

# **What is really going on? Stepping outside the media bubble.**

If you are Brexit supporter fed up with all the muddle emanating from the media, a press release from the European Commission is hardly the obvious place to turn for clarity.

A recent communication, entitled “State of play of Article 50 negotiations with the United Kingdom” nonetheless does help to clear some of the fog surrounding the current state of play with Brexit. In particular, it offers some welcome clarification over the debate as to whether Article 50 is reversible. “It was the decision of the United Kingdom to trigger Article 50. But once triggered, it cannot be unilaterally reversed. Article 50 does not provide for the unilateral withdrawal of the notification.”

In other words, pulling back from Article 50 would require the agreement of both the EU and the UK government. This isn't on the cards, whatever Vince Cable may be saying. It also provides clarification about life after Brexit. The UK will become a “third country” on 29th March 2019 and if there is no agreement between the UK and the EU by then, we will be reliant on WTO rules for trade.

This looks unlikely. It is almost certain that there will be some form of agreement, but whether it will be sufficiently comprehensive to cover all areas of trade, including non-tariff barriers, remains to be seen. Essentially, the options for both us and the EU are for us to crash out of the EU or to come up with an agreement which has been signed off by the UK government, the European Council and the European Parliament. A qualified majority is required in the Council and no mention is made of the need for parliaments in the member states to

endorse the agreement. Significantly, the institution which produced this document, the European Commission, will not be involved in the sign-off at all.

### **A new mindset in the Civil Service?**

Another interesting article to be brought to our attention is this piece from the Civil Service blog. It mentions the Department for Exiting the EU, or DExEU, a new department created specifically to handle Brexit. So far, 450 staff have been taken on and there are plans to recruit a further 400 during the course of this financial year. Another new Department, the Department for International Trade, has grown to 3,200 staff. The blog is very complimentary about the quality of work achieved so far by DExEU. "Within days of its establishment – from a standing start – DExEU was delivering policy analysis and advice of the highest quality to the new ministerial team." One has to say that if the policy analysis and advice was of such a high quality, it is a pity that, judging by some of the ministerial announcements in recent months, it seems to have been ignored!

The blog's author, Sir Jeremy Heywood, acknowledges something which we believe to be self-evident but which again, does not seem to be reflected in some of the statements we have heard from the Government:- **"This is probably the biggest and most complex challenge the Civil Service has faced in our peacetime history."** On 29th March 2019, for the first time in over 46 years, the buck will stop with Westminster and Whitehall. There will be no Brussels to blame if things go wrong. Our elected representatives and the Civil Service will be fully responsible for running the country and will no longer spend some – or in some cases, most – of their time enacting legislation agreed by the EU. This truly requires a different mindset and we can but hope that the very upbeat tone of this blog is soon reflected in the actions of government departments, including preparing businesses for the changes which lie ahead.

## **The Great Repeal Bill**

Returning to the Commission's article, it points out that on 29th March 2019, the EU treaties will cease to apply to the UK. All legislation put onto our statute books which originates with the EU derives its authority from the treaties, so would be rendered null and void on Brexit day.

Due to the impossibility of replacing 46 years of EU laws with domestic legislation in such a short timescale, EU legislation needs to be "repatriated" – in other words, retained on the statute books but with the authority no longer derived from the EU treaties but from the UK Parliament. The European Union (Withdrawal) Bill, as the Great Repeal Bill is more correctly known, has now been published. It is a full 66 pages long and covers both the European Communities Act of 1972, which will be repealed on Brexit day, and the incorporation of EU law into UK law. The EU's Charter of Fundamental Rights is not to be brought across, although no mention is made of exempting fisheries legislation, which will be covered by another bill – at least, that was the plan in the Queen's speech.

It affirms our independence from the European courts and also provides some general guidelines for changes that will need to be made to the appropriate items of legislation to reflect the fact that their authority is no longer derived from the EU. It also confers powers on Ministers to use secondary legislation to amend provisions as they are transposed, although the amount of re-writing which will actually be required goes way beyond the guidelines in this Bill. Completing the necessary changes by March 2019 is going to be a major challenge whatever,

Our proposed withdrawal from the Euratom treaty, which provoked a storm in a teacup, is confirmed under the general guidelines for changes, as is the withdrawal from the EEA agreement, which does pose the question as to the nature of any transitional arrangement for EU-UK trade.

The bill for triggering Article 50 went through Parliament without amendment. The progress of this much longer bill is not likely to be straightforward, but of one thing we can be sure:- much of the mainstream media is likely to be providing us with a very unreliable guide on its progress.

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