

Letter to the Attorney General about the legal impact of signing the wrongly named Withdrawal Treaty

Dear Geoffrey

Let me have another go at getting a reply from you concerning the way the Withdrawal Agreement stops us leaving the EU. Would you kindly confirm

1. If we sign this Treaty we will be locked into the EU and have to obey all its rules and pay all the bills it sends us for a period of at least 21 months, and probably for 45 months if we have not surrendered further to reach an exit agreement at the 21 month stage. This would mean remaining in the EU for at least 5 years from the decision to leave and probably for 7 years. The EU would be able to legislate and spend against UK interests during this period, whilst we would have no vote or voice in the matter.

2. In order to “leave” in your terms at the 5 to 7 year stage the UK will need to stay in the customs union and accept all single market rules and laws, unless the EU relented over the alleged Irish border issue. 3 years on and the EU has given no ground on the made up border issue, so why would they over the next two years? Isn't the most likely outcome we would remain in the single market and customs union contrary to the government promise leaving meant leaving them in its referendum literature ?

3. After the 45 month period fully in the EU, the UK still would face financial obligations under the Withdrawal Treaty. The bills will be decided by the EU and we will have to pay them. Any attempt to query them would be adjudicated by the EU's own court! The longer we stay in the more the future bills are likely to be. The £39 bn figure is likely to be a considerable underestimate.

4 The Treaty creates a category of super citizen in the UK. EU nationals living in the UK when we “leave” the EU will have their access to benefits guaranteed in a way the rest of us do not for their entire lifetimes. So we will not be taking back control of our benefit system.

I am also concerned about a number of Articles in the draft Treaty that expressly extend EU powers and jurisdiction for a further 4 to 8 years beyond our departure date after the 21 to 45 month delay.

Article 5 reintroduces the powers of the European Court and enforces “sincere co-operation ” on us as they do not want us impeding their plans for economic, monetary and political union.

Article 31 imposes social security co-ordination on us.

Article 39 gives special protection to EU citizens currently living in the UK from changes to social security for the whole of their lives, protection which the rest of us do not enjoy.

Article 51 applies parts of the VAT regime for an additional 5 years after the long transition envisaged in the Treaty

Articles 92-3 imposes the EU state aids regime on the UK for 4 years beyond transition

Article 95 imposes binding decisions by EU quangos and bodies for 4 years beyond transition

Article 99 requires us to pay for access to records to handle issues over indirect tax where the EU keeps powers for 4 years beyond transition

Article 127 applies the whole panoply of EU law throughout transition, including the right to legislate any way they wish against our interests and enforce it on us via the ECJ

Article 130 prevents us taking back control of our fish any time soon.

Doubtless more of our fishing rights would be given away trying to get an exit deal.

Article 135 allows them to send extra bills up to the end of 2028

Article 140 imposes on us financial liabilities up to December 2020 and carry over into 2021

Articles 144 and 150 prevent us getting back accumulated reserves and profits from our European Investment Fund and EIB shareholdings

Article 143 imposes adverse conditions on us over pension and loan liabilities of the Union

Article 155 requires to make continuing payments to Turkey under an EU programme after we have left

Article 158 gives the European Court continuing power for 8 years after transition

Article 164 makes a Joint Committee an effective legislator and government over us

Article 174 requires any arbitration to be governed by ECJ judgements on the application of law in disputes

The Protocol on Northern Ireland will require us to stay in the Customs Union with regulatory and legal alignment with the single market, or split off a separate place called UK (NI) which will be governed differently to the rest of the UK on an island of Ireland basis.

There is much more I could object to. This is no Treaty to take back control, no Treaty for a newly independent nation. It does not quantify the financial liabilities, which are open ended and could be much larger than the low field £39bn Treasury estimate. We have little power to abate the bills and no power to abort the bills. It would probably result even in failure to take back control of our fishing grounds.

Mrs May needs to go back to the EU and explain why the UK people and Parliament have opposed this Treaty, and ask them to think again if they want an agreement before we leave. She needs to make it clear we now intend to leave without signing the Withdrawal Agreement prior to the European Parliamentary elections.

Yours

John Redwood