

Brexit – What's next? Event organised by 'Leeds for Europe'

18th March 2017

Speakers: Prof. Michael Dougan, Richard Corbett MEP

Summary by Frederika Roberts

A great event held at Leeds Civic Hall, well-attended by a wide mix of people, who asked insightful and thought-provoking questions.

A summary, based on the notes I scribbled, trying to keep up with the vast amount of information being shared.

Michael Dougan

In trying to work out what the government plans to do with regard to Brexit, we only have 2 sources of information: Theresa May's Lancaster House speech and the subsequent government white paper. Both go hand-in-hand with each other.

2 factors impact on the government's stance:

- Hostility to EU immigration
- Hostility to the European Court of Justice (ECJ)

Hostility to EU immigration dictates the UK leaving the single market.

When it comes to the ECJ (which the UK was a key driver in establishing as an entity!), there are no specifics of what will replace it, other than there will be an alternative dispute resolution system. This hostility towards the ECJ also dictates the UK leaving the single market, as well as the customs union.

With regard to both hostilities, Michael Dougan said "it's selective, it's dishonest, it's hypocritical"

3 curious points about the white paper:

- It specifically acknowledges that 40 years of being in what is now the EU did not erode UK sovereignty.
- It makes a big deal of the importance of relations with the EU and access to the benefits of the single market, without wanting to be in it.
- It keeps talking about what a great nation the UK is, how well it's doing, etc, but how did it become so great if the EU has persistently destroyed it for the past 40 years??

A new trade agreement with the EU:

There are specific issues that need to be addressed in ANY trade agreement – almost like a 'tick list' that lawyers working out these agreements can go through of things that always need to be addressed, yet in the white paper there is absolutely NOTHING about any of these specific issues and what the UK wants to achieve, specifically.

There is no such thing as an 'off the shelf agreement' – these things need to be worked out in intricate detail.

Specifically, what issues/areas will this agreement cover?

What losses will the UK have to accept to get its own way?

Customs agreement – things to consider

- Origin of goods documentation
- Pre/post customs procedures
- Customs orders

The government wants all of this done within 2 years, which is realistically 18 months as ratification will take about 6 months.

Problems:

- Cannot start all of those negotiations until the UK is OUT of the EU, i.e. the end of the Brexit divorce proceedings. The UK wants all of it to happen within the Article 50 negotiations, but not a single EU lawyer says it's possible or even legal.

“we are entering negotiations on a fundamental misassumption with a catastrophic outcome”

There are 1,139 international treaties the UK is co-signatory on or included on based on EU membership. This will be a nightmare to go through/undo!

- Implementation phase after the UK leaves the EU – effectively a transition phase. Basically the government wants to be able to keep all the benefits and have none of the responsibilities, for as long as it suits the UK.
- Theresa May's interpretation of the referendum result: Is it legitimate? It doesn't represent the 48% in any way, despite Theresa May saying she would be representing all of the UK.
- “The Scottish white paper, whether you agree with the basic premise or not, is rigorous and thorough. The UK one is anything but!”

Fundamental flaws:

- The UK will, apparently, be a champion of free trade, but without any subjugation to external arbitration, any compromise, etc. This is impossible!
- **The government threat of what will happen to the EU if the UK doesn't get its own way: This is the weakest and most dangerous part of the white paper!** If you make threats, you have to be willing to carry them out. If Theresa May doesn't get her own way, she'll then have to turn the UK into a non-regulated, low tax, low wages, low public services country. “This is BONKERS!” You cannot run a country “for all people” under that premise.
 - **Michael suspects Theresa May is setting things up to be able to blame the big bad EU when the country comes crashing down, but if it's a genuine threat, it's a very dangerous path for any government to take, that could lead to a significant erosion of rights and any future government being able to pretty much do whatever it wants.**

- “Europhobia has taken over policy”
- Theresa May wants to reassure the extreme Eurosceptics in the party and trying to convince businesses not to leave
- **Later on, in answer to a question, Michael Dougan also made the rather chilling point that the very right wing Eurosceptics that are pushing the agenda want exactly the kind of country that the rest of us consider to be bonkers – the destruction of the NHS, an erosion of public services, a free for all for businesses to make big profits, pay very little tax and give employees no rights...etc!**

Richard Corbett

Came across as one of very very few voices of reason in the Labour party at the moment, praised the Liberal Democrats for the work they’re doing, stressed the importance of cross-party pro-EU priorities. He made the very valid point in answering one of the questions that, if one party alone stands and wins an election based on its pro-EU stance alone, then inevitably one day that party will lose power as all parties do sooner or later, and will be replaced by an anti-EU party and we’ll be back to square one. There needs to be a fundamental shift in the main parties to become more pro-EU.

There is no doubt we’re heading for a very steep precipice. Can it be stopped?

This is not a settled argument as a result of the referendum:

- The remain campaign have argued that it was advisory, was won by a narrow majority (and a reminder of Nigel Farage’s statement the night before the results were announced, saying that a 52:48 majority to remain would not settle the argument), was based on outright lies and on a questionable franchise (commonwealth voters, exclusion of EU citizens, exclusion of 16 & 17 year olds).
- A new argument, from those who voted ‘LEAVE’: Very few voted for ‘Brexit at ANY cost’. Most actually voted for ‘Brexit at NO cost’. As the damage and cost becomes apparent, those people should be entitled to change their minds.
 - For example, nobody voted to leave Euratom, yet the government is taking the UK out. Euratom is where the UK gets its isotopes for hospitals to use in cancer treatment!

What needs to happen:

The commons need to reject the Brexit deal at the end of the divorce proceedings.

It’s ONLY the British government’s opinion that Article 50 notification can’t be withdrawn (and as Prof. Dougan later said, we saw how reliable the government’s opinion is when they kept saying that Gina Miller and ‘The People’s Challenge’ had no legal basis for their court case and that the government was perfectly legally entitled to trigger Article 50 without a parliamentary vote...they kept insisting they were right even after they lost in the High Court, and were proved wrong again in the Supreme Court!). The over-riding response from

multiple key people in the EU, including the person who wrote Article 50, is that notice CAN be withdrawn.

It would only take a small group of pro-EU conservatives to change the landscape (Richard reminded us of how just a handful of Eurosceptics made John Major's life a misery!).

Richard reminds us of 2 quotes:

Lord Kerr "Over the next 2 years, we are going to test to destruction the theory that you can have your cake and eat it."

David Davis "If a democracy cannot change its mind, it ceases to be a democracy." (until David Davis changed his mind on this, because now the referendum result was to 'leave' the EU, nobody is allowed to change their mind!)

Legally, MPs overturning the outcome would be enough, BUT Eurosceptics would just keep banging on about parliament having 'overturned the will of the people', so politically it's likely that there would need to be another referendum at the end of the divorce process.

The European Parliament will vote (not individual countries separately, but the parliament with its MEPs, including British MEPs!) on the final deal. They will have the power to veto or approve the deal, and they can also choose to refer the deal to the ECJ!!! (this would delay things well beyond the 2 years).

IF Theresa May insists and succeeds in bringing the issue of EU citizens in the UK and UK citizens in other EU countries into the discussions as part of the divorce proceedings (highly unlikely she'll succeed as this is simply NOT something the EU as a whole can negotiate and decide on – this is something that needs to be settled through bilateral agreements with each country, separately), then things would get much more complicated as suddenly it wouldn't be the EU making a decision as one, through the European Parliament, but 27 countries!

Question: Why is there talk of a divorce settlement, and why is it so huge?

There are existing commitments.

For example, the EU doesn't have a pension fund for civil servants. This is paid for out of an annual budget and paid for out of member states' contributions to the budget. The UK government therefore needs to pay in order to fund the pensions of UK civil servants. This is just ONE example of an obligation it has to fulfil.

There are other contractual obligations, such as construction projects across the EU, including sums to be spent in the UK. The sums, incidentally, are tiny compared to the economic cost of Brexit!

Legally, no country or organisation can MAKE the UK pay what it owes, but what country would want to do business (i.e. enter into trade deals) with the UK in future if the UK reneges on existing legal obligations?!

EU vs WTO – an illustration of why WTO would be horrific:

- EU: If you run a company in your own country, no matter how small, and another country (or company in another country) does something that is in breach of EU treaties, you can go to a court in your own country, bring your case, and if the court finds in your favour, it has the power to get you financial compensation for your loss from the other country. The matter is then settled and you have covered your losses.
- WTO: Same scenario. Now you have to go to your GOVERNMENT and ask them to damage their relationship with another country to make YOUR case and protect your company. Assuming they're happy to do so and they take the case to the WTO and succeed, they can now impose sanctions on one or more trade sectors in that other country. So, you get absolutely NOTHING. You don't get compensation. Instead, some poor sods in another country get penalised for something that has nothing to do with them, either! The WTO is a cut-throat environment that will not help British businesses!

On the subject of trade, the UK already has MANY trade deals with countries outside the EU, many of which are negotiated BY the EU on behalf of its member states, including the UK. Countries do deals with the EU that are favourable to EU member states because the EU is the biggest market in the world. If the UK leaves the EU and tries to get the SAME deals with those same countries (let alone BETTER deals!), they'll say "what's in it for us??" because a small country cannot compete with the EU's trading power!

There were also some brilliant discussions during the very long Q&A that none of us wanted to end – including the possibility of EU citizenship for UK citizens (realistically not feasible but a positive gesture, which Richard will support in the European Parliament, and which will put Theresa May in an awkward situation), the fate of EU citizens living in the UK (with a reminder that it's not just about the right to LIVE here but the rights that come with living here, such as using the NHS etc), the issues around pensions for people who have accumulated pension rights in multiple member states and much, much more, but I couldn't jot everything down as it was moving really fast!

Also, Michael Dougan is going to keep recording informative videos (he's doing another one soon), as are his colleagues. Here is the YouTube channel:

<https://www.youtube.com/playlist?list=PLXz7NWZi5SdJHPSTVsgKB9afMEZE8qW8m>