The UK negotiating strategy

The UK government is about to publish a series of position papers on the EU negotiations. It is doing so in part in response to the EU's tactic of publishing lots of papers about principles and problems, whilst refusing to tackle the issues that matter or to set out the EU wishes.

It is most important as the UK does this that it avoids three mistakes. The first mistake is to give any hint of us negotiating with ourselves. We don't want options or details over how the UK position may evolve. We certainly don't want a public exploration of what we might surrender or shift under pressure,as that invites the EU to hang tough and to pocket any offer we make.

The second mistake would be to claim it is all complex or difficult in a way which gives succour to those in the EU who think if they delay and obfuscate enough the UK might weaken or change its mind.

The third mistake would be to ask for too much expecting things that are not obtainable. It is not, for example, in the UK's power to decide what rights going forward will apply to UK citizens living in the EU after we have left. That will be a matter for them to decide, under international law.

The negotiation can be very straightforward. The UK takes back control of its money, laws and borders,as it is entitled to do. The EU decides whether it wants the comprehensive free trade arrangement we offer, or whether they want to face WTO tariffs.

How much have we learned 10 years on from the banking crash?

Most commentators and bankers now accept that big mistakes were made in the middle of the last decade allowing commercial banks and investment banks to borrow too much money, to lend too much money out to people and companies, and to develop too many clever financial products that recycled the debts around the market. The favourite excuse at the time was the globalisation of markets and the creation of mega banks allowed them to run more overall risk, because it was spread over so many different instruments, currencies, jurisdictions and borrowers. Those of us who worried about these things were told we did not understand how good financial markets and banks had become at spreading and managing risk.

As it turned out, the older idea that a bank should keep a decent amount of cash and reserve capital against future losses was a better one. That has now become fashionable again, with banks typically required to keep more than twice as much cash and capital as they did at the peak of the boom relative to their risk assets or loans, with many of them choosing to have rather more than the minimum.

Fewer commentators accept that a second important mistake was made in 2007-9 by the Central banks and government authorities. They decided to raise rates and reduce liquidity in the markets too much, bringing down the over exposed balance sheets by deflating them too quickly. If Central banks withdraw cash from the market, it lowers the value of assets like property and shares. These are the backing for loans banks have advanced. As they fall in value so the solvency of the borrower is put at risk. As interest rates rise, so more people and companies struggle to pay their debt interest. Banks end up with a pile of bad loans and insufficient collateral or backing to meet the losses on the loans.

For a period of unreality in 2007 many were talking about a necessary correction for the masters of the universe in finance who they thought deserved to lose, in the belief that this could occur without harming the “real economy”. As a few of us warned at the time, bringing the excesses of the financial sector down would also bring down the real economy, closing a factories, collapsing businesses, costing people their non financial sector jobs. So it proved. The corrections, administered by the authorities in the first instance, soon became self fuelling. The advanced countries affected entered a severe depression.

The Finance Ministers and Central banks awoke to the full dangers early in 2009 and started to make large amounts of cash available to the markets to prevent more banks and other businesses failing. They went on to pioneer programmes of state money creation and government bond buying, as their way of replacing the money destroyed in the commercial banking crunch with public money issued via the Central banks. It was better than nothing. It lifted asset prices, which prevented more bad loans and failed banks.

The Central banks are now discovering that it is easy to distort economies by providing cash to boost asset values, but more difficult to wean an economy off such medicine. The USA is furthest advanced in this cause. It stopped money printing the earliest, and is now planning a gradual reduction in this stimulus as commercial banks take up the slack and as more real activity takes place. The UK has also now stopped QE, though it had an additional programme which was started last summer. The European Central Bank and the Japanese Central Bank still carry on with their Central Bank money creation.

One of the crucial lessons of 2007-9 must be that acting too stridently can cause grave damage. If you have high levels of debt, you need to tread carefully to get them down, in ways which most borrowers and lenders can handle. Any other course causes major dislocation for people who had nothing to do with the excess credit in the first place.

The UK Supreme Court after Brexit

I hear that the UK Supreme Court wants more clarification from Parliament over how to judge matters after we have left the EU.

The proposed guidance set out in the European Union Withdrawal Bill seems very clear to me. It says that after we have left UK judges no longer have to follow new judgements by the European Court of Justice, but may do so if they think they are sensible from the UK point of view.

This applies when a case comes before the UK Supreme Court that relates to a UK law which was until we left an EU law which we have now adopted as a national one. The Supreme Court can decide as it sees fit. If there has been a new case before the ECJ that changes the EU's law the UK Supreme Court can if it wishes make the same change to UK law, or can decline to do so. These are experienced and senior judges who often like to change UK made law. It is a Court which is certainly not cowed by Parliament, as we saw when it told us how to go about leaving the EU and how to approve the sending of the Article 50 letter. It will be able to exercise similar independent judgement about what were EU laws once we have left.

Given the pro EU attitudes of many of our judges this means they would be free if they wish to follow ECJ judgements all the time we keep the unamended EU law as part of our UK law code. If they do so in ways which no longer suit the UK people then of course the UK Parliament will intervene and amend the law to override the Supreme Court judgement, as we can do today on UK made laws.

What is unclear about this? We will expect our Supreme court to be supreme when it comes to interpreting laws, which will mean former EU laws as well as nationally conceived laws. We will also expect Parliament to be sovereign. If the judges make a judgement that does not please Parliament can always change the law and issue new instructions.

At the moment both Parliament and our judges are impotent to change , amend or improve an EU law if the European Court of Justice has decided.
We do not at the moment expect our Supreme court to follow decisions of the US Supreme Court where they amend US laws where we may have a similar law.We trade a lot with the USA but keep our independent legal system. So why would the ECJ be any different when we are out of the EU?

What does the EU want from the Brexit

discussions?

You would have thought the rest of the EU would be delighted to learn that the UK, the most reluctant EU member of them all, was leaving. It means they are free to pursue economic, monetary and political union without the UK constantly trying to slow it down, impede or stop it, or demanding special treatment. Better still, that same UK is happy to make her market available tariff free to the rest of the EU who have been so successful at exploiting it.

Instead it appears that the EU is once again misjudging the mood of UK voters. The EU seems to think if it delays and creates difficulties the UK may think again or come creeping back for some version of its membership. The EU has invented the idea that the UK owes the EU a lot of money after we have left when there is no Treaty basis for this. They have proposed that the UK has to continue to accept rulings of the European Court of Justice in the way no other independent country that is an EU trading partner has to accept. They have suggested that EU citizens currently legally settled in the UK would continue to have EU rights policed by the EU instead of enjoying UK rights policed by the UK after exit. These are presumably provocative proposals designed to foment argument within the UK with a view to delaying Brexit.

The EU needs to learn from its recent experiences. It was this mentality which led the EU to turn down Mr Cameron's modest requests for improvements in the UK/EU relationship and which led directly to the Leave vote. They underestimated the resolve of UK voters then, and are in danger of doing so again. Indeed, their current attitude reinforces the view of many UK voters that they made exactly the right choice. The process of exit is also serving to underline just how far our subservience to EU lawmaking and courts has gone, something hard line pro EU campaigners always denied prior to the decision.

As someone who has undertaken all too many debates on this topic, I was regularly accused of exaggerating the influence and power of Brussels, which was just a kind of large free trade arrangement according to many of its protagonists. Now they tell us it is all so complex and comprehensive it makes getting out all but impossible.

My advice to the EU is simple. The UK has voted decisively to leave, with a massive Parliamentary majority to carry out the wishes of the voters. The UK wishes to be friendly and generous in departure. Indeed, many of us think we will be a better partner and neighbour when we can make our own decisions, than when we were constantly having to fight against imposed collective decisions we did not like. The EU can do a good deal for itself if it wishes. It can secure free trade, defence collaboration, protected rights for EU citizens settled in the UK and much more. If it doesn't want to do that we will be leaving anyway.

Was 1st Quarter growth in the UK understated? Bank of England predicts steady growth in business investment

Some have made much of the slowing in UK growth to 0.2% in the first quarter of 2017. It picked up a bit thereafter.

In the Bank of England's Inflation Report for August we find the following interesting quote:
Quarter 1 growth "slowed sharply to 0.2%. The GDP backcast, which takes into account the revision properties of the official data and information surveys, suggests that growth in Quarter 1 was higher, at 0.4%".

The Inflation Report also reveals a worse balance of payments position in the first quarter than the Bank expected, with more imports than in their forecast. This meant international trade subtracted 0.4% from our GDP, given the continued high level of imports. This puts a different slant on the picture from the loss of confidence myths.

Contrary to some comments on the current position, the Bank was relatively positive on business investment, though would like it to rise faster. They said " Business investment is estimated to have risen by 0.6% in Quarter One…. Investment is projected to continue to grow at a steady pace in the near term".

The UK economy could clearly benefit from more investment in capacity, both to replace imports and to meet export demand. The rising profitability of business in general and the availability of low cost credit should encourage more such investment.