

Deal done: Now for the hard work

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David Cameron did better than expected at the marathon Brussels summit. But his package of reforms will sway few voters, so he must now make the case for the EU itself.

Once David Cameron had won the May 2015 general election, and announced an EU referendum before the end of 2017, he was always going to find it hard to fulfil his pledge to achieve significant reforms to the Union. The final phase of the British renegotiation proved particularly tortuous. But on the night of February 19th a deal emerged and there will now be a referendum on EU membership on June 23rd. Why did Cameron struggle to win major reforms? What are the most significant changes that he has achieved? And how should he try to win the referendum campaign?

The other 27 countries in the club are confronted by huge problems, notably the near-collapse of the borderless Schengen area and the continuation of serious economic problems in much of the eurozone. And then the British came along with a form of blackmail: they said that if they were not given a series of minor, mostly technical reforms, that were either not a priority for other countries or cut against their interests, the UK's EU referendum could well be lost. This tactic has not exactly endeared Britain to its partners.

In 2013, when Cameron announced his plans for a renegotiation and a referendum, he believed that the other Europeans would need a new treaty to sort out the euro's problems, and that would give the UK leverage to extract concessions. At the time the CER warned that there probably would not be a new treaty and we turned out to be right. The lack of treaty change has weakened Cameron's hand. His only leverage has been that no government wants the British to leave – though some have been more willing than others to make an effort to help keep them in.

In the end Cameron had to fight extremely hard to achieve his reforms, many of which come in the form of a legally-binding decision of the heads of state and government. One reason why some leaders proved so unwilling to give the British what they wanted was the fear of contagion: if the British got a special deal on say, the words on 'ever closer union' or cuts to migrants' benefits, others might ask for the same thing. Most leaders, like Cameron, had to contend with difficult domestic politics, which encouraged them to resist some of his demands. And at points in the negotiation leaders tried to bring in side-deals: for example the Greeks threatened to block the British package unless they were reassured that the EU would not close their border with Macedonia before a special summit on migration in March.

The sheer number of states in the EU makes it hard for compromises to be forged. So does the absence of serious leaders. Both Donald Tusk, the president of the European Council, and Jean-Claude Juncker, the Commission president, worked hard and with determination to help achieve a British deal. But neither has the stature or authority to browbeat prime ministers to compromise on national interests for the sake of satisfying the British.

The one national leader who is pre-eminent is Angela Merkel, the German chancellor, who for the past ten years has dominated EU summits. However, she is not the force she was. Her unilateral open-door policy towards refugees has weakened her at home and angered many other EU governments. Throughout the renegotiation she has sought to help David Cameron but a few years ago she would have had greater authority to cajole recalcitrant leaders into making quick compromises with the British.

Given all these difficulties, the details of the deal were very much at the upper end of what Cameron could have hoped to achieve. His biggest victory was two minor curbs to migrants' access to benefits. The UK will be able to pull an 'emergency brake' to reduce in-work benefits, like tax credits and housing benefits, paid to future EU migrants. New migrants will not be able to claim such benefits from day one of residence, and the amount they receive will slowly grow over four years, after which they will be treated identically to a British worker. The British had originally demanded a complete ban on all in-work benefits for four years, but the EU's lawyers said that this would too obviously violate the treaties' principle of non-discrimination. This emergency brake will operate for seven years, not permanently, as Cameron had originally hoped.

There are still some risks to this reform: the European Parliament may quibble over the details, because establishing the brake requires EU legislation. And the brake is on the edge of what is legally permissible under the treaties, since workers of different countries will be treated differently. Cameron did not succeed in cementing this reform through a promise of future treaty change, so it will be open to challenge in the European Court of Justice. Officials in London and Brussels expect that at some point a case will be brought against this brake. But the fact that this reform has been blessed by the heads of state and government means that it is highly likely to endure.

The second benefit curb – to child benefits – is not the full ban on payments of child benefit to workers whose children live abroad that Cameron had desired. All member-states will be allowed to index child benefit payments to the standard of living in the member-state where the child lives. This will only apply to new migrants until 2020, when indexation can be extended to all migrants with children living elsewhere in the Union. But given the hostility of Central and Eastern European countries to this reform – they are especially unhappy that all Western European states can index the benefit, rather than just Britain – Cameron can chalk this up as a win. (This reform, like the

benefits brake, will require EU legislation, as will a third, relatively uncontroversial change, which will constrain the ability of EU migrants to bring in spouses from non-EU countries.)

The UK did win a promise that two other reforms will be embedded in the treaties when they are next changed. First, if Britain or another non-euro country considers that new financial rules driven by eurozone countries could damage its interests (for example, in the City of London), it will be able to pull another sort of ‘emergency brake’ to force those rules to be debated by all 28 ministers in the Council of Ministers and subsequently, if necessary, by the heads of government. This is a delaying mechanism, not a veto – the French and German governments were determined that Britain should not be able to block whatever eurozone governments think they need to do to ensure the currency’s health and survival. But the brake does offer the British a chance to build alliances at a political level against regulation that they think is inimical to their interests. Cameron won the right for only one country to be able to pull the brake.

Some bitter arguments with the French ended with the text giving the British some limited scope to have financial rules that are different from those of the eurozone, but not in ways that could destabilise the currency union. The deal also makes clear that the eurozone may not discriminate against members of the single market, and that non-euro countries will not participate in eurozone bailouts.

The second promise of treaty change is over ‘ever closer union’, the phrase in the current treaties that so annoys British eurosceptics. The text says that Britain has a “specific situation” under the treaties and “is not committed to further political integration”, and this will go into the next treaty change. During the summit, Belgium strongly opposed the possibility that other countries might gain a similar dispensation, and in the end the words made clear that this can only apply to Britain. The new wording will allow Cameron to say that Britain is not being dragged into a federalising EU, though the practical implications in the long term remain unclear.

The other parts of the deal were far less contentious, and so were relatively easily agreed. If 55 per cent of the votes allocated to national parliaments are cast against a draft EU law, the Council will scrap it unless the Commission amends the law to take on board the parliaments’ objections. The Germans were among those who opposed this ‘red card procedure’ but let it go through as they considered that it would be impractical for the parliaments to concert their efforts very often.

The text also points to new initiatives on deregulation. A declaration from the Commission promises a new mechanism to review the body of existing EU law for compliance with the principles subsidiarity and proportionality, and to report annually on which laws should be culled. There is some vague language in the summit’s declaration on extending the single market and brokering more free trade deals.

In all, then, the package is a collection of modest reforms that set out some principles for achieving a more competitive European economy, clarifying the relationship between the eurozone and the member-states outside the monetary union, curbing migrants' access to welfare a little, giving national parliaments a small stake in EU law-making and spelling out that Britain has a special status within the EU. It will be hard for Cameron to claim that this is transformational, and the deal is unlikely to persuade many Tory MPs to switch from Out, or fence-sitting, to In. Downing Street had assumed that two key Tories – Michael Gove, the justice secretary, and Boris Johnson, the mayor of London – would come round to Remain. However, as soon as the deal was done, Michael Gove announced that he would campaign for Out. Johnson is still on the fence. He is popular with the public, and might provide the figurehead that the Leave campaign badly needs.

Cameron's approach to the renegotiation has made it more difficult for him to campaign convincingly in the referendum. Until very recently he was often a strong critic of the EU. His government suppressed messages that might have helped assuage public suspicions of the EU, for fear of annoying eurosceptics. For example, Downing St deliberately chose not to publicise the government's own review of EU competences, which concluded – in 32 detailed and serious reports, published in 2013 and 2014 – that almost all the powers exercised by the EU were broadly beneficial to Britain.

Cameron appeared to see himself as a kind of alchemist, who could turn lead into gold. He described the EU as pretty awful but implied that he would succeed in transforming it with his reforms. The prime minister now faces an awkward pivot, from EU-critic to enthusiast for In. His position would be easier if his line had been: "For all its faults, the EU is good for Britain, and with my reforms we can improve it in several important ways". As it is, the tortuous negotiations have reinforced the perception that the EU is cumbersome and very hard to reform. In a Union of 28, Britain, though still one of the more influential member-states, cannot dictate terms and relies on other member-states falling into line.

What Cameron needs to do now is to move the public debate on from the merits of his reforms to the bigger issue of how the EU benefits Britain. His most recent public statements suggest that he sees this point very clearly. He should describe how the EU has changed for the better in recent decades and argue that it can continue to do so.

Britain has often stood at the forefront of reforming and improving the EU – while managing to stay outside its biggest failure, the single currency. Britain was one of the leading advocates of eastward enlargement, which has successfully tied Central and Eastern Europe to the West. It also brought prosperity to Poland, which in 1990 had similar living standards to Ukraine in 1990 but is now more than four times richer. The single market, which the UK has championed, has boosted trade and investment flows between member-states. The EU has opened its markets to countries

outside Europe, reducing its trade-weighted average tariff from 5 per cent in 1990 to 1 per cent in 2013, and signed a host of free trade agreements (including, in recent years, with countries like Canada, Vietnam, Singapore and South Korea).

Cameron needs to keep highlighting the EU's achievements in security, too. The European Arrest Warrant, introduced in 2004, allows criminals and terrorists to be swiftly extradited across European frontiers. The EU's foreign policy institutions have helped bring about successes: brokering a settlement between Serbia and Kosovo, negotiating with Iran to limit its nuclear programme, lifting sanctions on Burma in return for the generals holding free elections, and imposing stringent sanctions on Russia because of its military adventures in Ukraine (Russia wants the sanctions lifted, which may explain why the fighting has been relatively quiet for the past six months).

David Cameron should repeat the message he used in the last general election campaign, when he stressed the need for security and continuity over the unknown and untested, and in the last few days he has started to do so. Brexit would be a major geopolitical event with consequences that are impossible to foresee with great certainty. The UK would be leaving the most comprehensive free trade area in the world, and the extent of the economic damage is unknowable, not least because nobody knows what the terms of the divorce would be. The Scottish nationalists would certainly use Brexit to push for another independence referendum, and might prevail at the second attempt. Britain would find it harder to exert itself on the continent and to influence the troubled European neighbourhood. Cameron's best chance of success is to shift the debate onto more lofty terrain, away from arguments about banking safeguards and migrants' benefits towards a contest over how to secure Britain's interests in Europe and the rest of the world.