

QUESTIONS AND ANSWERS ON LABOUR'S

CURRENT POLICY TOWARDS BREXIT

1. **What did Leavers expect from the June 2016 EU referendum?**

On 14th January 2019, the House of Commons voted by a majority of 432 to 202 to reject the Prime Minister's Brexit deal between the UK and the EU. This leaves Parliament with a range of choices, all of which have substantial unpalatable elements, and all against a background of great uncertainty. If only we had spent the last two and a half years negotiating a comprehensive free trade deal with the EU, with adequate time to get this smoothly in place!. With the UK outside both the Single Market and the Customs Union, along the lines of the Prime Minister's January 2017 Lancaster House speech, the UK would have had a negotiating stance with which the EU could readily have engaged. Indeed, offers substantially very much of this sort were reiterated by both Donald Tusk, President of the European Union, in March 2018 and by Michel Barnier, the EU's chief Brexit negotiator, more recently. Instead, ever since the 2017 general election we have been trying to negotiate a deal which, while nominally taking us out of the EU, would keep us at least half in both the Single Market and the Customs Union, a process of little appeal to the EU, and for which they have understandably required substantial safeguards. This is what has led to the current impasse

2. **Will there be a Prime Minister's deal Mark 2?**

The government is bound to produce a statement to the House of Commons by Monday, 21st January 2019, setting out its intentions. The next development may be some movement on the EU's part to make the Prime Minister's deal rather more palatable to the House of Commons. The most obvious way to do this would be to put some firm time limit on the Irish backstop. This would still leave the UK's position far from satisfactory, however, not least with some £39bn being irrevocably committed by international treaty as payments from the UK to the EU before it is at all clear what the UK would be receiving in return. A concession on the Irish border may, however, be sufficient to get the government's proposals over the line. If this happens, a "cliff edge"

at the end of March 2019 will be avoided, provided that all the necessary legislation to implement the deal can be put in place in time. The really big downside from this outcome, however, would be difficult negotiations stretching away into the future, at least until December 2020 but potentially for considerably longer. A substantial timescale would be needed to allow for a complex series of trade and other arrangements to be put in place to implement the spirit of an agreement which essentially leaves the UK subject to a wide measure of EU control over our commercial, social and industrial policies while giving us barely even a consultative say in the way in which these policies are developed by the EU over the coming years.

3. **What are the alternative opinions?**

In the meantime, as a result of previous votes, it will also fall to the House of Commons to consider what should happen next. In addition to a modified Prime Ministerial deal coming back to Parliament, there are several other options which will almost certainly be considered. These include holding a second EU referendum; seeking the extension of Article 50 to provide more time for negotiation - a step which would be necessary in any event if a second referendum was to be agreed - and taking steps to get the UK into similar relationship to the EU as Norway enjoys. There may also be proposals to reverse the whole Brexit process by rescinding Article 50, so that the UK remains in the EU. There is no majority in Parliament for a “no deal” UK exit from the EU but it is going to be difficult – probably impossible – to stop this happening if no alternative course of action is agreed. How are all these proposals likely to fare?

4. **Will there be a second EU referendum – a “Peoples’ Vote”?**

It has been reported that almost three quarters of Labour Party members would favour a second referendum being held. There are, however, many reasons for thinking that this probably won't take place. Primary legislation, which is within the government's control, would be required to set it up and there is little sign the government would give its support to making this available. Even if it did, the legislation would be so contentious that it might not be voted through. It would be impossible to avoid a large amount of contention, in particular, as to what exactly the options put to the electorate would be and how the issues at stake would be framed. Would there be only two options, and if so what would they be? If there were more than two choices – perhaps staying in the EU, the PM's deal or “no deal”, how would this be handled? The public is not keen on another referendum not least because the one in 2016 cost just under £140m. Inevitably there would be a lengthy delay before the referendum could be held, during which tensions, uncertainty and division would increase, partly because of the manifest unpredictability of what the outcome of the referendum might be. Above all, holding a second referendum so soon after the previous one would be deeply undemocratic. In 2016 almost 70% of Labour MPs represented Leave voting constituencies although nearly all of them supported Remain. No wonder, enthusiasm among Labour MPs for a second referendum is very far from universal.

5. **Will Article 50 be extended?**

Whereas a recent ECJ ruling made it clear that Article 50 could be rescinded unilaterally by the UK, provided this was done in good faith and not just as a temporary expedient, extending Article 50 requires the agreement of the 27 remaining EU Member States, as well as that of the Commission and the European Parliament. Even if they were all minded to agree, it would take time to get this to happen, during which there would inevitably be more uncertainty. Although the EU27 probably would agree to an extension to allow either a referendum or a general election to take place, they are unlikely to be willing to extend Article 50, especially for any length of time, simply to allow for further negotiations. The stance taken by the EU27 is that the existing Withdrawal Agreement is non-negotiable. This might change if a totally new set of proposals was launched by the UK government – for example if the UK proposed a comprehensive free trade deal with the UK outside both the Single Market and the Customs Union. As there appears to be no majority in the House of Commons for anything along these lines, however, it seems unlikely that extending Article 50 to provide more time for negotiations is likely to be a viable option.

6. **How about the Norway option?**

The Norway option would involve the UK transferring its existing membership of the European Economic Area from depending on our being an EU Member State to our being a potential member of EFTA. If this could be done, we would then have the same status – either temporarily or perhaps, in practice, permanently as Norway. We would be outside the EU and – formally - the EU Customs Union, the CAP and the CFP but effectively members of the Single Market and bound by almost all its rules, including free movement of people. We would have no vote at EU meetings. Although there is some backing in Parliament for this outcome, there are substantial reasons why this is unlikely to achieve majority support. There would be significant problems – and inevitable delays - in getting agreement from all the parties involved. The Norway option would leave the UK – the fifth or sixth largest economy in the world – with substantially diminished sovereignty over wide areas of its economic, social and political policies, determined by a foreign power which would not by any means necessarily have our best interests at heart. It is hard to believe that this outcome could readily be squared with the desire to “Take Back Control” evidenced by the 2016 referendum.

7. **What about rescinding Article 50?**

There is clearly no easy Brexit option available to Parliament. Even if, however, the view is taken that both the PM’s deal and the Norway option are worse than staying in the EU on the terms which might be available if we decided to stay in, and that there are risks with “no deal”, the overwhelming fact is that we had a referendum in 2016 about whose outcome promises were given on every hand by both the government and many others that whatever the result was, it would be accepted and implemented. Holding a

second referendum - if the result was a decision to say in – would provide Parliament with some democratic cover for a subsequent vote for the UK to retain its UK membership. Simply rescinding Article 50, however, would be such a flagrant disregard of a major democratic decision that it is very unlikely that there would be a majority in Parliament for such a course of action. Those still strongly favouring the UK remaining a member of the EU are much more likely to press – but probably unsuccessfully – for the second referendum option.

8. **What about “No Deal”?**

It is because none of the other ways ahead may command a majority in the House of Commons that a “no deal” Brexit is becoming an increasingly likely prospect. Some of the problems we have encountered were the result of the 2017 general election making the Canada +++ free trade deal unachievable as a result of the majority among the MPs then elected being willing to break sufficiently cleanly with the EU to make such a free trade deal work. It has to be said that the reason why we are in this position is that the UK’s Brexit negotiations have been abysmally badly handled, leaving the country with very little time to prepare for our orderly departure from the EU. We are therefore likely to be in for a rougher ride, at least in the short term, than we would have wished. How difficult the situation will be is very hard to predict, as is the impact that this will have on our national income over the next few years. What is clear, however, is that, despite all the difficulties which have been experienced, and the uncertain prospects for the future, not many people have changed their minds about Brexit since 2016. This is partly because, for many people who voted Leave, taking back more control over their lives was more important than short-term – or even longer-term - economic gains.

9. **Where does this leave us?**

We are not – by a long chalk - in as good a place as we hoped we would be. A combination of events and developments, which we have handled poorly, has left us with uncertainty and problems which we ought to have been able to avoid. Faced with the situation we are in, however, we now need to make the best of it. As a nation we took a decision to leave the EU. We have to respect this decision and to make sure that we get through the short-term difficulties which now face us so that we can reap the longer-term benefits of being outside the EU. If it comes to “no deal”, once we are through the initial problems we very probably will be able to negotiate the free trade deal which was always the best interpretation of the referendum result and the one most likely to lead to both a prosperous future for the UK and one which leaves us fully in control of our own affairs. This is what we ought to aim to achieve.