

Brexit

Rudolf G. Adam English text revised by Gill Mertens

Brexit

Causes and Consequences



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Preface

This book is based on my book *Brexit: Eine Bilanz*, which was published in German by Springer Verlag in March 2019. This version has been extensively revised with an English-speaking readership in mind. Several passages have been rewritten, and the text has been updated to take account of recent developments up to 15 April 2019. Some last touches were added to the proofs to take into account Theresa May's resignation and the appointment of Boris Johnson as Prime Minister. Further developments, however, will have to be covered by another book.

I confess that if I had had a vote, I would have voted Remain in 2016. Therefore, I am not writing *sine ira et studio*—without fear or favour. However, I am not blind to the weaknesses of the Remain campaign or of the European Union. I have tried to give a balanced and meticulous account of events. I have sought to explain why events happened and to point out missed opportunities and fatal decisions. I have not refrained from passing judgment, but I have tried to steer clear of bias. As history keeps unfolding, some of these accounts and some of the judgments will have to be revised in the light of events and better evidence. Not all readers will agree with my judgments. My life experience has led me to believe that it is better to provoke counterarguments than to gloss over controversial views. Opposing arguments make for good debate and stronger outcomes. The book has been written as a contribution to the on-going debate, seeking to bring some intellectual substance to a discourse far too often dominated by emotions, by fear and hope, by presumption and by wishful thinking.

This book is based on extensive research, personal interviews and numerous contacts dating back to my time in Oxford, my career in the German Diplomatic Service and from my years at the German Embassy in London.

vi Preface

It consists of four parts: The first three contain an analysis of the historical background and a narrative of events. The fourth is devoted to an analysis of possible consequences, and the book concludes with a brief outlook.

My thanks are due first of all to Gill Mertens, whose invaluable help has given guidance and direction to the English version. I wish to thank Isabella Hanser and Johannes Glaeser of Springer Verlag who supported this book from the editorial perspective. I owe deep gratitude to all those who helped me form a clearer impression of what was going on: Anand Menon, Robert Cooper, Charles Grant, Robin Niblett, Henry Newman, Vernon Bogdanor, Lord Green of Hurstpierpoint, Thomas Kielinger, Oliver Schramm, Mark Boleat, Tim Shipman, Robert Bischof, Denis MacShane, Clemens Fuest, Holger Schmieding, Thomas Matussek and many, many others.

The selection of facts, quotes and assessments remain my sole responsibility. Quotes from the Internet are followed by the date on which the page was last accessed.

I call people who support Leave *Brexiteers*. It rhymes with engineer, mountaineer, pioneer, privateer and buccaneer, and it sounds much more impressive than *Brexiter*, even though the Oxford English Dictionary lists both neologisms.

Prien, Germany April 2019 Rudolf G. Adam

Summary in Seven Theses

1. Brexit is a process. Its roots go back decades, and it will reverberate for decades to come. Uncertainty about the role the United Kingdom will play after Brexit—if it ever happens—indicates a chaotic separation process. It was one of May's worst strategic mistakes to initiate divorce proceedings before establishing firm—preferably bipartisan—support for the future arrangement with the EU and to agree to the EU's negotiating tactic in sorting out the divorce settlement before discussing the future relationship. It was clear—and has been confirmed by the chaotic Parliamentary proceedings surrounding her deal—that the short-term divorce agreement would have to be informed by the framework for long-term cooperation.

David Cameron failed on three accounts: He wanted to keep his country in the EU and has catapulted it out. He wanted to reconcile his party and escalated the divisions to the brink of an open split. He wanted to return calm and predictability to his country and to exorcise the EU phantom once and for all, and he has plunged it into unprecedented discord, chaos and uncertainty. He has revived and fuelled all the old divisions about the EU.

2. Brexit is not only a problem of economics and finances. It has deep psychological and emotional undercurrents. It is essentially a question of English nationalism. Scotland and Northern Ireland have voted Remain; the Tories (and UKIP) are successful primarily in English constituencies. Brexit has thrown up some fundamental constitutional problems in the UK: Where does sovereignty reside? What is the right balance between the executive powers of government and the legislative powers of Parliament? How do four nations live peacefully under the common roof of one monarchy? What has precedence: Common law or European law? Regarding

Brexit only as a problem about GDP, incomes, statistics or productivity ignores the underlying issues. Brexit is a long-term nemesis—not just for the United Kingdom but also for the structure of the European Union. The undercurrents will alter the shape, structure and procedures of today's EU, and the Eurozone¹ will ultimately become the real future of the EU.

- 3. **Referenda are not necessarily democratic.** They presuppose an electorate with a clear and informed view of all the issues. But who these people are is a more complex problem than first appears. Is what 17 million people voted for truly representative of the will of the 46 million who were enfranchised, let alone of the 65 million that actually made up the population of the United Kingdom? In most democracies, decisions that touch on fundamental questions of national identity require enhanced majorities. For a result of a referendum to be accepted as the true expression of the people, there should be minimal thresholds in terms of turnout and majority. These thresholds should be clearly defined in advance. If democracy implies a vivid interplay between government and opposition and if it means that minorities should keep the chance of becoming majorities and that all political decisions should be open for revision, then a referendum is not democratic: it silences the minority, it fixes a momentary majority in stone, and yet it is supposed to be final and unquestionable: Plebs locuta-causa finita? If a referendum directly expresses the will of the people as the ultimate sovereign, then this sovereign should retain the option to change its will and express itself again in another referendum. Each referendum is valid only until superseded by a subsequent one.
- 4. The EU has lost the myth of irresistibility and irreversibility. It is no longer the manifest destiny of Europe. The EU cannot claim to speak for Europe if four important European countries say an unmistakable no to EU membership (Norway, Switzerland, Iceland and the United Kingdom). The *Méthode Monnet* is outdated. The EU is not losing a member of the club, but a close relative. The loss of the United Kingdom will seriously affect the standing and the influence of the EU across the world.
- 5. **Security in Europe will remain rudimentary without the United Kingdom.** The EU will lose 20% of its military capabilities. The role of NATO will be upgraded. Ambitions to equip the EU with military capabilities will have to be trimmed. The United Kingdom has no intention of reducing its role in the intergovernmental areas of the EU. It should be

 $^{^1}$ I prefer to capitalise the Eurozone. In the end, the Eurozone is bound to overshadow the EU and take its place at the core of European integration.

- given extensive rights of participation and contribution in the fields of CFSP, police and internal security and intelligence.
- 6. **EU Member States will be affected in different ways.** In terms of trade, Ireland, the Netherlands, Germany and France will feel the effects most strongly. Other countries—particularly those in the East—have little trade but large expatriate communities. Ireland will suffer effects not only in its trade. The border regime in the north could reignite violence and political terror. The general rule is the following: the harder Brexit, the harder the border on the island of Ireland.
- 7. Brexit will not be decided until there is broad consensus about what should replace EU membership. Leaving something behind presupposes a guiding idea about the future. Casting off from moorings and setting sail makes no sense unless the captain and crew have a common idea about the destination. May's fundamental omission consisted in setting the process of separation in motion without having forged a broad understanding about the nature of future arrangements. Purely procedural steps will not make up for the fundamental lack of consensus. Neither a snap election nor a second referendum will per se facilitate an endurable solution. What is needed is time for sober, objective and informed reflection and a thorough analysis of realistic alternatives. The strict sequencing of negotiations (no negotiations about future relations without a valid Withdrawal Treaty) gave the EU a strong tactical advantage. But it was also responsible for the deadlock that emerged after November 2018. The renewed extension of the deadline granted on 10 April 2019 narrows down the likely options for a final Brexit outcome. The backstop appears to be dead. A Norway model giving access to the Single Market would make no sense for a country like Britain. That leaves effectively three options: a free trade agreement, a customs union or a revocation of the Article 50 declaration. A new impulse for stalled Brexit negotiations will most likely come by reaching some basic understanding about a future relationship with the EU. If that includes the option of the United Kingdom staying within the EU, Brussels should begin to prepare an offer that could nudge public opinion in the United Kingdom towards such an outcome.

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About the Author

Rudolf G. Adam has spent almost 10 years of his life in the United Kingdom. He first crossed the Channel as a schoolboy to help with the harvest on a farm in Hampshire. He then studied Modern History at Brasenose College in Oxford. He took his B.A. in 1971 and his D.Phil. in 1974. He was a Robert Birley scholar and a Rhodes scholar. In 1976, he joined the German Foreign Service. His postings included Singapore and Beijing. He then worked as a speechwriter for Federal President Richard von Weizsäcker. In 1987, he worked at the German Embassy in Moscow as political counsellor. He stayed there throughout German unification and the end of the Soviet Union. His next assignments were in the Foreign Office: planning staff, director for disarmament and arms control and European correspondent. In 2001, he was appointed Vice President of the Federal Intelligence Service (BND). From 2004 until 2008, he was president of the Federal College for Security Studies in Berlin. His last postings were Moscow (2008–2011) and London (2011– 2014), where he ran the Embassy in 2013-2014 as Chargé d'Affaires. Dr. Adam is a regular contributor to German newspapers and weeklies. He runs seminars at Munich University and works as senior advisor with Berlin Global advisor.



1

With Europe, But Not of Europe

1.1 Churchill's 1946 Speech in Zurich and the ECSC (1950)

Splendid isolation Marquess of Salisbury, 1895

Winston Churchill addressed a gathering of young people at Zurich University on 19 September 1946. As Prime Minister, he had steered his country through the Second World War. A year previously, he had lost the general election and came to Zurich as the leader of the opposition. He was still a grandiose orator. He talked about the tragedy of Europe and about the necessity of creating a unified Europe out of the ashes and ruins left by the war. His speech culminated in a call for the United States of Europe. Ever since then, Churchill has been hailed as one of the prophets of the European Union. But if this was the case, why did his country remain aloof and why did it show so little interest in this project? The answer can be found in Churchill's own words:

"The first step in the re-creation of the European Family must be a partnership between France and Germany. The structure of the United States of Europe will be such as to make the material strength of a single state less important. And the first practical step would be to form a Council of Europe. France and Germany must take the lead together. Great Britain, the British Commonwealth of Nations, mighty America and, I trust, Soviet Russia must be the friends and sponsors of the new Europe. Therefore I say to you: Let Europe arise!" [1]

Churchill was thinking in terms of a continental Europe unified under the joint leadership of Germany and France, surrounded by a group of world powers. Its members would act as fostering and benevolent godparents. The Empire was still intact in 1946. India became independent a year later much against Churchill's will. Churchill saw his country as an indisputable global power, stronger through its spectacular victory in the Second World War. After all, had it not been for the British courage to stand up to the very real threat of German invasion for almost two years, the war might have taken a different and even more gruesome course. Had the United Kingdom not borne the brunt of the war alone, while Stalin had first made common cause with Hitler, and Roosevelt had initially watched passively from afar? Not without reason is Britain still proud of its finest hour, when, in Churchill's words, 'so much was owed by so many to so few' [2]. In Tehran, Yalta and in Potsdam, Churchill had conferred with the two nascent superpowers as an equal. Neither he, nor any of his compatriots, would have seriously thought that this victorious world power should join in a common project with the countries on the continent—defeated, destroyed and impoverished as they were.

The experience of this war has shaped British attitudes towards the continent for more than a generation. Most Britons saw themselves in a totally different league from the devastated continent. Had they not repelled invasion and with it all occupational designs of Nazi Germany? The last time a foreign army had successfully seized power in England had been during the Norman Conquest of 1066. The invasion had extended only to England. The other parts of the British Isles were subdued only slowly, over centuries. Scotland was the last, joining in 1707. Each of these territories had its own history, its own memories, its own cultural traditions and—at least until well into the nineteenth century—its own language. To the patriotic British, the United Kingdom seemed to be the preordained destiny of history for their peoples. The country of four nations was the pioneer in liberal democracy, in the rule of law and in the industrial revolution. As such it was admired throughout the entire world. The Empire had survived the war intact after having made decisive contributions to its outcome. Had the British people not demonstrated once more that it was the 'finest race on earth'? Had victory—and then the successful foundation of international institutions like the

¹ India became independent on 15 August 1947. Almost 100,000 Indian soldiers died in the course of the Second World War.

²The self-perception of the English (not comprising Scots or Welsh, and certainly not the Irish) as the 'finest race on earth' is a recurrent topos of political rhetoric in Westminster. The last person in recent times to invoke this concept was Tony Blair.

United Nations, the International Court of Justice, the World Bank and the International Monetary Fund—not proven the superiority of liberal tradition, the rule of law and free trade, which together form a sort of holy trinity of English traditions? Was English not emerging as the *lingua franca* of the world community, did the British fleet not dominate the oceans, and did Britannia not still rule the waves—even if it now had to share that domination with the USA?³

The idea of a United States of Europe started off with a profound misunderstanding. The idea originated in the United Kingdom, but it never intended to join that Union. It was a Union in itself and saw itself not as a part, but as a partner—as Churchill had remarked on another occasion "with Europe, but not of Europe". ⁴ The young generation to whom Churchill addressed his words was aged about 45 at the time of the first UK referendum in 1975 and formed the over-80s age group that turned out to vote in great numbers (83%) in the second referendum in 2016 and which voted predominantly No (75%).

This also helps to explain why the United Kingdom rejected membership in the European Coal and Steel Community (ECSC). The French foreign minister, Robert Schuman, sought to amalgamate coal and steel works in Germany and France under a joint supranational administration in order to render future war between these two countries impossible. For without national access to these basic industries, no war was thought to be possible—since in those days coal and steel were the backbone of the defence industry.

Schuman submitted his plan on 9 May 1950, and urged the British government to take an active part. France badly wanted the British to participate as, five years after the war had ended, it still had misgivings about dealing with Germany alone. Schuman impressed on Foreign Secretary Ernest Bevin that Europe was inconceivable without the UK.⁵ The British would not have to choose between Europe and their Commonwealth [3]. France still maintained a far-flung empire at that time, and so these words were credible.

Jean Monnet came to London in May 1950 to win support for his idea of a federation of European states. Perhaps he had underestimated the British

³ At the end of WWII, the British Navy had almost a 1000 vessels. The British merchant fleet accounted for more than a third of global tonnage in 1939. By 1945, the UK had lost almost half of these ships. By 1945, the USA had overtaken both the British Navy and the British merchant fleet in number of vessels and in tonnage.

⁴ Churchill wrote on 15 February 1930 in The Saturday Evening Post (USA): "The conception of the United States of Europe is right...We see nothing but good and hope in a richer, freer, more contented European commonalty. But we have our own dream and our own task; we are with Europe, but not of it. We are linked but not comprised. We are interested and associated but not absorbed" (https://winstonchurchill.org/publications/finest-hour/finest-hour-104/wit-and-wisdom-12/, 6 March 2019).

⁵ Robert Schuman said: "Without Great Britain there can be no Europe!".

negative reflexes when he insisted that they would have to accept the perspective of a European federation in principle.6 In the Glorious Revolution of 1688, British constitutional tradition had transferred the absolutist powers of the Stuart monarchy to the Westminster Parliament. This parliamentary absolutism rejected as repugnant the idea of subjecting its own powers to any regulatory supranational authority. No power and no authority could issue binding laws that bypass the Crown, government, and Parliament—or, even worse, repeal British laws formally enacted by those constitutional bodies. This would be incompatible with the constitutional distribution of powers within the body politic of the United Kingdom. It not only contradicted the British concept of liberty and the rule of law, but it could not be reconciled with the principles of representative democracy. It smacked of the ominous absolutism of King Charles I, who was beheaded after a bloody civil war. Harold Macmillan, who was in opposition in 1950, remarked: "We have not overthrown the Divine Right of Kings to fall down before the divine right of experts" [4]. Anthony Eden explained:

"If you drive a nation to adopt procedures which run counter to its instincts, you weaken and may destroy the motivating force of its action... You will realise that I am speaking of the frequent suggestions that the United Kingdom should join a federation on the continent of Europe. This is something that we know, in our bones, we cannot do. For Britain's story and her interests lie far beyond the continent of Europe. Our thoughts move across the seas to the many communities in which our people play their part, in every corner of the world. These are our family ties. That is our life: without it we should be no more than some millions of people living in an island off the coast of Europe, in which nobody wants to take any particular interest" [5].

Deputy Prime Minister Herbert Morrison rejected an invitation to participate in setting up what was also called the Montanunion: "*It's no good. We can't do it. The Durham miners won't wear it*" [6]. He flatly rejected even preliminary talks on this subject. But why this outright rejection?

The refusal was not only born out of a deep-seated aversion to any supranational authority. In political and cultural terms, the continent had been moving away from the English ever since the last English foothold on the other side of the Channel (Calais) had been lost in 1556. Since then, England had repeatedly participated in wars on the continent—first against France, then

⁶Linguistic nuances may possibly have played a role in this misunderstanding. In English, to accept something in principle means to give a firm and irrevocable commitment. In French, accepter quelque chose en principle is a direct literal translation, but means to remain open for further discussion without any obligation.

against Germany. But England (later the United Kingdom) did not pursue its own interests on the continent. Its interests lay elsewhere—in North America, then in India, in China, and in Southern Africa. The continent was interesting only insofar as it did not pose a threat to these overseas designs. Not even the personal union with the House of Hanover, which existed from 1714 until 1837, could establish serious and enduring British interests on the continent. For most Britons, British India, Australia, New Zealand, South Africa, Kenya, and Rhodesia were closer than those 'far away countries, of which we know nothing', as Neville Chamberlain had referred to Czechoslovakia in 1938 [7]. The members of the Commonwealth were geographically further away, but emotionally closer to British hearts. Many people in the United Kingdom had relatives in Commonwealth countries. Ancestors had brought back exotic souvenirs from service in the Empire, and communications and traffic links were closer and more important than those with the continent.

Labour had won the 1946 general election and nationalised the coal and steel industry in Britain. Prime Minister Clement Attlee wanted to return the country to full employment as quickly as possible. Political control of the most important national industries seemed to be a necessary precondition for improved rational planning. In those days, Labour was probably the most socialist government outside of the Iron Curtain, and firmly believed in economic guidance from the state and in governmental planning. It feared that supranational constraints would interfere with its economic programme, as the ECSC was founded on principles of free markets, private property and entrepreneurial freedom.⁷

The continent had been thrown into chaos during the war. The warring countries had suffered from occupation, persecution, mass murder, collaboration, and dictatorial regimes. The war economy and ruthless exploitation of human labour had put existing productive structures to a severe test. The destruction was massive. London had been scarred by the Blitz, but apart from these and other city bombardments the United Kingdom had escaped the ravages of war relatively unscathed. The UK had been the only European participant in the war that had fought off invasion and occupation. All countries on the continent had to face a radical new beginning: new constitutions, new political parties, new currencies, new borders, new economic structures

⁷ Clement Attlee said in the House of Commons: "We could not accept ... the principle that the most vital economic forces of this country should be handed over to an authority which is not responsible to Governments." (Hansard 477, col. 472, 5 July 1952, https://api.parliament.uk/historic-hansard/commons/1950/jul/05/schuman-plan-ministers-speech#S5CV0477P0_19500705_HOC_220, 7 March 2019).

and new attempts at cross-border cooperation. The United Kingdom remained untouched behind its natural sea borders and continued to live the same way as before the war—or believed that it was living in such unbroken continuity. On the continent, the young generation was haunted by questions about national history and what their parents had done. The answers gave rise to shame and contrition. Young Britons looked with pride at what their country and their parents had achieved. On the continent, people had grown aware of their vulnerability and their interdependence. Many had lost their moral compass and were confused by fear and insecurity. Everywhere people were looking for new political institutions, new elites, and new ways of interaction.

In the United Kingdom, people felt reassured. There were shortages, but the general feeling was one of triumph and moral superiority. British institutions and British elites had survived a cruel test. They felt strong, invulnerable, and optimistic. To many Britons, it began to dawn far too late that victory had demanded a high price, and that it did not afford immunity to the winds of change that were sweeping away traditions and enforcing painful adjustments. The mentality of victory was an illusion which obscured the need for innovation and modernisation that was forced on the continental countries because of the enormous destruction they had suffered. The majority of Britons grasped far too late that 'everything had to change for everything to remain the same' [8]. The debates of recent months and years suggest that some Britons are still suffused with this feeling of invincibility, uniqueness and unconquerable strength.

The United Kingdom did not keep its distance from the continent in all respects. It called into life the Treaty of Brussels, which later became the basis for the Western European Union (WEU), a classical military alliance. It cofounded NATO, which still forms the backbone of military security in Europe today. The Council of Europe was created in London. Sir Maxwell Fyfe, a prominent Tory and close friend of Churchill, was the mastermind in drafting the European Convention on Human Rights, which set out the basis for the European Court of Human Rights and its jurisdiction. The United Kingdom helped to set up the Organisation for European Economic Cooperation (OEEC) and the European Payments Union. All these institutions were clas-

⁸These historical differences go even deeper. Apart from France, Spain, Portugal and Sweden, practically all political units on the Continent had been creations of the post-Napoleonic era. Many countries had only originated at the end of the First World War. Norway gained independence in 1905. Germany had unstable borders throughout most of its history and found its final geographic and political shape only in 1991.

⁹Later Earl of Kilmuir. Some 15 years later, he was one the prominent lawyers warning that joining the EEC might be irreconcilable with the British concept of national sovereignty. Churchill had already sketched the outlines of the Council of Europe in his Zurich speech.

sical, intergovernmental bodies without supranational ambitions. None of them called for the transfer of sovereign rights. ¹⁰ The United Kingdom clung to traditional means of diplomacy and to military alliances based on classical interaction of sovereign subjects under international law. It categorically rejected the notion of subjecting its own freedom of action to any supranational authority that might be entitled to pass laws valid within British territory without—or even against—the will of Parliament.

The United Kingdom followed the traditional approach from pre-war times. It put together military defences against military threats and expected the Council of Europe to form a barrier against totalitarian tendencies. Beyond that, Britain tried to continue its age-old tradition of free trade. Schuman and Monnet pursued a different approach—more indirect and more subtle. They hoped to achieve peace indirectly by progressively intertwining the European economies, thus creating an ever-closer net of interdependencies that would eventually restrain each member from breaking away and from endangering the whole edifice. Gradually and imperceptibly, economic cooperation would make political integration inevitable. British politicians remained deeply suspicious of this innovative approach. They did not feel the need to try new methods, since they did not feel that the old ones had failed them. They felt comfortable with the methods and principles that had informed their political positions before the war. Many instinctively sensed the dangers implicit in such gradual, imperceptible and irresistible constraints. They still felt they were a global power that needed to preserve complete freedom of action in foreign affairs.

So the United Kingdom missed the beginnings of European unification. It had renounced the option of making its own voice heard and having its own interests reflected in the gradual build-up of European institutions and European law. It failed to make sure that these new structures were shaped in a way that it might feel comfortable within them. Dean Acheson, who was US Secretary of State from 1949 to 1953, called this the greatest mistake in postwar UK history. For fear of being sucked into an unknown maelstrom, the United Kingdom wasted the opportunity of testing its own interests against those of the continental countries. Seen with hindsight, the chances were slim indeed and the obstacles were enormous. But were Germany and France not

¹⁰The Council of Europe and the European Court of Human Rights form a certain exception in this group, since judgments of the ECHR have immediate legal force in each member country. It was primarily Churchill who hoped to use the ECHR to pillory human rights abuses in the communist countries in Eastern Europe and thus put pressure on their regimes. He could never have dreamed that, some 50 years later, this Court would pass a steadily increasing number of judgments against his own country, the heartland of the rule of law.

miles apart, smarting from the wounds and traumas of war, full of mutual suspicions, and with fundamentally different economic and social structures and traditions? Did they not have to fumble their way ahead towards mutual comprehension and mutual trust? Two countries, separated by centuries of war: one victorious, the other utterly defeated; one the proud home of enlightenment, elegance and savoir vivre, the other just recovering from having crashed out of all standards of humanity and civilisation. Were they not nearly as far apart between themselves as regards the future shape of Europe as each of them was from the United Kingdom? Even if, after tortuous negotiations, the United Kingdom might have declined to join after all, these negotiations in themselves might have had an enlightening effect on where each European country stood and what it expected. The countries that later founded the EEC would have been informed about British reservations and misgivings. They would have been in a position to factor these into their decisions. They would have been aware of the price they might have to pay in moving ahead without the United Kingdom. It would have made their decisions more difficult, and most probably they would have decided differently. The British government, on the other hand, would have been forced to describe and define its own ideas and explain exactly why the ideas of the continental six were unacceptable. But after the British refusal to join, the ECSC went ahead with just six members: France, Italy, West Germany, Belgium, the Netherlands and Luxembourg. The official founding ceremony of the ECSC was on 18 April 1951.

These were the six countries that a few years later set up the EEC. The foundations of what was to become the new political framework of Europe were laid without British participation and without British input. The way these foundations were laid, however, implied far-reaching structural specifications about the building materials, dimensions, staircases, hook-ups and house rules. With the passage of time, these structures hardened. When the United Kingdom finally joined the EEC twenty years later, it had to accept norms and rules, institutions and procedures that had been formulated without any British influence. Britain was a latecomer and confronted with a takeit-or-leave-it situation. In the end, Britain joined the EEC not out of conviction but out of sheer necessity. There seemed no other way to escape the trend of ever-deteriorating economic indicators. This may be one main reason why there has never been any enthusiasm for European unification in Britain. For the British, it was a convenient solution to a situation that threatened to become desperate. It was a lifeline. No Briton ever regarded European unification as something sacred, as an article of faith, as a way of redemption and

expiation for sins of war, nationalist excesses, dictatorship, extermination and racism, or as the best protection against a relapse into history. Many Britons yearned for a return to their own historical pre-eminence when they were at the pinnacle of the Empire and emerged victorious from a mortal combat with the most powerful enemy on the continent. The British complaint that they had been forced to accept a fait accompli (the acquis communautaire—the accumulated laws, acts and court decisions that constitute the body of European law) was not without foundation. They had to don ready-to-wear clothes that had been tailored by others without taking British measurements. They did not fit; the cut, colour and style were not what the British would have chosen. It was no adequate substitute for the worn-out full ceremonial dress that the Empire had afforded. The fact that in 2016—in what was arguably one of the most important national political decisions ever taken citizens of Commonwealth countries had the right to vote but citizens of EU countries did not, was a clear indication of how much Empire and Commonwealth continue to have an emotional effect on Britons and how little the EU had impinged on this sentimental attachment.

1.2 Messina and Rome (1955/1957)

Absent at the creation
Dean Acheson [9]

Delegations from France, the Federal Republic of Germany, Italy and from the three Benelux countries met in Messina from 1 to 3 June 1955. This conference is hailed as the hour the EEC was born. The United Kingdom had been invited, but declined to participate. In Whitehall, it was considered sufficient to dispatch Russell Bretherton, a civil servant from the Board of Trade, as the British delegate to this conference. All the other participating states were represented by ministers or state secretaries, and they were all endowed with full negotiating powers. Bretherton was under strict instructions to remain passive, to observe but not to commit to anything. The conference documents do not record any British intervention. The Spaak Committee was tasked with elaborating the outlines of a European Economic Community. Legend has it that Bretherton rose at the end of the conference and remarked with slight condescension:

"Gentlemen, you are trying to negotiate something you will never be able to negotiate. But if negotiated, it will not be ratified. And if ratified, it will not work. Au revoir et bonne chance!" [10]¹¹

A year later, the United Kingdom would be painfully reminded of the limits of its global reach and the evaporation of its political clout. It was forced to abandon the Suez adventure under humiliating circumstances. Instead of being overthrown, Nasser triumphed and saw his position reaffirmed both at home and internationally. Within a few years, most of the British Empire was gone. Sudan became independent in 1956, and the last colonies in Africa left the Empire in 1965. By 1970, the United Kingdom had given up its military presence east of Suez. For the first time in 400 years, the United Kingdom reverted to being a predominantly European power. All that was left of the erstwhile Empire was the dust of its collapse, speckles loosely dotted around the globe. 12

The EEC was founded in Rome in 1957—and the United Kingdom was once again conspicuous by its absence. It had refused to even participate in the negotiations.

1.3 Paris (1961–1969)

No man is rich enough to buy back his past Oscar Wilde

The United Kingdom was shedding its erstwhile greatness at a rapid rate. It not only lost its Empire, but the pioneer of industrialisation was also losing its competitive edge in global markets. The pound staggered from devaluation to devaluation. Waves of strikes paralysed vital industries. Foreign industrial products made deep inroads into the British domestic market. Mercedes and

¹¹There is little doubt that Deniau dramatised these words, if he did not invent them. The son of Russell Bretherton has denied that his father ever uttered such words. On the contrary, he maintains his father cabled back to London: "We have in fact the power to guide the conclusions of this conference to almost any direction we like, but we cannot exercise that power without ourselves becoming responsible for the results." With hindsight, Bretherton is reported to have remarked: "If we had been able to say that we agreed in principle, we could have got whatever kind of Common Market we wanted." But even if Bretherton never uttered these words, they describe accurately the attitude of Whitehall in this matter: se non è vero, è ben trovato. This is why these words have been quoted again and again.

¹² These overseas possessions and dependencies today include: Akrotiri and Dhekelia on Cyprus, Anguilla, Bermuda, the British Antarctic Territory, the British Indian Ocean Territory (Diego Garcia), the British Virgin Islands, the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, Saint Helena, Ascension and Tristan da Cunha, South Georgia and the South Sandwich Islands, and the Turks and Caicos Islands.

BMW began to push out Rolls Royce, Bentley and Humber. The 1960s laid bare the structural weaknesses of British industry, in particular of its antiquated heavy industry. The United Kingdom fell behind and there was growing political pressure to seek relief in membership of the EEC, which was going from strength to strength. In 1958, the once-defeated Germany overtook the United Kingdom in GDP and exports. From 1950 to 1960, GDP growth in the Federal Republic of Germany was 7.8% p.a., in Italy 5.8%, and in France 4.6%. The UK lagged behind with not more than 2.7%. The Common Market and the common trade policy of the EEC seemed to offer superior conditions for growth, and increasingly appeared to be the only way to escape the vicious circle of devaluation, inflation, strikes, loss of productivity and market shares. Only a few in the United Kingdom understood how this strange supranational creation called the EEC actually worked, and even fewer regarded it with affection or goodwill. But the thought of seeking a remedy with those obviously more successful and more prosperous neighbours on the continent seemed irresistible. When the United Kingdom submitted and later renewed its application, it did so less out of conviction than out of necessity, if not desperation. It sought to join not out of love, but because there was no better alternative. 13

By 1960, it had become obvious that the USA would replace the United Kingdom as the world's most powerful nation. The USA dominated trade, and the dollar became the reserve currency and took the place of the pound. The USA was regarded as the most powerful military power and as the undisputed leader in technology. There had been a time when the United Kingdom had aspired to this leading technology role. The first civilian nuclear power plant was built in the United Kingdom (Calder Hall), and the British Overseas Airways Corporation (BOAC) was the first airline to operate jet aircraft on its intercontinental routes: the ill-fated Comet. But in less than ten years Britain had lost these markets to the USA. It was clear that the USA would dominate the global market for nuclear power plants and civilian jet aircraft. Boeing and Lockheed had edged out de Havilland from that market, not least because of British management blunders in quality control and marketing. The USA also took over the function as guarantor of the global political order that had put unsupportable strains on British resources.

US governments after the John F. Kennedy administration pressured the United Kingdom to seek active participation in the European project. But the

¹³ In 1963 after de Gaulle had vetoed Britain's application to join the EEC (Until 1991 it was the EEC. The Treaty of Maastricht converted the EEC into the EU), Harold Macmillan wrote in his diary: "The great question remains: 'What is the alternative?' to the EEC. If we are honest, we must say there is none."

British political elite recoiled from a project that had a European Federation as its proclaimed objective. There was consensus in Whitehall and in the City that ultimately the continent was more dependent on the United Kingdom than vice versa—a pattern of thought that persists in many British minds until today.

The United Kingdom preferred to follow its traditional instincts for free trade. It suggested a Free Trade Area comprising all members of the OECD. 14 But it failed to generate support, since this idea was incompatible with the already established EEC, which was based on common tariffs around a Common Market and on community preferences in trade. Disappointed and peeved, the United Kingdom put together a rival organisation to the EEC: the European Free Trade Association (EFTA). It persuaded Austria, Denmark, Norway, Sweden, Switzerland and Portugal to enter into this international organisation. 15 The word 'association' was meant to signify that it was not a 'community' like the EEC. EFTA remained fully within traditional intergovernmental structures, while the EEC was building up its supranational structures around the Commission and the Council in Brussels. EFTA was strictly limited to trade, but the EEC pursued the ambition to cover progressively wider areas of political life in Member States. After a few months, however, EFTA turned out to be no match for the EEC.

The United Kingdom submitted its first application for membership in the EEC on 9 August 1961. This was an open admission that the foundation of EFTA eighteen months previously had been a failure. What prompted this application was neither enthusiasm nor pan-European commitment, but a lagging economic performance and open fear that the UK might have to face an ever mightier continental bloc over which it had neither influence nor power. Harold Macmillan expressed his unease in 1956: "I do not like the prospect of a world divided into the Russian sphere, the American sphere and a united Europe of which we are not a member" [11]. Others made more sinister comments, and whispered about another continental system like the one Napoleon had used to blockade British trade. Or perhaps something even worse: the unification of the continent under a single political leadership—something that the United Kingdom had fought against for

¹⁴ Organisation for Economic Development and Cooperation, founded in 1948 as OEEC (Organisation for European Economic Cooperation), and designed to serve as an instrument to implement the Marshall Plan assistance coming from the USA and from Canada. It initially comprised 18 western European countries (Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey and United Kingdom). In 1961, Canada and the USA joined, and it changed its name to its present form.

¹⁵ Note that the Republic of Ireland was neither a member of the EEC nor EFTA. It had applied to join the EEC in 1961, but was refused together with the United Kingdom. It kept away from EFTA.

centuries, trying to preserve a balance of power on the continent which would stabilise itself and could never pose a serious threat to the United Kingdom. This would be Napoleon on top of Hitler under the harmless disguise of the completely unmilitary EEC. This topos was resurrected to much fanfare in 2016.¹⁶

Hugh Gaitskell, the Labour leader and a socialist supposedly open to international solidarity, conjured up British—or rather English—national history and argued forcefully against joining the EEC. His words still reverberate today, and many of his arguments could have been uttered by committed Leavers in 2016. For this reason, they deserve to be quoted at greater length:

"It means that if we go into this we are no more than a state in the United States of Europe, such as Texas and California. If the idea of the European Community is political federation, it means the end of Britain as an independent nation state. It is the end of thousand years of history. How can one seriously suppose that if the centre of the Commonwealth is a province of Europe it could continue to exist as the mother country of a series of independent nations? Are we forced to go into Europe? The answer is: No! Would we be economically stronger if we go in, and weaker if we stay out? No! Is it true to say that by going in we shall become all that more prosperous so that, because of our prosperity, the Commonwealth automatically gains, whatever the terms may be? No! None of us would deny the idealism implicit in the desire of European people in Germany and France and Italy and the Low Countries to join together, to get rid of the old enmities. I do not believe the British people now, at this stage, are prepared to accept a supranational system, majority decisions being taken against them, either in a Council of Ministers or in a Federal Parliament, on the vital issues of foreign policy. We are now being told that the British people are not capable of judging this issue—the Government knows best; the top people are the only people who can understand it; it is too difficult for the rest. This is the classic argument of every tyranny in history. It begins as a refined, intellectual argument, and it moves into a one-man dictatorship; 'We know best' becomes 'I know best'. We did not win the political battles of the 19th and 20th centuries to have this reactionary nonsense thrust upon us again" [12].

¹⁶The enduring power of this figure of thought is illustrated in a 1990 interview by Nicholas Ridley, Secretary of State for Trade and Industry under Margaret Thatcher, and one of her close confidants. He openly declared: "It is all a German racket designed to take over the whole of Europe." (Spectator, 14 July 1990: http://fc95d419f4478b3b6e5f-3f71d0fe2b653c4f00f32175760e96e7.r87.cf1.rackcdn.com/ADF066927DB5403D9B70493E2B465BFE.pdf, 12 March 2018). Vote Leave made an appeal to similar sentiments, circulating a picture taken of British soldiers in the trenches during the Great War and commenting: "So, are your telling us that 100 years from now, our descendants are just going to hand Britain over to the Germans without lifting a finger???" (Vote Leave: https://t.co/bKpUNmCxPw, 21 March 2018). See also Fintan O'Toole: Heroic Failure, London Head of Zeus (2018), pp. 55–62.

The central ideas and arguments of this speech resurfaced some fifty years later in the Brexit campaign: national independence; the sovereignty of Parliament; an autonomous trade policy; the refusal to be subordinated to any foreign supranational authority; and above all, blind faith in the sound, almost infallible, instincts of the people and the concomitant contempt for alleged experts and the suspicion of dull, if not scheming civil servants. The only argument absent is migration. Apart from that, these words are a quiver from which Vote Leave could have gathered most of the arrows it used as ammunition to demolish the case for Remain.

Lord Kilmuir (mentioned before as David Maxwell Fyfe) was Lord High Chancellor in 1961. As such, he was the most distinguished lawyer in the realm. He was asked to submit an advisory opinion on EEC membership and he came to three important conclusions:

- The Westminster Parliament would have to accept legislation made in a foreign legislative body. This would impair its unconstrained freedom of action and would run counter to the traditional doctrine of unfettered parliamentary sovereignty.
- The sovereignty of the Crown under international law would be infringed by an anonymous international organisation.
- English courts would lose their independence and would have to follow the jurisdiction of the European court.

These three aspects still play a decisive role in the debates about British membership in the EU. They figured prominently in the Leave campaign.

The 1961 application was made at a time of strong resistance and stronger doubts. It was an expression of desperation rather than of conviction. EFTA had failed all expectations. The plan to turn the OECD into a huge free trade area had foundered. The Empire was breaking up, and with it went imperial preferences. British economic performance had slumped alarmingly, and was continuing to fall at an even more alarming rate. Turning to the EEC was seen in Whitehall as the rescue operation before the British ship of state went down completely. But a feeling of unease, reluctance and inner reservations remained. Joining the EEC was presented to the public as an unpalatable, but necessary, medicine. It came with no enthusiasm, and with no confidence that this would open a way to a better and different future. It was without exhilaration about departing on a quest of new horizons, and it came with little or no interest in the European partners, except maybe Ireland. Most English people nourished some disdain, if not open contempt, for the Irish. But it was good to have them closer again. For many, they still belonged to the United

Kingdom, had traitorously abandoned ship, and were now struggling in their little sloop. ¹⁷ The United Kingdom had escaped occupation. Consequently, it felt no need for a new democratic beginning or for reconciliation with its neighbours. Europe was never a source of inspiration, of high-flying utopias of enduring peace and perennial welfare. Europe was not the answer to the historic burden of hereditary enmities. On the contrary: next to the Balkans, the UK is perhaps the country in Europe where old-fashioned national prejudices are most cultivated with much swagger. Conversations in pubs and the tabloid press indulge in references to 'krauts', 'huns', 'frogs' and 'macaronis'. There never was a temptation to glorify Europe or to romanticise it. Europe was never needed as a way to cleanse one's own nation from the sins of the past. For the United Kingdom, the EEC was an instrument to serve its national purpose—a pathway to making better deals, to regain competitiveness and to gain access to dynamic markets. ¹⁸

Harold Macmillan never attempted to make a convincing public case for his decision to apply for EEC membership. After staying away from the ECSC and showing no interest when the EEC was founded, he missed a third opportunity to confront the British public with the reality of the EEC—to explain the continental ambitions about the entire project and to generate understanding that becoming a member of such a club would require peculiar understanding of the needs and aspiration of these partners. Cooperation would inevitably entail compromises, respect for conflicting interests, and the art of forging winning coalitions with partners in order to move the common boat in a new direction. Public attitudes toward the EEC in the UK remained characterised by ignorance, prejudice and condescending brush-off. The EEC was accepted as a necessary evil, but never as a future to aspire to. On the other hand, Britain was seen in Brussels as a difficult partner: obstinate, querulant, stubborn—always seeking to delay, to water down, and to stall progress towards uniform solutions. Soon, the United Kingdom acquired notoriety for seeking exceptions for itself. The effect was that it became increasingly isolated.

¹⁷ Nigel Lawson, previously Chancellor of the Exchequer under Margaret Thatcher and later a leading spirit in the Leave campaign, openly called for Ireland to revert to British rule: "I would be very happy if the Republic of Ireland...were to say we made a mistake in getting independence in 1922 and come back within the United Kingdom. That would be great."—a remarkable flight of fantasy of a prominent Tory who in 2016 became a leading protagonist for Leave. (https://www.newstalk.com/news/lord-nigel-lawson-hopes-irish-republic-realises-its-mistake-and-rejoins-uk-following-brexit-612949, 8 March 2019).

¹⁸George Ball, then Under Secretary of State for Economic and Agricultural Affairs, remarked to President Kennedy that the British government was looking upon the EEC exclusively from the point of profitability. [Michael Charlton: *The Price of Victory* (London BBC, 1983) p. 265]. Other contemporaries quoted gloatingly Napoleon, who had called the English *une nation des boutiquiers* (a nation of shopkeepers).

It could be relied upon to support each enlargement of membership and to obstruct any deepening of policy.

Every British Prime Minister since has imitated Macmillan in avoiding a clear position on EU membership. Each eagerly underlined that EU membership was profitable for British economic and financial interests, but each was equally eager to blame the EU for interference and incompetence. Each highlighted the opportunities that this membership afforded, but none admitted that these advantages came with certain restrictions on national decisionmaking. Each reassured MPs and voters that EU membership would not affect the traditions and the constitutional framework of the United Kingdom. Prominent politicians—not only Prime Ministers—were never slow to make the EU the butt of jokes, malicious sarcasms and debunking mockery. Some of this criticism may not have been unfounded, but it was presented in a vicious, vitriolic way. Some of the charges were patently absurd—like the insidious contention that the Commission had regulated the curve of bananas. 19 Nevertheless, that reproach played a prominent role in the invective of Boris Johnson, who never really seems to have cared about the truth of his allegations, and Nigel Farage, who appears to regard truth as a variable in the equation of his political ambitions. No British politician—with the possible exception of Ted Heath and Roy Jenkins—has made it clear in public speeches that belonging to the EU means making compromises and winning partners over by taking their agenda on board. EU membership means balancing interests through pragmatic deals. And that implies that British interests cannot always prevail. Until today, the EU is still considered by most Britons primarily as a vehicle to further British interests. No British government has ever succeeded in the painstaking forging of alliances of interests, of preparing packages and presenting self-interest as a focal point around which the interests of others could coagulate. Nobody ever bothered to explain the complicated procedures of informal consultations, mutual support and silent understandings that are necessary to win majority votes in the Council. Precooking is essential in Brussels. The UK has never appeared to push or tactically scheme in Brussels to prepare the ground for its own initiatives. It remained a poor power broker. It has been slow in exploiting the opportunities offered by EEC membership through quick and forward-looking changes in legislation or structural adjustments. Whitehall preferred to slow down developments rather than hijacking them, putting itself in charge and giving them direction and purpose. It failed to see new developments in advance,

¹⁹ The truth is that the Commission classified and graded the quality of bananas and thereby also ruled that abnormal shapes should fall into a category of its own.

and it failed to exploit opportunities for national purposes. Many Britons remained steeped in imperial nostalgia. They preferred a mixture of hubris, defiance and repudiation of reality, and they clung to the ingrained reflexes of imperial greatness and declined to stoop to conquer.

In December 1962, Harold Macmillan met Charles de Gaulle at Château Rambouillet, not far from Paris. The reconciliation between Germany and France had been initiated there three years before. But the *genius loci* was not propitious to the British delegation. De Gaulle was concerned that giving EEC membership to a heavyweight like the United Kingdom could undermine France's dominant position. He insisted that the UK would have to give up all its transatlantic special relations, and unreservedly commit itself to security arrangements within a European framework.²⁰ He was afraid the United Kingdom would not come alone, but bring in its train a whole bunch of Commonwealth countries or countries that were technically still colonies.²¹ On 13 January 1963, de Gaulle pronounced his iron '*Non*' against British EEC membership.

Would things have turned out differently if the United Kingdom had joined the EEC in 1961? They probably would. The European project would have assumed a more pragmatic, less visionary character, with more free trade instead of bureaucratic guidance. Europe would have become less a question of faith. Subsidiarity would not have remained an empty phrase, but it would have been filled with institutional bite. Intergovernmental elements would have carried the day against unifying and centralising tendencies. The visionary vanishing point of 'ever closer union of the peoples of Europe' (Article 1 TEU) would probably not have made it into the Treaty. In 1961, many essential structures of the EEC were still in abeyance. Germany and France fought over agricultural policy, over the formula to compute budget contributions, and there was no Common Fisheries Policy. These three points were crucial to British complaints about the conditions of its membership. They gave rise to sharp criticism, and they soon spawned a permanent friction of interests. If

²⁰At the same time, Macmillan was negotiating with the USA about cooperation on the nuclear deterrent. The deal that was to emerge provided US-made Polaris missiles for British-made nuclear warheads on British-made nuclear submarines. The United Kingdom had failed to develop reliable submarine launched ballistic missiles (SLBM) of its own.

²¹ France was to grant independence to Algeria in 1962. It was her last important colony (in fact, more than a colony; Algeria was considered part of *la France une et indivisible*. This marked the fundamental difference to 1950. At that time, France still believed in keeping its vast Empire and to incorporate the colonies into future overarching European institutions. As a French territory, Algeria was part of the EEC from the EEC's foundation in 1957 until its national independence in 1962. Thus, Algeria was the first territory to leave the EEC. France managed to integrate its remaining *départments d'outre-mer* (like Réunion, Guadeloupe, Guyana française, and Martinique) and *territoires d'outre-mer* (since 2003: *collectivités d'outre-mer* like St. Pierre et Miquelon, St. Martin, and Polynésie française) into the EU.

the United Kingdom had been given the opportunity to join the EEC in 1961, it might have strongly influenced developments that led to these results—possibly preventing, or at least modifying, them.

In order to maximise its own national interests, France did not hold back from paralysing all EEC institutions for seven months, 22 until it had successfully pushed through its agrarian interests and received written assurance that a Member State would have a veto in cases of overriding national interest thereby effectively blocking majority decisions.²³ More important may have been the recognition by Charles de Gaulle that France would have an opponent of equal weight and equal power, whereas post-war Germany was more pliable—still suffering under the burden of historical guilt, national division and resounding defeat. It was dependent on French goodwill because France remained one of the four allied powers exercising special rights in Germany and in Berlin. The other four member countries within the EEC were no match for France. Without the United Kingdom, France was the unchallenged leader of the EEC. During its first fifteen years, the EEC functioned as a historic compromise between French agriculture and German industry. Had the United Kingdom joined the EEC in 1961, the configuration of national interests and the power to push these interests through would have been different. It would have assumed different institutions, different principles, different procedures and functions. In short, the much vaunted acquis communautaire would have emerged in a different form. The EU would have a divergent face today—but would that face have been of necessity worse or less endurable?

As it turned out, the United Kingdom had to watch powerless from the outside as France and Germany jointly filled the promises and declarations of 1957 with institutional flesh and brought the letters of the treaty to life. They created structures that could not simply be undone again. There was no mistake that the realities created in those sixteen years from 1957–1973 not only did not take British interests into account—in many cases the realities ran directly contrary to them.

The United Kingdom renewed its application to the EEC on 11 May 1967. Again it met with outright rejection from Paris. De Gaulle threatened to break up the EEC if the United Kingdom were to become a member against French objections. On 19 December 1967, de Gaulle emphatically pronounced his second veto.

²² France pursued the 'policy of the empty chair' from 31 July 1965 to 30 January 1966. Without France present, the EEC Council was incapable of taking any decisions.

²³ Luxembourg compromise of 29 January 1966.

1.4 Brussels (1973)

Better late than never?

Edward Heath became Prime Minister on 18 June 1970, putting an end to six years of Labour rule. Heath had conducted negotiations about EEC membership since 1962. He burned with ambition to crown his many years of efforts with success, and the circumstances had suddenly changed and augured well for membership. De Gaulle had resigned on 28 April 1969 and Georges Pompidou succeeded him on 15 June 1969. Pompidou had served as de Gaulle's Prime Minister. He had a reputation of being a pragmatic, down-toearth technocrat—not dreaming of a glorious, triumphant France like de Gaulle. Heath and Pompidou had known each other for years. France was growing increasingly concerned about the dynamic growth of Germany's economy. It wished to have another player in the game to offset the increasing weight of Germany. At the same time, Pompidou felt that the EEC had outgrown its infancy, and had developed robust structures that could not be dragged into new controversies. And, finally, France wished to see the Atlantic dimension in Europe reduced. It wanted to gently wean the United Kingdom away from its special relationship with the USA and to lead it back to a European vocation. The United Kingdom was in the midst of an economic crisis that was growing worse by the day. Productivity was down, competitiveness was evaporating, the pound had lost a third of its value since the end of the war, and public debt was spiralling out of control. In Northern Ireland, the first symptoms of the looming Troubles were showing. The accession treaty was negotiated in eighteen months and the United Kingdom accepted the entire acquis communautaire—even where this ran counter to British interests, as in agriculture and budget contributions. No wonder that commentators later likened it to the takeover of an ailing competitor by a flourishing big corporation.24

France had already triumphed on two important fronts: the Common Agricultural Policy (CAP) secured large subsidies for French farmers and France had received a huge return on its contribution—and these were calculated in a way that Germany had to make the highest net contributions. France did not have to fear that a British EEC membership could upset these arrangements in a way that might derogate from entrenched French interests, since it was firmly tied to the *acquis communautaire*. Together with the United

²⁴ A Lord remarked during the accession negotiations: "You do not haggle over the subscription when you are invited into a lifeboat!"

Kingdom, Norway, Ireland and Denmark had also applied for EEC membership. Taken together, these four countries controlled 80% of fish stocks in the North Sea, the Irish Sea and the Northern Atlantic. On the eve of the day that these four formally submitted their applications, the EEC Six had agreed on the principles of a Common Fisheries Policy (CFP), which defined all fish stocks as a common EEC resource open to exploitation to all members on a non-discriminatory basis. This blatantly upped the ante for the supplicants who were to open up one of their national assets for common exploitation. In Norway, this created such an outcry that the referendum on EEC membership resulted in a resounding 'No'.²⁵

The United Kingdom finally became a member of the EEC on 1 January 1973. To celebrate this day, the Union Jack was hoisted for the first time in front of the Council building in Brussels. Unfortunately, it was upside down. Was this a bad omen?

1.5 The First Referendum (1975)

The people's voice is odd It is, and is not, the voice of God Alexander Pope

The public mood in the United Kingdom was far from enthusiastic. Many prominent politicians, both Conservative and Labour, denounced EEC membership as a humiliation, a capitulation of their country before a group of other European countries it had helped to liberate from fascism 25 years earlier at enormous costs to itself.²⁶ Had the United Kingdom not ruled half the world through the Empire and the Commonwealth? And now it had been dictated to by European countries that it had defeated a generation ago.

²⁵ Norway held a referendum on 24/25 September 1972. The turnout was 79.2%: 53.5% voted No and refused EEC membership (quotum 43%). Norway had been repulsed twice before together with the United Kingdom (1962 and 1967). After the fall of the Iron Curtain, Norway made another attempt to join the EEC, this time together with Sweden, Finland and Austria. In another referendum held on 28 November 1994, 52.2% of voters again rejected this proposal (turnout 88.8%; quotum of No-votes 46.4%). Two factors were presumably responsible for this negative vote: the controversial record of the CFP, which could put at risk some traditional fishing communities on Norway's Atlantic coast, and the high revenue accruing from oil and gas production which would have translated into exorbitant Norwegian contributions to the EEC budget.

²⁶Some revealing comments made by some prominent people in those days can be found in Fintan O'Toole: *Heroic Failure*, London Head of Zeus (2018), pp. 10–18.

Among those who fought tooth and nail against the EEC, there emerged two protagonists: the Tory Enoch Powell and Tony Benn,²⁷ the most prominent left-wing influencer in the Labour party. In Parliamentary debates before accession, both had counselled MPs not to take an irrevocable decision that would undermine the sovereignty of Parliament and turn the United Kingdom into a province of a centralised Europe:

"The House of Commons is at this moment being asked to agree to the renunciation of its own independence and supreme authority. The House of Commons is the personification of the people of Britain: its independence is synonymous with their independence; its supremacy is synonymous with their self-government and freedom. Through the centuries Britain has created the House of Commons and the House of Commons has moulded Britain. Let no one therefore allow himself to suppose that the life-and-death decision of the House of Commons is some private affair of some privileged institution. It is the life-and-death decision of Britain itself, as a free, independent and self-governing nation. Do not be deceived. With other weapons and in other ways the contention is as surely about the future of Britain's nationhood as were the combats which raged in the skies over southern England in the autumn of 1940. What we are asked for would be an irrevocable decision gradually to part with the sovereignty of this House and to commit ourselves to the merger of this nation and its destinies with the rest of the Community. Anyone who votes for these proposals casts his vote against the vital principle by which this House exists" [13].

Benn took a similar line of argument. He warned:

"Continued membership of the Community would, therefore, mean the end of Britain as a completely self-governing nation and of our democratically elected parliament as the supreme law-making body of the United Kingdom" [14].

²⁷Tony Benn was born Anthony Wedgwood Benn, Viscount Stansgate. Benn had renounced all claims to inherited titles in 1953 in order to continue his political career in the House of Commons. Benn occupied various posts as cabinet member (Technology, Industry, Energy). He was in practically all points an implacable opponent of Enoch Powell. Their opposition to EEC membership joined them, however, in a common fight. Powell was a national-conservative Tory, a gnarling, outspoken and controversial radical. He served as Minister of Health from 1960 to 1963. After Britain joined the EEC, he left the Conservative Party and supported the Ulster Unionists. In 1974, he publicly exhorted voters to vote Labour in order to reverse EEC membership. Despite his eccentric views and his even more eccentric manners he enjoyed strong support. In some ways, he was not unlike Jacob Rees-Mogg, who rose to prominence in the ranks of the Conservatives after 2016. Powell and Benn were on opposite extremes of the political spectrum but when it came to the EEC, they were singing from the same page.

These comments could easily be taken from the debates in the spring of 2016. Powell was also the prophet who first raised his grumbling voice against uncontrolled migration and who denounced a looming flood of immigration.²⁸

Labour ousted the Conservatives, and Harold Wilson succeeded Edward Heath as Prime Minister on 4 March 1974. His was a minority government, and he went for a snap election in the same year (10 October 1974), which gave him a tenuous majority. Both traditional parties were deeply divided over Europe. Wilson had never been a convinced pro-European.²⁹ For him, and for most of the Trades Union Congress, Brussels was synonymous with a gigantic knot of red tape. It meant domination of the bankers and the big bosses, who were in cahoots with big business and international corporations in order to roll back workers' rights and to bring in cheap imports produced in developing countries for a pittance. A recent Labour party conference had revealed that 80% of registered party members disapproved of EEC membership. When Parliament voted on the accession treaty, only 69 Labour MPs voted Yes with the Conservatives. Their leader was Roy Jenkins. 30 This helped the government win the day, but it showed how deeply Labour was torn. Many Tories had only followed Heath with fists clenched and subdued gritting of teeth. In this case, unity of the party appeared to them more important than their misgivings about Europe. This tactical consideration was to reappear later. Consent in a single vote did not mean sustained approval. As time progressed, more and more Tories refused to knuckle under party discipline and asserted their dissent over Europe. Margaret Thatcher herself campaigned for EEC membership in those days.³¹ But even her example could not reconcile national-conservative Englanders in her party to wholeheartedly accept EEC membership.

²⁸ Enoch Powell gave a speech in Birmingham on 20 April 1968 that instantly became notorious as his 'rivers of blood speech'. In it, he warned against a rising tide of immigrants. (https://www.telegraph.co. uk/comment/3643823/Enoch-Powells-Rivers-of-Blood-speech.html, 23 March 2018).

²⁹ His wife Mary later admitted that she had voted against EEC membership.

³⁰ Roy Jenkins later became the first and only British President of the Commission in Brussels.

³¹ Margaret Thatcher had campaigned for a Yes vote for the accession treaty in Parliament. In February 1975, she appeared together with Edward Heath (who she had just unseated as leader of the Tories) in a pro-EEC campaign. On this occasion, she said: "[Reasons] for Britain staying in the Community: First, the Community gives us peace and security in a free society, the peace and security denied to the past two generations. Second, the Community gives us access to secure sources of food supplies, and this is vital to us, a country which has to import half of what we need. Third, the Community does more trade and gives more aid than any other group in the world. Fourth, the Community gives us the opportunity to represent the Commonwealth in Europe, a Commonwealth which wants us to stay in and has said so, and the Community wants us to stay in and has shown it to be so." (Vernon Bogdanor: Lecture Gresham College 15 April 2014: The Referendum on Europe 1975; http://www.gresham.ac.uk/lectures-and-events/the-referendum-on-europe-1975, 21 March 2018).

France had held a referendum on 23 April 1972 that gave the people a voice about whether to welcome new members into the EU.³² In order to accelerate a solution for the seemingly insoluble Troubles in Northern Ireland, the Conservative Heath government had held a referendum in Northern Ireland on 8 March 1973. In it, the people of Northern Ireland voted on the future of their region: 58.7% participated, and of these 98.9% voted to stay in the United Kingdom. It was the first referendum in British history—in many senses an innovation that did not fit into the accepted framework of the British Constitution. The referendum helped to calm the tense situation after Bloody Sunday (30 January 1972) but it set a dangerous and lasting precedent in constitutional history. Eventually, the use of referenda would unsettle the traditional balance of power between the constitutional bodies within the United Kingdom. It ran counter to the accepted doctrine according to which sovereignty was completely and exclusively in the hands of Parliament in Westminster, or rather of the Crown in Parliament. It was like a dam had burst and opened the sluices for elements of plebiscites within the strictly representative Westminster democracy. Referenda offered themselves as a convenient way out in questions where Parliament was unable to give definite answers because there was no majority for such answers. The implication was that Parliament had surrendered some of its most important decision-making powers to the volatile and unpredictable verdicts of the people. It abdicated its responsibilities and delegated them to the voters. Instead of leading on the most important political questions and preparing legitimate answers, in referenda Parliament abdicated its responsibilities and followed the lead of the voters.

These two referenda had prepared the public for the strategy that Wilson was planning. Until then a referendum had been regarded as alien to the British constitution. In fact, it was difficult to reconcile with the dominant theory of unfettered parliamentary sovereignty. If Parliament embodies the highest—practically absolutist—state power, why ask the people? They can express their preferences in elections. Accordingly, any referendum could only advise Parliament. It could bind neither government nor Parliament. Wilson did not intend to empower the people against Parliament. He wanted to empower the people against his own party. He wanted to silence the radical wing demanding withdrawal from the EEC by a crushing defeat in a people's vote. He announced that he would renegotiate the conditions of EEC membership, and he would then submit the result of these renegotiations to a public vote in a referendum. Until then, he had been on record as a staunch

³²A total of 60.5% turned out to vote, 68.3% voted Yes. The quotum of Yes-votes was 41.3%.

opponent of referenda. But now he saw a tactical advantage in accommodating pressure from Tony Benn, who was convinced a people's decision would be the epitome of democratic legitimacy. Wilson hoped a decision of the people would be incontrovertible and would heal the rift within his own party. He not only believed a referendum could put a definite stop to all further debates about EU membership. He also hoped that he could derive increased authority and popularity from such a vote. He could present himself as a selfless servant of the people, submitting to the instructions of the voters. He knew that this would be a decision the consequences of which would reverberate for decades, if not generations. It may also have been a convenient way for him to shift historical responsibility for this decision away from himself, from his government, and from his party.

Leaving the EEC was the demand of a group of prominent politicians from across all political currents: Tony Benn, Michael Foot (later to become Labour leader), Enoch Powell, Ian Paisley (a fervent Unionist from Belfast) and the Scottish National Party. Remaining in the EEC was supported by the entire leadership of the Conservatives, roughly half the Labour Cabinet, and the Liberals. It was the first time that Cabinet members took opposite sides and fought each other publicly. This was the second dangerous precedent. Until then, one of the fundamental conventions of British government had been the seamless unity of the Cabinet. The Cabinet was collectively responsible for executive decisions. It had to publicly support one uniform line, and anyone deviating from this line would have to reconsider their position. But Wilson allowed his Cabinet colleagues to follow their individual conscience, even if that meant that they would oppose his line. Forty years later, this proved disastrous for David Cameron, who was pressured by his Cabinet colleagues citing this precedent to make the same concession in 2016. Wilson found himself confronted by a powerful phalanx from within his own party that eventually prevailed against their own party leader. Almost all national newspapers, including the Daily Mail, The Daily Telegraph, and the Daily Express were in favour of remaining in the EEC in 1975—as were all bishops of the Church of England. Those fighting for a No were few, and they lacked effective public support.

Renegotiations were concluded on 11 March 1975. The resulting language was anodyne—largely phraseology containing little substance, a superficial remake with no substantial changes. Wilson returned home triumphantly. The House of Commons voted 396–170 in support of continued EEC membership under these revised conditions on 9 April 1975, putting the ultimate seal of approval on this question according to traditional constitutional doctrine. Wilson, however, wanted the additional legitimisation through a

referendum in order to pacify his own party and to silence the strident voices against EEC membership. He pushed for the referendum not so much out of democratic concern but for reasons of party management—a motive that was to reappear in 2016. He wanted to bring the radical anti-EEC wing back into the fold. Tony Benn, the firebrand leader of this wing, was supported at that time by a young assistant. His name was Jeremy Corbyn.

The referendum on 5 June 1975 yielded a two-thirds majority for Remain.³³ Only the Shetland Isles and the Hebrides voted No. It was a resounding vindication of the risk Wilson had run. He had scored a tactical victory. The radical left wing was happy because there had been recourse to the democratic grass roots. The right wing of his party was happy about the result and did not care how it had come about. But he had opened Pandora's box. A referendum now became the sword of Damocles hanging above every important decision of Parliament with constitutional implications. And the rift in his party was papered over, not healed. The problem of Britain's place in Europe had been successfully juggled away, but it only appeared to be dead. After a few years, it would undergo a perilous resurrection. And as a revenant, it proved more toxic than ever before.

Enoch Powell resigned, but warned prophetically and with uncanny clairvoyance:

"The country for which people live and die is obsolete and we have abolished it. Or not quite yet. The referendum is not a 'verdict' after which the prisoner is hanged forthwith. It is no more than provisional. This will be so as long as Parliament can alter or undo whatever that or any other Parliament has done. Hence those golden words in the Government's Referendum pamphlet: 'Our continued membership would depend on the continuing assent of Parliament'" [15–17].

Tony Benn's reaction revealed the strong nationalist undercurrent of the No-campaign. For him, EEC membership shared identity-destroying characteristics with other innovations of the time. He wrote in his diary after the referendum: "Like metrication and decimalisation, this really strikes at our national identity" [18].

Was the referendum of 1975 proof that Britain had found its place in the EEC, that EU-sceptics were reduced to an insignificant minority? It is probably one of the most consequential errors in British and EU history to assume that Harold Wilson and his government were driven by the wish to discover the view British people held about EU membership and that the overwhelm-

³³ 64.64% of those eligible to vote participated. Of those, 67.23% voted Yes, a quotum of 43.44%.

ing majority for Remain in 1975 was irrevocable and decisive proof that these views were positive. Nothing could have been further from the truth. Wilson had engineered the referendum in order to prevent a split of his party and a majority of British people remained sceptical, if not hostile, to the idea of EEC membership. Early in 1975, six months before the referendum, polls showed that 57% of voters preferred Leave. Wilson adroitly managed to turn that into a momentary 67% lead for Remain. Further polls revealed that a third of those voting for Remain believed that entry into the EEC had been the wrong decision in the first place, but now it was too late to change the course of history. Some 53% believed that voting No would trigger an immediate political and economic crisis. Voting was more dictated by resignation and fear than by conviction or enthusiasm.

The fundamental difference between the referendum of 1975 and that of 2016 was timing. The referendum of 1975 was held after the event. It had the character of an acclamatory plebiscite of a fait accompli: EU membership was a political reality. All historical experience shows that people are inclined to confirm the status quo. The 2016 referendum was a decisionistic, voluntaristic referendum. Had the question again simply been 'Do you think the United Kingdom should stay in the European Community?' the answer would probably have been positive. By introducing a second question, it combined a plebiscite on the EU with a second option that was fuzzy, vague and open to widely diverging interpretations. Leaving the EU was less the problem than defining what should follow once that membership had ceased. All those voting Leave in 2016 had completely different—mostly even incompatible ideas of what doors to open after the door to the EU had been slammed shut. If joining the EEC was such an important issue that it had to be decided in a referendum, surely the correct sequencing of events would have demanded to hold the referendum before joining, i.e. some time in 1972. Under these circumstances, the result would most probably have been massively different. The 1975 referendum was held after the House of Commons had passed a clear and decisive vote in favour of EEC membership.³⁴ The referendum of 2016 was held without guidance from Parliament. A return to the status quo ante was a realistic option after two years of membership in 1975. It was no option in 2016 after 43 years of membership. Cameron was seriously misguided when he hoped that he could simply repeat Wilson's feat of 1975. The conditions were too different.

³⁴ The House of Commons approved the results of Wilson's renegotiations on 9 April 1975 by 396:170 votes. Only after this vote was legislation passed to enable the holding of a referendum.

1.6 Bruges (1988)

I want my money back! No, no, no! Margaret Thatcher

The lady doth protest too much, methinks William Shakespeare

Margaret Thatcher became Prime Minister in 1979. She adopted a tougher attitude towards Brussels and was prepared to block decisions until she got what she wanted.³⁵ The Council at Fontainebleau conceded the UK a substantial rebate on its contributions to the EEC budget on 15 June 1984. Thatcher had pointed out that British farms were much more productive than those on the continent and that her country received significantly less subsidies under the CAP. The United Kingdom also imported more foodstuffs on which it had to pay high import tariffs directly into the EEC budget. At that time, the United Kingdom counted among the poorer states in the EEC. It had fallen behind Italy. Unemployment stood at 12%. It had the highest proportion of citizens living in poverty.

The legendary demand: "I want my money back!" was not without foundation.³⁶ Thatcher was not blind to the many advantages of EEC membership. She was a protagonist for the Single Market as it corresponded to her deep convictions of free trade. In order to get there, she was ready to make concessions on other questions—among them four that turned out to have problematic consequences. Firstly, she consented to the first direct elections for the European Parliament. Secondly, she accepted in principle plans for monetary union. Thirdly, she consented to Britain entering the European Exchange Rate Mechanism (ERM) on 22 November 1990, which proved to be the direct cause of Black Wednesday two years later.³⁷ And finally, she gave up the

³⁵ She had probably taken a leaf out of French diplomacy, which had successfully paralysed all decision-making in Brussels by its policy of the 'empty chair'. Thatcher vetoed a number of decisions.

³⁶The wording is revealing. Without much reflection, Thatcher demanded *her* money back just as if payments and flow-backs had to balance. It never crossed her mind that she could not demand a *juste retour* on her contributions just as taxpayers cannot demand to receive services and goods in return that are equivalent to their taxes. But Thatcher's words reverberated, and left an indelible stamp on the thoughts of her compatriots. It later formed the basis of the slogan of Vote Leave to rededicate the £350 million allegedly squandered weekly on EU contributions to the needs of the ailing NHS.

³⁷Thatcher came under almost unanimous pressure from her cabinet colleagues—most prominently among them her then Chancellor of the Exchequer, Nigel Lawson—to align the pound with the ERM, and thereby with the deutschmark. Lawson resigned in order to increase pressure on the Prime Minister. John Major, who was to succeed her within months, pushed in the same direction. The United Kingdom joined the ERM on 9 October 1990, although at an unsustainable exchange rate. It is an irony of history

national veto by agreeing to the Single European Act in 1986. This Act paved the way for the completion of the Single Market. It was an aim to which Thatcher was resolutely committed. She had pursued radical liberalisation of the economy at home, and now she wanted to liberalise trade on a European scale. She saw—quite rightly, as it turned out—enormous opportunities for the liberalised British service industry that had sprung up after the Big Bang. Focussed on this high aim, maybe she lost sight of the treacherous traps contained in this Treaty. For majority voting in the Council in conjunction with a dynamic expansion of EU jurisdiction gradually brought the United Kingdom into a position in which it was outvoted and simply had to put up with decisions of which it seriously disapproved. With hindsight, Thatcher appears almost a tragic figure. She was the great protagonist of the Single Market, which thirty years later became the fulcrum of her devotees' EU scepticism. In order to accomplish the Single Market, she was prepared to accept majority voting. This pushed her country into growing isolation and robbed it of the chance to shape decisions in Brussels according to its own ideas.

On the whole, Britain's EEC role under Thatcher was anything but destructive. Thatcher had campaigned vigorously for her country to join the EEC and had campaigned for a Yes vote with equal commitment in the referendum of 1975. She may have slowed down developments, but in some key decisions she took positions favourable to integration. Her uncompromising insistence on the rebate, and her subsequent strident denunciations of Jacques Delors and what she regarded as his 'socialist instincts', has overshadowed the fact that she did not fundamentally oppose the EEC and the UK's membership of the EEC. She only assumed a more critical attitude much later, after she had been chased out of office. She then began to take pleasure in making life difficult for her successors and to foster anti-EU initiatives from within her party. She refrained from asking for exceptions and special provisions. That only became fashionable under her successors. Her strident voice, her ruthless egotism and her claim to ideological infallibility have confirmed the impression of the United Kingdom as a particularly difficult and narrow-minded partner. Since Thatcher, the United Kingdom has slipped into the role of the maverick, the chronic grumbler from the sidelines. Instead of trying to put itself at the head of the movement and giving it direction and meaning, the United Kingdom preferred to try to catch up from behind and to moan that the others did not take its particular wishes into account. British diplomacy proved strangely inept in preparing packages, forging informal alliances and secret understandings with partners in order to emerge at the head of a winning

that Nigel Lawson, who in 1990 was such an ardent proponent of joining the ERM and European integration, has become one of the most vociferous and radical Leavers.

coalition and to shape events. It failed to adapt its own agenda to those of a sufficient number of partners by taking some of their concerns on board and dropping some of its own demands where they might be offensive to these partners. British governments preferred to delay, to water down, to refuse and to insist on national exceptions. They did not realise that such exceptions had two deleterious effects. Firstly, the United Kingdom was pushing itself into growing isolation: it was losing influence, and in the end each exception reconfirmed the validity of the rule as the general norm. Each 'opt-out' only served to underline that the default position was 'in'. Secondly, the British special position gradually became a marginal position. The United Kingdom was increasingly outvoted, then turned back and demanded a national exception. It could neither stop nor slow down a movement of which it disapproved. Instead, it distanced itself from that movement and increasingly lost touch with the other EU members.

The idea that Thatcher was anti-EEC goes back to her famous speech in Bruges. The words she spoke there on 18 September 1988 have become something of a holy gospel for Leavers in her country. A year after her speech, a group of politicians opposed to centralising tendencies within the EU—many of whom actively fought for a national withdrawal from the EU—set up a common institutional framework and called it The Bruges Group.

Thatcher herself never uttered words during her years in office that could be construed as implying a desire to leave the EEC. She was adamant, however, about reforms and corrections. She disliked communitisation and wanted to give more powers back to national authorities. She preferred intergovernmental cooperation instead of centrally administered regulations and directives. She fought for the Single Market. But she did not mince her words about the general direction of the EEC:

"The European Community must reflect the traditions and aspirations of all its members. Britain does not dream of some cosy, isolated existence on the fringes of the European Community. Our destiny is in Europe, as part of the Community. The Community is not an end in itself. The European Community is a practical means by which Europe can ensure the future prosperity and security of its people. Willing and active co-operation between independent sovereign states is the best way to build a successful European Community. To try to suppress nationhood and concentrate power at the centre of a European conglomerate would be highly damaging. We have not successfully rolled back the frontiers of the state in Britain, only to see them reimposed at a European level with a European super-state exercising a new dominance from Brussels" [19].

On 30 October 1990, she repeated her criticism with an abrasive stridency:

"Mr. Delors said at a press conference the other day that he wanted the European Parliament to be the democratic body of the Community, he wanted the Commission to be the Executive and he wanted the Council of Ministers to be the Senate. No. No. No" [20].

Thatcher was the first British politician to finally stumble over the contradictions of European policy. Ever since, the Conservative party has not found its way back to a consolidated position on Europe.

1.7 Black Wednesday and EU Romance Under Major and Blair (1992–2005)

The course of true love never did run smooth William Shakespeare

John Major succeeded Margaret Thatcher as leader of the Conservatives and Prime Minister on 28 November 1990. One of his favourite phrases was that Britain should stop shouting from the sidelines; it should join the fray and come down to the playing field.³⁸ He had assured his party: "*I want to place Britain at the heart of Europe!*" [21] He was in favour of the Maastricht Treaty, but made sure that internal security did not become a Community matter. He also stopped references to European federalism.³⁹ He insisted on exceptions in social policy and pushed for opt-outs in the future common currency. He boasted that he had 'won game, set and match' for his country.

³⁸ Another famous quote concerning Europe was: "I want Britain to punch its weight in the European Community." (https://www.brainyquote.com/quotes/john_major_464688, 19 January 2019).

³⁹ Major fumed when he learned that Chancellor Kohl had proclaimed on 3 April 1992: "In Maastricht we have laid the foundations for the completion of the European Union. This Treaty opens a new, decisive phase in the unification of Europe. In a few years we will have achieved what the founding fathers of modern Europe dreamed of: The United States of Europe!" (His original German text was as follows: "In Maastricht haben wir den Grundstein für die Vollendung der Europäischen Union gelegt. Der Vertrag über die Europäische Union leitet eine neue, entscheidende Etappe des Europäischen Einigungswerks ein, die in wenigen Jahren dazu führen wird, was die Gründungsväter des modernen Europa erträumt haben: Die Vereinigten Staaten von Europa.") Such language added fuel to the fire of all those who had misgivings about European federalism. If the United Kingdom had a reputation for headstrong egotism in Brussels, it is equally true that both Germany and France showed little understanding and less respect for British sensitivities.

He was in for some ugly surprises in Parliament, however. About 50 EU-sceptics⁴⁰ voted against their own government on 22 June 1993 in Parliament and let ratification of the Maastricht Treaty fall through. They were dubbed the Maastricht rebels. As such they became the ancestors and scouts for all subsequent EU-sceptic Tories. The following day, Major brought the vote back to Parliament, combining it with a vote of confidence in his government. This time the Treaty was ratified—largely because Labour refrained from voting. Had Labour taken its role as opposition seriously and voted against the government, ratification would have failed a second time. Major's authority had suffered a severe dent, and obstruction of his European agenda from within his own party proved persistent and irritating. One year later, James Goldsmith, a billionaire supporter of the Conservatives, set up the Referendum party. The one and only political aim of this party was to force a new referendum on EU membership. It dissolved after his death in 1997, although many of its members later formed the hard core of UKIP. Major's predecessor, now Baroness Thatcher, never tired of demanding such a new referendum because 'Maastricht had been a treaty too far'. In her first intervention in the House of Lords, she publicly declared that she would make every effort to halt Maastricht ratification.

The call for another referendum was reinforced by experiences in other countries. France, Ireland and Denmark submitted the Maastricht Treaty to referenda in their countries. The results were a massive confirmation in Ireland, wafer-thin support in France and outright rejection in Denmark.⁴¹ If other EU Member States submitted the question of Treaty change to a referendum, why should the people of the United Kingdom be denied such an opportunity?

Meanwhile, Major had to put up with another heavy blow. On 16 September 1992—Black Wednesday—he was forced to take the UK out of the ERM. Until noon of that day, his government had steadfastly confirmed

⁴⁰ The term *eurosceptic* is commonly used in the UK. However, it is misleading. It implies either criticism directed against monetary union or it implies scepticism towards the principle idea and the entire project of European integration. The first is too narrow, the second too wide. Therefore it should be termed EU-scepticism to convey the exact nature of this scepticism.

⁴¹The referendum in Ireland was held on 18 June 1992. The result was a clear majority of 69.1% for Maastricht (turnout 57.3%, quotum 39.5%). President Mitterrand had the French people vote on 20 September 1992. He received an approval rate of 51% (turnout 59.7%, quotum of approval 35.5%). In Denmark, 50.7% of voters rejected the Treaty on 2 June 1992 (turnout 83.1%, quotum of negative votes: 42.1%). Denmark then negotiated several national opt-outs concerning a common currency and defence, and the Treaty thus modified received a Yes-vote of 56.7% Yes (turnout 86.5%, quotum 49%) on 18 May 1993.

unwavering support for the national currency, 'whatever the costs'. ⁴² But the situation grew tumultuous. Interest rates shot up to 12%, the Bank of England announced further rises to 15%, and the economy was in danger of imminent collapse. At 7pm, Chancellor Lamont announced a return to freely floating exchange rates. George Soros had speculated against the pound and was £3.4 billion richer. British taxpayers were poorer by the same amount. The pound had lost almost 20% of its external value, the Conservative party plummeted 14% in opinion polls. Some argued it was a humiliation, a stab in the back. Some blamed the rigidity of EU partners who had not shown sufficient consideration for the British financial plight. This view was reinforced as the EU enlarged the margins of fluctuation of European currencies from 6% to 15% a few months later. ⁴³ When Norman Lamont left his office later that night, despondent and angry, he was accompanied by one of his young assistants, whose name was David Cameron.

Black Wednesday left deep scars in British memories that continue to smart today. It has coloured the national perception of what a common currency might do to your economy and to your finances. Ever since, there has been a dread of rigid exchange rates and the constraints inherent in a supranational currency. The turbulences of the Eurozone—triggered by Greece and then Ireland, Portugal, Spain and finally Italy—were taken as proof that sound national finances required a national central bank. A unified central bank for an economic space that was as heterogeneous as the EU would never work. Britons were deeply disappointed about the lack of solidarity and understanding in times of a national emergency. The lesson was: you simply cannot rely on EU partners when in need and distress. Finally, many national-conservative 'Englanders' took the events of 1992 as proof that Germany had reverted to her old hegemonic ambitions and was in reality already running the EU. Was it a clever stratagem to conquer Europe in the disguise of the harmless institutions of the EU? Was this the benefit of having fought two deadly wars? Had the United Kingdom defeated Germany twice only to dance to the new financial tune from Berlin?44

⁴² The words chosen on that occasion ('at any cost') bear a striking similarity to the famous words of Mario Draghi on 26 July 2012 when he committed the ECB to do 'whatever it takes' to defend the euro.

⁴³Above all, it was Germany that prevented a softening of the rules of the ERM. Because of huge government expenditure for German unification, it had a vital interest in low interest rates and it was equally opposed to a revaluation of the deutschmark. If the margins of fluctuation had been widened earlier, Black Wednesday would not have assumed such catastrophic dimensions. Sooner or later the exchange rate of the pound would have had to be realigned. But it could have been done in a more controlled way.

⁴⁴Nicholas Ridley had denounced the EU as German domination in disguise in 1990 (The Spectator, 14 July 1990: http://fc95d419f4478b3b6e5f-3f71d0fe2b653c4f00f32175760e96e7.r87.cf1.rackcdn.com/

Many Britons whose political opinions became fixed in those days, voted against this Europe twenty-four years later. At the party conference in Brighton in 1992, Norman Tebbit—a former Chairman of the Conservative party and an ex-minister in Thatcher's Cabinet—asked his fellow party members:

"Do you want a single currency? Do you want the EU meddling in immigration controls, foreign policy, industrial policy, education and defence? Do you want to be citizens of a European Union?" [22, 23]

To each of these questions, he received a resounding, thunderous response of 'No' from the conference floor. As the next general election moved closer, some 200 Conservative candidates declared that they would vote against Britain joining the common currency. John Major made a last effort to win them over by promising a referendum on this question after the election. But it was of no avail. He lost the election, his party suffering its worst defeat in history.

Labour won the second largest majority in the House of Commons in history. The youthful Tony Blair succeeded the unloved, grey John Major. Two years before, Blair had mocked Major when he taunted: "I lead my party. He follows his!" [24] Labour had kept a low profile about Europe. Blair confessed he wanted to anchor his country firmly in the European institutions, preferably at the head. In 1995, he had declared:

"The drift towards isolation in Europe must stop and be replaced by a policy of constructive engagement [25]. If there are further steps to integration, then we have been the first to say the people should give their consent at a general election or in a referendum, but Europe is a vital part of our national interest. To be sidelined without influence is not a betrayal of Europe, it is a betrayal of Britain. I warn this country, there is now a growing part of the Conservative Party that would take Britain out of Europe altogether and that would be a disaster for jobs and business. This country should be leading in Europe and under Labour it will lead in Europe" [26].

Blair was committed to enlarging the EU and reforming it at the same time. He was convinced that active participation and leading from the front was better than passively slowing down developments and retreating into a niche of growing isolation and irrelevance. At his party's 2001 conference, he announced:

ADF066927DB5403D9B70493E2B465BFE.pdf, 12 March 2018). This view reverberates until today. Many striking examples in Fintan O'Toole: *Heroic Failure*, London Head of Zeus (2018), pp. 47–62.

"For fifty years, Britain has, uncharacteristically, followed not led in Europe. At each and every step. Britain needs its voice strong in Europe and bluntly Europe needs a strong Britain, rock solid in our alliance with the USA, yet determined to play its full part in shaping Europe's destiny. Europe is not a threat to Britain. Europe is an opportunity" [27].

The problem of Europe had now become a Labour problem. Blair signed the treaties of Amsterdam and Nice, and he gave effect to the Social Protocol of the Maastricht Treaty. He introduced a minimum wage and implemented the Commission's Working Time Directive in the UK. He incorporated the principles of the ECHR into English law in the groundbreaking Human Rights Act 1998—thereby further weakening the traditional absolutist powers of Parliament. In 1999, he announced his intention for the UK to join the Eurozone—not immediately, but later. Formally he had the support of his Chancellor of the Exchequer, Gordon Brown, but Brown raised some economic preconditions that had to be fulfilled before such a step could be undertaken. These preconditions were formulated in a way that effectively constituted a permanent veto. Blair also noted that he could not count on a majority in Parliament to follow him in this commitment.

Tony Blair had to confront three major obstacles: The media, the EU constitutional draft treaty and migration. What finally forced him to abandon all ambitions of moving closer to the EU was the media. Rupert Murdoch and Lord Rothermere, the newspaper barons who controlled The Times, The Sun, Sky News, the News of the World and the Daily Mail, left no doubt that they were firmly resolved to put all their resources behind efforts to stop any further British alignment with the EU. Thirty years after the 1975 referendum, the British media had repositioned themselves. No newspaper or television channel displayed any unconditional sympathy for the EU. Even The Economist waged a spirited battle against the euro. 45 Other papers, particularly the tabloids, jumped on any news that could shed a negative light on Brussels or leave the EU bureaucracy looking ridiculous, inept and corrupt. A foreign correspondent wrote a regular column in The Daily Telegraph and with great gusto picked on any absurdity—exaggerating and frequently simply inventing grotesque stories. His name was Boris Johnson. When Tony Blair resigned in 2007, a pronouncedly negative reporting about EU matters dominated in British media. It was not only the EU itself that came under relentless criticism. Member States were also directly excoriated, especially Germany. It became fashionable to use Nazi symbols in order to caricature German politi-

⁴⁵ The Economist argued in an almost prophetic way. The massive crisis of public debt was not foreseeable then but the Economist pointed to the probability, even inevitability of such developments.

cians. The editorial line, which most of the media were to pursue in the campaign before the 2016 referendum, was already evident ten years earlier.

The second front where Tony Blair had to fight was the EU Draft Constitution. The Nice summit of 2000 had resulted in a treaty that nobody was happy with. As a response to this unsatisfactory situation, the EU decided on a 'great leap forward'. All treaties and agreements on which the mongrel structure of the EU rested should be fused into one single comprehensive and systematic treaty. This treaty was to become the foundation of a political union. It would give definite shape to the EU and make it a legal entity. It was a most ambitious project. A European convention, tasked with working out a European constitution, was convened with well over a hundred members. In the eyes of the conveners, this convention was to be the equivalent of the Philadelphia Convention that laid down the Constitution for the United States of America in 1787. One of the representatives of the United Kingdom was Gisela Stuart, a German-born Labour MP, who later was to become one of the faces of the Vote Leave campaign. She considered this constitutional project of the EU to be unrealistic, presumptuous and detached from the people. She resented it as an expression of a dogmatic ideology that was to be thrust down the throat of the population of Europe.

The *Treaty Establishing a Constitution for Europe* was signed in 2004. On the eve of the general election of 2005, Blair promised a referendum before Parliament was to ratify this treaty. But after people in France and in the Netherlands had thrown out the treaty in national referenda, the whole ratification process was interrupted. A less ambitious treaty, the Treaty of Lisbon, replaced the ambitious constitutional treaty. Except for a few high-sounding phrases and far-reaching commitments about political union, the Lisbon Treaty was a verbatim copy of the constitutional treaty. Blair's successor as Prime Minister, Gordon Brown, signed the Lisbon Treaty and had it ratified by Parliament in 2007. Brown argued that there was no need for a referendum since Tony Blair's promise had referred to the constitutional treaty, and the Treaty of Lisbon was a different treaty. There was no need to honour a promise made for a defunct project. This was somewhat finicky, for the Lisbon Treaty incorporated more than 95% of the substance of the constitutional treaty.

Tony Blair disastrously underestimated the dimensions of the third problem. In 2004, ten Eastern European countries joined the EU.⁴⁶ Three years later, Romania and Bulgaria followed. These countries had well over one hundred million citizens, and living standards were far below those in Western Europe. Economic output, productivity and welfare were minimal, and the rule of law had begun to take root but remained shaky in many of these coun-

⁴⁶Three Baltic states, Poland, the Czech Republic, Slovakia, Hungary, Slovenia, Malta and Cyprus.

tries. Most continental EU members therefore made use of the option to impose a transition period of several years before granting unrestricted freedom of movement to citizens of these new Member States. Blair seriously misjudged the migratory pressure that could result from this situation. He calculated that a couple of thousand migrants might eventually come to the United Kingdom. But from 2004 to 2010, more than three million flocked to the UK—there had never been a similar influx of foreigners onto the British Isles in its entire history, and most of them stayed.

Immigration had become an emotionally loaded and sticky topic, after an increasing number of migrants from the Caribbean, the Indian subcontinent and from Kenya sought a new future in the UK. Enoch Powell had picked up the subject in somewhat pathetic, almost apocalyptic words [28]. He burned his fingers and ruined his career with those words. But behind closed doors many of his fellow party members agreed with him. Migration became a toxic topic not to be openly discussed in public, for it was interwoven with charges of racism. In 2000, there were about four million foreign-born people living in the UK—or more precisely in England, as very few foreigners made their way to Scotland, Wales or Northern Ireland. All governments insisted that migrants made a positive contribution to the wellbeing of the country, that migrants were not parasites. But growing numbers of residents put increasing pressure on the social infrastructure. Hospitals, transport, schools, kindergartens, and sport facilities had to cope with skyrocketing demand. Immigrants pushed down wages, since most of them were prepared to work for a pittance and made no great fuss about working conditions (because they were used to even worse where they came from). Many worked on the black market, sometimes in jobs in grey areas. This was a red rag for the trade unions. Why had they fought for more than a century for acceptable working conditions if now interlopers from afar were undercutting everything they had achieved? Immigration had completely different effects in different parts of the country. In London and in other cities, immigrants were welcome as cheap labour. They were employed as nannies, nurses, domestic help, cleaners, bus and train drivers. They were needed as builders, watchmen, security guards and in refuse collection—in short, jobs that few Britons were prepared to do. In rural areas and in areas that still suffered from structural changes and economic depression, immigration had the opposite effect. In the countryside, people saw their traditional way of life come under threat: the pub, Sunday church, traditional rites and the tight-knit local community were competing with the shisha place, the mosque and exotic and exclusive clannishness. Immigrants pushed up rents and pushed down wages in depressed areas. Entire districts changed their cultural identity. Migrants may have had an overall positive effect on the country as a whole, but these effects, if broken down, diverged

widely across various regions. The costs and benefits of migration were distributed unevenly. The lower your social status, the more precarious your employment and your professional qualifications, the more likely it was that you would resent immigration as a threat. The more you lived in a small, protected community with centuries-old traditions and established patterns of interaction, the more likely it was that you would be irritated by people who did not care for all that. In depressed areas, immigration added to the depression; in flourishing areas, immigration accelerated growth and wellbeing.

1.8 Shifting Public Opinion in the United Kingdom from 2010

Sweet hope turned sour rancour

Gordon Brown lost the general election of 2010. The Conservatives and Liberal Democrats together received more than two times more votes than Labour, but no party had an absolute majority. It was a hung Parliament. David Cameron formed a coalition government with the Liberal Democrats and Nick Clegg became Deputy Prime Minister. After that date, pressure was constantly building up against EU membership. This pressure led directly to Cameron's Bloomberg speech in 2013 and to the 2016 referendum. What triggered this swing in public opinion? What lent the camp of EU critics so much credence, what made EU bashing so fashionable, and what was it that made EU membership so intolerable? How could a topic that ranked tenth in most opinion polls suddenly surge to dominate the national agenda for years? All at once, the whole future of the country and its identity seemed at stake. In actual fact, EU membership had very little direct effect on the everyday lives of most Britons. What worried people most was housing, mortgages, rents, pensions, the NHS, wages, public transport, and professional qualifications—but the EU had very little, if any, direct influence on these things. Opinion polls conducted between 2010 and 2012 showed that EU membership languished in a very low position among the political priorities of average British voters. But suddenly being for or against the EU became an article of faith. Fabricated stories about red tape in Brussels that would be ludicrous under normal circumstances became the talk of the town and filled the front pages of the tabloids. What was it that moved the news cycle?

The vast majority of Britons understand little about the non-transparent procedures in Brussels, the vast undergrowth of committees and subcommittees, the eternal internal rivalries, the morbid jealousy between institutions

(and their heads), and the labyrinthine ways of lobbies and pressure groups. They have no idea about Trilogue or Comitology, about co-decision or silence procedures. Most opinion polls showed that they care little. The most urgent concerns of the British people were employment, wages, security from terrorism, and housing. The EU was not loved, but not hated either. There was a blithely condescending indifference about it. Most Britons accepted it as they accepted the weather or British Rail—something over which they had no real influence, something that had to be endured stoically. Most were EU agnostics. But there was an undercurrent of misgiving, suspicion and visceral dislike, as the EU stood for red tape and haughty civil servants far removed from contact with everyday reality. The EU appeared patronising, meddling, dogmatic, and levelling. This emotional attitude had developed over two generations that had been drip-fed with stories about EU absurdities. They had been inundated with stories about bureaucratic intrigues and pettifogging, narrowminded officials. Brussels came to embody the 'insolence of office, the oppressor's wrong, the proud man's contumely and the spurns that patient merit of the unworthy takes'. 47 From a British perspective, Brussels lacked common sense. Instead it was full of German pedants, obsessed with details and templates, and rigid French intellectuals who imposed uniformity and spread cold Cartesian coordinates on the lovely, confused reality of warm human relations.

But making such generalisations requires some geographic distinction within the United Kingdom. In Scotland, the SNP had campaigned against EEC membership in 1975. By 2014, it had turned into an ardent supporter of EU membership. Its political aim was an independent Scotland as an EU member in its own right. In Northern Ireland, peace and order had returned after the 1998 Good Friday Agreement. This Agreement made numerous references to EU membership and to the common regulatory framework that the EU provided. It did not legally require the contracting parties to be EU members, but it is fair to say that none of those negotiating this delicate and vulnerable treaty ever entertained the idea that this common framework could one day disappear. Brexit does not legally invalidate the Good Friday Agreement, but it takes away some of its notional anchoring. There need not be any border controls because both the Republic of Ireland and Northern Ireland (as a constituent part of the UK) participate in the Single Market. Northern Ireland functions chiefly because of massive financial transfers from London, from the USA and from the EU, with financial assistance from the EU accounting for the lion's share of these transfers. 48 Wales' geographic

⁴⁷ Shakespeare, *Hamlet*, Act III, Scene I.

⁴⁸ Financial transfers to Northern Ireland from the EU account for 8% of the GNP of Northern Ireland.

position on the far side of the continent means that it remained focussed on England and aped England's position.

In fact, the opposition to the EU originated chiefly in the Conservative party, and the Conservatives are a predominantly English party. It has no candidates of its own in Northern Ireland (although its official name is the Conservative and Unionist Party), it has rarely secured any constituency in Scotland, and in 2015 it won only a single seat there. In 2017, the Conservatives celebrated something of a revival, winning 13 out of 59 seats. Wales is traditionally Labour turf with a sprinkling of seats held by Plaid Cymru, the regional Welsh party with a social-democratic programme. To be precise, the Conservatives were and still are the party of rural England, of the Anglican High Church and of bankers and financiers. The party is seen as the guardian of English traditions and English social values.

British opponents of the Treaty of Maastricht had advanced four main arguments against the EU. Those arguments began to creep into public discourse and to dominate the news:

- The EU was pursuing an aim to which the United Kingdom could never subscribe: ever closer union between the peoples of Europe, culminating eventually in the United States of Europe—a gigantic *federal state*, in which today's national states would be but provinces. Most Britons did not accept this mediatisation of the national state. A particular thorn in their flesh was the idea that British courts had to apply laws that were made outside British institutions and that were not part of the Common Law tradition.
- The EU was *undemocratic* in their eyes. Unelected functionaries, responsible to nobody, ran the show. They thrived on bureaucratic interference in the traditional liberties of British people, and consistently jarred spanners into the well-oiled wheels of British business.
- They complained that the United Kingdom had to carry a disproportionately large burden of the common *budget*. It did not get a *juste retour*.
- Above all, they bristled that the EU had betrayed its original commitment to liberalism, competition and *free trade*. It was transforming itself into a scheming monster, intent on winning control over more and more aspects of the daily life of ordinary people. Eurocrats were about to turn into something like Plato's guardians —an elite class of individuals watching over ordinary people and treating free citizens as subjects in need of guidance. There was only one way to escape this gravitational pull: to break free from the orbit to which membership condemned their country.

Three further arguments were added after 2015:

- The EU stands accused of having done nothing to stop an uncontrolled flood of *immigration*. EU legislation was preventing the British government from taking effective measures against the rising tide of foreigners inundating the country.
- With its separate institutions and a much closer interdependence of its members, the *Eurozone* was bound further to marginalise those members that were not able to join or refused to do so. The UK was in danger of becoming an outsider, being bypassed in important decisions and faced with a *fait accompli* that might deeply and irreversibly affect the performance of its economy and its financial institutions. The members of the Eurozone might take decisions that could predetermine matters for the entire EU. There was danger of a two-tier membership with the UK relegated to the second class.
- The 2008 financial crisis had hit the United Kingdom hard and had laid bare the structural deficits of the common currency. Greece, Ireland, Spain, Portugal and Italy⁴⁹ were under serious threat of insolvency. Iceland did not belong to the Eurozone and it managed to get back on its feet within months through a radical devaluation. In 2010, discussions in London focussed on the prospect of Grexit, 50 on the role of the ECB as a potential lender of last resort, on ringfencing and on releasing the 'great bazooka' of unlimited liquidity. Was the ECB too restrictive in its monetary policy? The Bank of England took a much more flexible approach. It had resorted to a policy of quantitative easing, which was basically a policy of creating liquidity by purchasing government IOUs. A clash of financial philosophies was preordained. The British pragmatic experience of past decades confronted a position supported above all by Germany, which emphasised stability, balanced books and avoiding excessive deficits. In the eyes of many in the UK, this was a dogmatic, short-sighted, and rigid position that inflicted avoidable pain on weaker members of the Eurozone and did little to actually alleviate their structural imbalances. By dogmatically insisting on deficit reductions, it caused not only economic havoc, but it also alienated Eurozone members from Germany and kindled old antipathies. This Germany, which had so relentlessly insisted on fiscal probity, had itself had a hand in innumerable infringements of EU rules—not least when Germany and France broke the benchmarks of the stability pact in 2002. This combination of unbending rigidity in financial questions and gener-

⁴⁹The acronym PIGS was no compliment. It stood for Portugal, Ireland (or Italy) Greece and Spain.

⁵⁰ The potential exit of Greece from the Eurozone, and potentially from the EU.

ous laxity in the observation of norms in other fields augmented British suspicions of Germany's motives and ambitions.

In 2010, there was widespread political and media acknowledgement that sooner or later there would have to be a referendum on the question of Europe. Thatcher had demanded such a referendum after having stepped down from Number 10.⁵¹ Major had promised a referendum before the election in 1997. Blair had reconfirmed this commitment, at least as far as joining the Eurozone was concerned. And he had twice promised a referendum on the constitutional treaty.⁵² Brown had ratified the Lisbon Treaty without consulting the people. He argued somewhat sophistically that the Lisbon Treaty was a new text and Blair's promise had referred to the constitutional treaty that was dead by then. Brown's arguments were correct at a formalistic legal level and his position was endorsed by the UK's highest court. For ordinary people, his arguments were nothing but a casuistic subterfuge to avoid the risk of a referendum. They felt cheated of something they had been promised time and again for over ten years only to see the prize vanish before their eyes at the last moment. They felt cozened.

When David Cameron was elected leader of the Conservative party, he gave an iron-cast guarantee that he would submit the Lisbon Treaty to a referendum. When he became Prime Minister in 2010, however, the Lisbon Treaty had already been ratified by Parliament. Cameron explained that he could not possibly subject a valid Act of Parliament to another people's vote. ⁵³ The result was an uncomfortable gap between expectations that had been whipped up repeatedly, and tactical manoeuvres of a political elite that let these expectations dissipate into thin air—procrastinating and seeking vain excuses for not living up to their own promises.

Between 1992 and 2010 there had been well over 30 referenda in EU Member States. All countries that joined from 1995 to 2004 held referenda on EU membership. Denmark and Sweden had rejected membership of the Eurozone after popular votes had rejected such a move. In France and in the Netherlands the people had voted down the constitutional treaty in 2005.

⁵¹The official residence of the Prime Minister is at 10 Downing Street, which is just one part of a jumble of interlinked townhouses and office buildings. The complex also houses the Prime Minister's office and closest advisers. The Cabinet meets at Number 10.

⁵²On 20 April 2004, Blair said that the House of Commons should debate the constitutional treaty at length, but then "... *let the people have the final say*". Labour's manifesto for the 2005 general election contained the following words: "We will put the constitution to the British people in a referendum and campaign wholeheartedly for a Yes vote." (http://www.channel4.com/news/articles/politics/domestic_politics/factcheck+did+blair+promise+euro+referendum/558277.html, 22 February 2018).

⁵³ But that was exactly what Harold Wilson had done in 1975.

Ireland had had to submit the Treaty of Lisbon to a referendum twice within a period of sixteen months.⁵⁴ More and more Britons were convinced that the EU of 2010 no longer bore any similarity with the EEC they had joined in 1973. That was true in a certain sense, as it was patently untrue in many other senses. Far-reaching additional powers had accrued to the EU, voting procedures had been revised, and it had grown to three times the number of members since the first round of enlargements. New members had altered the complexion of the EU and the way it functioned. But the United Kingdom had voted for all these changes. It had given its constitutive assent, even if reluctantly. And finally: it had been made clear beyond any doubt by speakers such as Enoch Powell or Tony Benn in the debates before 1975 that joining the EEC was a decision with far-reaching dynamic implications. They had warned that the United Kingdom might find itself on board a train speeding away on tracks that had been laid down by others, and where control over points and signals had to be shared with foreigners. Many British politicians argued in 2010 that there could no longer be any question about different speeds, but only about variable geometry, for in the end the reality was an EU with irreconcilable destinations.⁵⁵

By 2010, influential caucuses had formed in both major parties that were frantically opposed to the EU-friendly line taken by Blair and Major. In the Conservative party, there were around eighty MPs who gathered around Daniel Hannan, John Redwood, Bill Cash and Iain Duncan Smith. After its defeat in 1997, the Conservative party had worn out three leaders within a few years: William Hague, Iain Duncan Smith and Michael Howard. Two of them had been outspoken EU critics. After Cameron had won the leadership contest against David Davis, another exponent of EU opposition within the party, he felt obliged to make a gesture of goodwill to this group in order to win them over on his side. He believed that this could easily be achieved by making some symbolic but anodyne concessions.

Within the Labour party, opposition grew against Blair's New Labour. Many believed Blair and Brown had been too centrist, making far too many concessions to the Conservatives and currying favour with mainstream representatives. In their eyes, both Blair and Brown had betrayed the socialist heart

⁵⁴The first referendum on 12 June 2008 yielded a majority against the Treaty of Lisbon (53.2% No, with a turnout of 53.1%; quotum 28.25%). Less than 16 months later, Ireland repeated the referendum with only cosmetic changes to the otherwise unaltered treaty. On 2 October 2009, 67.1% voters returned a Yes vote (turnout 59%; quotum 39.6%). It was the third time that a referendum that had ended in a negative vote for the EU, had been overridden by a second referendum on the same question (Denmark 1992/3 on the Treaty of Maastricht, Ireland 2001/2 on the Treaty of Nice and then again 2008/9 on the Treaty of Lisbon)

⁵⁵Some heightened the drama of their arguments by making puns about destination and destiny.

of the party. They pointed out that Labour's election manifesto in 1983 had contained the words: "Withdrawal from the European Community is the right policy for Britain" [29]. In 2010, Labour elected another pro-European as their leader: Ed Miliband. Five years later, he was replaced by Jeremy Corbyn, who had served his political apprenticeship with Tony Benn and who had persistently argued and voted against the EU in all Parliamentary debates, even if that meant that he had to defy the party whip.

A new party appeared on the scene in 2010: the UK Independence Party (UKIP). Many experts did not take UKIP seriously and virtually nobody believed this motley group of ranting extremists could play a major role in British politics. They were to regret their self-assurance. UKIP pursued only one goal with an almost monomaniac persistence: British withdrawal from the EU. Its leader, Nigel Farage MEP, had charisma and a certain irresistible charm. He was a good speaker, close to the emotions and expectations of his listeners. He projected an image of himself as a common man with common sense—the bloke next door whom you could trust to fight the Brussels monsters seeking to worm their way into solid British traditions. He loved to be seen (and photographed) having a pint outside a pub. At the UK elections to the European Parliament in 2009, UKIP received 2.5 million votes or 16.2% of the total vote. UKIP had outdistanced not only the Liberal Democrats, but even Labour. In the 2010 general election, UKIP garnered 920,000 votes.⁵⁶ These were exactly the votes that Cameron was lacking for an absolute Tory majority. On its own strength, UKIP has never won a single constituency in a general election, although it has been remarkably successful in regional and local elections. But its power derived from the fact that it could detract enough votes from the established parties so as to make marginal constituencies change colour. This was UKIP's greatest tactical strength. It remained a oneman, single-issue party. UKIP was nothing without Farage, and beyond Brexit it was completely lost. It offered an alternative to all those who were fed up with the established parties and who were looking for an opportunity to vent their anger. UKIP was not strong enough to be successful on its own. But it was strong enough to seriously threaten traditional majorities in marginal constituencies. UKIP never played any significant role in Parliament. But

⁵⁶The electoral victory appears much bigger than it was in reality. Members of the European Parliament are elected in the United Kingdom according to proportional voting along party lists. Turnout was extremely low (34.5%). UKIP received 920,000 votes in the 2010 general election, but because of a much higher turnout this absolute number was equivalent only to 3.1% of the vote. The different voting system (first past the post) resulted in no seats for UKIP in Westminster, whereas they had thirteen seats in Brussels. UKIP later secured two seats in Westminster, but they were defectors from the Conservatives who had won their constituencies on the Tory ticket and only kept them in the re-election under the UKIP banner.

through this indirect influence, it finally succeeded in imposing its manifesto onto the nation. More and more Conservatives trimmed their sails to catch the wind unleashed by Nigel Farage.

These were domestic developments in the United Kingdom. There were also two external factors to note. They were bound to deeply affect the perception of the EU in the United Kingdom and they left deep traces in the emotional attitudes of Britons: The financial crisis of 2008, and the continuing influx of foreigners from Eastern Europe and later across the Mediterranean.

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2

Cameron Fighting the EU and His Own Party: Preparing for Brexit

2.1 David Cameron Before 2010

No Englishman is ever fairly beaten G. B. Shaw

David Cameron left Oxford at the age of 22 and began work in the research department of the Conservative party headquarters. A few years later, he was appointed advisor to Norman Lamont, then Chancellor of the Exchequer, and was closely involved in events surrounding Black Wednesday in 1992. It was an experience he was never to forget, and it informed his views of the EU and of European partners. It remained his one and only close encounter with the EU before he became Prime Minister. Cameron does not speak any foreign language. He showed little interest in foreign countries or foreign civilisations. He had undertaken a trip to Hong Kong and Japan and had returned on the Trans-Siberian Railway. He spent a couple of days on a farm in Kenya; he had visited South Africa—impressions of the traces of an imperial past and of the Cold War. Apart from these trips, he loved to spend his holidays in luxurious villas in Tuscany. Cameron was the epitome of Englishness—only lightly tainted with Britishness, and showing hardly any European freckles.

Cameron was an avid expert in modern communication, but less interested in factual issues. His overarching concern was to present himself in a favourable light and how to profit personally from public trends. His political career was full of intimations that he discarded moments later, full of promises broken or reinterpreted sophistically. He wanted to be everybody's darling. He was addicted to media and public attention. He tried to entice Rupert

Murdoch, although Murdoch showed himself an implacable enemy in 2016. He kept in close touch with some rather dubious personalities in Murdoch's media empire. He spent most of his time with his directors of communication: first Andy Coulson (who came from Murdoch's News Corp), and later Craig Oliver. They had the greatest influence on him.

Cameron was 39 when he won the Conservative party leadership contest in 2005. In order to secure his election victory, he had promised the EU-sceptics that he would end participation of the British Conservatives in the Parliamentary Group of the European People's Party (Christian Democrats and Conservatives). He kept that promise after the next election to the European Parliament in 2009. British Conservative MEPs left the EPP and formed a new Parliamentary group called the European Conservatives and Reformers together with some parties from Eastern Europe (Hungary's Democratic Forum MFD, Czech ODS and Polish PiS). For Cameron, it appeared a perfect alibi action—securing him support from EU-sceptics within his own party but having no serious consequences in Brussels. In Westminster, the European Parliament had a poor reputation for being an empty talking shop for second-class politicians. Cameron failed to see that he was sending a signal of aloofness to all other conservative parties within the EU. They took Cameron's decision amiss and reduced their contacts to his party. Cameron thus lost access to confidential information—a loss that counts in an environment in which networking and informal information channels are essential. This move cut him off from important background information and he misjudged the motives and reactions of his continental partners on some vital issues. He and his party were excluded from informal circles where confidential information circulated and important decisions were pre-cooked.

A year later, in 2010, he succeeded in bringing his party back into power, becoming the second youngest Prime Minister in British history. He formed a coalition with the Liberal Democrats, who took a decidedly EU-friendly position. Cameron appeared ambitious and pragmatic, with traces of opportunism. Above all, he was addicted to public attention. He knew that his position at the top of a heterogeneous government depended on his ability to keep his own party together. Therefore he tried to appease the EU-sceptics through a series of concessions and promises. They appeared harmless in themselves, but generated much public buzz. He had declared his own position in 2007:

"We put it in our manifesto that there should be a referendum, Labour put it in their manifesto that there should be a referendum and it is one of the most blatant breaches

of trust in modern politics they won't give us that referendum. Labour government's record on the EU Constitution is a study in how not to make progress within the European Union. First, they were against the Constitution. Then they were for it. Then they signed it. Then they refused a referendum on it. Then they agreed a referendum. Now they're briefing against a new Constitution but they don't have the courage to oppose it in public. And they're in favour of a referendum but they don't really want one. I'm against a European Constitution and I'm in favour of a referendum if one is ever proposed" [1].

In Prague, he said in the same year:

"It is the last gasp of an outdated ideology, a philosophy that has no place in our new world of freedom, a world which demands that we fight this bureaucratic over-reach and lead Europe into the hope and potential of a new, post-bureaucratic age" [2].

2.2 Prime Minister Cameron (2010)

What have I done for you, England, my England? W.E. Henley

Cameron wanted to roll back what amounted to excessive concessions made by his Labour predecessors. He wanted EU membership, but a EU that was slimmed down, less bureaucratic, more intergovernmental, less uniform and, above all, less interfering. He wanted to put an end to EU directives and regulations transforming the laws of his country and forcing British courts to observe norms that were alien to British traditions. He was afraid that a slow, but irresistible, tide was threatening to upturn the constitutional order of the United Kingdom, gradually shifting competences and eventually obliterating the essence of Britishness—or in his case, Englishness.

Cameron tried to deflect mounting pressure from his own party by introducing legislation that obliged all future governments to hold a referendum before any further transfer of national competences to the EU.¹ After the

¹The European Union Act (Referendum Lock) of 2011 was designed to foil numerous and insistent pushes for an EU referendum. It made a referendum obligatory, but only in circumstances that were far away in a distant future. A transfer of competences would require extensive treaty change and Cameron was well aware that such change was not imminent. The wording of this piece of legislation is almost unreadable, but there is a succinct summary available. (https://services.parliament.uk/bills/2010-11/europeanunion.html, 14 February 2018). Vernon Bogdanor comments: "It is doubtful if a more absurd piece of legislation has ever been enacted at Westminster." (Beyond Brexit, London (2019), p. 83).

imponderabilities of the constitutional treaty and the Treaty of Lisbon, nobody was interested in another round of treaty negotiations. So Cameron's concession seemed bigger on paper than it was in reality. The securing of a referendum lock in the European Union Act 2011 at first took some pressure out of the EU-debate within the Conservative ranks. But Cameron was soon proven wrong. A few days after the referendum lock had reached the statute book, some Tory MPs formed a group whose sole purpose was to force an EU referendum. They called themselves People's Pledge and claimed to have collected 30,000 signatures of support. More ominous was the signature of 87 MPs, most of them Conservatives. Even more ominous was that Boris Johnson, then Mayor of London, had also signed. The group demanded a referendum in general terms. They did not specify what the question or the alternatives should be.

By October 2011, it had become obvious that Cameron's tactics were not working. David Nuttall, until then a relatively unknown Conservative MP, called for a debate on an EU referendum.² Now it became clear that any EU referendum would not be about treaty change—it would be on the very principle of membership. To reject a new treaty would have been tantamount to keeping the old one—so it was political acrobatics with a safety net. But to call for a referendum on membership in principle was much more radical and dangerous. A No in such a referendum would annihilate the fruits of fortyfive years of EU membership and plunge the country into completely uncharted waters. It meant walking a tightrope without any safety device, or crossing an unfathomable crevice with the other end of the rope shrouded in fog. The referendum that was now being demanded was not designed to stop further integration; it was set to rescind everything that had been achieved since 1973. In future, there would only be room for a radical in-out referendum. Cameron reacted to this initiative in a characteristic way. He declared in the debate in the House of Commons:

"Our nation's interest is to be in the EU. This is not the right time, at this moment of economic crisis, to launch legislation that includes an in/out referendum. There is a danger that by raising the prospect of a referendum we will miss the real opportunity to further our national interest."

²The motion was: "That this House calls upon the Government to introduce a Bill in the next session of Parliament to provide for the holding of a national referendum on whether the United Kingdom should (a) remain a member of the European Union on the current terms; (b) leave the European Union; or (c) renegotiate the terms of its membership in order to create a new relationship based on trade and co-operation." (https://publications.parliament.uk/pa/cm201011/cmhansrd/cm111024/debtext/111024-0002.htm, 24 February 2018).

The Foreign Secretary, William Hague, argued more precisely. He pointed out the fallacy of loose language. To say No was easy, but what sort of Yes would such a No-vote imply? It was not sufficient to turn away from the EU. It was much more imperative to define what the United Kingdom was meant to turn to after such a decision:

"If we voted to leave the European Union, would that mean that, like Norway, we were in the European Free Trade Association and in the European Economic Area but still paying towards the EU budget, or, like Switzerland, not in the European Economic Area? If we voted to renegotiate does that mean that we would be in the single market, or not, still subject to its rules, or not? Does "co-operation" mean that we still work together on a united position on Iran, Syria and other foreign policy positions, or not? When we had renegotiated, would we need another referendum on the outcome of the negotiation?" [3]

Five years later, Theresa May was to coin the phrase 'Brexit means Brexit', obfuscating the real problem. For the challenge was not in saying No to the EU; the real challenge was to define what sort of Yes this No implied. Ever since, Brexit has dominated the debates. It has completely overshadowed the necessity of finding a convincing, positive, constructive answer to the question of what sort of position the UK was seeking for itself and what role it wanted to play in global trade arrangements. The very nature of Brexit has created a situation in which it was incomparably easier to reject and to turn away than to accept and to turn towards something. Parliament has churned out one negative vote after another—underlining time and again what it did not want, but failing to give an inkling of what it really wanted.

After an acrimonious debate, Cameron finally won the vote. But 81 MPs from his own party voted against him, and others abstained. Labour could be relied upon once more, as it voted with the government.³

Cameron took another decision that was to prejudice his later attempts to reform and to renegotiate. The Greek debt crisis had worsened. The EU had to take action in order to save the euro. On 9 December 2011, 27 members of the EU were of one mind. Even Sweden, the Czech Republic and Hungary came to support the German-French initiative after they first had shown substantial reservations. The EU wanted to create a stabilisation mechanism for the ailing euro. In the early hours of the following day, Cameron vetoed this

³ After five hours of debate, the motion was defeated 483 to 111. All three major parties had applied a three-line whip. It was the most serious Tory rebellion since the war. In 1992, only 41 Tories had defied the whip in voting against Maastricht and their then leader, John Major.

plan. Obviously, he was not aware of the consequences of this attempt to throw the other EU members off course. They reassembled within hours without those members that had not adopted the common currency and created the structures they wanted outside the framework of the EU treaties. The European Stabilisation Mechanism (ESM) became operational on 23 January 2012. Cameron had set a dangerous precedent with his veto. The other EU members felt snubbed by his refusal to support them in what they regarded as a vital question of utmost urgency. Cameron had forced them on a path that left no doubt that in future the United Kingdom could simply be pushed aside and bypassed regarding questions of finance and currency. Cameron's lack of solidarity was to prompt a painful revenge some years later when he himself was asking for solidarity in the opposite direction. After this incident, it was only a matter of time for the Eurozone to develop its own structures and institutions that might eventually overshadow those of the EU. In those days, some experts warned that one day the Eurozone might have its own Parliament, its own budget and its own political leadership. The gravitational pull would change. Instead of being a satellite circling the EU, the Eurozone could become the future sun surrounded by the EU, Schengen and other institutions as planets. Such a development would have marginalised the United Kingdom and its global financial hub in the City of London, excluding it from important decision-making. The more the Eurozone developed its own institutional framework, the more the United Kingdom would be sidelined.

Had Cameron hoped to appease the EU rebels in his own party with concessions and this show of national strength in standing up to the other 27, he was to be disillusioned. The EU-critics felt encouraged. They regarded the referendum lock and Cameron's veto in Brussels as victories for their cause. They felt inspired and bolstered, and they redoubled their resolve. They had noticed that Cameron was blustering but tried to avoid confrontation. He preferred to cave in rather than make a firm stand. Cameron was strong in words, but weak in action. UKIP now stormed from one electoral triumph to the next. It won 23% of the total vote in the 2012 local elections, coming second and outdistancing the Conservatives. A year later, polls saw UKIP having 10% of nationwide support. For the first time since the Second World War, an outside party became a real threat to the established party system. 5

⁴Cruel tongues whispered that Cameron talked in poetry but acted in prose.

⁵Despite its name, UKIP was a thoroughly English party. In Scotland, Wales and Northern Ireland it never scored in the double digits. In the East and Northeast of England, UKIP secured up to 35% of the vote.

2.3 The Bloomberg Speech (2013)

David and G-EU-liath?

This pressure from UKIP prompted more and more Tories to show sympathy for a clean withdrawal from the EU. Cameron's coalition partner, the Liberal Democrats, stuck to their EU-friendly course, and Cameron's room for manoeuvre was circumscribed. As leader of the Conservatives he had given his cast-iron guarantee to submit the Lisbon Treaty to a referendum. Brown had relieved him from having to deliver on that promise. But Cameron kept talking about a referendum, while at the same time expatiating on the many deficiencies and incongruities of the EU—too bureaucratic, not sufficiently competitive, meddling, inefficient, and lacking transparency. Above all, he wanted to repatriate some of the competences that had wandered off to Brussels.

He tried to break free from the net that was closing in on him on 23 January 2013 when he expounded his ideas about the EU in a heavily advertised speech at the London headquarters of Bloomberg. He promised a referendum, but insisted on renegotiations first. It was in essence a replay of what Harold Wilson had done—and obviously for very much the same reasons. The call for a referendum was prompted first and foremost by party management reasons. Both Cameron and Wilson faced the real danger of a split in their parties, and both were prepared to subordinate everything else to preventing that from happening. Cameron thus continued the line of his predecessors in seeking more exceptions and special clauses for his country in the EU. He said:

"I am not a British isolationist. I don't just want a better deal for Britain. I want a better deal for Europe too. And I want a relationship between Britain and the EU that keeps us in. For us, the European Union is a means to an end—not an end in itself. We need fundamental, far-reaching change! Power must be able to flow back to Member States, not just away from them. People see Treaty after Treaty changing the balance between Member States and the EU. And note they were never given a say. People had referendums promised—but not delivered. They see what has happened to the Euro. And they look at the steps the Eurozone is taking and wonder what deeper integration for the Eurozone will mean for a country which is not going to join the Euro. I am in favour of a referendum. I believe in confronting this issue—shaping it, leading the debate. But a vote today between the status quo and leaving would be an entirely false choice. It is wrong to ask people whether to stay or go before we have had a chance to put the relationship right. My strong preference is to enact these changes for the entire EU, not just for Britain. But if there is no appetite for

a new Treaty for us all then of course Britain should be ready to address the changes we need in a negotiation with our European partners. Even if we pulled out completely, decisions made in the EU would continue to have a profound effect on our country. But we would have lost all our remaining vetoes and our voice in those decisions. Continued access to the Single Market is vital for British businesses and British jobs. If we left the European Union, it would be a one-way ticket, not a return. At the end of that debate you, the British people, will decide" [4].

This was a clear agenda: reform the EU and renegotiate the Lisbon Treaty. If that proves impossible, renegotiate bilaterally for better membership conditions. Margaret Thatcher had wanted her money back; Cameron wanted his sovereignty back. Hardly did he realise that he was preparing a phrase that was to cause him serious headaches three years later: Take Back Control.

Cameron's ideas were as ambitious as they were naive. After the Greek crisis, some voices had demanded treaty change or even a completely new treaty. But they soon fell silent. The technical complexities of renegotiating Lisbon were intimidating. The constitutional treaty, and by implication 95% of the Treaty of Lisbon, had been negotiated among fifteen members. That had been difficult enough. Any future treaty would have to be negotiated among twenty-eight members, almost double the number and much more heterogeneous. All were afraid about the series of ratifications and referenda that would be required to bring such a new treaty into force. The negative referenda in France and the Netherlands in 2005 and in Ireland in 2008 were painful memories that dampened any impulse to repeat such an experience, and EU-scepticism was no longer confined to the UK. In practically all Member States, new parties were raising their heads and feeding on anger and disappointment with the EU. In the Netherlands, in France, in Germany, in Italy, and in Eastern European countries, voices demanding a profound overhaul of the EU, withdrawal, or downright dissolution became louder and more assertive. The Greek crisis was far from being solved. The euro crisis had cast a veil of uncertainty over the EU's future. Nobody was prepared to add to these uncertainties by re-opening a Treaty that was largely working. Why risk something that works for something that you might never achieve?

Cameron had little affinity to the complex, subtle and slow-grinding mechanisms of political decision-making in Brussels. He resented the cumbersome and vague meetings of the European Council. He is said to have whiled away

⁶ Syriza won elections in January 2015. Tsipras and Varoufakis pushed their country to the verge of Grexit. In the summer of 2015, Tsipras held a referendum on membership of the Eurozone only to ignore the explicit vote of the people a few days later. Three months later, he won another general election.

time in those meetings by chatting with his staff in Number 10. Before becoming Prime Minister, he had tried to initiate EU reform. He had founded the Movement for European Reform together with Václav Klaus and his Czech Civic Democratic Party (ODS). The movement soon fell into oblivion. Cameron failed to understand that an alliance with Prague was far too short a lever to move the entire EU. That would have required participation of at least two smaller countries or one bigger country, including two founding members. Václav Klaus had a negative reputation in Brussels. He was regarded as an enfant terrible for his uncompromising views and his abrasive manners. Any attempt at reform that bore his name was predestined to fail. Cameron lacked some of the most important qualities for success in Brussels: patience, prudence, discretion, empathy for other mentalities and the human touch in building alliances held together by common interests and by personal trust. He did not seek support through compromise, and he showed little enthusiasm for reaching joint decisions through amalgamating divergent interests into one comprehensive package that would give everybody something. Above all, he never made friends among his European colleagues.

Cameron raised a number of demands that were bound to be difficult for his EU partners. He did not bother to seek support and sympathy among the traditional big three. Was he not aware that any proposal running into direct opposition from one of them, let alone from all of them, would never stand a chance? He had two options. He could have made a comprehensive offer, but he never did. Or he could try to rip open the phalanx of the other 27 Member States through bilateral initiatives, but he never tried. There is no hint in his public speeches of his awareness that the present arrangements of the EU represent the result of decades of tortuous negotiations, of complex and at times bitter clashes of interests. Or that a thousand individual interests like the ones that he was to formulate had found a delicate balance in these treaties. The Treaty of Lisbon represented a complex building whose statics had been brought into a careful balance by many architects. Cameron's call for reform was understood by many to be the attempt to take away some cornerstones and some keystones, tilting the whole edifice into imbalance and possibly leading to collapse. Cameron remained fixated on his national interests. He cared little how these interests might impact on others. He cared even less for winning other members over to support his case. Why should they accept his demands? Instead of seeking common ground and inspiring partners with a common vision, Cameron threatened withdrawal and failed to heed the maxim never to utter threats unless prepared to follow them up. Some governments on the continent felt that this was blackmail: to demand something and, if you do not get it, to threaten terrible damage. But to threaten Brexit had a framing effect. Cameron's language made Brexit an acceptable and accepted concept. If the Prime Minister was presenting it as a viable alternative, what could possibly be wrong with it? Brexit was no longer taboo.

Cameron had stoked expectations on his home front that he would never be able to fulfil. He threatened withdrawal of his country from the EU, while at the same time praising EU membership as something indispensable. He insisted that Brexit was a serious proposition, while at the same time underscoring that it would be the worst alternative and he would do everything to prevent it. Cartoons showed him as Sheriff Bart in 'Blazing Saddles' shouting: 'Hands up or I'll shoot a bullet through my head.'

Some continental partners went out of their way to show sympathy. They signalled readiness to listen and to help as far as possible. Chancellor Angela Merkel invited the Cameron family to a weekend at Schloss Meseberg, the German equivalent of Chequers. Her husband, Professor Sauer, was present throughout—which was a rare gesture of familiarity. A meeting of families was unprecedented in Merkel's time as Chancellor. This was a carefully prepared gesture of openness and closeness. But it proved insufficient to bridge the gulf between the privileged scion of upper class wealth, who had been educated at Eton and studied PPE at Oxford, and the daughter of a rural parson who had grown up in a remote province of Eastern Germany and gone on to study physics in the German Democratic Republic and in Moscow.

A meeting with the French president, François Hollande, had remained cold. In January 2014, Cameron had invited Hollande to visit a pub together. He had hoped that he could build on common experiences in the war against Libya and the recently signed Lancaster House Agreement. But Hollande, tight lipped, only pointed out that negotiations about a new treaty would be immensely difficult and were not a priority of the French government.

2.4 Referendum in Scotland, War in Ukraine, Cameron Juggles (2014)

People will forget what you said, people will forget what you did, but people will never forget how you made them feel Maya Angelou

With the fanfare of his Bloomberg speech, Cameron had plunged himself into a dilemma. He wanted to keep his country in the EU and sought to improve the conditions of membership. In order to obtain concessions, he

threatened to terminate this membership if necessary—implying that he himself would lead the campaign for withdrawal in such a case. Cameron never believed in the EU referendum as an instrument to find the best solution for continued British membership in a reformed EU. For him, it was a tactical instrument—first, to reconcile his party and prevent it from splitting up and, secondly, as a threat to get a better bargain from Brussels. He hoped that this threat alone would be sufficient for the other EU members to cave in. Like most of his compatriots, Cameron was convinced that the EU needed the United Kingdom more than vice versa. Cameron never took a great interest in EU affairs. He had few people in positions of power and access in Brussels not only in quantitative, but also in qualitative terms. The United Kingdom was under-represented among EU civil servants and few of them were close to the closets of power. Among his staff at Number 10, there was no one who had gathered practical experience in Brussels and cultivated the corresponding networks.7 Cameron lacked the empathy for different mentalities and value systems, and he failed to strike up a close personal relationship with any of the other European heads of government. He could not understand that the EU was something almost sacred for many continentals. For them, the EU was the guarantor that the horrible period of war among neighbours would never return. The EU embodied redemption from a guilt-ridden past. Both Helmut Kohl and Angela Merkel never tired of repeating that a failure of the EU might mean a return to war. Both emphasised the irreversibility of the European project. In their eyes, the alternative to the EU was an abrupt end to prosperity, peace, welfare and freedom in Europe. The United Kingdom had never experienced occupation and terror. Its institutions had survived intact, and its traditions had not been interrupted. British people found it difficult to understand the latent horror that haunts continentals about a Europe without the EU that might plunge back into the worst phase of its history. Cameron's contradictory words and his brisk manners irritated those partners on whose support he had to rely most heavily for his reform ambitions.

Cameron would have been well advised to heed the four points which John Maynard Keynes had formulated before he went to negotiate in Washington in 1945:

⁷ David Cameron's most important advisors on EU affairs were Jon Cunliffe (PermRep in Brussels), Tom Scholar and Ivan Rogers (Head of EU and Global Issues in Number 10). They had gathered experience in central functions of government, at the Treasury and in the City. None of them had a diplomatic background. None of them had worked in Brussels. None of them had personal networks throughout the EU.

- Put yourself in the shoes of your opponent. Try to understand his fears and his ambitions.
- Focus on the chances of the future. Do not complain about past failures.
- Don't threaten, woo! Highlight potential profits, not risks.
- Do not sacrifice an uncomfortable, but tolerable present for a future that could easily turn out to be intolerable and much more uncomfortable.

Cameron had two options after his Bloomberg speech. He could take up the banner of the EU, gather support for EU reform and convince his party that there would be sufficient reform for them to calm down. Alternatively, he could push for withdrawal in the hope that the prospect of looming Brexit would instil sufficient fear in the EU and among the more pragmatic members of his party to open the way for an acceptable compromise. He had to choose between enticing through generous promises and holding a gun to his partners' heads. Unfortunately, he chose both at the same time. He praised the Single Market and European cooperation. At the same time, he pointed to Nigel Farage and passed the pressure he got from him through his own party to his EU colleagues. He wanted to reform the EU and keep it as a foundation of British prosperity, while at the same time adopting phrases of radical Brexiteers in order to contain the internal opposition within his party. He sent them signals of agreement and he assured them of his sympathy. Above all, he desperately tried to take the wind out of UKIP's sails. These contradictory signals had the effect that those he needed most in Brussels turned away and kept their distance, while the radicals in his party felt encouraged, doubled down on their demands, and for the first time sniffed a real whiff of winning. With his ambivalent rhetoric, Cameron contributed greatly to turning Brexit from an exotic daydream into a hard-nosed political movement. The Bloomberg speech put the smell of sweet success into the nostrils of radical Brexiteers.

His first painful defeat in Parliament came over a question that had nothing to do with the EU. Cameron had pursued an unrelenting line against Syrian President Bashar al-Assad. On 21 August 2013, people in Ghouta, a suburb of Damascus and an anti-Assad stronghold, were attacked with poison gas. Several hundred people died and thousands were hospitalised with neurotoxic symptoms. Cameron held Assad responsible for this attack and demanded an immediate military response. He telephoned President Obama and arranged joint action with the United States. He recalled Parliament from its summer recess and asked MPs to vote on his plans for joint military action with the USA. Cameron lost this vote on 28 August 2013 with 272 Ayes and 285 Nos. Thirty MPs from his own party and nine LibDems had joined the

opposition in voting No. For the first time since 1782, the Westminster Parliament had refused to go along with the government on a question of war and peace.

Cameron had made several crucial miscalculations. He had dismissed the warnings of his military advisors; he had completely underestimated the unwillingness of the people to underwrite yet another military expedition to a far-away country and to shed British blood for incomprehensible causes; and he had reckoned he could count on Labour to support his plan, resulting in an overwhelming and almost unanimous vote. He had failed to comprehend that after Blair's dubious adventure in Iraq, after military operations in Libya had left that country in utter chaos, and in view of the ongoing operations in Afghanistan—which after more than ten years had failed to produce stability, prosperity or legitimacy—very few MPs had any appetite left for yet another military adventure with uncertain effect. Cameron's defeat did not augur well for the controversies to come.

Half a year later, events in Eastern Europe left no doubt about the waning British influence in global affairs. After the annexation of Crimea and the outbreak of open hostilities between pro-Russian rebels and regular Ukrainian armed forces around Donetsk and Luhansk, international efforts to contain the crisis were of paramount importance. At the margins of a meeting commemorating the 70th anniversary of the Allied landings in Normandy in June 2014, the leaders of France, Germany, Russia and Ukraine met in what was called the 'Normandy Format'. This contact group has met repeatedly since then. It has worked out the two Minsk agreements that laid down a framework opening a way to a cessation of hostilities. The other important actor in this game was the USA. The United Kingdom was conspicuous by its absence and played no visible role in confronting Russia. As a permanent member of the Security Council, as an important military power in Europe with farreaching diplomatic clout, and as a prominent antagonist of Russia, the United Kingdom should have belonged to that group.

But these developments do not seem to have worried Cameron unduly. He was absorbed by other challenges. On 18 September 2014, Scotland was to hold an independence referendum. A year earlier, the Scottish Independence Referendum Act had been enacted which stipulated that Scotland should become an independent state provided a majority of voters supported that

⁸The British intervention in Iraq of 2003 had been the subject of an official commission of inquiry under the chairmanship of Sir John Chilcot. It submitted its final report not before July 2016. But in 2013, it was already common knowledge that the commission would pass a negative judgment on Blair's assessment of Saddam Hussein's military capabilities and intentions. It was clear to everyone that the decision to send British soldiers to Iraq had ended in high losses and few (if any) positive results.

project. The campaign for this referendum dominated the summer of 2014. The Edinburgh government under Alex Salmond promised increased welfare, higher incomes and better social services in an independent Scotland. Taxes from oil and gas in the North Sea would no longer accrue to the Treasury in London but would remain in Scotland. Scotland would break free from the chains of remote London mandarins and chart its own course. Scots would make politics for Scots. In other words: 'Scotland first'.

Cameron pursued a strategy of intimidation and threats against the Scottish nationalists. He painted the future of independent Scotland in sombre colours. Freedom of travel might be under threat, telephone calls and postal letters might require international rates, the sea border between England and Scotland had never been plotted and could give rise to serious disputes, and England could lay claim to large stretches of the continental shelf (and its hydrocarbon resources) claimed by Scotland. The Edinburgh government wanted to keep the pound as a common currency. The answer from London was first that Scotland might share in the currency issued by the Bank of England, but would have no vote on its Board of Directors. Then Chancellor Osborne steered a harsher course. He warned: "If Scotland walks away from the United Kingdom, it walks away from the Pound" [5]. The EU unfortunately reinforced Cameron's campaign by publicly declaring that an independent Scotland would have to submit to the same, tortuous accession procedure as any other European candidate and that the outcome of such an accession procedure might be unpredictable. Scotland was to be treated no differently than Serbia, Montenegro, Albania and Kosovo—hardly a friendly gesture towards a country and its people who for forty-five years had proved to be exemplary Europeans.

Cameron had been warned that the Scottish referendum might put an end to three hundred years of union between Scotland and England. It could mark the end of the United Kingdom, even of the notion of Great Britain. The United Kingdom could emerge disunited and instead of a Great Britain there could be a small Scotland and a little England. Cameron bet everything on one card. His ambition was to put a definite end to controversies about the status of Scotland that had been smouldering for over forty years. In one fell swoop he would save the United Kingdom, humiliate the SNP and silence all nationalist ambitions. And he won. The result of the referendum left no doubt about that: 55.3% had voted against independence (quotum: 46.8%), 44.7% for—a comfortable margin of more than 10%. The turnout was 84.6%,

higher than in general elections in the United Kingdom.⁹ Nicola Sturgeon succeeded Alex Salmond as First Minister in Holyrood. Looking back, she held the uncertainty about economic and financial consequences responsible for the poor performance of her party.

Cameron was to remember this lesson. It supplied him with a template he was to recycle in the EU referendum two years later. He concluded from this campaign that taking the bull aggressively by the horns was tactically better than seeking passive shelter. Offensive advance was better than stagnant defence. A daredevil rush was better than tortuous calculations about how to minimise risks. You cannot extinguish a smouldering problem through protracted delays. The key to success was to paint the opposite side in black colours, highlight the negative consequences, unsettle and intimidate people in a well-orchestrated publicity campaign. Had he not unseated a well-connected, popular politician like Alex Salmond? Had the result not proven that he was right? Did Scots not remain Britons and as Britons would they not follow their government in London?

Cameron continued to waver towards the EU. He never tired of appreciating the enormous importance of the Single Market, but he continued his scathing attacks on the cumbrous bureaucracy in Brussels, the growing imbalances of migration, and the lack of innovation and of dynamism. He repeated his promise to push net immigration below 100,000, but he did not undertake any effective action to this effect. He shifted the blame for this onto the EU. The proportion of people living in the United Kingdom but born outside had increased since 1973 from 5% to 14%. In 2004, the new EU members in Eastern Europe gained freedom of movement. Since then, more than three million people had entered the United Kingdom, most of them intending to stay. They were the Polish plumbers that were so viciously attacked and so vehemently complained about in the tabloid press. British, or rather English, people complained about wage dumping and unfair practices.

Cameron smelled the whiff of growing anti-foreign sentiment. At the World Economic Forum in Davos, he sharply criticised the excessive and frenzied regulations of the EU Commission. He praised fracking as a promising path to abundant energy. Did he not know (or did he not care) that there was serious political opposition to this technology in continental EU countries? A couple of weeks later, he spoke at the Bilderberg conference and doubled down on his charges against the EU. He also expounded his own ideas about the future of the EU in an article written for The Daily Telegraph.

⁹The quotum of the No vote was 46.8% and that was remarkably close to 50%.

It was a relentless philippic against the EU, although interspersed with some friendly words about the Single Market. He waxed enthusiastic about a New European Union that he wanted to create together with France and Germany. Unfortunately, he omitted to mention that both of these two countries had not been informed about this invitation and had shown no sign that they were keen on following Cameron on this ambitious trail. He harped on the British gravamina: competences should be repatriated, national Parliaments should have a veto against decisions taken in Brussels, enterprises should be freed from stifling red tape, and there should be free trade with North America and with Asia. Police and law courts should remain free from meddling European authorities, subject only to laws made in Westminster and to the traditional Common Law. Freedom of movement should be confined to people having work and should not cover those in search for employment. New members of the EU should not add to migratory pressures. He rejected the notion of 'ever closer union of the peoples of Europe'. By 2017, the EU should be reformed and then he would hold the referendum. His remarks culminated in four emphatic Nos:

"No to ever-closer union! No to a constant flow of power to Brussels. No to unnecessary interference. And no, it goes without saying, to the Euro, to the participation in Eurozone bailouts or notions such as a European Army" [6].

The emotion of these words echoed the famous words of Margaret Thatcher when she had condemned any further movement towards political union in the House of Commons on 30 October 1990.10

Cameron had stymied himself. He knew—or at least he ought to have known—that after the endless complications of the previous treaty negotiations from Nice to Lisbon, any new treaty negotiations would be complex and time consuming and the outcome would be extremely difficult to predict. Anyone superficially familiar with the Brussels machinery was aware that no new treaty could ever be negotiated in three years. Both Chancellor Merkel and President Hollande had left no doubt that they had no interest in treaty negotiations at this juncture. Cameron was caught in his own trap. He wanted to keep his country in the EU, but in order to achieve that he believed he had to threaten to leave the EU. But the more he insisted on this threat, the less his EU partners were likely to accept his demands. Some muttered about blackmail. There may have been some hidden sympathies for his call for

¹⁰ Margaret Thatcher in the House of Commons, 30 October 1990 (https://www.margaretthatcher.org/document/108234, 8 March 2018).

reforms, but his brusque manners and his sharp tongue stifled those sympathies. He failed to encourage other critical voices to come forward. Instead, he alienated them by his rigid insistence on national interests and his failure to show attention, let alone understanding or sympathy for the interests of other nations. The more he talked about the possibility of Brexit, the more he encouraged the radicals in his party and the more he lost the support of other European governments. He fell captive to the radical extremists in his own party.

Cameron looked upon the EU like a self-service supermarket. You take what you need and leave the rest to others. It was felt that he had no regard or even respect for the interests or constraints of EU partners. Since his Bloomberg speech in 2013, he had failed to win over one single supporter on the continent. Even Ireland kept a bemused distance. Some wavering continental partners had signalled hesitant sympathy for some points Cameron had made, but no politician publicly picked up any of Cameron's demands and attached it to their own banner. Cameron held talks with the Netherlands (one of Britain's closest partners), with Sweden (which, like Britain, had refused to join the Eurozone), in Warsaw and in Prague. None could be convinced to adopt Cameron's ideas as their own. Cameron was isolated.

His brash, demanding way of speaking and his article in the Telegraph had the effect of pushing expectations in his party higher and higher. His comments boosted the radicals and swelled their ranks. There seemed a realistic way ahead of remaining in the EU but winning back complete freedom of action in economic and financial matters. But only if Britain remained firm and uncompromising. Very few Britons had any idea about how Brussels actually worked. Many, particularly those of the elder generation, had grown up with the engrained idea that the United Kingdom was a world power, a rule maker, never a rule taker. Until 1970, British soldiers were stationed in Singapore, Malaysia, along the Persian Gulf, and in the Indian Ocean. Even ten years later, South Africa and Rhodesia dominated the headlines in Britain, not events in Poland or the fall of the 36th government in Rome. The arcane procedures in Brussels remained mysterious to most Britons; most of them did not even seem to care. The generation born before 1960 formed its view of politics and grew aware of their nationality in an atmosphere that was completely overshadowed by imperial traditions and the role of the United Kingdom 'punching above its weight' as a world power. Most of them did not question the right of the United Kingdom to take what it needed and to enforce what it considered to be right. The Falklands War reinforced this engrained feeling of moral righteousness and superior power, as did the interventions in Afghanistan, in Iraq and in Libya. Was the United Kingdom not the cradle of the rule of law, of democracy and liberalism, the staunch defender of freedom and self-determination? How could a country with this noble tradition do wrong? Had it sacrificed blood and wealth in order only to lose honour and its values? Should a global power endure faceless Eurocrats walking all over it? Had the United Kingdom not defeated Germany twice? And now this Germany was lording it all over again in the disguise of European institutions. Cameron knew these emotional undercurrents, and even if he did not share them he skilfully exploited them for his own ends. He had put himself under immense pressure to succeed. He further stoked expectations that he could never hope to satisfy, even if circumstances were propitious. And they turned out to be far from propitious.

His party grew restive. A few weeks after his contribution to the Telegraph, some 95 Tory MPs—almost a third of the Parliamentary group—had moved that Parliament should have an unconditional veto over all directives, regulations coming from EU institutions. Before his Bloomberg speech, another group had formed and submitted ideas for EU reform. They called themselves Fresh Start and released a paper called Options for Change, which contained an impressive list of modifications to the Lisbon Treaty and reforms of EU policies.¹¹

The real reason was obvious. UKIP was progressing in leaps and bounds. On 22 May 2014 [7], it succeeded in quadrupling the number of councillors on municipal and county councils. It came second in several constituencies, pushing established parties into third position. In most cases, this was the Conservative party. UKIP won its first representation in Westminster in October. The Conservative MP Douglas Carswell defected and successfully defended his seat in the by-election on a UKIP ticket with an overwhelming majority of 60%. A month later, his fellow party member Mark Reckless won re-election as a UKIP candidate with a comfortable majority (42%). Conservative headquarters at Millbank Tower were alarmed. The Conservatives risked having their majority undermined in the general election. And who

¹¹ Fresh Start cooperated closely with the Open Europe think tank. Open Europe became a workshop generating new ideas for Cameron. Its director, Mats Persson, joined Cameron's team at Number 10 in 2015. Fresh Start published its Green Paper in 2013. Foreign Secretary William Hague contributed an approving foreword (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/278507/Fresh_Start__full_.pdf, 13 March 2019).

¹² Carswell left UKIP again before the 2017 election. His electoral success was primarily due to the fact that he had represented his constituency already for over nine years. People voted for a familiar face rather than for the UKIP ticket.

¹³ Voting in by-elections is notoriously difficult to predict. Voters are much more likely to cast a protest vote than they would in a general election.

knows how many more MPs might defect? UKIP was still far from winning a seat in Parliament on its own. Nigel Farage, UKIP leader since 2006, had stood in general elections five times and always failed to win a seat. But there were two concerns: nobody knew how far this sudden dynamism might carry UKIP. And UKIP appealed primarily to voters who so far had reliably voted Conservative. If UKIP pulled a sufficient number away from voting Conservative, many constituencies might fall to the opposition candidate and hand Labour a landslide victory. Only a year hence, in 2015, the next general election was looming.¹⁴

This danger manifested itself dramatically in elections to the European Parliament. In these elections—where voting took place parallel to local elections on 22 May 2014 [7]—UKIP emerged as the strongest party with 27.5% of the vote. It outdistanced both Tories and Labour. The turnout was low, not more than 34.2%. This result was in no way representative. It said little about general elections, which are held under the 'first past the post' principle and which normally have a turnout at least twice as high. In the United Kingdom, MEPs were elected according to strict proportionality on party lists. Nevertheless, this was a result nobody had anticipated. It came as a shock to the established parties, and it was a writing on the wall for the Conservatives: UKIP was about to pull the rug from under their feet. It was high time to trim the Conservatives' sails to catch the new prevailing winds.

Home Secretary Theresa May positioned herself as a moderate Remainer in November 2014. She suggested the United Kingdom should remain in the EU, but only on condition that the EU would become less bureaucratic and more open to free trade. In a breakneck action, she had just taken her country out of 133 provisions concerning police and criminal matters and unilaterally re-adopted 35 of them immediately—amongst them the controversial European arrest warrant and membership of Europol and Eurojust. May did not mince her words in blaming pedantic Eurocrats for the sluggish performance of British industry. Freed from these constraints, it would soar and unfold its full potential. She demanded:

¹⁴Majority voting under British electoral law makes it extremely difficult for small parties to win a seat. But if a number of seats are contested (marginal constituencies), a small party taking away a relatively small number of votes can have a huge effect in making such seats change hands. For fear of inroads from such smaller parties, candidates of established parties tend to move closer to demands and programmes of smaller parties. In the case of UKIP, Conservative candidates suddenly sounded much more nationalist and anti-EU. It is only a slight exaggeration to say that UKIP had staged an unfriendly take-over of the Conservative party. After 2017, one could say that the Conservatives had swallowed UKIP but at the price of heavy indigestion. Others talked of a Faustian bargain in which the Conservatives had sold their soul to UKIP to stay in power.

"And, while access to the world's biggest single market is in our national interest, the EU's rules and regulations hold back not just our economy, but also the economies of every other member state. That is why we need to argue for changes that make the EU more competitive, more outward looking and more open to global trade. Our relationship with Europe must change!" [7]

Here the old chestnuts that had subconsciously informed thinking about Europe ever since Churchill cropped up again: Europe as 'them' and not 'us'. Europe is different, Europe is foreign. Britain has a relationship with Europe, it is not part of Europe. Europe is the continent, a partner or an opponent, but not part of British identity. Europe is the bureaucratic bonds shackling British industry. Europe is levelling, imposing lifeless uniformity. Europe is irreconcilable with the very gist of Britishness. The United Kingdom is a proud nation (in fact, it is four nations) with an even prouder past—a country predestined to lead, not to become the sheepish subordinate of some anonymous unelected autocrats in Brussels. Britannia does not regard herself as the lost daughter who eventually has found her home and family in Europe. She remains a cool observer from afar, ready to deal and to participate, but only on her own terms.

May's arguments went largely unnoticed. They were completely in line with what was to be expected from a member of Cameron's Cabinet. With hindsight, they revealed an important message. Their author became Prime Minister two years later, charged with implementing Brexit. And there was a second interesting feature about them. A poll among members of the Conservative party showed that 24% favoured May as a potential successor to David Cameron, against only 22% who would vote for Boris Johnson.

2.5 Triumph in Elections: Defeat in Referendum (2015)

Tactically a victory, strategically a defeat Pyrrhus of Epirus

A general election took place on 7 May 2015. Cameron's Conservative party had started with a manifesto that summarised all the promises Cameron had made: reform of the EU, renegotiations, followed by a referendum no later than 2017. Contrary to most expectations, Cameron won a clear victory.

His Conservative party obtained a comfortable absolute majority of 330 seats (out of 650) against Labour's 232 (36.8% against 30.4% of the vote). The Liberal Democrats crashed from 57 to 8 seats. UKIP obtained 12.6% of the vote, but kept only one seat. In Scotland, the SNP won all constituencies except three, and took 56 seats in Westminster. Labour was weaker than when it had been beaten by Margaret Thatcher. Heavyweights like Douglas Alexander and Ed Balls lost their seats and the performance of the LibDems was the worst since they had formed in 1988. All polls had forecast a hung Parliament with another coalition government. Against these predictions, Cameron had managed not only to increase his majority but also his share of the vote. After five years coalition government, this was a singular achievement. Only Lord Salisbury had managed something comparable a hundred years before. Cameron had presented his party with the first clear majority in Parliament since 1992.

Cameron celebrated a second triumph. In 2010, he had become the youngest Prime Minister since William Pitt the Younger. Now he became the first Prime Minister to return with an increased majority. Cameron had reached the zenith of his political career. But instead of relishing this triumph, he committed his first serious mistake. He announced that he would not stand again in the next general election, making him a lame duck. All media attention and all the energy of ambitious MPs were now focussed on who might succeed him. The question was no longer what he might achieve, but to which potential rival he might eventually bequeath his position. It meant that the imminent referendum campaign would turn into an arena in which his succession rivals would fight it out. Cameron no longer had exclusive control over the agenda. Whoever nourished ambitions to succeed him knew perfectly well that wresting control over this campaign from Cameron would be equivalent to the pole position for the ensuing race to the top.

Cameron had brought home an unexpected, shining and indisputable victory. He was to painfully realise that this victory had not only reinforced his position, but had also laid him more open to relentless pressure from the

¹⁵ It was the seat of Douglas Carswell who had defected to UKIP a year earlier and had kept his seat in the subsequent by-election. Nigel Farage was defeated again in his South Thanet constituency. But he came a strong second with 32.4% of the vote and relegated Labour to third position.

¹⁶Only 4.7% of the electorate voted SNP, the party won nevertheless 56 seats. UKIP won 12.6% of the total vote but was left with only one seat. It was a striking example of the distortions of the British first-past-the-post electoral system.

¹⁷William Pitt the Younger was appointed Prime Minister in 1783, aged 24. He remained in office until 1801. He served again as Prime Minister from 1804 until his premature death in 1806.

radical wing of Brexiteers within his own party. Most of the other parties had also demanded an in-out referendum on EU membership in their manifestos. ¹⁸

Despite this gleaming triumph, Cameron found himself torn between three irreconcilable demands:

- He now had to honour the promises made in and since his Bloomberg speech. He could no longer tarry and play tactical games. He had to decide, he had to deliver, and he had to commit himself. He had to create legislation for a referendum, he had to fathom how far he could push EU reform, and he had to find out how far he could improve his country's membership conditions. This was a Herculean—if not a Sisyphean—task.
- Breaking free from the constraints of coalition gave him more freedom of
 action but at the same time took away a convenient shelter. Until now he
 had been able to rant against the EU and hide behind the reliably EUfriendly Liberal Democrats. He now had to show what his words were worth.
- He now enjoyed a comfortable majority. All the other parties were reeling with shock after their electoral disasters. This gave him a position of strength. Labour, the Liberal Democrats and UKIP had to look for new leaders. Nigel Farage had announced his resignation. At the same time, Cameron's opponents from within the party felt encouraged. They no longer had to fear a loss of majority. Now that the opposition was licking its wounds and remained paralysed, they could attack the Prime Minister without restraint. There was no fear that the opposition might exploit weaknesses in the governing party.

After the election results had come in, Cameron's first priority was to prepare legislation for the referendum and to define its parameters. The most important task consisted in putting together effective organisations that could run the campaign. Maybe, Cameron had secretly hoped that a continued coalition with the Liberal Democrats would spare him the need to deliver on his promises.²⁰ Perhaps it dawned on him that he could no longer procrasti-

¹⁸ This demand figured prominently in the manifestos of Labour, LDP, Greens, UKIP and BNP.

¹⁹ Farage revoked that resignation shortly afterwards. He finally resigned after the referendum in the summer of 2016.

²⁰ On closer inspection, this supposition seems highly improbable. The Liberal Democrats had left no doubt that they would never agree to an EU referendum. Cameron would have lost all credibility if he had buckled. He could not seriously sacrifice his repeated promises on the altar of harmony within a coalition. Donald Tusk has said that Cameron believed he would never have to deliver on his promise. (Guardian: *Cameron did not think EU referendum would happen*, 21 January 2019 (https://www.the-guardian.com/world/2019/jan/21/donald-tusk-warned-david-cameron-about-stupid-eu-referendum-bbc, 31 January 2019). If that is true, it shows that Cameron was not only naive, but insincere.

nate. Remembering the lessons of the Scottish referendum of 2014, he decided to take the offensive and to get the whole thing over and done with as quickly as possible. With his staff in Number 10, he fixed the summer of 2016 as the date for the referendum—well before the Tory party conference in October.

Cameron's first priority was to preserve the unity of the party and to reconcile its warring wings. ²¹ He had preserved the unity of the Union with Scotland in 2014. And now he wanted to put an end to internal wrangling within his party once and for all. It remains unclear what exactly he had in mind when he went for a referendum. In the summer of 2015, he appeared assured of success. At the EU summit in June 2015, he is reported to have said: "*People will ultimately vote for the status quo if the alternatives can be made to appear risky*" [8]. He put all his hopes on the assumption that his compatriots who had just returned him to power with a clear majority would also follow him in a referendum. He was convinced that the predominantly conservative instincts of most Britons would push them to preserve the status quo rather than leap into the dark.

Cameron had to fight on two fronts. He had to convince his EU partners of his reform ideas or rather of revised conditions of membership. And he had to build a credible campaign for a Yes in the referendum and to position himself accordingly. But this resulted in a dilemma for him. Strategically, he wanted to keep his country in the EU and simply to find a way to finally silence the radical Brexiteers. Tactically, he could not commit himself, since he believed he himself had to threaten a Brexit option credibly in order to put sufficient pressure on his EU partners. He was simply unable to commit himself before the results of renegotiations were available. If he declared himself prematurely for Remain, he would lose his leverage on Brussels and offer his opponents an open flank. If he spoke out in favour of withdrawal, he was contradicting himself and undermining his own strategic purpose. The EU would lose all interest in renegotiations and radical Brexiteers would have gained the upper hand. Therefore, his campaign could not start before February 2016. Until then he had to sit on the fence, keeping his options open for both positions. Until renegotiations had been concluded, Cameron did not know how to campaign.

²¹Cameron had antagonised various subgroups in his party when he supported gay marriage, radical reform of the House of Lords, grammar schools and higher budgets for the Department for International Development. His austerity policy and his coalition with the Liberal Democrats were anathema in the eyes of many right-wing Tories. This was all the more reason why Cameron had to keep his party together on the question of EU membership.

His opponents had a clear tactical advantage. They had campaigned consistently and with growing strength for Leave. They knew that whatever the results of Cameron's renegotiations, these would never be satisfactory. They wanted a radical, uncompromising Brexit—not reform, renegotiations, or fallback arrangements. They insisted on full and complete Leave, whatever the costs. They were not prepared to accept camouflage and cosmetic retouches for substantial concessions.

2.6 Charting the Course Ahead (2015)

Et tu, Boris?

Cameron had ample grounds to be optimistic. Had he not just led his party to unexpected and resounding victory? Had he not elegantly parried the initiative of his coalition partner to revise the electoral system by introducing the single transferable vote (STV) system (which Cameron and his party abhorred) and won the corresponding referendum with an overwhelming majority (68% to 32%)?²² Had he not just won another resounding victory in the referendum in Scotland, more decisively and more overwhelmingly than all experts had predicted? Cameron felt he was sailing with strong, favourable winds. Why should he not resolve this vexatious European question in the same nonchalant and casual way in which he had wiped out Scottish nationalism? He would emerge as the Titan of Europe—having secured the unity of his country, the unity of his party, having improved the position of his country in the EU and healed the festering wound that Europe had left in the British body politic, and, if he was lucky, he would go down in history as the man who had made the EU change course. Would he then not be the most important and most distinguished of all British Prime Ministers?

Legislation for the referendum was submitted to Parliament less than three weeks after election in May 2015. In December, the House of Lords gave its approval, the Crown assented, and on 1 February 2016 the legal provisions for the EU referendum were all in place. But during this process, Cameron had suffered a succession of serious blows: the wording of the referendum question, the purdah period for the Civil Service, Conservative party neutrality, and cabinet collective responsibility. None of them were lethal in their

²² In those days, Cameron had no idea that he owed this resounding success to exactly those campaign professionals who would, with no lesser success, orchestrate the campaign against him in 2016.

own right. But taken together they seriously tilted the playing field and deprived him of valuable tactical advantages on which he had counted.

The law defined a ten-week period for the official campaign. The Electoral Commission, a strictly neutral body, was designated to identify two NGOs as official organisers of the Yes and the No campaigns. They were each to receive £600,000 from the Treasury to finance their expenses. On top of that, they were allowed to accept private contribution up to £7 million. Both sides would have balanced and equal access to television coverage, both had the right to distribute leaflets free of charge.

Cameron's idea had been to cast the EU campaign into the same mould as the Scottish campaign. He wanted to use the full authority of his office to convince voters, he wanted to mobilise his party, and he wanted to draw liberally on the vast experience of the Civil Service. He had suggested that the referendum question should be: "Should the United Kingdom remain a member of the European Union?" In 1975, the question on the ballot paper had been: "Do you think the United Kingdom should stay in the European Union?" In the referendum about Scottish independence, voters had to answer the question: "Should Scotland be an independent country?" Cameron had strong and consistent precedents for his suggested wording.

His victory had strengthened not only his hand; it had also increased the number of his opponents and it had strengthened their resolve. They no longer felt restrained by fear of losing the majority of their party in Parliament. The constraining effect of the EU-friendly coalition partner had disappeared, and Labour provided no effective opposition. This encouraged the fronde within his party to be more demanding and less pliable. His opponents were no longer prepared to passively accept his approach. After the summer break, the Electoral Commission came under massive pressure from anti-EU MPs. They insisted that the wording proposed by Cameron was too suggestive. It was a one-sided question. It did not make clear the alternative and it implied holding on to the status quo. The Commission decided the question needed a more balanced wording. It determined the question should be: "Should the United Kingdom remain a member of the EU or leave the EU?" It forgot that this wording juxtaposed one question that had clear contours with another one that was nebulous and unclear, inviting wishful thinking. The first question was Remain. Leave, however, was completely vague, because it failed to spell any of the implications contained in that fateful question. In fact, it implied a third question, and that third question remained unasked. It proved to be, however, of existential importance. That was the question what role the UK should play in international trade, politics, security in future if it left the

EU. As it turned it out, this unspoken implication of the two questions in this referendum gave rise to unending confusion, confrontation and chaos.

Cameron had lost control over the wording and, implicitly, the framing of the question. Instead of a soothing question appealing to the conservative instincts of most British who wanted no change, now there were two alternatives on the same level. There was no longer an implied preference for a conservative 'stay' or 'remain'. Linguists explain that these words imply emotional overtones of calm, tradition, confidence, security, familiarity and homecoming. Leave, on the other hand, conjured up ideas of departure with unknown destination, of seafaring risks and adventures, of the unpredictability of expeditions into terra incognita. That was a threat, but it also contained a challenge, and that challenge resonated with a seafaring nation. It was the 'Leave' campaign, not the 'No' campaign. Psychologically, that was an important distinction. 'No' would have evoked negative associations. 'Leave', however, had connotations of resolve, power, daring, unflappable courage, relief, and liberation. In this context Leave was dynamic, Remain was stagnant. Leave was at the end of the question and therefore left the stronger reverberations with the reader. In this juxtaposition, Remain assumed connotations of immobilism, paralysis, and bondage. Cameron could no longer count on the Hamlet reflex of his compatriots that would 'make them rather bear those ills they have, than fly to others that they know not of'.23

Leave succeeded in reinterpreting the status quo. Remaining in the EU was made to appear as the risk, as the precipitate jump into a maelstrom that would wipe out all Britishness and, even more important, all Englishness. Remain became the adventure with incalculable result, the forced trek into the unknown. For Remain implied encroaching terror, tsunamis of immigrants, and a long march into the European superstate under German hegemony. What could have been more abhorrent to an upright Tory? Everyone could see what Greece was suffering, and most Tories blamed German rigidity and the cold-heartedness of the German Herrenmensch. Tories remembered how Cameron's veto in 2011 had been elegantly sidestepped. Many Tories regarded Brussels as the black hole that would eventually suck in and devour everything within its reach. Leave, on the other hand, presented the nostalgically embellished return to a rural, bucolic village life, to imperial greatness and to those plucky virtues that had made the English the toughest race on earth. It was the dream of the older generation: a country that ruled the world but never allowed itself to be ruled by others, a country that can take on the

²³ Shakespeare, Hamlet, Act III, Scene 1.

whole world and still prevail, a country that lived in the spirit of the Light Brigade and Dunkirk.²⁴ It was not Brexit that was the leap in the dark, but Remain. Leave waged a campaign that could be described as 'Make Britain Great Again'. It was a backward-looking invocation of past greatness. The strong nostalgia of the Leave campaign attracted the older generation in particular. They had grown up in times when Britain did rule the waves and they found it difficult to understand why these times were irretrievably gone. They also regarded the EU as something akin to their own erstwhile colonial rule. It is significant that Brexiteers in the course of the debates resorted to language that implied colonialism and feudal subordination: Boris Johnson warned against the United Kingdom being forced into the status of a colony, and Jacob Rees-Mogg exorcised British 'vassalage' of the EU. In fact, he went back to King John Sansterre and the French king Philip Augustus and the obscure treaty of Le Goulet they had concluded in 1200 to prove his case.

If you asked inhabitants in the United Kingdom how membership in the EU interfered with their everyday lives, how they suffered and how EU directives or regulations restricted them in their individual decisions, very few could give any meaningful answer. Apart from immigration, which was obvious and the effects of which were felt by most (though not necessarily in the same way), there was very little in their normal lives that Britons could blame on the EU. There would be some factual complaints about the United Kingdom having been outvoted, of having been marginalised by the strengthening of the Eurozone, of having British laws and verdicts of English courts reinterpreted. But facts played no decisive role in this campaign. It was dominated by emotions, by rumours, false promises, fraudulent myths, and appeals to national stubbornness. Leave operated by fanning emotions, Remain tried to convince people with endless statistics, calculations, and warnings of doom, decline and descent. The nostalgic Leave campaign invoked a pleasant 'merry old England'. 'Take Back Control' appealed not only to democratic instincts and nationalist bias, it was a reminder of those days when the Union Jack was flying over an Empire and a third of mankind obeyed what was decided in Westminster and Whitehall. It recalled those days when the United Kingdom dominated global markets. A mood of 'Britannia Rules the Waves' and 'Land of Hope and Glory' impregnated minds.²⁵

²⁴ After the Salzburg summit in September 2018, Jeremy Hunt, then Foreign Secretary, said: "*The way that Britain reacts is not that we crumble or fold but actually you end up invoking the Dunkirk spirit and we fight back.*" The Daily Telegraph, 30 September 2018 (https://www.telegraph.co.uk/politics/2018/09/30/jeremy-hunt-warns-eu-bad-brexit-deal-will-stir-britains-dunkirk/, 14 March 2019).

²⁵ Some people punned that 'Britannia Rules the Waves' only applied outside the EU. Inside it should read 'Britannia waives the rules.'

The next defeat came few days later: thirty-seven Tories voted with the opposition for a four-week purdah. This meant that four weeks before polling day, the entire Civil Service would be obliged to observe strict neutrality in all questions that might have a bearing on EU issues. Cameron lost his most powerful weapon. At least during four weeks before referendum day, he could no longer enlist the vast experience and the enormous administrative leverage of the Civil Service.

The third blow soon followed. On 21 September 2015, only two weeks later, Conservative headquarters decided to remain neutral in the campaign. The divergent wings within the party were so strong and so adamantly opposed to any mutual understanding that it was felt a commitment of the party organisation to officially support one side or the other might hasten the break up of the party.

The final and most cruel setback came in January 2016. It was an open secret that some members of his Cabinet favoured Leave. In December 2015, Cameron had categorically ruled out Cabinet members having the freedom to vote as their conscience dictated. Cabinet collective responsibility was an iron rule and Cameron declared that he was not prepared to relax it in this guestion. Whosoever felt uncomfortable with the position of the Prime Minister would have to reconsider his or her position. But on 4 January 2016, Chris Grayling, the Lord President of the Council, wrested from Cameron the concession that ministers should be free to take sides irrespective of their cabinet position. There were four ministers at that time who had given to understand that they were in favour of Leave: John Whittingdale (Secretary of State for Culture, Media and Sport), Theresa Villiers (Secretary of State for Northern Ireland), Priti Patel (Minister of State for Employment) and Iain Duncan Smith (Secretary of State for Work and Pensions). Duncan Smith was a heavyweight. He had been Leader of the Conservative party in opposition from 2001 to 2003. He had been the first openly EU-sceptic politician to lead the party. He resigned from the Cabinet in March 2016—not over EU-matters but because he felt that the budget proposed by George Osborne did not make sufficient provisions for what was known in Tory speak as JAMs (justabout-managing people).

Cameron wanted to avoid a major government crisis with half his Cabinet resigning a few months before voting day. Presumably he still hoped to discredit his opponents as stubborn, bigoted radicals without standing and without importance. After all, the whole point of him holding the referendum was to re-establish unity within his party. It was all about party management. He had no doubt that at the end of it all there would be a reunited, reconciled Conservative party, stronger and all the more powerful. This is why he tried

to avoid open attacks on opponents from within his own party, why he showed a remarkable inhibition to bite back even when polemics went viral. He strictly forbade 'blue-on-blue-attacks' (Tories attacking fellow party members). He did not want to burden reconciliation with personal grudge, animosities and resentment.²⁶

Not in his wildest dreams could he have anticipated the destructive energy and the unbridled hostility that he was to endure during the coming months. If he had hoped for a gentleman's agreement, an agreement to disagree that would not change the basically friendly and cooperative spirit within the Cabinet, then he was in for a rude awakening. There were more dissidents than these original four. In February, Michael Gove and Boris Johnson informed Cameron that they would support Leave. They were political heavy-weights, conspicuous through the offices they held and even more through their manner of communicating. Gove was an old friend of Cameron's family. His wife is godmother to Cameron's daughter and the families had spent holidays together. Gove was a man of deeply held convictions, no flexible pragmatic. Cameron has been dubbed a Conservative with a small 'c', Gove as a radical with a capital 'R'. Gove had in his office a large picture of Margaret Thatcher and a small one of Lenin. Cameron had Churchill on the wall of his office.

Even more fatal was the positioning of Boris Johnson. He was still Mayor of London and had recently won the by-election in Uxbridge and South Ruislip. He had won the mayoral election in 2008 against his Labour predecessor Ken Livingstone primarily because Cameron had given him unstinting support. Johnson has a reputation for quick repartee, provocative remarks and a certain disregard for political correctness. He is a brilliant speaker, unconventional, reckless, quick-witted, and with a vast background of knowledge that he intersperses with an apposite classical quote every now and then. Above all, he is driven by unbridled ambition and he is ruthlessly aggressive. His party loves him. He skilfully manipulates media to remain in the focus of public attention. He practices a method that Donald Trump has brought to perfection. In contemporary politics, attention is more important than the message. To provoke and to disregard taboos creates a huge fuss, and all those that criticise and pillory such behaviour as unacceptable inadvertently reinforce the original message by lending it resonance. The messages are never

²⁶Cameron had completely underestimated the public effect of members of Cabinet attacking their own Prime Minister and Leader of their party. This made headlines against the background that Cameron had thrown open the contest for his succession. It engendered endless gossip and speculation. It became the talk of the town for weeks.

about things, they are always about the person. Johnson knows perfectly well that it is easier to affirm than to refute, that people believe quickly but are slow to be convinced, that false pretences and prejudices are more powerful than a careful weighing of evidence and a cautious judgment. He knows that a swashbuckler running berserk gets more applause than a wavering *cunctator*. Johnson is a brilliant orator. He has an unmistakable identity (riding a bicycle, priding himself on his ruffled hair and woolly hat) and radiates an almost infantile directness. These qualities enable him to reduce complex realities to simple, catchy phrases that are intuitively suggestive and that appeal to deepseated emotional needs and prejudices. He is a master in finding expressive metaphors. Johnson knows that simple and facile explanations, even if patently untrue, get more nods than complex, unpleasant truths. Audiences are more likely to cheer someone who reinforces their prejudices and conceits than someone who forces them to face unpalatable truths, to reduce their hopes and to revise their *Weltanschauung*.

With Gove and Johnson opposing him, Cameron had lost the option of making light of this opposition. Both politicians lent the Leave campaign respectability and intellectual seriousness. If politicians of this calibre were supporting Leave, this option was suddenly raised to the same level as Remain. Many voters who had so far dithered or who felt ashamed of showing their views felt encouraged to come out and show their colours. Thousands were ready to follow with these two trailblazers leading the way. Remain had incontestably dominated in opinion polls so far. That began to change fast.

Cameron had committed four mistakes in preparing the referendum. None of them was in itself lethal, but in combination they cut the ground from under his feet. The last one, the waiving of cabinet discipline, was the gravest mistake of all. He did not succeed in branding his opponents as confused eccentrics. He failed in his plan to shunt them on a siding and to speed away on his high-speed tracks. Now he had to put up a real fight. And he no longer fought on the high ground. After February 2016, he was on a level playing field with his opponents.

2.7 Renegotiations (2016)

Hoist with his own petard William Shakespeare

Since Margaret Thatcher had successfully negotiated the rebate for her country, the United Kingdom had gradually slipped into a special relationship with the EU: it had chosen to retreat into a niche of exceptions and reserva-

tions. This gave her more national elbowroom, but at the same time it pushed the country into growing isolation. Her successors had negotiated exceptions for the common currency, for the Social Charter and for police and judicial cooperation. Together with Ireland, the United Kingdom stayed out of the Schengen Agreement. Tony Blair had been the most EU-friendly British Prime Minister. He incorporated the Charter of Fundamental Rights and the Social Charter into British law but kept his distance to other fields of cooperation.²⁷ The United Kingdom had come round in 1998 to supporting joint European efforts in security and defence. It took a lead in formulating the military headline goal for EU battle groups (2003/4), but continued to foil all attempts to give the EU independent planning capacities and its own fully staffed military headquarters. It did not want to build up structures that might rival or even undercut those of NATO. In many respects, the United Kingdom was regarded as the odd one out in Brussels. Representatives of the other Member States reacted to British interventions aimed at slowing or watering things down with a mixture of frustration and amusement. Some were grateful for this sober voice of pragmatic reason, others deplored the eternal brakeman that was skilfully throwing spanners in the wheels and ensuring that there was no progress towards integration.

Cameron had announced that he would conduct renegotiations before a referendum. He had explained his ideas in his Bloomberg speech on 23 January 2013:

"We urgently need to address the sclerotic, ineffective decision making that is holding us back. That means creating a leaner, less bureaucratic Union. Today, public disillusionment with the EU is at an all time high. People feel that the EU is heading in a direction that they never signed up to. The result is that democratic consent for the EU in Britain is now wafer thin. That is why I am in favour of a referendum. I believe in confronting this issue—shaping it, leading the debate. Some argue that the solution is therefore to hold a straight in-out referendum now. I don't believe that to make a decision at this moment is the right way forward. Now—while the EU is in flux, and when we don't know what the future holds and what sort of EU will emerge from this crisis—is not the right time to make such a momentous decision about the future of our country. How can we sensibly answer the question 'in or out' without being able to answer the most basic question: 'What is it exactly that we are choosing to be in or out of?' At some stage in the next few years the EU will need to agree on Treaty change. I believe the best way to do this will be in a new Treaty. My

²⁷Theresa May made use of the opt-out in the field of police and judicial cooperation. She took her country out of 133 provisions, but accepted 35 of them unilaterally a few days later. Among them was the European Arrest Warrant.

strong preference is to enact these changes for the entire EU, not just for Britain. But if there is no appetite for a new Treaty for us all then of course Britain should be ready to address the changes we need in a negotiation with our European partners. At the end of that debate you, the British people, will decide. I believe very deeply, that Britain's national interest is best served in a flexible, adaptable and open European Union and that such a European Union is best with Britain in it" [9].

This was a clear programme and a clear concept of how to conduct the campaign. Cameron's top ambition was EU reform and a revision of the Treaty of Lisbon. Should this prove impossible, he demanded renegotiations about the status of his country within the EU. The result of these negotiations should then be subject to a people's vote in an in-out referendum.

A year later, he specified this approach in a contribution to the Telegraph:

"I will negotiate a new settlement for Britain in Europe, and then ask the British people: Do you wish to stay in the EU on this basis, or leave? I will hold that referendum before the end of 2017. This is an ambitious agenda for a new European Union. Some changes will best be achieved by alterations to the European treaties—others can be achieved by different means. But when we achieve it, we will have transformed the European Union and Britain's relationship with it. I would then campaign for Britain to remain in this reformed EU in 2017" [10].

Here Cameron committed to a time frame for the first time. He announced that he himself would campaign for Remain if and in so far as 'the EU and Britain's relationship with it have been transformed'. That is an important proviso. It implied the reverse conclusion that he would campaign for Leave should such a transformation prove unattainable. But at the party conference he had proclaimed himself confident of victory: "I will get what Britain needs!" [11].

Pressure was rising. When sounding out his EU partners, Cameron soon found out that nobody except himself had any interest in negotiating a new treaty and reforming, or even transforming, the EU. They were all still shocked by the failure of the constitutional treaty and the fact that the Lisbon Treaty had failed by a whisker, too. Most provisions of these treaties had been negotiated and written before enlargement in 2004. Everybody was aware that the new members—whose number was subsequently swelled by Bulgaria, Romania and Croatia—would make consensus even more difficult. Instead of 15 there would be 28 negotiators around the table. At the climax of the Greek crisis nobody showed any appetite for a treaty conference. Everybody knew

that re-opening a treaty that may have been unsatisfactory in some minor aspects, but that was by and large working, would constitute a huge and completely unnecessary risk.²⁸ It was foolhardy over-confidence to believe that unilateral British demands could move 27 EU members—and above all the massive vested interests of the Brussels institutions—on points that questioned the very foundations of their competences and their self-conception. In a way, Cameron was conducting gunboat diplomacy—but without gunboats. His greatest weakness consisted in raising expectations at the home front while running into a phalanx of annoyed indifference among his EU partners. He should have known better. In 2011, he had pathetically proclaimed his veto only to see the other players adroitly outflanking him and confronting him with an accomplished fact. Cameron should have known that an ambitious undertaking like reforming the EU—particularly on points that touched the very founding dogma of the EU such as freedom of movement—required patience, time and powerful allies. Cameron did not find any allies. He did not really even try.

Cameron made three strategic mistakes in his demand for renegotiations:

- He created unnecessary time pressure by announcing 2017 as the target date. This left just two years to accomplish substantive reforms. It was completely unrealistic for anyone familiar with the sluggish rumbling of Brussels institutions. Presumably, 2017 was chosen out of fear, because in that year elections were scheduled both in Germany and France that might result in new governments about whose priorities there was no clarity. With hindsight, it would have been better to play for time and to push the referendum as far back as possible. With President Macron and a renewed Grand Coalition in Berlin under the eternal Chancellor Merkel, conditions for renegotiations in 2018 would have been no worse than in 2016. And the entire global environment was much more benign in 2018 than in 2016, when the aftermath of the Greece crisis and mass migration was still reverberating.
- He failed to interest any of the continental partners in his agenda or to enlist continental support. He (and his government) showed little understanding and less sympathy for continental mentalities and priorities. There were loose contacts with Stockholm, with The Hague and Warsaw,

²⁸These concerns were justified. This was demonstrated in 2016, when CETA was almost scuppered because the Belgian region of Wallonia refused to give its consent for ratification. Shortly before that, the Dutch population had almost stopped the EU Association Agreement with Ukraine through a negative referendum.

but Cameron did not show any readiness to make himself a devoted supporter of some of their wishes in exchange for them taking up some of Britain's demands. Cameron underestimated Merkel's devotion to the principle of freedom of movement. She herself had spent years of her life behind barbed wire and walls. Unconditional freedom of movement for her was something that could not be haggled about.²⁹ Many in London firmly believed that Germany would give in eventually because it was afraid of standing alone against a league of Mediterranean countries with a strong tradition of state planning, deficit spending and protectionism. They also assumed that Germany would be accommodating because the United Kingdom was such an important market for its automotive industry.

• Cameron's expectation management was dismal. Instead of dampening expectations, he constantly fuelled them. He never mentioned that the complexity of the matter might require time, that concessions on the part of the EU required concessions by the United Kingdom, and that this was a give-and-take situation, not one of imperious demands. Or that respecting British national interests presupposed British respect for other national interests. And that in the end, there could only be a carefully balanced compromise, never a fully one-sided victory. Cameron continued to speak about the EU in a derogatory, dismissive way—somehow in the belief that those whom he disparaged in this way would show more readiness to compromise and that his fellow party members would be delighted if he saved the relationship with an institution that he persisted in rubbishing.

In the summer of 2015, Cameron realised that there was no prospect for a new treaty. On 10 November 2015, he wrote a letter to President Tusk of the European Council expounding four British demands for renegotiations:

- Protection of the Single Market; recognition that the EU is home to different currencies on an equal footing; and sufficient protection for Member States that stay out of the euro against decisions taken by the Eurozone that might detrimentally prejudice the interests of these members.
- More free trade, enhanced competition.
- Rejection of the formula 'ever closer union of the peoples of Europe'; reinforcement of the rights of national parliaments as the sole representatives of national sovereignty.
- National control over immigration.

²⁹ In her view, this was valid even to freedom of movement outside the EU, as 2015 showed.

He justified these demands in a speech in Chatham House on the same day. This speech again contained several passages that were highly critical of the EU. They shed a characteristic light on his ambitions. He flanked his four demands with phrases that again ratcheted up expectations in his audience. He promised nothing less than a new EU:

"The European Union needs to change. It needs to become more competitive. It needs to put relations between the countries inside the Euro and those outside it—like Britain—onto a stable, long-term basis. It needs greater democratic accountability to national parliaments. The answer to every problem is not always more Europe. Sometimes it is less Europe. We see the European Union as a means to an end, not an end in itself. If we can't reach an agreement and if Britain's concerns were to be met with a deaf ear, then we will have to think again about whether this European Union is right for us. Those who believe we should stay in the EU at all costs need to explain why Britain should accept the status quo. There are real problems for Britain with the status quo. I am not saying for one moment that Britain couldn't survive outside the European Union. Of course we could. There will not be another renegotiation and another referendum. You, the British people, will decide. And it will be the final decision. If we vote to leave, then we will leave. The prize is a big one: A new kind of European Union" [12].

Cameron had plunged himself and his country into a predicament. He knew the United Kingdom needed EU membership. But at the same time, he had to let Brexit appear not only as an acceptable, but even attractive alternative to the EU in its present form. This was the only way to take the steam out of his party. And this was the only way, he believed, to extort concessions from the EU. Cameron sounded like a customer in an oriental bazaar who talks down the value of the products he intends to buy in order to get a better price. But he was not haggling with hawkers in an oriental bazaar, and the product was not his to buy. It had to be palatable to his people. And the more he talked it down, the more his people lost their appetite.

Most astonishingly, Cameron never invested much time or effort in trying to find out which EU partner might join him in forming a common front on EU reform. His position as *demandeur* might have improved immensely had he not been isolated, had he been able to produce at least one comrade-in-arms who would have fought on his side. To unhinge a building that it had taken generations to build, alone and without helpers, would have asked too much even of another Samson. Even more astonishingly, he never mentioned that changes in the EU require taking into account the interests of all partners and that there was simply no prospect of all demands being met unless Britain also made concessions. So whatever the British demands were, there was no

hope that they would be met in full. Cameron talked in the way a lord of the manor would talk to his serfs. He fanned nationalist British (and English) pride and occasionally used jingoist language. He appeared convinced that he could achieve more through bullying and bluffing than through the painstaking forging of alliances.

His party avidly lapped up his nationalism, but his EU partners were irritated and uncomfortably surprised. Instead of reining in the most radical Leavers in his party, he fed them raw meat and stoked their hunger for further concessions.³⁰ In the end, he had raised such frenzied expectations that he could not meet them even in the most favourable of circumstances.

Cameron had grown up in public relations. He looked on the referendum and renegotiations with the EU as an exercise in political acumen and in adroitly managed communications. For him to dominate in headlines and on televised news was most important. He cared little for substance. The EU and the referendum were to him basically instruments to play with in order to get the desired effect, and that effect was: to stay in power and to keep his party united. He approached things with nonchalant laxity and the unperturbed equanimity of a gambler. He never entertained any doubt that, when necessary, he could entice a sufficient number of his party members to join him through patronage and the promise of lucrative positions. He did not anticipate the massive flood of ideological fundamentalism and radical fanaticism that was to engulf him. He understood even less the principled tenacity with which his continental colleagues adhered to the acquis communautaire. He had hoped to break open their phalanx with ease, but he found he was banging his head against a brick wall. There was no chink where he could have placed a wedge to pry open this wall. Cameron had put all his eggs into one basket.

Cameron perceived how strongly and how solidly the other EU partners rejected his ideas at the European Council meeting in December 2015. Poland was furious about plans to reduce social benefits for migrants, Chancellor Merkel declared freedom of movement to be non-negotiable, and France, Germany and the Netherlands curtly observed that the EU offered them a convenient frame for competitive exports. Cameron retreated and declared that he was happy with whatever the EU had to offer. Basically, Cameron only demanded what had been agreed beforehand in unofficial talks. He restricted his negotiations to those points on which he could be sure to make some

³⁰ In the words of an anonymous moderate Conservative critic of Cameron: "Cameron kept making concessions against his own better judgment in order to win the approval of people he deeply despised and whose ideas were incompatible with his own."

progress. He relied too much on his EU experts, who advised him on what was permissible and what not under the EU Treaty. Most of the text of his Chatham House speech had been cleared between his staff and Tusk's staff beforehand. Cameron never liked to fight. Whenever he sensed resistance, he retreated or sidestepped the issue, covering his retreat with high-sounding sophistry.

Renegotiations took place in Brussels on 18–19 February 2016. Although most of the substance of this document had been pre-cooked, the meeting dragged on into one of those notorious midnight sessions. The English breakfast scheduled for the morning of the 19th was rescheduled as dinner on the same day. But even that had to be dropped. After thirty hours of tense negotiations, the result was announced shortly before midnight on the 19th. Negotiations had degenerated to such levels of detail and small print that Cameron, completely exhausted and frustrated, sent an SMS to one of his staff: "Frankly, after a day and a half of talks with these people, even I want to leave the EU. I'm getting nowhere, I might have to walk away" [13]. In the final phase of negotiations, the United Kingdom's future in the EU depended on the question of whether 34,000 children of east European migrants should be entitled to full or reduced child's benefits—a difference in cost of less than 20 million euros.

Cameron obtained five concessions:

- (1) An assurance that Eurozone decisions would under no circumstances negatively prejudice the interests of members outside the Eurozone, and that the Eurozone could not create obligations for members outside.
- (2) A commitment to stronger competitiveness, subsidiarity and proportionality.
- (3) The wording of Article 1 TEU about 'ever closer union of the peoples of Europe' was reinterpreted as being a non-binding declaration of intent, not a binding legal obligation.³¹
- (4) National parliaments, together representing 55% of the entire EU population, can oblige the EU to reconsider a previous decision.
- (5) Freedom of movement was confirmed but subject to certain national emergency reservations. Social benefits for migrants were curtailed. Child benefits should be calculated on the cost of living in the country of origin

³¹The wording "the United Kingdom, in the light of the specific situation it has under the Treaties, is not committed to further political integration into the European Union" is not without ambiguity. It can be interpreted as descriptive and subjective as well as prescriptive and objective. In the first case, it simply states a fact; in the second, it relieves the UK from a legal obligation.

rather than of the country of destination. Migrant workers would not be entitled to unemployment benefits until they could prove seven years of residence.³²

Around midnight of 19 February, Cameron declared publicly in Brussels: "I believe we are stronger, safer and better off inside a reformed EU, and that is why I will be campaigning with all my heart and soul to persuade the British people to remain" [14]. Was this triumphant enthusiasm justified? Had he scored a decisive victory—or simply skilfully obfuscated defeat?

The outcome of this European Council must have come as bitter disappointment for EU experts. It stopped the trend towards ever-growing centralisation and communitisation. It reiterated the multiplicity of national perspectives and the admissibility of opting out from further integration. The paragraph concerning 'ever closer union' amounted to a renunciation of the belief in the inevitability and irresistibility of European unification. This must have been painful for all those who believed European integration to be a matter of historical necessity. For others, particularly for those less versed in the legal language of Brussels, the whole thing seemed a futile exercise in meaningless verbal jingles. Most Britons had no clue about the conceptual scholasticism of the EU and of its inherently legalistic mode of thinking. From the other side of the Channel, it looked like the famous dogmatic fight over an iota. The conclusions failed to address most of those questions that had agitated British minds: jurisdiction of the CJEU, budget contributions, repatriation of competences, and restrictions on migration. To the British public, a mountain had laboured and given birth to a mouse. It was immediately pointed out that Council conclusions could not constitute contractual obligations. They were political declarations of intent, but not legally binding unless and until incorporated in treaty language.³³ The Lisbon Treaty, the foundation of the EU in its present form, was left untouched.

Compared to Cameron's ambitious proclamations, this was a meagre result. This was not the beginning of EU reform. This was not the answer to the pressing problems of his country. This was some verbal fudge to paper over some unresolved and real underlying antagonisms. Now Cameron had to live

³² Conclusions of the meeting of the EU Council of 18/19 February 2016 (http://www.consilium.europa.eu/de/meetings/european-council/2016/02/18-19/, 28 March 2018).

³³ The wording of the conclusions supports this view. It repeatedly underlines that their content has to be incorporated into the treaties at a later stage: "The substance of this Section will be incorporated into the Treaties at the time of their next revision in accordance with the relevant provisions of the Treaties and the respective constitutional requirements of the Member States." Or in another context: "The competences conferred by the Member States on the Union can be modified, whether to increase or reduce them, only through a revision of the Treaties with the agreement of all Member States." What has to be incorporated into the treaties cannot be part of these treaties and therefore has a different legal quality.

up to his broken promises that he would get what Britain needed and to his fierce flagellation of the EU. Many people in the United Kingdom, distrustful of anything coming out of Brussels, read the conclusions with profound misgivings. For them there was little doubt that this was a charade, some impressive stage production to hide the ulterior motives of scheming EU fanatics. They were not convinced that any trust could be put into these conclusions. Others resorted to tactical considerations. If the EU dismisses the United Kingdom with such anodyne equivocation while threatened with British withdrawal, how would the EU react later once Britain had voted to remain? Would it then not give the British people a cold shoulder and simply ignore their plight? Would it not simply continue its hidden agenda and build a political union? And would the United Kingdom not be impotent to stop all this, having committed to Remain in a referendum?

Commentaries in the media were caustic: "The Prime Minister promised a loaf, begged for a crust and came home with crumbs." and "Cameron banged the table and peremptorily demanded the status quo" [15]. Cameron had lost his way. He had followed a zigzag course, he had made promises and firm commitments, and then he had tried to reinterpret them. He came across as a windbag—grandiloquent in words but timid in action. He wanted to project an image of being genuine, honest, relaxed, and straightforward. To most observers he appeared tight, ingenious in making excuses, tortuous and thoroughly insincere. He now had to sell an agreement without substance as a historical break-through. He had to argue that continued membership in the EU was the best option for his country after he himself had described the status quo as unacceptable and nothing serious had changed. How could he now describe Brexit in the blackest terms—the type of tactic he had used two years previously in order to keep Scotland inside the United Kingdom—after he himself had asserted that Brexit was an acceptable alternative? One of his staff put it succinctly: "If it's such a catastrophe to leave, why were you prepared to do it a few weeks ago?" [16]. On 5 December 2015, a few days before the meeting of the European Council, Cameron had boasted that he himself would lead the Leave campaign if he did not get what he wanted in Brussels. This was a double mistake. The EU partners felt under pressure—understandably so, for that was the purpose of these words. Some cast doubt on Cameron's credibility and soundness. And he gratuitously added fuel to the arguments of his opponents. If he now warned against Brexit in uncompromising terms, why had he himself described this choice as a serious, possibly even attractive, alternative? His persistent ambivalence and indifference towards the European problem in British politics now came back to haunt him and deprived him of credibility.

Many dismissed the result of his renegotiations as cosmetic retouches, as sham and window dressing. Understandably, they compared what Cameron had achieved with what Wilson had achieved in 1975. In both cases, there were practically no tangible results. The media reacted scathingly: "Who do EU think you're kidding Mr. Cameron? Our deal turns to farce", was the front page of The Sun [17], parodying the titular song of the popular TV series Dad's Army.³⁴ "Call that a deal, Dave?" the Daily Mail asked chummily [18]. Even The Times talked about fudge [19]. Cameron had failed less because of the resistance of his EU partners, but because he had stoked expectations that now appeared frustrated. He himself had indulged in categorical demands, far reaching assertions and polemic rhetoric. The result of his renegotiations was so threadbare that it played virtually no further role in the ensuing Brexit debates.

Cameron had now committed himself. He wanted a clear and resounding vote for Remain and he promised to spare no efforts to get it. He was aware that it might cost him his political career and his reputation. He convened his cabinet for an emergency session on Saturday, 20 February,³⁵ and announced the referendum date: 23 June 2016.

2.8 Remain: Britain Stronger in Europe (2016)

And makes us rather bear those ills we have Than fly to others that we know not of William Shakespeare

> Experto crede Vergil

According to the Referendum Act, non-governmental organisations had to be set up to guide the referendum debate. They were supposed to inform

³⁴ Parallels between the EU (or rather its most powerful Member State, Germany) and Hitler were standard stereotypes. This is still the strongest evocation of hatred, national pride and defensive reflexes in Britain. Boris Johnson contended that the EU was seeking to succeed where Napoleon and Hitler had failed (Sunday Telegraph, 15 May 2016). Michael Gove talked about the EU encouraging Hitler fans and given them a voice (Daily Mail, 6 March 2016). Typical the comment of a Leave supporter: "If we stay, Britain will be engulfed in a few short years by this relentlessly expanding German-dominated Federal State." The nadir of these juxtapositions was reached by a poster of Vote Leave which showed British soldiers in the trenches of the Great War exclaiming; "So, you are telling us that 100 years from now, our descendants are just going to hand Britain over to the Germans without lifting a finger??? BREXIT!" (https://pbs.twimg.com/media/Ck-nbn3XIAAh6Y7.jpg, 12 March 2018).

³⁵ It was the first and only ever cabinet meeting held on a Saturday since the Falklands War.

public opinion and to help voters in forming their views. For Remain, a group of prominent politicians from all parties³⁶ formed 'Britain Stronger in Europe'.³⁷ Two months later, Labour politicians founded 'Labour In for Britain'.³⁸ This meant that Labour kept their distance to what they regarded as a Tory-led organisation, but it eventually weakened both organisations. Jeremy Corbyn, the new Labour leader since the autumn of 2015, steadfastly refused to appear in public with any Tory, even after his predecessors Blair and Brown joined Major in a joint appearance for Remain.³⁹ Britain Stronger in Europe suffered from other weaknesses. It was essentially condemned to remain inactive until the results of renegotiations were known, for until such time there was still the theoretical option that Cameron and the entire government would campaign for Leave.

The results of these renegotiations were to be published on 19 February 2019. This was the date on which Britain Stronger in Europe had prepared to start its activities. Unfortunately, Donald Tusk circulated a draft of the renegotiation results on 2 February 2019. Britain Stronger in Europe was not ready: they were still frantically assembling materials, putting schedules together, preparing slogans and arguments. While they scrambled, Leave dominated the public debate without any noticeable opposition. Remain was invisible, but Leave had the unique chance of framing topics and concepts, of determining the character of the entire campaign. Leave not only had an early start, it could hammer its message into voters' heads unopposed by any serious counter-arguments. Remain was thrown into defensive mode and never recovered the initiative. Remain failed above all to address the central question of this campaign: migration. Remain's campaign suffered a further setback because Cameron ran his own campaign from Number 10. Only in the final

³⁶ Founded on 12 October 2015. Damian Green represented the Conservatives, Peter Mandelson Labour, Danny Alexander the LibDems, Caroline Lucas the Greens. There were also some prominent people of public life involved such as Sir Peter Wall, former Chief of Staff of the British Army, Sir Brendan Barber, former Secretary General of TUC, Jude Kelly, artistic director of the Southbank Centre, and Stuart Rose, former CEO of Marks & Spencer.

³⁷Unfortunately, the acronym w BSE has unfortunate connotations in the UK as the formal designation for the 'mad cow disease' that had previously ravaged British cattle (bovine spongiform encephalopathy).

³⁸ Founded on 1 December 2015 by Alan Johnson, who is neither related to nor otherwise connected with Boris Johnson.

³⁹ During the referendum campaign of 1975, leaders of all political parties had made joint appearances. On 4 June 2016 six former Labour leaders (Tony Blair, Gordon Brown, Neil Kinnock, Ed Miliband and the temporary leaders Harriet Harmann and Margaret Beckett) published a joint letter urging voters passionately to vote Remain. Jeremy Corbyn again refused to add his signature this letter.

 $^{^{40}}$ Tusk justified this by arguing that he had prevented unauthorised, underhand publication. He failed to inform the British side of his intentions, so the Cameron government was taken aback by Tusk's sudden move.

days did he agree for some of the best of his staff to move across into the head-quarters of Britain Stronger in Europe. 41

Apart from these impediments, Britain Stronger in Europe brimmed with confidence. Polls invariably gave Remain a lead over Leave of 5–10%, and many of the undecided would probably cast their vote for the status quo rather than for something untried and unknown. At headquarters, everyone believed that imitating the strategy of the Scottish referendum was bound to result in victory again. On top of a smooth organisation, did Britain Stronger in Europe not have the tacit support of the government and the Civil Service, and was there not a strong undercurrent of opinion for Remain? Victory seemed a foregone conclusion. The open question was only by what margin Remain would trounce Leave.

Before his return from Brussels, Cameron had spoken of 'Britain stronger, safer and better off in the EU'. It seemed logical to use these three concepts and fill them with life, to make them the positive core message of Remain. That would have included highlighting the advantages of EU membership, the vast opportunities for trade and industry and the larger aspects of peace, prosperity and mutual trust through transparency and cooperation. This would have required setting the past record on the EU straight, stopping the bashing of faceless Eurocrats, and acknowledging that there were at least some valuable aspects in the EU. But this was well nigh impossible after decades in which successive governments had cast an unfavourable light on Brussels and helped to portray it as a den of scheming monsters. Cameron, too, had preferred to heap scorn and abuse on the EU instead of defending at least the essence of it.⁴² Instead, Remain opted for the diametrically opposite strategy. It underlined doom and decline, focussed on gigantic losses in income and tax receipts, and the collapse of industry and trade. Cameron had decided to adopt the Scotland strategy and Britain Stronger in Europe was to follow. He believed he could win by painting the opposite side black and threatening disastrous consequences. Instead of highlighting the advantages he had squeezed from the EU in renegotiations, he and his team wallowed in negative scenarios and warned in stark words of what would befall the country should it dare vote against its Prime Minister. The contradiction in this strategy was obvious: On the one hand, the government warned of incalculable losses. On

 $^{^{41}}$ The director of communication at Number 10, Craig Oliver, did not help with Britain Stronger in Europe until the end of May.

⁴² A high-ranking officer in the headquarters of Britain Stronger in Europe found strong words for this situation: "You can't start fattening pigs on market day."

the other hand, it circulated statistics that claimed to predict these incalculable losses down to two decimal points.

Instead of explaining the positive reasons of why Britain should stay in the EU and why Remain was right, Cameron and his supporters focussed on why Leave was wrong. They spent more time on expounding why all alternatives to Remain were bad than on explaining why Remain was good. With a plethora of statistics, models, and impenetrable calculations they tried to inculcate British minds with the fear that Leave would mean decline, misery, and poverty. It was the story of the Fall and Decline of the British Empire. 43

Immediately following the announcement of the referendum date, the British public was inundated with a flood of warnings. Industrialists warned of a sharp rise in unemployment and an equally sharp fall in investments. Generals and former heads of the secret services warned that the security of the realm was at stake. Social relief organisations such as Oxfam, Save the Children, and even the WWF raised their voices and warned against Brexit. Former Secretaries General of the UN and of NATO reinforced the message, as did former members of US administrations. NHS managers, artists, musicians, actors and authors signed declarations against Brexit. Common to all these interventions was the negative message: Don't vote Leave! Nobody cared to explain why people should vote Remain. President Obama arrived on an official visit in April. On 22 April, he warned that outside the EU, the United Kingdom would find itself "in the back of the queue" in seeking to negotiate a trade agreement with the USA. 44 Interviewed on 9 May 2019 on the occasion of the 71st anniversary of victory in World War II, Cameron used language that suggested he was warning against a return of war to Europe after Brexit. 45

All this was tremendous overkill. It left the impression that the rich and the mighty, the successful and the better educated were telling the less enlightened how to vote. They operated with intimidation, not with persuasion. This was strongly resented. The Remain campaign never shed the smell of

⁴³Some posters of the Britain Stronger in Europe campaign made this explicit: "Don't let them gamble with your future!" "Leaving Europe would be a leap in the dark!", "Alternatives are all worse".

⁴⁴Obama's words: "in the back of the queue" were—probably correctly—interpreted as a prompt from Number 10. No American would use the word 'queue', but would speak of a 'line'. Dominic Raab, a vociferous Brexiteer in the Conservative party and later destined for a brief interlude as Brexit Minister, commented: "I don't think the British people will be blackmailed by anyone, let alone by a lame-duck US President." Shipman: All out War, p. 235.

⁴⁵ Faisal Islam asked Cameron on Sky News on 2 June 2016 (i.e. three weeks before voting day): "What comes first: World War three or global Brexit-recession?" This was a malicious question. Islam provoked huge applause and laughter for himself, and against poor Cameron (https://www.youtube.com/watch?v=TjOBcAelzJQ, 27 February 2018).

patronising condescension. The campaign appeared aloof, elitist, and arrogant, with its intellectual models and calculations far removed from the practical everyday experiences of ordinary people. Vote Leave exploited this weakness and made itself the fulcrum of ordinary people—the voice of the losers, the weak, the avant-garde of the precariat in its fight against the establishment. Remain missed its target.

The unofficial name for the Remain campaign was Project Fear. The persistent cascade of warnings had the same effect as the Cassandra prophesies of doom: it blunted sensitivities. The warnings were no longer taken seriously. People did not care any more. Soon that indifference turned to open resistance and defiance. Michael Gove has been severely criticised for his remark: "I think the people of this country have had enough of experts" [20]. He had hit the mark, however. Most people were sick and weary of abstract calculations in theoretical models, based on unintelligible statistics. They did not understand them and they felt deeply offended at being told that they should shut up and vote as instructed.⁴⁶ What were they to make of all these blatantly contradictory analyses and forecasts of learned economists, distinguished bankers and high-flying political theorists? The unshakeable prediction that each household would be £5,000 poorer was juxtaposed by the equally indisputable forecast that each household would be £10,000 richer. Both predictions were based on statistics and models that even experts found difficult to understand. Essentially, these were far-fetched statements, more informed by political opportunism and wishful thinking than by strict academic reasoning. Nobody was in a position to check these extrapolations, theoretical coefficients or patterns of interaction in abstract complex models. Most people reacted by ignoring this controversial cacophony.

In the first days of April, the government sent a circular to all households. The brochure tried to explain the advantages of Remain and the dangers of Leave [21]. Half of this paper is devoted to describing the consequences of Brexit in horrid detail. Then follows a list of 47(!) reasons why Remain would be better than all alternatives (it did not say that Remain was good in itself). The language was academic, inscrutable, and abstract; the arguments heavy, complex and difficult to follow. The terminology was inaccessible except for someone with an academic background. The gist of the arguments was: the EU may be bureaucratic, clumsy, and undemocratic, but all alternatives are

⁴⁶An anecdote can illustrate this unbridgeable gap between intellectuals and ordinary people. In a presentation that explained macroeconomic models and simulated the effects of Brexit on GDP, an elderly lady exclaimed: "It is your bloody GDP, not ours!" (https://www.theguardian.com/commentisfree/2017/jan/10/blunt-heckler-economists-failing-us-booming-britain-gdp-london, 27 February 2018).

The key economic criteria for judging the UK's membership of the EU against the alternatives are therefore what it would mean for the UK's economic openness and interconnectedness. This needs to be considered alongside the obligations that come with securing that access and the influence the UK has over those obligations.

	EEA	Negotiated	WTO
		Agreement	
GDP level	-3,8%	-6,2%	-7,5%
GDP per capita.	-£1.000 to -£1.200.	-£1.300 to -£2.200.	-£1.500 to -£2.700
GDP per household.	-£2.400 to -£2.900.	-£3.200 to -£5.400.	-£3.700 to -£6.600

The judgment must be based on evidence. This document assesses continued membership of the EU against the alternative models, described in the government's document Alternatives to membership: possible models for the United Kingdom outside the European Union. No country has been able to negotiate a better deal and it would not be in the EU's interest to agree one with the UK. The 3 existing alternatives considered are:

- membership of the European Economic Area (EEA), like Norway
- a negotiated bilateral agreement, such as that between the EU and Switzerland, Turkey or Canada
- World Trade Organisation (WTO) membership without any form of specific agreement with the EU, like Russia or Brazil.

The analysis in this document shows that under all 3 models, the UK's economic openness and interconnectedness would be reduced. Trade and investment flows would be lower.

The UK would be permanently poorer if it left the EU and adopted any of these models. Productivity and GDP per person would be lower in all these alternative scenarios, as the costs substantially outweigh any potential bene t of leaving the EU. The central estimates – defined as the middle point between both ends of the range – for the annual loss of GDP per household under the 3 alternatives after 15 years are:

- . £2,600 in the case of EEA
- £4,300 in the case of a negotiated bilateral agreement
- £5.200 in the WTO

The negative impact on GDP would also result in substantially weaker tax receipts. This would significantly outweigh any potential gain from reduced financial contributions to the EU. The result would be higher government borrowing and debt, large tax rises or major cuts in public Spending. After 15 years, even with savings from reduced contributions to the EU, receipts would be £20 billion a year lower in the central estimate of the EEA, £36 billion a year lower for the negotiated bilateral agreement and £45 billion a year lower for the WTO alternative. £36 billion is more than a third of the NHS budget and the equivalent of 8p on the basic rate of income tax.

Eine Seite aus dem Executive Summary aus HM Treasury analysis: the long-türm economic Impact of EU

Fig. 2.1 This text was meant to persuade people to vote Remain or rather to refrain from voting Leave. Source: Treasury

worse—hardly an argument to convince sceptics. Very few probably bothered to read this turgid material. But those few who actually did read it would have received a negative impression (Fig. 2.1).

The Chancellor of the Exchequer made matters worse with his announcements. On 16 April 2016, Osborne published a Treasury report about the long-term consequences of Brexit [22]. This paper was not meant for the public but for politicians—primarily for MPs who should have some material to form their own views. It was an indigestible text full of figures, diagrams and econometric models. Whoever read this paper must have been left with the impression that its authors were completely out of touch with realistic conditions of life in the United Kingdom. The authors completely failed to understand that Brexit was not a matter of statistics and calculations, but first and foremost an issue about gut feelings, about emotions, about frustrations, hopes and fears. These emotional dimensions were not addressed at all. The

paper became notorious for some sloppy figures. It predicted losses of £4,300 in annual income until 2030 for each British household if Britain managed to conclude a free trade agreement with the EU. Should such a treaty be impossible, annual losses would mount to reach £6,600. This was too much even for economists who favoured Remain. Nobody could predict how many households there would be in the United Kingdom by 2030. It was unsound to divide the aggregate number by the number of households. It was obvious that a household on social benefits with an annual income of £16,000 would be differently affected than a household with an annual income of £1 million.

But Osborne remained impervious to reason. On 23 May, he issued a second analysis concerning the short-term consequences of Brexit [23]. This time, the paper was more concise. But it contained more terrible predictions: high inflation, one million additional unemployed, a fall in output of 6%, and a dramatic fall in property prices. He predicted an additional £39 billion in government debt. The reaction to his first report had been one of incredulity and derision. Now he definitely earned himself the reputation as a scaremonger. He completely lost credibility when a few days before voting he announced an emergency budget in case of a No vote. He would have to increase taxation by £15 billion and would cut back government expenditure by another £15 billion—affecting security, the NHS and defence [24].

Osborne had done a remarkable disservice to the Remain campaign. His attempt to marshal academic evidence and to use the authority of office for political purposes was too transparent. He tried to scare undecided voters to vote Remain. Osborne had perfected Project Fear, and the Remain campaign had lost respectability. Many critics pointed out that there was an inconsistency between warning against taking a leap into the unknown and then pretending to know the exact consequences of such a leap down to the second decimal point (Fig. 2.2).

Final, irreparable damage was inflicted on Remain by a shortsighted decision by Cameron to agree to a televised interview right after Nigel Farage. This left the impression that Farage was on the same level as Cameron and that Farage was the main voice of opposition and was the spokesman for the Leave campaign. Nothing could have been further from the truth. The Leave campaign had taken extra care not to be seen in cahoots with Farage and his separate campaign Leave.EU. But impressions were what counted. There was to be no direct duel, but two consecutive pitches. The posters created a different impression. On interview day, both protagonists passed each other without a word but with a gesture of spite—and all this was widely commented. The format had been a disaster, the interviews were worse. Cameron showed visible signs of stress—thin-lipped, desperately trying to come across as genu-



Fig. 2.2 The fatal poster. Cameron and Farage on the same level and as the real opponents in this drama? Source: Getty images

ine and relaxed. He repeated hackneyed phrases and contradicted himself. Farage on the other hand did not shirk using slang and strong words. He appeared in command, affable and sure of himself. The interview had a disastrous effect on Cameron's reputation and greatly enhanced Farage's respectability.

2.9 Leave: Vote Leave, Leave.EU and Grassroots Out (2016)

Like a scurvy politician, seem to see the things thou doest not William Shakespeare

> The people are the masters Edmund Burke

Leave started with a tactical advantage and disadvantage. It did not have to wait for renegotiations to be concluded before it could start its activities. Most prominent Brexiteers had been waiting for this moment for years. They knew exactly what they had to do. Dominic Cummings and Matthew Elliott imparted drive and direction to the Leave campaign. They had accumulated vast campaigning experience. Cummings had directed the 'Britain for Sterling' campaign against the adoption of the euro in 1999. Some years later, he had

led the campaign against a regional parliament for England's Northeast. Elliott had proven his mettle as the initiator and guiding spirit of the movements 'Taxpayers' Alliance' and 'Business for Britain'. He had been in charge of the campaign that successfully prevented the introduction of alternative voting (AV).⁴⁷ Together, these two string-pullers brought enormous first-hand experience to the job, in building and directing a publicity campaign using modern communications technology and targeting specific groups. They had developed a unique feeling for sentiments at the political grassroots. They had assembled a vast amount of empirical data about people's preferences and allegiances. They understood the importance of personalised advertisements and of catching voters' attention by appealing pictures and emotive messages. But, more importantly, they had an unrivalled skill in reducing complex political problems to intuitively convincing, simple, memorable shibboleths. They knew from experience that campaigns are not decided by elaborated arguments but by snappy phrases, resentment, prejudices, and by gut feeling. That was their advantage.

Their disadvantage was that the Leave movement started in three separate organisations that spent a lot of time with infighting rather than directing their energies to the common target. Each of them hoped to receive the designation as the official organisation from the Electoral Commission, for each of them knew that that would bring them a large budget and enormous support.

Vote Leave was founded in October 2015. Leave.EU, the organisation run by Nigel Farage and bankrolled by Arron Banks, had already been set up. In early 2016, Grassroots Out became the third organisation campaigning for Leave. Vote Leave was recognised as the official organisation to run the Leave campaign in April 2016. This involved a government subsidy of £600,000, free use of postal services and access to all media.

Vote Leave started its campaign with a bombshell.⁴⁸ It contended that the United Kingdom was transferring £350 million each week to the EU—a total of more than £500 billion since 1973. They suggested that this money should be ploughed back into the chronically underfunded NHS. There was a background message to this slogan, not explicit but understood by every Briton: This money was too precious to be wasted by corrupt Eurocrats on projects that made no sense. Sir Andrew Dilnot, the Chair of the UK Statistics Authority, publicly reprimanded Vote Leave for this unfounded claim. He

⁴⁷The referendum had been initiated by the Liberal Democrats who understandably hoped to profit from a more proportionate electoral system. It was fiercely opposed by the Conservatives. In the end, the initiative foundered with 67.9% of the vote against, and only 32.1% in favour.

⁴⁸ The homepage of Vote Leave with this claim appeared for the first time in October 2015 (http://www.voteleavetakecontrol.org/why_vote_leave.html 19 January 2019).

assured that these were bogus figures without any empirical foundation. In fact, this was a gross figure that took no account of the substantial returns. More than a third of this money flowed back to the UK in the form of CAP and regional subsidies, grants and research projects. But the formula proved irresistible. Whoever disputed the figure was forced to admit that it was not £350 million but at least £180 million. For ordinary citizens, that made little difference. The only thing they understood was that huge amounts of money were wasted on inefficient Eurocrats in Brussels, money that was sorely needed within the United Kingdom. Innumerable talk shows, public debates, and interviews focussed on this figure. 49 No wonder it was at the heart of all debates. The figure of £350 million featured prominently on the blazing red bus that served as mobile headquarters for the Leave campaign. It was an intuitive figure, easy to grasp, easy to remember, and all the efforts to disprove it only served to reinforce its dominating presence in public debates and impressed it even more deeply onto voters' minds. They were left bewildered, but one thing they knew for certain: Brussels was wasting huge sums of money that could be used for better treatment for British cancer patients.

Money was the first hot topic. The second was sovereignty and national self-determination. Vote Leave succeeded in defining a riveting slogan: Take Back Control! It was a stroke of a genius. Those three words contained all the important ingredients of public frustration. *Take* appealed to voters to become active, to take their lives in their own hands, and it was an appeal to the selfmade man, to the 'indomitable spirit and the plucky, sterling qualities of the finest race on earth'. 50 Voters were neither lectured nor cowed, but encouraged to take their own decision. Back referred to nostalgia for a past Golden Age: let life return to the simple, familiar ways we were used to in our childhood, when our country ruled the waves, our industry dominated the world, when the whole world aspired to emulate our gentlemanly lifestyle and when England was inhabited by white, Anglican English. It appealed to the elder generation. It also had restorative connotations. Something that had been illegally wrested away was to be returned to its rightful owner. An injustice was to be corrected. Control targeted democratic instincts: What was the use of electing a Parliament if decisions were imposed by some foreign authority? Cameron had admitted that there was a lack of control. So why not reassert national instruments of control? For decades the British public had been told

⁴⁹ Most of those who had fought for Leave admitted after 23 June 2016 that these promises were baseless. Only Boris Johnson doubled down on his previous declarations and a year later renewed his guarantee that those £350 million would be ploughed into the NHS (http://metro.co.uk/2017/04/27/boris-johnson-stands-by-350million-vote-leave-bus-message-6600240/, 13 October 2018).

⁵⁰These are all expressions from the Leave campaign.

that it was being bossed around by irresponsible, unelected Eurocrats. It had become convenient to blame any national deficiencies on that anonymous bureaucracy in Brussels. Vote Leave spread the word that 70% of all British laws were made in Brussels,⁵¹ inciting resentment and the urge to break free. Was living by somebody else's commands a form of slavery? In the words of the refrain of Rule Britannia, the answer could only be: 'Britons never, never, never shall be slaves'!

Remain might still have won, had money and sovereignty been the only bones of contention. Remain had the better economic arguments, even though they were presented in an unpalatable way. Cameron could rightly point out that he had done much to preserve national sovereignty. But sovereignty was inseparably tied up with migration. The composition of the population of the UK should be regulated by the British people. What was the point of sovereignty if the people were deprived of their most important right, the right to determine who belongs to the people? Migration became the focus where loss of control and loss of sovereignty became glaringly obvious. Migration was the third big topic in the debate, and that was where Remain stumbled and never found the right answers. Cameron had repeatedly promised to push immigration below 100,000. He had addressed the problem himself.⁵² He had even made it the yardstick by which to measure his political success:

"Immigration benefits Britain, but it needs to be controlled, it needs to be fair, and it needs to be centred around our national interest. People want Government to have control over the number of people coming here. My objective is simple: to make our immigration system fairer and reduce the current exceptionally high level of migration from within the EU into the UK. Judge me by my record in Europe!" [25]

⁵¹ This was a perfidious half-truth. This argument was not false in purely quantitative terms, but only if all regulations, norms and standards defined by the EU were actually counted. But these laws were confined to trade and industry. They were technical norms not prescriptive commandments. They were addressed to specialists in their respective fields and hardly touched the large population. The argument failed to take into account that most of these laws formed the foundation of the Single Market, something pushed by all British governments. It also failed to mention that most of these Brussels made regulations would have to be substituted by national rules that would be costly and would impair free trade. Finally, most of these regulations and directives had received political consent by British representatives in Brussels.

⁵² Cameron had said on 28 November 2014 in Staffordshire: "People want government to have control over the number of people coming here and the circumstances in which they come. They want control over who has the right to receive benefits and what is expected of them in return. People want grip. I get that. I completely agree with that." (https://www.gov.uk/government/speeches/jcb-staffordshire-prime-ministers-speech und http://www.bbc.com/news/uk-politics-30250299, 05.05.2018). Speech on 14 April 2011 (https://www.theguardian.com/politics/2011/apr/14/david-cameron-immigration-speech-full-text, 5 May 2018).

Cameron's call for more control turned against him with full force. Immigration statistics spoke an unequivocal language. Net immigration had been 177,000 in 2012. It rose the following year to 209,000. In 2014, it reached 318,000. And a few days before polling day, on 26 May 2016, the figure for 2015 was published: 332,000.⁵³

Until after the Second World War, the United Kingdom had experienced net emigration for over 300 years. This trend was increasingly being reversed. The number of foreign-born people residing in Britain was rising continuously. People from the Indian subcontinent account today for roughly 5% of the total population. They form, as it were, the new lower class, performing work and services no Briton would like to do. As the traditional British working class disappears, immigrants take their place. There is no real competition. European immigration is different. Immigrants from European countries usually have better qualifications. They constitute a serious challenge to British tradespeople and to small entrepreneurs. They flock into depressed areas where living space is cheap and jobs are scarce. There is little doubt that migration has positive effects on the British economy on the whole. But this is the macro perspective. A closer look reveals that its effects are vastly skewed, depending on the region. Migration is beneficial to the large urban centres with their cosmopolitan population. But it creates economic and social problems in rural and industrially depressed areas struggling with recession and decay, and it reinforces these negative tendencies. Cameron had given repeated pledges that he would reduce immigration. He had achieved nothing. The result of his renegotiations reduced social benefits for migrants, but not their arrivals. Freedom of movement remained inseparable from EU membership. For those concerned about migration, this meant that if EU membership does not allow control of migration, that membership has to be terminated.

Nigel Farage was the first to discover how much tinder had accumulated in these economically depressed areas. A week before polling day, he launched a poster showing an endless column of refugees with the text: "Breaking Point. The EU has failed us all. We must break free of the EU and take back control of our borders". ⁵⁴ This was pure demagoguery—but it was effective. Vote Leave echoed this line by posting huge red posters warning that Turkey was joining the EU and that freedom of movement would mean that the arrival of millions

⁵³ Figures from Migration Watch UK (https://www.migrationwatchuk.org/statistics-net-migrationstatistics, 13 Sept. 2018). Remember that these are net figures. Gross immigration was higher, for Britons leaving the country reduced the gross figures. This made the subjectively felt impact of foreigners much higher, for more foreigners arrived and the British (English) population shrank because of emigration.

 $^{^{54}}$ The picture had been taken on the Balkans in the autumn of 2015. It had nothing to do with the United Kingdom.

of Turks was imminent.⁵⁵ Vote Leave enjoyed the support of most tabloids and some of the national-conservative papers. The Daily Mail, the Daily Express, The Sun and The Daily Telegraph splashed their front pages with dramatic headlines. They not only exaggerated and scandalised. They did not refrain from false reports—classic examples of fake news. The Sun, for example, headlined that the Queen supported Brexit. There was not a grain of evidence for this, not to mention that reporting of a political opinion of the Monarch was a breach of etiquette and discretion.⁵⁶

Despite of all this, the Vote Leave campaign dragged on without much dynamism until the spring of 2016. Cameron and Remain felt sure of victory. They were confident that they had the better arguments and that they could make the Leave spokespersons look foolish, branding them as inexperienced, eccentric British chauvinists. Cameron remained relaxed even after four cabinet ministers declared for Leave. They were not strong party members, their following was slender, their popularity low.

This changed suddenly when Gove and Johnson joined the ranks of Leave. Johnson soon became the public face of Leave. Gove and Johnson foiled the strategy of Project Fear by demonstrating an unshakeable belief in the limitless abilities and the inexhaustible strength of their compatriots. This message immediately resonated. Here voters were told what they had wanted to hear: That they were great and could trust their emotional instincts. It was different from Remain—for Remain spread fear, lecturing and hectoring ordinary voters. Johnson's message was essentially: Do not be intimidated by so-called experts! Trust your own judgment! A country that has ruled half of the world half a century ago, that has emerged victorious from two World Wars, cannot be thrown off course by discarding the yoke of foreign domination. Johnson crowned his inflammatory rhetoric by proclaiming 23 June 2016 would be

⁵⁵ On 9 March 2016, Nigel Farage declared in the European Parliament: "A vote for Remain is a vote for Turkey!" (https://www.youtube.com/redirect?v=_AzBXNDNBtQ&redir_token=zfaVR9gv5LBKH3IcE o F1T C F m 0 Q 9 8 M T U x O T c 0 N j A y O E A x N T E 5 N j U 5 N j I 4 & e v e n t = v i d e o _ description&q=http%3A%2F%2Fwww.ukipmeps.org/, 15 May 2018). See Farrall and Goldsmith (2017, pp. 400–404). Daily Express, 3 June 2016 (https://www.express.co.uk/news/politics/676548/nigel-farage-david-cameron-eu-turkey, 13 May 2018). On his visit to Ankara in 2011, David Cameron had promised, 'to pave the road from Brussels to Ankara'. This quote was now used against him. The United Kingdom had traditionally always supported EU enlargement, hoping the more diversity would make further integration more difficult. Vote Leave turned a prospective EU membership of Turkey, Albania, Serbia, Montenegro, Macedonia, Bosnia and Herzegovina, and Kosovo into a national nightmare.

⁵⁶The Sun, 9 March 2016 (https://www.thesun.co.uk/news/1078504/revealed-queen-backs-brexit-as-alleged-eu-bust-up-with-ex-deputy-pm-emerges/, 13 May 2018). The factual background was a conversation five years previously. In those days, nobody—least of all the Queen—was thinking of Brexit. The Sun broke the iron rule that conversations with the Monarch remain private and that the Crown is not supposed to comment on current political affairs.

British Independence Day. This message caught on. It was positive, full of confidence and can-do-spirit, it appealed to strong nationalist undercurrents, it flattered ordinary voters, it presented risks as chances and dangers as challenges. Project Fear presented a contrary message, full of gloom, pessimism, taking away confidence in national abilities. Leave suggested that Britain was stronger than the continent, whereas Remain had to implicitly concede that Britain could no longer prosper without being chaperoned by Brussels.

Gove and Johnson published a programme shortly before 23 June. They reiterated their promise to plough the contributions so far paid to the EU back into the NHS. They promised reduced VAT on domestic fuels, and they outlined a new, rigorous immigration policy. They announced six bills that they would bring into Parliament to ensure a frictionless Brexit. This was no longer an argument in a campaign. This was a fully-fledged, if camouflaged, opposition manifesto. In publishing a paper like this, they far exceeded the limits of what Cameron might have had in mind when he lifted cabinet collective responsibility for the referendum campaign. For this paper did not confine itself to the question of Brexit. It offered in effect a new government with a new policy. Boris Johnson acted as if he was the predestined successor to David Cameron.

The Vote Leave campaign deluded voters in at least four central questions:

- The United Kingdom will retain access to the Single Market. The EU needs the United Kingdom more than the UK needs the EU.
- The United Kingdom can save huge amounts of money to be used for national purposes.
- The United Kingdom will become more 'English' again. The Commonwealth is an adequate replacement for the EU.
- The United Kingdom will remain a global power.

All of these assumptions proved hollow. Most of them were simply wishful thinking. 57

The referendum campaign deepened the rift within the Conservative party. Prominent party members fought on both sides, and they have continued to fight ever since. The only opposition Theresa May later had to fear was the opposition from her own party. Most politicians positioned themselves with an obvious view to their personal ambitions. Everybody knew that Cameron

⁵⁷The Brexit movement runs several websites. More detailed information about the arguments advanced in their campaign can be found on Brexit Central (https://brexitcentral.com, 15 March 2019), Economists for Free Trade (https://www.economistsforfreetrade.com, 15 March 2019), or Institute for Economic Affairs (https://iea.org.uk/category/brexit/, 17 March 2019).

would not stand again in 2020. The Brexit campaign offered the best opportunity to jockey for a favourable starting position in the race for his succession. It offered a unique chance to make the headlines and to acquire a nationwide reputation. In a remarkable show of indecision, Labour stood on the sidelines—uncertain what to do, but delighted to see the Conservatives tearing themselves to pieces. But Labour was soon sucked into the Brexit vortex and lost its bearings and its respectability.

2.10 The European Union

What's done cannot be undone William Shakespeare

Cameron raised his demands for reform of the EU and for renegotiations at an inappropriate moment. The EU was buffeted by the euro and debt crisis in Greece. It had to find emergency responses to the economic and financial woes of the other Mediterranean countries. In Greece, Tsipras celebrated a resounding triumph in a referendum condemning the austerity policy of the EU. That was in the summer of 2015. For a few days, Greece came within an ace of leaving the Eurozone. It was rumoured that Wolfgang Schäuble, the all-powerful German Finance Minister, had seriously pushed for such an outcome. Talk in Brussels was about Eurobonds, a Banking Union, about depositor protection and ringfencing. Debates raged about the role of the ECB in helping governments to borrow, about financial oversight and macro prudential supervision, about setting up a European Monetary Fund. Against this background, the demands of the United Kingdom seemed strangely out of place. To some they seemed frivolous and irrelevant. In Brussels, seasoned diplomats mocked: The EU is ablaze, and the fire threatens not only to gut the building, but also to incinerate the foundations. And then some British tenant wants to move the furniture.

The Five Presidents had submitted an ambitious plan for accomplishing Economic and Financial Union in Europe in June 2015.⁵⁸ Their report made far-reaching projections for financial and fiscal union, for a formalised process of convergence, a union of capital markets, further institutional undergirding for the Eurogroup, a Treasury for the Eurogroup and for further competences to be transferred to the European Parliament. All this was, of course, grist to

⁵⁸Tusk for the European Council, Juncker for the Commission, Schulz for Parliament, Draghi for the ECB and Dijsselbloem for the Eurogroup (https://ec.europa.eu/commission/sites/beta-political/files/5-presidents-report_en.pdf, 13 April 2018).

the mill for all British voices warning against a looming European superstate. The approach of creating structures that were bound to lead to further integration—imperceptibly and even against the will of the people concerned had been the idea of Jean Monnet. This approach has always been rejected in Britain. Nobody in the United Kingdom wanted to surrender to anonymous forces that do not admit conscious and free decisions. For Britons, democracy was less a question of institutions, checks and balances or of representation. In fact, the British political system has its own deficiencies in all three categories. But democracy had to be a matter of free choice, of being offered an alternative, of being able to turn away and try something else. This was the essence of government and opposition. The opposition was a government-in-waiting with a shadow cabinet ready to take over whenever the voters chose. The opposition was a steady reminder that all power was lent provisionally and with time limits, 'at the voters' pleasure'. A policy that was labelled as 'without alternative'59 was abhorrent to every decent Briton. The Report of the Five Presidents was one of those straw fires that illuminate the dim political landscape in Brussels. It left no marks and remained without any practical followup. But it did enormous damage in Britain as it came at the most inopportune moment. For all those suspicious of the EU took it as incontrovertible proof that the EU was pursuing its hidden agenda towards the eventual objective: The United States of Europe. This was resented as dogmatic presumption and as a serious attempt to overthrow the British polity, or rather to imperceptibly drain its marrow and leave it lifeless and crumpled.

Jean-Claude Juncker was appointed President of the Commission in 2014. The appointment had been hotly contested and had given the English language a new word harvested from German: *Spitzenkandidat*. Cameron inveighed against backroom wheelings and dealings in Brussels, against corruption, and against a coup by the European Parliament encroaching on the prerogatives of the Council. He complained that taking the initiative and presenting two candidates for endorsement by the Council was turning the Treaty provisions on their head and setting a dangerous precedent, undermining the delicate balance of power between EU institutions. In all this, he had

⁵⁹TINA: There is no alternative.

⁶⁰ The procedure did not formally contradict the letter of the Treaty, but certainly its spirit. The European Parliament prejudiced the nomination of a candidate which was the undisputed right of the Council by presenting two candidates selected from within the Parliament and proclaiming that no other candidate would be endorsed by Parliament. Parliamentary endorsement was, however, indispensable to be confirmed in office.

⁶¹ Cameron had a strong case for complaint. Article 17(7) TEU states that the European Council submits a candidate for endorsement by the European Parliament, taking into account results of the last elections. Parliament then votes on this candidate. Should the first candidate not receive a majority, the Council has

a strong point. But his words had no effect. Complaining about procedures was not enough for him. He waged a bitter personal feud against Juncker and was determined to prevent Juncker from becoming President of the Commission at all costs.⁶² All this fluster was in vain. When the Council voted, Cameron was isolated. Hungary's Prime Minister Orban was the only other head of government to vote against Juncker at the Council meeting of 27 June 2014. Cameron had suffered a severe blow. He had damaged personal relations with Juncker and Juncker's influential staff. When he desperately needed some golden bridges two years later, he could hardly expect Juncker to go out of his way to help him.

The most pernicious influence on Cameron's agenda was migration. In the summer of 2015, migratory pressure had reached frenzied dimensions. More than a million migrants entered the EU within months, most of them from Syria, Afghanistan, Iraq and northern Africa. Most arrived uncontrolled and unregistered. As well as the euro crisis, migration dominated the continental political agenda. It was a profound crisis, propelling some hitherto obscure radical groups in the political limelight. Against these vital issues, the demands of the British government seemed in Brussels to be somehow trivial, contrived, and without real substance. Some EU politicians reacted with bewilderment and incomprehension. Had the United Kingdom not enjoyed manifold privileges, exceptions and special arrangements? Did it not enjoy the most favourable assessment for contributions to the EU budget in terms of GDP per capita? Where would the United Kingdom be without the massive investment and the new trading opportunities that resulted from the combination of EU membership and Thatcher's radical Big Bang? Continental EU members were confronted with vital existential challenges. They gruffly dismissed Cameron's vexatious demands as unfounded eccentricities of an egotistical partner that enjoyed already substantial privileges.

to nominate another candidate and present him or her to Parliament. The treaty language leaves no doubt that the initiative in proposing a suitable candidate is the prerogative of the Council. The backstairs understanding between Juncker and Schulz turned this arrangement on its head. Parliament proposed two *Spitzenkandidaten* and left it to the Council to choose one of them.

⁶² Cameron stopped at nothing to besmirch Juncker and to attack his personal integrity. He alluded to alcoholism and dirty financial deals, he even started rumours about Nazi connections in Juncker's family—always an unfailing weapon to discredit someone irretrievably. Cameron's staff intervened systematically with European partners to stop Juncker. Unfortunately, they had to admit that Schulz was even less acceptable. Behind closed doors, Cameron threatened that should Juncker become President of the Commission, this would hasten Brexit.

2.11 External Events (2016)

Events, dear boy, events Harold Macmillan

The effects of the 2015 migration crisis were reinforced by some spectacular terrorist attacks. In the spring of 2015, the French magazine Charlie Hebdo suffered a devastating attack with eleven dead, among them four journalists. In November 2015, coordinated attacks in Paris left over 150 dead and innumerable wounded. On 22 March 2016, Brussels was targeted by several attacks. In the second half of 2015, there were massive outbreaks of violence in Calais. Migrants stormed the entrance of the Channel Tunnel, stopped all traffic and attacked lorries with clubs and heavy wooden bludgeons. The British International Freight Association asked for the military to be deployed. In Cologne, hundreds of women were molested and intimidated on New Year's Eve.

Since 2010, Cameron had several times repeated his aim to reduce immigration to 'some ten thousands'. In May 2016, less than a month before referendum day, the official statistics for 2015 were published: net immigration was 332,000. These migrants did not all come from EU countries: about half came from EU countries, the other half from Commonwealth countries. But the British public blamed the EU for this migration and the concomitant rise in crime and violence. Cameron's opponents relished reminding him of his empty promises, and the dismal record of his six years in office. Most Britons did not distinguish between EU and non-EU migration. They blamed freedom of movement, and that was an EU rule. They did not see any real difference between Poles and Bulgarians coming for gainful employment and those wretched thousands trying to cross the Mediterranean in rubber boats or walking barefoot from Greece to the German border. What counted in Britain was that these people came uninvited, unregistered and uncontrolled. If these migrants were to be successfully integrated in the recipient European countries, the upshot of integration would be naturalisation. And once they had been made citizens of any European state, they would enjoy freedom of movement. The pictures of late 2015 suggested one strong message: loss of control. Cameron himself had called for more and better controls. Against this background the slogan 'Take Back Control' had an electrifying effect. It was exactly what a vast majority of Britons demanded. Nigel Farage exploited these sentiments with his notorious poster in June 2016.

What remains difficult to understand is that migration from non-EU countries had never stirred up any comparable emotions. Any stroll along the streets of London leaves one in no doubt how much street life has changed. Some towns like Bradford or Rochdale expect to have a majority of inhabitants with foreign roots. With some detachment, it should be clear that immigration from non-EU countries is no less a problem than immigration from EU countries. But the perception in Britain was different. Most people in the United Kingdom had long since grown accustomed to Indian bus conductors, Chinese waiters, and refuse collectors from Nigeria. Britons relished an Indian curry and a Chinese chop suey. But people from Eastern Europe were strangers. Britons had had little contact with these countries compared with centuries of rubbing shoulders with Indians, Africans and Chinese, People from Eastern Europe came from 'far away countries of which we know little'. They were strangers. The Near East in British terms begins in Eastern and Southeastern Europe. What continentals call the Near East (Proche Orient, Naher Osten) is known in British terminology as the Middle East—for any Briton much more familiar territory than Slavonic countries. Chinese, Indians, Africans were familiar sights. Presumably even today there are more English people with a good command of Urdu, Chinese or Hindi than with a profound knowledge of Slavonic languages.

New storms were brewing on the home front. At the end of March 2016, Tata Steel announced that it wanted to shed all of its British investments. Suddenly, more than 15,000 jobs were at stake, most of them in locations where Leave was to triumph a couple of months later: in South Wales (Port Talbot) and in the Northeast (Scunthorpe and Teesside). After a hectic few weeks, Greybull Capital was persuaded to step into the breach. Greybull took over all of Tata's steel works and even returned the proud name British Steel—a smart move to exploit the general feeling of nostalgia and nationalism. The steel crisis had found an acceptable outcome.⁶³ But it laid bare the lack of strategic foresight in the Cameron administration. The steel crisis had taken his government by surprise and it reacted with panic. Many experts were convinced that the structural and financial woes of Tata Steel were of long standing and that earlier active intervention could have cushioned the blow and got a better result for Britain and for the employees. But the headlines in the tabloids told their British readers that the steel crisis was all the fault of insensitive, remote Brussels Eurocrats who had neither sympathy nor understanding for hard-toiling British steelworkers in structurally depressed areas.

⁶³On 22 May 2019 British Steel announced insolvency.

The steel crisis was bad enough, as it made the Cameron government appear cold-hearted, unprepared and incompetent. The next crisis hit Cameron personally with devastating impact. On 3 April 2016, news broke about the Panama Papers. Cameron had always supported a generous regulation of investment companies, but he had insisted that taxes had to be paid regularly and honestly. He had castigated enterprises like Apple and Google or prominent individuals because of their sophisticated tax schemes. Now it appeared that his father had been the director of a letterbox company in Panama and that David Cameron himself had profited from this investment. Cameron tried to placate. He resorted to empty platitudes that he and his father had never done anything illegal and that how and where he invested his family money was his private business. It became a perfect example of how telling the truth in instalments and seeking retroactive excuses was pouring oil into the fire. It was less what he had done than how he tried to gloss it over that created the scandal. Cameron appeared as someone who preached water while secretly swigging wine. He tried to divert investigative journalists with sophisms and verbal acrobatics. He only increased the suspicion that he had evaded tax and not just avoided it. This was lethal. Finally, Cameron took a step forwards. He became the first British Prime Minister to publish his tax returns—to no avail. He himself was pilloried for the suspicion of tax evasion. His name and his portrait appeared alongside shady figures like the Rotenberg brothers, close confidantes of Putin, and of notorious Mafiosi. The effects on Cameron's reputation were disastrous. Even prior to this, he had appeared to many as insincere and more interested in images than in substance. This impression had first formed after the Coulson scandal.⁶⁴ Now his personal honesty was at stake. His word as a gentleman came under scrutiny. He talked about sums of millions of pounds as if it were a mere pittance. This reinforced the impression that he was remote and had no feeling for the living conditions of ordinary people. Cameron was once asked whether he had not been born with a silver spoon in his mouth. His answer was revealing. He said jokingly that it had been not one silver spoon, but in fact two. His inherited wealth, his privileged education, his self-confidence and his dubious friendships in the

⁶⁴ His first director of communications, Andy Coulson, had been chief editor of the News of the World, which was part of the Murdoch media empire. It was a paper almost exclusively devoted to gossip, prurient sensationalism and lurid details about scandals in high society. Coulson had to step down because of widespread phone hacking. Cameron hired him nevertheless as his personal communications director and kept him in that position when he entered Number 10. The phone hacking affair resurfaced, and on 8 June 2011, Coulson was arrested on the charge of illegal phone hacking. The trial brought to light a web of questionable interactions between Cameron, Coulson and Coulson's lover Rebekah Brooks who also had an important position within the Murdoch group as Editor of the News of the World (Coulson's predecessor) and of The Sun. Coulson was sentenced in 2014 for a conspiracy to intercept voice mails (phone hacking). The affair remained a stain on Cameron's reputation.

world of glamour and influence peddling combined to drive an ever-deeper wedge between him and the majority of his compatriots.⁶⁵

All these untoward developments were topped when in April 2016 Cameron's party lost the Mayor's office in London. Sadiq Khan, a practicing Muslim and the son of Pakistani immigrants, succeeded Boris Johnson. This was a provocation for staunch conservatives for whom someone representing the City of London had to be white and Anglican.⁶⁶

2.12 Demons Unleashed (2016)

Unleashing demons Craig Oliver

It is the folly of too many to mistake the echo of a London coffee-house for the voice of the kingdom Jonathan Swift

"You could unleash demons of which ye know not." This was Cameron's assessment of the risks involved in a referendum [26]. His closest political companion, George Osborne, warned repeatedly: an in-out referendum would constitute an all-or-nothing bet. There would be no way back. Even an overwhelming Remain victory would not silence fanatic opponents of EU membership. The referendum held the risk of splitting the Conservative party instead of reconciling it [27]. Michael Gove, a close and until then trusted friend of Cameron, regarded the idea of holding a referendum as a recipe for disaster. He confessed that he could live with enduring fudge over Europe. But an in-out referendum would force him to take sides and to follow his conscience [28]. Shortly before Cameron announced the referendum date, Gove confided: "I'd put my feelings in a box. Now the box has been opened. My feelings on this have been unleashed" [29].

The referendum result was clear but not overwhelming: 52–48%. There were 17.4 million votes for Leave and 16.1 million votes for Remain. The

⁶⁵ His rival, Boris Johnson, came from a hardly less privileged background, But he consciously cultivated a style of affability and authenticity. His sometime bizarre remarks were taken as sincerity. He made a point of using colloquial language, and he demonstratively rode a bike with a helmet. An opinion poll at the end of May 2016 showed that only 18% of voters believed Cameron to be honest as against 31% who believed that Johnson was sincere.

⁶⁶Rumours still circulate about Sadiq Khan that resemble those that were peddled by extremist Republicans in the USA about Barack Obama and his wife Michelle. An old saying has it that the high Anglican Church is nothing but the Conservative party in prayer.

turnout was 72%. The total number of registered voters was 46.5 million, and the entire population of the United Kingdom in June 2016 was 65.4 million. Calculated against the total population, not more than 26.6% had actively demanded Brexit, calculated against the total number of registered voters that percentage rose to 37.5%—still far below any threshold at which it might become justifiable to speak of 'the will of the people'. And the ideas of Leavevoters of what should replace EU membership were vastly different—in many cases irreconcilable, as soon became blindingly obvious.

Had 700,000 voters cast their votes differently, had the campaign taken a different course, had voting taken place a few weeks earlier or later, had EU citizens been enfranchised—in each of these cases, the result might well have been different. Meanwhile the Leave campaign has been found in breach of electoral laws, involving financial irregularities. Cambridge Analytica supported the Leave campaign with extensive data-mining services. This, and its involvement with Facebook data protection breaches, has led to the collapse of the company. The suspicion is that this is only the tip of the iceberg. Alleged attempts to influence voting from abroad are still being investigated. This sheds a dubious light on the whole value of the referendum. Why was a simple majority sufficient? In the referendum on devolution for Scotland in 1979, 52% of voters were in favour (turnout 64%). The referendum remained invalid because it had been stipulated that a quotum of 40% of all registered voters had to vote Yes (52% of 64% was only equivalent to a quotum of 33%). There had been solid reasons for establishing an elevated threshold for a vote to be valid. A question that redefined the identity and the future of the United Kingdom for several future generations should have required a clearer vote or a super majority. In most countries that have written constitutions, questions that could change the constitution or the general character of the state require a two-thirds majority. In the 1975 EU referendum, such a twothirds majority had decided to remain. There was a good case for requiring that the 2016 referendum produce a majority of similar proportions as the 1975 referendum.

Had he won the referendum, Cameron would have entered the pantheon of history as the political Houdini of the twenty-first century. In one fell swoop, he would have kept his country in the EU, he would have healed the rift within his party, he would have condemned Labour to years in opposition, and he would have forced the EU to start reforming. Or would the opposite have happened? Would the defeated Leavers have reassembled after the blow and reorganised to make life difficult for Cameron? Would they have

demanded a rerun of the referendum?⁶⁷ Could a secession of dedicated Brexiteers from the Conservative party be averted? Would they have swelled the ranks of UKIP? Would Labour have suffered another split? Would the two-party system have reconstituted itself by forming a Remain and a Leave party? Three years after the campaign, both major parties are torn and the threat of formal splits is still floating above Westminster.⁶⁸

Was the referendum inevitable? Without doubt, there was a groundswell of frustration and impatience with the EU in the UK. Cameron's political instincts did not deceive him. But instead of quenching the smouldering embers he fanned them into a flaring fire. There was need for a valve to let off steam. But in order to let off steam, there was no need to blow up the whole kitchen. And there were lots of alternatives of where and when to open a valve and how to control the reduction of pressure.

Cameron himself had built up a lot of that pressure with his rhetoric. He had consistently painted the EU in a way that was bound to exasperate any Briton: cumbersome, dogmatic, bureaucratic, meddling, interfering, unfair, and corrupt. On the other hand, he had grandiloquently announced fundamental reform and radical change. He had painted himself as the saviour who would bring redemption to the oppressed. He had generated a current that was stronger than him. He was the sorcerer's apprentice—but there was no master sorcerer to step in and to command a stop to the rising tide of EU hostilities. There was no need for an in-out referendum. He might have taken a position by announcing publicly which particular treaty changes his country would insist on in the next treaty change. That might not have been sufficient to pacify dogged Brexiteers, but it would certainly have deprived them of a majority. Cameron could have played for time, since time is the most precious element in political success. Biding time would have kept options open, and

⁶⁷ Nigel Farage left no doubt that he would not accept a narrow Remain victory. On 16 My 2016 he told the Daily Mirror: "In a 52-48 referendum this would be unfinished business by a long way. If the remain campaign wins two-thirds to one-third that ends it." (https://www.mirror.co.uk/news/uk-news/nigel-farage-wants-second-referendum-7985017, 15 March 2019). A day later he told the BBC: "If we were to lose narrowly, there'd be a large section, particularly in the Conservative Party, who'd feel the prime minister is not playing fair, that the Remain side is using way more money than the Leave side and there would be a resentment that would build up if that was to be the result." (https://www.bbc.com/news/uk-politics-eu-referendum-36306681, 15 March 2019). On voting day (23 June 2016) Farage proclaimed: "I think that Remain might just nick it. Win or lose this battle, we will win this war." (https://news.sky.com/story/winor-lose-this-battle-well-win-this-war-10323299, 15 March 2019).

⁶⁸On 18 February 2019, seven Labour MPs left the party and constituted the Independent Group in parliament. They complained that Jeremy Corbyn practiced an authoritarian, dictatorial leadership, that he tolerated racism and anti-semitism and that he had betrayed the party over Brexit. Another Labour MP followed suit the next day, quickly followed by a trio of female Tory MPs.

allowed for flexible adaptation to changing circumstances. Why commit to a firm date in 2017? And why accelerate the whole process again by bringing that date forward to 2016? Cameron's time in office ran until 2020. He could have tried to push the referendum as far back as possible. This would have given him time for a systematic programme to inform objectively about the EU and to correct some negative prejudices. Above all, he could have prepared a clean and intelligible set of alternatives of what should follow Brexit. Voting against the EU was easy. What voters were supposed to vote for in place of EU membership was a huge challenge. Slamming a door shut is no informed option as long as some vital life support is running through that door. It would require at least a comprehensive analysis of alternatives. It remains a mystery why neither Cameron nor any of his advisors were aware of this trap. Or were they so cocksure about winning the referendum that they simply did not bother? The vast majority of voters had little or no idea what they were voting for in 2016. One day after polling, on 24 June 2016, the most frequently asked question on Google in the United Kingdom was: 'What is the EUP'

Cameron wanted a vote on the economic advantages of EU membership. He had solid and convincing arguments for his case, even if Osborne presented them in an abysmal manner. But by May 2016, economic considerations had been completely pushed aside by other topics. Migration and sovereignty dominated. These were questions in which quantifiable arguments were weak, and emotional ones all the stronger. Neither Cameron nor Britain Stronger in Europe were prepared for this battleground. They had firmly entrenched themselves in unassailable positions, and realised far too late that the enemy's lines had changed direction and swerved away. This may have finally tilted the balance. Cameron had good arguments against the ominous figure of £350 million a week. But he never explained what British net contributions were used for—not only to help weaker EU partners but also to supply services that otherwise would have to be generated at the national level. Worst of all, he could not find any convincing argument why after six years in office, annual net immigration was still well above 300,000—far above those tens of thousands he had repeatedly promised. It was his Achilles' heel and the hunters were not slow in mercilessly targeting it.

After having announced polling day, he not only lost his personal credibility. Control over the public debate also slipped from his fingers. Cameron and Osborne were completely fixated on statistics, GNP and productivity. They had left the doors of sovereignty and migration unguarded. It was through these doors that their opponents broke into their positions and routed them.

Another option might have been to simply break EU law. If immigration was such an urgent problem, why not declare a national emergency and reclaim decision-making powers, arguing that exceptional circumstances threatened the very existence of his nation?⁶⁹ That might have sounded somewhat exaggerated, but if would certainly have won him a lot of acclaim. He would have been dragged in front of the CIEU. Until the Court had come to a decision—a difficult one because it touched on a political minefield— Cameron's opponents would have to keep the peace. There is no doubt that the Court would have condemned Cameron's action, but to implement that verdict would have been a political matter. It would have reverted to the Council to impose sanctions and to enforce them. History has shown that the EU moves extremely carefully in passing and actually executing negative decisions against one of its Member States, particularly if it is a major one. France and Germany had led the way in 2003. Both had broken the debt ceilings of the pact to which they had ceremoniously committed themselves a few years earlier. In 2011, EU Member States had not hesitated in overriding the provisions of the Treaty effectively stopping the Union from assuming liabilities of Member States (Article 125 TEU). In the eves of many experts, in announcing outright monetary transactions (OMT) the ECB had exceeded its mandate and was doing what was supposed to be forbidden: printing money to finance government budgets. Had Cameron defied the EU over migration and introduced national controls contravening one of the founding principles of the EU, he would have certainly plunged the EU into an existential crisis. He might have received some discreet sympathy from some governments in Eastern Europe. But he would have been on dry ground, for there is no provision for the EU to expel a member. The risk of taking action would have been with the EU, not with the British government. Cameron would have forced the other EU Member States to follow up their ceremonious words with hard action. The risk of being sentenced and then sanctioned (suspension of voting

⁶⁹ Member States of the EU have broken their commitments under the Stability and Growth Pact of 1999 more than 170 times. The German Chancellor Helmut Kohl had sold this pact as the ultimate guarantee that the euro would be as stable and solid as the deutschmark. Even discounting those cases where exceptional circumstances were invoked with some credibility, there are still 110 infringements without any official sanctions. Theoretically, the pact specifies painful monetary fines for infringements. France has almost continuously failed to meet the targets of the pact. Jean-Claude Juncker justified this leniency of the Commission with the words: "Parce que c'est la France, la France de toujours." A verdict of the CJEU would have been highly political. It would certainly have provoked a storm of protest in Britain. The Commission and other Member States would have had to tread extremely carefully in imposing sanctions. Presumably Cameron would have got off with a stern reprimand. Perhaps Juncker would have commented: "Parce que c'est le Royaume Uni, le Royaume Uni de toujours."

rights)⁷⁰ was extremely low. By acting ostentatiously against EU norms, Cameron would have gained three tactical advantages:

- He would have been acclaimed by most of the dedicated anti-EU members of his party. To openly challenge Brussels would have deeply impressed most of them.
- He could have elegantly passed the buck to Brussels. His country would have remained a member of the EU but would have left no doubt that there were certain red lines. His country could not be expelled. The question how to deal with a recalcitrant member the size of the United Kingdom would have plunged the EU into a predicament. It would have laid bare the lack of executive power in the EU. It thrives on words but withers the moment it encounters resolute resistance. There is no *Reichsexekution* (intervention against a single state by the central government supported by all the other states) under EU law.
- He would have gained time. After declaring that he would not stand again in 2020 he could have left a strong signal of national assertiveness and left it to his successor to sort out the mess.

Cameron seems to have never entertained such rebellious thoughts.⁷¹ These considerations may well be cheap, counterfactual reflections of what might have been. They prove, however, that an in-out referendum was not inevitable, and certainly not at that time.

Cameron must bear the blame for two serious omissions. He wanted to imitate the campaign against Scottish independence but an essential part of that strategy was missing. One year before the referendum, the Scottish government had published a detailed analysis about potential consequences of independence. Whoever wanted to know what independence might imply could find the answers there. Over 600 pages, the paper went into the smallest details: postage, telephone charges, while at the same time covering essential questions like NATO and EU membership. In preparing his Bloomberg speech Cameron should have had a similar paper prepared for the EU

⁷⁰ Even then, the UK might have kept the option to escalate and to withhold contributions for as long as voting rights remained suspended. If it had come to a showdown, the odds clearly favoured the UK.

⁷¹His advisors seriously explored possibilities of curtailing social benefits unilaterally without or even against EU law and to turn the referendum lock of 2011 into a permanent barrier that would prevent a gradual erosion of British law and the British statute book. They were guided by the decisions of the Federal Constitutional Court in Germany. Cameron never considered openly provoking the EU.

⁷²Government of Scotland: *White Paper*, published in autumn 2013 (http://www.gov.scot/resource/0043/00439021.pdf, 12 March 2018).

referendum. It might have given structure and an indisputable factual basis to the ensuing debates. The absence of a serious conceptual frame for Brexit was the chief weakness of the entire referendum idea. As such a framework was lacking, agitators were free to make exaggerated and absurd claims. A serious paper prepared by civil servants might have taken some venom out of the campaign. It could have provided a factual and argumentative framework that would have cost credibility to deviate from. Thus Cameron had paved the way for the debate to be taken over by prejudices, ignorance and unfounded claims. Cameron had not only failed to set the record straight on what Brussels could and could not do; he had failed to open voters' eyes to the consequences of what they were supposed to vote on.

His second omission was even graver. Cameron had given strict orders that there should be no preparations for Plan B, i.e. no operational planning for the aftermath of a No result. When Theresa May succeeded him in the summer of 2016, she discovered to her dismay that there was not a single paper in all the drawers of Whitehall that detailed a strategy, priorities, or risks—not even an empirical analysis of how British industry or financial services might be affected in the event of a No vote. There were no estimates how many EU nationals might leave the NHS, there was no analysis of how logistic chains might suffer, and there were no scenarios about how to conduct negotiations with the EU about withdrawal. There was no timetable and no idea of how to reorganise government to deal with this exceptional situation. There was no pool of civil servants with EU experience, no emergency budget to absorb eventual shocks. Nobody had given any thought to borders. And, worst of all, nobody had laid the conceptual groundwork for what the future relations with the EU should look like after Brexit.

Cameron—unfortunately supported by the Electoral Commission—had formulated a question that addressed only the first half of the problem. Remain was clear. But Leave implicitly begged the next question: And what then? Theresa May later never tired of repeating 'Brexit means Brexit', an indisputable, but trivial tautology. This empty phrase could not paper over the deep conceptual void. For Brexit comprised no end of options. The central question was: Should the United Kingdom remain in the Single Market or at least within the Customs Unions? Peripheral questions concerned other aspects of the Union like cooperation in home affairs, EURATOM, pharmaceuticals and chemicals, air control, research, and the environment. All these questions remain unanswered three years after the referendum.

Is there a chance to reverse the 2016 referendum in another referendum? The Brexiteers (strangely enough, including Theresa May) denounce this as undemocratic and as a blatant disregard for the people's voice. An increasing

number of Remainers are seeking recourse in this option. Shaken by the defection of seven MPs from the parliamentary Labour Party, Corbyn has adopted the option of another referendum in late February 2019—too late and too halfheartedly of have any effect. The majority of the Conservative party remains opposed. As a matter of principle, sovereignty implies that the sovereign can change its views and revise any previous decision. If the essence of democracy requires free and regular elections because voters can change their minds, a referendum cannot be construed as having evinced an immutable and eternal wish of the people. A referendum is not equivalent to the Ten Commandments. A referendum crushes the minority and takes away all hope that their views and priorities can find expression in politics. It destroys the idea of a loyal opposition. It removes all recourse and all chances of revision. It is the epitome of disproportional voting, as the winner takes all, even if the victory is wafer thin.

On the other hand, a referendum is meant to create an indisputable political line, at least for a minimal period. That the EU has repeated referenda in Member States until it obtained the desired result has not increased its democratic reputation. The essence of democracy is that all decisions can be revised. This constitutes the adaptability of democracies and their ability to learn from past mistakes. To regard a referendum as something sacred, immutable and untouchable betrays an autocratic, dictatorial mind. A protagonist of the Leave campaign maintained: "If people cannot change their mind, democracy ends."73 The people are not infallible. If the people are to have the last word, they cannot have it only one last time. Generational change has altered the composition of registered voters over the past three years. Why should the people not change their mind? But there are a number of politicians who are hell bent on preventing another people's vote. It is a contradiction in terms: Those who venerate the voice of the people of 2016 like a holy ostensory ensure that this people should remain silent ever after. The old saying has it that the people's voice is the voice of God. A referendum is somewhat like divine revelation: you end up confused if you get too many of them.

Referenda are difficult to reconcile with fundamental democratic principles of legitimacy. The people never are of one mind. The notion of a unifying *volonté générale* goes back to Rousseau. It is as romantic as it is autocratic and despotic. It leaves no room for minorities. If you ask the people, you will always receive contradictory answers. The essence of the interplay between government and opposition lies in the hope that any minority retains the

⁷³ After the triumph for Leave, he changed his view.

opportunity of becoming a majority in the future. A referendum takes that hope away. It subjugates the defeated minority to the eternal dominance of the majority and leaves no chance of revising that decision. It is in many ways an instrument of absolutist power. The minority is silenced and condemned to everlasting impotence. It is difficult to discover what might be democratic about such a situation.

The 2016 referendum raised some other fundamental questions. If the people are called upon to decide, you have to define who the people are. Registered voters were British nationals who had not lived more than fifteen years abroad, citizens of the Republic of Ireland and of Commonwealth countries, provided they were resident in the United Kingdom, and inhabitants of Gibraltar. Disenfranchised were the residents of the Channel Islands and the Isle of Man,⁷⁴ citizens of EU countries (with the exception of Cyprus and Malta, since these are Commonwealth members) and all those UK citizens who had lived abroad for more than fifteen years. This implies that a Malaysian, a Kenyan or a Bangladeshi with residence in the United Kingdom could vote, but citizens of the Netherlands, France or Sweden with the same residence history could not. Empire and nostalgic repercussions of a distant past proved, after fifty years, more powerful than more than forty years of European presence.

The majority for the Leave vote was 1.3 million. EU citizens resident in the United Kingdom number around 3.7 million. Had they had the vote they would presumably have voted Remain. If their turnout had been the same as the British average, their vote would have annihilated the Leave majority. Similarly, the number of UK citizens resident in other EU countries that were disenfranchised is understood to amount to over 700,000. They were equally affected by Brexit, some of them even more strongly than residents in the UK. Their vote could also have had a substantial impact on the final voting balance. The old Latin adage, so fundamental to democratic thought, that what touches all should be approved by all, has certainly not been observed in this referendum (Fig. 2.3).⁷⁵

Furthermore, there was no unitary voice of the people. The United Kingdom is an amalgamation of four nations: English, Welsh, Scottish and (Northern) Irish. Assuming that each of these four nations forms its own people, there was no unanimity. In Scotland, 56% of the vote was for Remain,

⁷⁴ The Channel Islands and the Isle of Man are demesnes of the Crown. They do not form part of the United Kingdom and are not members of the EU. They partake in the Single Market and in the Customs Union. Brexit strikes at the heart of the business model of the Channel Islands, yet they had no voice in it.

⁷⁵ Quod omnes tangit, ab omnibus approbetur.

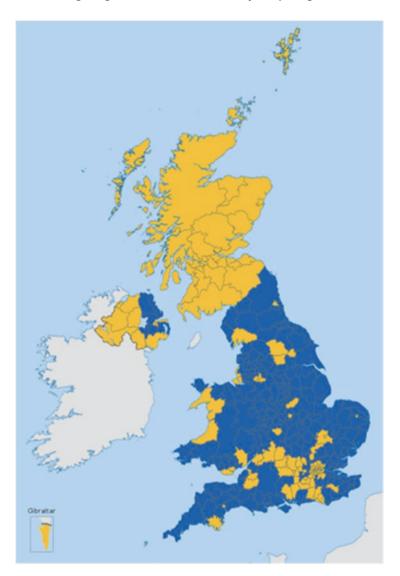


Fig. 2.3 The referendum No to the EU was an English No. Light: Remain; Dark: Leave. Source: Wikipedia, https://creativecommons.org/licenses/by-sa/3.0

in Northern Ireland even 62%.⁷⁶ The Scots are a nation of their own, never subdued by Rome, fiercely independent and impassioned enemies of the

⁷⁶The vote in Gibraltar was even more explicit: 96% of voters preferred Remain (turnout 84%, quotum 80.6%). Remaining inside the EU was not tantamount to joining Spain. Gibraltar keeps a distinct British identity.

English for centuries. They have their own legal system, their own educational system, their own church organisation, and their own traditions. But if they are a nation of their own, should their vote not also be counted as the voice of the Scottish people? The SNP has announced that it will seek a renewed referendum on Scottish independence. Scotland and Northern Ireland stand to lose massively once EU subsidies end.

In 2016, 51.9% voted Leave, the turnout being 72.2%. This translates into 37.5% of all registered voters having supported Leave. The referendum on 5 July 1975 had resulted in 67% of the vote for Remain on a turnout of 64%. This translates into 42.5% of all registered voters voting for Remain. What is the much vaunted 'will of the people'? Can there be a unified, eternal popular will? Or should there be a regular succession of referenda as there is a regular succession of general elections? The referendum of 2016 was already the second EU referendum. It seems odd to argue that this second referendum should be the last and to suppress the call for a third one. Is this because of the danger that a third referendum might uproot the result of 2016? The dilemma of a referendum is precisely that it cannot be the final word with a claim to eternity and infallibility, but that at the same time it cannot lead to an openended succession of one referendum after another—with the possibility that each successive one contradicts the preceding one.

The voting age in Scotland had been reduced to 16 years for the referendum in 2014. Initiatives to reduce the voting age to 16 in the EU referendum of 2016 were rejected. Had the voting age been lowered, there might have been a different outcome (Fig. 2.4).

Analyses show a remarkable correlation between voting, age and education. Older age groups and voters with low educational and professional qualifications were significantly more likely to vote Leave. The older generations were decisive in the end and had the highest turnout. They had been educated under the Empire or had been educated by parents for whom the Empire was the natural, if not divine, world order. It was the generation that had listened to Churchill, Gaitskell, Tony Benn and Enoch Powell. Some analysts conclude that the referendum result was the triumph of an old, nostalgic and nationalist generation over a young, cosmopolitan and forward-looking generation.

Cameron had been completely wrong about the effect of the referendum. He had hoped that the referendum would put a definite end to squabbles about Europe in his party and in his country. He wanted to solve the European question once and for all. Instead, he has deepened the rift, sharpened animosities in his party, and fanned smouldering embers of anti-EU resentment

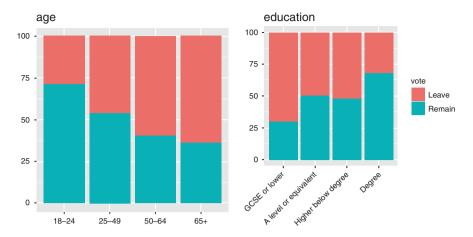


Fig. 2.4 Analysis of the referendum result according to age and educational achievement. Source: Wikipedia, https://creativecommons.org/licenses/by-sa/4.0

into a flaring blaze. The referendum produced a thin majority after a campaign overshadowed by misleading and patently fraudulent promises, by demagoguery and open appeals to jingoistic impulses. It is difficult to distinguish whether people voted Leave out of disappointment with the EU or out of disappointment with Cameron. It has given a vociferous minority the chance of becoming a majority. No wonder they are not prepared to let go and to allow a second referendum (Fig. 2.5).⁷⁷

The EU referendum of 23 June 2016 leaves a number of lessons to be learned:

• Referenda are dangerous and ought to be prepared with the utmost care and circumspection. They are best if the question to be submitted to a popular vote has been debated and examined beforehand by the competent representative bodies. Referenda can complement decision-making in Parliaments. They should never be a substitute where Parliaments are unable to decide. In other words: referenda should be approbative or abrogative, i.e. either confirm or abolish decisions taken after due examination in normal parliamentary proceedings. To ask the people a question for which they are unprepared and to leave them to their vague emotional impulses could court disaster.

⁷⁷ Alistair Burt, Tory MP, noted after the referendum: "I argued that the first chance the British people were going to get to vote on the EU, they'd vote NO, no matter, what the question was." (Shipman, All out war, p. 7).

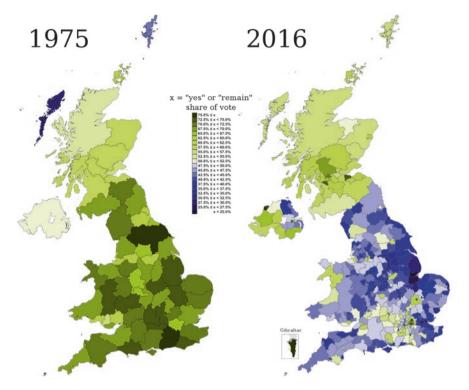


Fig. 2.5 Comparing the referenda results of 1975 and 2016. Most of the change of opinion took place in England, most conspicuously in the north and the northeast, the former centres of the steel and coal industry. Source: Wikipedia, CC BY-SA 4.0, https://commons.wikimedia.org/w/index.php?curid=57011068

- Referenda rarely offer a 'once and for all' solution. Defeated minorities do not simply resign and fall silent. Canada has had three subsequent referenda on the independence of Quebec. Instead of manifesting a unitary, rock-solid 'will of the people', they tend to cement contradictions and strengthen animosities. The presupposition that the people are a single body with a unitary will is a romantic notion, disproved by all empirical evidence. It contradicts all theories about the formation of political will in democracies which emphasise the need to take the interests of minorities on board.
- Referendum campaigns offer the ideal battleground for demagogues, agitators and those *terrible simplificateurs* [30] that pretend to hold the solutions to all the problems of mankind. Personal strengths and weaknesses, rhetorical skills and histrionic qualities become decisive. In the end,

it is not the deliberating doubter that carries the day but the fool-hardy gambler.

- The nature of modern political problems is complex, difficult to grasp, and seldom understandable without a broad and even more complex context. This seduces voters to follow their gut feelings. They accept emotional appeals more easily than rational deductions. Human sympathy and personal charisma become more important than coherent, argumentative logic. People prefer sweet myths to unpalatable truths.
- Take Back Control was such a myth and it proved an irresistible magnet. But essentially it was a backward-looking phrase hankering after a golden past and in that not unlike another recent slogan: Make America Great Again! The Leave campaign fused nostalgia with utopia in painting a future where Britain might have its cake and eat it. This proved irresistible.

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3

Brexit Means Brexit: Squaring the Circle

3.1 Finding the Entrance to Exit (2016)

England has saved herself and will, I trust, save Europe by her example William Pitt the Younger

The people had decided. The majority was indisputable—even though it was uncomfortably meagre; even though Scotland and Northern Ireland had voted Remain by a much clearer margin; even though opinion polls in the preceding weeks had been a roller coaster so that the timing was decisive; even though the allocation of the franchise left some pertinent questions open. The people had decided—even though against a government that it had returned with an overwhelming majority a year earlier; and even though contrary to the almost unanimous recommendations of the economic, academic and political elite.

On the morning of 24 June 2016, with the votes having come in throughout the night, Cameron resigned. Few politicians have suffered a fall from such height to such depth. A year before, he had been acclaimed as triumphant victor; now he was a vilified loser. A year before he had celebrated the zenith of his career at the peak of power; now he was relegated to the ranks of the has-beens, an abrupt end for a promising career at an early age. Cameron was not yet fifty when he resigned. To safeguard the unity of his party, he had gambled away the unity of his country. To secure the future of his party, he had plunged his people into unprecedented uncertainty. To save his position, he had bet everything on the referendum and lost.

In the hectic weeks following the referendum and Cameron's resignation, several prominent Conservatives tried to don the mantle of power that

Cameron had discarded. As people across the UK and Europe tried to come to terms with the shock result and its potential consequences, the Conservative party focused on the immediate succession. Boris Johnson had assumed that he was predestined to become Prime Minister. But after his close ally Gove publicly declared that he could not endorse Johnson's nomination, he withdrew—again in a carefully staged dramatic show. Queen Elizabeth II appointed Theresa May Prime Minister less than a month after the referendum. It now fell to May to translate the people's vote into concrete, coherent and meaningful policy. She had to define Brexit.¹

Theresa May had been Home Secretary since 2010. In this function, she had made use of the opt-out clause covering EU cooperation in the fields of justice and police affairs. In 2013, she had decided to pull her country out of 133 provisions of the Treaty of Lisbon² and to unilaterally readopt 35 of them on the same day. This was a double triumph for her. In essence, she had selected 98 EU provisions and unilaterally withdrawn from them without endangering British membership in the EU. She had removed jurisdiction of the CJEU in those 98 matters, so there was no longer any foreign interference in English law and with English law courts. But she packaged her coup differently. She claimed that she had successfully carried out some cherry picking. She proudly announced that she had repatriated essential juridical competences and reined in the encroaching, meddling jurisdiction of the CJEU in Luxembourg.³ This was the first time that competences had not passed from Westminster to Luxembourg or Brussels but the other way round. She had timed this move carefully just months before the European Parliamentary Elections. May had hoped to take some wind out of the sails of UKIP. This was one of her first experiences with the European Union and it left an indelible imprint on her mind. It must have shaped her idea of the EU and of possible ways to separate from it. When she became Prime Minister she probably assumed that leaving the entire the EU could follow the pattern of 2013. She would simply take her country out of all treaty provisions and then selectively opt into some of them afterwards. Presumably she was not fully aware that her

¹All sorts of neologisms and wordplays soon appeared around Brexit: beleaver, bremoaner, bregretter, braccident, bremaniac (also breMayniac), brexecution, brexshit, brexorcism, brexercise, etc.

²This decision was based on Protocol 36 of the Lisbon Treaty. It gave the United Kingdom the right to leave the provisions on criminal justice before 2014. This renunciation had to cover the entire range of cooperation in justice and police affairs. This was meant to prevent 'cherry picking'. But the protocol also made provision for Britain to unilaterally opt into some of these rules. But this was the *only* exception of this sort.

³The European Court of Justice has its seat in Luxembourg.

successful move in 2013 was based on a singular, specific exemption in the treaties. It could not be transferred to the EU as a whole.

Theresa May had never been able to gather much experience with the EU. Her experience in foreign affairs was meagre when she became Prime Minister. She had been appointed to various positions in Conservative shadow cabinets, but her responsibilities were all in domestic affairs, like transport and pensions. She had studied geography and worked in a commercial bank for some years. She could claim no profound expertise in economics, foreign affairs or in the complex mechanics of EU politics.

May had kept a low profile in the raging debates about Brexit. In November 2014, she had declared in plain language that she regarded the EU to be unacceptable in its present form. One of her closest advisers, Nick Timothy, was a convinced Brexiteer. On 29 August 2015, at the height of the migration crisis, May had published an article in which she demanded an end to the freedom of movement. Illegal migrants should be left without social benefits. She said: "When it was first enshrined, free movement meant the freedom to move to a job, not the freedom to look for work or to claim benefits" [1]. She returned to this topic eight months later and attacked the jurisdiction of the European Court of Human Rights (ECHR). Again, she focussed on migration and internal security—thereby demonstrating that she had a better understanding of what the Brexit campaign was really about than most of her cabinet colleagues. She said very little about economic consequences—which was the topic that Osborne never tired to talk about in apocalyptic terms. What May said was very carefully phrased and did not commit her to either side: "The question is not whether we can survive Brexit: it is whether Brexit would make us better off." She combined sharp criticism of the EU with a deep reverence for the predestined leadership role of her country: "It shouldn't be a notable exception when Britain leads in Europe: it should become the norm." After so much vacillation and after being so careful to sit squarely on the fence, her conclusion came somewhat as a surprise: "It is clearly in our national interest to remain a member of the European Union" [2]. May had managed to support her Prime Minister in principle, while at the same time adumbrating her reservations. Was she already eyeing Cameron's job? Did she want to recommend herself as a convenient compromise candidate for both wings of her party?

Her final contribution to the Remain campaign came a week before the referendum. In a BBC interview on 15 June 2016, she renewed her demand for far-reaching modifications of the rules about freedom of movement within the EU. She openly contradicted George Osborne, who had gone on record a couple of days earlier saying that these rules were immutable [3]. It came as little surprise that George Osborne was the first and most prominent minister

of Cameron's cabinet to be left without a position in May's cabinet. The dislike seems to be mutual and enduring.

When she became Prime Minister, May faced two seemingly insoluble problems. She had to reconcile the two hostile wings of her party by forming a cabinet in which both wings were represented and which nevertheless supported one single coherent course. And she had to interpret the result of the referendum and turn it into practical policies.

She tried to solve the first challenge by giving all positions connected with the EU to prominent Leavers: Boris Johnson was appointed Foreign Secretary, David Davis headed the newly created Department for Exiting the European Union (DepExEU), Liam Fox was put in charge of the Department for International Trade.⁴ She also appointed some politicians who had proven their Remain mettle: Philip Hammond succeeded George Osborne as Chancellor of the Exchequer, and Amber Rudd succeeded May as Home Secretary. In this way, May carefully balanced the two antagonistic wings within her party. But she failed to take the second step: to bring the divergent views (and ambitions) of her cabinet members to agree on a coherent, consistent, and principled political position on Brexit. She failed even more conspicuously in restoring unity of purpose within her party. Unfortunately, May cared neither for her party nor for Parliament. Ever since becoming Prime Minister she never really tried to build consensus within her cabinet, within her party or to win sufficient support in the House of Commons. She was not a team leader. Her rhetoric has been criticised for being robotic and full of empty phrases.⁵ When questioned, she liked to shield herself behind trite truisms or banal tautologies like 'Brexit means Brexit'. She often came across as almost maniacally determined to get her way, no matter what the cost. The crushing defeats in December 2018 and January 2019 could and should have been avoided with a little foresight. Instead of pathetically trying to improve on her deal of November 2018, she should have taken care to ensure sufficient support by the Parliamentary party at a much earlier stage—particularly after her parliamentary majority had become wafer-thin. Ideally, she should have reached out to reasonable Labour MPs in building a bipartisan consensus on which to build a solid Brexit deal.

⁴The creation of the DepExEU implied that her archrival Johnson, though Foreign Secretary, had practically no competences in EU affairs. The competences in foreign trade were taken away from the FCO and transferred to Fox's department. Thus Johnson headed an FCO that had lost some of its core responsibilities. All three prominent Leavers were put in positions of mutual institutional rivalry. It was a clever Machiavellian move to secure her own power in Cabinet, but fraught with disastrous consequences for pushing through a coherent, effective policy.

⁵ It earned her the nickname "Maybot".

There had been no preparatory work for the situation in which May found herself when she entered Number 10. There were no contingency plans. There was not even a comparative analysis of which options were available, the consequences that each of them entailed, or what tactical and strategic problems were incumbent on each of them. May resorted to the simple, if inane, formula: 'Brexit means Brexit'. This was incontestably true, but it begged the question rather than answering it. It was meant to signal resolve, confidence and inevitability. In reality it was but a thin veil that barely fudged the fundamental choices that now had to be made. How deep should the break with the EU go? What alternatives were there for access to the Single Market? How would Brexit affect British industry, the City, and essential services like the NHS? The referendum had given a clear No, but it had expressed no idea of what should take the place of discarded EU membership. This was to become the curse of Brexit: it was easy to put together a blocking majority that would give a resounding No. Parliament developed almost a habit of voting down various alternatives. It was increasingly unable to come together on a single positive vote. It was impossible to forge a positive majority that would deliver an equally resounding Yes. The referendum had not given an answer. It had worsened the irreconcilable division in the political parties, in Parliament and in society at large. The referendum had signalled departure without announcing the destination. The people had given the command 'cast off'. But neither the captain not the crew knew the destination, what course to take or which manoeuvres to execute. Nobody had an inkling of the dangers, the currents, the cliffs, the shoals, the storms ahead, and nobody had a reliable map with suitable places to anchor. Nobody had the slightest idea about costs and risks or potential profits of this journey.⁶ It was a trip into the unknown. Was it sufficient to be simply towed away a few yards from the pier but to remain connected to the shore by bridges and planks? Or did the ship have to leave the inner harbour and dock in the outer customs harbour? Or should it anchor offshore? Or should it seek the open sea and steam ahead looking for new harbours on far away shores in far away continents? Was there a navigator who knew such a course? Was the ship equipped for the high seas? Were there sufficient supplies on board for such a journey?

⁶There was no shortage of gurus and prophets who claimed to know exactly the costs or benefits of all options. In most cases they reduced multidimensional reality to one single dimension, put that into a simplistic model and proclaimed proudly the results of these calculations.

3.2 Looking for the Bespoke Agreement

We are part of the community of Europe and we must do our duty as such Lord Salisbury

Voting to leave was difficult enough, but it was the easiest part of Brexit. Leaving the EU would raise not only the problem of how to cut through a dense network of interdependencies that had built up over 45 years. It meant incorporating the whole set of primary and secondary EU law into British statute law and to then start modifying it. This would be a gigantic task probably the most ambitious and complex legislative task ever undertaken. But these were essentially technical questions, to be solved—given enough time and resources—by civil servants and legal experts. Politically more challenging was the question of what sort of arrangement the United Kingdom should choose once separation had been accomplished. The EU maintains various sets of relations with other countries. There are association agreements and special arrangements for former colonies (such as the Lomé convention with countries in Africa, the Caribbean and the Pacific region: ACP states). There is a plethora of bilateral free-trade agreements with various degrees of mutual market access. The United Kingdom had to define what sort of a status it was to seek after separation. It had five basic types of arrangements to choose from:

3.2.1 The Norway Model

Norway has twice rejected full EU membership.⁷ Its government, seeing the enormous importance of access to the Single Market for Norwegian business, opted for membership in the EEA. Norway has unrestrained access to the Single Market and it accepts the four basic freedoms (capital, services, goods and people). It has to automatically accept all EU rules and regulations, but has no say in Brussels. Norway has to contribute to the EU budget for these privileges—not as much as a full member, but still a significant annual sum.⁸

⁷ Norway held an EU referendum in September 1972. The result was 53.5% opposed to joining the EU, 46.5% for, and the turnout was 79%. A second referendum was held in November 1994 preparing for the 1995 enlargement. It yielded almost the same result: 52.2% against, 47.8% for EU membership, turnout: 88.6%. The relevant issue was fisheries and financial contributions. Because of its high revenues from oil and gas, Norway would have had to carry a heavy financial burden.

⁸In purely quantitative terms Norway has to observe about 25% of EU law (70% of directives, 20% of regulations). Norway's contribution to the EU budget depends on its GNP. The contributions are relatively high. On average, Norway pays €1bn annually, that is €200 per capita. Germany pays the highest

Norway has to submit to the jurisdiction of the CJEU. Norway's adherence to the Schengen area and the Single Market prevents the long border with Sweden from presenting similar problems as the border around Northern Ireland

3.2.2 The Switzerland Model

Switzerland has a similar set of relations with the EU. Basically, Switzerland is also subject to the four freedoms and it also has to make financial contributions to the EU, although not on the same scale as Norway. Switzerland is not member of the EEA. It has concluded a number of bilateral agreements covering selected economic sectors. These agreements are not subject to automatic updates. The CJEU remains the final arbiter in cases of dispute. Each change in legislation on either side has to be worked out in renewed negotiations. This inevitably gives rise to frictions and frustration on both sides. Switzerland is part of the Schengen area allowing people to move across borders without checks. The EU has left no doubt that it has little appetite to replicate the Swiss experience and is currently trying to press Switzerland to adopt a new institutional agreement before the summer of 2019.¹⁰

3.2.3 The Turkey Model

Turkey entered the EU Customs Union in 1996, whereby its industrial and agricultural products can be traded free of tariffs. Turkey and the EU have common external tariffs, but in reality this means that Turkey has to follow EU tariffs. Finished goods containing parts and components from different countries are subject to complicated rules of origin (the same as in Norway). Turkey is neither a member of the Single Market nor subject to the jurisdiction of the CJEU. Turkey does not pay into the EU budget. This model contains a serious asymmetry, which might be problematic in the case of a nation with more far-flung trade relationships. As a member of the Customs Union, Turkey is obliged to offer the same external tariffs as the EU to the rest of the

EU contributions, amounting to roughly €250 per capita. Norway is in a position that is called in Britain 'Pay but no say'.

⁹ John Erik Fossum: Squaring the Circle on Brexit: Could the Norway Model Work?, Bristol, Policy Press (2018)

¹⁰ For details of the draft institutional agreement and the Swiss position after the EU's statement at the end of 2018 that it now regards negotiations as closed, see https://www.eda.admin.ch/dea/en/home/aktuell/medienmitteilungen.html/content/dea/en/meta/news/2019/1/16/73677

world. But since Turkey is not a Member State, it is not reciprocally covered by any bilateral trade deals that the EU concludes to give EU members privileged access to foreign markets. This asymmetry promotes imports, but impedes exports.

3.2.4 The Canada Model

The EU has concluded a free trade agreement with Canada (CETA), providing for a lifting of most tariffs. Technical standards and norms (non-tariff barriers) are brought into line. Some, not all, agricultural goods can be freely traded, but the EU continues to apply quota and import levies. Services are not covered. The agreement took seven years of tortuous negotiations to mature, but it still has not finally entered into force because of some outstanding ratifications. It has applied provisionally since 2017.

3.2.5 The WTO Model

This is the fallback position in international trade. The outcome of a no-deal Brexit would be WTO rules. At its core is the principle of most-favoured nation, which stipulates that members of the WTO cannot discriminate against other members. Trade conditions offered to one member must be offered to all members, and so all WTO members have to be treated equally. Special, exclusive relations are incompatible with this principle. Customs unions and free trade areas conform to WTO rules provided they do not discriminate against external countries. Many Brexiteers are demanding a fallback to WTO rules, since these rules contain the barest minimum of political interference with the forces of free markets. WTO rules have been subject to some uncertainty since President Trump unilaterally imposed punitive tariffs and announced he might withdraw from the WTO altogether. Punitive tariffs are allowed only in a few extreme circumstances and it is highly doubtful that the WTO will endorse Trump's trade policy. Some WTO members, like Russia and China, have raised objections to the United Kingdom automatically becoming a WTO member without assurance about the continuation of present market access.11

¹¹This concerns principally food imports. In a worst-case scenario, the United Kingdom would have to conduct parallel negotiations with more than twenty WTO members. This development alone shows how inconsiderate was the remark of Liam Fox when he glibly asserted in 2016 negotiations about new trade agreements would turn out the easiest of all historical international agreements.

But even WTO rules permit a sliding-scale variety of options. The two extremes are:

- The United Kingdom could synchronise its trade legislation with that of the EU on a voluntary basis. This would ensure unimpeded continued access to the Single Market. It would facilitate the uninterrupted import of components and goods for sale. This would put the United Kingdom in a position where it could reclaim full sovereignty. In practice, considering the economic weight of these two actors, Britain would be forced to shadow each movement of the EU in trade matters just as Norway does.¹² It will probably always remain a theoretical option, although it might offer itself to absorb the shocks of a no-deal withdrawal. It could soften the impact and allow time for readjustment. However, such an option could not be sustained in the long run. It would force Britain to follow the lead of the EU. Cries about EU dictatorship and Britain being reduced to the status of a colony are bound to grow louder. It would be BINO (Brexit in name only) and SINO (sovereignty in name only). No committed Brexiteers would ever accept such a solution. The White Paper drawn up by Theresa May and submitted at the *Chequers* meeting in July 2018 came pretty close to this model with its vague ideas of a 'Common Rule Book' and a 'facilitated customs agreement'. In the final analysis, such an arrangement would offer few advantages to the United Kingdom. It would remain shackled inside the normative cage of the EU without winning back freedom of action.
- The alternative would be the exact opposite, also called the *Singapore model*. The United Kingdom would consciously try to become a competitor and a rival to the EU. It would try to gain competitive advantages through low taxes, low tariffs, less bureaucracy, less regulation and offering attractive conditions for international investors. Most likely such a model would be hard to reconcile with high expenditure on social issues like pensions, unemployment, health and the environment. Such an approach would create open discord between the United Kingdom and the rest of Europe. It would give rise to disputes about dumping, unfair practices, and cooperation with shady investors. It would create an atmosphere of suspicion and envy. Rivalry could easily turn to confrontation or even to hostility.

¹²Theoretically, the reverse could apply and the EU could imitate British standards.

¹³The name 'Singapore model' is a misnomer. About 20% of Singapore's GNP is produced in government-owned enterprises. The government enjoys far-reaching powers to interfere directly in trade, wages, prices, and working conditions. Singapore pursues a paternalistic social policy, forcing its citizens to save and to invest parts of their income for specified purposes. Singapore is capitalist, but not liberal.

Trade disputes could then easily spill over into political opposition. Perennial friction and mutual incriminations would likely follow. Brussels would accuse Britain of securing competitive advantages for itself at the expense of others. Britain would blame Brussels for stifling free market forces and for erecting protectionist walls. This in turn would colour the whole range of political relations. It would give rise to mistrust, disappointment, estrangement, antipathy and resentment. Each side would blame the other for not living up to its expectations. It could drive a wedge that could make the Channel unbridgeable, turning competition into rivalry and rivalry into hostility. That could spell disaster for Europe.

3.3 Lancaster House: May Declares Her Position (2017)

As it will be the right of all, so it will be the duty of some, definitely to prepare for a separation, amicably if they can, violently if they must

Josiah Quincy

The remaining months of 2016 were filled with hectic attempts to give Brexit some structure and to work out a strategy and a tactical approach to negotiations with the EU. It had to be acceptable to both wings of the Conservative party. May had to find a solution that corresponded to the Leave vote of the referendum, but somehow did not completely antagonise those 48% that had voted Remain. On top of that, she had to look for a solution that was acceptable both to the United Kingdom and to the EU. May had observed Cameron at close quarters and had noted four important lessons for herself:

- She had to avoid being constrained in her operations by the formal limits
 of EU law. She had to be creative and transcend those limits. Under no
 circumstances could she limit her demands to what was acceptable
 to the EU.
- She had to keep no-deal as a real alternative in order to obtain substantial concessions.
- She had to keep expectation management under control, and had to shield her negotiations from premature gossip or indiscretions.
- No Conservative Prime Minister can win against the Daily Mail. May cultivated a remarkably intimate relation with this mouthpiece of arch-conservative sentiments. In 2017, she nominated James Slack as her director of

communications. Slack had been political editor at the Daily Mail since 2015, having penned amongst others the notorious headline 'Enemies of the People' on 4 November 2016.¹⁴

And then there was May's fundamental experience of 2013. Had she not been able to abrogate all EU commitments in the field of home security, police and criminal justice and then selectively opt back into some of them? If that had been possible for that part of the EU, why should it not be possible for the entire EU? There was no doubt that tactically May needed to start by demanding the maximum and then negotiate back to a compromise. She was counting on time pressure. Early signals of compromise would only leave her in a weaker position for the rest of the negotiations. She hoped the EU27 would soon split ranks, and she hoped that mighty continental industries would pressure their governments to be more accommodating. The giant among these was Germany, where 10% of foreign trade is with the UK. Its automotive industry exports over 800,000 cars to the UK each year. The Netherlands, France, Belgium and Sweden ought to be averse to losing access to the British market. Like her predecessor, May had a poor understanding of the mentality and the priorities of her continental partners. She failed to see the unshakeable commitment of France and Germany to the principles on which their prosperous post-war history rested. Keeping these principles intact was far more important to them than keeping the British market open for their products. They were not prepared to chip away at the foundations of the EU and risk the whole edifice crumbling. May also vastly overestimated the interests of continental industry in the British market. None of them would risk their highly profitable web of supply chains within the EU in order to keep access to the British market.

Like her predecessor and the vast majority of her people, May believed that the EU was more dependent on the British market than vice versa. From this assumption it followed that Britain was in the stronger position and held all the trump cards, as David Davis had trumpeted in March 2017. May gave the impression that she believed separation from the EU was easy. A simple 'I want to go' would suffice. Then there would be some minor negotiations about splitting assets and liabilities, and EU membership would come to an end. Article 50 seemed to confirm that assumption. It escaped her attention

¹⁴ This headline was a public condemnation of three senior High Court judges who had decided that the complaint that Gina Miller had brought against the Government's decision to notify its intention of withdrawal without previous consent of Parliament. The article was controversial in that it printed the photographs of the three judges in full robes with the caption: 'Enemies of the people'. It impugned the reputation of the judges and was seen to undermine the independence of the judiciary.

that behind Article 50 there was a convoluted knot of consequences that the bare words of the provision had left purposely undetermined. There was a huge amount of small (or rather invisible) print. In drafting its wording, none of the authors of Article 50 anticipated that it would ever serve any practical purpose. The EU seemed to them the predestined future of Europe and deviating from the path to this ineluctable future seemed unthinkable. Cameron had threatened the referendum in order to obtain concessions. May now used the threat of a no-deal Brexit in order to nudge the EU towards concessions. She committed the same mistake as Cameron. Both believed that they could make headway with bluff, intimidation and bluster. They were both poor at patiently wooing and fathoming the room for manoeuvre among EU members. They both had an incomplete understanding of what the priorities of their main partners on the continent were. It dawned far too late on May that her approach was fatally flawed.

The central and—as it soon turned out—irreparable strategic mistake that May committed was to move briskly ahead with initiating divorce proceedings without first building firm support for one of the models that were to replace the present relationship with the EU. Any separation arrangement would be informed by the framework that would guide negotiations about arrangements beyond Brexit. May never bothered to forge consensus about future arrangements beyond Brexit—not within her cabinet, not within her party, and not within Parliament. She remained short-sightedly focussed on separation. She probably realised far too late that support for any Brexit deal would depend on a credible perspective beyond withdrawal. She did not reach out to the opposition until after midnight, she never tried to sound out the currents within the two major parties, and she never felt the need for a bipartisan approach. In a country in which EU expertise was rare, she completely failed to tap the experience of old EU hands and to exploit their informal networks. She relied first on Nick Timothy, then on Olly Robbins—neither of whom had diplomatic or EU experience. On the other hand, the people who really understood how Brussels worked, who commanded access and who had acquired a sound judgement about the principal actors in Brussels were all shunted aside: Sir John Cunliffe¹⁵ remained at the Bank of England, Ivan Rogers¹⁶ skulked around the lecture circuit, and Tom Scholar¹⁷ was parked in the Treasury and kept well away from anything to do with Brexit. As soon as Theresa May became Prime Minister, his place was taken by Oliver

¹⁵ Sir John Cunliffe had been British PermRep at Brussels from 2012–2013.

¹⁶ Ivan Rogers had been his successor as PermRep from 2013–2017.

¹⁷Tom Scholar had been Cameron's chief advisor on EU affairs.

Robbins. May also never turned to those who had served in the Commission: Peter Mandelson, Chris Patten, or Catherine Ashton. May could have convened a special advisory committee on Brexit to foster consensus building across party lines and to provide some intellectual structure to the debate. The referendum campaign had amply demonstrated that the lack of such a sober conceptual framework had resulted in unfounded and exaggerated claims as well as sprawling promises about what Brexit could deliver. Brexit had become a divining rod by which each could indulge in their own idiosyncratic fantasies. May never tried to rein in these roaming fantasies. Through her rhetoric and the fatal mantra 'Brexit means Brexit', she encouraged the radicals who indulged in fanciful futures of milk and honey and made extravagant promises in the full knowledge that they would never be called upon to deliver.

A second strategic mistake, inherent in the first one, was May's acceptance of the sequencing of negotiations. The EU insisted that the separation should be negotiated first, and the future relationship should not be touched until the separation agreement was settled. This gave the EU enormous leverage, as it was in the stronger position simply because of the deadline. Anyone with only even a passing familiarity with negotiations in Brussels was aware that to negotiate two agreements of such enormous complexity could hardly be achieved in two years. Extensions were on the horizon right from the start, but May behaved as if time was on her side. May should have insisted that the outlines of an agreement on future relations should be negotiated in parallel to the separation treaty. That was where the real political substance was, and any understanding about future relations would make any separation agreement so much easier. May would have had a strong argument in her favour for such an approach, as the Lisbon Treaty ties together the two aspects of separation and identifying the core elements of future relations.¹⁸

At the party conference in the autumn of 2016, May confidently announced to jubilant cheers that she would trigger the exit mechanism according to Article 50 no later than March 2017. She repeated Cameron's mistake: She put herself under time pressure without any objective necessity for doing so. There was no political or legal prescription about the time that could elapse between a national decision to leave and the start of negotiations. When May made this commitment, she had no clear picture of the facts and she had no clear vision of where she wanted to be at the end of these negotiations. She jumped without knowing where to land, she did not have solid and reliable

¹⁸ Article 50, TEU contains the sentence: "In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union."

support from her cabinet, and she still had to grapple with the deep divisions within her own party and within the public at large. Why make this precipitate move when all necessary preconditions were so obviously absent? There was no clear consensus, no undisputed political will, and no general planning for eventualities and above all—much worse and potentially devastating—there was no common understanding about the strategic aim of Brexit. She lacked the expert teams to conduct these complicated negotiations. To leave these negotiations to the fatuous minister in charge, whose distinguishing mark was an inane smirk and the spluttering of commonplaces, spelled disaster. Davis made a point of arriving for negotiations in Brussels without any papers. The United Kingdom, alas, was completely unprepared.

May felt mounting pressure to follow up on the referendum vote. She needed to show that she was not dithering and procrastinating. She wanted to take the instructions of the sovereign people as an immediate command. She was prepared to unleash the whole process even though she did not have a clue about what problems might be involved. Instead she took refuge in highsounding, but empty, phrases. It was May who turned Brexit from a pragmatic problem into a pervasive ideology. She inadvertently fed the radicals among the Leavers. Their idiom became permeated by intoxicated phrases about winning back national greatness, power and pride. It promised unfettered opportunities and limitless chances. The UK needed only to break free from the shackles of EU serfdom in order to experience a meteoric rise. The present was painted as a dead-end of hopelessness. A Brexit future was presented as a shining paradise of freedom, prosperity, dynamism, truly global reach and cosmopolitan openness. There was endless stereotyped cant: 'a deep and special relationship; a partnership of interests; a mutually beneficial symbiosis; keeping the good and discarding the bad; leaving entrammelling bureaucracy and opening the way for bold, enterprising pioneers; getting the right deal for Britain; exciting opportunities; embracing change; never look backwards, always look forward; turning Britain into the global, modern, competitive, open, liberal country it ought to be; we'll make this an unprecedented, enduring success; we are looking for an encompassing, ambitious start into a bright future; a stronger, fairer, Britain more united, more outward looking, secure, prosperous, tolerant'. 19 May (and Johnson) never tired of repeating these platitudes. They tried to stabilise the feeling in the country. And they hoped to conceal their own lack of realistic plans. It was high time to expound the meaning of Brexit in detail—not only to voters, but also to those in Brussels who observed these verbal histrionics with a mixture of amusement and dismay.

¹⁹ These are all quotes from speeches of cabinet members.

There was a constitutional obstacle to overcome before May could trigger Article 50. All commentators and legal experts agreed that the 2016 referendum only had advisory character. Nevertheless, it was a political signal that no democrat could ignore. But there was dispute about whether it in itself provided sufficient legal empowerment to start the process of separation. May was adamant that the referendum had conferred all the necessary powers on her government to initiate Brexit.²⁰ But this view was strongly and successfully disputed. Gina Miller, an investment banker, complained and launched legal action that quickly came before the Supreme Court. 21 Miller argued, not without some compelling logic, that an Act of Parliament such as the one that had paved the way for Britain to join the EU could only be removed by another Act of Parliament. May's government, however, doggedly defended the freedom of the Executive to act without consent of Parliament under royal prerogative.²² On 3 November 2016, three judges of the High Court admitted the legal action. This was exclusively a decision on the admissibility of the complaint, not a decision on the substance of the problem. But it provoked an explosion of rage among the tabloids. The Daily Mail headline was 'Enemies of the People' and it printed photographs of the three senior judges involved. This was Stalinist and fascist language and strategy.²³

A few months later the Supreme Court decided in favour of the claimant: an explicit Act of Parliament was required before government could notify the intention of the United Kingdom to leave the EU [4].

Theresa May set out her aims for Brexit negotiations for the first time in January 2017. Her speech had long been prepared, and passages had been subject to intense debate in cabinet meetings. She committed herself, her cabinet and the entire country to a hard Brexit.²⁴ She left no doubt that the future of her country lay outside of the Customs Union and Single Market.

²⁰ May wished to invoke royal prerogative which confers powers on the Crown as head of state (and by implication on her government) since the Crown embodies sovereignty.

²¹ The Supreme Court took over as the court of final appeal of the realm in 2009. Previously, this role had been with the Appellate Committee of the House of Lords, where the legally qualified Law Lords had heard and decided cases.

²²The government was probably motivated by the fear that a vote in Parliament could go against the vote of the people in the referendum. This would have plunged the United Kingdom into a constitutional crisis without precedent, since three sources of sovereignty would have competed with each other: The sovereignty of the people, sovereignty of Parliament and the sovereignty of the Sovereign or her government invoking royal prerogative.

²³ The most delicate aspect of this incident came later, when Theresa May hired James Slack, the author of this defamatory article, as her Director of Communications.

²⁴ A hard Brexit means leaving both the Customs Union and the Single Market without a privileged special relationship. A no-deal is its most extreme form. Conversely, a soft Brexit means a separation that essentially leaves existing trade relations untouched.

The jurisdiction of the CJEU had to end, and migration was to be tightly controlled. She demanded a bespoke agreement without spelling out what that really meant.

"The decision to leave the EU represents no desire to become more distant to you, our friends and neighbours. We are leaving the European Union, but we are not leaving Europe. And that is why we seek a new and equal partnership—between an independent, self-governing Global Britain and our friends and allies in the EU. We do not seek to hold on to bits of membership as we leave. We will take back control of our laws and bring an end to the jurisdiction of the European Court of Justice in Britain. We will get control of the number of people coming to Britain from the EU. We will pursue a bold and ambitious free trade agreement with the European Union. What I am proposing cannot mean membership of the single market. That means I do not want Britain to be part of the Common Commercial Policy and I do not want us to be bound by the Common External Tariff. But I do want us to have a customs agreement with the EU. Control of our own laws. Strengthening the United Kingdom. Maintaining the Common Travel Area with Ireland. Control of immigration. Rights for EU nationals in Britain, and British nationals in the EU. Enhancing rights for workers. Free trade with European markets. New trade agreements with other countries. We do not want to undermine the single market, and we do not want to undermine the European Union. Britain wants to remain a good friend and neighbour to Europe. But: No deal for Britain is better than a bad deal for Britain" [5].

These were strong words. They meant no less than demolishing all existing bridges with the EU and putting some rough planks in their place. But these planks did not exist as yet. They had to be cut explicitly for this purpose and there was no guarantee whatsoever that they would be accepted by the EU. There were simply neither precedents nor detailed guidance for exiting the EU.²⁵ The Daily Mail was full of praise. May repeated Cameron's tactical mistake: she raised demands and raised expectations among her fellow party members without having sounded out how the EU might react to such demands. Little did she know how quickly her proud words 'No deal is better

²⁵ Before 2015, there had been three cases of countries leaving the EU, but the circumstances had been totally different. Algeria had been part of the EEC since it formed part of the *république une et indivisible* of France when the EEC was set up. When Algeria became independent in 1962, it left the EEC at the same time. Greenland left the EEC in 1985, Saint Barthélemy in 2012. Both territories were overseas regions of EU Member States. Greenland was granted autonomy in 1979 and left the EEC after protracted and complex negotiations that lasted five years, but it kept its ties with Denmark. The only issue to be negotiated with Greenland was fisheries. In 2012, Saint Barthélemy separated from Guadeloupe, which has the status of a French overseas territory. Saint Barthélemy received the status of an associated country.

than a bad deal for Britain' would turn into its opposite. Less than eighteen months later her government was warning: 'Any deal is better than no deal.'

In the early days of February 2017, the House of Commons voted 494 to 122 for the government bill that opened the way for declaring Brexit in accordance with Article 50. Some Conservative and some Labour MPs defied the whip. 26 The House of Lords gave its assent a few days later. Brexit had been decided by all constitutional bodies of the realm: the people, both Houses of Parliament and the Crown. Unfortunately, it was to be the last time that Brexit had found such majorities in Parliament. The vote implied approval of the radical ideas that May had expounded a few days earlier in Lancaster House. Everybody sighed a huge sigh of relief. The worst was over, so it seemed. But the worst was still to come. Nobody of those who voted so happily for Brexit had the slightest idea of what problems would lie ahead, nor had they any inkling of the cul-de-sac into which the whole issue was leading.

3.4 Departure Without Return? (2017)

Condemned to be free Jean Paul Sartre

On 30 March 2017 the British ambassador to the European Union, Tim Barrow, handed over the Prime Minister's letter informing the President of the Council Donald Tusk about the intention of the United Kingdom to leave the EU [6]. In doing so the clock started to tick, as Article 50 stipulated a time limit of two years to negotiate a withdrawal agreement. After these two years, separation was to take place regardless of the state of negotiations. This time limit could only be extended by unanimous decision of all involved—that meant all 28 Member States.²⁷ The tight time frame added pressure on the British side and it handed a tactical advantage to the EU. Understandably, the EU argued that as the British side wanted to leave, it was up to the UK to submit its ideas about how this separation was going to take place and what should replace it.

 $^{^{26}}$ The vote took place on 8 February 2017. All Liberal Democrats and all SNP MPs voted against the government.

²⁷ The unanimous extension can be repeated without limit. Apart from this, the Article contains very little concerning the procedures, the conditions and the settlement of separation. It does not contain any cross-reference to other treaty provisions that might be affected by the intention to leave, such as Qualified Majority Voting (QMV).

There was agreement that separation required two quite different strands of negotiations:

- (1) The most obvious task was to unravel the bonds that had developed over 45 years. It was, in a sense, the separation of goods and pension rights adjustments, liquefaction of assets held in common and the termination of jointly undertaken projects. Three areas had to be covered:
 - The United Kingdom had given its consent to projects that would continue way beyond the date of its separation from the EU. The UK was required to contribute to these projects until they had been finalised. The UK had to pay its share in pensions and other payments to EU civil servants who had served in the institutions of the EU during UK's membership. The United Kingdom in return could claim compensation for its share in real estate owned by the EU.
 - Hundreds of thousands of EU citizens lived on both sides of the border, British subjects in the EU and EU subjects in the UK. Their rights of residence, their claims to social and unemployment benefits, health insurance etc. had to be defined.
 - A solution had to be found for the special problem of the border on the island of Ireland. The United Kingdom and Ireland had jointly entered the EEC in 1973, not least in order to avoid problems along this borderline. The Good Friday Agreement had reaffirmed that this border should be open and without controls or inspections. This open-border regime had substantially contributed to calming the tense situation between Irish-nationalist republicans and British-unionist monarchists. But if the United Kingdom were to leave the EU, this border would become an external EU border. Controls of goods and people, inspections of foods, livestock and plants seemed inevitable. Although this problem had not been touched by any of those rhetorical flourishes during the Brexit campaign, it now turned out to be the most controversial problem and a stumbling block for the entire Brexit project.
- (2) These were the questions for the separation agreement. Beyond them, both sides had to find agreement on their future relations once separation had been accomplished. These talks concerned the five models discussed in Sect. 3.2. The separation agreement was relatively easy except for the question of the Irish border. It specified financial relations, and questions of money are always open to compromise and therefore easy to settle. Negotiations about future relations, on the other hand, touched on com-

petitive advantages, sovereignty, national pride, structural strengths and weaknesses. There were no precedents for these challenges. A clash seemed predestined between the rather rigid rules of the Single Market and the ideas of free trade. Many Brexiteers—first among them Theresa May—underlined that Britain was not leaving in anger or with malice and that future relations ought to be as close as possible. The question of the border on the island of Ireland inseparably connected the separation issues with those about future relations. It became the key problem and was bound to derail the whole process.

Article 50 specifies that "A Member State which decides to withdraw shall notify the European Council of its intention" [7]. This is a unilateral declaration of intent. There are no mutual obligations until a withdrawal treaty has been signed. Most legal experts maintain that a unilateral declaration of intent can be unilaterally revoked, and this view was officially approved by the CJEU in its decision of 10 December 2018.²⁸ This means that the United Kingdom could unilaterally revoke its decision of 29 March 2017 without any further consequences. It would then continue to be a Member State under existing conditions. This option was a strong instrument of pressure in the hands of Theresa May. She could threaten not only a no-deal Brexit but also no Brexit at all—two powerful extremes that should make rebel MPs think twice.

There have been a growing number of prominent voices pointing out the attractiveness of this option [8]. It would win time, keep all options open for the future and help to calm the hectic, excited atmosphere of the debate in Britain. But Theresa May has repeatedly ruled out such a move. After all the political energy that has flown into the Brexit project, it is hard to imagine that there would be a majority either in Parliament or in the population for such a step back.

²⁸ John Kerr (Baron Kerr of Kinlochard) had been Secretary General of the Constitutional Convention and as such responsible for the wording of this Article, for it is one of those articles that were incorporated without modification into the treaty of Lisbon. Lord Kerr firmly asserts that the meaning should be that a unilateral declaration of intent could be revoked unilaterally until a valid mutual treaty had actually superseded it. (https://www.bestforbritain.org/it_s_far_from_over_article_50, 24 March 2018). He has reaffirmed this view recently: John Kerr. *I drafted article 50. We can and must delay Brexit for a referendum*, The Guardian, 6 December 2018 (https://www.theguardian.com/commentisfree/2018/dec/06/drafted-article-50-brexit-referendum-eu-state?utm_term=RWRpdG9yaWFsX0Jlc3RPZkd1YXJkaWFuT3Bpb mlvblVLLTE4MTIwNg%3D%3D&utm_source=esp&utm_medium=Email&utm_campaign=BestOf GuardianOpinionUK&CMP=opinionuk_email, 6 December 2018). The Advocate General at the CJEU followed this argument in his submission of 4 December 2018 (https://curia.europa.eu/jcms/uploa/docs/application/pdf/2018-12/cp180187en.pdf, 4 December2018). The CJEU finally officially endorsed this view in its decision of 10 December 2019 (Curia 621/18), (http://curia.europa.eu/juris/document/document,jsftext=&docid=208636&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1 &cid=1188376, 10 December 2018).

3.5 Early Elections 8 June 2017: May Loses Time and Power

I wasted time, and now doth time waste me William Shakespeare

After having triggered Article 50, the most obvious way ahead would have been to mobilise all available resources in order to work out a coherent strategy and a tactical approach for the impending negotiations. The clock was ticking and everybody agreed that two years was a painfully short time for something of which nobody had any previous experience. Instead of focussing on negotiations with the EU, however, May called an early general election. In doing so she not only contradicted repeated assurances she had previously given.²⁹ She also irritated her EU partners and threw the entire government machinery into emergency mode, as all politicians were busy preparing for the upcoming election and Whitehall was without political guidance. The country that was looking for calm and predictability after the turbulences of 2016 was plunged into fresh uncertainties.

It remains for future historians to find out why May changed her mind. She may have been swayed by some of the following considerations:

- Tory lead over Labour: All opinion polls showed that her party held an almost 20% lead over Labour.³⁰ It may have been irresistible to exploit this historical situation and turn this momentary lead into a five-year Parliamentary majority. Labour was led by Jeremy Corbyn, a representative of its radical left wing. The Labour Parliamentary party had tried to oust him from office a year before. But he managed to stay in power by appealing to the party's base and receiving a vote of support at the party conference. He had never shown any sympathy for the EU. So far, he had tolerated the government's Brexit policy. Corbyn was calling for a nationalisation of the railways and the power industry. May and her staff in Number 10 were convinced it would be child's play to win an election against such an opponent.
- Waiting too long: Her advisors pointed out that Gordon Brown had succeeded Tony Blair in 2007. He waited too long before calling an election to be confirmed in office by a public vote and suffered a disastrous defeat

²⁹ May had declared on 4 September 2016 in the Andrew Marr Show: "*I'm not going to be calling a snap election.*" (http://time.com/4744117/theresa-may-general-election/, 22 February 2018).

 $^{^{30}}$ An opinion poll of 24 April 2017 showed 47% for the Conservatives, 28% for Labour.

- when he eventually called one in 2010. May was warned not to put off holding an election for too long.
- Elections during the transition: The term of the current Parliament ran until 2020. Some Brexiteers were afraid that if a future election were held in 2020, the United Kingdom could find itself in the midst of difficult negotiations with the EU about trading relations. There was already a general understanding of a transition period until 2020. If a general election were to be held then, it could undermine the government's position in these negotiations. A snap election in 2017 would mean the next Parliament would sit until 2022.
- **Approve hard Brexit:** Since the summer of 2016 May had never tired of repeating her 'Brexit means Brexit' mantra. After her Lancaster House speech in which she had opted for a hard Brexit, resistance against her radical course became more articulate: What about the 48% that had voted Remain? Was it realistic to envision a radical break with the EU combined with the closest possible relations? She had still to explain how she wanted to combine unfettered freedom of action with privileged access to the Single Market. May's government had published a White Paper in February 2017 [9] for which May had written the foreword. She had blithely included the words: "after all the division and discord, the country is coming together" and "65 million people willing us to make it happen." Both statements were patently untrue. The number of votes for Brexit had been 17.4 million, not 65 million. Her uncompromising speech had deepened and widened the rift in the country and her party. Instead of reaching out to the defeated minority, May preferred to ignore those 48%. She needed an electoral victory to vindicate her intransigent Brexit course. After a sweeping victory at the ballot, her unruly party would be brought to heel, the country would be united behind her, and she would negotiate from a position of renewed strength with the EU. The tabloids were delirious with joy and invited her to cast Brexit-doubters into the wilderness.

Brexit, however, was not the dominant topic in the election campaign. May promised strong and stable leadership. But the hustings dealt primarily with social care, tuition fees, housing, the perennial NHS and internal security—the traditional everyday topics that have dominated British politics for decades. The election campaign was one more proof that the EU was not the most important issue agitating the minds of British people. Nobody really understood or cared about trade preferences, customs unions or EU red tape. So the result of this election could not be claimed to be another verdict on the EU. This ultimately saved May. For instead of emerging triumphantly with an

overwhelming majority, she limped home with another hung Parliament. Labour had done unexpectedly well. It had won 30 additional seats, bringing its strength to 262. Her own party lost 13 seats and remained short of an absolute majority. Instead of 330 seats, the Tories now held only 317. After tough negotiations (and a convenient transfer of £1 billion to Belfast), the DUP was ready to support May's second cabinet. This was a Faustian pact. May made herself hostage to some dogmatic fanatics from Belfast. She gave them leverage to stop any concession to the EU they disliked. Since the Northern Irish border was to become the central stumbling block in these negotiations, this was a decision fraught with fatal consequences.

Looked at more closely, May had not done badly. In fact, she had managed to increase the Conservative vote to 42.6% (13.6 million).³² UKIP had been virtually wiped out and the SNP had been decimated. May came off so badly not because of her own weakness but because Labour had gained miraculous strength. One month previously, Labour had suffered horrendous losses in local and municipal elections. Now it suddenly bounced back and scored 40% of the vote.³³ The election documented another unexpected and ominous trend: the increasing divisions within the United Kingdom. In the general election, the Conservatives obtained 46.5% of the votes in England, in Scotland 25.3% and in Wales not more than 18.8%. They did not run in Northern Ireland. May had received a strong mandate from England, but her legitimacy in the other three parts of the United Kingdom remained shaky.

Instead of showing strong and stable leadership, May emerged hamstrung from this election and her authority was dented. When she learned of the result, she allegedly broke down in tears. Doubts about her leadership grew within her party and many came round to the view that she was not the right candidate to lead the party in the next election. There was, however, no alternative candidate who could have successfully challenged her. All agreed that May should steer the ship of state through the Brexit rapids, but a new captain would take her place in the calm seas to follow. She was tolerated, but not respected. From this election onward, May learned to turn her weakness into strength. Her opponents disliked her but they remained unable to agree on an alternative candidate. Nobody wanted to change horses midstream. There was

 $^{^{31}}$ The DUP had 10 MPs in Westminster. Cynic observers classified this as a bribe of £100 million for each of them.

³² This was the best result the Tories had ever achieved since the days of Margaret Thatcher. David Cameron had won 11.3 million votes two years earlier, equivalent to 36.8% of the vote. But at that time, this modest result had been sufficient for an absolute majority.

 $^{^{33}}$ This is equivalent to 12.9 million votes. In 2015 Labour had won 30.4% of the vote—an improvement of 10%.

no obvious Brutus, much less an Augustus, no one to push her out of office and no one to credibly claim her succession. May skilfully exploited this disunity. Many Tories supported her with clenched fists and gritted teeth.

The defeat left May more distrustful and cautious than before. She had never been a team player. There was a certain authoritarian stubbornness, a sense of infallibility about her. She was the daughter of a parson and took her Christian belief very seriously. Her two most trusted and closest advisors accepted responsibility for the electoral disaster and resigned.³⁴ Now May was groping her way ahead slowly but timidly and without a clear vision of her own. She had to steer between Scylla and Charybdis. Pressure was mounting to avert a hard Brexit with its inherent incalculable risks for trade and industry. Simultaneously, fundamentalist Brexiteers within her cabinet accused her of betraying the people's vote and of disregard for democratic principles. Her rigid positioning in her Lancaster House speech pushed her into a corner from which it became increasingly difficult for her to break free again.

3.6 May Speaks in Florence, Johnson Fires Across Her Bows (2017)

Fifty years from now Britain will still be the country of long shadows on county grounds, warm beer, invincible green suburbs, dog-lovers and old maids bicycling to Holy Communion through morning mist John Major

May had to regain the initiative after this setback. She had to demonstrate that she was still at the helm and setting the course. She had to reaffirm the position she had taken before the election. The two negotiators, David Davis and Michel Barnier, held their first meeting in June 2017, but serious negotiations began only after the summer break in September 2017. This was more than a year after the referendum and six months after triggering Article 50. The snap election had the effect that there was no movement on Brexit for half a year—a quarter of the total period in which Brexit should have been finalised was simply wasted. In view of the fact that these negotiations were expected to be highly complex and that there was no precedent for them, this time loss was critical. Time became a pressing problem. But May did not seem aware of that. The EU had set a target that the essence of the separation treaty

³⁴ Fiona Hill and Nick Timothy had been close to Theresa May for years. They had worked with her when she was Home Secretary, and had engineered her triumph as Prime Minister. They had run her office in Number 10 jointly as Chiefs of Staff.

should be negotiated by the end of the year. Before these elements had been agreed, there would be no negotiations on future arrangements.

May was planning a second keynote address. She chose to deliver it in Florence—the city that epitomises the European Renaissance. Florence enjoys a global reputation for inquisitive reason, unbounded creativity, artistic excellence and civic virtues. Florence has been a pioneer in European trade and banking, in modern accounting and management. Florence houses the European University Institute. On 22 September, May spoke at the church of Santa Maria Novella.

Originally, May had intended to respond to mounting pressure from Remainers and to soften her position on Brexit. She wanted to open the way at least for something similar to the Norwegian model. Ten days before the speech, she circulated the draft text in cabinet for approval. Boris Johnson was abroad when he read the text and was fuming with anger. In his eyes, this was a patent betrayal of the referendum and of everything the government had achieved so far. At the same time, he saw an opportune moment to present himself as the better alternative to the Prime Minister. On 15 September 2017, he published an article that he had not cleared for publication. It was a passionate advocacy for a rigid, radical Brexit: "There are some people who think Brexit isn't going to happen." He poured scorn and disdain on the EU and flattered British national pride. He reaffirmed the claim that Brexit would free £350 million a week to be redirected to the NHS even though this claim had long since been discredited. He euphorically conjured up the benefits of a radical Brexit, and concluded in Trumpist exaggeration: "I believe we can be the greatest country on Earth!" [10].

This was a live shot across the bows of May's ship before she had even left the harbour. Accordingly, she redrafted her speech to make it harder and less compromising. She wooed the EU in her opening words. Brexit was decided but the United Kingdom was seeking the closest possible partnership with the EU. "It does not mean we are no longer a proud member of the family of European nations. And it does not mean we are turning our back on Europe; or worse that we do not wish the EU to succeed." She then turned to Northern Ireland—the first time she addressed the problem of the border. She had never given much thought to this problem. She had fleetingly mentioned the Common Travel Area, but never forced her audience to become aware of the dimensions and the explosiveness of this problem. In Florence, she reflected thoughtfully: "We recognise that we can't leave the EU and have everything stay the same. Life for us will be different." But these momentary doubts were chased away by enraptured optimism: "We will no longer be members of its single market or its customs union. We want to work hand in hand with the European Union, rather than as

part of the European Union." She explicitly discarded both the Norway Model and anything like the CETA agreement with Canada. Instead, she indulged in wishful thinking and describing a pie-in-the-sky idyllic future, a paradisical state of progress, profit and prosperity: "Let us be creative as well as practical in designing an ambitious economic partnership which respects the freedoms and principles of the EU, and the wishes of the British people." She simply ignored the possibility that there might be a mutually exclusive, tragic contradiction between the principles of the EU and the wishes of the British people. Whatever her thoughts, she did not even hint at such an impasse [11].

If May had hoped to pacify her party with these words, she was in for a bitter disappointment. Two weeks later, her appearance at the party conference in Manchester turned into a complete fiasco: She suffered a hacking cough during her speech, a prankster handed her a mock P45 notice³⁵ and letters began to comically fall off the party slogan attached to the wall behind her. All these calamities were immediately parodied as symbolising the gradual decay of her authority [12]. Voices again demanded her resignation, but they fell silent when the question arose as to who might take her place.

A few weeks later, there was a new uproar: The Chancellor of the Exchequer, Philip Hammond, had refused to provide for emergency expenses in case of a hard Brexit. The media were furious reporting that "Philip Hammond refuses to budget for hard Brexit" [13]. Brexiteers again ran riot. May had to publicly distance herself from her Chancellor. She immediately allocated £250 million for internal security and revenue authorities. Some eighteen months after the referendum and nine months after triggering Article 50, no coherent Brexit programme could command the support of the cabinet, let alone of Parliament. There was no list of priorities, not even a reliable analysis of the problems to confront. The political divide between Remainers and Leavers and between 'soft' and 'hard' Leavers had become sharper and more acrimonious. Each side dug its trenches deeper. Winning an argument was less important than weakening an opponent. The country was less united than ever before. Labour was about to crawl back into its traditional role as opposition in Parliament. In August 2017, Labour had advocated a transitional period that would preserve the status quo for the time being. Half a year later, Corbyn spoke in favour of a treaty that would keep the country in the Customs Union and give it comprehensive access to the Single Market [14]. 36 Ireland and Spain left no doubt

³⁵A P45 is the official UK tax form that employees receive from their employers when they leave a job.

³⁶Labour was in a dilemma about taking a position on Brexit. Corbyn himself had consistently voted against the EU throughout his entire career, often defying the party whip. He had refused to show himself as a Remain supporter in the referendum campaign. In the 2017 election, Labour had won 25 seats in constituencies that had shown a high proportion of Remainers in 2016. At the same time, it had won

that they would block any agreement that did not address the problems of the Northern Irish border and of Gibraltar in a satisfactory manner. The EU was pushing for a separation agreement. Pressure was mounting from all sides.

3.7 Separation Treaty and European Union Withdrawal Bill (2017)

The continent will not suffer England to become the workshop of the world Benjamin Disraeli

The EU and the UK reached agreement on the basic parameters of a separation treaty on 8 December 2017. These principles covered outstanding payments, the rights of citizens on the other side's territory and the border between Northern Ireland and the Republic of Ireland [15].

- The United Kingdom will continue regular contributions to the EU budget until the end of the transition period, i.e. until the end of 2020, since it continues to enjoy the economic benefits of membership until then. To compensate for further costs that the EU has incurred while the United Kingdom was still a member the UK will make a payment in the region of €50 billion (£39bn) since it shares in the responsibility for these decisions.
- All citizens residing on the others party's territory at the time of separation and all family members will enjoy continued right of residence. Disputes should be settled before the CJEU.
- The present character of the border of Northern Ireland should remain unchanged. Both sides want to avoid a hard border. Equally, there should be no administrative or any other border between Northern Ireland and the rest of the United Kingdom. Both sides will look for innovative solutions for this problem. Should these creative efforts remain fruitless, then Northern Ireland would remain within the Customs Union. Necessary controls of goods and people should discreetly be carried out somewhere on the Irish Sea between Belfast and the Isles of Great Britain. This was

another 25 seats that had shown a comparable majority for Leave. Labour was as divided as the Conservatives over Brexit and Corbyn had to find a delicate balance between these two wings. Being in opposition, this was much easier for him.

³⁷ Michel Barnier: Speech by Michel Barnier at the closing session of Eurochambre's European Parliament of Enterprises 2018, 10 October 2018: "The UK wants to and will leave the Single Market and the Customs Union. This means that there must be checks on goods travelling between the EU and the UK—checks that do not exist today:

customs and VAT checks;

called the backstop. At first it appeared as a bizarre historical leftover, but in reality it had the potential to blow Brexit off course.

Both sides agreed that these points were preliminary. They would assume definite force only as part of a final treaty. Nothing was agreed until everything was agreed. This was particularly true for the Irish backstop, as it soon became clear that this point had no chance of getting Parliamentary approval in Westminster. Above all, the backstop ran into dogged resistance from all DUP MPs. Both sides had tried to elegantly hide the ugly facts behind pleasant words. The conflict broke into the open when the Commission had the agreement translated into treaty language. The draft treaty was published in early March 2018 [16].³⁸

At the same time, May's government laid the statutory foundations for Brexit. The European Union Withdrawal Bill (previously known as the Great Repeal Bill) was destined to incorporate the entire bulk of European law into British statutory law in order to allow it to be adapted, modified or discarded later by way of national legislation. The Bill would revoke the European Communities Act of 1972 and, once adopted, would end the jurisdiction of the CJEU in the United Kingdom. The Bill was the starting point for the most gigantic legislative project ever undertaken by any Parliament. Since there was not much time left, it empowered cabinet ministers to enact the necessary legislation by way of decree.³⁹ The Bill was hotly contested. In the

and compliance checks with our standards to protect our consumers, our economic traders and our businesses.

We have agreed with the UK that these checks cannot be performed at the border between Northern Ireland and Ireland. A crucial question is, therefore, where they will take place. The EU is committed to respecting the territorial integrity and constitutional order of the UK, just like the UK has committed to respecting the integrity of our Single Market, including Ireland, obviously. There will be administrative procedures that do not exist today for goods travelling to Northern Ireland from the rest of the UK. Our challenge is to make sure those procedures are as easy as possible and not too burdensome, in particular for smaller businesses. Our proposal limits itself to what is absolutely necessary to avoid a hard border: customs procedures and the respect of EU standards for products." (http://europa.eu/rapid/press-release_SPEECH-18-6089_en.htm?utm_source=POLITICO.EU&utm_campaign=78964745e8-EMAIL_CAMPAIGN_2018_10_11_04_27&utm_medium=email&utm_term=0_10959edeb5-78964745e8-189197625), 23 August 2018).

³⁸The first draft of 2 March 2018 was revised and republished on 15 March 2018. It contained 168 articles and a protocol on Northern Ireland, consisting of another 16 articles. Article 3 of that protocol accepts the Common Travel Area but adds a Common Regulatory Area. This would keep Northern Ireland in the Customs Union and would give the Commission a permanent say in the political affairs of Northern Ireland. (https://ec.europa.eu/commission/sites/beta-political/files/draft_agreement_coloured.pdf, 24 March 2018).

³⁹ The Henry VIII powers. They derive their name from legislation passed between 1528 and 1532 giving Henry VIII the power to separate England from the Catholic Church, establish a national Anglican Church, dissolve the monasteries and appropriate their vast wealth. Overnight all references to Rome, the Catholic Church and to Canon Law had to be erased from English law. The executive arrogated the necessary competences. The idea in 2018 was that this should happen in analogous ways to EU law. Some

end, it was adopted by 324 to 295 votes. Compared to the crushing majority of the Parliamentary vote a year earlier empowering the government to trigger Article 50, this was an alarmingly close vote. The ice for Brexit was getting thinner. For the first time since Cameron had announced the referendum, Labour was actually confronting the government over Brexit—voting against rather than abstaining or even supporting the government. Labour was now committed to playing its part as a Parliamentary opposition to Brexit. The small majority should have given May pause to reflect on her course.

Domestic legislation raised a serious constitutional problem for the United Kingdom. Many of the competences to be repatriated from Brussels concerned areas that—under devolution introduced by Tony Blair—touch the competences of regional Parliaments and governments, i.e. agriculture, fisheries, the environment. The Prime Minister and her cabinet were firm in their position that all competences from Brussels (without any exceptions) should first revert to Westminster. After due examination and modifications—when and where necessary—they would then be passed on to regional authorities. The regions concerned took a different view and protested vigorously.

Northern Ireland was a case of its own. The Good Friday Agreement (1998) had calmed the situation and put an end to the Troubles. It had achieved this effect by removing all obstacles between Northern Ireland and the Republic of Ireland, rendering the border as inconspicuous as the border between England and Scotland or England and Wales. This was facilitated by the fact that both entities formed part of the European Union and the Single Market. Since 1998, a steady stream of money has been flowing into Northern Ireland from which both hostile groups profited—each side could use these funds for patronage, for motivating its followers and for showcase projects. Northern Ireland will be the area most affected by Brexit. It is all the more deplorable that there is currently no functioning government in Stormont. The Good Friday Agreement instituted a mandatory coalition government between the

observers are afraid that these powers could lend themselves to abuse, undermining the legislative monopoly of Parliament.

⁴⁰ The Good Friday Agreement refers to the EU more than a dozen times. Its validity does not rest, however, on the fact that both North and South are within the EU. Brexit does not, therefore, ipso facto invalidate this agreement. But it leaves dozens of points where friction will become inevitable, because the common frame that guided its authors twenty years ago will suddenly disappear. Radical Brexiteers refuse to give the Irish a practical say in Brexit. Some of them demand scrapping the Good Friday Agreement. ⁴¹ Net money inflows into Northern Ireland in 2017 were roughly €600 million. (https://ec.europa.eu/unitedkingdom/sites/unitedkingdom/files/eu_funding_in_ni_2007-2013_and_2014-2020_1.pdf, 23 August 2018). Total government expenses amounted to roughly £10 billion. On top of that, there are massive transfers from the USA, mostly unofficial. Northern Ireland has not had a functioning provincial government since early 2017 and is administered from Whitehall. (https://www.ft.com/content/0146a180-c88a-11e7-ab18-7a9fb7d6163e, 26 August 2018).

two largest parties in Northern Ireland. This coalition broke up, since Sinn Féin was not prepared to tolerate the rampant corruption and inefficiency of its coalition partner, the DUP. Northern Ireland is represented in Westminster through the ten DUP MPs. Sinn Féin won about the same number of seats. But because all members of Sinn Féin as committed republicans refuse the oath of loyalty to the Crown, none of them take up their seats in the House of Commons. Since the 2017 election, Theresa May has been dependent on support from the ten DUP MPs for the survival of her government. This means that a small radical minority party effectively represents Northern Ireland in Westminster. 42

After defining the general shape of separation, the United Kingdom and the EU had to determine the nature of their future relationship. This point was on the agenda of the European Council in March 2018. Theresa May wanted to influence thinking in Brussels and delivered her third great speech on Brexit. She went out of her way to address social groups that traditionally do not count as Tory voters: the disabled, the unemployed, the poor—in Tory jargon the JAMs (just about managing). She assured them that all her efforts were directed at them and not at the powerful, the rich and the privileged few. May wanted to win back those voters who nine months before had deserted her and voted Labour. But she again steadfastly refused the Norway and the Canada models while also rejecting bare WTO terms. She dwelt on Northern Ireland for a remarkably long time and in detail. It seemed that she was beginning to grasp the explosiveness of this issue. She rejected both changes to the present border regime and any administrative borderline between Northern Ireland and the rest of the UK: "I am not going to let our departure from the European Union do anything to set back the historic progress that we have made in Northern Ireland—nor will I allow anything that would damage the integrity of our precious Union." These were clear statements, but they were all negative. They left unanswered the question that almost imposed itself after all her pronounced negativity: What do you have in mind instead?

May then became reflective and admitted that there are certain logic relationships that carry inevitable consequences: "We all need to face up to some hard facts." Her listeners waited in vain to hear what these hard facts might be—that a hard Brexit means a hard border, perhaps? For the first time, a British Prime Minister openly admitted that the position of the EU would have to be taken into account and that this could impose some unpalatable

⁴² In the last regional elections in Northern Ireland on 2 March 2017, the DUP received 28.1% of the vote, Sinn Féin 27.9%. The parties were just 1200 votes apart. In the general election three months later, 36% voted DUP, 29.4% Sinn Féin. The DUP can in no way claim to speak for Northern Ireland.

choices on the United Kingdom. This could imply that the UK might be affected by jurisdiction of the CJEU even after Brexit. In many areas it might be advisable to voluntarily keep close to existing EU regulations even if there was no longer any legal obligation. In other words: national legislation would have to shadow EU law and vice versa. In practical terms, this was an obscure way of saying that the UK would continue to be governed to some extent from Brussels. And then, after she and her predecessor had raised so many unilateral demands, May hinted that compromises were inevitable, that neither side could realise its demands: "We both need to face the fact that this is a negotiation and neither of us can have exactly what we want."

This was elegantly packaged. In crude terms it was an attempt to reduce expectations and to prepare her listeners for some painful sacrifices. This whiff of realism was quickly blown over by the usual phrases of wishful thinking: "I want the broadest and deepest possible partnership—covering more sectors and co-operating more fully than any Free Trade Agreement anywhere in the world today." But even this bout of optimism was dampened by some realistic insights: "We need commitments reflecting the extent to which the UK and EU economies are intertwined. We will need an arbitration mechanism that is completely independent—something which, again, is common to Free Trade Agreements. We will want to make sure our regulators continue to work together. We will need a comprehensive system of mutual recognition."

For the first time something like the outlines of a future relationship became recognisable. May reiterated her No to the Customs Union. In exchange, she offered an option that would effectively work in essence like a Customs Union. Financial services should be regulated through a cooperative system: "UK and EU maintain the same regulatory outcomes over time, with a mechanism for determining proportionate consequences where they are not maintained. Given the highly regulated nature of financial services, and our shared desire to manage financial stability risks, we would need a collaborative, objective framework that is reciprocal, mutually agreed, and permanent and therefore reliable for businesses." This was not particularly clear. She advanced a more refined version of these ideas four months later in her White Paper.

On the whole, it was a speech that mixed two strands: one in the conventional vein of boisterous optimism, the other more cautious, warning that potential wins through Brexit might entail corresponding losses. She ended her speech by juxtaposing both strands. She waxed enthusiastic about "a Global Britain which thrives in the world by forging a bold and comprehensive economic partnership with our neighbours in the EU in any negotiation." And then she gave one final warning: "No-one will get everything they want" [17].

She had barely finished her speech when Brussels immediately put the record straight. Both Jean-Claude Juncker and Michel Barnier were quick to point out that there was no room for bespoke agreements and that the *acquis communautaire* was immutable.

3.8 Brexit Takes Shape (2018)

3.8.1 In Quest of a New Course

Ignoranti quem portum petat, nullus suus ventus est The wind is never favourable to those who do not know where they are going Seneca the Younger

After the breakthrough in March, there was little movement on either side. The Civil Service in Whitehall was desperate to make sense of the contradictory instructions they were receiving from their political masters: how to combine strict separation from the EU, (including the Customs Union, Single Market, free movement and CIEU jurisdiction) with the other demand of keeping access to the Single Market open, keeping regulatory frameworks in harmony and ensuring undiminished operations of British financial services on the continent. Above all, a practical, pragmatic, endurable and workable arrangement had to be found for the Northern Irish border. How could one reconcile a hard Brexit with a soft border? How could there be a sharply controlled border between the United Kingdom and the EU, but not between north and south of Ireland? How could movement of people be controlled without interfering with the movement of goods? Confusion was growing in Whitehall. May increasingly put her trust in Oliver Robbins. He had been her Permanent Secretary at the Home Office. He now moved up to become her personal advisor in all Brexit questions—just as, if not more, powerful than Nick Timothy had been.

Several ideas were brought into play: a fully automated border and electronic surveillance modelled on traffic controls in London. Some wanted to turn Northern Ireland into a bridge between two worlds as a member both of the UK and of the EU. 43 British negotiators called on the EU to show greater flexibility. Some insinuated that the EU wanted to punish the UK in order to

⁴³ Some of these mind games recall audacious constructions that were made during the negotiations about Germany's unification. One of them was that unified Germany should become a member of both NATO and of the Warsaw Pact, of both EU and of Comecon. (https://www.thesun.co.uk/news/6423932/david-davis-northern-ireland-brexit-plans-dup/, 13 October 2018).

set a warning example to others.⁴⁴ The EU, on the other hand, pointed out that, as it was the United Kingdom that wanted change, it had to develop a clear concept how that change could be achieved. It was the UK that wanted to leave something that was tried and functioning. So it was the United Kingdom that had to present something so far untried but capable of functioning. The EU left no doubt that its internal structures and procedures were not up for negotiations. The EU made clear it did not want to put any obstacle to Britain finding its own way, but at the same time there was no need to adapt complex structures that had formed over decades simply to make life easier for a party that wanted to break free. It was up to the UK to develop models that achieved what it wanted while fully respecting the EU and its political and economic principles. An official in Michel Barnier's team called out in frustration:

"I am concerned because the pre-condition for fruitful discussions has to be that the UK accepts the consequences of its own choices ... I have the impression that the UK thinks everything has to change on the EU's side so that everything can stay the same for the UK."

Another complained that Britain had demanded opt-outs for as long as it had been a member of the EU. Now that it was finally getting out, it was insisting on all sorts of opt-ins. 46 The reasons for this standstill were all too obvious. May was desperate to enforce a consolidated position in her cabinet as there was a steady flow of leaks and indiscretions. The tabloids—above all the Daily Mail and The Sun—vehemently took the side of the radical Brexiteers, printing articles that praised their achievements. They never missed an opportunity to cast aspersions on Philip Hammond, David Lidington, Jeremy Hunt and on Theresa May herself—denouncing them as timid, half-hearted cowards. May was not only weakened by the loss of her majority in Parliament and her two closest aides. She kept losing close allies and members of her cabinet for reasons that had nothing to do with Brexit. Damian Green, her Chief of Staff, and Michael Fallon, the Minister of Defence, resigned before the end of 2017.47 Amber Rudd, who had succeeded May as Home

⁴⁴ Cynics called Brexit negotiations around this time 'the undefined being negotiated by the unprepared in order to get the unspecified for the uninformed'.

⁴⁵ Personal communication with the author.

⁴⁶An old Tory of the nationalist ilk commented dryly: 'To be an island is in itself a geographic opt-out.'

⁴⁷ Damian Green resigned after making misleading statements on porn claims made against him. Michael Fallon resigned after admitting that his behaviour towards women had 'fallen short'.

Secretary, was forced to resign in April 2018.⁴⁸ She had been an outspoken Remainer. Her brother ran 'Business for a New Europe', a staunchly pro-European pressure group. In June, May lost Phillip Lee, Parliamentary Undersecretary of State in the Ministry of Justice—not a Conservative heavy-weight, but a consistent Remainer. He resigned because he felt that Brexit legislation placed too much power in the hands of the executive.

May had taken great care to find the right balance between Brexiteers and Remainers in her cabinet. In the first year after the election, the scales tipped in favour of Brexiteers with the result that resistance to her line became more vociferous. Some Labour MPs took the initiative to force their reluctant leader Corbyn into a more energetic opposition against May's Tory government. George Soros sponsored a movement to inform and to mobilise the population to secure a second referendum. Julian Dunkerton, who had made lots of money with his Superdry fashion label, donated £1 million to People's Vote—an NGO founded with the explicit aim of stopping Brexit. British industry, the City, CBI and the Institute of Directors all voiced growing concern about May's course.

The United Kingdom and the EU appeared locked like two Sumo wrestlers, watching each other and waiting for an opportunity to strike down their opponent. Brexiteers were confident that, as Brexit approached, the united front of the EU27 would give way and undercut Barnier's negotiating position. Once some of those 27 realised how painfully their economies would be affected, they would cave in and give the UK the desired bespoke agreement. They were convinced that German industry—especially the automotive industry—would pile pressure on Chancellor Merkel to be more forthcoming. They failed to see that German industry not only had close ties with Britain, but with two dozen other EU countries, and that nobody wanted to undermine these lucrative relations by endangering existing EU rules and regulations. For if one exception was made, a thousand further demands would follow. German industry had no interest in giving British industry privileged access to the Single Market once British competitors could sell under the same conditions but were exempt from restrictive regulations on production.

The EU in its turn speculated on the obvious weaknesses of the Prime Minister—the divisions within her cabinet and within her party and the lack of a credible opposition. Faced with the alternative of no-deal or a problematic deal, would Theresa May choose the latter? Would she not have to accept

 $^{^{48}}$ Amber Rudd resigned for inadvertently misleading MPs over targets for removing illegal immigrants from the UK.

conditions in the last moment that she had steadfastly refused before? Would British industry and the City not exert immense pressure, reduce donations to her party and start mobilising public opinion by announcing redundancies, reduced investments and production relocation? After all, what was an agreement worth if negotiated with a beleaguered Prime Minister with a tenuous hold on office? What if May and her government were to be overthrown? What if there was another snap election with the perspective of Jeremy Corbyn entering Number 10? What about another referendum? What if the negotiated treaty was thrown out by Parliament? All of these arguments suggested that the EU should hold tight and not make premature concessions. Any concession at this stage, it was felt in Brussels, would only encourage further demands for concessions. Britain was torn between nostalgia and utopia, unable to come to terms with its changed political status and refusing to commit itself to a realistic choice.

3.8.2 The Chequers White Paper of July 2018

I may not have gone where I intended to go, but I think I have ended up where I need to be Douglas Adams

May sensed that time was running out and she had to break new ground to get the Brexit agenda moving again. On 5 July, she convened her cabinet to a special session at her country retreat at Chequers. The day before she had been to Berlin to sound out the position of the German government. As a precautionary threat, all cabinet members had been given advance notice that they should order a taxi if planning to resign, as official cars would then no longer be available to take them home. It was a petty move, and hardly a prelude to a harmonious meeting. May had taken meticulous care to prepare this meeting. In her eyes, it was to be her Waterloo and Trafalgar wrapped into one. It was a make-or-break situation. Surprisingly, she succeeded in getting the support of her full cabinet for her paper. It contained five elements:

- Trade in goods was to continue uninterrupted and without barriers.
- The United Kingdom would mirror all EU rules and regulations in a Common Rulebook, thus ensuring unified market conditions.
- Services were to be exempted (banks, insurers, law firms, logistics and tourism)

- A Facilitated Customs Arrangement would raise due taxes and tariffs.
- A joint arbitration procedure should settle disputes [18].⁴⁹

May had modified her recalcitrant position. She had unified her cabinet for the first time, including some of her most ardent opponents. The advocates of radical Brexit had been silenced for the moment. Had May's previous intransigence only been tactically motivated to lull the radical Brexiteers and then to upstage them with this paper? Or did it dawn on her only after the tough negotiations of the past year that she had to give way? Did she only now grasp that exiting the EU was a much more complicated exercise than opting out of 133 provisions in the field of police and criminal justice and then opting in again into 35 of them? Was this an opening to those who wanted to keep the Customs Union by making them an offer that was a Customs Union in all but name?

The results of the Chequers meeting were announced at once. They were circulated in print as a government White Paper. 50 Two years after the referendum and almost a year and a half after triggering Article 50, the White Paper was the first official document of the British government setting out a coherent outline of what the future arrangements between the UK and the EU could look like. It did not repeat the well-known negatives and it sketched a positive vision. But it was a document that should have been available three years earlier, in time for every voter to study it and form their own judgment prior to the fateful vote. Only with some knowledge of what sort of Yes would be implied in a No to the EU could a voter make an informed decision. It remained a complete mystery how May could have triggered Article 50 without the sort of guidance that was now contained in the White Paper—sixteen months after she had started the clock ticking.⁵¹ Logic would have suggested not starting the irreversible process of separation before there was a consolidated position within the cabinet. And in such a fundamental case touching constitutional questions, it should preferably include some bipartisan common ground between government and opposition. May had put herself under

⁴⁹These results were already circulating in the media before the Chequers meeting broke up. May leaked them to make sure that she was the first to break the news and to dominate the news cycle. Details can be found in her press release of 6 July 2018 (https://briefingsforbrexit.com/statement-from-hm-government-chequers-6-july-2018/, 9 Jul. 2018).

⁵⁰Government White Paper of 12 July 2018: *The Future Relationship between the United Kingdom and the European Union* (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/725288/ und https://www.gov.uk/government/publications/the-future-relationship-between-the-united-kingdom-and-the-european-union, 20 Jul. 2018).

⁵¹ Sir Humphrey Appleby, the fabled, fictional civil servant from the TV series *Yes, Minister* and *Yes, Prime Minister*, would have sarcastically deemed it to be a 'courageous decision'.

enormous time pressure—unnecessarily and exclusively of her own choice. Now she made use of the time pressure by turning her positional weakness into tactical strength. She hoped to force her opponents into following in her wake for fear of ending up with an even worse outcome. It was her version of Project Fear. There was no time left to work out a practicable alternative to what she suggested. Once the ship is adrift and raging storms and currents are pushing her against the cliffs, this was not the moment for disputes about the right course or—even worse—for mutiny.

The government was prepared to leave services uncovered by this arrangement. Services were responsible for a substantial contribution to Britain's balance of payments and for tax receipts. Why this sudden change of mind? The reason was presumably that May's cabinet began to grasp the cascading consequences that a hard Brexit would have on logistics and supply chains. There would be obvious emergencies: traffic jams around Dover, air traffic chaos, empty supermarket shelves and shortages of vital medicines. All this would be avidly reported by the press: scandals, pitiful stories, heartrending pictures and televised news like war reporting. This would have spelled disaster for the government. Losses of the service industry remained invisible. Banks and insurers, lawyers and international consultants would not take to the streets. Sympathies for the financial barracudas were limited after the 2008 crisis, the LIBOR scandal and all the other stories of fat cats lining their pockets. If they complained, the public would probably react more with Schadenfreude than sympathy. Financial services were flexible and had enough liquidity to adapt to changing circumstances. The government wanted to avoid negative visuals at all costs and thus opted to sacrifice (invisible) services to the (very visible) material cross-border transport.

Chequers coincided with the visit of the President of the United States of America. Donald Trump used this opportunity to explain that he had given sound advice to Theresa May, but that she would not listen. Boris Johnson would make a great Prime Minister, he said. If he himself were in charge, Brexit would be no problem and nobody could get a better deal. But a trading convention with the United States would now become more difficult.⁵² Boris Johnson quickly repaid the compliments. He said it would take a man like Donald Trump to achieve a grandiose Brexit.⁵³

⁵²Donald Trump, Interview with The Sun, 13 July 2018 (https://www.thesun.co.uk/news/6766531/trump-may-brexit-us-deal-off/, 17 Jul. 2018).

⁵³Alex Spence: Let Trump Handle Brexit: An Explosive Leaked Recording Reveals Boris Johnson's Private Views About Britain's Foreign Policy, Buzzfeed News, 7 June 2018 (https://www.buzzfeed.com/alexspence/boris-johnson-trump-brexit-leaked-recording?utm_term=.adj2nXr0p#.uaAjpY7Re, 18 Jul. 2018).

3.8.3 Two Men Overboard: But No Mutiny

It seems to me after a fellow has been mutinied against three or four times, there is something to it besides bad luck Naomi Novik

> It's all mutiny, but no one deserts Harry Hershfield

If May had rejoiced in an unqualified triumph at Chequers, she was in for a quick and brutal disillusionment. Immediately after the weekend, David Davis—the Minister responsible for Brexit—resigned. A few hours later, Foreign Secretary Boris Johnson followed. The advantage for May was that the toughest opponent of her Brexit plans and her most dangerous rival had left the cabinet. They lost political standing and had no more leverage. But now they were free again to voice their views from the sidelines without respect for cabinet discipline. The controversies were pushed down from cabinet to Parliamentary level. And there the European Research Group (ERG) was already counting on the support of the two deserters. The ERG was a pressure group of radical Brexiteers, pushing for a hard, no-deal Brexit. The ERG comprises over 60 Conservative MPs and is chaired by Jacob Rees-Mogg. May immediately replaced the two ministers: Dominic Raab was appointed head of the DepExEU, and Jeremy Hunt became Foreign Secretary. Raab was a dyed-in-the-wool Brexiteer,⁵⁴ but Hunt had consistently favoured Remain. May used the changes to shift competences. The House of Commons was convened for an emergency debate. Copies of the White Paper were thrown to the rows of MPs to read. Nothing could have better illustrated the complete confusion that surrounds Brexit than clerks running, thick bundles of paper flying through the air and MPs gesticulating and shouting that they had no time to read. A mere few minutes later, the White Paper was presented to Parliament by Dominic Raab [19]. May then put herself in charge of Brexit negotiations and effectively demoted Raab to act as her deputy. Practically,

⁵⁴Dominic Raab had published a book, together with some other prominent Tories (Priti Patel, Liz Truss, Chris Skidmore and Kwasi Kwarteng) with the pompous title *Britannia Unchained: Global Lessons for Growth and Prosperity*, London, Palgrave Macmillan (2012). The authors announced their book with a remarkable fanfare: "We are convinced that Britain's best days are not behind us. We cannot afford to listen to the siren voices of the statists who are happy for Britain to become a second rate power in Europe, and a third rate power in the world. Decline is not inevitable." They contrasted Japan, Israel, Canada and the USA as dynamic, entrepreneurial and risk-taking model for growth with a stagnant, bureaucratically paralysed and risk averse EU. The book has been criticised for unfounded allegations and unsound logic.

this change meant that the day-to-day control of Brexit negotiations was now in the hands of Oliver Robbins.⁵⁵

In just over a year after her election May had lost almost half of her cabinet and two junior ministers. ⁵⁶ This was a disastrous record. It laid bare how divided the Conservatives were. Many accepted May's leadership only for lack of an alternative. Boris Johnson used the summer to fire two broadsides at his party leader: the United Kingdom was in danger of becoming a vassal state of the EU, ⁵⁷ and May had wrapped a suicide vest around the British constitution and handed the detonator to Brussels [20]. The EU's intention was to annex Northern Ireland and to drown British entrepreneurs in a flood of useless red tape [21]. This was the gist of his warnings. He established contact with Steven Bannon, Donald Trump's former Chief Strategist.

Junior minister Steve Baker had resigned together with his boss, David Davis. Baker, a former chair of the ERG, organised and forged an influential group of Brexit fundamentalists inside the Conservative Parliamentary party. He claimed he had assembled 80 Tory MPs committed to vote down May's Brexit plans. Should she try to enlist support of some Labour MPs, he threatened to split the party and take a sizeable number of MPs with him [22].

The EU's reaction was guarded and cautious. Barnier was quick to point out that the idea of a Facilitated Customs Arrangement stood no chance. He insisted it would create unnecessary bureaucracy and it was impossible to manage because, considering the close interconnections across the Channel, there was no practicable way of determining the foreign content from non-EU countries for each product crossing this border. It would open doors for

⁵⁵ Oliver Robbins had been a loyal servant of Theresa May for years. He had served as her Permanent Secretary in the Home Office. May then placed him in the same function in the DepExEU, where he was to guide David Davis and report directly to the Prime Minister. After the election, she brought him into Number 10 as her adviser, where he soon grew into the role of the *éminence grise* for Brexit. He had never worked on EU questions before 2016.

⁵⁶ Michael Fallon resigned as Defence Secretary on 1 November 2017; he was replaced by Gavin Williamson. Gavin Williamson was dismissed by May over indiscretion charges on 1 May 2019. He was succeeded by Penny Mordaunt. On 8 November 2017, May had to relieve Priti Patel, Secretary of State for International Development of her post (succeeded by Penny Mordaunt, who was succeeded in her turn by Rory Stewart). On 20 December 2017, her chief of staff Damian Green was forced to resign (succeeded by David Lidington). On 8 January 2018, Justine Greening resigned as Education Secretary (succeeded by Damian Hinds). On 29 April 2018, Amber Rudd resigned as Home Secretary over the Windrush scandal (succeeded by Sajid Javid). On 21 June 2018, Greg Hands resigned as Minister for Trade and Investment. On 8 July 2018, David Davis resigned as Brexit Secretary together with his junior minister Steve Baker (who was to become May's nemesis), followed a day later by Boris Johnson resigning as Foreign Secretary (succeeded by Jeremy Hunt). This rapid change of personnel (exceeded only by President Trump in Washington) prompted some sarcastic comments, for the rate of change was more than double what had been normal with all of her predecessors.

⁵⁷ Heaven knows what prompted him to use this relapse into medieval terminology. He was roundly criticised in the press and by almost all commentators.

smuggling and brazen fraud. Nevertheless, the idea deserved further examination. He insisted, however, that there should be no additional bureaucracy and no additional burdens for EU enterprises. The EU would preserve the Single Market, the Customs Union, the common trade policy and its regulatory and financial autonomy under all circumstances. This implied that the EU would never grant a non-member permission to collect customs duties in its name. Nor would the EU trust a non-member with the enforcement of its rules and regulations, particularly if that non-member was not answerable to the EU [23].

May's White Paper had plunged Barnier into a dilemma. He had to reject most of its substance, but he did not want to add to May's woes. He knew that there was no time for a radically new offer from May's government. May was the last straw to clutch at in the hope that there might eventually be a treaty. So he could not damage May's reputation before her all-important party conference in October. He could hint at reservations, and he could flag the need for further discussions, but he could not afford a flat 'no way'. He had to appear optimistic, as it was clear that negotiations would enter their final phase after the summer break. What counted now was to prevent public opinion in the UK from deteriorating. There must be gentle and positive preparations for the British public to realise that the final treaty would look somewhat different from what most British had been led to believe. Everything now depended on making believe that the final treaty was in fact a variation of the White Paper. The experts knew all along: the White Paper was the first step in keeping the United Kingdom in the Customs Union without calling it that. The UK would receive a special status that was in substance the old Customs Union in disguise. This would flatter British exceptionalism and keep the essentials in their accustomed place. It was semantic acrobatics, but not an insoluble problem for a seasoned diplomat. The treaty would be a framework. It would leave thousands of details to be filled in later in painstaking talks between experts. But the devil is in the detail. So this approach secured shortterm agreement by pushing a heap of potential conflict into the future. It is a legal approach that is more common in the civil law infused EU, but not a tactic generally recognised in the UK, where common-law traditions usually set out every detail in advance.

May was now responsible for Brexit. Everyone knew that the closer the ominous 29 March 2019 deadline came, the more difficult it would be to topple her. May's tactics were now: either take my deal or there will be no deal at all. Either we have a calculable, smooth transition, unpalatable though it may be, or there will be utter chaos and a cliff-edge scenario. That would not only cause severe disruptions to trade and transport. It would create a sudden

state of legal uncertainty because millions of contracts would become invalid. May was the captain of the good ship Britannia—loathed by her crew and despised by her officers, but nobody dared to mutiny against her. Even the most relentless critics from the benches of the governing party took great care at the end of each diatribe to assure her of their unswerving loyalty. For May was now the only pilot that could guide the ship through these dangerous, uncharted waters. She could not be replaced at short notice. But she was only tolerated, not supported. After Brexit, her hold on power would be extremely tenuous. The question was only whether she would be dropped in an orderly fashion or be pushed overboard.

May exploited her weakness tactically. She extolled the ideal combination of untrammelled trading opportunities and continued access to the Single Market contained in her Chequers plan. At the same time, she intensified her own version of Project Fear. Together with Dominic Raab, she fanned fears about a no-deal Brexit. Raab started publishing a series of guidances that contained dramatic and alarmist descriptions of potential consequences of a nodeal Brexit and some robust advice on how to take precautions [24]. These guidances focussed on aspects of everyday life that might hit average citizens particularly hard: travel, monetary transactions, validity of driving licences on the continent, scarcity of food and medicines, insurance and air safety. Mark Carney, the Governor of the Bank of England, sketched the outlines of a nodeal: unemployment, deep recession in banking and market turbulences in remittances. May relished demonstrating all the torture instruments that were now in her hands. There was nothing left of her self-assured words that nodeal might be better then a bad deal. In the autumn of 2018, her message was: 'Nothing is worse than a no-deal!' She obviously tried to frighten public opinion and to corral her party gently but irresistibly into accepting her plan.

The EU sent positive signals: agreement had been reached on 80% of the treaty. The remaining 20% would present no insurmountable obstacle provided both sides continued to negotiate in good faith. Both the EU and the UK government were united in the message: agreement was imminent, and choosing a no-deal would be the road to chaos and disaster.

3.8.4 Salzburg and Birmingham: Land in sight or Fata Morgana?

Regrets about the journey, maybe, but not the destination Nicholas Sparks

May's hope that she was in sight of an agreement was abruptly shattered at the special meeting of the EU Council in Salzburg on 20 September 2018.

She had published an article in the German daily *Die Welt* on the eve of this meeting [25]. She explained her Chequers plan in brashly assertive language and presented it as the only viable alternative. After she had shown so much flexibility, it was now the EU's turn to make concessions. Her speech in Salzburg used the same demanding language. Perhaps she had hoped to sway some of the undecided EU members, perhaps she had hoped to generate sufficient impulse to break free from the stalemate that had dogged negotiations since March. But the effect of her words was the opposite. May faced a solid phalanx of 27 EU leaders, and they had all taken offence. They felt May had tried to prejudge the issue, push them into a defensive position and to occupy the moral high ground.⁵⁸ Donald Tusk commented dryly that Chequers would never work.⁵⁹ The results of the Salzburg summit were devastating:

- The Chequers Plan does not address the Irish problem.
- The British idea of an à la carte Single Market is unrealistic.
- The EU will never sign a Common Rule Book or a Facilitated Customs Arrangement.

Matters were made worse, for at the same time the Commission started proceedings against the United Kingdom before the CJEU on charges that the British government had made false declarations about duties and failed to pass revenue on to the EU. This was an additional blow for May. How could the EU trust the UK about taxes and duties after separation if it accused the British government of foul play even when it was a member of the club?⁶⁰ To

⁵⁸ There are few convincing hypotheses to explain the unusual approach of the British government in this case. Whatever the considerations in Whitehall, the incident showed once more the difficulties of the British government machinery forming a correct picture of the priorities, sensitivities and the mentality of its continental partners. Had May chosen a more accommodating, humble language, the reaction of the Council might have been more conciliatory.

⁵⁹ The atmosphere in Salzburg was further strained by a comment from Michael Gove. In an interview with Andrew Marr, Gove had declared that whatever the withdrawal treaty contained could be unravelled and repudiated by any future British government ("A future prime minister can always choose to alter the relationship between Britain and the European Union."). His aim was to soften opposition in Parliament against May's plans. He also wanted to hint that it was unrealistic to expect the enormously complex and multidimensional problems connected with Brexit to be solved in one single treaty. Later revisions and additions would become inevitable. This may have been meant as a positive contribution to the ongoing debate in the UK. Outside the UK, his words were taken to mean that the British government was nost negotiating in good faith, keeping options open to unilaterally escape from treaty obligations. He cast massive doubt on the commitments that had been made by the British side. Commentators talked of Mafia-methods. Michael Gove was considered a possible successor to Theresa May, so his words had specific weight and raised enduring suspicions. (https://www.bbc.co.uk/programmes/p06lbdqy, 15 October 2018).

⁶⁰ In November 2018, another legal action was added. The Commission criticised tax privileges on the Isle of Man. Some superrich had registered their private jets on the Isle of Man practically tax-free. More than

drag the United Kingdom in this chaotic situation before the hated CJEU added fuel to the Brexiteers' fire.

May's great plan, which had absorbed so much political energy over the past months, was as dead as a dodo. It was back to square one—but with three quarters of the period allotted to reaching an understanding already elapsed. She had to find a way out without time left for exploring new ideas.

May was shattered. After her return to London, she did something exceptional. She spoke to the nation via television—something that normally happens in the UK only in case of a national emergency. She used strong words. She spoke of an impasse and she defiantly repeated her categorical 'no deal is better than a bad deal', even though only weeks earlier she had said the exact opposite. She confirmed her resolve to maintain the indivisible unity of the United Kingdom:

"Creating any form of customs border between Northern Ireland and the rest of the UK would not respect that Northern Ireland is an integral part of the United Kingdom, in line with the principle of consent, as set out clearly in the Belfast/Good Friday Agreement. It is something I will never agree to—indeed, in my judgment it is something no British Prime Minister would ever agree to. If the EU believe I will, they are making a fundamental mistake. Anything which fails to respect the referendum or which effectively divides our country in two would be a bad deal and I have always said no deal is better than a bad deal" [26].

One episode, marginal in itself, sheds a characteristic light on the tensions of the meeting. Donald Tusk posted a picture on Instagram of him offering Theresa May a piece of cake with the ironic comment: "A piece of cake, perhaps? Sorry, no cherries" [27]. Foreign Secretary Hunt was appalled. He said publicly that Tusk had offended May and the British nation, he had unnecessarily complicated negotiations and he should apologise. The tabloids raged with fury.

This surprisingly taut reaction prompted some observers to ask what had happened to the English sense of humour. British papers had printed cartoons far more critical of their own government. It was a remarkable reaction. Papers that had previously torn May's plans to pieces suddenly showed indignation that the EU had dared to repudiate these plans. This reaction was remarkable

¹⁰⁰⁰ private jets are registered there, most of them large aircraft with seating capacities between 60 and 100 passengers. This fleet would theoretically suffice to have the entire population of the Isle of Man simultaneously airborne on aircraft registered on the island.

⁶¹ Even the Economist, normally critical of May and her plans, commented: "Salzburg delivered a slap in the face to Mrs. May. It did so in the rudest way possible." (Economist, 21 September 2018, Bagehot).

because it showed beyond any doubt that the Brexit debate was no longer driven by objective arguments but by national emotions. In her televised address to the nation, May had complained: "I have treated the EU with nothing but respect. The UK expects the same." 62

Following this depressing experience, May had to face her party conference in Birmingham ten days later. During this period, attitudes hardened on both sides. President Macron said that those advocating a hard Brexit were liars. The Day of German Industry in Berlin demonstrated on 25 September 2018 that the entire German industry stood solidly behind the Berlin government. All hopes that there might be chinks in the armour were proven wrong. Instead of putting pressure on the German Government, the Federation of German Industry (BDI) and the German Chambers of Commerce and Industry (DIHK) started circulating leaflets setting out how to prepare for a no-deal Brexit. The studied optimism that had dominated until Salzburg evaporated and gave way to bleak pessimism.

In the UK, two papers were published that pushed aside Chequers and argued for a radical break with the EU and a fallback on WTO rules [28]. The ERG, however, (the opposition within the Conservative party) cancelled publication of its own alternative to Chequers, although it had touted it for weeks. 63 'Leave Means Leave' held a political rally in Bolton on 22 September. Nigel Farage, David Davis and Labour's Kate Hoev shared the stage. For the first time in his political career, Nigel Farage could present himself in public standing shoulder to shoulder with two representatives of the established parties. David Davis had been leader of the Conservatives for a short time. Farage had managed to escape from the UKIP ghetto and be accepted as a serious, mainstream politician. The rally was overbooked and it ended in a raging frenzy of British nationalism and disparaging abuse of the EU. Two weeks later, Farage appeared flanked by ERG Chairman Jacob Rees-Mogg. Farage had been a leper, an untouchable right through the referendum campaign. Now he had arrived at the heart of political respectability. And, as it turned out in the following months, he had succeeded in the 'Ukipisation' of large parts of the Conservative party. The Tories had devoured UKIP. But now they

⁶² Perhaps direct TV appeals are not so exceptional for Theresa May. She repeated the exercise in March 2019 after leaving the EU summit early and virtually empty handed. In this second TV appeal, she laid the blame for the impasse squarely on the shoulders of the MPs in Parliament.

⁶³ The ERG could not find consensus on some of the most radical proposition contained in the 140-page draft. The official explanation for cancelling publication of this paper was that it was not opportune to publish something that might be shot down by the party conference (https://www.ft.com/content/fce-2c8ea-b4d7-11e8-bbc3-ccd7de085ffe, 22 October 2018).

suffered serious indigestion. UKIP was no longer a threat to the Conservatives; the Tories were now a threat to themselves.

The Conservatives started their party conference more at odds with themselves than ever before. David Davis and Boris Johnson viciously attacked the Prime Minister on the eve of the conference. Johnson called her approach 'invertebrate' and 'deranged'. May had never believed in Brexit, he contended, and her only concern was to take the wind out of the sails of opposition leader Jeremy Corbyn. Grieve on the other side of the party supported Brexit in principle, but a soft version. He fought for the right of Parliament to prevent the government riding roughshod over the concerns of MPs. He reproached both of them, underlining that the country needs a pragmatic approach that actually works rather than dogmatic infighting. In his view, there was no alternative to another referendum [29]. But Theresa May had explicitly and repeatedly rejected a second (in fact, a third) referendum, calling it treason against the will of the people and deeply undemocratic. Rumours about another snap election started circulating.

The party conference was overshadowed by the disappointing result of the Salzburg summit. Conservatives in Birmingham were showing symptoms of a siege mentality. The whole cabinet came together to defend May in a rare display of unanimity. Nationalist emotions and venturous optimism were demonstrably displayed: Britain will never be cornered. Britain will hit back.⁶⁵

⁶⁴Two weeks earlier, Boris Johnson had rejected any special arrangement for Northern Ireland: "This version of the Irish backstop is little short of an attempt to annex Northern Ireland. It would imply customs and regulatory controls between Britain and Northern Ireland, and therefore a border down the Irish sea. The protocol would amount to a change in Northern Ireland's constitutional status without its people's consent—a total breach of the peace settlement. For Ulster Unionists of any description, for the Tory party, for anyone who cares about the union between Britain and Northern Ireland, it is a monstrosity." (https://www.telegraph.co.uk/politics/2018/09/16/heading-car-crash-brexit-theresa-mays-chequers-plan/, 10 October 2018). He completely blotted out the position of Irish republicans who, not without good reason, suspected Brexit to be a crowbar to lever out some of the constitutional guarantees contained in the Good Friday Agreement. There is a sizeable number of Tories that openly demand the unilateral renunciation of this Agreement. Philip Hammond gave an appropriate caricature of Johnson's way of talking: "Boris sits there and at the end of it he says, 'Yeah but, er, there must be a way, I mean, if you just, if you, ern, come on, we can do it Phil, we can do it. I know we can get there." (https://www.theguardian.com/politics/blog/live/2018/oct/01/conservative-conference-hammond-says-johnson-will-never-be-pm-politics-live?page=with:block-5bble9c6e4b09764a1533a79#liveblog-navigation, 10 October 2018).

⁶⁵ In the eyes of many Tories, the EU was to blame for the unsatisfactory state of affairs. Jeremy Hunt: "The way Britain reacts is not that we crumble or fold but actually you end up by invoking the Dunkirk spirit and we fight back. There comes a point where we say: 'We're not prepared to be pushed around. If you are not serious about a deal then we won't be either'." (Daily Telegraph, 30 September 2018, https://www.telegraph.co.uk/politics/2018/09/30/jeremy-hunt-warns-eu-bad-brexit-deal-will-stir-britains-dunkirk/, 17 March 2019). In the same speech Hunt equated the EU and the Soviet Union as a prison of nations; those that try to escape are punished. He was echoing the hysterical nonsense that some academices like Gwynthian Prins were peddling who actually wrote: "The EU is following the same path as its deceased sibling—the USSR" (https://brexitcentral.com/eu-following-same-path-deceased-sibling-ussr/, 17

Should the EU try to entrap the United Kingdom in the Customs Union through the backdoor, Britain would slam all doors. The Dunkirk spirit was evoked: a country that had survived the Battle of Britain would survive the Battle over Brexit. A sense of national pride and scornful arrogance dominated. Brexit did not mean decline and poverty. Brexit opened the way to unlimited opportunities, growth, profit, innovations and competitiveness. Some argued publicly: Tusk had commented that Chequers would not work. But then experts had said the same about electric lighting in 1878. David Davis had himself pictured in full battle fatigue of a pilot of the Battle of Britain. He demanded closing British airspace to all EU planes. Philip Hammond tried to heal the damage Boris Johnson and Steve Baker had done with their derisive comments on British business: "The Conservative Party is, and always will be, the party of business." Raab repeated the demand that after Britain had modified its position; it was now the EU's turn to show flexibility. It was unclear whether this was simply the Spirit of the Light Brigade or whether May's cabinet was serious in hoping there might still be a chance for a treaty on the basis of the Chequers White Paper.

3.8.5 Will the Pilot Be Dropped or Pushed Overboard?

Inside the harbour, no need for a navigator
But on the high sea neither

Unlike the previous year, May delivered a brilliant speech at the Conference. She presented a comprehensive programme and she was full of good humour and irony. Not sparing herself, she took some elegant swipes at Boris Johnson. For a moment, the party applauded enthusiastically. Her words about Brexit, however, only added to existing doubts about the chances of finding common language with the EU:

"No-one wants a good deal more than me. But that has never meant getting a deal at any cost. Leaving without a deal—introducing tariffs and costly checks at the border—would be a bad outcome for the UK and the EU. It would be tough at first, but the resilience and ingenuity of the British people would see us through. If I ruled out the no deal option, that would mean accepting one of two things. Either a deal that keeps us in the EU in all but name. Or a deal that carves off Northern Ireland

March 2019). David Hannan: "No British government could go further to accommodate the EU. If Brussels holds out for more, dictating terms as if to a defeated enemy, a breakdown is inevitable." (David Hannan, tweet, 29 July 2018). War metaphors are always crowd-pullers in England.

effectively leaving it in the EU's Custom's Union. We will never accept either of those choices! We will not betray the result of the referendum. And we will never break up our country. Our proposal is for a free trade deal that provides for frictionless trade in goods" [30].

The unity in Birmingham was short lived. Immediately afterwards, the old Tory hostilities broke out with undiminished acrimony. May continued her double-edged course. On the one hand, she stoked optimism: 95% of the treaty was already agreed. On the other hand, she intensified her warnings about a no-deal. Medicine and food were being stockpiled, there were alleged shortages of toilet paper, ships were being chartered, harbours dredged. The papers were full of reports about panic shopping, 66 about families considering converting their flower gardens into plots for potatoes and cabbage. The atmosphere in the Conservative party became downright poisonous. A group around Rees-Mogg, Baker, Grayling, Leadsom and Davis were openly preparing to overthrow the Prime Minister.⁶⁷ When May was to answer backbench questions, one of them recommended her bringing a rope. Another exclaimed that he would relish ramming the knife into her and turning it. May would have to win over at least 25 Labour MPs, because it became apparent that ten DUP MPs and about 15 MPs of her own party would desert. Jeremy Corbyn spent most of his time exhorting his own party to keep ranks closed and not to be enticed away into giving support to the government. Now May had to pay the price for having gambled away her comfortable majority in the summer of 2017 and for being dependent on continued support of radical Unionists from Northern Ireland. She was between a rock and a hard place, and the most dangerous opposition came from within her own party. Labour opposed her course less because of Brexit but because she was Prime Minister. Corbyn was desperate to move into Number 10. He had no intention of stopping Brexit and he remained lukewarm about membership in the Customs Union. Remainers tried to put together a bipartisan initiative to force another referendum. Arlene Foster, the DUP leader from Belfast, steadfastly refused any concessions about the Northern Irish border. Ruth Davidson, the leader of the Scottish Conservatives, was anxious to defuse the border question, fearing that it might pose an additional problem for the eventuality of Scottish independence.

⁶⁶ Those self-sufficient survivalists, hoarding and preparing for emergencies, are known as 'preppers'. The term comes from groups in the USA that prepare for national or environmental emergencies and possible disruptions in political or social order.

 $^{^{67}}$ Since participants in this conspiratorial group liked to order pizza for their meetings, it was called Pizza Group.

On 20 October 2018, an estimated 700,000 people demonstrated on the streets of London for a new referendum to be held. It was the largest ever demonstration in the history of the United Kingdom. It was organised by People's Vote.

Opinion polls were not helpful in finding the correct answers to the ever more complex questions. Polls at the end of October 2018 said that about 51% would vote against Brexit, but not more than 34% for it. The rest appeared confused and undecided: 54% regarded May's course as mistaken, 38% were convinced she had made the right choices. Academics tried to influence the debate. Some calculated Brexit costs in a way that there might be a substantial profit in the end, including a positive effect on economic growth. Others predicted a collapse of essential supplies and enduring losses of prosperity [31]. As always, people had less and less confidence in these transparently political and prejudiced analyses.

The United Kingdom was a chaotic country at the end of 2018—deeply split, without orientation and without effective leadership. The Economist commented: "Mrs May is running a zombie government that has lost control of the Brexit process" [32]. The authority of the government to set a clear course and to win a Parliamentary majority to support it was eroding rapidly. May remained unperturbed. She saw the chaos as a source of tactical strength. She claimed to be the only person that had a clear and consistent vision. She was surrounded by a pack of dogs barking madly and baring their teeth. But none of them would dare bite. May was deeply unpopular but she was on the way to Golgotha and nobody wanted to intervene to take over her cross. The party was too deeply torn by strife to agree on a new leader, and none of the prominent members could hope to succeed her. If a new leader had to be found it would probably be a compromise candidate—weak, without a strong profile, but acceptable both to Remainers and Brexiteers.

Like her predecessor, May had to fight in an international environment that was not favourable to her. For the other EU members, Brexit was not the dominant problem on the agenda. The confrontational foreign policy style practiced by Donald Trump was far more disconcerting. He had imposed punitive tariffs, called into question the foundations of NATO, and he openly despised the EU. His spectacular meetings with Kim Jong-un and with Vladimir Putin presented much greater international challenges than the convoluted terminology of the Chequers White Paper. Italy's new government was openly challenging the financial discipline of the Eurozone, ⁶⁸ and the

⁶⁸I prefer 'Eurozone' to the normal spelling 'eurozone'. The Eurozone has all the making of assuming a role at least as crucial, if not far more important than today's EU. If you write European Union, you

financial assistance for Greece was running out but the underlying problems had not been solved.⁶⁹ In France, President Macron had to deal with the emergent movement of the *Gilets Jaunes* (Yellow Vests). In Germany, the twilight political years of Merkel had set in when she resigned as Chair of her party. Creative ideas for solving the Brexit conundrum were not to be expected from Germany.

Resistance against May grew day by day. Steve Baker organised opposition within the ERG. By mid-November, he claimed to have the allegiance of 80 Tory MPs. They were committed to vote against her Brexit plans. He announced a vote of no confidence of the Parliamentary party against its leader and exuded confidence that he would have the required 48 signatures for such an initiative by the end of November.

May submitted the Draft Treaty⁷⁰ to her cabinet on 14 November. The next day, Dominic Raab—who had been Brexit minister for just four months—resigned. He justified his decision thus:

"For my part, I cannot support the proposed deal for two reasons. First, I believe that the regulatory regime proposed for Northern Ireland presents a very real threat to the integrity of the United Kingdom. Second, I cannot support an indefinite backstop arrangement, where the EU holds a veto over our ability to exit. The terms of the backstop amount to a hybrid of the EU customs union and single market obligations" [33].

These words carried little conviction since Raab had carried all the political responsibility as minister in charge. If his reservations were so fundamental, he should have resigned much earlier or refused the appointment in the first place. Esther McVey, the Secretary for Work and Pensions, and Shailesh Vara, Junior Minister for Northern Ireland, resigned at the same time as Raab. A few days later, Jo Johnson—the younger brother of Boris Johnson—also resigned as Transport Minister. Jo Johnson had been a consistent Remainer, taking a different line from his brother. Nevertheless his resignation won wide acclaim among Leavers—especially from his elder brother.

It became clear that May had extended the backstop that was to cover Northern Ireland to cover the entire United Kingdom. The whole country was to remain in the Customs Union until both sides had found a satisfactory

should also capitalise Eurozone.

⁶⁹ The EU Commission announced deficit proceedings against Italy on 21 November 2018.

⁷⁰ Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community. TF50 (2018) 55—Commission to EU27 (also known as the Withdrawal Agreement).

solution for the border in Northern Ireland that could guarantee both no change to the present regime and simultaneous effective controls of people and goods. The backstop could only be terminated through concurrent agreement by both sides. Brexiteers were not slow to point out that this meant in the worst-case scenario that the entire United Kingdom required the consent of the EU before it could effectively leave the Customs Union. This was also the gist of the legal advice drawn up by Attorney General Geoffrey Cox [34]. At first, May was reluctant to make the full text of this advice accessible to Parliament. She had to be forced to do so through a formal Parliamentary reprimand. Her obvious concern about Parliament reading the full text did not make her position easier. Refusing full transparency regarding this important document nourished suspicion that May was peddling an embellished version of the treaty and that there might be some unpleasant hidden surprises.

The European Council approved the Treaty at its extraordinary meeting on 25 November 2018. The final hurdle now was approval by the Westminster Parliament. But this hurdle grew higher by the day. The full Treaty text consisted of two parts. The first part and bulk of the Treaty contained the provisions for separation on 584 pages. The second part enumerated some vague principles and intentions about future relations on 36 pages [35]. Criticism focused on the backstop solution. It gave the EU an unlimited *droit de regard* over British trade policy. Unless Brussels was satisfied that a new solution had the same effect as the backstop, it could simply refuse consent to terminating the backstop. If it came to the worst-case scenario and Brussels was acting in bad faith—and there were enough British MPs who were convinced of that the EU could block Brexit interminably. And even if Brussels acted in good faith, the number of experts who believed that such a technical and administrative miracle was possible was rather limited. The United Kingdom would then be kept in limbo—paying, but having no say. Membership in the Customs Union would also prevent it from concluding national trade deals.

Thus a marginal problem—a problem that nobody had identified, let alone discussed in the referendum campaign—turned out to be the chief obstacle to Brexit. This eventuality had become clear to a few experts in late 2016, but it took a further two years to be recognised as the central problem of Brexit. There is a certain irony of history in the whole story. In 1922, the division of the island of Ireland was considered to be a clever stratagem by the powerful United Kingdom to keep the independent Irish Republic, which had dared challenge the legitimacy of British rule, in a position of powerless dependence. A hundred years later, the tables were turned against the United Kingdom, and the division of the island gave the Irish government in Dublin

leverage over the entire Brexit process. For the first time in history, the British and the Dublin governments met and negotiated as equals.

The language of the political declaration about future relations was unusually vague even by diplomatic standards of softened Brussels language. It showed all the signs of an unsystematic draft produced in a hurry.⁷¹ The document desperately tried to compensate for the glaring lack of substance with pathetic, pompous language. There were very few passages that gave reliable assurances for the future.

May desperately tried to remain in charge of events. On the day before setting off to Brussels for the special European Council meeting, she published a letter to the nation to mobilise support for her Draft Treaty [36]. The asked her cabinet to swarm across the country to influence feeling at the grass roots. She leaned on individual MPs, coaxing and threatening them. But the rot had set in, and continued at breathtaking speed. In early December well over one hundred Conservative MPs—almost a third of the total Parliamentary party—were said to be unwilling to endorse May's plans. May's position went from bad to worse.

Perhaps May still entertained hopes of swaying wavering MPs by combined threats: 'If you refuse to endorse my plan, you risk a no-deal; you risk early elections and opening the way for Jeremy Corbyn to enter Number 10, and you put the unity of the party—and by implication your own Parliamentary seat—at risk'. At the end of November, the Treasury and the Bank of England published alarmist analyses about a post-Brexit future [37]. Both analyses concluded that Brexit would reduce prosperity in Britain regardless of whether there was a soft or a hard Brexit.⁷³ The only variable was the dimensions of

⁷¹Some examples may suffice: "The Parties will establish general principles, terms and conditions for the United Kingdom's participation in Union programmes"; "The Parties should engage in dialogue and exchange in areas of shared interest, with a view to identifying opportunities to cooperate"; "The Parties agree to develop an ambitious, wide-ranging and balanced economic partnership"; "...promote regulatory approaches that are transparent, efficient, promote avoidance of unnecessary barriers to trade", and "...the Parties will put in place ambitious customs arrangements" etc. All this was cheap verbiage without any concrete meaning. It could be interpreted to mean whatever was convenient.

⁷² May reaffirmed her commitment given at the party conference to raise the budget of the NHS by £294 million a week. This pledge was all too obviously directed against those Brexiteers who had promised Brexit would set free £350 million a week which could be sent to finance the eternally ailing NHS. May did not answer the question where this substantial sum of money should come from.

⁷³The reaction of some prominent Brexiteers was revealing. David Davis castigated the Treasury: "*Treasury forecasts in the past have almost never been right and have more often been dramatically wrong.*" He spoke of a "*propaganda onslaught*". Jacob Rees-Mogg disqualified Mark Carney, the Governor of the Bank of England, the country's most respectable financial institution, as "*high priest of project fear whose reputation for inaccurate and politically motivated forecasting has damaged the reputation of the Bank of England."* (https://www.express.co.uk/news/politics/1051730/no-deal-brexit-news-jacob-rees-mogg-mark-carney-bank-of-england, 8 December 2018).

those losses. A glance at a chart provided by the Bank of England shows the dimensions of possible losses (Fig. 3.1).

Theresa May warned in vain that refusing to support her project would only deepen the rift in British society. David Lidington warned in vain against 'most appalling chaos' and 'catastrophic consequences'. The EU kept repeating in vain that the present agreement was the best one available and ruled out retroactive modifications. Resistance to the Draft Treaty grew at lightening speed. On the eve of the scheduled day for voting in early December, after five days of debate in the UK Parliament, the outcome was more uncertain than ever before.

It was no help that recent migration statistics showed a dramatic reduction in the number of foreigners arriving in the United Kingdom. It was of little help that in the first days of December a petition with over one million signatures demanding another referendum was delivered to Number 10. It was no help that Norway made it clear beyond any doubt that the United Kingdom would not be welcome in the EEA. Opinion polls made the confusion complete. One poll claimed that 53% would step back from Brexit, 43% would like to plough ahead. Other polls claimed that 21% thought the Draft Treaty was better than no Brexit at all, but 42% thought it was worse. But only 23% wanted to remain under unchanged conditions. Nobody dared to voice what seemed the obvious solution in this situation: to stop the clock ticking, to remain temporarily in the EU and to win time for further consideration while keeping all options open. And to use the additional time to analyse these options thoroughly, something which had not been done so far.

But May was sticking to her guns. She remained confident that no Tory wanted to carry the blame for having helped Corbyn to enter Number 10, nor for plunging the country into the abyss of a no-deal. On 9 December, she addressed her party in a lengthy interview in the Daily Mail. She pointed out that every treaty needed a transition period and that the backstop was nothing but such a transition period. She argued that, given the deep rifts in British society, any treaty had to incorporate compromises and would meet with resistance from some quarters. Any alternative plan would incur even harder opposition. The only realistic alternatives to her plan would be to

⁷⁴Preliminary figures for net immigration in 2018 are: EU 100,000, non-EU 250,000. The figures confirm that the quantitative problem is not the EU, but non-EU countries. They also confirm that 2015 was in every respect an exceptional year.

⁷⁵Glen Owen/Harry Cole: Back me or get Jeremy Corbyn and no Brexit: Theresa May warns against voting down deal - as she reveals how she keeps calm by eating Peanut Butter out of the jar and even has a 'bloody difficult woman' mug on her desk, Daily Mail, 9 December 2018 (https://www.dailymail.co.uk/news/article-6475169/Theresa-Jeremy-Corbyn-No-Brexit.html, 9 December 2018).

Modelled scenarios based on different assumptions about Brexit

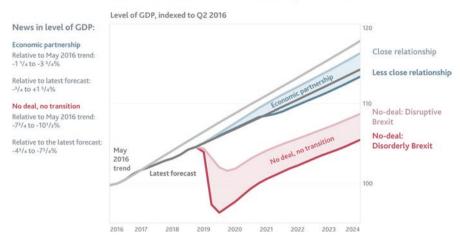


Fig. 3.1 The diagram of the Bank of England concerning growth scenarios after Brexit. Source: Bank of England, 28 November 2018, https://www.bankofengland.co.uk/report/2018/eu-withdrawal-scenarios-and-monetary-and-financial-stability

abandon Brexit altogether or to risk the *terra incognita* of a no-deal. Her deal was the best to be had. On 10 December, it looked as if May risked a crushing defeat of 250 to 350 votes after the five-day debate. May had steered her country into a hopeless position. She had alienated a large chunk of her own party, she had not won any additional support among opposition MPs, and she had raised all sorts of suspicions in Brussels. Her party faced the real risk of a break-up. A constitutional crisis was looming. The vote was scheduled for the following day.

3.9 A Never-Ending Story

3.9.1 May's Spectacular Defeat

Two things are infinite: the universe and human stupidity, and I'm not sure about the universe Albert Finstein

Perhaps Theresa May could have had a chance to push her project through if she had sprung it as a surprise on Parliament. But she allowed more than four full weeks to elapse between publishing the Draft Treaty and the vote.⁷⁶

⁷⁶The treaty text was made public on 14 November; the vote was scheduled for 11 December.

She then cancelled the first vote and let another four weeks pass—while Parliament was in Christmas recess. Her opponents used this time to close ranks and to work out a strategy to defeat her purpose. In November, about fifty Tories were rumoured to oppose her deal. By the first week of December, that number had swollen to over one hundred. And it kept growing by leaps and bounds. May almost supplicated for support, but her authority waned with the moon. In her robot-like voice, she kept repeating the same stereotyped phrases, she avoided answering questions and she took refuge in nebulous, optimistic but empty truisms. When defeat in Parliament seemed a foregone conclusion on 10 December, she panicked and withdrew the vote from the agenda. This earned her a stern rebuke from the Speaker, John Bercow,⁷⁷ who was becoming increasingly alienated from his former party. The media gloated. 'The lady is for turning' griped the Telegraph, echoing the legendary words of Margaret Thatcher.⁷⁸ Suddenly, the backbench calls for a leadership challenge reached the required procedural threshold. But on 12 December, May survived a vote of no confidence of her own party.⁷⁹

Now May's only hope was the European Council that was to assemble on 13/14 December in Brussels. But she did not receive more than warm and friendly words. The EU reaffirmed its commitment to work as closely as possible after Brexit, and that the backstop was nothing more than a safety net that nobody really wanted. Even if it were to enter into force, it would only be as a temporary stopgap until something better had been found. The wording of the Draft Treaty was not modified. Over Christmas, May frantically tried to improve assurances on the backstop. She phoned leaders in Brussels, Berlin, and Paris, but to no avail. The atmosphere grew darker. Jaguar/Rover announced the redundancy of 5,000 workers. Voices warning against a nodeal Brexit were becoming louder and more urgent. May asserted that rejecting her Draft Treaty was tantamount to betraying the will of the people. But she was unable to delay the date of the vote a second time.

 $^{^{77}}$ John Bercow had been a Conservative MP, but following convention he became officially neutral when elected Speaker of the House in 2009.

⁷⁸ Daily Telegraph: *The lady is for turning*, 11 December 2018 (https://www.theguardian.com/media/2018/dec/11/what-fresh-brexit-hell-is-this-what-the-papers-say-about-mays-cancelled-vote, 28 January 2019). Margaret Thatcher: *Speech at the Conservative party conference*, Brighton, 10 October 1980: "*You turn if you want to. The lady's not for turning.*" (https://www.margaretthatcher.org/document/104431, 16 January 2019).

 $^{^{79}}$ The vote was 200 to 117. This was no overwhelming victory, but it meant that she could not be challenged for the party leadership for another year. Compared with the ballot of 2016 that elected her leader of the party, it was not much worse. Then 199 had voted for May, 130 against.

⁸⁰ Boris Johnson commented this piece of news by asserting that he understood more about car making than the CEO of Jaguar/Rover Ralph Speth (unfortunately a German). Nick Ferrari: *Interview with Boris Johnson*, LBC 14 January 2019 (https://www.lbc.co.uk/radio/presenters/nick-ferrari/boris-johnson-knows-more-than-jaguar-boss/, 14 January 2019).

The House of Commons voted on the draft treaty on 15 January 2019: 432 votes went against, and only 202 supported the Prime Minister. A total of 118 Tories had voted against their own leader, together with Labour and all MPs from the SNP, the LibDems and DUP. May had only been able to entice three Labour MPs and three Plaid Cymru MPs to her side. Even the only Green MP, Caroline Lucas, had voted against the Prime Minister. It was an unmitigated disaster. It was a defeat of historic proportions, the worst in over one hundred years of Parliamentary history. Under normal circumstances, such a colossal defeat would have forced the Prime Minister to resign on the spot. Corbyn immediately triggered a Parliamentary motion of no confidence.⁸¹ But May survived this motion, as the rebels supported her so as to avoid the spectre of a general election. The Brexit crisis was spilling over into a veritable constitutional crisis. Parliament had refused to endorse the Prime Minister in one of the most crucial political and constitutional questions, but confirmed her in office the next day. It was a bizarre contradiction in terms. It showed that the relationship between government (the executive) and Parliament (the legislature) was deeply flawed. Some MPs were forging plans to wrest executive control from the government and take matters into their own hands.

The constitutional bodies of the United Kingdom have fallen into an entanglement. It will be difficult to set them free again from this knot. Whatever the future, this crisis will shape the future relationship between these constitutional bodies for some time to come.

The vote of 15 January casts a revealing light on the divisions tearing apart British society, political parties and Parliament. Since the summer of 2018, three groups can be identified:

Remainers: They would love to overturn Brexit altogether and continue EU membership. They oppose any Brexit deal.

Free traders and sovereignty zealots: They want to leave whatever the costs. Many of them prefer a no-deal because it is the only option that restores unfettered sovereignty. They detest temporary membership in a Customs Union (a state of pay but no say), and they regard the backstop as a stab in the back. In their eyes, the concern about the border in Northern Ireland is a brouhaha blown up beyond all reasonable proportions by some scheming Irish republicans, who are trying to hold England hostage and to secretly

⁸¹A Parliamentary vote of no confidence has potentially much more serious consequences than the party vote of no confidence that May had survived back in December as it would allow the legislature to remove the government from office. The government would have to resign or call a general election once it was unable to retain the confidence of the majority of the House of Commons. This was precisely what Corbyn wanted: an early election and a Labour triumph that would make him Prime Minister.

prepare the ultimate absorption of Northern Ireland into the Republic. They are fundamentally opposed to May's project. There is no member of this group left in the cabinet, with the possible exception of Liam Fox. Even Michael Gove has distanced himself from this fundamentalist approach. This group is happy to block any reasonable treaty with the EU. It has failed to submit any realistic alternative plan of its own.

Pragmatists and agnostics: They go along with Brexit because it is mainstream. They want to avoid a no-deal under any circumstances. They are also opposed to any solution that imposes indefinite conditions on the United Kingdom. They are open to suggestions that meet these two objectives. But they are split between those that go along with May's plan and those that deem it insufficient.

These three groups are blocking each other. Two of them are united in their negative agenda, but none of them can command a majority. On 15 January, each of them marshalled about 200 MPs behind their position, resulting in a solid front of denial against which no positive proposal has a chance.

3.9.2 Parliament's No, No, No Is Not an Answer

Difficile est saturam non scribere It is difficult to refrain from writing a satire Juvenal, Satire

> Liars and Unicorns George Orwell [38]

How was May to proceed after this crushing defeat? Brexit day was approaching fast. May kept reaffirming that the Brexit date of 29 March should not be postponed, that the referendum vote expressed the will of the people and that to disregard or to modify it would be treasonable and antidemocratic. The ensuing ten weeks are bound to enter the history books as the most convoluted, confused, and chaotic period in any parliamentary democracy. May clung to her deal: she was stubborn and obstinate, unbending and rigid. She simply repeated her stereotyped formulae and kept hammering her deal into the heads of recalcitrant MPs. It is beyond the scope of this chapter to recount all the details of the tactical manoeuvrings, the intrigues, the backstage deals, and the bizarre political contortions that took place in the first few months of 2019. Serious analysts have spoken of starry-eyed dunces hunting unicorns, of endless rainbow chasing and of persistent and unrepentant liars.

Others, echoing bitter comments after the Great War, spoke of donkeys led by moles. 82

The next step after the rejection was a vote in Parliament to replace the repugnant backstop with a legally binding alternative arrangement (but without specifying what such an alternative arrangement might look like). The Daily Mail jubilantly proclaimed "Theresa's Triumph". ⁸³ But within minutes, Brussels commented dryly that the negotiated treaty was not open for revision. Parliament endorsed a motion on rejecting a no-deal Brexit. It rejected a number of other motions—amongst them an initiative to allow Parliament to discuss and vote freely on alternatives (indicative votes) and a suggestion to seek an extension of the Brexit-deadline beyond 29 March. May was increasingly torn between the hammer of a Parliament demanding far-reaching modifications of her draft treaty and the anvil of an EU that kept repeating with adamant insistence that the negotiated text was not open for revision.

The paralysis of parliamentary decision-making peaked in the four weeks preceding the ominous 29 March 2019, the date by which the United Kingdom should have left the EU in accordance with Article 50.

In order to fulfil her promise to seek a change in the legal character of the backstop, May dispatched her Attorney General Geoffrey Cox to Brussels and herself went to see the President of the Commission Juncker in Strasbourg on 11 March. Both were ill prepared and poorly informed about the EU position. Both came home empty-handed.

May lost the second 'meaningful vote' on 12 March after the Attorney General had been unable to declare that the legal risks inherent in the backstop had now been removed.⁸⁴ This spelled another overwhelming defeat for the Prime Minister. May lost the second vote on her deal by a margin of 150 (391:242). It was not as devastating as the vote on 15 January, but still represented a second trouncing for the Prime Minister—which under normal circumstances would have required her to resign immediately. But May was determined to carry on despite the hopeless circumstances.

In the meantime, discipline in the cabinet and within the parliamentary party groups eroded quickly. MPs formed new sub-groups like the Alternative

⁸² After the 1918 criticism of the military leadership of the British expeditionary army in Flanders found expression in the words that the British soldiers had been lions led by donkeys. Alan Clark: *The Donkeys*, New York, Morrow (1961).

⁸³ Daily Mail, 29 January 2019.

⁸⁴ Letter of the Attorney General to the Prime Minister containing his *Legal Opinion on Joint Instrument* and *Unilateral Declaration concerning the Withdrawal Agreement*, 12 March 2019 (https://de.scribd.com/document/401686634/Legal-Opinion-on-Joint-Instrument-and-Unilateral-Declaration-concerning-the-Withdrawal-Agreement, 2 April 2019).

Arrangement Working Group, a group that was dedicated to supporting the 'Malthouse Plan B' (the name in itself a monstrosity; in Brussels it was called behind closed doors the 'Madhouse Plan Blur') and the One Nation Group. Ministers abstained or even voted against the government which they were supposed to be serving.

On 13 March, May again asked Parliament to vote on the deal. May had promised a free vote. The Government sponsored motion had left no-deal as the default option in case no other deal found a majority. But Parliament first passed an amendment that closed even that last loophole for a no-deal (votes 312:308). Learning of this sudden change in the wording of the government's motion, the Government re-imposed a three-line whip—only to lose the ensuing vote by a crushing 321:278 votes. May commented dryly that a no-deal could not be avoided by voting against it, but only by voting for a deal.⁸⁵

The following day Parliament voted overwhelmingly for an extension of the Brexit period (413:202). Another initiative to give Parliament control over its own agenda in order "to enable the House of Commons to find a way forward that can command majority support", and thus open the way for indicative free votes was defeated a second time, but this time only narrowly (314:312).

May was unrelenting in her resolve to push her deal through Parliament and she announced that she would call for a third meaningful vote. The Speaker, John Bercow, declared such a third vote on an identical bill inadmissible, invoking a precedent dating from 1604. He insisted on substantial changes before admitting a third vote. Theresa May felt and resented the growing pressure that was constricting her scope for action day by day. She committed a serious mistake that could not be repaired. In another televised address to the people, she scolded Parliament for obstruction and appealed directly to the people and grassroots support:

"Two years on, MPs have been unable to agree on a way to implement the UK's withdrawal. As a result, we will now not leave on time with a deal on 29 March. And of this I am absolutely sure: you the public have had enough. You are tired of the infighting. You are tired of the political games and the arcane procedural rows. You want this stage of the Brexit process to be over and done with. I agree. I am on your side. It is now time for MPs to decide. Do they want to leave the EU with a deal which delivers on the result of the referendum—that takes back control of our money, borders and laws while protecting jobs and our national security? Do they want to leave without a deal? Or do they not want to leave at all, causing potentially irrepa-

⁸⁵ Sarcastic commentators wrote: "15 April 1912, 23.35h: The crew of the Titanic votes not to change course, not to collide with the iceberg, not to wreck the ship, not to sink, and not to drown the passengers. It votes for the iceberg to get out of the way."

rable damage to public trust—not just in this generation of politicians, but to our entire democratic process? It is high time we made a decision. So far, Parliament has done everything possible to avoid making a choice. Motion after motion and amendment after amendment have been tabled without Parliament ever deciding what it wants. All MPs have been willing to say is what they do not want. I passionately hope MPs will find a way to back the deal I have negotiated with the EU. A deal that delivers on the result of the referendum and is the very best deal negotiable. But I am not prepared to delay Brexit any further than 30 June."86

These were revolutionary words. May spoke like a tribune of the people against their oppressors. Vladimir Lenin might have spoken like this against the incompetent and impotent Duma in 1918. May appeared to forget that her position as Prime Minister depended on the support of precisely those MPs that she reviled in her speech, and that the power and authority of her government was derived from Parliament. Her speech must count as one of the rare examples in history of a political leader knocking away the pillars of power herself.

On 24 March, the greatest demonstration the United Kingdom had ever seen (more than one million participants) marched through the streets of London. Aerial pictures showed the thronged masses surging through Whitehall, filling Great George Street, Horse Guards, the Mall, and Constitution Hill down to Wellington's Arch. This demonstration indicated the accelerating change of mood in the country. People were not only tired of the ineffective leadership and the stalemate in Parliament. They were increasingly afraid of the future as the awareness grew that instead of milk and honey Brexit might mean food rationing and shortages of medicines.

Parliament, however, continued to indulge in unbridled flights of fancy. Party politics and power intrigues were more important to most MPs than forging a national consensus in a matter of vital national interest. May's position was waning for everybody to see. So rumours about potential successors overshadowed the search for a majority for Brexit. Several Conservative party members put great efforts into presenting themselves as suitable successors.

On 24 March, May convened her cabinet and some leading MPs of her party for a meeting at Chequers in order to thrash out a common position. Again, she failed miserably. On 25 March, Parliament finally accepted the motion of Oliver Letwin (329:302), granting itself the right to vote on alternative proposals in order to find out whether one of them would find a majority

⁸⁶ Theresa May: *Televised Address*, 20 March 2019 (https://www.gov.uk/government/speeches/pm-state-ment-on-brexit-20-march-2019, 2 April 2019).

(indicative voting). Three junior ministers resigned from the cabinet, and 29 Tories supported the motion, which was a concealed censure of the government. On 27 March (two days before Brexit day), Parliament finally voted on eight motions, sounding out if there was a spontaneous majority for any of them. None of these eight models found a majority (Fig. 3.2).

This left the United Kingdom in a situation of paralysis: A government committed to pushing through a project that kept being turned down by Parliament, and a Parliament that arrogated to itself the initiative to look for new ways forward—only to admit that it was unable to find one.

But worse was to come: On 29 March, May suffered the third humiliating defeat of her project. She had circumvented the objections of the Speaker to a third meaningful vote by dropping the declaration about future relations and submitting only the text of the withdrawal treaty. She even promised to step down once Parliament had approved her treaty. She offered Parliament the opportunity to get rid of a Prime Minister it detested provided the MPs accepted a treaty that they had already rejected twice. The offer only underlined her desperation. Nobody was swayed by this vague offer, and many MPs still chafed under the words of her televised address a week before. But the size of her defeat diminished. On 15 January, she had lost the vote in Parliament by 230 votes. On 12 March, she remained short by only 150 votes. This time,



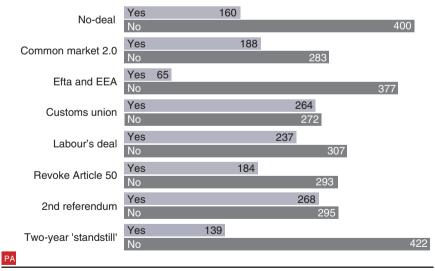


Fig. 3.2 Voting results in the House of Commons on 27 March 2019 on eight alternative Brexit models. Source: Parliament.uk

she lost by 58 votes (344:286). The shrinking size of the resistance was the only meagre comfort that May could derive from this vote.

She had already submitted a letter to the EU asking to postpone the deadline for Brexit until 30 June. On 22 March, the European Council had given her a rather cool answer: she could have an extension of the Brexit period until 22 May, provided Parliament agreed to the Withdrawal Treaty by the end of the week. If not, 12 April would be the new Brexit day.

The parable of the chess player came true in a grim fashion. Prime Minister May had started off briskly with demands for a hard Brexit and the flourish that no-deal would be preferable to a bad deal. In fact, she had reaffirmed these words as late as September 2018. In her speeches in Lancaster House and in Florence, she had drawn the red line against a Customs Union and the Single Market. She had excluded any changes to her plan. She had asserted that there were no alternatives. She had insisted that Brexit should take place no later than 29 March 2019. She had ruled out any extension. She had tried to ignore the procedural ruling of the Speaker of the House. She had failed miserably on all these points and executed a U-turn. She now admitted that a no-deal should be avoided under any circumstances. She now accepted a Customs Union as the landing place for the United Kingdom after Brexit. She had asked the EU for substantial changes in the Draft Treaty, she had to admit that the indicative votes in Parliament presented alternatives to her project, and she had to ask for an extension of the Brexit period. Now she had to accept Bercow's ruling and submit her deal in a substantially changed form. But these humiliations were not enough. After a seven-hour meeting of her cabinet on 2 April, she announced that she would now seek a bipartisan solution in close cooperation with Jeremy Corbyn, the leader of the opposition, whom she had missed no opportunity to execrate since taking office. And she asked for another extension of the deadline—again until 30 June—a date that had already been rejected by the EU.

May's first priority had been to keep her party together, to absorb UKIP, thus giving the Conservatives new numeric strength, and to rely on the DUP MPs to shore up her majority. She managed to turn the DUP into her worst opponents, she never considered that gaining numerical strength would put the programmatic coherence of her party to the test, and she never grasped that through her vacillating course she undermined the political cohesion of her party. May's expectation management, like that of her predecessor, was disastrous and self-defeating. After whipping up radical Brexit feelings with phrases like 'no deal is better than a bad deal' and categorically rejecting any variety of a soft Brexit, she had to admit that nothing was worse than a nodeal and to seek an understanding with the opposition about a permanent

Customs Union. After having fed the Brexit radicals raw meat, she suddenly forced them onto a vegan diet. In all probability, Theresa May will go down in history as the poorest leader of the Conservative Party and the worst Prime Minister in British History.

May's failure has been complete and devastating. She had put party before nation, and in the end the party deserted her. She had ignored Parliament, and Parliament had resoundingly snubbed her. Her approach to Brexit had been a mixture of blackmail, bribery and betrayal, as a prominent Irish observer remarked:⁸⁷ Blackmail, as she tried to run down the clock on the Parliament and to force MPs to accept her deal for fear of a no-deal. Bribery, as she repeatedly bought the votes of the DUP MPs, announced huge increases in the NHS budget, and finally even promised massive investments in the Northeast of England where sentiment for a hard no-deal Brexit had been strongest. And Betrayal—she first tried to leave Northern Ireland practically inside the EU in order to obtain Brexit conditions convenient for England. But the Unionists, smelling that they were to be sacrificed on the altar of a 'UKIPised' Tory-party, refused to follow the Prime Minister and from indispensable supporters they turned into defiant opponents of May's deal.

Meanwhile, the tragic farce continued in the House of Commons. On 1 April, it proceeded to the second part of indicative votes. This time the Speaker had allowed four propositions. Again, they were all voted down. The motion of Kenneth Clark, a pro-EU veteran within the Conservative party, advocating a permanent Customs Union came within an ace of finding a majority (276:273), followed by the vote on another referendum (292:280) and on Nick Boles' proposition that was called 'Common Market 2.0' and that amounted in effect to a slightly modified Norway-model (282:261). Nick Boles—visibly shaken and with tears in his eyes—resigned his membership in the Conservative Party.

However, there was a clear majority against a motion that would have given Parliament the lead role in all future Brexit negotiations (292:191).

Although Parliament had by now voted three times against a no-deal, a motion calling for a no-deal Brexit was put to the vote again on 28 March. As expected, it was again soundly defeated (400:160). But the number of MPs voting for this motion gave a good indication of the strength of the radical

⁸⁷ Brendan O'Leary: *How Theresa May's Brexit Deal Collapsed. The Return of the Irish Question*, Foreign Affairs, 25 May 2019 (https://www.foreignaffairs.com/articles/ireland/2019-03-25/how-theresa-mays-brexit-deal-collapsed?utm_medium=newsletters&utm_source=fatoday&utm_content=20190403&utm_campaign=040319%20FA%20Today%20Europe%27s%20China%20Policy%2C%20A%20New%20Americanism%2C%20The%20Irish%20Question%20Returns&utm_term=FA%20Today%20-%20112017, 5 April 2019).

Brexiteers among MPs. At the same time, 170 MPs (Tories and DUP) put their signature to a letter to the Prime Minister urging her to withdraw from the EU without a treaty, thus confirming this estimate of diehard Brexiteers.

The comments in British and international papers grew more sarcastic by the hour. May was nicknamed LINO (leader in name only), what she was offering was BINO (Brexit in name only) and SINO (sovereignty in name only). Others quoted the last lines of Hotel California: "You can check out any time you like, But you can never leave!" A leading newspaper in Australia commented: "It is like watching a loved grandparent in physical and mental decay."88

Brexit had degenerated into a quagmire of personal feuds, political grand-standing, blurred vision and a total disconnect between government, Parliament and the continental partners. Ever since the EU Council of 22 March 2019, control of the Brexit process had shifted into the hands of the EU. It was not only defining the issues. As the Brexit process had left the legal confines defined by the Lisbon Treaty, the EU was now also in a position to define the rules of the game. Britain was dependent on the continued favourable consensus of the EU27. Proud Britain had become a supplicating mendicant. It was all the more inconsiderate that Jacob Rees-Mogg saw fit to tweet on 5 April: "If a long extension leaves us stuck in the EU, we should be as difficult as possible. We could veto any increase in the budget, obstruct the putative EU army and block Mr Macron's integrationist schemes." 89

The next episode in the interminable Brexit- saga opened in Brussels on 10 April. The emergency session of the European Council decided to extend the Brexit deadline until 31 October 2019—seven months beyond the date set by the treaty, two full months after the summer break and almost a month after the annual Tory Party Convention. This was a compromise between Member States that were prepared to offer an even longer extension until March 2020 (Germany, Netherlands) and France that insisted in maintaining time pressure on Britain. The EU insisted on conditionality: The UK would have to participate in the elections for the European Parliament and it was to undertake not to interfere in the decisions that affected EU-matters beyond that date, in particular the contentious negotiations about the septennial financial framework. The UK was free to leave earlier, provided it could get approval for the Withdrawal Agreement that had been on the table since mid-November 2018.

⁸⁸ Nick Rowley: *Why Brexit may see Australia's special relationship with the UK go up in flames*, ABC News, 9 April 20129 (https://www.abc.net.au/news/2019-03-10/brexit-and-australias-relationship-with-britain/10879914, 9 April 2019).

⁸⁹ Jacob Rees-Mogg, Twitter, 5 April 2019.

⁹⁰ The Conservative Party Conference is scheduled to be held in Manchester from 29 September to 2 October 2019.

A totally exhausted Prime Minister informed Parliament in Westminster of the new situation, exhorted all MPs to be aware of the decisions that still had to be made and then sent them off for the Easter recess.

After almost three years, after billions of pounds wasted on papers and emergency preparations, after millions of hours of highly paid civil servants being wasted, after having neglected so many other urgent political problems in favour of the predominant Brexit process, it was time to realise that Brexit had been a *fata morgana*. What emerged in the shape of a hybrid of Customs Union and Common Market 2.0 was in many ways worse than full membership. It entailed the prospect of continued high contributions to the EU budget, it blocked a national trade policy and it deprived the United Kingdom of any say in a large swathe of political decision-making. The nightmare of all Brexiteers—the alleged slavish subjection to the dictates of Brussels—would now be much closer to reality than ever before, because the United Kingdom would drift into a situation where it was obliged to shadow most significant movements and implement the bulk of regulations that the EU decided in Brussels, but without any recourse and without any influence.

The preliminary result is sobering. The British body politic can only find agreement in rejecting two extremes. There seems to be no desire for a no-deal Brexit and, equally, there seems to be little inclination to continue the status quo of full EU membership. That leaves as a realistic solution only something between May's project—which has been repudiated three times—and a Customs Union with or without access to the Single Market. The final outcome will be hotly contested. It may well break the present party structures, it could incite street violence, it could favour the rise of entirely new parties, and it could provide the incentive to fix at least some fundamental elements of the British constitution—such as holding referenda.

3.9.3 A House Divided Against Itself Cannot Stand⁹²

A plague on both your houses Shakespeare

It is difficult to predict the future course of Brexit. By 12 April no-deal was no longer an option. It was clear, that both sides abhorred such an outcome

 $^{^{91}}$ On 11 April the British government announced that 6000 Civil Servants who had been recruited to prepare for the emergency of a no-deal would return to their normal duties. The costs for this emergency planning was estimated at around £1.5bn.

⁹² Abraham Lincoln, 16 June 1858 at the Capitol in Springfield, Illinois. He was of course inspired by the words of Jesus: 'Every kingdom divided against itself is brought to desolation; and every city or house divided against itself shall not stand.' Matthew 12:25.

and had used it only to intimidate the other side for tactical reasons. The Withdrawal Treaty of November 2018 (May's deal) was as good as dead after the House of Commons had voted it down three times, the main stumbling block still being the backstop solution for the border between Ireland and Northern Ireland.

The extension until October further undermined May's standing as she had gone down on record that she would rigidly oppose any extension beyond 30 June. Her tactics of subduing Parliament through attrition and exhaustion had backfired. Instead of crumbling out of fatigue and frustration, the House of Commons reasserted its own powers against the government. It wrested control of its agenda from the government and prescribed certain policies. That upset the traditional balance between the executive and the legislative branches of government and may well have far reaching repercussions for the future.

It will remain difficult to oust the Prime Minister, for as long as the talks between Theresa May and Jeremy Corbyn, the Leader of the Opposition, go on, Labour cannot initiate a no-confidence motion. And if the two were indeed to find a mutually agreeable formula, that result would probably be applauded by the front benches on both sides of the House and cause deep resentment and rejection on the back benches.

Brexit, praised as the breakthrough to a bright future, 93 to more freedom and national sovereignty, has turned into an unfathomable quagmire of confusion and humiliation. On 10 April May's complete powerlessness was obvious to all onlookers. As one observer put it succinctly: Britain was down, but not out. 94

In the end, May capitulated. She abandoned the thought of presenting the Withdrawal Treaty a fourth time in Parliament. Instead, on 24 May she announced her resignation as leader of the Conservative party and Prime Minister with effect from 7 June 2019. At the end of her announcement, she broke down in tears. Her resignation means that a successor will not be appointed before mid-July—a serious loss of time: Of the six months' reprieve granted in April 2019, two months have been wasted.

The central question will be: Will this extension be sufficient for Britain to sort out its position on Brexit? Or will it simply amount to procrastination and deferral? Britain finds itself in a multidimensional dilemma: As long as

⁹³ Theresa May used these words again in her presentation to Parliament on 11 April.

⁹⁴Tom Kibasi: *The EU's new October extension finishes off May and her deal*, Guardian, 11 April 2019 (https://www.theguardian.com/politics/commentisfree/2019/apr/11/the-eus-new-october-extension-finishes-off-may-and-her-deal, 12 April 2019).

⁹⁵ Her resignation speech on youtube: https://www.youtube.com/watch?v=tY4ZY2HFnfA.

the present arithmetic in Parliament persists, a clear and convincing majority for any outcome remains unlikely. Early elections could change that arithmetic, but will require either a two-thirds majority vote in the House of Commons, or for the Government to lose a vote of no-confidence. But in view of the deep antagonisms inside British society it remains highly unlikely that early elections will return a Parliament with an absolute majority. Another hung Parliament with increased representation of smaller parties seems more likely. The elections for the European Parliament on 23 May might be an indicator of how public opinion is developing. At the moment, it looks as if turnout could be higher than normal, ⁹⁶ but the votes more antagonistic. Nigel Farage will probably celebrate another triumph, the Conservatives will be thrashed, and Labour will probably do surprisingly well. For the Prime Minister to call a national snap election after such ominous foreshadows and before the Party Conference would be political suicide. Purely procedural steps will not find the way out of this dilemma. The solution cannot be found in process alone or in exploiting recondite nooks in rules of procedure. It cannot result from ramming May's project again and again against the solid wall of parliamentary resistance. It must be found in changing attitudes, changing minds, and building reliable majorities. That presupposes a long national debate, uncontested facts and a sober assessment of the economic strength and vulnerability of the country. With each passing month, a position that rigidly clings to a referendum more than three years back loses legitimacy. People can change their minds. Demographic change has already diminished the age group that predominantly voted Leave⁹⁷ and enfranchised almost two million young citizens who would probably vote overwhelmingly in favour of Remain. The longer the Brexit-saga is drawn out, the higher the probability or even inevitability of another referendum.

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 $^{^{96}}$ Turnout at the the European Elections in 2014 had been 36%—significantly lower then the EU28-average.

 $^{^{97}}$ There are about 600,000 deaths annually in the UK. Since referendum day, around two million people have died.

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4

Brexit and No End

4.1 A Preliminary Assessment

But 'tis the talent of our English nation Still to be plotting some new reformation John Dryden

4.1.1 A Lack of Understanding

Brexit is a paradigm of how *not* to conduct a referendum. David Cameron manoeuvred himself into a dead end from which the referendum finally seemed the only escape. A people's vote may have been inevitable in the long run, given the irreconcilable fissures within the major parties. Both the Conservatives and Labour suffered a deepening rift within their own ranks over the European question. The way in which Cameron stumbled into this adventure was foolhardy and ham-fisted. To ask the people a question that may entail grave, far-reaching and extremely complex consequences—a question that cannot easily be reconsidered—would have deserved more intensive, systematic and thorough preparations.

Cameron stumbled on three accounts: He wanted to keep the United Kingdom inside the EU—but effectively catapulted it out. He wanted to heal the rift within his party—but made the internal antagonisms irreconcilable, bringing his party to the brink of a break-up. He wanted to exorcise the EU-phantom once and for all from British public life and to open a period of certainty—but he turned out to be the Harry Potter that inadvertently helped reinvigorate the bloodless Voldemort, plunging his country into confusion and discord, pushing it to the verge of political revolution. He threw Labour

into an insoluble dilemma and he plunged the people of his country into embittered animosities. Some observers feel tempted to compare the situation with the years preceding the Civil War in the seventeenth century when Royalists and Puritans were drifting apart into growing hostility. Cameron will presumably enter the history books as one of the most remarkable, but also one of the most disastrous, Prime Ministers.

Theresa May's precipitate notification of her country's intent to leave the European Union in accordance with Article 50 was no less inconsiderate. At that time, she had not worked out any operational strategic concept or tactics for the impending negotiations. As she grappled with the challenges she was to confront, her cabinet remained rigidly divided. The antagonisms within her cabinet grew worse, despite a series of resignations. Trivial phrases like 'Brexit means Brexit' papered over the divergent, if not contradictory, visions of her ministers. The Civil Service soldiered on but remained without guidance. Brexit negotiations were unexplored territory. There were no maps, no signposts, and no precedents. It was a surprising move to entrust responsibility for these negotiations to a new ministry where civil servants freshly recruited from various backgrounds and departments lacked a common language, a common culture and a common vision. For many, this assignment was just a temporary career diversion, and their primary aim was not to damage prospects for further promotion. As to Brexit options, most of them were indifferent, if not ignorant. May took great care to wrest all Brexit competences from the Foreign Office, which was headed by her archrival Boris Johnson. She appointed David Davis as Secretary of State of the newly created Department for Exiting the European Union (DepExEU), a man who had unsuccessfully challenged David Cameron for the party leadership in 2005 and who distinguished himself by a good number of inaccurate assessments and predictions.1

A final element in the chaotic way Brexit has been handled was the inability of the British government to understand the priorities, mentalities and animosities of their continental neighbours. Or was it inexperience? Repeatedly, the government tried to push its interests by means of threats, intimidation, pressure and downright bluff. It foundered in trying to break up the phalanx of the EU27 through bilateral initiatives. It was not prepared to revise its own position in order to reach common ground through compromise or by taking

¹ Davis is on record that negotiating a Brexit treaty would be easy and could be done within months, continental industries would pressure their governments to grant the UK a bespoke agreement for fear of losing the British market, and that the UK should close ist airspace to EU flights in order to exert pressure. The fact that all eastern air routes from the UK lead across EU airspace did apparently not occur to him. In November 2018 he donned full battle fatigue of a pilot of the Battle of Britain.

on board some of the fundamental interests of its continental neighbours. It preferred to operate by means of negative, threatening scenarios rather than highlighting positive, win-win situations. It intimidated instead of wooing; it made peremptory demands and then overbid its hand. It acted like a chess player who starts with bold aggressive moves and then fails in the endgame. The Chequers Paper, the clumsy appearance at the Salzburg summit, the numerous unsuccessful attempts to renegotiate the agreement of November 2018 all indicated that the machinery in Whitehall was severely out of touch with Brussels. There was no back-channel, no personal contact that might have helped to avoid the most glaring missteps. It all culminated in May's last desperate attempt to request an extension of the deadline. In her letter to Donald Tusk she suggested 30 June 2019—only to be told that that date was completely unacceptable and that the final Brexit date would have to be either 22 May or 12 April 2019.

Unfortunately, the same was equally true for the other side: Continental politicians failed to understand the constraints under which Theresa May had to operate. One diplomat commented: "After forty years, the Brits leave without ever understanding the European Union". It would be apt to add: During those forty years, the European Union showed itself equally inept in convincing the British of the advantages and the philosophy of the Union, or to offer them a niche in which they might feel comfortable. The curse of the latecomer never left the United Kingdom. It had been presented with a fait accompli in 1973, with structures and procedures in whose formation it had not had a hand. Most British politicians and legal experts gravely underestimated the dynamics and the ambition involved in the EEC project.³ Britain struggled from the moment it joined with an environment in which it did not feel at home. Conversely, the continental EU Member States took Britain's membership for granted and failed to see the many incongruities that existed in constitutional practice and theory, in economic structures and mentality. The United Kingdom was simply expected to conform and if things did not fit, Britain was expected to adapt to established EU norms. Alternatively, it was granted an exception. But each exception only served to deepen the gap and to hasten mutual alienation. Nobody dreamed that accepting the United Kingdom as a new member might imply modifying the EU in some of its essential aspects. And by playing along according to the established rules, the United Kingdom

² Personal communication to the author.

³Two quotes from the parliamentary debates of 1972 may illustrate this point. "It is abundantly obvious that this Bill does nothing to qualify the sovereignty of Parliament." (Lord Hailsham, Lord Chancellor). "The ultimate supremacy of Parliament will not be affected." (Sir Geoffrey Howe, Solicitor General). Vernon Bogdanor: Beyond Brexit. Towards a British Constitution, London, I.B.Tauris (2019), pp. 57–72.

confirmed these assumptions. When it later resorted to exceptions and optouts, it failed to notice that each opt-out implicitly confirmed the rule simply by being called an opt-out.

Another explanation for the longstanding misunderstandings between the EU and the UK may lie in differences in legal traditions and structures. Most EU members—including the original Six—have a legal system that is based on Civil Law. England is proud of its Common Law which is created by the judiciary, not by the legislature. The systemic hierarchy and the abstract terminology of Roman Law have never taken root in English courts. There is a vast difference between the systemic approach of Civil law and the often pragmatic, flexible approach to legal methodology characteristic of the Common Law. This has often been reflected in the conflicts between the UK and the EEC/EU—the EU's adherence to core principles, strict regulation, statutory references and legalisms was increasingly at loggerheads with the UK's pragmatic, but adversarial approach. It may also go some way towards explaining the long impasse over the Draft Treaty. The Treaty takes a Civil Law approach of providing a bare-bones outline, with details to be fleshed out at a later stage. The Parliamentary opponents who were holding up the Treaty in the UK Parliament were demanding a legally binding definition of how to put an end to the backstop before approving it.

Brexit will make it almost impossible for Britain to make its voice heard in EU affairs. And it will consolidate the EU in its present structures by making reform practically impossible for years to come. On the continent, the EU is almost omnipresent. The blue flag with the twelve golden stars flutters in front of public buildings. There is no sermon or soapbox oratory without an emphatic 'I believe in Europe'. The origins, the history, the institutions and the functioning of the EU are taught at school. Innumerable academic institutions, university chairs and public relations agencies incessantly explain the EU from all possible perspectives. They publish a steady stream of studies, handbooks, analytical probes, scenarios and concepts for the future.

There is nothing comparable in the United Kingdom. Only embassies in London and a few consulates in the big cities fly the EU flag. Apart from that, it is the Union Jack—and increasingly, the English St. George's Cross, the Scottish St. Andrew's Cross, or the Welsh flag of St. David—that dominate flagpoles. The EU flag is conspicuously absent. School curricula rarely bother with the EU. In the universities, European studies are reserved for a handful of *cognoscenti* and *dilettanti*; they do not command more attention than Asian

⁴Ireland has a Common Law system; Malta has a hybrid system that mixes civil law and common law influences.

or African studies. There are a number of highly respectable British (in fact almost exclusively English) think tanks that specialise in European affairs.⁵ But they do not try to convert people to the European ideal. Instead of doing missionary work, they present critical analyses, identify shortcomings and call for reform, if not retrenchment. When politicians in the United Kingdom mention the EU, they mostly do so in a critical, sarcastic or dismissive vein. The EU is rarely present in the minds of the majority of Britons, and when it impresses itself on them, it normally does so with negative connotations. Virtually no one in the UK regards the European Union as a road to redemption from a guilt-ridden past of the horrors of war, let alone as the appropriate antidote against rampant nationalism. Instead, most Britons proudly display an unbroken, national pride, particularly when there are major public celebrations or commemorations. Then streets, shops, pubs and public buildings are covered with Union Jacks, people dress in Union Jacks, paint their faces in the colours of the Union Jack, and the air is filled with stirring melodies of Land of Hope and Glory and Britannia Rules the Waves.

4.1.2 The Historical Background

Brexit has highlighted how differently the British define themselves from most continentals. Around the beginning of the sixteenth century, England turned away from the continent. England lost its last possessions on the other side of the Channel, which for almost 500 years had tied together England and large territories in France. King Henry VIII broke ties with Rome and the Catholic Church, which for a thousand years had provided a common bond of beliefs, cultural traditions, exchanges and institutions throughout Europe. Instead, he established the Church of England, of which the secular monarch became the supreme head. Each English monarch is Head of the Church of England. It is a form of cesaropapism—secular and spiritual power in the same hand. Even though no monarch has substantially interfered in ecclesiastical affairs since 1700, they still appoint all bishops of the Church of

⁵ Such as the Centre for European Reform, Open Europe, European Policy Forum, and the Institute for Government.

⁶Since the Norman Conquest, England had been continuously involved on the continent. In the late twelfth and late fourteenth centuries, England controlled more territory on the continent than the King of France. The English monarchy laid claim to the throne of France from 1340 until 1802 (Treaty of Amiens). Until that date, it carried the French lilies in the royal coat of arms to reaffirm that claim publicly.

⁷ The monarchs of England still exercise the function of Supreme Governor of the Church of England.

England. Religiously, England took a unique path. The English never experienced the excruciating dichotomy between secular and spiritual loyalties and the ravages of religious wars that left such deep traces in German and French history. The conflict between the High Church and the Puritan radicals was of a different nature. Much of this tension was eased through emigration.

The English Channel left the English aristocracy relatively isolated. On the continent, noble houses intermarried across cultural, political and even religious boundaries. Most English monarchs married foreigners from the continent,⁸ but the English aristocracy preferred spouses from within the country. It remained apart and as a consequence of strict male primogeniture, it remained smaller and more homogeneous than the nobility on the continent.

For most Britons, relations with Anglo-Saxon peoples in former colonies such as Canada, Australia, New Zealand—and, of course, the United States are closer and more intimate than with continental neighbours. The Kings and Queens of England are not only the keystone that holds the United Kingdom together⁹; they are also Heads of State in sixteen Commonwealth countries. Souvenirs from some ancestral colonial service in far-flung parts of the Empire are more frequently found in British homes than from trips to the continent. English as a common language and a plethora of similar institutions provide a common background that still unites these countries despite of physical distance. On the continent, most people speak at least one foreign language and many grow up multilingual. A sound grasp of a foreign language remains a rarity among British-born subjects, not least because of a lack of language teaching in schools and universities. Continental architecture has left deep marks on the design of English country houses. But renaissance and classical designs remained a taste limited to the upper class. The majority of English people loved their gothic heritage. Railway stations, the Palace of Westminster (the Houses of Parliament), hotels and university colleges followed the precepts of Gothic aesthetics.

⁸ Strictly speaking, no King or Queen of England ever came from an English background: The Plantagenets were French, the Tudors Welsh, the Stuarts Scottish, William III and Anna were Dutch and the Hanoverians and the House of Saxe-Coburg-Gotha were German. Only during the Great War in 1915 did the monarchy change its name to the current House of Windsor. Prince Philip was born a Battenberg, an old noble family from Hesse. The British branch changed their name to Mountbatten in 1917. Mary, the wife of George VI, was Scottish. Charles, the son of Elizabeth II, was the first member of the Windsor family to take an English wife—twice.

⁹The United Kingdom is the only modern state that defines itself through its form of government (monarchy) without reference to a nation or a territory (although strictly speaking it is the United Kingdom of Great Britain and Northern Ireland; but then what about Gibraltar and the other dependencies?). The only other state that defined itself exclusively through its form of government without reference to people or territory disappeared in 1990. It was the Soviet Union.

Finally, the United Kingdom is the only European country that fought in the Second World War and escaped fighting on its own soil, occupation and the breakdown of traditional institutions. The United Kingdom emerged as a victorious nation after World War II, on an equal footing with the two superpowers.

These are some of the factors that help explain why the British are more committed to their peculiar identity and their traditional idiosyncrasies. They may also explain their excessive preoccupation with the traditional left-hand-drive traffic and their imperial weights and measures. Metrication is still frowned upon by some who see it as a sacrilege of French revolutionary rationalists, spiteful of tradition and completely un-British. Enthusiasm for European unification has never been strong in the UK, and in no other country has it been opposed by such a strongly engrained tradition of national self-assertiveness.

4.1.3 Some Sociology of Brexit

There are three large social groups that support Brexit. First, there are Conservative radicals in the spirit of Margaret Thatcher. They would like to roll back the role of the state in free markets. They are still chafing that the Maastricht Treaty and Black Wednesday resulted in thirteen years in opposition for their party—the longest period of Tory opposition in history. For them, Brussels is synonymous with meddling bureaucracy—if not the first step towards planification and full-blown socialism. It is an irony of history that Margaret Thatcher herself was an ardent supporter of the Single Market. So much so that she was even prepared to accept majority voting in the European Council—perhaps because she was not aware that the Single Market would open the door for the kind of social regulations that Jacques Delors later pushed so effectively and that majority voting would lead to a gradual, imperceptible but irresistible slide towards isolation. Each new exception that the United Kingdom demanded from the EU reinforced this isolation and reduced British influence in decision-making in Brussels. Both the Single Market and majority voting created preconditions that would eventually lead to Brexit.

This is apparent in the present dilemma faced by many Conservatives. On the one hand, in pushing for completion of the Single Market they have in mind free competition in a European market without regulations and political constraints. The more the EU casts an ever denser network of regulations and directives over the Single Market, the more British free marketeers feel

snubbed. Their main concern is to roll back intrusive political interference in market transactions, reduce public expenditure (including social benefits) and to prevent workers or consumers from having an strong bargaining position. They embrace the model of an unconstrained liberal market economy in the tradition of Adam Smith and John Stuart Mill. They would like to abolish most of the government intervention that Labour has introduced into British politics. They appear to forget that even this option requires active government intervention in granting tax reliefs and subsidies in order to attract international direct foreign investment.

The second Brexit-supporting group consists of small and medium-sized entrepreneurs who are chafing under burdensome EU regulations. Their view is that the EU is a conspiracy among the Germans and the French to secure for themselves advantages in trading conditions. This comes at the expense of their British competitors, who are subject to unnecessary bureaucratic constraints that neutralise their natural competitive advantages through red tape and overboarding requirements concerning documentation and working conditions. Economists speak of 'raising rivals' costs'. The second group fails to realise that the bulk of existing EU regulations would have to be substituted by equivalent national regulations, administered by national authorities. These need not be exact copies of existing regulations. They would probably be laxer and less intrusive. But the objective need to regulate market activities in most of these areas can hardly be disputed. What was initially called the 'Great Repeal Bill' (as a framework statute for the post-Brexit period) is in reality a 'Great Incorporation Bill', incorporating all existing EU legislation into British law to be modified subsequently. In modifying these regulations, British authorities will probably observe different criteria and pursue different objectives. But there cannot be any mistake about two facts: most existing EU regulations will be modified, but not abolished. And the more British regulations diverge from those within the EU, the more difficult it will become for British products to enter the Single Market. No producer within the Single Market will support privileged access for goods from outside when these goods have been produced under conditions which impose less stringent requirements than those to which they themselves are subject.

The third Brexit-supporting group is the largest and the most diffuse. It comprises taxpayers who feel outraged that foreigners flow freely into the country and find a nest well feathered by the British taxpayers whereas they—

¹⁰ It is a remarkable inconsistency in this position that even the most fervent free-marketeers do not dare to attack the NHS—which is arguably a foreign body of socialist, collective inspiration in the British tradition of liberal, individualistic self-responsibility.

as 'genuine' British subjects—have to accept shortages and cuts in essential public expenditure. Why should migrants be entitled to social benefits, and why do they have access to the NHS without ever having contributed to its spiralling costs? This is one of the chief reasons why migration from EU countries arouses more resentment than migration from outside of the EU. For many Britons, traditional migrants have to fight for themselves and earn their living. This corresponds to the principles of individual liberalism. This tallies with their own experiences when they migrated to other continents. EU citizens, however, appear to enjoy undeserved privileges. Most Britons cannot see why their government should not be entitled to distinguish between British and non-British citizens. To many in this group, globalisation and free trade appear suspect. They demand 'England for English people'. The majority in this group are English, for migration is first and foremost an English problem. They proudly fly the English national colours, the red St. George's Cross on a white background. In the last decade, this otherwise forgotten flag has been increasingly appearing in public spaces. This group finds it difficult to understand why migration from EU countries should be treated differently from migration from other countries, although it seems evident that migrants from EU countries are better qualified and have fewer problems in integrating culturally. This group opposes transfers to Brussels. It was successfully targeted by the slogan of the £350 million a week that could be saved through Brexit. But the group forgets that the United Kingdom pays significantly less in terms of GDP per capita and enjoys the singular privilege of the rebate. The United Kingdom's annual contribution to Brussels is roughly equal to what its government spends on social welfare each week.¹¹ Theresa May seems to sympathise with this group.

Unfortunately, none of these three groups commands a majority. They only overlap in their rejection of the EU. But they are at loggerheads with each other about what should replace EU membership. For the sake of completeness, to these three groups should be added a fourth group, which advocates staying within the EU. These four groups block each other and prevent the formation of a decisive majority. This fourfold division is truthfully reflected in Parliament. It permeates both major parties, and it paralyses the old dichotomy between a governing party and an opposition that has always guaranteed (even if narrowly) a majority.

¹¹ The United Kingdom's budget exceeds £800 billion. Of that, £220 billion goes to welfare, i.e. £4 billion each week. The EU budget amounts to roughly £150 billion. The British contribution is about £18 billion, and net transfers (without the rebate and without returns) lie in the region of £5 billion—less than 0.6% of the national budget. Michael Bloomberg remarked in 2017 that Brexit was "the single stupidest thing any country has ever done".

4.1.4 The Loss of Englishness

Brexit can also be seen as a late reaction to the radical individualistic liberalism that Margaret Thatcher espoused. She destroyed the divide between traditional aristocratic paternalism and socialist trade unionism as represented by the Tories and Labour until 1980. The manifold changes are obvious, and nowhere are they more obtrusive than in the City of London. Life in England has lost a lot of its Englishness, its familiar institutions and rituals. Canary Wharf and the new skyscrapers across the City glisten with glass and futuristic architecture. They form a stark contrast to oak-panelled offices in centuriesold buildings with creaking wooden floors, where striped trousers, bowler hats and umbrellas were *de rigueur*. Lyons Tea Corner has disappeared and has been replaced by Nero, Costa and Starbucks. Instead of fish and chips, fashionable foods such as wraps, sushi, spring rolls or hummus dominate the market. The only English fast food that has just about survived is the sandwich. Instead of the dignified business lunch with three courses and a glass of claret, the likes of Pret à Manger, EAT, Café Rouge and Nando's are offering salads with juice or mineral water. Deindustrialisation heralded the death of blue-collar workers as a class and as a self-conscious social group with its distinct social norms, its characteristic accents, and its organisation in trade unions. It destroyed the traditional basis of the large and powerful trade unions that in the 1970s occasioned Edward Heath to run the 1974 election campaign on the question 'Who governs Britain?' Today, the strongest trade union (Unite) under Len McCluskey numbers one and a half million members—compared to the old National Union of Miners (NUM) which alone had a membership of over half a million. The times in which trade unions could defy the government and bring the nation to a standstill are over.

4.1.5 Changes in Political Life

The old political and economic élite is gone. That is fatal for a political culture that rests on consensus, on tradition, on fairness and mutual respect and that thrives on the ideal of the gentleman. The decay in civility is frightening. When journalists talk of 'enemies of the people', 'saboteurs that have to be crushed', '12 'fifth columns' or 'subversive conspiracies', they use Stalinist and Nazi jargon. 'Traitor', 'invertebrate insanity', 'loony', 'fruitcake', and 'racist' are not terms normally heard in parliamentary debates. All political life has

¹² Daily Mail, 4 November 2016 and 19 April 2017.

been suffused with vitriolic venom, and it may have entered a pre-revolutionary stage. Brexit could turn out to be the equivalent to what the *Dolchstoßlegende* (stab in the back) was in Weimar Germany: a convenient charge to discredit political opponents and to shift all blame for your own shortcomings on sinister forces—be that the Jews, conspiring traitors, unredeemed Remainers or the deep state. Fanatical Brexiteers will never admit that they were wrong. They will instead redouble their polemics and denounce their opponents as EU quislings. Brexit has driven a deep wedge of hostility into British politics.

Brexit did not come out of the blue. It has long roots that go back to the aftermath of the Second World War. All the arguments advanced today in the debate between Leavers and Remainers can be traced back over sixty years. Its consequences will reverberate for an equally long time and Brexit will determine the development of political, economic and social life in the United Kingdom for decades. Seventy years after the Second World War and fifty years after the disintegration of the Empire, Brexit poses anew the question of how the United Kingdom and its constituent nations are defining their identity and their role in world affairs. The old dictum of Dean Acheson has lost nothing of its relevance: "Great Britain has lost an Empire and has not yet found a role." ¹³

For years to come valuable resources—money, time, attention, and political energy—will have to be diverted to manage Brexit and its consequences. The UK's ambition is clearly to distance itself from the EU and to revive its aspirations as a global power. Should this run into obstacles, the EU will be branded as the scapegoat. The fact that many of the promises loftily made by the Brexit-prophets in 2016 have evaporated into thin air is already blamed on the EU by many UK tabloids. David Davis complained in an interview that the EU had not given his country any 'advantages'. ¹⁴ Why should it? On the other hand, impatience and incomprehension are growing on the continent about a country that cannot make up its mind, makes impossible demands and almost invariably returns with a demand for renegotiations, exemptions or special arrangements. It is a country that—in the immortal words of Boris Johnson—wants to have its cake and eat it, too. ¹⁵

¹³Speech at West Point (5 December 1962). David Sanders/David Patrick Houghton: *Losing an Empire, Finding a Role: British Foreign Policy Since 1945*, Basingstoke, Palgrave (2016).

¹⁴ Der Spiegel: *David Davis erhebt schwere Vorwürfe gegen Deutschland und die EU*, Der Spiegel 11 January 2019 (http://www.spiegel.de/politik/ausland/brexit-david-davis-erhebt-vorwuerfe-gegen-deutschland-und-die-eu-a-1247566.html, 14 Jan. 2019).

¹⁵ Boris Johnson on 30 September 2016: "Im rather for having my cake and eating it, too." (https://www.thesun.co.uk/news/1889723/boris-johnson-joins-forces-with-liam-foxand-declares-support-for-hard-brexit-which-will-liberate-britain-to-champion-free-trade/, 23 May 2018). On 24 November 2018, at the DUP party congress in Belfast, Johnson demanded: "Junk the backstop and agree that neither side will

4.1.6 The Psychological Factor

Beyond these material effects, the most serious consequences could occur at the psychological level. After two generations, the people on the British Isles began to feel that they were part of a Europe that was coming together. That provoked a reflexive rejection. With the shape that separation is now taking unending disputes over the details of that break-up and over the legally complex problems of defining a stable framework for future—cooperation is bound to end in disappointment, suspicion and aversion on both sides. Many Britons will impute revenge and calculated victimisation to the EU. People within the EU will find it difficult to understand a country that insists on leaving an institution in which they themselves feel at home, while at the same time insisting on unilateral privileges and exemptions. 16 There is a real danger that old nationalist prejudices and stereotypes could be resurrected. The continent might complain about 'perfidious Albion' and the proverbial 'English spleen', whereas on the other side of the Channel one would find pleasure in rubbishing pedantically niggling 'krauts', power-lusting 'huns' and soulless, bureaucratically formalistic 'frogs'. Interminable quarrels, embittered friction and exacerbating animosities could lead to loss of trust and mutual respect. They could form the worst unintended fall out of Brexit. 17 It is less the innocent pride in one's own nation and its excessive exaltation that makes nationalism dangerous. It is the contempt for other nations.

Most of the promises made during the referendum campaign were bogus and never had a concrete foundation. They were mostly vague phrases without tangible, demonstrative examples. Apprehensions and threats bandied about during the 2016 campaign have remained equally undefined. This should not give occasion, however, for nonchalantly dismissing negative consequences of Brexit as an imagined phantom. The massive devaluation of the British currency has softened much of the preliminary effects. More importantly, most of the negative consequences will only become noticeable when they affect investment and logistic chains. And these decisions will not be

introduce a hard border in Northern Ireland." Most of the national-conservative Tories despise the Irish. The Duke of Wellington was born in Dublin. When someone called him Irish because of that, he remarked condescendingly: "Being born in a stable does not make one a horse."

¹⁶ One Brussels diplomat put it succinctly: "When the Brits were in the EU, they always wanted to get out. Now they are finally getting out, and now they permanently pester us with demands of getting in." Personal communication of the author.

¹⁷ Jeremy Hunt pointed out during his visit to Berlin (22 July 2018) that the chance of a no-deal Brexit was growing each day and that there was a danger of sleepwalking into an abyss. A chaotic, catastrophic Brexit would probably shape the attitude of his countrymen to the EU for generations and could destroy relations across the Channel for a long period.

made before the political decision about Brexit is irrevocable. There are grave doubts as to whether it will be possible to find adequate compensation elsewhere for the foreseeable losses in Europe. It is difficult to find another country that, without any necessity, steers itself by its own free will into a situation where food and medicines are stockpiled, people feel it is safer to plant potatoes and cabbage instead of roses or peonies, the armed forces are put on alert in case of civil disturbances, emergency plans for air and road traffic are being made, billions of pounds are transferred to neighbouring countries and thousands of qualified experts with their above-average purchasing power are being pushed out of the country.

Assessing the consequences of Brexit for the United Kingdom, for Germany, the EU and the rest of the world is a speculative business as long as so many details remain undecided. Many questions are so complex that it is impossible to determine how the end-effects of these various factors will interact. Statistical forecasts or extrapolations, models and estimates should evoke a sceptical reaction. Reality is more complex than abstract theoretical simulations. Precise predictions appear unreliable in matters for which there are no empirical facts and precedents. At most, one can sketch contrafactual, conjectural outlines. No one can predict how heavily Brexit will affect the economy, the constitution, or the social fabric in the United Kingdom. No one can predict how long they will be felt and whom they will hit hardest. Brexit could unleash new energies and new creativity, but it could equally lead to resignation and resentment. Today, the most that can be analysed are trends, dynamic correlations and probabilities. Whoever operates with precise predictions and exact extrapolations appears presumptuous. Such scenarios fly in the face of academic standards. It is with these provisos in mind that the following chapters should be read.

¹⁸Many prominent campaigners for Leave argued with completely unrealistic wishful fantasies. David Davis boasted in the House of Commons in January 2017 he could present a treaty that would guarantee all of the privileges of EU membership and open up the freedom to conclude bilateral free trade agreements with the rest of the world. Liam Fox asserted a Brexit treaty would be the easiest treaty to negotiate in history.

4.2 The United Kingdom

A soggy little island, huffing and puffing to keep up with Western Europe John Updike

England is sticky with self-pity and not prepared to accept peacefully and wisely the fact her position and her resources are not what they once were John Maynard Keynes

Brexit will profoundly change the political landscape in the United Kingdom for many years to come. It will remain a dominant issue, causing enduring controversies and fierce disputes. Whatever the outcome, there will be loud voices that Brexit was not pushed resolutely, if not relentlessly enough. And there will be opposing voices that will persist in undoing Brexit and reverting to the European Union. Brexit will raise some awkward constitutional problems. It will dominate manifestos and profiles of political parties. Brexit is bound to reduce and to complicate trade with the EU. It remains open how far these losses can be compensated for by new opportunities.

Basically, the United Kingdom has three options to cope with the consequences of Brexit:

- It could focus on innovation, inventiveness and creative competition by attracting the best brains worldwide, turning itself into a workshop for new ideas, technologies and products. Being on the outskirts of Europe and moving away from these moorings will not make that option easier. In fact the question inherent in this option is obvious: What is stopping the UK from implementing such a policy already as an EU member?
- It could increase productivity by automation, rigorously pushing for efficient technologies and reducing human input. Past experiences in British industry, particularly in the motor industry, cast a huge shadow of doubt over this option. British carmakers have lost market shares over the past decades—first in global markets, then in their home market—until continental management improved labour relations and turned some of the traditional brands around. All past experience argues against this option. And again the question: Does it really require Brexit to pursue this option?
- The third option consists in winning a competitive edge through devaluations, lowering environmental and security standards and pushing down wages. The present relative calm in the British economy is due to a large extent to the effects of devaluation (around 16%) since June 2016. This would be the traditional way the United Kingdom has chosen consistently in the post-war period. So it will probably be the most likely choice of any future, post-Brexit British government.

4.2.1 Domestic Consequences

Strictly speaking, Brexit is not a Brexit but an 'Engxit'. It is England that wants to leave, not the entire United Kingdom. An undisputed majority voted Remain in Scotland and Northern Ireland (56% and 62% respectively). ¹⁹ UKIP and the Tories never played a significant role outside of England. They gathered only a handful of votes in Scotland and Wales and they never stood for election in Northern Ireland. Apart from England, only Wales—historically, geographically and economically tied to England—yielded a majority for Leave.

England is the area most affected by migration. The other three parts of the United Kingdom feel very little of it. Brexit will reinforce divergent tendencies between the constituent nations within the United Kingdom. The common bond is crumbling, and centrifugal aspirations are gathering strength. The 2016 referendum was a triumph of rural, conservative England over the other parts of the country and over urban, cosmopolitan London. Brexit will reinforce this dominance of conservative, rural England and fan anti-English resentments in the other three constituent nations. It is this English dominance that the growing self-awareness of the other nations is trying to counter. The continued existence of the Union is more tenuous than ever before in the past three hundred years.²⁰ The special conditions of Northern Ireland, where two nations coexist uneasily, have been thrown into the focus of the political debate in Europe. Europeans who had never heard about Northern Ireland are now fully conversant with the backstop, its implications for the border and with nationality problems. A local issue has assumed a key function in a historic European decision. Tony Blair started to rebalance the power equation between the political and economic centre in London and the periphery by pushing devolution and creating regional parliaments and governments in Edinburgh and Cardiff. This balance will have to be redefined after Brexit. Serious and prolonged strife seems pre-programmed. The future of Scotland and Northern Ireland looks different after Brexit. Brexit has sharpened the antagonism between those who would like to leave the United Kingdom and those who cling to it, and it seems uncertain which group will finally prevail.

¹⁹ And do not forget the indisputable Remain vote in Gibraltar, which does not form part of the UK, but is vitally touched by Brexit. Gibraltar voted 96% for Remain (turnout 84%).

²⁰Vernon Bogdanor argues that devolution has already profoundly changed the constitutional position within the UK, and that Scotland, Wales and Northern Ireland have a different view of this from Westminster. "In terms of what is constitutional, however, there is no longer an agreed and shared understanding of what the British constitution actually is in the four parts of the United Kingdom." Vernon Bogdanor: Beyond Brexit. Towards a British Constitution, I.B.Tauris, London (2019).

Is there a unified British people, subdivided into four nations? Or are there four constituent nations that conveniently live together in the common shell of an overarching monarchy? How can majorities form the basis for stable decisions in a society that is increasingly heterogeneous and breaking up into smaller units? What if loyalty moves from the state to the local group? How can minorities be effectively protected against totalitarian pretensions under such circumstances?

4.2.1.1 Scotland

An independent Scotland remains the sword of Damocles hanging over politics in the United Kingdom. The Scottish National Party is committed to another independence referendum. But Brexit has not necessarily made full Scottish independence more likely. On the one hand, Brexit strengthens Scottish aspirations to break free from the centralised paternalism of Westminster. In the 2014 Scottish independence referendum, the SNP wanted to stay in the EU as an independent state. In 2014, that implied joint membership within the Single Market together with England and the rest of the United Kingdom. It implied keeping the monarchy as joint head of both states, and the SNP expected the pound to remain the common currency of Scotland and England. After Brexit, all this has fundamentally changed. In 2014, the SNP had hoped that an independent Scotland could somehow keep EU membership as its birthright. After Scotland has left the EU as part of the United Kingdom, there is no longer any possibility that Scotland could avoid having to submit a new membership request and go through all the motions of a formal accession process. According to the Lisbon Treaty, the euro is to be the universal currency of the EU. It is hardly conceivable that the EU will concede that a candidate for membership can keep the currency of a country that has explicitly turned its back on the EU. The border between Scotland and England across the Cheviots—a border that nobody notices in practice—would turn into an external EU border with controls on people and goods. There would be tariffs, veterinary checks and controls of standards and specifications. It would amount to a replication of the problems around Northern Ireland. There would no longer be a common economic and currency space on the island of Great Britain, and Scotland would be torn away from its traditional moorings of the past three hundred years. This poses a dilemma for all supporters of Scottish independence. On the one hand, Brexit reinforces their determination to go their separate ways; on the other hand, the implications of secession would be much harder and much more painful

after Brexit. The chasm created by independence would be deeper and wider, threatening to become a wide gulf over time, as England and the EU were drifting gradually apart. Paradoxically, Brexit strengthens the determination in Scotland to become a fully independent state, but it simultaneously reduces the resolve to put that determination into practice. Scotland will insist all the harder that regional powers under devolution should be substantially increased after Brexit, in that the lion's share of the competences from Brussels should flow back directly to the regional bodies in Edinburgh.²¹

4.2.1.2 Northern Ireland

Northern Ireland is bracing for new troubles. The Good Friday Agreement was a hard won compromise between warring factions. It should not be taken for granted. Once the circumstances change, they are bound to affect the assumptions and expectations on which this Agreement rested. Arlene Foster, the leader of the DUP, claims to speak for the entire province of Northern Ireland. Her party won 28.1% of the vote at the last election, only 0.2% more than their arch-enemy, the republican Sinn Féin.²² It is tragic that Northern Ireland lacks a democratically legitimised provincial government in this decisive moment of history and that the radical voice of the DUP passes for the voice of Northern Ireland. Self-government broke down in early 2017 and Northern Ireland has no democratically legitimised voice in Brexit. Theresa May's government relies on the support of the ten DUP MPs. That turns them into an indispensable part of the governing majority in Westminster, affording them a disproportionately inflated impact on all decisions of that government. The seven politicians from Sinn Féin who were elected to the Westminster Parliament in 2017 refuse to take up their seats, because to do so would accept British suzerainty over their country.²³ Arlene Foster's intransigence has already destroyed the coalition government in Stormont on which stability in the province had rested since 1998. Her rigid position reflects only a minority in Northern Ireland. It remains irreconcilable with the popular

²¹ Gerry Hassan/Russell Gunson (ed.): *Scotland, the UK and Brexit: A Guide to the Future*, Edinburgh, Luath Press (2017).

²² Katy Hayward: *Is the DUP completely out of step with the wishes of Northern Ireland*?, The UK in a changing Europe, 28 March 2019 (https://ukandeu.ac.uk/is-the-dup-completely-out-of-step-with-the-wishes-of-northern-ireland/, 1 April 2019).

²³ Each Member of Parliament has to take an oath of loyalty to the Crown before they can take a seat in the House of Commons. Since Sinn Féin refuses to recognise the legitimacy of the British Monarchs in Northern Ireland, all members of Sinn Féin have refused to take that oath. Consequently, they have been barred from taking a seat in the House of Commons.

vote of 2016, which resulted in a clear majority for Remain. The vast majority of the population of Northern Ireland is not represented in the Brexit debates. About one third of all inhabitants hold Irish citizenship and their numbers are rising rapidly. All those who sympathise with Ireland, with republicanism or with the EU have no voice in Westminster. The Withdrawal Treaty lays down conditions for Northern Ireland that can hardly command the support of a majority in that province. This amounts to a serious disregard for democratic procedures, and may delegitimise Brexit in Northern Ireland. A population already deeply divided and alienated from Westminster could feel even more embittered. This could have disastrous implications.²⁴ It may explain why Theresa May was prepared in the end to commit the entire United Kingdom to the provisions of the backstop rather than risk isolating Northern Ireland by assigning it a special status.

Generally speaking, the harder the Brexit, the harder the border regime between Northern Ireland and the Republic of Ireland. There are basically five options for Northern Ireland:

- If Brexit could be avoided or revoked, there would be no problems at all.
- If the United Kingdom opted for a soft Brexit (Norway model), problems would largely be avoided.
- The EU has suggested a special status for Northern Ireland that is tantamount to a soft Brexit confined to Northern Ireland (and thereby making controls between Northern Ireland and the rest of the United Kingdom inevitable).
- If the entire United Kingdom leaves the EU without agreement (hard Brexit), the present border on the island of Ireland will become an external EU border with all the inevitable controls and checks.
- The fifth option would consist of the UK remaining simply passive and keeping the border regime unchanged, shifting the onus and the blame for tighter controls onto the Dublin government. Considering the paramount economic importance of the UK market for Ireland, Dublin might be forced to drop out of the Single Market. This option seems to be in the back of some Tory minds.

For Irish republicans, the first three options are acceptable, but the fourth is unacceptable under any circumstances, and the fifth would amount to giving up an essential part of hard-won independence. That is why the fourth

²⁴ Mary C. Murphy: *Transition and Ireland/Northern Ireland* (http://ukandeu.ac.uk/wp-content/uploads/2018/09/UKICE-Transition-Report.pdf, 3 October 2018).

and the fifth appeal to Unionists. The choice of Brexit has far-reaching implications for the power balance, for the political future and for coexistence between Loyalists-Unionists and Republicans-Nationalists in Northern Ireland.

The harder the border regime, the greater is the probability that violence and bloodshed will flare up again in Northern Ireland. Many Britons tend to regard the Good Friday Agreement as an immutable achievement. Nothing could be further from the truth. In reality, it is a frail compromise built on dozens of assumptions, expectations and obligations. If Brexit is seen as pulling away too many of these preconditions, it could easily reopen a path back to the Troubles that plagued Northern Ireland during the preceding decades.²⁵ The old organisations, most of their leaders, and the old personal networks still survive from the Troubles between 1969 and 1998. Presumably, there are still some weapons hidden away. One spark could set this tinder ablaze. Then barricades, terrorist attacks, street violence, targeted killings, and summary executions could resurface.²⁶ The Republicans in Northern Ireland (Sinn Féin) reject any barriers or separating lines between the North and the South of the island. The Unionists are doggedly opposed to any special status within the United Kingdom and to any line of control between Northern Ireland and Great Britain. One rejects a land border, the other a sea border. Any attempt to drive new wedges between the northern and the southern parts of Ireland will be fought by Sinn Féin—and probably by a resurrected IRA. Any attempt to create new distance between Northern Ireland and the remaining United Kingdom will run into adamant opposition from the Unionists—and probably from a more aggressive Orange Order. In the end, after a hard Brexit there will have to be a firm border line with controls and checks somewhere particularly if the departing United Kingdom develops its own set of rules and regulations that diverge from those of the EU Single Market. The copious flow of money from Brussels to Belfast will peter out. The perspective of sharing in these rich transfers was one of the strong impulses to nudge Republicans and Unionists to agree to the Good Friday Agreement. London would have to cover that position, but as long as the government relies on support from the DUP, it cannot pretend to be impartial. Theresa May has already twice bought support from the DUP with massive payments to Northern Ireland. These

²⁵ The historian Roy Foster remarks: "The days of contraband checks, identity interrogations and angry queues had long been gone. To assume that they cannot return after Brexit is another instance of wishful (or rather slothful) thinking." Roy Foster: The Return of the Repressed, Times Literary Supplement, 11 July 2017 (https://www.the-tls.co.uk/articles/public/brexit-irish-question-roy-foster/, 7 December 2018).

²⁶ On 19 January 2019 a car bomb exploded in Londonderry in front of a court house. No one was killed or injured. It remains unclear whether this was an isolated spontaneous act or whether it might be the upbeat to more of the same to come.

transfers remain under the exclusive control of the Unionists, creating an imbalance between them and the Republicans. The Republic of Ireland will remain in the EU. There is no doubt that any arrangement that re-introduces controls and checks will run into determined resistance in Dublin.²⁷ There is little hope that—whatever the outcome of Brexit—the stability and peace that has been achieved in the wake of the Good Friday Agreement²⁸ would not be seriously damaged.

4.2.1.3 Secessionist Tendencies and Division of Competences

Secessionist tendencies in Scotland and acrimonious antagonisms between Unionists and Republicans in Northern Ireland smoulder on. Brexit could fan these embers and make them flare up again. The Conservative party is basically an English party. If the Conservatives put English interests first, they run the risk of accelerating developments which could end in a Little England without Scotland, and a reunited Ireland. Dissolving the ties with the EU could involuntarily turn out to be the first step in dissolving the ties that keep the United Kingdom together. The United Kingdom leaving the European Union could hasten Scotland and Northern Ireland leaving the United Kingdom, too.

Brexit means that vast competences for agriculture and fisheries, which so far have been decided in Brussels, will have to be repatriated. Most of these competences would fall within the jurisdiction of Scotland and Wales, and both regions are urging for these competences to fall back directly to them.

²⁷ The Irish government in Dublin finds itself faced with a Hobson's choice: The only real threat it can wield lies in scuttling Brexit because of the border question. But that is also the worst option for the Republic of Ireland, which is heavily dependent on the British market for valuable exports. It means threatening to re-introduce border controls in order to avoid such controls—an option that is not too convincing. Dublin is desperate to avoid controls—and some Tories would like to see Dublin in that quandary. Dublin insists on the backstop, but the backstop can only be had with a treaty. To block that treaty in order to enforce the backstop is not a promising strategy.

²⁸ Ever since 1998, Northern Ireland had a regional government in Stormont that consisted of a mandatory coalition formed jointly by the strongest unionist party and Sinn Féin. Both hostile groups had access to massive monetary transfers from the USA, from the EU and from London that were destined to support the peace process. In 2017, this mandatory coalition broke down. Northern Ireland is now administered from London and nothing indicates that this crisis might be overcome soon. Brexit is stoking old fears and suspicions because it introduces a new unpredictable dynamism into an already tense situation. Each side is afraid it might be sacrificed on the altar of English interests. Arlene Foster has called for direct rule, which would mean that London would assume all public responsibilities in Northern Ireland and would suspend all regional institutions. London has so far resisted the temptation to resume full responsibility in Northern Ireland. Brexit makes it less likely that Northern Ireland will find a way back to a precarious local balance of forces. Paralysis in Stormont implies inevitably greater involvement of London.

The government, however, insists that they form part of a complete parcel that would first fall back to Westminster to be passed on to devolved jurisdiction after appropriate modifications or corrections. Conflict over these competences will exacerbate fundamental disputes over the constitution of the United Kingdom, Devolution is different from federalism. Federalism vests the source of political rights and competences in the federal subjects. Devolution places that source in the central government that can delegate competences at will, but can also revoke them unilaterally at its own pleasure. The peculiarity of the United Kingdom lies in the fact that Scotland, Wales and Northern Ireland have their own parliaments and governments, but England does not. The Westminster Parliament is both the Parliament of the United Kingdom and of England. The corollary of this peculiarity is that MPs from Scotland, Wales and Northern Ireland have a voice in questions that relate exclusively to England (education for example), but there is no reciprocity.²⁹ Until now, these were marginal, and rather unimportant questions. But fisheries could prove a bone of contention, because so far it has been completely centralised in the hands of the Commission in Brussels. In the United Kingdom, fisheries form part of the devolved competences. EU fisheries policy may have its serious shortcomings and has been rightly criticised, but it is difficult to argue why stocks swimming in a common living space should not be managed centrally and that catch-quotas should be set in coordination with all coastal states.

Brexit will mean a crucial test for the structure of the United Kingdom. The question about shape, foundations and limits of a unitary state and of the relations between the four nations will impose itself with renewed urgency and is unlikely to disappear quickly. In order to find an answer, politicians in Britain could continue to seek short-term, pragmatic ad hoc solutions—i.e. muddle through—rather than resort to a systematic, and maybe revolutionary approach. Traditional centralism could emerge reinforced from the Brexit crisis. It is equally possible that genuine federalism would receive a boost, including devolved institutions for England, thus preparing the ground for some form of more equal coexistence within the United Kingdom. Brexit will be grist to the mills of separatism in Scotland. Combined with a slow demographic drift and a run on Irish passports, it could prepare the way for—and hasten—the reunification of Ireland under Republican auspices. But such a

²⁹ This is known among British constitutional lawyers as the West Lothian Question. A preliminary answer was found in 2015 when Parliament approved the English votes for English (EVEL) process. Under the process, which was made in the form of Standing Orders, legislation affecting only England requires majority support from English MPs.

development would probably imply murderous bloodshed and a relapse into savage barbarism.

4.2.1.4 Dilemmas of the Political Parties

Brexit puts the unwritten constitution of the United Kingdom to a severe test, and it will have lasting effects on the configuration of political parties. Wilson and Cameron had hoped that a referendum on EU membership would unite their parties. Both got exactly the opposite result. Passionate debates about EU membership have deepened the rifts in both parties and have turned nuances of opinion into fundamental obstruction. The 1975 referendum could not prevent the split in the Labour party. Only a few years later, a handful of prominent members left the party and founded the Social Democratic Party (SDP).³⁰ In February 2019 seven pro-EU MPs resigned from the Labour Party to form The Independent Group. They are not nearly as prominent as those defectors of 1981, and so far they have failed to trigger further defections.³¹

The Conservative party is torn apart by diverging currents in the aftermath of the 2016 referendum and approaches the verge of an open split. Steve Baker has repeatedly threatened to trigger a full secession of the European Research Group within the Parliamentary Tory Group. In February 2019, three MPs left the party and joined The Independent Group. This is no haemorrhage, but it worsens May's precarious majority. In any leadership contest, the ensuing fight over the direction the party should take could provoke further defections. The most effective and lacerating opposition May has encountered in recent years came from within the ranks of her own party. It is unheard of for a Foreign Secretary to openly contradict and discredit the Prime Minister. The Conservative party has successfully swallowed most of UKIP after 2016, but at the price of severe indigestion. It has undergone a far reaching 'ukipisation'. This has strengthened the national-conservative current within the Conservative party. A Tory split appears today more probable than ever before.³² Those advocating Brexit started off as a small, but vociferous minority within the party. Today, they set the tone.

³⁰ The founders of SDP in 1981 were David Owen, Roy Jenkins (later President of the Commission in Brussels), Bill Rogers and Shirley Williams. In 1988, SDP and the Liberal Party coalesced to form the Liberal Democratic Party (LDP).

³¹ Another MP left the Labour party the day after TIG was set up, closely flowed by a trio of Tory MPs later that week.

³² Anand Menon/Alan Wager: *Can Change UK Break Up the British Two-Party System?*, Foreign Affairs, 8 April 2019 (https://www.foreignaffairs.com/articles/united-kingdom/2019-04-08/can-change-uk-break-british-two-party-system?utm_medium=newsletters&utm_source=fatoday&utm_

As the contours of Brexit become clearer, antagonisms within both traditional parties go deeper and give rise to resentful bickering. In two years, the Conservatives failed to present a coherent, comprehensive concept for Brexit and make it accepted party line. The deal presented by Prime Minister May in November 2018 was meant as a compromise where all the divergent views could somehow find common ground. But it came at a time when the taste for compromise had evaporated. None of those who had voted Leave in 2016 had anticipated such a result. The deal was torn apart by members of her own party. Labour and Corbyn remained largely passive, gloating over the Conservatives ravaging themselves. The Irish backstop—the border regime on the island of Ireland—turned out to be the stumbling block in the whole negotiations. But that problem had been completely absent in all the debates during the referendum campaign two years earlier. Nobody had foreseen this problem, or given it any thought, although it was there for everyone to see.

The Conservative party will be marred for years by rancour and rivalry between Leavers and Remainers. Both wings will blame each other, once Brexit fails to deliver on all the promises that had been made. One side will find fault with the Remainers because they had watered down the original radical concept of Brexit and came up with some half-baked compromise. The other side will denounce the impulsive wishful thinking of the Leavers.³³

Labour faces a similar dilemma. Many traditional Labour constituencies voted Leave, but an almost equal number voted decidedly Remain. Labour has to position itself carefully. The party is torn between a leader who welcomes Brexit and deeply detests the EU, and a growing number of party members who wish to soften Brexit or to avoid it altogether. Thirty years ago, the trade unions were decidedly against the EU, but today they are mostly Remainers. Jeremy Corbyn leaves no doubt about his own distaste for the EU and has put together a shadow cabinet dominated by Brexiteers. Labour committed to stay in the Customs Union in February 2018, but this position is not given prominent profile in the rhetoric and the initiatives of the party. It took massive pressure and the defection of eight Labour MPs for Corbyn to yield on the call for another referendum. And when he gave in, he did so with visible signs of revulsion. This internal rift paralyses Labour. It prevents Labour from playing the role of an effective opposition in Parliament. In most of

content=20190408&utm_campaign=FA%20Today%20040819%20Party%20Divisions%20in%20 the%20United%20Kingdom%2C%20Netanyahu%27s%20Referendum%2C%20Xi%27s%20 China%20Model&utm_term=FA%20Today%20-%20112017, 9 April 2019).

³³ Harry Mount: *Summer Madness: How Brexit Split the Tories, Destroyed Labour and Divided the Country,* London, Biteback (2017).

Parliament's decisive votes, Labour has either abstained or supported the Brexit initiatives of the Conservative government. Since the summer of 2018, Labour has been experiencing a favourable breeze and hopes to secure an early general election. The voting behaviour of Labour on Brexit motions shows little concern about the fate of the nation, but all the more tactical contortions in order to win a victory against the present Tory majority and to put Corbyn into Number 10. But it is exactly this prospect that makes some prominent Labour politicians dither. The latest polls in early April 2019 give Labour a 5% lead over the Conservative Party.³⁴

Both traditional parties face an existential crisis. The present defectors from the Conservative party are in no way comparable to the Labour defectors of 1981. Those had all been frontbenchers, and they induced more than fifty other party members to follow them. For the time being, the fear of a snap election keeps the Conservatives together, even though animosities run high.³⁵ But the rumblings are not to be overheard, and May was more than once within an ace of a revolt by half her cabinet.

The Conservatives traditionally form an alliance between the upper middle class, globally active entrepreneurs and City bankers on the one hand, and the English rural areas on the other. This is where the bucolic idyll of the countryside—with its lush gardens, timbered cottages, thatched roofs, green hedges and wooden turnstiles—forms the background of village church and village pub, where tradition guarantees security and predictability. Labour brought together the traditional working class and urban/academic intellectuals. Whereas workers had strong local interests in higher wages and improved working conditions, intellectuals tended to think in universal and idealistic terms. Traditionally, gentry and business voted Conservative, industrial cities and universities Labour. Brexit has been the last straw in causing these affiliations to collapse. Who would have thought that Labour could conquer constituencies like Kensington and Chelsea or Canterbury? And who would have expected constituencies in decaying industrial areas to vote Conservative? The old divisions along class lines are vanishing. National identity defines the political vote. UKIP was a party that wanted to reassert 'Englishness'. The traditional class structure has vanished and a new entrepreneurial elite is emerging. Today, the rural countryside has more in common with run-down industrial areas—demanding protectionist measures, less immigration and a

³⁴Labour is preferred by 41% of the electorate. The Tories trail with 36%, a full 5% behind.

³⁵ In his regular column in The Telegraph, Boris Johnson defined the two most important tasks of the Tories: To deliver Brexit and to keep Corbyn out of Number 10. (The Telegraph, 31 March 2019, https://www.telegraph.co.uk/politics/2019/03/31/tories-need-get-brexit-learn-believe-britain/, 1 April 2019).

preservation of a peculiarly English way of life. They are united in fearing globalisation and feeling powerless when confronted with the irresistible forces of change, modernisation and international integration. Against this, a new coalition is forming between global business, cosmopolitan financial institutions and trade unions. The latter want to preserve the protection afforded by regulations of the EU, and the former fear for market access and supply chains. As everywhere in Europe, traditionally dominant parties are losing influence. Conservatives and Labour together used to receive almost 90% of the total vote in the 1950s. Today, they rarely get more than 65%. UKIP has demonstrated how quickly and how radically a new party can unhinge traditional power structures. The party system and electoral laws have lost acceptance and will have to undergo far-reaching reforms. It may well be that a new alignment of political forces emerges out of the present party system—with one party assuming a nationalist-conservative position, arguing for protectionism and isolationism, while the other party would appeal to cosmopolitan voters and argue for open borders, international commitments, and openly competing with the forces of globalisation. If this were to become the new principal alignment, both present Conservatives and Labour MPs would be found on either side. Already today, Kate Hoey (Labour) has more in common with Boris Johnson and Steve Baker than with the majority of her own party.

The referendum was intended to put a definite end to the smouldering dispute about EU membership.³⁶ It was meant to be legitimate, indisputable and immutable. Its result, however, gave rise to interminable disputes. It is open to contradictory interpretations, and there are growing doubts about its legitimacy. Instead of unifying the people, the referendum has turned something that was a marginal irritant into a defining issue and a bone of contention that factions fight about with almost religious zeal. The referendum campaign degenerated into a nasty squabble in which arguments no longer counted, people failed to listen and demagogues made unchallenged claims that lacked all foundation in theory or practice. The level of public discourse

³⁶This was a presumptuous assumption since the 1975 referendum had already proved powerless in bringing the EU debate to an end. Labour published a manifesto for the general election in 1983 that contained an explicit demand to leave the EU—without any further referendum. Ever since, it must have been clear that a referendum has a rather short half-life. It comes as a surprise that after so many disillusioning experiences so many people still believe the myth that a referendum could put a question to rest 'once and for all', 'finally', 'irrevocably' or even 'for all times'. It seems so obvious that each referendum is valid only until the next one—just as each election is always superseded by a following election. All politics is in flux and the hope to fix some eternal truths into this kaleidoscope is vain, absurd and downright dangerous.

has degenerated to a level of reviling invective. Less than two years after the referendum, voices calling for another referendum are gathering resonance. Instead of putting an end to the dispute over the EU, the referendum has destroyed Cameron's political career, has led to an unprecedented number of reshuffles in May's cabinet, and may well claim further victims.

The referendum majority in 2016 was clear but thin. It was unrealistic to assume that the minority would passively resign itself to its fate and sheepishly follow the radical Brexiteers. The 2014 referendum in Scotland had provided ample proof that a minority will not simply disappear. If you ask the people, you never get one single answer but a variety of contradictory votes. In that sense, the torn Parliament in Westminster—incapable of forming a constructive majority—is the true representative of the people. A second referendum could not in any indisputable way show the way ahead any better than Parliament. At the moment, public opinion is so deeply divided that any new referendum would only risk sharpening these divisions and driving wedges deeper. Some recent opinion polls show Remain to have the support of 53% of voters, 47% for Leave. But this margin is far too small and too incalculable to risk another referendum. It is not bigger than the margin that Remain enjoyed in the first five months of 2016. And another campaign would likely eclipse the campaign of 2016 in terms of viciousness, spite and rabble-rousing oratory. What if it resulted in another No? What if England voted No again, but Scotland, Wales and Northern Ireland voted a massive Yes? Such a result might light the fuse under the cohesion of the United Kingdom. Whatever the outcome of such a second (or rather third) referendum on EU membership, the minority would again refuse to accept the result. And then? A fourth, a fifth and so on ad infinitum?³⁷ If the essence of democracy consists in having regular elections every four or five years, referenda should also offer the chance of being revised. If a momentary majority is declared permanent and if voters are refused the right to change their minds, democracy ends and dictatorship begins.

The antagonism between Remainers and Leavers will become more pronounced once it becomes clear that the entire Brexit project will result in disappointment, disillusionment and setbacks. Some historians draw parallels between Brexit and the French Revolution. The French got rid of their monarchy in 1793. At first, the Gironde supported a constitutional monarchy—the present equivalent would be a soft Brexit. But finally the radicals around Robespierre and Danton carried the day—the present equivalent would be

³⁷ Some English commentators, never loath to coin a pun, speak of a 'neverendum'.

Johnson and Rees-Mogg.³⁸ After the French Revolution, the antagonism between royalists and republicans continued to overshadow French politics for a century.³⁹ It would be a miracle if the profound antagonism between Leavers and Remainers were to disappear in less than a century. Each time Parliament votes on legislation that is in line with EU norms, there will be voices shouting 'submission, vassalage, colonial servitude, national humiliation'. And each bill meant to steer the United Kingdom further away from the EU will run into criticism of those who hanker after the Single Market and open borders. These discrepancies will absorb enormous amounts of time, resources and political energy—and starve other, possibly more urgent, questions. Too many other issues will not receive the attention they are entitled to. Brexit will not only cause formidable operative costs. It will also cause considerable opportunity costs. Looking back, Ernest Bevin was wiser than he knew. When confronted with the invitation to join the ECSC in 1950, he remarked: "I don't like it. If you open that Pandora's box, you never know what Trojan horses will fly out." [1]

4.2.2 The Issues

The Brexit campaign was characterised by questions of sovereignty, economy, migration money and new opportunities. These were the issues that quickened the debates and dominated the minds. So it is time to ask: What are the likely consequences of Brexit for these areas?

4.2.3 Sovereignty

The 2016 referendum was the second referendum in the United Kingdom on EU membership. Immediately after the results were published, demands for another referendum were voiced. Since then, these voices have become more numerous and more vociferous.⁴⁰ There are strong reasons for another refer-

³⁸ Some even play with Rees-Mogg's Christian name: Jacob. Why not call his followers Jacobins? The Economist called the members of the ERG, which is headed by Jacob Rees-Mogg, sans culottes. The Economist: The group that broke British politics. The hardline Brexiteers of the European Research Group have upended all political norms, 28 February 2019.

³⁹ Some maintain it is still latently informing French politics.

⁴⁰ Within the Labour party, powerful groups are pushing for another referendum. Recently, Sadiq Khan, Mayor of London, took up this demand. (https://www.theguardian.com/commentisfree/2018/sep/15/people-vote-brexit-sadiq-khan; 20 Sept. 2018). In February 2019, under the impact of the first defections, Jeremy Corbyn finally agreed to make this position the new party line.

endum, particularly if it is better prepared and the options are clearer. Democratic elections have to be regular because voters have the right to change their mind. Therefore a referendum cannot be binding interminably. Certainly any referendum can supersede all previous ones—as the 2016 referendum did with the one of 1975. The crucial question is timing and preparation. In the present—almost hysterical—atmosphere, another referendum and the inevitable campaign would probably add to general confusion. It might turn opposition into downright hostility and provoke violent clashes. Public opinion would have to calm down, arguments would have to be sorted out systematically and positions would have to consolidate around two reasonable and realistic alternatives before a meaningful new referendum could be held. Both Conservatives and Labour would have to present solid (and preferably opposing) positions. A referendum should never be resorted to simply because political parties fail to perform their existential function: to channel the will of the people and to distill from the innumerable grassroots preferences two consolidated positions that Parliament can vote on. At present, a chaotic Parliament truly reflects a confused people. Public opinion, stoked and goaded by agitators and the boulevard press, will probably have to sober up after some disillusioning encounters with thorny reality for the present excitement to cool down. That could take years. A third referendum about EU membership only makes sense when polls indicate a substantial and enduring change of mind implying a solid and persistent margin for Remain. At the moment, public opinion remains volatile and a margin of 6% is not sufficient to gamble on. Apart from that, calls for another referendum come too late. To organise a referendum requires at least eight months administrative and legislative preparations.⁴¹ Preparations for the referendum in June 2016 started in May 2015.42

It cannot be ruled out that Brexit will turn out to be disappointing to a majority of the British people. After a generation, another change of mind could occur demanding readmission to the EU. By then, however, both par-

⁴¹A referendum is not a regular, recurrent political event like an election. It needs specific legislation, the question to be submitted to the people's vote has to be defined. The franchise can diverge from normal voting rights, i.e. age, residence, nationality. In 2015, it took ten months until all preparations for the 2016 referendum had been finalised.

⁴² Another referendum has been called for by—amongst others—Nick Clegg, Timothy Garton Ash, and Vernon Bogdanor, and now Jeremy Corbyn. Anand Menon contradicts them: *A second Brexit referendum would be a painful, toxic waste of time*, Guardian, 25 July 2018 (https://www.theguardian.com/commentisfree/2018/jul/25/second-brexit-referendum-toxic-waste-time, 24 August 2018). In the same vein Henry Newman: *A second Brexit referendum would not benefit the EU*, Guardian 28 January 2019 (https://www.theguardian.com/commentisfree/2019/jan/28/second-brexit-referendum-eu-peoples-vote, 5 Jan. 2019).

ties will have developed in different ways and have created a widening gulf that it would be difficult to bridge. The United Kingdom would have missed a decisive turn of events again. To come together after a painful separation and after progressing in diverging directions would prove much more difficult than in 1973.

4.2.3.1 Referenda and the Sovereignty of Parliament

Unconstrained sovereignty of the Westminster Parliament has been turned upside down by the referendum. At the beginning of 2016, polls among MPs showed a majority of 80% for Remain. After the referendum, this turned into a majority of around 60% for Leave. That has been eroding since November 2018, and at the moment there appears to be no majority for any option. According to constitutional experts, the referendum was not legally binding, but both parties declared that it had to be observed. The alleged 'voice of the people' became something of an infallible oracle. The fact that 48% of that people had voted differently was conveniently suppressed. It would have been better—both for the nature of the decision and for the relationship between Parliament and the voters—if Parliament had worked out the basic points of a Withdrawal Bill and submitted such a text for approval (or rejection) by the people. Such a Bill would have to contain realistic pros and cons about the future place of the United Kingdom in international affairs: trade, migration, financial services, and security. It would have been wise to conduct exploratory talks with the EU before notifying the intent to leave according to Article 50. It might have been useful to publish a 'Brexit Guide' containing analyses about foreseeable consequences, preferably on a neutral, bipartisan basis. 43 Such a document could have served as common reference for political debates. It would have cut the ground from unsound prophecies and pie-inthe-sky promises made by dubious cheerleaders. It was unwise, if not fatal, to spring a question upon voters for which they were completely unprepared. They could not possibly understand the wider ramifications, thereby inviting them to indulge in spontaneous wishful dreaming. The obvious example is the Irish backstop—a problem completely ignored in the entire course of the referendum campaign and therefore equally absent in the minds of average English voters. In this way, demagogues and agitators had their way prepared for them, peddling hair-raising promises and unbridled polemics. The refer-

⁴³ In Switzerland, this is called an *Abstimmungsbüchlein*. It is automatically distributed with the ballot papers.

endum campaign was characterised by intimidation, prejudice and resentment. Anger and frustration was projected on the EU as the universal scapegoat. Fantastic promises were conjured up out of thin air, and voters were impressed by catchy phrases and snappy mottos.

The referendum also unleashed a constitutional dynamism with far-reaching implications. Edward Heath conducted the first ever referendum in the history of the United Kingdom on 8 March 1973, shortly after joining the EU. It concerned the territorial status of Northern Ireland. Heath wanted to put an end to the spiralling violence. Since then, there has been a series of regional and national referenda.⁴⁴ Each referendum has undermined the sovereignty of the Westminster Parliament as the only and exclusive institution to formulate the will of the people. This had been accepted constitutional theory ever since 1688, corroborated by the seminal studies of Sir William Blackstone and A. V. Dicey. 45 A referendum is a single spontaneous, littledeliberated decision of a multitude of voters. It is a poor substitute for the intricate procedures of Parliament, which are designed to ensure that decisions are taken only after careful, scrutinising deliberations, based on hearings of experts and after open parliamentary debate, accompanied by advice and comments from academics and journalists. Whereas Parliament is at liberty to rescind or revise its own decisions, a referendum is cast in bronze as it were immutable and immovable like a rock. The rule that each Bill should be subject to three debates in Parliament is replaced by the single, decisive vote in a referendum. Parliament can rely on the advice of researchers and experts, but many voters cast their vote without really caring about what is at stake, with not more than a superficial smattering and certainly without analysing all ramifications and implications of their decision. They simply do not have the time and most of them would have difficulties in understanding the complicated conceptual terminology involved. Parliament has to be reconstituted through elections at least every five years. Each referendum freezes the ongoing process of political deliberations and creates a commitment for which there is no constitutional revision. Anyone calling for a reconsideration of what has been decided in a referendum expose themselves to the charge of going against the will of the people. If it comes to the worst, they are stigma-

⁴⁴ Regional referenda: Devolution for Scotland and Wales in 1979 and 1997, London Greater Authority 1998, Good Friday Accord 1998, devolution for the English Northeast 2004, devolution for Wales 2011, independence for Scotland 2014. National referenda: EU 1975, Alternative Vote 2011, EU 2016.

⁴⁵ Sir William Blackstone: Commentaries on the Laws of England (1765–1770) and Albert Venn Dicey: Introduction to the Study of the Law of the Constitution (1885). Recently, Vernon Bogdanor has taken this philosophy an essential step further: Beyond Brexit. Towards a British Constitution, London, I.B.Tauris (2019).

tised as enemies of the people. The only way to rescind the decision of a referendum is to hold another referendum. Referenda shift the balance of power between the represented and their representatives. The Glorious Revolution of 1688 replaced the absolutism of the Stuart monarchy with the absolutism of Parliament. Since then, there could be no constraints on the powers of Parliament. There is a certain irony of history in the fact that the United Kingdom is bringing back sovereignty of Parliament by putting this sovereignty first into the hands of the people who decide against this Parliament, by invoking royal prerogative in order to avoid a parliamentary vote on triggering Article 50, and finally by resorting to Henry VIII powers, which are basically an enabling act⁴⁷ transferring legislative powers from Parliament to the executive, i.e. government.

For over a hundred years, the United Kingdom has been rolling over unresolved constitutional problems. The balance between the powers of the crown (still called the Sovereign), with those of Parliament as the only lawful representation of the people and of the people themselves has been continuously readjusted, and has been seriously upset by the 2016 referendum. A referendum does away with the formation of political will through elections and representatives. It can be described as a capitulation of the essential function of political parties. A referendum does not admit a loyal opposition, it does not brook any minority rights, it precludes any chance for the minority to become a majority, and it admits no revision—except through another referendum. A referendum negates all proportionality. An inflation of referenda i.e. a close succession of referenda with potentially irreconcilable outcomes—would be tantamount to the end of any consistent policy. The chief reason for the deterioration of representative democracy is the inability of both dominant parties to channel the will of the people in a coherent way and to focus on clear alternatives through the interplay between government and opposition.

4.2.3.2 The House of Lords

The Upper House has imperceptibly changed its composition and its functions. It existed as the chamber of the nobility by birth and ecclesiastical dignitaries. Today, it is a privileged club of favourites, donors and political

⁴⁶It has been said that the Parliament of Westminster can do anything except turning a man into a woman and abolish general elections.

⁴⁷In Germany, the Enabling Act (*Ermächtigungsgesetz*) of 1933 remains associated with dictatorship and catastrophe.

retirees. When Elizabeth II was crowned in 1953, some three hundred peers of the realm paid homage. Today, the House of Lords counts more than 830 members, making the Westminster Parliament the most numerous representative body after the Chinese People's Congress. The House of Lords has undergone several reforms, and further attempts to reform the second chamber in Westminster will follow. Theresa May has appointed some new Lords, presumably hoping to soften the fierce opposition to her Brexit plans in that chamber. Nevertheless, the House of Lords has proven an important authority to slow down precipitate decisions and to oppose any creeping diminution of parliamentary powers. The future of this chamber is uncertain. Brexit has put a question mark over the entire constitutional balance between royal prerogative and the two chambers of Parliament, and between representatives and those they are supposed to represent.

4.2.4 Economy: Industry, Agriculture, and Foreign Trade

The EU started off as the EEC, an economic community. The economy, the Single Market and foreign trade are still at the heart of the EU, although a number of additional layers have accrued in sixty years. Brexit was provoked by economic and legal arguments and its implications will be felt foremost in the economy and in trade. The United Kingdom is turning away from the traditional core, from the communitised competences of the EU, but not necessarily from the other areas in which the EU has acquired competences and which still run along intergovernmental lines. The Common Foreign and Security Policy (CFSP), cooperation in matters of intelligence, in police and justice, in EURATOM, air traffic, and pharmaceutical approvals was never

⁴⁸There are 830 Lords forming the second chamber and 650 members of the House of Commons, the first chamber. This results in a Westminster Parliament totalling 1480 members. The Chinese People's Congress has 2980 deputies.

⁴⁹ Fundamental reforms occurred in 1911 and 1949. The House of Lords was stripped of powers to stop budgetary legislation, which it now can only delay. Women were admitted and life peers created (there is no limit to the number of life peers) in 1958. In 1999, hereditary seats were curtailed to 92, but the seats occupied by dignitaries of the Church of England *ex officio* were not touched. In 2011, an initiative pushed by the Liberal Democrats to introduce elections for the Upper House foundered. In 2014, the possibility was created to resign a seat and to be disqualified if permanently absent. Since 2015, Lords can be expelled from their chamber.

⁵⁰ Theresa May's government had pleaded royal prerogative before the Supreme Court in January 2017, claiming that it was entitled to trigger Article 50 without being empowered to do so by Parliament. The Court decided convincingly that the Act of Parliament of 1972 on which the entry to the EEC was based could only be repealed by another Act of Parliament.

questioned. In all these fields, the United Kingdom remains highly interested and motivated to continue close cooperation.

Under George Osborne, the Treasury had submitted two detailed analyses on the short and long-term consequences of Brexit in April and May 2016. They attracted severe criticism because of their pessimistic conclusions. It came therefore as a slight surprise that in January 2018 the Treasury published a new analysis under Osborne's successor, Philip Hammond. This revised analysis came to almost the same conclusions: In a worst-case scenario, British GDP would contract between 5% and 10.3%. A middle scenario (free trade agreement) predicted a decrease of between 3.1% and 6.6%. Even in the best case (continued access to the Single Market), the United Kingdom would see its growth dip by 0.6–2.6%. Since then, the Treasury has published another analysis. This paper estimates a drop in GDP of 7.6% under a no-deal scenario. Should a free trade agreement according to the CETA model be possible, this decrease would be only 4.9%. Under the Norway model (staying within the EEA), that fall would be around 1.4%. The Chequers model would limit losses to 0.7%. Given the high degree of uncertainties, assumptions and inaccuracies of calculations, all these analyses come to very similar conclusions. Their main message is that Brexit makes a GDP contraction inevitable. The question is simply how large these economic losses will be. In purely economic terms, the best solution would be to stay within the EU [2-4] (Fig. 4.1).⁵¹

As Chancellor, George Osborne had published an estimate that was more negative for the best scenario (EEA membership), but more positive for the other options. Since May's government has categorically excluded membership in the EEA, the figures of January 2018 imply a lowering of expectations for a realistic Brexit. Financial institutions (Goldman Sachs, Barclays, Deutsche Bank Research) and international organisations (IMF, OECD) largely corroborate these conclusions.⁵²

There is no reason for panic or alarmism, however. When Brexiteers exclaimed triumphantly in 2017 that Brexit was a done deal and the British economy was still flourishing, they were arguing superficially. First, the pound has lost about 16% of its value since 2016, although it has regained ground in the early months of 2019.⁵³ In general, the fluctuations in the exchange rate

⁵¹The last Treasury paper dates from November 2018. It did not reflect the solution offered in the Draft Treaty of 25 November 2018.

⁵²For fairness' sake, it should be pointed out that there are analyses that produce opposite conclusions, like papers of the Economists for Free Trade or Open Europe.

⁵³ Many financial commentators see this as a sign that the currency markets were seeing a no-deal Brexit as highly unlikely.

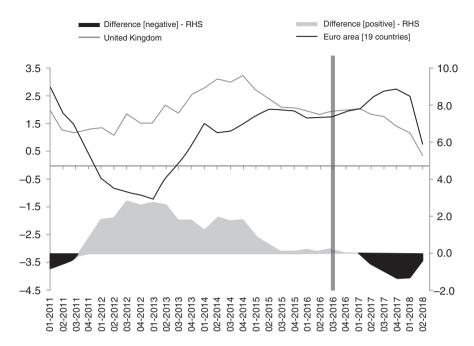


Fig. 4.1 Growth in the UK and the EU. This clearly shows that from 2011 to 2016 the UK had higher growth than the Euro zone, but since the referendum in 2016 it has been falling significantly behind. Source: OECD

closely correlate with the ups and downs of the various Brexit options. This devaluation was a shot in the arm for the economy. The effect of this devaluation has increased the competitiveness of British products, even against the threat of tariff barriers and additional transportation and bureaucratic costs looming after Brexit. The threat of 5% or even 10% tariffs and additional 3% costs for transportation and administration after Brexit are easily offset by a devaluation of 16%. But this is the normal effect of any devaluation, not of Brexit. Secondly, economies adjust slowly and gradually. The scare of a cliffedge Brexit with catastrophic consequences was always exaggerated. The British economy was never likely to contract convulsively within one year. A decline of 5% to 10%, distributed over a dozen years, is tantamount to an annual decline between 0.2% and 0.6%. It will be hard for anyone to feel these slight changes, let alone to pin them down to a clear cause. There is little doubt that the volume (and the value) of trade with the EU27 will decline markedly. Foreign direct investment will remain on hold for some time until new structures after Brexit afford more calculability and long-term security. Existing investments will not be written off instantly but in all probability there will be less investment in upkeep or expansion. This is almost certain for the automotive industry. Strategic decisions on investments and supply chains will only be taken during the transitional period, i.e. between 2019 and the end of 2020, for such decisions are difficult to revoke. The full extent of the long-term consequences of Brexit will only become apparent in the long term.

A recent Treasury diagnosis seems to confirm these assumptions. For 2018, the Treasury estimates economic growth at around 1.9%, instead of the 2.4% originally predicted. Growth rates will probably decline to 1.5%. The British economy will continue to grow, but it will remain below the potential it had as a member of the Single Market. State Calculations are distorted by the devaluation of the pound. In the medium term, further devaluations seem likely. The prospects for British enterprises are not as bleak as painted by some dedicated Remainers, but British consumers will have to foot the bill. Devaluation will raise costs for imported goods, particularly food. The purchasing power of those receiving payment in pounds will be further eroded. As a last measure, the government might resort to a patriotic 'Buy British' appeal.

4.2.4.1 Industry

The United Kingdom has lost the backbone of its traditional industries. Coal, steel, and machine building hardly play any role at all. The United Kingdom aspired to continue its role as industrial pioneer and innovator after WWII. It was the first country to build a civil nuclear power station, the first to put jets into regular aviation service, and together with France it put the first supersonic airliner into the skies. It pioneered hovercraft and aircraft that could take off and land vertically (VTOL). None of these remarkable breakthroughs led to market success. The British economy has a traditional problem with productivity,⁵⁵ quality control and after-sales services. British industry has lost market shares globally. 'Made in England' is no longer a seal of quality that consumers blindly trust. Brexit will make investors wary, even if tariffs remain low. If Brexit makes any sense it will mean that over time British standards,

⁵⁴ Ernst & Young show that foreign direct investment (FDI) into the United Kingdom continued to grow after 2016, but the British share of total FDI within the EU had fallen from 21 to 18%. This decline was particularly sharp in financial services. That sector suffered a decline of 26% in the United Kingdom, whereas it grew at 10% in the EU27. After 2016, the United Kingdom increasingly exported FDI to the EU27 (https://www.ey.com/gl/en/issues/business-environment/ey-attractiveness-survey-europe-june-2018#section1, 28 October 2018).

 $^{^{55}}$ Productivity of British industry is about 90% of the EU average. It is 26% below Germany, and 16% below the other G7 countries.

regulations, specifications, environmental protection, security requirements and conditions for employment will diverge from those within the EU.

For many international investors, the United Kingdom was the convenient stepping-stone to the Single Market. It offered a global language, a liberal environment, sympathetic to entrepreneurial initiatives, a reliable legal framework, calculable jurisdiction and access to markets that did not offer these advantages to the same extent. Many of these favourable circumstances will disappear after Brexit. If markets are regulated in divergent ways they will create problems with compatibility, i.e. they will require new interfaces. Particular problems loom for the transport of dangerous materials (nuclear or chemical), air traffic will have to be reorganised, and the mutual protection of trademarks and designations of origin will have to be renegotiated.

All serious analyses expect the British terms of trade to deteriorate.⁵⁶ Calculating the negative effects of withdrawal from the EU is more difficult than calculating the positive effects of joining in 1973. Theoretically, what worked positively then should work negatively now. But the hypothesis that decline is the mirror image of growth stands on shaky ground. All empirical experience suggests that economic growth follows different patterns than economic decline. Both are predicated on completely incompatible sets of psychological expectations. There seems to be consensus that the remarkable dynamism shown by the British economy in the wake of Thatcher's radical reforms would have been impossible without the massive inflow of investments from the continent. BMW and VW have taken over traditional British carmakers like Rolls Royce, Bentley and Mini and turned them into champions on the world market again. Rolls Royce was facing bankruptcy when BMW took over. Since then, annual production has shot up from less than 400 units annually to well over 4000. Profits have exploded accordingly. Toyota, Nissan, Honda built new car factories (or took over existing plants) in the 1980s. Nissan dubbed its huge investment in Sutherland (8000 employees) a 'European investment, based in the UK'. For luxury cars such as Rolls Royce or Bentley, tariffs of 10% would not seriously dent sales figures, for potential buyers of these cars do not care about the price. The most profitable markets for these cars are outside the EU. For medium-sized cars, the picture is totally different. All three carmakers from Japan have announced massive cutbacks in production in the United Kingdom since the British domestic

⁵⁶ Patrick Minford of the University of Cardiff is one of the few economists who expect positive growth impulses once the United Kingdom has left the Single Market. But he is hardly a neutral person, and his credentials as a serious academic come under severe doubt according to what he publishes regularly on the Internet forum Brexit Central.

market is not sufficient for a separate production line. BMW has worked out plans to transfer Mini production away from Cowley to either Eastern Europe or to China. Around 80% of components in cars made in Britain are imported, and 80% of manufactured cars are exported. In the automotive industry, supply chains are extremely closely interwoven.

British pharmaceutical producers will lose important subcontractors and lucrative markets. Most importantly, a dark shadow looms over licensing procedures for drugs. Will they remain compatible between the United Kingdom and the EU? Most production in Britain is heavily dependent on just-in-time supplies from the continent. BMW relies on exact timing of more than 400 lorries each day. Lidl requires daily deliveries of 1500 lorries from the continent. Supply chains are extremely complex and sensitive. No producer will touch them unless forced to, and then only when the future is absolutely certain. Any change will be expensive and difficult to readjust. Most producers will use the transition period until 2020 to take these decisions and adjust their networks of supply and distribution. Restrictive migration controls will plunge builders and agriculture into serious problems in finding labour. No Englishman works on strawberry or asparagus plantations and the abattoirs are largely manned by foreigners. Building sites resemble the Tower of Babel: Hundreds of languages, faces and forms of dress.

4.2.4.2 Trade

British exports of services have shot up steeply after 2008. Since 2010, the United Kingdom has attained growing surpluses in exporting services.⁵⁷ British financial services will not break away suddenly, but they are going to grow less dynamically. Brexit has already significantly strengthened continental competitors of the City of London. Paris and Dublin have gained considerably at the expense of London. Global figures easily convey a distorted impression. Brexit will affect different regions and branches in very different ways. Brexit will increase problems in structurally weak regions, but regions where incomes are already above the national average will adapt much more flexibly. When the United Kingdom joined the EEC in 1973, some traditional economic hubs atrophied and others flourished. Atlantic harbours like Liverpool, Bristol or Glasgow are only a shadow of what they were after WWII. North Sea harbours such as Felixstowe, Tilbury and Dover experi-

 $^{^{57}}$ In 2016/7 financial services contributed £68 billion to the balance of payments. They generated £72 billion (11%) of all tax revenue.

enced breathtaking expansion. Brexit will seriously hit them. But this does not mean that business is returning to those traditional Atlantic harbours.

Dover might have to face some grave challenges. Dover and Folkestone are the eye of the needle through which most traffic with the continent passes—around 10,000 lorries a day. Until now, only 500 of these have to undergo inspections because they come from outside the EU. Systematic controls of all road traffic would require a twentyfold increase in customs buildings, officials and parking areas. Experience from ferry strikes in the past suggests that lorries could queue up for 20 miles. Controls could be fully automated, but that would require investments of around £20 billion, and it would take several years until such a system was up and running.

The United Kingdom traditionally has a trade deficit with the continental EU. A trade deficit of £90 billion is reduced by a surplus in services of £23 billion, resulting in a current account deficit of £67 billion. This chronically negative balance of payments and the dynamic growth of trade with non-EU partners has inspired hope that Brexit could curtail negative trade relations and enlarge profitable ones. But this situation is not peculiar to the United Kingdom. Germany's trade with EU partners is decreasing markedly, whereas the volume of trade with non-EU partners increases. This is due to the extraordinary economic dynamism of China, the East Asian region and the BRIC states. Nevertheless, in terms of volume and value, the EU continues to be by far the most important trading environment for Germany.

EU membership has forced the United Kingdom to cut traditionally privileged air traffic arrangements with the USA, but opened the way for the meteoric rise of low-fare airlines like Ryanair and easyJet. The United Kingdom stands to lose its membership in the European Investment Bank (EIB) and the European Medicines Agency (EMA). It has already lost the European Banking Authority (EBA), which is moving from London to Paris. For most of these lost rights, successor arrangements can be found. But negotiating them will require time, and there is little hope that they would offer better conditions to a non-member than to a member.

4.2.4.3 Agriculture

Agriculture and fisheries will present particular problems. Agriculture in Britain remains more productive than on the continent, but British farm production is not sufficient to feed the nation. The United Kingdom is tradition-

⁵⁸ Figures for 2016.

ally more dependent on food imports than most other European nations. Agricultural subsidies in the EU depend on the size of the farm. They favour owners of large estates, whereas small family farms in mountain areas receive relatively little support. In this way, the Queen receives additional revenues of £650,000 from the EU and the Duke of Westminster—one of the richest landowners in the world—only £10,000 less. Altogether, the United Kingdom receives £3.1 billion under the Common Agricultural Policy (CAP). It contributes £5.3 billion, resulting in a direct British transfer in favour of continental farmers of £2.2 billion. This is the only net contribution that will flow back beyond any doubt to the United Kingdom after Brexit. But, in exchange, the United Kingdom will have to design its own national agricultural policy. This will certainly include subsidies for farmers. It cannot reduce its dependence on food imports and will have to look for new suppliers. Previous suppliers such as New Zealand and Australia have reoriented their food exports long ago and found lucrative markets in East Asia. The idea of conjuring up the old spirit of imperial preference is a nostalgic illusion. Brexit will almost certainly mean higher food prices in the United Kingdom.

4.2.4.4 Fisheries

The United Kingdom once had a proud and important fisheries tradition. Fish and chips is archetypal English cuisine. London was taken aback by the Common Fisheries Policy which the EEC Six launched on the eve of the application of Denmark, Norway, Ireland and the United Kingdom in 1970, incorporating it as an inalienable part of the acquis communautaire. The four applying countries had the best fishing grounds in the North Sea and the Atlantic. Before 1973, British trawlers landed about one million tonnes of fish in British (mostly English) harbours. Today, that volume has dwindled to 0.4 million tonnes—a reduction of around 60%. The number of registered fishermen has gone down from 25,000 in 1973 to 10,000 in 2016, and the number of fishing vessels fell from 9000 to 6000. Simultaneously, fish imports rose to 0.3 million tonnes. EU partners catch about 0.6 million tonnes of fish in the exclusive economic zone of the United Kingdom, prompting some observers to remark that their country is giving away more fish than they catch themselves and then buys back half of that amount. The United Kingdom has failed to restructure its fishing fleet. Small vessels under 30 ft make up 77% of the entire fleet. These vessels operate close to shore and land only 4% of total catches. Fully automated modern fishing vessels—many operating under British flag but with Spanish, Dutch or Danish owners—account for 95% of all catches. Few things have outraged the British, in particular the English, population more than the Common Fisheries Policy of the EU. To put the problem into perspective: Fisheries may be a vital part of the economy in Grimsby, Kingston upon Hull or Whitby, but the entire fishing industry accounts for less than a fifth of whisky production in Scotland.⁵⁹

How did this come to pass? Government and economic authorities continued old practices after 1973. They failed to spot chances and risks in the new regulatory framework of the EEC. Nobody really cared about long-term structural adaptation in the fishing industry. Fisheries in the United Kingdom remained small, uncoordinated, and fragmented. Fishing is still largely undertaken by small family businesses with small vessels. Most of these small operators have little or no access to efficient marketing organisations and reliable, speedy, refrigerated transport. Spain joined the EEC thirteen years later, but reacted differently. It made systematic use of structural funds of the EEC in order to modernise its fishing fleet. It provided modern refrigerated transportation right into the heart of the peninsula: Madrid. Spanish fishing companies registered in the United Kingdom, bought British fishing companies and British fishing vessels together with the corresponding catch quotas and then sent their modern vessels into British waters. Their catches counted against British fishing quotas. If you enjoy fresh mariscos in Madrid, there is a 50% chance that you are biting on catches from British waters. The United Kingdom could have done the same as Spain, but it missed that opportunity.

The British government tried to clamp down on what they regarded as abuse. Parliament passed legislation requiring that vessels fishing in British waters have at least 75% British ownership. Unfortunately, the House of Lords—then the highest law court—rejected that Act because it contained national discrimination inadmissible under EU law. The CJEU confirmed this decision. It was the first judicial decision that pushed aside an Act of Parliament and substituted a rule that had the opposite effect. This decision provoked considerable resentment and marked the beginning of a steady decline of the authority of and the respect for the CJEU in the United Kingdom. The other EU institutions were dragged into this progressive loss of standing.

 $^{^{59}}$ In the first quarter of 2018, fish landed in British harbours had a value of £213 million. That is equivalent to an annual value of £850 million. The total revenues of Scotch exports in 2017 were £4.5 billion—five times that value.

⁶⁰ Factortame case. CJEU judgment of 25 July 1991 (http://eur-lex.europa.eu/resource. html?uri=cellar:97139ccb-b4eb-4387-8dec-a6e2afdd240c.0003.03/DOC_1&format=PDF, 24 August 2018).

The full extent of the misery of British fisheries becomes apparent when considering Norwegian and Icelandic waters. They were closed to British fishing boats at about the time of British accession to the EEC. The loss of these abundant fishing grounds presented much bigger problems for British fisheries than the Common Fisheries Policy of the EEC. But this was hardly noticed by the public, which pilloried the EEC and blamed Brussels bureaucrats for the crisis of British fishermen. Iceland and Norway, however, escaped stigmatisation—even if only after the United Kingdom had vainly tried to cow Iceland into submission with warships and less refined methods of intimidation.

No wonder that the Leave vote was highest in coastal towns with a strong fishing tradition. In Scarborough, the Leave vote was 62%, in Kingston upon Hull 68%, and in Grimsby it reached 70%. These votes were expression of nostalgic hopes that after a No to the EU, there might be a return to the golden age when nets were full, fishermen were happy and villages prospered. These good old times will not return. There is no hope that Iceland or Norway will open their territorial waters to British fishing boats. Fishing companies in foreign ownership would have to be bought back or be expropriated by means of highly risky and costly actions. Without a thorough modernisation of the British fishing fleet and a significant increase in productivity, the imbalance between the British fishing industry and that of other European nations will persist. A re-nationalisation of maritime resources implies the risk of a race to the bottom. Each coastal state might be tempted to catch as much as possible, resulting in rapid depletion of stocks. Such a negative development can only be avoided if all coastal states agree on common catch quotas and preservation measures. That would mean agreement between Norway, Iceland, the United Kingdom and the EU. This way, even after Brexit, the United Kingdom might find itself once again constrained by EU regulations on fisheries. Michael Gove, the Secretary for Environment, Food and Rural Affairs, has announced that there would be little change in the present quota system on fisheries [5]—a bitter disappointment for all fishermen.

4.2.4.5 Services

Generally speaking, British firms have been slow to exploit the chances of the Single Market as aggressively as business in other EU countries. Remarkable exceptions are easyJet, banks and international law firms. Apart from that, British industry has expanded little in EU partner countries through takeovers or through establishing subsidiaries.

Brexit will directly affect the City of London, banks and financial institutions and prominent law firms. It is expected that around 12,000 financial experts will leave London. 61 Out of a total of around 250,000 people working in the financial sector, that is no vital loss (5%). Most of these people will move to Dublin, Paris, Frankfurt or Luxembourg, and Paris may be the favourite among these four. It offers an unsurpassed quality of life and is well connected with London. To work in Paris and to live in London presents no problems if you take the Eurostar high-speed train. Paris has already secured the seat of the EBA. Frankfurt expects to attract around 5000 financial experts. Goldman Sachs intends to make Frankfurt its regional headquarters and to sell its building in London. Shell and Unilever, both British-Dutch joint companies, announced they will shift the centre of activity of their European operations to the continent.⁶² Bloomberg is about to transfer the bulk of its activities to Amsterdam. Around 40% of wealth management companies will diversify their operations to Paris, Frankfurt or Dublin. Many banks sell their buildings and lease them back in order to be more flexible at short notice. The City reckons it will lose most of transactions in euros. London Clearing House will forfeit a chunk of their operations. But financial services have a huge advantage. They are highly mobile and flexible, they are not tied to certain locations, and they can adapt fast and smoothly. The City of London will survive Brexit, just as it managed to adapt and seize the opportunities offered by Thatcher's Big Bang. But it may suffer some scars and possibly some amputations.

The United Kingdom is in danger of losing its reputation as a rational, predictable, and stable business environment. The enduring chaos over Brexit will scare business and might result in a drop in attractiveness as a location for investments.

Some examples from other areas of life might complete this sketchy picture. Although a pioneer in the conservation of nature, landscapes and buildings, the UK has been slow in environmental protection. Keeping air and water clean has never been a chief concern in Britain. The Greens are a small, disjointed movement without much clout. Britain believes in the mechanisms of free markets. In this perspective, environmental protection simply means higher production costs, which the market rarely rewards. British authorities

⁶¹ Pessimistic studies assume a loss of up to 75,000 financial experts with a resulting loss in tax receipts of up to £10 billion. Oliver Wyman: *Brexit impact on the UK-based Financial Services Sector* (https://www.oliverwyman.com/our-expertise/insights/2016/oct/The-impact-of-Brexit-on-the-UK-based-Financial-Services-sector.html, 13 November 2018).

⁶² Unilever has retracted this announcement after much hesitation and internal bickering. Banks shifting a sizeable part of their operations include Barclays, Lloyds, HSBC and UBS.

were pioneers in building sewage systems in London that even today are regarded as exemplary. But they were reluctant to spend money on waste treatment plants along the coast or on clean air in London. London got rid of the perennial plague of smog through the Clean Air Act of 1956, but still has one of the highest levels of pollution by microparticles and nitrogen oxides. It seems doubtful whether environmental protection would receive better attention and more resources after Brexit.

The same holds true regarding safety regulations. After the devastating fire that gutted Grenfell Tower in June 2017, the authorities are still making all sorts of excuses to avoid imposing rigid regulations about fireproof cladding. This does not augur well for the future and highlights a strange lack of priority for safety measures. The Working-Time Directive epitomised for many the concept of a meddling EU bureaucracy. For over a century, the United Kingdom—in particular England⁶³—was the undisputed leader in manufacturing and industrialisation. Until 1880, there were no serious competitors on the world market, let alone on the domestic market. English entrepreneurs have a tradition in seeking competitive advantages by lowering production costs. Low productivity, deficient quality and insufficient professional qualifications result in tensions between management and the workforce and continue to form the Achilles heel of British industry. Brexit is supported by many who still think along these lines and who repudiate the imposition of rules and regulations by the EU under the pretext of creating a level playing field for all players within the Single Market. They dislike employment rules and regard detailed safety instructions and standards as illegitimate interference with free market forces. They prefer to compete by pushing down costs or through aggressive marketing rather than innovation, better services and zero fault tolerance. This may be an aftermath of the early years of industrialisation when externalities could easily be outsourced and producers were in a position to impose conditions on their workforce and on their clients. Producers, not clients, were kings in those days. It would come as no surprise if symptoms of the 'British disease' were to reappear after Brexit.

Four of the six big power-generating firms in the United Kingdom are owned by companies from other EU countries.⁶⁴ It is an open question whether post-Brexit Britain will continue to pursue a green energy policy or revert to fossil and nuclear fuels. The United Kingdom faces the renewal/

 $^{^{63}}$ The slogan devised in the nineteenth century was not 'Made in the United Kingdom' nor 'Made in Great Britain', but 'Made in England'.

⁶⁴EDF and EON operate under their own names. Scottish Power is in Spanish hands, and Npower belongs to Innogy, which in turn is owned by RWE.

replacement of a considerable number of nuclear power stations. It is building the first nuclear power plant of the new generation in Hinkley Point on the Somerset coast. The plant is being built by a consortium from France (EDF/Areva) and China (China General Nuclear Power Group, CGNPG). EDF has obtained a concession of energy supplies for thirty years with fixed costs. The contract was confirmed by Theresa May in September 2017. Brexit will make such international cooperation more difficult. The transportation of components will become more cumbersome, and the exchange of personnel will be hampered by bureaucratic controls.

4.2.5 Migration

Migration was the dominant and decisive issue in the 2016 referendum campaign. Migration gave bite and meaning to the slogan 'Take Back Control'. Borders and the composition of the British population were supposed to revert to the complete and comprehensive political control of democratically elected British authorities.

Traditionally, the United Kingdom has experienced centuries of emigration. It is calculated that from 1600 to 1950 some five million people left England and Scotland for the colonies and the United States. This trend was reversed after the Second World War. In 1948, 492 people went ashore from the steamer *Windrush* in Tilbury and settled in England. To this day, they are called the 'Windrush generation'. Around 1960, foreigners began to be recruited as industrial workers, particularly to help out in the struggling textile industry. Most of these guest workers came from Pakistan (in those days including what is now Bangladesh). A few years later, Britain offered refuge to some 40,000 Indians expelled from Uganda by dictator Idi Amin.

Migration did not feature in the 1975 referendum. The economy was in a critical state and prospects were gloomy. Foreign workers were few and essential for the running of many sectors of the economy, such as transportation. All this changed fifteen years later. The radical reforms pushed through by Margaret Thatcher resulted in sharp, structural adjustments. The country of coal and steel with its locally rooted traditional working class turned into a country of banking, insurance and law firms. They operated globally and recruited personnel worldwide but with a different level of qualifications. The Treaty of Maastricht (1992) established the European Union and a Union citizenship that entailed unconstrained freedom of movement and domicile. It reaffirmed the ban on all discrimination between citizens of the Union. At the same time, the communist bloc in Eastern Europe broke down, the Iron

Curtain disappeared and people who had been corralled behind fences and walls were free to travel.

Britain had peculiar difficulties with immigration. Originally, all subjects of the Empire were British subjects and entitled to settle and to work in the UK. Theoretically, freedom of movement applied until 1962. But only a few privileged and rich people could make use of these rights, since communication was poor and travel over distances was prohibitively expensive. But communication and travel costs plummeted with the advent of television, telephone and reliable shipping and airline services. Correspondingly, the number of immigrants shot up. In order to prevent a massive influx from former colonies, most of the rights of Commonwealth subjects were abolished between 1962 and 1971.⁶⁵

In 2004, ten countries from Eastern Europe joined the European Union. It was an enlargement consistently supported and urged by British governments. But it opened the sluice gates and a wave of migration rolled onto the shores of the British Isles, most of it coming into the South and the Midlands. The number of people not born in the United Kingdom jumped from 3.7 million in 1993 to 8.7 million in 2015, representing 13.5% of the total population of 65 million. But average figures can mislead. The average of 13.5% was not evenly distributed—the regions took significantly less, and in some cities the share of foreign-born people shot up to over 30%.

Poles account for the largest number of migrants from EU countries. Official statistics count 911,000 Poles in the United Kingdom—unofficially it is probably well over a million. After 2004, it was above all Poles that thronged into the UK. In 1947, the United Kingdom had generously offered citizenship to some 200,000 Poles who lived in Britain and refused to return to their communist homeland. Many of them had fought in the Battle of Britain, staving off the threat of Nazi invasion. There was a strong Polish diaspora in Britain and they eagerly invited friends and relatives after 2004. From 2004 to 2014, net immigration from EU countries reached 2 million. In 2014, restrictions on Romania and Bulgaria ended, opening the way for a massive additional rush of immigrants. About 350,000 Germans and a roughly equal number of French live in the United Kingdom permanently about 600,000 Italians and 220,000 Romanians. To make sense, these figures have to be compared with those from non-EU countries. There are 1.5 million Indians, 1.3 million Pakistani, 500,000 Bangladeshi, 450,000 Chinese, and 250,000 Nigerians residing and working in the United Kingdom.

⁶⁵Commonwealth Immigration Act of 1962 and Immigration Act of 1971.

Migrants from EU countries are mostly well qualified and more productive than migrants from non-EU countries. A closer look reveals that 90% of these migrants live in England—only very few stray into Scotland or Wales. There are hardly any foreigners in Northern Ireland.⁶⁶

Migration is above all an English problem. There is little doubt that foreigners make a positive contribution to their host country economically and financially. This is particularly true of the boom regions in and around London and some industrial centres in the Midlands. Many migrants prefer cities and regions that are suffering the effects of structural change. It is easier and cheaper to find accommodation there, and there are already communities with a similar background. Newcomers can find shelter, acceptance, provisional employment and, above all, a familiar cultural and linguistic environment. These newcomers are mostly poorly qualified. They are prepared to accept any job and to work under any conditions as long as it pays somehow. Many work on the black market, many in family businesses. This tends to push wages down for local workers who see their chances for gainful employment dwindle. The pressure on public infrastructure, on schools, hospitals, kindergartens, and sport facilities grows. Local people who can afford it move away from these cities, leaving behind a local precariat of mostly unemployed and unemployable English people who see themselves confronted with increasing competition for fewer jobs and the prospect of becoming a minority in their native area. 67 This forms a stark contrast to areas like London, where rich households, a booming service industry and public transport rely largely on the steady influx of cheap labour and do not expect high professional qualifications.

But how to explain that migration from the EU provokes resentment, while migrants from far-away countries with different cultural and religious backgrounds are indifferently accepted? The cultural gap is probably less important than the modalities of immigration. Immigration from Commonwealth countries conforms to traditional patterns of migration. Immigrants are responsible for their own affairs, take care of themselves and make a living. They are the prototype of the self-made man. They correspond to the liberal-individualistic values that permeate English society. By contrast, migrants from EU countries are perceived as coming to claim social benefits that are financed by hard-working Britons through their taxes. They have access to the

 $^{^{66}}$ Scotland and Wales have about 140,000 people from the Indian subcontinent (2.4%) and 47,000 Chinese (1.1%).

⁶⁷ Bradford and Rochdale are examples for these trends. Structural change leads to a change in population, which in turn implies cultural change. Both cities expect to have a non-English majority by the middle of this century.

National Health Service without ever having contributed, and they quickly rise into positions not accessible for most Britons with lesser qualifications. Many feel that these European newcomers receive more help and support than native Britons even though they have not contributed to the common welfare. Above all, to many it appears that they are given better chances than British people. This is resented as unfair. For British morality, which awards top priority to fairness, this is an unredeemable charge. Beyond simple xenophobic reflexes, the antipathy against EU migration has to be understood in terms of liberalism and fairness. There is no stigma in getting rich provided you come into fortunes through your own efforts⁶⁸ and not at the expense of others.

Migration was atypical in 2015. It was the only period in which EU migration exceeded non-EU migration. By now the traditional proportions have returned and net migration from non-EU countries is 50% higher than from EU countries. And that proportion is shifting further in favour of non-EU migration. This is because increasing numbers of nationals from EU countries are leaving the United Kingdom in face of growing uncertainty about their future.

At present, some 62,000 people from EU countries work in the NHS,⁷⁰ including 11,000 doctors and 21,000 nurses.⁷¹ Assuming that it costs around £200,000 to train a doctor, the United Kingdom has saved £2.2 billion by employing doctors who obtained their qualifications outside of British universities. A large number of these EU nationals are likely to terminate their contracts prematurely. But even if a sizeable portion stays,⁷² British health authorities will have to increase the number of medical students by 8% in order fill the foreseeable gap. Alternatively, they could intensify recruitment of doctors from non-EU countries. It remains to be seen whether this will improve performance and acceptance of the NHS and whether these doctors are not much more needed in their home countries.

Industry and services face similar problems, particularly if they are foreignowned or under foreign management. International supply chains across bor-

^{68 ...} or inheritance.

⁶⁹ The latest figures of the Office of National Statistics (summer 2018) put net EU immigration at 74,000, net non-EU immigration at 248,000 (https://news.sky.com/story/non-eu-migration-to-uk-highest-for-14-years-but-eu-migration-slows-11566853, 7 Jan. 2019).

⁷⁰The total number of people employed in the NHS is 1.2 million. EU nationals constitute 5.6%.

 $^{^{71}}$ They account for 10% of the total number. Doctors come mainly from Ireland and Greece, nurses from Ireland, Portugal and Spain.

⁷² Statistical evidence suggests that about 25% will terminate their contracts before expiry in order to return to their home countries.

ders presuppose the free flow of goods and services and in turn they demand free movement of people. For international groups like BMW and VW, it is absolutely vital to be able to exchange their staff at any time without loss of time and bureaucratic hassle. Material supply chains require corresponding networks of people to ensure the smooth running and the preservation of quality standards. Only thus can the unity of a brand be assured. The same applies to law firms, insurance and forwarding companies. Closely intertwined supply chains are functioning only with smoothly operating international teams, and such teams need to keep in steady contact.

The British economy has a strong global slant. Banks, insurances, law firms, think tanks and firms like Shell, BP or BAE Systems operate globally. This is possible only if they can move their staff, particularly their experts, across borders at short notice. It is absolutely essential to assure the unhindered movement of qualified people. To reconcile this freedom with strict controls over less qualified migrants poses some awkward problems. Authorities will either have to resort to discriminating templates or they will have to conduct lengthy, detailed and intrusive interrogations. The government will have to control employment contracts, and it may have to impose quantitative limits on certain jobs and demand preliminary proofs before someone can take up paid employment in the United Kingdom. The state will intrude into the world of employment, interfere, regulate and thus curtail traditional liberties. Brexit will not strengthen the traditional 'liberties of the freemen of the realm'. 73

Freedom will suffer further restrictions. In order to distinguish between British citizens, legal foreigners and illegal foreigners there will have to be some system of prompt and reliable personal identification. The best method for this is identity cards—something Britons have vociferously rejected in the past. The scandal about members of the Windrush generation is illustrative. In the spring of 2018, it was revealed that some were unable to prove their identity and as a result had been severely reprimanded and in some cases deported. The scandal triggered the resignation of Home Secretary Amber Rudd. The issue sheds some light on this dilemma. Theresa May as Home Secretary had started a campaign creating a hostile environment for illegal immigrants. It resulted in intimidation, pressure and controls on suspicion. The idea was: Comport yourself or be deported [6, 7]. The campaign provided ample proof that any effective control of illegal migration presupposes prompt and reliable identification.

⁷³ This wording comes from Magna Carta.

'Take Back Control' emanated from a stroke of genius. But control is not confined to borders. Border controls are relatively easy for goods. They are much more difficult for people, particularly as long as visa-free entry is permitted for the purpose of vacation, visit or business. To demand strict control of people but no controls for goods is a contradiction. Some visitors will overstay their permitted period. Others will take detours, via Dublin. As long as the free travelling area functions and Dublin remains subject the EU principle of free movement, it will remain relatively easy to fly to Dublin and then make your way across the border to Northern Ireland. In other words: If you are determined to get into the United Kingdom, you will succeed even after Brexit. It will simply cost more time and more money.

What are the likely implications of Brexit on asylum seekers and refugees? On the one hand, the United Kingdom can rest assured that there will be no majority decision in Brussels imposing refugee quotas on the country against its will, as happened in 2017 in Poland, the Czech Republic and Hungary. If other countries generously distribute their own citizenship, these newly created EU citizens can no longer claim a right to move to the United Kingdom [8, 9]. Should Germany succeed in integrating those refugees that arrived in 2015/6, sooner or later they will be naturalised. They would become German citizens and then could use freedom of movement to settle in the United Kingdom. This consideration was certainly at the back of the minds of many who were impressed by the idea of 'Take Back Control'. The situation in Calais demonstrates unambiguously that many migrants are not refugees seeking safety and a chance for survival. They entertain strong ideas about where they want to go. They are prepared to accept high risks—even mortal danger—to get there. The United Kingdom will have to thrash out new agreements with France on border controls on both ends of the Channel Tunnel. Until now, France has borne the brunt of controlling migratory pressure on its side of the Channel. Should France prove less cooperative after Brexit, British authorities would inherit a massive problem.

The United Kingdom would no longer be entitled to send illegal refugees back to transit countries under the Dublin rules. Between 2003 and 2015, the United Kingdom has returned more than 12,000 asylum seekers to other EU countries while receiving back less than 300 [10].

Universities and research institutions will be particularly hard hit as they vie for the best brains and for creative minds.⁷⁴ International ranking tables

⁷⁴ What would a no-deal Brexit mean for universities and research? British institutions do very well out of EU-funded research programmes. That money could dry up, Economist 4 March 2019.

include nine British universities.⁷⁵ Oxford and Cambridge, traditionally the two top universities, were predominantly British in 1973 with a few scattered *émigrés* from Russia, Germany and Hungary. Today, more than 40% of academic staff and more than 20% of students do not have a British passport. British universities will have to reorient themselves in terms of recruitment, financing and research. They stand to lose the close cooperation with partner universities on the continent, and joint research will become more difficult. Almost all university Vice Chancellors have signed a letter in which they expressed utmost concern. The reputation of British education and its impact on the continent will be reduced—much to the detriment of both sides. Even if EU students were to continue to profit from reduced tuition fees, their numbers will plummet and Chinese and Indian students will snap up their places. The result will probably be a significant waning of British soft power on the continent and a loss of cultural attractiveness.

The hope to control borders by taking back control will prove illusory when new trading agreements are negotiated. Many states—almost certainly China, India, Australia, New Zealand, Japan and Vietnam, possibly some Arabic countries—will insist on privileged access for their nationals. They will offer market access for British goods in exchange for better access for their people.

The United Kingdom cannot shut itself off against the rest of the world. Brexit cannot change the facts of geography, history and culture. They have put the British Isles on the doorstep of the European continent, not of Africa or Asia. Culturally, Britain is of European flesh and blood. Europe owes some of the most momentous events in its history to England and Britain. The notion that the United Kingdom should join the Asian Pacific Economic Cooperation and other Asian organisations has a certain audacity to it, but is unlikely to offer adequate compensation for ties with the continent. In the end, trade flows and cultural attractions follow the laws of gravity: They increase with weight and decrease with distance.

4.2.6 Budgets

Few claims have discredited the Leave campaign more than the idea that Brexit would free up to £350 million each week to be redirected into the ailing NHS. One of the most powerful financial charges against the EU was the irresponsible and bureaucratic—if not corrupt—handling of funds. Even

⁷⁵ Imperial College London, Oxford, Cambridge, University College London, King's College London, University of Essex, LSE, Queen Mary University London, Queen's University Belfast.

today, some politicians and economists maintain that there would be a Brexit dividend to be devoted to more productive purposes.

The British net contribution to the EU's budget is calculated to be around £10 billion a year. The EU Commission assumes a shortfall of 12 billion euros in drawing up the budgetary framework for 2021–2027. In the final analysis, only those payments that will revert to the United Kingdom constitute pure transfers in favour of other EU members—at most £5 billion. So the money saved is not the rashly promised £350 million a week, but rather £100 million a week, which is less than the United Kingdom spends on social welfare each day. This net contribution will revert to the United Kingdom. But the idea that this money could be freely converted for national public purposes is a simplistic fallacy. Contributions to the EU not only finance transfer payments but also essential administrative activities. Many of the administrative responsibilities now performed in Brussels will have to be performed by newly created national authorities. The 'bonfire of absurd directives and petty regulations', and the 'storming of the Bastille of unrealistic red tape' demanded by radical Leavers in order to 'finally free the shackled British economy from the gagging and manacling bureaucrats in Brussels' will remain a daydream. There may be excessive regulations coming out of Brussels. Many regulations could be less restrictive, but the need for some sort of regulation is irrefutable. Most of those regulations previously decided in Brussels for the Single Market will have to be substituted by national rules laid down and enforced by national authorities for the national market. These authorities will have to be set up, they have to be staffed, equipped, and office space will have to be built or rented. New forms, new procedures, and new arrangements will have to be created for border controls. To set up adequate immigration controls, customs inspections, and to expand existing transit facilities to cope with the skyrocketing number of checks will probably require some £20-35 billion.

Independently of its effects on the performance of the British economy and its structures, Brexit will cost money—a lot of money. It will require complicated and protracted adaptations. Each ministry and each major company has its own Brexit unit to analyse what is happening and how it might affect its own operations. A lot has been invested in worst-case scenarios. All government departments and all major companies had to draw up emergency plans for a cliff-edge, no-deal Brexit—although that always remained a low proba-

⁷⁶BCG calculates that administrative changes, adaptations to new regulations, procedures and forms and modifications of production lines, logistics and supply chains will cost the British economy around £15 billion. Boston Consulting Group: *Bridging to Brexit: Insights from Europlean SMEs, Corporates and Investors* (https://www.afme.eu/globalassets/downloads/publications/afme-bcg-cc-bridging-to-brexit-2017. pdf, 10 Feb. 2019).

bility. Entire government departments were kept busy in establishing emergency procedures, assigning priorities, and stockpiling essential supplies in case of a temporary breakdown of transportation. Investments are being deferred, the location of certain production lines is being reconsidered, and alternative supply chains are studied. The CBI calculates that all these preparatory activities are already costing the British economy a total of £500 million. Only one thing seems certain: the greatest profit from Brexit will accrue to the lawyers. There will be an endless parade of litigation, conflict of interests and claims for compensation. The law courts will be flooded. There will be new government offices and agencies, new computer programmes, new forms, and new application and licensing procedures. These adjustments and conversions will cost somewhere between £30 billion and £60 billion. These additional, and to a large extent unnecessary, expenses come against a background of public financial commitments that are already frightening. The government will have to build about five new nuclear power stations to replace old ones at a price tag of £20 billion each (£100 billion total). The decommissioning of the old plants will come with a similar price tag. Airports have to be expanded (building a third runway in Heathrow), railway tracks have to be modernised,⁷⁷ roads improved and widened. Costs for these projects in infrastructure are in the range of £50–80 billion. A second high speed line (HS2) connecting London and the Midlands will cost £50–90 billion. Energy saving modernisation of existing houses will devour around £100 billion. The Ministry of Defence is building two aircraft carriers at a cost of £15 billion each (including aircraft) and four strategic nuclear submarines at £10 billion each. Together, these public financing commitments amount to around £500 billion. This figure does not include sharply rising expenses for social welfare and the NHS (against the background of a rapidly ageing society), maintenance, and the new systems for fully automated border and customs controls which some Brexiteers are pushing for and which, if technically feasible,

⁷⁷ Railways in the United Kingdom are a story of impressive pioneering and subsequent bungling and an almost tragic decline. When the Eurostar services started in 1994, they ran in France on high-speed tracks. Thirteen years later, in 2007, they still rumbled on the old, 150-years old tracks from Folkestone to Waterloo with a maximum speed of 80 m/h. Only after opening the new terminal at St. Pancras with an entire new HS1 line could Eurostar travel with maximum speed of 190 m/h on British territory. This line was the first new railway line built in over one hundred years. The trunk line from Paddington to Bristol and on to Cornwall (Great Western) used to be a marvel of engineering when opened in 1841. Since then, there has been little or no modernisation. After partial electrification, new Class 800 trains were ordered from Hitachi that could run on electricity (overhead wire) and diesel fuel. Less than 30% of all railway lines are electrified, but they operate on three incompatible systems (overhead wire and conductor rail, different voltage). On 20 July 2017, the May government abandoned all further plans for electrification because costs exploded from an estimated £800 million to well over £3 billion. Since 1997, in over twenty years, just 65 miles have been electrified.

would swallow another £50 billion. The United Kingdom is suffering from an endemic budget deficit. Drastic reductions in government spending were needed to reduce the budget deficit from 10% to 4%. The effects on local services, infrastructure and voters' satisfaction were disastrous. Massive additional funding requirements in the wake of Brexit might result in some serious conflict between political priorities, thus making painful trade-offs inevitable.

In order to attract foreign direct investment (FDI) the United Kingdom will have to steer a course between tax reductions/incentives and direct subsidies (creating a 'Singapore-on-Thames'). The ideal of a tax haven like Singapore with little or no government interference in market activities tempts many Tories. In purely economic terms, it might even make some sense, although the way Singapore is run does not correspond to this idealised picture. The Singapore government applies strict macroeconomic guidance to its economy, and 22% of its GDP is produced in government-owned enterprises. By opting for such a course, the UK would simply imitate what is being practiced successfully by some of its overseas dependencies. The reverse of this policy would be that government revenues would collapse or be drained away by subsidies. They would not be sufficient to underwrite the other more urgent needs. This is why such a policy would run into serious constraints. The British economy is not nearly as productive as the Singaporean one. An ageing population and some urgent investments in infrastructure that have been delayed for too long would have stronger claims on these funds than foreign investors. If the United Kingdom were to become more dependent on foreigners to invest, it might become more dependent on shady investors and dirty money from Russia, China, the Arab world and some dubious potentates from Africa and South America.

4.2.7 Global Alternatives to the Single Market?

Brexit is set to cause economic and financial losses in regard to the EU27. What about compensating these losses through gaining new trading opportunities in the rest of world? This is the basic assumption of most Brexiteers. They regard the EU as a stagnant, moribund, asphyxiated area, drowning under an ever-mounting load of regulations and restrictions. Instead, they hope to participate in the greater dynamism and in higher growth rates in other parts of the world.

Brexiteers remain vague on these new opportunities. They prefer to talk of 'global Britain, exciting challenges and unprecedented opportunities, new ambitions and a race to the top, cutting edge technologies, a can-do-spirit,

and courage for bold initiatives'. Theresa May proclaimed platitudes when she said: "Freer, easier trade means stronger economies, more jobs, more choice and lower prices—and that is true here in the UK, across the Commonwealth and around the world' [11].

The fall back position in Brexit is reversion to WTO rules, which guarantee minimal standards between members. But there is a question mark behind WTO rules—thanks to President Trump's trade wars and his threats to disregard WTO rules. Well over 95% of global trade is conducted according to rules stricter and more detailed than WTO standards. No more than twelve WTO members trade on the basis of WTO rules. Free trade that exceeds these basic rules has to be based on bilateral agreement. The EU has concluded 37 such free trade agreements (FTAs). It applies 27 further such treaties on a provisional basis (among them CETA with Canada). Negotiations for 22 further FTAs have been concluded but treaties have not been signed. These treaties include lightweight partners such as Kosovo and Liechtenstein, but also heavyweights like Singapore, South Africa and Vietnam. Another eleven treaties are still being negotiated. Taken together, this constitutes a complex network of 95 trade agreements (Fig. 4.2).

Brexit means that the United Kingdom will leave all of these treaties and will have to negotiate equivalent treaties on a bilateral basis. The priorities will be different for the United Kingdom. The highest priority will probably be accorded to old Commonwealth partners like Australia, New Zealand, Canada, USA, India, Pakistan and South Africa, followed presumably by China, Brazil and the Gulf states. Commonwealth countries were favoured trading partners of the United Kingdom until 1973, but British membership of the EEC/EU meant fundamental change to these trade patterns. Some countries had to undergo far-reaching structural readjustments. Take Australia and New Zealand as examples: 45% of New Zealand's foreign trade was with the United Kingdom in 1960. In 2016, this had shrunk to 4%. Australia once directed 33% of its exports to the United Kingdom. In 2016, that share had dwindled to 3%. The foreign trade of the United Kingdom has undergone similar shifts. In 1957, British trade with the EEC Six accounted for 15% of British external trade. In 1973, when Britain joined the EEC, that share had gone up to 22%. In 1993 it had climbed to 44%. By 2002, the EU's share in

 $^{^{78}}$ Almost all members of the United Nations are members of the WTO. Non-members include Belarus, some countries in central Asia, in the Middle East and in Africa. They are mostly insignificant traders, with the exception of Iran.

⁷⁹ Among them Serbia, Sudan, Somalia, Mauritania, Monaco and Timor Leste—hardly the champions of world trade.

Goods deficit with the EU widened to a new record

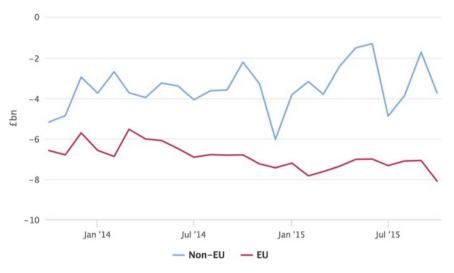


Fig. 4.2 The diagram shows a growing deficit with EU trading partners. But trade with non-EU partners is not positive, only less negative. Could it be that non-EU trading partners offer less demanding markets in terms of quality, reliability and after sale services? Source: ONS

British foreign trade reached its maximum of 56%. Since then it has fallen back to 45%. It still accounts for more than the next twenty trading partners combined. The share of the USA in British foreign trade has remained relatively constant at around 20% ever since pre-war times.

Australia and New Zealand have successfully reoriented their trade. They have exploited the new opportunities offered by China and the Asian tigers. They will probably show some polite interest in British advances. But it would come as a huge surprise if they were prepared to endanger their newly found lucrative access to the Asian markets in favour of a small island in the antipodes. China is incomparably more attractive for them than the United Kingdom.

The 53 Commonwealth countries have increased their global exports since 2000. In 2000, they were far behind the EU. Today, they have overtaken the EU's exports both in volume and in value. In 2015, Commonwealth exports totalled US\$4 billion, whereas the EU notched up only US\$2.4 billion. These figures seem to suggest that a stagnant EU is being overtaken by a much more dynamic and faster-growing rest-of-the-world.

But this reasoning is misleading. The Commonwealth is no economic community, let alone a customs union. It is highly problematic to aggregate trading figures of a loose community of such heterogeneous countries. The

Commonwealth consists of some highly industrialised, extremely competitive countries like Australia, New Zealand and Canada, but includes at the same time more than a dozen highly problematic and underdeveloped countries in Africa and Asia whose trade is negligible. The phenomenal growth of foreign trade of Commonwealth countries is their response to the economic dynamism of East Asia, above all of China. A massive 75% of Commonwealth exports go to the Asian-Pacific region, and 50% of that trade is directed towards China. Despite all this dynamism, foreign trade with Commonwealth countries combined does not exceed 9% of British foreign trade—less than trade with Germany alone. Compare those 9% to the 20% with the USA and 45% with the EU. The United Kingdom is no longer strong in exports. Its exports are about the same volume as those of Italy. British foreign trade has profited from EU trade arrangements. The EU Free Trade Agreement with South Korea entered into force in 2011. In the following year, British exports to South Korea shot up by 82% and services jumped 12%. The argument that British foreign trade is hampered by rigid EU regulations is difficult to defend in the light of such figures. It is also disproved by the performance of other EU countries which have succeeded in expanding their exports to non-EU countries—not only traditionally export-strong Germany, but also countries like France, Spain, Belgium and Italy. The days of imperial preferences are gone and there is no hope that they will return.

What perspectives are offered for trade with countries outside the EU? President Trump showed himself to be enthusiastic about a Free Trade Agreement with a United Kingdom outside the EU. He revised some of that enthusiasm after the Withdrawal Treaty was published in November 2018, warning that a trade agreement with the United Kingdom might now become complicated and less attractive. Trade experts within the US administration are more sceptical. Seen from Washington's perspective, China, Canada, Mexico and the EU are more important (even if more problematic) trading partners than a solitary United Kingdom. Invoking a transatlantic special relationship and common Anglo-Saxon roots will not change a primarily interest-driven American foreign trade policy, which follows the slogan 'America First' The USA will pursue an unflinching approach of maximising its relative advantages. In 1958, the USA urged the British government to take an active part in the EEC. All US presidents until the present office holder left no doubt that from Washington's perspective Britain's place was within the EU. Donald Trump is the first president to speak differently, but it would be naive to expect a particularly accommodating approach from someone who believes in trade wars and in winning them. EFTA as an alternative trading arrangement in Europe broke apart scarcely after birth. All historic experience augurs badly for British attempts to turn away from the continent and to seek better deals elsewhere [12].

On top of all that, there is a serious technical drawback. As long as the United Kingdom remains a member of the EU, it cannot legally conduct national trade negotiations, let alone sign trade agreements. Trade is the exclusive prerogative of the Union. The British government can conduct exploratory talks and Theresa May has done so in many foreign capitals. But there can be no formal British negotiation team. In order to avoid, or at least minimise, a legal vacuum after leaving the EU—with the probability of serious trade disruptions and a collapse of confidence—the United Kingdom has a vital interest in concluding new treaties as quickly as possible. This will run into three main obstacles:

- Trade agreements are extremely complex and difficult to negotiate. Governments have to rely on the expertise and the advice of chambers of commerce and industrial associations. The interests of these associations are not identical. Negotiations have to reflect all these interests, and governments have to forge a domestic consensus, while simultaneously offering compromises to their external partners. This is a difficult balance. The United Kingdom as a highly centralised state may have advantages over the EU, where internal consensus is much more difficult to create. But the United Kingdom will also face the challenge of defining a consolidated national position among divergent industrial groups. CETA took seven years to negotiate with Canada, and after ten years is only provisionally in force.
- The United Kingdom has not conducted national trade negotiations for almost fifty years. It has only a few nationals who have gathered practical negotiating experience within the EU. Proportionately and qualitatively, the United Kingdom is under-represented in Brussels. The UK will experience a serious shortage of qualified trade negotiators. And that shortage cannot be redressed at short notice—for in order to gather experience, you need time. After more than a generation of national inactivity, the United Kingdom will face enormous challenges in putting together qualified teams for such trade negotiations, particularly since such a large number of negotiations will have to be negotiated simultaneously.
- The United Kingdom faces overwhelming time pressure. Ideally, the new bilateral agreements should come into force the moment the United Kingdom falls out of the old ones concluded under the aegis of the

EU. Potential trade partners of the United Kingdom are aware of this urgency. Time is on their side. If the British side pushes for fast results, some partners may raise their demands. Quick results demand a higher price. If you are in a hurry, you have to delve deeper into your pockets.

4.3 Republic of Ireland

Ireland is a small but insuppressable island half an hour nearer the sunset than Great Britain Thomas Kettle

After the United Kingdom, the Republic of Ireland will be the country most affected by Brexit. The United Kingdom dominates the foreign trade of Ireland, ⁸⁰ and Ireland has the largest group of nationals working in the United Kingdom. Anglo-Irish relations were strained for over several hundred years: because of British settlers; because of the brutal campaigns of Oliver Cromwell and William of Orange; because of the Great Famine and Home Rule; then through the painful division of the island in 1922; and most recently through those thirty years of the Troubles between 1969 and 1998. The division of the island in 1922 was designed to keep the unruly southern part weak and permanently dependent on the goodwill of Westminster. Because of Brexit, for the first time in centuries of Anglo-Irish relations, Dublin seems to have more leverage over Westminster than vice versa.

The Good Friday Agreement was a remarkable achievement based on combined efforts of the United Kingdom, Ireland and the USA (which holds an Irish diaspora much larger than the population of Ireland itself). It was made possible by some strong and bold characters in the face of obstinate resistance among the radicals on both sides. Queen Elizabeth II was the first British monarch to pay an official state visit to Dublin in 2011. The last visit of a British monarch had been in 1911, exactly one hundred years previously. But then George V did not come on a state visit. He visited Ireland as Sovereign, since it still formed part of the United Kingdom in that year.

Ireland will face massive adjustments. Today, 35% of all exports from Northern Ireland go across the border into the South (£4 billion), and the

^{80 15%} of Irish exports go to the United Kingdom (27% go to the USA). Ireland receives 26% of its imports from the United Kingdom (17% from the USA). Since 1998, innumerable business relations and partnerships have sprung up that go right across the border with Northern Ireland, particularly in foodstuffs. That might give rise to some serious veterinary problems. The South of England is a chief importer of Irish agricultural products

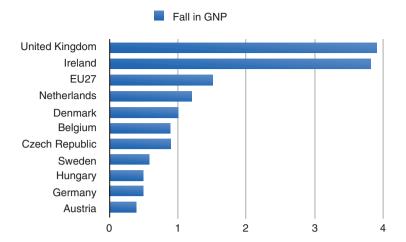


Fig. 4.3 Ireland will suffer most from Brexit

Republic directs goods worth £1.3 billion to the North. Ireland is one of the few EU countries with which the United Kingdom achieves a substantial trade surplus (£12.2 billion). British exports in 2016 were £34 billion, Irish exports in the other direction were £21.8 billion. The pound has lost around 16% of its value in the wake of the 2016 referendum and this has already damaged Irish exports. The pound will probably continue to lose value. Border controls and tariffs on top of this could plunge Ireland into a serious economic crisis shortly after it has recovered from the financial crisis of 2008 (Fig. 4.3).

The Irish growth model relies to a large extent on favourable tax rates offered to international business. The United Kingdom may be tempted to compete with a similar model. Such a development might end in bankers moving from London to Dublin and firms like Amazon, Google or Apple moving from Dublin to the UK. With London outside the EU, they would be immune to regulatory and retaliatory action of the Commission. Brexit could threaten Ireland's growth model. On the other hand, Ireland could gain by attracting international business that is seeking a presence within the Single Market in an English-speaking environment and supported by a liberal, reliable Common Law system. Some of the attractiveness of the United Kingdom as a location for international investment could shift to Ireland.

The core problem is the border between Northern Ireland and the Republic of Ireland. This border was created in 1922 when the Republic left the United Kingdom and the predominantly protestant North remained within. The border does not follow the historical border of the ancient province of Ulster. In order to secure a protestant majority in the North, three catholic counties

were detached and remained with the South.⁸¹ In 1923, the United Kingdom and Ireland agreed on a Common Travel Area. Its purpose was to ease the political separation by allowing the unrestrained movement of people. It was an informal agreement without legal force, and it was not put into writing until 2011. But even then it remained a declaration of intent rather than a treaty that could be adjudicated.⁸²

The border between North and South was always open. Police and military patrolled it during the years of the Troubles with a view to prevent the smuggling of arms and the infiltration of terrorists. The Good Friday Agreement put an end to these controls. Ever since then, the border on the island has been as invisible as the border between Scotland and England. The border has a peculiar significance. There are many people who commute and cross it daily. Some farmers have land on both sides. 83 Cattle, food, and fuel are transported across the border.⁸⁴ If Northern Ireland is subject to different regulations in hygiene or veterinary inspections, all livestock and food will have to be inspected or to be controlled on the Irish Sea between Northern Ireland and the Isles of Great Britain. On the other hand, the invisible border is still separating areas with considerable differences in laws and standards. Northern Ireland keeps the old British imperial measures, but Ireland has adopted metrication. The pound is legal tender in Northern Ireland, but euros circulate in Dublin. Schools follow different curricula, and property rights are defined differently. Legislation about marriage for homosexuals and about abortion is different. The catholic South had long been regarded as backward and conservative. But it has proved to be more progressive and liberal than the presbyterian North. It is an irony of history that the EU was created in order to overcome borders within Europe. Now it creates almost insurmountable

⁸¹ They are the counties Donegal, Monaghan and Cavan. The separation of Donegal from the historic province of Ulster results in a bizarre borderline. Donegal is connected with the Republic of Ireland only through a small opening hardly seven miles wide. But it has over ninety miles of a long meandering border with Northern Ireland. The old border separating Ulster from the rest of Ireland was 140 miles long. The present border between Northern Ireland and the Republic of Ireland is well over 300 miles long, separating areas that historically have been closely interwoven economically. The present border is an entirely artificial creation designed by politicians with a view to perpetuate British rule in the North.

⁸² After the 2016 referendum, the Irish government considered keeping Irish immigration laws in line with those of the United Kingdom in order to keep the Common Travel Area. On 23 March 2017, the Irish Parliament (Houses of the Oireachtas) decided that British border controls could not be conducted on Irish territory.

⁸³ The border runs even right through the middle of a pub. In one part you can order pints and pay in pounds, in the other you order half a litre and pay in euros. A sign above the counter reads: "Please do not discuss politics."

⁸⁴ Duties on petrol and diesel are lower in Ireland than the United Kingdom. Trading across the border was a lucrative business. The devaluation of the pound has largely wiped out this trade margin.

problems out of what was meant to be only a notional border. It is also ironic that the separation of Northern Ireland—which in 1922 was designed to weaken the rebellious South by splitting the island—now turns out to be the main stumbling block weakening the British position in leaving the EU and threatening to split the United Kingdom.

Once this border becomes an external EU border and once migration and trade policy diverge between the United Kingdom and the EU, it seems obvious that people and goods will have to be controlled. Together with the United Kingdom, Ireland remained outside the Schengen area. It will be doubtful if Ireland alone can withstand the pressure of Brussels to join after the United Kingdom has left the EU. The brutal fact that there have to be controls somewhere between Dublin and London cannot be papered over by ingenious suggestions of fully automated systems or technical devices, shifting the controls to some other places or special arrangements—unless Northern Ireland remains within the EU Customs Union. 85 This is the meaning and the function of the backstop. In a way, it puts the cart before the horse. It postulates that there should be no border controls and then deduces that Northern Ireland has to remain in the Customs Union if no better arrangement can be found. And such a future arrangement has to be agreed by both sides. It supposes that a solution can be found for a border without controls that prevents uncontrolled crossing—squaring the circle is an easy task compared to this conundrum. The main thrust of the 2016 referendum went for a more restrictive immigration practice in the United Kingdom. This is difficult to reconcile with a Common Travel Area between an EU Member State and one that has explicitly turned away. If the United Kingdom wants to leave the Customs Union, the Single Market and restrict migration, Ireland cannot keep in lockstep with its great neighbour without infringing its obligation under the Lisbon Treaty and its four basic freedoms. If the EU were to allow an exception, it would undermine the principles by which it exists and Ireland would destroy the very foundations on which its economic miracle rests since joining the EU in 1973.86

⁸⁵ Even then, controls of peoples' movements would be unavoidable. Without such controls migrants from EU countries could enter the United Kingdom through the backdoor of Ireland. As a member of the EU, Ireland is bound to permit free movement of people and the Common Travel Area guarantees free movement between Ireland and the United Kingdom. If there is no point of control, all restrictions on immigration imposed by the British government could easily be circumvented by flying to Dublin and then crossing without controls into Northern Ireland.

⁸⁶ Joining the EEC in 1973 laid the basis for a remarkable economic upswing in Ireland. Annual growth rates oscillated between 4% and 10% between 1980 and 2008. Ireland experienced a rapid structural change from a predominantly agrarian to a service based society. Per capita income rose from €7,000 (1980) to €45,000 (2007), earning Ireland the nickname 'Celtic tiger'. Ireland successfully persuaded some international giants to establish their European headquarters in Dublin and to use Ireland as a hub for distribution within the EU. Dublin rose to become an important financial centre in Europe.

The United Kingdom and the Republic of Ireland are joined like Siamese twins along the border on the island of Ireland. Can they be separated without damaging vital organs? In Ireland the problem of withdrawal is inseparably intertwined with that of the future arrangements between the UK and the EU. It became relatively clear shortly after June 2016 to those familiar with the situation that the border regime on the island of Ireland had the potential of becoming the chief stumbling block in Brexit. There are only three basic solutions: there could be a hard border on the island, or there could be controls between Northern Ireland and the rest of the UK, or the entire UK could remain within the Customs Union. The harder the Brexit, the harder the Irish border. All veterinary experience of prevention of epidemics would advocate a regime for hygiene and animal health that treats the nature-given geographic and biospheric unity of the island as a regulatory and administrative unit.

Should Northern Ireland leave the EU together with the UK, all references to the common regulatory space that the EU provided for both partners in the Good Friday Agreement would lapse. No inhabitant in the North with republican feelings could accept that. Parts of Sinn Féin would probably revert to violence, and the IRA could experience a resurrection. On the opposite side, all Unionists are fiercely opposed to any attempt to drive wedges between their territory and the main body of the United Kingdom, such as the Brussels suggestion that Northern Ireland could remain within the Customs Union as a special economic zone. According to this proposal, all necessary controls would take place in the harbours between Northern Ireland and the Isles of Great Britain. That Northern Ireland should remain an inseparable, fully integrated territory within the United Kingdom, subject to no special conditions or exceptions, is the sacrosanct belief of any Unionist. Theresa May herself has reaffirmed that position repeatedly.⁸⁷ The main Party of the Unionists (DUP) keeps the May government in Westminster in power by shoring up its skimpy majority in the House of Commons. The DUP therefore has an overproportionate influence on decision-making in Westminster, as they can always threaten to withdraw their support—or demand substantial concessions in return for accepting compromises. May has already bought DUP support more than once by transferring extraordinary financial resources to

⁸⁷ At her press conference after the rather disappointing Salzburg summit in September 2018, Theresa May declared: "Creating any form of customs border between Northern Ireland and the rest of the UK would not respect that Northern Ireland is an integral part of the United Kingdom, in line with the principle of consent, as set out clearly in the Belfast/Good Friday agreement. It is something I will never agree to—indeed, in my judgment it is something no British prime minister would ever agree to. If the EU believe I will, they are making a fundamental mistake." (https://www.gov.uk/government/news/pm-brexit-negotiations-statement-21-september-2018, 23 Sept. 2018). She was echoing what the DUP had prompted her to say.

Belfast. 88 The Unionists are particularly alarmed about any change that could open a back door to reunification of the island of Ireland. That is exactly what radical nationalist Republicans hope for. A gradual loosening of ties between Westminster and Stormont would eventually play into their hands. Prime Minister May has been adamant in emphasising that such a new line creating a rift within the United Kingdom by assigning a special status to Northern Ireland is unacceptable to her and to all her successors. The third solution—for the entire United Kingdom to remain within the Customs Union—would deprive her of any credibility because she has so often rejected it as incompatible with the 'will of the people' as expressed in the referendum of 2016. May and the Unionists ignore the fact that Northern Ireland voted Remain in the referendum by a clear majority and that a sizeable—and since 2016 rapidly growing—number of the population in Northern Ireland hold Irish passports and thus continue to enjoy all the rights of EU citizens. 89

4.4 Germany

The Germans classify, but the French arrange Willa Cather

Brexit will affect Germany in many ways. Expectations to offset the gap in EU finances after Brexit are all directed towards Germany, the Member State with the strongest economy and the dominant financial power. The coalition treaty of March 2018—to which the present German government is bound—has expressed willingness to shoulder higher EU contributions, thereby raising expectations even further [13].

The United Kingdom is one of Germany's most important trading partners. German exports to the United Kingdom were €86 billion in 2016, accounting for 2.6% of Germany's GDP. Including services, these figures rise to €120 billion and 3.6% respectively. Germany enjoys a massive €51 billion trade surplus with Britain, almost a fifth of Germany's overall surplus. Bilateral trade has been contracting since 2016. In 2017/8, German exports to the

 $^{^{88}}$ The first was in 2017, when May promised £1 billion for Northern Ireland, prompting some commentators that that amounted to a bribe of £100 million for each of the ten DUP MPs.

⁸⁹ All people living in Northern Ireland have the right to choose their nationality, including dual citizenship. Applications for Irish passports have shot up after June 2016. Demographic developments suggest that the part of inhabitants who define themselves as Irish is constantly growing. Among those above the age of 60, 60% declared themselves to be British, only 20% as Irish. Among those below 20, the proportion of those that are feeling British falls to 40%, that of those that proclaim Irish identity is 30%. The rest call themselves 'Northern Irish'—whatever that means.

United Kingdom were down 3.6% and imports from Britain were 2.7% below the level of the previous year. This was the only exception in Germany's trade balance as trade with all other partners continued to increase.

Around 550,000 jobs in Germany are involved in this bilateral trading relationship, and around 230,000 in the United Kingdom. Value-added chains are inextricably intertwined. In the aircraft industry, British companies have a 3.3% share in German production, and in the automotive and machine building industry that figure is 1.5%.

For German carmakers and machine-builders, the United Kingdom is an important market: 800,000 vehicles are exported annually from Germany to Britain. The United Kingdom takes almost as many German vehicles as the next three EU markets added together [14, 15]. The crucial importance of the British market for the German automotive industry has misled some Leavers into assuming that German carmakers would pressure the government in Berlin to ensure barrier-free access for German cars after Brexit. 91 So far, this calculation has proved wrong. German industry is aware that it may be facing serious losses in sales and/or substantially increased costs for access to the British market. But it is also aware that it is far more dependent on smooth operations with subcontractors supplying essential components at competitive prices with reliable quality from neighbouring EU countries like Hungary, Slovakia, the Czech Republic, Poland, and Romania. To jeopardise this network of convenient suppliers in order to keep access to the British market would be suicidal. Up to 70% of all components of each car made in Germany are supplied from outside Germany. German carmakers want to avoid a situation in which British carmakers would have unrestricted access to the continental markets without being subject to the same stringent regulations and standards as continental producers. On 25 September 2018, while

⁹⁰ In 2017, Germany sold 800,000 vehicles in Britain, 310,000 in Italy, 285,000 in France and 230,000 in Spain. Taken together, the last three markets account for 825,000 cars made in Germany. German car exports to China were 260,000, but earnings were higher because China takes more premium cars and because of different pricing structures.

⁹¹ Boris Johnson at Wembley Stadium on 20 June 2016: "I must say that I think that it was extraordinary to hear that we would have tariffs imposed on us because everybody knows that this country receives about a fifth of Germany's entire car manufacturing output—820,000 vehicles a year. Do you seriously suppose that they are going to be so insane as to allow tariffs to be imposed between Britain and Germany?" (http://www.heraldscotland.com/news/14571296.Boris_Johnson_EU_tariffs_would_be__insane__if_UK_backs_Brexit/, 22 Jun. 2018). A day later, he remarked: "Germany is desperate for free trade." David Davis echoed this sentiment: "In 1975, the EU was the bright future, a vision of a better world. Now it is a crumbling relic from a gloomy past. We must raise our eyes to the wider world. We are too valuable a market for Europe to shut off. Within minutes of a vote for Brexit the CEO's of Mercedes, BMW, VW and Audi will be knocking down Chancellor Merkel's door demanding that there be no barriers to German access to the British market." (Speech at the Institute of Chartered Engineers, 4 February 2016 (http://www.daviddavismp.com/david-davis-speech-on-brexit-at-the-institute-of-chartered-engineers/, 22 Jun. 2018).

celebrating the Day of German Industry in Berlin, the Confederation of German Industry (BDI) unanimously supported the German government's Brexit policy.

Producers of pharmaceuticals and machine builders will be strongly affected, even if not as massively as carmakers. Generally, the British market may become more difficult and profit margins may erode, but this market will not completely disappear overnight. Losses can be compensated in new emerging markets. Both Germany and the United Kingdom are united by a common interest in avoiding new tariffs. Tariff barriers will become inevitable, however, once the United Kingdom leaves the Customs Union and the Single Market. So far, no German manager has ventured to say that it might be worthwhile undermining the entire edifice of the Single Market in order to accommodate special interests in the British market.

All the talk about tariffs, custom union and the Single Market tends to forget the rapidly rising importance of digital markets. They defy any tariffs, but they are in need of wise and far-sighted regulation. Any divergence in these regulations between Britain and the EU continent is bound to create complicated problems. The United Kingdom was one of the most active protagonists calling for a liberalised EU-wide digital market. After Brexit, it appears highly probable that digital markets will be regulated more restrictively and more intrusively on the continent than in the UK.

Looming losses in the City of London are expected to provide dividends for Frankfurt. Rents for office space are exploding there. The municipality expects about 5000 financial experts to come to Frankfurt, and they will bring considerable purchasing power. Their arrival will set off a local boom and raise demand for services like international schools, doctors, lawyers, supermarkets, restaurants, nurses, and domestic help [16].

Germany's geographic position at the centre of the continent has had the effect of making Germans look at economic integration with an eye to politics and security. European integration started off with the ECSC in 1950, an initiative born out of the desire to secure permanent peace structures between Germany and France. The United Kingdom, with its geopolitical position as a group of islands on the outskirts of Europe, never showed great interest in these aspects. The Levante is still called the Middle East in England. The Near East begins in Poland, the Czech Republic, Slovakia, Slovenia—those 'far away countries, of which we know nothing' in the (in)famous words of Neville Chamberlain [17]. This makes it difficult for Britain to fully understand the singularly close inter-connectedness of Germany with all its neighbours, which exceeds purely economic or financial interdependence. If Germany positions itself politically, it has a habit of looking over both shoulders to

make sure it knows where its neighbours stand. The two world wars still impose particular considerations for sensitivities of its neighbours. The United Kingdom—which used to run an Empire that comprised almost half of the inhabited world and a victorious power in the Second World War—likes to take a position and then expects others to conform to it. After 2008, Germany introduced a bonus scheme for people to scrap their cars prematurely and buy a new model. That incentive had positive effects in the Czech Republic and in Hungary much more so than in Germany itself, because suppliers in these countries profited from boosted car sales in Germany. This is a striking example of how every move that Germany makes causes ripples that immediately affect all its neighbours. The United Kingdom has never been in a similar position.

Britain leaving the EU will automatically increase the specific weight and importance of Germany. Germany will lose an important ally in fighting for liberal markets, against protectionism and against excessive demands on the welfare state. Germany will have to stand up to growing demands without that strong ally. The vision of a European army may be a step closer to realisation after the United Kingdom can no longer delay or dilute initiatives in that direction. But the corollary of this will be that Germany will have to contribute much more to the substance of such capabilities. It will have to bear the brunt of demand for procurement and for generating troops—a task not made easier after conscription was abolished. On her return from her first meeting with President Trump, Chancellor Merkel remarked that the times in which we could rely completely on others have gone [18]. After Brexit, and if the USA's distance from Europe continues to grow, Germany will be called upon to pay a contribution to Europe's security that is commensurate with its dominant economic and financial position.

The main challenge for Germany will be to lead without dominating, to unify without appearing power hungry, to identify ways ahead without patronising, and to defend principles without seeming dogmatic or condescending. The United Kingdom has been a stabilising factor in European politics. Military cooperation with France intensified after the meeting at St. Malo in December 1998. Franco-German military cooperation at a conventional level has hardly made any progress since then. The British position on trade, finances and economic policy has always been closer to Germany than to France.

 $^{^{92}}$ This is particularly irritating since the German government appears to evade even modest increases in defence expenditure to reach 1.5% of GNP—let alone those 2% promised at the NATO summit in Wales in 2014.

If the EU wants to strengthen security and military capabilities, it will have to fall back on Franco-German cooperation. Both countries will form the backbone of EU security, maybe with an extension to Madrid and Warsaw. Common defence equipment will be crucial. British participation in such projects will become more difficult but at the same time more urgent. It is important that British industrial capabilities (BAE) remain closely aligned with those of EU countries. British participation in Airbus could be thrown into doubt, particularly if Airbus were to shift production to America or China. After Brexit, it will be a central challenge to keep Britain's unique abilities in research, development and production tied to Europe, to make use of them for common purposes.

4.5 The EU: Loss of a Family Member

O call back yesterday, bid time return! William Shakespeare

The bedrock of European union is the consent of the people Edward Heath

Brexit has exploded the myth of irreversibility and of irresistible progress towards an ever closer union of the peoples of Europe. He concept that the destiny of Europe lies in its unification through the EU has lost its lustre. The EU no longer presents the manifest destiny of Europe. The EU had previously suffered two withdrawals, those of Greenland and Saint Barthélemy. But one was a tiny island in the Caribbean, the other an ice-covered island with the population of a large village, without railways, without roads, and without any trade except fish.

⁹³The wings of all Airbus models are assembled in Filton, close to Bristol—roughly 1000 pieces a year. Some have joked that after Brexit Airbus could drop the first syllable of its name—for without wings it would produce only buses. Airbus warned in June 2018 that if there was a hard Brexit, it might shift its entire production out of Britain to either North America or to China. Similar warnings came from BMW, Siemens and VW. Jaguar has threatened to transfer production outside the UK as did Ford and all the Japanese carmakers (Toyota, Nissan, Honda).

⁹⁴Benjamin Disraeli who understood a lot about history said: "*The pendulum always swings back*." He also remarked, that irreversibility had no place in the language of politics or of history.

⁹⁵ Algeria left the EU in 1962 when it ceased to be a French outremer territory. Greenland and the Faroe Islands left in 1985, Saint Barthélemy in 2012. The withdrawal negotiations took more than two years, although there was little more than fisheries to be discussed.

With the exit of the United Kingdom, the EU loses its second-most important economy, 20% of its manufacturing power, 13% of its population and 7% of its territory, 18% of its economic strength and more than 20% of its military capabilities. The loss of the United Kingdom is equal to the loss of 18 of its smaller members. The EU is losing a lot: a nuclear power; a member with strong and time-tested armed forces and significant military capabilities; a permanent member of the UN Security Council; a consistent advocate of liberal values and pragmatic approaches; a country with a strong global presence, with vast experience after having controlled an empire that covered a third of the world's territory and a fourth of its population; a powerful, global financial centre; the mother country of democratic institutions and of the modern global lingua franca; and the home of a dozen of the world's best universities. The United Kingdom is not one of those EU members suffering from stifling unemployment, crushing debt or economic stagnation. It is not chafing under financial regulations and controls imposed by Brussels. It is a country with singular innovation potential, a strong economy, and an even stronger service sector. Yet it turns its back. The EU is losing a member that has always been enthusiastic about enlarging the EU, even as it regarded the unification of Europe with some sober detachment—maybe even cynical disenchantment. But it was always open for pragmatic, liberal solutions, for reform, and opposed to excessive centralisation or half-hearted compromises that blur responsibilities and make a mockery of principles. The United Kingdom has never regarded the EU as something sacred or as an article of faith. It has looked upon the EU as an instrument to further political and economic ends, but never as an end in itself. And the UK was never shy about voicing criticism if it felt that the EU was going astray. In concrete terms, Brexit is diametrically opposed to the slogan 'More Europe' and results quite simply in 'less EU'. If politicians were to use precise language they would have to demand not 'More Europe' but 'More EU'. But that would conjure up totally different and not necessarily more persuasive connotations.

After 29 March 2019, it is impossible to claim that the EU represents Europe. Jean-Claude Juncker and many others pretend that the EU stands for Europe and vice versa. That was presumptuous even before Brexit. After Brexit, it is historically and geographically simply misguiding. Even disregarding the Western Balkan countries⁹⁶ (they are pursuing EU membership), it is patently denying facts to identify Europe with the EU after four western

⁹⁶Let alone Belarus or Ukraine. Even Russia counts as part of Europe and as a European power.

European countries have explicitly rejected membership: Iceland, Norway, Switzerland and, soon, the United Kingdom. These four are modern, financially strong and politically stable. To exclude or even ignore them by equating the EU and Europe is mistaken reasoning and arrogance.

Brexit poses some fundamental questions about the concept of the EU. What is it for? Does it meet expectations? How to explain (and counter) the creeping disillusionment? Are there alternatives to the EU—and what would they look like? Brexit provides an opportunity to pause for a moment and to check the compass. So far, the EU has demonstrated little reflection or self-inspection. Jean-Claude Juncker dismisses Brexit as a minor irritant. According to him, it does not touch the founding principles of the EU. Some EU faithful regard Brexit as redemption: the heretics are finally leaving the church of EU believers, after having far too long sowed doubts over dogma and ridiculed rituals. They regard the United Kingdom as the chief obstacle and as a brake that was preventing or derailing steps towards further integration. Michel Barnier commented that the problem of defining a new realistic relationship is primarily a British problem. That is correct on a formal level. If a member leaves a club, it cannot demand that the club reformulates its charter. But Brexit is not a member leaving a club. It is more like the loss of a relative. The EU had always pursued the ambition to 'gather the European lands'—as the Czars did in Russia. The EU has always defined itself territorially and culturally, as expressed in the Copenhagen criteria. The EU refuses to admit non-European members—even if they fulfil the Copenhagen criteria. Countries that do not belong to Europe stand no chance. 97 Therefore, the EU is not a club but rather a family—whose membership is predetermined and which to join you have to show that you are a relation. The question, therefore, is not whether the British government raises unfair demands, but whether it is not a fundamental interest of the EU to find a way to accommodate the unease of one of its members. Is the EU not facing disillusion and a sobering reassessment of its achievements? Would it not be imperative to find a strategic answer to these challenges? The elections to the European Parliament will probe the extent of disillusionment and indifference that people in the EU feel towards institutions in Brussels. It should give occasion for some selfscrutiny and unprejudiced reassessment. If a marriage breaks down and one partner leaves, the other one is well advised to take a good self-critical look in the mirror.

 $^{^{97}}$ Morocco applied for EEC membership in 1987 but was turned down on the grounds that it is not a European country.

The concessions made to Cameron in the spring of 2016 were not unwise. The 'ever closer union of the peoples of Europe' is either a chimera or it unfurls an irresistible gravitational pull that can eventually end only in a federal United States of Europe. Do citizens in the EU want that? Brexit is but the most visible symptom of a general, sceptical unease growing in almost all Member States. It should be taken seriously. In the last presidential elections in France, the Front National's Marine Le Pen scored only 2.7% votes less than Emmanuel Macron in the first round of voting. 98 In the second round, she received half as many votes as Emmanuel Macron. A markedly EU-critical government has been formed in Italy. Governments in Warsaw, Prague, Budapest and Bucharest grow increasingly detached from Brussels. In the Netherlands and in Sweden parties that are openly critical of the EU are becoming more important and are set to play a crucial role in coalition building. Public opinion in Greece remains embittered and hostile to the EU and many of the EU Member States. Even in Germany and Austria EU-sceptic parties are winning support, and in Vienna the FPÖ is part of the government. In Germany, the AfD—a party that came third in the 2017 general election and has good chances to do much better in future elections—is openly contemplating 'Dexit' (the withdrawal of Germany from the EU). If, for better or worse, the consent of the people is the bedrock of the EU, then it is time to start a general overhaul of these foundations.

4.5.1 Ever Closer Union of People?

The EU should ask whether it is not in danger of becoming something like a church with dogmas, an inability to brook dissent, a hierarchy that is further and further removed from the needs and views of ordinary people, with rituals and procedures no outsider can understand. Is the EU in an analogous position to the Catholic Church on the eve of the Reformation? Six countries founded the EEC ten years after the Second World War. Seventy years after that war ended, do institutions and founding principles stand up to a community of almost five times the original number? The heterogeneity of the EU has increased more than fivefold. Does it still make sense to forge unitary regulations for such a diverse bunch of countries and peoples? The EEC was based on the universality of catholic and liberal values. It was created by six countries that shared overlapping cultures and a long common history—even

⁹⁸ Macron's En Marche party obtained 8.6 million votes (24%), Marine Le Pen's Front National 7.6 million (21.3%). In the second round, 20.7 million voted for Macron (66%), and 10.6 million (34%) for Le Pen.

though that past was permeated by war and confrontation. French occupations of parts of Germany and the French Huguenots have left an indelible imprint on German culture and German identity. Between the original Six there were differences in language and food, but few fundamental differences in values and world perspectives.

Today's EU27 are much more diverse—historically, culturally, socially and in terms of values. If current symptoms are indicative, this diversity is growing. Is the EU not in danger of rousing resentment as a uniform levelling Procrustean bed—even if that is called 'harmonisation' in more subdued Brussels language? The British call for a bespoke agreement is the desperate attempt to escape from this irresistible maelstrom of ever-increasing egalitarianism. The Treaty of Lisbon contains exceptions and special provisions that take up almost as much space as the actual Treaty. 99 Are the four freedoms of goods, services, capital and people really of such fundamental importance that they are above discussion? Are they eternal dogmas, like four gospels? Freedom of goods, services and finances is in a different category from freedom of movement for people. Freedom of movement presupposes that all human beings are equal. In that, it is a true expression of cosmopolitan liberalism. But it tends to disregard existing cultural differences. To an entrepreneur interested in efficiency, productivity and costs only, it makes no difference if workers are recruited locally or come as immigrants from Asia or Africa. For the social fabric in which they live, it makes an enormous difference. For immigrants bring with them a different educational background, different national, tribal or clannish ties, different historical records, different values and beliefs, different patterns of acceptable social behaviour, different religions, different prejudices and different attitudes towards what is justice and what is the proper relation between men, women and children. The basic economic idea was that if capital and goods can circulate freely, manpower should also be free to go to where it is most productive and fetches the highest wages. Competition in the labour market has always been curbed within the EU through minimum wages, the Posting of Workers Directive and modifications of social benefits and insurance. The EU labour market is markedly less liberalised than the other three markets. Would it strike at the roots of the EU if the mobility of labour were to be restrained or conditioned?

The jungle of decision-making in Brussels is impenetrable. Administrative procedures are arcane, recondite and unintelligible for outsiders. To make

⁹⁹ The Treaty of Lisbon consists of 358 articles on 260 pages in the official EU version. They are supplemented by 37 Protocols on more than 160 pages, two annexes and 65 unilateral declarations on further 40 pages. Protocols, annexes and declarations account for about 43% of the total volume of the text.

decisions purportedly more democratic, they have become opaque and incomprehensible. Responsibility has been dissipated to such an extent that it cannot be clearly attached to any person or any institution. Empowerment and participation rights have been reinterpreted as genuine competences and conferred powers. The appointment of the President of the Commission is a case in point. Cameron's charge that the European Parliament was usurping powers by turning the balance of powers between Council and Parliament on its head was not without foundation. By extending participation rights, responsibility has been reduced to homeopathic dilutions. This watering down of direct responsibilities makes it impossible to demand clear accountability. It is also an open invitation for national governments to shift blame for unpopular measures to Brussels, because nobody knows how far that government had an eager hand in designing those measures in the first place. There is no loyal opposition in the Brussels Parliament. So there is nobody to systematically challenge and scrutinise the policy of the Commission or of the Council and to offer alternatives. The EU is effectively run by a permanent Grand Coalition or an EU unity party, making it impossible to form a loyal opposition. Whoever dares to criticise EU policies risks being stigmatised as an EU-sceptic, if not branded as an 'enemy of Europe'. The European Parliament is democratically elected, but there are grave doubts that it is representative. EU citizens rarely identify with the agenda of this Parliament, and MEPs do little to campaign for the agenda of the Commission or to explain priorities and procedures in Brussels. The EU has a problem as long as politicians like Nigel Farage, Marine Le Pen, Matteo Salvini, Alexis Tsipras, Victor Orban or Jaroslav Kaczynski enjoy more respect among voters than people like Jean-Claude Juncker, Günther Oettinger, Herman van Rompuy, Donald Tusk or the ever-invisible Federica Mogherini.

The model of varying speeds no longer applies. It presupposed a common destination that might be reached at different times. The departure of the United Kingdom makes it impossible to define a common destination for Europe as a geographic or cultural unit. Even within the EU, there are growing doubts whether all present Member States share the same vision of the future. Perhaps the model of variable geometry is better suited to describe a common future, projecting various groups interconnected with different intensity. But this would imply a renunciation of the rigid uniformity that has dominated European integration so far. It would imply differentiation and individual tailoring—in other words: bespoke rights of participation. Rigid and uniform regulations may be required for a common market for cheese, flour, beer and packaging. They are ill suited to guide the budgets and the migration policy of more than two-dozen states. The EU started as a proj-

ect of liberal principles, of free competition and a boost for development. It is in danger of turning into a gigantic planning authority, intervening and interfering, levelling and enforcing uniform standards, giving solidarity a higher priority than freedom and responsibility, and putting a higher value on conformity than the liberal principle of self-determination and self-responsibility.

British voices criticising the EU may have been shrill and exaggerated. But behind them there was a chorus of reasonable, well-structured voices that deserve to be taken seriously even if they run counter to accepted EU orthodoxy. They are increasingly finding a positive echo outside of the UK. It is the tragedy of Brexit that it has destroyed all serious talk about EU reform for the next few years. Radical Brexiteers are rightfully dismissed as prejudiced fanatics and daydreamers. On the other hand, a siege mentality has taken hold in Brussels. Nobody dares touch anything in EU institutions or procedures for fear of setting off another avalanche that might be even more destructive. These two extremes are suffocating serious discussions about gradual, realistic reform at a time where the need for such reforms is obviously increasing. Brexit could trigger an identity crisis of the EU that exceeds anything it has experienced so far.

4.5.2 The European Court of Justice

The Court of Justice of the European Union (CJEU)¹⁰⁰ in Luxembourg has come into the focus of debate. So far it had been tucked away behind the dominant foreground of the main players in Brussels. But it turns out that the Court has been one of the driving forces of EU integration through its imaginative understanding of the concept of jurisdiction and creative lawmaking. Through numerous judgments, the Court has interpreted EU primary law in a restrictive or rather teleological way, thereby laying down the tracks for further integration. It has frequently ignored the will of the legislature, pushed aside the voices of important Member States, and overridden the considered advice of legal experts. It has manoeuvred itself into a position of increasing contradiction with the jurisdiction of some of the highest national courts in

¹⁰⁰The Court of Justice of the European Union took on this name (and is referred to by the acronym CJEU) when the Treaty of Lisbon came into force on 1 December 2009. Previously, its official name had been the Court of Justice of the European Communities, but was consistently referred to as the European Court of Justice (ECJ).

the Member States.¹⁰¹ The Court has to observe and interpret primary and secondary EU law as laid down by Council, Commission and Parliament. There is, however, a fatal asymmetry between European primary law (which is almost as immutable as constitutional law) and the nimble jurisdiction of the Court. 102 The Court is not only applying the law, it is making and modifying the law to a large extent. It takes its inspiration in doing so from the ideal of a political Union of European States. This vision is increasingly at odds with what people in EU Member States actually want. But since the entire legal base on which the EU has been built can only be changed or adjusted through unanimous consent of all Member States—and since this consent requires national parliamentary approval, if not a referendum—nobody wants to touch the Treaty of Lisbon. The appetite for further treaty change has evaporated. Although there is a permanent Grand Coalition in the European Parliament, it is proving almost impossible to adapt the legal basis of the EU to changing historical reality. This lacuna is being filled by the CJEU with its own normative concepts. This raises the question what the legitimate basis might be for the jurisdiction of this court. National courts pronounce judg-

¹⁰¹The Court has interpreted EU law extensively in favour of harmonising and unifying the Single Market as demanded by the Commission. The following examples are some landmark judgments, some of which have come under muted but harsh criticism from national lawyers and judges.

van Gend & Loos vs. NV Algemene Transport- en Expeditie Onderneming, Judgment of 5 February 1963 (Curia C-26/62);

⁻ Flaminio Costa vs. E.N.E.L., Judgment of 15 July 1964 (Curia C-6/64);

Otto Scheer vs. Einfuhr- und Vorratsstelle für Getreide und Futtermittel, Judgment of 17 December 1970 (Curia C-30/70);

The Queen vs. Secretary of State for Transport (Factortame case), Judgment of 19 June 1990 (Curia C-213/89);

Commission of the European Communities vs. Council of the European Communities (Titanium dioxide case), Judgment of 11 June 1991 (Curia C-300/89);

United Kingdom of Great Britain and Northern Ireland vs. European Parliament and Council of the European Union (ESMA-Case), Judgment of 22 January 2014 (Curia C-270/12);

Peter Gauweiler and Others vs. Deutscher Bundestag (OMT case), Judgment of 16 June 2015 (Curia C-62/14).

The Commission and the CJEU are bound to observe primary law as laid down by the Council, but they have ample powers to modify the usually rather general and imprecise specifications of primary law through secondary law and through interpretation and application to substantive cases.

¹⁰² Every revision of primary EU law requires treaty change. In effect, that means that all of those 358 articles and 37 protocols with another 280 articles contained in the Treaty of Lisbon are factually untouchable because nobody wants to run the risk of opening some of them and then see the total edifice unravel or collapse because of one failed ratification. They are the backbone of the *acquis communautaire*, which is looked upon by many as a sort of revelation of eternal, eschatological truth. It embodies the irreversibility of EU integration. It has a ratchet effect. Therefore, it is resented by some as a black hole from which nothing can be retrieved once devoured. Brexit is a visible demonstration that this irreversibility is a fiction, even a dangerous fiction.

ments in the name of the people or in the name of the head of state, thus referring to the source whence they derive their legal powers and the authority of their judgments. Judgments of the CJEU avoid naming this source of legitimacy. Through its independent, and sometimes wilful judgments, the Court is steering itself into growing contradiction to the authority of national Parliaments whose legislation is pushed aside or overridden, and sometimes turned on its head. But Parliaments are legitimised through regular popular elections. CJEU judges are appointed according to an opaque procedure. The criteria for selection are neither clear nor above challenge. The independence of the judges—which should be 'beyond doubt' according to the Treaty—is coming under increasing doubt. The Court has no means of its own to give effect to its judgments. It has to rely on national executive powers to implement its decisions. Brexit shows that there is no guarantee that this will unfailingly be the case.

The EU has reached a critical phase in its development. Juridical principles are increasingly clashing with parliamentary legitimacy and government positions derived from democratic elections. The EU is in danger of defending democracy against the people—a confrontation that will probably seriously damage all three. For behind these superficial rivalries lurk some fundamental questions of power and precedence. It is the unresolved question of where sovereignty ultimately resides when it comes to a clash. Brexit reminds us: you can delegate state sovereignty and you can devolve it. But then sovereignty is only temporarily bestowed, like when a suzerain endows a vassal with a fiefdom that reverts to the suzerain when it is forfeited or reclaimed. It should have been clear since the time of Jean Bodin that sovereignty is indivisible by definition. Therefore talk about shared sovereignty is misleading. In cases of conflict, there must be a clear rule about whose decision is to prevail. As long as the EU is based on a Treaty and the Member States remain the lords of that Treaty (with the Commission as the guardian), there can be no doubt where sovereignty resides in the final analysis.

If the crude rule of force is to be avoided there has to be one—and only one—ultimate authority against whose decision there is neither appeal and nor objection. The suspension of national legislation once it has been passed after due consideration and debate in a democratically elected parliament representing a fair expression of the will of that people by invoking an abstract finalité of 'ever closer union of the peoples of Europe' and starting infringement procedures against duly elected national governments will not reinforce unity among EU Member States. On the contrary—it could easily fuel further disillusionment and subvert the very foundation of the EU: the consent of the people. If tensions between national strands of legitimation and those of the

EU grow worse, they could hasten the exit of other states. No national government that feels secure in the saddle of power will knuckle down before threats from Brussels. Infringement procedures are a bit like excommunication. Repeated too often and administered with suspicious inconsistency, such measures lose their effect. This may play no role as long as there is substantive agreement and a fundamental convergence of interests. But whosoever puts something together can also put it apart again. This is the lesson of Brexit. The question of sovereignty will re-emerge from the Treaties like a jack in the box at the moment when serious conflict cannot be sufficiently bridged by some compromise. Criticism of the CJEU's judgments is growing even among learned lawyers because the Court interprets law in the light of a nebulous, eschatological political perspective rather than according to the will of the legislature [19].

4.5.3 Majority Voting

The EU is facing a series of structural adjustments after Brexit. The Lisbon Treaty lays down procedures for Qualified Majority Voting (QMV) [20]. The Council can make binding decisions for all members if 72% of the votes agree, representing 65% of the total population. If the Council decides matters proposed by the Commission, a majority of 55% is sufficient. The blocking minority, however, remains at 35% of the population [21]. Brexit affects the threshold of majorities with far-reaching consequences. Pursuant to Article 238(2) TEU, 20 out of 27 (instead of 21 out of 28) votes will constitute a majority of 72%. In the second case, that majority is reduced from 16 to 15 votes (55%). Much more consequential are changes in blocking minorities. The United Kingdom has 65 million inhabitants and constitutes 13% of the total EU population. Together with some other northern countries, the United Kingdom forms a bloc of predominantly protestant, market-oriented countries that are net contributors and support subsidiarity, free trade, ceilings for national debt, responsible financing and full responsibility of each government for its national economic and financial performance. 103 This group¹⁰⁴ accounts for 39% of the EU population. Another group of states

¹⁰³Anticipating Brexit, some of these countries have formed the New Hanseatic League which comprises the three Baltic countries, Finland, Ireland, the Netherlands, and—for non-Euro matters—Sweden and Denmark. Together they strive for stricter EU-controls of national budgets, ceilings for public debt, and—as a last resort—heavy fines for governments that defy these rules.

¹⁰⁴ Apart from the United Kingdom, it comprises Germany, Austria, the Netherlands, Denmark, Sweden, Finland and the Baltic countries. Taken together, these countries represent 197 million people. Without the United Kingdom, that number shrinks to 131 million.

with a more pronounced interest in mutualising national debt, creating a transfer union and shifting responsibility for economic and financial problems to the EU level comprises mostly Mediterranean countries. 105 Most of them lean towards étatism, protectionism and dirigisme. Most of them have a Catholic tradition and they make up 38% of the EU's population. After Brexit, the proportions will be massively tilted in favour of the latter group, whose specific weighting will grow to 45%, whereas the northern group will be reduced to 30%, thus falling below the threshold of a blocking minority. This means that after Brexit net recipients of EU transfers could theoretically pass majority decisions at the expense of net contributors. In this respect, the TEU remains incomplete, as it lays down exit procedures in Article 50 but fails to define implications of such a withdrawal for other vital stipulations of the Treaty such as the definition of majorities. The articles concerning majority voting were formulated at a time when nobody was seriously considering the possibility of EU withdrawal. Everybody was steeped in the belief in the EU's irreversibility. Article 50 was considered more as a decorative detail nice to have but without any serious consequences. This leaves the EU in a situation where necessary modifications of majority voting can only be achieved through opening and reformulating the relevant treaty provisions something that everybody dreads and seeks to avoid because no one can predict what else might come under reconsideration.

Similar arithmetic consequences will be faced in the European Parliament. The Lisbon Treaty lays down a ceiling of 751 for the number of its seats. The United Kingdom has 73 MEPs, Germany has 96, France has 74 and Italy also has 73. The Parliament submitted a proposal on 7 February 2018 according to which the total number of seats should be reduced by 46 to 705. The remaining 27 seats should be redistributed. Again, it would be primarily Mediterranean countries that would profit. 106

4.5.4 Complacency?

There is little danger that Brexit could trigger a general drift away from the EU. On the contrary: Brexit has induced most EU members to close ranks and to demonstrate unusual unity of purpose and tactics. In uncertain times,

¹⁰⁵ It consists of France, Italy, Spain, Portugal, Greece, Malta, Cyprus, and Belgium. Taken together, these countries comprise 196 million inhabitants.

¹⁰⁶The redistribution would give France and Spain an additional five seats, Italy three. In the northern group, Finland, the Netherlands and Estonia would each win one seat. Germany's number would remain at 96.

the impulses grow to keep to an existing order. All British attempts to split the phalanx of the other 27 states foundered on the solid wall that the EU27 kept under the guidance of Michel Barnier. A lot will depend on how public opinion develops in the United Kingdom after Brexit, and on whether the EU27 will find a way back to solid stability beyond this one issue. The irrepressible rise of political currents critical of the EU in almost all EU Member States is an alarming symptom that should make EU institutions and EU politicians pause, analyse the present situation and its potential consequences, and enter a phase of profound self-examination. It could be that some years into the future the question 'who lost Britain' will haunt politicians in Europe in a similar way the question arose in the United States over 'who lost China'.

Against this alarming background, the most surprising thing is that the EU continues as if nothing had happened. The White Paper on the Future of Europe¹⁰⁷ submitted by the President of the Commission in the spring of 2017 on the occasion of the EU's sixtieth birthday describes five future scenarios and mentions Brexit only fleetingly [22]. Jean-Claude Juncker showed even less concern about Brexit in addressing the European Parliament on the State of the Union in November 2017 [23]. His words reflect a remarkable degree of wishful thinking: "The wind is back in Europe's sails." In his last address concerning the state of the EU, Juncker mentions Brexit as a marginal irritant [24]. Those who believe in the EU may celebrate that a member that often stopped or derailed European projects, demanding special conditions and exceptions, is finally leaving the Union. Many assume that the path has now been cleared to charge ahead with new ambitious visions like a European army or mutualisation of public debt. They overlook that, even after Brexit, the United Kingdom will remain a thorn in the EU's flesh. From the outside, it will exert not significantly less influence on decision-making within the EU than from the inside. It will become a focus around which all those unhappy and disappointed with the EU will gravitate.

4.5.5 EU Member States Will Be Affected Differently

The EU will lose international standing. The loss of the mother of the Commonwealth, of the global reach of British diplomacy and British intelligence, British military capabilities and British trading connections will leave a gap that the EU will not be able to fill with its own resources. Interest in

¹⁰⁷ Another example how glibly the EU pretends to represent and speak in the name of Europe.

trading agreements with the EU will wane once they no longer cover the British economy.

Brexit will affect EU Member States very differently. Brexit will affect British industry about four times more than that the continental countries. Some of the most important and lucrative export markets will break away, even if devaluation raises the competitiveness of British goods.

Some 44% of British foreign trade is with other EU countries. Again, aggregate numbers are misleading as they hide substantial divergencies. Four EU countries account for more than two thirds of all British imports and 58% of British exports within the Single Market. They are Germany, the Netherlands, France and Italy. They are followed by Spain, Belgium, and Ireland, which account for 8% of British foreign trade each. Seven of the EU27 make up over 80% of British trade within the EU. Most of the other 19 EU countries—in particular countries in the Baltic and on the Balkans—have only insignificant trade with the United Kingdom, but they have significant diasporas of nationals in Britain. This gives them a strong, if different, interest in the outcome of Brexit negotiations. Two other countries have special interests to protect: Ireland (because of the border in the North) and Spain (because of Gibraltar). Both countries have signalled that they intend to

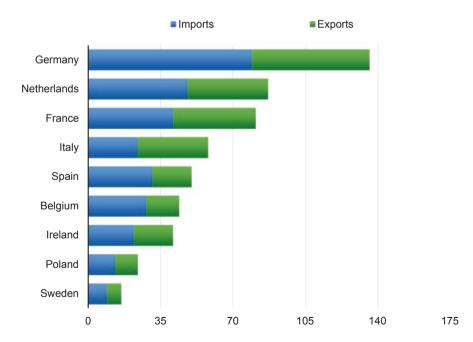


Fig. 4.4 Foreign trade of the UK with some EU countries (billion euros)

use their leverage over the negotiations to the maximum possible extent (Fig. 4.4). 108

The United Kingdom has mastered worse crises than Brexit. Many Brexiteers are invoking the spirit of Dunkirk and of the Battle of Britain to encourage their compatriots. They seem not to mind that in using these arguments they are effectively equating the EU with Hitler's fascism and predicting decades of a war economy. The EU is still a novel, little-tested structure. It has thrived in sunshine and it had to weather few storms. The first real storm—the financial and debt crisis of 2008—has not left it in particularly attractive shape. So far, it has drawn strength from the eschatological claim of being the preordained destiny of Europe. The EU has claimed that it is the only alternative to warfare and misery and that there can be no alternative to it. It has to emerge stronger from each crisis because to think otherwise would admit the possibility of failure. 109 Increasingly, the EU ignores and suppresses doubts about direction and principles of its own development. Aberrations are swept under the carpet, dysfunctionalities are whitewashed, and dangers are trivialised. The EU lives by invoking abstract values and by promising a shining future. If a crisis appears, the uniform reaction is to call for 'more Europe' (or rather, more precisely: 'more EU')—as if past mistakes could be overcome by repeating them. The EU is tempted to heal the effects of the wrong medication by another generous dose of the same medicine. The United Kingdom, on the other hand, relies on a national self-confidence that has grown over centuries. It has survived existential challenges, the loss of an Empire, deadly threats during two World Wars, the convulsions of industrialisation and de-industrialisation. The glib promises of some radical Brexiteers may radiate little credibility, but at the end of the day there can be little doubt that there will be a United Kingdom (or at least an England) long after the European Union may have disappeared.

For the time being, it is almost impossible to estimate how tectonic moves that have been triggered by Brexit will work out in the end. It seems certain

¹⁰⁸ Ireland finds itself in a dilemma. The only option to exercise pressure, namely a hard Brexit without treaty, would also constitute the worst option for Ireland itself. The harder Brexit, the harder the border between North and South on the island or Ireland. Spain has declared that it will not accept any changes in the present status and border regime in Gibraltar. A British politician has threatened the use of military force against Spain should it oppose the consequences of Brexit, citing the Falkland Islands as an inspiring example. In 2016, inhabitants of Gibraltar voted 96% for remain (turnout 84%). Apart from old territorial claims, Spain could easily proclaim itself as the champion of the people's will and reclaim Gibraltar. But this would constitute a dangerous precedent in relation to Catalan secessionists. Therefore Spain is keeping a low profile in this regard. Once the future relationship has to be negotiated Gibraltar could become a serious irritant.

¹⁰⁹This almost millenarian self-assurance can be found in the revealingly doctrinaire and visionary arguments of Mark Leonard: *Why Europe Will Run the 21st Century*, New York, Public Affairs (2006). It seems doubtful that this book will have a second edition.

that France will profit most. It remains the only nuclear state, and the only country with a permanent seat on the Security Council. It will probably absorb most of those financial experts leaving the City. It has already secured the European Banking Authority, which is to move from London to Paris. With its global presence, France can dominate the Common Foreign and Security Policy. It will become the strongest military power within the EU. At the same time, the Lancaster House Agreement maintains a special military relationship with the United Kingdom [25]. France will thus occupy a pivotal role between the EU and the United Kingdom in matters of defence and military cooperation. It will enjoy privileged bilateral relations with Britain on a nuclear level and with Germany on a conventional level (German-French brigade, Eurocorps). Economically, France will occupy a pivotal role between the 'ClubMed' countries and the couple franco-allemand which opens privileged access to the northern group. This implies increased leverage and the opportunity of mediating between both groups. It also means that in conflicting situations France could cast a decisive vote in favour of one of these groups. Paris enjoys excellent travel connections with London. An Alderman of the City of London recently remarked dismissingly that Paris was after all only the ultimate East End of London. 110 France is set to profit most from the exodus of British qualified white-collar workers. The French government has left little doubt that one of its chief ambitions is to turn Paris into an international financial hub on a par with London, New York or Tokyo. The loss of the heavyweight UK will increase the relative weight of Germany and France. The couple franco-allemand will return into its unique position as the prime mover of EU affairs. More than ever before, the question of whether the EU manages to find a stable future after Brexit will depend on the ability of these two countries.

4.5.6 Security

Brexit will be a serious throwback to any ambition of endowing the EU with effective military capabilities. Simultaneously, it will return NATO to its traditional role as the sole and exclusive security backbone of Europe as NATO is the only organisation that can stand up to potential risks from Russia. The eastern European countries will increasingly rely on NATO rather than EU for eventual security guarantees. This puts a huge question

¹¹⁰This is a remark full of thinly veiled sarcasm, for the East End of London is traditionally synonymous with squalor, poverty, crime and misery.

mark over plans to create a unified security, procurement and development policy in military matters for the EU. If push comes to shove, eastern countries will prefer American equipment, because that goes hand in hand with stronger military ties. Traditionally, Britain has a strong and state-of-the-art defence industry. That industry might get out of step with continental projects. Projects like the Typhoon, a combat aircraft developed and distributed by a group of EU nations including the UK, will become more difficult. Airbus is considering relocating the production of wings for the whole range of its models from Filton in the UK to somewhere in the USA or China. NATO interoperability will become more important than EU standards, for only via NATO will those countries be included in Europe's defence. Those that matter most to this defence—be it because of their power or because of their geostrategic importance—are the United Kingdom, Norway and Turkey.

4.5.7 Treaties

Was it wise to consolidate all EU treaty texts into one gigantic piece of legislation? Ever since Maastricht, EU politicians had been keen on this idea. From all the disparate initiatives, there should be one monolithic block that would be the Constitution of the EU giving it legal standing. The somewhat lopsided structure of the three pillars and the separate existence of EURATOM, Schengen and the common currency, all this was fused into the seamless comprehensive Treaty of Lisbon. Brexit, however, is only a protest against the core of the EU, i.e. against most of the original substance of the EEC and against freedom of movement. It is a protest against overboarding communitisation and excessive interference of Brussels in British affairs. Brexit does not imply withdrawal from the Common Foreign and Security Policy, closer cooperation in police and judicial matters or the sharing of intelligence, as far as these matters operate on intergovernmental principles rather than on centralised, communitised procedures dominated by the Commission.¹¹¹ Nobody in the United Kingdom wants to leave EURATOM, the European Medical Agency or European cooperation on air traffic rights. Nobody in Britain ever demanded withdrawal from European projects in research and

¹¹¹In English 'to communitise' is linguistically almost indistinguishable from 'to communise' that has patently communist and collectivist connotations. The English language embeds 'commissioner' and 'commission' in the semantic neighbourhood of the police and military, not civil administration.

development.¹¹² Had the EU kept its old structure of parallel pillars it might have been easier to accommodate the British demands to leave the Common Market but continuing to cooperate in the other areas.¹¹³

4.5.8 The EU Has to Redefine Itself

The EU itself has resorted more than once to tactics that resemble Project Fear. In times of crisis, politicians invoke a common destiny and a community of values (mostly without specifying which values they have in mind). They warn of chaos and collapse, of an end to a period of peace and prosperity, even of a relapse into war and hostilities. They claim that an end of the Euro would mean the end of Europe. To argue along these lines perpetuates an EU imprisoned in its own past. The EU is still deducing its overriding *raison d'être* from the frightful images of death and destruction of two World Wars. 'Never again' is still a potent slogan. The EU derives the necessity of further integration from inherent constraints of past decisions. It is enthralling its future to its past. It is a backward-looking justification that emphasises what it wants to avoid rather than what it wants to achieve. The approach chosen by Jean Monnet consisted in guiding ignorant people in a paternalistic way along a path of ever-increasing necessities and inevitabilities. This approach provokes increasing resistance.¹¹⁴

¹¹²The European satellite navigation system Galileo is a case in point, along with the European arrest warrant and the CFSP. The EU would be well advised to proceed pragmatically rather than dogmatically in these areas. The Commission has declared that the United Kingdom would have to be excluded from certain sensitive technologies in Galileo (Public Regulated Service). The British government decided on 4 December 2018 that it is not worth continuing national inputs under these conditions and terminated its cooperation in the military aspects of Galileo. It has announced that it will develop an equivalent system in close cooperation with Australia, New Zealand and Canada. It is a completely unnecessary and useless step. There is no need for a third western satellite system beside GPS and Galileo. To exclude British components and British experts on grounds of security appears absurd. Why should Britain try to sabotage the system or pass sensitive data on? It is easy to think of at least a dozen EU Member States that would give greater rise to such suspicions. Galileo is a typical example of a rigid, dogmatic approach where a more accommodating pragmatic approach would have produced better results. It may be a good decision for the EU, but it is a bad decision for Europe.

¹¹³ The WEU was absorbed into the CFSP in 1999, implying special status for those countries that had been associate members of the WEU such as Iceland, Norway and Turkey. The United Kingdom could be associated in an even closer way taking inspiration from those precedents.

¹¹⁴No-one has given clearer expression to this belief in salvation and redemption brought by the EU (others prefer to talk of arrogance) than Jean-Claude Juncker, talking like an high priest: "We decide on something, leave it lying around and wait and see what happens. If no one kicks up a fuss, because most people don't understand what has been decided, we continue step by step until there is no turning back."; "If it's a Yes, we will say 'on we go', and if it's a No, we will say 'we continue'."; "I am for secret, dark debates."; "When matters turn serious you have to lie."; "Countries that vote No will have to put the question anew."

Brexit should be used as an opportunity to reflect without prejudice and without bias about the *finalité* of the EU. A narrative that reduces the EU to a role of preventing the recurrence of war fails to convince a young generation for whom the Second World War and its aftermath are only anecdotes told by their grandparents. They will not be convinced by such tales from a distant past. They do not believe that the alternative to the present structures of the EU as they see them should be death and destruction. The EU has to redefine its *raison d'être* and its *finalité*. These would be better defined in positive images taken from the future, rather than intimidating pictures taken from the past. Neither the old narrative of securing welfare and peace is sufficient, nor can a headlong rush ahead be of much help so long as the destination of that rush remains obscure.

The EU is facing a vital test. Idealistic enthusiasm is in danger of being contradicted by an observable reality that is increasingly difficult to reconcile with these ideals—rigid in small matters, but arbitrary and lacking consistence in big issues; rich in phrases but poor in action¹¹⁵; grandiloquent in promises but sheepish in their implementation; great in verbose proclamations but contemptible in the follow-up. This is the impression left by the EU today. The EU will remain in a critical phase as long as dreams of a visionary future shroud a marked lack of practical, concrete strategic decisions. The EU cannot win respect and trust persisting in this mode. The European Parliament will be re-elected in May 2019. The result of these elections, and above all the voter turnout, will tell a revealing tale about how far the EU is still firmly anchored in the bedrock of peoples' consent.

In future, the EU will have to pay more attention to two crucial questions:

• **Structure of the EU**: What are the positive reasons for the existence of the EU, what purpose does it serve, and what makes it irreplaceable? If we had to create a new EU today from scratch, what would it look like? Would it be similar to the structures we have now? What is the EU: a welfare union,

¹¹⁵A remarkable example was provided by the Lisbon summit in 2000. Its conclusions talk of turning the EU into the most competitive, most dynamic, knowledge-based economic space globally, capable of ensuring steady economic growth, better and more employment opportunities and better social cohesion. (http://www.europarl.europa.eu/summits/lis1_de.htm, 8 December 2018). These words are more reminiscent of a prayer or of the official communication of the central committee of a communist party than of a realistic political commitment. They were formulated and signed by all fifteen heads of state four years before enlargement, eight years before the global financial crisis and ten years before the Greek financial collapse, at a time when it was clear that China was set to overtake not only Europe, but also the USA. It was nothing but hollow grandstanding and irresponsible bragging.

- a union of values, a global economic actor, an authority on trade, ¹¹⁶ or a global actor providing order and security? Out of the achievements of the last sixty years, what do we really need for the next sixty years?
- Another institutional framework: Most people seem to accept that it is necessary to provide an institutional framework for peace and cooperation in Europe. But do these structures have to be exactly those of the EU? Would it be possible to find a different—maybe less intrusive and less restrictive—framework in order to give Europe a firm basis for the future? The least one can say is that these questions need to be debated in public. The EU needs a loyal opposition in order to become more democratic and above all more representative—an opposition that accepts the need for European cooperation but that controls the institutions of the EU in an effective way and develops alternatives to current policies. Otherwise, the EU runs danger of being petrified by its own messianic dogmatism.

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5

A Crystal Ball?

With malice toward none, with charity for all, with firmness in the right let us strive to finish the work we are in Abraham Lincoln

Let not England forget her precedence of teaching nations how to live John Milton

Brexit has dismally failed to deliver what it was supposed to do: provide unanimity for the British people and clarity about the future of their country. Brexit will be like an operation that has gone wrong. Innumerable complications, endless surgery, visible scars, if not amputations, continuous pain and a seriously impaired general status of health will be the result. For years, valuable political energy and administrative resources will be squandered on this question and drain away scarce resources from other, perhaps more important issues. Even once the principal questions of Brexit have been settled, there will be a deluge of small print, of modifications of existing agreements. And the devil is in the detail. The only profession bound to profit from Brexit are lawyers. It would not come as a surprise if Brexit were to leave a trail of frustration, disappointment, bitterness and chagrin.

Brexit splits British society no less than joining the EEC did forty-five years ago. The referendum only made clear what a slim majority of British voters did *not* want: EU membership. And it has deepened the general confusion about what should positively replace it. Britons have a clearer idea what they refuse to be; they are still fumbling in complete darkness about a positive

concept of their national identity. This lack of clarity is truthfully reflected in the debates and motions in the Westminster Parliament: They are almost all negative, spelling out what should be avoided, but obfuscating any positive objective. And when positive ideas are put forward, they are usually fuzzy and betray an amazing lack of realism, like all those 'plus-schemes' like 'Norway+, Canada+ (or even Canada+++)', just as if the EU would bend over backwards to give the United Kingdom what it refused (for good reasons) to give to these partners.

Brexit was no occupational hazard, nor did it result from ignorance or misunderstanding. Most of the arguments advanced by radical Leavers in 2016 can be traced back to well before 1973. The United Kingdom joined the EEC without any enthusiasm, without firm commitment, and without believing in a common political future with the other EEC members. Since then, reservations, exceptions and resentment have grown.

Unfortunately, no British government has ever taken the trouble to either explain the pros of EU membership in a systematic way, or to position the United Kingdom right at the heart of political decision-making in Brussels. No British Prime Minister wanted to leave the EU—not even Margaret Thatcher, who campaigned vigorously for joining in 1972 and for Remain in 1975, or Theresa May, who wanted to keep her country within a reformed EU before 2016.² No British Prime Minister has made Europe the fulcrum of their policy: none—with the possible exception of Edward Heath—has put their heart into Europe, none has made an effort to drum up support for British interests within the EU, and none has tried to stitch together an alliance for reform within the EU.³ There never has been a reliable majority for Brexit in Parliament. At the same time, it is true that no British Prime Minister was ever enthusiastic about the EU or seriously tried to forge an alliance for reform within the EU, joining forces with other members in order to cobble together a group large enough to push for change. Instead, the United Kingdom insisted on individual exceptions and increasingly manoeuvred itself into a marginal position of not-so-splendid isolation and sulking irrelevance. British governments wielded a double-edged sword by giving their consent in Brussels (or at least letting things take their course), transferring far-reaching powers to the Commission and retroactively giving legitimacy to unfavourable decisions of the CJEU—only to argue against these develop-

¹The dislike of Europe and the uncertainty about their own identity is a further parallel between British and Russian people. Russians are torn between 'Westerners' and 'Eurasians'. They identify themselves primarily in that they are different from the USA and the allegedly decadent Western Europe.

² Hugo Young: This Blessed Plot: Britain and Europe from Churchill to Blair, New York, Overlook (1998).

³ Andrew Adonis: Half in, half out: Prime Ministers on Europe, London, Biteback (2018).

ments in London and to pillory them as unacceptable interference in British affairs.⁴ The EU has been mocked, despised, caricatured, and never really taken seriously. It was something you had to put up with like drafty windows or visits to the dentist: irritating, annoying but indispensable. Many in Britain have regarded the EU as a cumbrous, tedious and vexatious partner to be endured only because divorce would be too costly and too upsetting.

This resignation was suddenly dispersed on 23 June 2016. The referendum result cannot be reduced to demagoguery or mistaken arguments within British society. There was a good deal of misleading, one-sided and downright fraudulent information in the weeks and months before the vote, but it resonated and it was avidly lapped up by large numbers of voters. If it had only been a moment of madness, then it would be difficult to explain why Brexit sentiments have remained so strong and persistent, why they have torn both major political parties apart. The referendum result of 2016 was not an unexpected aberration or a momentary confusion. If this diagnosis were true, the easiest way out would indeed be another referendum to correct the error expressed in the 2016 vote. At the moment, another referendum could easily yield another and perhaps even more resounding No. Even if it resulted in a Yes, it would be a feeble Yes with another shaky majority. The minority would not simply resign and accept that result. It would fight tooth and nail to overturn that referendum in another referendum—and so on. There is little hope that the majority of such a repeated referendum, whatever form it took, would find greater acceptance than the 2016 vote.

Brexit was never exclusively about economics. It always had a strong element of national identity, traditional liberties, divergent concepts of justice

⁴ Examples include Thatcher's support for the Single European Act in 1988, which included majority voting and the Exchange Rate Mechanism, Gordon Brown's acceptance of Protocol 27 of the Lisbon Treaty, which justified the CJEU's interpretation of the implications of the Single Market and its logic deduction from Article 3 TEU. The Werner Plan for a unified currency had been on the table since 1970. In 1972, all heads of government of the original Six approved it. This was the status quo when the United Kingdom joined. The first summit of the nine later in 1973 reaffirmed this commitment explicitly: "We affirm our intention to transform, before the end of the present decade, the whole complex of our relations into a European Union. We reaffirm our determination to achieve economic and monetary union." (Conclusions of the Copenhagen Summit, 13.12.1973 (https://www.cvce.eu/content/publication/1999/1/1/02798dc9-9c69-4b7d-b2c9-f03a8db7da32/publishable_en.pdf, 9 Dec. 2018). It is simply not true that the British people or their government was kept in the dark about the ambitions and the dynamism of the other EU members.

⁵Opinion polls at the end of 2018 suggested a majority of 53% for Remain, 47% for Leave. The margin of error is far too large to base another referendum on such small differences. After all, until the eve of actual voting, all the opinion polls in 2016 predicted a comfortable majority for Remain. No second referendum would silence radical Leavers, let alone force them to accept such a decision. They would argue that victory has been snapped away from them unfairly. The campaign before such a repeated referendum would by far exceed everything we witnessed in 2016 in terms of vitriolic polemics, fake news, personal vilification and charges of treason, conspiracy and sabotage.

and equality—very much like the referendum about Scottish independence two years previously. Politics is about much more than productivity, GDP or statistics or welfare. Migration and sovereignty proved more potent and politically charged topics than economics—for even radical Leavers are prepared to admit that Brexit might entail economic losses, at least in the short run. Brexit is about the question of who you are, what society you want to live in, how you want to live and according to which principles justice and liberty should be safeguarded, and what constraints you are prepared to accept in exchange for security and solidarity. Should contentious cases be adjudicated by British judges, educated and trained in Britain, sitting in British courts according to British laws? Or should they be decided by anonymous judges with unknown backgrounds and dubious qualifications, who sit in far away Luxembourg according to some recondite and unintelligible treaty language? That a British court could be obliged to follow legal norms laid down outside the country by some artificially created authority—possibly even against the vote of a British government because it was overruled by a majority—is for many Britons an unacceptable abnormity.

Brexit is also an expression of latent constitutional problems that have accumulated and that demand some kind of principled solution. The entire balance between Parliament, voters, the monarchy and devolved powers is in need of redefinition and readjustment.⁶ Boris Johnson's bluster that Britain was in danger of becoming a vassal, a colony, and having to follow slavishly the dictates from Brussels has tapped deeply into national sentiment.⁷ Brexit rekindled the will-o'-the-wisp of unrestricted freedom of action as it was enjoyed by the United Kingdom when it was the greatest maritime power on the open seas.

Free trade sounds irresistible as a doctrine. Any alternative cannot escape connotations of *dirigisme*, paternalism and central state planning. Free trade remains a strong strain in the intellectual tradition of Britain. For many Tories, it remains an article of faith unsullied by profane considerations of profitability or expediency.⁸ Those that demand free trade instead of regulatory inter-

⁶Vernon Bogdanor: Beyond Brexit. Towards a British Constitution, London, I.B. Tauris (2019).

⁷How can the centre of the Commonwealth, a country that some 70 years ago ran the largest empire in world history be reduced to a rule taker to become a colony itself? The refrain of Rule Britannia reads: "Britons never, never, never shall be slaves."

⁸ Future historians will be better placed to investigate how far foreign money played a role in the referendum campaign. George Soros has admitted that he supported Remain. The finances of the Leave campaign are shady. There are strong suspicions that Aaron Banks was involved in some lucrative projects with Russia, and these are currently under investigation. It would be of utmost importance to shed some light into the question how the campaign was actually financed and how far foreign money helped to shape the outcome.

ference from Brussels have failed so far to point to any concrete examples of where new trading opportunities would open after Brexit, that so far have been blocked by the EU.

Myths play an important role in politics. Complex issues with far-reaching, contradictory consequences can easily be communicated through myths and metaphors. Myths mobilise, they replace difficult arguments with easy-tograsp images, free of contradictions and free of painful deliberations. Myths are immune to rational arguments and they create a narrative of their own. They make sense of everything and slot urgent questions of the day into a simple, intelligible framework. Myths suggest that the real answer to the complex problems of today can be found in an easy magic formula. Brexit is such a powerful myth and magic formula. Whoever truly believes in Brexit will hardly be converted by arguments. Maybe hard reality might teach a useful lesson. This makes it enormously difficult to rein in the fall-out of this secular event. For the overwhelming majority in the United Kingdom and in the EU, the best solution would be for the United Kingdom to remain in a reformed EU. Unfortunately, Brexit makes that solution practically impossible. It drives a deep wedge through the Channel. It pushes Britain away from the continent and quenches all appetite for reform in Brussels. For the remaining EU27 will cling tighter to what they have, and defend the status quo for fear that any reform could unravel the fabric of the whole EU. Society in Britain will be haunted by the dichotomy between the hard reality of a globalising world, and the nostalgia for a romanticised past.

A majority of 52% against 48% is not sufficient to move the minority to accept indefinite defeat, particularly not on such a vital question like Brexit. Experience with referenda in other countries provides ample evidence that they rarely halt a dispute. As soon as the official result was pronounced, initiatives started for another referendum. 'Best for Britain'9 and 'People's Vote'10 are two of the organisations that are actively campaigning for another referendum. Voices in Parliament that support such an initiative are becoming louder and more numerous. They receive substantial financial support. On 20 October 2018, People's Vote organised a huge demonstration in Westminster. It was said by some observers to have been the largest mobilisation of voters so far in the United Kingdom. On 23 March 2019—just six days before the crucial exit date—up to a million people marched through London to Parliament to demand a second vote. But if you follow this logic, Britain could end up in repeating referenda every five years, in the same rhythm as

⁹ https://www.bestforbritain.org

¹⁰ https://www.peoples-vote.uk

general elections. The split is tearing both major parties apart, and there is no panacea that could cure it.

Theresa May Staggered on, more pursued than pursuing. She was swaying between all fronts, trying to coax some without alienating others. She dithered, faltered and reeled. She did not lead but charted her course in response to currents, winds, cliffs and reefs. She moderated but gives no clear direction. She contradicted herself and gladly made a U-turn. She took the bold step of presenting a draft treaty in November 2018, only to see it shredded to pieces in the following weeks. Trying to accommodate the opposing groups she tried to win them over by endlessly modifying the meaning of the original text and by seeking additional assurances. Nothing could have better revealed the many shortcomings of this treaty—for if there is room for improvement, the original version must be deficient. In the end, she resorted to something very similar to the Project Fear of her predecessor. She argued that the only alternative to her Draft Treaty would be a cliff-edge, no-deal Brexit with disastrous consequences, or no Brexit at all. Gone were the proud words of her speech two years previously, when she insisted that no deal was better than a bad deal. She herself must be aware that the deal she negotiated cannot possibly be called a good deal. She forms a stark contrast to Margaret Thatcher, who did not flinch in her convictions and who preferred to leave standing rather than bend in order to carry on. Margaret Thatcher earned the nickname 'Iron Lady'. She was notoriously not for turning. Theresa May has been dubbed the 'Wobbly Lady' that is for turning [1].

On 7 June 2019 Theresa May stepped down as leader of her party and as Prime Minister. In her resignation speech she admitted that she had failed in the one and only task for which she had been elected and which she had pursued with a mono- and megalomaniac dedication.

Her successor is Boris Johnson. Without his resolute support, there might not have been a majority for Leave in 2016. He missed no opportunity to thwart May's attempts to forge a balanced understanding with the EU. He is committed to deliver Brexit by 31 October 2019 'do or die', i.e. including the option of a cliff edge no deal. His time as Prime Minister promises to be turbulent, unpredictable and controversial. Above all, it could turn out shorter than he would like.

The issue of EU membership has shaken the very foundations of British institutions and traditions. It has split parties, forced the resignation of Prime Ministers, it has shaken cabinets and precipitated the entire country in one of its worst crises. Before 2016, the only party that wanted Brexit was UKIP.¹¹

¹¹To be precise, Labour had withdrawal from the EEC in its manifesto in 1983. It was trounced in the election.

Brexit happened, as it were, by default—for there never was an explicit movement in favour before Cameron announced it. Even many of those Tories that demanded a referendum wanted it primarily as an elegant lever to put more reformative pressure on the EU, rather than as a crowbar to break away from it.

5.1 Beyond the Constitutional Crisis and the Brexit Conundrum

What about future developments? They depend on two factors: How can the United Kingdom find its way back to a sound, legitimate and generally acceptable solution? And what can the EU do to facilitate such a solution?

At the moment, all sorts of ideas are floating around: Another vote of no confidence, a new Prime Minister, another snap election, another referendum. But these are all suggestions about procedures. They do not address the fundamental political problem: the inability of the British body politic to form a consistent, coherent will in a legitimate way.

Early elections require a two-thirds majority in Parliament. This requires the support of the Conservatives. Despite of the deep rifts within that party, all Tories in Parliament are united in one point: another snap election might cost them their seats. So they are united in opposing another early election. But even if there were a majority for an early general election, it would take an absolute minimum of a month to prepare. The predictable result of such elections would be a narrow majority for either the Conservatives or for Labour. In the first case, the previous considerations would apply. And what of a Labour government? Jeremy Corbyn in Number 10 would first have to form a cabinet, to recruit a new staff and to shuffle some civil servants. He would have to formulate his own political programme and that would presumably take at least two months. And then? Corbyn would have to go on pilgrimage to Brussels to renegotiate. Given his record on the EU, his chances of success would be gloomy.

What about another referendum? First of all it would require months of preparation—at least six, and more probably eight to ten months. What should the question be? A two-way question does not answer the present predicament, which requires three options: Remain, accept May's treaty or leave without a deal. Public opinion is highly volatile. Another referendum is risky, and its results would remain as unpredictable as in 2016. Many appear to have

lost all faith in the political process and the essential power of voting. More and more people are fed up, they are growing impatient with the endless procedures in Parliament, they feel nauseated by the shabby games and deals that go on behind the scene in order to jockey for position. There is little appetite for establishing a tradition of referenda. For if the 2016 referendum can be overturned so quickly, what about a third or a fourth? There seems to be a narrow lead for Remain, but it is so shaky that it cannot be taken for granted. The campaign would tear the existing wounds wide open. It would be characterised by polemics, insinuations, fraudulent information, and maybe even violence. If the result were Remain, all Leavers would feel that defeat had been snapped from the jaws of victory. They would refuse to accept the result. The political impasse would continue. And what if the referendum returned another No? What if it returned a resounding English No and an equally resounding Yes in Scotland and Northern Ireland, maybe even in Wales? Such an outcome is quite probable. It would light the fuse to the bomb that could blow apart the United Kingdom as a unitary state.

None of these procedures can solve the underlying fundamental problem: politics and the population are deeply fractured and incapable of legitimate decisions in their present state. The only remedy is time—time to calm down; time to go through the decision in a systematic and rational way; time to establish indisputable facts; and time to explore realistic alternatives and weigh the consequences without prejudice. The muddied waters have to be calmed, the storm has to blow over. How can this be achieved? Either the whole process is stopped for a while in order to measure temperature, currents and depth of the water before taking the plunge. Or the candidate jumps into the water to find out through painful experience.

This is where the EU comes into play. The EU cannot take this decision from the shoulders of the British people, but it can unilaterally make sure that the consequences are cushioned.

First, renegotiations: These hopes are utopian. The EU would lose all credibility if it caved in after having refused to budge for over four months. It has repudiated all calls for renegotiations and cannot possibly accept them in future. Even Corbyn would bite on granite. The EU has no interest in prolonging the present agony of the British political system. Any concessions over renegotiations would only trigger further demands for renegotiating the renegotiations. It would be an open-ended process of revising provisional agreements. The United Kingdom has lost its reputation as a reliable negotiating partner. Some members of the Commission are beginning to suspect that the British government may not be negotiating in good faith.

Second, extension: The option would be to extend the two-year period that should lead to an automatic Brexit on 31 October 2019. That is possible by unanimous decision of the Council. Most experts agree that such a decision could be repeated indefinitely until a solution was agreed. But it would run into some very substantial obstacles. Then a new Commission will have to be formed with a new President. The UK will have to nominate a Commissioner. And then EU members have to find agreement on the new seven-year financial framework, the budgetary basis for EU revenue. This would be difficult enough without the United Kingdom. With the United Kingdom still legally a member—with full rights and obligations but politically committed to divorce—this would create an unnecessary, and almost insoluble conflict for the EU27. Why run into such a situation simply because of a wayward spoiler? A European Parliament without proper representatives from a Member State could not take valid decisions. And the UK could use its presence in the Commission and the European Council to pursue a policy of blockage. Life in Brussels was difficult enough until March 2019. Future life with the UK as a full member but without a legitimate home base for continued membership in the EU could be hell.

Third, *revocation*: The only option would be for Britain to cross the golden bridge offered by the CJEU in its decision of 10 December 2018 and revoke the notification under Article 50. Probably, she could do this without the consent of Parliament.¹² The United Kingdom would remain an EU member *sine die*. This would stop the clock ticking. It would buy sufficient time for the British people to reconsider Brexit options in depth, to weigh all the pros and cons and to prepare an informed decision. It would keep all options open, for there is no provision against notifying intention to leave according to Article 50 for a second time. So the Brexit option would remain on the table, but the insane time pressure and legal uncertainty would be removed. Life in Brussels would not be easier. But if the understanding was that the UK would win seven years to reconsider Brexit and to submit, if it felt like it, a second notification under Article 50 in 2024, that might help appease the situation.

Fourth: *no-deal*: If all other options fail, the last option would be for the United Kingdom to depart on 31 October 2019 without a deal. The full consequences of such a scenario are difficult to predict. Legal uncertainty, financial volatility, massive losses, chaotic situations, and severe scarcities of certain commodities seem probable. In such a case the EU should offer some unilateral, pragmatic ad hoc solutions that create transitional space for adaptations

¹²This is disputed by some constitutional experts. But if a British government took this step, there would be little recourse left to reconsider or undo such a decision.

even without a contractual basis. Presumably, the UK would reciprocate. It could unilaterally flank such a development with the assurance that the United Kingdom could have the option of re-entering the EU within a certain period of time, perhaps up to ten years, without having to go through the tortuous accession procedures. It could even improve the offer and include those concessions that had been made to David Cameron in February 2016. In this case the temerarious swimmer would have taken the jump into the cold Brexit waters, but had a lifeline close by helping him, if he wished, to come ashore again. The EU could use this period to re-examine some of its structures and policies.

5.2 A Historical Perspective

An increasing number of academics draw a parallel between the present divisions in British society and Parliament with the situation preceding the English Civil War in 1642. It might help to recall those events: The English de-throned and then decapitated their lawful king, and submitted to the dictatorial rule of Lord Protector Oliver Cromwell. After his death only a tiny minority was left that felt that this revolution had been worthwhile. Ruefully and without much ado the legitimate representative of the Stuart dynasty—the son of the executed king—was recalled and enthroned as legitimate king. The revolutionary experiment had come full circle and landed the country where it would have been without all the bloodshed. Perhaps all the revolutionary excitement of the Brexiteers will finally end in a rueful return to the status quo ante?

Theresa May has failed on all accounts. She sorely underestimated the complexity of the negotiations and the hard-line position of the EU. She triggered Brexit without a strategic concept, and without a clear idea of where she wanted to go and how to get there. Her cabinet remained deeply divided, as did Parliament and her own party. She wasted precious time with the futile snap election that did not bring her strength but weakened her, and she put her fate into the hands of ten radical Unionists from Northern Ireland. It was a fatal mistake. She recognised the central threat to her Brexit concept far too late: the Northern Ireland border. And she never understood the economic implications of her Brexit plans for logistic supply chains and the close interdependence of the British economy with the continental one.

The relationship between the United Kingdom and the EU has been full of misunderstandings, contradictions, failed expectations and hidden animosities. The past three years have left deep scars. It will take another fifty years for all the dust raised by Brexit and the unfortunate way it was conducted to settle. As a Swede who had been closely involved in Brexit as an academic and as a political advisor observed: "So much venom has trickled into the system, so much dogmatic narrow mindedness, dogmatism and infallible self-righteousness. It will take ages, probably a generation, to drain that out of the system again." ¹³

Brexit has a whiff of an ancient tragedy: hubris, pride, and ignorance set in motion developments that nobody can control in the end. It delivers an outcome nobody had expected and nobody had wanted. Cameron wanted to reconcile the divergent currents within his own party, but instead opened the sluices and left a political deluge. May, no less blind to what she was doing, opened the stables and was desperate to reimpose order on the bolted horses.

Labour has to fight with similar dilemmas. The party is still suffering from the wounds left by the secession of the Social Democrats in 1981. It is torn between a leadership that steers a course mildly favourable to Brexit under the strict control of Jeremy Corbyn, and a rank-and-file membership that is predominantly for Remain and increasingly impatient with the tactical intrigues of its front benchers. The confrontation between Remainers and Leavers is made worse by the still-festering opposition between Blair's New Labour and the left-wing socialists under Corbyn. Corbyn has put together an agenda for Labour that revives the old alliance with the trade unions and promises nationalisation of central services and industries. His entire political record is irrevocably anti-EU. So there is no hope that he could confront the Brexit course of the Tory government with a clear and radical counter-proposition.

Brexit raises some fundamental constitutional questions. What role do the four nations play under the common umbrella of the monarchy? Where does sovereignty reside—with the Crown (still referred to as the Sovereign), with Parliament, or with the people? Will referenda, which until the 1970s were regarded as alien to the British constitution, become an indispensable part of it? And under what conditions? Will the United Kingdom have to admit wider judicial review of the executive actions of government and legislative decisions of Parliament? In leaving the EU, the United Kingdom is discovering how disjointed and how precarious its own Constitution can be. The United Kingdom will not revert to political business as usual for years, if not

¹³ Personal communication of the author.

for a full generation.¹⁴ A continued series of referenda could undermine the powers of Parliament, destroy traditional parties and introduce populist elements. Repeated recourse to special empowerment using Henry VIII powers could have a similar effect in marginalising Parliament. Initiatives to give Parliament its central decision-making role in all politics are therefore to be watched attentively. Dominic Grieve, a former Attorney General, has emerged as the chief protagonist in emphasising the powers of Parliament and pushing for a 'meaningful vote'.

The problem of how power is to be distributed among the four constituent nations remains unresolved. Brexit could furnish the pretext for reaffirming the full powers of central government in Westminster. Brexit could equally prove the best opportunity of moving further in the direction of devolution by channelling most of the competences flowing back from Brussels directly to the regional power centres. Will this lead to the last final logical step and clear the way for genuine federation, including a separate regional government (or several governments for several English regions) for England?¹⁵ Or will Brexit make a breakup of the Union more likely, resulting in a Little England and Wales? Will control of migration force the Home Secretary in the end to introduce identity cards?

Economic costs and welfare losses will be less dramatic than presented by fear-mongering Remainers. No doubt, there will be huge adjustment and opportunity costs, the extent of which tends to be underestimated. The United Kingdom will neither fall into a black hole, nor will it suddenly jerk forwards towards new and exciting opportunities only because Brexit has set free an enterprising spirit that had been stifled by Brussels. The British economy will continue to grow, albeit at reduced rates. Brexit is fraught with uncertainty, friction, and annoyance.

Judging by present political alignments, the country has four basic choices to make:

- 1. It could support May's half-hearted course, resulting in being with one foot in the Customs Union, the other one gingerly seeking a new grip.
- 2. It could follow Corbyn's vision of a socialist Brexit with nationalisation, high taxes and a strong government.

¹⁴ Vernon Bogdanor suggests that this is the 'constitutional moment' to formulate a written constitution for the United Kingdom.

¹⁵The unresolved West Lothian question.

- 3. It could take the risk of a no-deal Brexit leading to a liberal paradise, a kind of Manchester-Capitalism.2, advocated by Boris Johnson or Jacob Rees-Mogg.
- 4. Or it could simply stop the clock, stop Brexit and remain in the EU for the time being, maybe using this time to make better preparations for another referendum. Tactically, this may be the best option as it keeps all other options open. In effect, it would be a return back to square one. After due consideration without time pressure, the country could still either reactivate Brexit or call it off for good. All options would be kept open, nothing would be prejudiced. What makes this option improbable, however, is some fundamental psychology. For individuals it is extremely difficult to admit mistakes. For collectives this is almost impossible. It would be a superhuman effort in self-denial to expect such a move from Theresa May who has devoted her entire life during the past three years to achieving Brexit in time. If she were to resign, her successor would have strong reasons to resort to this emergency brake.

Brexit will create a specific dilemma in Britain's foreign relations. If future governments try to steer close to the EU, keeping national market regulations in accord with those of Brussels, they will provoke criticism of radical Brexiteers alleging BINO (Brexit in name only), disregard for the will of the people and colonial subservience. If future governments steer resolutely away from the EU, they will incur accusations of dumping, unfair practices, and undermining common European values. This could degenerate into trade wars. And die-hard Remainers would point a finger at such a policy and recall that all this antagonism could have been avoided by voting Yes in 2016. For economic subjects, this means increased entrepreneurial risks. They will lack a calculable regulatory framework for some time to come.

Rather improbable, although not completely impossible, is the 'Sleeping Beauty' scenario. Brexit could prove the crisis that unleashes new energy and new resolve, blasts asunder old incrustations and rejuvenates the nation. This would be a Thatcher.2-scenario or the resurrection of the Dunkirk spirit. If this miscarries, however, the probable alternative will be another application for membership to the EU sooner—or in this case—later.

How should the EU react to Britain turning its back? The EU cannot have any interest in diluting its institutional and regulatory framework. It cannot undermine its own foundations in order to accommodate a partner that does not know what it wants. It cannot have any interest in prolonging the unfolding agony over Brexit in the Westminster Parliament. It cannot have any interest in extending the two-year time limit if that means another govern-

ment with new demands, revisiting the whole treaty negotiations again only to expect renegotiations over renegotiations of renegotiated negotiations. It cannot have any interest in having a United Kingdom as a full member during elections for the European Parliament in late May 2019, in the formation of the new Commission and in the tense negotiations for the next seven-year financial framework. At the same time, the EU has to develop a coherent and convincing narrative of what its essence should be after a senior member of the European family has left. Otherwise, the EU runs the risk of further losing legitimacy and authority. This means defining the right balance between principled rigidity and pragmatic flexibility, between preserving essential foundations while being open to decorative modifications of the upper stories. It cannot put its own existence at risk. But at the same time, it cannot allow the United Kingdom to drift into rivalry or even hostility. The United Kingdom will remain an indispensable component of stability, prosperity and security in Europe after Brexit.

After Brexit, there will be many fields that still allow for continued close cooperation. These are mostly those areas that lie beyond the Customs Union and the Single Market, such as security, police, intelligence, scientific research and technological development. After Brexit, the United Kingdom could be accorded special rights of information and of a privileged hearing. British representatives could be present in certain discussions, and they could be given a chance to make their case before a final decision is taken. They would have a voice but no vote. Exercising sovereign rights across borders could be continued. The EU should keep the doors open for the United Kingdom, offering a return under the same conditions, i.e. including the rebate, if not under those conditions offered to Cameron in February 2016. Nobody profits if artificial walls are erected that prevent the innovative and inventive potential of Britain from cooperating closely with the other Europeans. If the prediction is correct that global competition is growing fiercer in this century, then this cooperation assumes particular importance.

After April 2019, the future is more uncertain than ever before. The longer Brexit is postponed, the higher the chances for another referendum and a reversal of the initial decision of 2016. After all, the referendum of 2016 was a reversal of the referendum of 1975. It seems contradictory to praise the wisdom and invoke the will of the people as the supreme guideline for democratic decision-making, and then to silence the people ever after and nail it down to a moment in time. A petition to revoke the Brexit decision had col-

¹⁶ In Calais and Folkestone, controls are conducted jointly between British and French officers. There is no cogent reason why this arrangement should not be continued.

lected more than six million signatures by 10 April. The demonstration against Brexit on 23 March 2019 was the biggest in British history.

One thing has emerged with blinding clarity: There will be no meaningful discourse—let alone decision—about Brexit without sufficient agreement about the destination. It makes no sense to talk about leaving the EU without offering a detailed, balanced and comprehensive description of what should replace EU membership. The ideas bandied by Brexiteers—that once you throw off the yoke of EU membership, once you break free from the entrammelling red tape, and once you detach yourself from the 'moribund corpse' of the EU you will regain erstwhile freedom of action—have proven empty. To complement the neologism 'Brexit', it might be useful to coin another: 'Brither' (Britain + whither) and to combine them in the phrase 'No Brexit without Brither'. The backstop was meant to solve problems from the past, but at the same time prejudiced options for the future. That is why it inflamed debate about the Withdrawal Treaty and brought progress to a standstill.

What future relationships are still realistic options? The no-deal option has been effectively removed. The hard deal proposed by Theresa May (no Customs Union, no Single Market) is as good as dead in British eyes and can hardly be resurrected. That leaves only four options: ¹⁷ Free Trade Area (Canada model), Customs Union (Turkey Model), Single Market (Norway Model) or Remain. The Norway option would carry no advantages: the UK would continue to pay huge contributions, it would have to shadow all the rules and regulations imposed by Brussels and freedom of movement would persist. The only advantage would accrue to fisheries—which account for a negligible part of the British economy. It would be 'Pay but no Say'. Brexiteers would pillory such a state of affairs as vassalage, slavery and worse—not without reason.

That leaves the Free Trade Area, a Customs Union and Remain as the only viable alternatives. For a clear Yes or No-vote, these three options will have to be narrowed down to two. The coming months (or years?) will therefore see two fronts along which the Brexit drama will be fought out. The first will be among Brexiteers about the pros and cons of a Free Trade arrangement versus a Customs Union. At the moment, the balance seems to be tilting towards a Customs Union. The second front will be between Brexiteers and Remainers. Confronted with the alternative of a Customs Union and continued membership, voters will have to weigh the freedom of getting rid of the Single Market regulations against the obligations to follow tariffs set by the EU. A Customs Union will not permit the UK to develop its own free trade policy. And it

¹⁷ See Sect. 3.2.

would lose its present preferential access to the Single Market, which is so vital for the dense logistic networks that have developed over the past four decades.

So, for the first time since the summer of 2016, the option Remain seems to be making a come-back. It would, in the view of this author, present the best outcome—provided it was taken as an opportunity to reform the EU.

For if Remain were to come back as a serious option, it would require some internal changes within the EU. It would be extremely difficult for any British politician to make a complete U-turn and go back to EU membership on the conditions prevailing before the 2016 referendum. The least the EU could offer would be the concessions made to David Cameron in February 2016. But would that be sufficient? The EU, too, has to weigh the advantages of continued British membership against the costs of internal readjustments. What else could be concessions that would make a sustained Remain of the UK within the EU an acceptable political option? The most important concession would be restrictions on the freedom of movement. Could the EU conceive of preserving the principle of freedom of movement but placing it under stricter conditionality? The second great concession would be fisheries. Although of marginal economic importance, fisheries have a huge emotional and political importance and a huge impact on public opinion. Fisheries, like coal and steel, are part of the national myth of England (not so much the UK). The EU fisheries policy was decisive in making the Norwegians refuse membership. It has become a symbol for the surrender of national rights. While there are overwhelming arguments for a joint management of stocks in a common living space of species, there are no really irrefutable arguments why the exploitation of these stocks should also be done jointly. If opinion in the UK were to shift further towards Remain and if indications for another referendum were to become more persistent, could the EU provide the ultimate nudge to reverse the Brexit decision? If it could repeat the offer made in February 2016, plus some concessions on the applicability of freedom of movement and the assignment of national fishing quota giving the coastal state preferred access, such an offer might tilt public opinion in the UK and result in a solid, enduring majority for Remain.

The United Kingdom is still paying for the grand illusion after the Second World War that it was victorious on a par with the other two superpowers. It took victory as confirmation that Britain was a great power, needed to change nothing and could continue in the path of pre-war times. Joseph Nye, one of Harvard's brightest brains, once remarked that the drawback of being a great nation is that you do not have to learn from your own mistakes. The United Kingdom escaped the irresistible force of modernisation and radical change that most continental countries experienced. Since the country was spared

occupation, totalitarianism and defeat, it was not forced to radically revise traditions and to make a fresh start. ¹⁸ It had a retarded recovery after the war and limped behind developments on the continent. Modernisation and a change in attitudes did not come until the Sixties with the Beatles, Carnaby Street and Twiggy. People in Britain were slow to realise the full extent to which their country had changed its international position. The Falklands War revived old pride in national power and military invincibility. Brexit puts the idea that the British have of their own specific role in the world to the ultimate test.

On 16 June 2016, a week before the referendum, Thomas Alexander Mair shot and stabbed Jo Cox MP to death. Jo was a young, committed Labour Member of Parliament, canvassing for Yes. Mair wanted to kill her because she was, in his eyes "a passionate defender of the EU and a traitor to white people". In court, he declared: "My name is death to traitors, freedom for Britain!" The man was deranged. The referendum campaign and subsequent bitter quarrels over what Brexit should be have poisoned the political atmosphere in the United Kingdom. The number of xenophobic attacks has soared. Political rhetoric has become full of defamation, venom, and vitriolic attacks. The code of conduct among politicians, taking its inspiration from the ideal of the gentleman, is being pushed aside by more muscular, brutal and crude methods. There was little fair play in the referendum campaign and there has been even less in the myriad controversies since.¹⁹ Brexit has set loose a huge psychological and social problem. The basic consensus of British society with its traditions and undefined, but strictly observed, patterns of behaviour is breaking down. The old elites have lost their authority. With the cohesion and conformity of the political class that embodied it, the constitutional consensus is in danger. The old consensus was marked by restraint, understatement, refined politeness, gentlemanly etiquette and the strict observance of rules. Brexit is unlikely to deliver what demagogues have promised and disillusioned voters naively believed. Once the extent of this deceit becomes apparent, feelings could turn nasty. Accumulated frustration and discontent could explode in violence. Karen Bradley, the Secretary of State for Northern Ireland, recently warned that societal segregation, tribal violence and blunt force was not necessarily confined to Northern Ireland [2]. Some observers feel

¹⁸Two other countries remained without occupation and were not involved in military operations: Spain and Portugal. Both faced a prolonged period of stagnation and serious problems when they finally modernised in the 1970s.

¹⁹There have been public charges of treason, subversion, and sabotage. Opponents were denounced as enemies of the people, and their views ridiculed as invertebrate or deranged.

reminded of the years preceding the Civil War in the 17th century. This was echoed by a film about the referendum campaign called 'The Uncivil War'. ²⁰

Cameron was perhaps more far-sighted than he himself was aware. He unleashed demons and it will take years to calm them again. One thing is certain, however: The hope that after Brexit the United Kingdom will revert to the self-contained existence of splendid isolation and happy autonomy remains a chimera—just like the other vision that the EU, after getting rid of the eternal spoiler, could finally accomplish the grand design of political union along the lines laid down by Jean Monnet. Turning away from these illusions and facing reality with a cold but steadfast eye increases the probability that after all we might just all learn something from this crisis. The way ahead is full of potholes and stones. We need robust suspension to move ahead without a major breakdown. Let us make sure our institutions and our concepts are flexible enough to absorb the shocks that lie ahead.

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²⁰ Channel Four, 7 January 2019.