

# BRITAIN VOTES LEAVE: **WHAT HAPPENS NEXT?**



JUNE 2016

Portland



**THIS PUBLICATION WAS DESIGNED  
IN-HOUSE BY PORTLAND'S  
CONTENT & BRAND TEAM**

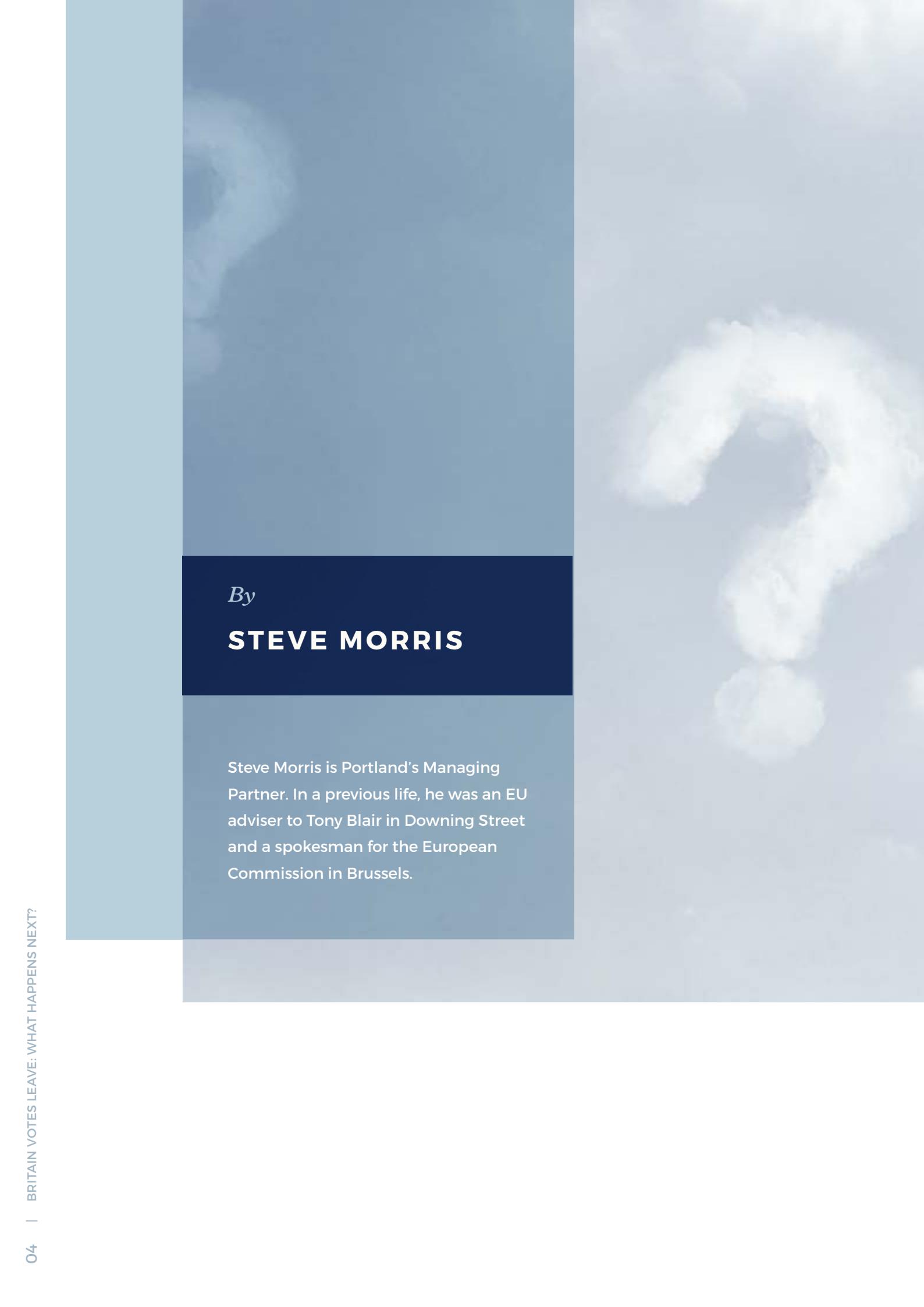
**CREATIVE DIRECTION**  
NATALIA ZULUAGA LÓPEZ

**DESIGN**  
SHADA QAMHAWI

**EDITING**  
ALEX WAITE, STEVE MORRIS

# Contents

<b>FOREWORD</b>	<b>05</b>
STEVE MORRIS	
<b>EVOLUTION NOT REVOLUTION</b>	<b>09</b>
THE RT. HON. MICHAEL COVE MP	
<b>LIFE IN THE EXIT LANE</b>	<b>17</b>
SIR STEPHEN WALL	
<b>THE HOME FRONT</b>	<b>25</b>
SIR ANDREW CAHN	
<b>CAN THE UK SECURE FREE TRADE OUTSIDE THE EU?</b>	<b>33</b>
DAVID FROST	
<b>THE CITY</b>	<b>43</b>
GRAHAM BISHOP	
<b>AN EXHILARATING OPPORTUNITY</b>	<b>51</b>
GEORGE EUSTICE MP	
<b>A LETTER TO THE BRITISH</b>	<b>61</b>
PIERRE DE BOISSIEU	



*By*

## **STEVE MORRIS**

Steve Morris is Portland's Managing Partner. In a previous life, he was an EU adviser to Tony Blair in Downing Street and a spokesman for the European Commission in Brussels.

# Foreword

You don't have to be a euro-fanatic or an Empire loyalist to recognise that Britain's referendum on 23rd June will have a profound impact. It will set the course of British politics and the direction of our country for decades to come.

Whatever the outcome, there will be plenty of drama. But while the effects of a Remain vote will be largely political and parochial, the impact of a Leave vote will be profound and material.

If we vote to stay in, the political fallout will be fascinating. But the cost will be measured in the career fortunes of top Tories - the ramifications felt in reshuffle, reconciliation or revenge. The rest of the world will breathe a sigh of relief. The markets will settle. Europe's eyes will return to Syria and Greece. Cameron will go on. Boris will plot on. Life will go on.

If we vote Leave, the consequences will be far greater. We could face immediate and simultaneous crises - in the currency and stock markets, in the wider economy, in international as well as domestic politics.

Huge questions, which have been highlighted but never properly answered during the campaign, will need to be resolved. What will the timeline and process of the Brexit negotiations be? What happens in the interim? What is the destination we will seek? What kind of trading arrangements will replace today's? What will happen to decades of accumulated EU laws on the UK statute book? What approach will our former partners take? What space will be left for other domestic political priorities?

All of these issues and more can be summarised in the title of this collection of essays: "Britain votes Leave: What happens next?"



**Whatever the outcome, there will be plenty of drama. But while the effects of a Remain vote will be largely parochial and political, the impact of a Leave vote will be profound and material.**

The questions to which every business, every university, every farmer, indeed every family will need answers are both complex and critical. In an attempt to start answering them, we have brought together an unrivalled group of experts, led by Portland's own EU adviser **Sir Stephen Wall**.

Our contributors cannot answer all the unknowns, but they do provide the best possible insight into the choices Britain will face and the most likely courses of action.

First, Justice Secretary and leading Vote Leave advocate **Michael Gove** throws down a gauntlet, explaining how he believes Brexit negotiations could be conducted calmly and without

crisis. In his vision, David Cameron would stay in office to oversee a process of evolution, not revolution.

**Sir Stephen Wall** – Britain's former Ambassador to the EU, who played a key role negotiating five EU treaties in his career as a diplomat – gives a less rosy view of Life in the Exit Lane: how Britain would we go about the process of unpicking its relationship with the bloc, and strike a deal with 27 spurned neighbours.

Next **Sir Andrew Cahn** - a Whitehall and EU veteran with decades of Civil Service experience - examines the Home Front. How would the British political system and Civil Service manage the enormous challenge

of maintaining the business of Government and attempting to safeguard national interests while a Brexit looms?

Trade undoubtedly being the biggest issue for British business, **David Frost** – a former ambassador who not only led the FCO's EU Directorate but also oversaw EU trade issues in the Department for Business, Innovation and Skills – addresses the daunting task which his successors would face.

With the impact on the City of London being another vital issue for the UK economy, **Graham Bishop**, renowned for his mastery of the technical details of the EU financial system, examines the issues facing the financial services industry.

Our second pro-Leave contribution comes from Defra Minister (and former Portland consultant) **George Eustice**. He makes the case that a Brexit would unleash the full talent and potential of Britain's Civil Service to devise new policies, negotiate new treaties and follow new priorities, once released from the need to shadow the Brussels bureaucracy.

Finally, **Pierre de Boissieu** was formerly France's Ambassador to the EU and served as Secretary-General of The European Council. Nobody is better placed to give a view from the continent about how the other member states would react to a British exit decision. His Letter to the British is clear about how much the rest of Europe would prefer Britain to stay – but also sets out in clear terms what their posture will be if we Vote Leave.

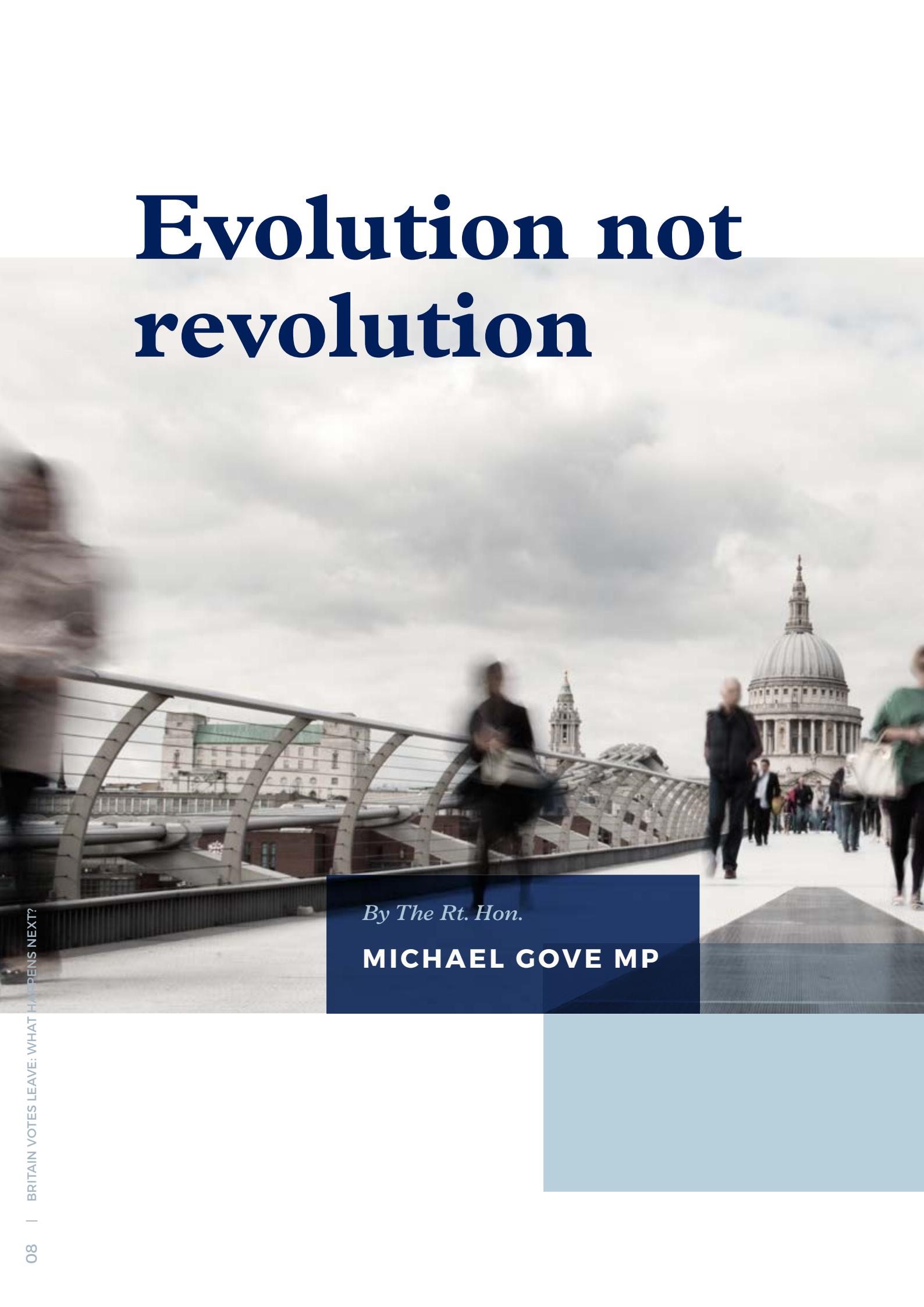
There are few certainties in any of this, but whatever happens, David Cameron will most likely attend the European Council in Brussels on 28th June. He may be fresh from an historic victory, or he may be a dead man walking.

**Even if – despite the support of Michael Gove and George Eustice – he has resigned as Tory leader ahead of the summit, he will probably continue as Prime Minister in the short term. His party would need some time to decide which brand of Brexiteer should lead them in the period to come.**

So even defeat and defenestration won't spare him a final trial in Brussels' soul-destroying Justus Lipsius building. The charmless seat of the European Council – well known to all of our contributors – has seen many sleepless nights of bitter wrangling over the years. If Britain votes to leave the EU, past battles over the rebate, CAP reform and enlargement will seem trivial compared to what lies ahead for Britain's negotiators.

If it comes to it, perhaps this publication will be of some help to them.

# Evolution not revolution



*By The Rt. Hon.*

**MICHAEL GOVE MP**



The Rt. Hon. Michael Gove MP for Surrey Heath since 2005, is a Conservative politician, Lord Chancellor and Secretary of State for Justice. An author and former Times columnist, he is campaigning for Britain to Leave the EU.



**“The day after we vote to leave, no laws will have changed, no iron shutters will have clanked down at the portal of the Channel Tunnel.”**

On Friday June 24th, in Manchester Town Hall, Jenny Watson, the chief counting officer, will announce the decision of the British people -- whether we leave or remain in the European Union.

It will be a tense moment and if we vote to leave, as I dearly hope we will, there will be exhilaration and relief on our side. But after the initial flurry of emotions, everything will settle down. I suspect all those who have been stoking up Project Fear will be surprised by the calm and stability that prevails and the sense of optimism about our country which begins to take hold.

The day after we vote to leave, no laws will have changed, no iron shutters will have clanked down at the portal of the Channel Tunnel. The British people will simply have given their instruction to the Government to make arrangements for us to leave the EU. It will be the start of a process. It will be in Britain's

hands how we manage it and how long it takes.

The Government will meet to decide the next steps. Officials and diplomats will immediately start scoping out the broad parameters for full-scale talks with our European friends and with the institutions in Brussels. The mission will be clear: securing the best possible terms for Britain.

Jean-Claude Juncker, the president of the European Commission, recently told a French newspaper that if we leave we will be treated as “deserters” and taunted like cats having their fur stroked the wrong way. But once we vote to leave, the fury and bluster of the campaign will be ancient history.

It has often been said that the EU takes advantage of every crisis to pursue deeper integration by creating new facts on the ground. On this occasion, it will be Britain creating the new facts. Juncker, Brussels and



# COUR DE JUSTICE DE L'UNION EUROPÉENNE



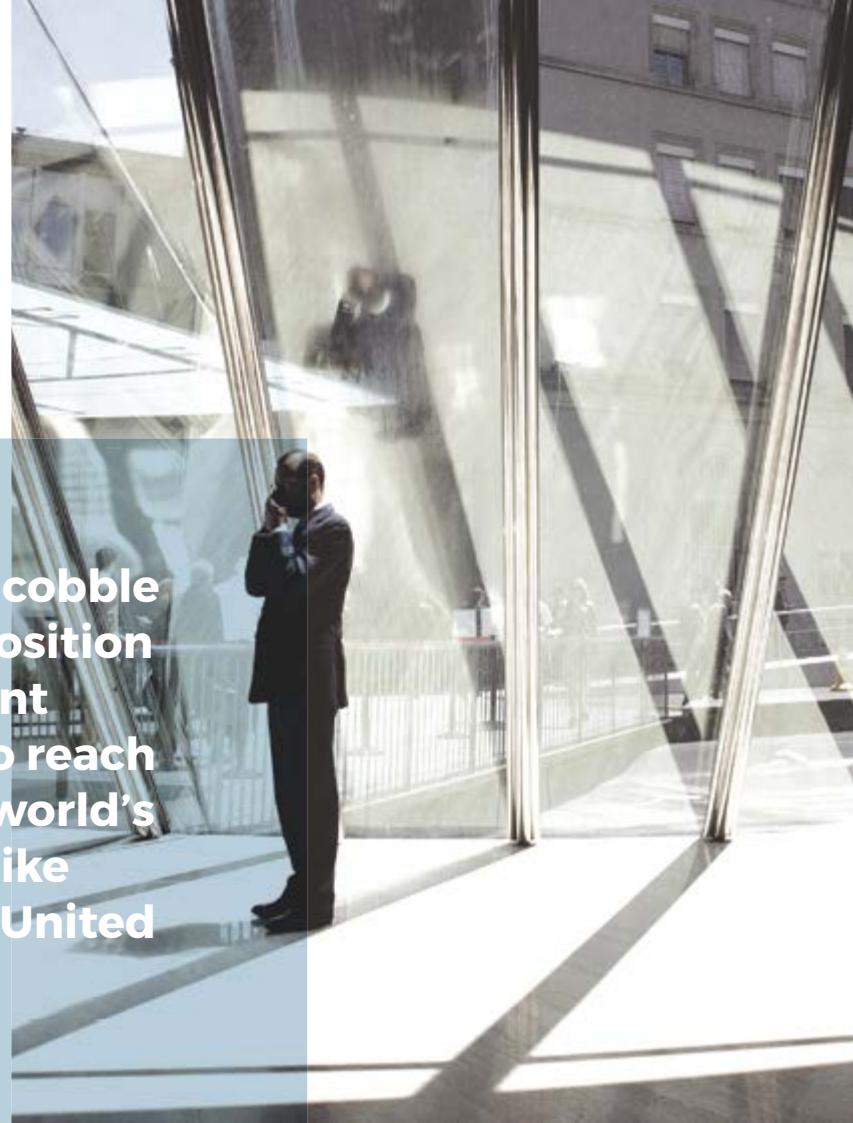
Europe will knuckle down to deal with this reality-- that a member state is departing for the first time and that it is in the interests of everyone to get it done well.

Article 50 of the Lisbon Treaty lays out a formal process for leaving the European Union. Once it is invoked, a two-year process starts which can be extended to three years if all the member states agree. But Article 50 is just one means of leaving the EU. And even if the Government decided to take that route, there is no obligation to invoke it immediately after a vote to leave. We are in control of the process. We can proceed at our own pace and in our own time. No responsible Government would start that two-year process before making full preparations, including extensive parliamentary discussion.

**In 1973, people thought Britain was signing up not for a bureaucracy to swallow up their sovereignty, but for a Common Market-**

those two words appeared on the ballot paper in 1975, when we last had a vote on Europe. So it makes sense that we will keep our free trade arrangements with that market.

**"The EU, struggling to cobble together a common position among 28 very different countries, has failed to reach deals with any of the world's biggest economies -- like China, Japan, and the United States."**



Would we opt for a Norwegian model, a Swiss model or a Canadian model in our future relationship? The fact that so many countries have been named exposes the flaw in the question.

#### **Every country has its own model - and so would Britain.**

Free trade in Europe does not just depend on the EU. Companies do business with each other freely from Iceland to Turkey. Every European country except Belarus is part of that zone. It is absurd to suggest that the EU would seek to put up trade barriers with Britain in a fit of pique because, following a democratic decision, we are exercising our sovereign right to leave, as enshrined in the European treaties.

The EU is legally bound to pursue friendly, neighbourly relations with every country around its borders and it would be in the interests of German car workers, Italian fashion houses and French farmers -- to name just three powerful interest groups -- that free trade and friendly cooperation were further enhanced.

In hard-headed terms, it is clearly in the interests of our European friends to continue to trade freely with us, given that they sell us nearly £70bn a year more in goods and services than they buy from us. You do not close the shop to your best customer.



## Do we really think that Germany will allow barriers to go up to the sale of washing machines in Britain?

While we negotiate in Europe, we will also be talking to our friends worldwide. Britain carried the banner of free trade, with all the progress and prosperity it brings with it, around the globe. Then we surrendered the right even to negotiate about it. By leaving, we will regain our seat on the World Trade Organization. And where we have existing free trade deals through the EU, we can simply continue current arrangements. Countries like South Korea would not wish to see tariffs re-imposed on its exports of electrical goods and cars to Britain.

We would also have the opportunity to pursue new agreements, putting rocket boosters under our trade with old friends and emerging powers. The EU, struggling to cobble together a common position among 28 very different countries, has failed to reach deals with any of the world's biggest economies -- like China, Japan, and the United States.

Australia, an economy half our size, has agreements with all three and is close to signing one with India. We will have that chance once we are free of the unnecessary layer of Brussels middle managers whose efforts constantly fall foul of what Professor John Gillingham has called "protectionist witch-hunters" in too many European countries.

During the negotiation period, we will discuss not only trade but other vital aspects of the relationship such as controlling the movement of people. The current chaotic free-for-all is unsustainable, with unchecked migration from Europe leading to numbers equivalent to a city the size of Newcastle moving to Britain every year.

The new migration system we will design will be fair to people wherever in the world they come from, so we can admit them based on whether they have the skills Britain needs or are genuinely fleeing persecution. We will no longer have to discriminate so unfairly against non-Europeans which we do now.



Introducing a fair, well organised migration system will ease pressure on our public services and improve our national security, which will be free from the dangerous meddling of the European Court of Justice in Luxembourg.

Ultimately, once we have reached a deal on a new EU-UK relationship, we will repeal the 1972 European Communities Act. But we can immediately amend the Act to make some urgent changes before leaving the EU.

Specifically, we can pass emergency measures to curb the baleful influence of the ECJ, which has become a rogue court that threatens our safety. As Justice Secretary, I have experienced the frustration at our inability to refuse entry to those with a criminal record and even some who are suspected of terrorist links.

The period of negotiation with the outside world will also be a period of preparation at home. European laws are part of British law and will continue in force until we revise them. Once we have decided which ones need changing most urgently, we can prepare replacements to take effect as soon as we leave. For example, we need to free our businesses from the most damaging of the Brussels regulations that cost them £600m a week.

But there will certainly be no bonfire of employment rights, as some scaremongers in places like the TUC have suggested.

**Britain introduced equal pay for men and women thanks to the campaigning of sewing machinists at Ford in Dagenham, not bureaucrats in Brussels.**

And it was this Government, not the EU, that introduced the National Living Wage.

We will have the chance to draw up our own agricultural policy for the first time in more than four decades. There would be no reason for farmers to lose any of the grants they currently receive once we regain control of the £20bn gross and £10bn net we send to Europe every year.

**Scientists, like farmers, will find life far easier and less bureaucratic. We will be able to maintain the funding they receive, but do it better.**

As Sir Andre Geim, the Nobel prize-winning physicist, has said: “I can offer no nice words for the EU framework programmes which...can be praised only by europhobes for discrediting the whole idea of an effectively working Europe.” Far better to have science grants managed by the British funding system, described by Geim as “the best, most fair and least bureaucratic...I have ever experienced.”



**"It is in the interests of the Remain campaign to pump up the fear levels, claiming there would be some abrupt, cataclysmic breach."**

Overall, the changes we see will be a process of gradual divergence, not sudden turbulence.

It is in the interests of the Remain campaign to pump up the fear levels, claiming there would be some abrupt, cataclysmic breach. It was nevertheless Lord Rose, the former head of Marks & Spencer and one of the Remain leaders, who put it with more accuracy: "It's not going to be a step change, it's going to be a gentle process...Nothing is going to happen in the first five years probably. Then, if you look back ten years later, there will have been some change."

And ultimately, leaving will bring greater stability and security. The change we will experience by

leaving the EU will be easier to handle than the change if we stay in. The eurozone will integrate ever more closely, with the Brussels institutions gradually morphing into organs of the single currency. Unfortunately in our renegotiation with the EU, we promised to give up our veto on further integration. Our influence will wither and we will constantly be trying to fend off damaging encroachments on our laws with less and less power to do so.

We now have the chance to save ourselves from all that pointless friction.

Leaving will be about change the British way, evolution not revolution. But that change will make us a freer, fairer and better-off country.



*By*

## **SIR STEPHEN WALL**

Sir Stephen Wall is Portland's Chief Adviser on Europe. He has been at the centre of Britain's relations with the EU for 35 years. A former UK Permanent Representative to the EU in Brussels and EU adviser to Prime Ministers Margaret Thatcher and Tony Blair.

# Life in the exit lane





If the British people vote on 23rd June to leave the European Union, we will still be a member of the EU on the morning of 24th June 2016 and, very probably, still members on 24th June 2018. Britain is bound by treaty obligations to her partners in the 27 other Member States of the EU and those obligations (and rights) only cease when the existing network of mutual obligations has been unwound.

The initial shockwaves of a vote to leave would be felt in financial markets (Britain's in particular, but probably right across Europe) and in British politics. The future of David Cameron as Prime Minister would be on the line.

**The referendum result is not, constitutionally, binding on Parliament but even a narrow vote to leave would, in political reality, have to be honoured by the Government.**

Under the terms of the EU Treaty, the British Government would notify the European Council (the collective of EU Heads of Government) of Britain's intention to withdraw from the EU. How quickly that notification would be made would depend in part on how much domestic political turmoil had been unleashed by the result.



**“In practice, both sides would have an interest in reaching an agreement though it would probably take longer than two years to negotiate.”**

Under Article 50, the European Council would meet but without the British being present. The 27 other EU Heads of Government would decide on the terms of the negotiation with the UK about its departure and would mandate the European Commission to open those negotiations with the UK on their behalf. Article 50 is about the arrangements for a Member State's withdrawal from the EU, not about its future relationship with its former partners, though the negotiations are, the Article says, to be conducted “taking account of the framework for [the departing Member State's] future relationship with the Union”.

Two years are allowed for the negotiations, though if all 27 member Governments agree, the period can be extended. At the end of the negotiating period, the 27 decide by a qualified majority vote on the terms of the future relationship. The UK Government would have no vote.

**Thus, if no agreement had been reached, the 27 could make a ‘take it or leave it’ offer to the UK.**

If the UK declined whatever terms were on offer, she would leave and become *viz-à-viz* the EU a third country whose trading relationship with the EU would be governed by WTO rules, which would immediately mean that, where tariffs on EU



trade with third countries apply, such as vehicle exports, prices would rise on both UK exports and imports.

In practice, both sides would have an interest in reaching an agreement though it would probably take longer than two years to negotiate. As far as trade in goods is concerned, the UK has a trade deficit with much

of the EU and an agreement covering trade in goods would be in everyone's interest. But Britain has a large surplus in its trade in services which account for some 75% of the UK economy and securing continued access to financial services, in particular, on the same favourable basis as now would be problematic. A vote to leave the EU would be interpreted as, at least in part, a

**“The EEA countries have a right to be consulted on new EU laws affecting the single market. But they do not attend the Council meetings of EU Ministers.”**



vote against the freedom of movement of people which, alongside freedom of movement for goods, services and capital, is one of the four freedoms which make up the EU single market. It is likely therefore that the British Government would be obliged to seek terms which giving the UK continued open access to the single market while excluding freedom of movement. Such a deal would be unnegotiable. Even if other Member States saw economic advantage in making such a concession, their domestic politics would almost certainly make it impossible for them to do so. The same applies to legislation on workers' rights. Successive British Governments have argued that issues such as the working hours of employees should be determined at national, not EU, level. Other EU Governments disagree.

**No French Government, for whom ‘social Europe’ is an article of faith, would be able to make such a concession.**

It is for this reason that the so-called Norway model of a future UK/EU relationship may not be practicable. Norway (along with Lichtenstein and Iceland) is a member of the European Free Trade Area (EFTA) which in turn is part of the European Economic Area (EEA) which gives those three countries access to the EU single market in goods and services. But the EEA members are obliged, in return for that access, to allow freedom of movement for EU citizens. There is a higher proportion of the Norwegian population from EU countries than the proportion of other EU citizens living in the UK. The EEA countries also have to implement social legislation such as the EU Working Time Directive. They also pay an annual financial contribution to the EU which, proportionately, is similar to the per capita net contribution made by the UK. The EEA countries have a right to be consulted on new EU laws affecting the single market. But they do not attend the Council meetings of EU Ministers (where the UK, as a large Member State, presently has 13% of the voting weight), have no representation in the European Parliament (which co-decides EU legislation with the Council and where the UK, as a large Member State, has 10% of the membership) and therefore have no role at all in decisions on the new EU measures which they are obliged to implement.

**“Passporting  
enables any  
financial  
institution  
established in  
the UK to offer  
its services freely  
in other Member  
States.”**



It therefore seems probable that the UK would, instead, aim for a bilateral free trade agreement with the EU. The new EU/Canada Free Trade Agreement is often given as an example.

#### **That 1500 page agreement has been concluded after seven years of negotiation**

but remains to be signed and ratified by the Canadian Parliament and the Parliaments of the EU countries. From a UK perspective, its principal disadvantage is that it does not give complete freedom of trade

in services, especially financial services and specifically excludes passporting of financial services, a sector worth around 8% of UK GDP. Passporting enables any financial institution established in the UK to offer its services freely in other Member States. Given the UK's dominance of the sector, it is questionable whether the 27 would be willing to concede continued passporting to the UK if we left the EU.

In summary, a British Government that was willing to accept the single market rules

(including freedom of movement of people) as they are at present could negotiate continued access to that market from outside the EU but as the price of making a continued financial contribution to the EU budget and having no say in any EU decisions on single market rules which it would be obliged to implement. A British Government that was not willing to accept the rules of the single market would have to negotiate a free trade agreement which could take a long time and would almost certainly not include the advantages in services (where the UK runs a healthy surplus in its trade with the rest of the EU) which the UK enjoys at present.

Much of the EU single market as it now exists has come about because of British influence in the Council of Ministers, the European Commission and the European Parliament. Concrete plans for the future of the single market e.g. to encompass digital trade, have been proposed by the European Commission on the basis of British expertise and influence. Outside the EU, Britain would no longer have membership of the European Commission (nor would there be any British officials working in the Commission).

### **She would have no members in the European Parliament and no participation in meetings of EU Ministers at any level.**

Any future access to EU policy making for officials, Ministers and the Prime Minister would be as external lobbyists, not as partners, participants and decision makers.

Apart from the single market, there are other EU policy areas where Britain has played a significant role and in which she would have no further part, such as Environment Policy (including Climate Change), energy and transport policy, foreign and security policy and cooperation against crime through e.g. Europol and the European Arrest Warrant. Present arrangements – for example those whereby UK citizens enjoy access to free health care in other EU countries - would all have to be renegotiated. Britain now benefits from the 35 free trade agreements between the EU and third countries. Britain's part in those agreements would end with the end of our EU membership and they would have to be re-negotiated by the UK on its own.

In short, life in the exit lane, the outside lane, might give us British an initial buzz of excitement but we would soon find the negotiations that follow both deeply problematic and extremely psychologically tiring. It might make us want to return to the inside track. But once we had left, there will be no re-entry for a very long time.



# The Home Front Whitehall, Westminster and the business of Government



*By*

**SIR ANDREW CAHN**



Sir Andrew Cahn is non-executive director of Nomura, former senior civil servant working across the Cabinet Office, the Foreign Office, the Ministry of Agriculture, and European Institutions in Brussels before becoming the CEO of Government Department UK Trade & Investment for five years.



**“Bank of England  
is doing short  
term planning  
preparing for  
turbulence in the  
bond and currency  
markets.”**

The Prime Minister told the Civil Service to do no contingency planning for a Brexit. The Cabinet Secretary confirmed to Parliament that none is being done.

**This is one of the oddest aspects of a very odd episode in British public life. Of course contingency planning is being done.**

It would be a dereliction of duty if it were not. Politicians and civil servants are thinking intensively about what would happen in the event of a Leave vote.

Mark Carney has said that the Bank of England is doing short term planning preparing for turbulence in the bond and currency markets. I am sure that they and the Treasury will be worrying about interest rates

and inflation and how to reverse the chill on investment and economic activity that is already evident. Parliamentary Counsel will be thinking how best to draft the legislation for the UK to leave the EU and the Law Officers will be agonising about what is legal under international law. The Foreign Office will be drafting and redrafting the reassuring messages from the Prime Minister to allies and BIS will be working up arguments to put to inward investors as to why Britain remains a great place to put your money.

Brexiters like to say that nothing will change on 24th June. But of course it will. First and foremost, the politics will change. Who will be Prime Minister and what sort of policies will her/his Administration wish to follow?



If David Cameron stays in office, with Boris Johnson in Government and Michael Gove promoted, and George Osborne out of the Treasury, then there will be a fair amount of continuity. But more likely we will have a new Prime Minister with a new Cabinet. If Jeremy Heywood doesn't have a briefing for a new PM (Theresa May is my guess) up his sleeve, he isn't the mandarin I know.

Just possibly, the politics could get really messy. If the pro EU majority in the House of Commons, or the Lib/ Lab nexus which currently dominates the Lords, rebels against a strongly eurosceptic Administration, particularly if it seeks to act outside international law, then we might have a General Election. This could, with the electorate feeling buyer's remorse, result in a pro EU Administration faced with an obligation to negotiate an exit. That would lead us into murky political waters.

It will be essential for any Administration to set out its approach to the new world. First and foremost, will it succumb to the temptation to say that there is a democratic mandate to "take back control" by simply repealing the European Communities Act 1972 and leaving the EU straight away? This would be illegal under international law and create chaos.

**But as General de Gaulle said "Treaties are like the beauty of young women, they last as long as they last."**

It would be reckless to do it this way because trade and financial flows and tourism and everything else would have no basis in law. And the judges would probably stop it if they tried. So it will not happen..... I hope.

**A more likely scenario is that the Government rapidly invokes Article 50 of the Treaty of Lisbon which is the starting gun for a two year process inexorably leading to the UK leaving.**

This will be politically very attractive, indeed probably inevitable, as a symbolic burning of boats. But tactically it is unwise since at the end of the process the UK just has to accept whatever arrangements the EU imposes upon us.



The best option would be to announce general objectives for the new relationship with the EU, get a long way down that negotiation and only when an outline deal is in sight invoke Article 50. That maximises the UK's negotiating hand as it maintains our legal rights and allows us to be troublesome until we are offered a reasonable exit deal.

The PM will appoint a Cabinet rank leader of the negotiations. In 1963 it was Ted Heath, in 1970 Geoffrey Rippon, both based in the Foreign Office. This time it will be a eurosceptic, perhaps Michael Gove, and he will be based in the Cabinet Office with a close link to No 10.

Then there will need to be a negotiating team.

**A danger is that all the experts who know how to negotiate with the EU will be seen as compromised.**

But an EU treaty drafted by someone who does not understand the minutiae of EU law is very dangerous.

The Government will then need to lay before Parliament a document laying out its objectives for the negotiation on the future relationship with the EU; and the sort of UK policies which it will establish in place of EU policies. This sounds simple. It will not be. There is no consensus, either within

# **“More difficult is what to do about the tens of thousands of references in UK law to EU legal provisions or to the European Communities Act 1972.”**

the Leave camp or within the Remainers, on these issues. Expect the Government to be torn apart by these political choices.

The Leave campaign has been careful to avoid defining what sort of policies it wants once it has taken control. But now the Government will have to say for example what sort of trading relationship it wants with the EU, how much access to the Single Market. Forget the Norwegian option or the WTO option.

**Expect a demand for a new UK option, essentially with full access to Single Market but none of the obligations to pay into the budget or allow free movement of people. Don't expect to achieve anything like this.**

The Government will also have to start the process of defining what sort of policies will replace EU policies. So will we have an Australian style points based immigration system or close our borders or what? Will we have a US style protectionist agricultural support system or a New Zealand style no subsidies system? What sort of competition law, anti-dumping arrangements, and state aid rules will we wish to

have? What sort of environmental protection will we enact on water and air quality, on habitats, on emissions?

These issues, though very contentious and normally taking years of debate and parliamentary time, are nevertheless clear political choices. More difficult is what to do about the tens of thousands of references in UK law to EU legal provisions or to the European Communities Act 1972.

Most probably the Government will seek to pass a Henry VIII measure giving them powers to change legislation via secondary legislation. Parliament will object to this and may refuse such powers.

Past EU Directives transposed into UK statute law are not an immediate problem, although there will need to be a vast retrospective stripping out exercise. Transposition of new EU Directives may be quietly neglected, at some risk. But the mass of directly applicable EU Regulations remain in force. And will be joined by fresh ones passing through the EU legislative machinery.



The simplest course would be to pass a UK law saying that all these EU Regulations are now automatically UK law until such time as new UK legislation is passed. But it is not hard to imagine the outrage of Jacob Rees-Mogg to such a move. The alternative, however, will be to have no legislation at all in force for large areas of policy. The pressure on the Parliamentary timetable will be impossible. There is a decade or more of legislation to do in a short space of time. It is why I expect that some EU legislation will still be on the statute book well past the middle of the century.

Our politicians will find a way through. But there will be months, most likely years, of damaging uncertainty for many people and organisations as what the law is applying to their lives and their businesses at any moment in time. The judges must be pretty worried too about what law they are supposed to enforce.

In the midst of all this, how does normal EU business continue and how does the UK act? I cannot see how we could take on our scheduled Presidency of the EU in 2017, nor can I see the UK being anything but a bystander in EU activity. We cannot make useful contributions to legislation or to future policy or even in foreign and security policy, and would probably be cold shouldered if we tried. So we will be present in the room until the Article 50 process runs its course, but absent from the substance.

Some issues cannot be fudged or delayed.

The Northern Ireland authorities will have swiftly to work with Dublin on what a world would look like where there is a land border between north and south. The Home and Foreign Offices will have to think how to handle a Gibraltar with a closed border with Spain. No 10 will have to have soft words for the Scots and perhaps the Welsh who will have voted to remain. Indeed, soft words may be inadequate to deal with the pressure for a new Scottish referendum on independence.

This would add to the political chaos as three separate negotiations take place; with the EU on leaving, with the Scots on their referendum, and between the Scots and the EU on their joining.

Government Departments will have to manage a mindset change. The Foreign Office, which has steadily lost power and prestige to Home Departments, would suddenly become again the focal point for dealing with foreigners. BIS would have to find a team of trade negotiators and my old department, UKTI, would need new resource to find new export markets.

**Most important perhaps would be that each department would have to confront the dilemma that regulations are burdensome and distorting, but politically essential; and you can no longer blame the EU for imposing them.**



**“Within days of a Brexit vote, there will be a French/German paper outlining their vision of a future European Union.”**

The administrative machine would adjust quite rapidly. But it would face some difficult moments. The most difficult would be if a new Prime Minister decided to act illegally by not following the Article 50 process and perhaps requiring a truncated legislative process to implement new UK laws.

Indeed, if the worst fears such as chaos on the currency markets, street protests in Scotland or Ulster, the French instituting stringent border controls or the M20 becoming a lorry park were realised and emergency powers instituted, what does the conscientious civil servant do? Do you support illegality by a Government? I doubt very much that we will get anywhere near that situation. Britain and the EU Institutions will muddle through

and work to find a solution.

But a bit of civil service and political contingency planning now might save us some agony later on.

Even if Whitehall is not to do contingency planning, you can be sure that our continental partners are. Within days of a Brexit vote, there will be a French/German paper outlining their vision of a future European Union and setting out the basis on which there could be a relationship with the UK. It will of course be an opening stance for a negotiation, and it will be unhelpful to us. I expect the draft is in detailed preparation now. I suspect and certainly hope that, no matter what is said in public, our equivalent is also now well past the initial planning stage.

# Can the UK secure free trade outside the EU?





*By*

**DAVID FROST**

David Frost is CEO of the Scotch Whisky Association, a former British Ambassador and trade negotiator, and a member of the Advisory Council of Open Europe. He writes in a personal capacity.



If Britain votes to leave the EU, the country will face some difficult decisions on 24th June. None will be more important than determining the principles behind the UK's new national external trade policy.

It will have to do this with limited policy capability, given that the UK has not conducted any trade negotiations of its own for forty years. And it will no doubt have to do so against a turbulent background, and with partners who will not necessarily be wanting to make things easy. This is a mammoth undertaking. Simply setting out the task underlines how risky a decision to Vote Leave will be.

But if it happens, how will the country go about it? In trying to reach the decisions set out above, two questions are relevant. First, can any future trading arrangements, as a matter of theory, be as good as the current ones provided by membership? Second, is it possible to negotiate such arrangements, as a matter of practical politics? I have doubts on both points.

## THE FUNDAMENTAL TRADE-OFF

There's a very simple trade-off in this area.

**It is that the more independent your national trade policy is, the more difficult it is to negotiate completely barrier-free access to any other country.**

If a country gives up a national trade policy in favour of a customs union with others, in this case with the EU, it can in principle have completely free access to those others' markets. There are no tariffs, no paperwork, and no administrative barriers: the same rules apply to all goods wherever they are made, and changes in rules or standards do not create barriers to trade because they instantly apply to everyone. In return, that country has to accept that it can't have any separate arrangements with any other countries – in other words, its external tariff arrangements have to be the same as everyone else's.

In contrast, if a country has a national trade policy, its tariffs, rules, and standards are likely be different to those of other countries. Indeed that is the point of a national policy – if you don't want this freedom then there is little point in having the policy.

**“This is a mammoth undertaking. Simply setting out the task underlines how risky a decision to Vote Leave will be.”**

So although it is possible to negotiate bilateral trade agreements with other countries, the customs and administrative barriers will never disappear completely. And every time either country changes its internal rules (for example on the standards for a product or the way a service must be delivered) a trade barrier is created. Of course, a country has the freedom to lower or abolish barriers into its own market, and

it will definitely get some benefit from doing so, but there is no guarantee that any other country will do so in return.

Neither approach is inherently better. Which makes sense depends on a country’s situation. But if, as in the case of the UK, a country is already part of a customs union and has already adapted its trading arrangements to it, the case for change has to be overwhelming. It isn’t.





**“Can any of these  
be economically  
better for Britain?  
It’s fairly easy  
to see that the  
answer must be...”**

**no.”**

**“Trade is no longer about making one product and sending it across one border. Most modern products are made up of components from many other countries.”**



## CAN “OUT” EVER BE AS GOOD AS “IN”?

The three models for the future relationship with the EU of an independent UK are well-known: they are the examples of Norway, Switzerland or Canada, and Turkey. (Some of the Leave campaign argue that Britain’s relationship would be *sui generis*, different to any of these, though it usually emerges from discussion that they really mean simply a more generous version of the Swiss or Canadian arrangements.)

All these represent different trade-offs between the options above. Accordingly, all give only imperfect access into the single market, and no say in setting its rules, in return for greater freedom in trade policy with other countries.

**A Swiss or Canadian-type arrangement involves a bilateral Free Trade Agreement, or a series of sectoral agreements, with the EU.**

Even if this eliminated all tariffs on every product (and that has never happened in an FTA), it would still leave UK exporters facing customs administrative barriers and rules of origin enforcement, said by economists overall to be equivalent to 4-8% of the value of the goods traded.

In services, there are formidable intellectual difficulties in negotiating a durable FTA, since the issues are about internal rules rather than tariffs. Put simply, either you accept that both sides have the continued right to change their internal rules, in which case a trade barrier is created if it happens; or you restrict the right to change the rules, in which case you have lost some of the freedom you were trying to gain through having a national policy.



**A Norway-type arrangement involves accepting all single market rules in return for access to the single market in goods and services,**

so in that sense is economically better than the Swiss deal. But it still doesn't get rid of customs administration and rules of origin.

The Turkey arrangement makes the country part of the EU's customs union such as the single market, for trade in goods. (It does not even attempt to cover services.) So the administrative barriers problem is eliminated, but at the price of losing the freedom to have separate trading arrangements in goods. In fact, the Turkey arrangements have never functioned well, Turkey's trade policy is not equivalent to the EU's, and even the theoretical gains have not been achieved.

For all these it's also important to remember that trade is no longer about making one product and sending it across one border. Most modern products are made up of components from many other countries. A car finished in Germany might have components made in Italy, incorporated into a larger component in the UK, be re-exported to France and incorporated again, be sent back to the UK and incorporated in (say) the final car engine, before

going back to Germany for final assembly.

The result is that it would cross the UK border more than once and the administrative costs of doing so would keep mounting up. That would be a barrier, over time, to making the components in the UK in the first place.

So all these arrangements would leave the UK with less access to the single market than before. Would this be outweighed by freedom to negotiate our own trading arrangements with other countries? A simple bit of maths shows the answer is no. The EU already has FTAs covering nearly 60% of the UK's trade, including the EU itself. If TTIP and the EU/Japan FTA can be negotiated soon, that figure goes up to 80%. It can't possibly make sense to have less good arrangements with the 60% or 80% in return for slightly better arrangements with the 20%.

Or alternatively, look at the orders of magnitude. The single market is plausibly worth 5% of GDP. The Commission says an ambitious EU deal with the US will boost GDP by 0.5% in ten years' time. With Japan by a bit more, 0.8%. With India about 0.1%. The orders of magnitude are different and it simply isn't worth jeopardising access to the single market for the sake of global trade.



**“Britain will be demandeur and so it will be Britain that has to make the concessions to get the deal.”**

## WHAT ARE THE NEGOTIATING REALITIES?

That's all the more true when one considers the negotiating realities. After leaving, the UK will have to renegotiate trading arrangements simultaneously with many major countries, including the EU, in a two-year window. There may not be goodwill. Britain will be demandeur and so it will be Britain that has to make the concessions to get the deal. True, other countries will want deals too, but they won't be under anything like the same time pressure and can afford to make us sweat.

This is also a formidable administrative task. Trade negotiations are complex and a good modern trade agreement requires many stakeholders within a country to be involved in the negotiations and be ready to implement the result. That is why negotiations take years not months. The EU is involved in perhaps a dozen live FTA negotiations at any one time and even that puts strain on the system. The UK would have to do many more, with few experienced trade negotiators at our disposal.

In reality therefore what we can negotiate will fall short of the theoretical ideal. Our FTAs are bound to leave tariffs on some sensitive goods, even if we get tariff-free access for most. We are bound to have imperfect arrangements for services access, our real competitive strength, and this would be particularly risky in financial services given the ease with which firms could decamp to (say) Dublin.

In short, even the best-case outcome can't be as good as what we have now; and we won't be able to negotiate the best-case outcome anyway, because in real life you never can.

## HOW TO STABILISE THINGS

Moreover, these negotiations would not be happening in a vacuum. There would be political turbulence in Britain and, no doubt, the EU. Firms and other countries would see that the future arrangements for British trade were up in the air and that existing tariff-free access could not be ensured. So it could be a traumatic and difficult period, with no guarantee of a good outcome.

If I were a UK negotiator in these circumstances, I would be thinking about how to bring stability and predictability to this period. My recommendation would be two-fold:

First, think hard about a transition via a Norway-type arrangement, if only as a staging post. Exit from the EU to a Norway model is probably the easiest thing to negotiate, because the model already exists, it would be hard to refuse us, and Britain would keep access to the single market and apply single market legislation. It could plausibly be done within two years. It would therefore enable UK negotiators to focus in the short run just on third-country trading arrangements, i.e. moving from the EU's FTAs to the UK's own, probably via some kind of transitional arrangements.

Thereafter, it could be possible to unwind the ties further over time to something like a Swiss arrangement, but without the time pressure of negotiating exit, and allowing the immediate bad feeling between Britain and the EU to subside.

Second, make sure we pursue a liberal external trade policy of our own. We should commit to a glide path towards a tariff regime and access policy that is clearly more liberal than the rest of the EU, to keep the UK attractive, to minimise barriers, and to get the economic benefits of more competition on our own market to make up for the shock of disrupted access to others'.

**And there should be no talk about retaliating against other countries if their tariffs go up: this would be completely self-defeating.**

All this said, there is no doubt that leaving would be fraught with economic risk. It would be a step into uncertainty and, in many key respects, into the unknown. If this is the situation on 24th June, we will face an anxious and potentially turbulent time. It will require politicians and businesses to unite and work together to find the best possible route to a more settled future.

# The City

*By*

**GRAHAM BISHOP**



Graham Bishop, economist and Professorial Research Fellow at London Metropolitan University's Global Policy Institute. He was appointed a member of the European Commission's Expert Group and is an advisor to businesses on European financial regulatory affairs.

The City of London has earned its rank as the world's Number One financial centre even though New York might complain. It usually comes above its American counterpart in the Global Financial Centre Index (GFCI)<sup>1</sup>. It is far ahead of any rivals in Europe - as underscored by the UN data on Financial Services Net exporters. TheCityUK<sup>2</sup> also produces excellent data to underline the UK's standing (see box below) – confirming how the UK has drawn ahead since the turn of the century, especially in foreign exchange and derivatives.

#### LARGEST GLOBAL EXPORTERS OF FINANCIAL SERVICES



However, it is vital when discussing the impact of Brexit, that we don't treat the "City of London" as if it were a free-standing entity. That may be the public's perception but it is also part of a successful UK's financial services 'cluster'. According to TheCityUK research, financial services employ over 7% of the UK workforce (with 2/3 outside London), producing nearly 12% of total economic output, contributing £66bn in taxes and generating a trade surplus of £72bn.

#### The UK's second most important international financial centre is Scotland

- with a similar proportion of workforce and GDP to the UK as a whole. The relocation of back-office activity away from the City itself to many English cities means that global financial markets reach into the employment prospects of a surprisingly wide range of cities. So the impact of Brexit on our financial sector whether good or bad will reach into every corner of the UK.

It is a success as well based on the way, for half a century, the City's financial markets have specialised in currencies other than sterling – first of all the US dollar, then the German Deutschemark and now the euro. Given the EU's leading role in world trade, it was not a surprise that the euro came into existence as the second most important reserve currency. According to ECB

<sup>1</sup> GFCI link

<sup>2</sup> TheCityUK link

### UK SHARE OF GLOBAL FINANCIAL MARKETS

% share

2001      2014

#### Interest rate OTC derivatives



#### International bank lending



#### Forex turnover



#### Hedge fund assets



#### Marine Insurance



Source: Various sources, TheCityUK estimates

data, it has consistently provided around 22-27% of identified global reserve holdings although that fell to the bottom of the range as the 'euro crisis' raged. Its share in international bond issuance sank from 40% in 2007 to as low as 12% at the worst of the crisis, but is now back up to around 30%. It is, in fact, the City's pre-eminence in trading euros that gives it the lead over New York. Euro-denominated assets of UK-based banks totalled around £1.3 trillion (close to 75% of UK GDP) at end-2015.

**Approximately 40% of foreign currency denominated loans and deposits in the UK are in euros.**

This primacy was no accident. I observed at close quarters how the City skilfully leveraged its position in the 1980s and 1990s

from a trader in 'dollars outside the US' into the prime trader of European currencies ahead of the euro's introduction. Crucially, this was made possible by the creation of the Single Market. Without that liberalisation and levelling of the regulatory playing field, the City would not have been able to seize such a role. So the rise of the UK as the global financial centre within the EU – focused on the City – was empowered by the global role of the EU and its principal currency, the euro.

However, we live in rapidly changing times and the euro zone is still adjusting to the massive shock from the Great Crash of 2008/9. Part of the response is a move to more economic integration and the greatest economic impact on the City will probably come through the

effects of Capital Market Union (CMU). A significant part of the Eurozone's supply of finance will have to be provided by the capital markets – the City's field of particular expertise – rather than domestic banks. This is a specific example of the positive implications for the UK of remaining in the EU as CMU presents a huge commercial opportunity for the City of London to consolidate its position as the world's leading financial centre. That will create even greater employment, tax revenues and foreign exchange earnings for the UK.



**"We live in rapidly changing times and the euro zone is still adjusting to the massive shock from the Great Crash of 2008/9."**

But access to CMU will be governed by the EU's concept of "equivalence". Burnt by the experience of the Great Crash, it wants to be sure that external suppliers of financial services into the EU are subject to proper regulations, and supervision to ensure compliance with these regulations. On the issue of equivalence, the Commission website is very clear that the EU may recognise that a foreign legal, regulatory and/or supervisory regime is equivalent to the corresponding EU framework. But it goes on to say that this would require any country to meet strict rules on regulation and supervision which would achieve "the same results as the EU corresponding provisions and supervision" on an outcome-based analysis.

This is highly inconvenient for proponents of Brexit if they genuinely intend to move UK regulations away from rigorously following evolving EU rules

as Commissioner Jonathan Hill made clear in a remarkably frank intervention, Commissioner Hill at a recent “FT Future of Europe Breakfast”. Speaking about the future for the City of London, he dismissed claims that Brexit posed no risk because the UK would get the same access or better which he said was “a complete and fundamental misunderstanding of how the rules work.”

He went on to say that the Leave camp was being “misleading about the consequences for business models. People need

to be honest... you cannot have your cake and eat it... I do not believe there is a respectable argument that you can leave and have the same access as now...”

He re-iterated the thrust of these comments in a recent speech in Bruges: “As the person who is responsible for helping to draw up the rules for Europe's financial services, one thing is clear to me: if the UK were to vote to leave, it's fantasy to suggest it could quickly secure access to the single market on the same terms as it has today.”

## BREXIT: THE BINARY CHOICE

So what is the choice? It can be broken down to two options. First there is the **Remain “equivalent” by joining EEA/EFTA** and keeping all the EU Directives and Regulations in force currently, as well as following precisely all new EU financial service rules. However, this requires EEA/EFTA states to accept us and this requires unanimity of both their members and all remaining 27 EU members.

**There is also a price tag which means we would have to pay the same as we pay today but have no say in the rules while also continuing to allow the free movement of peoples.**

If this is the option, it is hard to see the benefits of leaving.

**The second option is to negotiate a ‘free trade’ deal.** Former Mayor of London Johnson argued for a trade deal modelled on that recently agreed between the EU and Canada - but changed his mind within a couple of weeks. The Canada deal does not cover financial services – as with all ‘free trade’ deals. It took seven years to negotiate even after years of preliminary work and has yet to be ratified unanimously by all EU states. It is this free trade model that two former EU Commissioners for Trade have branded a ‘fantasy’ and ‘magical thinking’.



**"The implications for UK financial regulations look dire: 'Directives' have all been transposed into UK law so would not be effected."**

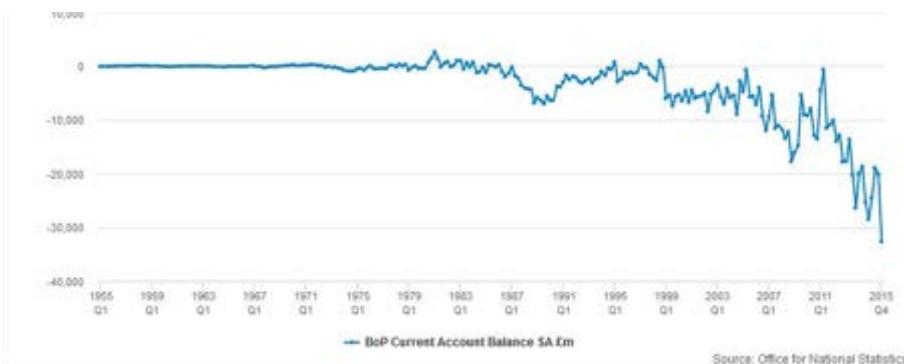
There are plenty of reasons for such concerns. Few observers would doubt that the euro area authorities would seek a rapid repatriation of euro trading activities to within their jurisdiction. Reading the commitments given to the Prime Minister in February about what the euro area would not do in the financial services field if the UK remains an EU member, it is reasonable to infer the opposite if we leave. Indeed, there would be very good grounds for doing so to safeguard their own financial stability.

The implications for UK financial regulations look dire: 'Directives' have all been transposed into UK law so would not be effected. However, 'Regulations' are very different as they take direct effect and are not built into English law. The Europeans Market Infrastructure Regulation and the Capital Requirements Regulation are just two important sets of rules which would simply cease to have any legal force in the UK. The operating details

of the single market in finance would vanish at the instant of our departure.

Down the chain, the legal foundation for acts by the Bank of England based on these Regulations would also lapse. It would seem an absurdity if the first act of the UK Parliament after a Brexit vote was to vote through an omnibus measure giving continued legal force to all detailed EU law. In any case, such a measure would be subject to huge numbers of amendments and would not be enacted quickly.

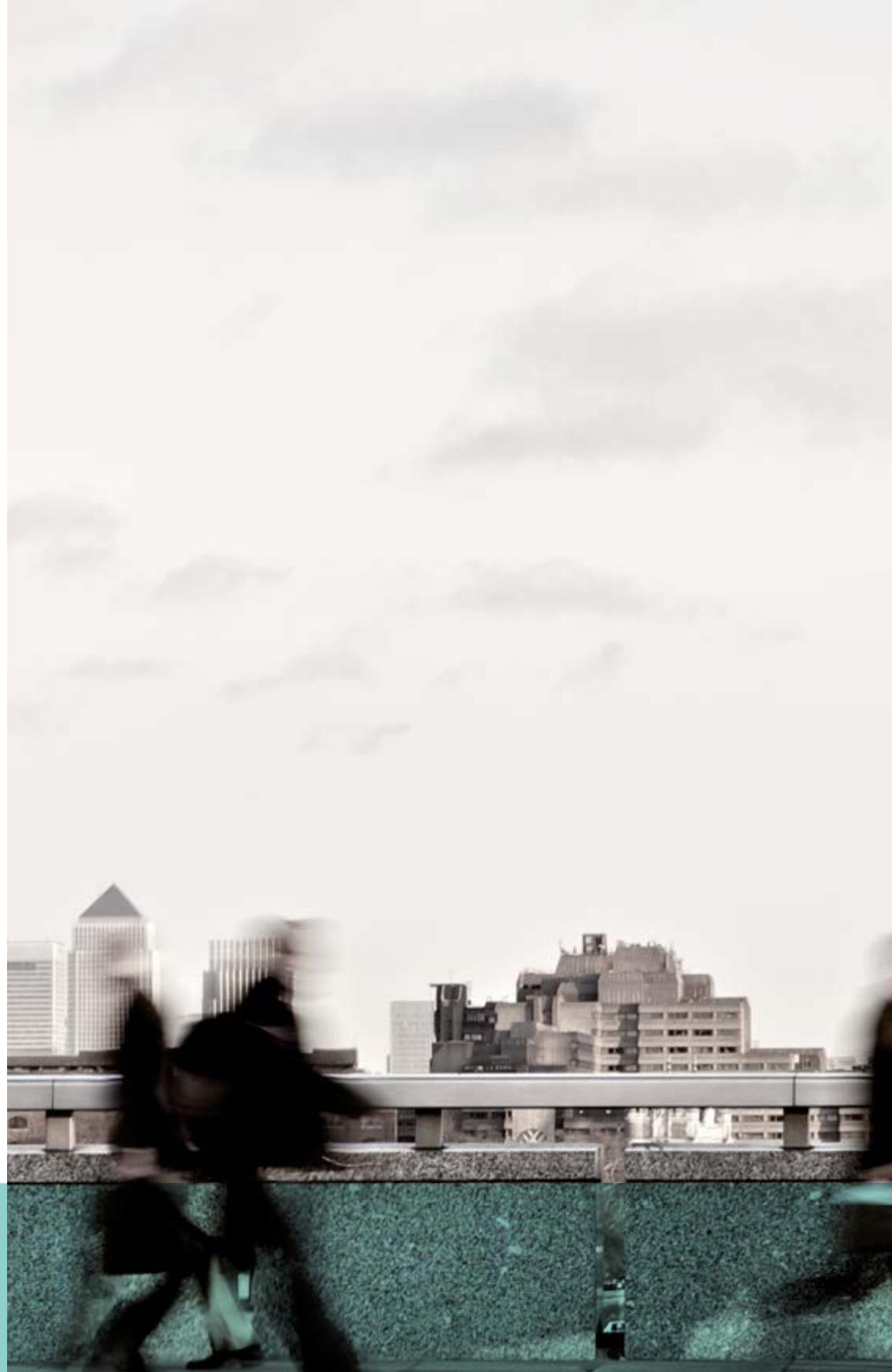
#### BOP CURRENT ACCOUNT BALANCE SA £M



The economic risks to the UK could be substantial. Unless the UK 'slavishly' follows any new EU rules on financial markets, there will be a progressive erosion of the City's earnings.

**The recent Budget forecast the Government's deficit next year at £72 billion - even after the City's tax contribution still running at well over £60 billion.**

The Office for National Statistics has just published the data for our deficit in trade/services with the rest of the world (the current account deficit of the balance of payments) in 2015. It set yet another new record since 1948 at 5.2% of GDP - £96 billion even after the City's trade surplus of £72 billion. This deficit – proportionately – is the biggest amongst all industrialised countries and is more than four times that of any other EU state (except Cyprus). No wonder that Bank of England Governor Carney warned about relying on the “kindness of strangers” to fund this deficit.



**George Eustice MP** is a conservative politician and Minister of State for Farming, Food and Marine Environment. He has been MP for Camborne and Redruth since 2010.

# An exhilarating opportunity



*By*

**GEORGE EUSTICE MP**

If the electorate votes to leave the EU on the 23rd June some things will change immediately. The very next day, it will become the official policy of the British Government to withdraw from the European Union. The Prime Minister will lead the reconciliation of Remain campaigners to the new order of things.

### **Every Minister in the Government will fall in behind him and pronounce their support for leaving the EU however they might have campaigned.**

The entire civil service machine will become absolutely dedicated to delivering the bold new policy of the British Government. The attitude and tone will change. Things that during the campaign were described as impossibilities will suddenly be revealed as far easier than anyone imagined. It will probably transpire that a group in Whitehall had been secretly working on plans to withdraw. It will be a new dawn and the very next day our country will already start to feel the dead weight of the EU lifting from our shoulders.

## **THE FUTURE OF DAVID CAMERON**

David Cameron should remain Prime Minister and I think speculation to the contrary is wrong. There is a great deal of sense in having some continuity and very little sense in having a leadership contest immediately after and on top of a vote to leave. A decade ago in the dying days of the Blair era as he thrashed around in desperate search of a legacy other than Iraq, I was an adviser to David Cameron. In one meeting where we

were discussing our approach to the Lisbon Treaty, David was warned that his idea for a referendum on Lisbon might lead to the UK being forced out of the EU. He shrugged his shoulders and joked, "Oh well, at least I won't have to worry about my legacy." Leaving the EU is not the legacy David Cameron wants but it's not a bad legacy to have. He could play an important role in reconciling other European leaders to the



**“Leaving the EU is not the legacy David Cameron wants but it's not a bad legacy to have.”**

decision the country had taken and would be best placed to do it. In many ways David Cameron's position is safer after a Leave vote. The Conservative Party would forgive him for the way he maxed out and used the Government machine to give an unfair advantage to the Remain campaign, but only if he lost the referendum in the end.

None of the leadership hopefuls has any incentive to move early. David Cameron has said he is going in a couple of years anyway so what's the rush? Leadership contenders who had campaigned to leave would not want to ruin it by demonstrating ugly haste. Leadership hopefuls from the losing side would hope that time will be a healer and will want to wait until their error of judgement was forgotten.

**The only final consideration is whether David Cameron would feel duty bound to resign as he said he would have done (after the event) had the Scottish referendum gone the wrong way. I do not think the two compare.**

For Conservatives, the United Kingdom is a union that really matters and with its loss a part of what we are as a country would have died. The European Union is expendable: a somewhat irritating set up that we have reluctantly tolerated over the years but which has only ever been a passing phase in our history.

## THE NEGOTIATING TEAM AND PRINCIPLES

Much as David Cameron has always hated reshuffles, in the immediate aftermath of a decision to leave he will need to deliver a big reshuffle and do it early in order to refresh the Government and deliver reconciliation. There should be a major position for Boris Johnson. If I were David Cameron I would place Michael Gove and Oliver

Letwin in charge of leading the exit negotiations. The two are intellectually on the same wavelength and could work well together. Michael Gove would have great credibility having played a leading role in the leave campaign and Oliver Letwin has an extraordinary ability to grasp copious amounts of detail across a wide front of Government policy.

**“All of the negative projections during the campaign from groups like the OECD and the Treasury were built on the false assumption that trade would be severely disrupted.”**





**“Oliver has always been the intellectual anchor behind David Cameron and he is trusted by the Prime Minister.”**

Oliver has always been the intellectual anchor behind David Cameron and he is trusted by the Prime Minister. However, he is also respected by eurosceptics. While his decision to support the remain camp is no doubt sincere, he would probably be quite excited by the opportunities created by a leave vote once it happened. Around the duo of Oliver Letwin and Michael Gove I would put a group of Ministers who had been involved in the Leave campaign and who had therefore done the most thinking about how to extract this country from the clutches of the EU.

**The key principle behind the negotiation would be develop a close partnership and continuity where continuity was necessary.**

However, the red line should be no acceptance of the jurisdiction of the European Court. The concept of a pan-European legal system has been at the heart of the EU's failure and it would have been rejected in the referendum. New arrangements would be built around bilateral agreement between the UK and the EU but with dual legislative processes to implement what each party had agreed.

My view is that you would probably seek to negotiate the big elements of a new UK-EU partnership early on to settle down any perceived uncertainty there might be in the markets and possibly before triggering the formal process set out in Article 50.

**There is no obligation on us to use Article 50 although we might agree to as a goodwill gesture to other EU countries.**

But, only after important things had been agreed. Chief amongst these is a swift commitment to put in place a free trade agreement that would replicate equivalent market access to that provided for by the Single Market but without acceptance of the jurisdiction of the European Court. All of the negative projections during the campaign from groups like the OECD and the Treasury were built on the false assumption that trade would be severely disrupted. Trade disruption would hurt the rest of the EU too; that is why there will not, in the event, actually be trade disruption.



**“It is actually very  
easy to agree a Free  
Trade Agreement  
between the UK and  
EU provided people  
behave rationally and  
not petulantly.”**

## DELIVERING A FREE TRADE AGREEMENT

It is actually very easy to agree a Free Trade Agreement between the UK and EU provided people behave rationally and not petulantly. Our starting point is that we are in the single market now, have been for decades and there is a high degree of equivalence and compatibility in our approaches to issues like product specification, food safety and labelling etc. That is why comparisons made between the trade agreements with the US or Japan are so flawed. For example, the US has hormone treated beef and totally different attitudes to animal welfare which is a genuine barrier to free trade in agriculture. No such barriers exist between the UK and EU.

**Some say that other EU leaders will not behave rationally but instead will be reckless and vindictive and willing to cut off their nose to spite their face and inflict economic pain on their own countries to make a point and deter other member states from seeking independence.**

So, in addition to offering incentives to the establishment of a new partnership, we may also need to keep a stick in the background to help



negotiations along. The UK parliament has an unbridled constitutional right to unilaterally set aside any EU law at any time. While, in my view, it would be disproportionate to unilaterally repeal the whole 1972 Act given the treaty commitments we have, we could unilaterally strike down certain regulations if the EU were behaving badly as some in the remain campaign have predicted.

### What of President Obama's threat that we would have to join the back of the queue for any free trade agreement?

It will be shown to have been a very rash and ill-judged remark. Without British support, TTIP is dead in the water and the US can kiss goodbye to any free trade agreement with Europe. There just isn't sufficient support from the rest of the EU. So, instead, the UK will become the pivotal power that brokers a new transatlantic free trade agreement that would have morphed into at least three parties: the US, the UK and the EU. You might even take the opportunity to get other non-EU countries on board.

## SECURING ARRANGEMENTS WITHIN THE WIDER BRITISH ISLES

One of the early issues to address will be new arrangements within the UK and the wider British

Isles. We will need to move quickly to reassure our friends in the Irish Republic and to put in place special bilateral agreements to recognise the closeness of our two countries and the fact that we share a land border. There is precedent for doing this before we were in the EU so while there will be work to do, there is an easy to identify pathway through.

Concerns over a second Scottish independence referendum are unfounded in my view. The SNP have taken a low profile in this referendum because a third of their own voters think we should leave and they do not want to alienate them. The revival of the Conservatives in Scotland makes it harder for the SNP to press another referendum up the agenda. Opinion on the EU in Scotland is not that far removed from the country at large and support for Scottish independence is falling. Finally, what we will find is that many of the powers we take back from Brussels in areas such as farming, the environment and fishing will flow straight upstream to the Scottish, Welsh and Northern Ireland administrations through the current devolution settlement. The Scottish Government will have unprecedented power if we leave the EU and this will cement the Union closer together. Why would any Scottish Government, having won new powers, seek at the first opportunity to hand the keys over to Brussels and go back to being told what to do again?

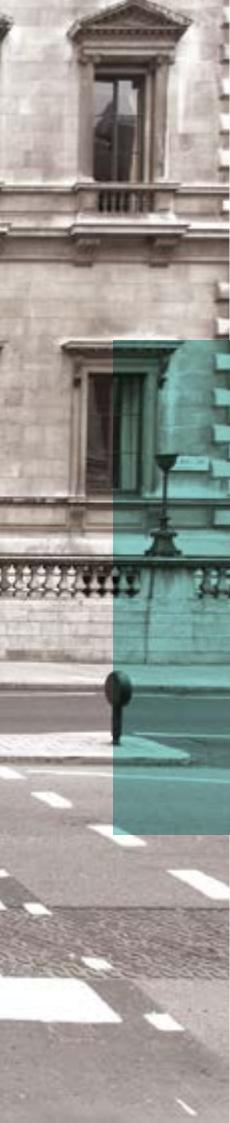


## CIVIL SERVICE CAPACITY

A final consideration is the capacity of our civil service. We would need to look at resourcing because some departments that deal a lot with the EU, like Defra, will both have increased work to do relating to the negotiation and will also have to build the capacity to take legislative control of whole policy areas for the future. I actually think this will be easier to achieve than some fear. During my two and a half years in Government, my opinion of our civil service has gone up.

**I have exceptionally talented people coming through my office but I often feel that they are constrained by the system and the EU framework they have to work within.**

We would take an early decision not to waste time and effort on working groups for EU dossiers that were some way in the future. Instead, we would exercise our influence on trade and technical issues bilaterally with



**“We would also be able to abandon the plethora of pointless strategies.”**

the EU Commission and on all other issues, we would be working on our own independent plans. We would also be able to abandon the plethora of pointless strategies and the work that goes in to agonising over whether we are compliant with this or that regulation since we would be on a transition to exit. This would release time and resource to focus on priorities.

**Finally, we would have the opportunity to forge new skills and teams within the Government machine.**

Trade will be an important new component of our work. UKREP would be slimmed down to reflect the reduced need for engagement with the EU but the released staff would be redeployed as the starting core of a new, world beating trade negotiation force which we would send around the globe to open new markets. Meanwhile, officials who now spend their time in working groups arguing over trivia like what size rear view tractor mirrors should be would be redeployed to project British soft power and expand the UK's efforts internationally on issues such as the environment, aid and security.

There is no one in Government today either as a minister or a civil servant who has ever known anything other than being told what to do by the EU. It's the only reason we have put up with it for so long. If we do decide to leave, it will be the most exhilarating and refreshing time to be working in Government.

# A letter to the British





*By*

## **PIERRE DE BOISSIEU**

Pierre de Boissieu is a French diplomat and former French ambassador to the European Union. He served as Secretary-General of the Council of the European Union until 2011 and Deputy Secretary-General from 1999 to 2009.

**“That is for them to decide.  
But the other Member States,  
the other people of Europe,  
who are, at present, up  
against serious problems,  
would feel that they had  
been abandoned.”**



On the night of 23rd June, Europe will have no sleep. For Brexit would, for everyone in Europe, amount to an earthquake. No one would see it as just another decision by any old member country to leave an international organisation. Brexit would be a separation, a divorce, a break-up. If they decided to leave, the British people might feel that they had emancipated themselves from ‘being run by Brussels’. That is for them to decide. But the other Member States, the other people of Europe, who are, at present, up against serious problems, would feel that they had been abandoned. That feeling would doubtless be more heartfelt in a country such as Ireland than elsewhere. But it would be felt, nonetheless.

For the United Kingdom is not just any old one of many European countries, or even a country like the others.

**It is a great country, a country that is liked and admired, and a country which has shaped the history of Europe, enriched its culture, and illuminated its political evolution.**

It has been a longstanding example to others and which has been looked up to. This remarkable heritage would, in the event of a divorce, be one of the main handicaps Britain would face as it sought to negotiate a new agreement with the European Union. Britain's magnetism, the sympathy it arouses, are so strong that many will fear that her defection could call in question the commitment of others and even lead to the slow disintegration of the European project. The Member States, the founding members in particular, could show understanding for a Member State whose departure would not change the integral character of Europe as a whole. They cannot, and will not, do the same for Great Britain.

This is all the more so for, in all probability, the remaining Member States will, the moment Britain votes to leave, unite round an early move to strengthen European integration in certain policy areas, especially in the operation of the euro zone. It will take some time for them to turn intention into reality.

### The real decision point will come at the end of 2017/ start of 2018 following the Presidential election in France and the General Election in Germany.

And it is a pretty safe bet that decisions will then be taken: decisions which will even more clearly mark the separation of the United Kingdom – a further drifting apart of the continent and

Great Britain.

From now until 23rd June, the prospect of a vote to leave is a central concern for the whole of Europe. Should Britain vote to leave then, the day after the referendum, the focus of attention of 27 EU member countries will no longer be on the UK but on themselves, on the EU. And the EU members will do everything in their power to ensure that they suffer as little as possible from Britain's departure. They will move to strengthen their mutual ties, not least to prevent them being weakened.

Of course, there will be lots of background noise, hopes expressed for the future, warm things said. But sympathy and friendship are not the same as policy. And I am certain that the very fact that Britain is a great country, a beacon for the countries of the continent, will mean that her former partners will do her no special favours in the negotiations on what happens when Britain leaves. There is not a single European leader – German, French, Dutch, Italian, Belgian or Spanish – who would want to be held responsible for undermining or otherwise negating the EU project.

So, should the UK vote to leave the European Union, it is against that general background that negotiations will open under Article 50 of the EU Treaty. The negotiations will be conducted with a view to reaching an agreement with the UK in



accordance with the procedure that the article lays down. And the Treaty is quite precise about that procedure, while saying relatively little about the substance of what might be agreed. An agreement is about “setting out the arrangements for its [the Member State’s] withdrawal”. The operation will be a long and difficult one and it will certainly be ‘surgical’. After 45 years of living and working together, it will be less like the withdrawal from an international organisation and more akin to the separation of Siamese twins: a separation covering every level of every common activity. And let there be no misunderstanding: the treaty provisions do not allow a Member State to pick and choose what it will and will not keep hold of in the existing treaty arrangements

and the rights that derive from them. The core principle is that of the unity and unicity of the EU Treaties. So the negotiation will be about the modalities of leaving and, in parallel, about what form a new relationship between the UK and the EU should take. That agreement will be negotiated, in the name of the EU, by, on one side, the 27 Member States, represented by the European Commission, and, on the other side, by the UK. The eventual agreement will be decided and adopted by a qualified majority of votes among the 27. The UK has no part whatsoever in that vote.

The terms of the negotiation are pretty clear already. The UK will seek to extricate itself as far as possible from the constraints and disciplines which the British

people would have voted against whilst, at the same time, retaining the rights and privileges which it currently enjoys as a Member State, in particular the single market for goods, services and capital. As far as the 27 Member States are concerned, the negotiation would necessarily be based around the following principles:

- At the conclusion of the negotiations under Article 50, the UK would be considered a ‘third country’, with all the consequences which flow from that. The EU will not be willing to create a new status for Britain of “former Member State” with special rights, or rights which might be thought of as residual rights of a former Member State or acquired rights of former citizens of the EU;
- The provisions applying to the relationship between the EU and the UK should as far as possible be the same as one of the existing models, be it the EEA model (Norway etc.), the Swiss model or those countries which have a customs union with the EU. Without such an agreement, the UK would revert to being a third country with no rights other than those resulting from international treaties or arrangements such as the WTO or the OECD;
- There will need to be strict parallelism between the concessions offered to the UK in terms of access to the EU’s internal market and the obligations the UK is prepared to take on in return, especially as regards the applicability of EU law;
- Whatever is agreed will have to safeguard the decision-making autonomy of the EU and its institutions, and must respect the general principles laid down in the EU treaty.

These various principles might seem dogmatically intransigent and therefore capable of being softened or even disregarded in a well organised negotiation. Far from it: they represent the essential interests of the EU and its 27 Member States. The first such interest is not to allow the UK to have the status of an “almost Member State” which for various, and often conflicting reasons, might appeal to one or other of the 27 and could therefore undermine the Union itself. By the same token, it will be important not to give the three existing EEA members or other third states of importance to the Union (Switzerland, Turkey for instance) an excuse to try to improve the terms of their own relationship with the EU and to make clear that their existing rights remain conditioned by the existing rules and conditions that apply to their relations with the EU.

### **The same goes, issue by issue for the detail of the future arrangements.**

Why would those Member States which benefit from so called cohesion policies agree that a country like Britain could have semi Member State status without continuing to contribute to the cohesion funding? Why



would those countries that are net contributors to the EU budget (Germany, France, Italy, Netherlands, Sweden, Austria etc.) accept, let alone explain to their public opinion, that Britain was no longer paying into the budget but was continuing in some important areas to enjoy a privileged status almost equal to theirs?

**It would not be even Europe à la carte, of pick and choose, but a dip in and out Europe,**

in other words a negation of what the European Union is all about. And that is something that none of the 27 will accept.

A more superficial analysis sometimes leads to a different conclusion: that the EU, with a surplus in its trade with the UK, would have every reason in its own interest to keep things that way and that the UK would therefore have the upper hand in negotiating favourable terms. That argument carries little weight. Almost a half of the United Kingdom's exports go to the other 27 Member States of the EU, but the UK market represents only some 10% of their exports. Moreover, more than half of the trade surplus of the 27 is down to two countries only: Netherlands and Germany. Those are the two countries that are often criticised in international organisations (IMF, OECD, and G7) for running large trade surpluses and so might well accept to see those surpluses somewhat reduced.

Finally, no matter how important the commercial argument may be, it will not be the deciding factor in the stance which the EU 27 will take. To grant the UK concessions of the kind that are being talked about would require a new treaty, a new treaty that would not just have to be agreed by all the 27 Member States but ratified by them as well; so we would be talking about doing the realistically impossible.

Some argue that the affection people have for Britain, its intimate knowledge of the ins and outs of EU life, the professionalism of its civil service and of its NGOs – that all these things would enable the UK to continue to influence the policies and decisions of the EU even if the UK were no longer a member. But real world experience suggests otherwise.

**There is no half way house between 'in' and 'out'.**

For example, the United States is able to exercise considerable influence in Brussels; but that influence is nothing like as great as that exercised by a Member State which is a full participant in the day to day work of the Council of Ministers, the European Parliament and the European Commission. And the ability of smaller and less powerful countries than the US – countries such as Norway, Switzerland, Canada or Turkey, is even more markedly less.



**“Almost a half of the United Kingdom’s exports go to the other 27 Member States of the EU, but the UK market represents only some 10% of their exports.”**

How would the Article 50 negotiations conclude? It is, at this stage, impossible to say. But one thing is written in stone: the Union will be governed by the principles I have described. The most authoritative analysis was made by Jean-Claude Piris, former senior legal counsel to the EU Council of Ministers. What that analysis demonstrates, simply and ineluctably, is that, unless the UK was content to become a third country in every sense, including in respect of the single market, she would have to accept obligations which would be scarcely different from those applying to the UK now as an EU member. But, while the UK would have to accept those obligations, she would play no part, either in principle or in practice, in the decision making of the EU. That is what the application of the texts, the Treaties and EU law would mean. The many exemptions which the UK already enjoys (single currency, Schengen, Justice and Home Affairs), as well as the very significant concessions granted in the renegotiation decisions of 19th February 2016, leave virtually no room for any more concessions without reciprocity.

The road to an eventual outcome will be a long one. The negotiation will take years – many more than the two years (which can be extended) envisaged by the Treaty. Much can happen, both in the UK and in the EU, between the beginning and end of the negotiations which could further complicate the whole process. The negotiations will not be straightforward and they will be difficult. For the Treaty is clear: until such time as the Article 50 negotiations



**Do the countries of Europe – Great Britain included – not have other priorities, other crises, other challenges to tackle side by side, rather than one against the other?**

are concluded, the UK remains a Member State of the EU, with all the rights, but also all the obligations, of membership. And during all that time the Union – still a Union of 28 – will be dominated by a negotiation of 27 + 1, in which each negotiating party will be insisting on its rights and defending its interests. It is not scare mongering, but simple realism, to predict that the long period of uncertainty that would begin on the morning of 24th June would be one of endless difficult and frustration.

Those in Britain who want to leave the EU call in question just what this marriage contract has amounted to. They excoriate the Union's dysfunctionalities, its inertia, what they see as a lack of democratic accountability, the presumptuousness of its institutions – and they are

not without a point. But, if Britain votes to leave, the other Europeans will not interpret the outcome as simply an expression of frustration and a determination to change the terms of the contract. They will see it as a decision to part, as a rejection of the reality that is Europe, as a body blow. This feeling will be all the stronger because over the decades the EU has undergone profound changes at the instigation of the UK, often in the face of initial opposition from one or other Member State. To give just one example, namely that of freedom of movement of people, or workers, within the Union. Which country as it which, in the early 2000s, campaigned most vigorously for enlargement of the EU to take in the countries of eastern and central Europe? Which country was the most

insistent that the transition periods for these new members should be as short as possible? Which country was it that, at that time, most criticised the timidity and feebleness of other Member States whose Governments were more circumspect? And after all that which is the country which has now done an about turn? Reproach and rancour will weigh heavily on the negotiations over Britain's future relationship with her erstwhile partners, and those sentiments will be felt on both sides of the negotiating table.

**In all this, “democratic choice” will cut both ways. The British will, quite justifiably, interpret the results of the referendum as the manifestation of the will of the British people.**

The 27 other member countries in the EU will have to accept that sovereign decision. But, for them, it will be a unilateral decision on the part of the UK. They will feel equally at liberty to take sovereign decisions on what shape they wish to give to a Union reduced in number to 27. And it is more than likely that, during the long years which will be spent negotiating the terms of a future relationship with the UK, decisions will be taken at 27 which could profoundly alter the EU. So the last word in the negotiation laid down under Article 50 will not be uttered on the basis of the EU as it is in 2016 but on the basis of what it will be some years hence. And that makes the negotiation quite unpredictable.

In sum, Brexit would mean a period of years, of unpredictably long duration, in which the United Kingdom on one side, and the 27 other Member States of the EU on the other, would be forced to devote a large portion of their energies to dismantling one relationship and then trying to reshape something out of what they had taken apart; to renegotiating hundreds of agreements, decisions, administrative arrangements. During all those years, the UK would still be a Member State of the EU, but a Member in a state of suspense. The Union would be close to being one of 27 – but not quite. Do the countries of Europe – Great Britain included – not have other priorities, other crises, other challenges to tackle side by side, rather than one against the other? Is there no other vision, no other aspiration to offer coming generations than the sour pleasure of one side being able to say “we are no longer with you” and, for the others, the bitter acceptance of the fact that “they have deserted us”? For those 27 who remain the issue will not be whether or not the EU has made mistakes, as it has done.

**The issue will be to determine what they need to do to relaunch a more effective Union, a Union at the service of a Europe whose influence in the world is that of reason, tolerance and liberty.**

Will the British be together with us as they have been throughout our long shared history? On the continent of Europe, that is what everyone hopes will happen. Maybe that hope is just a dream, but are we not such stuff as dreams are made on?

# Biographies



## The Rt. Hon. Michael Gove MP

The Rt. Hon. Michael Gove MP for Surrey Heath since 2005, is a Conservative politician and Lord Chancellor and Secretary of State for Justice. He became Education Secretary after the 2010 general election, a role he severed for four years. Before becoming Lord Chancellor Secretary of State for Justice, Gove served a brief period as Chief Whip in the House of Commons.

He worked as a journalist before entering into politics, and was a former columnist for *The Times*. In 2006, he published *Celsius 7/7*, a book about the roots of Islamic terrorism.

---



## Sir Stephen Wall

Sir Stephen Wall is Portland's Chief Adviser on Europe. He has been at the centre of Britain's relations with the EU for 35 years. His experience includes five years as UK Permanent Representative (Ambassador) to the European Union in Brussels, and four years as EU adviser to Prime Minister Tony Blair – as well as five years running the Foreign Office's European Department and two years as Britain's Ambassador to Portugal.

As a member of the British Diplomatic Service, Sir Stephen worked closely with five British Foreign Secretaries and was Foreign Policy Adviser to Prime Minister John Major.

---



### Sir Andrew Cahn

Sir Andrew Cahn is non-executive director of Nomura. Sir Andrew spent most of his career in public service, in the Cabinet Office, the Foreign Office and the Ministry of Agriculture, and three times working in the European Institutions in Brussels. He previously worked as Chef de Cabinet (Chief of Staff) to Neil Kinnock, Vice President of the Commission and prepared the blueprint for reforming the European Commission. Sir Andrew also worked at the heart of the British Government in the Cabinet Office, first as Principal Private Secretary to the Chancellor of the Duchy of Lancaster, then as Deputy Head of the European Secretariat.

He went on to become CEO of the Government department, UK Trade & Investment for five years, responsible for 2500 staff, a budget of over £400 million and worked closely with three successive Prime Ministers, Tony Blair, Gordon Brown and David Cameron.



### David Frost

David Frost is CEO of the Scotch Whisky Association, a former British Ambassador and trade negotiator with over 25 years' experience. David has served as Director for Europe & Trade at the Department for Business, and as Director for the EU and Director for Policy Planning in the Foreign Office. He was HM Ambassador to Denmark (2006-8) and also served as a diplomat in Brussels, Paris, New York, and Nicosia.

He speaks French, German, Modern Greek, and Danish, and is a member of the Advisory Council of Open Europe. He writes in a personal capacity.



### Graham Bishop

Bishop is a Professorial Research Fellow at London Metropolitan University's Global Policy Institute. He started his career in the City working as an international economist, managing pension fund portfolios and published research on the issues surrounding monetary union before starting his own consultancy in 2000 on European financial regulatory affairs. Due to his influence at the meeting point of politics, economics and finance, President Barroso appointed him a member of the European Commission's Expert Group looking into initiatives for the joint issuance of debt in the form of a redemption fund and Eurobills.

Graham has been a Special Advisor to the House of Commons Treasury Select Committee and has given evidence several times to the House of Lords European Committee's inquiries.

.....



### George Eustice MP

George Eustice MP is a conservative politician and Minister of State for Farming, Food and Marine Environment. He has been MP for Camborne and Redruth since 2010. Previously he ran the 'No Campaign' as its Campaign Director between 1999 and 2003, the group campaigning against the UK adopting the Euro as its currency.

He was David Cameron's Press Secretary from June 2005 until 2007 and was part of his campaign team during the leadership contest. He also worked as Head of Press under Michael Howard between 2003 and the 2005 General Election. Before entering politics, he worked for nine years in the family business, Trevaskis Fruit Farm near Connor Downs.

.....



## Pierre de Boissieu

Pierre de Boissieu, a distant relative of Charles de Gaulle, has been at the forefront of European politics for the last 40 years. In 1993 De Boissieu was appointed as France's permanent representative to the European Union and held the position for 6 years. He was one of the most respected and influential permanent representatives during his time. Following years of high profile experience and technical detail, De Boissieu was appointed Deputy Secretary General of the European Council in 1999, a position he held until 2009. He then went on to replace, Solana as Secretary General until 2011.

Prior to working in Brussels, De Boisseau was appointed as First Secretary to the French Ambassador to West Germany in 1973. A role he served for five years, under Oliver Wormser for the majority of his tenure. It is following this period that De Boisseu began his long run of unbroken service to the European Union.

---



# Portland

STRATEGY. CONTENT. DELIVERY.



LONDON • NEW YORK • WASHINGTON,DC • NAIROBI • DOHA

[info@portland-communications.com](mailto:info@portland-communications.com) / [www.portland-communications.com](http://www.portland-communications.com)  
@PortlandComms