

# Why Brexit is great for the UK and the USA

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## Introduction

It is a great pleasure to return to Heritage and I would like to thank Nile for the opportunity to outline the progress on Brexit and the great advantages a newly-independent UK will bring to the long term Special Relationship between our two countries.

There is no greater place to make the case for an outward-looking, independent country than in the capital of one which “stands, one Nation under God, indivisible, with liberty and justice for all.” As your Declaration of Independence has it: “When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another...a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.” It is a great pleasure to be able to declare those causes and elucidate those principles once again.

Of course, the US staged its own Brexit in 1776 and there are clear similarities between America’s fight for independence and Britain’s desire for control over our own affairs, only this time with fewer bayonets and muskets.

The American Revolution and the 2016 Brexit vote had democratic control at their hearts; everyone is familiar with the rallying cry of “No taxation without representation.” As with the EU today, American dissatisfaction with British rule was as a result of our overreach in the colonies. It went too far and America declared that enough was enough. You wanted decide how to spend your own money – not be told to send it off to Great Britain.

On 23<sup>rd</sup> June 2016, 17.4 million people in Britain voted to leave the European Union, more than have ever voted for any issue or political party in our history. The 72% turnout was the highest since 1992.

Article 50 was triggered on 29<sup>th</sup> March, after 494 Members of Parliament voted for it in the House of Commons. The automatic legal effect of this is that at midnight on 29<sup>th</sup> March 2019, the EU treaties in their entirety will cease to apply, with no post-exit Treaty obligations on the UK.

In June this year, we had a General Election in which 85% of the votes cast were for parties advocating leaving the Single Market, the Customs Union and the remit of the European Court of Justice. The main “Remain” Party – the Liberal Democrats – saw its number of votes fall.

The opposition Labour Party’s position has vacillated to the point of absurdity since the election, but the Conservative Government’s position has not changed. Not a single Conservative MP voted against the Queen’s Speech this summer, which set out the Government’s plans for this Parliament and focused on regaining control of our laws, money and borders.

The European Union (Withdrawal) Bill will repeal the European Communities Act 1972, which gave effect to European law in the UK. It converts into UK law the *acquis communautaire*, the entire corpus of European law. On the 11<sup>th</sup> September, it passed its vital second-reading stage in the House of Commons with a clear majority of 36 without a single Conservative voting against, 7 Labour MPs voting for it, and 14 abstaining.

Most recently, in her speech in Florence on 22<sup>nd</sup> September, the Prime Minister again confirmed that our objectives remain unchanged.

We are building on the precedent which Americans set even before independence – first adopting British law in order for it to be altered subsequently. The Reception Statute passed in the Colony of Virginia in 1776 ran:

“...the common law of England, all statutes or acts of Parliament made in aid of the common law prior to the fourth year of the reign of King James the first...shall be considered as in full force, until the same shall be altered by the legislative power of this colony.”

Delaware, New York, Pennsylvania and other states adopted very similar Reception Statutes.

The fact is that Brexit is going to happen, and it will be great for both the UK and the USA.

Despite these decisive steps, there are still those – President of the European Commission Monsieur Juncker among them – who believe that we will back down, or that the process can be derailed. This is unsurprising from a man who, before the French were asked to ratify the proposed European Constitution in 2005, said “If it's a Yes, we will say ‘on we go’, and if it's a No we will say ‘we continue’.”

He was true to his word. The French failed to ratify the Constitution, so it was simply reheated as the Treaty of Lisbon and on the project went. When the Danes and the Irish had the presumption to vote against the EU consensus, they were told to go away and vote again until they produced the right answer.

However, we will leave. For the first time in EU history, a country will not be cowed into rerunning a democratic vote whose verdict went against the Commission and the long-term European Project.

And this project is not static. The Five Presidents’ Report of 2015 proposed fiscal, economic and finally full political union by 2025. Without the restraint of the British pebble in the shoe, Juncker, in his “State of the Union” address on 13<sup>th</sup> September 2017 was proposing consolidation and compulsory membership of the Eurozone and by 2025 a fully-fledged European Defence Union. He called for a single European president and the use of *passerelle* clauses allowing the Commission to bypass the concerns and wishes of democratic national governments.

So I have absolutely no regrets that I was one of 3 founding MPs of the referendum campaign group “Vote Leave”. Our central message was that we must “take back control” – of our laws, our money, and our borders.

- To control our own laws, we must end the jurisdiction of the European Court of Justice and leave the Single Market
- To control our money, we will cease sending \$11 billion net to the EU each year
- To control our borders, we must leave the Single Market
- To control our trade policy, we must leave the Customs Union

These simple statements, which resonated with 17.4 million people, are not negative ones. They are not anti-Europe. They are positive expressions of the age-old truth that a sovereign country will be more successful when it governs its own affairs.

## **Single Market**

Membership of the Single Market requires acceptance of the indivisible European principle of the Four Freedoms – the free movement of goods, services, capital and, most contentiously of all, people; it requires regulation of all aspects of our economy.

Leaving the Single Market – which is simply the internal market of the EU – is a prerequisite for expanding our trade around the world, because we are, in the main, a services economy and any services negotiation is a negotiation on domestic regulation, which we must control.

In 1999, 61% of UK trade was with the EU, now it is 43%. By 2025, it has been projected that our exports to the EU will account for under 35%. The European Commission itself says that 90% of global economic growth in the next 10 to 15 years is expected to be generated outside Europe, a third of it in China alone.

Compare that to the relationship between our two countries. The USA is the UK's largest export partner and our second-largest import partner for trade in goods and services. In 2015, the USA accounted for 19.7% of the UK's exports and 11.1% of imports. The USA and UK are the largest single investors in each other's countries, at 24.5% and 23.6% respectively.

Only around 12% of the UK's GDP is directly accounted for by exports to the EU. Our dependence on European exports is even lower, as a proportion of our goods sent, in particular, to the continental ports of Antwerp and Rotterdam, are counted as EU exports but are in reality transshipped outside the EU. The economist Roger Bootle has suggested that the proportion of UK GDP not involved in European exports may be as high as 90%.

There is, nonetheless, a clear incentive to continue our trade with the rest of Europe. About 44% of UK exports in goods and services went to other countries in the EU in 2016. We have no desire – and it is in no one's interest – to abandon our close ties. Our goal is, and always has been, reciprocal free trade without tariffs.

The idea that one can trade with Europe only through membership of the Single Market is plainly nonsense. Being within the Single Market means meeting all of its regulatory standards. This sort of compliance is required on export product standards for all exporters wishing to sell in any foreign market. The difference with the European Single Market, however, is that those regulations are applied across the whole economy, even to sectors with absolutely no connection to European exports. This burdensome and invasive bureaucracy is a long way from the original vision of a group of sovereign states sharing a minimal, common level of regulation.

Many other countries – the United States among them – export successfully to the EU without being part of the Single Market without paying a cent to the EU. In 2015, you exported \$273 billion in goods to the EU and imported \$426 billion. Your service exports were worth \$219 billion and European imports \$169 billion. Why, then, is it essential for the UK to be a member of the Single Market? It is absurd to demand that the UK regulate its whole economy to meet EU product standards on exports; we can do the same as the US and the rest of the world.

## Customs Union

While we remain in the Customs Union, we cannot pursue our own trade deals. Its advocates like to portray it as a co-operative trading association of Member States – akin to an economic version of NATO – but it is not. In setting the Common External Tariff, the Customs Union denies its Members the right to set their own trade policies and forces them behind a protectionist wall separating the EU from the rest of the world. New free-trade deals may be struck only by the slow, bureaucratic Union and not by Member States individually. EU trade negotiations need the agreement of 28 nations, so limp along at the pace of the lamest camel in the caravan. Consequently, the EU has so far not concluded a free-trade deal with the US, Japan, China or India. Most existing EU free-trade deals are, in fact, roll overs from the colonial days of individual EU countries.

We must embrace quickly the trade opportunities offered around the world. Last year, our trade surplus with the rest of the world was \$46.4 billion. With the USA \$53 billion, with Canada \$1.8 billion and Australia \$5 billion.

India's GDP has grown between 7 and 10% each year for the last decade as a result of economic liberalisation, and Brazil's average growth since 2010 has been over 3% per year.

To take full advantage of the opportunities which these economies present, we must, therefore, leave the Customs Union. To the UK, the economic case is clear. Expert analysis from Professor Patrick Minford concludes that leaving the Single Market and Customs Union will provide a saving of \$400 per household per annum on food bills, or some \$10.8 billion overall. It will also bring down consumer prices more generally, by around 8% overall; and stimulate competition across the economy, raising productivity and GDP by around 4%.

Minford's modelling is based upon unilateral free trade, and assumes no subsequent reciprocal arrangements. The same results can be achieved by Free Trade Agreements with our main trading partners, notably the US.

Although the Commissioners of the EU might protest, the economic case for its Member States to continue to trade freely with the UK is strong. The UK runs a monumental deficit of almost \$100 billion a year with the EU. That figure went up by \$13 billion last year alone.

Deloitte have explored the potential effect of a "tariff war" on the German car industry, which exports 1 in 7 of its cars to the UK. They assume a 10% tariff on vehicles and a 4.5% tariff on parts. They believe that EU carmakers will lose \$10 billion a year worth of revenues, with \$8 billion from German carmakers alone. In the first 12 months after the UK leaves, German car exports to the UK would collapse by 255,000 units, representing a 32% decline, with 18,000 jobs in the German car industry put at direct risk.

We currently have zero tariffs, and conformity of regulations and standards is already in place. Spiteful protectionism from the Commission would accomplish nothing but impoverishing all sides and is illegal under WTO rules. There ought to be no reason that independent countries cannot trade freely, and no reason whatsoever that free trade cannot be maintained with a fully-fledged free trade pact. Reciprocal free trade is in all our best interests.

If the EU refuses to have a free trade agreement with the UK, it will have far less effect on the UK than on the EU: EU tariffs averaging some 3% can be absorbed by our manufacturers or they can easily divert some output to other markets but if we impose the same tariffs on EU manufacturers they will lose profits in the UK on top of the much tougher competition they will face from non-EU

suppliers with whom we have trade agreements. US and New Zealand quality wine producers will be able to compete on level terms once we have torn down the tariff barriers of Fortress Europe.

Furthermore we are unlikely to pay the EU any ‘divorce money’ if there is no trade agreement. ‘No deal’ holds no horrors for us; remember too that the EU must under WTO rules on non-discrimination provide the same seamless Customs procedures and mutual recognition agreements that it provides to other countries.

The case for free trade, however is not based solely upon utility but upon justice; the moral case is as strong as the economic one. The United Kingdom will be bold in stating it.

The Customs Union has caused inequities in the European attitude to trade with the developing world. As the trade adviser for the charity Oxfam put it in 2006, “Not only does the Common Agricultural Policy hit European shoppers in their pockets but strikes a blow against the heart of development in places like Africa.”

As an example, after oil, coffee is the second most traded commodity in the world. The entire continent of Africa exports coffee to the European Union with a value of \$2.4 billion, while Germany, without growing a single bean, earns \$3.8 billion on exports of coffee.

How can this be? The EU customs union has no tariff on raw beans, but any added-value product is penalised. A 7.5 per cent tariff is imposed on roasted coffee, ensuring that added value remains inside the EU and is denied to poorer African countries. This results in higher prices in our shops and further denies African nations the chance to add value themselves, creating the investment and jobs they need to grow.

Some will say that many developing world exports come in duty free or at low duties because of Generalised Scheme of Preferences or European Banking Authority programmes. But this is even less moral; it locks producers into arrangements and sets up a situation where they want the Most Favoured Nation tariff rate to remain high so their preferences remain in place. This is Alice Through the Looking Glass – a transfer of wealth from poor European consumers to vested-interest elites in developing countries propping up the worst kind of crony capitalism. So much for a benign project of economic co-operation.

## **Immigration**

It is not merely trade where the Customs Union has done its damage; it also adversely affects migration. Ghanaians consume tomatoes with virtually every meal, but the tomato industry in Ghana has been all but destroyed as a result of the dumping of subsidised Italian tinned tomatoes. Because of European tariffs, Ghanaian farmers are instead forced to migrate, often illegally, to work on the harvest in Italy rather than farm their own land. The protectionism of the Customs Union, therefore, is placing direct pressure on the borders of Europe and has played a clear role in precipitating the migrant crisis.

Beyond that, however, is the simple question of principle. A sovereign nation should fully control its own borders.

We recognise the skills and experience brought by workers and students. Whether they are eye surgeons from Bangalore or skilled abattoir workers from Eastern Europe, it is manifestly in our national interest to attract the best talent from across the world.

But we must be realistic. The UK's population grew by a record 513,300 last year, to 65.1 million, with net migration at 335,600. The homelessness charity Shelter suggests that, in a country roughly the size of Michigan, we would need to build a new home every 2 minutes – night and day, every year – so long as current migration levels are maintained.

Once we acknowledge that some restrictions are sensible, why should we be prejudiced in favour of Europeans over, say, those from the Commonwealth or the Anglosphere?

Instead, a new, bespoke immigration policy must be designed to meet the needs of British commerce according to fluctuating demands for skilled labour. The principles must be very simple: The United Kingdom will control its own borders, the discrimination against non-Europeans will end, and we will make — in Parliament — democratic, accountable decisions on immigration.

### **The European Court of Justice**

The European Union's chief representatives have yet to adopt such a pragmatic mentality. Over the summer, the British Government released a number of initial position papers relating to key areas of negotiating policy, to which the Brussels response has been ludicrously obstinate. President Juncker shrugged that the EU had received “no definitive response” from the UK on the question of the Irish border, despite the Government publishing a 30-page document on that very subject. The arguments were not countered, not constructively appraised, but simply dismissed as not fitting the arch-federalist agenda.

In reply, the EU has made a series of outlandish demands for an arbitrary “divorce bill” of \$120 billion— rejected by the UK with a forensic legal rebuttal.

We will, of course, pay what we legally owe. Edward III's refusal to pay the Bardi and Peruzzi families in 14<sup>th</sup> century Florence was the last time the UK failed to honour its international obligations. We are also likely to continue contributing to a number of European educational and research schemes such as Horizon 2020 and Erasmus.

But recent reports by the House of Lords and respected lawyer Martin Howe QC establish that there is no credible legal argument obliging the UK to continue contributing to the EU's ongoing programmes after Brexit. Our attitude echoes that of George Washington, who wrote in a letter to Alexander Hamilton in 1796:

“We will not be dictated to by the Politics of any Nation under Heaven, farther than Treaties require of us.”

The European Commission has also demanded that the European Court of Justice – the highest court in the EU – continues to rule on the rights of EU citizens in the UK after Brexit. If immigration was a manifestation of Britain's non-independence, then the continuing remit of the ECJ would surely be confirmation of it.

There is no exact legal precedent for such a bizarre suggestion, which would create a privileged class of over 3 million EU residents in the UK, whose rights would be enforced by a court beyond the influence of our government and Parliament.

Its closest parallel comes from the nineteenth century, when the British Supreme Court for China exercised extra-territorial jurisdiction over British citizens in concessions such as Shanghai, who were not subject to the jurisdiction of the Chinese courts.

The British government has, quite rightly, ruled this out. Independent sovereign nations cannot be bound by rulings of the courts of other nations. Once again, George Washington put our approach perfectly in that same letter to Hamilton:

“If we are to be told by a foreign Power...what we shall do, and what we shall not do, we have Independence yet to seek, and have contended hitherto for very little.”

That is not to say that British courts should give no attention to future decisions of the ECJ. It is standard practice across the world for the courts of countries in an international treaty to pay attention to the judgments of their partners, and to try, if possible, to apply a consistent interpretation.

As the late Justice Scalia of your Supreme Court – himself no friend of foreign judgments influencing US courts – said:

“We can, and should, look to decisions of other signatories when we interpret treaty provisions... Even if we disagree, we surely owe the conclusions reached by appellate courts of other signatories the courtesy of respectful consideration.”

It would be inconceivable for the US to accept any court overruling its own Supreme Court, but it has always been accepted that account be taken of preceding legal decisions.

Take, for example, the case of *Amalfitano v. Rosenberg* in New York in 2009. The Court of Appeals ruled that “attempted deceit” was sufficient to sustain a cause of action under judiciary law Section 487, on the basis that it derived not from common-law fraud, but from the first Statute of Westminster – a criminal statute adopted by the Parliament of Edward I in England in 1275.

We will adopt just the same attitude towards the ECJ’s preceding decisions. But, as a simple matter of principle, we cannot accept continuing ECJ jurisdiction once we have regained independence.

## **Opportunities for the United States**

Increasingly, regulation is being made at world level. As a member of the EU, we have been represented as 1/28<sup>th</sup> of a vote on the world bodies – the WTO, the World Organisation for Animal Health (OIE), the Codex Alimentarius Commission and the International Plant Protection Convention.

We have been prevented from working with like-minded countries to tackle pressing policy concerns and prevented from reaching trade agreements with countries which would buy our produce. We can now retake our full seat – regaining a right to vote, a right to initiate new standards and propose amendments to existing ones – determined to co-operate with old friends in the Anglosphere and forge new alliances.

For the US, this means regaining a partner at those regulatory tables committed to global free trade, determined to embrace new technology, whose values of freedom and democracy you share.

Britain has no greater ally than the United States. It was, therefore, disappointing – but perhaps not surprising— to hear President Obama opine last year that “the UK is going to be in the back of the queue” for post-Brexit trade talks, so it is welcome that the new Administration is as pro-British as any we have seen since the Second World War. Your new ambassador to the UK, Woody Johnson,

got off to a great start when he said last month “As far as the President is concerned, the United Kingdom, our most enduring ally, is always ahead of the line.”

The “Special Relationship” has been a cornerstone of our foreign policy for 70 years, whether that is procurement and development — the UK is the only Level One partner in the largest aircraft procurement programme in US history, the F35 Lightning II — or our comprehensive intelligence sharing schemes.

But our ties to the United States run far deeper than that. We are united by our history, our culture and, perhaps most of all, by our language. With such strong and long-standing bonds, we should all be very optimistic about a new US-UK trade deal being, as President Trump put it, “very big and exciting!”

Indeed, as your new ambassador put it:

"Britain's decision to leave the European Union takes your country into new territory — but you are not heading there on your own. The United States is committed to standing with the UK through Brexit...whatever the outcome of the negotiations between the UK and the EU, Britain should know you will have a strong and reliable trade and investment partner in America.”

## **Conclusions**

In the months and years ahead, Britain must be guided above all by the decision which its people made in June 2016. The constitutional position we face is unprecedented. We have held a number of referendums over the last 50 years, but this is the first in which the people have contradicted the view of the political, judicial, financial, media and academic Establishment. Failure now to deliver what 17.4 million people voted for would do catastrophic damage to the integrity of the whole Establishment.

We will leave the political and legal arrangements of the European Union. In a whole range of fields – security, academia, scientific research, cultural exchanges – we look forward to maintaining the closest possible co-operation with the EU. What we are offering is a vision of amicable, reciprocal free trade between sovereign nations, close neighbours and good friends.

Whether the Commissars of the EU choose to engage constructively with that process — or choose to remain stubborn and intransigent — is their own affair. In any event, the United Kingdom intends to be bold and ambitious, retaking our place as a dynamic, globally-oriented nation.

For the United States, this is unequivocally good news; you are regaining an independent ally in trade and on the global bodies which determine world regulation. The Special Relationship will go from strength to strength, in George Washington's words, to “animate and encourage each other, and show the whole world, that a Freeman contending for Liberty on his own ground is superior to any slavish mercenary on earth.”