

Dear Donald ... Yours, David

Michael Emerson

12 November 2015

The cordial letter of November 10th from the British Prime Minister to the President of the European Council is an important document. It sets the stage for deliberations on whether the UK stays in the EU or quits, in an historic act of destructive disintegration for the EU that condemns the UK to what has fittingly been called “the spectre of geopolitical irrelevance.”¹

The letter (reproduced in the appendix) sets out a largely feasible, politically important, but substantively modest set of requests. Eurosceptics in London, led by former Chancellor of the Exchequer, Lord Lawson, immediately howled that the requests were inadequate, and the ‘Leave.eu’ campaign announced that it was swinging into action without waiting for the outcome of negotiations.

Looking at this whole scene from a certain distance, the letter’s modest content is entirely understandable and realistic. At the top strategic level of its perceived national interests the UK already has its own special deal with the EU that has real substance: opt-outs from the euro and Schengen; an opt-out with selective opt-in options (the ultimate flexibility) in matters of justice and home affairs; a special budget deal to alleviate its contribution to the costly agricultural policy; foreign and security policy ‘protected’ from unwanted (by the UK) EU competence creep by a veto power – all alongside full membership of the political decision-making institutions and the ability to pursue its main priority for the single market.

What more might one want? Eurosceptics want a lot more: for example repatriation of various EU competences, power for Westminster to override EU laws, and an end to the free movement of people. Informed eurosceptics know that these demands are impossible for the rest of the EU to accept. Their position is effectively that of wanting Brexit in any case, unconditionally. But their demands are fake. The Prime Minister’s own position on these questions has itself been thoroughly informed by the “Balance of Competence Review” that he commissioned in 2013. This started off as an exercise to uncover evidence on which competences of the EU should be repatriated. Thirty volumes and 3,000 pages of evidence later, the conclusion was that none should be repatriated, or more precisely that on the whole the distribution of competences mostly shared between the EU and member states was ‘about right’. Repatriation does not feature in David Cameron’s letter.

¹ Dhruva Jaishankar, “Britain and the Spectre of Geopolitical Irrelevance”, German Marshall Fund of the United States, 10 November 2015.

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The Prime Minister's agenda has also been shaped by his conversations with all the other EU leaders, especially in the months since his re-election in May. This has been a testing quasi-negotiation process. Some people have been infuriated by its lack of transparency, and also by how it has taken up so much attention when the EU faces numerous other huge challenges. But realistically it has been the right way to go. It has been a mutual learning process, and avoided the staking out of rigid positions that would make the crafting of an agreement all the more difficult.

The letter has its four suitably elevated headings: economic governance, competitiveness, sovereignty, and immigration, none of which contains surprises.

Economic governance is entirely about the position of non-euro member states in relation to what the eurozone might do. The seven principles regarding non-discrimination in single market policy between the eurozone and non-euro member states seem feasible, especially when combined with the assurance: "nor are we looking for a veto over what is done in the Eurozone".

Competitiveness is about improving the single market, scaling back unnecessary legislation, and proceeding with international trade liberalisation. The demand for "long-term commitment to boost the competitiveness and productivity of the European Union" will be agreed by all. Some formulations will be difficult to translate into operational language, such as "the United Kingdom would like to see a target to cut the total burden on business".

Sovereignty is about three proposals. The first seeks an opt-out from "ever closer union". This phrase in the preamble of the Lisbon Treaty, which concerns the peoples not the political institutions of Europe is legally non-operational, but has been made into a contrived matter of great political significance in the British debate. Appropriate language will surely be found to allay fears that this does not mean the EU is on automatic pilot towards a federal super-state, which is the anxiety in some British circles. The second and third demands are about enhancing the role of national parliaments and of the subsidiarity principle, on both of which some agreement should be found.

Immigration will be the toughest nut to crack. Many of the desiderata are within the UK's national competence to handle, however, for example regarding welfare benefit fraudsters and criminals. The Prime Minister has retained the highly controversial language about EU immigrants having to wait four years before qualifying for certain in-work benefits. He shows awareness of how difficult some of these formulations are for the new member states, and looks forward to discussions "so we can find a solution". Moreover, in his opening sentences the Prime Minister underlines that his letter is not intended to set out precise legal proposals, and that "there may, in each case, be different ways of achieving the same result". The "four years" question will have to be a case in point.

Overall, the letter is looking like a plausible move towards settling the Brussels part of the Prime Minister's manifest objective to keep the UK in the EU. But this will not settle the debate on the other side of the English Channel, and the battle is now on between the opposing official organisations: 'Britain Stronger in Europe' versus 'Leave.EU'.

How will the British debate evolve, or what arguments will gain traction in determining the preference of voters in the referendum? There is one major part of the debate that is so far underdeveloped: the clarification of the scenarios and consequences of secession. Eurosceptics have not detailed their positions on how to manage the secession – understandably since this would be a difficult task, while pro-Europeans are now beginning to press them on this point, and to explore the conceivable scenarios.

On the economic side several policy options are being identified: i) the Norwegian scenario; ii) the Swiss scenario; iii) back to just the WTO; iv) free trade with the EU and the rest of the world. What is becoming clearer is that all these conceivable options are far more problematic than the status quo. For example, the US Special Trade Representative has said that the US would not be interested in doing a special deal with the UK bilaterally, which should disillusion naïve eurosceptics. At the political level experienced British politicians and former diplomats are speaking up about “the spectre of geo-political irrelevance”.

And we should not forget the risk of disintegration of the United Kingdom itself, with Scottish secession and the destabilisation of peace in Northern Ireland through a need to re-establish border controls with the Republic of Ireland. Do the English eurosceptics know what they are asking for?

Appendix. Letter from Prime Minister David Cameron to the President of the European Council, Donald Tusk, 10 November 2015

10 Downing Street, London

Dear Donald,

A NEW SETTLEMENT FOR THE UNITED KINGDOM IN A REFORMED EUROPEAN UNION

Thank you for inviting me to write setting out the areas where I am seeking reforms to address the concerns of the British people over our membership of the European Union.

As you said, the purpose of this letter is not to describe the precise means, or detailed legal proposals, for bringing the reforms we seek into effect. That is a matter for the negotiation, not least as there may, in each case, be different ways of achieving the same result.

I am grateful for the technical discussions that have taken place over the last few months and, as we move to the formal stage of negotiations, I welcome this opportunity to explain why these changes are needed and how I believe they can benefit all Member States. I am also making a speech today to update the British people on the process for the negotiation and how I intend to address their concerns.

I have been encouraged in many of my conversations with my fellow Heads of Government in recent months that there is wide understanding of the concerns that I have raised, and of the case for reforms that would benefit the European Union as a whole. I particularly appreciate your own personal support throughout.

The European Union has a long history of respecting the differences of its many Member States and of working to overcome challenges in a way that works for the whole European Union. For example, with the protocols and other instruments agreed for Denmark and Ireland, the EU was able to arrive at a settlement, which worked for each country and did not disadvantage other Member States.

Our concerns really boil down to one word: flexibility. And it is in this spirit that I set out the four main areas where the United Kingdom is seeking reform.

Proposals for reform

1. Economic Governance

There are today effectively two sorts of members of the European Union. There are Euro members and non-Euro members. As set out in Protocol 15, the United Kingdom has a permanent opt-out from the Eurozone. Other countries will in due course join the Euro. But, for now, there are nine of us outside; and it matters to all of us that the Eurozone succeeds. So we do not want to stand in the way of measures Eurozone countries decide to take to secure the long-term future of their currency. But we want to make sure that these changes will respect the integrity of the Single Market, and the legitimate interests of non-Euro members.

I am confident we can achieve an agreement here that works for everyone. Britain is not seeking a new opt-out for the UK in this area — we have the opt-out from the single currency we need. Nor are we looking for a veto over what is done in the Eurozone. What we seek are legally binding principles that safeguard the operation of the Union for all 28 Member States — and a safeguard mechanism to ensure these principles are respected and enforced.

These principles should include recognition that:

- The EU has more than one currency.
- There should be no discrimination and no disadvantage for any business on the basis of the currency of their country.
- The integrity of the Single Market must be protected.
- Any changes the Eurozone decides to make, such as the creation of a banking union, must be voluntary for non-Euro countries, never compulsory.
- Taxpayers in non-Euro countries should never be financially liable for operations to support the

Eurozone as a currency.

- Just as financial stability and supervision has become a key area of competence for Eurozone institutions like the ECB, so financial stability and supervision is a key area of competence for national institutions like the [Bank of England](#) for non-Euro members.
- And any issues that affect all Member States must be discussed and decided by all Member States.

2. Competitiveness

People across Europe want the European Union to help generate growth and jobs. The United Kingdom has always been a champion of making Europe more competitive.

So the United Kingdom welcomes the current European Commission's focus on supporting economic growth and scaling back unnecessary legislation. This has included some important measures that British businesses have called for, such as the further steps towards a single digital market, which could add 3 per cent to EU GDP; and a Capital Markets Union, which will help get finance to entrepreneurs and growing businesses.

The United Kingdom also welcomes the new trade strategy published last month, reflecting an agenda we have been advocating for years and including pursuing potentially massive trade deals with America, China, Japan and ASEAN.

But with the best will in the world, we would all acknowledge that the EU can go much further. In particular, for all we have achieved in stemming the flow of new regulations, the burden from existing regulation is still too high. So the United Kingdom would like to see a target to cut the total burden on business. The EU should also do more to fulfil its commitment to the free flow of capital, goods and services. The United Kingdom believes we should bring together all the different proposals, promises and agreements on the Single Market, on trade, and on cutting regulation into a clear long-term commitment to boost the competitiveness and productivity of the European Union and to drive growth and jobs for all.

3. Sovereignty

As you know, questions of sovereignty have been central to the debate about the European Union in Britain for many years. I have three proposals in this area. First, I want to end Britain's obligation to work towards an "ever closer union" as set out in the Treaty. It is very important to make clear that this commitment will no longer apply to the United Kingdom. I want to do this in a formal, legally-binding and irreversible way.

Second, while the European Parliament plays an important role, I want to enhance the role of national parliaments, by proposing a new arrangement where groups of national parliaments, acting together, can stop unwanted legislative proposals. The precise threshold of national parliaments required will be a matter for the negotiation.

Third, I want to see the EU's commitments to subsidiarity fully implemented, with clear proposals to achieve that. As the Dutch have said, the ambition should be "Europe where necessary, national where possible". In addition, the UK will need confirmation that the EU institutions will fully respect the purpose behind the JHA Protocols in any future proposals dealing with Justice and Home Affairs matters, in particular to preserve the UK's ability to choose to participate. National Security is — and must remain — the sole responsibility of Member States, while recognising the benefits of working together on issues that affect the security of us all.

4. Immigration

The UK believes in an open economy. But we have got to be able to cope with all the pressures that free movement can bring — on our schools, our hospitals and our public services. Right now, the pressures are too great. The issue is one of scale and speed. Unlike some other Member States, Britain's population is already expanding. Our population is set to reach over 70 million in the next decades and we are forecast to become the most populous country in the EU by 2050. At the same time, our net migration is running at over 300,000 a year. That is not sustainable. We have taken lots of steps to control immigration from outside the EU. But we need to be able to exert greater

control on arrivals from inside the EU too.

Britain has always been an open, trading nation, and we do not want to change that. But we do want to find arrangements to allow a Member State like the UK to restore a sense of fairness to our immigration system and to reduce the current very high level of population flows from within the EU into the UK. These have been unplanned and are much higher than forecast — far higher than anything the EU's founding fathers ever envisaged. These very substantial flows of population have, of course, also had a significant impact on a number of Member states, many of whose most highly qualified citizens have departed en masse. So this is a shared challenge.

We need to ensure that when new countries are admitted to the EU in the future, free movement will not apply to those new members until their economies have converged much more closely with existing Member States. We also need to crack down on the abuse of free movement, an issue on which I have found wide support in my discussions with colleagues. This includes tougher and longer re-entry bans for fraudsters and people who collude in sham marriages. It means addressing the fact that it is easier for an EU citizen to bring a non-EU spouse to Britain than it is for a British citizen to do the same.

It means stronger powers to deport criminals and stop them coming back, as well as preventing entry in the first place. And it means addressing ECJ judgments that have widened the scope of free movement in a way that has made it more difficult to tackle this kind of abuse.

But we need to go further to reduce the numbers coming here. As I have said previously, we can reduce the flow of people coming from within the EU by reducing the draw that our welfare system can exert across Europe. So we have proposed that people coming to Britain from the EU must live here and contribute for four years before they qualify for in-work benefits or social housing. And that we should end the practice of sending child benefit overseas. I understand how difficult some of these issues are for other Member States and

I look forward to discussing these proposals further so we can find a solution that deals with this issue.

NEXT STEPS

As we agreed, the details of the reforms in each area are a matter for the negotiation itself. But I hope that this letter can provide a clear basis for reaching an agreement that would, of course, need to be legally-binding and irreversible — and where necessary have force in the Treaties. I look forward to a substantive discussion at the December European Council.

It remains my aim to conclude an agreement at the earliest opportunity, but the priority is to get the substance right. I believe that reform in these areas would address the UK's concerns and provide a fresh and lasting settlement for our membership of the European Union. Furthermore, I believe such reform is both reasonable and in the wider interests of the European Union as a whole.

The United Kingdom is the EU's second largest economy, the fifth biggest in the world. We bring an enormous contribution — political, economic, financial — to the European Union. If we are able to reach an agreement, it will show the world that, amongst the many more difficult issues it faces, the European Union is flexible enough to accommodate the concerns of its members. I hope and believe that together we can reach agreement on each of these four areas. If we can, I am ready to campaign with all my heart and soul to keep Britain inside a reformed European Union that continues to enhance the prosperity and security of all its Member States.

I look forward to discussing this with you and colleagues further in the weeks ahead.

I am copying this letter to the President of the European Commission, the President of the European Parliament and all Heads of State and Government in the European Council.

Yours,

David