-Russian

president, Igor Dodon, after several years of rule by pro-EU Maia Sandu, a former World Bank official. Moldova, a former Soviet republic which borders Romania, signed an association agreement with the EU in 2014, normally the first step towards a full membership application. The election of a pro-Russian president suggests that there is now unlikely to be any progress in this direction for the time being, especially as he called for the repeal of the agreement during the campaign and instead to join the Russian-led Eurasian customs union.

This reversal comes only five months after Switzerland formally withdrew its membership application, following Iceland's example last year. Meanwhile, Turkey, which applied to join the EU as far back as 1987, is looking less and less likely ever to join. Norway still retains its pro-EU government led by the Conservative Erna Solberg, but one reason for the enthusiasm of the Norwegian government to lend its support to David Cameron was a recognition that a vote for Brexit would be the final nail in the coffin of any hopes of Norway joining the EU. Essentially, these events, some of them seemingly small and insignificant, all combine further to tarnish the EU's image.

Expansion and ever-closer union has been part of its DNA from the very start. Manuel Valls, the French Prime Minister, gave a speech in Berlin yesterday where he warned that "Europe could die." His proposal was that France and Germany should lead a coalition of the willing towards closer fiscal integration so that the European Project can regain some momentum. However, he will face problems selling this to his own countrymen and nothing will happen anyway before Italy's referendum on constitutional reform on 4th December, which could bring down Matteo Renzi, the Prime Minister, and create a further headache for the EU as the Eurosceptic Five Star Movement could find itself one step closer to power.

Even though we may find ourselves unable to extract ourselves financially from the EU as soon as we would like, we are going

to be watching these events as spectators. It came as quite a surprise at the time of the referendum result that the reaction in Brussels and other European capitals was regret, but no attempt to try to keep us on board. Article 50 may not have been triggered yet, but the crucial blow was struck on June 23rd. it hit the EU hard and its subsequent energies have been devoted to cauterising the wound. Whatever the confusion in the UK about the government's exit plan – or lack of one, everything is gearing up for the UK's departure.

First came the resignation of Lord Hill, the UK's Commissioner, then came the announcement that the UK was surrendering its Presidency of the EU Council, scheduled for the second half of 2017. At the last European Council meeting, Mrs May was treated very much as an outsider. Obviously, as her task is to negotiate our exit, such a frosty reception ought hardly to be a surprise. However, what of those British officials who worked for the EU institutions? They have been encountering a different attitude from their fellow-officials since June 23rd. "They tell tales of colleagues going for coffee when they speak at meetings, or being cut out of email chains. One official said he was treated like a bereaved family member – people avoid you, he said, because they don't know what to say" says a recent article in the New York Times.

This is the bottom line. There can be no returning to the status quo before June 23rd. Whatever the struggles facing the government to formulate a coherent and comprehensive exit strategy, whatever the machinations of lawyers, Lords and a few incorrigible MPs, the UK and the EU are already drifting inexorably apart.

