

The pound and the letter

Some said the pound would tumble more when we sent the letter.

Instead this week in the run up to its delivery the pound has remained fairly steady at around \$1.24 and Euro 1.15, above the lows of October last year when the pound reached \$1.20 and 1.10 Euros. The cut in UK interest rates last summer and the rises in US interest rates have of course led to a stronger dollar. The world's leading currency has also risen strongly against the yen and the Euro.

The pound hit an all time low against the Euro of 1.04 in December 2008 when we were firmly in the EU and is now 10% above that. It is also well above its all time low against the dollar.

Independence!

Independence Day will forever be 23rd June. UK voters decided they wished to be self governing again on that day last year. March 29th will also be high in our affections. Today is the day we send in our formal withdrawal from the EU.

As Lord Pannick argued in Court and in the Lords, the Article 50 letter is irreversible. We will leave the EU within the next two years, with or without an Agreement.

There are those who now wish to change the legal advice from the Remain side. Some now claim the court case argument was just that, a useful argument at the time but not one Remain really believed. I will defend Lord Pannick in his absence. I am sure he is an honourable peer of the realm. This was no mere lawyer using the best argument for his client, but a member of the legislature stating what he as an expert believed the law to be. It was successful. The government would have won the case if the court thought the Article 50 letter was just an invitation to talks about withdrawal. I made all this clear in the Parliamentary debates we held to pass legislation to approve our exit. The court has now done us a favour. We are leaving the EU with a very strong majority of MPs supporting departure, as well as a majority of UK voters. The Act to leave the EU passed with a majority of 372 votes.

Article 50 put in the two year exit provision to prevent a reluctant EU delaying a country's departure by refusing to negotiate an exit agreement sensibly. The UK's despatch of the letter now places the obligations on the rest of the EU to see what they can salvage from their departing member. They should have a long list of things they do not want to lose which is

realistic, and another list of things they don't want to lose which are unrealistic.

The first list will encompass protecting their access our lucrative export market, ensuring the position of EU nationals in the UK, keeping access to the City for the money their companies and individuals need to raise, keeping their flying rights into the UK, keeping UK involvement in European defence, and preserving and developing many collaborations on research and joint investment. All of those the UK is willing to grant in return for a punishment free settlement.

The second list may encompass an exit fee, continuing contributions to their budget, and continuing freedom of movement between the UK and the EU. Asking for those will show they still have not understood why we are leaving, nor the weakness of their legal and political position.

[The walk away option is real](#)

The EU has constantly underestimated UK unhappiness with the EU and our resolve to leave as a result.

They are in danger of doing so again. They are determined to believe just leaving is impossible, because it does not suit them. No worry that it forces them into their own Project Fear. No worry that it means trying to think of ways to harm themselves.

Leaving without a deal is always going to be better for us than a punishment deal. What is bizarre is the number of politicians in the UK who are on the EUs side, actively promoting the idea that the UK has to pay a fortune to the EU to leave when there is no such legal or moral obligation on us. The BBC also claims to have found government officials who want to undermine the walk away option. So they too want to weaken the very strong UK position.

The EU should not overplay its hand by believing the UK would not dare to just leave if there is no deal that makes sense.

[Henry VIII clauses](#)

Henry VIII legislation is a pejorative term for laws passed without Parliamentary approval. The EU has been good at using such powers. Henry VIII sometimes passed laws by proclamation, without reference to Parliament. That is exactly how the EU legislates when it puts through directly acting

Regulations. The UK Parliament cannot amend or vote down such laws, but just has to accept them as good UK law. Once we have left the EU there will be no more directly acting Regulations that Parliament cannot vote down.

Incorrectly some people argue that a Henry VIII clause is a clause in an Act of Parliament which allows government to provide more detail under the Act by means of Statutory Instrument rather than having to enact further primary legislation. This has been a common practice by governments of all persuasions. Parliament agrees the framework and main provisions of an Act, then allows details like level of charges or dates of implementation to be made by Statutory Instrument. SIs still need Parliamentary approval. Parliament may debate any SI it wishes, and can vote them down if they do not suit. Parliament decides when it passes the original primary legislation how much details it is willing to handle at a future date by SI and how much of the detail has to be on the face of the Bill. Any perishable or often changing provision, like a fee or charge level, is often best left to more flexible SIs.

This system has only been extended beyond its desirable limits by substantial legislation required by the EU. Much EU legislation takes the form of a Directive or instruction to the member states to enact laws in line with the Directive. The UK has often done this by means of Statutory Instruments under the power of the 1972 European Communities Act. Large swathes of our environmental, agricultural, trade and many other areas of law have been put through by such means. The 1972 Act offered by far and away the biggest extension of the power to government to legislate by SI ever adopted, and it is a power which has been used over and over again since 1972. That will end with repeal of the Act. The government has never been granted the same power to use SIs by non EU Acts.

When Parliament passes the Great Repeal Bill to provide continuity of law as we exit the EU under the Article 50 process it will wish to transfer all existing EU law into UK law, and to allow some future changes to be made by SI where these are tidying up matters. Parliament will not allow the government to create a new fishing policy or a new agriculture policy by SI under the Repeal Act nor will the government demand such power. Once the UK has left the EU and ensured continuity of law, it will then be up to Parliament to decide which areas it wishes to amend or repeal. A new fishing policy, for example, may well be a priority. That will require a proper White Paper and an Act of Parliament. Brexit is about strengthening Parliamentary and public scrutiny and consent to our laws. Only the EU made law by proclamation ignoring the UK parliament, and only the 1972 Communities Act greatly widened the power to use SIs.

Happy Birthday to the EU

I wish the EU well on its 60th birthday. The exit of the UK gives the EU a real chance to complete its currency union, and its borders union, two central features of the EU project that the UK under all parties in government was unwilling to accept. Freed of UK scepticism and reluctance, maybe the EU can now press on with building its vision of an integrated continent with a single economic policy, a single budget and more powerful Treasury at federal level, and common citizenship with external policed borders. Or maybe they will discover that the people of the other countries of Europe do not buy into that wider vision either.

It should also be time for the EU to reflect on why the UK left, why many parties on the continent are now pressing for their countries to leave the currency or even the whole Union, and why there are persistent and intense problems including high unemployment, migrations, a lack of agreement on the next steps in the Union, and a lack of proper opposition to EU policies within an EU level democratic framework.

Why, for example, has someone like me been such a critic of the EU? After all, I belong to many of the groups that are meant to be believers in the project. I am a globalist. I believe in an outward going foreign policy, freer trade where possible, democracy and tolerance, and the pursuit of peace. These are meant to be the values of the EU leaderships as well, so why didn't they carry me with them?

The answer is two fold. I watched their actions, and saw that so often they did not follow their own stated aims. I also saw that where they thought they were following their aims, they often chose policies which achieved the opposite of their stated ambition.

The biggest disappointment was their wish to build a large one size fits all bureaucracy seeking to control every aspect of life. This was never compatible with the wider ideals of liberty and democracy. It made creating a single demos even more difficult than it was going to be. With so many different languages and levels of economic development it was never going to be easy to get people to believe in a new European state.

They never followed the aim of building democracy into the EU properly. The Parliament was added, but it does not provide the government nor control the government. Too much power rests in the unelected and often unaccountable Commission. These full time officials can manipulate the member states and play them off against the Parliament. There is no organised opposition to the EU government suggesting an alternative programme or approach, or ready to take over when people have had enough a particular EU government. In practice all the new laws are usually Commission ideas brokered with fluctuating factions of member states and the Parliament. The whole development is a ratchet to greater Union, even where past steps have demonstrably failed or proved unpopular.

They never followed the aim of promoting prosperity. Their currency scheme was bound to produce wild booms and busts in differing member states economies, as Ireland, Spain, Greece and others found to their cost. It was all entirely predictable – as I wrote often. After all we had seen the damage the European Exchange Rate Mechanism did. The Euro was just the version of that you could not easily get out of.

Their austerity policies which followed the boom bust entry of the Euro into many economies has created resentments and confined a whole generation of southern young people to unemployment.

They never worked out how to decide who could be a European citizen, and how to run orderly borders. Instead of the tolerance they wanted, they have created hostile attitudes to new arrivals in many parts of the continent.

Their birthday party should be a meeting for reappraisal. Do less, and do it better. Or get consent to the grand vision. Above all, try being democratic for a change. I saw from the beginning that the EU would not be to our liking. I read the Treaty of Rome which was never a Treaty for a free trade area as advertised. It was always a country in the making, where ambition far outran practicality.