Brexit: What Fair Deal between UK and EU Member States?

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Thierry CHOPIN
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INTRODUCTION :

UK's relationship with the European Union has never been a bed of roses. In 1975, barely two years after joining, Harold Wilson's Labour government consulted the British population by referendum asking them whether they wanted to remain in the European Community. At that time 67% answered "yes". For the 42 years of membership, taking part in Europe has, for most British governments, comprised preventing Europe's institutions from having too much power and negotiating exemptions and derogations to protect national sovereignty. In 2015 this has led to a UK that has managed to escape both from the single currency and the Schengen Agreements on the free movement of people. There are three areas in which the UK has made a strong contribution to the European Union without playing a wild-card: the creation of the internal market, enlargement and defence. The British have always felt comfortable with a European Union defined as a vast market, but much less so with one of political union. Since a market can never exist without regulation the governments in London have accepted however, whether they have liked it or not, for the European Union to regulate trade, financial services and capital. Hence enlargements have often been viewed as positive extensions to the market. Since UK, along with France, are the only ones to have an army that can project itself outside of the European Union, it has been able to make a significant contribution to European Defence without committing strongly to the institutionalisation of a European Defence Policy, which might have competed against NATO.

In 2015 British political life is marked by a wave of Euroscepticism which is not specific to the country. Most European States are experiencing this trend. Over the last few years an anti-European party, UKIP, has emerged in UK openly campaigning for the country's exit from the European Union[1]. This prospect is shared by a significant number Conservative Party MPs in office at present. Conservative Prime Minister David Cameron, for his part, is convinced that an exit from the European Union would not be a good choice for UK. Under pressure from the Eurosceptics in his party, he has however promised to hold a referendum on the issue before the end of 2017. The question put forward by the independent electoral commission at the House of Commons in September 2015 has the merit of being clear: "Should the UK remain a member of the European Union or leave the European Union?".

David Cameron has to win this referendum by rallying British opinion to the status quo. To do this, he has to provide prior guarantees by re-negotiating the conditions of a status that is extremely particular to UK with the country's partners in the European Union. Renegotiation is a complicated game, meaning that 27 capitals have to be won over. Although the Member States of the European Union are open to re-negotiation so that UK does not leave them, all have set red lines that cannot be crossed. In UK itself, Scotland, which is extremely attached to the European Union, is a constraint that David Cameron has to take on board: in the hands of the independentists, Edinburgh's parliament will revive the issue of independence if the English (and no longer the British) decide to quit the EU. Caught between the Eurosceptics of UKIP and his own

1. The institutional reform of Lisbon (2009) introduced article 50 into the Treaty on European Union which allows a Member State to exit the European Union.

party, the Scottish independentists and the other Member States, David Cameron has to play his cards subtly in undertaking renegotiation to see him win the inevitable referendum.

In this paper a panel of European experts from the Centre for International Research (CERI) of Sciences Po and the Robert Schuman Foundation[2] explores all of the issues at stake that will mark UK's future in the European Union over the coming months: what does the British government want? What are its demands? Is the reform desired by London acceptable or not? How far are its partners willing to go to keep the UK in the EU? Is a compromise possible and acceptable to all of those involved? If so, what would the main shape of this be? The referendum result will depend, in part, on the negotiations that occur between London and its European partners and the answers provided to these questions.

UK's exit from the European Union would undoubtedly change the future of European integration by confirming true political disunion from a regional experiment that is unprecedented in the world.

2. Thanks to the support provided by the Centre d'Analyse, de Prévision et de Stratégie (CAPS) at the French Ministry for Foreign Affairs and International Development to the research group co-piloted by Thierry Chopin and Christian Lequesne within the CERI.

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Pauline SCHNAPPER

The UK is the only country to have ever contemplated leaving the European Union since it was created. In view of the numerous challenges the EU faces, its growing unpopularity among large swathes of its population and the consequences of a British withdrawal, the British referendum will be closely watched throughout the continent. Understanding the terms of this debate is key to assessing the prospect of Brexit, as it would have dramatic consequences on the process of European integration in general, raising the possibility of a disintegration of the EU (as well as of the UK, although that is a different matter).

The return of a debate in the UK about whether to stay in the EU is in many ways puzzling. The issue, which dominated the political scene in the 1960s and early 1970s, had been apparently settled by 1975. In 1974 Harold Wilson, then leader of the Labour party in opposition, had rejected the terms of entry negotiated by Prime Minister Ted Heath before 1973 and promised, if he came back to power, to renegotiate these terms and then organise a referendum about whether to stay in the European Community. The ballot did take place in May 1975 and a resounding "yes" vote of over 65% showed the clear wish of the British electorate to stay in. Even Margaret Thatcher, who became increasingly hostile to many aspects of European integration in the course of her premiership (1979-1990), never contemplated leaving the EC. As for Tony Blair (1997-2007), he championed a positive role for UK and the EU, talking about engagement and leadership.

The rise of euroscepticism

The reasons for questioning EU membership

In order to understand why a withdrawal is now contemplated, we need to go back to one long-term political evolution and one more immediate development in the UK and the EU. The long-term evolution is the rise of euroscepticism, especially within the Conservative Party and its off-shoot, the United Kingdom Independence Party (UKIP). This started in the early 1990s at the time of the Maastricht treaty, which a minority of Conservative backbenchers considered as marking a turning-point towards a federal Europe which the UK could not accept, even though London had secured an opt-out from the single European currency and the Social Chapter. What was then a minority view in the party gradually gained ground in the late 1990s and during the 2000s, to the point where by 2010 it was almost impossible to be selected as a Conservative parliamentary candidate without holding strongly eurosceptic views. Meanwhile UKIP had been created (in 1993) with the specific aim of campaigning for withdrawal from the EU. It made increasingly significant gains in the following second-order elections (held on proportional representation), especially in the European Parliament, where it came first in the May 2014 elections. In the May 2015 general election it won only one seat in the House of Commons because of the first-past-the-post electoral system but attracted 12% of the popular votes, which was unprecedented.

The second, more immediate reason why membership of the EU is again questioned has to do with the financial and economic crisis since 2008, which reinforced the British public's scepticism towards the euro in particular and the European project as a whole. The fate of Greece in particular has fuelled opposition to the EU. There has been a widespread feeling, even among supposedly pro-European politicians and journalists in the UK that the euro had been badly conceived and that Europe is in possible terminal economic decline. By 2012, as we will see below, polls showed that more British people were in favour of withdrawing from the EU than staying in. As for the Conservative party, it is now divided into different shades of euroscepticism, those who follow the Cameron line that the EU needs important reforms and the more radical ones, between 50 and 100 backbenchers, for whom British withdrawal from the EU has become inevitable.

Arguments

There are three main arguments used by supporters of withdrawal on the right: sovereignty, globalisation and immigration. The sovereignty of the

Parliament of Westminster has always been an issue for eurosceptics, who see it as incompatible with the authority of European over national law. Developments in the EU in the last two decades have increased, in their view, the unacceptable transfer of powers from London to Brussels, which needs to be reversed. Radical eurosceptics such as UKIP supporters and some Conservative MPs and MEPs have recently added a "globalist" argument which goes along the following line: UK has always prospered as a country open to the world, especially in terms of trade. By leaving the EU, it could sign new trade agreements with the US, Commonwealth countries and emerging economies, where the potential for growth is much higher than in sclerotic Europe. Similarly, immigration from Europe could be restricted and high-skilled immigration from Commonwealth countries, including India, encouraged. Finally, the surge in the number of migrants attempting to reach Europe in the summer of 2015 is fuelling the anti-EU campaign, with Farage in particular arguing that it is impossible for UK to control its borders without leaving the EU. Alternatives to EU membership, though, have not been clearly spelled out by the no camp.

On the left, the anti-EU argument is slightly different, as it has more to do with the effects of widespread austerity, blamed on Germany, over the European economies and societies. The left of the Labour party opposes austerity both in the UK and in the EU, which is blamed for ignoring the plight of the populations affected by its policies. Jeremy Corbyn has repeatedly criticised the EU for not expanding voters' rights and spreading neoliberal economic policies, although he eventually promised to support staying in the EU in an article for the *Financial Times* on 18 September.

On the pro-EU side arguments, in so far as they are developed, are mostly about the economic benefits of belonging to a market of 500 million citizens. Supporters of EU membership quote the number of jobs directly or indirectly linked to the EU (5 or 6 million) and the share of British trade with EU Member States – about 50% of the total. Left-wingers add the benefit of EU social law, however limited, in ensuring paid holiday, maternity leave and a limit to the number of working hours. In both cases very little is said about solidarity between Member States.

The start of the campaign

The organised debate about the EU has only started in view of the referendum, which will probably take place either in Spring or Autumn 2016. In theory, much will depend on what David Cameron manages to negotiate in Brussels and which concessions or opt-outs he is able to extract from his European partners. But apart from a few members of Parliament who could indeed be swayed by the outcome of the negotiations, most politicians, medias, business and other influential actors have already made up their minds about whether staying in the EU or leaving it is the best solution for the UK.

The "anti" campaign

The main actors are already setting up "pro" and "anti" EU organisations. On the anti-European side, several organisations are competing to take the lead in the campaign and become the official one – UKIP (*TheKnow.eu* now *Leave.eu*), *Business for* UK and Vote Leave. UKIP has launched its own campaign. Nigel Farage, its leader, has reneged on his promise to resign if he failed to be elected as an MP in the 2015 general election in order to be able to play a full part in the campaign. UKIP has powerful and wealthy backers such as Richard Desmond, the owner of the *Daily Express* and *Daily Star*. However Farage is a controversial populist figure and anti-EU Conservative and Labour MPs do not wish to be seen campaigning alongside him. He has therefore let it be known that he would not wish to lead the campaign but would be happy to provide the bulk of activists on the ground. Anti-EU company managers and CEOs have joined *Business for* UK, led by Mathew Elliott, who led the successful campaign against electoral reform in 2011. Their aim is to achieve "fundamental reform" of the EU including "powers flowing back to Member-States". Their campaign is well-funded and has been very active in the media. One of their off-shoots, in the academic world, is *Historians for* UK, a group of about forty historians, some of them well-known in the medias like David Starkey, who argue for a renegotiation of the status of the UK in the EU, justifying UK's semi-detachment from Europe on historical grounds.[1]

1. See http://www.historytoday.com/david-abulafia/britain-apart-or-part-europe.

Several dozen Conservative MPs are expected to campaign for Brexit unless Cameron negotiates a radical change for the UK in the EU, which looks very unlikely. More than 50 MPs have already joined a new organisation called *Conservatives for* UK, created in the summer of 2015 and headed by Steve Baker, and more MPs probably support it. Officially they agree with Cameron's goal of renegotiating UK's membership of the EU but acknowledge that they are "willing to consider how to prepare for an 'out' campaign if, lamentably, the European Union establishment will not allow the UK a new relationship of trade and co-operation".[2] A much smaller number of Labour MPs is expected to campaign for Brexit. About 15 of them have joined the new *Labour for* UK group, including Kate Hoey, Graham Stringer, Kelvin Hopkins, none of them leading figures of the party. But there is a rise in left-wing anti-austerity euroscepticism in the party, epitomised by the unexpected new leader, Jeremy Corbyn. Having voted "no" in the 1975 referendum, he opposes any attempt to reduce UK's involvement in European social policy. He first refused to rule out voting against membership, to the consternation of many in the party, before changing his stance. Some currently pro-European trade unions such as UNITE will also be looking at the outcome of the government's negotiation before taking a stand.[3] Another one, RMT (transport) has already joined the no camp. Divisions within the party and trade unions on the merits of membership could lead to a weakening of the yes campaign.

The other non-partisan organisation competing with *Business for* UK is still in its infancy in comparison. Chaired by Liz Bilney, *TheKnow.eu* (now *Leave.eu*) has attracted funding from Arron Banks, a UKIP donor, and other businessmen associated with eurosceptic groups. But its aspiration to lead the official campaign might be difficult to meet.

The "pro" campaign

On the other side, the yes camp has strengths and weaknesses. In terms of organisation, *British Influence*, created in 2013 by former Cabinet ministers Kenneth Clarke (Conservative), Peter Mandelson (Labour) and Danny Alexander (Liberal Democrat) and chaired by Peter Wilding, has been active in traditional media and on the internet. It could become the core of the official pro-EU campaign. Funding for it comes, among others, from Lord Sainsbury, a former minister under Blair and owner of the retail chain.

Business for New Europe, set up in 2006 by Roland Rudd, is the opposite of *Business for* UK. It supports continued membership and has attracted former British diplomats. Its campaign director is Lucy Thomas, a former journalist. It has changed its name to *The In Campaign* and hired two strategists who worked on the successful 2015 Conservative campaign. All of those joined what should become the official In campaign, UK *Stronger in Europe*, launched on 12 October 2015 by the former CEO of Marks & Spencer, Stuart Rose.

All parties in opposition except UKIP officially support staying in the EU. Three of the four contenders for the leadership of Labour had unequivocally stated that they would campaign for a yes, as well as the vast majority of its MPs. Their experience of the Scottish referendum in 2014 has taught them that campaigning alongside other parties could be counter-productive so they are tempted to campaign alone. *Labour Yes* could be led by Alan Johnson, a respected former Cabinet minister under Tony Blair and Gordon Brown. The new leader, Jeremy Corbyn, himself an old soft eurosceptic, will have to tread carefully to avoid damaging splits within the party during the campaign. The Liberal Democrats are staunch pro-Europeans – but they have been reduced to only 8 MPs in the 2015 general election. A majority of Conservative MPs should support Cameron unless he fails to win any concessions from his EU partners. Finally, the Scottish nationalists (SNP) are strongly in favour of EU membership, to the point of demanding a separate counting of the votes in Scotland and England in the referendum and refusing to be taken out of the EU against their will. But they should campaign mostly in Scotland, which will limit their influence on the debate.

The position of the medias is still unclear, except for the Express group. Rupert Murdoch, the powerful owner of *The Times*, *The Sun* and Sky TV, is a well-known radical Eurosceptic but seems to have concluded that his business interests would be better served if the UK stayed in the EU. Other traditional media have yet to take a stance, although most of them

2.Steve Baker MP, « Conservatives will stand up for Britain if the EU lets us down », The Daily Telegraph, 6 June 2015.

3.« Britain's biggest union Unite weighs up campaigning for Brexit », Financial Times, 16 July 2015.

will probably support the status quo. Whether these matter and influence voters is another issue. Not only have the internet, political blogs and social media totally thrown classical journalism up in the air, but the level of trust towards the media in general in the UK is low, at about 40%.[4]

A majority of business organisations tend towards staying in. The Confederation of British Industry (CBI), which represents large companies, TheCityUK, which is the voice of the financial sector, and the Institute of Directors, which represents mostly small and medium size companies are very critical of European bureaucracy and red tape but have adopted the Cameron line of renegotiating and staying in. Other smaller pro-EU organisations and pressure groups have been set up already, and more will probably follow, such as *Universities for Europe*, launched in July 2015 by UniversitiesUK, which represents over 100 higher education institutions.

The referendum

The referendum campaign is only starting and the Electoral Commission still has to appoint the two official lead campaigns which will be publicly funded and have access to public broadcasts. The Commission has already recommended a change in the wording of the question which was in the EU (Referendum) Bill introduced in Parliament in June 2015. Instead of: "Should the United Kingdom remain a member of the European Union?" which the government wanted, it will be the supposedly more balanced "Should UK remain a member of the EU or should the UK leave the EU?" In the former option, voting yes would have been voting for the status quo, which won in the last two referendums in the UK – the referendum on Alternative Vote in 2011 and the referendum on Scottish independence in 2014. Instead voters will choose between "in" and "out".

Other issues which need to be settled include whether government ministers and departments would be allowed to give their views and use public funding in the run up to the ballot. Cameron had planned to lift the traditional so-called purdah rule that this cannot be the case but the move was strongly resisted by anti-European Conservative MPs and the Premier Minister lost its first vote in the Commons on the issue on 6 September 2015. Whether ministers will be allowed to campaign against the Prime Minister, therefore be relieved of the principle of collective responsibility at the heart of Cabinet government, remains to be seen.

Opinion polls have shown U-turns in attitudes towards EU membership since 2012. Whereas a majority of respondents had come to support withdrawing from the EU before Cameron's Bloomberg speech (51% against 28% in the summer of 2012), the trend then reversed. The two lines crossed in early 2014, with a majority in favour of staying in the EU appearing then and remaining since. Available data from YouGov, in May 2015, gave 45% of respondents supporting membership against 33%. But at the time of writing, a survation poll for the *Daily Mail* on 5 September showed a small majority of 51% in favour of withdrawal. These shifts in figures show that opinion on Europe is extremely volatile, susceptible to further swings until the referendum day. We know that polls are not entirely reliable either, as the general election results showed in May 2015. Furthermore, experience shows that voters do not always or only give their say on the question asked but more generally on the incumbent government in this kind of election. Rejection of the establishment, deemed pro-European, which is obvious in the large support for UKIP and even in the election of Jeremy Corbyn as Labour leader, could also affect voting. All of this suggests a greater uncertainty about the outcome than these figures imply. In this context, the ground and air campaigns will matter.

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The EU referendum campaign is not fully running yet with no date set for the ballot, but it is already clear that the main parties, and not just the Conservative party, will be divided on the issue and that both the "pro" and "anti" EU camps will also be divided with different parties and individuals refusing to campaign together. This might not contribute to the most informed and clear debate about the pros and cons of EU membership. Other domestic factors such as the popularity of the government and of the different parties, voters' dissatisfaction and disenchantment with the political system as a whole will play a large part in the referendum outcome, which therefore remains open.

4. See https://yougov.co.uk/news/2011/11/14/trust-media/.

2. CRUCIAL YET POINTLESS: RENEGOTIATING THE TERMS OF UK'S EU MEMBERSHIP

Louise BORJES and Anand MENON

In his 2013 Bloomberg speech, David Cameron promised that, in the event that he won the 2015 election, he would begin 'renegotiations for fundamental change' of the terms and conditions of British EU membership. On the basis of the 'new settlement', he promised from these negotiations that the British would vote whether to stay in or leave the EU. Consequently, the Government has embarked on this renegotiation. The Prime Minister and Chancellor have visited numerous European capitals over the summer, laying out their vision for a new British 'settlement'.

It is too early either to say for certain either how successful the renegotiation will prove to be or even, for that matter, what precisely the Prime Minister will ask from his partners, for reasons explored below. There are, however, certainly clues that can be discerned, both from the early stage of the negotiations and from the statements made by British political leaders since 2013.

Based on what we know, the conclusion we come to is that David Cameron will secure relatively little from his much vaunted renegotiation, and certainly not the 'fundamental change' of UK's terms and conditions of EU membership that he promised. Partly, this will be a function of the relatively limited nature of what he is likely to ask for. Partly, too, it will be the result of his partners being unwilling or unable to give him everything he wants.

Nevertheless, the renegotiations will play a crucial role for the Prime Minister. Broadly speaking, he has two objectives: on the one hand to win the referendum and keep UK in the EU. On the other, David Cameron is anxious to preserve both his party and his government's majority in the House of Commons. The fundamental problem that he now faces is that of coming up with a reform agenda that would be acceptable to UK's partners, while convincing sufficient numbers of his backbenchers to back it.

What the government Wants

There is still much confusion concerning the nature of the British renegotiation agenda. However, from various speeches and statements made by British and their officials, it is possible to identify the five main 'baskets' of issues that will probably figure in discussions with EU partners.

The first comprises issues related to competitiveness, growth and the single market. The government has expressed its desire to see the EU cut the red tape that, it claims, weighs too heavily, particularly on small businesses. At the same time, Ministers have stressed the need to complete the single market, particularly in areas such as services, and the digital economy. Finally, Cameron has spoken of the need to set ambitious targets for the completion of free trade agreements with key partners, including the United States, Japan and India.

Secondly, the government has spoken repeatedly of the need to provide national parliaments with a greater role in EU decision making. Under the so-called 'yellow card' procedure introduced by the Lisbon Treaty, a third or more of national parliaments could temporarily block draft EU legislation. There has been much debate in UK of supplementing this by potentially introducing 'red' and 'green' card systems under which, respectively, groups of national parliaments could veto or propose EU law.

The third 'basket' of measures relate to the UK's place as a largely satisfied, "*statu quo*" member of the EU opposed to further integration. In the first place, the UK government has repeatedly stressed its determination to secure an opt out from the commitment in the EU treaty to 'ever closer union'.

Fourthly, the Prime Minister is anxious to secure a deal to ensure that euro area members respect the interests of non-euro members even if the former group proceeded with further integration to safeguard the single currency. The fears that underlie this demand were summarised by Lord Lawson: "Not only do our interests increasingly differ from those of the euro area members but, while never 'at the heart of Europe' … we are now becoming increasingly marginalised as we are doomed to being consistently outvoted by the euro area bloc".[1]

1. Nigel Lawson, "I'll be Voting to Quit the EU", The Times, 7 May 2013,http://www.thetimes.co.uk/tto/opinion/columnists/article3757562.ece.

Two respected Financial Times journalists have in fact claimed that the George Osborne's search for guarantees for euro-outs — specifically, his determination to protect the City of London against discrimination by the countries of the single currency — has become his 'central mission' in the renegotiation.[2] Finally, the government has stressed its desire to address what is seen as the 'problem' of intra-EU migration and particularly of the rights of EU migrants to claim social security benefits in the UK. The Prime Minister did not in fact mention either migrants or benefits in his Bloomberg speech. Subsequently, however, pressure from Conservative back benchers and the increasing political salience of immigration in the UK have led the government to revise their demands in this area.

In an article in *The Daily Telegraph* in March 2014, Cameron referred to the need to build the EU around 'the right to work not the right to claim,' whilst stressing the need to prevent 'vast migrations' when new countries join the EU.[3] By the time of his major immigration speech in November of that year, however, the Prime Minister had significantly ratcheted up his demands, specifically in terms of the ability of EU migrants to claim benefits within UK.[4] He argued for restrictions on the right of unemployed migrants to claim benefits such as the job seekers allowance, whilst also, crucially, stating his desire to limit the ability of those EU migrants *in work* to benefit from benefits such as working tax credit. The suggested four year waiting period before EU migrants can claim those benefits was laid out in the Conservative's general election manifesto,[5] increasing the pressure on Cameron to secure this.

What could the UK secure?

It is interesting to note that, of the six 'specific changes' he wanted to see in the EU (his seventh concerned the ECHR) the Prime Minister outlined in the March 2014 Daily Telegraph article, significant progress has been made. A European Court of Justice Ruling in November 2014 reaffirmed the right of Member States not to pay benefits to EU migrants who were not seeking work, effectively addressing Cameron's concerns on this score. National parliaments, acting in concert, already enjoy the right to block European Commission legislative proposals, while the Commission's Vice President Frans Timmermans has promised to work more closely with these parliaments than his predecessors.

As for Cameron's desire to free business from red tape and end 'excessive interference' from Brussels, EU legislative output has slowed dramatically since the Treaty of Lisbon. The Commission's REFIT (Regulatory fitness and Performance) programme has led to the withdrawal of almost 300 legislative proposals to date and begun to instil a new, deregulatory ethos within that institution. And Commissioner Timmermans has himself argued that the EU needs a 'culture change' in the way it regulates. Specifically, unnecessary regulation should be scrapped, giving business 'immediate relief.'

Moreover, a recent report by the European Council on Foreign Relations underlined that there exists significant support amongst other Member States for the objectives both of completing the single market, and rapidly concluding trade deals with key partners.[6] Obviously, this is no guarantee of successful outcomes, but the Prime Minister can credibly claim to have strong EU support for his objectives.

As for the Prime Minister's concern pertaining to the EU treaty commitment to pursue an 'ever closer union,' while the offending phrase remains in place it is worth noting that the text goes on to recognise the need to respect 'the diversity of the culture and traditions of the peoples of Europe as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local levels.' In a further concession, the conclusions of the European Council meeting of 26-27 June 2014 noted that the: 'UK raised some concerns related to the future development of the EU. These concerns will need to be addressed. In this context, the European Council noted that the concept of ever closer union allows for different paths of integration for different countries, allowing those that want to deepen integration to move ahead, while respecting the wish of those who do not want to deepen any further'.[7]

In terms of being able to secure further concessions on this score, however, prospects are relatively limited. The simple reason is that treaty change is simply not feasible within the timeframe

2. Alex Barker and George Parker, 'George Osborne makes Shielding City Priority in EU Talks,' Financial Times, 9 September 2015.

3. Tim Ross, "David Cameron: my seven targets for a new EU", The Daily Telegraph, 15 March 2014, http://www.telegraph.co.uk/news/newstopics/eureferendum/10700610/David-Cameron-my-seven-targets-for-a-new-EU.html.

4. http://blogs.spectator.co.uk/coffeehouse/2014/11/david-camerons-immigration-speech-full-text/

5. The Conservative Party Manifesto, https://s3-eu-west-1.amazonaws.com/manifesto2015/ConservativeManifesto2015.pdf, 2015, p.30.

6. ECFR, 'Britain in the EU Renegotiation Scorecard,' London, ECFR, September 2015

7. http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/143478.pdf, p.11.

set by the Prime Minister, not least because so many Member States are opposed to undertaking such a process. Consequently, the best he could hope for would be some kind of declaration stating the intention of other Member States to amend the treaties at some later date to limit the applicability of the ever closer union clause to the UK. Given that no EU government can bind its successor or – still less – its electorate, such a deal would hardly represent a cast iron commitment.[8] A similar dilemma confronts the British government when it comes to seeking safeguards for non-euro countries, and avoiding discrimination against them. Here again the obvious solution would be treaty change and here again this is simply not possible. When it comes to ensuring consultation with non-euro area member, this could presumably be achieved via simple agreement on such norms in the Council. Certainly, this would help avoid situations such as that in July 2015 when euro area members discussed using the European Financial Stability Mechanism to provide loans for Greece with non-euro members absent from the room.

However, when it comes to protecting non euro members from the effects of caucusing within the euro area, (and the consequent potential of being outvoted on issues related to the single market), the situation is far less reassuring. For one thing, some Member States are inherently suspicious of what they see as attempts by the UK simply to acquire a veto over legislation affecting the City of London. For another, not all the non-euro members are united behind Cameron's demands, making it harder to achieve a desirable outcome.

Finally, on migration, many of the demands hinted at by the government have effectively already been addressed. A recent ruling by the European Court of Justice reaffirmed the rights of Member States to limit the right of migrants to out of work benefits. With no enlargement on the agenda, there will be no new wave of migrants from accession states. The real problem Mr Cameron faces, however, lies in trying to impose limits on the ability of those in work to claim benefits such as tax credits. To do this would directly contradict the principle of free movement of labour, in that it would discriminate between UK and other EU nationals. Key Member States – notably Germany and many of the Central and East European states have made it clear they would simply not tolerate any dilution of this principle.

Politics at Home

Whilst the Prime Minister might accomplish some of his objectives, it is hard to see him managing to secure all of them, including the most totemic in terms of public opinion at home – curbs on the number of EU migrants. Whatever he does achieve seems certain to fall short of the 'fundamental change' in UK's relationship with the EU that he promised.

For all of this, however, the renegotiation remains politically indispensable. A significant number of Conservative backbenchers have indicated that they will make up their minds on how to vote in the referendum once they have seen the fruits of the Prime Minister's efforts. Boris Johnson has stated that, he will vote to leave the EU unless 'we get the reforms we need'.[9] The Eurosceptic business-backed campaign Business for UK recently published the report 'Change, or go', demanding either fundamental reform, or a British exit.[10]

In a telling indication of how divided the parliamentary Conservative party is over Europe, the Financial Times (1 September 2015) reported that the No campaign have approached eight cabinet ministers to enquire about them joining the campaign to secure a British exit. Those least convinced of the case for membership in the Cabinet are thought to be Iain Duncan Smith, Work and Pensions secretary and Chris Grayling, leader of House of Commons. Michael Gove, Elizabeth Truss and Philip Hammond, for their parts, have all expressed more or less marked Eurosceptic opinions.

It remains crucial for the Prime Minister – and perhaps even more for the Chancellor George Osborne, who is playing a prominent role in the negotiations and hopes to inherit leadership of the Party from David Cameron – that he achieves enough through the renegotiation to convince as many sceptics as possible to support continued British membership. David Cameron's problem in domestic politics has shifted from being one of attempting to win an election against a projected UKIP threat, to managing a government

8. John Kerr, 'Britain's renegotiation: Advice to Mr Cameron,' London, CER, July 2015

9. M. Holehouse and S. Swinford, 'George Osborne tells EU: Do not underestimate our determination', The Telegraph, 13 May 2015, http://www.telegraph.co.uk/news/newstopics/eureferendum/11600910/George-Osborne-tells-EU-Do-not-underestimate-our-determination.html (accessed 12 August 2015).

10. Business for Britain, Change, or go – How Britain would gain influence and prosper outside an unreformed EU, Business for Britain, London, 2015, http://forbritain.org/cogwholebook.pdf (accessed 9 August 2015).

with a meagre majority of 12 in a context where the governing party will probably hold an election to select a new leader in the autumn of 2018 (therefore likely to take place within two years of the referendum on EU membership).

As much as anything else, this looks likely to impact on the *style* of the renegotiation. Here again, however, the Prime Minister confronts a dilemma. On the one hand, many observers have stressed the need for the UK to engage positively and make it clear that what it is putting forward is not a wish list for the UK, but a series of proposals aimed at making the EU itself more effective and successful. In other words, rather than arguing in favour of less Europe for the UK, the government should be seen to be promoting a better Europe for everyone.[11] And indeed, George Osborne, on the eve of a visit to Helsinki, Stockholm and Copenhagen in August 2015 argued that the UK wanted a 'new settlement for Europe that works for everyone within it.'[12]

On the other hand, the logic of domestic politics might militate in favour of a more conflictual approach. For one thing, it is important that the Prime Minister persuade sceptics that he has achieved as much as could be wrought out of his partners. Moreover, the evidence suggests that the British people like the sight of their Prime Minister winning arguments with his European partners. Both Cameron's refusal to sign the fiscal compact and his Bloomberg speech led to spikes in support for EU membership in public opinion. Conveying the opinion of having fought – and of course won – a battle in 'Europe' could then help the Prime Minister when it comes to reconciling the need to win the referendum with that of keeping his party together. The other conundrum that Cameron faces is that reconciling Tory backbenchers requires the kind of agenda that might disillusion 'soft' supporters of European integration on the left. The key issue in this respect is EU social and employment policy. As leader of the opposition in 2007, Cameron himself vowed to pull the UK out of the social chapter if he ever became Prime Minister. Recently, however, it has been reported (Financial Times, 31 August 2015) that he had decided not to demand full exclusion form EU employment laws, not least because of expected strong opposition from the European Parliament[13].

This has enraged some of his own supporters. Boris Johnson is amongst those who have expressed a desire to see the government roll back EU social and employment legislation. Bernard Jenkins has declared that he wants a treaty change to repatriate employment powers before any vote on EU membership. On the other hand, however, the newly elected Labour Party leader Jeremy Corbyn hinted during his leadership election campaign, together with several Trade Union leaders who have already signalled that they might support a British exit should the Prime Minister negotiate exceptions for UK from EU social and employment regulations. Corbyn stated, in a televised leadership debate on Sky TV that he was 'concerned about the way the European Union is increasingly operating like a free market across Europe tearing up the social chapter and damaging workers' interests.' Never slow to pick up on an opportunity, Nigel Farage made an explicit appeal to the left to join a broad pro-Brexit alliance when launching the UKIP campaign for the referendum.[14]

Additionally, pollsters seem to agree that a lack of support from the left for continued EU membership could prove fatal for those hoping UK will remain within the EU. The Prime Minister, therefore, has a difficult balancing act to perform, securing enough to keep his party together and his slim majority in parliament safe (the euroscpetics have already inflicted parliamentary defeats on him over procedural issues such as purdah) whilst not alienating the centre left.

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The Prime Minister thus finds himself caught between the conflicting – and in some ways incompatible – demands the EU, the Conservative Party and the centre left have expressed. In perhaps the most eloquent testimony to his dilemma, the renegotiation still has, as one analysis has put it, a 'shadowy, ethereal feel.' Anxious to avoid the necessary hard choices involved in attempting to placate these different interests, the Prime Minister has hesitated to publish a clear statement of his renegotiation aims and objectives.[15]

The nascent referendum campaign, consequently, has the feel of a phoney war. The promise of a new settlement with the Union has been held out to prevent

11. ECFR, 'Britain in the EU Renegotiation Scorecard,' London, ECFR, September 2015, p. 4

12. BBC News, 'EU referendum: UK settlement will benefit other nations – Osborne', 24 August 2015, http://www.bbc.co.uk/news/uk-politics-34036593.

13. George Parker and Jim Pickard, 'Cameron waters down employment demands ahead of EU poll', Financial Times, 31 August 2015, http://www.ft.com/cms/s/0/d146c4bc-4fc6-11e5-8642-453585f2cfcd.html#axzz3m0RkVEQC.

14. Jim Pickard, 'Farage woos the IUK left for No vote in Europe referendum,' Financial Times 4 September 2015.

15. ECFR, 'Britain in the EU Renegotiation Scorecard,' London, ECFR, September 2015, p. 2

even many of those inclined to want the UK to leave the EU to hold their fire until the Prime Minister secures what he can. Equally, the Government has reportedly put pressure on business leaders not to express public support for continued membership until the outcome of the renegotiation is known, presumably to encourage those who would support membership whether renegotiated or not to speak out in favour of whatever deal he eventually secures.[16]

There is thus an unmistakable chicken and egg quality about the renegotiation debate. The UK's EU partners are understandably reluctant to strike a deal until the Prime Minister himself shows himself willing to fight for membership. He in turn is reluctant to commit himself until he has a deal he feels will reconcile his domestic audiences. Certainly, it is hard to see a way in which the Prime Minister could secure concessions from his partners that would satisfy the more Eurosceptic elements within his party. Nonetheless, his objective of preserving as much party unity as he can is all too understandable. Amidst all this uncertainty, the one thing we can be certain of is that the renegotiation process will continue to be highly unpredictable.

16. Sarah Gordon, George Parker and Jim Ickard, 'UK business told to "shut up" over Brexit poll,' Financial Times, 6 September

3. SCOTLAND AND THE UK-EU REFERENDUM

Andrew SCOTT

With the return of a majority Conservative Government in the May 2015 general election it became inevitable that a referendum would be held before the end of 2017 to determine whether the UK will remain a member of the EU. Leading up to that referendum the UK Government will conclude negotiations with the other 27 Member States seeking to revise the UK's terms of EU membership. Thus far the detail of the reforms the UK is pursuing remains unclear. If, however, the reforms require a revision to the EU Treaties it is highly unlikely the necessary ratification process could be completed by the latest date on which the referendum would be held. In such circumstances the UK Government will seek a commitment from other Member States that the agreed Treaty changes – most probably set out in a new Protocol – will be ratified and implemented subsequently. Problematically, of course, it falls to national parliaments to ratify EU Treaty changes, and no government can guarantee the outcome of that process. This creates a degree of uncertainty that could be exploited by the anti-EU camp as the debate unfolds.

Undoubtedly the EU referendum will be a critical moment in the history of UK foreign and economic policies; policies that since 1973 have been shaped – if not defined – by EU membership. But it may also turn out to be a defining moment for the UK itself. That is because Nicola Sturgeon, Scotland's First Minister and leader of the governing Scottish National Party (SNP), has stated a UK-wide vote for exiting the EU (Brexit) could trigger a second referendum on Scottish independence if a majority of voters in Scotland had voted to remain inside the EU. As matters stand this is an outcome that cannot be discounted. Opinion polls have, over a number of years, shown a majority of Scottish voters support remaining inside the EU (66% in a recent Panelbase poll). Opinion polls in England, on the other hand, have consistently recorded less support for EU membership and, in some polls, a majority in favour of Brexit. Opinion within Scotland's (predominantly social democratic) political class is more strongly pro-EU membership than among the public at large. Indeed the Scottish Government opposed holding a referendum on EU membership – arguing that although reforms to aspects of EU policies are needed, these can (and should) be achieved within the EU Treaties (and the UK terms of membership) as they stand.

The principal concern is that by holding a referendum the UK Government is needlessly risking Scotland's EU membership while creating a degree of uncertainty over the UK's membership of the EU that will damage investment and employment in Scotland – much of which is predicated on on-going access to the EU single market. Moreover there is a wider concern that in seeking to further distance the UK from the core objectives of the EU by demanding more 'exceptionalism' the British government risks weakening to an even greater extent than present its influence over key EU policies.

Within the quasi-federal UK system of governance competence for many policies that are affected by EU legislation have been devolved to the governments of Scotland, Wales and Northern Ireland. And although authority over all EU policy matters remains reserved to the UK Government, it was agreed that the devolved administrations would be permitted to contribute to the formulation of the UK negotiating position on EU legislative and policy issues that impacted on devolved competences. While it is clear that in domestic constitutional terms EU Treaty reform is a matter for Member State governments to negotiate, because the consequences of Treaty reform will impact on the competences of the devolved administrations the Scottish Government (and indeed Scotland's fundamental economic and social interests) has sought to influence the UK's EU future in two ways. First by proposing the devolved administrations are included in the negotiation process and, second, by arguing that a decision to leave the UK cannot be taken unless Brexit meets a 'double majority' test – i.e. a majority of across the UK as a whole *and* a majority of voters in each of the four UK constituent parts of the UK – England, Scotland, Wales and Northern Ireland. Both proposals have been rejected by the UK government.

Although the Scottish Government opposes the UK Government's EU treaty re-negotiation and subsequent referendum, and will campaign for continued UK membership of the EU in that referendum, it does agree reforms to EU governance and policies are required if the EU is to regain the confidence of citizens and tackle effectively the challenges ahead – not least in the areas of climate change and energy security. And while welcoming efforts by the European Commission to simplify and reduce EU regulations that impact disproportionately on small enterprises and hinder competitiveness, the Scottish Government seeks more progress in ensuring the principles of subsidiarity and proportionality are properly observed in the design and implementation of EU legislation. In this respect the Scottish Government would be unlikely to oppose any re-statement of the need to ensure EU rules do not compromise the competitiveness of Scottish firms. Similarly completion of the single EU market – another issue raised by the British Prime Minister – is regarded as desirable though self-evidently does not require any change in the UK terms of EU membership to achieve.

On other re-negotiation themes raised by Prime Minister Cameron the Scottish Government has raised serious concerns. In particular the Scottish Government – in common with many EU Member States – opposes Treaty changes that would restrict, directly or indirectly, the free movement of persons. It is estimated that Scotland is home to approximately 160,000 citizens from other EU Member States: citizens who make a significant contribution to Scotland's economy and society. Restricting free movement of labour would almost certainly have a negative effect on Scotland's labour market with adverse consequences for the long run rate of economic growth. Moreover as is the case with many other EU Member States, including the UK, Scotland faces acute demographic challenges over the medium term and free movement of persons is regarded as a key mechanism to meet those challenges. At the same time the Scottish Government, like other governments across the EU, is supportive of measures that ensure social security systems are not open to abuse under the free movement principle – albeit there is little evidence that such abuses are prevalent.

Exempting the UK from the Treaty recital on "ever closer union" is generally regarded as presentational rather than impacting on the substance of EU membership, although if agreed it may lead to a diminution of British influence in the EU legislative and policy processes. This not only raises concerns about protecting Scottish interests in general at the EU negotiating tables, it also may dissuade international companies from investing in Scotland solely because the UK Government has suffered a loss of influence over EU laws and policies that impact on those companies. Regarding the internal market for financial services the UK Government is seeking reforms (possibly including an 'emergency brake' veto) to the qualified majority voting (QMV) arrangements to protect non-Euro area Member States from being outvoted by the Euro area countries that have an in-built majority. On this issue there is perhaps greater understanding of the UK position than in other elements of the proposed reform package, although there is no support for abandoning QMV over single market issues affecting financial services.

As suggested earlier, the Scottish Government position on the UK re-negotiation – that it is not required and therefore unnecessarily risking Scotland's future within the EU – reflects in large measure the majority public opinion across the country. In part at least Scottish public opinion on EU membership has been shaped by arguments that were rehearsed during the Scottish independence referendum campaign. In that debate continued EU membership as a "full" Member State was presented by the pro-independence lobby as one of the significant benefits that would flow from independence. And while opponents of independence criticized this argument, they did so *not* on the basis that EU membership was undesirable – rather the debate revolved around the process by which Scotland would transition to independent Member State status. Indeed by flagging up the potential costs of being *excluded* from EU membership as a consequence of achieving independent statehood – an assertion repeatedly made by opponents of independence – the Scottish public acquired a fairly good appreciation of the negative consequences Brexit could have. This may explain in part at least the more positive disposition

that Scottish voters have regarding EU membership than voters elsewhere in the UK.

In Scotland the EU membership debate is also part of the wider debate surrounding Scotland's constitutional future. In September 2014 the Scottish electorate rejected independence by 55% to 45%. At that point the issue seemed to be closed for the foreseeable future. However the prospect of Brexit has reignited the Scottish independence movement. First Minister Nicola Sturgeon has made clear that she regards a UK-wide vote to leave the EU as a change of such significance as possibly to justify a second independence referendum. Moreover it is far from inconceivable that the EU membership question could trigger a significant swing towards independence. Many who voted against independence in 2014 cited the fear of being excluded from the EU as a reason for doing so. Should the UK as a whole to vote for Brexit, but a majority in Scotland voted to remain inside the EU, it would be no surprise if the governing SNP took that as a mandate to seek a second independence referendum.

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In conclusion there is considerable scepticism among the Scottish political classes and public at large of the need for – and motivation for – a renegotiation in the UK terms of EU membership. Most regard this as an initiative driven by the needs of the Conservative Party and not the UK as a whole. By launching this venture the sense in Scotland is that the Prime Minister is needlessly, and perhaps recklessly, risking Scotland's position within the EU. An exit from the EU – under any of the prospective non-membership arrangements that may be on offer – is widely regarded as damaging to Scotland's economic and social interests. Indeed that is the only conclusion that could reasonably be drawn from the UK Government's comprehensive 'balance of competence' exercise that examined the costs and benefits of EU membership. The Scottish Government is committed to campaigning for the UK to remain inside the EU – a position consistent with the state of Scottish public opinion at the present time. Of course public opinion may change. Both the refugee crisis that is affecting the entire continent and domestic political changes have the capacity to shape public opinion on the UK's EU future. However neither issue would seem to directly impact on the question of whether or not the UK's terms of EU membership should be revised. On that question there is no indication thus far that the majority public opinion in Scotland is shifting against EU membership.

BREXIT: A VIEW FROM EU MEMBER STATES

GERMANY: COMMON INTERESTS, DIFFERENT ANSWERS

Martin KOOPMANN

The realistic option that the United Kingdom leaves the European Union is a topic that pre-occupied decision-makers and observers of European politics in Germany constantly since the announcement of a referendum on the "Brexit" by Prime Minister Cameron in 2013. In many respects, Germany and UK share a common set of values and rules, they are, politically and economically, so closely linked that the scenario of a Brexit for many Germans is difficult to imagine. From the problematic beginnings in the early 1960s through the accession to EU in 1973 to the current Brexit-debate – Germany has always supported the British membership: "Your comrades on the continent want you to stay and you (please) will have to weigh this if you talk of solidarity. […] More than often we do have our own misgivings about the European Commission. [But] We feel that [the Community] provides us with the necessary means for cooperation which we do need to solve the problems of the present day crisis"[1]. The words chosen by Chancellor Helmut Schmidt in his speech at the Labour Party conference in November 1974 some months before the British referendum on the question whether to stay in the European Community or not somehow refer to the current situation.

Germany and the UK share common interests regarding European policy, but today, they give different answers to the question regarding whether the EU helps solve problems or if it is a part of the problem. Finally, in most regards Germany still takes the EU for the indispensable framework and instrument to achieve its national interests and is not willing to back a policy tending to reduce European integration to the principles of free trade and intergovernmental cooperation. In view of the different European crises of the last years, the economic and monetary crisis, the conflicts in Ukraine and in Syria/Iraq and the current refugee crisis, the German answer to all these challenges is still, generally speaking, more Europe (in the sense of more integration and more community) and not less Europe. Certainly, this is a simplified way of characterizing Berlin's European policy. But looking for an answer to the question of how far Germany will go to prevent a Brexit, it is important to keep this basic conviction in mind.

Common interests: Single Market, trade and security

Nevertheless, British and German interests and priorities converge on a number of issues. First of all, both countries share a common view on the challenges of a globalised world. The export-oriented German economy with numerous small and medium-sized companies acting on the global level depends on reliable rules following Western standards in the international trade system. Even for Germany the support of the European Union in the negotiations with the other leading economic powers in the world is an indispensable instrument for maintaining and imposing European standards. There may be some ideological differences between UK and Germany regarding basic principles of the best economic system imaginable. UK is certainly far from approving the German social market economy, but there exists however an almost natural alliance between both countries in the area of global trade. This basic economic partnership is reflected, secondly, in the support for the Single Market as one of the pillars of European integration. This is, neither for Germany nor for the UK, not only a philosophical question. In 2014, UK overtook France as the second-largest economy in the European Union, a fact that underlines the increasing economic importance of the UK for Germany. And despite the mentioned British-German differences, the divergences existing between Germany, UK and most of the Eastern EU Member States on the one hand and the Member States of the South on the other is much more important, since they concern central conflicts of European policy such as structural reforms and budgetary consolidation.

In the field of security and defence policy, Germany has achieved a number of important changes over the last 20 years. It has participated and is still participating actively in a number of military (and civil) operations worldwide and has achieved an important reform of the Bundeswehr. It has participated in the negotiations with Teheran about Iran's nuclear program and assumes a leading role in the ongoing negotiations with Russia about the Ukrainian conflict. The speeches

1. Akten zur Auswärtigen Politik der Bundesrepublik Deutschland 1974, Munich 2005, p. 1538.

of the German president Gauck as well as of the Foreign minister Steinmeier and the Defence minister von der Leyen at the Security conference in Munich in 2013 underlined that Germany is on its way to playing a more active role and to take its responsibilities in international security issues. These are important changes in Germany's foreign and security policy, but they only make sense, if they are supported and accompanied by the two main European partners, France and UK, who have the necessary resources and capabilities to build up a European defence and security policy worthy of the name. British support for a real Common Foreign and Security Policy of the European Union (CFSP) is vital for Germany. The German military reforms and political changes that have been achieved or are still under way are the necessary basis for a closer cooperation of the UK and Germany. Finally, London and Berlin are both well aware that future US-administrations will be less engaged in Europe and that the Europeans themselves are responsible for security and stability in Europe and in the European neighbourhood. But they also share the conviction that there may be situations in the future – and the Ukraine crisis is just the best example of that – where NATO will be strongly needed as a defence alliance. Many political actors in Germany argue that a stronger German commitment to foster the development of a European defence policy has also to be seen as a way to keeping the US engaged in NATO. The conviction that NATO still has its place in the European defence landscape is common to London and Berlin. So, all in all, there are important common interests shared by Germany and UK that have to be taken into account with regard to the Brexit debate especially next year.

German EMU priority: red line for renegotiations with the UK

Today, basically, a large majority of the political, economic and civil-society-actors in Germany share the vision of the UK being a full member of the EU also in the future. However, there are some questions that characterize the political debate in Germany about the Brexit-issue. The first concerns the difficult problem of how to reconcile two of the major objectives of German European policy: deepening the integration of the euro area to make it more resilient and capable to act in times of crisis and strengthening the ties between the euro area and the EU-28. In the light of the Brexit-discussion, both objectives seem to be almost incompatible. Maintaining the priority of deepening the Economic and Monetary Union – after all an important point of the coalition agreement of 2013 between the CDU/CSU and the SPD – would severely limit the room for manoeuvre in the negotiations with UK. On the other hand, paving the way for the "outs" to join the euro area has always been a cornerstone of German European policy since the enlargement in 2004/2007. But the British objective to renegotiate its EU-membership is not meant to get the UK closer to the euro area – it is meant to loosen the ties of integration. Some British ideas to modernize the EU such as completing the Single Market or cutting EU red tape may well be shared by the German government and parts of the opposition (the Greens). Nonetheless, the German euro area priority seems to be the highest hurdle, or in other words, the red line for a renegotiation of the British membership.

At the same time, Chancellor Merkel and a number of other important politicians of all political parties share the British criticism of an overly Brussels-oriented European Union. Germany is no longer just the "motor of European integration" in Monnet's sense of the term. There has never been a referendum in Germany about one of the EU-treaties. But the political class is very conscious of the sensitivity that characterizes the attitude of a part of the German public opinion towards European politics made in Brussels, but also towards the other Member States. There is a growing perception in German public opinion that in times of crisis it is up to the Germans to pull Europe's chestnuts out of the fire and, what is more, that Germany is even criticised for doing so. For a part of the German public, the euro area and debt crisis and the current refugee drama have shown that neither the Southern nor the Eastern EU Member States are reliable partners sharing the idea of solidarity. Some right wing politicians of the CSU or the populist AfD (Alternative für Deutschland) already express their sympathy for the criticism of the Cameron government of an abuse of the principle of free movement by immigrants and "layabouts" who want to benefit from the social welfare

systems of the big EU Member States such as UK or Germany. The president of the CSU, Horst Seehofer, taking up with the Hungarian prime minister Victor Orbán, seizes every opportunity to blame Chancellor Merkel of his own political family for having opened the borders to hundreds of thousands of immigrants. This seems to bring Germany and UK closer to each other regarding Cameron's demand of cutting the free movement of people, paradoxically one of the pillars of the Single market that he, in turn, wants to achieve in the services sector. But to put it correctly, this is still a minority position in Germany, the future of the anti-European party AfD being uncertain in the light of its recent split and of the fact that its founder has left the party. Finally, Germany, founding member of the Schengen Area, would not question the "acquis communautaire" at such a crucial point.

To this backdrop, it appears that there may be some theoretical starting-points for a British-German understanding. But it is also clear that neither the political will nor the existing public pressure in Germany is strong enough to make Berlin enter into negotiations with concrete ideas of far-reaching EU-reforms. Besides the fact that London still has not presented any concrete demands, the divergence between the German and British positions in European policy concern central issues of European integration. Therefore, the German government has a adopted a more or less passive attitude of "wait and see". The German priority is the reform of the euro area, and, secondly, Berlin will be more than reluctant to embark on a discussion about a new EU treaty. The long, difficult and risky procedure of adopting a new treaty would interfere with the campaign for the parliamentary elections in September 2017. In the past, German political parties, apart from AfD, did everything to exclude Europe from the campaign issues.

This outlook does not change if we add the attitude of the German economy. Certainly, the German industry and the tertiary sector companies underline the strong economic link between the UK and the EU. The facts are clear and impressive: In 2050, no European country will count amongst the nine biggest economies worldwide. It is a truism that the size of the market is the decisive criterion for the decision of potential investors where to place their investments. But the Director General of the German industrial association BDI, in a statement of May 2015, addressed first of all the British government to do everything it could to keep the UK in the European Union – and not the German government to think about concessions.[2]

Preventing disintegration

What would Germany do to keep the UK in the European Union? Chancellor Merkel already indicated the basic attitude of the federal government when she said in a speech in February 2014 in Westminster that Germany will not "pave the way for a fundamental reform of the European architecture which will satisfy all kinds of alleged or actual British wishes". Since then, this attitude has not fundamentally changed. The openness of Germany towards some of the British ideas to reform European integration does not mean that Berlin shares the basic idea of the Cameron administration. Re-balancing power in the institutional framework of the EU does not mean for Germany a simple renationalization of decision-making processes. It means first of all a clear and consequent application of the existing principle of subsidiarity.

There is a fear in Germany that has become stronger over the last months and years, that the example of the UK negotiating its membership by damaging basic achievements of European integration could serve as a model. Other Member States with strong anti-European political parties could be tempted to follow the British example – the beginning of the end of the European integration process. It seems to be clear that, after a no-vote of a referendum in the UK, Germany will have the choice between two evils: accepting the Brexit with all the consequences for the future of EU policies and for the cohesion of the European Union, or negotiating a future UK-membership and make concessions that would unavoidably put into question the German tradition of a pro-integration power in the sense of the treaties of Rome.

2. „Brexit führt uns alle in die Sackgasse", BDI press release, 29 May 2015.

FRANCE: THE UK SHOULD REMAIN BUT NOT AT ALL COSTS

Christian LEQUESNE

No one has forgotten that UK's request to join the European Community was the cause of great resistance on the part of French President Charles de Gaulle in the 1960's. On two occasions in 1963 and 1967 De Gaulle used his veto to the UK's membership, deeming above all that London's "special relationship" with Washington meant that the country was not a sufficiently independent partner to provide inspiration to the continental European project. The situation changed with the election in 1969 of Georges Pompidou who yielded to the UK's accession on the grounds of the balance of power. German economic successes and the launch of the Bonn's *Ostpolitik* with the countries of the Socialist Bloc were beginning to worry French diplomacy in terms of Germany's rising power. It was said then in Paris that the UK's membership of the European Community would be a useful means to balancing this rise.

Since January 1st 1973, when the UK joined the European Community, from Paris's point of view, the reason for good relations with London has always been more political than economic. Both countries are permanent members of the UN Security Council. They are the only ones to have a national defence policy that mobilises around 2% of their government spending. They have a tradition of military intervention and an arms industry. For a long time France mainly saw in the UK a pragmatic means to consolidate the European defence policy. Negotiations over this have not always been easy since London has insisted on recalling the priority given to NATO, whose Integrated Military Command France quit in 1966, only to re-join in 2009. The "Saint Malo Agreements" signed in 1998 by Jacques Chirac and Tony Blair did however enable the relaunch of the institutionalisation of the European defence policy – a commitment that London will find it difficult to adhere to in 2015 due to the debate over the Brexit.

Three reasons to keep the UK in

There is no doubt that the French government – at present on the left - but without there being any great difference were it on the right – does not want the UK to leave the European Union definitively for at least three reasons.

The first reason is that Paris, as a founding member of the European Community, is convinced that the EU is a political experiment that would emerge seriously damaged by any disintegration. Although in principle the treaties provide for the departure of a Member State, this in fact would be seen as a clear sign of political failure that could feed European debate that is already quite morose in France. Any French government would indeed fear that official disintegration would strengthen the Eurosceptic rhetoric of the parties on the far right and far left, and also some Socialist Party and Republicans members. In 2015 there is not one French political party that openly campaigns for a total exit by France from the EU, unlike UKIP or some of the Conservatives in the UK. The Front National advocates France's exit of the euro area. But departure by the UK from the EU might tempt the Front National leaders to ramp up their claim to a higher level: total exit from the EU on the grounds that the British had now done it.

The second reason which obliges any French government to prevent the UK's exit from the EU is the objective convergence on diplomacy and defence, as well as on other issues, such as civilian nuclear matters. In terms of defence Paris has perfectly understood that Europe's participation in world security, increasingly alongside the Americans, means working with the British in ad hoc coalitions. It was with the UK and the USA that Paris decided to intervene in Libya in 2011 to bring Colonel Gadhafi's regime to an end. Regarding the conflicts in the Middle East and the fight to counter terrorism, exchange with the British diplomatic and intelligence services under the CFSP are still extremely useful resources to Paris. In a European Union in which the German partner is vital in many areas, but less in terms of defence due to its history, London is an asset that should not be dismissed so readily. The same applies to the promotion of civilian nuclear energy. British policy aiming to build new reactors is deemed as a support to French nuclear policy whilst Berlin has decided on a total halt to its nuclear power plants by 2022.

The third reason is geopolitical, i.e. it involves

the balance of power within the EU. The economic and financial crisis that started in 2008 has increased the differential in power between France and Germany. In 2015 Paris is suffering politically from not having succeeded, in spite of the Valls government's efforts, to implement structural reform as quickly as Germany, which for its part has enabled the country to reduce its unemployment rate and revive growth. Germany's ability to fulfil the macro-economic convergence criteria set by the treaties, whilst France is struggling to do so, strengthens the credibility and therefore Germany's political supremacy. As in the 1970's Paris wants London to remain a power that can balance out the central role played by Germany in the EU.

The French red lines

In October 2015 the French position on the Brexit has not been clearly set. The situation is however complicated due to the fact that Prime Minister Cameron has no interest in revealing his hand too quickly vis-à-vis his partners, since this would lead to Eurosceptics of his party demanding too many specific things. So for the time being there are discreet discussions between Paris and London focusing on the main issues. The French government is prepared to make concessions designed to rally the British to the "yes" during the referendum but certainly not at any cost. In Paris there are red lines surrounding any renegotiation that would strengthen the specific status the UK holds in the EU.

The first is that British renegotiation would just be a pretext for a further reform of the European treaties. French government leaders believe that most of the present dysfunction in the EU (notably in the euro area) can be improved without meddling with the treaties. In Paris there is no desire for a further constitutional reform of the Union, because this would entail the huge risk of having to organise a referendum for its ratification. The negative result of the referendum on the European constitutional treaty in 2005 has meant that the French political class has adopted a very careful attitude to direct democracy. This is particularly true for François Hollande. In the French system of the 5th Republic a president who has to assume a negative referendum in fact loses all legitimacy. Moreover, since division over Europe is expressed in France within the political parties rather than between left and right, François Hollande has no interest in risking any further division within the Socialist Party over Europe.

Secondly, France is firmly opposed to the fact that the four freedoms of movement – deemed to be a foundation of the treaties - being affected by any renegotiation with the UK. Sometimes David Cameron highlights the need to review the principle of social rights for workers from EU countries who have moved to the UK. Paris is totally against this, deeming that Britons can legitimately counter welfare fraud, but without challenging the acquis of European law. Although the flows have been less than those from Poland the number of French citizens employed in the UK is significant. In London they total 300,000, making the British capital the 7th city of France.

Thirdly, Paris supports the British idea of greater power being granted to national parliaments to monitor the principles of subsidiarity and proportionality in European law. A more systematic use of the monitoring mechanisms provided for in the Lisbon Treaty (the so-called "yellow card" and "orange card" system), which means that Europe's institutions have to review their approach, is considered to be totally acceptable. However, Paris rejects the idea of national parliaments being able to cancel a Commission proposal, as advocated by some in London, since this would mean modifying a fundamental acquis of European integration: the European Commission's power of initiative.

Finally, Paris is prepared to consider London's demands that aim to involve non-members of the euro area more in the decisions that affect the EU's economic future. France has already shown that it is open to the association of non-euro area members in the European Financial Stability Mechanism and Banking Union. However, Paris would never accept non-euro area members (and in particular those like the UK, who are voluntarily opting out) being able to enjoy a right of veto over Eurogroup decisions.

French Public Opinion and the Brexit

The negotiation agenda over the Brexit should be clearer to Paris, as it will to all of European partners after the European Council of December 2015. Although

for the time being there is no final French position on the Brexit, there is a general framework defining what is acceptable and what is not. French public opinion, which has been mobilised by the financial aid plans to Greece and the issue of distributing refugees, has expressed few precise views on the Brexit. There are also very few surveys that enable us to take the temperature of French opinion on this issue. A survey taken on 2nd June 2015[1] shows however that 43% of the French would support a Brexit, which is a high figure. It is however interesting to note that 50.5% of those interviewed aged 50-69 say they support the Brexit whilst 68% of the 15 to 29 year olds are against it. The young French person's view of the UK as a close, attractive labour market undoubtedly explains this difference in general perception. But in the end the UK's exit of the EU would be harder for government leaders (and also for businessmen) to accept in France than the French population which often assimilates the UK as being the spoke in the European Union's wheel.

1. To access the survey consult http://mingle-trend.respondi.com/fr/brexit-avis-des-francais-sondages/

ITALY: LIMITED MARGINS OF NEGOCIATION

Sergio FABBRINI

The Italian government and the main Italian political parties clearly favour the United Kingdom (UK) remaining in the European Union (EU), although no official government statement on the issue nor have opinion polls been run to assess the view of Italians regarding the possibility of the UK leaving the EU (Brexit).The discussion on Brexit is confined to political operatives and its content remains quite vague. This is due to the instrumental nature of the Italian position on the UK role in Europe, but also to the ambiguous position of the UK government towards Europe.

The UK membership for pragmatic reasons

Italy has never been fond of the UK. Certainly, important sections of the Ministry of Foreign Affairs (MFA) are Anglophile, but the mainstream mood in the Italian Foreign Service and political élite is of suspicion towards the UK and its European policy. Historical factors help to understand that mood. The UK was for long time perceived as a peripheral country in the European scenario, even for the Romans it represented the faraway northern *limes* of the empire. For better or worse, Italy has traditionally intermingled with France and Germany, more than with the UK. Indeed, even in the post Second World War period, Italian diplomats spoke French or German, languages, rather than English, even when the latter had already acquired the status of the *lingua franca* of (at least) the Western hemisphere. It took time, for the leaders of the main post-war Italian political parties (Christian Democrats and Communists), to elaborate more informed relations with the UK, and for that matter also with the United States (US). To be sure there is a grateful attitude towards those countries for the role played in freeing Italy from the dictatorial regime. Nevertheless for long time they were seen as the Anglo-Saxon nations whose individualistic and Protestant ethos was unappealing to Catholic and collectivist Italy.

Italy supported the 1973 UK accession to the then European Economic Community (EEC), but it did that out of instrumental considerations, more than for cultural reasons. The entrance of the UK was considered an opportunity for delimiting the Franco-German leadership of the EEC. Italy was crucial for smoothing the integration process because of the role of 'honest broker' it played when tensions between France and Germany arose. However, it was never recognized as a co-equal partner by the two countries, also because of its internal political instability. With the arrival of the UK, the assumption was that this role would be strengthened. Indeed, Italy and the UK, with France and Germany, constitute the four large countries of the EU, countries whose interactions have conditioned the path and timing of the integration process. Certainly, the new generation of politicians that has risen to power in Italy, epitomized by the current 40-year old Prime Minister Matteo Renzi, is much more Anglophile than the previous ones. The enthusiastic visit of Matteo Renzi to the UK Prime Minister David Cameron in October 2014 was considered a demonstration of the more positive attitude of new Italian political élites towards the UK's role in Europe. In that occasion, indeed, the Italian Prime Minister stated forcefully his government's opinion that an EU without the UK would be inconceivable, adding that Italy would do everything it could to prevent a Brexit. However, beyond the rhetoric, that visit was a step along the traditional road. Italy wants the UK in the EU for instrumental, not cultural, reasons. Contrary to the Scandinavian or the Eastern European countries, Italy does not pride national sovereignty as the UK does. The Italian constitution celebrates the principle that national sovereignty should be exercised within the constraints coming also from international alliances, something unthinkable in the UK's unwritten constitution. Although Italy has a parliamentary system as the UK, its logic of functioning is opposite to the British model. Italy continues to have a multiparty system and a weak governmental branch, features that are an anathema to the British élites. Moreover, Italian and British political parties are radically different in ideological and organizational terms. The Italian right has been traditionally based on a Catholic culture, a culture that even survived Berlusconi's attempt to substitute it with a commercial brand. Contrary to the British Conservative Party, the Italian Go Italy

continues to be a member of the European People's Party. At the same time, the Italian left has been traditionally based on a Communist tradition, a tradition very different from the Fabian one inspiring the British Labour Party. Moreover, contrary to the British parties, the Italian parties do not have powerful parliamentary organizations. Not only the political, but also the economic system of the two countries is very dissimilar. Italy had an economic system largely controlled by the state which only recently started to liberalize, under pressure from the EU. The UK, on the contrary, has a more open and competitive economic system, particularly since the Thatcher revolution in the 1980s. In this regard, Italy is closer to France and Germany, although each of the three countries offers a different rational for the State's role in the market.

Thus, it is not history, politics or economics that leads Italy to ask the EU to keep the UK on board. Italy fears to remain alone, as a large country, in performing the mediating and balancing role between France and Germany. It seems clear to the Italians that France and Germany prefer to lead the EU without constraints from other large countries. Although the Franco-German axis was called into question by the German reunification of October 1990, German political élites have continued to stress the point that cooperation with France should represent the undisputable priority of their country. There is no significant space for Italy in that cooperation, unless France and Germany collide over crucial integration issues (i.e., the governance model of the Euro area). Only in that case, Italy would have the possibility to play a role. As it happened during the Greek crisis, when the Italian government coalesced with the French government, in the dramatic meetings of the Euro Group and European Council of 12-13 July 2015, to oppose the German proposal to allow Greece to exit the euro area (Grexit). For the Italians, without the UK, the predominance of the German-French cooperation in the EU would become unbalanced. This preoccupation is motivated by the evolution of the euro area, where, in the event of an existential crisis, the Franco-German cooperation would be substituted by the unilateral leadership of Germany. This outcome makes Italian officials unhappy.

No real support to the UK views

The uncertainties, if not ambiguities, regarding the UK's strategy in dealing with the European dilemma has not helped the Italian officials to transform their instrumental position into a more organic one. It is not yet clear whether the UK's official position is to ask for a comprehensive revision of the Lisbon Treaty or for the revision of the regulatory order of specific policy regimes or finally for a symbolic declaration that the UK will be exonerated from pursuing the project of 'an ever closer union' as declared by the Lisbon Treaty of 2009 (and, for that matter, by any EU treaties since the founding one, the Rome Treaty of 1957).

For now, what is heard in Rome are the British complaints against the presumed excessive power of the 'Brussels' bureaucracy'. The complaint is considered unfair, if not annoying. As the same UK government's review of EU regulatory impact on the country has shown, those complaints do not seem justified. Indeed, with regard to the single market, those complaints concern mainly the free movement of persons, while in all the other sectors, one might argue, the UK has been quite successful in limiting the regulatory approach considered to be prized by the 'Brussels bureaucracy'. Because above all else the UK values the single market, it does not seem plausible to ask, as the UK government periodically does, the dismantling of supranational regulation. To go back to national regulatory systems might result in neither effective nor improved standards of regulation. Business cannot prosper in a context of multiple and differentiated patterns of national regulation, nor there is any guarantee that a national system of regulation would be less intrusive than a European one. Regarding the UK's request to limit, in the country's territory, the fourth freedom of the single market (the free movement of persons), it seems unlikely that such a request would be acceptable to the Italian government and parliament. The four freedoms are considered to be the founding pillars of the single market (whose institutionalization in the Single European Act of 1986 was mainly due to the political pressure of the then Thatcher government). As such, they are not negotiable.

Even the UK's complaints against the EU's bid to look for a common policy on asylum and political

refugees appear highly unjustified in Rome. The UK has already has a special arrangement on asylum, combining opting-out and opting-back-in. Indeed, the UK has an impressive number of opt-outs from the most integrative projects as no other EU Member State has been allowed to have. For instance, in the core matters of internal justice and home affairs, the UK has in 2014 opted out of 130 EU laws, while opting back in to 35 of them, including the salient case of the European Arrest Warrant. Also in the field of civil judicial cooperation, the UK has an opt-out, with the possibility to pick and choose in accordance with Westminster's perception of what fits with the British legal tradition. This also explains the diffused criticism raised against the UK to be an 'awkward partner'. The tough position taken by the current government of David Cameron against the quota system proposed by the Commission of Jean-Claude Juncker, for the distribution of Syrian political refugees among the EU Member States according to some objective criteria, appears inexplicable in a country like Italy that had to take care of the arrival on its shore of thousands and thousands of them in the last three years. The opinion in Rome is that economic and political immigration is a hot electoral issue in UK as well in Italy, as shown by the spectacular success of both the UKIP of Neil Farage and Beppe Grillo's Five Stars Movement in the European Parliament (EP) elections of May 2014. Although the UK government will probably accept to meet the Commission's proposal on a 'voluntary basis', the Italian government has stressed with force that each EU Member State should bear its part of the migratory burden (and the connected political risk). Regarding this crucial issue, Italy is closer to the German approach to welcome political refugees, contrary to the UK that seems to cultivate an isolationist approach. Finally, the UK's complaint against an excessive EU budget is perceived in Rome as unjustifiable. The UK already enjoys a special rebate and has successfully imposed, with the German support, significant cuts in the 2014-2021 multiannual financial framework.

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Certainly, Italy shares the view of the Commission's President Jean-Claude Juncker, as declared in the State of the Union address he delivered before the EP on 9 September 2015: "I will seek a fair deal for the UK I will do this for one reason and one reason alone: because I believe that the EU is better with the UK in it and that the UK is better within the EU"". However, seen from Rome, the margins for a negotiation between the UK and the EU, before the referendum of 2017, seem quite limited. To exonerate formally the UK from pursuing the project of 'a closer union' would require a treaty change that is impracticable before 2017. In 2017 there will be national elections in both France and Germany and neither of the two incumbent governments wants to open the Pandora's Box of institutional reform. It is however likely that, after those elections, treaty reform will re-enter the EU agenda, as proposed by the Five Presidents Report of July 2015. Before 2017 what the UK can get is a declaration by the European Council on its special status in the integration process. Regarding the other complaints, their rationale appears to be unpersuasive, unless the UK government makes a political effort to identify clear red tape issues to put on the negotiating table. If those requests are compatible with the integration process, then Italy will pressure for meeting them. However, if those requests risk watering down the integration process, it seems unlikely that Italy will pressure to meet them. The Italian national interest coincides with the deepening of the integration process, more than with the UK participation to it. The UK government should be aware that, between the deepening of integration and the UK participation in it, any Italian government would choose the former and not the latter option.

SPAIN: AVOID A BREXIT

Luis BOUZA GARCIA

Despite the changes observed in relation to the Euro crisis Spanish public opinion towards EU affairs can still be characterised by the permissive consensus, so the Spanish Government is not likely to be pressured by the public opinion directly. Spain's position in relation to the possible negotiation issues in regarding the UK's demands and to a broader reform of the EU Treaties presents the difficulty that so far we have no negotiation agenda considering the British government has not presented a list of concrete demands. However it is likely to be dominated by an interesting paradox: Spain is likely to make efforts to keep the UK in even though Spain and the UK tend to vote very differently in the Council and the Spanish political elite remains strongly pro-European. How will the future Spanish political scenario - general elections which will take place on December 20th - affect the future negotiations? Although any Spanish government is likely to maintain a number of "red lines" tied to the general interest, the politicisation of EU affairs is however likely to surface in issues relating to requests of a more "business friendly" EU.

The renegotiation of EU membership

Spanish public opinion is unlikely to be a deciding factor in explaining the country's position toward the negotiation with the UK. The attitudes of the Spanish public toward the EU still present several characteristics of the permissive consensus as debates on the EU very rarely acquire significant resonance and the public has for a long time shown high levels of trust in EU institutions and a preference for further integration, although these two dimensions are changing rapidly in the context of the Euro crisis.

If we look for specific data it turns out that there are no surveys on the Spanish public's opinion on the prospect of the UK leaving the EU. However attempts can be made to infer the position of the Spanish public from specialised surveys and from their opinion towards the UK. First of all it appears that Spanish businesspeople are among the most concerned in view of a British exit from the EU[1]. As for the general public, research on global attitudes and stereotypes suggests that the Spanish public have a neutral attitude towards the UK[2]. Other than attitudes of the public one needs to consider the attitudes of Spanish political parties. Here it is even more difficult to rely on precise data, other than the qualitative appreciation that political elites have traditionally shown strong support for some features of the British democracy in light of eventual reforms of the Spanish political system[3]. The current conservative government of the Partido Popular (member of the EPP) and the socialist main opposition party (PSOE, member of the PES) have traditionally maintained an attitude of institutional support for the Government to address EU institutional negotiations as the sole representative of the country's interest. This does not imply that the type of government may not make a difference in Spain's position (see the last section) but the main opposition party is unlikely to politicise it. However parties such as Izquierda Unida or the more recent Podemos (both members of the European Unitary Left group in the EP) are likely to frame the British referendum as a sign of the need to open up a large, national level debate on on EU integration.

All these elements lead us to expect that Spanish public debate would tend to see a British exit of the EU as a sign of European disintegration but also that this opinion is very unlikely to have a significant effect as in these matters the Spanish public still vests a high degree of "passive trust" in political elites.

Spain's red lines in any negotiation and Treaty changes

It is not simple to anticipate how the Spanish government may react to British demands to renegotiate their relation with the EU without being aware of these. However considering different speeches by British government officials[4] three main types of demands can be expected: symbolic, institutional and economic. The most symbolically loaded demands are related to a potential British opt-out from the "ever closer union" among the peoples of Europe and the sovereignty of the British Parliament. That said both elements have a potentially significant effect on the institutional equilibria as the "ever closer union" clause has been used by the ECJ to provide teleological

1. Grant Thornton The future of Europe. Grant Thornton International Business Report 2015

2. Pew Research Center (2013) The New Sick Man of Europe: the European Union, Pew Research – Global Attitudes Project, 13 May 2013, online, available at: http://www.pewglobal.org/files/2013/05/Pew-Research-Center-Global-Attitudes-Project-European-Union-Report-FINAL-FOR-PRINT-May-13-2013.pdf

3. For a good summary of this debate see Politikon, 2014. La urna rota. La crisis política e institucional del modelo español. Barcelona, Ed. Debate.

4. Euractiv (2015) " Osborne spells out Britain's key demands on EU reform" 11/06/2015 Euractiv.com, available online at http://www.euractiv.com/sections/uk-europe/osborne-spells-out-britains-key-demands-eu-reform-315302

interpretations of the Treaty and an increased role for the national Parliaments may further slow down policy adoption and increase the number of potential veto points. Furthermore the UK seems to want to have a say in decisions on the Euro that have a potential impact on the City of London's financial services. Finally in relation to concrete policies the UK seems to have decreased its concerns on "fortress Europe" and the Common Agricultural Policy to focus most of its demands on curtailing free movement of people, or more in particular, the principle of non-discrimination on the grounds of nationality of EU job seekers in the UK. This is accompanied by a general claim to make the EU more business friendly.

The attitude of the Spanish Government is likely to be very negative towards some demands but may overall accept significant changes, including some that may require a Treaty amendment. Unlike some other governments the process of ratification of Treaty changes is relatively light for the Spanish executive because it is subject only to Parliamentary ratification only. Hence the issue is unlikely to boost a significant debate in spite of a possible increase in parliamentary fragmentation after the next election. The Spanish government will be ready to find a compromise to tie the UK into the EU. The Spanish Prime Minister Mariano Rajoy has recently said that Spain will be "constructive" in the renegotiation and that he shares demands by the British government in relation with the competitiveness of European economies and the need to conclude a free trade treaty with the United States[5].

From the perspective of Spain's interests supporting the UK in the EU might seem counterintuitive as UK and Spain are among the countries which more often than not vote in opposite directions in the Council[6]. However Spanish governments have traditionally seen the UK as a natural ally whenever the preferences of the Franco-German partners differed from those of Spain such as during the Iraq war. Similarly the UK is seen as a country generally supporting geopolitical choices dear to Spain such as openness to further enlargement or the facilitation of contacts with former colonial empires.

The demand that Spain is more likely to reject firmly regards restrictions to the right of free movement. Firstly a high number of Spaniards have recently moved to the UK as a consequence of the economic crisis since 2008. Moreover Spain is home to a large number of British residents - mostly retired expatriates in touristic areas - of which a large proportion is not officially registered with the local authorities, with the real population possibly multiplying the officially registered 280.000[7] by two. This is already seen as a pressure on the health system as unregistered residents are not considered in budgeting and their expenditure is difficult to reclaim[8], but would make things more complicated if the existing EU rules on health assistance no longer existed between the UK and Spain. On a more symbolic level Spain is unlikely to accept a removal of the "ever closer Union" recital but may be ready to compromise in the form of a declaration for the UK.

On another number of issues the Spanish government may be likely to cooperate. Although a recent official paper on deepening monetary and fiscal integration[9] does not address the relation with non-euro area member states it considers the need of deepening the internal market, which may be part of an acceptable deal for the UK. Furthermore the fact that the paper explores the need for a political union is a sign that the Spanish government may be likely to support a reconsideration of the governance of the Euro area that would strengthen its political governance in exchange of a better clarification of its impact on the internal market. Another aspect on which the Spanish government is likely to consider its position is the question of the national parliaments. Even though Spain is unlikely to accept a system empowering the UK Parliament only or generally slowing decision making it could consider strengthening the ability of national Parliaments to intervene in the EU by for instance asking the Commission to come forward with a proposal.

The position of Spain after the 2015 general election

All analyses of the Spanish position on British renegotiation must consider that the next general election is probably to be held on 20/12/15. All the surveys since 2013 indicate that none of the two large parties that have governed Spain since 1982 will be able to obtain a sufficient number of votes to hold power

5. Communiqué of the Spanish Government on David Cameron visit to Madrid (04/09/2015) http://www.lamoncloa.gob.es/presidente/actividades/Paginas/2015/040915-rajoycameron.aspx

6. Van Aken, W. (2012). Voting in the Council of the European Union. Swedish Institute for European Policy Studies (SIEPS): p. 52.

7. According to the official figures of the Instituto Nacional de Estadística (2015) http://www.ine.es/prensa/np904.pdf

8. Garrigós Simón, Fernando J. y Palacios Marqués, Daniel (2008) "El turismo residencial y las políticas públicas europeas", in Estudios de Progreso, 31

9. Prime Minister's Office of Spain (2015) Contribución de España al debate sobre la Gobernanza de la Unión Económica y Monetaria available online http://www.lamoncloa.gob.es/serviciosdeprensa/notasprensa/mpr/Paginas/2015/270515-gobernanza.aspx

alone, with two new parties emerging to the left of the socialists (Podemos) and towards the centre-right (Ciudadanos). The majority of polls in early September suggest the following percentages of vote in a general election: PP (28%), PSOE (25%), Podemos (17%), Ciudadanos (12%), Izquierda Unida (4%), with other nationalist or regional parties totalling about 14% of the vote[10].

The last local and regional election held on May 25th 2015 gave some hints about possible coalitions. Whereas the Partido Popular have been able to form executives with the support of Ciudadanos, the Socialists have been able to govern with supports by both Ciudadanos and Podemos in different regions. So even if they are slightly behind in the surveys, the Socialists may be in a better position to try and form a government. An alternative – very improbable - would be a Popular Government formed thanks to the abstention of the Socialists in a context of a constitutional and federal reform in order to find a deal with Catalonia.

In any case there is a certainty that the next Parliament will be more fragmented and euro-critical voices will be better represented in it. Furthermore the crisis of the euro has had an effect in the public discourse and programme of the Socialist party which is now more demanding of the European Commission and cautious about possible effects of European integration on the welfare state and labour conditions. The consequence is that although public opinion is unlikely to mobilise, and the Parliament will probably remain strongly proEuropean, a minority popular government or a socialist one, indirectly supported by Podemos, may need compensations in order to proceed with a stronger internal market deregulatory or liberalisation agenda.

10. This is a not a single poll but an average of polls published in several media, a methodology aiming at compensating for the different biases introduced in different modes. Kiko Llaneras (2015) "Así votarían los españoles: suben PP y PSOE pero el bipartidismo sigue en mínimos históricos" El Español 4/09/15 http://www.elespanol.com/actualidad/asi-votarian-los-espanoles-suben-pp-y-psoe-pero-el-bipartidismo-sigue-en-minimos-historicos/

POLAND: STRENGTHEN THE EU AS A WHOLE

Piotr BURAS

Three issues determine Poland's position on the UK's renegotiation agenda.

First, with almost 700.000 Polish citizens living and working in the UK Poland constitutes one of the main reservoirs of the immigrant labour force. Most importantly, Polish immigrants are one of the main targets of the British claim to limit intra-European immigration, cut-down the welfare benefits for immigrants as well as of the populist agenda of UKIP (in spite of the fact that Poles are substantial net contributors to the British budget).

Second, United Kingdom is an important ally of Poland in many relevant EU policy area ranging from security and defence (Transatlantic orientation including a full support for TTIP), through EU enlargement policy (both countries are supporters of EU principle of openness), to championing the free, single market.

Third, both Poland and the UK are not members of the Euro area and despite their different approaches (for Poland accession to Euro area is mandatory and has been a declared, whereas distant goal. Both countries will share this status for the foreseeable future.

This mix of factors results in a paradoxical outcome: Poland belongs to those countries which would genuinely wish the UK to stay in the EU but which fails to understand London's strategy in renegotiating its terms of membership, in particular as long as migration issues are at the centre of interest of Cameron's government and British voters. They are likely to overshadow the commonalities in other, less relevant areas. Poland's scepticism about the British plans is fuelled also by Warsaw's firm opposition to the idea of a treaty change which might be necessary to meet most of the central British expectations.

The red line on the free movement of workers

Clearly, the migration issue is the largest stumbling block from the Polish perspective - a red line which must not be crossed, as Polish representatives argue. Especially those British demands which are related to the access to labour market and social welfare have little if not no chance of being accepted by any Polish government. In his November 2014 immigration speech, David Cameron argued that the UK government intends to require EU citizens to have a job offer before they are allowed to be resident in the UK. This is not in line with the EU legislation. To be amended it would require a treaty change (which Poland rejects), but meeting this demand would also mean an acceptance of formal discrimination of non-British EU citizens which is a no-go for Poland. Also Cameron's ideas that „those who want to claim tax credits and child benefit must live here and contribute to our country for a minimum of four years" and that no benefit should be granted to immigrant workers for their dependents that do not live in the UK have been firmly opposed by Warsaw. Only changes to British domestic law (cutting back of benefits) would be acceptable provided that they did not lead to any differentiation of treatment of British and non-British citizens. Any backtracking on that issue would be extremely difficult for any Polish government as the subject is highly relevant and sensitive for a considerable number of Poles working in the UK or benefiting from the migration in different ways. Also, limitations of labour migration are considered as an impediment to fundamental freedoms within the EU and – most notably – to the functioning of the single market which is central both to Polish and British approaches to European integration.

There are, however, two minor points related to migration where Poland could possibly show more flexibility. Prime Minister Cameron suggested that free movement should not "apply to those new members until their economies have converged much more closely with existing Member States" and that such a clause should be part of new accession treaties. As no EU enlargement is in sight, this would be a rather declaratory concession which Poland might be willing to subscribe to. However, the criterion of "economic convergence" is seen as to high a hurdle for potential new Member States. The same is true, with some restrictions, in terms of the demand for tougher rules for criminals and those abusing the free movement rules. This could possibly work as an EU-wide regulation and not restricted only to the UK. However, from the Warsaw perspective a possible new regulation should be proportionate and must not be overstretched. Most importantly, any criminalization of migrants has to be prevented.

A different euro-out approach

Interestingly, the other big issue in the UK's renegotiation agenda – the relationship between the euro-ins and euro-outs – does not provide for much common ground between London and Warsaw. Despite the similar status (whereas on different legal foundations), both countries' perceptions of the fundamental underlying issues differ, as do their ideas for the future. In a nutshell, the British stance highlighting the risks of euro area integration for the common market and the need for a new settlement between the common currency area and the rest of the EU is perceived as largely unfounded and the underlying concerns as exaggerated. Again, the Polish general rejection of the idea of a treaty change plays an important role, but there are also more reasons for the Warsaw's approach.

First, Poland is sceptical about a new formal settlement between euro-ins and –outs as it would formally rubber-stamp its position at the margins of the EU which is not seen as favourable (despite the reluctance to embark on a clearly defined accession strategy). Second, the Polish authorities believe that no major treaty reform is possible at least within the next five years, an assumption which they claim to be validated also by the four presidents' report. Third, Poland – as opposed to the UK – does not perceive the Euro area as a unified bloc and is thus not so much concerned about the possibility of euro-outs being regularly outvoted to their detriment by the holders of single currency on issues relevant for the single market or economic policies. Fourth, the Euro area reforms have not led to a major rift between euro-ins and euro-outs. According to Warsaw, the principle of openness (the right of euro-outs to be at the table) has been secured and no separate structures need to be created.

Some initiatives (like the attempts by the Luxemburg Presidency to extend the Eurogroup format to other Council formations) are criticised by Poland, but no major immediate risks are identified. Generally, Poland believes that a reform of Euro area is necessary in the long run but there is no need to raise the issue now. In one particular issue, British and Polish positions are remarkably different. For Poland, the question of a Euro area budget is particularly controversial (as it would possibly limit the resources at the disposal of other EU Member States) while the UK is more open to this idea as it may reduce the level of its financial contributions. Poland promotes the idea of Juncker Plan being used also for special Euro area needs as it is financed from different sources.

The differences between UK and Poland with regard to the Euro area-related issues are well illustrated by two recent examples. One is related to banking union: Poland is considering to join, whilst the UK has ruled out such an option. As a consequence the positions of both countries collided over the question of how to preserve a level playing field for "ins" and "outs" as far as the financial assistance for countries coping with bank resolution and restructuring is concerned. In the discussion about the Single Resolution Fund UK opposed the idea of enabling non-euro area countries joining the Banking Union to tap the Balance of Payments Mechanism (anchored in the EU budget), in case they needed additional financial support for bank restructuring. This situation might occur if the resources of the SRF did not suffice (the fund will achieve its full operationability step by step over the period of 10 years). While Euro area countries are eligible for ESM resources in an emergency, Poland perceived the access to the Balance of Payments Mechanism as the very essence of solidarity between euro-ins and euro-outs as it would create a level playing field for both group of countries. The UK, however, opposed this solution (a change of an EU directive was necessary) as it feared that the EU budget would become a back-door guarantor of the Banking Union, which London wants to avoid. Poland and the UK were an on a collision course also last summer when the EU Commission proposed to use the EFSM (also guaranteed by the EU budget) to support Greece – despite the Council's decision of 2011 which stated that euro area countries would no longer be given financial aid from this mechanism. The UK government strongly opposed the Commission's proposal as a matter of principle, while Poland showed more flexibility: it welcomed it as it would help to stabilise the situation in Greece and thus in the euro area provided that risks for non-euro area countries were avoided.

Other issues are minor

On the other issues in the British renegotiation agenda Poland might be more prone to find a compromise. They are, however, much less relevant for the outcome of the British referendum and thus for a possible "yes" campaign on the part of the British government. To cut "red tape" is certainly a postulate Poland would fully subscribe to. However, there is a perception in Warsaw that the Commission has already made a substantial progress on that front and no dramatic changes in its strategy are required. As for the involvement of the national parliaments in the EU legislative process, Poland advocates the full use of the existing mechanism instead of introducing a "red card" procedure which could paralyse, as one argues, the EU decision-making.

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In sum, Poland is ready to support the UK mostly on those issues which would strengthen the EU as a whole and not constitute an opt-out for the UK. The completion of the single market is the realm where Polish and British interests converge most, but this is likely to be overshadowed by fundamental disagreements on free movement issues. The scope for Poland's concessions is thus limited. The parliamentary election in Poland on 25 October will most probably result in a change of government with the national-conservative Law and Justice, an ally of the British Conservative Party in the European Parliament, to form the government after eight years of the rule of Civic Platform. Despite the ideological proximity, no major shift in the Polish stance on Brexit is to be expected. Of course, Law and Justice might be more sympathetic to the idea of abandoning the "ever closer union" clause or strengthening the role of national parliaments, but these issues are not the most relevant fort the UK government. As the protection of interests of Polish citizens ranks high in the party's rhetoric, a softening of Law and Justice position on the contested migration issues is highly unlikely. Thus, from the Polish point of view the future of the UK in the EU lies first and foremost in the hands of the British Prime Minister. It is related less to the outcome of the renegotiation process and much more to the question how the UK government will frame its referendum campaign despite the slight results expected of the renegotiation.

FINLAND: "WITHOUT THE UK THERE IS NO EU"

Juha JOKELA

Prime Minister David Cameron's aspiration to renegotiate the terms of the UK membership in the European Union, as well as the uncertainty about the continuing UK membership has gained some importance in the Finnish EU debate in recent years. Although the continuing UK membership in the EU is seen as a prominent issue for the EU and Finland, the UK question has not however become a key feature of the Finnish EU debate. The Finnish decision-makers, media and other observers as well the general public have been first and foremost preoccupied with the management and implications of the euro crisis, the deterioration of EU's relations with Russia, and recently the heightened refugee crisis.

UK aspirations in Finland

The Policy and expert communities in Finland have highlighted the continuing importance of an active UK engagement in the EU for Finland. The role of the UK in shaping the development of the EU's internal market and trade relations with third countries are seen crucial in Helsinki to advance the interests of a small and thoroughly globalized Finnish economy in Europe and beyond. Moreover, the importance of the UK for the EU foreign, security and defence policies have been equally highlighted in Finland, yet the UK's reservations in developing these policies have been noted in Brussels and Helsinki. At times, a concern related to the balance of power among the EU Member States can be discerned from general considerations on developments in the EU politics. Especially in the discussions related to the deepening of the internal market and advancing external trade through free trade agreements, Finland would lose an important and powerful ally within the EU, if Brexit were to take place. Moreover, during its 20 years of EU membership, Finland has witnessed the UK's overall reluctance in taking European integration forward, with methods deemed to serve the interests of the smallest Member States. Traditionally, Finland has been a supporter of strong EU institutions and the so-called Community Method. It has, for instance, supported the role of a strong European Commission, as it has been seen to work for the interest of the smaller members in the EU. Relatedly, Finland has accepted transfers of national powers to the EU level in the consecutive treaty changes in the 1990s and 2000s. It has also supported the streamlining of the EU's external relations and developing the Common Security and Defence Policy. While the importance of having the UK on board in these reforms has been well understood in Finland, its hesitance rreflected in its positions vis-à-vis Treaty reforms (and also to their implementation), has been at times seen to run counter to the Finnish aspirations.

David Cameron's EU policy, past and present

The inclusion of the Liberal Democratic Party in Prime Minister Cameron's first government was initially seen to highlight continuity in terms of constructive engagement with the EU. However, the so-called referendum lock vis-à-vis any further transfer of powers from London to the EU level (introduced by the European Union Act in 2011), the launch of the balance of competence review and ordered vigilance towards what has been called "competence creep" in moving towards joint representation in EU external relations, changed this perception. The UK's EU policy has been, at least partly, seen as a further puzzle for the EU at times of general uncertainty resulting from the failed Constitutional Treaty and the financial and economic crisis.

David Cameron's attempt to secure safeguards for his country's financial industry in the European Council meeting in 2011, which aimed to agree on limited Treaty amendments in order to consolidate the Economic and Monetary Union (EMU), further questioned his European vocation.[1] This failed attempt, which led him ultimately to employ a veto vote, underlined perceptions that his policy is designed to serve first and foremost the UK national interest and address national audiences. It follows that David Cameron's announcement in 2013 that, if he won the 2015 general elections, he would strive to renegotiate a new settlement with the EU and call for a referendum offering the UK electorate a simple choice of staying in on new terms or leaving the EU, received a rather lukewarm reception in Finland. It was seen to be driven

1. The UK veto resulted the in the so called Fiscal Compact intergovernmental treaty (Treaty on Stability, Coordination and Governance in the Economic and Monetary Union) signed by 25 EU Member States.

largely by strengthening Euroscepticism within and outside the Conservative Party, rather than a genuine attempt to reform the EU for the better.

The landslide victory of the openly populist and Eurosceptic Finns Party in the 2011 parliamentary election, as well as its ranking as the second largest party in the parliament after the 2015 parliamentary election, adds an interesting element to the Finnish EU debate in general and also to the debate on the possible UK exit.[2] Although the party has gained support by criticizing the already tight Finnish immigration policy, it is widely agreed that it was the party's outright Eurosceptic posture that led to its historical victory in 2011. The party's support increased rapidly during the first phases of euro crisis, and during the fierce political debate about the unpopular rescue loan programmes for Greece, Portugal and Ireland. Because of the party's unconditional "no" to any new loan programmes, it was excluded from the ensuing coalition government. In the opposition, the party continued to criticize the management of the euro crisis, yet somewhat more moderate positions started to emerge in the run up to the 2015 elections, suggesting the party's willingness to participate in the next government. The shift of focus from the euro crisis to the gloomy outlook of Finnish economy also geared the campaigns to domestic economic and welfare issues.

Against this background, it comes as no surprise that David Cameron's announcement in 2013 to strive for new settlement and call for a referendum has received a very warm welcome by the Finns Party. Its chairperson Timo Soini – a frequently invited speaker to the Conservative Party Conferences – has supported Cameron's EU referendum promise by stating that people have the right to express their views on EU membership, and if he were Prime Minister of Finland, he would arrange just such a popular vote.[3] Moreover, after 2014 European Parliament election, his party joined the European Conservatives and Reformist (ECR) group in the European Parliament alongside the UK Conservative Party. Yet his party's Euroscepticism seem to be rather pragmatic, and also able accommodate to political realities in Finland and the EU. Public support for the EU and also for the euro has remained distinctively high in Finland, even during the recent years of euro crisis. Moreover, the changing environment of European security and the more assertive Russian foreign policy have arguably highlighted the EU membership's importance for Finland in terms of stability and security, partly because the country is not member of the NATO.

Cameron's agenda: What is acceptable for Finland?

Importantly, the current Finnish government EU policy guidelines are of crucial importance for the Finnish official position(s) towards the now ongoing UK renegotiation process. Importantly, current Finnish government is based on a coalition of three major parties: pro-European Centre Party and National Coalition Party as well as the Eurosceptic Finns Party. In his new role as the minister for Foreign Affairs, Timo Soini has said to the British press that David Cameron's EU renegotiation and referendum plan is "absolutely great idea", yet UK cannot expect Finland to be a "100 percent supporter at every stage".[4] He also noted that as a government minister his hands are tied to the government's positions in terms of the Brexit question: "If there are sensible approaches and suggestions tabled then of course we [the Finns Party] can support them, but even though we are the second biggest party in the government, I can only speak on behalf of the whole government up to a certain limit".[5]

One issue concerning David Cameron's agenda in which the current Finnish government is rather explicit is the revision of EU Treaties. The programme of the current government suggests that Finland will not support opening up the EU Treaties. The reason for this is twofold. On the one hand, already the previous governments were already somewhat reluctant to support David Cameron's aspiration to link his renegotiation agenda to the broader issue of reforming the EU Treaties. Even if the Treaty changes have been seen as a possibility in light of the future EMU reforms, Finland has highlighted limited reforms and considered a broader process as politically too difficult. David Cameron's aspirations have also served as an example on how a process aimed for limited institutional changes concerning the EMU, can easily spill-over to other policy fields and lead to a major Treaty revision process. On the other hand, and as the Finns Party has clearly stated, its aim to prevent

2. The party's origins are to be found from the popularity of the Finnish Rural Party founded in 1950s, aiming to provide a voice for "ordinary Finns" – mainly small farmers and the working class – as a populist protest movement running against the old parties and ruling elite(s). The political and financial bankruptcy of this party in mid 1990s was survived by the Finns Party, which managed to secure one to five seats in the Finnish parliament until its remarkable victory in 2011. As a result, it gained 39 seats out of the 200 seats in the parliament.

3. Finnish Broadcasting Company, YLE (2013), Soini: EU referendum here, too, 23 January 2013.: http://yle.fi/uutiset/soini_eu_referendum_here_too/6464294

4. Telegraph (2015), Finland's new foreign minister: Cameron EU project 'absolutely a great idea', 3 July 2015. Available at: http://www.telegraph.co.uk/news/worldnews/europe/finland/11716311/Finlands-new-foreign-minister-Cameron-EU-project-absolutely-a-great-idea.html

5. Ibid.

potential EU reforms which might lead to a deeper integration within the EMU and increase joint liabilities among the euro members, the current position of the Finnish government also serves their interest as new substantial reforms are seen to require a Treaty change.

As David Cameron now seems to have dropped the idea of an immediate EU Treaty reform, and is instead seeking legally binding and irreversible guarantees that Treaties will be amended according to the UK's aspirations, agreement on the agreeing on the time frame and form of these guarantees could turn out to be a puzzle for Finland. The current government might find it rather difficult to sign up for any binding agreement envisaging a Treaty reform during its expected tenure, which is until 2018. Moreover, attempts to give legally binding guarantees and thus tie the hands of the future Finnish governments could prove to be politically difficult.

The only clearly stated UK proposal to amend the EU Treaties to date is the demand for an opt-out from the objective to move towards "ever closer union". In substantive terms, the opt-outs already secured by the UK from the final stage of the EMU and parts of Area of Freedom, Justice and Security policies, as well as the UK non-participation in the Schengen arrangement have already led to an interpretation that this Treaty based objective accepts differentiation and underlines flexibility. Therefore pragmatic Finns might find it rather easy to accept this proposal in principle. However, as the government programme stipulates that Finland does not support EU Treaty revisions, the above mentioned difficulties in this respect must be noted. In addition, David Cameron might have to work hard to explain the rationale behind his demand in the first place.

Indeed, several key items on the UK renegotiation issues seem to be already high on the political agenda of the EU and Finland. Moreover, the recent visit of UK Chancellor of the Exchequer, George Osborne to Helsinki resulted in distinctively positive statements on the UK renegotiation agenda. His counterpart in Finland, minister of Finance Alexander Stubb noted that the UK's demands for economic reforms, restrictions on welfare benefits for migrant workers and an enhanced role for national parliaments in EU decision-making are justified. In his words, the Cameron agenda is seen as "a very constructive approach, result-orientated, problem-solving" and "a path that will ensure UK membership for the foreseeable future".[6]

First, David Cameron wants to make the EU more competitive by cutting red tape and liberalizing the internal market, for instance. Despite some political differences among the EU Member States on how to enhance competitiveness, the objective is widely shared and forms one of the key objectives of the current European Commission and Finnish government.

Second, David Cameron wants to increase the role of the national parliaments in the EU decision-making – an objective potentially shared in the Finnish parliament in terms of examining the functioning of the reforms introduced in the Lisbon Treaty such as the "yellow card" procedure. Finland has however consistently underlined the need for clarity in terms of the two-level parliamentary system (i.e. national and European) of the EU. Relatedly, Finland has highlighted that its parliament holds a strong and robust position in the national EU decision-making, and it has suggested that other Member States should first explore ways in which they could enhance their parliament's involvement in national EU decision-making.

Third, the UK's aim to limit EU citizens' access to unemployment and in-work benefits, might find some support in Finland, yet David Cameron is likely to be reminded that the current rules can be amended by normal EU law-making procedure. The difficulty with this issue is that the freedom of movement, equality and non-discrimination are fundamental EU principles and highly valued in Finland. Hence proposals suggestive of unequal treatment of EU citizens are likely to be much more difficult.

Finally, the more difficult question of the Cameron agenda for Finland could potentially relate to the euro area. David Cameron wants to obtain "safeguards" against potentially converging interests of the euro area countries, as their votes combined in the Council of the European Union make a "qualified majority" and theoretically enable them to determine (with the European Parliament) much of the law-making in the EU. The more specific UK concerns regarding this issue are related to internal market legislation in general

6. Financial Times (2015), Osborne wins Nordic backing for EU reform, 25 August 2015.: http://www.ft.com/intl/cms/s/0/b1d940a0-4a85-11e5-9b5d-89a026fda5c9.html#axzz3m6XmayPi

and financial market regulation affecting the London City in particular. Even if the UK's concerns might be seen as plausible in Finland, there is currently very little evidence of the potential convergence of interests in the euro area. Moreover, granting the UK and other non-euro EU members substantial "safe guards" could potentially result in further complexities in, and hence inefficiency of, EU decision-making, which could run counter Finnish support for a streamlined system.

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Finland's Finance minister Alexander Stubb has said: "I believe without the UK there is no EU".[7] This rather dramatic and blunt statement perfectly captures the mood in Helsinki vis-à-vis the Brexit question. The implications of Brexit are difficult to anticipate, and they could indeed turn out to be rather dramatic for the EU given the several ongoing crises with. which it is now preoccupied. David Cameron's renegotiation agenda is also seen as a promising starting point for an acceptable agreement for Finland. This agenda has already been shaped by consultations among the UK and other EU Member States. A more detailed look on some of the key agenda points however indicates certain challenges on the road ahead. Given that an EU-wide consensus on the UK question will emerge, it is likely to be examined thoroughly, yet constructively in Finland.

7. Financial Times (2015), Osborne wins Nordic backing for EU reform, 25 August 2015.: http://www.ft.com/intl/cms/s/0/b1d940a0-4a85-11e5-9b5d-89a026fda5c9.html#axzz3m6XmayPi

5. BREXIT: A "FAIR DEAL" BETWEEN LONDON AND ITS EUROPEAN PARTNERS?

Thierry CHOPIN

With victory going to the Conservatives and David Cameron in the most recent general elections in the UK the organisation of a referendum promised by the British Prime Minister in his Bloomberg speech of January 2013 on the UK remaining or exiting the European Union is no longer a hypothesis, but a certainty[1]. We already know the question that will be asked to the British population: "Should the UK remain a member of the European Union or leave the European Union?" The result of the referendum is of course extremely hard to forecast today. The domestic political situation as well as the migratory crisis will have a major impact on the outcome: indeed the inflow of refugees in Europe might provide the Europhobes with arguments if no solution is found to the current crisis, in a context where confusion is maintained in the UK by Brexit supporters between free internal circulation, external immigration and Europe. Another interrogation is the referendum date which varies between autumn 2016 and spring 2017. It will also depend on the negotiations which take place between London and its European partners.

However although the power struggle between David Cameron and the Europhobes in his party appears to be vehement in the UK, he should also assess what other national governments are prepared to accept and adopt a more conciliatory attitude towards his European partners. Not only is this situation uncomfortable for the British Prime Minister from a domestic point of view but it also causes problems on the external level. On the one hand Mr Cameron could lose face and his referendum if he achieves too little in the renegotiation of the conditions governing the UK's EU membership. But on the other hand the "demands" (a term rejected by London) made by the British government could be too much to be deemed acceptable by his European partners. When in December 2011 Mr Cameron asked for the exemption of the British financial services from the common rules in exchange for his country's support for the Budgetary Pact his European partners saw this as simple blackmail and chose to ignore it. Moreover in 2014 London's isolation became even clearer when Berlin finally supported Jean-Claude Juncker for the appointment of the President of the European Commission, then as they accepted the appointment of Donald Tusk as President of the European Council.

What does the British government want? Is the reform sought after by London acceptable? What are its demands? How far are its partners prepared to go to keep the UK in the EU? Is a compromise possible and acceptable by all of those involved? If so what might the main approaches of this be?

An acceptable reform of the EU?

We know the main lines of EU reform targeted by London, even though some are still relatively vague[2].

• On an economic level: importance is given to the general goal of deepening the single market, structural reform, competitiveness, free trade. It is clear that this agenda converges with the economic preferences of most Member States, notably Germany; this will not prevent other States, for example France, from considering that liberal reforms cannot form the core of the European reform agenda, without return gestures for example, in terms of fiscal and social convergence.

• On a political level, there is a will to strengthen the control over decisions taken at European level by national bodies, notably by an increased role for national parliaments in controlling the subsidiarity principle[3]; this mainly aims to strengthen the "early warning mechanism" introduced by the Lisbon Treaty, which was already strongly influenced by the UK[4] and used only twice since 2010[5]. This measure might be improved in practice.

However although the democratisation of the functioning of the European Union partially lies in the strengthening of control over European decisions by national parliaments, the added value that can be provided by the latter does not lie as much in the "limitative" or "negative" control over European legislation as in a constructive and positive approach to European issues, as illustrated by the Conventions for example. This would be a path to explore further and which would help avoid "veto democracy" or blockage.

1. I would like to thank Jean-François Jamet for his reading of the first draft of this text and for his much appreciated comments.

2. See the article by the British Foreign Minister Philip Hammond, Le Figaro, 10 June 2015; and also the interview given to the Figaro by George Osborne, Chancellor of the Exchequer, 29th July 2015.

3. Articles 5 and 12 of the Treaty on European Union and Protocol n°1 on national parliaments and n°2 on the application of the principles of proportionality and subsidiarity.

4. The rules that are currently in force are the following:
- beyond one third or a quarter of negative opinions depending on the area in question, the Commission must reassess its proposal but it is free to confirm it: this is the "orange card";
- moreover beyond half and if the Commission decides to maintain its text, the European legislator i.e. the Council and the Parliament are referred to and must decide: this is the "red card".

5. The first case in 2012 involved the Commission's legislative proposal, « Monti II » - European Commission, on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services, COM(2012)130 final, 21st March 2012 ; the second case in 2013 involved the creation of a European Prosecutors office, on the establishment of the European Public Prosecutor's Office, COM(2013)534 final, 17th July 2013.

The "Green Card" mechanism is an interesting possibility since it would enable a certain number (to be defined) of national parliaments to ask the European Commission to take the initiative; for example the UK might use this tool to launch a more ambitious project to liberalise services and France might use it to launch a corporate tax convergence process and/or to define minimal social standards, possibly as part of differentiated integration (enhanced cooperation for example).

The economic and social crisis in Europe has especially brought to light the shortcomings in the political organisation of the European Union which has been unable to keep pace with the increasing interdependence of European economies and which has failed to create the institutional and political conditions for true European democratic legitimacy. However the political fragmentation of the European Union has a negative impact: not only has it increased economic divergence between the Member States; moreover it is fostering political tension between Member States and between the populations of the Union. The democratic legitimacy crisis will not be settled in the long term without remedying this contradiction; simply strengthening the power of control of national institutions over European decisions will not be enough to overcome it[6]. This is the issue at stake in the present debate over "Political Union"[7].

In addition, London wants to be exempted from the historic goal of an "ever closer Union", thereby supposing a revision of the European treaties (notably the Preamble and the Charter of Fundamental Rights). In fact the UK already benefits from a certain number of opt-outs – notably regarding Schengen and the single currency – which shows that this goal is governed by "variable geometry" and has not prevented the existence of a "several-tiered Europe" as well as differentiated integration. The European Council noted in its conclusions in June 2014 that the "the UK has expressed its concerns about the future development of the EU, which must find response. In this context the European Council has noted that the idea of ever closer union has enabled the different countries to adopt different paths of integration, allowing those that wish to move ahead and deepen integration to do so, whilst respecting the wish of those which do not want to continue deepening."

• Regarding relations between euro area and EU the British government is aiming to protect the interests of non-euro area countries by achieving guarantees that the EMU countries will not impose measures deemed contrary to the interests on the others. In a context in which the issue of continuing euro area integration is on the agenda once more[8], that of protecting the rights of non-euro area countries is also being raised. EMU Member States as well as the "pre-in" members (EU Member States that want to adopt the euro) might specify their legal obligations in view of fair treatment between the States which are euro area countries and those which are not[9]: respect for the community acquis; respect for the precedence principle of the EU treaties and European law; guarantee of the transparency of their activities; right to take part in euro area meetings for those who would like to join[10].

However, clear limits have to be set regarding this claim. It is clear for example that recent – sometimes surrealist – proposals that aim to do away with the legal obligation of the adoption of the single currency and even the introduction of new voting rights for the non-euro area countries[11] are unacceptable: "if the Chancellor of the Exchequer really did demand a double majority in the single market, that would going a bit far (…)[12]. It is perfectly normal for the British government to ask to be treated fairly but should the refusal to participate in the euro area open the way for the right to have special treatment permanently when counting votes? It would be both dangerous, given the implied dangers in terms of efficiency and democratic legitimacy; moreover "if we grant the UK the right to veto or even a special weighting in issues relating to finance why wouldn't Germany be able to ask the same for the car industry or France for agriculture?"[13]. We should remember here that 26 Member States committed to adopting the single currency when they fulfil the required conditions in virtue of article 3.4 of the treaty – only two States, Denmark and the UK have an opt-out – but these are two exceptions and not the rule.

• *Last but not least*, the British government would like to obtain measures that limit the benefits granted to intra-European migrants notably those from Central and Eastern Europe which implies a challenge

6. Thierry Chopin, « Renationalisation vs. Europeanisation of Democratic Legitimacy", Policy Network, London, October 2013.

7. Sylvie Goulard, Mario Monti, De la démocratie en Europe : voir plus loin, Paris, Flammarion, 2012.

8. During the European Council of June 2015 Jean-Claude Juncker, President of the European Commission presented a report, « Completing European Economic and Monetary Union » prepared in close collaboration with the Presidents of the European Council, the Eurogroup, the European Central Bank and the European Parliament. For a recent Franco-German article on the issue see Emmanuel Macron and Sigmar Gabrie's column, « Europe : pour une Union solidaire et différenciée », Le Figaro, 3 June 2015.

9. See George Osborne and Wolfgang Schäuble, « Protect Britain's Interests in a Two-Speed Europe », Financial Times, 27 March 2014.

10. Jean-Claude Piris, « Should the UK withdraw from the EU. Legal aspect and effects of possible options », European Issue n°355, Robert Schuman Foundation, May 2015.

11. "Safeguarding non-Euro states' rights is key to new EU settlement", Open Europe, 10th September 2015.

12. Of course the text modifying the regulation establishing a European Supervisory Authority provides for the existence of a double majority – the members and non-Members of the banking Union but this only affects the regulation's technical standards, the standards of implementation, guidelines and recommendations. Cf. (EU) regulation n°1022/2013 of the European Parliament and the Council dated 22nd October 2013 modifying the regulation (EU) n°1093/2010 establishing a European Supervisory Authority (European Banking Authority).

13. Sylvie Goulard, "L'Europe au miroir de l'Angleterre", in Commentaire, n°151, autumn 2015, p. 520.

to the principle of free movement within the EU[14].

The most serious studies show that free movement has a limited impact on national social security systems and that the collective benefits are higher than the costs, since in reality "workers from other Member States are net contributors to the public finances of the host country.[15]"

Moreover regarding social security benefits, the Member States have set rules applicable to their own situation and their own legislation[16]; and the Court of Justice recently recalled in the *Elisabeta Dano, Florin Dano vs Jobcenter Leipzig* case that Member States retain the power to restrict access to social benefits, notably regarding migrants who are not in paid employment[17].

Finally, although we cannot pretend that benefit abuse does not exist or not try to counter or prevent it – for example by reviewing the posting of workers directive – there is a consensus within the EU which States that the acknowledgement of a certain amount of abuse does not mean that we have to challenge the principle of free movement[18], which is a foundation of European integration. This principle is mainly seen by European citizens as one of its greatest achievements[19].

From this point of view it does not seem possible for London to achieve its goals in terms of what is deemed as a "red line" by many European governments, notably by Berlin and Warsaw. It seems that David Cameron is aware of this[20]. However, if heads of State and government succeeded in defining a credible joint strategy to counter illegal immigration and at the same time responding to the confusion spread by Conservative Europhobes between internal freedom of movement, external immigration and Europe this might help to counter the anti-immigration and anti-European discourse of the supporters of Brexit.

Deepening the "single market/integration of the euro area": A "fair deal"?

A compromise that would enable an agreement between London and its European partners – notably with those who are euro area members or who want to join – might lie in combining a programme to deepen the single market, notably from a financial point of view, with the project for the Capital Markets Union – digital, energy, and even defence, on the one hand, and an integration project at euro area level on the other, according to a general logic that is still a coherent articulation between the two main levels of integration: the single market and the EMU. The deepening of the single market should go hand in hand with guarantees in return which are the necessary conditions for fair and healthy competition that falls in line with the foundations of the EU: first, the respect of the mutual recognition principle; second, the respect of the common rules in the single market. As an example, it's possible to accept, to a certain degree, tax competition, but on condition that it respects the principles and rules applied to competition in all other areas: transparency, loyalty, fairness. With this in view the project for the deepening of the single market must not lead to an uncooperative policy of the "lowest bidder" and alignment with the lowest denominator.

Moreover this compromise should include an EU democratisation programme that would enable response to the democratic issue as diagnosed in London and revealed by the Greek crisis[21]. Democratisation means strengthening the role of the national parliaments – hich must not just be restricted to a negative role of censorship, but which might be constructive, and also via the strengthening of the legitimacy of the European institutions[22].

This compromise has several advantages. It would allow the UK to promote its agenda and to exert influence within a deepened single market. For their part the UK's privileged partners (Finland, Ireland, Netherlands, etc.) would also be interested in the prospect of reviving the liberalisation process within the single market[23]. This would also be the case for Germany, which needs it to sell its surplus exports even though Berlin remains critical about the liberalisation of services. Moreover the Economic and Monetary Union should be reformed and deepened, there should be greater euro area integration[24] with financial solidarity, true banking union, the definition of a convergence strategy – notably from the fiscal and social points of view – all of which based on greater democratic legitimacy – notably with stronger involvement on the part of the national parliaments and the European Parliament – whose prerogatives would be strengthened – in economic and

14. See David Cameron, "Free movement within Europe needs to be less free", Financial Times, 26th November 2013.

15. See the European Commission's report, "Access of mobile EU citizens to Social Protection", Research note n°.10 / 2013.

16. Philippe Delivet, "Free movement in the EU: Principle, Stakes and Challenges", European Issue, n°312, Robert Schuman Foundation, May 2014.

17. Decision C-333/13, 11th November 2014

18. Internal Justice Affairs Council of 5th December 2013.

19. 57% of Europeans quote freedom of movement as the most positive result achieved by the EU ahead of peace between the Member States (55%), in the survey Eurobarometer, Standard 83, TNS Opinion & Social, July 2015.

20. Alberto Nardelli and Nicholas Watt, "David Cameron plans EU campaign focusing on "risky" impact of EU exit", The Guardian, 26th June 2015.

21. See the interview given to Le Monde by Benoît Coeuré, member of the board of the European Central Bank, 27th July 215 and the speech he gave at the Ambassadors Conference in Paris on 27th August 2015, "Drawing lessons from the crisis for the future of the euro area" http://www.ecb.europa.eu/press/key/date/2015/html/sp150827.en.html

22. For more details, T. Chopin, J.-F. Jamet and F.-X. Priollaud, « Réformer le processus décisionnel européen: légitimité, efficacité, lisibilité », Revue politique et parlementaire, July-August 2013.

23. « Britain in the EU Renegotiation Scorecard », European Council on Foreign Relations, 10 September 2015 - http://www.ecfr.eu/page/-/RenegotiationScorecard-Final.pdf

24. « Completing European Economic and Monetary Union », op. cit.

budgetary supervision. David Cameron himself also called for EMU to be deepened like this, which is also in the interest of the British economy[25].

This compromise might be expressed in two protocols:

A protocol on subsidiarity and fair treatment within the single market which would aim to:

• Restate the revival of a programme to deepen the single market for growth and employment and set out in detail the guarantees which comprise the vital conditions for healthy, loyal competition which form the EU's foundations, notably the respect of the principle of reciprocity and mutual acknowledgement as well as the respect of common rules on whose basis the single market is run: transparency, loyalty, fairness;

• Acknowledge the differentiated integration principle as a path to achieve the goal of "ever closer union" and on this occasion restate the opt-out the UK enjoys whilst respecting its national sovereignty just as that of the other Member States;

• Specify the changes that aim to improve the role played by national parliaments in terms of control over the subsidiarity principle;

• Specify the legal guarantees of the EMU Member States (see above) as well as the "pre-in" (EU Member States which want to adopt the euro) with the aim of protecting the rights of the non-euro area member and at the same time reassert the obligatory nature of adopting the single currency as planned by the treaties, as well as the impossibility of acquiring new voting rights by States that are non-euro area members.

A protocol on EMU that would aim to:

• Specify the main points of EMU reform which would aim to: consolidate the intergovernmental treaties created outside of the community framework (Fiscal Compact, European Stability Mechanism – ESM – treaty); specify the legal basis for the Single Resolution Mechanism of the Banking Union and the direct recapitalisation of the banks by the ESM;

• Also specify the functioning of the European institutions in the euro format (euro area committee within the European Parliament, the creation of a euro area Ministry of Finance combining the role of President of the Eurogroup and the Commissioner for the euro, the euro area institutions' accountability – including the Troika, the Finance Minister and the ESM – to this committee);

• Adopt a procedure for the limited revision of the European Treaties by the EMU Member States, thereby facilitating the adoption of additional measures specific to the EMU if they are compatible with EU rules. The States that are not members of the euro area would be free to join but not to oppose it. The additional measures would be included in the EMU protocol annexed to the TFEU (cf. above). The change of this protocol (therefore the addition of new measures specific to the euro area) would only require ratification by euro area countries (and in the Member States that decide to adopt the euro area's acquis);

• Integrate modifications that aim to strengthen the EU's democratic legitimacy not only via the enhancement of the role played by national parliaments but also by the democratisation of the functioning of the European institutions.

Initially these two protocols might take the form of a political declaration by the Heads of State and government, a declaration that might be made formal in a second phase on the occasion of the next change of treaty.

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David Cameron promised the anti-Europeans in his party a referendum, but he wants to stay in the European Union. He simply wants to achieve a certain number of reforms. He is going to find it difficult to maintain a balance between what is being demanded of him in Parliament and what his European partners are prepared to grant him. It is impossible to say now what the outcome of the negotiations and the referendum will bring. The domestic situation, as well as that in

25. 40% of the UK's exports target the euro area.

Europe, (Greek crisis, refugee crisis etc.) will have a major influence over the outcome of the process. It is therefore vital for the EU to overcome the present crisis both from an internal point of view with the EMU crisis and from an external point of view with the refugee crisis. The "no" would precipitate the UK into the unknown. Although "Brexit" is not necessarily likely, its possibility must be planned for and we have to think of the various scenarios that might result. This is the necessary condition to overcome the uncertainty weighing over the result.

On the one hand the possible outline of the compromise put forward in this text might promote a positive vote during the referendum and a positive outcome, with the UK remaining in the EU combined with a strengthening of the euro area. On the other if the "no" were to win, the way the "two Europes" (the euro area and the single market), work together would have to be reconsidered. Although the options of the European Economic Area and the Swiss model are not feasible for the UK as matters stand, it might be possible to revise the rules of the European Economic Area (EEA) in order to grant equal voting rights to EEA Member States which are not members of the EU in terms of the policies in which they take part, notably those involving the single market[26]. This would provide a response to a certain number of issues and enable the deepening of the euro area as well as a realignment of two major levels of integration: participation in the single market and participation in the Economic and Monetary Union.

26. Thierry Chopin and Jean-François Jamet, "David Cameron's European Dilemma", Project Syndicate, 18 January 2013; and also Thierry Chopin "Two Europes", in Europe in search of a new Settlement. EU-UK Relations and the Politics of Integration, Policy Network, London, 2013.

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