

# Half way there, but have we even started?

Last week marked the half way point between 23rd June 2016 – that euphoric day when we voted to leave the EU – and the actual day on which we will actually leave:- March 29th 2019.

On Friday, Mrs May confirmed that she plans to set the date for our departure from the EU into law. There will be no slippage and no turning back. This comes against a background of growing concern that Brexit could be stopped. Today, Lord Kerr, a former UK ambassador to the EU, insisted that the Article 50 process could be stopped or reversed. No way, replied Mrs May. Her proposed law will make it irreversible.

This is good news for those of us who fought so hard to secure that historic victory in June last year. I have dealt with more than my fair share of correspondence recently from people concerned that the government is going to back track. My views have not changed since writing this article that Mrs May and the Tories, whatever side they supported during the referendum campaign, have no choice but to deliver Brexit because failure to do so would provoke the worst crisis in the party since the repeal of the Corn Laws in 1846. Backtracking would be suicidal. Thankfully, a lust for power is deeply entrenched into the Conservatives' psyche and given their shock at last June's General Election result, they know that delivering a good Brexit is essential if they are to avoid electoral meltdown in 2022.

Probe a bit deeper, however, and the picture is not quite so rosy. In spite of the Brexit vote last year, as Veterans for Britain has been keen to point out, the Government has taken us deeper into the EU's military integration process, with there being considerable support to signing us up to PESCO, the Permanent Structured Cooperation of the EU's external

action force – set up in reality to undermine and replace NATO. Brexit can only mean Brexit if we are completely detached militarily and we can but hope that even at this 11th hour, Gavin Williamson, the new defence secretary who has little experience of military matters, will listen to those members of our armed forces who know what they are talking about and step back from this process.

Sadly, of our daily newspapers, only the Express has so far been willing to cover this disturbing development. However, to repeat, even if Williamson's predecessor Michael Fallon was able to get away with betraying the UK's armed forces without being subject to too much scrutiny, it will be out of the bag by 2022 and the Tories will reap the whirlwind electorally.

Equally disturbing is this statement from the Prime Minister's office which was passed to one of our supporters. Note the section he has highlighted in yellow:- **It also means that the existing body of EU law will become British law. So this provides certainty and clarity for all businesses and families across the country from the very moment we leave the EU."**

This is true when it comes to legislation which would only be applied internally. For instance, the rules governing bathing water have been devised by the EU. It is no great problem for us to continue to use them over the Brexit period. They work satisfactorily so even if they could be improved, there is no urgency until we have settled down as a sovereign, independent country.

It is a different matter, however, when it comes to legislation which involves the relationship of an independent UK with the rest of the EU. We have previously highlighted the fallacy of this approach with regards fisheries, but it also applies to the general question of trade. the PM appears to be repeating the mistake that because our regulations will be aligned with those of the EU up to Brexit day, some sort of seamless trade arrangement should not be a problem,

The transitional arrangement which she seeks is essentially based on this misunderstanding – we can be essentially honorary EU members for two years while a bespoke long-term deal is sorted out. We would obey all the rules and pay into the EU's coffers without any representation. Such a deal would be unacceptable to many Tory backbenchers, not to mention the wider Brexit-supporting community. Thankfully, although the penny seems not to have dropped in Westminster, the EU has said it is a non-runner.

The European Parliament set out its position, where, among other things, it **“reaffirms that membership of the internal market and the customs union entails acceptance of the four freedoms, the jurisdiction of the Court of Justice of the European Union, general budgetary contributions and adherence to the European Union's common commercial policy”** – in other words, you're either in or you're out. To repeat, it's not about regulatory convergence but the legal relationship of a future EU-UK relationship. We will no longer be subject to the EU's treaties, Article 50 is quite clear about this. We need to seek a new legal basis and any transitional agreement would require almost as complicated a legal ratification process than a long-term bespoke relationship.

The EU's guidelines also say, **“To the extent necessary and legally possible, the negotiations may also seek to determine transitional arrangements which are in the interest of the union and, as appropriate, to provide for bridges towards the foreseeable framework for the future relationship in the light of progress made. Any such transitional arrangements must be clearly defined, limited in time and subject to effective enforcement mechanisms. Should a time-limited prolongation of Union *Acquis* be considered, this would require existing Union regulatory supervisory, judiciary and enforcement instruments and structures to apply.”**

This affirms that the EU will allow us to go ahead with a transitional deal, but it must be on the EU's terms and

subject to the appropriate legal processes being completed in time, which looks very doubtful. In other words, to repeat, it's a non-starter and a red herring.

So until there is a change in mindset among UK's negotiators we will continue to go round in circles. Last Friday also saw the usual Barnier/Davis press conference following the latest round of "negotiations" and there is still no indication from the EU side that they feel ready to start trade talks as insufficient progress has been made on the three critical issues of the Irish border, the rights of EU citizens resident in the EU and the "divorce bill." Agreement must be reached within two weeks or trade talks will not be starting any time soon. Sadly, David Davis's response was to call for the EU to show "flexibility and imagination." Unfortunately, the EU's legal structure doesn't allow it to be flexible. Mr Davis can repeat this little phrase as much as he likes. It will not make a shred of difference.

So at this point when we have just reached the half way point to Brexit, it is sobering to think that this milestone has been reached with the two sides so far apart and so little real progress made. Not what any of us expected on that incredible morning when the result of the referendum was announced. A Brexit of sorts will almost certainly happen on 29th March 2019, but unless the government raises its game, we could find ourselves, more by default rather than design, either crashing out following a breakdown of the talks or suffering a Brexit that isn't really Brexit in any meaningful way.