



Fishing for Leave – Briefing Note No.16

Analysis Of David Davis Speech

26th January 2018

OBEDIENCE TO THE ENTIRE ACQUIS WHILST AVOIDING NEW LAWS

“Maintaining the same regulations across all sectors of the economy — from agriculture to aviation, transport to financial services, as part of a new international treaty.

This is confirmation that the United Kingdom will be required to re-obey the entire Acquis (all EU law) including the disastrous Common Fisheries Policy (CFP) that is slowly culling off our industry for the “transition” period – anyone who thinks this can be avoided as part of a transition is whistling in the wind.

“Because it usually takes around two full years for major legislation to make its way through the European Union system into law – virtually all of the laws that will come into effect during this time will have been drafted while the United Kingdom was a Member State”.

Mr Davis is clutching at straws with such a vapid defence – there are numerous occasions the EU can instigate new laws quickly – one prime and raw example is the disastrous CFP which was railroaded through at the last minute within approximately 3 months to enable the CFP's inclusion in Britain's Accession Treaty. The EU27 will not find much disagreement among themselves over enacting laws quickly where they feel Britain is over a barrel, with our pockets able to be picked.

WE WILL NOT BE PARTY TO EU TRADE DEALS BUT ON WTO WITH THE REST OF THE WORLD

The government has either deluded itself or is being seditious with the suggestion that an “transition” fulfils regulatory and market certainty for business – it does not. Mr Davis was wheeled out to state;

“It's also relevant to our relationships with the rest of the world – both our existing international agreements — struck during our membership of the European Union... The existing international agreements we are party to should continue to apply during this period.

They are an important part of the existing EU structure of rules and regulations, to which we will remain as part during the implementation period. They also include the trade agreements the EU has struck while we were a member.

So, since the terms of trade between the UK and EU will not have changed, a simple step forward

is for all parties, all parties, to agree that the United Kingdom will continue to be party to these agreements while we continue to work on ensuring they maintain their effects in perpetuity”.

The EU Commission in its draft terms recommended to the EU27 Council on the 20th December has very clearly stated in **Clause 14** that the UK will not benefit from any agreements the EU has struck with other nations – this was first laid out in the 29th April EC guidelines.

CLAUSE 14: In line with the European Council guidelines of 29 April 2017, it is also recalled that as from the date of its withdrawal from the Union the United Kingdom will no longer benefit from the agreements concluded by the Union, or by Member States acting on its behalf, or by the Union and its Member States acting jointly.

Therefore, unless the EU drops this Clause then Mr Davis and the governments rationale for a “transition” to maintain current trading arrangements and the whole justification being used to sell a “transition” of giving certainty to business is bullshit and with no foundation.

We are subjecting ourselves to regulatory purgatory in some sort of de-facto membership to be locked into full obedience and “regulatory” alignment with the single market and customs union for 35% of our trade whilst we will be forced by the EU to be on “cliff edge” WTO with the rest of world whilst not being able to conclude trade agreements.

What in hell’s name is the “transition” then actually for apart to have continued subservience to the EU on worse terms than now...?! It is telling that Mr Davis has used **should** suggests the government knows about Clause 14 and is hiding this to sell a pup to the British people.

STUCK IN THE CUSTOMS UNION

“...maintaining access to each other’s markets on current terms means that we will replicate the effects of the EU customs union during the implementation period including new rights and obligations of trading arrangements entered into by the European Union.

But participating in a customs union should not and will not preclude us from formally negotiating — and indeed signing — independent trade agreements. Although, of course, they would not enter into force until the implementation period has ended”.

This confirms that we will be bound to the Customs Union and unable to implement trade deals globally as we are kept in purgatory maintaining “regulatory alignment” – the use of **should** again confirms that the government knows fine well we will be unable to pursue trade deals.

The UK will not benefit from any current or new trading arrangements as the Commission has recommended to the Council in Clause 14 as detailed above.

EUROPEAN COURT OF JUSTICE

“In keeping with the existing structure of EU rules that will allow a strictly time-limited role for the European Court of Justice during that period”.

This is confirmation that we will still be under the judicial authority and subject to the ECJ.

This has been the EU's repeated statement since Mr Barnier first spoke of it on the 21st of September BEFORE the Florence speech (suggesting that the EU knew Mrs Mays capitulation for a transition was coming) that;

*if we are to extend for a limited period the Acquis of the EU, then logically **this would require existing Union regulatory, budgetary, supervisory, judiciary and enforcement instruments and structures to apply.***

The UK would have to comply to all EU courts and... refer questions related to interpretation of rights deriving from European law to the Court of Justice of the European Union (ECJ). The Court of Justice would remain the ultimate guarantor of the agreement."

FREE MOVEMENT

"During this implementation period, people will of course be able to travel between the UK and EU to live and work. During the period, when people from the EU move to the UK freely, we will have a registration system in place. It will have no bearing on people's ability to work or visit".

As the UK will not be a member, but will have agreed to be bound to the Single Market, Customs Union and ECJ as part of obeying and adopting the entire Acquis as per the terms the EU has laid down for a transition, this means unlimited free movement will continue until 2021 – 5 years After the British people explicitly said they wanted it stopped.

As the government will have capitulated to this there is nothing to stop a race for as many as possible to settle in Britain before we leave. This clause combined with our departure from the EU pours petrol on a free movement fire.

FINANCIAL CONTRIBUTIONS

"And as agreed in December, we will fulfil the financial commitments we have made during the period of our membership".

To cap what is truly a worse deal than no deal! This is confirmation that not only has the government committed to a £39bn 'dowry' to conclude Phase 1, in addition, although we will have officially rescinded our membership through Article 50, we will also continue to pay as though a member for the 'privilege' of maintaining obedience to the all EU law (including new).

Along with maintaining full regulatory alignment, be excluded from any deals the EU has concluded with the rest of the world, be unable to conclude our own deals with the rest of the world and have to maintain free movement AND obey the ECJ – all while having absolutely no say!

This is a complete capitulation and subjects the UK to a worse position than membership – we will be a protectorate – a vassal state – as we are held in some sort of purgatory with no guarantee that the EU will conclude or sign a decent deal for when the transition ends – this is a bridge to nowhere and a sell-out against the express instruction of what 17.4million Britons voted for.

CONTINUITY OF RIGHTS

To make this even worse because this "transition" is part of a new treaty AFTER Article 50 terminates the current relationship, and because we will have agreed to replicate and adopt all EU laws, we will create a "continuity of rights" under **Article 30 and Article 70 of the Vienna Convention.**

As this new transition treaty will not terminate with a clinical Article 50 clause where *“the treaties (& obligations) cease to apply”* the EU will have grounds to argue that because we undid Article 50 and re-adopted the entire Acquis with no clear exit clause that their rights and obligations established under the transition treaty should continue past 21 months.

The EU may be eventually proved wrong to argue so, but protracted litigation on what is a grey area of international treaty law could tie this country in knots and quickly erode the miniscule resistance within the British establishment to concede to any EU demands.

EXTENSIONAL THREAT TO SECTORS

For the British fishing industry such a situation represents a suicide pill.

Obedying ALL EU law means we are trapped in the CFP and the quota system which forces fishermen to discard to find what their quota lets them keep.

The EU could enforce punitive measures against the UK fleet – especially the ill-founded discard ban where fishermen will no longer be able to discard to find what they can keep to match their quota and will consequently have to tie up when exhausting their lowest quota.

These "choke species" will bankrupt the majority of what's left of the British fleet (bar a few big pro-EU companies in the SFF & NFFO) - official govt Seafish figures calculate 60% of the British fleet will go bankrupt through “choke species”.

This would finish off what is left and reduce the capacity with which to catch what would be our rightful resources under international should we ever escape the CFP.

This attritional loss of capacity would allow the EU to cite **Article 62.2 of UNCLOS** which says if a nation does not have the capacity to catch its own resources it should give the “surplus” to other states.

Britain’s coastal communities would be devastated and the catch 22 situation irreversible as the UK would be unable to catch the surplus without a fleet and unable to build a fleet without being able to fish the surplus.

This would be a second sell out of Britain’s fishing industry and coastal communities, not only this it would squander the opportunity of repatriating a £6.3–8bn industry that could rejuvenate towns and villages in constituencies around our coast.

END