

## The response of the EU to the letter

It is curious that some in the EU seem to think there needs to be a long negotiation over the UK's exit. The UK has announced its intention to leave, and can do so after two years or before by mutual agreement. It is difficult to see why these democratic friendly nations would want to keep us in the EU for a whole two years if we just want to leave and if they do not want to talk about the future relationship. Of course the UK will pay its regular bills up to the point of departure. There is no legal requirement to pay anything else.

The UK is making a very friendly and generous offer – full tariff free access to our market, full rights for all EU citizens currently here, continuing defence and security collaboration and much else. All we ask is the same courtesies in return. I always defend the other member states and EU from allegations that they want to damage themselves and us during this process. I now look forward to them living up to the fine ideals of democracy, co-operation and free trade which they say are part of the EU scheme. I would expect them to see that free access to our market is an important advantage for their farmers and others who would face higher tariffs under WTO rules.

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## 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.

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## 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.

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## [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 EU's 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.

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## 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.