Brexit: Where next for Britain and for Europe?

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Introduction

Brexit has been a huge challenge for the UK and a headache for the EU. The 2016 referendum plunged the UK into a constitutional and political crisis. More than two years on, the UK's future relationship with the EU is still unresolved.

EU Member States have been united in their response to Brexit but divided when responding to other challenges such as immigration and the stability of the euro, as well as being troubled by the rise of populist parties in some Member States. What should their response be to Brexit in the longer term? How can they maintain a united European front on security and trade in the face of the challenges from Putin and from Trump?

This paper looks at the history of Brexit from the referendum until the end of January 2019 and poses some questions about the future direction of the UK and of the EU. The paper has been written by a group all coming from a country (the UK) which is currently negotiating its exit from the EU; the section on the future of Europe therefore inevitably comes from a British point of view. It has been prepared for a joint seminar of Regent's University London and the Senior European Experts Group, and is being published as a contribution to debate.

The 2016 Referendum

Results

In an unexpected result, voters narrowly rejected the UK's membership of the EU after 43 years. Although the national result was close, there were sharp variations between the different parts of the United Kingdom. Scotland and Northern Ireland voted to Remain but England and Wales voted to Leave. These differences have played an important part in the political discourse since the referendum.

The results of the 2016 EU referendum in the UK were:

Remain: 16,141,241 (48.1%)	Leave: 17,410,742 (51.9%)
Total Electorate: 46,500,001	

Just as there were differences within the UK, so there were differences between the regions of England. London had the highest vote to Remain but the Leave vote was highest in the East and West Midlands.[1]

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[1] Official referendum result published on Electoral Commission, 'EU referendum results', 24 June 2016

Detailed analysis of the result identified the two most significant factors separating Leave from Remain voters as their level of educational achievement and their age. No less than 78 per cent of those with no qualifications voted Leave (admittedly only about 10 per cent of voters), and 61 per cent of those whose education had stopped at O-levels or CSEs (about a quarter of voters).[2] Leave voters tended to be older than Remain voters, with 61 per cent of people over 65 voting to Leave compared to 60 per cent of 18-34 year-olds voting to Remain.[3] In addition, fifty-nine per cent of voters identifying as working class voted Leave compared to 40 per cent of those who said they were middle class.[4]

Supporters of Leave believed that by doing so immigration would be reduced while Remain voters were more concerned about risks to the UK economy and more pessimistic about the UK's trading opportunities outside the EU.[5] Eighty-eight per cent of those who thought immigration was the most important issue at stake in the referendum voted Leave, compared to just 15 per cent of those who thought the economy was the most important issue.[6]

Many commentators suggested that the Leave vote in the referendum was to some extent an expression of unhappiness by people who felt themselves to be disadvantaged. This group of Leave voters became known as the "left behind".[7] However, this analysis has been challenged by critics who have pointed out that it ignores the many Leave voters who were "affluent Eurosceptics" (estimated to be 23 per cent of voters), of whom three-quarters voted to Leave.[8] Other research showed that the majority of those with intermediate educational skills (voters with good GCSEs or O-levels and A-levels) were in fact *more* pro-Leave than those with lower educational attainment. That analysis also challenged the notion that the Leave vote was a predominantly working-class phenomenon.[9]

Campaign analysis

Central to any understanding of the campaign was that it was fought without any shared fact base. Leave and Remain campaigners spoke about the issues from different perspectives with no acceptance in many cases that there was any objective evidence to assist voters to make up their minds. Even on policies such as membership of the Single Market there was no agreement between the two sides.

Part of the difficulty was that the campaign was an argument between the status quo, EU membership, and something defined only as "Leave". Remain campaigners sought unsuccessfully to get Leave campaigners to explain what their alternative to EU membership was but the Leave campaign did not put forward such an alternative.

Much of the campaign focused on issues of immigration and identity rather than the contribution (positive or negative) made to the UK by EU membership. The scale of immigration both from

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[2] Kirby Swales, *Understanding the Leave vote*, NatCen Social Research, 7 December 2016, p. 7 and figure 2

[3] *Ibid.*

[4] *Ibid.*, p. 10

[5] Harold D. Clarke, Matthew Goodwin & Paul Whiteley, *Why Britain Voted for Brexit: An Individual-Level Analysis of the 2016 Referendum Vote*, 10 September 2016

[6] British Election Study cited in Swales, *op. cit.*, p. 13

[7] See, for example, Matthew Goodwin & Oliver Heath, 'Brexit vote explained: poverty, low skills and lack of opportunities', Joseph Rowntree Foundation, 31 August 2016

[8] Swales, *op. cit.*, pp. 25-26

[9] See Lorenza Antonucci, Laszlo Horvath & André Krouwel, 'Brexit was not the voice of the working class nor of the uneducated – it was of the squeezed middle', LSE British Politics and Policy Blog, 13 October 2017

the EU and elsewhere to the UK since the late 1990s had long been controversial but the complexities inherent in the debate were neither explained nor understood.

The potential impact of leaving the EU on Scotland and on Northern Ireland received some attention but the implications for the Ireland/Northern Ireland border were disputed between the two campaigns and appeared not to reach many voters in Great Britain.

Finally, although the main party leaders were all supporting Remain, the Labour leader Jeremy Corbyn was accused of a lack of commitment. Corbyn's declaration that he rated the EU "seven out of ten" seemed to confirm claims that he was half-hearted about the campaign to keep the UK in the EU.[10] But the high profile of David Cameron may have encouraged some voters to see it as referendum on his performance as Prime Minister.

The UK political response

The Government

David Cameron resigned the morning after the result was declared and his party held a leadership election that turned into an unexpected and very divisive political drama. The two dominant political figures in the Conservative Party at the end of the referendum, Boris Johnson and George Osborne, both decided against entering the race. The victor was the Home Secretary Theresa May, who had campaigned for Remain but who now pledged herself to implement the result of the referendum under the banner of "Brexit means Brexit".

Theresa May takes office

Theresa May re-organised the government, dismissing Michael Gove and George Osborne from the Cabinet and appointing Leave campaigners into key roles as Foreign Secretary (Boris Johnson), as the Secretaries of State for: Exiting the European Union (David Davis); Environment, Food and Rural affairs (Andrea Leadsom) and International Trade (Dr Liam Fox). This put Leave supporters in charge of the departments most concerned with Brexit with the notable exceptions of the Treasury and the Business department.

The Labour Party

In the Labour Party the repercussions of the vote were also serious. Anger amongst Labour MPs about Jeremy Corbyn's leadership led to a vote of no confidence from the parliamentary party. On the 28 June 2016, by 172 votes to 40, Labour MPs passed a motion of no confidence in Jeremy Corbyn.[11] However, the vote was not binding under party rules and Jeremy Corbyn chose to stay in office, arguing that he had been elected by a majority of party members in the leadership election of 2015.

Government Brexit policy 2016-17

The core problem facing the Government was that it believed that it needed to find an alternative relationship between the United Kingdom and the European Union that would

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[10] 'Corbyn: I'm 'seven out of 10' on EU', *BBC News*, 11 June 2016
[11] 'Labour MPs pass no-confidence motion in Jeremy Corbyn', *BBC News*, 28 June 2016

enable trade and inward investment to flourish while enabling the UK to pursue independent policies from the EU in terms of immigration and trade with the rest of the world.

In the discussions within government, it quickly became clear that there were low levels of understanding amongst many MPs about the integrated web of relationships that had been constructed between the EU and its Member States over the more than 40 years the UK had been a member.

It was also not always understood that the negotiations under Article 50 of the Treaty on European Union – the mechanism by which a Member State could withdraw from the EU – would cover the consequences of withdrawal but not the future relationship. Although Article 50 refers to the *framework* for the future relationship, that relationship would in fact be negotiated after Brexit.

The Conservative Party Conference speech

Although the Prime Minister's initial responses to ideas about Brexit policy had been cautious, at the October 2016 Conservative Party Conference she made a major speech on the subject. In it she offered a vision of Brexit in which the UK would continue to be a close friend and ally of the European Union but at the same time would operate its own trade policies. She also said that:

- the UK would give notice to leave by no later than the end of March 2017;

- it was for the Government to trigger Article 50 and not Parliament;

- the Government would not agree to the continuing jurisdiction of the European Court of Justice;

- free movement of people would have to end;

- that there would be a "Great Repeal Bill" which would repeal the *European Communities Act 1972* and incorporate existing EU law into British law; in doing so existing employment rights in EU law would be preserved;

- that other models of relationship between the EU and European countries, such as the European Economic Area or the Swiss bilateral agreements would not suit the UK.[12]

This approach restricted the Government's negotiating position. For example, excluding the jurisdiction of the Court of Justice meant that it would be very difficult if not impossible for the UK to remain in the European Arrest Warrant scheme. Saying that the UK must have complete control of all aspects of immigration and of trade policy would mean excluding being in the EU Single Market or in a customs union with the EU.

The Lancaster House speech

While the Prime Minister had narrowed the policy options, she had not defined them. At Lancaster House in January 2017 she set out in the Government's approach in greater detail.

The Prime Minister argued that the UK had not voted to Leave the EU because it was an insular country but because it saw itself as having global relationships and not just

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[12] Theresa May, 'Britain after Brexit: A Vision of a Global Britain', Conservative Party, 2 October 2016

European ones. She suggested there existed differing attitudes towards the EU in the UK, rooted in the concept of parliamentary sovereignty and constitutional flexibility. But she also argued that the UK had not rejected the values that it shared with the EU, nor was it an attempt to harm or undermine the EU. It was instead, she claimed, a positive vote to: "restore, as we see it, our parliamentary democracy, national self-determination, and to become even more global and internationalist in action and spirit".[13]

Nonetheless, Theresa May argued that the UK was now seeking "a new and equal partnership" with the EU and other countries around the world. She re-affirmed several points made previously but she also committed the Government to:

- the repatriation of some powers from the EU to the devolved administrations after Brexit;

- protecting the rights of EU nationals in the UK;

- "the fullest possible free trade in goods and services" with the EU but without the UK being in the Single Market;

- the UK paying into some specific EU programmes but it would not make "vast contributions" every year;

- not being in the EU's customs union but to seeking a customs agreement with the EU;

- working with the EU in the fields of science and innovation and in the fight against crime and terrorism;

- maintaining an open border on the island of Ireland, including keeping the Common Travel Area with Ireland.

The Prime Minister promised a "smooth, orderly Brexit" and suggested that a transition after the end of the Article 50 notification period would be a good way to achieve this. But she also said that "no deal for Britain is better than a bad deal for Britain", because the UK would still be able to trade with the EU, be able to strike free trade deals with other countries and adopt its own economic model outside the Single Market. The phrase "no deal is better than a bad deal" was taken up thereafter by some Leave supporters but it was criticised by opponents.

The speech ended with Theresa May emphasising the contribution that the UK makes to the security of Europe and saying that she did not believe that EU leaders would want to make their own citizens poorer "just to punish Britain and make a political point".

Article 50 triggered

Shortly after the referendum, a case had been lodged at the High Court arguing that Parliament had to pass primary legislation before Ministers could give the notification to leave the EU under Article 50 of the Treaty on European Union. The Government's argument was that foreign policy was a matter for the Crown prerogative and no legislation was required. Those bringing the case argued that the effect of the notification would be to deprive UK citizens of rights given to them under the *European Communities Act 1972*.

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[13] HM Government, 'The government's negotiating objectives for exiting the EU: PM speech', 17 January 2017

The judgment of the High Court in November 2016, that Ministers could not use the royal prerogative to trigger Article 50 without an Act of Parliament, provoked uproar in Brexit-supporting newspapers. The judges were declared to be "enemies of the people" by the *Daily Mail* and the *Daily Telegraph* had the front-page headline "The judges versus the people".[14]

On 7 December 2016 Parliament voted for a resolution calling on Ministers to give notice by the end of March 2017,[15] while the Government appealed to the Supreme Court. In January 2017 the Court upheld the judgment, saying that where:

> what would otherwise be a prerogative act would result in a change in domestic law, the act can only lawfully be carried out with the sanction of primary legislation enacted by the Queen in Parliament.[16]

As a result, the Government brought forward a short Bill which became law as the *European Union (Notification of Withdrawal) Act 2017* and the Prime Minister then notified the President of the European Council that the UK would be leaving the EU on 29 March 2019.

She did this even though her administration had produced no clear plan for the withdrawal negotiations or for negotiating the relationship with the EU after Brexit beyond the general statements contained in her party conference and Lancaster House speeches. It was evident that there was little or no agreement amongst Ministers about the sort of post-Brexit relationship they wanted with the EU. The decision to nonetheless proceed with starting the two-year timetable laid down in Article 50 meant that the UK was entering a negotiation with the odds stacked in favour of the EU, with no coherent plan of its own and with a time limit that favoured the EU and not the UK.

Scotland

In Scotland, which had voted by a significant margin to remain in the EU although the UK as a whole had voted to Leave, there was a renewed debate about Scotland's future in the union. In March 2017 the Scottish First Minister, Nicola Sturgeon, called for a new referendum on Scottish independence, arguing that the outcome of the EU referendum justified holding a new vote.[17] This reflected the fact that a significant argument used by opponents of independence in the 2014 Scottish referendum had been that it would mean Scotland leaving the EU and it would not be easily admitted as an independent state because of concerns in other Member States about their own separatist movements.

Nicola Sturgeon's call was widely criticised with critics suggesting that Scotland had more to lose from leaving the UK single market than from leaving the EU Single Market. Nonetheless, her intervention demonstrated the possibility that Brexit would create further constitutional and political upheaval in the UK.

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[14] See 'British newspapers react to judges' Brexit ruling: 'Enemies of the people'', Claire Phipps, *The Guardian*, 4 November 2016
[15] HC Deb 7 December 2016, vol 618, col 230 *et seq.*
[16] *Miller & Anor, R (on the application of) v. Secretary of State for Exiting the European Union (Rev 3)* [2017] UKSC 5, para 122
[17] 'Sturgeon calls for a second independence vote', *BBC News*, 13 March 2017

The EU response to 2016 referendum

The response of the EU to the result of the referendum was one of dismay but acceptance. At an informal meeting of the 27 Member States a few days later they expressed their "deep regret" at the outcome of the referendum and said that it was up to the UK to trigger the notification process under Article 50. No negotiations would take place before this was received.[18]

In April 2017, the EU27 agreed the negotiating guidelines for discussion of the UK's withdrawal. These guidelines stated that any agreement with the UK would have to be based on a balance of rights and obligations and ensure "a level playing field". The EU27 were clear that the UK could not have the same benefits outside the EU that it had as a member. This would mean no "cherry picking" of elements of the Single Market. The negotiations would be phased, with the issues relating to the UK's withdrawal being dealt with first.

The guidelines made clear that the EU's priorities would be: citizens' rights, Northern Ireland and the UK's financial liabilities. The EU appointed a former Commissioner, Michel Barnier, as their lead negotiator.

During the referendum campaign it had been suggested by Leave supporters that the EU would quickly reach agreement with the UK on the future trading relationship as it was in the economic interest of EU Member States to do so. In reality the EU Member States were determined to maintain a united front and they were not prepared to negotiate a future relationship with the UK until after it had left.

There was speculation as to whether Brexit would trigger a wave of countries seeking to join the UK outside the EU. In France, where a highly vocal campaign critical of the EU was run by the French National Front during the country's presidential election, President Macron was elected on a pro-EU platform. As public opinion polls found, while many European citizens were unhappy with individual EU policies or programmes, they did not wish their own country to withdraw altogether from the EU.[19]

The 2017 general election

The Government had a working majority of just 12 after the 2015 general election. With opinion polls in the autumn of 2016 and spring of 2017 showing the Conservative Party well ahead of Labour, and Theresa May's leadership approved by a much larger margin than that of Jeremy Corbyn, she decided to call a general election. But after a difficult campaign for the Conservatives, the result was far from that predicted by the early opinion polls with the party losing its majority in the House of Commons and Labour gaining 30 seats.

This unexpected result had many consequences. First, the Government no longer had a clear mandate for pursuing the kind of Brexit it had been seeking. Second, with her leadership under threat, Theresa May had to bring back another leading Leave campaigner, Michael Gove, into the Government. Third, the new government was now reliant on the support of Northern Ireland's Democratic Unionist Party (DUP) for its survival. An arrangement was agreed with the DUP involving a hitherto unplanned increase in public spending in Northern

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[18] European Council, 'Informal meeting at 27 Brussels: Statement', 29 June 2016
[19] European Commission, 'Eurobarometer 88: Public Opinion in the European Union', December 2017, p. 82

Ireland. This agreement meant that the DUP would support the Government's financial measures and ensure that it could not be defeated on a motion of confidence.

Government Brexit policy 2017-18

The UK and the EU began negotiations in June 2017 on a withdrawal agreement with the UK initially resisting the EU's emphasis on the three issues of citizens' rights, Northern Ireland and the UK's financial liabilities. But in the end it had to concede on all of them as the EU was not prepared to negotiate on the future relationship until these questions had been resolved. The commitment to excluding the jurisdiction of the European Court of Justice had to be blurred, with ministers agreeing a role for the Court after Brexit in order to protect the rights of EU citizens in the UK but the EU agreed that it should be time-limited to eight years.

By December 2017 a provisional agreement had been reached by the two sides on most of the big issues. They jointly published a statement of progress including on the question of how the issue of the Northern Ireland border would be handled in the future.

In order to meet both the EU and its own commitment under the Good Friday/Belfast Agreement to avoid restoring border controls between the two parts of Ireland (often referred to as a "hard border"), the UK agreed to a backstop arrangement under which Northern Ireland would retain EU Single Market rules and customs arrangements necessary to comply with the Good Friday agreement. This would mean one part of the UK would be in a far closer relationship with EU than the rest of it.

At the time, British ministers said that the backstop would be made redundant by the UK's new trading relationship with the EU. But in reality, only a trading relationship that included the UK being in some form of customs arrangement would avoid the need for a hard border. Several ministers subsequently suggested that they had not fully understood the implications of the UK agreeing at that stage to the backstop proposal.

The Chequers Plan

Major policy differences between ministers led to further procrastination in the drawing up of the Government's plan for the future relationship with the EU. This worked to the advantage of the EU as it limited the time available to establish a framework for future relations. In addition, the EU could not adopt guidelines on its own position in such negotiations until it was clear what the UK wanted. Furthermore, the EU's tendency to see the options for a future trading relationship in terms of a number of existing models, brought into question whether or not the UK would in fact be able to negotiate the kind of bespoke free trade agreement covering goods and services as well as customs arrangements the Government said it wanted.

Finally, at Chequers in July 2018 the Cabinet adopted a plan for the future trading relationship. This was published as a Government White Paper and formed the basis of subsequent negotiations.[20] But it met with a hostile reaction from a significant number of

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[20] HM Government, *The future relationship between the United Kingdom and the European Union*, Cm 9593, 12 July 2018

Conservative MPs and triggered the resignation first of the Secretary of State for Exiting the European Union, David Davis, and then of the Foreign Secretary, Boris Johnson.[21]

The Chequers Plan proposed:

- a common rule book between the UK and EU for all goods including agricultural and food products; this would mean the UK harmonising its standards with those of the EU on an ongoing basis;

- that the UK should continue to apply other elements of EU Single Market practice, particularly those designed to ensure open and fair trade such as rules on state aid, environmental standards, social and employment protection and consumer rights;

- separate arrangements for trade in services;

- a dispute resolution mechanism which recognised the role of the Court of Justice in deciding questions of EU law but which would exclude the Court from having jurisdiction within the UK;

- that the UK would seek to work with the EU to establish a facilitated customs arrangement which would remove the need for customs checks and controls between the UK and EU; this would mean the UK being able to apply its own tariffs and collecting EU tariffs on goods passing through the UK to EU Member States;

- that this customs arrangement would allow the UK to agree trade treaties with third countries;

- that these new arrangements would mean that there would be no need for the Northern Ireland backstop.[22]

The EU's dislike of some of the proposals in the Chequers Plan became clear at the Salzburg meeting of the EU27 heads of state and government in September 2017, although some other features of it were later included in the political declaration on the future partnership.[23]

The Withdrawal Treaty & the Political Declaration on the Future Partnership

Finally, in November 2018, the UK and the EU reached agreement on a Withdrawal Treaty. The European Council also endorsed an agreed political declaration setting out the framework for future UK-EU relationship.[24]

The main elements of the Withdrawal Treaty were:

- protection for the rights of EU citizens in the UK and British citizens in the EU; legislation in the UK would ensure rights were protected by an independent body;

- payment by the UK the of £35-£39 billion pounds to the EU in settlement of the UK's financial liabilities but with the possibility that there may be further payments later;

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[21] 'Brexit: David Davis' resignation letter and May's reply in full', *BBC News*, 9 July 2018; 'Boris Johnson's resignation letter and May's reply in full', *BBC News*, 9 July 2018

[22] HM Government, *Chequers Statement*, 6 July 2018

[23] 'EU's Brexit hard line angers Theresa May', David M. Herszenhorn, Tom McTague & Jacopo Barigazzi, *Politico*, 20 September 2018

[24] HM Government, 'Withdrawal Agreement and Political Declaration', 25 November 2018

- the inclusion of the Northern Ireland backstop arrangement to prevent the return of a hard border in Ireland if the UK and the EU didn't reach agreement on a long-term future relationship; this part was more detailed and extensive than that previously agreed in December 2017;

- a number of other measures to ensure the continuation of contracts, to deal with unfinished legal cases at the time of Brexit, and to deal with crime and justice issues.

The political declaration on the future relationship lacked legal force, detail and ambition. As the future partnership would be negotiated after Brexit, the UK would have less leverage, meaning that the objectives set out in the Political Declaration might not be realised.

Reaching these agreements was an important milestone in the Brexit process but this achievement by the two sides was undermined by the evidence of growing opposition to the agreement in the UK within days of it being announced.

It was perhaps not surprising that the Labour Party swiftly announced that they would not vote for the Withdrawal Treaty but the resignation of a second Secretary of State for Brexit (Dominic Raab) was a blow to the Prime Minister, as were the other resignations that followed. Furthermore, a growing group of backbench Conservative MPS were publicly declaring their intention to vote against the agreement, risking the possibility that it would be defeated.

Endgame: The Withdrawal Treaty is rejected by Parliament

Labour since 2016

Before the 2017 general election the Labour Party's position on Brexit had been that it respected the result of the 2016 referendum. Later the party adopted six tests against which any agreement between the UK and EU would be judged. These tests were whether or not:

- it ensured a strong and collaborative relationship between the UK and EU;

- it delivered exactly the same benefits as we currently have as members of the Single Market and the customs union;

- it ensured the fair management of migration in the interests of the economy and communities;

- it defended rights and protections and prevented a "race to the bottom";

- it protected UK National Security and our capacity to tackle cross border crime;

- it delivered for all nations and regions of the UK.[25]

It was evident that there were significant differences amongst Labour MPs about how to respond to the 2016 referendum with many concerned by high Leave votes in their constituencies. The leadership of the party, which contained a number of people who had voted consistently against EU measures in parliament, was clearly unenthusiastic about challenging the principle of Brexit. This was despite it being clear by the summer of 2017 that

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[25] Quoted in 'What are Labour's six tests for the Brexit deal?', Serina Sandhu, *The I*, 26 September 2018

the overwhelming majority of party members were opposed to Brexit and wished to see a new referendum on any deal that the Conservative government negotiated with the EU.[26]

Over time there was a gradual shift by the party leadership to a more nuanced position where the party was prepared to support initiatives, particularly by backbench Conservative MPs, to restrict the Government's room for manoeuvre in setting Brexit policy.

At the Labour Party conference in October 2017 members adopted a motion calling on the leadership to seek a general election if the Prime Minister's deal was defeated but to be prepared to consider all other options if an election was not possible, including a fresh referendum.

Parliamentary opinion

In the aftermath of the 2017 general election there were very few supporters amongst Conservative MPs for a second referendum but by the end of 2017 that was changing.

A sign of the shift in mood came with the passage of the *European Union (Withdrawal) Act* in December 2017. Conservative backbencher and former Attorney General Dominic Grieve successfully amended the Bill to require any Brexit deal to be approved by a specific vote of the House of Commons. Furthermore, this amendment imposed a time limit of 21 January 2019 for the Government to reach agreement with the EU or come to parliament to report that they had been unsuccessful in so doing. Parliament would then have the right to debate this situation.

Dominic Grieve's amendment was strongly opposed by members of the largest group of Tory backbench supporters of Brexit, the European Research Group (ERG).[27] In the debate among about what kind of Brexit MPs wanted, the ERG advocated what became known as a "hard Brexit", that is one in which the UK would have a much diminished relationship with the EU in future.

The divisions in the Conservative parliamentary party were such that there was repeated talk after the 2017 general election of Theresa May's leadership of the party being challenged. Under the party's rules it is possible for there to be a challenge once every 12 months provided five per cent of Tory MPs support it. Despite much speculation, it was not until December 2018 that Theresa May's opponents could muster the 49 signatures they needed to force a motion of confidence in her leadership. Although 117 Tory MPs voted against her, she survived the challenge and cannot now be challenged again until December 2019.

But Theresa May's survival was largely due to the absence of an alternative candidate upon whom Conservative MPs could agree. The uncertain performance of Boris Johnson as Foreign Secretary between 2016 and 2018 reduced his chances of becoming leader and in any case he had become a divisive figure as a result of his role in the referendum. Yet no other single figure in the party achieved the same level of public recognition or for some time, the same level of support within the party as a prospective leader.

The vote

After delaying the vote for a month until 15 January 2019, the Prime Minister was still unable to persuade Parliament to support her deal. First, the House of Lords rejected the deal on the

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[26] 'Poll shows 86% of Labour members want new Brexit vote', Jim Pickard, *Financial Times*, 22 September 2018

[27] Led initially by Steve Baker, MP for Wycombe, and later by Jacob Rees-Mogg, MP for North East Somerset.

grounds that it would diminish the UK's prosperity, security and influence by a majority of 169 and the following day the House of Commons rejected it by the extraordinary margin of 230 votes, the worst defeat for a British government in the Commons for almost a century.[28]

A key part of the Government's difficulty was that MPs' motives for voting against the deal varied considerably. Some MPs opposed the deal because they felt that it would be better for the UK to leave the EU with minimal or no agreement and then trade on World Trade Organisation terms. Others took a completely different view and wanted a closer relationship with the EU in future, perhaps with the UK remaining in the European Economic Area (like Norway) or being in a customs union with the EU. For the members of the DUP, and some Conservatives, the most important issue was the Northern Ireland backstop arrangement because it would mean a different arrangement for Northern Ireland alone, something they saw as threatening the Union.

The position at the end of January 2019

By the end of January 2019, the chances had substantially increased that the UK would need to seek an extension to the two-year period in Article 50 to negotiate its exit from the EU (due to end on 29 March 2019) for practical as much as political reasons. None of the five Bills needed to make alternative arrangements for trade, agriculture, fisheries, immigration and financial services had been passed by Parliament. In addition, only around 100 of the 600 statutory instruments required had been approved and nearly half of the remaining 500 had not even been presented to Parliament for approval.[29]

In a debate on Tuesday 29 January 2019, the House of Commons gave the Government two further weeks to seek to renegotiate the Northern Ireland backstop arrangement, on the basis of a backbench proposal. After the vote, the Prime Minister told the House that the Government would "seek to obtain legally binding changes to the withdrawal agreement that deal with concerns on the backstop", while avoiding the return to a hard border between Ireland and Northern Ireland.[30] The feasibility of this was in doubt because of repeated statements from the EU that it would not re-open negotiations on the Withdrawal Treaty, of which the backstop is a part. Furthermore, the Government could not guarantee that the Commons would accept an EU undertaking in respect of the backstop that fell short of a change to the text of the Withdrawal Treaty, raising doubts as to whether the EU would be prepared to negotiate in such uncertain circumstances.

Where next for Britain?

What kind of relationship with the EU?

After two-and-a-half years of national debate and discussion about what form Brexit should take it is striking that there is still little agreement about the big questions posed by the outcome of the referendum. For example, Parliament has struggled to answer the basic questions about what kind of future relationship the UK should have with the EU:

- rule maker or rule taker?

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[28] HC Deb 15 January 2019, vol 652, col 1020 *et seq.*
[29] Joe Owen & Tim Durrant, *Brexit: two months to go*, Institute for Government, 31 January 2019
[30] HC Deb 29 January 2019, vol 653, col 788

- should it focus on the EU market to expand trade or on other markets?

- how do security, defence and crime and justice fit into a relationship with the EU which could be economically more distant in future?

Domestic policy questions

And then there are the big domestic policy questions, many of which were brought into sharp focus by the referendum. They include:

- the future of Scotland – there are Scottish Parliament elections in 2021, a year before next general election, will it mean another independence referendum or has the nationalist "bubble" burst?

- social mobility and opportunity – how to respond effectively to the lack of social mobility and opportunity, key factors behind many people voting Leave?

- immigration – this issue was central to the Leave vote but how should it be dealt with given the reluctance of politicians and business to reduce the inflow because of the potential economic and social consequences? The Government's recent White Paper leaves the reader little the wiser as to its future policy as it put all substantive issues out to consultation;[31]

- the economic and social impacts of Brexit – how should they be managed, including the possibility of diminished tax revenue leading to more austerity?

What kind of country do we want to be?

These questions all lead to one big question: what kind of country do we want to be? Politicians and commentators offer very different views. Some want an inward-looking country, reducing our engagement abroad in both military and financial terms, and a national economic revival (often focusing on manufacturing), perhaps using some elements of trade protectionism and restricting immigration.

Other politicians reject that approach as fearful, irrational and likely to make Britain's problems worse rather than better. They want an outward looking, open Britain, which engages with the world and which builds relationships with likeminded countries to tackle problems of mutual concern.

In reality, public opinion is divided between these alternatives (and there are many others) just as the two main political parties are divided about them. Worse, at the heart of the current political crisis in Britain is the slow breaking of the bonds that have held the two main political parties together for over 100 years. The nature of Britain's first past the post electoral system is that rather than creating, as the electoral systems of other European countries have tended to do, coalitions between smaller parties, it has created two large parties that are broad coalitions in themselves. Because of the tensions within both main parties, it is not clear whether the current British party structure can be maintained.

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[31] HM Government, *The UK's future skills-based immigration system*, Cm 9722, 19 December 2018

<u>Can the current constitutional structures solve these problems?</u>

In addition, with the political parties divided it is not at all clear how the economic and social problems that the referendum vote drew attention to can effectively be tackled. For example, significant infrastructure investment is needed in parts of the British Isles. But such an investment requires governance structures that can take the long-term decisions needed to ensure that they can be delivered even if the government changes. The fact that Parliament debated from the 1960s until 2018 what to do about runway capacity in the south east of England without making a decision demonstrates that the UK system of government struggles with these kinds of decisions. If politicians cannot agree about Britain's future relationship with the European Union, is it more likely that they will come to agreement about the reform and modernisation of constitutional structures to make them more effective?

Where next for Europe?

There are questions too for the European Union and its Member States. What kind of European Union do they want in the 21st century? Do they want it to be a big, inclusive, diverse organisation welcoming new Member States or a smaller, centralised and perhaps federalist block based on a core of states in Western Europe? Is there a new Europe of inner and outer circles emerging, as President Macron of France suggests?[32] But which countries would be in the inner circle now? Could such an argument be won in Germany, Italy or the Netherlands today? Will the outcome of the 2019 European Parliament elections make it more difficult to formulate policy or will the main groups in the parliament (ALDE, EPP, S&D) be able to keep in check any advance by populist parties?

And what of the rest of Europe? How can the EU satisfy the demand for access to the Single Market from non-EU European countries if enlargement beyond the present candidates in the Western Balkans is off the agenda? If there is a Single Market outer circle, should Turkey and Ukraine be admitted, if they want to be? And what would the creation of an outer circle mean for the UK?

<u>Economic challenges</u>

There are other major economic issues for the EU to address too. The rise of China, predicted to be the world's largest economy by 2030, and other emerging economies threatens to end the West's global economic dominance.[33] As China, and a number of other fast-growing economies, are authoritarian states this is not just an economic challenge but one which could be seen as a threat to Europe's values as well. The EU must respond because its Member States' citizens are going to be affected. The EU is a major global standards setter; if it retreats from that role its Member States are likely go from being rule makers inside the EU to being rule takers. And while the current US opposition to the World Trade Organisation might not survive the end of Donald Trump's presidency, it is nonetheless serious and an additional challenge.

Although the existential threat to the euro seems to have passed, the EU still has to deal with underlying structural problems in the eurozone. But will agreement be reached on treaty change? In reality, any changes may be limited and start with those that do not require treaty change. The recent innovation of a small eurozone central budget may

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[32] Ouest France, 'Sorbonne speech of Emmanuel Macron', 26 September 2017 (he used the word "speed" in place of "circle")

[33] 'By 2030, economies like China and India will hold dominance over the West – and influence our decisions', Hamish McRae, *The Independent*, 26 September 2018

indicate the way forward; that is, reform by baby steps. More action is also required by national governments in the eurozone but how can the EU collectively persuade them to take steps which may be politically unpopular in their own countries?

<u>European security</u>

There are other challenges for the EU as well. The role of the EU in security is becoming more important as US ties with Europe loosen and challenges abound on Europe's borders. There is a risk of a slow but definite decline of NATO's deterrent capability creating a void of which Russia could take advantage. Some in France and Germany think that the correct response is for their two countries to work even more closely together in future.[34] However good the relationship between those two countries it cannot be a substitute for the role of NATO or for the EU's unique soft power capabilities. It also excludes the UK, which has the most powerful armed forces amongst the European members of NATO and one which has maintained close defence ties to both mainland Europe and the United States since 1945.

<u>The rule of law</u>

Then there is the challenge to the rule of law inside the EU. The various issues raised in Hungary, Poland and Romania need to be addressed effectively if the EU is to retain its credibility as a rule of law community. But this particular challenge is likely to have other consequences. For example, concern about the rule of law complicates further enlargement to the Western Balkans because of fears that part of the current problem is that former communist countries with no history of free and fair elections and the rule of law were admitted to the EU too soon.

Some of the EU's internal difficulties stem from differences of culture and history between parts of Europe. For example, the long-term decline of Christianity in Western Europe has changed the outlook of many of its citizens. But in central and Eastern Europe, Christianity remains more central to daily life. Many of those countries also experienced long periods of dictatorship in the twentieth century and having recently escaped Soviet domination sometimes view particular EU policies as a threat to their independence.

Immigration, particularly that from Muslim countries, is seen in some central and Eastern European states as a threat to the Christian values upon which those countries claim to be based. Discussions about the allocation of asylum seekers within the EU have vividly demonstrated the way in which the dialogue between different countries has often been one in which the parties plainly do not understand each other.

<u>The leadership vacuum?</u>

Amidst the many challenges the EU faces, which includes climate change, artificial intelligence and the regulation and taxation of the internet giants, a key question is whether or not the EU has the ability to respond effectively and to safeguard its many achievements: notably, the Single Market, the rules-based international order and the liberalisation of world trade. To address these issues, the EU needs more focused leadership and a renewed sense of purpose.

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[34] 'Will the new Franco-German treaty revive the EU, or hold it back?', Sofia Vasilopoulou, *EurActiv*, 24 January 2019

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